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Trevelyan College, Durham University

**Resolving the Two impasses in the Global Justice Debate
through a Reconstruction of David Miller's Account of
Deliberative Democracy on the Basis of Habermas's
Conception of Communicative action ©**

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**A thesis submitted to the Department of Government and International Affairs,
Durham University, for the Degree of Doctor of Philosophy**

September 2018

Abstract

There are both substantive and methodological disagreements in the global justice debate between cosmopolitanism on the one hand, and statism and liberal nationalism on the other. The substantive disagreement avers that statist and liberal nationalists restrict the regulation of substantive inequality to the domestic sphere, whereas cosmopolitans extend it to the global level. The methodological disagreement is based on the fact that statist and liberal nationalists ground concern for distributive justice in the institutions of citizenship, whereas cosmopolitans focus on the moral equality of human beings. David Miller's liberal nationalist account of distributive justice differs from the statist account by drawing on a premise about human nature: that a common nationality is a powerful motivational force in supporting the institutions of citizenship within a nation-state. This provides more ethically acceptable justification for restricting the regulation of substantive inequality in the face of the cosmopolitans' insistence on respecting the moral equality of human beings. However, Miller's account is incomplete because it fails to explain why human beings' common moral intuitions and political emotions would justify restricting the regulation of substantive inequality to the domestic level. In this thesis, I will propose a way of extending Miller's account based on the idea of deliberative democracy at the global level. I will argue that the regulation of substantive inequality could be grounded in institutions of global citizenship based on public deliberation at the global level that would adjudicate among different distributive principles and that this could help to resolve the two disagreements in the global justice debate.

Contents

Declaration and Statement of Copyright	6
Acknowledgement	7
Introduction	8
Chapter 1: Miller’s Conception of Social Justice and Its Critics	25
Section 1: Miller’s Conception of Social Justice: Three Principles.....	28
Section 2: How Miller’s Conception of Social Justice Bears on the Debate between the Distributive and the Relational Egalitarians.....	30
Section 3: The Non-Discriminative and Discriminative Strategies of Rescuing Distributive Egalitarianism.....	43
Chapter 2: Miller’s Split-Level Conception of Distributive Justice and Its Critics ..	57
Section 1: Miller’s Split-Level Conception of Distributive Justice.....	60
Section 2: Three Reasons for a Split-Level Conception of Distributive Justice.....	63
Section 3: The Critique of the Metric Problem.....	66
Section 4: The Critique of the Dynamic Problem.....	73
Section 5: The Lack of Global Institutions of Citizenship.....	79
Chapter 3: Miller’s Theory of Nationality and Its Critics	94
Section 1: Miller’s Theory of Nationality.....	97
Section 2: Habermas’s Theory of Law as the Medium between Facticity and Validity.....	100
Section 3: Examining the Three Accounts of Citizens’ Motivation to Support a Legally Institutionalised Communicative Action.....	102
Section 4: Habermas’s Constitutional Patriotism Has to Rely on Miller’s Theory of Nationality.....	114

Chapter 4: Miller’s Account of the Nation-Building Process and Its Critics.....	125
Section 1: Miller’s Account of the Nation-Building Process.....	128
Section 2: Criticisms of Miller’s Account of the Nation-Building Process.....	129
Section 3: Non-National Group Identities and According Equal Respect to Co-Deliberators.....	142
Section 4: Supplementing Miller’s Account of Nation-Building with Habermas’s Idea of Legally Institutionalised Communicative Action.....	151
Chapter 5: Miller’s Contextualist Approach to Political Theory and the Role of Common Moral Intuitions and Political Emotions.....	162
Section 1: Miller’s Approach to Political Theory.....	164
Section 2: The Critiques of Miller’s Approach to Political Theory...	167
Section 3: The Need for Miller’s Account of a Deliberative Democracy to Incorporate Habermas’s Conception of Communicative Action.....	186
Chapter 6: Habermas’s Conception of Communicative Action and the Role of Common Moral Intuitions and Political Emotions.....	194
Section 1: Examining the Constitutional Patriots’ Interpretation of Communicative Action.....	196
Section 2: Examining the Liberal Multiculturalists’ Interpretation of Communicative Action.....	205
Section 3: Communicative Action as a Solution to the Deficiency of Miller’s Approach to Political Theory.....	220
Chapter 7: Resolving the Two Impasses in the Global Justice Debate: the Impasse at the Level of Substantive Theory.....	229
Section 1: The Global Justice Debate among the cosmopolitans, the statists and the liberal nationalists.....	232

Section 2: Debating the Moral Particularities of Nation-States.....	237
Chapter 8: Resolving the Two Impasses in the Global Justice Debate: the Impasse at the Methodological Level.....	265
Section 1: The Two Means of Justification.....	266
Section 2: Debating the Fact-Dependency of Distributive Principles.....	268
Section 3: The Argument for the Further Institutionalisation of Global Citizenship.....	286
Conclusion.....	320
Bibliography.....	327

Declaration

This thesis is the result of my own work. Material from the published or unpublished work of others which is used in the thesis is credited to the author in question in the text.

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Date: 27/09/2018

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Acknowledgement

What does a PhD mean to you? When this question was posed to me in our very first induction, the image of a bottomless swamp immediately sprang to my mind. A PhD thesis seemed like a quagmire from which one could not possibly hope to escape. Fortunately, there have been many helping hands in the past four years or so. Thanks to them, the day is saved, and I can finally look back on my struggle and feel content. Like the westering sun on the horizon, I have been bathed in the kindness of countless people along the way, whose names I will list as follows, for fear they will fade away when the darkness falls: Maria Dimova-Cookson, Pietro Maffettone, Christopher Finlay, Elizabeth Khan, David Miller. Now, as at the closing of a great show, I would like to impress the actors' final lines so deeply in the memories of the audience that they cannot stop reciting them, like a spellbound lover's kiss. So, here goes:

As the last warmth of the day leaves your mind,
Cry not, just hum the rhyme
For it is to my mother,
The thought of whom makes me smile
To my father,
My imperfect giant who pushes a heavy boulder up the hill,
Tired, oh so tired
To my aunt whose beauty and intelligence see no bounds
To my teacher for life,
A bright colour to every one of my rainy days
To Kun,
The lone voice in the desert after darkness falls
To dear Siberian little bear,
The eternal starlight in the sky
To the mortal ray of light,
May you stay as long as the night is past.

Introduction

From the early nineties, theorists have come to realise that the major concern of global justice should be the way various material advantages are distributed among human beings. This understanding has developed slowly, due to the fact that international organisations such as the United Nations have acquired increasing power to regulate common human affairs over and above their traditional concerns that relate to peace and stability, even if they do so only to a limited degree. Ideally, we would expect the global justice debate to generate widely acceptable distributive principles that contribute to international legal reform, corresponding policy changes in each nation-state, altered behaviour patterns of participants in global market transactions, et cetera. In practice, international law has not recognised socio-economic rights as being part of basic human rights; nation-states have not developed a collective response to the apparently exploitative behaviours of multinational corporations; the ethical demands of distributive justice are still not as binding on the behaviour patterns of the participants in global market transactions as they are within nation-states. These are but a few examples.

As many observe, the gap between our expectations of a fairer global economic order, regulated by clearly stated distributive principles and the actual state of affairs at the global level reflects the lack of motivation on the part of nation-states to take initiatives to transform the existing international system, together with its legal system. This can be seen to be true, insofar as many international organisations, with the exception of the European Union, have not even gained the authority from the member nation-states to enforce their decisions and policies, and efforts to empower these organisations have met with continual resistance in intergovernmental

negotiations. The fact that global justice theorists have not reached any consensus on the proper content of distributive principles at the global level, and that the global justice debate has been largely conducted within the confines of Western academia, further exacerbate this situation. In this thesis, I will focus on resolving the current impasses in the global justice debate by reconstructing David Miller's account of deliberative democracy on the basis of Jürgen Habermas's conception of communicative action. Due to the limited scope of this thesis, I will not discuss how this proposal may gain the support of nation-states or how international organisations and international law will be transformed accordingly. However, my discussion at the conceptual level will have clear implications for the requisite political transformation and how this could be done in principle.

The impasse which I attempt to resolve here is situated among the three main schools of thought in the global justice debate: cosmopolitanism, statism and liberal nationalism. First, the cosmopolitans believe that all distributive principles should be consistent with the moral equality of human beings. In other words, all material advantages should be distributed among human beings according to the belief that all human beings should be given equal consideration as part of our common humanity. It should be noted that there is a distinction between humanist and associativist cosmopolitanism. The humanist cosmopolitans believe that substantive equality in material terms is the fairest distributional pattern among human beings, as it reflects the moral equality of human beings, and any deviation from this default position should reflect genuine individual choices rather than brute luck. In contrast, the associativist cosmopolitans believe that substantive equality should be grounded in the ethical significance of the human relations within nation-states, although they respect the moral equality of human beings above all. Second, over and above the

recognition of the moral equality of human beings, the statist believe that substantive equality should be grounded in the institutions of citizenship—a rendition of the ethical significance of nation-states that focuses on the three characteristics of the existing citizenship within those nation-states. According to the statist's accounts of distributive justice, citizenship imposes shared legal coercion upon individuals, confers on them involuntary membership and facilitates reciprocal cooperation among them. Lastly, the liberal nationalists argue that the three characteristics of citizenship should be combined with the motivational force of a common identity among citizens so as to ground substantive equality, in addition to respect for the moral equality of human beings. The differences between cosmopolitanism, statism and liberal nationalism cause them to endorse different global principles of distributive justice. Whereas the cosmopolitans support both the satisfaction of basic needs and the regulation of substantive inequality at the global level, the statist and the liberal nationalists restrict the regulation of substantive inequality to the domestic level and support the protection of a limited number of basic human rights globally. Therefore, their dispute focuses on the proper scope of the regulation of substantive inequality. In this thesis, in order to resolve this dispute, I will examine David Miller's works on social justice, global justice, nationality and the contextualist approach to political theory. I address his critics in Chapters 1 to 6. I proceed to discuss how these discussions would bear on the global justice debate in Chapters 7 and 8. Insofar as Miller's liberal nationalism stands a better chance than statism to respond to the challenge of cosmopolitanism, the discussion of his works will contribute to the resolution of the current impasse in the global justice debate.

In this thesis I will argue that in order to resolve the impasse in the global justice debate, the cosmopolitans, the statist and the liberal nationalists all need to endorse

the further institutionalisation of global citizenship, because they require an institutionalised channel for public deliberation in order to adjudicate between the different global principles of distributive justice. This deliberation should be developed according to my reconstruction of Miller's account of deliberative democracy on the basis of Habermas's conception of communicative action, insofar as Miller's account of it requires the notion of communicative action in order to interpret public deliberation as a collective learning process among all citizens, so as to reach a normative consensus on common global issues, a common identity and a shared public culture, and global regulative norms and values.

The philosophical underpinning of this deliberative process is what Paul Gilabert calls 'cosmopolitan justifiability'. Cosmopolitan justifiability is derived from the general respect for the moral equality of human beings. It requires all global principles of justice to be justifiable to all human beings, as free and equal moral agents (Gilabert, 2012, p. 10). On this basis, the global public deliberation aims to acquire human beings' actual consent to all regulative norms and values including but not limited to the global principles of distributive justice. Nevertheless, it does not hold a clear view about the comparative advantage of actual consent in relation to the hypothetical one. By hypothetical consent I mean what is exemplified in Rawls's notion of 'original position'. Rawls aims to model the original position on the basis of certain, relevant facts about liberal society and the people within it, and then to show that people would possibly accept the principles of justice derived from this hypothetical setting, given right circumstances (Rawls, 1999, p. 17).

Hypothetical consent differs from the actual one, in the sense that it does not require the relevant moral agents to give their consent verbally or through writing. Instead, it operates under the presumption that the relevant moral agents would have given

actual consent to the proposed principles of justice, given right circumstances. It is beyond the scope of this thesis to examine the validity of each of these consent theories. The preference of actual consent over the hypothetical one is motivated by a pragmatic concern: that is, the two abovementioned impasses in the global justice debate. These impasses in the western academia have shown that the formulation of distributive justice based on good arguments alone fails to produce a wide consensus even among intellectuals. In light of global cultural pluralism, it is doubtful all human beings will give their actual consent to the same set of distributive principles, as all the existing theories of global justice presuppose. Therefore, the global public deliberation serves to adjudicate among these different distributive principles and form a normative consensus at the global level through acquiring actual consent from all human beings or their representatives.

My account of global citizenship based on global public deliberation offers a more open-ended solution to the impasses in the global justice debate than all the existing theories of global justice. By ‘open-ended’ I mean what Martha Nussbaum means in developing her ‘capability approach’. Capability approach aims to formulate a list of central capabilities which all human beings ought to have in order to pursue the activities indispensable to their flourishing within any society. Open-endedness in this approach refers to how the list of central capabilities could be contested and remade and how the items on the list could be further substantiated by local beliefs and circumstances in each nation-state (Nussbaum, 2001, p. 70-7). However, my account of global citizenship departs from Nussbaum’s approach in a significant way. Similar to most global justice theorists, Nussbaum relies on hypothetical consent to validate her list of central capabilities, and leaves room for democratic politics only when the implementation of these central capabilities is at stake within specific

nation-states. This means that we can only resort to good arguments when there is a disagreement among people over the principles of justice, given global cultural pluralism. As she says, 'here we must say that the good idea is just that, a good idea. It can be used by international agencies and nongovernmental organizations to pursue programs within nations that have not yet embraced it' (Nussbaum, 2001, p. 103). Therefore, my account of global citizenship based on global public deliberation is more open-ended than Nussbaum's capability approach, because actual consent is acquired both in validating the global principles of distributive justice and in implementing these principles in specific nation-states. likewise, insofar as most global justice theorists rely on good arguments alone to demonstrate the validity of their principles, in comparison, my account is more open-ended than most existing theories.

Nevertheless, the global public deliberation should operate within the normative constraints set by three guiding principles. The principles are the following: (1) all human beings or their representatives should have equal rights to participate in the global public deliberation, (2) all human beings or their representatives should have equal influence over the final policy outcomes, and, (3) all human beings or their representatives should aim to formulate a common identity and a shared public culture in the global public deliberation. The normative consensus resulted from the global public deliberation should not be deemed legitimate, if it undermines the equal status of all human beings as participants, biases towards a particular section of the world population, and poses a threat to the solidarities among human beings. These principles ensure that the global public deliberation operates in line with the principle of cosmopolitan justifiability and continues to be feasible in the long term.

In this sense, these principles should be seen as unavoidable normative constraints on the deliberative process.

Therefore, this thesis is divided into three parts: Part 1 includes Chapters 1 and 2 and focuses on a discussion of Miller's overall theory of distributive justice, which I call a split-level conception of distributive justice (SCDJ). I will demonstrate here that SCDJ could only be justified to cosmopolitans if, and only if, Miller could endorse the further institutionalisation of global citizenship that could in principle serve as a meta-theoretical framework for adjudicating among different theories of distributive justice through public deliberation. Part 2 includes Chapters 3 to 6 and focuses on discussing the reconstruction of Miller's account of deliberative democracy on the basis of Habermas's conception of communicative action. I will demonstrate that Miller's account of deliberative democracy requires the notion of communicative action to explain how citizens may reach a normative consensus on common social issues, the definition of a common national identity, and regulative norms and values when they all have different moral intuitions and political emotions. Lastly, Part 3 includes Chapters 7 and 8 and focuses on discussing how Miller's SCDJ bears on the global justice debate. I will demonstrate that my reconstruction of Miller's account of deliberative democracy could help resolve the impasse in the global justice debate because it could serve as a meta-theoretical framework within which to adjudicate among different theories of distributive justice.

In Chapter 1, 'Miller's Conception of Social Justice and Its Critics,' I will introduce the debate between the distributive and the relational egalitarianists; a debate which later informed the positions of the humanist cosmopolitans on the one hand and the statist and the liberal nationalists on the other. According to the distributive

egalitarian position on social justice, the humanist cosmopolitans argue that substantive equality in material terms is the fairest distributional pattern among human beings, and any deviation from it should track genuine individual choices rather than simple brute luck. In contrast, the statist and the liberal nationalists such as Miller believe that substantive equality should not be maintained for its own sake but should be anchored in a prior ideal of the equal relationship among citizens. I will argue in this chapter that Miller's ideal of the equal relationship among citizens is more appropriate than the distributive egalitarians' ideal of substantive equality for grounding the ethical demands of social justice. This is because the distributive egalitarians need to rely on a 'luck-choice distinction' that has to be anchored in a broader understanding of the equal relationship among citizens so as to justify different approaches to responsibility-insensitive basic needs satisfaction and responsibility-sensitive substantive inequality regulation. This line of reasoning implies that the humanist account of distributive justice could be subsumed into the statist's and/or the liberal nationalists' accounts, provided that the latter endorses the further institutionalisation of global citizenship. This is because, given the distributive egalitarians' acknowledged weakness, they believe that their position differs from the relational stance in terms of their different attitudes towards the further institutionalisation of global citizenship.

In Chapter 2, 'Miller's Split-Level Conception of Distributive Justice and Its Critics,' I will compare Miller's accounts of social and global justice, finding that there is a difference between their requirements. Whereas social justice requires both basic needs satisfaction and substantive inequality regulation to occur within nation-states, global justice requires only the satisfaction of a short list of basic human needs. I will term this the *split-level conception of distributive justice* (SCDJ) and examine

the validity of the three main reasons for subscribing to such a conception at the global level: the metric problem, the dynamic problem and the absence of formal institutions of citizenship at the global level. Firstly, with respect to the metric problem, I will demonstrate that the lack of sufficient normative understandings about globally shared distribution poses an obstacle to formulating a common conception of substantive equality. That said, the metric problem persists, primarily because Miller considers it imperative for each nation-state to preserve a distinct public culture among its citizens. Since the differences in the normative understanding about distribution among nation-states persist, due mainly to the nation-building process, the further institutionalisation of global citizenship could potentially solve this problem by facilitating a process of continual communication among different cultural values. Secondly, the dynamic problem demonstrates that every nation-state should take responsibility for past decisions that have distributive implications today. In response, I will show that the dynamic problem in and by itself does not serve to justify SCDJ, insofar as the notion of national responsibility needs to be situated within a prior theory of distributive justice that specifies which justifiable rewards nation-states could legitimately acquire from the global economic order and how they could take collective responsibility. Thirdly, as will be discussed in Chapter 1, Miller justifies the relevance of regulating substantive inequality on the basis of the existence of formal institutions of citizenship among the group of individuals in question. Since there is currently no formal institution of global citizenship, substantive inequality should not be regulated globally. This argument only works if it were morally undesirable and practically unfeasible to establish such institutions. I will demonstrate that Miller does have a normative reason for supporting the further institutionalisation of global citizenship. Given global cultural pluralism, Miller could only justify SCDJ to cosmopolitans if, and only if, there are

channels of public deliberation at the global level to adjudicate among different theories of distributive justice because human beings naturally have different moral intuitions and political emotions with regard to distributive justice. In this light, the notion of ‘cosmopolitan justifiability’ should be the philosophical underpinning for the said public deliberation, because most global justice theorists appeal to it in formulating distributive principles.

In Chapter 3, ‘Miller’s Theory of Nationality and its Critics,’ I will begin to consider the question omitted in Chapter 2, as to whether it is feasible to further institutionalise global citizenship. As I will show in this and the ensuing three chapters, the further institutionalisation of global citizenship is not as unfeasible as Miller claims, based on his theory of nationality. Even though it is true that there is currently insufficient mutual trust among human beings at the global level, Miller’s theory of nationality could still be utilised to design a nation-building process, in order to support global citizenship in the long term. In this chapter, I will compare Miller’s theory of nationality and Jürgen Habermas’s constitutional patriotism. Miller claims that common national identity and a shared public culture serve to sustain the formal institutions of citizenship within a nation-state. In contrast, Jürgen Habermas’s constitutional patriotism aims to realise social integration through citizens’ participation through legally institutionalised communicative action. I will demonstrate that it is not possible to bypass the need for a common national identity and a shared public culture by resorting to Habermas’s constitutional patriotism for two reasons. Firstly, I will argue that the constitutional patriots do not have a valid explanation for why citizens are willing to participate in a legally institutionalised communicative action without having a common national identity. Secondly, it takes a more comprehensive public culture to supply the necessary normative background

for the democratic decision-making process to take place and fill in the gap between the existing political culture and the morally desirable one in favour of a legally institutionalised communicative action. In this light, in order for the global public deliberation to be possible in the long term, human beings or their representatives should aim to develop a common identity and a shared public culture, because they supply a sufficient level of mutual trust among human beings to support the functioning of global institutions of citizenship. This is the requirement of the third guiding principle of the global public deliberation.

In Chapter 4, 'Miller's Account of Nation-Building and Its Critics,' I will examine Miller's account of nation-building. Miller attempts to balance the demands of nation-building with respect for cultural pluralism in the nation-building process. This is criticised by the liberal multiculturalists for not paying sufficient respect to cultural pluralism at the conceptual level. As I will demonstrate, my reconstruction of Miller's account of nation-building as a two-level process of public deliberation may help ascertain that a conservative bias would not commit itself in favour of the cultural majorities. The existing national identity and shared public culture could serve as the basis for public deliberation about concrete social issues at the level of the pragmatic questions. When they become involved in public deliberation on the ethical-political questions, all citizens could discuss how to reformulate them according to the changing social circumstances. These two levels of public deliberation constitute a continuous reiterative process, which would help Miller's account of nation-building avoid a conservative bias. In order for the global public deliberation to balance the need of developing a common identity and the respect for global cultural pluralism, it should be structured likewise to avoid conservative bias towards a particular section of the world population. This reflects the requirements

of the second guiding principle for the global public deliberation: that is, all human beings or their representatives should exert equal influence over the policy outcomes of the global public deliberation.

Nevertheless, my reconstruction of Miller's account of nation-building, although it may assuage the concerns of the liberal multiculturalists, constitutes a problem for the nation-building process itself. This is because Miller's failure to elaborate on the exact parameters of the shared public culture necessary to preserve a national community makes it practically impossible for citizens to comprehend the extent to which the existing national identity and public culture might be challenged without posing a threat to the nation as a whole. In this light, it is necessary to arrive at a theory that explains why public deliberation *per se* could help citizens reach a normative consensus on a common nationality while each of them has a different normative understanding. I will propose that Miller's account of nation-building should incorporate Habermas's notion of a legally institutionalised communicative action since the latter could help him interpret the reformulation of common national identity and a shared public culture as a continuous collective learning process, so as to approximate the necessary level of mutual trust among citizens.

In Chapters 5 and 6, I will demonstrate that incorporating Habermas's conception of communicative action in Miller's account of nation-building through a deliberative democracy is both necessary and feasible. In Chapter 5, 'Miller's Contextualist Approach to Political Theory and the Role of Common Moral Intuitions and Political Emotions,' I will show that it is necessary to incorporate Habermas's conception of communicative action because, in addition to Miller's failure to specify the scope of a shared public culture at the level of substantive theory, his contextualist approach

to political theory at the methodological level cannot explain how citizens could arrive at a normative consensus on subjects such as nationality when each of them has different moral intuitions and political emotions. Such a failure at the methodological level will have an enormous impact on individual life prospects insofar as, according to Miller, political principles are meant to regulate the major social institutions and, equally importantly, to motivate common people to comply with their ethical demands. Since Miller cannot prove that any political principle is consistent with common peoples' moral intuitions and political emotions *ex ante*, his account of deliberative democracy needs to be reconstructed on the basis of Habermas's conception of communicative action, so as to serve as an institutionalised channel of actual public deliberation in order to adjudicate between different principles.

In Chapter 6, 'Habermas's Conception of Communicative Action and the Role of Common Moral Intuitions and Political Emotions,' I will show that such an incorporation is possible, because Habermas's conception of communicative action would allow both common moral intuitions and political emotions to have a bearing on our moral reasoning about political principles and social institutions. Many constitutional patriots and liberal multiculturalists argue that a communicative action does not allow our political emotions to affect our moral judgements about political principles and social institutions. First, many constitutional patriots believe that Habermas's notion of communicative action is a self-critical process that runs contrary to the very idea of having an affective identification with particular human associations. In response, I will demonstrate that a communicative action operates within a shared normative background and that it is as important to open this to contestation as it is to close it for stability. When this normative background

becomes open to contestation, it will be able to incorporate new normative understandings, thereby establishing more complex interpersonal relationships. Then, as it closes again for stability, this background relies on previously established, shared norms and values to instil a sense of affective identification among the interlocutors. In the sense that these interlocutors have to rely on previously established normative background and the corresponding affective identification when participating in communicative action, the notion of communicative action could allow political emotions to bear on people's moral reasoning about political principles and social institutions. Second, many liberal multiculturalists believe that communicative action prioritises rational argumentation over emotional expression by making an arbitrary distinction between the illocutionary and the perlocutionary aspects of language use. In response, I will show that this prioritisation is neutralised by two concomitant moves on Habermas's part. On the one hand, in his later career, he constantly downplays the importance of the distinction between illocution and perlocution. On the other, he claims that communicative action is a universal mode of human communication. These two amount to defining a communicative action in terms of the interlocutors' intention to reach a mutual agreement rather than in terms of the manner in which the communication is conducted. Therefore, both rational argumentation and emotional expression could be adopted in communicative action, so long as the interlocutors' aim is to reach a mutual agreement. In the sense that emotional expression serves as an alternative mode of communication to rational argumentation, a communicative action could allow political emotions to bear on one's moral reasoning about political principles and social institutions.

Based on the discussion in Chapters 5 and 6, the first guiding principle of the global public deliberation should be formulated as follows: all human beings or their

representatives ought to have equal rights to participate in the global public deliberation. This ensures that actual consent could be obtained from all human beings, as free and equal participants, in order to validate distributive principles on the ground that they cohere with human beings' moral intuitions and political emotions.

Chapters 7 and 8 aim to demonstrate that my reconstruction of Miller's account of deliberative democracy on the basis of Habermas's conception of communicative action could resolve the impasse among the cosmopolitans, the statist and the liberal nationalists in the global justice debate. In Chapter 7, 'Resolving the Two Impasses in the Global Justice Debate: the Impasse at the Level of Substantive Theories', I will show that an impasse occurs at the level of substantive theory because liberal nationalists cannot persuade the associativist cosmopolitans to accept the restricted scope of the regulation of substantive inequality on the grounds that the human relationships within nation-states are sufficiently different from those at the global level. Firstly, I will prove that the exchange between the humanist cosmopolitans on the one hand and the statist and the liberal nationalists on the other will only lead to a deadlock, insofar as the humanist cosmopolitans do not recognise the ethical significance of the human relationships within nation-states. Nevertheless, the statist and the liberal nationalists may reject humanist cosmopolitanism on the ground that the latter's ideal of substantive equality has to be anchored in the notion of an equal relationship among citizens, so as to justify different approaches to responsibility-insensitive basic needs satisfaction and responsibility-sensitive substantive inequality regulation. This amounts to the partial or total subsumption of the humanist stance into the statist and/or the liberal nationalists' positions on distributive justice. Secondly, I will prove that the liberal nationalists could indeed

subsume the statist's accounts of distributive justice, insofar as it combines the three statist's accounts and adds a new factor for consideration in our moral reasoning about distributive justice: the motivational force of a common nationality. Lastly, I will demonstrate that Miller's liberal nationalist account of distributive justice will not serve to persuade the associativist cosmopolitans to accept the restricted scope of the regulation of substantive inequality, despite the fact that the associativist cosmopolitans recognise the ethical significance of the human relationships within a nation-state. This is because Miller cannot prove to the associativist cosmopolitans that the human relationships within nation-states are sufficiently different from those at the global level.

In Chapter 8, 'Resolving the Two Impasses in the Global Justice Debate: the Impasse at the Methodological Level,' I will show that an impasse in the global justice debate occurs at the methodological level because the liberal nationalists cannot prove to the associativist cosmopolitans that their distributive principles are the only valid derivation on the basis of prevalent moral intuitions and political emotions at the global level. Firstly, I will demonstrate that the humanist and the associativist cosmopolitans either completely reject the importance of common moral and political intuitions or understand them as mere instruments for furthering universalist ideals. Secondly, I will show that liberal nationalism stands a better chance than statism of responding to the cosmopolitan challenge, because Miller's contextualist approach to political theory aims to take account of common peoples' motivation to comply with universalist ideals by allowing common moral intuitions and political emotions to affect our moral reasoning about political principles and social institutions. Lastly, I will prove that Miller could not persuade the associativist cosmopolitans to accept the restricted scope of the regulation of substantive

inequality, because he fails to explain why his own distributive principles are the only accounts consistent with human beings' moral intuitions and political emotions at the global level. In this light, I will argue that the only solution to these two impasses at the levels of substantive theory and methodology is the further institutionalisation of global citizenship based on deliberative democracy. Insofar as the cosmopolitans, the statist and the liberal nationalists all resort to universalist values in grounding their accounts of distributive justice, and each have failed to persuade the others, an institutionalised public deliberation is required to adjudicate among these universalist values on the basis of their consistency with common moral intuitions and political emotions at the global level. My reconstruction of Miller's account of deliberative democracy on the basis of Habermas's conception of communicative action could help resolve these impasses in that it could facilitate a collective learning process among human beings, so as to arrive at a normative consensus on a set of distributive principles on the basis of common moral intuitions and political emotions at the global level. Moreover, it aims at the same time to develop a common identity and a shared public culture among human beings so as to maintain the very functioning of the institutions of global citizenship. In this sense, my reconstruction of Miller's account of deliberative democracy is both desirable and feasible in principle, against the background of the global justice debate.

Chapter 1:

Miller's Conception of Social Justice and Its Critics

Introduction

Like many other liberal nationalists and statist, David Miller's overall theory of distributive justice ascribes ethical significance to human association within nation-states and bears on our moral reasoning about distributive justice. As such, he develops a conception of social justice that situates concern with the regulation of substantive inequality among citizens above respect for the moral equality of human beings. In this light, substantive inequality regulation becomes relevant where there are already institutions of citizenship among a particular group of people. However, Miller and the statist have been challenged by the humanist cosmopolitans regarding the moral relevance of equal citizenship in the process of moral reasoning about distributive justice. In this chapter, I direct attention to a debate on social justice between the distributive and the relational egalitarians which have galvanised the global justice debate. It focuses on whether luck should always be factored out of differential distributive outcomes in societies. Whereas the distributive egalitarians ground the regulation of substantive inequality directly in the moral equality of human beings, which always necessitates the application of a luck-choice distinction, the relational egalitarians ground substantive inequality regulation in the equal relations between citizens and, thereby, require the luck-choice distinction to be anchored in a liberal understanding of citizenship.

Miller aligns himself more closely with relational egalitarians and develops his conception of social justice around the idea that distributive principles such as need and desert should be justified on the basis of their contribution to maintaining equal relations among citizens. In contrast, the humanist cosmopolitans share with the distributive egalitarians the conviction that the regulation of substantive inequality is a direct translation of the principle of the moral equality of human beings, and any deviation from it must be justified on the basis of morally responsible individual choices. I argue in this chapter that the distributive egalitarians' sole reliance on the luck-choice distinction renders them incapable of justifying different approaches to the satisfaction of basic needs and the regulation of substantive inequality. Common moral intuition would concur with the idea that the luck-choice distinction should be suspended when the individual's basic human needs are unmet, whereas the said distinction should be applied in our judgment about the differential distributional pattern within society above the minimum threshold of basic needs. Therefore, the distributive egalitarians' luck-choice distinction should be anchored in a broader ideal of the equal relationship among citizens so as to justify different approaches on the basis of their respective contribution to maintaining an egalitarian, democratic society.

In section 1, I will introduce Miller's three principles of social justice: need, desert and social equality. There, I will draw attention to the fact that, for Miller, the moral equality of human beings does not necessarily imply substantive equality in material terms, unless there are institutions of citizenship among the group of people in question. Section 2 discusses whether relational egalitarianism as a whole is better equipped conceptually than distributive egalitarianism to win the debate on social justice and suggest that Miller's position of relational egalitarianism proves more

cohesive than that of distributive egalitarianism in applying the luck-choice distinction. This is because, in contrast to the relational egalitarians like Miller, the distributive egalitarians cannot justify different approaches to the satisfaction of basic needs and the regulation of inequality with a luck-choice distinction alone. This distinction does not in itself tell us why the idea of responsibility should often be suspended in satisfying all basic needs within society, whereas at the same time be consistently applied in the case of matching economic reward to individual contribution to market transactions based on responsibility. Section 3 refutes the non-discriminative and the discriminative strategy for restoring distributive egalitarianism. The non-discriminative strategy accords the luck-choice distinction across-the-board application and yet requires it to be compatible with the ethical demands of democratic/social equality. The discriminative strategy restricts the operational domain of the luck-choice distinction to the regulation of substantive inequality and avoids making any judgment about the satisfaction of basic needs. I will demonstrate that the non-discriminative and the discriminative strategy both fail because they amount to assimilation of distributive egalitarianism within relational egalitarianism. Thus, this chapter will prove that relational egalitarianism could subsume the distributive egalitarians' notion of a luck-choice distinction, insofar as it could justify different approaches to the satisfaction of basic needs and the regulation of substantive inequality. It also implies that the statist's and the liberal nationalists' attempt to ground ethical concerns within the regulation of substantive inequality in an equal relationship among citizens is more plausible than the humanist cosmopolitans' attempt to translate the moral equality of human beings directly into substantive equality in material terms.

1. Miller's Conception of Social Justice: Three Principles

David Miller's conception of social justice is concerned primarily with the fairness of the distributional pattern within nation-states. Miller's accounts of distributive justice have two characteristics that run through his conceptions of both social and global justice: (1) the weak sense of equality, and (2) the contextualist accounts of distributive justice. First, principles of social justice embody a weak sense of equality that can at most be equivocated with equal treatment: 'where two men are equal in the relevant respects (so that their "dues" are the same), they should be treated in the same way' (Miller, 1976, p. 21). This is called the moral equality of human beings, which, Miller argues, should not directly implicate the stronger sense of equality—the substantive equality of various currencies, including resources, wealth, welfare, et cetera. This distinction between moral and substantive equality is central to my discussion of Miller's position on social justice because it serves to distinguish him from the distributive egalitarians, who subsume substantive equality into social justice itself. In contrast to the distributive egalitarians, who consider substantive equality to be a necessary corollary to the moral equality of human beings, Miller argues that the regulation of substantive inequality is grounded in the formal institutions of citizenship among groups of people within the same nation-state.

Second, in order to fairly render each his due, Miller resorts to a contextualist account of distributive justice that splits its operational domain into three contexts based on the prevalent type of human relationship within each of them: (1) solidaristic community, (2) instrumental association and (3) citizenship (Miller, 1999, p.25-32). Miller defines a solidaristic community as a context within which 'people

share a common identity as members of a relatively stable group with a common ethos' (Miller, 1999, p. 26). Specific to this context is the principle of need, that is, 'each member is expected to contribute to relieving the needs of others in proportion to ability, to the extent of liability depending upon how close the ties of community are in each case.' The second mode of relationship is instrumental association, particular to which is the principle of desert. Here an individual relates to others in a utilitarian manner, that is, his/her aims and purposes can best be furthered by cooperation with others. In other words, 'justice is done when he receives back by way of reward an equivalent to the contribution he makes' (Miller, 1999, p. 28). Lastly, in modern liberal democracies, full members of a political society relate to each other as equal citizens, alongside possibly also their identity as members of a solidaristic community and/or instrumental association. To qualify and, more importantly, to be perceived as equal members of the same society, each citizen is to enjoy an equal status, that is, 'each person enjoys the same set of liberties and rights, rights to personal protection, political participation, and the various services that the political community provides for its members' (Miller, 1999, p. 30). Even though the ideal of an equal relationship among citizens can only, in reality, be approximated at best, the ideal in and by itself requires the distributional pattern within society to be arranged in the abovementioned way, so as to make this possible.

In modern liberal societies, these three distributive contexts overlap to the extent that the ethical demands of need, desert and social equality will possibly pull in different directions. Miller is quite explicit about the overlapping of the three contexts of social justice: solidaristic communities, instrumental associations, and institutions of citizenship. In regard to that between citizenship and solidaristic community, he claims, 'wherever the boundaries of the state coincide with the boundaries of the

nation... (people) will acknowledge obligations of justice to meet one another's needs as identified within the national culture, and these obligations will tend over time to be incorporated into the definition of citizenship itself' (Miller, 1999, p. 31). In regard to the overlapping between citizenship and instrumental association, he insists, 'in recognising desert we do not compromise equality of status' (Miller, 1999, p. 32). In this light, social equality requires that both the formal institutions of citizenship and all distributive practices in solidaristic communities and instrumental associations be formed on the basis of an equal relationship among citizens. As Miller says, '(social equality) requires that our most important associations be formed on the basis of equality...this then entails the claims about distributive equality... (that is) citizens must have equal voting rights, equal welfare rights, and so forth.' Moreover, 'a commitment to social equality may help shape other practices of distributive justice that are not themselves internally egalitarian...In many instances, our concern for justice will impose constraints on practices without fully determining their form' (Miller, 1999, p. 241). Essentially, this means that those important advantages directly enabling citizens to remain equal to each other—including goods which satisfy basic needs—should be distributed equally, whereas the distribution of other types of advantages—which is based on desert—can tolerate substantive inequalities in material terms to the extent that maintaining the equal status of citizens as possible.

2. How Miller's Conception of Social Justice Bears on the Debate between the Distributive and the Relational Egalitarians

In the last section, I introduced Miller's relational account of social justice, which consists of three principles: need, desert and social equality. In this section, in

agreement with Anderson, Sheffler and Wolf, I will show that the distributive egalitarians fail to justify their different approach to the luck-choice distinction with regard to responsibility-insensitive basic needs satisfaction and responsibility-sensitive substantive inequality regulation. As Miller's conception of social justice exemplifies, the luck-choice distinction needs to be anchored in a prior ideal of democratic/social equality, thereby justifying its suspension and application on the basis of its contribution to maintaining an equal relationship among citizens of the same nation-state.

There is a debate between the distributive and the relational egalitarians over which is the most appropriate approach to social justice. According to the distributive egalitarians, also known as the "luck egalitarians", the influence of brute luck on peoples' lives ought to be mitigated, whereas, at the same time, individuals should be held responsible for the foreseeable consequences of their voluntary choices, against the background of equal opportunity. In contrast, the relational egalitarians believe that the point of social justice is to uphold an ideal of equal interpersonal relationships rather than substantive equality *per se* within society, and advance two claims. First, excessive weight on the luck-choice distinction will generate morally implausible conclusions in the following two senses: on the one hand, the sole reliance on the luck-choice distinction would not compensate individuals for their unmet basic needs if these individuals are deemed morally responsible for their own conditions. This conclusion is inconsistent with the common moral intuition that individuals should be compensated for their disadvantaged distributive outcomes regardless of their responsibility for them, if and only if, they are below a minimum threshold of basic human needs. On the other hand, the sole reliance on the luck-choice distinction would compensate individuals for disadvantageous factors such as

physical or mental disability on the ground that they render the individuals in question less capable of taking moral responsibility for their distributive outcomes. Although these compensatory measures are often adopted in liberal societies, the reason given by the distributive egalitarians on the sole basis of a luck-choice distinction expresses a contemptuous attitude towards those who embody the less desirable characteristics that need to be compensated for. Second, the luck-choice distinction should be anchored in a prior ideal of the equal relationship among citizens, because in order to maintain an equal democratic society, the distributional pattern should be arranged in ways that ensure that the equal status of citizens as possible.

To begin with the first claim, distributive egalitarians enjoyed a long period of popularity before its momentum was slowed by Elizabeth Anderson's seminal piece, 'What is the Point of Equality?' The distributive egalitarians maintain essentially that any deviation from substantive equality among human beings should be justified on the basis of a luck-choice distinction. Dworkin was the first of the distributive egalitarians to incorporate the luck-choice distinction into egalitarian justice. His theory of social justice is based on the conviction that differential distributive outcomes ought to reflect individual choices rather than the effect of their contingent social circumstances. In order to illustrate this conviction, he devises an 'envy test,' which operates in the following way. As he says, because '(E)quality of resources assumes *a fundamental distinction between a person*, understood to include features of personality like convictions, ambitions, tastes, and preferences, *and that person's circumstances*, which include the resources, talents, and capacities he commands,' the envy test aims to 'make circumstances equal under an appropriate version of the envy test' (Dworkin, 2002, p. 140, 141; my emphasis). In the hypothetical setting of

an auction, individuals are to bid for resources on an equal footing in order to pass the envy test. The test demands that ‘people with full knowledge of their plans, projects, and attachments do not prefer the resources assigned to someone else’ (Dworkin, 2002, p. 141). After the auction, differential distributive outcomes accruing to individuals are legitimated as long as they only reflect the effect of ‘option luck’ rather than ‘brute luck.’ As he defines it, ‘option luck is a matter of how deliberate and calculated gambles turn out—whether someone gains or loses through accepting an isolated risk he or she should have anticipated and might have declined. Brute luck is a matter of how risks fall out that are not in that sense deliberate gambles’ (Dworkin, 2002, p. 73). Insofar as participants in the auction are fully aware of the risks they face in making certain choices, they should be held responsible for the corresponding distributive outcomes. In contrast, brute luck reflects mainly contingent circumstantial factors that are not consciously chosen by the participants, and they should be mitigated.

Nevertheless, as Anderson correctly points out, placing too much weight on the distinction between choice and circumstances will render the theory of social justice so inflexible that various problems could arise: (1) abandonment of negligent victims, (2) discrimination against the disabled, (3) geographical discrimination among citizens, (4) occupational discrimination, (5) vulnerability of dependent care-takers, (6) exploitation and the lack of a safety net, (7) abandonment of the prudent (Anderson, 1999, p. 295-300). In these hypothetical cases, victims of option luck are left to suffer without state intervention because the disadvantages accruing to them can be traced back to their own voluntary choices in the past. For instance, does an injured driver who decided not to insure and later caused an accident deserve to be left without proper assistance? Does a blind man who caused his own disability

deserve to be treated differently by the welfare system than his counterparts who are born in that way? These examples not only expose a general conceptual defect in taking the luck-choice distinction to its extreme but also show a large difference between distributive egalitarianism and common moral intuitions. As problems (6) and (7) demonstrate, the state intervention required by distributive egalitarianism does not take account of how laymen think about social justice: they normally expect the state to compensate them for some part of their disadvantages, even if these derive from their own voluntary decisions. According to distributive egalitarianism, Anderson protests, ‘nothing would prevent people, even those whose gambles were prudent but who suffered from bad option luck, from subjection to debt peonage, sweatshops, or other forms of exploitation’ (Anderson, 1999, p. 298). This means that common moral intuition points to a threshold above which substantive differential inequalities could be allowed to track responsibility but below which compensation is available to all citizens regardless of responsibility. As Anderson argues, ‘without such a discriminative application of the luck-choice distinction, when someone’s option luck is sufficiently bad, she may have to switch resources from insurance to meeting her family’s basic needs’ (Anderson, 1999, p. 298). Nevertheless, this will set in motion a vicious cycle in which unmet basic needs and the inability to ensure feed into each other endlessly.

In line with Anderson’s arguments above, Miller’s conception of social justice aims to capture people’s common moral intuitions and political emotions regarding distributive practices within society. He bases the formulation of the three principles of social justice on a ‘Humean approach’ which, rather than dismissing ordinary beliefs and sentiments out of hand unless they can be shown to have a rational foundation, leaves them in place until strong arguments are produced for rejecting

them (Miller, 2000, p. 25). Taking this methodological commitment as given, Miller argues that only a contextualist theory of justice would fit the bill. Contextualism, as opposed to universalism, ‘assumes that principles of justice are context specific rather than invariant across contexts.’ Accordingly, ‘the kind of theory we should be looking for is one that connects principles to contexts in a systematic way’ (Miller, 2013, p. 43). With regard to social justice, therefore, ‘contextualists hold that it is the context of distribution itself that brings one or other principle of justice into play.’ Although different contextualist theories will identify this context in different ways, Miller finds it most convincing to define contexts ‘by reference to the kind of social relationship that exists among the parties between whom justice is to be done’ (Miller, 2013, p. 47-8).

In this light, according to Miller, people’s common moral intuitions and political emotions suggest that human relations within a solidaristic community are bound by a common identity and, as such, shape distributive practices on the basis of members’ neediness. Here, distribution is less sensitive to the luck-choice distinction because it is hard to say that neediness is a personal quality that merits proportional reward. Even though Miller believes that a responsibility condition ought to guide the implementation of basic need satisfaction, distribution still aims primarily to relieve neediness, regardless of the luck-choice distinction. In other words, if the claimants are judged responsible for their neediness, there are two possibilities after the distribution is made on the basis of the need principle: ‘one is that their claims are no longer claims of justice, but claims of humanity or benevolence...the other is that the claims of need are still claims of justice, but that they carry with them an obligation to pay back to the community the costs of irresponsible behaviour’ (Miller, 1999, p. 228). In contrast, people usually understand human relations within instrumental

association as purely utilitarian and oriented towards personal interests. As a result, they expect to acquire proportional rewards from an economic transaction under the working of free market forces. Here, the desert principle requires distribution to track individual contributions evaluated on the basis of market prices at equilibrium. Therefore, the luck-choice distinction is more salient, as Miller makes a distinction between two types of luck that in one way or another interfere with individual desert claims: (1) integral luck, and (2) circumstantial luck. Integral luck interferes with an individual's performance itself, that is, what a moral agent actually achieves, whilst the circumstantial one determines the moral agent's opportunity to perform in the first place. He argues,

Integral luck nullifies desert...we have to factor it out when judging what people deserve on the basis of their performances—and circumstantial luck may lead us to qualify our judgements about the deserts of those who are its beneficiaries. But if we want to keep the notion of desert and use it to make practical judgements, we cannot compensate completely for luck of the second kind (Miller, 1999, p. 146).

In other words, in order to track individuals' moral responsibility for their choices in instrumental association, integral luck that directly affects individuals' performances has to be compensated for, whereas circumstantial luck cannot be completely factored out of the calculation of individual contribution to the market, since it always lies in the background of individual performances. Despite the fact that the distinction between these two types of luck may be debatable, the point remains that Miller goes to great lengths to apply the luck-choice distinction to the substantive inequality resulting from market transactions above the minimum threshold of basic human needs. This is consistent with Anderson's argument above, that common moral intuitions usually distinguish basic needs satisfaction from distribution above

a minimum threshold of basic human needs in terms of different applications of the luck-choice distinction.

Moreover, sole reliance on the luck-choice distinction would distinguish certain personal characteristics as being disadvantageous and, as such, express a contemptuous attitude towards those who possess these characteristics. As Anderson observes, the distributive egalitarians have to depend on a paternalistic state apparatus in order to cope with the impact of brute luck on individuals. She cites Arneson's 1988 argument for equal opportunity of welfare as the ideal of substantive equality: 'he argues that it is sometimes unfair to hold people responsible for the degree to which they are responsible agents. The capacities needed for responsible choice...are partly a function of genetic endowments and partly of the good fortune of having decent parents. Thus, the imprudent are entitled to special paternalistic protection by society against their poor choices' (Anderson, 1999, p. 300).

Essentially, this means that certain personal qualities can be considered as conducive to imprudent choices and thereby ought to be treated as disadvantageous vis-à-vis the rest. Because of these disadvantageous personal qualities, the decision regarding state intervention to compensate for brute luck should be sensitive to them.

Nevertheless, this type of paternalism necessitates undue intrusion into individual privacy in order to decide whether the possession of certain unfortunate personal characteristics entitles them to compensation for their own poor choices, which shows insufficient respect for the individuals in question (Anderson, 1999, p. 306).

Jonathan Wolff makes a similar case, saying that under distributive egalitarianism, people are forced to make 'shameful revelations,' which erodes their equal standing.

The notion of shameful revelation is predicated on the assumption that each

individual has something she would like to keep to herself. During the process of benefit claiming, 'one is required not merely to admit but to make out a convincing case that one is a failure, unable to gain employment even when there is no difficulty for others...this removes any last shred of dignity from those already in a very unfortunate position' (Wolf, 1998, p. 114). Even if the state does not directly pry into an individual's private life by collecting personal data and confirming details regarding unfortunate disadvantages, it invites all citizens to reflect on the personal qualities for which she cannot be judged responsible, which is an exercise humiliating enough in and by itself. As Scheffler maintains,

We cannot know whether an individual's disadvantage entitles her to egalitarian compensation without disentangling the respective contributions made by her will, on the one hand, and by unchosen features of her talents and personal circumstances, on the other hand, to the processes that put her at that disadvantage. For this reason, luck egalitarianism encourages her to look inward in deciding whether she has a legitimate claim on fellow citizens (Scheffler, 2003, p. 21).

Hence, the primary critique of distributive egalitarianism establishes that the distributive egalitarians cannot apply the distinction between brute and option luck consistently, while at the same time catering to common moral intuitions that see value in compensating individuals regardless of responsibility below a minimum threshold of basic need. Moreover, by extending the notion of brute luck to cover certain personal qualities that supposedly inhibit people from making prudent decisions distributive egalitarians fail to show equal respect for all individuals.

A second critique of distributive egalitarianism points out that the luck-choice distinction needs to be anchored in a prior ideal of the equal relationship among citizens, in order to capture the essence of egalitarianism. Anderson claims that the point of egalitarianism is not the equality of substantive outcomes *per se*; rather, it is

the equal social relations that justify such distributive patterns in the first place. The track record of historical egalitarian political movements shows that their woes concentrate on what Iris Young identifies as the faces of oppression: marginalisation, status hierarchy, domination, exploitation, and cultural imperialism. ‘Such unequal social relations generate, and were thought to justify, inequalities in the distribution of freedoms, resources, and welfare’ (Anderson, 1999, p. 312). Therefore, to take substantive equality in material terms as being the fundamental ideal is to miss the point of egalitarianism. In contrast, as a social ideal, democratic equality fits the bill better. As Anderson conceives it,

First, democratic equality aims to abolish socially created oppression...Second...democratic egalitarians are fundamentally concerned with the relationships within which goods are distributed, not only with the distribution of goods themselves...third...democratic equality is sensitive to the need to integrate the demands of equal recognition with those of equal distribution. Goods must be distributed according to principles and processes that express respect for all (Anderson, 1999, p. 313- 4).

This means that egalitarianism is concerned with equal social relations at the fundamental level which, under specific circumstances, has direct distributive implications.

In the same vein, Miller argues that substantive and social/democratic equality are fundamentally different and yet closely related, insofar as social equality anchors substantive equality in the ideal of equal relations among citizens of the same nation-state. Firstly, substantive equality is connected to a specific distributional pattern, whereas social equality constrains the shape that the distributive pattern within society could legitimately assume. As Miller says, ‘(substantive equality) specifies that benefits of a certain kind...should be distributed equally, because justice requires this... (social equality) identifies a social idea, the ideal of a society in

which people regard and treat one another as equals.’ Secondly, distributive equality is individualistic, whereas social equality is holistic. Miller claims, ‘(i)n the first case we can explain what is wrong with inequality by pointing to particular individuals who can justly claim more than they are getting, whereas in the second case the badness of inequality resides in the character of the whole society’ (Miller, 1999, p. 222-3). In other words, distributive equality remains individualistic because it focuses on the distributive outcomes of the particular scheme backed by the major social institutions, whereas social equality regulates major social institutions in a holistic manner by investigating what type of distributive scheme is required for an equal relationship among citizens. Therefore, rather than requiring the equalisation of material advantages among human beings for the sake of substantive equality as a default distributional pattern, social justice should be concerned first and foremost with the background conditions that justify such an egalitarian distribution.

In this light, state intervention should be prepared to override the moral demands of substantive equality in the name of democratic equality when the need arises, because some substantive inequality arising from social contingencies should be tolerated so long as it does not undermine equal relations among citizens. As Sheffler maintains, ‘(t)he social and political ideal of equality...itself has distributive implications. Furthermore, even if that ideal emphasises the importance, for certain purposes, of abstracting from the differing contingencies of individuals’ situations, it must also concede the necessity of attending to such differences for other purposes’ (Sheffler, 2003, p. 22). In other words, even though substantive inequality in material terms will probably emerge from different social contingencies associated with individuals, they should not be neutralised in particular cases. In effect, it is the ideal of an equal relationship among citizens that determines the extent to which

substantive inequality in material terms should be tolerated above the minimum threshold of basic human needs. As Sheffler explains,

(P)eople whose basic needs have not been met...cannot participate in political life or civil society on a footing of equality with others, or can do so only with great difficulty. Even if basic needs have been met, a society cannot be considered a society of equals if the resources that individuals have available to pursue their most cherished ends are left entirely at the mercy of market forces. (Sheffler, 2003, p. 23)

In other words, above the threshold of basic needs, substantive inequalities in material terms are regulated not because of the ideal of substantive equality but because of the need to preserve the equal status of citizens.

As mentioned in the last section, Miller believes that social equality should constrain distribution according to need and desert in any given society. With regard to distribution according to need, citizens ought to decide on what needs to be counted as socially recognised necessities and thereby reserved for distribution according to intrinsic needs. These are protected by entrenched welfare rights that are directly relevant to maintaining the functioning of individuals as full and equal citizens. As such, they are different from the concern with public goods. As he says, ‘(w)elfare...is not simply another public good whose supply should depend entirely on how much people actually want to see it provided; rather, welfare rights should take their place alongside other rights of citizenship, such as freedom of speech and political participation...’ (Miller, 1989, p. 313). Therefore, both the category of basic needs and the procedure for substantiating it reflect the ideal of an equal relationship among citizens, as citizens are equally entitled to benefit from the ‘entrenched welfare rights’ and to deliberate about the specific content of these rights.

With regard to distribution according to desert, equal citizenship should impose constraints on the extent of differential distributive outcomes permitted in the free market for two reasons. First, unjustified, radical, substantive inequalities in material terms within a national economy would contribute to the undermining of equal social relations, especially each individual's perception of it. Second, and more importantly, 'public welfare can contribute to egalitarian aims only in conjunction with a broader policy aimed at reducing inequalities in primary incomes; indeed, in the absence of such a policy, even the more limited aim of allocating medical aid and so forth on the basis of need is compromised' (Miller, 1989, p. 315). Therefore, both equal citizenship and the security of basic needs could justify the regulation of differential distributive outcomes in the free market. State intervention, in regulating substantive inequalities in the national economy, takes the form of preserving the fairness of background conditions rather than redistributive taxation. The main objective, according to Miller, is to curb the free market's inclination towards exploitation and, as such, prevent integral luck from interfering with how each individual fares in the market. Although, as Miller argues, luck cannot be altogether eliminated from distributive outcomes, '(w)hat we can do is try to ensure that the results of luck are non-cumulative so that its distributive effects are as far as possible genuinely random' (Miller, 1989, p. 172). Since the systemically condoned exploitation between transacting individuals in the labour market represents a paradigm case of accumulated luck, and the act of exploitation itself undermines equal social relationships, state intervention should directly target the structural roots of the problem.

In summary, this section discussed the relational egalitarians' critiques of distributive egalitarianism. First, the relational egalitarians charge that the

distributive ones cannot effectively distinguish basic needs satisfaction from substantive inequality regulation because the luck-choice distinction in and by itself fails to justify the compensation for individuals regardless of their moral responsibility below a minimum threshold of basic human needs. Second, the relational egalitarians maintain that democratic/social equality is better suited than substantive equality to justify different approaches to both the satisfaction of basic needs and the regulation of substantive inequality, insofar as the relational ideal is concerned with the background conditions that justify any distributional pattern within society, including but not limited to substantive equality.

3. The non-Discriminative and the Discriminative Strategy of Rescuing Distributive Egalitarianism

The last section demonstrated that the relational egalitarians' criticisms point to the inability of a mechanical application of the luck-choice distinction to justify different approaches to responsibility-insensitive basic needs satisfaction and responsibility-sensitive inequality regulation on the basis of luck-choice distinction alone. This section will discuss two strategies that may salvage the centrality of the luck-choice distinction in social justice that attempt to deal with both the satisfaction of basic needs and the regulation of substantive inequality: (1) the non-discriminative and (2) the discriminative strategy. What the discriminative and the non-discriminative approach have in common is their claim that the critiques of the relational egalitarians do not apply to every strand of distributive egalitarianism; it simply calls for a moderated version of the responsibility view. They differ in how much operational domain could be afforded to the luck-choice distinction before it becomes impossible to avoid morally undesirable consequences. Whereas the non-

discriminative approach requires the luck-choice distinction to regulate both basic needs satisfaction and substantive inequality regulation, the discriminative approach restricts the operational domain of the said distinction to substantive inequality regulation alone.

Beginning with the non-discriminative approach, Arneson observes that Anderson's criticisms target only an extreme strand of distributive egalitarianism that takes substantive equality among human beings as the default distributional position. Nevertheless, a moderate version of distributive egalitarianism does not have to commit to substantive equality *per se*; by giving up the ideal, it could retain the force of luck-choice distinction at the intrapersonal rather than the interpersonal level. In other words, substantive equality in material terms is no longer taken as the default position, and thereby interpersonal comparison loses its significance in this new formulation. He calls this version of distributive egalitarianism 'responsibility-catering prioritarianism' (Arneson, 2000, p. 2). Responsibility-catering prioritarianism takes account of the relational aspect of social justice by adopting welfare as the currency of substantive equality, nonetheless considering democratic equality merely as instrumentally valuable at the level of implementation. As he claims, '(p)rioritarianism is egalitarian in tilting in favour of those who are badly off. But the priority is assigned to aiding an individual in virtue of how badly his life is going, as measured by an objective scale of well-being, not intrinsically by any comparison between his life and that of others' (Arneson, 2000, p. 7). Responsibility serves to guide the state's attention to certain groups of individuals when several claims of assistance are at stake: 'the moral value of altering a state of affairs in a way that makes someone better off or worse off depends, other things being equal, on the degree of responsibility the person bears for her present

condition' (Arneson, 2000, p.8). Therefore, when facing multiple claims of assistance with similar scores on the objective well-being scale, it is more morally valuable to attend to those who are less responsible for their current dire situation vis-à-vis other claimants. Democratic equality fits into this picture as a means for realising equality of well-being among individuals, rather than as the fundamental ideal that trumps all other considerations. As Arneson explains, '(t)he egalitarian principle of well-being is concerned with the quality of human relationships that people sustain in a society, but these are evaluated by their impact on well-being.' (Arneson, 2000, p. 4). In other words, individual well-being remains the ultimate point of concern, whereas the issue of equal relations among individuals is taken into account because of its impact on individual well-being.

Responsibility-tracking prioritarianism has across-the-board application covering both the satisfaction of basic needs and the regulation of substantive inequality because it ignores the threshold between the two operational domains, comprising the entire spectrum of state intervention. There is simply no need for such an arbitrary threshold when the fundamental concern is with the absolute level of well-being at the intra-personal level. Nevertheless, it strikes me as implausible that the luck-choice distinction alone could do the job of justifying state intervention without the backdrop of democratic equality. Under the extreme version of distributive egalitarianism, the moral urgency of state intervention is based on both the extent of deviation from substantive equality in material terms and the involvement of voluntary decisions in causing the deviation. It makes sense to have a default position in distributive outcomes because the moral judgment about state intervention needs a baseline to bring individual cases into relevance.

Suppose a distributional pattern (D) in which A is rewarded 1 unit of resources, B is rewarded 2 units, and C is rewarded 3 units, the grounds on which the extreme distributive egalitarians would call it unfair is that comparing to the baseline pattern (B*) in which A, B, and C similarly have 2 units, pattern D represents a deviation not yet justified. Arneson has taken the baseline pattern out of the picture, stating that moral judgment cannot but rely on some other ideal independent of the view of responsibility. For instance, in light of pattern D, what can an egalitarian of well-being say about its fairness without a baseline to fall back on, assuming that 1 unit of resources corresponds to 1 unit of well-being? According to my understanding, Arneson's objective scale of well-being tells us that A enjoys 1 unit of well-being, B enjoys 2 units, and C enjoys 3 units. However, it does not tell us why this pattern is unfair on any of the moral agents in question. Without having substantive equality as pattern B*, there is no sense in comparing across A, B, and C. Because Arneson relinquishes substantive equality as the default position of the distributional pattern, he faces the difficulty of treating the differential distributive outcome as an unjustified deviation from substantive equality in welfare. Moreover, without a threshold specifying the minimum level of well-being, there is no way to know which of A, B, and C signifies absolutely deprived. The responsibility view cannot even begin to exert its moral force here since we first need to determine which one is absolutely deprived and then bring the luck-choice distinction into consideration.

Of course, when Arneson mentions an objective scale of well-being, he must have what Dworkin terms 'objective conceptions of welfare' in mind. 'This supposes that a person's welfare consists of the resources available to him, broadly conceived, so as to include physical and mental competence, education and opportunities as well as material resources. Or, in some versions, more narrowly conceived so as to include

only those that are in fact, whatever people think most important' (Dworkin, 1981, p. 226). Guided by the objective conception of welfare, therefore, Arneson needs to specify a bundle of material advantages that corresponds to a minimum level of well-being. Only with this in place could he bring the luck-choice distinction into relevance. Nevertheless, if this were true, a threshold would exist in the spectrum of state intervention and only the responsibility view would expressly apply below it. It is, therefore, quite surprising that Arneson makes a strong case for Anderson's arbitrary division between the satisfaction of basic needs and the regulation of substantive inequality. According to him, '(d)emocratic equality extends an unconditional guarantee that each member of the society shall have access to the basic functioning level. But this priority ranking is too stringent' (Arneson, 2000, p. 13). A comparison of his argument against the arbitrary division between the satisfaction of basic needs and the regulation of substantive inequality with what his responsibility-tracking prioritarianism has virtually become tells us much about the difficulty distributive egalitarians face. Without a commitment to substantive equality as the default position, the luck-choice distinction will automatically lose an important baseline distributional pattern in order to bring itself into relevance. At best, it could obtain below a specified minimum threshold of advantages at an individual's disposal. Nevertheless, Arneson, like many distributive egalitarians, will not be content with this restricted operational domain of luck-choice distinction, because his design for prioritarianism shows his ambition to unite the satisfaction of basic needs and the regulation of substantive inequality with the uniform application of a responsibility view. Unfortunately, this cannot be done without an overarching ideal that is sufficiently sensitive to the said two components of state intervention. For certain, treating substantive equality and equality in terms of a minimum bundle of resources—which is what prioritarianism has virtually become—separately

cannot fill the bill. In this light, a partial or complete submission to the relational ideal of democratic equality seems inevitable.

Recognising the need to at least partially anchor the luck-choice distinction in the ideal of an equal relationship among citizens, Brown argues that a ‘moderate luck egalitarianism’ requires the luck-choice distinction to regulate any deviation from substantive equality in material terms whenever it is not in contradiction with the relational ideal of democratic equality. Brown suggests that Anderson’s critiques obtain in relation to an extreme strand of luck egalitarianism. More importantly, there is an advantage to luck-choice distinction that has to be preserved under a moderate version of distributive egalitarianism that recognises the relational aspect of social justice. As he argues,

(T)he alleged difficulty with luck egalitarianism is that where misfortunes are not the result of brute luck they can never be unjust on this view (no matter how unjust they might seem). This charge defeats strict luck egalitarianism but not moderate luck egalitarianism. Moderate luck egalitarianism concedes the importance of other equality norms, including democratic equality (Brown, 2005, p. 329- 30).

At the same time, ‘(l)uck egalitarians...questioned the moral status of brute luck in order to push the envelope of egalitarian thinking and raise the profile of a range of disadvantages that are not the consequence of any human wrongdoing and, therefore, had gone unchampioned’ (Brown,2005, p. 329). Hence, it seems that Brown responds to Anderson’s criticism by leaving open the possibility that the luck-choice distinction could be overridden by democratic equality when in practice the all-things-considered judgement tilts the balance between the two towards democratic equality. Nevertheless, this logic is quite slippery, in the sense that in order to

override the luck-choice distinction in some cases, democratic equality has to have the authority to override it in all cases if need be.

Apparently, this is not what Brown has in mind. He explicitly states,

(W)hat I am proposing...is the following pluralistic view of justice as equality: a society of equals is one in which we try to mitigate the influence on people's lives of brute luck, *attribute the costs of voluntary choices to the individuals themselves where possible*, but at the same time struggle to eliminate extreme poverty, exploitation, oppression and lack of access to valued functionings (Brown, 2005, p. 331; my emphasis).

In other words, the luck-choice distinction holds its moral force whenever it does not contradict the moral demands of democratic equality. I understand that Brown means to partially concede to the sway of democratic equality in justifying state intervention by giving the latter equal significance for substantive equality in material terms. In other words, democratic equality and substantive equality in material terms could both be intrinsically valuable at the fundamental level. In order for this to be plausible, substantive equality needs to stand as equal a likelihood as democratic equality of overriding democratic equality. However, this is not the case, as the passage cited above demonstrates that the luck-choice distinction only holds sway whenever it does not undermine equal social relations. Thus, Brown's partial submission to democratic equality cannot be plausible without tacitly presupposing the fundamentality of democratic equality when judging the fairness of distributional patterns.

The second strategy for rescuing distributive egalitarianism from Anderson's critiques attempts to distinguish the satisfaction of basic needs from the regulation of substantive inequality, and only requires the luck-choice distinction to regulate the

latter. Tan and Markovits both restrict the operational domain of distributive justice to the regulation of substantive inequality and its subject matter to major social institutions so as to refute Anderson's critique of distributive egalitarianism. In this way, firstly, the moral concerns of democratic equality and substantive equality in material terms could to a large extent align with each other to produce policy recommendations regarding state intervention on the basis of the luck-choice distinction. As Tan says, 'the luck-choice principle is meant only to determine the distributive entitlements of persons above the threshold of a basic minimum (however that minimum is defined), and is irrelevant for the purpose of determining whether a person who is floundering due to a lack of basic goods ought to be rescued' (Tan, 2014, p. 100). Markovits agrees,

(D)istributive justice...reflects only one facet of a wider scheme of obligations that persons owe to one another, and others of these obligations may speak up where distributive justice is silent, or indeed outweigh distributive justice in appropriate circumstances...in the case at issue, humanitarian considerations...require aiding even the most foolhardy, once their state becomes sufficiently bad (Markovits, 2008, p. 281).

Recall Anderson's argument that the sole reliance on the luck-choice distinction contradicts the common moral intuition that individuals should be compensated for their conditions regardless of their moral responsibility below a minimum threshold of basic human needs. The problem with distributive egalitarianism, therefore, is that the luck-choice distinction cannot be suspended in relation to the satisfaction of basic needs and then be consistently applied in relation to the regulation of substantive inequality. Here, Tan and Markovits' strategy opens the way for the satisfaction of basic needs to be covered by humanitarianism, and in this case, the judgment about the regulation of substantive inequality as an ethical concern with justice could plausibly apply the luck-choice distinction.

Secondly, the proper subject of distributive justice is thought to be more focused than former notions of distributive egalitarianism, that is, it is only concerned with how major social institutions' backing of specific distributional patterns can be justified to those affected by it. Tan argues,

Luck egalitarianism ought not to be in the business of mitigating all natural contingencies (due to luck) that people face. As an aspect of social justice, luck egalitarianism is only concerned with how institutions deal with such natural contingencies. Its goal is to ensure that institutions are not arranged so as to convert a natural trait (a matter of luck) into actual social advantages or disadvantages for persons. So, only those natural contingencies that have an institutional consequence in this way fall within the scope of luck egalitarianism (Tan, 2014, p. 103).

In comparison to the extreme strand of distributive egalitarianism that identifies certain personal qualities as dis-/advantageous *a priori*, Tan's version is concerned with the major social institutions that turn certain personal qualities into dis-/advantageous social contingencies.

In a similar vein, Markovits calls this extreme distributive egalitarianism 'maximalist, responsibility-tracking elaboration of luck egalitarianism,' as opposed to his 'luck egalitarianism reconstructed.' As he explains,

The responsibility tracking focus on eliminating morally arbitrary disadvantage to the exclusion of all other disadvantage neglects that people are active, self-directed creatures and reduces them, in their distributive claims, into passive vessels of fortune...and therefore undermines certain features of moral personality that make solidarity appealing and subordination wrong to begin with, including for the luck egalitarian (Markovits, 2008, p. 290).

Luck egalitarianism reconstructed, on the other hand, rejects the proposal to eliminate all involuntary disadvantages in a wholesale manner; it only compensates

for those natural disadvantages that are arbitrarily turned into differential distributive outcomes by major social institutions.

Therefore, in contrast to the non-discriminative strategy, the discriminative approach to preserving the luck-choice distinction transforms distributive egalitarianism by narrowing down the operational domain of the responsibility view. More importantly, as such, it could retain substantive equality as the default position from which any deviation needs to be justified on the basis of the responsibility view. Insofar as the more restricted domain and the more focused subject matter of distributive justice jointly save distributive egalitarianism from dispensing with the luck-choice distinction altogether, the relational alternative to substantive equality, namely democratic equality, is proven redundant.

Nevertheless, this approach is not that different from the non-discriminative approach in the sense that it does not dispute the validity of democratic equality when applied to both the satisfaction of basic needs and the regulation of substantive inequality. Tan holds that democratic and substantive equality are both valid for different reasons; whereas the relational egalitarians require substantive equality to be justified on the basis of its contribution to maintaining democratic equality, the distributive egalitarians value distributive equality for its own sake. Moreover, he also recognises the relational egalitarians' ability to apply the luck-choice distinction to substantive inequality in material terms. As he explains, 'it does not follow from the contrast between democratic equality and luck egalitarianism that democratic egalitarians do not make use of the luck/choice distinction at all... The luck-choice distinction helps the relational egalitarians to work out exactly how much substantive inequality in material terms should be tolerated, and for what reasons, within a

designated democratic society' (Tan, 2014, p. 98). Therefore, it seems that, as in the non-discriminative approach, the discriminative approach could be assimilated into relational egalitarianism because it has a considerably narrower operational domain than relational egalitarianism and cannot decisively refute the validity of democratic equality.

Nevertheless, Tan argues that distributive egalitarianism is more attuned to cosmopolitanism, since it may motivate human beings to establish global institutions to regulate substantive inequality in material terms. As he claims, 'under democratic equality, distributive equality is a political value, since it is confined to members of a democratic polity on account of what it means to be an equal member of a democratic association; whereas it is a moral value for luck egalitarians, since it is taken to apply to all agents antecedently presumed to be moral equals' (Tan, 2014, p. 98). In other words, because democratic equality is predicated on the existence of the institutions of citizenship, it cannot motivate individuals to care about substantive equality among distant foreigners. In contrast, substantive equality is directly based on the moral equality of human beings, so its application is not constrained by existing territorial boundaries between nation-states. If this difference between distributive and relational egalitarianism were the only reason to argue against the assimilation of distributive egalitarianism into the latter, then assimilation would not be an insurmountable difficulty. This is because the institutions of citizenship have been undergoing continuous transformation throughout recent human history, and have in some cases expanded to encompass a supranational entity, for instance, the European Union. What is more, the cosmopolitan account of distributive justice, as will be discussed in Chapters 2 and 6, presupposes the further institutionalisation of global citizenship. Leaving aside the question of the motivational force of

substantive equality until Chapter 6, there are multiple normative reasons for supporting the institutionalisation of global citizenship, and with the establishment of global citizenship will come the need for regulating substantive inequality in material terms so as to maintain an equal relationship among citizens at the global level. Even though the link between these normative reasons and the regulation of substantive inequality is not as direct as the distributive egalitarians would like, it is still possible that the relational egalitarians would come to support a cosmopolitan account of distributive justice that requires regulation of substantive inequality at the global level.

Conclusion

In this chapter, I introduced Miller's conception of social justice, which consists of three main principles based on need, desert and social equality. Strictly speaking, only distribution according to need and desert is properly a principle of distributive justice, as it principally concerns the relative share each individual receives out of the common stock of material resources. On the other hand, social equality is concerned with the fairness of the background conditions of distribution and as such constrains the shape of the legitimate distributional pattern within society so as to maintain equal relations among citizens. Central to Miller's conception of social justice is the priority of social equality over need and desert, which directly distinguishes him and other relational egalitarians from the distributive egalitarians.

In section 2, following Anderson, Sheffler and Wolff, I demonstrated that Miller's relational egalitarian position proves to be more suitable than distributive egalitarianism in responding to the ethical demands of the satisfaction of basic needs

and the regulation of substantive inequality, because social equality serves as the relational ideal that justifies different approaches to both the responsibility-insensitive satisfaction of basic needs and the responsibility-sensitive regulation of substantive inequality. In section 3, I challenged Arneson and Brown's non-discriminative and Tan and Markovit's discriminative strategies for salvaging the concept of distributive egalitarianism. Non-discriminative strategy accords the luck-choice distinction across-the-board application, including both the satisfaction of basic needs and the regulation of substantive inequality and yet requires it to cohere with the ethical demands of democratic/social equality. This, in effect, amounts to the assimilation of distributive egalitarianism into relational egalitarianism, because the application of the luck-choice distinction is justified on the basis of its compatibility with the requirements of the ideal of equal relations among citizens. In contrast, the discriminative strategy restricts the application of the luck-choice distinction to the regulation of substantive inequality, thereby avoiding the difficulty of justifying different approaches to both the satisfaction of basic needs and the regulation of substantive inequality. Nevertheless, since this strategy does not reject democratic/social equality as having applicability across the board, its only reason for precluding distributive egalitarianism from being subsumed into relational egalitarianism is the latter's supposed inability to motivate positive initiatives to regulate substantive inequality at the global level. As I suggested in section 3 and will further reinforce in Chapter 2, the relational egalitarians such as Miller could come to endorse substantive inequality regulation at the global level by recognising that in order to persuade cosmopolitans, they require an institutionalised channel of public deliberation to adjudicate among different theories of distributive justice at the global level. With the establishment of institutions of global citizenship comes the ethical demand of regulating substantive inequality among human beings *qua*

citizens. Hence, relational egalitarianism could successfully subsume distributive egalitarianism if it endorses the further institutionalisation of global citizenship. Given that the statist and the liberal nationalists, who align closely with the relational egalitarians, continue to reject any positive proposal for global citizenship, it remains to be seen whether such assimilation is possible. I will discuss in the next chapter Miller's three reasons for opposing regulation of substantive inequality at the global level and will construct a normative reason for him to support the further institutionalisation of global citizenship on the basis of the need for public deliberation to adjudicate among different global principles of distributive justice.

Chapter 2:

Miller's Split-level Conception of Distributive Justice and Its Critics

Introduction

The 21st century has witnessed the emergence of a wide range of actors other than the traditional nation-states, a result, primarily, of globalisation. The changes that have taken place in the conventional international system are interpreted differently by the cosmopolitans on the one hand and the statist and the liberal nationalists on the other. As will be discussed at length in Chapter 6, there are two types of cosmopolitans: the humanist and the associativist. The humanist cosmopolitans usually take the moral equality of human beings as their starting point and argue that substantive equality in material terms is the fairest distributional pattern in the global economic order, and any deviation from it should track genuine individual choices rather than brute luck. The associativist cosmopolitans accept the statist and liberal nationalists' claim that the regulation of substantive inequality should be grounded in the institutions of citizenship, in addition to respect for the moral equality of human beings. However, since the ability of the traditional nation-states to protect basic human rights has been eroded by ever-increasing transnational factors that cut across geographical boundaries, both the humanists and the associativists agree that nation-states need to be replaced by global institutions of citizenship.

In contrast, Miller's overall theory of distributive justice aims to provide a normative foundation for the current international system based on the traditional nation-state. As such, he differs from the cosmopolitans in two respects. First, he endorses what I

call a *split-level conception of distributive justice* (SCDJ) that takes the regulation of substantive inequalities to be relevant at the domestic level but irrelevant at the global level. In Chapter 1, I introduced Miller's conception of social justice and his claim that the regulation of substantive inequality is grounded in the institutions of citizenship. Here, Miller extends this conception to the global level and offers an overall theory of distributive justice that treats the global and the domestic sphere as two different distributive contexts, because different modes of human relationships persist therein. Second, he rejects the need for further institutionalising global citizenship. With regard to the first aspect, Miller disagrees with the cosmopolitans on the point that the moral equality of human beings can be directly translated into substantive equality in material terms at the global level, because of the metric and the dynamic problem. Here Miller is mainly challenging the humanist cosmopolitans' position on distributive justice, insofar as the associativist cosmopolitans recognise the ethical significance of human association within nation-states. With regard to the second aspect, Miller rejects the cosmopolitans' attempt to further institutionalise global citizenship based on democratic procedure on the ground that the mutual trust particular to the relations among fellow nationals can only be nurtured within a bounded society. Here Miller is engaging with cosmopolitanism as a whole, as both the humanist and the associativist cosmopolitans endorse the further institutionalisation of global citizenship.

In this chapter, I will argue that Miller's SCDJ obtains because the absence of formal institutions of global citizenship distinguishes the global from the domestic level and are two different distributive contexts. Nevertheless, his rejection of the further institutionalisation of global citizenship does not obtain, because he requires public deliberation at the global level to adjudicate among different global principles of

distributive justice. In section 1, I will discuss the connection between Miller's conceptions of social and global justice in order to introduce SCDJ, as well as his position on the further institutionalisation of global citizenship. In section 2, I will introduce the three main normative reasons for restricting the regulation of substantive inequality to the domestic level: the metric problem, the dynamic problem and the lack of global institutions of citizenship. In section 3, I will demonstrate that global cultural pluralism makes it very difficult to arrive at a common metric of substantive equality in material terms at the global level in the short term. However, this problem could be overcome by purposeful communication among different cultural communities in the long term and as such, does not pose an insurmountable obstacle to realising the humanist cosmopolitans' vision of global justice. In section 4, I will demonstrate that the need for nation-states to take responsibility for their past collective decisions does not justify SCDJ, because it has to be anchored in a prior theory of distributive justice, as the humanist cosmopolitans argue. In section 5, I will demonstrate that Miller will be unable to persuade the humanist cosmopolitans to accept SCDJ because the latter fails to ground the ethical concern with distributive justice in the institutions of citizenship. Moreover, despite the fact that the associativist cosmopolitans recognise the grounding relationship between citizenship and distributive justice, Miller cannot persuade them to accept SCDJ, because they understand the implications of conditions for distributive justice at the global level differently from Miller. In this light, I will suggest that, in order to overcome the impasse between cosmopolitanism and his SCDJ, Miller will require a further institutionalisation of global citizenship based on deliberative democracy, insofar as an institutionalised channel of public deliberation could democratically adjudicate among different global principles of distributive justice. This account of global citizenship should be based on the notion of 'cosmopolitan justifiability',

because most global justice theorists appeal to it in validating their distributive principles.

1. Miller's Split-Level Conception of Distributive Justice

In this section, I will introduce Miller's overall theory of distributive justice and his rejection of the need to further institutionalise global citizenship. First and foremost, according to Miller, both the satisfaction of basic needs and the regulation of substantive inequality at the domestic level require only the protection of a limited number of basic human needs globally. Due to the difference between his conceptions of social and global justice, I will call this overall theory of distributive justice a *split-level conception of distributive justice* (SCDJ). In the previous chapter, I introduced the three main principles of social justice: need, desert and social equality. The need principle demands that all intrinsic needs within society be satisfied. This principle applies to a solidaristic community, wherein the members respond to each other's neediness in a loose reciprocal manner. Secondly, distribution according to desert dictates that economic rewards shall be equivalent to individual contributions. The desert principle applies to the context of instrumental association, wherein individuals relate to each other in a utilitarian manner, that is, his/her aims and purposes are best furthered through cooperation with others. The third principle of social justice, that of distribution according to social equality, stipulates that distribution within a nation-state shall be carried out in such a manner as to maintain an equal relationship among citizens.

In contrast, Miller's conception of global justice protects only a 'global moral minimum' (GMM) defined by a short list of basic human needs¹. GMM is similar to the needs principle that obtains within nation-states, in the sense that (1) the minimum threshold is set up with reference to the notion of 'intrinsic needs', and (2) it contains both a physical-biological and a social component and (3) it requires the duties of justice to meet all needs within a specified operational domain. Firstly, as he claims, 'the needs in question must be what I have elsewhere called "intrinsic" needs...a person's intrinsic needs are those items or conditions it is necessary for a person to have if she is to avoid being harmed' (Miller, 2007, p. 179). Moreover, in the sense that the basic human needs protected by GMM are similarly defined by the physical-biological and the social component, the specific categories of intrinsic needs protected under GMM will be much more modest because of the thinner shared a normative understanding of what conditions are necessary for meeting the minimal decency condition.

Furthermore, GMM considers that all nation-states bear remedial responsibility at the global level to assist a nation-state suffering absolute deprivation, as long as no moral agent in the said nation-state is responsible for that nation's outcome (Miller, 2007, p. 164). Two distinctions are in order here. The first distinction is between outcome and remedial responsibility. According to Miller, '[Outcome responsibility]

¹ Here it is beyond the scope of this thesis to consider the capability approach to human rights developed by Amartya Sen and Martha Nussbaum. A clear exposition of their approach can be found in *The Quality of Life* (1993). As an alternative to Miller's basic-need approach, the capability approach aims to formulate a list of core human capabilities that all human beings should have in order to pursue activities indispensable for their flourishing. In comparison with the basic-need approach, the advantage of the capability approach is that it respects the general need of human beings to flourish and at the same time recognizes the different ways in which they utilise resources to flourish. On the other hand, the advantage of the basic-need approach is that it does not have to rely on a particular conception of human dignity in order to identify the conditions indispensable for human to flourish. It will take further study to determine which approach is more suitable for developing a list of basic human rights on the basis of their respective advantages. Nevertheless, the two approaches do have something in common. Similar to Miller's basic-need approach, the capability approach also relies on the shared normative understanding among people to formulate the list of core human capabilities.

has to do with agents producing outcomes... [whereas remedial responsibility] has to do with agents having a duty or obligation to put a bad situation right' (Miller, 2007, p. 83- 4). 'A moral agent is outcome responsible for a certain state of affairs when the agent has contributed to producing the outcome' (Miller, 2007, p. 86-97). 'Remedial responsibility comes into relevance when no agent can be found directly outcome responsible for the state of affairs in question, and there is a moral urgency to assign responsibility to improve a certain situation up to a specific minimum threshold' (Miller, 2007, p. 98). Miller also makes a second distinction between duties of justice and duties of humanitarianism. The duties of humanitarianism can be understood as affording moral agents more supererogation than the duties of justice. As Miller says, humanitarian assistances 'are duties that we have good reason to perform, without being required to perform them as we are required to perform duties of justice' (Miller, 2007, p. 248). The duty of justice to remedy a breach of GMM is rather modest, because GMM restricts the duty of justice to a very specific category of cases. That is to say, when no moral agent within the nation-state in need of assistance is outcome responsible for the absolute deprivation they are experiencing, any nation-state able to assist them ought to do so out of the obligations of justice.

Finally, in conjunction with SCDJ, Miller rejects any positive proposal for further institutionalising global citizenship on the ground that the lack of mutual trust between human beings from different cultural communities makes it practically impossible to motivate such a political transformation. According to Miller, an administrative state should be established on the basis of the republican conception of citizenship that not only protects citizens' private liberties but also their equal political rights to participate in the public deliberation (Miller, 2000, p. 53). In order

to maintain a republican conception of citizenship, citizens must have a sufficient level of mutual trust among themselves so that they are motivated to act responsibly in the public deliberation. As will be discussed in Chapters 3 and 4, this mutual trust could only be supplied by a nation-building process that develops a common national identity and a shared public culture among its citizens. Due to the lack of mutual trust at the global level, any proposal for the further institutionalisation of global citizenship will remain abstract and unfeasible. As he says, the republican conception of citizenship 'has clear empirical preconditions; it cannot simply be conjured up ex nihilo...International peace, international justice and global environmental protection are very important objectives, and we must hope that republican citizens will choose to promote them externally. But this cannot be achieved by inventing in theory cosmopolitan forms of citizenship which undercut the basis of citizenship proper' (Miller, 2000, p. 96).

2. The Three Reasons for a Split-Level Conception of Distributive Justice

In order to justify SCDJ, Miller offers three normative reasons: the metric problem, the dynamic problem and the lack of global institutions of citizenship. First, the metric problem is derived from the fact that owing to global cultural diversity; common normative understanding is too thin for all human beings to reach the same valuation of natural resources and for the content of opportunity sets to be equalised globally. Miller examines two categories of the distributive egalitarian proposals: (1) the equalisation of the access to natural resources and (2) the equalisation of opportunity sets. Firstly, Hillel Steiner's 'global fund' proposes to tax the resource-rich nation-states according to the aggregate value of their natural resource holdings and redistribute the revenue among the resource-poor nation-states. *Contra* Steiner,

Miller argues that there are three factors accounted for entirely by human decisions and behaviours rather than nature itself: (1) the set of rules of conditions under which the natural sites are held, (2) the abilities and the preferences of the people who might use the property and consume what is produced there and (3) the impact of the surrounding neighbourhood on the property value of the natural site. That is to say, the aggregate value of a particular nation-state's natural resources depends on the human decisions and behaviours that legislate certain sets of rules that regulate the uses of natural sites within its jurisdiction. It is also influenced by the local culture that shapes consumer preferences and the composition of the labour market in certain ways. Equally, the characteristics of the surrounding neighbourhood can raise as well as lower the property value of natural sites significantly (Miller, 2007, p. 60). Even though these factors include various aspects of human decisions and behaviours—political decisions, consumer preferences and the development of employable skill sets, et cetera—they all depend on a shared normative understanding about the value of certain natural resources. Indeed, as Miller argues,

Steiner's proposal to tax nations according to the aggregated property values of the sites they contain...appears arbitrary...Nations contribute to the creation of their own aggregate property values in at least the three ways we have just traced. So if they are taxed on that basis, they are to a considerable extent being taxed *according to the values they adhere to collectively and the choices they have made* (Miller, 2007, p. 60-1).

In other words, in the face of multiple normative understandings about certain natural sites within nation-states, it will be very difficult for human beings to come to a single, non-arbitrary tax scheme that uniformly extracts revenue from each nation-state.

Secondly, Moellendorf claims, ‘if equality of opportunity were realised, a child growing up in rural Mozambique would be statistically as likely as the child of a senior executive at a Swiss bank to reach the position of the latter’s parent’ (Moellendorf, 2002, p. 49; cited by Miller, 2007, p. 63). In order to realise this distributive egalitarian vision and equalise opportunity sets globally, Miller argues that some kind of metric is needed to decide whether two opportunity sets are at least equivalent. However, this is where the cosmopolitan principles of global distributive justice encounter an obstacle. Since people rely on a common normative understanding in order to flesh out the general ideal of equal opportunity in more substantive terms—that is, ‘a number of specific types of resource and opportunity are singled out as significant, and these are not regarded as substitutable’—at the domestic level, greater cultural diversity at the global level renders this type of collective decision unattainable (Miller, 2007, p. 66).

Second, the dynamic problem is derived from the idea that the people within nation-states should take responsibility for their collective decisions in the past which have differential distributive outcomes today. Miller illustrates this idea with a hypothetical case wherein two societies make different collective decisions to employ natural resources in respectively consumerist and conservationist ways, and end up with unequal distributive outcomes. In this case, he thinks that extensive redistributive measures to restore the substantive equality between these two societies would ‘leave very little incentive for states and their citizens to behave in a responsible way’ and in extreme cases may even compromise the political self-determination of these societies (Miller, 2007, p. 70- 4). Third, the lack of global institutions of citizenship marks the global level off as a different distributive context than the nation-state, insofar as the ethical demands of distributive justice are

grounded in the social ideal of equal relations among citizens. As discussed in Chapter 1, both basic needs satisfaction and substantive inequality regulation are justified on the basis of their contribution to human beings' equal status under the shared political institutions of the administrative state. Therefore, Miller argues that a nation-state is a different distributive context to the global sphere, in the sense that it consists of four characteristics all at the same time. That is to say; a nation-state places individuals under shared legal coercion, gives them involuntary membership, enables them to pursue reciprocal cooperation and supplies them with a collective identity (Miller, 2013, p. 151- 61). Insofar as human relationships at the global level do not bear these four characteristics, at least not to the same extent as within nation-states, the regulation of substantive inequality is not morally relevant.

3. The Critiques of the Metric Problem

In this section, I will argue that the metric problem obtains insofar as global cultural pluralism makes it difficult for human beings to achieve among themselves a consensus on the metric of substantive equality in material terms. Nevertheless, this problem could be mitigated through institutionalised public deliberation at the global level in the long term, as cultural commonalities are social contingencies that could be developed through purposeful policies.

First and foremost, Weinstock argues that 'Miller...clearly overestimates the extent to which modern nation-states are characterised by the kind of 'shared understandings' upon which the foregoing argument depends' (Weinstock, 2003, p. 277). He cites the difference between how villagers and urban residents understand the meaning of extracting natural resources. As he says,

In Canada...entire 'forms of life' have emerged out of industries concerned with the extraction of various natural resources. For inhabitants of the fishing villages of Newfoundland, of the farmlands of the prairies, or of the logging villages of British Columbia, the resources that they harvest represent more than just fungible goods, the full value of which might be fully expressed in monetary terms or traded off against other goods. Rather, they are laden with meaning and symbolic value, as befits resources around which a community has organised its life. The situation with respect to these resources is completely different...for urban dwellers within the same country (Weinstock, 2003, p. 277).

This observation falls short of decisively refuting the metric problem in two senses. Firstly, it does not tell us whether there is a distinction between the degrees of cultural diversity at the global and the domestic levels. Miller's metric problem essentially stresses that the normative understandings about distribution are more diverse at the global level than within nation-states. Nevertheless, Weinstock merely shows that cultural diversity makes it difficult to reach a common normative understanding about distribution at the domestic level as well. If he intends to address this comparison, it will make more sense to specify the extent to which the cultural diversity within nation-states approximates that at the global level.

Secondly, he fails to grasp the role of deliberative democracy in reaching widely acceptable collective decisions alongside cultural diversity within nation-states and maintain a reasonable amount of shared normative understanding among citizens. The reasonable amount of shared normative understanding at the domestic level is not a self-perpetuating phenomenon but a purposely produced result brought about through a deliberative democracy. During and through the process of public deliberation within nation-states, the normative understanding about distribution among citizens could both serve as the necessary normative background for reaching collective decisions on various issues including but not limited to the pursuit of

distributive justice and become enriched in the long run. Hence, these abovementioned two points combined to cast doubt over whether simply pointing to the overestimation of the cultural homogeneity within nation-states is going to do the job of rejecting the metric problem at the global level.

In reply, Fabre argues that a deliberative democracy does not even deliver distributive justice. In other words, ‘the difference between preferences and needs is a conceptual one, and as such it does not depend on the views of the democratic majority’ (Fabre, 2003, p. 319). She cites a hypothetical example:

Consider a nomadic religious ascetic, who claims that he needs resources to print out religious tracts instead of housing, and who happens to live in a very secular society which regards housing as much more important than printing religious tracts. Miller argues that the ascetic does not have a claim to those resources, even though they would not exceed the amount needed to provide him with housing, on the grounds that ‘someone’s preferences, no matter how strong, cannot ground claims of need’ (Fabre, 2003, p. 319).

In other words, the definition of basic human needs does not depend on the perceptions of the democratic majority. Instead, there should be a way of determining what should be counted as basic needs within a nation-state independently of a deliberative procedure. Moreover, even if we agree that a deliberative procedure is needed in order to formulate a definition of basic human needs, we can put it in such a way that the definition requires the equalisation of material advantages, insofar as the procedure is grounded in a pre-institutional concern with the equal respect for human beings and requires the participants to behave accordingly in their deliberations about distributive schemes. Fabre claims,

There is...a moral prescription as to how one should act toward others, which is not yielded by deliberative procedures but rather underpins citizens’ commitment to them. But if that prescription is correct, why not allow that it

entails other, more detailed requirements to act toward others in certain ways...why not allow, further, that it entails certain requirements to distribute resources in certain ways... (Fabre, 2003, p. 320)

In other words, even if a deliberative procedure is needed in order to yield the definition of basic human needs, the procedure itself carries specific values and norms. Therefore, we could demand that the deliberative procedure realise substantive equality in material terms alongside other values and norms.

Nevertheless, the fact that a deliberative procedure would rely on specific values and norms does not serve to prove that these are selected arbitrarily. Even though I do not wish to take a stance on this matter, it is at least preferable that a democratic procedure should be founded on values and norms that are acceptable to the morally relevant *demos*. As Rawls argues in his notion of ‘political liberalism,’ society should be regulated by the most reasonable political conception of justice, which is endorsed by an overlapping consensus comprised of all the reasonable comprehensive doctrines in society (Rawls, 2011, p. 60). A political conception that carries specific values and norms is itself developed through a sophisticated process of individual moral reasoning based on an examination of all the prevalent philosophical doctrines found within the society in question in order for it to be acceptable to all morally relevant individuals. Therefore, the regulation of substantive inequality cannot be added to the founding values of the deliberative procedure, unless it can be proved to be widely acceptable. If it is at least manageable at the domestic level to achieve a consensus on a common metric of substantive equality, the difficulties will multiply when we move to the global level, as we will not be entirely sure of what the moral equality of human beings requires, beyond securing a bare physical-biological minimum. As noted in section 1, beyond basic human needs defined by the physical-biological minimum, people need to rely

on a shared normative understanding about what it means to live a minimally decent life within a given social environment. The moral equality of human beings does require us to treat each human being equally; nonetheless, it fails to specify exactly how to treat them. Hence, we cannot allow the moral equality of human beings to continue to specify what justice requires of distribution beyond meeting the basic needs defined by the physical-biological minimum, because the moral equality of human beings in and by itself does not have specific guidelines for such a process.

This response to Fabre actually applies to all humanist cosmopolitans who take substantive equality in material terms to be the fairest distributional pattern of the global economic order. Given global cultural diversity, I am not sure if people from all cultural backgrounds could indeed agree on the same conception of substantive equality in material terms, or even treat substantive equality as an essential part of their conceptions of the good. Therefore, the humanist cosmopolitans would need to engage in an endless discussion as to why a particular conception of substantive equality in material terms ought to be the only interpretation of the moral equality of human beings, regardless of the different conceptions of the good. As long as a justification for the principles of global justice for all human beings is an integral part of our moral reasoning, it is highly doubtful that a particular conception of substantive equality can be successfully justified as being an integral part of all conceptions of human good without suppressing certain cultural communities.

Of course, the humanist cosmopolitans could still argue that the moral equality of human beings at least requires the satisfaction of basic needs, to which even the statist and the liberal nationalists cannot reasonably object. On the basis of this understanding, they could arrive at the conclusion that the regulation of substantive

inequality is warranted at the global level because radical inequality is detrimental to the satisfaction of basic needs. Tan records this approach in *Justice without Borders* (2004) as the ‘derivative approach to equality.’ This approach aims to ‘show that so long as there are great inequalities between people, the basic rights of the poor (or at the very least the worst-off) cannot be fully met for a variety of reasons.’ Therefore, ‘equality can thus be a normative concern derived from the more basic moral concern with ensuring that people are able to meet their basic needs’ (Tan, 2004, p. 53-4). Moreover, excessive substantive inequalities in material terms not only undermine the ability of the global poor to fulfil their basic needs as guaranteed by Miller’s GMM, but also produce other detrimental effects at the global level. For instance, Ayse Kaya and Andrej Keba identify five types of such detrimental effects: (1) increased global conflict, (2) undermined global poverty relief efforts, (3) reduced global solidarity, (4) undermined self-respect of individual human beings, and (5) undermined procedural fairness in international organisations (Kaya & Keba, 2011). In a sense, there is a causal link between substantive inequality in material terms and its various detrimental effects including, but not limited to, absolute deprivation. As Lea Ypi argues, ‘the relief of absolute deprivation is causally related to the non-fulfilment of claims for the relief of relative deprivation. Poverty and inequality appear closely intertwined’ (Ypi, 2012, p. 118). Ypi believes that, given the causal link between the two types of deprivations in practice, it is imperative to regulate substantive inequalities in order to tackle the structural roots of poverty against the global background conditions. Moreover, addressing the radical inequalities in the global background conditions necessitates not only the equalisation of material resources but also the prevention of the detrimental effects in the form of power asymmetry and unequal opportunities for political participation (Ypi, 2012, p.115-20). In light of the causal link between substantive inequalities

and poverty, Ypi proposes that we could find a common metric of substantive equality by focusing on the global ‘positional good,’ whose absolute value ‘depends on the relative standing of their possessors compared to each other’ (Ypi, 2012, p. 98). Power serves as such a global positional good, in the sense that the pervasive power asymmetry between the developed and the developing countries is responsible for rendering individuals within some of these countries absolutely worse off than others (Ypi, 2012, p. 123). Gilibert agrees with Ypi in terms of the general strategy of discovering a common metric of substantive equality in material terms, as he strives to define global positional goods along three lines: (1) the opportunities to access abstract goods that can be specified in roughly the same ways in different cultural contexts, (2) the tokens of some advantages equally accessible to all and (3) the equal opportunity to migrate freely (Gilibert, 2012, p. 216).

Miller was able to recognise the validity of global positional goods as a common metric of substantive equality since he explicitly acknowledges the detrimental effects of substantive inequalities at the global level, despite his narrow focus on political domination. According to him, substantive inequalities may give rise to (1) inequalities of power, (2) undermined self-determination of the weak nation-states and (3) compromised ‘fair terms of cooperation’ (Miller, 2007, p. 75- 6).

Nevertheless, it is noteworthy that he rejects the use of redistributive measures even for the purpose of reducing the impact of substantive inequalities on absolute deprivation, and neglects to elaborate on how exactly to counter these detrimental effects through collective efforts at the global level. The reason for this could be that, although the category of global positional good is the specification of a common metric of substantive equality in material terms, it still remains to be substantiated by more particular norms and values which cannot be taken for granted. In light of

global cultural pluralism, the substantiation of the idea of the global positional good still requires a deliberative procedure to bridge different cultural values and thereby reach a normative consensus. This opens up the possibility that a deliberative democracy could be extended to the global level so as to reach a consensus on global positional goods in the long term in a similar manner to that within nation-states. This line of reasoning merits further investigation, insofar as it challenges Miller to give a justification for restricting the regulation of substantive inequality to the domestic level when a deliberative procedure could be established at the global level in order to develop a common metric of substantive equality. I will discuss this in detail in section 5. Thus, the metric problem obtains to the extent that global cultural pluralism poses a problem for realising substantive equality in material terms in the short term, if and only if, establishing deliberative democracy is impossible at the global level.

4. The Critique of the Dynamic Problem

In this section, I will focus on examining the validity of the dynamic problem in light of the cosmopolitans' critiques, and demonstrate that it does not serve to justify SCDJ, even though nation-states should be the main bearer of the collective responsibility for protecting GMM. First and foremost, Caney points out that national responsibility cannot be reduced to individual responsibilities in the traditional sense. As Caney claims, 'the very plural and diverse nature of most states make it difficult to conceive of states as agents making decisions. Rather, they comprise diverse elements, divided by religion, class, interests, pursuits, region, and (often) nationality. The policies adopted by a state are thus never the choices of all the members of that state' (Caney, 2003, p. 30). In other words, the policies

implemented by each nation-state may not be representative of the values and beliefs of all the individual citizens within them, therefore, nation-states cannot be held collectively responsible.

However, as discussed in the last section, the cultural diversity within a nation-state does not make it impossible to reach a normative consensus among its citizens, as long as there is a deliberative procedure in place. Indeed, Miller's conception of global justice based on national responsibility depends on the actual possibility of policies representing the shared values and beliefs of the population as a whole within each nation-state. As he says, 'the more open and democratic a political community is, the more justified we are in holding its members responsible for the decisions they make and the policies they follow. National values will still, to a large extent, be inherited in practice, but they will be discussed and debated, alternative views will be expressed, and so forth' (Miller, 2007, p. 130). In other words, a deliberative democracy could help citizens reach a normative consensus and as such enable the final policy outcomes to reflect the shared cultural values of the entire population.

In response, Caney advances a two-fold argument. First, many states with people dangling below the global moral minimum are not democratic at all. Therefore, it will be morally problematic to hold the population collectively responsible for the past policies decided on by a small group of elites. Here, Caney confuses the actual possibility of reaching a final decision representing the shared beliefs and values of the population with the mechanism that makes the consensus more likely to occur. It is surely easier for us as outsiders to accept that the political decisions of some foreign nation-states reflect the shared, authentic, values and beliefs of their

populations when there is a democratic decision-making procedure in place, especially the kind with deliberative elements as Miller intends. However, the absence of democratic procedure does not, in and by itself, eliminate the actual possibility of arriving at policies representing the shared, authentic, values and beliefs of the population. Here I do not want to address the question as to whether participation in the democratic decision-making process is fundamental to basic human needs. The point is that Caney requires much more evidence to reach the definite conclusion that democracy is a necessary condition for a population to express their shared, authentic, values and beliefs about distribution.

Second, Caney argues that if we took the traditional view of moral agency seriously, we would only assign the responsibility to individuals rather than the nation-state, whose policies may not be the result of each individual's voluntary choices. 'Treating states as responsible agents is thus deeply unfair to individuals who are disadvantaged because of the state's decisions. This is especially so in nondemocratic states but still applies in democratic states' (Caney, 2003, p. 302). I consider that this line of reasoning makes a fetish out of individualism in the sense that it completely rejects the possibility of connecting individual responsibility to collective responsibility. As a result, Caney does not appreciate the purpose of Miller's conception of global justice based on national responsibility. Miller attempts to assign remedial responsibilities among moral agents in the face of great moral urgency, that is, the chief aim is to assign them in a manner that is valid and acceptable to all, rather than to supply a theoretically sound view of responsibility that may be inapplicable to reality due to the conditions of global politics. This does not negate the centrality of arriving at a conceptually persuasive view of responsibility with regard to meeting GMM. My argument is that humanist

cosmopolitans like Caney make an unnecessarily sharp distinction between moral reasoning about political principles and the consideration of feasibility constraints. This is diametrically at odds with Miller's methodological approach to distributive justice. He specifically argues that at all levels of moral reasoning, the formulation of normative principles needs to consider the technical and political feasibility of applying the said principles (Miller, 2014, p. 35-8).

Therefore, Miller's notion of national responsibility is valid, because it is more conducive to effectively assigning remedial responsibility among nation-states when the moral urgency of the situation at the global level compels all able moral agents to act. In fact, the reason why Caney rejects Miller's notion of national responsibility is that he cannot appreciate the priority of effective responsibility assignment over sophisticated responsibility identification in light of great moral urgency. The said priority can be justified on the ground that a certain serious breach of GMM creates a moral requirement to expand the range of possible moral agents that could discharge the responsibility to assist the nation-states in need, especially when it is very difficult to locate a responsible moral agent on the basis of the traditional view of moral agency. As Miller says,

Identifying responsibility is a matter of looking to see who, if anybody, meets the relevant conditions for being responsible. What these conditions are will depend on the form of responsibility at issue...assigning responsibility, by contrast, involves a decision to attach certain costs or benefits to an agent, whether or not the relevant conditions are fulfilled...Unlike identification, assignment of responsibility can be justified or unjustified, but cannot be correct or incorrect (Miller, 2007, p. 84).

In other words, responsibility identification aims to answer the question as to whether the moral agent under consideration fits the conditions of taking responsibility for certain outcomes, and whether these conditions are morally

relevant in the first place. In contrast, responsibility assignment aims to answer the question as to whether the moral agent under consideration is justified in taking responsibility, regardless of whether certain relevant conditions are met. Of course, it is desirable for responsibility identification and assignment to coincide in practice. Nevertheless, finding a conceptually valid connection between moral agents and certain outcomes is not the primary objective, that is, the moral agents who do not fit certain conditions might still be deemed justified in taking responsibility. Even though not all approaches to responsibility identification are based on the traditional view of moral agency, the intention to avoid a debate with theorists who hold onto such a view possibly motivates Miller to distinguish between the aims of his notion of national responsibility and that of other conceptions of moral responsibility. At any rate, the traditional view of responsibility is less efficient than Miller's notion of national responsibility, given the aim to assign responsibilities in light of moral urgency at the global level. As Margret Moore notes, 'the problem with the... (traditional view of moral agency) as it applies to issues surrounding human-induced global climate change is connected both to the individualist focus and the focus on direct, rather than indirect outcomes. The harm generated by carbon emissions is not directly, or solely, the result of individual action' (Moore, 2013, p. 131). This example shows the deficiency of the traditional view of moral agency in tackling one of the most pressing issues today—global warming. In contrast, Miller's notion of national responsibility switches the focus of global justice to assigning justifiable responsibility to nation-states and therefore makes it more likely that responsibilities could be assigned efficiently. For instance, 'the three remedial responsibility principles—moral, outcome and causal responsibility—are especially helpful in cases where past action has had a deleterious effect on the planet, but these effects were not known, or not conclusively known, to the people who engaged in the

actions' (Moore, 2013, p. 135). Hence, Miller's notion of national responsibility based on the non-traditional view of moral agency obtains in the face of Caney's challenge, because it focuses on discharging moral obligations in light of the moral urgency at the global level.

Nevertheless, defending the validity of national responsibility does not automatically bring about the validity of the dynamic problem as a reason for restricting the regulation of substantive inequalities to the domestic level. As Caney, Tan, and Weinstock point out, the dynamic problem in and by itself does not explain why regulating substantive inequalities is not required by distributive justice at the global level, because the notion of national responsibility needs to be anchored in a prior understanding of distributive justice. According to Caney, Miller's dynamic problem commits a 'category mistake,' that is, it confuses the statement about the entitlements of each nation-state with statements about their duties. The dynamic problem consists of the idea that it is unfair to expect a nation-state which pursues sensible state policies to bail out another whose bad policies have led to disadvantaged distributive outcomes. In this formulation, however, the dynamic problem is not a statement about the entitlements of each nation-state in accordance with a prior understanding of distributive justice; rather it is only a statement about their duties which derives from a particular understanding of distributive justice. As Caney says, 'the dynamic argument is therefore not a direct challenge to global equality per se, and one can substitute "basic rights" or "a global difference principle" as its target. If correct, this challenge would have disturbing implications for Miller's argument, since it would undermine his rejection of global equality and his affirmation of basic rights' (Caney, 2003, p. 303). Nevertheless, there is no reason for mistaken category objection to undermine Miller's restriction of the regulation of

substantive inequality and the protection of GMM alike, because Miller has a prior theory of distributive justice that clearly grounds the ethical demands of distributive justice in the institutions of citizenship. Caney's critique essentially boils down to the idea that the notion of national responsibility could only be justified under a valid, prior theory of distributive justice. Therefore, the notion in and by itself could not demonstrate the validity of a prior theory of distributive justice. I agree with his argument but nonetheless will point out that Miller does have a prior theory of distributive justice (SCDJ), which is grounded in the ideal of an equal relationship among citizens. Therefore, if the notion of national responsibility as a derivative of SCDJ could not possibly justify SCDJ, neither could Caney use it to undermine SCDJ decisively. Nevertheless, Caney's argument holds to the extent that the dynamic problem based on the notion of national responsibility is not a valid justification for SCDJ.

5. The Lack of Global Institutions of Citizenship

The final reason for restricting the regulation of substantive inequality to the domestic level lies in the lack of institutions of global citizenship. As discussed in Chapter 1, Miller's SCDJ grounds the ethical concern with substantive equality in the equal relationship among citizens of the same nation-state. In direct contrast, the humanist cosmopolitans ground the relevance of the regulation of substantive inequality directly in the moral equality of human beings. In this section, I will demonstrate firstly that the exchange between the humanist cosmopolitans and Miller has led to a deadlock, insofar as the humanist cosmopolitans do not accept the ideal of the equal relationship among citizens as relevant to the formulation of global distributive principles. I will then suggest that, although the associativist

cosmopolitans recognise the relevance of the said relational ideal over and above respect for the moral equality of human beings, they will not accept Miller's restriction of the regulation of substantive inequality to the domestic level on the basis of the difference between human relations at the domestic and the global levels. Finally, I will show that Miller could endorse the further institutionalisation of global citizenship so as to bridge the difference between cosmopolitanism and liberal nationalism because they both require a deliberative procedure in order to arrive at a normative consensus on the moral relevance of the regulation of substantive inequality at the global level.

First and foremost, Miller's SCDJ grounds the concern with substantive equality in the institutions of citizenship, which implies that the absence of global citizenship makes the regulation of substantive inequality morally irrelevant globally. The humanist cosmopolitans disagree with this conclusion, in the sense that the boundaries between nation-states are considered to be social contingencies which should be factored out of the formulation of global distributive principles. As Tan argues on the humanist side, 'in a global institutional view, global institutions that assign basic rights and responsibilities ought to be impartial with respect to persons' nationality. The arbitrariness of nationality precludes it from having any influence on how the global background order allocates persons' rights and responsibilities' (Tan, 2014, p. 178). Even though the humanists may take account of the impact of the human relationships within nation-states on the implementation of global distributive principles in specific contexts, they do not allow it to constrain the moral reasoning about global justice. Insofar as this difference between the humanist cosmopolitans and Miller can be traced back to their different methods of developing distributive

principles, it is doubtful that the exchange between them will lead to anything but deadlock for the foreseeable future.

In fact, Miller levels a forceful criticism against the humanist cosmopolitans in *On Nationality* (1993), arguing that they are unable to formulate morally plausible distributive principles because they cannot allow the ethical significance of the human relationships within nation-states to bear on moral reasoning. As such, humanist cosmopolitanism ‘draws a sharp line between moral agency and personal identity on the one hand, and between moral agency and personal motivation on the other’ (Miller, 1995, p. 57). In other words, plausible distributive principles should aim to motivate moral agents to comply with their ethical demands by infusing principles with the motivational force of the human association with which moral agents identify most strongly. Miller calls this methodological commitment a ‘contextualist approach to political theory,’ which matches specific distributive principles to different distributive contexts defined by the prevalent modes of human relationship found within them (Miller, 2013, p. 47- 9). As I will suggest in Chapter 5, the moral reasoning guided by the contextualist approach has to consider two phenomena so as to be fact-dependent as Miller requires: common moral intuition and political emotions. Common moral intuition refers to the wide range of prevalent and unclear moral intuitions found within society that may be utilised to inform our moral reasoning about various subjects. Political emotion refers to the range of human emotions that could potentially be utilised to preserve cultural commonalities, motivate altruism and realise social integration at the political level. I will not pursue this further in this section, but in chapter 6, I will defend the superiority of Miller’s method of developing political theory in comparison with the humanist cosmopolitans. Here, it suffices to highlight the fact that the disagreement between

the humanist cosmopolitans and Miller is a deep-seated problem located at the methodological level. Nevertheless, as shown in Chapter 1, Miller could actually bypass this problem by endorsing the further institutionalisation of global citizenship, because his relational egalitarian position stands a better chance than the distributive egalitarianism upon which humanist cosmopolitanism is based to justify different approaches to the satisfaction of basic needs and the regulation of substantive inequality. The only precondition is that he has to support global citizenship, insofar as distributive egalitarianism differs from relational egalitarianism in terms of their attitudes towards the said institutions.

Unlike the humanist cosmopolitans, the associativist cosmopolitans allow the ethical significance of the human relationships within nation-states to bear on our moral reasoning about global justice, because of their attempts to prove the equivalence between the modes of human relationship at the domestic and the global levels. In other words, on top of respect for the moral equality of human beings, the associativist cosmopolitans agree with the statist and the liberal nationalists that the regulation of substantive inequality should be grounded in the institutions of citizenship. So far, the associativist cosmopolitans have argued mostly against the statist, trying to prove that human relationships at the global level come very close to resembling the characteristics of citizenship within nation-states, and thereby should warrant the regulation of substantive inequality as well (Valentini, 2011; Hassoun, 2014; Armstrong, 2009). As will be discussed in depth in Chapter 6, the three main statist accounts of distributive justice are based respectively on the coercive relationship between citizens and the administrative state, citizens' involuntary membership within nation-states and the reciprocal cooperation among citizens facilitated by the administrative state. As a result of the fierce challenge

launched by the associativist cosmopolitans, the statisticians have not been able to conclusively disprove the qualitative inequivalence between human relationships at the domestic and the global levels. Miller recognises the force of the associativist cosmopolitans' challenge; nonetheless, he suggests that the statisticians' accounts all fail because they ground the relevance of the regulation of substantive inequality in only one aspect of the institutions of citizenship. A nation-state combines four characteristics at the same time, which cannot be broken down into separate aspects in the moral reasoning about distributive justice: that is, the three statisticians' accounts coupled with Miller's notion of common nationality (Miller, 2013, p. 162). As will be discussed in Chapter 3, Miller believes that a nation-state has to develop a common national identity and a shared public culture so as to motivate citizens to support the functioning of the major social institutions within that state. Without a nation-building process, the administrative state will not be able to supply the level of mutual trust among its citizens which are necessary for solving problems of collective action, pursuing distributive justice and practising deliberative democracy (Miller, 1995, p. 90- 8). In other words, common national identity is a source of motivation among citizens that enables those institutions of citizenship to exist in the first place. Therefore, the concern with substantive equality should be grounded in the three characteristics normally emphasised by the statisticians, as well as the motivational force of common national identity among citizens.

However, even if Miller combines all four characteristics in order to ground the concern with substantive equality in material terms, I do not think that this could persuade the associativist cosmopolitans to accept SCDJ, because the institutions of citizenship as a multi-faceted whole still cannot qualitatively distinguish the human relationships within nation-states from those at the global level. Despite the fact that

the associativist cosmopolitans have not directly engaged with Miller's SCDJ as much as the statist accounts of distributive justice, they do frequently highlight global citizenship as being a moral rather than a merely legal concept. Insofar as global citizenship does not presently confer the same set of legal rights and entitlements upon human beings as within nation-states through their coercive legal systems, part of its appeal rests on the moral obligation to further institutionalise global citizenship based on democratic values in the future (Dower, 2011, p. 30- 1). As Falk memorably remarks, 'the only kind of visionary citizenship that can be taken seriously will have to be grounded in what is occurring on the level of fact, norm and values as both trend and potentiality. It must be rooted in the future, the not-yet, rather than unconvincingly affirm as 'real' such a reconfiguring of political allegiance as is so unconvincingly claimed by secular-minded 'world citizens' (Falk, 2011, p. 27). By identifying strongly with the whole human race, those whom Falk calls 'citizen pilgrims' would be sufficiently motivated to bring about the global institutions of citizenship in order to regulate the common affairs of humanity. Moreover, this moral concept of world citizens or 'citizen pilgrims' reflects the multidimensional nature of individual identity in our globalised world, instead of one conceived of as a pure pipedream. As Dower observes, human beings now relate to each other as world citizens, allowing 'a wide spectrum of cases from a fully-fledged form of self-conscious engagement and active responsibility, especially through appropriate institutions (political parties, NGOs and so on), through to cases where the category applies hypothetically, in order to cover cases where people have no wider 'causal footprints' beyond the local and thus have no need for active engagement at other levels' (Dower, 2011, p. 38). As a result, the associativist cosmopolitans conclude that ideally, appropriate global distributive principles should account for the fact that at least a part of individual identity has come to encompass

the global realm and, as such, appears equivalent to the identity usually associated with citizenship within a nation-state.

Nevertheless, Miller remains sceptical regarding this line of reasoning, arguing that it is unlikely that any supranational identity will seriously challenge human beings' national allegiances in the foreseeable future. As he says, 'since the EU is currently the strongest of the supra-national organisations, its failure to displace inherited national allegiances is surely of some significance. If no trans-European national identity has yet emerged, the prospects for a North American identity, a pan-Arab identity, or an East Asian identity...must remain extremely dim' (Miller, 1995, p. 162). He goes on to question the cosmopolitan concept of world citizen: 'in Falk's usage the pilgrim is a person devoted to a cause which she pursues with like-minded others regardless of conventional boundaries... (But) there is no determinate community with which she identifies politically, and no one, except perhaps other members of her group, with whom she stands in relations of reciprocity' (Miller, 2000, p. 96). So, the moral concept of world citizen does not sufficiently resemble citizenship within nation-states. Miller's objection to the associativist cosmopolitans would appear to be based on valid reasons, insofar as he adopts a clearly stated method of developing distributive principles and advances claims grounded in common moral intuitions and political emotions. However, given global cultural pluralism—an important factor that Miller constantly refers to—it is not clear why his own understanding of common moral intuitions and political emotions that are found across the globe is the only valid one. In other words, insofar as the associativist cosmopolitans also ground their formulation of distributive principles in humanity's collective identity, which supposedly corresponds to people's common moral intuitions and political emotions, it is very difficult to determine which

distributive principles better account for these factors. For instance, Caney argues that placing excessive weight on the metric problem in order to justify SCDJ will undermine the dynamic problem. Since the metric problem highlights the difficulty posed by global cultural diversity for developing a common metric of substantive equality in material terms, the same logic could be applied in order to question the concept of national responsibility. As Caney argues, 'Miller...criticises other global principles on the grounds that it is not possible to construct a culture-neutral conception of them. The same charge can, however, be levelled against Miller's dynamic argument. For someone can quite plausibly argue that the value at its core embodies a set of non-neutral values' (Caney, 2003, p. 302). In other words, if Miller takes global cultural pluralism seriously enough to refrain from imposing a common metric of substantive equality upon humanity, he surely will be deterred by the same problem from holding nation-states responsible for their collective decisions if human beings cannot come to a shared understanding of collective responsibilities at the global level. Hence, if Miller cannot find a way to prove that SCDJ is the only valid derivation on the basis of the common moral intuitions and the political emotions found at the global level, his method of moral reasoning would seem arbitrary.

In this light, one way out of this dilemma is to endorse the further institutionalisation of global citizenship based on a deliberative democracy, because public deliberation could help human beings reach a normative consensus on whether their own moral intuitions and political emotions will support SCDJ. This is consistent with the role Miller assigns to deliberative democracy within nation-states, in the sense that he always employs public deliberation to explicate how cultural pluralism could be overcome in order to support the ethical demands of social justice. As discussed in

section 3, the metric problem does not undermine the concern with substantive equality within nation-states as it does at the global level precisely because deliberative democracy functions best among citizens who share a common nationality. As a matter of fact, the cosmopolitans, the humanists and the associativists alike often claim that deliberative democracy could be utilised to produce a common metric of substantive equality at the global level. For instance, Weinstock argues, ‘prudent institutional design has already been employed in the history of democratic nation-states in order to overcome difficulties related to size, and there is no reason to think that it could not help to offset the difficulties which transnational democratic institutions would have to face’ (Weinstock, 2003, p. 278). In other words, if deliberative democracy has been proven effective in dealing with cultural pluralism within nation-states, it should also be of use in reaching a normative consensus at the global level. Therefore, any disagreement as to the ethical demands of global justice could be bridged in the long term by public deliberation at the global level.

In order for the global public deliberation to be seen as morally desirable to both cosmopolitans and Miller, its philosophical underpinning should be as widely acceptable as possible. One such underpinning is what Paul Gilabert calls ‘cosmopolitan justifiability’. The principle of cosmopolitan justifiability is derived from the respect for the moral equality of human beings and requires all principles of justice to be justifiable to human beings as free and equal moral agents (Gilabert, 2012, p. 10). As Gilabert observes, both principles are widely compelling among all global justice theorists involved in the debate regardless of their ideological persuasions. Therefore, cosmopolitan justifiability is a suitable philosophical underpinning for the account of global citizenship which I will advance in Chapter 8.

Nevertheless, Miller objects to any positive proposal for further institutionalising global citizenship on the ground that the lack of mutual trust among human beings makes it practically unfeasible to establish a deliberative procedure at the global level. As will be discussed in the next chapter, Miller believes that the proper functioning of a deliberative democracy relies on citizens participating in public deliberations responsibly. On the one hand, ‘the reasons given in political debate should be sincerely held, and not merely adopted as an expedient way of promoting sectional interests.’ On the other hand, ‘citizens should be willing to moderate their claims in the hope that they can find common ground on which policy decisions can be based’ (Miller, 1995, p. 96- 7). Miller calls these two aspects of responsibility ‘a weaker sense of impartiality’ (Miller, 2000, p. 55-6). The weaker sense of impartiality hangs on the mutual trust among citizens, because ‘to act as a responsible citizen, you must have reasonable assurance that a large majority of your fellow-citizens are going to do the same’ (Miller, 2000, p. 86). The necessary mutual trust could only be supplied by a common national identity within a bounded society. Therefore, citizens’ responsible attitude towards public deliberation as motivated by mutual trust is the watershed between what is practically difficult to achieve and what is practically unfeasible. Miller recognises that the reality of public deliberation could never quite measure up to the ideal of deliberative democracy. However, whenever there is a sufficient level of mutual trust among participants, it is at least practically feasible to pursue an approximation of that ideal. Since there is no community at the global level that could provide individual human beings with a similarly strong sense of mutual trust as that motivated by the common national identity within a nation-state, it is unfeasible to even try to realise it.

This line of objection to global citizenship obtains to the limited extent that the formulation of political theory in general, including distributive justice, has to take account of feasibility, as Miller explicitly states in his contextualist approach. Nevertheless, he fails to recognise that his own methodological commitment espouses a balanced consideration of normative ideals and practical feasibility in the process of moral reasoning, rather than taking practical feasibility as a trumping card. In other words, when formulating a political theory, one has to consider equally the ethical demands of normative ideals and the practical conditions for realising them. Moreover, in order to persuade others that one's own political theory produces the most appropriate political principles based on given conditions of the context, one needs to rely on a meta-theoretical framework to adjudicate among different political theories, rather than simply asserting the validity of one's theory. In light of the cosmopolitans' challenge, Miller so far has not offered any normative reason for rejecting the further institutionalisation of global citizenship, despite his continuous effort to stress the practical unfeasibility of establishing a deliberative democracy at the global level. This line of objection will not serve to conclusively refute either the cosmopolitans' proposal of a global citizenship or the regulation of substantive inequality at the global level, because it does not even satisfy the guidelines of Miller's own methodological commitment to considering equally normative ideals and practical feasibility in our moral reasoning.

This calls two points into question. First, as concluded in Chapter 1, Miller's relational egalitarian position could successfully subsume the distributive egalitarianism upon which the humanist cosmopolitanism is based, if and only if the relational egalitarians could support the further institutionalisation of global citizenship in order to regulate substantive inequality in material terms. This is

because the distributive egalitarians believe that grounding the ethical demands of distributive justice directly in the moral equality of human beings could help motivate the further institutionalisation of global citizenship in order to deal with humanity's common problems. If Miller does not come to endorse the further institutionalisation of global citizenship, distributive egalitarianism will have a reason to remain as a separate school of thought, in that it will generate sufficiently different ethical demands than Miller's relational egalitarian position. Second, as mentioned above, Miller cannot persuade the associativist cosmopolitans to accept the restriction of the regulation of substantive inequality to the domestic level, because they derive different distributive principles from the practical conditions at the global level. More importantly, the metric problem will even undermine SCDJ without the presence of a meta-theoretical framework to adjudicate between Miller's theory of distributive justice and other theories, insofar as global cultural pluralism places all hitherto taken-for-granted norms and values under critical reflection. Thus, for the sake of validating his political theory in general and SCDJ in particular, Miller has to endorse the further institutionalisation of global citizenship as a mechanism to adjudicate among different political theories, given the particular conditions at the global level.

In summary, in this section I have shown firstly that the exchange between the humanist cosmopolitans and Miller can only end in a deadlock, because the former do not accept that the concern with the regulation of substantive inequality could be grounded in the institutions of citizenship. This deadlock could be overcome by Miller, if he were to subsume the humanist cosmopolitan position by endorsing the further institutionalisation of global citizenship, as suggested in Chapter 1. However, as I have demonstrated, Miller will be unable to persuade the associativist

cosmopolitans to accept SCDJ, because they each derive different principles of distributive justice from the conditions at the global level. Lastly, Miller could only persuade the cosmopolitans—both the humanists and the associativists alike—to accept SCDJ if he could endorse the further institutionalisation of global citizenship as a meta-theoretical mechanism for adjudicating among different political principles on the basis of the common moral intuitions and political emotions found at the global level.

Conclusion

I set out to examine the validity of Miller’s split-level conception of distributive justice (SCDJ), which prescribes different ethical demands at both the domestic and global levels. SCDJ restricts the regulation of substantive inequality to the domestic level and places the protection of a limited range of basic human needs at the global level. I have examined the three main normative reasons for the difference between the ethical demands of SCDJ at the domestic and global levels. In section 3, *pace* Fabre, Weinstock, Tan, Gilabert and Ypi, I demonstrated that the metric problem obtains, in that global cultural pluralism impedes the production of a common metric of substantive equality in material terms. Nevertheless, in the long term, this could be overcome with continuous cultural exchange in an institutionalised public deliberation at the global level, because cultural commonalities are social contingencies that are to a great extent malleable. In section 4, in response to Caney, I have shown that Miller’s notion of national responsibility should be preferred over the traditional conception of individual responsibility in the face of moral urgency, because a sole focus on identification of responsibility will cause policy-makers to lose sight of the more important issue: the relief of severe cases of absolute deprivation. Nevertheless, the dynamic problem does not serve to justify SCDJ,

insofar as it should be anchored in a prior theory of distributive justice that specifies the justifiable reward which each nation-state is allowed to acquire from the global economic order. In section 5, I showed that Miller could not successfully persuade the humanist cosmopolitans to accept SCDJ because they each have different methods of developing global principles of distributive justice. Moreover, despite their similar approach to distributive justice, Miller could not justify SCDJ to the associativist cosmopolitans, insofar as they each derive different distributive principles from the conditions of the global realm.

In this light, I suggested that Miller should endorse the further institutionalisation of global citizenship as a mechanism for adjudicating democratically among different global principles of distributive justice. Moreover, this account of global citizenship should be grounded in the principles of cosmopolitan justifiability that requires all principles of justice to be justifiable to all human beings as free and equal moral agents. Insofar as Miller's principles of distributive justice are grounded in the three statist's accounts and the motivational force of a common nationality, I will set this proposal out in four separate chapters—3, 4, 5 and 6. These will aim to reconstruct Miller's account of deliberative democracy on the basis of Habermas's conception of communicative action, so as to develop a normative consensus on the principles of distributive justice while instilling a sufficient level of mutual trust among human beings at the global level. Firstly, in Chapter 3, I will examine the validity of Miller's claim that a nation-state requires a common national identity and a shared public culture in order to support the functioning of major social institutions, including but not limited to, deliberative democracy. Secondly, in Chapter 4, I will investigate whether Miller's account of a nation-building process could incorporate a common national identity and a shared public culture without disadvantaging the

cultural minorities within the nation-state. Thirdly, in Chapters 5 and 6, I will discuss why Miller's account of a deliberative democracy needs modification on the basis of Habermas's conception of communicative action in light of the deficiency of his contextualist approach to political theory, and whether such remodelling is consistent with Habermas's conception of communicative action.

Chapter3:

Miller's Theory of Nationality and Its Critics

Introduction

Chapter 2 discussed the validity of a split-level conception of distributive justice, which restricts the scope of the regulation of substantive inequality to the domestic level. There, I demonstrated that Miller's split-level conception of distributive justice is justified on the ground that the four characteristics of a nation-state mark it off as a different distributive context from the global. However, this claim obtains only as long as it is both morally undesirable and practically unfeasible to further institutionalise global citizenship. I have already demonstrated that Miller does have a normative reason for endorsing the further institutionalisation of global citizenship, because he requires an institutionalised channel of public deliberation to bridge the impasse between his and the cosmopolitans' global principles of distributive justice by democratically adjudicating among different distributive principles.

In this light, the only obstacle is the unfeasibility of further institutionalising global citizenship. As Miller continues to maintain, the lack of a collective identity and shared cultural values precludes any attempt to realise a cosmopolitan vision of global citizenship. In this chapter and the following chapters 4 and 5, I will focus on examining the feasibility of further institutionalising global citizenship through the remodelling of Miller's account of deliberative democracy on the basis of Habermas's conception of communicative action. Insofar as Miller's objection to global citizenship is primarily based on the lack of a common identity and a shared public culture, it is diametrically opposed to the objection raised by the statist. As

will be discussed in Chapter 6, the statist believe that a democratic decision-making procedure serves to realise social integration among citizens of the same nation-state. As a corollary, the argument against global citizenship is based on ‘institutional conservatism,’ that is, careful consideration of all moral and material costs attached to the transformation of the existing institutions of citizenship. In this chapter, I want to focus on comparing these two different accounts of social integration in order to prove that Miller’s account of this is more plausible than the statist’s account because it taps into the motivational force of a common nationality. I will focus on Habermas’s account of a legally institutionalised communicative action as an example of the statist’s account of social integration. I will argue that even Habermas’s constitutional patriotism has to rely on the motivational force of a common nationality because the latter does not have an explanation for citizens’ motivation to participate such a communicative action. This will pave the way for constructing an account of nation-building that could be extended to the global level, so as to support the further institutionalisation of global citizenship.

This chapter is divided into three sections. Section 1 introduces Miller’s theory of nationality, highlighting his claim that a nation-state requires a common national identity and a shared public culture to motivate citizens to support the proper functioning of major social institutions within society. Section 2 introduces the core insights of Habermas’s ‘theory of law as the medium between facticity and validity.’ I will draw attention to Habermas’s belief that a legally institutionalised communicative action serves to realise social integration among citizens through public deliberation about all legal rules within society. In section 3, I will suggest that Habermas’s constitutional patriotism does not have a valid explanation as to how citizens could be motivated to participate in this type of action in the first place.

I will reject three possible accounts of the said motivation: (1) the unavoidable presuppositions of communicative action, (2) the coercive power of the legal system and (3) the shared political culture among citizens.

In response to the first explanation, I will show that the unavoidable presuppositions of a communicative action could only explain the motivation of those participants who already participate in a communicative action. Even if such an action could be proven to be the universal mode of human communication, in the sense that no one could possibly communicate without submitting to the rationale of communicative action, it is not the most fundamental reason for cooperating. Before engaging in a communication, first and foremost human beings require the intentionality to cooperate; otherwise, they would simply refuse to do so and resort instead to threats and commands. Second, I will show that the coercive power of the legal system cannot be legitimately employed to motivate compliance with the rationale of communicative action because there is no way to determine whether a legally institutionalised communicative action is established first and then legitimates the legal system, or vice versa. Third, I will reject the constitutional patriots' attempt to motivate citizens through a shared political culture that understands the establishment of a legally institutionalised communicative action as being the result of a gradual historical process. This is because a shared political culture is too thin to help citizens understand the difference between the existing political culture and a new one that validates a legally institutionalised communicative action. In this light, Miller's notions of common national identity and public culture are called for in order to bridge the said difference, insofar as these notions draw on a more widely encompassing reservoir of cultural values than the constitutional patriots' notion of political culture and, as such, could interpret the new political culture as reflective of

the already existing cultural values in a shared public one. Additionally, since a common national identity and a public culture appeal to the pre-political connections of a national community, they serve to motivate citizens to support the functioning of a legally institutionalised communicative action, even if citizens cannot be immediately brought to understand the deliberative procedure at the political level.

1. Miller's Theory of Nationality

As Miller conceives it, 'nation' refers to 'a community of people with an aspiration to be politically self-determining,' whereas a state is a body of critical political institutions that claims effective control over a particular territory (Miller, 1995, p. 19). Throughout this thesis, I will use 'national community' interchangeably with 'nation' and 'administrative state' with 'state' to avoid misleading implications, as different theorists use the terms 'nation' and 'state' to mean different things. A national community has five characteristics. First, it is constituted by belief: a subjective identification with a community and its members. Second, a national community embodies historical continuity; it anchors members' actions within the history and the destiny of that community, thereby giving them meaning beyond the pursuit of personal interests. Third, a national community collectively decides on issues related to its future and acts together to see this realised. Fourth, a national community is typically connected to a particular geographical place, and recognises intrinsic value in such a connection. And, finally, a national community requires a common public culture that, according to my reading, is a body of shared normative understandings essential for its members to lead a collective life, including but not limited to the political (Miller, 1995, p. 21- 7).

According to Miller, the merit of a common nationality consists in its ability to answer ‘one of the most pressing needs of the modern world, namely how to maintain solidarity among the populations of states that are large and anonymous’ (Miller, 2000, p. 31). In other words, a national community should instil a sufficient level of mutual trust among its citizens in the face of increasing cultural pluralism. With a sufficient level of mutual trust among citizens, a nation-state will be able to (1) solve the collective action problem, (2) pursue distributive justice and (3) practise deliberative democracy. In the first place, ‘much state activity involves the furthering of goals which cannot be achieved without the voluntary cooperation of citizens. For this activity to be successful, the citizens must trust the state, and they must trust one another in order to comply with what the state demands of them’ (Miller, 1995, p. 91). Without such trust, even the minimal state function of presiding over the market economy, in which the outcomes depend primarily on individuals pursuing personal interests, would be illusory, because the ground rules of market transactions require a level of mutual trust among participants so as to play fair and be confident that others will do the same.

Secondly, ‘trust assumes particular importance if we ask about the conditions under which individuals will give their support to schemes of social justice, particularly schemes involving redistribution to those not able to provide for their needs through market transactions’ (Miller, 1995, p. 93). In Chapter 1, I demonstrated that Miller’s relational ideal of social equality justifies differential responses to the satisfaction of basic needs and the regulation of substantive inequality. The principle of social equality requires that all basic needs within society should be met, and substantive inequalities are to be regulated so as to maintain the equal status of citizens. This may give the false impression that an administrative state is sufficient for the pursuit

of distributive justice within a nation, since it is closely related to the equal status of its citizens. Nevertheless, the *prima facie* desirability for distributive justice needs to be qualified by the feasibility of doing so, in the sense that the mutual trust among members explains why the pursuit of distributive justice is feasible on top of the moral demand of equal citizenship. I will address this need for the balanced consideration of the ethical demands of distributive justice and the motivational force of political emotions, including the said mutual trust, in Chapters 7 and 8.

And finally, ‘states require citizens to trust one another if they are to function effectively as democracies; in particular if they are guided by the ideal of deliberative democracy’ (Miller, 1995, p. 96). As discussed in Chapter 2, Miller adopts a republican notion of citizenship that takes both the protection of private liberties and active participation in political decision-making to be equally important for democratic citizenship. Moreover, closely associated with a republican notion of citizenship is a deliberative model of democratic decision-making that ‘envisages (the resolution of political preferences) through an open and un-coerced discussion of the issue at stake with the aim of arriving at an agreed judgment. The process of reaching a decision will also be a process whereby initial preferences are transformed to take account of the view of others’ (Miller, 2000, p. 9). According to Miller, in order to practice deliberative democracy appropriately, citizens need to satisfy two conditions of responsibility. First, ‘the reasons given in political debate should be sincerely held, and not merely adopted as an expedient way of promoting sectional interests.’ Second, ‘citizens should be willing to moderate their claims in the hope that they can find common ground on which policy decisions can be based’ (Miller, 1995, p. 96, 97). In a deliberative democracy, citizens need to trust each

other enough to believe that others will reciprocate, before they are willing to act responsibly.

2. Habermas's Theory of Law as the Medium between Facticity and Validity

In section 1, I introduced Miller's theory of nationality and emphasised the importance of mutual trust in explaining the motivational strength of a pre-political definition of national community. Mutual trust accounts for citizens' willingness to support the functioning of major social institutions at the expense of their personal interests, including the resolution of the problem of collective action, the pursuit of distributive justice and the practice of deliberative democracy. Nevertheless, Habermas seems to hold the view that a legally institutionalised communicative action could realise social integration through public deliberation about all legal rules within society. In this section, I will introduce Habermas's 'theory of law as the medium between facticity and validity.'

Central to Habermas's insights is the claim that the enacted law in modern society serves as a medium through which a reiterative process is established between its legitimacy and its authority. Social integration is achieved through public deliberation on the legitimacy of all the legal rules within society. The positively enacted law takes its integrating force from a particular idealisation of ordinary language use, or 'communicative action.' A communicative action occurs when 'actors in the roles of speaker and hearer attempt to negotiate interpretations of the situation at hand and to harmonise their respective plans with one another through the unrestrained pursuit of illocutionary goals.' The reverse side of this use of

language is termed ‘strategic action,’ that is, when ‘language is used only as a medium for transmitting information, (and) action coordination proceeds through the mutual influence that actors exert on each other in a purposive-rational manner’ (Habermas, 1996, p. 18).

According to Habermas, a communicative action is possible because there is a rational basis to every reciprocal bond. ‘The engaged speaker normally connects the specific sense in which he would like to take up an interpersonal relationship with a thematically stressed validity claim, and thereby chooses a specific mode of communication’ (Habermas, 1991, p. 63). Regardless of the type of validity claim adopted by competent participants, a communicative action ideally leads to the mutual recognition of the employed validity claim that represents a ‘transcendent moment of unconditionality’ (Habermas, 1996, p. 15). In other words, during the process, individuals confronted by another’s validity claims may come to abandon or alter their original claims. As a result, they would engage in a more complex interpersonal relationship and share with each other an enlarged group of background norms.

Applied to the reproduction of a social order, the ‘transcendent moment of unconditionality’ acquires the function of coordinating the action plans of different actors in order to stabilise the behavioural expectations within society. Accordingly, a communicative action is legally institutionalised as the principal law-making procedure and has to be regulated by what Habermas calls the ‘principle of democracy.’ This ‘principle of democracy’ is derived from a more general moral principle known as the ‘discursive principle.’ The discursive principle states, ‘just those action norms are valid to which all possibly affected persons could agree as

participants in rational discourses’ (Habermas, 1996, p. 107). When applied to law, it takes the form of the principle of democracy that regulates the substantiation of originally abstract constitutional principles in the law-making process. The principle of democracy states, ‘only those statutes may claim legitimacy that can meet with the assent...of all citizens in a discursive process of legislation that in turn has been legally constituted’ (Habermas, 1996, p. 110). A legally institutionalised communicative action has to rely on a wide background consensus called the ‘lifeworld.’ As Habermas argues, ‘from the very start, communicative acts are located within the horizon of shared, unproblematic beliefs; at the same time, they are nourished by the resources of the always already familiar’ (Habermas, 1996, p. 22). The ‘lifeworld’ helps citizens to understand each other’s validity claims, and would incorporate new normative understandings after every successful communicative action.

3. Examining the Three Accounts of Citizens’ Motivation to Support a Legally Institutionalised Communicative Action

In section 2, I introduced Habermas’s theory of law as being the medium between facticity and validity, since it consists in the conviction that a legally institutionalised communicative action could realise social integration among citizens through a public deliberation about the legitimacy of all legal rules within society. As the theory stands, social integration among citizens is possible if, and only if, all citizens are sufficiently motivated to support the action. So far, Habermas has advanced three main explanations for citizens’ motivation to support the said deliberative procedure. In the following paragraphs, I will demonstrate that Habermas’s three explanations fail to do this adequately, unless he incorporates Miller’s notion of common national

identity. The three explanations are, respectively: (1) the presuppositions of communicative action, (2) the coercive power of positive law and (3) the shared political culture in favour of communicative action.

First and foremost, Habermas believes that the idea of communicative action contains certain normative expectations that will effectively regulate the deliberative procedure based on validity claims. Derived from the discourse principles, these normative expectations are (a) ‘all competent speakers be able to participate in the envisaged process of shared deliberation,’ and (b) ‘this right of participation should not be abridged by coercion or compulsion’ (McMahon, 2011, p. 204). Citizens cannot but presuppose these conditions when they seriously commit to the idea of communicative action. As Habermas suggests, ‘anyone who seriously engages in argumentation must presuppose that the context of discussion guarantees in principle freedom of access, equal rights to participate, truthfulness on the part of the participants, absence of coercion in adopting positions, and so on’ (Habermas, 2001, p. 31; cited by McMahon, 2011, p. 204- 5).

As such, Habermas seems to suggest that the presuppositions of communicative action are considered to account sufficiently for not only what conditions cognitively competent citizens would agree to but also how they are motivated. On the one hand, Habermas makes a clear distinction between the competence and the motivation to participate in a communicative action. On the other hand, it is not clear if he actually gives a separate account of the motivation, other than that of the competences. With regard to the distinction Habermas makes between competence and motivation to participate in a communicative action, David Wilson and William Dixon argue,

Habermas offers a theory of the human act that centres on the distinction between motive and capacity, between the reasons that the actor might give to himself or herself for his or her act and the competences that enable the act, whatever the reason. When Habermas talks of the human act as both teleological (person-to-thing) and communicative (person-to-person) there is no inconsistency (and none claimed) because it is recognised that the first is essentially about why we want to act – and a reaffirmation that we do have to want to act – whereas the second is about how we are able to do it (Wilson and Dixon, 2009, p. 89).

In other words, Habermas's theory rests on a mixed portrayal of human beings as both teleological and communicative, that is, prone to both pursuing self-interests and reaching a consensus. However, as mentioned above, Habermas has so far been ambivalent about an individual's motivation to participate in a communicative action, and at times seems to equivocate between competences and motivation. Wilson and Dixon remind us that Habermas's idea of communicative action is mainly concerned with the capacity to realise certain tendencies of human nature, and the distinction he makes between communicative and strategic action is co-extensive with the distinction between the two types of tendencies of human nature—communicative and teleological. Communicative and strategic actions, as Wilson and Dixon understand them, are the particular competences of citizens to realise their inner communicative and teleological tendencies. It seems that individuals could be equally motivated to engage in communicative as in strategic action, which is dependent on their motivation rather than their competencies. Therefore, Habermas's ambivalence about the motivation to participate in a communicative action will pose a problem for the validation of his theory as a whole.

There are two ways for Habermas to better explain individuals' motivation on the basis of the notion of communicative action alone. Firstly, according to Michael James's reading, Habermas resorts to what he calls 'moral-cognitive consistency.' I quote his reflections as follows,

First, a moral sceptic, as an observer of moral phenomena, must admit that individuals are not thoroughly relativistic but in fact demand justifications for morally questionable attitudes and actions. Second, the sceptic could not consistently argue against the capacity to argue rationally about morals, since arguing this point would involve the sceptic in a performative contradiction. Finally, the sceptic can deny the capacity to argue about morality, while simultaneously avoiding a performative contradiction, only by withdrawing from the community of moral arguers. Because communicative action depicts intersubjective understanding through the possibility of contesting claims to validity, consistency requires the sceptic either to accept the validity of moral argument or to cease to belong to a community of communicative actors (James, 2003, p. 167- 8).

In other words, Habermas could rely on the conviction that by participating in a communicative action, no one could possibly renounce its rules. As James claims, Habermas essentially believes that the only way left to those sceptical of communicative action is to withdraw from the community of communicative actors altogether. In other words, as long as one intends to communicate any meaning at all with another interlocutor and expect them to accept his/her claims, he/she has to already presuppose the rules of communicative action. However, I agree with James that the ‘moral–cognitive consistency motivations pertain only to those actors who have already adopted a reflective level of communicative action, without clarifying what motivates actors to engage in reflective communicative action...in the first place’ (James, 2003, p. 168). The moral-cognitive consistency argument does not touch on the scenario wherein individuals refuse to even communicate meaning on the basis of validity claims; rather, they resort to command backed by threats and violence.

The second way to explain motivation on the basis of communicative action is to argue that the rationale of communicative action is universal to all human communication, in the sense that even strategic action is a distorted form of

communicative action. Leaving the institutional guarantee—the category of law—aside for the moment, it is apparent that the decision to engage in communicative rather than strategic action on the part of citizens is coordinated by voluntary consent only. Therefore, ‘Habermas...must provide an account of how consent, operating in the medium of language, can coordinate social interaction. And he must do so without reducing the force of consensual agreement to either strategic calculation or social norms. In this regard, it is not enough to refer to ‘the telos of consent, inherent in language itself.’ That will be to assume what needs to be argued’ (Johnson, 1991, p. 192). Nevertheless, according to Johnson, thus far Habermas has explained the coordinating role of consent exactly on the basis of the telos of consent inherent to human communication. As he claims,

Habermas insists that the guarantee that binds parties to communicative action can operate only under appropriate conditions. He currently explicates those conditions in terms of the theory of argumentation. In argument or discourse, participants contest and respond to validity claims. This is the explicit, reflexive mode of communicative action through which ‘different participants overcome their merely subjective views and, owing to the mutuality of rationally motivated conviction,’ pursue a consensual understanding of their situation (Johnson, 1991, p. 192).

In other words, Habermas insists on supplying an explanation for the coordinating role of consent with the concept of communicative action alone. It amounts to the assertion that in human communication, all individuals automatically orient towards reaching agreements rather than pursuing personal interests, solely because they are cognitively competent for such a task.

However, this attempt to explain individuals’ motivation to participate in a communicative action rather than a strategic one is wanting, because it gives too little credit to the moral agency of citizens. Human beings are more than machines

that react to external conditions in accordance with their programming, that is, their actions are directly matched with certain external stimuli in a predictable way. Of course, Habermas could respond by asserting that human communication in general is predicated on the rationale of communicative action, which leaves individuals with no other choice but to participate in a communicative action. As Joseph Heath argues, Habermas assigns his discourse principle a weak transcendental status insofar as the status 'explains why principles such as this seem to recur in every major human culture and religious tradition.' In other words, human communication in general cannot avoid making the presuppositions of communicative action regardless of cultural contexts. I disagree with this explanation for the reason that human communication has to be chosen by individuals. There are other ways of interaction available to individuals other than communication in general; for instance, threats and violence. This suggests that the question as to why individuals are motivated to resort to human communication at all remains, even if the rationale of communicative action is universal to all human communications. Hence, it seems that the presuppositions of communicative action cannot explain citizens' motivation to support a legally institutionalised communicative action, because it is concerned with citizens' cognitive competences rather than their motivation.

I will now proceed to address the second explanation for citizens' motivation to support a legally institutionalised communicative action, and that is the coercive power of positive law. As introduced in section 2, Habermas believes that in order to effectively protect private liberties, citizens require equal political rights which themselves need to be legally institutionalised through a law-making process in the first place. Moreover, insofar as the law-making process is based on Habermas's theory of communicative action, the process is regulated by the discourse principle.

Therefore, in order to secure such a system of rights and the law-making process that produces them, the discourse principle appears as ‘the heart of a system of rights’ (Habermas, 1996, p. 122). This in effect amounts to a claim that the discourse principle will utilise the coercive power of positive law to regulate the legally institutionalised communicative action so as to protect citizens’ private liberties and political rights. In this light, self-interested citizens would be motivated by the threat of coercive positive law to support a legally institutionalised communicative action because of the cost resistance to it would entail.

However, Habermas also argues that positive law has a dual character. He says, ‘In the legal mode of validity, the facticity of the enforcement of law is intertwined with the legitimacy of a genesis of law that claims to be rational because it guarantees liberty’ (Habermas, 1996, p. 28). In other words, the ability of positive law to coerce citizens into complying with it is grounded in the possibility that the same citizens are able to discuss and repeal the law through a just deliberative procedure. As Habermas says, ‘the positivity of law means that a consciously enacted framework of norms gives rise to an artificial layer of social reality that exists only so long as it is not repealed, since each of its individual components can be changed or rendered null and void’ (Habermas, 1996, p. 38). Insofar as the discourse principle lies at the heart of the system of rights and, as such, is the normative core of positive law, Habermas’s idea of the dual character of law seems to suggest that even the discourse principle could be called into question if some citizens find it problematic. This apparently does not work to Habermas’s advantage, as Frank Michelman points out as follows,

As itself a positive law prescribing the society's set of arrangements for the production of (other) positive laws, the constitution sits in a delicate position.

Inevitably, many of its provisions are themselves objects of reasonable disagreement, and yet these provisions must at any given moment be fixed, decided, because in them lies the institutional programme for debating and deciding disputed specifications or proposed modifications of any and all positive legal prescriptions, including constitutional provisions themselves (Michelman, 2001, p. 263- 4).

In other words, the normative core of a positive law, especially the discourse principle, cannot be open to revision as are other derivative legal rules, insofar as they lay down the institutional framework of the law-making process itself. In this sense, to say that a positive law could legitimately coerce citizens to support a legally institutionalised communicative action is to invite an infinite regress involving the establishment of a society-wide communicative action and the validation of the discourse principle. Thus, between the discursively established validity of the discourse principle and the legally institutionalised communicative action, which comes first? Hence, in order to avoid this type of infinite regress, Habermas cannot rely on the category of law to guarantee the reciprocal orientation of citizens towards agreements.

Finally, I want to examine the last explanation available to Habermas for citizens' motivation to support a legally institutionalised communicative action: a shared political culture. In light of the difficulty of shielding the normative core of positive laws legitimately from discussion and even repeal by citizens, Michelman attempts to link the validity of a legally institutionalised communicative action within a nation-state to the validity of a political collective identity of the citizenry. As he says, 'there will have to be some way in which citizens can perceive even their most intractable and divisive disagreements over the application of constitutional norms to be directed to something other than the content of the norms' (Michelman, 2001, p. 268). In this light, the solution is to redirect potential disagreements over the

contents of the normative core of positive laws to a shared collective self-understanding that would support the normative core. As Michelman claims,

(G)iven disagreements over applications of essential constitutional norms, perhaps we as citizens don't have to ascribe the disagreements to ambiguity or vagrancy of meaning in the norms themselves. We might rather ascribe our applicational disagreements to uncertainty or disagreement about exactly who we think we are and aim to be as a politically constituted people, where we think we have come from and where we think we are headed (Michelman, 2001, p. 268).

Therefore, a political culture supplies the most appropriate context within which such an important collective identity is found. As he claims, 'the answer is...a cultural contingency—a cultural contingency, when and where it exists, that the corporate identity in question, however contested it may be in other respects, is already perceived by all concerned to fall within the class of morally conscientious...constitutional identities' (Michelman, 2001, p. 269). In other words, when citizens share a political culture that supports the idea of a legally institutionalised communicative action, they will treat their substantive disagreements over the normative core of positive law as moral disagreements over the definition of who we are as a legal community and thereby leave the stability of the legal order intact.

Habermas seems to support this reading. As he explicitly claims,

(I)n complex societies the citizenry as a whole can no longer be held together by a substantive consensus on values but only by a consensus on the procedure for the legitimate enactment of laws and the legitimate exercise of power. Citizens who are politically integrated in this way share the rationally based conviction that unrestrained freedom of communication in the political public sphere, a democratic process for settling conflicts, and the constitutional channelling of power together provide a basis for checking illegitimate power and ensuring that administrative power is used in the equal interest of all. The universalism of legal principles is reflected in a

procedural consensus, which must be embedded in the context of a historically specific political culture through a kind of constitutional patriotism (Habermas, 1994, p. 135).

From this text, we can gather that the content of a political culture is centred on the validity of legally institutionalised communicative action alone and does not have to exceed what is needed for citizens to accept the said procedure. Nevertheless, Michelman fails to tell us why these political-cultural convictions are valid in the first place. Michelman assumes that we can indeed find the existing political culture within most liberal societies to be supportive of a legally institutionalised communicative action. Under this assumption, the possibility that citizens can actually recognise themselves as endorsing certain normative values that would at least be consistent with the discourse principle in effect solves the problem of the validity of the normative core of positive law. If we nonetheless challenge the underlying assumption, asking whether there is actually a shared political culture supportive of a communicative action, the grounding of the normative core of positive law in an accommodating political culture would seem to collapse.

Drawing on Michelman's arguments, Alessandro Ferrara tackles this problem by describing the formation of a shared political culture as an open-ended political project that in time comes to support the normative core of positive law. He claims,

(W)e can conceive of the political identity of the people as something that pre-exists the constitution. Constitution framing needs not count, from the standpoint of our conceptual strategy for avoiding infinite regress, as an ordinary act or as a kind of legal Big Bang. Rather it can be seen as an act that takes place within a broader normative frame of reference to which it has to be responsive (Ferrara, 2001, p. 786).

In other words, our democratic law-making process does not begin with the establishment of the normative core of positive law. It develops alongside the

parallel, gradual development of the shared normative understandings among citizens that come to support the democratic regime and its legal order. Therefore, Ferrara suggests, ‘the non-paradoxical understanding of the nexus of democracy and constitutionalism begins to look like the gradual coming to fruition of a modern identity that hinges on the background principle of subjective freedom’ (Ferrara, 2001, p. 787). Insofar as the development of ‘the background principle’ is an incremental process that cannot be described in terms of separate, clearly defined stages, it would be difficult for anyone to reject the possibility that there might already be a shared political culture among citizens that endorses a legally institutionalised communicative action. Even if empirical evidence emerges to reject this claim, Habermas could still argue that his idea of a legally institutionalised communicative action is a normative claim that requires the development of a shared political culture in order to take certain directions. Since there is no reason to believe that there would never be a shared political culture supportive of this normative ideal, it is logical to accept the conclusion that citizens could come to support a legally institutionalised communicative action in the long term if, and only if, a shared political culture could be developed to support it.

In the sense that citizens’ motivation to support a legally institutionalised communicative action ultimately relies on the gradual coming to fruition of an accommodating political culture—rather than on the presuppositions of communicative action or the coercive power of positive law—the question now becomes whether the political culture as it is can motivate citizens sufficiently to transform the existing democratic decision-making process in the direction required by Habermas. Putting aside the discussion of the cognitive mechanism at work when citizens are faced with the transformative task of establishing a legally

institutionalised communicative action, it is apparent that the said deliberative procedure has to be at least comprehensible to citizens in order for it to have any appeal at all. That is why the passage cited above shows that Habermas includes all the necessary normative understandings about communicative action in the shared political culture among citizens. In other words, in order for the shared political culture to motivate citizens to support a legally institutionalised communicative action, it has to help citizens comprehend the desirability of the said deliberative procedure. The same could be said about motivating citizens to transform the existing democratic decision-making process into a Habermasian deliberative procedure; that is, the existing political culture must be able to help citizens understand the idea of communicative action. Ferrara's argument above agrees with this understanding of the motivational force of a shared political culture. It is because the gradual change of a shared political culture could continue to help citizens understand the new political regime as consistent with their collective self-understanding that citizens would contribute to the establishment of the new regime without questioning the validity of the latter's normative core. Nevertheless, since to Habermas a political culture merely consists in the necessary normative understandings about the legally institutionalised communicative action, as shown by the passage above, there will certainly be a difference between the existing political culture and the necessary political-cultural convictions about communicative action. Of course, I do not deny that Ferrara's depiction of the transformation of a shared political culture as a gradual process is correct. I merely wish to point out that the existing political culture in and by itself cannot enable citizens to understand the new deliberative procedure and thereby motivate citizens to consent to the transformation of the existing procedure, no matter how small the difference between the existing and the new political cultures. There has to be a

more comprehensive cultural background shared among citizens to help them see the new political culture as something different but somehow reflective of the already widely accepted norms and values.

4. Habermas's constitutional patriotism has to rely on Miller's theory of nationality

I demonstrated in section 3, Habermas's three explanations of citizens' motivation to support a legally institutionalised communicative action do not obtain, and therefore he requires a notion other than the unavoidable presuppositions of a communicative action, the coercive power of a legal system and the shared political culture to explicate the said motivation. Miller's notion of a common nationality could satisfy these conditions, insofar as nationality draws on a more comprehensive reservoir of pre-political cultural values that could motivate citizens to support the functioning of major social institutions in general. Let me begin with the motivational force of a common nationality. As introduced in section 1, Miller's notion of common nationality aims to develop a common national identity and a shared public culture that supplies a sufficient level of mutual trust among citizens, because a nation-state requires the said mutual trust to motivate citizens to consent to collective action schemes, support distributive justice and participate in deliberative democracy. According to Miller, citizens are more likely to shoulder special obligations towards others at their own cost when they share a common national identity and a public culture and thereby believe that others will reciprocate likewise in similar situations. There are three features of this pre-political tie among citizens sharing a common nationality. First, there will not be any conflict between fulfilling my obligations to others and pursuing my own life goals. Second, a type of loose reciprocity obtains

among citizens so that each will expect to benefit from the reciprocal relationship in the long term. Lastly, formal systems of reciprocity such as major social institutions could arise from the loose reciprocal relations among citizens (Miller, 1995, p. 66- 7).

Furthermore, Miller's notion of a nationality as consisting of a common national identity and a shared public culture encompasses more cultural values than Habermas's notions of collective self-understanding and political culture. The first contrast is between Miller's notion of national identity and Habermas's notion of collective self-understanding. On the one hand, Miller's notion of national identity has five characteristics. First, it is constituted by belief. Second, it embodies historical continuity. Third, it is an active identity. Forth, it connects a group of people to a particular geographical territory. And, last, it draws on a common public culture (Miller, 1995, p. 21-7). On the other hand, Habermas's notion of collective self-understanding is developed through substantiating the system of rights—including both private liberties and political rights—and consists in a body of ideas related to how it is to lead a common life according to an inter-subjectively agreed normative outlook among citizens (Habermas, 1996, p. 160). It seems that Miller's notion of national identity draws on a more comprehensive source of common normative understandings than Habermas's notion of political-cultural self-understanding, insofar as the former aims to unite citizens as a community that has to conduct a collective life at levels including, but not limited to, the political. The same could be said about the second contrast between Miller's and Habermas's notion of public culture. Miller's notion of public culture encompasses a wide range of normative understandings in relation to how co-nationals are to conduct a life together as a pre-political national community, and the scope of a public culture could only be determined in deliberative democracy rather than *ex ante* (Miller, 1995,

p. 25-7). Habermas's notion of political culture is a body of normative understandings essential for validating a legally institutionalised communicative action within a nation-state. It consists precisely in 'the rationally based conviction that unrestrained freedom of communication in the political public sphere, a democratic process for settling conflicts, and the constitutional channelling of power together provide a basis for checking illegitimate power and ensuring that administrative power is used in the equal interest of all' (Habermas, 1994, p. 135). Even though both public and political culture attempt to provide a shared background of normative understandings about how to lead a life together within nation-states; unlike Habermas's notion of political culture, Miller's notion draws on both political and pre-political cultural values, insofar as it aims to unite citizens even beyond the political realm.

Thus, if Habermas were to incorporate Miller's notion of common nationality, his account of social integration would be able to explain citizens' motivation to support a legally institutionalised communicative action and, therefore, undertake to transform the existing democratic decision-making process accordingly for two reasons. First, a shared public culture could help citizens understand the political-cultural convictions about communicative action as reflective of the norms and values already embodied in the more comprehensive cultural background, even though the said new political culture is quite different from the existing one. Second, a common national identity could motivate citizens to undertake the transformation of the existing deliberative procedure so as to establish a legally institutionalised communicative action, despite the fact that they might not fully comprehend the new deliberative procedure as well as the existing one, insofar as seeing the others as co-

nationals, they are willing to shoulder potential costs in order to give their national community the best chance of survival through the new deliberative procedure.

The incorporation of Miller's notion of common nationality will not result in any internal incoherence of Habermas's theory of law as the medium between facticity and validity, for two reasons. Firstly, Miller's own conception of deliberative democracy shares many similarities with Habermas's conception of communicative action. On the one hand, Miller argues that 'a weak sense of impartiality' is necessary for a well-functioning deliberative democracy: 'One is that the reasons given in political debate should be sincerely held, and not merely adopted as an expedient way of promoting sectional interests... The second condition is that citizens should be willing to moderate their claims in the hope that they can find common ground on which policy decisions can be based' (Miller, 1995, p. 96-7). On the other hand, a communicative action occurs when 'actors in the roles of speaker and hearer attempt to negotiate interpretations of the situation at hand and to harmonise their respective plans with one another through the unrestrained pursuit of illocutionary goals,' whereas strategic action occurs when 'language is used only as medium for transmitting information, (and) action coordination proceeds through the mutual influence that actors exert on each other in a purposive-rational manner' (Habermas, 1996, p. 18). In the face of this comparison, Miller's first condition of the weak sense of impartiality seems to convey the idea of communicative action, insofar as Miller means for the participants in a deliberative democracy to hold their political views and not as an expedient way of promoting narrow sectional interests. As the second condition shows, a public deliberation is normally expected to lead to ethical judgments that all could potentially accept; it ought to strive to reach a genuine agreement among citizens holding different interest positions. This is

consistent with the discourse principle that governs Habermas's account of the deliberative procedure: 'Just those action norms are valid to which all possibly affected persons could agree as participants in rational discourses' (Habermas, 1996, p. 107). Therefore, the basic rationale of deliberative democracy is roughly the same for Miller and Habermas, which makes it uncontroversial to see the development of a common nationality as one among the many tasks of a legally institutionalised communicative action.

Secondly, the development of a common nationality through a deliberative democracy does not challenge any of the fundamental values of a legally institutionalised communicative action. As Miller claims, despite the importance of the motivational force of a common nationality, the substance of a common nationality is quite flexible and, as such, could only be determined through public deliberation, drawing on a shared public culture (Miller, 1995, p.68- 70). The development of a common nationality could, therefore, be seen as one of the many goals a legally institutionalised communicative action serves to accomplish. In fact, Habermas explicitly states that there are three categories of questions to be discussed in the deliberative procedure: (1) the pragmatic questions, (2) the ethical-political questions and (3) the moral questions. The pragmatic questions focus on finding the best solution to common social issues on the basis of shared normative understandings; the ethical-political questions focus on clarifying the collective self-understanding of the society as a whole; the moral questions focus on establishing the universal moral principles acceptable to all citizens within a society (Habermas, 1996, p. 159- 62). It seems that Habermas also intends the legally institutionalised communicative action to develop a collective self-understanding among all citizens. The development of a collective self-understanding is necessary insofar as citizens

require a shared political culture to comprehend, and thereby support, the existing or the future deliberative procedure. As discussed, both Michelman and Ferrara resort to a shared political culture to explain citizens' motivation to support the core normative values embodied in the existing democratic decision-making process without personally choosing those values.

Therefore, Miller's notion of a common nationality could be seen as a version of collective self-understanding, insofar as Habermas has a very ambiguous conception of collective self-understanding that does not clearly distinguish political from pre-political values. As Cronin observes,

At times Habermas draws a strong contrast between the constitution and their 'ethical' integration into religious and other groups on the basis of values and ideals of the good that others cannot be expected to share. Yet at other times, as McCarthy points out, he speaks of the unavoidable 'ethical permeation' of political culture, thereby acknowledging that the legal and political cultures of democracies are inevitably shared by particularistic values and conceptions of the good and reflect the traditions of their major component groups (Cronin, 2003, p. 16).

Faced with this apparent ambivalence in Habermas's theory, Cronin suggests that it is more reasonable to claim that 'a constitutional political culture and the corresponding collective identity should be seen as 'post-nationalist' rather than 'post-national,' in the sense that this would reject chauvinistic interpretations of national identity while preserving a distinctive national character' (Cronin, 2003, p. 16). In other words, Habermas does not make a sharp distinction between political and pre-political cultural values; rather, he is more concerned with the 'chauvinistic' implication of coercive cultural integration at the state level. Insofar as cultural pluralism within liberal societies diversifies our value preferences with regard to common social issues, forced cultural integration for the sake of social solidarity

contradicts the rationale of communicative action. In the sense that Habermas's account of deliberative procedure is designed to give citizens an equal chance of discussing the legitimacy of the legal order so as to best protect their own private liberties, a forced cultural integration is obviously out of the question.

Nevertheless, as Cronin observes, due to the porous nature of the distinction between political and pre-political cultural values, there is an inevitable 'ethical permeation' of political culture by more comprehensive pre-political cultural values. As introduced in section 2, a legally institutionalised communicative action relies on a notion of 'lifeworld' rather than a political culture alone. The lifeworld is the body of shared normative understandings already familiar to all citizens within a nation-state, and could both serve as the necessary background against which parties to a communicative action understand the validity claims raised by others and be enriched by every successful communicative action. Since lifeworld is an integral part of a communicative action, and the latter occurs not only at the political level, it follows that a lifeworld is more widely encompassing than a political culture. In a legally institutionalised communicative action, citizens draw on a shared lifeworld that contains both political and pre-political values, therefore the deliberative procedure will naturally lead to an increase in the number of political and pre-political cultural values shared among citizens. This does not contradict Habermas's account of a legally institutionalised communicative action, in the sense that this cultural integration results from voluntary communication among citizens on an equal footing rather than from coercive state policies.

However, this is not to say that policies backed by state coercion are not necessary for a legally institutionalised communicative action to occur. On top of the legal

rules that, once validated, require enforcement by all citizens in a deliberative procedure, state coercion is required to develop a shared public culture, so as to supply a sufficient level of mutual trust among citizens. There are two differences between Habermas's notion of lifeworld and Miller's notion of public culture. Firstly, Habermas's notion of lifeworld is broader in scope than Miller's notion of public culture. According to Habermas, lifeworld is a body of shared normative understandings that forms the already familiar background to every human communication in the social world. In contrast, 'a public culture may be seen as a set of understandings about how a group of people is to conduct its life together' (Miller, 1995, p. 26). The comparison shows that lifeworld is a concept indicating the universal condition of all human communications, whereas a public culture represents a group of people living together as a national community. Secondly, lifeworld does not require coercive measures on the part of the state apparatus to develop. As Habermas says, 'the lifeworld forms both the horizon for speech situations and the source of interpretations, while it in turn reproduces itself only through ongoing communicative actions' (Habermas, 1996, p. 22). In other words, the enriching of a lifeworld is not directed towards a specific aim, and therefore rejects purposeful state policies to develop a shared body of normative understandings among citizens. In contrast, a public culture is treated as an impersonal good of the national community which is preserved and enriched by purposeful state policies at both the political and the sub-political levels. In terms of the nation-building process, Miller argues,

What must happen in general is that existing national identities must be stripped of elements that are repugnant to the self-understanding of one or more component groups, while members of these groups must themselves be willing to embrace an inclusive nationality, and in the process shed elements of their values which are at odds with its principles (Miller, 1995, p. 142).

Accordingly, rather than developing freely as a result of a legally institutionalised communicative action, a public culture has to be reformulated and preserved for the sake of a common national identity. This comparison reveals why a public culture is required whereas a shared lifeworld is always present in the communicative action. The specific need to supply a sufficient level of mutual trust among citizens requires a purposeful process of enriching and preserving a body of normative understandings shared among citizens, rather than a process that may or may not fulfil this specific need. Nonetheless, the said purposeful process does not contradict Habermas's account of legally institutionalised communicative action because, like a collective self-understanding and a political culture, a public culture is developed through voluntary communication among citizens on an equal footing, and therefore does not force cultural integration upon citizens.

Conclusion

This chapter sets out to compare Miller's account of social integration with the statist's accounts—of which, due to the limited scope of this thesis, I have chosen Habermas's conception of a legally institutionalised communicative action as an example, for its lasting influence. Whereas Miller emphasises the need for a common national identity and a shared public culture as a precondition for mutual trust among citizens, Habermas believes that a deliberative procedure based on equal and un-coerced communication could instil sufficient social solidarity among citizens. In order to demonstrate the advantage of Miller's theory of nationality over Habermas's conception of communicative action in accounting for social integration, in section 3 I examined three explanations of citizens' motivation to participate in a legally institutionalised communicative action. Insofar as the possibility of social

integration rests wholly on citizens' participation in a legally institutionalised communication, citizens' motivation to comply with the rationale of the said procedure cannot be presupposed.

The three explanations are: (1) the unavoidable presuppositions of communicative action, (2) the coercive power of the legal system and (3) the shared political culture among citizens. I demonstrated that these explanations all fall short of accounting for citizens' motivation to comply with the rationale of communicative action. First, the unavoidable presuppositions of communicative action do not obtain, because these only explain the motivation of those who are already engaged in human communication. Second, the coercive power of the legal system cannot motivate citizens to comply, because it will result in an infinite regress at the conceptual level. In other words, between the establishment of a legally institutionalised communicative action and the legitimacy of the legal system, it is difficult to determine which comes first. Third, a shared political culture cannot motivate citizens to comply with the rationale of communicative action because Habermas's notion of political culture is too thin to help citizens understand the difference between the existing political culture and the new political culture that supports a legally institutionalised communicative action.

In this light, Habermas's conception of a communicative action has to incorporate Miller's notions of common national identity and shared public culture, so as to motivate citizens to participate in the deliberative procedure he visualises. Insofar as a public culture is a more widely encompassing reservoir of cultural values than a political culture, it could help citizens understand the new political culture as reflective of the already existing values in the public culture. Moreover, since a

national identity appeals to the pre-political communal ties among citizens, it could motivate them to transform the existing political regime into an actual legally institutionalised communicative action at their own expense, even if they do not yet fully understand the validity of the new deliberative procedure. Hence, the statist's account of social integration—of which Habermas's conception of communicative action is an example—also has to rely on Miller's notions of common national identity and shared public culture.

This conclusion implies that a plausible conception of global citizenship should also take serious account of human beings' motivation to support the global democratic institutions, if we expect it to be realisable in the long term. Insofar as a common identity and a shared public culture among people are indispensable to the functioning of institutions of citizenship, global public deliberation should aim to develop them alongside the discussion of common global issues and global regulative norms. As will be discussed at more length in Chapter 8, this is the third guiding principle of the global public deliberation. The other two guiding principles will emerge respectively in Chapters 4 and 5.

In the next chapter, I will turn the discussion around, arguing that Miller's theory of nationality suffers certain deficiencies when applied to the nation-building process. As Miller's account of deliberative democracy is too vague to explain how it helps citizens to voice their different interpretations of a common nationality, facilitates an equal communication among them and finally enables them to reach a normative consensus, it is necessary to turn to Habermas's conception of communicative action for a remedy.

Chapter 4:

Miller's Account of the Nation-Building Process and Its Liberal Multiculturalist Critics

Introduction

Chapter 3 introduced Miller's theory of nationality and demonstrated how its validity obtains despite the challenge from Habermas's constitutional patriotism. There, I demonstrated that Miller's theory of nationality is more plausible than Habermas's constitutional patriotism, because it taps into the motivational strength of a common national identity and a shared public culture. However, I have not considered his account of the nation-building process through a deliberative democracy which materialises the theory of nationality. Miller develops an account of the nation-building process that stresses the importance of developing a common national identity and a shared public culture while also paying sufficient respect to cultural pluralism. However, it comes under criticism from the liberal multiculturalists for its inability to satisfactorily balance the demands of nation-building with a respect for cultural pluralism at the conceptual level. In this chapter, I want to argue that with my reconstruction, Miller's account of the nation-building process could realise nation-building while also paying sufficient respect to cultural pluralism.

In section 1, I will introduce Miller's account of the nation-building process.

Essentially, it requires that the need for nation-building should be balanced against respect for cultural pluralism within a nation-state. In section 2, I will address four aspects of the liberal multiculturalists' criticisms of Miller's account. Firstly,

McMahan believes that the promotion of a common national identity and a shared public culture will suppress other non-national aspects of personal identification, such as familial, religious, ethnic identities, et cetera. In order to dispute this point, I will demonstrate that it is necessary to prioritise the national over the non-national aspects of personal identification, because this provides an important motivational base among citizens to guarantee the functioning of major social institutions and equal respect among citizens. Secondly, Michael Freeman argues that it is unrealistic to expect cultural minorities to identify with the actual deeds of the ancestors of the cultural majorities, despite this being a part of the nation-building process. In response, I will show that the collective fabrication of a national past is driven by the need to supply a sufficient level of mutual trust among citizens. As such, rather than a strict identification with the actual historical episodes, all it requires is a collective ethical understanding of certain historical events which makes it possible for all citizens to live as a united people. Thirdly, Sunne Laegaard claims that, in order to provide every citizen with a meaningful context of choices, the shared public culture has to expand to a greater extent than Miller allows. In response, I will demonstrate that the scope of a shared public culture does not depend on its ability to provide a meaningful context of choices available to citizens as their only available cultural context; rather, it depends on its ability to preserve the national community.

Finally, according to Laegaard and Benner, there is no way to guarantee that the shared public culture could be developed and renewed in such a way as to avoid the conservative bias in favour of cultural majorities. In response, I will prove that my reconstruction of Miller's account of the nation-building process as two levels of public deliberation could help ensure that the conservative bias would be avoided. These two levels are, respectively, the pragmatic questions concerning concrete

social issues, and the ethical-political questions with respect to the reformulation of a common national identity and a shared public culture. As such, the existing common national identity and the shared public culture could be the basis upon which the debate over concrete social issues are adjudicated at the pragmatic level, whereas they could be questioned, thereby becoming the subject matter of the public deliberation for its reformulation at the ethical-political level. Since these two independent levels of public deliberation both constitute a larger reiterative process, my reconstruction could help Miller avoid the conservative bias in favour of cultural majorities. Additionally, as suggested in section 3, in order to guarantee the equal influence of the cultural majorities and the minorities over the final results of public deliberation, the reformulation of a common national identity and a shared public culture should be guided by my rendition of Miller's notion of equal respect to the co-deliberators. It states: all citizens should aim to advance their claims in the hope that the resultant common national identity and the shared public culture would be equally beneficial to all.

Nevertheless, as I will show in section 4, my reconstruction of Miller's account of the nation-building process, though successfully assuaging the multiculturalists' concerns, poses a problem for nation-building as a whole, because Miller's failure to elaborate on the exact parameters of the shared public culture necessary for preserving a national community makes it practically impossible for citizens to comprehend the extent to which the current national identity and the shared public culture could be challenged without threatening the national community as a whole. In this light, it calls for a theory that could explain how deliberative democracy could help citizens reach a normative consensus on various subjects, including the scope of a shared public culture through actual communication. In this light, I will propose

that Miller's account of the nation-building process should incorporate Habermas's notion of communicative action, since the latter is supposed to facilitate an equal and un-coerced communication among citizens so as to negotiate between different interpretations of the external world on the basis of validity claims.

1. Miller's Account of the Nation-Building Process

Miller's account of the nation-building process resides in the idea that a common national identity and a shared public culture should be developed on the basis of a republican conception of citizenship. Here, citizens aim to find the most acceptable balance between a common national identity and all other non-national group identities by means of public deliberation. As Miller says, 'what must happen in general is that existing national identities must be stripped of elements that are repugnant to the self-understanding of one or more component groups, while members of these groups must themselves be willing to embrace an inclusive nationality, and in the process to shed elements of their values which are at odds with its principles' (Miller, 1995, p. 142).

In order to achieve this end, a republican conception of citizenship and the need for nation-building are placed on par with each other, with the former specifying the procedure most consistent with republicanism and the latter preserving the relevance of developing a common national identity and a shared public culture. On the one hand, the republican conception of citizenship requires that the distinction between public and private culture should only emerge as a result of public deliberation (Miller, 1995, p. 57). Public culture is a body of normative understandings necessary for a group of individuals to live as a national community which includes, but is not

limited to, political culture. In contrast, private culture concerns the cultural values inherent to individuals' non-national group identities, which should not be interfered with by the state (Miller, 1995, p.25- 7). Citizens participate in deliberative democracy to determine the boundary between public and private culture as well as the content of the shared public culture, so as to balance the demands of nation-building and respect for cultural pluralism.

On the other hand, the practical needs of nation-building determine the mode of public deliberation in the democratic decision-making process in general. As Miller claims, in deliberative democracy, 'the success of any particular demand will depend upon how far it can be expressed in terms that are close to, or distant from, the general political ethos of the community. It requires of citizens a willingness to give reasons for what they are claiming...' (Miller, 2000, p. 57) In other words, the claims raised and debated in a democratic forum need to be at least intelligible to all citizens, and this necessitates the existence of a shared public culture. The success of particular claims would depend on their persuasiveness as evaluated on the basis of the said common cultural background.

2. Criticisms of Miller's Account of the Nation-Building Process

In this section, I will consider four lines of the liberal multiculturalist criticisms that target Miller's account of the nation-building process. First and foremost, Jeff McMahan charges that the nation-building process suppresses other aspects of individual identification. By attributing predominance to a common national identity, the nation-building process is likely to result in the withering of other aspects of individual identification. As McMahan says, 'acquiescence to a vision of oneself in

which nationality overshadows the other variegated dimensions of one's life, character, and relations with others is to suffer a miserable reduction of the richness of one's identity' (McMahan, 1997, p. 121). I concede that the nation-building process has to prioritise certain cultural values over others which may also be important to the non-national aspects of individual identification. Nevertheless, if we acknowledge that the public sphere cannot but prioritise certain sets of cultural values over others, with the backing of the administrative state, the act of prioritisation in itself should not be the reason why nation-building is morally undesirable.

Moreover, there are two senses in which the prioritisation of the national over the non-national aspects of personal identification is necessary within nation-states. Firstly, by supplying a sufficient level of mutual trust, a common national identity and a shared public culture are crucial for a nation-state to solve the collective action problem, pursue social justice and maintain a functioning deliberative democracy (Miller, 1995, p. 90- 5). Here, Miller essentially suggests that there is a positive correlation between the number of cultural commonalities among citizens and the level of mutual trust among them. As he argues,

The arguments here all appeal to the political consequences of solidarity and cultural homogeneity. They focus on the important role played by trust in a viable political community. Much state activity involves the furthering of goals which cannot be achieved without the voluntary co-operation of citizens. For this activity to be successful, the citizens must trust the state, and they must trust one another to comply with what the state demands of them (Miller, 1995, p. 91).

Secondly, a common national identity and a shared public culture are required for motivating both cultural majorities and minorities to treat each other as equal citizens whose non-national identities are equally important. On the one hand, Miller

claims, ‘a common sense of nationality is needed to underpin the claim for equal respect: I respect the other person as a fellow-American or fellow-Briton, and this means someone who shares an identity and belongs to the same community.’ In the absence of a shared national identity, the cultural majorities ‘are being asked to extend equal respect and treatment to groups with whom they have nothing in common beyond the fact of cohabitation in the same political society’ (Miller, 1995, p. 139). On the other hand, the cultural minorities can only become full members of the national community if they develop a sense of attachment to it through partaking in the re-/formulation of the common national identity and the shared public culture. As Miller argues,

The minority groups want to feel at home in the society to which they or their forebears have moved...So they need a story that they share with the majority, though a story that can be told in different ways and with different emphases by different groups. To see themselves only as bearers of a specific ethnic identity...would be to lose the chance to join a larger community whose traditions and practices have inevitably left their mark on the environment they inhabit (Miller, 1995, p. 138).

From the standpoint of the minorities, this appeals to the importance of sharing a common national identity and a shared public culture with the majorities so as to have any influence at all on the policy outcomes of public deliberation. Hence, Jeff McMahan’s charge that the prioritisation of the national over the non-national aspect of personal identification is morally undesirable could be mitigated to the extent that an acknowledgement of the inevitability of the said prioritisation is called for in the two senses mentioned above. Nevertheless, I agree with McMahan’s charge to some extent, because the necessity of developing a common national identity and a shared public culture also illuminates the vulnerable position of cultural minorities vis-à-vis the majorities in public deliberation. Compared with the majorities, the minorities are left with little choice but to participate in developing a common national identity

and a shared public culture, otherwise their demands will not have any real influence over the policy outcomes. In light of the necessity of developing a common national identity and a shared public culture, the vulnerable position of the cultural minorities vis-à-vis the majorities makes it crucial to ensure that the resultant collective identity does not make unjust demands on the minorities, and the process of formulating a collective identity is not biased in favour of the cultural majorities. As a response to Freeman's critique, I will touch in the following paragraphs on the former aspect when discussing the possibility of developing an ethical understanding of the national past as part of a collective identity that could be meaningful to both cultural majorities and minorities. Then, as a response to Bener's critique, I will address the latter aspect when discussing the possibility of avoiding the conservative bias towards cultural majorities in public deliberation.

I will now address the second line of criticism against Miller's account of the nation-building process. Michael Freeman charges that, as a part of the common national identity, a shared national past imposes an unrealistic burden on newly arrived immigrants, in that it requires them to identify with the actual deeds of the cultural majorities' ancestors. As he argues,

If the memory of forebears is an important part of national identity, then this element cannot be purged in order not to exclude immigrant minorities. If such memory is an essential part of national identity, then immigrants are required to do what is impossible: to share historical memories with the descent-majority. This form of historical nationalism is incompatible with a pluralist democracy of equal citizenship (Freeman, 1994, p. 84).

In other words, the development of a common national identity seems at odds with the idea of equal citizenship, because it necessarily imposes upon immigrants the

unrealistic burden of having to identify with the actual deeds of the cultural majorities' ancestors.

In my view, Miller believes that the objective accuracy of the national past, as interpreted and shared by the national community together, matters less than the role the mythical past plays in enabling the members to understand themselves as a united community from an ethical perspective. As Miller says, 'leaving aside questions about the sense in which we can call any historical narrative true or false, the historical accuracy of national stories seems to matter less in its own right than for the effect it has on the nation's present self-understanding' (Miller, 1995, p. 40). In particular, an ethical understanding of the national past as part of the common national identity helps supply a sufficient level of mutual trust among citizens to support the functioning of major social institutions. Hence, the development of a common national identity does not necessarily require immigrants to do the impossible, that is, identify with the actual deeds of the cultural majorities' ancestors, because there is more than one way to construct a shared national history so as to ensure that both the members of the 'immigrant-minority' and the 'descendent-majority' understand the roles their individual lives are or will play in preserving the national community. For instance, even if the 'immigrant-minority' has just joined the national community, public deliberation could henceforth capitalise on the historical episodes of the hosting society that make the society what it is and what attracted the 'immigrant-minority' in the first place. Insofar as most immigrant-minorities are more or less attracted by the liberal ideals of western societies, their immigration to the host societies could be understood as a voluntary addition to the countless efforts that have made liberal societies what they are today. The same goes for the indigenous ethnic groups which are not under Freeman's consideration.

Despite possibly unfair treatment by the ‘descendent-majority’ during the previous undemocratic nation-building process, they could join public deliberation now, in the hope that the past mistakes of the majority could be recognised as important lessons in a shared national past that have led to a more enlightened and tolerant people. Their participation in the reformulation of a shared national past with the majority could be understood as being an indispensable contribution to the collective revision of the past mistakes of the national community as a whole, in terms of the mistreatment of cultural minorities.

Now, I will address the third critique of Miller’s account of the nation-building process. Sune Laegaard argues that a large-scale nation-building process is at odds with the purpose of providing a meaningful context of choices to all members of the nation-state, including cultural minorities. As Laegaard claims,

A public culture primarily consists of such elements as political principles, social norms about behaviour in the public sphere and a commitment to the preservation of the national language... (Nevertheless) for a public culture to be a precondition for the meaningfulness of individual choices, it must incorporate further cultural elements. But in that case, it gradually ceases to be public, and thereby becomes progressively more problematic from a liberal point of view as a basis of public policies (Laegaard, 2007, p. 292- 3).

In other words, the need to remain public conflicts with the need to provide a sufficient context of choices to each citizen within the nation-state, when attempting to develop a shared public culture among all citizens. However, in my view, Laegaard’s understanding of public culture is diametrically opposed to Miller’s; that is, the need for a shared public culture is not derived from the attempt to provide every citizen with a context of meaningful choices. Instead, a shared public culture is required at the level of nation-states because it could supply the indispensable level

of mutual trust among citizens of the same nation-state, so as to support the functioning of the major social institutions.

Even though it is difficult to bridge the abovementioned difference, Laegaard could at least recognise the importance of social integration as Miller conceives it. This is because it is indispensable to even the promotion of non-national group identities in the political arena, in the sense that mutual trust among citizens, especially between cultural majorities and minorities, makes it possible to advance the campaign for the promotion of minority cultural identities. This means that a one-sided promotion of minority cultural identities at the expense of the nation building process would lead to the undermining of the overarching national identity, which is what supplies the necessary mutual trust among citizens. According to Miller, 'if a group succeeds in winning political recognition, then, on the one hand, it establishes one among many possible lines of social cleavage as the relevant line; on the other hand, it is able to define publicly what it means to belong to the group' (Miller, 2000, p. 70- 1). As these lines of social cleavage sharpen, public deliberation would tend to be swayed by power and numbers alone, that is, in the absence of sufficient nation-building efforts to balance out the costs of the promotion of minority cultural identities, because the mutual trust among citizens would be undermined. Therefore, it is important to maintain an acceptable balance between the demands of nation-building and respect for cultural pluralism. As long as the boundary between public and private cultures emerges through public deliberation, we may have confidence in the acceptability of the balance between the nation-building process and the promotion of non-national group identities. Private cultures are determined by the collective will of the people and, more importantly, supply an alternative context of choices to individuals than a shared public culture offers. Thus, contrary to Laegaard's

prediction, a shared public culture does not have to expand more than the liberal multiculturalists would care to accept so as to supply every citizen with a meaningful context of choices.

Finally, I will address the fourth line of criticism of Miller's account of the nation-building process. Erica Benner observes that there are two components of Miller's accounts of the nation-building process: the constitutive and the constitutional dimensions. The constitutional dimension 'is based on republican values and on decision-making procedures that Miller describes under the heading 'deliberative democracy,'" whereas the constitutive dimension is based on 'his argument that nations are the best available constitutive units of political and international order' (Benner, 2003, p. 209, 210). She then examines two possible approaches which Miller could have taken to explain the relationship between the constitutional and the constitutive dimensions of deliberative democracy. As she claims, 'one argument can be called the political justice-supporting argument. It says that nationality is good because and insofar as it supports principles of political justice, in this case those embodied in republican theory and deliberative democracy. The second can be called the pre-political justice argument. It says that the value of nationality is relatively independent of specific political considerations' (Benner, 2003, p. 213). However, as Benner observes, Miller takes a middle ground between these two approaches that balances the demands of nationality with all other principles of justice, within the constraints laid down by the republican conception of citizenship. Nevertheless, the net result of this balancing act is to give 'the claims of national identity an independent and, indeed, a fundamental moral standing, whether or not they are linked to republican values.' Since, Miller argues, 'national self-determination 'creates the conditions under which people can live together on terms

of justice’—but in deciding what ‘terms of justice’ are, reference must be made first of all to national identity and ‘public culture,’” it makes it easier ‘for nationalists to make very strong demands based on the pre-political justice argument, while seriously weakening the arguments that could be used against them’ (Benner, 2003, p. 215).

According to Benner’s understanding of Miller’s account of the nation-building process, the status of a shared public culture is quite ambivalent and is open to the possibility that nationalist sentiment could run amok without the proper check of a republican conception of citizenship. In other words, she is concerned with putting the practical needs of nation-building on a par with the republican conception of citizenship. In my view, Miller indeed faces the difficulty of reconciling the need of nation-building with the republican conception of citizenship, especially given that he does not have an explicit explanation for how a common national identity and a shared public culture could both be the basis and the subject matter of public deliberation. On the one hand, the practical needs of nation-building require that in deliberative democracy, ‘the success of any particular demand will depend upon how far it can be expressed in terms that are close to, or distant from, the general political ethos of the community. It requires of citizens a willingness to give reasons for what they are claiming...’ (Miller, 2000, p. 57). Here, the shared public culture is the basis of public deliberation, because a common cultural background among citizens is required to motivate a genuine deliberation, rather than a negotiation based on power and deceit, and to make the reaching of a common ground possible. Insofar as the shared public culture is settled and unquestioned, it could serve as the basis on which all claims raised in deliberative democracy are judged, rejected, altered or accepted. On the other hand, the republican conception of citizenship lays down the

fundamental ground rules for a political regime based on deliberative democracy. With respect to the development of a common national identity and a shared public culture, it requires that the private-public division in general and the boundary between public and private cultures in particular should emerge from public deliberation, so as to maintain an acceptable balance between the demands of nation-building and the respect for cultural pluralism. Here, the shared public culture serves as the subject matter of public deliberation, so as to avoid the conservative bias in favour of cultural majorities. Insofar as some aspects of the existing shared public culture will become outdated or morally problematic, it needs to be reformulated over time through public deliberation. Nevertheless, on the surface, this seems paradoxical: how could public deliberation be consistent with the existing shared public culture when the latter has to be continually reformulated through public deliberation itself? Miller has no explanation for this apparent paradox, and this is where Benner criticises him on the ground of the seemingly unaccountable shared public culture.

As Benner correctly interprets, Miller's account of the nation-building process attributes equal moral weight to both the need for nation-building and the republican conception of citizenship, which, in the current context, implies that the need for a shared public culture to serve as the basis of public deliberation should cohere with the need for it to be the subject matter of public deliberation. From my perspective, the only way to assuage Benner would be to elaborate in more detail what types of public deliberation are implied when a shared public culture serves as the basis and the subject matter respectively. I argue that when the shared public culture serves as the basis for public deliberation, it implies a public deliberation with respect to concrete social issues. In *Market, State and Community* (1989), Miller developed the

idea that one of the roles of deliberative democracy is to keep the distributive practices within a solidaristic community and an instrumental association democratically accountable to citizens. Accordingly, public deliberation consists in (1) ‘identification of interests common to all members of the collectivity in question, and specification of the best means of realising those interests,’ and (2) ‘the adjudication of competing claims to resources in terms of shared standards of justice’ (Miller, 1989, p. 265). It is these two types of activities that I referred to as the debate over concrete social issues. Since these activities concern the distribution of material advantages within society and Miller believes that distributive justice in a particular society depends on the shared public culture among citizens (Miller, 1999, p. 18), the public deliberation over concrete social issues relies on the shared public culture being settled and unquestionable.

When the shared public culture itself is questioned, it becomes the subject matter of public deliberation. Such a public deliberation focuses on reformulating the existing shared public culture, in the hope of updating or correcting the morally problematic aspects. Regarding the malleability of nationality, Miller has this to say, ‘the flexible content of national identity allows parties of different colours to present their programmes as the true continuation of the national tradition and the true reflection of national character’ (Miller, 2000, p. 33). Moreover, ‘one thing we may be doing in the course of redefining what it means to be British, French, etc. is to purge these identities of elements that necessarily entail the exclusion of minority groups’ (Miller, 2000, p. 35). In my view, since the main objective of nation-building is to maintain social solidarity, and the measures for tackling this task will change with social circumstances, the boundary between public and private cultures needs to be

constantly adjusted so as to keep an acceptable balance between the needs of nation-building and respect for cultural pluralism.

Hence, in order for the roles of shared public culture as the basis of public deliberation and its subject matter to cohere with each other, the shared public culture must serve as the common cultural background when concrete social issues are at stake, whereas it must be questioned and reformulated whenever outdated or morally problematic aspects are detected. We could conceive the roles of the shared public culture and the corresponding modes of public deliberation as being mutually independent and, at the same time, part of a larger reiterative process, rather than as conflicting requirements for a single linear process. In other words, instead of requiring the shared public culture to be both the basis and the subject matter of a public deliberation that does not distinguish clearly between different types of issue at hand, we could regard the two modes of public deliberation as occurring at two different levels. The shared public culture will only serve as the basis of public deliberation about concrete social issues at the level of the pragmatic questions, whilst it will serve only as the subject matter of public deliberation to reformulate the common national identity at the level of the ethical-political questions.

These two levels of public deliberation are part of a larger reiterative process in the sense that, whereas the existing shared public culture determines the success of the claims raised at the level of the pragmatic questions, the unresolved conflicts with regard to concrete social issues will lead to the questioning and the reformulation of the shared public culture itself. In other words, the conflicts over the concrete issues at the level of the pragmatic questions serve to detect the unclear or problematic aspects of a shared public culture, and could only hope to be resolved through the re-

clarification or the reformulation of a shared public culture at the level of the ethical-political questions. This is consistent with Miller's own understanding of how a common national identity and a shared public culture could be continuously reformulated alongside concrete social issues. Miller's conception of national community suggests that the national identity is active, that is, the identity and the corresponding public culture need to be formulated and renewed continuously, alongside the debate over concrete social issues. As he says, 'the nation becomes what it is by the decisions that it takes' (Miller, 1995, p. 24). This must mean that the discussion about what the common national identity and the shared public culture should be is not normally insulated from the concrete social issues regarding immigration, parole violation, abortion, racial segregation, et cetera, which take place in specific contexts. Once the reformulation of the common national identity and the shared public culture is complete at the level of the ethical-political questions, it once again becomes settled and unquestionable, serving as the basis of public deliberation about concrete social issues at the level of the pragmatic questions. Thus, a feedback loop is established between the two roles of public culture as being the basis and the subject matter. Understood in this way, the requirements of the need for nation-building will not commit the debate over concrete social issues to an unchangeable 'general political ethos of the community.' Thus, I have resolved the problem of reconciling the two roles of public culture as both the basis and the subject matter of public deliberation, and assuaged Benner's concern with the seemingly unaccountable nature of shared public culture.

3. Non-National Group Identities and the Equal Respect to Co-Deliberators

I have discussed the four aspects of the liberal multiculturalist critiques of Miller's account of the nation-building process through deliberative democracy and proposed a reconstruction of the account as a two-level public deliberation. In this section, I will show that this reconstruction falls short of guaranteeing the equal influence of cultural majorities and minorities over the results of public deliberation, unless it is guided by my rendition of Miller's notion of giving equal respect to the co-deliberators. This is because Miller fails to recognise the contribution of non-national group identities to the reformulation of a common national identity and a shared public culture, given that his original account of the nation-building process does not distinguish pragmatic questions from ethical-political questions sufficiently clearly.

On the one hand, Miller does not have a well worked-out method of determining the scope of a shared public culture that is needed in order to inspire a sufficient level of mutual trust within a group of individuals so as to count as a national community; it all depends on the boundary between public and private cultures as decided by citizens through public deliberation. As such, the formulation of a common national identity and a shared public culture requires contributions from all sections of society on an equal footing (Miller, 1995, p. 40), which has to be free of the constraints of the existing national identity and shared public culture. To refrain from referring to the existing national identity and public culture amounts to falling back on some non-national aspects of personal identification that have hitherto been restricted to the private sphere. Since individuals cannot develop any meaningful identification—even conceive of one—in the absence of the broader cultural

community, refraining from referring to national identity leaves the non-national group identities as the only option.

At the same time, Miller considers it imperative to keep non-national identities out of the public deliberation, in order to prevent them from undermining the nation-building efforts. He starts by recounting the three stages of the political recognition of cultural minorities within contemporary multicultural societies. As he says, ‘the first demand of minority groups has been to be left alone by the state, to be given the space to develop their own social and cultural institutions... The second stage can be characterised as the quest for inclusion... the claim that one is entitled to be treated as an equal citizen regardless of group differences. Admission to the public realm should not depend on the particular characteristics, culture or beliefs one has as a member of group C’ (Miller, 2000, p. 66- 7). The third stage focuses on what the liberal multiculturalists commonly call the ‘politics of identity,’ in which cultural minorities aim to acquire political expression for their respective cultural values.

According to Miller, there are two approaches to the politics of identity:

(On the one hand) the public realm was biased against them because it embodied norms with which it was harder for members of these groups to comply. The bias may have been less overt by comparison with earlier conceptions of citizenship, but it existed none the less... (On the other) the public recognition of group identities becomes important to groups when these identities themselves become insecure and threaten to dissolve for reasons having nothing directly to do with the political exclusion of the groups in question (Miller, 2000, p. 70).

In other words, whereas cultural minorities face the unjust imposition of the cultural values of the majority in the form of a shared public culture in the first approach to the politics of identity, minorities aim to reassert their cultural values even though the shared public culture does not unjustly impose any cultural values upon them.

Between these two approaches to the politics of identity, Miller takes issue with the second approach, in that the minorities' efforts to assert their cultural values have nothing to do with the fairness of the shared public culture. Following the second approach, he understands the politics of identity as being a political aspiration to select possible lines of social cleavage among different cultural groups and clarify the definition of membership of each cultural group. As he claims,

If a group succeeds in winning political recognition, then, on the one hand, it establishes one among many possible lines of social cleavage as the relevant line; on the other hand, it is able to define publicly what it means to belong to the group...this, I am suggesting, provides the impetus behind the politics of recognition that we are seeking to understand (Miller, 2000, p. 70- 1).

He goes on to argue that the politics of identity commits a conceptual fallacy when it attempts to undermine the very nation-building process which made it possible in the first place. He charges that the politics of identity could not persuasively answer the two important questions: 'under what circumstances will people come to sufficient agreement about principles of social justice for these principles to guide them in reaching collective decisions? And under what circumstances will people be motivated to deal with one another's demands on the basis of principles of justice, rather than on the basis of interest-bargaining (or indeed some more violent method of conflict resolution)?' According to Miller, the answers can only be supplied by a nation 'with a shared way of life which serves both as a source of ethical standards and as a framework within which people will want to justify their decisions to one another by reference to criteria of justice' (Miller, 2000, p. 78). In other words, I believe Miller prefers the second stage of political recognition for cultural minorities to the politics of identity, because at that stage,

(W)e have groups who bear two identities—a particular group identity, and a national identity that they share with others—which they want to express in different ways.' Accordingly, at the second stage, 'in their dealings with

fellow-members... (the individuals) want their group identity to be recognised and respected... In other contexts—public contexts, especially—they want their group identity to be treated as irrelevant, and their overarching identity as fellow-nationals to be respected' (Miller, 2000, p. 68).

Hence, in order to preserve the national community within which every cultural community may be treated as equal in politics, Miller decides to keep non-national group identities apart from public deliberation.

I agree with Miller that a national community provides the basic foundation upon which citizens could be sufficiently motivated and cognitively conditioned to reach a common ground in a deliberative democracy. Nevertheless, I depart from his verdict on the politics of identity on the point where he completely excludes non-national group identities from public deliberation. As I noted above, the formulation and the continuous renewal of a common national identity and a shared public culture require the members of all sections of society to compete on an equal footing in order to imprint their particular image onto the common national identity. According to Miller, individuals cannot make meaningful choices without reference to the broader cultural community. Since the competition to imprint particular images onto the common national identity requires meaningful choices, and these choices cannot come from a 'self' detached from particular cultural communities, it has to resort to either the national identity as it is or the non-national group identities. Moreover, it would be paradoxical to renew a common national identity and a shared public culture by referring to the existing common national identity alone. This would amount to reforming one's own personality without a plurality of cultural resources, which is impossible, to say the least.

Possibly, the reason why Miller has such a difficult time accommodating the politics of identity within public deliberation lies in the fact that he does not explicitly make a clear distinction between the two levels of public deliberation. As discussed in section 2, it becomes clear that national identity could reform itself with only the existing public culture in its service. In interpreting the essence of the politics of identity, Miller conflates the debate over concrete social issues at the pragmatic level with the formulation of a common national identity and a shared public culture at the ethical-political level. He understands the politics of identity as a political aspiration to collectively select possible lines of social cleavage and clearly define the terms of membership for each cultural community. However, unless the politics of identity requires individuals to merely pursue their narrow sectional interests in debating concrete social issues at the ethical-political level, it would not necessarily lead to the undermining of nation-building efforts. Indeed, as Miller himself admits, the politics of identity ‘becomes important to groups when these identities themselves become insecure and threaten to dissolve for reasons having nothing directly to do with the political exclusion of the groups in question’ (Miller, 2000, p. 70). It seems that what is at stake here is non-national group identities rather than sectional interests under threat within a nation-state. Granted that heightened non-national group identities might give rise to more distinctly defined sectional interests, nonetheless, the individuals maintaining distinct non-national group identities would be more willing to frame these sectional interests in terms of the common interests of all citizens and the substantive standards of social justice if, as Miller argues, they submit to a common national identity and a shared public culture. However, under my reconstruction of Miller’s account of the nation-building process as a two-level public deliberation, the framing of sectional interests in terms of the common interests of citizens and the substantive standards of social justice belongs to the

debate over concrete social issues on the basis of a common nationality at the level of the pragmatic questions. In contrast, the formulation of a common national identity and a shared public culture occurs at the level of the ethical-political questions. Insofar as the non-national group identities only contribute to the debate on the ethical-political questions, they would not undermine the ability of the common national identity to serve as the basis for the debate over concrete social issues at the level of the pragmatic questions.

Therefore, whether the politics of identity could be accommodated by Miller depends on which level of public deliberation is at stake. As far as the ethical-political level is concerned, it not only could but must include the politics of identity, that is, if we understand it as a political aspiration to preserve the non-national group identities under threat through imprinting some aspects of them onto the common national identity. Conversely, Miller is correct in his statement that a common national identity is needed to sufficiently motivate citizens and cognitively prepare them to frame their sectional interests in terms of the common interests of all citizens and the substantive standards of social justice. Hence, a distinction between the pragmatic and the ethical-political level helps us to understand Miller's rejection of the politics of identity in a new light; it could and should be accommodated at the ethical-political level where the political aspiration to preserve the threatened non-national group identities takes the form of competing to imprint part of them onto the common national identity.

Nevertheless, Miller has not proposed any substantive guideline for how to formulate a common national identity and a shared public culture through all social sections competing for influence over the common national identity. As discussed in

section 2, a common national identity and a shared public culture should be developed so as to motivate citizens to act responsibly in public deliberation. According to Miller, there are two criteria for acting responsibly through which we could grasp his general guidelines for public deliberation. Firstly, ‘the reasons given in political debate should be sincerely held, and not merely adopted as an expedient way of promoting sectional interests.’ Secondly, ‘citizens should be *willing to moderate their claims* in the hope that they can find common ground on which policy decisions can be based’ (Miller, 1995, p. 96, 97; my emphasis). What does it mean to moderate one’s claim in the hope of reaching a common ground in the context of formulating a common national identity and a shared public culture? Miller only says in general,

My proposal...is that we should understand deliberation not as requiring that we restrict ourselves to offering reasons and arguments that must commend themselves to all members of the deliberating body, but as requiring only that we should seek agreement on terms that *respect our fellow-deliberators and their convictions*. This requirement...will itself serve as a filter that eliminates certain arguments in the course of the debate without disqualifying them *a priori* (Miller, 2000, p. 152; my emphasis).

This resorts to the notion of respect to co-deliberators and their convictions in order to improve on the rather vague idea of moderating one’s claim in deliberative democracy. In short, said respect could filter out those claims less conducive to reaching a common ground through public deliberation. The idea of respect, nonetheless begs further questions with respect to what it amounts to in practice. According to Miller, there are three ways in which the deliberative procedure could help filter out the initial policy preferences of the deliberators and in the end produce widely accepted decisions. Firstly, ‘the most straightforward case is that of preference orders that are irrational because they are based on false empirical beliefs.’ Secondly, there are ‘preferences that are so repugnant to the moral beliefs of the

society within which the decisions are being made that no one is willing to advance them in a public context.’ Finally, ‘the most important way in which deliberation may alter initial preferences, however, is that...preferences...(which) are not so much immoral as narrowly self-regarding will tend to be eliminated by the process of public debate’ (Miller, 2000, p. 15- 6). It seems that the notion of respect to co-deliberators is required more in the third way than in the first two, because in the first two ways empirical evidence and widely shared public culture could serve to determine the success of each claim raised in public deliberation, and these are less dependent on different citizens’ own normative understanding. I believe that this is what often happens at the pragmatic level, where the debate on concrete social issues in relation to the common interests of all citizens and the substantive standards of social justice could be decided on the basis of their consistency with the shared public culture and, additionally, the empirical evidence that ensures the theoretical soundness of the final policy outcomes. In comparison, the idea of respect is more of a necessity in the third way, in which citizens lack an unquestionable public culture and scientifically proven empirical evidence to rely on in order to evaluate the claims raised in public deliberation. Insofar as empirical evidence cannot serve to illuminate ethical questions—at least, not decisively—and the shared public culture is itself under the review of the citizens, the deliberators enter an uncertain area of discussion, which could only depend on the idea of equal respect to the co-deliberators and their ethical convictions. Here, the third way filters out those claims that are ‘narrowly self-regarding,’ since they go against the ideal of respect for co-deliberators and their ethical convictions.

Unfortunately, the expression, ‘narrowly self-regarding,’ like the notion of respect, leaves the reader none the wiser, because Miller does not offer a clear set of criteria

for either of them but, instead, uses examples to tease out their possible implications, which are open to different interpretations. Therefore, given the lack of explicit guidelines for formulating a common national identity and a shared public culture and, as such, the wide range of possible interpretations of the notions of respect and narrow self-regard, it suffices to propose an interpretation most congenial to Miller's understanding of the functions of a common national identity and a shared public culture. Since Miller believes a common national identity to constitute an important aspect of personal identification, to situate personal lives within the historical continuity of the community as a whole and to provide an individual with a meaningful context of choices, the notion of respect consists in a particular way of framing the claims with regard to the renewal of a common national identity and a shared public culture; that is, every citizen holding a different non-national group identity should frame their claims in the hope that they may enjoy the benefits of a common national identity and a shared public culture, at least as far as the national aspect of personal identification is concerned. More specifically, each claim should be framed in the hope that the resultant common national identity and the shared public culture could constitute an aspect of personal identification which is equally acceptable to all citizens, interpret a national past which equally makes sense to all citizens and supply a context of choices which is meaningful to all citizens. Hence, it seems that the notion of equal respect for co-deliberators and their ethical convictions calls for a process in which all citizens bearing different non-national group identities aim to detect the problematic aspects of the existing national identity and the shared public culture through the unresolved conflict over concrete social issues at the pragmatic level, and then frame their claims at the ethical-political level in the hope that the problematic aspects of the existing national identity and the

shared public culture may be reformulated so as to benefit all citizens equally in the abovementioned ways.

4. Supplementing Miller's Account of Nation-Building with Habermas's Idea of a Legally Institutionalised Communicative Action

In section 2, in order to assuage the multiculturalists' concern with a shared public culture on the ground of its conservative bias in favour of cultural majorities, I proposed a reconstruction of Miller's account of nation-building as two levels of public deliberation; those of pragmatic questions and of ethical-political questions. Nevertheless, as a direct corollary of this reconstruction, the existing common national identity has to be under continuous scrutiny and be reformulated through public deliberation, if outdated or morally problematic aspects of them are discovered. As such, a two-level public deliberation seems to lean heavily on the possibility that the scope of a shared public culture sufficient for preserving the national community could be determined *ex ante*. This is because citizens need an estimate of the said scope in order to comprehend the extent to which they could challenge the existing shared public culture at the level of the ethical-political questions without risking the erosion of the mutual trust among themselves. In this sense, the practical need to clarify the scope of the shared public culture sits awkwardly with Miller's claim that the republican conception of citizenship requires a public-private division to emerge through public deliberation, rather than *ex ante*.

This would remain a stumbling block for Miller unless he could develop a theory explaining how the process of public deliberation could help citizens reach a consensus on a common national identity and a shared public culture that are deemed

sufficient to preserve their national community. In this proposed formulation, social integration in general no longer depends on the cultural similarities produced through deliberation alone; to a large extent it depends on the process of public deliberation in the hope of converging on the scope of the shared public culture necessary to supply a sufficient level of mutual trust. Note that in this formulation, citizens may not always converge on a definition of common nationality that could supply the sufficient level of mutual trust among them in practice; public deliberation merely makes it more likely that a sufficient level of mutual trust would emerge in the long term.

In this light, I want to suggest that Habermas's conception of a legally institutionalised communicative action could be of service. According to Habermas, social integration could be achieved through a legally institutionalised communicative action within nation-states. A communicative action occurs when 'actors in the roles of speaker and hearer attempt to negotiate interpretations of the situation at hand and to harmonise their respective plans with one another through the unrestrained pursuit of illocutionary goals' (Habermas, 1996, p. 18). A communicative action is possible because, according to Habermas, there is a rational base to every reciprocal bond; that is, individuals confronted with various different validity claims raised by others may come to abandon or alter their original validity claims. As a result, they together engage in a more complex interpersonal relationship and come to share an enlarged group of background norms. When applied to the reproduction of a social order, a communicative action is legally institutionalised so as to infuse the universally applicable constitutional principles with the collective will of the citizens, so that the citizens could come to see the

resultant policy outcomes as their own and the co-deliberators as part of their ever-increasing interpersonal relationships.

The idea of a legally institutionalised communicative action serves to help Miller escape this circular argumentation because it switches the burden of asserting the normative truth away from the political theorist as an external observer partial to a collective learning process involving all relevant moral agents as active participants. At any rate, this is more consistent with Miller's belief that the formulation of political principles should take account of the common people's moral intuitions and political emotions. In other words, Miller considers it undesirable to specify what justice is independently of particular contexts and, then, require the common people to comply with them (Miller, 2013, Chap. 1). Nevertheless, Miller fails to live up to his standards for formulating normative principles, in the sense that his account of nation-building relies heavily on specifying the scope of the shared public culture necessary for preserving a national community *ex ante*. This amounts to contradicting his own standard, because it bypasses the contribution of the common people's moral intuitions and political emotions in a specific context.

Habermas's notion of a communicative action is formulated in the face of the difficulty of asserting the normative truth within increasingly culturally fragmented societies. After the 'linguistic turn,' 'thoughts and facts can no longer be located immediately in the world of perceived or imagined objects; they are accessible only as linguistically 'represented' (*dargestellt*), that is, as states of affairs expressed in sentences' (Habermas, 1996, p. 11). In a sense, the relation between the proposition of truth and the objective world is broken by the introduction of language as the medium through which a representation of the world is achieved. Since the

representation of the external world has to be achieved by means of communication between the speakers and the hearers, the linguistic medium alone conditions how the said representation is comprehended and negotiated among the interlocutors. Therefore, the transcendental proposition of truth is replaced by a search for the transcendental conditions under which the representation of the external world is possible through communication.

Accordingly, the only way to salvage a sense of truth from the linguistic turn is to rely on a collective learning process through ‘transcendent moments of unconditionality’ among interlocutors of the same communicative action. This is to say, the relation between the truth proposition and the external world could only be established through continuous justification based on validity claims amongst interlocutors. ‘Transcendent moments of unconditionality’ represent the collective recognition of certain validity claims following successful communicative actions. The normative understanding that all deliberators converge upon and thereby incorporate into the always already familiar lifeworld is only an approximation of the truth, in the sense that it merely satisfies our own particular standards of correctness for deliberation in particular contexts (Habermas, 1996, p. 12- 7). As Habermas explains, ‘the cautionary use of the truth predicate...can be understood as the grammatical expression of a fallibility that we often experience ourselves while arguing, and observe in others when looking back at the course of past arguments in history’ (Habermas, 2003, p 38). The point here is that the fallibility of every validity claim is unavoidable, and therefore the truth proposition justified against all refutations in particular contexts should be treated as settled for that moment, until new validity claims arise to challenge it.

In this light, the formulation of a common national identity and a shared public culture at the level of the ethical-political questions could be understood as a collective effort to converge on an approximation of the truth which elaborates on the positive relation between the number of cultural similarities among a group of individuals and the level of collective will to remain as a united people. There are practical difficulties with quantifying the positive correlation from an external observer's standpoint which attempts to assert a context-independent idea of the truth. Nevertheless, such difficulty is only a manifestation of the linguistic turn which breaks the direct correspondence between the truth and the objective world with the mediation of language use. It could be similarly tackled with the introduction of Habermas's notion of a legally institutionalised communicative action within nation-states. On the basis of a legally institutionalised communicative action, the reformulation of a common national identity and a shared public culture could be seen, from an active participant's standpoint, as a collective attempt to converge on the scope of the shared public culture necessary for preserving the national community through raising, justifying and recognising validity claims. Through the 'transcendent moments of unconditionality,' a context-dependent approximation of the truth is reached among citizens of the same nation-state that recognises a certain formulation of a common national identity and a shared public culture as necessary for preserving the national community. The resultant common national identity and shared public culture, nonetheless, are merely ephemeral, in the sense that they, as a result of communicative action, are only steps in the collective learning process of all citizens. In other words, due to the continuous exchange between the co-deliberators on the one hand and between the deliberators and the external world on the other, the approximation of the truth is sure to be altered in the long term. It should be noted here that Habermas's idea of a communicative

approach to normative truth could be applied to the justification of all norms and conventions governing social interaction. I merely suggest that it should be applied more specifically to the task of reformulating a common national identity and a shared public culture. Therefore, the approximation of a sufficient level of mutual trust among citizens does not exhaust all that a legally institutionalised communicative action could achieve.

Moreover, on top of producing a common national identity and a shared public culture that approximates to an idea of the truth within the particular context of a nation-state, public deliberation *per se* would serve to enlarge the extent of shared normative understanding among the co-deliberators and increase the complexity of their interpersonal relationships at the same time, if it were based on Habermas's notion of a legally institutionalised communicative action. Therefore, insofar as public deliberation thus structured could realise social integration alongside an increased extent of shared normative understanding independently of the resultant common nationality, to a certain extent, it could explain why a national community would not collapse, even though citizens might not always converge on a common nationality that proves to be sufficient for preserving their national community.

Hence, should Miller's account of the nation-building process incorporate Habermas's idea of a legally institutionalised communicative action, it would provide an remedy for his failure to elaborate on the exact parameters of a shared public culture along the line of the arguments I outlined earlier in this section. That is to say, the problem caused by Miller's failure to quantify the positive correlation between the number of cultural similarities and the level of collective will to remain as a united people could be resolved in two senses. Firstly, any idea of the truth,

including the said positive correlation, has to be communicatively approximated through a legally institutionalised communicative action within the nation-state. Secondly, the process of public deliberation *per se* also serves to realise social integration to some extent. In other words, this manoeuvre, as I argued a satisfactory theory should do, switches the burden of proof decisively from the external observer alone—that is, Miller—to an infusion of an external observer’s standpoint and an active participant’s standpoint.

Nevertheless, a main difference between Miller and Habermas lies in the fact that the latter believes public deliberation *per se* to be sufficient for realising social integration within nation-states, whereas Miller seems to consider it merely a means to an end—that is, the resultant common national identity and shared public culture. This is most saliently reflected in Miller’s insistence that in some cases the scope and the types of cultural similarities make it practically impossible to establish a sovereign nation-state. For instance, a case of rival nationalities excludes quite decisively the possibility of a successful nation-building process, insofar as groups with mutually exclusive national identities would each seek to control all or part of the state’s territory (Miller, 2000, p. 128). In comparison, Habermas insists that social solidarity could be achieved through participating in a legally institutionalised communicative action on the basis of universal constitutional principles, regardless of the differences among the cultural values held by the citizens.

All in all, I do not think that by incorporating Habermas’s notion of a legally institutionalised communicative action, Miller’s account of the nation-building process would be rendered inconsistent. This is because recognising the role of public deliberation in reaching a consensus on a definition of a common national

identity and a shared public culture will not weaken Miller's original position. In other words, Miller's claim that public deliberation should aim to produce a common national identity and a shared public culture necessary for supplying a sufficient level of mutual trust is not weakened by the recognition that public deliberation should be structured on the basis of a legally institutionalised communicative action. Moreover, in the absence of a quantifiable, positive correlation between the number of cultural similarities and the level of the collective will to remain as a united people, a communicative action is the only available approach to approximating the idea of the truth in terms of how many cultural commonalities are necessary for preserving a national community. Furthermore, the reformulation of a common national identity and a shared public culture based on a legally institutionalised communicative action could be seen as a collective learning process that strives to improve the said approximation.

Conclusion

This chapter has introduced Miller's account of nation-building as requiring a balance between nation-building and respect for cultural pluralism, and considered four lines of the liberal multiculturalists' criticisms of them. In section 1, I introduced Miller's account of the nation-building process, which depends equally on both the republican conception of citizenship and the importance of nation-building. Miller aims to affirm the importance of nation-building while employing the republican conception of citizenship to regulate the procedure through which the former is carried out so that cultural pluralism is sufficiently respected.

In section 2, I examined four lines of liberal multiculturalist criticisms of Miller's account of the nation-building process. McMahan, Freeman and Laegaard question the desirability of nation-building, given the importance of respecting non-national group identities. McMahan charges that the prioritisation of national identity will suppress other aspects of personal identity. Freeman complains that a common national identity will impose an unjust burden on immigrants, requiring them to identify with the actual deeds of the cultural majority's ancestors. Laegaard claims that a shared public culture will have to expand more than liberal multiculturalists could allow, in order to provide each citizen with a meaningful context of choices. These three lines of multiculturalist criticisms could be mitigated, however, because as I demonstrated, they fail to understand that the nation-building process is necessary for the functioning of major social institutions and even the protection of non-national cultural communities (be they indigenous ethnic groups or immigrants).

Nevertheless, Benner advances a valid critique in that by attributing equal moral weight to nation-building efforts and the republican conception of citizenship, Miller's account is likely to display a conservative bias in favour of the cultural majority. This poses a serious problem for Miller, in the sense that he does not have an explanation for how a shared public culture could be both the basis and the subject matter of public deliberation. In this light, I proposed to reconstruct his account of nation-building as two independent levels of public deliberation. By splitting Miller's general idea of public deliberation into two levels—the pragmatic questions and the ethical-political questions—the existing shared public culture could serve as the basis of the public deliberation with regard to the concrete social issues, whilst it could also be the subject matter of public deliberation in relation to the reformulation of the existing common national identity and the shared public

culture. In this way, Miller's account of the nation-building process could avoid the conservative bias in favour of the cultural majority. During the process of reformulating a common national identity and a public deliberation at the ethical-political level, the public deliberation should be guided by my rendition of Miller's notion of equal respect to the co-deliberators. As set out in section 3, the guiding principle states that all citizens should aim to advance claims in the hope that the resultant common national identity and shared public culture will be equally beneficial to all.

This reconstruction is in line with Miller's aim to balance the need of nation-building with the respect for cultural pluralism. It has the advantage of preventing the public deliberation from favouring the cultural majorities by continuously renewing the existing national identity alongside concrete social issues. At the global level, because of the power asymmetry among nation-states, the formulation of global regulative norms and values has been dominated by the Western cultural values. In this light, if we expect the global institutions of citizenship to be based on cosmopolitan justifiability, all human beings or their representatives should be able to exert equal influence over the final policy outcomes of the global public deliberation. Insofar as all principles of justice should be justifiable to all human beings, as free and equal moral agents, the global public deliberation should not favour any section of the world population by default. This is the second guiding principle of the global public deliberation.

Nevertheless, this reconstruction does very little to bring all citizens to an understanding of the extent to which the existing collective identity could be challenged before it threatens the national community as a whole, because Miller

explains the necessary mutual trust among citizens on the sole basis of a common national identity and a shared public culture. In this case, if social integration were solely based on the resultant common national identity and shared public culture, it would make it necessary for Miller to explain, from an external observer's standpoint, the extent to which the citizens could challenge the current collective identity without damaging the mutual trust among citizens. In this light, I proposed in section 4 that Miller's account of the nation-building process should incorporate Habermas's notion of a legally institutionalised communicative action, because the latter champions the idea that social integration can be achieved through a societal-level communicative action on the basis of validity claims. Even though the level of social solidarity produced by the public deliberation *per se* may not necessarily be enough for supplying sufficient mutual trust among citizens, this proposal could understand public deliberation as a never-ending collective learning process for approximating a sufficient level of mutual trust among citizens in the long term. In other words, this proposal partially switches the burden of proof from the external observer—that is Miller—alone to the active participants in the deliberative democracy, since it is the co-deliberators that directly express their collective will in converging on a scope of the shared public culture that is supposedly sufficient for preserving national community. Hence, Miller could only overcome the deficiency of his account of the nation-building process by incorporating Habermas's conception of a communicative action. In the next chapter, I will further advance this line of argument by showing that Miller's methodological commitment to incorporating common moral intuitions and political emotions in the moral reasoning about political principles also implies an institutionalised deliberative procedure based on Habermas's conception of communicative action.

Chapter 5:

Miller's Approach to Political Theory and the Role of Common Moral Intuitions and Political Emotions

Introduction

In Chapters 1 and 2, I discussed Miller's split-level conception of distributive justice that restricts the scope of the regulation of substantive inequality to the domestic sphere, and in Chapters 3 and 4, examined Miller's theory of nationality. In these previous chapters, my main focus was on examining the principles of distributive justice and the theory of nationality, thereby leaving Miller's approach to political theory as a whole unquestioned. In this chapter, I will address the main critiques of Miller's approach to political theory that allows common moral intuitions and political emotions to bear on his moral reasoning about political principles and social institutions. In this thesis, common moral intuitions refer to the range of widely held and yet unclarified intuitions about morality in general within society. Political emotions refer to the range of human emotions that could be potentially utilised to realise social integration, motivate altruism and preserve shared cultural values within society.

First and foremost, in section 1, I will introduce Miller's approach to political theory as I understand it, on the basis of his major works, including *On Nationality* (1993), *Principles of Social Justice* (1998), *Citizenship and National Identity* (2000) and *Justice for Earthlings* (2013). According to my interpretation, Miller's approach aims to allow common moral intuitions and political emotions to bear on our moral

reasoning about political principles and social institutions. Section 2 examines the main critiques of Miller and argues that the problem with his approach boils down to his failure to set forth a clear set of guidelines for selecting and assigning moral weight to common moral intuitions and political emotions in regard to different issues at hand. By extension, in section 3, I will demonstrate that this difficulty at the methodological level will translate into a similar problem for citizens in Miller's account of deliberative democracy at the institutional level, in the sense that citizens will arrive at different political principles, for they select different common moral intuitions and political emotions and assign different moral weights to them in the absence of clear, shared guidelines. Here, as Miller himself recognises, Rawls's 'reflective equilibrium' is not sufficient to help him solve this problem, despite the fact that Miller's approach is based on that notion. This is because reflective equilibrium is a device for individual moral reasoning used in isolation from all others and, as such, citizens cannot possibly know others' approaches to selecting common moral intuitions and political emotions and assigning moral weight to them. In this light, Habermas's conception of communicative action is better suited to fill the gap in Miller's account of deliberative democracy, since it is an institutional mechanism for citizens to lay bare their different approaches to common moral intuitions and political emotions and transform them in order to arrive at a shared approach among all citizens through communication based on validity claims. This will reinforce my conclusion in Chapter 4 that Miller has to incorporate Habermas's conception of communicative action into his account of deliberative democracy, insofar as he fails to specify the scope of a shared public culture that would be sufficient for preserving the national community as a whole.

1. Miller's Approach to Political Theory

Miller's methodological stance on the formulation of political theory is laid out in *Justice for Earthlings* (2013), where he summarises his hitherto underdeveloped methodological commitments in clearer and more systematic form. He first rejects GA Cohen's approach to political theory, labelling it 'fact-insensitive,' insofar as it opines, 'where a political principle is said to be fact-dependent, there must be a further, fact-independent, principle that explains how the facts in question support the first principle' (Miller, 2013, p. 20). In contrast, Miller proposes a version of what he calls a 'fact-dependent' way of formulating political theory. According to him, political principles should be developed in such a way that 'citizens can act upon, not in the sense that they can fully implement them here and now, but in the sense that their present actions can be guided by the longer-term goal of realising the principles in question'—an invocation of Rawls's notion of 'realist utopia,' as Miller explicitly admits (Miller, 2013, p. 34).

As to what constitutes the 'fact' in fact-dependent political theory, he hints that it should fall somewhere between 'political feasibility' and 'technical feasibility.' On the one hand, political feasibility concerns whether certain proposals could command sufficient political support to be adopted on the basis of a range of conflicting interests in the political arena. This feasibility constraint is more ephemeral in the sense that the reception of certain proposals depends on the easily malleable and quickly changing interests within society. On the other hand, technical feasibility concerns 'whether a proposal contradicts physical laws or rock-bottom social or psychological laws,' which is not as easily modifiable as political interests (Miller, 2013, p. 36-7). However, this leaves the reader none the wiser, since it does not

clearly state which facts ought to be considered when formulating a political theory. Based on my reading of Miller's discussion of distributive justice and nationality, he seems to allow two types of facts to bear on his moral reasoning: common moral intuitions and political emotions.

Common moral intuitions here refer to the range of widely held and yet unclarified intuitions about morality in general within a society. Miller allowed common moral intuitions to bear on his theorisation of distributive justice in *Principles of Social Justice* (1999). As discussed in Chapters 1 and 2, he calls his own principles of distributive justice contextualist, because different distributive principles are matched with different distributive contexts defined in terms of the prevalent mode of human relationship within them. Accordingly, the principles of need, desert and social equality are matched with solidaristic community, instrumental association and the formal institutions of citizenship (Miller, 1999, p. 25-6). The contextualism of distributive justice aims to 'discover the practical principles that guide those (intuitive) beliefs,' rather than trying to find abstract principles that claim to 'underlie and inform people's intuitive judgments' (Miller, 1999, p. 22-4). As I understand it, this means that people's common moral intuitions are not passive factors to be explained by some abstract principle; they should actively contribute to the process of developing distributive principles.

A large body of literature on the topic of political emotions has accumulated over the years, including prominent figures such as Rousseau, John Stuart Mill, Rawls and Martha Nussbaum. These political theorists all focus on the question of how emotions could support shared political principles and social institutions within liberal societies. For instance, Rousseau bases the stability of a society on a 'civil

religion' consisting of 'sentiments of sociability,' so as to motivate sacrifices on the part of the citizens (Rousseau, [1762] 1987). In a similar vein, Mill talks of the importance of a 'religion of humanity' to be taught within society in order to motivate altruism (Mill, [1874] 1998), while Rawls endorses the idea of 'sympathy' initially nurtured within the familial environment to motivate citizens' support of just social institutions (Rawls, [1971] 1999, p. 64). Miller bases his theory of nationality on a specific type of political emotion—nationalist sentiment—in *On Nationality* (1995), *Citizenship and National Identity* (2000) and *Global Justice and National Responsibility* (2007). Miller uses a broadly encompassing notion, 'sentiment,' in discussing the reason for leaving nationalist sentiments as they are when formulating political theories in regard to nationality and distributive justice. I do not see the usefulness of this notion of 'sentiments,' since it is hardly enlightening as to which category of emotions are most relevant to the formulation of political theories. Having said that, Miller is not mistaken in his use of the general term when discussing his fundamental methodological stance on the formulation of political theories, which is Humean in nature. As he clearly says, 'by (Humean approach) I mean a philosophy which, rather than dismissing ordinary beliefs and sentiments out of hand unless they can be shown to have a rational foundation, leaves them in place until strong arguments are produced for rejecting them' (Miller, 2000, p. 25). Insofar as Hume treats the whole range of broadly defined human sentiments as important factors to consider in his political philosophy, Miller is not wrong in using the notion of 'sentiments' in affirmation of his methodological stance. However, I think Miller is more concerned with the category of human sentiment that is most relevant to realising social integration, motivating special obligations and preserving shared cultural values within society. Therefore, in this thesis I will not examine the

literature on political emotions specifically but will refer to it when it becomes relevant to my discussion.

As discussed in Chapters 3 and 4, ethical particularism suggests that an administrative state should aim to develop a common national identity and a shared public culture so as to motivate citizens' support for major social institutions within society (Miller, 1995, p. 90-7). As Miller argues, 'nationality answers one of the most pressing needs of the modern world, namely how to maintain solidarity among the populations of states that are large and anonymous such that their citizens cannot possibly enjoy the kind of community that relies on kinship or face-to-face interaction' (Miller, 2000, p. 31-2). Moreover, nationality could ground the special obligations among co-nationals because the obligations arise from and are integral to an intrinsically valuable human relationship within the national community (Miller, 2007, p. 35). In the sense that nationalist sentiments should be allowed to bear on our moral reasoning about the possible political arrangements in a globalising world, in Miller's theoretical framework people's attachment to their national communities should constrain the possibility of developing supranational organisations, subnational organisations and even global governance transcending national territories. That is to say, since nationalist sentiments supply an important sense of solidarity and motivate the discharge of special obligations among citizens, a new political arrangement that ignores nationalist sentiments would not be fact-dependent.

2. Critiques of Miller's Approach to Political Theory

Many theorists take issue with the precise way in which Miller allows common moral intuitions and political emotions to bear on his formulation of political theory.

I will firstly examine the two contrasting views of Swift and Mason. Mason believes that Miller allows common moral intuitions and political emotions to directly constitute the normative contents of his political theory, whereas Swift believes that Miller only allows them to widen the range of perspectives for him to consider before arriving at his own normative understanding. I will agree with Swift, insofar as common moral intuitions and political emotions do not directly ground Miller's political theory as normative premises in a strict logical chain of reasoning. Secondly, I will examine Swift's view that Miller allows common moral intuitions and political emotions to influence his moral reasoning as feasibility constraints. Based on Stears, Bader, Brock and Wenar's arguments, I will demonstrate that Miller's treatment of common moral intuitions and political emotions as feasibility constraints tends to display a conservative bias in the face of globalisation, insofar as he fails to clarify the exact way in which he selects and attributes moral weight to them in his moral reasoning about distributive justice and nationality. Lastly, I will consider Swift's observation that Miller allows common moral intuitions and political emotions to enter his moral reasoning in such a way that people affected by the political principles produced therein would be able to accept them. This interpretation brings to the fore the implications of Miller's failure to clarify his approach to common moral intuitions and political emotions for his account of deliberative democracy, in the sense that without any clear guideline, citizens of the same nation-state could not arrive at the very set of political principles which is to regulate their major social institutions.

First and foremost, according to Swift, Miller's stance treats facts as 'food for thought,' because, in Miller's moral reasoning, facts do not directly constitute the normative content of political theory, despite the fact that they supply different

perspectives on the issues at hand for Miller to consider. Nevertheless, considering that theorists are expected to consider as many perspectives as possible within society so as to arrive at their own normative understanding, the treatment of facts as ‘food for thought’ does not distinguish Miller’s methodological commitments from all others (Swift, 2003, p. 15-17). In stark contrast, Andrew Mason seems to think that Miller’s principles of distributive justice and theory of nationality support the idea of common moral intuitions and political emotions as the absolute trumping cards in moral reasoning. As he argues,

(D)oes he take it to imply that there is always a reason for believing that widely shared views are true or justifiably held, perhaps because a view’s being widely shared is evidence of its truth or of its being justifiably held? This does seem to be Miller’s position; for instance, he maintains that ‘a theory of justice needs to be grounded in evidence about how ordinary people understand distributive justice’ (Mason, 2003, p. 60-1).

As I read Miller’s remarks on the grounding of relations between facts and principles, he certainly does not mean to suggest that all common moral intuitions and political emotions should be taken at face value without proper reflection. Miller argues that there are three grounding relations between facts and principles: (1) entailment, (2) evidential grounding and (3) pre-suppositional grounding. First, grounding as entailment means that facts directly enter moral reasoning as the normative premises which will lead to specific principles in a strict logical chain. Second, evidential grounding means that ‘a fact supports a conclusion, not by entailing it, but just by providing evidence that makes it likely to hold.’ Third, pre-suppositional grounding means that certain facts are the necessary conditions for the principles to obtain. For instance, some principles are tailored to a very specific group of people or a particular context and cannot as such be applied beyond the specified scope (Miller, 2013, p. 21- 2). Mason seems to believe that facts can only enter moral reasoning

directly as normative premises, otherwise it is quite difficult to see how the above citation of Miller will necessarily mean that facts constitute normative principles. The citation is ambiguous and general at most. Once we acknowledge that there are evidential and propositional groundings other than grounding as entailment, Mason's critique collapses. Therefore, Miller's methodological stance on the formulation of political theory does not link common moral intuitions and political emotions as normative premises directly to political principles in a strict logical chain; rather, as Swift observes, his method coheres more with the idea that common moral intuitions and political emotions serve to broaden the range of perspectives on certain issues for theorists to consider. Nevertheless, this understanding does not capture the uniqueness of Miller's approach to political theory.

Secondly, Miller also invokes common moral intuitions as feasibility constraints on moral reasoning and seems to consider this invocation to be a distinguishing feature of his method. However, according to Swift, Miller has not explained how common moral intuitions determine which normative theory is feasible within a specific context (Swift, 2003, p. 18-19). As Swift argues, Miller's use of common moral intuitions and political emotions has not yet shone any light on how they constrain our moral reasoning about justifiable political principles. Indeed, although Miller's theories strive to meet the critical standard of Rawls's 'realistic utopia,' his overly general statement attracts criticism for its arbitrariness. As Miller says, 'Rawls's idea (of realistic utopia), I believe, is that by extending the limits of political possibility—exploring different ways in which societies might be reordered in the name of greater justice—we shall also come to a better understanding of the limits of the reshaping, and therefore become reconciled to those aspects of our condition that cannot be changed' (Miller, 2013, p. 31). Insofar as he places greater emphasis on the facts in

reality being a constraint on the formulation of the utopian ideals, Marc Stears disputes this emphasis, arguing,

Miller has gone too far in restricting the political theorists' scope for manoeuvre. For although he is absolutely right to highlight the need for theorists to appreciate both the structural and attitudinal preconditions for social justice, the particular account of those preconditions offered and the prescriptive guidelines for what theorists should do if those preconditions are not met are both unduly pessimistic (Stears, 2003, p. 30).

According to Stears, Miller's conservative bias manifests most notably in his choice of the three grounding presuppositions of distributive justice that serve to justify nation-states' continuous existence. These three grounding presuppositions are: (1) a theory of social justice should be formulated within a bounded society with a determinate membership, (2) there exists 'an identifiable set of institutions whose impact on the life chances of different individuals can be traced,' (3) 'there is some agency capable of changing the institutional structure in more or less the way our favoured theory demands.' On the basis of these three presuppositions, he argues that Miller's theory of distributive justice is closely bound up with the ethical significance of the nation-state (Stears, 2003, p. 31-2). Since so far only sovereign nation-states with a common national identity could simultaneously meet the three presuppositions, Miller's theory of distributive justice attributes a greater weight to the world as it is than to the world as it should be. However, Stears demonstrates with the example of 'the new nationalists' that Miller's prioritisation of the structural and the attitudinal preconditions for the development of the utopian ideal of justice does not fit with the historical struggle of the new nationalists. In the sense that the new nationalists in America who strove for more social justice did not have a pre-existing suitable structural and attitudinal context to support their attempts, the

malleable institutions and public opinions were gradually changed in favour of their reform proposals (Stears, 2003, p. 35-42).

In similar vein, many political theorists have voiced their concern with Miller's reluctance to recognise the impact of globalisation on our moral reasoning about the traditional nation-state. The idea is that the traditional nation-states are under increasing pressure from globalisation to move beyond national borders, so as to better fulfil their administrative functions in the following areas of issues: (1) the security of the rule of law and the effectiveness of the administrative state, (2) the sovereignty of the territorial state, (3) the collective identity, and (4) the democratic legitimacy of the nation-state (Habermas, 2001, p. 68-80). As a result, globalisation necessitates a reconfiguration of the political regime, if indeed such a thing exists, at the global level, in order to accommodate increasing supranational and even transnational interconnectedness. Nevertheless, Miller continues to be very much focused on a world order that consists primarily of separate sovereign nation-states based on socially integrated national communities, and has gone so far as to reject any positive proposal for the further institutionalisation of global citizenship.

In this light, Veit Bader is quite right to point out,

Miller's focus on the 'nation-state' and (traditional state) 'citizenship' does not explore the opportunities of multi-level polities and multi-level and multi-layered citizenship, of trans-national polities such as the EU and trans-national citizenship in particular, which provide promising opportunities to accommodate transnational and global shifts in affiliations, loyalties, identities and obligations (Bader, 2013, p. 175).

This, essentially, calls into question Miller's reliance on the traditional nation-state by reinstating a more dynamic picture of the ideal convergence between

administrative states and national communities. In other words, given that political emotions such as nationalist sentiment constrain the range of possible political arrangements, surely it is still possible to envisage a readjustment of the scope and authority of the administrative state in the face of the changing landscape of human association at the global level? Why can't nation-states adjust to the supranational and transnational interconnectedness created by immigration, the resurgence of religion, international commerce and so forth? In some contexts, it is natural for an individual to identify more with their religious group, enclave of fellow-immigrants and business partners than with their co-nationals. As might be expected, a Muslim would condemn the US's backing of Israel's aggression against the Palestinians (recall Trump's recent explicit recognition of Israeli occupation of the disputed territory against the will of the Palestinians); a Chinese immigrant will inevitably complain about the BBC's biased portrayal of the P. R. China that does nothing to correct prejudiced Western perceptions of a distant, newly emerging power; the CEO of a multinational corporation will defend his own and his foreign partners' business interests by lobbying against a rise in the corporate tax in the US. In certain contexts, all these shifts in allegiances and loyalties will continue to quicken, widen and deepen over time and will finally reach a tipping point whereby the administrative state is no longer able to bear the pressure.

Miller is likely to respond, either, (1) that transnational/supranational solidarities are not strong enough to threaten national communities either now or in the long term, or, (2) that it is morally undesirable to change the status quo of the world order. I will quickly dispense with the second response, since it is diametrically at odds with Miller's own methodological stance. As introduced in section 1, Miller's methodological commitment to taking serious account of common moral intuitions

and political emotions enables him to justify the ethical particularism of nationality on the ground that most people have an emotional attachment to their national communities. In light of the claim that globalisation has undermined traditional national communities, Miller suggests, ‘the issue...is not so much one of a quantitative weakening of nationality as of growing uncertainty about the cultural values and political principles that distinguish one nation from the next’ (Miller, 1995, p. 182). Therefore, the development of the democratic decision-making procedure at the supranational level will not lead to the erosion of the supremacy of nationality. As he argues,

Perhaps what we are witnessing is the slow emergence of new nationalities, such as European nationality, so that national identities will coexist at different levels...This would mean the passing of nationality as a simple, all-embracing source of political identity, but not of nationality as a differentiating factor which binds together a given set of people and makes them a community to the exclusion of outsiders (Miller, 1995, p. 159- 60).

It would seem from the above that Miller is quick to acknowledge the possibility that globalisation may alter the status quo of the world order. Moreover, he does not advance a strong normative claim that the world should be returned to the way it was. He simply doubts that supranational/ transnational solidarities will ever pose a threat to the supremacy of nationality. Nevertheless, it also suggests that there is a momentum embedded in his theory of nationality that cannot be limited to the pessimistic prediction that a supranational solidarity among EU citizens will not replace nationality as a distinctive feature of a certain group of people. I agree with Miller that nationality will not be eroded easily by the emergence of supranational/transnational interconnectedness, insofar as in general at all levels of human interaction, people require a common object of emotional identification in order to be motivated to shoulder all sorts of political obligations. Even if

supranational organisations such as the EU cause citizens' allegiances to shift gradually towards a political regime beyond that of the traditional nation-states, it will still not bypass the need for a common object of identification such as a shared European identity among EU citizens. However, this argument hardly serves to justify Miller's reluctance to support the positive proposal of a global citizenship based on deliberative democracy, because the development of newer democratic institutions, in conjunction with the diversification of people's allegiances and loyalties at all levels of human interaction, is exactly the dynamic picture Bader envisions.

In effect, Miller responds to the proposal for a global citizenship in the first way mentioned above, that is, (1) the political emotions of the people are such that there will not be a strong enough motivational base among them to support the institutionalisation of a supranational democracy and, (2) the structural conditions at the supranational level are such that democracy will not work in practice. Firstly, as he conclusively argues,

(W)hen asked about some practical question that requires them to choose between displaying national loyalty and displaying a European loyalty, large majorities of people across Europe will choose their nation... This pattern of response corresponds to a view of Europe as an association of states for mutual support rather than as a genuine community each of whose members acknowledges a responsibility for the welfare of the rest... It seems at present established national identities are more likely to be challenged from below... than eroded from above by people coming to identify themselves with large heterogeneous entities like Europe (Miller, 1995, p. 160, 161, 163).

In other words, the newer patterns of loyalties have not yet grown strong enough to challenge the supremacy of the established ones, usually at the sub- and/or the national levels. As such, at the supranational/transnational level, the people 'are not

involved in relations of reciprocity, whereby I may agree to promote your interest on this occasion on the understanding that you will support mine sometime in the future. Nor are they held together by communal ties or relationships of mutual trust' (Miller, 2000, p. 95). As a result, people cannot act responsibly as required by Miller's republican conception of citizenship. In the absence of a strong common identity, they cannot be expected to (1) advance claims based on sincerely held beliefs rather than as an expedient way of furthering personal interests and (2) be willing to moderate their claims in the hope of finding a common ground among them (Miller, 1995, p. 96-7). Therefore, supranational democratic institutions cannot be developed without a level of solidarity among people from different nation-states.

Secondly, Miller rejects the cosmopolitan democrats' proposal for a global citizenship on the ground that the structural conditions at the supranational level prefer the current world order based on the traditional nation-state. First and foremost, with regard to cosmopolitan democratic law, he argues, 'whatever the chances are that we create a more effective piece of machinery for conflict resolution, this still has to do with relations between states and nothing directly to do with citizenship...(And) where domestic protection of citizens' rights is feasible...citizenship is better served by constitutional reform within those states' (Miller, 2000, p. 92, 93). Then, with regard to the multi-level democratic decision-making procedure, he considers it almost impossible to define the relevant constituency for every common issue at the supranational level as these arise. Finally, with regard to global civil society, he claims that people from different nation-states cannot be seen as citizens proper at the supranational level, because they in no way belong to a determinate community. In other words, unlike citizens, people sharing a common conception of the good, such as the Greenpeace campaigners, do not

identify politically with a community but stand in a relation of reciprocity with other like-minded people (Miller, 2000, p. 94- 6).

I do not intend to address here these empirical claims, for they have already been extensively discussed by others and are not relevant to the point I am trying to make. Even if one accepts these claims at face value, it is still a far cry from accepting Miller's claim that a further institutionalisation of global citizenship is unfeasible, since he does not tell us the extent to which these feasibility constraints weigh on the decision to institutionalise global citizenship and how he selects the relevant facts as the said constraints. In fact, as Bader observes,

Miller does not live up to his own demand and recommendations to provide 'full reference to the circumstances of each society' but sticks to what could be called a kind of half-way contextualism. On the one hand, the book is crowded with the traditional philosophers' examples ('imagine', 'suppose', 'assume') meant to illuminate the theory instead of using the theory to analyse real world cases. On the other hand, many small or bigger real world cases are mentioned in passing, but none is really dealt with in any detail in the respective circumstances (Bader, 2013, p. 174).

This ambiguity of his methodological stance has a most noticeable implication for the ethical particularism of nationality and the contextualism of distributive justice. As discussed above, Miller is reluctant to support any positive proposal for global citizenship, despite his acknowledgment of the increasing pressure of globalisation and the diversification of solidarities at different levels of human interactions. In the absence of any formal institution of citizenship at the supranational/transnational level, Miller considers the global level a different distributive context from the domestic, in the sense that different distributive principles obtain at the domestic and the global levels. As noted in Chapter 2, according to Miller, social justice requires both the satisfaction of basic needs and the regulation of substantive inequality,

whereas global justice merely requires the former. Therefore, in a sense, Miller's insistence on ethical particularism combined with his bias towards the traditional nation-state determines the split-level conception of distributive justice. Even though it is difficult to refute here Miller's restriction of the regulation of substantive inequality to the domestic level on the basis of contextualism, it is still fair to question the list of basic human rights Miller settles on. He argues that a concept of basic human rights as the moral minimum of global justice should be arrived at through determining what counts as basic human needs. As he claims,

Basic needs...are to be understood by reference to this idea of a decent human life. They are the conditions that must be met for a person to have a decent life given the environmental conditions he faces. The list of such needs will include (but is not exhausted by): food and water, clothing and shelter, physical security, health care, education, work and leisure, freedom of movement, conscience, and expression (Miller, 2007, p. 184).

I agree with Miller that it is wise to keep the list of basic human rights open for the time being, given the possibility that it might grow in the future due to the continuing dialogue among different cultural communities. However, one can see that this list of basic human rights is shorter than what many human rights theorists would care to accept, insofar as it excludes civil and economic rights for instance. Miller recognises this and explicates it on the ground that cultural diversities at the global level make it hardly feasible to expect all nation-states to arrive at the same list of basic human rights. As the conception of basic human needs is defined by both the 'physical-cum-biological conceptions of harm' and the social norms, and the latter varies greatly from one society to another, 'although we should generally expect societies to recognise these needs, and to incorporate them into their fuller conceptions of societal needs, this may not always be the case' (Miller, 2007, p. 184-5). This line of argument is sound to the extent that cultural differences do make it

practically unfeasible to arrive at a common conception of basic human needs in the short term. However, agreeing on a list of basic human needs defined primarily by the ‘physical-cum-biological conditions’ and keeping it open for further convergence of different social norms carries with it a momentum that is hard for Miller to contain. Insofar as what restricts the length of the list of basic human rights is the lack of common social norms among different nation-states, continuing cultural exchange could solve this problem in the long term. Even if we put aside this possibility for the moment, it is curious how Miller can determine the length of the list without any discussion of the empirical evidence that shows precisely what a human being requires to live a minimally decent life in the physical-biological sense and what the shared normative consensus on the standard of decency is at the global level.

For instance, Gillian Brock points out the conceptual link between the existence of democratic institutions and the nation-states’ abilities to take collective responsibility for their decisions. According to her, Miller has not realised the importance of human rights to political participation, in the sense that the citizens’ entitlement to participate in collective decisions directly determines the possibility of their taking collective responsibility as a nation-state. As she observes,

Quite noticeably absent from Miller’s list of basic rights is a basic right to equal participation in politics...but how, we might wonder, are those in poor countries to be able to take more responsibility for their own development or actions and policies adopted by their governments if (1) they have no ability to influence who gets to represent them or makes decisions on their behalf, (2) the governments may conduct their affairs in any way they wish...(3) when there is no expectation concerning the flow of information, let alone accountability, to the people they govern, and so forth? (Brock, 2013, p. 68)

As discussed in Chapter 2, Miller's conception of global justice relies on the idea that all nation-states should take responsibility for their decisions that have distributive implications. Here, Brock essentially questions Miller's own rationale of developing a list of basic human rights. Insofar as national responsibility operates under the assumption that the global moral minimum protects the basic conditions for individual human beings to live a minimally decent life, the fact that nation-states are held responsible for those of their decisions that have distributive implications suggests that all conditions are met for individuals to take responsibility for their nation-states' collective decisions. Nevertheless, according to Brock, in the absence of any resemblance of a democratic decision-making procedure in place, people in the developing countries cannot be held responsible for Miller's notion of national responsibility. The empirical evidence shows, 'if we want and expect people in developing countries to take responsibility for their own prosperity, we have to help them put in place the architecture that makes this possible, especially when they ask for our help in trying to do so' (Brock, 2013, p. 68). Therefore, in order to maintain internal consistency, more items related to equal participation in politics should be added to Miller's list of basic human rights. Of course, as discussed in Chapter 2, Miller could dispute this claim on the ground that national responsibility is based on nation-states being both communities of like-minded people and collective cooperative schemes. This is to say that individuals could be held collectively responsible for their nation-states' decisions even if there are no democratic institution in place, because they are a community of like-minded people sharing a public culture. However, Brock's emphasis on the link between democratic institutions and the people's ability to take collective responsibility for their nation-states' prosperity still holds. Until Miller finds a way to clarify how he selects

relevant facts for his moral reasoning and how the chosen facts bear on his conclusion, his political theory will continue to be open to critiques like this.

Perhaps, as Leif Wenar points out, more damaging to Miller's theories is the fact that without any explication of the specific way in which the duty to protect a limited list of human rights is grounded in respect for the moral equality of human beings, the duty to regulate substantive inequality could logically be brought back into the picture. As he says, 'theorists (like Miller) lean heavily on the equal dignity and importance of each human life, especially when they are opposing human rights sceptics... These theorists then find it difficult to contain the momentum of their own arguments, which pull them toward a positive commitment to substantive equality among individuals' (Wenar, 2013, p. 32). Recall that Miller uses the metric problem to oppose the cosmopolitans' proposal for the regulation of substantive inequality at the global level, arguing that there are not enough shared cultural values to formulate a common conception of substantive equality in material terms. Therefore, the lack of shared cultural values at the global level grounds both the objection to the regulation of substantive inequality at the global level and the short list of basic human rights. Miller's failure to clarify the exact way in which common moral intuitions and political emotions bear on the formulation of distributive principles will bring the relevance of the regulation of substantive inequality back into relevance.

The discussion above shows that Miller's methodological commitment to capturing common moral intuitions and political emotions does not treat the facts of our current world order as the direct normative premises for moral reasoning about what it should be. Its fault seems to lie in Miller's failure to clarify the way in which the

morally relevant facts are selected and thereby bear on the process of moral reasoning. This ambiguity contributes to (1) the contradiction between Miller's acknowledgement of the increasing pressure of globalisation and his reluctance to support any positive proposal for global citizenship and (2) the seemingly arbitrary formulation of the human rights regime at the global level. Above all, as the criticisms of Miller demonstrate, the said ambiguity also leads to the difficulty of initiating a fruitful communication between Miller and his critics, in the sense that there is no particularly clear vantage point from which to criticize Miller's theory of distributive justice and nationality without firstly grasping the technical aspect of his approach to the facts of the world as it is.

In light of the ambiguity of how Miller assigns moral weight to common moral intuitions and political emotions in moral reasoning, Swift's discussion is very enlightening with regard to the last way in which Miller's methodology is fact-dependent. This approach does not test the validity of political principles directly against common moral intuitions and political emotions; rather it requires political theorists to conduct moral reasoning in the hope that the political principles thus produced could be justified to the common people under appropriate conditions. As Miller explicitly says,

A political philosophy that presents itself to any given society as realistically utopian must contain principles that members of that society could be brought to accept by reasoned discussion, which means that the principles cannot have implications that those citizens would find abhorrent. This doesn't mean that the principles must be accepted immediately they are laid out...political philosophy should be in the business of changing political attitudes, of showing people what their convictions mean when applied consistently to political questions (Miller, 2013, p. 37).

In other words, the validity of political principles does not rest on its immediate acceptance by the people and thereby on their strict adherence to common moral intuitions and political emotions, as long as they could be somehow justifiable to the people.

In a sense, the third way essentially reveals at least a part of Miller's intention for political theorists to act as mediator between the laymen's common moral intuitions and political emotions and the justifiable political principles that are supposed to be legally institutionalised by the administrative state. If this reading of Miller is correct, then there arises a concern with the role of the political theorists vis-à-vis the laymen in (1) conducting moral reasoning at the individual level and (2) deliberating about political principles that should regulate major social institutions at the societal level. With regard to the political theorists' role in conducting moral reasoning at the individual level, Miller envisions an equal relation between political theorists and the laymen who similarly aim to translate common moral intuitions and political emotions into appropriate political principles that are justifiable to all citizens. As Swift observes, Miller finds it unacceptable to defend the absolute authority of professional philosophers over laymen in a contemporary world defined by increasing cultural pluralism. I quote the enlightening passage in full:

As Miller says: "the notion that philosophers can discover truth by means not available to lay persons is even more difficult to defend today than it was in Plato's time." But that notion has not been defended. The means available to philosophers are also "available" to laypersons. If there is a difference, it is that philosophers have the time and interest to learn and apply them systematically (Swift, 2003, p. 26).

In other words, political theorists and laymen are on an equal footing when conducting moral reasoning about political principles on the basis of Miller's method.

Since to Miller an individual's moral reasoning about political principles is conducted in isolation from all others, it is likely that their political principles will be drastically different from each other. In this light, how do individuals, political theorists and laymen alike, arrive at a set of political principles that could be justifiable to all and, as such, should be legally institutionalised to regulate their major social institutions within the nation-state? I wish to clarify that to pose this question is not to confuse the discussion of the validity of political principles within academia with the public deliberation about political principles that should govern major social institutions within a nation-state. I do realise that there are two different lines of discussion with the justifiability of the political principles as the subject matter, and they each have different standards of justifiability. The review of the critiques of Miller has so far focused on the discussion within academia. As I concluded in relation to Swift's discussion of Miller's approach to common moral intuitions as feasibility constraints, it exposes Miller's failure to clarify the way in which facts bear on his moral reasoning about political principles. However, Miller's failure to clarify his methodological stance adds certain nuance to his account of public deliberation within a nation-state. If Miller's methodological stance is a mechanical process with a set of guidelines clearly laid out for selecting the morally relevant facts and weighing their moral significance in relation to all political issues, it would be logical for him to argue that all citizens ought to follow this process and arrive at the one and only set of political principles to be legally institutionalised at societal level. However, this is not the case. Miller's own failure to clarify his method owes to a great extent to the fact that individuals will naturally choose different facts as morally relevant and allows them to bear on their moral reasoning differently in relation to different issues.

I believe this is partly why Miller's account of deliberative democracy requires all citizens to participate in public deliberation on an equal footing, insofar as the differences in the selection of facts and the attribution of their moral weights in relation to different issues make it virtually impossible to justify a set of political principles to citizens without there being actual communication among them. In other words, there is no way to know which political principles would be justifiable to all citizens *ex ante* because no one can predict others' approaches to common moral intuitions and political emotions without engaging in direct communication with them. Recall the two conditions of deliberative democracy: (1) the advancing of sincerely held claims and (2) the willingness to moderate one's own claim. In *Citizenship and National Identity* (2000), Miller restates the first condition differently than he does in *On nationality* (1993), which is more to the point here. As he claims, 'all that is necessary in order to embark on political dialogue is a willingness to find reasons that can persuade those who initially disagree with us, and one cannot say *a priori* how abstract those reasons will have to be' (Miller, 2000, p. 55). By agreeing to find the reasons for my argument, I already recognise my co-deliberators as being my equal, in the sense that I believe in their ability to arrive at a set of political principles worthy of my consideration. Moreover, the abstractness of my argument varies in the face of different political issues and different co-deliberators. The reason for this must be that I cannot know for sure what counter-arguments my co-deliberators would advance in response to mine on the basis of their own approaches to common moral intuitions and political emotions. In order to show my respect for the co-deliberators as equals, I have to engage in actual communication to find out how they choose the facts and allow them to bear on their moral reasoning.

3. The Need for Miller's Account of a Deliberative Democracy to Incorporate Habermas's Conception of a Communicative Action

In light of the discussion at the end of the previous section, I want to focus here on expanding on the implications of Miller's methodological stance on individual moral reasoning for his account of public deliberation within nation-states, since this is closely related to my argument in Chapter 4 that Miller's account of the nation-building process through deliberative democracy should incorporate Habermas's notion of communicative action. In the following, therefore, I will demonstrate that Miller's difficulty in clarifying how one selects the relevant facts and assigns moral weight to them necessitates a deliberative process which would allow citizens to clearly lay out their different approaches to common moral intuitions and political emotions in society and, on the basis of these different approaches, debate the most appropriate political principles regulating major social institutions. In a sense, the said difficulty for Miller at the methodological level is coextensive with the difficulty of specifying the scope of a shared public culture that would be sufficient for preserving a national community at the level of principle, because the formulation of a theory of nationality also faces the same problem with specifying *ex ante* the way of selecting the common moral intuitions and political emotions relevant to the moral reasoning about nationality and assigning moral weight to them.

Before arguing for the abovementioned deliberative process, it is imperative to understand the contrasting relationships between Miller and John Rawls on the one hand, and Rawls and Habermas on the other. Regarding the first, Miller often professes to have inherited from Rawls the method of individual moral reasoning—

the 'reflective equilibrium.' Miller argues that one has to rely on reflective equilibrium in order to ground his/her normative ideals in reality, in the sense that 'the aim is to achieve an equilibrium whereby the theory of justice appears no longer as an external imposition conjured up by the philosopher, but as a clearer and more systematic statement of the principles that people already hold' (Miller, 1999, p. 51). Secondly, the reason for discussing the relationship between Habermas and Rawls is that the two of them are contrasting figures in the academic response to the impact of increasing cultural pluralism on the possibility of asserting normative truth within liberal society. As Habermas observes in his famous debate with Rawls, both he and Rawls are responding to the contemporary conditions of cultural pluralism within liberal society:

The required consensus on issues of political justice can no longer be based on a settled traditional ethos that encompasses the whole of society. Yet members of modern societies still share the expectation that they can live together under conditions of fair and peaceful cooperation. In spite of the lack of a substantive consensus on values rooted in a socially accepted worldview, they continue to appeal to moral convictions and norms that each of them thinks everyone else should accept (Habermas, 2011, p. 95).

In the face of these 'modern conditions' defined by the difficulty of asserting normative truth when there is no longer any unquestionable consensus on the norms among citizens, Rawls opts for a convergence among citizens based on a shared political conception of justice grounded in different normative reasons, whereas Habermas attempts to revitalise a deliberative process that will discover the political principles on the basis of shared normative reasons. Through the discussion of these two relations, I want to show that Miller's methodological stance should somehow move closer to Habermas, in order to add to his account of public deliberation with the latter's detailed design of a deliberative process that could enable citizens to

reach a consensus based on clearly laid-out normative reasons, despite Miller's reliance on Rawls's method of individual moral reasoning.

Let me start with the relationship between Miller and Rawls. Here, Miller inherits most of the latter's method of reflective equilibrium while criticising its insensitivity to other people's opinions. As Miller understands reflective equilibrium, we start with a 'considered judgment' that we hold sincerely and independently of our self-interests, and gradually transform it by comparing it with the prevalent philosophical debates within our society. When, after due consideration, we are convinced that our own considered judgments are coherent with each other and with the prevalent philosophical debates, a reflective equilibrium has been reached. Nevertheless, reflective equilibrium is a thought process conducted exclusively at the individual level. As Miller argues, 'the 'considered judgments' that form the starting point for this process are the judgments of one particular person; it immediately follows that the reflective equilibrium that emerges is also an equilibrium only for the person who has engaged in the thought-process Rawls describes' (Miller, 1999, p. 55). According to Miller, reflective equilibrium alone as a method for individual moral reasoning is unsatisfactory, because 'looking at what other people believe about justice, and in particular trying to understand when people disagree and what the grounds of their disagreement are, are integral to the process of deciding which of my own beliefs deserve to be taken as 'the fixed points of my considered judgment'' (Miller, 1999, p. 56).

In response to the supposed insensitivity of reflective equilibrium to other people's moral intuitions and political emotions, Miller develops his own methodological stance on political theory, which explicitly requires individuals to take serious

account of common moral intuitions and political emotions within a nation-state. I do not see how this method alone could remedy Rawls's method of reflective equilibrium, insofar as the differences between each citizen's approach to selecting relevant common moral intuitions and political emotions and assigning moral weights to them make it practically impossible for each to know where their disagreements lie and whether they would arrive at the same set of political principles in the end. Miller's own selection of the relevant common moral intuitions and political emotions, for instance, relies on reviewing the social scientific works on public opinion on certain political issues, as exemplified in *Principles of Social Justice* (Miller, 1999, Chap. 4). Nevertheless, this does not change the fact that citizens might rely on different scientific researches, derive different meanings from the same piece of research, and allow the inferences drawn from the scientific researches to bear on their conclusions differently. As suggested earlier, the only solution is to resort to a deliberative process that will allow each citizen to clearly lay out his/her approach to common moral intuitions and political emotions, and transform each of these in light of all the others. Through public deliberation, each citizen could not only develop his/her own perception of others' common moral intuitions and political emotions—which might be distorted by lack of sufficient information as well as personal biases—but also take note of others' actual common moral intuitions and political emotions.

The contrast between Rawls's and Habermas's methods of formulating political principles in the face of increasing cultural pluralism suggests that Habermas's conception of communicative action is a better account of the mechanism through which citizens could clarify and, thereby, debate their approaches to common moral intuitions and political emotions in order to reach a common ground among them. In

comparison with Rawls's method of reflective equilibrium—which focuses exclusively on individual moral reasoning in isolation from all others—Habermas's conception of communicative action requires at the most fundamental level an uncoerced and equal communication among interlocutors oriented towards agreement. As discussed in Chapter 3, a communicative action occurs when 'actors in the roles of speakers and hearers attempt to negotiate interpretations of the situation at hand and to harmonise their respective plans with one another through the unrestrained pursuit of illocutionary goals' (Habermas, 1996, p. 18). As I understand it, there are three interrelated normative claims supporting a communicative action: (1) we should presume that there is an objective world outside of our mind, (2) the only way to understand the objective world is through repeated discursive practices and, (3) no one has absolute authority to advance a truth claim in isolation from others. Firstly, interlocutors have to assume the existence of an external world of objects in order to refer to them according to different linguistic descriptions. As Habermas claims,

On the one hand, linguistic practice itself must make it possible to refer to language-independent objects about which we assert something. On the other hand, the pragmatic presupposition of an objective world must be a formal anticipation if it is to ensure that any subject whatever—rather than just a given community of speakers at a given time—be able to refer to a common system of possible referents and to identify independently existing objects in space and time (Habermas, 2003, p. 33).

The phrase, 'formal anticipation,' in the quote seems to refer to the idea that the world of objects exists in our constant reference to and evolving understanding of it through communication based on improved empirical knowledge. Secondly, based on the presupposition of an objective world in formal anticipation, any claim on the normative truths could only be redeemed through repeated discursive practices. As Habermas argues, 'argumentation remains the only available medium of ascertaining truth since truth claims that have been problematised cannot be tested in any other

way' (Habermas, 2003, p. 38). Therefore, any assertion of truth carries with it the possibility that it can and will be challenged and falsified in the future by our continuous experiences of the external world. Finally, the third normative claim is that no one has privileged access to truth. In Habermas's words, 'because no one has direct access to un-interpreted conditions of validity, 'validity' (*Gultigkeit*) must be understood in epistemic terms as 'validity (*Geltung*) proven for us.' A justified truth claim should be able to gain the rationally motivated agreement of the interpretation community as a whole' (Habermas, 1996, p. 14). As such, interlocutors have to be prepared to give reasons for the normative truth they assert in a communicative action and be open to others' challenge and refutation.

In this light, Habermas's conception of communicative action is more suitable than Rawls's method of reflective equilibrium for remedying Miller's failure to clarify the way in which citizens are able to present their different approaches to common moral intuitions and political emotions. The reason is three-fold. Firstly, given that a communicative action has to rely on the presupposition of the existence of an objective world, Miller's notions of nationality and distributive contexts could be recognised through the process of a communicative action as the normative truth asserted on the basis of the experiences of the external world. Secondly, nationality and distributive contexts as the normative truth could only be accessed through discursive practices on the basis of citizens' different interpretations of them. Lastly, no one is privileged over others in the deliberative process, since each citizen assumes the obligation to justify their interpretations of the common nationality and the distributive contexts to others. This is consistent with Miller's account of deliberative democracy in general because his account requires all citizens to have equal entitlements to participate in public deliberation (Miller, 2000, p.53). Hence, a

communicative action could help Miller better explain the deliberative process, which would allow all citizens to clarify their particular approaches to selecting relevant common moral intuitions and political emotions and assigning moral weights to them.

Conclusion

In this chapter, I set out to examine the validity of Miller's contextualist approach to political theory. Insofar as the discussions in the previous chapters all presuppose that Miller's methodological commitment is sound, this chapter serves to test this assumption in the face of Miller's critics. As I interpreted it in section 1, Miller's approach to political theory aims to take serious account of common moral intuitions and political emotions at all levels of moral reasoning. As the critiques of Miller in section 2 show, however, he is unable to clarify the way in which common moral intuitions and political emotions are selected and weighted in his moral reasoning about distributive justice and nationality. This will impact adversely on the validity of his substantive principles, in the sense that he will neither supply a vantage point allowing other political theorists to engage in fruitful dialogue with him, nor invite criticism of his theories as being downright arbitrary. More importantly, as shown in section 3, at the institutional level, his account of deliberative democracy will encounter a similar problem, because it is practically implausible for citizens to arrive at a shared set of political principles in the absence of an institutional mechanism whereby they may give an account of their different approaches to common moral intuitions and political emotions.

In this light, Miller needs to incorporate Habermas's conception of communicative action, since the latter provides a detailed account of the mechanism through which interlocutors transform their originally subjective interpretations of the external world and arrive at a shared normative understanding. This essentially reinforces my conclusion in Chapter 4 that Miller's failure to specify the scope of the shared public culture sufficient for preserving a national community makes it necessary for his account of deliberative democracy to incorporate Habermas's conception of communicative action. Here the argument goes a step further, as it proves the same point at the methodological level. By incorporating Habermas's conception of communicative action, Miller's account of deliberative democracy will place great emphasis on people's equal rights to participate in public deliberation to hold regulative norms and values accountable to themselves. As shown in section 3, this belief is already in agreement between Miller and Habermas. This implies that a plausible account of global citizenship should also secure all human beings' equal rights to participate in the global public deliberation, if we expect the global regulative norms and values to be justifiable to all human beings, as free and equal moral agents. This is the first guiding principle of the global public deliberation. In the next chapter, I will show the consistency between Miller's account of deliberative democracy and Habermas's conception of communicative action.

Chapter 6:

Habermas's Conception of Communicative Action and the Role of Common Moral Intuitions and Political Emotions

Introduction

I demonstrated in the last chapter that Miller's account of deliberative democracy needs to move closer to Habermas's conception of communicative action in order to explain how citizens could arrive at shared principles of justice on the basis of different approaches to selecting and assigning moral weights to common moral intuitions and political emotions. This conclusion brings to the fore the question as to whether Habermas's conception of communicative action could agree with Miller's account of deliberative democracy at the conceptual level. In other words, could Habermas take serious account of common moral intuitions and political emotions? The conception of communicative action aims to salvage a sense of normative truth from the difficulty posed by increasing cultural pluralism. It consists in the conviction that no one has privileged access to truth, and normative truth can only be approximated through discursive practices on the basis of justifiable validity claims. It is clear in this sense that Habermas's entire project is oriented towards a procedure for laying bare all the interlocutors' relevant common moral intuitions, and transforming these so that a shared normative truth may emerge in the end. However, at first glance, the same cannot be said about political emotions since throughout his works, Habermas has relatively little to say about them. Therefore, in this chapter, I wish to focus exclusively on political emotions and take it as a given that Habermas's conception of communicative action is in accord with Miller's methodological commitment to capturing common moral intuitions at all levels of

moral reasoning. In this thesis, emotional expression refers to the three modes of human communication identified by Young as the alternatives to rational argumentation: greetings, rhetoric and narrative. In contrast to rational argumentation, I call them emotional expression because Young seems to consider them as being the opposite of the ‘dispassionate’ arguments that tend to ‘denigrate emotions’ (Young, 2000, p. 39, 63).

I will demonstrate in this chapter that Habermas’s conception of communicative action could allow political emotions to bear on our moral reasoning about political principles and social institutions. In section 1, *contra* many constitutional patriots, including Lacroix, Markell and Shabani, I will demonstrate that Habermas’s conception of communicative action could allow political emotions to bear on our moral reasoning about political principles and social institutions because the stability of a shared lifeworld requires an affective identification among citizens. In section 2, *contra* liberal multiculturalists such as Young, I will demonstrate that communicative action could allow political emotions to bear on our moral reasoning. In response to Young’s claim that the conception of communicative action prioritises rational argumentation and excludes emotional expression by making an arbitrary distinction between the illocutionary and the perlocutionary aspects of language use, I will show that in his later career, Habermas dealt with this problem in two ways. First, he downplayed the importance of the distinction between the perlocutionary and the illocutionary aspects of language use. Second, he came to define the difference between communicative and strategic action on the basis of interlocutors’ intention to reach agreements.

1. Examining the Constitutional Patriots' Interpretation of Communicative Action

Many, but not all, constitutional patriots believe that political emotions should not be allowed to bear on our moral reasoning about political principles and social institutions; otherwise it might run the risk of compromising the internal coherence of Habermas's theory. Of these, Justine Lacroix argues forcefully that Habermas's recent writings in regard to a set of shared European values have strayed from his earlier conception of communicative action that serves more as a self-critical process of integration regardless of particular values. As she observes,

Habermas's concept of constitutional patriotism could initially be understood not so much as a static definition – i.e. the adhesion to some universal political principles – but rather as a process of continuous integration of the values shared by a specific community through the prism of a small set of universal norms...However, if we examine Habermas's recent analysis of the future development of Europe, there are hardly any traces of this initial dimension...The emphasis put on 'European values' is...governed by some form of political necessity since Habermas considers that there is no risk that this way of gearing identity to historically evolved collective identities might be understood substantively. For him, the danger is rather that European commonalities might have too little substance (Lacroix, 2009, p. 144, 145, 146).

Therefore, focusing on the dynamic momentum embedded in Habermas's initial conception of communicative action as a self-critical process, Lacroix endorses a different prognosis for the European Union, which she calls 'European post-nationalism.' As she explains,

European 'post-nationalism' does not imply the emergence of a larger scale identification process, which might deprive the European project of its uniqueness and specificity as a new political entity founded on a deliberation and confrontation process among distinct peoples and distinct political identities...In that sense, one is 'European' not because one adheres to a set

of ‘common values’ but simply because one is not discriminated against when one is in another member state (Lacroix, 2009, p. 153, 154).

In other words, constitutional patriots like Lacroix consider their ‘post-nationalism’ to be a more logical extension of Habermas’s conception of communicative action for the European Union than the latter’s own prognosis. Essentially, they both maintain that communicative action could effectively decouple individuals from their identification with a particular group.

In similar vein, Patchen Markell argues that Habermas’s strategy to redirect citizens’ identification with their particular associations toward a set of universal constitutional principles still relies on people having an affective identification. A logical extension of his conception of communicative action would be to resist affective identification altogether. He begins with Habermas’s ‘redirection strategy,’ claiming in the broadest terms that Habermas strives to close the gap between post-national identities associated with universal principles and affective group identities by developing a type of new identification through communicative action based on particular normative values. This strategy will work insofar as it is founded in a set of universal principles rather than a concrete historical community and, as such, will not by default be conducive to irrational, anti-democratic hostility towards all those labelled as outsiders. Markell points out that this strategy has to rely on a shared normative understanding—especially a shared political culture—which is pre-political insofar as,

The content of the constitution and the particular interpretations that constitution has been given over a long history of adjudication the political history of the country; the symbols, songs, events, dates, and people who capture our political imagination; the patterns and structures of civil society; the vocabularies of political analysis and polemic; the ‘national fantasies’ that ‘circulate through personal/collective consciousness’—all these and

more constitute a cultural inheritance that the demos did not choose (Markell, 2000, p. 52).

As a result, the new post-national identity will become similar to the traditional one, in the sense that it will also contribute to irrational exclusion on the basis of the endorsement of a particular political culture, *et cetera*, and hostility towards perceived outsiders. In contrast, more consistent with the rationale of communicative action as Habermas conceived it in his earlier career is the depiction of an open-ended deliberative procedure that resists the very identification upon which it is based (Markell, 2000, p. 40). In agreement with Markell, Omid Shabani endorses a similar interpretation of a communicative action that rejects affective identification. As he claims,

The traditional sense of belonging constitutes a fixed concept of identity that is centred on a national, ethnic, linguistic, or religious feature as the common denominator of political association, while the very point of continuous deliberation is to revise and renew the political bond of unity. From this perspective, therefore, constitutional patriotism need not be seen as what replaces conventional identity with post-conventional identity, but what, in fact, in continuity with the diversity and pluralism of our time, resists creating a fixed identity altogether (Shabani, 2002, p. 441).

Lacroix, Markell and Shabani share the conviction that, once legally institutionalised, communicative action could without fail develop a sense of solidarity among citizens at any level. Lacroix is most explicit about this belief when she argues that the point of a deliberative process at the European level is to arrive at a common understanding, regardless of the differences between EU citizens. Markell and Shabani are more modest in this respect, as they merely place more priority on the continuing resistance against a fixed identification over the confirmation of the shared normative understandings. In this light, Habermas seems to hold a different view to Lacroix, Markell and Shabani because he believes that the stability of the

democratic institutions at the European level hangs on the discovery and preservation of shared European values among people from different member states. In a sense, Habermas considers it important to respect the affective identification among citizens of the same nation-state and aims to merely expand this particular identification at the EU level through developing sufficient cultural commonalities. *Pace* Lacroix, Markell and Shabani, I will show that there is no inconsistency between Habermas's conception of communicative action and his prescription for the European Union, because the stability of a shared lifeworld among the EU citizens requires an affective identification among these citizens that could only be provided by sufficient cultural commonalities.

Habermas's conception of communicative action facilitates 'a self-controlled learning process' enabling citizens to negotiate different interpretations of the external world on the basis of validity claims through the 'unforced agreement of all those involved' as free and equal moral agents (Habermas, 1991, p. 186). This self-controlled learning process will in the long term resemble what Habermas calls a 'social evolution' that advances our understanding of the external world through the fallible approximation of truth within specific contexts. According to Klaus Eder's understanding of communicative action, Habermas develops this conception in order to transform separate individual learning processes into a collective learning process involving the society as a whole through a particular use of language (Eder, 2007, p. 401). During the collective learning process, communicative action has to rely on a shared normative background, which Habermas calls a 'lifeworld.' As I discussed at length in Chapter 3, lifeworld serves as the shared normative background among interlocutors against which all validity claims can be evaluated. Through every successful communicative action, new normative understandings about the external

world would be incorporated into the lifeworld, and interlocutors would form a more complex interpersonal relationship. In a way, the expansion of interpersonal relationships is closely related to the enriched lifeworld. In Habermas's words, 'language itself supplies the primary source of social integration' (Habermas, 1996, p. 18). This means that the normative understanding about the external world is particular to the group of interlocutors who actually participate in a communicative action in order to negotiate their different interpretations. Hence, when a societal-level communicative action is at stake, it is easy to picture a clash between different groups of citizens who hold different lifeworlds and nonetheless presume that their own lifeworlds are already shared among all the citizens, insofar as the scale of this communicative action is extremely large.

The inevitable clash between different lifeworlds in the process of transforming individual learning processes to collective ones at the societal level implies that the lifeworld shared by a certain group of interlocutors has to open itself to contestation and then, equally importantly, close for stability. It needs to open to contestation because, starting from the individual level, a lifeworld has to be continually enriched in order to be shared collectively among the whole society, thereby cementing the interpersonal relationships among citizens. On the other hand, it has to close again once the scale of communicative action has reached the societal level in order to have any validity at all among all citizens. As Habermas explains,

What lends (lifeworld) its peculiar stability and first immunises it against the pressure of contingency-generating experiences is its unique *levelling out of the tension between facticity and validity*: the counterfactual moment of idealisation, which always overshoots the given and first makes a disappointing confrontation with reality possible, is extinguished in the dimension of validity itself. At the same time, the validity dimension, from which implicit knowledge acquires the intuitive force of convictions, remains intact as such (Habermas, 1996, p. 23).

In Habermas's theory, facticity refers to the authoritative status of norms and values that it expects citizens within society to obey, whereas validity refers to the legitimacy of norms and values that could only be established through communicative action. As a shared normative background, lifeworld has to have authoritative status in order to serve as a settled and unquestionable source of knowledge for interlocutors. At the same time, as a normative construct it has to be open to contestation. The seemingly paradoxical character of a shared lifeworld makes sense if we accept Habermas's claim that the facticity aspect of a lifeworld would remain intact until some problematic aspects of its validity are thematised and contested by interlocutors. What is more important, the lifeworld will return to its originally authoritative status once the contestation is resolved. Therefore, contestation and stability are both significant halves of the nature of a lifeworld and neither could exist independently of the other.

Therefore, Habermas's prescription for the European Union is consistent with the abovementioned fact that a communicative action needs to open to contestation and close for stability. In *The Crisis of the European Union* (2012), Habermas suggests that the European Union is currently in crisis because of the member states' reluctance to further institutionalise democracy and reinforce a supranational legal system at the EU level. As he argues,

Given the unprecedented gravity of the problems, one would expect the politicians to lay the European cards on the table without further delay and to take the initiative in explaining to the public the relation between the short-term costs and the true benefits, and hence the historical importance of the European project. In order to do so, they would have to overcome their fear of shifting public moods as measured by opinion polls and rely on the persuasive power of good arguments (Habermas, 2012, p. 6).

In order to persuade those sceptical of the European project, he rests its viability on two pillars: (1) the civilising power of the law and (2) the mutual trust supplied by common European values. First, in response to the objection that there is no European demos supporting the further institutionalisation of democracy, Habermas suggests that domestically 'juridification develops not only a rationalising but also a civilizing force insofar as it divests state violence of its authoritarian character and thereby transforms the character of the political as such' (Habermas, 2012, p. 8). Internationally, 'by curbing the anarchic competition for power and promoting international cooperation, this pacification also makes it possible to establish new supranational procedures and institutions for political negotiation and decision-making' (Habermas, 2012, p. 10). Second, Habermas also claims in *The Postnational Constellation* (2001) that, in order to cement a sense of solidarity, the European Union has to rely on common values among different peoples. This sense of solidarity is indispensable to the integration of the institutions in their economic, political aspects, et cetera. As Habermas says,

If Europe is to be able to act on the basis of an integrated, multilevel policy, then European citizens, who are initially characterised as such only by their common passports, will have to learn to mutually recognise one another as members of a common political existence beyond national borders. They must not 'suspect members of other European nations of 'unreasonable' harm to 'our' interests,' whether measured 'by intention or result' (Habermas, 2001, p. 99).

In order to instil a sense of solidarity among the citizens of Europe, Habermas relies on a collective learning process at the EU level in order to create a new locus of identification beyond member states through discussing the legitimacy of common European issues in the formal and the informal public spheres. During this process, the lifeworlds of the different peoples need to open to contestation so as to incorporate new normative understandings about supranational institutions and,

equally importantly, close again for the stability of a shared normative background among citizens. This newly expanded lifeworld shared among European people will ‘encompass a series of specifically European experiences,’ and consist primarily in ‘an egalitarian universalism that can ease the transition to post-national democracy’s demanding contexts of mutual recognition for all of us—we, the sons, daughters, and grandchildren of a barbaric nationalism’ (Habermas, 2001, p. 103).

Hence, it seems that the need for a shared lifeworld to open to contestation will naturally end in the necessity of closing it again for stability. As I suggested above, the stability of the legally institutionalised communicative action cannot be taken for granted, for it can only be supplied by a sufficient number of cultural commonalities among interlocutors. Insofar as the closure of a shared lifeworld is necessary for it to serve as a settled and unquestionable normative background, the possibility of contestation over the contents of a shared lifeworld is also based on its closure.

Lacroix, Markel and Shabani essentially see a conflict between the two pillars of Habermas’s European project; that is, between the civilising power of the EU legal system and the common EU values. As previously discussed, they err in presuming that a legally institutionalised communicative action could in and by itself instil a sense of solidarity among the EU citizens. Nevertheless, to even begin to start the deliberative process, EU citizens require a sufficient number of cultural commonalities so as to mutually trust each other enough to submit to a set of common EU democratic institutions. At the initial stage, citizens should aim to discover whatever cultural commonalities are contained in their shared lifeworld, drawing on ‘a series of specifically European experiences.’ Even if there is a well-supported deliberative democracy in place at the EU level, the public deliberation cannot perpetually expose the shared lifeworld to contestation without closing it for

stability when there is no longer any valid claim raised against it. In a word, *contra* Lacroix et al., I have demonstrated that there is no inconsistency between Habermas's conception of communicative action and his proposal of discovering common European values for the European Union.

Since Habermas does not risk causing his theory of communicative action to become internally inconsistent by endorsing the purposeful discovery of common European values, he must viably hold a different view of political emotions than Lacroix et al. In contrast to the latter, he allows the affective identification among citizens within the same nation-state to bear on his moral reasoning about the possibility of further institutionalising the democratic decision-making process at the EU level, because there will be no need to purposefully discover already existing common European values if political emotions are so malleable that they can be easily transformed from nationalist sentiments into supranational solidarities. Habermas recognises that the democratic institutions at the EU level rely on a shared lifeworld among the EU citizens to help them comprehend each other's validity claims in the deliberative process, and at the same time cement a sense of solidarity among them. Moreover, the shared lifeworld requires a sufficient number of cultural commonalities among the EU citizens so as to be stabilised in the face of potential contestation. Therefore, once institutionalised at the EU level, a communicative action cannot be constantly open to contestation without at the same time purposefully discovering and preserving the cultural commonalities among the EU citizens. In a sense, Habermas considers it important to respect the nationalist sentiments within nation-states and proposes to employ a similar mechanism to generate a sense of solidarity at the EU level; that is, by developing shared European cultural values.

2. Examining the Liberal Multiculturalist Interpretations of Communicative Action

In this section, I will examine liberal multiculturalist interpretations of communicative action that prioritise rational argumentation over emotional expression. I will firstly introduce Young's critique of Habermas's conception of communicative action in terms of its inability to accommodate different social perspectives concerning common social issues because communicative action is a type of language use a cultural majority imposes upon the whole society, thereby silencing other language uses. Then, I will demonstrate that the problem boils down to the equivocation of the illocution/rational argumentation with the communicative action on the one hand and the equivocation of the perlocution/emotional expression with the strategic action on the other. *Pace* the liberal multiculturalists like Young, I will show that in his later works, Habermas continuously downplays the importance of the illocutionary and the perlocutionary aspects of language use and believes communicative action to be the universal mode of human communication. These two concomitant moves nullify Young's equivocation of illocution with communicative action and perlocution with strategic action, which means that communicative action could accommodate both rational argumentation and emotional expression.

To begin with the critique of Habermas's conception of communicative action in terms of its inability to tolerate different views of social issues, Iris Marion Young charges that communicative action privileges rational argumentation over other more emotionally charged modes of communication and, as a result, commits an act of injustice against the social minorities who are unable to share their life experiences through rational argumentation. She argues that there are three reasons why it is not

desirable for theorists to privilege rational argumentation over emotional expression. First, ‘given the heterogeneity of human life and the complexity of social structures and interaction...the effort to shape arguments according to shared premises within shared discursive frameworks sometimes excludes the expression of some needs, interests, and suffering of injustice, because these cannot be voiced with the operative premises and frameworks’ (Young, 2000, p. 37). Second, even if there are shared premises among the deliberators, arguments will privilege ‘the modes of expression more typical of highly educated people.’ For instance,

Spoken expression that follows the structure of well-formed written speech is privileged over other modes. Speech or writing framed as straightforward assertion is privileged over more circuitous, hesitant, or questioning expression. The norms of deliberation also often privilege speech that is formal and general. They value expression that proceeds from premises to conclusion in an orderly fashion, formulating general principles and applying them to particular cases (Young, 2000, p. 38).

Third, insofar as the ‘emotional and figurative expressions are important tools of reasonable persuasion and judgement,’ public deliberation that makes a clear distinction between rational arguments and emotional expression is not satisfactory (Young, 2000, p. 39).

Prioritising rational argumentation over emotional expression commits an act of injustice towards social minorities in the form of an ‘internal exclusion,’ insofar as ‘they concern ways that people lack effective opportunity to influence the thinking of others even when they have access to fora and procedures of decision-making’ (Young, 2000, p. 55). Young seems to think that there is a close affinity between Lyotard’s notion of a *differénc* and her notion of an internal exclusion, in the sense that they both denote a situation in which a unitary language is imposed upon the

whole society and is biased towards a certain section of the population. She cites Lyotard in explaining the term:

(The *differé*nd is) the case where the plaintiff is divested of the means to argue and becomes for that reason a victim. If the addressor, and addressee, and the sense of the testimony are neutralised, everything takes place as if there were no damages. A case of *differé*nd between two parties takes place where the ‘regulation’ of the conflict that opposes them is done in the idiom of one of the parties while the wrong suffered by the other is not signified in that idiom (Lyotard, 1988, p. 9; cited by Young, 2000, p. 37).

In this light, Habermas proposes the imposition of a unitary language—that is, communicative action—upon the whole society and, in effect, silences all other modes of language use. Habermas distinguishes rational argumentation from emotional expression by making a distinction between the illocutionary and the perlocutionary aspects of language use. As Young explains, ‘the illocutionary component of a speech act...is the performative force with which the locution is uttered...The perlocution aspect of a proposition is its effect on the hearer.’ The illocution is associated with communicative action oriented towards reaching agreement, whereas the perlocution aims to further personal interests. By making this ‘arbitrary’ distinction between the illocutionary and the perlocutionary aspects of language use, illocution based on rational argumentation is correlated with the unitary language—communicative action—that is to be imposed on the whole society. In contrast, the perlocution is correlated with strategic action that is to be discouraged and, as such, it eliminates emotional expression as a different mode of communication than rational argumentation in public deliberation. Hence, Habermas commits an act of injustice in the form of internal exclusion, insofar as he deprives social minorities of an alternative way of using rational argumentation to influence public deliberation (Young, 2000, p. 63- 4).

In agreement with Young, Roger Foster argues that, by prioritising rational argumentation, Habermas's conception of communicative action tends to neglect the possibility of a *differénd*. First and foremost, Foster makes a contrast between Habermas's notion of communicative action and Lyotard's conception of *differénd*. According to him, 'In contrast to Habermas, who conceives justice as speaking the language of communicative speech, for Lyotard, justice is the site of a judgement outside of the rules of any particular form of discourse, a judgement which separates spheres of competence' (Foster, 1999, p. 93). Foster's reading, then, depicts Lyotard as aiming to expose the unjust situation in which the heterogeneous language discourses are forced to speak a common mode of language. As he explains, 'Forcing a form of discourse to speak the language of a form of discourse incommensurable with it constitutes, for Lyotard, a primary case of injustice. Thus the issue is whether a unity can be forged that does not result in the silencing of the heterogeneous' (Foster, 1999, p. 92). Furthermore, in order to achieve this end, 'Lyotard lays out the task of the philosopher as reflective judge by means of the metaphor of the archipelago, conceived as a representation of the heterogeneous forms of discourse' (Foster, 1999, p. 92). Essentially, the idea is that philosophers, as impartial and reflective judges, observe different genres of discourse and try to determine how to match the common subject matters of discourse with the appropriate genres of language. Therefore, Habermas's conception of communicative action cannot accommodate the uncertain moment when a particular mode of language use to approach the subject matter is chosen, because he insists on a unified conception of language use on the basis of validity claims. Foster argues,

Lyotard's critique points to the way in which argumentation, as the scene of the discursive redemption of validity claims, separates truth from any relation to donation—the free giving of what is other than thought, and which opens the very possibility of thought. There occurs what Lyotard

refers to as the conceptualisation of space-time because the rules of argumentation determine in advance how the given is to be incorporated (Foster, 1999, p. 98).

Hence, to Foster, Lyotard's conception of *differend* serves as a critique of Habermas's notion of communicative action, in the sense that the latter aims to impose a unified mode of language use upon all the interlocutors without proper attention to the heterogeneous genres of discourses that should be matched with different subject matters in specific contexts. This is similar to Young's discussion, insofar as they both believe that Habermas's notion of communicative action as a particular theory of language eliminates the possibility of finding various different approaches to discourses. Nevertheless, Young and Foster's arguments only obtain if, and only if, Habermas's conception of communicative action actually imposes a unitary language use that ignores the multiple genres of discourses particular to specific cultural communities. In the following, I will show that communicative action is founded on a set of liberal values that cannot be expected to win the acceptance of all cultural communities within society because they hold different standards of rationality. In this sense, communicative action does impose a unitary language use upon the whole society, and so potentially causes an internal exclusion of social minorities.

Habermas's conception of legally institutionalised communicative action aims to legitimate the legal order through the justification of validity claims among all citizens on an equal footing. The central principle supporting such a conception is what Habermas calls 'the principle of democracy,' which says, 'only those statutes may claim legitimacy (*legitime Geltung*) that can meet with the assent of all citizens in a discursive process of legislation that in turn has been legally constituted' (Habermas, 1996, p. 121). Since a legally institutionalised communicative action is

the direct application of communicative action in general to the political arena, the principle of democracy ‘derives from the interpenetration of the principle of discourse and the legal form’ (Habermas, 1996, p. 122- 3). This more general principle of discourse derives directly from the presuppositions of a language use oriented towards reaching agreements and is operative in all types of practical discourses. As James Finlayson and Gabian Freyenhagen explain, the principle of discourse ‘spells out a necessary condition of the validity of action-norms in general—that is, political, legal and moral norms. It is supposed to be ‘neutral’ or ‘initially indifferent vis-à-vis morality and law’’ (Finlayson & Freyenhagen, 2011, p. 9). In a word, to Habermas, the presuppositions of language use oriented towards reaching agreement give rise to the principle of discourse which is legally institutionalised at the societal level in the form of the principle of democracy. This supposedly neutral principle of discourse, therefore, governs the justification of all legal rules within society among all citizens on the basis of validity claims.

Habermas seems to think that the principle of discourse/democracy could remain culturally neutral, because its weak transcendental status secures only the unavoidable presuppositions of language use oriented towards reaching agreements.

As Joseph Heath observes,

(To Habermas) certain principles of rationality have a transcendental status for us, because they are necessary presuppositions for the interpretation of speech, and speech is unavoidable insofar as we depend upon language for certain higher cognitive competences. The transcendental claim as a whole is weak because there is no reason, in principle, that some other creature might not come along with a form of cognition or speech that is radically different from our own, and so not subject to such constraints (Heath, 2011, p. 123).

In other words, despite the fact that the presuppositions of a language use oriented towards reaching agreement are fallible, the principle securing these unavoidable presuppositions will remain in place as constraints on all discursive practices so long as no new empirical evidence arises to disprove their validity. Therefore,

The transcendental status...is not intended as a justification of that principle, it merely explains why principles such as this seem to recur in every major human culture and religious tradition. If it turns out to be less than universal...then that would constitute fairly good evidence that the supposedly unavoidable underlying presuppositions are not in fact all that unavoidable (Heath, 2011, p. 124- 5).

This means that until we find some cultural communities holding a radically different mode of language use which rejects Habermas's principle of discourse, we could reasonably assume that it is inherent to all language uses. Additionally, Habermas claims that there is a sense of inevitability in the gradual evolution of the human race as a whole towards the formalism of law and in morality, because this social evolution 'responds to anthropologically deep-seated features of the human species' (Heath, 2011, p. 126). This claim essentially stresses the relatively low probability of ever disproving the validity of the principle of discourse, insofar as all cultural communities are anyway driven by human nature to endorse it in the long run.

In a sense, given the supposedly low probability of disproving the unavoidable presuppositions of a language use oriented towards reaching agreements, 'the best way to situate Habermas's claim for weak transcendental status for his principles is to see it as establishing a boundary on the scope of reasonable pluralism' (Heath, 2011, p. 126- 7). Insofar as the people rejecting the principle of discourse are not only advancing validity claims against some fallible normative values but also

disputing a principle supported by rock-bottom, anthropologically proven human nature, they would fall outside of the scope of the cultural pluralism to be tolerated as reasonable.

Nevertheless, Rawls argues that no political theory can be purely procedural, and Habermas's conception of communicative action actually carries with it normative presuppositions that cannot be seen as value-neutral. On top of the fact that a legally institutionalised communicative action has to fulfil citizens' generalisable interests—a normative requirement in itself—there are five values embodied by the procedure, including impartiality and equality, openness and lack of coercion and unanimity. If this is the case, the presuppositions of language use oriented towards reaching agreements cannot be seen as neutral, insofar as 'any of (the) five values are related to substantive judgments once the reason those values are included as part of the procedure is that they are necessary to render the outcomes just or reasonable. In that case, we have shaped the procedure to accord with our judgment of those outcomes' (Rawls, 2011, p. 85).

Even though Rawls is right to point out that Habermas's conception of communicative action is not purely procedural, depending as it does on substantive contents, the crucial question, as James Gledhill suggests, is, 'whether the substantive content of normative procedures requires regulation by substantive principles or whether such substantive principles are implicit within the procedures of moral discourse and democratic procedures of the public use of reason' (Gledhill, 2011, p. 185). In other words, do the five values mentioned by Rawls actually govern communicative action as an imposition from outside the procedure itself? In other words, if these substantive values are presupposed by the very design of the

procedure, then the procedure does not count as substantive. To mitigate Rawls's critique, Gledhill points out that a legally institutionalised communicative action is based on popular sovereignty—a democratic value already widely shared by the citizens in liberal countries. As he says,

Habermas argues that the idea of citizens giving themselves laws, which is explicated in constitutional principles and a system of rights, 'already contains as a doctrinal core the (Rousseauian-Kantian) idea of the self-legislation of voluntarily associated citizens who are both free and equal.' This can be 'fully developed in the course of constitution-making processes that are not based on the previous choice of substantive values, but rather on democratic procedures' (Gledhill, 2011, p. 195).

Therefore, Gledhill seems to suggest that the five abovementioned values are not an imposition from outside of communicative action, since they are already necessarily presupposed by the idea of popular sovereignty. Alternatively, any theory of democratic procedure cannot avoid making these presuppositions, even though they are substantive, insofar as the democratic procedure *tout court* does not make sense without these embedded substantive values. I agree with Gledhill that Rawls's criticism of communicative action on the basis of the supposedly grounding relation between the discursive procedure and the substantive principles produced is a bit hasty, since the procedure is grounded in widely acceptable democratic values alone, rather than by any substantive principle for judging the justness of the outcomes.

However, insofar as Gledhill proves that communicative action is based on nothing but the democratic values already acceptable to the citizens within liberal societies, he conveniently neglects the impact of democratic procedure on the various minorities whose cultural values are in greater or lesser confrontation with the democratic political culture. Since these liberal values are imposed upon the whole society in the form of a unitary language for public deliberation, they are likely to

constrain the ways in which the illiberal minority cultures could flourish and influence policy outcomes. As Baumeister shows, from Habermas's perspective, 'religious worldviews must differentiate themselves from the wider political community and must, from within their own worldview, develop the normative principles of the secular society that enable them to recognise why they 'may realise that ethos inscribed in that view only within the limits of what everyone is allowed to do and to pursue'' (Baumeister, 2007, p. 492). Provided that illiberal cultures, including some religious doctrines, are willing to subject themselves to revision under liberal values, it is highly doubtful that this revision will leave intact much of the substance that enables these cultures to claim universal validity among their members, insofar as some of their fundamental doctrinal cores are not allowed to 'shape the agendas and negotiations within political institutions and the broader political process that determines what the benefits and burdens of citizenship are' (Baumeister, 2007, p. 494). In this light, it is doubtful that Habermas's conception of legally institutionalised communicative action will actually gain genuine acceptance among illiberal minority cultural communities. According to Catherine Audard, 'to ask, as Habermas does, for civic friendship, not simply toleration and coexistence on the basis of reciprocity and civility, is to ask too much from the use of public reason and fails to respect the separate identities of religious and nonreligious citizens alike' (Audard, 2011, p. 243- 4). She goes as far as to conclude,

There is no reason for any religion to accept what Habermas describes as a necessary adaptation to modernity, which is very different from and goes much beyond the demands of the rule of law... (For) the coercive power of the Habermasian state will not stop at enforcing legislation, it will try to conquer the 'hearts and minds' of religious citizens too. This is the danger of giving the law a normative content, as Habermas does, even if mitigated through the appeal to communicative morality (Audard, 2011, p. 244).

Hence, it seems that the liberal values embedded in communicative action do impose those normative constraints within which cultural values are to be tolerated and are therefore likely to create friction between liberal and illiberal cultural communities. The normative constraints imposed by the liberal values embedded in communicative action appear even more alienating to the social minorities, given that these constraints are not readily open to contestation, since they secure the unavoidable presuppositions of a language use oriented towards reaching agreement. As Lasse Thomassen observes, the justification for the limits of the tolerance of cultural values within liberal societies is carried out independently of actual public deliberation. According to her, ‘Habermas argues that those affected by the norms of tolerance including the threshold of tolerance must also agree to them, although he is not explicit as to who has to enter into dialogue and potentially agree.’ This is probably because ‘not only does tolerance require intolerance (of illiberal cultural values), the justification of the limit between tolerance and intolerance requires certain conditions and exclusions—that is, intolerance—to be set down in advance and beyond the reach of the justificatory discourse’ (Thomassen, 2006, p. 448).

At this point, I wish to draw our attention to the beginning of this section. There, I established that the priority of rational argumentation over emotional expression tends to preclude minorities from exerting equal influence over the deliberative process, insofar as a unitary use of language based on validity claims might not be of use to minorities in accurately describing their life experiences. Now, since it is demonstrated that Habermas’s conception of communicative action does embody historically specific liberal values which are not likely to agree with the standards of rationality of some minorities within society, it makes sense to return to Young’s discussion of Lyotard’s *differénd*. The *differénd* denotes a situation in which some

social groups are deprived of equal opportunity to influence the deliberative process, because a unitary use of language is imposed on the society as a whole, regardless of the subject matter at hand.

Young seems to suggest that incorporating emotional expression into Habermas's conception of a communicative action could remedy the problem with the *differend*. As she emphasises, 'the purpose of theorising these (affective) modes of political communication is to add to, rather than replace, theorising that emphasises the role of argument' (Young, 2000, p. 57). These new affective modes of political communication include greeting, as well as the affirmative uses of rhetoric and narratives. First, 'greeting' is defined by Young as the explicit recognition of the co-deliberators' equal status, which involves literal greeting, addressing people by name, leave-taking, the mild forms of flattery and various gestures (Young, 2000, p. 58). As Young says, 'I refer to Levinas's theory of speech and the ethical relation because I agree with Jurgen Habermas that a theory of communicative democracy should be grounded in everyday communicative ethics. 'In my opinion Levinas's account of the 'Moment of Saying' can supplement Habermas's account of the Said' (Young, 2000, p. 59). Second, rhetoric 'refers to the various ways something can be said, which colour and condition its substantive content.' It includes the following aspects of communication: (1) 'emotional tone of the discourse,' (2) 'the use in discourse of figures of speech,' (3) 'forms of making a point that do not only involve speech,' and, (4) 'attention to the particular audience of one's communication, and orienting one's claims and arguments to the particular assumptions, history, and idioms of that audience' (Young, 2000, p. 65). Rhetoric supplements rational argumentation, insofar as it (1) 'help(s) to get an issue on the agenda for deliberation,' (2) 'fashions claims and arguments in ways appropriate to a particular

public in a particular situation,' and, (3) 'helps make possible the move from thinking to committed action' (Young, 2000, p. 66, 67, 68). Lastly, narrative is a form of storytelling that aims to demonstrate, describe, explain or justify something to others in an ongoing political discussion. As Young claims,

(Sometimes) participants in a political public do not have sufficiently shared understandings to fashion a set of arguments with shared premises, or appeal to shared experiences and values...In such situations arguments alone will do little to allow public voice for those excluded from the discourse...narrative...serves important functions in democratic communication, to foster understanding among members of a polity with very different experience or assumptions about what is important (Young, 2000, p. 70- 1).

In this light, narrative serves to remedy rational argumentation in the following senses: (1) 'response to the *differénd*, (2) 'facilitation of local publics and articulation of collective affinities,' (3) 'understanding the experience of others and countering preunderstandings,' (4) 'revealing the source of values, priorities, or cultural meanings,' and, (5) 'aid in constituting the social knowledge that enlarges thought' (Young, 2000, p. 72-7).

From my perspective, greetings, rhetoric and narrative all aim to counterbalance the bias of a unitary language of rational argumentation towards cultural majorities within society, insofar as they aim to make the unitary language more sensitive to the life experiences of minorities through incorporating emotional expression into rational argumentation. Greetings reaffirm the equal status of minorities; rhetoric shapes rational argumentation in light of minorities' life experiences; narrative accurately describes minorities' life experiences. In this light, I agree with Young's proposal to the extent that Habermas should place more emphasis on arriving at an accurate depiction of minorities' life experiences through emotional expression,

since his conception of communicative action seems to presuppose the neutrality of its underlying unavoidable presuppositions.

In order for communicative action to incorporate emotional expression, Habermas nonetheless has to do away with the arbitrary distinction between illocution and perlocution because, according to Young, the distinction equivocates emotional expression with strategic action, which is to be excluded from public deliberation. As Young argues, ‘the illocutionary component of a speech act...is the performative force with which the locution is uttered...The perlocution aspect of a proposition is its effect on the hearer.’ Illocution is associated with communicative action oriented towards reaching agreement, whereas perlocution with strategic action aims to further personal interests (Young, 2000, p. 63-4). This equivocation may obtain in Habermas’s earliest work, *A Theory of Communicative Action* (1984), which Young cites as the only reference to reinforce her conclusion. Since then, Habermas must have also realised the problem Young points out and its implications for his conception of communicative action, because he subsequently downplayed the importance of the distinction between illocution and perlocution in his later works. For instance, in *Between Facts and Norms* (1997), the concept of perlocution is not mentioned once. This move is coupled with Habermas’s insistence that communicative action is the universal mode of human communication. According to James Johnson, in Habermas’s conception of communicative action, raising validity claims so as to establish an interpersonal relationship is the universal rationale of human communication, which makes even strategic action a distorted form of language use parasitic on communicative action. In other words, in order to carry out any human communication at all, including strategic action that aims strictly to further personal interests, interlocutors have to at least pretend to submit to the

rationale of raising justifiable validity claims (Johnson, 1991, p. 191-2). Hence, these two concomitant moves on Habermas's part serve to define the distinction between communicative and strategic actions on a basis other than the distinction between the illocutionary and the perlocutionary aspects of language use. In other words, the illocutionary aspect of language use that aims to establish new interpersonal relationships no longer distinguishes communicative from strategic action.

Instead, what distinguishes a communicative action from a strategic one is the orientation towards reaching agreement among the interlocutors. Recall that communicative action occurs when 'actors in the roles of speaker and hearer attempt to negotiate interpretations of the situation at hand and to harmonise their respective plans with one another through the unrestrained pursuit of illocutionary goals.' In comparison, strategic action occurs when 'language is used only as medium for transmitting information, (and) action coordination proceeds through the mutual influence that actors exert on each other in a purposive-rational manner' (Habermas, 1996, p. 18). Apparently, the attempt to 'harmonise their respective plans with one another' distinguishes communicative action from strategic action that 'is used only as medium for transmitting information,' rather than the language use itself. This means that the interlocutors aiming to pursue personal interests could just as easily manipulate the raising of validity claims in strategic action as the interlocutors aiming to reach agreements utilise them in communicative action, because illocution based on raising validity claims is an inevitable part of both communicative and strategic actions. In this light, by extension, Habermas's conception of communicative action could be receptive to emotional expression, insofar as emotional expression, like the raising of validity claims, is only a means to a different end—be it to reach agreement or further personal interests. It is obvious

that interlocutors could adopt emotional expression to better shape their validity claims so as to accurately convey their own life experiences in communicative action, as long as they aim to reach an agreement rather than further personal interests. Hence, communicative action could allow political emotions to bear on our moral reasoning about political principles and social institutions, in the sense that emotional expression is an alternative mode of communication to rational argumentation in Habermas's theoretical framework.

3. Communicative action as a solution to the deficiency of Miller's approach to political theory

So far, I have demonstrated that Habermas could allow political emotions to bear on our moral reasoning about political principles and social institutions in two senses. Firstly, as discussed in section 1, Habermas requires a sufficient level of affective identification among citizens to support the legally institutionalised communicative action. Contrary to the interpretations of constitutional patriots such as Lacroix, Markell and Shabani, Habermas's conception of communicative action relies on a shared lifeworld that has to open to contestation and, equally importantly, close for its own stability. Without this closure, a shared lifeworld cannot continue to serve as a settled and unquestionable normative background for citizens, which will undermine the affective identification among them, because the establishment of particular interpersonal relationships among citizens is inextricably linked to the normative consensus produced through communicative action. Secondly, as discussed in section 2, Young is correct to argue that Habermas requires emotional expression as an alternative mode of communication to rational argumentation in order to counterbalance the negative impact of a unitary language use on social

minorities' opportunity to influence public deliberation. This problem is reversed if we recognise that Habermas's distinction between communicative and strategic action is primarily defined on the ground that the former is oriented towards reaching agreement and the latter towards pursuing personal interests. In this sense, both rational argumentation and emotional expression could be adopted in communicative action, as long as interlocutors aim to reach agreement among themselves.

The two senses in which communicative action could allow political emotions to bear on our moral reasoning are both consistent with the importance of a common nationality and reflective of the problem with Miller's account of the nation-building process. On the one hand, as discussed in Chapter 3, I demonstrated that Habermas's conception of communicative action requires the motivational force of a common nationality to explicate citizens' motivation to support the law-making process. This is because a political-cultural collective self-understanding and a thin political culture draw on a very limited reservoir of cultural values that aim to validate the law-making process at the political level. As such, they cannot help citizens comprehend the political-cultural convictions about a legally institutionalised communicative action, since there will always be a gap between the existing political culture and the new political one that aims to validate the said law-making process. Miller's notion of a common nationality draws on a more widely encompassing pre-political cultural background that could fill the gap between the existing and the new political cultures, so that citizens could see the new political culture as something different yet reflective of the already widely accepted pre-political cultural values. Given that Habermas is quite ambiguous about the boundary between political and pre-political cultural values, talking about the inevitable 'ethical permeation' of political culture by a pre-political one, the development of a common nationality

could be thought of as part of the ethical-political discourse that aims to clarify the political-cultural self-understanding of citizens. Insofar as the boundary of Miller's public culture could only be determined in public deliberation, my line of reasoning aims merely to challenge the limited scope of Habermas's notion of political culture as centring on the validation of a legally institutionalised communicative action rather than the concept itself. In this sense, Habermas's conception of communicative action is consistent with the importance of a common nationality.

On the other hand, as discussed in Chapter 4, I demonstrated that Miller's account of the process of nation-building fails to clarify the way in which citizens could challenge the existing common nationality without understanding *ex ante* the distinction between public and private cultures. Moreover, as discussed in Chapter 5, this problem could be further traced back to Miller's approach to political theory in general. Miller's methodological commitment to capturing common moral intuitions and political emotions lacks clear guidelines for selecting and assigning moral weight to these factors in moral reasoning. This negatively affects his account of deliberative democracy as an indispensable means to nation-building because he cannot explain how citizens could come to adopt the same approach to selecting those common moral intuitions and political emotions relevant to the task at hand. Habermas's conception of communicative action helps Miller to remedy this failure in the sense that citizens would be able to give an account of the approach to common moral intuitions and political emotions and arrive at a shared approach through communication in a legally institutionalised communicative action. In this light, the development of a common nationality could be understood as a collective learning process in which citizens would gradually transform their own

interpretations of a common nationality and reach a context-specific consensus through communication based on raising justifiable validity claims.

Political emotions, in my reconstruction of Miller's account of deliberative democracy, play two roles at the same time. First, political emotion as supplied by cultural commonalities motivates citizens to support all major social institutions by instilling a sense of solidarity in them. This is true for both Miller and Habermas, in the sense that a feeling of solidarity is instilled by a sufficient number of cultural commonalities simultaneously, and in turn supports a functioning deliberative democracy, even though, Miller focuses on the importance of solidarity for all social institutions rather than deliberative democracy alone, and he broadens the scope of the common cultural values beyond the thin normative understanding about the validity of the deliberative procedure. Second, political emotions serve as a moral constraint on what may be accepted as normative truth in public deliberation. This point is less salient in Miller's account of deliberative democracy, even though it could be seen as consistent with his notion of equal respect for co-deliberators. As discussed in Chapter 4, in light of the liberal multiculturalists' criticism that a nation-building process does not leave the social minorities with a meaningful context of choices, he suggests that the nation-building process relies on a division between public and private cultures that is itself subject to public deliberation based on the equal respect for co-deliberators. I suggested that this notion does not shed any light on how public deliberation could guarantee the equality of social majorities vis-à-vis minorities without further substantiation. In this sense, political emotions cannot be readily understood as a moral constraint on public deliberation, despite the fact that Miller allows both common moral intuitions and political emotions to shape what could be acceptable as the valid political principle in our moral reasoning.

Nevertheless, I further substantiated the notion in light of Miller's account of deliberative democracy as being based on the equal footing of citizens. This gives rise to the principle for guiding public deliberation: each citizen should aim to advance their claims in public deliberation in the hope that the principle or policy decisions produced would benefit all citizens equally. With regard to the nation-building process, the principle implies that each citizen should aim to advance their claims in public deliberation at the ethical-political level in the hope that the common nationality thereby produced benefits all citizens equally. Habermas's conception of communicative action supplies a detailed account of a deliberative procedure that guarantees the equal opportunity of citizens to advance their claims and contribute to the normative consensus at the level of the state. This account focuses on the institutional guarantee of all citizens having an equal footing in public deliberation without emphasising the role of political emotions in the process. As such, Habermas's conception of communicative action is consistent with my substantiation of Miller's notion of equal respect for co-deliberators. However, it falls short of clarifying how political emotions fit into this account. Young's interpretation of emotional expression as another mode of communication than rational argumentation sheds some light on this point, in the sense that it clearly positions political emotions as an equalising force that serves to prevent the deliberative process from disadvantaging social minorities through the imposition of a unitary language use. Without challenging communicative action as a viable basis for deliberative democracy, she aims to make rational argumentation based on validity claims more sensitive to minorities' life experiences by supplementing it with emotional expression. In this sense, Young's understanding of emotional expression together with Habermas's conception of communicative action fully

remedy Miller's account of deliberative democracy, leaving it consistent with his notion of equal respect for co-deliberators. This is because political emotions could be understood as a moral constraint on what could be accepted as normative truth in rational argumentation based on raising validity claims so as to uphold the equal relationships among citizens.

Conclusion

I set out to demonstrate that Habermas's conception of communicative action could allow common moral intuitions and political emotions to bear on our moral reasoning about the political principles governing social institutions. *Pace* the constitutional patriots such as Lacroix, Markell and Shabani, I showed in section 1 that Habermas could allow common moral intuitions and political emotions to bear on public deliberation without causing his overall theoretical framework to become internally incoherent. There are two reasons for this. First, a communicative action has to not only serve as a mechanism for contestation among interlocutors regarding the contents of normative truth but also closes the shared normative background off for its own stability. Contrary to what Lacroix et al. believe, the stability of a legally institutionalised communicative action can only be guaranteed when interlocutors share a sufficient number of cultural commonalities and, as a result, a sense of affective identification among them. Second, the fact that Habermas prescribes discovering common European values among EU citizens so as to further the European project shows that he does not believe a legally institutionalised communicative action to be sufficient for securing a sense of solidarity at the EU level. Rather, common moral intuitions and political emotions at the national level place moral constraints on what could be accepted as legitimate democratic

institutions at the EU level. Common moral intuitions and political emotions are allowed to influence the deliberative process, with their existence recognised and their generative mechanism respected, as Habermas's prescription for the EU project shows.

Furthermore, section 2 demonstrated that Habermas's conception of communicative action could acknowledge the intrinsic value of common moral intuitions and political emotions for two reasons. First, the unavoidable presuppositions of communicative action embody exclusively liberal values that could not hope to cohere with standards of rationality held by many minorities. This misfit between communicative action and minorities' own standards of rationality would prevent the latter from effectively exerting the same influence over the deliberative process as their majority counterparts. In order to counterbalance the adverse impact of this misfit, at least in the short term, Habermas's conception of communicative action needs to place more emphasis on emotional expression so as to remedy the deficiency of rational argumentation in capturing the life experience of minorities. Second, Habermas's effort in his later works to downplay the importance of the distinction between illocution and perlocution and his claim that communicative action is the universal mode of human communication together solve the problem Young identifies. This is because the distinction between communicative and strategic action is no longer defined on the ground that they each adopt different modes of communication; rather, the difference is communicative action's orientation towards reaching agreement. By implication, emotional expression could be adopted by interlocutors to accurately convey their own life experiences in communicative action, as long as the objective is to reach agreement rather than pursue personal interests.

Hence, Habermas's conception of communicative action could be incorporated into Miller's account of deliberative democracy without any contradiction between them at the conceptual level. Following this incorporation, Miller's account of deliberative democracy would be able to explain public deliberation over (1) concrete social issues, and (2) the definition of a common national identity as a collective effort of citizens to put forward their different approaches to common moral intuitions and political emotions and transform these in order to arrive at a shared approach to the different social issues within society. This reflects the requirement of the first guiding principle of the global public deliberation that all human beings or their representatives ought to have equal rights to participate in public deliberation, because human beings are equally entitled to debate concrete global issues, the definition of common identity, and global regulative norms and values on the basis of their different moral intuitions and political emotions.

Political emotions in particular would play two important roles in this deliberative process. Firstly, political emotions serve as a moral constraint on what could be accepted as the legitimate claims about political principles and social institutions in public deliberation. This reflects the second guiding principle of the global public deliberation that all human beings or their representatives should exert equal influence over the final policy outcomes of public deliberation. Nussbaum's understanding of emotional expressions such as rhetoric, greetings, and narratives suggests that emotional expression should be utilised to secure cultural minorities' ability to effectively influence the policy outcomes of public deliberation. In this sense, political emotions serve to guarantee all human beings' equal influence over public deliberation, whether they are cultural minorities or majorities. Secondly,

political emotions as supplied by cultural commonalities among citizens could support the political principles produced by public deliberation and all major social institutions, including the deliberative procedure itself, through creating an affective identification among citizens. This reflects the third guiding principle of global public deliberation that all human beings or their representatives should aim to develop a common identity and a shared public culture. It is because political emotions such as nationalist sentiments could serve to motivate people to support institutions of citizenship within nation-states that I propose to facilitate a similar nation-building process at the global level to support global democratic institutions.

I have so far discussed why Miller's account of deliberative democracy should incorporate Habermas's conception of communicative action and how this could be done in theory in Chapters 3, 4, 5 and 6. The main purpose of these discussions is to reconstruct Miller's account of deliberative democracy in order to produce an account of global citizenship that could serve to adjudicate among different distributive principles through obtaining actual consent from all human beings or their representatives. Three guiding principles for the global public deliberation have emerged in these previous chapters. In Chapters 7 and 8, I will discuss Miller's contribution to the global justice debate and how my reconstruction of Miller's account of deliberative democracy could resolve the two impasses in the debate. There I will explain in more details how these guiding principles are derived and how they will place normative constraints on the global public deliberation.

Chapter 7: Resolving the Two Impasses in the Global Justice Debate: the Impasse at the Level of Substantive Theory

Introduction

There has been a debate among the cosmopolitans, the statist and the liberal nationalists over what should be the most appropriate distributive principles at the global level. In other words, in response to unmet basic needs and/or radical substantive inequality in material terms, what obligations should we discharge towards the population of needy across the globe? Distributive justice refers to the fairness of the various ways of distributing material advantages among a group of moral agents. The debate between the cosmopolitans, on the one hand, and the statist and the liberal nationalists on the other, revolves around the proper scope of substantive inequality regulation in material terms. To a large extent this is owing to the existing general agreement on social justice as involving the egalitarian concern within nation-states. In this and the following chapter, I will show that this debate has led to two impasses at the level of, respectively, the substantive theory and the methodology. In this chapter, I will focus on the impasse at the level of substantive theory, which consists in the dispute over whether the ethical significance of human association within nation-states should be allowed to bear on our moral reasoning about distributive justice. I will then discuss the impasse at the methodological level, which consists in the dispute over whether moral reasoning about distributive justice should take account of the facts about a particular distributive context. In order to describe and discuss these two impasses, I will utilise the arguments raised in the previous chapters, insofar as Miller's works on social justice, global justice, the

theory of nationality and the contextualist approach to political theory stand a good chance of resolving these impasses.

In section 1, I will introduce the accounts of distributive justice advanced by the humanist and the associativist cosmopolitans, alongside the statist and the liberal nationalists. In section 2, I will discuss the impasse between the cosmopolitans on the one hand and the statist and the liberal nationalists on the other at the level of substantive theory, wherein the cosmopolitans, the statist and the liberal nationalists disagree as to whether the theories of distributive justice should be grounded in the ethical significance of human association within nation-states. First, the humanist cosmopolitans aim to justify the regulation of substantive inequality at the global level on the basis of its compatibility with the moral equality of all human beings. At the same time, the humanists insist that the regulation of substantive inequality does not conflict with the ethical significance of human association within nation-states, since nation-states could be seen as indispensable to the process of discharging the responsibility to regulate substantive inequality globally. In response, *pace* Tan, I will demonstrate that the humanist cosmopolitans' consideration of existing nation-states amounts to a denial of the ethical significance of human association because they do not allow it to bear on our moral reasoning about distributive justice. As such, they do not directly engage in any fruitful dialogue with the statist and the liberal nationalists. Second, in reply to the humanists' disregard of nation-states in the process of moral reasoning, the statist and the liberal nationalists advance three lines of objections to the regulation of substantive inequality at the global level: the metric problem, the dynamic problem and the respect for national self-determination. I will examine the validity of these objections and demonstrate, *contra* Rawls and Miller, that the metric problem obtains in the short term because cultural pluralism

precludes a normative consensus on the metric of substantive equality at the global level. However, in the long term, due to purposeful cultural exchange via formalised channels of public deliberation, cultural pluralism will not continue to pose a difficulty for the said consensus. The dynamic problem does not obtain in that the notion of national responsibility needs to be situated within a prior theory of distributive justice that specifies the legitimate amount of reward each nation-state may acquire from the global economic order. National self-determination does not directly justify the restriction of the regulation of substantive inequality to the domestic level, insofar as it cannot be treated as a decisive factor in our moral reasoning about distributive justice. Rather, it has to be considered on a case-by-case basis together with other ethical demands. Finally, since the above-mentioned objections all fail to prevent the regulation of substantive inequality at the global level, I will discuss the direct justification the statist and the liberal nationalists give for restricting the regulation of substantive inequality. There are three statist accounts of distributive justice grounded in a coercive institutional relationship, involuntary membership and reciprocal cooperation, and a liberal nationalist account based on common identity on top of the recognition of the three statist accounts. *Pace* Blake, Nagel, Sangiovanni and Miller, I will prove that the statist and the liberal nationalists cannot persuade the associativist cosmopolitans to accept a restricted scope of the regulation of substantive inequality and vice versa, because they cannot agree on a specific criterion for the equivalence between human associations at the global and the domestic levels that will warrant the regulation of substantive inequality. As such, an impasse arises at the level of the substantive theory of distributive justice.

1. The Global Justice Debate among the Cosmopolitans, the Statists and the Liberal nationalists

First and foremost, the cosmopolitans seek to address the legitimacy of particular distributive schemes under which some suffer relative deprivation. There are two strands of cosmopolitanism: humanist and associativist cosmopolitanism. A humanist account of distributive justice directly translates the moral equality of human beings into substantive equality in material terms across the globe. Similarly, the associativist account recognises the significance of the moral equality of human beings, but nonetheless emphasises that the moral reasoning about global justice needs to take account of the intrinsic value of human association. Their differences therefore lie in whether the ethical significance of human association within nation-states is allowed to bear on our moral reasoning about distributive justice. It should be noted that most cosmopolitans who resort to a humanist account all reach the logical conclusion that the regulation of substantive inequality is warranted at the global level. If belonging to the human race means that all individuals share certain characteristics in common and these characteristics in certain contexts manifest themselves in the form of similar interests, then the moral equality of human beings would require access to the essential goods that satisfy these interests to be equalised. In comparison, associationism seems to be more directly engaged with the dialogue among the cosmopolitanists, the statists and the liberal nationalists, in the sense that they all believe that human association should be allowed to bear on our moral reasoning about global distributive justice.

For instance, in *Political Theory and International Relations* (1979), Charles Beitz's arguments for the regulation of substantive inequality at the global level are

exemplary of the contrast between humanism and associationism. On the one hand, Beitz's humanist account of global justice questions the fundamental premise that human association is of intrinsic value and needs to be factored into moral reasoning at the level of the principle. He identifies natural resources as the morally relevant factor that generates the duties of justice regardless of the prior existence of any cooperative scheme between nation-states. Beitz distinguishes between two elements that contribute to the material advancement of societies: that is, first, human cooperative activity, and, second, 'the utilities derived from any portion of the earth's surface.' While the former is the subject of domestic justice, as mentioned above, the latter is 'morally relevant even in the absence of a functioning scheme of international social cooperation' (Beitz, 1979, p. 137). On the other hand, Beitz's associationist account extends Rawls's original position to the global level and argues that Rawls's two principles of social justice are required globally because there is a global basic structure which affects the life prospects of human beings everywhere. The validity of this global position depends on defeating Rawls's important assumption of the self-sufficiency of nation-states, which serves to prevent the possibility of a global basic structure existing or emerging. Here, to counter it, Beitz utilises the empirical facts of international interdependence generated by globalisation. He observes, 'International interdependence is reflected in the volume of transactions that flow across national boundaries—for example, communications, travel, trade, aid, and foreign investment' (Beitz, 1979, p. 144). This increasing interdependence produces benefits as well as burdens globally, and has led to the development of a '*global regulative structure*.' 'Taken together, these institutions and practices can be considered as the constitutional structure of the world economy, which has important *distributive implications*' (Beitz, 1979, p. 148-9). Therefore, given that the global regulative structure contradicts Rawls's assumption of the self-

sufficiency of nation-states, his two principles of justice cannot be restricted to the domestic sphere.

The second school of thought in the global justice debate is statism. This stresses the moral particularities of the relationship between citizens and their administrative states. Based on this conviction, most statist require the regulation of substantive inequality to be restricted to the domestic sphere. There are mainly three routes for argumentation here: (1) the coercion-based account, (2) the involuntariness-based account, and (3) the reciprocity-based account. Firstly, Blake advances a coercion-based account of distributive justice called 'liberal internationalism,' that grounds concern with the regulation of substantive inequality in a distinct institutional relationship between state and citizens that is coercive in nature. According to this account, the regulation of substantive inequality acquires its moral relevance through its contribution to maintaining the procedural justice of the democratic decision-making process, and to justifying the coercive nature of a shared legal system among citizens. Since there is currently no international legal system imposing coercion upon all human beings in a manner equivalent to the domestic sphere, there is no need for a shared democratic decision-making procedure at the international level to impose any legal coercion on human beings as is required at the domestic level. As a result, in the absence of a democratic procedure, human beings do not require the regulation of substantive inequality in order to maintain the equal relationship among them, and thereby exert equal influence over the final policy outcomes (Blake, 2013, p. 87; 94-6).

Secondly, stressing the existence of a sovereign authority capable of implementing distributive justice, Thomas Nagel furthers an account based on involuntariness.

Two preconditions jointly generate the moral relevance of the regulation of substantive inequality at the domestic level: that is, first, the involuntary nature of membership in a political society; and, second, active agency on the part of citizens. The empirical observation that substantive inequalities have a profound effect, according to Nagel, is necessarily supplemented by the fact that ‘A sovereign state is not just a cooperative enterprise for mutual advantage. The societal rules determining its basic structure are coercively imposed: it is not a voluntary association’ (Nagel, 2005, p.128). Moreover, as a closely related and, indeed, derivative normative claim, it is a demand generated by such an involuntary membership that justification be sought for the arbitrary inequalities coercively imposed upon the population within a political society. As Nagel emphasises, ‘The required active engagement of the will of each member of the society in its operation is crucial’ (Nagel, 2005, p. 129). He further maintains that international legal rules and institutions lack a crucial element that would enable them to resemble domestic society, because, ‘They are not collectively enacted and coercively imposed in the name of all the individuals whose lives they affect; and they do not ask for the kind of authorisation by individuals that carries with it a responsibility to treat all those individuals in some sense equally. Instead, they are set up by bargaining among mutually self-interested sovereign parties’ (Nagel, 2005, p. 138). Therefore, the lack of equivalence between the degree of involuntariness at the domestic and the international level determines the moral relevance of the regulation of substantive inequality globally.

Lastly, Sangiovanni proposes an alternative approach: that of reciprocity-based internationalism. He argues, ‘equality is a relational ideal of reciprocity among those who support and maintain the state’s capacity to provide the basic *collective goods*

necessary to protect us from physical attack and to maintain and reproduce a stable system of property rights and entitlements' (Sangiovanni, 2007, p. 19-20). In domestic society, both coercive institutional relations and involuntary membership are present. When functioning well, the basic state capacities are continually backed by state coercion in various forms and to a varying extent. On top of that, it requires a financial and a sociological base in order to exist and function effectively. These financial and sociological bases are supported actively by the individuals sharing this political regime (Sangiovanni, 2007, p. 20). In comparison, '(G)lobal order lacks an autonomous means of coercion. More fundamentally, the order does not have the financial, legal, administrative, or sociological means to provide and guarantee the goods and services necessary to sustain and reproduce a stable market and legal system, indeed to sustain (on its own) any kind of society at all' (Sangiovanni, 2007, p. 21). Hence, the difference between the domestic and the international level in terms of the reciprocal relations among individuals means that the regulation of substantive inequality is not required by global distributive justice.

The third school of thought in the global justice debate is that of liberal nationalism. Liberal nationalism offers an alternative account of distributive justice that understands the intrinsic value of nation-states in a cultural sense, instead of the political sense accorded to it by statism. The necessary and sufficient condition for activating the regulation of substantive inequality consists in a shared nationality combined with an administrative state. For instance, Tamir endorses the 'cultural nationalism' that recognises the centrality of individual choice, and assumes that living within one's national community is an important moral good for individuals. Cultural nationalism, therefore, is predicated on the assumption that interpersonal relationships within a national community have a morally relevant importance,

which will remain undiminished for the foreseeable future (Tamir, 1993, p. 99). Accordingly, the special obligations derived from the interpersonal relations among co-nationals need to be factored into the formulation of global distributive principles. Similarly, as discussed in Chapter 3, Miller offers a particularist defence of nationality that captures the ethical significance and the constitutive nature of nationality. Nationality, so understood, serves as a necessary normative background for moral reasoning and naturally necessitates a special obligation among co-nationals which is distinct from other lesser communities. The implication of the ethical importance of nationality, as discussed in Chapter 2, points to a split-level conception of distributive justice that restricts the regulation of substantive inequality to the domestic level. The domestic and the global level are two different distributive contexts, grounded in two different modes of interpersonal relationships: first, the interpersonal relationships between individuals qua human beings at the global level; and, second, the interpersonal relationships between individuals qua co-nationals at the domestic level. Membership of a nation generates the special obligations between co-nationals that, in turn, make the regulation of substantive inequality possible; whereas, internationally, similar interpersonal relationships that ground the said concern are lacking *as such* (Miller, 1995, p. 72). Hence, the existence of a common nationality within a nation-state distinguishes the domestic from the global sphere as two different distributive contexts, and thereby restricts the regulation of substantive inequality to the former.

2. Debating the Moral Particularities of Nation-States

First and foremost, as discussed in section 1, the cosmopolitans, especially the humanist strand, directly derive the moral relevance of the regulation of substantive

inequality from the moral equality of human beings at the global level. According to them, when judged against the most fundamental principle—the moral equality of human beings—the boundaries separating nation-states seem arbitrary. For instance, Tan advances a humanist account of cosmopolitanism in *Justice, Institutions and Luck* (2014) that treats human association within nation-states as an arbitrary factor that has not been consciously chosen by individual moral agents at the global level. According to Tan, a plausible account of global distributive justice should be based on a strict ‘luck-choice distinction’ that is consistent with the moral equality of human beings. Moreover, ‘the moral difference between luck and choice, along with the presumption of the moral equality of persons, suggests...a moral default of equality in distribution, and that any departure from this benchmark of equality is justifiable only when it is the result of agential choices and decisions, but not when it is a matter of pure luck’ (Tan, 2014, p. 89). As a result, when formulating global distributive principles that regulate the global background context, we should not take account of the human association within nation-states, insofar as nationalities are social contingencies that have not been consciously chosen by individuals.

This reflects a previous debate between the distributive and the relational egalitarians over what should ground the ethical demands of social justice within nation-states. As discussed in Chapter 1, the distributive egalitarian stance grounds the concern with social justice directly in the moral equality of human beings, and treats substantive equality as the default position in the distributional pattern within a nation-state. In contrast, the relational egalitarians ground the concern with the equal relationship among the citizens of the same nation-state and do not value substantive equality for its own sake. Tan and other humanist cosmopolitans agree with the distributive egalitarians, and thereby reject any boundary among human beings as

being morally irrelevant factors, whereas the statist and the liberal nationalists take the side of the relational egalitarians and believe that substantive equality is relevant because it could contribute to an equal relationship among the members of the same nation-state. Nevertheless, Tan asserts repeatedly that the cosmopolitans do not have to deny the intrinsic value of human association within nation-states while holding onto substantive equality in material terms among human beings as the default position globally. His claim does not deviate far from the usual attitude of humanist cosmopolitans towards human association within nation-states. For instance, in ‘What is so special about our fellow countrymen?’ Goodin proposes an ‘assigned responsibility model,’ which strips the special relationship between co-nationals of its independent moral force and suggests that these special duties derive their moral force from the general duties owed among individuals qua human beings. ‘That is to say, special duties are...merely devices whereby the moral community’s general duties get assigned to particular agents’ (Goodin, 1988, p. 678). In other words, ‘Territorial boundaries are merely useful devices for ‘matching’ one person to one protector...at root...it is the person and the general duty that we all have toward him that matters morally’ (Goodin, 1988, p. 686). This way of accounting for the ethical significance of human association within nation-states seems to assign nothing substantive to the statist and the liberal nationalists’ stance on global justice, because when the statist and the liberal nationalists emphasise the intrinsic value of human association within nation-states, they mean for it to bear on the actual formulation of global distributive principles. Therefore, the exchange between the humanist cosmopolitans on the one hand and the statist and the liberal nationalists on the other is likely to end in a deadlock, insofar as they have different methods of developing global principles of distributive justice. In order to resolve this deadlock, the statist and the liberal nationalists could plausibly argue that the humanist

cosmopolitans' sole reliance on the moral equality of human beings cannot justify different approaches to the satisfaction of basic needs and the regulation of substantive inequality. As demonstrated in Chapter 1, the distributive egalitarian position cannot justify taking a different approach to responsibility-insensitive basic needs satisfaction and responsibility-sensitive substantive inequality regulation on the basis of a luck-choice distinction alone. The luck-choice distinction has to be anchored in an overarching ideal of an equal relationship among citizens, which in effect amounts to the partial or total subsumption of distributive egalitarianism into relational egalitarianism. This means that humanist cosmopolitanism could plausibly be subsumed into statism and liberal nationalism.

In response to the humanist cosmopolitans' disregard of human association within nation-states, the statist and the liberal nationalists advance three lines of argument to remove the regulation of substantive inequality at the global level: (1) global cultural pluralism makes it improbable to reach any consensus on the metric of substantive equality, (2) nation-states should be held responsible for their past decisions that have distributive implications today, and, (3) national self-determination should be respected by global justice. I will demonstrate in turn that in light of the cosmopolitans' counter arguments, the argumentative avenue (1) obtains, because the lack of cultural commonalities makes it less probable to formulate a common metric of substantive equality globally than at the domestic level.

Argument (2) does not obtain, because the notion of national responsibility has to be situated within a prior theory of distributive justice that determines the justness of the background context of distribution at the global level. Finally, argument (3) leads to a compromise between cosmopolitanism, statism and liberal nationalism, insofar as none of them would reject outright the moral weight of either national self-

determination or global distributive justice. This can only mean that our obligations towards the global poor vary from case to case, because the moral weight we attribute to national self-determination vis-à-vis other ethical demands of justice cannot be decided on *a priori*. Miller's theory of nationality and his principles of global justice cover these three themes most extensively. I have addressed the main cosmopolitan and statist critiques against them in Chapter 2. Here, I will therefore use Miller's arguments to structure my discussion of the debate among the associativist strand of cosmopolitanism, statism and liberal nationalism.

Firstly, Miller discusses the potency of global cultural pluralism under the rubric of the 'metric problem.' Due to the plurality of conceptions of moral goods in different cultural communities, there is no common currency of substantive equality in terms of both material advantages and the opportunity to acquire them (Miller, 2007, p. 62-8). Similarly, when Rawls determines *The Law of Peoples* (1999), he defines 'people' as the basic subject of his global distributive principles. The peoples, as he defines it, consist of institutional, cultural and moral components: that is, in his words, 'a reasonable just constitutional democratic government that serves their fundamental interests; citizens united by what Mill called 'common sympathies;' and finally, a moral nature' (Rawls, 1999, p. 23). In particular, common sympathies are at least partially dependent on 'a common language, history, and political culture, with a shared historical consciousness' (Rawls, 1999, p. 24). Therefore, insofar as each people shares a different culturally defined common sympathy that drives them collectively to make the decisions that will have distributive implications in the future, in order to respect 'reasonable pluralism' at the global level, more affluent people should not aim to reduce interpersonal substantive inequality, for fear of being overtly paternalistic (Rawls, 1999, p. 106-12). Therefore, both the liberal

nationalists and the statist agree that shared cultural values at least partially account for a nation-state's collective decision that has distributive implications. Because of this 'reasonable pluralism' of cultural values regarding distribution, we cannot expect all cultural communities to reach a consensus on the metric of substantive equality at the global level.

As discussed in Chapter 2, there are two paths discussion toward a rejection of the 'metric problem' may follow. On the one hand, cosmopolitans such as Daniel Weinstock and Cecile Fabre challenge the metric problem by pointing to the over-emphasis on cultural homogeneity within nation-states, arguing that if the culturally plural society of a nation-state can reinforce the redistributive measures to regulate substantive inequality among citizens, surely global society could find a way to counter cultural pluralism and, thereby, formulate a consensus on the metric of substantive equality (Weinstock, 2003, p. 277; Fabre, 2003, p. 319). In response, I showed that this line of argument does not decisively refute the metric problem, insofar as it does not prove that cultural pluralism at the domestic level is on a par with that at the global level. In order to salvage the cosmopolitans' critique, some will still argue that there are common metrics of substantive equality at the global level, such as power. For instance, Gilibert and Ypi similarly develop common metrics of substantive equality for global justice, the difference, nonetheless, being that Gilibert's three-fold metric encompasses Ypi's notion of power as a global 'positional good' (Gilibert, 2012, p. 216; Ypi, 2012, 123). In response, I demonstrated that Gilibert's and Ypi's notions are abstract, and very similar to the term 'substantive equality.' Granting that they have gone further to substantiate substantive equality in material terms with more narrowly defined categories such as power, cultural pluralism will still present great obstacles to forming a consensus on

a notion specifically defined and, as such, quantifiable enough to guide actual policy-making at the global level.

Nevertheless, a shared culture is a contingent factor that could be developed and preserved through an institutionalised mechanism such as deliberative democracy. As Chapter 3 shows, both Miller and Habermas believe that deliberative democracy could be utilised to develop shared cultural values among citizens of the same nation-state. Therefore, the metric problem in and by itself cannot decisively deflect the cosmopolitans' challenge to statism and liberal nationalism, insofar as, once established, an institutional mechanism such as deliberative democracy is expected by both the statists and the liberal nationalists to produce a normative consensus on essential political principles and social institutions. Indeed, as discussed, cosmopolitans such as Weinstock suggest that a deliberative democracy could also be established at the global level to ameliorate the problem of cultural pluralism, and thereby help human beings of different nation-states to reach a normative consensus on the metric of substantive equality in material terms (Weinstock, 2003, p. 278). Hence, the metric problem can only obtain if we assume that the further institutionalisation of global citizenship based on deliberative democracy is impossible rather than improbable. I will debunk this assumption in Chapter 8 with my reconstruction of Miller's account of nation-building through deliberative democracy.

Secondly, the dynamic problem implies that nation-states, as corporate bodies, are expected to take collective responsibility for decisions made in the past, assuming the existence of a common currency of substantive equality at the global level. The regulation of substantive inequality at the global level represents a breach of this

rightful expectation that is also consistent with the prevailing logic within social justice theories: a conception of distributive justice should be sensitive to personal choices and preferences (Miller, 2007, p. 70). As discussed in Chapter 2, in order to refute the objection to the regulation of substantive inequality at the global level on the basis of the dynamic problem, the cosmopolitans advance two lines of argument. First, Caney completely rejects the idea that a group of people should ever be held responsible for the past decisions of their administrative state that have distributive implications today. According to him, the notion of collective responsibility contradicts the traditional view of moral agency that only holds individuals responsible for their own decisions (Caney, 2003, p. 302). In response, I demonstrated that Caney rejects the notion of collective responsibility *tout court*, because he is oblivious to the moral urgency of responsibility assignment at the global level. Miller's notion of national responsibility is motivated by the urgent situation in which no single moral agent can be individually held responsible for the absolute deprivation faced by the global south. In this light, holding a corporate agent such as a nation, rather than an individual agent responsible could serve to discharge the moral obligation to relieve absolute deprivation more efficiently and effectively. Second, as Caney and Tan argue, the dynamic problem in and by itself does not explain why the regulation of substantive inequalities is not required by distributive justice at the global level, because the notion of national responsibility needs to be anchored in a prior understanding of distributive justice, not the other way around (Caney, 2003, p. 303; Tan, 2013, p. 87). This is true, because Miller fails to recognise the fact that the dynamic problem is based on a notion of national responsibility which is derived from his theory of distributive justice in the first place. It is his theory of distributive justice rather than the derivative notion of

national responsibility that should do the work of defeating the cosmopolitans' stance on the regulation of substantive inequality.

Finally, in *On Nationality* (1993), Miller considers that the regulation of substantive inequality at the global level compromises the political self-determination of nation-states. He sees an incongruity in holding two conflicting principles at the same time: '(O)ne attaches value to national self-determination and argues that nations have no right to interfere in one another's domestic affairs (except perhaps in very extreme cases); the other holds that we have a positive obligation to protect the basic rights of our fellow human beings' (Miller, 1995, p. 77). The former should to a great extent place constraints on the latter, otherwise it breeds 'benevolent imperialism.' Rawls's 'law of peoples' seems to agree with Miller's position, in the sense that Rawls argues that once a people meet the two minimum criteria of legitimacy, they should be free from outside intervention and distribute material advantages according to their own cultural conception of justice. In other words, if a people have the interests of all sections within society fairly represented in their legal system and continuously respect human rights, their self-determination should be respected by all other peoples, and therefore no assistance should be extended to them (Rawls, 1999, p. 64-70). Following Rawls, statisticians such as Nagel, Blake and Sangiovanni agree that as long as nation-states respect one another's self-determination, respect basic human rights and assist the needy only in absolute deprivation, the requirements of global distributive justice are fulfilled (Nagel, 2005; Blake, 2001; Sangiovanni, 2004).

The cosmopolitans such as Gilibert and Tan object to this claim, advancing two main critiques. On the one hand, they argue that national self-determination of each nation-state is not the optimal solution to a stable world order, in light of the intra-

and inter-state violence caused by secessionist movements, territory disputes, and so on. On the other hand, respect for national self-determination is conditional on its compatibility with global justice (Gilbert, 2012, p. 210; Tan, 2004, p. 120). These objections are correct to the extent that the world order, which is currently based on respect for national self-determination, has often contradicted the ethical demands of distributive justice at the global level. However, the cosmopolitans, the statist and the liberal nationalists are not in as much a disagreement as their debate might show at a first glance, since both sides refrain from completely denying the relevance of either national self-determination or the ethical demands of global distributive justice. Therefore, the arguments on both sides in effect amount to the assertion that global justice should carefully balance concern with national self-determination and global distributive justice on a case-by-case basis. More importantly, the debate over the moral weights of national self-determination vis-à-vis global justice does not seem to resolve the real dispute among the cosmopolitans, the statist and the liberal nationalists, insofar as it does not directly supply a reason for rejecting the relevance of the regulation of substantive inequality at the global level.

In this light, since the abovementioned objections to the regulation of substantive inequality at the global level all presuppose the ethical significance of human association within nation-states, their failure to persuade the cosmopolitans naturally leads the cosmopolitans to challenge the said presupposition itself. In the following, I will first address the validity of the statist's justification on the basis of the ethical significance of the relationship between citizens and administrative states at the political level. Then, I will address the validity of the liberal nationalists' justification on the basis of the ethical significance of the relationship among co-nationals sharing a common national identity and a public culture. The comparison

between these two types of justification will show that the liberal nationalists stand a better chance than the statist in the face of the cosmopolitans' challenge, because their justification is grounded in the motivation for citizens to support the functioning of an administrative state. As such, the liberal nationalists' justification is less vulnerable than that of the statist to the cosmopolitans' proposal to further institutionalise global citizenship on the basis of deliberative democracy.

First and foremost, the statist justify the restriction of the regulation of substantive inequality to the domestic level on the ground that the citizens of the same nation-state stand in a particular relation to their administrative state at the political level. This relation is differently defined as involuntariness-based, coercion-based and reciprocity-based by, respectively, Nagel, Blake and Sangiovanni. I introduced these accounts in section 1, and will here focus on showing that these accounts similarly run up against the cosmopolitans' 'continuum objection:' there are no specific criteria that distinguish the domestic from the global level qualitatively. Firstly, Nagel contends that international legal rules and institutions do not resemble those of domestic society, because 'they are not collectively enacted and coercively imposed in the name of all the individuals whose lives they affect; and they do not ask for the kind of authorisation by individuals that carries with it a responsibility to treat all those individuals in some sense equally. Instead, they are set up by bargaining among mutually self-interested sovereign parties' (Nagel, 2005, p. 138). Secondly, Blake argues that nation-states are distinguished from the international realm in the sense that there is no unified legal system at the international level that can impose coercion upon all human beings (Blake, 2013, p. 87; 94-6).

In a sense, Nagel and Blake's accounts of global distributive justice share the same conviction about the need for a justification for coercive institutional relations between citizens and their legal system and, as such, both commit to respect for individual autonomy. The difference lies in the fact that Nagel's account takes the justification for coercive institutional relations as given and therefore treats institutional coercion as a necessary but not sufficient condition for triggering concern with the regulation of substantive inequality. As Chris Armstrong points out, in Nagel's account, 'the presence of coercion is not on its own a decisive factor in favour of relations of justice...a system of coercive rules would not generate duties of distributive justice unless those rules were then involuntarily imposed' (Armstrong, 2009, p. 300). In other words, it is not enough to ground distributive justice in the 'material effects that the system imposes on its members;' individuals under these coercive legal rules have to be simultaneously presupposed by the same legal system as the 'joint author' of the said legal rules without being given a choice *a priori* (Nagel, 2005, p. 129). In this light, however, Nagel's account is vulnerable to the empirical fact that human beings are constantly and increasingly exposed to varying degrees of coercion by systems of rules and norms without being given a choice in advance. As Joshua Cohen and Charles Sabel show in the case of the World Trade Organisation, 'opting out is not a real option (the WTO is a 'take it or leave it' arrangement, without even the formal option of picking and choosing the parts to comply with), and, given that it is not...there is a direct rule-making relationship between the global bodies and the citizens of different states' (Cohen and Sabel, 2006, p. 147-75, 168). Hence, Nagel's distinction between the domestic and the international realm cannot be justified on the basis of the involuntary nature of citizenship as both the subject and the active author of a coercive legal system, because human beings have already been presupposed by the system of rules and

norms to be the subject and the joint authors globally, despite the fact that there is as yet no formal democratic procedure to legitimate this coercion.

In contrast, although Blake bases his account of global distributive justice on the same commitment to individual autonomy, he treats the coercive nature of a legal system as a necessary and sufficient condition for triggering a concern with the regulation of substantive inequality. As he says, ‘all human beings have the moral entitlement to exist as autonomous agents, and therefore have entitlements to those circumstances and conditions under which this is possible’ (Blake, 2013, p. 21). As two faces of the same coin, the unavoidable existence of coercion in political lives poses an apparent paradox: ‘coercion is both *prima facie* opposed to the existence of autonomy, and yet without some form of coercive political life, autonomy itself is not capable of being exercised.’ Because of the liberal commitment to respecting individual autonomy, any type of coercion needs to be justified to the group of agents being coerced. Different types and degrees of coercion require different procedures to justify them, and only a democratic decision-making procedure requires the regulation of substantive inequality to maintain its functioning. The coercive legal system imposed upon citizens within nation-states makes it necessary to maintain a functioning democratic decision-making procedure to justify it through the regulation of substantive inequality, whereas the non-existence of an equivalent coercive legal system at the global level nullifies the cosmopolitans’ call for the regulation of substantive inequality (Blake, 2013, p. 89-90).

Nevertheless, this coercion-based account is similarly vulnerable to the associativist cosmopolitans’ attempt to prove the existence of a coercive institutional relationship at the global level. For instance, Valentini strives to bridge the difference between

the cosmopolitans' and the statist's accounts of global distributive justice by proving that a coercive relationship exists at the global level and, as such, requires justification. She makes a distinction between two types of coercion: interactional and systemic. 'Interactional coercion' occurs between two moral agents when one of them foreseeably and avoidably places non-trivial constraints on another's freedom, compared to the latter's freedom in the absence of the former's intervention (Valentini, 2011, p. 130). On the other hand, 'systemic coercion' occurs when a system of rules foreseeably and avoidably places non-trivial constraints on the freedom of some moral agents, compared to their freedom in the absence of that system (Valentini, 2011, p. 137). Sharing Nagel and Blake's fundamental commitment to individual autonomy, Valentini's theoretical framework is based on the conviction that any coercion, interactional and systemic alike, stands in need of justification because of the fundamental liberal commitment to equal respect; justice serves to evaluate the legitimacy of the coercive relationship.

Insofar as Blake's account bases a concern with the regulation of substantive inequality on the coercive nature of a legal system, Valentini's discussion of systemic coercion serves to challenge Blake's statist stance. According to her, the current global economic order, underpinned as it is by neoliberal values, serves to 'foster trade liberalisation through the abolition of trade barriers,' which, however systemically, undermines the position of newly emerging national economies that cannot compete with the advanced market economies. This, in most cases, leads to poverty, unemployment and dependence on imported foreign goods. Moreover, the erosion of trade barriers is often asymmetrical, 'with developing countries being forced to open their markets, while developed nations continue to protect those

sectors in which developing countries would otherwise have been most competitive, namely agriculture and the textile industries' (Valentini, 2011, p. 194).

In line with Valentini's observation that there is systemic coercion through the formal and informal rules underpinning the global economic order, Nicole Hassoun goes further to prove that this is a system of rules equivalent to the coercive legal system at the domestic level, because it regulates the behaviour of various actors in the global economy and could be seen as a collective moral agent with a clear structure. As she explains, 'international law regulates the international institutions...along with states, many NGOs, and some corporations. It does not matter whether the rules...of international law are properly law. What is important is that the relevant rules determine what counts as an act of the global institutional system as opposed to one of its parts in isolation' (Hassoun, 2014, p. 78). Since most international organisations such as the UN, WTO, WHO, IMF and WB are based on treaties kept in line with the system of rules referred to as international law, these treaties serve to delineate the actions of the constituent parts of the international legal system from unregulated actions. In this sense, when the actors in the global economic order act in accordance with the treaties of various international organisations, they are in effect under the regulation of a coercive system of legal rules. Moreover, the system of legal rules at the global level could serve as a collective moral agent capable of coercion, insofar as 'the basic structure of the global institutional system, now embodied in the UN, IMF, WB, and WTO, was created in 1944 at the Bretton Woods conference for a common purpose—"to establish a framework for economic cooperation and development that would lead to a more stable and prosperous global economy"' (Hassoun, 2014, p. 82). This common purpose has united most prominent international organisations, despite the

fact that there is now a division of labour among them. Hence, Blake's distinction between the international and the domestic level does not obtain, in light of Valentini and Hasoun's observation that there exists a system of formal and informal rules and values underpinning the global order, which exerts an effective coercion over human beings at the global level, because this coercion requires not only a democratic decision-making procedure to justify it but also the regulation of substantive inequality to maintain the said procedure.

The last line of argument for restricting the regulation of substantive inequality to the domestic level is supplied by Sangiovanni, on the basis of the reciprocal relationship among a group of moral agents. According to him, rather than focusing on the degree to which the administrative state 'performs its functions coercively or noncoercively,' we should focus on 'exactly what the state does.' In other words, *pace* Nagel and Blake, Sangiovanni considers the coercive nature of the legal system as neither a necessary nor a sufficient condition for triggering a concern with the regulation of substantive inequality. As he says, coercion is 'of only contingent, indirect, and instrumental concern to a theory of distributive equality' (Sangiovanni, 2007, p. 20). Therefore, a reciprocity-based account of global distributive justice requires the regulation of substantive inequality exclusively among a group of people who contribute to 'the reproduction and maintenance of the basic collective goods constitutive of the state' (Sangiovanni, 2007, p. 28). He then suggests that, despite the growing interdependence at the global level, the institutionally mediated relationships among human beings are still different from those within nation-states in nature (Sangiovanni, 2007, p. 33-5). Thus, the regulation of substantive inequality is only required within nation-states in virtue of citizens' contribution to the reproduction of the collective goods through their shared administrative state.

Unfortunately, Sangiovanni has not specified the list of collective goods that warrant the regulation of substantive inequality. However, based on the examples he gives in order to illustrate the operational domain of a reciprocity-based account of distributive justice, two categories of collective goods can be identified as being morally relevant: (a) security and order and (b) a system of property relations (Armstrong, 2009, p. 307). This list would appear to be too thin to capture all the functions of the administrative state in supplying collective goods for the population within its jurisdiction. As Armstrong suggests, a fuller list should ideally include (1) order and security, (2) the formal and informal requisites of economic production, distribution, and exchange, (3) environmental goods, (4) civic infrastructure, (5) a system of cultural reproduction, (6) a system of physical reproduction and (7) a system of collective government (Armstrong, 2009, p. 309). This fuller list of collective goods should cast a shadow of doubt over Sangiovanni's distinction between the domestic and the international level as two different distributive contexts, because collective goods such as environmental goods, economic production, distribution and exchange, et cetera, are increasingly coordinated by international organisations such as the IMF, the WB and the UN to counter globalised threats, including global warming, economic recession and chronic poverty. Even if Sangiovanni rejects the relevance of some of the items on the fuller list of collective goods, his own thin list still fails to take note of increasing international cooperation in the areas of physical security, world order and international property rights. For instance, as Armstrong points out, 'nations share nuclear technology, base missiles, and early-warning devices on each other's territory, and sign pacts agreeing to mutual defence,' all examples of the provision of physical security at a global level. Moreover, 'property regimes are increasingly

being coordinated by international agreements, so that violations of intellectual property rights, for instance, by inhabitants of one state can be punished by the government of another state' (Armstrong, 2009, p. 310-1).

Thus, the three derivative accounts of global distributive justice are similarly vulnerable to the associativist cosmopolitans' criticism that the relationships among human beings at the global level bear equivalent characteristics to human association within nation-states. This is because the statisticians have not supplied any quantifiable criteria for the extent to which human association at the global level should resemble that within nation-states in order for it to warrant the regulation of substantive inequality. This failure on the part of the statisticians is described by Armstrong as the 'the continuum objection' which 'questions whether a qualifying criterion for the egalitarian relations could be advanced that reliably demarcates intra-state from inter-state or supra-state relations, or whether in fact the criteria provided thus far fail to discriminate sufficiently clearly.' This objection suggests that, rather than identifying human association within nation-states as being something qualitatively different than that existing at the global level, it might be more reasonable to depict 'a continuum of more and less intense relations that play out across state borders' (Armstrong, 2009, p. 298). Since human association within nation-states cannot definitively be proven as being qualitatively different from that at the global level, and the statisticians cannot yet provide a quantifiable threshold above which human association should be counted as sufficiently similar to that at the domestic level, an impasse appears between the statisticians and the associativist cosmopolitans.

In order to solve the continuum objection, we need to review the liberal nationalists such as Miller's contribution to the global justice debate, insofar as they focus on a

more fundamental factor that contributes to the maintaining of the administrative state; that is, a common identity among citizens. As discussed in Chapter 3, according to Miller, an administrative state needs to develop a common national identity and a shared public culture so as to instill a sufficient level of mutual trust among citizens. Mutual trust among citizens enables an administrative state to solve collective action problems, pursue distributive justice and practice deliberative democracy. All these three tasks that nation-states currently take for granted, in effect depend on the fact that citizens have a sufficient number of cultural commonalities shared among themselves, so as to trust each other. First, when citizens trust each other sufficiently, they will be able to assume the obligations implicated by collective action, such as the provision of public goods, the regulation of the market, et cetera, without excessive worry that others will free-ride on their compliance with state policies or even take advantage of their compliance (Miller, 1995, p. 91-2). Second, with a sufficient level of mutual trust among citizens, they ‘will give their support to schemes of social justice, particularly schemes involving redistribution to those not able to provide for their needs through market transactions’ (Miller, 1995, p. 93). Third, sufficient mutual trust among citizens will also motivate them to behave responsibly in public deliberation, in the sense that they are more likely to (1) advance claims sincerely held, rather than adopted as an expedient way to further their self-interests, and, (2) moderate their original claims so as to reach a compromise with others (Miller, 1995, p. 96-7). Hence, to Miller, a nation-state always already presupposes the existence of a national community within its jurisdiction that shares a common national identity and a public culture.

With regard to the scope of the regulation of substantive inequality, therefore, Miller argues that this is predicated on both the existence of institutions of citizenship and a

common national identity and a shared public culture. On the one hand, as discussed in Chapter 1, the relational ideal of social equality is fundamental to Miller's theory of distributive justice, insofar as the need to maintain equal relations among citizens participating in deliberative democracy grounds different approaches to the satisfaction of basic needs and the regulation of substantive inequality. As a corollary, I discussed in Chapter 2 one of Miller's reasons for restricting the regulation of substantive inequality to the domestic realm; the absence of institutions of citizenship at the global level. Insofar as there are no institutions of global citizenship based on deliberative democracy, human beings do not need the regulation of substantive inequality in order to help them maintain their equal status as citizens participating in public deliberation. On the other hand, equally important for the moral relevance of the regulation of substantive inequality is citizens' motivation to support extensive redistributive measures. As Miller argues, the regulation of substantive inequality presupposes citizens' willingness to shoulder special obligations towards each other. As he explains,

The duties in question must be integral to the relationship in the sense that the relationship could not exist in the form that it does unless the duties were generally acknowledged. In other words, the duties are not merely an ethical superstructure erected on top of an attachment whose real basis is something else...but they are central to the way that the relationship is understood by the participants (Miller, 2007, p. 35).

In other words, the particular obligation to support the regulation of substantive inequality should be integral to the human association in question, so that the ethical demand of substantive equality in material terms and the motivation to comply with it are one and the same. This understanding of the regulation of substantive inequality and the motivation is shared by other liberal nationalists. For instance, Tamir argues that, 'willingness to assume the burdens entailed by distributive

justice...rests on...a feeling of relatedness to those with whom we share our assets' (Tamir, 1993, p. 118). This implies that special obligations to regulate substantive inequality in material terms among citizens of the same nation-state are possible 'not only because (the state) ...is effective as a mechanism of coordination and as a protector of their rights and interests, but rather because it serves as an object for their identification' (Tamir, 1993, p. 135). Hence, to liberal nationalists, the nation-state as a distinct distributive context that warrants the regulation of substantive inequality already presupposes the coincidence between the administrative state and the national community, so as to combine the ethical demand of substantive equality implicated by the institutions of citizenship and the motivation to comply with it as supplied by a common nationality.

In the global justice debate, the cosmopolitans and the statist both question the liberal nationalists' attempt to ground the moral relevance of the regulation of substantive inequality in the correspondence between the institutions of citizenship and the citizens' motivation to comply with it, in the sense that the said correspondence will necessarily yield the ethical demand for substantive inequality regulation. For instance, starting from the standpoint of the cosmopolitans, Gilabert argues that the absence of a national community based on shared cultural values does not stand in the way of a concern with the regulation of substantive inequality in material terms, insofar as a national community is a contingent historical fact that cannot be considered fundamental to individual well-being as are other associations such as friendship and familial relationship. As he says, 'not all special relationships have the same normative weight. Some are obviously very strong, and others are clearly very weak. It is worth asking whether national ties provide a compelling case for special relationships with great normative weight' (Gilabert, 2012, p. 203). Since

‘nationhood and states are clearly contingent historical formations humans could avoid without fundamental losses to their wellbeing,’ this implies that ‘national identity and institutions might best be seen as valuable to the extent that they facilitate servicing other values such as solidarity, distributive justice, and democratic participation’ (Gilbert, 2012, p. 204). Similarly, attempting to validate the statist’s account of global distributive justice in light of cosmopolitanism, Valentini agrees with Gilbert’s conclusion by emphasising the instrumental value of national community to motivate citizens to comply with the ethical demands of distributive justice. She maintains,

Of course, fellow feelings are likely to facilitate the realisation of justice. People are much more likely to accept and abide by principles of justice when these are perceived as applying to their associates. This, however, is a purely instrumental consideration: the existence of a sense of community should not affect the normative applicability of principles of justice as such but only their prospects of success (Valentini, 2012, p. 62-3).

Nevertheless, these objections to the liberal nationalists’ account of distributive justice do not dispute the motivational force of a sense of national community among citizens. They are merely opposed to the idea that the above-mentioned motivational force should be given so much moral weight as to block the regulation of substantive inequality outright. As Gilbert concedes, the complete rejection of the intrinsic value of national community is not the only option available to cosmopolitanism. Cosmopolitans could also hold the view that a national community ‘may have intrinsic value, but not enough weight to limit global egalitarian demands to secure for all equal chances to live good lives’ (Gilbert, 2012, p. 204).

Note that these objections do not directly engage with the liberal nationalists’ account of distributive justice as do the associativist cosmopolitans with the statist’s

account, in the sense that they do not strive to prove that human beings actually share a sense of common identity based on common cultural values at the global level. However, were they to take serious account of the motivational force of national community, as do the associativist cosmopolitans with the statist's account, they would find the liberal nationalists' account more convincing than that of the statist for two reasons. Firstly, the liberal nationalists do not reject the moral relevance of the institutions of citizenship which the statist accounts take to be fundamental to the grounding of the regulation of substantive inequality. In fact, as discussed above, they propose an account based on the coincidence of the institutions of citizenship and the motivational force of a national community and, as such, should logically have a stronger and more nuanced interpretation of the grounding of the regulation of substantive inequality. For instance, Miller recognises the validity of the statist's accounts of global distributive justice based on involuntariness, coercion and reciprocity, while insisting that these accounts need to be combined with the liberal nationalists' account based on a common identity among citizens, in order to justify the restriction of the regulation of substantive inequality to the domestic level. As he says, nation-states should be treated as a different distributive context than the global level because 'political communities of this kind combine at least three different modes of human relationship, each of them relevant to distributive justice.' In particular, a nation-state 'applies coercive laws to all its members; those members identify with one another as compatriots; and although it is not fully self-contained from an economic point of view, its economy and accompanying set of social services can be regarded as a large-scale cooperative practice since most production, exchange and distribution occurs within the borders of the state' (Miller, 2013, p. 161-2). Thus, the aforementioned cosmopolitans' challenge to the statist's account of global distributive justice will not undermine

Miller's liberal nationalist account immediately, insofar as his account employs four factors that define nation-states as a distinct distributive context: involuntariness, coercion, reciprocity and common identity.

Secondly, the liberal nationalists go to greater lengths than the statist to reveal the motivational base of any institution of citizenship, insofar as existing nation-states cannot fulfil their functions without instilling a sense of common nationality based on shared cultural values among their citizens in the first place. As I demonstrated in Chapter 3, a nation-state cannot bypass the need for a common national identity and a shared public culture, even if it resorts to Habermas's constitutional patriotism—one of the most plausible accounts of social integration based on the legitimation of all legal rules within society. In contrast to the liberal nationalists' belief that a common nationality should be purposefully developed and preserved through deliberative democracy, Habermas argues that a sense of solidarity among citizens could be developed through the legitimation of all legal rules in a legally institutionalised communicative action alone. In effect, constitutional patriotism has to rely on the conviction that a communicative action, once legally institutionalised as a law-making procedure, could strengthen the interpersonal relationships among citizens through increasing the amount of shared normative understandings in the process of negotiating different interpretations of legal rules among themselves (Habermas, 1996, p. 15). Nevertheless, as I showed, Habermas and the constitutional patriots do not have an explanation for why citizens could be motivated to participate in a legally institutionalised communicative action in the first place. Without a shared national identity, citizens would not have sufficient mutual trust among themselves to believe that others will advance claims in good faith if they are willing to do so in the law-making process. Of course, the constitutional patriots could

respond that citizens could be motivated by a shared political culture that situates the validity of a legally institutionalised communicative action in the broader historical development of the democratic decision-making procedure in their nation-state (Michelman, 2001, p. 269; Ferrara, 2001, p. 787). In other words, citizens could be motivated to comply with the rationale of a communicative action if a shared political culture could help them understand communicative action as the result of a gradual historical development of a democratic decision-making procedure. Unfortunately, this claim does not obtain, insofar as there is a gap between the existing political culture and the new one that is to validate the legally institutionalised communicative action. In other words, Habermas's conception of political culture is too thin to help citizens understand the evolution of democracy as a continuous process, for it consists merely in essential normative convictions about the validity of the law-making process and nothing more. Therefore, citizens could only be sufficiently motivated to comply with the rationale of communicative action if they share a more comprehensive public culture that could help them understand the gap between the existing and the new political culture. This means that nation-states cannot bypass the need for a common national identity and a shared public culture in order to exist and fulfil their duties towards the citizens in the long term. Thus, in this light, the statist's accounts of distributive justice are predicated on the validity of the motivational force of national community, since without it the institutions of citizenship cannot exist, let alone fulfil their obligations towards citizens within nation-states.

In a sense, therefore, the liberal nationalist account of distributive justice stands a good chance of subsuming the statist accounts because it is developed on top of the three statist accounts combined, and is predicated upon the motivational force of a

common identity, which enables any institution of citizenship to exist and fulfil its obligations to citizens. However, in light of these two advantages, could the liberal nationalists' account of distributive justice overcome the aforementioned 'continuum objection' levelled by the cosmopolitans against the statist accounts? Recall that the 'continuum objection' suggests that it is unreasonable to expect a single criterion to qualitatively distinguish nation-states as a different distributive context from the global level, in that the human associations at the domestic and the global levels differ from each other in degree. Therefore, considering that the statist fail to provide a definite threshold above which the human association will qualify as sufficiently similar to the one within nation-states, the impasse between the associativist cosmopolitans and the statist cannot be resolved simply by arguing for the similarities between the domestic and the global realms. In this sense, the liberal nationalists inherit the problem of the 'continuum objection' by combining the three statist accounts with a new criterion—common identity—insofar as the multi-faceted criterion still cannot distinguish the human association within nation-states as being qualitatively different from that obtaining in the global realm. In other words, the global level differs from the nation-state in terms of the involuntariness of membership, institutional coercion, reciprocal relations among human beings and the strength of a common identity to some degree. Therefore, without a definite threshold, we could only be sure that there is a difference in degree between the human associations at the domestic and the global level. Nonetheless, we are unable to draw the conclusion from this difference that it justifies the restriction of the regulation of substantive inequality to the domestic level.

Conclusion

I have established in this chapter that the global justice debate among the cosmopolitans, the statist and the liberal nationalists sees an impasse gradually being formed with regard to the moral relevance of the regulation of substantive inequality at the global level. The cosmopolitans believe that the moral equality of human beings is the most fundamental moral principle, whereas they disagree among themselves over the intrinsic value of the human association within nation-states. I have demonstrated that the humanist cosmopolitans do not engage in a fruitful dialogue with the statist and the liberal nationalists, as the humanist cosmopolitans reject outright the latter's view that the intrinsic value of the human association within nation-states grounds the moral relevance of the regulation of substantive inequality. Nevertheless, the statist and the liberal nationalists could refute the humanist cosmopolitans' account of distributive justice on the ground that the luck-choice distinction in and by itself cannot justify different approaches to the responsibility-insensitive satisfaction of basic needs and the responsibility-sensitive regulation of substantive inequality. It has to be anchored in the relational ideal of the equal relationship among citizens, which amounts to the total and/or partial subsumption of humanist cosmopolitanism into statism and/or liberal nationalism.

In contrast, despite the associativist cosmopolitans' recognition of the grounding relation between human association within nation-states and the regulation of substantive inequality, I demonstrated that their continual challenge of the statist accounts will eventually lead to an impasse, insofar as the latter fails to offer a definitive threshold above which human association at the global level will resemble sufficiently that at the domestic level. Moreover, the liberal nationalist account

combines the three statist accounts based on involuntariness, coercion and reciprocity with a new, culturally defined criterion—a common identity among citizens. In this light, the liberal nationalists could subsume the statist accounts because it is based upon those statist accounts and adds a new criterion that is fundamental to the sustaining of any institution of citizenship. However, when the liberal nationalists subsume the statist accounts of global distributive justice, they inherit the latter's problem with the 'continuum objection' as well, in that the liberal nationalists such as Miller still cannot decisively prove to the cosmopolitans that the difference in degree between the human associations at the domestic and the global levels generates different requirements for distributive justice. Hence, it seems that the impasse at the level of substantive theory persists, mainly between associativist cosmopolitanism and liberal nationalism. In the next chapter, I will go further to discuss a similar impasse among cosmopolitanism, statism and liberal nationalism at the methodological level and show that my reconstruction of Miller's account of a deliberative democracy on the basis of Habermas's conception of communicative action could help resolve these two impasses.

Chapter 8:
Resolving the Two Impasses in the Global Justice Debate:
the Argument for the Further Institutionalisation of Global
Citizenship

I have demonstrated in Chapter 7 that the global justice debate among the cosmopolitans, the statist and the liberal nationalists over the scope of the regulation of substantive inequality in effect leads to an impasse between the associativist cosmopolitans and the liberal nationalists at the level of substantive theory. This is because the liberal nationalists cannot persuade the associativist cosmopolitans to accept the validity of grounding the restriction of the regulation of substantive inequality in the difference in degree between human association at the domestic and the global level. In this section, I will focus on another impasse in the global justice debate at the methodological level, wherein the cosmopolitans disagree with the statist and the liberal nationalists over the method of developing a substantive theory of distributive justice. I will argue that the statist's and the liberal nationalists' insistence on accounting for common people's motivation to comply with the ethical demands of distributive principles cannot successfully persuade the cosmopolitans to accept the irrelevance of the regulation of substantive inequality at the global level.

In section 1, I will introduce two means of justification in the cosmopolitan theories of distributive justice based on, respectively, the logical compatibility of distributive principles with the moral equality of human beings and its acceptability to those who are subject to its regulation. In section 2, I will address three lines of argument criticising the first way of providing justification advanced by the statist and the liberal nationalists: (1) the cosmopolitan approach to distributive justice is not

realistic, (2) the cosmopolitan approach does not take serious account of feasibility constraints, and, (3) the cosmopolitan approach does not take account of the common people's motivation to comply with distributive principles. Out of these critiques, only the last one obtains in light of the cosmopolitans' challenge, insofar as moral reasoning is likely to lead to purely utopian ideals without taking account of the common people's motivation to comply with moral principles. Nevertheless, I will show that the liberal nationalists cannot effectively persuade the cosmopolitans to accept the moral irrelevance of the regulation of substantive inequality at the global level, despite the fact that their methodological commitment to accounting for common people's motivation is not only valid but also more sophisticated than the statist's similar approach to distributive justice. This is because the cosmopolitans and the liberal nationalists understand differently the implications of common moral intuitions and political emotions for distributive justice at the global level. In section 3, I will show that, in order to resolve the two impasses at the level of substantive theory and the level of methodology, the cosmopolitans, the statist and the liberal nationalists all need to endorse the further institutionalisation of global citizenship based on my reconstruction of Miller's account of deliberative democracy. This is because an institutionalised deliberative procedure could, in principle, help people reach a normative consensus on a set of global distributive principles most consistent with their common moral intuitions and political emotions.

1. The Two Means of Justification

First and foremost, the cosmopolitans usually adopt two ways of justifying distributive principles; that is, (1) the logical compatibility of the distributive principle with the moral equality of human beings, and, (2) the acceptability of the

distributive principle to those who are regulated by it. The humanist cosmopolitans usually adopt the first means of justification alone, as exemplified in Caney's argument presented in *Justice beyond Borders* (2005). Caney demonstrates the existence of universal principles of distributive justice, partly through investigating the logical coherence of the prevalent cosmopolitan conceptions of distributive justice and thereby proving the compatibility between those conceptions and the moral equality of human beings. Moreover, the objection to the division between the domestic and the international spheres also contributes to translating the moral equality among moral agents into substantive equality in material terms. For example, he rejects Rawls's argument in *The Law of Peoples* (1999) that egalitarian social justice should not be extrapolated to the global level. Rawls resorts to the moral significance of a people's autonomy to make collective and binding decisions. A similar line of argument is made by David Miller to justify the division between the domestic and the international spheres with distributive implications, which I covered in the last chapter with regard to the validity of the 'dynamic problem.' According to Caney, a critical problem with such a division is that the moral significance of peoples' autonomy is not a valid justification. '(I)t would be highly unjust to disadvantage an individual because of a decision that he or she did not take but that some, possibly unelected, politicians took' (Caney, 2005, p. 130), meaning, as I interpret Caney's words, that Rawls's and Miller's justifications for the division between the domestic and the international spheres is logically incompatible with the moral equality of human beings, because it amounts to an unequal treatment of individuals in illiberal societies.

Secondly, the associativist cosmopolitans also endorse an additional justification on top of the first one, which is the logical compatibility with the moral equality of

human beings. This justification is defined as the general acceptability to most of those who are regulated by the principles. It derives from the notion of ‘reasonable rejection’ created by the contractarian thinker, Thomas Scanlon. He argues that sound moral principles could only be justified when the agents affected by them could not reasonably reject them, *ex ante*, under some appropriate method of modelling rational consent (Scanlon, 1998, p. 338-49). Moreover, Brian Barry, following Scanlon’s theory, tailors the idea of reasonable rejection in light of the global justice debate, insisting that principles of justice could only be justified when no one affected by them could reasonably reject them (Barry, 1995). Gilibert terms this variant of Scanlon’s reasonable rejection in light of the global justice debate as ‘cosmopolitan justifiability’—that is, ‘We should treat each other on the basis of principles of justice that no one, as free and equal persons, could reasonably reject’ (Gilibert, 2012, p. 10). According to him, cosmopolitan justifiability is ‘an epistemic operationalisation of the idea of moral equality’ that imposes a constraint on the development of particular principles of global distributive justice. The moral equality of human beings and cosmopolitan justifiability together justify any appropriate principle of global distributive justice.

2. Debating the Fact-Dependency of Distributive Principles

In the global justice debate, the first justification falls under repeated criticism from the statist and the liberal nationalists for failing to offer a morally relevant account of distributive justice at the global level. That is to say, the cosmopolitans’ attempt to justify their theory of global distributive justice on the basis of logical compatibility with the moral equality of human beings suffers from three deficiencies. First, the cosmopolitan vision of distributive justice is merely a chimera, insofar as it ignores

the fact that nation-states are self-interested corporate moral agents and differ from each other in terms of their cultural values. Second, the cosmopolitan vision cannot offer any immediate guidance for realising its ideal. Third, the cosmopolitan vision does not provide a valid account of people's motivation to support the regulation of substantive inequality at the global level, because this vision is imposed upon the world population without taking into account their common moral intuitions and political emotions.

First and foremost, statist and liberal nationalists point to the fact that there are substantial differences between the international and the domestic arenas. For instance, according to Kenneth Waltz, 'the international system is a 'self-help' system in which the unit members (i.e. states) have no choice but to pursue their own interests. If they do not they will lose out...There is therefore no possibility for the pursuit of moralistic ideals like eliminating poverty' (Waltz, 1983, p. 1-32; cited by Caney, 2005, p. 137). From a realist perspective, this view depicts a conflict between the ethical demands of global distributive justice in general and the world order as a 'state of nature.' Insofar as nation-states will lose out if they aim to further ethical ideals at the global level, they will refrain from this attempt altogether in reality. Nevertheless, since this criticism is levelled against global justice theories in general rather than cosmopolitanism in particular, I will briefly explain how it does not obtain in light of the questionable link between the empirical claim that world order is and can only be a state of nature, and the normative claim that global distributive justice in general is not applicable. As Beitz and Jon Mandel demonstrate, nation-states do not always favour a course of action that leads to the maximisation of their national interests, insofar as there are many other considerations—some of which concern ethical demands—influencing the final foreign policies of each nation-state

(Beitz, 1979, p. 37-50; Mandel, 2014, p. 34). Moreover, even given the accurate depiction of the international system, the normative conclusion that morality is not applicable still does not follow, because there are conceptual difficulties in analogising the international system with a state of nature. In a state of nature, the parties are individual persons, whereas in the international system, the equivalents are nation-states. Beitz goes further to argue that using the analogy of a state of nature to facilitate the conceptual jump from a description of international relations to the prescriptive claims is at best a limited device, whereas ‘the justification of international principles is independent of this comparison’ (Beitz, 1979, p. 63). In other words, the realist normative claim that distributive justice is not required in a world similar to a state of nature still begs the fundamental question: why is it not required?

The second charge claims that the ‘top-down approach’ adopted by the cosmopolitans overlooks the specific context which distributive principles are to regulate and, as such, is not morally relevant. As Caney understands this criticism, ‘universal principles are inappropriate, if not useless, because they are too general and abstract to have much applicability. All the relevant work is done by local circumstance. What is needed is a contextualist approach that articulates principles appropriate for specific historical circumstances’ (Caney, 2005, p. 40). For instance, Walzer argues, ‘Morality is thick from the beginning, culturally integrated, fully resonant, and it reveals itself thinly only on special occasions, when moral language is turned to specific purposes’ (Walzer, 1994, p. 4). Consistent with the abovementioned bottom-up approach to moral issues, Walzer here stresses the need to derive moral principles from existing practices and conventions, because they are both deeply situated within specific cultural understandings and applicable to

specific occasions. In other words, he rejects the cosmopolitans' tendency to formulate global principles of distributive justice independently of local contexts and then substantiate them further with particular cultural values prevalent within specific contexts. As I discussed in Chapter 5, Miller calls the said tendency of cosmopolitanism to treat contextualist morality as the localised extension of the general and abstract principle the 'starship enterprise view of political philosophy.' According to him, the starship enterprise view is doomed to irrelevance because,

(It) draws a line between political philosophy proper, which involves defining concepts and setting out principles in an entirely fact-free way, and applied political theory, which takes these basic concepts and principles and, in the light of empirical evidence, proposes a more concrete set of rules to govern the arrangements of a particular society, or a particular group of societies (Miller, 2008, p. 31).

Nevertheless, in relevant moral reasoning—what he calls a 'political philosophy for earthlings'—'even the basic concepts and principles of political theory are fact-dependent' (Miller, 2008, p. 31). Philosophers need to be concerned with two types of feasibility constraints: political feasibility and technical feasibility. According to the former, 'whether a proposal is feasible depends on whether it can command sufficient political support to be adopted.' The latter focuses on 'whether a proposal contravenes physical laws or rock bottom social or psychological laws' (Miller, 2008, p. 46). Therefore, it seems that the difference between the cosmopolitan approach on the one hand and the statist and the liberal nationalist approach to formulating global principles of distributive justice lies in the relationship between principles and the contexts they are supposed to regulate. Whereas the cosmopolitans aim to develop distributive principles independently of the particularities of contexts and then further substantiate these principles with particular cultural values of the latter, statist and the liberal nationalists such as Miller and Walzer strive to allow the

particularities of the context to contribute to the formulation of distributive principles from the very beginning.

The stark contrast between both these interpretations of Rawls's notion of 'realist utopia' supports my identification of the difference at stake here. Rawls, in *The Law of Peoples* (1999), memorably coins the notion of 'realistic utopia' to denote the division of labour between the 'ideal' and the 'non-ideal' approaches that jointly bring the ideally desirable vision of social institutions closer to the world as it is, within various constraints posed by the particular context. Nonetheless, he claims,

The problem here is that the limits of the possible are not given by the actual, for we can to a greater or lesser extent change political and social institutions and much else. Hence, we have to rely on conjecture and speculation, arguing as best we can that the social world we envision is feasible and might actually exist, if not now then at some future time under happier circumstances (Rawls, 1999, p. 12).

According to this notion, the cosmopolitans, statist, and liberal nationalists each highlight their preferred portion of the aforementioned notion. To the cosmopolitans, it is the utopian part, whereas to the statist and the liberal nationalists, it is the realist part.

Taken at face value, the cosmopolitans believe that, following Rawls, developing fundamentally appropriate moral principles to substantiate the utopian vision is critical above all else. They accept the contextualisation of moral principles in different non-ideal situations where they are meant to apply. However, the facts about the real world as it is should not constrain moral reasoning at the fundamental level in order to preserve the critical bite of the utopian vision. As a direct corollary, most cosmopolitans also adopt the Rawlsian notion of 'natural duty of justice;' that

is, it 'requires us to support and to comply with just institutions that exist and apply to us. It also constrains us to further just arrangements not yet established, at least when this can be done without too much cost to ourselves' (Rawls, 1999, p. 99). At the global level, since the basic background conditions are not yet regulated by just institutions, we are morally obligated to create them, even if there are currently various unfavourable factors present (Buchanan, 2005, p. 85-94).

On the other hand, statist and liberal nationalists offer a different interpretation of Rawls's 'realistic utopia,' stressing the centrality of the fact-dependence of moral principles at the fundamental level. For instance, Risse argues that the said notion breaks down into three characteristics. First, 'a realistic utopia is relative to time. What is realistically utopian now may differ from what it is generations later.' Second, 'a realistic utopia reconciles us with our social world: some aspects of that world we cannot change, at least now, or we would be ill-advised to change.' Third, although a realistic utopia goes beyond what is feasible to achieve now, it 'must contain principles that members of that society could be brought to accept by reasoned discussion, which means that the principles cannot have implications that those citizens would find abhorrent' (Miller, 2008, p. 46-7; cited by Risse, 2012, p. 322). That is to say, fundamentally appropriate principles depend on the socially contingent facts about the real world. Likewise, Miller points out, 'Rawls himself would have no problem with this dependence on contingent facts.' His idea of realistic utopia is that 'by extending the limits of political possibility...we shall also come to a better understanding of the limits of the reshaping, and therefore become reconciled to those aspects of our condition that cannot be changed' (Miller, 2008, p. 40, 41).

I agree with the cosmopolitans that, in order to retain the critical bite of global principles of distributive justice, one has to distance oneself from the world as it is. Otherwise, the best we can achieve would be an affirmation of the normative understandings which the existing world order inculcates in each of us through socialisation, and a fundamental change in the world would indeed be unattainable. This line of reasoning is often adopted by the cosmopolitans to fuel their counter-argument against the charge of irrelevance levelled by the statist and the liberal nationalists. They call it ‘the status-quo charge.’ Valentini reports two versions of the status-quo-bias charge against statism and liberal nationalism; that is, the static and the dynamic version. The static version contends that a fixation on sovereign states is not justified until all units of analysis, such as supranational organisations, politically autonomous regional governments, transnational cultural communities and so on are considered in turn. Although, it is not in itself problematic that human association within nation-states is deemed by the statist and the liberal nationalists to be morally relevant; there might be other equally, if not more fundamentally appropriate units to be chosen. Hence, with regard to the statist and the liberal nationalists’ accounts of distributive justice, ‘(t)he selection of the unit of analysis and the distribution of boundaries separating one set of practices from the other has so far remained unjustified’ (Ypi, 2012, p. 74).

The dynamic version of the status-quo-bias charge claims that the statist and the liberal nationalists’ wilful ignorance of the important facts about the current world order due to the idealisation of human association within nation-states as well as territorial distribution leads to an inability to assist moral agents with practical choices. Ypi reports that the cosmopolitans generally level a criticism of an idealised human association against both the ‘cultural-conventionalist’ and the ‘political-

institutionalist' accounts. According to his definitions of the said two accounts, one can only assume them to be equivalent to the liberal nationalist and the statist accounts respectively. Indeed, the statist and the liberal nationalists do not take offence at the charge of idealisation. The liberal nationalists admit that they intend their theory of global justice to be ideal at this level, because '(t)he real issue... is not so much verifying whether any existing collection of individuals really exhibits all the relational properties associated with cultural conventionalism' (Ypi, 2012, p. 73). Moreover, the point about the statist account is 'not about how the world would look if its basic social institutions were redesigned from scratch. It is about how we could justify the existence of such institutions to the specific agents they serve to represent' (Ypi, 2012, p. 74). However, by emphasising the overarching significance of nation-states, statism and liberal nationalism beg the question as to whether problems at the systemic level, such as environmental degradation, international immigration flow, terrorism and so on can be successfully resolved. These globalised threats cannot be tackled single-handedly by each nation-state, and have to rely on a coordinated effort at the global level. With regard to distributive justice in particular, as the cosmopolitans continually point out, extreme poverty and radical substantive inequality in material terms at the global level can be traced back to the background fairness of the global economic order. By letting an idealised account of human association within nation-states trump all ethical concerns with globalised threats, including the unfair distribution of material advantages, our moral reasoning does not offer any actionable guidance for resolving these urgent problems faced by humanity as a whole.

These are indeed forceful challenges against statism and liberal nationalism, insofar as both schools of thought place great emphasis on preserving the nation-state as the

primary distributor of material advantages at the global level without considering alternative political arrangements. Nevertheless, given that a complete ignorance of all alternative political arrangements will not elevate us sufficiently above the world as it is to tackle newly emerging problems at the global level, it still does not serve to decisively refute the statist and the liberal nationalists' insistence on allowing the moral particularities of nation-states to bear on our moral reasoning about distributive justice. This is because, even though the ideal world order is not given by the actual, as Rawls says, we still have to rely on speculation and conjecture in order to argue that it could actually exist. Note that there is a big difference between conjecture and speculation on the one hand and fantasy on the other, for the former has to be based on reality, whereas the latter relies on our wishful thinking alone. Therefore, Rawls's 'realist utopia' should take feasibility constraints into consideration in the process of speculating about principles of distributive justice, meaning that the cosmopolitans' proposal to imagine the world as it should be from the word go is a one-sided portrayal of Rawls's approach to political theory. Hence, the statist and the liberal nationalists are correct to point out that political principles cannot be imposed from nowhere, as the cosmopolitans suggest. Rather, they have to be developed in the specific contexts that are subject to their regulation insofar as the facts about these distributive contexts are highly particular.

This brings us to the third criticism of the cosmopolitan account of global distributive justice. This points to the lack of motivational strength in the cosmopolitan conception of distributive justice. '(P)roponents of this critique argue that cosmopolitan theories lack a capacity for guidance because they fail to *motivate* existing agents: in practice, cosmopolitanism is doomed to fail because no one is willing to follow its prescriptions' (Valentini, 2011, p. 32; original emphasis). This

line of criticism draws strength from the conviction that ‘moral principles must resonate with those subject to them: they must be able to inspire them to comply with them’ (Walzer, 1988, p. 16; cited by Caney, 2005, p. 41). Among Walzer’s most influential proponents, Miller provides a forceful account of cosmopolitanism’s said deficiency in motivating moral agents, claiming that it relies on an implausible picture of moral agency in two aspects: ‘It draws a sharp line between moral agency and personal identity on the one hand, and between moral agency and personal motivation on the other’ (Miller, 1995, p. 57). With the counterfactual device based on the wedge driven between moral agency and personal motivation, however, cosmopolitanism is incapable of successfully comprehending the ethical significance of human association within nation-states. As a result, the cosmopolitan conception of distributive justice could not motivate moral agents in the real world either.

These criticisms against the cosmopolitan theories are consistent with a growing awareness in the field of political philosophy in general; that is, ‘it must be at least theoretically plausible that individuals could be motivated to act in the ways that a theory of justice demands’ (Cameron, 2017, p. 3). This trend accompanies a second way to justify distributive principles that has been gradually gathering momentum of late; that is, normative principles of distributive justice have to be acceptable to those whose behaviour patterns are subject to their regulation. As a matter of fact, many associativist cosmopolitans have come to take serious account of motivation. For instance, A. Burcu Bayram has recently analysed the psychological effects of individual values on people’s voluntary choice to see themselves as world citizens. He adopted four perspectives to inform this research: normative, economic, cultural and liberal. First, the normative account considers that the cosmopolitan motivation derives from a desire to further others’ well-being regardless of their race, sex,

ethnicity, et cetera. Second, the economic account derives motivation from the shared lifestyle of a class of elites who benefit from the globalised economic order. Third, the cultural account derives motivation from the desire to promote the tolerance of difference and the pluralism of values. Lastly, the liberal account derives motivation from people's desire to promote their independence from imposed national identities. In order to test the validity of these accounts, Bayram then posits four testable variables: self-transcendence, self-enhancement, openness to change and conservation. The self-transcendence value serves to operationalise the normative account of the cosmopolitan motivation, insofar as it emphasises altruism and concern for others' well-being. The self-enhancement value serves to operationalise the economic account, as someone scoring high on this value will be more driven to pursue self-interests. The conservation value operationalises the cultural account, since an individual with a high score on this value will be more willing to conform to convention and tradition and, as such, disapprove of the cultural account of cosmopolitan motivation. The openness to change operationalises the liberal account because it emphasises an individual's tendency to learn about diversity and novelty through independent thoughts (Bayram, 2015, p. 452-9). Based on data collected through the 2005-2008 wave of the World Values Survey, Bayram derives the following conclusion through establishing a statistical correlation between cosmopolitan allegiance and the four individual values respectively. As he shows, a strong positive correlation exists between cosmopolitan allegiance and self-transcendence, a positive correlation between self-enhancement and openness to change, and nonetheless a negative one between cosmopolitan allegiance and the conservation value. This proves that world citizenship appeals to self-transcendence and self-enhancement alike. However, the conservation values hinder cosmopolitan allegiance since they call for self-restraint and obedience to

authority. Therefore, the four accounts of cosmopolitan motivations are to a great extent correct (Bayram, 2015, p. 459-72).

At first glance, Bayram's research seems to undercut the statist and the liberal nationalists' assertion that a cosmopolitan theory of distributive justice will remain abstract and inapplicable as long as it does not allow the motivational force of particular attachment to administrative state or national community to bear on the formulation of principles. Nevertheless, the negative correlation between the conservation value and cosmopolitan allegiance does not necessarily suggest that conformity to tradition and convention hinders a cosmopolitan allegiance. Rather, it could be understood as a powerful source of motivation that could be reformed in the long run to support cosmopolitan allegiance, insofar as tradition and convention change according to the collective will of the people. There is no reason why existing traditions and conventions cannot change to accommodate cosmopolitanism through cosmopolitan education, as Nussbaum suggests. Even though she argues that national attachments prevent us from recognising our moral status as cosmopolitans, at the same time she believes that we could resort to what she calls 'cosmopolitan education' in order to realise the cosmopolitan ideals. If it starts from a very young age, cosmopolitan education serves to broaden children's locus of care beyond the attachment to the local, including especially nationhood, to cover the whole human race. In other words, Nussbaum wants to harness the motivational force of the particular attachments concentrated most intensely in familial relations, friendship groups and nationhood to support the universalist principles of distributive justice through purposeful education from a young age. This amounts to the recognition of political emotions as an important source of motivational force for human beings to support political principles and social institutions.

Moreover, John David Cameron argues that besides long-term education, there are also strategies that may motivate citizens of each nation-state to support cosmopolitan ideals: audience segmentation, values and framing and emotional messaging. First, audience segmentation points to the possibility that cosmopolitans can tailor their messages to the general public differently, according to the preferences of the group of people they are appealing to. Second, values and framing suggest that, depending on the different issues, the cosmopolitans can frame their message purposefully in order to stimulate a favourable emotional reaction in the general public. Third, emotional messaging emphasises the need to adopt more emotionally charged strategies to elicit cosmopolitan appeal; for instance, rhetoric and narratives as Young suggests (Cameron, 2017, p. 10-3). However, this account of the value of political emotions in the global justice debate differs from the statist and the liberal nationalists' understanding, in the sense that the associativist cosmopolitans like Nussbaum and Cameron do not allow political emotions to bear on our moral reasoning about political principles and social institutions. Conversely, they only develop specific strategies to utilise political emotion as an instrument to motivate human beings to support universalist moral principles.

Insofar as the cosmopolitans, the statist and the liberal nationalists all resort to interpretations of Rawls's notion of a 'realist utopia,' it is relevant here to clarify the counterfactual method which realist utopia enables—the 'original position.' As I suggested at the end of the second charge against the cosmopolitan theory of distributive justice as being too abstract and general, 'realist utopia' does not implicate a moral reasoning independent of the actual conditions of particular contexts. Although a realist utopia is proposed in *The Law of Peoples* (1999), it

enables both the initial original position adopted by Rawls at the domestic level in *A Theory of Justice* (1977) and *Political Liberalism* (1993), and the second original position at the international level. The original position is the hypothetical setting within which, behind a ‘veil of ignorance,’ rational individuals with equal standing choose freely among the possible governing principles of justice in order to advance their respective personal interests (Rawls, 1999, p. 17). It is set up according to a criterion which Rawls calls ‘reasonableness.’ Reasonableness is associated ‘with the willingness to propose and honour fair terms of cooperation, and second, with the willingness to recognise the burdens of judgment and to accept their consequences.’ As such, reasonableness guarantees that if the moral agents are correctly represented at the original position, the produced principles of justice would be acceptable to the actual citizens/peoples within a liberal society/society of peoples.

Reasonableness is concerned with motivation insofar as Rawls associates it with Scanlon’s principle of moral motivation. As he explains,

Scanlon’s principle is more than a psychological principle of motivation (though it is that) since it concerns the fundamental question why anyone should care about morality at all. The principle answers this by saying that we have a basic desire to be able to justify our actions to others on grounds they could not reasonably reject—reasonably, that is, given the desire to find principles that others similarly motivated could not reasonably reject... The two aspects of reasonable as a virtue of persons one may see as two related expressions of this desire (Rawls, 2005, p. 49f).

In other words, by correctly modelling citizens/peoples at the first and the second original position, political theorists could formulate those principles of justice most likely to motivate actual citizens/peoples within liberal societies and at the international level. Therefore, the original position as a counterfactual thought experiment attempts to abstract from social contingencies such as social class,

ethnicities, talents, et cetera through a veil of ignorance, while at the same time retains a sufficient number of features of particular context in its own design so as to motivate people's actual acceptance in reality. This is consistent with Risse's interpretation of Rawls's methodology that the validity of principles of justice depends on three factors: time, place and the actual acceptance of the people. According to him, principles of justice change over time, reconcile us with the relatively unchangeable facts of our society and have to win actual acceptance from people after reasoned discussion (Risse, 2012, p. 322). In a sense, statisticians like Rawls and Risse share the conviction that the formulation of principles of justice has to allow the facts of the particular context to bear on our moral reasoning, so as to motivate people's actual acceptance.

Nevertheless, as compared to the liberal nationalists such as Miller, the statisticians fall short of specifying the categories of facts that should be considered when formulating principles of justice. As I discussed in Chapter 5, the abovementioned facts include people's common moral intuitions and political emotions. As I understand these terms, 'common moral intuitions' refers to the range of widely held and yet unclarified intuitions about morality in general within society. 'Political emotions' refers to the range of human emotions that could potentially be utilised to realise social integration, motivate altruism and preserve shared cultural values within society. Even though the statisticians will have no problem agreeing with the three ways in which Miller reconciles the facts about our social world with normative ideals, insofar as they adhere to Rawls's notion of realist utopia. In particular, Rawls's approach to the principles of justice requires us to survey as many of the prevalent values and philosophical doctrines within our society as possible before making individual judgments about the conception of justice. Additionally, as

mentioned above, Rawls requires the modelling of the moral agents at the original position to be based on particular facts about the context, so as to motivate people's actual acceptance. Therefore, the statist could agree with Miller's claim that common moral intuitions should be allowed to bear on our moral reasoning about distributive justice.

However, they may not readily accept political emotions, including nationalist sentiments, as a relevant factor to be considered in the process of formulating political principles, insofar as they ground their account of distributive justice in the relationship between citizens and the administrative state. They could be persuaded if, and only if, political emotions are necessary for the maintenance of the institutions of citizenship itself, because their accounts of distributive justice will be undermined when its moral basis has to be stabilised by an extraneous factor such as political emotions. As demonstrated in the last chapter, the substantive theory of distributive justice advanced by liberal nationalists such as Miller could plausibly subsume statism for two reasons. First, the liberal nationalist account of distributive justice recognises the relevance of coercion, involuntary membership and reciprocity, and includes a new moral basis: common nationality. Second, insofar as a common nationality is indispensable for the administrative state to exist and fulfil its functions such as solving a collective action problem, pursuing distributive justice and practising deliberative democracy, liberal nationalism taps into the motivational force which statism takes for granted in stabilising the moral basis for its accounts of distributive justice. In the same vein, the statist should recognise the relevance of political emotions such as nationalist sentiments to the formulation of distributive principles because they partly determine whether the administrative state could continue to exist and fulfil its functions.

Nevertheless, even if the liberal nationalists could subsume the statist's approach to motivation when formulating global principles of distributive justice and manage to persuade the cosmopolitans to see merit in an equal consideration of both normative ideal and the motivation to support it, the cosmopolitans could still refuse to accept the conclusion that substantive inequality regulation is not required globally. Insofar as different people would select different common moral intuitions and political emotions as relevant to their moral reasoning about distributive principles and assign different moral weights to them, it is unfeasible to arrive at the same set of distributive principles without an institutionalised procedure for actual communication. As discussed in Chapter 5, Miller explicitly admits having inherited the basic rationale of the 'reflective equilibrium' from Rawls. Rawls's method encourages individual citizens to conduct moral reasoning through surveying as wide a range of norms, values and philosophical doctrines within their society as possible before arriving at their own conceptions of justice. Insofar as this process of moral reasoning is carried out by each individual in isolation, it cannot guarantee that citizens will come to realise that they share the same set of principles of justice without actual communication. Since Miller recognises this problem, he proposes an improved approach to political theory that encourages people to survey the common moral intuitions and political emotions actually held by other citizens within their society, rather than their own perception of these factors. However, as I demonstrated, Miller's approach does not solve the fundamental problem with Rawls's 'reflective equilibrium,' because citizens still cannot know for sure others' approaches to selecting and attributing moral weights to common moral intuitions and political emotions without an actual communication among them. Hence, the liberal nationalist and the statist's challenge to the cosmopolitans obtains to the

extent that the cosmopolitans either completely denounce the relevance of motivation or reduce the role of motivation to a factor to be considered when applying distributive principles produced independently of the facts of particular contexts. They nonetheless fall short of decisively refuting the cosmopolitan principles of distributive justice because their approaches to distributive principle fail to explain how they intend citizens to accept the same set of distributive principles if they have different approaches to selecting and attributing moral weights to common moral intuitions and political emotions.

In summary, this section has introduced the two ways of justifying the cosmopolitan theories of distributive justice. The first way focuses on justifying distributive principles on the basis of their logical compatibility with the moral equality of human beings, whereas the second is based on their acceptability to those who are subject to their regulation. I have demonstrated that the three lines of criticism levelled by the statist and the liberal nationalists do not decisively refute the cosmopolitans' proposal to regulate substantive inequality at the global level. First, agreeing with Beitz and Mandel, I showed that the depiction of the world order as a 'state of nature' does not serve to refute the cosmopolitan stance because the depiction itself is contestable, and a link is missing between the said depiction and the refutation of the regulation of substantive inequality at the global level. Second, I traced the difference between the cosmopolitan stance on the one hand and the statist and the liberal nationalist ones on the other regarding their fundamentally different interpretations of Rawls's notion of 'realist utopia.' Whereas the cosmopolitans emphasise the independence of normative ideals from the facts about particular contexts in order to retain the ideals' critical bite, the statist and the liberal nationalists emphasise the ideals' inevitable anchorage in the facts about particular

contexts in order for them to be relevant. Then, *pace* Valentini and Ypi, I showed that the dynamic and the static versions of the status-quo charge do not serve to reject the need to anchor the normative ideals in particular contexts, insofar as the ‘realist utopia’ should not be interpreted as an endorsement of groundless fantasies. Third, I demonstrated that Rawls’s ‘realist utopia’ and the statist and liberal nationalists’ approaches to formulating distributive principles that follow from it essentially consist in the methodological commitment to account for people’s motivation to support normative ideals. In this light, the statist and the liberal nationalists’ charge against the cosmopolitan stance obtains, to the extent that their first way of justifying this denounces the need for taking account of motivation, and the second way reduces the role of motivation to a factor to be considered when applying distributive principles to particular contexts. Nevertheless, this charge based on motivation still does not serve to decisively refute the cosmopolitan stance, because the statist and the liberal nationalists fail to explain how individuals could come to share the same set of distributive principles when they select different facts about the social world and attribute different moral weights to these facts in moral reasoning without institutionalising a specific channel of actual communication among them.

3. The Argument for the Further Institutionalisation of Global Citizenship

So far, I have discussed the two impasses in the global justice debate among the cosmopolitans on the one hand and the statist and the liberal nationalists on the other. At the level of substantive theory, the cosmopolitans, the statist and the liberal nationalists all agree that the moral equality of human beings is the most fundamental principle, which then generates specific global principles of distributive

justice. At the methodological level, the impasse between the cosmopolitans on the one hand and the statist and the liberal nationalists on the other lies in the moral relevance of the facts about particular contexts which the principles of distributive justice are supposed to regulate.

In light of these two impasses at the methodological level and the level of the substantive theories, I will firstly argue in this section that the methodological difference identified by the statist and the liberal nationalists between their theories and the cosmopolitan theories of distributive justice is overstated, in the sense that they both base their theories of distributive justice on universalist values. In particular, even though the statist and the liberal nationalists criticise the universalist values embedded in the cosmopolitan theories and emphasise the need to ground distributive theories in particular contexts, the fact remains that the ethically significant characteristics of nation-states are chosen by the statist and the liberal nationalists on the basis of values that they deem justifiable, regardless of cultural differences. Secondly, I will demonstrate that one way to resolve the global justice debate over the scope of the regulation of substantive inequality is to institutionalise global citizenship based on deliberative democracy. In this way, a formalised channel of actual communication could help human beings to reveal their different approaches to selecting the morally relevant common moral intuitions and political emotions and assigning moral weights to them in the moral reasoning about global justice. Through public deliberation among human beings or their representatives, they could negotiate their different approaches to the facts about our world order and their impacts on our moral reasoning about global justice, and thereby reach a consensus on the universalist values that anchor global principles of distributive justice in the world as a particular distributive context different from nation-states.

Lastly, I will demonstrate that the cosmopolitans, the statist and the liberal nationalists could be persuaded to accept my normative reason for further institutionalising global citizenship. More importantly, I will here propose three guiding principles for my reconstruction of Miller's account of deliberative democracy on the basis of Habermas's conception of communicative action. These principles are derived on the basis of my arguments in Chapters 3, 4, 5 and 6 and are meant to generate more substantive principles in particular contexts.

First and foremost, as shown in the last section, the humanist and the associativist cosmopolitans both advance accounts of distributive justice that involve universalist values, insofar as they either completely dismiss the importance of the facts about particular context or reduce the role of these facts to a mere instrument of or an obstacle to realising distributive principles. However, as I will show below, something that is often downplayed in the global justice debate is the fact that statist and liberal nationalists also have to rely on universalist values in formulating their principles of distributive justice, despite their professed methodological commitment to capturing the facts about a particular context in moral reasoning. For instance, as Gilibert argues against the statist account of distributive justice based on institutional coercion, involuntary membership and reciprocity, statist such as Nagel, Blake and Sangiovanni have not given any argument for the assumption that the regulation of substantive inequality has to be based on the already existing social institutions within nation-states (Gilibert, 2012, p. 168-75). In other words, the ethical significance of human association within nation-states is a universal value that has to be argued for. Moreover, even if we assume the universality of the ethical significance of nation-states, how we match particular distributive principles with different contexts such as the domestic and the global realms needs also to be

justified. As Pogge points out, Miller's contextualist theory of distributive justice is not that different from his own, in the sense that there is a universalist element in Miller's account. Despite the fact that Miller applies different distributive principles to different distributive contexts, there is 'an underlying transcontextual logic' that justifies the distinction among distributive contexts on the basis of the modes of human relations prevalent within them. As such, even though the different distributive principles P1, P2 and P3 are applied to, respectively, the distributive contexts C1, C2 and C3, the discrimination of C1 from C2 and C3 has a justification which is universal across all cultural contexts (Pogge, 2002, p. 109- 10). Hence, it seems that the statist and the liberal nationalists' methodological commitment to anchoring distributive principles in particular distributive contexts does not automatically exempt them from the need to justify the universalist elements in their accounts of distributive justice. In this sense, what the cosmopolitans, the statist and the liberal nationalists have in common in the global justice debate is the need to justify those universal values that are fundamental to their respective global principles of distributive justice.

In this sense, the impasse at the level of substantive theory could be seen as an insurmountable disagreement over the universalist values inherent in different accounts of distributive justice. The cosmopolitans, the statist and the liberal nationalists all agree that the moral equality of human beings is the most fundamental principle, which then generates specific global principles of distributive justice. Cosmopolitanism encompasses two schools of thought. The humanist cosmopolitans insist that the logical consistency of specific principles of distributive justice with the moral equality of human beings should be maintained. They reject the statist and the liberal nationalists' belief that the ethical significance of human

association within nation-states should constrain the scope of the regulation of substantive inequality. I have demonstrated that the humanist cosmopolitans' narrow focus on the logical consistency of distributive principles with the moral equality of human beings makes it virtually impossible to further a fruitful dialogue between cosmopolitanism on the one hand and statism and liberal nationalism on the other, insofar as their disagreements are located at the methodological level, rather than the level of substantive theory. In other words, what lies behind their disagreement is the humanists' refusal to allow the ethical significance of human association within nation-states to bear on our moral reasoning about distributive justice. On the other hand, the associativist cosmopolitans agree with the statist and the liberal nationalists that human association within nation-states should ground the concern with the regulation of substantive inequality, and nonetheless strive to demonstrate the equivalence between human associations at the global and the domestic level. The statist and the liberal nationalist account of distributive justice cannot decisively refute the associativist cosmopolitans' challenge and vice versa, which naturally gives rise to an impasse at the level of substantive theory, because the liberal nationalists fail to specify the exact degree of equivalence between human association at the global and the domestic level that warrants the regulation of substantive inequality globally. Therefore, it seems that the humanist cosmopolitans do not accept the ethical significance of human association within nation-states as a universal value which should inform the formulation of global distributive principles. In contrast, the associativist cosmopolitans do not accept the validity of the universalist values based on which the statist and the liberal nationalists distinguish nation-states from the global level as being two different distributive contexts.

Since the need to justify the universalist elements in the accounts of distributive justice is derived from the methodological commitment to better account for common peoples' motivation to comply with these principles, the validity of any distributive principle is partially determined by its ability to appeal to people's common moral intuitions and political emotions, as Miller argues. As shown in the last section, both the humanist and the associativist cosmopolitans have so far failed to take serious account of common moral intuitions and political emotions, as they either denounce their moral relevance to the formulation of distributive principles or reduce their roles to an instrument of or an obstacle to realising the said principles. The statist take better account of motivation in general, yet nonetheless fail to recognise the moral relevance of political emotions to the formulation of distributive principles, insofar as they ground a concern with distributive justice in the existing institutions of citizenship. The liberal nationalists agree with the statist's methodological commitment in general, and add a new factor for consideration when formulating the global principles of distributive justice: political emotions. As such, they stand a better chance than the statist to account for people's motivation to comply with distributive principles, because political emotions such as nationalist sentiment are indispensable to the existence of the administrative state and its ability to fulfil its main functions including, but not limited to, the pursuit of distributive justice. Therefore, in the following, I will focus on fleshing out the implications of Miller's approach to political theory for how we should justify the universalist values embedded in accounts of distributive justice in the global justice debate.

As I demonstrated in Chapter 5, Miller, who provides the most influential liberal nationalist approach to political theory, similarly suffers from his failure to justify his account of common moral intuitions and political emotions. In other words,

despite his explicit endorsement of grounding distributive principles in the facts about the existing social world, he fails to explain why people should accept his distributive principles as the only valid derivation from the prevalent common moral intuitions and political emotions within the context in question. There is a slightly different though closely related problem regarding the global justice debate in academia. As mentioned above, the impasse in the global justice debate at the level of substantive theory manifests itself because the cosmopolitans on the one hand and the statist and liberal nationalists on the other cannot justify their universal values to the other side. However, they all recognise the need to ground the validity of distributive principles at least partially in people's acceptance of them. In Chapter 5, I argued that the need to justify one's distributive principles to those whose behaviour patterns are regulated by them implies two different questions. On the one hand is the debate over what the most appropriate principles of justice within academia are, whereas on the other, there is the question regarding the actual acceptance of these principles within the context in question. Political theorists usually have to straddle these two questions, since they serve as mediator between people's common moral intuitions and political emotions and the distributive principles that are to inform specific policies at the political level. In other words, since the presumably valid distributive principles debated by the academics have real political impact upon common peoples' life prospects, their methodological commitment to accounting for people's motivation should already presuppose the actual acceptance of their distributive principles within the institutionalised setting of public deliberation. The need to flesh out the institutional implication of Miller's methodological commitment becomes more pressing, since the impasse at the methodological level shows that a genuine consensus on how to account for the abovementioned factors is truly difficult to achieve, even within academia. Given

that the global justice debate is conducted primarily within academia in the developed world which shares a similar historical background and many common cultural values, the disagreement over how to interpret the implications of the prevalent moral intuitions and political emotions at the global level tells us a lot about the nature of the task at hand. Without a proper consideration of the institution that is supposed to secure people's actual acceptance of distributive principles at the global level, the global justice theorists' commitment to capturing common moral intuitions and political emotions is going to sound hollow in the final analysis.

In this light, Miller's approach to political theory fails to explain how people could come to realise that they share the same set of distributive principles despite their different ways of selecting and attributing moral weights to common moral intuitions and political emotions without having an institutionalised channel of actual communication among them. As I explained in the last section, this is a problem inherited from Rawls's approach to political theory, the 'reflective equilibrium,' that requires an individual to arrive at his/her own conception of justice by surveying as wide a range of values and philosophical doctrines as possible in isolation from all other people within his/her society. Miller's attempt to specify the two categories of facts about the social world—common moral intuitions and political emotions—does not change the fact that 'reflective equilibrium' is an individual endeavour and, as such, cannot facilitate an actual communication among people. Insofar as actual communication is a necessary tool for people to know whether they share the same distributive principles, 'reflective equilibrium' as an individual method of moral reasoning needs to be supplemented by an account of public deliberation that could help people explicate their different ways of selecting and attributing moral weights

to common moral intuitions and political emotions and finally reach a consensus on a unified approach to these factors.

Without a more substantive account of institutionalised public deliberation among individuals, Miller cannot possibly justify restricting the regulation of substantive inequality to the domestic level and, more importantly, validate his account of nation-building through a deliberative democracy, something that is fundamental to his liberal nationalist account of distributive justice. With regard to Miller's account of distributive justice, as I argued in Chapter 5, Brock and Wenar are correct to point out the arbitrariness of the way in which Miller brackets these rights as the global moral minimum and excludes all socio-economic rights (Brock, 2013, p. 68; Wenar, 2013, p. 32). According to Miller, basic human rights are grounded in basic human needs defined by both physical-cum-biological conditions and social norms, whereas the concern with substantive inequality regulation is grounded in the existing institutions of citizenship (Miller, 2007, p. 184-5). In other words, compared to the regulation of substantive inequality, the protection of basic human rights is less dependent on there being any shared social institution among human beings. Nevertheless, as Miller himself acknowledges, the development of basic human rights has to rely on shared social norms at the global level, which is why he believes that the list could only be very stringent in the short run, while there are relatively few cultural commonalities globally. Even though this could explain the stringency of the list of basic human rights, it does not serve to justify the specific rights included in the list without an account of how human beings could agree on the relevance of these rights on the basis of different common moral intuitions and political emotions resulting from different cultural values. As Wenar says, Miller's grounding of human rights in the moral equality of human beings rather than shared

social institutions will carry with it a momentum which is hard to contain and will eventually lead to the moral relevance of the regulation of substantive inequality at the global level (Wenar, 2013, p. 32). This momentum increases as Miller's account of deliberative democracy lacks an account of the institutionalised public deliberation that will enable individuals to reveal their different approaches to common moral intuitions and political emotions and thereby reach a normative consensus on various subjects including, but not limited to, basic human rights. Moreover, in a more negative light, the abovementioned momentum could lead to both the conclusion that the regulation of substantive inequality should be considered as part of basic human rights and the comparatively pessimistic conclusion that basic human rights should be further watered down to better respect global cultural pluralism. The latter is a logical implication because the universality of the specific rights included in Miller's list cannot be decisively justified in the absence of an institutionalised channel of actual communication among human beings or their representatives.

Similarly, as demonstrated in Chapter 4, Miller's account of nation-building through deliberative democracy encounters a problem because he fails to specify the scope of the shared public culture that would be necessary for preserving a national community. In a sense, this is a dilemma he has to confront, insofar as his account of nation-building requires the scope of the shared public culture to be determined during the process of public deliberation rather than *ex ante*. However, the difficulty remains that citizens would not be able to know the extent to which they could safely challenge the existing public culture without a prior knowledge of the necessary parameters of that public culture. Since the possibility of developing a common national identity and a shared public culture within society is fundamental to

validating Miller's account of distributive justice, the contradiction between citizens' practical need to know the necessary parameters of public culture beforehand and Miller's insistence on determining the said parameters through actual public deliberation potentially undermines the liberal nationalist stance on distributive justice. In other words, if the deliberative democracy cannot serve to develop sufficient mutual trust among citizens while leaving sufficient space for all sections of society to challenge the common nationality, the liberal nationalist account of distributive justice based on the motivational force of national community will collapse. This dilemma calls for an institutionalised channel of public deliberation that enables citizens to negotiate their different interpretations of nationality and reach a consensus on the scope of the public culture that would be sufficient for preserving their national community in a particular context.

In light of Miller's problem with justifying his conception of basic human rights and his account of nation-building through deliberative democracy, I suggested in Chapter 5 that in order to solve Miller's problem at the methodological level, his account of deliberative democracy has to incorporate Habermas's conception of communicative action, because the latter specifies the institutionalised channel of actual communication among individuals that will eventually lead them to a normative consensus. Habermas's conception of communicative action was developed as a procedure of public deliberation in light of increasing cultural pluralism within liberal society. In such societies, due to a change in the individual identity-formation process from the conventional to the post-conventional level, values and norms have lost their hitherto taken-for-granted authoritative status, and therefore have to be legitimated through an equal and un-coerced public deliberation among individuals (Habermas, 1991, Chap. 2). According to Habermas, a

communicative action is possible because there is a rational basis to every human communication, meaning that human beings cannot avoid giving reasons for the type of interpersonal relationships they are trying to establish among themselves. By participating in a communicative action, individuals raise validity claims regarding the interpersonal relationships they are trying to establish, and are open to challenges from others at the same time (Habermas, 1991, Chap. 1). A successful communicative action would lead to a mutual recognition of the validity claims regarding the interpersonal relationships in question and is called a ‘transcendence moment of unconditionality.’ As a result of a successful communicative action, the participants will engage in a more complex interpersonal relationship, sharing an increased amount of normative understandings together (Habermas, 1996, p. 15- 8).

A communicative action is suitable for solving Miller’s problem insofar as it is predicated upon three fundamental beliefs about the impact of cultural pluralism on the possibility of reaching a normative consensus among individuals. First, a communicative action presupposes that there is an objective world out there for individuals to refer to and develop a particular interpretation of. This presupposition guarantees that individuals could meaningfully communicate their different interpretations of the external world by referring to the same objects. Second, a communicative action presupposes that a claim to truth, normative or otherwise, could only be established by participating in the actual process of public deliberation on the basis of raising validity claims and being open to others’ challenges. This presupposition is founded on the conviction that in modern society, cultural pluralism makes it practically impossible for anyone to claim a privileged access to truth, normative or otherwise. These three fundamental beliefs are closely aligned with Miller’s understanding of the equal relation between political theorists and

common people and the role of deliberative democracy in modern liberal society. As I demonstrated in Chapter 5, Miller claims that political theorists do not have a more privileged access to truth than lay persons, meaning that they are equally able to formulate appropriate principles of justice, despite the fact that political theorists have more training and time resources for conducting moral reasoning. This understanding of the equal relation between political theorists and lay persons is consistent with the abovementioned belief that there is an objective world out there for individuals to develop different interpretations of and, more importantly, no one person has a privileged access to truth. It is only through actual public deliberation that individuals could negotiate their different interpretations of the external world on the basis of validity claims and finally reach a normative consensus. This is consistent with Miller's understanding of deliberative democracy as an institution for holding distributive practices within society accountable to citizens' democratic control. Insofar as individual autonomy should be respected by the administrative state, the only way to guarantee that individuals are not alienated by the capitalist market and, by extension, other distributive contexts is to derive the regulative principles from individuals' actual participation in deliberative democracy (Miller, 1989, Chap. 7 and 8). Moreover, in the deliberative process, every individual is guaranteed an equal influence over the final policy outcomes, political theorists and lay persons alike. Therefore, Habermas's conception of communicative action could remedy Miller's problem at the methodological level, because it specifies the institutionalised process of public deliberation that helps individuals to reveal their common moral intuitions and political emotions and reach a shared approach to selecting and attributing moral weights to these factors with regard to distributive principles.

The necessity for Miller's account of deliberative democracy to incorporate Habermas's conception of communicative action is combined with the fact that Habermas's theory is compatible with Miller's approach to political theory, insofar as the conception of communicative action could allow both common moral intuitions and political emotions to bear on our moral reasoning about political principles and social institutions. Given that communicative action is widely seen as a procedure for individuals to reach a normative consensus on the basis of different moral intuitions, in Chapter 6, I focused on proving that communicative action could also acknowledge the role of political emotions in shaping the normative consensus resulting from public deliberation. *Contra* Lacroix, Markell and Shabani, I demonstrated that Habermas's conception of communicative action could allow political emotions to bear on our moral reasoning about political principles and social institutions, because the stability of a shared lifeworld requires an affective identification among citizens. Moreover, *contra* Young, I demonstrated that communicative action could allow political emotions to bear on our moral reasoning, since his attempts to downplay the importance of the distinction between illocution and perlocution and to conceptualise communicative action as a universal mode of human communication serve to define both rational argumentation and emotional expression as alternative modes of communicative action. Therefore, Miller's incorporation of Habermas's conception of communicative action is not only necessary but also possible in order to solve his problem at the methodological level.

The cosmopolitans will have the least problem with accepting my argument that in order to justify any universalist element embedded in the accounts of distributive justice, the cosmopolitans, the statistes and the liberal nationalists need to already presuppose the moral desirability of the further institutionalisation of global

citizenship. Despite the possibility that they might not immediately agree with the explicit connection between the claim on normative truth and actual communication among individuals, the cosmopolitans have consistently supported the further institutionalisation of global citizenship of various kinds. The cosmopolitans such as David Held and Richard Falk base their proposal of global citizenship on the increasing pressure on the traditional nation-states to deal with the impacts of globalisation, including the transnational economic order, the rise of new mass media, the globalised environmental problems, the increasing cultural pluralism within liberal societies and secessionism, and the emerging international normative governance centred around international law (Held, 2011, p. 93-7; Falk, 2011, p. 15-8). In light of the deficiency of the traditional nation-states to cope with the mounting pressures of globalisation, the cosmopolitans often endorse two categories of solutions. Whereas some cosmopolitans support a formalised world government based on a democratic decision-making procedure, others propose gradually reforming and granting more authority to the existing international organisations, so as to approximate the ideal of global citizenship without engendering the risk of globalised tyranny posed by a unified world government (Gould, 1990, Chap. 12; Craig, 2010, p. 29-33). For instance, Alexander Wendt and Daniel Deudney, both of whom are international relation theorists by training, and of a cosmopolitan persuasion, believe that a formalised world government is inevitable, because interstate conflicts can only be effectively curbed by a centralised authority (Wendt, 2003, p. 507-10, 514-16; Deudney, 2006). In contrast, Held, Falk, John Williams and Eric Cavallero seek to preserve the existing international system that consists of separate nation-states, while at the same time rearranging and reforming the international organisations so as to vertically disperse the authorities previously concentrated at the national level (Held, 2011; Falk, 2011; Williams, 2011; Cavallero, 2010).

Even though the cosmopolitans might have no problem with accepting my endorsement of the further institutionalisation of global citizenship, they may have conceptual issues with my normative reasons for it, insofar as the cosmopolitans are often perceived by the statist and the liberal nationalists as being insensitive to particular contexts. As discussed in the last section, the cosmopolitans—especially the humanists, who base their justification of universalist principles solely on their logical compatibility with the moral equality of human beings—believe that there are universalist principles that transcend different cultural communities. This seems to suggest, as the statist and the liberal nationalists point out, that the said universalist principles are imposed on people by political theorists without due attention to the particularities of context. However, as discussed in section 2, cosmopolitans have another way to justify their stance based on the acceptability of the universalist principles to common people, in addition to their logical compatibility with the moral equality of all human beings. Despite the fact that the cosmopolitans in general still account for the contribution of common moral intuitions and political emotions by the formulation of universalist principles in a reductionist way, the fact that they start to focus on the motivational force of these factors seems to reinforce the need for common peoples' presence in the process of formulating universalist principles. In other words, since common peoples' motivation to comply with universalist principles is increasingly recognised as a necessary factor to be considered in the political theorists' moral reasoning, their direct participation in the said process should not be considered unreasonable, should there be an urgent need for it.

Moreover, this urgent need is provided by the increasing level of cultural pluralism within liberal societies and across the globe, in the sense that it becomes more difficult to assert universal values, as different cultural values are recognised as being important factors in defining morality. Sabina Alkire, who is trying to discover ways to apply global ethics in order to inform the institutionalisation of global citizenship, bases her research on John Finnis's six basic reasons for action, and argues that human beings across the globe might be able to agree on the six categories of reasons, rather than the specific ways of substantiating these reasons and attributing moral weight to them. These reasons are, respectively, the following: life, knowledge and aesthetic experience, some degree of excellence in work and play, friendship, self-integration, self-expression or practical reasonableness, and transcendence. Agreeing with Finnis, Alkire maintains, 'any value in any culture—whether it seems to you to be 'moral' or 'immoral'—could be described by looking at the basic dimensions of value to which it pertains' (Alkire, 2011, p. 172-5). In other words, regardless of cultural differences, human beings could come to recognise the core categories of reasons grounding moral or immoral actions in communities other than their own. Nevertheless, since the universality that could thus be achieved consists in the general categories of reasons for action rather than specific values, it would be difficult for any single person or community to absolutise their interpretation of morality and dismiss others' interpretations. As Alkire says, 'the moral, the truly human sets of action, the 'right' thing to do, is underdetermined. It requires free choice' (Alkire, 2011, p. 178). In other words, only through actual communication with people from other cultural communities, could we come to realise the difference between our and their interpretations of the moral acts derived from the core categories of reasons.

Here, in order not to erroneously exclude other consent theories, such as the hypothetical consent based on Scanlon's notion of 'reasonable rejection,' I distance my reason for supporting the institutionalisation of a deliberative procedure at the global level from Habermas's insistence that actual acceptance through a communicative action is the only way to justify any normative claim. I maintain that Miller's account of deliberative democracy, after incorporating Habermas's conception of communicative action, is a possible way to resolve the impasse in the global justice debate. This means that my normative reason does not conflict with other consent theories at the metaphysical level, insofar as I do not dispute that a normative truth could be attained by ways of justification other than actual acceptance. What I do want to suggest is that the impasse between the cosmopolitans on the one hand and the statist and the liberal nationalists on the other exacerbates the urgent need for the direct participation of common people in the process of formulating distributive principles at the global level. The reason here seems to be more pragmatic than metaphysical, in that the two impasses at the methodological level and the level of the substantive theories have blocked all the routes by which the cosmopolitans, the statist and the liberal nationalists could persuade each other on the basis of their particular universalist values alone. Therefore, they need to resort to some extraneous factors other than their own preferred value systems in order to adjudicate among their principles of distributive justice. In this light, the pragmatic need for the said adjudication brings into relevance the institutionalised channel of actual communication among human beings whose common moral intuitions and political emotions are already appealed to as necessary factors to consider for the justification of distributive principles. Hence, the normative reason for supporting the further institutionalisation of global citizenship based on

deliberative democracy is derived from the pragmatic need for, rather than the metaphysical superiority of, Habermas's conception of communicative action.

The statist will agree with my normative reason for the further institutionalisation of global citizenship to the extent that they could recognise the function of democratic participation as holding the instrument of institutional coercion accountable to its legal subjects. In other words, even if the statist might continue to reject any proposal of extending citizenship to the global realm, they would still maintain their commitment to the respect for individual autonomy. As discussed in the last chapter, of the three statist accounts of distributive justice, Nagel's involuntariness-based account and Blake's coercion-based account are both derived from a respect for individual autonomy and, as such, focus on different aspects of the coercive relation between the administrative state and citizens. In contrast, although Sangiovanni's reciprocity-based account is concerned with what benefits the administrative state usually provides for its citizens rather than its relationship with them, he does not dispute Blake and Nagel's conviction that 'shared participation in the authorship and reproduction of the state puts us in a special relation that we do not have with those outside its borders' (Sangiovanni, 2007, p. 19). Accordingly, 'state coercion is relevant to the construction of a conception of egalitarian justice, not because it violates autonomy but because it is a useful...way to preserve it' (Sangiovanni, 2007, p. 20). In this sense, Sangiovanni focuses on how institutional coercion contributes to individual autonomy rather than violating it. This essentially reflects Blake's discussion of the paradoxical nature of state coercion as both the vanguard and the violator of individual autonomy. As he argues, 'coercion is both prima facie opposed to the existence of autonomy, and yet without some form of coercive political life, autonomy itself is not capable of being exercised' (Blake, 2013, p. 22). The

institutional coercion imposed on citizens by their administrative state, then, creates the normative reason for establishing the democratic decision-making procedure which is supposed to justify the coercive relation through citizens' democratic participation. Nagel emphasises the need for justification in light of institutional coercion thus: 'this request for justification has moral weight even if we have in practice no choice but to live under the existing regime. The reason is that its requirements claim our active cooperation, and this cannot be legitimately done without justification—otherwise it is pure coercion' (Nagel, 2005, p. 129). Therefore, in the face of the unjustified universal values embedded in the global principles of distributive justice that are meant from the very beginning to regulate the behavioural patterns of human beings across the globe, the statist should be persuaded to at least endorse the further institutionalisation of global citizenship.

However, despite the fact that most statist recognise the mounting pressure imposed on the traditional nation-states by globalisation, they continue to oppose the further institutionalisation of global citizenship. From their perspective, there are moral and material costs attached to any attempt to realise global citizenship which may turn out to be quite unimaginable, especially considering that we do not yet understand what the world order will be like once these institutions are put in place. As Blake says, 'we have reason to take the forms of political institution we have as provisionally settled, and see what these institutions would have to do in order to be justified. Given the tremendous human and resource costs of creating fundamentally new institutions, I think we have reason to first see what might be done by the institutions we have now' (Blake, 2013, p. 47). Nevertheless, there is a big difference between adjusting the existing institutions as much as possible to cope with newly emergent issues, and taking these institutions as given. In other words,

even though we can take the existing as ‘provisionally settled,’ we cannot grant these contingent social facts the same status as natural phenomena, insofar as they are malleable and to a great extent depend on human beings’ moral agency.

As Falk remarks regarding the future of global citizenship, ‘the only kind of visionary citizenship that can be taken seriously will have to be grounded in what is occurring at the level of fact, norm and values as both trend and potentiality. It must be rooted in the future, the not-yet, rather than unconvincingly affirm as ‘real’ such a reconfiguring of political allegiance as is so unconvincingly claimed by secular-minded ‘world citizens’’ (Falk, 2011, p. 27). In other words, although human beings at the global level are not yet sharing the formal institutions of citizenship equivalent to that within nation-states, they could be counted as global citizens in the moral sense. Insofar as globalisation has created a wide array of issues that cannot be effectively dealt with by the traditional nation-states, including but not limited to, the unjustifiably imposed universalist values, we are placed under the moral obligation to take the initiative to create institutions of global citizenship. The point I am trying to make is that the universalist elements in all accounts of distributive justice create two powerful impasses among global justice theorists, and therefore have to resort to the extraneous venue of justification, which is deliberative democracy at the global level. Here the same argument applies to the statist’s reason to block the proposal of global citizenship, in the sense that the reasons such as Blake’s ‘institutional conservatism’ rely on some inevitable universalist values to derive the said conclusion from what they take as the ‘provisionally settled.’ What one takes to be provisionally settled may be quite different from another’s, and even the implications derived from the same set of provisionally settled institutions are sure to be different. Therefore, insofar as global citizenship could be seen as a moral status

in addition to a legal status, it ought to place all provisionally settled institutions and universalist values embedded in them under public scrutiny. Given that the universalist values inherent to all accounts of distributive justice cannot be successfully justified within academia, their validation should be based on actual acceptance by human beings as global citizens in the moral sense.

Finally, the liberal nationalists such as Miller could recognise the force of my normative reason for further institutionalising global citizenship, insofar as validating universalist values on the basis of actual acceptance is a logical extension of their methodological commitment at the global level. As discussed above, Miller's methodological difficulty in explaining how citizens holding different moral intuitions and political emotions could come to share the same set of universalist principles mirrors his failure to justify his thin list of basic human rights and validate his account of nation-building through a deliberative democracy at the level of substantive theory. These two problems should press him to incorporate Habermas's conception of communicative action in his account of deliberative democracy, so as to reinterpret the deliberative procedure as a collective learning process whereby citizens reach a normative consensus on universalist principles, common nationality and other common social issues.

Nevertheless, Miller continues to reject any proposal for further institutionalising global citizenship on the ground of the feasibility constraints posed by the lack of favourable structural conditions and sufficient mutual trust among human beings from different nation-states. First, Miller appeals to the difficulty of reforming the existing world order to accommodate a unified legal system with individual human beings as its subjects, to establish a democratic decision-making process with a

morally relevant *demos* and to reinforce a civil society as a determinate community. Insofar as this line of objection resembles the statist's abovementioned objection, it does not serve to decisively refute my normative reason for further institutionalising global citizenship. These unfavourable conditions could be overcome in time and even be transformed so as to support the further institutionalisation of global citizenship. Moreover, people have different understandings of the implications of unfavourable structural conditions at the global level, and this inevitably involves universalist values. Without endorsing the establishment of formalised channels of actual communication among human beings, it is very hard for Miller to assert his rejection of global citizenship as the only valid conclusion drawn from observing the conditions at the global level.

Second, there is another, more salient reason for Miller's objection to the further institutionalisation of global citizenship; that is, the lack of sufficient mutual trust among people from different nation-states. Similar to the institutions of citizenship, mutual trust among human beings is a social contingency that could be developed through purposeful nurturing. As Miller's account of nation-building through deliberative democracy shows, even though the administrative state cannot bypass the need for a common nationality, it could resort to deliberative democracy to define and redefine a common national identity and a shared public culture among its citizens over time. After incorporating Habermas's conception of communicative action into Miller's account of deliberative democracy, public deliberation about the definition of a common nationality could be understood as a collective learning process for citizens to reach a normative consensus on the scope of the public culture needed to preserve their national community. What is more, insofar as, according to Habermas, a communicative action in and by itself could strengthen interpersonal

relationships by increasing the shared normative understandings among interlocutors, the institutions of citizenship based on deliberative democracy would not collapse as long as citizens continue to try to reach a normative consensus on a common nationality. By extension, the further institutionalisation of global citizenship could be sustained by a deliberative democracy that serves to define and redefine a common identity and a shared public culture among people from different nation-states over time, so as to develop a sufficient level of mutual trust at the global level. This prospect is further reinforced by the fact that the deliberative process in and by itself could serve to cement interpersonal relationships among human beings to a certain extent by increasing the number of shared normative understandings and, as such, prevent the institutions of global citizenship from collapsing. Therefore, although people may not yet have a sufficient level of mutual trust among them, the further institutionalisation of global citizenship could rely on the establishment of a deliberative democracy to provide this in the long term.

Thus, the cosmopolitans, the statist and the liberal nationalists could agree that the further institutionalisation of global citizenship based on a deliberative democracy is required in order to justify the universalist elements embedded in their accounts of distributive justice. As discussed in Chapter 2, cosmopolitan justifiability should be the philosophical underpinning for such an account of global citizenship, because it is widely compelling among all global justice theorists. It requires that all principles of justice should be justifiable to all human beings as free and equal moral agents. Due to the limited scope of this thesis, I will only put forward three foundational principles for such global institutions as do not exclude any cosmopolitan proposal of global citizenship, be it based on a formalised world government or the gradual strengthening of the already existing international organisations. These three

principles include: (1) a normative consensus ought to be reached through an uncoerced and equal communication among human beings or their representatives on the basis of validity claims, (2) human beings or their representatives ought to have equal influence over the final normative consensus, and, (3) human beings or their representatives ought to aim to develop a common identity and a shared public culture among themselves. In Chapters 3, 4 and 5, these principles emerged alongside the discussion of the strengths and the weaknesses of both Miller's account of nation-building through deliberative democracy and Habermas's conception of communicative action. They are in line with cosmopolitan justifiability and serve to secure the preconditions for the global public deliberation to be possible in the long term.

First, Principle 1 conveys Habermas's regulative principle of a legally institutionalised communicative action that serves to legitimate all norms and values within a society; that is, the discourse principle. As discussed in Chapter 3, the discourse principle states, 'just those action norms are valid to which all possibly affected persons could agree as participants in rational discourses' (Habermas, 1996, p. 107). In order to preserve this principle in the functioning of the institutions of global citizenship, human beings require both human rights and popular sovereignty. As Habermas argues, the protection of human rights requires individuals to have equal rights to participate in the law-making process, which thereby enables them to be both the addressees and authors of law. On the other hand, popular sovereignty requires legal institutionalisation in order to have a binding power over its corresponding jurisdiction (Habermas, 1996, p. 99- 104).

Second, Principle 2 reveals the nature of a deliberative democracy as balancing the need of social integration with respect for cultural pluralism, in the sense that all individuals should be able to challenge the mainstream narratives, while at the same time preserving a sufficient level of mutual trust among themselves. As shown in Chapters 4, 5 and 6, Miller's account of deliberative democracy is consistent with Habermas's conception of communicative action in terms of their concerns with the balance between the demand for social integration and respect for cultural minorities. Miller's account of deliberative democracy requires the scope of the shared public culture to be determined by actual public deliberation on an equal footing, so as to ensure that cultural minorities would have an equal opportunity to challenge the definition of a common nationality from their own perspective. Similarly, Habermas's conception of communicative action could incorporate emotional expressions such as greetings, rhetoric and narratives, so as to enable the cultural minorities to have an equal opportunity to share their life experiences. On the other hand, Miller and Habermas both aim to realise social integration through increasing the amount of shared normative understanding among individuals, despite that Habermas restricts the scope of the said normative understanding to the political level. As long as the institutions of global citizenship aim to increase the amount of normative understanding shared among individuals, a sufficient level of mutual trust could potentially be achieved at the global level. Even if occasionally the scope proves insufficient to guarantee social integration at the global level, the act of communicative action in and by itself could strengthen interpersonal relationships to a certain extent, and thereby prevent the institutions of global citizenship from collapsing in the short term.

Principle 3 clarifies the source of cultural values from which human beings are to draw inspiration in order to define and redefine their common identity and public culture at the global level. Unlike Habermas's conception of communicative action, the institutions of global citizenship have to draw upon a more comprehensive source of cultural values than what Habermas calls political culture. As discussed in Chapter 3, Habermas explicitly specifies the scope of political culture as 'the rationally based conviction that unrestrained freedom of communication in the political public sphere, a democratic process for settling conflicts, and the constitutional channelling of power together provide a basis for checking illegitimate power and ensuring that administrative power is used in the equal interest of all' (Habermas, 1994, p. 135). Nevertheless, in order to sufficiently motivate individuals to shoulder special obligations towards others and help them understand the validity of a deliberative procedure based on communicative action, the institutions of global citizenship should not hold a predetermined notion of what counts as political culture. It is only through communicating with others in the deliberative process that individuals can come to realise how much shared public culture is needed to achieve social integration in a specific context, insofar as what is deemed sufficient in a public culture now may prove insufficient at some point in the future.

Ideally, these three guiding principles should place normative constraints on the policy outcomes of the global public deliberation. This is to say, despite being an open-ended process, the global public deliberation should not generate any policy outcomes that undermine all human beings' equal rights to participate in the deliberative process, prevents all human beings from exerting equal influence over the deliberative process, and diminishes the possibility of developing a common identity and a shared public culture among all human beings. By 'open-ended' I

mean what Nussbaum means in developing ‘capability approach’. Capability approach aims to formulate a list of central capabilities which all human beings ought to have in order to pursue the activities indispensable to their flourishing within any society. Open-endedness in this approach refers to how the list of central capabilities could be contested and remade and how the items on the list could be further substantiated by local beliefs and circumstances in each nation-state (Nussbaum, 2001, p. 70-7). Regardless of the variations on the list of capabilities and the different substantiations of these capabilities in local contexts, the whole process is constrained by an Aristotelian-Marxian conception of human dignity. This conception requires that human beings should be able to effectively pursue certain activities so as to live in a truly human way (Nussbaum, 2001, p. 71-2). Therefore, in effect, this conception of human dignity delineates the boundary within which people could identify specific human capabilities and interpret them on the basis of local cultural values. Likewise, the three guiding principles for my account of global citizenship set down the boundary within which human beings or their representatives could discuss concrete global issues, the definition of a common identity, and global regulative norms and values.

Within the normative constraints set down by the three guiding principles, the global public deliberation will consist of three levels of discourse, concerning pragmatic questions, ethical-political questions and moral questions. As discussed in Chapter 4, the pragmatic questions deal with the explicitly given preferences and goals with regard to common issues at the global level that could be settled primarily by the empirical knowledge of how best to realise and/or reconcile them, for instance, global warming, terrorism, immigration and refugees, et cetera. The ethical-political questions aim to define and redefine a collective identity and a public culture shared

among all human beings that guides humanity's value judgments in the face of different solutions that might be equally effective in tackling common issues at the global level.

I have not discussed the level of moral questions before. However, in light of the discussion in this chapter, another level of discourse should be added to Miller's account of deliberative democracy, in addition to the levels of the pragmatic and the ethical-political questions. Insofar as human beings should all have an equal right to participate in the discussion of those political principles that regulate their behaviours at the global level—including but not limited to the global principles of distributive justice, this level of discourse is concerned with moral questions. Moral questions focus on the justification of those universalist values and norms involved in the principles of distributive justice, nationality and other moral principles that require human beings' compliance regardless of cultural differences. Here my account of global citizenship departs from the existing global justice theories in a significant way. Most existing global justice theorists explicitly or implicitly presuppose human beings' consent, given right circumstances, and therefore relies on good arguments alone to justify the universal values embedded in their distributive principles. Democratic participation is only relevant in the further substantiation of these universal distributive principles, when their implementation is at stake in specific local contexts. My account of global citizenship does not presuppose human beings' consent to any global regulative norms and values. In this sense, it relies on human beings' actual consent rather than the hypothetical one to validate the universal values embedded in distributive principles and to further substantiate them in local contexts. The only normative constraints on the

deliberative process that are beyond the review of human beings are the principle of cosmopolitan justifiability and the three guiding principles.

Given that the values under discussion at this level are universal across different cultural contexts, once validated these values should constrain both how a collective identity is formulated for humanity as a whole at the ethical-political level, and how solutions could be found for common global issues at the pragmatic level.

Conversely, when unresolvable conflict arises among stances on common global issues at the level of the pragmatic questions, human beings or their representatives would aim to clarify their conceptions of the common good by redefining the shared collective identity and public culture, and thereby adjudicate among equally effective solutions to the global issues in question. Then, when unresolvable conflicts among different interpretations of the collective identity and the public culture at the level of ethical-cultural questions arise, human beings or their representatives will aim to reach a common consensus on the universalist moral principles that ground their different interpretations. As such, a continuous reiterative process is established among the three levels of discourse which would ideally guarantee that solutions to common global issues and the definition of the collective identity of humanity are developed within the bounds of widely accepted universalist values. On the other hand, this process would also in principle ensure that the morally problematic aspects of the universalist values inherent in the international legal system could be effectively detected through the discussion of common global issues and the formulation of a collective identity of humanity.

In summary, this section has firstly shown that the two impasses between the cosmopolitans on the one hand and the statist and the liberal nationalists on the

other boil down to the absence of a deliberative procedure to justify the universalist elements embedded in the accounts of distributive justice at the global level. Then, in order to justify the universalist elements in the accounts of distributive justice, I argued that the cosmopolitans, the statist and the liberal nationalists should all endorse the further institutionalisation of global citizenship based on deliberative democracy. This deliberative procedure should be based on a combination of Miller's account of deliberative democracy and Habermas's conception of communicative action, so as to reinterpret the said deliberative procedure as a collective learning process whereby human beings may reach a normative consensus and at the same time realise social integration among themselves. Thirdly, I demonstrated that the cosmopolitans, the statist and the liberal nationalists all have reason to accept my normative reason for further institutionalising global citizenship based on deliberative democracy. The cosmopolitans could accept my normative reason because they already actively support the further institutionalisation of global citizenship ranging from a formalised world government to the gradual strengthening of the existing international organisations. The statist have to accept my normative reason because 'institutional conservatism' does not prevent the further institutionalisation of global citizenship, especially given that the existing institutions of citizenship within nation-states are social contingencies which can be changed by the moral agency of human beings. The liberal nationalists could not successfully refute my normative reason, insofar as a deliberative democracy at the global level could in principle develop a collective identity and a public culture among human beings in the long term, and thereby provide a sufficient level of mutual trust among human beings to maintain the institutions of global citizenship. Finally, I advanced three principles that ought to inform the development of the

institutions of global citizenship on the basis of Miller's account of deliberative democracy and Habermas's conception of communicative action.

Conclusion

This chapter sets out to demonstrate that a further institutionalisation of global citizenship based on Miller's account of deliberative democracy and Habermas's conception of communicative action is required to resolve the two impasses in the global justice debate at the levels of substantive theory and methodology. This essentially connects the global justice debate with proposals for global citizenship which offer a new approach to the former. So far, the global justice debate has led to two impasses at the levels of substantive theory and methodology. First, the impasse at the level of substantive theory persists because the cosmopolitans cannot be persuaded to accept the restricted scope of the regulation of substantive inequality in the face of the statist and liberal nationalists' failure to specify the criteria for giving equivalence to human associations at the domestic and the global levels. Second, the impasse at the methodological level arises because the statist and the liberal nationalists cannot persuade the cosmopolitans to accept their approach to distributive justice on the basis of the commitment to accounting for common people's motivation to comply with the ethical demands of distributive justice.

Insofar as the two impasses boil down to the cosmopolitans, the statist and the liberal nationalists' failure to justify the universal values inherent in their accounts of distributive justice, an institutionalised deliberative procedure at the global level could be utilised to reach a normative consensus on these values on the basis of human beings' actual acceptance of them. This implies that the norms and values

supporting basic human rights and the regulation of substantive inequality at the global level cannot be taken for granted. Nevertheless, considering that these accounts are developed mainly by academics in the developed world, and stand a good probability of impacting on the life chances of people in the developing world, it is quite concerning that there is no institutionalised channel of public deliberation to render them accountable to all human beings. In this light, the two impasses in the global justice debate highlight the essentially contestable nature of the universalist values supporting all accounts of distributive justice. If the global justice debate conducted within western academia has met this much resistance in reaching a consensus on the proper scope of the regulation of substantive inequality, how can we expect there to be genuine consensus on global justice among human beings without having an institutionalised deliberative procedure at the global level?

Therefore, global citizenship based on my reconstruction of Miller's account of deliberative democracy is required to adjudicate among different accounts of distributive justice through an equal and un-coerced public deliberation, because a genuine consensus on distributive justice is not plausible within academia, let alone across the globe, without having actual communication among human beings. This normative reason for the further institutionalisation of global citizenship could be accepted by the cosmopolitans because their account of distributive justice already presupposes global citizenship. The statist's notion of 'institutional conservatism' cannot overturn my normative reason because the institutions of citizenship are a social contingency that could be extended to the global level by the moral agency of human beings. The liberal nationalists' objection to my reason, on the basis of the lack of mutual trust at the global level, could be mitigated by the fact that the deliberative process could develop a common identity and a public culture among

human beings through an equal and un-coerced communicative action at the global level. Thus, in order to overcome the current impasses in the global justice debate, the cosmopolitans, the statist and the liberal nationalists all need to endorse the further institutionalisation of global citizenship.

Conclusion

As the global justice debate has progressed over the years, it has come up against a seemingly insurmountable deadlock between cosmopolitanism, statism and liberal nationalism. This disagreement naturally hampers attempts to reinforce the ethical aspects of human relationships at the global level and empower various international organisations in order to cope with the pressure of globalisation. Therefore, without a solution at the conceptual level at least, the ethical demands of global justice cannot possibly go beyond the traditional considerations of peace and stability. This thesis sets out to resolve the deadlock between cosmopolitanism, statism and liberal nationalism in the global justice debate and argues that the three main schools of thought all need to endorse the further institutionalisation of global citizenship based on a deliberative democracy, so as to justify any global principle of distributive justice. This democratic procedure should be modelled according to my reconstruction of Miller's account of deliberative democracy on the basis of Habermas's conception of communicative action.

The logical structure of the key arguments in this thesis has been as follows:

Premise 1: Globalisation has put great pressure on traditional nation-states that have to cope with many new ethical issues at the global level;

Premise 2: The deadlock in the global justice debate exacerbates the situation in which each nation-state is reluctant to recognise its moral obligations beyond the satisfaction of basic needs;

Argument 1: Miller's ideal of an equal relationship among citizens is better suited than the distributive egalitarians' ideal of substantive equality in material terms to justify different approaches to responsibility-insensitive basic needs satisfaction and responsibility-sensitive substantive inequality regulation;

Argument 2: Miller could ground the restricted scope of the regulation of substantive inequality in the absence of institutions of global citizenship, if and only if, he endorses the further institutionalisation of global citizenship based on a deliberative democracy. This is because his split-level conception of distributive justice (SCDJ) could only be justified to the cosmopolitans if there were formalised channels of public deliberation to adjudicate among different global principles of distributive justice;

Argument 3: The institutions of citizenship require a common national identity and a shared public culture to supply a sufficient level of mutual trust among citizens to support the functioning of the major social institutions, including, but not limited to, deliberative democracy. The constitutional patriots cannot refute the need for a common nationality because they do not have a valid explanation for citizens' motivation to participate in an institutionalised communicative action so as to realise social integration. Moreover, a shared political culture is too thin to help citizens understand the validity of a legally institutionalised communicative action, insofar as there is a difference between the existing political culture and the morally desirable one in favour of a communicative action;

Argument 4: Miller's account of deliberative democracy needs to be reconstructed on the basis of Habermas's conception of communicative action because it fails to

explain how citizens could reach a normative consensus on the definition of a common nationality without knowing the scope of the shared public culture necessary to preserve their national community *ex ante*;

Argument 5: Miller's contextualist approach to political theory fails to explain how individuals could reach a normative consensus when they each have different ways of selecting common moral intuitions and political emotions and assigning moral weights to them in their moral reasoning about political principles and social institutions. This failure implies that the validation of Miller's political principles has to rely on an account of deliberative democracy which could enable individuals to spell out their different approaches to common moral intuitions and political emotions and reach a normative consensus through a reasoned deliberation. Therefore, Miller's account of deliberative democracy has to incorporate Habermas's conception of communicative action;

Argument 6: It is possible to incorporate Habermas's conception of communicative action into Miller's account of deliberative democracy because Habermas could allow common moral intuitions and political emotions to bear on our moral reasoning about political principles and social institutions;

Argument 7: An impasse has arisen among the cosmopolitans, the statist and the liberal nationalists at the level of substantive theory because Miller is unable to prove the inequivalence between the modes of human relationship within nation-states and at the global level;

Argument 8: An impasse has arisen among the cosmopolitans, the statist and the liberal nationalists at the methodological level because Miller could not persuade the associativist cosmopolitans to accept his distributive principles as the only valid account derived from common moral intuitions and political emotions at the global level;

Conclusion: In order to resolve the two impasses in the global justice debate at the level of substantive theory and methodology, the cosmopolitans, the statist and the liberal nationalists all need to endorse the further institutionalisation of global citizenship. This is because they all require an institutionalised deliberative procedure to adjudicate among the universalist values embedded in their distributive principles and thereby produce a set of principles that is most consistent with human beings' common moral intuitions and political emotions.

This conclusion has implications for both Miller's SCDJ and the global justice debate. Firstly, it implies that Miller's SCDJ could be justified on the absence of the institutions of global citizenship in the short term, insofar as the ideal of the equal relationship among citizens brings the concern with the regulation of substantive inequality into relevance. Nevertheless, Miller's failure to explain how citizens could reach a normative consensus on the definition of a common nationality at the level of substantive theory, and his similar failure to explain how individuals could derive shared political principles from common moral intuitions and political emotions at the methodological level necessitates an institutionalised deliberative procedure at the appropriate level. Since SCDJ is a set of distributive principles at the global level that requires validation, Miller needs to endorse the further institutionalisation of global citizenship modelled after my reconstruction of his account of deliberative

democracy on the basis of Habermas's conception of communicative action. This necessity would ideally lead to a series of initiatives that would end in a set of institutions of global citizenship equivalent to the ones found within nation-states. Therefore, in the long term, as the institutions of global citizenship gradually expand their authority to more and more areas, the regulation of substantive inequality would be required by global justice to the same extent as now obtains within nation-states, and SCDJ would eventually become redundant.

Secondly, the conclusion also implies that the deadlock within the global justice debate cannot be decisively resolved without the establishment of global citizenship modelled after my reconstruction of Miller's account of deliberative democracy on the basis of Habermas's conception of communicative action. In other words, an institutionalised deliberative procedure is required, logically prior to the resolution of the global justice debate. The said deliberative procedure is predicated on the principle of cosmopolitan justifiability. Cosmopolitan justifiability requires all principles of justice to be justifiable to all human beings, as free and equal moral agents. In line with cosmopolitan justifiability, three principles are put forward in Chapter 8: (1) the normative consensus ought to be reached through an un-coerced and equal communication among human beings or their representatives on the basis of validity claims, (2) human beings or their representatives ought to have equal influence over the final normative consensus, and, (3) human beings or their representatives ought to aim to develop a common identity and a shared public culture among themselves. These principles set down the normative constraints on global public deliberation, in the sense that human beings or their representatives are able to discuss concrete global issues, the definition of a common identity, and global regulative norms and values, as long as the policy outcomes will not

contradict the requirements of the said principles. In other words, the deliberative process should not undermine the status of all human beings as equal participants, bias towards a particular section of the world population, and diminish the possibility of formulating a common identity and a shared public culture among all human beings.

According to these three principles, the deliberative procedure consists of three levels of discourse: pragmatic discourse, ethical-political discourse and moral discourse. At these three levels of discourse, human beings or their representatives will aim to reach a consensus on the definition of a collective identity and a set of universalist political principles alongside the discussion of concrete social issues at the global level. This means that the public deliberation about a common identity and universalist political principles is not developed independently of particular contexts. By deliberating about common pressing issues such as global warming, terrorism and immigration at the global level, people would have a better sense of what humanity's collective identity actually means, and which cultural values are actually held in common everywhere. Moreover, since the said public deliberation aims to develop a collective identity and a shared public culture, it would supply a sufficient level of mutual trust among different people so as to support the functioning of the institutions of global citizenship in the long term.

Thus, my reconstruction of Miller's account of deliberative democracy on the basis of Habermas's conception of communicative action could contribute to the global justice debate in three ways. First, it could resolve the impasse among the cosmopolitans, the statists and the liberal nationalists through an institutionalised deliberative procedure that serves to adjudicate among different distributive

principles at the global level. Second, it reinforces Miller's liberal nationalist account of distributive justice, setting it firmly within the terrain of the global justice debate, as it demonstrates that liberal nationalism could in principle subsume both humanist cosmopolitanism and statism. Lastly, it shows that the further institutionalisation of global citizenship is feasible in principle because a deliberative procedure could aim to develop a collective identity and a shared public culture among human beings in the long term. However, due to the limited scope of this thesis, the question remains as to how the institutions of global citizenship based on a deliberative democracy would be designed and what actual steps should be taken to motivate such a political transformation at the global level. In a sense, this is inevitable, because Miller's account of deliberative democracy fails to offer any suggestion regarding its design, despite the fact that it is based on a republican conception of citizenship and it aims to facilitate a nation-building process. As such, it is open to a wide range of interpretations that could fulfil the two abovementioned basic conditions. The incorporation of Habermas's conception of communicative action places further constraints on how the institutions of citizenship would be envisioned, insofar as Habermas has explained a legally institutionalised communicative action in detail in his latest work, *Between Facts and Norms* (1997). Still, I do not think that Habermas's discussion of communicative action would exhaust all possibilities for designing a suitable deliberative procedure, because many other accounts based on the republican conception of citizenship may prove to be consistent with both Miller and Habermas's understanding of deliberative democracy.

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