

From: Steven Vertovec and Robin Cohen (eds) (2002) *Conceiving cosmopolitanism: theory, context and practice* Oxford: Oxford University Press, pp. 137–62

## Chapter Nine

### Four cosmopolitan moments

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Why, historically, has ‘cosmopolitanism’ surfaced from time to time only to become submerged again? In this chapter we consider four contexts or ‘moments’: the ancient world (Zeno’s moment), the Enlightenment (Kant’s moment), post-totalitarian thought (Arendt’s moment) and late North American thought (Nussbaum’s moment). There is no particular theoretical weight attached to the word ‘moment’: rather it serves as a convenient device to anchor some key debates and antinomies.

Why these particular moments? Our choice is much less than comprehensive, but rather more than arbitrary. By switching between four contexts we plan to reveal the limits and possibilities of certain cosmopolitan ideas/ideals and practices that are of current relevance. We suggest that while cosmopolitanism has many virtues it is unlikely to provide an all-embracing solution or a total antidote to problems of extreme nationalism, racism, ethnic conflict and religious fundamentalism. Many might hope (as we do) that contemporary cosmopolitanism is a harbinger of a new and more benign global ecumene, but might it be possible that it is simply the revival of an old deception? While we do not resolve this central equivocation, we acknowledge it and seek to open up new spaces of argument and contention.

#### Zeno’s moment

Cosmopolitanism in the ancient world was both more complex and more limited than has often been adduced. Tomlinson (1999: 184) suggests that the etymology is ‘clear enough’: the Greek words *kosmos*, meaning ‘world’ and *polis*, meaning ‘city’. ‘Hence,’ he continues ‘a cosmopolitan is a citizen of the world.’ The ‘hence’ is not so self-evident. As is well established, for the Athenians citizenship was a form of localized belonging and membership that explicitly excluded slaves, women and resident foreigners (*metics*). For most Athenians over most of the city-state’s history, cosmopolitanism did *not* mean recognition of a universal ‘citizen of the world’. Such a notion would have been alien – as it violated the Aristotelian conception of man (we mean ‘man’) as *zoon politikon*, one whose very nature demands that he live in a particular state. For Aristotle the life of belonging to a *polis* was not a reluctant tie, but a positive embrace of interdependence. Homer too denounced a man who was ‘clanless and lawless and hearthless’. Such men could never attain happiness or felicity (Waldron 1992: 767). The Athenian citizens conceived of their political community in quite restricted terms. Until Alexander (356–323 BCE) unified the eastern Mediterranean, it is doubtful that Athenians thought of themselves as Greeks, let alone citizens of the world.

Despite its rather narrow pre-Alexandrian notion of citizenship, the Athenian city-state was much more open to external influences than, say, states like Sparta. The

conduct of long-distance trade and the promotion of philosophy, culture and mathematics meant that Athens needed to become a more 'open-' or 'world city' – namely one that tolerated foreigners, though largely for instrumental purposes. The *metics* were thus usually socially accepted as 'free', but they did not form part of the citizen-body. There was no legal process of naturalization and any *metics* who became fully accepted did so 'by inadvertence or connivance' (Sabine 1961: 5).

Although it was not easy for a stranger formally to become a citizen, the idea of cosmopolitanism had its roots in ancient Greece, in the writings and beliefs of the cynics, Antisthenes and Diogenes. The stoic, Zeno, elaborated the concept. As Gray (1963: 29) remarked, in Zeno's *Republic* 'we have the foreshadowings of [both] anarchism and cosmopolitanism'. For Zeno there was no law, no compulsion, no council, no currency, no temples. All people, he argued, embodied the divine spark and all were capable of *logos*, divine reason (Mason 1999). Zeno imagined an expanding circle of inclusion – from self, to family, to friends, to city to humanity. In this process of enlargement the state itself would disappear, to be replaced by pure reason. This was a major leap of the imagination – one that boldly elided the self-proclaimed and self-satisfied glories of Athens. It also challenged the widespread and conventional idea that Greeks were different, indeed superior, to all barbarians.

These ideas went down like the proverbial lead balloon. The cynics were social outsiders. The fact that the stoic Zeno was a *metic* from Citium in Cyprus and was sometimes described as a 'Phoenician' (a euphemism for a 'Semite') would hardly have made his ideas popular or mainstream among his contemporaries. Antisthenes, the founder of the cynics, was a Thracian while Diogenes was in exile from Sinope in Pontus. It was Diogenes who suggested that 'all wise men' constituted a single moral community – a city of the world. A 'city' here is to be understood as a meeting of minds, not a spatially delimited settlement. Again it was Diogenes who used the idea of a cosmopolitan in the sense of someone who had no anchorage in any contemporary, real, city-state and was therefore 'a citizen of the world' (Sabine 1961: 136–7). In Diogenes and Zeno we have the first intimations of a universal humanism, a notion of a trans-state community, some imaginative ideas about equal citizenship for women and even the design of unisex clothing.

The stoics and cynics never significantly changed social practices in the ancient world. The influence of their thinking on early Roman jurisprudence was, none the less, important in creating one breakthrough – the idea of equality under the law. Using Zeno's principles, Cicero insisted that all men ('men' again) were equal – not in respect of their wealth ('property') or in terms of their learning, but in terms of their possession of reason and the general consensus of what was honourable or contemptible (Sabine 1961: 164). By using this proposition as a basis for legal reasoning, those who needed to be treated equally by the law needed to be recognized as citizens, whether by birth, long residence or through some process of legal conferment. It was a short step to see citizenship as a more universal possibility that transcended the mere coincidence of birthplace or descent.

### *Comment*

The ancient Greek version of cosmopolitanism was, in sum, quite limited in practice. As 'world city', cosmopolitanism could legitimately be used as an adjective to describe a more socially diverse setting – rather as we would today talk of 'cosmopolitan London' or 'cosmopolitan New York'. But as a statement of universal humanism or equality, cosmopolitanism was propounded mainly by people who were marginal and powerless – clanless and hearthless. It is true that Alexander was able to

use ‘cosmopolitan’ ideas as a form of empire-building, developing a ‘pan’ movement rather like nineteenth-century pan-Germanism or pan-Slavism, uniting the Persian and Macedonian peoples through force of arms. The empire soon splintered after his early death and in any case it is doubtful whether those currently espousing cosmopolitan ideas would wish them to be implemented by military conquest. The idea of equality under the law for legitimate residents/citizens was, however, an enduring legacy, as were the core ideas of universalism and the less well-developed idea of sexual equality. The question of the appropriate unit of ‘belonging’ is something we will return to in our conclusion.

### **Kant’s moment**

Over 2000 years after Antisthenes first used the term, Kant theorized cosmopolitanism in a series of seminal essays spanning a 12-year period before and after the French revolution.<sup>1</sup> His ideas have become a focus of contemporary study among those who see a need to revive the idea of cosmopolitanism for our own age.<sup>2</sup> The idea of cosmopolitanism in its modern incarnation is coeval with the rise of nationalism and since its inception has been seen as an antidote to the ills of nationalism. The idea is presented as the standard bearer of the struggle of the universal against the particular, of the interests of humanity against this or that local community.

Criticism of Kant’s approach has accordingly taken the form merely of ironing out inconsistencies in his theory and of adapting his theory to modern conditions. The ‘other’ of this approach is the alliance constituted by the cynical realism of Carl Schmitt, the anti-humanism of the Heideggerian generation and the residual revolutionism of an old Marxist orthodoxy, which sees in the cosmopolitan ideal nothing more than a mask for the pursuit of hidden interests or a spurious moral ground for the idealization of Western power and the depiction of the other as an enemy of humankind itself. Although we do not attempt this here, we consider that what is needed is to look to a critique of Kant that goes further than ‘thinking with Kant against Kant’. Later work will also need to provide a critique of the anti-Kantian alliance that is able to take into account the justifications of its discontent. Though these important critical tasks remain, we do briefly discuss Kant’s rather unpleasant notions of human geography.

In his *Idea for a Universal History from a Cosmopolitan Point of View*, written in 1785, Kant posed the attainment of a cosmopolitan order as the greatest problem facing the human race – even greater than the achievement of republican civic constitutions within particular nation-states. Kant recognized that it was a ‘fantastical’ idea, without precedent in world history, but he also argued that it was a ‘necessity’ if the human race was not to consume itself in wars between nations and if the power of nation-states was not to overwhelm the freedom of individuals. By a ‘cosmopolitan order’, Kant meant an order in which there are established ‘a lawful external relation among states’ and a ‘universal civic society’.

The idea of ‘lawful external relations among states’ was a reference to the development of international law and international institutions that treat states as legal subjects with rights and obligations *vis-à-vis* other states and that aim to enforce peaceful relations among them. The idea of a ‘universal civic society’ was a reference to the development of what Kant sometimes called ‘cosmopolitan law’, that is a law that would guarantee the fundamental rights of every individual human being whether or not such rights were respected by their ‘own’ nation-states. Kant argued that the idea of a cosmopolitan order required the institution of a league or federation of

nations that would guarantee with its 'united power' the security and justice of even the smallest states as well as the basic rights of even the most downtrodden individuals.

In his essay *Toward Perpetual Peace*, written ten years later, Kant acknowledged that his idea was looking all the more fantastical. European nation-states continued to relate to one another like individuals in a Hobbesian state of nature, namely as a war of all against all. They continued to treat newly discovered colonies as if they were 'lands without owners', and continued to treat foreigners more like enemies than guests. The immediate occasion for the writing of this essay was an event that was hardly portentous for Kant's cosmopolitan idea: it was the signing of the Treaty of Basel in which Prussia agreed to hand over to France all territories west of the Rhine in exchange for being allowed to join Russia and Austria in the east in partitioning Poland. It was precisely the sort of *realpolitik* treaty that Kant condemned as a mere 'suspension of hostilities' and as the enemy of true peace.<sup>3</sup> It was to Kant's credit that he did not surrender to the growing nationalistic currents, neither 'enlightened' French nor 'romantic' German, but continued to expound his vision of a cosmopolitan order more strongly than ever.

The analogy between the Hobbesian 'state of nature', characterized by the war of all individuals against all individuals, and existing relations between states was an often repeated theme: 'Each state sees its own majesty precisely in not having to submit to any external legal constraint and the glory of its ruler consists in his power to order thousands of people to immolate themselves for a cause which does not truly concern them, while he need not himself incur any danger whatsoever' (Reiss 1970: 125). Kant argued that this state of affairs was rationally insupportable. Either it displayed 'the depravity of human nature without disguise', or it diminished the concept of international right by interpreting it in a 'meaningless' way as the right to go to war. Kant looked forward to a time when states would renounce their 'savage and lawless freedom' and adapt themselves instead to 'public coercive laws' embracing all the peoples of the earth. Standing armies would be abolished, no national debt would be incurred in connection with the external affairs of state, no state would forcibly interfere in the constitution and government of other states and no acts of warfare would be allowed that would 'make mutual confidence impossible during a future time of peace' (Reiss 1970: 125). Kant recognized the harsh reality of war but argued that just as the war of all against all in a Hobbesian state of nature necessarily led to the establishment of Leviathan, so too the war of all states against all states would necessarily lead to the cosmopolitan order. Out of evil, or rather out of the 'unsocial sociability of man', would arise the good.

Kant's argument in defence of cosmopolitanism looked to underlying social and political trends to support the viability of his vision. There were four main threads to his argument:

- The cosmopolitan idea was no more than recognition of the fact that 'the peoples of the earth have entered in varying degrees into a universal community and it has developed to the point where a violation of rights in one part of the world is felt everywhere'. In this regard it constituted a kind of realism in the modern, globalized age.
- It corresponded with the necessities of economic life in an age of commerce when peaceful exchange was becoming more profitable than the spirit of war.
- It corresponded with the interests of nation-states that had been forced to arm themselves in order to encounter other nations as armed powers, but that were now

- burdened by the increasing costs and risks of war.
- The spread of republican governments (based on the example set by one ‘powerful and enlightened nation’ – France) meant both that rulers could no longer declare war without consulting their citizens and that the ‘moral maturity’ of citizens was higher than in monarchical states. Furthermore, he argued that the constitutional framework of republican forms of government provided a foundation for the development of cosmopolitan law and cosmopolitan institutions.

Kant either believed or hoped that the costs, risks and horrors of war would impel the human species to invent the means to regulate the hostility that prevailed among states and that was a product of their lawless freedom. Behind the scenes, as it were, providence or the plan of nature or the hidden hand of history or the cunning of reason, call it what you will, was working toward the universal end: ‘a perfect civil union of humankind’. Beneath the violence of existing relations between states, Kant’s faith was that ‘the germ of enlightenment always survived, developing further with each revolution and preparing the way for a subsequent higher level of improvement.’ In this philosophy of history, progress toward perpetual peace can be discerned taking its course, as it were, behind the backs or over the heads of the actors themselves. Kant wrote that the eventual achievement of a cosmopolitan order was guaranteed ‘by no less an authority than the great artist Nature herself’.

Kant’s moral argument was that war, in any event, is an evil in itself and that reason therefore ‘absolutely condemns war’ and sees the achievement of peace as an ‘immediate duty’ (Reiss 1970: 104). In his metaphysics of morals the idea of cosmopolitan right is presented as an a priori deduction from the postulates of practical reason, in other words it is a pure idea, based not on experience but on reason, an absolute duty and binding regardless of inclination. Reason proclaims, according to Kant, that ‘there shall be no war’, that the ‘disastrous practice of war’ must end forever; this is the ‘irresistible veto’ of the ‘moral, practical reason within us’ (Reiss 1970: 194). Kant insists that we have a duty to act in accordance with the idea of perpetual peace, even if there is not the slightest possibility of its realization and even if the idea were to remain forever an ‘empty piety’. If Kant in fact justified his claims concerning the evils of war by reference to the experience of war – the ‘horrors of violence’ and the ‘devastation’ it causes, the burdens of debt that arise as a result of war, the loss of liberty that often ensues for the vanquished or the moral decline that occurs for the victors – the form of his argument remains. He proclaims a metaphysics of justice, which, on the basis of a priori deductions from the postulates of practical reason, makes the attainment of perpetual peace a categorical imperative and binding duty on rulers and citizens alike.

Kant accepts that provisionally, namely prior to the attainment of perpetual peace, war continues but he argues there must be certain rules of war, which limit how it is inaugurated and conducted. For example, he says that the traditional ‘right’ of sovereigns to declare war and then to send subjects to fight on their behalf must be abolished. This so-called right of the ruler was ‘an obvious consequence of the right to do what one wishes with one’s own property’, but it is impermissible to apply it to citizens who are ‘co-legislative members of the state’ and must therefore give their free consent through their representatives to ‘every particular declaration of war’. If war is declared, it must be conducted in accordance with certain principles. These exclude punitive wars and wars of extermination or subjugation, or means of warfare that would render its perpetrators unfit to be citizens, or demands on the enemy for compensation for the costs of war or for the ransom for prisoners. They must also

respect the right of other nations to continue to engage in commerce. Kant says that colonization may sometimes be justified in terms of 'bringing culture to uncivilized peoples' and purging the home country of 'depraved characters', but it must be done in such a way as to avoid the plunder, subjugation and extermination of conquered peoples.

To achieve this new cosmopolitan order, Kant advanced three basic conditions: first, that 'the civil constitution of every state shall be republican'; second, that 'the right of nations shall be based on a federation of free states'; and third, that 'cosmopolitan rights shall be limited to conditions of universal hospitality'. By a republican constitution Kant referred to a rights-based state founded on the civil and political freedom of all recognized members of society, namely a state based on features like the rule of law, representative government, a professional executive and the separation of powers. By a federation of free states Kant meant something different both from the domination of a single power (like France) overruling the rest and from a 'world-state', an idea Kant had earlier entertained but now saw as even more likely to lead to a 'universal despotism which saps all man's energies and ends in the graveyard of freedom'. A federation for Kant presupposed the separate existence and vigorous competition of many independent states and the peace it created could be neither inaugurated nor secured without a general agreement between them. By the term 'cosmopolitan rights' Kant meant those fundamental rights every individual has by virtue of his or her humanity and that will be secured by the federation of free states, regardless of the laws of the nation-state in question. Kant cites here the right of foreigners 'not to be treated with hostility when they arrive on another territory, so long as they behave in a peaceable and lawful manner' and the right of native inhabitants in conquered countries not to be exterminated or 'counted as nothing'. In modern parlance, we might translate this as a call for an international humanitarian framework for major human rights violations.

The greatness of spirit that Kant showed was to stand up to the rising nationalism of his time and to defend the best traditions of enlightenment universalism. By combining a metaphysics of justice with a philosophy of history, Kant abstracted the cosmopolitan ideal both from a dispiriting positivism that declares that the way things are is the way they have to be and from a superficial empiricism that declares that the ways things look on the surface is all there is to the things themselves. Kant did not simply abstract the cosmopolitan ideal from history and society, as is sometimes alleged, but rather he fought against a view of history and society that cannot see beyond what already exists and cannot reach for another form of life. Kant's so-called 'abstract ideal' was his attempt to stem the growing tide of nationalism and harmonize the principle on which the world revolution was turning, namely the independence and sovereignty of the state, with the universalism of enlightenment.

### *Comment*

Kant's argument has been criticized constructively in the sense of ironing out its creases and developing its institutional conclusions. Methodologically, perhaps the most important issue is to bridge the gap between Kant's philosophy of history with its connotation of natural necessity and his metaphysics of morals with its connotation of a priori right, and to link history and morality to one another in less dichotomous ways. Substantively, perhaps the most important substantive issue is to bridge the gap between national sovereignty and cosmopolitan order and recognize that the latter necessitates incursion into the former. This is particularly evident in cases of 'cosmopolitan right' where defence of the rights of subjects persecuted by their own

rulers and punishment of the perpetrators require diminution and revision of the doctrine of national sovereignty and some means of enforcement beyond the nation-state.

There is another criticism of Kant that needs at least some airing – namely the accusation that his cosmopolitan ideals are easily exposed as a sham when notice is taken of his work on geography. Though this had previously been ignored or perhaps deliberately obscured by Kantian scholars, as Harvey (2000) points out, Kant took his geography very seriously (teaching a course on it no less than 49 times, compared with the 54 times he taught a course on logic and metaphysics). Harvey describes the contents of his work in this field, recently published in French (Kant 1999) as ‘nothing short of an intellectual and political embarrassment’. Using Harvey as a source and a translator, we have such Kantian gems as: ‘Humanity achieves its greatest perfection with the White race. The yellow Indians have somewhat less talent. The Negroes are much inferior and some of the peoples of the Americas are well below them.’ Hottentots are dirty and smelly; Javanese are thieving, conniving and servile. People of the ‘far north’ resemble people of hot lands ‘in their timidity, laziness, superstition and desire for strong drink’. Unfortunately, these are not isolated quotations but samples of a continuous discourse.

In short, Kant’s views on race would not discomfort the average Nazi – an impression lent greater force by his notion that the German ‘has a fortunate combination of feeling, both in that of the sublime and in that of the beautiful’. The English and French were thought only to have half of that feeling (Eze 1967: 48–9). It is interesting that Eze’s early exposé, *Race and the Enlightenment*, was widely taught in black studies courses, but is not used by Kantian scholars or cited even by Harvey, who is sympathetic to Eze’s outlook. Are we imposing anachronistic notions of race onto an eighteenth-century setting? Was Kant merely reflecting the commonplace ideas of his time? This ‘let out’ for Kant only goes some way, as is clear in Kant’s review of his contemporary Herder’s *Ideas on the Philosophy of the History of Mankind*. Herder, unlike Kant, did *not* think it possible to classify various races by skin colour. Again Herder, unlike Kant, thought each culture deserved respect and could not be considered ‘inferior’ or ‘superior’ (Eze 1967: 65). Kant systematically attacked Herder’s views on these questions.

### **Arendt’s moment**

As we have shown, Kant suggested that cosmopolitanism was necessary to combat the evils of war and the ‘horrors of violence’ evident in the eighteenth century. The scale of horrors and evils was multiplied many times in the twentieth century and was eventually to generate another moment of cosmopolitanism, particularly in the field of cosmopolitan law. The extreme use of violence is strongly, though regrettably not exclusively, associated with Stalinism and Nazism – the gulag and the holocaust. Both were extreme denials of universal humanism or cosmopolitanism. Both regimes also justified their murderous attacks on the other – be they *kulak*, political dissenter, homosexual, Jew or Roma – in terms of a higher purpose, the fostering of states that would favour some purer, more elevated, subset of humanity, ultimately to humanity’s own good. Proletarian internationalism and Aryanism would be good for the world after certain backward-looking and destructive vermin had been exterminated.

It is instructive that the impediments to these new world orders were often identified as ‘cosmopolitans’. As is well known, the Nazis reserved their particular hatred for the ‘cosmopolitan’ Jews – rootless, nationless, without loyalty to anything

except some dark conspiracy of their own. The Soviet story is more complicated. Until after the Second World War Soviet dictionaries – a sure guide to official usage – tended to accept Diogenes’s definition of a cosmopolitan as ‘a citizen of the world’. Thereafter, as with the Nazis, a cosmopolitan was ‘a traitor to his country’ while cosmopolitanism was thought ‘a reactionary theory that preaches indifference to the fatherland, to national traditions and to national culture’. It ‘expresses the ideology and politics of the bourgeoisie’ (Carew Hunt 1957: 36). The Soviet regime sought particularly to associate cosmopolitanism with ‘Anglo-American imperialists’, who were using notions of world government to weaken legitimate nationalist sentiments. By linking cosmopolitanism with imperialism, the Soviets were able to maintain the ideological purity of an alternative ‘proletarian internationalism’. By early January 1949, however, the attack became more swingeing, with cosmopolitanism being associated with international Jewry, Zionism, Pan-Americanism and Catholicism (Carew Hunt 1957: 38). Again, however, the principal internal targets were ‘rootless’ Jewish intellectuals who were deemed incapable of understanding the commitments and values of the Russian people.

While the Soviets were echoing Nazi sentiments, certain prominent Nazis were on trial in Nuremberg. This was the context for Arendt’s cosmopolitan moment. The idea of linking the trials to a Kantian vision of cosmopolitanism was, in fact, not Arendt’s own, but that of her close friend, Karl Jaspers (1961, first published 1945). He argued that the trials undercut the principle of national sovereignty that put a ‘halo’ around heads of state (shades of the recent debate about General Pinochet). Guilt must go beyond ‘war guilt’ and must include ‘crimes against humanity’, a phrase that was to carry enormous resonance for the next half-century. By treating mass murderers as mere criminals, the trials represented them in ‘their total banality’, thus depriving them of that ‘streak of satanic greatness’ with which they otherwise would have been endowed.

#### *Arendt and the question of crimes against humanity*

The legal concept of ‘crimes against humanity’ came into being in 1945 as a new charge levelled by the Allied powers against Nazi defendants at Nuremberg. It was conceived as a supplement to crimes that already existed under international law, notably ‘war crimes’ and ‘crimes against peace’, and as filling a gap in international law that was revealed most horrifically by the extermination of millions of innocent civilians by the Nazi regime in Germany and their accomplices.<sup>4</sup> The Nuremberg Charter defined ‘crimes against humanity’ in terms of certain specific acts (namely murder, extermination, enslavement and deportation), other non-specific ‘inhumane acts’, and finally ‘persecutions based on political, racial or religious grounds’. The limiting factor in all these cases was that these acts had to be committed against civilian populations, have some connection with war and be carried out as part of a systematic governmental policy.

The Nuremberg Charter advanced a strong notion of personal responsibility. It announced that *individuals*, rather than states, could be held responsible not only for crimes against humanity but also for all crimes under international law. It held that individuals acting within the legality of their own state could nevertheless be tried as criminals. It established a link between people and their actions by treating ‘cogs’ in the Nazi murder machine as perpetrators and thus as responsible human beings. It stated that service to the state does not exonerate any official in any bureaucracy or any scientist in any laboratory from his or her responsibilities as an individual. It removed from perpetrators the excuse of ‘only obeying orders’. It held those who sit

behind desks planning atrocities as guilty as those who participated directly in their execution. Not least, it signified that atrocities committed against one set of people, be they Jews or Poles or Roma, were an affront not only to these particular people, but also to humanity as a whole.

The question of crimes against humanity, and that of the personal responsibility of perpetrators, was one aspect of Hannah Arendt's confrontation with the 'burden of events' that she registered under the title of totalitarianism. The issue presented itself to her concretely with the Nuremberg trials, then 15 years later with the trial of Adolph Eichmann in Jerusalem, indeed with her lifelong efforts to understand the 'frenzy of destruction' into which totalitarian regimes descended. Arendt was confronted both with the 'horrible originality' of the actual crimes committed and with the more uplifting originality of a cosmopolitan law that would hold perpetrators personally accountable for their crimes. There was nothing 'naïve' in her relation to these events in the sense that it was mediated by an engagement with the thinking of others and in particular with three prevailing currents of social theory, which we can call *cosmopolitanism*, *realism* and *postmetaphysics*.<sup>5</sup>

#### *The relation to cosmopolitanism*

In *The Question of German Guilt*, written in 1945, Karl Jaspers (1961) offered the quintessential cosmopolitan justification of the Nuremberg trials. He stressed the importance of prosecuting 'war criminals' as an element in a more general re-evaluation of responsibility after Nazism and as a rational alternative to the barbarism of collective punishment (which would only mimic the mindset of the Nazis themselves). He argued that the trials undercut that principle of national sovereignty and that they made a necessary distinction between those who were criminally guilty and the indefinite number of others who were merely capable of cooperating under orders. Jaspers rejected the explanations and the defences advanced by the Nazi defendants as amounting only to excuses – to an evasion of their responsibility – and held that the institution of crimes against humanity inaugurated a new organization of human responsibility: politically for how people are ruled, morally for the countless tiny acts of indifference that make injustice possible, and metaphysically for all the crimes that are committed in the presence and with the knowledge of other human beings.

From Jaspers's point of view, the trials helped not only to reorient the pariah nation, Germany, back to the tradition of Western humanism, but also to renew the tradition of Western humanism itself. Jaspers acknowledged certain legal defects at Nuremberg, but what interested him most was the future. He described the trials as 'a feeble, ambiguous harbinger of a world order the need of which mankind is beginning to feel' and he maintained that 'as a new attempt on behalf of order in the world', the trial does not 'grow meaningless if it cannot yet be based on a legal world order but must still halt within a political framework'. The new world order might not yet be at hand, but Jaspers celebrated the fact that it has at least come to seem possible to 'thinking humanity' and had appeared on the horizon as 'a barely perceptible dawn' (Jaspers 1961: 60). The spirit of Kant and of the eighteenth-century vision of cosmopolitan law was coming to life before his eyes.<sup>6</sup>

One of the most important achievements of the trials, as Jaspers saw it, was that they revealed the 'prosaic triviality' that characterized the perpetrators. By treating mass murderers as mere criminals, he argued in an idiom that was soon to be picked up by Arendt, the trials represented them 'in their total banality' and deprived them of

that 'streak of satanic greatness' with which they might otherwise be endowed. He regarded with horror 'any hint of myth and legend' (Arendt and Jaspers 1992: 62).

Both in her correspondence with Jaspers and in her published articles, Arendt displayed an equivocation that was barely visible in her friend's writings. First, she pointed to the disparity between mere criminality and the facts of mass extermination: it seemed to her that what was distinctive about the enormity of Nazi crimes was that they 'explode the limits of the law' and it was this that constituted their monstrosity. For these crimes, she wrote, no punishment can be severe enough. It may well have been essential to hang Göring and the others but it was totally inadequate to the deed, since 'this guilt, in contrast to all criminal guilt, oversteps and shatters any and all legal systems' (Arendt and Jaspers 1992: 54).

Second, Arendt underlined the disproportion between the relatively few Nazis who were punished and the mass of perpetrators who had committed the crimes in question. In an article written in 1945 on *Organized Guilt and Universal Responsibility*, she argued that when a machinery of mass murder makes practically everyone complicit, or when the visible signs of distinction between the guilty and the innocent are effaced so that it becomes almost impossible to tell them apart, the allocation of personal guilt is particularly problematic:

The boundaries dividing criminals from normal persons, the guilty from the innocent, have been so completely effaced that nobody will be able to tell in Germany whether in any case he is dealing with a secret hero or with a former mass murderer. In this situation, we will not be aided either by a definition of those responsible or by the punishment of 'war criminals'. ... The human need for justice can find no satisfactory reply to the total mobilization of a people to that purpose. Where all are guilty, nobody in the last analysis can be judged (Arendt 1994: 125–26).

Third, when people are prepared to do their jobs as 'cogs in a machine' and see themselves simply as 'doing their job' without responsibility for the consequences of their actions, they do not regard themselves as murderers because they kill only in a professional capacity. For such people, punishment provokes feelings of incomprehension, resentment and betrayal such as those that prevailed in Germany during the trials, or alternatively among some others a sense of self-consuming guilt. Neither, Arendt wrote, would be of much use.<sup>7</sup> Rather than speak the moral-theological language of guilt, purification and redemption, or the legal language of guilt, prosecution and punishment, Arendt looked to a more political answer: one in which human beings

assume responsibility for all crimes committed by human beings, in which no one people are assigned a monopoly of guilt and none considers itself superior, in which good citizens would not shrink back in horror at German crimes and declare 'Thank God, I am not like that,' but rather recognize in fear and trembling the incalculable evil which humanity is capable of and fight fearlessly uncompromisingly, everywhere against it (Arendt 1994: 132).

The social construction of moral or criminal guilt would exonerate not only Germans but also humanity from the need for a more profound ethical and political response.

On one issue, however, Arendt expressed her strong agreement with Jaspers: 'I realize', she wrote, 'that I come dangerously close to that "satanic greatness" that I, like you, totally reject ... we have to combat all impulses to mythologize the horrible'

(Arendt and Jaspers 1992: 69). The trials were significant in de-mythologizing as well as publicizing what the Nazis did, and Arendt began to take seriously the notion of 'crimes against humanity' as having a literal truth when she affirmed the difference between 'a man who sets out to murder his old aunt' (a discrete subject of criminal investigation) and 'people who without considering the economic usefulness of their actions at all (the deportations were very damaging to the war effort) built factories to produce corpses' (Arendt and Jaspers 1992: 69). It was in the latter that the substance of 'crimes against humanity' was to be found: 'Perhaps what is behind it all is only that individual human beings did not kill other individual human beings for human reasons, but that an organized attempt was made to eradicate the concept of the human being' (Arendt and Jaspers 1992: 69).

What Arendt pointed to was the *emergence* of crimes against humanity not merely as an expression of a new humanist sensibility but of a radically new form of violence.

Some 15 years later, in her analysis of the Eichmann trial, there was a discernible shift of emphasis both in Jaspers's and Arendt's writings. Now it was Jaspers who, in his correspondence with Arendt, expressed doubts about the trial. He questioned its legal basis – partly because Eichmann had been 'illegally' kidnapped from Argentina but mainly because 'something other than law is at issue here' and to address it in legal terms is a mistake. He expressed disquiet over the use of an Israeli court: 'Israel didn't even exist when the murders were committed ... Israel is not the Jewish people ... Israel does not have the right to speak for the Jewish people as a whole.' He feared that anti-Semitism would find its martyr in Eichmann and that the anti-Semite would say: 'You are acting neither in the name of the law nor in the name of a great political conception. ... you are vengeful ... or ridiculous.' He maintained that something was at stake that could not be contained in any national court: 'It is a task for humanity, not for an individual national state, to pass judgement in such a weighty case.' In the absence of such an international body, he thought it better to do without the trial altogether or put in its place some other process of 'examination and clarification'<sup>8</sup> (Arendt and Jaspers 1992: 410–19).

For Jaspers cosmopolitanism had become a reason to doubt the validity of the trial. Arendt, however, countered Jaspers's reservations with some hard-nosed observations. The kidnapping of a man indicted at Nuremberg and charged with crimes against humanity *was* legally justifiable – particularly from a country with a bad record of extradition. The use of an Israeli court was justifiable – neither because it speaks on behalf of all Jews nor because Israel is above criticism, but because many of the surviving victims lived there, because Eichmann was charged exclusively with the killing of Jews, and because in the absence of an international court or a successor institution to the *ad hoc* Nuremberg Tribunal, Israel had as much right as any country to try those apprehended for crimes against humanity. The resort to legal mechanisms of prosecution was justifiable since there were no tools to hand except legal ones with which to judge and pass sentence on Eichmann – even if his deeds could not adequately be represented in legal terms (Arendt and Jaspers 1992: 417). Arendt showed no compunction even about the imposition of the death penalty: 'no member of the human race can be expected to want to share the earth', she wrote, with a man who 'supported and carried out a policy of not wanting to share the earth with the Jewish people and the people of a number of other nations'. She expressed her disagreement with those who cast doubt on the relevance of the trial on the grounds that what was at issue was something much bigger – including German guilt, the

nature of evil, technological destructiveness, the beliefs and the structures of modernity.

Arendt now pursued the line of argument that originated in Jaspers's own conception of 'banality of evil'. The achievement of the trial, as she put it, was not only that 'all the cogs in the machinery, no matter how insignificant, are in court forthwith transformed back into perpetrators, that is to say, into human beings' (Arendt 1994: 289); in addition, the benefit of making the perpetrators 'merely criminal' was precisely to subvert the hagiography of satanic greatness that might otherwise surround them. In her view, the trial revealed that Eichmann, except for his extraordinary diligence in looking out for his own advancement, 'had no motives at all'. Nothing was further from his mind than to 'determine with Richard III "to prove a villain"' (Arendt 1994: 287). On the contrary, 'It was sheer thoughtlessness – something by no means identical with stupidity – that predisposed him to become one of the greatest criminals of that period. ... That such remoteness from reality and such thoughtlessness can wreak more havoc than all the evil instincts taken together ... that was in fact the lesson one could learn in Jerusalem' (Arendt 1994: 288).<sup>9</sup> The trial revealed that Eichmann was 'terrifyingly normal ... a new type of criminal ... who commits his crimes under circumstances that make it well-nigh impossible for him to know or to feel that he is doing wrong' (Arendt 1994: 276). In *The Life of the Mind*, Arendt reiterated the theme: the Eichmann trial demonstrated the untruth of the proposition that 'evil is something demonic' or that Satan strikes 'like a lightning fall from heaven'. In the trial one could only be struck by the 'manifest shallowness in the doer. ... The deeds were monstrous but the doer ... was quite ordinary, commonplace, and neither demonic nor monstrous' (Arendt 1978: 3–4). The thesis concerning the 'banality of evil' originated as a factual judgement on Eichmann's 'quite authentic inability to think' (Arendt 1978: 3).

Through this concept, Arendt reaffirmed the strong notion of personal responsibility that was present within the law: not only among those who committed the deeds with their own hands, but also or especially among the planners and organizers like Eichmann who were remote from the actual killing. It was read, however, as a slogan designed both to trivialize the experience of the holocaust and to diminish the *novum* of this event. Neither was true. Perhaps what really angered Arendt's critics was her resistance – a resistance first fuelled by Jaspers – to what she saw as a growing tendency to depoliticize the extermination of the Jews or indulge in what Gillian Rose later called 'holocaust piety' (Rose 1996: 41). The trial was ultimately justified by Arendt because it testified to the fact that evil is no 'fallen angel', no Lucifer, no 'absolute evil', but the work of human beings – human, all too human.

In her analysis of the political functions of the trial, Arendt was indeterminate: it encouraged the prosecution of leading Nazis in West Germany; it publicized the holocaust to the world; it offered a forum for the testimony of victims; it accomplished a touch of justice. On the negative side, despite her support for Israel's right to try the case, she thought the trial was abused by the Israeli authorities for various nationalistic ends: to support the contention that only in Israel could a Jew be safe; to camouflage the existence of ethnic distinctions in Israeli society; even, controversially to conceal the complicity of certain Jewish leaders, police and speculators in the execution of the holocaust.

As she saw it, the cosmopolitan precedent set by Nuremberg – a precedent that was largely forgotten after the onset of the cold war – was being used to reinforce the very situation it had sought to correct – the breaking up of the human race into a multitude

of competing states and nations. Most important of all, perhaps, the nationalistic use of the trial indicated the denial of any equivocation of ethical life: that is, of what Primo Levi called the 'grey zone' in which the dividing line between executioners and victims becomes blurred and the abused are themselves turned into abusers. Her difficulty was that the institution of crimes against humanity, which had offered hope of release from the elements of totalitarian thought, was being corralled back into a simplistic moral division of the world between 'them' and 'us'. This served as an index of a world purged of all political profundity, or as Arendt put it, of a 'banality that obliterates all distinctions' (Arendt 1983: 30).

### *Comment*

Arendt endeavoured to spell out the substance of crimes against humanity beyond mere legal definition. If the notion of humanity was a product of the modern age, crimes against humanity were the product of a certain kind of revolution. It was not directed against modern bourgeois society as such, for the readiness of business to go along with extreme violence was already well established in the imperialist era, and the readiness of the Nazis to do business with business and make use of modern industrial methods is amply documented. Rather, in the name of the 'concrete community', it was directed against the abstract universals of modern bourgeois society, which appeared both false and oppressive and which took their highest form in the idea of 'humanity'. Crimes against humanity were thus aimed at those who personified the dominance of these abstractions – at pariah peoples who were stripped of everything other than their human status as such, and especially at 'rootless, cosmopolitan' Jews. The intent behind these crimes is to destroy not just these people but also the very idea of humanity that they are meant to embody.

Bernstein (1996: 145–6) points out that, while in *The Origins of Totalitarianism* Arendt did not hesitate to write about human nature and its transformation, later in *The Human Condition* (Arendt 1958: 9–10), she repudiated the notion of human nature:

The human condition is not the same as human nature and the sum total of human activities and capabilities which correspond to the human condition does not constitute anything like human nature. ... The problem of human nature ... seems unanswerable. ... It is highly unlikely that we who can know, determine and define the natural essences of all things surrounding us ... should ever be able to do the same for ourselves – this would be like jumping over our own shadows. ... Nothing entitles us to assume that man has a nature or essence in the same sense as other things.

Bernstein (1996: 146) is absolutely right when he says that Arendt refused the consolation that there is 'something deep down in human beings that will resist the totalitarian impulse to prove that "everything is possible"'. The spectre that haunted her was that the concept of humanity itself could indeed be obliterated or, as she put it in a letter to Jaspers (17 December 1946), that the organized attempt to 'eradicate the concept of the human being' and bring about 'total moral collapse' might well succeed (Arendt and Jaspers 1992: 69). For this reason Arendt preferred to speak of crimes against the 'human condition' rather than against 'humanity'.

This existential turn may have solved the problem of 'essentializing' human nature, but at a cost. For it also lost sight of the social and historical character both of humanity and of attempts to destroy it. The abstraction of 'humanity' is the product of

modern political life and would have been meaningless to the ancients. Accordingly, the emergence of ‘crimes against humanity’ presupposes the prior emergence of humanity as such and is the product of an intentional revolt against this abstract universalism. Because the existential framework of Arendt’s analysis could not incorporate socio-theoretical considerations of this kind, the concept of crimes against humanity remained elusive. Perhaps Arendt’s achievement was, as she herself put it in *Men in Dark Times*, to make clouds rather than to clear them, and she did not hold herself duty-bound to resolve the difficulties that she created (Arendt 1983: 8). Arendt leaves us with a vision of a new, cosmopolitan order as beautiful as it is necessary, but a vision beset by lost opportunities, tarnished by competition between national memories, degraded by ideological servitude to particular powers, and corralled into a moral dualism of good and evil, which robs debate of political profundity.

### **Nussbaum’s moment**

Whereas it may seem self-evident to select Zeno, Kant and Arendt as our main *trügers* of key cosmopolitan moments, it may seem a little more idiosyncratic to choose Martha Nussbaum to exemplify late North American thought on the issue of cosmopolitanism. This is no reflection of her status as a philosopher. But there are other US candidates around – notably David Hollinger, who in his often-cited book *Postethnic America* (1995), explicitly seeks to replace the rigidity of American multiculturalism with the multiplicity of cosmopolitanism. Again, Nussbaum’s intervention is primarily about the use of cosmopolitanism in US educational reform – a rather restricted agenda. However, the great advantage of using Nussbaum’s intervention for current purposes is that her essay, published in the *Boston Review* (1994), then with replies on the web (Nussbaum et al. 1994), then in book form (edited with J. Cohen, 1996) attracted 29 published responses from a wide array of US intellectuals.

Nussbaum’s starts from a view that ‘Americans’ have a particular hubris, a pride in American identity and citizenship that blinds them to another primary allegiance, that of being members of a community of human beings spread across the world.<sup>10</sup> Her particular target is Rorty, whom she sees as promoting a rather uncritical patriotism, one that may encourage American students to respect human rights in other countries, but actually places their identity as US citizens at the forefront of their concerns. Nussbaum promotes a radically alternative vision, one that draws explicitly on the ancient cynics and stoics and, less convincingly, on the Indian novelist Rabindranath Tagore.

She explicitly accepts the stoic idea that a self is surrounded by a wider and wider series of concentric circles, ultimately by humanity itself. In her vision (Nussbaum et al. 1994), a student in the USA

may continue to regard herself as in part defined by her particular loves – for her family, her religious and/or ethnic and/or racial community or communities, even for her country. But she must also, and centrally, learn to recognize humanity wherever she encounters it, undeterred by traits that are strange to her, and be eager to understand humanity in its ‘strange’ guises. She must learn enough about the different to recognize common aims, aspirations, and values, and enough about these common ends to see how variously they are instantiated in the many cultures and many histories.

World citizenship is favourably contrasted with national citizenship. Nussbaum

advances a number of arguments to support this position. A national focus in education leads to a 'false air of moral weight and glory'; only by seeing oneself in the eyes of the other can one recognize what is deep and shared rather than local and unnecessary. Certain global concerns – for example, ecology, food supply and population – have escaped the confines of the national and can only be addressed by global knowledge, global planning and the recognition of a shared future for humanity. Americans should recognize that the high living standards they enjoy are not likely to be universalized so – in the name of Kantian morality – 'we' need 'to educate our children to be troubled by this fact'. National boundaries are in any case increasingly incoherent – with international migration the same groups exist 'inside' and 'outside'.

A number of these ideas are commonplace enough, yet they were expressed in trenchant language and seem to have 'got under the skin' of a number of rather eminent commentators and academics. Here are some examples of such responses:

Martha Nussbaum is one of the most eminent female philosophers of time, but when it comes to politics she is a girl scout. ... For [the] acrobatic counter-move to Professor Rorty she claims the support, or the authority of the Stoics and of Kant. Why does she ignore the liberalism and constitutionalism of the country in which she lives? ... Only the philosopher could be a citizen of the world. No possible government could be impartial enough to be truly cosmopolitan (Mansfield in Nussbaum et al. 1994).

We must deal with the world we have; and in that world frail and erring mortals give their allegiance not to praiseworthy abstractions but to specific and familiar communities ... perhaps our best hope for the time being is to follow the precept of Carl Schurz: 'Our country, right or wrong. When right to be kept right; when wrong, to be put right' (Schlesinger in Nussbaum et al. 1994).

In the end, Nussbaum's argument reduces to name-calling. Her case is a version of the insult that anyone who takes patriotism seriously must be a crypto-fascist. Her charges range from accusing her opponents of treating their country as a god to their seeking 'a surrogate parent who will do one's thinking for one'. There must be a better way to make the point that we must help those close to us without forgetting those far away (Fletcher in Nussbaum et al. 1994).

The bulk of her respondents, even when they are sympathetic to her enterprise, take the view that she had too narrow a notion of American patriotism. Curiously, very few of them are able to demonstrate their argument by reference to a deeper, broader more universal notion of 'Americanness'. On the whole they resort to ritual evocations of the Constitution (which only serve to reinforce Nussbaum's charges of moral piety) or pity her for her foolishness and lack of realism. None even has the wit to evoke Benjamin Franklin's considerable attempts to join French revolutionary thinking to an emergent American version of cosmopolitan nationhood (see Schlereth 1977).

One notable commentator is Benjamin R. Barber, whose heartfelt, even emotional, response strikes a more genuine note, a fact acknowledged by Nussbaum in her riposte to her critics. For Barber, Nussbaum underestimates the 'thinness' of cosmopolitanism and misunderstands the nature of American patriotism. He alludes to St John Crevecoeur's *Letters from an American Farmer*, in which American patriotism is explicitly contrasted with religious parochialism and the ethnic persecutions from which immigrants to the USA escaped. In America, said

Crevecoeur, they can be ‘new men’ with ‘new laws, a new mode of living, a new social system: here they are becoming men: in Europe they were so many useless plants’. One hesitates even to quote these incantations of manliness to a mixed audience, but we wanted to record the central idea that America is an asylum, a refuge, and an escape – a specifically *territorially defined* safe haven (Barber in Nussbaum et al. 1994).

Like other respondents, Barber ritually mentions the Declaration of Independence, the Constitution, the Bill of Rights and the Gettysburg Address, but *also* includes Martin Luther King’s sermon at the 1963 March on Washington (‘Free at last’) and such popular voices as Walt Whitman, Woody Guthrie (‘This land is your land ...’) and the poetry of Langston Hughes. Remember this one from Hughes?

O, let America be America again –  
The land that never has been yet –  
And yet must be – the land where everyone is free.  
The land that’s mine – the poor man’s, Indian’s  
Negro’s, ME –

That this debate stirred such passions, the recollection of childhood civic education lessons and even the recitation of utopian poetry, suggests a hidden anxiety in the public discourse on American patriotism. Some boats of certainly have now slipped their moorings. Though he too is against ‘self-congratulatory cosmopolitanism’, Wallerstein identifies the cause for this loss of confidence in changes in the behaviour and attitudes of immigrant groups:

Within the United States the voice of oppressed groups has become more stridently ‘ethnic’ using far less appeal to universal values than it previously had. In response to both US geopolitical decline and the more ‘ethnocentric’ style of US oppressed groups, the defenders of privilege have resorted to demands for an ‘integrating’ patriotism, and Rorty’s arguments simply reflect a cave in this noxious argument (Wallerstein in Nussbaum et al. 1994).

#### *Comment*

While Wallerstein has clearly spotted the loose ropes that previously just about held American patriotism together, the response has been more complex than he surmised. Certainly, there has been a significant reassertion of the old certainties of integration, even assimilation – Scheslinger, Glazer, Rorty, Hackney and most of the American political class come to mind. The post ‘September 11’ manifestations of flag-waving have provided popular support for such views. But it is important not to drown out dissenting views, positioned mainly around the virtues of ‘cosmopolitanism’ as opposed to ‘pluralism’. Of course these words, as it is hoped we established for the first, are not perfectly transportable and we need to understand them in context. Here is Hollinger’s (1995: 3–4) key dyad:

Pluralism respects inherited boundaries and locates individuals within one or another of a series of ethno-racial groups to be protected and preserved. Cosmopolitanism is more wary of traditional enclosures and favours voluntary affiliations. Cosmopolitanism promotes multiple identities, emphasizes the dynamic and changing character of many groups and is responsive to the potential for creating new cultural combinations. Pluralism sees in cosmopolitanism a threat to identity, while cosmopolitanism sees in pluralism a

provincial unwillingness to engage the complex dilemmas and opportunities actually presented by modern life.

Can cosmopolitanism be refashioned to serve a new purpose for the USA in the twenty-first century? Clearly the idea of pluralism or multiculturalism leading to an incoherence of purpose, a loss of moral certainties, a 'disuniting of America', has gripped the minds of public intellectuals and politicians. Though drawing sympathetically on Hollinger, Aleinikoff (1998: 80–6), a leading academic lawyer who has also worked in the US Department of Justice and the Carnegie Endowment, is wary of using the word 'cosmopolitanism'. He wants to reconcile a 'transnational reality' with, as he sees it, a 'strong justification for the nation-state'. For him, the idea of an American nation is still worth defending *against* multicultural and cosmopolitan attack. He advances *mutuality* (recognition rather than mere tolerance of group differences) and *permeability* (the acceptance of group boundaries, but also the freedom and ability to cross them). His final formula, perhaps just short of being an oxymoron, is the idea of 'multicultural nationalism'.

### **Meditations and conclusions**

In discussing *Zeno's moment*, we said we would come back to the idea of belonging, which was posed probably for the first time in recognizably contemporary form by the stoics and cynics. The narrowest version of political community, the city-state (the *polis*), is contrasted with the notion of a more diverse cosmopolitan state and most ambitiously, a spaceless cosmopolitanism of the mind – a rather transcendent notion of belonging. Probably the most persistent attack on cosmopolitanism has been the idea that it provides the opportunity of *not belonging* – for a selfish individualism, a freedom from social bonds that most people cannot/should not dispense with. Such attacks are legion. For example, in a rather unbecoming style for a contributor to the rather sober *Encyclopaedia of the Social Sciences*, Boehm (1953: 458) suggested that the obligations that cosmopolitanism lays upon its adherents are 'comparatively negligible'. Cosmopolites seldom go beyond 'demonstration, sentimentality, propaganda and sectarian fanaticism'. The people who believe in it are often those 'whom fortune has relieved from the immediate struggle for existence ... and who can afford to indulge their fads and enthusiasms'.

The US commentator, Lasch (1995), in his posthumous collection of essays, echoed this attack. He talks there of 'the darker side of cosmopolitanism'. The loosely defined 'privileged classes' or 'elites' are said to be in revolt against the nation-state. This is because they no longer identify with it. 'In the borderless global economy, money has lost its links to nationality. ... The privileged classes in Los Angeles feel more kinship with their counterparts in Japan, Singapore, and Korea than with most of their countrymen' (Lasch 1995: 46). This detachment from the state means they regard themselves as 'world citizens' without any of the normal obligations of national citizenship. They no longer pay their share of taxes or contribute to democratic life.

Such attacks on the self-indulgence or selfishness of cosmopolites are paralleled and often accompanied by the somewhat contradictory argument that Zeno and his spiritual descendants are attempting the impossible. This is Berlin's position. It had been a mistake of Kant, he thought, to suppose that people could live through abstract principles, cosmopolitan values or 'idealistic but hollow doctrinaire internationalism'. The rejection of 'natural ties' was 'noble but misguided' (Ignatieff 2000: 292). But this proposition is far from tested, particularly under contemporary conditions.

‘Supposing’, says Waldron (1992: 762) ‘that a freewheeling cosmopolitan life, lived in a kaleidoscope of cultures, is both possible and fulfilling’. Suppose further this life is rich and creative and creates no more unhappiness than other life choices. Surely, he continues, it can no longer be said that ‘all people *need* their rootedness in a particular culture in which they and their ancestors were reared in the way that they need food, shelter and clothing’. Clearly this is an empirical question, but one can reasonably surmise that Waldron is right.<sup>11</sup> Probably for the first time, the historical conditions for the realization of Zeno’s most ambitious notion are now present.

Let us now turn to *Kant’s moment*, where we can ruminate on three related problems:

The problem with Kant’s philosophy of history is that it offers the consolation of philosophy for the violence and suffering of the existing world. It says in effect: ‘We know terrible violence is taking place but the good news is that the laws of history are drawing it to a close. Keep your eyes on the future, for the future is beautiful. Let us reconcile ourselves to the violence of the present in the knowledge that perpetual peace will be the final end.’ By its own curious dialectic, unspeakable horror converts itself into the triumph of perpetual peace. Every barbarity is justified by the redemptive future and optimism is achieved at the expense of looking horror in the face. When the worst that can happen is that some people are killed in war, perhaps this makes a certain sense; but when what is at issue is the very future of humankind, as it was in phenomena of totalitarian terror such as the holocaust, what good can be distilled from this evil?

The problem with Kant’s metaphysics of justice is that it instructs people and rulers in what they must do, without involving them in the process of deciding what must or must not be done. Its idea of reason is based on spurious deductions, takes the form of legislative prescriptions that pay no heed to the lessons of experience or the consequences of following a certain course of action. It takes it as read that the primary evil is that of war and that the primary goal is that of perpetual peace, but there are other moral issues at stake in people’s lives – questions of justice, poverty and famine – which also excite the cosmopolitan sensibility to identify with those who suffer at a distance. The identification of cosmopolitanism with peace offers a restrictive view of what is involved in the development of a cosmopolitan consciousness. It tells people that perpetual peace must be their highest priority and treats those who disagree simply as lacking in reason. This is no way to start a dialogue at a cosmopolitan level.

The problem with trying to attach the philosophy of history to the metaphysics of justice lies not only in the assimilation of what is right to the movement of history and in the assimilation of history to the self-realization of right, but in the conviction that the idea of a cosmopolitan order is a resolution of all prior antagonisms. If it takes the form of a world state, then it becomes like any other state except that it has no competition from other states and is all the more dangerous as a result. If it takes the form of a federation of free and independent states, then it faces the old problem of those nations putting national interest before the interests of the whole. All this is to say that cosmopolitan right is like any right a form of coercion and the character of that coercion is not something outside politics. Cosmopolitanism contains its own equivocations, its own difficult judgements, and its own conflicts of interest and outlook. The translation of the cosmopolitan idea into a pure idea of reason or into the end of history takes it out of the realm of human contestation – as if it were not a social relation at all but the embodiment of something divine here on earth.

This sense of disembodiment also appears in *Arendt's moment*. As she herself realized, cosmopolitan law, like all law, remains a form of coercion; it cannot 'jump out' of political life; it presupposes a certain exercise of power. In relation to it, the great powers have a cautious and equivocal attitude. For many years they largely ignored it. Now, in the post-cold war world, they are once again using it, seeking to put it into the service of their own interests, to restrict its sphere of operation, to forestall its capacity for independent initiative, to appropriate its means of enforcement. This is certainly not a reason to dismiss cosmopolitan law, but it *is* a reason to advance the critical cosmopolitanism which Arendt did much to initiate.

Today, crimes against humanity (in the forms of ethnic cleansing and genocide) are again at the front of our minds. We also see the resurrection of cosmopolitan law, based on the precedent of Nuremberg and actualized in the *ad hoc* tribunals for the prosecution of war criminals in the former Yugoslavia, as arguably the most hopeful aspect of current endeavours to address the problem. As Rousseau said, the worst and the best of humanity arise together. In the face of these developments, the difficulties of understanding have not diminished. On the one hand, the concept of crimes against humanity must be justified in universalistic terms if it is not to be seen as a mere tool of power politics. On the other hand, its universal potential puts it in danger of becoming over-extended, meaningless, banal – a moralistic catch-all for everything of which we disapprove in which all specificity is lost.

Arendt does not resolve this conflict between generality and specificity, but she teaches us how to live with it: without the cynicism of those who say that *homo homini lupus* (man is a wolf to man) and nothing can be done to change it; without the scepticism of those who say that cosmopolitan law is merely victor's justice and possesses no transcendent validity; without over-determined images of the totalitarian propensities of modernity; without an illusion that waits to be disillusioned – that if only it could be fully completed, cosmopolitan law provides the absolute key to perpetual peace and universal freedom. Arendt enjoins us to recognize the difficulties of understanding but not to turn them into an excuse for inaction. As she put it, 'Many people say that one cannot fight totalitarianism without understanding it. Fortunately this is not true; if it were, our case would be hopeless' (Arendt 1994: 308). The 'incompletion' of the concept of crimes against humanity is at once a prescription for making judgements, and taking decisions with the tools we have at hand.

Finally, we can recognize in *Nussbaum's moment* the central paradox facing states that once used strong ideologies of assimilation and integration to absorb immigrants. It is hardly a revelation that the resultant societies were more salad bowl than melting pot. But assimilatory ideologies functioned as powerful myths, closely tied to myths of social mobility. Now Pandora's box is seen to be open. The nation-state is going to have to adapt to a more complex and more recalcitrant mosaic of cultures, religions, languages and citizenships. Transnationalism and nationalism will have to coexist. In the USA, they will have to do so in a virtually oxymoronic way – as in Franklin's 'cosmopolitan nationhood' or Aleinikoff's 'multicultural nationalism'.

What the US debate notably has not transcended is its insistence on place, on land, on territory. Remember Guthrie's song 'This land is your land, this land is my land, from California to the New York Island, from the redwood forest to the Gulf Stream waters.' The transnational, diasporic, communities that now populate many US cities do not, and cannot, have this intimate tie to the land; it was, after all, derived from the 'pioneers', farmers and early settlers – Hispanic and anglophonic. They are sojourners, transients, multiply located: their identities cannot be constituted by reference to the land. The formulae that worked for so long in the USA no longer

work and whether Nussbaum's critics like it or not, some version of cosmopolitanism will have to occupy centre stage.

Cosmopolitanism as a placeless meeting of minds, cosmopolitanism as perpetual peace, cosmopolitanism as justice, cosmopolitanism as an answer to social fragmentation, extreme nationalism or ethnic hostility. No one notion will carry all this weight and the other burdens placed upon it. But those who advocate cosmopolitan solutions can no longer escape the burden of social responsibility for their ideas. Far from being a selfish, idiosyncratic or indulgent choice, to advocate, delimit and develop cosmopolitanism in the global age has become an urgent moral necessity – even if the pessimism of the intellect dictates an orange rather than a green light forward.

### Notes

1. The key essays are all collected in Reiss (1970). The essays are: 'Idea for a Universal History from a Cosmopolitan Point of View' (1785), 'On the common saying "This may be true in theory but it does not apply in practice"' (1793), 'Toward Perpetual Peace: A Philosophical Sketch' (published 1795, revised 1796), 'International Right' in *The Metaphysics of Morals* (1797).
2. See in particular the essays by Karl-Otto Apel, Jürgen Habermas, Axel Honneth and David Held in Bohman and Lutz-Bachmann (1997).
3. We should also not forget the experience of the French revolution by which Kant was confronted. In the flush of its youth, decrees were passed offering French citizenship to all foreigners who had resided in France for five years and had means of subsistence; societies and newspapers for foreigners were encouraged; the use of force against other nations was disavowed; support was given to revolutionaries from other countries to rid themselves of despotic rulers; and certain 'benefactors of humankind', including Tom Paine, Mary Wollstonecraft, Jeremy Bentham and William Wilberforce, were awarded honorary French citizenship. But this new dawn was not to last. With the launching of the 'revolutionary wars', xenophobia became an active political force: campaigns against foreigners abounded as they were held responsible for all that went wrong: military defeats, economic difficulties, political crises, the lot. Foreign clubs and newspapers were disbanded; revolutionary terror was directed primarily against foreigners, and even Tom Paine, 'citizen of the world', the man who signed himself *Humanus*, was impoverished, imprisoned and then expelled. For a fuller account, see Kristeva (1991).
4. The term seems to have come from Hersh Lauterpacht, a distinguished professor of international law at Cambridge University, who had been pressing for a war crimes trial since 1943 and was keen to have the court consider atrocities committed against Jews. The pre-history of the term goes back to the allied denunciation of the Turkish government for the massacre of Armenians in 1915, which they held responsible for 'crimes against humanity and civilization'. See Marrus (1997: 185–7).
5. We will deal mainly with cosmopolitanism here, though this violates the coherence of Arendt's thought. All three elements are integrated in Fine (1998) and in his forthcoming work.
6. Kant had written that at the dawn of modernity 'each state saw its own majesty in not having to submit to any external legal constraint and the glory of its ruler consisted in his power to order the death of thousands of its people for causes which did not at all concern them' (Reiss 1970: 103). Kant's hope and expectation, however, was that states would eventually abandon this 'lawless state of savagery' and introduce in its place a cosmopolitan system of justice based on the recognition that the peoples of the earth have 'entered in varying degrees into a universal community where a violation of rights in one part of the world is felt everywhere' (Reiss 1970: 104–5).
7. Arendt describes the 'mob-man' as the 'end result of the bourgeois' and writes: 'When his occupation forces him to murder people he does not regard himself as a murderer because

- he has not done it out of inclination but in his professional capacity. Out of sheer passion he would never harm a fly. If we tell a member of this new occupational class which our time has produced that he is being held to account for what he did, he will feel nothing except that he has been betrayed' (Arendt 1994: 130).
8. What, perhaps, one would now know as a Truth and Reconciliation Commission, post-apartheid South Africa being the paradigm case.
  9. Alain Finkielkraut picked up the same theme when he argued in relation to the Barbie Trial that though the holocaust was 'from Eichmann to the engineers on the trains ... a crime of employees ... it was precisely to remove from *crime* the excuse of *service* and to restore the quality of *killers* to law-abiding citizens ... that the category of "crimes against humanity" was formulated' (Finkielkraut 1989: 3–4). We may think here of Hegel's aphorism that to punish an individual is to respect him or her as a rational human being.
  10. We follow her use of 'Americans' to mean citizens of the USA (a common-enough practice), yet it is important in this context to mention that 'American' and 'America' is an appropriation, derived precisely from the hubris Nussbaum attacks. South and Central Americans are also Americans. Note: We have used the web version in this paper, and as this prints out differently, no page numbers are cited. We allude to Nussbaum et al. (1994). Respondents are referred to as Barber in Nussbaum et al. (1994), and so forth.
  11. One lucid defence of the problems and possibilities of travelling with 'a wardrobe of selves' comes from Pico Iyer (1997 and 2000).

### *References*

N.B. The references for this chapter can be found in the publication referred to at the top of this online version.