BORDERS, BOUNDARIES AND JUSTICE: TOWARD A CRITICAL THEORY OF COSMOPOLITICS.

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By

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ABSTRACT

In this dissertation, I contrast the “ordinary” politics of the nation state with the “extraordinary” politics of international affairs. While ordinary politics allows individuals to come forward and assert political agency in the public sphere, international politics has the character instead of an emergency politics of crisis containment. Here, individuals are conceived of not as agents who struggle for recognition or seek to have the political authority exercised over them legitimated, but as bodies whose appearance causes a crisis, prompting the need for them to be administered back into a national realm that can take responsibility for their claims. This situation stems from a problem of space and political organization: ordinary politics is founded upon spaces of appearance and is guided by an orientation toward showing and telling, whereas international politics is founded largely upon spaces of surveillance, detection and control; its guiding impulse is toward sequestering or hiding.

In contrast to approaches to the problem of global justice that call for the redistribution of material resources between nations (which leave this spatial problem untouched), I argue that political theorists should attend instead to the constitution of individuals as political agents equipped to pursue struggles for recognition and call
political power to account in international affairs (the basis of a true cosmopolitics). This is very difficult, because international political power frequently attempts to close down spaces of appearance and deprive individuals thrown into the space between nations of a “home” in the world. I argue that the detention of immigrants and asylum seekers in Western Europe serves as a contemporary example of the “de-worlding” of individuals at the hands of official power, an existential harm that amounts to a form of “political death.”

My analysis relies upon the thought of Michel Foucault, Jurgen Habermas, Axel Honneth, Hannah Arendt and Martin Heidegger and is intended as a contribution to the global justice debate from a realist or critical perspective.
First and foremost, I would like to thank my teachers at Georgetown University, Bruce Douglass, Gerry Mara and Richard Boyd, for their invaluable support, guidance and criticism. Without their thoughtful advice and provocative comments, not to mention their patience in the face of the numerous deadlines that I missed, this project would never have been finished. Colin Bird of the University of Virginia very kindly agreed to join my dissertation committee once I had begun writing. I am extremely grateful for the comments that he provided on earlier drafts of the chapters and for his friendship. I would also like to thank the Department of Government, the School of Foreign Service and the School of Foreign Service in Qatar at Georgetown University for the material support that they provided for the writing of this dissertation.

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Finally, in the closing days of writing, Renee Davidson has helped me far more than she could ever know.

None of this would have been possible without the love and support of my family, especially my mum, Janice, my dad, Terry, and my sister, Lisa, whose kindness and generosity have known no bounds. For this I will forever be in their debt (although I am sure they will insist otherwise).

Craig,
Washington, DC,
August 2012.
This dissertation is dedicated in loving memory to my father,

Terry French,

30 June 1955 – 19 April 2011.

This is for you, dad.
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INTRODUCTION

If the argument of this dissertation had to be summarized in one short slogan, it would be: “against global administration!” This sentiment goes against the grain of a great deal of recent normative theorizing about international affairs. When the problem of global justice surfaced as a popular topic of study in the 1990s and early 2000s, political theorists seemed to have been convinced that the problem to be tackled was the problem of global poverty. Worried by the stark inequality between the global rich and global poor, and the radically different life chances affected by the happenstance of one’s birth into a poor rather than a rich nation, they built elaborate theories of distributive justice that were global in scope and application. The work of those who sought to extend John Rawls's theory of distributive justice to the international context exemplified this tendency: inspired by the idea that a system which distributes the benefits and burdens of social cooperation must be defensible to the least well off members of society, and convinced that the world order has a “basic structure” analogous to that of the nation state to which principles of justice could be applied, they offered as a solution to the problem of global justice an international version of Rawls’s liberal egalitarian difference principle. This way of thinking about things, which has become quite influential, has left us with the impression that global justice is really just a problem of resource allocation.

With the benefit of hindsight we can now appreciate more fully the shortcomings of this approach, which stem from the way in which it narrowly defines the problem at hand and excludes certain features of political life from our investigations. The distributive approach offers not a political conception of global justice, but an administrative one. Under its lights, individuals are viewed not as political agents with
the requisite standing to organize their political affairs and challenge international political power. Instead they are conceived of as victims, passive recipients of aid, to be dealt with by an international administrative architecture responsible for redistributing wealth in their direction. Global justice is really just global humanitarianism. Proponents of this view will no doubt protest that this is to misconstrue their argument. In fact, they will say, the whole point of their argument is to show that duties to aid the global poor are not simply requirements of humanitarianism (the domain of the supererogatory) but are actually requirements of justice (the domain of the obligatory). Nonetheless, this distinction is all but effaced under the weight of their theory. The result is a style of theorizing that, despite the best intentions of its authors, is actually quite conservative. It does not seek to fundamentally alter the constitution of international politics nor even illuminate its systemic failures. Instead it seeks merely to redistribute the material products of an existing global political structure that is largely untouched.

This observation prompts the argument of this dissertation. In this project, I claim that political theorists grappling with the global justice question should widen their focus, moving beyond distributive issues to address questions of political agency in international politics. In other words, they should aim to offer a political conception of global justice, one that constitutes individuals agents capable of organizing their political affairs, rather than a merely administrative or redistributive one. A distinctly political conception of global justice would redirect our attention toward the following, pointed questions: What does it mean for an individual to be the carrier of a political identity? How do we understand this political identity in the ordinary context of life in a liberal democratic state? What happens to that political identity when it is removed from its
familiar surroundings inside a state and inserted into the international context? Does it survive intact, or is it threatened or undermined? If it is threatened or undermined, as I suspect it is, does this suggest a problem with the present constitution of international politics? If we could imagine reconstituting international politics so that it did recognize the political agency of individuals, on what normative foundations would it have to be built? How would it be oriented?

I propose a preliminary answer to these questions. My argument in this dissertation is that international politics as it is presently constituted stands as a highly deficient mode of politics, one that “blocks” individuals from asserting political agency outside of the traditional confines of the nation state. The power circulating in the realm of international affairs has a great influence on the ability of individuals to effectively exercise autonomy in relation to their political affairs (or sometimes the affairs of their bare lives), yet it remains beyond their reach and cannot be checked or controlled. This makes cosmopolitics impossible. Cosmopolitics is simply the term I use to describe the idea that individuals ought to have the requisite standing and ability to assert themselves as political agents in international contexts: as individual bodies with the right to be heard by any international political authority that exercises power over them, and to have their identity as autonomous agents recognized. I make no further claims about what this politics might look like. Precisely because we are talking about politics, it is not the sort of thing whose nature can be pre-determined by theory. I claim only that the aspiration to secure cosmopolitics is attractive. This is because it is an extension of a view we already hold in connection with domestic or regular politics: that individuals cannot autonomously determine the course of their own lives if they are not recognized as
having a political identity with the ability to check, monitor and track the authority exercised over them by coercive institutions. I claim also that securing political agency for individuals who presently lack it in the international context would do more to promote global justice than any redistribution of wealth across the global system. Redistributive mechanisms do not fundamentally change the structure of international politics or alleviate the democratic deficiencies at its core. On the other hand, the rationale behind cosmopolitics is as simple as it is radical: the route to a more just world order is through *empowering* individuals as self-determining political agents responsible for steering and crafting their future lives. An equal share of material resources or a package of basic liberties is only one part of this mosaic. The solution must be sought in the domain of the political.

Beyond this, I offer no further specifications for cosmopolitics. Instead, the argument of the dissertation proceeds in a negative fashion, describing the barriers latent in the present global order that prevent this kind of political agency from emerging. In the first chapter, I claim that the origins of this problem lay with the improper constitution of international politics, specifically in the way in which it handles individual bodies when they present themselves in international space. In the domestic context of a western nation state, our historical experience has a dual character to it, consisting in the exercise of bio-power over individual bodies by the state on the one hand, and a politics of corporeality - in which bodies thrust themselves forward into the public sphere to contest political authority and stake out claims for justice or the recognition of identity - on the other. But international politics has not developed under this dual aspect: this symmetry is lacking. Instead, the individual body appears in the international realm only as a
problem to be dealt with, not as the bearer of a political identity to be recognized. This prompts a particular type of response on the part of the power that circulates in the international sphere: the declaration of some sort of a crisis, giving rise to an emergency politics of crisis containment that seeks to cover up the problematic body and hide it from view. A theme is introduced here that will recur across the project: namely, the identification of a contrast between a normally constituted politics founded upon spaces of appearance on the one hand, and a pathological mode of politics characterized by the hiding and sequestering of individuals deemed problematic (asylum seekers, migrants, individuals suspected of international terrorism etc.) on the other. Whereas one of these modes of politics enables political agency, the other negates or destroys it.

The two chapters in the middle of the dissertation comprise theoretical reconstructions of experiences that we ordinarily deem central to our experience of a just political system, and of intact or properly functioning political agency. These are the unfolding of struggles for recognition on the one hand, and the tracking of political authority through a public sphere that calls it to account on the other. Each chapter considers the prospects for the extension of these modes of political experience into the international level. The final chapter considers the use of immigrant detention centers in contemporary Western Europe. I argue that this is a conspicuous “de-worlding” of vulnerable individuals (asylum seekers and would-be migrants) facilitated by the improper constitution of international political space as a space of sequestering. In other words, this practice is symptomatic of the tendency toward “hiding” rather than “letting appear” that characterizes the use of international political power in contemporary world
affairs. It is this tendency that must be exposed and challenged if anything like a
cosmopolitics should become a plausible proposition.

The undertaking of this project is both modest and ambitious at the same time. It
is modest in the sense that what I am calling for is the adoption of a fresh perspective that
reintroduces into the debate about global justice some traditional concerns of political
theory, particularly in the tradition of critical theory; thematizing power, legitimate
political authority, the recognition of cultural identity, and the necessary grounds for
political agency. The dissertation does not seek to “solve” the problem of global justice.
In fact I think it is inappropriate to conceive of global justice as a “problem” to be
“solved,” and if I sometimes fall into the habit of speaking in this way it is an accident. I
believe it is better to think of the issues raised by talk of global justice as indicative of a
syndrome or condition that afflicts our age, one that theorists should strive to articulate,
elaborate, exhibit and explore. So, this dissertation contributes to a reorientation of our
approach to these issues and opens up new avenues of investigation while closing off
those that now appear stale. In this sense it offers a methodological proposal addressed to
other political theorists. This project is modest in another sense in that it consists almost
entirely in diagnosis and critique. I will say a bit more about this in the section below on
method, but it should be made clear from the outset that if any of my arguments result in
positive recommendations for political practice, these recommendations are left
somewhat vague, and this is purposefully so. Most of the argument presented here is
instead of a negative fashion: I aim to identify deficiencies in international politics that
would have to be remedied were anything like true individual political agency to be made
possible in the realm of international affairs.
On the other hand this is also an ambitious project, for two chief reasons, one substantive and the other related to my choice of method. The substantive reason has to do with the claim that I make across these pages: that international politics is improperly constituted in comparison with the ordinary politics of the democratic nation state, and that the world would be a more just place if international politics were “normalized” to resemble ordinary politics more closely. This is a bold claim indeed. The other, methodological reason is that in order to help widen the normative vocabulary at our disposal for thinking through these issues, I have recruited to my argument a number of thinkers who are not usually mobilized in debates about global justice. This is probably because their work often appears to be difficult, unusual, strange and quite unwieldy, especially when seen from the point of view of contemporary liberalism. The thinkers I have in mind here include Hannah Arendt, Martin Heidegger, Michel Foucault, Axel Honneth and Jürgen Habermas (probably the most familiar of the cast of characters introduced here). What they have in common is that they cast a keen eye to the existential conditions that make politics possible, tracking their historical emergence and (more controversially) charting their decline. Furthermore, they are attentive to the ways in which these conditions can be systematically imperiled by the coercive authority typified in modern forms of political organization (particularly the bureaucratic state). Broadly speaking, these are skeptical thinkers, dangerous and exciting; they display a deep anxiety about modern political life and they raise important doubts about whether it will deliver on the emancipation that it is supposed to promise. In this respect they are quite unmatched by their counterparts in the liberal tradition, who tend instead to put their faith in a historical progressivism derived from Kant’s influence. It is the critical edge
associated with the thinkers gathered here that I aim to exploit in this project. If we put their insights to use in our thinking about international politics, I suspect that our anxiety may well be heightened.

In the sections that follow, I discuss recent work in political theory that exhibits this tendency toward global administration in order to pinpoint its theoretical origins and to illustrate some of its methodological shortcomings. Then I offer some observations about the method adopted in this dissertation, which combines elements of the critical social philosophy of the Frankfurt school with a disposition toward political theory labeled as realist in recent methodological debates.

The Pitfalls of Conceiving of Global Justice as Global Administration

Over the course of roughly the last two decades, a body of work has emerged in contemporary political theory that has attracted the label international political theory. Separate from the theory of international relations, the addition of the appellation ‘international’ to this area of study is significant. It signals, broadly speaking, at least two developments. First, the kinds of problems that political theorists have traditionally addressed in their work now possess an international dimension. This is mostly attributable to changes in our political landscape brought about by processes of globalization not countenanced in traditional approaches to political theory. For example, political theorists often took it for granted that the political structure or set of relations forming the object of their study was a bounded, self-sufficient community ruled by a sovereign state with sole responsibility for the steering of its economic and political life. However, it has become clear that many of the assumptions sustaining this kind of
theoretical enterprise are open to direct challenge. Modern nation states are enmeshed in a global, interdependent economic order with the result that the benefits and burdens of social and economic cooperation spread far beyond the national border: not only are states far from self-sufficient, but their actions and activities have consequences, sometimes very large and problematic, for those residing outside of the territory. In addition, states have tendered portions of their sovereignty to supranational political regimes, such as the European Union, with the result that they no longer bear sole responsibility for steering the collective fate of the community. If the ideal underpinning democratic life is in large part one of self-determination, that is to say that every people has the right to live under a set of political institutions that reflect its cultural and political self-understanding and are responsive to their deliberative inputs, then the flight of political authority to supra-national level poses a direct challenge to this ideal. Finally, the boundaries of modern nation states are porous, leading to the presence within their midst of a variety of individuals whose identity poses a challenge to theories that take for granted the citizen as the basic and fundamental political identity shared by individuals. Non-citizen residents, asylum seekers, undocumented migrants, sub-national cultural and ethnic groups within polyethnic or polynational communities all make claims upon the state that international political theory helps to articulate and render intelligible.

If the conventional problems of political theory have taken on an international complexion, they have also been joined by a whole new range of questions and lines of inquiry disclosed by rapidly changing world affairs. For example, theorists are presently puzzling over what duties of assistance rich states owe to the global poor, whether armed intervention in the affairs of another sovereign state is ever justified on humanitarian
grounds, what international terrorism by non-state actors is and how liberal states may deal with it without compromising on their liberal credentials, what normative principles govern the right of states to control their borders in an age of seemingly unparalleled global mobility, and so on. Current events tend to run ahead of theoretical reflection and for this reason it seems that political theory is forever playing catch-up. But so far it seems to be doing a reasonably good job: the rising global political consciousness that seems to pervade everyday life, made possible largely by modern communications technology and the internet, seems to be filtering down into the research agendas adopted by contemporary political theorists.

The second development signaled by the proliferation of this literature is the need that it demonstrates for a reconfiguration and expansion of the conceptual vocabulary available to political theorists seeking to address this new global landscape. On this point, one would have to say that contemporary political theory possesses a mixed scorecard. This is mostly because the literature in international political theory remains colored by an association with social contract theory that it struggles to shake off. This is in large part because of the enduring influence of the first wave of recent work on the subject, which was inspired by John Rawls’s political philosophy and sought to apply a number of his ideas to the global context. The major theoretical innovations inaugurated by Rawls in *A Theory of Justice* are well known and widely document, and need only be recounted here in outline. The most salient for our purposes is the original position. Rawls posits the original position thought experiment in order to propose a model for how we ought to think about designing just social institutions. It involves a hypothetical contract struck between parties who decide upon principles of justice from behind a “veil of ignorance,”
a device that precludes from their deliberation certain information that should not be taken into account, being arbitrary from the moral point of view. This includes knowledge of one’s socio-economic status, skills, talents and desired ends in life. Those in the original position are assumed to be mutually disinterested and are ascribed two moral powers. The first is the capacity to devise, reframe and pursue a conception of the good. The second is a sense of justice, that is, a sense that the right to devise and revise one’s own conception of the good must rationally co-exist alongside the rights of others to do so similarly, along a motivation to act upon the principles decided once the veil is lifted. Rawls argues that the choosers would reject theories of justice based either upon utilitarianism or libertarianism, opting instead for “justice as fairness,” comprising two principles. The first is that equal liberty shall be guaranteed to all. The second, known as the “difference principle,” holds that once the veil of ignorance is lifted, the only justifiable social and economic inequalities are those that exist to the benefit of the least well off representative person and are attached to offices and positions potentially open to all.¹ The adoption of the difference principle means that basic institutions are assessed as just or not depending on how they treat the worst off members of society.

When Rawls himself came to write about the subject of international justice shortly before his death, he declined the opportunity to extend the difference principle to the international realm. Imagining a second iteration of the original position thought experiment, this time taking place after the first but this time between representatives of nation states, he argued that the delegates would agree on principles similar to those that to some extent already underpin contemporary international relations. They would endorse the rights of peoples to self-determination and self-defense, restrict the

conditions under which war might properly be prosecuted and seek to honor a conventional battery of human rights. Rawls did suggest that a duty of assistance would be required by international justice, though this was limited to such actions that “realize and preserve just (or decent) institutions, … not simply to increase, much less to maximize indefinitely, the average level of wealth, or the wealth of any society or any particular class in society.” Rawls thought that this relatively conservative approach to international justice was justified because one needed to elucidate principles of justice on which there could be agreement between liberal and non-liberal but decent regimes – a law of nations, suitable for all, given the fact of considerable but reasonable value pluralism among members of the international community. To insist upon a fully-fledged global difference principle would be tantamount to the imposition of a thick conception of the good upon nations unlikely to accept the terms of the agreement.

Rawls’s own views on the matter notwithstanding, other theorists writing about the ethics of international politics have pursued the idea that knowledge of one’s membership of a particular nation might be the kind of information that the veil of ignorance could obscure, thus opening the way for a version Rawls’s difference principles to be extended to the world at large. Thomas Pogge is perhaps the most well known exponent of an extension of Rawls’s theory of distributive justice into international affairs. Pogge argued in Realizing Rawls that, even on grounds internal to Rawls’s own theory, a restriction of principles of international justice to a relatively conservative “law of nations” was unjustified. This was because parties to second, global

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3 Ibid., 107.
iteration of the original position, whether representative persons from all societies or
simply representatives of states, would most likely insist on a global institutional
framework that assured all political communities the material base required to make
individual rights inside them effective. Moreover, in a world characterized by gross
economic and political inequality, less powerful states are unlikely to honor bargains and
treaties that are disproportionately burdensome; without a more robustly egalitarian
institutional framework for international politics, the law of nations would risk
degenerating into an inherently unstable modus vivendi.  

Pogge proposes instead one global sitting of the original position. The basic
structure or closed community for which principles of justice are to be worked out is the
world at large, the veil of ignorance is thick and prevents the parties from knowing their
particular nationalities, and they are defined as individual persons rather than state
representatives, seeking to maximize their share of social goods. This is deemed to be in
keeping with the individualist commitments of Rawls’s broader ethical theory. When the
original position parties come deliberate, all social institutions are assessed with reference
to the globally least advantaged persons. Ideally, the result is that they would select an
arrangement of political and social institutions that maximizes global basic rights and
liberties, fosters worldwide equality of opportunity and generates social and economic
inequalities only insofar as these optimize the position of the globally least advantaged
persons.  

In a later essay, Pogge continued to press against Rawls the claim that national
borders have a distributional significance that participants in a global sitting of the

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5 Pogge, Realizing Rawls, 244.
6 Ibid., 254.
original position would take into consideration even if they were assumed to be representatives of nation states working to secure the just constitution of their own bounded communities. He argues that they would choose egalitarian distributive principles in light of the knowledge that domestic schemes of social justice might be undermined by presence of global inequalities. In this case, however, he thinks that globally minded original position parties need not adopt a full-blown difference principle that crosses international boundaries, but they might conceivably adopt a global resource tax payable by states that extract from their own territories valuable natural resources and then trade in them. The proceeds of the global resource tax would be paid to an international organization and redistributed to poorer states not arbitrarily advantaged by the presence within their borders of such materials.\(^7\)

Recognizing that the world is marked by an economic inequality troubling to the liberal egalitarian conscience, and that relatively wealthy states bear some responsibility for this inequality because they are complicit in the very practices which bring it about, theorists working to extend Rawls’s theory of justice into the international context in this way no doubt have laudable goals. Of course, this isn’t the only way of approaching the subject of global justice and I certainly do not want to give the impression that globalized Rawlsianism is a synecdoche for all recent normative thinking about international affairs. Indeed, even Pogge later came to doubt the utility of pursuing this line of argument. In his later work *Human Rights and Global Poverty*, he shifted his efforts toward articulating principles of justice that attach to the process by which the global economic

and political order is actually formed. In light of the fact that positive duties to aid the poor are difficult (but not impossible) to defend, an alternative argument is advanced: even if the stringency of positive duties to aid or assist others varies depending on the strength of one’s relationship to the purported beneficiary, the stringency of duties to avoid causing harm does not. In other words, whether or not one has a relationship of some sort with another person has no effect on the stringency of one’s duty not cause harm to them (subject of course to the parameters of familiar principles of legal argument about reasonable foreseeability). Pogge uses this insight as a springboard to launch an argument for the following principle of global justice: when international agreements, covenants and treaties governing the global economic and political order are made, they should be made in such a way as to minimize (or compensate for, where possible) any harm to others that is foreseeable. This view still relies on the idea that the operation of the international economic order causes avoidable harm of the sort that curtails the ability of individuals across the globe to have equal life chances; so some of the ethical theory from Pogge’s earlier work is retained. But here it is sets in a purportedly more feasible context, offering clear guidelines for the conduct of elite-level world politics.

Still, global distributive approaches that assess the design of institutions by reference to how they treat the globally worst off remain hugely influential in political theory circles. It would repay or attention to examine the methodological assumptions at their base. The particular intricacies of theories and the interpretive controversies surrounding them do not concern me here so much as the style of theorizing that they represent. Two features of this way of setting up the problem stand out in particular. First, global justice assumes a restorative guise. That is to say, solutions proposed under its

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auspices aim at restoring the condition of victims, deemed to who have fallen below a particular level of existence, back to a level prescribed by liberal standards and measures: the enjoyment of a set of basic rights and liberties, a fair distributive share of wealth, the basic material level of existence to sustain life and so on. This leads to a tendency to view the plight of the global worst off as one that can be administered back into a normal or non-deficient mode by a recalibration of the international political system.

Second, and very much related, this approach is indicative of the contemporary preoccupation in political theory with institutional design. Recall that Rawls’s aim was to articulate principles of justice attaching to the basic structure of society, that is to say principles governing the design of a society’s fundamental social, economic and political institutions. On this view, justice is achieved by setting up the constitutional essentials of a society to reflect a liberal schedule of basic rights and liberties – an application of moral theory with Kantian origins to the task of institutional design. That simply is justice; any attempt to apply a particular moral theory the everyday life and actions of individuals within a society would amount to the imposition of one particular conception of the good upon a population who reasonably disagree about the good. Rawls thought that this was at least part of the reason that made his theory political and not metaphysical: although individuals may well disagree about the good life, it is rational for them to choose a liberal framework for the basic organization of their society because it best permits them to each pursue those conceptions of the good within their private lives.⁹

This style of argument is so pervasive in contemporary liberal political theory that it sometimes seems as if institutions are regarded as the savior of politics, the route

through which politics will be saved from itself. The design of just institutions comes to be the central task confronting the theorist. The fact that in real life political institutions persistently disappoint us is conveniently forgotten. Instead, the focus of theoretical reflection shifts to the following questions: what is the best way of designing political institutions so that a population who reasonably disagree about the good life may still live in harmony together? How should we arrange the basic structure so that violent disagreement is channeled into an institutional complex that tames, orders and neutralizes it? This approach values stability, consensus and order. Political theory is reduced to effective stage managing and a healthy distance is kept from “real” politics: sustained reflection on the organization of political parties, prevailing ideologies, relationships of power, the nature of officialdom, the keeping of state secrets, the daily use of lies, propaganda and spin by state organs, the problem of an apathetic or ill-informed public; these are almost entirely absent, even where they are assumed to make up the ordinary course of political affairs.\(^{10}\) This is regrettable. Institutions provide the walls and boundaries within which one form of politics takes place, but this should not be mistaken for the whole of the domain of the political.\(^ {11}\) The everyday assertion of political agency by individual members of a political community, a fractious, contentious and sometimes even violent affair, frequently takes place outside of these boundaries. Indeed bureaucratic institutions, which may be sclerotic and lumbering, non-democratic and un-


inclusive, can block these forms of agency from coming into being just as much as liberals think they enable it.

Since this orientation toward articulating principles that govern institutional design is so prevalent in contemporary political theory, it should come as no surprise that its deficiencies frequently carry over into debates about global justice. A great deal of ink has been spent articulating principles of justice that ought to govern the global governance architecture or international basic structure. Even though it is frequently hinted that this architecture should not be permitted to evolve into an oppressive world state apparatus, seemingly little attention is paid to those aspects of international political life that cannot be reduced to institutional design, maintenance or construction. As a result, a number of issues are excluded from view. The aim of this dissertation is to bring them back into focus.

From Cosmopolitanism to Cosmopolitics

The term cosmopolitanism in contemporary political theory usually refers to an ethical view about who counts as an agent of moral concern in our theoretical reflections. At the most abstract level, cosmopolitans tend to think that national borders do not fix the boundaries of the universe of moral concern. In fact, they say, the range of persons who are properly agents of moral concern in our theories is limitless: it includes all human beings, not just those located in this or that particular political community. For example, Gillian Brock describes the demands of cosmopolitanism as follows:

the crux of the idea of moral cosmopolitanism is that every person possesses a global stature as the ultimate unit of moral concern. Cosmopolitanism’s force can be appreciated by what it rules out. For instance, it rules out the assigning of
ultimate rather than derivative value to collective entities like nations or states, and it also rules out positions that attach no moral value to some people, or weights the value people have differentially according to characteristics such as ethnicity, race or nationality.\textsuperscript{12}

On this view, cosmopolitanism is an ethical creed that demands that we accord all individuals in the world equal concern and respect. Its proponents take themselves to be saying something quite radical and indeed there is some truth in their claim. Much of ordinary political practice tends to reinforce the view that partiality to co-nationals in matters of justice is not only defensible but also desirable, because there is something ethically important about membership of a political community with the consequence that outsiders do not count equally in our reflective judgment about what to do. Since cosmopolitan theorists challenge this orthodoxy, they are radicals in a sense. But if the cosmopolitan ethic is fairly easily described, its relation to politics remains unclear, a fact that casts doubt over the radical credentials of cosmopolitan theorists. This political ambiguity is not coincidental. It arises because international political theory so far has not been very adept at conceptualizing the domain of the political in the international context. Cosmopolitan theorists have instead committed themselves to remaining at the highest level of abstraction, working to specify and clarify the conceptual apparatus that best supports their chosen ethical system. This has led them down a number of theoretical cul-de-sacs; two illustrative examples stand out in particular. The first is the debate that has emerged among political theorists over whether obligations of justice to those outside the nation are precluded by nationalism, an ideology which can, in principle, be defended on the grounds that it supplies the bonds of trust and solidarity required to sustain system of

resource redistribution (the so-called “nationalism versus cosmopolitanism” or “ethical particularism versus ethical universalism” debate).\textsuperscript{13} The second is the debate over whether distributive justice is possible outside of the context of a state apparatus ruling over a community of persons engaged in social, economic and political co-operation (the debate over the “basic structure” requirement for distributive justice).\textsuperscript{14}

It is not my intention to enter into any of these well-established debates here. For my purposes it is enough to point out that they are very much internal to the discourse of contemporary liberalism. As such they are all well and good for clarifying liberal egalitarian principles of justice, or what a global basic structure would look like if constructed in the image of Rawls’s theory of justice. But they tell us little about what political agency in the international context might look like, or what challenges we might face in establishing it. Even where contemporary thinkers have been bolder, widening the scope of their inquiries beyond principles of global institutional design to include issues of representation and democratic inclusion, the results have been mixed. In her recent work, Seyla Benhabib has explored the distinctly political dimension of cosmopolitanism, eschewing the focus on institutional design that is typical of much of the existing literature. In \textit{Another Cosmopolitanism}, Benhabib sets out to achieve three things: to articulate an apparent tension between cosmopolitan norms and the republican ideal of democratic self-governance, to explain the binding force or authority of such norms and to describe their ontological status in a post-metaphysical political landscape.

\textsuperscript{13} For a good summary of this debate see Helder de Schutter and Ronald Tinnevelt (eds.), \textit{Nationalism and Global Justice: David Miller and his critics} (London: Routledge, 2010).

Benhabib argues that “since the UN Declaration of Human Rights in 1948, we have entered a phase in the evolution of global civil society, which is characterized by a transition from international to cosmopolitan norms of justice.”\textsuperscript{15} While international norms of justice are generated by states when they conclude treaties and agreements with one another, truly cosmopolitan norms, “accrue to individuals as moral and legal persons in a worldwide civil society … their peculiarity is that they endow individuals rather than states and their agents with certain rights and claims.”\textsuperscript{16} These cosmopolitan norms emerge from the interplay of national and international law in connection with at least three legal issues that have become central in our times: the prosecution of crimes against humanity, humanitarian intervention and transnational migration.\textsuperscript{17} In each of these cases, states have given up some portion of their sovereignty to create binding guidelines and policies that serve both to constrain their behavior and to establish regimes for the protection of human rights, rights whose violation may provide legitimate grounds for political action within another sovereign state’s territory or for the calling of states to account before an international tribunal.

Benhabib quite rightly recognizes that the emergence of these cosmopolitan norms leads to a number of tensions and contradictions within the practice of democracy. While these norms attach to all individuals everywhere and rest on an implied moral universalism, the historical assumption at the heart of democracy has always been that the demos is a self-governing community marked by a boundary that separates inside from

\textsuperscript{15} Seyla Benhabib et al, \textit{Another Cosmopolitanism} (Oxford: Oxford University Press, 2006), 15-16.
\textsuperscript{16} Ibid., 16.
\textsuperscript{17} Ibid., 27-29.
outside, member from non-member, rights-holder from non-rights holder.\textsuperscript{18} This gives rise to a contradiction: international human rights norms are crafted by and rely for their protection upon precisely the sorts of entities, i.e. sovereign states, whose very existence assumes the ethical, practical and political significance of a boundary separating inside from outside. As Benhabib puts it, “in this process, the state is both sublated and reinforced in its authority … the modern state system is caught between \textit{sovereignty} and \textit{hospitality}.”\textsuperscript{19}

If the tension between state sovereignty and cosmopolitan norms cannot be overcome, it can at least be mitigated or eased through a process that Benhabib calls (borrowing from Derrida) “democratic iteration” through jurisgenerative processes, which are described thusly:

In such processes, a democratic people, which considers itself bound by certain guiding norms and principle’s, engages in iterative acts by reappropriating and reinterpreting these, thereby showing itself to be not only the \textit{subject} but also the \textit{author} if the laws … jurisgenerative politics is a model that permits us to think of creative interventions that mediate between universal norms and the will of democratic majorities.\textsuperscript{20}

It is refreshing to see the idea of political action – appearing here in the guise of iterative practices – taking such a central role in an account of cosmopolitanism. What Benhabib is getting at is the idea that citizens of a democracy periodically renew, shift, alter and reconfigure their normative commitments through politics, demonstrating a new openness to cosmopolitan norms. Her account conceptualizes those moments “when a space emerges in the public sphere when principles and norms that undergird democratic

\textsuperscript{18} Ibid., 17.
\textsuperscript{19} Ibid., 31.
\textsuperscript{20} Ibid., 49.
will become permeable and fluid to new semantic contexts, which enable the augmentation of the meaning of rights.”21 The example that Benhabib uses to illustrate this idea is the recent public controversy in France surrounding the the Scarf Affair (“L’Affaire du Foulard”), in which young Muslim women wore their religious headscarves to school in defiance of the historic French ban on the display of religious symbols, icons or clothing in official public spaces, part of the principle of laïcité or separation of church and state. The girls at the center of the controversy, who fought to display solidarity with other members of their faith and assert a central element of their identities in public, took the opportunity to challenge the settled view about secularism and multiculturalism dominant in France.

However, what is striking about Benhabib’s argument is that although it seems on the surface to take politics more seriously than most other cosmopolitan theories, she invests a great deal of faith in the international legal system as the source of cosmopolitan norms. This kind of faith in the law should already be quite familiar to us from a great deal of contemporary Anglo-American political theory, which tends to display a reverence for the general system of law that borders on a kind of legalism. In other words, the cosmopolitics that Benhabib describes has its origins in an international law that steers cosmopolitics: she supposes that the cosmopolitan norms that are inscribed into the emerging international legal order filter back down into everyday political life as they are acted out through the iterative process. Politics does not generate the norms, the law does, and they are then taken up and acted out in a politics that receives and restates them. But it is not clear that this tells us as much about the sources, origins and normative foundations of cosmopolitan norms as Benhabib thinks it does. The human rights culture

21 Ibid., 50.
celebrated by Benhabib is usually identified as having its origins in the high-minded liberal internationalism of the mid-twentieth century. But as Samuel Moyn has recently pointed out, a genealogy of the international legal instruments at the heart of this culture reveals a more uneven commitment to universalism than is commonly thought. His realist historiography of human rights in the twentieth century reveals that talk of universal human rights in international relations is relatively recent, perhaps even as recent as the 1970s, and if anything emerged to reflect the interests and motives of powerful states in of the time. Moyn warns us of the perils of excessive moralizing in our thinking about human rights: it is all too easy to fall into the trap seeing them as the culmination of a historical process beginning with the Enlightenment, whereas in fact international law has a tendency to reflect prevailing power relations and shifting alliances and foreign policy goals. As Bonnie Honig reminds us, the “facts” of the new world order – those same facts, like the proliferation of human rights treaties and legal protections, that Benhabib takes to indicate the presence of cosmopolitan norms - can be interpreted in a number of different ways.

One is left wondering whether the familiar ghost in the machine of contemporary political theory - a Kantian historical progressivism – is really what is driving Benhabib’s account of iterative cosmopolitical practices. This allows Benhabib to be complacent about the prospects for successful democratic iteration, and perhaps a little naïve about the origins of the human rights culture that she celebrates. In her reply Benhabib’s lectures, published in the same volume, Bonnie Honig thinks that the appropriate

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disposition to adopt toward the emergent human rights culture is one of metaphorical anxiety: she reminds us that advances toward political inclusion signaled by the language of human rights often redirect our attention away from other instances of exclusion (for example, much is made of the freedoms and liberties propagated across Western Europe by further integration under the auspices of the European Union, but it is frequently forgotten that the EU zone of freedom quite pointedly operates to exclude those outside of it wanting who want to get in). These exclusions must be fought by an agonistic cosmopolitics that does not rest content with international human rights declarations and proclamations. Benhabib is certainly not blind to the fragility of cosmopolitan norms: to suggest otherwise would be to state the case against her too strongly. She readily admits, for example, that they are only binding to the extent that worldwide democratic forces, working through global civil society, can hold governments to account for them, and that their ontological status in a post-metaphysical politics is “constructive;” they are tools that offer a normative vocabulary with which to build a new world order based upon human rights. Still, this dissertation shares in Honig’s anxiety. In part, it aims to expose systemic features of international politics and practices of sovereign states that conspire to undo the cosmopolitan norms that they otherwise claim to support, to illuminate the ways in which they often close public spaces to head off the risk of destabilization posed by iteration rather than promoting them, and to expose the pitfalls of relying upon a weak and fragile global civil society to secure such norms against state power.

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24 Honig, “Another Cosmopolitanism?”
25 Benhabib, Another Cosmopolitanism, 70-74.
\textit{A Note On Method}

In recent methodological debates, an approach to political theory has recently emerged under the label \textit{realism}. Since I am sympathetic to a great many of the sentiments expressed in realist thinking, and because this dissertation has broadly been written in the realist spirit, it makes sense to pause to reflect here on what this means. According to Raymond Geuss, realism’s chief spokesperson, realism stands in opposition to the kind of idealism typified in Rawlsian political theory. Geuss’s chief complaint about the style of theorizing now prevalent in the liberal tradition is that it commits a fundamental error in its understanding of politics: it mistakes politics for applied ethics. According to Geuss, the erroneous view that “politics is applied ethics” means:

that we \textit{start} thinking about the human social world by trying to get what is sometimes called an “ideal theory” of ethics. This approach assumes that there is, or could be, such a thing as a separate discipline called Ethics which has its own distinctive subject-matter and forms of argument, and which prescribes how humans should act toward one another. It further assumes that one can study this subject-matter without constantly locating it within the rest of human life, and without unceasingly reflecting on the relation of one’s claims with history, sociology, ethnology, psychology and economics.\textsuperscript{26}

Furthermore, “ethicists” working in this tradition tend to think that their role is to focus on supposedly historically invariable principles (human beings are rational, they seek pleasure and avoid pain, etc.), articulate them in the clearest possible terms, specify their meaning and then attempt to \textit{justify} them. The result is a kind of theory that is marked by “empirical abstemiousness” and “systematicity.”\textsuperscript{27} These ethical theories, exemplified by Kantianism, are thought to generate rules that can then guide political

\textsuperscript{27} Ibid., 7.
conduct. Notice the order of inquiry: ethics comes first and specifies what is permissible within the realm of politics.

In contrast to this approach, the realist manifesto set out by Geuss is founded upon the following four key theses:

[1] [Political philosophy] must start from and be concerned in the first instance not with how people ought ideally (or ought “rationally”) to act, what they ought to desire, or value, the kind of people they ought to be etc., but, rather, with the way the social, economic, political etc., institutions actually operate in some society at some given time, and what really does move human beings to act in given circumstances.  

[2] Political philosophy must recognize that politics is in the first instance about action and the context of action, not about mere beliefs or propositions … the study of politics is primarily the study of actions and only secondarily of beliefs that might be in one way or another connected to action.

[3] [Politics is historically located: it has to do with humans interacting in institutional contexts that change over time, and the study of politics must reflect this fact.]

[4] [Politics is more like the exercise of a craft or art, than like traditional conceptions of what happens when a theory is applied. It requires the deployment of skills and forms of judgment that cannot easily be imparted by simple speech, that cannot be reliably codified or routinised, and that do not come automatically with the mastery of certain theories.]

On Geuss’s view, to adopt the realist stance toward politics is to be avowedly (and perhaps even unfashionably) neo-Lenininst: it is to assert that in the study of political phenomena, the question we ought to try to answer is “Who, whom?” That is, in any given, concrete, historically discreet social setting, who is it that exercises coercive authority, to what end and over whom? This is crucial because politics is irreducibly and

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28 Ibid., 9.
29 Ibid., 11.
30 Ibid., 13.
31 Ibid., 15.
essentially about action. Where there is action there are actors. And where there are actors there are relations of power, identity, influence and authority. Political philosophy’s role in this task therefore takes any or all of the following five forms. First, it should offer a systemic understanding of how a society functions, that is how its constituent parts relate to one another and how they are organized. Second, since we are subject to the natural human impulse not only to know but also to evaluate, this account should provide a framework of evaluative criteria with which we can determine which forms of social organization are better than others.\textsuperscript{32} These two forms taken together lead the third, which is orientation for action, the next logical step after understanding and evaluation.\textsuperscript{33} Orientation concerns itself with the mechanics by which knowledge is mobilized to bring about change in the world, and requires attention to empirical matters such as the determination of those strategies that are most likely to be successful and those that are not. Fourth, political philosophy ought to initiate conceptual innovation, that is the construction of theories or thought experiments with strong normative content that help people to define and understand political problems.\textsuperscript{34} These innovations are not lexical neologisms invented out of thin air, since they give intellectual articulation to, and hint at possible solutions for, practical dilemmas. But neither are they mere reflections of \textit{praxis}, since successful innovations are interventions that fundamentally change the social world into which they are introduced. Finally, political philosophy has a dual role in relation to ideology, since it can either offer a theoretical standpoint from which to criticize reigning ideological illusion (such illusions occur when present contingencies and contemporary orthodoxies about the social order are dressed up as unchanging, 

\textsuperscript{32} Ibid., 38-40.  
\textsuperscript{33} Ibid., 40-42.  
\textsuperscript{34} Ibid., 42-50.
natural “facts,” in which case political philosophy’s task is to undermine them). Or, conversely, a political philosophy might be promulgated as an ideology of that sort itself.35

So a commitment to methodological realism does not necessarily preclude the construction of theory altogether, or for that matter the use of abstract theoretical constructs to illuminate the issues at hand. As we shall see, throughout this dissertation I deploy various theoretical apparatuses that are undoubtedly quite complex and abstract (for example, Honneth’s theory of recognition in chapter 2, Heidegger’s concept of dasein in chapter 4). Furthermore, in chapter 1, I engage in some modest theory building of my own, elaborating a highly idealized model of democratic reasoning that shows how democratic citizens expect political authority to be legitimated. I would defend these theoretical experiments on the grounds that I do not believe that the realist’s job is limited only to criticism, as some of Geuss’s writings would seem to imply. Where these apparatuses serve a role in helping to illuminate the problems at hand their elaboration and use is entirely appropriate, especially where they aim at puncturing prevailing orthodoxies and self-understandings that are based on illusion or the result of the use of power. I take the realist point to be one about the proper relationship between ethical theory and politics, namely that the latter should not be subordinated to the former. But this does not amount to an outright ban on theorizing about politics. It just means that our investigations should start in the domain of the political: where does our politics seem to be shortchanging us in relation to the ideals that usually hold for it? What failures, traumas, deficiencies or injustices are disclosed by everyday political life that suggests something has gone wrong? It is at this point that we turn to theory to help us dig deeper,

35 Ibid., 50-55.
using it to get a grip on phenomena that signal some kind of distortion or a mismatch between our expectations for politics and the grim reality of the present. We use theory to unveil, uncover and explain the origins and causes of these distortions: theory is a tool that helps us to establish a critical genealogy of our social reality. So the extended treatment throughout this dissertation of the theoretical constructs of Heidegger, Arendt, Habermas and so on should not be mistaken for a flight into theory at the expense of politics. Instead, the leading ideas of these thinkers are sympathetically reconstructed here in such a way as to suggest, illuminate or highlight deficiencies within international politics that I think ought to trouble us. What they provide is an existential vocabulary with which to articulate the sources of our discontent. This is the kind of vocabulary that contemporary liberalism, with its rather narrow talk of rights and duties, liberties and obligations, is unable to offer.

Once some theoretical or conceptual apparatus has been used to display and declare a failure of significance related to our political condition, the realist is somewhat ambivalent about whether his chosen theoretical machinery provides any solution to the problem that has thereby been identified. The realist does not care much about this one way or another. What matters most to him most is diagnosis, not cure. The practical implementation of policy – figuring out what we ought actually to do - does not necessarily concern him. Geuss’s view is that this sort of reflection falls rightfully within the domain of the political itself, which has a sphere of knowledge and set of actors and techniques that are peculiar to it, quite separate from the world of theory. What he is getting at is the division of labor between political thinkers and political actors. Geuss is right, but only up to a point. Theoretical excavations, like those presented in this
dissertation, might in the end orient us toward the adoption of some political goals more than others. For example, chapters 2 (on the philosophy of recognition) and 3 (on the public sphere) do indeed gesture toward the need to build institutions that might house the sorts of politics articulated in those chapters as attractive. But this is not because I conceive of my role as an architect of such institutions. Instead, my efforts aim to illuminate (from an angle not already well documented in the existing literature) why such institutions are necessary, that is, what sorts of perceived defects in existing politics they could potentially remedy. That these proposals are couched in somewhat vague terms should indicate to the reader that I am still sympathetic to Geuss’s realism, even if it appears at times that I break with some of its tenets.

The adoption of a quasi-realist perspective gives rise to the following set of observations or starting hypotheses when it comes to thinking about international politics:

1. We should begin from the first political fact: in international affairs there are coercive entities (states, non-state actors, and supra-national political institutions) that exercise power over individuals. We should investigate where this power is located, what use it is put to and whether or not it is successfully open to challenge by those over whom it is exercised.

2. If those over whom power is exercised cannot successfully challenge this power or demand that it account for itself, why is this? What systemic features of international politics give rise to this situation?

3. Wherever power is not answerable to a public that authorizes its use, it usually tries to conceal the basis on which it operates for the sake of its own survival.
4. Given (3), a hermeneutic of suspicion is the appropriate stance to adopt toward the exercise of power in international affairs so that the features alluded to in (2) might be uncovered and exhibited.

The appropriate use of theory then is to explain the nature of a social reality that we sense has disappointed us in some way. In this orientation to the subject at hand, I borrow quite openly not only from Geuss, but also from the methods to be found in the critical social philosophy of the Frankfurt School. According to Axel Honneth, the Frankfurt School’s present and foremost thinker, social philosophy aims at “an interpretative diagnosis of present socio-economic circumstances,” since it “is primarily concerned with determining and discussing processes of social development that can be viewed as mis-developments (Fehlentwicklungen), disorders or social pathologies.” By positing the idea that our present situation is one to be characterized as disordered, Honneth sets up a distinction between an intact, “healthy” form of social life on the one hand and a damaged or “pathological” social life on the other. Social philosophy sets itself the task of explaining why the present reality resembles the latter rather than the former. By offering an account of the conditions of the good life (under the guise of a description of the “healthy” mode of social life from which it appears we have departed), this kind of social philosophy resurrects “a philosophical problem abandoned by modern thought due to accompanying methodological concerns.” These “concerns” stem from the modern restriction of forms of theorizing that put the good before the right.

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38 Ibid., 33.
According to Honneth, this prevents contemporary political philosophy from reaching for a description of those conditions that make a good life possible. But critical social philosophy ignores this ban and posits that the good life is one in which social relations within a community are “intact,” i.e. constituted in such a way as to allow the individual to be capable of *self-realization*:

The representatives of Critical Theory share Hegel’s conviction that the self-realization of the individual can only be successful when his or her goals are intertwined with the self-realization of all other members of society by means of generally accepted principles or ends … The differing modes of praxis, offered by Horkheimer, Adorno, Marcuse, and Habermas, are therefore as a whole proxies of this one thought, according to which the socialization of human beings can only be successful under the conditions of cooperative freedom. In whatever particular manner the anthropological notions may be constituted, in the final analysis they stand for the ethical ideal of distinguishing a form of communal praxis in which subjects can attain self-realization cooperatively with one another.³⁹

Social philosophy conducts an empirically oriented investigation into the socio-economic and political configuration of our society in order to determine what features of the present mode of social ordering make this self-realization impossible, or blunt its prospects. The symptoms supposed to signal that the possibility of self-realization has been undermined consist in the widespread feelings of alienation afflicting individuals and cultural groups who feel disrespected, marginalized and unable to assert their autonomy. These are forms of *social suffering*. If it appears as though Honneth is trying to split the difference between an Aristotelian conception of flourishing, Hegel’s ideal of socialized reason and modern liberalism’s foundational commitment to individual autonomy, this is probably because he is. However;

the tradition of Critical Theory differs from liberalism and communitarianism, through an ethical perfectionism of a distinct kind. In a different manner from the liberal tradition, the normative goal of societies should consist in the reciprocal enabling of self-realization, although what favors this goal is grasped as the grounded result of a certain analysis of the process of human development.40

Critical theorists in the Frankfurt School are an interesting subset of the critics of modernity: they too point to some organic wholeness or unity in social life that appears to have been shattered by modern forms of social, political and economic organization. Unlike their conservative counterparts however, they believe that diagnosis and critique have a therapeutic value that might hold out the prospect of a cure: “the explanation of the conditions which have blocked or unbalanced the process of rational realization is meant to possess in itself the rational power to convince subjects to create a social praxis of cooperation.”41 It is exactly this sentiment that underpins the analysis presented across these pages.

Throughout this dissertation, I claim that several mis-developments or social pathologies are disclosed in the ordinary conduct of international politics, and that they can be made apparent to us through the elaboration of certain theoretical structures – borrowed from Arendt, Heidegger, Habermas and Honneth - that indicate how international power tends to strip individuals that it deems as problematic of political agency. My suspicion is that various features or practices embedded within the structure of international political life (including the use of state power to maintain the division of the world into sovereign nation states that jealously guard their borders) conspire to prevent individuals from successfully holding international political power to account and from appearing as political agents. For this reason it undermines their attempts at self-

40 Ibid., 795.
41 Ibid.
realization. These social pathologies are identified here as blockages that prevent a meaningful cosmopolitics – an ordinary as opposed to emergency style of politics grounded in a meaningful form of political agency - from taking root. They are assessed as deficiencies by way of a comparison with the mode in which the domestic politics of an ordinary liberal democratic state is conducted. In this comparison, the feature of ordinary politics that I am most interested in is the ability of individuals to come forward in properly constituted political spaces, assert themselves as both authors and subjects of coercive authority and have their identity as agents recognized by coercive political institutions. Of course this is somewhat of an idealized description of liberal democratic politics: certainly everyday practice disappoints us too, even in the domestic context. But it is to this ideal that practice seems to be pointing, even where it falls radically short.

According to Honneth, social philosophy in the Frankfurt School tradition attends to the distortions of social reason brought about by the intrusion of capitalism into social relations. My approach in this dissertation is modeled on his method, but here the distortion to be scrutinized is more specifically political. This is the distortion in the ability of individuals to see themselves as both authors and subjects of coercive political power in international affairs. And the source of the distortion investigated here is the mal-constitution of political space and the operation of political power in the international context. Even though the operation of global capitalism certainly also accounts for the distortion of social relations in international politics, there is simply not enough space to investigate it here.

The distortion that I have in mind is not unknown to democratic theory. It is more usually coded in the language of the liberal tradition as the problem of political
autonomy. According to David Held, the modern state is a common structure of political action whose legitimacy and authority is underwritten by the principle of democratic autonomy. This principle holds that arrangements concerning the distribution of benefits and burdens of social co-operation ought to be justifiable to all those individuals who live under the same set of coercive institutions. Historically speaking, liberal democratic thought has assumed a bounded national state in which there is “a ‘symmetrical’ and ‘congruent’ relationship between political decision makers and the recipients of political decisions.” But the pressures of globalization have destabilized this picture. While territorial boundaries remain significant, the power structures described by orthodox democratic theory (i.e. those constituting the state apparatus) are now enmeshed within “multiple overlapping networks of interaction,” undermining this symmetry and leading to the of new sites at which political authority concretizes. In other words, power has shifted upwards to international locations that evade effective democratic steering from below. The result is the opening of a number of fissures between the formal domain of political authority claimed by the state on the one hand and the actual practice of international politics on the other. The coercive state is now just one actor among many others (including cross-national agencies, political parties, bureaucratic organizations and corporations) attempting to steer the fate of the people living under it. These disjunctures can be observed in the operation of international law, the internationalization of political decision-making and the operation of international

43 Held, Democracy and the Global Order, 224.
44 Ibid., 225.
collective security regimes and power blocs. The “home” of politics can thus no longer be naturally or solely identified with the nation state.

These developments, intensified by the accelerated pace of technological and scientific change in the twentieth century, pose considerable problems, of a conceptual and practical nature, when viewed through the lens of democratic theory. The normative ideals at its heart, at least as it has evolved in liberal political theory, are organized around two poles: (a) a defense of the necessary conditions for the exercise of individual autonomy; and (b) the need for organized public political power to be legitimated. In other words, democracy cannot obtain in circumstances in which individual autonomy, understood as the ability of individuals to see themselves as co-authors of the laws to which they are subject, is not granted to all on an equal basis, and when public power has not been legitimized by the un-coerced agreement of those subject to its force.

In today’s world, the life prospects of individuals are dramatically affected by relations of political power over which they have no control and about which they have no say. Held uses the term “nautonomic structures” to describe sites at which political power is exercised, usually by something resembling a state apparatus but this time at the international level, and where the objects of power cannot at the same time see themselves as its constitutive subjects. Their autonomy is thus negated. “Nautonomy” signals both instances of the negation of individual autonomy in international affairs, and also the ongoing process that reinforces it: the “asymmetrical production and distribution of life chances which limit and erode the possibilities of political participation.” This dissertation considers these nautonomic structures and processes and examines, with the

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45 Ibid., 99-120.
46 Ibid., 171.
help of various figures usually neglected in debates about global justice, their effects on the political agency of individuals.
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**BODIES AND GLOBAL POLITICS**

That we are corporeally *embodied* is a constitutive feature of modern politics. The human body appears as the domain over which political battles are fought in contemporary debates about reproductive rights, end of life issues, the legislation of sexual behavior and public decency. The body also emerges as the site over which sovereign power is exercised when the state, through its public health policies, makes decisions about which bodies may live and die, deciding how their illnesses should be treated or how they should be fed, or when it enacts policies that either permit or block migratory flows, thereby determining which bodies may circulate freely and which bodies may not. Moreover, while civil and political rights are usually tied to correlative obligations, and accessed via the good of citizenship and its associated rituals and practices, a particularly important subset of those rights makes direct reference to the body itself. The rights to personal security, to equality before the law without regard to race, sexual orientation or gender, the prohibition on cruel or unusual treatment or torture, freedom from arbitrary arrest, detention and interference and so on all refer, in one way or another, to the body: what can and cannot legitimately be done to it by official power.

In our age, the human body has become the preoccupation of all manner of political, moral and social struggles and for this reason it is at the center of our politics. But this was not always so. The present situation reflects, among other things, a series of historical transformations in the nature of sovereign power and the scope of the domain that we call “the political.”
In *The History of Sexuality*, Foucault describes the changing role of sovereign power that is key to this transformation. As theorized by Hobbes, the sovereign first emerged as the guarantor simply of the *modus vivendi* that made commodious living possible. However, through a turn of historical fate, it later became responsible for enabling bodies to live, thrive and realize their biological potential. In other words, it became responsible not just for securing the conditions required for commodious living, but also for commodious living itself. This is what Foucault calls the rise of *biopolitics*. At the culmination of this historical process, sovereign power finally grasped the human body: bare life took its place as the raw material on which political power was discharged. While readings of Foucault on biopolitics usually stress his description of the emergence of “population” (the mass of bodies that becomes the object of the calculations of state power), in this chapter I want to bring to light the way in which the rise of biopolitics is coterminous with the rise of a corresponding *politics* of corporeality. This is a particular type of politics that consists in the presentation of individual bodies in public space not only as *things to be worked upon*, but as self-directing autonomous individuals whose presence in public, whose very embodiment, directly *challenges* political authority. This politics, founded upon notions of publicity and visibility, reproduces bodies that *speak back* to the regime and monitor the legitimacy of its rule. Biopolitics is thus double-coded: the management and administration of bodies unleashes, at the very same time, a corporeal politics with an emancipatory potential.

This is relevant to the theory of cosmopolitics in the following way. The state came to grasp the bodies within its territorial bounds and those bodies, in turn, emerged to form a public with the ability to speak back to the state. This development formed the
basis of the politics of corporeality. But no analogous process has unfolded with any sustained success in international politics. Here the body eludes international authority, in fact in the international context its appearance is highly problematic, unintelligible even. If it is grasped here at all, it is grasped improperly or in a deficient manner, as an erratum or deviancy. As such the political response to the appearance of a vulnerable body in international space is inevitably the declaration of some sort of emergency or crisis. The corresponding form of politics, an emergency politics, seeks, wherever possible, to sequester the body – now rendered as a problem - back into a national context better suited to its administration. The vulnerability of such bodies to being administered in this way is enhanced by the fact that they lack the requisite standing to speak back to the power that confronts them. That kind of standing is the hallmark of a truly political sort of identity and taken for granted by citizens of nation states, while non-citizens are denied such standing by systemic practices in international politics that rob them of the ability to challenge international power. That power remains diffuse, ethereal and difficult to track.

If the politics of corporeality is guided by an impulse toward unveiling, showing and telling, emergency politics leads instead in the opposite direction toward concealment and sequestering. Its prevalence in international affairs leads to an international biopolitics of crisis containment that is counterbalanced by no correlative, emancipatory international politics of corporeality. The result is that the political power circulating in international affairs evades challenge by those individuals over whom it is exercised.
At the end of the first volume of *The History of Sexuality*, Foucault introduces a short historical narrative to describe the emergence of what he calls “bio-power.” He begins by remarking upon a transformation in the use of sovereign power over life. “For a long time,” he says, “one of the characteristic privileges of sovereign power was the right to decide life and death.” Having its historical origins in the right of the Roman father to dispose of his children as he saw fit, this power reappeared in the modern political context as the right of the sovereign to exercise dominion over its subjects (as theorized, for example, by Pufendorf). Expressed indirectly, for example when the sovereign ordered its subjects to put their bodies in harm’s way to defend the nation, or directly when the sovereign took an individual’s life as punishment for offending against the laws of the community, in contrast to its form in the classical context, the modern incarnation of this power was limited. But Foucault suggests that, *contra* Hobbes, this represented not so much the transfer to the sovereign of the right of the individual to defend his life against the threat of death, but a *sui generis* right specific to the formation of a new juridical being, the sovereign state, and it was not so much the power *of* life and death but the right to “*take life or let live.*”

In the historical context in which this power first appeared, the state exercised its authority mostly by way of *deduction*, using its power to *seize* (some thing, or the body itself): it would appropriate from its subjects some portion of their income, demand some part of their labor, require of them some bodily sacrifice in war. Its aim was its own survival as the coercive institution having the monopoly on the legitimate use of violence.

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48 Ibid., 135.
within a given territory. However, over the course of modernity these mechanisms of power have undergone a “profound transformation,” such that:

“Deduction” has tended to be no longer the major form of power but merely one element among others, working to incite, reinforce, control, monitor, optimize, and organize the forces under it: a power bent on generating forces, making them grow, and ordering them, rather than one dedicated to impeding them, making them submit, or destroying them.\(^{49}\)

The right of the sovereign to take life has undergone a similar transformation and now displays “a tendency to align itself with the exigencies of a life-administering power and to define itself accordingly.”\(^{50}\) It manifests itself as the inverse of the right of the social body to ensure or maintain its biological life: even though the state now possesses a formidable power to destroy life (exemplified in the holocaust and the risk of nuclear annihilation), this power of death “now presents itself as the counterpart of a power that exerts a positive influence on life, that endeavors to administer, optimize, and multiply it, subjecting it to precise controls and comprehensive regulations.”\(^{51}\) As a result, what is at stake when the sovereign exercises power is no longer necessarily its own juridical existence and survival, but “the biological existence of a population.”\(^{52}\) The sovereign thus becomes responsible for fostering or enabling life and, because it can only extinguish life under tightly circumscribed conditions, death in fact becomes power’s \textit{limit}, for it is only over the unfolding of life processes that the sovereign’s dominion is established.

\(^{49}\) Ibid., 136.
\(^{50}\) Ibid.
\(^{51}\) Ibid., 137.
\(^{52}\) Ibid., 137.
Foucault identifies the seventeenth century as the point at which political power over the body concretized into two particular forms. The first, gathered together under the label of *disciplining* forces, concentrated on the body as a machine and aimed to optimize its performance and utility in order to extort its productive forces (the “*anatomo-politics of the human body*”). The second, characterized as *regulatory control*, focused on the body as the site of various biological processes that could be controlled and supervised in order to maintain the wellbeing of the population as a whole: births, deaths, public health, longevity, life expectancy etc. ("*a biopolitics of the population*").\(^{53}\) The aim of political power was no longer to kill life, but to “*invest*” it. These techniques of power were tied intimately to the development of advanced capitalism, for “the latter would not have been possible without the controlled insertion of bodies into the machinery of production and the adjustment of the phenomenon of population to economic processes,”\(^{54}\) though it was not until the 18th century that they became fused. Prior to this point they had developed along separate paths: institutions like schools, the army and the universities facilitated the development of discipline, while population control was made possible by, among other things, “the emergence of demography, the evaluation of the relationship between resources and inhabitants, the constructing of tables analyzing wealth and its circulation: the work of Quesnay, Moheau, and Süßmilch.”\(^{55}\)

Although this was not the first time that life had “entered into” the history of man – Foucault cites epidemics and famine as examples of the pressure that biology had long exerted upon history - it was only now that the biological life process had entered “into

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\(^{53}\) Ibid., 138.  
\(^{54}\) Ibid., 141.  
\(^{55}\) Ibid., 140.
the order of knowledge and power, into the sphere of political techniques,” and assumed the guise of a political task to which the application of sovereign power could be set. It was only at this point that Western man learned “what it meant to be a living species in the world, to have a body, conditions of existence, probabilities of life, an individual and collective welfare, forces that could be modified, and a space in which they could be distributed in an optimal manner.” Life was no longer a force or concern that haphazardly entered the consciousness of the polity; it was now at the center of its political experience.

**The Politics of Corporeality**

Foucault remarks that when organized resistance emerged to bio-power, it relied for support “on the very thing it invested, that is, on life and man as a living being.” In other words, the political struggles that followed in its wake were centered on demands for the provision for the basic needs of the body: rights to life, health, adequate nutrition, security, to realize a potentiality for being that was authentically one’s own and so on. Life was thus “turned back” on the force that attempted to control it and a new juridical vocabulary individual rights emerged. Such rights constituted a novel juridical framework quite unknown to any previous historical period, one that assumed a place of central importance as these rights were fought over and contested. In this section, I shall explore the idea of resistance to bio-power in a little more detail, though my emphasis will not be on rights as such. I’d like to focus instead upon the way that population developed a self-understanding of itself as people, a people that constituted legitimate

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56 Ibid., 141-2.  
57 Ibid., 142.  
58 Ibid., 144.
political authority. Foucault briefly refers to something like this. He speaks of the public, a notion that becomes “crucial” in the eighteenth century and which is simply population viewed “under the aspect of its opinions, ways of doing things, forms of behavior, customs, fears, prejudices and requirements.”59 On this view, the biological life of the species, population, is the substructure beneath the public, constituted by the intellectual life of the species. But since he does not expand upon this brief allusion, it is here that I intend to focus my attention.

At the same time that population emerged as the raw material on which the state was able to work, population also came to have an understanding and awareness of itself. Over the course of the struggle against absolutist rule, population came to see itself as a body of individuals constituting a community of fate responsible for the self-steering its collective affairs. In other words, population came to be self-conscious of its capacity to take responsibility for itself. Thus our account of the historical process should be modified as follows: in the early stages of its organized existence, the state appeared as the extractor of resources that it required to guarantee the modus vivendi required for commodious living. When it assumed responsibility for the biological life of the community, this development heralded the age of bio-power. But in the final stage, as struggles for democracy were fought and won, the people secured for itself a right to a private life separate from the public sphere and the legal recognition of its status in a system of rights that would protect it. This inaugurated the self-understanding of population as “we the people.”

One of the component parts of this new self-understanding was the idea that the people had a constitutive role to play in the legitimation of political authority. By thrusting themselves into the newly formed public sphere, quite literally in fact, not only did bodies begin to demand limits on the power of the state to interfere with them, but they also insisted that the authority that the state exercised flowed directly from their will and had to track their interest. This led to the formation of a normatively significant distinction between an imposition of the will of the state on the people (an example of unjustified coercion) and legitimate political authority. Thus the presentation of the body against the state – as an entity that could not be apprehended, detained or touched except under law - was central to the struggle against absolutism and the recognition of the body as the bearer of rights.

This historical development gave rise to a kind of democratic life that I call here, for ease of reference, the “call and response” model of democracy. This mode of democratic reasoning is, I believe, now prevalent in the West, so what follows is a description of the internal economy of that particular form of life. The model is presented here in a somewhat idealized and abstract form. Nonetheless, its elaboration will help us to understand the legitimacy claim that bodies came to make against the state, thus inaugurating a politics of corporeality. So this minor detour into the theory and practice of democracy serves two particular purposes: (1) to show how the idea of a legitimation demand – so central to our political experience – came to depend upon corporeal visibility, presence and voice; and (2) to bring into relief the deficiencies of any political space that is not constituted to allow such a demand to be made or heard (to preempt the argument that follows below: the space between nations is deficient in this manner).
All too often we tend to think that legitimacy is simply a quality that political institutions might possess, for example because their composition is determined by democratic election, or because they are otherwise formally accountable to the population which they are intended to serve. However, as a matter of historical experience in Western democracies, legitimacy now arises as the subject of matter of political deliberations, as an object of the political judgment of citizens. That those who are subject to rule by others should seek to have the coercive authority exercised over them justified – or *legitimated* - in a particular way is what Bernard Williams called the “Basic Legitimation Demand” (BLD).\(^{60}\) The legitimacy question technically arises as the second (rather than first) political question because, as Williams rightly points out, strictly speaking the first political question is always in fact “the securing of order, protection, safety, trust, and the conditions of cooperation.”\(^{61}\) The attempt to resolve *this* question comes necessarily before any other, since its successful resolution makes all else possible; it is the *sine qua non* of all political life. Historically, the conventional view was that once the state had answered the first political question, it had also answered the second. This is what Hobbes thought: for him, once the state solved the basic security problem, the legitimacy question no longer arose in any interesting form.\(^{62}\) The authority of the state could be said to be legitimate simply *because* and *insofar as* it solved the security question, and only if it should strike at the very security of the individuals it was supposed to protect would the duty of subjects to obey Leviathan dissolve.

\(^{61}\) Ibid., 3.
\(^{62}\) Ibid.
Of course, citizens of contemporary liberal democracies no longer think that security and political legitimacy so neatly coincide. That the state provides a measure of relative security no longer counts, by itself, as a successful legitimation of political authority. For reasons having to do with the historical emergence of liberalism as a tradition of moral and political thinking, and of democracy as a way of organizing our political affairs, such citizens demand a higher standard of legitimation within their political system. In fact, the second question now preoccupies them much more than the first. In other words, security has become a necessary but not sufficient condition for the legitimacy of the liberal democratic state and its actions. Citizens of liberal democracies now expect that a more sophisticated legitimation account must accompany the state’s various attempts at coercion. A legitimation account consists in an articulation of the reasons why one party (for example, a citizen) should obey the command of another (the state). This account might be given expressly along with an order or it might be reconstructed hypothetically, but either way it is owed by the state to its citizens because it is only through the offering such an account that the state can successfully legitimate – i.e. justify – its coercive authority.

The modern state emerged, historically speaking, as a solution to the problem of how to co-ordinate a complex, mass society in a way that did not depend upon domination. In order to demonstrate how the modern state was authoritative but non-dominating, social contract thinkers sought to show that the type of coercion that arose under it could be supplied with a legitimate basis. Because the authority of the state could ultimately be traced back to the consent of the governed, even if only hypothetically speaking, it could therefore be distinguished from those other forms of social
organization that rested merely on the naked assertion of power. From the social contract came not just any old form of government, but legitimate government. Hobbes’s Leviathan may have ultimately looked little different to an absolute monarch of the sort already known to English history. But what he offered – what was truly radical in his thought – was a justification for its rule which moved from the subjects’ consent upwards, rather than from divine right downwards. An ingenious move in the history of political thought, it nonetheless contains a very serious inadequacy. Subjects are invited to offer their consent only at the constitutional moment of founding when the contract is first signed, the moment at which the state is supposed to gain its legitimacy. But from then on they are silent, with the result that they are not permitted to mature from subjects, who agree, into citizens, who judge. The result is a falsification of political life and an assault on the idea of a citizen.

Since legitimacy is a quality of all political action, it cannot be sealed at the start, hypothetically or otherwise, at some notional founding moment. It is always properly the subject of political debate. This is why, with some justification, Arendt could accuse Hobbes, like Plato, of succeeding in offering a theory of political order only at the expense of doing great violence to the concept of the political itself. The idea that citizens should agree to obey Leviathan for all time on the basis of their initial promise is as perverse and it is profoundly anti-political, since politics involves the ongoing contestation of public authority itself. Indeed, the cornerstone activity of citizenship is political judgment about the legitimacy of the state and its actions. To have standing to engage in this kind of judgment is a pre-requisite of modern citizenship. Where it is denied, the individual in question cannot properly be called a citizen. Hobbes’s contract
does not make politics of this sort possible. In fact, it quite self-consciously excludes it altogether.

Locke reminds us in the *Second Treatise* that to set a design upon another man’s life, to bring him under one’s power, constitutes an archetypal form of domination. If we really do regard human beings as fundamentally free and equal, as liberalism enjoins, then we have to be able to give an account that nonetheless explains how some individuals (i.e. rulers) can come to have legitimate authority over others (the ruled). In other words, we have to find some way of reconciling the practice of politics, an inherently coercive and hierarchical activity that divides the people into rulers and ruled, with our commitment to equality and freedom. The strategy that emerges with the experience of democratic politics is as follows: A can come to have legitimate authority over B if A offers to B a justificatory reason for holding power over her and B accepts it following independent, un-coerced deliberation. The justificatory reason has to be transparently communicated, have independent, rational force in relation to the aims and objects of the purported coercion, and must be the kind of reason that can be rationally assessed by B and, in principle, rejected by her if it does not meet these criteria. If the reason is subsequently accepted by B, then it serves to justify the authority of A over B. It becomes a *justificatory* reason. A’s authority is admittedly coercive in some sense, that is unavoidable, but it is non-dominating because it has been successfully legitimated. Ideally, the dialogue between the state and the people in a democracy should resemble the dialogue between agents A and B. The rulers offer reasons in defense of their attempts at coercion (the state is by nature an entity that attempts to coerce). The ruled

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63 So: (1) A must *tell* B the reason; (2) B must *judge* the merits of the reason in deliberation that is free and independent, i.e. not interfered with by A; and (3) B must *accept* or *reject* the reason.
deliberate and judge the validity of those reasons. If they accept those reasons following
deliberation, then those reasons become justificatory reasons for state action, and the
rulers are entitled to expect that the ruled obey. If the ruled don’t accept those reasons,
but the rulers press ahead and attempt to assert themselves anyway, then they are guilty
of domination.

Democracy can be understood as a system of government that aims at dissolving
domination through the use of public, justificatory reasoning in this way. The asking for,
and giving of, reasons that purport to legitimate coercion forms the essentially vocal
context in which all political judgment is exercised in a democratic polity. Indeed, a
healthy democracy is a noisy sort of place precisely because in principle this vocal to-
and-fro is never-ending. There is no once-and-for-all answer to the basic legitimation
demand and political legitimacy is not something that can be achieved once, then stored
in reserve and spent by the state on those later occasions on which it is demanded (pace
the tradition, signatures on the social contract at T₀ do not necessarily legitimate the
actions of the state at T₁, T₂, T₃ etc.). Legitimacy is instead a quality of the ever-changing
dynamics of all political action. As such, it is always the subject of political debate and
the object of citizens’ judgment. This point can be brought out more clearly by
comparing the noisy public sphere of a democratic community with that of its opposite.
In a non-democratic community, if there is a public sphere at all, is likely to be silent or
very docile. It does not “talk back” to the state or demand that power account for itself, or
at least it does so only in the weakest and most obsequious of terms, because in such
cases the controlling powers frequently deploy sophisticated and brutal mechanisms to
stifle opposition voices, for example by curtailing the right to freedom of expression and by arresting and deporting agitators.

Political judgment about the legitimacy question emerged as a discursive activity that unfolds between citizens, taking place in a linguistic context of public explanation and justification. Certain preconditions would have to be met if citizens were able to come together to exercise the faculty of political judgment successfully. One such precondition is free access to a conceptual vocabulary in which the legitimacy question can be rendered intelligible in the first place – that it can be posed and, at least in principle, an answer offered in reply. Another is the existence of a free and open public sphere in which a multitude of ideas, tastes, desires, arguments and moral viewpoints can be disclosed among interested individuals. Indeed, the provision of such a space and the recognition of its centrality to the practice of freedom count among the achievements of liberal political culture.

The need for space in which the legitimation demand could be articulated became central to our political experience, an experience of corporeally instantiated politics. In this context, space has a both physical component and normative component: (1) the physical space itself, whether forcefully made room for by the public themselves (for example, when a crowd occupies a public space for a protest or rally), or whether provided for by an established political institution (such as a town hall meeting, a parliamentary chamber); and (2) the fact that, in the usual course of democratic life, rulers recognize that the ruled have a legitimate claim to demand that they account for the power they hold. Of course, it is often the lack of such recognition that explains why the
Bodies come forward and assert these demands or claims in space. The human body, as opposed to an abstract ideal or a written manifesto, was very hard to ignore when it asserted itself politically by making itself present. “Population” knew this; it became part of its self-understanding. Population’s self-presentation in space meant that the regime had to respond in one way or another. It could, for example, accept the claims made upon it, entertain further negotiations or it use violence and terror to suppress it. Recent advancements in modern technology certainly alter this picture: the internet provides for a “virtual” space in which political groups can organize, mobilize and assert claims online without ever having to meet in person. Some of these groups have even been extraordinarily effective. But our politics remains, in the final analysis, a real as opposed to virtual affair, it is fundamentally embodied. Even if the use of online social media allowed protestors in the Egyptian revolution to organize an effective opposition, it is noteworthy that the most vivid symbol of the toppling of the Mubarak regime remains the physical occupation of Tahrir Square in downtown Cairo. And one of the most memorable images of the square remains a photograph depicting Egyptian Christians who link arms to encircle a group of Muslims, protecting them while they pray. They literally used their bodies to further their political cause.

While revolutions rank among the most striking and obviously corporeal political phenomena, the embodiment of politics is so common in everyday life and so recurrent in our recent political history that it is most likely ignored or forgotten. Tony Blair is summoned to appear before the Hutton Enquiry to account for claims he made about the
risks posed by Saddam Hussein, local residents *gather* at town hall meetings to discuss planning applications, members of parliament *walk* through the division lobbies when the House of Commons takes a vote, the state *displays* the bodies of its armed forces (and by extension, its power to project force) in military parades, *the emaciated figure* of a concentration camp victim is seared into the collective memory of the west as a symbol of twentieth century totalitarianism, Tibetan monks *self-immolate* to protest the rule of Tibet by China, Emily Davison *throws herself* under the King’s horse, environmentalists *chain themselves* to trees to prevent deforestation, the men of the campaign group Fathers4Justice *climb* public buildings to protest the rights of fathers in divorce proceedings, anti-capitalists *occupy* Wall Street, the suicide bomber *sacrifices* his own body, Rosa Parks refuses *to move her body* to the back of the bus, the man in Tiananmen Square *stands* in front of the tank, Tommie Smith and John Carlos defiantly *thrust their fists into the air* and *bow their heads* on the podium at the 1968 Olympics, the photograph of *naked Arab men stacked in a pyramid* at Abu Ghraib becomes a frightening symbol of the misuse of American power in the Middle East, while the image, on the cover of Time magazine, of the Afghan girl with *a disfigured face* prompts us to consider whether the war on terror might be justified on the grounds that it emancipates women in the region.

In each case, the expression of a political claim – a tale of injustice, a view what they state ought to do, a display of solidarity, a commitment to a political cause, the assertion of an identity – is manifest physically by a presence or a gesture, the presentation of a body or an image thereof. Sometimes the presentation derives its

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64 Admittedly Davison’s actual motives remain unclear and her act, interpreted for many years as a protest connected to the suffragette movement, may well simply have been intended as a suicide.
emotional power and impact from the fact that it depicts the destruction of the body, wrought by a terrorist, by the coercive authority of the state, or by the owner of the body himself. On other occasions the presentation of a body is a synecdoche for a string of claims that have otherwise not found their expression in words: “I am here. You must take me seriously. I count equally.” Showing, telling, acting and unveiling are the constitutive modes associated with ordinary politics (as we find them at the end of a historical period of development, no doubt) and they are inherently connected to the presentation of bodies in physical space.

If the presence of a body is linked to the right to be heard politically, the inverse is also true: the absence of a body is often associated with political exclusion or suppression. In their attempts to control and destroy the public sphere, authoritarian regimes have proven themselves to be especially savvy when it comes to cleansing public spaces – not just by using water cannons, arrest warrants, internment and torture against those they find on the streets, but by designing the very architecture of public space in such a way as to make public, political congregation impossible. Such regimes know all too well that if there is no literal public square, it is very difficult to build a figurative one. Even democratic politics is studded with examples of the state using its coercive authority to hide or suppress bodies whose voice it would prefer to silence. For example, at the time of writing, convicted prisoners in the United Kingdom are denied the right to vote in elections for the duration of their custodial sentence. The historic practice of exile is another example: it is not enough to remove a person’s right to participate in the public or cultural life of the nation, he must in addition be banished from the territory as well.
The detention of asylum seekers in camps in Western Europe is another and it will be considered in more detail in chapter 4.

While the call-and-response model discussed above is presented as an account of the internal dynamics of a particular, historically contingent way of life – the sort that unfolds in a territorially bounded western democracy - it offers a morally compelling way to think about power and legitimacy in a much broader range of contexts. Of course, what is at stake in the domestic setting is the struggle of a people to announce itself as a people, politically speaking; to stamp its identity into the institutional makeup of the coercive state apparatus, thereby ensuring that the state track its interests and reflect their collective self-understanding and normative commitments (the commitments of “we the people”). The normative ideal (and let there be no doubt that here we are considering the ideal) expressed in this formulation is as follows: members of a political community seek to see themselves as both authors (or at least authorizers) and subjects of coercive power at one and the same time, and only where this dual perspective is successfully achieved does coercive power gain legitimacy (coercion of the will of another, which is legitimately resisted, is converted into legitimate authority, which is properly binding).

This idea may not always map neatly onto international affairs, since the vulnerable bodies in question here – those who have been pushed or pulled into the space between nations - do not necessarily seek recognition of themselves as a people desiring of their own institutions that reflect their self-understanding (although sometimes they do, and I take up this idea in chapter 2). They do, however, usually at the very least seek to challenge the power that is exercised over their bodies. For example, they might try (and frequently fail) to challenge the power that causes them to be excluded from a nation that
they desire to enter as migrants, or the power that shuttles them into an immigration detention system. As long as international space is constituted in a way that makes it impossible for this sort of challenge to be articulated or rendered intelligible, it is deficient as medium for cosmopolitics. We shall return to this idea at the end of the chapter.

_Bodies in The Space Between Nations_

When cosmopolitan theorists think about the political practices associated with their universalist ethic, they have a tendency to imagine a limitless condition of human mobility. “A world without borders” is their guiding motto. No wonder, since theirs is often a world without borders. The life of an internationally renowned academic is frequently played out against a backdrop of airport lounges, conference meetings in far-flung locations, appointments in Paris, London and Berlin. From this privileged perspective, the global elite experience globalization in largely positive terms. Theirs is a world constituted by the freedom to pursue international career opportunities, the frequent and easy crossing of borders, the sharing in a wide variety of cultures and the acquisition of exotic tastes in everything from ideology to cuisine. Indeed, an entire administrative apparatus exists to facilitate the movement of such people: work permits for “highly-skilled” migrants, “genius” visas and the like. The experience of other members of the global elite, the super-rich for example (financiers, venture capitalists, technology entrepreneurs, businessmen and businesswomen), is much the same and differs only in the extent of its lavishness. For all concerned, the space between nations is navigated with relative (and often luxurious) ease. But for many others, to step outside
the boundaries of one’s home state, whether by “choice” or force, is to embark upon a decidedly less glamorous and possibly even dangerous journey. For these people, the zone between nations is experienced neither as an open field of limitless opportunity, nor merely as a temporary space to be transited from the comfort of an airline seat, but as a tightly controlled and highly policed sphere in which one risks becoming ensnared in a legal limbo.

For the less fortunate, to enter this liminal space is to go “off grid” and to venture into an uncertain future. Asylum seekers, stateless persons, deportees, refugees, economic migrants from the global south seeking entry into the north, the victims of ethnic cleansing, those displaced by man-made or natural catastrophes are all cosmopolitan travelers of a sort, but their experience is nothing like that of the middle class, border-crossing academic. The experience of these people is instead one of being gripped by the power that circulates in the international sphere in such a manner that they are regarded not as autonomous, self-directing individuals who speak with a political voice or who cross international space to sojourn, but as deviants, remnants or remainders. They appear as a problem in need of an administrative solution. This gives rise to a style of politics that is increasingly prevalent in the international sphere: the politics of emergency management or crisis containment. In the section below, we will consider the nature of this sort of politics and how it differs from ordinary politics. But first we first must be clear about what I mean by “power” in the international sphere.

There are, I believe, five main ways in which power is made manifest in international politics. The first is the political power that national leaders exercise on behalf of their states when they conclude treaties and agreements, conduct negotiations,
or declare war with other nations or other entities that have the competency to deal with them. Second is the power that states exercise, through various administrative agencies, in asserting control over their territorial boundaries to the exclusion of outsiders. This is related to the third kind of power – that ensconced in the operation of the system of nation states. This is a structural form of power. Even when it is made manifest, no single agent is to be found standing behind it. Rather it is built into the system itself. These two related forms of power are constitutive of international political life in the sense that they maintain the very structure that makes talk of international politics intelligible in the first place. The fourth kind is the sort of power that circulates within supra-national political and legal institutions, such as the European Union and the European Court of Human Rights, and is concretized in the laws, customs, rules, regulations and legal judgments that emanate from such institutions. The fifth kind of power is that kind of power exerted by rich states, either acting alone or with the assistance of multi-lateral aid agencies, when they mobilize resources – people, capital, technology, expertise, security etc. – to aid other states. While this form of power, which we might call humanitarian power, is often exercised in response to a particular crisis or emergency, it can also form part of policy of sustained engagement, failing under the rubric of what most states call “international development.” Sometimes these humanitarian endeavors are accompanied by demands for political or economic reform in the receiving state. In these cases, such demands may serve the interests of the aid-giving state just as much as those of the receiving state.

While this is a non-exhaustive list of the sorts of power that circulate in international politics, for the time being it will do. The first type of power – the power of
national leaders to execute foreign policy – does not concern me here. It constitutes the elite level interactions that characterize much of what we conventionally call international politics. In principle, the power of national leaders and their high level officials to conduct foreign policy springs from their role as representatives of the national interest in the international context. It does not seem fitting to talk of individual bodies in this context, since they are not obviously the objects of this sort of international conduct (except perhaps indirectly, when political leaders assert their right to declare war and thereby send bodies into combat). However, all of the other manifestations of power do concern themselves with individual bodies directly and therefore they demand our attention. Here, bodies are the objects of power, where that power emanates from some state apparatus (for example, when states act directly in international politics, as in humanitarianism, or when it secures its borders against outsiders), something resembling a state apparatus in the international context (in the case of the coercive power circulating within the EU, for example), or from the structure of international politics itself (i.e. the division of the world into sovereign nation states with boundaries that are only semi-permeable).

The uncertain fate to which vulnerable bodies are delivered when they enter the realm between nations is the product of a problem with the constitution of the space in which they move. That is to say because of the nature of the power that is exercised there (most notably forms two and three), the space between nations is constituted for

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65 This is not a problem that the vulnerable necessarily share with wealthy elites: for those with the requisite means, expertise and permission to venture through international space, these issues do not generally arise, at least not in the same way. The sort of international space through which these people move is constituted differently by virtue of their access to requisite means – money, visas or know-how buy for them the right to be heard, seen and listened to as they cross this space.
these people not as a political space in which the legitimation demand might freely be articulated, but as a space of surveillance and detection in which their voices are muted (because they are not permitted access to institutional settings in which the demand could be posed) or discounted (their voice is heard but ignored because, as non-citizens of the state exercising power, they lack the standing required for their voice to be counted equally). Individuals here are treated not as interlocutors with potentially legitimate claims against the power that confront them. Instead they are dealt with as entities to be categorized, shepherded, transported or processed by a power that resists being checked or challenged.

*Spaces of Appearance versus Spaces of Surveillance*

In making this series of claims I have relied upon an implied distinction between spaces of appearance, which are on my view properly constituted political spaces, and spaces of surveillance, detection and control, which are those spaces in which police is the dominant governing mode rather than politics (this distinction forms the backdrop to all of the argument made across this dissertation). We will come back to the idea of police in chapter 4. But for the time being, I should say a little more about the architecture of this distinction and the intellectual resources that support it, namely in the work of Arendt and Foucault.

Arendt’s aesthetic conception of politics will be taken up in more detail in chapter 3, where it arises in the context of a discussion about the public sphere and its significance in contemporary political life. Here I will simply mention in outline the normative ideals that propel her veneration of a distinctly public mode of politics in
which the *appearance* individuals is key. When I refer to her aesthetic conception of politics, I mean specifically her argument that a properly constituted politics is one in which individuals come forward, in view of one another, to disclose their identity and inaugurate something new. This kind of politics is agonistic and potentially highly unstable. But for Arendt this ideal describes the normal or non-pathological mode of politics, to be contrasted with the abnormal politics that is characteristic, for example, of totalitarianism and authoritarianism (or any other configuration of politics where bureaucracy and administration have become dominant). According to Arendt, these highly pathological forms of political organization owe their origins to a particular development in the intellectual history of the West; namely the subordination of politics to philosophy, supposedly inaugurated by Plato under the misguided hope that the uncertain *doxa* circulating in human affairs (i.e. politics) could be replaced by the certainty of “absolute standards” provided by philosophy.66

According to Arendt, spaces of appearance “come into being wherever men are together in the manner of speech and action.”67 Strictly speaking, they precede the formal constitution of the public sphere and they have an impermanent character, arising haphazardly and quickly dissipating when they have fulfilled their purpose. Spaces of appearance are so vital to any politics that promises to offer emancipation to its subjects precisely because it is in those spaces that citizen power is *produced* (and, in circular fashion, it is only this power that can sustain such spaces). In this context, “power is always a potential and not an unchangeable, measurable and reliable entity like force or

strength.” While it springs up whenever men decide to act together and falls away when they disband, this power is independent of material strength and should not be underestimated: Arendt remarks that history is littered with examples of relatively small groups of people ruling over vast empires as well as popular revolts against materially powerful rulers. In these cases it is not material strength that matters but the living together of people who decide to act in concert by aligning their wills and intentions (however fleetingly). Political power is “a potentiality in being together” that is concretized in collective action. If politics in the ordinary mode is constituted by spaces of appearance in which individuals come together, it is for this reason that abnormal political forms of organization intentionally destroy these spaces, recognizing them as a threat to the stability of their rule. According to Arendt it was Montesquieu, “the last political thinker to concern himself seriously with the problems of forms of government,” who first noticed “the outstanding characteristic of tyranny was that it rested on isolation – on the isolation of the tyrant form his subjects and the isolation of the subjects from one another through mutual fear and suspicion.” The result is the contradiction of the “essential human condition of plurality, the acting and speaking together, which is the condition of all forms of political organization.” Action and speech, which come together in the space of appearance, turn a “heap of unrelated things” into a world of contextualizing meaning and significance. We are, through our collective efforts, world builders and the power produced in the space of appearance then sustains the products of human artifice.

68 Ibid., 200.
69 Ibid., 201.
70 Ibid., 202.
71 For further discussion of Arendt and the idea of world building, see chapters 3 and 4.
While Arendt reminds us that the prospects for citizen power depend upon properly constituted spaces of appearance, Foucault offers us a set of intellectual resources with which to theorize their inverse: spaces of surveillance, detection and control. In his lectures at the College de France in the late 1970s, Foucault set out to examine the manner in which population was made the object and subject of “technologies of security,” his designation for those techniques aiming either at social control or the modification of the biological life of subjects. These investigations form part of Foucault’s wider project at that time: a philosophical analysis of practices constituting the new “art of government,” or “govern mentality.” Part of this task involved the mapping out of the spatial field in which sovereign power would come to be exercised, illustrating how the territorial sovereign became an “architect of the disciplined space.”

According to Foucault, a genealogy of the political power of the state in eighteenth and nineteenth century Europe would reveal the emergence of the following set of relations: “sovereignty is exercised within the borders of a territory, discipline is exercised on the bodies of individuals, and security is exercised over a whole population.” The space provided by the territory forms the background milieu, or organizing field, against which the exercise of coercive power takes place. It comprises individuals, groups and the events that occur in their lives – it might be called, in the more recent vernacular of those who follow Habermas, the lifeworld. Discipline structures this space by imposing upon it a hierarchy while security is the term given to mark those attempts by the state, through various apparatuses, to plan for it, calculate in

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relation to it, and guide its future course. The transformation of sovereign power into bio-power thus marks the “appearance of a [new] project, a political technique that will be addressed to the milieu.” According to Foucault, the catalyst for this project was the clash of two movements unfolding in sixteenth century Europe (state centralization following on the dissolution of feudal social structures on the one hand, and increasing religious dissidence following the Reformation and Counter-Reformation on the other), while it was facilitated by the new “human sciences,” those that “analyze … [man] as a living being, working individual and speaking subject,” providing the sort of knowledge that made planning for the population possible.

Foucault argues that with the emergence of bio-power the sovereign sought to regulate the circulation of the things found to be present in the milieu (people, capital, goods etc.). In order to explain why, he introduces the idea of the event. The state installs an apparatus of security so that it can anticipate, adjust for and maybe even avoid events that threaten the life of the population and, by extension, the ability of the state to extort power from its constituent bodies. The example that Foucault chooses to illustrate this idea is the regulation of grain in eighteenth century Europe, with grain scarcity constituting the event in relation to which the state plans and calculates. From the population’s perspective, the threat of grain scarcity arrives as a “scourge,” while from the state’s perspective it represents a “catastrophe” that threatens to undermine its rule.

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74 Ibid., 20-21.
75 Ibid. 23.
76 Ibid., 89.
77 Ibid., 79.
78 Ibid., 29.
79 Ibid., 30-37.
(owing the social unrest that would ensue if the event came to pass). For both rulers and ruled the materialization of the threat would mark an existential crisis, which prompts the state to deploy an anti-scarcity system that is “basically focused on a possible event, an event that could take place, and which one tries to prevent before it becomes a reality.” This anti-scarcity system, a “juridical and disciplinary system of controls, constraint and permanent supervision” comprising price controls and limitations of the rights of individuals to store, hoard and export grain, was used to ensure that the grain went onto the market as quickly as possible and prevent prices from rising to the point at which the population would revolt.

Foucault’s use of the grain scarcity example to introduce the idea of technologies of security is telling. His intention is to suggest that the state’s new role in the management of bio-power was intimately connected to the development of modern capitalism, whose wealth creating powers the state also wished to harness. And for population to become the source of the state’s wealth and power via this new form of economic organization, the state apparatus took especial interest in deploying:

a regulatory apparatus (appareil) that prevents emigration, calls for immigrants, and promotes the birth rate, a regulatory apparatus that also defines useful and exportable products, fixes the objects to be produced, the means of their production, as well as wages, and which prevents idleness and vagrancy.

While the grain example is located very firmly in the domain of economic management, Foucault’s point extends further: observing, surveilling, strategizing and planning for crisis containment became the dominant modes of state action more

80 Ibid., 30.
81 Ibid., 33.
82 Ibid., 32.
83 Ibid., 69.
generally. As the state began to fill its new-found role in overseeing, maintaining and coordinating the biological life of the territory over which it ruled, it made use of disciplinary techniques and technologies of security that were distinct but related: “law prohibits and discipline prescribes,” structuring the space over which dominion is exercised, while “the essential function of security, without prohibiting or prescribing, but possibly making use of some instruments of prescription and prohibition, is to respond to a reality in such a way as to nullifies it, checks it, or regulates it.”\textsuperscript{84} The actual arrival of the scarcity event itself was to be avoided at all costs, but the threat had to remain, in order to provide a seeming justification for the continued existence of the apparatus of security.

With this distinction between spaces of appearance and spaces of surveillance and control in place, we can now appreciate a little more clearly the relevance of this discussion to international affairs. International space resembles a space of surveillance and control and is resistant to the establishment within its boundaries of spaces of appearance. It is therefore not disposed toward treating individuals as political agents, as a true cosmopolitics would demand. In fact, the coercive power circulating in international space works hard to maintain the current (and, from the political standpoint, deficient) constitution of international space by deploying technologies of security. These technologies – including, but not limited to, border control, migration flow management, the processing of claims asylum via a system of detention that criminalizes detainees – serve to manage the circulation of bodies in international space while, at the same time, ensuring and reinforcing the division of the world into sovereign nation states. Moreover, in addition to merely surveilling deviant bodies and attempting to calculate appropriate

\textsuperscript{84} Ibid., 47.
action in order to avoid the threat that they pose, international power grasps those bodies and tries to *sequester* or *hide* them from view. This sequestering is often carried out by powerful states who seek to exploit the lack of citizen power within international space that might otherwise check and supervise their behavior. There are two practices in contemporary global affairs that exemplify this tendency in particular. They appear in the context of the so-called war against terror, in the use of extraordinary rendition and the detention of terrorist suspects at Guantanamo Bay.

Extraordinary (or “extra-legal”) rendition refers to the practice of transferring a suspect from one state to another in a manner that ignores the conventional laws of extradition. A less euphemistic description for this practice would simply be state-sanctioned kidnapping. Usually undertaken by a state’s secret service (the CIA, MI6 etc.), extraordinary rendition involves the apprehension of a terrorist suspect in any part of the world and his subsequent covert transportation to a “third country,” friendly to the seizing state, where he can be interrogated. As power assumes control over the body, plucking it from its ordinary context and transporting it offshore to be worked upon further, quaint pleasantries like the right to legal representation, the right to be made aware of the incriminating evidence and the right to be brought before an impartial tribunal in a timely manner are dispensed with. The detainee is thrown back into the most basic condition of all, bare life, and is grasped in his physical entirety, quite literally, by the power that confronts him. Allegedly the US has knowingly rendered suspects to countries in which torture is freely practiced in pursuance of interrogation. Even the prohibition on torture, usually thought to be central to the self-understanding of modern democracy (enshrined
even in the US Constitution), is suspended in the face of the supposed existential threat to
the nation posed by Islamic terrorism.

The use of the detention camp on Guantanamo Bay to imprison terrorist suspects
serves a similar purpose. Inmates are sent there in order to place them “off-radar,” a
situation facilitated by the curious legal status of the territory. While the camp is sited on
an American Naval Base, the US Department of Justice has successfully argued that since
the island is still part of the sovereign territory of Cuba, US law does not apply there.
Indeed, inmates’ physical relocation to the facility has been accompanied by a series of
linguistic contortions on the part of the US government designed to narrow the range of
legal remedies that might be open to individuals to challenge their detention there. While
the phrase “unlawful enemy combatant” has become ubiquitous in political contexts
(appearing in public statements by US officials in defense of their actions) and in legal
contexts (at the heart of litigation brought by detainees to challenge the basis of those
actions), the origins of the phrase are murky. As legal scholars have noted, “although the
label has roots in some writing on the law of war, the phrase … does not constitute a term
of art in the mainstream law of war.”

Indeed, “the nomenclature used to designate this
new category [of persons] is … a term that mixes confusingly several legal and military
concepts …it conflates a number of previously well-defined categories (especially
“enemy prisoner of war,” “combatant” and “civilian combatant”).”

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86 Karen J. Greenberg, “Caught in the War on Terror: Redefining Prisoners in the Post-9/11 Era,”
in The Enemy Combatant Papers: American Justice, the Courts and the War on Terror, eds.
Karen J. Greenberg, Joshua Dratel and Jeffrey S. Grossman (Cambridge: Cambridge University
Press, 2008), x.
In truth, the phrase is a recent invention: the creation of imaginative linguistic entrepreneurs within the Bush administration intent on placing detainees in a particular category – some would say a legal black hole - for reasons of political expediency. What they have come up with is “a concept whose plasticity renders it unhelpful as a tool for legal regulation and whose indeterminacy vests vast discretion in the Executive.”\(^87\) Since the administration decided that it did not need to treat detainees in accordance with the Geneva conventions if they were indeed unlawful enemy combatants rather than regular prisoners of war, it matters a great deal whether a detainee is held to come under this category of persons or not – a decision in the case of an individual constitutes a clear exertion of state power with immensely grave consequences. Such a determination is therefore a nakedly political act, used to deprive detainees of juridical rights that would otherwise have been accorded to them under law. To achieve this aim, US officials sought to expel detainees, physically and linguistically, from the realm of political community altogether. The combined force of these actions served to strip detainees of the very right to have rights.

What becomes apparent from reading the enemy combatant cases is that US government lawyers asserted, time and time again, the right of the President, acting as commander-in-chief in a time of national emergency, to decide for himself what the phrase “unlawful enemy combatant” actually meant, and to determine who was to be included within its orbit. In resisting detainees’ efforts to seek the writ of *habeas corpus* to challenge the basis of their detention, the government’s lawyers argued that, in fact, judicial oversight of the President’s determination of the matter was precluded under the political question doctrine. In other words, the President’s authority to detain individuals

was included within his war making powers. It was therefore not reviewable by the
courts, on the grounds that judicial oversight would amount to an illegitimate interference
with the Executive’s prerogatives over matters relating to foreign affairs. The President’s
lawyers were effectively arguing that *he who is sovereign is he who gets to decide* – this
time upon the word as well as the deed.

Powerful states engage in these practices by exploiting the irregular nature of the
space between nations. They use it as a conduit to deliver terrorist suspects over to
locations in which they can be interrogated, incarcerated and tortured beyond the gaze of
the world’s media, the scrutinizing glare of legislators or the monitoring view of the
public sphere. In this context, catapulting an individual deemed troublesome into
international space serves as a means of purposefully ejecting him from the realm of
rights, so that his body can be grasped and subjected to a treatment and punishment that
would not ordinarily be permitted by the domestic system of law. While Foucault
interpreted Bentham’s panopticon as a metaphor symbolizing the disciplining effect of
permanent visibility in modern society,\(^88\) here the technology of surveillance and control
operates in a somewhat different manner. In this case, it is not so much a permanent
visibility that constitutes the technology of security, but an enforced *hidden-ness.*
Suspects are *hidden* from view of the public sphere and instead are made visible only to
the apparatus of state security, where they appear as objects to be interrogated in
pursuance of the state’s role as guarantor of security against a perceived existential threat
from terrorism. It is no wonder that the terms of art associated with rendition are
peppered with images of darkness and seclusion – covert prisons are “black sites,”

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speaks of a generalized “panopticism” characterizing modern society.
detainees are “ghosts,” the aircraft used to transport them are “ghost planes.” Forced into international space, where the seamless web of law that usually affords the protection of one’s bodily integrity no longer reaches, this suspect is hidden from view and rendered an “un-being,” no longer simply a prisoner of war or a criminal suspect, but an unlawful enemy combatant.

The use of international space to render an individual an un-being way is just one more variety of emergency politics having parallels in the work of legal theorist and German philosopher Carl Schmitt. Schmitt defined sovereign power as the ability to declare an emergency that frees executive power from the shackles of ordinary law, inaugurating what he famously called the “state of exception.” He thought that this impulse toward the assertion of dictatorship was not only present in democratic politics, but fundamental to it. It is the power that necessarily asserts itself when democracy encounters an existential threat. There is no space here to conduct a thorough examination of Schmitt’s work. Instead, I will note only that his theory of sovereign power has enjoyed a recent revival, owing to a post-9/11 landscape providing plenty of examples of the suspension of the ordinary norms of liberal democracy by political leaders intent on using illiberal means to vanquish the threat posed by Islamic terrorism.

Finally, a further, intriguing example of the tendency of state power to sequester and hide individuals who are found in international space is offered by the operation of immigrant detention centers within contemporary Western Europe. These centers are operated by states in order to incarcerate and process those who arrive at their borders and request entry for the purposes of seeking asylum. Since these centers exist and are operated within democratic political communities, a fact that suggests the penetration of
international emergency politics into the nation state, they warrant a further examination of their own. They will therefore be considered in more detail in chapter 4.

*International Politics as the Zone of Irregularity*

The language of crisis is ubiquitous in international affairs. For example, in recent years we have experienced a *global financial crisis* triggered by the collapse of the US housing market in 2007, the ensuing European *sovereign debt crisis* in 2010, a *humanitarian crisis* triggered by civil war in Darfur in 2003, a *food crisis* caused by the dramatic increase in world food prices in 2007-2008, an *energy crisis* signaled by the spiraling cost of oil throughout the first decade of the twenty first century, an *environmental crisis* resulting from various recent natural and man-made disasters (the Indian Ocean earthquake and tsunami of 2004, the Deepwater Horizon oil spill of 2010, the Fukushima Daiichi nuclear disaster of 2011 etc.), a *global health crisis* triggered by the H1N1 avian flu pandemic of 2009, and various ongoing *international political crises* connected nuclear proliferation among pariah states like North Korea and Iran and Islamic terrorism. Political leaders are either constantly trying to ward off a crisis, contain a crisis, or find a solution to a crisis. One could be forgiven for thinking that this language appears only because the world’s media is sometimes prone to hyperbole in the reporting of international affairs, were it not for the accompanying emergence of an “international crisis management” industry (comprising INGOs, NGOs and various United Nations agencies). If crisis appears to be the default mode of international politics, this is not merely an accident. It signals, in modified form, the reappearance at the
international level of the tendency that, as we saw earlier, Foucault identified in the emergence of the disciplining state: calculation in the face of the event.

Much of what we refer to when we talk about international politics is that sort of politics conducted by elite parties who are tasked with representing the national interests of their co-nationals in international affairs. These parties are, within the structural constraints provided by the international system, conducting a fine and precarious balancing act that involves furthering the interests of their own state at the same time as maintaining an elaborate web of alliances, treaty obligations and transnational political institutions to which they or their predecessors have elected to tender some portion of their nation’s sovereignty. This high wire act is exemplified in the conduct of the current British Prime Minister, David Cameron. On the one hand, it is his government’s official policy that Britain’s continued membership of the European Union is crucial and, furthermore, that the UK has a key role in, and is a net beneficiary of, the European project. On the other hand, the Prime Minister constantly has to remind his constituents at home that when he attends European summits, he is fighting for Britain’s interest and that he continues to yield Margaret Thatcher’s metaphorical handbag. His typical refrain, offered to appease those at home who are skeptical about the Union, is that Britain’s role is to be “in Europe but not run by Europe.” That this is, for all intents and purposes, a paradoxical statement is rarely dwelt upon.

The pact that leaders have made with their co-nationals runs something like this: order within our territorial boundary is to be secured against the disorder that obtains without. We (your leaders) will negotiate in international relations to protect: [1] the integrity of our borders (the pledge of security); [2] the strength of our economy (the
pledge of economic protectionism); and [3] the distinctive culture that characterizes our way of life (the implied appeal to the ethic of nationalism or cultural particularism). Thus the space ‘inside’ is constituted as the domain of ordinary politics – a field organized around a constitutive set of ideals or self-understandings (“liberal democracy,” “the British way of life” etc.) in which political parties form to represent sectional interests and struggles among the people, elections are won and lost and the coercive state apparatus is, at least in principle, kept in check by a monitoring public sphere that demands that authority account for itself. On the other hand, the space outside is constituted as a zone of irregularity, comprising threats to the wellbeing of the polity, the integrity of its identity and the harmony of its social life and cultural traditions. International Islamic terrorism, economic migration, international legal and political decisions by “foreign” courts or legislative bodies, and the fallout from global recession are just a few contemporary examples of the threats from “outside.” Political leaders take it as their task to protect the nation against these threats. This is often the account that they give to their domestic audiences to justify their actions in the international arena (sending troops abroad to fight wars against international terrorism “makes the homeland safer” etc). Of course, this is a fascinating piece of political myth making: the notion that sovereign nations can effectively immunize themselves against the ripples and shockwaves sent out by international events contains its fair share of fiction. But the animating ideal beneath it – that a political community should strive toward the self-steering of its collective life, and that foreign policy is conducted in service of this aim as well as others - remains both morally and politically attractive.
The sort of politics that takes hold in the zone of irregularity does not resemble ordinary politics. Frequently it is governed by a mode that resembles an emergency politics. This seldom has anything to do with collective self-determination, the unfolding of struggles for recognition, the recording of cultural artifacts or memories or the tracking of political authority, the hallmarks of an ordinary politics (or at least, our experience of it in the contemporary domestic context). It consists instead in the concerted efforts of administrative and regulative apparatuses of the international system to resolve an apparent political, economic, social or environmental crisis. Since the emphasis is on finding a technocratic solution to a perceived problem, the response is usually some sort of humanitarian or economic intervention by the appropriate agency of the global governance complex, the mobilization of resources or a declaration of intent to act (or not to act) in a certain way, evidenced by the signing of a treaty or agreement. Millions of the world’s poor live in conditions of dire poverty. How can the UN poverty relief agencies redistribute wealth in their direction to alleviate their condition? Thousands have been displaced by ethnic conflict. Can the UNHCR return them to their homeland (or resettle them elsewhere)? The Greek government cannot afford to repay its sovereign debt following the global financial crisis. Should the European Central Bank and the International Monetary Fund loan it the money that it needs to avoid default?

The normative ideals that govern emergency politics differ from those that govern ordinary politics. Since emergency politics is concerned with fixing a discrete problem, it aims at the resumption of normalcy in international affairs. The state of normalcy consists in those relations among sovereign states, responsible to their own peoples, that seek to advance their own self-interest within a context structured by: (a) their membership of
supranational regimes that pool sovereignty and transfer some elements of political
decision making upwards; (b) their enmeshment within an interdependent global
economic order; and (c) their subjection to a patchwork of international legal instruments
and judicial institutions that hand down judgments of varying degrees of binding force
(such as the International Criminal Court and the European Court of Human Rights).

Emergency politics is by nature conservative. It does not aim at transforming the
fundamentals of international political life. Instead its aim is to restore the status quo
when the ordinary course of things is interrupted by traumatic occurrences like war,
famine and poverty, migratory patterns that undermine the current configuration of
territorial borders, natural disaster and regional political or economic instability. It
consists in the mobilization of resources and technical expertise to solve a particular
problem and as such it is a form of global administration. As Arendt quite rightly pointed
out, administration should not be confused for politics.

Admittedly, not all international politics can be characterized as emergency
politics (though a good deal of what constitutes “humanitarian intervention” is) and the
existence of contemporary regimes of global governance pose a vexing challenge to the
view that I am defending. Supranational political regimes like the European Union would
appear to extend something like an ordinary politics into the international sphere,
complicating the traditional “realist” picture of international relations, elements of which
I have adopted. In international relations theory, realists tend to think of states as
similarly individuated entities, differing only in relative size and strength, striving to
maximize their self-interest and struggling for survival in an anarchic international
system. If states are like billiard balls bouncing around a table chasing after power and
resources (this metaphor is used frequently in international relations scholarship), how do realists account for the existence of international political regimes that limit the sovereignty of their constituent members? On the conventional realist view such regimes are discounted as epiphenomenal: they arise only because decisions-makers come to see that, for a particular goal or set of goals, their states’ self-interest can be best achieved through a short term loss in the autonomous right of self-assertion. In other words, such regimes are not thought to alter fundamentally the structure of international politics, but appear instead simply as the instruments of powerful states. As such, they will fail as soon as it is no longer in powerful states’ interest to maintain them.

The realists’ case is perhaps overstated. Some fundamental shift in international politics is indicated by the creation of the European Union. The EU resembles a pan-national polity: it has a legislature (the European Parliament), an executive (the European Commission) and a judiciary (the European Court of Human Rights). It has a “stickiness” that outlasts its founders intentions: it has been transformed from its origins as a post-World War II organization designed to centralize control of the machinery of warfare (the remit of the European Coal and Steel Community), to an international zone of free trade that helped to secure the hegemony of neoliberal economic orthodoxy in the West in the 1980s (as it was in the European Economic Community) and beyond to its current status as a pan-national polity, with its own “citizens,” civil service and administrative and legal apparatus whose regulations, decisions and laws have direct effect in member states (that is, are directly enforceable in national courts). The aspirations for the EU are various: some harbor the hope that the European Union will, as a significant center of power, counterbalance the United States in the era of pax Americana, others still vest in it their
hopes for a truly cosmopolitan politics in which internal borders no longer matter. But
whether the existence of this global governance structure proves that an ordinary, as
opposed to emergency, politics can be sustained at the international level remains to be
seen. The appearance of an apparatus that resembles a conventional state writ large to an
international scale should not mislead us into thinking that international politics, even
within the domain of the EU, has yet been normalized. A great many of the EU’s
functions remain *regulative* and *disciplining*: the higher branches of the Union work to
harmonize the laws relating to the free movements of goods, services, labor and capital
across Eurozone, to stabilize the economies of member states and to prevent the spread of
economic turmoil from one member state to another. Much fanfare is made of the idea of
“European citizenship,” but in truth it is experienced in a largely passive manner,
consisting in the right of EU nationals to possess a passport that allows them to move
with relative ease across the Union. Of course, those citizens are now in principle the
beneficiaries of all of the civil and political rights enshrined in the European Convention
on Human Rights, but the responsibility for the fulfillment of those rights still rests with
their own national government, (or the government of the member state in which they
reside, if they are expatriates). Appeals to the European Court of Human Rights, in cases
in which individuals allege that governments or government agencies have failed to
respect those rights, are costly and permitted only once all domestic legal channels have
been exhausted. While EU citizens now vote in elections to determine the constitution of
the European Parliament, that parliament remains distant and poorly understood, its role
within the EU machinery opaque to most ordinary people. For example, how many know
that the European Parliament shares legislative power with the Council of the European
Union (which comprises appointees who are national ministers) and lacks the power to initiate legislation (a power which remains with the Commission)?

The point is not to suggest that the European Union project is inherently incoherent or bound to fail (though the recent and seemingly constant disagreement among its leaders about its future direction makes one wonder). The point is instead that, as a potential medium for the delivery of ordinary politics, it should be approached with caution and skepticism. The ability of an individual citizen to intrude into this institutional complex, for the purpose of calling its authority to account – the core of an active as opposed to passive sort of citizenship - is limited and haphazard. Transnational advocacy groups and international non-governmental organizations have had some success in organizing, articulating and broadcasting political viewpoints in and around the European political landscape. But whether these voices can effectively be converted from *mere chatter* into a form of citizen power that can assume responsibility for steering and checking the Union’s institutions is unclear. This problem is taken up again in chapter 3.

*Emergency Politics as a Deficient Mode of Politics*

We are now in a position to appreciate the limitations of deploying emergency politics to deal with the vicissitudes of international political life. It is a form of politics that is not oriented toward constituting individuals as political agents. This is why it is anathema to a true cosmopolitics. In fact, in examples like the practice of extraordinary rendition discussed above, quite the opposite is true: aside from anything to do with the structure of international space itself, the response recommended by emergency politics is
often designed to *deprive* individuals of any kind of political identity rather than promote it. International power uses the ambiguous or irregular nature of international space to dispose of a problematic body or sequester it into some national context where it is rendered sufficiently intelligible to be dealt with again. This is symptomatic of a wider tendency within emergency politics, which is to recognize bodies only as entities whose circulation, just like capital, goods or services, is to be managed, controlled and supervised. This is the point at which mastery over bare life – the hallmark of biopolitics – breaks through the barrier of the nation state into the realm between nations. Here, unaccompanied by a concomitant form of corporeal politics to keep it in check, it is cashed out as emergency politics or crisis containment that seeks to dissolve the threat presented by an emergent body.

The similarities between Foucault’s biopolitics and the emergency politics that I have described here should not be overstated. The two are not the same, even if the former provides a useful heuristic to help us better understand elements of the latter. Foucault’s account of biopolitics highlights the way that the national state sought to maximize the biological potential of the population in order to increase its own power. But in emergency politics the biological potential of individuals is not necessarily at issue (though it may be in some cases) and it is not clear that any particular agent derives an increase in power in the same way that the nation state does when it works upon its population. In cases of international humanitarian intervention following a natural disaster or epidemic, for example, or financial aid transfers to support civilian infrastructure projects in developing countries, the goal is not so much the *maximization* of any biological potential, but simply the *normalization* of the biological functioning of
the recipient community – coded as a crisis community - according to established western standards. Certainly no bio-political power seems to accrue to the aiding state, though it may certainly gain some other advantage (humanitarian interventions are not always purely altruistic and may serve to secure other foreign policy goals).

In other examples of emergency politics, such as the apprehension and detention of asylum seekers by the state that they seek to enter, or the administrative processing of refugees by the UN High Commissioner for Refugees, power is asserted in an attempt to recruit a problematic individual who has appeared in international space back to into a national territory that might assume responsibility for him (or a camp that might detain him while this responsibility is being assigned) and render his claims intelligible. The effect is to reinforce the conventional orthodoxy that every individual belongs inside the territorially bounded community of their birth ruled by a state, and that it is only in such a setting that political claims-making is intelligible. This is a reaffirmation of the “people-territory-state” trinity, as Arendt memorably called it. International biopolitics thus sustains the division of the world into a system of sovereign nation states; it is this system, rather than any one particular nation, that thrives under its auspices. The use of power to sustain this system does not aim at extracting some productive potential from its subjects (as in the original the model of Foucault’s biopolitics), but seeks instead to reaffirm and maintain a system of organization that best allows individual states to manage their own peoples (protecting their economies, keeping outsiders outside etc.). Since peoples have an undoubted interest in living under a state which tracks their interest as a people, safeguarding their cultural integrity as a community, this is not necessarily a bad thing. But it does help to explain why the power circulating within the
world system is unresponsive to political claims-making when it is confronted by an individual body that has stepped into international space. The body thrown outside of its contextualizing horizon – originally provided for by its nation or territory of birth – is, once again, rendered *unintelligible*.

The Foucauldian heuristic also helps us to see how international power disciplines and structures the international sphere through the bio-political management of the individuals that move through it. International politics is asymmetrical in a manner in which the ordinary politics of a democratic nation state is not: international authority is not interested in hearing the legitimation demand or offering a legitimation account in order to justify its authority, it is simply not disposed to conduct itself in this way. Moreover, individuals lack the requisite standing or institutional footing to articulate such a demand. In other words, international political space is not constituted as a realm in which individuals have political voice. There is no “power and the people” there, only power and bodies. Of course, even in domestic political life, the model that I described above is rarely enacted in practice: contemporary politics in most western countries is often very far from democratic, being horribly corrupt, ineffective, stymied by bureaucratic sclerosis, nepotistic and more closely resembling oligarchy. But these criticisms serve only to reinforce the point: the more that citizen power is short-circuited, the more unsettled we become. We think that our politics is defective; it is not living up to its potential. This suggests that the ideal identified in the call and response model, however insufficiently realized, is still latent in everyday democratic political practice which, however imperfect, points toward something beyond itself: the democratic *aspiration*.
Interestingly, when individuals in the international context resist the characterization of their condition merely as bodies to be managed, asserting themselves as the carriers of a political identity instead, international power perceives them as a threat that must be neutralized. This tendency is evident even where the individuals in question are purportedly the recipients of humanitarian assistance. Consider the case of “refugee warrior communities.” In the literature on the subject these groups are defined as “highly conscious refugee communities with a political leadership structure and armed sections engaged in warfare for a political objective, be it to recapture a homeland, change the regime or secure a separate state,” and examples include “Tutsis refugees who invaded Rwanda from Uganda in October 1990 … Afghans living in refugee camps in Pakistan … the Khmer in Thailand … Kurds living in and around refugee camps in Iraq and Iran … [and] Tamils living in refugee camps in Sri Lanka. These refugees pose a problem of intelligibility to the international system since they challenge to the standard model of the refugee as a passive, voiceless object of humanitarian effort. The international response to this paradoxical figure is telling. According to Nyers, while the UNHCR chooses to recognize these bodies as non-state actors in international politics, their political identity has the effect of stripping them of their right to claim the status of refugee: they are no longer seen as “bona fide refugees,” since “their refugeness is [coded as] inauthentic.” This is defended by the UNHCR on the grounds that it is the international community’s role to protect the safety of “authentic” refugees by policing

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91 Ibid., 109.
refugee camps and humanitarian spaces (a consensus reached only after various humanitarian emergencies had been played out across the 1980s and 90s). The normative commitment here is laudable given the kinds of insecurities affecting the refugee population. However, it is still telling that the cost of asserting a political identity is the loss of refugee status, a phenomenon that reinforces the political/humanitarian distinction and reminds us that the international system exacts revenge upon bodies that challenge the status that it has assigned to them.

In the chapters that follow, we will investigate the ways in which ordinary politics might be extended into the sphere of international affairs, by way of global recognition (chapter 2) and by anchoring international institutions in a robust and muscular global public sphere (chapter 3). We will also consider the practice of immigrant detention in Western Europe (chapter 4), an example of the penetration of international emergency politics into the interior of the nation state.

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92 Ibid., 110.
2.

RECOGNITION AND GLOBAL POLITICS

In this chapter I shall investigate the relationship between collective memory formation and political agency. Individuals routinely participate in public rituals, rites and practices that forge, contest, shape and reshape collective memories. These activities are so commonplace that we tend forget how integral they are to ordinary politics. Here I claim that by participating in these practices, individuals involve themselves in two related projects or goals: (1) the assertion of a form of constructive group agency or autonomy (“constructive” because it is built upon the autonomy of individuals acting as members of cultural collectivities); and (2) the making of a claim for redress following an injury sustained by their community and its way of life. These injuries are of a particular type, the sorts of harms to the group that have a direct effect on its sense of itself as a community of fate or meaning. They lay on a spectrum: at one end, they comprise instances of disrespect, marginalization or the denial of the right to take part on an equal footing in political deliberation within institutions affecting the fate of their community. At the other, more extreme end, they may involve severe or extreme cultural trauma, all the way up to and including genocide, traumas so extensive that they destabilize the entire framework that constitutes the self-understanding of the community.

The politics of memory therefore serves a dual purpose. On the one hand, it serves as vehicle for the achievement of cultural self-determination. Cultural groups only achieve a sense of themselves as autonomous communities of fate if they are permitted the opportunity to engage in public, memory-making activities, and if they are
successfully recognized as agents having the kind of standing to do so. If they are recognized in this way, the politics of memory empowers individuals in their capacity as members of culturally embedded, discrete ways of life. In other words, it allows them to exercise a culturally mediated form of power, the power to forge a shared destiny together. On the other hand, it also serves as the vehicle for a specific type of justice claims-making. These are the sorts of claims – accusations of disrespect, insult or marginalization – that are not easily accommodated or captured by contractualist approaches to justice, which tend instead to focus on the violation of formal civil and political rights, or the right to a just distribution of material resources.

The Politics of Memory

Søren Kierkegaard once wrote, of recollecting and forgetting, that “it is in these two currents that all life moves, and therefore it is a matter of having them properly under one’s control.”93 Nietzsche warned us that although man needs some amount of historical knowledge to live at all (“we need it … for the sake of life and action”94), happiness requires “the ability to forget or, expressed in more scholarly fashion, the capacity to feel unhistorically during its duration,” and that forgetting “is essential to action of any kind, just as not only light but darkness too is essential to the life of anything organic.”95 According to Hannah Arendt, it is only through the recording of the words and deeds of citizens by poets, narrators, and historians that the true significance of actions can be ever revealed, for “action reveals itself fully only to the storyteller, that is to the backward...

95 Ibid., 62.
Arendt thought that it was in fact part of the function of the *polis* to serve as a memory bank, or a vessel for the remembrance of the actions of citizens in the face of the uncertain and destabilizing forces of history, forces that could easily wash away the world-building efforts of man unless they were recorded for posterity and retold by story-tellers.

What these thinkers all have in common is that they recognized the central role played by both remembrance and forgetfulness in shaping the human condition. Human beings craft and maintain their identities by creating psycho-socio-historical connections backwards and forwards through time. That we are able to live in communities of tradition at all (or for that matter, that we can come to reject them, if that is our wish) is intimately tied to our ability to preserve among us our stories, ways of thinking, feeling and acting that help to forge these temporal links. At the same time, there is a limit to the life-promoting utility of remembrance (and with it its practical expression, promise making); being bound to memories of what went before can make for a stultifying, stifling existence, or it can lead to the concretization, through myth-making, of misleading falsehoods and deceptions. Moreover, the very idea of making promises to future generations is metaphysically suspect (how can be bound to honor them?). For these reasons individuals live out their lives in dynamic and shifting cultural habitats that are mediated by a dialectic between remembering and forgetting. Public history making and the collective narration of stories about the past, present and future, facilitate this process. As sociologist Barbara Mizstal puts it:

> although memory is a faculty of individual minds, remembering is social in origin and influenced by dominant discourses. In other words, while it is the individual

who remembers, remembering is more than a personal act as even the most personal memories are embedded in social contexts and shaped by social factors that make social remembering possible, such as language, rituals and commemoration practices.\textsuperscript{97}

But collective memory practices are not just important or beneficial for an individual’s psychic health or sense identity, they also create and sustain communities as well: “memory helps in the construction of collective identities and boundaries, whether these are national, cultural, ethnic or religious … memory, as organized cultural practices, ensures the reproduction and cohesion of a given social and political order.”\textsuperscript{98}

So it should come as no surprise that this feature of our existence bleeds into our politics, since collective memories are \textit{constitutive} of political culture.

The modern nation state may well be an “imagined community” in Benedict Anderson’s memorable phrase, not because it is ‘unreal’ or ‘untrue,’ but because it the product of an intellectual labor - of a dialectical process of forgetting and remembering.\textsuperscript{99}

In the nineteenth and twentieth centuries, nationalism \textit{as an ethic} proved to be a surprisingly effective means though which to secure the integration of the political community circumscribed by the modern state. Operating largely through mechanisms that orchestrate the public remembering, and in some cases forgetting, of those events, happenings and projects deemed conducive to social cohesion – through public memorials and spectacles, founding narratives, commemorative holidays, official curricula and so on – its demise is often overstated. Most political communities today are


\textsuperscript{98} Ibid., 28.

constituted though and by a memory politics that remains heavily impregnated by a nationalist ethic that shows no signs of abating.

Collective memory practices have recently come to the fore in the political context for another, justice-related reason:

In contexts as diverse as Guatemala, South Africa, Rwanda, Turkey, Chile, Bosnia, and Kosovo, collective memory of traumatic episodes has become a constitutive part of efforts to come to terms with the past, rebuild societal trust, and re-establish the rule of law. Truth and reconciliation initiatives, judicial prosecutions of human rights abusers, and numerous commemorative efforts have become central means to construct a democratic political culture and a flourishing civil society.\(^\text{100}\)

Although these institutionalized and reconstructive instantiations of memory politics have been extensively studied by sociologists and political scientists in the domestic setting (particularly among those interested in the topic of transitional justice), only recently have these features of political life attracted the attention of scholars of international relations. This should come as no surprise: owing to the organization of the world system into independent sovereign nation states, and because of the prevalence of nationalism, most memory politics is *national* memory politics. However, the international implications of (and prospects for) international memory politics can no longer be ignored, for as Langenbacher points out, not only do most of the cases already of interest to political scientists have an international or bilateral dimension, in many instances the collective memory practices that have arisen in response to large-scale traumatic events have led directly to the founding of international legal and political

institutions, such as the League of Nations, the United Nations and the International Criminal Court.\footnote{Ibid., 19.}

When individuals take part in collective memory practices of this sort, they are engaging in two distinct but related projects: they are making a claim for the rectification of an injustice, namely the failure of the social or political order to recognize some distinctly important aspect of their identity (in many of these cases, some trauma or injury inflicted upon cultural integrity of their community). In addition, by establishing or seeking after the public narration of these identities and stories about their distortion or destruction, they are asserting themselves as agents and with a kind of cultural power. In the following sections, I use the framework provided by theorists of recognition to explain how this is so. Theorists of recognition have so far taken as a starting point struggles for recognition that unfold within the nation state. Here, we shall investigate what this conceptual apparatus can offer us when thinking about struggles for recognition that reach beyond the national context.

*Recognition as Justice Claims-Making*

As Nancy Fraser has recently pointed out, the basic grammar of justice-claims making is currently in a state of flux.\footnote{Nancy Fraser and Axel Honneth, *Redistribution or Recognition? A Political-Philosophical Exchange* (London: Verso, 2003).} Calls for the redistribution of material resources compete alongside calls for the recognition of cultural identity and specificity, both in theory and in practice. Although the calls are made jointly under the banner of claims for social justice, they can nonetheless lead to incommensurable political demands. Some groups seek to be given special treatment, for example by having resources directed at
them that are not available to the wider public at large, precisely because their group identity makes aspects of their public lives more costly, and hence more burdensome, than non-members. The thought is that this burden demands compensation by the state. On the other hand, other claimants claim that it is the reification of a particular identity – and the consequent pattern of differential treatment and exclusion that this establishes – that constitutes the injustice to be overcome. They seek for the dissolution of subaltern status, in favor of recognition as a true equal.

This confusion persists at the philosophical level and, as Fraser reminds us, its contours can be traced out by recounting the recent history of theorizing about social justice. In the closing period of the twentieth century, theories of social justice largely took their bearings from Rawls’s *A Theory of Justice*. Sedimented in a system of rights governing the basic structure of a liberal democratic society, Rawls’s difference principle permits only those economic inequalities that are justifiable to the worst off members of society. Thus the basic structure of society – its constitutional essentials and coercive institutions – ought to be designed and arranged in such a way that no alternative configuration would put the worst off in a better position. Although Rawls admittedly included the good of self-worth as a basic good to be distributed in accordance with this principle, this did not preclude his critics from pointing out that many issues of identity, agency and culture were either obscured or left untouched by the conceptual apparatus that his theory offered.

Charles Taylor’s essay “The Politics of Recognition” provides a good example of the trend in political theory that emerged in light of these criticisms.¹⁰³ Taylor traces out

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the rise of the ideal of authenticity – the modern idea that each individual has a particular way of being that is authentically theirs, one that they must search out and find for themselves, rather than accept by ascription from the objective status order that he or she happens to be situated within. The rise of this ideal explains the attraction of the comparatively recent idea of the ethically neutral, liberal state. This kind of state is responsible for the political organization of society, but attempts to remain neutral on questions of the good, permitting equal liberty to private individuals so that they may pursue their own conceptions of the good – finding their own authentic identity – without interference.

However, this raises a problem. Not only may the idea of an ethically neutral state turn out to be a fiction (albeit a useful one), a liberal state composed along these lines risks insensitivity to matters of recognition – the idea that:

104 our identity is partly shaped by recognition, or its absence, often by the misrecognition of others, and so a person or a group of people can suffer real damage, real distortion, if the people around them mirror back to them a confining or demeaning or contemptible picture of themselves.

105 The modern liberal state, founded on the principle of the equal treatment of all individuals, finds it difficult to accommodate this idea. For this idea encourages us to “recognize the […] unique identity of [the] individual or group, their distinctness from everyone else.” So the politics of equal dignity and the politics of difference appear to be in conflict with one another, despite their common intellectual heritage in the view that human beings share something universally (namely, that they are equally worthy of respect). The politics of equal dignity locates this worthiness in the idea of a universally

104 Ibid., 25.
105 Ibid., 38.
shared potential for rational self-direction, while the politics of difference locates it in the shared potential for membership in identity-constitutive cultural communities. And at the political level, the liberal state struggles to render justice to its citizens – perpetually trapped in a conflict between difference-blind treatment and differential recognition, it remains susceptible to the charge that “neutrality” is simply a cover for yet one more form of cultural hegemony, albeit one which just happens to have successfully gained control of the state. In light of this, Taylor defends liberalism against the strong form of the “cultural hegemony” charge, and describes a form of liberalism that could be sensitive to matters of recognition. This liberalism would not claim complete ethical neutrality, since it must be a “fighting creed” of some sort, but it would allow for a scheme of minority rights with which to give public recognition to cultural ways of life. These minority rights would not be in the same category as, and would not be permitted to interfere with, “fundamental rights from the broad range of immunities and presumptions of uniform treatment that have sprung up in modern cultures of judicial review.”

Thus recognition is granted not on the assumption that all cultures are automatically considered equally valid, and thereby worthy of recognition. Rather, there is a presumption – a starting hypothesis - that a culture has something of value to offer, to its members and the wider human community at large, that merits recognition. As Taylor puts it, “the validity of the claim has to be demonstrated concretely in the actual study of the culture.”

Even in Jürgen Habermas’s reply to Taylor, published in the same volume, we see the beginnings of a further attempt to render rights-based and recognitionnal approaches

106 Ibid., 61.
107 Ibid., 67.
consonant with one another. There, Habermas argues that the theory of rights, in fact, requires a politics of recognition to support it, on the grounds that “the integrity of the individual legal person cannot be guaranteed without protecting the inter-subjectively shared experiences and life contexts in which the person has been socialized and has formed his or her identity.” There is, he thinks, no reason to see recognition-oriented politics as alien to the system of rights. In fact, struggles for recognition can be interpreted as political attempts to fully realize the principle of equal rights. This principle resides at the very heart of the project of the democratic, constitutional state – a project that is renewed by successive generations of citizens.

In *The Struggle for Recognition*, Axel Honneth explores the theoretical underpinnings of these struggles in greater detail, offering a conceptual apparatus that helps us to understand their origins and their goals. Honneth provides an account of the genesis of individual rights and obligations in terms of the inter-subjective development of human consciousness – through various stages of differentiation from, and recognition by other objects within, the world. He begins with an elaboration Hegel’s earlier, neglected Jena writings on the struggle for recognition. By coupling insights to be found there with more recent research in the empirical social sciences, he thinks we can neutralize the more metaphysical impulses of the young Hegel, opening up a normative, socio-theoretic perspective from which to assess ethical, political and social life in the post-metaphysical, post-traditional age.

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Honneth’s project comprises three constituent parts: (1) the extension of Hegel’s thesis, regarding the importance of mutual recognition in the formation of individual identity, to the realm of the social; (2) the reconstruction of Hegel’s three-fold typology of forms of recognition (love, law and ethical life) on the basis of an empirically supported phenomenology that takes account of this transition to the social plane; and (3) a theory of the ways in which forms of disrespect, or disruptions of recognition, provide motivational impetus for social confrontation. The leading idea here is that the collective identities of groups engaged in social conflict are formed by association around perceived slights and harms to the self-esteem of their members. The shame and humiliation that individuals feel when they are subject to marginalization or exclusion is taken, on this theory, to be evidence of the violation of norms of mutual recognition, upon which individuals depend for the proper development and stabilization of their identities and moral personhood. The realization that these harms are shared with others, and that they have their source in the fabric of societal relations, unites individuals into a collective with a joint purpose of overcoming misrecognition. Their concerted struggle points beyond the current constitution of social relations in a society, towards an imagined social reality in which there are undistorted relations of recognition. Struggles for recognition are thus the engine driving all forms of social conflict, pushing societies through a progressive series of conflictual encounters. If recognition struggles are successful, new institutional arrangements arise in response to the developmental pressure to extend undistorted recognition to increasingly large segments of the community.
In her recent work, Nancy Fraser has attempted to combine the insights provided by distributional and recognition approaches to questions of justice by rendering them as two intersecting axes of a conception of justice that takes equal participatory parity as its overarching goal. On this account:

it is unjust that some individuals and groups are denied the status of full partners in social interaction simply as a consequence of institutionalized patterns of cultural value in whose construction they have not equally participated and which disparage their distinctive characteristics assigned to them.\(^\text{110}\)

Thus, when individuals (or groups) make a claim for recognition in the political sphere, this is a claim not for the overcoming of some psychic harm to the constitution of their identity, but a call to overturn some instance of publicly instantiated status subordination. This move permits us to bring claims for recognition into the same “normative universe” as claims for redistribution – to see them as co-implicated aspects to the problem of justice, understood as an ideal social arrangement where all those who are affected by the actions of a coercive political authority are able to take part in constitutive political discussions on equal terms.\(^\text{111}\) It also allows us to establish a common framework that encompasses both of them. In this framework, both claims for recognition and distribution are legitimate to the extent that they aim at overcoming particular instances status subordination (having their bases in the economic or cultural ordering of society) and lead to full realization of equal participatory parity. When a recognition claim is made, one must identify some institutionalized cultural norm as the obstacle to full participation (while calls for redistribution must point toward some

\(^{110}\) Fraser and Honneth, *Redistribution or Recognition?*, 29.
\(^{111}\) By “constitutive political discussions,” I mean political deliberation that legitimizes the coercive power of the state.
economic barrier). One must also show that the proposed solution does not erect some other, alternative barrier for another distinct class of persons, group or collectivity. This normative benchmark or restriction is based upon the assertion that “recognition is a remedy for social injustice, not the satisfaction of some generic human need.”

While this might seem somewhat conservative at first glance – certainly Fraser seeks to draw back from the metaphysical commitments to which even Honneth remains tied – one should not underestimate the potentially radical political strategies countenanced by this approach. Political strategies enacted across both the recognition and redistribution axes can be affirmative (leaving status groups intact but correcting inequitable outcomes without altering the underlying social structures, typified by multiculturalism and welfare-state liberalism) or transformative (dissolving status groups – “putting them out of business” – by restructuring the underlying architectonics of social life, for example by the adoption of socialism or the deconstruction and destabilization of established identity categories). Fraser seems to have a preference for the latter, though she concedes that ultimately the question of which measures ought to be adopted in any particular case can only be resolved in practice according to the dictates of political prudence.

This orientation toward questions of justice is integrative to the extent that it allows the critical theorist, confronted by the circumstances of the present, to conceive of society as constituted by two analytically distinct, but practically interpenetrating, modes of social ordering: the economic, in which the imperatives which govern the intelligibility of action are strategic, and the cultural, which is regulated by other ethical or value systems that do not have their orienting basis in rational self-interest. In pre-modern

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112 Fraser and Honneth, *Redistribution or Recognition?*, 45.
societies, one or other of these orders would have constituted the “master idiom” or
organizing principle, serving to settle questions of justice, status and identity in the
community (for example, kinship, or religion). But our societies (and by “our,” Fraser
seems to be assuming developed, western, liberal states), are characterized by the co-
mingling of these spheres and the mixture of marketized and non-marketized, cultural
arenas.113 No one sphere dominates, the status and economic orders are highly
differentiated and interpenetrating, and there persists an unceasing antagonism between
them, creating the cleavages between status and class, and hence instances of injustice,
that remain in the present era. Moreover, although western democracies are, formally
speaking, committed to the basic organizing principle of liberal equality, not all social
actors are equally placed to take up the rights underwritten by this principle. Hence the
need for, and logic of, struggles for recognition.

Fraser claims that by subsuming the theory of recognition under the ideal of
participatory parity, rather the ethic of self-realization, it becomes sufficiently
deontological in character to be useful in political theory. Freed from an association with
a thick and contentious view of the good, or from dubious psycho-philosophical
assumptions, it provides a theory of justice fit for the contemporary condition of
reasonable value pluralism, one that locates injustice in the institutionalized social
relationships of subordination. The shift in emphasis to the social constitution of justice is
to be welcomed – a multifaceted approach to questions of justice that might include
rights-based proposals for institutional design, but is not limited to them, seems fitting.
And the attention to political participation seems entirely appropriate to address the sense

113 The analysis here is reminiscent of Michael’s Walzer’s Spheres of Justice (New York: Basic
of political helplessness that marginalized groups often feel, particularly when political
decision making is no longer concentrated at the state level, thus putting the
accountability of decision makers at an even further step removed from ordinary life.

Recognition and Individual Autonomy

It is not clear however that the ethical-self realization model relies upon the sort
of thick conception of the good that Fraser thinks it does. We could, for example,
interpret the ethical self-realization model as giving expression to the good of autonomy,
which has some of the more formal qualities that Fraser so admires in deontological
political theories, while also containing a normative potential that renders it useful for
thinking through problems of political agency.

In this vein, Axel Honneth and Joel Anderson have argued that the theory of
recognition provides more than an explanation of the formation of undistorted individual
identity. It also gives an account of the conditions necessary for the development of
individual autonomy. Their central claim is that “autonomy is a capacity that exists only
in the context of social relations that support it and only in conjunction with the internal
sense of being autonomous.”\textsuperscript{114} Without appropriately supportive social conditions and
institutions, an individual agent cannot fully realize his or her capacity for autonomy,
because “one’s autonomy is vulnerable to disruptions in one’s relationship to others.”\textsuperscript{115}
This social vulnerability must be supported by relations of recognition, that is to say one
must be able to “sustain certain attitudes towards oneself (in particular, self-trust, self-

\textsuperscript{114} Joel Anderson and Axel Honneth, “Autonomy, Vulnerability, Recognition and Justice,” in
\textit{Autonomy and Challenges to Liberalism}, ed. John Christman and Joel Anderson (Cambridge:
Cambridge University Press, 2005), 129.

\textsuperscript{115} Ibid., 130.
respect and self-esteem) and … these affectively laden self-conceptions … are dependent, in turn, on the sustaining attitudes of others.\textsuperscript{116} This is because they are not merely emotional states internal to an individual’s psyche, but are socially mediated properties of an agent’s identity.

To put it another way, we learn to act autonomously by taking part in a dynamic, interactive process of engagement with others. When these interactions are successful, we come to see ourselves as agents capable of autonomous action – precisely because we are recognized by others as the sorts of beings who can develop valuable goals, take responsibility for our actions and become objects of concern for other people. But if there is a failure of recognition, these relations-to-self are impaired or distorted and the possibility for autonomous action is dramatically curtailed – the agent becomes “damaged.” A theory of justice that attends to the risk of such damage would therefore seek to articulate the social conditions, and political guarantees, necessary for the universal protection of these relations-to-self. Some of these conditions have explicitly political implications, while others do not. Self-respect, the ability to see oneself as a competent deliberator and as a source of legitimate reasons for action, can be disrupted by patterns of marginalization and exclusion from social life which cause the agent to internalize the notion that they are not a fully functioning agent, capable of engaging in practical reasoning about what they ought to do. Self-trust allows an agent to develop a healthy sense of identification with, and reliance upon, his or her own plans, feelings, desires and emotions. It is tied to autonomy because self-trust engenders the idea that one’s plans and intentions are reliably one’s own, and not driven by compulsion or domination by others. Self-trust appears to develop most appropriately in the context of

\textsuperscript{116} Ibid., 131.
personal and intimate relationships, and paradigmatically direct assaults upon it usually involve physical bodily interference – the authors cite rape and torture as possible examples. But, aside from demands for the protection of individuals from such interferences, other political implications might include state support for the kinds of relationships that foster self-trust. Finally, self-esteem – the ability to see oneself, one’s goals and convictions, as holding value in the world – can be impaired by patterns of humiliation and denigration. These patterns have a direct bearing on the evaluative vocabulary available to agents when engaging in reflection upon their condition, their goals and their sense of agency – certain semantic labels, which emerge discursively within one’s cultural horizon, attach or detach value from certain pursuits. In the face of systematic humiliation, this makes it harder to view one’s projects as worthwhile, attaching highly burdensome costs to the maintenance of subaltern, or otherwise non-mainstream, ways of life.

The recognition approach parallels liberal rights-based approaches in certain respects, particularly where it resorts to a legal framework of rights to protect these relations-to-self. But it directs our attention to wider range of social institutions in which relationships of recognition are embedded. Furthermore, as against theories of justice modeled after Rawls’s, it insists that the conditions for autonomy are not exhausted by a formal schedule of rights to political liberty and a just distribution of material resources. Rather, the preliminary conditions for the realization of autonomy, while they are indeed implicated in the design of basic structure, are fundamentally social and intersubjective in nature. While entrenched rights might sometimes be politically expedient measures for addressing instances of misrecognition (“affirmative remedies,” in Fraser’s terms), justice
requires not the distribution of rights to secure recognition, *but recognition itself*, which is a context-dependent property of interpersonal relationships.

Not only does the preceding account bring the project of critical theory much closer to the traditional, liberal concern for autonomy, the advantage to this approach is that it allows us to move from individual recognition to group recognition, via the notion of group autonomy. If we can make this theoretical leap, we might be better able to understand how struggles for recognition extend to the global level, thus moving them more explicitly into the purview of the problem of global justice.

From Individual Autonomy to Cultural Autonomy

In the preceding sections, I have argued that matters of recognition are as much a problem of justice as those of redistribution. Furthermore, they tie into the traditionally liberal concern for individual autonomy: without recognition, there can be no autonomy. In this section, I want to extend this argument a little further. Culture engage in collective memory-making because they provide the mechanism through which they can secure the intersubjective relations of recognition necessary for their survival. In other words, these practices allow them to assert their autonomy as communities of fate or meaning. For that reason they should be protected and fostered.

To be more precise, I want to adopt the autonomy-based recognition approach and map it onto the idea of cultural autonomy. The three forms of relation-to-self that Honneth and Anderson identify - self-respect, self-trust, and self-esteem - can be applied to describe the conditions necessary for the autonomous flourishing of collectivities as well as individuals. What I have in mind when I use the phrase “collectivity” or “cultural
group” is of a group of people who are united around a particular historical narrative or joint project, who may or may not be resident within one single geographical territory, and who seek to make political claims against a coercive political authority (of any sort, in any location) which currently sets the terms for, or has a role in determining the course of, the pursuit of their joint project. For the time being, I leave open the question of whether this definition could be further refined (I’m certain that it could). If these groups seek to be successfully self-determining, able to secure for themselves the conditions necessary to sustain their own survival (that is, to exercise what I call here cultural autonomy), there must be in place social and political institutions at an international level which foster undistorted relations of recognition. In order to have their claims met, they must be recognized as being the sort of collective group who have standing to exercise their autonomy in an international setting, and to make justice claims in the first place. Their ability to make claims rests on recognition of the group as constituted by a body of persons capable of entering into political dialogue with officials vested with authority over their collective destiny (corresponding to self-respect). They must be able to occupy a social or political space in which their collective destiny can be openly debated, regarded as the source for legitimate reasons for action, and is not violently suppressed (corresponding to self-trust). Finally, they must be permitted to see themselves as the vessels for, or bearers of, cultural value, free from denigration or ridicule (corresponding to self-esteem). Where these relations of recognition are lacking, because the other actors or institutions within the social space they occupy deny them recognition, these collectivities cannot mobilize in order to assert themselves as political agents. They are, in this instance, just like the damaged individual described earlier who lacks autonomy.
This raises two questions. First, what do we mean by “damage” to a cultural group, and to its sense of autonomy? Second, why should we think that preventing, redressing or healing such damage constitutes an important part of the idea of global justice? I think we can get at the answer to the first question by considering the work of Jeffrey Alexander on the idea of cultural trauma. Simply put:

Cultural trauma occurs when members of a collectivity feel they have been subjected to a horrendous event that leaves indelible marks upon their group consciousness, marking their memories forever and changing their future identity in fundamental and irrevocable ways.117

According to Alexander, trauma, as such, does not reside in the occurrence of a painful event itself. Instead, he and his colleagues develop a social theory of cultural trauma. According to this theory, “[t]rauma is a socially mediated attribution” which can be made at any point prior to, during, or after the harmful event in question. Traumatic status is thus ascribed (note that this is an act of ascription) to phenomena “not because of their actual harmfulness or their objective abruptness, but because these phenomena are believed to have abruptly, and harmfully, affected collective identity.”118 This account drives a wedge between events and their representation or collective narration. It is at the latter stage that the shared discomfort or harm is “taken up,” thus penetrating the core of the collectivity’s sense of its own identity. The gap between the event and its representation is filled by the emergence of a “trauma process,” in the course of which “carrier groups” within the collectivity – discursively talented individuals, well placed to articulate claims about the meaning of the harm that has purportedly taken place – engage

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118 Ibid., 8, 10.
in a practice of “meaning making.” This process involves both speakers, who aim to narrate the trauma claim persuasively using symbolic resources corresponding to the historical horizon of the putatively injured group, and an audience, the consumers of the trauma narrative, who can either accept or reject the account that the narrators give about the nature of the pain, the nature of the victims, the relation of the trauma victims to the wider audience, and the attribution of responsibility. These speech acts take place within something resembling a public sphere and are therefore “powerfully mediated by the nature of the institutional arenas and stratification hierarchies in which [they] occur.”

Institutional arenas – legal and state bureaucratic institutions, the mass media, the scientific community, the republic of arts and letters – constrain, channel and frame the trauma narrative, which is also, in turn, subject to the distorting influence of what Habermas calls the “delinguistified steering media” of money and power. As the trauma process unfolds subject to these constraints, the identity of the victims is established, responsibility is attributed, and the collective identity of the group is revised in light of the trauma so experienced.

Such a revision is possible because group identity is tied to patterns of meaning in the group’s history and collective memory. When the trauma process destabilizes these shared memories, by casting them in a new light or by revealing what was hitherto unknown about the events in question, the collective identity of the group itself is temporarily unmoored and subject to reframing and reconstruction. Alexander gives an example that illustrates this point well: despite the lack of a clear institutional framework in which it could take place, the trauma process which nevertheless unfolded, in a

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120 Ibid., 15.
protracted fashion, in the decades following the genocide in Cambodia in the 1970s by the Khmer Rouge government produced an array of new components to the national identity amongst its citizens. This identity drew upon both state-sanctioned and ordinary folk usage of searing reminders of the horrors performed by the Khmer Rouge, recorded in photographs, paintings, displays of torture implements and human remains at dedicated sites, a national remembrance day and a state-sponsored slogan campaign asserting “We must absolutely prevent the return of this former black darkness.”

Why should a concern for cultural trauma, understood both as a process in which agents are involved and as an outcome with potentially devastating effects upon cultural autonomy, form a part of the idea of global justice at all? I think a two-part answer can be given in response to this question. First, group identity is constitutive of individual identity, such that the stable persistence of a cultural horizon within which an individual can locate themselves forms a necessary condition for their ability to successfully construct, and subsequently act upon, a meaningful sense of self. Alexander makes this point himself, insisting that “[i]ndividual security is anchored in structures of emotional and cultural expectations that provide a sense of security and capability. These expectations and capabilities, in turn, are rooted in the sturdiness of the collectivities of which individuals are a part.” However this idea, or something very similar to it, should already be familiar to us, having emerged from the liberal-communitarian debate of the 1990s. The upshot to that debate is encapsulated in the increasing sensitivity of recent liberal thought to the significance of group membership for the constitution of individual identity, agency and autonomy. Will Kymlicka exemplifies the spirit of this

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121 Ibid., 23.
122 Ibid, 10.
more nuanced liberal position when he writes that: “people’s capacity to make meaningful choices [about the course of their lives] depends on access to a cultural structure.”¹²³ This is for two reasons. Not only does a culture present the individual member with a range and diversity of options (a necessary condition for liberal freedom), it also imbues these options with meaning, since life practices or conceptions of the good can only be rendered comprehensible, and have value, within the structured bounds of a symbolic order, contextualizing horizon, or a concrete lifeworld, such as that provided by a societal culture.¹²⁴ Traumatic incidents recorded in collective memories that lead to struggles for recognition of the sort described by Alexander are obviously limit cases: they represent the most extreme forms of identity-injury. Since “[such] traumas rip apart and destroy the cohesion of time and identity,” they are worthy of our attention precisely because “it is in the limit case of a traumatic injury that some of the major functions of collective identity and memory become visible: the provision of orientation, predictability and security.”¹²⁵ In any event, all political cultures are based upon what Lagenbacher calls a “memory regime,” comprising dominant memories, implied political or moral values and lessons connected to those memories and supportive discursive or linguistic structures that join the dots between the two.¹²⁶ Alexander’s account of the trauma process is simply a description of what happens when this ordinary architecture of memories, values and discourses is thrown into a crisis by extreme disruption.

¹²³ Will Kymlicka, Multicultural Citizenship (Oxford: Oxford University Press, 1995), 84
¹²⁴ In this sense, Kymlicka’s position has affinities with Joseph Raz’s perfectionist liberalism. See Joseph Raz, The Morality of Freedom (Oxford: Oxford University Press, 1988).
¹²⁵ Lagenbacher, “Collective Memory as a Factor in Political Culture and International Relations,” 22.
¹²⁶ Ibid., 30.
Aside from the intrinsic value to the individual of stable access to a shared form of life, certain, novel features of contemporary globalization – for example, trans-border cultural hybridity and the unprecedented intensity of transnational flows of capital, communication, technology and political objectives - have broken the bonds that traditionally linked such ethical horizons with territorially circumscribed, national identities. While national allegiances and ties of affection certainly persist in the modern world, the nation state no longer necessarily represents the most obvious, or the only, candidate for the site at which politically-self determining collective wills seek to express themselves.\textsuperscript{127} To put it another way, the boundary of the nation state no longer represents the frontier at which such expressions stop, or the most appropriate vehicle for their delivery. As David Held writes, “if the agent at the heart of modern political discourse, be it a person, a group or collectivity, is locked into a variety of overlapping communities – ‘domestic’ and ‘international’ – then the proper home of politics and democracy becomes a puzzling matter.”\textsuperscript{128} Sub-national minority groups, dislocated peoples, secessionist movements, transnational advocacy groups and the like press claims of justice not only against the particular host nation in which they are situated or concentrated, but against the wider, international political community - claims for

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\item The phrase “politically self-determining” envisages a range of political, social and institutional arrangements and possibilities short of national, territorially bounded self-determination. This clarification is important. Kathleen Arnold has pointed out to me that the approach offered here may reify national identities, because it risks collapsing the discussion into one of national-self determination (I assume that the implication of this objection is that such reification is troubling). I believe that it only \textit{appears} this way. While it is true that groups who aspire to national self-determination constitute one example of the kind of group that this approach countenances, such a group exists at the end of a spectrum which would also include those whose collective identity gravitates around a non-nationalist, non-territorially bounded pole. Yet, at the same time, I’d still want to insist, for reasons defended elsewhere in this dissertation, that national self-determination is an ethically defensible political goal under certain circumstances.
\item Held, \textit{Democracy and the Global Order}, 225.
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recognition as independent political entities in their own right, whose voice ought to be heard and afforded a role in political deliberation, even if they do not map neatly onto any one national community. Their claims might be made in pursuit of territorial independence (the paradigm example of the claim made by secessionist movements), though many such claims may fall well short of this, and yet they remain, even in such cases, normatively interesting.

This seems particularly true for entities for whom such a territorial goal would be redundant, or is not otherwise sought – perhaps because they have reached a somewhat agreeable political settlement with their host nation for the time being, or because the aims of their collective enterprise point toward a goal distinct from politico-territorial self-determination. For such groups, their aims cannot solely be met, or cannot be chiefly met, in the traditional political forum of any one particular nation state. An apt example of a struggle for recognition that doesn’t necessarily aim toward territorial self-determination, one that also points beyond the boundaries of the nation-state, is that of the Holocaust memorial movement.\(^\text{129}\) Collective memory practices centered on Holocaust education and remembrance have been called examples of “cosmopolitan memory.” This is because discussion and contestation over the nature, extent and significance of the holocaust is not promulgated by the individuals of any single nation and is of international concern and reflection.\(^\text{130}\) Moreover, discussion about the holocaust tends to be bound up with, and become the basis of, wider narratives about the culture of human rights and international solidarity.

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\(^\text{129}\) Setting aside, for the time being, any connection that might be drawn between the publicizing of the holocaust narrative and the (controversial) argument for a Jewish homeland that it might be thought, by some, to imply.

Truth and Reconciliation Commissions: An Illustrative Example

Truth and reconciliation commissions (TRCs) serve a complex blend of legal, moral and political purposes. First, they provide an institutional home for memory politics by opening up public spaces of appearance in which communities are able to narrate their collective memory experiences of trauma or harm. Second, they allow interested parties to hold others account for the perpetration of harm against them via an alternative to the channels ordinarily provided for by the regular system of criminal law. In other words, they allow for the assertion of a form of collective agency on the part of cultural groups that have suffered an injustice inflicted against their sense of self.

Truth and reconciliations commissions have taken a variety of forms and have served a number of different functions or purposes. Set up by governments or interested non-governmental actors, they frequently arise in post-conflict or post-regime contexts as part of efforts directed toward securing transitional justice, documenting past instances of mass violence, torture, rape and other human rights abuses. Perhaps the most well known, and something of a model for subsequent examples, is the South African Truth and Reconciliation Commission founded in 1995. The SATRC was founded by legislative initiative in the wake of the first democratic, post-apartheid elections and after much debate and negotiation between former government officials, the new government, the public and the African National Congress led by Nelson Mandela. Martha Minow summarizes its goals as follows: “to combine an investigation into what happened, a forum for victim testimony, a process for developing reparations, and a mechanism for
granting amnesty for perpetrators who honestly tell of their role in politically motivated violence.”\textsuperscript{131}

But as André du Toit points out, in addition to providing a forum for the collection, recording and dissemination of facts about atrocities and human rights violations, TRCs also serve to establish processes of acknowledgement and \textit{recognition}. The holding of public hearings at which testimony is given helps “to restore the civic and human dignity of these victims precisely by acknowledging the truth of what was done to them.”\textsuperscript{132} The restoration of civic dignity is a public (as opposed to private, therapeutic) good which helps to establish the political identity of the victims \textit{as a group} on whom a wrong has been perpetrated. The articulation of this status promotes awareness that the crimes that have gone before were directed at a particular sub-community or group, and the hope is that this prompts and entrenches the “never again” response on the part of observers and participants in the proceedings. Moreover, the victim-centered, non-adversarial conduct of TRCs connects truth and justice with recognition, insofar as they aim toward establishing narrative truth. The institutional emphasis on the “telling of stories” is normatively attractive for two reasons. First, it furnishes the background conditions necessary for the kind of agency described by Anderson and Honneth, insofar as it enables the victims to see themselves as the bearer of legitimate claims for dignity and respect which have been violated, and affords them the opportunity to articulate these claims in a public setting in which their voices will be heard, and in which their identity


can be reconstructed, represented and recognized. Second, it furnishes the conditions for the mitigation (and possible overcoming) of the deleterious side-effects upon group identity wrought by socially-mediated instances of trauma, thus holding out the possibility for the reconstruction of meaning in the world by members of the afflicted group.

These institutions are not a substitute for memory politics. They do not constitute the identity of the maligned group, nor are they responsible for reconstituting the constellation of collective meanings in order to re-form a shattered symbolic horizon from which identities are drawn. Those tasks are only appropriately performed by the agents that comprise the collectivity itself. Instead, such institutions can provide the necessary conditions for this act of reconstruction and reconstitution to take place, by providing material, deliberative and structural support mechanisms. In this sense they empower individuals, as part of cultural groups, to exert a kind of identity-forging power. To put things back into the language used by Alexander, they provide a secure and stable institutional setting in which the trauma process can unfold and through which it can be realized. Indeed, by following Alexander’s account, we can see just how crucial the existence of the right sort of institutional arena is to the unfolding of the trauma process. Institutions frame (and potentially support or frustrate, depending on the circumstances) the reconstitution of collective identities, and hence the exercise of cultural autonomy.

It is possible that TRCs could provide a model for institutions that extend memory politics into the realm of international affairs, that space in which institutions are otherwise usually conceived not as sites for the permanent entrenchment of these narrative, story-telling and identity forming imperatives, but as the meeting place for
nation states to engage in great power politics. There is much empirical work to be done here, specifying for example how these institutions would function on a day-to-day basis, marking out the sources from which they would derive political and financial support, and identifying responsible authorities and political constituencies to whom they would answer. However, these issues are beyond the scope of the present investigation.
3.

THE PUBLIC SPHERE AND GLOBAL POLITICS

On July 12, 2007, in two successive air strikes launched from gunship helicopters, US army forces murdered a group of Iraqi civilians assembled on a street corner in a suburb of Baghdad, killed a man who had stopped his vehicle to assist the wounded, and severely injured the two young children who were accompanying him inside the minivan. The little girl, showered in broken glass and found slumped in the front seat, had gunshot wounds to her belly, and the little boy to her side was discovered with a gunshot wound to his head. Among the dead were photojournalist Namir Noor-Eideen and camera assistant and driver Saeed Chmagh, both well known in the region for their work with the Reuters news agency. Some of the men had admittedly been carrying weapons (a common sight in Baghdad), but they were behaving entirely peaceably, and the journalists’ cameras were clearly visible to observers (although the US army would later claim that in the fog of war they were mistaken for guns). The attack was seemingly unprovoked, the consequences deadly and the loss of life completely unjustified. We would not know any of this had it not been for the actions of Private First Class Bradley Manning, a young US army intelligence analyst attached to 2nd Brigade Combat Team, 10th Mountain Division. Private Manning leaked the cockpit video footage of the entire episode to the now infamous website WikiLeaks. This is an online resource for whistleblowers, run from computer servers located in Sweden, headed by an Australian named Julian Assange. As one would expect, the footage - which was made accessible to
the public at large on April 5, 2010 - is extremely graphic and highly disturbing.\textsuperscript{133} Within days of its release it was picked up by the world’s major news outlets and widely discussed around the globe. This exposure been lauded as a triumph, something impossible to imagine without the support of the instantaneous and unbounded communication architecture of the internet.

But any enthusiasm for this feat of twenty-first century investigative journalism should be tempered with some hard-headed realism. While the internet has undoubtedly provided a medium for the rapid distribution and public consumption of video evidence that the US military took great pains to suppress, the political ramifications of the materials’ distribution remain unclear, as does the extent to which any of the troops involved in the incident will ever be brought to justice. At the time of writing, Bradley Manning currently languishes in a jail awaiting the outcome of proceedings which could result in a court martial, and it appears from Pentagon reports that military officials consider the original case closed, with no further action to be taken. So while the global media has allowed ordinary individuals to gain unparalleled access to evidence of alleged official wrongdoing and provided a medium for global civil society to express its outrage, the extent to which interested citizens can actually hold their military and political leaders to account for their actions remains in doubt. In this case, the people responsible for publishing the suppressed material were attempting hold political authority to account by releasing evidence of alleged wrongdoing into the public sphere. However, in this case, publicity – the publication of potentially damning evidence and its careful and widespread scrutiny by observers from across the world – has not led to formal

\textsuperscript{133} It is available for viewing at www.collateralmurder.com
accountability. The powerful actors responsible for the alleged wrongdoing have been left largely untouched.

What we call today the public sphere, both in the theory and practice of democracy, is the product of historical forces. Forged in the fires of the bloody and violent struggle for democracy in the European political experiments of the 18th and 19th centuries, in the domestic politics of the Western nation state it now takes its place as a central component in the democratic supervision of political authority. While civil society and the public sphere are related, they are not the same thing. Civil society refers to those voluntary associations formed when individuals come together to act out their non-political identities. The public sphere on the other hand refers specifically to those spaces or locales in which civil society explicitly addresses the domain of the political, directing its views toward political institutions, thereby setting itself the task of tracking, checking, monitoring and legitimating official power. In other words, the public sphere refers to the architecture or arrangement of communicative spaces of appearance within a community that allows civil society access to the political system for the purposes of holding it to account. While the historical development of this architecture has contributed to the democratization of the politics within the nation state, transnational public spheres that are effective at the level of international politics are difficult to form. In chapter 1 we saw why: the political power circulating in international politics constitutes that realm not as a space of appearance, but as a space of surveillance and control. It does not resemble the domain of ordinary politics, where the public surveils political power and supervises or legitimates its use. Instead it is constituted by an emergency politics, where the public itself is the body that is surveilled, this time by an official power that takes the
management of bare life as its task. This makes the project of grounding a public sphere adequate for tracking international power especially difficult.

Without a properly constituted transnational public sphere, the neutralization of emergency politics through the extension of ordinary politics into international affairs is made much more difficult. The public sphere provides the spatial locale in which the legitimation demand can be articulated, as well as the performative arena in which claims for the recognition of identity can be rendered visible.\textsuperscript{134} Without it, the communicative and identity-disclosing power of ordinary citizens has no outlet into international politics. As a result, the opportunities for individuals to hold international decision-making to account, and to interrupt the autopoietic steering of the international system by the bureaucratic functionaries at its core, are greatly diminished. As are the chances that individuals might contest international claims for recognition, a kind of identity politics that can no longer be contained or adequately represented within the domestic sphere of any one particular nation.

\textit{“Weak” public spheres and transnational encounters}

A transnational public sphere has existed, in some form or another, for much longer than we commonly realize. WikiLeaks-type incidents appear to us as relatively novel but in fact they have long-established, historical precursors. Indeed, that the nation-state has very clearly won out as the pre-eminent form of political organization for our time fools us into a preoccupation, theoretical and empirical, with public spheres that are circumscribed by national or territorial boundaries. A complete history of the nation would also have to tell the story of those “cosmopolitan encounters” that have shaped its

\textsuperscript{134} Please refer to chapter 1 for a more detailed discussion of the legitimation demand.
contours and defined its boundaries too. Trade, war, imperialism, immigration, mass-entertainment, travel writing and political reportage have all played a historic role in shaping the nation, and consequently also in creating, sustaining and enlarging communicative spaces between peoples as a necessary side-effect.

Such encounters have had dramatic consequences for the internal development of societies and cultures that have, as Habermas rightly observes, responded to the strain caused by their influence by periodically “opening” and “closing” their lifeworlds to them. The process of cultural opening, a fusion of horizons in which the familiar meets the extraordinary with oftentimes unanticipated results, summons colorful images of cultural hybridity and fluidity, or the proliferation of options and lifestyles readily available to individual “travelers” in the literal and metaphorical sense of that word. But because such changes can also be highly destabilizing, especially given the pace with which they proceed, these developments have also unleashed highly contradictory political pressures. Such pressures sometimes take a relatively benign form, for example giving rise to a popular civic (as opposed to ethnic) nationalism, one which favors displays of pomp, ceremony and national tradition that are nonetheless in principle open to all. Or, further along the spectrum, efforts at closure sometimes lead societies to call into question the merits of, for example, multicultural or identity politics. This seems to be the case in the United Kingdom of the present moment. But other sorts of closures of the lifeworld are far more dangerous. They may involve the dramatic and conscious reassertion of differences of identity, the policing of physical borders, the stimulation (by politically motivated actors, of course) of a popular hysteria that asserts that “our” nation

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is being contaminated or threatened by “outsiders.” One need only recall the ethnic cleansing by Serbs in Bosnia, the ill-treatment of Roma across much of Western Europe, or the wave of anti-Muslim sentiment sweeping the West after 9/11, for recent examples. These instances of “opening” and “closure” are narrated by a global media apparatus that radiates communicative shockwaves throughout the international community with almost instantaneous effect.

In this narrower sense, something like a transnational public sphere - an international network of opinion with a socially significant transformative potential - has been with us for quite a while. This is because people have long had the means to communicate their ideas, tastes, goods and services over vast distances and across national frontiers, setting in motion processes of cultural exchange and dialogue in response. Of course, recent technological advances have altered considerably the scale, extent and rapidity of these flows of communication. Consequently, the opening and closing of a lifeworld, even in an advanced, democratic setting, is now potentially more traumatic than ever before. But advances in technology have only really served to intensify this process. The real novelty of the situation with which we are presently confronted does not lie in the existence of transnational communication as such. Rather, it lies in the transformative effect that globalization has had on political power itself, and the way in which global public opinion has been unable to keep up with these changes. What we have witnessed is the unprecedented migration of political authority - the capacity of an official apparatus to issue laws, to control the means of production and to distribute resources and opportunities - from the domestic institutions of the nation state to sites of international decision making. Because citizens have very limited access to
these supranational institutions, they are often neither very representative nor very
democratic. This opens up a gap between those who would seek to command and those
who must obey, one that is problematic from the standpoint of democratic theory, since it
dissolves the historical symmetry and democratic link between a people and its ruling
institutions.

Whatever transnational public spheres have evolved up until this point, even those
transformed by what British Prime Minister Harold Wilson once referred to as the “white
heat of the technological revolution,” they have not yet caught up with this development.
They remain, to use Nancy Fraser’s terminology, “weak” publics; they consist
“exclusively in opinion formation and [do] not also encompass decision making.”

International public opinion rarely ascends beyond the level of background noise, and it
certainly struggles to penetrate the administrative complex of the international system, in
contrast to domestic public opinion which enters, and has an effect upon, the domestic
institutional arena with relative ease (although even this is a relatively recent, hard-won
achievement for democratic politics). Oftentimes politically impotent, global public
opinion is frequently unable to influence those who wield political power at the core of
the international system. As each day passes, that system resembles more and more a
giant, impersonal bureaucracy, one in which the role of the public sphere as a check on
political power is gradually diminished to the point of vanishing. Not only does this pose
a significant hindrance to the democratization of international governance structures but
it also threatens to undermine the historical achievements of the modern nation-state as
the vehicle for the self-steering of political communities. It also explains (at least in part)

\[136\] Nancy Fraser, “Rethinking the Public Sphere: A Contribution to the Critique of Actually
Existing Democracy,” in Habermas and the Public Sphere, ed. Craig Calhoun (Cambridge, MA:
why developing nations, whose own democratic structures are oftentimes extremely weak and especially vulnerable to external buffeting, are constantly thwarted by systemic features of international politics in their efforts toward self-determination. In both cases, the ability of people who define themselves as a discrete community to effectively chart a common life together is undermined. This is a form of what I shall refer to by shorthand as “global domination.” It occurs when individuals are affected in their day-to-day lives by political decisions, procedures and rules that emerge from international institutions outside of their territorial boundaries over which they can exercise no satisfactory democratic control.

Instances in which the communicative power of citizens is bypassed in the international political system are not difficult to find. For example, Ngaire Woods has documented the ways in which the public political sphere is routinely marginalized in the operation of the structures of international financial governance. The Bretton Woods institutions were founded with the relatively conservative aims of stabilizing exchange rates between member countries and facilitating the lending and borrowing of emergency reconstruction loans. However, as Woods points out, the role of the IMF and the World Bank has expanded dramatically in the intervening years. Consequently, they:

are now engaging governments in negotiations which cover virtually all issues in economic policy-making – and beyond, with good governance [conditions on loans] extending into areas such as rule of law, judicial reform, corporate governance an so forth. This new, wide-ranging domain of advice and conditionality affects a broader swathe of policies, people, groups and organizations within countries.

138 Ibid., 89.
Since their original role was technocratic and highly specialized, it was initially agreed that the IMF and World Bank would deal with member states through their finance ministries. Despite the transformation in their role, this remains the case. Significant of policy negotiation – on a whole range of topics besides the economy - now takes place through communicative pathways which tie these institutions directly to domestic finance ministries. Not only does this bypass the rest of the domestic parliamentary complex and exclude sites of democratic will-formation, but it also artificially inflates the status of finance ministries (who have their own particular agendas to pursue), distorts policy debates and makes “finance ministries or central banks formally accountable for policies which should properly lie within the scope of other agencies, and for which those other agencies are domestically accountable.”\(^{139}\) Even though the IMF and World Bank have admittedly taken some steps to integrate global civil society organizations into their operations, they have only done so by assigning them a consultative role that still leaves them outside of formal decision-making procedures. But his is highly unsatisfactory: consultative status is not robust enough.

If public opinion rarely penetrates the global-administrative complex with any degree of regularity or effectiveness, this poses a threat to citizen autonomy. The threat of domination looms whenever citizens cannot conceive of themselves, at one and the same time, as both subject to, and authors of, the rules of regulation which govern the organization of their collective lives (a formulation which appears in Habermas’s work several times and which he attributes to the republican tradition via Kant and Rousseau).\(^{140}\) Because direct, individual participation in the procedures of global politics

\(^{139}\) Ibid., 89.
\(^{140}\) For further elaboration of this idea please see the discussion in chapter 1.
that determine these rules can only ever be intermittent and limited, complex arrangements for the delegation of political authority based upon agent-principal relations have emerged at the international level. These arrangements give a veneer of formal legitimacy to a variety of present-day supranational regimes. However, without the addition of a robust counter-circuit of global public opinion with which to scrutinize such regimes, even these arrangements, innovative as they are, cannot truly secure democratic autonomy. The specter of domination continues to haunt us.

This should be no surprise, since international politics is not really any sort of recognizable politics at all. In fact, international politics largely takes the guise of the emergency politics of crisis containment – it rarely resembles the ordinary politics of the democratic nation state. There is no clearly defined set of people to whom international political institutions are symmetrically related in the way, for example, that the state has historically been symmetrically situated with regard to those who live within its territorial bounds. With some important exceptions, there are generally no supra-national political parties with the ability to organize members around common policy goals and to field representative candidates for elections. There is no world-government with the responsibility for executing a unified code of laws. And although there now exists an impressive array international legal regimes and courts, they remain vulnerable to the charge that without formal powers of enforcement, they are unable to enforce the judgments that they render unless there is a background political willingness, on the part of the subjects of their decisions, to obey.\footnote{That’s certainly not the end of the matter, of course, since the effectiveness of international courts can be measured on a spectrum. At the most effective end of this spectrum lays, for example, the European Court of Human Rights, which is largely successful in dispensing}
What we do undoubtedly have are a range of different international agencies, bodies and institutions with overlapping competencies and constituencies, fulfilling elements of each of these functions, enmeshed in a web-like, de-centered, poly-archic structure of global governance that is resistant to political change from below.

According to Randall Germain, any form of modern political organization must be capable of being made accountable to those who live under the reach of its authority. If a governance structure lacks accountability, those affected by it are unlikely to develop any sense of allegiance to it, and they will ultimately call into question the rationality of obeying the coercive orders that it issues. In other words, the regime will break down. The problem is particularly acute in the context of global financial regulation, because financial institutions such as the World Bank and the IMF are only formally accountable to a very narrow range of international decision making bodies or elites, rather than to individual citizens. Germain concludes that international financial regimes can only be rendered more accountable if there is, in addition to the deeper internalization of the norm of accountability itself in their operations, “a significant strengthening of … the “global financial public sphere,” an open and contested site where norms of inclusion and public discourse can become established and instantiated.” Germain notes that this emerging public sphere, comprising an inter-state institutional framework, integrated global market, a global media interested in financial issues and interested civil society groups, has served to promote a regulative environment in which a logic of participation has joined coercion and compliance as recognized modes of judgments that are directly binding in member states’ national courts precisely because members states have volunteered to surrender a measure of legal sovereignty in this way.

143 Ibid., 221.
of financial governance. Indeed, because international financial decisions are now made in the context of a high degree of public scrutiny and dialogue, Germain goes as far to claim that “the … noteworthy aspect to the new inter-state financial architecture is its increasingly consensual nature … the complex division of labor [between international public authority and market institutions] discourages coercion and encourages consensus as a key modality of international decision making.”

As a result, “the incentives that direct financial transactions take shape through an increasingly institutionalized form of public deliberation” and thus “rule making and the administration of rules at the global level today take place in part through the operation of a global financial public sphere.”

This is thought to reveal the potential for a shift toward a fully-fledged, deliberative, consensus-oriented approach to global financial governance, a potential that he seeks to develop further. The public sphere that he envisages, whose four corners are defined by its participants – International Non-Governmental Organizations (INGOs), financial markets, the inter-state financial institutions and the global media - rests on “clear modes of public reasoning, a plurality of participants and a growing critical reciprocity between participants.” The inter-state institutions and public authorities remain the key policy-making forums, but because they work in an environment in which they must be sensitive to the communicative impulses of the other three major participants, they cannot rely on the logic of coercion alone. Because of the high density of criss-crossing connections between these four pillars, what would otherwise be a weak international financial public sphere of opinion formation is converted into a strong one. In the complex as a whole, decision making and will formation are linked.

144 Ibid., 229.
145 Ibid., 232.
146 Ibid., 233.
This discussion moves us in the right direction, but even in the tentative normative proposals that Germain develops, the direct role of the individual citizen remains obscure. As James Bohman points out, we cannot simply demand the extension of opportunities for democratic self-government to individuals at the international level and leave things there, because such an argument “would attempt to assert the form of political authority that necessitated agency relations in the first place.”\textsuperscript{147} The very nature of international politics requires the delegation of authority official representatives. This may be regrettable in some instances for the democratic deficits that result, but it is unavoidable. The best that we can hope for is that these channels of official power are augmented by transnational democratic reforms, of the sort that might make space for deliberative inputs from the transnational public sphere. Something like this presently exists of course, in the sense that international regimes will often consult with INGOs and global civil society organizations. But as the Bretton Woods case mentioned earlier reveals, consultative status is not always enough to provide such groups with a materially significant role in policy making. As Bohman himself points out, such consultative exercises frequently only really erect surrogate publics of policy experts, and in any event global civil society organizations are often far too numerous, too liable to capture by private interest, and too disaggregated for this to be a viable strategy. And, after all, we are still within the domain of weak publics, since under such arrangements INGOs could only hope to exert influence rather than constitutive authority.

In order to make an inroad into solving this problem, and drawing on the work of Charles Sabel and Joshua Cohen, Bohman suggests instead that we look to a form of

organization called “Open Method of Coordination” (OMC) for inspiration. Already utilized by some decision-making organs of the EU, this decision method “uses nested and collaborative forms of decision making based on highly dispersed collaborative processes for jointly defining problems and setting goals.” The idea here is that multiple teams of citizens, set up as mini-publics from a number of different member states, deliberate first in isolation from the other states about a policy of common concern. Each set of deliberators share the same rules and framework to ensure some uniformity across their efforts, but predictably enough the different sites diverge in their proposals. As the deliberations continue, the different sites communicate with one another, informing each other of their alternative proposals, at which point they can begin to compare and evaluate each others’ efforts. According to Bohman, the chief advantages are two-fold. First, while the final solutions adopted to the policy problems may differ between sites, the method fosters communication, interaction and collaboration across and within EU institutions, resulting in a shared body of knowledge and common goals. Second, the method fosters accountability that is horizontal, vertical and lateral, and in contrast to the command-and-control model, “duties and obligations are not imposed, but rather pass through the deliberative exercise of citizens’ communicative freedom.” Efforts like these attempt to reproduce, at the international level, those institutional “sluices” that, you will recall, Habermas describes as providing a channel through which public opinion can be effectively introduced into the political complex at the heart of a society. Popular opinion gets legitimized in this uptake process and, in theory, this helps to steer the political apparatus in accordance with the interests, desires and experiences of

148 Ibid., 85.
149 Ibid., 160.
those who are actually affected by the coercive measures that it issues. In this sense, political authority too is legitimated.

These proposals help us to imagine ways in which citizens can come forward in political forums as individuals (not shielded behind state representatives) and have their voices heard and their identity claims recognized by international institutions. But there are still no guarantees that decision makers in positions of authority will ultimately be responsive to the kinds of the claims that they hear. Moreover, the kinds of citizens equipped with the education, economic means and mobility to take part in such forums are likely to be the elite members of the classes that they represent. When international institutions empower them to speak on behalf of a constituency, the international system risks reifying any internal power dynamics or structural inequalities that may be at work within the group which exclude some of the most vulnerable parties. There seems to me to be no way around this problem, particularly since all modern politics is necessarily representative politics of some sort. If citizens’ efforts at appearing in international political life are to spring from a wider range of experiences and identities than those imagined here, perhaps we ought to look for cosmopolitical activities that take place somewhere closer to home. We will return to this possibility at the end of the chapter.

Constituting the Public Sphere: Publicity, Legitimacy and Public Freedom

The aim of this section is to reconstruct a theoretical apparatus that will help us to establish a set of expectations about the proper functioning of the public sphere, using intellectual resources to be found in the thought of Habermas and Arendt. Equipped with this apparatus, we can pinpoint more clearly the shortcomings engendered in an
international politics in which transnational public spheres are weak or ineffective. This may help us to work up a description of the kind of transnational public sphere that might be within our reach, or at least certainly one that is normatively desirable and should be protected against the encroachment of official power. I begin by elaborating upon the concept of publicity as a normative construct in Jurgen Habermas’s work, in order to emphasize the tightness of the connection that he draws between the idea of publicity and that of legitimacy. This connection renders the concept of publicity useful for thinking through the problem of political domination. Next, I bring Habermas into conversation with Hannah Arendt. Both authors are centrally preoccupied with the public sphere and its relationship to democracy. When read together their insights are jointly suggestive of a powerful critique of global politics as a politics of global administration.

(a) Publicity and Legitimacy

In everyday language, the phrase “public opinion” has an ambiguous character. On the one hand, it conjures images of the unreflective prejudices and knee-jerk reactions of mass society, while on the other, when used in a less pejorative sense, it can be a shorthand way of describing society’s “considered sense,” a valuable repository of conventional wisdom or reasonableness. An exploration of the historical and philosophical roots of this ambiguity lies at the heart of Habermas’s *Structural Transformation of the Public Sphere*.\(^\text{150}\) There, Habermas plots the course of the emergence and subsequent decline of the public sphere as a medium for the transmission of a critically effective form of public opinion or publicity. In the overarching, historical

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narrative that he offers, the concept of publicity appears first bound up with the notion of representation in feudal society. Here, publicity is a mechanism by which signifiers of political authority are able to leave their imprint on public consciousness, in order to reinforce existing relationships of power. But following the first phase of the structural transformation of the public sphere, initiated by the dissolution of the feudal order and the dispersal of Enlightenment ideals throughout modern Europe, publicity gradually, and not without some difficulty, became the means through which the public made use of its collective, critical reason to debate political and social matters. In the final transformation in the late twentieth century however, the public sphere became corrupted by the private interests of the owners of capital, and publicity was co-opted by the culture industry and thus robbed of its critical content.\textsuperscript{151} The general outlines of Habermas’s study are well known, and I shall only recount them here to the extent that they illuminate my central argument. What I want to focus on in particular is Habermas’s claim that publicity came to serve as the means through which political domination might be neutralized. This promise, along with an account of those developments that would finally serve to frustrate its realization in the latter part of the twentieth century, received its historical and empirical adumbration in \textit{Structural Transformation}. The normative commitments at its base, and its place in a much wider theory of democracy, were articulated much more explicitly later on in \textit{Between Facts and Norms}.\textsuperscript{152}

\begin{footnotesize}
\textsuperscript{151} My suggestion in this chapter is that we now stand at the threshold of yet another structural transformation of the public sphere, one in which publicity has now gained an undeniably international potential and dimension, although whether it can regain its critical footing is the chief political that confronts us.

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Habermas’s original study traced the rise of the bourgeois public sphere as it emerged in the eighteenth century as a space between, on the one hand, the private realm of civil society and the interiority of the conjugal family and, on the other, the state and courtly society. Formed of private people coming together as a debating public, in its functioning it sought to institutionalize a set of principles which actually dissolved questions of status altogether, despite the fact the conditions of entry were education and property. Within its confines the better argument was supposed to carry the day, regardless of the standing of the source from which it came. While this public sphere had its origins in the republic of letters, where its members had been first primed for the collective use of their reason in an apolitical literary sphere by debating and criticizing products of culture, it was soon relocated to the politically-charged environs of the salons and coffeehouses. There, its members sought to “compel public authority to legitimate itself before public opinion,” and made claims “against the public authorities themselves to engage them in debate over the general rules governing relations in the basically privatized but publicly relevant sphere of commodity exchange and social labor.” The story of the development of the public sphere up to its modern form was thus the story of “a critically debating public’s gradual assumption of the functions of political control.” Habermas summarizes the promise of the public sphere’s function as follows:

public opinion wanted to be neither a check on power, nor power itself, nor even the source of all powers. Within its medium, rather, the character of executive power (Herrschaft), domination itself, was supposed to change.  

153 Habermas, The Structural Transformation of the Public Sphere, 27.
154 Ibid., 26.
155 Ibid., 62.
156 Ibid., 82.
As he points out, different thinkers in the history of political thought would come
to have a variety of views about how this transformation would come about. Marx
thought that although the bourgeois public sphere was permeated with false
consciousness and was a vehicle for the delivery of ideology, it would be commandeered
by a revolutionary working class, whereupon political domination would whither away
and be replaced with mere social administration. On the other hand, liberals like Mill and
de Tocqueville were ambivalent about the public sphere. Concerned that public opinion
was composed of the prejudices of the mediocre masses, equipped with neither the
education nor objectivity to judge properly for themselves, they argued for representative
government on the grounds, among other things, that an unenlightened public opinion
had first to be purified and reshaped by a materially independent, enlightened elite.

In fact, Habermas argues, this transformation would ultimately be effected by the
hinge mechanism of the modern legal system, itself based upon a central contradiction.
At one and the same time, modern law is coercive (and therefore, in principle, potentially
dominating), but in the impersonal, general form that it has assumed in the constitutional
state, it aims at overcoming domination by underwriting an equality of status that is
fundamental to, and reinforces, the rule of law itself. Because it emanates from
representative democratic institutions, the laws remain anchored in public opinion, and
the legal system completes the democratic circuit of official power. As we saw in the last
chapter, Habermas interprets social struggles for recognition as political attempts to
realize fully the principle of equal rights already embedded or latent in the modern legal system.\footnote{157}

Once the increasingly democratized state adopted publicness as an organizing principle, the “public character of parliamentary deliberations assured public opinion its influence,” firmly and finally forging the link between publicity and legitimacy.\footnote{158} With the electoral and parliamentary reforms of the nineteenth century with which it was intimately involved, the public sphere attained the height of its political function. However, as the twentieth century progressed, and the state began to take over the roles previously filled by institutions of civil society, the boundary between state and society began to give way. Consequently, the critically debating public found itself squeezed out by the rise of an:

intermediate sphere [in which] the sectors of society that had been absorbed by the state and the sectors of the state that had been taken over by society intermeshed without involving any rational-critical political debate on the part of the people. The public was largely relieved of this task by other institutions, on the one hand by associations in which collectively organized private interests directly attempted to take on the form of political agency; on the other hand, by parties which, fused with the organs of public authority, established themselves … above the public whose instruments they once were.\footnote{159}

At the same time, the cultural undercurrents which had sustained the critical functions of the public sphere were hollowed out by an increasing “sentimentally toward persons and corresponding cynicism toward institutions.”\footnote{160} The result, as Habermas puts it, was that:

\footnote{157} Habermas, “Struggles for Recognition in the Democratic State.”
\footnote{158} Habermas, \textit{Structural Transformation}, 83.
\footnote{159} Ibid., 176.
\footnote{160} Ibid., 172.
[while] originally publicity guaranteed the connection between rational-critical public debate and the legislative foundation of domination, including the critical supervision of its exercise. Now it makes possible .... a domination exercised through the domination of non-public opinion: it serves the manipulation of the public as much as legitimation before it.161

Whereas the sphere of private, conjugal family life had once exercised a formative influence upon the individual, equipping her with the capacities required by her use of critical reason, now a pseudo-public sphere permeated by ideology and overrun with mass culture consumption channeled an illegitimate, anaesthetizing influence back into a hollowed-out and superficial private realm. With the fusion of news, entertainment, culture and advertizing - which aims (quite nakedly) at the manipulation of consumers rather than the creation of citizens - and the lowering of entrance costs to public debate, the public sphere became denuded and deformed, sapped of its critical potentialities and hopelessly captured by the interests of private capital.

It is not my task here to assess whether the actual public sphere was initially as successful in holding political authority to account, or as inclusive in its institutional arrangements, as Habermas makes out. It probably was not.162 Nor is this the place to investigate fully whether the contemporary public sphere failed in its critical role quite as spectacularly as Habermas thinks it did. Certainly, the WikiLeaks case with which I opened this chapter gives us cause to think that there remains a critical potentiality located in pockets of a wider public sphere which is, undoubtedly, otherwise overrun by private influence. As does the case of the widespread use of Twitter by Iranian citizens in 2009, who used the social networking site to communicate to the outside world their

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161 Ibid., 177.
162 For a consideration of this question from a variety of differing perspectives, see the essays collected together in Craig Calhoun (ed.), Habermas and the Public Sphere (Cambridge, MA: MIT Press, 1992).
accusations that the presidential election was rigged. Instead, I want to concentrate on the normative ideals expressed in Habermas’s account, those that we might recover to help us diagnose the democratic deficits which characterize contemporary global politics. As these quotations illustrate, even in the earliest phases of his work Habermas had already discerned an important connection between the generation of publicity and the emancipatory project of dissolving political domination. This connection received a much more extensive treatment in *Between Facts and Norms*, where it assumed a central role within a much more elaborate theory of deliberative democracy.

There, Habermas argues that within highly complex democratic societies, a constitutionally regulated circulation of communicative power must be established in order to provide a counterweight to the self-steering of society by the administrative system. The public sphere plays a key role here. As the site for the emergence of communicative power, its presence and proper functioning has the capacity to avert the “illegitimate independence of social and administrative power.”

Anchored in the voluntary associations of civil society, and rooted in the lifeworld, the public sphere assumes the function of a sounding board which connects all of the differentiated subsystems of society to each other and to the political core at its heart. As such, it is a network for the sensing, signaling and processing of system-wide deficiencies and disturbances which it packages as units of “public opinion.”

These units of public opinion are shuttled to the core (which is made up of the administrative, judicial and parliamentary complexes) and along the way they are rendered into language likely to have significant resonance in the lifeworld, which contributes to their amplification. Finally these units of public opinion arrive into

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163 Habermas, *Between Facts and Norms*, 358.
institutional and procedural sluices of democratic opinion and will-formation at the center (essentially, parliamentary politics). It is this procedural sluice that finally legitimizes public opinion and completes the transformative cycle, resulting in binding, legitimate law. If all goes well, “civil society can acquire influence in the public sphere, have an effect on the parliamentary complex (and the courts) through its own public opinions, and compel the political system to switch over to the official circulation of power.”164 This avoids the “systems paternalism” that “endangers [the] legitimacy” of political institutions, a threat posed whenever the discourse of experts at the core becomes uncoupled from democratic opinion and will-formation and, insensitive to inputs from citizens below, steers the political system in fashion that Habermas aptly labels as “autistic.” If the circuit of communicative power among citizens is bypassed in this way, the independence of illegitimate power, together with the weaknesses of civil society and the public sphere, can deteriorate into a “legitimation dilemma” which in certain circumstances can combine with the steering trilemma and develop into a vicious circle. Then the political system is pulled into the whirlpool of legitimation deficits and steering defects that reinforce one another.165

(b) Public Freedom

According to Habermas, the public sphere should be conceptualized as a forcefield within which public opinion – a form of communicative power - is generated, amplified, packaged and ultimately shuttled to the political system at the core of a society. To the extent that this account renders visible the centrality of the public sphere as an essential element of democracy, since in its operation resides the very possibility for the dissolution of political domination itself through rational scrutiny, there is much to

164 Ibid., 373.
165 Ibid., 386.
commend here. But as it stands, it tells us very little about the politics of the public sphere, indicating only its normative potential. We need a more nuanced account in order to complete this picture, and I think that we can generate one by bringing Habermas into conversation with another great theorist of the public sphere, namely Hannah Arendt.

As a matter of intellectual history, Arendt’s direct influence upon Habermas’s thought is interesting in its own right, so much so that I’ll return to his published reflections on her work in the discussion below. Certainly, they illuminate nicely the affinities between their respective positions. What is particularly striking is the way in which both authors, although writing from radically different perspectives, draw our attention to the deleterious consequences wrought by the degradation of the modern public sphere. While Habermas points us toward the conclusion that political authority is no longer properly legitimated when the public sphere fails to signal public opinion authentically (because of the distorting influence of private interest), Arendt’s reflections emphasize the loss to human freedom posed by the destruction of a public space in which citizens once stood forward and became visible as distinct individuals with their own voice.

Both point out the calamitous effects brought about by the blurring of the boundaries between public and private, a process prompted by what Arendt famously called the “the rise of social” and what Habermas refers to as the emergence of “a repoliticized social sphere in which state and societal institutions fused into a single functional complex.” Moreover, Arendt’s views on the connection between publicity and political freedom, which suffuse The Human Condition and underpin her reflections on totalitarianism, remain highly instructive and suggestive of a critique of global politics.

166 Habermas, Structural Transformation of the Public Sphere, 148.
as global administration. For these reasons, a brief interpretive excursion into Arendt’s thought is justified. Of course, we should take care to disentangle her arresting provocations from her admittedly overblown enthusiasm for the Greek city-state as an ideal form of social organization. An unchecked nostalgia for the *polis* will not help us to understand the reforms required for the democratization of today’s global order.

In *The Human Condition*, Arendt is centrally concerned with the historical dissolution of an understanding of politics that she attributes principally to Aristotle; a conception of political life as essentially and irreducibly constituted by the co-dependence of action (*praxis*) and speech (*lexis*). These categories are introduced by Arendt to describe the particular modes through which human beings reveal themselves and their distinctiveness to one another: “[w]ith word and deed we insert ourselves into the human world, and this insertion is like a second birth, in which we confirm and take upon ourselves the naked fact of our physical appearance.”167 On this view, action that is properly political is distinguished from sheer violence, which is mute and consigned to the realm of the pre-political, precisely because in the political context, action and speech remain connected. Actions only become relevant, and leave meaningful impressions upon the world, *because* they are accompanied by speech:

> Action and speech are so closely related because the primordial and specifically human act must at the same time contain the answer to the question asked of every newcomer: “Who are you?” The disclosure of who somebody is, is implicit in both his words and deeds.168

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168 Ibid., 178.
The definition of “who someone is” cannot adequately be captured by describing his attributes, and nor can it simply be narrated by the individual in question, since his identity remains a mystery even to himself. Perhaps only the historian, observing human affairs from the vantage point of his backwards glance, has the ability to describe accurately who somebody was. For the essence of our identity is disclosed in the very fabric of our relations with others. Its basic precondition is therefore human plurality, a condition that is characterized by both equality and difference at the same time:

If men were not equal, they could neither understand each other and those who came before them nor plan for the future and foresee the needs of those who will come after them. If men were not distinct, each human being distinguished from any other who is, was or will ever be, they would need neither speech nor action to make themselves understood.\footnote{Ibid., 175-176.}

The declarative aspect makes special the achievement of action, for without it, action is diminished. Deprived of its revelatory character, reduced to “mere talk,” action becomes a mere means to an end, no more sophisticated a form of communication than grunts or clicks. But at the same time, action is potentially destabilizing because it “always establishes relationships and therefore has an inherent tendency to force open all limitations and to cut across all boundaries.”\footnote{Ibid., 190.} This is what Arendt means when she attributes to action the virtue of natality; it is the means through which new beginnings with unpredictable consequences are inaugurated in human affairs. She notes that the ancient Greeks sought to circumvent the unpredictable, irreversible and anonymous consequences of action through their efforts to leave something of lasting significance in the realm that was common to all. For this reason, the public sphere became an arena in
which individuals would stand forth under the bright lights of publicity and strive for
greatness; characterized by an “agonal spirit,” the public sphere served as an outlet for
“the passionate drive to show one’s self in measuring up against others.” Habermas
himself would later (somewhat dismissively it seems) refer to the agonal spirit as a sort of
competitive jockeying.

It is quite right that Arendt does not invoke this idea in order to suggest that Greek
citizens would routinely use the public sphere to challenge the political authority that
confronted them (that seems to be the basis for Habermas’s complaint – that agonism is
an insufficiently critical political disposition). For this was indeed the innovation of the
politicized public sphere of the nineteenth and twentieth centuries, which came to have
the form that it did precisely because of the historical emergence of the bureaucratic state
to which it was opposed. There remains, however, a way of interpreting the principle of
agonism in such a way that it still provides a useful lens through which to view the proper
functioning of an ideal public sphere. If we are inclined to read her sympathetically, we
can avoid mistaking Arendt’s conception of agonism as principally concerned with a
striving for personal glory. She does, admittedly, cite Machiavelli’s example approvingly
(noting that he was the only post-classical thinker to apprehend the courage required to
cross the breach between the private and public, political realm). But she also makes
quite clear that participants in the ancient Greek public sphere were concerned with
achieving immortality in a very specific, and by now unfashionable, sense; “it is the
publicity of the public realm which can absorb and make shine through the centuries
whatever men may want to save from the natural ruin of time.”


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171 Ibid., 194.
172 Ibid., 55.
realm of public, individuals took part in world-building, the conscious creation of a home in the world, one which became a cultural memory bank or a vessel for the preservation of their joint endeavors.

It is only in the modern era that the public sphere is commonly denigrated as an arena for displays of vanity, the province of those desiring of public admiration. This is because we have become blind to the normative significance bestowed on the public realm by one of its chief characteristics, namely the sheer multiplicity of individuals who gather there. Because “the reality of the public realm relies on the simultaneous presence of innumerable perspectives and aspects in which the common world presents itself … [b]eing seen and being heard by others derive their significance from the fact that everybody sees and hears from a different position.”173 What Arendt is indicating here is that by participating in the public sphere, we are constantly reminded – in a direct and physical way - of the plurality of human communities; the diversity of values that they contain, the distinctness of each individual member and the uniqueness of the contribution that each person can make to the joint project of world-building. These reminders serve as a valuable bulwark against the totalitarian tendencies of modern forms of political organization – they push back against the normalizing tendencies exhibited by bureaucratic political administration.174 When those totalitarian tendencies are victorious, as in the fascist regimes of the twentieth century, they suppress those markers of diversity by cleansing or destroying the public sphere altogether.

173 Ibid., 57.
174 Perhaps Arendt is a lot like Nietzsche in this respect, insofar as both seem to evince an appreciation for a sort of anarchism, the view that all modern forms of political rule are an affront to a peculiarly human capacity for independent thought, judgment and action.
Arendt’s positive philosophical project consisted in the attempt re-affirm the boundaries between three categories that condition the human experience: action (the realm of beginnings, the inauguration of new things); labor (those activities directed toward the maintenance of biological life processes); and work (the fabrication of things in the world, through which man builds an enduring home for himself). The pincer movement performed by developments in the history of political philosophy on the one hand, and the transformation of social, economics and technological conditions in modernity on the other, have served to puncture the walls between these categories, with the result that activities belonging in one category have shifted into another. For example, according to Arendt’s Aristotelianism, since it is concerned not with mere life, the realm of things of utility and necessity, but with the good life, politics belongs properly within the category of action. However, Plato’s idealism inaugurated a line of thinking which pushed it into the realm of work, misidentifying politics as a *techne* and thereby establishing the superiority of the lawmakers over citizens as practitioners of the essentially political craft. Arendt perceives this to be an inversion of the practice of politics in ancient Greek city-states, where the lawmakers knew their place as the builders of the “walls” of the city, within which the citizens themselves were free to engage in politics proper.

In fact, images of political boundaries – both the need for them, and the ways in which they have been undermined by modern social conditions - recur in Arendt’s thought. For example, a key part of her argument rests on the assertion that a properly constituted politics depends upon a clearly delineated separation of the public and private spheres, a separation that is threatened in modern times by the rise of the “social.” In
ancient thought, the division between activities directed toward the maintenance of life (which went on in the private realm) and activities related to common life (in the public realm) was axiomatic, but now it is “entirely blurred, because we see the body of peoples and political communities in the image of a family whose everyday affairs have to be taken care of by a gigantic, nation-wide administration of housekeeping.” Furthermore, she argues that all political communities must have walls in order to function properly, since they must be comprised of discrete peoples who occupy clearly delineated spaces. Perhaps by this she just means that it is efficacious for the world-building project in which political publics are engaged to be attached to territorially-circumscribed locales. Or perhaps she means something more. The normative significance of these remarks is unclear. What we can say is that if Arendt is any kind of cosmopolitan at all (and there are the just the tiniest of hints about this in some of her remarks about international human rights regimes in *Eichmann in Jerusalem*), she’d most certainly be a very reluctant sort of cosmopolitan.

Arendt’s verdict upon our troubled, political predicament can ultimately be traced back to her treatment of the twin categories of speech and action with which we began this excursus. In her view, the integral link between the two has now been severed, and action and speech have largely been shunted into the private sphere by the modern preoccupation with, and valorization of, intimacy. Political activity has been shorn of its identity-disclosing capacity and, having come to resemble the act of fabrication or forming, is driven instead by an impulse toward social control and management. Not only does this present us with conditions ripe for political domination, but it also signifies a profoundly anti-political, anti-democratic trend. “The attempt to replace acting with

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175 Ibid., 28.
making,” she writes, “is manifest in the whole body of argument against “democracy,” which, the more consistently and better reasoned it is, will turn into an argument against the essentials of politics.”¹⁷⁶ This impulse – the “rise of the social” - is to be detected in the spread of wide-scale mass administration, a form of politics that has a disciplining effect on citizens, whose behavior must be regularized and made dependable, since the administration requires regularized and dependable data inputs for its smooth functioning. This explains, at least in part, the high degree of social conformity that characterizes modern societies. In the totalitarian regimes of the twentieth century, Arendt perceives these tendencies as having reached their most severe conclusion and darkest apex. The mutilation of human freedom is finally completed by the total intrusion of the administrative state into the intimate lives of its citizens, along with the corresponding annihilation of the public sphere. What these cases are supposed to illustrate, in a provocative fashion so typical of Arendt’s writings, is the idea that without a public sphere there can be no freedom, whether public or private.

Commenting on Arendt’s thought in the 1970s, Habermas found much to commend in her “communications concept of power,” which defines power as “the ability to agree upon a common course of action in unconstrained communication.”¹⁷⁷ This is a theory of power that is not purposive-rational in orientation, but instead conceives of power as something which “serves to maintain the praxis from which it springs,” and becomes “consolidated and embodied in political institutions which secure those very forms of life that are centered in reciprocal speech.”¹⁷⁸ He correctly identifies

¹⁷⁶ Ibid., 220.
¹⁷⁸ Ibid., 6.
her approach as phenomenological, insofar as what she aims to do is to “read off the formal properties of communicative action (or praxis) the general structures of an unimpaired intersubjectivity.”¹⁷⁹ But because praxis is “highly unstable,” it must be protected by political institutions and underwritten by guarantees of rights. Habermas observes that this move allows Arendt to describe the necessary preconditions for an ideal state of human flourishing, while at the same time bringing into focus those features of the modern age that radically forestall the possibility of their coming into existence. When viewed in these terms, her method is strikingly similar to that adopted by those working in the Frankfurt School. For example, as you will recall from the discussion in the previous chapter, what Axel Honneth detects in current prevailing social arrangements are distorted relations of recognition. These fundamentally stunt the achievement of individual autonomy and, ultimately, curtail possibilities for human emancipation. By comparison, what Arendt sees in totalitarianism, though she also thinks it a potentiality that resides in the advanced, highly-bureaucratized democracies too, is the attempt by the political system to replace (communicative) power with force, an essential precondition for which actually turns out to be the mobilization of depoliticized masses. Habermas himself would come to offer a structurally similar account in his mature thought, although because his view is filtered through the prism of systems theory, what he ultimately detects in modern society is the illegitimate tendency of money and power to replace communicative action, to infiltrate (“colonize”) the lifeworld, and to introduce instrumental rationality into the otherwise foreign habitat of the social realm.

¹⁷⁹ Ibid., 8.
For all that there is to recommend in her approach, Habermas also thinks that “Arendt stylizes the image she has of the Greek polis into the essence of politics as such,” and thereby “becomes a victim of a concept of politics that is inapplicable to modern conditions.”\textsuperscript{180} Thus she ultimately adopts a perverse perspective, one that is based upon a state which is relieved of the administrative processing of social problems; a politics which is cleansed of socio-economic issues; an institutionalization of public liberty which is independent of the organization of public wealth; a radical democracy which inhibits its liberating efficacy just at the boundaries where political oppression ceases and social repression begins.\textsuperscript{181}

In this he is surely right. Arendt’s curious insistence that “political economy” is a contradiction in terms, of the sort unknown to the Ancients for whom economics was purely a matter of household management, makes her an unreliable guide when it comes to issuing prescriptions for our current state of affairs (although, of course, she was just the sort of thinker who would have recoiled in horror at the thought of political theorists issuing prescriptions of any sort). It is interesting to speculate about what she would have made of the increasing, international centralization of political authority in the late twentieth and early twenty-first centuries, whose pace has increased exponentially in the years since her death in 1975. No doubt her reaction would have been mixed. She would presumably have been disturbed by the massive amounts of administrative and social legislation that emanates from the increasingly impenetrable institutions of the European Union, detecting in its layer-upon-layer of bureaucracy an affront to the performative democracy that she so admired. And yet, from her reflections in \textit{Eichmann in Jerusalem}, we might deduce that she’d probably also have been cautiously optimistic about the

\textsuperscript{180} Ibid., 14.
\textsuperscript{181} Ibid., 15.
international human rights culture which has swept modern Europe, culminating in the various international legal regimes, such as the ICC and the European Court of Human Rights, with the authority (often controversial, to be sure) to prosecute war crimes and to combat international affronts to human dignity. In any event, it seems to me that her basic intuitions about publicity remain forceful, and can be extricated from the less desirable strands in her thinking. And it appears also that Habermas is in agreement with this verdict.

*The Transnational Public Sphere: New Foundations*

We are now in a better position to appreciate the intimate connection between the public sphere, political legitimacy and public freedom. The public sphere provides a space in which citizens can demand that political authority legitimate itself to them. The expectation is that officials should be able to provide reasons for their decisions that stand up to the scrutiny of those who have gathered together to form an audience. Indeed, this expectation is generalized, for the exchange of reasons by all parties is what characterizes the essence of such a deliberative forum, which is oriented not, in my view, toward rational consensus as such (as the later Habermas would have it), but more specifically the dissolution of domination (as the earlier Habermas had already made clear). Moreover, by entering the public sphere, those who are gathered together also participate in the ongoing project of *world building*. They are in the business of creating and integrating a lifeworld, preserving valuable elements of their culture for future generations, endowing their practices with meaning and giving birth to novel ways of life.

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For further discussion of the way in which the offering and acceptance of reasons for coercion in democratic politics dissolves domination, please see chapter 1.
reflected in the multiple perspectives on display in the public realm. They present themselves to each other and ask, not only “is that source of political authority legitimate?,” but also “who are you?” In reply, they receive answers in word and deed, and although they may be unknown to each other when they first meet, they may by the end of their encountered recognize each other as partners in a joint enterprise.

By bringing Habermas and Arendt into conversation with one another the aim in this chapter is to develop an understanding of the public sphere that is sensitive to the insights about its function offered by the principal traditions of thought that they represent. The deliberative approach associated with Habermas rightly emphasizes the connection between publicity and political legitimacy, and correctly posits the role that the public sphere plays as a sounding board for legitimation claims. But this is also far too “mute” a conception of politics; it does include an account of the oftentimes fractious disclosures of identity, in deed and in word, that constitute the ordinary course of political life. On the other hand, the agonistic approach associated with Arendt rightly emphasizes the connection between individual autonomy and public freedom, and casts light on the identity-disclosing functions of a politics of public appearance. A politics of this kind must be defended if the consequences of the “rise of the social” are to be neutralized (assuming, of course, that they cannot be completely avoided). Yet, as Habermas points out, the agonistic account also leads us to a view of politics that is inadequate, since it excludes from view the material base of modern politics, i.e. those aspects of politics which are necessarily concerned with the generation and distribution of economic benefits and burdens across society and, potentially, between societies. This is unsatisfactory. As we saw from the discussion of Nancy Fraser’s recent work in the last
chapter, what we need is an integrative approach to the question of justice that sees matters of recognition, redistribution and representation as mutually constitutive and irresistibly intertwined. Here I want to draw down the results of these reflections in order to derive a set of normative expectations about the functioning of an international public sphere.

In global politics, we witness the kinds of legitimation deficits and the potential for domination that Habermas has already identified as occurring when the communicative power of the public sphere is bypassed in the domestic setting. Political authority in the international system is frequently not required to answer for itself, directly to citizens, in deliberative forums. In addition, if we put on our Arendtian spectacles for a moment and survey the landscape of international political life, what we can see is that opportunities for individual citizens to appear in transnational public spaces, to stand forward in public view, to have their views heard and to reveal themselves and their identities to those who wield institutional authority over them, are few and far between. Summarizing the consequences of the degradation of the domestic public sphere, Habermas wrote long ago that:

The process of the politically relevant exercise and equilibration of power now takes place directly between the private bureaucracies, special-interest associations, parties and public administration. The public as such is included only sporadically in this current of power, and even then it is only brought in to contribute its acclamation.\(^\text{183}\)

The same could easily be said today of international politics. In the absence of a public sphere which is transnational in scope, before which international political authority must be legitimated and in which struggles for recognition by ordinary citizens,

\(^{183}\) Habermas, *The Structural Transformation of the Public Sphere*, 176.
those struggles that press beyond the “frame” of the nation-state, can take place, the threat of domination looms. But if global public opinion is generated by, and flows between, interlocutors situated in different nation-states, and addresses a variety of actors in the international arena who may not themselves be states at all, how could it ever be politically efficacious in holding political power to account? This is the problem that Nancy Fraser has sought to address in her recent work.¹⁸⁴ She notes that public opinion is only efficacious in checking political authority to the extent that the communicative power of civil society is translated into binding laws. This fact is quite routinely overlooked in the context of domestic public sphere theory, since organs of the state, particularly the national parliamentary, judicial and executive complex, are assumed to play an unproblematic role in steering the political and economic realms and setting down such authoritative laws for each nation. But processes of globalization have thrown this link into doubt, such that each nation can no longer be assumed to have the sole capacity to steer its own economy effectively or to issue laws binding on those in its territory. The power to set binding laws has, in part, taken flight beyond the frame of the nation state and currently resides at sites in the international system. Fraser’s recommendation, that we ought to build both transnational institutions that are responsive to democratic pressures, and transnational public spheres that make them accountable, certainly points us in the right direction. But her vague plea for more institution building is made without acknowledgement that more institutions may also lead to more domination, particularly in light of the fact that she spends precious little time describing how such institutions could successfully be anchored in, or responsive to, the global public sphere. We return to the problem with which we began: how can weak, opinion

and will-formation publics be developed into strong publics? Even in her latest work, Fraser’s answer to this question remains unclear.

Part of the problem is often assumed to be that potential participants in a global public sphere are dispersed across different nation-states, making coordination between them problematic. But it is not clear how much of a problem this really is, and it might in fact distract us from more pressing issues. Modern communications media certainly help to overcome many of the logistical challenges of the political organization people over large distances, within reasonable limits. The deeper, more interesting problem is, it seems to me, this: public spheres of all kinds have traditionally depended, oftentimes implicitly, upon a common cultural substrate to sustain the communicative space between their members. This has often taken the shape of, for example, a shared national identity, or a shared allegiance to a common set of political institutions, customs, norms or way of life. The lack of a shared, common culture at the global level, so the objection continues, throws into doubt the whole project of building a transnational public sphere that spans multiple linguistic, cultural and political communities. Without such a shared culture, the global public sphere risks disintegrating under the weight of its own diversity, or being blown apart by the internal divisions between its constituent members.

There is no easy response that can be made to this concern. But I think that we can begin to answer it by arguing that shared identities or cultural resources are seldom pre-political, but are in fact routinely generated instead by the very processes and vicissitudes of political life itself. To put the point another way: identities are commonly forged by participation in political institutions and public spheres. The act of narration, in a recognized language in a public place, is itself an act of founding or constitution; of
one’s own identity, of one’s commitments, and of one’s solidarity with others who had, prior to the interaction, been regarded as foreign or alien. This is what Craig Calhoun means when, in the context of a discussion about Habermas’s concept of constitutional patriotism, he writes that “the notion of constitution as legal framework thus needs to be complemented by the notion of constitution as the creation of concrete social relationships: of bonds of mutual commitment forged in shared action, of institutions and of shared modalities and practical action.”

Because this sense of “peopleness,” about which the public sphere is self-reflexive, is developed in political action, the social bases for solidarity and respect are perpetually renewed in ongoing interactions. The bounds of the “people” are thereby made relatively elastic. Of course, not everything is up for grabs: the people may be elastic, but it is not infinitely so. Still, this dynamic approach to the public sphere has considerable merit. As Calhoun points out, it has the virtue of departing from the problematic assumption, shared by Habermas, that a fairly high degree of prior social integration is required for the proper functioning of the public sphere. This assumption has assumed a central place in our theories of democracy largely because of the historical origins of the public sphere as being specifically attached to a particular state. But now that these historical conditions no longer hold, we would benefit from loosening the grip of this assumption on our thinking. The dynamic approach also allows for a joint emphasis on the public sphere as a site for both the legitimation of political authority and for the construction of identity, for the steering and constitution of political obligation, which seems to me to offer a view which is both harmonious with Arendt’s account of the public discussed above, and helpful for thinking about cosmopolitanism as

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185 Craig Calhoun, “Imagining Solidarity: Cosmopolitanism, Constitutional Patriotism, and the Public Sphere,” Public Culture 14, no. 1: 152-3.
a political project – with all its attendant risks and uncertainties - rather than a universal ethic that can be fully pre-theorized from the comfort of a university seminar room.

Transnationalism Through Political Action

Cosmopolitical entanglements unfold across a multiplicity of sites - in the meetings of international bureaucrats, in the legislative business of domestic parliaments, through humanitarian relief operations, student exchange programs, in tourism and travel, in international political solidarity movements, in the transactions conducted in shops and stores that sell goods and services from all over the world. In short, they run the gamut from organized political action right down to the humdrum activities of everyday life. Not all of them involve or invoke political struggles (though some of them do), but what they all share in common is that they rely upon transnational networks or associations that link people, goods, capital and power. In the preceding section, the discussion concentrated on those sites in international political life where global civil society movements, or even interested individuals, attempt to exert communicative pressure on the global administrative system. But this line of investigation yields only mixed results, suggesting perhaps that we should rethink the tendency to identify the public sphere almost exclusively with the institutional complex that shuttles public opinion to the core of a political system.

Since the public sphere is in fact much wider than this, and is frequently itself the product of political action and activity, it would repay our attention to consider another set of practices that disclose its operation in connection with international affairs. In the absence of regularized channels through which to direct their voice, individuals interested
in lodging a complaint against international power frequently take recourse to locally embedded, border transgressing social movements instead. These local, yet transnationally oriented, political practices stand in stark contrast to the kinds of official inputs to international institutions that I described in the previous section; they arise organically from the ground up rather than reaching down from officialdom above. In principle they are therefore more accessible than even Bohman’s OMC mini-publics (which could only ever be populated by a small and probably unrepresentative sample of citizens).

The activities associated with these kinds of social movements are often intimately connected with a people’s sense of themselves as dislocated or detached from a home nation or territory – they are often the product, directly or indirectly, of the migratory patterns of diaspora communities, the forcibly displaced or those otherwise dispersed following the break-up of former empires (for example former subjects granted citizenship in the territories of the former imperial centers). At one end of the spectrum lay those attempts to recreate pockets of their heritage culture and community in the new environment - as in the Brick Lane neighborhood of East London, or Banglatown as it is affectionately known to Londoners. As we approach the other end of the spectrum, we find all manner of political forays and interventions which remain rooted in the local space – sometimes physically so, in the case of sit-ins or protests – but which seek to raise awareness of political issues affecting the community that migrants have left behind, or of struggles taking place in distant locations to which they remain tied. At the other, extreme end of the spectrum lay the commission of violent or terrorist acts in one location connected to causes and political struggles located elsewhere. I have in mind, in
particular, the case of the four young men, three British Pakistani and one British Jamaican, who carried out suicide bombings on the London transport network on July, 7 2005. These are all cosmopolitical engagements and entanglements, some benign, others not, in which dislocated persons (culturally, geographically or politically, or some combination of all of these), strive to appear in public in one setting in order to demonstrate a solidarity with other individuals who are located in another. These are everyday attempts to engage in a form of identity politics stretching across territorial boundaries, even as it remains firmly located within one. They are all concrete examples of transnational world building. We would be wise to keep these everyday encounters – and the motivations behind them - at the forefront of our accounts of cosmopolitical action, and to protect and ensure the lifeworld practices that make them possible (at least in the case of the non-violent examples).

This is because they represent the attempts of individuals to forge a transnational public sphere through transgressive political action. Precisely because such action is destabilizing, it is rarely the sort of thing that can be housed within a formal institutions (rendering theoretical efforts to design such institutions somewhat pointless). Indeed, such action has more in common with the kind of activities subsumed under Arendt’s notion of revolutionary founding. While Arendt had in mind the kinds of revolutionary activities that usually lead to the founding of a new political community, in the politics of western liberal democracy attempts at founding are turned into an everyday phenomenon in the form of agonistic identity politics, recurring over and over again as the liberal state tries to accommodate struggles for the recognition of the plural identities beneath it. As they become more and more fractious, these struggles increasingly test the patience of
liberal regimes (and, for that matter, the patience of some of their citizens), a fact that explains the recent declaration by some Western European political leaders that the era of multiculturalism is over.\(^{186}\)

Despite their inherent slipperiness and aversion to being formally theorized, these practices can still be grasped by theory after a fashion. Michael Peter Smith uses the label “transnational urbanism” to capture some of them, an umbrella term that encompasses:

> the criss-crossing transnational circuits of communication and cross-cutting local, translocal, and transnational social practices that “come together” in particular places at particular times and enter into the contested politics of place-making, the social construction of power differentials, and the making of individual, group, national and transnational identities, and their corresponding fields of difference.\(^{187}\)

Viewing these phenomena through the lens that Smith provides helps us to see how all of these political struggles that face outwards toward transnational concerns or interests are always fought in, and are commonly about control of, particular spaces, places or locales. This is because, as we saw in chapter 1, politics on the modern, western understanding is *physically instantiated* and *corporeal*. In addition, this use of this optic helps to shift our attention away from the structures of international politics (the preoccupation of much of the first-wave globalization and transnationalism literature) toward “the socio-spatial processes by which social actors and their networks forge the *translocal* connections and create the translocalities that increasingly sustain new modes


of being-in-the-world.”\textsuperscript{188} In other words, it shifts our attention from institutions and structures to those struggles for individual political agency undertaken by actors “occupying multiple social locations and subject to the inner tensions and conflicts derived from their multipositionality.”\textsuperscript{189}

Major cities present themselves as the obvious candidates for the location of such struggles and practices, because they teem with the sorts of political, economic and social structures and opportunities, cultural habitats and networks that are well connected, by historic routes of trade, migration or extended political authority, to similar sites in distant places. This is why geographers studying the phenomenon have focused their attention on the activities of urban populations. For present purposes, there is no need for us to fixate on the connection with distinctly \textit{urban} space. As Smith points out, this kind of transnationalism is the product of:

the spatial extension of once nationally contained households, social networks, and ethnic formations across national borders [which produce] new patterns of cultural appropriation and resistance by peoples whose current circumstances render them borderless and in this sense, at least, unbound.\textsuperscript{190}

The overt politicization of these forms of resistance can be seen in action in the activism associated with displaced persons, migrants, refugees, asylum seekers, guest works and so on, forms of activity that give rise to a transnational grassroots politics. Smith cites the example of a conference meeting in San Francisco organized by the Coalition for Immigrant and Refugee Rights and Services and Mujeres Unidas y Activas,
a group of Latina domestic workers.\textsuperscript{191} Testimony about the domestic abuse of migrant women working in the United States was gathered at this and related conferences unfolding elsewhere in the world, testimony in which women told stories of rape, torture, abuse and neglect. All of the evidence was collated and subsequently delivered to the United Nations Human Rights Commission’s World Conference on Human Rights in Vienna in June 1993. By engaging in these sorts of transnational practices, which are at once local and global, individuals assert a form of communicative power similar to that which we encountered in the reconstruction of Arendt and Habermas’s thought discussed above. In other words, they are attempting to forge a space of appearance in which they can hold political authority to account and in which they can disclose, narrate or perform some essential element of their identity. This corresponds to the central functions of the public sphere on the understanding defended here.

In light of this observation, one might be tempted to recommend the formal institutionalization of these spaces, in the hope that this might aid in their conversion from weak publics to strong, robust publics with a direct influence on public policy formation. However, I suspect that this would prove difficult. By their very nature, the practices that create and sustain these sorts of spaces are \textit{ad hoc}, temporary and unstable. This should not surprise us; it is perfectly in keeping with Arendt’s conception of citizen power. As we saw above, Arendt reminds us that citizen power arises spontaneously between those who choose to come together politically and as such it is not easily captured or bottled up for later use, since it dissipates as soon it has bought about a set of desired ends. For this reason, spaces of appearance such as these cannot easily be “built” from above. They tend instead to emerge organically from below.

\textsuperscript{191} Ibid., 162.
What we can say with some certainty is that official attempts to shut down or interfere with these spaces of appearance, and the practices that forge them, should be regarded as highly suspect. From the point of view of the citizen, engagement in transnational political action of this sort has an emancipatory purpose: it permits them the opportunity to forge links with those struggling for similar objectives located in distant places, and to act out struggles for recognition that help them to see themselves as autonomous political agents. As the medium for individuals to act upon the plural, nested identities that they possess while remaining firmly rooted in one place, it is the spatial field for the practice of a rooted cosmopolitanism. But from the point of view of the state, these struggles can take on a different character. Since it is the basis of the social contract that order within the territory is secured against the disorder that obtains without, the state has an interest in the policing of the boundary between inside and outside. When official power is confronted by political phenomena that throw this boundary into question or undermine it, for example transnational solidarity movements or protests, international capital flight, unwelcome migratory flows, the appearance of a figure with a political claim whose identity is an anomaly in a world of sovereign political communities (the asylum seeker, for example), it detects a threat to the stability and harmony of the community. In the face of such a threat, the state can either attempt to direct and channel these forces to its advantage (as in the management of global capital flows, for example through tax incentives that encourage multinational firms to operate from within the territory, or though highly skilled worker visa schemes) or it can try to suppress it altogether, in order to ward off the political instability that might ensue.
This explains why governments in Western Europe have spent an enormous amount of energy wrestling uncomfortably with policies of multiculturalism over the past decade or so. Multiculturalism – an umbrella term that collects together those views and theories that, broadly speaking, call for the reflection and accommodation of cultural difference and particularity in national public policy – became increasingly widespread in Western Europe in the late 1990s and early 2000s. This was most probably attributable that rare thing: a timely confluence between the preoccupations of both practitioners and theorists of politics. In political theory circles, particularly in the United Kingdom, an increased theoretical interest in the politics of identity and culture, no doubt riding on the coat tails of the by-then-waning liberalism versus communitarianism debate, led to the elaboration of a supposed problem in the way that contemporary liberal theory dealt with the cultural attachments of autonomous individuals. Beyond the familiar charge that liberal theory operates with impoverished view of the radically individuated self, an unencumbered chooser of cultural projects or identities instead of a self thrown or projected among them, critics further asserted that while the liberal state presumes to be neutral between conceptions of the good, in fact it privileges one particular conception of the good – a stoutly liberal one - by embedding it in the political structures at the heart of public life.

On this view, not only does state neutrality turn out to be a myth, it is the vehicle for an injustice: bearers of non-liberal but decent conceptions of the good shoulder a disproportionate burden of the costs of liberal citizenship whenever they are required by the state to renounce cultural attachments significant to their sense of self (as in the

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French scarf case). Thus, while the liberal state purports to treat all individuals equally by underwriting a basic set of rights and liberties that are distributed equally, difference-blind equal treatment actually leads to unequal outcomes. Will Kymlicka argues that this injustice should be characterized as the violation of a group’s right to have their cultural distinctiveness recognized and/or persevered by the liberal state.

Although these theoretical issues were no doubt brought to the fore by a new twist in an existing debate about moral universalism and the claims of particularism (of which the liberals-versus-communitarians debate was simply the most recent iteration), they mirrored a set of concerns faced by legislators and policy makers in the realm of real politics at the time. Mass migration following the break-up of former blocs and empires, ethnic cleansing and civil war, along with the increased personal mobility accompanying the continued expansion of the European Union, brought about significant changes to the shape and contours of the modern European nation state. These changes raised all manner of practical questions about how to deal with the presence within one’s borders of those who were different – exiles, emigres, sub-national cultures and communities of meaning - and who fought to preserve ways of life that collided with the political frameworks of their host states. As a progressive, third-way social democratic movement seemed to take root in Europe – exemplified in Tony Blair’s New Labour government – center-left


194 Will Kymlicka, Multicultural Citizenship: A liberal theory of minority rights (Oxford: Oxford University Press, 1995). Kymlicka’s work is especially interesting because he thinks that the claims of the multiculturalists can be accommodated within a modified liberal framework. In other words, he thinks that the purported antagonism between liberalism and multiculturalism can actually be dissolved, and that liberal theory can in fact make sense of the idea of a group (as opposed to individual) right.
political parties warmly embraced multicultural policy platforms in the late 1990s in the hope that they would help ease the social and political strains latent in the changing demographic landscape of the new world order.

But the multicultural experiment appears to be faltering. Center right parties, by disposition opposed to multiculturalism, have since ridden a wave of post-9/11 fear, suspicion and paranoia, gaining electoral victories across Europe by exploiting public unease about national security, immigration and the swamping by outsiders of already shrinking social welfare programs. The result is a widespread official suspicion of transnational practices, movements, actions and accommodations that undermine the “cultural cohesion” of the polity, especially where they might be construed as concerning issues connected to national security or foreign policy. This feeds back into the general public’s sense of anxiety, the perfect incubator for an ethos of xenophobia that always seems to lurk not far beneath the surface of modern politics, and leads to a general hostility toward practices that might otherwise help to forge transnational public spheres. In other words, as the gains of multicultural politics are reversed, the social conditions necessary for a contentious, identity disclosing, performative sort of politics that is transnational in orientation are undermined and eroded.
The movie *Children of Men* (2006) depicts a dystopian future in which the entire human race has become infertile. As the species winds itself towards extinction, the world’s governments collapse, leaving the United Kingdom as the sole remaining polity and last functioning social order. The country portrayed in the film is a grimy, authoritarian police-state. Vast numbers of asylum seekers, desperately seeking refuge in the last human community, are imprisoned in detention camps, surrounded by a native population that regards them as a hostile and dangerous threat. Somewhat predictably for a Hollywood picture, the last human being capable of bearing a child turns out to be one of the asylum seekers. Her quest to gain safe passage out of the country’s detention system forms the narrative driving the central plot of the film. The movie is particularly haunting because, like all the best examples of science fiction, it projects our present-day hopes and fears into a near future that is both other-worldly, yet also eerily familiar and instantly recognizable.

The movie’s fictional detention center at Bexhill resembles, albeit in a dramatically exaggerated way, the immigration detention centers presently operating all over western-Europe, devised by governments - though frequently run by private contractors – as a solution to the so-called asylum and immigration “problem.” One such place is the Yarl’s Wood Immigration Removal Center in Bedfordshire, England. According to the United Kingdom’s Home Office, centers like this one are “used for temporary detention, in situations where people have no legal right to be in the U.K. but
have refused to leave voluntarily.” They are described in official literature as rather inoffensive sorts of places, with onsite educational, health and childcare facilities. Moreover, British authorities are keen to insist that, in principle, those detained in these centers can leave at any time provided that they agree to return to their home country. Of course, the reality belied by these official proclamations is often starkly different. In fact, detainees are often trapped in these centers, engaged in protracted legal battles with the British government as they try to prove that they face grave danger if returned to their country of origin. Moreover, they are held in conditions similar to those experienced by detainees in regular prisons, those convicted of the most serious, violent crimes. It is no wonder that these conditions should prove unbearable for some. On 15 September 2005, Manuel Bravo, an asylum seeker originally from Angola, hanged himself in his cell at Yarl’s Wood so that his 13 year-old son Antonio, with whom he was detained, could be granted the asylum that Manuel himself had been denied. A final and tragic statement, it seems, of a father’s love.

The figure of the failed asylum seeker - arrested, incarcerated and ultimately expelled - stands as a symbol of the failure of the cosmopolitan dream in our age. While well-intentioned theoreticians in university seminar rooms construct social imaginaries in which borders no longer matter, the everyday practice of immigrant detention and deportation contains within it an ugly, political truth. The administrative expulsion of “failed” asylum seekers is not a side-effect of an immigration policy merely gone awry, a temporary stain on the otherwise inevitable march toward universal, political inclusion of

195 http://www.ind.homeoffice.gov.uk/aboutus/organisation/immigrationremovalcentres/
the Other. It is instead, as William Walters points out, the routine manifestation of a deeply entrenched view without which we have not yet learned to live: that all individuals in the world have a “proper” place to which they can be returned, forcibly, if necessary, by means of the bio-political authority of the state. The ascription of such a place to each human being constitutes an attempt by the architects of our world order to restrain the transnational movement of people, a force that overtaxes the compartmentalized system of nation-states into which governments would prefer to force their charges. Immigrant detention and deportation has become, in the apt words of scholars studying the phenomenon, a global regime: a calculated and hostile, official reaction to a world which increasingly seems to be spinning out of control. But this regime is not merely part of an attempt by political leaders to reassert their authority in tumultuous times. It is also a phenomenon with a distinct historical lineage and philosophical basis within the development of the politics of Western modernity. Contrary to the Kantian faith—a philosophy of history premised on the drive toward universal inclusion in an-ever expanding space of individuals rights and liberties - the historical record seems instead to suggest an enduring set of antagonisms between inside and outside, citizen and alien, friend and foe. For this reason, practices of encampment pending deportation assert themselves in our time not as an anomalous, but an integral, feature of modern politics, arising to serve very particular ends. To wit: the modern state, even the democratic one, relies upon such mechanisms of exclusion and expulsion in order to exercise what Foucault called “bio-political” control over the population within its borders. Its aim is to

systemically strip certain individuals of political agency, to deny them the kind of standing to take part in political life taken for granted by ordinary citizens.

The reasons for this are complex. On the one hand the state, like any other organism, strives to seek out and maintain the conditions required for its own survival. While the opening of a political community to migratory forces is necessitated by the demands of global capitalism – mobile, highly qualified “regular” migrants with desirable skills are required to fill gaps in the labor market which existing citizens are either unwilling or unable to fill – it is also fraught with danger from the political point of view. Immigration, particularly in the Western European context (nations that are at least nominally still social democracies), puts immense pressure on local government and welfare services, leading to social unrest, anxiety and sometimes even panic; ills for which those in political power will most likely be blamed. The state therefore has an entirely self-serving reason to control, limit and manage flows of migration in order to indemnify itself against the civil unrest that could otherwise ensue. The incentive that the state comes to have to control the population stems directly from its own officials’ desire to remain in power. This is of course not the only, the most obvious, nor even the most important reason why states limit migration into the territories over which they hold dominion. In addition, the citizens of such states themselves make particular demands upon their political officials to ensure their security, including the physical integrity of the borders that separate them from other political communities, and the protection of the economic conditions that promote their own wellbeing at the expense of outsiders.

Once the state finds itself caught between these two poles – its desire to fill gaps in the labor market with so-called “regular” migrants on the one hand, and the demands
placed upon it by a hostile public anxious to exclude “irregular” migrants on the other -the detention, encampment and expulsion of undesirables presents itself as a political solution *par excellence*. That we have become so accustomed to these practices should not blind us to their significance: what this really amounts to, as we shall see, is the everyday use of the coercive power of the state to hand large numbers of vulnerable individuals over from the realm of politics to the realm of police. Whether we can, with integrity, continue to support to these practices after an unflinching investigation into their true nature is the preoccupation of this chapter.

Those marching under the banner of cosmopolitanism in contemporary political theory tend to point toward the emergence of a global human rights culture, and correlative international legal norms on the rights of refugees (including a variety of statuses to which they might legally be entitled), to support the claim that those deprived of their home in the world now find novel ways to gain entry into political communities that might previously have denied them entry. Indeed, the international legal norms and practices surrounding the treatment of refugees in contemporary politics are extensive and well established by both customary international law and convention. However, despite the emergence of an impressive international consensus protecting such figures – inaugurated by the 1951 United Nations Convention Relating to the Status of Refugees – in their dealings with asylum seekers states routinely and purposefully exert their authority in ways that point in the opposite direction, exacting a certain sort of violence upon them. It is the purpose of this chapter to describe this violence and to determine its significance. Guided by the accounts of wordlessness to be found in the thought of Martin Heidegger and Hannah Arendt, my aim here is to offer a phenomenological
analysis of what it is to be a detained asylum seeker - to describe the kind of non-being over to which such people are delivered by the operation of state power. This kind of non-being might be described in a preliminary fashion as a sort of “political death:” an existential dislocation from political community, one that strips immigrant detainees of the kind of political agency taken for granted by ordinary citizens.

In order to understand what this consists in, it will prove necessary to adopt aspects of a somewhat radical metaphysics described by Heidegger in Being and Time and subsequently politicized – in a complicated way - by Arendt. Recourse to such an unwieldy conceptual apparatus is fraught with danger. Nonetheless, it does offer an attractive methodological strategy insofar as liberal political theorizing – with its conventional attachment to framing the issue as one of the just distribution and enforcement of individual rights and liberties – offers us an inadequate vocabulary with which to articulate the existential fate of the detained asylum seeker. Liberal thought does not satisfactorily uncover or expose the true nature of the harms involved in practices of immigrant detention. In fact, by concerning itself mostly with formal rights (which such detainees might arguably even still possess in some residual, superficial form), it risks colluding in the enforced political quietism – the political death – that afflicts the figure of the detainee. On the other hand – and this is the source of their attraction, to this author at least, for thinking about immigrant detention - in their own distinct but connected ways, Arendt and Heidegger were explicitly concerned with the spatiality of being and its

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"Non-being" is probably too strong a description for the existential condition that I have in mind. Perhaps it is more accurately described as a highly defective or pathological form of being. More about this below. Although I do not refer to these texts directly, my readings of Heidegger and Arendt has undoubtedly been influenced by William Blattner, Heidegger’s Being and Time: A Reader’s Guide (London: Continuum, 2006) and Dana Villa, Arendt and Heidegger: The Fate of the Political (Princeton: Princeton University Press, 1996).
relationship to freedom. While Heidegger himself offered no political theory on this basis (something for which Arendt took him to task), in Arendt’s case this connection was extended right through into a conception of the political itself. Both thinkers therefore help us to understand the kind of injustice perpetrated when an asylum seeker is confined by a receiving nation – a wrong that constitutes an existential “de-worlding” of such an individual at the hands of official power. Looking at things in this way – conceiving of immigrant detention as a technology of control, exercised over a particular population – allows us to bring into view the inherent politicality of the state’s involvement in the immigration and detention question.

In fact, such a reframing provides a necessary corrective to much contemporary thinking on the issue. Theorists who write about the ethics of border control and immigration, especially in the liberal tradition, tend to think of membership of a political community as a good to be distributed; one more good, for example, to be subsumed under principles of distributive justice. The theoretical task to be undertaken is presumed to be one of articulating the just principle of membership. Is the distribution of national membership by accident of birth – the everyday reality experienced by most – defensible from the moral point of view? If it is not, how else might membership be justly distributed? By common subjection to a coercive regime of legal rules and institutions? Or perhaps by co-implication in a shared historical narrative? However the principle of membership is defined, several considerable weaknesses in these conventional approaches very quickly reveals themselves.
First, the liberal method displays an immense political naivety. Joseph Carens’s essay “Aliens and Citizens: The Case for Open Borders,” a seminal work on the ethics of immigration in the contemporary literature, exemplifies this tendency. Carens takes as his starting point the idea that closed borders are by nature arbitrarily exclusionary and therefore the source of an injustice. From the moral point of view, it is entirely arbitrary that I should have been born a citizen of a prosperous, stable nation, with all the economic and political benefits that that entails, and that other people are born in quite the opposite circumstances. Among other things, the system of border control presently in operation sustains this injustice and shields it from remedy. For this reason closed borders stand in need of a defense, they must be justified. Carens then offers up several conventional justifications for closed borders and, after scrutinizing them, finds each of them wanting. The final conclusion is this: from the liberal point of view, since the reasons usually offered for closed borders are defective, borders ought instead to be open. This pattern of argument is familiar to readers of much liberal political theory: if an everyday political practice cannot be justified in the realm of ideal theory, the presumption is that it is somehow impugned as faulty. The practical recommendation is that it should therefore be discontinued. But this seems to me an inappropriate method, since it is premised on an abstraction away from concrete political life in favor of a view from nowhere, one with its own set of (hidden) commitments. That the practice of border control is impugned on liberal grounds tells us only that: that it is impugned on liberal grounds. Such a conclusion reveals little about the structures of power, surveillance and

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control in which border control systems are enmeshed and of which they form a part in the politics of mastery over everyday, bare life.

Second and related, in all such approaches the state as a coercive entity appears on the scene far too late. Emerging at the end of the theorists’ reflections, the state appears at the last stage as nothing more than the authority that ultimately grants a passport, once the right principle of membership has been decided upon. This methodological misstep betrays an ignorance of another crucial feature of contemporary politics – the state *always* looms large over its population as a coercive institution with its own interest in stabilizing migratory flows across the boundaries of the territory over which it rules. In fact, the state possesses an impressive array of bio-political tools that it deploys in service of this aim. The use of one of these in particular – the detention of would-be immigrants pending the adjudication of their claim for political asylum – is the central concern of this chapter. Working within the realist tradition of political theorizing then, my aim here is instead to begin from the first political fact: there is such a thing as the coercive entity known as the state. When we are puzzling our way through the web of issues surrounding the ethics of immigration, we should place this first fact about politics at the beginning of our reflections. We must consider: what is this thing called the state doing here? What is it trying to achieve, and what means is it using to pursue its aim? Are those means just? What is the nature of the detention system and what role does it serve in a liberal democracy?
To be outside of the polis

We find ourselves caught between a past that limits the possibilities of the present and a radically different future that, even though it has not yet come to pass, nonetheless insinuates itself into our age. On the one hand, the international system of sovereign nation states bequeathed to us by the Treaty of Westphalia shows a stubborn persistence into the present, despite repeated proclamations of its demise. The vast majority of us live out our lives in a national community ruled by a state that, in the classic Weberian definition, upholds the claim to the monopoly of the legitimate use of physical violence to maintain order. In the ordinary course of things this claim is upheld within a tightly circumscribed territorial boundary. In fact, part of the state’s very raison d’etre is the policing of the integrity of that boundary, since order within the territory is premised on security against the disorder that obtains without. The state is still ostensibly that entity responsible for organizing and executing the will of a territorially bounded group of people, and it is to those people that it owes its legitimacy (since its power derives directly from, and is authorized by, them) and fidelity. On the other hand, various processes have been set in motion in the modern world that threaten to usher in an age in which the state loses control over its borders and fails to command the authority that it once had to determine the contours of that boundary. Two contemporary phenomena serve well to illustrate this peculiar development: instances of interference in the internal affairs of another sovereign state undertaken as part of an interventionist foreign policy (whether for humanitarian or other, more nebulous reasons), and the construction of supra-national political regimes, like NATO, the UN and the EU, that limit or pool the sovereignty of member states and shift political decision making upwards to technocratic
elites that are not democratically accountable to citizen-publics below. We witness the conflict between these two ages unfold before our very eyes; cycles in which nationally circumscribed boundaries are attenuated and then intensified, fortified and then weakened, sovereignty asserted then subverted. One group of people in particular exemplifies this in-betweeness as it is inscribed into the very manner of their existence. They are those who have been forced outside of the protective boundaries of their own state and thrown into the space between nations, a group who, to borrow a phrase from Arendt, have become symptomatic of our age: refugees.\footnote{Arendt was of course speaking more specifically about the stateless though I think that her analysis maps on well to the more general category of the refugee and, as will become clear as we proceed here, to the detained asylum seeker.}

A recent report by the UN refugee agency states that of the 43.7 million people in the world forcibly displaced by violence, persecution and conflict, around 25.2 million people are currently receiving assistance from the Office of the United Nations High Commissioner for Refugees (UNHCR). Contrary to the hyperbole of Western tabloid newspapers, the vast majority – four fifths – of the world’s refugees are hosted in developing countries.\footnote{United Nations High Commissioner for Refugees, Global Trends 2010 (Geneva: UNHCR, 2011), 2. \url{http://www.unhcr.org/4dfa11499.html}} By the end of 2010, it was estimated that around 12 million people had been thrown into that most extreme category of displaced persons – the stateless.\footnote{Ibid., 5.} While the UNHCR largely conceives of its role as aiding in the return of displaced persons to their homeland, the protracted nature of many of the world’s political and humanitarian crises has in fact led to a continual decrease in the number of refugee returns since 2004.\footnote{Ibid., 5.} The list of countries accounting for the top-10 highest sources of refugees contains few surprises, reflecting as it does fairly well the most
notorious violent conflicts of contemporary geo-politics: Afghanistan, Iraq, Somalia, Democratic Republic of Congo, Myanmar, Columbia, Sudan, Vietnam, Eritrea and China. The tumultuous and violent circumstances that force people to migrate across great, perilous distances takes us back to the task of conceptualizing matters of political inclusion and exclusion in the contemporary global order. But rather than try to determine the principle of just membership here, as most theorists try to do, I’d like to focus our attention instead on the increasingly desperate condition of those who have been forced outside of the protective boundaries of their home state— for example because of famine, war or ethnic cleansing - and who seek entry into another state for the purposes of asylum and resettlement.

Although the detention of refugees and asylum seekers by a host state has constituted a political reality for some time now (despite an international legal framework which has also long discouraged such practices), in recent years government’s have increasingly turned to the practice of detention as a seemingly efficient means to deal with people who arrive at their borders seeking entry. This is especially the case in Western Europe, a political arena in which the pressures of migration have been felt extraordinarily keenly, just at the very same moment that the European Union’s expanding membership has lurched unsteadily toward ever-greater political and economic integration. It repays our attention to consider the practice of immigrant detention in this context for the following reason. On the one hand, the European Union appears to be the site of an intriguing political experiment worthy of note, namely the self-conscious construction of a *sui generis* polity – one committed to the free movement of people across the borders of the nation states that comprise its membership. The

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205 Ibid., 15.
mobility permitted under such a regime - embedded in the legal instruments and international treaties that comprise the nearest thing it has to a constitution - suggests a relaxation of the nation states’ historic right to draw sharp boundaries around itself, a transformation in the exercise of territorial sovereignty. Anyone in possession of a European Union passport will be familiar with the everyday, surface manifestations of this transformation: shorter (or no) lines at airport immigration desks, the ability to move freely within the Union to pursue one’s career without the need to obtain visas and permits and – most radically of all - rights of political participation in a foreign territory of which one is not actually a citizen (provided that one has met certain minimum requirements of residency).

Yet on the other hand, the freedom of movement granted to EU passport holders has not been extended to those who are (at least nominally) citizens of states outside of the Union (“third-country nationals”). In fact, quite the opposite is true; “irregular migration” – a broad term used to describe all manner of undesirables - by third-country nationals into the EU is dealt with ostensibly by a policy of “return and readmission [to their home state].” While the European Council states in its official literature that “[a] humane and effective return policy — in line with the Charter of Fundamental Rights and based on the principle of giving preference to voluntary return — is essential to a comprehensive and sustainable migration policy,” third country nationals awaiting return are dealt with by a system of detention and expulsion that is anything but humane. In effect, what looks like a relaxation of the exercise of territorial sovereignty within the Union has merely served to reaffirm the impermeability of the boundary surrounding it:

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new possibilities for inclusion have merely given rise to new technologies of exclusion. Let’s pause to consider the British case in a little more detail to illustrate the point.

The statutory instruments empowering the British government to detain non-citizens form a complex web of immigration provisions adapted and reinterpreted over several decades to reflect the turbulent and ever-changing realities of global migratory patterns. These powers are surprisingly broad and vague, leaving immigration officials with a great deal of discretion, creating the kind of legal regime that is difficult to navigate. The power to detain for immigration control purposes was first laid down in the Immigration Act 1971 and later reaffirmed with some modification by the Asylum and Immigration Act 2002.  

An individual who does not possess citizenship of the UK or another EU member state may be detained either upon entry into the country or at any later stage for the purposes of a “determination” as to whether they have the right (“leave”) to remain in the country. Such leave may be granted in circumstances in which the individual concerned satisfies the criteria for refugee status as laid down in the UN Convention.

The 2002 Act officially changed the name of the centers at which detainees are held from “Immigration Detention Centers” to “Immigration Removal Centers,” which indicates very bluntly the aims of UK immigration policy as far as third-country nationals are concerned. However, the Act also states that an individual will not be “removed” (deported) while his or her asylum claim, or an appeal following the refusal of such a

207 See Immigration Act 1971, Schedule 2, Para 16 (“[a] person who may be required to submit to examination under paragraph 2 above [i.e., any person who arrives in the UK by ship or air] may be detained under the authority of an immigration officer pending his examination and pending a decision to give or refuse him leave to enter”) and Nationality, Immigration and Asylum Act 2002, s. 62.
claim, is pending.\textsuperscript{208} Given that the part of the British legal system that deals with asylum claims is, somewhat predictably, chronically underfunded and heavily oversubscribed, these legal proceedings are often greatly protracted, lasting into months or even years. What is so troubling about the detention of asylum seekers in this context is that although some of these individuals may have committed minor infractions of immigration regulations (overstaying student visas, for example), many have committed no criminal wrong at all and have simply entered the country in order to claim asylum. Nonetheless they are detained for lengthy periods in prisons, or in prison-like centers.

Among the many objectionable features of immigrant detention, one stands out in particular, suggesting a way forward for theoretical inquiry. In the small but burgeoning literature on the subject – for example, in reports by human rights organizations as well as scientific articles in medical journals – the same words appear over and over again to describe the recorded sentiments of those who have been detained. Researchers frequently document feelings of hopelessness, fear, chronic depression, despair, humiliation, disrespect, worthlessness and suicidal ideation (often only tempered by the plea “I won’t do it, but only for the sake of my child”). Here are some representative quotes given to researchers at Amnesty International by those detained in the British immigration system: “I felt like an animal,”\textsuperscript{209} “I felt ashamed to be in detention and hated the environment,”\textsuperscript{210} “I never had mental problems before being detained in the UK. I felt like I was losing my mind,”\textsuperscript{211} “I asked for asylum and ended up in prison. I

\begin{footnotes}
\footnotetext{208} ss. 77-78.
\footnotetext{210} Ibid., 19.
\footnotetext{211} Ibid., 21.
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don’t understand this … I felt dead,” 212 “I am a human being. I had a very bad time. I try to be happy. I tried to kill myself many times in detention. I am not dangerous,” 213 “I was not treated with respect and was frightened,” 214 “I’m not a criminal, I’ve done nothing wrong,” 215 and, one of the most heart breaking of all: “I felt so stressed. It’s horrible being in detention especially with a child. My child wanted to kill himself he said ‘mummy we’re in prison’.” 216 Indeed, psychiatric evidence detailing the appalling effects of incarceration on detainees’ mental health proved so persuasive to legislators in Australia that they were compelled to overturn an act which had previously mandated the detention of all asylum claimants upon entry into the country. Nonetheless, detention practices remain widespread, particularly in the European Union.

These accounts would seem to indicate that a very particular, psychological harm is inflicted upon detainees, one that goes beyond the deprivation of physical liberty and shakes their very being to its core. What might this be? We can begin to get at it by noticing that reports of a sense of dislocation or homelessness seem to recur in the accounts given by detainees. Already dislocated from their actual, literal homeland by some turbulent social strife, they find themselves detained and forced into an elongated state of temporaryness. This state discloses a particularly distinct form of existential anxiety. To give a more elaborate account of what this harm is, we need to turn to elements of Heidegger and Arendt’s thought for further elucidation.

212 Ibid., 22.
213 Ibid., 25.
214 Ibid., 29.
215 Ibid., 30.
216 Ibid., 26.
Heidegger on Being as Dwelling and Anxiety

In this section, I offer an interpretation and defense of two ideas that are central to Heidegger’s thought: (a) the inherent ‘spatiality of being’ and (b) anxiety as a mode of being that is distinctly significant in human affairs. My suspicion is that, taken together, these conceptual tools will help us to develop more concretely an account of the kind of harms perpetrated against immigrant detainees in the contemporary political context. Of course, those who remain unconvinced of the interpretation of Heidegger’s thought that I offer are unlikely to accept the applicability of his ideas to the present context. Unfortunately, there may be no way around this. But I will try to build my case by describing what I find compelling in Heidegger’s work. I will start with the essay “Building, Dwelling, Thinking,” and then proceed backwards to the earlier to Being and Time. Heidegger’s later writings on dwelling help us to understand some of the more obtuse ideas laid down in the earlier work. Indeed, I will try to lay bare the connections between them. The sections that follow are therefore somewhat necessarily exegetical. I don’t believe that Heidegger is as inaccessible as is often thought, provided that he is approached in the right way. The analysis that follows is intended to convince the skeptical reader that this is the case.

According to Heidegger, “man dwells poetically.” This evocative phrase is meant to suggest two important things: first, that it is an essential feature of man’s being is that he is the sort of creature who dwells. Second, he does so in a manner that is peculiar to him qua man - that is to say, he does so poetically. Here, I am chiefly concerned with the first part of this claim: that our being is such that we are the sorts of

217 I shall explain what this cryptic phrase means below.
218 Martin Heidegger, “… Poetically, Man Dwells…,” in Philosophical and Political Writings, ed. Manfred Stassen (New York: Continuum, 2003), 266.
creatures who, fundamentally speaking, dwell. In order to get at this idea, Heidegger begins the essay “Building Dwelling Thinking” by posing the following series of questions: What is building? What is dwelling? What is the connection between them? In the course of constructing a response, he offers a genealogy of the Old High German *bauen* (“to build”), uncovering its connection with the word *bin* in *ich bin* (“I am”). This is through *buan* (“building” or “dwelling”), whose sense continues into the German word *Nachbar* (“neighbor”), or the *Nachgebauer*, (“the near-dweller”) which, in turn, reaches into “*bauen, buan, bhu, beo, […]* our word *bin* in the versions: *ich bin*, I am, *du bist*, mean I dwell, you dwell.”219 These connections seem to suggest that dwelling is intimately tied to being. This might at first appear strange to us, but only because of historical transformations in the use of language that have obscured this fundamental connection. As Heidegger puts it: “The way in which you or I am, the manner in which we humans *are* on the earth, is *buan*, dwelling. To be a human being means to be on earth as a mortal. It means to dwell.”220 It is not that we dwell because we are builders of things (spaces, locations, houses etc.); rather we build because we dwell.

But what does it mean to *dwell*? Again Heidegger looks to language for a clue:

The Old Saxon *wuon*, the Gothic *wunian*, like the old word *bauen*, means to remain, so stay in a place. But the gothic *wunian* says more distinctly how this remaining is to be experienced. *Wunian* means to be at peace, to be brought to peace. The word for peace, *Friede*, means the free, *das Frye*; and *fry* means preserved from harm and danger, preserved from something, safeguarded. To free actually means to spare.221

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220 Ibid., 349.
221 Ibid., 350-351.
To dwell is to remain in a safe place at peace, but it is not merely a passive activity. Beyond ‘staying with things’ it connotes an active ‘clearing,’ ‘making-way,’ ‘safeguarding,’ or ‘freeing.’\textsuperscript{222} This ‘making room,’ is achieved through building. Here we shall have to help ourselves to some more Heidegger-esque: to build is to gather together things which are merely in space in order to construct a locale, a bounded horizon in which “something begins its essential unfolding.”\textsuperscript{223} The example that Heidegger uses is that of a bridge, which swings over the stream “with ease and power.”\textsuperscript{224} The bridge gathers together the earth and the banks into a space or locale that admits mortals to conduct their business and allows them to pass. Space – that is, in the italicized sense - is not merely an environment of physical objects punctuated by the distances between them, nor is it those distances between objects. As locale, it emerges only when it is consciously cleared, given over and built by humans for the purposes of their dwelling in and among things. Heidegger is keen to reject the idea that there is a physical environment of space into which man – separate and apart – intrudes: “space is not something that faces man. It is neither an external object nor an inner experience.”\textsuperscript{225} To speak of man is already to speak of a creature embedded in spaces of significance, in which he dwells and through which he lives and passes. In a discussion that hints at themes to be taken up below, Heidegger asserts that even in instances of depression – which indicate a “loss of rapport” with things in the world – we are still staying with things, albeit in a deficient and problematic way.

\textsuperscript{222} Ibid., 351.
\textsuperscript{223} Ibid., 356.
\textsuperscript{224} Ibid., 354.
\textsuperscript{225} Ibid., 358.
Dwelling involves the bringing forth through building (literally from the Greek *techne*, “letting appear”), the preserving and the maintaining of those elemental structures in which life processes may unfold: it is how we make a home for *being*. In fact, dwelling is “the basic character of Being.” But this formulation remains mysterious. In order to clarify what this means we shall turn to *Being and Time* (*BT*), since this is where Heidegger’s famous description of being as *dasein* appears. Since dwelling is part of the basic nature of *dasein*, and hence the being of human beings, an explication of what *dasein* is – a central yet notoriously complex feature of Heidegger’s thought - will help throw light back onto the concept of dwelling and indicate its significance in human life.

In the limited space afforded here, I will give a brief synopsis of the major themes and concerns of the first section of *Being and Time*. To pre-empt what follows further below, this will help us to understand the particular form of *anxiety* that an individual experiences when they are denied the ability to dwell, when *dasein* is disrupted in a particular way.

Heidegger opens *BT* with a description of the phenomenological method. It is worth pausing to consider this here, since an understanding of Heidegger’s phenomenology will help to demystify some of the more difficult portions of the text. Indeed, on Heidegger’s account, being is *only* properly accessible through phenomenological study. It should therefore come as no surprise that what he has to say about being will remain mysterious unless proper attention is given to his choice of method. The essence of phenomenology is captured in the famous slogan, to which Heidegger himself refers, “to the things themselves!” Since the aim of Heidegger’s work is to uncover the meaning of being, it must be the case that *being* is the thing itself to be

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confronted and made the object of study. All entities have their own sort of being. The sort of being which is peculiar to human beings (distinct, for example, from the sort of being that belongs to a table or chair) is what Heidegger calls *dasein* or, literally, ‘there-being’ (I will say more about the meaning of the ‘there’ part below).

So *dasein* is just a term of art that means *our* being, that is, the sort of being peculiar to us as human beings, which is the phenomenon Heidegger will be studying. A phenomenon, in the phenomenologist’s – sense – is “something proximally and for the most part [that] does not show itself at all: it is something that lies hidden … but at the same time it is something that belongs to what thus shows itself.”227 Phenomenology means “to let that which shows itself be seen from itself in the very way in which it shows itself from itself.”228 The phenomenon must be exhibited, it must be accessed and presented in a way that is specifically keyed to its nature and, in turn, interpreted. Phenomenology is at base “a hermeneutic in the primordial signification of this word, where it designates this business of interpreting.”229 Since *dasein* is the sort of thing that has become obscured, so much so that “it becomes forgotten and no questions arise about it or its meaning,”230 it is a phenomenon that is ripe for phenomenological study. The phenomenology of *dasein* has to be keyed to the sort of thing that *dasein* itself is, since inquiry “as a kind of seeking, must be guided beforehand by what is sort.”231 Therefore, we proceed with an *a priori* sense of what *dasein*, factically speaking, is, and work it up into a more elaborate account. Our pre-theoretical understanding of *dasein* helps us both

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228 Ibid., 58.
229 Ibid., 62.
230 Ibid., 59.
231 Ibid., 25.
to formulate the question of the meaning of being properly, and to take our first steps towards its resolution.

Where to begin? We take our cue from the fact that in asking about *dasein*, we are asking about the being of a particular entity and in this case, that entity is *us*. We are trying to make ourselves transparent to our own inquiry. This leads Heidegger to the foundational insight that “Dasein … is ontically distinguished by the fact that, in its very Being, that Being is an issue for it.”²³² What distinguishes *dasein* from other sorts of being is that it is preoccupied by the question of its own existence. In fact, the preoccupation that *dasein* has with this question is constitutive of its being, with the consequence that *dasein* comports itself towards the question of its own existence in a peculiar, and peculiarly significant, way.²³³ “Dasein always understands itself in terms of its existence – in terms of a possibility of itself: to be itself or not itself.”²³⁴ In other words, *dasein* has a view about its being – and a relationship to its manner of being in the world – in the way that a table does not, and cannot, have toward its own existence. In fact, *dasein* comports itself (takes a stand) towards its own existence – it can either take hold of itself and safeguard its possibility of being as its “ownmost” or most authentic, or it can fail, neglect itself, display a lack of concern for itself and become inauthentic. Being is at issue for *dasein*, in precisely because it is constantly preoccupied by being as a problem for it and this problem has a temporal dimension. *Dasein* endeavors to live its possibilities at any given moment by projecting itself into a possible future as it moves through the world.

²³² Ibid., 32.
²³³ Ibid., 32.
²³⁴ Ibid., 33.
In order to conduct a phenomenological study of being, Heidegger states that we must begin by considering a fundamental structure of *dasein*: being-in-the-world. Indeed, “not until we understand Being-in-the-world as an essential structure of Dasein can we have any insight into Dasein’s existential *spatiality*.“\(^{235}\) This spatiality consists in *dasein*’s dealings with its immediate surroundings and as such, *dasein* must be studied in its “average everydayness,” in its involvement with its normal environment. The thought that *dasein* is, in some complex and important fashion, already *in* a world comes ostensibly from our pre-theoretical familiarity with our own manner of existence. The world as a place in which we are ‘in,’ a “primordial” and “constant” whole, is an *a priori* structure. That is why da-sein is literally ‘there-being’: we find ourselves *there*, in a world with all manner of other kinds of beings, human and non-human. *Dasein* recognizes other *dasein* in the world, while non-human beings merely appear as “present-at-hand:” they are “alongside” *dasein* but they are not “in” a world in the strong sense in which *dasein* is. *Dasein*’s “in-ness” is akin to *absorption* within a world, a world with which it may become fascinated.\(^{236}\) For *dasein* to be-in-the-world means that *dasein* *dwells* in the world.

In its average everydayness, *dasein* is in a world in which it encounters other *things* that are “present-at-hand.” These things make up an apparatus or totality that Heidegger calls *equipment*. Equipment comprises tools that are “ready-to-hand:” we instinctively understand how to use them or interact with them (this is part of the “pre-phenomenal basis for our understanding of *dasein*.“\(^{237}\)). Equipment is “essentially ‘something-in-order-to,’” such as serviceability, conduciveness, usability,

\(^{235}\) Ibid., 83.  
\(^{236}\) Ibid., 80.  
\(^{237}\) Ibid., 97.
manipulability.” It is mainly experienced (or “dealt with”) not as a tool, but as a component part of that which is to be produced, i.e. work. The structure of this equipmental totality is determined by a series of interlinked assignments and references that prescribe how, in what ways and to what end equipment is put to use. This contextualizing background, or web of meaning, only becomes apparent to us when it breaks down, for example “when an assignment has been disturbed – when something is unusable for some purpose,” or when the ready-to-hand is discovered in a “deficient mode of concern” at which point “the world announces itself.” On the other hand, when it is functioning properly, dasein’s immediate region has “the character of inconspicuous familiarity.”

We are now in a position to summarize being-in-the-world as “a non-thematic circumspective absorption in references or assignments constitutive for the readiness-to-hand of a totality of equipment.” Dasein is “primordially spatial.” The world is the space through which dasein moves, in which it is immediately immersed and in which it dwells, surrounded by equipment. But dasein itself is also spatial in an even more sophisticated sense. First, “space” is not merely a pre-given fixture in the world, rather it is “cleared,” “opened-up” or “made-room-for” by dasein itself. When dasein encounters entities in the world, it makes room for them. Second, dasein exists in a state of deseverance. This means that it strives to de-sever: recognizing that it is distinct and separate from other beings, that the ready-to-hand is experienced as far, it nonetheless

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238 Ibid., 97.
239 Ibid., 105.
240 Ibid., 137.
241 Ibid., 107.
constantly tries to conquer its remoteness from things in the world, because “in dasein there lies an essential tendency towards closeness.”

Thus *dasein* is not only “thrown” into world of assignments, references, signs and equipment - it is, in a constitutive sense, also in a world *with other dasein*. It is equiprimordially “being-with.” As Heidegger puts it:

… because Dasein’s being is being-with, its understanding of Being already implies the understanding of Others. This understanding, like any understanding, is not an acquaintance derived from knowledge about them, but a primordially existential kind of Being, which, more than anything else, makes such knowledge and acquaintance possible.

While solicitude is indeed a “deficient” or “indifferent” mode of being, *dasein* is nonetheless necessarily individuated. This leads to a separation between one’s own *dasein* and that of others, an undifferentiated mass forming ‘publicness.’ Heidegger calls the public mass of others the “they” and his description of it sounds quite disparaging: it is mediocre (“the they maintains itself factically in the averageness of that which belongs to it”), it levels down (“… it keeps watch over everything exceptional and thrusts itself into the fore. Every kind of priority gets noisily suppressed”) and it obfuscates (“by publicness everything gets obscured, and what has thus been covered up gets passed off as something familiar and accessible to everyone”). It is hard to know how to interpret these claims: while the public does not seem to fare too well in Heidegger’s estimation, *dasein* wouldn’t be intelligible without it. The public is a reservoir of social normativity: a framework comprising all of those mores, norms, customs, behaviors and concrete modes of being that make *dasein* and its actions intelligible.

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242 Ibid., 140.
243 Ibid., 161.
244 Ibid., 165.
What Heidegger seems to be suggesting, however, is that its influence on \textit{dasein}'s being can become overwhelming, in which case \textit{dasein} is no longer being authentic, no longer its “ownmost.” Instead it is acting out a role, conforming to the being of others. At its height, this can lead to an absorption within the they, which causes “something like a fleeing of Dasein in the face of itself - of itself as an authentic potentiality-for-Being-itself.”\footnote{245} Conformity spills over into an overwhelming conformism.\footnote{246}

With this brief synopsis of the nature of \textit{dasein} in place, we can finally introduce Heidegger’s description of anxiety. This description is ambiguous. On the one hand, anxiety appears to be a basic state of mind of being – a characteristic mood - and an unavoidable one, which finally and ultimately discloses “the world as world.”\footnote{247} On the other hand, it is clearly a \textit{deficient} mode of being: it is a pathological state that cripples \textit{dasein} and hinders its ability to be. Heidegger begins by distinguishing anxiety from fear (though they are “kindred phenomena”\footnote{248}). Fear is a reaction that \textit{dasein} has to an object within the world that causes it to be fearful. But anxiety does not have this character: it is not a reaction to something in the world, but a feeling about some problem with the world \textit{itself}. Heidegger describes this peculiarity of anxiety as follows: “That in the face of which one is anxious is completely indefinite,” “nothing which is ready to hand or present-at-hand within the world functions as that in the face of which anxiety is anxious,” and “what threatens is nowhere.”\footnote{249} Instead, that which causes \textit{dasein} to be anxious is a threat to its “authentic potentiality-for-Being-in-the-world.”\footnote{250} Anxiety is a

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\footnote{245}{Ibid., 229.} \footnote{246}{I’d like to thank Andy Blitzer for helping me to understand this point.} \footnote{247}{Ibid., 232.} \footnote{248}{Ibid., 230.} \footnote{249}{Ibid., 231.} \footnote{250}{Ibid., 232.}
state in which one can no longer see oneself as a being with a potentiality projected into the future. Ironically, it is only when *dasein* is thrown back on the radical possibility of its non-being, for that is what one is forced to confront in a state of anxiety, is the true nature of its being – as thrown and projected into the future, something that it can be of its own accord and authentically, or not as the case may be – revealed most concretely. As he puts it:

Anxiety makes manifest in Dasein its Being towards its ownmost-potentiality-for-Being – that is, its Being-free for the freedom of choosing itself and taking hold of itself. Anxiety brings Dasein face to face with its *Being free for* the authenticity of its own being, and for this authenticity as a possibility which it always is.251

Even more interesting is Heidegger’s description of the mood that is characteristic of anxiety: one feels ‘uncanny,’ which is “the existential ‘mode’ of the not-being-at-home.”252 When *dasein* is consumed by anxiety, it is no longer at home in the world as it should be. The world has become strange, hostile, inhospitable and alien, no longer able to offer a framework of intelligibility, a contextualizing backdrop, of the sort that previously made being possible. *Dasein* is wrenched away from its absorption in the world precisely because that world no longer makes any sense. This is tantamount to a sort of existential death (although this is not what Heidegger himself calls it): a confrontation with the most radical possibility of all being: non-being.

*Politicizing the world: Arendt on the Stateless and the Right to Have Rights*

Heidegger was completely uninterested in offering any kind of political theory on the basis of his account of *dasein*. It was simply not his concern to explore the political

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251 Ibid., 232-233.
252 Ibid., 233.
implications of the spatiality of being. But in light of her desire to defend a politics of appearance – in which the disclosure of one’s identity in public space is a central feature - it does not seem implausible to suggest that Arendt was influenced by Heidegger’s account of dasein as Being-in-the-world, and sought to extend it into a theory of politics. In contrast to Heidegger’s thought that man dwells poetically, Arendt seems to have drawn the conclusion instead that, in fact, man dwells politically.

Of course, as we have seen, Heidegger’s views on publicness are suffused with condescension (since it levels down, seduces dasein into conformism and inauthentic being), while Arendt thought that the public realm was, on the contrary, the place in which one revealed one’s authentic self, a self capable of political action and the practice of virtue. Furthermore, they each defended very different ontologies, albeit while seemingly sharing the conviction that it is more appropriate to discuss the human condition, i.e. the condition or context in which individuals find themselves, rather than attempt to give a list of characteristics that define what an individual a human being is (which is, as Arendt famously once said, to attempt to jump over one’s own shadow). Yet there are parallels between their accounts that are striking. In what follows, I show how Arendt politicizes Heidegger’s conception of dasein as being-in-the-world by shifting our attention to the centrality of political space in our lives. On Arendt’s reckoning, to be forced from political space – for example by becoming a refugee or by being interned in a camp - is to suffer the gravest injustice. It is to be deprived of the right to have rights.

We saw in the last chapter that Arendt describes the public sphere as that place in which individuals leave behind their private and home life and come together to disclose their authentic identities under the bright lights of publicity. This is the basis of her
‘aesthetic’ account of politics. Totalitarian regimes were not unaware of the threat posed to their rule by a free and unfettered public sphere and for this reason they set out to destroy it. But this was not the only threat connected to political space that Arendt discerned. She was acutely aware not only of the consequences of the intentional destruction of political space, but also of the costs associated with expulsion from it, exemplified in the plight of the stateless. She portentously observed in the middle of the twentieth century that statelessness had emerged as one of the chief threats to human-kind.\(^{253}\) Keenly informed by her own experiences as a Jewish refugee, Arendt rightly noted that this threat arose not simply as a by-product of the convulsive events of the age, of the Holocaust and of the Gulag. Rather, it was revealed by those events to be a constitutive feature of the way in which the modern world had been organized. It was, in other words, symptomatic of a threat concealed beneath the architecture of the modern system of nation-states. This threat had its origins in the fusion of the rights of Man with membership of a particular political community, a historical phenomenon facilitated by the rise of nationalism. As we shall see, this fusion has rendered the later idea of a global human rights culture highly problematic.

In *The Origins of Totalitarianism*, Arendt offers a highly suggestive historical narrative that sheds light upon the vexed relationship between nationalism and the state in modern Europe. It is so suggestive, in fact, that I will recount it here in some detail. According to Arendt, the modern state had derived its structure from “centuries of

\(^{253}\) The literature on the connection between Hannah Arendt’s thought and contemporary debates about citizenship, nationalism and immigration is now burgeoning. See, for example, Patrick Hayden, *Political Evil in a Global Age: Hannah Arendt and International Theory* (London: Routledge, 2010).
monarchy and enlightened despotism” and as such had emerged as a legal, rational entity that served to protect all of the inhabitants of a particular territory, no matter what their nationality. But a rising national consciousness interfered with the functions of the state: as the people developed a sense of themselves as a people, with a distinct national identity, they demanded that the state protect their interests at the expense of those who did not share in it. This had the following consequence:

In the name of the will of the people the state was forced to recognize only “nationals” as citizens, to grant full civil and political rights only to those who belonged to the national community by right of origin and fact of birth. This meant that the state was partly transformed from an instrument of law into an instrument of the nation.  

Arendt calls this the “conquest of the state by the nation.”  

Facilitated by the collapse of absolutism and the rise of a population segmented into new classes (each of which had their own interest and therefore had to be linked by some common identity), this ethic found its expression in nationalism, a cement that successfully bound together “a centralized state and an atomized society.”  

Nonetheless, the state and the nation were engaged in a “secret conflict” which came to a head with the Declaration of the Rights of Man following the French Revolution: “[t]he same essential rights were at once claimed as the inalienable heritage of all human beings and as the specific heritage of specific nations.”  The outcome was that human rights were only enforceable as national rights, and the state lost its legal, rational character, becoming instead the

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255 Ibid., 296.
256 Ibid., 296.
257 Ibid., 298.
258 Ibid., 297.
defender of a mythic union called *the nation*. The most extreme “romantics” now saw it as “the nebulous representative of a national soul which through the very fact of its existence was supposed to be beyond or above the law.” In some cases, legal institutions and territorial limits restrained the nationalist spirit, but in others (particularly the pan-movements that spread across the peoples of Austria-Hungary, Czarist Russia and the Balkan countries), where there was no history of such institutions and the people had only themselves and their language to look to for cultural resources, a tribal nationalism took deep root. If in Western Europe nationalism was a source of social integration and emancipation, in the pan-movements it had the character of “a religion and conception of holiness or chosenness,” one in which man received his value from membership and if he were cast out, he would enter a “metaphysical homelessness.”

The spread of nationalism in Europe formed the backdrop to the events of the early and mid-twentieth century that shattered the harmony of the system of European nation states. The equation of the rights of man with the rights of the citizen, the result of the people-territory-state triad, explains why the crisis that accompanied the emergence of the stateless was so severe. With the breakup of the multinational states of Russia and Austria-Hungary, and the gruesome civil wars which marked the inter-war period, “two victim groups emerged whose sufferings were different from all others in the era between the wars … they had lost those rights which had been though of and even defined as inalienable, namely the rights of man.” These were the stateless and the “minorities.”

The Minority Treaties are usually seen as a landmark on the road toward a human rights culture enshrined in international law, since they were supposed to confer basic

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259 Ibid., 297.
260 Ibid., 299, 301.
261 Ibid., 343.
rights upon inhabitants of the territory’s of signatories without reference to nationality. But with her perspicacious skepticism, Arendt saw that these treaties – “which all governments (except Czechoslovakia) had signed under protest and never recognized as law,” served to force vulnerable individuals to live under a law of exception: to be formally recognized as an anomaly as compared with regular citizens who enjoyed full membership nation-states. As she put it:

The Minority Treaties said in plain language what until then had been only implied in the working system of nation-states, namely, that only nationals could be citizens, only people of the same national origin could enjoy the full legal protection of legal institutions, that persons of different nationality needed some law of exception until or unless they were completely assimilated and divorced from their origin.

Those who sought to enforce rights via the Minority Treaties were thus recognized as an aberration to the otherwise stable system of nation-states, albeit a permanent one that now had to be dealt with by an international law of exception. The subsequent creation of succession states to satisfy demands for national self-determination arguably did not help: it simply reinforced the notion at the that each nation was entitled to its own state, that the emancipation of man was only possible through the exercise of national sovereignty. The system of nation states had failed to prevent millions of individuals from being thrown into dire conditions that arose when they were deprived of their home in the world, yet it was thought that the solution to the problem was the creation of more of the same.

While the minorities were still able to appeal to some legal body for assistance, the truly stateless – exemplified by the Jewish refugees - were thrown into the most

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262 Ibid., 343.
263 Ibid., 350-351.
catastrophic condition. Literally without a home, the stateless were welcomed nowhere and “once they had been deprive of their human rights they were rightless: the scum of the earth.”  

As Arendt recognized, it had always been part of the coercive state’s prerogative to control matters connected to emigration, settlement and expulsion, but until the arrival of totalitarianism, its power to do so had historically been restrained by constitutional government and “practical consideration and silent acknowledgement of common interest.” Once these restraints were no longer in place, the sheer number of stateless persons overwhelmed the international system. Repatriation was impossible because no state wanted the refugees back. Naturalization proved to be of no use because procedures for naturalization were simply ill prepared for the huge number of claimants thrown up by the European catastrophe. Arendt did not fail to notice that there was a poignant symmetry in the measures taken by totalitarian and non-totalitarian governments; both involved detention and encampment. Totalitarian regimes created concentration camps while non-totalitarian regimes created internment camps. An anomalous space was devised to house an anomalous figure.

Arendt summarizes the theoretical point of interest to be drawn from this historical narrative as follows: “[t]he Rights of Man, supposedly inalienable, proved to be unenforceable – even in countries whose constitutions were based upon them – whenever people appeared who were no longer citizens of any sovereign state.” When Arendt writes that the stateless are symptomatic of our age, what she means is that it was only when large numbers of people were thrown outside of the national context in conditions

264 Ibid., 341.
265 Ibid., 354.
266 Ibid.,360-362.
267 Ibid.,370, 372.
of political emergency that we became aware of the import of the right to have rights, and the historical grounding of this status in membership of a national community: “man had hardly appeared as a completely emancipated, completely isolated being who carried his dignity within himself without reference to some larger encompassing order, when he disappeared again into a member of a people.”

This is the paradox of “inalienable” human rights and it arises because of their peculiar historical origins in the western philosophical context. According to Arendt, rights were first the product of, and guaranteed by, spiritual and religious sources drawing upon natural law. When they were re-born as the Rights of Man, “no authority was invoked for their establishment; Man himself was their source as well as their ultimate goal.” It was only natural that their basis would therefore be located in the politics of the nation state, expressed in the ideal of national self-determination and self-government. In this new situation, “‘humanity’ has in effect assumed the role formerly ascribed to nature or history [which] would mean in this context that the right to have rights, or the right of every individual to belong to humanity, should be guaranteed by humanity itself;” that is, guaranteed politically. This leads Arendt to express a deep anxiety about whether this is even possible in the global context in the absence of a world government, for the idea “transcends the present sphere of international law which still operates in terms of reciprocal agreements and treaties between sovereign states; and, for the time being, a sphere that is above nations does not exist.”

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268 Ibid., 369-370.
269 Ibid., 369.
270 Ibid., 379.
271 Ibid., 379.
Although more than half a century has passed since Arendt recorded these sentiments, it is not clear that her verdict would be any different today. Although the intervening period has seen the development of an international legal and administrative architecture and the proliferation of international law, only politics makes such rights granting possible, and it is doubtful that anything resembling international politics in this robust sense yet exists.

Arendt describes two sorts of loss that the stateless individual incurs. The first is the loss of a “home” in the world, which is meant both in the sense of place (although Arendt calls this a problem not of space as such but of political organization) and in the existential sense of the loss of a social texture of meaning. The second is the loss of a government responsible for his protection, the result of which is that the individual falls through the web of law and loses his legal identity (or is ascribed a legal identity, “refugee,” “asylum seeker” etc., that is highly deficient). To be outside of the polis is to experience “the abstract nakedness of being nothing but human.”

Thus the injury suffered by the stateless is not simply that they lose this or that particular right but that they lose the standing necessary to make use of any rights at all – the right to have rights. The greatest deprivation – the most existentially disruptive one known to mankind - is that of not belonging to a political community, since this results in the loss of a “place in the world which makes opinions significant and actions effective.” The deprivation in question is the loss of political voice: the loss of the effective protection of human rights is so devastating precisely because it “entails the loss of the relevance of speech (and man, again since Aristotle, has been thought of as the “political animal,” that is one who

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272 Ibid., 380-381.
273 Ibid., 376.
by definition lives in a community), the loss, in other words, of some of the most essential characteristics of human life.\textsuperscript{274}

In this state, the individual has been torn from the social context in which his life makes sense and matters; he has lost “all those parts of the world and all those aspects of human existence which are the result of our common labor, the outcome of human artifice.”\textsuperscript{275} To lack political voice, legal recognition, social standing and esteem in the eyes of others is to experience the most severe vulnerability imaginable. In Heidegger’s terminology, \textit{dasein} has been deprived of a \textit{world}.

\textit{The De-Worlding of Immigrant Detainees}

The desperate situation of the asylum seeker frequently has its origins in the violence associated with war, genocide, ethnic cleansing and the break up or failure of states outside of Western Europe. Thrown outside of the protective boundaries of a homeland, the asylum seeker risks life and limb, sometimes literally, to make passage to a far away place that purports to respect individual rights and liberties and offer shelter. However, the detention system operated in Western Europe actually exacerbates and multiplies the human cost of these tragedies and reveals severe deficiencies in liberal states’ professed commitment to treat all human beings with equal dignity and respect. Receiving states have adopted policies of detention that, in fact, cause harm, inflict humiliation and manifest acute disrespect (at the very least). And this even though a number of other possible policies short of detention might have been envisioned (for example, host states could allow asylum claimants to live among the native population,

\textsuperscript{274} Ibid., 377.
\textsuperscript{275} Ibid., 381.
but insist that they report to local government agencies on a regular basis). In the preceding sections I have outlined Heidegger’s views on the spatiality of being and anxiety as a characteristic and fundamental mode of being. I have also described Arendt’s reflections on the plight of the stateless and the problems associated with relying upon human rights as a life-support system for those who are not granted membership of a particular political community. Owing to constraints of space and time, I have been unable to engage with a great many of the interpretive controversies surrounding these two thinkers and the texts that I have analyzed. My aim here has instead been a narrow one: to present a plausible interpretation of Arendt and Heidegger’s thinking, one that is suggestive of a critique of the practice of immigrant detention in the contemporary context. This analysis helps us to articulate three distinct but related injustices inscribed into the detention system. The first is the denial of substantive rights, the second is the infliction of disrespect and the third, which draws most directly on the analysis of the preceding section, is the infliction of a kind of homelessness. We shall take each of these in turn.

(a) The denial of substantive rights

The use of detention centers by political communities that are, according to their own self-understanding, ostensibly liberal is at first glance perplexing. At least at the level of foundational constitutional and legal principles, these communities tend to see themselves as committed to the protection of the individual rights of all human beings, irrespective of class, gender, race or sexual orientation and so on. This commitment is no doubt imperfect, arising out of a long and bloody historical struggle, but a present-day
commitment it nonetheless remains. It is a condition, for example, of membership of the European Union that member states sign the European Convention on Human Rights, which enshrines among other things the prohibition on torture and “inhuman and degrading treatment or punishment” (article 3), the right to liberty and security, preventing unlawful arrest or detention (article 5) and the right to a fair trial, along with the presumption of innocence and the right to be dealt with as expeditiously as is reasonable (article 6). The preamble to the convention is unequivocal: its purpose is to further entrench within the emerging pan-European polity those rights already laid down in the Universal Declaration of Human Rights and agreed to by the General Assembly of the United Nations in 1948.

Yet high-minded talk of these “universal” rights quickly breaks down when an individual who is not a member of the political community, but who attempts to assert these rights anyway, appears before a particular state apparatus with a claim. The asylum seeker is paradigmatic of this sort of claimant: a remnant or outsider, whose existence as someone thrown out of the orthodox system of nation states confronts the bounded community as a threatening anomaly. He or she poses to the community a taxing question: “I would like for you to honor the commitment which you say lies at the heart of your constitution in respect of me, even though I am not yet a member of your polity.”

This request reveals a paradox in the constitution of the liberal state: the normative foundation of the rights system at its core draws upon a fund of concepts that are expressed in universalist terms – “the rights of man,” “human rights” etc. - yet when they are relied upon without the anchor provided by the status “citizen,” these rights are rendered problematic. The boundary between inside and outside reasserts itself: the
protection afforded by a constitution connecting rights with reciprocal obligations, the liberal experience, is premised on a separation of inside from outside – “we the people” constitute a discrete community of persons who have decided, politically and in principle, to treat each other with equal concern and respect, but the obligations that “we the people” have to “them” outside are ambiguous and unspecified. The paradox ultimately proves too much for the system of rights to bear and a moment of crisis approaches. At this point, state power inserts itself into events in order to avoid this crisis materializing into reality. Instead of being granted equal recognition and admission, the outsider seeking entry is sequestered into a detention system that serves a dual purpose: one of containment and one of concealment. Through the use of prisons and detention centers, the threat posed by the outsider is channeled into an institutional complex geared toward corporeal detention: when the asylum seeker is rerouted from the political realm to the penal realm, the threat is thus physically contained. At the same time, the asylum seeker is hidden from view and the nature of the conditions of his detention is buried beneath bureaucratic jargon and official euphemism. Indeed, researchers studying the detention systems in Western Europe frequently report difficulties in accessing detainees to assess the conditions in which they are held; this is because the system of detention places them “off radar” and conceals them from the public view. For this reason the public sphere, that space in which incursions into the rights of individuals might be detected, exposed and taken up as a political struggle, cannot adequately perform its critical and democratic functions in respect of the concealed asylum seeker.

If one has any doubts about the stark difference in treatment afforded to the outsider, one need only consider whether the indefinite detention of citizens in conditions
akin to those held in immigration centers be tolerated if they had committed no crime. It is very unlikely. It is only because the non-citizen appears as an aberration, an exception or anomaly that such treatment is even countenanced. In fact, it soon becomes routine, ordinary even, and the public soon accepts as fact without further examination right-wing rhetoric about the threat posed by the Other to the harmony of the community. The implicit assumption in everyday political practice is that outsiders do not deserve the same treatment as those who already share in the good of citizenship. But despite the ubiquity of the view that the claims to justice of co-nationals have some kind of priority over non-members (the nationalist ethic lurking behind it has an enviable historical record), the level of existence to which the detained immigrant is forced to sink nonetheless still comes as a shock. But as Arendt rightly noted, human rights, as they have developed in the Western context, were historically bound to the experience of nationalism. In contemporary politics, the strength of the connection between nationalism (which once served as a mechanism by which to integrate a social order and to mark the identity of those who could be considered members of that order) and citizenship (that political status affording access to the benefits of membership, including the enjoyment of rights and liberties) has slackened for all manner of historically contingent reasons. In most liberal communities the legal and political status-label “citizen” is tied to civic and political practices and rituals (open to all in principle) rather than to national or ethnic kinship, even if the ethic of nationalism is still relatively pervasive at the level of cultural life within the community. Furthermore, there are routes to citizenship for “regular” migrants of all nationalities, for example through naturalization processes for spouses or children of existing citizens, or for highly skilled workers who have satisfied conditions
of residency. Still, when an individual lacks the formal status of member of the political community – however such membership is coded - their enjoyment of human rights becomes highly problematic. It was for precisely this reason that Arendt was skeptical about the emergence of a global human rights culture in the absence of a world polity.

The situation of the detained asylum seeker displays some of the hallmarks of being a limit case in which the enjoyment of human rights becomes severely problematic. Of course, no western government has the ability to eject an individual detainee from the realm of human rights entirely. No doubt official representatives will claim that detention practices, even if they are regrettable, fall within the limits laid down by international standards, are still subject to judicial review and fall within the purview of the rule of law. But the rights to life, liberty and freedom from arbitrary interference or searches, to due process, to a private and family life – all of which are enshrined in the European Convention on Human Rights – are constrained so acutely in this context that they take on the character of a residue. While there may remain a bank of rights and protections held on reserve, enshrined in the legal system that exists on the other side of the bottleneck devised by the state, the detainee is not recognized as having standing to actualize the full range of those rights. Explicitly recognized and treated as a non-member, he or she approaches the limit point at which they risk being thrown outside of the contextualizing fabric of political community altogether. Outside the realm of the political the individual is thrown back into the most basic condition of all, that of bare life. Interestingly, even within modern states, this realm of bare life is retained within the polity and given its own space (the detention system), but organized according to the principles of police and bureaucratic administration, rather than those norms of
democratic inclusion and participation that govern, ideally, the realm of the political. We shall return to this idea at the end of the present chapter.

The liberal regime develops a coping strategy in order to defer the aporia presented by reserving the benefits of “universal” human rights to a particular subset of members, notwithstanding the lofty rhetoric of constitutional documents and declarations. It does so by opening up a zone of indeterminacy – the detention system – into which the troublesome figure of the asylum seeker can safely be placed and shielded from view. This zone of indeterminacy, a space in which only a formal residue of the system of rights is allowed to persist (in the form of basic and intermittently accessible legal protections) comprises an island of illiberalism, or at least one with illiberal tendencies, within the liberal polity. How could this be? Where does this aporia come from? According to Giorgio Agamben, the individual who is cast out of political community, a figure that recurs throughout history and exemplified in the contemporary context by the asylum seeker or refugee, has its origins in “the decisive event of modernity,” that is, “the entry of zoe into the sphere of the polis – the politicization of bare life as such.”

According to this narrative, the classical world was marked by a strict separation between the biological life, or “simple natural life,” of the community on the one hand and the political life of man on the other. The former had its proper place in the sphere of the oikos, or home, while the latter found its home in polis. With the advent of modernity – of modern forms of political organization – came the attempt to fold the sphere of the biological into the sphere of the political. In fact in modernity, “the production of a biopolitical body is the original activity of sovereign power.”

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277 Ibid., 6.
According to Agamben the *inclusion* of bare life in the realm of the political occurs through a problematic and simultaneous *exclusion* of the self-same. It is not merely that the modern state places “biological life at the center of its calculations,” so that “life as such becomes a principal object of the projections and calculations of state power”278 (so far, so-Foucault). Of crucial significance is the additional fact that the inclusion of bare life begins with its prior exclusion, with the recognition that there is a realm of life, bare life, that is somehow *less* than the good life, and it is the role of politics to transform it. For this reason, politics enters modernity as a “fundamental structure of Western metaphysics” since it is through politics that man “separates and opposes himself to his own bare life and, at the same time, maintains himself in relation to that bare life in an inclusive exclusion.”279 As this process of transformation unfolds, the realm of bare life and the realm of the political begin to coincide until the distinction between them is eroded, at which point “exclusion and inclusion, outside and inside, *bios* and *zoe*, right and fact, enter into a zone of irreducible indistinction.”280 The concentration camp represents the epitome of this zone of indistinction in modern times – a place of “pure [sovereign] exception” where the suspension of all ordinary rights and liberties becomes almost total.

According to Agamben, the democratic ideal is propelled along by the aspiration to transform man as the *subject* of political power into the *object* of political power by converting *zoe*, bare life, into *bios*, the good, qualified or elevated form of life. It achieves this through the creation of the *democratic citizen*, endowed with rights and liberties. But before the fully formed citizen can appear at the end of this process, the *body* itself must

278 Ibid., 6.
279 Ibid., 8.
280 Ibid., 9.
first be asserted and presented: this is the primoridality of the corpus to modern political life, exemplified in the historical origins in the writ of habeus corpus (literally the assertion against the absolutist power of the state that “you will have to have a body to show”\textsuperscript{281}). Modern democracy “does not abolish sacred life but rather shatters it and disseminates it into every individual body,” with the result that the body becomes the locus of political conflict.\textsuperscript{282} The emergence of the idea of a human right (which begins with the rights of “man”) represents the first stages of the inscription of bare life into the “jurido-political order of the nation state” and marks the “earthly foundation of the state’s legitimacy and sovereignty.”\textsuperscript{283} The protection of the biological life of the human is now taken as the foundation of politics – democracy “compels” the law to assume the care of the body in response to the state’s demand for its presentation - and bare life “vanishes” into the figure of the citizen, reborn as the bearer of political rights and immunities in the context of the nation state (“The nation – the term derives etymologically from nascere (to be born) – thus closes the open circle of man’s birth”\textsuperscript{284}). Agamben claims that this leads to a confusion about the normative ideals expressed in modern forms of political organization – it is not that democracy finds its basis in “man as a free and conscious political subject,” rather its basis lies in investing bare life with sovereignty – working upon it as raw material - by shepherding the subject to citizenship, exercising sovereign power over the body itself in the process.

Agreeing with Arendt, Agemben notices that with the historical moment announced by the Declaration of 1789, the rights of man were firmly rooted in the

\textsuperscript{281} Ibid., 124.
\textsuperscript{282} Ibid.
\textsuperscript{283} Ibid., 127.
\textsuperscript{284} Ibid., 128.
national context and the “birth-nation” link fused. But by the early twentieth century, owing to the political upheavals that shattered the existing formation of nation-states, this link had “lost its mechanical force and power of self-regulation.”^285 Like Arendt, Agamben thinks that talk of human rights outside of the national context, a hallmark of contemporary international responses to human crises, is highly problematic. Undoubtedly, the reasons that they offer in support of this argument are divergent. In Arendt’s account, the individual who seeks recourse to international human rights has been forced to do so because he has been squeezed outside of the protective boundaries of politics. Such a situation reveals the failure of politics, that realm in which individuals come together and decide, politically, to grant rights to one another. On the other hand, Agamben notes that the attempt to exercise rights outside of the national context arises out of the historico-political process in which the rights of man and the rights of the citizen, once fused, have become unbound. The result is the production of a form of humanitarianism, exemplified by international human rights treaties and proclamations, which remains separate from politics and is sometimes confused for politics. This extra-political phenomenon still strives to work on bare life (if only for the amelioration of the actual living conditions of its beneficiaries) and is confronted in the camp (or detention center, for our purposes) by “a biopolitical paradigm that it [still] cannot master.”^286

Although this account is offered by Agamben as a reinterpretation of traditional genealogies of democratic and liberal politics, the argument reaches even further: the impulse to fold the biological into the political colors all of modern politics and explains some of its darkest moments. In fact, Nazism and fascism mark the biopolitical apogee,
the culmination of the tendency toward the exercise of sovereign decision over biological life: “with National Socialism,” for example, “the answer to the question “Who and what is German?” (and also, therefore, “Who and what is not German?”) coincides immediately with the highest political task.” The lesson: Western politics has failed to find a solution to this *aporia* (although modern consumerism and experiments in totalitarianism have each come close to offering a solution, albeit with disastrous human costs) and our present predicament is one of living with and through an unrepaired fracture. If he is correct, the continued presence of illiberal practices within a liberal political community – exemplified in the detention of asylum seekers under the conditions describe in this chapter - is not really an anomaly, a deviation from the norm, after all. It is explicable as a necessary and inescapable element of modern politics, an emergency life support system on which the political community actually depends as it tries to defer the *aporia* at its core.

Detention camps are the concrete manifestation of Agamben’s zone of indistinction, the place where liberalism’s subterranean, dirty secret breaks ground. But precisely because illiberal practices also pose their own threat to the community’s self understanding as a liberal polity, they must be covered up, denied and shielded from view. This fact that helps to explain the use of official euphemism to describe the detention system: holding facilities are not internment camps or detention centers or even, more simply, prisons (even though some of them, certainly at least in the UK, actually are prisons). Instead they are “immigration removal centers.” This title has the effect of transferring these institutions, in the public’s imagination, into the realm of

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287 Ibid., 130.
288 Ibid., 11.
administration – a policy response or an answer to the immigration “problem” – rather than the epicenter of a foundational juridico-political struggle for which there is no solution known to our politics. Detention serves to hide the asylum seeker from view and constitutes an attempt to dissipate the threat to the regime that he poses. What is this threat? As Agamben says of refugees, “by breaking the continuity between man and citizen, nativity and nationality, they put the originary fiction of modern sovereignty into crisis.”289 Arendt put it differently, but her conclusion was the same: “the “alien” is a frightening symbol of the fact of difference as such, of individuality as such, and indicates those realms in which man cannot change and cannot act and in which, therefore, he has a distinct tendency to destroy.”290

(b) State sanctioned disrespect

In addition to the curtailment of rights, the treatment of immigrant detainees manifests another kind of injustice. Recall the testimony given to researchers and reported above: in their interviews, detainees report feeling disrespected, disempowered, humiliated and marginalized. They feel ashamed that as people who used to be doctors, lawyers, civil engineers, social workers and teachers in their home countries, they have become the scum of the earth, less than human, deserving of being treated like an animal. This shame has a number of dimensions: the first we notice is that it is connected to a form of political deprivation. The shame that is felt arises, in part, from the sense that the detainee feels that he is not a member of the political community in which he is held, and consequently has no ‘voice.’ His opinion does not matter in the collective steering of the

289 Ibid., 131.
290 Arendt, The Origins of Totalitarianism, 382-383.
community’s fate. Of course, this results from having a relationship to the state that is less than that of a full citizen. A citizen is seen as a conversation partner, deserving of equal consideration in matters relating to the fate of the nation. By contrast, the silencing of asylum seekers – the denial of political voice – serves as a reminder: “you do not matter to our conversation, despite your presence within our borders. You are not a citizen, but an object of administrative control, a statistic in the migratory balance sheet to be counted but not a voice to be heard.” The sense of anxiety and shame that arises from this kind of treatment varies, of course, along a spectrum. A foreigner who is not permitted the rights of a citizen but benefits from an otherwise relatively secure and stable position in a host country (a professional employed on a visa, a university exchange student, etc.) obviously suffers much less disrespect than a detained asylum claimant. But all non-citizen residents of a society experience some sort of insecurity that varies along this spectrum, one that has surprisingly strong psychological implications.

But the sense of shame felt by immigrant detainees arises from an injury even more serious than a deprivation of the right to live politically. In addition, detainees have not been treated with the dignity and respect that they believe they deserve as human beings. As the testimony delivered to Amnesty International bears out, the slight to their dignity stems not merely from the acute experience of non-membership in, or marginalization from, this or that particular political community, but from the sense that they have been expelled from the distinctly human community of respect and concern altogether. There are two general features of this removal that seem worthy of note.

First, it arises because those social relations of recognition that ought to obtain between detainees and the host population have been compromised or distorted.
Detainees are not recognized as agents of equal moral concern, that is, they are not recognized as human beings capable of autonomous, self-directing action. They appear instead as a foreign, exotic, alien, defective, animal-like threat that must be contained and neutralized. In other words, there has been a *failure of recognition*, one that has disastrous consequences for detainees’ sense of self-worth: detainees internalize the sense that they are not worthy of the kind of respect that would ordinarily be accorded to a citizen, giving rise to a sense of shame that is so devastating that it moves some of them to end their lives. If they have not been recognized as human beings worthy of equal concern and respect, what have they been recognized as? Two images or tropes emerge: animality and disease. On the one hand, detainees report conditions of detention that they believe would be better suited to animals. In turn this causes them to internalize the notion that they *are* animals, or at least less than human. On the other hand, the language of public health and protection seems appropriate: organic, biopolitical images of asylum seekers have assumed a surprising ubiquity in the public consciousness when the issue of immigration control is raised. The right-wing press is particularly partial to using it in order to further advance its ideological agenda: asylum seekers are frequently portrayed as ‘parasites’ who have come here to ‘leach’ off of ‘our’ welfare state. The health of the bodily politic is thus threatened by contamination from a dirty, unclean and parasitic Other. According to this narrative, the state, assuming its responsibility to uphold and protect the public health, is therefore justified in quarantining those individuals who pose the threat of infection and expelling them to ‘cure’ the nation.

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291 It was Briana McGinnis who first suggested to me that we understand the treatment of detainees in terms of public health and disease: I think she is absolutely right about this.
The second salient feature of this removal from the community of human respect is that the state is a central actor that helps to foster and sustain this misrecognition. Although there are a number of reasons for this general failure of equal recognition, such as the presence within the cultural life of the broader host community of a crypto-nationalist ethic (which holds something like “existing members are morally more valuable than non-members when it comes to assessing justice claims” and deserves the appellation “crypto” because the population in general may not even think of itself as committed such a view, even though practice would seem to bear it out), the most proximate cause springs from the conditions of detention. And these conditions arise directly as a result of the use of state power: the state devises, constructs, staffs and maintains the detention system (albeit through a private contractor in some cases); the state controls the access that detainees may have to the legal system and thus to the system of rights that persists beyond the zone of indeterminacy; and the state polices its perimeter, reinforcing the now generalized perception that detainees are “dirty,” “dangerous,” or “criminal” and have to be kept apart from the wider population which they might otherwise contaminate were they permitted to mix. Therefore, the state has a direct role in fostering the misrecognition of immigrant detainees.

(c) State sanctioned homelessness

These two broad categories of injustice visited upon immigrant detainees – the subversion of their human rights and their misrecognition of their identities - coalesce to form another kind of injustice that we are now in a position to describe as follows. The immigrant detainee experiences the infliction of an existential homelessness: the
conditions of detention make it impossible for detainees to dwell in the Heideggarian sense. If Heidegger is right that dwelling is a basic condition of being then this amounts to a very serious harm indeed. Recall what Being-in-the-world means: to live among things with which one is ordinarily and proximally familiar, to see one’s self as thrown and projected (a potentiality to be), to have a vexed, contentious relationship to the “they” that is nonetheless existentially significant (because the “they” is the source of social normativity), to stay in a place that one cultivates by making space for things and safeguards them or shows care towards them, to experience anxiety when one encounters a defect in the world itself, an anxiety so acute that it literally risks dasein altogether. These are the structural features of being-in-the-world in its average everydayness, that is, the way in which we ordinarily experience it in the normal course of things. If we do not experience Being in this way – if we are deprived of these features or if they are missing from our everyday experience - then our mode of being is somehow deficient. Of course, one could argue that the conditions of detention that hold for asylum seekers hold also for regular prisoners on remand following a criminal conviction. Does this not mean that the analysis presented here impugns all forms of detention, including the regular penal system? That is not the case. The prisoner convicted of a crime has committed some act to place himself outside the realm of regular being. Except in the most serious cases where a sentence of life imprisonment with no parole has been handed down, he or she can look forward to the certain return to a regular mode of being at some future point. But the detained asylum seeker has done nothing wrong, has committed no ‘act;’ he has only presented himself at the border (or within the territory) and asked for admission. He
has been imprisoned on the basis of who he is - a non-member - not on the basis of what he has done.

The highly pathological mode of being that Heidegger categorizes as anxiety is normalized in the system of immigrant detention. For Heidegger, anxiety punctuates *Dasein’s* normal state of being and causes a momentary fleeing in the face of itself. In order to return, *dasein* must take hold of itself and return to its being. In the case of the detainee, however, the radical but temporary possibility of non-being that characterizes Heideggerian anxiety is extended into a permanent and on-going existential stasis. The detainee is ‘stuck’ between worlds, cast out of his or her former community but not yet a member another, ‘thrown’ in a space in which the everydayness of things, relationships, projects, plans and autonomous conceptions of self-identity have all been suppressed, perverted or distorted. Because of the conditions that inhere there, projecting one’s potentiality-to-be is no longer possible inside the detention system since the framing horizons that usually make such projection possible have been destroyed The temporal element of being – the possibility of stewarding one’s self and one’s projects into a future – is radically undermined. In fact, ‘time’ in this existential sense has no meaning within the detention system.

In her reflections on the stateless, Arendt noted the beginning of a tendency that has only since accelerated: the transfer of individuals from the realm of the political into the realm of the police. She observed that since the stateless individual had been cast outside the realm of regular law, it was often beneficial for him to transgress it. Both the stateless individual and the criminal were anomalies, but at least the figure of the criminal was *intelligible* to the system of general law, whereas at the time the stateless individual
was not. This made the commission of an offense an attractive prospect: “a criminal offense becomes the best opportunity to regain some kind of human equality, even if it be as a recognized exception to the norm … only as an offender against the law can he gain protection from it.”

Moreover, in order to administer the large numbers of refugees flowing into their borders amidst the crises of mid-twentieth century, European states had to transfer the authority to handle population control to the police. As she notes: “this was the first time the police in Western Europe had received authority to act on its own, to rule directly over people; in one sphere of public life it was no longer an instrument to carry out and enforce the law, but had become a ruling authority independent of government and ministries.”

The detention of asylum claimants in the penal system is a contemporary example of this phenomenon of transfer, one that is increasingly common in a post-9/11 world where immigration and population control are regarded primarily as matters of national security and criminal justice. This transfer of persons between realms at the hands of state power is significant. If the political is the realm of appearance and showing oneself, of uncovering – the space in which one steps into the public sphere in order to disclose who one really is - then the realm of police is in many ways its inverse. It is the realm of hiddenness and sequestering. When an individual moves into the realm of police, he is not the bearer of a political identity but the object of administrative control, reduced to a body to be processed by the criminal justice arm of the state apparatus.

He is entitled to a bare minimum of rights and liberties – a residue - which govern the conditions of his detention, as well as the expectation that due process be observed by

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293 Ibid., 365.
the apparatus responsible for his treatment. But he loses the entitlement to speak with a political voice and as such he loses his political identity (sometimes literally so: for example, as the law currently stands in the UK, incarcerated criminals are not eligible to vote while serving their sentence). Moreover, the realm of politics is that place in which free and equal members of the social order join together as both authors and subjects of the coercive rules of social regulation that govern their collective lives. The equality engendered there is itself the product of the decision to engage in politics; though we are not born equal, we choose to guarantee each other equal rights. As Arendt says, “our political life rests on the assumption that we can produce equality through organization” [my emphasis]. However, the realm of police looks nothing like this, its means and ends are completely different. Its purpose is to secure the conditions necessary for the proper functioning of the political realm. The aim of the official power that circulates there is to intervene in the behavior of those deemed to be deviant, in order to normalize their errant behavior and preserve order. The authority of police power is not open to challenge or change beyond the demand that it operate within the rule of law. It is not constituted by any voice on the part of those it manages (in contrast to political power in a democracy, which is always constituted by, and derives its legitimacy from, the collective will of the people). The authority of police can only be challenged on procedural grounds, in which case what the individual in question is really doing is making a claim to assistance by appealing to rights and liberties that are the product of the realm of politics. Those rights and liberties are not internal to the police system. Even where they are enshrined explicitly in law, they have been introduced into it via the realm of politics, which is their original source.

294 Ibid., 382.
The realms of politics and the police are otherwise distinct and autonomous. In the normal course of things, the relationship between the two is one of mutual dependence and supervision, the combined effect of which is to stabilize and maintain the social order. But when the troublesome figure of the asylum seeker presents himself to the state apparatus within the realm of the political, and a threat of a crisis arises, in an effort to dissipate the threat the state smuggles him from politics to police through the back door of the system of immigrant detention. The purpose of this chapter has been to exhibit this tendency for what it is and to describe the kinds injustice that it wreaks upon the individual detainees caught up in it.
CONCLUSION

In the opening sections of this project, I began with a set of reflections on the state of current disputes about global justice in contemporary political theory. I criticized theories that treat global justice as a problem of international resource allocation on the grounds that, by advocating for a world order in which an international bureaucratic architecture is responsible for redistributing wealth between nations, they fail to take seriously the idea that individuals should be thought of as self-determining, autonomous agents in international politics. In other words, such theories contribute to the onward march of the “administered world,” albeit on a global scale. In addition, these theories also seem to rely on an implicit assumption that national ties of solidarity, exemplified in the ethic of nationalism, are a hindrance to the project of global justice. Standing in the way of a moral universalism that would make the obligations of global redistributive justice easier to discharge, on this view nationalism should be replaced by a cosmopolitan conception of citizenship in which national boundaries have no ethical significance.

There can be good utopian thinking and bad utopian thinking. This is the bad kind, which I have tried to avoid by approaching the subject from an alternative viewpoint. Instead of seeking to extend redistributive schemes to the world at large, I have focused my attention instead on a distinction between the ordinary politics of the democratic nation state and the “politics” of international relations. In ordinary politics, according to the liberal democratic self-understanding, individuals are free and autonomous to the extent that they can see themselves as both authors and subjects of the coercive political authority responsible for setting the ground rules that make their living
together possible. That citizens should even come to conceive of themselves under this
dual aspect is the historical achievement, and guiding ideal, of modern democracy. It is
facilitated, however imperfectly, through various institutional and political arrangements
in which power is compelled to legitimize itself before an audience responsible for
granting its legitimacy. To the extent that these arrangements allow individuals see
themselves as both authors and subjects of the coercive authority that governs their
collective lives, they permit the successful assertion of political agency.

Turning to the international context, however, it becomes clear that practices in
international politics routinely close down spaces of appearance or prevent them from
coming into being. The symptoms which signal this as pathology are the sense of despair
and hopelessness experienced by individuals who cannot challenge the sources of power
that confront them in international politics, because they are not recognized as the sorts of
agents having the requisite standing to do so (asylum seekers and undocumented migrants
are a paradigmatic example of individuals whose agency is lacking). We find ourselves in
this situation because the conduct of international politics is “extraordinary” as compared
with the “ordinary” politics within the nation state. International politics seldom permits
the assertion of individual political agency, and rarely serves as a vehicle for memory
politics. Nor, for the most part, does it provide for spaces in which coercive authority can
be tracked and challenged by the individuals over which it operates. Instead, international
politics has the character of an emergency politics of crisis containment, one in which
individuals are administered and shuttled back into national contexts in which their
corporeal being is more readily intelligible and handed over to the police. I have argued
that this is a problem for us, and that the world would probably be a more just place if
international politics were “normalized” in some fashion, that is, brought closer in line with the expectations that we commonly hold for ordinary politics, through the opening up of spaces of appearance in which individual political agency is at least conceivable.

Although my stated aims for this dissertation were admitted to be quite modest from the outside – I hoped merely to contribute toward the widening of our normative vocabulary for assessing the nature of international political life – a number of twists and turns have led me toward a series of issues and arguments that might be placed under the heading “the existential conditions required for politics.” These have taken us beyond the issue of the democratic steering of the global political system, revealing the deeper, intimate connection between physical presence, public visibility and political power in political life. It is here that I have made some of my boldest, most controversial arguments. Derived most obviously from the thought of Arendt and Heidegger, or at least the set of their ideas that have been presented and interpreted here, I have concluded that it is in the activity of politics – a collective, public activity in which individuals disclose their identity, struggle for recognition, assert political agency and track coercive authority – that human beings find their home, the place in which, existentially speaking, they dwell. If politics is essentially a spatial affair, this forces us to consider the consequences of the negation of political space (as in the example of the de-worlding of immigrant detainees). My analysis is intended to suggest that where conditions required for this sort of political life are undermined or foreshortened, some fundamental pathology is disclosed, leading individuals to suffer some kind of existential harm. It is this thought that is supposed to inspire us to reconfigure international politics in such a way as to avoid or minimize this harm.
In the space that remains, I want to briefly address three issues requiring further attention, issues that hint at further avenues of inquiry that lay ahead in connection with this project. These are: first, lingering doubts about the supposed “realism” of the method adopted here, second, the conspicuous absence of economic issues in the analysis presented in this dissertation and third, the question of how the lack of a global sovereign authority in international politics affects the arguments offered over these pages.

This whole argument been offered under the auspices of what I called at the start a methodological “realism.” While this is intended to be opposed the idealism or utopianism of much recent thinking on the subject, the astute reader might still detect that a measure of utopianism still colors these pages. Although I have been very careful to avoid making concrete recommendations for political practice, there is no doubt that the claims that I have made about the need to reconstitute international politics around a different normative base, one that resembles ordinary politics more closely, have bold and wide implications for the conduct of international affairs that would be extremely difficult to bring about in reality. In my defense, I do not think that there is anything wrong with the strategy of pointing out deficiencies in international politics, provided that my argument for treating these aspects of international political life as deficiencies in the first place is at least somewhat compelling. This is why I think the method that I have adopted here is justifiably located within the tradition of critical theory - it is largely one of diagnosis and critique. I am sensitive to the charge that I may have violated the tenets of Geuss’s realism by replacing one system of thought (Kantianism) with another (Hedieggarian/Arendtian) in order to deduce views about how we ought to arrange our political affairs. Even if this is accepted (although I think I can resist this charge), I
believe my methods are still consonant with the tradition of critical theory. Nancy Fraser has written that the theorist’s task is to make visible and criticizable the cultural, economic, political and social context of our current situation, navigating a careful path between philosopher-king-like Platonism on the one hand, and the reduction of theorizing about justice to formal proceduralism on the other.\textsuperscript{295} On this view, the theorist is responsible for clarifying the parameters of public debate, indicating which sorts of policies and institutions are, and are not, compatible with a particular about the requirements of justice. Ultimately however, both as a matter of practical reality and normative constraint, choices among actual policies remain subject to, and receive their legitimacy from, the discursive activities of citizens themselves. I tend to agree.

On the second issue, the lack of attention given over here to the realm of economics, I would have to concede the point. This omission stems from the decision to concentrate my analysis on the operation of power in the international system: power that evades effective tracking and emanates from states, from international legal and political institutions or from the very structure of the world system itself (i.e., the system of sovereign nation states). In all of this, economic issues have been left to the side or addressed only indirectly, a fact that seems especially surprising in light of the fact that critical social philosophy of the sort that inspires my analysis often concerns itself very explicitly with the distortion of political and ethical life wrought by the intrusion into the life world of capitalism. In light of the recent global economic crisis, which shows no sign of abating even as I write, it would seem that an attention to the “creative destruction” of global capitalism would be timely and illuminating. It is only the constraints of time and space that have prevented me from dealing with these issues here.

\textsuperscript{295} Fraser and Honneth, \textit{Redistribution or Recognition?}, 74.
Such an additional line of inquiry would probably at least partly displace the exercise of political power from the center of our analysis, allowing us to see that centers of political power have less ability to influence world affairs than I have given them credit for. Ultimately, they are always playing catch-up in the face of the forces of global capital which, having been unleashed, frequently escape the control of even the most powerful international actors.

Finally, and related to lingering concerns of utopianism, one has to address the following, thorny issue: what is the utility of calling for political action and engagement at multiple, cross-cutting sites and spaces that transcend national boundaries in the absence of a global sovereign authority with the power to stabilize the realm of international affairs and shape it into a space of politics rather than surveillance? There is no easy answer to this concern. What I am prepared to say at this stage is that I think talk of the need for a single, global sovereign authority is a bit of a red herring. It has not been my intention in this dissertation to argue for a single global polity, or a single global transnational public sphere, or for that matter a single global governance architecture (which would be despotic in any event). What I have done instead is to try to reveal the deficiencies embedded within the structure of international political life that prevent meaningful political action from taking root. The prospects for the remedy of these deficiencies lie with individuals challenging the present constitution of the world order through an agonistic politics which is messy, noisy, unpredictable and may well still disappoint us.
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