

## Cosmopolitanism In Constitutional Law

The Cosmopolitan Constitution Oxford Constitutional Theory

Cosmopolitanism, as an intellectual and political project, has failed. The portrayal of human rights, especially European, as evidence of cosmopolitanism in practice is misguided. Cosmopolitan theorists point to the rise of claims-making to the European Court of Human Rights (ECtHR) among Europe's Muslims to protect their right to religious freedom, mainly concerning the hijab, as evidence of cosmopolitan justice. However, the outcomes of such claims-making show that far from signifying a cosmopolitan moment, European human rights law has failed Europe's Muslims. Human Rights, Islam and the Failure of Cosmopolitanism provides an empirical examination of claims-making and government policy in Western Europe focusing mainly on developments in the UK, Germany, France, Italy and the Netherlands. A consideration of public debates and European law of conduct in the public sphere shows that cosmopolitan optimism has misjudged the magnitude of the impact claims-making among Europe's Muslims. To overcome this cul-de-sac, European Muslims should turn to a new 'politics of rights' to pursue their right to religious expression. This eye-opening book will be of interest to undergraduate and postgraduate students studying subjects such as sociology, human rights, minority rights, cosmopolitanism and ethnic and racial studies.

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This book looks at the changes of the foundations of constitutional authority since the eighteenth century. Somek argues that post WWII, people are no longer the fountain of authority, instead the new commitment to human rights and the 'peer review system' among nations, marks the advent of the cosmopolitan constitution.

While each chapter seizes the dialectic of enlightenment and counter-enlightenment at work in the global world, the volume insists on the moral, intellectual, structural, and historical resources that still make cosmopolitanism a real possibility even in these hard times.

This volume discusses perspectives on cosmopolitanism, as well as concepts and the work of key figures. For example, it examines educational, philosophical and historical perspectives, deals with such issues as citizenship, internationalism, patriotism, globalization, hegemony and many other topics. It brings together works on Alain Badiou, Giorgio Agamben, Ernesto Laclau, Bruno Latour and Homi Bhabha with works on Whitman, Kant, Martha Nussbaum, Thomas Pogge, Onora O'Neill and Philippe Van Parijs. The book engages in the new dialogue on cosmopolitanism from a variety of outlooks. It advances that dialogue and problematizes it through as yet unexplored paths. Its chapters respond to the intricacies of current discourses on cosmopolitanism and related notions and take into account both affirmative and negative stances to cosmopolitanism and its educational significance. Overall, the book relies on such stances as background material in order to transcend them and offer fresh perspectives on cosmopolitan stakes. It makes use of a recent tendency in political philosophical and cultural-critical debates that opens a possibility of more nuanced approaches to old '-isms'.

Provides a more complete account of the human rights project that factors in the contribution of cosmopolitan Catholicism.

In *Boumediene v. Bush*, the Supreme Court held that noncitizens detained at Guantanamo Bay have the constitutional privilege of habeas corpus. The case can be given multiple interpretations, including a narrow reading under which it follows straightforwardly from *Eisentrager*. But Justice Kennedy's majority opinion omits consideration of a factor that plays a role in *Eisentrager*, namely, the limited constitutional status of the noncitizen. For this reason, the most distinctive element of Justice Kennedy's reasoning is its cosmopolitanism, not its libertarianism. The cosmopolitan elements of *Boumediene* recall the debate about the use of foreign law to interpret provisions of the U.S. Constitution, of which Justice Kennedy is a major proponent, and it is argued that critics of judicial cosmopolitanism should reject *Boumediene* as well.

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Citizens' rights are the essential connecting link between human rights and life in a democratic society. The right to be a citizen can bridge the gap between the universality of human rights and the changing political and social settings of people's lives.

The idea of the 'nation-state' has failed, Glenn argues, and a major shift in our understanding of the state is needed. He provides an original approach by situating cosmopolitanism in its historical context and demonstrating that the state is necessarily cosmopolitan in character, and has always been subject to transnational law-making.

The present collection of essays for Martti Koskenniemi provides a wide-ranging overview of the state of Nordic international legal scholarship. In addition to the more theoretical discussions, it engages with a variety of current debates (such as the war on terrorism, the criminalization of international law and the position of human rights in the European Union, for example). The collection, with a mixture of academics and practitioners, will prove useful to scholars in international law, international relations and related disciplines, as well as officials of states and international organizations.

This book examines the boundary between parochial and cosmopolitan justice. To what extent should international law recognize or support the political, historical, cultural, and economic differences among nations? Ten lawyers and philosophers from five continents consider whether certain states or persons deserve special treatment, exemptions, or heightened duties under international law. This volume draws the line between international law, national jurisdiction, and the private autonomy of persons.

*Legal Ramifications of the First World War*. Originally published: New York: E.P. Dutton and Company, 1915. xxviii, 578 pp. The authors argue that the First World War effectively ended the existing system of international law, a system that was already in decline due to the growing economic and political interdependence of states. These changes have created a new set of problems that will provide the basis of a new system of international law when the war ends. In addition to supplying an intellectual framework for this new system, Baty and Morgan address practical topics, such as international arbitration, and more abstract issues, such as the clash between nationalism and cosmopolitanism. "[V]ery good reading....It is a thoughtful book." --T.S.W., *Yale Law Journal* 19:313-314. THOMAS BATY [1868-1954] taught law at Oxford University and was a joint secretary of the International Law Association. In 1915, the year *War* was published, Baty became the foreign legal advisor to the Japanese government and moved to Japan. He is also the author of the well-known work, *International Law* (1909) and *International Law in Twilight* (1954). J.H. MORGAN [1876-1955] was a Liberal candidate for Parliament in 1910. A legal editor of the *Encyclopedia Britannica* (14th edition), he was professor of constitutional law at the University of London and legal adviser to the War Crimes Commission at Nuremberg from 1947 to 1949.

A collection of essays constructs and analyses a new approach in which the European Union is perceived as an active co-creator of the international legal order in a variety of arenas.

This book offers a unique reconceptualization of cosmopolitanism. It examines several themes that inform politics in a globalized era, including global governance, international law, citizenship, constitutionalism, community, domesticity, territory, sovereignty, and nationalism. The volume explores the specific philosophical and institutional challenges in constructing a cosmopolitan political community beyond the nation state. It reorients and decolonizes the boundaries of 'cosmopolitanism' and questions the contemporary discourse to posit inclusive alternatives. Presenting rich and diverse perspectives from across the world, the volume will interest scholars and students of politics and international relations, political theory, public policy, ethics, and philosophy.

The capabilities approach is a widely influential alternative theory of justice, popularized by Nobel Prize winner Amartya Sen and also by Martha Nussbaum. Justice and the Capabilities Approach is the first work of its kind to publish in one place the most influential essays in the field covering a number of topics, including constitutional law, cosmopolitanism, distributive justice, the family, feminism, global justice, human rights, poverty, and social justice. The collection should help inform both scholars and students coming to the study of the capabilities approach for the first time of both the importance and complexity of the wider debate, as well as shed light on how the approach might be further improved and applied.

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Make no mistake, the normative authority of the United States of America lies in ruins. Such is the judgment of the most influential thinker in Europe today reflecting on the political repercussions of the war in Iraq. The decision to go to war in Iraq, without the explicit backing of a Security Council Resolution, opened up a deep fissure in the West which continues to divide erstwhile allies and to hinder the attempt to develop a coordinated response to the new threats posed by international terrorism. In this timely and important volume, Jürgen Habermas responds to the dramatic political events of the period since September 11, 2001, and maps out a way to move the political agenda forward, beyond the acrimonious debates that have pitched opponents of the war against the Bush Administration and its coalition of the willing. What is fundamentally at stake, argues Habermas, is the Kantian project of overcoming the state of nature between states through the constitutionalization of international law. Habermas develops a detailed multidimensional model of transnational and supranational governance inspired by Kantian cosmopolitanism, situates it in the context of the evolution of international law toward a cosmopolitan constitutional order during the nineteenth and twentieth centuries, and defends it against the new challenge posed by the hegemonic liberal vision underlying the aggressive unilateralism of the current US administration. The Divided West is a major intervention by one of the most highly regarded political thinkers of our time. It will be essential reading for students of sociology, politics, international relations, and international law, and it will be of great interest to anyone concerned with the current and future course of European and international politics. The authors argue for the continued theoretical and practical relevance of the cosmopolitan ideals of Kant's essay "Toward Perpetual Peace: A Philosophical Sketch."

In a new interpretation, Garrett Wallace Brown considers Kant's cosmopolitan thought as a form of international constitutional jurisprudence that requires minimal legal demands. He explores and defends topics such as cosmopolitan law, cosmopolitan right, the laws of hospitality, a Kantian federation of states, a cosmopolitan epistemology of culture and a possible normative basis for a Kantian form of global distributive justice.

Why is there so much attention on Kant's global politics in present day law and philosophy? This book highlights the potential fruitfulness of Kant's cosmopolitan thought for understanding the complexities of the contemporary political world. It adopts a double methodological strategy by reconstructing a genealogical conceptual journey showing the development of international law, as well as introducing an interpretation of cosmopolitanism centred on Kant's theory of a metaphysics of freedom. The result is a novel focus on Kant's notion of the world republic. The hypothesis here defended is that the world republic stands as a way of thinking about international politics where the possibility of progression towards peace results from its use as a regulative idea.

Judicial Cosmopolitanism: The Use of Foreign Law in Contemporary Constitutional Systems offers a detailed account of the use of foreign law by supreme and constitutional Courts of Europe, America and East Asia.

South Korea in the 1950s was home to a burgeoning film culture, one of the many "Golden Age cinemas" that flourished in Asia during the postwar years. Cold War Cosmopolitanism offers a transnational cultural history of South Korean film style in this period, focusing on the works of Han Hyung-mo, director of the era's most glamorous and popular women's pictures, including the blockbuster Madame Freedom (1956). Christina Klein provides a unique approach to the study of film style, illuminating how Han's films took shape within a "free world" network of aesthetic and material ties created by the legacies of Japanese colonialism, the construction of US military bases, the waging of the cultural Cold War by the CIA, the forging of regional political alliances, and the import of popular cultures from around the world. Klein combines nuanced readings of Han's sophisticated style with careful attention to key issues of modernity—such as feminism, cosmopolitanism, and consumerism—in the first monograph devoted to this major Korean director. A free open access ebook is available upon publication. Learn more at [www.luminosoa.org](http://www.luminosoa.org).

In this book, Stone Sweet and Ryan provide an accessible introduction to Kantian constitutional theory and the law and politics of European rights protection. Part I sets out Kant's blueprint for achieving Perpetual Peace and constitutional justice within and beyond the nation state. Part II applies these ideas to explain the gradual constitutionalization of a Cosmopolitan Legal Order: a transnational legal system in which justiciable rights are held by individuals; where public officials bear the obligation to fulfil the fundamental rights of all who come within the scope of their jurisdiction; and where domestic and transnational judges supervise how officials act. Such an order was instantiated in Europe through the combined effects of Protocol no. 11 (1998) to the ECHR and the incorporation of the Convention into national law. The authors then describe and assess the strengthening of the European Court's capacities to meet the challenge of chronic failures of protection at the domestic level; its progressive approach to the "qualified" rights covering privacy and family life, and the freedoms of expression, conscience, and religion; the robust enforcement of the "absolute" rights, including the prohibition of torture and inhuman treatment; and its determined efforts to render justice to all people that come under its jurisdiction, including non-citizens whose rights are violated beyond Europe. Today, the Strasbourg Court is the most active and important rights - protecting court in the world, its jurisprudence a catalyst for the construction of a cosmopolitan constitution in Europe and beyond.

The future of the U.S. Supreme Court hangs in the balance like never before. Will conservatives or liberals succeed in remaking the court in their own image? In A Constitution of Many Minds, acclaimed law scholar Cass Sunstein proposes a bold new way of interpreting the Constitution, one that respects the Constitution's text and history but also refuses to view the document as frozen in time. Exploring hot-button issues ranging from presidential power to same-sex relations to gun rights, Sunstein shows how the meaning of the Constitution is reestablished in every generation as new social commitments and ideas compel us to reassess our fundamental beliefs. He focuses on three approaches to the Constitution--traditionalism, which grounds the document's meaning in long-standing social practices, not necessarily in the views of the founding generation; populism, which insists that judges should respect contemporary public opinion; and cosmopolitanism, which looks at how foreign courts address constitutional questions, and which suggests that the meaning of the Constitution turns on what other nations do. Sunstein demonstrates that in all three contexts a "many minds" argument is at work--put simply, better decisions result when many points of view are considered. He makes sense of the intense debates surrounding these approaches, revealing their strengths and weaknesses, and sketches the contexts in which each provides a legitimate basis for interpreting the Constitution today. This book illuminates the underpinnings of constitutionalism itself, and shows that ours is indeed a Constitution, not of any particular generation, but of many minds.

The idea of cosmopolitanism has informed some of the most important developments in current sociology. It has changed the way in which we think about a vast array of issues: the forces of globalization, the resurgence of nationalism, the future of political



seen the replacement of the traditional unitary model of citizenship with a new model that disaggregates the components of traditional citizenship, making it possible to be a citizen of multiple entities at the same time. The volume also contains a substantive introduction by Robert Post, the volume editor, and contributions by Bonnie Honig (Northwestern University), Will Kymlicka (Queens University), and Jeremy Waldron (Columbia School of Law).

After more than 30 years of discussion, negotiations between the Council of Europe and the European Union on the EU's accession to the European Convention on Human Rights have resulted in a Draft Accession Agreement. This will allow the EU to accede to the Convention within the next couple of years. As a consequence, the Union will become subject to the external judicial supervision of an international treaty regime. Individuals will also be entitled to submit applications against the Union, alleging that their fundamental rights have been violated by legal acts rooted in EU law, directly to the Strasbourg Court. As the first comprehensive monograph on this topic, this book examines the concerns for the EU's legal system in relation to accession and the question of whether and how accession and the system of human rights protection under the Convention can be effectively reconciled with the autonomy of EU law. It also takes into account how this objective can be attained without jeopardising the current system of individual human rights protection under the Convention. The main chapters deal with the legal status and rank of the Convention and the Accession Agreement within Union law after accession; the external review of EU law by Strasbourg and the potential subordination of the Luxembourg Court; the future of individual applications and the so-called co-respondent mechanism; the legal arrangement of inter-party cases after accession and the presumable clash of jurisdictions between Strasbourg and Luxembourg; and the interplay between the Convention's subsidiarity principle (the exhaustion of local remedies) and the prior involvement of the Luxembourg Court in EU-related cases. The analysis presented in this book comes at a crucial point in the history of European human rights law, offering a holistic and detailed enquiry into the EU's accession to the ECHR and how this move can be reconciled with the autonomy of EU law.

Law's Ethical, Global and Theoretical Contexts examines William Twining's principal contributions to law and jurisprudence in the context of three issues which will receive significant scholarly attention over the coming decades. Part I explores human rights, including torture, the role of evidence in human rights cases, the emerging discourse on 'traditional values', the relevance of 'Southern voices' to human rights debates, and the relationship between human rights and peace agreements. Part II assesses the impact of globalization through the lenses of sociology and comparative constitutionalism, and features an analysis of the development of pluralistic ideas of law in the context of privatization. Finally, Part III addresses issues of legal theory, including whether global legal pluralism needs a concept of law, the importance of context in legal interpretation, the effect of increasing digitalization on legal theory, and the utility of feminist and postmodern approaches to globalization and legal theory.

Essay from the year 2009 in the subject Psychology - Miscellaneous, grade: "A," Frankfurt State Academy of fine arts (Atlantic International University), course: Master degree Program, language: English, abstract: Kant helps us understand the conditions for peace by reminding us that lasting peace requires both cosmopolitan legal reform and individual moral improvement, including resistance to egoism and the cultivation of cosmopolitan attitudes. The duty to pursue peace includes the duty to promote the rule of domestic and international law and work against its unilateral subversion. The juridical cosmopolitanism of a worldwide league of free peoples enables resistance to the dangers posed by authoritarian regimes and their dangerous willingness to manipulate their subjects and ignore international law. Constraining egoism enables people to overcome the tyranny of their desires and cultivates a sense of affiliation with the larger community of humanity in general, providing the moral foundation needed to support a cosmopolitan legal order. Moral development to a great extent is fostered through the arts and humanities, and a robust cultural life therefore ought to play a central role in the pursuit of global peace. Kant foreshadowed the theory in his essay "Perpetual Peace" written in 1795, although he thought that constitutional republics was only one of several necessary conditions for a perpetual peace. Kant's theory was that a majority of the people would never vote to go to war, unless in self defense. Therefore, if all nations were republics, it would end war, because there would be no aggressors. He portrays 'perpetual peace' between states as an attainable, if distant, ideal; in another, it is seen to be a principle towards which we are morally compelled to strive, regardless of whether or not its realisation in practice is feasible. In true Kantian fashion, it transpires in the end that the moral and practical aspects find in each other a happy concord, s

This book investigates the potential role that states can play in cosmopolitan thinking and how states could be agents for the advancement of cosmopolitan responsibilities. In doing so the book seeks to investigate the possibility that states can become bearers of cosmopolitan responsibilities across a variety of areas including human rights, atrocity prevention, climate change, and public health, while also remaining vehicles for popular self-determination within persisting, and at times counteracting, conditions of global pluralism.

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