

Classical International Utilitarianism

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(Article begins on next page | Il contributo inizia nella pagina successiva)

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

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

Although the classical utilitarians’ outlook was universalistic and all-inclusive in principle, international relations were nonetheless not high on their agenda: their central concerns were private morality and public domestic ethics. From Bentham to Sidgwick, the major political interest was on the domestic organisation of society, which included both rules of personal conduct and a collective legal framework. Underlying this narrow focus was the utilitarians’ belief in the ideal of the division of political work. Within this division, depending on the socio-political circumstances, an indirect concentration on the local could result in the maximisation of the overall world outcome. Accordingly, the utilitarians elaborated a sophisticated theory on the contingent relation between the scope of the utility principle and that of the institutions within which it was applied. Thus, while fostering a universalist interpretation of the principle of utility (even to the extent of including non-human species), Bentham was nonetheless firm, for instance, in maintaining that the social fact of the habit of obedience, upon which the application of the utility principle depended, was still very much anchored to the domestic dimension, and thus the correlate institutional framework of state sovereignty. Thus, an underpinning assumption of the utilitarians’ rationale held that within the international political constellation of their time,

the best way to maximise universal utility was to concentrate primarily on domestic governmental policies.

In practice, their prescriptions supported an international system based on fairly independent sovereign states, which in being reciprocally exclusive generated an environment of outranking. Classical utilitarians did undoubtedly propose a number of political reforms, such as the codification of international law, the establishment of an international court, publicising foreign negotiations, and new machinery for international treaties, which were certainly in the right direction for the democratisation of international relations. And even more importantly, they elaborated a method for applying consequentialist ethics to international relations based on the balancing of universal principles and social theory which is still viable. However, their works cannot be considered fully satisfactory, for the overall outcome of the international system they envisaged would arguably be sub-optimal by their own measure. The lack of multilevel political participation leading to would-be international political institutions denied the possibility for each individual to pursue fully his or her own well-being and consequently denied the promotion of the general well-being. While the intensity of international interaction during the 19th century was definitely not equal to that of the current level, and therefore the share of individual well-being dependent on international or global phenomena was undoubtedly less significant than today, the situation was nevertheless not one of fully self-contained communities. A truly consistent consequentialist prescription would have indicated an enlargement of the degree of political participation to the international domain. And yet, that Sidgwick's writings do propose a few steps in this direction is an indication of the stark divergence from the Hobbesian state tradition that classical utilitarian thought represents. It is for this reason that an understanding of such a thought is still crucial to any understanding of consequentialist international ethics today.

The survey of classical international utilitarianism presented in this article does not fully consider any proto-utilitarians. However, despite the fundamental heterogeneity of their thought to the rest of the paradigm analysed here, a brief note is dedicated to David Hume and William Godwin, since their formulations anticipated two central political ideas subsequently developed in 19th century utilitarianism: a consequentialist interpretation of the state and a universalistic approach to duties. Following this note, the core survey then begins with the examination of Jeremy Bentham's writing on international law, as he is recognised as the father of the utilitarian tradition. After passing through James Mill, John Austin, and John Stuart Mill, the survey concludes with Henry Sidgwick's works. The lack of such review of contemporary utilitarians'

progenitors in the literature¹ has perhaps contributed to the almost monadic diffusion of the diverse research projects currently conducted by utilitarian scholars.

I - The inheritance of two ancestors

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

David Hume's theory of the formation and preservation of the legitimacy of the state constitutes a particularly significant component of the proto-utilitarian tradition (Kelly, 2003a; Lecaldano, 1991; Rosen, 2003, § 3)². In opposition to the social contract stance, Hume defends a representation of the state according to which its ultimate legitimacy rests on its social performance in terms of the provision of benefits enjoyed by citizens. His analysis of the political domain begins with the enquiry on the origin of justice. For Hume this coincides with the artificial virtue originating from the special situation in which human beings find themselves, the 'circumstances of justice'. Selfishness and limited generosity together with scarce natural resources—both in terms of goods and personal capacities—conduct individuals to the recognition of the importance of reciprocal covenants, which provide general advantages such as increased force, ability and security. Following from this recognition are principles—including principles of property, rights and obligation—that create distinction and stability in possession. Finally, the concept of justice becomes linked to that of virtue as moral approbation through the creation of general rules motivated by sympathy with public interest (Hume, 1740; reprinted 1973, III, II: II).

Such social development motivated by a combination of prudence and partial benevolence, however, is not sufficient for the formation of stable societal organisations. Because human

¹ A few pages are dedicated to the classical utilitarianism in (Ellis, 1992).

² For a collection of critical assessments and further references see (Tweyman, 1995).

beings are naturally inclined to prefer present over distant and remote interests, a further institutional modification of the social circumstances is needed. In order to compensate for the natural deficiencies concerning the limited scope of our sentiments, the observance of the law of justice needs to be made our nearest interest through the establishment of political and judiciary institutions. This completes the process of the formation of a political community. It is this mechanism, turning on the mutual interest of individuals in respecting a scheme of public rules of justice that forms the core idea of Hume's interpretation of government in terms of benefits provided to individuals. And it is one of utmost significance to the following utilitarian tradition, for it allows for a fundamentally instrumental interpretation of political institutions, which remain thus open to revision and expansion (Hume, 1740; reprinted 1973, III, II: VII and VIII; 1748; reprinted 1870; 1751; reprinted 1979, V)³.

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

³ The same explanatory model applies to the international level, according to Hume, though here the circumstances are different and consequently the level of justice only partially attained. The underlying assumption consists in the recognition that the moral capacity of individuals to reason beyond their present interests is limited. Single agents can extend their perspective to include the social relations within a determined community, but they are not able to embrace the whole of mankind. Since a world government is not thus feasible, a much thinner kind of rule is left at the level of interstate relationships: the law of nations, which grants a great degree of discretion to national governments (Hume, 1740; reprinted 1973, III, II: XI; 1751; reprinted 1979, IV). Hence, the traditional concept of the balance of power plays a significant role as conflict mediator in the interstate system according to Hume's interpretation (Glossop, 1984; Hume, 1752; reprinted 1870; Kratochwil, 1981; 1989, § 4).

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

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

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

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

Jeremy Bentham's crucial function in the trajectory being outlined resides in formulating the principal elements of the classical utilitarian paradigm of international justice⁴. Combining universal utilitarian prescriptions with the recognition of the specific historical characteristics of

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

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

The fundamentals of Bentham's theory of justice, at both the domestic and international level, have a clear universalistic character in terms of ultimate validity and scope, i.e., in order to be accepted, any principle, must be universalizable and all-inclusive. Concepts such as the two sovereign masters of human beings (Bentham, 1781; reprinted 1988, I: 1), the impartiality of the legislator, and the jurisprudential model shaped on different levels (world, national, provincial and local), are all claimed to be valid for all nations (Bentham, 1781; reprinted 1988, XVI: 60; 1811-1830; reprinted 1998; Twining, 2000, 18). Nonetheless, the fact that these first principles are universalistic does not exclude the possibility of national governance. The scope of political responsibility is, in fact, decided according to an algorithm that combines universal principles with historical circumstances, including social habits and the extent of individual capacity for action. Consequently, social and territorial limitations (families, states, and other particularistic entities) are envisaged, but admitted solely on contingent and strategic grounds. For Bentham, the universal maximisation of utility is in fact most likely to occur via a regulated division of the moral work based on the assumption that the greatest well-being is attainable only when everyone concentrates on the sphere of action in which he is more effective⁵. From here, Bentham's twofold political strategy aims to formulate the appropriate intermediate prescriptions through the amalgamation of the two strands of his theory, expository and censorial jurisprudence, which study respectively the current and the prescribed forms of public norms.

Bentham's expository analysis of morals and legislation begins with a positivistic account of sanction-based theories of obligation. Such a obligation is where the universalistic principle of utility combines with the historical circumstances of the social fact of the habit of obedience,

⁵ Lyons interprets Bentham's domestic political theory in a slightly different way (Lyons, 1973). He suggests that the basic principle is not universalistic in kind, but in the interest of the governed. I disagree, since I think a universalistic second order principle can sustain a parochial first order principle. For other points of view on this see (Fagiani, 1990; Hart, 1982; Parekh, 1993; Rosen, 1983; Rosenblum, 1978).

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

Running parallel to this expository side, is the other component of Bentham's theory of morals and legislation: his censorial jurisprudence. Following Hume's perspective on government as benefit-provider (Bentham, 1776; reprinted 1977, I: 439 ff.), Bentham argues in favour of constitutional democracy and popular sovereignty on the grounds of the principle of the maximum of happiness. Bentham's argument rests on the observation that the best outcome, with the minimum of resistance is achieved only in those cases in which personal interests are pursued within the scope of general interests. Endeavouring to achieve her own happiness, each person will encounter the least resistance when the pursuit of her own personal happiness overlaps with that of others engaged in a similar task, for the endeavour of each assists that of all. "Each particular interest is opposed by those and those only, by whom it is regarded as adverse to their own" (Bentham, UC xxxviii: 217, quoted in Rosen, 1983, 49-50). From this, a two-fold prescription follows concerning the domestic institutional design of the Benthamite project. On the one hand, a democratic representative government with a system of checks and balances is necessary to avoid sinister interests prevailing and to improve the public accountability of political institutions. On the other hand, however, a framework of individual rights should also be set, for these are recognised as the primary material condition of the interest formation and realisation necessary to maximise the pleasure of his own citizens (Kelly, 1990).

On these grounds, Bentham considers the possibilities and the limits of expanding his theory to the international level. While within the English positivist tradition Bentham can be considered one of the most committed scholar to a cosmopolitan perspective, insofar as he is particularly aware of the limits of the theory of the national legal system (Rosen, 1983, XI, II: 203-206; Twining, 2000, 16 and 47), he is also aware of the sociological difficulties that arise in enlarging his theory to the international domain. Bentham sets out a clear method and the

political principles for applying his utilitarian theory of municipal law to the international domain. He holds that were a world citizen in charge of drafting a set of international norms, he should aim at “the common and equal utility of all nations”, i.e., “the most extended well-being of all the nations on the earth” (Bentham, 1843; reprinted 1962, 537-8). However, a major problem at the international level consists in the lack of the habit of obedience, which disqualifies international law as law properly called. Since these international laws are not sanctioned, they are not effective and therefore they do not produce either expectations or utility. Given these circumstances, Bentham’s strategy is to differentiate two applicative levels. While his preference remains for a concentration on the national domain as this was likely to be the most conducive path to the maximisation of the general well-being of mankind, he acknowledges that an interest for international harmonisation nonetheless exists. Much as the state needs to co-ordinate the actions of individuals at the domestic level, so, from the hypothetical point of view of a world governor, a form of co-ordination among states is necessary at the international level. In holding to the centrality of the nation-state, Bentham’s model is not immediately cosmopolitan, but it is so in the ultimate principle for the greatest happiness of the greatest number, without any limitation.

Bentham’s entire reasoning leads only toward a democratisation of foreign policy. A world government is simply not capable of increasing the overall habit of obedience and so unable to secure citizens’ expectations. Bentham’s international model is one of free trade driven by citizens’ interests⁶; every state able to have commercial and political relations with all other states in a pacific and beneficial environment. Thus, instead of a world government, a number of international reforms are envisaged that, albeit more moderate, still represent an enormous step toward international democracy. That many of these reforms have been enacted gives evidence of Bentham’s seminal influence. First of all, Bentham was keen to encourage an international codification of law (Bentham, 1843; reprinted 1962, § I; Janis, 1984) to be coupled by the establishment of a permanent international tribunal (Bentham, 1843; reprinted 1962, 545; 547 and 552), which could prove essential to stimulating an international habit of obedience. Also, he planted the idea of publicly recognised treaties and clear international rules, as embedded in a transparent and public diplomatic politics characterised by the prohibition of secret negotiation and the guarantee of freedom of press (Bentham, 1843; reprinted 1962, 558-60). Underpinning this vision is the encouragement toward a flourishing of a brotherhood of feeling among

⁶ It seems, subsequently, fair to include international Benthamite theory within the diffusive model of international political relations, in so far as both the pyramidal model in which only the states counts is rejected, and full cosmopolitan politics is not yet envisaged (Archibugi & Voltaggio, 1991, 165-73).

European countries (Baumgart, 1952, 159; Bentham, 1843; reprinted 1962, 552) under the assumption that

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

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

James Mill's elaboration tends in the same direction. Mill's most significant writings on international issues consist of two articles published in 1825, *Law of Nations* and *Colony*, plus a number of essays on war and peace⁷. In these, he examines the nature of international law in terms of sanctions provided by global public opinion and concludes with the need for a universal codification of law and the establishment of an international court. Mill's relevance for the present study rests on his advancement of the understanding of the relation between universal principles and historical forms of international jurisprudence, and in his clear support for campaigns spreading international democratic sentiments as part of a continuous process toward the consolidation of a universal and inclusive political constituency.

Mill's analysis of the law of nations depends on his understanding of law as constituted from three elements: command, authority, and sanction (J. Mill, 1825; reprinted 1967b). This juspositivistic approach, which Mill takes up from Bentham and which is developed later by John Austin, denies a proper juridical status to the current international law on the ground that a superior authority, command, and sanction are missing at this level. However, a set of norms is nonetheless commonly respected in the relations among states. These norms, which resemble court ceremony or the etiquette of polished society, can be acknowledged as a law of states concerning the whole of mankind and one establishing the recognition of the rights of national

⁷ See (J. Mill, 1807, 1813, 1814, 1816, 1825; reprinted 1967a, 1825; reprinted 1967c) and (Yasukawa, 1991).

interests (J. Mill, 1825; reprinted 1967c, 5). The deficiency of this normative system is undoubtedly its weak capacity to sanction the violation of rule. Only a popular sanction is in fact possible, since, due to the absence of any associative link among states, no other legitimate force is recognised. Mill locates the power of public sanctioning in the deployment of a number of social tools like approbation, praise and blame, and sees these as stemming from a stable association of ideas concerning action, other's favourable sentiments, and possible benefits. Thus, as popular sanction represents the only public moral force able to integrate the law in areas such as international relations which remain outside the reach of legal institutions, the promotion of education and civic formation as means to influence international outcomes is shown to be a substantial portion of the political commitment of classical utilitarians⁸.

Like Bentham, Mill also believed popular sanction is more effective when it is supported by well-defined and certain rules. Just as national codes and tribunals are fundamental to canvassing and reinforcing this attitude at the domestic level, so is it necessary to concentrate on such institutions to improve the efficacy of popular sanction at the international level. The first step in this direction consists in the allocation of rights according to a cosmopolitan perspective: "what would it be desirable, for the good of mankind upon the whole, that the several nations should respect as the rights of each other?" (J. Mill, 1825; reprinted 1967c, 10; Yasukawa, 1991). Following the recognition of such entitlements, the tasks of drafting an international code and the institution of an international court become prominent; the ultimate objective remains the creation of a system that is 'the most advantageous for all' and that is expected to have the maximal compliance rate. Drafting procedure should be in the charge of representatives of countries, but works in progress should be made public for two reasons: first, world intelligence from every corner of the globe would then be able to supply suggestions for improvements, and second, "the eyes of all the world being fixed upon the decision of every nation with respect to the code, every nation might be deterred by shame from objecting to any important article in it" (J. Mill, 1825; reprinted 1967c, 28). Since the sanction of public opinion will be the key tool of the new code, its maximal dissemination—i.e., not only at governmental but also at citizen's level—from its drafting period on represents a fundamental step.

⁸ This reasoning is based on the belief that it is possible to stimulate a causal association of ideas related to sanction, which can increase the likelihood of a correct behaviour. In Mill's opinion, democratic countries are the most conducive to fostering such a *forma mentis*, in so far as they offer a roughly egalitarian context in which such an association can sediment and later be applied to the international level. In fact, only where an overall social parity among individuals exists, can the individual reasonably expect not to be harmed, provided he abstains from harming others. In such a social environment, consequently, he will be interested in having a good reputation as public guarantee of his correct behaviour. Conversely, where an agent is present who is so strong that he has no fear of the whole community, then this kind of sanction can not be expected to have much effect. J.S. Mill develops a similar argument on the educative function of representative government, as shown below.

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

John Austin’s relevance to the present survey resides in his careful analysis of international law in imperativistic terms and in the international propositions deriving from this (Austin, 1832; reprinted 1965, 1861; reprinted 1885)⁹. Among the latter, of particular significance here are his proposal for a subtle division of ethical labour between the national and universal political spectrums, and his support for the interpretation of state in terms of national autonomy. As with Bentham, influence on utilitarian thought and beyond has been contradictory. While his universalistic framework has strongly informed the multi-layered framing of legal and political systems, his positivistic account of domestic law has been at the base of much of the doctrine of state sovereignty with its correlate of international exclusion.

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

International law, or the law of people, forms part of positive morality: a set of rules constituted by simple customs, produced by public opinion and sanctioned merely by social disapprobation (Austin, 1832; reprinted 1965, 122-26). This categorisation of international law, which follows Bentham’s and James Mill’s ideas, represents a *leitmotiv* of classical utilitarianism that demands key consideration if one is to understand this tradition’s insistence on a

⁹ See also (Agnelli, 1959; Cattaneo, 1962; Hart, 1961, 1982).

codification of international law and the establishment of an international court of justice. If such steps—which for Austin must even include a sovereign power—are not taken, international law will remain not true law, but merely a form of comity, at its best sanctioned by a popular consent in the form of world public opinion. The lack of an international magistracy and sovereign world government prevents the *jus gentium* from becoming positive law. Austin states this clearly:

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

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

Beyond his philosophy of international law, Austin's work is also interesting on account of other arguments on international justice, among which a particularly relevant one concerns the distinction between utilitarianism as a theory of moral justification, i.e., criterion of rightness, and as a theory of moral deliberation, i.e., decision procedure. Most utilitarian arguments for the international political sphere rely on this distinction since they interpret the utilitarian principle as a second order indirect criterion of rightness. Austin makes clear that in order to attain the ultimate end of universal happiness, an indirect strategy that paradoxically privileges *prima facie* prudential actions is sometimes the most effective. With a touch of conservative wisdom, he reminds us that “even that enlarged benevolence which embraces humanity, may lead to actions extremely mischievous, unless guided by a perfectly sound judgement” (Austin, 1832; reprinted 1965, 110).

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

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

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

The proper purpose or end for which a sovereign political government, or the purpose or end for which it ought to exist, is the greatest possible advancement of human happiness: Though, if it would duly accomplish its proper purpose or end, or advance as far as is possible the well-being or good of mankind, it commonly must labour directly and particularly to advance as far as is possible the weal of its own community. The good of the universal society formed by mankind, is the aggregate good of the particular societies into which mankind is divided: just as the happiness of any of those societies is the aggregate happiness of its single or individual members. [...] It were easy to show, that the general and particular ends never or rarely conflict. [...] An enlightened regard for the common happiness of nations, implies an enlightened patriotism; [...] Now if it [a sovereign political government]

would accomplish the general object, it commonly must labour directly to accomplish the particular: And it hardly will accomplish the particular object, unless it regard the general. (Austin, 1832; reprinted 1965, 294 and 295, note 28)

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

III - The relevance of nationality: J. S. Mill

While sharing a number of fundamental arguments with those of his utilitarian predecessors, John Stuart Mill's analysis of international relations differs in that rather than an imperativistic conception of sovereignty, it recognises a greater role to the principle of nationality, or *patriotisme éclairé*. Despite his personal commitments in the colonies of the British Empire, Mill composed only a few texts on international justice, nonetheless, these few texts suffice to infer his normative ideas on interstate relations (J. S. Mill, 1859; reprinted 1991, 1861; reprinted 1991, 1870; reprinted 1991). The writings concern a number of bitterly discussed issues such as the right of peoples to free development and the duty of non-intervention, the differing degrees of civilisation and the duty to paternalism, new machinery for international treaties, and the universal principle of the maximisation of the well-being of mankind. Throughout the decades following the publication of these texts and up to contemporary discussions on global justice, Mill's impact on how these issues are thought has been decisive, though often criticised and equally misinterpreted.

The assumption on the normative primacy of human well-being forms a core value of Mill's theory both at the domestic and at the international level of justice. The ultimate end, with

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

Following from this rationale on the value of individual freedom and in concert with Hume’s and Bentham’s arguments¹⁰, Mill reasons that an independent representative democracy constitutes the institutional form that best satisfies domestically the general utilitarian requirement, provided a sufficient degree of social development is attained by the public¹¹. His case in support of representative democracy, which has become very influential in the utilitarian tradition, rests on a two-fold argument: the protective argument and the educative argument. The former, later tagged consumer sovereignty, maintains that since each man is considered to be the best judge of his own interests, he has to be placed in a position to guard his own rights and interests through freely appointing his rulers. Looked at in its negative contours, this principle affirms then that since, no matter how well-intentioned they could be, government and society usually do not know better than the individual what is in his interest, he has to keep the deliberative power with him as much as possible. The educative argument holds that political participation generates civic education, which in turn can foster an ‘interest in the common

¹⁰ On the differences between Mill’s *Considerations* and Bentham’s *Code* see (Rosen, 1983, X).

¹¹ In the chapter “Of federal representative governments” in the *Considerations*, Mill shows a clear and sympathetic understanding of federal theory, and in particular of the direct relationship between a federal government and citizens. Despite this, however, his conclusions are somewhat contradictory, in that while his ideal rests in the greatest dispersion of power consistent with efficiency, he prefers unitary government whenever possible (Pinder, 1991, 101). For critical considerations of Mill’s stance that the state and the nation must be co-extensive in a unitary state see (Acton, 1907).

good¹². Mill's support for active inclusion in the democratic system is thus grounded on the recognition of the beneficial effects that a democratic government would produce when embedded in a national context. Democratic participation has to be valued insofar as it promotes the well-being of society in two ways: it secures the interests of all citizens by resisting exclusion, and it stimulates a better and higher national character (Thompson, 1976, § 1; Urbinati, 2002, § 3; Varouxakis, 2002, § 7). Accordingly, Mill states that representative democracy's

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

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

¹² In particular, "Mill points to three educative consequences of participation, which together define the ideal active character: 1) a sense of citizenship that makes citizens feel 'under no other external restraint than the necessities of nature, or mandates of society which he has his share in imposing, and which it is open to him, if he thinks them wrong, publicly to dissent from, and exert himself actively to get altered'; 2) a largeness of 'conceptions' and 'sentiments', which extends citizens' thoughts and feelings beyond the 'satisfaction of daily wants'; and 3) an understanding of the general interest and stimulation of public-regarding attitudes" (Thompson, 1976, 37-8).

Mill reconsiders the doctrine of non-interference, advocating a differential application according to the degree of civilisation attained by the nations involved in the dispute. In the case of civilised people, issues such as war for conquest or forced annexation are publicly recognised as immoral; intervention can only be warranted in order to: 1) mediate as third parts in international disputes; 2) stop persistent civil wars; 3) reconcile fighters; 4) intercede for a respectful treatment of the losers; 5) stop crimes against humanity, such as slavery. Beyond these special circumstances, no help should be offered to a government for the repression of internal rebellions, because if it is not able to obtain obedience by its own power, then it is not legitimate and should therefore not exist (J. S. Mill, 1859; reprinted 1991, 121; 1862; reprinted 1991, 136-8). A Humean interpretation underlies this argument, which assumes that a population is ready to support its own government when it acts rightfully, and, conversely, to rebel against it when wide-spread dissatisfaction is experienced by the population (J. S. Mill, 1861; reprinted 1991, § I, IV). The unique test of having sufficient maturity for maintaining free institutions resides in the capacity and willingness of the people to fight for them. If they do not value freedom enough to be ready to fight for it, then a benign external intervention to provide them with liberty would be useless, since they would not be able to sustain their artificial status (Grader, 1985; McKim & McMahan, 1997, § V; McMahan, 1986; 1996, 40; J. S. Mill, 1859; reprinted 1991, 122; Varouxakis, 2002, § 5; Walzer, 1977).

In accordance with this, Mill affirms:

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

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

However, in those cases in which an unequal level of civilisation exists between peoples and, consequently, a strong imbalance in social development characterises the agents in question, Mill’s recommendations alter considerably. A more closely detailed explanation of his concept of civilisation is offered in *Considerations on Representative Government*, which shows it to be ultimately based on a qualified utilitarian principle. Barbaric people are those who have not sufficiently developed moral, intellectual, and practical qualities, and are consequently not able to consolidate effective and autonomous political institutions. Such peoples thus attain a balance of general happiness much inferior to civilised people’s, since the latter are in a position to enjoy qualitatively superior pleasures (J. S. Mill, 1861; reprinted 1991, § I, II, IV; Robson, 1968; 1998, 350-55). In Mill’s opinion, two reasons can be determined that prevent the application of the same moral rules to these classes of people (J. S. Mill, 1859; reprinted 1991, 118-119). Firstly, international morality requires reciprocity, but uncivilised people are not able to respect and comply with the rules of morality in so far as they are not able to commit to a remote objective. Secondly, the sentiments of independence and nationalism essential for the growth and development of advanced nations obstruct the development of uncivilised peoples, since such peoples would receive more benefit from the benevolent interference of a foreign and civilised government than if they were abandoned to their fate. Hence, as the latter are not entitled to the same rights as proper nations, but solely to those aids which are necessary for them to become civilised nations as soon as possible, the traditional international law need not be respected with them. It is appropriate to civilised nations only, barbaric peoples are excluded¹³.

In conclusion, the ideas of Mill presented here are evidence that a number of Mill’s arguments have been extremely relevant for the continuation of the utilitarian debate on

¹³ A note of comment is due on Mill’s attitude toward colonialism. His position is the result of a combination of eurocentrism, utilitarian paternalism, and British imperialism, according to which the civilised man has a duty to improve the whole world’s state of well-being; such a duty often implies forms of political domination (Moir, Peers, & Zastoupil, 1999; Souffrant, 2000; Sullivan, 1983). Since greater well-being is attainable only through a developed cultural sensitivity, it is an obligation of all civilised men to help barbaric peoples in their spiritual and material growth, in order to maximise the general world welfare (J. S. Mill, 1861; reprinted 1991, § XVIII). This idea is grounded on a number of premises which are unjustifiable from a moral point of view. The argument about the barbarity of colonised peoples implies in fact an illegitimate and unfounded universalization of ‘localised’ qualitative criteria, when not an explicit racial discrimination. Both claims rely on postulates which remain completely arbitrary if compared with contemporary positions on the ethical equality of human beings. Racism in particular has been theoretically overcome by Darwinism, which maintains a non-specism that increasingly enlarges the sphere of moral consideration. For this consideration I am originally indebted to Lecaldano. On this, see also (Hare, 1963, § 11; 1989, § 12; Rachels, 1991; Singer, 1979, 1981).

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

IV - Between nationality and federalism: Sidgwick

Despite favouring the democratic strengthening of international relations, the 19th century utilitarians surveyed here never went so far as to propose any federal reform of international institutions. This stance, which was influenced in part by the dogmas of legal positivism fostered in English legal debate by Bentham and Austin (Bryce, 1901, 50) and in part by the support for nationalistic movements, as in Mill, came under dispute toward the end of the century and even more in the first half of the 20th century with consequentialist ‘idealist’ thinkers such as Hayek, Robbins, and Russell. Toward the end of the 19th century, the federal idea began to attract a measure of interest in the British intelligentsia, in part inspired by the success of the Canadian and Australian federations, but also as a reaction to the nationalist fervour which was rising across Europe. While the major proponent was most likely J.R. Seeley, who was a major supporter of European and Commonwealth federations (Seeley, 1883), Henry Sidgwick occupies a relevant place in this debate (Bosco, 1995, 251; Pinder, 1991; Sidgwick, 1903; reprinted 1920).

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

and consistency—and the identification of a number of pragmatic limitations which mark the borders of international consequentialist arguments in terms of feasibility.

Following Bentham and Austin, Sidgwick begins his analysis of international ethics by noting that in reference to international obligations, the term ‘international customary rules’ should be used rather than ‘international law’, because at the international level the distinguishing elements of the domestic legal systems (supreme judge, common legislation, and central executive) are missing (Sidgwick, 1891; reprinted 1996, 238-9; 1919, § I). The uncodified means of generating international law results in fact in a high degree of ambiguity with respect to international norms. Such a process of norm production is especially deficient in the international arena given the historical characteristics of the international community such as: a small number of members and a subsequent great importance of everyone with respect to the whole, the absence of a superior government, imperfect internal cohesion of states, and differing degrees of civilisation. In so far as these conditions of ambiguity lead to reduced compliance with norms within international society, they decrease the legitimacy of international obligations and correspondingly increase the conditions for arbitrary behaviour. The best way to overcome this ambiguity and uncertainty in international law, according to Sidgwick, consists in ‘expositors’, i.e., international jurists, undertaking research with the intention to harmonise customary jurisprudence in order to make it more systematic and definite (Sidgwick, 1891; reprinted 1996, 285-93). Like the other utilitarians, Sidgwick also stresses the importance of publicity. Thus, this investigative process should be given as much publicity as possible in order to stimulate the moral sentiments of mankind concerning the common interest of peace. The maturation of world public opinion remains a central moment of international reforms (Sidgwick, 1891; reprinted 1996, 296).

Sidgwick’s pragmatic realism explains why the state is still considered to be a fundamental political reference in his international model despite cosmopolitan ideals always being the ultimate ideals to pursue. Following Bentham’s and Austin’s notion of a territorial state as rights/duties allocator and obedience receiver, four principal features define the state according to Sidgwick: 1) an aggregate of human beings united by the fact of acknowledging permanent obedience to a common government; 2) the government exercises control over a certain portion of the earth’s surface; 3) the society has a not inconsiderable number of members; and finally 4) a national spirit based on a shared sentiment moulds the state into a nation¹⁴. In Sidgwick, thus, the recognition of the voluntaristic *esprit de corps* remains relevant for the stability of state,

¹⁴ This notwithstanding, he cautiously admits the possibility of a ‘multicultural’ society, unlike from J.S.Mill who is forthright in denying it and proposing a strong assimilationist policy.

which bears practical consequences on issues such as immigration and citizenship (D. Miller, 1995, 64; Sidgwick, 1891; reprinted 1996, 224; 1903; reprinted 1920, 27 and also 1891, 221-30).

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

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

For a State, as for an individual, the ultimate end and standard of right conduct is the happiness of all who are affected by its actions. It is of course true, for an individual no less than for a State—as the leading utilitarian moralists have repeatedly and emphatically affirmed—that the general happiness is usually best promoted by a concentration of effort on more limited ends. As Austin puts it: 'The principle of general utility imperiously demands that [every individual person] commonly shall

attend to his own rather than to the interests of others: that he shall not habitually neglect that which he knows accurately in order that he may habitually pursue that which he knows imperfectly.' But the principle of utility does demand of us that we shall never pursue our own peculiar good by means which are inconsistent with the general good: accordingly, in the exceptional cases in which the interest of the part conflicts with the interest of the whole, the interest of the part —be it individual or State— must necessarily give way. On this point of principle no compromise is possible, no hesitation admissible, no appeal to experience relevant: the principle does not profess to prescribe what States and individuals have done, but to prescribe what they ought to do. At the same time, I think it important not to exaggerate the divergence between the private interest of any particular State and the general interest of the community of nations. (Sidgwick, 1891; reprinted 1996, 299)

Sidgwick's ideas here—or rather normative hypotheses—on the organisation of a community of states are consistent with his general attitude, which combines pragmatic considerations with an ultimately universalistic approach. In his view, the ultimate political structure to strive for at the international level is an inclusive federation of civil nations. This would be advantageous both in terms of external economic strengthening and international securing of local liberties (Sidgwick, 1891; reprinted 1996, 301; 1903; reprinted 1920, § XXIX)¹⁵. The best (and maybe the only) means to achieve such a structure consists in peaceful and positive co-operation among states. Nonetheless, since the political situation of his time seemed to Sidgwick premature for an effective federal system, the establishment of defensive leagues—thought of as limited confederations—to be extended gradually, appears as the strategic sub-optimal goal of his international political theory. In such war-less situation which respects the principle of non-intervention—the hinge of the Sidgwickian model—universal sentiments can deeply root in the minds of mankind. From this, a twofold political program follows: a short-term set of regional federations in which states maintain a great part of political power, and a future world federation, in which states establish an effective co-operative regime. In conclusion, Sidgwick's cosmopolitan ideals are expressed at their best in the following

¹⁵ “It is worth recalling that the idea of the world at last finding peace through the absorption of the separate states in the large federated groups and ultimately perhaps in one single federation was indeed the ideal of almost all the liberal thinkers of the 19th century. [...] 19th century liberals may not have been fully aware *how* essential a complement of their principles a federal organisation of the different states formed; but there were few among them who did not express their belief in it as an ultimate goal. It was only with the approach of our twentieth century that before the triumphant rise of *realpolitik* these hopes came to be regarded as impracticable and utopian” (Hayek, 1944, 256-7) and also (Robbins, 1937, 240-57).

passage, which also serves as a summation of the present survey of 19th century international utilitarian thought:

Our highest political ideal admits of no boundaries that would bar the prevention of high-handed injustice throughout the range of human society: and from the point of view of this highest ideal it might be fairly urged that we ought no more to recognise wars among nations as normal than we recognise wager of battle as remedy for private wrongs: and that if so, we ought not to recognise as normal the existence of a number of completely independent political communities, living in close juxtaposition; since we must expect that grave and irreconcilable disputes among such communities will be settled, as they always have been settled, by wars. Certainly the effective substitution of any kind of judicial process for wars among civilised States would seem to involve the ultimate subjection of the relations of such States to some kind and degree of common government, able to bring overwhelming force to overbear the resistance of any recalcitrant State; since judicial decisions which cannot be enforced, cannot be expected to prevent wars. And perhaps some federation of European or West-European States, with a common government sufficiently strong to prevent fighting among these States, is not beyond the limits of sober conjecture as to the probable future course of political development. From the earliest dawn of history in Europe, down to the present day, the tendency to form continually larger political societies—apart from the effects of mere conquest—seems to accompany the growth of civilisation. (Sidgwick, 1891; reprinted 1996, 218; 1903; reprinted 1920, 439)

Conclusions

The focus of this survey is to pull together many common trends within a number of progressive stances of the 19th century European political thought. Beyond the then wide-spread appeal of the nationalistic cause, the prevailing attitude one takes from this tradition of thought is one of moderate optimism and strong moral conviction, characterised by a continuous effort to interpret international social reality in a progressive manner. Reinterpreting previous arguments, most notably those of Hume and Godwin, classical utilitarians discuss a number of issues which

cover a wide range of cases of interest to contemporary international ethics. The unifying factor of all of these topics consists in the appeal to the ultimate principle of the universal maximisation of the well-being of mankind. Despite the recognition of a number of intermediate political rules and institutions that provide the best possible utility outcome given the specific conditions of the sphere of social action to which they apply, the last or second order judge of any political action remains in fact the adherence to the ideal of “the most extended well-being of all the nations on the earth”.

Following Hume, a new reading of the notion of the state is proposed according to which such an institution is warranted primarily on the basis of the social utility it generates. Enquiry into the state’s potential for well-being production leads to the recognition of it as a legitimate component of a correct political system, in which national and universal values are developed in harmony. A mainly imperativistic legal framework is reconciled with a subtle division of ethical labour, thus indirectly strengthening the state in terms of national autonomy, a right to self-determination, and a duty of non-intervention. The final cosmopolitan system is pragmatically shaped according to a pyramid model, in which states maintain a central role in deciding those policies that promise to better conciliate national and international interests—although a significant consideration of the theory of federalism appears in the last utilitarians. This signifies a remarkable and neat turning point away from the previous realist-Hobbesian tradition, according to which sovereign states are portrayed as the alpha and omega of both national and international domain. A clear political project underpins this 19th century school of thought: the gradual extension of democratic principles to the international sphere of action in order to promote world welfare in a more efficient way.

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

Nonetheless, a major constraint is recognised that impedes the extension of such an approach toward a more inclusive and supranational model: the narrow-minded proclivity of states toward a self-defeating, short-term pursuit of interest; a characterisation which applies both to civilised and uncivilised nations. A federal structure is perhaps desirable in the future, but

for the time being a twofold political strategy is necessary. While civilised peoples need to be convinced, as aforementioned, of the importance of universal values through a publicity campaign, uncivilised people need to be escorted through their development by a wise paternalistic authority in the form of colonial power. Localised and limited as it is, this approach nevertheless offers a valid perspective from which the contemporary discussion on global justice can be advantageously accessed, i.e., the universalist assumption of the primacy of the individual and of his well-being (Marchetti, 2005, 2008).

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