

**THE HUMANITARIAN CONDITION:
US PUBLIC SPHERES AND THE 1999 WAR OVER KOSOVO**

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**Patricia Owens
Department of International Politics
University of Wales, Aberystwyth, UK**

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Abstract

The 1999 war over Kosovo shaped, and was in turn shaped by, US public spheres. Chapter 1 offers a theoretical and historical account of the importance of publics to US political development, especially the founding of an official liberal-republican state-based public sphere. Four organisational themes are identified - law, technology, dissent, and foreigners - as key normative and practical benchmarks by which we can observe this development and extend to the war over Kosovo. Chapter 2 develops ideas about the violence associated with the diffusion of public and private through a discussion of the ambivalent role of law in legitimating the war. The chapter traces the complex meanings attributed to law during processes crucial to defining the official public sphere and the emerging global order as evidenced by the war. Chapter 3 suggests that the information technology used to conduct and debate the air campaign embodied the socially constituted values of the official public sphere and provided a means by which counterpublic spheres could be created. Chapter 4 argues that despite the role of technology and NATO's humanitarian claims in limiting public dissent anti-Kosovo war activists participated in and constituted counterpublic spheres. These alternative, but increasingly marginalised, publics reveal modes and types of publicity not captured in liberal and deliberative theoretical accounts. Chapter 5 extends the argument about different ways of 'being public' through an analysis of how Serb- and Albanian-American immigrants and Kosovo-Albanian refugees were represented in the official public domain. Several norms associated with gender, race, and economy appeared to be upheld and invigorated via representations of these 'foreigners'. Chapter 6, which is the most explicit in drawing Hannah Arendt, addresses endeavours to transpose the public sphere category to an emerging global public realm, especially Habermasian efforts to legitimate violent intervention.

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Introduction: Publics and Humanitarian War

Publics are queer creatures. You cannot point to them, count them, or look them in the eye. You also cannot avoid them.

- Michael Warner¹

Although the US Postal Service saw fit to delay the release of a new peace stamp in honour of NATO's 50th anniversary,² US society seemed on the surface relatively unscathed by the 1999 bombing campaign over Kosovo. Few citizens are presumed to have heard of Kosovo before the war began. However, taking President Bill Clinton's lead by dusting off old maps of Eastern Europe and working out where the place actually was, parents and teachers used the war as an excuse to catch up on both civics and geopolitics.³ They would have found, for example, that Kosovo is about the same size as the Los Angeles metropolitan area and Kosovo and Serbia combined is smaller than Kentucky.⁴

The war over Kosovo shaped and was, in turn, shaped by politics in the United States. As a consequence of the military operation there was an imposition of dominant liberal political and economic social forms on Kosovo and the surrounding region. But also versions of public and private in the United States - immanent to a complex host of norms and institutions - were partly remade during this war. There is dialectic between the 'liberal peace' in the United States and humanitarian war mediated by discourses of public sphere legitimation.

Public spheres are perhaps *the* sites of political legitimation in the modern West, and the legitimisation of violence in particular. The dissertation seeks to make the link between public spheres in the United States and practices of violent intervention apparent by facilitating a much-needed conversation between democratic political theorists and International Relations (IR) scholars. Likewise, a more comprehensive engagement with the historical-sociology of forms of violent humanitarianism in the US context reveals the 'humanitarian' interventions of the 1990s, and Kosovo in particular, as being intimately part of, rather than just a sideline to, extended historical processes of political and technological change.

¹ Michael Warner, *Publics and Counterpublics* (New York: Zone Books, 2002), p.7.

² Foreign Desk, 'Peace Stamp Delayed', *The New York Times*, April 10, 1999.

³ Randal C. Archibold, 'Schools Turn Kosovo Into Civics Lesson', *The New York Times*, March 27, 1999.

⁴ Benjamin S. Lambeth, *NATO's Air War for Kosovo: A Strategic and Operational Assessment* (Santa Monica, CA: Rand, 2001), p.17.

NATO's 'humanitarian war',⁵ though occurring in a seemingly different geopolitical context to that which the world faces post-September 11, is important. The campaign, which began at 1400 EST (1900 GMT) on 24 March and ended 10 June 1999, was at the time after Vietnam and the 1990-91 Gulf War the third largest strategic application of air power by the United States since World War II, costing more than 3 billion dollars.⁶ However, the thesis does not as such deal with the background leading up to the wars, both on the ground between the Federal Republic of Yugoslavia (FRY) and Kosovo Liberation Army (KLA) or the diplomatic manoeuvrings prior to the US-led NATO entry.⁷ It also does not address how disputes over the Kosovo war were resolved in the US public realm (they were not). Rather the project addresses how the historical development of public spheres in the United States shaped and conditioned how those debates actually occurred; how the subjects of humanitarian 'assistance' in Kosovo were constituted; how the relevant sites of political community were partially determined; and how the meanings of violence over Kosovo were partly produced. If public spheres are constituted by our sense of a shared world - where we talk about what we do and do not have in common - then the discourses surrounding law, technology, anti-war dissent, 'foreigners', and liberal-humanitarian motives during the war over Kosovo are part of the complicated fabric and social construction of the republic of the United States.

Building on the theoretical and historical framework to be established in Chapter One there are five themes which illustrate in different ways the central claim of the thesis: how important dimensions of NATO's war shaped and were shaped by practices central to the historical development of US public spheres. The first theme is the rule of law, a major technique for the establishment of public and private; the second is information technology, central to the actual conduct and justification for the war itself; the third is practices of anti-war dissent, a form of political action extolled in public sphere theory; the fourth theme concerns questions about 'foreigners', specifically, immigrants and refugees, who were represented as upholding some of the valued norms of the 'official' public sphere; and stepping back from the

⁵ Though NATO refused to call the military operation a war, I use the term because war is the clash of armed forces and this was clearly the case in this instance. Also see Adam Roberts, 'NATO's "Humanitarian War" Over Kosovo', *Survival*, Vol. 41, no. 3 (1999), pp. 102-123.

⁶ Lambeth, *NATO's Air War for Kosovo*, pp.x, xx.

⁷ For good accounts see Julie A. Mertus, *Kosovo: How Myths and Truths Started a War* (Berkeley: University of California Press, 1999); Ger Duijzings, *Religion and the Politics of Identity in Kosovo* (London: Hurst and Company, 2000); William Joseph Buckley (ed.) *Kosovo: Contending Voices on Balkan Interventions* (Michigan: Eerdmans Publishing, 2000); Tim Judah, *Kosovo: War and Revenge* (New Haven: Yale University Press, 2000).

United States, the final chapter addresses claims concerning an emerging *global* public sphere which has become an important legitimating discourse of ‘humanitarian’ war.

Public Sphere Literatures

The term ‘public sphere’ is often invoked analytically and normatively to mean many things, ranging from public opinion to civil society to all political institutions within and sometimes beyond the nation-state. In addition, much of the literature on humanitarian war presupposes an understanding of a functioning democratic public sphere in the liberal West, especially those pointing to the importance of public opinion for inciting (or constraining) such interventions.⁸ The form and content of this assumed public, however, has not been rigorously explained and analysed.

It is readily acknowledged that citizens in the West will not support lengthy and costly humanitarian wars, even though this ‘new military humanism’⁹ is partly influenced, if not driven, by domestic pressures to provide humanitarian relief. But this is where the analysis usually ends. We have a steady stream of work on the nature of the conflict out there, on the fringes of the so-called ‘liberal peace’ and on the problems of implementing democracy ‘post’-conflict.¹⁰ But what kind of politics do we have in the West? Can important dimensions of recent ‘humanitarian’ wars be traced to the modern politics and society of the dominant intervening states? What is the role of such warfare in shaping public spheres in the intervening states at the core of the international system?

The political theory literature is more cognisant of the public sphere category, to mean ‘a socially shared organization of experience constitutive of modern societies’.¹¹ However, this field of study usually begins with the relatively secure, territorial sovereign state as the relevant political community or location of state-society relations. This leaves the primary object of explanation in most public sphere theorising at interactions between individuals and groups

⁸ Larry Minear, Colin Scott, and Thomas G. Weiss, *The News Media, Civil War, and Humanitarian Action* (Boulder, Co: Lynne Rienner, 1996).

⁹ Noam Chomsky, *The New Military Humanism: Lessons From Kosovo* (Monroe, ME: Common Courage Press, 1999).

¹⁰ See David Chandler, *Bosnia: Faking Democracy After Dayton* (London: Polity, 1999).

¹¹ Joan B. Landes, *Women and the Public Sphere in the Age of the French Revolution* (Ithaca, NY: Cornell University Press, 1988), p. 5.

within the state. Though there are exceptions,¹² political theory tends to be unmindful of how the national body politic is mutually implicated in the international and how modern liberal politics is intimately related to justifications for state violence beyond the so-called liberal sphere of 'peace'.

On the other hand, IR theory has often, though usually implicitly, transposed domestic models of public space onto an international public realm, from the neo-realist Hobbesian account of the anarchic state of nature to liberalism's Kantian democratic peace.¹³ In the absence of an imposed hierarchy in relations between states, the neo-realist international sphere is one of incessant competition and fight for survival.¹⁴ John Rawls's liberal theory of justice has been extended to an international 'Society of Peoples'¹⁵ and critical and constructivist literatures have theorised a global cosmopolitan public realm of potential universal validity.¹⁶

To date, however, little scholarship exists at the intersection of IR, public sphere theory, and the political-sociology of the United States. Given the dependency of recent interventions on US military, technological, and ideological power scholars seem to have overlooked the significance of US-based publics and how they may shape and define any 'cosmopolitan' public realm. This omission is perhaps surprising. From the Revolutionary War of 1812, warfare has served a pivotal function in consolidating the social, political, and cultural dynamics of the 'official' liberal state-public sphere in the United States and, through the extension of Western social and political forms, as increasingly practised globally.¹⁷

Several IR scholars have, indeed, looked to the public sphere of liberal states as a causal mechanism to explain an important feature of international politics - the seeming absence of war between powerful liberal regimes.¹⁸ In other words, the most popular

¹² See Arjun Appadurai, *Modernity at Large: Cultural Dimensions of Globalization* (Minneapolis: University of Minnesota Press, 1996) and Jürgen Habermas, *The Post-National Constellation: Political Essays* (Cambridge: Polity Press, 2001).

¹³ Michael Doyle, 'Liberalism and World Politics', *American Political Science Review*, Vol. 80, no.4 (1986), pp.1151-1169.

¹⁴ Kenneth Waltz, *Theory of International Politics* (New York: Random House, 1979).

¹⁵ John Rawls, *The Laws of People* (Cambridge, MA: Harvard University Press, 1999).

¹⁶ Andrew Linklater, *The Transformation of Political Community: Ethical Foundations of the post-Westphalian Era* (Cambridge: Polity Press, 1998); Marc Lynch, *State Interests and Public Spheres: The International Politics of Jordan's Identity* (New York: Columbia University Press, 1999).

¹⁷ Steven Watts, *The Republic Reborn: War and the Making of Liberal America, 1790-1820* (Baltimore: Johns Hopkins University Press, 1987). John Dewey is the most explicit public sphere theorist to view the state as a form of public. See John Dewey, *The Public and its Problems* (Chicago: Swallow Press, 1927).

¹⁸ John M. Owen IV, *Liberal Peace, Liberal War: American Politics and International Security* (Ithaca, NY: Cornell University Press, 1997).

understanding of the relationship between liberal publics, democracy, and war is the notion of a liberal democratic *peace*. Powerful norms of peaceful conflict resolution within liberal-democratic states are thought to be crucial features contributing to peaceful relations with other liberals.¹⁹ The ‘logic’ of economic interdependence and the pacifying effects of trade are also marshalled to explain a seemingly important transformation of international relations - the end of war - between powerful liberal regimes.²⁰

If the assumed peacefulness of liberal states, certainly towards one another, is a key feature of most of the mainstream in IR, this is also mirrored in much contemporary political theory. ‘Glorification of militarism strikes directly at certain liberal values’, Nancy Rosenblum argues. ‘Liberalism stands for, among other things, security of expectations, civilianism, and peace’.²¹ With basic juridical respect for the civil and political rights of individuals, free and fair elections, few restrictions on the freedom of speech and certain (though not complete) rights of protest and dissent, the spread of liberal and democratic institutions and norms are assumed to enable mutual recognition and the easing of hostilities.²²

In general, however, the liberal peace literature has tended to offer an impoverished account of what is ‘liberal’ and certainly what is ‘democratic’ about contemporary Western societies, often simply assuming a liberal ‘state is a state is a state’ across time.²³ Liberalism and democracy are often treated as synonymous; the only appropriate political unit being the territorial state. There is little dispute over the meaning and desirability of *liberal* democracy, and therefore the nature and form of the public spheres where such democratic practices are assumed to take place. Indeed, the quintessentially narrow social scientific methods through which the causal mechanisms of the liberal peace have been investigated replicate the legalist paradigm, discussed in Chapter Two, of the liberal tradition itself.

Whether this narrow focus on the governing institutions of ‘democracy’ within liberal states is the only appropriate nexus for developing the relationship between publics,

¹⁹ Michael Doyle, ‘Kant, Liberal Legacies and Foreign Affairs’, Parts 1 and 2, *Philosophy and Public Affairs*, Part I, Vol. 12, no. 3 (1983), pp. 205-35, Part 2, Vol. 12, no. 4 (1983), pp.323-53.

²⁰ Michael Doyle, ‘Liberalism’, *Ways of War and Peace: Realism, Liberalism, and Socialism* (New York: W. W. Norton and Company, 1997), pp. 205-311.

²¹ Nancy L. Rosenblum, *Another Liberalism: Romanticism and the Reconstruction of Liberal Thought* (Cambridge, MA: Harvard University Press, 1987), p.9.

²² Raymond Cohen, ‘Pacific Unions: A Reappraisal of the Theory that “Democracies Do Not Go To War With Each Other”’, *Review of International Studies*, Vol. 20, no.3 (1994), pp.207-223.

²³ For a critique of the liberal peace literature along these lines see Tarak Barkawi and Mark Laffey, (eds.) *Democracy, Liberalism, and War: Rethinking the Democratic Peace Debate* (Boulder, CO: Lynne Rienner, 2001).

democracy, and war is questionable. First, the literature has tended to reinforce the very assumption that liberal states are inherently 'peaceful' and meaningfully 'democratic' which is productive of a dynamic in which liberal *violence* has paradoxically seemed easier to publicly defend. The reputation for humanitarianism and democratic peacefulness NATO enacted during Kosovo, for example, sheds much light on, and helps to justify in some quarters, the continuing endeavour to legitimate US wars in the post-September 11 world.²⁴

Second, and more importantly for the thesis, by combining some of the most interesting democratic theory with a critical view of liberal *war*, rather than liberal peace, we can make more explicit the link between public spheres and violence as well as offer a thicker description of how social relations in liberal states shape and are shaped by contemporary wars. C.K. Doreski's study of the black independent press in the United States, for example, is organised around black America's claims to the public sphere via their multiple responses to major twentieth-century wars.²⁵

Moreover, the assumption of peacefulness is partly achieved through domestic cultural narratives of 'America's' role in the world. As Alan Nadel writes,

Throughout the post-World War II era, *democracy* has been the name we have given to a narrative of American global politics. Recounted as it was on the pages of *Time* and *Newsweek* and on national television networks, the narrative called *democracy* placed Americans in the roles of reader and viewer of a series of adventures, in which the heroes and villains were clear, the desirable outcome known, and the undesirable outcomes contextualized as episodes in a larger narrative that promised a happy ending.²⁶

By shifting the focus from liberal peace to war we can otherwise consider in a critical-historical fashion how the 'global' has contributed to the constitution of US society, including economic, gender and race relations.

The critical theoretical literature has rightly been accused, however, of mythologising aspects of political history, including the existence of public spheres, to produce an idealised picture of the past.²⁷ Examples include Hannah Arendt's Ancient Greek *polis*, Jürgen

²⁴ 'Afghanistan is the latest example of not only a just war but a humanitarian war'. Nicholas D. Kristof, 'The End of an Uncivil War', *The New York Times*, June 11, 2002.

²⁵ C.K. Doreski, *Writing America Black: Race Rhetoric in the Public Sphere* (Cambridge: Cambridge University Press, 1998).

²⁶ Alan Nadel, 'Failed Cultural Narratives: America in the Postwar Era and the story of *Democracy*', in Donald Pease (ed.) *National Identities and Post-Americanist Narratives* (Durham, NC: Duke University Press, 1994), pp. 96-7.

²⁷ Moishe Postone, 'Political Theory and Historical Analysis', in Craig Calhoun (ed.) *Habermas and the Public Sphere* (Cambridge, MA: MIT Press, 1992), pp. 165-77.

Habermas's 18th Century bourgeois public realm, and John Dewey's small town meetings of American folklore.²⁸ Habermas, in particular, has been criticised for his attempt in *The Structural Transformation of the Public Sphere* to generalise principles established in the context of 18th century Britain and France to an idealised public realm of potential universal validity.²⁹

In his analysis, the originary public sphere was first and foremost a 'category of bourgeois society', as the subtitle of Habermas's work implies. This was the case not simply because its participants happened to be bourgeois but because one of the central political functions of the public sphere was its role in forming the bourgeoisie's consciousness of itself as a 'society'. Criticisms and developments of Habermas's seminal work are addressed throughout the thesis. Despite the inaccuracies of Habermas's reading of history (and mine for that matter) it is important to trace the emergence of US publics and various modes of publicity in as much historical detail as possible.

The conditions of possibility for public spheres to shape and be shaped by war must be understood not only in terms of social and political theory, but also empirically and historically. Thus an important objective of the investigation is to account for and navigate between two views of the public sphere: as a normative construct associated with democratic theory and as a sociological description of social relations in the United States historically and during the bombing campaign. Indeed, much of the sociological account of the importance of publics to modernity in the United States is used to critique the claims to general validity of normative models of the public sphere.

Empirical and historical analysis, however, ought also to contribute to critical political and social theory. Looking into the history of public spheres as a cultural form, Lloyd Kramer suggests, for example, helps us revise 'our categories of historical interpretation.'³⁰ Not only can this shed new light on the history and theory of contemporary wars, in doing so we can respond to the conservative challenge articulated by Walter Lippmann that there is no, or ever

²⁸ See Hannah Arendt, *The Human Condition* (Chicago: University of Chicago Press, 1958); Jürgen Habermas, *The Structural Transformation of the Public Sphere* (Cambridge, MA: MIT Press, [1962] 1991).

²⁹ Lloyd Kramer, 'Habermas, History, and Critical Theory', in Craig Calhoun (ed.) *Habermas and the Public Sphere* (Cambridge, MA: MIT Press, 1992), pp. 236-258.

³⁰ Kramer, 'Habermas, History, and Critical Theory', p. 238. Nancy Fraser has pointed to the need for a 'revisionist historiography of the public sphere'. Nancy Fraser, 'Rethinking the Public Sphere: A Contribution to the Critique of Actually Existing Democracy', in Bruce Robbins (ed.) *The Phantom Public Sphere* (Minneapolis: University of Minnesota Press, 1993), p.14.

has been, an engaged 'public sphere' as a check on power; this notion, Lippmann argued, is a mere 'phantom'.³¹ Bruce Robbins has rightly suggested, however, that,

Without this discursive weapon [of the public sphere] we seem to enter such struggles inadequately armed. If the phrase 'phantom public' still has some power to startle and discontent, if there is some reluctance to see the public melt conclusively into air, the cause may not be vestigial piety so much as the fear that we cannot do without it.³²

The aim of the historical analysis is to trace the public sphere modalities manifest during the Kosovo war 'in order', borrowing Arendt's words, 'to arrive at an understanding of the nature of society as it has developed and presented itself'.³³ There is no other place from which to criticise.

The thesis, then, is directed toward a 'war and society' approach. The general aim is to historically and critically account for the way in which the societies engaged in war shape and condition the use of force as well as the way these societies are also partly remade through this process.³⁴ The military dimensions of past colonisation directly effected the social and political organisation of the colonial powers.³⁵ Similarly, the conduct of militarised 'humanitarianism' more recently has shaped, and in turn been shaped by, democracy in the liberal West. Using the politics of the Kosovo war as an example, the thesis looks at US public spheres at war and how they can, in part, be produced through war.

Depicting the war over Kosovo as something fundamentally shaped by US-based publics risks the charge of ignoring the force of internationally grounded humanitarian 'norms'.³⁶ For one thing, the military operation occurred under the auspices of a multi-national military alliance. However, the United States provided over seventy per cent of the air sorties deployed as well as almost the entire infrastructure of surveillance and location systems upon which the European allies depended but had no direct access. Every operation that involved US assets was controlled via EUCOM, the United States European Command. While European

³¹ Walter Lippmann, *The Phantom Public* (New York: Macmillan, 1927).

³² Bruce Robbins, 'Introduction: The Public as Phantom', in Bruce Robbins (ed.) *The Phantom Public Sphere* (Minneapolis: University of Minnesota Press, 1993), p. x.

³³ Arendt, *The Human Condition*, p.6.

³⁴ For a statement of this general approach see Geoffrey Best, 'Editors Preface', in Brian Bond, *War and Society in Europe: 1870-1970* (Gloucestershire: Sutton Publishing, 1998), pp. v-x.

³⁵ Tarak Barkawi, 'War Inside the Free World: The Democratic Peace and the Cold War in the Third World', in Tarak Barkawi and Mark Laffey (eds.) *Democracy, Liberalism, and War: Rethinking the Democratic Peace Debate* (Boulder, CO: Lynne Rienner, 2001), pp.107-128.

³⁶ Martha Finnemore, 'Constructing Norms of Humanitarian Intervention', in Peter J. Katzenstein (ed.) *The Culture of National Security: Norms and Identity in World Politics* (New York: Columbia University Press, 1996), pp. 153-85.

unmanned aerial vehicles conducted battle damage assessments and detected emerging targets, it was US Army Hunter, Navy Pioneer, and Air Force Predator's that conducted the most crucial reconnaissance operations.³⁷ More importantly, Congressional (and almost all other forms of) debate in the United States occurred, in the words of Sabrina Ramet, 'as if it had not been a Nato operation, or even there were no Nato'.³⁸

What of the overly determined character of the war? After all, 'Kosovo 1999' has variously been dubbed an intervention to shore-up NATO credibility;³⁹ a desire to complete tasks crucial to the success of the 1995 Dayton Peace Agreement in Bosnia;⁴⁰ a product of Clinton's desire to fabricate a distraction from 'Monica-gate';⁴¹ and perhaps a genuine wish on the part of Western governments to 'save' (some) Kosovo-Albanians from extreme Serb-nationalist terror. Some (or none) of these stories may be right. None are incompatible with the approach of the thesis.

Embedded within the political and technological structures of US culture, NATO violence and US public responses to it were shaped by the distinguishing mode of US politics and its associated practices of dissent, dominant modes of media representation, prevailing attitudes towards technology, immigration, and law, and more widely its role in the post-Cold War world. The thesis as a whole hopes to show how the public sphere concept can provide an explanatory framework for understanding how we got to where we were when NATO started bombing. However, before addressing some of the methodological issues and offering a more detailed overview of the thesis argument it is important to clarify the way in which 'publics' are conceptualised in the project.

Conceptualising Publics

'Public spheres' are most straightforwardly understood as the places in which people talk or read about their common affairs. They are self-organised entities, existing to the extent

³⁷ Anthony H. Cordesman, *The Lessons and Non-Lessons of the Air and Missile Campaign in Kosovo* (London: Praeger, 2001).

³⁸ Sabrina P. Ramet, 'The USA: To War in Europe Again', in Anthony Weymouth and Stanley Henig (eds.) *The Kosovo Crisis: The Last American War in Europe?* (London: Pearson Education, 2001), p. 178.

³⁹ Peter Gowan, 'The Euro-Atlantic Origins of NATO's Attack on Yugoslavia', in Tariq Ali (ed.) *Masters of the Universe: NATO's Balkan Crusade* (London: Verso, 2000), pp.3-45.

⁴⁰ Marianne Hanson, 'Warnings from Bosnia: The Dayton Agreement and the Implementation of Human Rights', in Ken Booth (ed.) *The Kosovo Tragedy: The Human Rights Dimensions* (London: Frank Cass, 2001), pp.87-104.

⁴¹ Mona Charen, 'Why We are in Kosovo', *Jewish World Review*, April 19, 1999. See <http://www.jewishworldreview.com/cols/charen041999.asp> [downloaded on October 9, 2002].

that those comprising the public are being addressed. A 'sphere' implies a position, place, or realm. We might also view it as a particular field of activity, assumptions concerning what constitutes either a public or private matter being the most common and contentious.⁴² Thus public spheres can be conceived as either 'topographical locations' or political 'sites'⁴³ (including digital ones⁴⁴) for organising relations among strangers.

That being in public is to be related to strangers is important. Individuals in public are ostensibly connected by nothing more than by virtue of being there and being addressed, unlike communities of nations, tribes, or families. 'A *res publica*', according to Richard Sennett, 'stands in general for those bonds of association and mutual commitment which exist between people who are not joined together by ties of family or intimate association; it is the bond of a crowd, of a "people", of a polity'.⁴⁵ This feature is often seen as the most libratory dimension of acting and speaking in public, rather than, say, in a 'community' with its suggestion of boundedness and homogeneity.⁴⁶

Hannah Arendt has argued, for example, that it is within public spheres where we most fully disclose and actualise who we are as citizens, rather than, say, through the activity of simply voting or engaging in private pursuits.⁴⁷ Though there is more diversity and struggle in the 'domestic' sphere than often assumed, including by Arendt, the private domain is not and should not in principle be always open to all. Because humans reveal their distinctiveness through speech and action, it is partly through encountering the diversity of speakers and actors in public, a space in theory at least open to all, that we discover perhaps the fullest extent of both human plurality and individuality. In Arendt's words,

Action, the only condition that goes on directly between men without the intermediary of things or matter, corresponds to the human condition of plurality, to the fact that men, not Man, live on the earth and inhabit the world. While all aspects of the human condition are somehow related to politics, this plurality is specifically *the* condition...of all political life.⁴⁸

⁴² Jeff Weintraub and Kristin Kumar (eds.) *Public and Private in Thought and Practice: Perspectives on a Grand Dichotomy* (Chicago: Chicago University Press, 1997).

⁴³ Seyla Benhabib, *Situating the Self: Gender, Community and Postmodernism in Contemporary Ethics* (New York: Routledge, 1992), p.93.

⁴⁴ Anthony G. Wilhelm, *Democracy in the Digital Age: Challenges to Political Life in Cyberspace* (London: Routledge, 2000).

⁴⁵ Richard Sennett, *The Fall of Public Man* (Cambridge: Cambridge University Press, 1976), pp. 3-4.

⁴⁶ Nancy Fraser, *Justice Interruptus: Critical Reflections on the 'Postsocialist' Condition* (London: Routledge, 1997), p.97.

⁴⁷ Arendt, *The Human Condition*, pp. 22-78.

⁴⁸ Arendt, *The Human Condition*, p.7.

Within a 'common space of appearances', of words and deeds, political action is constituted as a realm of human *inter*-action in a public space, where citizens act through speech and suasion. As Nancy Fraser suggests, 'public spheres are not only the arenas for the formation of discursive opinion; in addition they are the arenas for the formation and enactment of social identities'.⁴⁹

All public sphere analyses contain within them the tension inherent in attempting to reconcile (at least) two notions and it is important to clarify how this functions in the thesis. First, there is the notion of a compact and imposing idea of a single public - indicated by *the* public realm as the valorised amphitheatre of always already occurring political struggle. In this sense, as Warner describes, the 'public is a kind of social totality. Its most common sense is that of the people in general'.⁵⁰ Throughout the thesis, the term 'public', as opposed to 'publics', is often analysed with reference to US government wartime efforts to constitute a single 'official' or 'mainstream' public sphere within the confines of the national territorial state.

This notion of the 'public' as homogenous and unified is not privileged in the analysis, however, as it exists only as an image, or indeed a 'phantom'. Bob Jessop makes a similar point with reference to modern territorial states. In his words, 'There is never a fixed point when *the* state is finally built within a given territory and thereafter operates, so to speak, on automatic pilot according to its own definite, fixed and inevitable laws'.⁵¹ In other words, *the* public does not exist; however, those who invoke it are also those most likely to try to speak in its name.

When President Clinton, for example, made reference to the will of the 'American people' during the bombing campaign he evoked the image of otherwise unrelated persons who are constituted as a public through their participation, to the extent that they are being addressed, in the national discourse about Kosovo.⁵² The notion of a unitary, empirically

⁴⁹ Fraser, 'Rethinking the Public Sphere', p.16.

⁵⁰ Warner, *Publics and Counterpublics*, p. 65.

⁵¹ Bob Jessop, *State Theory: Putting the Capitalist State in its Place* (Pennsylvania: Pennsylvania State University Press, 1990), p. 9.

⁵² Bill Clinton, Address to the Nation, Washington D.C., 24 March 1999 in Heike Krieger (ed.) *The Kosovo Conflict in International Law: An Analytical Documentation 1974-1999* Vol. II (Cambridge: Cambridge University Press, 2001), pp. 415-6.

extant, public at large is symbolic of a modern desire on the part of nation-states (and political leaders) to produce, as Lauren Berlant suggests, a 'mass political experience'.⁵³

Even though the notion of 'the' public is a mere image the effort to constitute a unitary public nonetheless has material effects. In the words of Rosalyn Deutsche, 'Categories like "the public" can, of course, be construed as naturally or fundamentally coherent only by disavowing the conflicts, particularity, heterogeneity, and uncertainty that constitute social life'.⁵⁴ This can be seen in attempts to solve the immigration 'problem', which is also unavoidably a question of public space. Efforts to represent an image of the public coinciding with (fantasy) norms about the 'American Way of Life'⁵⁵ shaped the treatment of Serb- and Albanian-American immigrants and Kosovo-Albanian refugees during the war.

In contrast to the unitary image in public sphere theory and practice, there is another sense, then, in which the public sphere is composed of diverse, decentred publics that appear and disappear with different issues and agendas featuring from time to time more intensely than others. With Craig Calhoun, 'we should understand the public sphere to be a sphere of publics'.⁵⁶ Theorists have variously termed these 'subaltern counterpublics'⁵⁷ or simply 'counterpublics' to refer to the alternative discursive arenas where individuals subordinated in and by the discourses of 'the' official public sphere may originate and express divergent identities and interests. 'There is no necessary conflict between the public sphere and the idea of multiple publics...' suggests Warner, 'some publics are defined with their tension to a larger public'.⁵⁸

The extent to which members of these publics are 'subaltern' prior to their participation in counterpublic activity varies.⁵⁹ Anti-war activists, for example, are not necessarily subordinated prior to their self-organisation into a public in defiance of any given war in the way that some women, African-Americans, and gay and lesbian communities might be. The thesis deals with some of these conceptual and empirical tensions in public sphere analysis by

⁵³ Lauren Berlant, *The Queen of America Goes to Washington City: Essays on Sex and Citizenship* (Durham, NC: Duke University Press, 1997), p.177.

⁵⁴ Rosalyn Deutsche, *Evictions: Art and Spatial Politics* (Cambridge: MIT Press, 1996), p.259.

⁵⁵ Berlant, *The Queen of America*, p.179.

⁵⁶ Craig Calhoun, 'Nationalism and the Public Sphere', in Jeff Weintraub and Kristin Kumar (eds.) *Public and Private in Thought and Practice: Perspectives on a Grand Dichotomy* (Chicago: Chicago University Press, 1997), p. 100.

⁵⁷ Fraser, 'Rethinking the Public Sphere', p.14.

⁵⁸ Warner, *Publics and Counterpublics*, p. 56.

⁵⁹ Warner, *Publics and Counterpublics*, p. 57.

addressing an archetypal occasion in which ‘the’ public in general and political activity *par excellence* often appear to have parted company - at times of war and anti-war dissent.

The existence of multiple public spheres in the United States must not be taken for granted; public spheres are in large part produced through essentially precarious social processes and practices incorporating class, gender, and race. Public spheres can be sites of dialogic (or even better multi-‘logic’) dispute among multiple and diverse, but also usually *unequal*, communities. Robbins suggests, for example, that it is possible to move ‘away from the universalizing ideal of a single public and... [attend] instead to the actual multiplicity of distinct and overlapping public discourses, public spheres, and scenes of evaluation that already exist, but that the usual idealizations have screened from view’.⁶⁰

That said, even though modern political societies, especially since the emergence of print media, are always in some way connected to publics, they are also always much more than their organisation *into* publics. Although originally expounded by Habermas as a bourgeois concept, public sphere critique cannot exclude analysis of the class, gender, and race dynamics at play in the very founding and practices of publics. Oscar Negt and Alexander Kluge suggest that there is a grave risk that ‘the form in which the public sphere manifests itself conceals the actual social structure of production and, above all, the history of the development of its institutions’.⁶¹ The consequences of these often hidden biases in public sphere discourses are introduced in Chapter One and discussed further in Chapter Five.

Modern US society is not entirely constituted in and through the creation and maintenance of public spheres. Where it is common to define societies through their organisation into a state it is quite standard for scholars to avoid explicit reference to public spheres entirely. Despite the multiple reasons for adopting public spheres as a unit of analysis, the thesis does not suggest that the war over Kosovo can wholly be explained in these terms. Public spheres nonetheless are an important field of vision alongside which to explore the nexus between modern society and war.

Different locations and fields of activity are public in different times and places; they are constituted through a variety of media (print, electronic, and face-to-face encounters); and there are various *modes* in which one can participate in public discourse and action. For the

⁶⁰ Robbins, ‘Introduction’, p.xii.

⁶¹ Oskar Negt and Alexander Kluge, *Public Sphere and Experience: Toward an Analysis of the Bourgeois and Proletarian Public Sphere* (forward by Miriam Hansen, translated by Peter Labanyi, Jamie Owen Daniel and Assenka Oksiloff) (Minneapolis: University of Minnesota Press, [1972], 1993), p.1.

purposes of clarity we may separate these into liberal (legalist), deliberative (communicative), and performative (agonistic).

In general, the liberal mode of public address conceives a unitary rational subject expressing interests, which are then legally adjudicated by the state.⁶² Laws are generally conceived as an expression of the public will derived from reason and the most effective mode of public address is via these constitutional (regulated) mechanisms. Only episodically and in extremis is the liberal public subject compelled to use extra-legal means of public speech and action.

The 'deliberative' mode of publicity, most closely associated with Habermas, signifies engaging in rational-critical dialogue aimed at achieving consensus.⁶³ The liberal notion of rational-critical subjects expressing interests is accepted. But in contrast to the liberal model, where competition for public power occurs in an almost market competition between rational interests, the deliberative approach posits that political legitimacy derives only from the communicative presuppositions of the debate. The 'better' (most legitimate) argument will produce consensus in public only if the procedures are fair; practical discourse will then, it is assumed, respect the norms of universal moral respect and reciprocity.

Where liberal politics is about adjudicating between justly and efficiently competing interests, and deliberative democrats want this process to be thoroughly and freely debated by all concerned, the 'performative' model inaugurates a conception of public space and mode of being public that, in Sheldon Wolin's words, is 'something other than a form of government'.⁶⁴

The performative or agonistic mode rejects both the liberal and deliberative assumptions that public subjectivity exists prior to its performance in public, as well as pointing to other *non-rational* and *non-deliberative* kinds of public address. The human self does not exist in the singular sense of a transcendental ego, but is produced through the manifestation of multiple historically contingent human drives and only actualises itself *in action*.⁶⁵ There are also diverse rhetorical and stylistic norms of publicity that the liberal and

⁶² See Immanuel Kant, *Kant: Political Writings* (edited by Hans Reiss, translated by H.B. Nisbet) (Cambridge: Cambridge University Press, [1970] 1991); John Rawls, *A Theory of Justice* (Oxford: Oxford University Press, 1971).

⁶³ Jürgen Habermas, *Theory of Communicative Action* (translated by Thomas McCarthy) (Boston, MA: Beacon Press, 1984).

⁶⁴ Sheldon S. Wolin, 'Fugitive Democracy', in Seyla Benhabib (ed.) *Democracy and Difference: Contesting the Boundaries of the Political* (Princeton, NJ: Princeton University Press, 1996), p. 43.

⁶⁵ Friedrich Nietzsche, *The Birth of Tragedy and The Genealogy of Morals* (translated by Francis Golffing) (London: Anchor Books, [1887], 1956), p.179 (section 13).

deliberative accounts overlook. Awareness of these alternative modes of public address suggests some of the public spheres constituted by anti-Kosovo war activists, for example, were unstable and performative rather than rational or deliberative.

As the empirical and historical investigations of the thesis will suggest, each mode of being public - which individually privilege certain topics and certain speakers in different ways - has made its appearance and constituted publics in the United States since the founding of the republic. Moreover, the thesis hopes to point to the importance of thinking about the public sphere category as partly a *transnational* form - not solely a classic form of bourgeois representation but also productive of an imaginary in which war is partly framed. Many of the important norms and modes of being public constituting the multiple public spheres in the United States were sustained, revitalised, and sometimes challenged during NATO's 1999 bombing campaign.

If little else, one thing that unites public sphere theorists is a certitude concerning the existence of a specifically public sphere as a source of democratic legitimacy, even though they may disagree on the appropriate mode of public address and the positioning and fluidity of its relation to the private. But other social critics have commented on the demise of the public-private dichotomy, as well as the notion of any meaningful public sphere activity in modern bureaucratised states.⁶⁶ For Homi Bhabha,

cultural homogeneity, or the nation's horizontal space [cannot] be authoritatively represented within the familiar territory of the *public sphere*: social causality cannot be adequately understood as a deterministic or overdetermined effect of a 'statist' centre; nor can the rationality of political choice be divided between the polar realms of the private and the public.⁶⁷

To the extent that public and private are conceived as entirely immutable and separate, or 'the' public sphere is understood in entirely statist terms,⁶⁸ Bhabha's claim is certainly right. But these are not assumptions in the thesis.

There is no objective criterion by which we may judge something as either normatively public or private. However, by virtue of their power to create social meaning the sociological categories still warrant our attention. 'As long as these concepts retain such resiliency in

⁶⁶ Michael Hardt and Antonio Negri, *Empire* (Cambridge, MA: Harvard University Press, 2001), pp. 188-9.

⁶⁷ Homi K. Bhabha, *The Location of Culture* (London: Routledge, 1994), p.154.

⁶⁸ For an account which treats the public sphere and the state as functionally equivalent see Margaret R. Somers, 'The Privatization of Citizenship: How to Unthink a Knowledge Culture', in Victoria E. Bonnell and Lynn Hunt (eds.) *Beyond the Cultural Turn: New Directions in the Study of Society and Culture* (Berkeley: University of California Press, 1999), pp. 121-61.

modern Western culture', in the words of Mary P. Ryan, 'their theoretical obituaries are premature. Quite independent of their role in policing genders, the terms *private* and *public* remain charged with value, albeit weighted with varying, contested, and shifting references'.⁶⁹

One feminist strategy, for example, has been to call for the radical reorganisation of the exclusionary politics which has led to the ordering of political life along the lines captured in the title of Jean Elshtain's book *Public Man, Private Woman*.⁷⁰ This does not necessarily imply the destruction of the boundaries between public and private, but a commitment to uncover the places where the distinction is falsely naturalised.

Even if the language and ideologies of publics still resonate, this does not necessarily imply that public spheres still effectively exist in modern society in the honorary republican sense of fostering a critical stance towards power. Political theory talk of a 'decline' or 'decay' of the public realm denotes this very specific lack: the loss of a place for dissent, perhaps the most distinct activity of politics. 'Public space has been privatized to such an extent', suggest Michael Hardt and Antonio Negri, 'that it no longer makes sense to understand social organization in terms of the dialectic between public and private spaces, between inside and outside.'⁷¹ Arendt, Habermas, Dewey, Sennett, Edward Herman and Noam Chomsky⁷² all view the story of the contemporary public sphere as one of 'decline'.

In Arendt's quintessential model of mass society, the United States, the founding republican spirit of revolution could not be sustained.⁷³ In contrast to Habermas's bourgeois idealisation, Arendt's trepidation derived from the challenge posed by modernity to the classical ideal of political freedom in the *polis*.⁷⁴ Modernity, for Arendt, had resulted in the invasion of the political by matters of technical administration and bureaucracy, the collapse of the distinction between public and private and the loss of public freedom, in short, the destruction of the public realm.⁷⁵ The increasing identification of freedom with the ability to

⁶⁹ Mary P. Ryan, *Women in Public: Between Banners and Ballots, 1825-1880* (Baltimore, MD: Johns Hopkins University Press, 1990), pp. 6-7. Also see Nikifer Göle, 'The Gendered Nature of the Public Sphere', *Public Culture*, Vol. 10, no. 1 (1997), pp. 61-81.

⁷⁰ Jean Bethke Elshtain, *Public Man, Private Woman: Women in Social and Political Thought* (2ed) (Princeton: Princeton University Press, 1993).

⁷¹ Hardt and Negri, *Empire*, p.188.

⁷² See Edward S. Herman and Noam Chomsky, *Manufacturing Consent: The Political Economy of the Mass Media* (with a new introduction by the authors) (New York: Pantheon Books, [1998] 2002), p.xviii.

⁷³ See Hannah Arendt, *On Revolution* (New York: Viking Press, [1963] 1970) and the essays collected in *Crisis of the Republic* (New York: Harcourt, Brace, Jovanovich, [1969] 1972).

⁷⁴ Arendt, *The Human Condition*, pp. 22-78.

⁷⁵ Arendt, *The Human Condition*, p. 256.

accumulate personal wealth and the triumph of the archetypal liberal freedom *from* politics all signalled the deformation of the political sphere.

One effect of the seeming inability of citizens to institutionalise popular small-scale structures of direct participation has been the extensive institutionalisation of organised political conflict along prescribed, usually representative lines. Civic equality has come to rely on the emergence of an independent state that could be a symbol of society as a whole and ‘in splendid isolation’ function through the intermittent balloting of opinion. Seen in this light, Arendt’s opposition to the Vietnam War and her defence of civil disobedience, discussed in Chapter Four, may be linked to more penetrating critiques of the modern state-public sphere nexus that stress the inter-relationship between dehumanising bureaucratisation and twentieth century violence. Arendt’s account, accordingly, is central to evaluating the social conditions of anti-war activism in 1999 and beyond.

Habermas also presented an account of the bourgeois public sphere’s rise, transformation and, like Arendt, decline, as a historical-sociological prelude to his theory of communicative action. Chomsky has pointed to a ‘vigorous and outspoken... working class and community press that flourished in the U.S. from the early nineteenth century up until the 1930s, when it was finally destroyed by private power’.⁷⁶ The influence of historical narratives of public sphere decline is discussed in Chapter Four. The consequence of the ‘privatisation’ of liberal politics, including the effect this has had on responses to humanitarian catastrophe, is examined in Chapter Five.

Through a rejection of monolithic conceptions of power the analytical category of the public sphere enunciates perhaps more familiar (and hackneyed) concepts often appearing in a different guise. In the words of Robbins, ‘Unlike “hegemony”, the public sphere is less on the side of rule, more open to opposing views. Unlike “culture”, it is more obviously a site of intersections with other classes and cultures... Public sphere invokes “identity”, but does so with more emphasis on actions and their consequences than on the nature and characteristics of the actors’.⁷⁷ Various perceived as a location of political debate (no matter the content); a substantive field of politics relating to government and law (and thus not private); or the place

⁷⁶ Chomsky, ‘Democracy and Education’. Mellon Lecture, Loyola University, Chicago October 19, 1994. See <http://www.zmag.org/chomsky/>. The transcript of the lecture states the 1930s, however, in personal correspondence Chomsky has argued that the 1950s is a more accurate date to describe when the labour press ‘finally was killed off’. ‘As late as the 1950s, there were about 800 labor-based newspapers reaching 20-30 million people weekly’. Personal correspondence with Noam Chomsky.

⁷⁷ Robbins, ‘Introduction’, p.xvii.

where opinions are formed and identities partly constituted, public spheres are forms of embodied social relationships providing the texture of much of modern social life.

The Humanitarian Condition

The use of 'The Humanitarian Condition' as the title for the thesis needs explanation. First and foremost, it is a signal of the importance of Hannah Arendt's work, especially her 1958 book *The Human Condition*, for the way in which public spheres are conceived in the project. In many ways, the theoretical and political inspiration of the thesis derives from Arendt. But it is also much less than a transposition of the categories of 'labour', 'work' and 'action' that Arendt explicated in that book. Although Arendt's distinction between work and action will be important to how we conceive potentially global public spheres the thesis only traces the capacity for political action in light of the stated aims of the thesis. It therefore falls short of what would be necessary for an Arendtian 'theory' of the relationship between publics and war (with the United States and Kosovo as the presumed case study). But this is in line with Arendt's thinking. She was not concerned with offering a programmatic theory that might be 'applied'.⁷⁸

Of the theoretical resources to raise questions about public spheres and humanitarian war the most obvious and most keenly 'applied', is Habermas's work. Indeed, much of the thesis is in critical dialogue with him, as well as Arendt. Not only has Habermas addressed military interventions directly, including questions about an emerging global public realm, his work is clearly seminal to public sphere theory. Supporting the extension of violent cosmopolitan commitments across borders, Habermas defended NATO's bombing campaign and has been influential on justifications for 'humanitarian' war based on deliberative legal frameworks in international society.⁷⁹ Where liberalism has traditionally been presented as most closely associated with the ideology of humanitarian violence,⁸⁰ the final chapter suggests that Habermas's deliberative model also provides it with much theoretical sustenance.

⁷⁸ Hannah Arendt, 'On Hannah Arendt', in Melvyn Hill (ed.) *Hannah Arendt: The Recovery of the Public World* (New York: St. Martin's Press, 1979), p.309.

⁷⁹ Jürgen Habermas, 'Bestiality and Humanity: A War on the Border between Law and Morality', in William Joseph Buckley (ed.) *Kosovo: Contending Voices on Balkan Interventions* (Michigan: Eerdmans Publishing, 2000), pp.306-316; Nicholas J. Wheeler, *Saving Strangers: Humanitarian Intervention in International Society* (Oxford: Oxford University Press, 2000).

⁸⁰ Doyle, 'International Intervention', *Ways of War and Peace*, pp. 389-420.

Arendt's public sphere theory and reflections on violence are central to making this argument. Just as Habermas's earlier 18th Century bourgeois idealisation of public sphere debate, with its dependence on industrial and imperial society, served to enhance class, gender and North-South domination, new global public sphere discourses, Arendt helps us to see, similarly serve to rationalise violence. Her work is also crucial to understanding US-based public spheres, offering a uniquely important resource for tracing their historical development to the Kosovo war. The project is not, however, an effort to always remain true to Arendt's understanding of the activities (labour, work, and action) she saw as conditioning, but not wholly determining, the human world. The human condition is not human nature; it 'never conditions us absolutely'.⁸¹ When we act in the public world we 'constantly create' our own 'self-made conditions'.⁸²

In fact, *The Human Condition* is a somewhat misleading name for Arendt's book given its contents and her intentions for the title. Arendt's US English-language publishers suggested *The Human Condition* because the more accurate European title, '*The Vita Activa*', was presumed to be less catchy. Arendt's actual preference was *Amor Mundi*, love of the world. The purpose was to contrast her approach with the disdain she thought philosophers had traditionally treated the public world of human affairs.⁸³ Eventually, Elisabeth Young-Bruehl would choose *For Love of the World* for the subtitle to Arendt's biography.

The European title was also more accurate because *The Human Condition* did not deal with the other side of the *vita activa*, the *vita contemplativa*. The tripartite mental faculties of thinking, willing, and judging were discussed in Arendt's final but never-finished work, *The Life of the Mind*.⁸⁴ Only together might these two books constitute what Arendt broadly understood by the historical and conceptual development of the human condition. The final chapter of the thesis suggests some of the ways Arendt's dispersed writing on the worldliest of the mental faculties, 'judging', making a decision upon which to act, may accord (albeit problematically) with existing efforts to theoretically ground a global public sphere.

⁸¹ Arendt, *The Human Condition*, p.11. For a contrasting assumption that *both* terms 'human condition' and 'human nature' hold us back see Philip Allott, 'The Future of the Human Past', in Ken Booth (ed.) *Statecraft and Security: The Cold War and Beyond* (Cambridge: Cambridge University Press, 1998), p. 323.

⁸² Arendt, *The Human Condition*, p.9.

⁸³ Elisabeth Young-Bruehl, *Hannah Arendt: For Love of the World* (New Haven: Yale University Press, 1982), p.324. Arendt refused to accept the label philosopher for this reason. Bidding philosophy her 'final farewell' in a television interview in 1964 she said her profession was 'political theory'. Young-Bruehl, *Hannah Arendt*, p. 327.

⁸⁴ Hannah Arendt, *The Life of the Mind* (New York: Harcourt Brace Jovanovich, [1971] 1978).

Arendt held a deeply ambivalent view of the concept of humanity and by extension justifications for political action that invoked humanitarianism. Often, however, criticisms of NATO's own particular invocation of 'humanity' follow the earlier warnings of Carl Schmitt. In his words,

When a state fights its political enemy in the name of humanity, it is not a war for the sake of humanity, but a war wherein a particular state seeks to usurp a universal concept against its military opponent. At the expense of its opponent, it tries to identify itself with humanity in the same way as one can misuse peace, justice, progress and civilization in order to claim these as one's own and to deny the same to the enemy... humanity is an especially useful ideological instrument of imperialist expansion.⁸⁵

Though sympathetic to this critique, the thesis moves to the foreground Arendt's insights, which have not to date been sufficiently addressed in the context of humanitarian war.⁸⁶

In an essay originally published in 1945 on the question of collective responsibility for Nazism, and at a time when many Germans felt shame at the very thought of being German, Arendt acknowledged, rather, a sense of shame at being human.⁸⁷ She wrote,

Our fathers' enchantment with humanity... did not even conceive of the terror of the idea of humanity... For the idea of humanity, when purged of all sentimentality, has the very serious consequence that in one form or another men must assume responsibility for all crimes committed by men and that all nations share the onus of evil committed by all others... To follow a non-imperialistic policy and maintain a non-racist faith becomes daily more difficult because it becomes daily clearer how great a burden mankind is for man.⁸⁸

The findings of the thesis, when allied with the critique of liberal and violent public spheres, demonstrate the contemporary relevance of Arendt's thinking. There was no humanitarian condition of global political action evident during the Kosovo war. The title of the thesis is ironic. We are no more ready in contemporary times to acknowledge the awesome responsibility implied in taking seriously the idea of humanity.

When the term 'humanitarian' is used throughout the thesis, then, it is categorically not to ventriloquise liberal state justifications for violence. It is to make reference to an already

⁸⁵ Carl Schmitt, *The Concept of the Political* (Chicago: University of Chicago Press, 1996), p.54. For a critique of NATO drawing on Schmitt see Tarak Barkawi, 'Air Power and the Liberal Politics of War', in Ken Booth (ed.) *The Kosovo Tragedy: The Human Rights Dimension* (London: Frank Cass, 2000), p. 310. For a response to Schmitt see Jürgen Habermas, 'Remarks on Legitimation through Human Rights', *The Post-National Constellation: Political Essays* (Cambridge: Polity Press, 2001), p.120.

⁸⁶ There has been one earlier effort to do so which is critiqued in Chapter Five. See Anthony Lang, *Agency and Ethics: The Politics of Military Intervention* (New York: State University of New York Press, 2001).

⁸⁷ Hannah Arendt, 'Organized Guilt and Universal Responsibility', *Essays in Understanding: 1930-1954* (edited by Jerome Kohn) (New York: Harcourt Brace and Company, 1994), p.131.

⁸⁸ Arendt, 'Organized Guilt and Universal Responsibility', p. 131.

established discourse in the academy, liberal state policy-making circles, and most importantly in public citizen debate. The intervention in Kosovo, as with Northern Iraq (1991), Somalia (1992), and Bosnia (1995), warrants this discrete categorisation because the ‘humanitarian’ justificatory framework took almost absolute centre-stage and played a crucial role in reducing the level of public dissent. It is also important because the 2001-2 war over Afghanistan was also partly justified using these terms. The invocation of humanitarianism by Western states during the Kosovo war was a legitimation for violence. But we do not humanise the world through violence; we can only humanise ‘the world’, as Arendt suggested, ‘by incessant and continued discourse about its affairs and the things in it’.⁸⁹

Methodological Issues

To investigate how public spheres may shape and be shaped by war a single interpretative case study method was selected. A structured focussed comparison, for example between Britain and the United States, would have been too diluted.⁹⁰ The thesis aims to be descriptively rich in substance as well as theoretically thorough in an effort not only to gather empirical data but also use it to engage with existing public sphere theory.

The drawback of this approach is that one cannot easily generalise from the US and Kosovo case. However, the search for regularities and generalisations are not the only proper subject of inquiry. Public spheres are historically and culturally specific and methods for interpreting their existence and significance are also epistemologically bound.⁹¹ In other words, the thesis goes beyond the forms of social scientific methodology which position ‘the public’ as an empirically extant object to be analysed via the accumulated data.⁹²

The phrase ‘public opinion’, for example, which is partly constitutive of the idea of ‘the’ public it seeks to describe, is falsely constructed in much social science research in terms of an exercise in liberty. In public opinion surveys, as Anne Norton describes, ‘the respondents participate not as a party to a debate but as a source of information and an object of study... The respondents are then reconstituted into fictive communities of opinion: the 15 or 40 or 70

⁸⁹ Arendt, *Men in Dark Times*, p.30.

⁹⁰ Arend Lijphart, ‘Comparative Politics and the Comparative Method’, *American Political Science Review*, Vol.65 (1971), pp. 682-93.

⁹¹ C.f. Gary King, Robert Keohane, and Sidney Verba, *Designing Social Inquiry: Scientific Inference in Qualitative Research* (Princeton: Princeton University Press, 1994), p. 6.

⁹² For a recent example see Robert D. Putnam, *Bowling Alone: The Collapse and Revival of American Community* (New York: Simon and Schuster, 2000).

percent whose responses are coded alike'.⁹³ This polling is a highly crafted and expensive technique that aims to manufacture the 'public' as an empirical fact separate from any analysis of the mode and effect of particular kinds of circulation or address.⁹⁴ Publics, publicity, and public opinion - these terms are themselves productive of a social *imaginary* and must be analysed accordingly.

If societal norms and modes of politics shape the conduct and justification for war research is required into the context of US public sphere debates over Kosovo. The empirical research on the 'official' (state-based) public sphere derives from a qualitative analysis of US government departments and mainstream media outlets just prior to, and during, the bombing campaign.

As one commentator noted, there seemed to be a special effort by Clinton to 'pitch' the war to 'newspaper elites',⁹⁵ the same realm of discourse Habermas valorised as a medium of public deliberation. A search was conducted of all news articles within the period of the intervention in the major organs of official public debate, *The New York Times*, *The Washington Post*, and *The Los Angeles Times*.⁹⁶ Where relevant to the specific theme, several other forms of information supplement this data, including the vast secondary literature on the Kosovo war, Internet sources, and opinion polls.

For instance, Chapter Four is concerned with the social and political context of dissent against the Kosovo war and provides an example of the methodology used in other chapters. Information on protest activity was derived from news articles from the main daily newspapers within the period of the intervention. Supplementary data includes theoretical studies of dissent, secondary sources on anti-war protest and opinion covered by the network news channels, the websites of activist groups, and correspondence with activists. An exhaustive survey of every anti-Kosovo war demonstration is not provided. Indeed, of the immense variety of protests occurring at any one time the media choose barely a few, of which probably only the most conscientious of newsreaders will become aware. Although usually under-reported at the time, however, assessing protests through media channels provides an important

⁹³ Anne Norton, *Republic of Signs: Liberal Theory and American Popular Culture* (Chicago: University of Chicago Press, 1993), p. 38.

⁹⁴ Warner, *Publics and Counterpublics*, p. 72.

⁹⁵ James Gerstenzang, 'Clinton Pitches War to Newspaper "Elites"', *The Los Angeles Times*, April 16, 1999.

⁹⁶ It was decided that rather than cite every article relevant to the empirical point (which would run into a word count of thousands) a solution would be to create a separate section in the bibliography for relevant and interesting newspaper articles.

gauge of opposition opinion as an alternative to the ideal of recording the fullest detail of all protest events.

Thesis Outline

The organisational themes which structure the empirical chapters - law, technology, anti-war dissent, 'foreigners', and discourses of an emerging global public sphere - were not randomly chosen, but they were also not the only possible public sphere themes for a humanitarian 'war and society' approach. The political economy of the war, and how capitalist norms of public and private were maintained (and exported), could have been pursued in a whole chapter. The relationship between public spheres and the 'body' could have filled a chapter, with an analysis of the public iconicity of Yugoslav President Slobodan Milosevic (the enemy) and Clinton (the embodiment of the 'American public'). Specific chapters may have been dedicated to race and gender instead of being framed together in Chapter Five.

For reasons of space (and time), however, some things had to be left out. But the themes chosen were not random; each in a different way reveals something important about the politics of public spheres and something particular about the Kosovo war itself. For example, as Chapter Three illustrates, crucial to reproducing the official US public realm as liberal has been the promise (and realities) of technological advance, while one could seldom open a newspaper without reading from supporters and opponents alike how Kosovo represented the dawn of a new era, both internationally and *technologically*. Similar claims are made about the relevance of each theme in the specific chapters, as well as in the following thesis outline.

Chapter One introduces the framework underpinning the empirical analysis of the Kosovo war by tracing in more detail how publics have historically and theoretically acquired importance. Building on Kant's original insight that the public use of critical reason could provide a bridge between power and morality, theorists have sought to stake out the social and political terrain where this might be possible. Habermas located the seeds of a critical public sphere in the coffeehouses, *salons*, and world of letters in the newly enlightened liberal European cities. However, Arendt's interpretation of the open political conflict and expansive conception of power central to the ideologies and practice of the US founding period emphasises the centrality of republicanism. The importance of print techniques to 'America's' eighteenth century public spheres as well as the fluid counterpublics based on gender and race

that emerged also suggest that the rational-critical mode assumed by the liberal and Habermasian public sphere category does not wholly apply in the United States.

After establishing the groundwork related to different modes and types of publicity operating in the United States the chapter positions the sociological development of an 'official' public sphere in the modern, state-centred context. This is important because the 'counterpublics' described throughout the thesis usually assume this 'official' state-public as the political background. Politics in the United States generally evolved to approximate the broadly 'liberal-republican' conception of public space - juridical, technological, individualist, and efficient. The remainder of the chapter introduces the organisational themes - law, technology, dissent, foreigners - which structure the empirical chapters and offer the normative and practical benchmarks by which we can trace the relationship between public spheres and the Kosovo war.

Chapter Two develops ideas about the violence associated with the diffusion of public and private through a discussion of the ambivalent role of law in legitimating the Kosovo war. From the ever-growing litigation industry to televised intimate suffering, the cultural power of law and its ability to define and redefine what is public and private is pervasive in the United States. That the private life of the commander-in-chief became a public commodity via judicial investigations (partly clouding the moral authority of the President to engage troops in combat) is only the most trivial example. There was a massive growth in the influence of lawyers at all levels of military targeting and deployment during the war, as well as the resurgence of 'Just War' claims, the philosophical basis of much of the laws of war. The chapter also discusses the role of advanced surveillance technologies in compiling evidence to fit Milosevic's crimes (but not NATO's), the way in which legal arguments can shape public opinion, and how public realms, both national and international, can be constructed as legalised entities. In other words, the chapter traces the complex meanings attributed to law during processes crucial to defining the official-state public sphere in the United States and, by extension, the emerging global order.

The desire for domestic legitimacy, the US position as the unchallenged global hegemon, and the role of law in the founding of the US republic, are all central to understanding the ambiguous but sustained effort by the government to demonstrate the legitimacy of the bombing campaign while also avoiding the explicit appearance of relying on law to justify violence. In making this argument, the chapter traces the complex meanings

attributed to law during processes crucial to defining the official-state public sphere in the United States. The ‘humanitarian’ violence seemingly crucial to the establishment of a global constitutional order gains greater coherence when addressed in light of how law functioned in the founding period and the emergence of the US penal system as an important technique for producing liberal citizens. The history of criminal punishment in the United States was closely related to the legitimisation of violence and sheds a great deal of light on more recent global police actions.

The pragmatism of law but also the promises of technological advance have served as effective extra-political legitimations for both politics and war in the United States. Indeed, James Boyle has described a mode of modern legal discourse, ‘Jetson’s Jurisprudence’, that tries to make legal rules appealingly futuristic by associating them a long list of technological wonders.⁹⁷ *Chapter Three* centres more specifically on the information technology (IT) used to conduct and debate the Kosovo air campaign. Transformations in technology and the rise of the liberal-state public realm provided an important part of the social and political context of the war. Modern political theory engages little with the high technology that many see as transformative not only of the global economy, but also political interaction and war. The intersection, broadly speaking, however, is not new. Forms of government, prevailing technology and the practice of war have been linked since Antiquity.⁹⁸ Transposed to the modern era, Clausewitz’s understanding of how the passions of the people could be yoked to the military potential of the centralised and industrialised state⁹⁹ foreshadows the way in which societal norms would shape and be shaped by the preparation, conduct and aims of modern military adventures.¹⁰⁰ Further consolidated by state bureaucratisation and the expansion of capital, the so-called ‘post-modern’ age has continued this politics/technology/war tradition with liberal governments embracing ‘post-industrial’ technologies to attain goals fought during the 1990s in the name of humanitarianism (and more recently against ‘Terror’).

The chapter investigates whether electronic space has radically transformed public spheres, the means of violence, and the relationship between them as witnessed over Kosovo.

⁹⁷ James Boyle, *Shamans, Software and Spleens: Law and the Construction of the Information Society* (Cambridge, MA: Harvard University Press, 1996). Thanks to George Welton for suggesting this link.

⁹⁸ Victor Davis Hanson, *The Western Way of War: Infantry Battle in Classical Greece* (Introduction by John Keegan) (2ed.) (London: University of California Press, 1989).

⁹⁹ Carl Von Clausewitz, *On War* (edited and translated by Michael Howard and Peter Paret) (Princeton, NJ: Princeton University Press, 1976).

¹⁰⁰ Bernard Brodie, *War and Politics* (London: Macmillan, 1973).

Certainly features of high-tech warfare were presented as embodying the socially constituted values of the official public sphere (as liberal and 'humanitarian') and provided a means by which counterpublic spheres could be created (via the Internet). But US 'publics' have historically viewed technologies (including low lethality and precision-guided weapons) as harbingers of international justice and representative of their presumed values. By elaborating what has been presented as the natural alliance in the United States between liberal-republican values and technological advance, the chapter places in historical perspective the 'in vogue' nature of much of the IT discourse about Kosovo. Claims about video game and virtual warfare are compared with similar practices from the Vietnam War and are squarely situated in the pre-September 11, Clinton-era and Internet boom-age.

Chapter Four addresses whether the 1990s produced other less than democratic transformations of the relationship between public spheres and war, in particular whether citizens can or should have been conceived as mere 'spectators' to humanitarian violence. It is argued that despite the role of technology and NATO's humanitarian claims in limiting public dissent, anti-Kosovo war activists, against the background of the official state-public, participated in and constituted counterpublic spheres. Perhaps more than any other social battleground, anti-war activity and anti-war protestors as a social category indicate both a kind of *extraordinary* political activism indicative of public sphere activity at its greatest, and the extreme end of state coercion and legitimation tactics. As Sarah Chinn suggests, 'subordination and resistance have been continual although necessarily unequal partners in the forging of national identities in the United States'.¹⁰¹ As seen historically, the act of defying the state's monopoly on violence - its very *raison d'être* - points to the ability of citizens to come together, organise and challenge dominant power, as well as revealing the limitations and strengths of specific state actions and various state forms.

With this in mind, the chapter examines the modes of being public in the 'liberal tradition' of dissent most formative in the United States; the 'American tradition' expounded by the transcendental idealists (Emerson, Thoreau) and evident in multiple practices of anti-war activism; and the 'democratic/republican tradition' found in the work of Arendt and which corresponds with much protest activity. Rather than the liberal or Habermasian image of the protester as either a conscientious objector or one engaged in rational-critical dialogue, it is

¹⁰¹ Sarah E. Chinn, *Technology and the Logic of American Racism: A Cultural History of the Body as Evidence* (London: Continuum, 2000), p.xiii.

suggested that the counterpublic spheres of anti-war demonstrators during the Kosovo war reveal the multi-logic and contested spirit of debate among diverse and unequal publics mediated by different types of publicity. These alternative, but marginalised, publics are not always effectively captured in liberal and deliberative theoretical accounts.

Chapter Five extends the argument about different ways of 'being public' through an analysis of how Albanian-American immigrants and Kosovo-Albanian refugees were represented in the official public domain prior to and during the bombing campaign. Several of the public and private norms associated with gender, race, and economy appeared upheld and invigorated via representations of these 'foreigners'. Accordingly, the politics of foreignness 'must.... be seen', in Samira Kawash's words, 'as a mechanism for constituting and securing a public, [and] establishing the boundaries of inclusion' and exclusion.¹⁰² We witnessed in full display during the war, for example, a variation of 'the iconic good immigrant' narrative, which holds that 'good' immigrants work hard and up-hold (or refresh) the values of the nation.¹⁰³ As well as serving to ratify the choice worthiness of the liberal regime - look at all the immigrants desperate to come here - an important outcome of narratives of 'good' immigration is to regulate and punish the domestic poor. Buttressing the stereotype that US citizenship is above all characterised by the mobility of class, African-Americans, for example, can be further excluded from public sphere visibility and respect. This argument is situated in the context of the general lack of investigation into issues of race in the historiography of 'humanitarian' violence.

Individuals and groups in Kosovo were widely treated as pitied victims, as objects of fleeting emotion rather than equal participants in human dignity and plurality. For modernity has not only ushered in the extension of functional rationality to politics as the sphere of 'decision-making', as Chapter One will argue. It has partly eliminated the spaces and criteria to be established in public political forums where citizens may act for and politically sustain a concern for human rights. The plight of thousands in Kosovo 'post'-conflict, of all ethnic groupings, is further evidence of this.¹⁰⁴ Drawing on Arendt, it is suggested that narratives of 'goodness' and 'compassion' reveal the gendered antimony of ethical humanitarianism

¹⁰² Samira Kawash, 'The Homeless Body', *Public Culture*, Vol. 10, no.2 (1998), p.325.

¹⁰³ Bonnie Honig, *Democracy and the Foreigner* (Princeton: Princeton University Press, 2001), p.80.

¹⁰⁴ Jasmina Husanović, "'Post-Conflict' Kosovo: An Anatomy Lesson in the Ethics/Politics of Human Rights", in Ken Booth (ed.) *The Kosovo Tragedy: The Human Rights Dimensions* (London: Frank Cass, 2000), pp.263-80.

conducted within the de-politicised and ‘personalised’ US public context. As Berlant has suggested, the ‘political as a place of acts oriented to publicness... [has been] replaced by a world of private thoughts, leanings, and gestures’.¹⁰⁵ One effect of the personalization of the mainstream public sphere in the United States is revealed in the sentimentalism of journalism and much of the public debate concerning the Kosovo-Albanian refugees.

Chapter Six extends the analysis of public spheres in the United States to addresses recent and related endeavours to transpose the public sphere category to the global realm through the discourse and practice of humanitarian war. The emergence of a presumed global public conscience in response to humanitarian catastrophe was important to public justifications for the Kosovo war. The chapter argues that the effort by Habermas and others to redeem a deliberative global public as the non-violent site of rational-critical debate ignores how the very founding of publics can itself be productive of, even dependent upon, violence. This argument is made using Arendt’s indictment of the modern ‘politics-as-making’ tradition, where political action is equated with moulding the human condition to a preconceived end.

Arendt, in contrast, helps us by not simply attending to the creative dimensions of the political beyond a narrow focus on rights and government. She also usefully conceives the public sphere explicitly in contradistinction to all of the things that Habermas simply assumes away. Habermas and others locate outside of the political (as barbaric, and irrational) the violence of liberalism and the founding of public spheres. Arendt, in contrast, positions violence as *constitutively* outside of the public; the historical and political context of each (violence and the public) is mutually related and co-dependent. One does not have to agree with Arendt’s own sharp distinctions between public and private, between politics and violence, to recognise that those distinctions are important and offer a more critical perspective on the legitimisation of humanitarian war than we have witnessed thus far. In other words, Arendt helps IR scholars conceive how the very founding of public realms, including at the global level, can itself be productive of the violence the creation of a public sphere ostensibly sought to banish.

The *Conclusion* summarises the main findings of the thesis and suggests some of their broader implications for how we might understand the ongoing relationship between US society and war. Publics are important sites in the seemingly constant effort to justify the use of force, including legitimations for violence under the label ‘War on Terror’. To date, the

¹⁰⁵ Berlant quoted in Warner, *Publics and Counterpublics*, p. 298 fn. 69.

nexus between public spheres and war has been a neglected field of inquiry in both political and international theory. Moreover, the specific insights of Hannah Arendt have yet to be fully appreciated in terms of thinking through the potentialities for any 'humanitarian condition' of global political action. The thesis hopes to make a contribution to our understanding of global politics by examining how publics in the US context were important in shaping the war over Kosovo and how publics themselves were partly created and recreated through this war. 'Understanding...' as Arendt suggested, 'is an unending activity by which, in constant change and variation, we come to terms with and reconcile ourselves to reality, that is, try to be at home in the world'.¹⁰⁶

¹⁰⁶ Hannah Arendt, 'Understanding and Politics', in *Essays in Understanding: 1930-1954* (edited by Jerome Kohn) (New York: Harcourt Brace and Company, 1994), pp.307-8.

Chapter 1

A History and Theory of US Public Spheres

The meaning of a committed act is revealed only when the action itself has come to an end and become a story susceptible to narration. Insofar as any 'mastering' of the past is possible, it consists in relating what has happened; but such narration, too, which shapes history, solves no problems and assuages no suffering; it does not master anything once and for all.

- Hannah Arendt¹

Public spheres are one of the contexts in which meaning is created, where we find the important narratives that partly constitute history, including the story of humanitarian wars. The problem of public spheres, which is really a problem of how we conceive democracy and politics in modernity, is latently present in all questions of human security. The function of histories and myth as productive of 'ethnic' violence in the Balkans has assumed almost mythic proportions.² What have not been investigated is how public sphere narratives are also productive of US actions *into* (or not into) the Balkans and how this process has itself 'become a story susceptible to narration'.

The language of the 'public sphere' is foundational to democratic theory and practice and most of our activity is oriented toward some form of public. As subject and object of democracy, the notion of a public is a discursive weapon second only to the 'people' as the political honorific *par excellence*.³ All publics are different however, in size, mode, and effect and the conditions of the multiple public spheres in the United States have been long in the making. This chapter describes the historical and contingent course by which an 'official' liberal state-public sphere has attained importance in the United States, and it introduces the theoretical framework that structures the empirical investigation into the US politics of the Kosovo war.

The chapter provides some historical and conceptual background by addressing the origins of modern politics in the United States in terms of how publics have changed and developed over time. In the words of Margaret Somers, we need an 'historical sociology of

¹ Hannah Arendt, 'On Humanity in Dark Times: Thoughts on Lessing', *Men in Dark Times* (New York: Harcourt, Brace & World, 1968), pp.3-31.

² Tim Judah, *The Serbs: History, Myth, and the Destruction of Yugoslavia* (2ed.) (New Haven: Yale University Press, 1997); Julie A. Mertus, *Kosovo: How Myths and Truths Started a War* (Berkeley: University of California Press, 1999).

³ Craig Calhoun, 'Nationalism and the Public Sphere', in Jeff Weintraub and Kristin Kumar (eds.) *Public and Private in Thought and Practice: Perspectives on a Grand Dichotomy* (Chicago: Chicago University Press, 1997), p.81.

concept formation [as] a cultural and historical approach to making sense of how we think and why we seem obliged to think in certain ways'.⁴

In particular, the chapter places in historical context different elements constitutive of US public spheres - the liberal-republican state, the rule of law, technology, dissent, and 'foreigners' - as a prelude to showing how publics have shaped, and been shaped by, the Kosovo war. Public discourses during this war surrounding law, technology, anti-war activists, and 'foreigners' cannot fully be understood separately from their function in helping to ground US national identity and the official liberal-republican (as well as unofficial or 'counter') public realms.

Because much contemporary public sphere theorising responds directly to liberal theory and practice, the first part of the chapter, 'Publics in History and Theory', accounts for the history of the form as well as the usually ideal-type portrayal of liberal public space that has emerged. In contrast to Thomas Hobbes's account of the absorption of public power into the hands of the amoral Leviathan,⁵ it was Immanuel Kant who first considered the principle of *publicity*, free debate in the public sphere, as the bridge between politics and morality.⁶ Similarly, Jürgen Habermas observed the emergence of a critically reasoning bourgeois public in 18th Century Europe as the hoped for conduit of democratic deliberative rationality.⁷

There has been much debate concerning the extent to which the concept of the public sphere enunciated by Habermas might be extended to other historical and geographical contexts, the United States included.⁸ Publics exist in widely differing contexts and generalisation is difficult. Habermas has subsequently acknowledged that he 'can rightly be accused of having idealized what were presented as features of an existing liberal public sphere... I was at least not careful enough in distinguishing', he wrote, 'between an ideal type and the very context from which it was constructed'.⁹

⁴ Margaret R. Somers, 'The Privatization of Citizenship: How to Unthink a Knowledge Culture', in Victoria E. Bonnell and Lynn Hunt (eds.) *Beyond the Cultural Turn: New Directions in the Study of Society and Culture* (Berkeley: University of California Press, 1999), p.121.

⁵ Thomas Hobbes, *Leviathan* (edited with an introduction by C.B. Macpherson) (London: Penguin, [1651] 1968).

⁶ Immanuel Kant, *Kant: Political Writings* (edited by Hans Reiss, translated by H.B. Nisbet) (Cambridge: Cambridge University Press, [1970] 1991), p.55.

⁷ Jürgen Habermas, *The Structural Transformation of the Public Sphere* (Cambridge, MA: MIT Press, [1962] 1991).

⁸ See Michael Schudson, 'Was There Ever a Public Sphere? If So, When? Reflections on the American Case', in Craig Calhoun (ed.) *Habermas and the Public Sphere* (Cambridge, MA: MIT Press, 1992), pp. 143-163.

⁹ Jürgen Habermas, 'Concluding Remarks', in Craig Calhoun (ed.) *Habermas and the Public Sphere* (Cambridge, MA: MIT Press, 1992), p.463.

Accordingly, the second section of the chapter, 'Publics in the United States', addresses the extent to which the category of the *liberal* public sphere, and its presumed rational-critical mode, can usefully be applied to the United States. It is suggested that in contrast to the deliberative account, public spheres in the United States, to varying degrees, can more usefully be conceived as places of agonistic instability, incessant debate, and re-founding. Hannah Arendt's reading of the founding of a *republican* public sphere during the American Revolution, for example, laid greater emphasis on the performative, rather than the purely deliberative, dimensions of action in the public realm.

Political action, so closely related to the change and potentiality inherent in birth and new beginnings was, for Arendt, almost by definition relative.¹⁰ Moreover, action being a kind of speech, the Declaration of Independence was 'the perfect way for an action to appear in words'.¹¹ With this conception, we move away from Habermas's understanding of language as merely a function of making cognitive statements about truth or identity towards investigating the *force* contained in articulation. 'Performative utterances', as Bonnie Honig interprets, 'are not cognitive statements; they are events'.¹²

But if the mode and effect of public sphere debate in the early republic is accorded an alternative trajectory to Habermas's, the description of the United States as 'liberal' remains axiomatic for scholars working on democratic peace theory, foreign policy analysis, and even US public spheres.¹³ In the words of Michael Warner, 'most of the major figures of our time on the subject of public and private have reacted against the liberal tradition'.¹⁴ Accordingly, the third section, 'The Liberal-Republican State', addresses the extent to which a liberal tradition, and attendant conception of public space, has shaped modern US political practice.

¹⁰ See Hannah Arendt, *The Human Condition* (Chicago: University of Chicago Press, 1958), p.247 and 'Understanding and Politics', *Essays in Understanding: 1930-1954* (edited by Jerome Kohn) (New York: Harcourt Brace and Company, 1994), p. 321. The importance of 'natality' to Arendt's thought is discussed in Chapter Four.

¹¹ Arendt, *On Revolution* (New York: Viking Press, [1963] 1970), p.127.

¹² Bonnie Honig, *Political Theory and the Displacement of Politics* (Ithaca, NY: Cornell University Press, 1993), p. 89.

¹³ Robert Latham, *The Liberal Moment: Modernity, Security, and the Making of Postwar International Order* (New York: Columbia University Press, 1997) and John M. Owen IV, *Liberal Peace, Liberal War: American Politics and International Security* (Ithaca, NY: Cornell University Press, 1997).

¹⁴ Michael Warner, *Publics and Counterpublics* (New York: Zone Books, 2002), p. 43.

The widespread notion that US political development has been shaped by some 'natural' liberal creed owes much to Alexis de Tocqueville and, later, Louis Hartz.¹⁵ By liberalism as a 'constant' in US history Hartz pointed to the primacy of individual rights and private property, an intuitive liberalism due to the absence of feudalism and a lack of revolutionary impulse. Radicals in the United States never had to defend the idea of a strong state, which had been necessary in Europe to facilitate the victory of the bourgeoisie over feudalism. Broadly speaking, and in a slight revision of this 'liberal' school, the section argues that a liberal-*republican* tradition corresponds more closely to the ideological development of the official state-public sphere which had important implications for 'public-ness' in the United States.

The democratic process in various forms of 'Atlantic' republicanism enjoys a normatively higher position as popular sovereignty than the liberal emphasis on representation and individual rights.¹⁶ 'While republican society and liberal society represented different stages in the postfeudal West', suggests Steven Watts, 'they did not stand diametrically opposed in America... with defenders of civic virtue angrily arrayed against the minions of self-regarding individualism'.¹⁷ The language of republicanism is important to understanding modes of public-ness and publicity, especially when in alliance with the valorisation of personal abstraction (making identities such as class, gender, or race an inappropriate basis for debate) as the most fitting way to appear in public in the newly emerging state.

Since the concept of the *Yankee Leviathan*,¹⁸ however, is itself often represented in a summary of abstractions - 'bureaucratic', 'capitalist', 'sovereign', 'corporate'¹⁹ - any discussion of the US state, the official liberal 'public', and the relations between them must deal with the problem of reification. What social conditions are we exactly referring to when deploying these contentious terms? The 'official' US public is accordingly theorised around the emergence and consequence of the modern bureaucratic state and market economy with

¹⁵ Alexis de Tocqueville, *Democracy in America* (translated by George Lawrence, edited by J.P. Mayer) (New York: HarperCollins, [1835] 1966) and Louis Hartz, *The Liberal Tradition in America* (New York: Harcourt Brace, 1955).

¹⁶ J.G.A. Pocock, *The Machiavellian Moment: Florentine Political Thought and the Atlantic Republican Tradition* (Princeton, NJ: Princeton University Press, 1975).

¹⁷ Steven Watts, *The Republic Reborn: War and the Making of Liberal America, 1790-1820* (Baltimore: Johns Hopkins University Press, 1987), p. xviii.

¹⁸ Richard Franklin Bensel, *Yankee Leviathan: The Origins of Central State Authority in America, 1859-1877* (Cambridge: Cambridge University Press, 1990).

¹⁹ Stephen Skowronek, *Building a New American State: The Expansion of National Administrative Capacities, 1877-1920* (Cambridge: Cambridge University Press, 1982).

their attendant mass media, reliance on law and technology and primarily liberal modes of dissent.²⁰ The relationship between liberal state power, publics, and war also becomes crucial. Following Charles Tilly, we must understand ‘the place of organized violence in the growth and change of those peculiar forms of government we call national states.’²¹

But alongside the organisation and re-organisation of modes of warfare, technological advance and the rule of law also strengthened the Federalist’s assurance that ‘America’ could answer the age-old question of how to reconcile a republican political ethos with a geographically expansive society.²² Both thematics, the United States as a ‘Legal Republic’ and as a ‘Technological Republic’ are discussed in separate sections below. Chapters Two and Three extend these analyses to suggest that public sphere discourses concerning law and technology were similarly effective, and highly ambivalent, strategies for attempting to publicly legitimate the Kosovo war. ‘Dissent in the Liberal-Republic’ and ‘Foreigners and the Republic’ are likewise identified in the chapter as vital to understanding the historical development of US publics. These efforts, if successful, forms the basis for showing how public spheres in the United States shaped and, in turn, have been shaped by the 1999 Kosovo war. Though a complete account of the importance of publics to modernity in the United States, even if it were possible, cannot be provided in the space of this one chapter, the contours of an outline history are supplied.

Publics in History and Theory

Narratives of ‘decline’ thoroughly pervade theories of the public realm. As suggested in the Introduction, almost all who have written on the subject conceive the story of contemporary publics in this romantic genre of decay. ‘Critiques of American politics and culture’, writes Michael Schudson, ‘are sometimes posed as if contemporary life represents a decline from some great golden age’.²³ In these narratives, however, is there not a fundamental

²⁰ Bob Jessop, *State Theory: Putting the Capitalist State in its Place* (Pennsylvania: Pennsylvania State University Press, 1990).

²¹ Charles Tilly, ‘War Making and State Making as Organized Crime’, in Peter Evans, Dietrich Rueschemeyer and Theda Skocpol (eds.) *Brining the State Back In* (Cambridge: Cambridge University Press, 1985), p.170.

²² See John F. Kassen, *Civilizing the Machine: Technology and Republican Values in America, 1777-1900* (New York: Grossman Publishers, 1976) and Robert Ferguson, *Law and Letters in American Culture* (Cambridge, MA: Harvard University Press, 1984).

²³ Schudson, ‘Was There Ever a Public Sphere?’, p. 143.

danger of ‘collapsing... norm and description,’²⁴ to borrow Habermas’s phrase, when using an essentially ‘normative category for political critique’²⁵ - the public sphere - to describe an already existing society? The extent to which a normative Kantian or deliberative public sphere of rational-critical discourse has ever thrived in the United States is in serious dispute.

In ‘What is Enlightenment?’ Kant made explicit the link between human freedom and the notion of a public sphere, introducing what would become the dominant liberal conception of publicity. ‘The *public* use of man’s reason must always be free,’ he wrote, ‘and it alone can bring about enlightenment’.²⁶ This principle of publicity, for Kant, ruled all political action. In his words,

All action affecting the rights of other human beings are wrong if their maxim is not compatible with being made public... For a maxim which I may not *declare openly* without thereby frustrating my own intention... or which I cannot *publicly acknowledge* without thereby inevitably arousing... resistance... can only have stirred up this necessary and genuine... opposition... because it is itself unjust and thus constitutes a threat to everyone.²⁷

When people joined together to debate their common affairs, in Kant’s view, they bequeathed the critical use of reason onto the political realm. There was clearly a tension, however, in the gap between the empirical circumstances of modernity (where people were unfree) and Kant’s need to posit the existence of the ideal public sphere as a precondition for reason to function.

Similarly, Kant was aware that humans were disposed to except themselves from the requirements of morality given their ‘inclinations and desires’. Recalling the pacifying effects of commerce in contributing to ‘perpetual peace’ amongst states, exclusively those who were property owners could enter the public realm. In an assumption that still resonates, as Chapter Five will suggest, only those emancipated from the corrupting influences of power, in other words those already in possession of private property, could be their own masters. Law became the expression of the public will that was itself derived from reason.

Habermas, in contrast, attempted to reconstruct the public sphere concept as an essentially *historical*, rather than ideal, category. In *The Structural Transformation*, he delineated the public as a fourth realm of social interaction distinct from the state, economy and family. In the emerging 18th Century bourgeois European world of letters and *salons*,

²⁴ Jürgen Habermas, ‘Concluding Remarks’, in Craig Calhoun (ed.) *Habermas and the Public Sphere* (Cambridge, MA: MIT Press, 1992), p.463.

²⁵ Peter Hohendahl quoted in Michael Schudson, ‘Was There Ever a Public Sphere?’, p.147.

²⁶ Kant, *Political Writings*, p. 55. Italics in original.

²⁷ Kant, *Political Writings*, p. 126. Italics in original.

political legislation that had formerly been at the aristocracy's privilege increasingly became subject to the critical appraisal of newly fashioned 'citizens'.

From the *salons* largely shaped by women to the male preserve of the coffeehouses and the world of letters emerged a public sphere, Habermas observed, amongst an elite avant-garde where conversation on literature and art turned to matters economic and political.²⁸ Habermas, in short, attempted a historically and sociologically grounded elucidation of the possibility for human emancipation grounded in communication. Unrestricted, undistorted conversation, he argued, could be the means to political legitimation, with a public sphere grounded by a common commitment to rationality and faith in publicity as the mode of coming to terms with, if not settling, political disputes.

Three 'institutional criteria' of this new-fashioned delight in the public consumption of tea, coffee, and chocolate were singled out. First, social intercourse, at least for the duration of the soiree, ignored the social status of the participants. A 'tact befitting equals' traded with the 'celebration of rank'.²⁹ With this metamorphosis, 'the authority of the better argument could assert itself against that of social hierarchy and in the end carry the day'.³⁰ Second, not only could the finest discussant allegedly hold sway, but also conversational territory traversed old boundaries, especially in matters of philosophy and culture.

Third, and most importantly, talk in the coffee house and *salon* was, in principle, inclusive. All propertied and educated 'readers, listeners, and spectators' could partake in the conversation. But even where the numbers were small, gatherings were conscious of themselves as but a mere component of a wider public who could potentially be addressed. 'Wherever the public established itself institutionally as a stable group of discussants,' Habermas argued, 'it did not equate itself with *the* public but at most claimed to act as its mouthpiece, in its name, perhaps even as its educator - the new form of bourgeois representation'.³¹

Of course, this was never an ideal state, even for Habermas, where completely 'undistorted' communication thrived. Marx, for example, had dismissed bourgeois public opinion, mere class ideology, for its dependence on economic domination; the public sphere was structurally parasitic on the bourgeois constitutional and imperial state and manifested the

²⁸ Habermas, *The Structural Transformation*, p. 33.

²⁹ Habermas, *The Structural Transformation*, p. 36.

³⁰ Habermas, *The Structural Transformation*, p. 36.

³¹ Habermas, *The Structural Transformation*, p. 37.

interests of those benefiting from it.³² While liberal economics under free-market capitalism invariably concealed the fundamental structural inequality between the classes, rational, critical dialogue in the public sphere, according to Habermas, might subject this to proper scrutiny.³³

The 'political emancipation of the bourgeoisie' and this attendant model of a debating and coffee drinking public depended upon a distinctive configuration of liberal social and economic (not least imperial³⁴) interests and could not, even according to Habermas, feasibly (or desirably) be transposed to late-modern society. However, it is important to elaborate the *ideal* given form at that time - that in informal institutional settings authority could be legitimised by the public use of inter-subjective reason - because it shapes the still widely influential *deliberative* model of public space.³⁵

In contrast to the liberal model, where competition for public power occurred in an almost market competition between rational interests, a 'discourse-theoretic interpretation', in Habermas's words, 'insists on the fact that democratic will-formation draws its legitimating force not from a previous convergence of settled ethical convictions but both from the communicative presuppositions that allow the better arguments to come into play'.³⁶

It should also be noted that in *The Structural Transformation*, neither imperialism nor nationalism are explicitly linked to public sphere structure. As Benjamin Lee suggests, Habermas's 'account was resolutely *intranational* at both the cultural and economic levels'.³⁷ This is important because Chapter Six will suggest the consequences of these omissions are potentially great. 'Imperialism was born', Arendt suggests, 'when the ruling class in capitalist production came up against national limitations to its economic expansion. The bourgeoisie turned to politics out of economic necessity'.³⁸ The public sphere of bourgeois debate that Habermas describes was largely brought into being in an effort to influence foreign policy.

³² According to Lenin, 'the bourgeois democratic republic is the best possible political shell for capital'. Quoted in Jessop, *State Theory*, p. 109.

³³ Jim McGuigan likewise suggests, 'The very concept of a "public sphere" is to do with rational-critical discussion'. See Jim McGuigan, *Culture and the Public Sphere* (London: Routledge, 1996), p.4.

³⁴ Hannah Arendt, 'The Political Emancipation of the Bourgeoisie', *The Origins of Totalitarianism* (New York: Meridian Books, [1951] 1958), pp. 123-57.

³⁵ John S. Dryzek, *Deliberative Democracy and Beyond: Liberals, Critics, Contestations* (Oxford: Oxford University Press, 2000).

³⁶ Jürgen Habermas, 'Three Normative Models of Democracy', in Seyla Benhabib, (ed.) *Democracy and Difference: Contesting the Boundaries of the Political* (Princeton, NJ: Princeton University Press, 1996), p.24.

³⁷ Benjamin Lee, 'Peoples and Publics', *Public Culture*, Vol. 10, no. 2 (1998), p. 372.

³⁸ Arendt, *The Origins of Totalitarianism*, p.126. 'Imperialism must be considered the first stage in political rule of the bourgeoisie rather than the last stage of capitalism...' Arendt, *Origins of Totalitarianism*, p.138.

Likewise, Habermasian accounts of *global* publics similarly overlook how more contemporary relations of global power and subordination - as witnessed during the Kosovo war - can be constituted in and through public spheres.

Suffice-it-to-say here, that as the initial bourgeois public sphere expanded first in terms of the printing press then with the extension of the franchise, quality control (the 'better argument') predicated on high levels of education among a reasoning (white male property-owning) public seemed no longer to prevail. More and more groups, more and more issues, burst onto the public stage.³⁹ With the masses of labourers arriving in the industrialising cities - with the arrival of the working classes on the liberal political scene - came the bourgeois public sphere's so-called 'structural transformation.' From Habermas's perspective, the emergence of mass society overwhelmed what *could* have emerged as genuine deliberative democracy.⁴⁰ The impetus for *representative* democracy, a system later exported to the United States, was borne.

Though not admitting, of course, the structural conflict identified by thinkers on the Left, leading liberal commentators on both Europe and the United States became increasingly sceptical of the opinions of the 'masses'. John Stuart Mill lamented that "the tyranny of the majority" is now generally included among the evils against which society requires to be on its guard.⁴¹ In response, Mill called for toleration of 'minority' (middle class) views given society's inability to adjudicate between competing interests and accounts of the good. These matters were to be taken off the political agenda and left to the free and private conscience of the individual.⁴²

With the emergence of mass society a once valorised public opinion was viewed as merely one, usually coercive, interest among many. 'The majority in the United States', argued Tocqueville, 'takes over the business of supplying the individual with a quantity of ready-made opinions and so relieves him of the necessity of forming his own. So there are many theories of philosophy, morality, and politics which everyone adopts unexamined on the faith of public

³⁹ Habermas, *The Structural Transformation*, p. 140.

⁴⁰ Habermas, *Structural Transformation*, pp. xvii-xviii, 177.

⁴¹ John Stuart Mill, *Utilitarianism, On Liberty, Considerations on Representative Government* (edited by H.B. Acton) (London: Everyman's Library, 1992), p. 73.

⁴² For an influential US-based contemporary formulation see John Rawls, *A Theory of Justice* (Oxford: Oxford University Press, 1971). For a critique of the liberal notion that people are unregulated by power in their private domain see Michel Foucault, *Discipline and Punish: The Birth of the Prison* (translated by Alan Sheridan) (New York: Vintage Books, 1977).

opinion'.⁴³ By the mid-19th Century, the ambivalence with which liberals held the power of Kantian publicity was clearly palpable.

The constitutional manifestation of this liberal scepticism towards unfettered (working class) opinion was representative government. Derived from social contract theory, democracy, at least in the influential Lockean formulation articulated in the US Constitution, was conceived as the process of manoeuvring the government in the interests of society.⁴⁴ The masses, in both Europe and the United States, were now to depend on a political elite, who, through *their* own critical debate, would inform and direct public opinion. The 'official' US public sphere would become a realm less like Kant's debating society and more a playing field, though not equal, of competing private interests.

Publics in the United States

Now that we have sketched how publics have been conceived in political theory, including the Habermasian notion of public sphere 'decline', we have a benchmark against which to measure the sociological trajectory of publics in the United States. Multiple public spheres have long existed in 'America'. The question becomes the appropriate way to characterise their mode and effect. Mary P. Ryan has suggested, for example, that, 'Nineteenth-century American public life was not enacted in some ideal hall of rational deliberation, in no modern day acropolis or small town meeting, but on a fluid field of cultural, social, and political mobilization'.⁴⁵

When the American Revolution, which began as a tax revolt, yanked power from the private will of George III, a public sphere for the colonial elite seemingly appeared in the New World. The standards, though not the reality, of publicity were later raised in Philadelphia in 1787 with the ideologies of popular sovereignty, public accountability, and 'universal' white male suffrage. City halls were quickly erected to complement the elaborate civic ceremonies. Small public meetings and political associations are widely imagined to have thrived.⁴⁶

⁴³ Alexis de Tocqueville quoted in Habermas, *The Structural Transformation*, p. 134.

⁴⁴ John Locke, *Two Treatises of Government* (with introduction and notes by Peter Laslett) (Cambridge: Cambridge University Press, 1963); Howard Zinn, *A People's History of the United States* (New York: HarperCollins, 1980), pp. 73-4.

⁴⁵ Mary P. Ryan, *Women in Public: Between Banners and Ballots, 1825-1880* (Baltimore: Johns Hopkins University Press, 1990), p. 176.

⁴⁶ The classic reading is Tocqueville's *Democracy in America*.

A spirit of public-ness, however, had already been clearly manifest in colonial America via a culturally energetic world of letters among propertied straight white men. In the early 18th Century, as Warner suggests, 'an emerging political language - republicanism - and a new set of ground rules for discourse - the public sphere - jointly made each other intelligible'.⁴⁷ Printing, more particularly, made it possible for colonists to imagine themselves already as part of a 'fourth' social category, the public, distinct from family, economy and colonial administration.

A bourgeois public sphere of sorts, then, existed in the early republic, which generated, and in turn was generated by, novel uses of print. An incipient public opinion emerged, indeed an historical transformation occurred, as the small newspaper presses boomed. How printed works were considered comprehensible, how they acquired cultural meaning in colonial America, had already begun to influence the shape of politics to come. Not simply a question of technological innovation in printing techniques, the 'structuring metalanguage'⁴⁸ of republicanism, a *cultural* transformation, ensured print would develop as the mode of comprehending what the 'public' was or could be.

In particular, the idea of being 'public' became associated with personal abstraction. In the words of Warner, 'publics are different from persons... [T]he address of public rhetoric is never going to be the same as address to actual persons, and that other partial nonidentity with the object of address in public speech seems to be part of what it means to regard something as public speech'.⁴⁹ Printed discourse fostered an increasingly formal separation between public and private, as well as contributing to imaginings of a concrete but unknowable audience constituted *as* a public via the circulation of the printed text itself.

This sense of impersonality and anonymity has been perceived as an essential cultural norm for opening up communicative spaces for individual men - they were usually men - to appear and express opinions in public. Consider Richard Sennett's account of an image of public-ness associated with theatre in the expanding cities of Europe.⁵⁰ The focus, like the actor on the stage, was on the content of the act, gesture or word rather than the agent behind. These social codes of personal abstraction, of being social but impersonal, Sennett suggests,

⁴⁷ Warner, *Letters of the Republic*, p.xiii.

⁴⁸ Michael Warner, 'The Mass Public and the Mass Subject', in Craig Calhoun (ed.) *Habermas and the Public Sphere* (Cambridge, MA: MIT Press, 1992), p. 380.

⁴⁹ Warner, *Publics and Counterpublics*, p. 78.

⁵⁰ Richard Sennett, *The Fall of Public Man* (Cambridge: Cambridge University Press, 1976).

opened the way for people to express controversial opinions without having to define *oneself* in the process.⁵¹ ‘Including people different from each other’, in the words of Craig Calhoun, ‘while making arguments rather than identities of the arguer the basis of persuasion is crucial to the meaningful constitution of a public sphere’.⁵²

Though alienation *from* self was viewed as essential for the integrity of white, male bourgeois publics, in the early US republic we can already observe a contrasting instance where personal abstraction was not the norm. The publics created by slaves and ex-slaves so crucial to their emancipation partly came into organisational being in relation to autobiographical circulating texts. This public was initially formed, however, not through strangers in the chaste sense most closely associated with liberal-republicanism, but via an *explicit* identification with the participants of the discourse *as* African-American slaves. Between 1703 and 1944, as Henry Louis Gates records, over six thousand slaves and ex-slaves narrated their stories forming the basis not only of the African-American literary genre but an incipient black public sphere desirous of freedom.⁵³ The potentially hidden class, gender, and race biases of the republican notion of impersonality will be important to the analysis in Chapter Five of contemporary race and immigration politics manifest during the Kosovo war.

Whatever the mode of public address, the sense of a public *world*, a human artifice of objects and things in between speakers and actors is important.⁵⁴ The American colonists, for example, proud of their public realm, were fond of comparing the United States to the classic republic of Rome, not coincidentally both politically and architecturally.⁵⁵ In *Promised Land, Crusader State*, Walter McDougal writes, ‘their Senate was an echo of the Roman institution, and their symbols of state, architecture, and even place names recalled the glory of Athens and Rome. And like those great republics of old, the United States seemed destined to prosper and

⁵¹ Sennett, *The Fall of Public Man*, p.64.

⁵² Craig Calhoun, ‘Nationalism and the Public Sphere’, in Jeff Weintraub and Kristin Kumar (eds.) *Public and Private in Thought and Practice: Perspectives on a Grand Dichotomy* (Chicago: Chicago University Press, 1997), p. 85.

⁵³ Henry Louis Gates Jr., ‘Introduction’, in Gates Jr. (ed.) *Classic Slave Narratives* (New York: Mentor, 1987), p.ix.

⁵⁴ For a fascinating discussion of the architectural analogies in Arendt’s concepts of labour, work, and action see Kenneth Frampton, ‘The Status of Man and the Status of his Objects: A Reading of *The Human Condition*’, in M.A. Hill (ed.) *Hannah Arendt: The Recovery of the Public World* (New York: St. Martin’s Press, 1979), pp. 101-130.

⁵⁵ Carroll William Westfall, ‘Architecture and Democracy, Democracy and Architecture’, in Arthur M. Melzer, Jerry Weinberger and M. Richard Zinman (eds.) *Democracy and the Arts* (Ithaca, NY: Cornell University Press, 1999), pp. 73-91.

grow into what Jefferson called an “empire for liberty”.⁵⁶ For briefly renewing the Roman marvel of founding a stable republic in ‘mutual promise’, the American Revolution was, according to Arendt, a paradigm of political action in the modern world.⁵⁷

Crucially, ‘modern’ here denotes more than simply industrialisation, including the political problem of legitimation - how to found a more lasting public realm in the absence of traditional morality.⁵⁸ In a philosophical and political break with traditional values,⁵⁹ the American Revolution seemed a quintessentially modern attempt to derive a new concept of power. Although not explicitly conceptualised by the Founding Fathers in the heady practice of conducting revolution, Arendt observed in their actions the transcendence of the Christian political tradition of founding authoritative principles in the otherworldly.⁶⁰

When reading Thomas Jefferson’s famous words ‘We hold these truths to be self-evident’, for example, Arendt laid emphasis on the authority of the agreement of ‘we hold’, rather than the ‘self-evident’ nature of the truth.⁶¹ The significant revolutionary act was the ‘necessarily relative’ agreement of the Founders. That the authority of the Declaration was contained within itself, that it derived its own legitimacy, meant it met the dual yardstick of neither being autocratically enforced nor needing to appeal to grounds outside.⁶²

Though undoubtedly a partial account which largely ignores the violent exclusion of women, Native Americans and slaves,⁶³ in re-reading this founding period in US history, Arendt perceived at least a partial answer to the problem of politics in modernity - how, in the absence of authoritative principles to impose on the public sphere, public freedom could both (for some) thrive *and* be rendered more stable.⁶⁴

⁵⁶ Walter A. McDougal, *Promised Land, Crusader State: The American Encounter with the World Since 1776* (New York: Houghton and Mifflin Company, 1997), p.18.

⁵⁷ Arendt, *The Human Condition* p. 228.

⁵⁸ See Max Weber, ‘Politics as a Vocation’, in *From Max Weber: Essays in Sociology* (translated, edited, and with an introduction by H. H. Gerth and C. Wright Mills) (Oxford: Oxford University Press, 1946), pp. 77-128.

⁵⁹ Arendt overstates the radical break with traditional values. ‘America’, as Williams writes, ‘was born and bred of the British Empire... [which] produced another culture [in the United States] based on the proposition that expansion was the key to freedom, prosperity, and social peace’. William Appleman Williams, *Empire as a Way of Life* (Oxford: Oxford University Press, 1980), pp. 17, 23.

⁶⁰ Arendt, *On Revolution*, p. 186.

⁶¹ Arendt, *On Revolution*, pp. 92-4.

⁶² Arendt, *On Revolution*, p.194.

⁶³ This is a common critique of Arendt. See the essays in Bonnie Honig (ed.) *Feminist Interpretations of Hannah Arendt* (Pennsylvania: Pennsylvania State University Press, 1995).

⁶⁴ This was in contrast to the Reign of Terror that arose after the French Revolution. See Arendt, *On Revolution*, pp.217-85.

It is in this context that two key discourses of US identity and foreign policy practice - law and technology - emerge as important. The rhetoric of the entire founding period was overwhelmingly legalistic because the method offered much sustenance for those attempting to scale down a New World as yet unknown. At the moment of instituting a new system of justice and law through the political founding of 'America' law itself, and associated rhetoric, took on a powerful legitimating force. Moreover, liberal-republicanism provided not only the ideology for the political experiment of the Revolution, its alliance with the promise of technology rendered possible the United States' peculiar brand of national and international utopianism - technology as the aesthetic and political future.⁶⁵

Before accounting in more detail the importance of technology and law as modes of political legitimation, we must clarify the sense in which the United States is described as a '*liberal-republic*'. Because the term is subject to more than a little controversy 'one must distinguish sharply', in the words Stephen Holmes, 'between two objects of criticism: liberal theories and liberal societies... Liberal ideals are only imperfectly embodied in existing liberal societies'.⁶⁶ If humanitarian violence can be deemed a powerful form of liberal cosmopolitan law-enforcement, as the next chapter will suggest, then the seeds of its performance and contradictions must lie where liberal politics and ideology have firmly taken root.

The Liberal-Republican State

Republican and liberal ideologies are to some extent contradictory.⁶⁷ 'Republicanism', in M.N.S. Sellers' words, 'requires popular sovereignty, which liberalism does not'.⁶⁸ The democratic process in various forms of republicanism, from Machiavelli to Rousseau to Arendt, enjoys a normatively higher position as popular sovereignty than the liberal emphasis on representation and individual rights. From the very beginning, however, liberal and republican principles and practices have been consciously (and unconsciously) balanced in the United States. Liberal legalism, regulations and conventions, as well as a written constitution, regularised administrative conduct in the post-colonial state, as well as supporting republican

⁶⁵ Kassen, 'Technology and Utopia', *Civilizing the Machine*, pp. 181-234.

⁶⁶ Stephen Holmes, *The Anatomy of Antiliberalism* (London: Harvard University Press, 1993), p.xiv.

⁶⁷ See Jürgen Habermas, 'Three Normative Models of Democracy', pp. 21-30; Habermas, *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy* (translated by William Rehg) (Cambridge: Polity Press, [1992] 1996), pp. 296-301.

⁶⁸ M.N.S. Sellers, *The Sacred Fire of Liberty: Republicanism, Liberalism and the Law* (London: Macmillan, 1998), p.x.

ideologies of popular sovereignty and a balance of power. The Constitution instituted a balanced government and Senate justified in republican terms. A republican form of government was also guaranteed for individual states. The following year, however, the first ten constitutional amendments, as Sellers describes, ‘established a list of proto-liberal rights’.⁶⁹ The institutions of the United States government have been variously imagined as the living embodiment of liberal principles combined with republican government,⁷⁰ and the epitome of republican principles combined with liberal institutional rule.

One need not accept the normative claim that liberalism contains within it the potential for civic renewal,⁷¹ to acknowledge the practical union of both (broadly conceived) liberal and republican norms in the institutions and practices of US public spheres.⁷² That said it is quite easy to offer a crude vision of liberal principles and oversimplify contemporary liberal politics in the United States. ‘Liberalism’ is highly contested and how it manifests itself politically in any specific context is open to dispute. In the words of Richard Flathman, ‘liberalism has never been a closely integrated or firmly fixed doctrine; its proponents have held to a considerable and frequently changing variety of views and its historians and critics have regularly disagreed concerning its main ideas and tendencies’.⁷³

Establishing the pre-eminence of individual rights, positive law, and constitutional frameworks, the legal structures and procedural mechanisms of the liberal-republican polity has been enduring in the United States, at once preserving individual freedoms for some and allowing infrequent though regular political participation for most in the form of voting. Even if one accepts the (critical) sociological diagnoses of Habermas, Max Weber and Arendt, the broad liberal response to the challenges of modernity has been to furnish the United States, and perhaps the entire West, with a conception of public space that is unique and uniquely powerful. The emphasis on the liberal tradition in the United States, however, has a forerunner and can be grounded in (and critiqued through) Tocqueville and Louis Hartz.

⁶⁹ Sellers, *The Sacred Fire of Liberty*, p. ix.

⁷⁰ Arthur Ekirch Jr., *The Decline of American Liberalism* (New York: Longmans, Green and Company, 1955); Richard Dagger, *Civic Virtue: Rights, Citizenship, and Republican Liberalism* (Oxford: Oxford University Press, 1997).

⁷¹ For this argument, however, see Robert D. Putnam, *Bowling Alone: The Collapse and Revival of American Community* (New York: Simon and Schuster, 2000).

⁷² The potentially more democratic republican edge to various moments of political action and dissent will become central to the analysis in Chapter Four of anti-war activism over Kosovo.

⁷³ Richard Flathman, *Toward a Liberalism* (Ithaca, NY: Cornell University Press, 1989), p.2.

For Tocqueville, a widespread egalitarian ideology, bountiful material conditions, and the absence of a feudal tradition combined to make 'America' (and 'Americans') ripe for democratic association and civic engagement. More specifically, however, the sense in which the United States is characterised as liberal derives, with some modification, from the classic Lockean sense most closely associated with Louis Hartz.⁷⁴ 'There has never been a "liberal movement" or a real "liberal party" in America', Hartz remarked, 'we have only the American Way of Life, a nationalist articulation of Locke which usually does not know that Locke himself is involved'.⁷⁵

What Hartz famously conceived as the Lockean 'consensus' others, such as J. David Greenstone, describe as 'republican liberalism',⁷⁶ the general acceptance and institutionalisation of individual rights, private property, and government by popular consent expressed in periodic elections. These conditions are presumed to be those without which any serious political alternative in the United States has been able to radically diverge. This is the image of the 'centrist nation', for Benjamin Barber at least, 'through which Clinton would eventually make his journey'.⁷⁷

European liberalism, represented by Locke and Mill, historically stood for an anti-establishment radicalism, a doctrine that was anti-Church, pro-secular state, and sought to reconcile the protection of capitalism with freedom of thought and expression for the rising middle class. Locke's notion of the free individual emerging from the state of nature gave meaning to the *defence* of civil government; Locke defended the emerging modern state but also, in a liberal vein, sought its limitation. Consequently the liberal-*European* reaction against feudalism endowed the state (and state intervention) with philosophical power and legitimacy it never had to be accorded in the New World.⁷⁸

Thus the absence of a feudal tradition in the United States, against which to defend the state, seemingly obscured the significance of liberal philosophy in the US founding period compared to the more celebrated republican tradition. When the Founders applied Locke's social contract theory by instituting representative government and the separation of powers,

⁷⁴ Hartz, *The Liberal Tradition in America*, p.4.

⁷⁵ Hartz, *The Liberal Tradition in America*, p.11.

⁷⁶ J. David Greenstone, *The Lincoln Persuasion: Remaking American Liberalism* (Princeton, NJ: Princeton University Press, 1993), pp. 51-53.

⁷⁷ Benjamin Barber, *The Truth of Power: Intellectual Affairs in the Clinton White House* (New York: WW Norton, 2001), p.220.

⁷⁸ Hartz, *The Liberal Tradition in America*, p.60.

they were not, according to Hartz, 'conscious of already having done anything to fortify the state but were conscious only that they were about to limit it.'⁷⁹ 'One side of Locke became virtually the whole of him.'⁸⁰

Liberal 'consensus' readings of US political history nevertheless underrate the extent of class conflict at the very heart (rather than simply the fringe) of society in the United States.⁸¹ Notions of 'American exceptionalism', especially the bountiful material conditions and sense of egalitarianism, are assumed to have militated against any socialist tradition of real substance. Hartz for example, suggested that the rhetoric of 1920s New Deal social reforms possessed a peculiarly liberal bent. Franklin Roosevelt 'did not use [the] language of class but... spoke pragmatically of solving problems'.⁸²

Certainly a cultural mindset on the part of powerful elites has militated against progressivism, as a seemingly 'irreversible ethic' of liberalism has made all problems *seem* 'technical'.⁸³ However, Charles Beard's account of the economic interests important to the Founding Fathers is not easily dismissed.⁸⁴ Consolidating (as opposed to re-founding) state power was probably second place in the Founders' minds, eager as they were above all to restrict the power of the British exchequer.⁸⁵ 'The Americans', Hartz rightly suggests, or certainly those most likely to self-represent in the official public sphere, are 'a kind of national embodiment of the concept of the bourgeoisie'.⁸⁶

Republican and liberal impulses have variously been combined, if only ambivalently, then, throughout the history of the state-based US public realm. Civic virtue, for example, traditionally appeared in tension with the liberal-individualist impulse for economic ambition and the creation of wealth - the first Jeffersonian Republicans were vocal critics of early-19th Century commercial liberalisation.⁸⁷

⁷⁹ Hartz, *The Liberal Tradition in America*, p.60.

⁸⁰ Hartz, *The Liberal Tradition in America*, p.60.

⁸¹ For an account of the relationship between unifying ideologies of white superiority and the varied class coalitions that ruled the United States during the nineteenth century see Alexander Saxton, *The Rise and Fall of the White Republic: Class Politics and Mass Culture in Nineteenth Century America* (London: Verso, 1990).

⁸² Hartz, *The Liberal Tradition in America*, p.205.

⁸³ Hartz, *The Liberal Tradition in America*, p.271.

⁸⁴ See Charles A. Beard, *An Economic Interpretation of the Constitution of the United States* (New York: Macmillan Company, [1913] 1961).

⁸⁵ Frederick W. Marks III, *Independence on Trial: Foreign Affairs and the Making of the Constitution* (Wilmington, Delaware: Scholarly Resources Inc., 1987).

⁸⁶ Hartz, *The Liberal Tradition in America*, p.51.

⁸⁷ Kassen, *Civilizing the Machine*, pp. 22-27.

One of the ways corporate liberal practices came to the fore at the expense of civic-republicanism, however, was via the ability of propagandists during *wartime* to valorise the entrepreneurial and commercial spirit while at the same time expressing civic 'public' virtue, albeit in nationalist form. As Steven Watts suggests in *The Republic Reborn*,

many influential Americans urged the prosecution of war in 1812 to relieve the social tensions accruing to liberalizing change. War with Great Britain offered a means to objectify and overcome the specters of avarice, faction, and dissipation that were haunting commercial development. Yet it is important to note that the social impulse to war did not fundamentally challenge consolidating liberal capitalism in the young republic. Instead, by offering only temporary catharsis for dissent, war actually reinforced emerging liberal hegemony.⁸⁸

By seeming to counter the increasingly pervasive spirit of self-interest, war emerged, in a Machiavellian sense, as a practical application of republican virtue.⁸⁹

Arguments for war in 1812 united a nostalgic desire for social renewal and the ethos of an innovative, new era. 'From this amalgam', suggests Watts, 'emerged war as a social crusade for ennobling unity *and* entrepreneurial striving, patriotism *and* profit.'⁹⁰ Dissent against liberalism was effectively channelled away from its original 18th Century object (increasing commercialisation and decreased public duty) towards defence of the nascent nation.

From the Revolutionary War of 1812 warfare has served a pivotal function in consolidating the social and cultural dynamics of liberalism, especially liberal capitalism, as practiced in the United States. (The even earlier mythology of the frontier had already established the socially 'regenerative' features of violence, as Richard Slotkin has shown.⁹¹) Indeed, fundamental to Weber's sociology of modern administrative structures - secular, rationalised and bureaucratic - was the state's legal domination of the institution of war.⁹²

Depersonalisation in the administration of the state was mirrored in integrated and specialised functional organisations elsewhere, military structures included.⁹³ The growth of unitary territorial sovereignty, both conceptually and historically in the United States, depended above all on control over the legitimate means of violence. In this sense, 'the military

⁸⁸ Watts, *The Republic Reborn*, p.105.

⁸⁹ Niccoló Machiavelli, *The Discourses* (edited and with an introduction by Bernard Crick) (Middlesex: Penguin, 1970).

⁹⁰ Watts, *The Republic Reborn*, p.105.

⁹¹ Richard Slotkin, *Regeneration through Violence: the Mythology of the American Frontier, 1600-1860* (New York: HarperPerennial, [1973] 1996), p.5.

⁹² Weber, 'Bureaucracy', *From Max Weber*, p.222.

⁹³ See Skowronek, 'Reconstituting the Army: Professionalism, Nationalism, and the Illusion of Corporatism', in *Building a New American State*, pp. 212-47.

origins of the modern American state', according to Nigel James Young, 'may lie less in the [Revolutionary] "founding" army of the Potomac, than in the [Civil War] Union army of the 1860s with its expanding industrial and population base in the North and East, and its more advanced mobilisation of national resources'.⁹⁴

Processes of obtaining the components of military power thought key to state survival have been crucial engines of political innovation, especially by increasing state penetration into society and the economy.⁹⁵ Buttressed by the institutions of the military and bureaucracy, established rational procedures encouraged societal acquiescence to the new order, especially in the decades after the Civil War; this proved crucial to the formation and legitimisation of the US nation-state itself.

Industrialisation, of course, was another major impetus. As Stephen Skowronek writes, 'The construction of a central bureaucratic apparatus was championed as the last way to maintain order during this period of upheaval in economic, social, and international affairs'.⁹⁶ The relative weakness of the early federal state in extracting the necessary resources to pursue great power ambitions may also account for the apparent delay in the arrival of the United States as a hegemonic regional and global power.⁹⁷

Moreover, the liberal notion that democracy and nationalism could exist in a more or less harmonious state helped ensure that popular allegiance to the nation - aided by multiple wars - would offset non-state fidelity to class, gender, and race. The notion of public life independent from the 'tremendous business concern' in which the expansion of the territorial state was rooted became much more tentative.⁹⁸ Rather than the labouring class identifying themselves as such, modern society largely became 'identified', in Arendt's words, 'with a privately owned piece of the world... with a tangible, albeit collectively owned piece of property, the territory of the nation-state'.⁹⁹ Ultimately, political identification with the nation, a kind of family writ-large in Arendt's view, would serve to transform the potentially

⁹⁴ Nigel James Young, 'The Nation State and War Resistance', University of California, Berkeley, Ph.D. dissertation, 1976, p. 93.

⁹⁵ Tilly, 'War Making and State Making', pp. 169-191.

⁹⁶ Skowronek, *Building a New American State*, p.4.

⁹⁷ Fareed Zakaria, *From Wealth to Power: The Unusual Origins of America's World Role* (Princeton, NJ: Princeton University Press, 1998).

⁹⁸ Arendt, *The Origins of Totalitarianism*, p.17.

⁹⁹ Arendt, *The Human Condition*, p. 256.

heterogeneous assortment of political opinions¹⁰⁰ into a seemingly, though illusory, homogenous national interest.

Concentrated and decentralised, hegemonic yet dispersed, the neo-Weberian administrative state in the United States has endowed itself an almost unprecedented scope of power to shape collective lives. New-fangled state structures and social dislocation, moreover, could more easily be accepted in the rapidly industrialising nation with the appearance of new, seemingly *impersonal* and neutral, modes of regulation. Legal domination, manifest in a single centre of institutional political power, was dependent on the modern separation of public administration from private authority and wealth. In particular, liberal *legalism*, regulations and conventions, as well as written constitutions regularised administrative conduct in the emerging liberal-state public realm.

The Legal Republic

Law is central to making a lasting public realm. Sociologically, lawyers have been crucial to both the development of modern states¹⁰¹ and the organisation of capital.¹⁰² The rule of law is foundational to any democratic order and, of course, goes back much further than ‘the modern’.¹⁰³ In the Greek conception, the ‘work’ involved in building a system of laws was in essence ‘prepolitical’, necessary to securing the structure of the public realm within which political action could then occur. In Arendt’s words,

The law of the city was neither the content of political action... nor was it a catalogue of prohibitions... It was quite literally a wall... This wall-like law was sacred, but only the inclosure was political. Without it a public realm could no more exist than a piece of property without a fence to hedge it in.¹⁰⁴

Although the term ‘law’ would assume different meanings throughout the centuries,¹⁰⁵ this resembles one of the traditional liberal understandings of laws as constituting the boundary between public and private (discussed further in Chapter Two).

¹⁰⁰ For Arendt’s account of the denigration of the term ‘opinion’ see *On Revolution*, pp.228-232.

¹⁰¹ Weber, ‘Bureaucracy and Law’, *From Max Weber*, pp. 216-221.

¹⁰² Charles Perrow, *Organizing America: Wealth, Power, and the Origins of Corporate Capitalism* (Princeton: Princeton University Press, 2002), pp.31-39.

¹⁰³ Michel Foucault, *Power* (edited by James D. Faubion and translated by Robert Hurley) (New York: The New Press, 1994), p. 33.

¹⁰⁴ Arendt, *The Human Condition*, pp. 63-4.

¹⁰⁵ Arendt, *On Revolution*, p.189.

Law, however, does more than secure the boundaries between public and private. Drawing on the Roman understanding, law is also *relational*, a way of institutionalising a relationship of pluralistic conflict, and hence was wholly political. The Roman word for law, *lex*, as Arendt describes, ‘has an entirely different meaning; it indicates a formal relationship between people rather than a wall that separates them from others’.¹⁰⁶

The Roman conception, which was far more influential in the US system, according to Arendt, understood the *spatial* significance of the role of law in relating things that would otherwise be separate.¹⁰⁷ In other words, ‘without human law the space between men would be a desert, or rather there would be no in-between space at all’.¹⁰⁸ Law, however, like the territorial boundaries Arendt regularly analogised with law, is always fragile, but is necessary to provide an element of stability to the always-unpredictable character of political action and the frailty of human institutions. In her words,

the territorial boundaries which protect and make possible the physical identity of a people, and the laws which protect and make possible its political existence, are of such great importance to the stability of human affairs precisely because no such limiting and protecting principles rise out of the activities going on in the realm of human affairs itself. The limitations of law are never entirely reliable safeguards against action from within the body politic, just as the boundaries of the territory are never entirely reliable safeguards against action from without.¹⁰⁹

Law alone could never be a match to political power; however, to focus on the question ‘how should we strengthen the law to provide a check to political power?’ is to misunderstand the character of power foundational to the US republic.

For Arendt, the emerging system of law in the United States, following Rome, established a republican network of relations among citizenry. After Montesquieu’s original formulation, once laws were understood in spatial terms, the philosophical dilemma of finding absolute authority, some ‘higher’ law, was dissolved, replaced by the practical political problem of building consent.¹¹⁰ Machiavelli’s concept of republican politics as dynamic, conflictual, and expansive is critical in this regard.

¹⁰⁶ Arendt, *The Human Condition*, p.63. fn. 62.

¹⁰⁷ Arendt, *On Revolution*, p.189.

¹⁰⁸ Arendt, *On Revolution*, p.304. fn. 18.

¹⁰⁹ Arendt, *The Human Condition*, p.191.

¹¹⁰ Arendt, *On Revolution*, pp. 182-3, pp. 189-90. In contrast to the liberal emphasis, Arendt suggested laws should not be conceived solely as imposing ‘standards and commands’ by some higher authority.

To 'safeguard liberty' in a republican government, Machiavelli argued, would require a network of continual social conflict.¹¹¹ As Michael Hardt and Antonio Negri recount, the US Constitution accordingly articulated a model of politics as '*constituent* power... a product of an internal and immanent social dynamic'¹¹² to match the system of relational law. Public space would thus arise through the unending plurality of conflicts manifest in the separation of powers, expressed and augmented by legal constitutional procedures.¹¹³ The principle underlying the revolution was that power, not law, 'arrests power'.¹¹⁴

Arendt was fully aware of the originality of this networked arrangement, in which public freedom depended on open political conflict. She did not, however, explicitly articulate this in terms of a logic of territorial expansion, though it was not excluded from her account.¹¹⁵

"'Wherever you go, you will be a *polis*': these famous words became not *merely* the watchword of Greek colonization', she argued, 'they expressed the conviction that action and speech create a space between the participants which can find its proper location almost anytime and anywhere'.¹¹⁶

Since Plato, thinkers have argued that a truly republican form of government, allowing direct and full participation for all, could only endure within a limited territory - the Greek city-state being the ideal *polis*.¹¹⁷ Power, in the US system of government, however, seemed to depend on an open space in which to thrive. In the words of James Madison, 'This form of government, in order to effect its purpose, must operate not within a small but an extensive sphere... Extend that sphere, and you take in a greater variety of parties and interests; you make it less probable that a majority of the whole will have a common motive to invade the rights of other citizens'.¹¹⁸

While notions of new beginnings, human progress and expansion, natural law, and a continent unsoiled were crucial to the rhetoric of revolution, for Native Americans these assumptions required a 'profusion of law legitimating [and] energising... genocidal

¹¹¹ Machiavelli, *The Discourses*, pp. 113-17. (Book I.3 and I.4.).

¹¹² Michael Hardt and Antonio Negri, *Empire* (Cambridge, MA: Harvard University Press, 2001), p.162.

¹¹³ Arendt, *On Revolution*, p. 164.

¹¹⁴ Arendt, *On Revolution*, p.149.

¹¹⁵ For an account of the imperial logic behind the America Constitution see Williams, *Empire as a Way of Life*, pp. 45-6.

¹¹⁶ Arendt, *The Human Condition*, p.198. My italics.

¹¹⁷ Jean-Jacque Rousseau, for example, argued authentic participatory democracy could only occur in a geographically limited space. See Rousseau, *The Social Contract* (introduction by Charles Frankel) (New York: Hafner Publishing, 1947).

¹¹⁸ Madison quoted in Williams, *Empire as a Way of Life*, p. 45. Also see Arendt, *On Revolution*, pp. 167-8.

imposition'.¹¹⁹ The notion of the US public realm as requiring boundless empty space could only be envisioned by reducing Native Americans to 'part of the natural environment'.¹²⁰

This was possible in the complementary *liberal* vision, following Kant, by defining public identity in terms of property rights. Indians were defined as incapable of possessing the rights of citizenship thus legitimating the legal expropriation of their land. With the doctrine of *terra nullis*, law became a critically redeeming tool of expansion and liberal militarism in the violent conquest of the continent.¹²¹ US strategists during these wars with Indian peoples often disregarded norms of noncombatant immunity, which were already emerging in Europe, in favour of the almost total destruction of entire communities.¹²²

In the emerging liberal republic, law at once provided a positive rationale for political rebellion against the Old World and the perfect instrument of empire, patriarchy, and slavery in the 'New', the legal institutionalizations of which still resonate today. Law was the perfect instrument for as Philip Allott suggests, 'Law is the most *efficient* instrument for the actualizing of the ideal'.¹²³ Although the language of 'natural law' figured substantially in the Founders' discourse it did not, indeed could not, sufficiently stretch to include recognition of the Indians' rights to land. It *could not* if expansive republican democracy as conceived in the early republic were to flourish. Indeed, the law itself was proof-positive that Europeans were bringing forth into the 'open' terrain a superior civilization, politically, economically, and technologically. Intertwining well with the legal discourses of the day was, of course, racial discrimination, necessary if colonisation was to be squared with the language of liberty.

The search for *extra-political* groundings for the public sphere, including ones based on 'rational' law, which did not account for plurality, difference, and the contested nature of politics could only have been this destructive.¹²⁴ Similarly, the result of efforts to provide extra-political legitimations for politics in the United States, especially through the language of

¹¹⁹ Robert A. Williams, *The American Indian in Western Legal Thought: The Discourses of Conquest* (Oxford: Oxford University Press, 1990), p. 6.

¹²⁰ Hardt and Negri, *Empire*, pp. 169-70.

¹²¹ Michael Mann, 'Authoritarian and Liberal Militarism: A Contribution from Comparative and Historical Sociology', in Steve Smith, Ken Booth, and Marysia Zalewski (eds.) *International Theory: Positivism and Beyond* (Cambridge: Cambridge University Press, 1996), p.234.

¹²² Russell F. Weigley, 'American Strategy from Its Beginnings through the First World War', in Peter Paret (ed.) *Makers of Modern Strategy: From Machiavelli to the Nuclear Age* (Princeton, NJ: Princeton University Press, 1986), pp. 408-443.

¹²³ Philip Allott, 'Globalization from Above: Actualizing the Ideal Through Law', *Review of International Studies*, Vol. 26, Special Issue, (2000), p.71. Emphasis added.

¹²⁴ Hannah Arendt, 'What is Authority', in *Between Past and Future: Eight Exercises in Political Thought* (New York: Viking Press, 1968), pp.91-142.

technology and law, will be shown as central to justifications for the Kosovo war. But as Chapter Two will also suggest, the force of international legal discourses during war over Kosovo is more than simply consistent with the codification of law and politics in this founding period of the United States.¹²⁵ The expansive conception of networked power that justified the 'legal' expansion into Native American territories suggests the legal quandary represented by Kosovo can also be read, in part, as an extension of the US Constitutional project. What links these two apparently disparate eras and 'legal' practices, continental expansion and global engagement, is the open network conception of power inaugurated by the US Constitution. 'The idea of sovereignty as expansive power in networks is poised', Hardt and Negri rightly claim, 'on the hinge that links the principle of a democratic republic to the idea of Empire'.¹²⁶

The Technological Republic

If law plays only an ambivalent role in justifications for war then technology, it seems, is much more decisive. Integral to the endeavour of the thesis - especially the argument concerning the role of technology in efforts to legitimate war over Kosovo - is establishing the often assumed natural alliance between the values of the US state-public sphere and technological advance. The ascent of instrumental, 'technical' rationality has been one of the most distinguishing (and politically relevant features) of founding the first modern polity, in essence, without traditional foundations.¹²⁷

From the original frontier in the American West to the new frontier of outer space, the expansion of the United States outwards has been tied up with the technological, and the capacity of the technological to absorb public imagination.¹²⁸ 'Neither the general fear of the mechanical and the specific fright of accident and injury', suggests Alan Trachtenberg, 'nor the social fear of boundless economic power entirely effaced the Utopian promise implicit in the

¹²⁵ Though it is an age-old feature of US foreign relations, this logic of expansion has most recently been re-articulated in the Bush Administration's 2002 National Security Strategy Document. See <http://www.whitehouse.gov/nsc/nss.html> [downloaded October 22, 2002].

¹²⁶ Hardt and Negri, *Empire*, p. 166.

¹²⁷ Langdon Winner, *Autonomous Technology: Technics-out-of-Control as a Theme in Political Thought* (Cambridge, MA: MIT Press, 1977).

¹²⁸ David E. Nye, *Narratives and Spaces: Technology and the Construction of American Culture* (Exeter: University of Exeter Press, 1997).

establishment of *speed* as the new principle of public life'.¹²⁹ This *cultural* dimension of the power of technology is central to the account in Chapter Three of the technological discourses related to 'virtual war' over Kosovo.

Though the term did not enter popular usage prior to Harvard Professor Jacob Bigelow's influential 1829 book *Elements of Technology*, the *utopic* impulse of liberal-republican ideology in the United States combined, from its very roots, with a faith in technology's ameliorative, progressive and future-oriented powers.¹³⁰ As Arthur Melzer, Jerry Weinberger and M. Richard Zinman describe,

liberal politics and technological science began to emerge at about the same time, and to some extent, in the same minds. They sprouted from similar premises concerning the autonomy of practical and theoretical reason from scriptural or teleological absolutes, and they were nourished by shared hopes for humanity's progressive self-improvement through its conquest of the political and natural worlds. They have also supported each other symbiotically: liberalism protecting free and public scientific inquiry, while the latter generated the technological and economic growth on which the former has depended.¹³¹

What developed in the United States was a combination of romanticism and utopianism brought together above all by the promise of technological advance.

This joining was not entirely unique to the US, of course - such a combination of sentimentalism and faith in a progressive destiny also formed the basis of Nazi ideology.¹³² In the words of Thomas Mann, 'the really characteristic and dangerous aspect of National Socialism was its mixture of robust modernity and an affirmative stance towards progress combined with dreams of the past: a highly technological romanticism'.¹³³ Nevertheless, not simply the broker of economic progress but also the guardian of liberty, from the power loom adapted from the English textiles industry to assembly-line production later put to use by

¹²⁹ Alan Trachtenberg, 'Forward', in Wolfgang Schivelbusch, *The Railway Journey: The Industrialization of Time and Space* (Berkeley, University of California Press, 1986), p.xiii.

¹³⁰ Ruth Schwartz Cowan, *A Social History of American Technology* (Oxford: Oxford University Press, 1997), pp. 201-219.

¹³¹ Arthur M. Melzer, Jerry Weinberger and M. Richard Zinman 'Preface', in Melzer, Weinberger and Zinman, (eds.) *Technology in the Western Political Tradition* (Ithaca, NY: Cornell University Press, 1993), p.viii. Also see David Noble, *Forces of Production: A Social History of Industrial Automation* (Oxford: Oxford University Press, 1984), pp. ix-x.

¹³² Azar Gat, 'American Populism, Progressivism, and Mid-West Technological Modernism', in *Fascist and Liberal Visions of War: Fuller, Liddell Hart, Douet, and Other Modernists* (Oxford: Clarendon Press, 1998), pp.104-113.

¹³³ Quoted in Jeffrey Herf, *Reactionary Modernism: Technology, Culture and Politics in Weimar and the Third Reich* (Cambridge: Cambridge University Press, 1984), p.2.

Henry Ford,¹³⁴ technological achievement has become the tool and symbol of US republican virtue.

Since the War of Independence, the links between technology and republicanism have been fundamental to the United States' conception of itself as democratic. In the words of Hugo Meir,

democracy became consciously and elaborately associated with American progress in the applied sciences. Evident in the early years of the Republic, this association came to emphasize the special role of technology in providing the physical means of achieving democratic objectives of political, social, and economic equality, and it placed science and invention at the very center of the age's faith in progress.¹³⁵

Central to the development of this vision of republican technology - and abundantly clear from the literature - was the extent to which the pioneer's identity was imagined in terms of agriculture.¹³⁶

In his *Second Treaties of Government*, John Locke went as far as suggesting the United States was the exemplification of the state of nature. 'Thus in the beginning', he wrote, 'all the World was America'.¹³⁷ Moreover, where European liberalism had always been associated with the urbane cities, Thomas Jefferson made the land, not the towns, 'the indispensable base of liberal democracy'.¹³⁸ Agrarianism seemed to naturally coincide with limited government.¹³⁹ Thus, puritan, agrarian America of the late 18th and 19th Centuries came to epitomise the revolutionary virtue of the newfangled republic.¹⁴⁰ Colonists agitating against British regulation could turn to the advancing technology of decentralised domestic manufacturers to beget an industry of indigenous, rather than foreign, wealth. This nostalgic and patriotic 'myth of the self-sufficiency,'¹⁴¹ has acquired national status of almost mythic proportions.

¹³⁴ Henry Ford himself flirted with Nazism and Hitler was an admirer of Ford and his assembly line innovations, which he praised in *Mein Kampf*. See David E. Nye, *Henry Ford: Ignorant Idealist* (London: Kennikat, 1979), p.52.

¹³⁵ Hugo A. Meir, 'The Ideology of Technology', in Edwin T. Layton Jr., *Technology and Social Change in America* (London: Harper and Row, 1973), p.80.

¹³⁶ Leo Marx, *The Machine in the Garden: Technology and the Pastoral Idea in America* (Oxford: Oxford University Press, 1964).

¹³⁷ John Locke, *Two Treatises of Government* (introduction and notes by Peter Laslett) (Cambridge: Cambridge University Press, 1963), p.343.

¹³⁸ Hartz, *The Liberal Tradition in America*, p.119.

¹³⁹ Ekirch Jr., *The Decline of American Liberalism*, p.391; Cowan, *A Social History of American Technology*, p.206.

¹⁴⁰ Kassen, *Civilizing the Machine*, p.7.

¹⁴¹ Cowan, *A Social History of American Technology*, p.29.

Alexander Hamilton and Trench Coxe, authors of the influential 1791 *Report on Manufactures*, were keen on the extension of factory systems at accelerated pace, systems 'manned' largely by women and children.¹⁴² Though Jefferson remained less sanguine that the machine could be introduced without the polluting industrialisation of England, the widespread easing of Puritan cultural misgivings concerning indulgence pushed further the already opening door to industrial capitalism.¹⁴³ In addition to suggesting to working class whites what the republic could offer, the once European-centred philosophies of representative democracy and economic freedom were appropriated by elites in full force. Led by Adams and Jefferson, opinion leaders affirmed Adam Smith's *laissez faire* logic, notably the liberal adage that collective public good could come from private vice.¹⁴⁴

More than this, however, the emergence of a distinct national identity, seeming unity, and new form of *modern* subjectivity was itself fostered by the conquering of geography by machines. 'Mechanized by seat arrangements and by new perceptual coercions (including new kinds of shock), routinized by schedules, by undeviating pathways', suggests Trachtenberg, 'the railroad traveller underwent experiences analogous to the military regimentation... He was converted from a private individual into one of a mass public - a mere consumer'.¹⁴⁵

A transformation of the self from a private individual into one conscious of itself as part of a mass public was facilitated by new mechanised schedules. According to Trachtenberg,

Thus the physical experience of technology mediated consciousness of the emerging social order; it gave a form to a revolutionary rupture with past forms of experience, of social order, of human relation. The products of the new technology, as [Karl] Marx remarked, produced new forms of subject; they produced capacities appropriate to their use. In their railway journeys nineteenth century people encountered the new conditions of their lives; they encountered themselves as moderns, as dwellers within new structures of regulation and need.¹⁴⁶

These new railroads reduced the sense of overwhelming distance between the diverse peoples, entwining them into a continental web.

¹⁴² Cowan, *A Social History of American Technology*, p.207.

¹⁴³ Ekirch, *The Decline of American Liberalism*, p. 12.

¹⁴⁴ Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations* (New York: Modern Library, 1985). Smith's manual for capitalism was published in 1776, the same year as the American Declaration of Independence.

¹⁴⁵ Trachtenberg, 'Forward', p.xiv.

¹⁴⁶ Trachtenberg, 'Forward', p.xv.

While appearing to resolve one dilemma - how to reconcile republican morality across a geographical expanse - technological advance posed another problem as the rural idyll gave way to post-Civil War industrialisation. Not all responded with uniform rapture to the spread of technology and the seemingly attendant glut of wealth. Even by the War of Independence, Jefferson had asserted, 'Our enemy has indeed the consolation of Satan on removing our parents from first Paradise: from a peaceable and agricultural nation, he makes us a military and manufacturing one'.¹⁴⁷

An ever increasing 'job mentality' born of growing relative affluence seemed to produce individuals too assimilated to the pursuit of wealth and consumption to be responsive to republican citizenship. Experiments of the 'factory as republican community' certainly took shape, most famously as the 1820s 'celestial factory town' in Lowell, Massachusetts.¹⁴⁸ But to Arendt, like Jefferson, 'the danger was that all power had been given to the people in their private capacity and that there was no space established for them in their capacity of being citizens'.¹⁴⁹

Long before the rapid industrialisation of the 19th Century, emerging abundance and republican equality for all, *pace* the rhetoric of the Founders and the national myth, profusely failed to reflect life for the majority.¹⁵⁰ Moreover, increasingly into the 20th Century, government, industry and the educational establishment began to further collude in founding a science of government geared towards 'problem-solving' in the extreme.¹⁵¹ Such endeavors extended the metaphor of society as a giant machine to the technological semi-utopias of the workplace. Frederick Taylor's 1911 treatise, *Principles of Scientific Management* - though primarily proposed for the factory - was extended by his followers to almost every sphere of modern US life.¹⁵²

In the context of Cold War uncertainty, dystopic science fiction and 'doomsday myths inspired by the atom bomb',¹⁵³ political writers and popular culture continued to depict the

¹⁴⁷ Quoted in Marx, *The Machine in the Garden*, p. 144.

¹⁴⁸ See Kassen, 'The Factory as Republican Community', in *Civilizing the Machine*, pp.55-106.

¹⁴⁹ Arendt, *On Revolution*, p.253.

¹⁵⁰ Louisa Bertch Green, 'The Liberal Tradition in American Politics: A Slow Boat to Democracy', in David F. Ericson and Louisa Bertch Green (eds.) *The Liberal Tradition in American Politics: Reassessing the Legacy of American Liberalism* (London: Routledge, 1999), p. 43.

¹⁵¹ Paul A. C. Koistinen, *The Military Industrial Complex: A Historical Perspective* (New York: Praeger, 1980).

¹⁵² Frederick Taylor, *Principles of Scientific Management* (New York, Harper and Brothers, 1911).

¹⁵³ Andrew Feenberg, *Alternative Modernity: The Technical Turn in Philosophy and Social Theory* (London: University of California Press, 1995), p.41.

onset of a bureaucratic 'iron-cage'.¹⁵⁴ In contrast to post-war liberal theorists who have been relatively close-lipped on the subject,¹⁵⁵ critical theorists reacted to the instrumental rationality increasingly associated with liberal society.¹⁵⁶ The 'political' in these visions has come to embody the values of 'technique' - efficiency, speed, and know-how - the methods and devices of the practical sciences applied to government, economy and the military at virtually all levels.

Not only would modernity lead to the ever-increasing pursuit of rational knowledge in the scientific sphere and the rational ordering of the means of production in the economic, the impact on public spheres in terms of the rise of the legal-bureaucratic state would be immense. The situation would worsen by the systematic differentiation of spheres of knowledge and further institutional reorganisation to advance instrumental rationality, where practical, political problems become technical issues to be scientifically resolved.

Proving foundational to public sphere narratives of 'decline', when the United States embraced the broad ethics of a liberal-enlightenment response to modernity, including the valorisation of technology, a kind of 'politics-as-technique' emerged. As Hartz reminds us, 'It is only when you take ethics for granted that all problems emerge as problems of technique'.¹⁵⁷ However, with most politics in the United States seemingly operating in a sphere of technical administration what becomes of public spheres? Are these critiques exaggerated? What place is there for effective argument and anti-war dissent if most politics is deemed merely technical?

Dissent in the Liberal-Republic

Emergency legislation, appeals to nationalism and the triumph of jingoism demonstrate the highly politicised nature of modern society and the major empirical function of war, even so-called humanitarian war, as a substantial mode of social control. 'Despite Nietzsche's remark that "a good war justifies any cause"', as Nigel James Young suggests, 'most modern states

¹⁵⁴ See Weber, 'Bureaucracy', *From Max Weber*, pp.196-244.

¹⁵⁵ Melzer, Weinberger, and Zinman, 'Preface', p.viii.

¹⁵⁶ See Theodore Adorno and Max Horkheimer, *Dialectic of Enlightenment* (translated by John Cumming) (London: Allan Lane, [1944] 1973); Arendt, *The Human Condition*; Jürgen Habermas, *Toward a Rational Society: Student Protest, Science and Politics* (London: Heinemann, [1969] 1971); Carl Schmitt, *The Concept of the Political* (Chicago: Chicago University Press, [1932], 1996); John McCormick, *Carl Schmitt's Critique of Liberalism: Against Politics as Technology* (Cambridge: Cambridge University Press, 1997).

¹⁵⁷ Hartz, *The Liberal Tradition in America*, p.10.

have sought to rationalise warmaking in fairly elaborate terms'.¹⁵⁸ Chapter Four will suggest in more detail that the expansion and measure of the legitimacy of state power is perhaps nowhere more acutely revealed in the urgency, speed, and concentration of state activity in the official public sphere during the immediate period of war mobilisation.

All forms of political dissent, as Jean-Jacques Rousseau noted, in some sense contravene the majority's right to make binding law under the social contract.¹⁵⁹ Moreover, in times of war, rebels set themselves against the perceived needs of the administrative national security state; the growth of pacifism and other organised forms of anti-war dissent largely corresponds with the development of modern bureaucratic armies.¹⁶⁰

The modern diffusion of a relatively homogenous political culture in the United States, sustained by mass communication as witnessed during Kosovo, has made it difficult (but also created new opportunities) for groups opposing war to reach and appeal to a mass audience. That said, traditions of anti-war activism enjoy a central place in both liberal and 'American' intellectual traditions, also important to the United States' perception of itself as democratic.

In 1846, the American radical Henry David Thoreau was arrested in Concord, Massachusetts for refusing to pay his poll tax. Claiming he would not support black slavery or external wars of aggression, Thoreau radicalised Locke's notion of consent; unless he had assented directly he would remain unbound by any government act. 'The only obligation which I have a right to assume is to do at any time what I think is right'.¹⁶¹ On the grounds of individual conscience no other option was possible; 'it is his duty, at least, to wash his hands of it, and, if he gives it no thought longer, not to give it practically his support'.¹⁶²

Presaging an analogy powerfully drawn later by Michel Foucault, modern man, forced to follow the orders of industrial and increasingly mass society, seemed little more than a regimented soldier.¹⁶³ 'The mass of men', Thoreau claimed, 'serve the state thus, not as men mainly, but as machines, with their bodies. They are the standing army, and the militia, jailers,

¹⁵⁸ Young, 'The Nation State and War Resistance', p. 141.

¹⁵⁹ Jean Jacques Rousseau, *Rousseau's Political Writing* (edited by Alan Ritter and Julia Conaway Bondanella, translated by Julia Conaway Bondanella) (New York: WW Norton, 1988), p.93.

¹⁶⁰ Young, 'The Nation State and War Resistance'.

¹⁶¹ Henry David Thoreau, 'Civil Disobedience', in *Walden and Other Writings* (edited and with an introduction by Brooks Atkinson, forward by Townsend Scudder) (New York: The Modern Library), p.637.

¹⁶² Thoreau, 'Civil Disobedience', p.642.

¹⁶³ Foucault, *Discipline and Punish*, p.168.

constables... In most cases there is no free exercise whatever of the judgment or of the moral sense; but they put themselves on a level with wood and earth and stones'.¹⁶⁴

Ralph Waldo Emerson, Thoreau's peer, similarly argued in the US context that, 'Society everywhere is in conspiracy against the manhood of every one of its members... Whoso would be a man must be a nonconformist'.¹⁶⁵ These 19th Century masculine paeans to radical individualism in Emerson, Thoreau, and the poetry of Walt Whitman, valorise the absolute priority of the heroic 'rugged' self; a distinctly 'American' conception of human agency and dissent seemingly found in courageous acts of rebellious self-display.

The Lockean understanding of consent - that power could never legitimately be held over someone without permission¹⁶⁶ - is mirrored in Seymour Martin Lipset's standard liberal definition of legitimacy. 'Legitimacy', he argued, 'involves the capacity of the system to engender and maintain the belief that the existing political institutions are the most appropriate ones for the society'.¹⁶⁷ In the words of Nancy Rosenblum, 'because consent is the sole source of legitimacy for liberal authority, liberal theorists define tyranny subjectively as a loss of trust rather than objectively as misgovernment'.¹⁶⁸

Nonetheless, in all but the most dogmatic appraisals of the liberal tradition, the right to dissent against repressive authority, to refuse political allegiance to monarchical rule, was close to the heart of the initial revolutionary impulse - the democratic cutting-edge of liberalism as it emerged in the modern West. Where certain forms of dissent found a home in early liberal theory, the sociology and institutional origin of constitutional democracy incorporated features that would provide, at least in principle, crucial protection to individuals and groups resisting participation in war. The delineation of the checks and balances in Locke found expression in the US Constitution and, as articulated in the Declaration of Independence, concrete liberties were grounded in principles of human rights deemed universal in theory, if not practice.

Moreover, for those barred these established liberties, the natural rights basis of social contract theory supported certain appeals to higher laws, including the religious basis of much

¹⁶⁴ Thoreau, 'Civil Disobedience', pp. 637-8.

¹⁶⁵ Ralph Waldo Emerson, 'Self Reliance'. See <http://www.emersoncentral.com/selfreliance.htm> [downloaded October 5, 2001].

¹⁶⁶ Locke, *Two Treatises of Government*, p.374.

¹⁶⁷ Seymour Martin Lipset, 'Social Conflict, Legitimacy, and Democracy', in William Connolly (ed.) *Legitimacy and the State* (Oxford: Basil Blackwell, 1984), p. 88.

¹⁶⁸ Nancy L. Rosenblum, *Another Liberalism: Romanticism and the Reconstruction of Liberal Thought* (Cambridge, MA: Harvard University Press, 1987), p.105.

pacifism, as well as more general considerations of justice.¹⁶⁹ The institutionalised freedoms most pertinent to anti-war activism included habeas corpus, basic religious toleration, free association and speech.

Bourgeois-liberal opposition to conscription thus offered novel, secular rationalisations - as distinct from earlier peasant rebellions based on sheer survival - against the security states entitlement to dispatch of its subjects lives in war.¹⁷⁰ Private, spiritual, or conscientious beliefs about life and death - though still much in evidence in arguments against Kosovo - increasingly came under state regulation as it penetrated more and more areas of collective life. However, struggles against conscription and other more indirect forms of citizen participation in war could now, as a result, be expressed in terms of liberal, as well as libertarian and anarchist, aversions to state power in general.

Of course, with the virtual abandonment of the draft since the Vietnam War, the executive branch of the US government has been able to avoid some of the more difficult legitimacy questions by deploying an all-volunteer, highly technological military force.¹⁷¹ Nonetheless, even today, in the age of corporate-politics and institutional compromise modern citizens are well within traditional liberal bounds, as Chapter Four suggests, when discarding conventional modes of electoral participation and take directly to the streets.

Opposition to societal integration, including mobilisation for war, has been eroded, however, to the extent that modern national cultures have emerged and taken the place of alternative nodes of authority. Becoming especially apparent 'as a plurality of "publics"', in Young's words, 'has been replaced by a set of divided elites and pressure groups'¹⁷² there has been a persistent tendency for peace movements to engage in pragmatic compromise indicative of liberal institutionalism.

The history of peace movements in the United States, accordingly, follows a comparable pattern of 'civic development' underlined by T.H. Marshall: 'an initial stage is that closely allied with the search for toleration - and is associated with individual liberties of the person'.¹⁷³ A vital tactic of dissent, defending the legal right to conscientiously object relies on a level of administrative neutrality, an independent judiciary and separation of powers,

¹⁶⁹ April Carter, *Direct Action and Liberal Democracy* (London: Routledge, 1973), pp. 94-5.

¹⁷⁰ Young, 'The Nation State and War Resistance', p. 163.

¹⁷¹ Joseph A. Califano Jr., 'When There's No Draft', *The Washington Post*, April 6, 1999.

¹⁷² Young, 'The Nation State and War Resistance', p. 276. Also see John Rawls, 'Legal Obligation and the Duty of Fair Play', in J.P. White (ed.) *Assent/Dissent* (Iowa: Kendall/Hunt, 1984), pp. 45-56.

¹⁷³ Young, 'The Nation State and War Resistance', p. 253.

privileged within the liberal school. These processes of legal adjudication, suggest John Whyte and Allan MacDonald, are 'rooted in the view that society with its agencies and instruments, is directed to reflecting human choice'.¹⁷⁴ The frequent search for legal redress by those seeking alternatives to war corresponds closely to the liberal-state stress on the individual and *private* dimension of the decision to publicly object.

Examples of popular activism against NATO's war will be shown in Chapter Four to represent instances in which the role of liberal political culture in shaping anti-war publics is both reinforced and exceeded. Liberal, constitutional modes of dissent were common against NATO, but much more unpredictable and contingent styles of being public were also evident in the numerous 'counterpublics' of anti-war demonstrators. The treatment of Kosovo-Albanian refugees and Serb- and Albanian-American immigrants, the latter groups quite actively taking to the streets during the bombing campaign, will provide further evidence of the limitations of a straightforwardly 'liberal' reading of the development of US publics.

Foreigners and the Republic

The category of the 'public sphere' is a *transnational* cultural form, not only a Western articulation of bourgeois forms of representation but also constitutive of a social imaginary in which questions of immigration and refugees are framed. The truths and myths of the immigrant origins of the United States have been long functional, Bonnie Honig describes, 'as a variety of American institutions and values, from capitalism to community to family to the consenting liberal individual, are seen to be periodically reinvigorated by that country's newest comers, its idealized citizens: naturalizing immigrants'.¹⁷⁵

US patriotic pride was evident throughout the Kosovo war and was partly produced via the symbolic politics of Serb- and Albanian-American immigrants and Kosovo-Albanian refugees. The very existence of public spheres in the United States, however, must not be taken for granted; the very founding of publics is in large part produced through essentially precarious social processes and practices. As historical and conceptual context for the discussion of 'foreigners' in Chapter Five, this section positions refugees and immigrants in historical and contemporary US public discourse as both constitutive of, and a fundamental threat to, the use of public space.

¹⁷⁴ John D. Whyte and Allan MacDonald, 'Dissent and National Security and Dissent Some More', C.E.S. Franks (ed.) *Dissent and the State* (Oxford: Oxford University Press, 1989), p. 26.

¹⁷⁵ Bonnie Honig, *Democracy and the Foreigner* (Princeton: Princeton University Press, 2001), p.4.

Unlike societies based on religious or ethnic ties those who live in the United States, according to national legend, uniquely *choose* (or their ancestors once chose) to live there. (African slaves are not usually included in the histories of migration to America.¹⁷⁶) Nevertheless, although such narratives obscure the history of Native Americans (already there) and African-Americans (whose ancestors never had a choice) that the US imagines itself as the place where the wretched can find freedom holds a power rarely lost on nostalgic writers and politicians.¹⁷⁷

This can be witnessed in the politics of one of the most crucial intersections between foreign policy practice and national identity, the ability to use military force legitimately. In the words of Ryan, 'the public arena is... the only legitimate agency for the use of force'.¹⁷⁸ This legitimacy, and alleged subsequent confidence and coherence of foreign policy, according to some on the political right, can only arise from US values of liberal democracy (defined as 'equality of opportunity') rather than efforts to create a 'multicultural democracy' (defined in terms of an equal representation of diverse, especially immigrant, cultures).¹⁷⁹

By these accounts, if liberalism holds out over multiculturalism US foreign policy will promote democracy and human rights and secure markets abroad. According to Henry Nau, individuals in America escaped race, gender, and ethnicity in the past and forged voluntarist groups to free slaves, emancipate women, and open the American dream to non-European immigrants... The traditional liberal notion of America underwrites an internationalist foreign policy, which promotes the spread of human rights, democratic institutions, and nondiscriminatory markets to all societies.¹⁸⁰

But if racial, class, and ethnic divisions come to the fore, it is argued, foreign policy would become little more than a 'patchwork of ethnic and commercial particularisms',¹⁸¹ necessarily eroding national interests. Indeed, whoever wins the battle over the place of gender and culture in US democracy, whoever triumphs for the soul of 'America', by this view, will determine the extent to which 'democracy is relevant to the non-Western world'!¹⁸²

¹⁷⁶ See Leonard Dinnerstein and David M. Reimers, *Ethnic Americans: A History of Immigration* (4ed.) (New York: Columbia University Press, 1999) and Daniel J. Tichenor, *Dividing Lines: The Politics of Immigration Control in America* (Princeton, NJ: Princeton University Press, 2002).

¹⁷⁷ For a typically nostalgic account see McDougal, *Promised Land, Crusader State*.

¹⁷⁸ Ryan, *Women in Public*, p.8.

¹⁷⁹ Henry R. Nau, *At Home Abroad: Identity and Power in American Foreign Policy* (Ithaca NY: Cornell University Press, 2002), p.61. For another foreign policy-based critique of US 'multiculturalism' see Samuel Huntington, 'The Erosion of American National Interests', *Foreign Affairs*, Vol.76, no.5 (1997), pp. 28-49.

¹⁸⁰ Nau, *At Home Abroad*, p.83.

¹⁸¹ Nau, *At Home Abroad*, p.84.

¹⁸² Nau, *At Home Abroad*, p.76.

This narrative is based on a history that imagines any progressive results of black, feminist, and immigrant struggles occurring because African-Americans, women, and immigrants overcame their race, gender, and ethnicity - they self-abstracted - in favour of the liberal-bourgeois 'neutral' ideal. It relies on an image of a liberal public sphere in which 'voluntarist groups' are assumed to operate but is a familiar story linking US democracy at home and hopes and expectations abroad.

That the first white settlers founded 'democracy' in the United States and the official public sphere on violent conquest and slavery, expansion and annexation, is usually lost in the re-telling.¹⁸³ 'From the beginning', suggest Hardt and Negri, 'American space was not only extensive, unbounded space but also an intensive space: a space of crossings, a 'melting pot' of continuous hybridization'.¹⁸⁴ The people of the republic were a *new people* in exodus, so the story goes, inhabiting the vast continental expanse.

Others have suggested, however, that these violent practices demonstrate the existence of 'multiple traditions' throughout US history, rather than just an over-arching liberalism. Rogers M. Smith, for example, emphasises republicanism and 'ascriptive forms of Americanism', including racism, sexism and nativism.¹⁸⁵ Each of these traditions, Smith contends, are 'in a profound logical tension with' the tenets of liberalism.¹⁸⁶ This notion that liberal values are incompatible with less 'civilized' US traditions is common.

'Although the conquest of the frontier', according to Arthur Ekirch, 'involved such features as Indian warfare, with its accompanying lapse into barbarism the sense of opportunity and liberation offered by the West was compensation for the temporary decline in civilization'.¹⁸⁷ Is it enough, however, to simply posit the existence of 'multiple traditions' in US history, as if liberal practices were in no way complicit in currently prevailing (not only historical) inegalitarian cultural and political norms?

Liberal-Tocquevillian notions that 'America' was shaped, above all, by the egalitarian ideology of the settlers and the favourable material conditions which they found, ignores the

¹⁸³ For exceptions see Williams, *Empire as a Way of Life* and Anders Stephanson, *Manifest Destiny: American Expansionism and the Empire of Right* (New York: Hill and Wang, 1995).

¹⁸⁴ Hardt and Negri, *Empire*, p.170.

¹⁸⁵ Rogers M. Smith, 'Beyond Tocqueville, Myrdal, and Hartz: The Multiple Traditions in America', *American Political Science Review* (1993), Vol.87, pp.549-66.

¹⁸⁶ Rogers M. Smith, 'Liberalism and Racism: The Problem of Analyzing Traditions', in David F Ericson and Louisa Bertch Green (eds.) *The Liberal Tradition in American Politics: Reassessing the Legacy of American Liberalism* (London: Routledge, 1999), p.21.

¹⁸⁷ Ekirch, *The Decline of American Liberalism*, p. 88. My italics.

fundamentally inegalitarian ideologies and conditions that have equally (if not more profoundly) shaped US politics and society. One testing ground on the question of whether practices associated with the liberal tradition are actually productive of, rather than simply compatible with, exclusion and violence can be found in the historical role of ‘foreigners’ in contributing to the constitution of (and contestation over) US public space.

Though it has become more widely known since the September 11 attacks (but is a fact since the early republic) the US has historically targeted immigrants, both legal and illegal, as potential national security threats, enemies of the state and the American way of life. The Plenary Power Doctrine, for example, established in 1889, gave Congress and the Executive the power to make immigration policy free from judicial review.¹⁸⁸ As a result, the Supreme Court is especially deferential over ‘alien’ matters, recognising the ultimate sovereignty of the legislative branch.

It should thus be of little surprise that immigrants often lack basic legal rights. From the Alien and Sedition Acts of the 1790s (meant to limit alien support for the Republicans) to the Chinese Exclusion Laws of the 1880s and Haymarket Riots in 1886, rather than singling out racial and ethnic groups for the colour of their skin it has been ‘the perverse effects of foreign political ideas,’¹⁸⁹ as Ernesto Verdeja suggests, that constructs these groups as a public danger.

The extent to which race has always been at the forefront of legal and political representations of threats from foreigners should not be underplayed. Nonetheless, aliens deemed a particular *political* persuasion, as well as an undesirable skin colour, have been judged treasonous and unpatriotic. The Immigration Act of 1903, for example, was designed principally to exclude anarchists. At the height of the McCarthyite Cold War, *ideological* purging was behind the deportation regulations in a series of immigration laws.¹⁹⁰ ‘In the post-war years’, Arendt observed, ‘the US was even considering depriving of citizenship US-born Americans who were communists’.¹⁹¹

The production of territorial state-publics has necessarily rested on the exclusion of non-citizens, immigrants and refugees in particular. Hierarchies of citizen rights, including the right to disobey, are constitutive of all bounded communities, but especially the mass,

¹⁸⁸ Ernesto Verdeja, ‘Law, Terrorism, and the Plenary Power Doctrine: Limiting Alien Rights’, *Constellations*, Vol.9, no. 1 (2002), p.89.

¹⁸⁹ Verdeja, ‘Law, Terrorism, and the Plenary Power Doctrine’, p. 90.

¹⁹⁰ Verdeja, ‘Law, Terrorism, and the Plenary Power Doctrine’, p. 93.

¹⁹¹ Arendt, *Origins of Totalitarianism*, p. 280.

territorially defined, national state. One of the alleged rewards for belonging to a 'public' or a 'people' is the (often fictional) guarantee of security.

Refugees are thus illustrative of a contradiction at the heart of the modern liberal-democratic and nation-state project. As Chapter Five will further suggest, they are not only traditionally confronted with the hostility literally constricting territorial space during times of global or regional war. The enlightenment commitment to universal individual rights has proved largely incompatible with the parallel assertion of national sovereignty that rests on the ability to refuse citizenship or refuge to individuals or whole groups. Even with the historical turning point of the French Declaration of the Rights of Men and Citizens the entire issue of human rights became, as Arendt observed, 'quickly and inextricably blended with the question of national emancipation; only the emancipated sovereignty of the people, of one's own people, seemed to be able to ensure them'.¹⁹²

No sooner were human rights deemed inalienable, solely dependent on the dignity of the individual that same individual, in Arendt's words, 'disappeared again into a member of a people'.¹⁹³ Stateless peoples without a public sphere in which to act, according to Arendt, showed that 'the abstract nakedness of being *nothing but human* was their greatest danger'.¹⁹⁴ The consequences of the historical counterpart to human rights, the assertion of national sovereignty, meant that when citizen rights are shattered the fundamental *human* rights (proclaimed as 'natural' or 'universal') are virtually destroyed.¹⁹⁵

Human rights were revealed once again during the Kosovo war to be fragile artefacts wholly dependent on human conventions, in Arendt's formulation, the recognition of the 'right to have rights, ...to live in a framework where one is judged by one's actions and opinions',¹⁹⁶ rather than one's 'ethnicity'. In an effort to move beyond the usual stifling assumptions about ethnicity and identity when the 'Balkans' is invoked,¹⁹⁷ ethnicity (like 'the people' or 'the

¹⁹² Arendt, *Origins of Totalitarianism*, p.291.

¹⁹³ Arendt, *Origins of Totalitarianism*, p.291.

¹⁹⁴ Arendt, *Origins of Totalitarianism*, p.300. My italics.

¹⁹⁵ The literature on the devastation in Kosovo is vast. For especially good accounts see Julie A. Mertus, *Kosovo: How Myths and Truths Started a War* (Berkeley: University of California Press, 1999); On the crucial period between 1981 and 1997 see Noel Malcolm, *Kosovo: A Short History* (New York: HarperCollins, 1999), pp.334-56.

¹⁹⁶ Arendt, *Origins of Totalitarianism*, pp. 296-297.

¹⁹⁷ See Barry Posen, 'The Security Dilemma and Ethnic Conflict,' *Survival* Vol. 35, no. 1 (1993) pp. 27-47.

public') is not a stable identity but rather a socially and culturally constructed norm made normal by particular historical circumstances.¹⁹⁸

The treatment of refugees and immigrants during wartime must be identified as part of the constitution of public security in the West; not simply the effort to manage the employment and crime issues frequently associated with their presence but the securing of an identity in opposition against which the liberal, normal public citizen can (usually) thankfully stand.¹⁹⁹ Representations of refugees and immigrants, as Chapter Five will suggest, buttress temporal notions of the United States as the Promised Land and spatial images of a 'melting pot' of cross-cultural fusion. Several important norms constitutive of the official public sphere in the United States, including race, gender and economy, were sustained and revitalised through the politics of representing these 'foreigners'.

Conclusion

The 'public sphere' has been contextualised in this chapter, as an ideal category and normative model of democratic critique but also as a historical-sociological description of processes central to the development of modernity in the United States. The liberal-republican state with its 'official' public sphere, the rule of law, technology, dissent, and 'foreigners' were identified as modalities central to the way in which US public spheres have been constructed. By way of conclusion, the themes emerging from this analysis most relevant to how public spheres shaped and were shaped by the Kosovo war will be re-emphasised.

When the Founding Fathers transcended the Christian tradition of originating (legitimizing) the polity by appeals to God a new *modern* order, an essentially anti-foundational arrangement of power, was born. Of course, leaders did not dispel all efforts to construct legitimating discourses and it is in this context that the value of law and technology emerge as important to the analysis of the Kosovo war. The rhetoric of the ensuing political struggles over the future of the United States overwhelmingly centred on both the pragmatism

¹⁹⁸ There is a massive literature on this subject. For a more sophisticated account of the politics of identity see Duijzings' analysis of Kosovo as a kind of 'frontier'. Ger Duijzings, *Religion and the Politics of Identity in Kosovo* (London: Hurst and Company, 2000).

¹⁹⁹ Samira Kawash, 'The Homeless Body', *Public Culture*, Vol. 10, no.2 (1998), pp. 319-39. Also see Julie Peteet, 'Refugees, Resistance, and Identity', in John A. Guidry, Michael D. Kennedy, and Mayer N. Zald (eds.) *Globalizations and Social Movements: Culture, Power, and the Transnational Public Sphere* (Ann Arbor: University of Michigan Press, 2000), pp. 339-357.

of law and the promise of technological advance as a form of security in an unfamiliar New World.

These extra-political legitimations for politics have profoundly shaped the official liberal-state public sphere and, as Chapters Two and Three will suggest, have proved equally effective and ambivalent in endeavours to legitimate war. 'Because the medium of state power is constituted in forms of law', suggests Habermas, 'political orders draw their recognition from the legitimacy claim of law'.²⁰⁰ Investigating the conditions of emergence of both law and the 'legitimacy claims' of technology in the US public domain reveals the multiple uncertainties surrounding these themes during NATO's Kosovo intervention.

With Arendt, we gained greater insight into the originality of republican networked arrangements of power not captured by Kant or Habermas. Following Machiavelli, the constitutional model of a functioning and dynamic republican public sphere would require open political conflict to avoid the system sinking into corruption. The political and economic 'freedom' of the settlers, Madison argued, would depend on violent expansion into the frontier, with the use of force and the threat of force the underwriter.

The expansion of public spheres so central to US political, economic, and cultural history can be traced to more recent wars justified on humanitarian grounds. This notion of public sphere expansion, including by means of violence, becomes crucial to the analysis in Chapter Six. Deliberative, Habermasian, accounts of an emerging 'global' public realm not only ignores the violence in deliberative rationality, which privileges some ways of being public over others. It also overlooks how the effort to 'make' and expand a global public realm is implicated in the production of 'humanitarian' war, which is intimately connected to the global expansion of US-led political and economic forms.

Arendt also allows us to move beyond the assumption of the general validity of the deliberative bourgeois model in the US context. Her account of the Declaration of Independence emphasised the performative, identity creating, dimensions of public speech. The language of republicanism also provided an important structural framework for understanding modes of public-ness in the emerging body politic. In particular, when allied with new print techniques and attendant sense of impersonality a new public space was constituted for bourgeois white men, distinct from family, economy, and state. On the other

²⁰⁰ Jürgen Habermas, *The Post-National Constellation: Political Essays* (Cambridge: Polity Press, 2001), p. 112.

hand, more socially radical efforts by women and African-Americans to self-represent in public spheres problematise this notion of personal abstraction central to classic accounts.

Chapter Four will suggest the political agonism supported by numerous anti-war demonstrators over Kosovo supports a similar irreverence for liberal representative mechanisms that seek stability and closure. Chapter Five extends the argument to the treatment of Serb- and Albanian-American immigrants and Kosovo-Albanian refugees by suggesting that multiple values and institutions associated with the most cherished self-images of the 'official' public sphere have traditionally appeared refreshed by war and the arrival of new 'hyphenated' citizens. But as the analysis will also propose, the endeavour of minorities to 'be public' in the United States is itself becoming increasingly problematic as the private mode and growing centrality of body-centred politics not only undermines the *public* context of 'humanitarian' political action but also constructs immigrants and refugees as sentimentalised sites of national regeneration.

The circulation of media discourses on a national scale has (falsely) sustained the sense in which a unitary 'official' public sphere exists in the United States, also complicating citizen endeavours to limit efforts to monopolise 'legitimate' violence. Sociologically, the emergence of the 'Yankee Leviathan' through earlier wars, the establishment of a modern bureaucratic state, and market economy, would provide the operating framework around which conventional politics would occur. Although social battlegrounds involving race, class and gender, have never been totally eradicated, 'normal' political affairs in the United States generally centre on the 'legitimate' distribution of power adjudicated by the state.

With this in mind, Chapter Four asks whether the further institutionalisation of the liberal-state public realm and wars fought in its name has helped signal the death-knell of large-scale US peace movements. Customs of anti-war dissent in the United States are still widespread, signifying occasions in which we can test some of the most enduring features of public sphere critique. These include questions about the mode of public-ness appropriate to anti-war activism, the effect of narratives of the 'decline' of 'the' public realm, and the consequences for humanitarianism of the further professionalisation and commercialisation of the big party machines and politics in general.

By examining some of the key practical and normative features of public spheres in the US context this chapter has considered some of the historical modalities of public spheres that will be extended in the analysis of the Kosovo war. Public spheres are one of the places where

the meanings of wars are struggled over and where the weapons, laws, and refugees used to conduct or justify such wars are endowed with powerful symbolic meanings ('democratic', 'liberal', 'humanitarian'). The meanings of these political symbols cannot be understood separately from how they are constituted in the US public domain. If it is in public spheres where the narratives that constitute history are partly made an 'Arendtian' reading of how publics shaped and were shaped by the Kosovo war might contribute to a move away from definitive or 'official' histories, towards a new reorientation to the past.

Chapter 2

US Public Spheres, Kosovo, and the Force of Law

The ambition of Rome was not to subject the whole world to Roman power and *imperium*, but to throw the Roman system of alliances over all countries of the earth.

- Hannah Arendt¹

The historical intertwining of law and modern politics in the United States - itself a relationship constitutive of US public spheres - sheds light on many of the legal dimensions surrounding NATO's violence over Kosovo. Notions of public and private, culture and identity are constituted in public spheres and law plays a major role in the consolidation of these practices. The focus of this chapter is on direct and indirect efforts to use law to legitimise the Kosovo war. The central claim is that questions concerning the legitimacy of NATO's war in the US context must be understood in the light of how law was constitutive in the emergence (and maintenance) of the United States as a liberal republic both within its borders and without.

From the legality of NATO's air strikes and targeting decisions to the evidence required for war crimes indictments the role of law during the Kosovo war appeared both vital *and* inconsequential. For some 1999 marked the 'point of transition from the classical system to an international constitutional order'.² According to Jürgen Habermas, 'the war in Kosovo could signal a big step on the path from the classical international law of states to the cosmopolitan law of a society of world-citizens'.³ For others, Kosovo 'marked the moment when it became evident that force was not governed by law'.⁴

The multiple ambiguities of the law surrounding Kosovo can be revealed through an investigation of the conditions of their emergence in the liberal-republican US public sphere. Although the chapter is aware of the complex transnational origin of much of the relevant international law, the first section of the chapter, 'Law and the US Founding', traces the meanings attributed to law (whatever its complex origins) during processes crucial to defining

¹ Hannah Arendt, *On Revolution* (New York: Viking Press, [1963] 1970), p.188.

² Marc Weller, 'The Kosovo Indictment of the International Criminal Tribunal for Yugoslavia', in Ken Booth (ed.) *The Kosovo Tragedy: The Human Rights Dimensions* (London: Frank Cass, 2000), p.215.

³ Jürgen Habermas, 'Bestiality and Humanity: A War on the Border between Law and Morality', in William Joseph Buckley (ed.) *Kosovo: Contending Voices on Balkan Interventions* (Michigan: Eerdmans Publishing, 2000), p. 308.

⁴ Michael J. Glennon, *Limits of Law, Prerogatives of Power: Interventionism after Kosovo* (New York: Palgrave, 2001), p.4.

the official US state-public sphere and thereby the emerging global order under US leadership. In the early republic political freedom in an open space republican democracy - the original US public sphere - appeared mutually dependent on expansion in the frontier. Through appreciating the juridical and political mechanisms by which power was extended across the continental expanse, as elaborated in Chapter One, we can better appreciate the way in which a *global* system of networked power, with the United States at its centre, has begun to form. In the words of Thomas Jefferson: 'I am persuaded no constitution was ever before so well calculated as ours for extensive empire and self-government'.⁵

The second section, 'International Law and NATO Violence', suggests that the war over Kosovo was indicative of emerging trends towards the globalization of discipline and punishment, the very essence of law. Michael Byers suggests we are witnessing post-September 11 'the US serving as global lawmaker and sheriff, setting the rules and acting alone or at the head of a posse of compliant allies to impose discipline'.⁶ The 'imperial tinge,'⁷ however, was already evident with Kosovo. Building on the interventions of the 1990s the United States has sought to create an exceptional regime where international law constrains all other actors except itself and closest allies. Where on occasion the 'local strongman' may still enjoy the support of US power, Yugoslav President Milosevic's open defiance of the demand to tone down reprisals against KLA guerrilla violence invoked imperial wrath. The United States took great pains, however, to avoid the appearance of needing to rely on international law to justify its use of force. On the other hand, it was extremely difficult for US officials to admit that the bombing was illegal.

Legal discourses during Kosovo shaped the military intervention in a far more ambivalent manner than information technology (as discussed in Chapter Three). The ambivalence of liberal citizens facing the law, upholding law in the pursuit of justice but always aware of the distinction between the two, both disparaging and reverent, pervades US culture. 'American political history', as Paul Goodman suggests, 'consists spectacularly of

⁵ Quoted in Michael Hardt and Antonio Negri, *Empire* (Cambridge, MA: Harvard University Press, 2001), p.160.

⁶ Michael Byers, 'Terror and the Future of International Law', in Ken Booth and Tim Dunne (ed.) *Worlds in Collision: Terror and the Future of Global Order* (London: Palgrave, 2002), p. 125. Examples include the pulling out of the Anti-Ballistic Missile Treaty; the rejection of International Criminal Court jurisdiction over US military personnel; withdrawal from a biological weapons treaty; the rejection of the Geneva Convention as a bench to judge the treatment of prisoners held at Guantanamo Bay; the destruction of the Kyoto Protocol on climate change; and the unilateral imposition of steel tariffs.

⁷ Byers, 'Terror and the Future of International Law', p. 125.

illegal actions that became legal, belatedly confirmed by the lawmakers'.⁸ The third section of the chapter, 'Law, Liberal Democracy and Punishment', interrogates the material and discursive logic by which legal questions in the US context help sustain, and in turn are sustained by, the socio-legal legitimation of violence in the United States. In doing so, we can record the extent to which legal discourses in one important example are reliant on a considerable number of unspoken assumptions concerning the distribution of social and public resources. Liberal legalism, as critical legal scholars have consistently shown, encodes the history of state power, capitalism and gendered and racialised distributions of power and resources⁹ and can be traced to more recent practices of 'humanitarian' war. In the words of Friedrich Kratochwil, 'legal norms provide particularly powerful justifications for certain political choices. Legal norms, therefore, figure prominently in defining issues and in legitimization and delegitimization attempts'.¹⁰

In the current geopolitical context the only law of major significance to the United States is domestic law and as we will see in Chapter Four, Clinton defeated the principle domestic legal challenge - that the executive had broken the 1973 War Powers Act and the Constitutional provision that war necessitates the approval of Congress. Law was (and is) a crucial tool for individuals and groups dissenting against liberal state violence and this will be discussed in Chapter Four. But Byers's claim (hope?) that 'the international rules and institutions rejected... [by the United States government] are more consistent with the founding principles of the US than the imperialist principles to which they subscribe'¹¹ is mistaken.

As understood by Machiavelli and Hannah Arendt, the open network conception of power and Roman understanding of law that inspired the US Constitution, as elaborated in Chapter One, is the axis point relating the liberal-republican public sphere to the idea of expansion.¹² By their own estimation, the 'genius' of imperial Rome, as the Americans also

⁸ Paul Goodman quoted in April Carter, *Direct Action and Liberal Democracy* (London: Routledge, 1973), p. 139.

⁹ Jerry D. Leonard, 'Transgressive Postmodernism: Prolegomenon to a Radical Legal Studies', in Victor E. Taylor and Charles E. Winquist (eds.) *Postmodernism: Critical Concepts*, Vol. IV (London: Routledge, 1998), p.8.

¹⁰ Friedrich V. Kratochwil, *Rules, Norms, and Decisions: On the Conditions of Practical and Legal Reasoning in International Relations and Domestic Affairs* (Cambridge: Cambridge University Press, 1991), p. 206.

¹¹ Byers, 'Terror and the Future of International Law', p. 127.

¹² Hardt and Negri have also elaborated this idea, first appreciated by Arendt, in *Empire*, pp. 160-72.

believed, was in the founding principles of the city.¹³ The position of the United States in the emerging global order gains greater coherence when placed *squarely* in light of the codification of law and politics during the defining, founding period of the US Constitution.

The final section of the chapter, 'From Just War to Global Police', does not suggest that the internal (continental) expansion of the liberal system (and the attendant massacre of indigenous peoples) in some way *caused* the expansive tendency of the United States in the international arena. Rather, it is suggested that the disciplinary coercion central to producing liberal citizens in the early republic demonstrates many of the tendencies currently evident in international forms of law. Just War rhetoric and assumptions about the 'humane' nature of liberal warfare during Kosovo served to reproduce and justify US imperial violence and its identity as a liberal democratic regime.

If 'American power' and the 'empire of capitalist democracy' seem almost naturally to fit, as G. John Ikenberry suggests,¹⁴ then wars fought in the name of humanity to expand this empire are part of the historically evolving international system favouring US global power. If 'humanitarian' violence is seemingly so crucial to the establishment of a global constitutional order (according to Habermas and others) is it here that we must look for its roots. Understanding these processes is crucial to reconciling ourselves to the consequences of the socio-legal construction of 'legitimate' violence over Kosovo.

Law and the US Founding

If we have to use force it is because we are America. We are the indispensable nation. We stand tall. We see farther into the future.

- US Secretary of State Madeline Albright¹⁵

Philip Allott has suggested that law 'makes the public realm' which is itself crucial to the actualisation 'of the legal potentiality in international society'.¹⁶ As suggested in Chapter One, however, law may be the exterior appearance of a political community but it is entirely dependent on it; law provides the boundary of the public realm. It is not constitutive of the

¹³ Arendt, *On Revolution*, p.211.

¹⁴ G. John Ikenberry, 'American Power and the Empire of Capitalist Democracy', *Review of International Studies*, Vol. 27, special issue, (2001), pp.191-212.

¹⁵ Albright on the use of cruise missiles against Iraq in 1998 quoted in Chalmers Johnson, *Blowback* (New York: Henry Holt, 2000), p. 217.

¹⁶ Philip Allott, 'Globalization from Above: Actualizing the Ideal Through Law', *Review of International Studies*, Vol. 26, Special Issue, (2000), p. 72.

public sphere itself or of public sphere activity.¹⁷ There is no origin of law beyond human power. As E.H. Carr writes, 'Law cannot be self-contained; for the obligation to obey it must always rest on something outside itself. It is neither self-creating nor self-applying'.¹⁸ Within the framework of public spheres, law instantiates a relationship between people, as Arendt suggests, which also 'harbours' and 'encloses' political life.¹⁹

Natural law, however, as Arendt would remind us, was no better at providing a legal foundation to political relations in a republic than absolutism or appeals to God. 'For the trouble with natural law', she wrote, 'was precisely that it had no author, that it could only be understood as a law of nature in the sense of a non-personal, superhuman force which would compel men anyhow, no matter what they did or intended to do'.²⁰ Only *positive* law, rather than *ius naturale*, could offer some sense of a tangible social reality.²¹ Accordingly, it was important that the Constitution be a tangible written thing. In Arendt's words,

The seat of power to them was the people, but the source of law was to be the Constitution, a written document, an enduring objective thing, which, to be sure, one could approach from many different angles and upon which one could impose many different interpretations, which one could change and amend in accordance with circumstances, but which nevertheless was never a subjective state of mind, like the will. It remained a tangible worldly entity of greater durability than elections or public-opinion polls.²²

What the Founders aimed to do, then, as suggested in Chapter One, was transcend not only the rule of George III but also the Christian tradition of otherworldly authority.²³

The *modus operandi* of law, 'the paradigmatic discourse of modernity',²⁴ is to be at once prudent (and judicious) in means while abstract (and ideal) in scope. The wide-open American continent 'discovered' by the settlers was deemed unspoiled by human history and

¹⁷ This point is actually imminent in Allott's own argument when he describes law, along with cultural artefacts, as providing the 'substantial form' of society. Allott, 'Globalization from Above', p.65. Emphasis added.

¹⁸ E.H. Carr, *The Twenty Years' Crisis, 1919-1939: An Introduction to the Study of International Relations* (London: Macmillan, [1939] 1954), p.178.

¹⁹ Hannah Arendt, *The Human Condition* (Chicago: University of Chicago Press, 1958), p.64.

²⁰ Arendt, *On Revolution*, p.190. Ideologies of natural law only stepped into the breach during 17th and 18th Centuries as a reaction to the collapse of divinity as a source of political authority. Arendt, *On Revolution*, p.190.

²¹ Hannah Arendt, *The Origins of Totalitarianism* (New York: Meridian Books, [1951] 1958), p.464. See Jeremy Waldron, 'Arendt's Constitutional Politics', in Dana Villa (ed.) *The Cambridge Companion to Hannah Arendt* (Cambridge: Cambridge University Press, 2000), p.216, fn.20.

²² Arendt, *On Revolution*, p. 156.

²³ Arendt, *On Revolution*, p. 186.

²⁴ Margaret Thornton, 'The Cartography of Public and Private', in Margaret Thornton (ed.) *Public and Private: Feminist Legal Debates* (Oxford: Oxford University Press, 1995), p. 8. On the legal formalism of liberalism see Nancy Rosenblum, 'The Law of the Heart versus Liberal Legalism', in *Another Liberalism: Romanticism and the Reconstruction of Liberal Thought* (Cambridge, MA: Harvard University Press, 1987), pp.34-56.

thus could be ordered, as Robert Ferguson describes, ‘through a correct, theoretical application of man-made or positive law in harmony with the natural law around them’.²⁵ ‘In a developing nation obsessed with its own future glory’, he continues, ‘no audience could be held by the traditional forms and rhetoric of the past’.²⁶ Both ideologically and structurally the texts in the United States central to liberal-republicanism’s reliance on reason and the force of law gain consistency from the legal rhetoric and aesthetic by which they were underpinned. ‘In America’, Thomas Paine could proclaim in 1776, ‘the law is king’.²⁷

Law, to extend Arendt’s words on political action more generally, has the ability to ‘create new relations and realities’. One of the central new ‘realities’ to emerge during the revolutionary period, of course, was the belief that providence had judged the New World of ‘America’ to be the ‘Promised Land’.²⁸ Such a division between Old and New still resonated during Kosovo. For Michael Wines, the conflict ‘only underscored the deep ideological divide between an idealistic New World bent on ending inhumanity and an Old World equally fatalistic about unending conflict’.²⁹

Chapter Three will discuss the extent to which beliefs in liberal progress as being technological progress have become part of US political culture and crucial in accounting for practices of humanitarian war. Similarly, the assumption that ‘America’ was the last hope for human progress served to endow man-made law with both cosmic overtones *and* the appearance of common sense. Lawyers, not the clergy or military, became the natural talking heads of republican revolution, the first but not last worshippers of the US Constitution.³⁰

The seeming achievement of the lawyers was their ability to articulate a new governmental apparatus of control in the absence of an established past. Jacques Derrida has labelled this kind of founding political moment an instance of ‘interpretative violence.’³¹ In his words, such an appeal to law can claim to be ‘neither just nor unjust [as] no previous law...

²⁵ Robert Ferguson, *Law and Letters in American Culture* (Cambridge, MA: Harvard University Press, 1984), p.16.

²⁶ Ferguson, *Law and Letters in American Culture*, p.23.

²⁷ Quoted in Ferguson, *Law and Letters in American Culture*, pp.11-33.

²⁸ Walter A. McDougal, *Promised Land, Crusader State: The American Encounter with the World Since 1776* (New York: Houghton and Mifflin Company, 1997).

²⁹ Michael Wines, ‘Two Views of Inhumanity Split the World, Even in Victory’, *The New York Times*, June 13, 1999.

³⁰ Arendt, *On Revolution*, pp.198-200, 205.

³¹ Jacques Derrida, ‘Force of Law: The “Mystical Foundations of Authority”’, in Drucilla Cornell, Michael Rosenfeld and David Gray Carlson (eds.) *Deconstruction and the Possibility of Justice* (London: Routledge, 1992), p.13.

could guarantee or contradict or invalidate' its legitimacy.³² The Nietzschean trick, of course, rests in the performative act of instituting law without reference to any pre-existing authority or subject.³³ In Arendt's formulation, 'those who get together to constitute a new government are themselves unconstitutional, that is, they have no authority to do what they have set out to achieve'.³⁴ Once this is accomplished, however, it seems harder, as Derrida continues, to 'criticize this same violence since one cannot summon it to appear before the institution of any preexisting law: it does not recognize existing law in the moment that it founds another'.³⁵

Thus in contrast to the violence intrinsic to law that is literally enforced on a daily basis, the violence inherent in the founding moment of a *democratic* republic ironically takes on the appearance of being the 'Immortal Legislator,'³⁶ exterior to the prevailing distribution of power. Law and justice, therefore, did not appear as merely the product of pre-existing social and economic power, a force that could manipulate law to its own end.³⁷ The interpretative and literal violence is that, in the moment of founding, law and the institution of new socio-economic power relations appear simultaneous. 'Legal formulation', as Ferguson confirms, 'both created and capped the *conservative* American Revolution: it provided the rationale for rebellion even as it blocked the continuum of revolution with the archetypal patterns of a new order.'³⁸

Law, therefore, could be positioned following John Locke and the liberal tradition more generally as a 'constant and lasting force', derived from the command of society and not the state.³⁹ Where Hobbes had previously asserted that Truth (state power) makes Law, with Locke and the emergence of liberal republican society in the United States the origin of legal codes could be de-institutionalised and set apart as the emblem of society, not the state.

In a reversal of Hobbes' image of the Leviathan as the supreme lawgiver securing the necessary conditions for civil society to emerge, Locke's narrative, followed closely by the Founders, was launched with the people assembling *first* and then agreeing to representative

³² Derrida, 'Force of Law', p.13.

³³ For Nietzsche, the self, in this case the legal self, is only constituted in the *practical activity*. '[T]here is no 'being' behind the doing...', he famously wrote, '...the doing is everything'. Friedrich Nietzsche, *The Birth of Tragedy and The Genealogy of Morals* (translated by Francis Golffing) (London: Anchor Books, [1887], 1956), p. 178.

³⁴ Arendt, *On Revolution*, p.184.

³⁵ Derrida, 'Force of Law', p.40.

³⁶ Arendt, *On Revolution*, p.185.

³⁷ Derrida, 'Force of Law', p.13.

³⁸ Ferguson, *Law and Letters in American Culture*, p.15. My italics.

³⁹ John Locke, *Two Treatises of Government* (with introduction and notes by Peter Laslett) (Cambridge: Cambridge University Press, 1963), p.343.

government through the social contract.⁴⁰ This non-institutionalised conception of political development, though historically suspect, allows the liberal rule of law to (falsely) appear *independent* of political rule.

The normative discourse of public opinion and political culture, the public sphere, could thus be imagined as cohering around and deriving force from *social norms* more generally, an account central to much contemporary socio-legal theory.⁴¹ ‘In the “law”, the quintessence of general, abstract, and permanent norms’, Habermas suggests, ‘inheres a rationality in which what is right converges with what is just; the exercise of power is to be demoted to a mere executor of such norms’.⁴² Legal codes, according to this liberal view, were conceived as the legitimate organisation of public opinion.

Margaret Somers suggests, however, that ‘this was less the law in any institutional form as it had in fact developed historically from medieval Rule of Law (e.g. administrative courts and the principles of justice such as ‘just wage’) and more the law now defined as general and abstract norms’.⁴³ Liberal theorists could accomplish this feat of sociological revision because as an historical point constitutionalism was indeed asserted in the course of rebellion against an executive foreign power. In April Carter’s words, ‘a political theory which stressed the role of law had as its foundation myth a violent and glorious revolution’.⁴⁴

However, all law depends on violence and violence regularly occurs with the explicit (and sometimes implicit) authorisation of law.⁴⁵ Law is enforced and enforcing. As Derrida describes, ‘there is no law without enforceability, and no applicability or enforceability of the law without force, whether this force be direct or indirect, physical or symbolic, exterior or interior, brutal or subtly discursive... coercive or regulative, and so forth’.⁴⁶ If law ‘functions

⁴⁰ Margaret R. Somers, ‘The Privatization of Citizenship: How to Unthink a Knowledge Culture’, in Victoria E. Bonnell and Lynn Hunt (eds.) *Beyond the Cultural Turn: New Directions in the Study of Society and Culture* (Berkeley: University of California Press, 1999), p.153. For a critique of social contract theory applied to the early republic see Arendt, *On Revolution*, pp.168-73.

⁴¹ See Michael Rosenfeld and Andrew Arato (eds.) *Habermas on Law and Democracy: Critical Exchanges* (Berkeley: University of California Press, 1998).

⁴² Jürgen Habermas, *The Structural Transformation of the Public Sphere* (Cambridge, MA: MIT Press, [1962] 1991), p. 53.

⁴³ Somers, ‘The Privatization of Citizenship’, p.153.

⁴⁴ Carter, *Direct Action and Liberal Democracy*, p.94.

⁴⁵ Austin Sarat, ‘Situating Law Between the Realities of Violence and the Claims of Justice: An Introduction’, in Austin Sarat (ed.) *Law, Violence, and the Possibility of Justice* (Princeton: Princeton University Press, 2001), p.3.

⁴⁶ Derrida, ‘Force of Law’, p.6.

as a metalanguage beneath which all other languages are subsumed'⁴⁷ in the United States, what do the varying modes of legal discourse surrounding the Kosovo war reveal about practices of law and violence in the official US public sphere? The violence in law is sustained by its social organisation into public and private norms, its effective articulation of principles, norms and procedures exterior to both violence and law. How were legal discourses used - in both brutal and subtly discursive ways - to publicly legitimate violence over Kosovo?

International Law and NATO Violence

Robin Cook, British Foreign Secretary: 'We have problems with our lawyers.'
Madeleine Albright, US Secretary of State: 'Get new lawyers'.⁴⁸

Since the 1994 genocide in Rwanda and the 1990-1999 wars in the former Yugoslavia there has been much talk about international punishment for crimes committed during war. The 'world', according to the editors of one text, 'is witnessing a move to law'.⁴⁹ Despite the fact that powerful states have frequently superseded the 'right' to sovereignty of weaker states and that western jurisprudence was effective in subordinating the rights of colonial subjects,⁵⁰ discourses and institutions linked typically with domestic jurisdictions and structures are becoming increasingly commonplace (and celebrated) across the globe.

The US and European response to the lengthy and multiple Yugoslav wars have, of course, provided a major impetus. During the Bosnian war, the relatively stunning speed in 1993 by which the International Criminal Court for the Former Yugoslavia (ICTY) was established created a supranational institution with independent decision-making powers to override Balkan state sovereignty.⁵¹ For one legal scholar this move to prosecute those accused of serious humanitarian law violations helped make possible 'the primacy of law over considerations of policy' thus constituting 'radical changes in the international constitutional

⁴⁷ Victor Taylor, 'Postmodernism and the Double Question of the Frame: The Adjudication of Art as Policing and Silencing of Dissent', in Victor E. Taylor and Charles E. Winquist (eds.) *Postmodernism: Critical Concepts*, Vol. IV (London: Routledge, 1998), p. 69.

⁴⁸ Quoted in Michael J. Glennon, 'How War Left the Law Behind', *The New York Times*, November 21, 2002.

⁴⁹ Judith Goldstein, Miles Kahler, Robert O. Keohane, and Anne-Marie Slaughter, 'Introduction: Legalization and World Politics', in Goldstein, Kahler, Keohane, and Slaughter (eds.) *Legalization and World Politics* (Cambridge, MA: MIT Press, 2001), p. 1.

⁵⁰ Siba N'Zatioula Grovogui, *Sovereigns and Quasi Sovereigns, and Africans: Race and Self-Determination in International Law* (Minneapolis: University of Minnesota Press, 1996).

⁵¹ Geoffrey Robertson, *Crimes Against Humanity: The Struggle for Global Justice* (London: Allen Lane, 1999).

order'.⁵² The refusal of the US to participate in the permanent International Criminal Court (ICC) established on 1 June 2002 at The Hague would seem to belie this expectant claim.

Nonetheless, the public event of a trial and the establishment or reestablishment of the rule of law can facilitate conflict resolution and for many bring about a sense of justice and finally peace.⁵³ Although the sheer scope of atrocities can sometimes make trials seem irrelevant this was perhaps not so with Kosovo. Arendt suggested of the Holocaust that some 'are unable to forgive what [they] cannot punish and... are unable to punish what has turned out to be unforgivable'.⁵⁴ Where several have (absurdly) tried to analogise Kosovo and the Holocaust,⁵⁵ one difference is that the alternative to forgiveness, punishment, factored greatly in the global response.

Since the 1990s the Security Council in a series of resolutions relating to crises as diverse as Northern Iraq (1991), Bosnia (1992-5), Somalia (1992-3), Rwanda (1994), Haiti (1994), Albania (1997), Kosovo (1998-9), East Timor (1999), Sierra Leone (1999-2000), and the United States (2001) frequently condemned violent acts as violations of international humanitarian law.⁵⁶ It would seem, as Adam Roberts has claimed, 'the law of war is acquiring a role as a trigger for military action'.⁵⁷ The Security Council has frequently censured participants in a conflict for breaching international humanitarian law and this has acted as a justification for military intervention.

Debates raged during the Kosovo campaign (and still do) as to whether the initial decision to bomb the Federal Republic of Yugoslavia (FRY) was justified in accordance with international law especially given NATO's failure to seek Chapter VII Security Council approval. According to Michael Ignatieff, in typically exaggerated language, this was the

⁵² Weller, 'The Kosovo Indictment', p.207, 208.

⁵³ Martha Minow, 'Institutions and Emotions: Redressing Mass Violence', in Susan A. Bandes (ed.) *The Passions of Law* (New York: New York University Press, 1999), pp. 265-81.

⁵⁴ Arendt, *The Human Condition*, p.241.

⁵⁵ Richard Cohen, 'A Look Into The Void: Kosovo as Holocaust Analogy', *The Washington Post*, April 16, 1999; Charles Babington, 'President Pleads for Support: Clinton Cites Hitler, "Ethnic Cleansing"', *The Washington Post*, March 24, 1999; Lee Hockstader, 'Holocaust Memories Contribute to Israeli Ambivalence on Kosovo', *The Washington Post*, April 1, 1999.

⁵⁶ Adam Roberts, 'Humanitarian Issues and Agencies as Triggers for International Military Action', in Simon Chesterman (ed.) *Civilians in War* (London: Lynne Rienner, 2001), pp. 177-196. The Security Council passed a resolution (1368) condemning the attacks on New York and Washington on September 12, 2001. Resolution 1373 was also passed under Chapter VII on September 28, 2001 requiring all states to 'deny safe haven' to terrorists without defining 'terrorist'. Robert O. Keohane, 'The Globalization of Informal Violence, Theories of World Politics, and "The Liberalism of Fear"', in Craig Calhoun, Paul Price, and Ashley Timmer (eds.) *Understanding September 11* (New York: The New Press, 2002), pp. 83-4.

⁵⁷ Roberts, 'Humanitarian Issues and Agencies', p. 177.

'only issue of political legitimacy to arouse discussion'.⁵⁸ In what can only be a generalisation given the findings of Chapter Four, Ignatieff continues, 'All of the opposition to the war throughout the world focused on NATO's failure to abide by the letter of the Charter'.⁵⁹ Although overstated, this claim is also telling of the level and content of political contestation surrounding international law, as well as the role of the UN in a US dominated world. Much of the legal debate in the United States on the significance of Kosovo did centre on this question of authorisation.

Contrary to popular perception, the United States was decidedly reluctant to resort to legal justifications for its use of force over Kosovo with the main defence presented by Britain.⁶⁰ 'We are in no doubt', claimed British Defence Secretary George Robertson a day after the bombing commenced, 'that NATO is acting within international law. Our legal justification rests upon the accepted principle that force may be used in extreme circumstance to avert a humanitarian disaster'.⁶¹

There are several reasons why the United States has not felt obliged to frame violence in such explicitly legal terms. One contributing factor may have been an ICJ ruling in 1985. In the case of *Nicaragua v. United States* the Court stated that, 'while the United States might from its own appraisal of the situation as to respect for human rights in Nicaragua, [the Court believes] the use of force could not be an appropriate method to monitor or ensure such respect'.⁶² The US had been aiding the Contras and claimed human rights violations on the part of the Nicaraguan government as justification for its acts. However, if US officials were loath during Kosovo to dignify international jurisdiction over their armed forces, law nonetheless played a major role, as we shall see, in other more indirect efforts to legitimate the campaign.

Articles 2(4) and 2(7) of the UN Charter explicitly prohibit intervention in the domestic affairs of another state, as well as outlaw the threat or use of force except in self-defence or in exceptional circumstances when the Security Council so permits. Article 2(7), however, does permit intervention if authorised by the Security Council under Chapter VII. Article 53 of the Charter also avers that, 'no enforcement action shall be taken under regional

⁵⁸ Michael Ignatieff, *Virtual Wars: Kosovo and Beyond* (London: Chatto and Windus, 2000), p.181.

⁵⁹ Ignatieff, *Virtual War*, p.182.

⁶⁰ Glennon, *Limits of Law*, p.25.

⁶¹ Quoted in Mark Littman, *Kosovo: Law and Diplomacy* (London: Centre for Policy Studies, 1999), p. 1.

⁶² Quoted in Littman, *Kosovo*, p. 4.

arrangements or by regional agencies without the authorization of the Security Council'. In the words of Kofi Annan, Secretary-General of the UN,

I have many times pointed out, not just in relation to Kosovo that under the Charter the Security Council has primary responsibility for maintaining international peace and security - and this is explicitly acknowledged in the North Atlantic Treaty. Therefore the Council should be involved in any decision to resort to the use of force.⁶³

Although Chapter VII recognises the right of the Security Council to act in the event of a threat to 'international peace and security' no international treaty unequivocally acknowledges the right of military action to halt or prevent violations of human rights (when taken through the competent organs of the UN).⁶⁴

The preamble to the UN Charter, as well as Articles 1 (3), 55, and 56, does entail a legal obligation on member-states to *promote* human rights. However, as Simon Chesterman has rightly pointed out, the wording 'clearly privileges peace over dignity: the threat or use of force is prohibited in Article 2(4); protection of human rights is limited to more or less hortatory provisions of Articles 55 and 56'.⁶⁵

Between 1998 and 1999 it was unanimously agreed by the Security Council that Serb forces had committed gross and systematic violations of human rights in Kosovo and that these actions represented a threat to 'international peace and security'. Although technically Kosovo is in the domestic jurisdiction of the FRY, it was asserted in 1995 by the ICTY 'that it was "settled practice" that Chapter VII powers could be invoked to address purely internal armed conflicts as a species of "threats to the peace"'.⁶⁶

President Bill Clinton, in his Address to the Nation on the day of the initial bombing raids, stated this 'threat' in the starkest possible terms. According to Clinton,

Sarajevo, the capital of neighbouring Bosnia, is where World War I began. World War I and the Holocaust engulfed the region. In both wars Europe was slow to recognize the dangers, and the United States waited even longer to enter the conflicts. Just

⁶³ Statement of the Secretary-General, Press Release SG/SM/ 6938, 24 March 1999 in Heike Krieger (ed.) *The Kosovo Conflict in International Law: An Analytical Documentation 1974-1999* Vol. II (Cambridge: Cambridge University Press, 2001), p.424. Judith Miller, 'Annan Takes Critical Stance on U.S. Actions in Kosovo', *The New York Times*, May 19, 1999.

⁶⁴ The Genocide Convention is the closest to invoking a right of intervention but it is not unequivocal.

⁶⁵ Simon Chesterman, *Just War or Just Peace? Humanitarian Intervention and International Law* (Oxford: Oxford University Press, 2001), p. 45.

⁶⁶ Chesterman, *Just War or Just Peace?* p.4. Jonathan M. Miller, 'International Law May Halt the Bombing; Serbia', *The Los Angeles Times*, May 11, 1999.

imagine if leaders back then had acted wisely and early enough, how many lives could have been saved, how many Americans would not have had to die.⁶⁷

That the United States might be acting to preserve its (and NATO's) global reputation once coercive diplomacy had been instigated against the FRY and that strategic regional interests were of a second-order level was *not* central to public debate in the US. (This contrasts with Europe where the concern for the future of NATO was and is seen as a more urgent priority.⁶⁸)

According to one critic, since Vietnam '[a]mbiguity and nuanced political objectives have acquired an equally ill repute'.⁶⁹ Nonetheless, the view that Serbia's escalating counter-insurgency campaign against the KLA risked spreading conflict to Albania, Macedonia and the more fragile situation in Bosnia was widespread enough to make the 'regional stability' argument plausible as well as adding something of a strategic rationale to the concern for the human rights situation on the ground.⁷⁰

But the overwhelming focus of US officials' polemical justification for bombing was to avert a humanitarian catastrophe.⁷¹ Accordingly, during the first two weeks of the war, when US military Psyops were working with CNN, the news network produced thirty articles for the Internet. 'An average CNN article', according to one media study, 'had seven mentions of Tony Blair, NATO spokesmen like Jamie Shea and David Wilby or other NATO officials. Words like refugees, ethnic cleansing, mass killings and expulsions were used nine times on the average. But the so-called Kosovo Liberation Army (0.2 mentions) and the Yugoslav civilian victims (0.3 mentions) barely existed for CNN'.⁷²

⁶⁷ President Bill Clinton, Address to the Nation, Washington D.C., 24 March, 1999 in Heike Krieger (ed.) *The Kosovo Conflict in International Law: An Analytical Documentation 1974-1999* Vol. II (Cambridge: Cambridge University Press, 2001), p.415.

⁶⁸ See the essays in Pierre Martin and Mark R. Brawely (eds.) *Alliance Politics, Kosovo, and NATO's War: Allied Force or Forced Allies* (New York: Palgrave, 2001).

⁶⁹ Eliot A. Cohen, 'Kosovo and the New American Way of War', in Andrew J. Bacevich and Eliot A. Cohen (eds.) *War Over Kosovo: Politics and Strategy in a Global Age* (New York: Columbia University Press, 2001), p.48.

⁷⁰ On the dynamics of this conflict see Tim Judah, *Kosovo: War and Revenge* (New Haven: Yale University Press, 2000).

⁷¹ Craig R. Whitney, 'Facts at Briefings Scarce, But Polemics Are Abundant', *The New York Times*, April 3, 1999; Eric Schmitt, 'U.S. Media Policy: Justify Air Assault But Skimp on Detail', *The New York Times*, March 27, 1999.

⁷² Alexander Cockburn, 'CNN and Psyops'. See <http://www.counterpunch.org/cnnpsyops.html> [downloaded 18 November 2002]

The principal defence NATO offered was that its actions were taken on behalf of the international community to avert a humanitarian catastrophe.⁷³ That this was consistent with Resolutions 1160, 1199 and 1203 adopted under Chapter VII of the UN Charter provided extra 'legal' support, though it is an open question whether in their absence NATO would still have acted. Nonetheless, NATO maintains its position that these resolutions imposed mandatory obligations on the FRY that they consistently failed to carry out.

This was witnessed most dramatically, NATO argued, in Milosevic's public refusal to allow the ICTY Chief Prosecutor access to the Racak massacre scene in January 1999, as well as his negative response to external monitoring at the Rambouillet peace talks (discussed further in Chapter Four). The most widespread view among politicians and commentators alike was that 'Yugoslavia had violated a mandatory peremptory norm of international law', according to Ingrid Detter, 'thus a rule of *jus cogens*, regarding the duty of States to refrain from genocide and gross violations of human rights'.⁷⁴

To publicly demonstrate this end, the US State Department, media, and several commentators freely attributed to the situation in Kosovo one of the most 'emotion-laden words in diplomacy and international law.'⁷⁵ Based on a Nexus database search of the *Los Angeles Times*, *New York Times*, *Washington Post*, *Newsweek*, and *Time* between 1998 and 1999 the term 'genocide' was applied to Serbia/Kosovo 220 times, including 41 times on the front page.⁷⁶ This compares with the case of Indonesia/East Timor over a period of nine years where the word was used 33 times, with 4 on the front page. During the one unambiguous case since the Genocide Convention, Rwanda 1994, following the Clinton administrations

⁷³ For a sympathetic reading of NATO's justifications see Nicholas J. Wheeler, 'Reflections on the Legality and Legitimacy of NATO's Intervention in Kosovo', in Ken Booth (ed.) *The Kosovo Tragedy: The Human Rights Dimensions* (London: Frank Cass, 2000), pp. 145-63. C.f. Hilaire McCoubrey, 'International Humanitarian Law and the Kosovo Crisis', in Ken Booth (ed.) *The Kosovo Tragedy: The Human Rights Dimensions* (London: Frank Cass, 2000), pp. 184-206.

⁷⁴ Ingrid Detter, *The Law of War* (2ed.) (Oxford: Oxford University Press, 2000), p.91; Weller, 'The Kosovo Indictment', p.215.

⁷⁵ Neil A. Lewis, 'Genocide, as Defined by a 1951 U.N. Treaty', *The New York Times*, March 31, 1999. Foreign Desk, 'A Bolder Annan Fears "Genocide"', *The New York Times*, April 8, 1999; Francis X. Clines, 'NATO Hunting for Serb Forces: U.S. Reports Signs of "Genocide"', *The New York Times*, March 30, 1999; Detter also refers to the maltreatment of Kosovars as amounting to 'genocide'. See Detter, *The Law of War*, p.34, 49, 51, 417.

⁷⁶ Edward S. Herman and Noam Chomsky, *Manufacturing Consent: The Political Economy of Mass Media* (2ed.) (New York: Pantheon Books, [1988] 2002), p.xxi.

lead, much of the press under-reported the scale of the atrocities and rarely used the 'G-word'.⁷⁷

But it was, of course, politically imperative that NATO corroborated its claims about Milosevic's crimes. Contrasting with the situation in East Timor where the UN implored the US but failed to obtain their forensics expertise,⁷⁸ the moment KFOR arrived, Kosovo was inundated with skilled forensics to prove NATO's claims of atrocities. During the actual bombing raids, human rights observers, war crimes investigators and journalists all scattered throughout Kosovo to find evidence of mass graves and 'genocide'.

Mostly this took the form of retrospective justification given that most atrocities occurred *after* and as the anticipated consequence of the bombing.⁷⁹ Another contrast to the speedy arrival of forensics experts was the US refusal to supply a weapons disposal team, for fear of setting a precedent, to remove the 15,000 unexploded cluster bombs (used to shut down Serbia's power source⁸⁰). By April 2001, over five hundred civilians had been killed or injured by these bombs.⁸¹

Extremely controversial, but again bolstering NATO's legal case, was the 24 May 1999 decision by the ICC Chief Prosecutor, Louise Arbour, to charge the most senior members of the FRY leadership with crimes against humanity, including murder, persecution, and the forced deportation of 740,000 ethnic Albanians from Kosovo.⁸² Just a few weeks prior, the State Department had warned several Yugoslav commanders they would face prosecution.⁸³ The strategic consequences of the indictments were immense which for all

⁷⁷ Samantha Powers, *'A Problem from Hell': America and the Age of Genocide* (New York: Basic Books, 2002), pp. 355-6, 359. On the Rwanda genocide see Philip Gourevitch, *We Wish to Inform You that Tomorrow We Will be Killed with Our Families: Stories from Rwanda* (New York: Picador, 1998).

⁷⁸ Noam Chomsky and David Barsamian, *Propaganda and the Public Mind: Conversations with Noam Chomsky* (Cambridge, MA: South End Press, 2001), p.159.

⁷⁹ Powers neglects this *predicted* outcome of the bombing, assuming that 'allied planners failed to predict'. See Powers, *'A Problem from Hell'*, p.452. In contrast see Noam Chomsky, *A New Generation Draws the Line: Kosovo, East Timor and the Standards of the West* (London: Verso, 2000), p.61.

⁸⁰ Benjamin S. Lambeth, *NATO's Air War for Kosovo: A Strategic and Operational Assessment* (Santa Monica, CA: Rand, 2001), p.40.

⁸¹ Human Rights Watch, 'Cluster Bomb Memorandum'. See <http://www.hrw.org/press/2001/04/clusterbombs0402.htm> [downloaded November 25, 2002]. Jonathan Steele, 'Death Lurks in the Fields', *The Guardian*, March 14, 2000; Chomsky, *A New Generation*, pp. 133-4.

⁸² Others accused in the forty-two-page indictment were the Serbian President, Milan Milutinovic, chief of staff of Yugoslav armed forces, Dragoljub Ojdanic, the Deputy Prime Minister of Yugoslavia, Nikola Sainovic, and Vljeko Stojilkovic, the Minister of Internal Affairs. Charles Trueheart, 'War Crimes Charge To Be Announced Against Milosevic', *The Washington Post*, May 27, 1999.

⁸³ Raymond Bonner, '9 Yugoslavs Are Warned Of Liability For Atrocities', *The New York Times*, April 8, 1999.

practical purposes prohibited any early-negotiated deal with Milosevic now an international pariah and leader of a criminal regime.⁸⁴

An example of the discursive enforcement of law in this instance was the wearing down by prosecutors and journalists alike during the war of the general presumption of 'innocent until proved guilty'. During domestic murder and rape trials journalists are rarely accused of prejudicing a case before conviction by describing the accused as 'criminal'. Throughout the Kosovo war, however, Milosevic was consistently described as an 'indicted war criminal', a categorisation classical legal systems would never endorse.⁸⁵

One effect of the indictment was to dispel doubts among many US citizens about their troops continuing Balkan involvements,⁸⁶ though later it raised concerns that US military personnel and political leaders might also be the subject of such trials.⁸⁷ Also contrasting greatly with the often-principled refusal to do so in domestic terrorist trials such as Northern Ireland, several journalists who covered Kosovo willingly handed over evidence to NATO and the ICTY as well as act as trial witnesses in the later proceedings.⁸⁸

But the allegations of atrocities could now be presented as not 'figments of NATO propaganda. Instead the allegations had been confirmed by a body', Marc Weller writes, 'which was a creature of the UN Security Council, the international organ exercising primary responsibility in relation to international peace and security. The tribunal could claim objectivity'.⁸⁹

The British also suggested there was evidence to show Milosevic enjoyed a 'close relationship' including military ties with Iraq's Saddam Hussein. US officials were unconvinced about the degree of these alleged links⁹⁰ though this did not halt their

⁸⁴ Steven Mufson, 'A Diplomatic Roadblock? Indictment of Milosevic Could Hinder Settlement', *The Washington Post*, May 27, 1999.

⁸⁵ Mirjana Skoco and William Woodger, 'War Crimes', in Philip Hammond and Edward S. Herman (eds.) *Degraded Capability: The Media and the Kosovo Crisis* (London: Pluto Press, 2000), pp. 36-7. Milosevic operatives have also been linked to the murder of BBC presenter Jill Dando on 26 April 1999 as revenge for NATO's bombing of the FRY that was ongoing. Dando had made a televised appeal for aid for Kosovo-Albanian refugees and it is alleged presented a relatively easy target for Serb assassins. See Bob Woffinden, 'Shadow of Doubt?', *The Guardian Weekend*, July 6, 2002.

⁸⁶ Dirk Johnson, 'To Some Midwesterners, Milosevic Indictment Gives War New Meaning', *The New York Times*, May 29, 1999.

⁸⁷ Elizabeth Becker, 'U.S. Presses for Total Exemption From War Crimes Court', *The New York Times*, October 9, 2002.

⁸⁸ Peter Maass, 'Journalists and Justice at The Hague', *The New York Times*, July 5, 2002.

⁸⁹ Weller, 'The Kosovo Indictment', p.214.

⁹⁰ Philip Shenon, 'Serbs Seek Iraqi Help For Defense, Britain Says', *The New York Times*, April 1, 1999.

simultaneously bombing the FRY *and* Iraq on the basis of eight-year-old UN Resolutions.⁹¹ Other similarities between Saddam and Slobodan were also not lost on the US government and media. Nuclear inspectors from the International Atomic Energy Agency visited the Vinca nuclear reactor (albeit on Yugoslavia's request) to forestall accusations that Milosevic was breaking international law by beginning weapons programmes or selling materials to Iraq.⁹²

It was reported that the Yugoslav army stocked chemical weapons and that some of the non-lethal variety had probably been used.⁹³ Though it could not be independently verified, reports too emerged alleging that Serb forces attacked the KLA using gas and that this had affected Kosovo civilians.⁹⁴ Moreover, in what was alleged to be a systematic campaign to destroy evidence that could be used against them in trials NATO charged that Serb forces had exhumed mass graves and removed the bodies of hundreds of Kosovo-Albanians.⁹⁵

Headlines like 'Judges at the Hague Refused to Halt the NATO Bombing'⁹⁶ also served to bolster NATO's claims in the eyes of 'the law'. On 29 April 1999 the FRY appealed to the World Court to institute proceedings against individual member states to halt the bombing campaign.⁹⁷ (The action was against member states rather than NATO because it cannot act as a respondent before the ICJ.⁹⁸) By 2 June, however, ICJ judges had already declared that they were not able to 'exercise jurisdiction' in the case as well as declined to consider claims for payment for war damages sustained by the FRY.⁹⁹ According to one legal

⁹¹ Philip Shenon, 'U.S. Quietly Intensifies Attacks on Iraq, Destroying Radar Sites', *The New York Times*, May 5, 1999.

⁹² Judith Miller, 'International Monitoring of Serbia's Enriched Uranium to Resume', *The New York Times*, May 5, 1999.

⁹³ Judith Miller, 'U.S. Officials Suspect Deadly Chemical Weapons in Yugoslav Army Arsenal', *The New York Times*, April 16, 1999.

⁹⁴ Anne Swardson, 'Serbs Alleged to Have Used Gas: Refugees, KLA Sources Describe Attacks on Two Villages', *The Washington Post*, May 23, 1999.

⁹⁵ Steven Pearlstein and Charles Trueheart, 'NATO Says Serbs Exhuming Bodies', *The Washington Post*, May 19, 1999.

⁹⁶ Marlise Simmons, 'Judges at The Hague Refuse To Halt the NATO Bombing', *The New York Times*, June 3, 1999.

⁹⁷ Marlise Simmons, 'Yugoslavia Seeks a Legal Order to Halt the NATO Bombing', *The New York Times*, May 12, 1999.

⁹⁸ See Thorsten Stein, 'Kosovo and the International Community. The Attribution of Possible Internationally Wrongful Acts: Responsibility of NATO or of its Member States?', in Christian Tomaschat (ed.) *Kosovo and the International Community: A Legal Assessment* (London: Kluwer Law International, 2000), pp.18-92.

⁹⁹ Editorial, 'World Court throws out Yugoslav case against U.S., Spain', June 2, 1999, CNN.com. See <http://www9.cnn.com/WORLD/europe/9906/02/kosovo.worldcourt/> [downloaded 2 October 2, 2001].

scholar this must 'surely represent a "surprisingly narrow interpretation" by the Court of its own jurisdiction and powers. Indeed, the decisions are without precedent in this respect'.¹⁰⁰

After the bombing had ended, ostensible consideration was given by the ICTY as to whether NATO had committed war crimes. However, according to the Final Report of the Committee established by the Prosecutor, 'either the law is not sufficiently clear or investigations are unlikely to result in the acquisition of sufficient evidence to substantiate charges against high level accused or against lower accused for particularly heinous offences'.¹⁰¹ It is doubtful that the ICTY would have had at their disposal the necessary forensic expertise to acquire 'sufficient evidence to substantiate charges'.

The report did, however, assume 'that the NATO and NATO countries' press statements are generally reliable and that explanations have been honestly given'.¹⁰² This judgement was perhaps hasty given Anthony Cordesman's opinion that, 'Much of the data NATO provided during the war were originally intended more to serve propaganda purposes rather than be used for serious analysis'.¹⁰³ (The role of the media in shaping public perceptions of the war is discussed further in Chapter Four.)

Although there was no direct Security Council authorisation of the bombing campaign some have argued that the defeat of the draft resolution tabled by Russia, Belarus and India condemning NATO's acts as a breach of Article 2 (4), 24 and 53 of the Charter demonstrates a level of tacit acceptance by the international 'society of states'.¹⁰⁴ Despite the fact that previously the Security Council has left global opinion with little doubt concerning authorisation with a series of explicit resolutions concerning Iraq in 1991¹⁰⁵ and Bosnia in

¹⁰⁰ Thomas Bruha, 'The Kosovo War Before the International Court of Justice - A Preliminary Appraisal', in Christian Tommasch (ed.) *Kosovo and the International Community: A Legal Assessment* (London: Kluwer Law International, 2000), p. 314.

¹⁰¹ International Criminal Tribunal for the Former Yugoslavia, Final Report in to the Prosecutor by the Committee Established to Review the NATO Bombing Campaign Against the FRY, PR/P.I.S./510-E, 13 June 2000 in Heike Krieger (ed.) *The Kosovo Conflict in International Law: An Analytical Documentation 1974-1999* Vol. II (Cambridge: Cambridge University Press, 2001), p.352.

¹⁰² ICTY, Final Report in to the Prosecutor, p.352. For evidence to the contrary see Philip Knightley, 'The Military's Final Victory: March-June 1999', *The First Casualty: The War Correspondent as Hero and Myth-Maker from the Crimea to Kosovo* (2nd edition with a new introduction by John Pilger) (London: Prion Books, 2000), pp.501-26.

¹⁰³ Anthony H. Cordesman, *The Lessons and Non-Lessons of the Air and Missile Campaign in Kosovo* (London: Praeger, 2001), pp. 1-2, 139-62.

¹⁰⁴ Nicholas J. Wheeler, *Saving Strangers: Humanitarian Intervention in International Society* (Oxford: Oxford University Press, 2000), pp. 275-81.

¹⁰⁵ Although Resolution 688 did not explicitly authorise the 'safe havens' in Iraq it 'appealed to member states and to humanitarian organizations "to contribute to... humanitarian relief efforts"'. Jane E. Stromseth, 'Iraq's Repression of Its Civilian Population: Collective Responses and Continuing Challenges', in Lori Fisler Damroth

1995, retrospective validation now appears adequate. (The Economic Community of West African States (ECOWAS) intervention in Liberia between 1990 and 1997 may be an earlier example).

The Security Council rejected Russia's resolution twelve to three. Voting in favour were Russia, China, and Namibia. Voting against were the NATO members, the United States, Britain, France, Canada and the Netherlands as well as Argentina, Bahrain, Brazil, Gabon, Gambia, Malaysia and Slovenia.¹⁰⁶ In the words of the Indian spokesperson, 'the international community can hardly be said to have endorsed their actions when already representatives of half of humanity have said that they do not agree with what they have done'.¹⁰⁷

One possible outcome has been the 'unspoken agreement', according to one report, that in exchange for Russian acceptance of the bombing campaign the United States would tone down its criticism of its actions in Chechnya, as well as allow a Russian role in post-war regional reconstruction.¹⁰⁸ To NATO's embarrassment this was something Russia militarily ensured when two hundred troops drove from Bosnia to Kosovo and triumphantly secured Slatina airport without notifying NATO and cheered on by local Serbs. General Wesley Clark reportedly ordered General Mike Jackson to take the airport, but Jackson refused for fear of starting 'World War Three'.¹⁰⁹

The desire for public legitimacy seems crucial to accounting for the ambiguous but sustained US effort to demonstrate in equal measure both the atrocities of the other side and legitimacy of the bombing campaign while also avoiding the explicit appearance of relying on law to justify violence. When the leader of the UN mission to Kosovo found 'indisputable

(ed.) *Enforcing Restraint: Collective Intervention in Internal Conflict* (New York: Council on Foreign Relations Press, 1993), p85.

¹⁰⁶ Judith Miller, 'Russia's Move To End Strikes Loses; Margin Is a Surprise', *The New York Times*, March 27, 1999.

¹⁰⁷ Quoted in Wheeler, 'Reflections on the Legality', p. 157.

¹⁰⁸ Richard Falk, "Humanitarian Wars", *Realist Geopolitics and Genocidal Practices: "Saving the Kosovars"*, in Ken Booth (ed.) *The Kosovo Tragedy: The Human Rights Dimensions* (London: Frank Cass, 2000), p. 333.

'Washington squelched Russian mediation at Rambouillet because, if successful, it would have given Russia an ongoing role in former Yugoslavia. In the end Russia had to be given a minor role anyway. The unspoken agreement was that if you let us bomb Serbia, we'll let you bomb Chechnya'. Robin Blackburn, 'The Imperial Presidency, the War on Terrorism, and the Revolutions of Modernity', *Constellations*, Vol.9, no. 1 (2002), p. 31. fn.11.

¹⁰⁹ Judah, *Kosovo*, pp. 284-5.

evidence' of ethnic cleansing and 'ample evidence' of the success of NATO strikes things at last seemed to be going NATO's way.¹¹⁰

Moreover, when human rights lawyers announced that Yugoslavia's decision to promptly try the three US soldiers (Staff Sergeants Ramirez and Stone and Specialist Gonzales) captured along the Yugoslav-Macedonian border violated the Geneva Convention covering prisoners of war, this evidence was widely contrasted to the legal treatment by the US of their Yugoslav counterparts.¹¹¹ According to Pentagon officials, once the US captives had been duly paraded on Serb state TV they were kicked and beaten with rifles.¹¹² Why has law, even when apparently broken, seemed such an effective tool in securing public assent?

Law, Liberal Democracy and Punishment

The ambivalence US citizens have generally felt towards law, its capacity to justify both rebellion and repression, has manifest itself in multiple ways and partly accounts for the apparent success of US official discourse regarding Kosovo and the law. The mythology of the outlaw or vigilante, for example, the notion that justice can be done by breaking the law, provides a staple theme in US popular drama as well as recent accounts of humanitarian war.¹¹³

While Europeans scoff at the conformity of much of US society there is undoubtedly a greater popular *sense* of rebellion, the possibility of radical change and the pursuit of justice, the mythologisation of gangsters. As Anne Norton describes,

The traditional revolutionary admiration and affection for the outlaw shows itself even in those series where the protagonists represent the law. Police officers on television... and the Founding Fathers in rebellion, often do justice by breaking the law. Their transgressions mark them as the agents not merely of the law but of justice... The pursuit of justice is marked as an enterprise distinct from the enforcement of the law, accomplished sometimes through, sometimes despite, the law's agents.¹¹⁴

The figure of Justice, blindfolded with a sword in the right hand and scales in the left, is widespread in the United States. In popular culture the image holds such iconographic power because, as Taylor suggests, 'it can be easily identified as "justice", it appears as a "natural"

¹¹⁰ Judith Miller, 'U.N. Finds Proof of "Ethnic Cleansing" in Kosovo', *The New York Times*, June 3, 1999.

¹¹¹ John J. Goldman, 'Lawyers Say Pact Prohibits Trial of POWs', *The Los Angeles Times*, April 2, 1999.

¹¹² Steven Erlanger, 'Military Court Will Examine Soldiers' Cases', *The New York Times*, April 2, 1999.

¹¹³ Wheeler, 'Reflections on the Legality', p. 146.

¹¹⁴ Anne Norton, *Republic of Signs: Liberal Theory and American Popular Culture* (Chicago: University of Chicago Press, 1993), p.142.

part of our political environment... the truth it speaks is that the legal system is blind to “extraneous” factors... and in effect, all are (formally) equal before the blindfolded figure’.¹¹⁵

Law, then, whether in the national or global domain, is built on a vast construction of representations,¹¹⁶ and is also implicated in favouring some ways of being ‘public’ over others. As Oskar Negt and Alexander Kluge have suggested, ‘All bourgeois forms of the public sphere presuppose special training, both linguistic and mimetic. In public court proceedings, in dealing with officials, it is expected that all parties involved that they be concise and present their interests within forms of expression fitting to the official context’.¹¹⁷

The cultural power of law can be further witnessed in the ever-growing US litigation industry where trial lawyers win massive compensation payments in personal injury lawsuits. These trials have in effect taken the place of redistributive legislation in a country suspicious of more organised labour, itself a product (discussed in Chapter Five) of the ‘personalisation’ of the liberal public domain.¹¹⁸ The contemporary United States is more comfortable with televised intimate suffering and individual testimony, taking the lead in what has become a more general trend in the West of a ‘politics of anecdote’,¹¹⁹ than the more politicised struggles of whole races, classes, and genders. The first US war of this kind, perhaps, was Vietnam - a victims’ war thus defined above all by TV.¹²⁰ The sentimentalised coverage of Kosovo-Albanian refugees and the ‘freed’ women of Afghanistan more recently is also part of this trend.

The ‘national’ public sphere in the United States more generally is obsessed with intimacy, not without repercussions for our analysis of Kosovo. That the official public sphere was gripped by the most intimate life of the Commander-in-Chief for months prior to the war is only the most trivial example.¹²¹ Mirroring an argument to be made in Chapter Five, the

¹¹⁵ Taylor, ‘Postmodernism and the Double Question of the Frame’, p. 66.

¹¹⁶ Norton, *Republic of Signs*, p.143.

¹¹⁷ Oskar Negt and Alexander Kluge, *Public Sphere and Experience: Toward an Analysis of the Bourgeois and Proletarian Public Sphere* (forward by Miriam Hansen, translated by Peter Labanyi, Jamie Owen Daniel and Assenka Oksiloff) (Minneapolis: University of Minnesota Press, [1972], 1993), pp. 45-6.

¹¹⁸ For efforts to move beyond this see Stanley Aronowitz, ‘Unions as Counter-Public Spheres’, in Mike Hill and Warren Montag (eds.) *Masses, Classes, and the Public Sphere* (London: Verso, 2000), pp. 83-101.

¹¹⁹ Nicholas Lemann, ‘The Newcomer’, *The New Yorker*, May 6, 2002, p. 83.

¹²⁰ Christopher Coker, *Humane Warfare* (London: Routledge, 2001), p. 37. In contrast, Bruce Cumings suggests the Korean War was the first ‘TV war’. See Cumings, *War and Television* (London: Verso, 1992).

¹²¹ Some even argued that Clinton bombed Serbia as a distraction from ‘Monica-Gate’. See Mona Charen, ‘Why We are in Kosovo’, *Jewish World Review*, April 19, 1999. See

<http://www.jewishworldreview.com/cols/charen041999.asp> [downloaded on October 9, 2002].

collapsing of public and private ‘into a world of public intimacy,’¹²² as Lauren Berlant would claim has been constituted in the United States most thoroughly through the medium of law and the diffusion of punishment. The historical development of criminal punishment in the United States, more particularly, is intimately linked to political authority and the legitimisation of power and violence more generally. These practices, the next section argues, resonate in ways that illuminate US global police actions such as Kosovo.

Crucial to the emergence of legal codes in liberal societies was the distinction between the inner (private) and outer (public) self. Once institutionalised, this move, according to Margaret Somers, ‘forever imprinted on our political imaginations a binary spatial divide between public and private’.¹²³ In a move that made the non-political sphere the single realm of true liberty the *private* autonomy of individual rights bearers had to be created if the status of legal (public) persons were to exist.

Without these classical freedoms, as Habermas recounts, there ‘would not be any medium in which to legally institutionalize the conditions under which citizens could participate in the practice of self-determination’.¹²⁴ If individuals had native or natural rights, as Locke had argued, then a tolerant society must distinguish between appropriate political persuasion and legitimate coercion. The use of force against citizens could only be legitimate in defence of the public good.

The traditional liberal concern that the state should not interfere with individual freedom coincided with debates among ‘humanitarian’ social reformers in the early republic regarding how people were to be fashioned into subjects appropriate for democratic rule.¹²⁵ In the words of Louis Hartz, ‘the separation between inner belief and outer work, established by Lockean liberals as a means of protecting the freedom of religious belief, also enabled authorities to influence the actions of subjects and, more fundamentally, actually to construct those subjects as liberal individuals’.¹²⁶ If a powerful state were feared then civil society itself

¹²² Lauren Berlant, *The Queen of America Goes to Washington City: Essays on Sex and Citizenship* (Durham, NC: Duke University Press, 1997), p.1.

¹²³ Somers, ‘The Privatization of Citizenship’, p.139.

¹²⁴ Jürgen Habermas, ‘Remarks on Legitimation through Human Rights’, *The Post-National Constellation: Political Essays* (Cambridge: Polity Press, 2001), pp.117-18.

¹²⁵ Thomas L. Dumm, *Democracy and Punishment: Disciplinary Origins of the United States* (Wisconsin: University of Wisconsin Press, 1987), p. 26.

¹²⁶ Louis Hartz, *The Liberal Tradition in America* (New York: Harcourt Brace, 1955), p.8.

would have to be responsible for social control, for creating the required 'society of reasonable Christians.'¹²⁷

Just as advanced technology was hailed in this period for its seemingly natural ability to create liberal subjects with republican values, capable of fostering both democratic individualism and personal wealth,¹²⁸ *legal codes* also seemed in natural harmony with this particular vision of the citizen. It was through 'their very specificity, their regularity', according to Thomas Dumm, that enabled legal codes to 'establish the modern, liberal democratic person'.¹²⁹ The contradictory result, despite the rhetoric of liberal discourse, was the politicisation of both public and private.

Liberal norms of citizenship and economy in the United States, themselves built on assumptions concerning public and private, were to a large extent consolidated via the penal system at the beginning of the 19th Century. More than any other industrialised nation, the United States has historically relied on the penitentiary to maintain public (and private) order.¹³⁰ As Elliot Currie describes, 'short of major wars, mass incarceration has been the most thoroughly implemented government social program of our time'.¹³¹ Moreover, as Michel Foucault has convincingly demonstrated, judicial systems - where wrongful behaviour is determined and punished - are a major technique by which modern society defines types of subjectivity and forms of truth.¹³² During the 19th Century, for example, a whole system of factories was organised across the United States on the model of the penitentiary.¹³³

Prisons do a great deal of ideological work for modern forms of governance being the exemplar, only the most symbolic institutional form for converting individuals into a productive force. Of course, the establishment of the legal apparatus (including the whole series of attendant policing institutions, surveillance and rules) was a major contributor to the

¹²⁷ Dumm, *Democracy and Punishment*, p.84.

¹²⁸ John F. Kassen, *Civilizing the Machine: Technology and Republican Values in America, 1777-1900* (New York: Grossman Publishers, 1976).

¹²⁹ Dumm, *Democracy and Punishment*, p. 84.

¹³⁰ 'By the late 1980s the United States had surpassed the then authoritarian governments in the Soviet Union and South Africa in having the highest incarceration rate in the developed world... This expansion, for the most part, was not fueled by a great increase in serious crimes'. Jonathan Simon, 'Refugees in a Carceral Age: The Rebirth of Immigration Prisons in the United States', *Public Culture*, Vol. 10, no.3 (1998), p.577.

¹³¹ Elliott Currie, *Crime and Punishment in America* (New York: Henry Holt and Company, 1998), p.21.

¹³² Michel Foucault, 'Truth and Juridical Forms', *Power* (edited by James D. Faubion and translated by Robert Hurley and others) (New York: The New Press, 1994), p.4.

¹³³ Foucault, 'Truth and Juridical Forms', p. 75. Also see Dumm, 'Republican Machines: The Emergence of the Penitentiary', *Democracy and Punishment*, pp.87-112.

democratisation of sovereignty and the rule of law. However, as Foucault describes, it was also 'fundamentally determined by and grounded in mechanisms of disciplinary coercion'.¹³⁴

The mainstream US public sphere has been forcibly constructed as white, normal, employed etc. to a large extent by law and definitions of what is legal and illegal. (Chapter Five will suggest that racist legal structures underpin the official US public sphere in ways that shaped the treatment of Kosovar-Albanian refugees and immigrants.) But the *globalization* of discipline and punishment, as witnessed during Kosovo, also cannot be understood unless placed squarely at the intersection of law and the violent constitution of 'legitimate' public space.

Where several have noted that any scheme for transnational democracy - the expansion of Western social and political forms - requires the establishment of systems of justice and law,¹³⁵ we must be equally attendant to the politics of global disciplinary coercion. Just as punishment and the expansion of penitentiaries were central to the extension of liberal democratic freedoms in the United States during the 19th Century we must also account for the types of subjectivity and forms of truth in the emerging global order inaugurated by 'humanitarian' war, including globally-oriented definitions of legality, democracy and rights.

Revealed through the following examination of the resurgence of Just War discourse during the Kosovo intervention, which mirrors at the international level justifications for domestic policing, we can similarly conceive assumptions concerning liberal 'humane' warfare as part of the ongoing production of the legitimacy of *global disciplinary* coercion, US imperial violence. Liberal state violence is justified both through the construction of legal norms at the international level, including the right of the United States to break and create 'norms', and then by '*the appeal to essential values of justice*'. This exercise is then presented as a police action because it was 'solicited by'¹³⁶ one of the parties involved (Kosovo-Albanians).

In the United States it was widely accepted as normal that Kosovo represented a case of 'their' sovereignty versus 'our' humanity.¹³⁷ Backed up by evidence provided by the 'moral police', Just War discourse fashioned a sacrilisation of war appropriate to the

¹³⁴ Michel Foucault, 'The Juridical Apparatus', in William Connolly (ed.) *Legitimacy and the State* (Oxford: Basil Blackwell, 1984), p.219.

¹³⁵ David Held, 'Violence, Law, and Justice in a Global Age', in Craig Calhoun, Paul Price, and Ashley Timmer (eds.) *Understanding September 11* (New York: The New Press, 2002), pp. 92-105.

¹³⁶ Negri and Hardt, *Empire*, p.17.

¹³⁷ Max Frankel, 'Our Humanity Vs Their Sovereignty', *The New York Times Magazine*, May 2, 1999.

contemporary balance of power: violence justified solely by whom it was proclaimed.¹³⁸ However, if the means-end calculus inherent in Just War discourse is partly to blame for this instrumentalism, it is not new to Just War thinking.¹³⁹ What is added in this context is the hegemonic liberal-republican twist - the expansive US conception of power and law in the project of building world order.

From Just War to Global Police

One of the most revealing features of NATO's war was the recovery of 'Just War' rhetoric.¹⁴⁰ This tradition, originally a Christian one expounded by St. Augustine, has more recently been exhibited in international law and most fully explicated and secularised by Michael Walzer.¹⁴¹ Thus far the chapter has principally discussed matters concerning the right to fight, *jus ad bellum*, the initial decision to intervene. This section moves the analysis to *jus in bello*, what is right to do in war.

Jus ad bellum has typically been conceived as a war waged by a legitimate authority, for a just cause in the last resort with at least a moderate chance of success. For *jus in bello*, the means ought to be proportional to the ends, the evil incurred in conducting war cannot be greater than the evil it was designed to relieve, and those deemed 'innocent', usually non-combatants, should be spared (or at least not deliberately targeted). The tension between *jus ad bellum* and *jus in bello* can be summed up with Walzer's expression, as the 'dilemma of winning and fighting well: the military form of the means/end problem, the central issue in political ethics'.¹⁴²

Even if morality gives leave to fight it might also refuse the right to do what is needed to win. 'In any struggle...' Walzer writes, 'the rules of war may at some point become a hindrance to... victory'.¹⁴³ Judged only by their numbers, however, the presence of NATO military lawyers during the Kosovo bombing demonstrated a desire to create the appearance

¹³⁸ Hardt and Negri, *Empire*, p. 13.

¹³⁹ For Arendt's brief discussion of just and unjust wars see *On Revolution*, pp.12-13.

¹⁴⁰ William Jefferson Clinton, 'A Just and Necessary War', *The New York Times*, May 23, 1999; Wheeler, *Saving Strangers*, pp. 34-6; Melanie McDonagh, 'Can There be Such a Thing as a Just War?' in Ken Booth (ed.) *The Kosovo Tragedy: The Human Rights Dimensions* (London: Frank Cass, 2000), pp. 289-94.

¹⁴¹ Michael Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations* (2ed.) (New York: Basic Books, 1992).

¹⁴² Walzer, *Just and Unjust Wars*, pp. xxx-xxxii. Also see Ken Booth, 'Ten Flaws of Just Wars', in Booth (ed.) *The Kosovo Tragedy: The Human Rights Dimensions* (London: Frank Cass, 2000), pp. 314-24; Chesterman, 'The Just War: The Origins of Humanitarian Intervention', in *Just War or Just Peace?* pp. 7-44.

¹⁴³ Walzer, *Just and Unjust Wars*, p. 195.

of resolving this tension.¹⁴⁴ While such lawyers played little or no role in assessing targeting decisions during Vietnam,¹⁴⁵ throughout the Kosovo campaign legal opinion concerning the Geneva Convention standards for each deployment (scrutinised on an ad hoc basis by as many as nine people in different locations) brought their public function of adding 'legitimacy' to violence to an unprecedented height.¹⁴⁶

Strategists, of course, were quick to complain of the repeated indecision by civilians inflicted on the otherwise efficient military machine.¹⁴⁷ The foremost issue, of course, was whether air assaults were sufficiently discriminatory between 'military' and 'civilian' targets. Article 48 of the 1948 Geneva Convention states,

In order to ensure respect for and protection of the civilian population and civilian objects, the Parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objects and accordingly shall direct their operations only against military objectives.

With legal assessments of each target seemingly built into the computerised process, and civilians 'micro-managing' to an extent not seen since Vietnam, it appeared as though war was at once clinical and liberal if the lawyers so agreed.¹⁴⁸

However, the assumption that precision equalled cleanliness was more plausible (if it ever was) during the early stages of the conflict. In early May, NATO hit the Yugoslav power grid with graphite bombs disabling the generators which caused the transformer to short out for less than twenty-four hours. A few weeks later less fancier kit took out the entire grid.¹⁴⁹

Nonetheless, so apparently humane (and cultured) were NATO strategists that while bombing Belgrade, as alleged by Christopher Coker, 'they refused to target one of Milosevic's residences because it contained a Rembrandt painting. Instead, they designated it a historic cultural site'.¹⁵⁰ Simon Jenkins, in contrast, has pointed precisely to NATO's 'crimes against civilization', the deliberate destruction of important Serb cultural sites such as

¹⁴⁴ Dianne Molvig, 'Military Lawyers: A Sense of Duty', *Wisconsin Lawyer*, Dec. 2001, Vol.74, no12. See <http://www.wisbar.org/wislawmag/2001/12/molvigB.html> [downloaded October 8, 2002].

¹⁴⁵ Ignatieff, *Virtual War*, p.197.

¹⁴⁶ Ward Thomas, *The Ethics of Destruction: Norms and Force in International Relations* (Ithaca: Cornell University Press, 2001), p. 162.

¹⁴⁷ Lambeth, *NATO's Air War for Kosovo*, p.181.

¹⁴⁸ William M. Arkin, 'Operation Allied Force: "The Most Precise Application of Air Power in History"', in Andrew J. Bacevich and Eliot A. Cohen, (eds.) *War Over Kosovo: Politics and Strategy in a Global Age* (New York: Columbia University Press, 2001), pp. 1-37.

¹⁴⁹ Ignatieff, *Virtual War*, p.107.

¹⁵⁰ Coker, *Humane Warfare*, p. 14. According to Ignatieff, 'the truth is that we are more anxious to save our souls than to save Kosovo'. Michael Ignatieff, 'A Post Modern War', *Time*, April 12, 1999, p. 78.

the atrium of the Banovina Palace in Novi Sad, as well as approximately forty listed churches and monasteries (including one under consideration as a UNESCO World Heritage Site).¹⁵¹

Others were also less sanguine. According to Nelson Mandela, 'NATO's actions are equally criminal with those of Milosevic'.¹⁵² Human Rights Watch (HRW) was similarly concerned about NATO's apparent violation of international humanitarian law.¹⁵³ Article 57 (2) of the Additional Protocol I to the Geneva Convention states 'an attack should be cancelled or suspended if it becomes apparent that... the attack may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated'.¹⁵⁴

According to HRW, however, the use of cluster bombs near highly populated areas indicated inadequate concern for avoiding civilian losses and lack of discrimination between civilian and military targets. The latter was witnessed most controversially with the destruction of Serbian Radio and Television buildings that killed sixteen people,¹⁵⁵ as well as the targeting of heating plants, and bridges while also not giving due warning of impending attacks.

Lawyers and law professors, including the American Association of Jurists, made a formal complaint to the Hague Tribunal. As well as alleging violation of the UN Charter, the Geneva Conventions and the NATO treaty itself, the list of possible crimes included,

wilful killing, wilfully causing great suffering or serious injury to body or health, extensive destruction of property, not justified by military necessity and carried out unlawfully and wantonly, employment of poisonous weapons or other weapons to cause unnecessary suffering, wanton destruction of cities, towns or villages, or devastation not justified by military necessity, attack, or bombardment, by whatever means, of undefended towns, villages, dwellings, or buildings, destruction or wilful damage done to institutions dedicated to religion, charity and education, the arts and sciences, historic monuments and works of art and science.¹⁵⁶

¹⁵¹ Simon Jenkins, 'Not War But Vandalism', *The Times*, May 7, 1999.

¹⁵² Quoted in Lord Rees-Mogg, 'Flying Above the Law', *The Times*, May 31, 1999.

¹⁵³ Human Rights Watch 'Civilian Deaths in the NATO Air Campaign'. See http://www.hrw.org/reports/2000/nato/Natbm200.htm#P56_5483 [downloaded 14 August 2001].

¹⁵⁴ The United States is not a signatory to this Additional Protocol, but it did agree to many of its provisions.

¹⁵⁵ Paul Richter, 'Groups Protest Fatal Bombing of TV Facilities', *The Los Angeles Times*, April 24, 1999.

¹⁵⁶ Press Release May 7, 1999, 'Lawyers Charge NATO Leaders Before War Crimes Tribunal'. See <http://www.counterpunch.org/natocrimespr.html> [downloaded 28 September 2001]. For the entire complaint sent to Louise Arbor at the ICTY see <http://www.counterpunch.org/complaint.html> [downloaded 28 September 2001].

The level of environmental destruction was also deemed excessive. Refineries, fertiliser plants, and petrochemical plants were repeatedly targeted leading to sulfur dioxide emissions contributing dramatically to the levels of acid rain.¹⁵⁷ The UN discovered sizeable amounts of mercury that would have had a likely affect on the water and fish supplies. NATO's bombing of a car factory also freed high levels of polychlorinated biphenyls.¹⁵⁸

This kind of long-term environmental damage was given no official reckoning in the 'After Action Review'.¹⁵⁹ Indeed, according to one relatively sympathetic critic, Cordesman, the official US account 'is a travesty... Lying by omission is not unusual, but US government reporting is rarely so lacking in basic integrity and content'.¹⁶⁰ Also omitted was any calculation of the level of 'collateral damage' or the impact of weapons such as cluster bombs.

That such grave contradictions between ends and means seem to have arisen during Kosovo is perhaps surprising given Ignatieff's determination mentioned earlier that the majority of legal debate centred on NATO's slighting of the UN. Indeed, this is doubly so given widespread assumptions that the *conduct* of war for the West is becoming more not less 'humane'. The next chapter will discuss in more the detail the function of information weapons technology on the ability to present warfare to US publics as clinical, liberal, and humane. It is worth considering at this juncture some of the ethical and legal consequences of accounts of 'humane warfare' as it pertains to Just War and public legitimations of violence.

During Kosovo, suggests James Der Derian, 'the killing was kept, as much as it was technologically and ethically possible, virtual and *virtuous*'.¹⁶¹ According to Coker,

Public opinion would not allow the targeting of Serbia's cities or civilian population on the scale it had in 1941 when Belgrade was last bombed... Post-material societies fight post-material wars - they try to avoid the material (human and environmental) damage which was essential to warfare for two millennia. They are intent on sanitizing war, on purging it of those elements which though once familiar and accepted without question, now cast it in a light that is offensive to the liberal conscience.¹⁶²

¹⁵⁷ Cordesman, *The Lessons and Non-Lessons*, pp. 125-26.

¹⁵⁸ Cordesman, *The Lessons and Non-Lessons*, p.125.

¹⁵⁹ For the After Action Review see http://www.defenselink.mil/news/Oct1999/b10141999_bt478-99.html [downloaded 17 June, 2001].

¹⁶⁰ Cordesman, *The Lessons and Non-Lessons*, p.121.

¹⁶¹ James Der Derian, '9/11: Before, After, and in Between', in Craig Calhoun, Paul Price, and Ashley Timmer (eds.) *Understanding September 11* (New York: The New Press, 2002), p.180.

¹⁶² Coker, *Humane Warfare*, p. 3. Presumably 'postmaterial' in this passage refers to the trend often associated with Western societies described by Hardt and Negri as 'The informatization of production and the increasing importance of immaterial production'. *Empire*, p. 297.

Indeed, the so-called 'norm of noncombatant immunity' much-hailed in recent constructivist¹⁶³ and 'humane warfare' literatures would also seem to belie claims of a liberal tension between *jus ad bellum* and *jus in bello*. Colin McInnes has suggested, for example, that

This sudden return to the just war niceties of non-combatant immunity is not to be solely explained by humanitarian or moral concerns. Rather it is because since we - the normal citizens of the West, going about our every day business - are not directly affected by the war, then citizens of the enemy state should not be unduly affected either by making them targets. A tacit bargain has been struck.¹⁶⁴

Tacit indeed. How, for example, could the decision to deploy only air strikes be consistent with the declared humanitarian end?

Debates occurred during the bombing campaign concerning the justness of developing *combatant* immunity by flying above 15,000 feet. Zero battle deaths for NATO personnel potentially left hundreds more civilians dead.¹⁶⁵ Admittedly 'It is far from clear', as suggests Cordesman, 'that lowering the altitude ceilings earlier and more broadly would have achieved any decisive tactical effects'.¹⁶⁶ However, tactical decisions concerning how best and quickly to secure Milosevic's capitulation is a different question to how best to protect the lives of Kosovo-Albanian *and* Serb civilians. A rapid reaction force of NATO soldiers on the ground even as early as March 1999 might have reduced the numbers of civilian deaths. Approximately 2,500 had been killed during the previous two years of the Serb/Kosovo-Albanian civil war. After the bombing commenced approximately 10,000 died.¹⁶⁷

The assumption that liberal citizens would not tolerate any loss to their armed forces thereby undermining the safety of those presumed to be 'saved' touches on a contradiction inherent to the 'Just War' defence of Kosovo. (It should be noted that this conjecture about public attitudes is as yet unproven in wars justified principally as 'humanitarian'. As Cordesman suggests, 'American politicians and the media seem to be more sensitive to casualties per se than the public.'¹⁶⁸) Nonetheless, the assumed terms of the seeming

¹⁶³ Thomas, *The Ethics of Destruction*.

¹⁶⁴ Colin McInnes, 'Spectator Sport Warfare', *Contemporary Security Policy*, Vol.20, no. 3, (1999), p.155.

¹⁶⁵ Steven Erlanger, 'Small Serbian Town Is Stricken By a Deadly "Accident of War"', *The New York Times*, April 7, 1999; Katherine Q. Seeyle, 'Civilian Deaths Inevitable In Warfare, Clinton Says', *The New York Times*, April 16, 1999.

¹⁶⁶ Cordesman, *The Lessons and Non-Lessons*, p.95.

¹⁶⁷ Lambeth, *NATO's Air War for Kosovo*, p.225. fn. 22.

¹⁶⁸ Cordesman, *The Lessons and Non-Lessons*, p.100.

democratic legitimation of the intervention (no NATO casualties) constrained the justness, the justification, of its methods.¹⁶⁹

Democratic power, in the words of Arendt, 'derives its *legitimacy* from the initial getting together rather than from any action that then may follow. Legitimacy, when challenged, bases itself on an appeal to the past, while *justification* relates to an end that lies in the future'.¹⁷⁰ Richard Miller similarly draws the distinction between legitimation, which is based on democratic support, and justification, which is based not so much on the political procedures determining consent for an action but rather whether the action itself 'is morally sound'.¹⁷¹ The only politically legitimate methods (or so President Clinton calculated) 'were not the morally preferable ones'.¹⁷²

From a humanitarian point of view this basic tension between *jus ad bellum* and *jus in bello* is, as Hilaire McCoubrey described, 'the fatal defect of "just war" theory.'¹⁷³ In other words, although the two dimensions of the theory form part of a whole, in terms of military strategy they ought to be properly treated as entirely distinct. For example, even if we accepted (for the sake of argument) that NATO's motives were sufficiently embedded in humanitarian concerns (*jus ad bellum*) to justify military intervention, the use of aerial bombardments (*jus in bello*) utterly undermined this. For the reality was, as Jean Bethke Elshtain argued, NATO's strategy flew 'in the face of a centerpiece of the just-war tradition - "noncombatant immunity"'.¹⁷⁴

Indeed, NATO's strategic choice damaged one of the legal advances of international law in terms of a public-private distinction. The laws of war have always safeguard the distinction between (public) combatants and (private) non-combatants. Given the 17th Century Western origin of international law as an adjunct to the modern sovereign state it is perhaps not surprising that, as Hilary Charlesworth describes, international law itself 'rests on a variety of distinctions between public and private worlds'.¹⁷⁵

¹⁶⁹ Richard B. Miller, 'Legitimation, Justification, and the Politics of Rescue', in William Joseph Buckley (ed.) *Kosovo: Contending Voices on Balkan Interventions* (Michigan: Eerdmans Publishing, 2000), p. 387.

¹⁷⁰ Hannah Arendt, *Crisis of the Republic* (New York: Harcourt Brace Jovanovich, 1972), p. 151. My italics.

¹⁷¹ Miller, 'Legitimation, Justification, and the Politics of Rescue', p. 386.

¹⁷² Miller, 'Legitimation, Justification, and the Politics of Rescue', p. 386.

¹⁷³ McCoubrey, 'International Humanitarian Law', p.203.

¹⁷⁴ Jean Bethke Elshtain, 'What Makes a War Just? Whose Lives Are We Sparing?' *The Washington Post*, May 16, 1999.

¹⁷⁵ Hilary Charlesworth, 'Worlds Apart: Public/Private Distinctions in International Law', in Margaret Thornton (ed.) *Public and Private: Feminist Legal Debates* (Oxford: Oxford University Press, 1995), p.243.

Most obviously, as witnessed in Article 2 (7) of the UN Charter, this consists of areas internal to the domestic jurisdiction of states (private) and issues of international concern (public). For Charlesworth, however,

combatants, an almost exclusively male class, receive much greater protection than non-combatants. Within the weaker regime developed to protect non-combatants, there is a further gendered distinction: particular harms that women face are regulated in a more attenuated way than those faced by non-combatants in general.¹⁷⁶

Mirroring the norm within national jurisdictions where 'domestic' (private) violence against women is deemed less important ('not surprisingly', as Ruth Gilmore would note, 'the case law establishing aggressively violent standards consists exclusively of incidents in which white men killed white men'¹⁷⁷) international law has similarly neglected the violence that unevenly affects women.¹⁷⁸

Nonetheless, the appearance of liberal war as lawful and humane war (bolstered by the recent addition of rape to the list of potential war crimes) has been a pivotal assumption in literatures alleging a major transformation in the Western way of war. One of the 'most striking' features of war at the turn of the millennium, according to one analyst, 'has been the extent to which governments have justified their actions by reference to international law'.¹⁷⁹ An inference drawn from this widespread view is that the use of force has declined in acceptability within the West; 'force may only be used in extreme circumstances', McInnes claims, 'and if sanctioned by international law'.¹⁸⁰

A more accurate image, however, would draw attention to the extent to which the use of force for the United States has effectively become routine. By March 1999 the FRY was the fourth target of US air strikes (after Sudan, Afghanistan and Iraq) in a period of eight months suggesting that recent US military history more accurately, in the words of Andrew Bacevich and Eliot Cohen, 'is, first of all, a story of unprecedented... activism'.¹⁸¹ If

¹⁷⁶ Charlesworth, 'Worlds Apart', p.248.

¹⁷⁷ Ruth Wilson Gilmore, 'Globalisation and US Prison Growth: From Military Keynesianism to post-Keynesian Militarism', *Race and Class*, Vol. 40, no.2-3 (1998/9), p. 187. fn. 5.

¹⁷⁸ Caroline Kennedy-Pipe and Penny Stanley, 'Rape in War: Lessons of the Balkan Conflicts in the 1990s', in Ken Booth (ed.) *The Kosovo Tragedy: The Human Rights Dimensions* (London: Frank Cass, 2000), pp. 67-84.

¹⁷⁹ McInnes, 'Spectator Sport Warfare', p.147.

¹⁸⁰ McInnes, 'Spectator Sport Warfare', p.147.

¹⁸¹ Andrew J. Bacevich and Eliot A. Cohen, 'Introduction: Strange Little War', in Andrew J. Bacevich and Eliot A. Cohen (eds.) *War Over Kosovo: Politics and Strategy in a Global Age* (New York: Columbia University Press, 2001), p.xi.

international law figured in US calculations any subsequent 'validation' was perhaps equally routine.

In the words of Richard Falk, 'with respect to war, contemporary IL [International Law] appears to offer either foolish legalisms that are ignored or manipulated by the leadership of dominant states... or the silent lawyers leaving the arenas of policy choice and decision to the unimpeded discretion of geopoliticians'.¹⁸² The December 1998 air strikes against Iraq were justified in terms of Security Council resolutions passed seven years hence.¹⁸³ Such claims are also no doubt bolstered by the incongruous linguistic diversion of government's refusing to call the Kosovo war a war. Indeed, these two phenomena are not unrelated. As Brien Hallet observes,

So far as international law is concerned, both war and peace are now formal categories, lacking substance and reality. When journalists report that war is ravaging Vietnam or Bosnia or Somalia or Nicaragua, the jurist must correct them by pointing out, first, that technically it is not a war but an armed conflict that is ravishing the countryside and, second, that because there is no war, only an armed conflict, peace reigns in this country - so far as international law is concerned, which is no doubt a great comfort to all concerned.¹⁸⁴

All such efforts to search for a definition of war, as well as basic humanitarian imperatives, are obscured by the Kosovo interventionist's rhetorical 'Just War' claims.

Moreover, the democratic consequences on the ability of anti-war counterpublic spheres to emerge, as discussed in Chapter Four, are great. With insufficient prior grasp of the principles of just war citizens cannot, in the words of John Rawls, deter their governments 'handy appeal to [its] practical means-ends rationality'.¹⁸⁵ Justifying 'too much, too quickly', just war doctrine allows governments to hush moral dissent, simply becoming one more consideration to be balanced in the scales. This is even more likely if the current reliance on air power continues.

By uncovering some of the places where the tensions in liberal/legal discourses are manifest in the United States and widely accepted as normal, the chapter has principally described the legal discursive practices in operation. While the chapter has not refrained from judging the legitimacy or illegitimacy of the discourse per se, it has not engaged in the debate

¹⁸²Richard Falk, 'International Law and International Relations: Collaboration and Tension', *Cambridge Review of International Affairs*, Vol.12, no.2 (1999), p. 19.

¹⁸³ Chesterman, *Just War or Just Peace?* p. 221.

¹⁸⁴ Brien Hallet, *The Lost Art of Declaring War* (Chicago: University of Illinois Press, 1998), p. 94.

¹⁸⁵ John Rawls, *The Laws of People* (Cambridge, MA: Harvard University Press, 1999), p.102.

over whether a 'right' of humanitarian intervention actually exists in international law. This is perhaps wise given that humanitarian intervention, as Chesterman describes, 'amounts... to a lacuna in the enforceable content of international law'.¹⁸⁶ Indeed, the question of whether a 'right' exists in either the UN Charter or customary international law is, to borrow Chesterman's words, 'of secondary importance to the implications that these arguments have for world order and international morality'.¹⁸⁷

It would certainly seem that the UN delegation function, where its decisions are acted upon by willing states rather than the other way around, has been reduced to a mere formality.¹⁸⁸ As Hedley Bull was well aware, 'there exists an intimate connection between the effectiveness of international law in international society and the functioning of the balance of power'.¹⁸⁹ In the context of US global hegemony the significance of the declined efficacy in constraining the United States but enhanced calling forth of law *by* the United States (to condemn the actions of others) would not have been lost on Bull.

Notwithstanding the extent to which increasing numbers of social theorists have aimed to be self-reflexive concerning power, it is manifestly in the domain of law that these analyses reveal themselves as often legitimating liberal state violence in a wider and more problematic sense.¹⁹⁰ The abstract universalistic law appealed to by Habermas and his followers disowns the violence of its origins and even the less opaque turmoil produced by its effects. In operation, these accounts look to juridical institutions as alternative political justifications so that the role of violence *looks* juridical. After all, law always announces its violence to be legitimate. Chapter Six will build on this argument to suggest that where an understanding of the changing role of war must accompany accounts of the emergence of so-called 'global' public spheres this must not preclude analysis of the way in which the very invocation of an incipient global public can itself be productive of violence.

¹⁸⁶ Chesterman, *Just War or Just Peace?* p. 2. Also see Edward C. Luck, 'The Enforcement of Humanitarian Norms and the Politics of Ambivalence', in Simon Chesterman (ed.) *Civilians in War* (London: Lynne Rienner, 2001), pp. 197-218.

¹⁸⁷ Chesterman, *Just War or Just Peace?* p.6. C.f. William Glaberson, 'Legal Scholars Support Case for Using Force', *The New York Times*, March 27, 1999.

¹⁸⁸ Chesterman, *Just War or Just Peace?* p.165.

¹⁸⁹ Hedley Bull, *The Anarchical Society: A Study of Order in World Politics* (New York: Columbia University Press, 1977) p.131.

¹⁹⁰ See Jürgen Habermas, *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy* (translated by William Rehg) (Cambridge: Polity Press, [1992] 1996).

Conclusion

Law plays a central role in the diffusion of public and private norms as well as providing the structure around which public spheres are constituted. The relationship between law and war in the Kosovo case can partly be understood, the chapter has suggested, by how law shaped the historical development of the official US public sphere. Law, especially penal law, was constitutive in the emergence of the United States as a liberal republic by producing citizens suitable for liberal democratic rule. In turn, 'humanitarian' intervention internationalises the very essence of law, discipline and punishment, suitable to US global rule. The enforceability and applicability of law is dependent on force, to include direct physical violence and more symbolic and discursive modes of exerting power. It is through expanding on this insight that the chapter has shown how law in the US public sphere shaped and was shaped by efforts to legitimate the Kosovo war.

The ambiguous relationship between law and legitimacy accounts for the continued effort by the United States to employ legalist rhetoric to undermine Milosevic and opponents of the bombing while also circumventing the need to rely on any specific international law itself. That the United States went against international law by not seeking a Security Council Resolution is not inconsistent with some of the most honoured traditions of the country; the rebellious outlaw in a corrupt and repressive world challenging the law in the pursuit of justice is a staple theme in US culture.

It has been assumed by some scholars that the persistent and regular breaches by the United States of international law are not in keeping with some of the oldest democratic traditions of the country. This chapter has suggested that the opposite is more accurately the case. This is not to spend time arguing that the Founding Fathers were explicit that when the United States reached its full potential it would walk the world stage undaunted (though in fact this was the case¹⁹¹) but that the Roman idea of the open expansion of power in republican networks, which inspired the US Constitution, is consistent and partly dependent upon its throwing over the world a system of laws and alliances which produced this 'great' republic.

If power in the United States, understood as circulating between countervailing networks, was not to collapse into corruption then expansion first into the frontier and then

¹⁹¹ See Frederick W. Marks III, *Independence on Trial: Foreign Affairs and the Making of the Constitution* (Wilmington, Delaware: Scholarly Resources Inc., 1987).

across the globe was essential. The continent 'discovered' but above all ordered by the settlers allowed lawyers to articulate the republican governmental apparatus of control in the absence of authoritative principles. The 'interpretative violence',¹⁹² however, was the way in which law was then reinterpreted by the liberal tradition as a 'constant and lasting force' (Locke, Habermas), originating from society.

In other words, societal *norms*, contrary to the actual sociological development of legal systems, were imagined as coming together within the public sphere as abstract law, instantiating a vast array of assumptions concerning public and private when codified, and making violence appear legitimate. But these liberal norms of what it meant to be a good citizen had to be produced; they did not simply arise out of a natural democratic disposition. The development of criminal punishment in the United States, to a not inconsiderable degree, fashioned people into liberal subjects. No other industrialised nation has depended on prisons to maintain order more, to designate and constitute 'legitimate' public space. In the modern period, the seeming dependence of politics on the force of law, always in some sense violent, meant that the rhetoric of the founding period was highly legalistic, profoundly shaping political struggles to come.

The globalization of disciplinary coercion, US global police actions, and concomitant internationalisation of political authority (including decisions about who is and is not subject to its rule) is similarly constitutive of contemporary *global* power and subjectivity. In other words, 'Specific disciplinary practices', borrowing the words of Thomas Dumm, 'constitute the modern humanitarian project, which is expressed theoretically in the ideal values of liberal individualism and democratic equality'.¹⁹³ These values were expressive of the legitimating norms of military globalization, the extension of European and US social forms.

As Chapter Three will now suggest, the extent to which accompanying beliefs in liberal progress have been conflated with technological progress and become part of the culture of US public spheres is crucial to accounting for practices of humanitarian war. In the (somewhat exaggerated) words of Patricia Limerick, 'the American public has... completely accepted... the notion that the American frontiering spirit, sometime in the... [19th Century], picked itself up and made a definitive relocation - from territorial expansion to technological

¹⁹² Derrida, 'Force of Law', p.13.

¹⁹³ Dumm, *Democracy and Punishment*, p.26.

and commercial expansion'.¹⁹⁴ Notwithstanding the inherent ambivalence with which many US citizens have viewed technology, like law, the persistent faith in some of the presumed ameliorative effects of technology ('efficiency', 'progress', 'speed') has never been seriously challenged. So tied up as technology has been with the consolidation of the liberal state-based public realm, the ideology of technological advance has created a 'boundary condition' to match liberal-republicanism.¹⁹⁵ That is, a system of values and conditions without which no serious alternative has been able to radically diverge.

¹⁹⁴ Quoted in David E. Nye, *Narratives and Spaces: Technology and the Construction of American Culture* (Exeter: University of Exeter Press, 1997), p. 160.

¹⁹⁵ Liberal-republicanism has been portrayed as the historical boundary condition of US politics. See J. David Greenstone, *The Lincoln Persuasion: Remaking American Liberalism* (Princeton, NJ: Princeton University Press, 1993).

Chapter 3

Remote Control: Information Technology, Public Spheres, and Kosovo

Mankind owes its existence not to the dreams of the humanists nor to the reasoning of the philosophers and not even, at least primarily, to political events, but almost exclusively to the technical development of the Western world.

- Hannah Arendt¹

The technologies used to conduct and mediate the debate about the Kosovo air campaign embodied the socially constituted values of US public spheres. This chapter suggests some of the ways in which public spheres in the US context shaped both the military application and public understandings of the newest generation of weapons systems. To do this, we will look at practices of humanitarian war from the vantage point of a wider cultural and political history of technology and war to examine practices central to US public spheres, both 'official' and 'counter', partly productive of 'humanitarian' war. The technology described has a double meaning. A cultural and social as well as a material phenomenon, machines and systems of machines have shaped patterns of political thought and military action, but also public spheres have partly been constituted by technology.

Contra both the Frankfurt School Left and Heideggerian Right, however, modern US politics and society cannot be reduced to 'merely the political manifestation of technological rationalism'.² But neither is technology politically neutral.³ Modernity is an amalgamation of contingent economic, political, social, cultural and technical dimensions.⁴ Though technology is not uniquely modern the modern might be uniquely technological.⁵ The cultural politics of information technology not only coincided with many of the military dimensions of the Kosovo war. It was partly productive of the liberal state violence represented and the official US public sphere from which they mutually derived.

¹ Hannah Arendt, *Men in Dark Times* (New York: Harcourt, Brace & World, 1968), p.84.

² Arthur M. Melzer, Jerry Weinberger, and M. Richard Zinman, 'Preface', in Arthur M. Melzer, Jerry Weinberger, and M. Richard Zinman (eds.) *Technology in the Western Political Tradition* (Ithaca, NY: Cornell University Press, 1993), p.viii. Jürgen Habermas, *Toward a Rational Society: Student Protest, Science and Politics* (London: Heinemann, [1969] 1971); Martin Heidegger, *The Question Concerning Technology and Other Essays* (translated by W. Lovitt) (New York: Harper, 1977).

³ Andrew Feenberg, *Critical Theory of Technology* (Oxford: Oxford University Press, 1991).

⁴ William Connolly, *Political Theory and Modernity* (Oxford: Basil Blackwell, 1988).

⁵ Arthur Melzer, 'The Problem with the "Problem of Technology"', in Arthur M. Melzer, Jerry Weinberger, and M. Richard Zinman (eds.) *Technology in the Western Political Tradition* (Ithaca, NY: Cornell University Press, 1993), pp. 287-321.

To make firmer these constitutive links the chapter suggests how technologies can acquire widespread cultural meaning. Following Paul Edwards, we 'cast technological change as technological choice, tying it to political choices and socially constituted values at every level, rendering technology as a product of complex interactions among scientists and engineers, funding agencies, government policies, ideologies, and cultural frames'.⁶

The first section, 'US Liberalism, Modern-Technology, and War', addresses the modern political context in which claims about a politics-technology-war nexus are made in the United States. The interplay between US liberal-republicanism and technology, as Chapter One suggested, cannot fully be understood if divorced from its modern location. In other words, meaning can be bestowed to (and by) technologies through their complex organisation and adaptation to fit the much broader social whole.

Sociologically, the increasing organisation of the scientific community into an extensive system of collaboration between academic, industry and military, contributed greatly to the emergence of the US national security state, what President Eisenhower would famously term the 'military-industrial complex'.⁷ The cumulative result for strategy, in James Gibson's formulation was, '*Technowar* or the *production model of war* [which] designates the military mode of strategy and organization in which war is conceptualized and organized as a high-technology, capital-intensive production process'.⁸

This political and sociological background, and the consequences it had on the official public sphere, provides the framework around which the chapter contextualises some of the over-hyped claims about the 'revolutionary' character of technology during the Kosovo war.⁹ One of the most enduring tropes from NATO's war was the alleged revolutionary role of information technology (IT) in both the way the war was fought and how it was represented. The events of 'Kosovo 1999' have been dubbed a new form of 'virtual war', 'Web War I',¹⁰ or

⁶ Paul Edwards, *The Closed World: Computers and the Politics of Discourse in Cold War America* (Cambridge, MA: MIT Press, 1996), p.xiii.

⁷ Paul A. C. Koistinen, *The Military Industrial Complex: A Historical Perspective* (New York: Praeger, 1980).

⁸ James Gibson, *The Perfect War: Technowar in Vietnam* (New York: Atlantic Monthly, 1986), p.26. Italics in original.

⁹ C.f. Michael Ignatieff, *Virtual War: Kosovo and Beyond* (New York: Metropolitan Books, 2000); Colin McInnes, 'Spectator Sport Warfare', *Contemporary Security Policy*, Vol. 20, no.3 (1999), pp. 142-65; James Der Derian, *Virtuous War: Mapping the Military-Industrial-Media-Entertainment Network* (Boulder, CO: Westview Press, 2001).

¹⁰ April Lynch, 'Kosovo Being Called the First Internet War'. See <http://www.sfgate.com/cgi-bin/article.cgi?file=/chronicle/archive/1999/04/15/MN38479.DTL> [downloaded 26 June, 2001].

more commonly the first 'Internet war.'¹¹ From computers linked to satellite positioning systems to unmanned surveillance drones each miraculous gadget was hailed and visually presented as the essence of some new age.¹²

Though much of the rhetoric concerning IT and Kosovo will be shown to be e-science hyperbole, the second section, 'IT and Fighting Kosovo: Historicising the Hype', suggests that inseparable from this talk was an important conviction; in dissecting the most advanced technology employed both to fight and debate over Kosovo we could pronounce on some new and essential quality of our time, both internationally - as allegedly the first truly 'humanitarian' war - and technologically.

Stealth technology and cruise missiles, global satellite positioning systems and advanced C3I networks, electronic jamming and the destruction of computer networks all featured prominently in public debate of (and justification for) the Kosovo campaign.¹³ This is not to suggest that the use of - and discourses surrounding - 'virtual' technologies were not exaggerated during the Kosovo war on the scale of the misrepresentation of 'smart' bombs in the 1990-91 Gulf War.¹⁴ Rather it is to propose an investigation in to how the changing character of machines and systems of machines came to redefine and profoundly shaped the military intervention, US public spheres, and the relations between them.

As a point of comparison the section addresses the attempted incorporation of Vietnam into the 'Western' Cold War system as a similar rationalisation (legitimation) technique for war; the way computers help overcome the logistical problem of micro-management; and how the precise accounting of strike sorties contributes to the appearance of 'rational' war. The position of technology in the modern context comes to construct machines, in Andrew Feenberg's words, as 'technically innocent, rational, stripped down to a bare causal nexus'.¹⁵

¹¹ Thomas Keenan, 'Looking like flames and falling like stars: Kosovo: The First Internet War'. See <http://www.bard.edu/hrp/keenankosovo.htm> [downloaded 26 June, 2001].

¹² Langdon Winner, *Autonomous Technology: Technics-out-of-Control as a Theme in Political Thought* (Cambridge, MA: MIT press, 1977), p.45.

¹³ Joint Statement on the Kosovo After Action Review presented by Secretary of Defense William S. Cohen and Gen. Henry H. Shelton, Chairman of the Joint Chiefs of Staff, before the Senate Armed Services Committee, October 14, 1999. See http://www.defenselink.mil/news/Oct1999/b10141999_bt478-99.html [downloaded 17 June, 2001]

¹⁴ Barry Buzan and Eric Herring, *The Arms Dynamic in World Politics* (Boulder, CO: Lynne Rienner, 1998), p. 183.

¹⁵ Andrew Feenberg, *Alternative Modernity: The Technical Turn in Philosophy and Social Theory* (London: University of California Press, 1995), p.228.

This is precisely the characteristically 'modern' revolt against tradition.¹⁶ In other words, technologies are manifestly political and can be consciously (and unconsciously) constructed as such.

During Kosovo, the seeming necessity of creating the appearance of a highly rational, lawful and thus liberal war, with precise reports of the number and accuracy of Allied strike sorties, contributed to the proliferation of computer-generated statistics of war as well as the impression of almost death-free fighting on NATO's part. US state-of-the-art weapon-systems were constructed as humane and (Iraq notwithstanding) only ever reluctantly used. The increasing US reliance on air power, however, reflects dominant Western norms constructed both internationally and in US public domains. Just as the centralised digital command and control systems of the 1950s partly came to symbolise the Cold War, computers and related weapons technologies have also come to embody the discourses of liberal-state global expansion via 'humanitarian' war, 'its paradoxes and failures', to borrow from Edwards' analysis, 'as well as its ideals'.¹⁷

Most obviously, and widely commented upon, the liberal politics of high technology warfare produced the contradiction between bombing from thousands of feet to avoid NATO combatant deaths but killing hundreds of the civilians supposed to be 'saved'.¹⁸ NATO (principally US) military planners also ruled out relief flights necessary to get food to thousands of hungry refugees inside Kosovo because they required low-altitude airdrops.¹⁹ Yet, as NATO maintained the appearance of discriminating between the regime and the Serb population, the target list expanded dramatically especially during the second phase of bombing to include dubious 'dual-use' sites.²⁰ Indeed, the most important results of the NATO campaign probably had the least impact on the Yugoslav armed forces and the most effect on

¹⁶ The 'rational', clean, ordered and symmetrical form of modern art and technology scarcely imitates the decorative ornamentation of pre-modern artefacts. John F. Kassen, *Civilizing the Machine: Technology and Republican Values in America, 1777-1900* (New York: Grossman Publishers, 1976), p.154.

¹⁷ Edwards, *Closed World*, p.113.

¹⁸ Benjamin S. Lambeth, *NATO's Air War for Kosovo: A Strategic and Operational Assessment* (Santa Monica, CA: Rand, 2001), p.137. This is not necessarily to accept NATO's position that 'saving' Kosovo-Albanians was NATO's over-riding concern.

¹⁹ Dana Priest, 'NATO Rules Out Relief Flights as Too Risky', *The Washington Post*, April 15, 1999.

²⁰ Steven Erlanger, 'NATO Missiles Strike a Center Of State-Linked TV and Radio', *The New York Times*, April 21, 1999.

civilians, including the destruction of infrastructure, industry, bridges, fuel supplies and supply routes.²¹

It is crucial, however, to look not only at the practical use of hi-tech weaponry - its operational success or failure on the Kosovo battlefield - but also the symbolic property of the machines. The fourth section, 'Excursus: Technological Accidents', attempts to do both of these through addressing the extensive coverage paid to the multiple 'mistakes' of the war. What might they reveal apropos the ambivalent relationship of modern technological achievement to liberal individualism and the 'politics-of-technique' to the official liberal public sphere? Some of the most important military dimensions of NATO's actions, in other words, need simultaneously to be understood as technological acts and spaces of political subjectivity. For example, when compared with earlier coverage of the risks of aviation and the shock induced by railways, NATO's accidents reveal an ambivalent historical and cultural relationship between the so-called mechanistic age and liberal individualism. Where critics suggested that NATO's errors undermined the liberal-humanitarian character of the intervention - partly because it was fought with almost no risk to Allied soldiers - it is suggested that discourses of technological malfunction paradoxically served to return the reality of human-ness - individual daring and potential death - to the war.

If high-technology has made 'humanitarian' wars seemingly more easy to fight, the appearance of the Internet as a new digital domain - the electronic agora - has aroused a proselytising, quasi-religious zeal of *pax electronica* to match (and often coincide with) that of humanitarian warriors.²² The fourth section of the chapter, 'Cyber-Publics and War', positions Kosovo in the context of these wider developments, many of which were seen as transforming the culture of public spheres itself. How did the late 1990s culture of Usenet groups, multi-user domains and videogames reflect an increasingly widespread perception (if not reality) of spatial disembodiment, which mirrored (and helped sustain) state-public discourses of humanitarian war and liberal internationalist order? How did the techno-war discourse (popularised earlier by Desert Storm and the growing IT literature) shape reactions in US public spheres to this supposedly most 'liberal democratic' form of war? What role did the very language of newness come to play, which has seemingly come to serve *in and of itself* as

²¹ Lawrence Freedman, 'The Split-Screen War: Kosovo and Changing Concepts of the Use of Force', in Albrecht Schnabel and Ramesh Thakur (eds.) *Kosovo and the Challenge of Humanitarian Intervention* (New York: The UN University Press, 2000), p.428.

²² Thomas Friedman, 'Manifesto for the Fast World', *The New York Times Magazine*, March 28, 1999.

a legitimating factor in public support of NATO's campaign?²³ To answer these questions, and place in context some of the hype surrounding IT and Kosovo, we need to both historicise and theorise how computer technology applied to war has acquired widespread cultural meaning.

If culture and public spheres, as Hannah Arendt would remind us, are not practically distinct fields of activity but rather are mutually produced, then how the meanings of weapons and war shape and are shaped by US public spheres deserves more detailed consideration.²⁴ 'American weapons and American culture', as H. Bruce Franklin has shown, 'cannot be understood in isolation from each other. Just as the weapons have emerged from the culture, so too have the weapons caused profound metamorphoses in the culture'.²⁵ This is crucial to our understanding of how US public spheres shaped the war over Kosovo and how liberalism and technology have interacted to shape modern US public spheres.

US Liberalism, Modern Technology and War

Relative to the devastation imposed on the Soviet Union, Europe and Japan, the United States emerged as the only Great Power relatively unscathed from both World Wars. Moreover, both comparative isolation from European affairs prior to its 1917 entry to World War I and the perception that the US enjoyed a liberal 'anti-militarist'²⁶ strategic culture fed directly into the long-standing goal of thoroughly integrating high-technology with strategic planning.²⁷

To make this possible, Arthur Ekirch suggests, domestic 'liberalism had to yield to the exigencies of revolution and to the practical necessity of consolidating and concentrating a measure of authority in the hands of a semi-centralized war government'.²⁸ 'In the United States, war', he remarks, 'has never been a friend of liberalism'.²⁹ Rather than view such 'exigencies' as a radical departure from liberal thinking and practice, however, we can

²³ See, for example, R.W. Apple Jr., 'It's the 21st Century Arriving Early', *The New York Times*, April 1, 1999.

²⁴ Hannah Arendt, 'The Crisis in Culture: Its Social and Its Political Significance', in *Between Past and Future: Eight Exercises in Political Thought* (New York: Viking Press, 1968), pp.197-226.

²⁵ H. Bruce Franklin, *War Stars: The Superweapon and the American Imagination* (Oxford: Oxford University Press, 1988), p.7.

²⁶ For a critique of the idea that US culture is anti-militarist see Richard Maxwell Brown, *No Duty to Retreat: Violence and Values in American History and Society* (Oxford: Oxford University Press, 1991).

²⁷ David Noble, 'Command Performance: A Perspective on the Social and Economic Consequences of Military Enterprise', in Merritt Roe Smith (ed.) *Military Enterprise and Technological Change: Perspectives on the American Experience* (Cambridge, MA: MIT Press, 1985), pp.330-346.

²⁸ Arthur Ekirch Jr., *The Decline of American Liberalism* (New York: Longmans, Green and Company, 1955), p.38.

²⁹ Ekirch, *The Decline of American Liberalism*, p.287.

otherwise conceive it as a reflection of a 'war and society' dynamic in its distinctive liberal-state mode. We see this in the post-1945 consolidation of US state power, and the attendant rationalisation of the official public sphere.

Though the addition of the computer-screen, as we shall see, was novel to Vietnam, attempts at precision-guidance and bombing from the air - with their attendant strategic and moral paradoxes - also enjoy earlier incarnations at least since World War II. In the immediate wake of the Italian-Ethiopian war of 1935, Germany's destruction of Guernica in the 1936-39 Spanish Civil War, and the direct Japanese bombing of Chinese civilians, Western commentators and strategists agreed that bombing cities was an especially fascist trait.³⁰ The fascist technique of the air raid served as an extremely effective side track, however, obscuring that the US and Britain were the only interwar states, though with different emphases, heavily invested in the theory and practice of strategic air war.³¹

Though the impact of technological advance on 'depersonalising' war had produced earlier and perhaps equally significant breaks with the past, such as artillery and cannon,³² the bombing of cities from high-altitude was portrayed as peculiarly suited to politics of legitimating war to a liberal society.³³ From inception, high-altitude precision bombing, argues Michael Sherry, promoted war 'as a matter of production and technique rather than destruction and killing'.³⁴ In aviation especially, wartime advertising solicited the popular view that US efforts in Europe were as much a 'production and engineering effort' than anything else.³⁵ Creative technicians could conceive bombing not only in terms of its consequences for battle or morality, not merely a destructive act of war, but as pure science. Liberal society in the

³⁰ Michael Sherry, *The Rise of American Air Power: The Creation of Armageddon* (New Haven: Yale University Press, 1987), p.71.

³¹ David MacIsaac, 'Voices from the Central Blue: The Air Power Theorists', in Peter Paret (ed.) *Makers of Modern Strategy: From Machiavelli to the Nuclear Age* (Princeton, NJ: Princeton University Press, 1986), pp. 624-47.

³² See William H. McNeill, *The Pursuit of Power: Armed Force, Technology and Society* (Oxford: Blackwell, 1982), pp.81-9, 170-5; Susan L. Carruthers, 'Review Essay: New Media, New War?', *International Affairs*, Vol.77, no. 3 (2001), pp. 673-681.

³³ The US decision to deploy the atom bomb against Japan at the end of WWII has been portrayed in precisely these terms. For a critique of this position in favour of the notion that it was a political signal to the United States' emerging Cold War rival, the USSR see Gar Alperovitz, *The Decision to Use the Atomic Bomb and the Architecture of an American Myth* (London: Fontana Press, 1995).

³⁴ Sherry, *The Rise of American Air Power*, p.204.

³⁵ Sherry, *The Rise of American Air Power*, p.126.

United States and the 'politics-as-technique' mentality seemed to coincide in the modernist strategy of air war.³⁶

The uniquely close and liberal institutional ties between civilians and the emerging US air force were partly responsible for these visions. The National Advisory Committee for Aeronautics (NACA), established in 1915, served, as Sherry suggests, as 'the prototype for the mobilization of industrial and academic science during World War II'.³⁷ The intimate association between science, air force, and industry can, of course, be viewed as a consequence of operational necessity. This purely functional retelling, however, misses an important cultural point. As Sherry describes, 'airmen - by class and education, by their relationship to youth, by their sheer numbers, and by the era's infatuation with aviation - were attuned to the demands of modern technology, organization, and civilian expertise.'³⁸

The whirlwind speed between the end of the second global war and the emergence of hostilities in a new apocalyptic Cold War meant the federal institutions in the United States that emerged during the early 1940s would correspond more than usual with their wartime heirs. Public dissent against the expansion of state power, as Chapter Four will further discuss, was dissipated by a perceived threat to national security. Where in earlier periods the emergency powers and funding granted to government in wartime were usually (though never entirely) confiscated with the end of formal hostilities, the emerging conflict with the USSR generated the apparent need both for greater internal and external political control.

The preserving of a massive standing army in peacetime radically transformed society-military relations. However, national security would not demand conscription akin to the USSR. Alongside President Truman's 1947 National Security Act creating the Central Intelligence Agency and George Kennan's *Foreign Affairs* enunciation of 'containment'³⁹ the same year, a course of extensive *automation* of almost the entire military would ensue. The course of progress in computers - from basic funding through to design and code - is thus thoroughly wrapped up in Cold War politics. More specifically, global politics during the

³⁶ Philip K. Lawrence, *Modernity and War: The Creed of Absolute Violence* (New York: Macmillan, 1997); Azar Gat, *Fascist and Liberal Visions of War: Fuller, Liddell Hart, Douet, and Other Modernists* (Oxford: Clarendon Press, 1998).

³⁷ Sherry, *The Rise of American Air Power*, p. 188.

³⁸ Sherry, *The Rise of American Air Power*, p.190.

³⁹ George Kennan, 'The Sources of Soviet Conduct', in James F. Hoge Jr. and Fareed Zakaria (eds.) *The American Encounter: The United States and the Making of the Modern World* (New York, Basic Books, 1997), pp.155-69.

second half of the 20th Century had already spurred attempts at precision and the miniaturisation of weapons so often associated with the post-Cold War world.

Real breakthroughs in the computerisation of war began earlier, however, in 1939 Britain, with Alan Turing and the Government Code and Cypher School, Bletchley Park. Turing's task was to develop a digital computer to automate thereby increase the speed by which British intelligence could decrypt the advanced German cipher machines, 'Enigma' and 'Fish'. 'Colossus', another of Turing's machines, became the first electronic digital computer in 1943. Computers coordinate rather than physically *do* things, for example automating the capacity to organise information thereby generating greater command and control. Already, at this early stage, computers were conceived, in Edwards' words, as 'a *technology* with linguistic, interactive, and heuristic problem-solving capacities'.⁴⁰

In terms of operating and calculating complicated engineering and mathematical problems, encoding and decoding messages and basic military manoeuvres, even in their earliest incarnations, computers increasingly removed the need to rely on human skill (and fallibility). Wartime attempts to improve the accuracy of fighter-guns became a major task with increasing aviation leading to advances in the calculation of ballistics via computation tables. These as well as other wartime developments set the scene for what would become an unprecedented race between the USSR and the USA to build ever higher-performance computers for war.

NATO's reliance in the Kosovo war on the most advanced aviation and computer technology speaks to a deeply rooted strain in liberal war-fighting and political traditions. 'Rather than ushering a new paradigm of warfare', as Anatol Lieven has argued, 'NATO's victory in Kosovo represents the further evolution of that technological superiority that has helped Western powers repeatedly to defeat their non-Western opponents and dominate the world over the past five centuries'.⁴¹ Moreover, where precision was exacted somewhat more effectively in Kosovo, 'electronic space' has been functional in the effort since an earlier Cold War incarnation. By comparing features of the electronic battlefield dimensions of the Vietnam War with the allegedly 'new' phenomena attendant war in the Balkans the next section

⁴⁰ Edwards, *Closed World*, p.21. Italics in original.

⁴¹ Anatol Lieven, 'Hubris and Nemesis: Kosovo and the Pattern of Western Military Ascendancy and Defeat', in Andrew J. Bacevich and Eliot A. Cohen (eds.) *War Over Kosovo: Politics and Strategy in a Global Age* (New York: Columbia University Press, 2001), p.98.

highlights the presentism of much of the Kosovo literature, as well as preparing the way to more effectively situate the IT hype in the politics of US public spheres.

IT and Fighting Kosovo: Historicising the Hype

Improvements in computerised command and control, communication and intelligence (C3I), increased precision ordinance, stealth technology, and the use of satellites have - according to some - transformed the ability (and desire) of liberal states to wage war.⁴² The immediate post-Kosovo war explosion of literature on the seemingly 'virtual' character of the war has fostered an increasingly commonplace (though nonetheless dubious) view that wars are becoming 'cybernetic', society is turning 'techno-scientific', and individuals are subject to 'tele-surveillance' and 'universal voyeurism'.⁴³

Even prior to the 1990-1 war in the Persian Gulf, Paul Virilio saw, 'Battle [as] now nothing more than the autonomy, or automation, of the war machine, with its virtually undetectable "smart" weapons.'⁴⁴ James Der Derian, following Virilio, went further. 'New technologies of imitation and simulation', he wrote, 'as well as surveillance and speed had collapsed the geographical distance, chronological duration, the gap itself between the reality and virtuality of war.'⁴⁵ That the death-free (for NATO) objective of 'humanitarian' combat in Kosovo was publicly framed in terms of 'war in the age of intelligent machines'⁴⁶ has been well documented (and hyped) in both academic and popular press.

With some of the most outstanding images of the war linking the advanced computer technology to visual appeal - from the iconographic images of the stealth bomber pilots⁴⁷ to the Internet video clips of air strikes - 'Kosovo' thoroughly epitomised some of the most prominent representations of its age. In the words of columnist, Thomas Friedman,

Have you ever played one of those video arcade games when you try to shoot as many targets as you can in a set period of time? When you start such a game a little sign flashes up and asks: 'One Player or Two?' Well, the Clinton team's approach to the Kosovo crisis reminds me of such a game. The US put a quarter in, pressed 'One

⁴² Der Derian, *Virtuous War*, p. xiv.

⁴³ The terms have been taken from Paul Virilio, *The Information Bomb* (translated by Chris Turner) (London: Verso, 2000).

⁴⁴ Paul Virilio, *War and Cinema: The Logistics of Perception* (London: Verso, 1984), p. 7.

⁴⁵ Der Derian, *Virtuous War*, p.11.

⁴⁶ Manuel De Landa, *War in the Age of Intelligent Machines* (New York: Zone Books, 1991).

⁴⁷ Richard Stevenson, 'Allied Pilots Must Rely on Camera and Eyes', *The New York Times*, April 20, 1999.

Player', and took aim against the Serbian armed forces. Unfortunately, it forgot that war is an interactive game and that somebody else was playing.⁴⁸

With the extensive pre- and post-strike imagery of U-2s, Predators, Hunters, unmanned aerial vehicles, and tactical reconnaissance and, of course, the cockpit videos of actual bombings, the strategic language of official spokespersons and media commentators echoed the language of the wider computer and popular culture of the contemporary United States.

Though technological innovations altering the battlefield are not a new phenomenon the changes wrought by the advent of information technology, and the attendant transformation this has beget strategic doctrine, has led many to level the term 'revolution' when describing military affairs.⁴⁹ During the Kosovo war, the United States' new Joint Direct Attack Munition (JDAM) technology allowed bombing from altitudes over cloud cover, though given the frequency of complaints about bad weather with distinctly mixed results. GPS satellites and SIGINIT spacecraft helped with the delivery.⁵⁰ Other spy satellites and reconnaissance aircraft technology, 'electronic scouts',⁵¹ allowed NATO aerial photographs of mass graves to at least help the punishment fit Serbia's crime.⁵²

US-led manoeuvres, on the other hand, according to Secretary of Defence William Cohen and General Henry Shelton, reflected the 'state of the art in ground control and mission planning capabilities, airworthiness, and mission payloads'.⁵³ Where wide-band dissemination systems transmitted high-priority imagery of emerging targets, air defences were provided for NATO missile runs by advanced US systems such as RC-135 Rivet Joint electronic intelligence aircraft and EA-6B tactical aircraft.⁵⁴ As the conflict began to escalate in its later stages the tactic of deploying low-circling AC-130 Spectre gunships, which fire at 2,500

⁴⁸ Thomas L. Friedman, 'Bomb and Call in George Mitchell', *The New York Times*, April 2, 1999.

⁴⁹ The literature on the so-called 'Revolution in Military Affairs' is huge. But see John Arquilla and David Ronfeldt, (eds.) *In Athena's Camp: Preparing for Conflict in the Information Age* (with foreword by Alvin and Heidi Toffler) (Santa Monica: Rand, 1997).

⁵⁰ Lambeth, *NATO's Air War for Kosovo*, p.98.

⁵¹ Elizabeth Becker, 'The Drones: They're Unmanned, They Fly Low, and They Get the Picture', *The New York Times*, June 3, 1999.

⁵² Vernon Loeb, 'From Above, Satellites Track Refugees and Atrocities', *The Washington Post*, April 6, 1999.

⁵³ See http://www.defenselink.mil/news/Oct1999/b10141999_bt478-99.html [downloaded 17 June, 2001].

⁵⁴ The transcript of the September 16, 1999 press conference on the Kosovo Strike Assessment Exercise conducted by NATO is available on-line. See <http://www.nato.int/kosovo/press/p990916a.htm> [downloaded 26 June, 2001].

rounds per minute, was intended to speed up the destruction of Yugoslav troop and artillery concentrations.⁵⁵ 'Dumb bombs', of course, were still used by B-52s.⁵⁶

It is worth noting, however, that perceptions that NATO extensively employed computer (as opposed to air-based) warfare in Kosovo are exaggerated. According to Ivo Daalder and Michael O'Hanlon,

NATO considered employing cyber warfare, but in the end carried out attacks against air defense computers only from jamming aircraft. Partly out of fear of the legal ramifications - NATO lawyers were worried about war crimes charges if computers caused major damage to the civilian infrastructure - and partly due to the limited interconnectedness of many Serb computer systems, NATO reportedly did not carry out any hacking activities. The relatively rudimentary state of US cyber warfare capabilities was apparently also a factor in this decision.⁵⁷

As a result of the relative success of enemy cyberattacks on the Non-Classified Internet Protocol Router Network (NIPRNET), used by the Pentagon to transmit unclassified information, efforts are underway to establish new networks less dependent on the Internet.⁵⁸

The latest generation of US air-delivered munitions were employed in their most substantial numbers to date. In terms of both targets and projected results success at firing against fixed sites was considered high.⁵⁹ In comparison to more hi-tech military protection, such as missiles, radar, and control systems, however, the alliance fared rather poorly. NATO was less well adept at coping with the relatively unsophisticated (low-altitude gun-based) dimensions of Serbia's air defences. Moreover, with the Yugoslav army effective in hiding and dispersing tanks and armoured personnel carriers they were still able to kill and drive people from their villages.⁶⁰ Only twenty-six Yugoslav tanks were destroyed.⁶¹

Pace current emphases on the novelty of 'virtual' and 'Internet' wars, however, the first 'electronic battlefield' was probably Vietnam.⁶² In the words of Frank Rose,

After *Sputnik* the American disadvantage in booster rockets and the consequent demand for miniaturization turned the DoD [Department of Defense] and NASA into eager consumers of the first integrated circuits. Microchips went into the nose cones of

⁵⁵ Dana Priest, 'Low-Flying Gunships Raking Ground Targets: Powerful Planes Reflect More Risk-Taking', *The Washington Post*, May 20, 1999.

⁵⁶ Elizabeth Becker, 'B-52's to Carry Less Accurate Gravity Bombs', *The New York Times*, April 30, 1999.

⁵⁷ Daalder and O'Hanlon, *Winning Ugly*, pp. 146-7.

⁵⁸ See Bob Brewin and Daniel Verton, 'Cyberattacks spur talk of third DOD network', June 22, 1999, CNN.com. See <http://www8.cnn.com/TECH/computing/9906/22/dodattack.idg/index.html> [downloaded October 2, 2001].

⁵⁹ But this was NATO's own assessment in the Joint Statement on the Kosovo After Action Review.

⁶⁰ Lambeth, *NATO's Air War for Kosovo*, p.xvii.

⁶¹ Christopher Coker, *Humane Warfare* (London: Routledge, 2001), p. 58.

⁶² See Michael T. Klare, *War Without End: American Planning for the Next Vietnams* (New York: Knopf, 1972).

nuclear warheads and the guidance-systems of Vietnam-era 'smart-bombs'; they also made possible the high-speed 'supercomputers', capable of performing hundreds of millions of operations per second, that are used to break codes, design nuclear weapons, and forecast the weather.⁶³

'We wired the Ho Chi Minh trail like a drugstore pinball machine', commented one US technician. 'And we plugged it in every night'.⁶⁴ Other stories from Operation Igloo White (1967-1972), the Thailand-based US Air Force Infiltration Surveillance Center, sound uncannily like well-worn versions of Desert Storm (1990-1) and Allied Force (1999).

Of the latter, Michael Ignatieff writes, 'It was fought in... conference rooms, using target folders flashed up on a screen, and all that... [General Wesley] Clark ever saw of the risk of battle was the gun camera footage emailed every night on secure internet systems...'⁶⁵ But compare Ignatieff's depiction with the following account of Igloo White. 'Visiting reporters were dazzled by the high-tech white-gloves-only scene inside the windowless center where young soldiers sat at their displays in air-conditioned comfort, faces lit weirdly by the dim electric glow, directing the destruction of men and equipment as if playing a video game'.⁶⁶

Also auguring a pattern familiar to Kosovo early attempts to resolve some of the logistical problems of micro-managing the Vietnam War from Washington contributed to the production of computer-generated statistics of death. Gibson elaborates in more detail the political function of this totting up of the dead. He writes,

The production with its precise reports of how many bodies were found on operations created the *appearance* of highly rational, scientific warfare. Body counts, weapons/kill ratios, charts of patrols conducted, helicopter and jet plane missions flown, and artillery rounds fired - all the indices of war production created at various command levels - presented Vietnam as a war managed by rational men basing their decisions on scientific knowledge. *Statistics help make war managers legitimate to the American public.*⁶⁷

Again like Kosovo, the apparent necessity of creating the appearance of a 'lawful war' furthered the usefulness of these statistical facts.

⁶³ Frank Rose, *Into the Heart of the Mind: An American Quest for Artificial Intelligence* (New York: Harper and Row, 1984), p. 36.

⁶⁴ Quoted in Gibson, *The Perfect War*, p. 396.

⁶⁵ Ignatieff, *Virtual War*, p.111. Coincidentally, one connection between Kosovo and Vietnam is that the official 'apologist' for the infamous My Lai massacre was Clark. Philip Knightley, *The First Casualty: The War Correspondent as Hero and Myth-Maker from the Crimea to Kosovo* (second edition with a new introduction by John Pilger) (London: Prion Books, 2000), p.508.

⁶⁶ Edwards, *Closed World*, pp. 3-4.

⁶⁷ Gibson, *The Perfect War*, p.124. First emphasis in original, second emphasis is mine.

Precise reports of the number and accuracy of Allied strike sorties in Kosovo contributed to the public appearance of a highly rational intervention.⁶⁸ We were informed, for example, that,

NATO took advantage of improved weather to increase its sortie rate and pound away at Serb military and ground force targets on Day 58 of Operation Allied Force. NATO aircraft flew 446 sorties, including 118 strike sorties and another 35 suppression of air defense (SEAD) missions. Strikes against Serb forces in Kosovo included tanks, armoured vehicles, artillery positions, an SA-6 transporter launcher and other military vehicles.⁶⁹

These indices presented daily at global press-briefings by then NATO Secretary-General Javier Solana, Press spokesman Jamie Shea, and Clark created the impression of a war, to paraphrase Lene Hansen, run by rational married men.⁷⁰ The bland personal profiles of military personnel on the NATO website also convey the heteronormative ordinariness, and thereby the authoritativeness, of the managers of this war.⁷¹

To any meaningful extent that the 'Gulf War Did Not Take Place'⁷² - which of course it did - then neither did much of the Cold War in the Northern hemisphere as it was largely fought via RAND-style gaming, systems analysis, modelling and simulation. Indeed, the oft-cited level of unreality (and sterility) surrounding RAND's mathematical modelling and 'Men in Ties Discussing Missile Size'⁷³ also belies current emphases on the newness of the moral paradoxes (discussed later) and technological feats attendant to so-called 'virtual war'.

As it appears obligatory to state, of course, like the Gulf War and Kosovo, there was nothing 'virtual' about the death exacted in South East Asia or for the experience of Cold War troops. However, computers were already playing a considerable role in creating at least the initial public appearance of scientifically governed, rationally controlled assignments that were both legal and precise. The construction of the United States' peaceful, democratic, and liberal

⁶⁸ The daily 'factual up-dates' of Operation Allied Force are available on the NATO homepage. See <http://www.nato.int/kosovo/all-frce.htm> [downloaded 1 June, 2001].

⁶⁹ See <http://www.nato.int/kosovo/press/u990520a.htm> [downloaded 1 June, 2001].

⁷⁰ The multiple pictures on the NATO homepage of 'married men having important meetings' also leave the impression of rational security and masculine control. See Lene Hansen, 'Visualizing Security Institutions: Security and Legitimacy in the Digital Age', Paper presented at the International Studies Association Conference, Chicago, February 2001.

⁷¹ The very interesting biographies of KFOR commanders can be found on the NATO homepage. See <http://www.nato.int/kfor/kfor/bios/default.htm> [downloaded November 12, 2002].

⁷² Jean Baudrillard, *The Gulf War Did Not Take Place* (translated by Paul Patton) (Indiana: Indiana University Press, 1995).

⁷³ See Carol Cohn, "'Clean Bombs' and Clean Language', in Jean Bethke Elshtain and Sheila Tobias (eds.) *Women, Militarism and War: Essays in History, Politics, and Social Theory* (Maryland: Rowman and Littlefield, 1990), pp.33-55.

identity is intimately related to justifications for war and computer-based weapons systems (both materially and metaphorically) have been vital.

Our concern, then, has not been whether a radical (or 'revolutionary') transformation in military strategy was actually witnessed during the Kosovo war; that it was not revolutionary in this regard is persuasive.⁷⁴ It is also not denied that US military dependence on information-era weapons technologies, especially when allied with air power, can usefully be conceived in functional terms. By 'substituting machines for personnel as far as possible', as Coral Bell suggests, these technologies resolve the Pentagon's major post-Cold War planning dilemmas of finance, recruitment and strategy.⁷⁵ Nonetheless, the cultural and symbolic function of information-era weapons technology on US public perceptions of liberal state violence itself contributes to the constitution of the liberal and humanitarian identity of the official US-state public sphere.

But if liberal states, as some have suggested, are so concerned with the potentially surgical precision of bombing,⁷⁶ have publics and politicians, as some critics lament, forgotten 'that patients still die on the operating table'?⁷⁷ Where several thinkers such as Ernst Jünger hailed war as the 'manifestation of mankind... that builds machines and trusts to machines, to whom machines are not soulless iron, but engines of blood,'⁷⁸ others feared the consequences of war in the industrial and later atomic age. But where passion and masculine valour supposedly used to keep the hell of war human, even when mechanisation took command of the battlefield, has 21st Century 'humanitarianism' and attendant technological advance made war even less human?

Excursus: The Technological Accident

Most recently witnessed in the Hollywood epic *Pearl Harbor*, the technology (and human skill) of air warfare has become 'something of a cultural icon'.⁷⁹ However, from the bombing of Serb residential neighbourhoods and Chinese Embassy to the destruction of Kosovo-Albanian refugee convoys, bridges and hospitals, extensive media coverage was

⁷⁴ Freedman, 'The Split-Screen War', pp. 420-432.

⁷⁵ Coral Bell, 'Force, Diplomacy, and Norms', Albrecht Schnabel and Ramesh Thakur (eds.) *Kosovo and the Challenge of Humanitarian Intervention* (New York: The UN University Press, 2000), pp. 448-462.

⁷⁶ McInnes, 'Spectator Sport Warfare', p.155; Ignatieff, *Virtual War*, p.165.

⁷⁷ Lambeth, *NATO's Air War for Kosovo*, p.139.

⁷⁸ Ernst Jünger quoted in Mitcham and Mackay (eds.) *Philosophy and Technology: Readings in the Philosophical Problems of Technology* (New York: Free Press, 1972), p.19.

⁷⁹ Lawrence, *Modernity and War*, p.61.

afforded NATO's 'mistakes'. I use the terms 'mistakes' and 'accidents' not to ventrilloquise NATO but to make reference to an already established discourse that has recognised these incidents as at least warranting a discrete categorisation.

On 12 April 1999, a NATO pilot fired a missile at a crossing train on a bridge. Then he fired another killing at least twenty Serbs. At least seventy-five refugees died when a bomb hit their convoy in southeast Kosovo two days later. On 27 April eleven civilians were killed when a Serb village was hit instead of an army barracks;⁸⁰ three days later, thirty-nine bus passengers died on the bridge at Luzane. Seven were killed and fifty wounded when bombs, short of their target, fell in a town.⁸¹ Three Chinese reporters were killed in Belgrade as their embassy was hit on 7 May. Eighty-seven 'human shields' became a 'legitimate military target' in the village of Korisa on 13 May.

Human Rights Watch report some ninety separate incidents involving at least five hundred civilian deaths.⁸² NATO losses, as to be expected, were greatly fewer. An F-117 went down during the night of 27 March and an F-16 was lost on 2 May. Two of the controversial US Apache helicopters crashed whilst training in Albania, killing two Americans.⁸³ A marine Harrier jet broke down and crashed in the Adriatic Sea.

These human, but mostly technological, accidents and attendant 'collateral damage' were widely considered to undermine - if not downright contradict - the liberal and certainly humanitarian claims made by the NATO allies. 'An implication of technological infallibility', suggested Hilaire McCoubrey, 'has been allowed to develop which is, by its nature, ultimately unsustainable... Where failures either of equipment or the information upon which it is operated occur, the encouragement of such assumptions inevitably generates a presumption of calculated wrongdoing'.⁸⁴ Moreover, the failure of NATO's precision-strikes to prevent ethnic cleansing, indeed, how the use of air power alone *accelerated* the refugee crisis, led to

⁸⁰ Steven Erlanger, 'Inside an Accident of War: Sirens. Blast. Grief', *The New York Times*, April 29, 1999.

⁸¹ Steven Erlanger, 'Small Serbian Town Is Stricken By a Deadly "Accident of War"', *The New York Times*, April 7, 1999.

⁸² Human Rights Watch, 'Civilian Deaths in the NATO Air Campaign', February 2000. See <http://www.hrw.org/reports/2000/nato/> [downloaded 14 August 2001].

⁸³ Molly Moore, 'Earthbound Apaches: Helicopter Crews Fight Frustration and Boredom - Not Serbs', *The Washington Post*, May 21, 1999.

⁸⁴ Hilaire McCoubrey, 'International Humanitarian Law and the Kosovo Crisis', in Ken Booth (ed.) *The Kosovo Tragedy: The Human Rights Dimensions* (London: Frank Cass, 2000), p. 199.

widespread criticism. For Der Derian, 'The overselling of precision weaponry made the usual mistakes of warfare appear to be aberrations, if not war crimes'.⁸⁵

NATO's defenders were quick to respond. 'Thanks to unrealistic efforts to treat the normal friction of war as avoidable human error', argued Benjamin Lambeth, 'every occurrence of unintended collateral damage became overinflated as front-page news and treated as a blemish on air power's presumed ability to be consistently precise'.⁸⁶ 'In a world that no longer accepts, with a fatalistic shrug', remarked Eliot Cohen, 'the notion of accidents and bad luck, in which, for example, corporations find themselves held accountable for the lung cancer that afflicts smokers who have chosen their habit, tolerance for combat losses has declined precipitously'.⁸⁷

As the degree of coverage afforded the 'accidents' became itself a subject of widespread comment⁸⁸ NATO responded by mobilising an older 'knights of the air' discourse. According to Richard Stevenson, 'NATO provided a glimpse of *what an attacking pilot is going through* when it released an audiotape last week.'⁸⁹ He continued,

Attacking pilots rely on three basic types of information in identifying targets. They are in radio contact with communications aircraft and spotter planes, which help guide them to potential targets. They have heat-sensing infrared cameras that allow them to magnify fuzzy pictures... And they have their own eyes.⁹⁰

Moreover, on the surface at least seeming to contradict the Western idolatry of the machine, in official NATO post-conflict analyses extensive praise was lavished on individual pilots and support staff.⁹¹

How, then, should we conceive the role of these accidents in terms of public spheres at war? Leaving aside the question of whether the 'mistakes', the Embassy bombing in particular,⁹² constituted 'real' accidents (for how could such a calculation possibly be made?)

⁸⁵ Der Derian, *Virtuous War*, pp. 201-2.

⁸⁶ Lambeth, *NATO's Air War for Kosovo*, p.xviii.

⁸⁷ Eliot A. Cohen, 'Kosovo and the New American Way of War', in Andrew J. Bacevich and Eliot A. Cohen (eds.) *War Over Kosovo: Politics and Strategy in a Global Age* (New York: Columbia University Press, 2001), p.56.

⁸⁸ For a table of CNN coverage of the 'mistakes' see Steven Livingston, 'Media Coverage of the War: An Empirical Assessment', in Albrecht Schnabel and Ramesh Thakur (eds.) *Kosovo and the Challenge of Humanitarian Intervention* (New York: The UN University Press, 2000), pp. 373-74.

⁸⁹ Richard Stevenson, 'Allied Pilots Must Rely on Camera and Eyes', *The New York Times*, April 20, 1999. My italics.

⁹⁰ Stevenson, 'Allied Pilots Must Rely on Camera and Eyes'.

⁹¹ Thanks to Colin McInnes for pointing this out.

⁹² John Sweeney, Jens Holsoe, and Ed Vulliamy, 'NATO Bombed Chinese Deliberately', *The Observer*, October 17, 1999.

how do we fit the frequency and coverage of these events into our framework of war and liberal public spheres?

Recall from Chapter One how the consciousness of a mass modern subjectivity analogous to print media's production of an 'imagined community'⁹³ was partly realised when private individuals encountered - and were newly regimented by - the mechanised schedules attendant the introduction of railways across the continental expanse. As Alan Trachtenberg described, 'the physical experience of technology mediated consciousness of the emerging social order'.⁹⁴ According to Wolfgang Schivelbusch, however,

Early perception of the railroad was characterized by a curious ambivalence. The journey was felt to be uncannily smooth, easy, secure, like flying... At the same time, the journey entailed a sensation of violence and potential destruction... Thus all the ease, comfort and security that were superficial characteristics of the train journey were always accompanied by an ever-present subliminal fear.⁹⁵

Even after such journeys became part of 'every day life' and the 'subliminal fear' seemingly declined, the ever-present possibility of technological malfunction has historically been functional in the modern liberal encounter with the mechanical.⁹⁶ In other words, the ever-present possibility of risk, including technological malfunction and accidents, has seemed intrinsic to the human relationship with technology since industrialism and is both a threat to and redemptive of the liberal (individualistic) order from which it derives.

For example, accounts of near misses and actual disasters pervade popular and academic histories of transport technologies. To early aviators, in particular, the press assiduously covered their hazards and triumphs. A non-conformist and free spirit but also a civic-minded team player, representative of the times of yore but also a portent of the future, throughout US culture, suggests Sherry, airmen have been depicted as both 'democrat and superman'.⁹⁷ Charles Lindbergh, who since his first 1927 solo flight from New York to Paris, has become a national icon, simultaneously personified 'the promise of the machine age and

⁹³ Benedict Anderson, *The Imagined Community* (London: Verso, 1992).

⁹⁴ Alan Trachtenberg, 'Forward', in Wolfgang Schivelbusch, *The Railway Journey: The Industrialization of Time and Space* (Berkeley, CA: University of California Press, 1986), p. xv.

⁹⁵ Wolfgang Schivelbusch, *The Railway Journey: The Industrialization of Time and Space* (Berkeley, University of California Press, 1986), pp. 129-30.

⁹⁶ I am indebted to Brian Axel for our conversation about the genre of railway disasters.

⁹⁷ Sherry, *The Rise of American Air Power*, p.135.

the virtues of frontier individualism'.⁹⁸ Aviators were (and still are) 'proof that the mechanical age possessed gallantry'.⁹⁹

Accordingly, rather than position NATO's 'accidents' and the vast coverage of them as aberrations from the otherwise liberal and humanitarian character of the intervention or insist that we should expect nothing less from the would-be 'Masters of the Universe,'¹⁰⁰ we can otherwise conceive the narrated event of these technological accidents as partly *productive* of (rather than merely destructive or somehow intrinsic to) liberal political subjectivity. For if we read NATO's well-documented blunders alongside the history of railway disasters and the hazards of early aviation a moral anomaly so animating liberal thinkers from Ignatieff to Walzer is partly, albeit ironically, resolved. With the discourse of the technological accident we have a suggestive solution to the liberal axiom, as articulated by Michael Walzer, '*You can't kill unless you are prepared to die*'.¹⁰¹

Liberals are a self-reflective, pragmatic group, and following Isaiah Berlin, are often not even sure of their own liberal-ness, witnessed by the moral qualms revealed in the 'last resort' discourse of their Just War tradition.¹⁰² Even for a just cause, argues Walzer, 'political leaders cannot launch a campaign aimed to kill Serbian soldiers, and sure to kill others too, unless they are prepared to risk the lives of their own soldiers'.¹⁰³

Autonomous machines and elusive truths also seemed to collide then - as some liberals would have it - with inauthentic morals when NATO bombarded Serbia. With Kosovo, Ignatieff envisioned a new era where 'Technological masters removed death from our experience of war. But war without death - to our side - is war that ceases to be fully real to us: virtual war'.¹⁰⁴ Would liberal states now be able to wage war with moral impunity with 'virtual' rather than genuine values, such as 'sacrifice, honour and country'?¹⁰⁵

Thus, an enduring narrative in liberal as well as 'post-modern' versions of 'Virtual War' centres on the moral costs to liberal subjects of being able to inflict death with little cost

⁹⁸ Sherry, *The Rise of American Air Power*, p.40.

⁹⁹ Sherry, *The Rise of American Air Power*, p.20.

¹⁰⁰ Tariq Ali (ed.) *Masters of the Universe? NATO's Balkan Crusade* (London: Verso, 2000).

¹⁰¹ Michael Walzer, 'Kosovo', in William Joseph Buckley (ed.) *Kosovo: Contending Voices on Balkan Interventions* (Michigan: Eerdmans Publishing, 2000), p.344.

¹⁰² Michael Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations* (2ed.) (New York: Basic Books, 1992). Isaiah Berlin, 'Two Concepts of Liberty', in *The Proper Study of Mankind: An Anthology of Essays* (edited by Henry Hardy and Roger Hausheer, foreword by Noel Annan, introduction by Roger Hausheer) (New York: Farrar, Straus and Giroux, 1997), pp. 191-242.

¹⁰³ Walzer, 'Kosovo', p.344

¹⁰⁴ Ignatieff, *Virtual War*, p.5.

¹⁰⁵ Ignatieff, *Virtual War*, p.201.

to *them*.¹⁰⁶ 'In simulated preparations and virtual executions of war', fears Der Derian, 'there is a high risk that one learns how to kill but not take responsibility for it.'¹⁰⁷ The moral consequences of the Western body seeming to disappear from the battlefield during the 1990s led to calls for liberal citizens to become more sentient about the reality of violence if war, even humanitarian war, was to be legitimate. 'The essential nature of combat', argued R.W. Apple, 'is the fear that you may die before you can kill your enemy. Isn't that what gives scale and meaning to an essentially savage act? And doesn't removing sacrifice through push-button warfare somehow corrupt the most nobly motivated war?'¹⁰⁸ Leaving aside whether there is an 'essential nature' to war, the concern that we do ourselves moral ill even in the endeavor to do others good is a typical liberal anxiety.

However, already initiated via the long-standing heroism and individualist imagery of the first fighter pilots, the narrated event of the NATO accident - it is not an 'accident' until narrated as such - allows contemporary liberals to salvage something from the mechanistic age, even before death was exacted more directly when the Twin Towers collapsed. 'In truth', argues Sherry, 'the disasters were as essential a part of aviation's image as the records set and inventions tested. They contributed to a sense of individual daring, of the machine's frailty, and of man's resourcefulness that made aviation a benign attraction, a fusion of frontier spirit and machine-age discipline'.¹⁰⁹

The greater the sophistication of the stealth bombers, the more precisely they bomb, the greater the productive effect of the accident in returning humanness (including death) to the equation of war. 'One might also say', with Schivelbusch, 'that the more civilized the schedule and the more efficient the technology, the more catastrophic its destruction when it collapses. There is an exact correlation between the level of the technology with which nature is controlled, and the degree of severity of its accidents'.¹¹⁰ If the element of uncertainty, accident, and danger remain then all is not lost to rationality and the machine age - the human is put back into the humanitarian, attacking pilots rely on 'their own eyes'.

¹⁰⁶ 'Whatever humanitarian war does to the enemy, we should also think of how it degrades us'. Ken Booth, 'Ten Flaws of Just Wars', Ken Booth (ed.) *The Kosovo Tragedy: The Human Rights Dimensions* (London: Frank Cass, 2000), p. 316.

¹⁰⁷ Der Derian, *Virtuous War*, p.xvi.

¹⁰⁸ R.W. Apple Jr., 'On Killing From Beyond Harms Way', *The New York Times*, April 18, 1999.

¹⁰⁹ Sherry, *The Rise of American Air Power*, p.41.

¹¹⁰ Schivelbusch, *The Railway Journey*, p.131.

Cyber-Publics and War

Not only did the Kosovo war represent for many in the United States a revolution in military affairs, the war also occurred in a context of widespread academic and popular excitement over a potentially new era of e-accountability and public sphere participation,¹¹¹ as well as radical transformations of 'the self', given new high-speed interconnectivities. Certainly, if Mary Midgley's notion of 'scientific imagination',¹¹² David Noble's 'spirit of invention',¹¹³ and Margaret Wertheim's 'techno-spiritual dreaming'¹¹⁴ have any critical purchase, then 'Kosovo 1999' occurred at what was presented as an important moment in Western cultural and technological history.

Yet do these developments represent radically new phenomena? Or are they simply the latest manifestation of earlier practices linking cultures of self-transformation, public spheres, and war? According to Michael Warner, 'the contexts of commodities and politics share the same media and, at least in part, the same metalanguage for constructing our notion of what a public or a people is'.¹¹⁵ These sites of identity-formation have become crucial for understanding the constitution of public spheres, the legitimation of 'humanitarian' violence, and the relationship between them.

Established in 1946, RAND, the game- and mathematical-theory Mecca of the US defence industry, set to work on computer-based projects that had ostensibly been championed - in liberal fashion - as a way to re-assert rational civilian control over the military.¹¹⁶ However, not only did promises of extensive funding and research opportunities from the military drastically speed up civilian computer research, thereby allowing the US to quickly outpace the early innovations of Britain, the secrecy encircling this work initially restricted its spread with both formal and informal censorship. Even as the private sector has increasingly overhauled computer-related research and development, incentives still remain from the anticipation that 'results' may be purchased by the military. As Rose describes, 'Neither the

¹¹¹ Robert D. Putnam, *Bowling Alone: The Collapse and Revival of American Community* (New York: Simon and Schuster, 2000), p.148.

¹¹² Mary Midgley, *Science as Salvation: A Modern Myth and its Meaning* (London: Routledge, 1992).

¹¹³ David Noble, *The Religion of Technology: The Divinity of Man and the Spirit of Invention* (New York: Alfred Knopf, 1997).

¹¹⁴ Margaret Wertheim, *The Pearly Gates of Cyberspace: The History of Space from Dante to the Internet* (New York: W.W. Norton, 1999).

¹¹⁵ Michael Warner, 'The Mass Public and the Mass Subject', in Craig Calhoun (ed.) *Habermas and the Public Sphere* (Cambridge, MA: MIT Press, 1992) p. 386.

¹¹⁶ Thanks to Hayward Alker for suggesting this liberal dimension. See Paul Diesing, *Reason in Society: Five Types of Decisions and their Social Conditions* (Urbana: University of Illinois Press, 1962).

private sector nor any other side of government has been so eager to support innovation in electronics. The computerization of society, then, has essentially been a side effect of the computerization of war'.¹¹⁷

By the 1960s - and partly in response to the 1957 Soviet launch of Sputnik - RAND commissioned a project to protect US Department of Defense weapons command and control functions from a Soviet first (or retaliatory) nuclear strike. Whether in fact the emerging system could have survived an all-out or even partial nuclear attack is moot. However, once embraced by the Advanced Research Projects Agency (ARPA) at the Pentagon a network of networked computers became a reality in 1969 to form ARPANET (eventually Defense Advanced Research Projects Agency (DARPA)), the beginning (and foundation) of 'cyberspace'. In the words of John Streck,

Based on a packet switching technology developed by Paul Baran (whereby messages to be transmitted are fragmented into small, separately addressed pieces, 'packets', which move independently through the computer network and are reassembled at the destination point), the proposed network would have no central hubs and, in the event of a nuclear attack or another misfortune, could rotate the packets around any damaged nodes.¹¹⁸

By the early seventies universities became central nodes, allowing the exchange of messages with the creation of file transfer protocol (FTP) and remote terminal access (Telnet) systems.

Though the initial instantiation of a multi-user online 'community' was perhaps unsurprisingly a large-scale war-fighting simulation,¹¹⁹ the new network of networks (or 'protocols') allowing civilian computers to talk to each other heralded the creation of the first multi-user 'chat' environments.¹²⁰ These distributed networks created a matrix or web-like structural architecture that was, in essence, non-hierarchical. By the 1980s, the National Science Foundation (NSF) founded five supercomputer centres, the NSFnet and basis of the Internet, making accessible the potential of the fastest computers to university research.¹²¹ 'The civilian freedoms of the Net', Donna Haraway reminds us, 'are indebted to a tax supported

¹¹⁷ Rose, *Into the Heart of the Mind*, p. 36.

¹¹⁸ John M. Streck, 'Pulling the Plug on Electronic Town Meetings: Participatory Democracy and the Reality of Usenet', in Chris Toulouse and Timothy W. Luke (eds.) *The Politics of Cyberspace* (London: Routledge, 1998), p. 19.

¹¹⁹ Wertheim, *The Pearly Gates of Cyberspace*, p.298.

¹²⁰ For a brief history see Jerry Everard, 'internet@www.history.edu', in *Virtual States: The Internet and the Boundaries of the Nation-State* (London: Routledge, 2000), pp.11-23.

¹²¹ Donna Haraway, *ModestWitness@SecondMillennium.FemaleManMeetsOncoMouse: Feminism and Technoscience* (New York: Routledge, 1997).

commons tied initially to Cold War priorities and then to goals of national economic competitiveness'.¹²²

Though 'cyberspace' - the place within and between computers - was coined earlier in William Gibson's 1984 novel, *Neuromancer*, the term had thoroughly entered the popular lexicon by the end of the 1990s.¹²³ The WELL, established in 1985 San Francisco, is one of the first (and largest) of such on-line discursive communities.¹²⁴ This self-described 'cluster of electronic villages' has been both valorised and criticised, in Paul Streck's words, as 'the computer-based instance of Jürgen Habermas's bourgeois public sphere, in which the educated and affluent come together outside both home and state for critical discussion of art, literature and politics'.¹²⁵

Though certainly not all WELL 'inhabitants' are wealthy bourgeois 'netizens', such on-line communities are certainly out of reach to the information underclass.¹²⁶ Yet as computers have become mainstream, more and more have posited visions of an on-line democratic world able to transcend social and bodily limits, where inequality of access would diminish and public discourse across borders might thrive.

In *Cyberspace and the American Dream*, Esther Dyson, Alvin Toffler and others argued that new forms of communication, inaugurated by the extension of computers into millions of homes, would herald an electronic frontier, a new era of digital democracy that transcends the old borders of the nation-state. In their words, 'Cyberspace is the latest American frontier... It... will play an important role knitting together the diverse communities of tomorrow, facilitating the creation of 'electronic neighborhoods' bound together not by geography but by shared interests'.¹²⁷

Taking responsibility beyond borders, transgressing what is selectively seen as the artificial boundary of the nation-state, as Chapter Six will further discuss, has been a rallying cry of the 'new military humanism'. Often couched explicitly in the language of frontier (colonising) metaphors and borrowing Marshall McLuhan's futurist notion of a 'global village'

¹²² Haraway, *ModestWitness*, p.4.

¹²³ William Gibson, *Neuromancer* (London: Grafton Books, 1984).

¹²⁴ For the WELL homepage see <http://www.well.com/aboutwell.html> [downloaded 7 August 2001].

¹²⁵ Streck, 'Pulling the Plug', p.28.

¹²⁶ See Anthony G. Wilhelm, 'Immune to Progress: Reconceptualizing America's Information and Telecommunications Underclass', in *Democracy in the Digital Age: Challenges to Political Life in Cyberspace* (London: Routledge, 2000), pp.67-85.

¹²⁷ For the conservative Progress and Freedom Foundation document by Esther Dyson, George Gilder, George Keyworth, and Alvin Toffler, *Cyberspace and the American Dream: A Magna Carta for the Knowledge Age* see <http://www.pff.org/position.html> [downloaded June 28, 2001].

- where 'new vortices of power are shaped by the instant electric interdependence of all men on this planet'¹²⁸ - a vision of a new-fangled interventionary post-Cold War democratic order has been articulated, and practiced, using the cyber-metaphor.¹²⁹

Computer technologies are endowed with symbolic meaning, not only through their location and the way they are used, but also by how they are talked about in public spheres. The marketing of these machines from their inception has established effective rhetorical procedures to shape public/consumer attitudes, as well as foster demand for these newly mass-produced goods.¹³⁰ The modern advertising industry in particular has played a major role in shaping US technological and political cultures, as Michael Smith suggests, asking citizens 'to visualize the future as a succession of unimaginable new machines and products'.¹³¹

Since their inception, then, but increasingly in the 1990s, computers have provided a new medium of understanding within which liberal states can present their foreign policies, as globalization, democracy-promotion and humanitarian war became new buzzwords. 'The meaning of a symbol is fluid rather than fixed', suggests Douglas Rosenberg, 'and is often made more complex by allusion to other, interrelated symbols.'¹³² By the end of the 1990s terms such as 'smart bombs', 'surgical' and 'clinical' strikes, and 'artificial intelligence' were part of ordinary language of medicine, business, defence and media.

Computers and related technologies of command and control had already by the Cold War fostered a 'metaphorical understanding of world politics', in Edwards words, 'as a sort of system subject to technological management.'¹³³ Likewise, post-Cold War notions of a globalising, diffusely chaotic world¹³⁴ could be rendered more orderly and controllable by this image of technology. With the resurgence of National Missile Defence under the second Bush

¹²⁸ Marshall McLuhan, *Understanding Media: The Extensions of Man* (introduction by Lewis H. Lapham) (Cambridge, MA: MIT Press, [1964] 1994), p.137.

¹²⁹ David Webster, 'Rewiring Kosovo', *The Washington Post*, June 15, 1999.

¹³⁰ Merritt Roe Smith, 'Technological Determinism and American Culture', in Merritt Roe Smith and Leo Marx (eds.) *Does Technology Drive History? The Dilemma of Technological Determinism* (Cambridge, MA: MIT Press, 1994), p. 13.

¹³¹ Michael L. Smith, 'Recourse of Empire: Landscape of Progress in Technological America', in Merritt Roe Smith and Leo Marx (eds.) *Does Technology Drive History? The Dilemma of Technological Determinism* (Cambridge, MA: MIT Press, 1994), p. 38.

¹³² Douglas Rosenberg, 'Arms and the American Way: The Ideological Dimensions of Military Growth', in Bruce Russett and Alfred Stepan (eds.) *Military Force and American Society* (New York: Harper and Row, 1973), p.166.

¹³³ Edwards, *Closed World*, p.7.

¹³⁴ Robert Kaplan, 'The Coming Anarchy', *The Atlantic Monthly*, Vol. 273, No. 2 (Feb. 1994), pp. 44-76.

Administration and the search for intelligence and technological solutions to the homeland threat posed by 'terrorism' the inclination has clearly not evaporated.¹³⁵

Thomas Friedman's widely cited 'Manifesto for the Fast World', published in the *New York Times Magazine* and elsewhere during the Kosovo campaign, similarly conceived global politics as a system to be technologically managed.¹³⁶ 'Today, for the first time in history', Friedman wrote, 'we all have the same basic piece of hardware - free markets. The question is, which countries will get the economic operating systems (neoliberal macroeconomics) and software (regulatory institutions and laws) to get the most out of the free markets.'¹³⁷ The attempt to rapidly extend information technology systems throughout Kosovo and Albanian society post-war is clearly part of that liberalising process.¹³⁸

'The hidden hand of the market', Friedman wrote in an oft-cited passage, 'will never work without the hidden fist - McDonald's cannot flourish without McDonnell Douglas, the designer of the F-15. And the hidden fist that keeps the world safe for Silicon Valley's technologies is called the United States Army, Air Force, Navy and Marine Corps'.¹³⁹ Of course, US practices of 'democracy' promotion and neoliberal economic agendas have never been far removed. The world certainly seemed safer for business with the Kosovo bombing as the cost of shares in the United States' biggest defence contractors increased.¹⁴⁰ 'War may be hell', as John Mintz describes, 'but in Washington, it's also a lobbying opportunity.'¹⁴¹ Raytheon expected to obtain a billion dollars in new orders to replenish weapons stocks as a result of the air war.¹⁴²

In view of the popular hype regarding the cyber-dimensions of 'Kosovo', the intervention appeared then as nothing if not trapped in a broader cultural pattern. During the bombing campaign not only did Belgrade-based hackers break into NATO's official website

¹³⁵ James Der Derian, '9/11: Before, After, and In Between', in Craig Calhoun, Paul Price, and Ashley Timmer (eds.) *Understanding September 11* (New York: The New Press, 2002), p. 188.

¹³⁶ The manifesto was excerpted from Friedman's book *The Lexus and the Olive Tree: Understanding Globalization* (New York: Farrer, Straus and Giroux, 1999).

¹³⁷ Friedman, 'Manifesto for the Fast World', p.97.

¹³⁸ Neki Frasher, 'How to Build ITS (Information Technology and Systems) in Developing Post-Socialist Countries as a Necessity for a Regional Development, Integration and Security', Paper Presented at SSRC Summer Institute, 'Information Technology and Cooperation and Conflict Across Boundaries', University of California, Berkeley, July 15-21, 2001.

¹³⁹ Friedman, 'Manifesto for the Fast World', p.96.

¹⁴⁰ Tim Smart, 'Fog of War Settles In for Weapons Stockholders', *The Washington Post*, March 30, 1999.

¹⁴¹ John Mintz, 'A New Missile Offensive: Manufacturers Lobby for Sales', *The Washington Post*, April 17, 1999.

¹⁴² Ross Kerber, 'Raytheon Sees \$1B in Orders', *The Boston Globe*, June 4, 1999.

and cause line saturation, its email system was clogged by an individual sending 2,000 messages a day.¹⁴³ Chinese hackers became part of the online war, attacking official US sites in response to the bombing of their embassy.¹⁴⁴ As the war continued, the World Wide Web became a major site of anti-war bustle, 'turning cyberspace', according to Ashley Dunn, 'into an ethereal war zone'.¹⁴⁵

Though cyber-disobedience from hackers against NATO and other US government websites was common, the effect was largely symbolic, 'signaling the vulnerability of Goliath', in Goran Gocis' words, 'not really hurting him'.¹⁴⁶ Some Yugoslav citizens, however, went on the defensive against NATO by using radio receivers to eavesdrop on incoming Allied pilots and then inform Belgrade (with their mobile phones) of inward strike configurations.¹⁴⁷

Arguments both for and against the air campaign proliferated on listservs and e-groups. There are literally thousands of sites devoted to all aspects of Kosovo and hundreds on Kosovo and the Internet. There was, of course, much hate mail from all sides. Alb-net.com, a site for Albanians worldwide, posted hate mail from Russians and Serbs, no doubt to evoke disgust and reinforce stereotypes about Serb and Russian attitudes.¹⁴⁸ During the bombing, as opposition was effectively muzzled in Belgrade and, of course, in the mainstream Western press, dissenting groups went on-line if not already there.¹⁴⁹

When the phone-lines were not disrupted, daily messages sprang forth from both Kosovo and Serbia providing direct personal reports from the many frontlines of the struggle. 'Not long after the first bombs fell on Kosovo', wrote Linton Weeks, 'e-pleadings with addresses ending in Yugoslavia's ".yu" designation started clogging American e-mail boxes.'¹⁵⁰ The International Rescue Committee set up the Kosovar Yellow Pages, an on-line directory of the thousands displaced.¹⁵¹

¹⁴³ Jamie Shea, NATO Press Conference, 31 March 1999. See <http://www.nato.int/kosovo/press/p990331a.htm> [downloaded 26 June, 2001].

¹⁴⁴ David Stout, 'China Protests Crash White House Web Site', *The New York Times*, May 12, 1999.

¹⁴⁵ Ashley Dunn, 'Crisis in Yugoslavia; Battle Spilling Over Onto the Internet', *The Los Angeles Times*, April 3, 1999.

¹⁴⁶ Goran Gocis, 'Symbolic Warfare: Nato versus the Serbian Media', in Philip Hammond and Edward S. Herman (eds.) *Degraded Capability: The Media and the Kosovo Crisis* (London: Pluto Press, 2000), p.91.

¹⁴⁷ Ignatieff, *Virtual War*, p.97.

¹⁴⁸ 'Editorial: Wiring Up Kosovo', *On the Record: Civil Society and Kosovo*, Vol. 9, Issue 9, October 18, 1999. See <http://www.dds.nl/~pressnow/media/kosovo/991018.html> [downloaded 27 June, 2001].

¹⁴⁹ Steven Erlanger, 'Even Milosevic Foes Criticize Western Media', *The New York Times*, March 31, 1999.

¹⁵⁰ Linton Weeks, 'From the War in Kosovo, A Fusillade of E-Motion', *The Washington Post*, April 10, 1999.

¹⁵¹ Karen Kaplan, 'Web Site Provides Link for Kosovars', *The Los Angeles Times*, May 31, 1999.

The easy availability of this technology in the former Yugoslavia, according to some, belied the claim that ordinary Serbs were unwitting victims of the regime's propaganda. According to media reports, for example, NATO's aerial photos of suspected mass graves and images of the fleeing refugees were easily available for Internet download, as were the pronouncements to the Serb underground radio stations of US Secretary of State Madeline Albright, President Clinton, and British Prime Minister Tony Blair.¹⁵² Serbs too could (dubiously) be deemed as Milosevic's 'willing executioners', as Daniel Goldhagen had claimed of the German's under Hitler.¹⁵³

The Internet, according to one account, had the effect of 'personalising' the war for US citizens, becoming controversial, however, when MSNBC arranged for some of them to chat on-line with Arkan, the indicted and since assassinated Serb war criminal.¹⁵⁴ *Wired* magazine and *Newsweek* in particular carried extensive coverage of the 'Web Witnesses' to conflict.¹⁵⁵ When an Albanian girl emailed her pen pal in California extracts were read on National Public Radio.¹⁵⁶

In the context of increasing disenchantment with politics, the corporate bypassing of public accountability, and the corporatisation of the media, cyberspace has nostalgically been presented then as the possible return to the esteemed days of the Athenian agora, Habermasian coffee shop debate, or the town hall meeting of republican lore.¹⁵⁷ Often taking the form of techno-religious dreams, these fantasies of new disembodied on-line publics, as Margaret Wertheim has persuasively argued, are actually 'repackagings of age-old Christian visions in a technological format'.¹⁵⁸

The longstanding tension in the Western philosophical tradition concerning the proper association between mind and body has taken the form of various (and evolving) conceptions about the location of our bodies in the universe, the actual realm in which they are 'embedded'.

¹⁵² Thomas W. Lippman, 'USIA Sets Its Sites on Yugoslavia: Web Used to Counter State-Run Media', *The Washington Post*, April 17, 1999.

¹⁵³ Stacy Sullivan, 'Milosevic's Willing Executioners', *The New Republic*, May 10, 1999.

¹⁵⁴ Amy Harmon, 'War Waged on the Web: Killers Without Context', *The New York Times*, April 5, 1999.

¹⁵⁵ Allan R. Andrews, 'Commentary: Making sense of the first real Internet War', *The American Reporter*, Vol. 5, no. 1045, April 9, 1999. See <http://www.toad.net/~andrews/netwar.htm> [downloaded 27 June, 2001].

¹⁵⁶ Jon Katz, 'The Myth of the Internet War'. See <http://www.slashdot.org/features/99/04/11/1857215.shtml> [downloaded 27 June, 01].

¹⁵⁷ For a critique of Habermasian appropriations of the potentiality of cyberspace see Mark Poster, *What's the matter with the Internet?* (Minneapolis: University of Minnesota Press, 2001).

¹⁵⁸ Wertheim, *The Pearly Gates*, p.21. Also see Michael J. Shapiro, *Violent Cartographies: Mapping Cultures of War* (Minneapolis: University of Minnesota Press, 1997), p.74.

Though not explicitly conceptualised thus, notions of cyber/virtual war are based on similar understandings of this problem. According to Der Derian,

The speed of interconnectivity that the computer enables has, more than any other innovation in warfare from the stirrup to gunpowder to radar to nukes, shifted the battlefield away from the geopolitical to the electromagnetic. Less obviously, the power of cyberwar comes from its ability to reproduce as well as to deconstruct reality with a real-time verisimilitude that will make future war more of a contest of signs than of soldiers.¹⁵⁹

Of course, the global computer networks upon which cyberspace is physically reliant - the architectural structures of optic fibres, silicon microchips, satellites, display screens, phone cables, and modems - exist in a material sense. Yet there is perhaps another no-less-real sense in which the *physical* determinates of this newest form of space, which to ever-changing degrees is both public and private, cannot be mapped and thereby contain important similarities with medieval 'spatial dualism'.

In contrast to the medieval conception of the universe, which included the immaterial domain of the transcendent, in our scientific-materialist age, physical space constitutes the 'whole of reality.'¹⁶⁰ However, 'this new digital space', according to Wertheim, 'is "beyond" the space that [modern] physics describes, for the cyber-realm is not made up of physical particles and forces, but of *bits* and *bytes*. These packets of data are the ontological foundation of cyberspace...'¹⁶¹ Thus, if our digital location is no longer bounded by the physical but is somehow transposed to an amphitheater of worldwide *data space*, between hardware and software, 'we' are literally in a new (public/private) realm.¹⁶²

As Lauren Berlant persuasively suggests, however, presaging an argument developed in Chapter Four,

embodied activism performed in civic spaces has become designated as a demonized, deranged, unclean (a)social mob activity. In contrast, every article about the Internet shows us that accessing and mastering national/global mass media forms has become widely construed as the *other* most evolved or developed sense for the practice of being American.¹⁶³

¹⁵⁹ Der Derian, *Virtuous War*, p.118.

¹⁶⁰ Wertheim, *The Pearly Gates*, p.35.

¹⁶¹ Wertheim, *The Pearly Gates*, p.228.

¹⁶² Wertheim, *The Pearly Gates*, p.233.

¹⁶³ Lauren Berlant, *The Queen of America Goes to Washington City: Essays on Sex and Citizenship* (Durham, NC: Duke University Press, 1997), p.179.

In other words, the extent to which resistance to NATO's discourse was given voice on-line may have distracted attention from and even replaced more traditional, less hyped, and perhaps more visible forms of dissent. For 'as subculture became market segment', Streck suggests, 'control of the cyberpunk vision shifted from science fiction writers to advertising agencies and politicians; stories of jaded burnouts living in a technological dystopia gave way to thirty second vignettes celebrating life made perfect through telecommunications'.¹⁶⁴ Simply giving vent on-line does not mean those who run the machine, as Mario Savio would have it, are paying attention.¹⁶⁵

The limitations of the Internet as a critical public sphere, Edward Herman and Noam Chomsky argue, include the persistent digital divide (which encompasses race, class, gender and North-South issues); the increasing privatisation of formerly publicly owned Internet hardware; the commercialisation of Internet portals; and growing private control of the new broadband technology.¹⁶⁶ 'The issue', in Diana Saco's words, 'is not only whether the state can project its sovereign authority into cyberspace given the technical features of networking, but also how the liberal discourse through which the insecurities reimagined by both state and nonstate actors will shape those efforts'.¹⁶⁷

Whatever the form in which the public sphere manifests, whether in the virtual domain or the 'real', it always conceals the social structure of production by which it is underpinned.¹⁶⁸ As has often been the case with the emergence and valorisation of new publics, during the Internet boom era the American poor, both native and immigrant, were generally absent from mainstream media records.¹⁶⁹ When the 1990s economic boom itself was fuelled by the highest ever rate of immigrant (mostly cheap) labour, more than 13.5 million during the 1990s, roughly 9 million were undocumented.¹⁷⁰

¹⁶⁴ Streck, 'Pulling the Plug', p.21.

¹⁶⁵ Savio was one of the leaders of the Free Speech Movement at UC-Berkeley in the early 1960s.

¹⁶⁶ Edward S. Herman and Noam Chomsky, *Manufacturing Consent: The Political Economy of the Mass Media* (with a new introduction by the authors) (New York: Pantheon Books, [1998] 2002), p.xvi.

¹⁶⁷ Diana Saco, 'Colonizing Cyberspace: "National Security" and the Internet', in Jutta Weldes, Mark Laffey, Hugh Gusterson and Raymond Duvall (eds.) *Cultures of Insecurity: States, Communities, and the Production of Danger* (forward by George Marcus) (Minneapolis: University of Minnesota Press, 1999), p. 281.

¹⁶⁸ Oskar Negt and Alexander Kluge, *Public Sphere and Experience: Toward an Analysis of the Bourgeois and Proletarian Public Sphere* (forward by Miriam Hansen, translated by Peter Labanyi, Jamie Owen Daniel and Assenka Oksiloff) (Minneapolis: University of Minnesota Press, [1972] 1993), p.1.

¹⁶⁹ See Robert W. McChesney, Ellen Meiksins Wood, and John Bellamy Foster (eds.) *Capitalism and the Information Age: The Political Economy of the Global Communications Revolution* (New York: Monthly Review Press, 1998).

¹⁷⁰ Suzanne Goldenburg, 'Greatest Wave of Migrants Drives US Engine', *The Guardian*, December 3, 2002.

Nonetheless, from the first prosthetics of modern medicine to double-clicking the mouse the hybridity of a cyborg world part machine (*cybernetic*) part human (*organism*) had certainly become mainstream by Kosovo.¹⁷¹ In particular, advances in cybernetic theories originally derived from endeavors to merge humans and fighting machines have radically altered popular, academic, and *gendered* conceptions of subjectivity. Some feminists, for example, use cyborg theorising to 'reject a science of origins or telos', including the notion of an 'essential' female 'identity and body'.¹⁷² 'We come to see ourselves differently', suggests Sherry Turkle, 'as we catch sight of our images in the mirror of the machine'.¹⁷³ Since nobody knows you're blond on-line, feminists, in particular, have drawn attention to the potentially liberating features of the changes implied when computers become metaphors.¹⁷⁴

These metaphors, suggests Edwards, build 'on the computer's formal and mechanical features: the brain as a set of digital switches, the mind as a set of programs'.¹⁷⁵ While conceptions of subjectivity attendant to this newest transformation of public and private spheres appeared liberating for some there was a more sinister way in which a culture of computers derived from war seemed to impinge on the politics of 'Kosovo'.

Consider the controversy surrounding the Columbine High School shootings and the Wachowski Brothers' movie *The Matrix*. Maureen Dowd describes the movie as 'a video game writ large, a balletic and epic ode to violence about rebel hackers... As the bullets fly... the shell cases glimmer alluringly in slow motion, giving a gorgeous techno-sheen... The violence has a terrible beauty and the death seems merely virtual'.¹⁷⁶ But with the Columbine shootings in Littleton, Colorado and concomitant outcry - taking place on the single heaviest day of Serbia's bombardment - *The Matrix* and violent web sites came under widespread public scrutiny.¹⁷⁷

¹⁷¹ Gabriel Brahm Jr. and Mark Driscoll (eds.) *Prosthetic Territories: Politics and Hypertechnologies* (Boulder, CO: Westview Press, 1995).

¹⁷² Chris Hables Gray and Steven Mentor, 'The Cyborg Body Politic and the New World Order', in Gabriel Brahm Jr. and Mark Driscoll (eds.) *Prosthetic Territories: Politics and Hypertechnologies* (Boulder, CO: Westview Press, 1995), p.229; Paul Edwards, 'The Army and the Microworld: Computers and the Militarized Politics of Gender', *Signs*, Vol.16, no.1. (1990), pp. 102-127.

¹⁷³ Sherry Turkle, *Life on the Screen: Identity in the Age of the Internet* (New York: Simon & Schuster, 1995), p.9.

¹⁷⁴ Donna Haraway, 'A Cyborg Manifesto: Science, Technology, and Socialist-Feminism in the Late Twentieth Century', in *Simians, Cyborgs and Women: The Reinvention of Nature* (New York; Routledge, 1991), pp.149-181.

¹⁷⁵ Edwards, *Closed World*, pp. 21-22.

¹⁷⁶ Maureen Dowd, 'In the DC Matrix', *The New York Times*, April 28, 1999.

¹⁷⁷ John F. Harris, 'Clinton Challenges Hollywood on Violence', *The Washington Post*, May 16, 1999.

Where Clinton connected the same 'fear of the other' that produced conflict in Kosovo to the alienation of the two Columbine teenager shooters,¹⁷⁸ others were concerned that the US public had more to think about in fighting evil at home than abroad.¹⁷⁹ Those seeking weightier, though in this instance quite tenuous, links between US domestic and global militarism noted that Columbine High School neighbored Fort Carson Army base 'where they practice invading countries like Serbia'.¹⁸⁰

Of course, as has been widely noted, with information and entertainment technology advancing apace the easier it becomes to act out computer-simulated versions of hackneyed violent fantasies abroad, as well as at home.¹⁸¹ We have the ability to re-enact on-line over and over again, for example, NATO's bombardment of the Serbian Ministry of Interior Affairs. There are no less than 108 video-clips of actual bombs hitting Yugoslav targets available on the NATO homepage, from tanks, ammo storage sites, and bridges to radio relays, TV transmitters and the Ministry of Interior Affairs.¹⁸²

But this gaming culture of 'self-transformation in combat'¹⁸³ and its relation to war is not new with the 'virtual'. Self-consciously in response to the shock of defeat in Vietnam an animated masculine *gaming* culture of war and violence emerged in President Ronald Reagan's 1980s 'America'. Compare the more recent 'techno' manifestations of the 'regeneration through violence'¹⁸⁴ theme with the following description of the fighting experience of a 1980s mock-combat game. According to Gibson,

In this shifting back and forth, the world blurs. Reality can be undone and reconfigured again and again. Even if the United States has problems winning military victories abroad, the Wolverines, Marauders, and Vigilantes can fight on indefinitely, with every man a hero and every hero a comrade for life. In this way good wars replace the bad one of the recent past.¹⁸⁵

¹⁷⁸ Edwin Chen, 'Clinton Sees Kosovo Tied to Littleton', *The Los Angeles Times*, May 20, 1999.

¹⁷⁹ Laurence Tribe, 'The Internet vs. the First Amendment', *The New York Times*, April 28, 1999; Sharon Waxman, 'Click. Bang. It's Only a Game: Video Designers Shrug off Blame for Teenage Violence,' *The Washington Post*, May 27, 1999.

¹⁸⁰ Editorial Comment, 'From Belgrade to Littleton: The War Comes Home'. See <http://www.counterpunch.org/littleton.html> [downloaded 28 September 2001]. Also see the award-winning 2002 documentary by Michael Moore, *Bowling for Columbine*.

¹⁸¹ The University of Southern California's new Institute for Creative Technology openly fuses together research into war-fighting simulation, the development of videogames, and the movie industry. For discussion of these themes in relation to Kosovo see Der Derian, *Virtuous War*, pp.180-203.

¹⁸² These are available at <http://www.nato.int/kosovo/video.htm> [downloaded 2 June, 2001].

¹⁸³ See James William Gibson, 'Self-Transformation in Combat and the Pleasures of Killing', in *Warrior Dreams: Violence and Manhood in Post-Vietnam America* (New York: Hill and Wang, 1994), pp. 101-117.

¹⁸⁴ See Richard Slotkin, *Regeneration through Violence: the Mythology of the American Frontier, 1600-1860* (New York: HarperPerennial, [1973] 1996).

¹⁸⁵ Gibson, *Warrior Dreams*, p.141.

Taking form in the proliferation of handgun sales, large male crowds at paintball and other mock combat-games, the unprecedented rise in incidents of mass murder, tough-guy Tom Clancy novels and 'New War' movies like *Rambo*, the angry outburst of warrior fantasies signified a distinct cultural pattern: the 1980s Reagan era endeavor to authenticate a more hard-hitting US national and international identity.¹⁸⁶

With the American right in political ascendancy in that decade a distinctive reshaping of political and popular culture ensued. In particular, the defeat in South East Asia was squarely blamed on cowardly liberals in the media and university campuses busy as they were in the sixties with loosening the nations morals in the bedroom while being overly moral on the battlefield. The as-to-be-expected weak and femininised government betrayed the 'American People' and its soldiers by 'fighting with one arm tied behind our back'. This discourse provided an effective moral tone, as Susan Jeffords argues, with which to undermine other government interventions, this time in the form of existing welfare programmes and public assistance, which not coincidentally proportionately benefited African-Americans and women.¹⁸⁷

Aside from the somewhat ironic detail, noted by Gibson, that the 'image of manhood' achieved in mock-combat games broke the taboo of boys 'playing with clothes',¹⁸⁸ this cultural manifestation of the attempted remasculinisation of US society offers a telling comparison to 1990s discourses of a new liberal-humanitarian culture, multiply illustrating the cultural situated-ness of Kosovo in the politics of the official public realm. Where the post-Vietnam generation sought refuge and reinvention in reworking older frontier mythologies of 'America's' warrior greatness, 'humanitarian' warriors rewrote similar (albeit liberal) myths, this time via a 'dual construction of intimacy and force'.¹⁸⁹

The 'third-way' social-democratic liberals dominating the 1990s had something to prove in Kosovo - Clinton and Blair were both children of the sixties who opposed the war in Asia.¹⁹⁰ Most obviously, this facilitated a reworking by conservatives of the 'one arm tied

¹⁸⁶ Susan Jeffords, *Hard Bodies: Hollywood Masculinity in the Reagan Era* (New Brunswick, NJ: Rutgers University Press, 1994).

¹⁸⁷ Susan Jeffords, *The Remasculinization of America: Gender and the Vietnam War* (Bloomington, Ind: Indiana University Press, 1989).

¹⁸⁸ Gibson, *Warrior Dreams*, p.129.

¹⁸⁹ This term is borrowed from Lene Hansen.

¹⁹⁰ Craig R. Whitney, 'Born Again; The Doves of Yesteryear Fly off to a Different War', *The New York Times*, April 18, 1999.

behind our back' mantra that emerged during the early phase of the bombing. Former Secretaries of State and Vietnam veterans, most vocally then Senator John McCain, reminded citizens that if liberal politicians would cease their legal wrangling the military could accomplish the task at hand and defeat was unimaginable.¹⁹¹

Interestingly, as Jean Elshtain observed, 'The upsurge of interest in the candidacy of Senator John McCain for the Republican president nomination showed an increased nostalgia for notions of military honour and rectitude'.¹⁹² Others were also not happy to let Kosovo be appropriated for the domestic liberal agenda. National Rifle Association lobbyist, James Jay Baker, argued that 'if you can be sent to Kosovo and serve in our armed forces, we certainly think you ought to have the right to have a firearm'.¹⁹³ Others also questioned the justice of US servicemen and women bringing bread to refugees when many had families on food stamps back home.¹⁹⁴

Permitted by 'technological battlefield' discourses and the liberal internationalist order itself, however, heightened debate about the so-called 'humanisation', even 'feminisation', of Western armed services¹⁹⁵ became productive of 1990s liberal self-identity. 'Our information societies', according to Christopher Coker, 'put a premium on technical versatility and knowledge rather than muscle as a source of power. Western soldiers, like citizens, interface with computers... [And] women will significantly change attitudes to war itself, which is why their presence in uniform is so important'.¹⁹⁶

Of course, the democratising impact of advanced technology was presaged in the US during the 1920s, supporting gender stereotypes to boot. According to Sherry, 'opportunities envisioned for women - and to a lesser extent for blacks - sustained the image of aviation as a kind of vertical frontier in American history, a new arena for social mobility. At the same time,

¹⁹¹ See the various broadsheet op-ed pieces by Henry Kissinger, 'Kosovo and the Vicissitudes of American Foreign Policy', collected and reprinted in Buckley (ed.) *Kosovo: Contending Voices*, pp.293-305. Also see the essays by Zbigniew Brzezinski in, 'Get Serious About Kosovo', reprinted in Buckley (ed.) *Kosovo: Contending Voices*, pp.317-332.

¹⁹² Jean Bethke Elshtain, "'Shooting at the Wrong Target": A Response to Van Creveld', *Millennium*, Vol.29, no.2 (2000), p. 445.

¹⁹³ Editorial Desk, 'N.R.A. and the Marines', *The New York Times*, May 8, 1999.

¹⁹⁴ Michelle Singletary, 'Our Defenders Have Earned A Better Life', *The Washington Post*, April 18, 1999.

¹⁹⁵ See Martin van Creveld, 'The Great Illusion: Women in the Military', *Millennium*, Vol.29, no.2 (2000), pp. 429-42.

¹⁹⁶ Christopher Coker, 'Humanizing Warfare, or Why Van Creveld May Be Missing the Big Picture', *Millennium*, Vol. 29, no. 2 (2000), p.455

feminizing aviation further reinforced its pacific image, for women would presumably bend aviation toward benign and uplifting purposes'.¹⁹⁷

Though not without vocal opposition from the military and the political right (the dominant ethos of each moving ever closer¹⁹⁸) there was a widespread perception in the 1990s that to join the army was to make a lifestyle choice more reminiscent of the Peace Corps than anything to do with death. To be sure, if even women were permitted to fight during Kosovo (albeit in the cockpit or via computer screen) then liberal armed forces must surely be compassionate! This peculiarly domestic 'liberal' discourse, however, has been notably absent in the apparently more manly 2001-2 war over Afghanistan.

Due to the presentism of so much of the Kosovo literature on high technology and war there are serious doubts that electronic space has introduced radically new transformations in the relationship between publics and violence. Nonetheless, the politics of humanitarian war, as Saskia Sassen suggests of financial markets, 'creates a conceptual and practical opening for questions about the embeddedness of electronic space. It allows us to elaborate that point where the materiality of place/infrastructure intersects with those technologies and organizational forms that neutralize place and materiality'.¹⁹⁹ The public battlefield over humanitarian war provides an exemplary model to theorise information technology as both a means of combat and mediated field of public debate.

Conclusion

Developments in computer technology created at least the feasibility (if not the reality) of violence over Kosovo conducted in the name of humanity. This is not to suggest that wars justified in humanitarian terms never occurred prior to the computer age.²⁰⁰ Nor is to deny that this kind of air war is generally the historical exception rather than the rule or that information-era weapons can be conceived in functional terms. Yet with the increasing application of computer technology to warfare it has seemed easier for liberal states to justify violence to

¹⁹⁷ Sherry, *The Rise of American Air Power*, p.41.

¹⁹⁸ Ignatieff, *Virtual War*, p.188.

¹⁹⁹ Saskia Sassen, *Globalization and Its Discontents: Essays in the New Mobility of People and Money* (forward by K. Anthony Appiah) (New York: The Free Press, 1998), p.182.

²⁰⁰ There are few (if any) examples of wars that have not been accompanied by human rights rhetoric of some kind (however perverted). See Noam Chomsky, *The New Military Humanism* (Monroe, ME: Common Courage Press, 1999), pp.74-5.

publics in humanitarian terms. Central to understanding these processes is the way in which technology as a social instrument has shaped and been shaped by US public spheres.

Where technological up-grades shaped the political environment to make violence over Kosovo possible, the politics of this violence became embedded in the technology, both metaphorically and sometimes literally. 'Twenty years ago we would not have been fighting in Kosovo', declared Blair to a rapturous American audience. 'The fact that we are engaged is the result of a wide range of changes - the end of the Cold War, changing technology; the spread of democracy.'²⁰¹ Of course, the term democracy, the image of 'democracy-promotion', and the widespread perception that these are phenomena with which the US (and Britain) enjoys a unique heritage are particularly powerful myths in the production of liberal violence.

Information technologies were placed in the *modern* sociological context to illustrate how the specific design features of machines can be constructed as rational and clinical while reflecting dominant societal norms. Computer systems, for example, have provided a new medium for self-understanding, especially during the Internet boom era of the late 1990s, as globalization and attendant wars became the post-Cold War motto for liberal states. A conception of world politics that could be technologically ordered has been sustained by the computer metaphor as neoliberal economic agendas have been aided by 'democracy by force'.

Precision-guided missiles were not only used in Kosovo, for example, to protect the lives of Allied soldiers. They were absolutely crucial in fostering the conditions in which the Former Republic of Yugoslavia (and of course Kosovo and Albania) could eventually be transformed into liberal democracies and partake in the 'liberal peace', the bedrock of any global public sphere as described in Chapter Six.

Precision-guidance, for example, helped sustain the 'humanitarian' distinction between the political elite of the regime (who are corrupt) and the Serbian 'people' (potential liberals) with whom publics in the West were continually told NATO had no quarrel.²⁰² Though by no means always successful, targeting the military and political infrastructure of the Yugoslav state thereby avoiding levels of 'collateral damage' too great to gloss over facilitated the slow and on-going transition toward regional liberal-hood.

²⁰¹ British Prime Minister Tony Blair, 'The Doctrine of International Community', Speech to the Economic Club of Chicago, April 22, 1999. See <http://www.globalpolicy.org/globaliz/politics/blair.htm> [downloaded 20 July, 2001].

²⁰² CNN reported on 26 March 1999 that in a videotaped satellite message intended for the citizens of Yugoslavia (also posted on a U.S. government Web site) President Clinton said the Allies had no quarrel with the Serb people. See <http://www.cnn.com/WORLD/europe/9903/26/nato.attack.03/> [downloaded June 14, 2001].

As a point of contrast consider the military tactics deployed by the Russians in Chechnya where little or no discrimination has been exacted between 'separatist rebels' and the surrounding population. The likelihood that Chechnya in the near future will be a consenting part of an extended Russian empire is slight to non-existent. With over 36,000 air munitions recently released over the territories, however, Serbia and Kosovo can still be included in the world of 'Western' democracies.²⁰³ As we saw, this incorporation into the US-dominated political and economic global system - an effective rationalisation technique - had an attempted (though ultimately failed) forerunner in Vietnam.

The advanced technologies used to make Kosovo 'safe for democracy' were not developed solely (or even principally) for such purposes. Moreover, deploying high-tech weaponry served not simply to sell the campaign to reluctant publics or merely to act as a coercive diplomacy strategy against the Milosevic regime. The numerous financial and material supports linking the computer industry to the military notwithstanding, one of the most crucial and perhaps neglected ways in which computer technology has served in the discourses of war is as a cultural icon of liberal violence, as part of a self-referential matrix of ideologies and practices which contributes to founding the very identity of the post-Cold War US republic.

The cultural politics surrounding IT not only overlapped and was a reflection of military strategy it was partly productive of the liberal ideologies necessary to legitimate war and bring into being several of the (on-line) counterpublics that emerged in response. The emergence of the Internet as an on-line public sphere, a potentially new site of democratic will-formation, has provoked a proselytising fervour coinciding with and often explicitly connected to proponents of 'Web War I'.

But if more and more practice dissent on-line in 'virtual communities' what of more visible forms of protest? For Herman and Chomsky,

the steady advance, and cultural power, of marketing and advertising has caused 'the displacement of a political public sphere by a depoliticized consumer culture'. And it has had the effect of creating a world of virtual communities built by advertisers and based on demographics and taste differences of consumers.²⁰⁴

²⁰³ See Madeleine K. Albright, 'After Kosovo: Building A Lasting Peace', Remarks to the Council on Foreign Relations, New York, 28 June 1999. See <http://www.un.int/usa/99alb628.htm> [downloaded June 7, 2001].

²⁰⁴ Herman and Chomsky, *Manufacturing Consent*, p.xviii. The authors are quoting Kevin Robins and Frank Webster, *Times of the Technoculture* (London: Routledge, 1999), p.127.

‘These consumption- and style-based clusters’, they continue, ‘are at odds with physical communities that share a social life and common concerns and which participate in a democratic order. These virtual communities are organized to buy and sell goods, not to create or service a public sphere’.²⁰⁵

Did widespread beliefs in the late 1990s that the US was invulnerable from attack, at least from a tin pot (elected) dictator like Milosevic, allied with precision-technology and the perception of relatively bloodless combat work against the peacenik activity of old? The narrative is sometimes referred to under the heading ‘spectator sport warfare’, that Western citizens are too cosy and technologised to worry greatly about the wars fought by their increasingly automated armies.²⁰⁶ More than merely comfortable liberal-citizen detachment and air power’s technological advance inaugurated the spectatorial politics witnessed during Kosovo, as the next chapter will suggest. US practices of humanitarian war cannot be fully understood separately from the way in which technology has transformed war, liberal public space, and the relationship between them. Theorists concerned with public spheres have much to say on spectatorship and democracy, offering a much-needed politicisation of the relationship between citizen politics, public spheres, and war.

²⁰⁵ Herman and Chomsky, *Manufacturing Consent*, p.xviii. Chomsky does maintain, however, that this narrative of ‘decline’ applies to the public sphere of the mass commercialised media only and is not to be confused with the publics created by feminists, race activists, lesbian and gay rights campaigners, and environmentalists where there has been much progress *in spite* of the commercialisation of mainstream media forms. Personal correspondence with Noam Chomsky.

²⁰⁶ McInnes, ‘Spectator Sport Warfare’, p. 144; Ignatieff, *Virtual War*, p.3.

Chapter 4

On Dissent: US Publics and Anti-War Protest over Kosovo

The lifespan of man running toward death would inevitably carry everything human to ruin and destruction if it were not for the faculty of interrupting it and beginning something new, a faculty which is inherent in action like an ever-present reminder that men, though they may die, are not born in order to die but in order to begin.

- Hannah Arendt¹

This chapter describes how the political development of the 'official' US public sphere shaped the possibilities for anti-war dissent against the Kosovo war, and how the war itself became an issue around which 'counterpublics' were constituted.² In doing so, by addressing the social and political context and significance of US-based dissent, the chapter also contends with some of the conceptual and empirical issues in public sphere theory.

There is always a problem when defining public spheres. Either the definition is at too high a level of abstraction - 'where people come together to talk about their common affairs' - or too particular when referring to a specific context - the 18th Century 'bourgeois public realm'. In both instances, however, the meaning and permissibility of dissent and opposition are fundamental. If the state in its most deeply penetrative, administrative, and bureaucratic mode serves to discipline citizen-subjects in multiple ways then resistance to war is a quintessential instance of an episodic citizen moment with power.

While rejecting singular, ahistorical definitions of 'the public' the chapter illustrates the modern state-liberal public realm nexus in the United States, positioning our study of public spheres and war in ongoing processes of liberal state formation.³ Though dissent has begun to take on the global institutions of power (for example, protests in Seattle and Genoa), over the course of the last century the state itself became more and more a target of focused critique.⁴ Not all counterpublics are anti-state or separatist, however. As Nancy Fraser suggests anti-war counterpublics are not rejecting participation in the mainstream polity completely in that they

¹ Hannah Arendt, *The Human Condition* (Chicago: University of Chicago Press, 1958), p.246.

² For an extensive list of the anti-war protests around the United States during the bombing campaign see <http://www.iacenter.org/yugdemos.htm#ARIZONA> [downloaded 28 September 2001].

³ Nigel James Young, 'The Nation State and War Resistance', University of California, Berkeley, Ph.D. dissertation, 1976.

⁴ Roland Bleiker, *Popular Dissent, Human Agency and Global Politics* (Cambridge: Cambridge University Press, 2000).

assume an 'orientation that is *publicist*. Insofar as these arenas are *publics* they are by definition not enclaves - which is not to deny that they are often involuntarily enclaved'.⁵

In supporting internationalism, human rights, and democracy, the ideologies and institutional survival of numerous peace groups are typically consistent with democratic liberalism, the legitimating discourse of humanitarian war. Before accounting for some of the more traditional forms of protest that did occur against NATO's war, the first section of the chapter, 'Dissent and the Liberal Public Sphere', addresses the background operating assumptions of liberal dissent in the mainstream US public sphere. Different practices of dissent and theories of its place in the public realm are underpinned by alternative conceptions of agency and power.

Is NATO's appropriation of humanitarianism a sufficient explanation, however, for the alleged dearth of opposition to the Kosovo war? The second section of the chapter, 'Being a Peacenik is Definitely Out of Style', presents what was an overriding theme in virtually all news reports and academic commentary.⁶ NATO's war was different, many suggested, not only because it purported to be the first truly 'humanitarian' or 'Internet' war but that it signalled the end in the United States of major, Vietnam-era type opposition to liberal state violence. With a post-Cold War 'generation of mass-produced bohemians'⁷ (among others, of course) finding virtue in denouncing Starbucks and the WTO, what explains the relative silence over military globalization?

During the 1990s - the jury is still out on the scale and effectiveness of activism against the ongoing 'War on Terror' - why did anti-war protests seemingly suffer the fate John Dolan ascribes the war protest poem, 'its ideological bent a trivialized given... performed before a public that knows what to expect, knows precisely what values will be invoked'?⁸ 'Where...' asked Ellen Meiksins Wood, 'are the tens, even hundreds, of thousands who used to come out to protest US imperialism, in Vietnam or Central America?'⁹ To answer these questions, and

⁵ Nancy Fraser, 'Rethinking the Public Sphere: A Contribution to the Critique of Actually Existing Democracy', in Bruce Robbins (ed.) *The Phantom Public Sphere* (Minneapolis: University of Minnesota Press, 1993), p.15.

⁶ John M. Broder, 'The Evolution of a President: From a Protesting Dove to a Hesitant Hawk', *The New York Times*, March 28, 1999.

⁷ John C. Dolan, 'A Show of Defiance: Poetry as "Protest" in Contemporary America', in Frederick M. Dolan and Thomas L. Dumm (eds.) *Rhetorical Republic: Governing Representations in American Politics* (Amherst: University of Massachusetts Press, 1993), p.177.

⁸ Dolan, 'A Show of Defiance', p.168.

⁹ Ellen Meiksins Wood, 'Kosovo and the New Imperialism', in Tariq Ali (ed.) *Masters of the Universe? NATO's Balkan Crusade* (London: Verso, 2000), p. 196.

challenge some of their assumptions, we must attend to what according to many was heralded for public spheres in the United States by the 'new military humanism' over Kosovo.¹⁰

There is much evidence to suggest that anti-war counterpublics are marginalised in the United States, not only by the predominance of liberal modes of dissent but also the power of corporate media. Public spheres are grounded in material structures, not just those of the prevailing social and economic system (the liberal-state public sphere) but also the media of publicity by which communication occurs. For the latter we can include face-to-face discussion, action, and protest, as well as mediated channels such as print, radio, TV and the Internet. The content and form of mainstream media coverage of NATO's bombing campaign (and dissent against it) is considered in the section 'Kosovo, The Media, and Possibilities for Dissent'.

Analysis of the way in which the media covers (or ignores) protest activity is directly relevant for activists and researchers alike. Mass media coverage is virtually a prerequisite for protest activity to leave a political impression beyond the local and immediate, turning a public protest into a society-wide event. Critical coverage of war is also essential for debate and opinion formation but as Alistair Homes suggests, 'Kosovo turned out to be the most secret campaign in living memory'.¹¹

According to some, however, regardless of media content, the appearance of precision and almost death-free fighting for US soldiers has marked a 'watershed in US military history'.¹² It is assumed that active and popular support for US wars is needed less and less. One of the seeming cultural effects of US dominance of information-era weapons technology, as we saw in the last chapter, has been their apparent role in constituting the 'liberal' and 'humanitarian' nature of US violence, which partly explains assumptions about the concomitant decline in dissent.

However, in contrast to recent suggestions that liberal states during the 1990s mobilised their citizens only in some 'virtual' or 'spectatorial' sense, the fourth section, 'Spectatorship, Publics, and War', suggests that representations of (and efforts to control)

¹⁰ Noam Chomsky, *The New Military Humanism: Lessons From Kosovo* (Monroe, ME: Common Courage Press, 1999).

¹¹ Alistair Homes quoted in Philip Knightley, *The First Casualty: The War Correspondent as Hero and Myth-Maker from the Crimea to Kosovo* (new introduction by John Pilger) (2ed.) (London: Prion Books, 2000), p. 504.

¹² Andrew J. Bacevich, 'Neglected Trinity: Kosovo and the Crisis in US Civil-Military Relations', in Andrew J. Bacevich and Eliot A. Cohen, (eds.) *War Over Kosovo: Politics and Strategy in a Global Age* (New York: Columbia University Press, 2001), p. 182.

dissent illustrate how even so-called humanitarian war can act as a mode of social control. Developing the critique of the presentism of the 'spectator sport' and 'virtual' war literature in the previous chapter, public sphere critique, it is argued, offers greater insight into the relationship between liberal publics and war.

Anti-war activism has long been motivated by a desire to affect wider social change. Conforming to some of the basic tenets of liberal theory and 'American' practice, the next section, 'Dissent and the "American" Tradition', argues that direct action against wars conducted by US armed forces has become a seemingly normalised feature of politics, especially since its presumed heyday in the 'radical' 1960s. Popular opposition to the Kosovo war was not totally lacking in the United States, however, nor was it restricted to Serb-Americans, Russians indignant at the extension of US power, or Chinese protesting the bombing of their Embassy. The potential function of groups seeking to limit and otherwise constrain the war-making capacity of the United States did not entirely evaporate, it is argued, with the so-called rise of the liberal 'laptop bombardiers'.¹³

Anti-war activists against the background framework of the liberal-state public sphere - to which they remain subordinate but retain a critical perspective - can be conceived as participants in 'counterpublic' spheres. Many of the counterpublics that emerged in response to the Kosovo war, however, were comprised of a concoction of different *modes* and *types* of publicity. The final section, 'Dissent and the Democratic Tradition', borrows Hannah Arendt's theory of civil disobedience and political action to highlight the limitations of the liberal and 'American' traditions. In doing so, we take another step away from the Habermasian notion of the public sphere as constituted by an imminent ideal of rational-critical debate.

Different ways of articulating dissent always privilege some of the varied rhetorical and stylistic norms of being public over others. However, what makes civil disobedients great, in Arendt's view, in the sense of standing out, of breaking 'through the commonly accepted and reach[ing] into the extraordinary',¹⁴ is that they act for causes outside themselves. Without excessively idealising the protestor, anti-war intrusions on the political scene multiply highlight a radical separation of demonstration tactics from politics by a typical liberal subject. Where the fastidious activity of voting had, until the Bush-Gore contest of 2000 at least, always been an easily calculable means of expression, protest is apt to be many-sided,

¹³ Alexander Cockburn, 'Peacenik Way Is Definitely Out of Style', *The Los Angeles Times*, April 22, 1999.

¹⁴ Arendt, *The Human Condition*, p.205.

tentative, and uncertain in consequence. But if, as Arendt suggests, war brings 'ruin and destruction' to the human condition then anti-war activists are seeking with political action to interrupt this, to begin something new.

Dissent and the Liberal Public Sphere

Since John Locke, the theoretical foundations of power and authority in the liberal tradition has emphasised a dependence on individual human *consent*. 'Men being... by Nature, all free, equal, and independent', Locke wrote, 'no one can be put out of this Estate, and subjected to the Political Power of another, without his own *Consent*'.¹⁵ Liberty is derivative of personal autonomy and is given meaning through representative democracy.

Contra Hobbes, the original state of nature was characterised in Locke's account by tolerance and reason; guided by natural law and social contract theory, individuals were guaranteed the inalienable rights of health, liberty, and property. If the hope of ever acquiring these liberties were absent, however, Locke overturned Hobbes' prohibition of revolution; it was the right, indeed the duty, of individuals to withhold consent, to revolt - as the American colonists eventually would - against despotic government.

The notion that power in the United States is based on consent partly framed accounts of the expected limits of what a 'democratic' army 'can be expected to endure' for the troubles of 'other people' in Kosovo.¹⁶ Since John Stuart Mill, similar arguments have been used to defend the principle of non-intervention between states.¹⁷ Subjects unable, now to mean unwilling, to rebel against repression are deemed not ready for the political freedom introduced by liberal intervening states. The notion that societal arrangements ultimately reflect human choice props up this notion of worthy and unworthy recipients of 'freedom'.¹⁸

As Chapter One discussed, the institutionalisation of limited opposition within the liberal state, along with the expression of consent, took form in the mechanism of infrequent elections and representative assemblies.¹⁹ However, there is little doubt that civil disobedience

¹⁵ John Locke, *Two Treatises of Government* (with Introduction and notes by Peter Laslett) (Cambridge: Cambridge University Press, 1963), p.374. Emphasis in original.

¹⁶ Geoffrey Wheatcroft, 'A Land Of Reluctant Warriors', *The New York Times*, April 14, 1999.

¹⁷ J.S. Mill, 'A Few Words on Non-Intervention', in *Essays on Politics and Culture* (edited by J. M. Robson and introduction by Alexander Brady) (Toronto: University of Toronto Press, 1977).

¹⁸ For a more recent version of similar arguments see Michael Walzer, 'The Politics of Rescue' *Dissent* (Winter 1995), pp. 35-41.

¹⁹ C.E.S. Franks, 'Introduction', in Franks (ed.) *Dissent and the State* (Oxford: Oxford University Press, 1989), p.19.

as a method of political protest enjoys a respectable position in the liberal tradition, with some observers identifying tolerance of such opposition an archetypal feature of politics in the contemporary West. Christian Bay defines civil disobedience as,

any act or process of public defiance of law or policy enforced by established governmental authorities, insofar as the action is premeditated, understood by the actor(s) to be illegal or of contested legality, carried out and persisted in for limited public ends and by way of carefully chosen and limited means... that exclude measures that could cause personal injuries or even the loss of life.²⁰

John Rawls and Ronald Dworkin argue that non-violent civil disobedience - acts that break the law in the spirit of the law - provide, by definition, none other than an *extra*-institutional litmus test of the liberalness of constitutional regimes.

For Dworkin, in particular, how liberal society manages such acts determines the extent to which rights are 'taken seriously' and appeals to the constitution are an essential first step.²¹ As suggested by April Carter,

An appeal to constitutional rights is less a matter of strict legality than an appeal to the spirit of the constitution... The gap between the constitutional ideal and the realities of politics means that it may often be possible to charge with some plausibility that a particular government policy... is unconstitutional.²²

For Rawls, in particular, the dissenting citizens in a liberal regime must continue to recognise and accept the existing *constitution* as legitimate if civil disobedience is to be justified.²³ Some of the most prominent dissenting voices against NATO's war articulated opposition precisely along these lines. 'The next "collateral damage" caused by the bombing campaign', suggested Robert Borosage, 'may be to the laws and Constitution of the United States'.²⁴

Alongside questions concerning the breach of Chapter VII of the UN Charter and the failure to seek Security Council approval for NATO's use of force against Yugoslavia (as discussed in Chapter Two), an additional legal question illustrative of liberal forms of dissent obtains from the separation of power between the legislative and executive branches in the US Constitution.

²⁰ Christian Bay, 'Civil Disobedience: The Inner and Outer Limits', C.E.S. Franks, *Dissent and the State* (Oxford: Oxford University Press, 1989), p.42.

²¹ Ronald Dworkin, *Taking Rights Seriously* (Cambridge, MA: Harvard University Press, 1979).

²² April Carter, *Direct Action and Liberal Democracy* (London: Routledge, 1973), p. 96.

²³ John Rawls, *A Theory of Justice* (Oxford: Oxford University Press, 1971), p. 363.

²⁴ Robert L. Borosage, 'A "Splendid Little War" Collides With the War Powers Act', *The Los Angeles Times*, May 23, 1999.

Article I, Section 8 states that Congressional oversight of executive war-making powers meant that Congress alone holds the power to declare war.²⁵ Moreover, post-Vietnam War legislation, the 1973 War Powers Act, requires the Commander-in-Chief, also the President of the United States, to report to Congress within forty-eight hours of the introduction of US forces into a 'hostile situation'. 'This report...' writes Brien Hallett, 'was intended to force Congress either to authorize the operation formally and officially within sixty days, or in the absence of formal congressional authorization, to terminate the operation'.²⁶

These multiple provisions, argued California's Republican Representative Tom Campbell, required either a formal declaration of war on Yugoslavia or the withdrawal of US troops.²⁷ 'If Congress does not stand up for its constitutional right to declare war in this instance', he argued, 'there is nothing left to the constitutional requirement that Congress and only Congress declare war.'²⁸

Twenty-six bipartisan members of Congress alleging violation of the 1973 Act filed a lawsuit citing President Clinton's disregard for the split 213-213 House vote on 28 April 1999 that in effect rejected a resolution supporting the bombing campaign.²⁹ Eventually District Judge Paul Friedman granted Clinton's motion to dismiss the suit stating there was no 'clear impasse between the executive and legislative branches,' thus an appeal to the judicial branch was 'inappropriate'.³⁰ Although the House voted against declaring war on Yugoslavia, argued the judge it also did *not* explicitly demand an entire troop withdrawal.

Moreover, by a vote of 269 to 158 the House agreed with the Senate, 64 votes to 36, to almost double Clinton's budget request, approving a \$15 billion emergency package to finance the war.³¹ Perhaps as an expected *quid pro quo* a week later the Senate voted by a majority of

²⁵ Walter J. Rockler, 'War Crimes Law Applies to the US, Too'. See <http://www.counterpunch.org/rockler.html> [downloaded 28 September 2001].

²⁶ Brien Hallett, *The Lost Art of Declaring War* (Chicago: University of Illinois Press, 1998), p.4.

²⁷ For a transcript of the War Powers Act see <http://www.cs.indiana.edu/statecraft/warpow.html> [downloaded 20 December, 2001].

²⁸ Guy Gugliotta, 'Campbell Issues War Ultimatum', *The Washington Post*, April 14, 1999.

²⁹ 'Lawsuit filed by seventeen Congressmen and woman, "Tom Campbell et. al vs. William Jefferson Clinton", United States District Court for the District of Columbia'. See <http://www.counterpunch.org/varlaw.html> [downloaded 28 September 2001].

³⁰ Bill Miller, 'Hill Lawsuit On War Powers Is Dismissed', *The Washington Post*, June 9, 1999.

³¹ Eric Pianin, '\$11.5 Billion Approved For Balkan Airstrikes Clinton Request Doubled Passage Uncertain', *The Washington Post*, May 13, 1999.

60 votes to 40 to reject Clinton's request to close some military bases - never a popular policy with elected politicians reluctant to be seen destroying jobs.³²

Despite New Jersey's Republican Representative Jim Saxton's surprise (and unauthorised) trip to Belgrade where he called for the suspension of air strikes,³³ lawmakers, suggested Allison Mitchell, 'rarely like to take an assertive stance on war, particularly before chance of success or poll ratings become clear'.³⁴ Some polling suggested that resolution of the Kosovo conflict would most likely benefit sitting Vice President Al Gore in the 2000 Presidential election.³⁵ Any boost to his standing, of course, was ultimately in vain.

Contrary to Campbell's plea that this was the last chance for the Constitution, more active congressional oversight of executive war making had long since departed. Since the war in Korea and reflecting something of a modern consensus - that is, according to Hallett, when 'people began reducing war to the violence of combat, formal declarations of war no longer made any sense'³⁶ - US wars have remained undeclared. Moreover, the absence of legislative declarations is not unique to the US; other parliamentary democracies have fared little better.³⁷ Even during the Congressionally popular 1990-91 Gulf War, constitutional procedures were bypassed. The State Department explained the standard position in 1971 stating that,

formal declarations of war are often deliberately avoided because they tend to indicate both at home and abroad a commitment to total victory and may impede settlement possibilities. The issuance of a formal declaration can also have certain legal results: Some treaties may be cancelled or suspended, trading contracts and debts with the enemy are suspended; vast emergency powers become operative domestically; and the legal relations between neutral states and belligerents can be altered.³⁸

Such arguments based on convenience, suggests Hallett, indicate 'inattention both to the need to justify the war in governing forums and to the possibility that fully reasoned declarations of war might serve indispensable military, moral, and even democratic functions'.³⁹

³² Elisabeth Becker, 'Senate Rejects Pentagon's Request to Close More Military Bases', *The New York Times*, May 27, 1999.

³³ Juliet Eilperin, 'House Member Urges NATO to Halt Strikes: Saxton of N.J. Back From Trip to Belgrade', *The Washington Post*, April 23, 1999.

³⁴ Alison Mitchell, 'Only Congress Can Declare War. Really. It's True', *The New York Times*, May 2, 1999.

³⁵ Katherine Q. Seelye, 'Peace Deal Benefits Gore in Campaign and Shows Split Among the Republicans', *The New York Times*, June 6, 1999.

³⁶ Hallett, *The Lost Art of Declaring War*, p.36.

³⁷ Michael Ignatieff, *Virtual Wars: Kosovo and Beyond* (London: Chatto and Windus, 2000), p. 171.

³⁸ Quoted in Hallett, *The Lost Art of Declaring War*, p. 37.

³⁹ Hallett, *The Lost Art of Declaring War*, p.62.

The power to declare war, of course, is categorically not contained in the ability to initiate violence. 'Rather', as Hallett proposes, 'it is the power to compose a text, to draft a document, to write a denunciation'.⁴⁰ But if war is no more than violence then it does not need to be declared to be of use. Following Arendt's definition of violence, war would then be 'mute'⁴¹ and so a declaration would seem unnecessary. However, if war (contra Arendt) is in the realm of politics, the place of speech and persuasion, there is a need, as Hallett describes, 'to articulate that policy and to do so both formally and publicly'.⁴² The vast drop in electoral participation and general interest in politics across the United States, however, has perhaps made it easier for politicians to avoid this. Despite the expected general upsurge in civic engagement whenever the nation's troops are deployed in war, the staple of associationism for millions of US citizens is self-help and support groups rather than more civic-oriented political (or constitutional) activism.⁴³

After the free-phone number for the Kosovo refugee disaster fund flashed briefly on the April 15 1999 show of *Oprah*, more than 45,000 people called in.⁴⁴ The forged rhetoric of 'internationalism', as Chapter Three suggested, was powerfully enabled in the late 1990s via the discourse of new communications technology. It was no surprise then that the 'charity' of the IT industry was also hailed as the US Information Agency altered Kosovo's 'serene' landscape 'into a lively hub of Internet activity'.⁴⁵ It was as if life itself had arrived with 'the din of multimedia computers'.⁴⁶ This generosity grated somewhat when compared with the failure after six months of the US to deliver the \$600 million in promised humanitarian aid to the Central American victims of Hurricane Mitch.⁴⁷

North Americans are generally more philanthropic and twice as likely to work for voluntary associations than members of virtually any other nation.⁴⁸ However, despite the

⁴⁰ Hallett, *The Lost Art of Declaring War*, p.xi.

⁴¹ Arendt, *The Human Condition*, p.179.

⁴² Hallett, *The Lost Art of Declaring War*, pp. xi-xii.

⁴³ Robert D. Putnam, *Bowling Alone: The Collapse and Revival of American Community* (New York: Simon and Schuster, 2000).

⁴⁴ Cindy Loose, 'Images Tug at Purse Strings: Americans Moved by Refugees' Plight Bombard Relief Agencies', *The Washington Post*, April 28, 1999.

⁴⁵ Daniel Verton, 'USIA opens Internet center to assist Kosovo refugees', CNN.com, June 15, 1999. See <http://www8.cnn.com/TECH/computing/9906/15/refugee.idg/> [downloaded October 2, 2001].

⁴⁶ Verton, 'USIA opens Internet center to assist Kosovo refugees'.

⁴⁷ Editorial, 'The Politics of Hurricane Relief', *The New York Times*, May 6, 1999.

⁴⁸ Putnam, *Bowling Alone*, p.48, 117.

occasional upsurge in involvement, including in the immediate period after September 11,⁴⁹ since the 1960s the US voluntary sector has undergone a radical shift away from large national membership-based federations with local offices towards professionally staffed advocacy associations usually based in the 'hothouse' of Washington DC. Not rooted in local communities, there is little interaction between members; the principal attachment via mass mailing or telephone drives (like *Oprah*) being financial contributions to the cause.⁵⁰

While associations of virtually all shapes and sizes have increased by almost two-thirds since the 1960s this represents, in Robert Putnam's words, more 'a proliferation of letterheads, not a boom of grassroots participation'; approximately only one half of these groups actually have individuals as members.⁵¹ So although 'joining' per se is not in decline, local membership is progressively moving towards private sports clubs, art- and religious-based organisations, perhaps explaining the prominence of religious-inspired opposition (and philanthropy) during public debate over Kosovo.

The religious community in the United States, partly represented by the World Council of Churches, with over three hundred Protestant and Orthodox Christian churches as members, seemed openly divided by NATO's war.⁵² One high-ranking Roman Catholic prelate, Cardinal Roger M. Mahony, argued NATO's bombing qualified as a 'just war.'⁵³ However, joining Patriarch Teoctist of the Romanian Orthodox Church in calling for an end to the bombing, Pope John Paul II controversially sent one of the Vatican's top diplomats to talk with Yugoslav President Milosevic in Belgrade.⁵⁴

Echoing the government line, US-based Catholic priest Andrew Greeley criticised the Pope's neutrality in *The New York Times* for the assumed implication that NATO's 'democratically elected leadership' was 'no better than [the] Serbs'.⁵⁵ With other Christian leaders, including the fundamentalist preacher Pat Robinson, calling for an Easter ceasefire, NATO's refusal led clerics across the US to use the occasion of their Easter sermons to

⁴⁹ 'Volunteering Post 9/11'. See http://abclocal.go.com/kgo/news/7oys/091102_7oys_911_volunteering.html [downloaded 20 November 2002].

⁵⁰ Putnam, *Bowling Alone*, p.51.

⁵¹ Putnam, *Bowling Alone*, p.49.

⁵² Gustav Niebuhr, 'Religion Journal: Acknowledging Discord Over NATO Air Strikes', *The New York Times*, March 27, 1999.

⁵³ Larry B. Stammer, 'Kosovo Bombing Is "Just", Mahony Says', *The Los Angeles Times*, April 17, 1999.

⁵⁴ Gustav Niebuhr, 'Amid Many Holy Days, Clerics Urge Cease-Fire', *The New York Times*, April 2, 1999; Alessandra Stanley, 'Pope Joins Patriarch in Plea for Peace in Balkans', *The New York Times*, May 9, 1999.

⁵⁵ Andrew Greeley, 'How Can the Vatican Stay Neutral?', *The New York Times*, May 4, 1999.

condemn both the Yugoslav forces and the Western alliance.⁵⁶ By the end of May, thirty House Democrats, many previously supporters of NATO's campaign, also called for a halt to the strikes aimed at initiating dialogue with Belgrade.⁵⁷

The American Friends and Services Committee (AFSC), a Quaker-based Pacifist organisation, was instrumental in organising, with other US-based peace groups, the National Coalition for Peace and Justice, which is still in existence and was active against the 2001-2 war in Afghanistan.⁵⁸ AFSC were extremely active in involving local communities to aid the relief effort, including a campaign aimed at children to send relief kits to Kosovo.

Already by April 1 1999 they had shipped 7,300 kits (of candles, soap and towels, antibiotic ointment, and bandages) and 20,000 pounds of clothing.⁵⁹ (The Emergency Material Assistance Program (EMAP) had initiated the Kits for Kosovo campaign by late 1998.) The AFSC's own report on their activities mentions that,

People found numerous ways to raise money to support the refugees - through bake sales, T-shirt sales, pretzel sales, concerts and dances, and collections at Quaker and community meetings and other religious services. Sandy Spring Friends School in Maryland held a 'math-a-thon' and 'basketball-a-thon', which raised more than \$2,700 for all the math problems solved and basketball shots made; and there is the unforgettable story of a four and a half-year-old boy from Wisconsin who raised \$53.11 at his Quaker meeting by, literally, selling sticks and stones!

'AFSC phone lines and e-mail', they continue, 'were flooded by individuals, Friends meetings, churches, schools, civic groups, and businesses, asking about our needs and offering to volunteer, make donations, work in refugee camps, and learn more about the situation'. Although AFSC workers were unable to estimate the actual numbers of people involved, hundreds of children contributed, as well as thousands of individual contributions to the relief campaign.

Other forms of collective political activity, however, such as attending local town meetings and volunteering for local organisations, along with individual means of public expression, such as petition signing, writing to Congress or the newspaper, have diminished as rapidly as voting across all socio-economic categories and US regions. But while citizen

⁵⁶ Michael Janofsky, 'In Easter Sunday Sermons, Both Sides Are Castigated', *The New York Times*, April 5, 1999.

⁵⁷ Juliet Eilperin, '30 House Democrats Seek Bombing Halt as an Incentive for Talks', *The Washington Post*, May 28, 1999.

⁵⁸ I am extremely grateful to Karen Cromley of the AFSC for providing me with this information. All information cited is from personal email correspondence with Karen.

⁵⁹ For information see <http://www.afsc.org/emap/projects/kosovo/koshelp> [downloaded December 14, 2001.]

participation in partisan activities has fallen by half, the financial outlay on US presidential campaigns have amplified nearly fivefold. As the party machines have become mass-market business concerns in their own right, with direct mail fundraising and political action committees staffed by professionals, far fewer US citizens volunteer for a political party or keep up with the latest political news.⁶⁰

The professionalisation of politics in the United States has had a profound effect on the politics of humanitarianism. The public profile of organisations such as Humans Rights Watch and Amnesty International are testament to the massive increase in the visibility of international human rights issues - and attendant grass-roots activism - during the 1990s.⁶¹ However, at the same time these and related organisations have increased their public prominence at both the national and international level, rates of local civic engagement in liberal democracies have radically declined.

As Diana Johnstone has suggested, the 'creative center of the old liberal left has shifted to single-issue and humanitarian non-governmental organizations... Social problems are removed from the domain of the state, including its democratically elected parliaments, to become the concern of private volunteer organizations'.⁶² Kosovo, like others, was billed a social-democratic war.⁶³ One of the great attractions of 'human rights' wars for left-liberal politicians (with little in their domestic agenda to distinguish them from the right in an era of welfare 'reform' and social security cut backs) is the appearance of 'old-left' righteous benevolence, albeit in a violent form. Former leftists in the Clinton administration, indeed former pacifists, could distinguish themselves from the political right with media friendly social justice in the form of a 'Just War'.

'Being a peacenik', then, according to a Counterpunch editorial, was 'definitely passé. Liberals are learning once again - did they every truly forget - that it's fun to be a warmonger and cheer the high explosive as it falls. After suffering indigestion towards the end of the Vietnam affair, they got the taste for war again in the mid-1990s with Bosnia. They became the

⁶⁰ Putnam, *Bowling Alone*, pp.36-8.

⁶¹ See Margaret Keck and Katryn Sikkink, *Activists Beyond Borders: Advocacy Networks in International Politics* (Ithaca, NY: Cornell University Press, 1998).

⁶² Diana Johnstone, 'Nato and the New World Order: Ideals and Self-Interest', in Philip Hammond and Edward S. Herman (eds.) *Degraded Capability: The Media and the Kosovo Crisis* (London: Pluto Press, 2000), p. 15.

⁶³ As Chomsky notes, Vietnam was also depicted thus by intellectuals supportive of the Kennedy administration. See Noam Chomsky, *Rethinking Camelot: JFK, the Vietnam War, and U.S. Political Culture* (Boston, MA: South End Press, 1993).

“laptop bombardiers”...⁶⁴ Many things are presumed to have conspired during the Kosovo war against the peacenik activity of old. These included a post-cold war geopolitical context permitting NATO violence with little fear of reprisal; precision-technology sanctioning air operations with only slight risk to Allied soldiers; the humanitarian discourse used to justify NATO’s war; and perhaps most effective of all, the advent of ‘real-time’ news - and old-fashioned government propaganda - allowing ‘spectating’ Western publics to witness the atrocities of ethnic violence.

‘Being a peacenik is definitely out of style’

This was a war, (falsely) argued Josef Joffe, ‘that not even pacifists can resist: a war of conscience, not of interest... This makes all the difference to the postmodern liberal mind, which reflexively recoils from force when it is employed for strategic purposes - say oil, economic advantage or the balance of power’.⁶⁵ Though liberal minds, let alone liberal states, have not especially recoiled from strategic war, the antiwar movement alleged to have caused so much havoc over Vietnam seemed relatively mute.⁶⁶ What Kosovo demonstrated, according to Eliot Cohen, was that ‘the United States can conduct combat operations over a period of months, even with some civilian casualties on the other side, without arousing a furore of opposition at home’.⁶⁷ ‘Being a peacenik’, Americans were told, ‘is definitely out of style’.⁶⁸

Though taken aback by TV images of hostage US soldiers and swift to compare Serb repression in Kosovo to the Holocaust,⁶⁹ students of the post-cold-war generation, it was suggested, possessed ‘only a murky idea’ of the latest Balkan events.⁷⁰ College campuses, a nostalgically time-honoured hub of political agitation and ‘teach-ins’, seemed reticent.⁷¹

⁶⁴ CouterPunch Editorial, ‘From Vietnam to Serbia’. See <http://www.couterpunch.org/viet.html> [downloaded 28 September, 2001]. For a list of anti-Kosovo war sites compiled by Couterpunch see <http://www.couterpunch.org/warlinks.html> [downloaded 28 September 2001].

⁶⁵ Josef Joffe, ‘The Silent Peaceniks’, *The New York Times*, April 2, 1999.

⁶⁶ Art Pine, ‘Protests: Humanitarian goal of NATO campaign holds back activists’, *The Los Angeles Times*, June 2, 1999.

⁶⁷ Eliot A. Cohen, ‘Kosovo and the New American Way of War’, in Andrew J. Bacevich and Eliot A. Cohen (eds.) *War Over Kosovo: Politics and Strategy in a Global Age* (New York: Columbia University Press, 2001), p.54

⁶⁸ Alexander Cockburn, ‘Peacenik Way Is Definitely Out of Style’, *The Los Angeles Times*, April 22, 1999.

⁶⁹ Students were not alone in making these comparisons. See Geraldine Baum, ‘Images of Refugees Resonate’, *The Los Angeles Times*, April 9, 1999; Lee Hockstader, ‘In Refugees, Many Israelis See Themselves’, *The Washington Post*, April 9, 1999.

⁷⁰ Mike Allen, ‘Student Insularity Mutes Their Outrage’, *The New York Times*, April 11, 1999.

⁷¹ Frank Ahrens, ‘Campus Sit-Out: At College, Kosovo Elicits Concern and Not Much More’, *The Washington Post*, April 12, 1999.

Though it was acknowledged if NATO's campaign became drawn out over several more months domestic opposition would increase, with not a little satisfaction, several commentators remarked on the difficulty domestic 'liberals'⁷² had in opposing the dropping bombs.⁷³ While many Republicans, most vocally presidential primary candidate John McCain, were critical of NATO tactics, numerous Democrats who opposed the 1990-91 Gulf War now supported war on Yugoslavia.⁷⁴ 'It's not where I usually find myself', reflected the late Minnesota Democratic Senator Paul Wellstone, in support for this new war.⁷⁵

Neither was this enthusiasm restricted to North America. Much was made in the US print media of the muted dissent in Europe. Political parties traditionally, though never radically, unenthusiastic about US military adventurism found themselves as vocal cheerleaders, none more so than Britain's Labour Party under Tony Blair.⁷⁶ The French Socialists, traditionally more chilly towards NATO, participated in its first bombing mission. The then Prime Minister of Italy and former Communist, Massimo D'Alema, overcame dissent in his governing coalition to offer airbases.⁷⁷

Perhaps most of all, the active role of one time socialist revolutionary and pacifist Joschka Fischer, German Foreign Minister, was exhibited as a signature of the righteousness of NATO's cause. With the German Social Democrats, in coalition with the Greens, engaging German troops in direct military combat for the first time since World War II,⁷⁸ one *LA Times* journalist could write, 'From the corridors of power in Bonn and Berlin to the farms and factories of the depressed eastern states, the descendants of the Nazis see their armed forces' action to protect Kosovo Albanians as repaying a debt to the guardians of human rights who once acted to halt German war crimes'.⁷⁹

⁷² In this context 'domestic liberal' broadly refers to the once left-of-centre political parties, such as the Democrats in the US and the Labour Party in the UK.

⁷³ This, however, did not necessarily break new ground. As Noam Chomsky has argued, a 'classic example... is the behavior of the intellectual classes on both sides during World War I... Among US intellectuals, principled opposition to the Vietnam war was very marginal, contrary to many illusions'. Personal correspondence with Noam Chomsky.

⁷⁴ Alison Mitchell, 'Kosovo Is Causing Breaks And Shifts in the 2 Parties', *The New York Times*, April 8, 1999.

⁷⁵ E. J. Dionne Jr., 'Not Munich, but the Holocaust: The hook that draws in the "progressives"', *The Washington Post*, April 30, 1999.

⁷⁶ Warren Hoge, 'Kosovo Isn't Just an Air War; It's a Blair War', *The New York Times*, May 23, 1999.

⁷⁷ Richard Boudreaux, 'Europeans Hardened by Reports of Serb Atrocities', *The Los Angeles Times*, April 1, 1999; Steven Lee Myers, 'All in Favor of This Target, Say Yes, Si, Oui, Ja', *The New York Times*, April 25, 1999.

⁷⁸ Lally Weymouth, 'Pacifist German Turns Hawkish on Serbs', *The Washington Post*, April 11, 1999.

⁷⁹ Carol J. Williams, 'Grandchildren, Children of Nazis Embrace Role Reversal', *The Los Angeles Times*, April 14, 1999. What is not mentioned here is that the Serbs also sustained a valiant though unsuccessful campaign

Similarly, wrote Jürgen Habermas, ‘the critique of [NATO] ideology finds no basis for its suspicions. The present case demonstrates that universalistic justifications do not always mask the particularity of concealed interests. What a “hermeneutics of suspicion” claims to find behind the attack on Yugoslavia is rather meagre’.⁸⁰ With one of the most influential left intellectuals joining in the praise of NATO’s actions, the significance of which is discussed further in Chapter Six, all but a few of those who did protest were discredited in the public realm with labels such as ‘pro-Serb.’⁸¹

Not all leading intellectuals of the left justified violence as part of their humanitarianism. ‘Milosevic has committed atrocities. Therefore it is okay for us to commit atrocities’, mocked Howard Zinn. ‘He is terrorizing the Albanians in Kosovo. Therefore we can terrorize the population of cities and villages in Yugoslavia’.⁸² Both iconic figureheads of the left, Zinn and Chomsky offered probably the most well known US-based critiques of NATO actions in print media and the web.⁸³ Chomsky, in particular, however, is sceptical of the high-profile activist scene in the United States, tending to support more ‘grassroots’ anti-war struggles customarily valorised by public sphere theorists.⁸⁴

Chomsky dismisses the notion that NATO’s war could only be humanitarian because no obvious strategic resources were at stake. ‘Did the U.S. cherish the resources of Guatemala, Indochina, Cuba, Nicaragua, and a long list of other targets of violence in recent years?’⁸⁵ His challenge to the military humanism of the 1990s is absent, however, misread or parodied in much of the extant academic and popular press.

Michael J. Glennon, for example, criticises Chomsky’s alleged search for an ‘objective system of validation’ for the ‘moral precepts’ on which his critique of NATO is based.⁸⁶ At times, Glennon’s argument appears as little more than quibbling over the philosophical meaning of ‘own’ in the assertion that NATO’s “own actions”... brought about accelerated

against the Nazis during WWII. Tim Judah, *The Serbs: History, Myth, and the Destruction of Yugoslavia* (2ed.) (New Haven: Yale University Press, 1997), pp. 113-17.

⁸⁰ Jürgen Habermas, ‘Bestiality and Humanity: A War on the Border between Law and Morality’, in William Joseph Buckley (ed.) *Kosovo: Contending Voices on Balkan Interventions* (Michigan: Eerdmans Publishing, 2000), p.312.

⁸¹ Somini Sengupta, ‘Pro-Serb Rally Voices Protest On U.S. Policy’, *The New York Times*, April 1, 1999.

⁸² Howard Zinn, ‘Their Atrocities and Ours’, in *On War* (New York: Seven Stories Press, 2001), p. 22.

⁸³ For the Z-Net archive of essays by Chomsky see <http://www.zmag.org/chomsky/index.cfm> [downloaded December 21, 2001].

⁸⁴ Robert F. Barsky, *Noam Chomsky: A Life of Dissent* (Cambridge, MA: MIT Press, 1997), p. 137.

⁸⁵ Chomsky, *The New Military Humanism*, p.136.

⁸⁶ Michael J. Glennon, *Limits of Law, Perogatives of Power: Interventionism after Kosovo* (New York: Palgrave Press, 2001), pp. 171-5.

ethnic cleansing' in Kosovo.⁸⁷ This outcome, however, is something that even General Wesley Clark, commander of NATO forces, openly accepted as an 'entirely predictable' consequence of bombing.⁸⁸ Interestingly, as no counter evidence is provided, Glennon does not dispute Chomsky's general critique of US actions in this case.

Chris Brown has also attributed 'theory-centred' moral reasoning to Chomsky given his invocation of the Hippocratic principle 'do no harm'.⁸⁹ Chomsky argued that doing no harm is 'preferable', in his words, 'to causing harm - the consequence recognized in advance to be "predictable" in the case of Kosovo'.⁹⁰ This principle is an inappropriate form of ethical reasoning, Brown claims, given the implicit refusal to accept the problem of 'dirty hands'.⁹¹ This problem, also articulated by Max Weber as central to an 'ethic of responsibility',⁹² is that to achieve a legitimate end ('save Kosovar-Albanians') it sometimes requires the use of otherwise illegitimate means (using violence).

Chomsky, of course, accepts that there may be "no alternative" to doing nothing or causing vast harm.⁹³ However, the case does not apply to Kosovo. By no means were all diplomatic solutions exhausted prior to bombing, nor is it legitimate to simply assume NATO's benign intentions (saving Kosovar-Albanians).⁹⁴ One of the most publicised incidents in the lead up to NATO's campaign and widely cited as the single most significant event in the decision to finally bomb was the massacre of some forty-five Kosovo-Albanian villagers in Racak on 15 January 1999. 'There are simple ways', Chomsky writes, of appraising the effect of the Racak massacre 'on Western sensibilities'.⁹⁵ How have the same leaders who responded to Racak, he asks, dealt with 'similar or worse massacres at the same time', where they are implicated themselves and where something could quite easily be done?⁹⁶

⁸⁷ Glennon, *Limits of Law*, p.172.

⁸⁸ Quoted in Chomsky, *The New Military Humanism*, p. 21. This was also later acknowledged in Clark's memoirs. See General Wesley K. Clark, *Waging Modern War: Bosnia, Kosovo, and the Future of Combat* (New York: Public Affairs, 2001), p.171.

⁸⁹ Chomsky, *The New Military Humanism*, p.156. Chris Brown, 'Selective Humanitarianism and the Just War Tradition', Paper Presented at the International Studies Association Conference, New Orleans, 2002.

⁹⁰ Chomsky, *The New Military Humanism*, p.156.

⁹¹ Brown, 'Selective Humanitarianism'.

⁹² Max Weber, 'Politics as a Vocation', in *From Max Weber: Essays in Sociology* (translated, edited, and with an introduction by H. H. Gerth and C. Wright Mills) (Oxford: Oxford University Press, 1946), pp. 77-128.

⁹³ Chomsky, *The New Military Humanism*, p.156.

⁹⁴ Noam Chomsky, 'The Kosovo Peace Accord', in Tariq Ali (ed.) *Masters of the Universe? NATO's Balkan Crusade* (London: Verso, 2000), pp. 387-96.

⁹⁵ Chomsky, *The New Military Humanism*, p.33.

⁹⁶ Chomsky, *The New Military Humanism*, pp. 40-41.

Chomsky sites over one hundred East Timorese killed in April 1999 alone, 'more than twice the number in Racak'.⁹⁷ Similarly with Columbia, during 1999, he writes, the 'figures are eerily similar: 2-3000 killed [over the medium term], 300,000 new refugees'.⁹⁸ The difference between the cases, he suggests, are on the one hand, 'in Columbia these atrocities are not new', and on the other, 'the blood is on Washington's hands'.⁹⁹ Thus, the principles behind the rhetoric of the 'New Humanism', Chomsky writes, are that 'the world is ruled by force, under a veil of moral purpose woven by the educated classes, who, as throughout history, preach eloquently about "a landmark in international relations", a "new era" of justice and righteousness under the courageous leadership of the enlightened states'.¹⁰⁰

But do two wrongs in the international arena make right?¹⁰¹ In other words, because prior to 1999 no intervention occurred to 'save' the East Timorese from Indonesian repression does this invalidate the (albeit selective) desire on the part of the West to do good elsewhere? First, to claim that no Western intervention occurred in East Timor prior to 1999 is misleading given the extent of arms sales to the Indonesian regime knowingly used to oppress East Timor.¹⁰² Moreover, in *A New Generation Draws the Line*, Chomsky explicitly repudiates the principle that inaction in one instance negates the legitimacy of action elsewhere. In his words,

A favorite target is the argument, attributed to unnamed 'leftists' or 'revisionists', that the US has no right to intervene because of its disgraceful record.... [Such an account] would be wholly irrational, hence easy to refute... I did not look at the 'record of inaction' of the West in [Palestine, East Timor, Kurdistan and so on]... but at the record of quite decisive action, a fact that evidently cannot be assimilated by many Western intellectuals.¹⁰³

Chomsky's political project, he would claim, is not to look at the so-called 'double-standards' of the West but rather at what he would conceive as one standard, namely where 'the blood is on Washington's hands'.¹⁰⁴ The public sphere in which it is made, of course, shapes the effect of such a political critique.

⁹⁷ Chomsky, *The New Military Humanism*, p.43.

⁹⁸ Chomsky, *The New Military Humanism*, p.49.

⁹⁹ Chomsky, *The New Military Humanism*, p.50.

¹⁰⁰ Chomsky, *The New Military Humanism*, p.126.

¹⁰¹ This question is posed of Chomsky's critique by Nicholas J. Wheeler in *Saving Strangers: Humanitarian Intervention in International Society* (Oxford: Oxford University Press, 2000), pp. 288, 305.

¹⁰² John Pilger, *The New Rulers of the World* (London: Verso, 2002), pp.22, 129.

¹⁰³ Chomsky, *A New Generation*, p.40, 41.

¹⁰⁴ Chomsky, *The New Military Humanism*, p.50.

There is a binding association in modern society between mass public communication and democratic politics.¹⁰⁵ This is why government efforts to ‘manufacture consent’,¹⁰⁶ to produce ‘the people’, during wartime are central to the workings of propaganda. ‘Americans’, in the words of Lauren Berlant, ‘experience themselves as national through public sphere accounts of what is important about them: this is why the manufacture of public opinion is crucial both for producing citizens and seeing how citizens are produced’.¹⁰⁷

Claims concerning the power of the corporate media to manage (or indeed produce) public opinion during the Kosovo war - a major issue in assessing the level and effect of antiwar dissent - have been grand indeed. Diana Johnstone suggests ‘It was the conspicuous performance of the media as moralizing chorus that enabled NATO governments to claim that Kosovo was the scene of history’s first purely unselfish war... waged solely in response to proddings of the conscience of the “international community”.’¹⁰⁸ The authors of *The Kosovo Report* begged to differ, however. They wrote,

the basic charge - that journalists allowed themselves and consequently the public at large to be ‘spun’ by NATO media manipulation - seems unfounded. The reality was that there was rigorous public debate about the conduct of the war throughout the NATO countries, and NATO never enjoyed the kind of easy ride with public opinion that is assumed in the argument that the war was won by being spun.¹⁰⁹

What should we make of these competing claims?

Kosovo, The Media, and Possibilities for Dissent

Due to the level of ‘cynicism, sarcasm, [and] bitterness’¹¹⁰ (General Wesley Clark) that characterised domestic opposition to the war in Vietnam and the concomitant myth of an antiwar media that ‘lost’ the war,¹¹¹ both US government and military institutions have pro-

¹⁰⁵ Nicholas Garnham, ‘The Media and the Public Sphere’, in Craig Calhoun (ed.) *Habermas and the Public Sphere* (Cambridge, MA: MIT Press, 1992), pp. 359-376.

¹⁰⁶ Edward S. Herman and Noam Chomsky, *Manufacturing Consent: The Political Economy of Mass Media* (2ed.) (New York: Pantheon Books, [1988] 2002).

¹⁰⁷ Lauren Berlant, *The Queen of America Goes to Washington City: Essays on Sex and Citizenship* (Durham, NC: Duke University Press, 1997), p.10.

¹⁰⁸ Johnstone, ‘Nato and the New World Order’, p. 7.

¹⁰⁹ *The Kosovo Report: Independent International Commission on Kosovo* (Oxford: Oxford University Press, 2000), p.219.

¹¹⁰ Clark, *Waging Modern War*, p.204.

¹¹¹ Chomsky, *Rethinking Camelot*, p.2. Moreover, in addition to the ‘media’ argument, in Arendt’s words, ‘What caused the disastrous defeat of American policies and armed intervention [in Vietnam] was indeed no quagmire... but the wilful, disregard of all facts, historical, geographical, political, geographical, for more than twenty-five years’. See Arendt, ‘Lying in Politics’, *Crisis of the Republic* (New York: Harcourt Brace Jovanovich, 1972), p. 32.

actively honed methods of wartime media control.¹¹² Especially during the early stages, few of even the most basic details of NATO's bombing operation were publicly disclosed, including which targets pilots were attempting to strike (routinely provided during the Persian Gulf War). Clark's incantation became the customary declaration of intent. 'We are going to systematically attack, disrupt, degrade, devastate, and ultimately destroy these forces and their facilities and support, unless President Milosevic complies with the demands of the international community'.¹¹³ However, Clark's judgment that press briefings should be limited to only the broadest of generalities was widely criticised, especially as weather-hampered air attacks during the first two weeks were far from a resounding success.¹¹⁴

Repeatedly barred by the Yugoslav regime from covering the war on the ground, Western reporters relied heavily on handouts and briefings from NATO and the US State Department for news. 'US embassies... in Europe', according to one report, 'sent out... articles to newspapers, emphasising that although the US government owned the copyright of the articles, there was no need for the newspapers to tell their readers this'.¹¹⁵ However, with the leading editors and executives of seven major US news organisations sending a letter of protest to the Secretary of Defense more information about the bombing was reluctantly disclosed.¹¹⁶ Questioning whether a Yugoslav media operation was a 'legitimate' military or 'dual-use' target, the attack on Serbian TV headquarters killing sixteen and injuring more than twenty also drew protests from Western journalists.¹¹⁷ Yet even though reporters were killed, 'The Committee to Protect Journalists refused to list the Serb victims in its annual report of murdered journalists, on grounds that they [were] propagandists, not journalists'.¹¹⁸

Felicity Barringer suggested at the time that, 'what journalists see of air war is what NATO allies want them to see, and what they see of destruction in Kosovo and Serbia is what Serbs want them to see'.¹¹⁹ Yet with NATO reconnaissance planes seeking evidence to fit Serbia's crimes, journalists could dutifully describe more than might otherwise have met the

¹¹² Susan, L. Carruthers, *The Media at War: Communication and Conflict in the Twentieth Century* (London: Macmillan, 2000).

¹¹³ Quoted in Clark, *Waging Modern War*, p. 203.

¹¹⁴ Editorial Desk, 'Rationed War News From Kosovo', *The New York Times*, April 4, 1999.

¹¹⁵ Knightley, *The First Casualty*, p.504.

¹¹⁶ Felicity Barringer, 'Editors Seek More Information on the Air War', *The New York Times*, April 16, 1999.

¹¹⁷ Howard Kurtz, 'NATO Hit on TV Station Draws Journalists' Fire', *The Washington Post*, April 24, 1999.

¹¹⁸ Chomsky, *A New Generation*, p.132.

¹¹⁹ Felicity Barringer, 'Propaganda Wars; Pictures Can Lie, After All', *The New York Times*, April 25, 1999.

eye.¹²⁰ When a NATO press officer suggested, for example, that what was actually a recently ploughed meadow, seen from 30,000 feet above ground, might be the site of a massacre, the 'suggestion' was circulated as news.¹²¹ Part of a much broader trend of official source dependency this 'symbiotic relationship', suggest Edward Herman and David Peterson, 'makes for an uncritical media institution consciously allied with, and readily managed by, the government'.¹²²

In this respect CNN certainly stands out. Dispelling any suggestion by *The Kosovo Report* that important media outlets refused to be spun, military personnel from the Third Psychological Operations Battalion from Fort Bragg, North Carolina worked with CNN during the campaign to construct appropriate stories.¹²³ Herman and Peterson contend that 'in word usage, assumptions, and choice and treatment of issues and sources CNN served as [NATO's] *de facto* public-information partner'.¹²⁴

Other evidence of CNN's role in validating NATO can be found in the more general media trend, following US Secretary of State Madeline Albright, to date the beginning of the conflict between Serb nationalists and Kosovo-Albanians to the late 1980s, when Milosevic famously magnified ethnic tensions as part of his rise to power.¹²⁵ Rather than offering a more nuanced picture implicating Milosevic, KLA guerrilla violence, the proliferation of weapons after the collapse of civil order in Albania, as well as the West's 1995 decision to appease Serbia at Dayton by ignoring Ibrahim Rugova's peaceful calls for Kosovo autonomy, corporate-owned media outlets more readily corroborated NATO's effort to lay the blame squarely on Milosevic.¹²⁶ Indeed, at the same time the military were being coy about their

¹²⁰ 'Pentagon spokesman Kenneth H Bacon', reported David Stout, 'says photographs taken by US spy satellites seem to show that Serbian forces dug up bodies of their victims to hide evidence of massacre in Izbica, Kosovo'. David Stout, 'U.S. Photos Show Ground Work at Suspected Site of Mass Grave', *The New York Times*, June 10, 1999.

¹²¹ Miron Rezun, *Europe's Nightmare: The Struggle for Kosovo* (Westport: Praeger, 2001), p. 49.

¹²² Edward S. Herman and David Peterson, 'CNN: Selling Nato's War Globally', in Philip Hammond and Edward S. Herman (eds.) *Degraded Capability: The Media and the Kosovo Crisis* (London: Pluto Press, 2000), p.112.

¹²³ Abe de Vries, 'The American Army Loves CNN'. See <http://emperors-clothes.com/articles/devries/love.htm> [downloaded 18 November 2002].

¹²⁴ Herman and Peterson, 'CNN: Selling Nato's War Globally', p.113.

¹²⁵ Seth Ackerman and Jim Naureckas, 'Following Washington's Script: The United States Media in Kosovo', in Philip Hammond and Edward S. Herman (eds.) *Degraded Capability: The Media and the Kosovo Crisis* (London: Pluto Press, 2000), p.98.

¹²⁶ Tim Judah, *Kosovo: War and Revenge* (New Haven: Yale University Press, 2000).

activities, Clinton's foreign policy team filled TV and radio stations to justify the air campaign with testimonials of the 'genocidal' actions taken by Serbia against Kosovo-Albanians.¹²⁷

Continual images of tens of thousands of refugees pouring out of the province substantiated NATO's efforts to make deliberate ethnic cleansing the focus of the news,¹²⁸ despite the fact that the majority of refugees were created after NATO started bombing.¹²⁹ Similarly indicating a willingness of mainstream media to follow NATO's script are accounts of the 1999 Rambouillet negotiations which portrayed Milosevic as totally unwilling to compromise, omitting Albright's stipulation (bound to be rejected) that NATO forces should be allowed to roam Yugoslavia completely unchecked.¹³⁰ What did not enjoy widespread coverage was the view summarised by an aide to Albright at Rambouillet - the face-off in France had 'only one purpose: to get the war started with the Europeans locked in'.¹³¹

Moreover, with so much media attention paid to NATO and the humanitarian catastrophe in Europe other important events were overshadowed, including the escalation of US and British bombing raids against Iraq and continuing violence in the Sudan and Indonesia.¹³² Modest coverage was also given to criticisms of the US during the bombing campaign at the UN's annual meeting on global democratic rights, with Amnesty International also placing the US on its list of human rights violators for the first time.¹³³ Abuses obscured by NATO's war were not restricted to the United States, however. Akin Birdal, a leading human rights advocate, was jailed in Turkey, a 'democratic' NATO member, for 'subversive' speeches such as the demand for a peaceful settlement with the Kurds.¹³⁴

¹²⁷ Eric Schmitt, 'U.S. Media Policy: Justify Air Assault But Skimp on Detail', *The New York Times*, March 27, 1999.

¹²⁸ Craig R. Whitney, 'Facts at Briefings Scarce, But Polemics Are Abundant', *The New York Times*, April 3, 1999.

¹²⁹ See Jim Whitman, 'The Kosovo Refugee Crisis: NATO's Humanitarianism versus Human Rights', in Ken Booth (ed.) *The Kosovo Tragedy: The Human Rights Dimensions* (London: Frank Cass, 2000), pp. 170-71; Judah, *Kosovo*, pp.249-54. After returning from Kosovo Representative Jim Saxton of New Jersey also believed NATO were partly to blame. James Dao, 'Back From Belgrade, Congressman Says NATO Is Worsening Refugee Crisis', *The New York Times*, April 23, 1999.

¹³⁰ Fairness and Accuracy in Reporting, 'Forgotten Coverage of Rambouillet Negotiations', 14 May 1999. See <http://www.fair.org/press-releases/kosovo-solution.html> [downloaded November 20, 1999]. Also see Chomsky, *The New Military Humanism*, p.107; Ackerman and Naureckas, 'Following Washington's Script', p.101.

¹³¹ Quoted in Simon Chesterman, *Just War or Just Peace? Humanitarian Intervention and International Law* (Oxford: Oxford University Press, 2001), pp. 223-4.

¹³² Francis M. Deng, 'Out of Sight, Out of Mind: In Sudan, African "Kosovars" have no reason to hope for allied help', *The Washington Post*, April 30, 1999.

¹³³ Elizabeth Olson, 'Good Friends Join Enemies To Criticize U.S. on Rights', *The New York Times*, March 28, 1999.

¹³⁴ Stephen Kinzer, 'Top Activist For Rights In Turkey Is Imprisoned', *The New York Times*, June 4, 1999.

After more than a week of bombing, none of the Human Rights Watch reports included even estimated numbers of civilian casualties caused by NATO,¹³⁵ while media speculation about other events were often presented as fact. The quandary of fact verification was highlighted when the authenticity of a photo sent by a Serb free-lancer of an Albanian corpse lying in a crater near other bodies, published by *Time* and *Newsweek*, was later disputed.¹³⁶ ABC's John Cochran also reported, for example, that, 'NATO analysts are looking at the possibility that, after [NATO's] bombing [of Korisa], the Serbs shelled the town with artillery to make the devastation appear even worse. The analysts say the pictures from the scene do not seem to match the damage they believe was caused by the bombs'.¹³⁷ After eventually admitting that the Allies were indeed responsible for the devastation, NATO spokesmen proposed the idea that the dead refugees were actually 'human shields', deliberately placed by the Serbs near a military facility with the explicit intent of causing the embarrassing blunder.¹³⁸

One way of assessing the level of media participation in the cultivation, rather than simply the reflection, of support for NATO - and low level of domestic opposition - is to review the relative airtime given to 'expert' supporters and opponents of the campaign. As suggested by Larry Beinhart, author of *American Hero* on how war can be thought of as a theatrical event, 'it is better if good guys seem purposeful and smart'.¹³⁹

A May 1999 Fairness and Accuracy in Reporting study showed that out of two hundred and ninety-one sources appearing on ABC's *Nightline* and PBS's *NewsHour*, only twenty-four, or eight percent, were critical of NATO's actions. On *NewsHour* and *Nightline*, outright opponents of bombing constituted ten and five percent of sources respectively.¹⁴⁰ Herman and Peterson similarly report that of fifteen 'important dissident commentators', only three appeared briefly on CNN compared with the networks total count of seven hundred and

¹³⁵ CounterPunch Editorial, 'How the US State Dept. Recruited Human Rights Groups to Cheer On the Bombing Raids'. See <http://www.counterpunch.org/kohmtg.html> [downloaded 28 September 2001].

¹³⁶ Felicity Barringer, 'Propaganda Wars; Pictures Can Lie, After All', *The New York Times*, April 25, 1999.

¹³⁷ Quoted in Ackerman and Naureckas, 'Following Washington's Script', p.108; Jonathan Steele, 'Serb killings "exaggerated" by West', *The Guardian*, August 18, 2000.

¹³⁸ Ackerman and Naureckas, 'Following Washington's Script', p.108. As Michael Gordon reported in *The New York Times*, 'NATO suggests Serbs may have invited ethnic Albanian refugees into the area as "human shields", but the incident raises question of whether allied targeting procedures are adequate to deal with the confusing battlefield'. Michael R. Gordon, 'NATO Admits Village Attack And Casualties', *The New York Times*, May 16, 1999.

¹³⁹ Larry Beinhart, 'Book, Movie, War, Reality', *The New York Times*, May 18, 1999.

¹⁴⁰ See <http://www.fair.org/reports-sources.html> [downloaded November 20, 2001]. Also see Ackerman and Naureckas, 'Following Washington's Script', p.109.

twenty-eight sources.¹⁴¹ With the lack of substantive political debate, televised contestation came to centre on tactics, principally whether Allied ground troops should be deployed in addition to the bombing raids.

Although a majority of 'the American people' felt the US would eventually deploy ground troops and lead to the loss of US lives, only forty-six percent actually favoured the policy with forty-eight percent opposed. Amongst those self-described as following the conflict closely, backing for ground troops was strongest at fifty-five percent.¹⁴² Indeed, by mid-May, a *Washington Post*-ABC News poll showed a majority of US citizens thought NATO should change tactics and negotiate a settlement with Milosevic.¹⁴³ Where 'opinion-leaders' mostly seemed to rally behind NATO, public support for the air war began to soften as the bombing continued. While an early April *New York Times*/CBS News poll showed only fifty-two percent support, even fewer thought bombing would stop ethnic cleansing believing the conflict between Serbs and Kosovo-Albanians would continue for years. As 'public opinion' began to change, then, director of the Pew Research Center (for 'counting noses in opinion-polls'¹⁴⁴), offered comfort in *The New York Times* to those in support of war. Such polls, he suggested, must be read with caution because 'ordinary people' found it difficult to grasp this 'hard-to-understand conflict'.¹⁴⁵

With potential opposition centres to the Milosevic regime (in Nis, Kragujevic, Cacak, and Valjevo) severely damaged by the bombing and with the campaign now more openly turning to attacks on civilian facilities as the months passed by, some in the media more readily highlighted character flaws in the Serb people, of whom we were previously told NATO had 'no quarrel'.¹⁴⁶ Wondering what it would take to 'cleanse Serbia', Blaine Harden

¹⁴¹ Herman and Peterson, 'CNN: Selling Nato's War Globally', p.114. The study period ranged from 14-31 March and 26 May - 14 June The 'important dissident sources' were Phyllis Bennis, Francis Boyle, David Chandler, Noam Chomsky, Ramsey Clark, Marjorie Cohn, Régis Debray, Robert Fisk, Robert Hayden, Diana Johnstone, George Kenney, Jan Øberg, John Pilger, Benjamin Schwarz, and Norman Solomon. Kenney appeared on CNN twice, Schwartz and Clark both appeared once.

¹⁴² R. W. Apple Jr. and Janet Elder, 'Americans in Poll See U.S. Involvement Growing', *The New York Times*, April 8, 1999.

¹⁴³ Richard Morin, 'Poll Shows Most Americans Want Negotiated Settlement', *The Washington Post*, May 18, 1999. C.f. Roland Brownstein, 'Public Seen as More Hawkish Than Leaders', *The Los Angeles Times*, April 8, 1999.

¹⁴⁴ Arendt, 'On Violence', in *Crisis of the Republic* (New York: Harcourt Brace Jovanovich, 1972), p.141.

¹⁴⁵ Andrew Kohut, 'Beware of Polls on the War', *The New York Times*, April 8, 1999.

¹⁴⁶ Chomsky, *The New Military Humanism*, p.35; Stacy Sullivan, 'Milosevic's Willing Executioners', *The New Republic*, May 10, 1999. See <http://www.thenewrepublic.com/current/coverstory051099.html> [downloaded September 28, 2001].

of *The New York Times* suggested that there was a 'collective soft spot in the Serbian psyche'¹⁴⁷ which explained their susceptibility to Milosevic.

NATO's remodelled twenty-strong multinational 'information strategy cell' would also sharpen the daily press briefings deemed crucial for disseminating the right 'strategic information'.¹⁴⁸ Methods were no doubt bolstered by the loan of Tony Blair's master spin-doctor, Alistair Campbell.¹⁴⁹ According to Anthony Weymouth, however, NATO need hardly spend time spinning the politics of the intervention; the images alone were enough. 'If there were other reasons for the intervention by Nato of a more complex nature... there was little need for them to be explained to the public. The newsreel footage that concentrated on the human disaster... said it all'.¹⁵⁰

No doubt with the Reagan-era triumph of neo-liberalism and its related privatisation of Western aid, non-governmental organisations (NGOs) have been forced to play along and vie for public support in increasingly sophisticated (and emotive) media campaigns. (The AFSC have not taken this media route during their ongoing Kosovo relief effort.) Certainly during the periods before and after NATO's involvement in Kosovo, NGOs including Human Rights Watch, Mercy Corps, and Amnesty International were providing important relief work and monitoring.¹⁵¹ Indeed, some humanitarian workers can be added to the numbers of Kosovo-Serb and Albanian civilians killed.¹⁵² Once the bombing began, however, several hundred NGOs descended on the scene, an almost 'feeding frenzy' of crisis junkies, as *The Kosovo Report* described.¹⁵³ The competence and coordination of many of these groups left a lot to be desired.

While perhaps not openly requesting the use of force, aid workers and organisations are often construed as objective observers and thereby contribute to the construction of consent for war through their often-harrowing accounts of events on the ground.¹⁵⁴ Because they are non-governmental and do an enormous amount of relief work these organisations are allotted

¹⁴⁷ Blaine Harden, 'Culture War; What It Would Take To Cleanse Serbia', *The New York Times*, May 9, 1999.

¹⁴⁸ Clark, *Waging Modern War*, p.200.

¹⁴⁹ Craig R. Whitney, 'How Voice of NATO Honed His Delivery', *The New York Times*, May 4, 1999.

¹⁵⁰ Anthony Weymouth, 'The Media: Information and Disinformation', in Anthony Weymouth and Stanley Henig (eds.) *The Kosovo Crisis: The Last American War in Europe?* (London: Pearson Education, 2001), p. 155.

¹⁵¹ *The Kosovo Report*, p.60.

¹⁵² Three members of a refugee relief group died in a car accident in April 1999 highlighting how humanitarian aid workers are killed in their hundreds every year. John Tirman, 'Heroes Who Have No Day: Memorial Day', *The Los Angeles Times*, May 30, 1999.

¹⁵³ *The Kosovo Report*, p.203.

¹⁵⁴ Amnesty International, *Kosovo: After Tragedy, Justice?* (London, 1999).

ethical credentials in ways that contribute to the moral instruments of state-led military intervention.¹⁵⁵ During the Kosovo war, such organisations seemed to offer a level of ‘objectivity’ to NATO’s claims of atrocities. One example was UNHCR evidence of massacres offered to the UN Security Council meeting on 10 September 1998 which supplied some of the basis, as Adam Roberts describes, for the ‘strongly worded Chapter VII resolution [1199] on Kosovo’.¹⁵⁶ One result of such ‘moral interventions’, as Michael Hardt and Antonio Negri note, is that military deployments can then be ‘presented as an internationally sanctioned police action’.¹⁵⁷

That during Kosovo, as Robert Redeker describes, ‘intellectuals, humanitarians and the military all [used] the same vocabulary’¹⁵⁸ should be cause for democratic concern, not celebration. As Alex Calinicos describes, the use of emotive TV images has often led to the simplification of the causes of disaster, in effect de-politicising any practical response.¹⁵⁹ That the sentimental (and gendered) images of Kosovo-Albanian refugees contributed to the de-politicisation of responses to the Kosovo crisis will be an argument developed further in Chapter Five.

Rather than heralding a new progressive era of global politics, it would seem, NATO’s humanitarianism, as Redeker suggests, is dependent ‘on government by [the marketing of] emotion [and] ...the affective force of [television] images’.¹⁶⁰ If public dissent against NATO’s war was judged by many to be meagre then the level of active support for the effort was perhaps equally as shallow as a result. Why does this seem to be so? ‘Despite the exposure of suffering offered by the globalized media’, argues Colin McInnes, ‘those of us who watch, hear about or read about such events are inevitably removed from it’.¹⁶¹ We seemingly witness such events as mere ‘spectators’. What are the democratic implications, however, of characterising the relationship between liberal democracy and war as one of ‘spectatorship’? Does public sphere critique offer a way beyond these largely de-politicised accounts?

¹⁵⁵ Michael Hardt and Antonio Negri, *Empire* (Cambridge, MA: Harvard University Press, 2001), p.36.

¹⁵⁶ Adam Roberts, ‘Humanitarian Issues and Agencies as Triggers for International Military Action’, in Simon Chesterman (ed.) *Civilians in War* (London: Lynne Rienner, 2001), p. 188.

¹⁵⁷ Hardt and Negri, *Empire*, p.37.

¹⁵⁸ Robert Redeker ‘In Place of Politics: Humanitarianism and War’, in Tariq Ali (ed.) *Masters of the Universe? NATO’s Balkan Crusade* (London: Verso, 2000), p. 174.

¹⁵⁹ Alex Calinicos, ‘The Ideology of Humanitarian Intervention’, in Tariq Ali (ed.) *Masters of the Universe? NATO’s Balkan Crusade* (London: Verso, 2000), p. 181.

¹⁶⁰ Redeker, ‘In Place of Politics’, p. 172.

¹⁶¹ Colin McInnes, ‘Spectator Sport Warfare’, *Contemporary Security Policy*, Vol.20, no.3 (1999), p. 144.

Spectatorship, Publics and War

From pictures of the thousands fleeing Kosovo and the flying F117's to the Eagle logo splashed across TV screens¹⁶² - presumably meant to symbolise US prowess - Kosovo seemed to represent 'spectator-sport warfare'¹⁶³ at its worst. 'The war', according to Michael Ignatieff, 'was a spectacle: it aroused emotions in the intense but shallow way that sports do'.¹⁶⁴ This seemingly new phenomenon is summarised by McInnes. In his words,

The majority spectate from a safe distance courtesy of the globalized media, empathizing but not experiencing, sympathizing but not suffering. Strategies for the use of force emphasize minimizing costs and risks, most clearly through the coercive use of air power but also through the adoption of manoeuvre-based strategies and an emphasis upon technology (including the promise of a Revolution in Military Affairs). The experience of war for the West has therefore changed over this century from one of total war to one of a spectator sport.¹⁶⁵

For its effect on the mass public or 'majority' the main culprit in this dumbed down internationalism is an old one, TV. With its 'complacent flaunting of images of misery', writes Redeker, and 'the spectacularization of victims' flesh' the proxy suffering inaugurated by television seems to negate 'political citizenship'.¹⁶⁶ Efforts to create an open public space for discussion about humanitarianism, politics and war are all but closed off, it would seem, by the structural demands of the media form in which most public conversation now occurs.¹⁶⁷

At first glance the notion of 'spectator sport warfare' accords with more critical expectations of liberal democratic theory and practice more generally: the TV-watching 'rabble', in Chomsky's parody of existing liberal politics, should be 'spectators not active participants'.¹⁶⁸ The oft-cited main offender in Chomsky's work is the liberal-conservative critic Walter Lippmann. In his 1927 book *The Phantom Public*, Lippmann claimed there never has or ever will be the public sphere found in the 'sophistry' of political theory.¹⁶⁹ In his words,

To support the Ins when things are going well, to support the Outs when things seem to be going badly, this, in spite of all that has been said about tweedledum and tweedledee, is the essence of popular government. Even the most intelligent large

¹⁶² Phil Patton, 'The Eagle as Icon: Predator or Fat Hen?', *The New York Times*, April 8, 1999.

¹⁶³ Michael Mann, *States, War and Capitalism* (Oxford: Basil, 1988).

¹⁶⁴ Ignatieff, *Virtual War*, p.3.

¹⁶⁵ McInnes, 'Spectator Sport Warfare', p. 142.

¹⁶⁶ Redeker, 'In Place of Politics', p. 173.

¹⁶⁷ For evidence see Putnam, *Bowling Alone*, p.231.

¹⁶⁸ Chomsky, *Rethinking Camelot*, p.12.

¹⁶⁹ Walter Lippmann, *The Phantom Public* (New York: Macmillan, 1927), p.160.

public of which we have any experience must determine finally who shall wield the organized power of the state, its army and its police, by a choice between Ins and Outs.¹⁷⁰

There could be no serious critical engagement by publics at even the national let alone international level, Lippmann argued. Experts and elites, accountable and replaced by elections, should run government via 'the manufacture of consent'. Edward Herman and Chomsky's book of the same title can be read as a radically democratic response to Lippmann's empirical and normative critique, specifically the very idea that citizens in mass democracies were or even could be interested in public policy.¹⁷¹

Habermas's *Structural Transformation of the Public Sphere* then is only the most commonly cited story of the winning of bourgeois enlightenment through print media, only to be lost with the dawn of mass media techniques.¹⁷² Hardt and Negri offer a similar narrative. 'In the society of the spectacle', they argue, 'what was once imagined as the public sphere, the open terrain of political exchange and participation, completely evaporates'.¹⁷³ Herman and Chomsky are explicit in conceiving the popular entertainment supplied by corporate advertisers as fundamental, in their words, to 'the gradual erosion of the public sphere under systems of commercial media'.¹⁷⁴

But as Sylviane Agacinski describes, like Redeker and others, Habermas not only wants to,

transpose the opposition between reason and emotion to modes of communication (print and screen media) but also to the different publics affected by these techniques. The notion of 'masses' or of a 'public at large' is not only used to define the extraordinary extension of the public of the media but also to specify what could be called a class of public that is susceptible to the seduction of images.¹⁷⁵

But 'political power', as Agacinski suggests, 'did not wait for the arrival of television in order to be seductive'.¹⁷⁶ We should reject straightforward Habermasian notions that mass media

¹⁷⁰ Lippmann, *The Phantom Public*, p.126.

¹⁷¹ Herman and Chomsky, *Manufacturing Consent*.

¹⁷² Jürgen Habermas, *The Structural Transformation of the Public Sphere* (Cambridge, MA: MIT Press, [1962] 1991).

¹⁷³ Hardt and Negri, *Empire*, p.321.

¹⁷⁴ Herman and Chomsky, *Manufacturing Consent*, p.xviii.

¹⁷⁵ Sylviane Agacinski, 'Stages of Democracy', in Marcel Hénaff and Tracy B. Strong (eds.) *Public Space and Democracy* (Minneapolis: University of Minnesota Press, 2001), p.139.

¹⁷⁶ Agacinski, 'Stages of Democracy', p.129.

techniques are principally to blame.¹⁷⁷ The 'spectatorial' politics witnessed during Kosovo was inaugurated earlier and by more than the liberal-citizen detachment of pre-September 11.

The days of 'face-to-face' discursive communication are certainly long over, necessarily implying mediated forms of political spectacle. Tropes such as 'popular consent' and '*representative* democracy' - constitutive of the idea of a singular liberal public sphere - are dependent upon forms of political subjectivity intimately connected to modes of mediated communication. Representative institutions are not in crisis because they are mediated by 'spectacle'. Since Machiavelli, politics has often been conceived as an art of illusion, the staging of power, or in Arendt's formulation, the realm of appearances.¹⁷⁸ In other words, the 'spectator-sport warfare' literature simply re-articulates what is already the dominant liberal stage set. The notion of citizen/audience ogling government/actor serves, in effect, to consolidate existing inscriptions of liberal political subjectivity as commodity citizenship.

Through public sphere critique, in contrast, especially following Arendt's alternative understanding of power, we might begin to re-open spaces for a more political analysis of contemporary liberal state violence. In accord with Michel Foucault's understanding, for example, Arendt's model of power and dissent is not one based on the dichotomous interaction found in liberalism between rulers and the 'consenting' or 'spectating' ruled. In Foucault's words,

there is no binary and all-encompassing opposition between rulers and ruled at the root of power relations, and serving as a general matrix - no such duality extending from the top down and reacting on more and more limited groups to the very depths of the social body. One must suppose rather that the manifold relationships of force that take shape and come into play in the machinery of production, in families, limited groups, and institutions, are the basis for wide-ranging effects of cleavages that run through the social body as a whole.¹⁷⁹

Where power, for Foucault, is 'a complex strategical situation in a particular society',¹⁸⁰ similarly for Arendt, power must not be equated with 'rule'.¹⁸¹ It is 'never', she argues, 'the

¹⁷⁷ Habermas, *The Structural Transformation*, pp. 181-95.

¹⁷⁸ Marcel Hénaff and Tracy B. Strong, 'The Conditions of Public Space: Vision, Speech, and Theatricality', in Hénaff and Strong (eds.) *Public Space and Democracy* (Minneapolis: University of Minnesota Press, 2001), pp. 1-31.

¹⁷⁹ Michel Foucault, *The History of Sexuality* (London: Penguin, 1978), p.94.

¹⁸⁰ Foucault, *The History of Sexuality*, p. 93.

¹⁸¹ Arendt, 'On Violence', p.135.

property of an individual; it belongs to a group and remains in existence so long as the group keeps together'.¹⁸²

In going beyond the increasingly commonplace liberal narrative of 'spectator-sport warfare' - Western citizens are too comfortable to worry greatly about the wars of their increasingly automated armies - we might address some of the weightier paradoxes and pathologies of public spheres and their relationship to war. By taking more seriously the political importance that culture and the fourth estate have acquired in modern societies we can begin to question whether the popular screen is inevitably more damaging to politics than the public rhetoric of liberalism or the printed media form. Rejecting straightforward notions of the 'spectating' mass public implies a more sustained political critique of liberal public spheres than we have witnessed in accounts of spectatorship and war thus far.

Before elaborating Arendt's critique of the possibilities for dissent in the liberal public sphere we must first address how individuals and groups in the United States formed anti-war publics not wholly dependent on the liberal notions of power, agency, and consent. Conforming to the perception that war strikes at the heart of the 'American tradition' it would seem that dissent against war can claim to be as 'American' as the actions of the more time-honoured (usually male) fighting patriots. 'Americans have been a violent people', suggests Joseph Conlin (in language devoid of its gender connotations), 'but, throughout most of their history, they have not loved war'.¹⁸³ Countless US citizens, both men and women, have been appalled by the horrors of Civil War, two World Wars, but most of all the war in Vietnam.

Dissent and the 'American' Tradition

Civil disobedience in the liberal tradition, as we have seen, is not permitted if civil and political rights have not been infringed and the institutions of state obey established constitutional rules of procedural justice. Civil disobedience in this vein is a calculating form of resistance, resting on the defense of liberal rights (the extension of private freedoms) not democracy itself. Once constitutional government has been secured, liberal 'politics', in Nancy Rosenblum's words, 'loses its dramatic appeal'.¹⁸⁴ Thus neither Rawls nor Dworkin interpret

¹⁸² Arendt, 'On Violence', p.143.

¹⁸³ Colin, *American Anti-War Movements*, p.i. The vast majority of violence in the domestic realm is male against female and until very recently violence conducted by US arm forces was by men. This is not, however, to deny the role women have played in supporting US wars, both materially and ideologically.

¹⁸⁴ Nancy L. Rosenblum, *Another Liberalism: Romanticism and the Reconstruction of Liberal Thought* (Cambridge, MA: Harvard University Press, 1987), p.116.

civil disobedience as a legitimate reaction to any institutional democratic deficit once the 'revolution', meaning constitutional democracy, has been achieved. 'Apathy is dangerous', suggests Rosenblum, of this view. 'But vigilance and democratic participation are prudent rather than inspired'.¹⁸⁵

In contrast to the legalism inaugurated by liberal dissent, the transcendental idealism of 'American' writers such as Ralph Waldo Emerson and Henry David Thoreau have sought to capture an 'essential radical heroism of American life'.¹⁸⁶ Emerson and Thoreau echo in the US context the romantic notion of an authoritative rational ego able to act independently in the world, yet in the refusal of allegiance to repressive authority the free individual is able to nurture an instinctive capacity to grasp beauty and truth. This romanticism, suggests Rosenblum, 'brings to mind the emotional, aesthetic, and personal... a prism through which liberalism is refracted'.¹⁸⁷

Through the use of the full play of emotions, as well as intellect, the emphasis in transcendental idealism is on an 'intuitive reaction to political life';¹⁸⁸ a contrast with the impersonal legalism of liberal politics. Indeed, in accordance with the mythic standing of the original 17th Century Pilgrim's escape from religious custom,¹⁸⁹ references abound in US popular and political culture to the part played by more 'heroic' forms of direct action in winning democratic rights.

Martin Luther King Jr., for example, in his 1963 essay 'Why We Can't Wait', wrote that, 'Nonviolent direct action did not originate in America, but it found its natural home in this land, where refusal to cooperate with injustice was an ancient and honorable tradition'.¹⁹⁰ Although in the West direct action as a method of political engagement has been closely associated with liberal freedoms, this *extra*-parliamentary activity draws on various liberal and non-liberal, as well as violent and non-violent, traditions. Inspired by Vaishnav philosophy, a form of Hinduism, Gandhi's pacifism became influential in anti-Vietnam war movements

¹⁸⁵ Rosenblum, *Another Liberalism*, p.116.

¹⁸⁶ George Kateb, 'On the 'Legitimation Crisis'', in William Connolly (ed.) *Legitimacy and the State* (Oxford: Basil Blackwell, 1984), p.195.

¹⁸⁷ Rosenblum, *Another Liberalism*, p.2.

¹⁸⁸ Rosenblum, *Another Liberalism*, p.3.

¹⁸⁹ See Frederick M. Dolan, 'The Fiction of America', in *Allegories of America: Narratives, Metaphysics, Politics* (Ithaca, NY: Cornell University Press, 1994), pp.12-30.

¹⁹⁰ Quoted in Carter, *Direct Action*, p. 7.

since the 1960s.¹⁹¹ Pacifist organisations such as the Quakers, Catholic Worker's, American Legion and Jehovah's Witnesses, as well as dissident individuals such as Emerson, Thoreau, and Dorothy Day form part of this popular legacy.¹⁹²

However, as witnessed in the 'support the troops' yellow-ribbon craze during the Gulf War - that sought to blame by implication antiwar protestors for dishonouring Vietnam veterans¹⁹³ - the legacy of Vietnam, including the place of protestors and the 'vets' who joined them, remains as contested as ever.¹⁹⁴ Though the actual number who went out to demonstrate probably comprised a statistical minority, there was almost certainly no section of US society left untouched.¹⁹⁵ Vietnam became, in Arthur Marwick's words, 'the great universal issue, binding together protests within America over race, poverty, consumerism, and alleged repression of student freedoms'.¹⁹⁶

Often collectively branded the 'New Left', these organisations and issues included Students for a Democratic Society (SDS), the African-American civil rights movement, various women's groups, and the Berkeley student free speech movement. Though a nationwide phenomenon, it was perhaps not coincidental that these groups coalesced - and still do - in Berkeley, California, the centre of research into the most advanced technologies used to conduct the war.

Initial moves towards more planned opposition, presaging the co-ordination of mass protests across the United States occurred in March 1965 when a group of scholars at the University of Michigan at Ann Arbor began to organise the first teach-ins.¹⁹⁷ As described by H. Bruce Franklin,

Teaching the Vietnam War during the 1960s and early 1970s meant giving speeches at teach-ins and rallies, getting on talk shows, writing pamphlets, articles, and books, painting banners, picket signs, and graffiti, circulating petitions and leaflets, coining slogans, marching, sitting-in, demonstrating at army bases, lobbying Congress, testifying before war crimes hearings and congressional investigations, researching

¹⁹¹ Mohandas K. Gandhi, 'On Nonviolence', in J.P. White (ed.) *Assent/Dissent* (Iowa: Kendall/Hunt, 1984), pp. 73-76.

¹⁹² Joseph R. Colin (ed.) *American Anti-War Movements* (Beverly Hills, CV: Glencoe Press, 1968), p.i.

¹⁹³ William Chaloupka, 'Suppose Kuwait's Main Product was Broccoli?' in Frederick M. Dolan and Thomas L. Dumm (eds.) *Rhetorical Republic: Governing Representations in American Politics* (Amherst: University of Massachusetts Press, 1993), p.162.

¹⁹⁴ H. Bruce Franklin, *Vietnam and Other American Fantasies* (Amherst MA: University of Massachusetts Press, 2000).

¹⁹⁵ James Finn, *Protest: Pacifism and Politics* (New York: Random House, 1967).

¹⁹⁶ Arthur Marwick, *The Sixties: Cultural Revolution in Britain, France, Italy, and the United States, c. 1958-1974* (Oxford: Oxford University Press, 1998), p.535.

¹⁹⁷ Marwick, *The Sixties*, p.541.

corporate and university complicity, harboring deserters, organizing strikes, heckling generals and politicians, blocking induction centers and napalm plants, and going to prison for defying the draft.¹⁹⁸

As part of 'Stop the draft Week' over 100,000 people marched on the Pentagon on 21 October 1967, towards the end of which armed police and soldiers attacked the crowd.¹⁹⁹ Often obliging civil libertarians (among others) who may have otherwise backed the war to call for its termination, police brutality was not the only 'official' response to direct action. The FBI's massive surveillance of dissident political activities became known to the (fullest?) degree only in the mid-1970s.²⁰⁰

Currently, there are roughly 2,000 protest events every year in Washington DC, the vast majority of which are now officially permitted in advance.²⁰¹ At their best, these demonstrations, albeit briefly, yank political representation away from, rather than merely supplement, liberal institutions. Individuals and groups that have resisted state militarism in the United States, both legally and illegally, have often viewed their acts as effective tools of political pressure that not only can alter specific state policies, but also come to adapt and transform the very structure of the state itself.

The extent to which such a critique of state power formed part of the self-understanding of US-based opposition to NATO's war obviously varies from group to group; domestic conservatives who rejected President Clinton's decision to involve US forces in what Pat Buchanan called 'the Big Muddy'²⁰² are not in the same category as the members, for example, of the Socialist Party USA who viewed their opposition in terms of an aspiration to create a 'social and economic order in which workers and consumers control production'.²⁰³ The Campaign for Labor Rights similarly opposed bombing Yugoslavia in the interests of 'working

¹⁹⁸ Franklin, *Vietnam and Other American Fantasies*, p.55.

¹⁹⁹ Marwick, *The Sixties*, pp. 545-6.

²⁰⁰ Athan G. Theoharis, 'The FBI and Dissent in the United States', in C.E.S. Franks (ed.) *Dissent and the State* (Oxford: Oxford University Press, 1989), pp. 21-39.

²⁰¹ John D. McCarthy, Clark McPhail, Jackie Smith and Louis J. Crishock, 'Electronic and Print Media Representations of Washington, D.C., 1982 and 1991: A Demography of Description Bias', in Dieter Rucht, Ruud Koopmans and Friedhelm Neidhardt (eds.) *Acts of Dissent: New Developments in the Study of Protest* (New York: Rowman and Littlefield, 1999), p.113.

²⁰² Patrick J. Buchanan, 'The Mess They've Made', *The Washington Post*, April 13, 1999.

²⁰³ See Socialist Party USA homepage at <http://www.sp-usa.org/yugo99.htm> [downloaded September 21, 2001]. Specific proposals to this end include reducing the US armed forces by fifty percent, banning arms sales, and the disbandment of NATO. See <http://sp-usa.org/principles.htm> [downloaded September 21, 2001].

people'.²⁰⁴ 'Yugoslavia, like Iraq', declared one flier distributed at an anti-Kosovo war demonstration, 'is a regional power in a strategic area that the Pentagon and Wall Street corporations seek to dominate. The Yugoslav government is presented as being akin to Adolf Hitler... The truth is that these governments have in one way or another resisted the designs of the US military and economic establishment to turn their countries into semi-colonies ruled by puppet governments'.²⁰⁵

Generally, however, since the 1970s mass gatherings in the nation's capital have become effectively institutionalised (officially permitted in advance), predictable, and less politically 'dangerous', themselves. Demonstrations in the US against NATO's war were miniscule in comparison to both Vietnam and the Gulf War.²⁰⁶ However, in an act of planned civil disobedience twenty-six members of the newly formed National Coalition for Peace in Yugoslavia were arrested on 3 June 1999 for blocking an entrance to the White House in protest of the bombing.²⁰⁷ This coordinated campaign from eighteen peace groups (including former companions of Clinton in the anti-Vietnam war movement), and among them the AFSC and the Roman Catholic Pax Christi, promised to noisily tail and demonstrate around Clinton wherever he publicly appeared.²⁰⁸ As the AFSC's overview summary recalls,

These activities culminated in a march in Washington, DC, on June 3. Wanting to demonstrate concern about ethnic violence perpetrated by Serbs as well as the massive destruction caused by the NATO bombing, AFSC supporters posted a letter to Milosevic on the Embassy of the Federal Republic of Yugoslavia, then walked to Lafayette Park in front of the White House. There, leaders of religious and peace groups gave speeches, and 26 protesters committed civil disobedience.

After initially being rejected the permit for a march on 5 June from the Vietnam Veterans Memorial in the Capital to the Pentagon was eventually approved. Thousands of Serb-

²⁰⁴ 'Why Working People Must Oppose US/NATO War in the Balkans'. See <http://www.counterpunch.org/bissell.html> [downloaded 28 September 2001].

²⁰⁵ New York-based International Action Center flier for distribution at demonstrations. 'Stop the Bombing of Yugoslavia! Money for Jobs and Education, Not War!'. See <http://www.iacenter.org/flyeryug.htm> [downloaded 28 September 2001].

²⁰⁶ One of the largest protest events was in Vienna, Austria where some 9,000 rallied against NATO's actions. Foreign Desk, 'Demonstrators In Many Cities Demand Halt To Air Strikes', *The New York Times*, March 29, 1999.

²⁰⁷ Caryle Murphy, '26 Arrested In Protest at White House: Religious, Peace Groups Urge End to Bombing', *The Washington Post*, June 4, 1999.

²⁰⁸ Norman Kempster, 'Peace Organizations Set to Take On Clinton', *The Los Angeles Times*, May 21, 1999.

Americans and their supporters from across the US had already travelled to Washington DC on 24 April and staged the largest anti-war demonstration since the bombing began.²⁰⁹

Meanwhile, in response to the bombing of their Embassy in Belgrade several Chinese students on college campuses across the United States demonstrated against NATO's actions.²¹⁰ Such political activity from Chinese students, once so praised by US Presidents' as an expression of their 'thirst for freedom',²¹¹ seemed easily dismissed, especially on the occasion of the tenth anniversary of the Tiananmen Square massacre. For some commentators, continued repression in China seemed to increase NATO's credibility despite 'anti-American' protests.²¹² Written off as mere nationalism, a product of propaganda, or bussed in by the government, protests were allowed on the Chinese mainland, after-all, only if they expressed anti-American hate.²¹³

There was much activity in the US at the local level. Los Angeles Orange County Veterans for Peace held banners with slogans and chants exclaiming 'All Killing Is Wrong', 'Who Is Next?' and 'Out of Kosovo'.²¹⁴ And although dismissed in the press for their 'considerable confusion' debates about the intervention occurred on college campuses across the US.²¹⁵ One of the more prominent public voices of acceptable dissent was sixties activist, 'teach-in' speaker, and California State Senator Tom Hayden.²¹⁶ The NATO promise that ethnic cleansing could be stopped with the aerial bombing was, argued Hayden, 'either a deception or a delusion. The war has turned into a horrific quagmire, and yet even liberal Democrats remain strangely tongue-tied about the suffering'.²¹⁷

Perhaps these acts in defiance of the state are the practical instantiation of George Kateb's espousal of an 'essential radical heroism of American life'.²¹⁸ Perhaps, as Dolan suggests, 'Beneath the apparent level of courageous political stance runs the old constant of

²⁰⁹ Philip P. Pan, 'Day Two: Demonstrators, Debates: Serbian Americans Stage NATO Protest', *The Washington Post*, April 25, 1999.

²¹⁰ I witnessed several Chinese students picketing outside US Balkans envoy Richard Holbroke's first public address since the bombing began at Princeton University.

²¹¹ Chaloupka, 'Suppose Kuwait's Main Product was Broccoli?', p.143.

²¹² John Pomfret, 'Protests May Change Chinese Policies', *The Washington Post*, May 16, 1999.

²¹³ Tong Yi, 'Still No Room For Dissent', *The New York Times*, June 5, 1999.

²¹⁴ Allison Cohen, 'Dozens in O.C. Protest Airstrikes', *The Los Angeles Times*, April 4, 1999.

²¹⁵ Randal C. Archibold, 'For some students at an upstate New York university, Kosovo is near at hand', *The New York Times*, April 28, 1999.

²¹⁶ Anne-Marie O'Connor, '500 Cheer "Dissenting Voices" Against Bombing of Serbia', *The Los Angeles Times*, May 24, 1999.

²¹⁷ Tom Hayden, 'As the Innocent Die, Where Are All the Voices of Protest?', *The Los Angeles Times*, May 5, 1999.

²¹⁸ Kateb, 'On the "Legitimation Crisis"', p. 195.

American political life, running straight from the Massachusetts Bay Colony to the present: the building of a career under cover of public rectitude'.²¹⁹ Even if Kateb is right, nowadays things 'heroic', at least in political theory, are almost reflexively associated negatively with things 'masculine'. The apparent correlation between heroism and manliness forms the crux of much of the feminist critique of the 'Greek' dimension to Arendt's thought.²²⁰

Jean Bethke Elshtain has argued, for example, that a basic assumption from time immemorial has been the division between heroic fighting male 'just warriors' and female victims.²²¹ As a corollary, conceptions of dissent in both liberalism and transcendental idealism are based on an image, as Roland Bleiker describes, 'of a male revolutionary riding toward freedom while ignoring and even entrenching the patriarchal social order that made this heroic fight possible'.²²²

The assumption in both the liberal and 'American' traditions that forms of domination can be overcome if individuals simply withdraw their consent 'fails to understand the complexities', in Bleiker's words, 'of the discursive system of domination in which women are confined'.²²³ Accordingly, we might look to an alternative tradition of conceptualising the place of anti-war dissent in public spheres that overcomes the deficiencies of locating opposition in 'heroic' individualism and legalist inertia. For if having direct experience of power constitutes more than just infrequent electoral participation by 'consenting' adults then the low standard of democracy in liberalism becomes apparent.

Dissent and the Democratic Tradition

Efforts to theorise modern politics beyond the constraints of liberalism have looked to direct action and civil disobedience, in Jean Cohen and Andrew Arato's words, for 'examples of self-limiting radicalism par excellence'.²²⁴ However, it is neither a response to the violation of individual rights (liberalism) nor the act of a heroic (usually male) individual desperate to be a non-conformist ('Americanism') that distinguishes civil disobedience for Hannah Arendt.

²¹⁹ Dolan, 'A Show of Defiance', p.179.

²²⁰ See Mary Dietz, 'Feminist Receptions of Hannah Arendt', in Bonnie Honig (ed.) *Feminist Interpretations of Hannah Arendt* (Pennsylvania: Pennsylvania State University Press, 1995), pp. 17-50.

²²¹ See, for example, John Lancaster and Bradley Graham, 'U.S. Steps Up Rhetorical Fight: Rape, Murder by Yugoslavs Alleged', *The Washington Post*, April 10, 1999.

²²² Bleiker, *Popular Dissent*, p.147.

²²³ Bleiker, *Popular Dissent*, p.155. See Carol Pateman's critique of social contract theory in *The Sexual Contract* (Stanford: Stanford University Press, 1988).

²²⁴ Jean Cohen and Andrew Arato, *Civil Society and Political Theory* (Cambridge, MA: MIT Press, 1992), p.567.

As articulated by Rawls and Dworkin, the uniqueness of the US system and the ethical foundation of democracy (and by extension dissent) are found in the principle of individual moral rights. According to Arendt, however, 'the fundamental tenets of liberalism... its name notwithstanding, has done its share to banish the notion of liberty from the political realm. For politics, according to the same philosophy, must be concerned almost exclusively with the maintenance of life and the safeguarding of its interests'.²²⁵ Arendt, in contrast, locates dissent not in terms of expressing an already settled upon 'interest' but as a democratic end in itself.

Liberal-legalism conceives civil disobedience, according to Arendt, 'in the image of either the conscientious objector or the man who tests the constitutionality of a statute.'²²⁶ As we have seen, one effect is the transformation of the act of disobedience into an assertion of legal right, rather than an act of political dissent. In addition, protecting civil disobedients through arguments 'raised in defense of individual conscience or individual acts... be it secular or transcendent', Arendt argues, 'are inadequate'.²²⁷ Conscience, in her view, is 'unpolitical' given that its *primary* interest is not with the external world between people, 'where the wrong is committed', or even largely with its consequences; above all, it is concerned 'for the individual self and its integrity'.²²⁸

Recall from Chapter One the substance of Thoreau's unwillingness to support either war against Mexico or slavery in the South. 'The only obligation which I have a right to assume is to do at any time what I think is right'.²²⁹ Moreover, it is the dissenter's 'duty, at least, to wash his hands of it, and, *if he gives it no thought longer*, not to give it practically his support'.²³⁰ The councils of conscience, Arendt illustrates, 'are always expressed in purely subjective statements';²³¹ they are, she continues, 'entirely negative. They do not say what to do; they say what not to do. They do not spell out certain principles for taking action; they lay down boundaries no act should transgress'.²³²

The 'heroism' depicted in Thoreau plays on the perceived radical individualism at the heart of what it means to be 'an American', yet his libertarianism eventually became

²²⁵ Hannah Arendt, 'What is Freedom', *Between Past and Future: Eight Exercises in Political Thought* (New York: Viking Press, 1968), p.155.

²²⁶ Arendt, 'Civil Disobedience', in *Crisis of the Republic*, p.55.

²²⁷ Arendt, 'Civil Disobedience', pp. 56-7.

²²⁸ Arendt, 'Civil Disobedience', pp. 60-1.

²²⁹ Henry David Thoreau, 'Civil Disobedience', in *Walden and Other Writings* (edited and with an introduction by Brooks Atkinson, forward by Townsend Scudder) (New York: The Modern Library), p.637.

²³⁰ Thoreau, 'Civil Disobedience', p.642.

²³¹ Arendt, 'Civil Disobedience', p.62.

²³² Arendt, 'Civil Disobedience', p.63.

indifference, derived, as it was, from the conscience of one heroic 'man'. The civic-republican culture memorialised by civil rights and antiwar demonstrators, according to Arendt's alternative reading, however, contrasts with the dominant liberal, as well as 'heroic', stance. The stakes, for Arendt, are seemingly greater than the moral conscience of one man.

What makes the civil disobedient distinctively *political*, in contrast to the conscientious objector or the lone individual respectfully testing the constitutionality of a statute, is that he or she, according to Arendt, 'never exists as a single individual; he can function and survive only as a member of a group'.²³³ Thus Arendt's alternative definition of civil disobedience conceives it as practiced by,

organized minorities, bound together by common opinion, rather than common interest, and the decision to take a stand against the government's policies even if they have reason to assume that these policies are backed by a majority; their concerted action springs from an agreement with each other, and it is this agreement that lends credence and conviction to their opinion, no matter how they may originally have arrived at it.²³⁴

Pointing specifically to the American-English origin of the term - yielding 'only with great difficulty to translation'²³⁵ - Arendt claims 'that civil disobedients are nothing but the latest form of voluntary association, and thus they are quite in tune with the oldest traditions of the country'.²³⁶

From Arendt's alternative understanding of the animating principle behind modern constitutional politics in the United States, as well as the historical experience of the Mayflower Compact and establishment of the thirteen colonies,²³⁷ she radicalises Thoreau's judgment of the necessarily delegated nature of power. The founding of the US republic, in Arendt's 'ideal-type'²³⁸ reading, went beyond institutional 'rights' and fictitious notions of a social contract found in liberalism as the basis of legitimacy. In principle, power derived not from consent to be ruled but the 'active support and continuing participation in all matters of public interest'.²³⁹

²³³ Arendt, 'Civil Disobedience', p.55.

²³⁴ Arendt, 'Civil Disobedience', p.56.

²³⁵ Arendt, 'Civil Disobedience', p.98.

²³⁶ Arendt, 'Civil Disobedience', p.96.

²³⁷ Arendt, 'Civil Disobedience', p.85.

²³⁸ Arendt likened her reading of the American Constitution to a Weberian ideal-type. Hannah Arendt, 'On Hannah Arendt', in Melvyn Hill (ed.) *Hannah Arendt: The Recovery of the Public World* (New York: St. Martin's Press, 1979), pp. 328-333.

²³⁹ Arendt, 'Civil Disobedience', p.85.

Literally serving to rearrange the topography of public space and offering a radically different emphasis on what it means to be public - the street, the park, and campus become political sites - political power need not be constituted legally to be meaningful. Drawing on similar assumptions to Arendt, Anne Norton contrasts liberal to more democratic forms of public space. She writes,

Recollections of the 1960s counterpose spectacles to hearings, demonstrations to trials, speech (and several other kinds of sound) to silence. Hearings and trials took place in closed rooms, according to strict procedural forms. Demonstrations took place in the open, often against the law, always confronting established forms.²⁴⁰

Direct action understood in light of the democratic tradition enunciated by Arendt encourages social imagination instead of legalist inertia.

The demonstration, for example, one of the more common public acts against NATO's war, is rhetorical in its effect. In William Chaloupka's words, 'it *demonstrates* - shows, exposes, replays, tests - in ways distinct from other forms of politics. The narrative form of the demonstration is the assertion, performance or claim, more than the explanation or totalization. It poses a partial, situated, contextual intervention'.²⁴¹

From an increased awareness of the side effects of modernity, environmental degradation and nuclear waste,²⁴² to higher expectations for standards of living and anger at neo-liberal 'globalization', straightforward 'causes' for direct action vary across time and space. That said, liberal-functionalist accounts - protest as 'a rationally chosen, organized and strategically applied form of articulating and pursuing political interests'²⁴³ - depend on a dichotomy between rational and irrational outbursts.

For the liberal scholar, the demonstration, in Chaloupka's words becomes 'only another representative variable in their (small) bag of independent variables - a political tactic enabled by (and operating under) free speech provisions of a constitution, as mediated by a judicial mechanism'.²⁴⁴ Yet in contrast to the episodic political involvement encouraged by liberalism, the purpose of political action is to reach to the extra-ordinary.²⁴⁵ Thus, although direct action

²⁴⁰ Anne Norton, *Republic of Signs: Liberal Theory and American Popular Culture* (Chicago: University of Chicago Press, 1993), p.152.

²⁴¹ Chaloupka, 'Suppose Kuwait's Main Product was Broccoli?', p.150.

²⁴² Ulrich Beck, *Risk Society: Towards a New Modernity* (London: Sage, 1992).

²⁴³ Dieter Rucht, Ruud Koopmans and Friedhelm Neidhardt, 'Protest as a Subject of Empirical Research', in Dieter Rucht, Ruud Koopmans and Friedhelm Neidhardt (eds.) *Acts of Dissent: New Developments in the Study of Protest* (New York: Rowman and Littlefield, 1999), p. 9.

²⁴⁴ Chaloupka, 'Suppose Kuwait's Main Product was Broccoli?', p.146.

²⁴⁵ Arendt, *The Human Condition*, p.205.

is always inspired by specific political grievances, on occasion, in Arendt's words, it contains within it 'a measure of complete arbitrariness'²⁴⁶ or, as Chaloupka would have it, 'more Charlie Chaplin than Locke or Mill, more cinema than physics, more play - dangerous, self-obliterating play, to be sure - than ideology.'²⁴⁷

Public sphere activity, especially in counterpublics, possesses a quality of unpredictability and sense of contingency, which following Arendt is a product of plurality and the human fact of natality. Arendt borrows from Saint Augustine this notion of natality (which she likens to a 'miracle'), describing it as the ontological root of the faculty of action;²⁴⁸ that inherent to human beings is the notion of new beginnings.

Repeatedly, and in contrast to the traditional philosophical obsession with death, we find in Arendt's account the new beginning and promise of freedom inherent in *birth* - humans as 'a being whose essence is beginning'.²⁴⁹ But if freedom - to act and to express opinions in public - is the essence of politics, as most anti-war activists will perhaps bitterly recognise, 'Nowhere... does man appear to be less free than in those capacities whose very essence is freedom and in that realm which owes its existence to nobody and nothing but man'.²⁵⁰

In contrast to political action, Arendt is saying, all other human activities depend on existing 'things' and thereby offer an element of enduring predictability, even repetition and reality, to the changeability of political events and the response of diverse publics. In principle, political action, on the other hand, can occur unmediated directly *between* people and, in this sense, is also boundless in that we can never be sure of the consequences of our political acts, dependent as they are on the actions and opinions of so many others.²⁵¹ Confronting the monopoly of violence, however, traditionally seen as the rationale of the state - especially through non-violent protest - brings into view the potential power of people acting in concert to challenge dominant power.

²⁴⁶ Hannah Arendt, *On Revolution* (New York: Viking Press, [1963] 1970), p.207.

²⁴⁷ Chaloupka, 'Suppose Kuwait's Main Product was Broccoli?', p.144.

²⁴⁸ Arendt, *The Human Condition*, p.247. Jean Bethke Elshtain develops Arendt's notion of natality in 'War and Political Discourse: From Machiavelli to Arendt', *Meditations on Modern Political Thought: Masculine/Feminine Themes from Luther to Arendt* (London: Praeger, 1986), pp.103-113.

²⁴⁹ Hannah Arendt, 'Understanding and Politics', *Essays in Understanding: 1930-1954* (edited by Jerome Kohn) (New York: Harcourt Brace and Company, 1994), p. 321.

²⁵⁰ Arendt, *The Human Condition*, p.234.

²⁵¹ Arendt, *The Human Condition*, p.7.

Conclusion

Dissent and the possibilities of protest are essential to, indeed they define, any self-motivated public sphere. In contrast to Habermas's insight of the public sphere as ideally constituted by rational-critical dialogue anti-war activists, at their greatest, disclose the multi-'logic', 'extra-mural',²⁵² contested character of debate among diverse and unequal publics mediated by different types of publicity. The chapter has contended with some of the abstract and concrete problems with conceptualising publics this way in the modern United States by addressing the social and political context of anti-Kosovo war activity.

The civil disobedience described as foundational to anti-war dissent is a form of public speech certainly, but it also more than this. It is a form of political action constitutive of public spheres itself, which suggests that freedom of speech is not enough. Writing about dissidents on both sides during the Cold War Arendt stated, 'The dissenters and resisters in the East demand free speech and thought as the preliminary conditions for political action; the rebels in the West live under the conditions where these preliminaries no longer open the channels for action, for the meaningful exercise of freedom.'²⁵³

The liberal citizen typically demonstrates *interests* within well-established, legal channels, in order to reaffirm their consent to rule. The showy, performative, expressive, sometimes humorous protestor publicly 'demonstrates', albeit momentarily, a dimension of him or herself in concert with others. The 'rhetoric of the demonstration', as Chaloupka describes, is 'one that emphasized visibility, the interplay of communication networks, the increasingly problematic representational forms, and the actual reasons for its habitual impudence toward power'.²⁵⁴

The Kosovo war was important, not only because its architects and supporters claimed it was the first strictly 'humanitarian' military operation and others that it was first and foremost representative of a new kind of 'virtual' or 'Internet' war. Perhaps more importantly - in terms of its consequences for democracy in US public spheres - Kosovo was significant because it was warning sign (for others a cause of celebration) that the existence of small-scale public spheres constituted by anti-war activists were in danger, especially in response to wars justified and fought precisely in these humanitarian and advanced technological terms.

²⁵² Sheldon S. Wolin, 'Max Weber: Legitimation, Method, and the Politics of Theory', in William Connolly (ed.) *Legitimacy and the State* (Oxford: Basil Blackwell, 1984), p.66.

²⁵³ Arendt, 'On Violence', p.178.

²⁵⁴ Chaloupka, 'Suppose Kuwait's Main Product was Broccoli?', p.148.

Dissent in the United States against the Kosovo war was much larger than depicted in the media and negative comparisons with Vietnam are problematic. Nonetheless, the background operating assumptions of 'official' liberal dissent in the US public sphere severely impinged on the possibilities for democratic opposition to the war. Liberal understandings of non-violent civil disobedience are parasitic on existing constitutional regimes with its minimal democratic parameters already established. Also dependent on state power, and its ability to wield the military arm, as we saw, were unsuccessful constitutional efforts by Congress to limit the war-making powers of the executive. However, more general civic, and often religiously inspired, engagement was not wholly absent.

Where the public profile of human rights organisations may have increased, however, with the triumph of neo-liberalism and the related privatisation of Western aid, humanitarian agencies have undergone a radical 'modernisation'. Social problems in general, including the provision of welfare support, are moving away from the domain of the public realm to private profit-making organisations. As we saw, 'joining in' has become an increasingly *privatised* activity in the United States, evident in the large number of financial donations to refugee relief causes, which came to constitute people 'doing their bit'. The next chapter elaborates further some of the effects of the privatisation of public sphere activity in response to the Kosovo-Albanian refugee crisis.

Indeed, one community constituting much of the domestic opposition to the war represented in the mainstream US media were the thousands of Serb-Americans and their supporters who demonstrated against the bombing across the United States.²⁵⁵ Immigrants choosing not to protest too vocally benefited from patriotic depictions of suburbanites living 'normal' American lives - the 'Serb next door'.²⁵⁶ A number were shown in proud Young US Marines uniforms, many in older generations having fought for the United States during World War II.²⁵⁷ Immigrants and refugees represent different ways of 'being public' in the United States. The next chapter illustrates this point by showing how they were represented in the official US public domain.

²⁵⁵ Dirk Johnson, 'U.S. Kith and Kin Feel the Attack Themselves', *The New York Times*, March 25, 1999.

²⁵⁶ Phil McCombs, 'The Serbs Next Door', *The Washington Post*, April 25, 1999.

²⁵⁷ Sandy Banks, 'U.S. Serbs Agonize Over Love of 2 Countries', *The Los Angeles Times*, April 4, 1999.

Chapter 5

'I'd like to name the baby Amerika': Foreigners, Race, and US Public Spheres

The sticker clung to the multicolored stripes of Sejdi Krasniqi's traditional wool vest, blue letters on white marking him and the rest of his family as refugees. Aid worker Carmen Smith spotted the gummed insignia as Krasniqi waited beside a baggage carousel yesterday at Dulles International Airport, the last stop on the way to a new life in the rolling foothills of Fauquier County. 'You're in America,' Smith said, peeling off the sticker.

- Graeme Zielinski and Dan Eggen¹

The patriotic vanity of the official US public sphere was perhaps nowhere more evident during NATO's war than in the symbolic politics of Albanian-American immigrants and Kosovo-Albanian refugees. When Lebibe Karaliju gave birth to a 7-pound-7-ounce boy at Burlington County Memorial Hospital within 24 hours after arriving from a refugee camp in Macedonia she was quite clear what the baby should be named.² As the first 'American' born as a result of the Kosovo Albanian exodus - all children born in the US gain automatic citizen rights - baby Amerika's eyes opened onto a 'New World' in more ways than one.

This happy event seemed to confirm some of the most treasured norms of contemporary US life. It is virtual folklore, and certainly a staple of 'American exceptionalist' literature since Tocqueville, that immigrants are uniquely the agents of the nation's origins and survive as a continual source of renewal.³ The heteronormativity⁴ and family values of the United States (and the aspirant immigrants) were duly re-affirmed as other Kosovo sweethearts said, 'I do' at the US military barracks at Fort Dix.⁵

As Lauren Berlant and Michael Warner suggest, this positioning of the immigrant as a pure and sentimental figure in the official US public sphere is not new; it has been central to

¹ Graeme Zielinski and Dan Eggen, 'Furnishing Freedom: Fauquier Community Comes Together To Help Kosovo Refugees Feel at Home', *The Washington Post*, June 8, 1999.

² Diana Jean Schemo, 'Exodus From Kosovo Produces First United States Citizen', *The New York Times*, May 7, 1999.

³ Alexis de Tocqueville, *Democracy in America* (translated by George Lawrence and edited by J.P. Mayer) (New York: Harper, [1835] 1969), pp. 32-40.

⁴ Lauren Berlant and Michael Warner define 'heteronormativity' as 'the institutions, structures of understanding, and practical orientations that make heterosexuality seem not only coherent - that is, organized as a sexuality - but also privileged'. Lauren Berlant and Michael Warner, 'Sex in Public' in Michael Warner, *Publics and Counterpublics* (New York: Zone Books, 2002), p. 309, fn.3.

⁵ Editorial, 'Kosovo Sweethearts Say "I Do" at Dix', *The Los Angeles Times*, May 24, 1999; David Finkel, 'Young Kosovo Woman Remains Torn Between Love and Family Fidelity' *The Washington Post*, July 21, 1999.

the historical effort to 'shore up the core national culture and allay white [male] fears of minoritization'.⁶ In their words,

the family form has functioned as a mediator and metaphor of national existence in the United States since the eighteenth century... Immigration crises have also previously produced feminine icons that function as prostheses for the state - most famously the Statue of Liberty, which symbolized seamless immigrant assimilation to the metaculture of the United States.⁷

The United States, it seems, perhaps more than most other nations, needs the recurring public testimony of the universality of its values.

The purpose of this chapter is to uncover a number of the norms constitutive of the mainstream US public sphere - especially those associated with race, gender and economy - that were seemingly upheld and invigorated during the Kosovo war via representations of these 'foreigners' in the official public sphere. Immigrants, day-by-day, buttress 'America's project' (its vision and social construction⁸). What does this project, and the seemingly contradictory impulses of both xenophobia and xenophilia, in relation to Albanian-American immigrants and Kosovo-Albanian refugees reveal about the management and production of US national identity in the mass mediated public sphere? What does it reveal about race, gender, and class and the ability to self-represent in public? Is there racism to 'humanitarian' intervention?

The first section, 'Intervention Historiography and Race', tries to answer this preliminary question in an effort to ground the more specific discussion of the role of 'foreigners' in the official US public realm. Often when NATO's actions over Kosovo were critiqued they were characterised as 'an overly passionate embrace of Wilsonianism'⁹ - idealism and an effort to do 'good' that sometimes goes wrong.¹⁰ But as Howard Zinn describes, 'the Western world, bedecked with universal suffrage, parliamentary representation, technological progress, mass education, Bill of Rights, social welfare, has managed to maintain its reputation for beneficence - despite its record of imperialism, war, racism, and exploitation.'¹¹ There has been little or no systematic interrogation by theorists of humanitarian

⁶ Berlant and Warner, 'Sex in Public', p. 189.

⁷ Berlant and Warner, 'Sex in Public', p. 189.

⁸ Homi K. Bhabha, *The Location of Culture* (London: Routledge, 1994), p.3.

⁹ Alberto R. Coll, 'Kosovo and the Moral Burden of Power', in Andrew J. Bacevich and Eliot A. Cohen (eds.) *War Over Kosovo: Politics and Strategy in a Global Age* (New York: Columbia University Press, 2001), p.147.

¹⁰ David Fromkin, *Kosovo Crossing: American Ideals Meet Reality on the Balkan Battlefields* (New York: The Free Press, 1999).

¹¹ Howard Zinn, 'Aggressive Liberalism', in *On War* (New York: Seven Stories Press, 2001), p.149.

intervention into the intersection between race, empire, and US interventions, as well as the role of such violent coercion in the making of contemporary 'Americans'.

As part of the project of 'making Americans', material and discursive constructions of foreigners during wartime need to be conceived as a complex apparatus for constituting and securing a fictitious unitary public sphere in the United States as well as central to the process of identity construction of displaced persons. The section, 'Kosovar Refugees Come to America', following the framework of the thesis as a whole, uncovers the ways in which migrant identities were put to use (and partially constituted) in processes central to constructing the 'official' US public sphere during the war. Hannah Arendt's account of 'worldlessness' is transposed to the prominent narrative that depicted the ultimate aim of NATO's war to be the return 'home' of the refugees.

Empirical evidence is brought to bear on the theoretical claims of the chapter by examining a variety of public discourses, both in terms of substance and mass media form, which appeared as fantasy solutions to the problems of immigration, race, and complex cultural hybridity in the late 1990s United States. From the racist historiography of 'humanitarian' intervention to depictions of hard working Albanian-American immigrant men to images of fretful refugee mothers and narratives of 'home', the section 'Immigration and US Democracy' suggests that the desire for a nostalgic normalcy in the United States has produced a mainstream public sphere that links 'whatever positive value immigration has', as Berlant has suggested, to the (racial, gender and class) fantasy norms of the 'American way of life'.¹² In doing so, we can also uncover some of the ways 'domestic' racial and gendered identities are made problematic by efforts to secure 'the' official public sphere and predominantly liberal ways of being public.

The consequence of the personalisation of the public realm on US responses to the Kosovo-Albanian refugee crisis is explored within an Arendtian framework in the fourth section, 'Gender and Refugees: Sentimentality and the Personalised Public Sphere'. Arendt's discussion of 'compassion' begins to uncover the antimony of ethical humanitarianism conducted in a depoliticised public realm. Not only has the official US public sphere, as Chapter Three suggested, diminished the political forums where citizens may act for and

¹² Lauren Berlant, *The Queen of America Goes to Washington City: Essays on Sex and Citizenship* (Durham, NC: Duke University Press, 1997), pp.177, 179.

politically sustain a concern for human rights (as distinct from emergency humanitarianism¹³), the mentality of a privatised public has sentimentalised and gendered public responses to wartime catastrophe.

For example, although the longstanding intellectual and practical tradition of 'rape as the legitimate spoils of battle' has been undermined by Western intervention, Balkan female subjectivity was positioned in terms of victim-hood with Western leaders using the rape of Kosovo-Albanian women as a justification for more violence.¹⁴ Compassion and sentimentality are not under indictment *per se*, rather the assumption that such 'humanitarian' emotions can be sustained as effective long-term political principles in the US 'present tense'.¹⁵ If being 'public' less and less meaningfully refers to a community based on citizenship but rather accounts of citizen-victims and personal-injury lawsuits the personalisation of the mainstream public sphere reveals the public-private dichotomy in crisis.

Notions of the 'public' as potentially homogenous and unified are little more than a 'phantom', existing only as an image.¹⁶ It is, however, as Homi Bhabha suggests, symbolic of a modern desire for 'unitary collective experiences'¹⁷ in which to ground US foreign policy. Even though 'the public' is a mere image this does not mean that the material effects of efforts to constitute a public are simply imaginary. Samira Kawash has forcefully argued, for example, 'If the image of the public - however partial or illusory - is constituted by an imaginary act of exclusion, the exclusion itself is material, has material effects, and produces particular forms of materiality.'¹⁸

Throughout the thesis there has been a necessary and persistent intermixing and dependence between the 'public' defined within a national territorial state and the *transnational*. Yet, even within the emerging literature that deploys the framework of 'post-national' public spheres,¹⁹ migrants are principally conceived as a fundamental ideological and physical danger from somewhere else, not as a predicament arising necessarily from *within* public spheres and internal to national identity. This chapter suggests, in contrast, that to

¹³ Jim Whitman, 'The Kosovo Refugee Crisis: NATO's Humanitarianism versus Human Rights', in Ken Booth (ed.) *The Kosovo Tragedy: The Human Rights Dimensions* (London: Frank Cass, 2000), p. 177.

¹⁴ Carlotta Gall, 'Refugees Crossing Border Tell of Rape and Killing', *The New York Times*, April 20, 1999; David Rhode, 'An Albanian Tells How Serbs Chose Her, "the Most Beautiful" for Rape', *The New York Times*, May 1, 1999.

¹⁵ Berlant, *The Queen of America*, p.2.

¹⁶ Bruce Robbins (ed.) *The Phantom Public Sphere* (Minneapolis: University of Minnesota Press, 1993).

¹⁷ Bhabha, *The Location of Culture*, p.142.

¹⁸ Samira Kawash, 'The Homeless Body', *Public Culture*, Vol. 10, no.2 (1998), p.322.

¹⁹ Jürgen Habermas, *The Post-National Constellation: Political Essays* (Cambridge: Polity Press, 2001).

properly understand the operation of possible logics of racial and gendered exclusion in public spheres we need to understand it is an ongoing practice of violence. The 'problem' of immigration and refugees is unavoidably also always a question of public space, especially how it is constituted and controlled. 'Foreigners', then, provide an important focus around which to examine how publics shaped the politics of the Kosovo war and how representing these 'foreigners' helped constitute the official liberal public sphere.

Intervention Historiography and Race

The intersection between intervention, empire and racial politics (both domestic and international) seems to be better understood in relation to the past than the present. According to Rogers M. Smith, 'perhaps the most far-reaching consequence of the [US] government's embrace of racial rationales for imperial rule and immigration and naturalization restrictions was the manner in which they strengthened political coalitions and ideological defenses supporting segregation [in the South]'.²⁰ If in the past imperial rule helped legitimate racism at 'home' how might we position the recent race and immigration politics of 'humanitarian' war in terms of more contemporary and ongoing forms of globalization? Can we link the domestic and international politics of the Kosovo war to the decolonization and economic and cultural integration that Stephen Castles has suggested are 'central to understanding the changing nature of racism'?²¹

Mainstream International Relations scholarship has recently turned to the study of 'norms'.²² As Robert Vitalis has suggested, however, it is noticeable that the norm of racism has effectively been ignored. This is a mode of academic analysis Toni Morrison has termed 'the norm against noticing'.²³ Racism as an *international* institution (tradition), however, has historically been very much part of the emergence of humanitarian norms sanctioning obligations as a kind of colonial mission. 'The colonial form of intervention', in the words of Anthony Lang, 'relied on the construction of national characters that sustained interventions by

²⁰ Rogers M. Smith, *Civic Ideals: Conflicting Visions of Citizenship in US History* (New Haven: Yale University Press, 1997), p.448.

²¹ Stephen Castles, 'The Racisms of Globalization', in *Ethnicity and Globalization: From Migrant Worker to Transnational Citizen* (London: Sage, 2000), p.164.

²² Peter J. Katzenstein (ed.) *The Culture of National Security: Norms and Identity in World Politics* (New York: Columbia University Press, 1996).

²³ Quoted in Robert Vitalis, 'The Graceful and Generous Liberal Gesture: Making Racism Invisible in American International Relations', *Millennium*, Vol. 29, no.2 (2000), p.333.

envisioning some groups as requiring aid and governance'.²⁴ Narratives of assistance, shelter, and enlightenment were deployed while reinforcing ascriptive hierarchies based on the colour of skin. Racism is a norm like any other norm though perhaps more insidious in the so-called 'post'-racist West.²⁵

The norm against noticing is perhaps unsurprising however, given the usual mode of historical analysis in the humanitarian intervention literature. Racial subordination is not viewed as important to the theory and practice of these wars. Epitomised by Martha Finnemore, the literature presents a teleological account of the West's increasing identification, in her words, 'with victims to determine who is an appropriate and compelling candidate for intervention'.²⁶ As a consequence of decolonisation, the end of the slave trade, and the universalisation of the category 'human' ('not just Christians, not just whites'²⁷), deserving targets are ever more identified to be 'like us'. Western acceptance of a cosmopolitan humanity has progressed to such an extent, by this reading, that Muslims, Kurds, and Somalis can all be the object of intervention. This account is only plausible, according to Finnemore, because 'Humanitarian action generally, and humanitarian intervention specifically, do not obviously serve the powerful'.²⁸

This is a typically selective reading of colonial and anti-colonial history, which also misunderstands how intervention can and does 'serve the powerful'. As Vitalis points out, Finnemore 'never inquires into nineteenth century accounts of genetics, biology, evolution, race and anthropology to understand the specific idea of humanity and its scope.'²⁹ As Cornell West has argued, 'The notion that black people are [in the fullest sense] human beings is a relatively new discovery in the modern West'.³⁰ Moreover, Finnemore presupposes a dichotomy between human and not human that the theory and practice of racism's *caste system* (within a now established common humanity) fundamentally contradicts. Her liberal account is based on the assumption that once a group is viewed 'human', as Vitalis interprets, 'equality

²⁴ Anthony Lang, *Agency and Ethics: The Politics of Military Intervention* (New York: State University of New York Press, 2001), p.203.

²⁵ For a critique of race narratives see Paul Gilroy, *Against Race: Imagining Political Culture Beyond the Color Line* (Cambridge, MA: Harvard University Press, 2001).

²⁶ Martha Finnemore, 'Constructing Norms of Humanitarian Intervention', in Peter J. Katzenstein (ed.) *The Culture of National Security: Norms and Identity in World Politics* (New York: Columbia University Press, 1996), p. 170.

²⁷ Finnemore, 'Constructing Norms of Humanitarian Intervention', p.155.

²⁸ Finnemore, 'Constructing Norms of Humanitarian Intervention', p.185.

²⁹ Vitalis, 'The Graceful and Generous Liberal Gesture', p. 330.

³⁰ Cornell West, *The Cornell West Reader* (New York: Basic Civitas Books, 1999), p.70.

must surely follow'.³¹ But this ignores how racialised stereotypes about barbarians can be contemporaneous with seemingly benevolent conceptions of cultural difference.

'Culture', in other words, has stepped in where racial biology has been discredited. Due to African-American and anti-colonial freedom struggles public racism had fallen into disrepute. Yet where in liberal theory all cultures are equal, social segregation and difference nonetheless remain naturalised in practice because the obvious appearance of racial hierarchy is deemed merely contingent, entirely conditional on historical circumstances, rather than some inherent feature of being non-white. All cultures or 'civilizations' are presumed to be equal though socially separate (or segregated).³² Racism, however, only *seems* to have waned. As Michael Hardt and Antonio Negri have argued, 'biological differences have been replaced by sociological and cultural signifiers as the key representation of racial hatred and fear'.³³

In humanitarian intervention this has played out in justifications for the differential treatment of black Rwandans and Europeans. According to Henry Nau,

Rwanda might have warranted American intervention because genocide was a bigger reality there than it was in Kosovo or Somalia. But... the moral stakes were less, at least in the sense that America's democratic identity converges only weakly with tribal and warlord-dominated politics in eastern and central Africa, whereas it converges strongly with western and European nations potentially threatened in the Balkans.³⁴

Rwanda and Somalia have a different cultural 'identity' from 'the West', which partly accounts for their different treatment to states in the 'European' Balkans!

The notion that benign 'humanitarian' motives have overwhelming explanatory power because such interventions do not serve the powerful could only be 'obvious', as Finnemore wants to argue, in a discipline like International Relations that has never taken the intersection between race, power, and empire seriously.³⁵ The focus on decolonisation and the end of slavery deflects analysis away from how the more complex conditions of post-Cold War US hegemony, global (and local) caste systems and law (discussed in Chapter Two) are central to the establishment of intervention and non-intervention cultural 'norms' and the operation of hegemonic power.

³¹ Vitalis, 'The Graceful and Generous Liberal Gesture', p. 340.

³² For representative account see Samuel P. Huntington, *The Clash of Civilizations and the Remaking of World Order* (New York: Simon and Schuster, 1996).

³³ Michael Hardt and Antonio Negri, *Empire* (Cambridge, MA: Harvard University Press, 2001), p.191.

³⁴ Henry R. Nau, *At Home Abroad: Identity and Power in American Foreign Policy* (Ithaca NY: Cornell University Press, 2002), p.193.

³⁵ For an exception see Tarak Barkawi and Mark Laffey, 'Retrieving the Imperial: *Empire* and International Relations', *Millennium*, Vol. 31, no.1, (2002), pp. 109-127.

Moreover, the kind of exclusionary politics witnessed in the treatment of Rwandans operates at (and is connected to) the domestic social and political level. New arguments to restrict immigration likewise avoid explicitly racist claims but, as Leonard Dinnerstein and David Reimers suggest, have instead turned to 'environmental concerns, economics, faults of the present system, and assimilation issues'.³⁶ As post-Cold War threats were deemed more diffuse the nature and target of immigration legislation altered.

The 1996 Antiterrorism and Effective Death Penalty Act (AEDPA) and the Illegal Immigration Reform and Immigration Responsibility Act (IIRIRA) were framed in terms of post Cold War national security threats where secret evidence could be used to deport. The 1993 World Trade Center attack, Oklahoma City bombing of 1995 (committed by a white male US citizen), as well as more general anti-immigrant discourses provided the political rationale. The IIRIRA included authorisation of new border fences, increased the size of the INS, made it easier to deport illegals, and tightened the procedures for asylum seekers. In the same year, Congress passed a new welfare law limiting the federal budget for immigrants.³⁷

More general trends included efforts to make English the official language of the United States and attacks on programmes for bilingual education. In 1994, Proposition 187 was approved in California by a margin of 59 percent to 41 aimed at denying government services (including education) to illegal aliens. Since the 1996 general election, however, immigrants have been the fastest growing voting bloc and the Democratic Party has principally benefited.³⁸ It was perhaps no surprise, therefore, that President Clinton's 1995 'Citizenship USA' Act led to the streamlining of naturalisation. By 1998 the Supreme Court had declared 'Prop 187' unconstitutional. Nonetheless, the naturalisation of non-white peoples as 'illegal' immigrants, as criminals, as in need of humanitarian assistance is productive of ideological obstacles to understanding the connections between immigration, race, and globalization/intervention. Consider the intersection between the political economy of US prison expansion, race, and intervention in the wars in the former Yugoslavia.

³⁶ Leonard Dinnerstein and David M. Reimers, *Ethnic Americans: A History of Immigration* (4ed.) (New York: Columbia University Press, 1999), p.202. See Huntington, *The Clash of Civilizations*, pp.198-206.

³⁷ Dinnerstein and Reimers, *Ethnic Americans*, p.224.

³⁸ Daniel J. Tichenor, *Dividing Lines: The Politics of Immigration Control in America* (Princeton, NJ: Princeton University Press, 2002), p.285.

The imprisonment of illegal immigrants in the United States is dramatically on the rise and precedes the response to the 9/11 attacks.³⁹ This escalating strategy is a global effort, with local and transnational dimensions, to govern and regulate the flow of people and capital rather than take seriously global redistribution. 'As flows of global capital and labor increasingly became a challenge to the stability of American cities', in the words of Jonathan Simon, 'imprisonment has emerged once again as an important technology for governing, just as it did during the rise of the industrial city in the nineteenth century.'⁴⁰

Most obviously, this style of globalization, as distinct from the much-vaunted economic and cultural forms, has manifested itself in the militarisation of immigration, turning 'aliens' into a national security threat to secure a particular vision of safe 'America.' The 'public' for whom the prisons are ostensibly there to protect do not need to critically engage with the social problems of globalization and late capitalism.⁴¹ Unfortunately, there is little new in this.⁴² What is new is growing cross-institutional and international coordination efforts to protect the global North from the human costs of violence and neo-liberal economics on a global scale.⁴³

Important links can be drawn, however, to the wars in the former Yugoslavia by extending the analysis of a relatively neglected dimension of the globalization of punishment: its links with the emergence of the wider 'prison-industrial complex' in the United States and the racist structures through which its political economy is underpinned. Not only have struggling African, East European and Latin American economies been undermined by structural adjustment programmes. The restructuring of the US economy from primarily manufacturing-based to service and information-based industries with attendant mechanisation in both the rural and urban contexts has coincided with the dismantling of New Deal social welfare programmes and prisons have taken up the slack.

Not only do social problems disappear from public view when 'coloured bodies'⁴⁴ are incarcerated, domestic structural adjustment has also resulted in the contraction of subaltern

³⁹ Jonathan Simon, 'Refugees in a Carceral Age: The Rebirth of Immigration Prisons in the United States', *Public Culture*, Vol. 10, no.3 (1998), pp. 577-607.

⁴⁰ Simon, 'Refugees in a Carceral Age', p. 603. Also see Thomas L. Dumm, *Democracy and Punishment: Disciplinary Origins of the United States* (Wisconsin: University of Wisconsin Press, 1987).

⁴¹ Angela Y. Davis in Angela Y. Davis and Avery F. Gordon, 'Globalism and the Prison Industrial Complex: An Interview with Angela Davis', *Race and Class*, Vol. 40, no.2-3 (1998/9), pp. 145-57.

⁴² Ernesto Verdeja, 'Law, Terrorism, and the Plenary Power Doctrine: Limiting Alien Rights', *Constellations*, Vol.9, no. 1 (2002), pp. 89-97.

⁴³ Susan Sachs, 'Illegal Immigrants: Long Resistant, Police Start Embracing Immigration Duties', *The New York Times*, March 15, 2002.

⁴⁴ Davis, 'Globalism and the Prison Industrial Complex', p. 147.

public spheres organised around black struggles for political, economic and social rights. In the words of Paul Gilroy,

The specific traditions of public interaction that were originally products of the agency of slaves are being surpassed. They are declining... now that postslave cultures are being recomposed around new priorities and opportunities associated with digital media, de-industrialization, and the growth of consumerism.⁴⁵

The political economy of penal expansion - the removal of social problems from the bourgeoisie's public view - is overwhelmingly founded on racial assumptions about crime and conviction rates.⁴⁶

The privatisation of the US penal system, an extremely profitable big business, shows how a series of *global* structural adjustments unite domestic and international militarisation in complex ways. As Ruth Gilmore describes, '*military Keynesianism* is giving way to, or complemented by, *carceral Keynesianism*'.⁴⁷ This unprecedented expansion of prisons is far more pointedly a creation of the political-economic geography of globalization in which the wars in the former Yugoslavia, of course, have been intimately a part. IMF-led efforts to 'reform' the international financial architecture since the 1970s, including the imposition of severe austerity measures to liberalise Yugoslavia, contributed directly to the breakdown of domestic order in the federal state resulting in the refugee and humanitarian crises in which the United States then intervened.⁴⁸

Kosovar Refugees and US/NATO as Humanitarian Protector

If a human being loses his political status, he should, according to the implications of the inborn and inalienable rights of man, come under exactly the situation for which the declarations of such general rights provided. Actually the opposite is the case.

-Hannah Arendt⁴⁹

The severe austerity measures imposed by the IMF are not often placed front and centre in accounts of the wars that destroyed the old Yugoslavia.⁵⁰ In contrast, the 'ethnic-conflict' scenario formed the basis of much of the received wisdom about the nature of the wars and the

⁴⁵ Gilroy, "After the Love has Gone": Biopolitics and the Decay of the Black Public Sphere', in *Against Race*, p. 178.

⁴⁶ Ruth Wilson Gilmore, 'Globalisation and US Prison Growth: From Military Keynesianism to post-Keynesian Militarism', *Race and Class*, Vol. 40, no.2-3 (1998/9), pp. 171-88.

⁴⁷ Gilmore, 'Globalisation and US Prison Growth', p. 174.

⁴⁸ Susan Woodward, 'The Politics of Economic Reform and Global Integration', *Balkan Tragedy: Chaos and Dissolution after the Cold War* (Washington, DC: Brookings Institution, 1995), pp. 47-81.

⁴⁹ Hannah Arendt, *Origins of Totalitarianism* (New York: Meridian Books, [1951] 1958), p.300.

⁵⁰ Woodward is the major exception. See Woodward, *Balkan Tragedy*.

subsequent implications for Western intervention policy.⁵¹ This narrative maintained that the attempted transition from one-party rule to liberal democracy, as experienced in other Eastern European states, resulted in the destruction of Yugoslavia in civil war due to rival ethnic identities.⁵²

Unremitting national antagonism combined with the inherent problem of organising multi-national states under Communist rule was the most important factor, according to this view, in bringing about and shaping the course of the post-Cold War Yugoslav revolution.⁵³ Nationalism had always been influential and shaped civil society in ways that could not overcome historical antagonisms, eventually proving the greatest barrier to the peaceful transition to democracy. Hundreds of thousands of refugees and internally displaced persons - Serbs, Croats, Bosnian-Muslims, Kosovars and Roma - all emerged, so the argument goes, as the almost inevitable response to this crisis.⁵⁴

After NATO's bombing campaign began, roughly 863,000 people sought refuge outside Kosovo, mainly into Albania, Macedonia and Montenegro, while an additional 590,000 were internally displaced.⁵⁵ Ninety percent of those who fled were Kosovo-Albanian. Only the migration fleeing the 1994 Rwandan genocide and the 1991 Kurdish passage from Iraq matched the speed of the Kosovo outflow.⁵⁶

NATO relief workers were involved in establishing refugee camps, transporting supplies and providing logistics. Politicising what was ostensibly a humanitarian operation, UNHCR, the UN agency responsible for refugees, reluctantly cooperated with NATO, a party to the conflict, in the provision of relief. (The Red Cross refused for fear of undermining its neutrality.⁵⁷) Within five months roughly \$2 billion had been donated as well as the \$40 million World Bank credit extended to Macedonia to ensure it did not close its border.⁵⁸ The

⁵¹ For an overview see Lene Hansen, 'Western Villains or Balkan Barbarism? Representations and Responsibility in the Debate over Bosnia', PhD dissertation, University of Copenhagen, 1997.

⁵² J. F. Brown, *Surge to Freedom: The End of Communist Rule in Eastern Europe* (London: Adamantine, 1991).

⁵³ This is not to deny that nationalism is not a problem for all systems (Northern Ireland, Quebec) but that communist ideology is largely incompatible (at the least in tension with) nationalism. George Schöphlin, *Politics in Eastern Europe, 1945-92* (London: Blackwell, 1993), p.66.

⁵⁴ For a well-worn but good critique of the dominant positions in Western policy-making circles and public opinion see Beverly Crawford and Ronnie D. Lipschutz, 'Discourses of War: Security and the case of Yugoslavia', in Krause, Keith and Michael C. Williams (eds.) *Critical Security Studies: Concepts and Cases* (London: UCL Press, 1997) pp. 149-185.

⁵⁵ *The Kosovo Report: Independent International Commission on Kosovo* (Oxford: Oxford University Press, 2000), p.90.

⁵⁶ Whitman, 'The Kosovo Refugee Crisis', p.171.

⁵⁷ Elisabeth Becker, 'With NATO in Charge, Relief Looks Less Neutral', *The New York Times*, April 10, 1999.

⁵⁸ Whitman, 'The Kosovo Refugee Crisis', p.172, 173.

result of keeping in check the regional flow of refugees, however, as Jim Whitman described, 'is likely to have undermined the international protection regime for refugees'.⁵⁹

As defined by the 1951 UN Convention on the Status of Refugees and the 1967 Protocol, a refugee is a person who,

owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, or membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country.⁶⁰

The basic right of the refugee includes a legal (not charitable) obligation on the state of first asylum to allow entry and for that state to provide some minimal practical support. As a supplement to the basic right of entry is the principle of '*non-refoulement*', prevention against forced return to the country from where the refugee has fled.⁶¹

Internally displaced persons (IDPs) do not enjoy the same legal status. Although in 1998 non-binding Guiding Principles were established to protect IDPs,⁶² and despite the apparent generosity displayed toward those who made it across the border in time, the situation of those displaced inside Kosovo, from whatever community, considerably worsened with the bombing.⁶³

The response to the crisis, in other words, was part of the much larger, and less benign, effort on the part of 'Fortress Europe' to deal with asylum and migration numbers more generally. Even as refugees from Kosovo continued to arrive, and representative of trends across the whole of the Western world, a popular vote in Switzerland approved government plans to drastically tighten asylum laws.⁶⁴ In March 1997, Italy had declared a state of emergency when Albanians fleeing the breakdown of civil order arrived in boats. Emergency powers soon came into effect to forcibly repatriate Albanians 'deemed to be a danger to public security'.⁶⁵

⁵⁹ Whitman, 'The Kosovo Refugee Crisis', p. 164.

⁶⁰ Whitman, 'The Kosovo Refugee Crisis', p.164.

⁶¹ Whitman, 'The Kosovo Refugee Crisis', p.166.

⁶² Whitman, 'The Kosovo Refugee Crisis', p.168.

⁶³ Whitman, 'The Kosovo Refugee Crisis', p.175.

⁶⁴ Elisabeth Olson, 'Swiss Approve Asylum Limits And Reject Maternity Benefit', *The New York Times*, June 14, 1999.

⁶⁵ Whitman, 'The Kosovo Refugee Crisis', p.167.

Symbolism became all for NATO in the need to paper over the contradictions between (apparent) humanitarianism on behalf of refugees and obvious militarism.⁶⁶ For the ‘unprecedented response’ was not so much concerned with the human or citizen rights of the people of Kosovo (witnessed by NATO standing by as Kosovo-Serbs and Roma were ethnically cleansed after the bombing) than with the political imperative of maintaining public support for war.

Theirs was the face of human suffering seemingly justifying NATO’s post-Cold War existence and providing the test of its reputation. This was vividly witnessed by the excluded voices of the Kosovo refugees most often being represented by others, in this case NATO who positioned itself as being able to speak *for* them. Alongside photographs of the dislocated and desperate these individuals were otherwise disembodied and homogenised in the form of statistics compiled by the vast network of the international humanitarian regime.⁶⁷

The strangeness and state of limbo of these exiles when stripped of mutually equal rights, of course, was immense.⁶⁸ As Arendt witnessed, refugees have lost ‘the entire social texture into which they were born and in which they established for themselves a distinct place in the world.’⁶⁹ The new ‘worldlessness’ of thousands of Kosovo-Albanians was exemplified by the efforts of Serb militants, as John Kifner describes, ‘to strip Kosovars of all identity papers, rendering them, in effect, stateless nonpersons and making it difficult for them ever to return home’.⁷⁰ Operating on a number of distinct levels, this narrative of ‘home’ utterly pervaded the language surrounding the Kosovo-Albanian refugees. It is worth dwelling on this for a moment for it illustrates how norms of public and private derived from the political development of the West shaped the treatment of refugees during and after NATO’s war.

From the perspective of the dominant state (bourgeois) ideology of the separation between public and private, to be a refugee means to be without the private domain into which the public subject is supposed to withdraw. Though customarily depicted a theorist of the public, Arendt knew well the value of the private. A private world away from the *polis* was necessary for creating personalities able to participate in the public sphere at all, for the

⁶⁶ Jef Huysmans, ‘Shape-Shifting NATO: Humanitarian Action and the Kosovo Refugee Crisis’, *Review of International Studies*, Vol. 28, no.3 (2002), pp. 599-618.

⁶⁷ Jennifer Hyndman, *Managing Displacement: Refugees and the Politics of Humanitarianism* (Minneapolis: University of Minnesota Press, 2000).

⁶⁸ T. Christian Miller, ‘Albanian Refugee Family Struggles in Limbo’, *The Los Angeles Times*, June 21, 1999.

⁶⁹ Arendt, *Origins of Totalitarianism*, p.293.

⁷⁰ John Kifner, ‘The Ravaging of Kosovo: How Serb Forces Purged One Million Albanians Serbs’, *The New York Times*, May 29, 1999.

creation of a thoughtful, engaged citizenry.⁷¹ Though imbued with a problematic gender subtext, for Arendt, the ‘household’, or classical *oikos*, provided a location away from the ‘glare of publicity’, where uniqueness and individuality could be nurtured. This accords with Arendt’s sense, further discussed in Chapter Six, in which the artefacts that make the world our *home* are necessary to provide a place in which we can then publicly appear.⁷²

This ideological framing is also productive of a material truth vexing to the familiar division between public and private worlds central to liberal civil society: the refugee, without a ‘home’ in the world, is literally exposed to the constant public glare and is paradoxically almost entirely depoliticised. ‘Since the protection of refugees takes place in a “humanitarian space” and not a living polity’, as Whitman has argued, ‘emergency humanitarianism cannot address the enactment of human rights’.⁷³

The largely uniform conception of ‘home’ deployed by the ‘international community’, to which refugees may be sent back, also contributes to ‘the construction of a newly homogenous national community,’ as David Campbell has described.⁷⁴ Indeed, the recent move away from supporting people fleeing their countries of origin towards protecting their right to remain in their national ‘home’, the language of ‘preventive protection’, must also be considered as part of a neoliberal agenda of deteriorating support for resettlement.⁷⁵ We can therefore comprehend the establishment of vast refugee camps surrounding the Kosovo territories as, to borrow Jennifer Hyndman’s words from a different case, ‘less a humanitarian practice than a donor-sponsored effort to contain forced migration and to avoid international legal obligations to would-be refugees’.⁷⁶

The gesture politics behind allowing some Kosovo-Albanian refugees eligibility for permanent legal residence in the United States also ran up against the other political necessity of avoiding the signal that some would not be *able* to return ‘home’.⁷⁷ If the fundamental aim of the campaign was to ‘return the refugees’⁷⁸ - an oddity given that the vast majority were

⁷¹ Hannah Arendt, *The Human Condition* (Chicago: University of Chicago Press, 1958), p.54.

⁷² Arendt, *The Human Condition*, p.52.

⁷³ Whitman, ‘The Kosovo Refugee Crisis’, p.167.

⁷⁴ David Campbell, *National Deconstruction: Violence, Identity, and Justice in Bosnia* (Minneapolis: University of Minnesota Press, 1998), p.229.

⁷⁵ Hyndman, *Managing Displacement*, p.xxvii.

⁷⁶ Hyndman, *Managing Displacement*, p.2.

⁷⁷ Blaine Harden, ‘Kosovars Relocated to U.S. Would Be Eligible to Remain’, *The New York Times*, April 23, 1999.

⁷⁸ Judith Miller, ‘NATO’s War Aims; The Test: Getting the Refugees Home’, *The New York Times*, April 25, 1999.

displaced *after* and largely as a *consequence* of the bombing - then permanent settlement in the United States would seem to vex.

As immigration experts forecast that many would never return, large numbers of Albanian-Americans living in New York, Chicago and San Diego, US cities with large Albanian communities, began filing the names of family members still stranded hoping they could come.⁷⁹ Eventually 4,000 would pass through and be screened by immigration, health, and police authorities prior to resettlement across some forty US states.⁸⁰ Hysnije and Ilir Hoxha and their three children found themselves wedged between two apparently different worlds as a result. From the trauma of Kosovo they found themselves the guests of Christian pacifists in a 'quiet compound' near Comer, Georgia being pushed gently into 'American life' by studying English, the language of their new 'home'.⁸¹

Kosovar Refugees Come to 'America'

Relatively neglected in media accounts of the pre-history of Albanian immigration to the United States was the legislation of the 1920s that instituted a quota system based on national origin. Explicitly based on the pseudo-science of eugenics, regulations drew hierarchies among desirable European immigrants at the expense of those from the south and east.⁸²

Southeastern Europeans have traditionally been seen as less desirable newcomers to the United States. In the words of Woodrow Wilson, the forefather of liberal internationalism, they had 'neither the skill nor energy nor any initiative of quick intelligence'.⁸³ As the supposed assessment of both good and bad foreigners is the degree to which they reinstate rather than transform the nation, 'nationalist xenophilia', as Bonnie Honig suggests, 'tends to feed and (re)produce nationalist xenophobia as its partner'.⁸⁴

With all the fanfare celebrating the United States' generosity in housing and re-settling some of the Kosovo-Albanian refugees, few seemingly noticed the initial proposal on 6 April

⁷⁹ Melissa Healy, 'U.S. Families Eager for Refugees', *The Los Angeles Times*, April 24, 1999.

⁸⁰ Diana Jean Schemo, 'As Airlift Ends, Refugees Weigh Lure of U.S. Against Pull of Home', *The New York Times*, June 5, 1999.

⁸¹ Diana Jean Schemo, 'In Woods of Georgia, Echoes of Balkan Terror', *The New York Times*, June 16, 1999.

⁸² Desmond King, *Making Americans: Immigration, Race, and the Origins of Diverse Democracy* (Cambridge, MA: Harvard University Press, 2000), p.5.

⁸³ Quoted in King, *Making Americans*, p. 18.

⁸⁴ Bonnie Honig, *Democracy and the Foreigner* (Princeton: Princeton University Press, 2001), p.76.

1999 to send the migrants to the now notorious Cuban installation at Guantánamo Bay.⁸⁵ While Fidel Castro protested what the US government saw as its right from the outcome of the Spanish-American War, others were prophetically concerned that the offshore tent city would be 'more a prison than a safe haven'.⁸⁶

By 9 April, the day the first refugees had been scheduled to arrive, and after much protest from UNHCR, the Guantánamo plan had been discarded in favour of housing most of them at barracks in Macedonia and the rest at Fort Dix army base in the 'Garden State' of New Jersey. The Guantánamo location, of course, would have been partly symbolic. Residence there could only be transitory, demonstrating to Milosevic that his alleged plans for Kosovo could only fail. The Kosovo-Albanians would have to return home. But Alexander Aleinikoff and Kathleen Newland also suggested, however, that 'The prospect of putting 20,000 refugees behind barbed wires in Guantánamo should be chilling... Those sheltered there would not be able to apply for asylum because they would not be in the United States'.⁸⁷

The contrast between the 'Welcome!' banners, flowers and stuffed toys at New York's Kennedy Airport and the horrors of Balkan communal war presented what might become one of the future US history textbook images of the late 1990s.⁸⁸ Kosovo-Albanians would be the last mass-immigrants of the 20th Century to make a home in the 'New World'. The transnational histories of these migrants must, therefore, be narrated to conform to the fantasy norm of US history. With the operation named 'Open Arms', Fort Dix military base accordingly became a transitive public space and, from news accounts, a seeming gateway site of fantasy and awe.⁸⁹

First Lady (and aspiring New York Senator) Hillary Rodham Clinton duly greeted four hundred and fifty-three 'ethnically cleansed' Kosovars as they arrived at the base, formerly a training camp for military reservists.⁹⁰ This geopolitical space was transformed, according to *The New York Times*, 'into kind of sprawling Ellis Island, gearing up to be a gateway to

⁸⁵ Joanne Van Selm, 'Reception in Other States: Information Relating to Other Key States Involved in the Reception of Kosovars', in Joanne Van Selm (ed.) *Kosovo's Refugees in the European Union* (London: Pinter, 2000), p. 222.

⁸⁶ Philip Shenon, 'The Haven: U.S. Chooses Guantanamo Bay Base in Cuba for Refugee Site', *The New York Times*, April 7, 1999.

⁸⁷ Van Selm, 'Reception in Other States', p. 223

⁸⁸ Somini Sengupta, 'In Brooklyn, a Warm Refuge for Kosovo Kin', *The New York Times*, May 10, 1999.

⁸⁹ Mark Fritz, 'A Strange Mix of Anxiety, Awe at Ft. Dix', *The Los Angeles Times*, May 22, 1999.

⁹⁰ George F. Will, 'An Equal-Opportunity War', *The Washington Post*, May 16, 1999.

America'.⁹¹ Later, of course, the refugees would experience the backroom immigration offices, wire fencing at the reception (or detention) centres and waiting areas for INS checks, the banalities of waiting for food and clothing.

Vice President Al Gore nonetheless made more literal the association between Ellis Island and Fort Dix in a speech on the occasion of NATO's 50th anniversary, promising to relocate 6,000 of the refugees to the US proper (4,000 is the accurate figure).⁹² Several families did not stay in the 'in-between' space of Fort Dix for long.⁹³ After two weeks, some were awarded the status of automatic permanent residence after they had stayed in the US for a 'mere three years'.⁹⁴ What made 'unexpected news', according to one report, was the extent to which several of the refugees eligible to remain actually wanted to go 'home'.⁹⁵

As outlined in Chapter Four, fundraising and volunteer efforts from US citizens abounded.⁹⁶ The New Jersey Arts Council paid \$10,000 to artists to work with the 1,500 child refugees at Fort Dix.⁹⁷ Translators volunteered with the American Red Cross.⁹⁸ The Refugee Internet Assistance Initiative donated \$500,000 in computer services and equipment to assist the refugees to access news and information in their native language.⁹⁹

Others were not so lucky, especially those immigrants without documentation. The INS readily deported immigrant Serbs aspiring to remain in the US as a way of avoiding Yugoslav army conscription.¹⁰⁰ Twenty-five of the Kosovo-Albanian refugees at Fort Dix were caught in violation of US immigration law after entering under a false name.¹⁰¹ Four others were jailed in Pennsylvania for deceiving US immigration officials in Macedonia. They were later released and returned to Fort Dix still eligible for permanent residency, though the usual refrain that such bad apples threatened to undermine the leniency so enjoyed by the rest is common in

⁹¹ Diana Jean Schemo, 'Fort Dix, A Change of Mission', *The New York Times*, May 5, 1999.

⁹² Katherine Q. Seelye, 'Gore Says U.S. Will Open Door to 20,000 Kosovars', *The New York Times*, April 22, 1999; Diana Jean Schemo, 'More Kosovo Refugees Reach U.S.', *The New York Times*, May 8, 1999.

⁹³ Diana Jean Schemo, 'Refugees Say Goodbye To an Army Post', *The New York Times*, July 18, 1999.

⁹⁴ Diana Jean Schemo, 'Resettlement of Refugees Begins', *The New York Times*, May 21, 1999; Somini Sengupta, 'In Brooklyn, a Warm Refuge for Kosovo Kin', *The New York Times*, May 10, 1999.

⁹⁵ Anne Swardson, 'Home Is What It's All About', *The Washington Post*, May 4, 1999.

⁹⁶ Stephanie Stassel, 'Rising Up to Relieve Refugees', *The Los Angeles Times*, April 10, 1999.

⁹⁷ Karen DeMasters, 'In Split Vote, Arts Council Approves Kosovar Program', *The New York Times*, May 30, 1999.

⁹⁸ Elsa Brenner, 'Yonkers Translator', *The New York Times*, May 16, 1999;

⁹⁹ Mary Lisbeth D'Amico, 'IT groups help Kosovo refugees stay in touch', CNN.com, May 7, 1999. See <http://www10.cnn.com/TECH/computing/9905/07/kosovo.idg/> [downloaded October 2, 2001].

¹⁰⁰ Neil MacFarquhar, 'The US Haven: Albanians And Serbs Seek to Halt Deportation', *The New York Times*, April 5, 1999.

¹⁰¹ Reuters, 'Officials Say 25 Kosovars Arrived Under False Names', *The New York Times*, May 15, 1999

matters of immigration.¹⁰² As a point of comparison consider the treatment of so-called 'immigration cheat' Amadou Diallo.

In the month before NATO's war, on 4 February 1999, Diallo, a West African immigrant, was hit nineteen times by officers of the New York Police Department after they had 'accidentally' fired forty-one shots. After the four white officers were acquitted, the Department of Justice stated, '[We] could not prove beyond a reasonable doubt that the officers wilfully deprived Mr. Diallo of his constitutional right to be free from the use of unreasonable force'.¹⁰³ As the officers approached him on the steps of his home Diallo, who was unarmed, had put his hand in his pocket to withdraw a wallet. Describing Diallo's (unrelated) claim for political asylum as 'bogus', one commentator could even note that (presumably by dying) he had done 'no favor for foreigners genuinely in need of haven from oppression'.¹⁰⁴

Two days before NATO began bombing Yugoslavia hundreds of New Yorkers protested racist police brutality, leading to the arrest of one hundred and forty-one.¹⁰⁵ The comparison between NATO's claims and the reality of life for many in the United States was not entirely lost. In the words of Sarah Flounders,

If one wants to defend the rights of national minority people from police brutality and abuse, you don't have to go thousands of miles away. The shooting of Amadou Diallo in NYC is just the tip of the iceberg. African American, Latino, Native, Arab, and Asian people are routinely the victims of racism, discrimination, and police terror inside the United States.¹⁰⁶

The shooting of Diallo came soon after the case of Abner Louima, a Haitian immigrant, who was tortured and sodomised with a plunger handle by New York police inside a precinct office. The trial of the guilty officer was ongoing during NATO's campaign.¹⁰⁷

¹⁰² Diana Jean Schemo, 'I.N.S. Releases Jailed Refugees and Will Let Them in U.S.', *The New York Times*, May 18, 1999.

¹⁰³ 'Background and Updates to the Amadou Diallo Case'. See <http://crime.about.com/library/blfiles/bldiallo.htm> [downloaded October 4, 2002].

¹⁰⁴ Clyde Haberman, 'Diallo's Tale Raises the Bar For Refugees', *The New York Times*, April 9, 1999. This singling out the United States for criticism is not to suggest it is the only hypocritical liberal democracy. For the abuses of the Australian government on its native population and treatment of refugees see John Pilger, 'The Chosen Ones', in *The New Rulers of the World* (London: Verso, 2002), pp. 158-207.

¹⁰⁵ African Perspective, 'Protests Continue Against Police Brutality in NY', Issue 21, March 27, 1999. See <http://www.africanperspective.com/html21/news.html> [downloaded October 4, 2002].

¹⁰⁶ Sarah Flounders, 'Stop NATO Bombing', *The Free Press*. See <http://www.freepress.org/Backup/UnixBackup/pubhtml/kosovo/natobomb.html> [downloaded October 4, 2002].

¹⁰⁷ Joseph P. Fried, 'Defense in Louima Brutality Case Maintains Torturer Acted Alone', *The New York Times*, June 4, 1999.

Immigration and US Democracy

The stunningly dramatic Jewish Museum here was built with five empty spaces. They are called Voids, and when the museum eventually opens, they will remain empty and unheated - a place to chill the body and, with a mere moment's thought, the soul. If you want to know why NATO fights in the former Yugoslavia, come here and stare into the Voids.

- Richard Cohen¹⁰⁸

Clearly liberal societies have not opened their arms to all immigrants all of the time. Michael Walzer argues immigration should be limited to the extent that a political community has the right to safeguard the integrity of its way of life.¹⁰⁹ The common liberal narrative is that immigration scares occur principally during eras of political uncertainty and economic decline.¹¹⁰ In that case, the nation-state is always living in uncertain times. Crises over immigration are not the product of Administration change or straightforwardly a response to shifting economic facts; they have always historically been mixed up with allegations that something 'essentially American' is in jeopardy.

But even as 'foreign ideas' and cultures have been deemed a threat to US values others have been hailed. 'The co-presence in American political culture of xenophilia and xenophobia', suggests Honig, 'comes right out of America's fundamental liberal commitments, which map a normatively and materially privileged national citizenship onto an idealized immigrant trajectory to membership'.¹¹¹ This uncertainty as to the position of the foreigner, in other words, is productive of disciplinary strategies that help to secure the definition of the US nation and the official public sphere. By switching around the more customary question of 'How should we solve the problem of foreignness?' Honig suggests 'the foreigner' and ideas of 'foreignness' have been formative in multiple political foundings (both theoretical and practical) as idealised immigrants and citizens.

Given the alienating civil privatism caused by capitalism and liberal individualism, described in Chapter One, only newcomers, according to Walzer, are able to foster the civic

¹⁰⁸ Richard Cohen, 'A Look Into The Void: Kosovo as Holocaust analogy', *The Washington Post*, April 16, 1999.

¹⁰⁹ Michael Walzer, *Spheres of Justice: A Defense of Pluralism and Equality* (New York, Basic Books, 1983), pp. 31-63.

¹¹⁰ See for example, Eytan Meyers, 'The Causes of Convergence in Western Immigration Control', *Review of International Studies*, Vol. 28, no.1 (2002), pp.123-41. Unfortunately, Meyers accepts the false dichotomy ('ideological cycle') between liberalism and racism as an explanatory variable in the account of immigration control policies.

¹¹¹ Honig, *Democracy and the Foreigner*, p.97.

and familial attachments required to reinvigorate social democracy.¹¹² Since liberal regimes are meant to derive legitimacy from citizen consent, in an age of widespread alienation from state institutions and a piercing ‘legitimation crisis,’¹¹³ xenophilic ideas about the immigrant origins of the United States serve to ratify the ‘choice worthiness’ of the regime. They *now* come to stand for (rather than undermine) the integrity of America’s way of life.

The widely circulated media image of immigrant naturalisation ceremonies,¹¹⁴ for example, vicariously re-present general public assent in ways beyond reach for disinterested native-born citizens, half of whom do not vote. Literally, as the refugees arrive, otherwise cynical citizens get to see the body politic through their still-captivated eyes; these new members consent to the regime just by virtue of *desiring* to be there in a way native-born citizens cannot. As Berlant describes, immigrants offer ‘symbolic evidence for the ongoing power of American democratic ideals. That is, immigration discourse is a central technology for the reproduction of patriotic nationalism... because the immigrant is defined as *someone who desires America*’.¹¹⁵

The multi-cultural diversity of liberal America was accordingly celebrated during the Kosovo war with the valorisation of the three returned US hostage-soldiers, two being of Latin-American descent. Prior to their safe return, newspapers were full of images of friends and family with symbolic yellow (‘support the troops’) ribbons on their clothing, gardens, and streets.¹¹⁶ Members of First Infantry Division, Staff Sergeants Ramirez and Stone and Specialist Gonzales were hailed as heroes as they arrived home, later awarded six medals for their scrap with the Serbs, the Purple Heart included.¹¹⁷ The parade of US Christian, Jewish and Muslim clergy visiting the hostage-soldiers prior to their negotiated release reinforced the presumed superiority of US tolerance of diversity and the communal hatred NATO was ostensibly bombing Kosovo to forestall.¹¹⁸

The domestic politics of the war over Kosovo, of course, became bound up with Mexican-American (as well as Serb- and Albanian-American) immigrant struggles for legitimacy and reveals something important about the experience of being public for vast

¹¹² Michael Walzer, *What It Means to be an American* (New York: Marsilio, 1992).

¹¹³ Jürgen Habermas, *Legitimation Crisis* (translated by Thomas McCarthy) (Boston: Beacon Press, 1973).

¹¹⁴ For a discussion see Honig, *Democracy and the Foreigner*, p.93.

¹¹⁵ Berlant, *The Queen of America*, p.195.

¹¹⁶ Brett Pulley, ‘Again, for Families and Friends, Yellow Ribbons’, *The New York Times*, April 2, 1999.

¹¹⁷ Christopher Coker, *Humane Warfare* (London: Routledge, 2001), p. 14.

¹¹⁸ Susan Sachs, ‘A Plan By Jesse Jackson to Free Soldiers is Stalled’, *The New York Times*, April 23, 1999.

numbers of US citizens, if not all of them. Mexican-American opinion leaders readily took the opportunity to highlight their community's contribution to US national defense.¹¹⁹ The crowds screamed, flags were waved, and for days the soldiers received medals and were the subjects of various 'Welcome Home' parades.¹²⁰ (The national symbolism of military parades is age old, of course. On Memorial Day, which fell during the campaign Clinton called on citizens to honour the US war dead and understand NATO's goals.¹²¹)

The emergence of potentially powerful 'hyphenated' social and ethnic groups, Jewish-Americans, African-Americans, Mexican-Americans, which can be creative of publics in their own right, has been one of the most important and distinctly 'American' trends in the development of recent 'identity' politics, especially since the 1960s. Of course, in a nation of immigrants organised action on behalf of particular ethnic communities has a much longer heritage effecting civil rights, housing, quotas and internal migration.¹²² The diversity and potential power of these ethnic and cultural groups has been condemned and celebrated from multiple perspectives.¹²³

In Arendt's endeavor to theorise the emergence of republican, civic forms of political association she viewed the uncritical acceptance of the normative status of social movements as dangerous.¹²⁴ Where social movements play a considerable role in lobbying, in articulating *interests*, the kind of 'joining in' indicative of interest-group politics was only a surrogate for political participation, she argued, an extension of the corrupt party system, simply becoming additional mass-organised pressure cliques.

But this has not always been so. Subaltern public spheres that have been formed out of African-American freedom struggles constituted an 'interpretive community...' as Gilroy suggests, 'on which the black vernacular was built in times past'.¹²⁵ For the purposes of our analysis we can see, as Warner suggests, that in the 'ideals of ethnic identity... an assertive and affirmative concept of identity seems to achieve a correspondence between public existence

¹¹⁹ Frank del Olma, 'Saluting our Latino Soldiers', *The Los Angeles Times*, April 2, 1999.

¹²⁰ Editorial, 'The Heroes' Homecoming', *The Washington Post*, May 29, 1999.

¹²¹ Michael H. Cottman, 'Clinton Honors Fallen Warriors: Arlington Message Emphasizes Importance of Kosovo Mission', *The Washington Post*, June 1, 1999.

¹²² Paul Johnson, *A History of the American People* (London: Phoenix Press, 1997), pp. 676-8.

¹²³ For a good survey of opinions see Seyla Benhabib (ed.) *Democracy and Difference: Contesting the Boundaries of the Political* (Princeton, NJ: Princeton University Press, 1996).

¹²⁴ See Hannah Arendt, *Crisis of the Republic* (New York: Harcourt Brace Jovanovich, 1972), p. 56.

¹²⁵ Gilroy, *Against Race*, p.190.

and private self.¹²⁶ To be public for numerous self-identified Mexican-Americans during the Kosovo war, in other words, was precisely *not* to overcome the private identity of ethnicity but to affirm a common interest in solidarity.

Similarly, thousands of the approximately 400,000 Albanian-Americans took to the streets, marching in support of NATO.¹²⁷ The National Albanian American Council,¹²⁸ a non-profit advocacy organization, and the rival Albanian American Civic League (AACL), founded in 1989 by former Congressman Joseph DioGuardi,¹²⁹ arranged rallies across the United States. Hundred demonstrated for ground troops outside numerous federal buildings.¹³⁰ With chants of 'U-S-A, Free Kosovo', members of the AACL marched to the White House calling for the establishment of an independent Kosovo once the bombing had ceased.¹³¹ Muslim groups, uniting to form the 'Kosova Task Force USA', also backed the air-strikes evidently concerned about Kosovo's Muslim Albanian majority.¹³² The concern of California's Muslims for the troubles of their brethren was also marked on the occasion of the end of the yearly pilgrimage to Mecca. NATO's actions 'cast a solemn yet grateful note over the ceremony', according to one report.¹³³

Semi-famous, or least influential, Serb- and Albanian-Americans were profiled. Several almost-famous Serb-Americans voiced concern, including MetroStars coach Bora Milutinovic and Sacramento King center, Vlade Divac, who sports fans were told also had family in Kosovo.¹³⁴ Isuf Hajrizi suddenly appeared in the limelight as editor of *Ilyria*, New York's Albanian- and English-language semi-weekly.¹³⁵ Aleksandar Radojevic, the 7-foot-3-inch Montenegrin, at the time trying out with a National Basketball Association team, was ruled out

¹²⁶ Warner, *Publics and Counterpublics*, p. 26.

¹²⁷ Jodi Wilgoren, 'Albanian-Americans Rally To Voice Support for Raids', *New York Times*, March 30, 1999.

¹²⁸ For the National Albanian American Council see <http://www.naac.org/index.html> [downloaded 17 March, 2002].

¹²⁹ For the Albanian American Civic League see <http://www.aacl.com/about.shtml2.htm> [downloaded 17 March, 2002].

¹³⁰ Hannah Miller, 'Southland Albanians Hail NATO Airstrikes', *The Los Angeles Times*, April 1, 1999.

¹³¹ Linda Wheeler, 'Marchers Strut Support for Independent Kosovo', *The Washington Post*, April 28, 1999.

¹³² Editorial, 'Religious Groups Split Over NATO Bombing', *The Los Angeles Times*, March 27, 1999.

¹³³ Harrison Sheppard, 'Celebrations of Faith: NATO Air Raids Add Weight to Feast of Sacrifice for O.C. Muslims', *The Los Angeles Times*, March 28, 1999.

¹³⁴ J.A. Adande, 'Trouble on the Home Front: Divac Struggling to Make Sense of the Horror', *The Los Angeles Times*, March 27, 1999; George Vacsey, 'Sports of The Times; From Deep in His Serbian Heart', *The New York Times*, April 18, 1999.

¹³⁵ Nina Siegal, 'Hard News for Kosovar Newspaper Editor', *The New York Times*, April 11, 1999.

during the bombing campaign of playing for Ohio State due to the (unrelated) matter that he had been paid to play briefly with a Yugoslav club.¹³⁶

Several American-Jewish groups joined many of the Muslim and Albanian-Americans in support of both the refugees and, by seeming logical extension, NATO. The American Jewish Joint Distribution Committee, an umbrella organisation of Jewish-American relief agencies, worked with both Kosovars and Kosovar Jews.¹³⁷ Children of Holocaust survivors were moved to 'do something' from watching on TV the images of fleeing refugees.¹³⁸ According to Fred Hyatt,

If the Holocaust were taking place today, would the story bore us after a few weeks? Would news executives be saying, 'We led with Auschwitz last night. Let's go with something else tonight?'... There is a holocaust taking place today. An entire population, nearly 2 million strong, is being systematically forced from its country.¹³⁹

These claims are exaggerated but are politically powerful in the United States. Where Germany was (once again) reminded of its past, NATO's (and Germany's) first use of military force was simultaneously justified in terms of solemnly repaying old debts. Kosovo Albanians, after all, had been on 'our side' in WWII.¹⁴⁰

Indeed, according to some, fear of letting 'genocide' in Europe happen again partly justified NATO's deliberate misrepresentation of events (discussed in Chapter Four). If, as Anthony Weymouth suggested, 'The Holocaust was not merely the logical extension of the insanity of fascism, [but also] represented the failure of Western values to prevent it', 'this time' might be different.¹⁴¹ In his words,

Haunted by the mistakes of the past and fearful of the outcome of this new calamity as it unfolded, politicians and the media may well have engaged in a feeding frenzy of rumour, conjecture and ambiguous information, and exaggerated the nature of Serbian brutality. But it is conceivable at least that this overreaction occurred more out of ignorance (i.e. the absence of verifiable information) than out a primary desire to mislead the public.¹⁴²

¹³⁶ Judy Battista, 'Hoop Dreams, Not War Games; From Montenegro to the N.B.A., Radojevic Has High Hopes', *The New York Times*, May 29, 1999.

¹³⁷ Miron Rezun, *Europe's Nightmare: The Struggle for Kosovo* (Westport: Praeger, 2001), p.121.

¹³⁸ Ari Goldman, 'Children of the Holocaust Follow Hearts to Kosovo', *The New York Times*, May 9, 1999.

¹³⁹ Fred Hiatt, 'In the Face of Evil', *The Washington Post*, May 9, 1999.

¹⁴⁰ Carol J. Williams, 'Grandchildren, Children of Nazis Embrace Role Reversal', *The Los Angeles Times*, April 4, 1999. As noted in the previous chapter, the Serbs also fought on 'our side' during World War II.

¹⁴¹ Anthony Weymouth, 'The Media: Information and Disinformation', in Anthony Weymouth and Stanley Henig (eds.) *The Kosovo Crisis: The Last American War in Europe?* (London: Pearson Education, 2001), p. 160.

¹⁴² Weymouth, 'The Media: Information and Disinformation', p. 160.

Might not also guilt and earlier embarrassments in Bosnia and Rwanda account for this seemingly new readiness to act in the face of 'evil'?¹⁴³ A personal story from NATO Supreme Commander, General Wesley Clark, helped make the WWII analogy more potent. Clark learned as an adult that he was the grandson of a Russian Jew who escaped the pogroms and fled to the US over one century ago.¹⁴⁴

A variation of 'the iconic good immigrant' narrative, productive of US national identity and values since Tocqueville, was also witnessed in full display with news coverage regularly portraying hard-working Albanian-American immigrant men compelled to send money (and sometimes weapons) back home to the KLA. Some who had never been to the Balkans planned to join the Kosovo rebels in person. Described as a 'legal no-man's land' as no US citizen can aid and abet military action against a state (Yugoslavia) with which US is (even only technically) at peace, Albanian-Americans who went into ground combat could theoretically have been prosecuted under the Neutrality Act of 1794.¹⁴⁵ This did not prevent the newest KLA volunteers of all ages going shopping for gear to wear when refreshing 'the tree of liberty', as one report described.¹⁴⁶

The enthusiasm for US goods observed in these idealised immigrants is seen as representative of the typically good liberal lifestyle. In Anne Norton's words, 'Consumption among immigrants appears in this context as a constitutional act, an exercise of the right to self-determination'.¹⁴⁷ Through the practice of consumption liberal publics have regularly been encouraged to express themselves 'politically', especially in the United States. Capitalism is thereby 'assimilated to democracy' through the enactment of liberal ideals.¹⁴⁸ As Norton describes, 'choice is freedom and free choice evidence of consent, that people exercise authority in the selection of representatives and representations of themselves, and that the representations of themselves does not replace but instead extends the self'.¹⁴⁹ Reinforcing the

¹⁴³ Peter J. Anderson, 'Air Strike: NATO Astride Kosovo', in Anthony Weymouth and Stanley Henig (eds.) *The Kosovo Crisis: The Last American War in Europe?* (London: Pearson Education, 2001), p. 187.

¹⁴⁴ Elisabeth Becker, 'His Family's Refugee Past Is Thought to Inspire NATO's Commander', *The New York Times*, May 3, 1999.

¹⁴⁵ David Stout, 'Marching Off to Other Nations' Wars, Americans Must Tiptoe Around a 1794 Neutrality Law', *The New York Times*, April 20, 1999.

¹⁴⁶ David Gonzalez, 'Albanians Aim To Refresh Tree of Liberty', *The New York Times*, April 14, 1999.

¹⁴⁷ Anne Norton, *Republic of Signs: Liberal Theory and American Popular Culture* (Chicago: University of Chicago Press, 1993), p.65.

¹⁴⁸ Norton, *Republic of Signs*, p.51.

¹⁴⁹ Norton, *Republic of Signs*, p.85. According to Norton, this 'renders commonplace Cold War critiques of the paucity of consumer goods in the Soviet Union not only intelligible but significant'. Norton, *Republic of Signs*, p.52.

notion that Kosovo would eventually be assimilated into the global liberal-democratic order, these Albanian-American immigrant men are represented as supporting their brethren's right to fight for the political and economic freedom they so enjoyed in the New World.

As has become familiar with the old stereotype about hard-working Asian-immigrants, what is esteemed in traditional liberal fashion, as Honig suggests, 'are the resources available [from new immigrants] to be sacrificed for financial success... not... their potential to serve as sites of associational political power'.¹⁵⁰ Moreover, by reinforcing the myth of US citizenship as defined by 'class mobility' one effect of this good immigrant narrative is to 'discipline the domestic poor'.¹⁵¹

In general, immigration to the US has fortified racial inequality against African-Americans, especially those with poor education and low income.¹⁵² As a basic economic point, the hiring of cheap immigrant labour has generally reduced the employment prospects of poor African-Americans. However, the concomitant ideological construction of the United States as the place where, with hard work, you can get ahead is perhaps equally destructive of overcoming the legacy of slavery. This is especially disturbing in light of the recent adjustments in US government rhetoric about (usually black) recipients of public housing. Drawing on the language of 'ethnic cleansing',¹⁵³ Berlant has described this as 'a particularly brutal mode of what we might call *hygienic governmentality*...'¹⁵⁴

Both the classical and liberal traditions, as we have seen, try to naturalise the 'outside' of the domestic realm as the proper place of politics.¹⁵⁵ So although public space in liberal societies is increasingly becoming privatised, the formal and practical distinction has served to systematically disadvantage those seeking to politicise issues and agendas traditionally associated with the 'home', including issues of public housing.

Jamie Owen Daniel, for example, has shown that black public housing residents in the United States are far less likely to be allowed to 'self-represent within the official public sphere'.¹⁵⁶ This was not inevitable. As C.K. Doreski has shown, 'writers for the black

¹⁵⁰ Honig, *Democracy and the Foreigner*, p.80.

¹⁵¹ Honig, *Democracy and the Foreigner*, p.80.

¹⁵² King, *Making Americans*, p.2; Dinnerstein and Reimers, *Ethnic Americans*, p.203.

¹⁵³ Jamie Owen Daniel, 'Rituals of Disqualification: Competing Publics and Public Housing in Contemporary Chicago', in Mike Hill and Warren Montag (eds.) *Masses, Classes, and the Public Sphere* (London: Verso, 2000), p. 68.

¹⁵⁴ Berlant, *Queen of America*, p.177.

¹⁵⁵ For a defense of the classical tradition see Arendt, *The Human Condition*, p.54.

¹⁵⁶ Daniel, 'Rituals of Disqualification', p.71, 68.

[independent] press assumed that the “true principles” of government were located in the public sphere - and that community news, with its unrestrained airing of dissensus, was instrumental in the construction of authentic race narratives’.¹⁵⁷

The difficulty contemporary black public housing residents have found in self-representing is perhaps not surprising, however, given that Kant first defined the bourgeois public sphere as naturally comprised of property-owners. Being ‘their own masters’, proprietors were assumed to be able to self-abtract, to rise above narrow, factional agendas in the way property-less wage earners were not.¹⁵⁸

The commonly observed media narrative of condensing the identity of female black public housing residents ‘precisely to [their] body and its gendered reproductive behaviour’,¹⁵⁹ as Daniel describes, reinforces racial and gendered stereotypes. For example, instead of locating the identity of one resident first and foremost in terms of her citizenship and attendant right to make claims regarding housing to an attentive public sphere, usually without delay she is categorised, in Daniel’s words, ‘as the “45-year-old mother of thirteen.”’¹⁶⁰

These common practices by media and politicians are not aberrations of liberal-republican practice in the United States, but are intrinsic to the historical construction of its official state-public sphere. This effort to present a unitary public sphere and form of discourse (self-abstraction) as the most valued, however, disadvantages other publics, forms of speech, and subject matter. Feminists, gays and other subaltern counterpublics have long argued that understandings of ‘the public’ have worked toward ends that are less than egalitarian (or democratic).¹⁶¹

In other words, the ‘rhetorical strategy of personal self-abstraction’, as Warner describes, ‘is both the utopian moment of the public sphere and a major source of domination, for the ability to abstract oneself in public discussion has always been an unequally available resource. Self-abstraction from male bodies confirms masculinity. Self-abstraction from female

¹⁵⁷ C.K. Doreski, *Writing America Black: Race Rhetoric in the Public Sphere* (Cambridge: Cambridge University Press, 1998), p.xiii.

¹⁵⁸ Daniel, ‘Rituals of Disqualification’, p.73.

¹⁵⁹ Daniel, ‘Rituals of Disqualification’, p.73.

¹⁶⁰ Daniel, ‘Rituals of Disqualification’, p.73.

¹⁶¹ Paisley Currah, ‘Politics, Practices, Publics: Identity and Queer Rights’, *Playing with Fire: Queer Politics, Queer Theories* (London: Routledge, 1997), pp.231-66.

bodies denies femininity'.¹⁶² Such narratives, discussed below, have gendered representations of public responses to the Kosovo refugee crisis.

The attempts described in Chapter One to save liberalism from 'ascriptive America',¹⁶³ mistakenly separate discourses and practices that have proved rather too well matched.¹⁶⁴ As practiced throughout US history, the very abstractness and disembodied character of the celebrated liberal public subject has crucially left open the issue of which persons and groups of persons are eligible to political and civil rights. In Carol Horton's words, 'the apparently neutral category of "the individual" is suffused with highly divergent cultural meanings in various forms of liberalism, even to the extent of constructing certain types of subjects (e.g. women, blacks) in explicitly inegalitarian terms'.¹⁶⁵

Gender and Refugees: Sentimentality and the Personalised Public Sphere

The political as a place of acts oriented to publicness becomes replaced by a world of private thoughts, leanings, and gestures. Suffering, in this personal-public context, becomes answered by survival, which is then recoded as freedom.

- Lauren Berlant¹⁶⁶

Gendered representations of 'female' identities, typically as homemakers, were common in US news accounts of the role played by Albanian-American women during the refugee crisis. Those perhaps unwilling or able to go fight with the men were, of course, otherwise moved to contribute.¹⁶⁷ Muzafere Beka, a travel agency entrepreneur, duly represented the universalism of US capitalist values. A Kosovar-Albanian US resident for thirteen years, she booked flights for fellow expatriates until her business was forced to close after trips to crisis-ridden Kosovo had dramatically declined. Now, however, ten of her family members made refugees in Kosovo would move in with her in the Bronx.¹⁶⁸

¹⁶² Warner, *Publics and Counterpublics*, p. 166.

¹⁶³ Rogers M. Smith, 'Beyond Tocqueville, Myrdal, and Hartz: The Multiple Traditions in America', *American Political Science Review* (1993), Vol.87, pp.549-66. Arthur Ekirch Jr., *The Decline of American Liberalism* (New York: Longmans, Green and Company, 1955), p. 88.

¹⁶⁴ For an account centred on the post-American Civil War period see Carol Horton, 'Liberal Equality and the Civic Subject: Identity and Citizenship in Reconstruction America', in David F Ericson and Louisa Bertch Green (eds.) *The Liberal Tradition in American Politics: Reassessing the Legacy of American Liberalism* (London: Routledge, 1999), pp.115-136.

¹⁶⁵ Horton, 'Liberal Equality and the Civic Subject', p. 116.

¹⁶⁶ Berlant quoted in Warner, *Publics and Counterpublics*, p. 298 fn. 69.

¹⁶⁷ Jennifer Hamm, 'Couple Provide Safe Haven for Family of 8 From Kosovo', *The Los Angeles Times*, May 22, 1999.

¹⁶⁸ John Tierney, 'The Tourists Are Replaced By Refugees', *The New York Times*, May 31, 1999.

Other US-based Kosovar-Albanians registered with international relief agencies to accommodate both refugee relatives and strangers. Individual media profiles of such volunteers were overwhelmingly of women.¹⁶⁹ The sketch of Eva Shakri was typical. 'Remembering the kindness her family received decades ago when they left the Balkans for the United States, Eva Shakri has returned the favor by opening her home to refugees from Kosovo - 30 of them'.¹⁷⁰

Given pervasive sexualised assumptions in Yugoslavia about Muslims in Kosovo (that the men were rapists and the women 'mere baby-factories'¹⁷¹), gender based violence by Serb militias, including attacks while women were in flight, held hostage, detained, or simply at home, had undoubtedly been fuelled over a long period of time. Julie Mertus has described, for example, how Serbian media 'pump[ed] out portraits of Albanian women as baby makers, calling their offspring "biological bombs", labelling Albanian family life as primitive and backward'.¹⁷²

Outsiders tried to assess whether Kosovo-Albanian women were generally more or less likely to suffer rape than the rest of Yugoslavia's women, and also tried to substantiate claims about the scale of rape by Serb militias as a weapon of ethnic cleansing.¹⁷³ The experts on Kosovo-Albanian society, unsurprisingly, contested most of Belgrade's claims. 'Crime rates, including rates of rape', according to the *Kosovo Report*, 'were considerably lower in Kosovo than in the rest of Yugoslavia'.¹⁷⁴ The accuracy of such evidence might be skewed, however, by the apparent difficulty (both before and after 1999) Kosovo-Albanian women have had with reporting rape (a not uncommon phenomenon), belying such politicised comparisons.

On the other hand, continual reports filled US news and TV coverage of the premeditated rape of ethnic Albanian women by Serb soldiers and policemen, now classified a war crime by the Rome Statute of the International Criminal Court.¹⁷⁵ That numerous women refused to volunteer their stories was widely attributed to the social stigma that rape brings on

¹⁶⁹ Diana Jean Schemo, 'Long-Distance Ties That Bind: Kosovar Albanians in U.S. Ready to Welcome Relatives', *The New York Times*, May 1, 1999.

¹⁷⁰ Deborah Feyerick, 'Balkan family in New York opens home to 30 Kosovo refugees', CNN.com, June 5, 1999. See <http://www4.cnn.com/US/9906/05/big.family/index.html> [downloaded 2 October 2001].

¹⁷¹ Julie A. Mertus, *Kosovo: How Myths and Truths Started a War* (Berkeley: University of California Press, 1999), p.8.

¹⁷² Quoted in Human Rights Watch, 'Kosovo: Rape as a Weapon of Ethnic Cleansing', p.10. Also see *The Kosovo Report*, pp. 91-2.

¹⁷³ Mertus, *Kosovo*, p.8.

¹⁷⁴ *The Kosovo Report*, p.39.

¹⁷⁵ Judy Mann, 'Women Unite to Help War's Refugees', *The Washington Post*, April 23, 1999.

to both the woman and her family in a society in which female virginity and fidelity are a central mode of social control.¹⁷⁶ In the language of public and private, it is not surprising that women generally used to being on display as objects of male desire should come to feel the visibility of publicly admitting sexual violation as, in Warner's words, 'a kind of intimate vulnerability'.¹⁷⁷

Notably, a Human Rights Watch report felt compelled to comment on the 'opportunistic use of rape allegations' as part of NATO's propaganda campaign. NATO spokespersons 'inflated rhetoric about rape' and deployed premature and unsubstantiated claims largely 'to justify the continuation of the bombing campaign'.¹⁷⁸ More than that, the report continues, the consequences of NATO's media operation may have been to seriously undercut 'more careful reporting on abuses. NATO's use of insufficiently substantiated allegations provided Serbian officials with an opportunity to denounce all rape reports as mere propaganda'.¹⁷⁹ Nonetheless, as witnessed most recently with narratives of race and gender used to marshal support for the 'War on Terror', including through the manipulation of images of Afghan women,¹⁸⁰ NATO and the United States were readily able to position themselves as liberators of women in general.

The birth rate in Serbia drastically declined, it was reported, and abortion rate sharply increased as large numbers of women decided to remain childless under Milosevic's rule. Reasons imputed included women's anxiety about civil war and, according to one report, an 'unwillingness to raise children in a nation whose standard of living has declined every year for the past decade.'¹⁸¹ IMF-imposed austerity measures, again, were not mentioned. As a contrast to childless Serb women, however, it was reportedly the very 'lives of children' that kept some Kosovo-Albanian women going, inspired to escape death and return 'home' to them.¹⁸²

A less widely noted consequence of Western intervention has been the massive increase in East European sex-slave traffic into and out of Kosovo, including to London,

¹⁷⁶ Elisabeth Bumiller, 'Deny Rape or Be Hated: Kosovo Victims' Choice', *The New York Times*, June 22, 1999; Carol J. Williams, 'In Kosovo, Rape Seen as Awful as Death', *The Los Angeles Times*, May 27, 1999.

¹⁷⁷ Warner, *Publics and Counterpublics*, p. 24.

¹⁷⁸ Human Rights Watch, 'Kosovo: Rape as a Weapon of Ethnic Cleansing', Vol.12, no.3. March 2000.

¹⁷⁹ Human Rights Watch, 'Kosovo'.

¹⁸⁰ Sheryl Gay Stolberg, 'Exiles, Torn Between Countries, Want to Help Rebuild Afghanistan', *The New York Times*, February 10, 2002.

¹⁸¹ Blaine Harden, 'Stresses of Milosevic's Rule Blamed for Decline in Births', *The New York Times*, July 5, 1999.

¹⁸² Paul Watson, 'Lives of Children Kept Mother Going', *The Los Angeles Times*, June 27, 1999.

bolstered by the almost non-existent criminal justice system, insecure borders, and custom of international troops and aid workers.¹⁸³ US Army Staff Sergeant Frank Ronghi, part of the UN peacekeeping force, was sentenced to life in prison for the rape and murder of Merita Shabiu, an 11-year-old girl, in the town of Vitina.¹⁸⁴

The many moving individual portraits during the war obviously appeal to a mass audience, providing a human face with whom 'we' were supposed to identify. 82 year-old Naxhie Salihu, we were told, daily endured taunts from Yugoslav soldiers during NATO's bombardment. 'Hey, Granny. Are you still here? Are you waiting for us to kill you? ... We will burn you alive and eat you if you don't leave'.¹⁸⁵ Another Kosovo-Albanian woman described for reporters the murder of her son.¹⁸⁶ Kosovar nuns and a priest of the Serbian Orthodox Church suffered 'psychological violence' from KLA guerrillas as glass and religious icons were smashed.¹⁸⁷ In the housedress she had worn for a month, Rukije Bytyci wept as she described to reporters how she 'just want[ed] the boys to come back. I just want my boy to come back'.¹⁸⁸ Another woman was a veritable 'emblem of suffering', in the words of one report.¹⁸⁹

These characterisations of Kosovo-Albanian women should by now not be surprising, especially when contrasted to the dominant depiction of the men as warriors.¹⁹⁰ (When it was revealed that Lieutenant-General Michael Short was commanding his only son, an A-10 jet pilot, it seemed the masculinity *and* family values of the United States were being affirmed.¹⁹¹) Masculinity in the West has traditionally been the experience of occupying public space; the political awakening of the Albanian-American men, for example, was overwhelmingly

¹⁸³ Peter Finn, 'Sex Slavery Flourishes In Kosovo: E. European Women Forced Into Brothels', *The Washington Post*, April 24, 2000.

¹⁸⁴ Steven Erlanger, 'The Ugliest American', *The New York Times*, April 2, 2000; 'US Soldier Jailed for Kosovo Killing', BBC News on-line. See <http://news.bbc.co.uk/1/hi/world/americas/862063.stm> [downloaded 5 October 2002.]

¹⁸⁵ R. Jeffrey Smith, 'A Grandmother's Grit: A Lone Woman's Tenacity Triumphed Over Arsons, Threats', *The Washington Post*, June 18, 1999.

¹⁸⁶ Steven Erlanger, 'A Mother's Tales: In Ruined Village, a Mother Lives With Her Son's Blood', *The New York Times*, June 15, 1999; Editorial, 'Gypsy Woman Slain in Kosovo Town', *The Los Angeles Times*, September 10, 1999; Nancy Kinsey Needham, 'Woman Shows She Cares With Bears for Children in Kosovo', *The Los Angeles Times*, May 29, 1999.

¹⁸⁷ Agence France-Presse, 'Serbian Nuns Tell Of Being Captives', *The New York Times*, June 19, 1999.

¹⁸⁸ Peter Finn, 'Djakovica's Wives and Mothers Ask: "Where Are Our Men?"', *The Washington Post*, June 17, 1999.

¹⁸⁹ Steven Erlanger, 'In One Kosovo Woman, An Emblem of Suffering', *The New York Times*, May 12, 1999.

¹⁹⁰ Jean Bethke Elstain, *Public Man, Private Woman: Women in Social and Political Thought* (2ed) (Princeton: Princeton University Press, 1993).

¹⁹¹ Elizabeth Becker, 'General Directs Air War, and His Son', *The New York Times*, April 16, 1999.

represented as *active*. Femininity, by contrast, is traditionally represented in the language of private feeling. We can also see this through the personal stories given of the refugees as they arrived in the United States, especially of Kosovo-Albanian ‘Mothers’.¹⁹²

According to Arendt, however, since Jean-Jacque Rousseau’s edification of private human empathy for suffering in *The Social Contract*, which transformed the passion into an emotion resembling pity, generalised public compassion turned political in a perverted form.¹⁹³ As witnessed during the French Revolution, the boundlessness of pity took the abstract, mass collectivity and fed upon it, fastening onto misery as a camouflage for power-driven aims and eventually an excuse for cruelty. No matter the original sensitivity of the uncorrupted Robespierre, according to Arendt, the revolutionists compassion became ‘pity when... brought... out into the open where [it] could no longer [be] direct[ed] toward specific suffering and focus... on *particular* persons’.¹⁹⁴

Where Chapter One suggested the worldly objects made by humans in the process of making a public realm could be destroyed with their subjection to endless consumption, with the homogenisation of refugees into whole ethnic groups or genders, we also see the worldly *space between* people destroyed. With the political space between refugees abolished through compassion for a multitude, the human fact of individuality and plurality is lost. Berlant makes a similar point. ‘Because the ideology of true feeling cannot admit the nonuniversality of pain’, she argues, ‘its cases become all jumbled together and the ethical imperative toward social transformation is replaced by a civic-minded but passive ideal of empathy’.¹⁹⁵

But what is wrong with feelings of general compassion for suffering when ‘something must be done’? It is not compassion for suffering *per se* that is problematic. In questioning its virtue upon entering the political realm Arendt’s intention was not to denigrate compassion in the personal. ‘Because compassion abolishes the distance, the worldly space between men where political matters, the whole realm of human affairs, are located’, Arendt argued, ‘it remains, *politically speaking*, irrelevant and without consequence’.¹⁹⁶

¹⁹² Alissa J. Rubin, ‘One Mother’s Plight Moves First Lady’, *The Los Angeles Times*, May 15, 1999; Tini Tran, ‘Kosovar Mother, Son Find Refuge’, *The Los Angeles Times*, May 21, 1999; Alissa J. Rubin, ‘Even in Refugee Camps, Women’s Work Never Done’, *The Los Angeles Times*, June 6, 1999.

¹⁹³ Hannah Arendt, *On Revolution* (New York: Viking Press, [1963] 1970), pp. 83-4.

¹⁹⁴ Arendt, *On Revolution*, p.84. My italics.

¹⁹⁵ Berlant quoted in Warner, *Publics and Counterpublics*, p. 298 fn. 69.

¹⁹⁶ Arendt, *On Revolution*, p.81. My italics.

The suggestion is that compassion, like love and pure goodness, is in essence *unpolitical*. Arendt was adamant that the public realm could only properly deal with, and was indeed constituted by, appearances.¹⁹⁷ In other words, only deeds not motives could be judged; even authentic human feelings could rarely withstand the ‘glare of publicity’.¹⁹⁸ ‘Because of its inherent worldlessness, love’, she wrote, ‘can only become false and perverted when it is used for political purposes such as change or salvation of the world’.¹⁹⁹

Paradoxically, mobilised compassion for suffering, as we have seen, habitually incites direct, sometimes violent action at the expense of speech. This is best illustrated in Arendt’s discussion of Herman Melville’s novella *Billy Budd*, where Billy is a thinly veiled depiction of Jesus. The parable depicts even the most genuine, authentic goodness leaving political questions unsolved. Billy, the young sailor, stammers impotently in his innocence able only to answer the lying sailor Claggart, represented as ‘evil’, with a violent (and lethal) blow.²⁰⁰

The pervasive sentimentalism of political journalism throughout the Kosovo war deployed personalised and emotional stories to reveal a *structural* effect. This personal-public context appeared throughout the intervention and partly structured the public response to what occurred (or what was thought to have occurred) in Kosovo. The crisis and NATO’s ‘response’ was partly framed, to borrow from Berlant, by a ‘world of private thoughts, leanings, and gestures’²⁰¹ indicative of the personalised US public sphere.

This personalised public context has serious consequences for the viability of any politically engaged humanitarian ethic. Consider the suggestion by Anthony Lang, for example, that, ‘By respecting the narrations of women, elders, religious leaders and others in communities whose histories are rarely acknowledged we can begin to see ways of acting that might sustain and support alternative forms of humanitarian aid’.²⁰²

The international ‘public presence’ of a state during the course of a military intervention, according to Lang, obliges the state to confront its self-image.²⁰³ This notion of political agency manifest in the act of intervention, based on Lang’s reading of Arendt, has implications for both historical self-understanding and humanitarian practice. Instead of

¹⁹⁷ Arendt, *The Human Condition*, pp.199-212

¹⁹⁸ Arendt, *On Revolution*, p.93.

¹⁹⁹ Arendt, *The Human Condition*, p.52.

²⁰⁰ Arendt, *On Revolution*, p.79.

²⁰¹ Berlant quoted in Warner, *Publics and Counterpublics*, p. 298 fn. 69.

²⁰² Lang, *Agency and Ethics*, p.205.

²⁰³ Lang, *Agency and Ethics*, p.196.

proudly declaring that various Balkan interventions are warranted due to the US position as the only capable superpower,²⁰⁴ Lang suggests,

such action might spring from a recognition that the United States went through (and is still going through according to some) a period of deep and divisive ethnic or racial conflict. Based on this similar history, leaders could present their action not as a triumph of national power and purpose, but as an empathetic response to a history too similar to be ignored.²⁰⁵

This is a form of agency in global politics, according to Lang, based on instances of historical narration that might make possible a sense of empathy and compassion, a public revelation of the state in the global realm more appropriate to humanitarianism.²⁰⁶

The discussion of the dangers of compassion in a depoliticised public sphere speaks against the straightforward embrace of domestic liberal apologetics. For Lang's account is based on a teleology that positions the US as having (almost) sufficiently overcome its ethnic divisions to be able to provide/impose a model for others to emulate. It sets up a benign image, a white man's burden. But it is imperialism nonetheless. More contriteness on the part of political leaders, which we saw with Clinton anyway, is an insufficient basis for the re-imagination of the 'historical foundations of foreign policy'.²⁰⁷

The real political danger is that 'we lose the original impulse behind sentimental politics', as Berlant describes, 'which is to see the individual effects of mass social violence as *different from* the causes, which are impersonal and depersonalising'.²⁰⁸ For as Arendt and others have argued, the very (gendered) language of suffering and the inexpressibility of physical pain hinder endeavours to react *politically*.²⁰⁹ Indeed, the constant photos of the masses of immigrants arriving to the US and the personalised media portraits of refugee mothers and sons articulate how utterly generic the mainstream public sphere represented the hopes unfurling from these migrant bodies, how the aspirations of thousands - presumed to coincide with the aspirations of the United States - could be literally 'sketched in simple black and white'.²¹⁰

²⁰⁴ Fromkin, *Kosovo Crossing*, p.1.

²⁰⁵ Lang, *Agency and Ethics*, p.27.

²⁰⁶ Lang, *Agency and Ethics*, p.28.

²⁰⁷ Lang, *Agency and Ethics*, p.201.

²⁰⁸ Berlant quoted in Warner, *Publics and Counterpublics*, p. 298 fn. 69.

²⁰⁹ Also see Elaine Scarry, *The Body in Pain: The Making and the Unmaking of the World* (Oxford: Oxford University Press, 1985).

²¹⁰ Bhabha, *The Location of Culture*, p.15.

Conclusion

In highlighting the US politics of immigration and refugees during the Kosovo war the chapter has endeavoured to represent the 'official' space of the US public (including the material advantages and rights of the 'normal' population) as not natural but necessarily and violently *made*. Crystal Bartolovich has shown, for example, that the image of a unitary and secure public sphere necessitates 'a... continuing disavowal of the constitution of the actual "space" of that "public"'.²¹¹ As the thesis has argued throughout, public spheres are often violently produced and violence has played a major role in the historical process through which US citizenship has been defined.

Historically our understanding of immigration and refugee policies should not be restricted to the obvious political agenda of linking the 'problem' to various eras of racism, economic decline, or federal legislative and judicial and administrative policy activism. Insofar as this process reinforces assumptions about the US as the 'Promised Land', the refugees who cross it bolster the border of the US nation-state, no matter how much the subsequent 'diversity' is condemned, ignored, or celebrated. Although originally expounded as a bourgeois concept, public sphere critique cannot exclude analysis of the transnational, gender and race dynamics at play in the practices of publics.

When conservative columnist George F. Will termed Kosovo an 'equal-opportunity war' he might have quite literally meant it.²¹² While arguing for an expanded definition of Federal 'hate crimes' during the bombing campaign, President Clinton compared the dangers of 'primitive' hatreds in the Balkans to some of the values of the Old American South.²¹³ Jean Bethke Elshtain critiqued this 'attempt to put a distinctly American stamp on the Balkans tragedy'.²¹⁴ Clinton 'spun out a "vision"', in Elshtain's words, 'for a new postwar Kosovo that sounds like a multiculturalist pipedream'.²¹⁵

Rather than view humanitarian action as a catharsis for past wrongs a more penetrating critique of existing liberal societies is warranted. Indeed, several critical theorists suggest that it is precisely through understanding the historical experiences of displaced, diasporic, and

²¹¹ Crystal Bartolovich, 'Inventing London', in Mike Hill and Warren Montag (eds.) *Masses, Classes, and the Public Sphere* (London: Verso, 2000), p.19.

²¹² George F. Will, 'An Equal-Opportunity War', *The Washington Post*, May 16, 1999.

²¹³ Katherine Q. Seeyle, 'Citing "Primitive" Hatreds, Clinton Asks Congress to Expand Hate-Crime Law', *The New York Times*, April 7, 1999.

²¹⁴ Jean Bethke Elshtain, 'Kosovo and the Just War Tradition', in William Joseph Buckley (ed.) *Kosovo: Contending Voices on Balkan Interventions* (Michigan: Eerdmans Publishing, 2000), p. 366.

²¹⁵ Elshtain, 'Kosovo and the Just War Tradition', p. 366.

marginal peoples that some of our most exemplary lessons for thought and action can be gained.²¹⁶ In the words of Giorgio Aganben, 'because the refugee destroys the old trinity of state-nation-territory... [this] apparently marginal figure deserves to be, on the contrary, considered as the central figure of our political history'.²¹⁷

By the end of World War I, 'stateless persons', for Arendt, had become the 'most symptomatic group in contemporary politics.'²¹⁸ Still, in late-modern public life 'peripheral peoples' - exiles, migrants, and refugees - remain emblematic.²¹⁹ The history of massive transfers of populations and forced or voluntary migrations is endemic within, and symbolic of, recent human experience.²²⁰ Three months after NATO's bombing campaign ceased approximately 750,000 Kosovo-Albanians had been returned to the province. KFOR troops did not, however, prevent an equally tragic evacuation of 200,000 non-Albanian Kosovars, Roma and Serbs. An assumed desire for revenge was brutally enacted on the Roma peoples accused of collaborating with Serbs.²²¹

The historical contradiction between human and citizen rights is at the core of why humanitarian policies habitually serve to transform individuals into 'naked' human beings stripped of citizen rights and political agency.²²² 'Equality', as Arendt suggested, 'in contrast to all that is involved in mere existence, is not given to us, but is the result of human organization insofar as it is guided by the principle of justice. We are not born equal; we become equal as members of a group on the strength of our decision to guarantee ourselves mutually equal rights'.²²³

What of the future? How can 'mutually equal rights' be globally guaranteed? For Ken Booth, 'the progressive construction through international law of a global public realm in the interests of common humanity is the greatest prize'.²²⁴ But where should we look for the theoretical and practical resources to realise such a reward? Calls for war in 1999 were popularly couched in terms of an activist, global civil society and public sphere with attendant

²¹⁶ Bhabha, *The Location of Culture*, p.172.

²¹⁷ Quoted in Campbell, *National Deconstruction*, p. 228.

²¹⁸ Arendt, *Origins of Totalitarianism*, p.277.

²¹⁹ See Carlos A. Forment, 'Peripheral Peoples and Narrative Identities: Arendtian Reflections on Late Modernity', in Seyla Benhabib (ed.) *Democracy and Difference: Contesting the Boundaries of the Political* (Princeton, NJ: Princeton University Press, 1996), pp. 314-330.

²²⁰ Azade Sayhan, *Writing Outside the Nation* (Princeton, NJ: Princeton University Press, 2001), p.4.

²²¹ David Rhode, 'Kosovar Attack on Gypsies Reveals Desire for Revenge', *The New York Times*, June 7, 1999.

²²² Huysmans, 'Shape-Shifting NATO', pp. 603-4.

²²³ Arendt, *Origins of Totalitarianism*, p.301.

²²⁴ Ken Booth, 'Ends and Means Against Terror', *World Editorial and International Law*, Vol.1, no.1, September 15, 2002, p.5.

human rights culture inscribed in international law.²²⁵ As recognised by James Kurth, 'The new American ideology of human rights and the open society - liberal globalism - in turn has provided the justification, and sometimes a compulsion, for a new kind of US military interventionism'.²²⁶

Concomitantly, attempts to extend public sphere forums beyond the national territorial state, derived especially from Habermas's *deliberative* tradition of democratic thought, have been harnessed to justify intervention, law, and the establishment of a global public realm in numerous and problematic ways. According to Habermas,

legitimate law emerges from, and reproduces itself only in, the form of a constitutionally regulated circulation of power, which should be nourished by the communications of an unsubverted public sphere that in turn is rooted in the associational network of a liberal civil society and gains support from the core private spheres of the lifeworld. Public sphere and civil society, the centerpiece of the new image, form the necessary context for the generation and reproduction of communicative power and international law.²²⁷

The possibilities and consequences of this project is the subject of Chapter Six. All political spaces, like all publics, are produced. This is no less so for any global public. The thesis has attempted to make more explicit the link between public spheres and forms of war. Rather than conceive new discourses of a deliberative global public as necessarily progressive we must address, with Arendt, how they may intimately be associated with the further production of violence.

²²⁵ Jürgen Habermas, 'Bestiality and Humanity: A War on the Border between Law and Morality', in William Joseph Buckley (ed.) *Kosovo: Contending Voices on Balkan Interventions* (Michigan: Eerdmans Publishing, 2000), pp. 306-316.

²²⁶ James Kurth, 'First War of the Global Era: Kosovo and US Grand Strategy', in Andrew J. Bacevich and Eliot A. Cohen, (eds.) *War Over Kosovo: Politics and Strategy in a Global Age* (New York: Columbia University Press, 2001), p. 68. This ideology is not restricted to the Clinton Administration. 'Liberal globalism' is very evident in the 2002 Bush Administration National Security Strategy document. See <http://www.whitehouse.gov/nsc/nss.html> [downloaded October 22, 2002].

²²⁷ Jürgen Habermas, 'Paradigms of Law', in Michael Rosenfeld and Andrew Arato (eds.) *Habermas on Law and Democracy: Critical Exchanges* (Berkeley: University of California Press, 1998), pp.18-19.

Chapter 6

Global Publics, Violence, and Hannah Arendt

On the other hand, humanity, which for the eighteenth century, in Kantian terminology, was no more than a regulative idea, has today become an inescapable fact. This new situation, in which 'humanity' has in effect assumed the role formerly ascribed to nature or history, would mean in this context that the right to have rights, or the right of every individual to belong to humanity, should be guaranteed by humanity itself. It is by no means clear that this is possible... For it is quite conceivable, and even within the realm of practical political possibilities, that one fine day a highly organized and mechanized humanity will conclude quite democratically - namely by majority decision - that for humanity as a whole it would be better to liquidate certain parts thereof.

- Hannah Arendt¹

By the end of 1990s, and before 9/11, 'humanitarian intervention' was widely projected in liberal academic and policy-making circles to be the new Western way of war for the globalized 21st Century. According to the communiqué issued by NATO during its April 1999 summit to celebrate its fiftieth anniversary, the 21st Century had already begun as the bombs were still dropping on Belgrade.² 'If we are as resolute in building peace as we were persistent in conflict', urged Policy Planning Staff Director at the US State Department, 'the crisis in Kosovo may come to be viewed as a turning point in European history'.³ Kosovo will represent 'the wave of the future'.⁴

If NATO's actions were somehow avant-garde, arguments for the war were also underpinned by deliberate appeals to the conscience of a seemingly flowering activist *global* public sphere. Václav Havel was exultant. In his words,

NATO has not acted out of license, aggressiveness, or disrespect for international law. On the contrary, it has acted out of respect for the law - for the law that ranks higher than the protection of the sovereignty of states. It has acted out of respect for the rights of humanity as they are *articulated by our conscience* as well as by other instruments of international law.⁵

¹ Hannah Arendt, *The Origins of Totalitarianism* (New York: Meridian Books, [1951] 1958), pp. 298-9.

² "NATO of the 21st Century Starts Today", Says Communiqué, *The Washington Post*, April 25, 1999.

³ Morton H. Halperin, 'Winning the Peace: America's Goals in Kosovo', in William Joseph Buckley (ed.) *Kosovo: Contending Voices on Balkan Interventions* (Michigan: Eerdmans Publishing, 2000), p.225.

⁴ Graham Fuller, 'More Kosovos', *The Washington Post*, May 4, 1999.

⁵ Václav Havel, 'Address to the Senate and the House of Commons of the Parliament of Canada', in William Joseph Buckley (ed.) *Kosovo: Contending Voices on Balkan Interventions* (Michigan: Eerdmans Publishing, 2000), p. 245. My italics.

Serb-nationalist atrocities against Kosovo-Albanians, on this reading, had amounted to acts that evoked in 'our conscience' one of Michael Walzer's criteria for a 'just' war.⁶

Humanitarian intervention 'is justified', according to Walzer, 'when it is a response (with reasonable expectation of success) to acts "that shock the conscience of mankind"... The reference is to the moral convictions of everyday men and women, acquired in the course of their everyday activities'.⁷ With 'mankind' duly shocked, Jürgen Habermas could now remark (once again) that, 'The transformation of the "law of nations" into a law of world citizens is thus on the agenda'.⁸ A global public sphere of 'everyday' men and women was being actively produced, in would seem, by the violent jolt of 'genocide' in Europe.

Thus far the thesis has offered an empirical and theoretical account of how NATO's war and US public debates about it were shaped by processes central to the historical development of US public spheres. It has addressed some of the ways in which publics in the national context of the United States shape and condition the use of force. This final chapter examines what has increasingly become a central and related mode of inquiry in international theory and vital to public justifications for the Kosovo war: the nexus between discourses of an emerging global public sphere and the legitimisation of violence. If the 'humanitarian' legacy of Kosovo still resonates in the on-going 'war on terror', as the Conclusion to the thesis will suggest, we must attend to the important way in which the public conscience of the 'civilizational West' was mobilised, indeed actively produced, during this war.

The first section of the chapter, 'Deliberative Global Publics', shows how the normative category of the 'public sphere' as understood by Habermas is beginning to appear in the discourse of international theory operating at the 'structural' level, existing between and above states.⁹ If the conflict between national identity and the ideal universalism of an

⁶ Michael Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations* (2ed.) (New York: Basic Books, 1992).

⁷ Walzer, *Just and Unjust Wars*, p.107. Wheeler's English School justification for humanitarian violence concurs with this 'shocked conscience' formula. See Nicholas J. Wheeler, *Saving Strangers: Humanitarian Intervention in International Society* (Oxford: Oxford University Press, 2000), p.28.

⁸ Jürgen Habermas, 'Bestiality and Humanity: A War on the Border between Law and Morality', in William Joseph Buckley (ed.) *Kosovo: Contending Voices on Balkan Interventions* (Michigan: Eerdmans Publishing, 2000), p.307. Habermas made similar claims in the wake of the 1990-91 Gulf War. See Jürgen Habermas, *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy* (translated by William Rehg) (Cambridge: Polity Press, [1992] 1996), p.514.

⁹ See Marc Lynch, *State Interests and Public Spheres: The International Politics of Jordan's Identity* (New York: Columbia University Press, 1999); Molly Cochran, 'Conceptualizing International Public Spheres', Paper Presented at the International Studies Association Conference, Chicago, 2001; Jennifer Mitzen, 'Toward a Visible Hand: The International Public Sphere in Theory and Practice', PhD dissertation, University of Chicago, 2001.

'egalitarian legal community' is integral to both the concept and historical emergence of the nation-state, deliberative democrats are now celebrating the newfangled forms of communication and human rights discourses that destabilise particularistic identities.¹⁰ The dissonance between the notion of state sovereignty and existing power arrangements under globalization would seem to demand a revision of our notions of governance and conceptions of the public sphere.

Violence, however, is inherent to the modern territorial state and any apparent transcendence of state structures must attend to how violence (and expansion) is therefore newly marshalled. Mary Kaldor has argued that, 'any scheme for "transnational democracy" has to take account of fundamental changes in patterns of organized violence that are associated with the erosion of the autonomy of the nation-state'.¹¹ The second section of the chapter, 'Deliberative Violence', suggests that the insight of Kaldor (and others) that the changing role of violence must accompany accounts of the globalization of Western social and political forms, including that of the public itself, does not go far enough in analysing the relationship between publics and war.

For example, within much of the 'transnational democracy' and 'global public sphere' literature, especially those drawing on Habermas, there is a necessary and incipient division of the world. There is one 'peaceful' or 'humane' realm where normative/deliberative discourses and justifications constrain (usually liberal) state behaviour. This is defined against another realm in which strategic interaction and 'barbaric' war still predominates. This separation, it is suggested, is implicated in the production of violence in numerous and problematic ways as well as concealing the historical and systematic relations of domination and subordination that exist between these only seemingly separate spheres.

There is something about violence, the violence of founding a public as well as imperial military interventions that should point theorists to the practical political problems in taking Habermas's public sphere theory as foundational. While Habermas's *Structural Transformation* certainly contains important sociological insights, the thesis, and this chapter in particular, is not a prelude to a theory of communicative humanitarian action¹² or attempt to

¹⁰ Jürgen Habermas, *The Inclusion of the Other* (edited by Cairan Cronin and Pablo De Greiff) (Cambridge, MA: MIT Press, 2000).

¹¹ Mary Kaldor, 'Reconceptualizing Organized Violence', *Re-imagining Political Community: Studies in Cosmopolitan Democracy* (Cambridge: Polity, 1998), p.91.

¹² See Jürgen Habermas, *Theory of Communicative Action* (translated by Thomas McCarthy) (Boston, MA: Beacon Press, 1984).

redeem a Habermasian unfinished project of humanitarianism. Not only is there an implicit violence in the deliberative rationality assumed by discourse ethics that privileges certain modes of being public and certain speakers there is an explicit legitimation of military force, as the Kosovo case reveals, in the means-end effort to 'make' a global public realm. This claim is supported not only empirically through NATO's Kosovo war but also historically and theoretically through the work of Hannah Arendt.

Arendt identified a 'politics-as-making' tradition - which naturalises the violence in politics - as one of the major fault lines running through Western political theory in almost its entirety. This tradition equates political action with shaping the human condition toward a preconceived end in the way a carpenter might violently shape a piece of wood. This relationship is evident in Habermas's deliberative framework and can be traced to current discourses of a communicative global public sphere used to justify war over Kosovo. The third section of the chapter "'Politics-as-Making': Publics and Violence', suggests that Arendt's work, unlike Habermas's, explicitly recognises - if only through exclusion - the way in which violence and politics conceived as simply 'making' discounts the performative, non-instrumental side of the public realm and the politics necessary for human rights to have meaning.

The stakes of this dispute between Habermas and Arendt are great. The differences between them however, have received a great deal of attention in political theory and do not require much further elaboration here.¹³ Arendt exercised a profound influence on Habermas's understanding of emancipation through human interaction and he has read his own categories, not always accurately, onto Arendt's.¹⁴ Not only did Arendt directly influence Habermas, contemporary deliberative thinkers have seized on her 'narrative model of action' and account of political judgment to read 'with Arendt against Arendt'. An integral part of Seyla Benhabib's project of reviving a feminist Critical Theory has been a Habermasian reading of Arendt.¹⁵ Accordingly, the final section of the chapter, 'Arendtian Resolution?', suggests there may be *some* resources for global deliberative theory in Arendt's unfinished work on

¹³ See Margaret Canovan, 'A Case of Distorted Communication: A Note on Habermas and Arendt', *Political Theory*, Vol. 11, no.1, (1983), pp. 105-16; Seyla Benhabib, *The Reluctant Modernism of Hannah Arendt* (London: Sage, 1996).

¹⁴ See Habermas's discussion of Arendt and communicative power in *Between Facts and Norms*, pp.146-150 and 'Hannah Arendt: On the Concept of Power', *Philosophical-Political Profiles* (translated by Frederick G. Lawrence) (London: Heinemann, [1976] 1983), pp. 171-187.

¹⁵ Seyla Benhabib, 'Models of Public Space: Hannah Arendt, the Liberal Tradition, and Jürgen Habermas,' in Craig Calhoun (ed.) *Habermas and the Public Sphere* (Cambridge, MA: MIT Press, 1992) pp.95.

'judging'. However, because Arendt's work also revives an *agonistic* conception of public space, less dependent on assumptions of rationality and more open to the performative dimensions of public life, straightforward deliberative readings of Arendt are problematic.

As the thesis has already suggested, the founding of basic institutions in Arendt's reading of the *polis* and the American republic are attractive to agonists because, in the words of Dana Villa, their 'meaning and authoritativeness...are determined by the clash of conflicting interpretations. So conceived, the public sphere is, above all, an institutionally articulated site of perpetual debate and contestation'.¹⁶ In Bonnie Honig's interpretation, the arena 'of Arendt's performative action is the radically contingent public realm where anything might happen, where the consequences of action are boundless, unpredictable, unintended, and often unknown to the actors themselves'.¹⁷ This is quite removed from the world of deliberative rationality; an important step away from a Habermasian conception of language towards investigating the force contained in the performative and expressive *act* of articulation.

The difference between Arendt and Habermas, however, goes beyond the deliberative/agonistic dichotomy common to so much of the political theory literature. First, the dichotomy between deliberation and performativity is over-stated when we no longer conflate the ethos or principle animating an act with the performance of the act itself. Arendt understands political action as neither supported by rational truth or the poststructuralist revelling in repudiation because of an inescapable Will to Truth. Her stress on action, what appears in the world, meant she understood that when 'men begin to act, their action *displays* the principle that animates it'.¹⁸ The dichotomy between an agonistic *politics* and a deliberative *ethos* are revealed as not so divergent in the case of the American revolutionists, for example, as many of them were enthused by the 'interconnected principle of mutual promise and common deliberation'.¹⁹ Deliberation *and* performativity were co-existent, if only for a fleeting moment amongst a small group of men, at the US founding.²⁰

¹⁶ Dana Villa, *Politics, Philosophy, Terror: Essays on the Thought of Hannah Arendt* (Princeton, NJ: Princeton University Press, 1999), p.116.

¹⁷ Bonnie Honig, 'Arendt's Account of Action and Authority', in *Political Theory and the Displacement of Politics* (Ithaca, NY: Cornell University Press, 1993), p. 93. Also see Bonnie Honig, 'The Politics of Agonism: A Critical Response to "Beyond Good and Evil: Arendt, Nietzsche, and the Aestheticization of Political Action" by Dana R. Villa', *Political Theory*, Vol. 21, no. 3 (1993), pp. 528-33.

¹⁸ Hannah Arendt, *On Revolution* (New York: Viking Press, [1963] 1970), p.124. My italics.

¹⁹ Arendt, *On Revolution*, p.215.

²⁰ As suggested in Chapter One, this reading does not discount the class politics of the American Revolution and that the 'mutual promise' and 'common deliberation' was highly selective. The classic text is Charles A. Beard,

Second, the deliberative/agonistic debate obscures what may be a far more significant conceptual and practical problem of how we consider the relationship between publics, states, and war. Recall the discussion of Habermas's historical-sociology of the bourgeois public sphere in 18th Century Europe. It was argued in Chapter One that the relationship between imperialism and the political awakening of the bourgeoisie was under-emphasised by Habermas. In *The Origins of Totalitarianism*, in contrast, Arendt argued that the bourgeoisie's political emancipation was directly linked to imperialism. 'The bourgeoisie', she wrote, 'turned to politics... for it did not want to give up the capitalist system whose inherent law is constant economic growth, it had to impose this law... and proclaim expansion to be an ultimate political goal of foreign policy'.²¹ These concepts, violence and expansion, that Habermas and his followers largely ignore when considering the structural transformation of *global* public spheres are precisely those useful for understanding the potential and actual violence of a global public when marshalled by powerful states. The chapter concludes by suggesting that Arendt's contribution is more appropriate to a critical international history and theory of US and global publics and their relationship to organised violence.

Deliberative Global Publics

Because Habermas's public sphere concept has become the received reading in international theory to date we must show how the categories established by him have been applied in emerging international and global public sphere literatures. Several assumptions become operative in international theory when Habermas's account of the public sphere is privileged. While his more recent work is cognisant of the way nationalism would need to be overcome for a global public based on 'constitutional patriotism' to emerge he does not consider that understanding 'post' sovereign relations in the global North requires locating it in more contemporary histories of US and European expansion and engagement.

In line with Critical Theory's rejection of the post-modern critique of reason, Habermas accepts cultural and linguistic embedded-ness while endeavouring to rethink the immanent potentialities in reason and truth by which dominant practices could be critiqued.²² Habermas's

An Economic Interpretation of the Constitution of the United States (New York: Macmillan Company, [1913] 1961).

²¹ Arendt, *The Origins of Totalitarianism*, p.126.

²² For Habermas's most sustained critique of 'post-structuralism' see *The Philosophical Discourse of Modernity: Twelve Lectures* (translated by Frederick G. Lawrence) (Cambridge, MA: MIT Press, 1987).

own recent revisions of the public sphere concept to account for globalization and 'post-nationalism' must also be noted.²³ Responding to the numerous criticisms of *The Structural Transformation*, Habermas has since revised his influential notion of a single authoritative bourgeois realm conceiving a globalized 'postnational' world of numerous debating publics less encumbered by the constraints of material inequality and nationalism.²⁴

Although bourgeois and singular in origin, then, the 'public sphere' discussed more recently has begun to recognise the existence of a plurality of spheres. In the words of James Bohman,

The cosmopolitan public sphere is not merely a structure but an ongoing process: the process by which emerging collective actors address the audience of world citizens and, in doing so, change the institutions that organize the publics into majorities. Cosmopolitan social critics and international collective actors may participate in the emergence of new publics, keeping democracy vital and its decision-making organizations flexible.²⁵

According to Mike Hill and Warren Montag, 'there is also a sphere of all spheres. The public sphere thus conceived is the totality formed by the communicative interaction of all groups, even nominally dominant and subaltern'.²⁶

What is driving the proliferation of these seemingly new kinds of global and transnational publics? The growth of supraterritorial spaces, as well as the consolidation of capitalism as the dominant structure of production, is 'simply the continuation of a process', Habermas writes, 'of which the function of integration performed by the nation-state provided the first major example'.²⁷ In line with Max Weber's sociology, the nation-state seemed on one occasion, according to Habermas, to represent 'a cogent response to the historical challenge of finding a functional equivalent for the early modern form of social integration that was... disintegrating. Today we are confronting an analogous challenge'.²⁸

²³ Jürgen Habermas, *The Post-National Constellation: Political Essays* (Cambridge: Polity Press, 2001).

²⁴ Jürgen Habermas, 'Concluding Remarks', in Craig Calhoun (ed.) *Habermas and the Public Sphere* (Cambridge, MA: MIT Press, 1992), pp. 462-479.

²⁵ James Bohman, 'The Public Spheres of the World Citizen', in James Bohman and Matthias Lutz-Bachmann (eds.) *Perpetual Peace: Essays on Kant's Cosmopolitan Ideal* (Cambridge, MA: MIT Press, 1997), p. 196.

²⁶ Mike Hill and Warren Montag, 'What Was, What Is, the Public Sphere? Post-Cold War Reflections', Mike Hill and Warren Montag (eds.) *Masses, Classes, and the Public Sphere* (London: Verso, 2000), p.3.

²⁷ Jürgen Habermas, 'The European Nation-State: On the Past and Future of Sovereignty and Citizenship', *Public Culture*, Vol. 10, no.2 (1998), p.399.

²⁸ Habermas, 'The European Nation-State', p.398.

The traditional territorial state, according to the popular view expressed by Jan Aart Scholte, is losing 'predominance as a site of governance'.²⁹ However, processes leading to the development of the nation-state hold important insights to understanding the emergence of global political forms. Although globalization has inaugurated an 'unprecedented increase in abstraction we can take our orientation on the precarious path toward postnational societies', Habermas suggests, 'from the very historical model we are on the point of superceding'.³⁰ With the emergence of supraterritorial constituencies, extensive multilateralism, the retreat of the welfare state, and transformations in the organisation of 'legitimate' violence we now seem to be witnessing a radical reordering of the global political and economic architecture.³¹

If covert and unaccountable decision-making is already present - and with governments increasingly captivated by the power of global capital - initiative for democratic change is unlikely to come in the form of public policy centred on the state.³² If we fail to establish new forms of integration and accountability the stakes would seem to be great. In Habermas's words,

If not only the nation-state has run its course but along with it all forms of *political* integration, then individual citizens are abandoned to a world of anonymously interconnected networks in which they must choose between systematically generated options in accordance with their preferences. In this *postpolitical* world, the multinational corporation becomes the model for all conduct.³³

With increasingly visible instances of 'transnational harm', especially neo-liberal economic globalization affecting the provision of human health and welfare, absolute reliance on existing national institutions can only injure the civic ideal.³⁴ Global representative and democratically accountable institutions will have to be fashioned.³⁵

Recent accounts of the proliferation of networks of organisations and individuals active outside the bounds of the state, especially in the liberal human rights community, have done much to bear out conceptions of an imminent global public. Guidry, Kennedy and Zald, following Habermas, suggest that an emerging, 'transnational public sphere offers a place

²⁹ Jan Aart Scholte, *Globalization: A Critical Introduction* (London: Macmillan, 2000), p.133.

³⁰ Habermas, 'The European Nation-State', p.399.

³¹ Martin Shaw, *Theory of the Global State: Globality as an Unfinished Revolution* (Cambridge: Cambridge University Press, 2000).

³² Cf. Paul Hirst and Grahame Thompson, *Globalization in Question* (2ed.) (Cambridge: Polity Press, 1999).

³³ Habermas, 'The European Nation-State', p.414.

³⁴ Andrew Linklater, *The Transformation of Political Community: Ethical Foundations of the post-Westphalian Era* (Cambridge: Polity Press, 1998), p.182.

³⁵ Daniele Archibugi, David Held, and Martin Köhler (eds.) *Re-imagining Political Community: Studies in Cosmopolitan Democracy* (Cambridge: Polity, 1998).

where... organization and tactics... can be transmitted across the globe... More generally, the spread of human rights ideologies and movements exemplifies the power and consequences of this public sphere's global reach'.³⁶ Where the bourgeois public sphere sought to hold state power accountable to liberal freedoms, the foundation of more recent conceptions of global publics clearly mobilise the transnational discourse and practice of human rights.

Central to these visions is that a transnational public sphere centred on the human rights debate has matured to allow individuals and groups in countries without a 'liberal' tradition to raise claims both domestically and internationally in terms of 'rights'.³⁷ In their study of transnational activist networks, Margaret Keck and Kathryn Sikkink offer a similar liberal logic. 'The new networks', they argue, 'have depended on the creation of a new kind of global public (or civil society), which grew as a cultural legacy of the 1960s'.³⁸

James Bohman and Matthias Lutz-Bachmann, following Habermas, go further, conceiving globalization as productive, in their words, of 'a constellation of forces that make peace feasible... [if] human rights achieve a *legal* status in the rights of world citizens'.³⁹ This assumed nexus between human rights, liberal peace, and publics is powerful. Hill and Montag are even more ambitious suggesting that,

Globalization, whatever its challenges, is therefore the bearer of a genuine universalism that *insofar as it is communicative in its essence* transcends the merely material differences between nations... It no longer makes sense to speak of an international balance of forces when one of the two contending parties [the USSR] has ceased to exist and the global realm of communicative action, governed by the 'cognitive content of morality', is said to have finally escaped the imperatives of material life.⁴⁰

Much of this literature on the potentialities for global publics remains embryonic, and is certainly more problematic in the wake of the unilateralism of the United States post-

³⁶ John A. Guidry, Michael D. Kennedy, and Mayer N. Zald, 'Globalization and Social Movements', in Guidry, Kennedy, and Zald, (eds.) *Globalizations and Social Movements: Culture, Power, and the Transnational Public Sphere* (Ann Arbor: University of Michigan Press, 2000), p. 7.

³⁷ Patrick Ball, 'State Terror, Constitutional Traditions, and National Human Rights Movements: A Cross-National Qualitative Comparison', in John A. Guidry, Michael D. Kennedy, and Mayer N. Zald (eds.) *Globalizations and Social Movements: Culture, Power, and the Transnational Public Sphere* (Ann Arbor: University of Michigan Press, 2000), pp. 54-75. Also see David Beetham, 'Human Rights as a Model for Cosmopolitan Democracy', in Daniele Archibugi, David Held, and Martin Köhler (eds.) *Re-imagining Political Community: Studies in Cosmopolitan Democracy* (Cambridge: Polity, 1998), pp. 58-71.

³⁸ Margaret E. Keck and Kathryn Sikkink, *Activists Beyond Borders: Advocacy Networks in International Politics* (Ithaca, NY: Cornell University Press, 1998), p. 14.

³⁹ James Bohman and Matthias Lutz-Bachmann, 'Introduction', in Bohman and Lutz-Bachmann (eds.) *Perpetual Peace: Essays on Kant's Cosmopolitan Ideal* (Cambridge, MA: MIT Press, 1997), p.10.

⁴⁰ Hill and Montag, 'What Was, What Is, the Public Sphere?', p.4. My italics.

September 11. Yet recent efforts to provide a more comprehensive international public sphere theory along deliberative lines have emerged.

Mark Lynch has developed an international public sphere theory organised in terms of communicative action and the constitution of state identity and interests through public deliberation. Following Habermas's distinction between 'instrumental' and 'communicative' rationality, Lynch conceives the structure of global politics as comprised of both traditional forms of 'strategic interaction' (instrumental action resembling the market) and a public sphere of 'communicative action' (resembling the forum) based on deliberation, dialogue and persuasion.⁴¹ The international public sphere is where state action is 'justified, interpreted, and contested'.⁴² We only need look at the 'empirical observation of state justifications,'⁴³ according to Lynch, to demonstrate the presence of an international public sphere.

Other theorists have looked to deliberative theory to fashion a democratic system of global governance. Because a communication-based model of interaction is presumed to operate with 'fluid boundaries', John Dryzek argues that deliberative accounts of global public space are 'more appropriate for we can now look for democracy in the character of political interaction that generates public opinion'.⁴⁴ Democracy at the global is conceived as a process of communicative deliberation rather than simply voting or representation.⁴⁵ 'Governance without government', national and international order based on resolving common problems without 'binding decision structures', can develop from 'spontaneous co-operation in decentralized systems'.⁴⁶ The 'grand logic' animating this model, like Lynch's, originates in discursive sources of power and authority. Thus conceived social change in the global realm follows a path, according to Dryzek, that largely replicates political struggle in the democracies of the industrialised West.

Alongside the invocation of Habermas, the work of English School theorist Hedley Bull suggests the overlap between these accounts of international public spheres and

⁴¹ Lynch, *State Interests and Public Spheres*, p.3. This distinction is made by Habermas in numerous places but see Jürgen Habermas, *Toward a Rational Society: Student Protest, Science and Politics* (London: Heinemann, [1969] 1971).

⁴² Lynch, *State Interests and Public Spheres*, p.36.

⁴³ Lynch, *State Interests and Public Spheres*, p.39.

⁴⁴ John S. Dryzek, *Deliberative Democracy and Beyond: Liberals, Critics, Contestations* (Oxford: Oxford University Press, 2000), p. 129.

⁴⁵ Dryzek, *Deliberative Democracy*, p.129.

⁴⁶ Dryzek, *Deliberative Democracy*, p.120.

deliberative global governance and the notion of a 'society of states'.⁴⁷ 'Bull's emphasis on shared norms, expectations, and institutions', according to Lynch, 'involves communicative action and the public sphere dimension of structure'.⁴⁸ The international public sphere, like the society of states, is a feature of social structure with both material and normative dimensions. We can therefore treat the international (as opposed to the global) public sphere and the society of states as functionally equivalent.

Nicholas J. Wheeler has built upon similar arguments to justify the 'norm' of humanitarian intervention within the 'society of states'. States can be held accountable for their actions by revealing the potential (not assumed) gap between 'humanitarian' discourse and political action. During debates at the United Nations concerning the legitimacy of NATO's Kosovo intervention, for example, Wheeler suggests that an important reason for Argentina's public support in the Security Council was 'its growing commitment to democratic values at home [which] was being reflected in a commitment to defend human rights internationally'.⁴⁹

These deliberative theorists do not necessarily seek to discover behaviour that is devoid of power and interest but to reveal the conditions where 'public justification oriented to shared norms, goals or identity'⁵⁰ pushed behaviour toward a different course of action. Lynch gives the example of Arab state behaviour during the 1950s and 1960s where, in his words, 'Arab states exercised power in large part by advancing claims in the Arabist public sphere which challenged the target to justify its deviance from this interpretation of Arabist norms or else comply'.⁵¹ Dialogue, deliberation, and persuasion in public spheres are as much a structural feature of international politics by these accounts as domination, imposition, and the use of force.

Citing Habermas, Wheeler similarly argues for the distinction 'between power that is based on relations of domination and force, and power that is legitimate because it is predicated on shared norms',⁵² though without considering that the 'norms' themselves may actually be domination and force. If states cannot come up with sufficient or 'plausible' legitimating reasons for their actions, it is argued, they will necessarily be constrained. In other

⁴⁷ Hedley Bull, *The Anarchical Society: A Study of Order in World Politics* (New York: Columbia University Press, 1977).

⁴⁸ Lynch, *State Interests and Public Spheres*, p.34.

⁴⁹ Wheeler, *Saving Strangers*, p.280.

⁵⁰ Lynch, *State Interests and Public Spheres*, p.40.

⁵¹ Lynch, *State Interests and Public Spheres*, p.44.

⁵² Wheeler, *Saving Strangers*, p.2.

words, according to Wheeler, 'legitimacy is constitutive of international action...[because] justification is a critical enabling condition of action and not simply a rationalization of decisions'.⁵³ Keck and Sikkink have termed this process 'accountability politics'. An exemplary tactic for transnational human rights advocates they suggest is holding powerful actors to their formerly declared principles.⁵⁴ Liberal discourse is apparently especially prone to the shaming or accountability politics crucial to deliberative accounts.⁵⁵

Whether reflecting the emergence of cosmopolitan discourses of human rights and military interventions, the potential for deliberative global 'governance without government', or the constitution of state identities and interests in an international public sphere, Habermas's account of the public sphere is central and growing in influence. Although there are differences in emphasis we can begin to rank a number of IR theorists together as exemplary in their assumptions concerning the usefulness of Habermas's framework of analysis.

By drawing on Habermas as *the* theorist of the public sphere, however, numerous assumptions are drawn into the way in which we understand politics, global governance, and rights. The emphasis on liberal rights, an exclusion of violence, as well as the imposition of hegemonic western notions of what deliberative communication can and will provide have been suggested thus far. Perhaps more importantly, however, where Habermas's earlier bourgeois idealisation led to the creation of public realms in the European cities that served to enhance the power of one class and one gender and one civilisation over another new global public discourses, the next section will argue, similarly serve to rationalise violence.

Deliberative Violence

The conflict between order and justice, between state sovereignty and human rights, seems to be the tension - the normative cutting-edge - that animates much of the global public sphere literature. As Bohman and Lutz-Bachmann describe, 'If there is any room for coercion in international law, it is in the enforcement of human rights precisely against states that use their sovereignty to abuse human rights for particular political, religious, or nationalist goals'.⁵⁶

As Chapter Two suggested, there already seems to be more room for violence in international law than these authors would allow. However, it is worth interrogating the space

⁵³ Wheeler, *Saving Strangers*, p.4, 10.

⁵⁴ Keck and Sikkink, *Activists Beyond Borders*, p.16.

⁵⁵ Keck and Sikkink, *Activists Beyond Borders*, p.206.

⁵⁶ Bohman and Lutz-Bachmann, 'Introduction', p.18.

opened for violence by recent invocations of human rights ideologies in the context of global publics and hegemonic liberal states. It is worthwhile because the globalization literature - in which much of the talk about global publics is situated - has tended to be overly economist in emphasis, ignoring the centrality of military force in the globalizing process. This can be seen in the global public sphere literature in the opposition between reason and force.

Hill and Montag are (almost) right to suggest that 'Absolutely central to the notion of the public sphere in all its versions is the opposition between reason and force'.⁵⁷ They are almost right because Arendt, for example, would replace 'reason' with 'speech'. Hill and Montag also add to the opposition between 'reason and force' an antagonism between 'speech and action'. However, from both Arendt's *and* Habermas's perspective this second opposition is certainly wrongheaded, speech itself being a kind of 'communicative' (Habermas) or 'performative' (Arendt) action.

Nonetheless, despite this apparent confusion - and mirroring the traditional opposition between reason and force in deliberative theory - the global public sphere literature is dependent upon a structural and ideological separation of the world. There is one realm characterised by Habermasian communicative discourse - an extension of either Lockean or Kantian logics of cooperation⁵⁸ - necessarily defined against its opposite, the traditional Hobbesian realm of strategic interaction and potential war.⁵⁹

Lynch is explicit about the division of the world based upon structural variation. 'Some international structures', he suggests, 'more resemble the market, with its strategic bargaining behaviour, while others more resemble the forum, with communicative action and persuasion'.⁶⁰ In much of the global public sphere literature 'public' space is presented as discursive in a rational-communicative form usually epitomised by the 'peaceful' or 'humane' liberal regimes. Also implicit in deliberative notions of the public sphere is that it can only remain a place of rational communication as long as the use or threat of force between liberals

⁵⁷ Hill and Montag, 'What Was, What Is, the Public Sphere?', p.6.

⁵⁸ For an explication of Lockean international order see Alexander Wendt, *Social Theory of International Politics* (Cambridge: Cambridge University Press, 1999).

⁵⁹ For a similar argument about the democratic peace literature see Tarak Barkawi and Mark Laffey, 'The International Relations of Democracy, Liberalism, and War', in Tarak Barkawi and Mark Laffey (eds.) *Democracy, Liberalism, and War: Rethinking the Democratic Peace Debate* (Boulder, CO: Lynne Rienner, 2001), pp. 1-23.

⁶⁰ Lynch, *State Interests and Public Spheres*, p.35.

is excluded.⁶¹ In other words, the civilisational identity of 'the West' is predicated on the presumption that war between states *within* the liberal sphere is virtually unthinkable.

In his analysis of a 'cosmopolitan' public sphere, however, Martin Köhler suggests that because liberal-democratic governments are seemingly more susceptible (democratically accountable) to costs and risks at the global level they are also more likely through co-operation to embark 'on a long term process of democratization of the external environment'.⁶² Indeed, without such an opposition between spheres there would be no place 'outside' the realm of the liberal peace in which to intervene and transform. It is in this context that 'humanitarian intervention' has become a major legitimation for the use of force by Western regimes.

Mary Kaldor's recent work on changing patterns of 'legitimate' violence not only illustrates the new rationale for 'humanitarian' war. Her account epitomises the implicit opposition in the deliberative global public literature between the civilised, liberal West and a world of (at best) continuing non-cooperation or 'barbarism' (at worst).⁶³ Consider a major assumption of the 'humane warfare' literature that was renewed after wars such as Kosovo.⁶⁴ 'The West's attempts to humanize war', suggests Coker, 'to rob it of those features such as cruelty, hatred and courage runs against the grain of much of what is happening in the non-Western world. For one of the disturbing trends in contemporary conflict is that inhumanity and incivility seems to be on the rise'.⁶⁵

Kaldor is more explicit, however, on the association between the extension of global public space and new demands for the legitimisation of violence. Moreover, she is unequivocal about the extent of social engineering necessary for the 'transnationalization' of legitimate violence. In her words, 'any attempt to control violence on a transnational basis can only be conceived as part of a far-reaching cultural transformation in which the duties and rights of

⁶¹ Hill and Montag, 'What Was, What Is, the Public Sphere?', p.6.

⁶² Martin Köhler, 'From the National to the Cosmopolitan Public Sphere', in Daniele Archibugi, David Held, and Martin Köhler (eds.) *Re-imagining Political Community: Studies in Cosmopolitan Democracy* (Cambridge: Polity, 1998), p.243.

⁶³ Mary Kaldor, 'Reconceptualizing Organized Violence', pp. 91-110.

⁶⁴ See Colin McInnes, 'Spectator Sport Warfare', *Contemporary Security Policy*, Vol.20, no.3 (1999), pp. 142-65 and Michael Ignatieff, *Virtual Wars: Kosovo and Beyond* (London: Chatto and Windus, 2000).

⁶⁵ Christopher Coker, *Humane Warfare* (London: Routledge, 2001), p. 5. Coker provides no evidence that there has been a 'rise' in inhumanity during recent wars. This is a critique also made of Mary Kaldor in Ken Booth, 'New Wars for Old?', *Civil Wars*, Vol.4, no.2 (2001), pp. 163-70.

citizenship are redefined in cosmopolitan terms'.⁶⁶ Not all are willing or able to undergo such a 'cultural transformation' and these, according to Kaldor, are the groups who will engage in the most barbarous, despite technologically sophisticated, war.

'While groups who define themselves in terms of identity [sic] may well be backward looking in their ideology and rhetoric', she argues, 'nevertheless the way they engage in violence, the instruments they use, their goals and their forms of mobilization can only be explained in contemporary terms'.⁶⁷ Coker offers a similar logic. In contrast to the 'humane' West, 'Elsewhere in the world war is becoming more inhumane, not less... War is becoming more dirty... Whatever we wish to call it... it has a logic [that] runs counter to what the West is trying to do - to make war less cruel'.⁶⁸ The most crucial feature in any effort to theorise cosmopolitan democracy, Kaldor argues, is 'whether the capacity for regulating violence can be reinstated in some new way on a transnational basis and whether barbarism can be checked by an alert and active cosmopolitan citizenry'.⁶⁹

Deliberative notions of an imminent global public, like its twin liberal peace theory, depend on a seemingly progressive teleology of historical development that presents the West as already civilised and democratic. The functional virtues and telos of the modern state, based on Weberian processes of integration, rationalisation and 'abstraction' are merely undergoing further expansion and abstraction via globalization. Coupled with these functional virtues, of course, are liberal citizenship rights to be potentially expanded (including through 'humanitarian' war) in the 'post-Westphalian' era if the territorial link between the 'national-state' and 'public' is to be duly severed.

'The praxeological task', argues Andrew Linklater, for example, 'is to use the moral resources which have been deposited in the idea of citizenship to imagine forms of political community which harmonise the claims of universality and difference'.⁷⁰ Such a vision may in principle include preventing states abusing human rights through armed intervention. As Molly Cochran has shown, Linklater does not rule out the possibility that interventionary violence can be justified in terms of the dialogic ethic. This would follow, in Cochran's reading, 'once

⁶⁶ Kaldor, 'Reconceptualizing Organized Violence', p.108. For a critique of the social engineering implied in several cosmopolitan approaches see Stephen Hopgood, 'Reading the Small Print in Global Civil Society: The Inexorable Hegemony of the Liberal Self', *Millennium*, Vol. 29, no.1 (2000), pp. 1-25.

⁶⁷ Kaldor, 'Reconceptualizing Organized Violence', p.103.

⁶⁸ Coker, *Humane Warfare*, pp. 22-3.

⁶⁹ Kaldor, 'Reconceptualizing Organized Violence', p.109.

⁷⁰ Linklater, *The Transformation of Political Community*, p.182.

we have established that those who may do the intervening have ethical credentials established through their participation in a politics of discourse'.⁷¹ Humanitarian intervention would be honourable if those intervening agreed through fair procedures that the violent means justified the ends.

As we have seen in Chapter Two, similar assumptions about the function of UN debate over Kosovo formed the basis of English School/deliberative attempts to endorse the war. 'NATO's action', Wheeler wrote, 'was for the most part greeted with either approval or acquiescence by the society of states'.⁷² The assumed procedural rationality of UN debate, despite the lack of Security Council approval, is presumed to have bestowed legitimacy on the use of military force. Is this an acceptable understanding of the politics of legitimacy, however, given the structure of global authority?

From a perspective drawing on Arendt deliberative theorists have only seemingly justified (to themselves) but not *legitimated* the Kosovo war. Power, in Arendt's view, is a collective act based on speech; it is what comes into being between people in the public sphere. Violence is the antithesis of power. In her essay 'On Violence', she draws the distinction between power, legitimacy and violence. In her words,

Power springs up whenever people get together to act in concert, but it derives its legitimacy from the initial getting together rather than from any action that then may follow. Legitimacy, when challenged, bases itself on an appeal to the past, while justification relates to an end that lies in the future. Violence can be justifiable, but it will never be legitimate.⁷³

Throughout *Saving Strangers*, Wheeler conflates these distinct notions of 'justification' and 'legitimacy', attempting to legitimate interventionary violence by the humanitarian outcomes of the case. In response to the destruction caused by NATO, for example, he writes, 'whilst the bombing accelerated Serb ethnic cleansing and led to thousands of Kosovars being killed, this has to be set against the fact that NATO's use of force made possible KFOR and a measure of political autonomy'.⁷⁴

⁷¹ Molly Cochran, *Normative Theory in International Relations: A Pragmatic Approach* (Cambridge: Cambridge University Press, 1999), p.253.

⁷² Wheeler, *Saving Strangers*, p.242.

⁷³ Hannah Arendt, 'On Violence' in *Crisis of the Republic* (New York: Harcourt Brace Jovanovich, 1972), p. 151.

⁷⁴ Wheeler, *Saving Strangers*, pp. 283-4.

This is a *justification* based on a selective and premature reading of Kosovo's future highly sympathetic to NATO and KFOR.⁷⁵ For a political action to be *legitimate*, however, it is the 'initial getting together' of states that we must adjudicate, especially given the incredibly narrow definition of international 'society' employed in the English School account. As well as the abstentions and threatened vetoes by the usual suspects at the UN (Russia and China), the notion that the wider 'international community' meaningfully called for a war against Belgrade is inaccurate unless we are to exclude representatives of most of the world's people.⁷⁶ It is perhaps not surprising that the English School employ such a narrow definition of the 'society of states' as the theory itself is based on an international system that has historically legitimated imperial hierarchy.⁷⁷

In any case, properly speaking, violence *itself* can never be legitimate; it can only be *justified* on a means-end basis. 'Humanitarian' war over Kosovo and elsewhere can only fall short in this important regard. For Arendt, violence could only be instrumental, in-line with her rejection of all means-ends categories applied to politics: 'the means are always the decisive factor'.⁷⁸ Indeed, those concerned with human rights do not *need* to offer moral sanction or 'legitimacy' to liberal state violence to justify even a violent response to atrocities.⁷⁹

In contrast to Habermas, Linklater and Wheeler, witness Cochran's refusal to legitimise military intervention within her 'pragmatic' theoretical framework.⁸⁰ In Cochran's words, 'pragmatic critique cannot sanction violence and its own form of absoluteness: once a life has been taken, it cannot be given back... There are no assurances regarding outcomes that the

⁷⁵ For a less sympathetic reading see Jasmina Husanović, "'Post-Conflict' Kosovo: An Anatomy Lesson in the Ethics/Politics of Human Rights", in Ken Booth (ed.) *The Kosovo Tragedy: The Human Rights Dimensions* (London: Frank Cass, 2000), pp. 263-80.

⁷⁶ During the Summit of the G-77 in Havana, for example, there was a declaration stating, 'We reject the so-called "right" of humanitarian intervention'. Noam Chomsky, *A New Generation Draws the Line: Kosovo, East Timor and the Standards of the West* (London: Verso, 2000), p.4. This is not to deny that individual member states of the G-77 may have had their own, less than benign, reasons for rejecting the principle of humanitarian intervention. Rather it is to point out that the English School argument about the international community being in favour of the intervention over Kosovo is inadequate even on its own terms. Just as those who evoke the idea of a unitary public sphere are those most likely to try to speak in its name, powerful states and intellectuals who refer to the 'international community' are also those most likely to try to act in its name.

⁷⁷ Justin Rosenberg, *Empire of Civil Society: A Critique of the Realist Theory of International Relations* (London: Verso, 1994).

⁷⁸ Hannah Arendt, 'Hermann Broch, 1886-1951', *Men in Dark Times* (New York: Harcourt, Brace & World, 1968), p. 148.

⁷⁹ Drawing on Kant, rather than Arendt, Booth makes a similar point about some wars being 'necessary' or 'excusable' rather than 'just'. See Ken Booth 'Ten Flaws of Just Wars', in Ken Booth (ed.) *The Kosovo Tragedy: The Human Rights Dimensions* (London: Frank Cass, 2000), pp. 314-24.

⁸⁰ Cochran explicitly engages with but distances herself from Arendt in favor of Dewey but without fully exploring Arendtian resources. See Molly Cochran, 'Conceptualizing International Public Spheres', Paper Presented at the International Studies Association Conference, Chicago, 2001.

ends will in fact justify the means or that violence will secure better ways of coping or a workable solution.’⁸¹ Interestingly, violence *itself* is not ruled out. However, mirroring Arendt, ‘Pragmatic critique can recognize this as the required *instrumental*, rather than ethical, decision’.⁸² With the international ethical credentials of liberal regimes already assumed in most of the deliberative public sphere literature, however, the politics behind ‘communicative discourse’ is largely concealed.

Deliberative accounts, in other words, redraw global political boundaries but not in positive ways. The traditional world of inter-state alliances is replaced, as Stephen Rosow describes, with a new world ‘of internal connections among liberal democratic states set off against a hostile array of non-liberal, undemocratic powers (states and others) outside’.⁸³ Although deliberative democrats are certainly critical of the level of democracy in the liberal West and do not consciously seek to replicate in the global arena the ills of contemporary liberal societies, one of the material effects of their teleology is the (often violent) externalisation of the project of liberal democracy under the sanitised label ‘intervention’.

First, at the same time that war is not defined as war but as ‘intervention’ by legal fiat succour is given to global public sphere theorists and violent liberal regimes. ‘War’, in the words of Tarak Barkawi, ‘is a matter of the clash of armed forces in definite historical and social contexts; it is not conducted with legal distinctions or the juridical division of territory’.⁸⁴ Second, deliberative theorists tend to equate liberal regimes and what they may desire with the whole of humanity. Following Carl Schmitt, Barkawi, rightly suggests,

there is no actual political entity which corresponds to ‘humanity’, rather only those which seek to speak in the name of it... This identity construction does not reflect either the historical or contemporary nature of relations between the West and those countries in which humanitarian crises occur...[T]he language of ‘humanitarianism’ works to legitimate global hierarchies of power and inequality.⁸⁵

The crucial distinction animating deliberative global public sphere theorists is thus not only (or even) between state sovereignty and human rights as so often presented in the literature but more problematically a world of two spheres.

⁸¹ Cochran, *Normative Theory*, p.252.

⁸² Cochran, *Normative Theory*, p.252.

⁸³ Stephen J. Rosow, ‘Globalisation and Democratic Theory’, *Millennium*, Vol. 29, no. 1 (2000), p. 35.

⁸⁴ Tarak Barkawi, ‘War Inside the Free World: The Democratic Peace and the Cold War in the Third World’, in Tarak Barkawi and Mark Laffey (eds.) *Democracy, Liberalism, and War: Rethinking the Democratic Peace Debate* (Boulder, CO: Lynne Rienner, 2001), p. 126.

⁸⁵ Tarak Barkawi, ‘Air Power and the Liberal Politics of War’, in Ken Booth (ed.) *The Kosovo Tragedy: The Human Rights Dimensions* (London: Frank Cass, 2000), p. 310.

The assumption of an unforced force of the better argument in Habermas's account rearticulates the intrinsic and violent hierarchy between global spheres assumed in the deliberative literature on public spheres and changing patterns of violence. The repercussions and consequences of accepting Habermas as foundational for understanding the public sphere, even when considering the possibility of multiple publics operating at different levels, are therefore potentially huge. What Arendt may offer in contrast is a model of theorising not the ideal public realm transposed to 'the global', as Habermas and his followers have attempted, but an account of the way in which virtually all attempts to fashion a polity in the modern 'politics-as-making' tradition may involve and justify various forms of violence.

'Politics-as-Making': Publics and Violence

Violence is the evil twin of Arendtian politics. As John McGowan has effectively shown, 'Arendt's definition of the political... often seems constructed primarily through negations. Arendt consistently links with violence what she wishes to exclude from politics'.⁸⁶ This exclusion is most evident in *The Human Condition*. 'Only sheer violence is mute', she writes, 'and for this reason alone can never be great... To be political, to live in the *polis*, meant that everything was decided through words and persuasion and not through force and violence'.⁸⁷

Whilst recalling the conventional view that 'whatever brotherhood all human beings may be capable of has grown out of fratricide',⁸⁸ Arendt's purpose in contrasting the French and American precedents in *On Revolution* was to shatter the grip of French Revolutionary categories, to suggest that revolution, the foundation of a republic, may not be bloody. Moreover, in an effort to show that even goodness habitually incites direct, sometimes violent action at the expense of speech, her discussion of Herman Melville's novella *Billy Budd* depicts the young sailor stammering impotently in his innocence able only to answer evil with a violent (and lethal) blow.⁸⁹ In her most explicit essay on the subject, 'On Violence', she

⁸⁶ John McGowan, 'Must Politics Be Violent? Arendt's Utopian Vision', in Craig Calhoun and John McGowan (eds.) *Hannah Arendt and the Meaning of Politics* (Minneapolis: University of Minnesota Press, 1998) p.270. This seems to be quite in keeping with the classical realist understanding of the difference between the domestic and the international realm, where peace and order reigned inside the state and potential war and anarchy was the norm in the system of states. See Hans Morgenthau, *Politics Among Nations: The Struggle for Power and Peace* (New York: Alfred A. Knopf, 1948), p.21.

⁸⁷ Hannah Arendt, *The Human Condition* (Chicago: University of Chicago Press, 1958), p.26.

⁸⁸ Arendt, *On Revolution*, p. 20.

⁸⁹ Arendt, *On Revolution*, p. 79.

depicts the activity as the almost inevitable response of political minorities unable to create a realm for action in the modern bureaucratised polity: 'the greater the bureaucratization of public life the greater the attraction of violence'.⁹⁰

Why this radical exclusion of and thereby intimate connection between violence and the political? For Arendt, to be political, to speak and to act, was to be most free; freedom is the *raison d'être* of the political.⁹¹ As part of this understanding Arendt famously maintained the phenomenological distinctions between labour, work and action. No account of Arendt's conception of violence and public spheres can begin without an explication of these conceptual distinctions, especially work and action, traced from their etymological origins in ancient Greece to their transformations in the modern age.⁹²

Political meaning, for Arendt, could only arise through human *inter*-action in the public sphere, the 'realm of appearances', not 'things' to be shaped. In contrast to the activities of labour and work, there is some intangibility at the core of this conception of 'action', in Arendt's words, 'since there are no tangible objects into which it could solidify; the process of acting and speaking can leave behind no such results and end products. For all its intangibility, however, this in-between is no less real than the world of things we visibly have in common'.⁹³ In other words, 'power', she wrote, 'is the only human attribute which applies solely to the worldly in-between space by which men are mutually related'.⁹⁴

Inter-subjective reality (loosely conceived) is thus crucially linked to the worldly, human-made setting that mutually relates us. The promise of politics, for Arendt, was that humans 'form a world *between* them'.⁹⁵ We insert ourselves 'into the human world', she suggests, 'through action and speech'.⁹⁶ Knowledge in this realm is always mediated by the interactions of a plurality of diverse individuals. A public stage of shared institutions and spaces, however, is crucial to our sustaining a sense of worldly reality fostered by the testimony ('story-telling') of others. The public is partly constituted as a human artefact and

⁹⁰ Arendt, 'On Violence', p.178.

⁹¹ Arendt, *The Human Condition*, pp. 79-135.

⁹² The categories, however, as Margaret Canovan suggests, 'are shaped as much by the needs of [Arendt's theoretical] web as by her considerable sensitivity to previously unrecorded experience'. Canovan, *Hannah Arendt: A Reinterpretation of Her Political Thought* (Cambridge: Cambridge University Press, 1992), p.102.

⁹³ Arendt, *The Human Condition*, p.183. See Benhabib, *The Reluctant Modernism*, p.112.

⁹⁴ Arendt, *On Revolution*, p.175.

⁹⁵ Arendt, *On Revolution*, p.174. My italics.

⁹⁶ Arendt, *The Human Condition*, p.184.

‘signifies the world itself, in so far as it is common to all of us... who inhabit the man-made world together’.⁹⁷

Clearly for Arendt political action was a specifically *worldly* and world-making activity, requiring the existence of others. The activity of ‘work’ is accordingly conceived in terms of the activity of *creating* the world, the ‘human artifice’ of objects, the architecture surrounding humanity.⁹⁸ This is a durable realm, a space of artificial, man-made objects - laws, as we saw in Chapter Two, institutions and cultural settings - that made the earth our home. This environment provides stability and as such an element of enduring reality to overcome the never-ending flux of the life-process of labour.⁹⁹

Importantly, the realm of work is not only the creation of a lasting world. It is also a realm of violence, of humans acting upon and radically altering objects - where human force manipulates and fabricates earth-given nature for the end of creating a home. It is the realm of *means and ends* from which it derives legitimacy. Albeit necessary, these are the activities of force and control.

Most crucially for our discussion, it is the temptation to conflate the realm of work, of means and ends, with politics, according to Arendt, that has been one of the most destructive aspects of the Western philosophical tradition right down to recent re-articulations by deliberative theorists.¹⁰⁰ For it was in response to Plato and Aristotle’s exacerbation with democratic political action - its unpredictability and sheer contingency - which led Arendt to argue that the entire tradition has perceived political actors as, in her words,

‘craftsmen’: the result of their action is a tangible product, and its process has a clearly recognized end. It is as though they had said that if men only renounce their capacity for action, with its futility, boundlessness, and uncertainty of outcome, there could be a remedy for the frailty of human affairs.¹⁰¹

One effect, as Arendt suggests, is that it ‘makes it almost impossible to discuss [political] matters without using the categories of means and ends and thinking in terms of instrumentality’.¹⁰²

⁹⁷ Arendt, *The Human Condition*, p.52.

⁹⁸ Arendt, *The Human Condition*, pp. 136-174.

⁹⁹ Arendt’s distinction between work and labour is not central to the discussion here but see Robert W. Major, ‘A Reading of Hannah Arendt’s “Unusual” Distinction Between Labor and Work’, in M.A. Hill (ed.) *Hannah Arendt: The Recovery of the Public World* (New York: St. Martin’s Press, 1979), pp. 131-155.

¹⁰⁰ Arendt, *The Human Condition*, p. 229.

¹⁰¹ Arendt, *The Human Condition*, p.195.

¹⁰² Arendt, *The Human Condition*, p. 229.

The moral and political results of the modern conflation of making (always partly violent) with politics have been disastrous: action is equated with violence. Indeed, although Arendt suggests that violence has always played a role in 'political schemes' and in traditions of thought that conceive politics principally as 'making' rather than acting, in her words,

up to the modern age, this element of violence remained strictly instrumental... Only the modern age's conviction that man can only know what he makes... brought forth the much older implications of violence inherent in all interpretations of the realm of human affairs as a sphere of making. This has been particularly striking in the series of revolutions... all of which - with the exception of the American Revolution - show the same combination of the old Roman enthusiasm for the foundation of a new body politic with the *glorification of violence* as the only means for 'making' it.¹⁰³

The revolutionary effort to found a polis in the absence of traditional morality, the search for a 'new absolute', explains this resort to violence.

Machiavelli, like the Romans, viewed the revolutionary founding of a polis as the central political act. But in contrast to the Romans, Arendt argues, Machiavelli 'felt that for this supreme "end" all "means", and chiefly the means of violence, were justified'.¹⁰⁴ Thus Machiavelli's contention that politics and violence were two sides of the same coin actually expressed, she suggests, not his 'so-called realistic insight into human nature' but nothing more than 'his futile hope that he could find some quality in certain men to match the qualities we associate with the divine'.¹⁰⁵

In other words, when the act of founding is identified with 'making', Arendt suggests, its 'justification of violence [is] guided by and receive[s] its inherent plausibility from the underlying argument: You cannot make a table without killing trees, ...you cannot make a republic without killing people'.¹⁰⁶ But this 'politics-as-making' tradition - politics equated with the 'making' involved in work - underpins not only the effort of revolutionaries to found a republican public sphere. The search in deliberative public sphere theory for the divine procedure with which to legitimate politics similarly tries (but fails) to elide violence. You cannot make a deliberative global public it would seem without killing people.

¹⁰³ Arendt, *The Human Condition*, p.228. My italics.

¹⁰⁴ Arendt, 'What is Authority?', in *Between Past and Future: Eight Exercises in Political Thought* (New York: Viking Press, 1968), p.139. Also see Arendt, 'Understanding and Politics', in *Essays in Understanding: 1930-1954* (New York: Harcourt Brace and Company, 1994), p. 321.

¹⁰⁵ Arendt, *On Revolution*, p.39.

¹⁰⁶ Arendt, 'What is Authority?', in *Between Past and Future*, p.139. Also see Arendt, 'Understanding and Politics', p.321.

Recall that Habermas equates the establishment of 'postnational' constitutionalism, the seeds of a global public sphere, with the effort to overcome the apparent need for the patriotic appeals historically needed to supplement democratic citizenship. The grounds of national unity needed to go beyond merely pragmatic approval of the existing order; the cult of nationalism was far more effective for binding society and modern states mobilised citizens for war precisely in these more primordial (patriotic) terms.

But if political communities are to overcome nationalist exclusion 'post-Westphalia' the search for a 'constitutional' rather than a national 'patriotism' is under way. In other words, where more primitive appeals once served as a legitimating mechanism for binding individuals to the modern nation-state, nowadays, as Habermas suggests, 'republicanism must learn to stand on its own feet'.¹⁰⁷

Clearly 'humanitarian' wars presumed to rest on the transcendence of exclusionary political community (if only for a fleeting moment) would require more civic, *political* justifications for the use of force. As Arjun Appadurai has suggested, however,

The idea that modern nation-states borrow the mystique of some form of primordial folk identity to complement the force of democratic legitimation... is not entirely wrong. But it obscures what may be a more disturbing mechanism by which the modern nation-state secures... full attachment, apart from any claims to legitimacy. Full attachment, rather than coming from an authentic prior sense of shared community... *might actually be produced by various forms of violence* instigated, even perhaps required, by the modern nation-state.¹⁰⁸

If, as Habermas suggests, the development of the nation-state holds the key to understanding the emergence of global governance this may not be restricted to the efficacy of democracy and citizenship rights along the lines articulated by Linklater. Any global public may also require 'various forms of violent mobilization', as Appadurai suggests, 'in order to "produce the people"... [or] to display the techniques of modern governmentality'.¹⁰⁹

NATO acted in Kosovo, Habermas suggests, 'as if a completely institutionalized cosmopolitan condition already existed, the achievement of which is supposed to be

¹⁰⁷ Habermas, 'The European Nation-State', p.408.

¹⁰⁸ Arjun Appadurai, 'Full Attachment', *Public Culture*, Vol.10, no.2. (1998), p. 446. My italics.

¹⁰⁹ Appadurai, 'Full Attachment', p.447. For the case in the United States see Richard Slotkin, *Regeneration through Violence: the Mythology of the American Frontier, 1600-1860* (New York: HarperPerennial, [1973] 1996).

promoted'.¹¹⁰ But if ethnic cleansing in Kosovo was something that shocked 'the conscience of mankind' how was this alleged conscience manifest? Or rather how was this global public conscience with attendant human rights culture inscribed in international law actively produced?

A more unsettling possibility than the more common account of the power of the global 'media',¹¹¹ (the 'CNN-effect' and so on) is that to come into existence deliberative global publics, like the national identities of nation-states before them, may actually *depend* upon violence. Global governance, the existence of transnational decision structures and institutional order, does not necessarily imply the production of an 'imagined community' as associated with the rise of the nation-state. An optimistic view may conceive global governance as expressed through a liberal conscience of the human rights discourse, but it is not necessarily or solely this. Through the violent production during Kosovo of this 'shocked' liberal conscience we may (speculatively) suggest that an imperialist conscience is manifest, one that is also partly codetermined by the very founding, in the politics-as-making tradition, of an imminent global public.

Although this chapter has moved away from the specific focus on public spheres in the US context there are more general ways in which NATO's war over Kosovo can be framed by the nexus between publics and violence. The Kosovo war was significant because for many it represented the first authentically 'humanitarian' war partly legitimated by the conscience of a potentially global public. Not only is this an inaccurate (and dangerous) picture because political leaders, especially in the US State Department, were in many ways the driving force behind the military effort (not a shocked 'public' opinion formed by the globalized media) but more importantly the war itself, if only for a fleeting moment was seen as partly producing 'the people' on behalf of whom the war was ostensibly fought.

If the thesis in general has tried to make more explicit the link between US public spheres and the legitimisation of violence, in light of the findings of this chapter we might agree with Gayatri Spivak. In her words,

The 'globe' is counterintuitive. You walk from one end of the earth to the other and it remains flat. It is a scientific abstraction inaccessible to experience. No one lives in the

¹¹⁰ Habermas, 'Bestiality and Humanity', p. 315. Habermas is perhaps slightly ambivalent in his endorsement of NATO. 'The broader perspective urges greater caution. NATO's self-authorization cannot be permitted to become a matter of routine'. Habermas, 'Bestiality and Humanity', p. 316.

¹¹¹ Larry Minear, Colin Scott, and Thomas G. Weiss, *The News Media, Civil War, and Humanitarian Action* (Boulder, Co: Lynne Rienner, 1996).

global village... Culture at work or at play, on the other hand, is not a problem of knowledge, but a regulator of relations. My question, therefore: In what interest, to regulate what sort of relationships, is the globe evoked?¹¹²

That most democratic image of 'the public' can serve ends that are extremely undemocratic. Moreover, as Craig Calhoun has shown, 'All attempts to render a single public discourse authoritative privilege certain topics, certain forms of speech, and certain speakers. This does not mean that the flowering of innumerable potential publics is in and of itself a solution to this basic problem of democracy'.¹¹³ Public sphere theory in general is not a panacea for world politics. Rather than straightforwardly conceive new discourses of a deliberative global public as necessarily progressive an Arendtian reading otherwise allows us to address the potentially violent politics in the making of public realms.

Arendtian resolution?

By linking Habermas's implicit 'politics-as-making' account to his explicit association with the global public sphere literature and 'humanitarian' war the chapter has thus far suggested some of the various and problematic ways deliberative rationality legitimates violence in the effort to 'make' a global public realm. There may, however, be some overlap between efforts to theorise global publics and Arendt's emphasis on inter-subjectivity and her unfinished work on 'judging'. This is briefly discussed below. Despite this potential coincidence the chapter concludes not with an Arendtian resolution of the appropriate justification for violence, but an account of how her work attempts to understand the conditions of politics in the context of plurality, unpredictability, and sometimes futility. It is in this dimension where Arendt's strongest contribution to publics, humanitarianism and war is to be made. As Jeffrey Isaac has suggested, though rarely explicitly addressing human rights, Arendt is 'a theorist of the *politics* made necessary by a world that despoils human rights'.¹¹⁴

Arendt's reading of Kant's account of reflective judgment on the surface seems to offer succour to a deliberative model of inter-subjective meaning constituted in public spheres, both

¹¹² Gayatri Chakravorty Spivak, 'Cultural Talks on the Hot Peace: Revisiting the "Global Village"', in Pheng Cheah and Bruce Robbins (eds.) *Cosmopolitics: Thinking and Feeling Beyond the Nation* (Minneapolis: University of Minnesota Press, 1998), p. 329.

¹¹³ Craig Calhoun, 'Nationalism and the Public Sphere', in Jeff Weintraub and Kristin Kumar (eds.) *Public and Private in Thought and Practice: Perspectives on a Grand Dichotomy* (Chicago: Chicago University Press, 1997), p. 81.

¹¹⁴ Jeffrey C. Isaac, 'A New Guarantee on Earth: Hannah Arendt on Human Dignity and the Politics of Human Rights', *American Political Science Review*, Vol.90, no.1 (1996), p.67

local and, in principle, global.¹¹⁵ Arendt died before completing 'Judging', the final part of *The Life of the Mind* trilogy; hence theorists have reconstructed and interpreted her dispersed and occasional writings on this theme.¹¹⁶

The essays 'The Crisis in Culture', 'Truth and Politics', and 'Freedom and Politics' depict judging as a political, 'practical' activity, part of the *vita activa*.¹¹⁷ Later, however, in 'Thinking and Moral Considerations', *Lectures on Kant's Political Philosophy*, and *The Life of the Mind*, the seeds of a more ambitious project begin to take shape which emphasise judging as a 'contemplative' activity, as Ronald Beiner suggests, where 'one weighs *possible* judgments of an imagined Other, not the actual judgments of real interlocutors'.¹¹⁸

According to Arendt, to be politically relevant any judgment or claim to truth must in principle possess Kant's 'general communicability'. This necessary communicability implies the existence of a community, in Arendt's words, 'who can be addressed and who are listening and can be listened to'.¹¹⁹ Judging is intrinsically social in that it must make reference to a common world of appearances - a public sphere - shared by other judging subjects. In her words,

The power of judgment rests on a potential agreement with others, and the thinking process that is active in judging something is not, like the thought process of pure reasoning, a dialogue between me and myself, but finds itself always and primarily, even if I am quite alone in making up my mind, in an anticipated communication with others with whom I know I must finally come to some agreement...¹²⁰

For deliberative theorists 'judging' would seem to be essential to political debate and opinion formation, always relational and deliberative, never fixed: the ideal-type activity in the public realm.

The 'enlarged mentality' necessary for judgment, though not requiring 'enlarged empathy' where we arrogantly presume to know what others actually think and feel, is made

¹¹⁵ When Arendt died of a heart attack in 1975 found in her typewriter was a blank page with the single heading of 'Judging'. See Hannah Arendt, *The Life of the Mind* (New York: Harcourt Brace Jovanovich, 1978).

¹¹⁶ See Ronald Beiner, 'Interpretative Essay: Hannah Arendt on Judging', in Hannah Arendt, *Lectures on Kant's Political Philosophy* (Chicago: University of Chicago, 1982), pp.89-156. Also see Albrecht Wellmer, 'Hannah Arendt on Judgment: The Unwritten Doctrine of Reason', in *Endgames: The Irreconcilable Nature of Modernity* (translated by David Midgley) (Cambridge: MIT Press, 1998), pp. 291-311.

¹¹⁷ See Hannah Arendt, 'Crisis in Culture: Its Social and Its Political Significance' and 'Truth and Politics' in *Between Past and Future* and 'Freedom and Politics' in Albert Hunold (ed.) *Freedom and Serfdom: An Anthology of Western Thought* (Dordrecht: Reidel Publishing, 1961), pp. 191-217.

¹¹⁸ Beiner, 'Interpretive Essay', p.92.

¹¹⁹ Hannah Arendt, *Lectures on Kant's Political Philosophy* (edited and with an interpretive essay by Ronald Beiner) (Chicago: University of Chicago Press, 1982), p.40.

¹²⁰ Arendt, *Crisis of the Republic*, p. 220.

possible by the faculty of imagination. In her lectures on Kant's political philosophy Arendt suggested,

By the force of the imagination it makes the others present and thus moves into a space that is potentially public, open to all sides; in other words, it adopts the position of Kant's world citizen. To think with an enlarged mentality means that one trains one's imagination to go visiting. (Compare the right to visit in *Perpetual Peace*.)¹²¹

'Without this kind of imagination...' Arendt wrote, 'we would never be able to take our bearings in the world... It is the only inner compass we have'.¹²² Religious authority was unable to offer the sense of enduring social reality that all in the public realm, in principle, might be able to share. This account has resonance with the 'moral imagination' important to Cochran's 'pragmatic' approach to emerging global publics.¹²³

George Kateb has identified a major problem with Arendt's conception of political judgment, however, resonating deeply in the context of violence and any deliberative global public realm. He writes,

Judging may extend only to the company of actors. The others may remain unimagined, unrepresented, in the inner dialogue of the individual and in the process of public speech in which judging makes its appearance in the world. All that the faculty of judging can guarantee is that those one recognizes as one's equals will be taken into account. The demand that all be recognized as one's equals, that one not equate humanity with one's group, does not necessarily follow from the activity of judging.¹²⁴

Liberal states, presented as the usual standard-bearers of any global rationality, are eminently prone to equating their group with the whole of humanity.¹²⁵ Moreover, the 'company of actors' that might make up the core of Kant's republic of devils,¹²⁶ such that it is, is very small and *self-referential* indeed.¹²⁷ If we question the trustworthiness of deliberative ethics to impart this criteria internally the entire deliberative project applied to the international and human

¹²¹ Arendt, *Lectures*, p.43.

¹²² Arendt, 'Understanding and Politics', p. 323.

¹²³ According to Cochran, 'it is *via* imagination that we think about what it would mean to apply new or different moral ideas to new ways of life'. Cochran, *Normative Theory*, p.258.

¹²⁴ George Kateb, *Hannah Arendt: Politics, Conscience, Evil* (New Jersey: Rowman & Allanheld, 1984), p.38.

¹²⁵ This is not to suggest that proponents of other universalistic ideologies (such as communists) do not equate what is good for them with what is good for everybody. Liberal regimes just seem to have the upper hand now.

¹²⁶ 'As hard as it may sound, the problem of setting up a state', Kant suggested, 'can be solved even by a nation of devils (so long as they possess understanding)'. Immanuel Kant, 'Perpetual Peace', in *Kant: Political Writings* (edited by Hans Reiss, translated by H.B. Nisbet) (Cambridge: Cambridge University Press, [1970] 1991), p.112.

¹²⁷ As Cochran suggests, 'discourse ethics aims to be "self-referential", to find its own moral criteria via "an inbuilt communicative rationality that is part and parcel of the everyday use of language"'. Cochran, *Normative Theory*, p.258. Cochran is quoting Jürgen Haacke, 'Theory and Praxis in International Relations: Habermas, Self-Reflection, Rational Argumentation', *Millennium*, Vol. 25, no.1 (1996), p.265.

rights realms is undermined. Such a critique can be made both on theoretical and historical grounds while also illustrating where Arendt is far removed from the tenor of deliberative democratic theory.

Although Arendt's speculations on political judgment may accord with aspects of deliberative democracy it is false on theoretical grounds to assimilate her to the view that the extension of public deliberation necessarily guarantees a healthy public realm. Habermas's efforts, as Villa suggests, are 'at once Arendtian and at odds with the spirit of her work'.¹²⁸ Arendt did not believe in 'anything remotely resembling universal concurrence in objective truth' or that political disputes could be resolved '*by purely rational means.*'¹²⁹ The public sphere in Arendt's conception is otherwise conceived as one of instability, of boundless action, incessant debate and re-founding.

Once we distinguished between 'the act of consent, accomplished by each individual person in isolation' and the 'act of mutual promise' enacted 'in the presence of one another',¹³⁰ collision between authentic moral experiences were unavoidable in the public realm. This anti-foundationalism, Arendt's doubt concerning the existence of universal principles to impose on the public realm is manifest in her humanist position - without absolute standards found beyond humanity, we are not helpless, as Margaret Canovan recounts, inasmuch as 'standards and judgments are human themselves'.¹³¹

Moreover, the 'procedural formality' and 'incontrovertibility' of Habermasian discourse ethics 'is a liability', as Cochran similarly argues, 'because rules cannot ensure either approximations of authentic critique or convergence around ethical criteria'.¹³² Borrowing from Nancy Fraser, such criteria 'may be seen as an external imposition... particularly if... it cannot be guaranteed that its procedures are not tainted by semantic structures of power that obstruct the ability of certain groups to participate'.¹³³ In the 'domestic' arena, as the thesis has suggested, cases of public sphere exclusion have included women, immigrants, African-Americans, and the poor. In the global realm we might point to those voices and locales

¹²⁸ Villa, *Politics, Philosophy, Terror*, p.143

¹²⁹ See Canovan, 'A Case of Distorted Communication', p.109. My italics. Also see Dana R. Villa, 'Postmodernism and the Public Sphere', *American Political Science Review*, Vol. 86, no.3 (1992), pp.712-21.

¹³⁰ Arendt, *On Revolution*, p.170.

¹³¹ Canovan, *Hannah Arendt*, p.174. See Arendt, 'Understanding and Politics', p.321.

¹³² Cochran, *Normative Theory*, p.259.

¹³³ Cochran, *Normative Theory*, p.289, 260.

systematically absent from the US government definition of the 'international community', that is, most of the non-Western world.

Indeed, as Fraser's work suggests, it is not through the incessant *self*-examination of liberal publics but the 'external' energy brought to bear by multiple subaltern 'counter-publics' that positive change might be realised.¹³⁴ In the context of globalization we should 'view the interactions of those "counter-publics"', as Crystal Bartolovich suggests, '*transnationally*, and not simply with respect to the "internal" politics of particular states'.¹³⁵ Social life, past and present, must be understood as developing through relationships, networks and institutions not organized solely around the privileged site of liberal states, even if 'post-national'.¹³⁶

In *historical* terms, then, Habermas's account reinforces the misleading assumption, following Bartolovich, that the 'territorial "state-public" (even if "post-national") is the *form* that "the public" has taken - and should take - in the first instance.'¹³⁷ As a point of contrast, Arendt's examples of multiple, non-violent, publics are very different from the 'originary' public sphere of bourgeois enlightenment Habermas sought to honour.

Arendt's interest in evoking the memory of the occasional formation of small-scale republics is illustrative. Issued repeatedly in embryo form throughout the course of revolutions, from France to the US to Budapest, the grassroots action in council systems seemed to Arendt a genuine alternative to centralised party systems.¹³⁸ Crushed in each case before properly established, these spontaneously formed popular bodies represented a public space for discussion and action.¹³⁹ The transnational publics of the anti-war and civil rights communities, discussed in Chapter Four, also echo in this context.

Though anti-foundational, unlike Nietzsche, then, Arendt held out more hope for the promise of democracy.¹⁴⁰ Even without a logical or (Habermasian) rational 'banister' on which

¹³⁴ Nancy Fraser, 'Rethinking the Public Sphere: A Contribution to the Critique of Actually Existing Democracy', in Bruce Robbins (ed.) *The Phantom Public Sphere* (Minneapolis: University of Minnesota Press, 1993), pp. 1-32.

¹³⁵ Crystal Bartolovich, 'Inventing London', in Mike Hill and Warren Montag (eds.) *Masses, Classes, and the Public Sphere* (London: Verso, 2000), p. 18.

¹³⁶ Arjun Appadurai, *Modernity at Large: Cultural Dimensions of Globalization* (Minneapolis: University of Minnesota Press, 1996).

¹³⁷ Bartolovich, 'Inventing London', p.16.

¹³⁸ Arendt, 'Epilogue: Reflections on the Hungarian Revolution', *Origins of Totalitarianism*, pp.480-510.

¹³⁹ For a discussion of Arendt's valorisation of these council movements see Canovan, *Hannah Arendt*, pp. 232-238.

¹⁴⁰ For Arendt's reading of Nietzsche see 'Tradition and the Modern Age', in *Between Past and Future*, pp.17-40. For a discussion of the similarities between Arendt and Nietzsche see Dana Villa, 'Democratizing the Agon: Nietzsche, Arendt, and the Agonistic Tendency in Recent Political Thought', *Politics, Philosophy, Terror*, pp.107-127.

to lean we are not lost she suggests. 'Even though we have lost yardsticks by which to measure, and rules under which to subsume the particular', wrote Arendt, 'a being whose essence is beginning may have enough of origin within himself to understand without preconceived categories and to judge without the customary rules which is morality'.¹⁴¹

Moreover, it was partly her conviction that political action occurred 'in concert' among plural equals which animated her claim that the meaning of political action could not derive from the personal motives of the actors themselves. Never balking from the irreducible relativity of human opinion Arendt in effect politicised Nietzsche's diagnosis of morality demonstrating how in modernity the search for extra-political groundings for public spheres, including those based on deliberative rationality, was self-defeating and almost invariably violent.¹⁴²

If Habermas has been undermined in both theoretical and historical grounds is there an Arendtian resolution? It is clear that 'the political' occurs belatedly for Arendt. Indeed, McGowan has gone as far as suggesting that politics, in the image of founding a *polis*, is established precisely as a 'ring-wall' to guard against the frequency of violence in the human condition.¹⁴³ 'Neither violence nor power', she wrote, 'is a natural phenomenon, that is, a manifestation of the life process; they belong to the political realm of human affairs whose essentially human quality is guaranteed by man's faculty of action, the ability to begin something new'.¹⁴⁴

Is Arendt suggesting that almost any attempt to begin something 'new' contains within it a potential for violence? Certainly the act of founding a system of laws was for the Greeks pre-political, not the end result of 'action' but the product of 'making'. In her words,

the Greeks... did not count legislating among the political activities. In their opinion, the lawmaker was like the builder of the city wall, someone who had to do and finish his work before political activity could begin... Before man began to act, a definite space had to be secured and a structure built where all subsequent actions could take place, the space being the public realm of the *polis* and its structure the law.¹⁴⁵

¹⁴¹ Arendt, 'Understanding and Politics', p. 321.

¹⁴² Arendt, 'What is Authority', in *Between Past and Future*, pp.91-142. Also see Villa, *Politics, Philosophy, Terror*, p.114, 116.

¹⁴³ McGowan, 'Must Politics Be Violent?', p.272.

¹⁴⁴ Arendt, 'On Violence', p.179.

¹⁴⁵ Arendt, *The Human Condition*, pp. 194-5.

Though there is ambiguity - this is the Greek view, not Arendt's - and she more often praised the Roman conception of political founding (see Chapter One),¹⁴⁶ we are still left with the question: what is the substance of 'action'?

Arendtian 'politics' is often criticised as virtually devoid of content. Her concern, as we have seen, was to preserve the integrity of both the public and private against nationalism, bureaucracy, and the modern 'rise of the social'. This strict separation is perhaps rightly seen as privileging an aestheticised political form over content.¹⁴⁷ Without adjudicating here on this vexing (and gendered) division in the Arendtian scheme¹⁴⁸ we can otherwise imagine her account of the public sphere as designed precisely to circumvent violence. Much of Arendt's work can be conceived as an effort to fashion a public sphere not through violence, even if justified by deliberation, but 'under the condition of human plurality',¹⁴⁹ that is, one which embraces unpredictability, futility, and contingency.¹⁵⁰ On this reading, the desire to democratise the international arena could never be used to legitimate war.

Arendt did not, however, offer a programmatic framework for how the current state of affairs could to be reorganised. Responding to the Cold War McCarthy investigations into 'un-American activity' she wrote,

America, this republic, the democracy in which we live, is a living thing that cannot be contemplated and categorized, like the image of a thing which I can make; it cannot be fabricated... If you try to 'make America more American' or a model of democracy according to a preconceived idea, you can only destroy it. Your methods, finally, are the justified methods of the police, and only of the police.¹⁵¹

It was a principled dimension of her work that such endeavors were destructive of the very political freedom such blueprints sought, at least in theory, to render; politics is such that no theory can adequately be 'applied' without destroying the very essence of political life.

In contrast to any Critical Theory inspired sense of instrumentally applying thought to action, there is no ideal unity between thinking and doing in Arendt's work. To think and to act are not the same: 'all our categories of thought and standards for judgment seem to explode in

¹⁴⁶ Jacques Taminiaux, 'Athens and Rome', in Dana Villa (ed.) *The Cambridge Companion to Hannah Arendt* (Cambridge: Cambridge University Press, 2000), pp. 165-77.

¹⁴⁷ Bonnie Honig (ed.) *Feminist Interpretations of Hannah Arendt* (Pennsylvania: Pennsylvania State University Press, 1995); Hanna Fenichel Pitkin, *The Attack of the Blob: Hannah Arendt's Concept of the Social* (Chicago: University of Chicago Press, 1998).

¹⁴⁸ This has been a major focus of critique against Arendt. See Jean Bethke Elshtain, *Public Man, Private Woman: Women in Social and Political Thought* (second edition) (Princeton: Princeton University Press, 1993).

¹⁴⁹ Arendt, *On Revolution*, p.39.

¹⁵⁰ Arendt, 'Hermann Broch, 1886-1951', in *Men in Dark Times*, pp. 147-8.

¹⁵¹ Arendt, 'The Ex-Communists', in *Essays in Understanding*, p.400.

our hands the instant we try to apply them'.¹⁵² Where thinking, often referred to by Arendt as that solitary 'internal dialogue between me and myself',¹⁵³ importantly thrives on an anticipated communication with others, there was no unity between thought and action. Indeed, even if it were so this would not be fortuitous given that, 'You can't say A without saying B and C and so on, down to the end of the murderous alphabet'.¹⁵⁴

Arendt preferred thinking in examples. The kinds of historiographical illustrations Arendt offered were very much indebted to Walter Benjamin's methodology of fragmentary history, of reading history against the grain. For Benjamin, 'To articulate the past historically does not mean to recognize it "the way it really was"... It means to seize hold of a memory as it flashes up at a moment of danger'.¹⁵⁵ 'What guides this thinking', Arendt wrote,

is the conviction that although the living is subject to the ruin of time, the process of decay is at the same time a process of crystallization, that in the depths of the sea...some things 'suffer a sea-change' and survive in new crystallized forms and shapes that remain immune to the elements, as though they waited only for the pearl diver.¹⁵⁶

Pearl-diving into history, telling the story of moments of political freedom - the spontaneous workers councils after the French Revolution, the civil rights movement and anti-Vietnam War demonstrations - are disruptive fragments Arendt saw as breaking the hold of history as chronology and continuity.

Arendt, the 'reluctant',¹⁵⁷ or 'anti-modernist',¹⁵⁸ was no clear-cut enemy of modernity or a disengaged pessimist. Persuaded that republican institutions and public-spirited citizens granted the most capable defence against political evil possible, Arendt came forth from her rendezvous with Nazism undaunted as a radical republican in the French Revolution and broadly Enlightenment mode. Unlike Nietzsche, who viewed the modern democratic individual as but a herd animal subject to slave morality,¹⁵⁹ and Weber, who saw humanity

¹⁵² Arendt, 'Mankind and Terror', in *Essays in Understanding*, p. 302.

¹⁵³ Arendt, *Crisis of the Republic*, p.220.

¹⁵⁴ Arendt, *Origins of Totalitarianism*, p.472.

¹⁵⁵ Walter Benjamin, 'Theses on the Philosophy of History', in *Illuminations* (edited and with an introduction by Hannah Arendt, translated by Harry Kohn) (London: Jonathan Cape, 1970), p.257.

¹⁵⁶ Hannah Arendt, 'Introduction: Walter Benjamin: 1892-1940' in Walter Benjamin, *Illuminations* (edited and with an introduction by Hannah Arendt, translated by Harry Kohn) (London: Jonathan Cape, 1970), p.51.

¹⁵⁷ Benhabib, *The Reluctant Modernism*.

¹⁵⁸ Kateb, *Hannah Arendt*, p. 183.

¹⁵⁹ Friedrich Nietzsche, *The Birth of Tragedy and The Genealogy of Morals* (translated by Francis Golffing) (London: Anchor Books, [1887], 1956), pp. 178-8.

stranded in an 'iron-cage' of rationality,¹⁶⁰ Arendt held out more hope for the promise of democratic politics where public spheres still existed. It was in this vein that she hoped to supply us with political categories that have been concealed, but not totally destroyed, by the modern age.

Conclusion

Publics are world making. But there is no public that covers the entire world. The humanitarian condition of global political action does not yet exist. The current military, political and ideological arrangement is only able to fathom a 'politics-as-making' condition that is invariably violent. The Kosovo war was important, therefore, for supporters and critics alike, because it became representative of the virtues and horrors of what a potentially global public might be capable of achieving. Explicitly stepping back from how US-centred public spheres shaped and were shaped by this war we can see there are more general, wide ranging, and problematic ways in which 'humanitarian' war can be framed between publics and violence.

'So great is the allure...' suggest Hill and Montag, 'of a public sphere free from determinations of material life that the relatively few extant critiques of the public sphere have had little effect on the broad reception of the notion in the current American-Anglo context'.¹⁶¹ In fact, the many extant critiques of Habermas's public sphere concept seem to have had even less an impact on the recent reception of his work in international theory. By way of critiquing this literature, the chapter has engaged Hannah Arendt's political theory most explicitly by suggesting some of the many ways her work contributes to international history and theory.

Arendt sought to confront the enduring problems of humans as political animals and provides a compelling elucidation of the public sphere. Unlike recent endeavors to transpose Habermas's public sphere category from within states to relations between them or offer an abstract model of global public spheres at either the sub- or supra-state level this final chapter has suggested that we more fully engage with the production and politics behind the invocation of global publics, and, following Arendt, the violence this might entail.

¹⁶⁰ Max Weber, *The Protestant Ethic and the Spirit of Capitalism* (new introduction by Anthony Giddens, translated by Talcott Parsons) (New York: Charles Scribner's Sons, 1976), p. 181.

¹⁶¹ Hill and Montag, 'What Was, What Is, the Public Sphere?', p.6.

Kosovo has made it easier to invoke the conscience of the peaceful 'civilisational West' in the mobilisation effort for continual imperial war.¹⁶² The historical and systematic relations of domination that exist between the separate spheres constructed in the deliberative literature, one communicative (liberal) and one strategic (barbaric), are further concealed and justified by Habermasian discourse ethics. In the means-end effort to 'make' a global public realm certain modes of being public and certain speakers are privileged and violent confrontation is ethically justified. By not seeing Arendt for Habermas, assumptions concerning politics and liberal rights and the imposition of hegemonic western ways of being public come to the fore at the expense of understanding the violence of founding a public and the implicit imperialism of 'humanitarian' military intervention.

We need to think about the practices and theories of global publics as articulated in much of the global governance literature as implicated in expansionary violence. When we understand politics and governance as produced within a particular Habermasian framework that is not surprisingly liberal in its focus on rights and governance the violence in the production of a global public sphere is obscured and rationalised away. But Arendt is significantly more cognisant of the difficult relationship between organised violence and public spheres. Key features of Arendt's theory - her conception of the paradoxes of attempting to found a polis, her account of the relationship between politics and violence and the modern 'politics-as-making' tradition - help us examine how the very founding of public realms, including at the global level, can itself be productive of the violence the creation of a public sphere ostensibly sought to banish.

¹⁶² For a justification of a revived imperialism along these lines see Robert Cooper, 'The New Liberal Imperialism', *The Observer*, April 7, 2002.

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