

Comments on Benhabib's Paper
Twilight of Sovereignty or the Emergence of Cosmopolitan Norms
?Rethinking Citizenship in Volatile Times
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In this important and inspiring paper, Seyla Benhabib offers a penetrating analysis of contemporary global order and suggests a normative approach by which to mend its structural failures – viewed from the democratic ideal of popular sovereignty, guided by what she calls "cosmopolitan norms".

Benhabib's Analysis takes us back to the moment preceding the emergence of the global order, that is, to the *status quo ante*, the modern nation state. In the modern nation state, as she observes, thus following a standard reading of the matter, state sovereignty was conceived as the capacity "to act as the final and indivisible seat of authority," exhibited primarily in the legitimized monopoly over the use of violence, the management of the economy and the distribution of justice. State sovereignty in this political order was intimately connected, however, to popular sovereignty. That is, the will of the state was supposed to be the expression of its citizens, having a say through democratic institutions.

However, the new global order seems to have radically changed all this. That is, even if one rightly contests the assumed interdependence in the modern era between state sovereignty, on the one hand, and popular sovereignty, on the other, there is no doubt that the global order challenges this interdependence in a novel way. Furthermore, the global order also challenges another form of interdependence characterizing the modern state; that is, the one holding between territorial integrity and unified jurisdictional authority. This order seems to decouple these elements, considered constitutive features of the modern state

Benhabib identifies three concomitant processes responsible for these results: "transnational migrations, the emergence of global law, and the rise of fast-track legislation". Regarding transnational migrations, Benhabib argues that they brought about a radical change in the meaning of jurisdiction. They actually reduce significantly state sovereignty.

State sovereignty, as Benhabib observes, is also challenged by the movement of capital, commodities, information and technologies. This challenge is particularly displayed by the creation of jurisdictional spaces like growth triangles, which evade democratic control, providing thus a good example to the decoupling of jurisdiction and territory. The creation of such legally supported, growth triangles does not ensue from the state and does not carry the stamp of the state, and hence it lacks the basic constituents of the rule of law such as transparency, predictability and uniformity of application. This "lex mercatoria" – the law of international commercial transactions, collides and conflicts with democracy and human right laws. In this global dynamics, states are eager to attract international capital "race to the bottom," dismantling on its march the social security network, and relaxing labor and environment regulations through fast track legislation.

Although acknowledging, following Saskia Sassen, that "sovereign states are player with considerable power" in the processes she describes, and although arguing that "they themselves often nurture and guide the very transformations which curtail their own powers", Benhabib does not have a grim prospect concerning the possibility of popular sovereignty under global conditions. She seems to hold the view that the emergence of the global order, accompanied by the rapid decline of state sovereignty, does not and should not necessarily lead to the liquidation of popular sovereignty; it necessitates instead its re-articulation and it requires the reconstitution of citizenship.

She argues that (Q)"today we are caught not only in the reconfiguration of sovereignty but also in the *reconstitutions of citizenship*. We are moving away from citizenship as national membership increasingly towards a *citizenship of residency* which strengthens the multiple ties to locality, to the region, and to transnational institutions".(End) Indicating subordination to "cosmopolitan norms," this change, she adds, (Q)"enhances the project of popular sovereignty, while prying open the black box of state sovereignty." (END).

Before critically assessing Benhabib's descriptive and normative views, we want to offer an analytical framework allowing us to locate them in comparisons with other views in this regard. Now, the growing body of research and analysis designed to understand the global phenomenon can be divided into three camps: The first camp consists of Globalists who assume that the creation of a global order is inevitable and that the forces undermining state sovereignty are too strong to resist. Every attempt to reverse this development, they add, is futile. Among the globalists one can distinguish between pessimist globalists and optimist globalists. The optimists applaud the propitious potential lies in globalization: economic growth, reduced inequality and cooperation among people of different national and ethnic background. The pessimists, in contrast, warn against cultural homogeneity, increased inequalities and the domination of the economic empires like the United States.

In opposite pole stand the traditionalists who argue that economic globalization is not a novel phenomenon. It has already existed in human history, they argue, adding that it was even much more intense a century ago. They also emphasize the important and effective role of sovereign states in determining their political and economic agenda under global circumstances.

Between these two camps stand the transformationalists who concur with the traditionalists that nation states are still viable and efficacious political entities, enjoying enormous political, military and economic power. They do not deny the claim, however, that the new emerging globalised historical conditions should be taken seriously, but argue that these conditions can be contained. They recommend the establishment of transnational democratic institutions that would govern and regulate the new global order. These institutions, they add, would be accountable to the governments of the nation states represented in them.

Using this rough analytical framework, we argue that Benhabib is pessimist globalist in her descriptive analysis and an optimist globalist in her normative recommendations. That is, while accepting the position heralding the decline of state sovereignty, she is optimistic about what she perceives as new opportunities for globally-based and de territorialized popular sovereignty.

We take issue with Benhabib's position on both grounds: the descriptive and the normative, although they tend sometimes to merge into each other in her discussion. We actually want to make three critical points: the first two points concern Benhabib's descriptive portrayal of the global order. The third critical point concerns her normative position; that is, it concerns her ideal of the good (global) polity, displayed through her idea of "democratic iteration" operated through global civil society.

Our critical assessment of Benhabib's views ensues from our endorsement of transformationalist position, believing that the state, although somewhat undermined by global processes, still possesses a considerable power and maintains a crucial role in determining the trajectory of these processes. That is, we do not accept the view that the state becomes inert. We argue that while succumbing to capitalist forces

(often eagerly and willingly), the state continues to display its considerable might in other areas. We take Israel as a case in point. It provides a resounding example to the oscillation of the state in the global era between neo liberal ideology and policies, curtailing its power, and ethno-national policies that enhances its strength. This dialectics is manifested, for instance, in many policies and practices taken by the Israeli government in the field of immigration and naturalization. First and for most, it is manifested in Israel's Law of return allowing only Jews and those who are associated with them, either by blood or marriage relation, to immigrate to Israel and receive citizenship immediately upon arrival in the state; it is also manifested in the amendments of Israel Law's of naturalization banning Palestinians from the occupied territories to reside in Israel following their marriage to Israeli Palestinians; and it is manifested in the policies that the State of Israel has adopted since the early nineties towards migrant workers.

We focus here on the last case. Well, following the break-out of the first Intifada (1987), Palestinians workers were no longer available to Israeli employers. Following political and economic pressures exerted by employers in agriculture and construction, the government allowed the import of migrant workers from several countries. State's policy towards migrant workers was guided by the assumption that these workers are temporary and under no circumstances should they be allowed to acquire citizenship status.

The main arrangement that expresses this assumption was the binding of migrant workers either to their employers or to manpower companies, thus creating a huge working class of indentured workers. Tying their permit stay in Israel to their legal status in the country, migrant workers are brought under full control of their employers. This legal arrangement renders the relationship of employers to workers

resembling one's possession of propriety rights over commodities or natural resources. In addition to the frequent rotation among migrant workers, the ban on bringing in family members and the refusal of the state to sign bilateral treaties with the sending countries, this arrangement allows the state to avoid its basic duties toward the migrant workers. As a result, the position of the state in this regard has facilitated the continuous exploitation of migrant workers, who compose more than 10% of the Israeli working force.

This arrangement served well the neo-liberal ideology of the Israeli government, creating a revolving door through which constant cheap labor was supplied to Israeli employers. The existences of this large reservoir of cheap labor has pressed down salaries and worsened working conditions of the Israeli workers (mainly Palestinian Arabs) in areas like construction, agriculture and other areas requiring menial jobs. In this sense these policies were the expression of "the weak state" engaged in the economic global order, serving mainly the interest of local capital.

However, aside from "the weak state," we witness the recent emergence of the strong state. The strong state poignantly displays its power in immigration affairs through the creation of border police, a special police force that started almost overnight a massive expulsion of tens of thousand of "illegal" migrant workers, ignoring repeated protests from human right organizations. The creation of this "task force" is designed to encounter the following developments: First, an increasing number of migrant workers arriving in Israel; second, the rise in unemployment rate; and third, the fear that veteran migrant workers are here to stay, as displayed in the increasing demand on their part to obtain a permanent legal status for themselves and their families. In short, migrant workers are currently perceived as a tangible threat to

the Jewish nature of the state. The creation of the border police, then, is a clear manifestation of the strong state, demonstrating that it can adapt effectively and willingly to the rules economic globalization but exert still enormous power to defend its ethno-national interest, ignoring thus cosmopolitan norms.

We believe, however, that although representing an extreme example for the dialectics of the state, being weak and strong concomitantly, Israel reflects on what is actually transpiring, though to a lesser extent, in many other states in the world under current global order. This dialectics assumes heightened visibility especially following the terrorist attacks in the US (September 2001), in Spain (March 2004) and in Britain (July 2005). The reactions of Western democracies, following these events, indicate the limits of the theories of post-national citizenship envisioned and endorsed by Benhabib. Observing the *modus operandi* of these democracies, we may have to conclude that they comply more with the theories of empires, as explicated by Hardt and Negri than with these theories. The invasion of Iraq by the US and Britain serves as buttress to this despairing assessment.

Furthermore what we have been witnessing over the last few years is an increase of international cooperation over security matters, such as surveillance, border control, and expulsion of suspicious and illegal elements, perceived to pose a threat to the national security. These measures show the limits of global organizations in curtailing the proclivity of western democracies to be less concerned with protecting human rights than with defending themselves from perceived threats.

The second critical point: Accompanying the weakening of the state, emerge, according to Benhabib, cosmopolitan norms and transnational organizations that attempt to facilitate active and involved global civil society. Here we see how Benhabib's portrayal of the global order is being transformed and assumes suddenly,

and sometimes unnoticeably, a normative garb. Thus, rejecting models of empire and also models of transnational governance (for they do not really promote the interests of lay people but only the interests of their so-called representative elites), Benhabib espouses a new form of popular sovereignty. This form of sovereignty is embodied by the global *demos*. This *demos* is generously inclusive and should include citizens and denizen such as migrant workers, illegal immigrants, refugees and others who all assume multiple ties to localities, to regions and to transnational institutions. This global *demos*, decoupling citizenship from national belonging and from rooted-ness in a particular cultural community, is supposed to form a new republican popular sovereignty, which expresses generalizable interests shared by all, through political activism at the local, national and global level.

Benhabib argues that the idea of global civil society is (Q) "quite complementary to republican federalism" and it constitutes the "only viable response to the contemporary crisis of sovereignty". She defines republican federalism as follows: (Q) "the constitutionally structured reaggregation of the markers of sovereignty, in a set of interlocking institutions each responsible and accountable to each other".(End) She means, we believe, the assembly of organizations and institutions that operate on local, regional, national and global level, each is keen on promoting its common good but yet sensitive to right claims made against it by each other. Republican federalism, Benhabib further argues, allows for "democratic iterations", meaning that the dialogue between the various organizations and institutions is never ending. While it should enable moments of finality "in the sense of decisional closure" necessary for the attainment of optimal conclusions and decisions to conflicting worldviews and interests, it also allows for constant public argument and deliberation that assumes no Archimedean point of departure from

which argument and deliberation commence. We take it that this epistemological point of view guiding global public affairs is designed to prevent granting undue privileges to one society over another, to one group over another or to one institution over another.

As political activists we of course share Benhabib's passion for democratic civil society, whether locally, nationally or globally conceived. However, we are skeptical concerning its political efficacy, especially on a global level. Although recognizing that civil global organizations have an important role in agenda-setting in shaping attitudes, identities and public interests, and in facilitating the expression of democratic voices, we are also aware of their lack of economic, financial and political wherewithal. Given the political and economic strength of transnational corporations and organizations, like WTO and IMF, on the one hand, and the power of the state, whose demise is hastily announced, on the other hand, we regrettably come to the conclusion that the prospect of efficacious global civil society fulfilling the role Benhabib prescribes to it seems to us quite limited. Related to this point, one might ask: how do we get from here to there. That is, granting, as Benhabib does, the critical role of global civil organizations in the implementation of cosmopolitan norms, it is not clear what are the processes and institutions that would render this role fitting Benhabib's ideal of global civil society. We also have to notice that civil society does not spread equally across the globe. That is, there is the risk that the generalizable interests, to be realized by the civic global organizations, would not be general after all; irrespective of Benhabib's cautioning, they might exclusively express the particular interests and viewpoints of Western societies.

Third critical point: if so far we touched upon the questionable feasibility of global civil society, we want now to doubt its desirability. It seems that there is a

conflict between Benhabib's ideal of the global polity and other values and ideals that are cherished by those who are genuinely concerned about human rights and global social justice. For the sake of discussion we entertain the position of a national liberal or a communitarian liberal. Such liberals, hold dear the idea that political communities - consisting of members who share common history, culture, language and the same form of life - are meaningful for the realization of human dignity and autonomy (Kymlicka, Sandle, Walzer, Taylor and others). For them, there is a significant difference between members and non-members. This difference is essential for constituting a moral and political a community, "a community of meaning," to use Walzer's terms. This difference carries with it different set of rights and duties. Benhabib's idea of "moving away from citizenship understood as national membership towards citizenship of residency" greatly undermines this moral ideal. Advocates of such ideal could raise the question: "what is the alternative moral and political community that Benhabib offers, that fulfils the role of the community of meaning?"

To conclude, we find Benhabib's paper intriguing, for it does not only astutely address and rearticulate the nexus figuring state sovereignty, popular sovereignty, citizenship and globalization, it also forces the readers, either those who endorse her ideas and those who reject them, to rethink their views concerning these issues.