

Vertical Cosmopolitanism: The Intergenerational Approach towards Human Rights of Future Generations

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Introduction

The conduct of science and technology aims at the progress of humanity. The human rights record stimulates the question: is it possible to achieve progress for humanity without taking into consideration its entirety?

Anthony Giddens affirms that, «[a]long with ecological risk, to which it is related, expanding inequality is the most serious problem facing world society»¹. Inequalities characterise all societies worldwide not purely in terms of economic income, but in the (dis)respect of human rights. The development, which is expected to bring higher quality of life, is rarely experienced by humanity. In fact, should it not include the millions of people who face enormous offences of their more basic human rights on a daily basis? Or is it so, that the most advanced benefits of this progress apply to an illusive world which represents reality just for a small part (minority) of human beings – those who can affirm to have their rights well established and respected – while the majority of the excluded are fighting against violations of many sorts?

The same question is raised by the foreseeable catastrophic consequences of human life dynamics (progress in science and technology together with economic interest) reached with the age of risk. Ulrich Beck reminds us that «[a]long with the growing capacity of technical options [Zweckrationalität] grows the incalculability of their consequences»². Are we actually considering future generations as a part of humanity when we develop and make use of technologies that dread advantages on a short-term basis, while leaving an enormous question mark regarding long-term consequences? Evan Willis states that «[g]eneticisation is a new element of the risk society»³. Are we considering future generations as a part of the humanity when

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¹ A. Giddens, *Runaway World: How Globalisation is Reshaping Our Lives*, London, Profile Books, 2002, p. 16.

² U. Beck, *Risk Society: Towards a New Modernity*, translated by M. Ritter, London, Sage Publications, 1992, p. 22, italics of the author and German citation of the translator.

³ E. Willis, *The «New» Genetics and the Sociology of Medical Technology*, in «Journal of Sociology», vol. 34, no. 2, 1998, pp. 170-183; p. 178.

we decide on perilous themes that will directly concern future persons without ponderingly considering what their opinion could be?

These issues raise questions, directed into two different directions; the first one is horizontal and it refers to space, that is to the humanity understood as the total of all living human beings. The second one is vertical and it refers to time, that is to the humanity considered as an entirety of past, present and future generations of human beings.

Francis Fukuyama and Caroline Wagner affirm that «[b]ecause the technologies emerging from the information and biological revolutions are inherently global, success in governing these technologies depends upon the ability to enlist all stakeholders – states, [Non-Governmental Organisations] NGOs, interest organizations, and citizens – to cooperate in developing governance norms or structures»⁴. This statement suggests that cosmopolitanism is the path that leads to the right response because it advocates cosmic responsibility. Aim of the following pages is to extend the concept of cosmopolitanism towards future and show that the same basic categories, which characterise the classic formulation of this theory, find a proper implementation in the dimension of time (beyond space).

Advocating cosmopolitanism and the need for global justice, the present work does not defend various claims of standardisation. Contrariwise it supports the ambition of diversity, both among cultures and among generations. Bonaventura De Sousa Santos underlines the simultaneous necessity for equality and diversity as follows, «[w]e live in societies that are obscenely unequal, and yet equality is lacking as an emancipator ideal. Equality, understood as the equivalence among the same, ends up excluding what is different. [...] We have the rights to be equal whenever difference diminishes us; we have the right to be different whenever equality decharacterizes us»⁵. Cosmopolitanism aims at preserving cultural and biological diversity whilst stressing the need to implement human rights for the humanity in its entirety, both in space and time, without discrimination of any human being.

A methodological concept, transversal to the entire work, is *dialogue*. Dialogue is the key concept in the spatial cosmopolitanism in order to overcome dualisms; additionally,

⁴ F. Fukuyama, C. Wagner, *Information and Biological Revolutions: Global Governance Challenges - Summary of a Study Group*, Santa Monica, Rand, 2000, p. 23.

⁵ B. De Sousa Santos, *The Rise of the Global Left: The World Social Forum and Beyond*, London, Zed Books, 2006, p. 37.

⁶ D. Zolo, *Cosmopolis: la prospettiva del governo mondiale*, Milano, Feltrinelli, 1995, p. 139.

⁷ For a closer examination of Socrates Cosmopolitanism see E. Brown, *Socrates the Cosmopolitan*, in «Stanford Agora: An Online Journal of Legal Perspectives», vol. 1, no. 1, 2000, pp. 74-87, available at <http://agora.stanford.edu/agora/libArticles/brown/brown.pdf> (consulted on 26 May 2008).

⁸ D. Heater, *World Citizenship: Cosmopolitan Thinking and Its Opponents*, London, Continuum, 2002, pp. 26-34.

⁹ See for instance I. Kant, *Idea for a Universal History with Cosmopolitan Purpose*, translated by H. Barr Nisbet, in H. Reiss (ed.), *Kant, Political Writings*, Cambridge, Cambridge University Press, 1991 (2nd ed.), pp. 41-53; Id., *On the Common Saying: «This May Be True in Theory, but It Does not Apply in Practice»*, translated by H. Barr Nisbet, in H. Reiss (ed.), *Kant, Political Writings*, cit., pp. 61-92; and Id., *Perpetual Peace: A Philosophical Sketch*, translated by H. Barr Nisbet, in H. Reiss (ed.), *Kant, Political Writings*, cit., pp. 93-130.

¹⁰ Among others: S. Anderson-Gold, *Cosmopolitanism and Human Rights*, Cardiff, University of Wales Press, 2001; J. Habermas, *La paix perpétuelle: le bicentenaire d'une idée kantienne*, translated by R. Rochlitz, Paris, Les Éditions du Cerf, 1996; Id., *Droits et démocratie: entre faits et normes*, translated by R. Rochlitz and C. Bouchindhomme, Paris, Gallimard, 1997; Id., *Après l'État-nation: une nouvelle constellation politique*, translated by R. Rochlitz, Paris, Fayard, 2000; C. Jones, *Global Justice: Defending Cosmopolitanism*, Oxford, Oxford University Press, 1999; D. Zolo, *Cosmopolis...*, cit.; D. Archibugi, *From the United Nation to Cosmopolitan Democracy*, in D. Archibugi, D. Held (eds.), *Cosmopolitan Democracy: An Agenda for the New World Order*, Cambridge, Polity Press, 1995, pp. 121-162; and C.R. Beitz, *Cosmopolitan Liberalism and the State System*, in C. Brown (ed.),

it is the way of achieving the respect of the rights of future generations. Through the analysis of this concept, I find a basic argumentation to evoke the need of an Ombudsperson for the rights of future generations. I show that since human beings are relational in nature and since dialogue requests the presence and acceptance for the interlocutor, an advocate of future generations would allow the practical realisation of the wished dialogue among generations. The Ombudsperson would advocate future generations through representing them, whilst I sustain that future generations bear collective rights. This brings my analysis full circle in its relational methodology.

For such a work, a philosophical approach is justified because it abstains from focusing on specific aspects (i.e. historical, political, sociological, anthropological, juridical, environmental, medical), so as to concentrate on the problem as a whole. Nevertheless, throughout the work I suggest different inputs to implement in the socio-political context the theories here discussed. The last proposal, whose realisation is probable in near future, advocates the establishment of the United Nations (UN) High Commissioner for the Rights of Future Generations.

Cosmopolitanism and Human Rights

Human rights are cosmopolitan in their essence. Cosmopolitanism is a doctrine which considers all human beings as equal citizens of the unique world, affirming non-discrimination among them. Human rights are held by every human being, without distinction of any sort. Danilo Zolo states that «the human rights doctrine presents a cosmopolitan inclination since [...] it assigns the nature of subjects to the international order not just to States (or to collective subjects), but also to individuals»⁶.

Cosmopolitanism is a moral-political theory, which can be dated back to Socrates⁷ and has had a central relevance with stoicism⁸. In modern philosophy, the analysis of Immanuel Kant was of primary relevance⁹, and is foundational in the speculation of many contemporary prestigious philosophers and scholars¹⁰.

The challenges brought by globalisation increase the

interconnections and interdependency of the world community, though provoking the erosion of state power. Such a global process has a big influence on the human rights records. As a response, Jürgen Habermas renewed the Kantian claim that the idea of a «cosmopolitan law» is no longer a reverie, and it will bring a «general human public law»¹¹ within a global public space. *Ius cosmopoliticum* will bring the state of nature (among states and their citizens) to an end¹². Kant had previously stated that «a violation of rights in *one part* of the world is felt *everywhere*»¹³. He called for the development of a lawful international association which would not just intend to put an end to the wars, but would also lead to «a universal *cosmopolitan existence*»¹⁴, that, in Anderson-Gold's wording, is a «condition of socio-cultural and ultimately moral interdependence»¹⁵.

To some extent, the current situation is nonetheless a transition from an international (post-Westphalian) to a cosmopolitan law¹⁶. A reform of the international governmental organisations could facilitate this transition, particularly the reshaping of the UN in order to become the main institution of a «cosmopolitan democracy». Daniele Archibugi underlines that the UN «was designed to promote co-operation among the victors of World War II, but suddenly had to operate in a framework of conflict rather than of co-operation among those nations»¹⁷. This is an exemplar case which shows that in political relations the dynamics of the situation can change considerably within the space of a few years. «International institutions should therefore be designed to withstand significant changes in political conditions»¹⁸.

Apart from being cosmopolitan because they reach people everywhere, human rights are cosmopolitan also in another sense; they belong to every past, present and future human being. The vertical, *temporal*, dimension of cosmopolitanism is not a simple experiment; it is rather the key concept to enlarge the application of this theory, so as to achieve its complete spherical domain. This is due to the demands of global challenges, which influence the world community transversely in terms of space (wherever in the world) and in terms of time (now and in the future). The following tridimensional image is aimed at explaining the interconnection between the two cosmopolitan dimensions and the earning of the full (spherical) form of cosmopolitanism¹⁹.

Political Restructuring in Europe: Ethical Perspectives, London, Routledge, 1994, pp. 123-136.

¹¹ J. Habermas, *La paix perpétuelle...*, cit., pp. 42-45.

¹² *Ibidem*, pp. 16-17. This is of special relevance in the ages of the fight against terrorism.

¹³ I. Kant, *Perpetual Peace...*, cit., pp. 107-108, italics of the author.

¹⁴ I. Kant, *Idea for a Universal History...*, cit., p. 51, italics of the author.

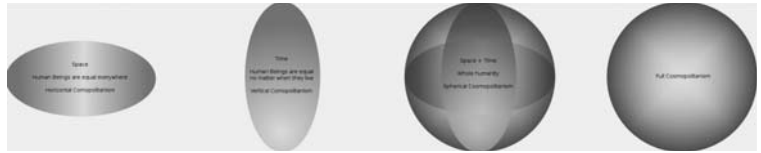
¹⁵ S. Anderson-Gold, *Cosmopolitanism and Human Rights*, cit., p. 42.

¹⁶ I. Kant, *Perpetual Peace...*, cit., p. 64.

¹⁷ D. Archibugi, *From the United Nation to Cosmopolitan Democracy*, cit., p. 127.

¹⁸ *Ibidem*. The whole article (pp. 121-162) is inspiring for UN structural reforms. J. Habermas (*La paix perpétuelle...*, cit., pp. 76-80) also deals with the argument. Both approaches focus on what would be desirable for the global regime, lesser so on what would be feasible in practice.

¹⁹ This image was created by Cristiano Gianolla in October 2009.



Three characteristics of cosmopolitanism assume particular relevance for the present work: human dignity, global justice and interculturality. In the classic cosmopolitan analysis, these characteristics are implied to prevent discrimination related to the spatial dimension (different states or regions). This paper is going to explain how these features also apply to the vertical dimension, extending the concept of cosmopolitanism to the future. I consider this a valuable use of cosmopolitanism to reaffirm the rights of future generations. In other words, I will not restrict the cosmopolitan respect for human dignity to people living everywhere; I will extend it also to those that will live in the future. Global justice will not only be applied to the citizens of every country at present but also to those of future generations. Interculturality will be considered parallel to a new concept which is here defined as *intergenerationality*. As interculturality refers to the relations among people of different cultures living at the same time, *intergenerationality* will apply to different people living in different times. I consider that the parallel between different cultures and different generations is very fruitful in order to understand how to overcome differences of perspectives. The idea is to use dialogue among cultures as a symbolic exemplification of those among generations.

Something is missing in the human rights discourse. Anderson-Gold states: «Human rights are universal moral entitlements to protection and respect which because of their scope generate legal obligations that can only be fulfilled within an international system of law. Human rights presuppose then an international (ultimately global) legal system»²⁰. The cosmopolitan citizen needs now to be legally recognised as part of the global community and to be given the right to intervene and strengthen the international law in a way of making a cosmopolitan law based on universal human rights. Furthermore, as part of humanity, future generations must be integrated in the cosmopolitan human rights discourse in order to have their freedom of choice and their human rights preserved.

²⁰ S. Anderson-Gold, *Cosmopolitanism and Human Rights*, cit., p. 35.

The new challenge is that present generations have the power to influence the life and living conditions of future generations, as it had never happened before. Since these resolutions concern people who cannot take part in the decision making, it is very wise to see the resulting problems from as many points of view as possible. We must re-think relationships among human beings on a personal level, as well as within the wider context of humanity. We also have to re-evaluate our view considering natural life and artificial dynamics. Peter Whitehouse writes: «We think of nature as fixed and stable (e.g. our genes) and culture as more dynamic in affecting human behavior. Nature is ever changing and culture can be stagnating. We are a part of nature; we are evolving not only to survive but hopefully to thrive. It remains to be seen whether our natural gifts of forethought and complex emotions will in the long run enhance quality of life or contribute to the destruction of life on the planet»²¹.

A Dialogue to Overcome Cultural Relativism and Universalism

The debate between cultural relativism and universalism has been going on for more than a quarter of a century. The positions are well known: for cultural relativists, every single culture has its own moral values which lead to right standards. Moreover, for some relativists, human rights are seen first and foremost as a Western creation – alien to other cultures – which have been then imposed on the rest of the world. On the opposite side, the advocates of universalism affirm that cultural differences cannot play a role in influencing the individual value and rights of cultural fellows; therefore human rights belong to every human being in the same way, irrespective of cultural considerations.

In order to overcome the dualism, the path shall be marked by dialogue. International human rights standards are fostered and realised by contextual sensitiveness, without which they would remain empty lists of extrinsic rules, far from effective applicability²². Charles Taylor thinks that there is a need for the realisation of a Rawlsian «overlapping consensus» on human rights: «Each would have its own way of justifying this

²¹ P.J. Whitehouse, *The Rebirth of Bioethics: Extending the Original Formulations of Van Rensselaer Potter*, in «The American Journal of Bioethics», vol. 3, no. 4, 2003, pp. 26-31: pp. 28-29.

²² Richard Falk warns against the tendency of setting general standards without taking the context into account. With regards to the right to freedom of expression dealing with religious matters, he says that «[o]nly secular fundamentalist attitudes toward human rights can resolve such issues at the abstract level of human rights standards». R. Falk, *Cultural Foundation for the International Protection of Human Rights*, in A.A. An-Na'im (ed.), *Human Rights in Cross-cultural Perspectives: A Quest for Consensus*, Philadelphia, University of Pennsylvania Press, 1992, pp. 44-64: p. 59.

from out of its profound background conception»²³.

The intercultural dialogue towards human rights is a long process to be achieved and, as Abdullahi An-Na'im affirms, it is not an «all-or nothing proposition»²⁴. To this regard Yasuaki Onuma talks about the «*intercivilizational approach to human rights*. This approach requires us to see human rights not solely within the context of Western centric modern civilization, where it originated, but from other civilization perspectives as well»²⁵. The emergence of strong Asian economies and Eastern Asia as the possible economic heart of the (future) global economy should be a further incitation to «realize that more inter-civilisation dialogue is needed, if ever human rights are to be actually globalized»²⁶.

George Ulrich sustains that the constructivist theory helps to overcome many obstacles concerning the debate between relativists and universalists. According to this approach, human rights find their *raison d'être* in history as a «*construct* that responds to the exigencies of a particular type of social formation emerging on the world stage during a particular historical epoch»²⁷. Seeing human rights as the proper response to historical events helps to silence many critics who disagree with them. They are the best possible response to modern challenges. Relativists that consider them alien to some cultures, have to bear in mind that they were once new in western culture. Human rights have not always been present because they came with time, as a response to historical situations and were not pre-existent to them. They are not fostering globalisation and the standardisation of cultures and as Ulrich reaffirms, «the construct of human rights is itself a response to this situation which may, conceivably, in some respects serve to *protect* diversity by curbing the most pernicious effects of economic and technological globalization»²⁸. If they protect mainly the individual, it is because they are a response to individualisation which comes together with modernity. This shows again that human rights are the most appropriate response to globalisation and should not be confused or mixed with it, but be considered as a consequence of it. Antonio Cassese affirms that «human rights are the modern attempt to introduce the reason in the world history»²⁹.

²³ C. Taylor, *A World Consensus on Human Rights?*, in P. Hayden (ed.), *The Philosophy of Human Rights*, St. Paul, Paragon House, 2001, pp. 409-423: p. 409.

²⁴ A.A. An-Na'im, *Towards a Cross-Cultural Approach to Defining International Standards of Human Rights: The Meaning of Cruel, Inhuman, or Degrading Treatment or Punishment*, in Id. (ed.), *Human Rights in Cross-Cultural Perspectives...*, cit., p. 39.

²⁵ Y. Onuma, *Towards an Intercivilizational Approach to Human Rights: For Universalization of Human Rights through Overcoming of a Westcentric Notion of Human Rights*, in «Asian Yearbook of International Law», vol. 7, 2001, pp. 21-81: pp. 28-29, italics of the author.

²⁶ *Ibidem*, p. 47.

²⁷ G. Ulrich, *Universal Human Rights: An Unfinished Project*, in K. Hastrup (ed.), *Human Rights on Common Ground: The Quest for Universality*, The Hague, Kluwer Law International, 2001, pp. 195-223: p. 214, italics of the author; Zolo (D. Zolo, *Cosmopolis...*, cit., p. 142) and Donnelly (J. Donnelly, *Universal Human Rights in Theory and Practice*, New York, Cornell University Press, 2003 (2nd ed.)) share a similar opinion.

²⁸ G. Ulrich, *Universal Human Rights...*, cit., p. 219, italics of the author.

²⁹ A. Cassese, *I diritti umani nel mondo contemporaneo*, Roma-Bari, Laterza, 1988, p. 202.

Cosmopolitan Democracy

³⁰ S. Anderson-Gold, *Cosmopolitanism and Human Rights*, cit., p. 88.

³¹ D. Archibugi, *From the United Nation to Cosmopolitan Democracy*, cit., p. 128. Archibugi explains further: «The centrality of states as actors of the international relations has not been modified by the crisis of nation-states that has occurred in the last few years». He refers to Balkanisation of states like the former Soviet Union and former Yugoslavia as a non-undermining power against the international centrality of states. This assumption does not contradict what I affirmed before while arguing on the weakening of states, because Archibugi here refers to the actual international relevance of states as central players of the international relations, while there I argued in terms of the dynamic weakening of the state's prerogatives.

³² J. Habermas, *La paix perpétuelle...*, cit., p. 45.

³³ *Id.*, *Après l'État-nation...*, cit., p. 123.

³⁴ S. Anderson-Gold, *Cosmopolitanism and Human Rights*, cit., p. 7.

³⁵ *Ibidem*, p. 129.

³⁶ D. Archibugi, *From the United Nation to Cosmopolitan Democracy*, cit., pp. 134-135. For instance: organisations and associations should be granted official and authoritative status by institutions, particularly for sensitive issues like human rights and environment; directly elected representatives should be present in the International Governmental Organisations (IGOs) bodies as well as states representatives; the role of the referendum should be emphasized and expanded; the ombudspersons should be accessible and effective; freedom of movement should be enlarged. In many of these and other aspects the example of the European Union is very important. For many aspects the EU could already be considered what Anderson-Gold calls a form of «regional cosmopolitanism» (S. Anderson-Gold, *Cosmopolitanism and Human Rights*, cit., p. 68).

The base for cosmopolitan politics is the dialogue among states, peoples and citizens. As Anderson-Gold affirms, «[c]osmopolitanism and the evolution of a transnational civil society then does not entail that states will dissolve, nor would this necessarily be a good thing»³⁰. States will continue to take part in bilateral and multilateral negotiations as well as be integrated in the international organisations. Archibugi states that, «[t]he perspective of a cosmopolitan democracy requires us, in the first instance, to recognize the state as the central figure in international relations»³¹. Nevertheless, since a fundamental feature of communicative democracy is that it is based on discussion, it enhances the role played by non-state actors as legitimising entities. In particular, citizens' associations and NGOs will become more important as sources of political legitimisation through the information they provide. They are already very relevant to the creation of a Habermasian «supranational public space»³² that is often in opposition with the maintaining of rigid state's boundaries and which favours the growing of the international civil society. Their role in public space should be institutionalised and strengthened.

States must act and endorse in order to create global governance; for this purpose the role of citizens is fundamental since national governments are compelled to take into consideration the will of the people. Citizens have the power to change the political perspective of national (and international) political authorities. They must think and desire cosmopolitan politics at all levels. In fact Habermas remarks that «[i]f political elites will not find stir in the *previously reformed* value of their population, no innovation would be possible»³³. In other words, citizens must mature what Anderson-Gold calls a sense of «cosmopolitan consciousness»³⁴, because with the cosmopolitan perspective human rights will find a fecund field of application. As she explains, «[e]ffective human rights implementation must be a bottom-up procedure where citizens demand that their government comply with international norms and the international community empowers and supports these demands»³⁵. Finally, the role of global citizens should be formalised in cosmopolitan institutions. The power of global citizens should be parallel to the one of states³⁶.

The effectiveness of the cosmopolitan community is backed by the effectiveness of its jurisdiction. Therefore, the international jurisdiction has to be strengthened and enlarged. This would enlarge accountability for one's actions beyond the territorial jurisdiction of the national state and advocate responsibility. Also the competence of the international jurisdiction needs to be enlarged – beyond the crimes against humanity, war crimes and genocide should include issues related to global players like Transnational Corporations (TNCs).

An initial forward step towards a more effective international jurisdiction can be made by strengthening the role of the International Criminal Court (ICC). Not only should it be made more effective in its objectives, but also its domain of action should be enriched with responsibilities that include economic and related crimes. TNCs can produce burden and sufferance primarily because of the lack of accountability. In this sense, the possible competence enlargement of the ICC to crimes related to active or passive human rights violation committed by TNCs would certainly favour an increase in accountability for global players. The extension of extraterritorial jurisdiction would be the next step towards this direction.

Nationalism and Global Responsibility

From the cosmopolitan perspective, discriminations made on the basis of national borders or belongings are negative, as it is for human rights. Every single human being bears the same rights as anybody else and it is hard to sustain the centrality of «membership» as fundamental for the protection of human rights, as Michael Walzer does in *Spheres of Justice*³⁷. How is it possible to conciliate the universal domain of human rights with the existence of states? The simple response is that, while states are still important players in the organisation of social life, states' borders should not be rights' borders. Europe can be an example in this sense, as suggested by Andrew Linklater, showing that the principle of moral equality is prevalent to the bounded centrality of citizenship³⁸. Sure enough, this issue is not so easy and I believe it deserves closer attention.

I want to underline once more that going beyond citizenship

³⁷ M. Walzer, *Spheres of Justice: A Defense of Pluralism and Equality*, New York, Basic Books, 1983, pp. 31-63.

³⁸ A. Linklater, *Citizenship and Sovereignty in the Post-Westphalian European State*, in D. Archibugi, D. Held, M. Köhler (eds.), *Re-imagining Political Community: Studies in Cosmopolitan Democracy*, Cambridge, Polity Press, 1998, pp. 113-137: p. 133.

³⁹ A. Baumeister, *Ways of Belonging: Ethnonational Minorities and Models of «Differentiated Citizenship»*, in «Ethnicities», vol. 3, no. 3, 2003, pp. 393-416.

⁴⁰ Following the analysis of Alan Gewirth, Per Bauhn underlines the importance constituted by states both in the «minimal» terms – which refers to physical integrity of their citizens – and in the «supportive» terms which refers to the importance of states for its citizens in the promotion of their life in a widest sense, like the development of the individual capacity through education, training and public services. He continues as follows: «Such a state constitutes, when it supports the rights of its citizens to freedom and well being, a community of rights. And citizens are rationally and morally obliged to support such a community, since it is the institutional realisation of a system of rights that all rational agents must accept». P. Bauhn, *Nationalism and Universal Rights*, in G. Bexell, D.-E. Andersson (eds.), *Universal Ethics: Perspective and Proposal from Scandinavian Scholars*, The Hague, Kluwer Law International, 2002, pp. 99-104: p. 104, italics of the author.

Nevertheless, this community of rights is not the supreme value in the sense that it «cannot justify support for aggression against other communities, or indifference towards the fate of starving people in distant parts of the world. The value of the community of rights is derived from a principle of equal human rights, and a community of rights must respect these rights in its dealing with other communities». *Ibidem*, p. 104.

⁴¹ C. Jones, *Global Justice...*, cit., p. 128, italics of the author. Nazi Germany or Apartheid South Africa, for instance, do not create a moral conditionality. Also Walzer (M. Walzer, *The Problem of Citizenship*, in Id., *Obligations: Essays on Disobedience, War, and Citizenship*, Cambridge, Harvard University Press, 1970, pp. 203-225: p. 204) recognises that in such contexts there is no «treason» in case of citizen's disobedience.

does not aim at providing the dissipation of cultures. Cultures are fundamental entities for human life. Even if there are different cultures under the same citizenship, one of the duties of the state is to assist all of these cultures in order to guarantee their permanence and development. In an interesting article, Andrea Baumeister³⁹ combines the «differentiated citizenship» of Charles Taylor and Joseph Carens with the intercultural dialogue of Bhikhu Parekh as a response to the difficulties arising from inside multicultural national borders with regard to the relationship among cultures and citizenships. The cosmopolitan perspective goes over national boundaries in the recognition that there is a unique moral community; the community of human beings.

Since states are fundamental structures of democratic societies supporting the social life and well being of their citizens, the citizens have the moral duty to cooperate for their states' maintenance and development. This creates some admissible national favouritism, an example of which is the payment of taxes or services existing in the framework of national structures. The principle of reciprocity pretends the recognition of the same aspiration made by citizens of any other country⁴⁰. Furthermore, whatever kind of national favouritism is «*conditional* upon the characteristics of the state in question»⁴¹. If the regime is repressive, dictatorial or oppressive, the national interests (and services and other forms of support to it) may be hardly justifiable from a moral point of view. The spirit which characterises the favouritism of fellow nationals should recognise that some non-co-nationals can be in the position of contributing towards a national community and in that sense deserve the same favouritism of co-nationals. Besides, some co-nationals can face impossibilities of contributing to the national community, nonetheless they shall not be excluded from the benefits that the state provides to its citizens⁴².

Humanity as a Whole

Humanity as a whole and a subject of intrinsic dignity is what Kant expressed in the third formulation of the categorical imperative: «[E]very rational being must so act as if he were

through his maxim always a legislating member in the universal kingdom of ends»⁴³. The maxim is the subjective principle which moves to action. The «universal kingdom of ends» is the kingdom, the sphere containing all human beings, which are ends in themselves. Therefore humanity as a whole is a kingdom of ends, it must be considered as an end in itself. Martin Buber reasserts that «the human being does not anthropologically exist in his isolation but in the fullness of the relationship between one and the other, only the mutual action [Wechselwirkung] makes it possible the adequate comprehension of humanity»⁴⁴. Humanity is spherical in the sense that it permits the complete relatedness of human beings.

To recognise humanity in its entirety as a subject of dignity implies the assertion that humanity is a right bearer. Melo affirms that an international juridical personality should be recognised to humanity⁴⁵. In her argumentation, she seconds that humanity is formed by the entire number of human beings living in the past, the present and that will live in the future. This creates the basis to consider the «concept of Humanity as an intergenerational community which includes the past, present and future generations»⁴⁶. To have humanity as a recognised juridical personality would facilitate the recognition of specific rights, one of which is the right to human genome; a human genome, which is not precluded of any natural characteristic.

Humanity in its entirety is not a simple sum of human beings. Humanity is a real subject that has its own *status*. Max Scheler defines this brisk aspect affirming that «[t]he collective person is not a kind of “sum” or a kind of artificial or real collection of individual persons, nor are its properties composed of properties of individual persons; the collective person is not contained “first” in individual persons, nor is the world of the collective person the sum of the worlds of individual persons, not even in some first stage»⁴⁷. In other words, the essence of the «collective person» is separate from those of its individuals and it is not *calculable* as a simple sum of them. Humanity is the collective person par excellence, it bears a proper essence which must be recognised and protected in its identity through its rights.

It must be underlined that the horizontal cosmopolitanism is clearly supporting the concept of wholeness of humanity. As

⁴² Jones (C. Jones, *Global Justice...*, cit., 128, footnote 28) brings the example of handicapped people. I prefer to consider this category in a wider range including among others, any person whose health conditions, temporary or permanently, does prevent him/her from contributing as others, unemployed, homeless and persons facing economical or psychological difficulties.

⁴³ I. Kant, *Grounding for the Metaphysics of Morals*, translated by James W. Ellington, Indianapolis, Hackett Publishing Company, 1993 (3rd ed.), p. 43.

⁴⁴ M. Buber, *Elemente des Zwischenmenschlichen*, in Id., *Das Dialogische Prinzip*, Gerlingen, Lambert Schneider, 1994 (7th ed.), pp. 271-298: p. 290, German citation mine.

⁴⁵ H. Melo, *O Diagnóstico Pré-Implantatório e os Direitos das Gerações Futuras*, in R. Nunes, H. Melo, C. Nunes (eds.), *Genoma e Dignidade Humana*, Coimbra, Gráfica de Coimbra, 2002, pp. 155-204: pp. 172-173.

⁴⁶ *Ibidem*, p. 157. What has been just affirmed in no sense must be understood as a process of transforming individuals in members of the mass, where as affirmed by Buber, «the person is cast into doubt by the fact that is being made collective» (M. Buber, *Die Frage an den Einzelnen*, in Id., *Das Dialogische Prinzip*, cit., p. 263).

⁴⁷ M. Scheler, *Formalism in Ethics and Non-Formal Ethics of Values*, translated by M.S. Frings and R.L. Funk, Evanston, Northwestern University Press, 1973 (5th ed.), p. 522.

confirmed by Derek Heater: «Recognition of the essential oneness of humanity is basic to this thinking»⁴⁸. In the vertical dimension of cosmopolitanism, the *oneness* of humanity is extended over time and is no longer restricted only over space. It will include the person that will live in the future, together with those who live in the present.

Justice as Global Fairness

The book of John Rawls *A Theory of Justice*⁴⁹ defined the way to reach justice as fairness in a modern democratic nation. It is based on social cooperation regulated by democratic institutions which control and distribute the benefits and disadvantages of social life. The agreement to such a structure would be reached by the hypothetical consent of representatives of citizens deciding in the «original position». The contracting representatives would all be in an equal condition, behind a «veil of ignorance» concerning the social, political, economic and religious status of the citizens they represent. This would lead them to agree on principles of justice and fairness protecting the rights and liberties of everybody⁵⁰. Various discussions arose from this book concerning the implications of the Rawlsian theory in the global dimension. Indeed it is a theory which was thought to create a status of justice inside a national context.

Many years later Rawls published *The Law of Peoples*⁵¹, a parallel theory to be applied on a global scale. As affirmed by Leif Wenar, this book «surprised many readers and disappointed the cosmopolitans»⁵². The main problem is that in the original position individuals would not be represented (as it is in the national context), but only peoples/societies instead. The result is that the basic agreement reached on the global scale would not be based on fairness and justice among individuals, but on international cooperation. More pragmatically, the relations between peoples would remain based on state sovereignty. National interest would continue to be pre-eminent with respect to human interest and human rights.

From a different perspective, Thomas Pogge advocates a cosmopolitan global justice. He affirms that what is true for the national context should be also true for the global⁵³.

⁴⁸ D. Heater, *World Citizenship...*, cit., p. 36.

⁴⁹ J. Rawls, *A Theory of Justice*, Cambridge, Harvard University Press, 1971.

⁵⁰ Social and economic inequalities are allowed only if they tend to improve the condition of the worst-off.

⁵¹ J. Rawls, *The Law of Peoples*, Cambridge, Harvard University Press, 1999.

⁵² L. Wenar, *Contractualism and Global Economic Justice*, in T.W. Pogge (ed.), *Global Justice*, Oxford, Blackwell Publishing, 2001, pp. 76-91: p. 82.

⁵³ T.W. Pogge, *Priorities of Global Justice*, in Id. (ed.), *Global Justice*, Oxford, Blackwell Publishing, 2001, pp. 6-23: p. 15.

Wilfried Hinsch describes it as a global distributive justice which applies «irrespective of national borders directly and primarily to the global community of world citizens at large, the aim being that each citizen receives his or her due share of global wealth as determined by a global conception of justice»⁵⁴.

Global justice in the temporal dimension has strong implications for what I call intergenerationality, the dialogical relationship among generations of human beings. In particular, it relates to the actions of previous generations and their consequences on the generations to come. Intergenerationality can be assimilated to the concept of interculturality which refers to the relationship among different peoples, cultures and traditions. To this regard, Rawls confirms the analysis affirming that «all generations have their appropriate aims. They are not subordinate to one another any more than individuals are. The life of a people is conceived as a scheme of cooperation spread out in historical time. It is to be governed by the same conception of justice that regulates the cooperation of contemporaries»⁵⁵.

Referring to the context of the state, Edmund Burke affirms that it is «a partnership not only between those who are living, but between those who are living, those who are dead, and those who are to be born»⁵⁶. The cosmopolitan perspective demands for this partnership to be implemented on a global dimension, which is the only proportional scale for the entity of the challenges to be faced. Beck affirms: «Behind the variety of interests, the reality of risk threatens and grows, knowing no social or national differences anymore»⁵⁷. Edith Brown Weiss underlines that «[t]he purpose of human society must be to realize and protect the welfare and well-being of every generation»⁵⁸. Ultimately, this is what is implied in the very beginning of the Universal Declaration of Human Rights (UDHR) when it is affirmed that the «recognition of the inherent dignity and of the equal and inalienable rights of *all members of the human family* is the foundation of freedom, justice and peace in the world»⁵⁹. Without an institutional consideration of the humanity in its wholeness and an effective representation of future generations in the international political arena, the rights of humanity and future generations lack meaning and become empty.

⁵⁴ W. Hinsch, *Global Distributive Justice*, in T.W. Pogge (ed.), *Global Justice*, cit., p. 55. Hinsch proposes a «moral federalism» as a third alternative whose domain of application is both domestic and global. It might «allow for a plurality of partly diverging domestic conceptions of justice (not all of which need to be liberal conceptions), provided only that there is a single and unified set of principles regulating intersocietal cooperation». *Ibidem*, p. 156.

⁵⁵ J. Rawls, *A Theory of Justice*, cit., p. 289.

⁵⁶ E. Burke, *Reflections on the Revolution in France*, edited by J.C. D. Clark, Stanford, Stanford University Press, 2001, p. 261.

⁵⁷ U. Beck, *Risk Society...*, cit., p. 46.

⁵⁸ E.B. Weiss, *Our Rights and Obligations to Future Generations for the Environment*, in «The American Journal of International Law», vol. 84, no. 1, 1990, pp. 198-207: p. 200.

⁵⁹ Preamble of the UDHR, italics mine.

Responsibility to Protect Future Generations

Sergio Magni⁶⁰ states that an action done today can influence the life of future persons in different ways; it can affect their living conditions as well as their number and their identity. Magni affirms that this influence is effective today in three areas. The first area is demographical politics, according to which the number and identity of future persons can vary. The second area concerns economical politics. Saving and accumulation of capital, as well as the management of public economics have a great influence in terms of human security and life quality in the long run. The third field is the environmental politics; consumption of resources, pollution and global warming. I would like to add a fourth area, the biomedical manipulation, which can affect the genetic identity of future generations and of the entire humanity in irreversible ways.

Progress in science and technologies has developed a power of overacting which had never occurred in human history before. For the first time, human agency is not circumscribed to a short distance in time and space, but can reach long distances. Hans Jonas remarks that in previous ages «*techne* was a measured tribute to necessity, not the road to mankind's chosen goal – a means with a finite measure of adequacy to well-defined proximate ends»⁶¹. The enlargement of the human agency must correspond to a parallel extension of responsibility. This is of utmost importance for understanding the disequilibrium which causes tension in the relationship between science and ethics.

The ethical perspective must have priority over the pragmatic objectives of science and technique. After the influential reflection of Friedrich Nietzsche and the crisis of ethics related to his philosophy, Jonas advocates a return to Kantian universalism, based on the idea of duty and expressed in the categorical imperative. The imperative of responsibility reads as follows: «Act so that the effects of your action are compatible with the permanence of genuine human life»; or expressed negatively, «Act so that the effects of your action are not destructive of the future possibility of such life»; or simply, «Do not compromise the conditions for an indefinite continuation of humanity on earth»; or, again reflected

⁶⁰ S.F. Magni, *Responsabilità e giustizia verso le generazioni future*, in «Cosmopolis», vol. 2, no. 1, 2007, available at <http://www.cosmopolisonline.it/20070705/magni.html> (consulted on 10 June 2008).

⁶¹ H. Jonas, *The Imperative of Responsibility: In Search of an Ethics for the Technological Age*, Chicago, University of Chicago Press, 1984, p. 9.

positively, “In your present choices, include the future wholeness of Man among the objects of your will”⁶².

Buber affirms that «[t]here is true responsibility only where there is a true response»⁶³. Responses have to be given to questions that are now silently unanswered, namely for what concerns the geopolitical disequilibrium⁶⁴ which creates burdens over millions of people and maintains the condition for creating the same burdens in the future. Responses must be given to real challenges raised by science, and Jonas remarks that the potentiality of a human agency enriched by science progresses requires that «the prophecy of doom is to be given greater heed than the prophecy of bliss»⁶⁵.

In order to achieve the responsibility for human beings who will populate earth in the future, it is necessary to protect the natural environment in which they will have to live. It is also necessary to protect the freedom and existence of non-human life.

The Ombudsperson for the Rights of Future Generations

Intergenerationality analysed with the intercultural perspective helps us to think about the actions of the present generation towards the future, not just as a monologue but as a dialogue which allows for inter-relationship and responsibility to grow together. In general terms, there are some preliminary conditions for a dialogue to take place. The first step is the mutual recognition and opening of the interlocutors towards one another, abandoning the defensive attitude of whom feels to be in conflict or wants to dominate or impose himself/herself on the other. The second step is to listen to what the other has to say and to understand what he/she is saying, rather than hearing what the listener is ready to understand, based on prejudices. The final condition is that everyone speaks to affirm what he/she honestly considers true and right. The dialogue anticipates a certain interrelation between the interlocutors and assumes the possibility of an opinion to be changed or confirmed by the other. Buber affirms that «The fundament of being-*human being-with-human being* [Mensch-mit-Mensch-seins] is this duplicity and

⁶² *Ibidem*, p. 11.

⁶³ M. Buber, *Zwiesprache*, in *Id.*, *Das Dialogische Prinzip*, cit., p. 161.

⁶⁴ I refer to the laws of the free market as a regulating mechanism in the international relations. The Smithian «invisible hand» (A. Smith, *The Wealth of Nations*, New York, Modern Library, 2000, p. 485; and *Id.*, *The Theory of Moral Sentiments*, New York, Cosimo, 2007, p. 187) is not really working, as noticed by many intellectuals over the last decades. Norman Barry may be right when affirming that «[m]uch of the contemporary criticism of the Invisible Hand theory is directed less to theoretical concerns and more to the alleged real-world deficiencies – economic, political, and ethical – of a system based on the spontaneous interaction of basically selfish economic agents» (N.P. Barry, *In Defence of the Invisible Hand*, in «Cato Journal», vol. 5, no. 1, 1985, pp. 133-148: p. 143), but the theory, which is so far away from good practice is hardly defensible.

⁶⁵ H. Jonas, *The Imperative of Responsibility...*, cit., p. 31.

unity: The desire of every human being to be confirmed for what he is, for what he will become, and the innate human ability to confirm other equal human beings in the same way»⁶⁶. The dialogue is an authentic research of the truth and not a way to impose one's ideas on the other. At this stage, new perspectives are open to consideration. At the intercultural level, the dialogue allows a positive cooperation towards a common goal, through respecting the existing differences. At the intergenerational level, the dialogue allows the future generations to live a life which is not prejudged in its peculiar possible essence by decisions and actions taken at present.

The question is how to establish a dialogue with someone that does not already exist? This is the real challenge of intergenerationality. The answer is demanding and requires a deep involvement. First of all, there is a need to recognise that *the others*, even just hypothetical human beings, are standing there for/during the discussion with all the prerogatives of actual, physically present human beings. This passage is fundamental, otherwise the dialogue with future generations will not take place and the decisions taken today will target primarily the needs of the ones living today, even when these needs can be superfluous in comparison with the needs of future generations⁶⁷.

The realisation of the rights of future generations can be achieved through the establishment of an institution that would represent future generations in the present socio-political discourse. Such a possibility will allow a pragmatic dialogue between present and future generations to take place. This can be achieved by an *Ombudsperson for the rights of future generations*⁶⁸. Especially in the framework of the UN and the international community, this institution would guarantee that present actions do not overcome the limit imposed by the rights of those that will come next. Such an institution shall take part in the actual decision-making process allowing to some extent future generations to seat at the round table, where decisions concerning them are taken. Clive Hamilton affirms that «the broadest role of the Ombudsman would be to lengthen our time horizons and make us think very concretely about the effects of our decisions now on our great grandchildren at the end of the next century»⁶⁹.

Opponents to the establishment of the Ombudsperson for the

⁶⁶ M. Buber, *Urdistanz und Beziehung*, Heidelberg, Lambert Schneider, 1978 (4th ed.), p. 28, italics and German citation mine.

⁶⁷ An example of this is the extreme use of the polluting form of energies, which today are considered indispensable and irreplaceable. They can be substituted by less polluting means but they are not because it would be an anti-economics mechanism and therefore unrealistic. The future generations will have a much more polluted environment as a result and will be anyway obliged to use other resources. Economic mechanisms are artificial and should be subordinated to other human needs, not tower above effective needs and create collateral problems.

⁶⁸ I prefer (and use) the word *Ombudsperson* to *Ombudsman* for its gender neutrality, although the second one is more used in the literature, as it can be seen from the quotations that will follow.

⁶⁹ C. Hamilton, *Thinking About the Future: Equity and Sustainability*, 1996, in Australian Department of the Environment, Sport and Territories web site, available at <http://www.environment.gov.au/about/publications/economics/equity/sustain.html> (consulted on 16 June 2008).

rights of future generations could argue that since future generations are only hypothetical, there can be no juridical position in the recognition of their rights because human rights are related to the subject and are borne by effective individuals. The answer to this critique is that the aspiration of humanity is not to produce its own end, but to favour a progressive improvement of the human condition. This implies that there is a human condition to protect, meaning that the present generation's individuals desire the existence of future human beings and also their well being. The protection of their right is therefore fundamental.

Rights of future generations are collective, not individual rights. The relevance of this distinction becomes evident through the confrontation of Anthony D'Amato with Edith Brown Weiss⁷⁰. D'Amato starts imagining the persons who will live when a specific amount of time will have passed. He then affirms that our intervention for the protection of future generations will interfere with the natural composition of the imagined persons⁷¹. In other words, the intervention to protect future generations will deprive the imagined individuals of their lives, favouring the birth of different individuals; therefore the protection of future generations must not be a criterion for human aging. D'Amato affirms, «future generations are not an abstraction; they consist of individuals. The particularity of the individuals is apparent when we consider how lucky it is for anyone to be born»⁷². Weiss, on the contrary, affirms that intergenerational rights are not individual rights of specific imagined persons. «They are, instead, *generational* rights, which must be conceived of in the temporal context of generations. Generations hold these rights as groups in relation to other generations – past, present and future»⁷³.

Weiss supports the idea of an Ombudsperson for the rights of future generations: «[e]nforcement of these intergenerational rights is appropriately done by a guardian or representative of future generations as a *group*, not of future individuals, who are of necessity indeterminate. While the holder of the right may lack the capacity to bring grievances forward and hence depends upon the representative's decision to do so, this inability does not affect the existence of the right or the obligation associated with it»⁷⁴.

⁷⁰ A. D'Amato, *Do We Owe a Duty to Future Generations to Preserve the Global Environment?*, in «The American Journal of International Law», vol. 84, no. 1, 1990, pp. 190-198; and E.B. Weiss, *Our Rights and Obligations...*, cit.

⁷¹ D'Amato refers specifically to the interventions to preserve the environment and affirms that «it will affect the conditions under which human procreation takes place». A. D'Amato, *Do We Owe a Duty...*, cit., p. 191.

⁷² *Ibidem*, p. 194. The conclusion of D'Amato's reasoning is marked with a general sense of prudence: «We should not limit our actions to those we are able to determine now as directly or indirectly benefiting ourselves or our descendants. Rather, we should cultivate our natural sense of obligation not to act wastefully or wantonly even when we cannot calculate how such acts would make any present or future persons worse off». *Ibidem*, p. 198.

⁷³ E.B. Weiss, *Our Rights and Obligations...*, cit., p. 205.

⁷⁴ *Ibidem*.

Nicolás Calera stresses the need for a representative of collective rights; otherwise these rights remain a fiction. Collective subjects express themselves in relation to their rights through a representative; «any theory of collective rights shall recognize that those rights would not exist, could not exist, if some determined individuals (representatives), would not formulate, express and represent them. Without representatives there could not be a reasonable and effective exercise of collective rights»⁷⁵. Subsequently, the recognition that future generations bear collective rights implies the urgency for future generations to be represented, and therefore, for an Ombuds-person for the rights of future generations.

Benedek Jávör affirms that «we must restrain ourselves from all the decisions and actions that curtail the freedom of choice of the future generations unless the rights of the present generations give sufficient reason to act otherwise»⁷⁶. With reference to the mandate of the Ombudsperson, we can take the suggestions made by Weiss when she proposes three basic principles of intergenerational equity which should mark the domain of action of the Ombudsperson for the rights of future generations; conservation of options, conservation of quality and conservation of access⁷⁷. These are also in line with the imperative of responsibility of Jonas.

Jörg Tremmel provides a good definition of what the Ombudsperson should facilitate to achieve: «Generational justice is attained when the opportunities for succeeding generations to satisfy their needs are at least as much as those of the generation wielding power today»⁷⁸. The Ombudsperson would make sure that future generations would have their opportunities protected.

National Entities Protecting Future Generations

In the national political landscapes, there are already some institutions dealing with the rights of future generations. The domain of action of most of them is strictly related to the environment⁷⁹. Nevertheless, some have a wider field of competences which also includes other areas more directly related to bioethics⁸⁰.

A very important institution has been created in Israel. In

⁷⁵ N.L. Calera, *¿Hay derechos colectivos?*, Barcelona, Editorial Ariel, 2000, p. 139.

⁷⁶ B. Jávör, *Institutional Protection of Succeeding Generations - Ombudsman for Future Generations in Hungary*, in J. Tremmel (ed.), *Handbook of Intergenerational Justice*, Cheltenham, Edgar Elgar Publishing, 2006, pp. 282-298: p. 284. Larrère and Larrère (R. Larrère, C. Larrère, *Should Nature Be Respected?*, in «Social Science Information», vol. 46, no. 1, 2007, pp. 9-34: p. 21) sustain that to guarantee freedom of choice means: avoiding anything irreversible, preserve biological diversity and guarantee the diversity of use and representations (except those uses which erode diversity).

⁷⁷ E.B. Weiss, *Our Rights and Obligations...*, cit., pp. 202-203.

⁷⁸ J. Tremmel, *Intergenerational Justice*, in «Elderly Client Adviser», vol. 9, no. 1, 2003, pp. 31-34: p. 33.

⁷⁹ For instance: Canada: «Commission of the Environment and Sustainable Development», Finland: «Committee for the Future», Germany: «Council for Sustainable Development», Great Britain: «Government Panel on Sustainable Development», Sweden: «Commission on Climate Change and Development», The Netherlands: «Scientific Council for Government and Policy».

⁸⁰ It has to be remarked that environmental protection is itself an area under the domain of bioethics. This derives from the implications of environment deterioration on the deterioration of health conditions of people. The cases of air and water pollution are exemplar. In a non anthropocentric view, the protection of the environment is of bioethical domain because it protects the earth as a living system.

2001, the Israeli Parliament established the «Commission for Future Generations», a progressive body which worked for five years⁸¹. This was an «inner-parliamentary entity that ha[d] a comprehensive view of the legislative picture with regard to any potential negative effect on the needs and rights of future generations together with the means to prevent such legislation from taking place. The Commission ha[d] also received the authority to initiate bills that advance[d] the interests of future generations»⁸². The areas of competence were various and included: environment, natural resources, science, development, health, demography, quality of life and law, which made this Commission a real intergenerational player in the Israeli context.

Hungary has created an institution called «Ombudsman for future generations»⁸³. The idea was advocated since the year 2000 by the NGO «Védegylet» (Protect the Future) On 26 May 2008 Sándor Fülöp was elected as the first Ombudsman. Jávör gives insightful explanations concerning this institution and the history behind its creation⁸⁴. The three fundamental characteristics of this progressive institution are independence, wide competence and pro-activity. The Ombudsman, like other Ombudspersons, must be independent from state administration and other state institutions and must be able to investigate over them. His competences must not just focus on environment: «[T]he background principle is not environmental care but the rights of future generations for life, healthy environment and free choice. Besides the direct environmental cases he must pay attention to the protection of cultural heritage, the operation of big social systems; for example systems of pensions or social insurance, to the long-term development concepts, infrastructural investments, the rate of state indebtedness and each of the decisions made in the state or private sector that concern periods of time bridging over generations or are able to influence the succeeding generations' conditions for life permanently and irreversibly»⁸⁵. The capacity of the Ombudsman to represent future generations has to be as rich and broad as possible; pro-activity is therefore central.

Global action concerning future generations implies that the national institutions dealing with their rights, even though extremely positive and welcome are not sufficient. Future

⁸¹ Uzi Benziman (U. Benziman, *Bye Bye Peace Administration*, 19 December 2007, in «Haaretz» web site, available at <http://www.haaretz.com/hasen/spages/936023.html>, 2007, consulted on 27 June 2008) affirms that the commission demise has happened «to avoid the conflict between routine political pressures and long-term considerations». This led to think that an Ombudsperson for future generations at the UN level could give more reliability also to the national Ombudsperson. Which is to say that if the international community starts to effectively and concretely consider future generations as fundamental actors in the decision-making discussion, national governments would have a major power in doing the same.

⁸² The Knesset - The Israeli Parliament, Overview on the Commission for Future Generations, n.d., p. 3, available at <http://www.knesset.gov.il/sponsorship/future/eng/overview.pdf> (consulted on 17 June 2008).

⁸³ Also called «Parliamentary Commissioner for Future Generations», official website: <http://jno.hu/en/>.

⁸⁴ B. Jávör, *Institutional Protection of Succeeding Generations...*, cit.

⁸⁵ *Ibidem*, p. 288.

challenges come first on global scale and require a global response. Cosmopolitanism advocates a global action, both for the present and the future, and sees the international community and the UN as its natural environment. Giuliano Pontara affirms that it is a mistake to claim that every state bears responsibility only towards future generations of its proper nationals. The dynamism of history, where states were born, reached their peak and come to an end, underlines the connection between states and citizens⁸⁶. Globalisation brings into play more fundamental actors, other than states, also giving them a big influential role for future generations. Jávör confirms that «[i]nternational regimes, like the WTO [World Trade Organisation], institutions, like World Bank or IMF [International Monetary Fund] can effectively influence decisions of the national governments. So, if we would like to integrate the interests of coming generations in decision making, it is unavoidable to control somehow not only the traditional nation-state, but also these international regimes»⁸⁷. The same considerations have to be made for other non-state players, especially NGOs and TNCs.

Conclusion: Towards the UN High Commissioner for the Rights of Future Generations

The desirable cosmopolitan reforms of the UN system would lead to the positive condition for the establishment of a more just and fair world. They would be cosmopolitan reforms for the present (horizontal cosmopolitanism) and for the future generations (vertical cosmopolitanism). In such a reformed UN the Ombudsperson for the rights of future generations would guarantee freedom and equality for the next generations. This institution would ensure the conditions for the best choices for future generations. It would provide a voice for future generations and humanity in its entirety. It would create the dialogical conditions for full cosmopolitanism, in space and time. This kind of cosmopolitanism refers to citizens of the world; not only all living human beings, but also these living in any moment of human history.

At present, through the actual UN system, the one still based on the centrality of state sovereignty, many steps have already

⁸⁶ G. Pontara, *Ética y generaciones futuras*, translated by I. Riera, Barcelona, Editorial Ariel, 1996, p. 187.

⁸⁷ B. Jávör, *Giving a Voice to Future Generations*, presented at the World Science Forum (Budapest, 8-10 November 2007), available in «Védégylet» (Protect the Future) web site, 2007, p. 2, available at <http://www.vedegylet.hu/doc/JavorWSF07uj.doc> (consulted on 14 June 2008).

been taken for the protection of the environment⁸⁸. Nevertheless, the protection of the environment corresponds to the fulfilment of just a small part of our responsibilities towards future generations. The fundamental role played by the United Nations Educational, Scientific and Cultural Organisation (UNESCO) is to provide the instruments for the protection of biodiversity, human genome and bioethical standards. These positive achievements now need a new *dialogical* dimension. There is a need for a central institution to advocate the rights of future generations. In the UN structure, as it is now, it could take the form of the UN High Commissioner for the Rights of Future Generations. Its mandate would have the largest possible independence, the wider competences and should be as proactive as possible to foresee what would be good for those affected by actions that they could otherwise not influence. The role of the High Commissioner would be to preserve the freedom of choice and diversity of future generations.

Reforms of the UN and the global governance institution must take place in conformity with the nature of human rights, which are cosmopolitan. IGOs must be restructured, whilst NGOs and global citizens must become parties of good standing in the international arena, alongside states. The time has come that the international community transits from the international law into the effectiveness of the cosmopolitan law.

Cosmopolitanism needs to be understood and considered as it is, in its wholeness, in all its dimensions – spatial and temporal, horizontal and vertical respectively. It represents the path to realise human rights for humanity in its entirety and achieve a real human progress. At present, time and space are intertwined. Pontara affirms that there can be no temporal justice if there is no spatial justice⁸⁹. Without preventing the present violations of human rights, it is hard to thwart future rights violations. The two dimensions of cosmopolitanism are connected and strictly interrelated; they need to be implemented simultaneously.

⁸⁸ The first cornerstone was the Conference on Environment and Development (also called Rio Earth Summit, 1992).

⁸⁹ G. Pontara, *Ética y generaciones futuras*, cit., pp. 187-188.

