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Cosmopolitan ideas in the current  
international society

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## *Cosmopolitan ideas in the current international society*

### *Abstract:*

*The present work tries to understand the concept of cosmopolitanism from its origin paying special attention to the cosmopolitan humanism of Immanuel Kant and the reformulation of his thesis through the prism of the present situation of Jürgen Habermas. It then analyses the current global governance structures from this perspective in order not only to offer criticism of the system from cosmopolitanism, but to try to conclude what practical influences have or have not had this doctrine in the existing world power structures and, therefore, in the defence of human rights.*

### *Keywords:*

*Cosmopolitanism, world citizenship, Immanuel Kant, Jürgen Habermas, human rights, United Nations, Security Council, global justice*

**\*NOTE:** The ideas contained in the Opinion Papers are the responsibility of their authors, without necessarily reflecting the thinking or the IEEE or the Ministry of Defense

## Introduction

Cosmopolitan ideas emerged in ancient times as a vindication of humanity before a concrete citizenship; it was a vital attitude, a morality that will influence notoriously in the later thinking. The passing of time and the gradual interdependence of societies endowed these ideas with a legal-political character, which, especially after the World Wars, have been a reference for shaping international society.

The current international society has infinity of transnational problems that cannot be tackled solely from the perspective of the nation-state and the design of international forums and norms is increasingly necessary. Modern and contemporary cosmopolitan thinkers have focused their ideas to address these issues from a pragmatic point of view to facilitate global understanding and universality of human rights.

The importance of cosmopolitanism lies not only in the transcendence it has had in the design of the new world order that emerged after World War II, but also in the counterpoint it offers to the still latent hegemony of national sovereignty.

## Cosmopolitanism

### *The concept*

The basic idea of cosmopolitanism is that all human beings are essentially equal, that the human beings share a common morality. However, the different definitions that have been made diverge in nuances. This idea of equality means that all human beings deserve the same respect and consideration; there would be no differences in regard to their citizenship status or any other affiliation<sup>1</sup>.

The concept has two dimensions: one moral and the other institutional. The moral dimension makes reference to the inherent links between human beings, and it is related to ancient philosophy, especially with Cynics and Stoics, it is a pre-national dimension.

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<sup>1</sup> LLANO ALONSO, F. "Cosmopolitismo y derechos humanos: el debate doctrinal en torno a la justicia global y la democracia universal en el siglo XX", in *Historia de los derechos Fundamentales. Tomo IV. Siglo XX. Volumen II. Ideologías Políticas Y Derechos Humanos en el siglo XX*, Dykinson-Instituto de Derechos Humanos "Bartolomé de Las Casas". Universidad Carlos III de Madrid, 2013, pp. 387-446.

The institutional dimension has played a key role in the transformation of modern societies since the Enlightenment. It refers to the post-national future and is used as a counterpoint to the national State<sup>2</sup>.

### ***Evolution until the Enlightenment***

The origins of cosmopolitanism date back to ancient Greece during the second half of the 4th century b. C. with the school of the Cynics. According to Diogenes Laercio in *Lives of Eminent Philosophers*, when they asked him, "the Cynic", where he was from, he replied "only cosmopolitan". On the one hand, it can be understood as a feeling of rootlessness of citizenship from a specific polis (πόλις), for which the individual compensates by considering himself a citizen of the world. On the other hand, without a home to go, he alludes to the original humanism and emphasizes the ties that bind us to share the same nature and the planet rather than on differences<sup>3</sup>.

The sophists and Greco-Roman stoicism would pick up these ideas, which were crucial for their subsequent continuity in Western political philosophy. After them, these reflections would not resurface until the Renaissance through humanistic essays by Erasmus or Vives. In the Enlightenment, authors such as Voltaire or Franklin were influenced by the cosmopolitanism of the classical, but it will undoubtedly be with Immanuel Kant when the zenith of cosmopolitan humanism will be reached<sup>4</sup>.

### ***The cosmopolitan humanism of Immanuel Kant***

The version that Kant develops of cosmopolitanism must be understood within the Enlightenment context to which it belongs. It can be considered a more sophisticated vision than the Stoic one, as it provides a practical end in legal-political terms: the creation of a "universal peaceful community" regulated by cosmopolitan law (*ius cosmopolitanicum*; Weltbürgerrecht<sup>5</sup>). It is the beginning of the institutional dimension of

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<sup>2</sup> Ibid

<sup>3</sup> Ibid

<sup>4</sup> Ibid

<sup>5</sup> VORLÄNDER, K. *Kant als Deutcher*, Otto Reichel, Damstadt, 1919, pp. 45 y ss. Cited by F. LLANO ALONSO *op. cit.*

cosmopolitanism. For this, he criticizes the system of power balance established in Europe after the Peace of Westphalia<sup>6</sup>, considering it exclusively as a way to guarantee the *status quo* of the nations of the old continent.

The idea is based on a common political culture that would be the one of the States of Law capable of guaranteeing human rights. Thus, he designs a universal peace plan that would affect the citizens of all the republics. Proposes the creation of a world federation of states of law that guarantees a new *status* of world citizenship<sup>7</sup>. It should not be understood, however, that it refers to a proposal to establish a world state, it is not a political superstructure what it proposes, but an ideal regulatory framework focused on the creation of a universal legal society<sup>8</sup>. The way to reach this objective would be that both the peoples and the individuals that compose them leave the state of nature that prevails in international relations and create a "universal peaceful community" regulated by cosmopolitan law.

In *Perpetual Peace*<sup>9</sup>, Kant first it enumerates six preliminary articles that must be followed in order to achieve perpetual peace among States, such as the impossibility of a State of acquiring another or the fact that the permanent armies *-miles perpetuus-* must end up disappearing with time.

Some of these articles have passed in one way or another to be part of international law. For example, through the Charter of the United Nations or the transcendental Resolution 2625 of the General Assembly, which includes the principles of international law regarding friendly relations and cooperation between States<sup>10</sup>. Other articles, however, like the gradual disappearance of the permanent armies, are still far from being established as an international principle.

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<sup>6</sup> The 1648 peace treaty that put an end to the Thirty Years War and that is considered the first modern diplomatic congress that. Moreover, it meant the beginning of a new order in central Europe based on the concept of national sovereignty.

<sup>7</sup> KANT, I. *Über den Gemeinspruch: Das mag in der Theorie richtig sein, taugt aber nicht für die Praxis* (1793) Kants Werke (VIII), cit., pp.312-313 . cited by F. LLANO ALONSO *op. cit.*

<sup>8</sup> KANT, I. *Idee zu einer allgemeinen Geschichte in weltbürgerlicher Absicht* (1784), Kants Werke (VIII) pp. 28-29 cited by F. LLANO ALONSO *op. cit.*

<sup>9</sup> KANT, I. *La paz perpetua*. Biblioteca virtual universal, 2003. Retrieved from: <http://www.biblioteca.org.ar/libros/89929.pdf>

<sup>10</sup> C. JIMENEZ PIERNAS "XXXVII Curso de Derecho Internacional" OEA Washington D. C. 2011 p. 15

To end the state of nature characterized by war, peace must be "established". To do this, he proposes three definitive articles of perpetual peace: the political constitution must be republican in every state, the right of peoples must be founded on a federation of free states and the right of world citizenship must be limited to the conditions of a universal hospitality.

### ***The 20<sup>th</sup> Century***

Neither the pioneering League of Nations nor the Kellogg-Briand Pact<sup>11</sup> were able to avoid the disaster that World War II implied both for humanity and for the internationalist aspirations that were beginning to be drawn. It was necessary to wait for the end of this conflict so that reforms inspired by the Kantian humanist ideal ended up being imposed<sup>12</sup>.

Come to this point in History, it is interesting to address the evolution of cosmopolitan ideas in parallel with the development of contemporary international law. First, because, unlike classical international law, the contemporary one is characterized by its humanist-social content and by its desire to achieve the development of individuals and, secondly, because it incorporates old cosmopolitan ideals into its discourse (such as the consideration of global justice and universal democracy)<sup>13</sup>.

Although cosmopolitan ideas have been gaining strength since the second half of the 20th century, we must not forget that the debate between Kantian idealism and political realism has been present in the different traditions of international thought. Realism has attacked the Wilsonian conception and its legal-normative development based on *Realpolitik*, which presents the international order based on balances of power<sup>14</sup>.

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<sup>11</sup> A 1928 international agreement in which signatory states promised not to use war to resolve "disputes or conflicts of whatever nature or of whatever origin they may be, which may arise among them"

<sup>12</sup> LLANO ALONSO, F. "Cosmopolitismo y derechos humanos..." *loc. cit.*

<sup>13</sup> Ibid

<sup>14</sup> BARBÉ, E. *Relaciones Internacionales*, Tecnos, 2007 p.49

### ***The reformulation of the Kantian cosmopolitanism of Jürgen Habermas***

Jürgen Habermas, a German philosopher and sociologist, offers one of the most pragmatic visions that have been presented regarding cosmopolitanism. It is oriented towards the transformation of the United Nations Organization and contemporary international law into a cosmopolitan key.

The German thinker analyses the proposal put forward by Kant in 1795 to establish a peaceful world order with focusing on current circumstances. In his article *Kant's Idea of Perpetual Peace: A Two Hundred Years Historical Remove*, reformulates the philosophical foundations of the emblematic essay<sup>15</sup>.

The rhetoric of the German philosopher's universalism finds expression in his proposals on the need for the United Nations to become a cosmopolitan democracy. These proposed reforms refer to three points: a world parliament, global justice and the reorganization of the Security Council to act as an executive at the global level<sup>16</sup>.

His idea is that the United Nations cease to be strictly conceived as a permanent congress of States. For this, the General Assembly should be transformed into something similar to Federal Council and its powers should be divided into two chambers. The representatives of the peoples would not be their governments, but representatives elected by all the citizens of the world. He proposes that the oppressed peoples by totalitarian regimes would be represented by non-governmental organizations arranged by the world's own parliament.

With regard to the judiciary, he proposes an extension of the jurisdiction of the International Court of Justice in The Hague following the line proposed by Hans Kelsen<sup>17</sup>. It rises that the jurisdiction of that court had the capacity to issue binding judgments and extend its jurisdiction to conflicts between individual persons and private citizens and their governments. In other words, it considers that international criminal justice should be institutionalized on a permanent basis, which up to that point had only been established

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<sup>15</sup> HABERMAS, J. (1997) "La idea kantiana de la paz perpetua. Desde la perspectiva de doscientos años." Isegoría/16 (1997) pp. 61-90 p.61

<sup>16</sup> HABERMAS, J. "La idea kantiana..." op. cit.

<sup>17</sup> KELSEN, H. (1994), *Peace Through Law*, Capel Hill,

(differences aside) *ad hoc* for individual war crimes processes<sup>18</sup>. The establishment of the International Criminal Court was subsequent to these proposals.

Finally, he refers to the Security Council. Established as a counterweight to the General Assembly, it should reflect the world power relations, however, currently, it is not the case. The body has not adapted to the economic and geopolitical changes that the relationship of powers in international society has suffered since its creation, nor to the emergence of regional organizations. Furthermore, the fact that there are five permanent members in the Security Council with the right of veto and that it is an association of 193 States, affects the ideal of multilateralism<sup>19</sup> that the current international situation demands so much for solving transnational problems.

He proposes that this body should expand its representation to powers such as Japan or Germany and regional organizations such as the European Union. It also proposes that the veto right of permanent members should be replaced by an appropriate majority rule. In short, the Security Council would be configured in a similar way to the Council of Ministers of Brussels<sup>20</sup>.

It can be seen, therefore, that Habermas' reflections are conventional and that he extrapolates the organization and division of powers of national constitutions to the international community. The implementation of a cosmopolitan law, he points out, needs more than institutional imagination. But in any case, the regulatory intuition remains the moral universalism that Kant raised in his cosmopolitan project<sup>21</sup>.

### **Cosmopolitan ideas in praxis**

The reconsideration of the individuals as subjects of law internationally meant a threat to the emphasis on the State that the security discourse had been having since the Peace of Westphalia. The Universal Declaration of Human Rights of 1948 was the first declaration of intentions towards the protection of human beings and their rights

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<sup>18</sup> HABERMAS, J. "La idea kantiana..." op cit.

<sup>19</sup> PALACIÁN DE INZA, B. "La responsabilidad de proteger y el derecho de veto". Instituto Español de Estudios Estratégicos. Documento Análisis. (09/2012) p. 7

<sup>20</sup> J. Habermas, La idea kantiana... op. cit. p.79

<sup>21</sup> Ibid p.79

exclusively for the fact of being individuals, regardless of their nationality. Based on the Declaration, numerous Treaties and special procedures have been developed to reinforce the protection of human rights. Moreover, the development of the concept *human security*<sup>22</sup>, first expressed in the Human Development Report of UNDP in 1994 is also important. It was the basis for the R2P<sup>23</sup>, also an important step towards a more cosmopolitan world.

But, in short, we see that the international system inherited from classical international law, which puts the accent on state sovereignty, has given form to mechanisms of universal protection of human rights that could be considered "patches" from a cosmopolitan point of view.

### ***The United Nations role***

The UN can undoubtedly play a fundamental role in the cosmopolitan organization of the world. It is an important part of global decision-making structures, but not the only one. A crucial point is its legitimacy, which can create the necessary framework for international decision-making, endowing them with such legitimacy and ensuring that they are more easily accepted by countries and a large part of the population<sup>24</sup>.

Within the institution, new highly normative procedures and practices have emerged over the decades. Many experts conceive the accelerated development of international law as a process of "constitutionalization", fostered by the international community with the aim of strengthening the legal position of the individuals, who are seeing their status improved towards subjects of international law<sup>25</sup> and, so much, of cosmopolitan citizens.

The propitious moment to raise this kind of reforms was at the beginning of the 21st

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<sup>22</sup> The concept of security was extended beyond security against external aggressions or national security. Economic, food, health, environmental, personal, community, and political security were included in the concept. More information in:

[http://hdr.undp.org/sites/default/files/hdr\\_1994\\_es\\_completo\\_nostats.pdf](http://hdr.undp.org/sites/default/files/hdr_1994_es_completo_nostats.pdf)

<sup>23</sup> Or responsibility to protect is an international security and human rights standard that was conceived at the 2005 United Nations World Summit to address the failure of the international community to prevent and stop genocides, war crimes, ethnic cleansing and crimes against humanity

<sup>24</sup> STAUR, C. *Shared Responsibility. The United Nations in the Age of Globalization*. DJØF Publishing. Copenhagen, 2014 p. 261

<sup>25</sup> HABERMAS, J. "A Political Constitution..." loc. cit. p. 334



century, after the hard blow that supposed the crisis of Iraq for the organization, together with the scandals that had taken place in the management of Oil for Food Program<sup>26</sup>. Among the latest reports and reform proposals, the Report of the High-level Panel on Threats Challenges and Change<sup>27</sup> and the 2005 World Summit<sup>28</sup> deserve special attention.

### ***The General Assembly as possible cosmopolitan Federal Council***

The High-Level Group and the Secretary General agreed that the General Assembly had lost its vitality and that it did not respond to current needs. Its effectiveness and agility were, and still are, diminished by the universality of its composition. The equal vote of the States, although very positive for the sovereign equality, has derived in a "culture of consensus" that is not effective for the conciliation of the interests of the members. The Assembly is far from being the desired deliberative, normative and representative organ of the United Nations that was originally designed for<sup>29</sup>.

There are many proposals for reform to strengthen the function and authority of the Assembly. It has been proposed the reform of the voting system by introducing a weighted voting system based on criteria such as demographic or economic<sup>30</sup>. It has also been suggested the possibility of adoption of legally binding and binding decisions<sup>31</sup>, since its resolutions are *soft law*. Another reform approach refers to giving more publicity to its work and decisions<sup>32</sup>.

However, the cosmopolitan proposals of Habermas have not been discussed. All reform proposals are in line with maintaining the Assembly as permanent Council of States. None is on the way to transform it into something similar to Federal Council. And, of course, the

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<sup>26</sup> BLANC ALTEMIR, A. "¿Repensar, reformas o revitalizar las Naciones Unidas? El proceso de reforma de la organización en los albores del siglo XXI" in: BLANC ALTEMIR, A. (ed.) *El proceso ... op. cit.* p. 18

<sup>27</sup> A/59/565 "Un mundo más seguro, la responsabilidad que compartimos"

<sup>28</sup> A/59/2005 "Un concepto más amplio de la libertad: desarrollo, seguridad y derechos humanos para todos. Informe del Secretario General"

<sup>29</sup> LÓPEZ –JACOISTE DÍAZ, E. "Reforma y revitalización de la Asamblea General, el Consejo Económico y Social y la Secretaría General de las Naciones Unidas" en A. BLANC ALTEMIR (ed.) *op. cit.* p. 106

<sup>30</sup> *Ibid* pp. 108-109

<sup>31</sup> *Ibid* p. 109

<sup>32</sup> *Ibid* p. 110

possibility that citizens themselves elect their own representatives has not been discussed either. The only timid proposal to bring the General Assembly closer to the citizens was the one proposed by the High-Level Group on giving consultative status to NGOs, but not only it is insufficient from a cosmopolitan point of view, but also it has not been materialized.

### ***The Security Council. A World executive?***

The question of the reform of the only body capable of authorizing the use of force at the international level has been invoked in different solemn declarations adopted by consensus since the end of the Cold War.

The theme of its reform and expansion was assumed as a priority on the agenda in the *Declaration on the Occasion of the 50th Anniversary* in 1995. It was also reiterated in the *2000 Millennium Declaration*<sup>33</sup>. The High-Level Group and the Secretary General did the same.

Concerns about the lack of effectiveness and credibility of the Council had been expressed in the *High-Level Group Report*, stating that the challenge was for the Security Council to be more effective, more credible and more willing to act in the case of a threat. It was considered vital that it was equipped to carry out its responsibility and that it enjoyed worldwide respect<sup>34</sup>.

As for its composition, in the report *In larger freedom: towards development, security and human rights for all* two formulas are exposed to achieve greater representation in the Council, especially the least developed countries. The purpose of both would be to make it a more democratic and accountable body to the population<sup>35</sup>.

Despite the proposals of the aforementioned reports in this regard, the *Final Document of the World Summit* could not have been more disappointing. Instead of adopting one of the models proposed in the aforementioned reports, or in others that also proposed

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<sup>33</sup> RIQUELME CORTADO, R. "El mantra de la reforma del Consejo de Seguridad" in: A. BLANC ALTEMIR *El proceso...* op. cit. p 71

<sup>34</sup> ESPÓSITO, C. "El uso de la fuerza y la responsabilidad de proteger. El debate sobre la reforma de la ONU" Informe de la Fundación para las Relaciones Internacionales y el Dialogo Exterior (FRIDE), 2005 p.7

<sup>35</sup> Ibid p. 8

proposals before the Summit, it merely supported the reform of the Security Council in a very generic and concise manner<sup>36</sup>.

There is some consensus as to how the reform should be carried out. This should be limited for reasons of efficiency, effectiveness and legitimacy. The veto to which the five permanent members are entitled (called P-5) can be considered the Achilles heel of the system, an anachronistic and undemocratic instrument that is dissatisfied with the principle of sovereign equality, and therefore encourages impunity for permanent members by making abusive use of their rights in the Council<sup>37</sup>.

Although for the realization of many changes it is necessary to modify the Charter, there are other types of reforms of the Security Council that do not require the modification of it. For example, there is some consensus about a necessary reform of working methods to improve their accountability and transparency, such as the so-called *responsible and motivated veto culture*.

With regard to Habermas' proposal on the incorporation of regional organizations in the Security Council, the European Union deserves special attention. The members of the EU each fight their own battle by prioritizing their national interests against the possibility of reaching common positions. This is evident, for example, in the timidity of article 34<sup>38</sup> of the Treaty of Lisbon.

In short, we see that in what refers to Habermas' proposals to reform the Security Council to act as a world executive with more representation, in practice there has been no progress. The veto has not been replaced by a majority rule and its representation has not been extended. As it has not renewed its archaic structure and composition and cannot function as a cosmopolitan world executive.

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<sup>36</sup> A/RES/60/1

<sup>37</sup> There are numerous examples of inaction or mismanagement of the Council: the treatment of the Middle East conflict at the end of the Cold War (due to the United States veto), the lack of reaction to the violations of international law by Israel (which nevertheless it has caused the denunciation of other organs of the organization like the General Assembly, the International Court of Justice or the Human Rights Council) or the inaction regarding the beginning of the Syrian civil war due to the veto reiterated from Russia and China.

<sup>38</sup> "(...) Member States which are members of the Security Council will, in the execution of their functions, defend the positions and the interests of the Union, without prejudice to their responsibilities under the provisions of the United Nations Charter. (...)"

### ***Towards a global justice?***

The International Court of Justice, the principal judicial organ of the United Nations, performs a double mission: “to settle, in accordance with international law, legal disputes submitted to it by States and to give advisory opinions on legal questions referred to it by authorized United Nations organs and specialized agencies”<sup>39</sup>. It still lacks the capacity to issue binding sentences and is not authorized to impart justice between individuals or individuals and their governments. But it is not the only judicial power existing at the international level.

At the regional level, we find the Inter-American Court of Human Rights, the European Court of Human Rights and the African Court on Human and Peoples' Rights. They do have the capacity to issue binding sentences and they have competence in conflicts between individuals and their governments. However, they have no jurisdiction over cases between individuals and, much more importantly, they are geographically limited, so they cannot exercise a cosmopolitan judicial power.

The principle of universal jurisdiction is worth mentioning in this regard of the establishment of a world judicial power. It refers to the prosecution in national courts of serious human rights violations committed anywhere in the world. It is a subsidiary principle referring to serious crimes against international law that all States have the obligation to investigate and prosecute in their national courts, such as genocide, crimes against humanity, enforced disappearances or torture<sup>40</sup>.

However, this principle has many obstacles. Many States still do not recognize in their legislation the necessary provisions for the investigation and prosecution of these crimes. Although many conventions establish that immunity cannot be an impediment to the prosecution of the perpetrators, in practice the amnesty laws continue to impede the processes. Of course, the political and economic reasons and the fear of diplomatic

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<sup>39</sup> CORTE INTERNACIONAL DE JUSTICIA, “Una mirada hacia la Corte Internacional de Justicia: Breve reseña sobre la misión y el funcionamiento de la Corte” Retrieved from:

<http://www.icj-cij.org/homepage/sp/files/notice.pdf>

<sup>40</sup> AMNESTY INTERNATIONAL. Retrieved from: <http://www.amnesty.org/es/international-justice/issues/universal-jurisdiction>

conflicts significantly slow down the application of the principle. The ideal would be, as Habermas proposed, the performance of a permanent and independent tribunal.

The Security Council created *ad hoc* International Criminal Tribunals for Rwanda and the former Yugoslavia, as well as mixed Courts such as Sierra Leone. However, the great paradigmatic shift in the global criminal justice system occurred with the creation of the International Criminal Court in 1998. This unprecedented permanent court involves an institutionalization of the international criminal justice that had not been achieved with the *ad hoc* tribunals or with the principle of universal justice.

Indeed, it is authorized to judge individual persons and its judgments are binding, "the Court will be a permanent institution, will be empowered to exercise its jurisdiction over persons with respect to the most serious crimes<sup>41</sup> of international significance (...) and will be complementary to criminal national jurisdictions"<sup>42</sup>.

Although the ICC is an important step for international law and international justice and the cosmopolitan project, it cannot be exercised as a world judicial power for cosmopolitan citizens at the moment, nor was it designed for it. This is manifest, for example, in the specificity of the crimes that fall within its competence. It is desirable that a supposed cosmopolitan Court could be treated in a catalogue of rights along the lines of the European Convention or the American Convention on Human Rights.

Regarding the exercise of its functions, it has many limitations of nature, but it is worth highlighting the two basic ones:

On the one hand, only 122 of the 193 States that make up the United Nations are part of the Rome Statute<sup>43</sup>. There are more than notable absences like the USA, China, Iran or North Korea. It is true that the Security Council holds the competence to refer a situation to a prosecutor, even though the State of which the alleged executioner is a national is not a State party to the ICC, but the Council's decisions lack objectivity.

On the other hand, the Security Council has a competence to suppress an investigation or prosecution, as established in article 16 of the Rome Statute. This certainly serves to paralyze processes in favour of interests that have nothing to do with justice.

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<sup>41</sup> The crime of genocide, crimes against humanity, war crimes and the crime of aggression.

<sup>42</sup> Rome Statute A/CONF.183/9 art. 1

<sup>43</sup> Ibid

Habermas considers that the recognition of the Court is particularly important. He proposes the practice of a Court that would specify the violations of international law and would control the decisions of the Security Council. This means that it would not only strengthen the supranational law in the face of claims of sovereign States of dubious reputation but will also promote the independence of the UN institutions from the monopoly that some states exercise over the legitimate use of force<sup>44</sup>.

Therefore, we see that, at the moment, the world judicial power proposed by Habermas has not been materialized, although there have been important advances in this regard.

## Conclusions

Cosmopolitanism has evolved, from Kantian humanism, hand in hand with history in order to offer legal-political responses to an increasingly interdependent world. The human being has been making his way as a subject of international law, something unthinkable during the balance of powers created after the peace of Westphalia.

Although much remains to be done in favour of the cosmopolitan project, these advances would not have been possible without the influence of idealism in international relations, which seems to have broken into a world with a civil society increasingly aware and interconnected.

However, contemporary international law remains interstate. The sovereignty budget remains in force and the citizens of the States will enjoy internationally recognized human rights to the extent that their governments want.

As long as the capacity for coercion remains in the hands of the States, the creation of independent mechanisms for the protection of human rights will continue to be "patches".

The constitution of a cosmopolitan democracy, along the lines of Habermas' proposals, would put an end to the unequal protection of rights that derives from the voluntarism of sovereign States. But we have already seen that sovereign states, precisely because of this voluntarism that they enjoy, are not willing to carry out major structural reforms that undermine their sovereignty for a cosmopolitan democracy. The fish bites its tail.

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<sup>44</sup> HABERMAS, J. "A Political Constitution..." loc. cit. p. 342

The complexity of today's international society forces us to propose ideas beyond a simple division of powers based on existing organisms. The problems of a hypothetical world-wide internal politics demand a regulation and integration of which, for the moment, it is lacking and not only at supranational level, but also at transnational level, where the regulations of political type, those that refer to the structures of power, environmental problems and inequalities, have no place. In any case, it can be deduced that the complexity and interdependence of international society not only shows that the nation-state is becoming obsolete in the face of the seriousness of the transnational problems that arise, but that we are clinging to this structure that has demonstrated in many occasions its effectiveness within the limits of its sovereignty, but that it cannot and should not be the only type of international actor.

The voluntarism of sovereign states has given rise to world power structures designed to maintain the *statu quo* of the hegemonic powers and, the development of mechanisms for the universal protection of human rights is, for the time being, determined by that voluntarism.

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