

Jürgen Habermas

America and the World A Conversation with Jürgen Habermas

with
Eduardo Mendieta

Q: *Professor Habermas, let me begin by congratulating you on receiving the Prince of Asturias Prize and also the gold medal of the Bellas Artes Foundation of Madrid. You must have surprised many Spaniards, as you did me, when you confessed your admiration for two fiercely existentialist writers, Miguel de Unamuno and Miguel de Cervantes.*

A: This love goes back to school days and my university years. After the Second World War, when the Keller Theater was presenting masterful productions of French plays by Sartre, Mauriac and Claudel, Existentialism gave expression to our sense of life. A book by the Tuebingen philosopher, Friedrich Bollnow – who would now be 100, like Adorno – brought Unamuno’s *Don Quixote* to my attention at that time. By similar paths, I also found my way to Kierkegaard, to the later Schelling, and to the Heidegger of *Being and Time*. That I turned my back on *Being and Time*, and busied myself, rather, with social-, political-, and legal theory, had one simple reason: In the rather tattered mental and moral world of the *Bundesrepublik*, one could grapple better with what Jaspers called “limit situations” in the language of Marx and Dewey than in the “jargon of authenticity.”

Q: *To get back to the occasion of the prize, could you comment on the fact that Susan Sontag, Gustavo Gutierrez and Brazilian President Luiz Inacio da Silva, all distinctly figures of the Left, and loudly outspoken opponents of the war in Iraq, were among the prize winners?*

A: This prize enjoys an astonishingly high profile in the Spanish-speaking world. On reflection, the coincidence might just be an accident. Anyway, the street demonstrations in Spain against Aznar’s Iraq policy were even more overwhelming than in the other European countries.

Q: *You, too, were very critical of the American-lead war in Afghanistan and Iraq. But during the Kosovo crisis, you supported the same unilateralism, and*

justified a form of “military humanism,” to use Chomsky’s expression. How are these cases different – Iraq and Afghanistan on the one hand, and Kosovo on the other?

A: Concerning the intervention in Afghanistan, in an interview with Giovanna Borradori, I expressed myself with some reservation: After September 11th, the Taliban regime refused to renounce unambiguously its support of the terrorism of Al-Qaeda. Up to this point, international law has not been tailored for such situations. The objections which I had at the time were not, as with the Iraqi campaign, of a legal nature. Quite apart from the lying maneuvers of the current U.S. administration which have lately come to light, the *recent Gulf War* represents, on the part of Bush, since September 2002, a patent threat to the United Nations and a violation of international law. Neither one of the two preconditions existed which could have justified such an intervention: There was neither an appropriate resolution of the Security Council, nor was an attack imminent on the part of Iraq. It counts for nothing whether weapons of mass destruction might still be found or not. For a preventive attack, there is no retroactive justification: No one may go to war on a suspicion.

Here you see the difference with the *situation in Kosovo*, when the West had to decide, in light of the accumulated experiences of the Bosnian War – think of the disaster of Srebrenica! – if it wanted to watch yet more ethnic cleansing by Milosevic, or if it wanted, in the absence of national interest, to intervene. Granted, the Security Council was blocked. Just the same, there were two grounds for legitimating action—one formal, the other informal—even though the U.N. Charter does not permit any substitute for the required consent of the Security Council: For the first, one may appeal to the *obligatio erga omnes* binding on all states, the call for emergency assistance in the case of a threatened genocide, which, in any event, is firmly established in *customary* international law. For the other, one may place on the scale the fact that NATO is an alliance made up of liberal states, whose organizing principles comport with the principles of the UN’s Declaration of Human Rights. Compare this with the “coalition of the willing,” which has split the West, and included states in contempt of human rights, such as Uzbekistan and Taylor’s Liberia.

Just as important is the perspective of the Continental European countries like France, Italy and Germany, which served to justify, at the time, their participation in the Kosovo intervention. In expectation of eventual

ratification by the Security Council, these countries understood this intervention as an “anticipation” of an effective law of world citizenship - as a step along the path from classical international law to what Kant envisioned as the “status of world citizen” which would afford legal protection to citizens against their own criminal regimes. Already at that time (in an article for the April 29, 1999 issue of “Die Zeit”), I had posited a characteristic difference between the Continental European and the Anglo-American: “It is one thing for the U.S.A. to employ, in the course of what is also an admirable political tradition, human rights instrumentally as surety of a hegemonic order. It is another thing if we understand the precarious transition, from classical power politics to the state of world citizenship, as a learning process to be mastered collectively. This more comprehensive perspective requires greater caution. The self-empowerment of NATO should not become the rule.”

Q: *On May 31st, you and Derrida published a kind of manifesto with the title: “The 15th of February, or: What Binds the Europeans. – A Plea for a Common Foreign Policy—First of all, in Core-Europe.” In a foreword, Derrida explains that he subscribes to the article that you wrote. How is it that two intellectual heavyweights, who for the last two decades have regarded each other suspiciously from across the Rhine, and who have been—as some insist—talking past each other, suddenly so well understand each other, as to publish, together, so important a document? Is it simply “politics,” or is the text you both have signed also a “philosophical gesture”? An amnesty, a truce, a reconciliation, a philosophical gift?*

A: I haven’t a clue what Derrida would say in answer to your question. To my taste, you have pitched the thing too high with these formulations. First of all, this was concerned with a political statement in which Derrida and I were in agreement—as has often been the case lately, by the way. After the formal conclusion of the Iraq war, when many were fearing a general prostration of the “unwilling” governments before Bush, I had sent a letter to Derrida—as well as to Eco, Muschg, Rorty, Savater and Vattimo—inviting them to participate in a common initiative. (Paul Ricoeur was the only one who preferred to hold back because of political considerations; Eric Hobsbawm and Harry Mulisch could not participate for personal reasons.) Now, Derrida was not able to write, at this time, his own article, as he was obliged to be undergoing unpleasant medical tests. But Derrida wanted very much to be part of this, and suggested the procedure which we then followed. I was happy about this. We had last met in New York after

September 11th. We had already been recording our philosophical discussion for some years, in Evanston, in Paris and in Frankfurt. So no grand gesture was now required.

When he received the Adorno Prize, Derrida, for his part, gave a highly sensible speech in the Paulskirche in Frankfurt, in which the spiritual affinity of these two minds was impressively manifested. This kind of thing leaves one not unmoved. Actually, over and beyond all the politics, what connects me to Derrida is the philosophical reference to an author like Kant. Admittedly – and though we’re roughly the same age, our life histories have been very different – what separates us is the later Heidegger. Derrida’s thinking has appropriated the Jewish-inspired perceptions of a Levinas. In Heidegger, I confront a philosopher who failed as a citizen – in 1933 and especially after 1945. But even as a philosopher, he is suspect to me because, in the 1930s, he received Nietzsche precisely as a neo-pagan, as it was then the fashion to do. Unlike Derrida, whose reading of “Andenken” accords with the spirit of monotheistic tradition, I take Heidegger’s botch-job “Seinsdenken” as a leveling of that epochal threshold in the history of consciousness that Jaspers had called the “axial age.” According to my understanding, Heidegger committed treason against that caesura which is marked, in various ways, by the prophetic-awakening Word from Mount Sinai, and by the Enlightenment of a Socrates.

When Derrida and I mutually understand our so different background motives, a difference of interpretation must not be taken as a difference in the thing being interpreted. Be that as it may, “truce” or “reconciliation” are not really the proper expressions for a friendly and open-minded interchange.

Q: *Why have you entitled this essay “The 15th of February”, and not, as some American might have proposed “The 11th of September”, or “The 9th of April”? Was February 15th the world-historical answer to September 11th – rather than to the campaigns against the Taliban and Saddam Hussein?*

A: This is reading too much into it. The editors at the *Frankfurter Allgemeine Zeitung* had actually published the article under the headline “Our Renewal. After the War: The Rebirth of Europe.” Perhaps they wanted to downplay the importance of the demonstrations of February 15th. Allusion to this date would have reminded one that, in cities such as London, Madrid and Barcelona, Rome, Berlin and Paris, demonstrations had taken place that were bigger than any since the end of the Second World War. These

demonstrations were not an answer to the attack of September 11th, which had immediately moved the Europeans to such impressive manifestations of solidarity. The demonstrations gave voice to the infuriated, powerless outrage of a highly diverse mass of citizens, many of whom had never before gone out into the streets. The anti-war appeal was directed unambiguously against the dishonest and illegal policies of certain of the allied governments. I regard this massive protest to be no more “anti-American” than our Vietnam protests had been in their day - with the sorry difference that, between 1965 and 1970, we only had to add our protests to the formidable protests that were happening in America itself. So I was glad that my friend Richard Rorty spontaneously joined in the intellectuals’ initiative of May 31st with an article that was, in fact, politically and theoretically, the sharpest.

Q: Let’s stay with the original title that had called for a common European foreign policy “beginning in the center of Europe.” This a little like saying there’s a center and a periphery – some who are essential, and some who are not. For some, this was an eerie echo of Rumsfeld’s distinction between the old and the new Europe. I am certain that the ascription of any such family resemblance gives you and Derrida a headache. You have been energetically in favor of a constitution for the European Union in which such gradations of space and geography should have no place. What do you mean by “Core-Europe”?

A: “Center of Europe [Kerneuropa]” is, first of all, a technical expression, brought into play at the start of the 1990s by Schaeuble and Lamers, foreign policy experts of the CDU, at a moment in time when the process of European unification had still to solidify; it was intended to recall the vanguard role played by the six original members of the European Community. Then as now, France, the Benelux countries, Italy and Germany turn out to be the driving force behind the “deepening” of EU institutions. Meanwhile, at the summit in Nice of EU heads of government, it was officially decided there would be a provision for a “strengthened cooperation” of particular member states in particular political spheres. This mechanism goes by the name of “structured cooperation” in the draft European Constitution. Germany, France, Luxemburg, Belgium, and lately, even Great Britain, are making use of this provision for the common building-up of Europe’s own armed forces. The US administration is exerting what is, admittedly, considerable pressure on Great Britain to forestall the establishment of a European headquarters, though it would still be associated with NATO. To this extent, therefore, “Core-Europe” is already a reality.

On the other hand, today, in a Europe deliberately divided and weakened by Rumsfeld and his underwriters, the term has its appeal. The idea of a common foreign- and defense policy emanating from the center of Europe arouses anxieties in a situation where the European Union, after its extension eastward, is barely governable, and it is especially anxiety-producing in countries which, for good and sufficient historical reasons, are resistant to further integration. Some member-states want to hold onto a national scope of action. They are more interested in the existing, predominantly inter-governmental mode of decision making, than in extending the jurisdiction of majority-rule supra-national institutions over an ever-greater range of political actions. Thus you see the newly admitted East-Central European nations concerned for their newly-achieved national sovereignty, and Great Britain frightened for its “special relationship” with the USA.

America’s divisive policy found willing helpers in Aznar and Blair. This chutzpah struck at the long-latent European fault-line separating the integrationists and their opponents. “Core-Europe” is an answer to both: to the smouldering intra-European controversy over the “finality” of the unification process, which is wholly independent of the war in Iraq, as well as to the current stimulation of that opposition, which has its origin outside Europe. The reactions to the catch-phrase “Core-Europe” are all the more nervous the more external and internal pressures invite this answer. The hegemonic unilateralism of the US administration has thrown down the challenge to Europe to learn, finally, how to speak foreign policy with one voice. But in face of the frustrated deepening of the European Union, we can learn to make a start if, first of all, we begin at the center.

France and Germany, many times over the course of decades, have undertaken this role. Precedence does not mean exclusion. The door stands open to all. The harsh criticism which Great Britain and the East-Central European countries, above all, have leveled at our initiative, is also explained, of course, by the push which a common foreign-and-defense policy has received from the provocative and favorably-timed opposition of the overwhelming majority of the population *of all of Europe* to Bush’s adventure in Iraq. I viewed this provocation, as it respected our May 31st initiative, as most opportune. Unfortunately, no fruitful discussion developed out of it.

Q: *We know, of course, that the United States has played “new” Europe against “old” even in the exercise of its influence within NATO. Does the future of the European Union lie with a weakening or with a strengthening of NATO? Should*

and can NATO be replaced with something else?

A: NATO played a good part during the Cold War, and also afterwards – even if it ought not again act alone, as when it intervened in Kosovo. But if the United States views NATO less and less as an alliance entailing obligations to consult, and more and more unilaterally as a mere instrument for the furtherance of its own national interests and world-power politics, then NATO has no future. It may be NATO’s peculiar strength that “powerful military alliance” does not exhaust its definition; rather, its military might comes attached to a value-added *dual legitimacy*: NATO’s existence is justified, as I see it, only by its being an alliance of indubitably liberal states, acting in express conformity with the human rights policies of the United Nations.

Q: *“Americans are from Mars; Europeans are from Venus,” Robert Kagan asserts in an essay, which has attracted much attention on the part of the neo-conservative Straussians in the Bush administration. One might view this essay, which was originally entitled “Power and Weakness,” as a manifesto in which Bush’s national defense policy is mapped out. Kagan distinguishes between Americans and Europeans, calling the former “Hobbesians” and the latter “Kantians.” Have the Europeans really entered the post-modern paradise of Kant’s “perpetual peace,” while the Americans remain outside in the Hobbesian world of power politics, standing watch upon the ramparts that their European beneficiaries can not defend?*

A: The philosophical comparison won’t take you far: Kant was, in a certain sense, a true student of Hobbes; he described, in any event, modern coercive law and the character of state sovereignty as soberly as Hobbes did. The connection, splashy but inadequate and misleading, which Kagan makes between these philosophical traditions on the one hand, and those national mentalities and policies on the other, should best be laid aside. Viewed long-range, what one may perceive as the difference between the Anglo-American and the European mentalities reflects long-term historical experiences; but I see no correlation with short-term changes in political strategies.

In his attempt to separate the wolves from the sheep, Kagan is alluding, of course, to certain facts: The terror-regime of the Nazis was only brought down through the exercise of military violence and through invasion. The Europeans were able, during the Cold War, to build and extend their welfare

states under the nuclear umbrella of the US. In Europe, and especially in its richly-populated middle, pacifist attitudes have proliferated. In the meanwhile, the countries of Europe, with their comparatively slender military budgets and poorly equipped armed forces, could oppose the bone-crushing military might of the US only with empty words. Well, Kagan's caricatured interpretation of these facts provokes me to offer these comments:

- ? For the victory over Nazi-Germany, we have also to thank the costly struggles of the Red Army;
- ? Their social compact and economic importance, features of a "soft," non-militaristic power, have given the Europeans an influence in global power relations not to be underestimated;
- ? In Germany today, as a consequence, also, of American re-education, a welcome pacifism reigns, which, however, did not prevent the Bundesrepublik from participating in UN actions in Bosnia, in Kosovo, in Macedonia, in Afghanistan, and lastly in the Horn of Africa;
- ? It is the US, itself, who wants to thwart the plans to build up a European military capability independent of NATO.

This exchange of blows elevates the matter to the false level of an altercation. What I take to be false is Kagan's stylization of US policy over the course of the last century. The conflict between "realism" and "idealism" in foreign and defense policy occurred, not between the continents, but, rather, within American policy itself. Certainly, the bi-polar power structure of the world between 1945 and 1989, compelled a policy of balance of terror. The competition between the two nuclear-armed systems during the Cold War created the background for the towering influence which the "realist" school of international relations in Washington was able to wield. But we must not forget the impetus which President Wilson gave to the founding of the League of Nations after the First World War, nor the influence which American jurists and politicians themselves exercised in Paris after the US retreated from the League. Without the US, there would have been no Kellogg-Briand Pact, nor the first international legal proscription of wars of aggression. But what fits least in the militant picture of the role of the US that Kagan paints, is the policy of the victors in 1945, initiated by Franklin

D. Roosevelt. What Roosevelt called for in his undelivered Jefferson Day Address of April 11, 1945, was for the world to seek not only an “end to war,” but an “end to the beginning of all wars.”

In that period, the US was at the peak of the new internationalism, and spearheaded the initiative for the creation of the United Nations, in San Francisco. The US was the driving force behind the UN, which (no accident) has its headquarters in New York. The US set in motion the first international human rights convention, campaigned for the global monitoring of, as well as the juridical and military prosecution of, human rights violations, pressed upon the Europeans the idea of a political unification of Europe—initially, against the opposition of the French. This period of unexampled internationalism, loosed, in the ensuing decades, a wave of innovations in the field of human rights, blocked, indeed, during the Cold War, but implemented, in part, after 1989. As of that point in time, it was yet to be decided if the one remaining superpower would turn away from its leading role in the march toward a cosmopolitan legal order, and fall back into the imperial role of a good hegemon above international law.

George Bush, the father of the current president, had—admittedly, vague— notions of world order, that were different from his son’s. The unilateral action of the current administration and the repute of its influential neo-conservative members and advisors, reminds one, of course, of its precursors: the repudiation of the climate treaty, the treaty on atomic, biological and chemical weapons, the landmine convention, the protocols for the agreement on so-called child-warriors, etc. But Kagan is suggesting a false continuity. The newly-elected Bush administration’s definitive repudiation of internationalism has remained its keynote: The rejection of the (since established) International Criminal Court was no trivial delict. One must not imagine that the offensive marginalizing of the United Nations and the cavalier contempt for international law which this administration has allowed itself to be guilty of, represent the expression of some necessary constant of American foreign policy. This administration, whose declared aim, to attend to national interests, has so obviously missed its mark, can be voted out of office. Why should it not be replaced in the coming year by an administration that gives the lie to Kagan?

Q: *In the United States, the “War on Terrorism” has veered off into a “War on Civil Liberties,” poisoning the legal infrastructure that makes a living democratic culture possible. The Orwellian “Patriot Act” is a Pyrrhic victory in which we*

and our democracy are the vanquished. Has the “War on Terrorism” similarly affected the European Union? Or has its experience with the terrorism of the 70s made it immune to the surrender of civil liberties to the security-state?

A: I don't actually believe that. In the *Bundesrepublik*, the reactions in the autumn of '77 were hysterical enough. Furthermore, we're encountering today a different sort of terrorism. I don't know what would have happened if the twin towers had collapsed in Berlin or Frankfurt. Naturally, we would not, after September 11, have laced up for ourselves “security packets” so suffocatingly tight, nor of such an unconstitutional reach, as the frightening regulations in America, which have been so clearly skewered and dissected by my friend Ronald Dworkin. If, in this regard, distinctions were to be drawn between mentality and practice here and beyond the Atlantic, I would endeavor to place them in the context of historical experience. Maybe the very understandable shock in the USA after September 11 was, in fact, greater than it would have been in a European country accustomed to war. How to prove this?

Certainly, the patriotic upsurge following upon September 11, had an American character. But the key to the curtailment of fundamental law, which you've referred to, to the breach of the Geneva Convention in Guantanamo, to the creation of the Department of Homeland Security, etc., I would locate elsewhere. The militarization of life domestically and abroad, the bellicose policies which open themselves up to infection by their opponent's own methods, and which return the Hobbesian state to the world stage where the globalization of markets had seemed to have driven the political into the wings, all this the politically enlightened American populace would have overwhelmingly rejected, if the administration had not, with force, shameless propaganda, and manipulated insecurity, exploited the shock of September 11. For a European observer and a twice-shy child such as I, the systematic intimidation and indoctrination of the population and the restrictions on the scope of permitted opinion in the months of October and November of 2002, (when I was in Chicago), were unnerving. This was not “my” America. From my 16th year onward, my political thinking, thanks to the sensible re-education policy of the Occupation, has been nourished by the American ideals of the late 18th century.

Q: *In your keynote address to the Philosophical World Congress during August of 2003 in Istanbul, you said that international security, under the conditions prevailing in post-national configurations, is being threatened in new ways and*

from three sides: By international terrorism, by criminal states, and by certain new civil wars arising in failed states. What interests me particularly is this: Is terrorism something that democratic states can declare war on?

A: Whether democratic or not, a state can normally only make “war” on another state, if the word is to have a precise meaning. When a government, for example, deploys military force against an insurrection, the means do indeed suggest a war, but this force is fulfilling another function—the state is concerned for tranquility and order within its own territorial borders, in circumstances when the police organs will no longer suffice. Now, when this attempt at enforced peace misfires, and the regime itself degenerates into merely one of several contending parties, the term is “civil war.” This verbal analogy to war as between states holds in one circumstance only—when the collapse of state power gives rise to the same oppositional symmetry between intra-state parties as normally obtains between warring states. Anyhow, what’s missing here is the proper subject of acts of war: the organized coercive power of an opposing state. Forgive this conceptual pedantry. But in international terrorism, worldwide and dispersed, far-reaching and decentralized, and only loosely reticulated, we are encountering a *new* phenomenon, which we should not be too quick to assimilate to what we already know.

Sharon and Putin can feel themselves encouraged courtesy of Bush, since the latter has thrown all of them into one pot, as if Al-Qaeda were nothing other than a territorially bound Partisan terrorist independence or resistance movement (as in Northern Ireland, Palestine, Chechnya, etc.) . Al-Qaeda is also different from the terrorist gangs and tribal warriors, the corrupt war lords of a miscarried decolonization, and also different from criminal regimes of states making war against their own inhabitants through ethnic cleansing and genocide, or which support worldwide terror, e.g., the Taliban. The US administration, with its Iraq war, has undertaken what is not only illegal, but unfeasible: to substitute an asymmetrical war between states for the asymmetry between a state armed with hi-tech weapons, on the one hand, and, on the other, an elusive terrorist network that, up to now, has worked with knives and explosives. War between states is asymmetrical when an aggressor aims at the destruction of a regime, rather than at a conventional defeat, because their relative strengths are so transparently fixed a priori. Think of the month-long troop deployment on the borders of Iraq. One needn’t be a terror expert to recognize that this is no way to destroy the infrastructure of a network, or to engage Al-Qaeda and its off-shoots, or to

dry up the milieus which nourish such a group.

Q: *Jurists are of the opinion that, according to classic international law concepts, the jus in bello entails inherent limitations on the jus ad bellum. Already, the detailed provisions of the Hague Land War Convention aim at restraining force, exercised in war, against the civilian population, against soldiers taken prisoner, against the environment and the infrastructure of the affected society. The rules for the conduct of war are also supposed to enable a conclusion of peace acceptable to all sides. But the monstrous disproportion in technological and military strength between the United States and its respective adversaries—in Afghanistan or in Iraq—makes it near impossible to abide by the jus in bello. Must not the United States be indicted and prosecuted for war crimes, obviously committed by America in Iraq, but deliberately ignored by us?*

A: Now, the American Secretary of Defense Donald Rumsfeld, in just this connection, waxed proud over the deployment of precision weapons that were supposed to have kept civilian losses at a comparatively low level. When I read, in the late edition of the *New York Times* of April 10, 2003, a report concerning the Iraqi war dead, and learned of the regulations pursuant to which Rumsfeld accepts civilian “casualties,” this alleged precision no longer offers any consolation: “Air war commanders were required to obtain the approval of Defense Secretary Donald L. Rumsfeld if any planned air strike was thought likely to result in deaths of more than 30 civilians. More than 50 such strikes were proposed and all of them were approved.” I do not know what the International Criminal Court in The Hague would have to say to this. But given that this court is not recognized by the USA, and given, also, that no judgment can be leveled by the Security Council against a member with veto power, the entire question is going to have to be posed somewhere else.

Careful estimates place the Iraqi dead at 20,000 altogether. This number, monstrous when compared with their own losses, throws a spotlight on the moral obscenity that we sense when we see, on our televisions, the carefully controlled, if not entirely manipulated, images from this asymmetrical war. This power asymmetry would take on a different significance if it reflected not the super-powerfulness and the powerlessness of the warring parties, but the police power of a world organization.

The United Nations, today, by its Charter, is already charged with the

ensuring of peace and security, as well as with the worldwide enforcement of human rights protections. Let us assume, contrary to existing facts, that the world organization were up to the task. It would be able to fulfill its functions, then, under the condition that it would wield, uniquely and non-selectively, sanctions of a *daunting superiority* against rule-breaking actors and states. With this, the asymmetry of power would have assumed a different character.

The infinitely troublesome and still improbable transformation from idiosyncratic and selective punitive wars to police actions authorized by international law requires more than just an impartial tribunal adjudicating adequately-defined crimes. We also need to develop further the *jus in bello* into a law of intervention that will very closely resemble internal police law, inasmuch as the Hague Land War Convention, which is only directed to the *waging of war*, is not tailored to such civil concepts as obstruction of justice and enforcement of sentences. Because innocent lives are always at stake in humanitarian interventions, such force as may be required must be so finely regulated that the declared motives of a world-police action will lose the odor of pretext, and as such, be capable of winning worldwide acceptance. A touchstone might be the moral feelings of global observers – not that sadness and sympathy could possibly disappear, but rather that spontaneous outrage that many of us felt at seeing the heavens over Baghdad lit up, obscenely, week after week, by rocket strikes.

Q: *John Rawls envisions the possibility of democratic “just wars” undertaken against “unlawful states.” But you go further, and argue that even undoubtedly democratic countries may not arrogate to themselves the right to wage, at their discretion, war against a purportedly despotic, peace-threatening or criminal state. In your Istanbul address, you say that impartial judgments can never be pleasing to any one side; accordingly, on these cognitive grounds, the unilateralism of a hegemon, however well-meaning, must necessarily lack legitimacy: “That the good hegemon has, itself, a democratic constitution, cannot compensate for this lack.” Has the jus ad bellum, which made up the core of classical international law, become obsolete even in the case of the just war?*

A: Rawls’ last book, *The Law of Peoples*, has been justly criticized because he relaxes the strong principles of justice, which a democratic constitution must embody for dealing with authoritarian or semi-authoritarian states, and places the guardianship of these weakened principles in the hands of

individual democratic states. Rawls cites, in this connection, Michael Walzer's concurring doctrine on just war. Both regard "justice among nations" as desirable and possible, but they want to entrust the enforcement of international justice, in specific cases, to the judgment and discretion of sovereign states. Rawls thus seems to be thinking with Kant rather than with the liberal avant garde of the international community; Walzer, with the respective participating nations, completely independently of their internal constitutions. Unlike Rawls, with Walzer there is a mistrust of supranational operations and organizations that is motivated by communitarian considerations. Protecting the integrity of the way of life and established ethos of a nation state, so long as it doesn't encompass genocide and crimes against humanity, should enjoy precedence over the global enforcement of abstract principles of justice. The considerations referred to in your question are better illustrated by Walzer's conception than by Rawls' half-hearted defense of international law.

Since the Kellogg-Briand Pact of 1928, wars of aggression have been proscribed by international law. The exercise of military force is to be permitted only for self-defense. Thus the *jus ad bellum*, as understood by classical international law, was abolished. Because the institutions of the League of Nations, founded after the First World War, proved to be too weak, the United Nations, after the Second World War, was vested with authority to conduct peacekeeping operations and to impose sanctions, although at the price of a veto for the then-great powers. The UN Charter stipulates the precedence of international law over the legal systems of the several nations. The coupling of the Charter with the Declaration of Human Rights, and the wide-ranging authority which the Security Council enjoys under Chapter VII, have set off a wave of legal innovations which—though, since 1989, they have remained an unutilized "fleet in being"—have been correctly understood as a "constitutionalizing of international law." The world organization, which, meanwhile, comprises 192 member states, has a veritable constitution, which sets forth the procedures according to which international breaches of the rules can be determined and punished. There have been, since, no more just and unjust wars, only legal or illegal ones, justified or unjustified under international law.

One must bear in mind this enormous advance in the rights revolution in order to realize the radical breach that the Bush administration has wrought—as much with a defense doctrine which willfully ignores the applicable legal preconditions for the exercise of military force, as with its

ultimatum to the Security Council that it either give its blessing to the United States' aggressive Iraq policy, or sink into meaninglessness. In the rhetoric of legitimation, there is in no "realistic" redemption of "idealistic" notions. To the extent that Bush wanted to eliminate an unjust system and democratize the region of the Middle East, these normative goals were not contrary to the program of the United Nations. In dispute was not the question whether justice between nations was actually possible, but only as to the means for its accomplishment. The Bush administration, with moralistic phrases *ad acta*, has laid aside the 220-year-old Kantian project for the *legalizing* of international relations.

The comportment of the American administration allows for only one conclusion, that, as they see it, international law is finished *as a medium* for the resolution of conflicts between states, and for the advancement of democracy and human rights. These goals, the world power has made the official centerpiece of a policy that no longer relies on law, but rather on its own ethical values and moral convictions: it has substituted its own normative rationales for prescribed juristic procedures. But the one cannot substitute for the other. The abstention from legal argumentation always betokens an abandonment of previously recognized general norms. From the restricted vantage point of its own political culture and its own understanding of the world and of itself, even the most thoughtful and best-intentioned hegemon cannot be certain if it is understanding and considering the situation and interests of the other parties. This goes for the citizens of a democratic superpower as well as for its political leadership. Without inclusive legal procedures, which embrace all the parties involved, and contain their conflicting perspectives, there is nothing compelling the predominant party to give up the central perspective of a great empire, or to engage in the de-centering of meaning-perspectives that an equal consideration for the cognitive point of view of all interests requires.

Also, an ultra-modern power like the US relapses into the pseudo-universalism of the ancient empires when, on questions of international justice, it substitutes morality and ethics for positive law. From Bush's perspective, "our" values are the universally valid values which all other nations should accept in their best interests. This pseudo-universalism is part of an all-encompassing ethnocentrism. And a theory of just war, deriving from theological and natural law traditions, has nothing to set against this, even when it appears, as today, in communitarian garb. I am not saying that the official rationales of the American administration for the Iraq war, or that

the officially expressed religious convictions of the American president concerning “the good” and “the evil-doers” satisfy the Walzerian criteria for a “just war.” Walzer-the-political-commentator has left nobody in the dark on this score. But Walzer-the-philosopher has extracted his criteria, reasonable as they may be, solely from moral principles and ethical considerations, outside the framework of a theory of law which ties judgments on war and peace to inclusive and impartial procedures for the generation and application of mandatory norms.

In this context, what interests me is only one consequence of such an approach, namely, that the criteria for judging just wars is not being translated into a matrix of law. But only by doing so are the ever-controversial elements of “justice” translated into the verifiable category of “legality” as regards to war. Walzer’s criteria for just wars, even if they can be found in international customary law, are essentially ethical and political in nature. Review of their application in particular cases is withdrawn from international courts of law, and reserved rather more to the sagacity and sense of justice of individual states.

But why should the impartial adjudication of conflicts within the medium of law be assured only within states? Why should not the same be brought to bear, judicially, on international conflicts? This is not trivial. Who is to determine, on the supra-national level, if “our” values truly merit universal acceptance, or if we are truly exercising universally recognized principles, or whether we are perceiving a conflict situation truly non-selectively, for example, or whether, instead, we are taking into consideration only what is relevant to us? This is the whole point of inclusive legal procedures which condition supra-national decision-making upon the adoption of reciprocating points of view and consideration of reciprocal interests.

Q: *Though you cherish your Kantian project, are you not, on its behalf, acting like an advocate for a “military humanism?”*

A: I am not familiar with the precise context of the expression, but I imagine that it is alluding to the danger of a moralizing of antagonism. It’s precisely on the international plane that a demonizing of adversaries—think of the “axis of evil”—cannot contribute to conflict resolution. On every side today, fundamentalism is growing, making conflicts incurable—in Iraq, in Israel and elsewhere. Carl Schmitt, incidently, also made this argument his whole life long in defense of a “non-discriminatory concept of war.” Classical

international law, he argued, had regarded war as needing no further justification than as a legitimate means to resolving conflicts between states, and, at the same time, as an important condition for the civilizing of warlike disputes. With the criminalization of aggressive wars, introduced with the Versailles Treaty, war itself was made a crime, unleashing a dynamic of “limit-lifting” as the adversary, adjudged morally, metamorphosed into a despicable enemy, who is to be annihilated. If, in the train of this moralizing, one opponent can no longer regard the other as a worthy adversary—as a *justus hostis*—limited wars degenerate into total wars.

Now, as total war dates from the time of nationalistic mass-mobilizations and the development of weapons of mass destruction, this argument is not wrong. It only lends support to my thesis, that “justice between nations” cannot be achieved through moralizing, but only through the legalizing of international relations. Discriminating judgment only contributes to strife, as when one party presumes to pass judgment— *according to its own standards*—upon the alleged crimes of the other party. We must not confuse this kind of subjective judgment with a judicial condemnation of a proven criminal regime and its henchmen by a forum constituted by the community of nations, for the latter extends the protection of the law to an accused party, to whom the presumption of innocence applies.

Admittedly, this distinction between moralizing and the legalizing of international relations would not have satisfied Carl Schmitt; for him and his Fascist-minded comrades, the existential struggle of life and death possessed a weird vitalistic aura. Hence, it was Schmitt’s opinion that the substance of the political, the self-asserting of the identity of a *Volk* or of a movement, will not let itself be tamed by norms, that every attempt at domestication through law, must accrue to moral savagery. Were the pacifism of law to triumph, we would be robbing ourselves of the essential means to the renewal of authentic being. But we need not concern ourselves further with this abstruse conception of the political.

We do need to concern ourselves with the purportedly “realistic” propositions, asserted by Hobbesians of the left and of the right, that the law, even in the modern guise assumed in constitutional democracies, is never anything but the reflex and mask of economic or political power. On this assumption, legal pacifism, which seeks to extend law to the international state of nature, is a sheer illusion. Actually, the Kantian project of constitutionalizing international law sustains itself by an idealism that is free

of illusions. The form of modern law has, as such, a clearly moral core which makes it a “gentle civilizer” (*Koskenniemi*) in the long run, whenever law comes to be the medium through which a constitution is formed.

The egalitarian universalism, which is immanent in law and its procedures, has, as an empirical matter, perceptibly left its mark on the political and social reality of the West. The idea of equal treatment, in which the law of peoples as of states has such an investment, can fulfill its ideological function only at the price of serving, at the same time, as the standard for ideological critique. Therefore, opposition and liberation movements throughout the world have access to the vocabulary of human rights. And as soon as these movements serve oppression and exclusion, the rhetoric of human rights may be trusted to oppose this abuse.

Q: *Precisely as a defender of the Kantian project second to none, you must be deeply disappointed by the Machiavellian machinations that so often dominate the practice in the United Nations. You yourself have called attention to, and addressed the “monstrous selectivity” of the Security Council in making up its agenda. You speak of the “shameless precedence which national interests always enjoy over global responsibilities.” How must the institutions of the United Nations be altered and reformed, so that, from a shield for the prosecution of pro-Western interests and goals, it may truly become an effective tool for the securing of peace?*

A: That’s a big topic. It isn’t a question of institutional reform. Some change in the power relationship of a reasonably composed Security Council, as well as some restriction of the veto right of the great powers, certainly are necessary, but don’t reach far enough. Let me single out a couple of aspects of this unwieldy complex.

The world organization is, quite properly, invested in full inclusiveness. It stands open to all nations who commit themselves to the *words* of the UN Charter and of its Declarations, which are bound up with international law—irrespective of how remotely its own internal practices *actually* accord with these principles. Thus, measured by its own founding principles, there exists—despite the formal equality of members—a fall off in legitimacy between liberal, semi-authoritarian, and sometimes even despotic member states. This becomes conspicuous when, to pick an example, a country like Libya assumes the chairmanship of the Human Rights Commission. John

Rawls deserves credit for having pointed to the fundamental problem of graduated legitimation. The head-start which democratic countries have in regard to legitimation, upon which Kant had already fixed his hopes, hardly lends itself to formalizing. But those who would take account of it, can develop habits and practices. From this perspective as well, the needed reform of the veto of the permanent Security Council members, is important.

The most pressing problem, of course, is the restricted capacity to act of a world organization which has no monopoly of force, and is dependent on the ad hoc support of more potent members in particular cases of intervention and nation building. The problem, however, does not lie in the lack of a monopoly of force—the differentiation of basic law from executive state force, we have also seen elsewhere, for example, in the European Union, where EU law infringes national law, while the nation states still exercise command over the standing means of the legitimate resort to force. The United Nations suffers, apart from its want of funds, above all from a dependency on governments which, for their part, not only pursue their national interests, but are themselves dependent on the assent of their respective publics. Until the self-conception of member states changes, whose social-cognitive understanding of themselves is still as sovereign actors, we must think about how a relative uncoupling of levels of decision-making can be achieved. The member states could, for example, without restraining their national legal rights over the disposal of their military forces, hold a designated contingent expressly available for UN purposes.

The ambitious goal of a world domestic politics without a world government will remain, realistically, only an aspiration, if the world organization confines itself to its two most important functions—maintaining peace and the global enforcement of human rights, and hands over political coordination in the areas of the economy, the environment, transportation, health, etc., to mid-level institutions and frameworks for negotiations. But this plane, upon which global players with capacity and scope of action can hammer out compromises, belongs, so far, to only particular institutions such as the World Trade Organization. The kind of felicitous reform I envision for the United Nations cannot be effected if the nation states in the various parts of the world do not integrate in continental governments after the model of the European Union. This would make for a modest beginning. Here—not in the reform of the UN—lies the properly Utopian element of the status of world citizenship.

On the basis of a division of labor within such a multi-level global system, the legitimation needs of a UN capable of action, in even a halfway-democratic manner, might actually be met. A world public has formed, up to now, only intermittently, for major historical events, like September 11. Thanks to the electronic media and the astounding success of non-governmental organizations operating world wide, such as Amnesty International or Human Rights Watch, these may some day assume a firmer infrastructure and attain a greater continuity. In such circumstances, the idea of establishing a “second chamber” alongside of the General Assembly, a “parliament of world citizens” (David Held) would no longer be absurd, or, barring that, at the least an expansion of the existing chamber to include the representation of citizens. Thus would an evolution in international law, which has been long in the works, find its symbolic expression and institutional fulfillment. Meanwhile, it would not only be states, but also citizens themselves, who would be the subjects of international law: As world citizens, they could, if necessary, assert legal claims against their own governments.

Of course, an idea as abstract as a parliament of world citizens will easily give rise to humbug. But in view of the limited functions of the United Nations, one must keep in mind that representatives in this parliament would be representing populations which of necessity would not be bound together, like the citizens of a political entity, by thick traditions. In place of the positive solidarity of a national citizenry, a negative consensus would suffice, to wit: a common outrage at the aggressive warmongering and human rights violations of criminal gangs and regimes, or a common horror over acts of ethnic cleansing and of genocide.

Admittedly, the resistance and reactions to be overcome along the way to full constitutionalization will be so great that the project can only succeed if the USA, as in 1945, takes it on itself to be the locomotive at the forefront of the movement. This is not as improbable as it appears at the moment. For one thing, it is a lucky accident of world history that the sole superpower is the oldest democracy on earth, and hence, contrary to what Kagan would have us believe, has, so to speak, innate affinities with the Kantian idea of the legalizing of international relations. For another, it is in the interest of the United States of America itself to make the UN capable of action before another, less democratic, great power rises to superpower status. Empires come and go. In the end, the European Union has agreed, just now, on countering the international law-breaking “pre-emptive strike” with a

“preventive engagement,” on principles of security and defense policy; it might be able to exercise influence on public opinion in our American ally.

Q: *The contempt of the American administration for international law and international treaties, the brutal exercise of military force, a politics of lies and blackmail has provoked an anti-Americanism which has extended to our own current government, and not without justification. How should Europe deal with this spreading animus so as to prevent worldwide anti-Americanism from swamping the West altogether in its wake?*

A: Anti-Americanism is a danger in Europe itself. In Germany, it has always been associated with the reactionary movements. Thus, it is important for us, as in the time of the Vietnam War, to be able to make common cause, side by side, with an American domestic opposition, against the policy of the American government. If we can relate ourselves to a protest movement inside the United States, the counter-productive reproach leveled against us of anti-Americanism is shown to be empty. The anti-modern emotion directed against the Western world as a whole, is another matter. In this regard, self-critique is appropriate—let us say, a self-critical defense of the achievements of Western modernity, which signalizes openness and willingness to learn, and above all dissolves the idiotic equation of democratic order and liberal society with unbridled capitalism. We must, on the one hand, clearly and unmistakably draw the line against fundamentalism, including Christian and Jewish fundamentalism, and, on the other hand, we must face up to the fact that fundamentalism is the child of a deracinating modernization, in which the derailments of our colonial history and the failures of decolonization have played a decisive role. As against fundamentalist self-quarantine, we can, in all events, show that the legitimate critique of the West borrows its standard from the West’s own 200-year-old discourse of self-criticism.

Q: *Two political itineraries have lately ended up in the shredder of war and terrorism: The so-called “road map” that was supposed to lead to peace between the Israelis and the Palestinians, and the imperialist scenario of Cheney, Rumsfeld, Rice and Bush. The scenario for the conflict in Israel was supposed to be written together with the scenario for the reconstruction of the entire Middle East. But the policies of the United States have fused anti-Americanism with antisemitism. Anti-Americanism today is feeding old forms of murderous antisemitism. How can we defuse this explosive compound?*

Jürgen Habermas

A: This is a problem, particularly in Germany, where, at the moment, the floodgates of a narcissistic preoccupation with its own victims are opening, and, supported by official opinion, seeking a hearing and legitimacy, breaking through decades of—quite necessary—censorship. But we will be able to cope with that mixture, which you so rightly described, if the legitimate job of criticizing Bush's fatal vision of a world order can succeed in keeping itself convincingly free of every admixture of anti-Americanism. As soon as the *other* America once again assumes discernible contours, it will also pull the ground out from under that anti-Americanism which serves only as a cover for anti-Semitism.

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