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World State and Global Democracy

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The profound transformations in power and rule in our rapidly evolving world system raise serious concerns about democracy's vitality and its prospects. Calls for democratization of global governance and for making globalization more humane reflect a profound and growing popular dissatisfaction with the nature and direction of change. Yet in rushing to respond to the myriad challenges globalization poses for democracy, scholars often fall into one of two analytic mistakes: sometimes they assume that a world state is inevitable, and sometimes they assume that a world state is either required for or entailed by global democracy. (By "world state" in this chapter I shall mean any unified [centralized or federal] system of power, decision making, and administration for the entire planet.) In the former case, since a world state is inevitable, the best hope for global democracy is a *democratic* world state; in the latter, since global democracy needs a world state, a world state becomes a normative imperative. In both cases, world state and global democracy go hand in hand. I do not think that a world state is inevitable, nor do I think that global democracy requires or entails a world state. Each of these positions ignores, in different ways, the contingency of the Westphalian configuration of rule and of the modern theory of democracy that developed within it.

Globalization poses such serious challenges for democracy because it exposes this contingency, which was long hidden beneath the ideal of sovereignty. Globalization also heightens and highlights deep incompatibilities between the modern form of territorial or "sovereign" democracy and an increasingly interdependent world system. Assuming the inevitability of a world state denies agency and contingency in politics and reinforces a statist model of politics and democracy that is

called into question by globalization. Similarly, extending the familiar institutions and procedures of democracy to a planetary scale to address the challenges associated with growing interdependence ignores how the meaning and legitimacy of those mechanisms is conditioned by their normative and empirical foundations in the notionally sovereign state. Linking global democracy to a world state thus assumes that democracy can mean more or less what it has always meant in the modern era. I shall argue that this is a flawed and potentially dangerous assumption.

The chapter has three sections. The first highlights the contingency of sovereignty and shows how this contingency extends to modern democracy. Sovereignty emerged in a context of tremendous political complexity and uncertainty as a solution to contested questions about the origins and justification of authority. This solution, however, is contingent upon empirical conditions that support the plausibility of sovereignty's distinctive territorial account of rightful rule. Modern democratic theory adopted and adapted this territorial account, fashioning it into the familiar doctrine of popular sovereignty. Like sovereignty itself, modern democracy is thus contingent upon a particular empirical configuration of authority in the world system. This contingency in democracy's meaning is not explicit, because by the time modern democratic theory emerged, sovereignty was already taken for granted by theorists as a natural or permanent feature of the world system; it has subsequently been overlooked. Globalization brings the contingency of sovereignty and thus of democracy back plainly into view by exposing the poor fit between the system sovereignty describes and the realities of the world we inhabit today.

The second section addresses the two analytic mistakes that arise in linking global democracy to a world state. I argue that a world state is not inevitable, owing to agency and contingency in political affairs and to the uncertain effects of globalization. I also argue that calls for global democracy on the familiar model of domestic institutions—parliaments, elections, and the like—fail to appreciate how much the "democraticness" of these institutions depends upon the continued plausibility of sovereignty. These calls ultimately confuse democratic institutions with the ideals they are intended to realize. Those ideals, freedom and equality, were expressed historically through the representative institutions of the modern state, but the justification for this manner of expressing them lacks coherence in an era of rapid globalization. The final section sketches an alternative approach to global democracy, one that takes contingency in world politics seriously. This approach

assumes neither the inevitability of a world state nor the necessity of one to global democracy. It provides a justification and suggests mechanisms for democratizing nascent global systems of power and governance, and novel ways of institutionalizing democratic ideals.

This chapter synthesizes and extends my previous work on democracy in the context of globalization. The arguments about the poor fit between sovereignty and democracy present previous research in a new (and, I hope, crisper and more direct) way. The critique of world state theorists is wholly new, though it is in keeping with my previous critique of the empirical literature on democracy and globalization. Finally, the discussion of the advantages of the *democracy as human rights* (DHR) approach expands on my earlier thinking about democracy and governance and draws together a number of recent threads of research, especially in highlighting the advantages of conceptualizing the problem dynamically, in terms of democratization, rather that statically. This progression is consistent with the more outcomes-oriented focus of DHR compared with more traditional understandings of democracy.

I

The "Westphalian" system of sovereign European states emerged over several centuries beginning in the late Middle Ages.[1] Long before that process was essentially complete in the latter part of the nineteenth century (Spruyt 1994; Elazar 2001), sovereignty had become widely accepted among theoreticians as a normative ideal and as an epistemological point of departure (Bartelson 1995; see Hinsley 1986; Walker 1993).

Sovereignty outlines an ideal of supreme, territorial political authority where no such authority exists elsewhere (Hinsley 1986, 26). This ideal of *rightful rule* blends normative and empirical dimensions; sovereign authority both defines and originates within the political community, and its legitimacy flows from this identity or correspondence. Sovereignty posits an "inside" of political space and in doing so necessarily establishes an "outside" comprising a universe of similar insides whose very insideness depends on the existence and maintenance of that outside—or as Waltz put it, territoriality implies anarchy implies sovereignty.

Sovereignty is both descriptive and prescriptive. It is an abstraction designed to simplify the tremendous complexity that characterized the transition from medieval social and political arrangements to recognizably modern ones. This abstraction cannot be understood, however,

without reference to the political *ideal* that sovereignty prescribes: its territorial conception of authority is not merely a simplified description of early modern European politics but rather a normative idealization (and exaggeration) of that conception. The widespread theoretical embrace of sovereignty, well in advance of corresponding political developments throughout Europe, reflects an endorsement of this particular conception of authority. As Anthony Giddens has remarked, "[T]heories of sovereignty formulated by seventeenth century European thinkers . . . were the result of reflection upon, and study of, social trends into which they in turn were fed back" (Onuf 1991, 426). Theorists who made use of sovereignty were not simply reading it off as a fact from the real world of politics; by invoking it they were simultaneously advocating and justifying it.

Sovereignty's attractiveness as a theoretical ideal can best be understood in the context of the distinctive challenges confronting rulers and political theorists in early modern Europe. The concept proved quite useful to those grappling with rapid and radical social change. Sovereignty provided off the shelf answers to pressing questions about identity, community, and the sources and nature of political authority (Walker 1993). It was the appeal of these answers to monarchs and theoreticians, more than the initial accuracy of sovereignty's empirical claims, that assured its centrality in modern political life. Had facts on the ground developed otherwise, that appeal would obviously have been considerably diminished—though as Giddens indicates, the likelihood of their developing otherwise was itself considerably diminished by the role that thinkers and their ideas played in shaping the social trends that were remaking the political landscape.

Kobrin has observed that "absolute territorial sovereignty was always easier to imagine than to construct" (Kobrin 1998, 384). This is an important point: the reality was never quite as neat as the concept would suggest. Sovereignty enables theorization by simplifying a complex reality (cf. Waltz 1986, 37–38). Its plausibility and its theoretical usefulness therefore hinge not on its descriptive accuracy but rather on there being some reasonable degree of "fit" between its simplifications and the world they purport to describe. That is, even though sovereignty is not primarily a descriptive concept, its plausibility and its usefulness are contingent upon the actual configuration of rule. Without a rough correspondence between the ideal sovereignty describes and empirical conditions in the world system—conditions approximating those evolving in the northwestern corner of Europe as early as the sixteenth century and later described as "Westphalian"—sovereignty loses its theoretical appeal and its persuasiveness.

Appreciating sovereignty's contingency is crucial to understanding the challenges facing contemporary democracy, because sovereignty is the conceptual cornerstone of modern democratic theory. Modern democratic theory developed after sovereignty and took it for granted; democracy adopted and adapted sovereignty to quite novel purposes but never challenged its core ideal of rightful territorial rule. The earliest consent theorists introduced the ideals of freedom and equality as a way to justify the *transfer* of sovereignty from the prince to the people (Goodhart 2005a, ch. 3). Freedom and equality make consent the only legitimate basis of authority (Pateman 1988, 39), and in so doing make the people the supreme authority within the political community.[2] Most modern democratic theory is in effect *popular* sovereignty; supreme authority is vested in the people, and no such authority is recognized outside or "above" the political community.[3] As Yack demonstrates, there is a circularity at the heart of popular sovereignty: the foundational act of consent that constitutes the state is undertaken by a people antecedently defined by the territory of the state it supposedly founds (Yack 2001); cf. (Näsström 2003). This circularity is explained, though not eliminated, by sovereignty itself.

Modern democracy is thus at its core an *expression* of sovereignty. This fact makes modern democratic theory, like sovereignty itself, contingent upon the distinctive "Westphalian" configuration of rule characterized by self-contained and autonomous state authority in a system of similarly insular states. That is because democracy is parasitic on the plausibility and usefulness of the answers sovereignty provides to those key questions about identity, political community, and the sources and extent of legitimate authority. If those answers no longer persuade, modern democracy becomes incoherent.

Sovereignty's contingency has for a long time been denied or ignored by scholars in political theory and international relations. The concept became hypostatized, regarded as real or true, part of the very nature of things. Only recently has our growing awareness of globalization and its effects exposed this hypostatization. Globalization is itself a contested concept. I shall define it here quite broadly as a trend toward the *supranationalization* of social activity and interaction, a shift from the local and national "levels" to the international, transnational, and global "levels."[4] Globalization consists both in the trend itself and in the processes through which it operates (Goodhart 2005a, 26). As Rosenau

reminds us, "[A]ny technological, psychological, social, economic, or political developments that foster the expansion of interests and practices beyond established boundaries are both sources and expressions of the processes of globalization" (1997, 361).

Globalization makes sovereignty's contingency both evident and problematic. The plausibility of the Westphalian conception of politics diminishes as politics seeps through and spills over borders, transnational governance expands in scope and significance, and social relations of all types emerge and play out in ways that ignore and erode boundaries of various kinds. This is not to say that states have ceased to be the central actors in the system, or that all politics is now global. It is rather to say that globalization makes it increasingly difficult to get a helpful picture of world politics through the lens of sovereignty. Skeptics often observe that sovereignty was never an accurate description of politics; it was always something of a fiction. This position is correct, as my argument has shown. It is also beside the point. The question is not whether sovereignty was ever an empirically accurate account of politics but rather whether recent developments have expanded the gap between the ideal and the reality to the point where sovereignty has ceased to be useful in understanding politics.[5] I submit that this point has been reached. The idea that states are containers of politics, and in particular that all authority originates within states, is now significantly misleading and widely rejected.[6]

As a result, scholars have had to recognize and grapple with the pervasive "methodological nationalism" of the social sciences, whose epistemology presumes the reality and centrality of the state.[7] In the field of international relations these developments have led both to a thoroughgoing critique of the dominant neorealist paradigm and to the search for new models and narratives through which to theorize politics in the evolving world system (Cerny 1996; see Keohane 1986). One consequence of this renewed questioning of foundational concepts is that theoretical interest in sovereignty has spiked. Long a yawn-inducing concept (Barkin and Cronin 1994), sovereignty is once again a hot topic, as constructivists and critical theorists struggle to make sense of its role and relevance in contemporary political life.[8] This struggle is complicated by the immense and growing complexity of global politics and by the acceleration of change associated with globalization, which makes contingency an increasingly salient analytic challenge.

Globalization has also precipitated a great deal of analytic and conceptual retrenchment in the field of political theory. Democratic

theorists in particular have struggled with the insufficiency of familiar models and ideas in addressing the growing number of issues that cut across borders or affect the entire planet; they have similarly bemoaned the lack of democracy within those international and global institutions that do exercise significant governance functions.[9] These problems are often identified as democratic disjunctures and democratic deficits, respectively (Held 1995; cf. Goodhart 2001). In addition, political developments in Europe raise a particularly urgent set of concerns about democracy and legitimacy in supranational governance arrangements.[10]

II

I began this chapter by suggesting that in responding to the challenges globalization poses for democracy, many theorists mistakenly assume either that a world state is inevitable or that global democracy requires one. I regard the first as mistaken and, from a democratic perspective, potentially dangerous; the second confuses democratic institutions with ideals and ignores the extent to which modern democracy's meaning is conditioned by its association with sovereignty. In linking global democracy to a world state, both views assume that democracy can mean more or less what it always has meant.

There are two significant arguments for inevitability. The first, advanced by Alex Wendt (this volume), relies on a teleological account in which the logics of anarchy and of struggles for recognition create a dynamic that, given the rising costs of militarized conflict, leads ultimately to a world state on the Hegelian model. Wendt's argument is fascinating, provocative, and, I believe, problematic. But it is also quite unique and only indirectly concerned with democracy and globalization. I shall therefore say little about it here, though I return to it briefly at the end to suggest how my argument indicates a potential problem in Wendt's.

Most assumptions about inevitability are just that—assumptions, frequently implicit, and often barely defended. The assumption is basically that (economic) globalization creates pressures and incentives that are already producing forms of global governance that resemble a world state in outline and that will, in the long run, develop into one. Rodrik (this volume) is perhaps most explicit about this: in his view, so long as one presumes that further economic integration is more likely than the alternative, a world state (he calls it a federation) will emerge. According

to Rodrik, we face an "augmented trilemma." We can have only two of its three nodes: a fully integrated world economy, mass politics, a system of nation-states. Rodrik argues that people are unlikely to give up the benefits that flow from a more integrated world economy and equally unlikely to give up their hard-won citizenship rights. It follows that a system of nation-states is the horn that will have to be cut off, and a world state will result.

Rodrik's argument is hardly unique in assuming something like this logic—even if it is singularly bold in stating it so forthrightly. Much of the literature on globalization and democracy takes a dynamic such as this one for granted; scholars anticipate more of the same, suggest there is little to be done about this, and imply that when enough global governance piles up, we will find that it resembles a world state. I think this view is mistaken. Globalization is essentially a vector of change. I see little reason to regard it as permanent, uncontrollable, or likely to produce a particular outcome. I have no wish to deny that a world state *could* result from present trends. But while such an outcome is possible, it is by no means certain or even highly likely. Let me offer three reasons why.

The first is historical: as numerous critics have argued, the vector of change in social activity and interaction has reversed numerous times (Boyer and Drache 1996, Hirst and Thompson 1996; cf. Held et al. 1999). The collapse of the Roman Empire and the dissolution of the Soviet Union are just two examples of what could be called "de-globalization" or localization. (The latter might also be attributed to economic forces commonly associated with globalization; this reminds us that globalization is not a single process but a complex set of interrelated processes whose net effects can be difficult to characterize using simple directional or spatial metaphors). While the current trend is toward supranationalization, and while many of the processes contributing to that trend have self-reinforcing dimensions, history suggests that there is nothing irreversible or unidirectional about it.

Second, there is no reason to treat globalization as beyond human control. Some dimensions of it—information and communication technologies, for instance, and the interactions they facilitate—are unlikely to be reversed absent some cataclysmic disruption (though a third- or fourth-century Roman would surely have found it unthinkable that technology and infrastructure involving such basic social goods as roads and sewers could be lost for more than a thousand years). But many other dimensions of globalization are the direct result of deliberate

policy choices and could be reversed or revised. This is significant because arguments for the inevitability of a world state typically assume that present trends will continue. This in effect means treating political globalization as a natural force or condition like the weather. It obscures the extent to which, very much unlike the weather, our choices matter quite a lot in determining outcomes. Low tariffs and minimal capital controls, for instance, facilitate a great deal of economic globalization; they are policy choices that could be reversed.

I am not predicting their reversal anytime soon; the neoliberal ideology that underwrites many of the economic dimensions of globalization has no effective challengers at present. Nor am I advocating their reversal. Whether these policies should be revoked or reformed, and how, are complex questions beyond this chapter's scope. My point is simply that there is no reason in principle why these policies could not be reversed and thus no reason to view them as necessary or their consequences as inevitable. For instance, it is not clear why, *pace* Rodrik, the marginal returns on more goodies might not diminish to the point where the utility of further integration is offset by losses of national autonomy. Nor is it clear that at some point values other than utility, such as nationalism or collective identity, might not come to outweigh material benefits.

Finally, we should be skeptical about the inevitability of a world state because we should be skeptical of the often barely defended assumption that a world state is in fact the likely or logical outcome of globalization. Contemporary processes of change can have quite divergent effects: the same forces that seem to be pulling the world together into an increasingly centralized social, economic, and cultural system are simultaneously driving fragmentation and polarization (Barber 1995; see Rosenau 1990; 1997). Globalization might result in the emergence of a world state, or it might trigger a reaction in which rising nationalism, sectarianism, or protectionism leads to a cycle of globalized conflict playing out within localities across the planet (we are not always rational, after all). It might simply encourage greater cooperation among states within a modified international system, or it might encourage democratic localization in which jurisdictions multiply and compete by offering different packages of social and economic policy to prospective residents within some loose regional or global normative and regulatory frameworks. In fact, political integration of the kind implied in the idea of a world state has so far lagged far behind other forms of globalization. The European Union (EU) undoubtedly repre-

sents the most advanced instance of political integration among states; Wendt sees it as very close to achieving the collectivization of organized violence and threat response, common power, and universal authority that would constitute a world state. But the goal of "ever-closer union" has met with stiff political resistance from European governments and citizens alike. Unsure of what this closer union entails, how far it might extend, and what benefits it might bring, Europeans have evinced a healthy reluctance to authorize it. Their prudence indicates both that political integration elicits deep suspicion and that, perhaps more than other dimensions of globalization, it remains conditional upon deliberate choice. In particular, Europeans seem to me quite far from authorizing the EU to be a universal decision maker even in Wendt's limited sense.

These points should suffice to show that, far from being an inevitable or even highly likely outcome of current processes of globalization, the emergence of a world state is one of several outcomes that seem plausible on current trends (none of which is itself necessary or inevitable). Moreover, those outcomes and the trends themselves remain dependent on political choices. Assuming the inevitability or likelihood of a world state, despite these problems, can be appealing because it greatly reduces the complexity involved in theorizing within our present political context and eliminates much of the contingency associated with globalization. Much like early theorists of sovereignty, scholars today who predict the emergence of a world state gain a great deal of leverage on problems relating to identity, authority, and political community. It remains to be seen whether, like those predecessors, they have guessed correctly. But as this comparison reminds us, predictions of this nature can themselves play a role in bringing about the states of affairs they anticipate. In this respect predictions can also be dangerous. It is conceivable that, like early theorists of sovereignty, contemporary scholars might help to initiate the kind of feedback loop that reinforces an as yet unrealized ideal; their enthusiasm for the idea of a world state might facilitate its eventual realization. We presently have no sound basis for assessing the democratic potential and drawbacks of global government and no assurance that our present theories of democracy will offer reliable guidance in making such assessments. We should be cautious, lest we get what we wish for.

This caution provides a neat segue into discussion of the second mistaken assumption often made by scholars concerned with globalization and its effects: that a world state is either required for or entailed

by global democracy. This mistake is most evident in cosmopolitan democratic arguments for a scheme of global democracy modeled on familiar democratic institutions: a world parliament, a global democratic constitution, and so on.[11] Such cosmopolitan schemes are appealing because they seem to resolve the problems of democratic disjunctures and deficits in global governance: their global scope would obviate the problem of disjunctures by default, and their democratic character would erase deficits by imposing appropriate controls and mechanisms of accountability on all aspects of governance.

These proposals in effect presuppose or envision a world state. At the outset I defined a world state as a unified (centralized or federal) system of power, decision making, and administration for the entire planet. Proponents of global parliaments or other more limited schemes, such as Falk in this volume, might reasonably deny that their proposals entail a world state. I am happy to concede the point, but then it becomes unclear to me what good, in a democratic sense, a global parliament without the power to enact global laws and policies and to regulate and oversee global governance would do. Parliaments without power are no guarantee of democracy. Representative government contributes to democracy not just because it is representative but because it is also government—because it exercises power: it rules. Guarantees of rights and electoral mechanisms help to assure that this power gets exercised for democratic purposes—or at least, that its exercise is limited by democratic constraints. Either a global parliament will be primarily a talk shop or it will require a government for which to legislate and through which to rule. The European Parliament (EP) exists somewhere in between these extremes and might be seen as a counterexample, but it is worth noting that complaints about a European democratic deficit persist alongside the EP. The EP might gain greater influence within the European Union and eventually establish its supremacy within that entity, but that would only prove the point that a parliament requires a state (or something like one) to govern democratically.

So the thrust of cosmopolitan democratic theory is that a world state is necessary for global democracy. The intuition animating cosmopolitan schemes is that democracy in an era of globalization requires a global government subjected to parliamentary decision making and oversight within a global constitutional legal order.[12] This approach effectively seeks to replicate both the logic and the mechanisms of modern democracy at the global level. At this point the two assumptions linking world state to global democracy intersect, and we can see that

their implications are the same: both recommend a statist or sovereign model of democracy. In the Westphalian era popular sovereignty or rule by the people has been realized, imperfectly, through representative government within sovereign states. By allowing citizens to choose and to reject officials who make political decisions within a constitutional state, representative government makes rule by the people possible, if only indirectly. One common complaint about supranational governance heard on the left and the right alike is that the decisions made by the EU or by intergovernmental organizations such as the IMF, WTO, and World Bank violate popular sovereignty.[13] Cosmopolitan democracy would (re)create a system in which all of those affected by a decision have an equal say in determining its outcome. Establishing global political institutions would restore the symmetry between citizens, decision makers, and policy (Archibugi 2004, Falk and Strauss 2001, Held 1995).

This super-sizing approach appears straightforward, but it suffers from several related flaws. It assumes that global politics is essentially similar to domestic politics within sovereign states, just bigger, and that similar institutions will therefore have similar democratic effects.[14] This assumption overlooks or ignores the relationship between the legitimacy of the familiar democratic institutions and their "fit" within the modern state. It ignores, that is, the contingency of modern democratic political arrangements (Goodhart 2005b; see Goodhart 2005a, chs. 3 and 4). It also conflates the institutions through which modern democracy has been realized with the democratic ideal itself, erroneously assuming that replicating the forms of modern democracy is essential to realizing its substance. We can consider each of these flaws in turn.

Within the Westphalian order, sovereignty designates not simply an administrative boundary but literally the space of politics. Sovereignty makes politics—the relations among citizens in a political community—possible inside the state while simultaneously ruling out the possibility of such relations outside the state (see Wight 1966). This means that the legitimacy of representative government flows as much from sovereignty—the idea that rightful rule belongs or resides within the state—as from its "representativeness." Representative institutions are legitimate in large part because they represent *the right people*, the citizens of the sovereign state. Globalization, however, undermines the plausibility of territorially predetermined notions of political community and of the idea that politics can be contained within states. Growing awareness of and frustration with democratic disjunctures reflect the inadequacy of territorially based representative institutions and the

sovereign ideal of political community in which they are rooted. Absent that ideal, the practical justification of representative government, the exercise of authority and control by the people, evaporates.

This justification cannot be easily refashioned for global representative institutions because there is no popular sense—the views of certain political theorists notwithstanding—that authority belongs at that level (e.g., Bolton 2000, Rabkin 1998, Rabkin 2005). The problem is not with the institutions themselves; there is no reason why these cannot be designed to be at least as "democratic" as domestic arrangements. The problem is rather that when such institutions sit astride established political communities, with their own traditions of democracy and self-rule, they often appear antidemocratic—not because of their design but because their authority encroaches on that of already democratic polities. The EU is a case in point: its institutions meet or exceed the democratic standards of many of its member states (Moravcsik 2002; Zweifel 2002), but it suffers nonetheless from an acute lack of legitimacy. In part this reflects what scholars have called the "no demos" problem: there is no felt sense of a European people corresponding with institutions that allow that people (in a limited way) to rule. This legitimacy crisis will not be solved by better institutional design, as many theorists have argued, but only by better theoretical understanding of what democracy might mean in a complex polity of polities to which traditional understandings of democracy cannot apply (Goodhart 2007). Similar problems arise in connection with concepts such as democratic accountability—once we can no longer take for granted to whom some institution should be accountable, familiar ways of achieving accountability become incoherent.[15]

Moreover, the assumption that global democracy should look like democracy within sovereign states confuses the institutions through which democracy is realized with the democratic ideal itself (Beetham 1999, ch. 1). That ideal consists in a commitment to freedom and equality for everyone (Goodhart 2005a; cf. Beetham 1999, ch. 1). Freedom and equality appear as the central principles in virtually every modern account of democracy; representative institutions, protections for human rights, the rule of law, social security and welfare provisions, and similar components of democratic regimes are all expressions of this core commitment.[16] To mistake the institutions for the thing itself reifies a contingent configuration of democratic rule. Popular sovereignty, far from being a necessary requirement of democracy, reflects a historically contingent accommodation between the democratic ideals

of freedom and equality and the sovereign ideal of supreme rightful rule within a territory. Many scholars have argued that it is possible to share or divide sovereignty (e.g., Mann 1993; MacCormick 1999); this is no doubt true, if what is meant by sovereignty is either legal authority or simply control. But the idea of sharing or dividing popular sovereignty is simply nonsensical; it must exist somewhere definite or nowhere. (Held's attempts to assign sovereignty with respect to different issues to different levels or locations of governance, apart from appearing unworkable in practice, merely push the question of popular sovereignty back one step, to who decides how the assignment is made (Held 1995, 234ff; cf. Goodhart 2005a, ch. 5). Advocates of cosmopolitan democracy must hope that a global regime of popular sovereignty will find an alternative to the territorial justification of rightful rule that sovereignty provided for representative government within states, or that a world state will emerge in which citizens find representative government appropriate on the same logic of political community that justified it within states. Neither possibility seems likely in the short term.

III

The assumption that a world state is inevitable focuses democratic attention to how such a state could be democratized. The assumption that global democracy requires or entails a world state misapprehends the link between democratic institutions and their context and confuses those institutions with the democratic ideal itself. Both assumptions imply that global democracy will look more or less like democracy in the Westphalian state, only bigger. Both assumptions thus also deny or ignore the contingency of modern democratic theory.

The claim implicit in my argument so far is that it is a mistake to view the challenge of globalization mainly in terms of scale, or even of space. Rather, that challenge should be seen as going to the very question of democracy's meaning. Modern democracy is deeply intertwined with the ideal of sovereignty—historically, conceptually, and institutionally. If globalization does make that ideal implausible and unhelpful in understanding politics, then a theory of democracy fit for the era of globalization must disentangle the democratic ideal from its sovereign instantiation and reinterpret it. Put differently, institutional innovation will not suffice if that innovation is not informed by a careful reconsideration of the democratic principles on which the institutions are premised.

I have attempted such a reinterpretation elsewhere (Goodhart 2005a). In this section I shall provide just an outline of that approach, not with the intention of defending it but rather with the hope of using it to illustrate the general features appropriate for a post-Westphalian theory of democracy. I shall offer three main reasons for the superiority of this type of approach: it focuses on democratic outcomes and not simply procedures; it is flexible with respect to how those outcomes are realized and not wedded to particular institutional forms; and, it conceives democratization as an ongoing process and not as a static feature of some particular political system. These features make it adaptable to the unpredictable dynamics of globalization.

I argued earlier that modern democratic theories share a commitment to the ideals of freedom and equality. One very useful way in which to conceptualize what freedom and equality might require in an age characterized by complex, multilayered governance arrangements within a rapidly evolving world system is in terms of human rights. On this view, democracy can be plausibly and helpfully understood as a political commitment to securing the equal enjoyment of fundamental human rights for everyone. I call this approach *democracy as human rights* (DHR). Let me emphasize in advance that this approach represents a *reinterpretation* of democracy, one motivated by the challenges that globalization poses to territorial conceptions of democracy and informed by the critique of democracy's entanglement with sovereignty.

There are good historical and conceptual reasons for interpreting democracy this way. (Natural) human rights have figured prominently within what might be called the emancipatory strain of democratic theory, stretching loosely from the Levellers through Paine, Wollstonecraft, Condorcet, nineteenth-century feminism and abolitionist thinking, democratic socialism, and the more recent work of thinkers such as Pateman, Shapiro, and Young (Pateman 1996; 2004; Shapiro 1999; Young 2000).[17] Rights provide the vocabulary in which challenges to power, status, and hierarchy have been effectively expressed. They foster and facilitate freedom and equality by counteracting domination and oppression, the arbitrary or unwarranted use of power to control or interfere in people's lives, regardless of whether that power originates in states, families, corporations, social groups, religious authorities, or any other source. While democracy has not typically been understood in terms of human rights, many social movements devoted to democratization have used the discourse of human rights to frame and advance their claims.

To express democratic freedom and equality through human rights requires that those rights be understood in a particular way. What I have called fundamental democratic or human rights are those that are necessary to protect individuals from domination and oppression, and that also are necessary to the enjoyment of the other fundamental rights.[18] Today this includes four main clusters of rights—fairness rights, liberty and security rights, social and economic rights, and civil and political rights. Together these provide people with protection against standard threats to freedom and equality. Of course, civil and political rights constitute much of what we typically associate with democracy, including rights associated with political participation, free expression, standing for office, selection of officeholders, etc.—and so my approach does not imply or entail the abolition of familiar representative mechanisms. It does, however provide a different—and, in the context of globalization, more plausible—justification for them. In traditional democratic theory such mechanisms are conceived as necessary to facilitate rule by a sovereign people; in DHR they are implied by and required to secure rights central to freedom and equality.[19] Perhaps more importantly, in light of our subject here, this approach shifts the emphasis of democratic theory away from democracy as the functioning of a specific set of majoritarian institutions—which has always been open to the critique of tyranny of the majority—and toward the realization of the core democratic principles.

This point illustrates the first of the advantages of this type of approach: it focuses on democratic outcomes and not simply procedures. This is not to say that the democratic principles determine outcomes on substantive political questions. Rather, fundamental human rights establish parameters within which any decision must remain if it is to count as democratic. These parameters limit the way in which decisions can be made and constrain the substance of decisions and policies.[20] Put differently, fundamental human rights set normative boundaries on the process and content of political decision making—outcomes that violate the fundamental human rights are prima facie undemocratic.

Of course, decisions still have to get made *somewhere*; I side with those who emphasize the ongoing importance of the state in thinking that states remain the logical places to locate the participatory institutions (parliaments, etc.) responsible for such a large part of democratic decision making. But the parameters set by DHR let us see that democratic decision making need not be limited to traditional representative institutions; it can extend into the legal, bureaucratic, and regulatory

domains. Procedures that guarantee access, influence, and contestation within a framework of legally established and institutionally guaranteed rights would make decision making more democratic both within states and at the supranational level (see Bohman 1999; Bohman 2004; Hunold and Peters 2004; Jacobson and Ruffer 2003). Institutional guarantees for rights at the supranational level would require a revamped and significantly invigorated transnational human rights regime that included mechanisms to ensure compliance. The design and operation of such a regime poses many serious questions that unfortunately lie beyond this chapter's scope.

The second advantage of DHR as an approach to thinking about global democracy is its flexibility with respect to how democracy is realized. DHR is not wedded to specific procedures or institutional forms; it does not require that democracy be realized in the same way everywhere. A state was, in the Westphalian era, an essential feature of liberal democratic governance and the accepted template for it. Now governance is becoming more varied and more diffuse, as sites and forms of governance multiply globally in different functional domains and at different "levels." There is little reason to think that the same institutions or institutional arrangements that ensured democracy within states will be applicable to the myriad types of governance emerging today and equally little reason to think that there will be one institutional arrangement best suited to promoting democracy across all of those types.

This flexibility makes DHR particularly well suited to the challenges posed by globalization. Given the tremendous and increasing complexity of our evolving world system, this shift in focus is significant. Securing freedom and equality under conditions of globalization might well require different institutions and procedures in a variety of different social and functional domains. Mechanisms appropriate in some domains might not be effective in others. Sovereign democracy, with its emphasis on elections and parliaments, always entailed a frustratingly narrow conception of the political. Moreover, because it conflated the ideals of democracy with the institutions through which those ideals are realized, it was always prone to overlooking democratization happening outside established channels—such as through social movements—and always prone to overestimating the democratic significance of formally representative institutions. These problems are magnified at the global level, where democratization might take many different forms in a comparatively fluid and diffuse context populated by widely varying actors and institutional arrangements and where the

democratic significance and legitimacy of familiar mechanisms and procedures might be greatly diminished.

This focus on governance also reminds us that the nascent constellation of global governance is in almost constant flux; evolution in the world system is quite rapid in historical terms but remains unpredictable. The type of approach represented by DHR facilitates the adaptation necessary to keep pace with this change, to ride the waves of contingency. It uses fundamental human rights to guide institutional innovation and experimentation in pace with ongoing developments. As these points indicate, DHR does not envision a centralized system of governance and does not require or entail a world state. It does point to the need for certain transnational institutions, as noted earlier, and for the thoroughgoing reform of existing governance arrangements. While democratic norms and objectives remain consistent across various domains, their realization can remain decentralized. This represents another significant advantage over approaches to global democracy that envision a world state; given the deep cultural and political divisions that characterize our world, DHR suggests a plausible and incremental way forward.

The final advantage of this approach that I want to stress is its dynamic conceptualization of democracy. Rather than treating democracy as a fixed outcome captured in a specific institutional arrangement, decision mechanism, or other static system, DHR aims toward the progressive realization of freedom and equality across various domains of governance. It is, in a very real sense, a theory of *democratization*. From this perspective the task of democratic theory is not to identify the correct institutions or procedures required for global democracy but rather continually to seek more democratic outcomes in domains of global governance. This dynamic orientation motivates the expansion of democracy into areas—such as supranational economic governance—where it has often been ruled out. The flexibility of the approach means that supranational economic governance need not mean control of global economic decision making by an elected parliament or direct election of decision makers in the IMF or WTO. It does require, however, that the decisions of such entities be open to participation, influence, and contestation and that their policies respect and promote fundamental human rights.

A dynamic conceptualization also promotes better measures of progress toward global democracy. Assessing such progress in terms of the realization of a global government made up of institutions copied from

democratic states is misleading. We can get a much clearer picture of global *democratization* by focusing on the realization of the full range of indicators (rights) suggested by DHR. Since DHR distinguishes between democratic ideals and different instantiations of them, it enables the development of much more nuanced assessments of democratization and democratic backsliding both within states and within functional governance regimes. Because human respect for fundamental human rights can be readily measured it is possible not only to devise aggregate assessments but also to identify trends. Because human rights register, in a sense, democratic outcomes or achievements rather than merely the presence of certain institutions, DHR can make sense, from a democratic perspective, of much greater institutional variety. The traditional focus on elections and institutions gets replaced by attention to moves toward greater realization of freedom and equality in a whole range of social and political domains, including but not limited to representative mechanisms. Keeping in mind the contingency of human affairs and the uncertainty of future political developments, as well as the complexity of our present situation, this kind of analytic flexibility is a distinct advantage. A time might come when a world state is a necessary and appropriate vehicle for global democracy; until such time, however, there is no reason why we cannot assess the democratization of global governance in other, less dichotomous terms.

Before concluding, I want to suggest that this account of democracy as human rights indicates a potential flaw in Wendt's reasoning for the inevitability of a world state. That argument, as we have seen, rests on the interaction of the logics of anarchy and recognition. But Wendt assumes, following Hegel, that recognition must take place within a single political community. (In Hegel's case at least this is because of the ethical significance assigned to this community.) But it seems at least plausible to assume that global recognition of fundamental human rights, coupled with adequate oversight and enforcement mechanisms, represents another way of achieving recognition. And if recognition does not require a single ethical community, Wendt's argument breaks down.

This possibility suggests a deeper flaw in Wendt's argument: the effects of downward causation in his theory flow, again, from the dynamic created by the interacting logics of anarchy and recognition—from structure. Yet both anarchy and recognition are at some level products of human choice and thus could change. Wendt recognizes this. But once we admit the possibility of a different logic of recognition,

we have to allow that choices people make about what form of recognition to pursue, and how, will alter the supposed "telos" of the system. It thus becomes clear that ends themselves must be susceptible of change. Wendt has relied on the analogy of a human embryo developing into an adult human being; the development wouldn't be possible unless the end was, in some sense, known. I do not disagree. But the analogy does not hold in the case of social systems. In the case of the embryo the end is known and *not subject to deliberation or to human influence*; in human and social interactions ends are always irreducibly the product of choice. And since there is agency, and real choice about means and ends, nothing is inevitable. That does not necessarily mean that teleological argument is invalid or unhelpful; it just means that it is not certain. Unfortunately, I cannot further pursue these questions here.

IV

I have argued that globalization highlights and problematizes sovereignty's contingency. In so doing it undermines the plausibility of modern democratic theory, which is similarly contingent because of its normative and empirical foundations in sovereignty. I have also rejected two common arguments for conceptualizing global democracy in terms of a world state, showing that a world state is not inevitable and that global democracy neither requires nor entails global government. Finally, I have tried to connect these two threads by outlining the advantages of an approach to democracy that recognizes its contingency, reinterprets it in light of its core values of freedom and equality, and seeks the realization of those values through a decentralized system of varied mechanisms adaptable to different domains of governance.

Critics will likely find fault with each of these arguments—especially, perhaps, the last. In closing, let me simply make two points in support of that final argument. First, I have no wish to deny that DHR represents a reinterpretation and reorientation of democratic theory. But to reject it for that reason is also to deny the need for a new account of democracy and thus to deny the ongoing transformation of the world system. Critics might want to deny all of that as well, but they are then left with the burden of defending the adequacy of sovereign democracy in an era of globalization. Second, one might disagree with the substance of DHR without rejecting the merits of the approach. DHR distinguishes the democratic ideal from its particular instantiations and thus does not erroneously presume that global democracy

requires a world state. It defines democracy substantively, flexibly, and dynamically rather than procedurally and in static institutional terms. Such an approach takes contingency in world politics seriously, avoiding the mistaken and dangerous view that democracy can go on meaning what it has meant.

Notes

1. The scare quotes are to indicate that the Peace of Westphalia has lost the pride of place it once possessed in neat but historically inaccurate accounts of this evolution (See Krasner 1993; Philpott 1995; Spruyt 1994).
2. Of course, who among those resident within the territory counts as part of "the people" has been and remains hotly debated in theory and vigorously contested in practice.
3. Often in liberal theories this is the "constituent sovereignty" we see in Locke; in more republican theories such as that of Rousseau the people's sovereignty is more direct.
4. As Walker (1993) notes, the term *levels* tends to reify a statist conception of world politics; the term should not be interpreted in spatial terms.
5. To clarify: I am not suggesting that the *legal* notion of sovereignty is unhelpful; rather, I am arguing that the normative ideal of sovereignty is unhelpful.
6. I cannot defend this point here (see Goodhart 2005b, ch. 4). Sovereignty remains a central concept of international law and retains significant relevance in that domain, though even there evolution has been quite rapid (see MacCormick 1999).
7. See, e.g., Agnew 1994; Beck 2004; P. Taylor 1996.
8. E.g., Onuf 1991; Walker 1993; Bartelson 1995; Sassen 1996; Krasner 1999; MacCormick 1999; Wendt 1999; Friedrichs 2001; Philpott 2001; Walker 2003; Aalberts 2004; Rabkin 2005).
9. See in particular Held 1991; 1995; Archibugi 1995; 2004; Bohman 1999; Cerny 1999; Dryzek 1999; Markoff 1999; Shapiro and Hacker-Cordón 1999; Falk and Strauss 2000; 2001; Holden 2000; Goodhart 2001; 2005a; 2005b; Gills 2002; Näsström 2003; C. Taylor 2003; 2003/4; Kuper 2004; Moravcsik 2004; Zürn 2004; Gould 2005.
10. E.g., Andersen and Eliassen 1996; Beetham and Lord 1998; Føllesdal and Koslowski 1998; Lord 1998; 2001; Majone 1998; Van Parijs 1998; Weale and Nentwich 1998; Wincott 1998; Bellamy and Castiglione 1998; Bellamy and Castiglione 2000; Eriksen and Fossum 2000a; Greven and Pauly 2000; Schmitter 2000; Siedentop 2000; Zürn 2000; Habermas 2001; 2003; Decker 2002; Friese and Wagner 2002; Moravcsik 2002; Zweifel 2002; Fossum 2003; Bellamy and Castiglione 2003; Costa, Jabko,

Lequesne and Magnette 2003; Crombez 2003; Sbragia 2003; Bohman 2004; Dobson and Follesdal 2004; McCormick 2006; Goodhart 2007.

11. For a good overview of such proposals see Archibugi 2004.
12. The clearest, most nuanced, and most formidable exponent of this position remains Held 1995.
13. E.g., Bolton 2000; see Nader and Wallach 1996; Panitch 1996; Rabkin 2005.
14. This assumption (following Walker 1993, ch. 6) is sometimes referred to as the Gulliver fallacy.
15. The other solution for Europe, one advocated by some prominent theorists (Eriksen and Fossum 2000b; Habermas 2003; see Mancini 1998), is in essence to build a European state through the construction of a European demos and public sphere. This would in principle close Europe's internal democratic deficit but would still leave the European polity in the same position vis-à-vis globalization as other nation-states. The implausibility of a genuine European state, given cultural, political, religious, and linguistic differences and popular opinion that seems to favor devolution over integration, should give pause to proponents of a world state or of models of cosmopolitan democracy.
16. Of course, not all "democratic" states do a stellar job in protecting and promoting the freedom and equality of their citizens, especially outside the "public" or political sphere. These failures in practice routinely come in for criticism from democratic theorists and activists, criticisms that seem to confirm the point about democracy's commitment to these ideals in theory.
17. For a discussion of emancipatory democracy see Goodhart 2005a, ch. 6.
18. This latter notion builds on the basic rights approach developed by Shue 1996.
19. Obviously, a great deal more would have to be said to defend this interpretation of democracy than can be said here. Even if readers disagree with this interpretation, however, there is little difficulty for the argument that follows, which is concerned less with this particular interpretation than with a broader approach to the challenges globalization poses for democracy.
20. This is not much different than deliberative approaches, which use procedural and substantive criteria derived from discourse ethics to proscribe certain outcomes. Unlike those approaches, however, DHR does not require or imply that "all would or could agree" to its norms; it treats those norms rather as central to the democratic commitment.

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10

A Madisonian Argument for Strengthening International Human Rights Institutions: Lessons from Europe

Jamie Mayerfeld

Introduction

My thesis is the opposite of that announced in the title of Jeremy Rabkin's 2005 book, *Law without Nations? Why Constitutional Government Requires Sovereign States.*[1] As I intend to show, constitutional government requires the backing of a strong international human rights regime, one that places significant limits on state sovereignty. State sovereignty, if it excludes supranational institutions with the power to overrule national policies that violate human rights, is inimical to constitutional government. To put it another way, democracy is incomplete unless domestic human rights institutions are bolted into a system of international guarantees.

James Madison helps us see why. His consistent strategy against tyranny was to break up concentrated power and replace it with a system of divided powers and mutual oversight. This is the principle of checks and balances: power is distributed among institutional actors in such a way that each can ensure that all exercise their power responsibly. As Madison was aware, however, checks and balances can be undermined by faction—that is, by groups of people organized to pursue their collective interest at the expense of justice. Madison's famous solution to this problem involved the skillful geographic redistribution of decision-making authority. During the debates over the ratification of the U.S. Constitution, he argued that a federal union would limit the harm caused by faction in the separate American states. In our own time, when nation states (especially the United States) wield a degree of power unlike anything Madison ever knew, and when profound social transformations have made national factions a formidable threat to