

sphere of the political. Hence it is hardly a surprise that liberal democracy and flourishing economic inequalities exist side by side.

The implications of the above points for international law have been well summarized by Chinkin when she insists that “the capability of the international legal system to be relevant to human rights requires dislodging legal and conceptual boundaries between . . . human rights law and international economic law, between state sovereignty and transnational law, between international humanitarian law and military necessity” (1998, 121). The prevailing uncertainty of the meaning and implications of the regime of liberal international sovereignty is compounded by these divisions; legal uncertainty both articulates and expresses important gulfs between politics and economics (*cf.* Gessner 1998). Section II addresses some of these concerns.

II.

A. Cosmopolitan Sovereignty

The problems and dilemmas of the liberal regime of sovereignty can be referred to, following Waldron, as the “circumstances of cosmopolitanism” (2000, 236–239); that is, the background conditions and presuppositions that inform and motivate the case for a cosmopolitan framework of law and sovereignty. These circumstances can be summarized by reference to the processes and forces of globalization that increasingly enmesh us in overlapping communities of fate. Not only are we “unavoidably side by side” (as Kant put it), but the degrees of mutual interconnectedness and vulnerability are rapidly growing. The new circumstances of cosmopolitanism give us little choice but to establish a “common framework of political action” given shape and form by a common framework of law and regulation (Held 1995, pt. III).

How should cosmopolitanism be understood in this context? In the first instance, cosmopolitanism can be taken as those basic values that set down standards or boundaries that no agent, whether a representative of a government, state, or civil association, should be able to cross. Focused on the claims of each person as an individual or as a member of humanity as a whole, these values espouse the idea that human beings are in a fundamental sense equal and that they deserve equal political treatment; that is, treatment based upon the equal care and consideration of their agency irrespective of the community in which they were born or brought up. After over two hundred years of nationalism and sustained nation-state formation, such values could be thought of as out of place. But such values are already enshrined in, and central to, the laws of war, human rights law, and the statute of the ICC, among many other international rules and legal arrangements.

There is a second, important sense in which cosmopolitanism defines a set of norms and legal frameworks in the here and now and not in some remote utopia. This is the sense in which cosmopolitanism defines forms of political regulation and law-making that create powers, rights, and con-

straints that transcend the claims of nation-states and have far-reaching consequences in principle. This is the domain between national and global law and regulation—the space between domestic law, which regulates the relations between a state and its citizens, and traditional international law, which applies primarily to states and interstate relations (Eleftheriadis 2000). This space is already filled by a host of legal regulation, from the plethora of legal instruments of the EU and the international human rights regime as a global framework for promoting rights, to the diverse agreements of the arms control system and environmental regimes. Cosmopolitanism is not, thus, made up of political ideals for another age but embedded in rule systems and institutions that have already transformed state sovereignty in many ways.

Yet the precise sense in which these developments constitute a form of “cosmopolitanism” remains to be clarified, especially given that the ideas of cosmopolitanism have a complex history from the Stoics to contemporary political philosophy. For my purposes here, cosmopolitanism can be taken as the moral and political outlook that offers the best prospects of overcoming the problems and limits of classic and liberal sovereignty. It builds upon some of the strengths of the liberal international order, particularly its commitment to universal standards, human rights, and democratic values that apply, in principle, to each and all. It specifies, in addition, a set of general principles upon which all could act (O’Neill 1991, 1996); for these are principles that can be universally shared and can form the basis for the protection and nurturing of each person’s equal interest in the determination of the institutions that govern his or her life.

Cosmopolitan Principles

What are these principles? Seven are paramount. They are the principles of:

1. equal worth and dignity;
2. active agency;
3. personal responsibility and accountability;
4. consent;
5. reflexive deliberation and collective decision-making through voting procedures;
6. inclusiveness and subsidiarity;
7. avoidance of serious harm and the amelioration of urgent need.

The meaning of these principles needs unpacking in order that their implications can be clarified for the nature and form of political community today. An account of each will be built up, explaining its core concerns and setting out elements of its justification. Inevitably, given the length of an article, this will not amount to a definitive exposition. It will, however, offer an elucidation of what cosmopolitanism should mean in contemporary circumstances.

The first principle recognizes simply that everyone has an equal moral

care, adequate education, and economic security. If people's intermediate needs are unmet and they cannot fully participate in the sociopolitical processes that structure their opportunities, their potential for involvement in public and private life will remain unfulfilled. Their ability to make (or not make) choices and to form the course of their life projects will have been impaired, irrespective of the choices they would have made about the extent of their actual engagement.

A social provision which falls short of the potential for active agency can be referred to as a situation of manifest "harm" in that the participatory potential of individuals and groups will not have been achieved; that is to say, people would not have adequate access to effectively resourced capacities which they might make use of in particular circumstances (Sen 1999). This "participative" conception of agency denotes an "attainable" target—because the measure of optimum participation and the related conception of harm can be conceived directly in terms of the "best resource mix" or "highest standard" presently achieved in a political community (*see* Doyal and Gough 1991, 169). But attainable participative levels are not the same thing as the most pressing levels of vulnerability, defined by the most urgent need. It is abundantly clear that within many, if not all, communities and countries, certain needs, particularly concerning health, education, and welfare, are not universally met. The "harm" that follows from a failure to meet such needs can be denoted as "serious harm", marked as it often is by immediate, life-and-death consequences. This harm constitutes a domain of need and suffering that is both systematic and wholly unnecessary. As it is understood here, serious harm is directly avoidable harm. To maintain such a position is to take the view that capabilities and resources exist, even within the current frameworks of power and wealth, to mitigate and solve such problems. In the most basic sense, the challenges posed by avoidable suffering are "political and ethical, and possibly psychological, but do not arise from any absolute scarcity or from an absence of resources and technical capabilities" (Falk 1995, 56–7). Accordingly, if the requirements of principle 7 are to be met, law and public policies ought to be focused, in the first instance, on the prevention of serious harm; that is, the eradication of harm inflicted on people "against their will" and "without their consent" (Barry 1998, 231, 207). Such a stance would constrain the rightful range of public policy, directing the latter to those who are victims of harm, whether this be the intended or unintended outcome of social forces and relations.

The seven principles can best be thought of as falling into three clusters. The first cluster, comprising what can be called "constituting principles" (principles 1–3), sets down the fundamental organizational features of the cosmopolitan moral universe. Its crux is that each person is a subject of equal moral concern; that each person is capable of acting autonomously with respect to the range of choices before him or her; and that, in deciding how to act or which institutions to create, the claims of each person affected

should be taken equally into account. Personal responsibility means in this context that actors and agents have to be aware of, and accountable for, the consequences of their actions, direct or indirect, intended or unintended, that may restrict and delimit the choices of others. The second cluster, “legitimizing principles” (principles 4–6), forms the basis of translating individually initiated activity, or privately determined activities more broadly, into collectively agreed or collectively sanctioned frameworks of action or regulatory regimes. Legitimizing principles are self-binding principles that make voluntariness and self-determination possible for each and all (*cf.* Holmes 1988). Public power can be conceived as legitimate to the degree to which principles 4, 5, and 6 are upheld. The final principle (7) lays down a framework for prioritizing need; in distinguishing vital from nonvital needs, it creates an unambiguous starting point and guiding orientation for public decisions. While this “prioritizing commitment” does not, of course, create a decision procedure to resolve all clashes of priority in politics, it clearly creates a moral framework for focusing public policy on those who are most vulnerable (*see* Held, forthcoming, for an elaboration of these themes).

I take cosmopolitanism ultimately to denote the ethical and political space occupied by the seven principles: It lays down the universal or organizing principles that delimit and govern the range of diversity and difference that ought to be found in public life. It discloses the proper basis or framework for the pursuit of argument, discussion, and negotiation about particular spheres of value, spheres in which local, national, and regional affiliations will inevitably be weighed.⁴ However, it should not be concluded from this that the meaning of the seven principles can simply be specified once and for all. For while cosmopolitanism affirms principles that are universal in their scope, it recognizes, in addition, that the precise meaning of these is always fleshed out in situated discussions; in other words, that there is an inescapable hermeneutic complexity in moral and political affairs that will affect how the seven principles are actually interpreted, and the weight granted to special ties and other practical-political issues. I call this mix of regulative principles and interpretative activity “framed pluralism” or a “layered” cosmopolitan position (*cf.* Tully 1995). This cosmopolitan point of view builds on principles that all could reasonably assent to, while recog-

4. Contemporary cosmopolitans, it should be acknowledged, are divided about the demands that cosmopolitanism lays upon the individual and, accordingly, upon the appropriate framing of the necessary background conditions for a “common” or “basic” structure of individual action and social activity. Among them there is agreement that in deciding how to act or which rules or regulations ought to be established, the claims of each person affected should be weighed equally—“no matter where they live, which society they belong to, or how they are connected to us” (Miller 1998, 165). The principle of egalitarian individualism is regarded as axiomatic. But the moral weight granted to this principle depends heavily upon the precise modes of interpretation of other principles (*see* Nussbaum 1996; Barry 1998; Miller 1998; Scheffler 1999).

nizing the irreducible plurality of forms of life (Habermas 1996). Thus, on the one hand, the position upholds certain basic egalitarian ideas—those that emphasize equal worth, equal respect, equal consideration, and so on—and, on the other, it acknowledges that the elucidation of their meaning cannot be pursued independently of an ongoing dialogue in public life. Hence there can be no adequate institutionalization of equal rights and duties without a corresponding institutionalization of national and transnational forms of public debate, democratic participation, and accountability (McCarthy 1999; and see below). The institutionalization of cosmopolitan principles requires the entrenchment of democratic public realms.

Cosmopolitan Law and Authority

Against this background, the nature and form of cosmopolitan law can begin to be addressed. In the first instance, cosmopolitan law can be understood as a form of law that entrenches the seven principles. If these principles were to be systematically entrenched as the foundation of law, the conditions for the possibility of the cosmopolitan regulation of public life could initially be set down. For the principles specify the organizational basis of legitimate public power. Political power becomes legitimate power in the cosmopolitan doctrine when, and only when, it is entrenched and constituted by these cosmopolitan elements.

Within the framework of cosmopolitan law, the idea of rightful authority, which has been so often connected to the state and particular geographical domains, has to be reconceived and recast. Sovereignty can be stripped away from the idea of fixed borders and territories and thought of as, in principle, an attribute of basic cosmopolitan democratic law which can be drawn upon and enacted in diverse realms, from local associations and cities to states and wider global networks. Cosmopolitan law demands the subordination of regional, national, and local “sovereignties” to an overarching legal framework, but within this framework associations may be self-governing at diverse levels (Held 1995, 234).

Clear contrasts with the classic and liberal regimes of sovereignty follow. Within the terms of classic sovereignty, the idea of the modern polity is associated directly with the idea of the state—the supreme power operating in a delimited geographic realm. The state has preeminent jurisdiction over a unified territorial area—a jurisdiction supervised and implemented by territorially anchored institutions. While the notion of the state within the frame of classic sovereignty is associated with an unchecked and overarching supreme power, in the liberal conception a legitimate political power is one marked by an impersonal, legally circumscribed structure of power, delimited nationally and (increasingly) internationally. The geopolitics and geo-economics of the liberal international sovereign order are fierce, but they are locked, at least in principle, into the universal human rights regime and the growing standards of democratic governance. Within the cosmopolitan framework, by contrast, the political authority of states is

but one moment in a complex, overlapping regime of political authority; legitimate political power in this framework embeds states in a complex network of authority relations, where networks are regularized or patterned interactions between independent but interconnected political agents, nodes of activity, or sites of political power (Modelski 1972; Mann 1986; Castells 1996). Cosmopolitan sovereignty comprises networked realms of public authority shaped and delimited by cosmopolitan law. Cosmopolitan sovereignty is sovereignty stripped away from the idea of fixed borders and territories governed by states alone, and is instead thought of as frameworks of political regulatory relations and activities, shaped and formed by an overarching cosmopolitan legal framework.

In this conception, the nation-state “withers away.” But this is *not* to suggest that states and national democratic polities become redundant. Rather, states would no longer be regarded as the sole centers of legitimate power within their borders, as is already the case in diverse settings (*see* Held et al. 1999, “Conclusion”). States need to be articulated with and relocated within an overarching cosmopolitan framework. Within this framework, the laws and rules of the nation-state would become but one focus for legal development, political reflection, and mobilization.

Under these conditions, people would in principle come to enjoy multiple citizenships—political membership, that is, in the diverse political communities that significantly affect them. In a world of overlapping communities of fate, individuals would be citizens of their immediate communities and of the wider regional and global networks that impact upon their lives. This overlapping cosmopolitan polity would be one that in form and substance reflects and embraces the diverse forms of power and authority that operate within and across borders.

B. Institutional Requirements

The institutional requirements of a cosmopolitan polity are many and various. In thinking about the pertinence and efficacy of cosmopolitanism to international legal and political arrangements, it is helpful to break down these requirements into a number of different dimensions. All relate to the idea of cosmopolitanism but function analytically and substantively at different levels, ranging from the legal and the political to the economic and the sociocultural. Four institutional dimensions of cosmopolitanism will be set out below and related to the key recurring problems embedded in the liberal international order (*see* pp. 20–22). Each of the different dimensions can contribute to an expansion of the resources necessary to move beyond these problems and, eventually, to produce a satisfactory elucidation of cosmopolitan sovereignty.

Legal cosmopolitanism. Legal cosmopolitanism explores the tension between legal claims made on behalf of the states systems and those made on

behalf of an alternative organizing principle of world order in which all persons have equivalent rights and duties (Pogge 1994a, 90ff.). It posits an ideal of a global legal order in which people can enjoy an equality of status with respect to the fundamental institutions of the legal system. At the center of legal cosmopolitanism is *legalis homo*, someone free to act by law, free to ask for and expect the law's protection, free to sue and be sued in certain courts, but who does not directly make or determine the law (Pocock 1995, 36ff). The focus of *legalis homo* is equal legal standing and personal rights.

Legal cosmopolitanism is universalizing and potentially inclusive. It is not, as one commentator usefully put it, "tied to a particular collective identity, or membership of a demos" (Cohen 1999, 249). It can be deployed to create the basis for the equal treatment of all, the entrenchment of a universal set of rights and obligations, and the impartial delimitation of individual and collective action within the organizations and associations of state, economy, and civil society (Held 1995, ch. 12). As such, it is a resource to help resolve the challenges posed by asymmetries of power, national policy spillovers, and overlapping communities of fate.

The institutional requirements of legal cosmopolitanism include:

The entrenchment of cosmopolitan democratic law; a new "thick" charter of rights and obligations embracing political, social, and economic power.

An interconnected global legal system, embracing elements of criminal, commercial, and civil law.

Submission to ICJ and ICC jurisdiction; creation of a new, international human rights court, and further development of regional human rights institutions.

Political cosmopolitanism. Without complementary forms of law-making and enforcement, however, there is no reason to think that the agenda of *legalis homo* will automatically mesh with that of the protection of equal membership in the public realm and the requirements of active citizenship. For this, legal cosmopolitanism needs to be related to political cosmopolitanism. Political cosmopolitanism involves advocacy of regional and global governance and the creation of political organizations and mechanisms that would provide a framework of regulation and law enforcement across the globe. Although cosmopolitan positions often differ on the precise nature and form of such a framework, they are generally committed to the view that political cosmopolitanism entails that states should have a somewhat, and in some areas a markedly, diminished role in comparison with institutions and organizations of regional and global governance.

From this perspective, the rights and duties of individuals can be nurtured adequately only if, in addition to their proper articulation in national constitutions, they are underwritten by regional and global regimes, laws, and institutions. The promotion of the political good and of principles of egalitarian political participation and justice are rightly pursued at regional

and global levels. Their conditions of possibility are inextricably linked to the establishment and development of transnational organizations and institutions of regional and global governance. The latter are a necessary basis of cooperative relations and just conduct.

Political cosmopolitanism, accordingly, takes as its starting point a world of “overlapping communities of fate.” In the classic and liberal regimes of sovereignty, nation-states largely dealt with issues that spilled over boundaries by pursuing “reasons of state,” backed ultimately by coercive means. But this power logic is singularly inappropriate to resolve the many complex issues, from economic regulation to resource depletion and environmental degradation, that engender an intermeshing of national fortunes. Recognizing the complex structures of an interconnected world, political cosmopolitanism views certain issues as appropriate for delimited (spatially demarcated) political spheres (the city, state, or region), while it sees others—such as the environment, world health, and economic regulation—as needing new, more extensive institutions to address them. Deliberative and decision-making centers beyond national territories are appropriately situated (see principle 6, p. 28) when the cosmopolitan principles of equal worth, impartial treatment, and so on can be properly redeemed only in a transnational context; when those significantly affected by a public matter constitute a cross-border or transnational grouping; and when “lower” levels of decision-making cannot manage and discharge satisfactorily transnational or international policy questions. Only a cosmopolitan political outlook can ultimately accommodate itself to the political challenges of a more global era, marked by policy spillovers, overlapping communities of fate, and growing global inequalities.

The institutional requirements of political cosmopolitanism include:

Multilayered governance, diffused authority.

A network of democratic fora from the local to global.

Enhanced political regionalization.

Establishment of an effective, accountable, international military force for last-resort use of coercive power in defence of cosmopolitan law.

Economic cosmopolitanism. Economic cosmopolitanism enters an important proviso about the prospects of political cosmopolitanism, for unless the disjuncture between economic and political power is addressed, resources will remain too skewed to ensure that formally proclaimed liberties and rights can be enjoyed in practice by many; in short, “nautonomy” will prevail—the asymmetrical production and distribution of life-chances, eroding the possibilities of equal participative opportunities and placing artificial limits on the creation of a common structure of political action (Held 1995, ch. 8). At issue is what was earlier referred to as the tangential impact of the liberal international order on the regulation of economic power and market mechanisms and on the flourishing socioeconomic in-

equalities that exist side by side with the spread of liberal democracy. A bridge has to be built between human rights law and international economic law, between a formal commitment to the impartial treatment of all and a geopolitics driven too often by sectional economic interests, and between cosmopolitan principles and cosmopolitan practices.

This understanding provides a rationale for a politics of intervention in economic life—not to control and regulate markets per se, but to provide the basis for self-determination and active agency. Economic cosmopolitanism connotes the enhancement of people's economic capacities to pursue their own projects—individual and collective—within the constraints of community and overlapping communities of fate, that is, within the constraints created by taking each human being's interest in declared liberties equally seriously. It thus specifies good reasons for being committed to reforming and regulating all those forms of economic power that compromise the possibility of equal worth and active agency. It aims to establish fair conditions for economic competition and cooperation as the background context of the particular choices of human agents (*see* Pogge 1994b).

It follows from this that political intervention in the economy is warranted when it is driven by the objective of ensuring that the basic requirements of individual autonomy are met within and outside economic organizations. Moreover, it is warranted when it is driven by the need to overcome those consequences of economic interaction, whether intended or unintended, that generate damaging externalities such as environmental pollution threatening to health. The roots of such intervention lie in the indeterminacy of the market system itself (*see* Sen 1985, 19). Market economies can function in a manner commensurate with self-determination and equal freedom only if this indeterminacy is addressed systematically and if the conditions of the possibility of self-governance are met.

In addition, a transfer system has to be established within and across communities to allow resources to be generated to alleviate the most pressing cases of avoidable economic suffering and harm. If such measures involved the creation of new forms of regional and global taxation—for instance, a consumption tax on energy use, or a tax on carbon omissions, or a global tax on the extraction of resources within national territories, or a tax on the GNP of countries above a certain level of development, or a transaction tax on the volume of financial turnover in foreign exchange markets—*independent* (nonnational) funds could be established to meet the most extreme cases of need. Sustained social framework investments in the conditions of autonomy (sanitation, health, housing, education, and so on) could then follow. Moreover, the raising of such funds could also be the basis for a critical step in the realization of political cosmopolitanism: the creation of an independent flow of economic resources to fund regional and global governance, a vital move in removing the latter's dependency on leading democratic princes and the most powerful countries.

The institutional requirements of economic cosmopolitanism embrace:

Reframing market mechanisms and leading sites of economic power.

Global taxation mechanisms.

Transfer of resources to the most economically vulnerable in order to protect and enhance their agency.

Cultural cosmopolitanism. Cultural cosmopolitanism is the capacity to mediate between national traditions, communities of fate, and alternative styles of life. It encompasses the possibility of dialogue with the traditions and discourses of others with the aim of expanding the horizons of one's own framework of meaning and prejudice. Political agents who can "reason from the point of view of others" are likely to be better equipped to resolve, and resolve fairly, the new and challenging transboundary issues and processes that create overlapping communities of fate. The development of this kind of cultural cosmopolitanism depends on the recognition by growing numbers of peoples of the increasing interconnectedness of political communities in diverse domains, including the economic, cultural, and environmental; and on the development of an understanding of overlapping "collective fortunes" that require collective solutions—locally, nationally, regionally, and globally.

The formation of cultural cosmopolitanism has been given an enormous impetus by the sheer scale, intensity, speed, and volume of global cultural communication, which today has reached unsurpassed levels (*see* Held et al. 1999, ch. 7). Global communication systems are transforming relations between physical locales and social circumstances, altering the "situational geography" of political and social life (Meyrowitz 1985). In these circumstances, the traditional link between "physical setting" and "social situation" is broken. Geographical boundaries can be overcome as individual and groups experience events and developments far afield. Moreover, new understandings, commonalities, and frames of meaning can be elaborated without direct contact between people. As such, they can serve to detach, or disembed, identities from particular times, places, and traditions, and can have a "pluralizing impact" on identity formation, producing a variety of options that are "less fixed or unified" (Hall 1992). While everyone has a local life, the ways people make sense of the world are now increasingly interpenetrated by developments and processes from diverse settings. Hybrid cultures and transnational media organizations have made significant inroads into national cultures and national identities. The cultural context of national traditions is transformed as a result.

Cultural cosmopolitanism emphasizes "the fluidity of individual identity, people's remarkable capacity to forge new identities using materials from diverse cultural sources, and to flourish while so doing" (Scheffler 1999, 257). It celebrates, as Rushdie put it, "hybridity, impurity, intermingling, the transformation that comes of new and unexpected combinations of human beings, cultures, ideas, politics, movies, songs" (quoted in Waldron 1992, 751). But it is the ability to stand outside a singular cultural location (the

location of birth, land, upbringing, conversion) and to mediate traditions that lies at its core. However, there are no guarantees about the extent to which such an outlook will prevail. For it has to survive and jostle for recognition alongside often deeply held national, ethnic, and religious traditions (*see* Held and McGrew 2000, 13–18 and pt. 3). It is a cultural and cognitive orientation, not an inevitability of history.

The institutional requirements of cultural cosmopolitanism include:

Recognition of increasing interconnectedness of political communities in diverse domains, including the social, economic, and environmental.

Development of an understanding of overlapping “collective fortunes” that require collective solutions—locally, nationally, regionally, and globally.

The celebration of difference, diversity, and hybridity while learning how to “reason from the point of view of others” and mediate traditions.

CONCLUDING REFLECTIONS

The core of the cosmopolitan project involves reconceiving legitimate political authority in a manner that disconnects it from its traditional anchor in fixed territories and instead articulates it as an attribute of basic cosmopolitan democratic arrangements or basic cosmopolitan law which can, in principle, be entrenched and drawn upon in diverse associations. Significantly, this process of disconnection has already begun, as political authority and forms of governance are diffused “below,” “above,” and “alongside” the nation-state.

Recent history embraces many different forms of globalization. There is the rise of neoliberal deregulation so much emphasized from the mid-1970s. But there is also the growth of major global and regional institutions, from the UN to the EU. The latter are remarkable political innovations in the context of state history. The UN remains a creature of the interstate system; however, it has, despite all its limitations, developed an innovative system of global governance which delivers significant international public goods—from air-traffic control and the management of telecommunications to the control of contagious diseases, humanitarian relief for refugees, and some protection of the environmental commons. The EU, in remarkably little time, has taken Europe from the disarray of the post-Second World War era to a world in which sovereignty is pooled across a growing number of areas of common concern. Again, despite its many limitations, the EU represents a highly innovative form of governance that creates a framework of collaboration for addressing transborder issues.

In addition, it is important to reflect upon the growth in recent times of the scope and content of international law. Twentieth-century forms of international law have, as this essay has shown, taken the first steps toward a framework of universal law, law that circumscribes and delimits the politi-