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POLITICAL COMMUNITY BEYOND THE SOVEREIGN STATE. SUPRNATIONAL FEDERALISM AND TRANSNATIONAL MINORITIES

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Political community beyond the sovereign state. Supranational federalism and transnational minorities[*]

Abstract: *A cosmopolitan perspective needs not only a conception of global identities and global governance, but also of forms of political community beyond state borders. We can imagine the relations between political communities within a larger supranational context in four different ways: as separate, nested, multilevel or overlapping. The Hobbesian paradigm in international relations imagines sovereign states as separate communities; Kant's vision of eternal peace promoted a confederation of free republics; the European Union moves towards a regional model of multilevel governance and citizenship. These three ways of constructing political community beyond the state use existing state-based polities as building blocks for the larger structure. This is different with transnational minorities whose political membership or aspirations for self-government cut across the boundaries of state-based communities. I discuss three types of such groups: transborder national minorities, indigenous minorities and immigrant minorities. For each of them their transnationalism is not necessarily a vehicle for a cosmopolitan alternative to the present global political order. However, they generate overlapping forms of political community that may pave the way for a greater responsiveness of state-based polities towards the multiple political identities of their citizens.*

1. Where is the *polis* in cosmopolis?

When academic discourses go public there is always a danger that they will become subject to the laws of infotainment. Media discourses are not cumulative, as academic ones ought to be, but follow the dictates of fashion. Globalisation was the buzzword of the 1990s and behind the outpouring of popular literature on this phenomenon there was a serious academic debate. Now there are signs of globalisation discourse fatigue and it will without doubt affect the social sciences as well. Political philosophy, however, is always a latecomer. It usually discovers a new field only when the other disciplines are about to abandon it. Multiculturalism, for example, was a big theme in the social sciences a decade before political theory developed a serious literature on cultural minority rights. Theories of cosmopolitan democracy might then similarly build on the globalisation literature and enjoy greater longevity. Cosmopolitanism is certainly not a novelty in political philosophy. It can draw on a venerable tradition stretching back to the ancient Greek and Roman philosophy of the Stoics. Globalisation creates a new context for testing the consistency and practical implications of this old ideal. As a political theorists I believe that such belated but systematic rethinking of the normative issues has some virtues. It allows to ground normative approaches in empirical

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research that is already there and it helps to avoid the facile partisan polemics in which many social scientists, who eschew value judgements in their research, engage so easily when switching into the role of public intellectuals.

A question political theorists are likely to raise about cosmopolitanism concerns the concept of political community that corresponds with this term. Cosmopolitanism may refer to an individual life style, to a universalistic morality, or to global political institutions. What is strange about these sociological, ethical and political uses of the term is that they generally seem to do without a vision of a cosmo-*polis*, i.e. a global community of citizens.

The first interpretation attributes cosmopolitanism to the "man without country". This figure is not, as one might believe, the stateless refugee who is desperately in search for a country. It is rather the person who can live well without a country. What comes to one's mind is the corporate manager who shuttles back and forth across the continents and whose life is increasingly similar to that of a diplomat, except that he represents a company rather than a country. We might characterise him as " a real nowhere man, living in a nowhere land" (The Beatles). But a nowhere land is not a polis and a nowhere man is not a citizen. In reply to Martha Nussbaum's plea for cosmopolitanism, Michael Walzer stated dryly that he was "not even aware that there is a world such that one could be a citizen of it. No one has ever offered me citizenship..." (Walzer, 1996:125). Certainly, citizenship becomes less important (or at best instrumentally important) for life-style cosmopolitans. One does not need a world citizenship if one can cash in benefits of national citizenship in many different countries and shirk its obligations in all of them. Yet Walzer's point remains a sound one. A non-political cosmopolitanism is almost a contradiction in terms. This brand of cosmopolitanism is purely negative in its contrast with existing political communities and moreover parasitic with regard to their citizenship.[1]

The second interpretation is political in a way. In this view, cosmopolitanism is a universalistic morality that negates the priority of compatriots (or co-religionists, co-ethnics, etc.). One might think that every perspective that starts from the basic premise of moral equality of all human beings is by implication cosmopolitan. But that would make cosmopolitanism rather uninteresting. In order to give some edge and added value to the term the distinctive point of a cosmopolitan morality must be a stronger one of denying special obligations towards those with whom one shares a common membership in a political community. This is a step few liberal philosophers have been willing to take.[2] Some forms of utilitarianism may qualify as cosmopolitan in this narrow sense. It is now generally recognized that Bentham's principle of the greatest happiness of the greatest number is an inconsistent idea because it requires maximising two variables simultaneously. One can either maximise the happiness of a given number, or maximise the number of persons who enjoy a given level of happiness but not both at the same time (Kymlicka 1990:47, n.1). The former reading undermines the claim of utilitarianism that it defends a universal moral principle, because the determination of the number would then be arbitrary and outside the scope of application of the utilitarian principle. The latter view seems to be more consistent. Political decisions about the provision of public goods or the redistribution of private goods could then always be criticised as immoral as long as there are outsiders whose happiness could be

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[1] At the 2000 Davos world economic forum Fareed Zakaria declared the end of the Westphalian state system and Lester Thurow explained in an interview that the new world will be ruled by global corporations that collect taxes from governments, which compete for their investment (Der Standard 28 January, 2000).
[2] For example, Kwame Anthony Appiah defends a "cosmopolitan patriotism" that regards the fact of being a fellow-citizen ...[as] not morally arbitrary at all" (Appiah, 1996:28).

increased by including them.[3] However, such a cosmopolitan morality is again a "view from nowhere" (Nagel, 1986) that negates special obligations,[4] rather than a view from the vantage point of a world polity. The moral imperative applies to all human beings and political institutions everywhere, but it remains an open question whether human needs are best served by building global political institutions.[5]

The third brand of cosmopolitanism starts from an affirmative answer to this latter question. It is a political theory rather than more broadly an ethical one and it combines normative arguments for globalising democracy with empirical accounts of an emerging set of political norms, organisations and movements that are no longer international but supranational and sometimes genuinely global in character. I locate my inquiry in this paper within this field of theories of cosmopolitan democracy and I will selectively discuss some of their insights. My main point is, however, that even these approaches, which are explicitly political and institutional in their focus, generally avoid the polity question. They discuss the emergence of global political regimes, they propose to strengthen them and they want to make them accountable through democratic procedures. There are many convincing arguments for this case: the need for new arrangements to secure international peace in the post-Cold War era, for averting global threats to the environment, for re-regulating financial markets. A cosmopolitan response to these and other global challenges need not argue for a unitary world state, or a central world government. Neo-institutionalists have demonstrated that at supra-state levels we already find emerging forms of "governance without government" (Rosenau and Czempiel 1992). Others regard these as halfway solutions that will ultimately have to give way to real statehood (Höffe 1999). Yet the project of *democratic* cosmopolitanism requires more than the building of powerful institutions that can exercise legislative, executive and jurisdictional tasks on a global scale. It must spell out how these institutions will be constrained by the rule of law and accountable both to the states that form the international order as well as to citizens who are the ultimate subjects of their decisions. Neorealists like Danilo Zolo ask "Can any cosmopolitan project ever be anything other than an inherently hegemonic and violent undertaking?" (Zolo 1997:15). The current economic and military hegemony of the US on a world scale and the blatantly undemocratic rules of the UN Security Council seem to support such scepticism. Democratic cosmopolitans reply to this that given the increasing global interdependence we are likely to see a growing concentration and exercise of global political power anyway. The project of bringing it under democratic control may ultimately be more realistic than the futile desire of normative realism to dismantle it and disperse it among sovereign states.

However, there is still this nagging doubt. Democratic cosmopolitanism must also ask what kind of *demos* these institutions will represent and be accountable to. One strategy might be to adopt a purely formal conception of the demos as the aggregate of persons who happen to be subject to a given political authority. In this case, a global demos exists by definition as soon as there are global political institutions that are exposed to democratic procedures of

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[3] For an application of this latter approach to refugee admission policies see Singer and Singer (1988).

[4] Robert Goodin has suggested a more sophisticated utilitarian approach of "assigned responsibility". In his view, we have only general moral duties towards other human beings. Special duties such as those of citizenship are "merely devices whereby the moral community's general duties get assigned to particular agents" (Goodin 1986:678).

[5] Thomas Pogge distinguishes legal cosmopolitanism, which is committed to a universal republic, from a broader moral cosmopolitanism, which may be compatible with a system of autonomous states (Pogge 1992:49). His own theory of institutional moral cosmopolitanism requires, however, to "aim for the feasible global institutional scheme that produces the best pattern of human rights fulfilment" (ibid.:54). Given current degrees of interdependence and interconnectedness between state-based societies it is rather implausible that a Westphalian state system could be that best pattern.

representation. The *polis* of cosmopolis could then be constructed from above almost by fiat through institutional design. Of course this is a daunting task and one may well be sceptical about the prospects of overcoming the countervailing national interests of states.[6] But for a normative theory the problem would be greatly reduced if it would suffice to show why governments, political parties and NGOs *ought* to commit themselves to building global democratic institutions. The alternative view is that the demos not only conceptionally precedes the institutions that represent it, but must also correspond to a social reality: a significant status of membership, a widespread sense of belonging and a historical trajectory of community. Liberal democracy is not exhaustively characterised by the rule of law, the division of powers and a periodic opportunity of citizens to dismiss their government. Sustainable democratic institutions require a shared sense of political identity among citizens. Cosmopolitans who accepts this latter perspective have to show how the existing forms of political community at state and sub-state levels could be transformed, bundled into greater aggregates or shifted beyond the state so that individuals could in a meaningful way conceive of themselves as citizens of a global *polis*. For this latter perspective it is a sense of commonness that "defines the *demos*, as it were, for whom a form of democratic rule appears appropriate and plausible" (Bellamy and Castiglione 1998:163).

This second view accepts the communitarian critique "that attempts to expand democracy and distributive justice across borders of states is not something that can be accomplished by an appeal to morality or reason, or even the creation of appropriate institutions" (Thompson 1998:186). "For principles … will not necessarily be acceptable as the basis for transnational political authority if individuals have loyalties and interests which are threatened by the exercise of authority. Equally unsatisfactory is a theory which concentrates on defining the political institutions which should be adopted by a cosmopolitan society. For institutions are empty shells without the motivations which underwrite their authority. World citizenship requires the creation of a new political identity, and cosmopolitanism must concern itself with how this identity might be constructed" (ibid.:190). Thompson concludes that cosmopolitanism needs stories about how social changes might affect individual self-understandings, encourage participation in transnational democratic practices and provide a motivation to support transnational or global political formations (ibid.:194).

The stories that are currently on offer cannot arouse much optimism. One such story is about the global economy and its effect on undermining state sovereignty. There is much debate about the novelty, extent and impact of economic globalisation.[7] Setting aside such questions of assessment, most observers agree that these developments undermine political community rather than expanding it from the national into a global space. This is not to say that global markets develop outside any legal and political framework. Every market regime needs a legal regime to back up property rights, enforce contracts and resolve disputes. Economic globalisation generates the need for a whole range of regulatory mechanisms involving international organisations (the WTO, IMF and World Bank), legal norms (international private law), and specialised courts and private law firms. Global markets are thus not completely unregulated, but supposedly sovereign states are 'losing control' (Sassen 1996) over this regulation and find their scope for self-determination of economic and fiscal policies severely constrained. We may characterise the new global economic regime as a form of 'governance without government' that generates some functional equivalents for democracy in global space (Rosenau 1998). One may even – in my view more contentiously – regard the

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[6] Bellamy and Castiglione aptly characterise this view: "What defines the *demos* is largely functional, making the parcelling out of popular sovereignty theoretically unproblematic, even though there are numerous practical difficulties" (Bellamy and Castiglione 1998:160).
[7] for a critical assessment see Hirst and Thompson (1996).

power of global corporations "to extract accountability from governments" as a new form of economic citizenship (Sassen 1996:34). But nobody can seriously believe that economic globalisation and its current regulatory regime contribute to the emergence of a global sense of political community, except by way of triggering resistance of the type we have recently witnessed at the 1999 WTO summit in Seattle. The agents of economic globalisation do not need cosmopolitan democracy but actively oppose it. The argument for cosmopolitan democracy can thus hardly be made in a functionalist manner. If Anthony Giddens' diagnosis of a 'runaway world' (Giddens 1999) is correct, then the task of building a global political community will not only be more urgent than ever but also more difficult.

Resistance to unregulated globalisation is part of the second story, which is about global civil society and human rights. The number and political impact of transnational NGOs and associations has dramatically increased over the last three decades. They address issues ranging from environmental concerns to the rights of women or indigenous peoples. There is again an expanding legal regime of international human rights conventions, commissions and courts that backs up these activities – both the freedom to engage in such practices and the general political goals which they pursue. And in this story, too, the legal regime increasingly constrains the law-making power of sovereign states. One important difference with economic globalisation is that we can find here the germs of a global polity. International human rights may be understood as a universalised core of liberal citizenship (Bauböck 1994:239-40) and transnational associations can be regarded as precursors of a nascent world-wide civil society. The other difference is, however, that the scope of protection afforded by the human rights regime and the extent of popular of involvement in transnational associations are still rather marginal compared with the pervasive impact economic globalisation has on the life-worlds and identities of people everywhere.

The human rights revolution after 1945 is certainly the most important cosmopolitan achievement so far. It overturned the previous conception of states as the exclusive subjects of international law and normatively disconnected rights from national membership. Yet this doctrinal change is hardly enough to promote a strong sense of cosmopolitan identity. Those living in non-democratic states find their human rights constantly in jeopardy and the residents of liberal democracies regard them as a benefit of national rather than of global citizenship.[8] If human rights lack teeth, global civil society lacks participants. Although there are many more transnational associations and NGOs than ever before (Rosenau 1998:31), the number of individuals actively engaged in them is minuscule compared to the vast mass of consumers exposed to global flows of commodities and information. Moreover, the associations of civil society are necessary, but not sufficient as building blocks for modern democratic polities. The former are divided by their orientation towards particular interests and issues, whereas the latter are integrated by a public discourse about the common good. Even a global civil society with many more participants would not by itself create a sense of shared political identity that makes for mutual recognition and a willingness to compromise or to accept temporary defeat. It could very well lead instead to exacerbated conflict between social groups that pursue incompatible goals.

Neither of the two globalisation stories provides a satisfactory answer to the political community question. In order to understand the dimensions of this task we must compare it with the emergence of such communities in the Westphalian state system, and that means with a theory of nationalism. Nationalism is the dominant manifestation of political community in the modern world and also the greatest antagonist of cosmopolitan democracy. I will briefly

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[8] David Beetham (1998) presents a carefully balanced assessment of the contribution of human rights development to cosmopolitan democracy.

highlight the challenges normative and explanatory theories of nationalism raise for cosmopolitanism.

John Stuart Mill was the first important political theorist to spell out the view that liberal democracy would best flourish if citizens shared a common nationality, that is "common sympathies which do not exist between them and others – which make them co-operate with each other more willingly than with other people, desire to be under the same government, and desire that it should be government by themselves, or a portion of themselves exclusively" (Mill 1861/1972:391). The problem with Mill's liberal nationalism is that it gives up on the task of building larger multinational polities that must be the starting point for a cosmopolitan project. He advocates the assimilation of the smaller and less civilised populations and the separation of those who are equally developed into different states (ibid.:396-8). Contemporary liberal nationalists still face this dilemma of either denying nationhood to many potential contenders or accepting frequent revisions of borders, which undermine the integration of the political community that shared nationality is supposed to guarantee. Cosmopolitan liberals react to this by denouncing ethnic nationalism and promoting instead a civic and constitutional patriotism that is cleansed from any particularistic traits and can therefore be easily transposed to larger units. Yet it remains unclear how universal principles could possibly ground particular political identities (Yack 1996, Kymlicka 1998:173). There are only two plausible ways of building political communities that transcend existing national identites: assimilation into a larger community that replicates the particularistic traits of nationhood or federalisation that generates loyalties to the encompassing unit grounded in recognition of its constituent parts. Once coercive assimilation is ruled out as incompatible with liberal democracy, multinational federalism appears as the most promising way, first, for maintaining unity in liberal states faced with internal demands for self-government and, second, for creating larger entities from states with their own strong national identities. Devolution in Spain, Belgium and Britain provide recent West-European illustrations for the first task; the second one is likely to emerge as a challenge for the European Union. The further the Union moves beyond economic and towards political integration, the more demands for recognition of national and cultural diversity will be raised. Yet multinational federalism is no easy formula. There are three difficulties that cosmopolitan projects have to consider: asymmetry, enlargement and democratisation.

First, most multinational federations are plagued by the problem that a linguistic or religious majority constructs for itself a national identity that encompasses the whole federation and regards the internal borders between states or provinces as merely regional, but not as national ones. For minorities, however, the federation is not itself a nation, but composed of distinct national communities. Such asymmetry is likely to arise also in the EU project for constructing a regional federation. The larger and more powerful states will push for integration formulas that are formally neutral with respect to cultural and political differences between the constituent parts of the union but actually tend to homogenise them. Smaller constituent states are more likely to insist on specific recognition of their particularities, which the bigger players regard as costly and cumbersome. Moreover, a multinational mode of integration raises expectations among national minorities within the member states to have their languages and cultural traditions recognized as well. This creates a further asymmetry between the intergovernmental construction of the Union as a confederation of equal member states and the demand of substate minorities to be directly represented at the Union level.

Second, multinational federalism as we know it operates with a limited and stable set of units. Canada is bilingual, Belgium has three official languages and Switzerland has four. If in these countries the new languages of immigrants were given the same status this would upset the

carefully crafted federal balance. The smaller minorities are likely to interpret this as a weakening of their position and a breach of an implicit federal contract concluded between the original partners only. Multinational arrangements are often characterised by a certain rigidity that is difficult to reconcile with high rates of demographic change (differential fertility, intergroup mobility or immigration from outside). This problem is greatly exacerbated for externally expanding federations like the European Union. For example, the current EU language regime with its principle of equal recognition of official languages of member states will come under severe strains with Eastern enlargement (Kraus 1998). Theoretically, it is obvious that multinational recognition is a socially scarce good (Hirsch 1976) – with expanding numbers of beneficiaries its value diminishes towards zero. A world federation could therefore hardly be multinational in the same sense as Canada or Belgium. The enlargement dilemma will not arise if we think of the cosmopolitan project as a top-down federal transformation of the existing UN system. Yet this approach is unlikely to answer the polity-question we are concerned with. Supranational federations that are built from below, i.e. from existing nation-states will have to become more thickly multinational the more they integrate internally but will have to thin out the more they expand externally. The European Union tries to do both at the same time and this is creating considerable tensions.

Third, Central and Eastern Europe since 1989 shows how the need for political community becomes stronger with transition towards democracy. Any such transition is likely to exacerbate conflicts in society that had been suppressed by an authoritarian regime. National identities become a resource for rebuilding communities within which these conflicts are mitigated by norms of solidarity and Mill's "common sympathy". The move towards democracy in CEE states was therefore accompanied by a nationalising dynamic (Brubaker 1996) that often worsened the position of ethnic minorities. In the formally multinational federations of the Soviet Union, Yugoslavia and Czechoslovakia, national identities were not an integrating force but became instead became the fault-lines along which these states broke apart. The implication of these experiences for a cosmopolitan project is that one ought to expect a heightening rather than an attenuation of conflicts with supranational political integration, with the emergence of a global civil society and with a broader participation of individual citizens in supranational elections and political decisions. The international society of states and supranational government in the EU operate so far in a rather undemocratic manner. Cosmopolitan democracy means that conflicts that had hitherto been negotiated in the sheltered environments of diplomatic meetings and intergovernmental conferences will create deep rifts in society. Already established national identities will not simply fade away in this process but will more likely be mobilised. The question is whether a sense of supranational political community can emerge at the same time and promote the integration of these identities into an expanding multinational conception.

This question moves us beyond normative theories that ask how existing national identities ought to be taken into account towards a broader historical perspective. According to most contemporary theorists nationalism is a phenomenon of the modern world. If we understand the conditions under which it emerged we might also be able to envisage its eventual demise. Ernest Gellner, whose theory of nationalism (Gellner 1965, 1983) is probably the most influential one, argued that the industrial division of labour required standardised national cultures in which individuals could communicate with each other in a context-free manner. Only the modern bureaucratic state was able to organise the socialisation of the mass of the population into these national cultures. National loyalties are essentially a bye-product of the value of belonging to a cultural pool that provides its members with economic opportunities. The theory highlights the structural forces that made nation-building both possible and

imperative. And it rejects the belief shared by nationalists and liberal cosmopolitans alike that nationalism is grounded in some premodern attachment of human beings to blood and soil.

On the one hand, this account may raise cosmopolitan hopes. National communities are not rooted in ancient cultures, but are constructed by modern political élites and state bureaucracies in the transition to modernity and they make fairly arbitrary use of the available cultural material. Another historical transition might then create a new type of global political community that finally separates political authority from cultural belonging. On the other hand, this is also a sobering perspective. While individual national communities are constructed and deconstructed through political agency, the basic *pattern* of community emerges from the structural characteristics of a whole historical era. Constructing a global polity is a task entirely different from nation-building – it requires changing the pattern rather than adding new patches to the existing one. Gellner himself thought that there were only three fundamental types of human societies: pre-agrarian, agrarian and industrial ones. Of course there are many indicators – such as the growing service sector and the revolution in information technology – that ours is already a postindustrial era. But it is still an open question how these changes in the economic structure and knowledge base of society will affect the future patterns of political community. Are we heading towards a new medievalism with overlapping political authority and multiple loyalties (Bull1977:254) or towards a well-ordered world federal republic (Höffe 1999), towards a formation of regional civilisational blocks (Huntington 1996) or rather a further fragmentation of the world into ever more nation-states (Hobsbawm 1990, Nairn 1997)? Instead of proclaiming prematurely the end of the nation (Guéhenno 1994) we ought to be attentive to contradictory trends and gather more evidence about those transformations that are already under way. Normative theory of democracy must then consider how the allocation of membership, rights and obligations must be altered in response to these changes so that individuals can still see themselves as equal participants in collective self-government.

The general conclusion from these sketchy considerations is that it is not enough for cosmopolitans to maintain that building a global political community would be desirable or even morally required. All such prescriptions are subject to the constraint of "ought implies can". Political communities cannot be wished into existence if their emergence is a historically contingent process. We have to examine first whether the new context of globalisation will itself create the preconditions for forming a world-wide political community before we can jump to constitutional designs for cosmopolitan democracy that already presuppose the existence of such a polity. To me it seems wiser to adopt a skeptical attitude in this regard. Even if our generation might be witnessing a change as fundamental as the transition from agrarian to industrial societies, only future generations would be able to perceive its grand patterns from the vantage point of historical hindsight. What we can do instead is to consider the various patterns of political community beyond the nation-state that are already emerging before our eyes and discuss their impact on democratic citizenship. Political legitimacy for cosmopolitan citizenship "has to be constructed from the bottom up" (Bellamy and Castiglione 1998:164) and this means from the emerging forms of political community that already transcend the boundaries of nation-state sovereignty.

2. Four boundary regimes

Political communities share distinct historical identities and are separated from each other by boundaries that demarcate jurisdictions over territories or persons. As Hannah Arendt repeatedly pointed out, democratic citizenship is only possible in a world where many such communities coexist with each other: "A citizen is by definition a citizen among citizens of a

country among countries... The establishment of one sovereign world state ... would be the end of all citizenship" (Arendt 1970:81-2). This critique of cosmopolitan democracy is, however, not as devastating as Arendt believed. It only rules out a unitary structure of a global polity whose internal boundaries would be merely administrative ones. Any defensible cosmopolitan vision will be pluralistic and federal in the sense that it conceives of a global polity as a composite of many communities in which sovereignty would be widely dispersed or shared both horizontally and vertically. Cosmopolis would then still be a world with many countries and world citizens would at the same time be citizens of particular communities. But this assertion merely leads to a further question: How will these various political communities relate to each other, what will be the pattern of boundaries that demarcates their jurisdictions?

Once the nightmare utopia of a unitary and sovereign world state has been discarded, there remain four possible patterns of boundaries between political communities, each of which could satisfy Arendt's requirement of pluralism. First, communities can be separate; second they can be nested so that the more comprehensive units are composed of distinct smaller ones; a third type are multilevel communities in which individuals are members not only of the smaller communities but also of the encompassing larger unit; the fourth pattern is one of overlapping communities that share jurisdiction over parts of their territory or bring together populations separated by territorial borders. We can regard these boundary patterns in two different ways: as alternative models for a political world order or as steps in building a combined regime of increasing complexity. I will first consider ideal type models of each boundary pattern and then suggest that contemporary developments already point towards a mixed regime.

A pattern of strict separation is postulated by the realist paradigm in international relations theory. States are like billiard balls: internally homogenous and independent from each other. Neorealist approaches shed the Hobbesian assumption of a permanent international state of nature in order to account for the emergence of international blocks and regimes (Zolo 1997:107-8, Rosenau and Czempiel 1992, Kaldor 1995). However, they still regard states as unitary rational actors competing with each other in an international environment that is at best an "anarchical society" (Bull 1977). This society admits only one type of member: sovereign states. And it admits them indiscriminately - authoritarian and democratic ones alike. Relations between governments and their subjects are disregarded as internal matters. Peaceful coexistence between states is the only relevant norm. The members of this society are free to selectively enter somewhat closer relationships amongst each other. They can form alliances for free trade or joint defence. An alliance is like a voluntary association of states for limited purposes. In contrast with the basic equality of legal status enjoyed by all sovereign states in the international society, the decision-making institutions of alliances generally reflect inequalities of power among their members. This realist perspective matches well with the dominant positivistic approach in international law. Although there is an international legal order, its exclusive sources are treaties between states and the customary recognition of norms in state practices. The legitimacy of international law is thus not derived from democratic deliberation and decision-making within a global political community. There is no such community that states or individuals could be members of. Individuals are bearers of human rights that have become an important element of international law since 1945, but they are not citizens represented in the making of international laws within a global polity.

Whereas the first pattern allows only for a singular horizontal membership the second pattern of nested communities creates a dual vertical[9] structure in which individuals are members of

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[9] The term 'vertical' should not be misunderstood to imply a hierarchy. It is merely meant to distinguish an encompassing unit from the subunits that it encompasses. Which of these two types of units has larger powers

states and states member of a confederation. This was first extensively described by Johannes Althusius (1603/1965) who provided an alternative to Bodin's theory of sovereignty by considering the polity as a composite entity that unites families, professional associations, cities and provinces, so that each level is constituted as an association of its immediate subunits. In contrast with international society, a confederation is a sort of political community, but its members are states in their collective capacity representing their citizens rather than individual citizens themselves. Montesquieu went beyond Althusius by proposing that a confederate constitution is specifically suitable for republics because it "has all the internal advantages of a republican, together with the external force of a monarchical government" (Montesquieu 1748/1949:126). Immanuel Kant used this idea as a vehicle for a cosmopolitan project. He proposed that "eternal peace" could be only achieved by overcoming the international state of nature and its "savage (lawless) liberties" through an ever expanding confederation of free republics that would ultimately comprise all peoples. However, he also thought that states were unwilling to comply with this moral imperative and suggested a mere alliance or non-aggression pact as a "negative surrogate" (Kant 1795/1995:296). Kant's preferred solution was a still a confederation whose members are peoples rather than a federation with membership for individuals. This becomes obvious once we consider his definition of world citizenship, which he reduces to a mere right of hospitality, that is to visit other countries for purposes of international travel and trade (ibid.:297). Kant's world citizens enjoy a limited free movement that does not lead to the mixing of peoples in a global polity because it does not include a right to permanent settlement. There are also no provisions for individuals to participate and be represented in political decisions at the global level.

The idea of federation as a multilevel system of government takes one further step. It originates in the US constitution adopted at the Philadelphia Convention of 1787. Different from the earlier models of the Swiss and Dutch confederations and the first American constitution (the Articles of Confederation of 1781) the second one established a three-way relation of membership between citizens, states and the federation. Citizens are simultaneously members of their states and of the federation[10] and the federal community itself is composed of individual citizens as well as of the states.[11] While external sovereignty is located in the federal government, internal sovereignty is divided between state and federal governments. By extending individual citizenship to the largest unit federalism is inherently linked to a democratic form of government.[12] This is why current theories of cosmopolitan

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depends on the vertical division of powers. The confederation is, for example, hierarchically subordinate if all its members have a veto right over all collectively binding decisions.

[10] The relationship between state and federal citizenship remained, however, contentious for a long time and became a major issue in the conflict between the slave-holding Southern states and the North. The ambiguity was only resolved by the 14th amendment of 1868, which states that "all persons born or naturalised in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside." Until then, the status and rights of federal citizenship were still to a large extent mediated through state citizenship.

[11] Dual representation at the federal level as expressed in bicameral legislatures does not necessarily follow from the duality of individual citizenship. Mature federalism combines the three possible relations of membership: citizens are members of constitutive units, constitutive units are members of the federation and citizens are members of the federation. Confederation does not include the last relation, while other semi-federal systems do not develop the second one. In some countries specific regional subunits enjoy a high degree of autonomy without being collectively represented at federal level. Daniel Elazar (1987:7) has suggested the term 'federacies' for such arrangements. In other cases, such as Austria, the federal chamber of parliament has no real legislative powers.

[12] Scholars of federalism question therefore whether authoritarian regimes like the Soviet Union, the CSSR or the former Yugoslavia were truly federal (see for example Elazar 1987:67). On the one hand, the federal constitutions recognized the multinational character of the state; on the other hand, federalism remains largely symbolic where there is neither effective individual citizenship, nor a real division of powers.

democracy advocate a federal model rather than a confederal one. This does not mean that they imagine a world state as a larger replica of the US with a similar concentration of power at the centre. First, a world federation is by definition different in one essential respect from any present federal system. In the former external sovereignty would lose its meaning. Secondly, internal sovereignty can be divided in various ways without affecting the character of the polity as a federation. In Thomas Pogge's cosmopolitan scheme sovereignty would be widely distributed vertically and the power of making particular decisions would rest with units that are as small as possible but still include all persons significantly affected by such decisions (Pogge 1992:67, 75). Otfried Höffe advocates a principle of subsidiarity that would allocate only those tasks to a world government that cannot be fulfilled by lower level governments – such as the resolution of interstate conflict (Höffe 1999:293-4). The distinctive characteristic of democratic federation is not a strong central authority, but a multilevel structure of the polity with direct relations of membership linking citizens, constitutive units and the federation. A federal world republic would have to create a similar structure of triple membership.

The fourth boundary pattern can be less easily described as an ideal world order. For most political theorists the very idea of overlapping boundaries of polities conveys an image of disorder.[13] However, a political order that requires individuals to be neatly separated into national boxes is quite unattractive both from descriptive and normative perspectives. It is a fact that many groups have multiple affiliations that cut across state borders and ignoring these in the design of political institutions could mean treating individuals who belong to such groups with less respect and concern than others. Instead of focusing on the grand architecture of a world polity, our attention is then drawn to phenomena such as multiple nationality or international protectorates. These are apparently rather marginal disturbances in the state system that could be easily dismissed as irrelevant for a theory of global political order. However, this first impression may be misleading. Different from political theories of cosmopolitanism, the new sociological and anthropological literature on transnational communities examines how the Westphalian pattern is subverted from the bottom up. A good example is Arjun Appadurai's notion of 'global ethnoscapes', which he describes as "landscapes of group identity" where "groups are no longer tightly territorialised, spatially bounded... or culturally homogeneous" (Appadurai 1996:48). For a cosmopolitan project it may be important to consider how cultural communities that are no longer confined within the boundaries of the state system might transform this system in the long run. If we accept Gellner's account of nation-building as an attempt to make cultural and political boundaries coincide, then transnational cultural communities pose a quite significant challenge to the nation-state. While the other three patterns describe how existing state-based communities may be used as building blocks for constructing an encompassing global order, an overlapping pattern of political community would increase the permeability of boundaries, not merely for communication, commerce and travel, but also for political membership, identity and loyalty. Theories of postnationalism interpret this as a trend that will eventually undermine the territorial as well as cultural bases of political legitimation. In contrast with cosmopolitan federalists they regard the erosion of existing national communities as a precondition for the emergence of a global polity.

What is broadly lacking so far is a normative political theory that would regard these phenomena of overlapping boundaries not only as a subversive tendency challenging the

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[13] Cosmopolitans are obviously more sympathetic to this idea. David Held emphasises the "overlapping spheres of influence, interference and interest" of countries that create "overlapping communities of fate" (Held 1998:22). But this notion still refers to increasing *interdependence* between distinct political communities rather than to overlapping forms of *membership*.

dominant architecture of the state system, but would integrate them into positive conceptions of what justice and democracy require. Let me take as a starting point a recent essay by Amartya Sen where he suggests a third alternative to "grand universalism" and "national particularism" in theories of justice. The former espouses a global version of justice, which ignores national affiliations of individuals, while the second endorses a two-stage conception: just institutions must first be built within states before we can apply principles of justice to relations between political communities. Sen points out that "we all have multiple identities" (Sen 1999:120) and these give rise to conflicting obligations. Many of these affiliations and their corresponding institutions "cut vigorously across national boundaries and do not operate through national polities" (ibid.:123). Issues of justice and fairness arise in various domains that do not encompass all humanity but are not confined within national boundaries either. Acknowledging this multiplicity has implications for our view of persons and of institutions. Somebody who is a medical doctor, an environmentalist and a member of a church will have affiliations and obligations not all of which can or should be subordinated to one overarching identity as a human being or as a member of a national polity. If "justice is the first virtue of social institutions" (Rawls 1971:3), then specific demands of justice will have to be developed not only for states and international bodies, but also for organisations such as business corporations or NGOs that operate beyond national borders.

While I fully agree with Sen's broadening of the scope of theories of justice,[14] I would still like to emphasise the specific place occupied by the basic institutions of a political community. As Sen himself points out, Rawls's device of the original position is used "to yield the choice of the basic political and social structure for each society, which operates as a political unit and in which the principles of justice find their application" (ibid.:119). Resolving the Hobbesian problem of a just political order in the domestic and international realm is a task prior to determining the norms of justice that apply within other areas of social life. In the absence of such a political order we may still feel bound by general moral norms that apply between individual persons but we cannot even think about developing norms for larger organisations such as business corporations or professional associations. Once principles of justice for relations within and between political communities have been found, it will then be possible to develop more specific accounts of ethical principles that reflect our multiple and often competing affiliations.[15] The problem with Sen's approach is that it is not radical enough. People do not only have many social, cultural, ideological or economic affiliations that cut across their membership in political communities, but sometimes this very membership itself cuts across state boundaries as well. This raises the problem within the heart of political theory. What would a just political order look like in which individuals are members of overlapping political communities? Grand universal cosmopolitanism cannot answer this question because it disregards the importance of affiliation to all kinds of political community; national particularism cannot answer it because it builds on the premise of exclusive membership. Federalist cosmopolitanism allows for multiple levels of nested membership but not for horizontal multiplicity that blurs the boundaries of jurisdictions. There is not yet a cosmopolitan theory that would permit or promote a global pattern of overlapping membership.

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[14] A similar route is explored by Jon Elster in his account of pluralistic norms of 'local justice' embedded in sub-state institutions (Elster 1992).

[15] Saying that political justice is in this sense prior to social justice does not at all imply that our national affiliations always take priority over our membership in other kinds of communities and associations. A stable and just global political order may require abandoning the general priority of obligations to compatriots defended by nationalists.

So far I have described the four patterns as alternative and (with the exception of the first one) utopian conceptions of a global order. I now want to question this interpretation and suggest that we are already witnessing a transformation of the state system through a combined emergence of the second, third and fourth pattern. I also regard such a rather messy combination as preferable to an exclusive realisation of the confederal, the federal or the postnational vision. This is, however, a slow and uneven process and it is important to keep in mind the limitations of each of the three cosmopolitan dynamics with regard to their scope and their community-building potentials.

The pattern of an international society of states is clearly still the dominant one. It is almost universal in scope. Today nearly all populations and territories (with the notable exception of Antarctica) are formally allocated to state jurisdictions. Only the high seas have remained outside their reach and since the beginnings of international law they have been a testing ground for its capacity to contain the global state of nature. The UN and their affiliated international organisations represent a cautious step towards world confederation. Different from Kant's idea its membership is not limited to republics or democratic states. Although Switzerland still stays outside, the scope of the UN regime is truly global. Permanent membership and veto rights for five states in the Security Council counterbalance the danger that such indiscriminate membership might undermine the capacity to build an effective common political order. At its hard core where the UN aspires to statelike functions by claiming a monopoly of legitimate violence in the international arena this organisation resembles an alliance of unequal powers more than a confederation of equal states.[16] At its soft edges, on the other hand, the UN regime moves beyond the confederal framework. In its decision-making institutions this regime basically represents only states, but it has also adopted a principle of self-determination of peoples that is not strictly confined to existing states (Cassese 1995). Stateless nations like the Palestinian people and a global network of indigenous peoples have based their claims to international recognition on this principle. Moreover, UN activities have provided a global public arena for non-governmental organisations to campaign for global environmental policies or women's rights. The basic reason why the overall UN architecture must be unattractive for cosmopolitan democracy derives, however, from the deficiencies of the confederal model itself. In the present UN world there is simply no place for global citizenship in the strict sense of the word. Its human rights treaties promise individuals protection against their governments, but not representation in global institutions. This fault is not beyond repair. Creating a second chamber directly elected by citizens alongside the UN general assembly, where only states are represented, would be a significant move towards a democratic world federation (Childers and Urquhart 1994; Held 1995:111; Bienen et al. 1998:297-8; Höffe 1999:333-4). Yet such reforms are not merely blocked by authoritarian members of the UN. So long as there is no emerging sense of global political community, they are unlikely to arouse much enthusiasm among the citizens of democratic states as well.

Until now there is only one example of a supranational membership that transcends the limitations of a confederal model and this is the citizenship of the European Union. The EU is also closer to the Kantian idea than the UN in so far as it is a gradually expanding union that admits only democratic states. Yet its scope is obviously quite limited. The borders of Europe are not naturally fixed and may eventually extend not only towards the east but could also include the southern and eastern shores of the Mediterranean Sea. But European dreams of building empires that encompass the globe have long been abandoned. However far the European Union might stretch, it will remain a regional association of states that coexists with

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[16] The 1999 NATO intervention in Kosovo without mandate from the Security Council demonstrated that even the claim itself is rather spurious given the present monopolar structure of global military power.

other states and regional formations. There is nothing inherently cosmopolitan in the attempt to build a strong regional economic block, which can successfully compete with the US and South-East Asia in global markets. What makes the EU attractive from a cosmopolitan perspective is a still fledgling conception of supranational citizenship that has emerged as a bye-product of market-driven integration. The citizenship formally established by the Maastricht Treaty of 1992 did not much more than bring together under a new name the various rights citizens of member states had previously enjoyed as benefits derived from intergovernmental agreements (Shaw 1997, Weiler 199). The core rights of political participation remain limited because of the lack of legislative power in the European Parliament and because the crucial franchise in national elections is not included in the rights of European citizenship. Moreover, through their laws on nationality the member states remain the gatekeepers of admission to Union citizenship. Current plans for a EU charter of fundamental rights, which would be directly adjudicated by the European Court of Justice, would greatly strengthen the civil rights component of citizenship in Europe. For the foreseeable future political and social rights will, however, remain primarily attached to national membership. Eurosceptics argue that the main obstacle for the transformation of the EU into a federal polity is the strength of distinct national and linguistic identities of the member states. This objection looks to the US or Germany as model federations but ignores that in countries like Canada, Belgium, Switzerland or India federalism has been a constitutional mechanism to accommodate diversity of just this kind. What makes the task of European federation different and difficult is not in the salience of national differences per se but the fluid nature of boundaries. I have already pointed out above in section 1 that existing models of multinational federalism establish a stable balance between constitutive national and linguistic groups. As the EU keeps expanding new states join the club and demand that their national identities shall be respected.[17] And as its political integration deepens regional national minorities demand recognition and representation alongside the member states. The EU is the most advanced model of multilevel supranational government, but it has so far failed to create a robust form of multilevel citizenship with direct representation of individuals in decisions at the Union level and has not found a formula how to integrate plural national identities into a larger polity.

The fourth boundary pattern of overlapping affiliations to political communities exists in three major manifestations that I want to discuss briefly in the rest of this paper: these are transborder national minorities, global networks of indigenous groups and transnational migrant communities.

3. Three kinds of transnational communities

Theoretically one can imagine two different types of overlapping political communities: a first where a common territory is shared between several polities and a second where membership is shared across territorial divisions. As examples for the first type we might think of the special status of non-sovereign territories such as post-war Germany and Austria or today's Northern Iraq, Bosnia and Kosovo where foreign powers or representatives of the international community exercise control over the local government. Plans for a special status of Jerusalem as the capital for both Israel and a future Palestinian state provide another illustration. These cases show the limitations of scope and of transformative impact of such a territorial model of overlapping boundaries. Deviations from a rule of exclusive territorial jurisdiction emerge only temporarily in the aftermath of a breakdown of political order and are regarded as means for re-establishing clearly defined territorial sovereignties. Where several external powers are involved in governing an occupied country or international

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[17] See Art. 6(3) TEU as amended by the Treaty of Amsterdam.

protectorate they usually avoid problems of coordination among themselves by further subdividing the territory into zones each of which is controlled by one foreign state.[18] There are no indications that the territorial structure of the state system is gradually dissolving under the pressures of globalisation. We are not moving towards a neomedieval world of overlapping territorial sovereignties and constantly shifting state borders. In the present state system there is still no toleration for ambiguities of this sort. From a cosmopolitan perspective it would also be unwise to promote them in order to overcome the rigidities of the Westphalian structure. Stable and internationally respected territorial borders of states are a precondition for federal as well as for transnational models of building larger political communities.

This leaves us with the second type of overlap where populations in the territories of several states share a political community. The first and most obvious instance of this phenomenon are national minorities linked to a neighbouring state or region in such a state with whose population they share a common language, history and ethnic identity. National minority demands for self-government may be generally accommodated in two different ways: by granting autonomy within the territory of a state or by revising state borders so that the minority can form its own state or join a neighbouring one. From a liberal perspective the former solution should be preferred unless the minority has a serious and justified grievance that can only be redressed through territorial separation (Buchanan 1991). Territorial autonomy can be achieved through devolution of power within federal states or through creating a special status for a self-governing territory within a unitary state. Cultural autonomy of a non-territorial kind over matters such as public education may sometimes provide an alternative solution for national minorities who live dispersed throughout a state (Bauer 1907). Many western democracies have a bad record of coercive assimilation, segregation, expulsion or genocide of indigenous and national minorities who had been settled in their territories at the time of nation-building. A growing number of liberal theorists recognize that accommodating aspirations of national minorities to self-government is a question of justice that cannot be ignored for the sake of unity (Kymlicka and Norman 2000). There are three kinds of reasons for respecting national minority rights.[19] First, these are sometimes grounded in historical agreements that promised autonomy as a condition for voluntary integration. Second, even in the absence of actual treaties minorities may have strong claims because of persistent disadvantage resulting from the dominance of a hegemonic majority culture. Finally, there is an argument that applies to national majorities as well as to minorities: Liberal democracies ought to recognize the general value of secure membership in cultural and political communities for individual autonomy and well-being (Kymlicka 1989, Raz and Margalit 1990).

These reasons support claims for minority rights, which are articulated at global, international, domestic and transnational levels. First, at the global level there is an individual human right for persons belonging to minorities "in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language". This right ought to be respected in the same way in all "those states in which ethnic, religious or linguistic minorities exist".[20] Second, a claim for secession involves a prima facie violation of the principle of territorial integrity of existing states and a demand for

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[18] In the case of Jerusalem making it the capital of two independent states would almost certainly involve dividing the city. Alternatively, if it were indeed to be jointly governed this would be a viable solution only if it led towards creating a binational federal state for the Jewish and Palestinian populations.

[19] I discuss these three reasons in Bauböck (1999) where I also add the value of diversity for the wider society as a fourth argument. I do not include this latter reason here because I regard it as irrelevant for the collective autonomy claims of national minorities.

[20] International Covenant on Civil and Political Rights, Art. 27.

recognition of new international borders. If the state from whom a group wants to secede does not agree to peaceful separation, a secession demand becomes a matter of concern for the international community. Developing adequate standards for mediation, arbitration and adjudication in such conflicts is an important task for international law and international organisations. Third, there is a broad range of minority claims that fall somewhere in between universal human rights and legitimate secession. These are demands for various collective arrangements and rights ranging from official status for a minority language to territorial autonomy and special representation at federal level. These can only be assessed contextually within a domestic framework. The particular history of a country and its constitutional traditions matter for normative judgments on minority policies, but they should be critically evaluated in the light of the three general reasons for recognizing minority claims that I have listed above.

Minority rights articulated in the three arenas discussed so far fit well into a federalist cosmopolitan project for strengthening universal legal norms and international organisations while respecting the self-governing rights of historically established political communities. However, strengthening such rights will hardly contribute to the emergence of a global citizenship. Quite on the contrary, their dynamic appears to produce a further differentiation and fragmentation of the existing state-based citizenship. From a cosmopolitan perspective the more interesting cases are those located at a fourth transnational level. If the members of a minority think of themselves as belonging to a group living in a neighbouring state, how should such an attachment be taken into account? Gidon Gottlieb has suggested an internationally recognized "special regime for a national or ethnic community in a historical homeland that lies across an international border." Such a homeland regime "would permit a soft exercise of national rights that does not entail a territorial rearrangement among states" (Gottlieb 1994:106). "It could provide that no national would have the status of an alien in his or her national home even though not all might have the right to settle there" (ibid:107).

There are three ways how a state may include an external minority in a broader national community: by granting its members immigration rights or access to citizenship in its own territory, by establishing an external citizenship that involves the minority in political decisions in the 'homeland' (through absentee ballots) or by assuming the role of a protecting power for the group's rights in the state where it resides. The first among these is fairly common. Germany, Israel, Japan, Greece and Italy are among the countries that privilege immigrants whom they regard as belonging to their national community although they are not formally nationals of the state. Such ingathering of an ethnic diaspora belongs plainly to a territorial conception of nation-building. In the case of the German speaking minority in Rumania this safety valve has led to the vanishing of the whole group from its traditional area of settlement. In other instances, this policy may, however, transform local minorities into transnational ones who orient politically, culturally and economically towards an external homeland. From a liberal perspective the problem with this approach is that it creates different standards for admission that are difficult to sustain and justify when immigration becomes more diverse.

The second way of giving a special role to external minorities by enfranchising them in the homeland is regarded as more problematic because it reinforces the impression of disloyalty not only through exit but also through voice. In order to include minorities abroad in elections at home they must first be made nationals, which usually is only possible for the descendants of emigrants who acquire it at birth through ius sanguinis.

The third strategy of acting as a protecting power in the international arena is the most contentious one because the state where the minority lives generally regards such external protection as interference into its domestic affairs. The failure of the interwar regime of minority treaties under the League of Nations, which eventually served as a pretext for Hitler's claim to all lands inhabited by Germans in Eastern Europe, created a general international reluctance to endorse claims of this sort. An exceptional and rather successful example is the role Austria assumed with regard to the German-speaking minority in South Tyrol/Alto Adige. Language and regional autonomy rights were originally laid down in a 1946 bilateral agreement between Austria and Italy. When the Italian government appeared to stall on its promises and redrew the provincial boundaries so as to turn the German-speaking group into a minority in the region as well, the Austrian government raised the issue at the United Nations General Assembly in 1960. In 1992 the long negotiated "package" on group rights and regional autonomy was accepted by Italy and both countries declared the dispute to be terminated. Such an outcome is only possible where the external homeland refrains from sponsoring an irredentist movement and where the country of residence does not enforce a unitary conception of the polity. Both preconditions are unlikely to be met by new states involved in nation-building exercises. Rogers Brubaker has studied the triadic relation between national minorities, nationalising states where they live and external homelands in Central and Eastern Europe.[21] His conclusion is that the structure of this triangle creates a potential for the escalation of conflict, but that contingent factors of social and political agency determine what the outcome will be (Brubaker 1996:76).

There is indeed very little that could be said in general about the virtues or disadvantages of an international regime of "soft borders" between national minorities and their "homelands", except that liberal democratic states will find it much easier to tolerate when they integrate themselves into larger supranational federations. While supranational federation makes it less likely that border revisions between states would lead to violent conflict, it reduces also the plausibility of such claims in the first place. Free movement across borders, a common citizenship and recognition of many different languages within the federation diminish the need for external minorities to sustain formal links with their homelands.[22] While external minorities can domestically enjoy the same group rights as other ethnic and national groups, their specific privileges that link them to their homelands are then neutralised by turning them into general rights of federal citizenship. In this sense the demands of transnational minorities may be compatible with a cosmopolitan project and may even contribute to overcoming rigid Westphalian conceptions of mutual non-interference and exclusive territorial sovereignty.

Indigenous groups are a second type of minority whose demands may have a special significance for a transnational conception of community. In their case it is even more important than with the other national minorities discussed so far to emphasise the wide range of different historical experiences and of political and social organisation among such groups. What they share in common is an experience of colonial settlement that has turned them into minorities in their traditional homelands, has deprived them of natural resources and traditional means of subsistence and has marginalised their cultural traditions. Like the

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[21] A similar triadic relation exists between Northern Ireland, the Irish Republic and Britain with the difference that the external minority of Ulster Unionists has kept Northern Ireland within the UK. The Good Friday Agreement of 10 April 1998 provides for several layers of nested and overlapping jurisdictions: a Northern Irish dimension of self-government within the province, an all Irish dimension bringing together the executives of the South and the North, and a British Isles dimension with a Council including members of all the devolved administrations within the UK and representatives of the Isle of Man and the Channel Islands as well as the British and Irish Governments.

[22] Austria's joining the EU in 1995 might have been seen as lowering the barriers for nationalist demands to reunite South and North Tyrol, but has actually led to a de-escalation.

demands of other national minorities indigenous claims focus on self-government. They do not merely claim equal citizenship and freedom to practice their culture and religion, but want a large measure of political autonomy. And as with national minorities self-government is for them not merely an instrument to preserve a traditional culture, but expresses their desire to determine their own future and is an intrinsic value attached to their collective identity as distinct peoples. Yet the kind of self-government they desire is special in several respects. On the one hand, it is in practically all cases an internal autonomy within the states where they reside and not a demand for territorial secession and independence. On the other hand, indigenous political leaders make it clear that they do not only direct their demands at the political authorities of the state where they live, but ground their rights in international law and its principle of self-determination of peoples. Moreover, they have formed an impressive global network for deliberating about common concerns and lobbying international organisations. Indigenous minorities for whom land has a religious significance are apparently the most territorially rooted of all minorities. Yet paradoxically they have developed a much more cosmopolitan form of political orientation and mobilisation than other minorities that engage in traditional nation-building policies. Today indigenous claims are being reconsidered in the international arena and there is a UN Draft Declaration on the Rights of Indigenous Peoples waiting to be presented to the General Assembly.

Both national and linguistic minorities in federal states and indigenous minorities in settler societies often refer to historical agreements that originally recognized their status and rights. Yet there is another important difference here. For the former these agreements have constituted the political community as a joint enterprise of equal partners. During an initial period of colonisation the white settler societies in North America concluded treaties with the native communities as well. Indigenous groups were recognized as independent peoples whose title to the land under natural law could be relinquished only through voluntary cessation or as a consequence of acts of war against the settlers (Anaya 1996:9-19). However, these first treaties were essentially about separation rather than integration into a common polity. When natural law doctrines were gradually replaced by positivist theory, international law became by definition a law created by states and applying only between them. Indigenous peoples lost their international legal standing and were turned into mere subjects of the colonising states (ibid.:19-23). In the US their status as "domestic dependent nations" became a pretext for excluding them from full citizenship until 1924. In referring back to the first agreements that recognized their status as peoples indigenous groups refuse to be seen as constitutive communities of the present state where they reside and demand a direct relation to the international community that is unmediated by their individual citizenship. This is a challenge to the dominant "paradigm of domestication", which affirms "that treaty claims… can be dealt with satisfactorily and justly within the doctrinal framework and legal system of one party only, namely the state party." (Schulte-Tenckhoff 1998:259). Liberal democracies have recently reaffirmed the validity of old treaties[23] or offered new ones to those groups who were subjected without treaty.[24] Yet the condition attached to these offers is that indigenous groups would thereby accept domestic jurisdiction and abandon their claims to a special status under international law. For these reasons a recognition of indigenous rights to self-determination under international law would be a major shift away from the traditional state-centred paradigm.

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[23] A prominent example is the re-interpretation of the 1840 Treaty of Waitangi in the discussion about Maori rights in New Zealand (Fleras and Spoonley 1999).

[24] A recent case is the creation of the autonomous Inuit territory of Nunavut in the Canadian North-West Territories in 1999.

Migrant communities are a third type of minorities that do not easily fit into a territorial framework of political boundaries. They have received most attention in the literature on transnationalism. There are two developments that appear to create new forms of political community beyond the nation-state. One is the fact that immigrants in western receiving states enjoy an increasing range of rights that have historically been connected to citizenship but are now extended to foreign residents. The other observation is that some migrant communities retain a long-term political orientation towards their countries of origin and form transnational networks defined by their ethnic origin. On the first point Yasemin Soysal (1994) has suggested that immigrants now enjoy universal human rights of personhood that are disconnected from their nationality. David Jacobson (1996) regards this trend as a devaluation of citizenship. Tomas Hammar (1990) has introduced the term 'denizenship' to characterise the status of permanent foreign residents as quasi-citizens. I have analysed this development as a move towards 'transnational citizenship', which expands the range of membership and rights by taking into account societal ties emerging from long term residence and from links between sending and receiving countries (Bauböck 1994).[25] The second trend has generated a new interest in migrant diasporas (Cohen 1997, Cohen and Vertovec 1999). Nina Glick-Schiller and her associates have studied migrant communities that participate intensely in the political life of their homelands and argue that the political leaderships of these countries "are engaged in a new form of nation-building" (Basch et al. 1994:3) so that "both the political leaderships of sending nations and immigrants from these nations are coming to perceive these states as 'deterritorialised'" (ibid.:8).

I would once again plead for some caution in the interpretation of these phenomena. First, rights of immigrants disconnected from nationality have certainly grown but they are still precarious and frequently exposed to the whims of changing governments and parliamentary majorities.[26] The most important right for denizens is their guaranteed access to citizenship itself through naturalisation and ius soli. There is a slow and hesitant movement among democratic immigration countries to recognize such a norm, but such a reform of nationality laws is still regarded as a purely domestic matter and not covered by universal legal norms. Denizenship is thus not an alternative to citizenship, but a condition that must include the offer of full citizenship. As a corollary of guaranteed access, liberal states should also tolerate dual nationality. Multiple citizenship is the most visible illustration of overlapping membership in political communities. For migrants it carries the essential benefit of free movement between two societies to which they are linked by residential and family ties. Yet even this formal overlap does not generally imply a full and simultaneous participation in the legal order and political life of two states. In most cases only the rights attached to the nationality of the country where the person presently resides are active while the second citizenship remains dormant until the migrant enters that other country.

Second, the transnational political communities of migrants are generally transitory phenomena. Ambiguities of membership are frequently resolved over time through return migration to countries of origin or full assimilation into the polity of the receiving country. Traditional political communities are bounded in space but unlimited in time. In contrast, the transnational communities of migrants are territorially dispersed but normally do not extend over more than two or three generations (Bauböck 1998). This is all the more so in liberal democracies, which do not segregate migrants from the native population but permit them to intermarry and assimilate. On the other hand, the dynamic of migratory chains linking specific countries of origin with particular destinations can also generate an ongoing new influx of

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[25] See Bosniak (1999) for an excellent critical discussion of the recent literature.
[26] A major illustration is the denial of federal welfare benefits for legal resident aliens introduced in the US through the Welfare Reform Act of 1996.

first generation immigrants who reproduce the transnational, ethnic and linguistic character of communities. Even if the migrant communities themselves do not form stable transnational communities of a diaspora type, the receiving society and its conception of political community may be durably changed when it accommodates them.

4. Conclusions

I have argued that democratic cosmopolitanism needs a conception of political community that is not merely derived from functional imperatives of globalisation or normative postulates of political philosophy. Economic globalisation is a dissolvent for citizenship rather than a motor for its cosmopolitan transformation. Political theorists are therefore right to insist on the normative rather than prognostic nature of their projects for global democracy. Still, every political community needs some basis in the real world, a set of common experiences and positions vis-à-vis political power that sustain a desire for collective self-government. The test for cosmopolitan democracy is whether boundary shifts in the present international state system have the potential for creating a sense of global political community. I have examined nested, multilevel and overlapping patterns of political boundaries that transcend the dominant structure of state sovereignty. The UN regime is ideally conceived as a confederal model but lacks any significant element of global citizenship. The EU is so far the only supranational regime that has formally established a common citizenship but it remains plagued by the notorious democratic deficit and the lack of a vision how to integrate the firmly entrenched national identities into a federal polity.

The overlapping pattern of minority communities whose political and cultural affiliations transcend the national framework of the state where they live offers promising sites for studying the potential of cosmopolitan democracy. However, it would be naïve to attribute to these minorities a special cosmopolitan consciousness. On the contrary, they generally experience their positions in the interstices of the nation-state system as a severe disadvantage that they desire to overcome. The claims of their political leaders are therefore couched in the traditional vocabulary of nationhood that still buys legitimacy in our world.[27] If these minorities can become catalysts for a cosmopolitan transformation of democracy this is neither due to their ambiguous citizenship nor to their political consciousness. What may bring about such a change is an endogenous development of liberal norms in response to the challenges raised by their claims. Authoritarian regimes do not find it difficult to suppress their national and indigenous minorities and to keep immigrant workers in a state of indentured slavery. The need to take transnational affiliations into account arises only once a regime derives its legitimacy from a norm of equal respect and concern for all those whom it governs. It is this liberal norm that underpins the politics of multiculturalism, the devolution of regional power in multinational states, the softening of borders between external minorities and their homelands, the recognition that indigenous peoples have claims to self-determination under international law and the granting of denizenship and dual citizenship for immigrants. All these policy implications of liberal norms are of course controversial in theory and contested in politics. None of the past developments along these lines can be taken for granted. But they still show a profound change in the conception of national community in domestic as well as in international arenas that can pave the path for cosmopolitan projects. I suggest moreover that policies of accommodating transnational minorities carry a much stronger normative force than those of federating existing states into supranational polities. The former is generally a matter of justice whereas the latter is a matter of prudence in the sense of well-understood self-interest. Fortunately, acknowledging the overlapping patterns of

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[27] A good illustration is the insistence of indigenous peoples in North America to be regarded as First Nations.

political community and promoting the multilevel pattern of supranational federation are two strategies that should be well compatible and could even reinforce each other.[28]

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[28] A transnational conception of citizenship in the EU member states can, for example, help to correct the exclusionary effects that political integration and the introduction of EU citizenship has had for migrant minorities. At the Tampere summit in October 1999 the EU Council has for the first time accepted a principle that third country nationals ought to enjoy rights comparable with those of EU citizens. Recent proposals for an EU Charter of Fundamental Rights would also include these immigrants in an expanding regime of citizenship.

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