

The stability of a cosmopolitan political order: Functionalism versus federalism

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Abstract

While cosmopolitan theorists debate whether a global political order is necessary in order to realise cosmopolitan goals, those who think it is largely agree on what it ought to look like: A multi-level, multi-sited global order based on a principle of dispersed sovereignty. Cosmopolitans have justified this principle of dispersed sovereignty and the resultant political order in two ways: A federalist argument holds that dispersing authority across multiple levels or sites of power is supposed to constrain a global political order from becoming a worldwide despotic Leviathan and offer multiple venues for democratic participation. A functionalist argument holds that dispersed sovereignty is especially suitable to address certain complex, border-transgressing political problems.

In this paper, I argue that by relying on both kinds of arguments, institutional cosmopolitans undermine both the stability and the feasibility of the political order that they envisage. Revisiting classical theories of international integration, I show that federalism and functionalism present conflicting conceptions of transnational institution building. Combining the two, I argue, does not necessarily strengthen the case of recent institutional cosmopolitanism. Moreover, the principle of dispersed sovereignty conflicts with core cosmopolitan values of individualism and equality.

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1. The cosmopolitan political order

In what kind of political order would cosmopolitanism result? While cosmopolitan theorists have debated whether a global political order is necessary in order to realise cosmopolitan objectives, those who think it is largely agree on what it ought to look like: A multi-level and multi-sited global order based on a principle of dispersed sovereignty.

In this paper, I discuss these proposals for global order reform, asking whether the principle of dispersed sovereignty could be justified and sustained in the way cosmopolitans suggest. The paper is organised in four parts. First, I outline the elements of a cosmopolitan political order and suggest that whether or not this order is a world state is beside the point. Second, I assess arguments offered in support of the multi-sited, multi-level cosmopolitan political order, which mainly draw either on a federalist or a functionalist logic of international integration. Third, I assess whether the cosmopolitan political order would be stable on its own terms, where some theorists claim that the absence of final authority would spur cooperation among competing authorities and others suggest a principle of subsidiarity to settle authority conflicts. Finally, I argue that there might be good reason for cosmopolitans to think twice about the principle of dispersed sovereignty, since it might actually perpetuate inequalities between members and non-members, differences of a kind cosmopolitans usually reject.

My point is not to reject the principle of dispersed sovereignty as such, but to show that cosmopolitans seem unaware that this principle (a) cannot so easily be justified in functionalist and federalist terms simultaneously; (b) needs to rely on final authority (rather than subsidiarity) to settle jurisdictional conflicts; and (c) might conflict with other core cosmopolitan principles.

Global order reforms

David Held has presented a detailed scheme of global institutional reforms, which other proponents of a cosmopolitan political order have cited approvingly, and it hence serves well to illustrate what such an order could look like.¹

First, the United Nations features on virtually all schemes for a cosmopolitan global order. An essential institutional stepping stone, the UN at the same time, as a nation-state based organisation, tends to be trapped in great power politics. The Security Council with its veto for permanent members should, cosmopolitan reformers suggest, be reformed “to give developing countries a significant voice”.² The General Assembly representing states should be complemented by a second chamber, more or less directly elected by the citizens of the world, as a global parliament with revenue-raising capacity.³ The UN should also be endowed with greater coercive capabilities by means of a standing international military force and, in the long term, by permanently shifting a

¹ Archibugi 1995; Held 1995b; 1995a; 2002; 2004; Held & McGrew 1998. While scholars writing on institutional cosmopolitanism are often less directly concerned with institutional design than Held is, Simon Caney and Luis Cabrera both refer to Held’s scheme as a plausible sketch of the kind of order institutional cosmopolitanism would require (Caney 2005; Cabrera 2004).

² Held 1995: 279; cf. Falk 1998

³ Additionally, Andrew Kuper suggests that the United Nations’ membership criteria should be reworked so as not to privilege states as members, but allow other kinds of actors membership too, for instance non-governmental organizations, transnational corporations and local governments, provided that they fulfil certain criteria, such as being internally democratic and sincerely concerned with basic human needs (Kuper 2006: 165ff).

growing proportion of states' coercive capability to regional and global institutions, with "the ultimate aim of demilitarization and the transcendence of the war system."⁴

Second, the system of international law should be reformed with the long-term objective of creating an "interconnected global legal system, embracing elements of criminal and civil law."⁵ International courts with extended jurisdiction are key players in strengthening international law, such as an International Criminal Court (which was actually created in 2003), an international human rights court and "a cosmopolitan court for transnational corporate wrongdoing."⁶ Also, the range of actors who have standing before the International Court of Justice should be expanded from states and UN bodies to include individuals, intergovernmental organisations and non-governmental organisations and its remit should be broadened to upholding and protecting individual human rights.⁷

Third, the institutions of international economic governance should be made accountable to global or regional parliaments. Furthermore, their activities need more coordination at regional and global levels, preferably under the supervision of "a new economic institution with an overview for all economic matters that can coordinate the [International Monetary Fund], [the World Trade Organization] and the World Bank in the pursuit of global norms of distributive justice."⁸

Finally, the cosmopolitan political order also requires new venues for participation, representation, advocacy and accountability. Such venues include regional parliaments (modelled on the European Parliament) and cross-border initiatives by which citizens of different states could bring about referenda on issues that jointly affect them.⁹ It might also include creating new "advocacy and accountability agencies" modelled on ombudsmen, consumer watchdogs and audit agencies, charged with making political authorities more responsive to the demands of citizens.¹⁰

A world state?

While critics may think that the institutional scheme of the cosmopolitan political order might look like a proposal for a world state with a world government, its advocates usually underline that it is not.¹¹ It is a scheme for global democratic governance without world government, they claim. However, the ultimate cosmopolitan political order seems to share many institutional features with modern states: A bicameral parliament with fiscal competence, an executive branch, a standing military force, a legal system upheld by an independent judiciary, authorities for monetary and economic regulation, a redistributive welfare system, and various auxiliary institutions for holding power wielders to account. What is not state-like about this global political order?

Cosmopolitans would respond that the institutional structure that they outline is not a world state because unlike states, it does not rest on sovereignty and final authority. To the contrary, power is to be shared and separated in interlocking and overlapping levels and sites of authority.

⁴ Held 1995: 279

⁵ *ibid*

⁶ Caney 2005: 161f

⁷ Kuper 2006: 149f; Caney 2005: 161f

⁸ Caney 2005: 162; cf. Held 1995. Held also proposes other alternative modes for governing the economy. Cosmopolitan democracy would systematically experiment with "different democratic organizational forms in the economy" and introduce "strict limits to private ownership of key 'public-shaping' institutions: media, information, and so on." In the long run, his ideal includes a "multisectoral economy" with plural forms of ownership and a mixture of government steering and market regulation.

⁹ Held 1995

¹⁰ Kuper 2006: 107; cf. Gould 2004; Goodhart 2005.

¹¹ For variants of this critique, see for example Urbinati 2003; Baker 2002; Nagano 2006

The decisive difference between the cosmopolitan political order and a world government, thus, is not its particular institutional setup, but the way authority is divided and distributed within it. Accordingly, Simon Caney argues that while the cosmopolitan political order is global in scope, it is not a world state ruled by a world government, because the institutions sketched operate at different levels and address different issues, and thus lack essential qualities of a sovereign state, such as comprehensiveness: a unity of political functions that entails “authority over all issues and not simply some.”¹² Furthermore, a system in which no institution enjoys comprehensiveness also lacks supremacy: a final authority to decide in cases of conflict.

However, this argument seems not to establish enough conceptual difference between the cosmopolitan order and sovereign states. If the cosmopolitan political order is not a world state with a world government in virtue of lacking comprehensiveness and supremacy, then neither are the real-existing states in the international system really sovereign states with sovereign governments, because they too usually lack comprehensiveness and supremacy in this sense. In most modern states, governments, parliaments, courts, armies and central banks have authority over different issues and there are usually semi-autonomous municipalities, federal sub-units and other levels below the central government of a state, just as there would be in the political order that these cosmopolitans sketch. So the lack of comprehensiveness and supremacy is not sufficient to distinguish the cosmopolitan political order from a world state.¹³ Indeed, as we shall see, cosmopolitans rely on an analogy to federalism and other separation-of-powers arrangements to demonstrate that their institutional sketch would be viable, as vertically and horizontally dispersed authority could promote both efficacy and democracy.

On the other hand, accepting that the cosmopolitan political order is state-like at least in these respects is not necessarily an argument against it. It might actually strengthen the cosmopolitan case to argue that its global political order is neither more nor less comprehensive and supreme than modern states typically are. Indeed, Luis Cabrera proposes a similar institutional scheme as a world state, necessary in order to realise cosmopolitan objectives.¹⁴

2. The merits of multiple sites and levels

While their concrete reform proposals may differ, many theorists agree that the cosmopolitan political order that they envisage should not vest all authority with one global governmental agency or at one level. Instead, authority should be vertically and horizontally dispersed, to multiple

¹² Caney 2005: 150

¹³ Following this distinction, one wonders whether any state, short of an ideal absolutist Hobbesian Leviathan, would meet the criteria of comprehensiveness and supremacy. Historically, such political regimes have been rare (Gaubatz 2001) Here it seems that the argument must rely, if only tacitly, on a fictional account of unlimited state sovereignty. But as Omar Dahbour argues, a broad range of classical theories of popular sovereignty suggest that the ultimate source of authority is the people, a claim which implies an internal constraint on sovereignty. Externally, states in an international system are always already limited in their sovereignty by the very existence of other states, as Dahbour argues: “external sovereignty *just is* the idea that there ought to be constraints on state actions – for instance, their right to wage wars against other states. Sovereignty, regarded as a principle of relations between states, is definitely not the idea that states – or even peoples – ought to have unlimited authority.” (Dahbour 2006: 112; cf. Nardin 2000; Weinert 2007)

¹⁴ Cabrera 2004. Cabrera defends a world state on cosmopolitan grounds, but one rather wonders whether his model is sufficiently supranational a world state, given the prominence it gives to states and regional organisations like the European Union.

agencies, multiple sites and multiple levels or layers, overlapping and interlocking each other.¹⁵ As Thomas Pogge declares this cosmopolitan vision:

“[P]ersons should be citizens of, and govern themselves through, a number of political units of various sizes, without any one political unit being dominant and thus occupying the traditional role of state. And their political allegiance and loyalties should be widely dispersed over these units: neighborhood, town, county, province, state, region, and world at large.”¹⁶

Now, why should we prefer authority to rest with a plethora of overlapping and competing agencies and levels, rather than with one level, one site, such as one global sovereign, or for that matter, a number of independent sovereigns? One reason why these cosmopolitans depict a multi-level and multi-sited political order is that they wish to seize a middle ground between those two positions: A global world government holding final authority over the entire planet and a system of rivalling sovereign states. But that does not explain why we should prefer a cosmopolitan political order to those two alternatives: the world state and the world of states. A more thorough argument should convince us why vertically and horizontally dispersed sovereignty is preferable to a unitary political order.

One might offer both normative and functional arguments for why a multi-level and multi-sited political order is preferable to both a centralised world government and an international order. Normative arguments stress the value of divided or dispersed sovereignty as a safeguard against oppression and for making institutions responsive to citizens’ needs, while functional arguments hold that dispersed sovereignty is suitable to address certain complex, pressing social and political problems or issues.¹⁷

Turning first to normative arguments, the cosmopolitan idea of dispersed sovereignty could draw on theories of federalism and separation of powers. Notably, classical theorists of federalism and of separation of powers criticise absolutist conceptions of both internal and external sovereignty. Locke and Montesquieu, for instance, disputed the doctrine of absolute power: Balanced government must be divided government. But likewise, many Enlightenment philosophers saw a federal association of states as the solution to the war problem inherent, as they saw it, in the international order of rivalling sovereigns. For instance, Rousseau proposed a strong confederation of European monarchies, while Kant included a weaker voluntary “pacific federation” among free republics in his sketch for perpetual peace.¹⁸ Thus, federalism and separation of powers has figured historically as a solution to the problems associated with sovereignty in both political and international theory.¹⁹

A negative normative argument for dispersed sovereignty suggests that it serves as a safeguard against oppression and abuses of power by creating checks and balances on political authority. In the horizontal dimension, different branches of government should be able to balance against each other, to ensure that neither branch gains too much power. Likewise, in the vertical dimension, the

¹⁵ Held 2002

¹⁶ Pogge 2002: 178

¹⁷ Admittedly, this distinction is slightly misleading, since functional arguments are normative arguments too, as they claim that dispersed sovereignty is desirable given certain empirical premises (complex issues).

¹⁸ Rousseau 1987 [1761]; Kant 1984 [1795]

¹⁹ Riley 1973; Føllesdal 2006a; Deudney 2004

central level is supposed to be able to intervene to protect individual liberty or minority rights against oppressive sub-unit authorities, while sub-units are supposed to be sufficiently powerful to resist oppressive policies resulting from the central level. Obviously, this requires a careful balance of power on both dimensions.

By contrast, a positive normative argument for dispersed sovereignty holds that unlike a sovereign order (whether one state among others or a world state), the sort of multi-sited and multi-level authority suggested by cosmopolitans offers more opportunities for individuals and groups to pursue and protect their interests.²⁰ Allocating authority at different levels could also allow for greater institutional experimentation and competition among sub-units, and for more adjustment to local circumstances and cultures.²¹ Moreover, unlike conventional models of representative democracy based on parliamentary sovereignty, some suggest that a plurarchic cosmopolitan order adds more mechanisms to ensure that government is responsive to the needs and interests of its citizens. While not necessarily premised on a conception of positive liberty, we can call this a positive argument because it appreciates dispersed sovereignty as enabling opportunities for citizens (or their elected or appointed representatives) to act out their interests and for government agencies to respond to citizens' needs, rather than as a limiting constraint on government.

Andrew Kuper offers a positive normative argument for dispersed sovereignty in his theory of representation as responsiveness. Citizens, Kuper argues, should not merely be represented by a sovereign parliament or not at all, but by a multiplicity of agencies.²² Multi-level and multi-sited cosmopolitan government helps "to provide more avenues for pressing key rights and representing interests".²³ This is not simply to say that the more forms of representation, the better: Kuper argues that new authorities (such as advocacy and accountability agencies) are to be introduced only if "they are likely to increase the overall responsiveness of representative structures."²⁴ Still, this normative argument is premised on the idea that a plurality of powers is desirable in virtue of providing more channels and mechanisms by which to make politics respond to the needs or interests of people.²⁵

The functional arguments sometimes offered in support of dispersed sovereignty looks to the issues at stake, suggesting that we need new political institutions to handle pressing political and social problems which transgress the boundaries of nation-states. This line of reasoning harks back to a tradition of international theory which has stressed, in different guises, interdependence between states as the propelling reason for international cooperation, integration and

²⁰ cf. Weinstock 2001: 77

²¹ Levy 2007; Pogge 1992; Føllesdal 2001

²² However, the cosmopolitan order relies surprisingly little on both democratic participation and majoritarian institutions. The new global and regional parliaments are the only institutions in the set that would be directly accountable to world citizens, as elected, directly or indirectly, by them. But the global courts, the global economic planning agency, the global military command, global welfare agencies and the various accountability and advocacy agencies would only indirectly be accountable to the global citizenry, presumably via the parliamentary assemblies (or more indirectly yet by their executives) that appoint them, or yet other agencies charged with tasks of accountability and advocacy.

²³ Cabrera 2004: 100

²⁴ Kuper 2006: 115. However, as David Runciman argues, Kuper's pluralist scheme of representation as responsiveness "relies heavily on two assumptions: first, that serious conflict will not arise between different representatives claiming to act in the name of the same individual (for example, one representing him or her as a consumer, the other as a citizen); second, that individuals will not need an outlet for their objections to the system of representation as a whole." (Runciman 2007)

²⁵ cf. Weinstock 2006

institutionalisation.²⁶ And as globalisation runs its course and complex interdependence increases, the number and the complexity of issues that escape the borders of sovereign states increase too. For example, David Held suggests that the “power logic” of the international order is:

“singularly inappropriate to resolve the many complex issues, from economic regulation to resource depletion and environmental degradation, that engender an intermeshing of national fortunes. Recognizing the complex structures of an interconnected world, political cosmopolitanism views certain issues as appropriate for delimited spatially demarcated political spheres (the city, state, or region), while it sees others – such as the environment, world health, and economic regulation – as needing new, more extensive institutions to address them.”²⁷

Thus, as globalisation supposedly renders social problems more complex, their governance should also be correspondingly differentiated. Likewise, Thomas Pogge argues that certain familiar global issues (the proliferation of nuclear, biological and chemical weapons, environmental degradation, global economic inequalities, etc.) suggest that a cosmopolitan political order of vertically dispersed sovereignty would be preferable to the status quo of a system of sovereign states. These issues, Pogge suggests, require more centralised authority than the current system of states offers, and “Such centralization can best be accomplished in the context of a multilayered global order, that is, in the course of a process of second-order decentralisation.”²⁸ Extending Pogge’s argument, Kuper suggests that numerous issues, exemplified by “crime on the Internet, prosecution of violators of human rights, and environmental protection”, cannot be appropriately resolved in the vertical, territorial dimension (implied in Pogge’s notion of multilayered governance), and therefore “there seems good reason to divide the tasks of governments on *functional* rather than territorial lines.”²⁹

Note that this functional argument relies on empirical claims: that complex international interdependence leads to certain border-transgressing problems, and that states are currently incapable of managing such problems properly. Taken together, these claims supposedly suggest that pressing issues could better be handled within a multilayered, functionally differentiated global political order. By contrast, what I have called normative arguments are less situated and therefore more timeless: Institutional or constitutional mechanisms which ensure that branches and levels of government check and balance each other or that government policy responds to the needs and interests of citizens, are desirable in any governmental system, not because they fit certain complex issues or an interdependent world.

Drawing on both normative and functional arguments for dispersed sovereignty, these cosmopolitans bring together federalism and functionalism, two strains in international integration theory traditionally considered rivals, for example in early debates over European integration.³⁰

²⁶ Haas 1964; Rosenau 1997; Rosenau 2000; Pierre & Peters 2000; Mitrany 1943; Keohane & Nye 1977; Keohane 1984

²⁷ Held 2002: 35; cf. Held & McGrew 1998

²⁸ Pogge 2002

²⁹ Kuper 2006: 31, emphasis in original

³⁰ Haas 1964; Groom & Taylor 1990; Mitrany 1943; Clark & Sohn 1960. Federalist theories conceive of integration as the establishment of a federal union of formerly sovereign states, based on a constitutional separation of powers between the federation and its sub-units. By contrast, classical functionalists and neo-functionalists argue that integration proceeds from cooperation between states on issues of low politics (technical, economic and social issues) to high politics (the core prerogatives of the sovereign state), thus making the sovereign state, and politics itself, increasingly irrelevant through piecemeal, gradual integration.

This turns out to be problematic, because it builds in a conflict between the mechanisms supposed to keep the cosmopolitan order stable and the mechanisms supposed to bring it about. Functional arguments and normative arguments for dispersed sovereignty may at times support each other, but they are often obviously inconsistent with each other. For example, federalist arguments tend to emphasise that sovereignty is still prevalent, which is why it needs to be dispersed, whereas functionalist arguments suggest that integration could bypass high politics and eventually render sovereignty irrelevant. Additionally, institutional designers will likely need to allocate authority differently depending on whether their objective is to solve current social problems efficiently or to create institutional balances protecting citizens against power abuses in the long term.³¹ Relying on both kinds of arguments for dispersed sovereignty, theorists of cosmopolitan order risk presenting conflicting claims about the logic of institutional stability. But first, let us consider the functional arguments for dispersed sovereignty.

Against the functional argument for dispersed sovereignty

While popular among cosmopolitan theorists, the functional argument for dispersed sovereignty invites three objections which we should address before turning to the issue of stability proper.

First, functional arguments sometimes slip from empirical premises to normative conclusions. Just because issues are complex, that does not suggest that they would better be dealt with by an order of dispersed sovereignty. To the contrary, a political order where power is shared or separated between multiple levels and sites could lead to inefficiency, since more veto points and more veto players would make pressing reforms difficult to carry out. Indeed, that is precisely one alleged advantage of federalism and separation of powers: To institutionalise inertia in the political system, in order to prevent government from taking unconstrained action. Moreover, the mere complexity of pressing political problems does not necessarily imply that they should be handled by correspondingly complex political institutions.

Second, and more specifically, there is little in the functional argument to suggest why the resultant political order should necessarily take the form of a cosmopolitan political order, with its detailed institutional scheme. To the contrary, classical functionalists are agnostic when it comes to designing political institutions. Instead, they argue that form should follow function and they see no direct need for political integration as such.³² Moreover, the functional argument alone does not explain why the political order would need to be democratic, as it rather focuses on establishing whatever institutions are necessary for pragmatic and efficient problem-solving.

Third, the functional argument relies on a naïve, technical understanding of political problems. Some cosmopolitans claim that pressing global problems (global warming, nuclear weapons proliferation, human rights violations, world poverty, pandemics, etc.) cannot sufficiently be handled by nation-states and suggest that political authority must be reordered in order to tackle them. While nuclear weapons and starvation are certainly real phenomena, they become social and

³¹ For instance, the concept of spill-over in neofunctionalist theories of integration suggest that institutionalising international cooperation in one policy sector will raise demands for integration in adjacent sectors. By this logic, functional economic integration on economic issues eventually leads to political integration, from low politics to high politics. Some federalists would suspiciously regard such spill-over effects as authority migration, which they try to prevent by institutional design (Bednar 2004). Once authority has been allocated to the federal level and the federal subjects, it should preferably stay there, in order to preserve the federal order and prevent dangers of centralisation or decentralisation.

³² Mitrany 1943

political problems only once they are articulated by political actors. Like all social problems, these policy issues are constructed through political struggles; struggles over the privilege to define the issues and control the agenda. Crucially, the scale at which to address problems is itself often a matter of contention. Even when actors agree what the problem is (say, global warming), different actors will aim to represent the issue as belonging properly at a certain level of governance, from the local to the global, in order to pursue their goals.³³ So the argument that certain problems somehow naturally belong to certain levels conceals the way in which the framing of problems itself may be the subject of deep-seated political disagreement. To the extent that all key actors agree on how to understand the nature of a certain political problem and the levels at which it properly belongs, this third objection to the functionalist argument might be less consequential. Yet even if that were the case, the noble causes of cosmopolitanism are still many and even cosmopolitans prioritise differently between them. Thus, issues themselves provide no stable ground for a political order of dispersed sovereignty.

Taken together, these objections reveal an inherent problem in the attempt to justify a political order on the basis of the particular policy problems it is intended to solve. We need a political order precisely because we disagree about such ends. While functional arguments remain popular, I believe they are not as strong and convincing as these cosmopolitans assume. Ruling them out, however, might make it easier to assess whether the cosmopolitan political order would be able to sustain itself, the issue to which we now turn.

3. Stability and authority

If we prefer government to be fragmented, segmented and dispersed between overlapping, intermeshed and competing levels and sites of authority, then we should reasonably ask how to ensure that the proper balance of authority can be sustained. The problem in justifying an order of dispersed sovereignty is that the very thing that we value in dispersed sovereignty also holds a potential for its destruction. Spreading governmental power may safeguard against oppression, but it may also invite and incite conflict. If the different sites and levels are to be sufficiently powerful to check and balance each other, they might also be sufficiently powerful to engage in power struggles and conflicts, with dissolution, secession or centralisation as possible outcomes.

Hence, in order to demonstrate that a system of multiple levels and loci of power will be sustainable, its proponents must give a convincing account of how authority will be distributed and how conflicts of authority can be resolved in a democratic, peaceful and self-sustaining manner. Conflicts of authority may arise either when two (or more) actors (levels, loci or agencies) claim exclusive jurisdiction over the same issue or, conversely, when they try to pass the buck among each other. Political systems that crucially depend on a division of authority between levels and sites (for example, consociational, confederal, federal and separation of powers systems) usually rely on specific constitutional agreements intended to harness such conflicts of authority for the common good. But even then, a system of dispersed sovereignty may be difficult to sustain; indeed, federal systems are known to be unstable in this regard.

³³ Lindseth 2006.

In the following, I shall discuss arguments made to demonstrate that a cosmopolitan political order of multiple levels and sites of authority would be stable: (1) That the absence of final authority incites cooperation; (2) that federalism illustrates that a political order based on dispersed sovereignty is possible; and (3) that a principle of subsidiarity could settle conflicts of authority. Having critically examined these three arguments, I then discuss two consequences of a political order where authority is divided between different levels, both indicating that contrary to cosmopolitan ideals, such orders give states (or their equivalents) an independent standing and perpetuate inequalities along territorial cleavages.

Does the absence of final authority incite cooperation?

One account of authority in cosmopolitanism argues that the mere multiplicity of levels, sites and actors within a cosmopolitan political order will incite cooperation. Hence, the absence of final authority is not a problem, but actually an advantage, as Simon Caney suggests:

“There may be no one political institution that has final authority. Supra-state, regional, state-level, and sub-state levels would have no privileged status over each other. This is often said to be a problem but [...] it is an advantage since it prevents the centralization of coercive power. It forces people and different institutions to negotiate and cooperate with each other.”³⁴

This argument, however, takes for granted what it is supposed to prove: That political order without final authority is possible. It also neglects the fundamental problem of political and international order: The international order of sovereign states just is a system of non-centralised coercive power. It seems implausible that institutions and people, several of which possess decentralised coercive power, will be forced to negotiate and cooperate simply because of the absence of final authority. How could we guarantee that, for example, an entity possessing some coercive power would not use that power to get its way in cases of conflict with other actors? Usually, arguments for order in the absence of final authority need to demonstrate conditions under which self-interested rational actors can be induced to cooperate, especially so under conditions of international anarchy.

Furthermore, the issues that “people and institutions” would need to cooperate on are not just their common problems, but the extensive duties of cosmopolitan justice, including economic redistribution on a global scale. Such duties come at a cost and we can expect institutions (whether local, national, regional or functional) whose main responsibilities lie with their own constituencies to be only hard pressed to take on the obligations of cosmopolitan justice. Who should press them to cooperate in the cosmopolitan cause in case they refuse? Caney seems to be theorising merely at the ideal level, assuming full compliance. Not even under the best of foreseeable conditions does this assumption seem realistic. And if we could rely on the full compliance of benevolent actors, why would we need the cosmopolitan order of dispersed sovereignty rather than a world of states (or for that matter, rather than world government)?

³⁴ Caney 2005: 163 Kuper seems to suggest something similar when he proposes the term horizontal responsiveness “to denote a relationship between authorities that check and balance one another in part because (despite some divergent ends and means) they need to compromise or find consensus in order to fulfil their functions, and so will be receptive to one another’s claims and counterclaims.” (Kuper 2006: 103)

The federalism analogy

Other proponents of a cosmopolitan political order point to federalism to show why the problem of a lack of final authority should not be overrated.³⁵ Thomas Pogge dismisses the argument that a “genuine state of peace requires [...] an agency of last resort – ultimate, supreme, and unconstrained”, by arguing that the history of federalism and constitutional democracy demonstrates that “Law-governed co-existence is possible without a supreme and unconstrained agency.”³⁶ Federal systems rely on a vertical separation of powers between the central government and the sub-units, where both levels are partially autonomous in relation to each other. Similarly, in separation of powers systems, the executive, the legislative and the judiciary check and balance each other, without any of them having final authority over another. Thus, the argument goes, if dispersing sovereignty without final authority works well in such systems, it could serve similar functions in the cosmopolitan political order.

While more plausible, this argument might rely on a specious domestic analogy.³⁷ The conditions that make federalism and separation of powers feasible within states might not pertain to the transnational context. Some argue, for instance, that the stability of federal regimes is not only a matter of institutional design, but also requires that citizens have “an ‘overarching loyalty’ to the federation as a whole in addition to loyalty toward their own sub-unit.”³⁸ If we believe that the intended citizens of the cosmopolitan order would lack such overarching loyalty, stability could be difficult to achieve. Moreover, the history of federalism seems to discourage Pogge’s federal analogy, because while there are remarkable examples of stable federations, most federal systems have been short-lived, unstable and conflict-ridden. For example, a majority of all federal regimes since 1579 have lasted 30 years or less, while a majority of the federal regimes created after 1945 lasted ten years or less.³⁹ Federations end through centralisation (sometimes because one federal subject gains control of the centre), devolution or secession. And federations often break-up painfully and violently, precisely because authority and coercive power is divided between the central level and the federal subjects. Even the maintenance of a federal order is often the result of violent power struggles, as in the civil wars in Switzerland and the United States. Hence, Pogge’s analogy fails to convince, since historical experience does not demonstrate that order is easily achieved in the absence of final authority.

The analogy to federalism and separation of powers also does a poor job demonstrating the possibility of a political order without final authority, because federal and separation of powers systems do rely on final authority: the constitution and the institutions given the authority to safeguard it.⁴⁰ A constitution usually describes not only a fixed allocation of powers or competences between branches and levels of government, but also how to resolve conflicts of authority.⁴¹

³⁵ Pogge 1992; Cavallero 2003; Kuper 2006; Marchetti 2006.

³⁶ Pogge 2002: 179. Note that Pogge here relies on a conflation of final authority (last resort, ultimate, supreme) and unconstrained authority. But final authority does not imply unconstrained authority: It presupposes penultimate authority, a next-to-last resort.

³⁷ Cf. Suganami 1989; Bottici 2003

³⁸ Føllesdal 2006a

³⁹ Filippov et al. 2004: 80

⁴⁰ Besides, externally federations are no less sovereign than non-federations to the extent that their final authority within their territories is internationally recognised. Nobody seriously doubts that federations like Germany, USA or India are sovereign states.

⁴¹ For example, the constitution of the United States includes a supremacy clause (Article VI, Clause 2), stating that the constitution is “the supreme law of the land” and thus holds final authority over state laws and constitutions. Likewise, the European Union, often suggested as a model of multi-level and multi-sited government,

Moreover, successful real-world federalism usually constitutionalises only on two levels of decision-making authority, rather than the plethora of levels from the local to the global suggested by Pogge.⁴²

In fact, a cosmopolitan political order, too, must rely on such constitutional mechanisms to solve conflicts of authority. The institutional design as such describes the tasks of various institutions and also suggests boundary courts with the authority to solve conflicts of jurisdiction between them. As Held points out, his institutional scheme "demands the subordination of regional, national, and local 'sovereignties' to an overarching legal framework, but within this framework associations can be self-governing at diverse levels."⁴³ It is no coincidence that sovereignty is put within ironic quotation marks, for the cosmopolitan political order, as sketched by its advocates, must depend on supremacy and final authority, in spite of their claims to the contrary.

Hence, Pogge's argument for dispersed sovereignty underestimates the difficulties of designing a stable and self-sustaining federal political order. Indeed, the analogy to federalism highlights precisely that weakness in his argument, as achieving a stable federal design is the puzzle that has always haunted federal theorists – and federations too.

Subsidiarity

Realising the problems of how to allocate authority, how to manage the appropriate balance between levels and between sites, and how to resolve conflicts of authority and responsibility in the cosmopolitan political order, some theorists advocate a principle of subsidiarity to determine where authority ought to rest.⁴⁴ Its proponents usually formulate the principle of subsidiarity as stating that decisions should be taken as closely as possible to the individual citizen.⁴⁵ David Held even suggests subsidiarity as one of the fundamental principles of cosmopolitanism:

"[C]ollective decision-making is best located when it is closest to and involves those whose life expectancy and life chances are determined by significant social processes and forces.

On the other hand, this principle also recognizes that if the decisions at issue are translocal, transnational, or transregional, then political associations need not only to be locally based but also to have a wider scope and framework of operation."⁴⁶

Likewise, Andrew Kuper advocates a principle of distributive subsidiarity, "which aims to allocate power according to the functional capacities at each level or locus of governance, and combining functions into clusters, with a view to effective governance."⁴⁷

relies on the doctrine of direct effect, by which laws enacted in Brussels become directly applicable in member states, and the doctrine of supremacy, which gives the European Court of Justice the competence to increase its own competence (Eriksen 2000). While the legal and political status of these doctrines is disputable, they indicate that where final authority is absent or unclear, it needs to be invented.

⁴² Levy 2007

⁴³ Held 2005: 26

⁴⁴ Usually, subsidiarity is intended to regulate authority vertically (between different levels of government) rather than horizontally (between different branches of government), but it could apply to horizontally segmented political orders too.

⁴⁵ Føllesdal 1998; Føllesdal 2006b

⁴⁶ Held 2005. Thomas Pogge similarly suggests that "The authority to make decisions of some particular kind should rest with the democratic political process of a unit that (i) is as small as possible but still (ii) includes as equals all persons significantly and legitimately affected by decisions of this kind." Pogge 1992: 67

⁴⁷ Kuper 2006: 114. Kuper contrasts distributive subsidiarity from the delegative subsidiarity he claims dominates the EU, which allegedly is based on the idea that power is derived ultimately from the member states, and in turn of their internal democratic constitution.

Thus, the principle of subsidiarity, these cosmopolitans argue, offers a simple yet ostensibly democratic solution to the problem of allocating authority in a multi-level political order; an independent standard for settling political conflicts over where power belongs. Subsidiarity thus assumes a functional conception of political problems and issues: Political institutions should provide certain goods and services, and we should allocate their provision at the lowest level that still can manage them properly and efficiently.⁴⁸ In that sense, the subsidiarity principle saddles us with double objectives when allocating authority: securing that decisions are taken close to citizens pulls authority down, while guaranteeing efficacious problem-solving might often pull in the opposite direction.

However, unless we specify the principle of subsidiarity substantively, it says virtually nothing about where authority and responsibility ought to reside. It depends – on efficacy and democratic closeness. When we apply the subsidiarity principle we always judge how best to balance these two partially conflicting concerns in any particular case. But if we start specifying the principle substantively – these issues belong at the central level, while those belong with sub-units – we obfuscate the principle, because then levels may start owning issues, independently of whether they are in fact the level closest to the citizen or the level that can deal with them most efficiently. And in that case, we need not confuse the matter by referring to subsidiarity as such, but instead refer directly to other principles or values which ought to guide the allocation of authority, such as efficiency, justice, liberty, democracy or security.

Moreover, the subsidiarity principle seems to rely on the assumption that issues and problems (the responsibility for which it asserts) are themselves apolitical. In their study of institutional design for federal stability, Filippov, Ordeshook & Shvetsova argue that the advocates of subsidiarity ignore that we cannot theoretically determine at which level a particular issue belongs: “even if a good or service is strictly and wholly public in consumption, it remains private in production and thereby entails bargaining in the determination of its supply.”⁴⁹ So the principle of subsidiarity, in its various formulations, “amounts to little more than convoluted restatements of the fact that, absent any compelling theoretical basis for doing things one way or another, jurisdictional boundaries and allocations of power between the center and federal subjects are determined as much by politics as by anything else.”⁵⁰

The subsidiarity principle concerns where power should reside, which raises the question: Who is the ultimate arbiter when authorities conflict? Who enforces the cosmopolitan political order? Kuper regards the subsidiarity principle as more or less self-regulating, while Held relies on court-like institutions to determine where authority ultimately ought to rest: a global boundary court would settle conflicts of authority.⁵¹ Cabrera similarly implies that lower governmental bodies should be able to take subsidiarity to court, while not suggesting any particular institutional

⁴⁸ Kahler & Lake 2003

⁴⁹ Filippov et al. 2004: 51. They illustrate this point by the example of national defence: Although everyone benefits from the security provided by a national defence, some must pay the price for providing it. And even if defence is paid for via a perfectly fair tax system, the instruments of its production are also private in both costs and benefits: If one federal subject benefits from having a military base on its territory, some other subject cannot enjoy the benefits (job opportunities etc) of that same base.

⁵⁰ *ibid*: 69

⁵¹ Held couples the subsidiarity principle and the so-called all-affected principle into a “principle of inclusiveness and subsidiarity”. But this combination does not improve the determinacy of either principle, it merely seems to confuse the problems of drawing boundaries and allocating authority even further. It is an indeterminate principle leading an indeterminate principle, like the proverbial blind. Cf. Karlsson 2008.

mechanisms.⁵² But given the subsidiarity principle's lack of substance, it is too indeterminate to treat as a legal norm. Conflicts over the proper allocation of power are fundamentally political, and not suitable to delegate to courts. As Jacob Levy argues, deciding on a case-to-case basis how local a level of government can make a particular decisions is the wrong approach to jurisdictional questions in general and constitutional design in particular: "It presumes a fantastic level of competence, knowledge, and disinterestedness on the part of the body that *allocates* decision-making authority in each case – itself usually one of the contenders for the authority at stake."⁵³

Indeed, the experience of living with subsidiarity over more than fifteen years in the European Union is telling. A subsidiarity principle without substance is not suitably determined by courts, because it is a tool for political power struggles between entrenched interests:

"The precise content of subsidiarity is part of an everyday battle. At no instance, however, does it settle matters decisively, as a legal approach would suggest. Because subsidiarity is a political institution, it constrains as well as enables actors. By consequence, it need not mean the end of the inter-state game, not even in a setting as highly institutionalised as the EU."⁵⁴

On both theoretical and empirical grounds, then, we can conclude that a principle of subsidiarity will do little to settle conflicts of jurisdiction and authority. But what will, then? In the end, there is a tried and common solution to such conflicts: final authority. It does not necessarily imply comprehensive authority over all issues, nor must it imply unconstrained authority, as a final authority is called upon when non-final authorities, with a limited authority over some issues, fail to settle conflicts of jurisdiction. This is not to suggest that order is impossible in the absence of final authority, but rather that it is a lot more difficult to achieve and sustain than cosmopolitan theorists seem to realise, and therefore, they might be well-advised to recognise that even a cosmopolitan political order must rely on such mechanisms of institutional design.

4. Multi-level order and cosmopolitan ideals

Now, even if we conclude that the cosmopolitan political order needs to rely on final authority, a deeper problem occurs: A political order based on allocating authority at multiple levels is difficult to reconcile with core cosmopolitan principles and values. This amounts to a troubling tension in this branch of cosmopolitanism. On the one hand, it embraces the idea of a political order based on dispersed sovereignty, while on the other hand rejecting the political consequences of such an order. I shall illustrate this tension by way of two arguments: First, some cosmopolitans have argued that aggregating individual preferences in a two-level procedure violates cosmopolitan and democratic principles of individualism and equality. Second, some cosmopolitans employ a luck egalitarian argument suggesting that inequalities between one place and another are unjust, but a multi-level order not only tends to produce such inequalities but institutionalises them. These arguments indicate reasons for cosmopolitans to reconsider their commitment to dispersed sovereignty and the ideal of a multi-level political order.

⁵² Cabrera 2004

⁵³ Levy 2007: 462

⁵⁴ van Kersbergen & Verbeek 2004

Aggregating preferences in two steps

An interesting example highlighting the problem of multi-level authority is suggested by Andrew Kuper in his criticism of Rawls's two-stage approach to international justice. Cosmopolitans have criticised Rawls for not assuming a global original position, extending his liberal egalitarian principles to the whole world.⁵⁵ Instead, Rawls suggests a two-stage procedure to determine just principles for international law and practice. In the first original position, representatives of free and equal citizens work out principles of justice for a society, modelled as closed and isolated from other societies. In the second original position, rational representatives of liberal peoples convene to determine just principles and norms to rule their interaction.⁵⁶

Kuper offers a thought experiment that is intended to demonstrate why Rawls's two-stage contract approach to international justice does not take the interests of all individuals into account, and thus violates its egalitarian foundations. Imagine a world of two states, Underdeveloped (U) and Developed (D), Kuper suggests. The government of each intends to act rationally so as to secure the interests of persons in their territories to the maximal extent possible. For D, it might be rational to restrict immigration so as to avoid social dumping and lowered standards of living for its citizens, whereas for U, limiting emigration might be rational in order to avoid brain-drain. Now:

“If two parties representing these states, though they did not know which, had to establish a law governing their relations, it would be one that allows for only highly restricted movement of persons between the two from U to D.

Yet it is not true in principle that this law best secures the rights and well-being of all the persons in both countries.”⁵⁷

Indeed, Kuper argues, if all persons in U and D were directly represented in the original position, rather than via representatives of the states they happen to inhabit, they might well determine that “allowing some more movement of people between the two would result in a gain for those who are worst off or even in a more extensive scheme of basic liberties for all”.⁵⁸ While this argument in ideal theory aims to refute Rawls's two-step contract, it also highlights a kind of conflict over authority that may arise, not only in ideal theory, but in the real world, whenever we face a similarly structured choice of allocating authority either with the constituent units or at the compound central level. That is, such conflicts would arise within any political order where authority is allocated at more than one level, including the cosmopolitan political order.

Raffaele Marchetti suggests a similar example. Consider three bordering democratic states: A, B and C, which need to decide whether to build a nuclear power plant that is in the territory of country A but on the borders of B and C. A, B and C each have 100 citizens entitled to vote, whose preferences are unevenly distributed. In A and B, a slight majority supports the decision to build a nuclear power plant, whereas a strong majority in C is against it. How are these three states and their citizens to decide democratically whether or not to build the power plant? Marchetti offers them two general decision making procedures: They can either take a majority vote within each country and then in a second step sum up majorities on a country basis, or take a majority vote

⁵⁵ Beitz 1979; Beitz 2000; Buchanan 2000; Brown 2002; Caney 2002; Costa 2005; Meckled-Garcia 2007

⁵⁶ Rawls 1999: 32

⁵⁷ Kuper 2006: 16

⁵⁸ *ibid*

among all citizens of A, B and C directly, in one step.⁵⁹ If preferences are distributed as we assumed, then the outcome would differ depending on how we choose to aggregate the majority view.

	<i>Yes</i>	<i>No</i>
Citizens of A	55	45
Citizens of B	55	45
Citizens of C	30	70
Two-level aggregate outcome (winner)	2	1
Single-level aggregate outcome	140	160 (winner)

Like Kuper, Marchetti argues that cosmopolitans (and democrats, too) ought to prefer the single-level approach to the two-level approach, presumably because the single-level approach gives equal weight to all individuals across A, B and C, whereas the two-level approach gives undue consideration to the collectives into which individuals happen to be grouped.⁶⁰

These two hypothetical examples aim to demonstrate situations in which individuals and states have different interests, and where the cosmopolitan, concerned as she is with treating individuals as the ultimate units of moral concern, ought to side with individuals rather than with states (or any other grouping of people). As Kuper concludes from his example, “what is rational to agree upon at the level of two parties representing two sets of persons’ interests (that together exhaust the set of existing interests) is not the same as what is rational if it is the interests of each and every person that are being considered.”⁶¹

But do these examples really support the cosmopolitan conclusion?⁶² Both examples seem to invite the standard social choice challenge to democratic theory: “that there is no rule for aggregating individual preferences that is obviously fair and rational and thus superior to other possible rules, and that virtually every rule is subject to strategic manipulation”.⁶³

The problem is that a multi-level political order builds exactly on the divergence between different groupings of interests, and institutionalises the aggregate interests of sub-units. A multi-level order attaches independent weight to the lower levels that comprise higher levels, and may therefore lead to different outcomes than a unitary order. If sovereignty is to be dispersed vertically between two or more levels, we will regularly face situations of this sort, where the two-level

⁵⁹ However, there are other decision making procedures available, for instance, to aggregate by majority vote on a country basis but decide by consensus at the intergovernmental level, which is closer to the practice of much international decision-making. Moreover, the example merely assumes, perhaps by means of the all-affected principle, that the citizens of countries B and C, or their governments, have a legitimate claim to be included in deciding whether to build the power plant.

⁶⁰ As it is practiced in the international system today, Marchetti argues, the two-level approach is based on two false assumptions about democratic legitimacy: “[1] national decisions are to be respected to the extent that they are the product of democratic self-determination within sovereign jurisdictions [and] [2] international decisions taken by intergovernmental organisations are to be observed since ultimately they are taken to be the indirect expression of the same democratic self-determination”. Taken together, these two assumptions “warrant and preserve a political system that excludes structurally relevant social agents from political agency.” (Marchetti 2006: 293)

⁶¹ Kuper 2006: 16f

⁶² Notably, Kuper and Marchetti pick rather easy cases, chosen because they underline the cosmopolitan point of view. But what if the compound majority of A, B and C vehemently opposes that A builds, say, a synagogue rather than a nuclear power plant? What if U and D decide to regulate not migration but tax evasion? In such cases, the standpoint to side with individuals against their aggregate communities seems harder to defend for a cosmopolitan.

⁶³ Miller 1992

aggregate outcome differs from the single-level aggregate outcome. The point just is to attach independent weight to sub-units. Federal government can be justified precisely as a two-stage compact or contract, where the contracting parties are not individuals but collective units, such as sovereign governments or groups within a government.⁶⁴

Furthermore, as these examples show, allocating authority may often be a matter of political disagreement in its own right, and that matter cannot be settled by referring to the substantive issue at stake. If you belonged to the Yes camp in Marchetti's example, you would have a good reason to favour the two-level procedure (or even simpler, to argue that the decision is A's alone), while if you belonged to the No camp, you would have an equally good reason to prefer a single-level procedure. Either way, the procedure chosen would determine the substantive outcome. But why should you, in principle, accept that majority decisions should be taken at the central level rather than by each country separately? Arguing that it takes the interests of all individuals into account misses the point, since those that are on the losing side (by either method) will have good reason to suggest that their interests would better have been taken into account by the other procedure, which would have placed them in the decisive majority.

Also, appealing to the principle of subsidiarity will not help to resolve the conflict, because the issue at stake does not concern which level can most efficiently provide the public goods (the nuclear power plant); the issue concerns whether the public goods (and the corresponding bad) should be provided at all. As Filippov, Ordeshook & Shvetsova argue:

“because each rule implies specific outcomes in favor of some and not other participants, people will derive their preferences over rules from their preferences over outcomes. With the bargaining problem merely moving up one or a few institutional levels, what guarantee is there that the only thing that will be ‘produced’ is not endless discussion as opposed to the public good that was the original source of disagreement?”⁶⁵

Put differently, the issue at stake when deciding rules for allocating authority is not primarily ‘Who ought to do it?’ but the more fundamental political question ‘What ought to be done?’⁶⁶ These examples may lead us to ask whether cosmopolitans ought to prefer a political order where authority is dispersed over multiple levels and sites. In fact, there is another tension between the cosmopolitan blueprint for political order and the cosmopolitan ideal of universal equality, to which we now turn.

Multi-level authority and cosmopolitan equality

Few things determine one's life-chances as much as where one is born. For example, even if you are born in Europe the life you lead will likely take a different shape depending on in which country you are born. Life expectancy at birth for men is 65.4 years in Lithuania, but 75.8 years in Sweden (2005). In Romania, 15 per 1,000 live-born infants die before reaching the age of one, but less than 3 per 1,000 in Sweden, Finland and the Czech Republic (2005). And still, all countries in Europe and most people living in them are well-off compared to most other countries; in a global perspective, key social indicators diverge even more.

⁶⁴ Filippov et al. 2004: 18

⁶⁵ *ibid*

⁶⁶ Cf. Riley 1973: 98

From the cosmopolitan point of view, these inequalities indicate an intolerable injustice, since cosmopolitanism (at least of the variety we are dealing with here) accords people the same universal rights and duties, regardless of arbitrary state borders. Simon Caney, for instance, argues that it is “wrong that someone should get less simply because he or she lives in one place rather than another. The cosmopolitan point is simply to radicalize this and to see through its logic to the global level.”⁶⁷

Here it might be helpful to consider the claims that cosmopolitans criticise. They position themselves against the idea that (distributive) justice applies (if at all) only within a state, an implicit assumption or explicit argument common in much political theory. For example, Rawls argues that the difference principle does not apply globally, since persons must participate in shared institutions (a state) for justice claims to apply between them. Hence, duties of distributive justice would not apply globally.⁶⁸ Cosmopolitans dispute this claim that distributive justice is morally restricted to relations within a state. They argue both on factual grounds that, for example, interdependence does bind persons together in transnational institutions which constitute a scheme of social cooperation, in the Rawlsian sense, and that principles of justice thus would apply globally, and on more theoretical or normative grounds, for example that we should not model states as a given in constructing principles of justice or that moral obligations do apply even where people are not bound by common institutions.⁶⁹ Thus, these cosmopolitans put considerable effort into arguing that people should have equal rights, liberties, opportunities, duties, and so on, irrespective of arbitrary facts such as being born in one place or one country rather than another.

However, any political order based on dividing the world into distinct, partially autonomous entities will likely produce inequalities in terms of life-chances between one place and another. Christopher Bertram provides a simple yet compelling example to suggest why the sort of luck-egalitarian arguments employed by cosmopolitans are too demanding: Consider two adjacent local governments, A and B, with a fair initial distribution of resources, which democratically choose policies producing differences between them:

“If there are democratic structures in place and the council in area A decides that education is more important than health, whereas the council in area B decides the reverse, with the result that a sick person in A is worse off (through no fault of her own) than she would be in B, whereas a child in B would be better educated in A, it is unclear that injustice is being suffered. Moreover, to correct for these inequalities would negate democratic decision-making and deprive *individuals* of access to an important range of participation goods.”⁷⁰

Thus, if different societies choose different policies, inequalities might arise between their citizens. But in so far as such differences are the result of democratic decision-making (and do not threaten to undermine continued democracy), they are acceptable. Moreover, correcting for such inequalities would discourage citizens to do their part in contributing to uphold political institutions, as citizens would risk having their choices overridden by cosmopolitan egalitarian ambitions. And to that extent, it is hard to see how the cosmopolitan political order could be stable, as citizens would not

⁶⁷ Caney 2005: 122; cf. Held 2004: 388

⁶⁸ Cf. Caney 2005: 102

⁶⁹ Beitz 1979; Kuper 2006; Eckersley 2007; Sangiovanni 2007

⁷⁰ Bertram 2006; cf. Schemmel 2008; Bertram 2005.

act upon its principles. Therefore, there is a tension between cosmopolitan egalitarianism and the political order that they suggest to institutionalise it. A political order based on at least partially autonomous sub-units will likely produce inequalities between them, inequalities which the egalitarian cosmopolitan regards as unjust to the extent that they determine people's the life-chances.⁷¹

And not only would the multi-level cosmopolitan scheme produce such inequalities, but also institutionalise them. Rather than dissolving prevailing boundaries and inequalities or embedding them within and overarching framework, Andreas Føllesdal argues, federal orders often perpetuate cleavages along state borders.⁷² This argument also extends beyond issues of equality and distributive justice. A political order based on multi-level governance allows discrimination between members and non-members, between citizens and non-citizens, on other parameters as well. As Başak Çali writes:

“If the world-state and global citizenship are rejected in favour of a multilevel system of governance, one also concedes justifications for making distinctions between members and non-members of a political community. These distinctions, however, bring together differences of treatment of human beings based on membership ties. This is a premise rejected by cosmopolitan theories.”⁷³

5. Conclusion

When cosmopolitans sketch blueprints for a global political order, dispersing sovereignty to multiple sites and levels is crucial. In this paper, I have argued, first, that supporting the principle of dispersed sovereignty on both functional and federal arguments does not strengthen the cosmopolitan order, but rather builds in competing institutional logics. Moreover, functionalist arguments, which also underpin the subsidiarity principle, are of limited use in designing political institutions, since they presuppose that we already agree on what the political problems of the day are. But we need political, democratic institutions precisely because we disagree about what are the relevant problems. Federalist arguments, on the other hand, can tap rich traditions in democratic theory for support, but justifying dispersed sovereignty in this way suggests a political order which actually conflicts with principles of universalism, individualism and egalitarianism, central to most cosmopolitan theorists.

Jacob Levy argues that the mainstream in contemporary political philosophy, where liberalism is thought to be synonymous with moral universalism, largely has ignored federalism because it is an unsuitable topic for arguing about what the best or most just policies and laws would be

“[Such arguments] often assume that, once one has determined what justice requires, there can be no interesting argument for allowing it to vary from place to place.”⁷⁴

⁷¹ Bertram admits certain qualifications: If the level of inequality reaches a level where the internal democratic order will be impossible to sustain, a duty to assist might arise on part of the better-off nations.

⁷² Føllesdal 2001; cf. Beramendi 2007; Levy 2007

⁷³ Çali 2006

⁷⁴ Levy 2007: 463

As contemporary cosmopolitans take this universalism to its most radical conclusion, it is all the more surprising that they propose a political order which disperses sovereignty to multiple levels and sites. It seems to me that they rarely think through how their proposed political order would constrain the moral and political ambitions of cosmopolitanism.

Responding to this criticism, proponents of a cosmopolitan political order might argue that they mainly offer the idea of dispersed sovereignty as a rebuttal to the suspicion that they present a blueprint for a potentially despotic world government, a planetary Leviathan, or as a concession to practical realities, since even a benevolent global regime will necessarily need to delegate tasks to lower levels of authority. But if cosmopolitans are serious about multi-level order and dispersed sovereignty, they should not treat it as a mere practical concession, because it opens up a widening rift between core cosmopolitan values and the political order they suggest in order to institutionalise and sustain those values.

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