Cosmopolitanism Restated.

A Choice-based Consequentialist Perspective on Global Democratic Inclusion: the Cases of Migration and World Federalism

Thesis submitted for the degree of
Ph.D. in Political Theory

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February 2005

word count: 97.097

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Abstract

Seeking to tackle the widely acknowledged democratic deficit of current international affairs, the argument presented here for consequentialist cosmopolitanism sets itself apart from other international political theories, in that it provides a normative framework for an all-inclusive global politics. Such a framework offers a critical alternative to the phenomenon of international political exclusion as legitimised by a number of influential theories of justice, including realism, nationalism, contractarianism, harm theory and the cosmopolitan project.

Deriving from an examination of international consequentialist thought over the last two hundred years, the model developed here combines a new ethical interpretation of consequentialist principles with a new political interpretation of cosmopolitan principles. From this combination, a theory of consequentialist cosmopolitanism is drawn which utilises a single principle of justice on different levels of political action. That principle is the maximisation of the world welfare condition.

Within this setting, the promotion of global welfare is pursued through the deployment of procedural instruments in terms of rights. In particular, the right to freedom of choice and the right to political participation form the core of the normative project. The institutional recognition of these rights as universal entitlements, in fact, is crucial in order to delineate an enfranchising conception of political agency in each level of political action, including the global.

Evidence in favour of the proposed version of non-exclusionary cosmopolitanism is provided in examples of two case studies of such enlarged citizenship: a horizontal case concerned with migration, and a vertical case regarding supranational institutions as embedded in a system of cosmo-federal democracy.

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Acknowledgements

The first and most profound debt to acknowledge is to my two thesis supervisors, David Held and Paul Kelly. They have conveyed to me the methods and substance of their philosophical-political investigations to such a convincing degree that despite much critical effort to resist their teachings I could not but embrace them with only few reservations. Held has been an invaluable instructors on the idea of cosmopolitanism; Kelly on consequentialism. Without their guidance I would have most likely ended up on a very different path, had I ever proceeded to such a stage of research. I am very grateful to their generous patience.

A further debt must be acknowledged for those ideas in this thesis that were originally conceived in the last stage of my previous degree. Despite the disproportion between those initial investigative attempts and the present, much more substantial, research developments, I feel I need to keep those origins in account in order to understand the present. Hence, I want to thank Eugenio Lecaldano and Daniele Archibugi for tutoring me in Rome.

Beyond the invaluable contribution of my supervisors, philosophical inspiration for the version of consequentialist cosmopolitanism developed here came from an ample bibliographical source as indicated in the references. The work of four scholars has, however, been particularly influential on my research. For as much as it will perhaps be evident among the lines that follow, I nonetheless want to acknowledge separately the fundamental contribution of the studies of Bob Goodin, Russell Hardin, Philip Pettit, and Amartya Sen to my thesis.

I have had challenging discussions of my work with a number of scholars and these discussions have definitely helped me in developing the arguments presented here. I am consequently very much indebted to:

Garrett W. Brown, John Charvet, Keith Dowding, Cecile Fabre, Bob Goodin, Rolf J. Olsson, Mathias Koenig-Archibugi, Friedrich Kratochwil, Gianfranco Pellegrino, Thomas Pogge, Steffi Ortman, Liza Schuster, Tiziana Torresi, Robert Van Der Veen, and Peter Wilson.

Chris New and especially Dorothea Kast have provided much more than linguistic support. Discussing my writings with them, I realised so much not only about the style and form of my expression, but also about the general structure of my way of thinking. As is often the case, the linguistic explorations I went through with them have provided me with precious and rare equipment for trans-bordering the horizons of my communication. I am most profoundly grateful to them.

Finally, Olga Tribulato, my Teiresias—Virgil and Beatrice at the same time. Never have the daily challenges, both practical and theoretical, been so tough and tender as with her. My London life would have been immensely less interesting, rewarding, and stimulating without her company.

Beyond the named persons, a great number of people to thank still remain; these include relatives, friends, colleagues (including those at the Political Theory Seminar and the Department of Government of the LSE), teachers, and occasional companions. The discussions with all of them have contributed significantly to the development of my ideas. They are too many to thank individually, but they are there as evidences to me of the single major methodological principle I have learnt through my Ph.D.: open discussion.

Parts of the thesis were presented on different occasions to seminars and conferences. I am grateful to the following audiences for the comments received in these occasions, respectively.

For chapter III: *CERSDU Workshop*, LUISS University, Rome (2001).

For chapters IV and V: *Political Theory Workshop*, LSE, London (2002); the Global Studies Association-GSA annual conference, *Global Ethics and Civil Society*, University of Surrey, Reohampton (2002); the International Society for Utilitarian Studies-ISUS annual conference, *Utilitarianism, Human Rights, and Globalization*, Culturgest, Lisbon

(2003); the conference *International Norms for the 21st Century: Political Science, Philosophy, Law*, Institut d'Études Politiques, Aix-en-Provence (2003); and the 4th International Conference on the Capability Approach, *Enhancing Human Security*, University of Pavia (2004).

For chapter VI: *Political Theory Workshop* (2003) and the *International Relations Theory Workshop* (2003) at the LSE, London; the Leverhulme Award Workshop, *Global Ethics in the Context of Global Democracy and Globalization*, Centre for the Study of Globalization, University of Aberdeen (2003); the *Understanding Transnational Dynamics* research initiative of the J.F.Kennedy School of Government-Harvard University, *The Rights and Responsibilities of Transnational Citizenship*, Dedham, MA (2004); and the World Public Forum, *Dialogue of Civilizations*, II Meeting, Rhodes (2004).

For chapter VII: *Political Theory Workshop* (2004) and the *International Relations Theory Workshop* (2004) at the LSE, London; the International Studies Association-ISA Annual Convention, *Hegemony and its Discontents*, Montreal (2004); the British Academy—Ethics, Institutions, and International Relations Network, *Responsibility and "Delinquent" Institutions': Blame, Punishment, Forgiveness and Rehabilitation*, Carnegie Council on Ethics and International Affairs-CCEIA, New York (2004); and the BISA special workshop, *Cosmopolitan Institutions: Justice, Governance, and Political Economy*, Birmingham (2004).

During my Ph.D work I have benefited from a variety of financial support, without which this thesis could not have been developed. They include: a scholarship for abroad specialisation sponsored by Università di Roma La Sapienza ('00-'01); a research studentship sponsored by the Dept. of Government, LSE ('01-'03); and a research grant sponsored by the Italian National Research Council-CNR ('03-'04). Additional travel and accommodation bursaries have been provided under different circumstances by British Academy, Ford Foundation, Erasmus Fund, ISA, Leverhulme Fund, BISA, and LSE.

An earlier version of chapter VII, with the title "Global Governance vs. World Federalism: An Institutional Dispute within Cosmopolitanism",

was awarded with the 2004 *Lawrence S. Finkelstein Award for Best Graduate Paper on International Organisation* by the International Studies Association-ISA. I thank the Finkelstein committee for the recognition and the support.

Synopsis

Chapter I sets the stage for the entire thesis. It begins by identifying a democratic gap at the global level and by stressing the normative unacceptability of the degree of exclusion that characterises the current international political system. It then proceeds to a critical examination of the political paradigm underpinning such a system—interaction dependency—through the study of its two strands. The contextualist strand is analysed in its two principle variants: realism and nationalism; the universalist strand is scrutinised in its three principal components: contractarianism, non-harm theories and the project of cosmopolitan democracy. In so clarifying the political issue at stake—international exclusion—and outlining its normative dimension, the chapter anticipates the main lines of the argument supporting an all-inclusive consequentialist cosmopolitanism. Against this kind of exclusion, consequentialist cosmopolitanism is presented as anchored to two key concepts: global political agency and global political participation. The remainder of the chapter expounds a number of general considerations on the nature of the normative project attempted here, together with a brief genealogical account of the relationship between utilitarianism, consequentialism, and cosmopolitanism.

The following chapter, **chapter II**, presents a survey of the most significant international arguments proposed by classical utilitarian scholars, mostly during the 19th century. After an introductory note on David Hume, William Godwin and their arguments on a consequentialist interpretation of the state and the universality of duties, all of the prominent exponents of classical utilitarianism are examined with regards to their formulations on international issues of justice. Through the analysis

of the theories of Jeremy Bentham, James Mill, John Austin, John Stuart Mill and Henry Sidgwick, a number of central topics fundamental for an understanding of the origins and the value of contemporary consequentialist arguments on global justice are identified. Within this, particular attention is given to these thinkers' discussion of the centrality of the state as well-being provider, the renewal of international law through its codification and the establishment of an international court of justice, the primacy of global public opinion as a factor for change in international politics, and the viability of the federal model as the ultimate political ideal. Underpinning the discussion of these topics is the utilitarians' appeal to the ultimate principle of the universal maximisation of the well-being of mankind, as mediated by the specific historical-political circumstances. The relationship between these two factors—i.e., the pursuit of the ideal of well-being and the reality of circumstances—which indirectly generates forms of political exclusion, represents a central topic of the chapter.

In the light of such classical utilitarian teaching, **chapter III** presents a critical survey of the main arguments on global justice advanced in the last thirty years by contemporary consequentialist scholars, among which utilitarians represent the majority. A series of core topics are analysed, including the nature of international ethics and the scope of moral-political obligation, the legitimacy of state institutions and the supranational agency of citizens. This is done through an examination of the six most significant arguments of international contemporary utilitarianism: the Singerian argument, Neo-Malthusian life-boat ethics, domestic analogy, international specificity, vulnerability, and reductionism. Finally, the political potential of these arguments in terms of political and ethical inclusion is accordingly assessed and the theoretical limits identified in order to draw a precise research agenda for future investigations.

Chapter IV takes off from the conclusions on the limits of the work of contemporary utilitarianism on international ethics and presents the principal ethical and political aspects of consequentialist cosmopolitanism. Acknowledging that the notion of moral and political agency as tackled by contemporary utilitarians is in fact neither sufficiently sophisticated nor inclusive enough to meet the ethical challenges of current international

affairs, this chapter begins by pursuing a more subtle conception of the political good, which in being aware of the epistemological constraints on interpersonal comparisons of utility allows for the recognition of pluralism through respect for individual and collective choices. Fundamental to this is a notion of well-being in terms of freedom of choice, which produces a dual metric in terms of guaranteeing vital interests and political participation. Following from this, a notion of political agency in terms of choice-makers and choice-bearers is developed in order to deal exhaustively with the issue of responsibility and vulnerability at the global level. Finally, a number of critical comparisons with alternative theories of justice (including utilitarianism, contractarianism, autonomy-based, and the capability approach) are outlined.

Chapter V provides the second part of the core argument underpinning the project of consequentialist cosmopolitanism in that it conveys the central reasoning on global democracy in its institutional and international aspects through a detailed examination of the consequentialist theory of democracy. Such a theory ultimately aims at re-establishing the procedural congruence between choice-makers and choice-bearers, for only where such a correspondence is universally respected and an equilibrium among the different levels of political action is drawn, can the freedom of each individual to self-legislate be guaranteed and thus the way for the maximisation of world well-being conditions remain open. This innovative interpretation of global citizenship, entailing differing degrees of responsibility (both individual and collective) and relative power at all levels of political decision-making, including the global sphere, forms the core of the political project in terms of participatory entitlements and procedural assessment. From this, additional attention is given to the issue of international responsibility, which represents an interdisciplinary axis connecting the issues of overdemandingness, of the relationship between ideal and non-ideal theory, and finally that of the interdependence between social theory and the multilayered jurisdictional setting.

Chapters VI and **VII** present two case studies concerned with the principal political element of consequentialist cosmopolitanism: cosmopolitan citizenship. The cosmopolitan notion of enfranchisement is

applied to two crucial cases—migration and supranational institutions—which represent socio-political challenges that are particularly exacerbated by recent global transformations. In dealing with multilayered membership in both horizontal and vertical dimensions respectively, the cases of migration and supranational institutions clearly exemplify new global circumstances of justice. They thus form obvious test-cases for an ethics of international relations in the present context of world affairs.

Chapter VI proposes a consequentialist cosmopolitan re-interpretation of the issue of migration and citizenship. In line with a multilayered conception of political agency, the core of this migratory cosmopolitan argument resides in a particular interpretation of the idea of a universal right to free passage, which takes into account what are termed, following Hume, the "circumstances of migratory justice". The two key steps in arguing for such a view consist in making clear the necessity of fair allocation of membership, and that global responsibility for migratory regulation resides globally. These steps lead to a number of political recommendations, notably the proposal of new admission criteria and the implementation of a new system of global co-operation. The latter, more specifically, entails the adoption of a convention on migrants and the establishment of a supranational agency for world migratory governance.

Chapter VII proposes a consequentialist cosmopolitan re-interpretation of the issue of international institutions and citizenship. Again in line with a multilayered conception of political agency, this examination adopts a radical democratic perspective in which the possibility of participation in the process of self-legislation is offered back to citizens. Insofar as the right to democratic participation is considered to be the political tool for the maximisation of individual choice possibility and, consequently, of the world well-being condition, this chapter defends the case for the global level of action to be maintained as a legitimate domain of democratic self-determination. In this vein, the democratic prerogatives of cosmopolitan citizenship for a more direct and participatory membership at the world institutional level of political life are illustrated. In the context of globalized politics, this normative interpretation of

cosmopolitan political agency requires a federal reform of global political institutions, in particular of the United Nations.

Finally, **chapter VIII** presents a number of political considerations in order to synthesise the research, together with suggesting the contribution of the research to possible future studies.

I

International Exclusion

"Why do you kill me? What! Do you not live on the other side of the water? If you lived on this side, my friend, I should be an assassin, and it would be unjust to slay you in this manner. But since you live on the other side, I am a hero, and it is just. [...] Three degrees of latitude reverse all jurisprudence; a meridian decides the truth. [...] A strange justice that is bounded by a river! Truth on this side of the Pyrenees, error on the other side" (Pascal, 1660 [1995], § 293-4)

One of the most heated debates on the current political agenda concerns the social consequences and the political control of what is usually referred to as globalization. There can be no doubt that the world ethical consciousness has been altered by the global transformations of the last decades. The social and political life of nearly every citizen in almost all countries has been dramatically affected by the blurring of national borders, which in the past have effectively limited relationships among individuals. Individuals now find themselves in a social situation in which most of their actions carry the potential to have tremendous impact stretching across national frontiers into some other part of the world—either directly or as one of thousands of similar actions by others elsewhere. In this process, characterised by the intensification of flows of interaction and by the deepening enmeshment of local and global, economic concerns have undoubtedly taken the lead, but politics, law, and

culture are also experiencing radical mutations that increasingly put into dispute the legitimacy of traditional canons of conduct (Ruggie, 1995; UNDP, 1999; Held & McGrew, 2000; Lechner & Boli, 2003).

From the World Social Forum to the World Economic Forum, from the UN General Assembly to the national and regional parliaments, the issue of the effects of the increased global interconnectedness, with its untamed intrusiveness in the daily life of virtually every citizen, occupies the centre of public debate. The responses to these new global circumstances vary. On the one hand, the reaction to the increased interdependence has often been negative, characterised by an attempt to protect local prerogatives against the competition of external and powerful agents. Instances of this attitude can be seen across a wide spectrum of political decisions, including the US/EU protectionist positions in some key areas of the WTO negotiation rounds, the wide-spread rise of right-wing nationalistic parties, the isolationist stance of groups such as the MST (Landless Peasants Movement) in Brazil, or the openly anti-globalization view of the influential newspaper *Le Monde Diplomatique*. On the other hand, a number of differing positions can be distinguished which claim to foster a more constructive approach to the global dimension of politics. They comprise among others: neo-liberal supporters of global capitalism, liberal-democratic reformists advocating the restructuring of the political system toward a more democratic system of global governance, and those advocating radical alternatives of 'globalization from below', of global solidarity outside the current global market system (Mittelman, 2000; Desai & Said, 2001, 65-75; Pianta, 2001, 188-90).

Underpinning the diatribes of the different positions facing the phenomenon of globalization is the issue of democracy in its alternative interpretations; in terms of both scope (local, national or global) and method (participatory, deliberative or representative). Whereas isolationists, for instance, advocate self-contained communities under the assumption that real democracy is only feasible at the local, participatory level, global supporters argue, conversely, that a global capitalist system represents the unique basis for an effective democracy in which the individual can pursue his or her entrepreneurial activities in a

unconstrained competition with minimal, representative institutions. For a long time almost ignoring the political discussion on the new forms of democracy, those holding to traditional political thought have been reluctant to recognise global phenomena as such, concentrating mainly on the individual and domestic domains of justice. Even theories of liberal democracy, based as they are on the principles of self-governance, consent, representation, and popular sovereignty, have been at a loss to offer a viable response to global phenomena until very recently. However, over the last thirty years, this traditional bias privileging domestic agendas has become a crucial focus of criticism within the debate on international political theory[1]. In this debate cosmopolitan theories have played a leading role in stressing the key relevance of the expanding scope of moral agency, and thus political responsibilities. Today no conception of political theory can afford to ignore the global dimension of the socio-political system and the correlate demands for its democratisation. Within the terms of such a debate, this thesis aims to refocus the discussion on the issue of the relationship between democracy and global transformations in one of its most crucial pathologies; namely political exclusion.

This first chapter begins by presenting both the problem of international exclusion and a sketch of the principal research objectives which are necessary to locate the investigation within the wider framework of the studies of international political theory. Taking notice of the radical

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[1] For overall **Surveys** of this debate (Ellis, 1986; Beitz, 1988; Luper-Foy, 1988; Brown, 1992; Giesen, 1992; Nardin & Mapel, 1992; Thompson, 1992; Brown, 1997; Graham, 1997; Mapel & Nardin, 1998; Beitz, 1999a; Jones, 1999; Caney, 2001; Coicaud & Warner, 2001; Pogge, 2001; De Greiff & Cronin, 2002; Maffettone & Pellegrino, 2004). Conversely, for reference to specific schools of thought see: **Capabilities approach** (Sen, 1981; Nussbaum & Sen, 1993; Sen, 2000b). **Contractarianism** (Rawls, 1971; Beitz, 1979; Richards, 1982; Gauthier, 1986; Barry, 1989; Buchanan, 1995; Held, 1995; Rawls, 1999; Scanlon, 1999; Kuper, 2000; Pogge, 2002b). **Ethics of communication** (Apel, 1992, 2000; Habermas, 2001). **Feminism** (Grant & Newland, 1991; Groom & Halliday, 1994; Hutchings, 1999). **Law of nature** (Midgley, 1975; Finnis, 1980). **Marxism** (Berki, 1971; Nielsen, 1983; Guevara, 2002). **Nationalism and Republicanism** (MacIntyre, 1984; Tamir, 1993; Walzer, 1994; Miller, 1995; Viroli, 1995; Canovan, 1996; Dagger, 1997). **Neo-hegelism** (Taylor & Gutmann, 1994; Frost, 1996). **Neo-kantianism** (Doyle, 1983; O'Neill, 1986a; Hurrell, 1990; Archibugi, 1995b; Bohman & Lutz-Bachmann, 1997). **Post-modernism** (Der Derian & Shapiro, 1989; Der Derian, 1995). **Society of nations** (Bull, 1977; Wight, 1977; Hoffmann, 1981; Nardin, 1983; Bull, 1984; Zolo, 1997). **Theory of rights** (Shue, 1980; Gewirth, 1982; Vincent, 1986; Bonanate, 1994; Bobbio, 1995). For **Utilitarianism** see note in chapter 3.

transformations that have affected our social world from the seventies on—especially in relation to the political dichotomy inclusion/exclusion—the chapter examines the normative paradigm that is of paramount relevance when this dichotomy is put under consideration, interaction dependency. Consequently, the interaction-dependent theories of justice are thoroughly analysed and subsequently criticised for their failure on the side of inclusion. A number of considerations on the method for justifying any version of applied ethics are then developed before the last part of the chapter introduces the discourse on consequentialist cosmopolitanism—which, in being universalist and independent from interaction, avoids exclusion—as an alternative normative proposal. A new version of an all-inclusive cosmopolitanism is then presented in its overall characteristics, together with a brief genealogical consideration on the historical and theoretical origins of this thesis.

Outlining the problem of international exclusion and the research objectives

Political history can be interpreted as a long journey marked by battles for the equal right to participate in the decision-making process of political life; that is, for political enfranchisement. Indeed, the description of the development of political life over the centuries coincides for a significant part with the description of the fights for the inclusion of those political subjects who were kept apart in a subaltern status. Differences of social class, ethnicity, gender, and skin have for a long time represented insurmountable barriers deployed to exclude people from political and social power. Social categorisations of ethnic and religious minorities, indigenous peoples, women, the elderly, homosexuals, the young, the poor, and, by proxy, future generations, were used as exclusionary mechanisms to maintain a condition of political deprivation. These ostracised individuals consequently suffered a disadvantaged and profoundly unjust life in comparison with those endowed with full political membership, and with lives thus almost invariably characterised by a high degree of social vulnerability, those so dispossessed were motivated to advance claims to

redress their political entitlement. And so they struggled for political inclusion (Bobbio, 1990; Walzer, 1993; Dryzek, 1996; Goodin, 1996a; Habermas, 1998; Young, 2000).

'Foreignness' constitutes another typical category of exclusion, and unlike those previously mentioned, despite the intense criticism under which the priority traditionally granted to fellow citizens over aliens has recently come, it is a category that is still powerfully effective in discriminating between included and excluded individuals. In fact, the very idea of a self-defining group implies exclusivity, i.e., the existence of public characteristics effectively delimiting the boundaries of a community. Every such society needs to assume a selective criterion in order to self-define its jurisdictional constituency, thus simultaneously keeping out non-members. The demarcation of group identity entails drawing a line between those who are *in* and those who are *out*, between those individuals who are recognised as equal and those who are treated unequally. Such a mechanism of limited inclusion creates a system of social exclusion shaped according to differing spheres of justice, the thresholds of which depend on the scope of application of the principle of impartiality (Walzer, 1985b; Walker, 1993). The degree of impartiality that each group applies in its relationship with aliens thus represents a good indicator of the degree of inclusion of non-members[2].

At the moment, the discrimination on the grounds of national membership is nowhere more visible than on the edge between national and international jurisdictions concerning political participation. Increasingly, decisions taken in one country affect people in other countries who do not have the possibility to express their consent because of their subaltern status as non-fellow, *ergo* disenfranchised, citizens. The fracture between the socio-economic reality, which is transnational in its effects, and the political system, which is still fundamentally anchored to a community-based model, is widening. Environment, migration, finance, commerce, health, and security are just a few examples of how the link

between actions and consequences extends tightly across borders. And yet those who bear the effects of decisions taken abroad are not typically entitled to have a political voice in the process (Falk, 1995; Held, 1995; McGrew, 1997; Bello, 2002; Stiglitz, 2002, 18-22; Cutler, 2003; Monbiot, 2003).

A state-based political system remains an unsatisfactory framework for self-determination of trans-border interests such as those embodied by non-national or trans-national political agents like migrants, people of trans-border religions, minorities, workers, etc. (Scholte, 2004, 22). Both in cases where decisions taken in a given country have border-crossing consequences, and in those where decisions taken at the international level have correspondingly international effects, most often the individual consequence-bearer does not have significant power to register his or her 'trans-border consent' (or, indeed, dissent). Assuming she or he has the power to register her or his consent at the domestic level (which is rarely the case), she or he nevertheless does not have a voice at all in the domestic decisions of other countries and has little voice in international *fora*, even when they are public. In public international organisations, the only political voice available to him or her is through the double representation offered by national parliaments, which (if entitled) subsequently elect international representatives with differing effective powers. Should one come from a poor country, in fact, he or she can expect to have an especially weak voice in the intergovernmental organisations.

Using these observations as a starting point, one can argue that current international affairs are characterised by a high degree of exclusion and disenfranchisement. Were this international scenario of multiple disenfranchisement translated into a domestic setting it could not be tolerated by any version of democratic theory. Any democrat would be ready to accept the principle that any citizen should be entitled to have a voice on the decisions concerning public issues, above all those that affect him. Accordingly, the democrat would not accept that decisions taken by,

---

[2] Accordingly, exclusion is maximal when impartiality is minimal. An extreme case of partiality is given by the Nazis' attitude toward some of their victims, who, deemed to be *Untermenshen,* were denied moral standing. (O'Neill, 2000, 193).

for instance, a private club with restricted membership could significantly affect the life prospects of the remaining citizens without the latter having the legal possibility to contest the outcomes. However, this is the common understanding, not to mention the usual practice, of international affairs—even though a vast part of the discussion on international political theory rests on the assumption of democratic principles. This incongruity is possible because political scientists conventionally work on a double supposition; one that yields huge social consequences in international affairs. On the one hand, national decisions are to be respected to the extent that they are the product of democratic self-determination within sovereign jurisdictions; and on the other, international decisions taken by intergovernmental organisations are to be observed since they are ultimately taken to be the indirect expression of the same democratic self-determination. Leaving aside their practical implausibility, such suppositions remain highly illegitimate according to the perspective presented here because they warrant and preserve a political system that structurally excludes relevant political subjects from political agency.

The dichotomy of political exclusion vs. political engagement illustrates a core component of international political theory in that it highlights a crucial element of political incompleteness in the current political arrangements at the international level. From a normative perspective, the inclusion of vulnerable agents into public and impartial decision-making processes at the international level represents a unique chance to improve the democratic legitimacy of the entire political system, both domestically and globally. The widely accepted creed of democracy remains in fact fundamentally flawed unless it is complemented with an international dimension of democratic participation. Until a criterion is found that allows for the justifiable delimitation of membership according to constituencies that effectively reflect public interests, rather than national or private boundaries, no democratic regime can be truly democratic. On the other side, however, addressing the democratic deficit at the international level alone will not solve all domestic problems regarding democratic representation. Deficiencies in the democratic ethos and procedures inside national structures will always afflict democratic

practice on the whole. While domestic practices of democracy are not the object of the present study, this thesis maintains that a project of international democratisation could facilitate the resolution of some of them[3]. The thesis argues that a major international democratic deficit remains a key characteristic of the current political system, and that this system needs to be revised in order to end the resulting unjust exclusion of a vast portion of the world population from transnational decision-making processes and thereby improve the overall implementation of the democratic ideal.

In consideration of this, the research objective of the whole thesis is to defend the case for consequentialist cosmopolitanism as the normative theory best equipped to conceptualise both the international fracture exclusion vs. participation as well as an alternative political recipe for world democracy. As a response to the current international political fragmentation, which generates political exclusion, the alternative political project offered here envisages a cosmopolitan system where all world citizens are included within a scheme of a direct representative participation under an overarching authority governing the process of democratising world affairs. The pursuit of the democratic ideal in terms of scope is thus implemented in this proposal through a re-worked notion of citizenship as global, multilayered, and all-inclusive. In essence, this entails an expansion of the domestic model of democracy to the international level, structured on several layers that take into account different jurisdictional boundaries as co-ordinated through a world federalist system. Only through the radical project of stretching the paradigm of democratic inclusion to the extreme limits encompassing the whole of mankind, together with recognising the legitimacy of multiple political allegiances, not simply those of state governments, can the inhuman mechanism of inclusion as exclusion-generator be avoided. If the phenomenon of illegitimate political exclusion is to be escaped, the authority to define jurisdictional boundaries needs to be re-allocated from

[3] E.g., the domestic treatment of migrants, or the semi-permanent extent of internationally binding decisions, such as the adhesion to the WTO negotiation rounds, which cannot

groups with a circumscribed scope, to a public democratic mechanism which is global in kind. Hence, universal inclusion and multiple allegiances represent key components of this project; elements that will inevitably be shaped on a minimal scope in terms of universal entitlements and on differing levels of political inclusion.

The thesis proposal is divided into two principal parts, an ethical-political component and an international political component. Concerning the ethical and political aspects, the thesis advances a new understanding of political consequentialism based on the combination of normative principles and epistemological observations. Acknowledging the epistemological constraints that bar the possibility of interpersonal comparisons, emphasis is placed on individual freedom of choice and procedural democracy. As to the international political component, the thesis fosters a new understanding of the key component of cosmopolitanism—multilevel political agency and participation—through coupling consequentialist principles with international social features. The resulting understanding of cosmopolitan political agency is further developed as it applies to individuals (in the case of cosmopolitan citizenship) and the collective (in the case of cosmopolitan institutions).

The argument presented here is original in that seeking to bridge these new understandings of political ethics and international politics, i.e., the paradigms of consequentialism and cosmopolitanism, it provides a particularly strong argument in favour of a political system which is based on universal inclusion and participation. This is argued to be the most convincing critical response available to the current exclusionary conceptual framework of international affairs. Alternative normative theories are less fit to deal with the issue of global democratic inclusion because of their fundamental reliance on the interaction paradigm, which generates jurisdictional compartmentalisation and subsequently fragmentation-*cum*-exclusion in international affairs. The reasons why the interaction-dependent theories are inclined to generate exclusion are presented in the next sections of this chapter.

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easily changed by democratic deliberations of future generations.

A final overall remark concerning the degree of comprehensiveness of the present proposal must be made before proceeding. In order to avoid misunderstandings, it is important to stress from the beginning that the theory elaborated in this thesis does not aim to be a comprehensive theory of the good life; it does not aim to tell people how to live. On the contrary, it aims to clarify the normative weaknesses of the current political system and to propose an alternative scheme of public rules. In this vein, the question with which it is engaged is not metaphysical, but political. It is about how we are to live together given that we have different ideas about how to live, and not about what is the right idea of a good life. In this regard, consequentialist cosmopolitanism offers a theory for a political framework within which each individual can participate in the elaboration of public rules on an equal standing, while maintaining differing ethical perspectives on the meaning of life.

In more concrete terms, it is a proposal to dispute the power positions which characterise international social reality by redefining the legal institutional setting so that it is based on providing an equal opportunity to influence the public decision-making process and so maximally preserve one's own freedom of choice. In this regard, it is different from phenomenological and post-modern directions of research insofar as it firmly believes in the unique value of political institutions to resist and redress social inequality. Even more, it holds that some form of democratic participation is necessary for any viable project of critical theory, in that without such an egalitarian participatory structure no dialogue aiming at genealogical self-investigation can hope to be freed from power relationships, indeed, be a dialogue at all. A minimal democratic structure is necessary to frame the basic mode of the relationship, be it political or cultural, from which any phenomenological enquiry is to be carried out. Failing such egalitarian and all-inclusive structure, no viable principle of respect for alterity can be identified, and without these grounds for difference, an undifferentiated acceptance of any alternative, including those based on power positions, remains as the only possible attitude. Global democratic institutions are thus needed to re-interpret critically the current international system and to re-dress its illegitimate inequalities.

Having clarified the general contours of the present investigation, the next three sections examine those arguments in the debate on global justice that most crucially demand to be contested with regard to the issue of exclusion: The arguments determined by the paradigm of interaction dependency.

Interaction-dependent justice: failing responses or contributing factors?

The ground for the high level of reciprocal exclusion that currently characterises the international domain is built, to a large degree, on the prevailing model of interaction among sovereign states. Despite some recent movements toward tighter intergovernmental co-ordination through forms of multilateralism and global governance, the fundamental structure of international relations remains anchored to the Westphalian model of independent self-contained states with sovereign jurisdictions. This paradigm, which became dominant in part as a reaction against the increasing instability brought on by the decline of the universal powers of the middle ages, envisages no duties beyond borders except those generated from modes of interaction. Thus, in this, any international duties are at bottom functional imperatives for self-regarding co-ordination. This remains still true despite the intensifying recognition of the legitimising status of the human rights regime which is based on a different universalistic axiom that, were it effectively accepted and enforced, could potentially destabilise the fundaments of the system.

Interaction-dependent justice is the normative paradigm underpinning such a model of international reciprocal exclusion. A model of justice is interaction-dependent if its prescriptions arise from and apply only to the interaction of the agents under consideration. A duty of justice, in this vein, has its normative source in the intercourse occurring between agents and it is only relevant for them, for where no intercourse occurs, no duty of justice applies. Consequently, no externally originated duties or external agents are taken into primary account in the normative assessment of the situation. In particular, the intercourse is typically determined within

the context of a bounded state, and those members who (or aspects of humanity which) exist outside of this context are accorded only the thin principles of beneficence. A highly counter-intuitive stance derives from this according to which the moral agent is under no duty of justice to create *ex novo* an interaction in at least two crucial cases. That is, justice does not bind the moral agent to build up a relationship either a) to help other needy agents, or b) to promote a better overall outcome regardless of his personal benefit. In both cases, rather than a strict duty of justice, only a thin and imperfect obligation of beneficence applies, with its correlate of conditional blame and guilty. Since ethics always applies to actions or omission between agents, the establishment of new relationships constitutes a critical issue. Do the duties of justice extend to the duty to enter into an interaction, or do they only kick in once this is established? This determination is what really marks the practical distinction between interaction-dependent and interaction-independent normative theories.

The set of principles embedded in the interaction-dependent normativity is of paramount importance for it represents a (if not the) principal component of western liberal theories of justice, both ethical and legal. Doubtless such a paradigm has greatly contributed toward the reduction of domestic social and political exclusion, for it grounded the stance enabling many political movements to advance their emancipatory claims within the borders of the national state. Liberal societies have reached a high level of inclusion thanks to the adoption of such non-discriminating principle of closed impartiality. At the international level, however, the situation is upside-down in that the very same principle reveals its closure clause, losing any further progressive force to include excluded individuals. It is, actually, used for excusing international exclusion, for it normatively legitimises the preservation of such a state of subalternity and vulnerability. An examination of the interaction-based theories of justice is thus of extreme importance when the issue of international exclusion is at stake, both for its failure to respond to and its indirect contribution to warranting such discriminatory situation.

The following examination develops two of the most compelling and influential interaction-based theories of justice—the contextualist and the

universalist theories of justice—both to highlight their inadequacy, as well as to set the stage for the consequentialist proposal of global ethics. Contextualist theories are unresponsive to others' demand for justice insofar as not sharing the governing cultural and political background precludes inclusion in the realm of ethical and political consideration. Conversely, while universalist interaction theories have a more inclusive approach toward non-members, they still exclude all those agents with whom no intercourse occurs. Through the distinction between justice and beneficence, in fact, they draw the threshold of impartial treatment toward foreign people to a point that, despite universally prohibiting exploitation, still allows for significant exclusions. Both variants thus remain insufficiently attentive to the universal claims of aliens. The examination begins with the contextualist theories, because of the two interaction-dependent theories, they diverge farthest from consequentialist cosmopolitanism. The examination then proceeds to the scrutiny of the universalist theories of interaction-based justice: the most challenging alternative in the field of international ethics.

Interaction-dependent contextualist theories: statism and nationalism

Despite being profoundly different in other respects, realist and nationalist theories are here considered jointly on account of their reliance on the interaction paradigm, and the subsequent international consequences of their exclusive inclusiveness. Sharing a group-limited focus—the state in the case of realism and the cultural community in the case of nationalism—these theories draw the boundaries of justice according to a conventionalist paradigm. From their contextualist perspective, justice in any given society is determined by the socially defined, and thus shared, beliefs on the meanings of the goods to be distributed among the members of the community (Walzer, 1985b). In this way, both statist realism and nationalist-communitarianism hold that the limit of thick duties of justice is the horizon of domestic interaction, with their prescriptions toward non-members varying from a thin obligation of beneficence, to a set of

traditional *modus vivendi* principles of non-harm and non-intervention, to even a licence for aggressive and expansionist policies. The issue of inclusion/exclusion is at its clearest here, for the normative paradigm of realism and nationalism lies on the notion of limited inclusion as meaningfully in contrast to the political outranking of non-members. As aptly noted by a commentator, the idea of spherical justice yields the intrinsic risk of generating global injustice and exclusion (Barry, 1995b).

In international political terms, the state and nation paradigms are the normative basis for the two principal interpretations of the principle of sovereignty, which is in turn considered to be a constitutive and ordering rule of international organisation. Following a traditional definition according to which sovereignty is "the institutionalisation of public authority within mutually exclusive jurisdictional domains" (Ruggie, 1986, 143; Krasner, 1999), the state paradigm recognises this domain with reference to territory, the nation with reference to the population (Barkin & Cronin, 1995). Using such conventional categorisation, the present section develops its analysis through the adoption of the alternative state vs. nation, as illustrated by the two paradigms of realism and nationalism.

From Thucydides' times at least, the paradigmatic interpretation of international relations has been realist: based on the idea of exclusion and competition among the various political agents[4]. The cardinal concepts of this school of thought can be summarised in the following three: 1) validation of political generalisation from historical experience, thus claiming to be axiologically neutral; 2) flexible key notions such as power, state interest, and international security; and 3) a state-centric approach (states as key unites of action) which privileges conflicts rather then common interests among international actors. Based on a negative anthropology of power and hostility *à la* Hobbes, the realists' ultimate political objective thus remains the preservation and increase of state power in an environment characterised by the absence of any significant co-operative or inclusive international structures. Whether they take the

[4] For a first reference see (Morgenthau, 1960; Waltz, 1979; Keohane, 1986b; Kipnis & Meyers, 1987; Baldwin, 1993; Oppenheim, 1993; Portinaro, 1999).

perpetual conflict behind all of this to be generated by the self-seeking nature of human beings (natural realism) or by the anarchical structure of international relations (structural realism), realist explanations overlap in concluding that the constitutive function of power relationships inevitably implies the exclusion of the others from power.

Following from these assumptions, almost no space is left for justice intended as an impartial and inclusive mechanism of conflict settlement. Typically, given the choice between impartial justice and state interest, the realist scholar is always for the second—though this may sometimes be dissimulated—for the realists take the demands of justice to be merely a weak ideology serving a weak actor. It is a common realist creed that justice only exists, if it exists at all, by the grace of the powerful, and the weak rely upon it at their peril. If moral demands, such as respecting human rights, are advanced, they remain completely subordinate to the imperatives of foreign policy. Moral assessments are only relevant in instances in which state's representatives are to decide on something other than national interest, and any such moral decision must conform to the national interest. The principal normative stance of realism regards the duties of the governor as intended toward the preservation and increase of national power to the detriment of non-fellow citizens.

Beyond the representation of the international realm as an external competitive environment, also of particularly significance within the discussion of exclusion is the mechanism of the externalisation of domestic conflict adopted by the realist school. While personal ambition can sometimes be redirected and tamed through domestic socialising mechanisms such as law, ethics, customs, and sport, a principal tactic of 'realist' governments consists in the externalisation of personal ambition where these can overlap with national interest and expansionist tendencies. In this sense, for the realists there is an inevitable correlation between internal pacification and the externalisation of conflict. On this point, an obvious reference is Carl Schmitt, who maintains that political unity presupposes the real possibility of an enemy, therefore of an antagonist political unity. Hence, for one state to exist, more than one needs to exist; consequently a world state is not conceivable for the political scene is

intrinsically pluriverse (Schmitt, 1932 [1996]). Vice versa, the neutralisation of internal conflicts can also derive from external threats.

These considerations suffice here to characterise the realist position as one of the major supporting ideologies of the current level of international exclusion. However, realism does not exhaust the range of normative options within the contextualist category of interaction-dependent theories of justice. Its counterpart in nationalism—and more generally communitarianism and historicism—represents another source that has provided an almost equal contribution to the establishment of the present exclusionary system of international relations. The rationale for exclusion deriving from the community-based theories of political justice is in fact almost as old as the realist argument, and almost as influential, with thinkers such as Aristotle, Rousseau, Hegel as principal philosophical references[5]. After the long-term realist hegemony attending the Cold War, nationalism resumed a politically relevant place in the late 1980s, and exploded in the 1990s. Its theoretical foe is undoubtedly represented by universal liberalism with its correlate of dis-embedded or unencumbered individual rights.

While the term 'state' represents a legal concept describing a social group that occupies a defined territory and is organised under common political institutions and effective government, 'nation' depicts a social group that shares a common ideology, common institutions and customs, and a sense of homogeneity. In this sense, a nation can be seen then as community of sentiment or an 'imagined community'. While the exact content of this sentiment—i.e., what constitutes a nation—remains highly controversial, a significant component of all its multi-dimensional definitions consists in an exclusionary clause to effect the delimiting of the boundaries of the national community. According to Smith for instance, national identity involves some sense of political community, which in turn implies, at least, a definite social space and a fairly well demarcated and

[5] For a reference to the political phenomenon (Kohn, 1944; Anderson, 1983; Gellner, 1983; Hobsbawn, 1990; Smith, 1991). For a philosophical analysis (MacIntyre, 1984; Tamir, 1993; O'Neil, 1994; Taylor & Gutmann, 1994; Walzer, 1994; Miller, 1995; Viroli,

bounded territory, with which the members identify and to which they feel they belong, as opposed to other nations (Smith, 1991).

Another influential interpretation of nationality that is centred on political inclusion is that elaborated by Miller. According to him, a national identity entails the feeling of belonging to a community that is constituted by mutual beliefs, extended in history, active in character, connected to a particular territory, and distinguished from the others by its members' distinct traits. In addition, Miller's theory of nationality generates three cardinal claims: national identities are properly part of personal identities; they ground circumscribed obligations to fellow-nationals; and finally, they justify aspirations to political self-determination. Nationality is, consequently, valued for two principal reasons. National identity is constitutively good insofar as it is endowed with an ethical value which crucially contributes to the full development of personal identity. Furthermore, national identity is also instrumentally good as a provider of social conditions needed for the implementation of domestic social justice. Losing this identity would loosen a number of solidaristic ties, which are necessary for an effective social project (Miller, 1988, 1993, 1995). At the basis of this lies Miller's concept of particularistic ethical obligations, which originate from the recognition of the intrinsic values of the modes of relations within the community and is centred on the concept of loose reciprocity, built on the possibility of identification and on the feeling of membership. According to this contextualist theory of ethical identity, the contents of justice are culturally shaped so that those who are not part of the social game are not considered valid recipients of the same kind of moral attention reserved for members (Miller, 2000b, 168-71).

Both Smith's and Miller's theories confirm the intrinsically exclusionary character of nationalist theories, rendering them fundamentally consistent with the specific realist position on the issue of inclusion/exclusion. While a similar argument also applies to other kinds of relativist, historicist or communitarian theories, such as those of Walzer and MacIntyre, these theories are not analysed here for lack of space, as

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1995; Canovan, 1996; Frost, 1996; Dagger, 1997). For surveys (McKim & McMahan,

well as lack of any significant addition that they could offer to the issue of exclusion. Having ascertained the position of the contextualist interaction-dependent theories of justice, it is now necessary to examine the other strand of the interaction-dependent theories, the universalist one, in order to complete the depiction of the set of normative arguments which support exclusion at the international level.

Interaction-dependent universalist theories: contractarianism, non-harm theories, and the 'cosmopolitan democracy' project

Endorsed by the Rawlsian school of thought, the notion of interaction-based justice can be considered mainstream in current political philosophy. In fact, the principle of reciprocity—as opposed to beneficent samaritanism—is now widely accepted by many contemporary scholars of global ethics as the fundamental principle of justice —(Beitz, 1979; Gauthier, 1986; Beitz, 1999b; Rawls, 1999; Pogge, 2002b; Held, 2004a)[6]. Furthermore, as already noted, in being consistent with the principle of non-interference, the interaction-based principle of justice can be considered a central component of liberalism, and thus of modern western—especially Anglo-Saxon—political thought (Ryan, 1993)[7]. While this principle of justice offers a number of important normative resources for tackling relevant social problems such as exploitation, it fails on others that are especially pertinent to the problem of international exclusion. Thus, in providing crucial 'support' for liberal-democratic versions of international democracy such as the project of 'cosmopolitan democracy', the paradigm of interaction dependence also generates a club-based version

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1997; Kymlicka & Straehle, 1999; Frost, 2001).

[6] For a critical consideration of the notion of justice as reciprocity see (Scanlon, 1982; Barry, 1989, § III; 1991; 1995a, § 2-3).

[7] While I discuss the non-harm and non-interferenee principles here with respect to their reliance on the assumption of social interaction, I recognise that they need not rely on this assumption. The principle of non-interference and non-harm can also clearly be embedded in a consequentialist framework; a single major reference for these principles is J.S.Mill. I do not include him in this discussion, however, on account of the distinctive (non-Kantian) axiological foundations of his theory which generate a different interpretation of the harm principle (Mill, 1859 [1962], 1861 [1962]).

of democracy, which renders them deficient in terms of capacity for inclusion and participation.

The principle of reciprocity forms the basis of interaction-dependent versions of justice. Being a rights-based theory of justice, interaction-based justice does not aim to promote the good, but rather to ensure that a number of principles often expressed as individual rights are honoured. Moral agents are not, according to this view, in charge of positive obligations of beneficence (which remain in the domain of supererogation), but rather they are simply under a negative duty of non-harm and non-interference. Beyond such strict duty of non-harm and the relative duty of compensation, individuals are not recognised as having any further 'natural' obligation except for that of reciprocity, which applies in the case of co-operative practices. Were they to pursue an advantage in entering into a social relationship, this voluntary step in their personal interest would then compel them to comply with a fairness principle of justice. If an agreement is stipulated, one has a duty to keep with it, but there is no duty to stipulate it *ab initio*. Similarly to this principle of *pacta sunt servanda*, the principle of reciprocity maintains that, "if one benefits from some co-operative practice, one should not be a 'free rider' by taking the benefits while failing to do one's part in sustaining the practice when it is one's turn to do so" (Barry, 1991, 530). Still, no duty of justice exists to enter a co-operative practice.

The principle of reciprocity is usually characterised as that which sets justice apart from beneficence; which is in itself a deontologically biased presentation clearly favouring reciprocity over beneficence (Singer, 1972; Buchanan, 1987). According to this view, the promotion of others' well-being is meritorious, but not, strictly speaking, required and thus non-enforceable. Acts of beneficence are then regarded as acts of charity rather than ethical imperatives, as imperfect obligations concerning which the vulnerable can advance claims, but on charge of nobody in particular. Conversely, the principle of non-harm and reciprocity generates perfect duties of justice, which are enforceable, in that it produces obligations whose compliance can be demanded of somebody specifically, i.e., the harm-doer or the practice co-operator. A very much studied case in relation

to the distinction between beneficence and justice is the penetrating example originally formulated by Singer of a child being witnessed drowning in a pond (Singer, 1972). According to the 'justice' view so far presented, the duty to rescue the child depends on the relationship between the child and the witness. For the duty to exist, either both parties have to be members of the same community or social enterprise, or the witness has to be causally connected with the child (this implying a duty to repair and compensate for the rescuer wrongdoing). Outside these two cases, only thin obligations of beneficence—Good Samaritan actions among fellow members of humanity—remain[8]. Moreover, usually relying on the 'restricted causation claim', a claim according to which only direct and intentional causal consequences count for attributing responsibility, this view on justice maintains the distinction between action and omission, according minor relevance to justice for the latter in comparison with the former[9].

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[8] For a discussion on *samaritanism* see (Kleinig, 1976; Glover, 1977; Mack, 1980; McMahan, 1993; Malm, 1995; O'Neill, 2000, § 10).

[9] The formulation of the justice requirements in the case of the drowning child changes if a further refinement of the conception of harm is developed adopting a more consequentialist reading. Two options can be considered to give meaning to the concept of harm, a restrictive and a complex view: harm can entail deliberately injurious actions, or indirect lack of assistance, such as a failure to comply with an obligation of beneficence. An example of a car accident might clarify the point on the difference between a complex and a restrictive view of responsibility. If a bystander does not offer assistance to the injured in a car accident, if the complex view is adopted he could be incriminated for failed assistance, whereas he could *justly* walk away if the restrictive view is accepted. Bad samaritanism is not considered a punishable offence in the latter instance. Another consideration related to the case of the drowning child highlights the same opposition between a complex and restrictive view. If a complex view of responsibility is adopted, the non-rescue, the failure to act, could be interpreted as the causal factor prolonging (rather than originally causing) suffering, as it produces emotional pain damaging the self-esteem of the child. In this case the witness would be under a duty of assistance for his special relation *as witness*, in causal terms, with the child. This counter-restrictionist, complex view does not constitute, however, the conventional understanding of the causal relation claim associated with the principle of non-harm and reciprocity, for it is discounted as illegitimately overburdening moral agents (Feinberg, 1984, 12; Linklater, 2004, 21). Moreover, it has to be noted, as a critique, that both the restricted and the counter-restrictive view functionally need, contrary to what they affirm, an inclusive political paradigm, insofar as public comprehensive system needs to be envisaged in order to create a forum where harm recriminations and allocation of responsibility can take place. Without this, in fact, the causal link between choice-bearers and choice-makers can never be established with certainty. In conclusion, it is important to remember that attitudes such as indifference, negligence and complicity are not only a matter of importance when distinguishing simple responsibility (i.e., the obligation to comply with established legal conventions) from complex responsibility (i.e., the added requirement to establish new legal conventions as necessary). More importantly, these stances are crucial

The collective correlate of the principle of reciprocity and non-harm consists in the interaction-dependent institutionalism that forms the common ground of many, mainly liberal-contractarian, contemporary political theories[10]. Before exposing their failure to capture the ethical and political relevance of the exclusion factor to critique, it is, however, necessary to point out the specific feature of these theories that generates such a failure. This can best be observed through their discussion of political justice, which invariably begins from the historically false consideration of a "closed system isolated from other societies" (Rawls, 1971, 8). The most emblematic case of such community-based approach is certainly Rawls's notion of a mutually beneficial co-operative enterprise. Central to this is the disanalogy of the principles of justice according to which those principles that apply intra-society do not apply at the inter-societies level, and consequently no substantial duty of redistributive justice exists at the international level (Rawls, 1999). In this sense, the Rawlsian position offers eminent evidence of the inadequacy of the contractarian theory of justice in dealing with problems which pertain to multiple levels of political action. In being anchored to a state model of societal organisation, these theories fail to detect the relevancy of other trans-border spheres of social conduct (Scheffler, 2001, 33-4). Since the principle of fair play and reciprocal justice is conditional, "the most Rawls can say about a society that does not have such a scheme is that it suffers from collective irrationality in that it is passing up a chance to do itself some good" (Barry, 1991, 531).

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aspects of the fact of the exclusion of suffering people with whom one does not interact from moral consideration, as the Holocaust literature has made amply (Geras, 1999; Nieman, 2002).

[10] But the republican theory also suffers a similar limitation (Pocock, 1975; Skinner, 1978; Viroli, 1995; Pettit, 1997). At the normative level it is possible to detect in this school of thought the same kind of weakness as based on the interaction-paradigm. For a republican state to be just it suffices to be both non-dominated and non-interfered, or alternatively non-dominating and non-interfering. Such a criterion of legitimacy does not prevent, however, a certain degree of indifference toward peoples and countries with which no intercourse of domination or interference exists. For republicanism, as for all other interaction-based theories, sufficient sensitivity to prevent the vulnerable from suffering independently from the relationship with them is not present. This remains the case despite recent attempts to link republicanism and cosmopolitanism (Bohman, 2001; Chung, 2003).

Other scholars theorise along similar lines. For instance, despite representing two different traditions of thought, Gauthier and Pogge both fundamentally rely on the assumption of a self-contained community, however expanded. (Gauthier, 1986, § IX; Pogge, 1992, 51; 1998). Pogge, in particular, holds that the duty of justice toward every other person, which can be discharged merely by not co-operating in the imposition of an unjust institutional scheme upon her, is conditioned on the contingent presence of social interaction and consequently does not exist with respect to the plurality of self-contained communities. Pogge admits that prior to any trading there would still be fairly weak duties of morality in terms of beneficence, but he is firm in maintaining that there would be no duties of justice (Pogge, 2000, 166-7). One of the challenges raised by Pogge's argument consists in the capacity to distinguish between a positive and a negative responsibility. For him, any ethical theory unable to accommodate the fundamental common sense difference between acting and omitting would prove implausible. While a consequentialist theory can accommodate this requirement by way of differentiating between action and omission[11] in terms of instrumental value[12], it is important to stress that attaching intrinsic value to such a distinction inevitably leads toward the kind of interaction-dependent justice, with its correlate of exclusion so far exposed.

Before proceeding to a consideration of the particular significance of the interaction-based paradigm for the international realm of politics, a note of clarification on the issue of global interdependence is due. While

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[11] Related to this is the concept of omission, which is here intended as produced by the renunciation of performing an act that the agent is able to perform.

[12] According to consequentialism, for instance, action could be valued higher in so far as it is reasonable to assume that if one commits an act, he can also equally avoid it, whereas the opposite concerning omission is less reasonable to reckon. Also, a number of agent-centred considerations could be taken into account in order to grant a *prima facie* priority to acting over omitting in instrumental terms, according to a consequentialist perspective. However, no intrinsic value can be associated with action rather than omission *à la* Pogge, in that ultimately both count in proportion to their contribution to the final outcome in terms of the universal and impartial promotion of well-being. As a consequence, the subsequent strict distinction between duties of justice and duties of beneficence also has to be revised from a consequentialist point of view. Instead, a scale of duties differentiated according to their contribution toward well-being must be envisaged, in which various degrees of demandingness can be accommodated, but qualitative distinctions such as that between duties of justice and obligations of beneficence can not be accepted.

the ever increasing world-wide interdependence occasioned by recent global transformations has certainly been a key factor in awakening global moral consciousness, it can not play an independent normative role in any argument on international political theory and global justice. In particular, important as interdependence may be in the moral assessment of current international duties (Van den Anker, 1999), it is not the decisive factor for what concerns positive duties (Hurrell, 2001, 34). From a consequentialist perspective, that we currently influence each other to such a high degree serves only to clarify that we are in a relevant position to influence outcomes that affect others, it does not constitute a deontic principle in itself. If it did, the result would be a *contingent* ethics recognising only a duty to those upon whom we depend, and "indeed, a wealthy nation that wished to exempt its populace from having any obligation to redistribute part of its wealth to impoverished nations might simply withdraw from economic exchanges with those nations" (Hardin, 1999, 410)[13].

Internationally speaking, the political correlate of the interaction-based paradigm of justice entails a club-based interpretation of democracy, as embodied in the recent proposal associated with the project of 'cosmopolitan democracy'. In holding to a notion of democratic congruence based not on an ideal of universal constituency, but instead on the strict relation between those who make the rules and those who directly suffer the consequences of those rules, the 'cosmopolitan democracy' paradigm tends toward a club-based system of democracy (Held, 1995). The strict notion of congruence, in fact, can be more easily associated with the decision-making method of a democratic *club* than a democratic political system, in that it avoids the exploitation of those it chooses to include, but does not allow for those not designated as 'members' to be included in a public decision-making process. Thus those 'non-members' who are only indirectly or 'publicly' involved in the socio-political interaction are shut out. Such a system also shares a number of elements with the corporativist model of political participation, as characterized in

[13] For a similar point see (Murphy, 1998, 271-5, esp. 272; Linklater, 1999, 476-7; Singer, 2002, 197).

particular by the two following features: interest-groups can only take part in those political discussions specifically dealing with the interests they represent; and their representatives have an issue-constrained political mandate (Bobbio, 1999, 410-28).

In suggesting a net of narrowly circumscribed institutions, the 'cosmopolitan democracy' proposal refuses citizens outside such structures a guarantee of representation. In particular, such corporativist model excludes three crucial categories of stake-holders: those who represent a) non-formally organized interests, b) future interests, and c) general interests (Einaudi, 1919 [1973], § I: 30-3). In the attempt to identify a threshold according to which only those who are relevantly affected are taken into consideration, this paradigm sometimes deploys the harm principle, restrictively intended, and other times deploys the principle of non-imposition of unjust institutional settings. In both cases, however, those who are indirectly (but for them, perhaps, critically) affected are twice excluded: in being left out both from the public decision-making process in charge of assessing the degree of the causal relation, and later from the mechanism of compensation for the harm suffered.

In sum, what the analysis of the paradigm of interaction-dependent justice developed in the last two sections has shown, is that the possibility of legitimately not entering into, or legitimately withdrawing from, a relationship can be identified as a major generator of political ostracisation. That 'consequentialism' has a suggestion of interaction creates a point of tension that runs throughout this thesis; however, a clear point of distinction can be drawn between consequentialist cosmopolitanism and the theories of justice based on the interaction paradigm in that the former interprets institutional exclusion as a net factor of welfare deprivation[14]. When, as has just been done here, universalist and contextualist

[14] Here it suffices to note that exclusion from interaction is analytically intended as causing a twofold cost in welfarist terms related to individual freedom of choice. On the one hand, exclusion from a profitable interaction means a net loss of opportunity to take advantage of the gains thereby generated, which are divided among the interacting agents only. On the other hand, ostracism also implies the absence of power to influence the outcomes of that interaction, whose (indirect or unforeseeable, present or future) externalities are often to be borne even from the non-interacting parties. More on this in chapters IV and V.

interaction-dependent theories of justice are considered together in light of their specific prescriptions toward international exclusion, an image of the mighty normative armature providing everyday politics with the ideological support for such political outranking is clearly revealed. Ultimately, this attitude equals to indifference to the injustices not immediately occasioned by the moral agent in question. To use the famous case of a bystander passive at the sight of a child drowning in the pond: it is this passive stance, the *justly* walking away attitude that these sections aimed to discredit. The rest of the thesis then presents an alternative reading of political justice with the intention to offer a viable normative foundation for a political system not driven by the inhumanity of international exclusion. The institutional proposal of consequentialist cosmopolitanism will therefore be presented as a consistent case of global democratic inclusion that claims to offer a better, more just and more humane, alternative to the exclusionary theories which currently prevail in international political theory. In the next section, a more detached view on the entire project is suggested together with a number of considerations on 'meta-applied ethics'.

A view from a distance, or 'meta-applied ethics'

Pulling back our perspective and leaving aside the specific issue of international exclusion for a moment, the fundamental and difficult question concerning the ground on which a theory of applied ethics could ultimately be justified comes into view. Discussion on the topic of the ultimate foundation of ethical reasoning applied to specific fields of action has intensified in the last two decades, without, however, reaching any wide and substantial consensus that could serve as a starting point here. A comprehensive response to this legitimate concern would consequently require a separate study on what could be called "meta-applied ethics". Consequently, the following considerations do not claim to be exhaustive, but instead aim to offer sufficient normative guidance on this arduous issue to justify the concentration here on the more concrete aspects of international ethics.

The shift from strict meta-ethics towards normative and applied ethics beginning in the sixties should not be read as a revolution, but rather as a rediscovery of the original attitude of moral philosophy. Given that nobody was keener than Socrates to analyse concrete cases to test ethical principles, current applied ethics should be seen as a re-discovered comprehensive sensitivity rather than as an independent field of study. No fundamental axiological distinction can in fact be traced between normative ethics and applied ethics, in that the latter derives its conclusions from a set of premises in which inferences drawn from ethics are conjoined to factual findings. One of the cardinal assumptions of this thesis is that ethical practice and theory are inextricably linked.

Correctness and completeness are conventionally recognised as the two major criteria for the assessment of the legitimacy of moral theory. The test of correctness concerns the ability to satisfy rational and formal requirements, and the test of completeness regards the ability to solve practical disputes. Despite both being equally required, there is a tendency to deploy them discretely: the test of correctness tends to be used principally in the investigation of the realms of normative morality, and the test of completeness above all in the field of applied ethics (Monist, 1984; De Marco & Fox, 1986, 3; Griffin, 1986, 2-4; Lecaldano, 1996). Thus, a principal concern of most normative theories of the second half of the 20th century was to produce a correct model of political theory, rather than to test it through a wide spectrum of applicative cases. Only with the recent resurgence of applied ethics has a major flourishing of concrete case studies contributed to a move to include the account of the completeness test in the discussion. In keeping with all of this, this thesis concerns the area of ethics applied to international relations, it takes on the test of completeness—which urges it to provide practical evidence in order to justify its model—as the major challenge. Accordingly, this thesis is ultimately committed to offering an innovative defence of consequentialist cosmopolitanism in relation to a number of case studies pertaining to international affairs, and specifically to the issue of exclusion. However, while concentrating on the provision of a valid defence against such a demand of completeness, this thesis nonetheless recognises that its

legitimacy is equally dependent on the acceptance of the general theory underpinning it, i.e., ethical consequentialism. In response to this second concern, thus, in chapter III the thesis also provides a discussion in defence of the ultimate normative assumptions underpinning ethical consequentialism.

As regards the completeness test, the degree of acceptability of this thesis depends for the most part on the capacity of consequentialist cosmopolitanism to assess the greater quantity of practical cases in a coherent way, in this it is guided by the identification of the critical focus on international exclusion. Since it is assumed that "the way to submit a moral theory to the test of completeness is to spread the theory as widely as possible, especially into areas where the chances are best of its running into trouble" (Griffin, 1986, 3), the present proposal tests the capacity consequentialist cosmopolitanism against competing theories to cover consistently a number of arguably key dilemmas of international ethics; all of which are ultimately related to the issue of political exclusion. While the specific case studies consist in considerations of migration and international institution, at this meta level of analysis they can be subsumed in the two following normative notions: moral agency and multilevel dimensionality. The principal challenge of international political theory for what concerns the issue of political exclusion is played out on the interpretation of these latter notions.

The major distinguishing characteristic of consequentialist cosmopolitanism as a theory of ethics applied to international relations is its consideration of *moral and political agency*, as mutually dependent and operating within a universalistic and all-inclusive conception of responsibility and vulnerability. The strength of this theory is the flexibility of its paradigm, which allows it to respond more strongly than others to social and political reality. This strength has particular value in the current times of radical transformations. Our world system increasingly places the relationship between those who take decisions and those who bear the costs of those decisions under pressure, with the double effect of broadening the possibility for co-operation and impoverishing the moral ties of disapproval. Until recently, the effects of actions were principally

circumscribed by a defined territory; most people influenced, for good or bad, the lives of a limited number of other people. The situation is now different, with many actions/omissions we implement having often an (unintentional) relative impact on thousands of others. Even if these effects are imperceptible when taken singly, they often become decisive when combined with the effects of thousands of similar actions. Consequently, in so far as local possibilities acquire a global dimension, our moral responsibility is revealed as encompassing a far greater field of inclusiveness. The moral question must, therefore, evolve into the following: Is my action part of a complex of actions of different agents, organised by public rules, which taken together affect others? (Arendt, 1971; Parfit, 1984, § 28-29; Hardin, 1999). Hence the concept of global agency with its correlate of negligence becomes a crucial component of any international political theory.

Consequentialist cosmopolitanism includes the consideration of both sides of the equation of global ethical concern. *Choice-makers*, i.e., those who have the power to decide and carry out an action which produces consequences, are made responsible through a precise method of multiple accountability based on the capacity to influence the outcome. *Choice-bearers*, i.e., those who suffer the consequences of others' actions, are, by contrast, identified as potentially vulnerable and consequently protected (Goodin, 1985b; Held, 2002). According to the normative ideal of impartiality, and in opposition to that of Hobbesian realism, a mechanism of congruence should be established between choice-makers and choice-bearers, in which the latter can impose on the former a duty of accountability concerning their actions. Since there can be multiple agents on both sides, a ethical-political theory based on impartiality cannot in fact be complete when it fails to identify clearly the moral position of every agent involved in the situation under scrutiny. In presenting a comprehensive reading of the issue of international agency as unfolded on several layers of political action, consequentialist cosmopolitanism challenges its rivals by offering a consistent version of inter-linked political responsibilities and social vulnerabilities (O'Neill, 1996, 131-2; 2001).

The politically most relevant element of the consequentialist cosmopolitan conception of moral agency is its insistence on the institution of cosmopolitan citizenship (Pogge, 1992; Held, 1995; Goodin, 1996a; Sen, 1996; Linklater, 1998a; Hutchings & Dannreuther, 1999; Dower & Williams, 2002; Sassen, 2002). It is through this new interpretation of the meaning of political membership that a comprehensive understanding of political responsibility can be consistently associated with social vulnerability. The ideal of political responsibility can only be fully realised through the conceptualisation of an all-inclusive system of political membership, which, avoiding exclusion, imposes on each political agent his/her right burden of responsibilities, or alternatively alleviates his/her from the condition of social vulnerability. Once some basic social and political entitlements are identified, the agent, in the position to influence the outcome (in terms of choice possibilities) concerning the potentially vulnerable needs in fact to be made responsible, and in case of failure to comply, needs to be sanctioned proportionately. This legal setting, though, has to be complemented by a multi-layered political system which enables responsibilities to be enforced through a net of intermingled and subsidiary duties.

In this way, the issue of global moral agency also directly informs the second significant characteristic of consequentialist cosmopolitanism, namely that concerning *multi-layered dimensionality*. As individual and social existence is increasingly spread over a number of different domains, a common social framework is needed to bring together this diffusion of engagement through an updated conception of multilevel political agency. Failing such a framework, the social and political existence of individuals would be fragmented and suffering from exclusion, and therefore any pursuit of a good life would most likely be self-defeating. Once the necessity of the recognition of a multiple and yet integrated political action is accepted, then the issue of their jurisdictional equilibrium arises. Consequentialist cosmopolitanism claims, as one of its virtues, the capacity to balance properly three levels of analysis (individual, state, world), through the use of a single principle of justice. In this, the normative content of both the individual level and the state level is consistently

integrated with the third level of the global. The ground on which an extension of the principle of welfare promotion from the national to the international level can be consistently implemented in a consequentialist way is the idea of governmental institutions as benefit providers. It is on this account that a major aspect of the present thesis consists in the study of the evolution of this idea, which in this tradition of thought has been originally proposed by David Hume and subsequently improved by classical utilitarians. Having set out the challenges that the theory of consequentialist cosmopolitanism needs to address in order to prove its validity, it is now time to introduce the basics of the theory itself, beginning with its utilitarian origins.

Utilitarianism, consequentialism, and cosmopolitanism

The normative theory underpinning the present proposal consists in a combination of an ethical theory of choice-based consequentialism and a political theory of cosmopolitanism. In this section, a brief presentation of each of these two components is offered, while a full presentation will be outlined in chapters IV and V. Before this, however, a genealogical note is due in order to explain the juxtaposition, perhaps curious, of utilitarianism and consequentialism.

When this research began several years ago it was intended as an investigation of the field of international utilitarianism. However, close study revealed the limitations of utilitarian theory, and in particular its inappropriateness as a theory of international ethics. These limitations do not, though, entirely coincide with the objections to utilitarianism vehemently formulated over the last forty years, i.e., objections grounded on the issues of ends, justice and personality (Rawls, 1971; Williams, 1973; Nagel, 1980; Williams, 1981; Scheffler, 1982)[15]. I maintain that in fact these traditional objections address only the symptoms of a deeper disease. The more profound limitations of utilitarianism are those affecting any attempt to perform interpersonal comparisons of utility. Once this fact

is acknowledged, the central aggregative (sum-ranking) principle of utilitarianism dissolves, but at the same time effective and liberal responses to the oft-repeated objections mentioned above become possible.

Although they require that a considerable part of the utilitarian paradigm be abandoned, the limitations of interpersonal comparison do not in fact rule out the salvation of what remains of the theory in terms of universalist and inclusive consequentialism. Moreover, this study reveals that what was considered to be an inescapable stumbling block for international utilitarianism—i.e., its incapacity to accommodate diverse levels of political action because of its straightforward and aggregative universalism—is precisely that which shows up a major strength of consequentialism; namely its promotion of democratic participation and multilayered inclusion. In order to appreciate fully the nuances of the present consequentialist argument as applied to the international domain, it is, however, necessary to understand its theoretical and historical origins, which can be found principally in the international utilitarian thinking.

This suffices for now to explain why the first part of the thesis is devoted to the study of current and past proposals of international utilitarianism, whereas the second portion presents a different and arguably more defensible theory of consequentialism. In line with this, I now present utilitarianism in its general form, and in so doing also render its consequentialist component understandable. From there, the case is developed for the independence and superiority of consequentialism over utilitarianism with respect to field of international ethics.

Utilitarianism is traditionally summarised in the following three principal features: consequentialism, welfarism, and sum-ranking (Sen, 1979; Sen & Williams, 1982; Allison, 1990, § 1; Scarre, 1996)[16]. Hardin offers a useful and general working definition of utilitarianism: "the moral theory that judges the goodness of outcomes—and therefore the rightness of actions insofar as they affect outcomes—by the degree to which they

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[15] For a presentation of the utilitarian response to traditional criticisms see: (Rescher, 1966; Griffin, 1982; Kagan, 1987, 1989; Allison, 1990; Goodin, 1990a, 1995).

[16] For tracking the recent chronological development of utilitarian studies, refer to (Brock, 1973; Griffin, 1982; Barrow, 1991; Scarre, 1996).

secure the greatest benefit to all concerned" (Hardin, 1988, introd: XV). Accordingly, a course of action has to be chosen on the basis of likely consequences, and the consequences assessed in terms of the resulting aggregate well-being of all involved agents. Consequently, the agents' responsibility is understood in terms of the agents' capacity to influence the outcome of any given situation in terms of utility promotion. In order to understand this formulation better, however, a further explanation of each of the three components is due.

The first component, consequentialism, consists in the normative view affirming that "whatever values an individual or institutional agent adopts, the proper response to those values is to promote them" (Pettit, 1993b, 19). Such a view which prioritises the good over the right is traditionally opposed to those theories that give precedence to motives or a priori laws, as the typical classic deontological maxims *Fiat justitia, pereat mundus* or *Fiat justitia, ruat caelum*. Welfarism is a theory of the good that identifies utility with the well-being of the agent. Originally, the notion of utility was intended in a purely hedonistic way, i.e., as a balance of pleasure and pain (Bentham, 1781 [1988]; Mill, 1861 [1962]). A more comprehensive version of well-being is currently preferred; in this view the satisfaction of individual preferences is supposed to be the best indicator of the well-being of each individual and thus constitutes the good to be pursued (Brandt, 1979; Harsanyi, 1986; Brandt, 1992; Goodin, 1995). Finally, the sum-ranking principle affirms that it is possible to aggregate in a cardinal order every individual's utility into an overall utility total, insofar as interpersonal comparisons of utilities are, at least, reasonable. Underpinning this is an isomorphic model of individualism based on the similarity postulate, according to which different utility functions are grounded on the same inner psychological laws (Harsanyi, 1955).

A straightforward extension of this basic formulation of utilitarianism to the international domain consists in the application of these three principles to states rather then individuals. In doing this each country is treated equally as a vessel of utility, which has to be calculated in aggregate terms regardless of national boundaries. While in the case of the individual, such a strategy of disregarding boundaries leads to the

critique about the separateness of persons raised by Rawls and Williams, in the case of state the utilitarian reasoning would be more acceptable insofar as the ethical relevancy of national boundaries is more contested (Roemer, 1993, 352-3). Despite being of some interest, this straight international utilitarianism is not however viable. The reasons for this are discussed at length in chapters IV and V, here I will just mention that although its across-the-bound equality offers a promising description of largely arbitrary national boundaries, such direct extension also exacerbates the problem of interpersonal comparison of utility, and in so doing fails on the side of guaranteeing the inclusion of all single individuals. When trade-offs of utility are allowed, the issue of moral agency is in fact altogether downgraded, in that the concept of vulnerability becomes subject to interpretation and consequently the inviolability of the individuality of persons is transgressed. In allowing no substantial respect to be shown for agency, both individual and collective, straight international utilitarianism denies the normative necessity for the inclusion of all the agents in a universal and multilevel political constituency. In so condemning straightforward versions of utilitarianism to failure, these crucial inclusion-related requirements of international political theory demand the evolution of the utilitarian paradigm into a more viable version of non-exclusionary consequentialism[17].

In order to respond consistently to the challenges of international ethics in terms of exclusion, this thesis proposes a version of consequentialist cosmopolitanism, which is centred on the individual capacity for choice and thus fosters a universal and yet multilayered principle of political justice. While the rest of the thesis, and especially chapters IV and V, is devoted to explaining in detail the particulars of this proposal, here it suffices to note that with this strategy, consequentialist

[17] The move from utilitarianism to consequentialism for epistemological reasons is contested by Brink who argues that it is unnecessary in that utilitarianism could still remain utilitarianism even when the 'well-motivated' objection on the reliability of interpersonal comparison is accepted. In this istance, utilitarianism would be undermined, in fact, on its function of decision procedure, but it could still be a viable standard or criterion of rightness (Brink, 1986, 417 n.1; 1989, § 9). I reject such a position on the ground of the radical change that the renunciation of using interpersonal utility comparison imposes in terms of impossibility of cardinal utility aggregation.

cosmopolitanism aims to dispute a number of competing theories. At the ethical level, beyond contesting utilitarianism, it contests theories of autonomy, contractarianism, and the capability approach on different grounds by referring to consequentialist and epistemological considerations. At the political level, it challenges interaction-dependent theories of political justice, both communitarian and cosmopolitan, for their limited capacity of political inclusion, as introduced in the previous sections. Against communitarian theories such as nationalism and realism, consequentialist cosmopolitanism argues that the scope (not only the form) of justice should be universal as no discrimination is justified when considering the ultimate entitlement of every citizen to control his destiny. Conversely, in opposition to interaction-dependent versions of cosmopolitanism, the present proposal advocates the combination of moderate, institutional, co-operativist, and federal components as elements necessary to envisage an inclusive system of global democracy. This implies, consequently, the rejection of the following contrasting claims: a) only global principles of justice are acceptable, b) global principles of justice consist in merely ethical precepts, c) the individual represents the primary agent of justice, d) club-based multilateralism, through global governance, constitutes a legitimate form of cosmopolitan democracy[18].

Conclusions

In this chapter the principal boundaries of the research to be undertaken have been drawn. On the one hand, the political issue of international exclusion has been identified both in its empirical aspects and in its normative fundaments, and on the other hand, an alternative political direction within the paradigm of consequentialist cosmopolitanism has been sketched out. In the remaining chapters, a more detailed presentation of the consequentialist cosmopolitanism theory of international justice will be presented. In chapter IV and V the ethical-political and the institutional-international aspects of the proposal will be exposed, followed in chapter

[18] For introductory surveys on cosmopolitanism see (Jones, 1999; Scheffler, 1999;

VI and VII by the analyses of two case studies concerning the issue of transnational citizenship. Through them, this thesis aims to make a consistent, normative case in defence of a world political system able to escape the evil of exclusion. In order to present the argument in its clearest form, it is however necessary to step back for a moment and examine the first attempts and subsequent refinements of international consequentialist arguments formulated over the last two hundreds years. To that end, the next chapter takes a close look at the international rationales of classical utilitarianism.

Caney, 2001; Archibugi, 2004).

II

Classical International Utilitarianism

> "It is just that I should do all the good in my power. Does any person in distress apply to me for relief? It is my duty to grant it, and I commit a breach of duty in refusing. If this principle be not of universal application, it is because, in conferring a benefit upon an individual, I may in some instances inflict an injury of superior magnitude upon myself or society"
> (Godwin, 1793, II, II: 125)

The first consequentialist arguments applied to international relations were elaborated in the 19th century in connection with the rise of utilitarian thought. Despite the fact that a teleological approach to ethics and politics was developed much earlier in Greek philosophy, the first clear and deliberate attempt to deploy universalist, goal-based arguments specifically intended to tackle issues pertaining to the sphere of international relations occurred only at the beginning of the 1800s. While Kant's cosmopolitan thought was rapidly gaining ground in continental Europe (Brown *et al.*, 2002), in the Anglo-Saxon world the so-called radicals were offering a comprehensive but alternative conception of international politics.

Although the classical utilitarians' outlook was universalistic and all-inclusive in principle, international relations were nonetheless not high on their agenda: their central concerns were private morality and public domestic ethics. From Bentham to Sidgwick, the major political interest was on the domestic organisation of society, which included both rules of

personal conduct and a collective legal framework. Underlying this narrow focus was the utilitarians' belief in the ideal of the division of political work. Within this division, depending on the socio-political circumstances, an indirect concentration on the local could result in the maximisation of the overall world outcome. Accordingly, the utilitarians elaborated a sophisticated theory on the contingent relation between the scope of the utility principle and that of the institutions within which it was applied. thus, while fostering a universalist interpretation of the principle of utility (even to the extent of including non-human species), Bentham was nonetheless firm, for instance, in maintaining that the social fact of the habit of obedience, upon which the application of the utility principle depended, was still very much anchored to the domestic dimension, and thus the correlate institutional framework of state sovereignty. Thus, an underpinning assumption of the utilitarians' rationale held that within the international political constellation of their time, the best way to maximise universal utility was to concentrate primarily on domestic governmental policies.

In practice, their prescriptions supported an international system based on fairly independent sovereign states, which in being reciprocally exclusive generated an environment of outranking. Classical utilitarians did undoubtedly propose a number of political reforms, such as the codification of international law, the establishment of an international court, publicising foreign negotiations, and new machinery for international treaties, which were certainly in the right direction for the democratisation of international relations. And even more importantly, they elaborated a method for applying consequentialist ethics to international relations based on the balancing of universal principles and social theory which is still viable. However, their works cannot be considered fully satisfactory, for the overall outcome of the international system they envisaged would arguably be sub-optimal by their own measure. The lack of multilevel political participation leading to would-be international political institutions denied the possibility for each individual to pursue fully his or her own well-being and consequently denied the promotion of the general well-being. While the intensity of international

interaction during the 19th century was definitely not equal to that of the current level, and therefore the share of individual well-being dependent on international or global phenomena was undoubtedly less significant than today, the situation was nevertheless not one of fully self-contained communities[19]. A truly consistent consequentialist prescription would have indicated an enlargement of the degree of political participation to the international domain. And yet, that Sidgwick's writings do propose a few steps in this direction is an indication of the stark divergence from the Hobbesian state tradition that classical utilitarian thought represents. It is for this reason that an understanding of such a thought is still crucial to any understanding of consequentialist international ethics today.

The survey of classical international utilitarianism presented in this chapter does not fully consider any proto-utlitiarians. However, despite the fundamental heterogeneity of their thought to the rest of the paradigm analysed here, a brief note is dedicated to David Hume and William Godwin, since their formulations anticipated two central political ideas subsequently developed in 19th century utilitarianism: a consequentialist interpretation of the state and a universalistic approach to duties. Following this note, the core survey then begins with the examination of Jeremy Bentham's writing on international law, as he is recognised as the father of the utilitarian tradition. After passing through James Mill, John Austin, and John Stuart Mill, the survey concludes with Henry Sidgwick's works. As it is intended as a historical-theoretical introduction to the following chapters dedicated to contemporary international issues, this chronological survey is highly selective in that only those arguments are discussed that are relevant for the development of a consequentialist international argument as applied to the issue of democratic inclusion. The lack of any such review of contemporary utilitarians' progenitors in the literature[20] has perhaps contributed to the almost monadic diffusion of the diverse research projects currently conducted by utilitarian scholars. In filling this gap a bit, this chapter aims to elucidate the slow emergence and progressive

[19] But, even if this had been the case, still a duty to attempt to establish a relation could have been envisaged, as explained in chapter I.

refinement of the arguments on which contemporary utilitarians draw. Only thus can such reasoning be understood and the rest of the thesis be equipped with a consolidated method and coherent principles to tackle the new dilemmas of global justice.

The inheritance of two ancestors

The relationship between the universalist principle of utility maximisation and its historical implementation through political institutions represents a key crux for the utilitarian theory of political justice, and in particular for its application to the international domain. As mentioned, classical utilitarians also elaborated on this relationship for what concerns international affairs. However, it was David Hume and William Godwin who first investigated and developed the two components of this relationship. While Hume was masterly in clarifying the notion of state as welfare provider, Godwin provided a clear-cut formulation of the universal attributes of the principle of utility. Despite the limits of their thought, an understanding of these two ancestors is fundamental to grasping the entire development of the utilitarian theory up to our days.

David Hume's theory of the formation and preservation of the legitimacy of the state constitutes a particularly significant component of the proto-utilitarian tradition (Lecaldano, 1991; P. Kelly, 2003a; Rosen, 2003, § 3)[21]. In opposition to the social contract stance, Hume defends a representation of the state according to which its ultimate legitimacy rests on its social performance in terms of the provision of benefits enjoyed by citizens. His analysis of the political domain begins with the enquiry on the origin of justice. For Hume this coincides with the artificial virtue originating from the special situation in which human beings find themselves, the 'circumstances of justice'. Selfishness and limited generosity together with scarce natural resources—both in terms of goods and personal capacities—conduct individuals to the recognition of the

[20] A few pages are dedicated to the classical utilitarianism in (Ellis, 1992).

[21] For a collection of critical assessments and further references see (Tweyman, 1995).

importance of reciprocal covenants, which provide general advantages such as increased force, ability and security. Following from this recognition are principles—including principles of property, rights and obligation—that create distinction and stability in possession. Finally, the concept of justice becomes linked to that of virtue as moral approbation through the creation of general rules motivated by sympathy with public interest (Hume, 1740 [1973], III, II: II).

Such social development motivated by a combination of prudence and partial benevolence, however, is not sufficient for the formation of stable societal organisations. Because human beings are naturally inclined to prefer present over distant and remote interests, a further institutional modification of the social circumstances is needed. In order to compensate for the natural deficiencies concerning the limited scope of our sentiments, the observance of the law of justice needs to be made our nearest interest through the establishment of political and judiciary institutions. This completes the process of the formation of a political community. It is this mechanism, turning on the mutual interest of individuals in respecting a scheme of public rules of justice that forms the core idea of Hume's interpretation of government in terms of benefits provided to individuals. And it is one of utmost significance to the following utilitarian tradition, for it allows for a fundamentally instrumental interpretation of political institutions, which remain thus open to revision and expansion (Hume, 1740 [1973], III, II: VII and VIII; 1748 [1870]; 1751 [1979], V)[22].

Godwin is the second major precursor of the utilitarian school with special relevance to international issues. His theory of universal duties represents a powerful point of reference for many authors inside and

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[22] The same explanatory model applies to the international level, according to Hume, though here the circumstances are different and consequently the level of justice only partially attained. The underlying assumption consists in the recognition that the moral capacity of individuals to reason beyond their present interests is limited. Single agents can extend their perspective to include the social relations within a determined community, but they are not able to embrace the whole of mankind. Since a world government is not thus feasible, a much thinner kind of rule is left at the level of interstate relationships: the law of nations, which grants a great degree of discretion to national governments (Hume, 1740 [1973], III, II: XI; 1751 [1979], IV). Hence, the traditional concept of the balance of power plays a significant role as conflict mediator in the

outside this tradition, in so far as it informs notions of the scope of the application of the principle of utility, and consequently the highly controversial concept of special relations. Godwin's respect for the ultimate principle of the maximisation of utility stands out as a crystalline example of a rigorous application of a universal maxim in a non-discriminatory manner. His well-known discussion on the magic in the pronoun 'my', spun out through the example of the archbishop Fenelon and his chambermaid, leads to the conclusion that no special relation can legitimately impede the discharge of the universal duty to promote the general happiness of human beings. No partner, companion, neighbour or fellow-citizen has the right of precedence over the possibility of generating a greater quantity of utility to society. No exceptions are allowed, even "if the extraordinary case should occur in which I can promote the general good by my death, more than by my life, justice requires that I should be content to die" (Godwin, 1793, II, II: 140). Godwin arrives at other radical conclusions, such as the following:

> "In the same manner as my property, I hold my person as a trust in behalf of mankind. I am bound to employ my talents, my understanding, my strength and my time for the production of the greatest quantity of general good. Such are the declarations of justice, so great is the extent of my duty" (Godwin, 1793, II, II: 165).

To conclude this note, differing though they do, Godwin's arguments about universality and Hume's rationale on the welfare character of the state represent the starting points for the analysis of the utilitarian school of the 19th century. Without these two thinkers, those studied in the rest of this chapter would have most likely argued from a very different perspective.

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interstate system according to Hume's interpretation (Hume, 1752 [1870]; Kratochwil, 1981; Glossop, 1984; Kratochwil, 1989, § 4).

The limits of international law: Bentham, J. Mill, and Austin

Jeremy Bentham, James Mill, and John Austin represent the three principal authors of classical international utilitarianism in the first half of the 19th century. In them, political theory is intermingled with a strong expertise in jurisprudence, producing a careful analysis of the limits of international law and of its potential to evolve through political action. While they account for the deficient legal nature of international norms in reference to the lack of positivistic legitimacy and habit of obedience, they are simultaneously sensitive to the requirement of the universal principle of utility in terms of world-wide welfare promotion. Rather than a world government, they envisage specific international reforms that would contribute toward the development of peaceful and democratic interstate relationships, such as the codification of international law or the establishment of an international court of justice. If this can be considered a definite step forward toward more egalitarian and inclusive forms of international democracy, the other side of their theories—the positivistic account of legal theory—has had a strong influence on the legitimisation of a system of independent and sovereign states, with its correlate of international exclusion, that this thesis aims to dispute. Hence, the ambivalent verdict of this critical examination of these three authors: while this thesis accepts a number of their arguments, it refuses the remainder.

Jeremy Bentham's crucial function in the trajectory being outlined resides in formulating the principal elements of the classical utilitarian paradigm of international justice[23]. Combining universal utilitarian prescriptions with the recognition of the specific historical characteristics of the international domain, he tackles a number of crucial issues for international consequentialism, including the relation between the criterion of rightness and sociological analysis, the multilevel character of the

[23] Bentham's writings on international issues consist principally in the four uncompleted manuscripts written between 1786 and 1789, and published only in 1843 under the title *Principles of International Law* (Bentham, 1843 [1962]). But see also (Bentham, 1786; 1793 [1962], 417-8; 1810, 1817a, 1817b, 1820-1822 [1995], 1830 [1983]). They played an important role within the long-standing debate on peace project (Bentham, 1811-1830 [1998], II, X, I, 4; Colombos, 1927; Kayser, 1932, 66-7; Schwarzenberger, 1948; Conway, 1987, 1989, 1990; Archibugi & Voltaggio, 1991; Heater, 1996; Van den Dungen, 2000).

jurisprudential system, and the different strategy to be deployed to attain democratic improvements at the international level. Assuming a fundamentally cosmopolitan perspective, Bentham reinterprets the functions of the state both internally and externally and proceeds to design a comprehensive political system in which the well-being of the individual represents the core value. Issues such as the harmonisation between national and universal interests, the stipulation of international principles of justice, the codification of the international law, and the establishment of an international court all form the specific content of his revolutionary analysis of international morality.

The fundaments of Bentham's theory of justice, at both the domestic and international level, have a clear universalistic character in terms of ultimate validity and scope, i.e., in order to be accepted, any principle, must be universalizable and all-inclusive. Concepts such as the two sovereign masters of human beings (Bentham, 1781 [1988], I: 1), the impartiality of the legislator, and the jurisprudential model shaped on different levels (world, national, provincial and local), are all claimed to be valid for all nations (Bentham, 1781 [1988], XVI: 60; 1811-1830 [1998]; Twining, 2000, 18). Nonetheless, the fact that these first principles are universalistic does not exclude the possibility of national governance. The scope of political responsibility is, in fact, decided according to an algorithm that combines universal principles with historical circumstances, including social habits and the extent of individual capacity for action. Consequently, social and territorial limitations (families, states, and other particularistic entities) are envisaged, but admitted solely on contingent and strategic grounds. For Bentham, the universal maximisation of utility is in fact most likely to occur via a regulated division of the moral work based on the assumption that the greatest well-being is attainable only when everyone concentrates on the sphere of action in which he is more effective[24]. From here, Bentham's twofold political strategy aims to

[24] Lyons interprets Bentham's domestic political theory in a slightly different way (Lyons, 1973). He suggests that the basic principle is not universalistic in kind, but in the interest of the governed. I disagree, since I think a universalistic second order principle

formulate the appropriate intermediate prescriptions through the amalgamation of the two strands of his theory, expository and censorial jurisprudence, which study respectively the current and the prescribed forms of public norms.

Bentham's expository analysis of morals and legislation begins with a positivistic account of sanction-based theories of obligation. Such a obligation is where the universalistic principle of utility combines with the historical circumstances of the social fact of the habit of obedience, which limits the scope of institutional justice. To have a legal obligation means, according to Bentham, being under an obligation which is sanctioned by appropriate punishment for non-compliance. Thus the existence of institutionalised means of enforcement is essential for the effectiveness of the law and consequently for its legitimacy, for it creates stable expectations in the citizens, which in turn represent a fundamental source of utility. In this sense, law intended as a set of authoritative sovereign commands derives its legitimacy from the fact of being issued by a publicly recognised body which enjoys the habit of obedience of his citizens. Without such a habit of obedience spread widely among the constituency, public rules cannot properly be called laws. The social fact of the habit of obedience is thus central to the expository component of Bentham's theory of legislation, both at the national and international level (P. Kelly, 2003b, 312-5).

Running parallel to this expository side, is the other component of Bentham's theory of morals and legislation: his censorial jurisprudence. Following Hume's perspective on government as benefit-provider (Bentham, 1776 [1977], I: 439 ff.), Bentham argues in favour of constitutional democracy and popular sovereignty on the grounds of the principle of the maximum of happiness. Bentham's argument rests on the observation that the best outcome, with the minimum of resistance is achieved only in those cases in which personal interests are pursued within the scope of general interests. Endeavouring to achieve her own happiness, each person will encounter the least resistance when the pursuit of her own

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can sustain a parochial first order principle. For other points of view on this see

personal happiness overlaps with that of others engaged in a similar task, for the endeavour of each assists that of all. "Each particular interest is opposed by those and those only, by whom it is regarded as adverse to their own" (Bentham, UC xxxviii: 217, quoted in Rosen, 1983, 49-50). From this, a two-fold prescription follows concerning the domestic institutional design of the Benthamite project. On the one hand, a democratic representative government with a system of checks and balances is necessary to avoid sinister interests prevailing and to improve the public accountability of political institutions. On the other hand, however, a framework of individual rights should also be set, for these are recognised as the primary material condition of the interest formation and realisation necessary to maximise the pleasure of his own citizens (Kelly, 1990).

On these grounds, Bentham considers the possibilities and the limits of expanding his theory to the international level. While within the English positivist tradition Bentham can be considered one of the most committed scholar to a cosmopolitan perspective, insofar as he is particularly aware of the limits of the theory of the national legal system (Rosen, 1983, XI, II: 203-206; Twining, 2000, 16 and 47), he is also aware of the sociological difficulties that arise in enlarging his theory to the international domain. Bentham sets out a clear method and the political principles for applying his utilitarian theory of municipal law to the international domain. He holds that were a world citizen in charge of drafting a set of international norms, he should aim at "the common and equal utility of all nations", i.e., "the most extended well-being of all the nations on the earth" (Bentham, 1843 [1962], 537-8). However, a major problem at the international level consists in the lack of the habit of obedience, which disqualifies international law as law properly called. Since these international laws are not sanctioned, they are not effective and therefore they do not produce either expectations or utility. Given these circumstances, Bentham's strategy is to differentiate two applicative levels. While his preference remains for a concentration on the national domain as this was likely to be the most conducive path to the maximisation of the general well-being of

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(Rosenblum, 1978; Hart, 1982; Rosen, 1983; Fagiani, 1990; Parekh, 1993b).

mankind, he acknowledges that an interest for international harmonisation nonetheless exists. Much as the state needs to co-ordinate the actions of individuals at the domestic level, so, from the hypothetical point of view of a world governor, a form of co-ordination among states is necessary at the international level. In holding to the centrality of the nation-state, Bentham's model is not immediately cosmopolitan, but it is so in the ultimate principle for the greatest happiness of the greatest number, without any limitation.

Bentham's entire reasoning leads only toward a democratisation of foreign policy. A world government is simply not capable of increasing the overall habit of obedience and so unable to secure citizens' expectations. Bentham's international model is one of free trade driven by citizens' interests[25]; every state able to have commercial and political relations with all other states in a pacific and beneficial environment. Thus, instead of a world government, a number of international reforms are envisaged that, albeit more moderate, still represent an enormous step toward international democracy. That many of these reforms have been enacted gives evidence of Bentham's seminal influence. First of all, Bentham was keen to encourage an international codification of law (Bentham, 1843 [1962], § I; Janis, 1984) to be coupled by the establishment of a permanent international tribunal (Bentham, 1843 [1962], 545), which could prove essential to stimulating an international habit of obedience. Also, he planted the idea of publicly recognised treaties and clear international rules, as embedded in a transparent and public diplomatic politics characterised by the prohibition of secret negotiation and the guarantee of freedom of press (Bentham, 1843 [1962], 558-60). Underpinning this vision is the encouragement toward a flourishing of a brotherhood of feeling among European countries (Bentham, 1843 [1962], 552; Baumgart, 1952, 159) under the assumption that

[25] It seems, subsequently, fair to include international Benthamite theory within the diffusive model of international political relations, in so far as both the pyramidal model in which only the states counts is rejected, and full cosmopolitan politics is not yet envisaged (Archibugi & Voltaggio, 1991, 165-73).

> "there is no nation that has any points to gain to the prejudice of any other. Between the interests of nations, there is nowhere any real conflict: if they appear repugnant anywhere, it is only in proportion as they are misunderstood" (Bentham, 1843 [1962], 559).

According to Bentham, the major problems of international relations thus arise not from the lack of common interests, but rather from a weak integration, which does not allow recognition of occasions for possible co-operation. Such an oversight produces a lack of institutional instruments that could boost the habit of obedience and consequently the general well-being. While it is aware of the sociological limits constraining any proposal for international ethics, Bentham's proposal thus aims to formulate means to advance the structuring of international political rules and institutions to the effect of promoting welfare from a universal point of view.

James Mill's elaboration tends in the same direction. Mill's most significant writings on international issues consist of two articles published in 1825, *Law of Nations* and *Colony,* plus a number of essays on war and peace[26]. In these, he examines the nature of international law in terms of sanctions provided by global public opinion and concludes with the need for a universal codification of law and the establishment of an international court. Mill's relevance for the present study rests on his advancement of the understanding of the relation between universal principles and historical forms of international jurisprudence, and in his clear support for campaigns spreading international democratic sentiments as part of a continuous process toward the consolidation of a universal and inclusive political constituency.

Mill's analysis of the law of nations depends on his understanding of law as constituted from three elements: command, authority, and sanction (Mill, 1825 [1967]-b). This juspositivistic approach, which Mill takes up from Bentham and which is developed later by John Austin, denies a proper juridical status to the current international law on the ground that a

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[26] See (Mill, 1807, 1813, 1814, 1816, 1825 [1967]-c, 1825 [1967]-a) and (Yasukawa, 1991).

superior authority, command, and sanction are missing at this level. However, a set of norms is nonetheless commonly respected in the relations among states. These norms, which resemble court ceremony or the etiquette of polished society, can be acknowledged as a law of states concerning the whole of mankind and one establishing the recognition of the rights of national interests (Mill, 1825 [1967]-c, 5). The deficiency of this normative system is undoubtedly its weak capacity to sanction the violation of rule. Only a popular sanction is in fact possible, since, due to the absence of any associative link among states, no other legitimate force is recognised. Mill locates the power of public sanctioning in the deployment of a number of social tools like approbation, praise and blame, and sees these as stemming from a stable association of ideas concerning action, other's favourable sentiments, and possible benefits. Thus, as popular sanction represents the only public moral force able to integrate the law in areas such as international relations which remain outside the reach of legal institutions, the promotion of education and civic formation as means to influence international outcomes is shown to be a substantial portion of the political commitment of classical utilitarians[27].

Like Bentham, Mill also believed popular sanction is more effective when it is supported by well-defined and certain rules. Just as national codes and tribunals are fundamental to canvassing and reinforcing this attitude at the domestic level, so is it necessary to concentrate on such institutions to improve the efficacy of popular sanction at the international level. The first step in this direction consists in the allocation of rights according to a cosmopolitan perspective: "what would it be desirable, for the good of mankind upon the whole, that the several nations should

[27] This reasoning is based on the belief that it is possible to stimulate a causal association of ideas related to sanction, which can increase the likelihood of a correct behaviour. In Mill's opinion, democratic countries are the most conducive to fostering such a *forma mentis*, in so far as they offer a roughly egalitarian context in which such an association can sediment and later be applied to the international level. In fact, only where an overall social parity among individuals exists, can the individual reasonably expect not to be harmed, provided he abstains from harming others. In such a social environment, consequently, he will be interested in having a good reputation as public guarantee of his correct behaviour. Conversely, where an agent is present who is so strong that he has no fear of the whole community, then this kind of sanction can not be expected to have much

respect as the rights of each other?" (Mill, 1825 [1967]-c, 10; Yasukawa, 1991). Following the recognition of such entitlements, the tasks of drafting an international code and the institution of an international court become prominent; the ultimate objective remains the creation of a system that is 'the most advantageous for all' and that is expected to have the maximal compliance rate. Drafting procedure should be in the charge of representatives of countries, but works in progress should be made public for two reasons: first, world intelligence from every corner of the globe would then be able to supply suggestions for improvements, and second, "the eyes of all the world being fixed upon the decision of every nation with respect to the code, every nation might be deterred by shame from objecting to any important article in it" (Mill, 1825 [1967]-c, 28). Since the sanction of public opinion will be the key tool of the new code, its maximal dissemination—i.e., not only at governmental but also at citizen's level—from its drafting period on represents a fundamental step.

The code alone, however, is not sufficient for world utilitarian objectives. A super partes court is also necessary to examine carefully the conflicting cases and pass sentences in order to focus and inform world public opinion. Mill affirms that "a decision solemnly pronounced by such a tribunal, would always have a strong effect upon the imagination of men. It would fix, and concentrate the disapprobation of mankind. Such a tribunal would operate as a great school of political morality" (Mill, 1825 [1967]-c, 31-2). To that end, James Mill proposes collecting the international sentences in a schoolbook in order to direct the minds of young generation toward the values embodied in the code. This interest in education, in particular the improvement and strengthening of cosmopolitan sentiments in mankind, forms a central political concern for Mill.

John Austin's relevance to the present survey resides in his careful analysis of international law in imperativistic terms and in the international

effect. J.S. Mill develops a similar argument on the educative function of representative government, as shown below.

propositions deriving from this (Austin, 1832 [1965], 1861 [1885])[28]. Among the latter, of particular significance here are his proposal for a subtle division of ethical labour between the national and universal political spectrums, and his support for the interpretation of state in terms of national autonomy. As with Bentham, influence on utilitarian thought and beyond has been contradictory. While his universalistic framework has strongly informed the multi-layered framing of legal and political systems, his positivistic account of domestic law has been at the base of much of the doctrine of state sovereignty with its correlate of international exclusion.

Austin's theory of jurisprudence should not be reduced to a simplistic form of positivistic imperativism where no space is reserved for any superior principle. The process through which rules become legally codified is, according to Austin, long and complex: they derive from positive morality, pass through judicial reformulation and are finally expressed as governmental commands. Even in this last passage, however, authoritative legitimacy is not supreme. Ultimate legitimacy can only be granted by the utilitarian principle, which serves as a criterion to judge both the whole system of norms as well as those "anomalous" single cases where the right to resist public rules is admitted in the name of the greater general happiness (Austin, 1832 [1965], 53-4; Agnelli, 1959; Cattaneo, 1962, § IV).

International law, or the law of people, forms part of positive morality: a set of rules constituted by simple customs, produced by public opinion and sanctioned merely by social disapprobation (Austin, 1832 [1965], 122-26). This categorisation of international law, which follows Bentham's and James Mill's ideas, represents a *leitmotiv* of classical utilitarianism that demands key consideration if one is to understand this tradition's insistence on a codification of international law and the establishment of an international court of justice. If such steps—which for Austin must even include a sovereign power—are not taken, international law will remain not true law, but merely a form of comity, at its best sanctioned by a popular consent in the form of world public opinion. The

[28] See also (Agnelli, 1959; Hart, 1961; Cattaneo, 1962; Hart, 1982).

lack of an international magistracy and sovereign world government prevents the *jus gentium* from becoming positive law. Austin states this clearly:

> "If the same system of International Law were adopted and fairly enforced by every nation, the system would answer the *end* of law, but, for want of a common superior, could not be *called so* with propriety. If courts common to all nations administered a common system of International Law, this system, though eminently effective, would still, for the same reason, be a *moral* system. The concurrence of any nation in the support of such tribunals, and its submission to their decrees, might at any moment be withdrawn without *legal* danger." (Austin, 1861 [1885], 575).

Thus the law in force between nations cannot be considered legally positive, but rather a set of laws of courteous civility morally sanctioned only by the public opinion in the form of a threat of general hostility (Austin, 1832 [1965], 200). Furthermore, Austin reveals a more pessimistic attitude than the other scholars in this survey. He maintains that expectations on the current practical efficacy and the future developments of international law have to be downgraded, since in his view a court and a code without a superior power do not constitute sufficient elements for granting full legal status to such norms, and a supranational sovereign power is deemed to be not feasible.

Beyond his philosophy of international law, Austin's work is also interesting on account of other arguments on international justice, among which a particularly relevant one concerns the distinction between utilitarianism as a theory of moral justification, i.e., criterion of rightness, and as a theory of moral deliberation, i.e., decision procedure. Most utilitarian arguments for the international political sphere rely on this distinction since they interpret the utilitarian principle as a second order indirect criterion of rightness. Austin makes clear that in order to attain the ultimate end of universal happiness, an indirect strategy that paradoxically privileges *prima facie* prudential actions is sometimes the most effective. With a touch of conservative wisdom, he reminds us that "even that

enlarged benevolence which embraces humanity, may lead to actions extremely mischievous, unless guided by a perfectly sound judgement" (Austin, 1832 [1965], 110).

The consideration of the normative harmonisation of particular interests and general welfare here represents a turning point both in the domestic and in the international domain of justice. Austin's reasoning begins with the societal case, in which the individual is deemed to be the best judge of his own interests and the person in the best position to satisfy them. Although the ultimate principle remains universalistic and impartialist, this observation generates a *prima facie* duty to pursue personal interest. In fact, since the general good is constituted by an aggregate of individual pleasures, "the principle of general utility requires imperatively the individual to usually care for his interests rather than for other's ones" (Austin, 1832 [1965], 106). In acting differently, he would run the risk of neglecting things he knows better in order to pursue some other about which he knows less or even nothing.

> "The principle of general utility does not demand of us, that we shall always or habitually intend the general good: though the principle of general utility does demand of us, that we shall never pursue our own peculiar good by means which are inconsistent with that paramount object" (Austin, 1832 [1965], 107).

At the international level, Austin's reasoning is similarly dependent on the Benthamite assumption of the harmony between universal and particular interests, which generates the normative possibility of special duties and national priorities. Using an indirect strategy for the maximisation of world welfare, Austin succeeds in presenting a viable combination of universalistic and particularistic claims of justice, which remains cardinal for the utilitarian argument applied to international relations.

> "The proper purpose or end for which a sovereign political government, or the purpose or end for which it ought to exist, is the greatest possible advancement of human happiness: Though, if it would duly accomplish its proper

> purpose or end, or advance as far as is possible the well-being or good of mankind, it commonly must labour directly and particularly to advance as far as is possible the weal of its own community. The good of the universal society formed by mankind, is the aggregate good of the particular societies into which mankind is divided: just as the happiness of any of those societies is the aggregate happiness of its single or individual members. [...] It were easy to show, that the general and particular ends never or rarely conflict. [...] An enlightened regard for the common happiness of nations, implies an enlightened patriotism; [...] Now if it [a sovereign political government] would accomplish the general object, it commonly must labour directly to accomplish the particular: And it hardly will accomplish the particular object, unless it regard the general" (Austin, 1832 [1965], 294 and 295, note 28).

In this vein, despite the recognition of the universal utilitarian principle, Austin's theory of jurisprudence also represents the continuation of a long tradition of positivistic interpretations of the authority of the state. Deriving from Hobbes, this reading of the legitimacy of government action has generated strong theoretical support for state autonomy not least on account of its powerful impingement on the traditional relevance of the divine sanction. However, it is also just this interpretation that has created the conditions allowing for a great degree of arbitrariety in national politics. A typical example of this is the solely state-based allocation of citizenship, which bears profound consequences for the concept of community and the correlated claims of aliens. Again, it must be noted that classical utilitarianism simultaneously produced a moral theory of universal duties and rights, and a legal conception of state sovereignty that generates the social phenomenon of international exclusion, which is at odds with such rights and duties.

The relevance of nationality: J. S. Mill

While sharing a number of fundamental arguments with those of his utilitarian predecessors, John Stuart Mill's analysis of international relations differs in that rather than an imperativistic conception of sovereignty, it recognises a greater role to the principle of nationality, or

patriotisme éclairé. Despite his personal commitments in the colonies of the British Empire, Mill composed only a few texts on international justice, nonetheless, these few texts suffice to infer his normative ideas on interstate relations (Mill, 1859 [1991], 1861 [1991], 1870 [1991]). The writings concern a number of bitterly discussed issues such as the right of peoples to free development and the duty of non-intervention, the differing degrees of civilisation and the duty to paternalism, new machinery for international treaties, and the universal principle of the maximisation of the well-being of mankind. Throughout the decades following the publication of these texts and up to contemporary discussions on global justice, Mill's impact on how these issues are thought has been decisive, though often criticised and equally misinterpreted.

The assumption on the normative primacy of human well-being forms a core value of Mill's theory both at the domestic and at the international level of justice. The ultimate end, with reference to which all other things are desirable from a moral point of view, consists in an existence exempt as far as possible from pain, and as rich as possible in enjoyments (Mill, 1861 [1962], 262). From this, Mill deduces the universalistic principles of utilitarianism, in the form of "the rules and precepts for human conduct, by the observance of which an existence such as has been described might be, to the greatest extent possible, secured to all mankind" (Mill, 1861 [1962], 263). The best political strategy to allow for the individual to achieve such personal state is to grant them individual freedom of choice. The principle of freedom assumes, in fact, a particularly significant role in Mill's argument about justice, in so far as it warrants political relevance to personal autonomy as well as to group self-determination (Cressati, 1988). At the individual level, the sole end for which mankind is warranted in interfering with the individual freedom is self-protection. For the rest, "over himself, over his own body and mind, the individual is sovereign" (Mill, 1859 [1962], 135). Consequently, a set of rights should be guaranteed to the individual to allow for autonomous flourishing within a society governed by a rule of law. This is best attained through a representative democracy.

Following from this rationale on the value of individual freedom and in concert with Hume's and Bentham's arguments[29], Mill reasons that an independent representative democracy constitutes the institutional form that best satisfies domestically the general utilitarian requirement, provided a sufficient degree of social development is attained by the public[30]. His case in support of representative democracy, which has become very influential in the utilitarian tradition, rests on a two-fold argument: the protective argument and the educative argument. The former, later tagged consumer sovereignty, maintains that since each man is considered to be the best judge of his own interests, he has to be placed in a position to guard his own rights and interests through freely appointing his rulers. Looked at in its negative contours, this principle affirms then that since, no matter how well-intentioned they could be, government and society usually do not know better than the individual what is in his interest, he has to keep the deliberative power with him as much as possible. The educative argument holds that political participation generates civic education, which in turn can foster an 'interest in the common good'[31]. Mill's support for active inclusion in the democratic system is thus grounded on the recognition of the beneficial effects that a democratic government would produce when embedded in a national context. Democratic participation has to be valued insofar as it promotes the well-being of society in two ways: it secures the interests of all citizens by resisting exclusion, and it stimulates a better and higher national character (Thompson, 1976, § 1;

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[29] On the differences between Mill's *Considerations* and Bentham's *Code* see (Rosen, 1983, X).

[30] In the chapter "Of federal representative governments" in the *Considerations*, Mill shows a clear and sympathetic understanding of federal theory, and in particular of the direct relationship between a federal government and citizens. Despite this, however, his conclusions are somewhat contradictory, in that while his ideal rests in the greatest dispersion of power consistent with efficiency, he prefers unitary government whenever possible (Pinder, 1991, 101). For critical considerations of Mill's stance that the state and the nation must be co-extensive in a unitary state see (Acton, 1907).

[31] In particular, "Mill points to three educative consequences of participation, which together define the ideal active character: 1) a sense of citizenship that makes citizens feel 'under no other external restraint than the necessities of nature, or mandates of society which he has his share in imposing, and which it is open to him, if he thinks them wrong, publicly to dissent from, and exert himself actively to get altered'; 2) a largeness of 'conceptions' and 'sentiments', which extends citizens' thoughts and feelings beyond the

Urbinati, 2002, § 3; Varouxakis, 2002, § 7). Accordingly, Mill states that representative democracy's

> "superiority in reference to the present well-being rests upon two principles, of as universal truth and applicability as any general propositions which can be laid down respecting human affairs. The first is, that the rights and interests of every or any person are only secured from being disregarded when the person interested is himself able, and habitually disposed, to stand up for them. The second is, that the general prosperity attains a greater height, and is more widely diffused, in proportion to the amount and variety of the personal energies enlisted in promoting it" (Mill, 1861 [1991], III: 208).

It is in *A Few Words on Non-Intervention* that such principles are applied to the international level. The article's examination of the specific topic of the rightness of military and political interference also serves to draw a normative utilitarian framework for international organisations in relation to both civilised and uncivilised nations (Miller, 1961). Assuming the importance of the national process of democratic self-determination for the aforementioned reasons, Mill maintains that the principal virtue of a country concerning foreign policy consists in the lack of aggressive intentions toward other states and respect of their national autonomy. "Any attempts it makes to exert influence over them, even by persuasion, is rather in the service of others, than of itself" (Mill, 1859 [1991],111). The good country should not, as a matter of course, pursue personal benefits at other's expenses, except in the case in which other countries can participate in them. Drawing on this, the case of intervention is considered in detail by Mill.

Mill reconsiders the doctrine of non-interference, advocating a differential application according to the degree of civilisation attained by the nations involved in the dispute. In the case of civilised people, issues such as war for conquest or forced annexation are publicly recognised as immoral; intervention can only be warranted in order to: 1) mediate as

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'satisfaction of daily wants'; and 3) an understanding of the general interest and stimulation of public-regarding attitudes" (Thompson, 1976, 37-8).

third parts in international disputes; 2) stop persistent civil wars; 3) reconcile fighters; 4) intercede for a respectful treatment of the losers; 5) stop crimes against humanity, such as slavery. Beyond these special circumstances, no help should be offered to a government for the repression of internal rebellions, because if it is not able to obtain obedience by its own power, then it is not legitimate and should therefore not exist (Mill, 1859 [1991], 121; 1862 [1991], 136-8). A Humean interpretation underlies this argument, which assumes that a population is ready to support its own government when it acts rightfully, and, conversely, to rebel against it when wide-spread dissatisfaction is experienced by the population (Mill, 1861 [1991], § I, IV). The unique test of having sufficient maturity for maintaining free institutions resides in the capacity and willingness of the people to fight for them. If they do not value freedom enough to be ready to fight for it, then a benign external intervention to provide them with liberty would be useless, since they would not be able to sustain their artificial status (Mill, 1859 [1991], 122; Walzer, 1977; Grader, 1985; McMahan, 1986; 1996, 40; McKim & McMahan, 1997, § V; Varouxakis, 2002, § 5).

In accordance with this, Mill affirms:

> "But war, in a good cause, is not the greatest evil which a nation can suffer. War is an ugly thing, but not the ugliest of things: the decayed and degraded state of moral and patriotic feeling which thinks nothing *worth* a war, is worse. [...] A war to protect other human beings against tyrannical injustice; a war to give victory to their own ideas of right and good, and which is their own war, carried on for an honest purpose by their free choice- is often the means of their regeneration. A man who has nothing which he is willing to fight for, nothing which he cares more about than he does about his personal safety, is a miserable creature who has no chance of being free, unless made and kept so by the exertions of better men then himself. As long as justice and injustice have not terminated *their* ever renewing fight for ascendancy in the affairs of mankind, human beings must be willing, when need is, to do battle for the one against the other" (Mill, 1862 [1991], 141-2).

Such is the crystalline rationale supporting non interference in domestic affairs of civilised people, that Mill brings it to the point of its paradoxical reversal: "Intervention to enforce non-intervention is always rightful, always moral, if not always prudent" (Mill, 1859 [1991], 123).

However, in those cases in which an unequal level of civilisation exists between peoples and, consequently, a strong imbalance in social development characterises the agents in question, Mill's recommendations alter considerably. A more closely detailed explanation of his concept of civilisation is offered in *Considerations on Representative Government*, which shows it to be ultimately based on a qualified utilitarian principle. Barbaric people are those who have not sufficiently developed moral, intellectual, and practical qualities, and are consequently not able to consolidate effective and autonomous political institutions. Such peoples thus attain a balance of general happiness much inferior to civilised people's, since the latter are in a position to enjoy qualitatively superior pleasures (Mill, 1861 [1991], § I, II, IV; Robson, 1968; 1998, 350-55). In Mill's opinion, two reasons can be determined that prevent the application of the same moral rules to these classes of people (Mill, 1859 [1991], 118-119). Firstly, international morality requires reciprocity, but uncivilised people are not able to respect and comply with the rules of morality in so far as they are not able to commit to a remote objective. Secondly, the sentiments of independence and nationalism essential for the growth and development of advanced nations obstruct the development of uncivilised peoples, since such peoples would receive more benefit from the benevolent interference of a foreign and civilised government than if they were abandoned to their fate. Hence, as the latter are not entitled to the same rights as proper nations, but solely to those aids which are necessary for them to become civilised nations as soon as possible, the traditional international law need not be respected with them. It is appropriate to civilised nations only, barbaric peoples are excluded[32].

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[32] A note of comment is due on Mill's attitude toward colonialism. His position is the result of a combination of eurocentrism, utilitarian paternalism, and British imperialism, according to which the civilised man has a duty to improve the whole world's state of well-being; such a duty often implies forms of political domination (Sullivan, 1983; Moir

In conclusion, the ideas of Mill presented here are evidence that a number of Mill's arguments have been extremely relevant for the continuation of the utilitarian debate on international justice up through the contemporary discussion. His reasoning concerning the indirect deployment of a universal principle to structure political rules on differing levels represents an extremely fertile precursor to current proposals, just as his considerations on the principle of nationality and the correlate of non-intervention have been at the centre of the dispute on international law for more than a century. At the same time, his paternalistic position on uncivilised peoples has provided major intellectual support for a regime of international exclusion lasting for more than a century. Before concluding this survey and proceeding to more recent consequentialist propositions, it is worthwhile to dedicate a last section to Sidgwick and his contribution to international utilitarian thought.

Between nationality and federalism: Sidgwick

Despite favouring the democratic strengthening of international relations, the 19th century utilitarians surveyed here never went so far as to propose any federal reform of international institutions. This stance, which was influenced in part by the dogmas of legal positivism fostered in English legal debate by Bentham and Austin (Bryce, 1901, 50) and in part by the support for nationalistic movements, as in Mill, came under dispute toward the end of the century and even more in the first half of the 20th century with consequentialist 'idealist' thinkers such as Hayek, Robbins, and Russell. Toward the end of the 19th century, the federal idea began to

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et al., 1999; Souffrant, 2000). Since greater well-being is attainable only through a developed cultural sensitivity, it is an obligation of all civilised men to help barbaric peoples in their spiritual and material growth, in order to maximise the general world welfare (Mill, 1861 [1991], § XVIII). This idea is grounded on a number of premises which are unjustifiable from a moral point of view. The argument about the barbarity of colonised peoples implies in fact an illegitimate and unfounded universalization of 'localised' qualitative criteria, when not an explicit racial discrimination. Both claims rely on postulates which remain completely arbitrary if compared with contemporary positions on the ethical equality of human beings. Racism in particular has been theoretically overcome by Darwinism, which maintains a non-specism that increasingly enlarges the sphere of moral consideration. For this consideration I am originally indebted to

attract a measure of interest in the British intelligentsia, in part inspired by the success of the Canadian and Australian federations, but also as a reaction to the nationalist fervour which was rising across Europe. While the major proponent was most likely J.R.Seeley, who was a major supporter of European and Commonwealth federations (Seeley, 1883), Henry Sidgwick occupies a relevant place in this debate (Sidgwick, 1903 [1920]; Pinder, 1991; Bosco, 1995, 251).

Among the thinkers of the classical utilitarian school, Sidgwick dedicates the most attention to and presents the most detailed analysis of international ethics. He examines a number of different issues related to it in the five chapters of *The Elements of Politics* exclusively dedicated to international ethics and in his other internationalist writings. Included among these issues are: the nature of international obligations and the task of international scholars, the normative status of the state and nationalism in relation to universal principles, non-intervention and war, the desirability of a federal model, and colonies and migration (Sidgwick, 1874 [1996], 1891 [1996], 1903 [1920], 1919). The two principal achievements of Sidgwick's study consist in a definitive systematisation of 19th century utilitarian thought on international justice—one showing a high degree of comprehensiveness and consistency—and the identification of a number of pragmatic limitations which mark the borders of international consequentialist arguments in terms of feasibility.

Following Bentham and Austin, Sidgwick begins his analysis of international ethics by noting that in reference to international obligations, the term 'international customary rules' should be used rather than 'international law', because at the international level the distinguishing elements of the domestic legal systems (supreme judge, common legislation, and central executive) are missing (Sidgwick, 1891 [1996], 238-9; 1919, § I). The un-codified means of generating international law results in fact in a high degree of ambiguity with respect to international norms. Such a process of norm production is especially deficient in the international arena given the historical characteristics of the international

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Lecaldano. On this, see also (Hare, 1963, § 11; Singer, 1979, 1981; Hare, 1989a, § 12;

community such as: a small number of members and a subsequent great importance of everyone with respect to the whole, the absence of a superior government, imperfect internal cohesion of states, and differing degrees of civilisation. In so far as these conditions of ambiguity lead to reduced compliance with norms within international society, they decrease the legitimacy of international obligations and correspondingly increase the conditions for arbitrary behaviour. The best way to overcome this ambiguity and uncertainty in international law, according to Sidgwick, consists in 'expositors', i.e., international jurists, undertaking research with the intention to harmonise customary jurisprudence in order to make it more systematic and definite (Sidgwick, 1891 [1996], 285-93). Like the other utilitarians, Sidgwick also stresses the importance of publicity. Thus, this investigative process should be given as much publicity as possible in order to stimulate the moral sentiments of mankind concerning the common interest of peace. The maturation of world public opinion remains a central moment of international reforms (Sidgwick, 1891 [1996], 296).

Sidgwick's pragmatic realism explains why the state is still considered to be a fundamental political reference in his international model despite cosmopolitan ideals always being the ultimate ideals to pursue. Following Bentham's and Austin's notion of a territorial state as rights/duties allocator and obedience receiver, four principal features define the state according to Sidgwick: 1) an aggregate of human beings united by the fact of acknowledging permanent obedience to a common government; 2) the government exercises control over a certain portion of the earth's surface; 3) the society has a not inconsiderable number of members; and finally 4) a national spirit based on a shared sentiment moulds the state into a nation[33]. In Sidgwick, thus, the recognition of the volontaristic *esprit de corp* remains relevant for the stability of state, which bears practical consequences on issues such as immigration and citizenship

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Rachels, 1991).

[33] This notwithstanding, he cautiously admits the possibility of a 'multicultural' society, unlike from J.S.Mill who is forthright in denying it and proposing a strong assimilationist policy.

(Sidgwick, 1891 [1996], 224; 1903 [1920], 27 and also 1891, 221-30; Miller, 1995, 64).

Accordingly, from Sidgwick's point of view, a number of valid elements can be traced in the doctrine fostered first and foremost by Hobbes. Thus, moral obligations, both at the domestic and the international level, are conditional on a reasonable expectation of reciprocity. The basic norm of international relations consequently consists in the reciprocal non-interference in domestic affairs (Sidgwick, 1891 [1996], 324). In the field of international relations, in fact, the lack of the habit of obedience in one state creates a situation that permits an enlargement of the rights and duties of self-protection for another. While this interference would certainly not in itself cancel the obligation to other virtues such as veracity, good faith and abstinence from aggression on person and property, even they must admit exception based on special circumstances and a previous record of non-reciprocity (Sidgwick, 1919, 46). Moreover, because of the lack of a *super partes arbiter*, war is recognised as a legitimate, though ultimate instrument for the resolution of international controversies.

State political entitlements and rights are well defined, according to Sidgwick's view, though they are not absolute in kind. Special cases in fact exist which demonstrate the presence of limitations due to 'general claims of mankind' and consequently create a compromise between universalistic utilitarianism and state-nationalism. A typical example of this is represented by the prerogatives of the state on its territory, which grant to the state the authority to pose some limits on the admittance of aliens, and in this offer negative recognition of the ultimate principle of free movement and immigration. Thus, a deeply under-populated country cannot legitimately prohibit entrance into its territory. These cases illustrate the utilitarian framework underpinning Sidgwick's reading of international norms. Accordingly, the ultimate and general principles remain fundamentally consequentialist, in so far as they aim at the overall interest of mankind, realism is rejected and an enlargement of the right to self-protection is allowed only on contingent grounds (Sidgwick, 1891 [1996], 289-9). Sidgwick affirms this in a crystalline passage which recalls many of the issues forming the focus of this survey:

> "For a State, as for an individual, the ultimate end and standard of right conduct is the happiness of all who are affected by its actions. It is of course true, for an individual no less than for a State □as the leading utilitarian moralists have repeatedly and emphatically affirmed□ that the general happiness is usually best promoted by a concentration of effort on more limited ends. As Austin puts it: 'The principle of general utility imperiously demands that [every individual person] commonly shall attend to his own rather than to the interests of others: that he shall not habitually neglect that which he knows accurately in order that he may habitually pursue that which he knows imperfectly.' But the principle of utility does demand of us that we shall never pursue our own peculiar good by means which are inconsistent with the general good: accordingly, in the exceptional cases in which the interest of the part conflicts with the interest of the whole, the interest of the part □be it individual or State□ must necessarily gave way. On this point of principle no compromise is possible, no hesitation admissible, no appeal to experience relevant: the principle does not profess to prescribe what States and individuals have done, but to prescribe what they ought to do. At the same time, I think it important not to exaggerate the divergence between the private interest of any particular State and the general interest of the community of nations" (Sidgwick, 1891 [1996], 299).

Sidgwick's ideas here—or rather normative hypotheses—on the organisation of a community of states are consistent with his general attitude, which combines pragmatic considerations with an ultimately universalistic approach. In his view, the ultimate political structure to strive for at the international level is an inclusive federation of civil nations. This would be advantageous both in terms of external economic strengthening and international securing of local liberties (Sidgwick, 1891 [1996], 301; 1903 [1920], § XXIX)[34]. The best (and maybe the only) means to achieve

[34] "It is worth recalling that the idea of the world at last finding peace through the absorption of the separate states in the large federated groups and ultimately perhaps in one single federation was indeed the ideal of almost all the liberal thinkers of the 19th century. [...] 19th century liberals may not have been fully aware *how* essential a complement of their principles a federal organisation of the different states formed; but there were few among them who did not express their belief in it as an ultimate goal. It was only with the approach of our twentieth century that before the triumphant rise of

such a structure consists in peaceful and positive co-operation among states. Nonetheless, since the political situation of his time seemed to Sidgwick premature for an effective federal system, the establishment of defensive leagues—thought of as limited confederations—to be extended gradually, appears as the strategic sub-optimal goal of his international political theory. In such war-less situation which respects the principle of non-intervention—the hinge of the Sidgwickian model—universal sentiments can deeply root in the minds of mankind. From this, a twofold political program follows: a short-term set of regional federations in which states maintain a great part of political power, and a future world federation, in which states establish an effective co-operative regime. In conclusion, Sidgwick's cosmopolitan ideals are expressed at their best in the following passage, which also serves as a summation of the present survey of 19th century international utilitarian thought:

> "Our highest political ideal admits of no boundaries that would bar the prevention of high-handed injustice throughout the range of human society: and from the point of view of this highest ideal it might be fairly urged that we ought no more to recognise wars among nations as normal than we recognise wager of battle as remedy for private wrongs: and that if so, we ought not to recognise as normal the existence of a number of completely independent political communities, living in close juxtaposition; since we must expect that grave and irreconcilable disputes among such communities will be settled, as they always have been settled, by wars. Certainly the effective substitution of any kind of judicial process for wars among civilised States would seem to involve the ultimate subjection of the relations of such States to some kind and degree of common government, able to bring overwhelming force to overbear the resistance of any recalcitrant State; since judicial decisions which cannot be enforced, cannot be expected to prevent wars. And perhaps some federation of European or West-European States, with a common government sufficiently strong to prevent fighting among these States, is not beyond the limits of sober conjecture as to the probable future course of political development. From the earliest dawn of history in Europe, down to the present day, the

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realpolitik these hopes came to be regarded as impracticable and utopian" (Hayek, 1944, 256-7) and also (Robbins, 1937, 240-57).

> tendency to form continually larger political societies—apart from the effects of mere conquest—seems to accompany the growth of civilisation" (Sidgwick, 1891 [1996], 218; 1903 [1920], 439).

Conclusions

The intention of this survey remains in the provision of a theoretical introduction to the contemporary discussion of global justice, and in particular to the consequentialist arguments made therein. The focus of this survey is however extremely interesting even in itself for its capacity to pull together many common trends within a number of progressive stances of the 19th century European political thought. Beyond the then wide-spread appeal of the nationalistic cause, the prevailing attitude one takes from this tradition of thought is one of moderate optimism and strong moral conviction, characterised by a continuous effort to interpret international social reality in a progressive manner. Reinterpreting previous arguments, most notably those of Hume and Godwin, classical utilitarians discuss a number of issues which cover a wide range of cases of interest to contemporary international ethics. The unifying factor of all of these topics consists in the appeal to the ultimate principle of the universal maximisation of the well-being of mankind. Despite the recognition of a number of intermediate political rules and institutions that provide the best possible utility outcome given the specific conditions of the sphere of social action to which they apply, the last or second order judge of any political action remains in fact the adherence to the ideal of "the most extended well-being of all the nations on the earth".

Following Hume, a new reading of the notion of the state is proposed according to which such an institution is warranted primarily on the basis of the social utility it generates. Enquiry into the state's potential for well-being production leads to the recognition of it as a legitimate component of a correct political system, in which national and universal values are developed in harmony. A mainly imperativistic legal framework is reconciled with a subtle division of ethical labour, thus indirectly strengthening the state in terms of national autonomy, a right to self-

determination, and a duty of non-intervention. The final cosmopolitan system is pragmatically shaped according to a pyramid model, in which states maintain a central role in deciding those policies that promise to better conciliate national and international interests—although a significant consideration of the theory of federalism appears in the last utilitarians. This signifies a remarkable and neat turning point away from the previous realist-Hobbesian tradition, according to which sovereign states are portrayed as the alpha and omega of both national and international domain. A clear political project underpins this 19th century school of thought: the gradual extension of democratic principles to the international sphere of action in order to promote world welfare in a more efficient way.

In line with this, a re-stipulation of the international principles of justice is propounded through an analysis of the nature of international law as based on the absence of a superior power. Given the primacy of popular sanctions in the form of global public opinion, the most conducive strategy for the diffusion of cosmopolitan ideals is identified in a series of institutional changes which should bear great potential in terms of awakening mankind's awareness of global issues. A codification of the international law, the establishment of an international court, publicity of foreign negotiations, and new machinery for international treaties are all principal proposals of classical utilitarianism for attaining world peace.

Nonetheless, a major constraint is recognised that impedes the extension of such an approach toward a more inclusive and supranational model: the narrow-minded proclivity of states toward a self-defeating, short-term pursuit of interest; a characterisation which applies both to civilised and uncivilised nations. A federal structure is perhaps desirable in the future, but for the time being a twofold political strategy is necessary. While civilised peoples need to be convinced, as aforementioned, of the importance of universal values through a publicity campaign, uncivilised people need to be escorted through their development by a wise paternalistic authority in the form of colonial power. Localised and limited as it is, this approach nevertheless offers a valid perspective from which the contemporary discussion on global justice can be advantageously

accessed, i.e., the universalist assumption of the primacy of the individual and of his well-being.

III

Contemporary International Utilitarianism

> "The difference between utilitarianism applied to persons and countries is this. Utilitarianism among persons treats each individual as a vessel for utility, but pays no attention to the boundaries, or rights, of the individual; utilitarianism with regards to countries treats each country as a vessel for health, but pays no particular attention to national boundaries, or the rights of countries. What in the first case violates conceptions that some of us hold about individual rights— about the ethically relevant boundaries between individuals— in the second ignores what some of us consider to be ethically irrelevant national boundaries" (Roemer, 1993, 352-3)

Following Sidgwick's writing at the beginning of the 20th century, a long period of silence held before the first significant arguments of contemporary international utilitarianism were heard. The dramatic events of the two world wars, together with a scientific turbulence wrought-up by such developments as logical positivism, annihilated Anglo-Saxon normative thought. Moral philosophy retreated into meta-ethical theory, while political theory lost faith in normative ideals, preferring sociological description, 'scientific' Marxism, and economic analysis. Overall, there was scant intervention on concrete political issues, as scholars dropped prescriptive politics in favour of neutral discussions on the meaning of ethics, or technical economical debates. To this was added the international

stalemate of the cold war and the grip of the realist school on the field of international political theory; all motives enough for such persistent reluctance to deal with international normative issues. With few exceptions such as Russell[35] and Hare, this situation lasts until the end of the sixties, when a new sense of practical commitment awoke part of academia.

Against realist assumptions that politics means pursuit of national interest regardless of universalistic ethics, in the seventies moral and political philosophers again started to claim the relevance of transnational ethical considerations. One of the first signs of this was the resolution of the *American Philosophical Association* against the Vietnam War in 1967. Besides warfare, world poverty represented the other principal topic of interest for the resurgence of international ethics. At that time, several political events brought to public attention the urgency of the extreme condition of the vast majority of the world population, provoking an intense debate both inside and outside academia. The end of the colonial system; the oil crisis and the withdrawal of the international monetary system based on the Bretton Woods agreements; the increasing claims of poor countries, which generated the discussion on the New International Economic Order; the growing development of the global economy and the emergence of substantial foreign investments by multinational corporations are all phenomena that contributed to the establishment of world poverty and the north-south wealth disparity as central issues in the international agenda. From the initial interests of warfare and poverty the discussion

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[35] While Russell's writings of the fifties represent the first explicit products of contemporary international utilitarianism (Russell, 1954), his character, differently from Hare, remains completely external to the debate here analysed. Before Russell in the first half of the 20th century, a heterogeneous bunch of (oft non-academic) scholars, usually grouped as international idealists, produced works on international organisation, which show a number of interesting theoretical (and personal) overlaps with the utilitarian tradition described so far. These shared ideas are comprised of the belief in 1) reason as capable to reach a universal ethical standpoint; 2) progress and the harmony of interests; 3) public opinion; and 4) international organisation as able to preserve order and prevent war. Moreover, idealists shared the willingness to strengthen international law and to establish both a permanent judicial organ and a certain degree of international government. However, since significant differences remain between these thinkers and the utilitarians, and since they do not label themselves as utilitarian, they are not included in this survey. Examples of this are idealists such as Woolf and Hobson (Hobson, 1915; Woolf, 1916; Long & Wilson, 1995; Long, 1996; Wilson, 2003), and other thinkers such as Robbins and Hayek (Robbins, 1937; Hayek, 1939; Robbins, 1939; Hayek, 1944; Wilson, 1996). With regards to Hare, see the discussion in a following section.

widened enormously, so much so that almost every school of political thought has since offered a recipe for global justice and its various sub-disciplines. Within this highly contentious political debate, utilitarianism also has submitted its contribution; one, in my opinion, both equally underdeveloped and underestimated[36].

Despite the heterogeneity of content of the utilitarian arguments on international justice, all of the authors here surveyed inevitably refer to a more comprehensive approach to global justice. It is this common and general rationale which underpins the investigation of this chapter. Instead of surveying each of the specific global issues, this paper examine the six principal arguments of contemporary international utilitarianism, concentrating only on those normative aspects bearing relevance for the topic of the present study, international exclusion and global democratic participation. From this examination, a number of crucial features of contemporary international utilitarianism are identified, including: the nature of international ethics and trans-border obligations, the legitimacy of state institutions, the recognition of global agency as a meaningful political status, and a series of supranational entitlements ascribed to individuals as well as to other non-states agents. In drawing up this general framework of the contemporary utilitarian discussion, this survey

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[36] For a first approach to utilitarian literature on international issues, according to a thematic division see:
Warfare: **War and Deterrence** (Brandt, 1972,; 1980; Hare & Joynt, 1982; Goodin, 1985a; Hare, 1989b; Pontara, 1990, 2000; Glover, 2001; Calhoun, 2002). **Self-determination and Intervention** (Hare & Joynt, 1982; Elfstrom, 1983; McMahan, 1986; Brittan, 1988a; Glover, 1991; McMahan, 1996).
Global distributive justice: **Poverty** (Narveson, 1972; Singer, 1972; Hardin, 1974; Narveson, 1974; Fletcher, 1976; Glover, 1977; Singer, 1977; Finnin & Alonzo Smith, 1979; Bennett, 1982; Carson, 1982; Hare & Joynt, 1982; Parfit, 1984; Goodin, 1985b; Goodin & Pettit, 1986; Pontara, 1988; Elfstrom, 1989; Hare, 1989b; Unger, 1996; Hooker, 1998; Singer, 1999; Hooker, 2000; Kuper & Singer, 2002; Marchetti, 2005b).
Global issues: **Environment** (Goodin, 1990b, 1992b). **Health** (Roemer, 1993). **Demography and future generations** (Narveson, 1967; Hardin, 1968b; Narveson, 1973; Fletcher, 1974; Hardin, 1976; Parfit, 1984, § IV; 1986; Pontara, 1995, 1997). **Migration and citizenship** (Hardin, 1968a; Goodin, 1988; Singer & Singer, 1988; Elfstrom, 1989; Barry & Goodin, 1992; Goodin, 1992a; Hardin, 1995; Goodin, 1996a; Marchetti, 2003b, 2004a).
Democracy: **Human rights** (Lyons, 1977; Goodin, 1979; Narveson, 1981; Hare, 1982; Lyons, 1982; Gibbard, 1984; Pontara, 1989). **Nationalism and multiculturalism** (Goodin, 1997; McKim & McMahan, 1997). **Supranational Institutions** (Pogge, 1992; Singer, 2002; Goodin, 2003a; Marchetti, 2004b, 2005a).

not only fills a serious gap in the literature, but also reveals the limits of these arguments, which need to be overcome in a future evolution of international consequentialist scholarship.

The Singerian argument

Peter Singer's essay on *Famine, Affluence and Morality* (Singer, 1972) was the first and certainly the most influential utilitarian reflection on international issues of justice. While the argument presented in it concerns the case of famines, it is extensible to the overall theme of inequality and global justice, as the author himself has indicated in the later versions of it (Singer, 1977, 1979, 1999, 2002). Singer's position is centred on the acknowledgement of the universalistic character of moral judgements, from which he deduces a crucial principle of equality: the equal respect for the interests of all sentient beings. Consequently, the primacy accorded to this capacity to have interests, rather than a rational faculty, generates the identification of a number of fundamental claims for the individual; these include avoidance of pain, development of personal capacities, satisfaction of primary needs such as food and shelter, enjoyment of friendly personal relationships, and freedom to pursue one's own project without interference (Singer, 1979, § II). These claims, together with the classical principle of the decreasing marginal utility, conduce to a version of utilitarianism of universal interests, which has fertile spill-over on global redistributive policies.

Singer introduces his argument concerning the duty to alleviate hunger with three premises (two moral and one factual), which he considers to be acceptable to a vast audience since they are based on minimal assumptions that do not require any sympathy toward utilitarianism. They are the following: 1) Pain and death due to the lack of food, shelter and medical assistance are evil. The degree of goodness of the world depends, all other circumstance being equal, on the least number of people in such a deficient state. 2) If it is possible to prevent something bad

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General: **Surveys** (Ellis, 1992; Jones, 1999). **Multi-thematic studies** (Hare & Joynt,

happening, without sacrificing anything of moral importance, then there is a duty to act (moderate version). If it is possible to prevent something bad happening, without sacrificing anything of comparable moral importance, then there is a duty to act (strong version). 3) The citizens of rich and developed countries are in the position to reduce the number of people in extreme poverty in the world. From this (strong version), a normative conclusion can be deduced, which is based on a negative and impartialist version of utilitarianism according to which a duty exists to prevent as much extreme poverty as possible, up to the point in which something of equal moral importance would be sacrificed.

Singer's position stands out with respect to other ethical stances such as Nozick's (Nozick, 1974) and the interaction-dependent theories of justice, according to which there is a firm distinction between moral duties and charity. For the latter, benevolent acts are praiseworthy but not strictly compulsory as those originated by an interaction between the action-maker and the action-bearer, so that in the case of omission, no merit or guilt is incurred. Deploying an interaction-independent, consequentialist method which equals action and omission, Singer, on the contrary, brings the duty of assistance back into the field of perfect duties, where omission is sanctioned at least by moral blame. Accordingly, given the condition of contemporary society in which an immoral outcome is inevitable without a radical change in attitude, indifference is not an option.

The radicality of Singer's proposal for a change in the attitude of daily life is accentuated by the fact that individual commitment plays a central role in his moral world. His ideal recommendation is to renounce a great part of current consumerist lifestyle, but he scales this back to 10 % of one's salary, similar to what a medieval tax demanded toward poverty relief. However, something that has not always been noted by criticisms focusing on the overdemandingness of his proposal is that Singer has also included the institutional side of the issue of poverty relief in his consideration. Above all in his recent proposal, Singer in fact expands his directives to include the duty to support public campaigns for international

1982; Elfstrom, 1989; Pontara, 1998; Singer, 2002).

co-operation and the reform of international institutions such as the WTO and UN (Singer, 2002).

Another feature that neatly distinguishes Singer's argument from the communitarian stance of special obligations is the universal value he ascribes to utilitarian precepts. For Singer, factors such as proximity or the number of potential helpers do not influence, directly and significantly, the qualitative aspect of prescriptions. The division of labour remains as a viable instrumental option to grant *prima facie* validity to territorial dimensions, but it is clear that this is only warranted upon universal principles, as classical utilitarians have shown. The ultimate duty to maximise general welfare entails assumptions which claim transcultural validity, in as much as the fundamental interests previously mentioned are elementary in kind and thus allow for interpersonal comparisons and cost-benefit analysis. This universality of moral precepts receives a further confirmation, though remains independent from the increasing interdependence of the current world affairs. The fact that we live in one world, ever more unified by global transformations, offers only additional proof of the urgency to establish a global moral code (Singer, 2002).

Further evidence that Singer doesn't shy away from solutions likely to incur serious criticism is his acceptance of the triage as a criterion to select the destination of aid in a situation in which there are not enough resources to accommodate all needs. This consequentialist method, taken from medical practice and based on the principle of universal interpersonal comparability, imposes that preference be given to those patients who promise to benefit most from the resources offered to them. Singer adopts it in order to justify the priority granted to some countries over others that do not implement benefit-maximising policies, such as demographic policies of birth control. As in other highly disputable points of his proposal, here Singer overlooks more complex issues such as democratic internal liability and multicultural axiological problems[37]. However, the intent of this section is not to critically analyse each specific point of the authors surveyed, but rather to identify those aspects of their arguments,

[37] For a more detailed critical analysis of Singer's last study (Marchetti, 2004c).

which are valuable for the rest of the thesis. To that end, in concluding this brief presentation of Singer's position, it is worth underlining the profound stimulus his stance has had on the subsequent discussion of global justice. Despite the enormous volume of criticisms that he has attracted from almost every political angle—so that he has been accused at the same time of being a radical egalitarian ready to unleash a revolutionary world and a self-deceived conservative more interested in neo-liberal charity than in political justice—in its robust rebuttal of mainstream contractarianism, Singer's thought remains a fundamental component of cosmopolitan, post-Westphalian utilitarianism.

Neo-Malthusian life-boat ethics

Concerned with the same theme, but advocating a very different approach, are the Neo-Malthusian scholars. Their universalistic analysis shares a common consequentialist background with the other utilitarians, but diverges so starkly that it inspired accusations of immorality or a-morality. The Neo-Malthusians do not deny the dramatic situation of poor countries, but rather the possibility of developed countries to intervene positively on it (Finnin & Alonzo Smith, 1979). Their scientific method is inspired by Thomas Malthus, according to whom, given the difference in growth between population (geometric) and means of survival (arithmetic), the only available option to politicians for redressing this imbalance consists in waiting for the completion of the natural circle through wars, famines, and epidemics. Only this, with the exception of education to procreative abstention, can rebalance the equilibrium between demographic growth and supply (Malthus, 1798 [1826]). Neo-Malthusian are not to be confused, however, with realists, according to whom solely national interests are relevant. Their approach is fully normative and universalistic, as demonstrated by their schoolmaster, Garrett Hardin, who created a scandal in the academic debate with his description of life-boat ethics (Hardin, 1968b, 1974, 1976).

Hardin asserts that lifeboat ethics constitutes a specific case of the more general logic of the commons, exemplified by the tragic case of

common land. If everybody bred cattle at will and alone enjoyed the cultivation of this land, the likely result would be its drying up and generalised poverty. Similarly, in an overpopulated world, the overcoming of the carry capacity of public resources would lead to a general failure. In such circumstances, a better ethical solution consists in leaving those who are drowning around us to their fate, rather than overloading our lifeboat and all sinking without any hope for the future. Since world population can be described as a bomb threatening us all, it is reasonable and moral to detonate it before it explodes and takes out humanity (Ehrlich, 1971).

The ethical approach of the Neo-Malthusians thus gives special attention to the environmental constraints on global justice. The central concept of carrying capacity refers directly to the territorial potential in view of present and future generations. A significant consequence of this is that the discount rate on the future must be balanced with the fact that the future population will be by far larger than the present one. Their recurrent question 'and then what?', based on the classical maxim of *primum non nocere*, has a strictly consequentialist character and purports to criticise first and foremost those deontological theories according to which the old maxim *fiat justitia, pereat mundus* is still valid (Fletcher, 1974).

Along these lines, since it is not possible to feed the entire world population, any discussion on the relative duty to do so is nonsense. The observation that actual food production is sufficient to satisfy world needs does not damage the Neo-Malthusian argument, insofar as such distributive action would boost the demographic increase and consequently push the same problem into the future in a more serious form[38]. For the Neo-Malthusians this epitomises a case of self-defeating generosity, which fails to take into consideration the diachronic examination of the capacity fallacy and its relative costs in terms of human lives. In order to avoid this,

[38] Crucially, the Neo-Malthusian model rejects the theory of demographic transition, according to which all countries who receive appropriate aid should experience a decline in birth rates parallel to the economic growth of average life. Neo-Malthusians assert that when this occurs it is because of contingent factors which preclude the possibility of establishing a universal law. Examples used to bolster this argument are the cases of France, Ireland and US, where a huge demographic growth accompanied social-economic development. For a defence of the developmentalist theory refer to (Easterlin, 1980; Schultz, 1981; Caldwell, 1982; Sen, 2000b).

their policy recommendation, based on the triage method, consists in food aid being tied to development aid, with both contingent on the acceptance of birth control and the reasonable prospect of an increase in the socio-economic status of the receiving countries[39]. When these terms are not met, the failing countries should be abandoned in favour of the best risks countries on moral grounds, i.e., to minimise the total of present and future pains. Consistent with this, even transnational migration should be prohibited in order to avoid straining the carrying capacity of the receiving countries. Industrialised countries should thus reduce as rapidly as possible the net immigration caused by overpopulated countries dumping of the human excess to zero (Hardin, 1968a, 1995).

In conclusion, the common consequentialist and universalistic background creates the overlap between Malthusianism and utilitarianism. The neo-Malthusianism approach presents a typical case for the maximisation of average welfare in global terms based on the possibility of interpersonal comparisons of utility. This allows for a transcultural measurement of utility goods that leads to the exclusion and the exploitation of those who are most vulnerable and at the bottom of the welfare scale. The constant attention to the total and long-term consequences of any public action thus generates proposals of present sacrifices of some for future benefits to others; a proposal which other agent-relative theories cannot accept. What it is important to notice at this point is the epistemological methodology which Neo-Malthiasuanism and utilitarianism hold in common, despite the remaining stark differences between such (following one commentator's definition) scientific and humanitarian utilitarians (O'Neill, 1985). The reliance on interpersonal utility comparison is a fundamental component of these versions of consequentialism, one which bears profound and problematic consequences in terms of international exclusion in that it allows for interpersonal re-distributions which disregard the distinctiveness of

[39] This implies anyway the exclusion from the aid system of all those countries that have already exceeded their carrying capacity because of their excessive population, and that consequently suffer chronic famines and economic stagnation. In such a category were included countries like India, Bangladesh, Senegal, and Niger (Fletcher, 1974, 1976).

persons. This weakness clarified (more on this in chap. IV), it is now worth concentrating on the remaining international utilitarian arguments, for they present a number of other rationales at the basis of a proper formulation of international consequentialism.

Domestic analogy

International utilitarianism, as shown in the previous chapter, has adopted the model of domestic analogy since its first elaboration in Bentham's writings. Taking as its original paradigm the social relations within a determined social group, this model extends the arguments concerning rights and duties to the international arena through an analogical substitution of the relative agents; from individuals to states *in primis*, but also to other non-state international agents such as individuals themselves, civil associations, private corporations, and international organisations (Suganami, 1989). The descriptive value of the analogical passage is, however, tempered by the rise of a number of resulting theoretical problems, the most arduous of which concerns the moral status of collective subjects. Of this analogy and its relative problems and potentials, Hare and Goodin both offer utilitarian analyses with interesting repercussions for international ethics. This section examines Hare's proposal, whereas Goodin's is discussed further down.

As early as 1957, in a discussion in the *Reasons of State*, Hare proposed a comprehensive normative vision of politics which included both the internal and the external sphere of the political domain (Hare, 1957). Drawing on the domestic analogy, Hare maintains that despite having only a representative and indirect existential status, governments are liable for their actions insofar as they always have the option of resignation. Thus, like individuals, governments possess a kind of freedom, or moral capacity, which compels them to ground their actions in a universal intention. Therefore, much like individual moral judgement, public political judgement too has to be based on the perceived consequences of acts universally intended; admitting, however, the difficulties of any assessment in the case of international acts with their

multiple and far-reaching affects. The greater scope of a state's actions subjects it to a higher number of ethical constraints in terms of responsibilities than the citizen considered *uti singuli*, above all where the consequences are intentionally caused and foreseeable. Hare asserts:

> "when we think of it as a moral decision, we have to consider, not merely what consequences would be in our own interest, or in that of our own country, but what consequences ought to be chosen by anybody placed in such a situation. It means that we have to consider the effects of our actions on other people and other countries, as well as upon ourselves, and, having imaginatively placed ourselves in their position, think whether we can still say that we ought to do what our own interest prompts us to do. [...] Really the fundamental difference is not between morality and expediency; it is between a narrow national self-interest and public spirit. Both can be called kinds of expediency; for both aim at some good, and the expedient is what is conducive to good. But the first is an immoral kind of expediency, aiming only at the good of the agent and his country; whereas the second is a kind of expediency which is coextensive with morality" (Hare, 1957, 22-3).

In a subsequent refinement of his theory, Hare proposes a distinction between two levels of moral judgement (Hare, 1981). The first regards daily life—*prima facie* norms—while the second, relying on a critical and less frequent direct appeal to the utilitarian principle, regards universal concerns. This distinction, designed to enable the balancing of the two kinds of expediency underpins Hare's position on justice, and on international justice in particular. The differentiation between a second order direct utilitarian principle and a number of first order intermediate rules is one that fits well with the requirement of international ethics in that it allows for a consistent normative coverage of several applicative levels of political action. In particular, the overall principle of Hare's proposal aims to recognise and guarantee to everybody, regardless of nationality, the right to equal consideration and respect (Hare, 1981, § IX, 5). This has a number of prescriptive intermediate consequences in terms of political recognition and social distributive justice in terms of impartial, gradual,

and moderate redistribution, both domestically and internationally. On the one hand, concerning political inclusion Hare affirms that:

> "If any principle is a candidate, formally speaking, for inclusion in the list, it will be accepted or rejected according to whether its general acceptance is likely to advance the preference-satisfactions of *all the inhabitants of all the countries considered impartially*" (Hare, 1989b, 73, italics added).

This universalistic foundation of ethical and political principles leads, if not to world government because of historical constraints, to the possibility of envisaging confederate projects in which citizenship duties are intended to increase considerably the level of global satisfaction of the preferences of all citizens considered impartially (Hare, 1989b, § VI). On the other hand concerning distributive justice, Hare holds that political implementation of these principles should take into consideration that revolutions or brutal confiscation would yield a negative outcome in the overall utilitarian calculation, in so far as they would generate social instability and a fall in the degree of future expectations of all citizens. Thus, in line with the objective of balancing the two levels of expediency, while denying these radical actions as valid options in a scheme of global justice, Hare is nonetheless favourable both to international emergency aid (Hare, 1981, § IX, 8) and even more to structural plans aimed at tackling the problem of hunger at the world level (Hare, 1981, § XI, 7).

In conclusion, the double levels of Hare's domestic analogy rationale represent a valuable theoretical tool for international ethics, insofar as they permit the appropriate application of the ultimate utilitarian principle to both domestic and international political actions. Despite this, theoretical limits remain which curtail the overall consistency of Hare's international proposal. For instance, the use of the classical image of castaways as the ground for the discussion on political obligations (Hare, 1989b, § II), or the support for a non-aggressive patriotism within a stable and ordered world system (Hare, 1989b, § VI), are both inconsistent with the general universalistic framework of a highly interdependent world. A more sophisticated normative proposal for international ethics is offered by

Elfstrom, which, as shown in the next section, applies Hare's two-levels principle in a more internationally-sensitive way, providing a slightly different argument on state legitimacy.

International specificity

According to Gerard Elfstrom (Elfstrom, 1989), the direct application of the individualistic paradigm used in the domestic analogy should not be pursued since the specific conditions of the current international environment determine and constrain the possibility of agents to act. The diversity of international relations is not as radical as realists maintain, but it is in any case morally significant. In daily life, the moral references of individual action are the effects (intentional and foreseen) within an environment organised by public institutions with assistance objectives. State's international actions are, instead, presently characterised by a high degree of uncertainty due to the complexity of that social realm, which renders consequences indirect and unintentional, over time and space. In loosening—through multiplying—the links in the chain between those who make decisions and those who receive their effects, international relations necessarily create a difficulty in locating responsibility and establishing democratic congruence, thus making for the ambiguous identification of morally relevant actions and liable agents. For instance, although chief public officials, who in Elfstrom's arguments represent the *prima facie* political agents in question in moral assessments, have a number of recognised duties, it could be the case that their organisation is structured in such a way as to impede their compliance with both moral and political duties. The question in this and other cases in which an international political system is missing, thus rests on the legitimacy to override the classical institutional mandate in the interest of the governed in order to prioritise external duties over internal responsibilities.

A version of utilitarianism based on preference and two levels *à la* Hare represents, for Elfstrom, the most appropriate normative theory to respond to the previous dilemma. In this theory, the ultimate moral reference resides in the particular individual and in his welfare, while the

state possesses only a derivative moral agency as characterised by three main features: capacity of rational deliberation, moral responsibility, and absence of right to existence. "They [the states] matter from a moral perspective only in so far as what happens to them ultimately has consequences for individual persons" (Elfstrom, 1989, 32). Hence, Elfstrom's theory of international ethics assigns moral centrality to individual welfare and political centrality to the state. An individual cannot play a direct role of responsibility due to the curtailed means that define an individual's possibility of action, but he nonetheless maintains an ethical role within public institutions in so far as he must primarily aim to promote structural changes that allow for the moral liability of the organisation itself. "Understanding the role of individuals within the institutional structure opens the way to recognising how to apportion moral responsibility for the acts of the institution" (Elfstrom, 1989, 34).

The cardinal point of this ethical proposal resides in the identification of a number of basic wants, which are deemed universal and henceforth given priority. Following Bentham, these are individuated in the general desire to sustain life, and in security from harm from others. Such a priority is based on the triple assumption according to which life and means of subsistence are maximally valued, these means are necessary to enjoy any other good, and want of such means is easy to measure and satisfy. Remaining wants can be defined as secondary, as they are varied and consequently very difficult to measure and satisfy. The general moral precept following from this thus affirms: "all have a strong obligation to work to satisfy basic wants wherever they are found, but a much weaker obligation to look after the secondary wants of each and every human being" (Elfstrom, 1989, 15). Accordingly, moral priority is granted to the basic wants of aliens against the secondary wants of fellow-citizens, but when wants of the same form are at stake, governors can legitimately concede preference to nationals on the grounds of their contribution to the general welfare.

Following a pattern which is typical of utilitarianism's way of thinking, Elfstrom concentrates more on distributive justice than on political entitlements, insofar as he deems it viable to take into account the

possibility of redistribution based on interpersonal comparison of utility. Rather than tackling the issue of inclusive participation per se, he discusses at length the possibility, and indeed the duty, to re-allocate resources according to a universal principle of justice and takes into consideration the issue of citizenship in an instrumental way. For Elfstrom, once individual welfare and the current international circumstances are assumed as parameters, the problem of distributive justice splits into two main options: either movement of wealth or of population. Either transfers of economic, financial and technological resources are implemented, or a new migratory policy is envisaged based on a renewed concept of citizenship. In this vein, Elfstrom affirms:

> "Citizens are correct in believing that they do have special ties and responsibilities to one another which they do not share with aliens. They are correct, in addition, in believing that they have claims to the material and cultural resources within their nations. And they are correct in believing that these claims and entitlements have moral weight. They are mistaken, however, in so far as they share the commonly held opinions that these entitlements are absolute and that they have not obligations to concern themselves with needs of non-citizens. Particularly where the fundamental requirements of human life and well-being are at stake, they have the strong obligation to relinquish their resources for the benefit of others. [...] National borders make no moral difference in any fundamental sense" (Elfstrom, 1989, 170-1).

Such a universalistic framework of justice certainly represents a valid challenge to all those contextualist theories which limit duties to fellow members of a determined community. In suggesting a instrumental reading of national boundaries, Elfstrom's approach offers a viable alternative for a normative reconstruction of the political system at the international level. However, as mentioned, the epistemic reliance on interpersonal comparisons renders his theory weak on the side of respecting agent-relative values. More sensitive on this issue is the next argument surveyed in this chapter: Gooodin's rationale on vulnerability and dependence.

Vulnerability and dependence

An influential argument on global justice from the utilitarian perspective is that advanced by Robert Goodin, according to which a new foundation for social obligations is recognised based on the concept of social responsibility toward vulnerable agents, both domestically and internationally (Goodin, 1985b, 1988, 1990a, 1995, 2003a, 2003b). Using the methodology of reflexive equilibrium, the author claims to show that the precepts of common sense morality, including special duties, derive from the general obligation to those who are socially vulnerable. From this re-interpretation, a new series of individual and collective duties are derived, including international ones, which require the reallocation of political responsibility between single actions and collective actions within a scheme of co-operative organisation.

The ultimate objective of Goodin's theory consists in the liberation from the condition—or better from the threat—of vulnerability, which is contingent on a state of dependence. Such dependence is characterised, according to Goodin, by four conditions: 1) an asymmetrical balance of power, 2) the subordinate party's need of vital resources, which are provided by the relationship; 3) the necessity of the relationship, because of its provision of resources; 4) the exercise of discretionary power over the resources by the superordinate (Goodin, 1985b, 195-6). From the perspective of the consequentialist objective of security—i.e., one in which attention is not paid to past responsibility for the creation of dependency, but rather on how to eliminate it—two strategies are paramount: empower the vulnerable and prevent the possibility of dependence. However, complete alleviation of dependency is not possible, and principally not in the international field, so a reasonable compromise must be found between independence and interdependence.

Goodin presents the normative conclusions of his arguments through the formulation of a number of foundational rules of social order. Among these, significantly relevant for their application to the international domain are the 'principle of group responsibility' and the 'principle of individual responsibility'. According to the first,

> "if A's interests are vulnerable to the actions and choices of a group of individuals, either disjunctively or conjunctively, then the group has a special responsibility to (a) organise (formally or informally) and (b) implement a scheme for co-ordinated action by members of the group such that A's interests will be protected as well as they can be by that group, consistently with the group's other responsibilities" (Goodin, 1985b, 136).

Conversely, the 'second principle of individual responsibility' asserts that:

> "if B is a member of a group that is responsible, under the Principle of Group Responsibility, for protecting A's interests, then B has a special responsibility (a) to see to it, so far as he is able, that the group organises a collective scheme of action such that it protects A's interests as well as it can, consistently with the group's other responsibilities; and (b) to discharge fully and effectively the responsibilities allocated to him under any such scheme that might be organised, insofar as doing so is consistent with his other moral responsibilities, provided the scheme protects A's interests better than none at all" (Goodin, 1985b, 139).

Such principles are part and parcel of a normative re-interpretation of state institutions in utilitarian terms. Once these principles have been accepted, it is plausible to concede to the state the right to act coercively in order to make sure that each individual's role within the scheme of civil co-operation is respected. The core of this argument resides in the recognition of the pragmatic advantage in terms of maximisation of general welfare provided by the sectorial allocation of collective responsibility to various agents. Where the individual often fails in his solitary action, the state—through a division of labour and social co-ordination—can achieve better results. Nonetheless, despite thus being primarily the instrument for the allocation of responsibilities, the state is still endowed with a kind of subjectivity in that it embodies values and objectives, and has the capacity for deliberate action. An important aspect of Goodin's thought is the reckoning that in so far as in the ultimate analysis responsibility remains in the charge of individuals, be they governors or associates, versions of

collective super-organism are avoided. Thus, two alternatives are exclusively presented to the individual: where a state mechanism exist, there is a duty to co-operate within it under the threat of coercion; where it does not exists, then the individual has a duty to try to establish it. In the latter case, a major commitment consists in the participation in public campaigns to disseminate a new political sensitivity and eventually to promote democratic reform of international organisations (Goodin, 2003a). In this case, in fact, even when some defect, a duty persists "to co-operate, with whoever else is co-operating, in the production of the best consequences possible given the behaviour of non-co-operators"(Regan, 1980, 124).

In regards to the two most frequent objections raised against utilitarianism, i.e., that it would require either too little or too much (alternatively, demand and permit too much), Goodin's theory shows particular promise with respect to the 'too much' charge as it concerns the domain of international ethics. The version of 'government house utilitarianism' sketched by Goodin does not demand too much, in as much as it does not command heroic action but only that social tasks be distributed in a reasonable way through a co-operative scheme. Similarly, at the international level, Goodin argues that in dealing with a situation where a super conscientious state could feel duty-bound to heroic sacrifice because of the non-compliance of other actors, the appropriate solution relies on the expansion of our traditional conception of state institutions.

> "The solution, presumably, is just more of the same. Just as enforcing compliance domestically with a co-ordinated scheme reassures super-conscientious individuals that they will not have to carry an intolerable burden all by themselves, so too enforcing compliance internationally with a co-ordination scheme can reassure super-conscientious nations that their burdens will not prove intolerable. Just as the enforcement of such a scheme domestically can be justified in terms of the legitimacy of compelling people to play their required parts in schemes for the discharge of shared duties, so too can enforcement of international schemes be similarly grounded" (Goodin, 1990a, 146).

The nucleus of Goodin's critical analysis regarding international ethics is found in its disputation of the normative priority traditionally accorded to nationals and the correlative special duties (Goodin, 1985b, § VI, 2; 1988). Through an examination of the major competing theories, Goodin argues that the most defensible principle in this regard is shown to be that of assigned responsibility, which is grounded on the notion of vulnerability and dependence. Such a theory of responsibility reinterprets the concept of special duties as a derivative sub-case of the general social responsibility. In this way, special duties maintain a functional role within a specialised division of labour which is justified by limited information and psychological weakness, but do not acquire a full moral autonomy. Hence, territorial distinctions hold only an organisational meaning and patriotic duties remain valid only as *prima facie* obligations. On this, Goodin affirms:

> "the assignment of responsibility will never work perfectly, and there is much to make us suppose that the assignment embodied in the present world system is very imperfect indeed. In such cases, the derivative special responsibilities cannot bar the way to out-discharging the more general duties from which they are derived. In the present world system, it is often □perhaps ordinarily□ wrong to give priority to the claims of our compatriots" (Goodin, 1995, 287).

Goodin's set of arguments represent a powerful theoretical support for any consequentialist proposal on international ethics. His recognition of the ideal of non-vulnerability and the principle of welfare maximisation leads to the proposal for the expansion of the political system to the international level through a multilevel scheme of political co-ordination. Goodin's proposal has had a significant influence on the present study, yet points of contrast remain between them concerning, among others, the issue of a greater respect for agent-relative values (which relates again to the possibility, accepted by Goodin, of interpersonal comparison of utility) and that of the specific features of the hypothetical international system as shaped on the federal ideal. In particular, Goodin's discussion of the international division of ethical labour seems to lead toward a club-based

notion of division which would entail a degree of exclusion in that marginalized citizens would be delegated a subaltern status (Goodin & Pettit, 1986; Goodin, 1988, 1996a). From his point of view, stateless citizens could be preserved from exclusion through the establishment of a residual responsibility standing beneath rather then above the others clubs' authorities. "Precisely because they are members of no club, they have claims against all clubs" (Goodin, 1996a, 366). The present proposal is distinct in that it suggests the creation of a meta-club with universal membership, i.e., an overarching authority to the extent of avoiding exclusion, rather than a diffusive and residual responsibility that would still leave the disadvantaged non-members in an inferior position in comparison with full members. These points will be expanded in the next two chapters, before that, however, the presentation of the last major utilitarian argument on international ethics remains.

Reductionism

The last utilitarian thesis presented in this survey is that of Derek Parfit. Parfit's reductionist argument—equally promising and unexplored in the international domain—bears particular relevance for the issue of the state's collective identity (Parfit, 1984). The entirety of Parfit's reasoning on moral agents and their identity stems from the observation of the common-sense understanding of the state. Parfit asserts:

> "Most of us believe that the existence of a nation does not involve anything more than the exercise of a number of associated people. We do not deny the reality of nations. But we do deny that they are separately, or independently, real. Their existence just involves the existence of their citizens, behaving together in certain ways, on their territory" (Parfit, 1984, III, 15, 116: 340).

This notwithstanding, when in common speech we refer to France, for instance, our reference is not to individuals as such but to that network of relationships that is considered to constitute a nation; if instead our reference were to a specific government, group of citizens or territory,

then, should these elements mutate, we could no longer assign an identity to France. This confirms for Parfit that we can refer to something even when 'it' does not have the integrity of an autonomously existing entity (Parfit, 1984, appendix D: 472).

Parfit's reductionist argument rests on the similarity between state and person, which he explicitly takes from David Hume[40]. In the *Treatise,* the Scottish philosopher maintained:

> "I cannot compare the soul more properly to any thing than a republic or commonwealth, in which the several members are united by the reciprocal ties of government and subordination, and give rise to other persons, who propagate the same republic in the incessant changes of its parts" (Hume, 1740 [1973], I, IV, § VI: 261).

From this perspective, a person is to be interpreted only within a web of associations; just as with a state, an association, or a political party, what counts is the relations between the different members. Through a weakening of the essentialist conception of the self and the confirmation of the interpretative importance of the relation Parfit refers to as 'R' (i.e., the connection and/or psychological continuity due to the right kind of cause) (Parfit, 1984, II, 12, § 90), Parfit proposes, in an indirect way, a series of interesting considerations for the field of normative international political theory.

Together with illuminating the problem concerning the moral status of the state organisation—i.e., that it exists only by dint of the relations of its constitutive elements—Parfit's theory is also fertile on the issue of spatial-temporal partiality. Were a more impersonal conception of the right accepted and internalised, one would see one's own future selves as having a greater resemblance to others' future selves; one would no longer take one's own personal borders to be impassable, and this insight could also be applied to national borders.

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[40] Recent interpretations of Hume, however, tend to stress the importance of the image of personal identity Hume depicts in the II and III book of the *Treatise* (as oppose to the Parfitian focus on book I), where the features of moral character account for a stronger, or

> "If there is nothing more to a nation than its citizens, it is less plausible to regard the nation as itself a primary object of duties, or possessor of rights. It is more plausible to focus upon citizens, and to regard them less as citizens, more as people. We may therefore, on this view, think a person's nationality less morally important" (Parfit, 1984, III, 15, § 116: 340).

Hence, such double reduction to constituent elements (from the state to the citizens who constitute it, and from the citizen to the individual who is continually (re)constituted in relation to others) implies a triple conclusion: first, states cannot any longer be considered the principal agents in the international arena; second, states lose their moral and legal characteristics such as rights and duties; and third, attention is turned primarily to individuals, in particular for what concerns distributive justice.

As a consequence, Parfitian theory also presents a number of innovative aspects concerning the issue of distributive justice (Parfit, 1984, III, 15, § 111-118). The reductionist point of view, in fact, generates a twofold effect on the re-allocation of goods. In abandoning a systematic adherence to personal unity and in spreading goods over various (potentially infinite) selves, the extension of the distributive principle is increased, but its weight diminished, as the links between different selves become more attenuated. As a consequence, the recognition of the impossibility of compensation increases, insofar as a profound interior fact related to personal identity is missing, which imposes, from a moral point of view, a balancing between different parts of life.

Much as a strong temporal identity among different selves is missing, so among states over time a firm spatial and temporal association among citizens fades away. In Parfit's opinion, this explains and justifies *prima facie* counter-intuitive interpretations of inter-state distributive justice such as those cases in which current well-being has to be balance against compensation for past injustice. Given the case of two nations with the same immediate level of suffering in their citizens but with an unequal

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less reductionist, conception of personal identity (Baier, 1991, 129-52; Russell, 1995, 108, n.24; Lecaldano, 2002).

capacity to benefit from aid, even if it be the case that the state that can benefit most from that aid is also the state with a history less burdened by injustice and pain, the aid should go to the nation most able to benefit from it. Parfit argues that it would be unreasonable to help the nation that could take the least advantage of aid and consequently produce a minor overall increase in well-being, only on the ground that this would compensate for past injuries. In conclusion, the objective of an historically informed egalitarian distribution of pain among various nations is thus meaningless, insofar as nations are not commonly considered significant moral units with strong historical continuity (Parfit, 1984, III, 15, § 116: 341).

The nature of international utilitarian ethics

From the previous examination a number of common topics can be identified that permit drawing the boundaries of the overall utilitarian proposal on international ethics. These concern the nature of international morality and the extent of ethical-political obligations, and, in particular, the issues of the legitimacy of the state in the light of supranational rights and duties of individuals. These topics form the scope of this section, while the theoretical limits of these formulations is discussed in the next and last section.

In dealing with international moral dilemmas, contemporary utilitarian scholars reach conclusions that require, in general, an enlargement of the traditional sphere of moral sensitivity, an assumption of global responsibility, and measures of well-being redistribution beyond national borders. Even more than in classical utilitarianism, these scholars maintain a common progressive attitude in relation to established common sense. They argue for an approach contesting traditional moral guidelines, which are revealed to be inadequate in the current interdependent world context. In failing to meet the challenges of international affairs, conventional, community-based precepts in fact risk being self-defeating and can precipitate social disasters with high welfare costs spread world-wide. To counter this, a denationalised reallocation of political duties

within a re-reading of national borders in instrumental terms is the shared response of the international utilitarian political project.

In this, these proposals dispute the two major theoretical and political shields against international obligations: the mainstream creed of state sovereignty and the conventional objection on grounds of cultural relativism (Dower, 1983, 44; Barry, 2001a, 499-500). Sovereignty is re-interpreted in an instrumental, Humaen way, according to which state authority can be regarded as deriving from an assigned duty within a larger scheme of world-wide allocation of responsibilities directed at the maximisation of world well-being condition. When the prospect of a comparatively higher cost to international well-being is evident, then the *prima facie* legitimacy of the state must abide to the superveniency of the ultimate universal objective and give way to supranational claims with respect to prioritisation of aliens' interests. Cultural relativism is, conversely, accepted but not in its extreme forms. Pluralism and cultural differences are welcomed as sources of well-being rather than constraints, but their relevance is restricted to a secondary domain of political attention. Personal and community preferences are therefore recognised as *prima facie* valid moral claims, provided they are part of a wider co-operative scheme that guarantees minimal conditions to every human being. A primary universal concern aiming at the protection of vital interests, with alleged transcultural validity, in fact takes normative precedence over secondary cultural claims.

This leads to reinterpretations—at times heterogeneous—of a number of central elements of modern ethical-political theory in favour of a conception animated by a cosmopolitan and universalistic spirit, which reserves to states a limited political-administrative function. In this vein, normative political meaning is encouraged such that state sovereignty is interpreted within a wider grand image of a co-operative international system. The traditional concept of national citizenship is revised according to a more comprehensive perspective, entailing different levels of political participation and correlative social entitlements as part of a cosmopolitan membership. Human rights are valued, but only in conjunction with a renewed attention to corresponding human duties in the charge of a diverse

series of political agents, including individuals and collective entities. Finally, the legitimacy of special duties is downgraded to an indirect assigned authority, which receives normative validity depending on its consistency with a superior scheme of global duties aimed toward the pursuit of world well-being.

In sum, the output of contemporary international utilitarianism constitutes a significant component of the ongoing revival of cosmopolitanism in international ethics that began in the seventies. In moving to the global sphere of action, these scholars offer a sophisticated version of that theory of utility that has been applied to the domestic domain with great influence (despite recent criticisms) in the last two centuries since Bentham's formulations. Although these utilitarian arguments have shown a weak profile in the contemporary debate—possibly also on account of the lack of intense internal dialogue among utilitarian scholars—the approach of such proposals shows promise as being able to play a major role in future discussions. This said, however, there are a number of problematic or underdeveloped aspects in these proposals that need to be tackled if the promise of international utilitarianism is to be realised.

Conclusions: an agenda for future investigation

Two limitations are most evident in the formulation of contemporary international utilitarianism from the present perspective, limitations with regards to the ethical-political and the international-political component of such a theory. The issues of agency and multilevel dimensionality represent the two major challenges that utilitarianism, as well as any other theory of international ethics, must offer a valid response to in order to prove its viability as a theory of global justice. Toward such a task, this study submits that the utilitarian arguments presented so far offer valuable but partial answers, which need to be revised and further developed in order to provide a more robust vision of consequentialist global justice. Without disregarding their value on other issues such as the universal and interaction-independent character of their prescriptions or their sensitivity

to individual welfare, this thesis argues that a two-fold development of the international utilitarian theory is necessary for attaining normative consistency. First, a new understanding of political consequentialism has to be adopted which in being epistemologically more sensitive takes into greater consideration agent-relative values. When this is accepted, the normative focus shifts to the primacy of freedom of choice and political participation, which promises a more consistent and less indeterminate teleological argument. Second, a new understanding of multilevel political agency and participation is required which entails a complex conception of agency as choice-maker vs. choice-bearer and as individual vs. collective agent. From this, a new depiction of both cosmopolitan citizenship and cosmopolitan institutions can be unfolded which prescribes an all-inclusive political system framed on differing jurisdictional levels embedded in a federal model of global democratic participation.

In particular, concerning the first principal weakness of the contemporary international utilitarian arguments, the notions of moral and political agency they proposed are considered to be neither sufficiently sophisticated nor inclusive enough to meet the ethical challenges of current international affairs. Firstly, a more subtle conception of the epistemological constraints, which denies the viability of interpersonal comparisons of utility beyond a minimal level, needs to be pursued. This conception would allow for the recognition of agent-relativity and pluralism through respect for individual and collective choices. Following from this, a double notion of political agency in terms of responsible and vulnerable agents could be developed in order to deal exhaustively with the issue of liability and harm at the global level. And finally, an all-inclusive political perspective could be elaborated, which in being constrained to respect individual freedom of choice would imply the inclusion of all individuals as members of a universal and multilayered constituency.

In being consequentialist, utilitarianism is not pre-conditioned in the selection of the political subjects to be taken into ethical consideration. While up until a few years ago the absolute protagonist in international relations was the sovereign state, today the situation has changed and a number of other actors need to be acknowledged as active on the

international scene; these include individuals, civil associations, corporations, and international organisations. In this regard, consequentialism can prove its theoretical ability to include a wide spectrum of social reality, insofar as it considers any subject liable, i.e., with an obligation to act, depending on his capacity to influence the outcome of any given situation in terms of well-being production. Despite the individual being recognised as the ultimate moral reference, he is not made the sole locus of political responsibility, rather, a series of different agents are to be called to action in a synchronic and pluri-level scheme of co-ordinated politics according to a global theory of welfare maximisation.

A parallel argument on responsibility concerning the damages to the agents bearing the weight of decisions has to be developed in the negative contours of agency. In this, consequentialism can be useful in offering a refined, double notion of action and omission (Bennett, 1980b, 1980a), which needs to be coupled with the equally relevant distinction between individual and collective action. Accordingly, practical cases such as a) those with imperceptible effects, b) those of partial compliance like prisoner's or the contributor's dilemma, or c) those with a low degree of probability, can generate dramatic consequences with global reach when considered in aggregate terms. An enlarged perspective on moral action, able to revise the interpretation of the five errors of moral mathematics as listed by Parfit (Parfit, 1984, § 3), thus represents the objective of international consequentialism in this regard. In the domain of international affairs, the single most studied utilitarian example of this casuistry is likely Singer's image of a child drowning in a pond with many people all around relying on the others' intervention and so not acting themselves (Singer, 1972). Even in those cases where a *prima facie* international duty to assist people in need is charged to international organisations, the individual still maintains a responsibility based upon an obligation to contribute to the maximisation of the outcome. This obligation manifests itself in a variety of ways including pressure on the government as a citizen, on private corporations as a consumer and share-holder, and on international organisations as a member of civil associations.

Consequently, the issue of multilevel political dimensionality should also be rethought. A major fault of contemporary utilitarians, in fact, consists in the lack of a full proposal for a supranational political structure. Hints in this direction can be found in their writings, but no comprehensive proposals are fully developed. Without such a multilayered political organisation, the moral and political management of different kinds of problems which pertain to distinct realms of action would be ineffective. An issue such as global environmental degradation, for instance, offers a clear case that cannot be dealt with properly through state or interstate procedure, and that rather requires handling by a supranational political institution. The evolution of the utilitarian tradition toward what seems its most natural landing place, a full moral and institutional democratic cosmopolitanism, thus sets out the obliged direction for the future development of consequentialist ethics applied to international relations. Addressing this task forms the content of the rest of this thesis.

IV

Consequentialist Cosmopolitanism: Ethical and Political Aspects

> "Human nature is not a machine to be built after a model, and set to do exactly the work prescribed for it, but a tree, which requires to grow and develop itself on all sides, according to the tendency of the inward forces which make it a living thing" (Mill, 1859 [1962], 188)

> "Trees in a forest, by seeking to deprive each other of air and sunlight, compel each other to find these by upward growth, so that they grow beautiful and straight □ whereas those which put out branches at will, in freedom and in isolation from others, grow stunted, bent and twisted" (Kant, 1784 [1991], V: 46)

From Plato's *Republic* to Rawls's *Theory of Justice*, political theory has always been characterised by a predominant consideration of the domestic sphere of socio-political interaction. This stubborn concentration on the individual and domestic domains of justice has perhaps contributed to the reluctance of political thinking to address inter-community normative issues, thus simultaneously generating the phenomenon of international political exclusion. Modern theories of political philosophy in particular have suggested a number of different combinations of legitimate relationships between the individual and the state, but have mainly failed to

expand their arguments to the wider vision necessary to realise an inclusive theory of international political justice. The repeated challenges to such limited perspective generated by recent global transformations have, however, put increasing pressure on both the traditional socio-political structure of the nation-state and the conventional political concepts underpinning it. Arguably, the tenaciousness of this limited focus has contributed to the intensification of the debate surrounding international ethics in the last thirty years, in which universalistic theories have contested the conventionally assumed exclusivity of the binomial individual-state.

Within this context, the significance of cosmopolitan theories consists in the emphasis they put on both the moral importance of the other major level of political action—the global—and the need to reshape the balance between the proposed third level and the two established levels of political analysis. Arguing directly against group-based theories such as communitarianism and nationalism, which typically recognise the political priority (at times even absolute) of a discrete community, cosmopolitanism holds that the scope of justice should ultimately be global, since a proper account of the moral personality cannot but be universalistic and all-inclusive. As shown in the previous two chapters, among cosmopolitans, utilitarian scholars in particular have offered a number of significant specific contributions to the understanding of global issues of justice, but have failed to provide a comprehensive cosmopolitan theory. Although they have produced studies on relevant issues, such as the duty to relieve poverty or the right to self-determination, they have given insufficient attention to the more general normative framework of global justice.

Whilst holding to the terms within which this debate has been framed, this chapter aims to provide the core argument underpinning an all-inclusive version of consequentialist cosmopolitanism. A reworked consequentialist argument on individual well-being is presented that, in view of the epistemological constraints pertaining to interpersonal comparisons of utility, concentrates instead on the core ideals of freedom of choice and control over the political system. On this basis, a non-exclusionary cosmopolitan conception of global justice is outlined that

deploys on differing political levels a single but indirect criterion of justice: the principle of the maximisation of the world well-being condition. Accordingly, the theory of consequentialist cosmopolitanism unfolds over three applicative levels (individual, state, and world), each analysed using three conceptual filters (value, rules, and agency), all of which are unified through an appeal to the principle of the maximisation of the world well-being condition.

This chapter begins by setting out the epistemological foundations and a renewed consequentialist conception of well-being as centred on the notion of freedom of choice. In order to clarify this normative stance, a number of normative comparisons with major theories of justice, including utilitarianism, contractarianism, autonomy-based theories, and Sen's and Nussbaum's capability approach are outlined. From this, the chapter then proceeds to a presentation of the fundamental rationale of the conception of global justice from the consequentialist cosmopolitan perspective, which in being all-inclusive recognises a double universal entitlement concerning the guarantee of vital interests and political participation. The next chapter presents an outline of the institutional and international characteristics of the proposal and concluding remarks on the whole proposal are presented thereafter.

Epistemological foundations: limits on interpersonal comparability

A fundamental epistemological consideration concerning the limitations on interpersonal comparisons of utility distinguishes consequentialist cosmopolitanism from other theories of justice. The issue of comparability is highly contentious both in moral and economic theory, especially after the dramatic influence of logical positivism on Anglo-Saxon social sciences in the thirties. While moral theories such as utilitarianism and contractarianism have generally accepted the possibility of comparing and aggregating utilities of different persons for the sake of redistribution, economics has shown a more ambivalent (and rather sceptical) attitude toward this possibility, most of the time limiting its

consideration to the ordinal criterion of Pareto superiority[41]. According to the perspective of consequentialist cosmopolitanism, if the profound fact of cultural pluralism at the international level is to be respected, interpersonal comparisons have to be considered legitimate only at a minimal level.

Traditionally, the possibility of comparing different persons' utilities, intended as descriptive analysis, has been proposed according to three distinct methods: behaviourism; introspective welfare comparison; and introspective 'as if' choice. While the first focuses directly on a person's observable states and relies on the observation of common behaviours such as physical or verbal body expressions, the second and third methods deploy a mental experiment, namely to put oneself in another's shoes, roughly speaking. The welfare comparison reflects on hypothetical questions about expediency, such as "would I feel better off as a person A in a situation x or as a person B in a situation y?" The 'as if' method, conversely, generates counterfactual situations in which even normative considerations can be included as factors influencing the choice between two different personal situations (Sen, 1982a, § 12).

The possibly most influential critic of interpersonal comparisons of utility was Lionel Robbins, who argued in 1935 that no comparison is scientifically viable, in that "introspection does not enable A to measure what is going on in B's mind" (Robbins, 1935, 140; 1938), and thus that the act of comparing needs to be considered an essentially normative exercise[42]. While this argument on the inaccessibility of others' minds

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[41] The debate on the issue of comparability has been intense over the years. For a general survey see (Elster & Hylland, 1986; Elster & Roemer, 1991). Major protagonists of the debate have been: (Pareto, 1896-97, bk. II; Von Neumann & Morgenstern, 1944, 16; Arrow, 1951, 9; Little, 1957; Jeffrey, 1971; Hammond, 1977; Narens & Luce, 1983; Davidson, 1986; Gibbard, 1986; Sheng, 1987; Hausman, 1995). Among the utilitarians, Harsany and Hare have supported the ethical meaningfulness of interpersonal comparisons, cardinally intended on the so called 'judgement of extended sympathy' (Hare, 1952; Harsanyi, 1955; Hare, 1981; Harsanyi, 1987).

[42] Before Robbins, Jevons had argued along similar lines: "Every mind is thus inscrutable to every other mind, and no common denominator of feeling seems to be possible. But even if we could compare the feelings of different minds, we should not need to do so; for one mind only affects another indirectly" (Jevons, 1871 [1957]). Compare also Griffin: "What is needed for comparability is something less than such strong assumptions about fairness but something more than simple matters of fact. [...] So interpersonal comparisons are value judgements in this sense: they are part and parcel of a complex normative exercise" (Griffin, 1986, 120; Scanlon, 1991).

applies explicitly only to the methods of introspective comparison, the very same observation undermines the method based on behavioural observation when it is applied cross-culturally. Drawing on anthropological studies of the last century, it is not difficult to bring to mind cases where strikingly different cultural interpretations have been made of similar behaviours, such as the ritual meaning of death-related actions or, more prosaically, the diverse understandings of social ties in different communities (Hatch, 1983; Cook, 1999).

A counter-argument to this anti-comparative and anti-paternalist stance points out that if the possibility of utility comparison is denied at the *inter*-personal, it must also be denied at the *intra*-personal level. It continues by claiming that the logical extension of the proposed invalidation of interpersonal comparisons is that, in so far as all choices are based on a generalisation of the past without which no long-term personal integrity can be conceived, the very notion of rational self-interested choices itself should be denied (Parfit, 1984; Gibbard, 1986, IV). To be sure, at the personal level we necessarily rely on some sort of interpersonal comparisons of utility (Little, 1957, 54; Davidson, 1986, 195), however, one has to respect the difference running between personal liability and public responsibility. What I contest is the viability of such interpersonal comparisons of utility as sufficiently reliable tools for public policy in an international context of differing systems of social meaning. In the self-regarding sphere of action, individual fallibility is a private matter of concern, while in the political sphere, the fact of pluralism constrains public policy, and especially international public policy, to respect individual choice in recognition of diversity. In this latter instance, the reliance on imprecise approximations should be reduced as much as possible to protect differences[43].

An all too scarce consideration of these insurmountable epistemological difficulties has been one of the major flaws of a

[43] Sen identifies at least five sources of variation or classes of differences concerning well-being: 1) personal heterogeneity; 2) environmental diversity; 3) variations in social climates; 4) differences in relational perspectives; and 5) distribution within the family

considerable part of ethical theory, and of utilitarianism in particular. As mentioned in chapter I, a large part of the recent criticism of the utilitarian school relates to this insufficient consideration of the epistemological constraints on comparability. In fact, since the first classical Benthamite formulations on pleasure to the more contemporary statements on revealed preferences, utilitarians have always relied heavily on comparability and cardinal utility ordering, even in their indirect prescriptions. In so doing, however, a number of serious ethical problems have been incurred, including the lack of respect for the separateness of persons and the sacrifice of minorities for the sake of majorities. The revised consequentialist proposal advanced here, allows instead for the avoidance of these problems, in so far as it envisages an agent-relative interpretation of well-being, which in being epistemologically un-demanding produces a strong liberal and anti-paternalistic international political theory.

From the point of view of consequentialist cosmopolitanism these epistemological constraints cannot be legitimately overcome in a project of international ethics, which must take into account both the fundamental pluralism of social meanings and the fundamental demand for equality which so determine contemporary international affairs. To be sure, pluralism is here simply presumed as one of the major tests for international ethics, in that as no definitive comparison can be effected, no definitive dissimilarity can be determined either. All that can be determined is that neither an absolute homogeneity nor an absolute heterogeneity can be identified. It is this indeterminacy that shapes the intention of consequentialist cosmopolitanism. Consequently, since diversity cannot ultimately be proven, the requirement to respect and guarantee individuals' own conceptions of a good life rests on and constitutes the prescriptive content of a normative pluralism that accommodates the demands of a presumed empirical pluralism. Only at a very minimal level concerning the vital interests of individuals, as it will be explained later in this chapter, can an interpersonal and transcultural ground be found which allows for effective comparisons to be used in

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(Sen, 2000b, 70-1). Additionally, Pogge suggested a sixth one: 6) socially caused

public policy. For the rest, an alternative political strategy has to be individuated as a valid means for international ethics to deal with value indeterminacy. In what follows, an alternative account of well-being as freedom of choice is thus presented, which while maintaining its independence from the traditional account of interpersonal utility comparisons adopts an epistemologically viable metric that allows for interpersonal comparisons of capabilities for purposes of political justice.

Normative foundations: well-being as freedom of choice

Consequentialist cosmopolitanism, as a goal-based ethical theory, aims at the promotion of the good, which is assumed to reside in a comprehensive conception of individual well-being. It consequently defines the right after the good as the maximal goodness. Accordingly, an action-guiding principle is warranted only in so far as it complies with the test of universalizability, i.e., can be expected to produce the best outcome in terms of general well-being. On a more profound, meta-theoretical level, then, the ultimate foundation of the consequentialist approach per se relies on a principal consideration: simplicity. Differing from deontological theories, which purport to both honour and promote values, the objective of consequentialism is only to promote those values that foster well-being[44]. In comparison with non-consequentialist theories, consequentialism scores better in terms of simplicity since it does not need any further argument to justify honouring the value above that of promoting it. Thus, "where consequentialists introduce a single axiom on how values justify choices, non-consequentialists must introduce two" (Pettit, 1993b, 238). Moreover, the latter need to endorse *ad hoc* justifications to identify those values that are to be honoured rather than promoted (Harsanyi, 1979; Hare, 1981; Kupperman, 1981; Riley, 1988; Goodin, 1990a; Pettit, 1993b, 1993c; Hare,

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heterogeneity (Pogge, 2002a).

44 "A good will be a goal for an agent or agency if and only if the task is to promote the good: to maximise its expected realisation. [...] A good will be a constraint for an agent or agency, on the other hand, if and only if the task is not necessarily to promote it, but to bear witness to its importance or to honour it" (Pettit, 1997, 97-8).

1999; Hooker, 2000; Hooker *et al.*, 2000)[45]. This single value justification, in association with the epistemological constraints examined in the previous section, bears a number of important consequences on the formulation of the theory of consequentialist cosmopolitanism as a proposal for international ethics.

This axiological foundation entails leading the theory toward three central assumptions of contemporary ethical discourse: normative *individualism*, *egalitarianism* (alternatively interpreted as the anonymity condition), and *universalism*. While the first holds that the unique or most relevant agents to be taken into account in the normative exercise are individuals, the second maintains that individuals should fundamentally be considered as equals in the relevant aspects, and the third claims the scope of moral consideration to extend to include all humans, wherever they live[46]. Consequentialist cosmopolitanism also relies on these terms. It embraces normative individualism in that it considers the single human agent the principal recipient of the good[47], but it also implies universal egalitarianism, in so far as the aforementioned epistemological constraints impose respect for each individual sphere of action as a potential generator of well-being. This last consideration brings us to the core distinguishing

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[45] Similarly, Sen argues the following in support of consequential evaluation: "In contrast with consequence-independent deontology, or trade-off-barred deontology, broad consequential evaluation has considerably more reach and range, in being able to accommodate diverse moral concerns that have claims to our attention. In comparison with permissive kinds of deontology, broad consequential evaluation can claim to have, at least, a more explicit—and somewhat more integrated—framework of judgement evaluation" (Sen, 2000a, 480).

[46] The first two steps, nicely combined in the Benthamite expression "everybody to count for one, nobody for more than one", are deemed uncontroversial in analytical ethical theory (Pettit, 1993a, 23-25). Their origins date from the Greek concept of *isogony* (i.e., equality of birth), passing through the Christian conception of brotherhood equality later embodied in the law of nature.

[47] With respect to individualism, two additional assumptions of the theory of consequentialist cosmopolitanism concerning freedom and identity should be made explicit. Moral agents are considered free from strict causal determination and so able to make deliberate and independent moral choices. Natural determinism is thus rejected. Moreover, agents are primarily considered to be individuals and, secondarily, collective agents such as states or international organisations. 'Sub-individual' selves are not included in the category of possible moral agents, in that they are deemed to be too locally biased in their cultural self-image, and subsequently not viable for a project of international ethics. Thus, disaggregation of personal identity as a chain of contingent selves *à la* Parfit is also rejected, and a normative (rather than ontological) individualism explicitly recognised as a starting assumption of this project.

political element of consequentialist cosmopolitanism: freedom of choice as the metric for well-being.

As determined by respect for epistemological limitations, the consequentialist justification illuminates a crucial issue of the political theory proposed here, i.e., the ground on which the assessment of the political principles advanced should be made. According to consequentialist cosmopolitanism, due to the unavailability of reliable interpersonal comparisons of well-being, such indicator of well-being can only be indirectly and causally identified in the individual capacity for choice between different life options. Underpinning this is the best-judge principle, according to which each person should be free to decide on matters that primarily affect him alone, for the best judge of what is for the good of a person is always that person himself. Accordingly, this theory maintains a *prima facie*, agent-relative theory of the good, in that it holds that uniquely when agents are in a position to freely choose their preferred course of action through a process of informed and effective personal deliberation, can genuine well-being be presumably attained. Personal choices, rather than some specific theory-laden conception of the good, are thus taken to be the best (albeit indirect) expression of the individual's interests, i.e., what will make the individual generally better off. In this vein, "human development is first and foremost about allowing people to lead the kind of life they choose—and providing them with the tools and opportunities to make these choices" (UNDP, 2004, V). Of course, the causal connection between a person's autonomous choice and that person's well-being cannot but be empirically subject to exceptions. However, despite the fact that such relations can only attain the status of a reasonable presumption with statistical force, and not scientific certainty, the strength of the present point is no less, in that a reasonable presumption suffices for the role the metric has to play in this argument.

This combination of the consequentialist principle with the recognition of the epistemological constraints generates a new version of consequentialism which is distinct from other teleological theories in offering the potential for simultaneous inclusion of agent-neutral and agent-relative values, without the addition of further normative principles.

Following the path first explored by Sen (but see the comparative discussion of his theory in the next section), consequentialist cosmopolitanism claims to offer a proposal which is able to respond critically to a number of the major attacks made to the consequentialist paradigm in the last thirty years. Such a task is delivered by the differentiation of central features such as criterion of right and decision procedures or first order and second order principles only through the deployment of the consequentialist principles and epistemological considerations. In this sense, while the consequentialist criterion of the good here adopted remains grounded in the universalist and objective agent-neutral principle of promotion well-being, because of inevitable epistemological constraints, the decision procedure of the theory relies 'restrictively' on a subjective agent-relative mechanisms anchored to freedom of choice[48]. Moreover, the coexistence of a second order consequentialist principle (the final arbiter) and different *prima facie* non-consequentialist, agent-relative, and procedural principles as first order rules (the intermediate applicative rules) is envisaged (Jackson, 1991). Hence, through such indirect normative strategy consequentialist cosmopolitanism remains on an axiologically 'simple' basis which being consistent is more easily defensible[49].

Thus, unlike in most other contemporary theories of justice, well-being is not directly individuated here in such specific elements as happiness, preference satisfaction, income, wealth or other kind of resource, since they are assumed to be not measurable in a trustworthy way and thus not viable social tools for political public policies. Instead, consequentialist cosmopolitanism identifies well-being indirectly in the

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[48] For similar consequentialist strategies that have highly influenced my views see (Sen, 1982b; Pettit & Brennan, 1986; Hardin, 1988), for the original discussion of such indirect strategy to be found in Butler (Butler, 1726 [1983], § sermon XII, section IV, § 31).

[49] To the objection that such a double strategy endorses the deception of self and others, in that in implementing a principle in a specific agent-relative way one cannot genuinely pursue the agent's good but only instrumentally and deceivingly so, a response based on Hare's two-level theory can be offered (Hare, 1981). No deception is implied in having a two-level moral life in which we ordinarily apply first order common principles that are nevertheless backed by first order moral considerations to which we appeal in difficult life circumstances. Love and friendship are no less genuine, despite the fact that we at times consider them in light of universal moral principles.

presumed outcome, the unspecified by-product of the agent's freedom of choice, where, more analytically, choice is identified as the opportunity to choose among each subset of the set of alternative options[50]. This opportunity, intended as the capability[51] to choose freely *à la* Sen, is characterised by two principal features: content and context independence (Pettit, 2001a, 5-6). The value of the capability of choice has to be content-independent, i.e., decisive regardless of which of the relevant options is preferred, in that we would be otherwise obliged to think that freedom means adapting our preferences appropriately (Berlin, 1969, xxxviii). Additionally, the capability to choose also has to be context-independent, i.e., decisive regardless of the parametric decisions of the other agents, in that freedom would otherwise dominated by the goodwill of those around us (Pettit, 1997, § I.2). These consequentialist considerations lead to the general prescription to maximise the individual capacity of choice as the most effective—and epistemologically sound—strategy to achieve the promotion of the general well-being[52].

The present description of the capability to choose freely is also consistent with the kind of republican freedom as individual (non-dominated) power of choice recently re-elaborated by Pettit (Pettit, 1997, 2001a). In his view, freedom as non-domination represents a third type of liberty, which integrates both freedom as non-interference (negative freedom), as in Bentham (Bentham, 1781 [1988])[53], and freedom as self-

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[50] For other points of view on the concept of choice: (Broome, 1978; Dworkin, 1982; Sen, 1985; Scanlon, 1988; Sen, 1988; Reeve, 1990, 115-117; Dowding, 1992; I. Carter, 2001a). Note that the characterisation of well-being as freedom of choice meets the three criteria commonly required on any conception of well-being, as expressed by Scanlon, in that it represents a general consensus, allows for the fact of individual variation in taste and interests and is result-oriented (Scanlon, 1979, 655-6).

[51] In the rest of the text, the terms capacity and capability (of choice) are used interchangeably, despite minor differences existing that do not affect the central thrust of the notion as deployed here.

[52] The notion of well-being as freedom of choice is here intended principally as the normative basis for a political principle fostering emancipation and autonomous self-development of individuals, and in this sense it has to be understood as a minimal social project. Beyond that, however, I am inclined to think that such a principle has to be connected to the ultimate ideal of *aesthetic* self-creation as full employment of individual capabilities. This connection is not part of the present study.

[53] But see a different, more comprehensive interpretation of the notion of freedom in classical utilitarianism (Kelly, 2001).

mastery (positive freedom), as depicted by Berlin (Berlin, 1958)[54]. Freedom of choice has then to be interpreted not simply as non-actual interference, but as absence of mastery by others. An agent is free to choose on his life options when he is not exposed to the arbitrary power of the dominating party, when the others are unable to interfere arbitrarily and at will in his own affairs (Pettit, 1997, 22). Since it is possible to be dominated without being interfered, the freedom required for individual pursuit of genuine well-being has to coincide with being in the position to enjoy non-domination—escape coercion—in *any* circumstance.

Freedom as non-domination is, however, just one face of the consequentialist interpretation of freedom of choice, which remains a goal-oriented normative theory and therefore yields an instrumental interpretation of freedom. In this sense, freedom of choice is indeed a crucial component of the model of consequentialist ethics here presented, but this is because it is necessary for promoting individual well-being, not because of its independent value. Before developing this point further in the next section against other contemporary theories of justice, however, an objection which aims at the core of the relation between freedom of choice and well-being, and the definition of well-being itself, needs to be examined.

This objection to a choice-based notion of well-being stresses that the link between well-being and personal choice is only contingent, that well-being is not achieved (or achievable) through free choice, or vice versa that choices are not conducive to (or motivated by the pursuit of)[55] well-being.

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[54] According to Pettit, both liberties have limited political significance. The traditional understanding of negative freedom—being let alone by others—which focuses on un-coerced choices thanks to the absence of external obstacles (intentional intervention plus coercion of a credible threat), cannot distinguish between unimpeded and un-dominated choices (allowed by the dominator's goodwill). On the other side, positive freedom, conventionally seen as self-mastery and positive control of one's own actions and life, instead, cannot collectively accommodate the liberal values of individualism in that it fosters a populist attitude which endangers minorities.

[55] On this, Sen maintains that "a person's choice may be guided by a number of motives of which the pursuit of personal well-being is only one. The well-being motivation may well be dominant in some choices, but not in others. Moral considerations may, *inter alia*, influence a person's 'commitment'. The mixture of motivations makes it hard to form a good idea of a person's well-being on the basis of choice information only" (Sen, 1985, 188). See also (Sen, 1977).

Were this remark effective, a consequentialist argument should re-direct its focus directly on well-being or on other strategies concentrated on more significant phenomenological aspects of well-being. My response to this begins by delineating a distinction between a) cases in which the agent is autonomously making a choice of not choosing or of apparently self-harming and b) those cases in which the agent is not capable of choosing freely. From this, different considerations follow which rebut the objection in opposite ways. While in the case of a) the value of freedom of choice is restated through the disputation of restricted and unjustified notion of, respectively, free choice and well-being, which violates the epistemological constraints on the interpersonal comparability of utilities, in b) it is confirmed through the failed practical implementation.

In particular, four challenging personal cases can be considered in the analysis of the two subsets of the objection. For the first set: a1) A person with masochistic and suicidal preferences; and a2) A person with moral motivation and ideological (externally motivated) reasons, which could lead him up to dying as a consequence of non-choice, as in the cases of heroes, martyrs, Socrates or Jesus. For the second subset: b1) A person who has to face so many options that she remains paralysed and unable to choose, such as the story of Buridan's ass and the donkey incapable of choosing (Sen, 1997, 765); and b2) A child or a mentally ill person who is not able to choose autonomously (Sen, 1985, 204). As we will see the relation between well-being and free choice in each of the four cases remains ultimately constant, despite the *prima facie* variants.

Considering a1), the masochist thinks that in choosing self-harm or, at the extreme, suicide he achieves his well-being (nothing changes, of course, if it is somebody else who harms the masochist, since we suppose the consensual relation between the two). To oppose this by maintaining that such is a case of free choice which is not conducive to well-being, one has to offer first an alternate, substantive conception of well-being, and second to impose it on the masochist, without his consent. This is only possible through interpersonal utility comparisons, but since we have denied the epistemological plausibility of such a possibility, any attempt to circumvent it remains an ideological imposition that is detrimental to well-

being promotion. Equally, considering a2), we can imagine a religious fundamentalist, a civic hero, or a radical philosopher who chooses to renounce doing something which could promote their (supposed) well-being or, at the extreme, save their life, but only at the cost of disowning their own principles. This is a typical case of choosing to not choose, in which the agent autonomously decides for attitudes that would seem to be the exact opposite of well-being-seeking choice-making. After more careful observation, however, it can be discovered that such virtuous conducts are (and indeed can only be) valued *e contrario* by the possibility of not so acting. Fasting is valuable only in so far as individuals could eat; it is the choice of not eating that makes right the act. The well-being of these persons is dependent on their capability to choose (not to choose) according to their value. Again, denying them the possibility of so choosing and acting would require an unjustified interpersonal assumption on well-being, thus representing an ideological imposition that is detrimental to well-being promotion.

The b) cases are different, in that they are not cases of mislead assessment of the value of freedom of choice or well-being, but cases of failed practical implementation of the capability to choose freely. Considering b1), we have to resolve a situation in which a person faces a decision between two or more options without knowing which one to prefer. Although either of the two options would be beneficial to her well-being, just with slightly different degrees, she is so undecided as to which to choose that she is incapable of arriving at any conclusive thought. Circumstance like these are indeed quite frequent and invite the admission that at least in these cases we should not consider free choice to be an effective conductor of well-being or, the other way round, that well-being is more easily achievable through devices other than free choice. Similarly, b2) presents the case of those who are not capable of autonomous decision-making, e.g. a young child or a mentally ill person. Despite the scientific difficulties in the exact assessment of mental illness, I assume that a broad consensus can be taken for granted on the very possibility of considering a specific kind of mentally ill person as incapable of autonomously choosing for themselves. The same applies, more uncontroversially, to young

children. Now, on the provision that the agents under scrutiny are not able to choose, and so are not capable of deciding for themselves about their future, both b1) and b2) are cases in which freedom of choice, I admit, is not the best strategy to achieve well-being. Thus, for these special cases, other strategies focused only on the well-being aspect (rather then well-being and agency freedom) have to be identified. These, however, constitute failures only of pragmatic implementation; they not only do not confute the general validity of the principle of freedom of choice, but rather confirm it in that they are based on the principle of freedom of choice itself.

Having responded to oft-mentioned objections to the value of freedom of choice, I can now proceed to present the other elements of the consequentialist cosmopolitan theory of justice. I will delineate them through a comparison with other contemporary theories of justice in order to draw the boundaries of the present proposal in a clearer way.

Contrasts with autonomy-based, utilitarian, and contractarian theories of justice

The core of this consequentialist proposal for global justice is individual freedom of choice. As mentioned, the capability to choose freely is fundamentally valued for its contribution to individual well-being and thereby to the maximisation of the world welfare condition. Such prima facie, agent-relative theory of the good, which is based on the capability of the individual to choose their preferred life options, has then to be delineated through the coupling of a consequentialist appeal to the promotion of well-being with an acknowledgement of the epistemological constraints on interpersonal comparability. The general prescription deriving from these considerations consists then in the duty to maximise the individual capacity of choice. This use of an extended and indirect version of consequentialism is what most characterises the ethical proposal of consequentialist cosmopolitanism against other competitor theories such as autonomy-based theories of justice, utilitarianism, contractarianism, and Sen's and Nussbaum's ethic. In this section, a number of normative

comparisons will be drawn with the first three kinds of theories of justice, in order to specify the point of contrasts between the present proposal and the general ethical-political framework of the current discussion. The capability approach will be analysed in the next section.

The recognition of the instrumental value of freedom of choice as an agent-relative feature of the consequentialist reasoning marks a profound difference with theories which foster freedom on the grounds of autonomy per se (Kant, 1797 [1991]; Berlin, 1969; Raz, 1986, § V; Carter, 1995, 1999; I. Carter, 2001a). These theories maintain an intrinsic and absolute value for personal self-determination. It is not what is directly or indirectly generated by the process of autonomous choosing that counts, but the fact of the process in itself. In opposition to this, from the consequentialist view, autonomy is granted only a vicarious, indirect, and non-specific value which ultimately resides elsewhere: in individual well-being, regardless of the specific actions that may produce that welfare. More specifically, autonomy is primarily valued not for its essential contribution to well-being, but rather because there are no better working alternatives for public policy decisions. The priority accorded to autonomy is thus an inevitable result of taking seriously the epistemological constraints on utility comparability, on the presumed incommensurable diversity of human natures, and the recognition of the consequentialist value of individual well-being[56].

In opposition to utilitarianism, consequentialist cosmopolitanism as a political theory endorses the view that it is possible to provide welfare to individuals only indirectly through the empowerment of their capabilities (Narveson, 1972; Brittan, 1988b, § II; Hardin, 1988, § 3; Brittan, 1990; Reeve, 1990; Hardin, 2003). This stance is notably distinct from both classical and contemporary utilitarianism insofar as it denies the possibilities of interpersonal comparisons of utility and subsequently

[56] Despite a fundamental difference remaining concerning the ultimate justification of individual freedom, the consequentialist characterisation of freedom of choice overlaps with the conditions identified by Raz for autonomy. In his account, they are: 1) appropriate mental abilities; 2) an adequate range of options; and 3) independence. From these, Raz determines a set of political duties intended as guarantees of: 1) support for the

upends the institutional need for the crucial devise of aggregation. This amounts to more than simply moving from decision procedures to criterion of rightness, as fostered by most indirect utilitarianism (Brink, 1986, 421, 425), in that what is denied is not our efficacy in calculating and impartially pursuing utility but rather the very epistemological viability of aggregating utilities. Thus, the political rules prescribed by a consequentialist cosmopolitan system should not be considered as redistributive technical devises based on declining marginal utility, but as means to promote each individual capacity for well-being pursuit separately. In fostering the individual capability to achieve free choice, such rules aim therefore only at the provision of assistance to each individual in search of an enhanced quality of life, and thus imply respect for the publicity requirement and for the separateness of persons, as preached by Rawls (Rawls, 1971, § 30).

However, in opposition to resourcist contractarianism (Rawls, 1971, 1982), consequentialist cosmopolitanism holds that a focus on commodities as the primary condition for well-being enhancement represents a limited strategy that does not respect pluralism. The identification of a set of resourcist goods, which are deemed to be either intrinsically or instrumentally good to pursue any other end, shows a serious theoretical limitation in that it does not take into account the social, cultural or genetic diversity of human agents, and their subsequently different capacities to take advantage of such resources. In so doing, the resourcist approach does not treat equally the recipient agents. Contrary to this, consequentialist cosmopolitanism focuses on the minimal capability of the individual to choose freely among different life options; however, in that, it includes a consideration of the agents' potential to make effective use of the goods at their disposal. In this respect, the present theory follows the teaching of Sen's theory of capabilities (Sen, 1992; 2000b, § 3); the relevance of Sen's theory to the present research is such that a section in itself is required to bring the contrast into focus. Such a section follows.

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development of personal abilities; 2) the creation of an adequate range of options for

Contrasts with the capability approach

While traditionally belonging to the deontological domain of ethical discourse related to autonomy, the notion of freedom of choice has recently expanded its spectrum of deployment to include the consequentialist paradigm. In the antinomy between procedure and outcome (or input and output legitimacy), self-determination through personal choices has conventionally been associated with the first rather than with the second element. This affirmation remains valid overall even if we take into account relevant exceptions such as John Stuart Mill. Recently, Sen has proposed a reinterpretation of the relation between two cardinal concepts at stake here—well-being and freedom—which has significant relevance for the issue of the agent's choice as entailed in the consequentialist cosmopolitan theory. A contrastive comparison is thus much in order.

While representing two strands of the same consequentialist paradigm, consequentialist cosmopolitanism and the capability approach are distinct from other major variants such as utilitarianism in that they are agent-relative and thus centred on the individual freedom of choice. Traditional consequentialist theories such as utilitarianism are characterised, as discussed, by an agent-independent structure that takes into consideration the final states of affairs rather than how they are generated by the various actors. This allows for public aggregation but also for the well-known criticisms on the separateness of persons. Against this, the two theories under consideration here are animated by a different normative objective: 'to square the circle' by combining consequentialist evaluation with a number of apparently (or traditionally considered to be) deontological intuitions related to the respect for agent-relativity, such as rights and personal values.

Despite these similarities, consequentialist cosmopolitanism and the capability approach are nonetheless distinct in that they are based on two different foundational strategy and epistemological assumptions that produce differently defensible and yet compatible normative justifications of the primacy of freedom of choice as embedded in a consequentialist

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choice; and 3) non-coercion and non-harm (Raz, 1986, 371 and 407-8; 1994, § 1).

framework. While the former warrants the centrality of freedom of choice through the combination of the consequentialist principle with some constraining epistemological requirements, the latter combines the consequential evaluation with an account of positional objectivity, i.e., the parametric dependence of observation and inference on the position of the observer. Both theories reach similar conclusions recognising the importance of agency freedom, but, this section argues, the normative strategy of the latter suffers a number of weaknesses which renders its justification less stable. In opposition, consequentialist cosmopolitanism claims to offer a more consistent account of a consequentialist ethical approach which is able to accommodate some of the criticisms raised against Sen's version of consequential evaluation, and is thus better suited to the challenges of global justice. In what follows, I first briefly sketch Sen's theory and then present two criticisms.

Sen's approach to the consequential-evaluation of public schemes of justice is based on the notion of functioning capabilities. Functionings represent central elements of the state of a person. They include things like "activities (as eating or reading or seeing), and states of existence or being, e.g., being well nourished, being free from malaria, not being ashamed by poverty of one's clothing or shoes" (Sen, 1985, 197-8). These functionings are central in the measuring of how well off people are. But more importantly it is the individual capability to attain a certain set and level of functionings that counts as the indicator of the overall quality of life of the agent. Public schemes of justice should thus be arranged in such a way as to promote maximally the functioning capabilities of individuals (Sen, 1980, 1982b, 1985, 1988, 1992; Nussbaum & Sen, 1993; Nussbaum, 2002).

Two interdependent normative notions are central to the capability approach: well-being and agency. Beginning from the notion of well-being, Sen expands his reasoning to include the recognition of agent-relative values such as freedom, motivations, and rights. In particular, Sen's starting point consists in the observation that the primary feature of a person's well-being is the functioning vector that he or she achieves (as opposed to other traditional components of well-being such as happiness,

desire fulfilment, opulence, or command over primary goods). From this minimal description of the functioning vector, the argument moves toward the inclusion of the role of agency, in that it takes into account the individual ability to achieve valuable functionings. The shift of attention from the person's actual functionings to his or her functioning capability has thus the effect of, *inter alia*, taking note of the positive freedoms in a general sense (the freedom "to do this" or "to be that") that a person can enjoy. As pointed out by Sen:

> "The supplementation of well-being by well-being freedom, in the case of responsible adults, involves a refinement in the assessment of the well-being aspect of a person. But well-being freedom is only a specific type of freedom, and it cannot reflect the person's over-all freedom as an agent; we have to turn to the notion of agency freedom in that context. It is hard to see how any part of this plurality (involving both well-being aspect and the agency aspect of persons) can fail to have some *intrinsic* importance" (Sen, 1985, 205 Italics added).

Well-being and agency are, in Sen's account, embedded in the 'consequential evaluation', which he "sees as a discipline of responsible choice based on the chooser's evaluation of states of affairs" (Sen, 2000a, 477). Three different issues characterise consequential evaluation: 1) Situated evaluation as opposed to the invariance requirement; 2) Maximising framework as opposed to optimising; 3) Non-exclusion of states components as opposed to arbitrary limits (e.g. utilities). It is Sen's theory of consequential evaluation, and in particular the first point according to which a person need not ignore the particular position from which she is making the choice, which will occupy the critical remainder of this section.

The first limit of the capability approach concerns the problem of impartiality among different points of view, and enquires why we should judge as right each agent-relative point of view. On this, it will be observed that Sen's theory legitimises the promotion of different goods to different agents in an *intrinsically* agent-relative way, and in maintaining the intrinsic rightness of this relation, it is vulnerable on the side of impartially

judging the interpersonal rightness of this activity. The second limit regards the substantive account of human nature—and the correlated biased interpretation of human flourishing—offered by the capability approach, especially that in Martha Nussbaum's version. It will be clarified on this point how the capability approach in being theory-laden and content-specific is condemned to being partial and thus inapplicable at the global level.

According to Sen's interpretation of consequentialism, namely the discipline of consequential evaluation, social rules should aim to promote maximally a comprehensive outcome. The latter has to be understood as opposed to a (more traditionally intended) culmination outcome, *à la* utilitarian[57]. Utilitarian welfarism in fact imposes on consequentialism a number of arbitrary restrictions that require states of affairs be judged exclusively by their utility potential. This is most commonly appealed to as the invariance requirement, according to which any moral consideration should be objectively related to the resulting state of affairs and not depend on personal variables. Against this, Sen is keen to recognise that the interpretation of a state of affairs has to be informationally richer in order to be intuitively respectful of our common sense. A state of affairs is in fact arguably composed not only of utilities related to that state of affairs (ultimate outcomes as utilitarian want), but also of actions in general and agent's own actions and values in particular; e. g., motivations, processes of choice, realisation of freedom, fulfilment of rights and duties. In this sense, restricting the interpretative focus on outcome utilities is arbitrarily limited and thus unjustifiable. Hence, the consequentialist evaluation is offered as a technique to normatively interpreted social reality in a manner free from arbitrary limits. In order to keep the consequentialist evaluation as open as possible, then the recognition of evaluator relativity and positional objectivity plays a crucial role.

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[57] A political example offered by Sen himself helps to understand the interpretative limits that can be imposed by a reading exclusively focused on culmination outcome. "If, for example, a presidential candidate were to argue that what is really important is not just to win the forthcoming elections, but 'to win the election fairly', then the outcome recommended is a *comprehensive outcome*, which includes a process consideration (not just the culmination outcome of winning the election—no matter how)" (Sen, 2000a, 492).

The parametric dependence of observation and inference on the position of the observer is, for Sen, an unavoidable constraint that has to be taken into account. As much as "what we can observe depends on our position vis-à-vis the object of observation" (Sen, 1993b, 126), any moral observation should also be understood as primitively dependent on the position occupied by the evaluator, in that "the goodness of a state of affairs depends intrinsically (not just instrumentally) [...] on the *position* of the evaluator in relation to the state" (Sen, 1983, 114). And yet, this does not deny the possibility to reach an interpersonal consensus. It is possible, from Sen's point of view, to produce a "trans-positional assessment-drawing on but going beyond different positional observations" (Sen, 1993b, 130). Objectivity is thus to be identified in observational claims that are both position-dependent and person-invariant. "Position-relative impersonality requires that parametric note be taken of the respective *positions* of the different persons, but not of the exact personal *identities* involved" (Sen, 2000a, 486). In opposition to the utilitarian agency invariance restriction, Sen proposed an authorship invariance, which is claimed to be impersonal, as ethics requires, but not im-positional. This is however problematic.

The first limit of the capability approach resides exactly in the assignment of intrinsic value to the agent-relative perspective. As said, Sen maintains that "when the restriction [i.e., evaluator neutrality, RM] is relaxed but otherwise the hegemony of outcome morality is maintained, I shall call the approach 'consequence-based evaluation'" (Sen, 1982b, 30). This move is motivated by the recognition that "a morality that insists that after killing his wife Desdemona Othello must regard the state of affairs to be morally exactly as good or as bad as others—and no worse than that—would seem to miss something about the nature of moral evaluation of states" (Sen, 1982b, 30). While this is a fair point on the need to take into account a personal evaluator point of view, a further problem remains unsolved: what kind of status does this point of view have to play in the moral reasoning, if the hegemony of the outcome has be to maintained? In particular, how is this personal evaluator point of view related to the impartial perspective in the service of justice, that is, the perspective that

compares different points of view to assess the value of the overall outcome?

Assuming that "a consequence-based morality is evaluator neutral if there is a universal good that all agents are required to promote; and it is evaluator relative if different agents are assigned different goods" (Regan, 1983, 93), two divergent prescriptions could be correspondingly recommended from a consequentialist perspective. Either every agent has the duty to promote the good as comprehensively intended from an impartial point of view (which includes *also* personal evaluations) or he has the duty to promote the good from his point of view (which includes *only* personal evaluations). Alternatively expressed, these duties could be intended as demanding that personal evaluation be taken into account respectively in an *instrumental* or *intrinsic* way.

If the second interpretation of the duty is accepted, then a problem arises as to how to judge the justice of each agent-relative point of view from a third party perspective, how to judge impartially different points of view. A consequentialist perspective is in fact dependent on the single evaluation of the overall outcome (however intended, comprehensively or as culmination). According to consequentialism, we should decide the principles that govern our actions through the consideration of the overall value of the good (e.g. an informationally rich interpretation of well-being with personal attributes) promoted by their implementation. The notion of the goodness is thus the ultimate basis for assessing actions and principles. Now, if intrinsic value is assigned to each personal-evaluator perspective, no single ultimate value can be identified and consequently no overarching evaluation of different perspectives is feasible. If reasons of autonomy and those to promote the overall good are considered incommensurable, the possibility of accounting for moral requirements is ruled out[58].

A paradigmatically different response to this dilemma has been given by the contractarian theory, which is consistent with the assignment of intrinsic value to individual perspectives. According to deontological

[58] A similar argument is developed by (Griffin, 1982, § 6; Kagan, 1984, 241-2; Brink, 1986, 432).

contractarianism, in fact, no overarching evaluation can be offered of the state of affair, in so far as only agent-relative reasons on a singular basis can be provided by individuals. In this regard, what is considered is not the overall value of the resulting state of affairs but the reasons that individuals have for accepting or rejecting these principles. This means that we have to consider only the ways in which these principles affect individuals with their personal reflective attitude, not their impact on the promotion of impersonal values. This amounts also to an incapacity to compare interpersonally the reactions of the reciprocally independent individuals without the appeal to an either external or minimally overlapping principle. Similarly, Sen's theory assigns the promotion of different goods to different agents in an *intrinsically* agent-relative way, and in maintaining the intrinsic rightness of this relation, it fails on the side of impartially judging the rightness of this activity[59].

In a recent article on Sen, Scanlon raises a similar point on the issue of impartiality, which invites a different consequentialist answer:

> "Contractualism thus naturally employs position-relative reasons, but does not require position-relative evaluation of the overall states of the world. This enables it to avoid a prima-facie problem that arises for a position-relative consequentialist theory. If the consequentialist idea of acting for the best is to provide a single standard of right action, it seems to require a single idea of what is best as its evaluative basis. There is thus a puzzle about how to formulate consequentialism on the basis of multiple, position-relative evaluative standpoints. Perhaps it becomes the view that what morality requires is for each person to act for the best, as judged from his or her position. I will leave open the question of how this is to be worked out" (Scanlon, 2001, 49).

Another way of interpreting the issue of impartiality consists in focusing the attention on the single agent rather than on an impartial point of view. If we take this position, it is fair to ask "why should each agent act

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[59] To be fair, in a recent article Sen takes a clear position for an impartial spectator point of view *à la* Smith (Sen, 2002), but it is interesting (and bizarre) that this clear statement is not explicitly linked to his previous work on the capability approach. Until this link is made explicit, the impartiality problem so far exposed remains.

on his own point of view instead of some other?" (Regan, 1983, 105). Or alternatively enunciated, why should the single agent maximise the good from his point of view? Sen fails to offer a substantial account of why different agents should maximise the good according to their point of view simply because it is their interpretation rather than somebody else's (Regan, 1983, 103). Again, the lack of an external and overarching point of view does not allow for both, as said, impartial resolutions of disputes between different points of view, and impartial assignment of agent-relative duties according to a consequentialist ethics.

Hence, Sen's theory is on shaky ground for what concerns the impartial assessment of different points of view, in that it relies on an intrinsic assignment of value to agent-relative evaluation. The consequentialist cosmopolitan proposal presented in the second part of this paper is distinctive in that the ultimate good it prescribes remains objective—the maximisation of world welfare condition—but can only be promoted through the maximisation of individual—i.e., agent-relative—capacity for choice. Thus, the present proposal, in only being epistemologically and *instrumentally* agent-relative, can offer a consistent twofold response that includes both agent-relative and agent-neutral considerations, through an indirect method of identification of individual welfare.

The other limit of the capability approach I want to discuss regards an intercultural problem. Despite the minimal point of departure, i.e., the recognition of the diversity of human beings and the consequent importance of the capacity for freedom to achieve, the conclusions at which the capability approach arrives are culturally thick and thus yield problems on the intercultural side of justice. This culturally thick characteristic is more evident in Nussbaum's than in Sen's theory (Nussbaum, 1993; Sen, 1993a), but the point I want to raise applies to both, though in different degrees, and yields decisive normative disadvantages within the context of a world assumed to be profoundly multicultural.

Sen's and Nussbaum's theory of capabilities proposes a substantive account of human nature—and a correlated biased interpretation of human flourishing inspired by Aristotle (Crocker, 1992; I. Carter, 2001b, 67-9;

Donatelli, 2001, 116)—which in being theory-laden and content-specific is condemned to being partial and thus inapplicable at the global level. While a common, neutral ground can be determined in the evaluative space concerned with the vital capacity of individuals to pursue their personal choices and projects, Sen's and Nussbaum's further political pretensions to regulate and institutionalise individual entitlements beyond such an elementary level is destined to be flawed. Aiming at identifying a thick set of individual entitlements—beyond a minimal endowment—related to universal capabilities runs into trouble in that this task requires objectivity in a domain where objectivity is not available.

In opposition to this, exercising epistemological self-restraint, consequentialist cosmopolitanism focuses only on a number of vital interests in terms of choice opportunities. In a world of incomparable differences, consequentialist cosmopolitanism's promotion of a minimal international standard promising only the guarantee of politically vital capabilities, is better equipped to comply appropriately with the task of global justice, in that it is able to offer a more widely acceptable set of guarantees for individual freedom and pluralism. Respectful of our limited epistemological capacities, the strategy of consequentialist cosmopolitanism promises to be almost as progressive world-wide as Sen's and Nussbaum's proposal, and yet is consistently more defensible against charges of paternalism and ethnocentrism.

Having outlined a number of preliminary comparisons with the major competing theories of justice, it is now time to expound the remaining content of the consequentialist theory of global justice in closer detail. I begin in the next section by providing further elements concerning the full reading of freedom of choice, intended as the normative basis for a universal metric of justice.

Consequentialist global justice: a universal dual metric for a double conception of agency

In the previous sections the epistemological and normative bases of the consequentialist cosmopolitan proposal have been laid out. The

coupling of the recognition of the constraints on interpersonal comparability with that of goal-based ethical imperatives has led to a restrictive interpretation of the notion of well-being as individual freedom of choice. In being both ultimately consequentialist and yet able to accommodate various agent-relative requirements, such a notion is fit to challenge a number of alternative theories of justice, including autonomy-based conceptions, utilitarianism, contractarianism, and the capability approach. Following from this argument, this section expands on the global dimension of the present proposal and identifies a precise metric serving as a universal measure able to re-interpret consistently the issue of responsibility and vulnerability in the domain of global ethics. In doing this, such an identification serves also as a response to the usual concern on the supposed emptiness of consequentialism (Williams, 1973, 135; Gray, 1983, 127; Griffin, 1992, 120-1).

For its contribution toward the promotion of individual well-being, freedom of choice represents a crucial component of the consequentialist ethics which needs to be universally protected and enhanced. As we will see, this is to be pursued through a set of profound institutional reforms on several levels of political action world-wide. Before presenting these, however, what is important to stress here is the political principles which underpin such social-political project. The normative structure of consequentialist cosmopolitanism, as a system of international applied ethics, involves the following three sets of principles (although only the first two are under scrutiny in this chapter): α) The *ultimate* consequentialist principle, i.e., the maximisation of world well-being conditions through the guarantee of freedom of choice; β) The *intermediate* principles, each referring to a specific applicative level, which contribute to the design of the political structure and institutions[60] of a consequentialist global political system, such as, for example, the 'human rights regime'

[60] More particularly, institutions are defined as general patterns or categorisations of activity made up of persistent and connected clusters of (formal and informal) norms. These principles and rules, organised into stable and ongoing social practices that prescribe behavioural roles, constrain activity and shape expectations, are a central ingredient because of their capacity and potential to promote reform and co-operation (Keohane, 1988, 383 and 393; Goodin, 1996b, 22; Hurrell, 2001, 38; Parekh, 2003, 11).

and the principle of state self-determination; And finally, γ) the *immediate* rules of action which derive from this consequentialist political structure, for instance, policies to guarantee the protection of human rights[61]. Given the ultimate consequentialist norm, the decisive criterion of validity for intermediate principles rests in the assessment of their long-term impartial socio-political performance with reference to the choice-based metric here adopted.

The metric adopted by consequentialist cosmopolitanism refers to a fundamental political entitlement of each individual to achieve and develop the status of independent choice-maker (Sumner, 1996, § 6-7)[62]. In particular, in order to guarantee each individuals his or her personal capability to choose freely and thus to pursue his or her own well-being, a number of specific social and political actions are needed. They can be grouped in two principal categories pertaining to vital interests and political agency. A first set of rights concerns those *vital interests* that form an inevitable pre-requisite for any other meaningful choice. They can be formulated in a transcultural way and should consequently be implemented universally and considered as absolute trumps to protect agents' autonomy[63]. The second set of legal entitlements regards, instead, the

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[61] This thesis does not concentrate on this third set of rules. However, a brief consideration of this more frequently applied set is worthwhile here. The strategy of concentrating on the individual freedom of choice fits well with the general requirements of public policy-making, as interpreted by Goodin (Goodin, 1990a). Public decisions have to be general in character for reasons grounded in necessity and desirability. Concerning the first, public officials have only imperfect information in comparison with private individuals, "they know what will happen most often to most people as a result of their various possible choices" (Goodin, 1990a, 142). But in order not to rely on the assumption that all individuals are equal in all respects, governors need to limit their action to the minimum and leave as much scope for freedom as possible. This focus on freedom of choice is not just out of necessity, it is also desirable from a consequentialist point of view. Thus, laws that are general in form and therefore minimal allow a greater degree of latitude for the individual to organise his future toward the reduction of uncertainties; moreover, citizens' internalisation of social norms—most likely when rules are few in number and general in form—would also reduce the cost of law enforcement.

[62] The interest in achieving the capability of freedom of choice in order to develop one's own conception of the good overlaps with the third Rawlsian high-order interest, which in his theory is closely connected with democratic citizenship. This is an interest "to protect and advance some determinate (but unspecified) conceptions of the good over a complete life" (Rawls, 1993, 74; 2001, 192).

[63] In this sense, consequentialist cosmopolitanism avoids the criticism of Williams against consequentialism and utilitarianism according to which they would be "empty

possibility of *political participation* in the public decision-making processes at each level of political action[64]. These rights are intended as citizenship prerogatives and should be guaranteed to each citizen at multiple levels, according to his or her degree of involvement in a given political sphere with reference to his or her particular and general interests. These two conditions of free choice are deemed to be fundamental to the enhancement of the individual capacity to control his or her life, and subsequently to promote his or her well-being, and are considered consequently as universal entitlements to be granted to each individual universally.

Vital interests and political participation represents then the dual metric of consequentialist global justice, in so far as they indicate the two sub-components of the universal right toward independent choice-making. In order to maximise the individual's capability of choice, in fact, it is essential both to empower him of the appropriate skills and entitlements and to protect his autonomy from others' arbitrary interference. These are factors that can profoundly affect the individual capacity for free choice, affecting elements such as the range of options presented as available, the expected payoffs that the agent assigns to those options, and the actual payoffs—the outcomes—that result from the choice (Pettit, 1997, 53). Since they are so crucial for the capability of the individual to chose, they are to be considered as prerequisites for the very possibility of choice, and thus as imperatives from a consequentialist perspective that aims at maximising well-being through individual freedom of choice. They can thus be denominated as primary goods, in that they represent a good that a person has instrumental reasons to want, no matter what else he aims at, a good that is required for any other value to be pursued.

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vessels", inevitably flawed by indeterminacy (Williams, 1973, 135; Gray, 1983, 127; Griffin, 1992, 120-1).

[64] A point made clear more than fifty years ago by Reves, recently reiterated by the cosmopolitan scholars. Reves asserted: "Democratic sovereignty of the people can be correctly expressed and effectively instituted only if local affairs are handled by local government, national affairs by national government, and international, world affairs by international, world government" (Reves, 1947, 126). See also (Pogge, 1992, 58; Held & McGrew, 2000, 33).

A key concern of consequentialist cosmopolitanism is the scope and the form of the political system and the correlative method of assessing different institutional schemes in relation to freedom of choice. The guarantee of vital interests and the political participation of individuals play a crucial role here, as has been made clear, but they can indeed be interpreted in several ways and generate correspondingly different institutional frameworks. In this regard, for a theory of global justice to be viable two elements need to accommodated and consistently integrated: universality and multilevel dimensionality. This chapter, and this section in particular, aims to make the case for an ultimately universal consideration of ethical-political agency in order to offer an alternative to all those theories that limit the scope of normative consideration within the borders of a given community. The case for a multilayered interpretation of such universal character, conversely, will be discussed in the next chapter, as in opposition to straightforward theories of radical cosmopolitanism according to which no intermediate or national level of political consideration needs to be taken into account.

In this respect, an initial consideration to be illustrated concerns the scope of the political project. In holding an open and impartial conception of moral relevance, according to which all morally significant consequences affecting all morally significant persons should be taken into account, consequentialist cosmopolitanism maintains a universalistic form of consequentialism. This amounts to an extension of the ultimate scope of the ethical project to the entire world and consequently to the acknowledgement that the best moral code is one in which the observance of the political system would produce the best consequences in terms of the increase of world well-being conditions, i.e., in global terms, impartially assessed. Since the latter refers to the well-being functions of every person, the morally ideal world is, in conclusion, identified as that which maximises, through a scheme of public rules, the capability of choice of all world citizens.

Two social principles are inherently entwined with the notion of freedom of choice and the capability for self-determination as presented so far: responsibility and vulnerability. From a political point of view, they

play a crucial role as normative considerations that shape the political system according to a reciprocal relationship. The first principle affirms that freedom means fitness for *responsibility*, and that in order to enjoy fully the value of freedom one needs to be ready to be held responsible for the consequences caused by her action (Sen, 2000a; Pettit, 2001b, § 1). The second maintains, conversely, that freedom means avoidance of *vulnerability*, and that in order to enjoy fully the value of freedom one need not be held under the sway of external factors that could deprive him of opportunities (Goodin, 1985b). Clearly, they shed light on two interdependent normative claims, and yet they are often considered disjunctively at the international level. In this vein, it is common international thinking to consider responsibilities ending at the borders of one's own state and vulnerabilities abroad not counting as evils to be repaired. In opposition to this, consequentialist cosmopolitanism holds a universal and reciprocal consideration of these two principles, in that they are implicitly required by the adoption of the freedom of choice ideal.

As a consequence, the characterisation of moral agency here envisaged is centred on the double recognition of the role of both choice-maker and choice-bearer. These two categories are the inevitable tools enabling a concrete normative implementation of the principle of responsibility and vulnerability. *Choice-maker* is here intended as the agent who is in the position to choose, decide, and carry out actions producing consequences on others. *Choice-bearer*, conversely, is the agent who bears the burden of the consequences of the action chosen, decided and carried out by somebody else (Held, 1991, 201). When these two categories are conceptualise as universal agents they produce an enlargement of the traditional notions of responsible and vulnerable agents, and identify new vulnerable political subjects and allocate special responsibilities beyond those traditionally charged to states or individuals.

Conclusions

Taking off from the conclusions on the limits of the work of international utilitarianism, this chapter has presented the principal ethical

and political aspects of consequentialist cosmopolitanism. Aiming to meet the ethical challenges of current international affairs in terms of political inclusion, this chapter begun by pursuing a more subtle conception of the political good, which in being aware of the epistemological constraints on interpersonal comparisons of utility allows for the recognition of pluralism through respect for individual choices. Fundamental to this is a notion of well-being in terms of freedom of choice, which produces a dual metric in terms of guaranteeing vital interests and political participation. Following from this, a notion of political agency in terms of choice-makers and choice-bearers is developed in order to deal exhaustively with the issue of responsibility and vulnerability at the global level. Through a number of critical comparisons with alternative theories of justice (utilitarianism, contractarianism, autonomy-based, and the capability approach) the ethical and political aspects of the theory of consequentialist cosmopolitanism have been outlined.

These ethical-political principles, however, would provide for only an incomplete political project, if left to stand on their own. Without the recognition of their roles within a wider system of international political theory encompassing crucial aspects of international political action such as multilayered and collective dimensionality, these normative principle would most likely fail to address the issue here at stake—international exclusion. In order to avoid such a failure, it is necessary to understand their political significance and usage, viz. how they influence the shaping of the political system on several layers. It is necessary to move the discussion to the institutional part of the present proposal. This will occupy the next chapter.

V

Consequentialist Cosmopolitanism: Institutional and International Aspects

"I can choose only a strategy, not an outcome"
(Hardin, 2003, 1)

"Rules which are desirable to obtain and not unreasonable to wish" (Sidgwick, 1891 [1996])

Left to stand on their own, the ethical-political principles underpinning the normative proposal of consequentialist cosmopolitanism expounded in the previous chapter would provide for only an incomplete political project. Without the support of an institutional framework specifically fitted to the global context, such a project would inevitably suffer from the weaknesses—inefficacy and exclusion—which traditionally affect modern political thought as a discipline of self-contained jurisdictions based on domestic interaction. To remain true to its first universalistic principles, consequentialist cosmopolitanism thus needs to provide a multilayered and yet unified scheme of political justice as embedded in a multilevel institutional structure. Setting out such alternative approach and indicating its full international development form the task of the present chapter.

The chapter begins by drawing up the institutional framework of consequentialist democracy as centred on the freedom of choice and its political correlate of participatory rights. From this, a methodology for comparing different institutional schemes of justice is developed based on proximity to the ideal of universal individual entitlements concerning vital interests and multilayered political participation. Such institutional framework fundamentally serves a moral aim: compliance with responsibilities. The issue of national and international responsibility thus occupies much of the central part of the chapter, and is considered in its multiple aspects with particular regard to individual demandingness, institutional duties, collective liability and non-ideal circumstances. Finally, details on the three-level political structure of consequentialist cosmopolitanism are presented, together with a discussion on the relationship between social theory and censorial jurisprudence, and a rejection of the related objection concerning the lack of a global demos.

Institutional framework of consequentialist democracy: participatory role and procedural assessment from a global perspective

Consequentialism, and especially utilitarianism, has traditionally held a conception of agent-neutrality according to which all agents are required to promote a universal, interpersonally comparable good. As mentioned, this, along with the aggregative devise of the utilitarian theory of justice, has provoked the greater part of the criticism of consequentialism over the last three decades, with objections based on various notions of agent-centred prerogative-restrictions. One response to these criticisms of consequentialism consists in the attempt to develop an evaluator-relative consequence-based morality, as originally suggested by Sen (Sen, 1982b, 1982a, 1983); and the distinctions explicated earlier, consequentialist cosmopolitanism follows the same overall direction of investigation of Sen, in that it aims 'to square the circle' by combining a broad consequentialism with a number of apparently deontological intuitions related to agent-relativity. This aspect is nowhere more evident than in the

institutional-political framework based on participation and prioritisation of procedures proposed here.

The contrast between the different use that consequentialist cosmopolitanism makes of input and output legitimacy and that of other theories should be noted here with reference to a pluri-level deployment of agent-relative consequentialist principle. Once the epistemological constraints have been taken into account, the consequentialist principle of the promotion of goodness of outcomes needs to be made sophisticated enough to include consideration of the rightness of procedures and other agent-relative elements, if an effective strategy for well-being promotion through freedom of choice is to be individuated. The concentration on institutional guarantees of freedom of choice and autonomy □primarily in terms of individual substantive rights and procedural rights to participation□ should not thus be mistaken for a drift toward deontologism. Such a strategy in fact relies on an indirect method that is grounded in the recognition that "the chief reason society cannot simply judge the rightness of particular outcomes by their utilities is that, even at egregious costs, institutions for doing so would be [epistemologically, RM] unreliable" (Hardin, 1986, 47). When severe limits to information and public cognitive capacities are taken into account, there is no inconsistency in envisaging the coexistence of a second order consequentialist principle (the final arbiter) and different *prima facie* non-consequentialist, agent-relative, and procedural principles as first order rules (the intermediate applicative rules). In this case, the latter are, then, warranted as long as they are presumed to produce □indirectly□ a maximising outcome in the long term, regardless of any deontological, a priori or essentialist principles of justice.

The identification of political participation with institutions derives from the prior development of an answer to the question of what institutions ought to be regarded politically right for a society. Underpinning this answer is the assumption that the existence of freedom of choice is the normative metric used for judging the equal shares of the good to which each individual is entitled. In order to assess the political system best suited to pursuing this goal we have then to investigate which

institutional setting would promote freedom best; which institutional framework would facilitate the situation in which there is more freedom of choice enjoyed than would otherwise be the case. In particular, a consequentialist analysis of the effectiveness of the institutional framework in ensuring the individuals to be actually free to choose and pursue their own ends is even more necessary when envisaging a multilayered system, as problems and conflicts of co-ordination can arise between differing prescriptions and guarantees at different levels of political actions. A typical case of this would be the indiscriminate warranting of a certain set of rights at the national level (e.g., the use of natural resources), and the conflicting claims that foreign peoples could advance in response (e.g., claims grounded on damage from worsening of environmental conditions). Resolving such cases as these demands a re-conceptualisation of the main political notions and institutions determining the field of international ethics; a re-conceptualisation to be developed through the use of a singular principle and an adequately sophisticated method for the comparison of institutional frameworks.

The method adopted by consequentialist cosmopolitanism to compare feasible alternative institutional schemes is one that measures procedural and participatory guarantees of the primacy of freedom of choice, rather than direct outcomes[65]. Differently from other methods of comparison which make extensive use of some sort of interpersonal utility comparisons, the present account is committed to valuing bundles of goods, i.e., legal-institutional entitlements, only indirectly with reference to their contribution to individual achievement of free choice-maker status. In this, such a conception is not purely recipient-oriented, in that it takes into consideration the causal relation between the institutional scheme and (indirectly through the capability to choose) individual benefits. According

[65] This discussion on the comparison of institutional schemes of justice is much in debt to Pogge's and Pettit's work on this issue (Pogge, 1992, 1995; Pettit, 1997; Pogge, 2002b, § I; 2002a). The present perspective is however distinct from theirs in its different consideration of the interaction-factor, as discussed in a following section of this chapter. For institutional design see also (Goodin, 1996c; Hardin, 1996). Beyond the moral attributes and the 'goodness to fit', a number of general principles can be identified as desirable for any institutional setting, which include revisability, robustness, sensitivity to motivational complexity, publicity, and variability (Goodin, 1996b, 39-43).

to consequentialist cosmopolitanism, alternative institutional schemes should be assessed in terms of the access they accord their participants to the status of free choice-maker. Since the capability to achieve freedom of choice depends on the guarantees of both vital interests and political participation, these are the two principal variables on which the assessment of alternative institutional frameworks needs to be developed. Such guarantees provide the metric, or 'currency', through which the individual shares supporting comparative judgements about the justice of institutional schemes are defined in consequentialist cosmopolitanism.

In particular, this dual metric of vital interests and political participation entails the combined use of two distinct indexes to measure freedom of choice. The requirements of these two indexes must be satisfied simultaneously and no internal trade-off is allowed for moral and epistemological reasons. The ultimate criterion of justice consists then in the *proximity* of these guarantees to the ideal institutional setting described in this section, i.e., the most secure vital interests possible and the most direct political participation possible according to a principle of subsidiarity. While for vital interests the capability index as developed by Sen is certainly the most valid candidate (Sen, 1992), for political participation more traditional measures of freedom such as those provided by the Freedom House could be deployed initially subject to improvement (Freedom-House, 2001).

The principle of freedom of choice is bound to a democratic political participation that entails several applicative dimensions along different spheres of political actions. Much as agents at the individual level enjoy a fundamental right to freely choose their destiny, so at the collective level groups are entitled to autonomously take decisions over their future. This signifies, consequently, that a legitimate exercise of political self-determination and self-legislation needs to be based on equal citizenship, insofar as only by equally and simultaneously retaining the status of legislators and subjects can citizens remain free to determine their fate (Rousseau, 1762 [1987], § I.vi; Mill, 1861 [1991]). The collective implementation of the principle of freedom of choice connects with the democratic principle of responsiveness, i.e., congruence between choice-

makers and choice-bearers. In order to maximise the opportunities to exercise freedom of self-determination, i.e., to make the social outcomes systematically responsive to the choices of all affected citizens, the key mechanism for democratic legitimacy relies on the congruence between rulers and ruled (Dahl, 1971, 1; Held, 1995; Dahl, 1998, § 5.5; Przeworski *et al.*, 1999, 4; Sen, 2000b; Goodin, 2003b, 1).

To that end the principles of democracy and the maximisation of freedom of self-determination rely on the voting criterion of simple majority, which allows for the greatest possible degree of individual liberty and self-determination compatible with the existence of the social order. In fact, "if an order could not be changed by the will of a simple majority of the subjects but only by the will of all (that means, unanimously), or by the will of a qualified majority (for instance, by a two-thirds or a three-fourths majority vote), then one single individual, or a minority of individuals, could prevent a change of the order" (Kelsen, 1945, 286-7; Bobbio, 1999, § VIII.3). Further, all voices must have equal access to the decision-making process, in that only through this mechanism can individual and collective freedom of choice be preserved and the world well-being condition maximised. Finally, the democratic correspondence between choice-makers and choice-bearers should, however, be universal in order to guarantee complete freedom to the individual. Such a congruence should cover all the relational dimensions in which individual life is embedded, i.e., one should be in the position to self-legislate within the entire range of activities one is involved, including both particular and general interest-related activities.

Traditionally, the reflexivity between choice-bearers and choice-makers is guaranteed at the domestic political level through a variety of democratic institutions. Primary among them is an elected parliament where all citizens can express their voice through pluralistic representation. The establishment of such a public and impartial institutional body through which individuals can form and propose their political agenda for society constitutes the premise of democratic life. At the core of this is the issue of political representation. When elected politicians mirror the composition of the electorate to the greatest degree, the electorate has the best chance of

having their interests protected (Mill, 1861 [1991]; Manin *et al.*, 1999, 29). A government is compelled to be representative (representation here intended as congruence between interests and outcomes) through two kinds of political mechanisms: mandate or accountability. In both cases the principal political instruments in the hands of citizens are elections and the crucial information that put citizens in the position to carefully screen politician conduct. All this is widely recognised, both in theory and political practices, as the fundamental formal requirement for the legitimacy of domestic democratic government. And yet, when the discussion is moved at the international level the tone changes dramatically, for here the circumstances are said to be requiring different political arrangements, despite still provoking a much blamed democratic deficit. As we will see in the chapter on international institutions, an extension of the principle of democratic congruence to the international arena is normatively required in order to fill the gap or fracture between choice-takers and choice-bearers that is currently existing beyond national borders[66].

Contrary to the conclusions drawn by the interaction-dependent theories described in the first chapter, the consequentialist imperative determined in this thesis identifies a major social vulnerability in the fact of political ostracisation, and consequently demands the recognition of a

[66] More related to the content of potential public policies: there is a temptation to identify a more specified deployment of freedom of choice (beyond participation, anyhow intended) as an effective and unified measure of political performance. From the consequentialist perspective assumed here, these attempts are destined to fail because of their violation of the epistemological constraints described in the first section of this chapter. Such an attempt is developed, for instance, by Pettit, who tries to tackle the public policy problem of how to balance the qualitative and quantitative aspects of freedom of choice, given that extent and intensity represent separate dimensions of freedom. The solution offered by Pettit is based on the delineation of indifference curves in the space of intensity and extent. In order to reduce the intrinsic indeterminacy of such a mechanism (viz. high intensity and low extent can be exchanged for low intensity and high extent) Pettit relies on a number of assumptions and observations which are supposed to cut down the number of options available, giving priority to intensity over extent (Pettit, 1997, 103-6). Despite this being an interesting attempt, its conclusions cannot, however, be shared by the present proposal for the reasons mentioned. The identification of such indifference curves, in fact, requires interpersonal comparisons which are highly implausible epistemologically, above all, at the international-intercultural level. From the consequentialist cosmopolitan perspective, a much more restrained approach has to be favoured instead, one which deploys only the dual metric of vital interests and political participation presented, but indiscriminately to all citizens of the world, one all-inclusive.

duty to improve the fate of deprived foreigners even if interaction were only possible but not yet developed. A universal duty to co-operate toward the promotion of political interaction-cum-inclusion is identified, insofar as this interaction is assumed to deliver a twofold benefit as based on two different kinds of circumstances. On the one hand, exclusion from a profitable interaction means a net loss of opportunity to take advantage of the gains thereby generated that are divided among the interacting agents only. On the other hand, ostracism also implies the absence of power to influence the outcomes of this interaction, whose (indirect or unforeseeable, present or future) externalities are often to be borne even from the non-interacting parties. Thus the duty of cooperative interaction exists in the form of a duty to build up relations in order to create and facilitate channels of co-operation and help, and does indeed exist in the inclusive form of reducing the degree of exclusion present both in the economic and political spheres of international affairs[67].

Grounded on these observations is the subsequent identification of the political objectives with the need to ensure the possibility of inclusion for those who have not been able to partake in advantageous interactions, and the need to close the gap in representation for those suffering from complete political exclusion. In order to tackle both phenomena, the first political action must be to minimise the political distance between the decision-making centres and the actual/possible agents bearing the consequences of those decisions. In response to such international lacunae this proposal insists on a concentration on legal entitlements to enfranchisement and political participation, as embedded in an appropriately framed system of multilayered political accountability in

[67] Accordingly, global interdependence should be seen as a supporting factor for any cosmopolitan argument, one perhaps contributing to the un-discriminatory and de-compartmentalised promotion of well-being through the diffusion of knowledge and practical capacities needed for a project of international political theory, but not one that constitutes an a priori requirement for a consequentialist rationale of global justice. However, while this thesis maintains that global interdependence has only an auxiliary role on the justification of global justice, it also recognises the indubitable factual connection between the recent phenomenon of a global consciousness of interdependence (Keohane & Nye, 1977) and the simultaneous resurgence of universalistic ethics (Beitz, 1979) over the last thirty years.

which individuals are empowered to realise and protect their freedom of choice.

Following from this, the present proposal develops a principle of inclusive democracy granting political power within the decision-making process of public rules to *all* citizens of the world, regardless of whether or not they are directly effected by a determined set of actions. As in the (conventional) domestic model of democracy, citizens are included in the political structure as members of a public constituency, rather than as stake-holders of particular interests, and thus elect representatives with a general or non-constrained mandate. Independent from whatever particular stake they may have, individuals are entitled to take part in all public decisions because these public choices deal with public or general interests, which may or may not directly affect them, but on which they should be in the position to have a voice of consent. While room for exception should be left for those disputes entailing partial interests where specific actors have special status, such as labor agreements, the general principle of universal inclusion should be kept firm as the fundament of democratic practices. Consequently, within the proposed system, agents, *qua* political agents, cannot simply withdraw from their responsibility on grounds of a low degree of interaction; they cannot abandon the forum of international accountability hiding behind the veil of exclusionary interaction. For underpinning this system is not only a principle of harm avoidance, but also one of well-being promotion. The commitment to action remains independent from the level of social connectedness, in that it imposes an obligation toward others even in cases of non-contact (non-interaction and non-harm).

Following from this clarification of the normative criteria for the assessment of the institutional framework of the system promoted here, a delineation of the correlated issue of international responsibility is due. This is particularly significant because of its key importance to the three principal disciplinary fields at stake here. A fair treatment of the normative discussion on international responsibility in fact entails the consistent combination of three distinct debates: the ethical discussion on

demandingness, the political dispute on the site of distributive justice, and the international political diatribe on ideal and non-ideal theory.

International responsibility: an interdisciplinary crux shared by overdemandingness, ideal/non-ideal theory, and the site of justice

Consequentialist cosmopolitanism envisages a system of political obligations in terms of guarantees for a set of political entitlements grounding freedom of choice. The normative basis of this consists in the promotion of well-being through freedom of choice, whereas the political devices deployed are determined in terms of accountability. This is due to the double conception of political agency on which this proposal is based; i.e., a conception determined through the opposition of choice-bearers as vulnerable and choice-makers as responsible. It is upon the ground of the consequentialist principle of responsibility□according to which responsibility for the state of the world falls on the agent in proportion to his capacity and position to effect it□that each time different actors are singled out for their effectiveness in producing positive outcomes. Thus, the understanding of consequentialist cosmopolitanism on the issue of agents' responsibility is multiple and by degrees. It entails the identification of both individuals, such as citizens, and general collectivities, such as governments, as responsible, depending on their capacity at each political level to influence the final outcome of any course of action in which they are involved. At the global level, responsible agents are principally international institutions, within which cosmopolitan citizens are embedded. At this level, in fact, many actions (such as the protection of billions of individual rights) can only be carried out by collective agents rather than by mere individuals.

As a consequence of the identification of responsible with the agent (individual, collective, or multiple) who is in the best position to effect the promotion of well-being, the conception of duties here expounded also responds to the vexed objection of overdemandingness conventionally raised against consequentialism. According to this, consequentialism would demand too much from the moral agents and in so doing would not

grant the legitimate private room for the individual pursuit of personal interests. In demanding sacrifices which are ordinarily considered meritorious but not strictly required, consequentialism would become supererogatory. In response to this, consequentialist cosmopolitanism maintains that an important part of the total normative burden at the international level is borne by collective institutions, whose net of responsibilities, on the one hand, promises to be more effective than the—even co-ordinated—individual actions, and on the other, alleviates much of the moral workload which usually oppresses the single agent.

Institutions, and a fortiori, international institutions, are key actors in delivering international policies regarding the establishment and the preservation of freedom of choice, whereas individuals are most of the time incapable of promoting significant reforms and are left with only the possibility of resistance. Without public institutions, individual moral burden would indeed be unbearable in that individuals would be endlessly called to redress evil situations without having the appropriate capacities and power. Conversely, within institutions, the agent's duties are reduced to the iterative obligation to comply with the partial task (part of a wider scheme of collective co-ordination) assigned to him. In this way, the moral negligence often blamed on individuals for what concerns collectively-caused harm (May, 1992, § 5-6) is rebutted and an institutional responsibility assigned to the effect that the whole problem is addressed through a distribution of liabilities. A key contribution of consequentialist cosmopolitanism is exactly this: that it offers the practical means to address the enlarged field of moral responsibility it recognises and yet legitimately refuses the moral megalomania according to which a single individual is made directly responsible for the fate of the entire world (Shue, 1988, 696-7).

So far, the model of ideal-theory presented would seem complete and satisfying: The new international social environment exacerbates a number of moral dilemmas and calls for their address. The individual alone is incapable to accommodate such moral demands, but fortunately political theory is able to offer a normative project according to which collective agents, i.e., political institutions, are envisaged to comply with such

international moral duties. In a perfect world, an ideal one, individuals would take their share of responsibility in terms of support for public institutions and for the rest would be free to pursue their particular interests. So far, so good, but international reality is not ideal. The situation is such that international institutions, when existing, are deficient and often incapable of delivering effective measures for the promotion of well-being. The lack of appropriate institutions and the scarce compliance with the existing ones form the two major problems to be faced at the international level. In facing these problems, the further challenging problem arises as to what kind of responsibility an individual in such non-ideal circumstance bears and if this amounts to overdemandingness.

Despite being for the most part concentrated on presenting a project of global ethics as ideal-theory, the present proposal needs nonetheless to take a position on the issue of non-ideal theory for at least two crucial reasons. First, non-ideal theory partially overlaps with the domain of ideal theory (see the discussion on the site of distributive justice below) so that the latter cannot be fully understood and justifies without an—even if cursory—examination of the former[68]. Second, applied ethics such as global ethics needs to take into consideration actual circumstances to avoid projects which would otherwise be socially sterile. Hence, global ethics has to elaborate a normative stance on the issue of international responsibility in the present circumstances, which needs to address the objections on overdemandingness in a non-ideal situation. Three intertwined dichotomies are at stake in this debate on international responsibility: monism/dualism; ideal/non-ideal theory; and individual/collective responsibility. In this section I will only discuss the first two, whereas the third will be examined in the next section.

To begin with, a note of clarification on the specific meaning of public institutions in play in this particular discussion is required. Differently from the general definition of institutions adopted earlier by this study, according to which under the term institution were included

[68] For an examination of the difficult relationship between ideal and non-ideal theory, which here is discussed only briefly, see (Phillips, 1985; Apel, 1992, 63-72).

both formal and informal clusters of stable norms, the following discussion has a narrower focus which targets formal public institutions only. This coincides with Rawls definition of institutions as "a public system of rules which defines offices and positions with their rights and duties, power and immunities, and the like" (Rawls, 1971, 55). Rawls's discussion, however, applies only to certain kinds of public institutions, which bear a particular importance in terms of individual life-prospect. He holds that "the primary subject of justice is the basic structure of society, or more exactly, the way in which the major social institutions distribute fundamental rights and duties and determine the division of advantages from social co-operation" (Rawls, 1971, 7).

One way to tackle the issue of overdemandingness and non-ideal theory is through the dispute on whether the principles of justice that apply to institutions and to individuals are different in kind or not (respectively, dualism or monism)[69]. This issue is relevant for the public debate on justice for reasons referring ultimately to the possibility of a society being just if the normative function of public institutions is respected, regardless of the behaviour of the individuals beyond the reach of such a function. On this, while philosophers such as Rawls and Pogge maintain the individual principle of justice to be different from the institutional ones (dualism or pluralism), other such as Cohen and Murphy deny it (monism), though from distinct perspectives. Consequentialism and the present proposal tend to toward the latter position.

Rawls holds that individuals have a two-fold (natural) duty: "to support and comply with just institutions that exist and apply to them" and (alternatively or simultaneously, depending on the circumstances) "to further just arrangements not yet established" (Rawls, 1971, 115 and 333-7). The intuition underpinning this position is that once they have managed, or are fully committed, to establish just institutions, individuals can legitimately pursue other objectives independent from those for which the institutions are envisaged. Beyond complying with their fair share of

duty under an institutional scheme, they should be let free to advance their ends within the overall framework of coercive structures. This dualist stance has a certain degree of reasonableness while we remain in the domain of the ideal-theory as full-compliance, as agreed above, but becomes much more controversial when non-ideal conditions form the social-political background of the case. International affairs present a situation of non-ideal theory.

Two examples will help to make the case clearer. Suppose, first, there is a general consensus on the evil of world poverty (but suppose, falsely, that such a poverty is not life-threatening) and that the recognition of this moral observation consequently generates an international duty to alleviate it. Under these circumstances two principal poverty reduction strategies are conceivable as related to the present discussion: either a direct attack on poverty through individual and NGOs beneficent actions, or an indirect long-term plan to foster an appropriate international institution building process. Which strategy should be prioritised? (Singer, 1972, 1977; Murphy, 1998). The second case is similar. Suppose a situation arises of partial compliance with an existing institutional practice. Suppose an institution exists that, with full compliance by its members, would be effective in reducing poverty. But also suppose that some of the members free-ride. Should the remaining 'good' members compensate (do more than their fair share) the burden left uncovered? How binding is their residual responsibility when others have already defaulted? (Goodin, 1985b, 140-1; Goodin & Pettit, 1986, 675; Pogge, 1995).

Both cases show the limits of an intrinsically dualist approach. In the first case a dualist would suggest going for the long-term institution building process. In the second, he would justify the good member in abstaining from compensating for the burden left by the free-riders. In both cases, such considerations would be generated by a reasoning that does not take into account the promotion of the well-being in a consequentialist manner. In fact, it is at least possible that the total amount of well-being,

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[69] This is, in brief, the academic debate on *the site of distributive justice* (Rawls, 1971; Pogge, 1992; Rawls, 1993; Cohen, 1997; Murphy, 1998; Cohen, 2000; Murphy, 2000; Pogge, 2000).

defined as freedom of choice, produced by the dualist strategies to be inferior to that produced by the corresponding alternatives. This relates to a fundamental problem about the inevitable continuous upgrading of the systems of justice in which an intrinsically dualist approach results. It is possible to interpret the situation in which the individual can promote well-being more through individual than institutional action as due to the missed upgrading of a non-ideal situation toward an ideal one. If this interpretation is adopted, then, the need for a continuous political revision of the public institutions can be seen as a matter of maximal urgency, in order to re-allocate responsibility among agents in an optimal manner (Goodin & Pettit, 1986, 673). Non-ideal situations in fact occur not only because human societies are improving only slowly toward more just forms of social organisation, but also because social reality is continuous changing and producing new unjust situations. Assuming this, an intrinsically dualist position is caught up short by its incapacity to guide the necessary upgrading mechanism which inevitably has to deal with non-ideal situations.

These observations about the limits of an intrinsically (or non-instrumental) dualist position lead by contrast to the consequentialist solution, according to which the ultimate and trumping principle to guide the selection for alternative policies has to be the promotion of well-being. Dualism and its institutional correlate are acceptable, but only as first order principles to be assessed by the ultimate consequentialist norm. Dualist institutionalism, thus, can be warranted only under the condition that its deployment is more conducive to the promotion of well-being than alternative courses of action. When institutions can be established to right an unjust situation, the solution of consequentialist cosmopolitanism consists, as shown in the section on individual level below, in the prescription of a maximin rule to guarantee universally a set of rights to the protection of such interests together with those of political participation. When appropriate institutions cannot be immediately created, then, a sensitive balance has to be struck between normative principles and empirical considerations, and most probably short-terms actions coupled with long-term political projects. In both cases, acknowledging the

distinction between vital and secondary interests and the centrality of the dual metric of justice presented above, individuals are demanded to sacrifice their secondary interests to the effect of promoting collective actions to tackle others' deprivation of vital interests and political participation. In this sense, ideal and non-ideal theory must be consistent, but nevertheless remain distinct.

In this section, a characterisation of the institutional aspect of consequentialist international responsibility has been presented, with a particular focus on the individual duties in both ideal and non-ideal circumstances. The next section completes such a presentation through the examination of the consequentialist method to assign individual and collective responsibility to different international political agents. Differently from the cases discussed so far, in this case the focus is on the extent to which the individual can be blamed for actions or omissions of the collectives to which he belongs rather than the collective body in its entirety.

Cosmopolitan political agency: individual and collective

Not all in our moral existence refers to individual actions. A great number of morally relevant consequences are in fact the result of actions taken or omitted by collective agents. This is true above all where consequences with an international dimension are concerned. Despite the decisive cause of any more act ultimately being singular—i.e., caused by an individual step—the responsibility of certain kinds of actions is not assigned to individuals *uti singuli*, but *uti universi*—i.e., a corporate body[70]. In such cases of corporate responsibility, the reward or punishment is conferred on the collective entity and no individual is considered guilty as a single, private agent, though he can still be affected by the collective reward/punishment in an indirect way as member of the group. This is exemplified in instances of state war or corporate bankruptcy. In such

[70] This is still consistent with the general assumptions of analytical ethics, universal personalism and valuational solipsism, in that the ultimate point of moral reference

cases legal liability is typically associated with the public and collective agent rather than any specific individual, and yet in the ultimate analysis, it is the individuals who pay the price, receive the punishment. This being the case, a normative question arises as to what extent this conventional association is plausible from a moral point of view. Conversely, to what extent is this association a refined rhetorical tool to exempt one from individual responsibility or, baldly stated, to wash one's hands? In this section, the credibility of this ethical distinction is investigated with reference to the case of international or cosmopolitan political agents. The core issue under scrutiny is thus determination of individual vs. institutional responsibility. First the dichotomy individual vs. collective is examined, then the components of collective agency are analysed: responsibility and accountability.

The notion of political agency necessarily entails two distinct aspects of the concept of moral agency—the individual and the collective. Not surprisingly, the differing acceptance of the validity of these aspects is especially stark when responsibility is considered transnationally. While the extension of the concept of individual moral agency from the domestic to the international domain is, from a normative point of view and that of public opinion, rather straightforward—e.g., in the case of human rights—the collective and institutional aspects moral agency appear, at least *prima facie*, more controversial. Thus, while cosmopolitan citizenship as regards the case of refugees is commonly accepted as imbued with transnational ethical-political value, international or cosmopolitan institutions as full moral agents are much more contested. According to Lewis, an especially certain ethical principle is that no one can be responsible for the conduct of another. From this, he derives that if insurmountable difficulties in attributing responsibility to the individual arise, then rather than revert to the 'barbarous' notion of collective or group responsibility we should give

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remains the individual both as well-being recipient and as final single judge (Pettit, 1993a, 22-30).

up altogether the view that we are accountable in any distinctively moral sense (Lewis, 1948, 3)[71].

Broadly speaking, the point of contention concerns the viability of the domestic analogy as a mechanism for attributing responsibilities to collective agents at the international level (Suganami, 1989). In opposition to this possibility, states or international organisations have often been seen as bodies with a special moral status, which conventionally allows for the exemption from standard norms of action □as in the realist tradition of thought. Clarifying the moral status of institutions □be they states or international organisations□ is, however, of extreme importance in the global domain, since a number of morally determined international actions can only be delivered by collective bodies, such as intergovernmental or supranational institutions. Environmental crises, international migratory flows, and humanitarian interventions are all examples of situations requiring co-operative institutional management rather than individual commitment. The apportioning of moral responsibility toward protection of the vulnerable at the collective level forms therefore a major priority on the normative agenda of global politics[72].

In opposition to most realist assumptions on governmental moral agency, consequentialist cosmopolitanism claims that it is indeed viable to assign moral agency, and corresponding responsibility, collectively to institutions, beyond the traditional individual attribution. The first step in this assignment consists in the clarification of the general notion of collective moral agents through the individuation of the principal features of institutional agency in the capacity for moral deliberation and action,

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[71] The individual stance on responsibility connects with the ontological position of *eliminativism*, according to which ascribing judgements, intentions, and general mental properties to social groups represents just a summative and metaphorical way to ascribe them to the individual members of the group (Quinton, 1975; Bratman, 1999). For a more sympathetic discussion on the importance of *We* see (Searle, 1995; Toumela, 1995; Rovane, 1997; Pettit, 2001b, § 5).

[72] Despite the domination of the individualistic paradigm, the literature has grown above all after WW II above all in legal studies. For a first reference see (Gomperz, 1939; Kelsen, 1945, 355-63; Jasper, 1947 [1961]; Lewis, 1948; Feinberg, 1968; Held, 1970; French, 1972, 1974, 1984; Goodin, 1985b, 134-44; Stone, 1985; Thompson, 1985; Jackson, 1987; May, 1987; May & Hoffman, 1991; May, 1992; Postema, 1995; Runciman, 1997; Goldman, 1999; Kutz, 2000; Erskine, 2001; O'Neill, 2001; Arendt, 2003; Erskine, 2003; E. Kelly, 2003; Erskine, 2004; Miller, 2004).

and the condition of effective freedom to exercise this capacity (O'Neill, 1986b, 2001). More specifically, the following characteristics have to be met by collectivities or institutions in order to qualify as moral agents. A collective agent, also referred to as a conglomerate collectivity[73], has an identity that is more than the sum of the identities of its constitutive parts, i.e. it is not exhausted by the aggregate of the identities of the members, and therefore extends over time and conceives of itself as a unit. This agent also has an internal organisation and/or a decision-making structure with differently defined roles and an executive function that allows for the allocation of power within the organisation. And finally, this collective agent holds to different, often more stringent, standards of conduct than those standards that apply outside the collective body (French, 1984, 13-16; Erskine, 2004, 26).

This restricted definition of collective agents has been adopted for its particular political relevance, in that it allows including political organisations, such as states and international institutions, in the moral exercise of allocating responsibilities. Notwithstanding their social relevance, random collections of individuals (e.g. bystanders around the pond where a man is drowning) are, for the moment, excluded from consideration for their minimal applicability to the determination of the political context (Held, 1970). Thus, only cases of conjunctive, rather than disjunctive, collective responsibility are discussed here. Quite the opposite of the case of bystanders, in fact, the institutional co-operation of individual agents acting as a political organisation represents a key distinguishing factor here[74]. Once these characteristics are identified in any political institution under scrutiny, precise political responsibility can be assigned more effectively.

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[73] The varying membership characteristic is in contrast with the other principal type of collective body, the aggregate collectivity. In this, a change in membership will always entail a change in the identity of the collection.

[74] Such institutional characterisation is consistent with the general procedural sensitivity of the present version of consequentialism. It has thus to be intended as opposed to another kind of description usually deployed for assigning collective responsibility which refers to diffused solidarity and common values, such as in the case of families or mob (May & Hoffman, 1991, 2-3).

Collective political responsibility can be broadly understood by pointing to a fundamental dichotomy between *atomistic* and organic or *structuralist* interpretations of social organisation, according to which either single individuals or the entirety of the group are, respectively, to be made nominally accountable for a group's actions (Wolf, 1985, 269-70). While the first aspect of responsibility leads to an indictment of an individual perpetrator (e.g., a specific public officer) according to a notion of exact and direct liability, a further specification can be elaborated concerning the second aspect, which, in going beyond a strictly legalistic and individualistic model, enlarges the current social dimension of political responsibility.

The structuralist interpretation of social organisation can be specified in two sub-meanings of collective responsibility: *separatim* and *collegialiter*. When culpability is assigned *separatim* it refers to non-direct actors held accountable through a vicarious and distributive liability. That is, the sum total of members' responsibilities—including the proportional recognition of special institutional roles are assigned to the whole collective on the ground of a previous authorisation from the members. This kind of responsibility assumes all of the members be held liable even though not all of them are personally and directly at fault, in that this is considered a burden associated with group membership. If one wants to avoid such a burden he need only opt out of the group, possibly seeking asylum in another (Feinberg, 1968, 683; Warner, 1991, 62-9; E. Kelly, 2003). Conversely, when culpability is assigned *collegialiter* it is apportioned in a non-distributive and corporate way to the entire collectivity or institution, intended as distinct from and superior to individual components. In this case, the collective institution, and not its single members, is blamed and obliged to make reparations or accept punishment, despite the fact that it is the combined actions of individuals that produces the faulty result in question (French, 1974, 282-5; Erskine, 2001 70-4; 2003, 2004).

With regard to this, consequentialist cosmopolitanism fosters a third, alternative understanding of institutional responsibility, in which moral responsibility is multiple, by degrees and crucially embedded in

democratic reflexivity. This entails the identification as responsible of both 'non-acting' vicarious members—such as citizens—and general collectivities—such as governments and other political organisations properly structured—depending on their capacity to influence the final outcome of each course in which they are involved[75]. At the global level in particular, responsible agents are principally international institutions within which cosmopolitan citizens are embedded. While the stress on the capacity to influence the social outcome, rather than a priori criteria, characterises the present approach as consequentialist, the framing of moral agency and political responsibility on several layers of social actions including the global, represents a defining characteristic of the cosmopolitan project. At least from Kant, the idea of enlarging the domain of political liability (and not merely political power) to a field which is neither domestic nor inter-state has been at the core of supranational models of world organisation. The identification of the extant interdependence of global issues, global agents, and global responsibilities is consistent with this idea and brings clarity to it.

Within this delineation of collective responsibility, the centrality of democratic reflexivity should also be stressed for a reason concerning the political character of institutional moral agency. Intended as a normative ideal, democratic congruence remains central in order to distinguish a political association from an economic enterprise. In fact, a number of significant features can be identified that mark the difference between these two kinds of collectives. While in the economic corporation the main (single) motive for participation is self-profit bound within an exclusive and hierarchical structure; in the political-democratic collective other motives can also be individuated, including a (perhaps thin) sense of solidarity embedded in an impartial and inclusive institutional structure. This suffices here to dispute claims about a common identity of the model

[75] Analytically, four cases of responsibility are possible when an organisation O and one or more agents A are at stake (Stone, 1985, 244). With regards to a misconduct occurred in an organisational setting, responsible can be: 1) O but not A; 2) Both O and A; 3) A but not O; 4) Neither O nor A. The present proposal has analytical potential to cover all of these cases, since it allocates responsibility to different agents—choice-makers—

of state and that of a private corporation, and also serve as a warning on the excessive use of this parallel when shaping the model for collective moral agency (contra French, 1984; Runciman, 2000; Erskine, 2001).

From what has been argued, a dual international duty can be identified, which is charged to a number of political agents depending on their capacity to accomplish the objective of the duty. These include: supranational institutions, supranational collective bodies, states and individuals. An initial duty consists in the obligation to create the political opportunities within which the system of consequentialist cosmopolitanism can be pursued. This obligation consists in trying to establish or reform international institutions so as to make them able to effectively tackle the problems for which they are created; e.g., in the case of consequentialist cosmopolitanism, fitting them with the relevant capacities to tackle global issues (Held, 1970; Goodin, 1985b, 136-9; Erskine, 2004, 39-40)[76]. Through this, such institutions would be endowed with the practical capabilities which are necessary in order to comply with their mission. Hence, the case for considering them as moral agents would be even clearer. As Wolf argued: "the point is that although organisations lack the capacity to be motivated to adopt moral goals and constraints, they have the capacity to be guided by them. Since they have this capacity, there seems no reason not to insist that they exercise it" (Wolf, 1985, 282). From this initial duty arises a second that applies only in cases concerned with already existing international institutions. In such cases, there is an obligation on the relevant members of the institution to take active part in the decision-making process of the organisation (in a minimal sense at least: i.e., voting) in order to influence the result.

In order to clarify the substance of this second duty, however, it is necessary to tackle the issue of accountability. It is only through the correct

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depending on their capacity to influence the social outcome imposed on the victims—choice-bearers.

[76] Underpinning this duty is the consequentialist approach to the issue of omission. From a goal-based perspective no fundamental distinction can be made between a positive action and a negative omission. They both produce consequences that affect the overall social outcome, and they both must be taken into consideration in the moral assessment of the circumstances. Clearly, this is in contrast with those legalistic approaches that grant innocence to those agents who have not positively committed a voluntary offence.

normative framing of this issue that a viable institutional guarantee of democratic congruence can be individuated and appropriate mechanisms for the division of ethical-political labour be unfolded. In this respect, the coupling of the procedural argument with that on democratic participation as a tool for welfare promotion leads to the identification of representation—through direct elections—as a fundamental requirement for institutional accountability. Only through the minimisation of the distance between those who take the decisions and those who bear the consequences of those decisions can the individual's capacity for free choice be maximised. The respect for individuals' will is in fact directly proportional to the proximity of individuals themselves to their representative. But not only are a limited mandate and the possibility of close scrutiny essential to the effective implementation of individuals' choices, but it is also fundamental, on the other side, to oblige the violator of the institutional mandate to give account of his wrongdoing, and eventually to be punished proportionally.

In this regard, the present consideration of accountability complements the issue of responsibility presented above. A traditional dilemma concerning the issue of accountability of institutions regards the possibility of imputing the right parties, and only them, as responsible for any specific action produced by the institution, while at the same time recognising the normative value of majority voting as liability creator. In this case, it has to be noted, the relationship under scrutiny is not that of empirical causality, but that of normative imputation, which establishes a link between a fact and a criminal category, and between a crime and a responsible party. On the issue of imputation, as linked to that of political agency, the response of a consequentialist approach consists in stressing the importance of democratic participation and procedures.

A duty to partake in the decision-making process is the normative tool that allows for the clarification of the imputation within collective organisations in terms of causal responsibility for the outcome (Goldman,

1999)[77]. If the institutional channels for democratic congruence are guaranteed, then every member of the institution becomes responsible for the final decision taken by the representative assembly, in proportion to the ratio voter/representative. In this sense, the individual should be ready to bear the cost of the collective decision, in so far as he is a full constitutive member of the collectivity. From another point of view, this means that no easy excuse can be legitimately advanced for completely refusing one's co-responsibility on a specific public decision, if this decision is taken through a fair and democratic process of deliberation. Individual responses such as 'Not in My Name' during a war conflict are to be rejected if not accompanied by a pro-active oppositional engagement in the political life of one's own country[78]. In this latter case, the protest could be seen as a political struggle to influence the next elections, under the assumption that participation through voting is fulfilled. And yet, it seems difficult to find convincing political grounds on which to criticise the decisions taken by a qualified majority through fair and democratic procedures. Conversely, if no democratic procedure is established, then no individual-as-part-of-a-collective responsibility can be imputed, and only individual liability can be attributed for specific actions or deliberation, as in the case of an oligarchic or tyrannical regime.

Having examined a number of aspects of the institutional proposal of consequentialist cosmopolitanism, it is now time to move the discussion on to the presentation of the political structure as shaped by the consequentialist principles. In the next section, more details are thus presented on the multilayered political structure of the system envisaged. In presenting such a scheme, a number of critical objections are discussed, including the issue of jurisdictions and that of the lack of global demos.

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[77] This remains valid despite the phenomenon of the so-called "donkey vote" (i.e., being legally obliged to vote, the elector chooses the easier option, the first candidate of the list), which can anyway be tackled through different 'deliberative' strategies as elaborated by Fishkin (Fishkin, 1991; Fishkin & Laslett, 2003).

[78] For a different view see Arendt who attributes metaphysical responsibility also to the opposition (Arendt, 2003, 149 and 157-8).

The multilayered political structure: social theory and censorial jurisprudence

In line with the focus on freedom of choice, the basic consequentialist cosmopolitan political proposal consists in a threefold political focus on institutional guarantees and rights as the means through which to implement the maximisation of the world well-being condition. These are: a) at the individual level, the protection of a set of minimal universal interests insofar as they work as individual socio-political capabilities to freely determine one's own personal life, plus the political rights guaranteeing participation as a citizen of public life in each sphere of political action; b) at the state level, the protection of a set of collective interests as the foundation of a state's capacity for free self-determination; and c) at the global level, the protection of a set of international means that are needed to rule global phenomena. According to consequentialist cosmopolitanism, only through a simultaneous and consistent implementation of such tri-level legal-institutional guarantees can a political system satisfy the criteria of legitimacy in terms of the maximisation of general well-being, and offer an adequate and viable political response to a multi-layered social reality[79].

The problem of jurisdictions represents a controversial challenge for any kind of multilayered political system, including consequentialist cosmopolitanism. It requires finding an appropriate mechanism for determining a) which institutional sub-units and level of action should be recognised and endowed with authority, b) how the different levels of political actions are inter-linked, c) which level has priority over the others, d) and where exactly the boundaries between the different domains of actions should be drawn. The first element that needs to be highlighted from the present perspective is the determination of the layers as grounded on a criterion of ethico-political relevance in terms of affect on freedom of choice, i.e., each level is distinguished by its impact on a specific sphere of

[79] From a different perspective but on the same normative point, Onora O'Neill has argued repeatedly and forcefully on the importance of institutionalising the relationship between right-holder and duty-bearer. Institutions *must*, not just can, be established in order to make sense of the political category of rights (O'Neill, 1996, 131-2).

freedom of action. While in the state level all those actions are included that primarily affect the individual freedom of choice as collectively expressed through state policies, at the global level, the actions at stake are all those having a world scope that transcends national boundaries. Of course, spillover effects and overlapping boundaries always exist, but a differentiation between primary and secondary jurisdictional priorities can be depicted as a way to mark normative boundaries. In this sense, a relatively clear-cut distinction between jurisdictions can be delineated, though one that inevitably remains subject to political revision through public debate, and that while maintaining difference still maintains such jurisdictions as inter-linked. For it is correct to contest the traditional demarcation of boundaries associated with the primacy of state sovereignty toward the recognition of inter- and trans-national dimension of political (Goodin, 2002), but it is equally misleading to suggest an unqualified de-compartmentalisation, that no boundaries can be drawn at all and every action has to be considered a global event, as if it were a butterfly wind beat in the theory of chaos.

As introduced in the previous chapter, a major challenge for international political theory consists in outlining a jurisdictional design able to be sociologically significant—i.e., able to include relevant impact factors of current life interaction—and yet normatively consistent—i.e., ultimately universal in kind. As often is the case, it is a matter of diversifying the empirical focus so as to catch the multiplicity of social reality, while at the same time unifying this diversity through axiological principles in order to avoid fragmentation and ethical indeterminacy. Once the universalist character of the political principles in use is ascertained, the remaining task of accommodating multilevel dimensionality is pursued through the above categorisation of three principal levels, which are deemed to be the most critical domains in terms of affecting individual capacity of choice[80]. In particular, in taking the global domain into full

[80] This is not by any means intended to suggest that the other levels of political analysis such as the regional, interstate and local are meaningless. They are important but considered currently less significant in relation to world well-being conditions, and consequently excluded from the discussion for practical reasons of time and space. They

account the present proposal marks a profound point of divergence from other more traditional political theories. And yet, this tri-partition is kept normatively consistent through the deployment of a single principle of justice—the maximisation of world well-being condition through freedom of choice—differently applied at the various levels of political action through the principle of subsidiarity.

Subsidiarity constitutes an important point with regards to the relationship between the jurisdictions, in so far as it allows for co-ordination and dispute-solving among the different levels of action. This principle "regulates authority within a political order, directing that powers or tasks should rest with the lower-level sub-units of that order unless allocating them to a higher-level central unit would ensure higher comparative efficiency or effectiveness in achieving them" (Føllesdal, 1998, 190). Underpinning this norm is the normative recognition that decisions should be taken as close as possible to the individual whose freedom of choice is affected, i.e., the participation of the individual in the decision-making process should be as direct as possible. This means that political decisions should be kept as 'low' as possible, and be moved up to the national and global level under a condition of minimal intervention, i.e., only when this is necessary to tackle effectively the scale and effects of the problems at stake, and so to allow procedurally for wider democratic participation of different actors involved. At the same time, however, an ultimate authority has to be established to allocate competencies. This authority must be positioned on top of the jurisdictional scale in order to solve disputes and facilitate co-ordination. It is, in fact, only through an all-inclusive world system that the drawing of jurisdictional boundaries can be implemented democratically, avoiding the problem of political exclusion. As explained in chapter VII, a project of global constitutionalism is thus needed to complete the global mechanism of subsidiarity.

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could, however, be integrated in the proposed proposal without modifying the fundamental rationale underpinning the whole project. It would be a matter of adding more levels of political participation through further refinement of the model. For a sketch of a different, more comprehensive view see (Archibugi, 2004).

This political multidimensionality is crucial for the project *per se*, but also serves to discredit those versions of strong cosmopolitanism, often associated with both contractarian and utilitarian views, that show unease in accommodating differentiated claims of justice at different levels of political action. A note is thus necessary to explain why a first order global impartialism, some would say a 'consistent cosmopolitanism', does not make the present argument for a multi-level political system unnecessary. Proving this point also serves to rebut as inadequate for the present international circumstances a related objection, based on an argument for a straightforward global scheme of justice (Beitz, 1979, § III)[81]. In a similar but opposite vein, Scheffler argues that contractarian international proposals are inherently badly equipped to deal with current global affairs "because of their explicit focus on the individual society as the relevant unit of justification and their tacit reliance on the category of the nation-state" (Scheffler, 2001, 33). As suggested in the previous chapter, the reliance of contractarian theories of justice on the interaction paradigm proves to be a weakness in a double sense. It can, in fact, only lead either to a community-based ethics which hesitates to recognise international duties beyond group-interaction or, at the opposite end, to a straightforward global scheme of redistributive justice which does not allow for the framing of diverse political layers through a division of ethical-political labour. In sum, the notion of interaction-based justice as oppose to beneficence represents a less plausible candidate for designing the multilayered political system much needed by the international circumstances of justice, for it does not allow for a subtle differentiation of political engagement.

By contrast, a multilevel political framework alternative to this straightforward impartialism can only by warranted by a consequentialist principle when coupled with empirical considerations such as vicinity/particular knowledge or sentimental attachment. Given the current

[81] For other similarly straightforward versions of contractarian cosmopolitanism see (Barry, 1973; Danielson, 1973; Amdur, 1977; Pogge, 1989; Barry, 1998) and the stringent critique that Miller directs against them (Miller, 1998). Diametrically opposite but equally

social structure, it is plausible to reckon that major aspects of individuals' life projects are anchored in a multilayered set of social domains. And yet, while there are people whose lives are increasingly (or fully) transnational, there are still many who spend most of their life in their place of birth, with only minimal positive contact with the world at large, despite being to some degree affected by decisions taken abroad. Imposing a radical and global change to such a social reality, in order, for instance, to implement a straightforward scheme of redistributive justice would be, not least, incredibly costly in social terms. A better strategy then consists of shaping a political system able to trace social interaction, as it is currently structured, and to bridge the widening gap between responsibility and vulnerability. Rather than recommending epistemologically dubious, large-scale redistribution, political theory needs rather to figure out institutional settings that allow for full democratic congruence between choice-takers and choice-bearers. Only by guaranteeing the conditions for free choice in each current sphere of socio-political action can the best opportunities for personal development be offered and the world well-being condition maximised. This leads to a particularly important point of consequentialist cosmopolitanism on the nature of the relation between social science and normative theory.

The meeting of social science with censorial jurisprudence represents an utterly significant point of distinction of the present political proposal, both because it clarifies a core internal mechanism of the theory, and also because it serves as a rebuttal of the oft-heard objection on the lack of a global demos—allegedly a necessary social basis for any project of international democracy. Once again, presenting the two extremes of the challenge here at stake can best depict the point. While any political theory needs to track social reality in order to reckon the problems of the 'people', it also needs critical distance in order both to identify the circumstances of injustice and propose political methods to right them. If political theory is to be viable, it needs to strike an appropriate balance between these two objectives; it must be neither too mired in social reality, nor too ethereal

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failing to recognise political multi-dimensionality are Rawls' position (Rawls, 1971, § 58;

and divorced from individuals' sensitivity. Traditionally, consequentialism pays attention to both elements, for its prescriptions are always calibrated on a fine compromise between principles and circumstance, different authors using different scales, at times progressive and conservative.

With regards to this, the elaboration of classical utilitarianism provides a number of insights to tackle appropriately this issue. While Bentham is considered the divulger of the distinction between expository and censorial jurisprudence and a great champion of reformism, he was at the same time sensitive to the actual social circumstances to which his political and legal proposals were to apply. His consideration of habit as a crucial category for political theory tells how keen he was on endowing his socio-political theory with empirical relevance. Moreover, in chapter II, we saw his international prescriptions, which clearly show his methodology of striking a balance between a fundamentally universalistic principle and the political situation of his times. Similarly, Sigdwick was in principle a supporter of international federalism but ended up fostering more moderate causes on the basis of social observations of the lack of cosmopolitan sentiments.

While acknowledging the terms of these positions, the present perspective presents different political prescriptions insofar as it takes into account both the changes in social reality from the 19th century and the normative relevance of the principle of adaptation as in contrast to that of habit. On the one hand, the historical evolution in terms of the increased social and political democratic interaction beyond borders and the subsequent greater civil awareness from Bentham's times is indisputable. Not that today's interaction is fully democratic, for the fracture between individual political awareness and individual social and economical actions—i.e., the democratic deficit discussed earlier—is still extremely evident, but there is growing recognition of the injustices at the international level. On the other hand, principles of consequentialist justice require a revision of those intermediate political principles that do not maximise the general/universal promotion of well-being. Consequently, a

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1999), Gauthier's (Gauthier, 1986, § IX), and Buchanan's (Buchanan, 1995).

political project of adaptation should be envisaged with a two-fold objective: promoting a better outcome in terms of freedom of choice, universally intended, and fostering a change in social attitude concerning international issues of justice. With particular reference to the latter, participation in political life produces, as suggested by Mill (Mill, 1861 [1991], § III), a new political awareness and creates new social attitudes. In this sense, taking a more direct and active part in the decision-making processes of international institutions through voting could indeed generates a new global political thinking based on the awareness of being part of a wider shared system extending over several layers.

The objection on the lack of an international or even global demos has consequently to be rejected for at least two fundamental reasons, one normative and the other socio-political. First, while it is plausible to admit the importance of a civic democratic culture to sustaining an institutional set-up, it is equally or even more important to recognise the normative necessity of such public political structure in order to close the democratic gap between choice-takers and choice-bearers. This is fundamental at the international level in order to protect vulnerable agents and guarantee the independence of different weak actors who would inevitably succumb in an unregulated anarchical space dominated by hegemonic players. Second, without aiming to tackle the endless political science diatribe on whether the individual comes before public institutions or vice versa, it is important to stress that participation in public political life constitutes a crucial moment for individuals to shape a civic attitude of recognition of public interests. The development and flourishing of a demos can then be understood most often to be a consequence rather than a cause of public institutions. Hence, the creation of international democratic institutions could have a notable 'pedagogic' and civic role to play in the maturation of a more consistent ethical and political habit of individuals seeing themselves as part of a heterogeneous, multilayered, and global demos (Weinstock, 2001).

Based on these considerations and on the consequentialist methodology for the comparison of institutional schemes of justice expounded above, this research works on the recognition that the current

world system □here intended primarily as political institutions covering economical, social, legal, and cultural grounds□ does not maximise the world well-being condition, as defined in terms of the metric of freedom of choice, i.e., vital interests and political participation. Due to the current phenomenon of international exclusion discussed in chapter I, the well-being of world citizens is in fact severely deprived. As a response to this immoral state, a consequentialist cosmopolitan code is recommended in order to a) critically update the interpretation of our current world system; and b) propose new normative principles, as constitutive of a all-inclusive moral world, able to improve world well-being conditions. Before exploring in the next sections the specific normative content of such consequentialist cosmopolitan code, it is necessary to examine further the formal characteristics of the tri-partition that shapes its structure.

Consequentialist cosmopolitanism is concerned with the socio-political rules and practices that fundamentally influence the world well-being outcome. These rules and practices are identified through the scrutiny of some action types, which are grouped in three sets, each corresponding to a single level of political action—individual, state or world. These three levels, which are the recipient categories of the first order political rules whose legitimacy is under question, are unfortunately very seldom presented together. From the consequentialist point of view, however, it is essential to handle all three simultaneously, insofar as only by so doing, is it possible to provide a comprehensive normative treatment of the world social system in accordance with the ultimate principle of the maximisation of world well-being conditions.

While the first substantive set of vital interests (as determined in the following section on the individual level) pertains to the first level of political action—the individual level—the second formal set of participation rights is more concerned with the second and third levels—the state and the world. These three levels refer to three main categories, each one representing a realm into which action types related to standardised states of the world may be placed. In them, particular attention is devoted to the enabling of the agent's power to choose through political structures and social institutions. The ethical-political concepts

underpinning these structures and institutions are the primary focus of the critical analysis, as it is through them that the consequentialist critique promises to effect an increase, at least in terms of potential, in the general well-being.

The remainder of the chapter presents thus a more detailed outline of the theory of consequentialist cosmopolitanism exposed so far. In particular, each of the three levels is analysed using three conceptual categories: value, rules, and agency, which correspondingly recall three topical themes of international ethics, i.e., pluralism, multilevel dimensionality, and moral agency. The section on value consequently detects the relative good which is to be pursued in a specific realm; the section on rules indicates those prescribed contextual rules most conducive to the maximisation of world well-being conditions in a specific domain; and the section on agency identifies the relevant moral positions of choice makers (the responsible) and choice bearers (the vulnerable). It should be remembered, finally, that since each level has to be normatively consistent with the other two, a double co-ordination must be implemented between the different jurisdictions. Hence, while the axiological co-ordination needs to be strictly mono-directional, insofar as normative primacy is attached to individual well-being; from a political point of view, it must be shaped by the principle of subsidiarity and by a superior authority to allocate competences (Goodin, 2003a)[82]. To increase the readability of what follows, a synoptical overview of the three levels is presented in the following table 1.

[82] This serves also as a response to the vexed question on the axiological priority of actions when dealing with a political reality; a question organised by the concentric circles question – from above or from below? from the external or from the internal? (Nussbaum, 1996, 9).

Table 1. Summary of the three levels of consequentialist cosmopolitanism

		Values	*Rules*	*Agency*	
				Responsibility	Vulnerability
Individual		• Choice-based individualism	• System of individual rights • Maximin for vital rights	• All (aggregately)	• Individuals
State	Internal	• Group flourishing	• Minorities and groups rights • Special duties	• States • Local collective bodies • Individuals	• Local collective bodies • Individuals
	External	• State autonomy	• Self-determination • Non-intervention • Special duties	• International institutions • International collective bodies • Individuals	• States • Individuals
World		• Global concern	• Cosmopolitan democracy • Humanitarian universal rules	• Supranational institutions • Supranational collective bodies • States • Individuals	• Humanity • Supranational collective bodies • Individuals

Individual level

Value. Individual well-being mediated through individual choice capability represents the value focus of both the ultimate consequentialist rule of well-being maximisation, and the specific value category of the first level intermediate rules. In fact, in embodying the basic assumptions of consequentialist cosmopolitanism, moral individualism also informs the ultimate aim of this theory, represented by the maximisation of the capacity for choice □something strongly shaped by the social-institutional arrangements. According to this, individuals' potential to choose depends on the scope of the set of choices effectively available; principally, the existence of the wanted goods, relevant information and the relative social power of the agent (Dowding, 1992). Since individuals are regarded in an anti-paternalist way as the best judges of their own interests, given the necessary conditions, an equal presumption of rightness is accorded to every choice, and the ultimate reference for assessing moral cases rests on the empirical consequences affecting the agents' possibility to choose and, ultimately, on individual well-being. Only a posteriori, then, is it possible to think about formal laundering mechanisms to be implemented in order to facilitate co-ordination and co-operation between conflicting choices (Goodin, 1995, § IV).

Once the basic value of individual well-being, mediated through choice possibilities, is assumed, a number of vital interests can be analytically deduced as objective priorities to be guaranteed in order to allow each individual to develop and choose freely among life options. Health, education, and security[83] constitute the minimal elements necessary to enable the individual capability for free choice-making; they are therefore equally the prerequisites for playing an active role in the

[83] On such a minimal level a broad consensus can be traced among different schools of thought. See: (Doyal & Gough, 1986) for human needs; (Elfstrom, 1989) for basic wants; (Scanlon, 1979; Rawls, 1982; Barry, 1998, 148) for primary goods; (Shue, 1980; Miller, 1999) for basic rights; (Sen, 1980, 1993a; Nussbaum, 2002; Sen, 2004) for capabilities. An internal utilitarian debate also produced different versions, which nonetheless all share common elements. See (Bentham, 1781 [1988]; Mill, 1859 [1962]; 1861 [1962], V; Singer, 1979; Gray, 1983, III, 1; Elfstrom, 1989; Goodin, 1995). Moreover, detailed

political system, and thus, in the ultimate analysis, in one's own life (Habermas, 2002, 199-202; Nussbaum, 2002, 128-30). These are "basic interests, which must be respected or served if a minimally acceptable condition of life, in any setting, is to be possible" (Lyons, 1977, 126), inasmuch as one's potential well-being primarily depend on having the social assets that avail one of these vital well-being interests[84]. "Persons enjoy significant autonomy to the degree that their choices are not entirely dictated by an effort to secure their basic needs" (Raz, 1982, 115). Such primary capabilities, constitutive of a person's autonomous being, represent a basic element for any well-being evaluation (Sen, 1992, 39) and are therefore claimed to be universal in kind, although their specific interpretations are necessarily culturally determined and must take into account the social inclusion/exclusion variable (Goodin, 1996a). Once the vital interests are identified, public rules intended as political means allowing for their guarantee represent the next theoretical challenge.

Rule. The optimal rule to maximise individual well-being at the individual level is, according to consequentialist cosmopolitanism, a universal system of legal individual rights, with a special proviso concerning the guarantee of vital interests. Within this conception, rights are instrumentally understood (in opposition to autonomy-based approaches *à la* Raz) as the primary material conditions of interest formation and realisation, and consequently as the basis for personal entitlements within which individuals form and pursue their own conceptions of well-being (Gray, 1983, IV, 2; Hardin, 1986; Kelly, 1990, 75; Riley, 1998; Ferrajoli, 2001).

While the general system of rights has to be mainly state-based, in that they concern targeted legislation and implementation, the more limited set of fundamental interest rights, whose protection must be universally guaranteed, requires a caveat. Given the current world social situation in which the worst-off lack the opportunity to enjoy vital interests, the second

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accounts of these three elements can be found in numerous publications of international organisations such as the World Bank, UNDP, and OECD.

order consequentialist principle prescribes a proviso consisting in a first order world-wide *maximin*[85] rule to the effect of universally guaranteeing such minimal rights. The envisaged legal setting thus requires a system of rights in which strict lexical priority is given to the global protection of vital rights and a general normative framework of choice-based consequentialism, shaped both by individual freedom of choice and □more substantive□ domestic schemes of justice[86]. The guarantee of vital interest rights, as much as that of other more traditional rights, has to be considered as legally binding, and its violation as legally punishable. The lack of a minimal level of health, education, and security thus have to be considered illegal; with such (re)considerations similar to those made with regard to slavery in the 19th century.

Vital well-being rights have to be intended as substantially different from any other available good in terms of choice possibility, insofar as they are the fundamental presuppositions for individual decision-making. According to the underpinning value theory, in fact, the marginal well-being produced by any secondary choice function cannot be directly compared, and has then to be understood as so severely discounted with respect to that of primary choice that the possibility of a trade-off is unavailable. Any advantage in terms of a lexically prior principle has therefore to override any disadvantage in terms of lexically inferior ones. Vital interests are then to be met universally through a scheme of world rules, with the institutional requirements of consequentialist cosmopolitanism compelling the consideration of the whole category of the

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[84] In a formulation different from but consistent with mine, Barry identifies basic interests as "things that everybody would wish to have or avoid having, and would give up almost anything else to have or avoid" (Barry, 2001b, 284-6; 2003, 19)

[85] According to which the condition of the worst-off has priority over other, better conditions in the decision on the institutional setting to be adopted.

[86] To see how the maximin and the Rawlsian difference principle overlap with consequentialism in some cases refer to (Hardin, 1988, 134), and also (Arrow, 1973; Gordon, 1973; Harsanyi, 1975; Dasgupta, 1982; Narveson, 1982). The rule of maximin and the principle of consequentialist cosmopolitanism are assumed to be equivalent in the case of vital interests. The maximin rule can be taken as a sub-category, a limiting case, of the general average consequentialist principle, and used for its clarity in stressing the proviso of the absolute priority of satisfying vital interests. Once these vital interests are met, the general consequentialist cosmopolitan setting of individual rights is intended to

worst-off, i.e., ruling out case by case method (Goodin, 1995, §1 and 16; Hooker, 2000, §8)[87]. Since these vital well-being rights are "everyone's minimum reasonable demands upon the rest of humanity" (Shue, 1980, 19), a global responsibility has, thus, to be allocated and special state-located duties allowed only as long as they are not detrimental to the universal satisfaction of vital interests. In line with this, the international implementation of the maximin rule to guarantee vital interests promises an incomparable increase in the actual and future trend of world well-being conditions, in so far as it universally empowers individuals to achieve the status of free choice-maker.

Agency. In order to complete the rationale of first level, a double conception of agency is to be outlined, requiring both the allocation of responsibility in relation to the guarantee of fundamental entitlements, and the recognition of vulnerability with regard to the deprivation of vital interests. The principle of vulnerability, centred on a forward-looking responsibility anchored to the capacity to influence an outcome (Goodin, 1985b, § 5), generates the political identification of both classes of agency, as well as the corresponding political sanctions.

The first category, that of vulnerability, comprises, accordingly, all those individuals who cannot avail themselves of the enjoyment of the vital interests autonomously. Within this group, individuality is the key element in need of attention; states and other collective bodies having only a derivative value. Conversely, the class of choice-makers, or those responsible, includes all agents, primarily institutions, capable of influencing the outcome. A multilevel and synchronic commitment of responsibility is therefore required by this cosmopolitan scheme of justice, through a net of intermingled duties co-ordinated by a principle of

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regain its predominance. For the lexical priority of vital rights as the cornerstone of a liberal system of security and freedom see (Dworkin, 1984; Riley, 1998).

[87] The use of a rule to establish a system of individual rights, in combination with the qualitative difference of the vital interests, should eliminate the objection, usually raised against Rawls, about the counter-intuitiveness of such maximin rule. Critics argue that preferring to improve the basic condition of "one" worst-off should not be at the expense of the detrimental effects on a huge number of people. See for instance (Arrow, 1973; Harsanyi, 1975).

subsidiarity[88]. Individuals are also required to acknowledge their own potential to harm, in line with the various political levels of action, and subsequently their actual responsibility. Along with individuals, all collective agents (such as NGOs, MNCs, and supranational organisations), in a position to effectively guarantee the protection and implementation of policies of vital interests, are called to action. In sum, consequentialist cosmopolitanism entails a radical revision of the centrality accorded states and individuals, insofar as they considered only two among many diverse international ethical agents. In order to complete this picture of the consequentialist cosmopolitan proposal for international ethics, an examination of the remaining two levels is, however, still needed.

State level

Value. At the state level, consequentialist cosmopolitanism prescribes the pursuit of two principal values: group flourishing and state autonomy, concerning respectively the internal and the external spheres of the state realm. Consistently with the values of the other two levels, they represent the instrumental goods that are indirectly most conducive to the ultimate good of individual well-being through collective freedom of choice.

The public domain has particular significance for the quality of life of individuals, insofar as society for the most part shapes individuals' moral and personal identity in a process in which personal choice is combined with personal discovery. In more existential terms, culture can be seen as what remains when all the rest is lost. So much so that without a lebenswelt in which to affirm their identity, individuals' lives would be fragmented and disoriented; their choices would be unconscious and most unlikely to be conducive to satisfaction (Frost, 2001). At the same time, a

[88] This kind of responsibility has to be intended by degrees depending on the relevance of one's position within the chain between action-maker and -bearer, and has to be assessed aggregately, not iteratively (Hooker, 2000, 166). Finally, it has to be also intended in its omissive version. An agent is responsible, thus, even when harm is produced by inaction, i.e., he is accountable for both his direct (foreseeable and desired) and oblique (foreseeable and not desired) intended consequences (Hare, 1999, 153-4; Hooker, 2000, §5).

critical perspective is crucial, and having at one's disposal several contexts of choice in addition to the context original to one is even more beneficial to the possibility of free choice (Sommer, 2004), for identity is not a zero-sum game (UNDP, 2004, 2). This hermeneutic-normative reasoning applies both to individual and state (and sub-state) identity, the two being highly determining factors for an integrated individual well-being.

In this sense, the societies are intended instrumentally as providers of contexts of meaning for choice-making, and thus an essential pre-requisite for individual autonomy (Kymlicka, 1995). Accordingly, state and sub-state attachment is regarded more as a resource than a constraint from a cosmopolitan point of view, provided it consistently harmonises with impartial rules and mutual respect (Marchetti, 2003a). Consequently, while it is wrong to endow the nation-state with a special ethical primacy (Miller, 1995, 1997), it would be equally unwise to imagine that it could be entirely discounted, as some cosmopolitans are tempted to claim (Monbiot, 2003, 12 and 43). With the ethical significance of collective bodies always deriving from their capacity to enrich the lives of their individual members (Hare, 1957; Elfstrom, 1989, 31-35), the value of the state itself should not but be, *prima facie*, national.

In answer to the challenge of demonstrating its capacity to integrate the state level within the universal scheme of political ethics (Brown, 1998), and so recognising the relevance of local socio-cultural claims, consequentialist cosmopolitanism offers a familiar utilitarian response. In chapter II it was noted that a constant feature of the utilitarian school of thought since its beginnings, is the consideration of the state as a benefits provider while at the same time framing this normative interpretation within a wider picture of universal justice. John Stuart Mill, in particular, succeeds in being at once a universalistic utilitarian and a defender of the state by structuring his argument on different levels (Mill, 1835-40 [1991]; Mill, 1861 [1991]). While at the individual level he is firm in protecting individual freedom, he simultaneously recognises the right to self-determination at the state level, as a right which can be justified from a universal point of view (Varouxakis, 2002, § 7). Consequentialist cosmopolitanism similarly structures its political system on several levels

through the use of a single criterion of justice and a number of intermediate and indirect rules, such as the following.

Rule. With regard to the political rules of the second level, consequentialist cosmopolitan reasoning implies a right to self-determination and a converse duty to non-intervention in the external sphere of state, as well as a duty to respect multiculturally the rights of minorities and groups in its internal sphere. Limits to these rights, including those concerning special duties, are marked by an entrenchment in the rules of the first (individual rights system) and the third (cosmopolitan law) level. The ultimate criterion for assessing each rule and the whole system remains the capacity to increase freedom of choice and thereby world well-being conditions. Such balancing mechanism that serves to solve the conflicts arising between the differing levels thus remains flexible but not indeterminate. Since, grounded on a global principle of justice it is based on an impartial and universal principle, , it allows for the delineation of concrete guidelines which reduce political indeterminacy; though, as discussed in the previous section on social theory, inevitably depending also on political dialogue. Examples of this machinery are discussed in the next two chapters as in the case of conflicting cases between migrants and receiving communities, or between different levels of competences within a world federal system. Here a general presentation of the second level is provided.

The cardinal assumption of this level, the principle of collective authenticity (Margalit & Raz, 1990, 457; Ferrara, 1999, § 7)[89], produces a rule which promises both to respect cultural differences and to maximise world well-being conditions, in as much as each group, taken as the best judge of its own collective goods, is in the position to autonomously decide over its own future. In fact, each socio-political organisation is assessed comprehensively, and each set of collective rules considered in terms of well-being maximisation. Whereas the presumption of the superiority of the principle of authenticity relies on the principle of non-comparability

[89] For a different reading of the principle of self-determination as anchored to the idea of nationality see (French & Gutman, 1974; Miller, 2000b).

and a fortiori on the principle of non-cognitivism, the legitimacy of the principle of state autonomy refers instead to historical evidence and to the ideal form of democratic government. This guarantees each "people" the right to political independence and autonomous implementation of social expression, ruling out external intrusion into domestic affairs. Despite recent criticism, both concepts are still viable, assuming they are updated consistent to a tri-level cosmopolitan system.

The related concept of special duties and special care, which ethical thinking has traditionally reserved for those "close to us", also needs to be reinterpreted and limited in accordance with the first and third level rules. As much as consequentialist cosmopolitanism endorses respect for state autonomy, it equally respects the indirect legitimacy of special duties, provided they are intended as part of the larger obligation to a division of global moral labour. Consequentialist cosmopolitanism provides an indirect criterion of rightness for assessing special duties regardless of the sources of these ties. It consequently allows the preferential treatment of fellow citizens' secondary interests only where foreign vital interests are not at stake (Sidgwick, 1891 [1996], 299 and 430-34; Brink, 1986, 423-27; Goodin & Pettit, 1986; Goodin, 1988; Elfstrom, 1989, 14-15; Jackson, 1991, 475).

Agency. Concerning the issue of political agency in this second level, the state represents the crucial although not singular political actor. Although the ultimate moral reference remains the individual, as a collective agent the state is endowed with a number of characteristics with significant moral dimensions, such as specific, effectively resourced capacities both in terms of rationality and knowledge, as well as crude power, which it can deploy in specific circumstances (O'Neill, 2001). These features make the state a moral agent of justice, both in terms of vulnerability and responsibility. What the individual, taken singly, cannot achieve, can in fact very often be achieved through the action of such a collective body.

With regard to the first aspect of agency, that of responsible choice-making, consequentialist cosmopolitanism requires that the duties of the second level are for the most part the responsibility of collective bodies,

with the remainder residing with individuals. Where internal responsibility is concerned, the state (whose legitimacy, strength and accountability individuals have a duty to promote) normally acts as both a direct choice-maker and provider of a framework within which individuals and local collective groups operate. In the external area of responsibility, conversely, other actors are called to action, since the state is here the object of vulnerability. Supranational bodies are, thus, needed as super partes judges and guarantors of the implementation of the principles of non-intervention and self-determination.

Within the converse side of agency, that of vulnerability, the distinction between state's internal and external realms needs equally to be repeated. As a consequence, both individuals and local collective groups are domestically classified as potentially vulnerable, while externally, the state itself is considered vulnerable to deprivation of its full capacity for self-determination. Since the agent whose well-being functions can be potentially damaged is, however, the individual, he or she remains the ultimate reference in this as well as in the last level of theory of consequentialist cosmopolitanism, that of global political action.

World level

Value. At the third level, consequentialist cosmopolitanism identifies global concern as the value most conducive to the maximisation of world well-being conditions. Since the subject here is humanity at large, this entails an enlargement of the traditional sphere of moral consideration toward the recognition of global issues as full political problems and of humanity as political subject. This perspective suggests the development of a multiple and comprehensive individual identity as the ground on which to enhance the capacity for free choice-making, selecting and prioritising those identities that each individual values most. This inevitably leads to an appreciation of all humanity □in opposition to parochialism□ in that it includes the assumption that only through the recognition of a multilayered hermeneutic exposure through diversified social interaction as based on an equal political standing, can the individual identity maximally flourish. The

concept of humanity, accordingly understood as intrinsically linked to that of the individual, thus requires a demanding critical evaluation as to where one should bring to a halt the process of ethical and political opening beyond oneself. In fact, "at whatever point universalizability stops, one can raise the question: why stop there?" and argues against arbitrariness (Singer, 1988, 157; 2002).

At the same time, however, the cosmopolitan tendency toward all-inclusiveness does not entail the two ethical issues of motivational weakness and public deceit, which are stressed by nationalist scholars. The critical commitment to investigate the ethical status of the boundaries of one's own community does not imply either the moral deficiency in terms of motivational weakness supposedly caused by the cosmopolitan detachment from social reality (Walzer in Carlehenden & Gabriels, 1997, 120; Miller, 1997)[90], or that such an invocation of humanity hides a public deceit (Schmitt, 1932 [1996], 52). While not requiring the renunciation of local or state identity, consequentialist cosmopolitanism demands only the addition of a third factor of our identity as member of mankind, for our identity and our political agency are deemed to be multiple, thus extending much beyond our current passport.

The recognition of the world society as a 'community of fate' provides further evidence of the acknowledgement of humanity as a political subject (Held, 2000, 224-225). The intense global transformations that shape the fundamentals of the world system manifestly emphasise a number of common socio-political elements that closely link individuals from different places in the world, making them "unavoidably side by side", as Kant anticipated more than two centuries ago. The escalating level of world trade, the huge migratory masses, environmental degradation and the spread of disease are all features of a shared future. Such a world-wide overlap of interests is more and more evident, with ordinary citizens increasingly conscious of how much their lives are influenced by global factors. Those who argue against the novel character of globalization do not sufficiently recognise the changes affecting first

[90] For a reply to supposed flâneurisme of cosmopolitanism see (Marchetti, 2003a).

and foremost citizens' awareness of how interdependent and intrusive global affairs have became and how much new global rules to tackle them are demanded (Franck, 1997).

Rule. At the world level, consequentialist cosmopolitanism requires a scheme of cosmopolitan democracy and universal humanitarian rules, insofar as those are the necessary elements, along with the rules of the previous levels, for the establishment of a comprehensive and consistent political system. In requiring the expansion of our ethical concern world-wide, these factors demand that individual and state claims be aligned coherently to the universal requirements of mankind through a new ethical-political equilibrium. The principle of self-determination has to be applied not only to the individual and state cases, but also to humanity at large.

Accountable mechanisms to regulate global issues, anchored in a cosmopolitical government, determine the agenda at this level. Political control is needed both for global phenomena that cannot be governed by traditional political forms of state and interstate organisations, such as international migration and environmental crises, and for local and state phenomena not sufficiently guaranteed by local and state authorities, like the abuse of human rights and local minorities. Both global and state domains need a degree of cosmopolitan management in order to safeguard the heterogeneity of world actors beyond the pure balance of power interests. As in the domestic sphere, in the international domain cosmopolitan governance is needed in order to foster civil coexistence, and not vice versa (Ferrajoli, 1999).

A new form of cosmopolitan politics is thus necessary to fill the growing gap between choice-makers and choice-bearers. Such a cosmopolitics should, however, be negatively determined □shaped by the principle of global harm prevention (Linklater, 2001)□ with the scope of cosmopolitan institutions consequently limited to two main areas of competence: a) insurance, acting as the second guarantor of the possibility of genuine flourishing at both individual and state level, and b) regulation, through a world-wide scheme of co-operation to foster public and accountable management of global problems. The latter, in particular, is

needed to supervise the increasing global externalities of international affairs, and it is not possible without a new interpretation of public agency.

Agency. Given the narrowness of the traditional state-centric conception of responsibility and vulnerability, world agency necessarily entails an enlargement of the current view of political agency. Only in the post war period has a new universalistic approach emerged □one principally based on human rights□ to dispute the classical realist interpretation of political agency and accentuate an unresolved tension between state legitimacy and cosmopolitan claims of justice.

World citizenship represents a crucial step toward an overhaul of the established system of agency through its integration of cosmopolitan institutions. Rather than acting directly on the agents' well-being, consequentialist cosmopolitanism uses an indirect strategy consisting of empowering the potentially vulnerable with the political capability to influence the outcomes that affect them. This implies, far from deleting all the other forms of citizenship, a new concept of cosmopolitan citizenship according to which all political agents are entitled to multilevel citizenship and therefore able to influence all those decisions that on all political levels affect them. Simultaneously, however, agents are also made politically accountable for their actions that pertain to the global sphere and humanity as publicum (both directly, and indirectly as spill-over effects of their behaviour) with appropriate sanctions ordered against non-compliance with cosmopolitan rules.

In accordance with this, at the world level the class of action makers responsible for the international enforcement of cosmopolitan policies through a co-operative scheme, comprises: a) supranational political bodies such as a reformed UN and macro-region institutions; b) supranational collective bodies such as MNCs, INGOs (international trade unions, international churches, international associations and groups, and more generally the so-called global civil society), and international minority groups (Kurds, Basques, etc.); c) states; and d) individuals autonomously and within these collective bodies. These political agents all share a social responsibility toward the class of vulnerable agents. They are under a duty (weighted in accordance with their actual capacity to influence the

outcome) to preserve and maximise the independence of choice of the class of action-bearers.

Conversely, global choice-bearers, i.e., those agents who are vulnerable in their supranational status, include: a) first and foremost humanity broadly understood, comprising the entire present human species and, significantly, future generations; b) supranational collective bodies such as civil organisations, characterised by a transnational attitude in dealing with political issues; and c) individuals, insofar as they are the ultimate reference in terms of well-being.

In recognising this twofold characteristic of global agency, together with the relevance of international institutions where these two classes of agents can be at once accountable and guaranteed, consequentialist cosmopolitanism aims at re-establishing the congruence central to any democratic form of politics between decision-makers and decision-bearers at each level of political action. Only where this correspondence is universally respected, is the individual in fact in the position to self-legislate over the entire range of activities in which he/she is involved, and thus to exercise his freedom of choice. Only where this reflexivity is truly global can the phenomenon of international political exclusion eliminated.

Conclusions

The last two chapters have offered a cosmopolitan response to the original recognition of the lack of a comprehensive consequentialist theory of international ethics as an adequate response to the exclusionary challenges raised by current international affairs. The limited vision of many political theories, both communitarian and cosmopolitan, has been criticised through the adoption of a inclusive perspective that encompasses other significant aspects of political action in the contemporary world. Consequently, a new ethical-political approach has been suggested that recognises the most neglected international agents, as well as draws the three main extant levels of political action together in a new equilibrium. An innovative interpretation of global political agency, entailing differing degrees of responsibility and relative power at all levels of political

decision-making, including the global sphere, forms the core of this political project, which is complemented by the proposal for a system of strengthened cosmopolitan government. Only through such a multi-level politics can the possibility of individual choice receive an impartial hearing, thus opening the way for maximisation of world well-being conditions. Hence, such political arrangements represent, for the time being at least, the appropriate compliance with the inclusiveness-related requirements of a consequentialist cosmopolitan theory of global justice.

The next two chapters present two detailed case studies of considerable relevance to the issue of cosmopolitan citizenship and individual freedom of choice, for they challenge two of most evident forms of international exclusion, i.e., exclusion from national and international citizenship. The two case studies concern thus a new horizontal interpretation of citizenship in the case of international migration and a new vertical one in the case of international institutions. While they primarily refer to the second, more formal tenet of freedom of choice □the right to political participation□ they also contribute to shaping the political arrangements necessary for the implementation of fair policies to guarantee the first, more substantive component of freedom of choice □the protection of vital interest. They entail the implementation of political concepts previously considered to apply only to the first two levels of political action, but which need to be expanded to the third in order to envisage a consistent global system of consequentialist justice. In this, they represent two clear instances in need of urgent critical thinking in international ethics.

VI

National Policies or Migratory Cosmopolitanism? Choice, Horizontal Citizenship, and the Right to Movement

"The man who finds his homeland sweet is still a tender beginner;
the man for whom each country is as his native soil is already strong;
but only the man for whom the whole world is as a foreign land is perfect" (Hugo of St. Victor, quoted in Dallmayr, 2003, 1)

The traditional statist stance on migration, according to which the state retains an almost absolute discretion with regard to accepting foreigners into its own territory, represents one of the clearest examples of international exclusion. Underpinning this discretion is a creed of the statist-communitarian paradigm that insists citizenship intrinsically refers to membership in a limited political organisation □ i.e., the state. According to this position, the very expression 'cosmopolitan citizenship' is an oxymoron in so much as any attempt to expand the notion of citizenship beyond the limits of the community necessarily results in self-contradiction. And yet, this statist creed is increasingly contested both in practice and theory. At the practical level, more and more states recognise the possibility of multiple allegiances—i.e., recognise multiple passports—

and, in a different way, recent developments in international law chip away at state prerogatives as they show a tendency to grant increased legal relevance to universal human rights. At the normative level, discretionary admittance policies have recently been challenged by recommendations for a straightforward open border system where complete freedom of movement would be allowed according to universalistic principles. These two radical alternatives, statism and open borders, delimit the normative discussion on migration.

In contrast to both of these extreme positions, this chapter presents a proposal for a new reading of citizenship, and for its supranational institutional correlate in terms of migratory cosmopolitanism. Against state-centric logic, this chapter holds that while the concept of nationality is inseparable from the notion of a sovereign state, the concept of citizenship is not, insofar as it can be unfolded and spread out over a number of political spheres. Consequently, no normative obstacles impede the expansion of the traditional notion of *polis* to the entire *cosmos*. Cosmo-political citizenship is, thus, understood to have significant value and meaning. In opposition to the open borders theory, the argument presented here maintains that such arrangements would violate the principle of impartiality, and would consequently be less effective toward the promotion of world welfare.

An interpretation of cosmopolitan citizenship in terms of freedom of movement forms the core of this chapter. While the mainstream argument for global citizenship is primarily concerned with the capacity of political agents to influence, from their respective positions, those public decisions whose consequences extend beyond national borders (which is the topic of the next chapter), this chapter aims to study the other, less discussed, aspect of global citizenship which concerns not the scope of public accountability but the extent to which political agents are free to move and join different societies. Accordingly, the primary object of concern here is the individuals' capacity to modify their personal choice possibilities through changing their place of residency: thus, to pursue control over the political system and, a fortiori, over their own future. Once the principle of control over one's own life is endorsed, the issue of original residency

becomes less significant for both aspects of global citizenship—i.e., transnational accountability and transnational movement. On this last account the treatment of migrants becomes a central test of the legitimacy of the political system.

In contrast to existing international law and national policies, migrants are recognised as cosmopolitan stakeholders entitled to rights that extend to different spheres of political action. According to the long-term emancipation project of consequentialist cosmopolitanism, the right to free passage is in fact considered a progressive entitlement of non-discrimination which contributes to the maximisation of individual choice possibilities and, consequently, the world well-being condition. For it to be established the institution of an international organisation specifically focused on migration management is recommended. The subsequent form of cosmopolitical governance of migration would, then, be effective, legitimate, and accountable, states would lose their absolute privilege of admission, and a more equitable method of allocating entrance permission and international responsibility would be implemented, able to eliminate some injustices of the present nation-led system.

This chapter starts by setting out the defining characteristics of migration and the political concept of citizenship, it then proceeds to a survey of current institutions and policies regarding migration. The core argument for the cosmopolitan interpretation of migration and citizenship is then introduced, and further determined in its general (migrants) and special (refugees) cases. Finally, concluding recommendations for the creation of a supranational institutional framework are formulated[91].

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[91] In line with a comprehensive and impartial perspective, the term migrants, and not immigrants or emigrants, will be used as primary reference here. The focus is, in fact, on people who travel (i.e., leave a place, travel and reach another place), rather than just on people who aim to be accepted by somebody or who are escaping from some place. in this, the term migrant brings out the idea of such movement as a kind of dialogue between cultures, as intercultural mediations. Through their personal experience on the edge between two or more cultural worlds, migrants are often the agents who are best equipped to open up possibilities of reciprocal understanding.

The relation between migration and citizenship

From the present perspective, migration is problematised with reference to the political, rather than sociological, meaning of movement. While the sociological interpretation relates to phenomena that are almost as old as society itself, the reference of the political reading has a more recent origin and is concerned with admission into a foreign political society. A strict definition of immigration, in fact, needs to rely on the modern concept of citizenship and therefore of the nation-state. A conventional and symbolic date used to signify the beginning of new nation-state model of active membership is 26 August 1789, the *Declaration des droits de l'homme et du citoyen.* It is, in fact, from this formative period of the modern nation-state and its correlate of citizenship that the distinction arose between e-migration and im-migration and all the relative progressive discriminations that today mark the difference between political communities.

Mainstream scholarship on migration tends to identify two principal types of migrants: economic and political. Political recognition of this partition is recorded through the different treatment accorded to political asylum-seekers and socio-economical migrants in specific national and international laws. The classic example of this demarcation is the definition of the refugee under the Geneva Convention on Refugees and its Protocol (entered into force in 1954 and 1967 respectively). Recently, however, this distinction has been subject to a series of criticisms from different political angles. What these criticisms all point out is that it is extremely difficult to disentangle the complex net of reasons that back both the decision to leave and the expectations for the future[92].

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[92] A typical case is migration due to civil wars. In such cases fleeing is motivated by both economic and political factors. The events that cause the problems are so heterogeneous that singling out one factor means missing a correct interpretation. Hence, for instance, discriminating between an Angolan asylum-seeker and an Angolan economic migrant is to neglect the fact that famines and livelihood crises in that country are intrinsically related to the political situation. But not just empirical considerations contest this distinction. Normative stances also stress the arbitrariness of the conventional priority of treatment, asking: What justifies only accepting a hungry migrant on political grounds? (Pogge, 1997, 15; Gibney, 2001).

Citizenship, understood as the set of legal entitlements allowing for full community membership, represents the core element of democratic political theory. Conventionally, three different sets of citizenship rights can be distinguished according to their scope: civil, political, and socio-economic rights (Marshall, 1950)[93]. These entitlements, which are based on a fundamental principle of equality and reciprocity, are impartially guaranteed to every member of the community. Insofar as membership within the collective exercising self-governance is usually recognised as the minimal precondition of democratic life, the acquisition of this set of rights is, thus, considered crucial to effective participation in social and political life (Kymlicka & Wayne, 1994; Delanty, 2000, § 1-2).

There have been two major alternative principles governing the acquisition of citizenship: *jus solii* and *jus sanguinis*. While the first grants citizenship to everyone born within the territory of the country, the second considers blood relationship as the determining distinction. These principles have been 'inconsistently' integrated with the practices of naturalisation and together they form the base of the traditional concept of allegiance, according to which loyalty is due to one's own country regardless of any other kind of secondary responsibilities extending beyond borders. This stance is, however, increasingly under pressure; both from a normative point of view for its inconsistency with fundamental principles of impartiality, and as a matter of fact, as increasing numbers of states recognise the possibility of double or even multiple citizenship (Habermas, 1992; Sassen, 1999; Habermas, 2002). Neither principle keeps its full value in consequentialist cosmopolitanism, which fosters a re-conceptualisation of the notion of citizenship through the recognition of several significant levels of political action, in all of which individuals have legal entitlements. Before going into this proposal in detail, however, it is

[93] In recent years, there have been strong advocates for a further cultural component of citizenship, relying on the possibility of identification with a communitarian identity (Kymlicka, 1995, 2003). According to this position, the concept of nationality remains strictly related to that of citizenship, as in David Miller's theory (Miller, 1988, 1993, 1995). In opposition to this, the present study holds that the notion of citizenship can be detached from that of nationality.

necessary to examine the origins and current institutional policies toward migration.

The origins and policies of current migratory institutions

Migration is commonly included in the list of the global issues, and yet is almost exclusively managed merely by national or regional policies[94]. This disconnect reveals a fundamental normative contradiction between claims that are universal to all humans and the communitarian entitlements upheld by mainstream political philosophy as well as national and international laws. The most blatant example of this contradictory logic at work is possibly article 13 of the Universal Declaration of Human Rights adopted by the UN General Assembly in 1948 concerning the right to leave (but not to enter into) any country.

International law has played an important, and yet discontinuous, justificatory role in keeping the legal setting of migratory policy domestic. Although recognition of the human rights regime has grown substantially over the last fifty years as it has slowly challenged national sovereignty in many aspects, the alien's right to admission is still a solid prerogative of the state. But this has not always been the case. In the first stages of *jus gentium,* which were anchored to the tradition of the Law of Nature, in fact, the duty to admit the alien was accepted as standard; it was the expulsion of the alien that was considered exceptional. Vitoria, Grotius, and Pufendorf all recognise freedom of movement together with some minor reasonable limits. Minimal rational principles common to mankind supported a legal system in which domestic and interstate relations were consistently linked. The *jus societatis et communicationis* and the *jus commercii* were the driving principles of the scholars of the Law of Nature

[94] The first international attempt to deal with this issue took place only in 1998 with the UN Technical Symposium on International Migration and Development. Far from being an intergovernmental conference, this meeting represents a first feeble recognition of the world relevance of migration (Castles, 1999). Only recently, the UN Secretary General Kofi Annan called for the creation of a UN Migration Agency (24-11-2003), but the effective implementation of such a proposal still seems far in the future. Excluding the illegal international trafficking of people, national policies remain therefore the most relevant current mode of management of migratory flows.

regarding movement of people (Vitoria, 1539 [1917]; Grotius, 1625 [1925], 1, II, § XIII and XV; Pufendorf, 1672 [1934], 1, III, § III). This theory remained the most fundamental of the (mainly moral) rules among states for a long period, although its epistemological assumptions were repeatedly disputed.

The dominion theory and its subsequent developments, in exact opposition to the principles of the law of nature, have formed a paramount historical and theoretical source of legitimacy for the current exclusionary attitude toward migration and citizenship[95]. According to such a theory, citizenship was originally considered a good belonging to the state, whose right of property extends over its territory. The imperium on people, an expression of the dominium on the territory marked by the principle *qui in territorio meo, etiam meus subditus est*, granted the state absolute power over the political and social existence of individuals within its domain. Later on, an important significant contractual variant was inserted into this tradition, which substantially modified the ethical-political justification of the state, but left intact the normative distinction between insiders and outsiders. With the American Revolution, and, above all, the French Revolution, in fact, citizens acquired an active part in collective decision-making and in the exercise of sovereignty, but the fundamental power to determine civil inclusion remained strictly the group's prerogatives. The universalistic law of nature coexisted with the domestic contractual framework, but a consistent and definitive synthesis was never established.

Until the beginning of the 20th century, this coexistence was well suited to the socio-economic circumstances. These principles, in fact, underpinned and legitimised a situation where both the country of destination and country of origin had a clear interest in favouring migration, as in the case of the migration from Europe to America. When the 'golden age' of free trade ended and a tougher, nationalistic, politics took the stage of international relations alongside protectionism, migration policies changed too. Suddenly, within a few decades most countries

adopted entry limitations inspired by domestic political and economical ends. It was, in fact, the supposed protection of domestic labour markets and welfare systems that convinced governments to invent new forms of barriers.

Thus while for many centuries a substantial transnational flow of people characterised both the internal and the external image of many countries (Spencer, 1993), today the situation is very different[96]. Current international customary law, which is consistent with the dominium theory of sovereignty, holds migration standards that are contrary to the original formulation of the *jus naturae*. While the formal difference consists in the switch from the moral to the legal status of law, the substantive change concerns the legitimate criteria for entrance. An absolute right to refuse admission is granted to the state. While sovereignty is threatened in other respects, legislating the admission of immigrants is one of the instances in which state prerogatives are most obviously still intact. Provided no relevant conventions or humanitarian measures are applicable[97], the refusal

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[95] For a contemporary discuss with two opposite views on the application of the Law of Nature and the *dominium* theory to the case of migration, refer to (Finnis, 1980; Dummett, 1992; Finnis, 1992).

[96] In addition to the studies quoted elsewhere in this chapter, for a philosophical-political analysis of the migratory phenomenon and the subsequent challenges to the traditional conception of modern state refer to (Dowty, 1987; Brubaker, 1989; Castles & Miller, 1993; Bauböck, 1995; Weiner, 1995; Jacobson, 1996; Joppke, 1997; Gans, 1998; Cole, 2000; Rubio-Marin, 2000; Meilaender, 2001; Zolberg & Benda, 2001). Conversely, for a socio-economical analysis of the movement of people in terms of push and pull factors refer to (Berry & Soligo, 1969; Krugman & Bhagwati, 1976; Simon, 1988; Stark, 1991; Hollifield, 1992; Ghosh, 1997; Sutcliffe, 1998; Borjas, 2000; Ghosh, 2000b; Nayyar, 2002).

[97] The UN Charter; the Universal Declaration of Human Rights (1948); the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights (1966); the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984); the International Convention on the Elimination of All Forms of Racial Discrimination (1965); the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990); and the Geneva Refugee Convention (1951) all impose some limits on state sovereignty, according to the principle of non-discrimination. So do, other recommendations and non-binding documents from diverse international organisations related to the issue of migration such as the UNHCR; ILO; IOM, and WTO. The EU system is a *sui generis* institution, for while granting complete freedom of movement to its members, it is increasingly exclusionary toward non-members. It is important to remark, however, that these international agreements represent exceptional and external constraints on the original state entitlement to administer membership rights. In particular, they require the equal treatment of the aliens once they are in the national territory. Yet, only very rarely do they comment on the admission itself, except in the case of reunion of minors to parents and refugees.

to admit the alien is never an illicit act. However, if an alien already resides in the national territory the right of the state to remove them is partially limited; accordingly, there is no absolute right to expulsion (Goodwin-Gill, 1978, 136; Nascimbene, 1984, § 6). The only agents toward whom the state has an international duty of admission are its own citizens.

Although the juridical status of migrants is very diverse from state to state, it is possible to identify general trends in the treatment of migrants once they are admitted. While they are usually entitled to civil and socio-economic rights, their access to political rights is still very much constrained, as opposed to the domestic Marshallian trend (Guiraudon, 2000). Difference in treatment depends on the different recognition migrants receive in each sector of public life. In civil and social terms, they are recognised as persons due to a progressive recognition of a sort of post-national personhood anchored to human rights principles. Politically, on the other hand, they remain non-citizens or de-nizens, for the identity based character of political nationality has been exacerbated and "incorporation into a system of membership rights does not inevitably require [any more, RM] incorporation into the national collectivity" (Soysal, 1994, 3). An opposition between full members of state (citizens) versus rightful residents without all the rights has consequently been shaped in most of the receiving countries over the last decades (Parekh, 1993a; Dal Lago, 1999).

One way of re-interpreting the issue of immigration, as an historical development of the original *dominium* theory (through citizenship), consists in progressively drawing limits to state sovereignty according to international superior laws. Usually this interpretation implies considering migrants in the negative aspect as aliens, or non-citizens and non-subjects, the state being accepted as the only agent entitled to confer such privileged status (Nascimbene, 1984, § II). This approach typically corresponds to the image of concentric circles, according to which the starting reference is the group (or even the family) and from there progressive enlargements are envisaged. This mechanism inevitably generates exclusion, and the approach that this chapter advocates is diametrically opposed to it; it is, instead, cosmopolitan and all-inclusive from the beginning. Migrants are

not non-citizens with only narrowly circumscribed rights; as cosmopolitan citizens entitled in certain degrees to rights which extend to different spheres of political action, they have, in fact, as great an ultimate right to freedom of choice and to control over the decision-making processes word-wide as do 'permanent' residents. In accordance with a new concept of universal membership based on a deterritorialized notion of person's rights, this chapter develops an argument for a consistent global democratic regime able to grant not only civil and social, but also political rights to migrants, through a legitimate migratory regulatory system.

Consequentialist cosmopolitan citizenship as applied to the case of migration

Two principal dilemmas concerning the notion of citizenship challenge any normative political theory which aims to deal with the theme of migration: how to deal with the received migrants, and if and how to admit new would-be migrants (Schwartz, 1995; Bader, 1997b). Despite some recent attempts to consider migration from a wider perspective □ including a more global approach □ a receivers' point of view still dominates in the normative literature on migration. In opting for a different vantage point, this chapter deals with migration within a larger conceptual framework that also includes a third crucial element, i.e., the institution of multilevel citizenship as inherently anchored to the distribution of international responsibility.

With regards to the political reading of migration, the starting point of the consequentialist cosmopolitanism argument on the movement of people stems from two different observations: one descriptive and one prescriptive. In factual terms, migration is considered principally and inevitably as a global issue in that it refers to social phenomena primarily concerning the world level of political action and producing international effects[98]. Historical patterns of migration have been fundamentally altered

[98] This is radically different from Rawls's point of view, according to which in a realist utopia of liberal and decent states the issue of migration would fall outside the scope of political concern since persecution of religious and ethnic minorities, other forms of

by the global transformations of recent decades. Even if borders were closed today, there would still be a continuous flow, both legal and illegal, due to a number of factors, including at a minimum international and national norms of family reunion and political asylum. Even in an ideal world, the political question concerning the admission of aliens would persist, since even if poverty and violence were eliminated as causes of dislocation, there would still be personal motivations such as the desire to live in another society and lifestyle issues that would work as powerful engines of migration.

In normative terms, freedom of choice and the subsequent political entitlement to take part in the public decision-making process form the normative core of the consequentialist cosmopolitan criteria to assess international affairs. Underpinning this is the fundamental ethical postulate regarding impartiality that, when coupled with the teleological principle of the maximisation of the world well-being condition, demands the extension of the application of the norm of non-discrimination also to the global level (Singer & Singer, 1988; Goodin, 1992c). In fact, in order to preserve the individual capacity for free choice, the agent needs to extend his political entitlement to the totality of the sphere of political action. This new interpretation of political agency is particularly significant in those cases, such as that of transnational migration, where traditional state-centric conceptions of citizenship demonstrate an increasing inappropriateness, both moral and political.

These recognitions lead to the disputation of the mainstream framework according to which migration is considered only a national issue. Both explicitly nationalistic (Walzer, 1981; Miller, 2000a; Meilaender, 2001; Miller, 2003) and globalist scholars (Carens, 1987, 1989; Bader, 1997b) commonly adopt the partial perspective of the receiving countries, in as much as admission to a country is considered the crux of the entire issue. According to consequentialist cosmopolitanism,

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political oppression, famine and population pressure would disappear (O'Neil, 1982; Rawls, 1999, 8-9 and 38-9). It must be noted that this is in contrast to Rawls's take at the domestic level, where the right to movement is included in the Rawlsian fundamental list of primary goods (Rawls, 1982, 166). For a similar contractarian position anti-immigration see also (Buchanan, 1995).

this is an elementary instance of question begging; such a prejudicial limitation of the original question cannot but deliver a distorted and biased answer, in which the counterpart remains on an unequal standing. As an alternative to this, a radical repositioning of the receiving countries is developed, with the shift from the state-centric paradigm of national membership to a global political principle of residency and multilevel citizenship becoming the turning point for the renewal of the cosmopolitan paradigm, and thus a turning point offering a unique chance for the social and political development of the theory and practice of democracy.

Where this revolution of perspective occurs, the conferral of the equal status of cosmopolitan citizenship to migrants and 'receiver' citizens for what concerns individual possibility of choice, and the granting of the right to free passage[99] for what concerns the movement of people should result. A cosmopolitan citizenship characterised by these entitlements becomes *de facto* a crucial institutional factor in order for the individuals to increase (but sometimes even simply to implement) their freedom of choice among differing life options and their capability to govern the social-political domain, by changing their place of residence. Much as at the domestic level the right to movement over the national territory has proved crucial in the self-realisation of one's personal projects and political participation[100], an equivalent international right would be equally beneficial to the well-being of the individual in terms of choice opportunities and political control of one's own life (Nett, 1971, 218).

Freedom of movement is a necessary requirement for the implementation of political participation insofar as only by having such entitlement can an individual join a group where his/her preferences can be aggregated with other similar views, thus creating a substantial political voice. The argument is similar to that of political parties pluralism. As

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[99] More specifically, freedom of movement is here taken to cover both the right to leave one's country and the right to remain in it.

[100] By contrast, it is instructive to look at all those national situations in which movement is restricted by legal or economic impediments: for example, the prohibition of the free movement of nationals in Italy during the period of fascist rule; or the poverty that prevents people in developing countries from travelling to another part of their own country.

much as the possibility of a plurality of political parties should be guaranteed in order to offer the individual the possibility to join the party that is most consistent with his view, so also the freedom to leave a group/country where his personal views are not comfortable should be guaranteed. Hence, the recognition of the right to free passage represents a legitimate political objective to be taken into consideration when shaping a multilayered political structure, in so far as it ultimately promote the world well-being condition by fostering individual freedom for self-determination[101].

Nonetheless, for this to satisfy the requirements of international political theory concerning multilevel dimensionality, an impartial weighing mechanism between the claims of migrants and those of local citizens has to be simultaneously envisaged. Having argued for a universal right to movement, it is here necessary to point out again that such a right has to be inserted into a wider institutional political framework, in which other kinds of rights also have legitimate claims. While migrants and residents are equal on the basis of a fundamental right to the protection of freedom of choice, they nonetheless differ in that the social value[102] of their relative institutional entitlements concerning national citizenship can become unbalanced. This case is similar in many respects to the familiar situation of welfare state provision, in which one person's set of secondary rights conflicts with other's secondary entitlements, despite both counterparts having fundamentally equal claims to well-being, i.e., welfare provision from the state. In cases like this, some sort of impartial comparative assessment made by a public, all-inclusive institution is needed in order to solve the controversy. Institutional suggestions for the case of world migratory regime will be provided in the next sections, here it is important to offer more details on the reasoning underpinning them.

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[101] Beyond the increase in individual freedom of choice, international movement would also create efficiency gains in a neo-classical sense, in as much as it would maximise resource allocation and so maximise economic welfare for the world as a whole (Nayyar, 2002, 166).

[102] Assessed on the basis of the socio-political performance of the given institution in terms of world well-being promotion.

Within the scheme of consequentialist cosmopolitanism, national citizenship, as an institution of the second—i.e., state—level of political action, maintains a certain degree of legitimacy according to a universal, indirect, and impartial division of moral labour. According to this division, different associative ties are in fact recognised as *prima facie* valid sources of well-being, but in order to depart from such provisional status and gain a definitive legitimacy they need to be consistently embedded into a wider, global institutional framework. In this specific case, they need to pass through a comparative assessment with the migrants' conflicting entitlements. In this vein, the institution of national primary citizenship will only be warranted to the extent that its long-term social performance contributes to the maximisation of the world well-being condition, and therefore consistently meets the demands of the institution of cosmopolitan citizenship.

Such comparative assessment between different citizenship-related entitlements is based on the expected capacity of each set of rights to contribute to the promotion of the individual freedom of choice/political participation and so, in the ultimate analysis, to the improvement of the world well-being condition. It does not imply, therefore, substantial interpersonal comparisons of utility *à la* utilitarianism, in that it only takes into consideration the possibility of choice, rather than the outcomes directly produced by the chosen actions. This occurs on the different levels of choice: personal and political. In the case of migrants, consequently, their potential concerning the capability of choice has to be evaluated on their actual capability both to make a direct choice on life options and to influence the political system in which they are embedded. The right to migrate in fact affects both these types of choices, in that changing place of residency can improve the set of available life options but also increase the capacity to influence the decision-making process both locally and globally through different and multiple memberships. Hence, a universal right to movement represents a valid potentiate principle for the maximisation of general well-being and needs to be compared against the prerogatives of the set of rights concerning national citizenship, as traditionally intended. Consistent with this argument, two comparative assessments concerning

general migrants and refugees respectively can be differentiated. They are examined in close detail in the next two sections.

The general case of migrants

A number of theoretical consequences pertaining to the status of the citizen on the vertical and horizontal dimensions of transnational politics are subsequently generated by the re-balancing of the notion of citizenship according to an impartial, global calibre of membership claims. By definition, the multilayered notion of cosmopolitan citizenship entails political membership at different levels. While state membership would still remain inevitably subject to some constraints (e.g. not all can be American citizens), second order, global citizenship is characterised by all-inclusiveness (e.g. all can be world citizens). In this way, consequentialist cosmopolitanism grants to individuals civil, social and political rights in more than one country, and the complete parity of rights related to residency between local people and migrants (Goodin, 1996a, 357-62; A. Carter, 2001, 109)[103].

Accordingly, the state-centric point of view should be rejected for at least two reasons, which in different ways concern the principle of non-discrimination. Firstly, in not recognising the superveniency of the maximisation of the world well-being condition as the ultimate principle of justice, and in subsequently conceding an almost absolute privilege to original residents, state-centric policies unequally weigh the fundamentally universal claims of individuals to equal choice opportunity. Secondly, the nationalist orientation should be rejected for the way it intentionally discriminates among would-be migrants, admitting only those who satisfy entry requirements shaped on the needs of the receiving countries. In fact,

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[103] Within this framework, the right to free passage is considered as an enlarging entitlement, part of a long-term emancipation project. From aristocrats to rich people, it is possible to trace a slow process of extension toward a universal right in practice, which bring into question the legitimacy of reserving the possibility of choice for the well-off and imposing the opposite limitation of the worst-off. Citizenship is here, in fact, taken as one, perhaps the only, privilege of status still firmly associated to a socio-economical division of people (Carens, 1987; Ferrajoli, 1999). In line with this, the title of a well-

it is very often the case that current policies of admission, which are mostly based on a nationalist principle, filter the in-flow of would-be migrants in accordance with their potential to contribute to the domestic economy, leaving the remaining vast majority of would-be migrants unjustly excluded, without the right to appeal. Hence, citizenship can be seen as the last bastion of privilege related to legal status, and as an obstacle which resoundingly fails to meet the general obligation of non-discrimination (Nascimbene, 1984; Goodin, 1992a; Ferrajoli, 1999); and migrants can be considered as the next informal political agents to acquire full political status, similarly to what happen for women before their enfranchisement.

The radical alternative of completely opening borders here and now should equally be refused for a number of distinct reasons related both to migrants and to receiving populations. Concerning the former, from a consequentialist point of view such a policy of open borders would be most likely self-defeating, in so far as it would subvert the expectations of would-be migrants. The motivations of the would-be migrants to move in fact include the possibility to reach a specific country with its distinctive cultural, social, and economic context. However, an unlimited and sudden inflow of foreign people would probably not be sustained by the destination country without a radical reshaping of its fundamental characteristics, thus disappointing the original objectives of the migrants themselves.

As for local residents, their expectations should also be taken into account and with equal weight. At the moment, it is plausible to assert that most citizens of the potential receiving countries are not willing to accept such a universalistic policy, nor are their politicians. Were borders suddenly and completely open, the likely result would be a substantial re-shaping of social identity and of the entire state structure, with potentially huge social costs in terms of well-being expectation. In this respect, the communitarian stance is partially right in claiming the importance of social identity and institutional traditions. While often underestimating the importance of the modes of incorporation as political methods to facilitate

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know article should then be rephrased to "If *poor* people were money" (Goodin, 1992c),

the entrance of aliens in a new socio-political context (Zolberg, 1997, 148-53), such claims still holds a certain degree of validity (Ackerman, 1980, 95; Perry, 1995, 110-24). It is of course likely that the long term consequence of aliens' admission will provoke a change in a state's identity □and a subsequently modified state structure□ but this would be a different case of social evolution through the gradual re-negotiation of political identity. Hence, in opposition to an immediate open border policy, the strategy of reform by degrees seems the most appropriate to implement a universal right to limited immigration for the time being, opening up the possibility for unlimited migration in the future.

Since an open border policy is not viable in the near future and yet the right to movement is universal in principle, the subsequent problem becomes, then, how to distribute a scarce good equally (i.e., the right of residency in any state), and so avoid the dramatic situation of the unjust sacrifice of the few. The constraints, which, drawing on Humean terminology, I call the 'circumstances of migratory justice', consist in the fact that many want to enjoy the relevant good (i.e., right of residency), and yet such a good is not infinite at the national level. This situation is further aggravated by the current "win-or-lose all" procedure that daily haunts the lives of so many migrants. Migrants refused at the border lose everything, while those who make it through (by chance or illicit means) win the lottery. Those migrants refused (who may well have greater ethical grounds for wanting admittance) are excluded by a jungle system, where physical force and social power very often decide the result, beyond any moral constraints. The sacrifice of a few migrants (but actually many lives) represents then the tragic cost of sustaining such an unjust system: a cost which includes that of the other would-be migrants who remain at home, the legal migrants who have already been accepted, and the local population.

The response of consequentialist cosmopolitanism to the arbitrariness of the present mechanisms for entering consists in a moralised and impartial treatment of the distribution of the permits of residency based on

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in order to highlight the mono-directionality of the global flux of movement.

a universal right to movement embedded in an impartial global weighing mechanism. According to this cosmopolitical interpretation of citizenship, and the subsequent notion of 'regulated openness' (Ghosh, 2000b, 25) or 'fairly open borders' (Bader, 1997a), the only viable solution to the distributive problem of admission consists in the recognition that citizenship too must be reconsidered as infinitely and impartially dividable over time and on different levels of political action. Universal availability of this good (i.e., the right of residency) is only possible through its potential division into infinite parts, temporally distributed. Consequently, temporally limited permissions of free movement and residency become the goods of this new migratory policy; goods widely available and complemented by limited extensions concerning the right to settlement and definitive change of primary state citizenship[104].

Such temporary permissions would foster the development of a multiple social identity, spread over several countries but unified by transnational individuals and 'trans-border citizens' (Glick Schiller & Fouron, 2001). In this way, the issue of collective ties and identity is re-considered through a cosmopolitan filter, in that the possibility of multiple allegiances is consistently anchored to the possibility of a multiple citizenship. Transnational identity formation forms a principal part of the migratory experience of the contemporary world, together with the subsequent transnational engagement and assimilation across different groups. Simultaneity already represents a major characteristic of current migratory experience, in so far as individuals are embedded in a multi-site transnational social and political field, encompassing those who move, those who stay behind, and those who receive (Levitt & Glick Schiller, 2003). In keeping with this social trend, the system envisaged by consequentialist cosmopolitanism would produce an attitude favourable to

[104] It is important to point out here that this system is not envisaged just for migrant-workers, insofar as the right of residency is offered regardless of the personal motives. In this way, migrants' preferences are preserved and the idea of national interests refused. Nevertheless, migrant-workers will, of course, exist and the labour market subsequently be adapted. Moreover, the problem of collective ties and identity is re-considered through a cosmopolitan filter as well. The possibility of multiple allegiances is developed together with multiple citizenship. The sharing of both social and political sentiments between the original place and the place of migration is deemed to be a likely effect of the system.

sharing both social and political sentiments between the original place and the place of migration, possibly contributing to the formation of a real global demos and civil society for the future.

The special case of refugees

In addition to the general promotion of freedom of movement, consequentialist cosmopolitanism also offers a specific new approach to dealing with the issue of refugees, which entails a reinterpretation of the status of refugee and, differently from the case of general migrants, an unconstrained duty of acceptance on the part of resident populations. According to the conventional definition of the Refugee Convention, a refugee is a person who

> "owing to well-founded fear of being persecuted for reason of race, religion, nationality, membership of a 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".

According to the perspective adopted by the present study, conversely, a wider definition of refugee should be accepted, centred on the primacy of the vital interests as outlined in chapter IV and V. Security, health and education represent the minimal entitlements, together with political participation, that should be guaranteed to each individual being, regardless of his or her place of residence.

In line with this, any person who cannot enjoy the protection of these three vital interests is entitled to remedial assistance. The guarantee of these rights should normally be achieved through a world-wide scheme of public rules supported by a multilayered system of political institutions, financed by appropriate measures of global redistributive justice. However, where this system fails in protecting such interests locally, then people made vulnerable by this failure are entitled to receive care in safe countries that can guarantee the protection of their health, security, education and political participation. A scheme for administering this new status of

refugees should thus be institutionalised through the supranational strengthening of the UNHCR.

Having outlined this new interpretation of the notion of migration and citizenship, it is necessary to concentrate on its political consequences. So far it has only been shown that citizenship should be re-conceptualised in terms of global justice. Consistency demands that this first move now be followed by the identification of the global political means through which to obtain the maximisation of the individual choice possibility and, consequently, of the world well-being condition. The following sections are dedicated to showing how both a fair allocation of entrance permissions and an impartial distribution of burdens among international agents might be achieved through appropriate political institutions. As argued, since the issue at stake is global in kind an adequate response cannot be other than equally global. In this regard, the establishment of an institutional framework of migratory cosmopolitanism forms a crucial component of the present proposal.

Institutions of migratory cosmopolitanism

The previous sections have disputed the traditional understanding of the migratory phenomenon as a purely domestic political issue consisting, in the ultimate analysis, in a sheer problem of admission, and have subsequently recognised the necessity to create a legal-political structure able to manage and implement this 'good', i.e., migration. Since the agency entailed in the movement of people refers primarily to the third level of political action, then the principles of justice to apply in this case have to be consistently calibrated as world responsibilities (Ghosh, 2000a; Helton, 2002; Düvell & Jordan, 2003). The state should no longer be the only actor who decides, according to its own principle of justice, whether to admit the alien or not. If this were so, it would simply be a matter of designing a political mechanism for national efficiency. But the case is different and, more importantly, concerns the issue of assigning moral responsibility, i.e., making every agent accountable in each political sphere. In response to this, the regulatory framework envisaged in this

chapter consists in a set of institutional tools modelled on some existing international organisations, and composed of two main parts: an international convention and an international agency.

An international convention should be established in order to recognise migration as a global phenomenon. The convention should formulate a code of conduct to be implemented through a two-tier mechanism at the domestic and global level. An example to have in mind is the UN Geneva Refugee Convention and its Protocol, in that it provides a similar framework for the specific case of refugees. As a complement to this convention, a World Migration Agency (possibly under the umbrella of the United Nations) should also be created. This will provide the appropriate place for negotiations and the appropriate force for implementation of the decisions concerning migratory fluxes, both with respect to the general extent of right to movement and in the more specific case of refugees. This new agency should be characterised by all-inclusiveness, for it should provide the forum where conflicting claims about the global issue of migration can be publicly discussed.

This new system of migratory cosmopolitanism would enhance the legitimacy, efficacy, and accountability of the decisions taken at the supranational level, and at the same time decrease the degree of widespread social criticism against the current situation. All involved agents would have the possibility to express their point of view and to influence the decision-making process through appropriate political mechanisms. The creation of this new agency, to work in collaboration with several other institutional actors such as governmental and non-governmental organisations, is therefore a crucial step toward the institutionalisation of a framework of global management of migration, and the subsequent avoidance of two political evils: arbitrary national policies, and the privatisation of the global public agenda.

Rules of non-discrimination such as the most favoured nation (MFN), universality of admission through temporariness, and equality of treatment between locals and foreigners are the most appropriate norms for this new regulatory framework. They produce a *prima facie* duty on the receiving countries to admit impartially from each foreign country in direct

proportion to the population of the sending countries, without discriminating among sending countries. When a country does not exhaust its quota, then a mechanism for redistributing its spared options to other sending countries should be activated. Moreover, a system of burden/benefit-sharing through national quotas should also be agreed upon to set the quantitative criteria for receiving countries (Gosseries, 2002; Thielemann, 2002). In contrast to national policies based on morally arbitrary and disproportionate distribution, each country should admit its fair share of migrants regardless of the other countries' compliance with the organisation decisions. The amount of migratory load should then be decided by the supranational organisation through an impartial procedure with regard to the actual receiving capacity of each country based on its economic and social conditions.

Conclusions

Through the adoption of a radical change in political perspective that re-interprets migration and citizenship as global issues, the ultimate exclusionary arbitrariness of the admission criteria of state migratory policies and the resulting loss of any potential increase in the world well-being condition have come into view. To the original contention that state migratory policies are morally unaccountable, this chapter has suggested a cosmopolitan, all-inclusive answer. The core of its cosmopolitan argument resides in a particular interpretation of the idea of a universal right to free passage that takes into account the 'circumstances of migratory justice'. From this, a number of political recommendations descend which are given substance in the proposal of new admission criteria and of a new system of migratory cosmopolitanism; the latter, in specific, entailing the adoption of a convention on migrants and the establishment of a supranational co-operative agency to manage migratory flux.

Only through such a pluri-level political system can the possibility of individual choice receive an impartial hearing, in that a multilevel citizenship is responsive to differing degrees of responsibility and relative power at all levels of political decision-making, including the global

sphere. Arguably, these are, for the time being, the appropriate political arrangements required by a consequentialist cosmopolitan theory of global justice in the case of citizenship and migration. However, were the circumstances to differ in future, then political norms should be revised accordingly. Flexibility and reformism need to be combined with an awareness that moral law can only require a partial revision of social reality and that it is only reasonable to assume that international institutions will be fairer than national ones, much as national institutions are usually considered fairer than uncoordinated individual actions.

According to consequentialist cosmopolitanism, the institutions of migratory cosmopolitanism have to be considered as part of a more general trend toward global institutionalisation of international affairs. As pointed out at the beginning of this chapter, migration refers to one aspect of the conception of cosmopolitan citizenship, the horizontal. In order to complete the presentation of this new reading of citizenship and of its correlate in terms of global institutions, however, the second side of cosmopolitan citizenship should also be examined. The next chapter aims thus to analyse the normative rationale and the institutional consequences of the vertical dimension of global citizenship, which entail political participation to each sphere of political decision-making and appropriate mechanisms of public democratic accountability.

VII

Multilateral Governance or Cosmo-federalism? Choice, Vertical Citizenship, and Supranational Institutions

"Our political and social conceptions are Ptolemaic. The world in which we live is Copernican." (Reves, 1947, 37)

"The federal pattern is the most clear-cut alternative to power politics" (Schwarzenberger, 1964, 526)

"If either of the two options has a better claim than the other, not merely to be tolerated, but to be encouraged and countenanced, it is the one which happens at the particular time and place to be in a minority. That is the opinion which, for the time being, represents the neglected interests, the side of human well-being which is in danger of obtaining less then its share" (Mill, 1859 [1962], 175)

A contradictory double movement characterizes the relationship of contemporary international affairs to democracy. While the conventional democratic assumption, according to which individuals have the right to self-determination through political participation, is increasingly recognized as the cardinal principle of politics both in international covenants and national constitutions, international affairs themselves create

a situation in which such an entitlement is conversely limited and decreasingly guaranteed. Unstable financial markets, environmental crises, and unregulated migratory flows are just few examples of phenomena that simultaneously and all too clearly remind us of the intense interdependence of contemporary international system and of its political deprivation. These intense processes of global transformation functionally require an increased co-operation, and yet pose a continuous challenge to the effectiveness and legitimacy of traditional political life. The lack at every level of activity of effective and legitimate political structures within which individuals can influence outcomes through expressing their free consent and exercising their capacity of autonomy, highlights the need for an adequate expansion of the democratic political system at the global level. A fundamental principle of justice thus demands strengthening transnational institutions of democracy, with the intention to create more inclusive mechanisms of democratic self-legislation in order to avoid the current high degree of international exclusion.

A number of competing theories, from realism to multilateral cosmopolitanism, have suggested differing responses to this demand for transnational democracy, without though offering viable solutions able to tackle the challenge of international exclusion. Acknowledging the limits of these theoretical positions, this chapter presents a proposal for a new reading of political agency in line with a reconstruction of its relative supranational institutional framework. The core of this proposal resides in a notion of cosmopolitan citizenship in terms of freedom of choice; understanding freedom of choice within the consequentialist cosmopolitanism attuned to the epistemological constraints on interpersonal comparability delineated in the previous chapters. Accordingly, the capacity of individuals to exercise personal choice within the social system becomes the primary objective of the envisaged political system. Such endorsement of the principle of control over one's life leads, then, to the recognition of the relationship between choice-bearers and choice-makers as a pivot of democratic reflexivity, and the subsequent recognition of the need for its institutionalisation at each level of political life, including the global. In contrast with existing international law and

national policies, citizens are consequently to be recognised as cosmopolitan stake-holders entitled to rights which extend to a number of different spheres of political action. Insofar as the right to democratic participation in every sphere of political action is considered to be the political tool for the maximisation of individual choice possibility and, consequently, of the world well-being condition (as explained in chapter IV), the argument for global citizenship presented here rests thus on the key necessity of political agents being able to influence those public decisions whose consequences extend across borders. This generates the claims for a multilayered and all-inclusive cosmopolitan theory as implemented through new institutional global arrangements, primarily a federal reform of the United Nations.

The case for world federalism is under-estimated in the current debate on cosmopolitanism. The few studies that consider it do not venture beyond a brief mentioning, on the simplistic assumption that world federal institutions are not viable. The vast majority of contemporary cosmopolitan scholars instead favor projects for democratic reform of current institutional arrangements of global governance. While accepting such proposals as promising mid-term suggestions, this chapter aims to dispute their legitimacy as a long-term political project, on the ground of their limited capacity for democratic inclusion and participation. Constructed on a notion of multi-level political agency, an institutional comparison is thus outlined in order to identify the limits of the model of cosmopolitan global governance, and alternatively to defend a cosmo-federal case for world institutions as a more consistent project of ideal international political theory.

This chapter begins by setting out the theoretical points of reference of the relationship between citizenship and institutions, in particular with regards to the international sphere, and proceeds to a survey of different political arrangements which have shaped the terms of this relationship from the Westphalian model to the current system of executive global governance. A brief presentation of the consequentialist cosmopolitan theory then introduces the core argument for the cosmopolitan interpretation of citizenship and institutions at the global level. Within this

is a critique of recent proposals for a cosmopolitan reform of global governance regimes on grounds of an insufficient implementation of the congruence principle. In conclusion, a number of recommendations for reforming the current system, and in particular the organisation of the UN, are offered in line with a concept of consequentialist global justice as implemented through a project of cosmo-federalism.

The relation between institutions and citizenship

Freedom of choice forms the normative core of the consequentialist cosmopolitan criteria for assessing the international institutional framework, in so far as only through maximising the individual capacity of choice can the maximisation of social well-being be pursued, as explained in chapter IV. According to this, a fair political system should provide both the general legal-political framework, i.e., institutions and rights, and the personal practical capabilities needed to put individuals in the condition to freely choose what they think is best. This political endowment, to which each individual is entitled, is composed of two principal components: a set of rights concerning vital interests intended as fundamental prerequisites for any possibility of choice, and the set of rights related to the institution of citizenship.

Citizenship, understood as the set of legal entitlements allowing for the acquisition of a full membership, represents the core element of democratic political theory. In a democracy, these entitlements, which are based on a fundamental principle of equality and reciprocity, are impartially guaranteed to every member of the polity, insofar as membership within the collective exercise of self-governance is usually recognised as the minimal precondition of democratic life. The acquisition of such a set of rights is, thus, considered crucial in order to participate effectively in social and political life, the possibility of which represents a key condition for the individual freedom of choice. The concept of collective autonomy follows from the idea of equal citizenship. Much as agents at the individual level enjoy a fundamental right to freely choose their destiny, so at the collective level groups are entitled to autonomously

take decisions over their future. This signifies, consequently, that a legitimate exercise of political self-determination and self-legislation needs to be based on equal citizenship, insofar as only by equally and simultaneously retaining the status of legislators and subjects can citizens remain free to determine their fate. Since the key mechanism for democratic legitimacy relies on the congruence (alternatively referred to as equivalence, reflexivity or symmetry) between rulers and ruled, all voices must have equal access to the decision-making process. Only through this mechanism can individual freedom of choice be preserved and the world well-being condition maximised.

At the domestic political level, the reflexivity between choice-bearers and choice-makers is guaranteed through a variety of democratic institutions. Primary among them is an elected parliament where citizens can express their voice through pluralistic representation. The establishment of such a public and impartial institutional body through which individuals can form and propose their political agenda for society constitutes the premise of democratic life. At the core of this is the issue of political representation.

> "The claim connecting democracy and representation is that under democracy governments are representative because they are elected: if elections are freely contested, if electoral participation is widespread, and if citizens enjoy political liberties, then government will act in the best interest of the people" (Manin *et al.*, 1999, 29).

When elected politicians mirror the composition of the electorate to the greatest degree, the electorate's has thus the best chance of having their interests protected (Mill, 1861 [1991], § III).

A government is compelled to be representative (representation here intended as likely congruence between interests and strategies to achieve a preferred outcome) through two kinds of political mechanisms: mandate and accountability. In both cases the principal political instruments in the hands of citizens are elections and the crucial information that puts citizens in the position to carefully screen politician conduct. While mandate operates prospectively on the basis of the electoral choice of policy

programmes, accountability relies on a retrospective voting sanctioning outcomes.

> "Democratic accountability is best seen as a relation between the past acts of those who exercise public power and their future personal liabilities. Its core site is the degree to which our rulers, in a democracy, are effectively compelled to describe what they are doing while ruling us, and to explain why they take this to be appropriate: to give us [...] reasons for their actions" (Dunn, 1999, 335).

All this is widely recognised as the fundamental formal requirement for the legitimacy of a democratic government. That a considerable number of current national political systems world-wide are shaped in such a manner attests to a general recognition that this is the requirement of any legitimate government.

In principle, the democratic correspondence between decision-makers and decision-bearers should be public—universal and all-inclusive—in order to guarantee complete freedom to the individual. Such a congruence should cover all the relational dimensions in which individual life is embedded, i.e., one should be in the position to self-legislate within the entire range of activities one is involved. Having the possibility of choice at the individual level and at the national level is ineffective if it is not complemented by the equivalent possibility to have a voice in the decision-making processes at the international level. Cases such as the environmental problems related to the global warming or the spread of infectious diseases clearly show how ineffective a national policy can be when it is not integrated within a wider international action. Thus, a partial implementation of the principle of universal congruence in an interdependent environment in which agents interact on multiple levels and in different domains is, for the most part, self-defeating in terms of guarantee of freedom of choice.

Until recently, domestic socio-political life has been the dominant influence on citizens' lives (with the notable exception of trans-borders phenomena such as wars or religions) and consequently the focus of politics has concentrated mainly on institutions with such a limited scope.

However, given the current global transformations affecting almost all aspects of citizens' lives, state-only democracy and its subsequent international institutions have come under increasing pressure for the high degree of political exclusion that they generate. Hence, a serious democratic deficit characterises current international affairs. An enlargement of democratic institutional arrangements to the global level is, therefore, needed in order to include the excluded political agents and so to preserve democratic congruence between choice-bearers and choice-makers, thereby ensuring the individual capacity for free choice. With the recognition of normative interdependence strictly linking democracy, human rights, and peace as three faces of the freedom of choice, inclusive democracy at the global level becomes an urgent international issue (Bobbio, 1995; Boutros-Ghali, 1995; Bobbio, 1999, 337; Annan, 2002). However, before expounding the normative reasons why the current international institutions are not sufficient to guarantee the required degree of democratic congruence, it is necessary to examine the principal factual characteristics, the 'anatomy', of the present international institutional arrangements.

From Westphalia to global governance

The international correlate of domestic state institutions is conventionally known as the 'states system'. Arising almost simultaneously with the state itself, the states system was grounded on the institution of classic sovereignty and international law. Rarely a stable system, a distinct rupture was marked in the middle of the 20th century with the establishment of the UN: an inherently deficient juxtaposition of classic, liberal, and cosmopolitan elements (Held, 2002). In recent decades a strengthening of multilateral political engagement has paralleled and at times challenged the UN order, creating a new system of global governance.

Reflecting as it does its origins (conventionally fixed with the Treaty of Westphalia, in 1648), the modern states system is centred on the absolute sovereignty of a state within its territory. In opposition to the

medieval 'two Suns' convention, the cardinal principle of sovereignty, which differentiates territorial political units in terms of juridically and morally exclusive domains, has decisively characterised international politics for more than three centuries in that it has generated a number of secondary—utterly relevant—norms of the catalogue of international law. Among them, the following derivative principles stand out as particularly significant for the interest of the present study: a) no superior authority is recognised above the state (which produces an international system completely dependent on states' consent); b) formal equality of status granted to each state, with the only accepted principle of legitimacy the de facto control over territory; c) indifference of international organisations to domestic political organisation, i.e., the relationship between citizens and state is entirely relegated to national law; d) non-intervention; and e) the right to self-defence (Bodin, 1576 [1967]; Grotius, 1625 [1925]; Hobbes, 1651 [1968]; James, 1986; Crawford & Marks, 1998, 73)[105].

Neutrality concerning domestic political organisation is perhaps the crucial principle on this list, which can be regarded more as a *modus vivendi* than as a full moral code. Whereas the right to self-defence or the consideration of states as equals mirrors some important, but possibly secondary, distinctions in comparison with the domestic domain of democratic law (the public use of force through law and the voting system based on the principle 'one person, one vote', respectively), the indifference of classical international law to the internal political arrangements of independent states is of key importance to the issue of democracy. The 'domestic analogy' is here a source of confusion, for it leads to the argument (in a liberal mood) that states as much as individuals

[105] A point of clarification is due on the issue of reciprocity within the states system. It has long been hold that the norm of sovereignty implies that of reciprocity, and that therefore respect for reciprocity is part of the practice of sovereign statehood (Wight, 1977, 135; Keohane, 1988, 383; Miller, 1995, 2000b). From the present cosmopolitan perspective, such a view represents instead clear evidence of the normative inconsistency of an un-ruled system of supposedly equal states. As argued by Kelsen following Hobbes, without the hypothesis of a supranational principle, the very essence of international order, i.e., the idea of a community of states endowed with equal rights despite of their diversity in territorial, demographic and power terms is logically inconceivable (Kelsen, 1920; 1952, 586). Where no superior authority exists with the power and authority to

should be free to organise their internal political system at their preference. A corrective for this misinterpretation, however, is to recall the centrality of individuals in democratic theory, and the consequent importance of an institutional framework designed to protect individual freedom at each level of political action. This brief comment suffices here, as the issue will be dealt with in detail in the next sections; for now what is needed is to examine further how classical international law developed in 20th century.

A first major change in the legal-institutional framework of international society occurs with the creation of the League of Nations in 1920, following WW I. The pact of the League amends a number of international rules in opposition to the limited rules of coexistence of the state system. It imposes, for instance, limits to the unilateral use of force, a new idea of collective security, and the procedure of majority vote □in that unanimity of the Council of the League did not include the votes of the countries involved in the dispute to be conciliated. This marks a fracture of the absolute sovereignty of the classic system, yet the League failed to deliver a legitimate and effective political framework for reasons related to the continued centrality of state institutions. In this regard, the covenant of the League was not concerned with any alternative mechanism of self-defence other than war, insofar as it excludes threat or security operation implying the use of force. The covenant also lacked juridical supremacy over other international treaties. And last but not least, it was characterised by a low level of membership, and in that lacking de facto universality. All these were major factors preventing the League to manage the international system effectively, leaving the mainstream tradition of a classical international law of states still much in power until 1945.

The second and more radical change in the international legal framework emerges with the foundation of the United Nations in 1945, in the aftermath of WW II (Ziring *et al.*, 2000). Aiming to protect human rights and national self-determination, and to foster co-operation on international problems (art. 1), the UN charter contains a number of innovative principles of international law that impose a radical shift in the

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grant and guarantee equality between the sub-parts, only a strategically contingent

international normative *praxis* toward a confederal model. A first major step in this direction, based on the idea of collective security, consists in the expropriation, in favour of the UN, of the absolute right of the states to resort to the use of force (art. 2). This led to the subsequent crisis in the classical institutions of international law concerning self-defence. A second important deviation from classic international law is the adoption of a majority vote (albeit one qualified by the non-procedural voting of the security council giving veto power to the five permanent council members) (art. 18 and art. 27.3). Finally, a further relevant modification of the previous international practice resides in the acknowledgement of the legal supremacy of the UN charter over any other subsequent international treaty (art. 103).

Three principal dimensions of change concerning international norms can be identified within these moves. The first regards the content of norms, in that the UN charter supports a more extensive scheme of co-operation to safeguard peace and security, to solve common problems, and to sustain common values. The second domain of change pertains, conversely, to the justification of norms, and it is related to a number of internationally agreed upon core principles, including human rights and self-determination, underpinning a broad notion of a world common good. Finally, the third change affects the issue of implementation, through the use of more effective mechanisms recognising the failure of the previous soft compliance attitude (Hurrell, 2001, 38-9). The new legal system generated by these changes has seriously affected the authority of state sovereignty, as understood within the classic model, and has opened up the way for a further dramatic change which disputes at its roots the entire domestically circumscribed practice of democracy.

In the last decades, a third major shift has occurred in the international legal-political framework concerning a substantial increase and intensification of mechanisms of global governance (Krasner, 1983; Keohane, 1984, 1989; Czempiel & Rosenau, 1992; Ruggie, 1993b; Rosenau, 1997). The model of embedded liberalism □a combination of

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recognition is possible. I discussed this point in greater detail in (Marchetti, 2003a).

free trade and national political systems (Ruggie, 1983)□ in the age of globalization has provoked a rising need for widened and deepened international co-operation, which has eventually led to the establishment of new multilateral and intergovernmental institutions (Zürn, 2004). A continuously growing net of (not necessarily democratic) political norms and legal rule-making has increasingly characterised the normative side of contemporary international society, eroding the legitimacy of both the state and classic international law. Recently, however, this model of international embedded liberalism has shown signals of decadence under the pressure of international liberalisation (Ruggie, 1995; Bello, 2002, § I). The initial fervour in support of this internationalist extension of the domestic liberal paradigm to multilateral intergovernmentalism has failed to tackle properly the global problems of our current era. Poverty, contestation, and violence represent just few examples providing evidence of the need for yet another revision of international political theory. For these reasons, a return to international ethics—or utopian realism—is much due in order to elaborate political projects able to be at the same time more legitimate and more effective (Booth, 1991, 535-9; Finnemore & Sikkink, 1998, 916). An important step in this direction consists then in the examination and critical re-evaluation of the deficiencies of the current systems.

Among the characteristics of the present systems of global governance[106], the following are most relevant in comparison with the previous normative considerations on international exclusion. Firstly, such a governance covers a wider scope since it directly concerns a multilayered rule system wherever it is based, be it global, transnational or regional (Held & McGrew, 2002, 8-13). Secondly, despite being broader in scope, it is more limited in terms of inclusiveness and participation, since it concerns only given issue-areas and the agents therein involved (Krasner, 1982, 185). Thirdly, in being multilateral (i.e., including three or more actors), it entails generalised principles of conduct and diffuse reciprocity

[106] This remains valid despite the strong pressure toward unilateralism of the current US government.

(Keohane, 1986a; Caporaso, 1993, 53-6; Ruggie, 1993a, 11). Moreover, it is polyarchic since it includes diverse authorities, often on unequal formal standing, such as states (which, though, maintain a degree of primacy according to the model of executive multilateralism), sub-national groups, and transnational special interests and communities, including both private and public bodies (Rosenau, 1992, 284-5). Global governance, thus, implies a change with reference to the concept of international agent insofar as the sovereign state loses its status as the uniquely recognised actor, and with reference to the institutional framework in that UN system has become integrated with a number of other multilateral governance structures.

Beyond the different interpretations of global governance, a major normative question arises concerning the legitimacy of these global institutions and their relation to democratic theory, insofar as they attribute different political power to different agents, thus generating exclusion. Greater world interdependency increases the necessity of having international institutions to regulate the interaction between diverse international actors, and in so doing stimulate co-operation, which could not be achieved through uncoordinated individual calculation of self-interest in a heterogeneous sphere of political action. In this sense, the value of international regimes of global governance rests on the increase in the level of efficiency of international relations exchanges that they can bring about. Despite their effectiveness, however, a normative fundamental demand arises which concerns the issue of democratic participation. While implementation of international policies was conducted at the governmental level, it was sufficient for hegemonic actors to bargain with the states and disregard the issue of legitimacy. Now the question of legitimacy has re-acquired importance, since policies have a broader scope of compliance (in that they need to be enforced in greater depth within states), and consequently compel the need to deal with different kinds of political actors (Woods, 2000, 217). Hence, the dilemma consists in the simultaneous need of intrusive implementation of common policies, and of the enhanced legitimacy in terms of political consensus necessary to attain efficacy in a complex social world.

As a consequence, the improvement in effectiveness in dealing with global affairs rests on the identification of a legitimate structuring of international institutions which consistently links political participation at the global level of decision-making with to the other levels of political actions, so allowing for social acceptance of international policies. Reforming the current international political system □an irregular combination of the classic state system, UN intergovernmentalism, and global governance□ becomes a priority. This institutional possibility of reform will be examined in the rest of this chapter, beginning with the presentation of a number of normative considerations which are needed to firmly link the discourse of global democracy to that of global justice, according to the present consequentialist perspective.

Consequentialist cosmopolitan citizenship and global political institutions

An important characteristic that distinguishes consequentialist cosmopolitanism from other international political theories is its consideration of the link between responsibility and vulnerability that determines the double universalistic conception of moral agency in terms of choice-maker and choice-bearer. This feature marks the strength of consequentialist cosmopolitanism as an inclusive paradigm, able to adhere more strongly than others to social and political reality in a time of radical transformations. Until recently the effects of actions were mostly contained within a defined territory; most people could influence (and be influenced by) the lives of a limited number of other people. The relationship between responsibility and vulnerability was thus far more legible, and one could, for the most part, reasonably expect to maintain the integrity of this relationship through domestic democratic political channels. The present situation is quite different: through intensifying the level of global interaction, the current world system pushes the limits of the relationship between choice-makers and choice-bearers, with the effect of loosening the moral and political ties of accountability. Such circumstances consequently compel us to confront demands for inclusive moral responsibility and

envisage new political mechanisms of social liability. Since social action is spread over distinct and yet overlapping spheres of conduct, democratic legitimacy, as based on the congruence mechanism, is only possible through the recognition of the political system as multileveled and all-inclusive.

A prominent characteristic of the current socio-economical situation at the global level is that among the abundant channels of action, political representation is notably lacking. Collective agents, such as multi-national corporations (MNCs) or international organisations, have a decisive and versatile capacity to intrude in states' domestic politics and individuals' lives. And while individuals also "have a multitude of new points of access to the course of events" (Rosenau, 1992, 285), unlike the collective agents mentioned, individuals are on whole denied the direct political access to institutions which could provide an opportunity for their public expression of dissent/consent. In this, they are denied the right to self-determination. The lack at each level of political action of a corresponding channel of access to political representation becomes strikingly apparent when juxtaposed to the asymmetrical power of influence wielded by the other international agents. General awareness of this unequal control over the fate of the world social system is becoming increasingly acute, and consequently provoking a growing discontent in a considerable sector of civil society (Pianta, 2003). Hence, a convincing concept of global political agency which offers the capacity to redress the erosion of the right to self-legislate in a multi-layered world constitutes a particularly urgent element of any proposal on international political theory.

The response of consequentialist cosmopolitanism to the multiplication of diverse social actions dispersed geographically and institutionally on different levels, consists in the identification of a unified, three-layered focus on guarantees covering the three domains of action: individual, state and global. Only through the simultaneous guarantee of these three kinds of rights can individual freedom of choice be preserved and the world well-being maximisation pursued. Of these three, the rights concerned with global political participation are the most contested and most denied by the current political system. They are therefore the most

promising in terms of well-being promotion. Within this set of global rights, the entitlements concerning world citizenship represent a crucial step toward overcoming the established system of agency and implementing a cosmopolitan model. This new model of citizenship, rather than supplanting all other social ties, instead engenders a more consistent political way of addressing the phenomena that affect one's life, and subsequently provides an effective means to align one's personal with one's political identity. In this regard, the suggestion advanced by the present version of cosmopolitanism is distinct from other like-minded proposals in that it concerns the establishment of new institutional mechanisms in which subjects can expect public and political recognition for their actions through all-inclusive forms of accountable, transnational citizenship; and so avoid international exclusion.

The principle of democratic congruence, however, encounters tenacious resistance from all corners when extended at the global level. While among democratic states it is widely recognised that in the domestic sphere of political action all citizens should have a voice on public decisions, the limits of international accountability are still equally confused and contested. The legal entitlements of the single agent to take part in the decision-making process at the international level are still very limited, and the cause of a great degree of exclusion. Indeed the extent to which an agent can hold another accountable, i.e., the extent to which the agent who suffers costs can demand punishment of and compensation from the choice-maker agent, forms the object of a heated dispute on the scope of international norms (Kutz, 2000; Keohane, 2003, § II; Keohane & Nye, 2003; Held, 2004a). Attesting to the scope of the dilemma posed by this issue is the patent failure of a straightforward principle of affect to resolve it. The appeal of such principle is of course its objectivity; its disregard for the specific interpretation of the role of the choice-maker agent[107].

[107] Three principal interpretations are available on the issue of agent's accountability. 1) The individual difference principle, according to which the agent is accountable for a harm if he did made a difference to its outcome; i.e., without the agent, the outcome would have been different. 2) The control principle, according to which the agent is accountable for an event if he had control over its occurrence; i.e., he could have prevented it. 3) The autonomy principle, according to which an agent is accountable for

However, since an action's effects could affect, with different intensity, an almost infinite number of agents (one need only to think of potential claims of future generations), if the legitimacy of an action were to depend on prior consultation for consent of all affected parties human engagement would become paralysed under the charge of responsibility. Thus simply from a practical standpoint the mere fact of being affected cannot constitute valid ground for a legal or even political claim.

A more political principle has to be adopted, one that grants to all citizens as members of the public constituency in each level of political action, including the global, a political voice and the power to make the choice-makers accountable. At the global level of action in particular, the strategy of consequentialist cosmopolitanism consists in the creation of a political system characterised by a universal constituency, which in granting rights of political participation to all citizens, is able to identify both responsible and vulnerable agents, and consequently to implement a sanctioning system on several levels. The consequentialist selection of the most appropriate institutional framework for a project of the reform of international politics must, in fact, be based on the assessment of the institutional performance of the different frameworks in relation to the criteria exposed in chapters IV and V, principally that concerning participation[108]. The fundamental premise of this argument, in fact, holds that each individual is entitled to an equal opportunity to influence, within an institutional order, the making of any public decision that significantly concerns him or her, in so far as only by granting such personal rights—

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the harm another agent causes, if he induced or coerced that agent into performing that act. For a detailed discussion of these interpretations see (Kutz, 2000).

[108] In particular, a legitimate institutional framework is arguably composed of three principal factors: participation, accountability, and fairness (Franck, 1992, 1995; Manin *et al.*, 1999, 47-9; Woods, 1999; Charnovitz, 2003). A good institution encourages an elevated degree of egalitarian participation, aiming at the inclusion of all the different categories of stake-holders, insofar as this empowers people with an effective capacity to influence outcomes which affect their lives. A legitimate institution also cultivates a practice of accountability, both vertically through elections and horizontally through an appropriate institutional design and governmental structure. Accountability mechanisms typically include: clear assignment of responsibility for institutional performance, fair and transparent voting procedures and decision-making mechanisms, and publicity of decisions. Finally, but not least, a legitimate institution implements procedural fairness which relates to both impartial and predictable processes: processes that are clearly specified, non-discretionary, and internally consistent.

i.e., the legal instruments necessary for the free determination of one's own destiny—can the maximisation of individual well-being be expected. Since in consideration of epistemological constraints the indirect strategy remains the only viable way to pursue consequentialist goals, the preferred institutional framework should thus be one that reduces the constraints on participation in the decision making in all the vastly diverse political units dispersed throughout the vertical and horizontal dimensions of social action. More specifically, the two sub-criteria of an optimal framework are decentralisation, in order to maximise opportunity, and centralisation, to avoid exclusion (Pogge, 1992, 58, 64-5; 1995).

In this regard, a strong accent needs to be placed on the centrality of the procedures of representative participation, in so far as the outcome of an un-formalised (not authorized by a general agreement and not arranged in formal hierarchies) political process should not take precedence over institutional procedures. The issue concerning the priority between output legitimacy (acceptance created by system effectiveness) and input legitimacy (acceptance created by democratic procedure) represents a highly contentious topic in the current international discussion (Dahl, 1994; Scharpf, 1997; Zürn, 2000). Surprising as it may seem, from a consequentialist point of view political predominance has to be granted to input legitimacy, for only by focusing on this can individual freedom of choice and political participation be guaranteed. At the level of international institutions (as also exemplified by the case of migratory cosmopolitanism in chapter V), what counts in this version of consequentialism is correct political structures and institutional procedures rather than substantive outcomes, since the latter cannot be universally and legitimately compared. This clarified, a move can be made to compare consequentialist cosmopolitanism against the other principal model for cosmopolitan reform of international institutions. First, the model of cosmopolitan governance is presented and criticized for its insufficient participatory attitude. In opposition to this, consequentialist cosmopolitanism, based on a model of cosmo-federalism, is presented as a more democratic project.

Cosmopolitan Governance

Recent proposals for cosmopolitan global governance, ostensibly intended as a 'democratic' correction of the distorted 'executivism' of the current forms of multilateralism, have received favourable acceptance both in public discussion and in practice (Rosenau, 1997; Held & McGrew, 2002; Held, 2003). Without underestimating their very real relevance and effect as persuasive arguments for globalising democracy, the cosmopolitan proposals for global governance demand critique exactly on the issue of the democratic deficit. From the perspective outlined by this thesis, acceptance of this cosmopolitan global governance proposal could only be warranted as a transitory mid-term political project[109] which has to be supplanted in the long-term by a federal reform of international organization based on consequentialism. In the rest of this section, consequently, a critique of such a proposal is presented.

'Global governance cosmopolitans' tend to recommend a decentralised and opaque-cut governance structure characterised by multiple decision-making centres in which states still retain a certain degree of national autonomy and only those agents who are part of a given socio-political interaction are entitled to join in the decision-making process[110]. In this vein, the agencies of global governance that they propose would be characterised according to an intergovernmental model of diffuse authority. Similarly, their vision of an additional UN Chamber would be based on a low democratic standard because of its limited consultative function. In consideration of these limits concerning democratic participation, this kind of inter-nationalism remains incapable of facilitating genuinely democratic global counter-measures to global issues.

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[109] Which is not, however, what global cosmopolitans such as Archibugi, Held, and Linklater argue for, in that they consider cosmo-governance as the ultimate stage of democratic development, beyond which it is not prudent to venture.

[110] For a reference see (Pogge, 1992; Held, 1995, 237; Archibugi, 1998, 219; Linklater, 1998b; O'Neill, 2000, § 10; Dallmayr, 2001, § 41-8; Habermas, 2001, § 5; Held, 2002; Archibugi, 2003; Held, 2004b, § 10). Held took a different position in his earlier work, where he refers to the federal model. He shifted toward a more decentralised type of cosmopolitan global governance in the nineties, in part as a consequence of the encounter with Archibugi (Held, 1993, 51, n. 77).

More specifically, three principal problems can be individuated in the project of cosmopolitan democracy. The first flaw consists in the exclusion generated by the proposed issue-oriented political structure according to which only those agents that directly interact on a given issue-area are entitle to political voice. In holding to a notion of democratic congruence based on the strict relation between those who make the rules and those who directly suffer the consequence of the rules (rather than one granting political power within the decision-making process of public rules to *all* the citizens regardless of their being directly affected by a determined set of actions), cosmopolitan global governance can only avoid direct exploitation, but not democratic exclusion. The strict notion of congruence, in fact, can be more easily associated to the decision-making method of a democratic *club* rather than a democratic political system, in that it does avoid exploitation of those recognized as members (and those recognized *by* members) but does not allow for the inclusion into the public decision-making process of the individuals who are classified (typically by those inside the club) as only indirectly or 'publicly' involved in the socio-political interaction. A significant consequence of such club-based theory of democracy is that entire states or regions can be left apart or excluded from the centers of power if they are not recognized actors in the political interaction. In this sense, the project of cosmopolitan global governance based on ad hoc and limited functional bodies remains problematic, in that it lacks democratic centrality and therefore risks exclusion. In suggesting a net of delimited institutions, such a proposal does not guarantee representation to citizens outside that structure, and does not offer a chance to compare the effects of the uncoordinated decisions taken by different agencies, which are considered equal in political authority (Thompson, 1999). In multiplying specialized agencies (supposedly, one for each global issue), this cosmopolitan governance model fails to establish a central authority where a legitimate political discussion can take place to determine the allocation of competencies and responsibilities on any determined issue-area. But this is not the only flaw of the cosmopolitan interpretation of global governance.

The second flaw of this project regards the participatory deficit evident in its intergovernmental structure. Despite the recommendation for a consultative second chamber at the UN, the predominant political principle underpinning the global governance proposal remains based on the relation between governments. In this sense, however, the global governance model insufficiently addresses the very issue of representative democratic congruence. Governance policies are in fact taken at a high, often intergovernmental level, without offering individuals, who are the ultimate moral reference, the chance to have a direct influence on the decisions that affect them. Moreover such an approach, which ultimately rests on an inter-state bargaining of national interests, fails to offer an adequate response to global issues such as international migration, terrorism, and overpopulation that require responses equally global in kind. Following from this □and also typical of the confederal model□ another principal flaw of the global governance model is that the impediment it creates for open communication between decision-bearers and decision-makers leads, in the best case, to the duplication of the channels of accountability, and in the worst case, their breakdown.

Finally, a third flaw of the global governance model consists in its weak acknowledgement of the risk of distortion inherent to global governance; the same distortion currently so in evidence in international affairs. In the last decade, global governance has affected national governance through a relocation of authority related both to political dimensionality and agency. While a clear-cut process of redirecting power to supra- and sub-national spheres has marked the decline of the nation-state, no strong political alternative to tackle this unbound and de-localised power has arisen. Consequently, the locus of legitimacy has been shifted away from the public to the quasi-public and private sector, both at the domestic and at the international level[111]. The private agents, primarily MNCs, have been the greatest beneficiary of this tendency and have consequently acquired the status of stakeholder in governance to the

[111] A typical example of this 'libertarian' trend is the increasing use of international arbitration in which social rules are re-interpreted through self-regulation.

detriment of citizens' participation (Held & McGrew, 2002, 10; Coate, 2003). With respect then to the global governance proposal's neglect to ensure comprehensive participation, this last phenomenon offers further doubts on the viability of its project of global governance, even in its moralised cosmopolitan version.

Contrary to the argument for global governance, a strong political response is needed; one able to offer effective supranational public power while at the same time preserving a space for the national sphere of political action. In this regard, consequentialist cosmopolitanism considers public representative institutions as the most appropriate (and urgent) mechanisms to be reformed in order to close the gap between choice-makers and bearers at the global level. If the democratic deficit of the current international system is to be eliminated, if the link between responsibility and vulnerability is to be re-established and an ultimate political authority affirmed, a more centralised and inclusive framework of increased political participation needs to be envisaged, rather then a fuzzy net of global governance. The following section offers an alternative model of global government based on a federal ideal, which through the reform of international institutions aims to tackle the problem of global congruence properly. On account of its prominent position in international affairs, the UN unquestionably provides the first substantial candidate for such federal and cosmopolitan reform.

Reforming the UN

The discussion on the reform of the UN is almost as old as the UN itself. Beyond outright calls for its abolition (Pines, 1984), arguments for reform principally put five areas of UN action under scrutiny. The Security Council has been questioned and proposals for its enlargement have been formulated, together with the abolition of the veto powers of the 'big five'. An Assembly of the Peoples to be juxtaposed to the General Assembly has been repeatedly advocated in order to balance the governments' power in favour of a more direct representation. The expansion of the jurisdiction of the actual International Court of Justice, together with the creation of an

International Criminal Court (now in force), has been recommended with some degree of success. The limited endowment of the UN institutions concerning financial resources and political capabilities sufficient to control deviant behaviour and co-ordinate co-operative undertakings has been criticised. Finally, a reformation of the UN peace mandate, oscillating between peace-keeping and peace-enforcing, has also been hotly debated in the last decade (Baratta, 1987; Falk, 1993, 16; Archibugi, 1995a; Imber, 1997; Archibugi *et al.*, 2000; Patomäki & Teivainen, 2004, § 1 and 8).

Behind these practical issues, three political problems of predominant relevance can be identified. Firstly, the internationalisation of recent decades together with—and of immediate importance here—an ever more visible UN system with no allowance for direct electoral representation, highlights that the distance between rulers and ruled has widened to the maximal distance possible. Secondly, the heterogeneity of the ruled has also increased significantly insofar as such diverse political agents as individuals, groups, and states all claim recognition at the global level. Finally, the third crucial striking point of UN reform is dual subject status, with the current discrimination favouring a territorial (one state, one vote) over an individualist (one person, one vote) mode of representation (Bienen *et al.*, 1998, 290). In general, the debate has concentrated on the dual status issue rather than on the other two questions, with subsequent proposals locating accountability with the Security Council or the elected second assembly, thus recognising the predominance of states or individuals respectively.

The perspective of the present research is based on the observation that any reform of the UN would invariably fail on the side of political inclusion were it not grounded on a direct and democratic model of participation. That the current institutional structure has to be changed is proved first and foremost by the straightforward undemocratic rules of the veto power within the Security Council. But even if this norm were modified and the effective decision power were granted uniquely to the General Assembly, as it is currently organised the entire procedure would still be utterly undemocratic. On the one hand, a large number of states do not have democratic voting systems and therefore vast sectors (perhaps the

majority) of their population would be excluded from representation, and on the other hand, even the currently 'democratic' states would deprive their minorities, be they national or transnational, from representation. Concerning the latter states, furthermore, a serious problem of accountability remains, insofar as the multiple steps of delegation loosen the effectiveness of concrete control from their constituency. Finally, the situation would still be one of 'equality' between the representative of San Marino with a constituency of 20,000 voters and the representative of India with a constituency of 1 billion, which is an evident denial of the democratic rule of 'one head one vote', for the head of one citizen of San Marino would count as much as would 50.000 Indian heads. Hence, even if these reforms concerning the Security Council and the General Assembly be implemented, democracy would remain in the far distance.

Two kinds of strategies have recently been proposed in the attempt to increase the level of democratic control of the UN—allowing both national MPs and civil society organisations to influence (often on a consultative basis) UN works—but both represent insufficient responses on the side of political inclusion. Within proposals such as the Inter-parliamentary Union, any national MP, who has been elected by a national constituency and for a national party, will remain anchored to national priorities, insofar as his mandate is principally national in kind. Where a conflict arises between a national and international interest, his decision is structurally constrained to favour the national side for its unique voting power. A different proposal forwards the case for transnational constituencies and a global mandate, which would allow representatives to endorse a non-territorially biased perspective. However, civil society organisations are affected by a different, and yet equally serious, democratic deficiency on a number of political levels of analysis. The constant challenges made to the legitimacy of NGOs, interest groups, and social movements principally concern their capacity to represent the relevant constituency, their internal democratic procedures and organisational accountability. Until a plausible response to these challenges is offered, their political status cannot be more than consultative. Beyond these two failing strategies for the democratic enhancement of the UN procedures, a third more plausible proposal

remains; one that pursues a truly global democratic inclusion in international institutions: the federal alternative.

Cosmo-federalism: principles

The consequentialist cosmopolitan perspective advocates a federal reform of the UN[112] in response to its claim that the democratic goal of participation cannot[113] be properly achieved through either a liberal confederation of republican states or an enhancement of multilateral structures of global governance. It must be noted that the present proposal, unlike those within the federal tradition, seeks the establishment of a more democratic form of governance at the global level for merely consequentialist reasons pertaining to the democratic reflexivity between choice-bearers and choice-makers. While a major concern for many federalists was peace (Russell, 1961; Clark & Sohn, 1966), the primary concern for consequentialist cosmopolitanism is the maximisation of world well-being condition. As this is determined to be attainable only through the enhancement of individual choice possibility, it is necessary to obtain the political empowerment enabling political agents to self-legislate on all aspects of their lives. Consequently, at each level of political action, be it at the individual, state or world level, norms of democratic reflexivity should be implemented that guarantee the preservation of the individual capacity to choose. The most effective and consistent way of responding to these requirements at the global level currently resides in a federal and cosmopolitan reform of the UN.

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[112] For a first reference on federalism see (Althusius, 1614 [1995]; Hamilton *et al.*, 1787-88 [1961]; Riker, 1964; Friedrich, 1968; Bernier, 1973; King, 1985; Albertini, 1993; Malandrino, 1998; Watts, 1998; Levi, 2002). For the discussion on 'international/world' federalism see (Reves, 1947; Hutchins *et al.*, 1948; Johnsen, 1948; Clark & Sohn, 1966; Forsyth, 1981; Baratta, 1987, 1-15; Nielsen, 1988; Codding, 1990; Barnaby, 1991; Falk *et al.*, 1991; Baratta, 1992; Glossop, 1993; Yunker, 1993; Heater, 1996, § 6-7; Elazar, 1998; Bohman & Lutz-Bachmann, 2002; Höffe, 2002; Delbruck, 2004; Frankman, 2004).

[113] Reassured as it may be by the prediction that a world government will in any case be established within a hundred years (Wendt, 2003, 491), this proposal sticks to the normative stance and more modestly suggests that such institutional arrangement should be actively welcomed rather than awaited.

Federalism is traditionally intended as the political theory affirming the division of powers between two or more institutional levels of government, the central power and the powers of federate communities[114]. In organising political power on several levels, federalism benefits from the advantages of both cosmopolitanism and patriotism, in that it permits applying the principle of self-government (thus preserving the identity of the units) to a plurality of centres of independent power, consistently and democratically co-ordinated. Every citizen is subsequently subject to two powers (double loyalty), without this implying the renunciation of the principle of uniqueness of decision, thanks to the mechanism of subsidiarity (Vernon, 1988; Norman, 1993). Rejecting the traditional model of double indirect representation through states' representatives, federalism proposes a democratic rather than diplomatic union of states, according to which all political representatives are directly elected to a law-making assembly by the people, and political decisions taken by the federal government apply directly to citizens rather than states. Finally, central to the federal ideal is the transformation of inter-state relations from un-ruled and violent to a complete juridical status. Since peace is not interpreted negatively as the lack of war, but rather positively as state and law, a central government is envisaged as a machinery for the peaceful and lawful solution of the political, economical or social international conflicts. Contrary to those confederations with no check on the power of single states, the law of the federal system provides the political means to eliminate the appeal to arbitrary violence.

Following from these features, the superiority of federalism over confederalism with regard to the three criteria for a good institutional framework (participation, accountability, and fairness) is evident.

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[114] The process of the historical extension of democracy has constantly been at the centre of federalist thought. The traditional line holds that democratic government has been continuously adapted to historical circumstances—from the limited extent of the polis assembly to the intermediate enlargement in the modern representative state—and that the time has come for the third extension toward a federal world government. Equally, federalists have reckoned that economic development always imposes a functional imperative on the structure of political system. Thus, from the first agricultural city-states to the nation-states focused on the industry and commence (Seeley, 1883), the historical trajectory of economic globalization leads toward a world federal system.

Federalism fundamentally fulfils these criteria in so far as it allows for direct representation of citizens (and not of states) at several levels of political decision-making. In this way, it offers a viable answer to the current unchecked invasiveness of international policies, it promises to establish a permanent peace because of the presence of a superordinate law that importantly does not permit withdrawal from the federation, and it envisages an attitude more convenient to solving global problems, in that it reduces biased decisions based on national interests. Additionally, the federal form of government offers the best political device to avoid despotism, in that "the federal level of deliberation and legislation provides a second chance to protect against abuse by local majorities" (Føllesdal, 2001, 11). Finally, such political system promises to be able to secure efficiency in that it has an in-built responsiveness to local circumstances, and institutional innovation in that it allows for more experimentation at different political levels (Hamilton *et al.*, 1787-88 [1961], esp. § 15).

Cosmo-federalism: objections

A number of the objections traditionally raised against the idea of a global federation, including practical and normative arguments, can be dismissed from the point of view of consequentialist cosmopolitanism. Two arguments regarding the *feasibility* and *desirability* of the federal proposal are the most frequent and, apparently, decisive (Kant, 1795 [1991]; Carr, 1939, § 5; Schmitt, 1950 [2003], 324-35; Walzer, 1985a, 224, 236; Suganami, 1989, 187-91). As regards feasibility, critics point out that federations have historically come into being in reaction to external enemies or for common interests, and that this is inconceivable at the global level. This argument can be refuted by pointing to, on the one hand, global threats such as global warming, and on the other, global public goods such as peace and international financial stability, which clearly represent common interests capable of unifying differing strategic agendas. Such interests currently provide the motive pushing international co-operation strongly beyond borders toward a tighter political system. The other concern, feasibility, is mainly technical and regards the practical

difficulties of world management in a scenario characterised by high quantity and high complexity. Three points provide adequate response: firstly, there have been enormous improvements in technology since Kant's time are acknowledged (Wendt, 2003); secondly, the demands of justice may well require a certain degree of trade-off at the expense of efficiency; and thirdly the high diversity of global political agents provides a reason for (not against) the search for a common, non-exclusionary framework of justice. The two latter points, moreover, crucially underscores the desirability of global federalism.

The other major critique of global federalism concerns the issue of desirability and holds that the power accruing to a world government would inescapably lead to homogeneity, or worse, tyranny (see especially Kant, 1795 [1991], 113; 1797 [1991], 171; Hurrell, 1990, 190). The quick response to this consists in stressing that these risks are higher without a federal authority than with it, exactly the point of *The Federalist.* With regard to homogeneity, it should be remarked that only through a political system where action bearer can democratically express their consent based on an equal standing, can the imposition of mere power (both political and cultural) be avoided and local differences be respected. If we reckon the infinite ways of influencing other countries, an all-inclusive world organisation based on equal democratic participation represents the only political project able to escape the imposition of a local standard on the world community. With regard to tyranny, the distinction between a unitary state and a federal government should be highlighted, together with the recognition that a federal global institution would only rule on global issues, while leaving national affairs to the jurisdiction of the local authorities. In this way, states would preserve their *raison d'être* and the risk of an authoritarian state would be diminished.

Recently, Robert Dahl famously re-stated a further objection, the *restricted-size argument*, to any proposal for the establishment of a global democratic institution. According to this objection, which in a less recent version dates at least to the writings of Montesquieu and Rousseau and was amply discussed and rebutted in the *Federalist Papers* (Hamilton *et al.*, 1787-88 [1961], § 39), an extended republic is an oxymoron. In brief, Dahl

argues that the bigger a state is, the smaller is the weight each single vote has in proportion to the total of the voting lot; consequently, the less democratic the state is (Dahl & Tuftle, 1973; Dahl, 1999). Three counter-moves can be used to refute Dahl. First, as already made clear by the federalist writers, the right size of a republic is not at all clear, since it seems that if we stick to the original ideal of a republican society, states such as the US, Russia or Brazil, or indeed most contemporary states, are structurally inadequate for any form of democratic government. Second, in the current interdependent international affairs, it is likely that the individual will be affected in any case by decisions taken outside of his community. In the light of this, it goes against reason to argue against granting the possibility to influence politically such decisions, even if the final result is minimal impact. And thirdly, in a situation such as the current one, i.e., one deprived of any form of direct international representation, the relative weight of each individual's vote should be even more severely discounted, in so far as it passes through a double mechanism of representation: from the citizen to the national MP and from the MP to the state's delegate in the international organisations[115]. Having presented and rebutted the traditional objections to the federalist model, it is now legitimate to move on to the examination of a concrete application of the federal ideal to the structure of the UN.

Cosmo-federalism: institutions

A reformed UN would be a global federal organisation in which states would share power for specific global purposes under a system of strengthened international law. Consequently, states would renounce a portion of their sovereignty and agree to a compulsory jurisdiction uniquely for a determined list of competences on global issues (typically, non-territorial or territorially intermingled issues), while retaining those powers and specific institutional forms directed at domestic concerns. Rather than a loss, this would be regarded as a gain in freedom and order,

[115] I owe this point to D. Archibugi.

since states would be compelled only to accept decisions taken according to majority rule—General Assembly resolutions would have a legally binding status—and implemented through a subsidiary scheme of actions at both global and state levels. Moreover, individuals would acquire a full cosmopolitan citizenship while remaining national citizens within a consistent scheme of multiple allegiances, which would allow for frustrated and excluded citizens to channel their claims beyond their governmental representation. They would be enfranchised as voting constituents for an elected legislative world assembly with an authoritative mandate representing general as well as special interests restricted to global issues[116]. Finally, since global agents would be recognised as vulnerable and responsible, they would also be protected from and punished for global crimes, according to an appropriate multilayered and multi-agents scheme of sanctions.

A critical point of a federal reform of the UN resides in the allocation of the diverse functions and powers between the central world government and the federate states. As with current forms of federalism, even in the case of the reformed UN a stable equilibrium would not be possible without a constitution whose authority is accorded primacy over all other powers. A global constitution is thus required to delineate the distribution of legislative and executive authority regarding a number of functions among the different levels of political action. A clear demarcation of the issue of competence is crucial not only to allocate *ab initio* authority (and its limits), but also to solve conflicts that may arise about the power to judge. Neither the central power (as in the unitary state) nor the single states (as in the confederation) have the authority to decide on who has to decide, but only the constitutional court (Kelsen, 1944; Levi, 2002, 11).

While a straight consequentialist reasoning to allocate functions and authority would consist in the comparison of the expected effects of alternative distributions between central power and sub-units (benefits and

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[116] Proposals for the creation of a Global Parliamentary Assembly has been recently re-stated by Falk and Strauss (Strauss, 1999; Falk & Strauss, 2000, 2001), though their project does not endow the suggested assembly either with federal or fully legislative powers.

burdens, risks and opportunities), the method followed by consequentialist cosmopolitanism is different, in that it takes into consideration the epistemological constraints put on political action and thus relies on the principle of subsidiarity and individual participation. As shown in chapter IV, the acknowledgement of the limits of interpersonal utility comparisons leads to the distinction of three principal spheres of political action (individual, state, and world), in each of which a set of guarantees are envisaged to protect different kinds of interests. According to this structure, the federal government and its delegate agencies would have direct competence only on a limited set of global issues, while retaining only a subsidiary charge for universally protecting a set of minimal rights at the individual level, and for supervising the possibility of collective self-determination and respect for minority rights at the state level. Global institutions should primarily pursue at the global level the safeguard of global public goods and the handling of all those political issues that have a pre-eminently global character. In sum, a partition of functions can be delineated between the following two universal fields of action: a positive global politics to guarantee the vital interests of each human being together with a number of other collective national and global interests, and a procedural politics to guarantee political participation to each citizen and thus democratic congruence globally.

Falk has offered a broad description of the would-be tasks of a world government. There should be

> "considerable centralised capabilities with respect to the following governmental functions for the world as a whole: legislative organs to establish binding standards; administrative capacities to interpret these standards; financial powers, including revenue resources, and taxing powers; rules and procedures determining membership and participation in international institutions and the status of international actors, as well as modes to render all actors accountable; verification of compliance with behavioural constraints and enforcement mechanisms; disaster, relief, and refugees services; regimes for protecting and managing the global commons; regulation of collective violence and supranational police; framework for world economic life, including trade, monetary and

> financial spheres, and protection against agreed-upon categories of disruption (debts, price shifts, boycotts, credit lines); and finally, a *global constitution*"(Falk, 1993, 15 -Falk's emphasis).

Within the federal reform of the UN, a renewed general elected assembly would acquire the role of the chief deliberative, policy-making and representative organ of the UN, whose accountability and transparency would be consequently improved[117]. Members of such an assembly would be elected through a universal democratic voting system, according to which the national representatives' quotas are measured according to a function made up of diverse elements including: population, state recognition (in order to safeguard small countries), and proportionate and actual financial contribution to the UN system (in order to take into account economic capacity of wealthier states)[118]. However, the necessity of fair voting procedures in the original countries poses a severe practical constraint for this proposal. While this mechanism could, in fact, have beneficial effects on the remaining non-democratic countries in terms of pressure to change, it would also be impracticable if democratic regimes were not dispersed throughout a minimally sufficient number of countries. This variable profoundly marks the political strategy for implementing this reform proposal.

A clear precondition for a legitimate reform of the UN remains the existence of domestic democratic systems, since any new membership to this democratically-renewed supranational organisations must be on a free and voluntary basis (Kant, 1795 [1991]; Bobbio, 1989, 9; Archibugi, 1995b; Habermas, 1997). Only when states have accepted democratic voting procedure domestically, can democratic elections (with guarantees

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[117] The judicial and the executive powers of the UN have also been criticised and reforms subsequently proposed in order to enhance the International Court of Justice and to abolish the veto power in the Security Council. Due to space constraints, this chapter concentrates, however, on the legislative power because of its political supremacy.

[118] Proposals on voting systems have been numerous and diverse during the last fifty years. For a selection, including the so-called Binding Triad, see (Clark & Sohn, 1966, 20-34; Hudson, 1976; Newcombe, 1983; Hudson, 1991; Newcombe, 1991; Szasz, 1991).

of fair procedures)[119] be called for delegating an assembly with the specific task of reforming the Charter[120]. While this does not deny the possibility that a relatively small number of democratic states provide the initial basis for such an assembly—possibly, but at least at the beginning not necessarily, in conjunction with the UN (Falk & Strauss, 2001, 219)—the fact that currently only a minority of states are democratically organised (Freedom-House, 2001) requires the formulation of an appropriate political strategy. A previous de-centralised process fostering democratic systems within states does, indeed, form a condition for any legitimate reform of the UN, and is therefore a priority for any cosmopolitan political project. This seems to be the most promising strategy for escaping from the dilemma of 'attainable and irrelevant or radical but unattainable reforms', and overcoming the causes that currently block any reform.

In envisaging this federal plan of reform for international institutions, consequentialist cosmopolitanism aims at re-establishing the congruence between choice-makers and choice-bearers, which is central to any democratic form of politics in as much as it constitutes one of the most severe challenges of global politics. Only where this correspondence is universally respected through a centralised and comprehensive mechanism of public decision-making and accountability, such as the one presented, is the individual in fact in the position to self-legislate over the entire range of activities in which he or she is involved, and thus his or her democratic freedom preserved.

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[119] Without this proviso, any proposal for a UN assembly with representation contingent only on the democratic election of the representatives from each country, irrespective of country's form of government or its observance of human rights, would be self-contradictory. For an instance of such a misjudgement see (Singer, 2002, 148).

[120] This would be legitimate, but not necessarily legal, according to the existing UN charter. In fact, art. 103 states that the UN charter has legal supremacy over any other international agreement or covenant, and art. 108 affirms that changes in the charter are allowed only if voted by 2/3 of the existing (state) members, including the big five. This arrangement, due to the historical circumstances following the WW II, perfectly preserves the power of the five permanent members of the Security Council, in that it does not allow for any change without their consent. A reformist strategy to deal with this legally invulnerable system relies on the persuasive power of a legitimate public opinion, such as the voice that could potentially be expressed by a qualified world majority.

Conclusions

To the original contention that the international political system generates exclusion and is thus morally unaccountable, this chapter has suggested a cosmo-federalist answer. The current rupture of accountability between choice-makers and choice-bearers has been revealed and criticised through the adoption of a radical democratic perspective, which offers back to all citizens the possibility of participation in the process of self-legislation. The specific circumstances of international justice have been take into account by a particular interpretation of the idea of a universal right to self-determination, which forms the core of the present cosmopolitan argument and generates two key proposals for reforms: a) a recognition of multiple membership at different level of political action in terms of cosmopolitan citizenship; and b) a federal reform of the United Nations, entailing the creation of an elected world assembly endowed with legislative power for issues concerning the global sphere of action. Only through such a pluri-level political system and the subsequent multilevel citizenship encompassing differing degrees of responsibility and relative power at all levels of political decision, can the individual possibility of choice receive an impartial hearing, and so the maximisation of world well-being condition be pursued. Arguably, these are, for the time being, the appropriate political arrangements required by a consequentialist cosmopolitan theory of global justice in the case of citizenship and global political institutions.

VIII

Concluding Remarks

"Utopia and reality are thus two facets of political science. Sound political thought and sound political life will be found only where both have their place" (Carr, 1939, 10)

This concluding section aims to summarise the principal findings of the thesis and present a number of considerations on future directions of research.

Chapter I introduced the problem of international exclusion in terms of political disenfranchisement, underlining the degree of subordination that it imposes on so many citizens around the world. This is nowhere more visible than in the institutional barriers keeping individuals from influencing decisions that transnationally affect them. Having identified this key political deficiency, critical attention turned to its ideological fundaments: the normative theories underpinning such exclusionary phenomenon. These theories share a common fundament: they rely on an interaction-dependent paradigm of justice, according to which any substantial duty to those with whom one does not interact is denied. Both in its contextualist and in its universalist variant, this paradigm of justice is the major contender if the assumption of international exclusion has to be disputed.

In order to challenge these normative bases of international exclusion, the rest of the thesis re-constructed an alternative international political theory anchored on different grounds—a combination of the consequentialist and the cosmopolitan approaches. Chapter II and III surveyed the utilitarian tradition of international thought as the major precursor of consequentialist cosmopolitanism. In the two centuries examined (the 19th and 20th), a number of crucial arguments were highlighted, including the interpretation of political institutions as welfare providers, the universal scope of the ethical-political principles, the adaptation of global principles of justice to the findings of social theory concerning cultural and political allegiances, and the recognition of the multilevel dimensionality of political life. From these and other considerations, arose a perspective made fertile by the possibilities, but also trained by the limits, of international utilitarian thought.

Chapter IV and V presented an alternative international political theory designed to overcome the limits of international utilitarianism through consistently retaining the goal-based and cosmopolitan characteristics needed for an inclusive project. Chapter IV outlined the ethical and political aspects of the proposal. Through the recognition of the unreliability of interpersonal comparisons, the welfarist focus of the consequentialist theory was re-directed to the individual freedom of choice. Individual capacity for free choice played thus a crucial role in structuring the entire normative mechanism, in procedural and all-inclusive terms. Comparisons with the major ethical theories were drawn in order to reveal the affinities and the contrasts with alternative normative proposals. Finally, from the principle of freedom of choice a dual metric of justice was identified—consisting in the guarantee of vital interests and political participation—as a legitimate premise for a renewed conception of political agency.

Elaborating on this ethical ground, chapter V presented the institutional and international aspects of the proposal. The institutional framework of consequentialist democracy was outlined according to a procedural methodology for institutional assessment. In this, the role of political participation (as opposed to exclusion) is crucial in that it allows

the democratic congruence between choice-makers and choice-bearers, thus preserving individual freedom of choice. The theory was defined as ideal-theory, in that it was thought to provide the ultimate principles for both envisaging the minimal conditions of an ideal system and criticising the limits of the current political arrangements. From this general outlining, further features of the proposal were discussed including the double dimension of political agency (individual and collective), and the multilayered political structure, as unfolded over three principal levels (individual, state and world).

Finally, he last two chapters were dedicated to testing the proposal on two aspects of one of the most challenging issue of international political theory: political agency as embedded in the notion of cosmopolitan citizenship. In chapter VI the horizontal dimension of citizenship was examined through in the case of migration and the right to movement. Chapter VII analysed the vertical dimension, looking at both the participatory rights in international institutions and their collective agency. Both chapters began from the observation of the limits of the current international political structure in terms of political exclusion, and concluded by offering alternative recipes for an all-inclusive political model. With regard to the case of migration, a global perspective was advanced that is able to re-balance the claims of the migrants against those of the residents, according to a principle of non-discrimination. With regard to the case of international institutions, a cosmo-federal reform of the UN was suggested as the most consistent project for the extension of the all-inclusive democratic ideal at the global level.

Through these seven chapters, this thesis has elaborated and defended an all-inclusive political model, serving two main aims. On the one hand, it intends to offer a consistent stance from which to criticise the current degree of exclusion; generated by the decision-making process presently in force and underpinned by the interaction-dependent theories of justice. On the other hand, the consequentialist cosmopolitan model also draws a clear alternative to the phenomenon of international political exclusion through a system that is universalist and yet multilayered. This vision stems for the most part from a normative exercise of international

ideal-theory. In this vein, it is critically different from current political reality, it is 'unrealistic'. And yet, it claims to grasp the certain—still minoritarian—tendency toward progressive democratisation of political life which is under way through differing social struggles[121]. In sum, the thesis maintains that global democracy is no more unrealistic today than national democracy was 200 years ago, or women's enfranchisement 50 years ago, if we assume a normative perspective.

Alongside its principal result in terms of envisaging an all-inclusive political system and thus depicting a new version of international political theory, this study also sheds light on a number of correlated investigative topics which are worth mentioning here for future research. On account of the specific focus of this thesis (as well as simple lack of space), these topics could not be examined comprehensively here, but they certainly represent important themes on which to concentrate in the future, for they are at the same time severely underdeveloped in the literature and highly relevant in practical terms. They are also, significantly, often multidisciplinary. The contribution of consequentialist cosmopolitanism to these sectors of research primarily consists in the clarification of the general normative framework within which they can be advanced, and in the indication of the initial steps which should lead toward more elaborated arguments. These topics include the problematisation of the theoretical dichotomies between individual and collective responsibility, between ideal and non-ideal theory, and between cosmopolitan theory and cosmopolitan political practice.

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[121] Similarly many transnational social movements campaigns "began with an idea that was almost unimaginable, even by its early proponents. That they could abolish slavery, gain vote for women, or end footbinding hardly seemed possible. One of the main tasks that social movements undertake, however, is to make possible the previously unimaginable, by framing problems in such a way that their solution comes to appear inevitable. The case of female circumcision reminds us that such changes are neither obvious nor linear. They are the contingent result of contestations over meaning and resources waged by specific actors in a specific historical context" (Keck & Sikkink, 1998, 40-1).

The relationship between individual and collective responsibility is of decisive importance in political theory, and even more in international political theory. Being somewhere in the middle between the disciplines of political theory, ethics, and legal theory, the issue of the allocation of responsibility, and subsequently that of the enforcement of punishment, represents a still poorly developed issue in the discussion of international political theory. Studies that are opening up interesting ways of investigation on this topic are Erskine's and Kutz's (Kutz, 2000; Erskine, 2003). Secondly, the dichotomy between ideal and non-ideal theory forms another crucial aspect for any theorisation of political theory, both domestically and internationally. Political thinking usually disregards the non-ideal side of normative reasoning, insofar as it rarely addresses the demands on individual behaviour in a situation of non-co-operation or of non-existence of political institutions. This case is obviously relevant in the international domain where defection from co-ordination and a low degree of law enforcement are two principal characteristics. Points of reference in this case are the writing of Cohen and Singer (Cohen, 2000; Singer, 2002). Finally, the relationship between cosmopolitan theory and cosmopolitan political practice also needs to be examined more profoundly. The theorisation of cosmopolitanism from above, from the academia, needs to be compared with that arising from below, from the social and political movements that are engaged in political struggle for the democratisation of international affairs. In this regards, the works of Finnemore and Sikkink, and Patomäki and Teivainen are innovative and educative (Finnemore & Sikkink, 1998; Patomäki & Teivainen, 2004).

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