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CRITICAL COMMENTS

Equal rights as the center of democratization

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Well-stated modern political or democratic theory is rights-based. Meaningful democracy rests as a precondition on the equal rights of citizens. This idea stems from Rousseau's distinction between a general will—one which is impersonal and tends toward equality, that is, the equal basic rights of citizens—and a transitory will of all. For instance, absent equal basic rights, one might imagine a possible world in which what I have called a self-undermining series of wills of all, or the results of so-called majority rule, disenfranchises the population. In the USA, one might think, contrahistorically, of a regime in which the women, as a majority, disenfranchise the men, the Black, Latin, and Asian women disenfranchise the White women, and by a series of reductions by further 'majorities,' three people still have the suffrage, two of whom disenfranchise one. Based on Rousseau, John Rawls' *Theory of Justice* thus emphasizes the priority of the equal liberty principle over an economic difference principle.¹ The difference principle permits those inequalities which also benefit the least advantaged. But the priority of the equal liberty principle rules out any inequality, otherwise beneficial to the least advantaged, which enables the rich to control the government. This priority makes equal basic rights the inescapable precondition for any decent majority rule or distribution of income. Note that in principle, such a regime may be international—even a democracy of *demos* in James Bohman's phrase—rather than national.

Now Bohman emphasizes equal rights, even imagining a goal of citizenship of the world. But his conception is not explicitly part of a democratic theory. Instead, he defends a genealogical or etiological conception of how a democracy of *demos* could gradually generate itself, not one based on a fully elaborated or ideal picture of democracy either nationally or internationally. In contrast, with a precondition of equal rights, modern democratic theory suggests a different way of arguing for his

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approach. Bohman, one might say, novelly emphasizes the extension of equal basic rights beyond national borders. He seeks to capture theoretically the insights of international human rights treaties. He wants institutional means, international as well as national, for realizing these decent proclamations. He envisions institutional venues, based on the European community, for deliberations and actions which extend such individual rights. He wants such venues to allow each, including the previously excluded, to question and participate.² He imagines a robustly ‘active citizenry’:

... the issue is not merely to construct a more protective democracy, but to create conditions under which an active citizenry is capable of initiating *democratization*, that is, using their power to extend the scope of democratic entitlements and to establish new possibilities for creative and empowered participation.³

This paper will emphasize three points which would strengthen Bohman’s account of the rights-extending and to some extent democratizing character of what he calls democracy beyond borders. First, his analysis downplays the central role of what I call democratic internationalism from below.⁴ Despite an admirable emphasis on the recognition of immigrants, he fails to see the central role of economic inequality and, thus, of oligarchy—the rich dominating governing institutions domestically as well as international regimes—in depriving ordinary people of basic rights and instigating protest. Second, he too easily adopts the results of seemingly pro-democracy social science, in particular, the inter-democratic peace hypothesis. The Bush–Cheney administration, he recognizes, has undermined democratic peace. Nonetheless, Bohman imagines that this hypothesis is plausible in general. This section will suggest, however, that there is little truth in this now fashionable academic and government argument about the American oligarchy with parliamentary forms.⁵ Third, throughout the essay, I will compare Bohman’s argument both with Rawls’ *Law of Peoples* and my account of democratic internationalism in order to underline Bohman’s innovations but also to strengthen his account, to make it more practical.

1

What Bohman says about democratization is often not obviously or very democratic; it is, in his idiom, ‘decentered.’ Following John Dewey, he substitutes some participatory, deliberative *publics*, not very well specified, for robust democratic movements. A focus on the extension of rights as the precondition of democracy highlights what is morally admirable in his argument. It justifies his quasi-democratization and is central to whatever level of deliberation and democracy can exist in international institutions and in modern transnational regimes.⁶ Etiologically, one might regard the process of creation of such democratization and equal rights as mutually interacting. But what gives the process of democratization its moral force is the inclusion, as Bohman emphasizes, of the previously shunned and oppressed, the extension of basic rights.

Bohman draws his etiological model for a democracy of *demos* from the European Union which has required the extension of individual rights in new or prospective members, for instance, in Eastern Europe or Turkey, and has furthered the internationalism of its citizens.⁷ In addition, the incorporation of Muslim Turkey might dialectically extend democracy within Europe itself. European oppression of illegal Muslim immigrants from Morocco, many of whom drown in attempting to cross the Mediterranean to Spain, or the disregard for Algerians in France, protested by recent rebellions in the Paris suburbs, or the preference for mainly White immigrants from Eastern Europe as opposed to Blacks from Africa are basic challenges for making Europe decent.

Critical of the weakness of the European Parliament, Bohman imagines an unfolding of democracy that allows a 'reflexive' challenge to its own inadequate bases: a discussion of the further extension of rights to new groups and citizens. He admires an Open Method of Coordination in which different countries have diverse but shared forms of deliberation on national policies which can be argued about, coordinated or chosen from at the international level. Compared to Rawls' *Law of Peoples*, these are important advances,⁸ but whether they amount to genuine democratization—the capacity of each citizen to play an equal role, given a comparable level of experience, ability, and dedication, in setting the national and international public agenda one might doubt. Bohman's enthusiasm for these processes leads him to say too easily that they are (potentially) democratic. His argument thus suffers from the actual lack of democracy in the European Union—one does not routinely think of 'Eureaucrats' in Brussels and democracy together. There is a great distance between the current actuality and Bohman's hopes in weakly specified democratic innovations.⁹ The democracy of *demos* argument is characterized by an *opacity of the democracy* Bohman recommends.

In contrast, Bohman could emphasize the expansion of rights and the creation of institutionalized¹⁰ democratic contexts of protest, ones in which some individuals are allowed to participate and challenge prevailing, exclusionary practices. Both of these ideas are democracy-tending; neither amounts to full or radical democratization. In these respects, Bohman recommends advances in what I might call the international underpinnings for democracy. But if he spelled out the political and moral limitations on transnational democracy rather than using the term broadly or loosely in contrast to other views, his argument would be more appealing.

In addition, though he rightly criticizes 'juridification,' Bohman's argument about a democracy of *demos* is overly institutional and legalistic. In contrast, consider what I call democratic internationalism from below: movements in different countries against the oppressive policies of one or all of their own states. For instance, preceding the Anglo-American aggression in Iraq, the greatest international anti-war movement in world history before a war took place. If one examines the initial Bush Pentagon proposal for 'shock and awe'—to make of Baghdad a 'Nagasaki'—this movement saved many innocent Iraqi lives. The aggression still murdered an unknown number of people—the Bush regime shunned collecting statistics about its crimes—but nothing like the original plan. This was one concrete moral effect of a

great international countermovement from below.¹¹ A second positive impact was to make American and other citizens aware that they had real power internally and internationally. In the USA, for example, this empowerment eventually had an effect in electing Obama and shifting the direction of the polity toward a common good in many ways.¹²

Such internationalist movements are genuinely democratic in two respects: (1) to stand up for moral decency, they rely on ordinary citizens gathering from below against the policies of their own state(s) as well as a centralized, profit-hungry mainstream or establishment media;¹³ (2) they provide the main way to achieve the advances suggested by decent theories of international affairs, such as Rawls' or Bohman's. They leave any practical mechanisms unspecified, except that for Bohman, immigrants or their representatives can raise their voices in specific forums in Europe. But such movements help advance immigrant demands, or challenge the Iraq aggression as 2 million demonstrators did in Madrid against Aznar on 16 February 2003.¹⁴

Yet in most cases, a proponent of Bohman's view might suggest, such movements are ephemeral in the sense that they do not change institutions as opposed to challenging policies. In contrast, he might say, we need an institutionalized democratization among *demos*. Though Bohman mentions the Chartist movement of English workers, demanding the 10-hour working day and universal suffrage, and notes protests against the World Trade Organization, he downplays them. In arguing for Bohman's position, however, there is no necessity to do this. One could simply add to the virtue of democratic internationalism from below, the need for a democracy of *demos* to produce more institutionalized or consolidated rights-advances and deliberative results.¹⁵

We ought not to overlook the deep differences between international and national public spheres and civil society, most of which concern the ways in which publics interact with institutions. Given that formal international political organizations such as the WTO do not interact directly with political publics, oppositional counterpublics form around them to exercise influence indirectly by mobilizing popular opinion. To the extent that transnational associations help to form such counterpublics, they contribute to the capacity of international society to democratize its relations of power and authority. However, counterpublics do not rule; and even if they did, we should not take this as a sign of an emerging global public that speaks for the collective will of humanity (or even one that speaks for multilingual Europe).¹⁶

Even Bohman's remark about oppositional counterpublics is elliptical and may not include demonstrations, strikes or civil disobedience. His comment about such movements being unrepresentative of 'an emerging global public' invites the rejoinder: are you really claiming that commercial experts from a few nations, disproportionately the USA, do? Did not the 50,000 non-violent resisters against the World Trade Organization in Seattle in 1999 represent the poor and the excluded¹⁷? Plainly, international protest movements represent—and seek to represent—the excluded more than inimical and unaccountable capitalist institutions.¹⁸ And what is

one to make of an argument where fairly obscure institutional procedures such as Open Methods of Coordination supposedly represent democratic publics to the extent they can be—such publics are mainly outside institutions—but international mass protest movements, raising demands about forgiveness of debt or fair trade or to block Bush's aggression in Iraq—do not?

While Bohman is right that 'counterpublics do not rule,' he mistakenly diminishes their public role. Once again, resistance movements helped to create the conditions for and often to support Obama's election. Obama's Presidency has banned torture, restored, to some extent, constitutional rights, and proposed or enacted a variety of decent social policies about education, health care, and the environment.¹⁹ Further, the demands of democratic protestors who gathered outside the G-20 meeting in London on 3 April 2009 with such signs as 'Nature doesn't do bail-outs' fuse the disastrous threat of global warming²⁰ with the need for a productive, rather than a corrupt, finance-driven, casino economy in the US and internationally. That impulse from below newly articulates what is vital in Obama's program and seeks to transform it.²¹ (Nonetheless, by further escalating the US occupation of Afghanistan, Obama has undermined many of these accomplishments).

Bohman's error here mirrors Rawls. Rawls wants a movement toward a law of peoples which bars aggression; yet he provides no causal, social mechanism to achieve it. In fact, the *Law of Peoples* ends on a bleak Kantian note:

If a reasonably just Society of Peoples whose members subordinate their power to reasonable aims is not possible, and human beings are largely amoral, if not incurably cynical and self-centered, one might ask, with Kant, whether it is worthwhile for human beings to live on the earth.²²

If we cannot prevent aggression and deter American-style wars as a way of 'resolving' disputes, it is doubtful that humanity has a long (say two centuries) future on this planet. Global warming and the desolation of war go hand in hand. This is all the more reason to underline the importance, however difficult, of democratic solidarity from below.

Bohman rightly thinks of ways *within or broadening institutions* to democratize them. Amending Bohman, one might say, the interplay or dialectic of these two forces, democratic internationalism from below on particular outrages, an increasingly institutionalized democracy of *demos*, is likely to forge whatever advances in decency are possible.²³

Bohman also rightly focuses on extreme destitution and some of the deprivations of capitalism. But he is less insightful on this point than Rawls, who often emphasizes the dangers of extreme inequalities of wealth in corrupting government and making a formally democratic regime serve the rich.²⁴ Speaking mistakenly of 'natural slaves,' Aristotle had no concept of exploitation. But he did have a concept of oligarchy, where the rich corrupt government and opinion, and use the regime in their narrow interests. Yet atheoretically, Bohman does not note the devastating impact of economic inequality on equal or democratic liberty. In addition, Bohman refers briefly to exploitation only to dismiss it on behalf of his notion of the domination of

those formally excluded in democracy, particularly the immigrant populations that (capitalist) regimes have historically preyed on:

One might even claim that the presence of economic actors such as corporations make the term ‘exploitation’ descriptively more accurate. However, exploitation does not identify the distinctly normative character of these forms of authority. As large-scale organizations, often with vast resources, corporations operate more as nascent political authorities in that they are quite successful in imposing statuses and duties in terms of cooperation, even upon states. While not employing simple coercion, such organizations acts as dominators by devaluing citizenship and by being able to change important statuses and powers necessary for democracy.²⁵

In using the word ‘domination,’ Bohman refers to a new stage of oligarchy with some generality or indefiniteness and without the name. In contrast, honoring Aristotle, Rousseau, and Marx, I call modern capitalist democracies oligarchies with parliamentary forms.²⁶ As the Bush period has shown, under novel threats, such forms are frail. Would be autocrats may supplant parliaments and the rule of law with an anti-constitutional, anti-individual rights regime: an imperial tyranny or police state, characterized by the abolition of *habeas corpus* (the right of each person to a day in court), illegal spying on citizens, and torture. In the USA, these crimes were linked to a redistribution of wealth from the bottom 80% of the population to the top 1/10th of one per cent. But even the previous oligarchies with parliamentary forms served the rich, as in the Clinton period, and achieved previously unknown levels of inequality.²⁷

In addition, though Rawls prioritizes the equal liberty principle over the difference principle, he does not discuss, social theoretically or empirically, whether the realization of equal liberty is possible short of a market system based on equal incomes.²⁸ In any case, existing inequalities enable the financially privileged to dominate the government²⁹ and corrupt equal liberty. In normal times, banks and financial mega-corporations like AIG³⁰ dominate politicians and the media; short of revolt, homeless people, immigrants, and ordinary citizens, including the middle class, have little power to make the government side with them. In the current global economic disaster, with increasing protest from below, some new regulation of the financial sector, including nationalization or a breaking up of these mega-corporations, may be possible.³¹ But full employment—17.5% of Americans are currently unemployed—or limiting foreclosures are even further away and will require large movements.³²

Further, such popular influence from below is no equivalent to democratic control of the public agenda or an equal influence of ordinary citizens and such powerful institutions. In Rawls’ or Dahl’s terms, this notion of shaping the agenda parallels Bohman’s idea of minimal democratization—that each person, especially illegal immigrants and the previously excluded, be empowered to raise questions for deliberation. Given the realities of capitalism, Rawls’ prioritization of the principle of equal liberty effectively rules out existing (and likely many imaginary, less glaring) forms of capitalist inequality, on liberal or republican grounds.³³ Bohman does not take up the primacy of equal liberties in democratic theory and thus the problem of

oligarchy perhaps because, absent these, an ideal discussion of democratization among demoi seems more hopeful. But one must recognize the obstacles to achieve what democratic progress, especially from below, is possible.

2

Still, minimal democracy, as Bohman suggests, maintains important rights and may limit dramatic evils. Here he relies on two social science theses: (1) Amartya Sen's argument that even having an oppositional newspaper prevents famine; and (2) the inter-democratic peace hypothesis—the notion that democratic regimes don't go to war with another. As Bohman rightly notes, the second thesis is much weaker—dramatically undermined by recent American rogue 'unilateralism' and torture as he underlines—than the former. Bohman contends that an international diversification of democratization—one might even think here of the role of the not very democratic United Nations Security Council in denying a quasi-legal fig-leaf³⁴ for the Anglo-American aggression in Iraq—might mitigate this dangerous trend.

But as this section will demonstrate, the inter-democratic peace hypothesis, on which he hopes to rely, is weak. Kant's initial thought—that in an ideal republic compared to a feudal monarchy and its frivolous 'pleasure parties of war,' citizens might limit aggressions by the executive—is promising. But in our kind of oligarchy with parliamentary forms, the distance between ordinary people and government is greater than in such a republic. In addition, the bent of the military-industrial-media-think tank 'expert'-political complex toward war is fierce.³⁵ It can only be limited by mass protest from below.

Even Amartya Sen's thesis about democracy and famines has an important qualification, however, which Bohman overlooks and is also relevant for the sharper deficiencies of the inter-democratic peace hypothesis. In situations of colonialism or extreme racism, despite a parliamentary regime, famine is likely to occur.

For instance, Sen emphasizes this feature of the Irish famine of 1848. There was enough food to go around, as Bohman notes. Yet Charles Edward Trevelyan, head of the English Treasury:

who saw not much wrong with British economic policy in Ireland (of which he was in charge) pointed to Irish habits as part of the explanation of the famines. Chief among the habitual failures was the tendency of the Irish poor to eat only potatoes, which made them dependent on one crop. Indeed, Trevelyan's view of the causation of the Irish famines permitted him to link them with his analysis of Irish cooking: 'There is scarcely a woman of the peasant class in the West of Ireland whose culinary art exceeds the boiling of a potato.'

As Sen amusingly replies:

The remark is of interest not just because it is rather rare for an Englishman to find a suitable occasion for making international criticism of culinary art. Rather, the pointing of an accusing finger at the meagerness of the diet of the Irish poor well illustrates the tendency to blame the victim. The victims, in this view, had helped

themselves to a disaster, despite the best efforts of the administration in London to prevent it.³⁶

To take a contemporary example, racism conditioned the Bush's administration's non-response to hurricane Katrina,³⁷ coupled with the later driving out of New Orleans of many Black families. Racism can thus paralyze even a formally parliamentary regime and turn its leaders into murderers.³⁸ Despite Bohman's omission of racism, his overall insistence on the inclusion of the previously excluded would also make it easy for a proponent of his argument to emphasize this point. In any case, Sen's contrast of the great Calcutta famine of 1943 under British rule and Indian democracy's prevention of famine since is the single most powerful argument for even a minimal democratic regime.

The inter-democratic peace hypothesis, however, is much weaker. Bohman himself worries about the conditions under which the thesis can hold. For a limited period of the 20th century, he affirms this idea as accounting for an absence of wars between democracies. Given a new era of terrorist threats, national security states, torture and the dictatorial powers of the American executive arrogated by the Bush regime, however, he now sees this hypothesis as endangered:

A new dialectic between the capacities of citizens and the instrumental powers of states has not yet reached any equilibrium, so that there has now emerged a strong negative influence on democratic practices and human rights generally because of the use of state force for the sake of security. Further, liberal democracies have not only restricted some civil rights, but have violated human rights with the use of extralegal detention centers and torture in order to achieve security. As such, they might be said to have become less democratic, at least in the active sense of creating enabling conditions for the exercise of normative powers.³⁹

Practicing torture on the indefinitely detained and illegally spying on most Americans, for example, are far worse than Bohman's overly cautious '[not] creating enabling conditions for the exercise of normative powers.' Far from achieving 'security,' American torture at Abu Ghraib, as an interrogator, whose pen name is Matt Cooper, has argued, encouraged the enlistment of many young Arabs with Al-Qaeda in Iraq, and is responsible, through suicide bombings, for the deaths of many American soldiers as well as Iraqi civilians. In addition, by failing to prosecute high officials of the Bush administration for ordering these crimes, Obama and the Democrats have, in the phrase of Yale constitutional lawyer Jack Balkin, created a bipartisan legal regime around abolishing *habeas corpus* (the right of each prisoner to a day in court and not to be tortured, the foundation of English and American law going back to the Magna Carta) and sabotaging the international legal regime, once fought for by the USA, which centers on barring torture. To spell out the implications of Balkin's thesis, this is a new 'legal' regime to abolish what Jeremy Waldron rightly names the stereotype of law, to make government illegality 'legal.'⁴⁰

As Bohman suggests, this new regime is an attack on law, on equal basic rights and on democracy. For instance, the routine governmental practice of indefinite detention and torture accompanies illegal spying on citizens and harassment of protest. On 16 February 2003, one-and-a-half million people tried to demonstrate in

New York at the United Nations against the war in Iraq. About 500,000 were cordoned off in separated caged areas at the UN plaza. The other million, lined up, shoulder to shoulder, for 30 blocks, were diverted from the rally by police.⁴¹ Thus, what brutally affects often innocent Arabs picked up off the street also affects citizens. Freedom is like a linked chain; what deprives the other and ‘the least of these’ of freedoms also oppresses citizens.⁴²

Only because the Bush administration was so massively incompetent at war and managing the economy, has America narrowly escaped becoming a police state. In the context of torture, Bohman rightly suggests that an international context of democratization—at least human rights agreements, the International Criminal Court, and, one might add, democratic pressure from below—have a chance of bringing to trial some of those responsible.

Three problems, however, undercut even Bohman’s cautiously stated version of the inter-democratic peace hypothesis. First, the Bush administration did not just institute torture, secret sites and extraordinary rendition, and involve tyrannies like Syria or Uzbekistan or Morocco; it also sweepingly corrupted the European democracies. In upholding the Binyam Mohammed suit, the British High Court—the ‘Law Lords’—reported that British intelligence knew that Mohammed, a British resident, had been severely tortured in Morocco. The Central Intelligence Agency (CIA) supervised; nonetheless, at a minimum, the Blair government knew of the torture and did nothing. Upholding the rule of law, the Brown government has already launched an investigation of the accomplice role of English officers and officials in this torture.⁴³ Similarly, in Italy, a Muslim cleric was kidnapped on the streets of Milan by the CIA. An Italian court has now convicted, in absentia,⁴⁴ 23 members of this (in this respect) criminal organization.⁴⁵

But an issue plainly exists about what the Italian government and intelligence services knew about this and other crimes. As the world’s leading military and rogue power, the Bush regime corrupted many other governments, including many democracies. Although Bohman does not spell this out, this is no sign of inter-democratic peace, but rather of inter-democratic aggression. Whether the rule of law and the bar on torture—the first and chief pillar of international law—will be restored is a question. Here, the action of citizen movements against torture, the international Red Cross, and decent lawyers—those who understand what law has been since the Magna Carta—will need to play a great role.⁴⁶

Secondly, Bohman contrasts the current authoritarian threat to democracy with a previous period in which the inter-democratic peace hypothesis supposedly held. But the same caveat applies with regard to this thesis as Sen emphasizes for famines. During and following the Cold War, the US government has overthrown at least 10 elected governments largely in less developed countries whose citizens are non-White. Among others, the US government has overthrown democracy in Guatemala in 1953, Iran in 1954, Guyana in 1964, Indonesia in 1965, Brazil in 1965, Chile in 1973; in the post Cold War period, the USA has overturned the elected regimes of Aristide in Haiti twice; in 2002, it supported an unsuccessful coup against Venezuelan President Hugo Chavez. It has had its eyes on bombing Iran—Ahmenadinijad was at one time

elected prime minister—throughout the Bush–Cheney period. Obama’s recent treatment of Iran as a party with serious national interests, deserving of at least mutually respectful negotiation is a significant break with previous policy.⁴⁷ Perhaps it helped inspire the democratic revolt against Ahmenidinijad’s stealing of the 2009 election.

Instigated by the CIA as part of covert, illegal American policy, these actions were plainly inimical to non-White democracies. But in elaborating the inter-democratic peace hypothesis, social ‘scientists’ distinguish between wars where both sides lose at least 1,000 soldiers and interventions. In a bizarre philosophy of science rationale, they have sought to operationalize wars as opposed to interventions. Operationalism seeks to escape controversy about difficult concepts and produce independent, ostensibly atheoretical ways of measuring them. But here quantitative social ‘science’ has lost the moral thread. By slight of hand, democracies are alleged to be peaceful toward one another, through citizen influence from below—I use the term ‘peaceful’ in the forceful moral sense that Bohman gives it—but in fact, the American democracy has organized a pattern of subversion, violence, overthrow of regimes, and murder or ostracism of leaders,⁴⁸ involving at least 10 democracies.

In addition, the US government has shored up brutal standing armies and often overseen torture in military dictatorships in a much larger number.⁴⁹ That government has worked against peace, human rights, and democracy. The shard of truth in the inter-democratic peace hypothesis is that citizens—and international movements—can make a difference in stopping or limiting wars of aggression as in Vietnam and Iraq. Further, citizens who must fight and die make it more difficult—even when reactionaries in Congress disparage ‘freedom fries’—to go to war with France. But the problem occurs when the regime carries out such policies covertly, covered up by the bipartisan consensus on foreign policy in Congress.⁵⁰

Third, Rawls rightly chooses non-aggression as the central characteristic of his *Law of Peoples*.⁵¹ He did not think to include non-torture here.⁵² But international law bars aggression and torture as its cardinal points, once long fought for by the USA and enshrined in American law. For instance, Article 2, Section 2 of the Convention against Torture says that ‘No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability, or any other public emergency may be invoked as a justification for torture.’ In addition, Article 6, Section 2 of the Constitution, the Supremacy Clause, makes treaties signed by the USA the highest law of the land.⁵³

In conversation, Rawls shared with me his initial hopes for the democratic peace hypothesis. In response, I underlined the pattern of violent American interventions against democracies. He then added a long paragraph to *Law of Peoples* on the dangers of secret interventions:

Hence, given the great shortcomings of actual, allegedly constitutional democratic regimes, it is no surprise that they should often intervene in weaker countries, including those exhibiting some aspects [sic—the US, too, has only some aspects] of a democracy, or even that they should engage in war for expansionist reasons. As for the first situation, the United States overturned the democracies of Allende in

Chile, Arbenz in Guatemala, Mossadegh in Iran, and some would add, the Sandinistas in Nicaragua. Whatever the merits of these regimes, covert operations against them were carried out by a government prompted by monopolistic and oligarchic interests without the knowledge or criticism of the public. This subterfuge was made easier by the handy appeal to national security in the context of superpower rivalry, which allowed such weak democracies to be cast, however implausibly, as a danger.⁵⁴

But he then imposed five ideal conditions, two of which bar oligarchy, on the kinds of democratic regimes which one might hope would be able to resist pressures for aggression against non-White peoples:

(b) a decent distribution of income and wealth meeting the third condition of liberalism: all citizens must be assured the all-purpose means necessary for them to take intelligent and effective advantage of their basic freedoms. (In the absence of this condition, those with wealth and income tend to dominate those with less and increasingly to control political power in their own favor.)

... (e) Public financing of elections and ways of assuring the availability of public information on matters of policy. (A statement of the need for these arrangements merely hints at what is needed both to ensure that representative and other officials are sufficiently independent of particular social and economic interests and to provide the knowledge and information upon which policies can be formed and intelligently assessed by citizens.)⁵⁵

Taking account of anti-democratic interventions and oligarchy, Rawls' argument is, in these respects, more apt than Bohman's. In addition, in contrast to Rawls' *ideal* democracy, the oligarchic Bush–Cheney administration used the idea of democratic peace to strike at 'enemies,' including non-White democracies. For instance, Bush's campaign against the 'axis of evil' did not bomb Iran only because the imperial power got mired down in its aggression in Iraq.⁵⁶ The rationale of the National Security Strategy of the USA 2003 is to make other countries democracies at gun-point and thus expand the supposed democratic peace. Of this rationale, Bohman says elliptically 'It is sometimes thought that this argument could justify military intervention by democratic states into non-democratic ones for the sake of establishing more democracies as a means for peace and security.'⁵⁷

No such intervention can be justified. In addition it makes American citizens less secure. Through the '[anti]Patriot Act,' illegal spying on Americans and torturing them, it has dramatically abridged equal liberties at home. In what I call the anti-democratic feedback of international politics, Bush's policy pursued an unjust imperial goal (establishing military bases in Iraq and controlling the oil) linked to the subversion of American democracy. My argument draws on Thucydides, Aristotle, Machiavelli, Montequieu, Rousseau, and Marx⁵⁸; it brings political theory into the heart of the study of the modern American regime and a previously anti-democratic international relations theory.

Because he ignores American oligarchy, Bohman also does not recognize that the inter-democratic peace hypothesis in its current form has very limited merit. At most, it only seems to rule out full-scale wars among 'advanced,' mainly White democracies

(Japan now qualifies as well).⁵⁹ Bohman is once again elliptical about an extreme ideological consequence of the inter-democratic peace view, which one might infer, from his use of the passive voice, he disapproves of (and would be right to do so):

One such generalization that is used to lend support to the benefits of a democratic order is the so-called ‘democratic peace hypothesis,’ which has often been used by moral cosmopolitans and liberal nationalists to justify the policy of fostering democracy within states as the best means of creating a peaceful international order of politically organized peoples. It is sometimes thought that this argument could justify military intervention by democratic states into non-democratic ones for the sake of establishing more democracies as a means for peace and security.⁶⁰

But the American aggression in Iraq and its many horrifying consequences have given the lie to the invocation of an ostensible inter-democratic peace hypothesis by imperialist neoconservatives: to establish ‘democracy’ at gun-point. The accompaniment of torture and the pillaging of Iraq for private profit, divided between Halliburton, Blackwater (now Xe), and just plain American and Iraqi corruption,⁶¹ should give pause even to the onetime proponents of such intervention.⁶²

As Rawls emphasizes and Bohman notes, the democratic peace hypothesis is something ideal, imagining greater citizen influence on the normal operations of such oligarchies, than something actual. The aggressive, imperialist neoconservative deployment of this thesis has discredited it. Bohman rightly seeks a democracy of demoi to limit such aggressions. But he has not plumbed the depth of the problem or confronted the difficulties for even an ideal democratic peace hypothesis. That is perhaps why Bohman does not emphasize the role of democratic internationalism from below.

Still I agree with Kant that republics enfranchise citizens to protest against the ‘pleasure party of war.’ We must seek to limit or overturn capitalist inequalities, to mitigate or eliminate oligarchy. As the protest against the Vietnam War and the Iraq war show, ordinary people can come to see through racism and oppose elite wars of aggression. Protest from below accomplishes a great deal, and more sophisticated protest, allied with those in national and international institutions who either would like to do something decent or realize not only the hopelessness but the evil of neoconservative imperialism, would accomplish even more. But such protest, not a social ‘science’ inter-democratic peace hypothesis combined with an increasingly institutionalized democracy of demoi, is the best hope for realizing the decent. The ideal will be much harder to achieve.

NOTES

1. Alan Gilbert’s *Must Global Politics Constrain Democracy?* (Princeton, NJ: Princeton University Press, 1999), chap. 5, stresses equal individual rights as the core of a democratic conception [cited hereafter as *MGPCD?*].
2. John Rawls’ *Law of Peoples* [hereafter *LP*] makes rights basic to an international conception. As a constructivist, however, and rightly wanting to deter any imperial imposing of ‘rights’ at gun-point, he weakens the basic rights, for example those of women, in ‘well ordered

hierarchies.' For an argument that every person is objectively capable of human rights and that the denial of such rights, in any historical situation, involves real harms, see Gilbert, *Democratic Individuality*, chap. 1 [cited hereafter as *DI*].

For an important discussion of deliberative democracy, see Josh Cohen and Charles Sabel's 'Directly-deliberative Polyarchy,' which James Bohman cites.

3. Bohman, 182.
4. Gilbert, *MGPCD?* (Princeton, NJ: Princeton Press, 1999).
5. Both Clinton and Bush intoned it.
6. Robert Keohane, *After Hegemony* (Princeton, NJ: Princeton University Press, 1984). Some features of the European Union, Bohman suggests, are cooperative in a way which the International Monetary Fund or World Trade Organization are not. See also Gilbert, *MGPCD?*, chap. 1.
7. For example, Europeans can study in any of the member countries, and many study in diverse settings and in other languages than their own.
8. To improve a Rawlsian formulation, however, a proponent of Rawls' view could consistently adapt them.
9. Some years ago, the effort of Brussels to impose quasi-American restrictions on, say, the use of worms in Italy to make certain kinds of cheese is but one extreme example.
As one concrete suggestion, Bohman rightly urges more of a role for the European Parliament.
10. I use Samuel Huntington's term but for the opposite of Huntington's reactionary purposes. *Political Order in Changing Societies* (New Haven, CT: Yale University Press, 1968), chap. 1.
11. Despite the fact of popular and even United Nations resistance, however, that Bush succeeded in launching the war also demoralized many people in the movement. More serious forms of civil disobedience and resistance are necessary to have a chance to stop such wars. Note that there were also huge international movements, led by leftwing Social Democrats and Communists against World Wars I and II. But world wars are notoriously hard to stop. That one has not yet achieved such huge multinational victories, against all odds, is no argument against nonetheless trying. In my judgment, popular movements came amazingly close to stopping the Anglo-American invasion of Iraq; only the complete unreality of Bush and Cheney, the cowardice of most Congressional Democrats, and the fecklessness of the mainstream media in the USA enabled the invasion.
12. His escalation of the evil and counterproductive occupation of Afghanistan, however, reveals the limits of a common good. See Gilbert, 'Corrupt,' <http://www.democratic-individuality.blogspot.com> (accessed December 1, 2009).
13. On torture, alleged reporting in the *New York Times* commonly says: 'some hold waterboarding is torture.' They do not acknowledge that the name reflects international and American law. By the same logic, a reporter might say: some think murder is a bad thing. See also Gilbert, 'Tortured Reportings,' <http://www.democratic-individuality.blogspot.com> (accessed August 24, 2009).
14. These movements propelled the vote against the Iraq War in the UN Security Council. Why does Bohman see only the latter, not the former?
15. Bohman, 55-6.
16. *Ibid.*, 62-3.
17. See Jeremy Brecher, Tim Costello and Brendan Smith, eds., *Globalization from Below* (Cambridge, MA: South End Press, 2000).
18. The WTO is dominated by a group of seven nations, with the USA playing a lead role. Only commercial lobbyists are allowed to testify. Before 1999, the WTO had overruled on behalf of capitalism all the environmentally protective, human rights sustaining democratic legislation from particular nations that had come before it. Lori Wallach and Michelle Sforza, *Whose Trade Organization?* (Washington, DC: Citizen Press, 2001).

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19. That oligarchy, in this case corrupt medical insurance companies, rules can be seen in Congress's barring even of advocacy in testimony of single payer universal health care and stripping of a public option, even for a small percentage, from the final bill. The latter would, as its opponents emphasized, have lowered costs, ostensibly a leading purpose of these very opponents.
20. Steven Chu, the Nobel Prize-winning physicist and US Secretary of Energy, has suggested that California may lose its agriculture and become a desert, unable to sustain cities: 'I don't think the American public has gripped in its gut what will happen. We're looking at a scenario where there's no more agriculture in California. I don't actually see how they can keep their cities going either.' Johann Hari, 'The Way out of the Credit and the Climate Crunch is the Same—a Green New Deal,' *The Guardian*, April 3, 2003.
21. Whether such protests can limit, however, his escalation in Afghanistan and Pakistan remains to be seen.
22. Rawls, *LP*, 128. This was Rawls's last work before he died. The citation from Kant's *Rechtslehre* is: 'If justice perishes, then it is no longer worthwhile for men to live upon the earth.'
23. In America, one might also note, the international and domestic movement from below about food have resulted in Michelle Obama planting an organic garden at the White House with the aid of the White House cooks and local high-school students. This is not yet an institutional accomplishment, say, outlawing factory farms or tax relief for organic production, but it will lead to important policy and institutional results.

Jose Bove, along with other French farmers, destroyed McDonald's and has participated, at the World Social Forum, in uprooting genetically-modified organism (gmo) crops in Brazil. He is part of a mainly legal, but occasionally extralegal movement against the transformation of food into 'food-like' substances which do not nourish.
24. Rawls, *Theory of Justice*, 226. As he puts it in *Political Liberalism*, 357–8.

[T]he institutional arrangements must not impose any undue burdens on the various political groups in society and must affect them all in an equitable manner. Plainly, what counts as an undue burden is itself a question, and in any particular case is to be answered by reference to the purpose of achieving the fair value of the political liberties. For example, the prohibition of large contributions from private persons or corporations to political candidates is not an undue burden (in the requisite sense) on wealthy persons and groups. Such a prohibition may be necessary so that citizens similarly gifted and motivated have roughly an equal chance of influencing the government's policy and attaining positions of authority irrespective of their economic and social class. It is precisely this equality which defines the fair value of the equal liberties

Rousseau, whom Rawls studied and taught, speaks of the 'empire of opinion' dominated by the rich.

25. Bohman, 67, 68–9.
26. Gilbert, *DI*; *MGPCD*?
27. Kevin Phillips, *Wealth and Democracy* (New York: Broadway Books, 2002).
28. Gilbert, *DI*, chap. 8. See Gilbert's 'Equality and Social Theory in Rawls' A Theory of Justice' *The Occasional Review*, special issue on Rawls and Nozick, 1978.
29. This remains true even with the Democrats. With struggle from below, remarkably different political possibilities—some realizing a common good to a considerable extent—exist under oligarchy.
30. With the repeal of the Glass-Steagall Act in 1998, corporations could become mega-banks, and AIG, but also GE and GM established large banking sectors and increasingly discovered the seemingly unending profitability of the financial sphere. Over the past 20 years, they have

- transformed America from a productive economy into a mainly financial or speculative, casino economy.
31. Unwilling, as a Democrat—a party which is financed and influenced by the banks, medical insurance companies, oil and other corporation—to challenge oligarchy, Obama has not so far, despite economic collapse, taken up this possibility.
 32. This statistic includes those who have given up looking for work and those with part-time jobs who would take fulltime jobs if available. In consultation with some people at the Bureau of Labor Statistics, David Leonhardt has developed this figure in the *New York Times*.
 33. In his later writings, Rawls' downplaying of even the difference principle ironically accompanies an increasing emphasis on combating oligarchy; these two thoughts contradict each other.
 34. Aggression against another people is the cardinal moral judgment of and legal principle underlying international law (Article 2, Section 4 of the United Nations Charter). If the Security Council had voted for American and British aggression in Iraq, that decision would not have made the action legal or decent.
 35. The pressure of the war complex on Obama, initially inclined toward deescalating belligerence, in fostering the increased occupation in Afghanistan is fierce. See Gilbert, 'Corrupt,' <http://www.democratic-individuality.blogspot.com> (accessed December 3, 2009).
 36. Amartya Sen, *Development as Freedom* (New York: Anchor Books, 1999), 174–5.
 37. Walking near the body of a two-year old floating in the war, even a Fox reporter screamed at anchor Britt Hume: 'Where's the government?'
 38. One might also consider the recent depredations of the Israeli government in Gaza against the elected government of Hamas, a striking counterexample to the inter-democratic peace hypothesis. See also Edward Mansfield and Jack Snyder, *Electing to Fight* (Cambridge, MA: Massachusetts Institute of Technology Press, 2005).
 39. Bohman, 183.
 40. Jeremy Waldron, 'Torture and Positive Law: Jurisprudence for the White House', *Columbia Law Review* 105 (2005).
 41. In the false arrests and environmentally poisonous conditions of confinement of protestors at the 2004 Republican Convention, Mayor Bloomberg, however, would distinguish himself as a would-be tyrant.
 42. As Thomas Jefferson said of the Alien and Sedition Acts in 1798: 'Now that the Alien Act has attacked the immigrant [removing the Scottish and Irish editors of Republican newspapers], the citizen had better not become too confident, for already has a Sedition Act marked him for its prey.' Gilbert, *MGPCD?* epigraph.
 43. Prime Minister Gordon Brown was reluctant to do it but understands the importance of the rule of law.
 44. They refused to submit themselves for trial.
 45. In general, the covert operations wing of the CIA is engaged in aggression (secret operations in Iran), torture, murder, and kidnapping. As one looks over the long series of overthrows of democracies by quasi-secret intervention of the 'intelligence' services, one might conclude that abolition of all covert activities over the last 60 years and restriction of such agencies to intelligence collection would have been better for human rights and democracy in the world and for American democracy in particular.
 46. In Spain, Judge Baltasar Garzon has initiated investigations for suspicion of committing war crimes, under 'universal jurisdiction,' of six Bush administration lawyers and Cheney aides.
 47. So is his ambiguous but sometimes condemnatory stance on the recent coup in Honduras.
 48. Aristide, President of Haiti, twice. In addition, see Gilbert, 'A Tale of 'Powerful Pacifists': Empire and Political Science' and 'Political Science and American Aggressions,' <http://www.democratic-individuality.blogspot.com> (accessed October 22 and 25, 2009).

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49. Gilbert, *MGPCD?*, chap. 5 tells of a General's daughter in Honduras who fought with the guerillas and was captured and tortured by Battalion 316 for 80 days. The general threatened to publicize the name of 'Mr. Mike,' the CIA officer who oversaw the torture, unless they released her. They did.
50. Some Black Congressional democrats protested vehemently against the American kidnapping of Aristide to the Central African Republic in 2005, but their voices surfaced only on Democracy Now, not in the mendacious mainstream media.
Chalmers Johnson, *Blowback*. Gilbert, 'New Institutions for Peace and Democracy' in *The Future of Peace in the Twenty-First Century*, ed. Nicholas N. Kittrie, Rodrigo Carazo, James R. Mancham (Durham, NC: Carolina Academic Press, 2003).
51. Rawls, *LP*, P. 37. Principle 5 states 'Peoples have the right of self-defense but no right to instigate wars for reasons other than self-defense.' But this is the central point of the first five principles.
52. Perhaps because America shunned torture during World War II—his experience—and the army has not previously been involved in widespread torture as at Abu Ghraib.
53. Article 6, Section 2 of the Constitution reads: 'This constitution and the laws of the United States that shall be made pursuant thereof, and all treaties made, or which shall be made, under the Authority of the United States shall be the Supreme Law of the Land; and the Judges in every state shall be bound thereby, any thing in the Constitution or laws of any State to the Contrary notwithstanding.' American law also explicitly bars torture at 18 U.S.C. 2340 and 2340a.
54. Rawls, *LP*, 53, and Note 69.
55. Rawls, *LP*, 50–4. Ironically, the novel combination of the internet and a mass movement enabled Obama to out-fundraise his opponents, without such restrictions. The laws Rawls idealized have long been circumvented.
56. The US Government also overturned democracies in Haiti and Venezuela. The Haitian regime was weak, among other reasons, because Aristide dissolved the army.
57. Bohman, 174.
58. This standard, often self-destroying feature of imperial democracies has been traced by Thucydides for Athens, Machiavelli, and Montequieu for Rome, and stressed by Rousseau and Marx as well as in my *MGPCD?* and 'New Institutions for Peace and Democracy.' *MGPCD?* uses this central insight from historians and political theorists to criticize internally and revise the leadings versions of realism and neo-realism in international relations.
Bohman has a formulation like mine at 184: 'Instead of democracies making international relations among states more peaceable, the new constellation of political violence is potentially making democratic states less democratic and less open to applying their standards of human rights and legal due process to those they deem to be threats to security.'
59. Woodrow Wilson and James Burgess, two leading political scientists, regarded 'Aryan' or 'Teutonic' Germany as a democracy before World War I. In German elections between 1890 and 1914, the German Social-Democratic Party became a leading force, with a large delegation in the Reichstag. The operational declaration that Germany was not a democracy because the Kaiser appointed the cabinet is also spurious. Since World War I is supposedly a paradigm for the inter-democratic peace hypothesis, this fact casts doubt on the latter. See Ido Oren, *Our Enemies and US* (Ithaca, NY: Cornell University Press, 2003).
60. Bohman, 174.
61. The 12 billion dollars that 'disappeared' under the Transitional Coalition Authority and Jerry Bremer is one striking example.
62. David Rieff has strikingly changed his view, for example. See his *At the Point of a Gun: Democratic Dreams and Armed Intervention* (New York: Simon & Schuster, 2005).