

**THE MORAL IRRELEVANCE OF**  
**GLOBAL AND INTERNATIONAL INEQUALITY<sup>+</sup>**

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***INTRODUCTION***

Our world is characterized by an unequal distribution of resources and rights both at the level of the individual and of the state.<sup>2</sup> With regard to states, suffice it to say that the average income of citizens in developed countries is 50 times higher in terms of purchasing power than that of citizens inhabiting poor countries.<sup>3</sup> This phenomenon of inequality between states is often called international inequality.<sup>4</sup>

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<sup>2</sup> Inequality is an incomplete predicate which states a relationship between two or more objects compared with regard to a quality. Consequently, there are as many types of inequality as classes of objects are compared and relevant qualities are chosen. (Rae, 1980, p.132)

<sup>3</sup> The data are no less astonishing if we focus on the differences between a middle-income country – such as my native Argentina – and a low-income country – such as Bolivia. The average level of consumption of Argentinean households is the highest in Latin America. According to CEPAL, it is 36.5% higher than the Latin American average. Bolivia's is among the lowest. Specifically, it is 48.2% below the average. The inequality between Argentina and Bolivia, with regard to the standard of living, is 84.7%. (CEPAL, 2007: 14)

<sup>4</sup> Another way of measuring the inequality between states is to not weight the standard of the quality chosen – for example income, wealth, etc. – with regard to the number of inhabitants. One example of this procedure is to compare GDP levels.

With regard to individuals, one can focus on domestic inequality – between individuals inhabiting the same state – or on global inequality – between individuals inhabiting different states.<sup>5</sup> An example of the former is the income gap between individuals situated in the richest and the poorest deciles of the state’s population.<sup>6</sup> An example of the latter type of inequality is the income gap between the bottom and top income deciles worldwide.<sup>7</sup>

Therefore, there are at least three types of inequality: international, domestic and global. The purpose of the present work is to determine which of them is morally relevant.<sup>8</sup> Given that these three types of inequality likely benefit both my readers and me, the purpose of this essay is relevant to us at a personal level.<sup>9</sup> We live in countries that possess greater wealth than others

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<sup>5</sup> Although domestic inequality has been widely studied, global inequality has only recently begun to be considered. Empirical research has largely focused on measuring international inequality. Bourguignon and Morrisson point out: “...By ignoring income disparities within countries, the recent empirical growth literature gives a biased view of the evolution of world inequality over time, clearly underestimating it. This line of work focuses on ‘international’ rather than ‘world’ inequality...” (Bourguignon y Morrisson, 2002: 727)

<sup>6</sup> My country can serve to exemplify this inequality. In Argentina the average per capita family income in the richest decile of the population is 30 times higher than the average income of those in the poorest decile. (INDEC, 2010: 17) This information dates from the third quarter of 2009. However, the gap has been closing over the last few years: in the third quarter of 2003 the income of the richest decile was 56 times that of the poorest. While the Gini coefficient is 0.405 for 2009, in the third semester of 2003 it reached 0.475.

<sup>7</sup> Global inequality of income has grown markedly during the 19th and 20th centuries. The Gini coefficient increased by 30% between 1820 and 1992. The causes of this growth have varied over time. While at the beginning of the 19th century the main cause was domestic inequality, by the end of the 19th and during the 20th century the main cause was international inequality (Bourguignon and Morrisson, 2002: 742)

<sup>8</sup> The general idea is that a fact is morally relevant in a given situation when its presence or absence changes the moral requirements that apply to this situation.

<sup>9</sup> Even though the problem pertains to us at a personal level, we rarely formulate it in the first person. Both the data and the problems tackled are configured as though they were alien. We wonder, for instance, whether it is morally justified that the fortune of the three wealthiest people in the world should be greater than the sum of the GDPs of some of the least developed countries with a population of 600 million people. (UNDP, 1999: 3). Since we probably belong to neither the group of millionaires nor the population of the

do, we are richer than most of our fellow citizens<sup>10</sup>, and we possess resources and rights that are greater than those of most foreigners. Which of these facts is morally relevant?

The answer I shall offer in this work is distinct both from statist positions – which maintain that only domestic inequality is morally relevant – and from cosmopolitan positions – which ascribe moral relevance not only to domestic but also to global and international inequality. Unlike cosmopolitan positions, the stance I shall present denies that either global or international inequality is morally relevant. Unlike both statist and cosmopolitan positions, I shall maintain that *domestic* inequality is morally relevant only when it occurs in particular types of states: those that are politically legitimate. The relative level of resources and rights that exists either between citizens of an illegitimate state or between individuals who inhabit different states – legitimate or not – or between different states, is not morally relevant.<sup>11</sup>

On the one hand, the position I will present is distinct from statist views that have linked the moral relevance of inequality to the existence of either communal ties, or coercively imposed institutional schemes, or institutional schemes that require from the citizens acceptance as well as compliance. These statist positions have been held respectively by communitarians - such

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least developed countries, even though it appears to us to be a pressing problem, we remain comfortably apart from it. This allows us to worry in theory but in fact to carry on with our lives as though nothing at all were happening.

<sup>10</sup> Like most university scholars around the world I belong to the richest decile of my country. In Argentina, this group is composed of those with family per capita incomes between 1,300 and 41,300 Pesos. In the poorest decile are those whose family per capita income is between 0 and 120 Pesos. (INDEC, 2007:1) In all likelihood, my readers are not in the poorest decile of their respective countries. Those in this bracket have no time to read philosophy: they have other more urgent needs to attend to.

<sup>11</sup> Although space constraints do not allow me to take up this issue here, at the international level as well as in the case of illegitimate states, what is morally relevant is that the citizens should be able to have *enough*, not the relative level of the shares they possess. Nonetheless, although in both domains *sufficientarian* requirements are applied, I do not consider these requirements to be identical. It is not the aim of this work to address this issue, but rather to question when the relative level of rights, resources and liberties becomes relevant. It does not intend to establish what other considerations are relevant when inequality – or the relative level – is not.

as Alasdair Macintyre (1981, 1984), David Miller (1995) and Michael Walzer (1977, 1983, 1995)<sup>12</sup>, by liberal egalitarians - such as Michael Blake (2002) - who based the distributive justice requirement on coercion, and by liberal egalitarians - such as Thomas Nagel (2005) - who base this requirement on the existence of a coercively imposed institutional system that demands that citizens or subjects accept and not merely obey its rules. The commonality among all of these positions is that they link the moral relevance of inequality to the existence of a state regardless of the state's political legitimacy. Even Nagel, whose view is closely related to my own position, holds inequality is morally relevant even if state's institutional scheme is dictatorial (2005: 129). On the other hand, my position is distinct also from cosmopolitan views, such as those defended by Charles Beitz (1979-1999, 1983) and Thomas Pogge (1989) among others, which ascribe moral relevance both to inequality existing between individuals inhabiting different states and to inequality existing between states.<sup>13</sup>

The argument I shall present has three parts. The first (Sections I, II, III and IV) establishes the circumstances in which inequality is morally relevant. The second (Section V) explains why these circumstances are so configured in legitimate states. The third shows why they are not configured regarding global (Section VI) or international (Section VII) inequality. It should be pointed out that the strategy used in this text (to show that only inequality found at the core of legitimate states is morally relevant) does not consist systematically in refuting counter arguments made by other authors. That would be an impossible task. Instead of showing the weaknesses of those counter arguments, I have focused on presenting what I consider the best argument to support my position. If said argument is more morally attractive

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<sup>12</sup> Others Comunitarian views have been defended by Tamir (1993) and Taylor (1989, 1994).

<sup>13</sup> Different Cosmopolitan views have been put forward by Singer (1972, 2002) Barry (1982, 1989), Moellendorf (2002), and Tan Kok-Chor (2004). The classification criterion I have used does not include those who state that all individuals – regardless of their belonging or not to a particular state – should enjoy a minimum share measured in absolute terms. Those with *sufficientarian* approaches to the problem of the distribution at the global or international level are not here considered cosmopolitan, although according to other classification criteria no doubt would they be. This poses a problem when classifying proposals such as those of Pogge (2002) and Jones (1999), for example.

to the reader than those offered by those who defend other points of view, I will have been successful in my endeavor.<sup>14</sup>

*INEQUALITY, EGALITARIAN OR PRIORITARIAN PRINCIPLES AND REQUIREMENTS OF RECIPROCAL JUSTIFICATION*

The unequal distribution of resources, rights, and liberties is a fact. Some people have worse distributive shares than others. For present purposes I will take such inequality to be morally relevant when there are moral principles that prescribe improvement of the worse-off person's position due to the fact her/his share is smaller than others. If the applicable principles do not prescribe this, or if there is no moral principle applicable at all, then such inequality is morally irrelevant. The worse-off position can be improved either in relative terms, by reducing the gap between it and the other positions, or in absolute terms, by increasing the size of the worse-off distributive share without reducing the gap. Thus, if there is no moral principle that is applicable, or if the applicable moral principle prescribes neither narrowing the gap between the distributive shares nor increasing the size of the worse-off person's share due to the fact it is smaller than others, then the inequality will be morally irrelevant: the existence of an unequal distributive pattern would have no moral implications.

Consequently, the idea of morally relevant inequality that I will use in this work has two parts. First, a fact (such as the existence of an unequal distributive pattern) is morally relevant only if moral principles establish its moral relevance. The idea that facts have moral relevance only when there are moral principles that establish their moral relevance is commonly accepted.<sup>15</sup> For example, the fact that somebody is drowning is morally relevant because of the existence of a moral principle that prescribes helping others. This principle confers moral relevance on the fact that somebody is drowning. Second, the moral relevance of inequality is established by principles that prescribe improvement of the worse-off position, either in relative or in absolute terms.

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<sup>14</sup> I believe this to be the strategy that is usually employed by those who reject the moral relevance of global or international inequality. First, they present the considerations that make inequality morally relevant; then they go on to demonstrate that these considerations are not present at a global or international level. This is the case, in the works of Nagel (2005), Blake (2002) and Rawls (1999), for example.

<sup>15</sup> This idea is rightly rejected by naturalist metaethical conceptions. Although I think the position I argue for here is compatible with naturalist convictions, showing this extreme is not an aim I pursue in this paper.

In order to determine which circumstances make unequal distribution morally relevant, it is necessary to follow three steps. First, identify the type of moral principles that prescribe improving the worse-off person's position due to the fact her/his share is smaller than others. Second, determine which requirements are satisfied by the application of these types of principles. Third, establish in which circumstances these requirements take place. Once these three steps have been followed, it is possible to answer the question about the moral relevance of inequality. Wherever these last requirements take place, the moral principles that prescribe improving the worse-off position are applicable; and wherever such principles are applicable, the inequality is morally relevant.

An example may clarify the foregoing claims. Imagine we want to know in which circumstances the fact that someone is drowning is morally relevant. Suppose that we have already determined that a moral principle prescribing help to others confers moral relevance on that fact. Additionally, suppose that we have already determined that the rationale behind this principle (i.e., the requirement that is satisfied when this principle is followed) is to treat each human being in a way that appropriately respects his or her dignity. At this point it is possible to establish in which circumstances the fact that someone is drowning has moral relevance. Whenever the requirement to treat each human being in a way that appropriately respects his or her dignity applies, that is, whenever I face another human being, the moral principle that prescribes helping others is applicable. Since I face another human being when I see one who is drowning, the fact that someone is drowning is morally relevant.

Let us begin with the first step. What are the moral principles that confer moral relevance on inequality? What are the moral principles that prescribe improving the worse-off position? Derek Parfit (2000) has identified two categories of these principles: egalitarian principles that favor the worse off, because this is a way of approaching the intrinsically valuable egalitarian distribution, and prioritarian principles that hold that what is intrinsically valuable is improving the position of the worse off, where an egalitarian distribution is merely a means of accomplishing this.<sup>16</sup> The egalitarian and

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<sup>16</sup> *Egalitarian* principles also include *conditional egalitarian* principles. These are *egalitarian* principles conditioned by the satisfaction of another value, such as for example *sufficiency* or *efficiency*. Within the *sufficientarian egalitarianisms* we find *down-leveling egalitarianism restricted by sufficiency*, which indicates that equality should be sought even by lowering the absolute level of the distributive shares providing these shares do not fall below the threshold of sufficiency. Also found here is *sufficiency-constrained luck egalitarianism* that maintains that although the size of the

prioritarian principles, respectively, prescribe improving the worse-off position in relative terms or in absolute terms. Both principles prescribe bettering this position because it is smaller than others. Therefore, in circumstances in which these principles are applicable, inequality is morally relevant.

On the other hand, the fact that someone receives fewer resources and rights than another is not morally relevant if the kind of principle that applies to the case is of a sufficientarian<sup>17</sup> or aggregative nature. *Sufficientarian* principles do not require that the inequality of the position of the *least* advantaged be eliminated or improved, but only that the share received by each individual should not fall below a specific threshold. It does not matter that someone has *more* or *less* as long as he or she is above this level. Nor do the *aggregative* principles require the elimination of inequality or an improvement of the position of the *least* advantaged, since they allow the loss of those who receive *less* to be compensated for by the greater benefits received by someone else.

The question, “In which circumstances is inequality morally relevant?” is therefore equivalent to another: “In which circumstances is there a requirement to apply prioritarian or egalitarian principles?” Thus we are led to another question: Which requirements are satisfied when egalitarian or prioritarian principles are applied to a situation? Answering this question is the second step necessary for determining in which circumstances inequality is morally relevant.

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distributive shares should be sensitive only to the voluntary choices of the individuals, no one should be allowed to fall below the threshold of *sufficiency* (Casal, 2007: 318-323). Within egalitarianisms restricted by *efficiency* we find *Paretian egalitarianism* which prescribes the most efficient egalitarian distribution. Within the egalitarianisms restricted by another value – different from sufficiency or efficiency – we find *up-leveling egalitarianism* which maintains that inequality should be reduced only when the distributive share of some individual increases. (Casal, 2007: 308-309). *Prioritarian* principles also include *comparative prioritariums* and *mixed prioritariums*. The former – unlike the *pure prioritariums* – concede priority to benefit individuals who are unfavored in relation to others in relative rather than absolute terms. The latter pay attention to both the unfavored in absolute and relative terms. Finally, also included are those principles that combine requirements of *equality and priority*, which Paula Casal calls *prigalitarian*. (Casal 2007: 309-310)

<sup>17</sup> Harry Frankfurt (1987, 1997 and 2000) has offered an influential recent statement.

There are three requirements. (1) The requirement for all who occupy distributive positions - according to a distributive pattern - to offer mutually acceptable reciprocal justifications with regard to the correction of the distributive pattern.<sup>18</sup> (2) The requirement that these justifications be acceptable regardless of the currently existing social position, natural talents, tastes, preferences, race, sex, religion, etc. of those who receive them. (3) The requirement that these justifications be acceptable so far as it is presupposed each individual has an interest in maximizing the size of his/her own distributive share. Put differently, *prioritarian* or *egalitarian* moral principles are the response to the requirement that each individual who occupies a distributive position has to justify the distributive pattern before those who occupy the rest of the positions, in such a way that it is acceptable for them as maximizing agents and regardless of the social and natural contingencies affecting them.

The reason for this is as follows. If I have to justify before others the correction of the distributive pattern, and I must do it in such a way that it is acceptable to them – regardless of their social and natural circumstances – presuming that they also have an interest in maximizing their share, and if they must do the same for me, the distributive pattern that will become justified will be one that is acceptable even to those occupying the *worst* distributive positions. Only those principles that are beneficial to those who receive *less* will be acceptable, either because they dictate an improvement in their position or because they dictate a strictly egalitarian distribution in which no one receives *less*. That is to say, only *prioritarian* or *egalitarian* principles will be acceptable.<sup>19</sup> Given that there is a requirement for the principle that justifies the distribution to be acceptable to all – regardless of their social or

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<sup>18</sup> That those who occupy distributive positions must offer each other mutually acceptable reciprocal justifications is not the only condition necessary for the first requirement to emerge. It is possible that individuals must offer each other justifications in order to show that the institutional scheme that produces the distributive pattern *belong* to each of them. In this case, reasons should be given to show that the configuration of the distributive pattern can be *attributed* to those who occupy distributive positions. For the first demand given in the text to be configured, mutually acceptable reciprocal justifications must be offered with regard to the *correction* of the distributive pattern. In order to make reading lighter, I will refer to this requirement as the offering of mutually acceptable reciprocal justifications, taking for granted that the justification refers to the *correction* of the distributive pattern.

<sup>19</sup> Nagel affirms that a strictly egalitarian or prioritarian principle would not be acceptable for individuals motivated by a mixture of personal and impersonal or impartial attitudes. Referring to his rejection of the Rawlsian Principle of Difference, he points out that “...I am inclined toward a somewhat weaker preference for the worse off, which can be outweighed by sufficiently large benefit to sufficiently large numbers of those better off.” (Nagel, 1991: 73) Nevertheless, I believe that this conclusion is subject to the *separateness of persons objection* which Nagel himself made against aggregative principles.

economic status, sex, natural talents, etc. – as maximizing agents, and since there is a conflict of interests between the parties that occupy different distributive positions, what comes nearest to unanimity is to find the criteria that are the least unacceptable to those who consider them the *least* acceptable (Nagel, 1979: 123). The requirement that the principles be as acceptable as possible to those who consider them the *least* acceptable is what leads to principles that prescribe an improvement in the distributive position of those who receive the *least*, that is, to *prioritarian* or *egalitarian* principles.

That one or another type of principle – *prioritarian* or *egalitarian* – be acceptable depends on the type of good to be distributed. If, given the good to be distributed, an unequal distribution were able to improve in absolute terms the worse-off position, the principle acceptable to those who occupy all the distributive positions regardless of their social and natural contingencies would be a *prioritarian* one. This principle is acceptable from all the distributive positions since it is acceptable even to those who occupy the least favored position.<sup>20</sup> If, given the good to be distributed, the opposite were to occur – and an unequal distribution were unable to improve in absolute terms the share of the worse off – a strictly *egalitarian* principle would be the only one acceptable from all the positions.<sup>21</sup>

An alternative way of seeing how these three requirements are satisfied by applying *egalitarian* or *prioritarian* principles to a situation is to examine how these requirements are *not* satisfied by any principle of any other nature, either *aggregative* or *sufficientarian*.<sup>22</sup> The first requirement for reciprocal justifications

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<sup>20</sup> Such is the case of the material resources in the Rawlsian conception of justice. In Rawls's opinion, it is possible to increase the absolute level of the resources of the worse-off person if a certain inequality is allowed. This provides an incentive for the most talented to be productive.

<sup>21</sup> Once again a Rawlsian principle can be taken here as an example. I refer to the first principle that prescribes the equal distribution of basic rights and liberties. The liberties must be distributed equally because it is not possible that the fact that one individual has a broader scheme of liberties than others broadens scheme of rights and liberties of those who receive *less*. The fact that one set of individuals has greater religious freedom than others cannot make the freedom of the latter broader.

<sup>22</sup> With regard to this I shall understand that to adopt a *sufficientarian* principle entails adopting what Paula Casal has called a *positive thesis* and a *negative thesis* concerning the distribution of a particular good. In her words: "...The *positive thesis* stresses the importance of people living above a certain threshold, free from deprivation. The *negative thesis* denies the relevance of certain additional

implies that a pattern of distribution must be justified as acceptable from each separate individual's point of view. This determines the exclusion of principles of an aggregative nature – such as the utilitarian principle – which render the distributive share each individual receives irrelevant. These types of principles would not be suitable to satisfy the requirement to justify a particular pattern of distribution to all individuals occupying distributive positions.<sup>23</sup> However, this requirement does not yet lead to principles as demanding as those that prescribe improvement of the position of those who receive the *least*.

*Sufficientarian* principles may be reciprocally acceptable from all distributive positions provided that some of the following extremes are true. First, acceptability is based on occupying a disadvantaged social circumstance or on not possessing any socially useful natural ability. In this case what appears as acceptable is a much less demanding principle than those that do not allow someone to receive a share *lower* than anyone else's, or that require that the *lower* share be as large as possible. Second, the criterion of acceptability is not maximizing the distributive shares. If the justification must not presume that the individuals have a maximizing interest but a more modest one, less demanding principles than the *egalitarian* or *prioritarian* ones will appear acceptable.

Consequently, only with the additional requirement that the distributive pattern be acceptable to all regardless of their currently existing social and natural circumstances on the basis of a maximizing interest, are *egalitarian* or *prioritarian* principles applicable. When the influence that currently existing social and natural conditions exert on the acceptability of a particular principle are neutralized, all the individuals occupying distributive positions

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distributive requirements.” (Casal, 2007: 297-298). Consequently, to adopt a *sufficientarian* principle regarding the way in which a good should be distributed implies denying that in relation to the good in question there is any other distributive requirement to satisfy, be it *egalitarian*, *prioritarian* or of any other nature.

<sup>23</sup> With regard to this point, Nagel indicates: “This ideal of individual acceptability is in fundamental opposition to the aggregative ideal, which constructs a special moral point of view by combining those of individuals into a single conglomerate viewpoint distinct from all of them...” (Nagel, 1979: 123). This objection to aggregative principles is known as the *separateness of persons objection* and has also been put forward by Nozick and Bernard Williams. The discussion of the objection has been dealt with in multiple works. See David Brink (1993), Parfit (1984), and Scheffler (2004), among others.

are placed on an equal footing. Consequently, the requirements that the distributive pattern needs to satisfy to be acceptable to everyone are all of the same magnitude, whatever the circumstances are regarding the individual in question. If it is additionally presumed that the individuals are interested in maximizing their distributive share, the only distributive pattern that will satisfy these requirements is one that is beneficial to all regardless of the individual's social circumstances, talents, gender, etc. Which distributive pattern is beneficial in these conditions will depend on the type of good that is being distributed.<sup>24</sup>

So, while the requirement of acceptability to all the individuals occupying distributive positions excludes *aggregative* principles, the requirement that the principles be acceptable regardless of currently existing social and natural circumstances, together with the assumption that everyone has a maximizing interest, excludes *sufficientarian* principles.<sup>25</sup>

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<sup>24</sup> The condition of principles being acceptable regardless of currently existing social and natural contingencies is equivalent to that of principles being acceptable to each one of the individuals insofar as they are free – of all conditioning resulting from said social and natural circumstances – and equal – insofar as the social and natural circumstances differentiating them have been eliminated. This requirement of acceptability by free and equal individuals is what leads to strongly egalitarian or prioritarian principles, which prescribe the improvement of the worse off.

<sup>25</sup> Paula Casal (2007) has identified four types of reasons or arguments sufficientarians posit in favor of their position: the argument of deprivation, the argument of allegiance, the argument of scarcity and the argument of abundance. The first indicates that what is bad is that some individuals should have *little* - an insufficient share of resources – not that they should have *less*. The second maintains that a principle that guarantees that all should have sufficient is easier for the population it applies to to abide by or accept than one that does not. The third accepts situations of extreme scarcity to show that egalitarian principles – unlike sufficientarian ones – reach counterintuitive conclusions. In these situations, they argue, egalitarians can oppose the fact that some should have enough with the sole objective that all should enjoy an equally insufficient distributive share even though this does not benefit anyone. Finally, the fourth argument appeals to cases of extreme abundance to show how here inequality is irrelevant. Paula Casal has criticized each of these arguments in different ways. Regarding the first, she has pointed out that at most it shows that it is morally correct that all should have *sufficient* – that no one should be in a situation of deprivation – but does not show it is not

The argument so far can be summarized as follows. First, the applicability of *prioritarian* or *egalitarian* principles to a situation makes the relative level of resources and rights morally relevant. Second, the requirements that are satisfied when *prioritarian* or *egalitarian* principles are applied to a situation are: (1) The requirement for all who occupy distributive positions - according to a distributive pattern - to offer mutually acceptable reciprocal justifications with regard to the correction of the distributive pattern. (2) The requirement that these justifications be acceptable regardless of the currently existing social position, natural talents, tastes preferences, race, sex, religion, etc. of those who receive them. (3) The requirement that these justifications be acceptable insofar as they presume an interest in each individual in maximizing the size of his or her own distributive share. The conclusion that follows warrants asking the question “In which circumstances is inequality morally relevant?” amounts to posing three other questions. First, in which circumstances are all people who occupy distributive positions required to give each other reciprocally acceptable justifications with regard to the correction of the

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relevant for someone to have less than another above or below this threshold (Casal, 2007: 304-305). The second argument similarly establishes that principles that guarantee what is *sufficient* are easier to abide by than those that do not but fails to show that principles, besides ensuring what is *sufficient*, reduce the distance between those who have *less* and *more* are harder to abide by. (Casal, 2007: 305-306). Something similar occurs with the third argument, which shows the importance of everyone having what is *sufficient* but does not show that – either below or above this threshold – it is irrelevant for some to have *less*. Regarding the objection that egalitarianism promotes – when the resources are scarce – an insufficient but equal distribution that does not benefit anyone; the answer simply consists in pointing out that, on one hand, this does not serve as an attack on prioritarian principles, nor does it serve as an attack on *conditional egalitarian* principles that hold that there are reasons to promote equality providing this does not threaten sufficiency – this would be the case of *sufficientarian egalitarianism* – or efficiency – such would be the case of *Paretian egalitarianism* (Casal, 2007: 306-310). Finally, with regard to the fourth argument, the most direct answer consists in showing situations – contributing towards the reparation of the consequences of a natural disaster – where inequality is relevant even among people living in abundance. Those who have *less* should contribute *less* (Casal, 2007: 310-312). Therefore, all the objections to the sufficientarian arguments Paula Casal uses revolve around the fact that such arguments fail in their attempt to show the irrelevance of someone receiving *less*. That is to say, none of these arguments shows that a sufficientarian principle would be acceptable to those who occupy all the distributive positions regardless of their race, social standing, talents, etc.

distributive pattern of resources and rights? Second, under what circumstances must these justifications be acceptable to all regardless of their currently existing social and natural characteristics? Third, under what circumstances must these justifications presuppose that all individuals to whom these justifications are addressed have a maximizing interest? Answering these questions is the third step to be taken in determining under what circumstances inequality is morally relevant. I shall devote the following three sections to address each of one of them in turn.

## *II- THE REQUIREMENT OF RECIPROCAL JUSTIFICATION OF THE DISTRIBUTIVE PATTERN*

The first question I formulated can in turn be split in two. First: under what circumstances are people required to give each other reciprocally acceptable justifications? Second: What considerations ground the requirement that a distributive pattern should be the object of this type of justification among those occupying the different distributive positions?

Let us begin with the first, why should I justify the correctness of my decisions before others and why should they do the same before me? This is not the same as asking: Why should I use assessment criteria to justify the correctness of my decisions? But as asking: Why should I use assessment criteria to justify that my decisions that are acceptable to others? Why should I use assessment criteria for my decisions that are acceptable to someone other than me? If the decision is mine, why should it not only be me that should assess its correctness?

Given that I am a reason-responsive agent and can reflect upon my decisions and actions, why should these not be assessed only from my point of view but also from the point of view of others? What considerations might justify the requirement to assess a decision from a broader perspective than that of the person who adopts it? This seems contrary to the very idea of a reason-responsive agent managing his or her life from within. Why should the decision of a reason-responsive agent be assessed not from his or her perspective but from the perspective of an *us*?

One possible answer is linked to the imposition of actions or states of affairs upon others reason-responsive agents. If my decision – that another agent's action should occur or a state of affairs should exist – is to be coercively imposed upon another reason-responsive agent, this could require assessing it from his or her perspective. Consequently, if a decision were to be reciprocally coercively imposed by each of *us* upon each of *us*, this could

require assessing it from *our* perspective. Nonetheless, I believe this answer is not correct despite its plausibility.

As I understand it, reason-responsive agents aspire to two things: to lead a life based on their own considerations and that these considerations be genuine reasons.<sup>26</sup> If an agent's life is led according to the decisions of another or based on one's own decisions which are not genuine reasons, the interests one has as a reason-responsive agent have not been satisfied. The first of these interests, that of living a life based on one's *own* considerations, is threatened by the coercively imposed decision or state of affairs.<sup>27</sup>

The existence of decisions that individuals coercively impose on each other does not generate the requirement that these decisions are *correct* according to acceptable assessment criteria from the points of view of all parties involved. The imposition of decisions on others generates the requirement that these decisions must be attributable to them as their *own* ones. The affront caused by imposing an action or state of affairs upon a reason-responsive agent consists in the decision being *alien* and not in its being *wrong* from his or her perspective. Therefore, the moral requirement generated by coercion cannot consist in the decision's criteria of assessment – or of *rightness* – being acceptable to the coerced subjects. The moral requirement must be such that once it is satisfied it makes the *alien* nature of the decision disappear. But it is perfectly possible for a subject's *own* decision to be wrong according to the assessment criteria he or she accepts.<sup>28</sup> It is also possible for an *alien* decision to satisfy assessment criteria acceptable to those it is imposed upon.<sup>29</sup> The affront generated by the coercion is not satisfied by the fact that the content of the *alien* decision might satisfy assessment criteria acceptable to those

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<sup>26</sup> One way of justifying this normative conception of person is to maintain that what sets human beings apart – and also that which is most valuable – is the capacity to evaluate and weigh reasons and to lead one's own life according to those reasons. The moral value of this capacity determines both interest – the interest in leading one's life based on one's considerations as well as the interest that these be morally genuine reasons – have moral relevance when deciding what is required in our dealings with each other.

Nevertheless, I do not believe this to be the only justification possible. Other justifications, without such metaphysical connotations are also available.

<sup>27</sup> I believe the idea used of a reason-responsive agent is sufficiently broad thus negating the need to take sides between the externalist and internalist positions of reasons. The idea is compatible with a type of internalism and a type of externalism.

<sup>28</sup> This would occur for example in cases of *akrasia* where the individual accepts a criterion of correctness even though his or her decisions do not satisfy it.

<sup>29</sup> This would occur in some cases of morally justified *paternalistic* interventions.

coerced. The moral requirement that the reciprocal coercion generates is not satisfied when the content of the imposed decision is reciprocally acceptable as correct for *us* but when the decision is *ours*, that is, when it is of *our authorship*.<sup>30</sup> Reciprocal coercion generates the demand on each one of the individuals – who coercively impose a decision – to offer reciprocal justifications showing that the decision satisfies the necessary requirements for it to be attributed to those it is imposed upon. Justifications have to show to those coerced that the coercive decision is their own, it is of their *authorship*.<sup>31</sup>

The answer to our question must be sought out in a slightly different case from that of coercion. I refer to the situation where a course of action or a state of affairs is not imposed upon a reason-responsive agent, but where a decision is ascribed to him or her. The following example illustrates this circumstance. Three friends sign a birthday card addressed to another person but leave the text blank, with the aim of completing it later. On the actual birthday, one of them notices that the birthday card is blank and with no chance to consult the others' opinion, decides to complete it. Since the signatures below the text belong to all three of them, its content will also be ascribed to the other two friends as their *own*. Let us assume that the friend completing the text thinks it is morally permissible and necessary for reasons of health to eat meat – even knowing that the other two are vegetarians – and writes on the card: “We wish you a happy birthday; next Saturday we will treat you to a pork barbecue that the four of us will eat.” Has any requirement, generated by the fact that the decision is ascribable to others, been violated by the friend who filled in the card? And, if so, which one is it?

It cannot be the requirement to adopt a decision whose content is, among other things, morally right. We have this requirement altogether regardless of the fact that the content of the decision might be ascribable to others as their *own*. That is to say, if vegetarianism is morally right, there is a moral requirement that has not been satisfied but it is not a requirement that has

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<sup>30</sup> What generates *authorship* demands is not merely the fact that *another's* decision has consequences on a reason-responsive agent. It is also necessary that the *other's* decision has that end as a goal. That the life of a reason-responsive agent is guided by the decisions of *others* – and not simply suffering the unintentional consequences of those decisions – generates the affront which is avoided by the satisfaction of authorship demands. What matters is coercive imposition, not mere externalities.

I deal with authorship demands with respect to institutional design below, in section V.1.2.

<sup>31</sup> The existence of mutual coercion generates the demand to provide mutually-acceptable justifications with regard to the *attributability* or *authorship* of the decision coercively imposed. It does not generate the requirement to provide mutually-acceptable justifications with regard to the correctness of the decision.

emerged from the fact of attributing the authorship of a decision to others. The vegetarian friends can criticize the content of the decision as wrong, whether or not it is imputable to them.

The fact that it is attributable to them, however, does give them something else to complain about.<sup>32</sup> They can complain about the character of the assessment criteria used to determine the correctness of the decision's content. Since the decision to eat meat adopted in the card was going to be ascribed to them as their own, the assessment criterion of this decision had to be acceptable to them. This requirement follows from their conditions as reason-responsive agents who manage their lives from within, that is, based on their own criteria. The friend who gave content to a decision that would also be attributed to them failed to treat them as reason-responsive agents who assess their decisions based on criteria they accept as correct. Since the decision was also going to be ascribed to other reason-responsive agents, the assessment criterion used should not only be acceptable to him or her but to all those to whom the decision would be ascribable.

The reason for this lies in the two types of interest that all reason-responsive agents possess. As I have pointed out above, the fundamental interests of a reason-responsive agent are on one hand to conduct his or her life from within – according to his or her own considerations – and to conduct it correctly – in such a way that these considerations become genuine reasons. Connecting these two things, we conclude that it is in the interest of any reason-responsive agent that his or her decisions be correct – on one hand – and that they be so according to an assessment criterion he or she can see as such, that is, an assessment criterion that is acceptable from his or her point of view. The fundamental interest of a reason-responsive agent is, then, to conduct his or her life according to genuine reasons that he or she may see as such. Therefore, to adopt a decision whose authorship will also be ascribed to other reason-responsive agents carries with it the requirement to use assessment criteria that are acceptable to them. To do otherwise would harm their fundamental interests.<sup>33</sup> To treat them as reason-responsive agents requires one to justify the decision on the basis of assessment criteria they can accept. What generates the requirement to justify a decision on the basis of

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<sup>32</sup> The relevant point here is not merely the fact that decision purports to be ascribable to them.

<sup>33</sup> Besides the reasons related to reason-responsive agency, there may be other reasons for complaining. For example, they may complain because their sentiments have been misrepresented. However, my point is just that in the described situation people have reasons related to reason-responsive agency for complaining; it is not that those are the only kind of reason they have for complaining.

assessment criteria acceptable to others is that this decision is to be ascribed as being of their *authorship*.<sup>34</sup>

The question: “Why should I use an assessment criterion to justify my decisions that is acceptable to others?” can be answered: because it is a decision that is not just mine. In what circumstances does the requirement appear that I should use assessment criteria for my decisions that are acceptable to someone other than me? If I am about to determine the content of a decision whose *authorship* will be shared, this content must be correct according to an assessment criterion that is acceptable to all of its *authors*. When the content of a decision – whose authorship will apply to a set of reason-responsive agents – can be determined by each one of them, each of them has the requirement to justify the content he or she opts for on the basis of an assessment criterion that is acceptable to the rest of them. The ascription of the authorship of a decision to other reason-responsive agents and the chance to have a bearing on the content of this decision generates the requirement to offer reciprocally acceptable justifications.

What I have pointed out does not yet answer the question regarding the requirement of reciprocal justifications of a distributive pattern. Under what circumstances does the requirement appear that a distributive pattern should be the object of these types of justifications among all the individuals who occupy the different distributive positions? Following the conclusion reached above, when the *authorship* of a decision to configure a distributive pattern is going to be ascribed to all the individuals occupying the different distributive positions and when each of them can determine the content of this decision, each of them has the requirement to justify the content for which he or she opts on the basis of an assessment criterion that is acceptable to the rest.

The idea can be illustrated by altering slightly the case of the birthday card. Let us suppose that three individuals, with the purpose of sharing a certain amount of resources, sign a card with the following text, “Each one will receive...” leaving the distributive pattern blank. Anyone aiming to complete the text – if he/she wants to satisfy the requirement to treat others as reason-responsive agents – will have to determine a distributive pattern in keeping with an assessment criterion that is acceptable to each other. Since this

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<sup>34</sup> This conclusion is based on two assumptions, one metaphysical the other normative. The metaphysical one is that human beings are reason-responsive agents with certain fundamental interests. The normative assumption is that we must respect these interests. I think these assumptions are weak enough to be commonly accepted.

distributive pattern will determine the distributive positions of the three individuals, it will have to be a distributive pattern that satisfies an assessment criterion acceptable to all the individuals occupying the different distributive positions.

In conclusion, the following is the answer to the question regarding the circumstances in which the requirement to offer reciprocally acceptable justifications appears – among all the individuals occupying distributive positions – for the way in which resources and rights are distributed. If the distributive pattern is configured by a decision whose *authorship* belongs to all the individuals<sup>35</sup> to whom said pattern applies and if each individual can influence the content of this decision, it follows then that each of them carries the burden of the requirement to offer each other individual reciprocally acceptable justifications for the way the resources and rights are distributed.

### ***III- THE REQUIREMENT OF ACCEPTABILITY REGARDLESS OF SOCIAL AND NATURAL CONTINGENCIES***

Under what circumstances must these justifications be acceptable to all individuals occupying distributive positions regardless of their currently existing social and natural contingencies? As was the case of the above question, this one will also be split into two parts. First: Under what circumstances must these justifications be acceptable to individuals regardless of certain features that characterize them? Second: When do the features from which acceptability must be independent include individuals' social and natural contingencies?

Let us begin with the first part of the question. Once again a case can help to illustrate the answer. Let us imagine three brothers whose parents have subjected them from birth to a particular distributive pattern for their toys, food, clothes, money, etc. One of them has been provided for plentifully, while the other two have been granted the minimum. Each of them has developed a different type of preference. The one who received more prefers a life of opulence, whereas the others prefer a frugal life. One of the brothers who prefers frugality has been led to this preference by a causal mechanism that he is not aware of, while the other has deliberately decided to work to adjust his wants to his possibilities. Additionally, the more favored brother has had the opportunity to attend university and to develop his natural talent

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<sup>35</sup> I will comment further on idea of collective authorship in section V.

for medicine. As a doctor, he has had a successful career. The other two brothers, instead, have never had the opportunity to attend university and consequently they have neither developed their natural talents nor have they had successful or profitable careers. In the end, this situation has caused the poor brothers to live on the financial aid lent by the rich brother. At the same time, this has made them believe their rich brother possesses much greater business acumen than they do.

Imagine that in this situation, in order to determine how the familial inheritance will be distributed, they sign – once they are of age – a card identical to the one in the earlier case. Let us suppose the more favored brother completes the card in such a way that the distributive pattern established by his parents remains in place. Imagine that the two less favored brothers think this criterion is acceptable for one of the following reasons: a) The brother who has developed a frugal character as a result of a causal mechanism that he is not aware of has no interest in a greater share of the inheritance; b) the other brother who developed a similar character on his own because of a conscious decision is not interested in a larger share either<sup>36</sup>; c) both believe that the only way for them to subsist is due to the financial support lent by their rich brother, whom they deem to have greater business acumen, and they believe that it is best to leave the larger share of resources to him so that he can continue to help them; d) both consider that their brother has developed his natural talents. He is a prestigious physician, and therefore he deserves a bigger share of the inheritance; or e) both believe that their brother is rich and, consequently, has more bargaining power than they do. For all these reasons, the distribution criterion will be acceptable to all those who occupy distributive positions. However, we must ask whether there is any requirement that the most favored brother has failed to satisfy?

The answer is once again affirmative. As we have seen, if the *authorship* of a decision is to be shared by other reason-responsive agents, there is a requirement that the content of the decision be right according to an assessment criterion that is acceptable to all its *authors*. This follows from the fact that a reason-responsive agent aspires to conduct his or her life according to genuine reasons that he or she can see as such, or what amounts to the same, aspires to make decisions that are right according to an assessment criterion that he/she can see as such. However, when attempting to evaluate an existing situation – such as the distributive pattern in our example – the risk run is that the situation may provoke certain conditions where, even

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<sup>36</sup> I am ruling out the alternative that they value the entitlement to a bigger share itself, even if they prefer not to exercise it in order to preserve a more frugal life.

though the assessment criterion is accepted by all individuals occupying different distributive positions, the acceptance is irrational. In these situations, the assessment criterion is acceptable to them, but not as agents who aspire to live their lives according to genuine reasons.

The first instance of irrationality that can arise is that certain beliefs and preferences or character traits may have been induced by the situation that the individuals occupy in the currently existing distribution pattern and that the evaluation criterion is only acceptable to them because of these considerations. In the case of beliefs, if individuals have arrived at them due to the fact that their ability to judge the relevant evidence has been distorted by their position in the currently existing distribution pattern, those beliefs are irrational.<sup>37</sup> In the case of the preferences and character traits, if they have been generated by the position that the individuals occupy in the currently existing distribution pattern, then they have been generated by causal factors which are beyond the control of the individuals and, as a consequence, they are irrational.<sup>38</sup>

The first problem arises then from the fact that the distributive framework to be evaluated may have generated certain irrational beliefs and preferences or character traits. An assessment criterion based on this kind of consideration would be irrational and, consequently, not would be acceptable to reason-responsive agents who aspire to conduct their lives according to genuine reasons.

The second instance of irrationality that can occur arises from the fact that the assessment criterion is acceptable only due to the effects that the currently existing distribution pattern has produced on the individuals. Unlike the previous instance of irrationality, it is possible that the beliefs held by the individuals about those effects are rational. The same can be applied to the preferences or character traits that individuals have autonomously developed because of those effects.<sup>39</sup> Accepting an assessment criterion based on these

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<sup>37</sup> This type of beliefs would fit in what Elster calls *illusions*, that is, situation-induced beliefs (Elster, 1983: 143-148)

<sup>38</sup> These would be cases of preferences distorted by the situation. In reference to the way in which rational preferences are formed, Elster points out that "...there are persons that apparently are in control over the processes whereby their desires are formed or at least are not in the grip of processes with which they do not identify themselves..." (Elster, 1983: 21)

<sup>39</sup> The development of a rational preference based on the effect of the distribution framework could be produced by what Elster calls character planning. Elster maintains: "The notion of adaptation is crucially ambiguous, lending itself to a causal as well as to an intentional reading. ...In both cases the process begins with a state of tension between what you can do and what you might like to do. If the escape from this tension takes place by some causal mechanism of

beliefs or preferences is not irrational because those beliefs and preferences are themselves irrational. What is irrational is the belief that what one is accepting is an assessment criterion. An assessment criterion that appears to be justified to individuals due to the effects produced by the object which is meant to evaluate – the currently existing distribution pattern – is not an assessment criterion at all. It has no critical power to determine if the currently existing distribution pattern is justified by genuine reasons.

Therefore, if a distribution framework exists that produces certain effects on the individuals to which it applies, the proposed assessment criterion should be acceptable by those individuals regardless of the effects that the existing distribution has on them. If the individuals accepted such a criterion simply on account of the distorting effects the existing distributive pattern had on them, this would not be an acceptable assessment criterion of said pattern. It would be an acceptable criterion, but it would not be an acceptable *assessment* criterion.<sup>40</sup>

The second problem arises then in that the assessment criterion that appears to be acceptable only appears as such due to the effects that the currently existing distribution framework produces on the individuals to which it applies. Such a criterion would lack all power to critique the currently existing distribution pattern and, therefore, it would be irrational to consider it an assessment criterion. For something to be a genuine assessment criterion – which does not necessarily imply that it is a correct criterion – it is necessary for its acceptability to be independent of the effects produced by the existing situation that it purports to assess. A criterion that does not satisfy this demand would not be acceptable as an assessment criterion as evaluated by agents who aspire to live a reason-responsive life.

The case of our example shows the two kinds of distorting effects an existing pattern of distribution can produce on the individual capacity for acceptance. Considerations a) and c) from our example, are respectively cases of irrational preferences and beliefs. The one brother's preference for a frugal life is an irrational adaptive preference developed because the scanty share of resources

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dissonance reduction, we are dealing with sour grapes; if it is engineered by conscious 'strategies of liberation', with character planning...' (Elster, 1983: 117)

<sup>40</sup> It is not problematic that an assessment criterion has the capacity to generate its own support. What is problematic is that the criterion is *only* acceptable due to the effects that the current distribution pattern has upon individuals. If a criterion is acceptable independently from the effects of the current distribution pattern has on individuals and if the criterion, once it has been implemented, has the capacity to generate its own support, then there is no problem at all. The criterion is not only an assessment criterion but it is also a stable criterion. (My thanks to Andrew Williams for bringing this point to my attention.)

that he receives in the currently existing distribution pattern, a circumstance that is out of his control.<sup>41</sup> Equally irrational is both brothers' belief that they must live off the generosity of the other sibling and that he has a greater knack for business than they do. None of these conclusions has been generated by relevant evidence. Neither fact that both, under the current distribution pattern, have lived off the generosity of their brother or that he is more well off than they are, is sufficient evidence to justify maintaining either of the beliefs. It is the disadvantaged position that they occupy in the currently existing distribution pattern that makes them erroneously conclude that they can only live off of others – because they have not know another way – or that their brother has a better knack for business – because he is more well off. Both beliefs are a type of illusion provoked by the situation.<sup>42</sup>

Considerations d), e) and b) are examples of the second kind of distorting effect. The belief that the favored brother has more developed talents and more bargaining power are true, and these are not irrational beliefs. However, the greater talent development and bargaining power of the favored brother have been produced by the existing pattern of distribution itself. The same is true of the preference for a frugal life which was developed by one of the less favored brothers through character planning. This preference, unlike the almost identical preference of his other brother, is rational since it was developed deliberately. A criterion based on these beliefs and preferences would not be irrational, however it would be irrational to accept it as an *assessment* criterion. The criterion proposed by the favored brother seems acceptable to the less favored brothers simply because they find themselves in a situation whose particular features have been produced by the distributive pattern that the criterion intends to assess.

For a currently existing distribution pattern's assessment criterion to be acceptable to a reason-responsive agent, it should therefore satisfy two demands. Firstly, the criterion must be acceptable based on rational beliefs –

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<sup>41</sup> With regard to the idea of adaptive preferences, Elster points out: "... (an adaptive preference) is the adjustment of wants to possibilities, not the deliberate adaptation favoured by character planners, but a causal process occurring non-consciously. Behind this adaptation there is the drive to reduce the tension or frustration that one feels in having wants that one cannot possibly satisfy." (Elster, 1983: 25)

<sup>42</sup> In reference to this type of beliefs, Elster comments: "The characteristic feature of this case... is that the believer generalizes certain features of his local environment, wrongly believing them to hold in a wider context..." (Elster, 1983: 144) From the fact that in their current situation they have had to live off of others, the brothers infer that they would have to do so in any situation. From the fact that in the current situation, their brother is more well off, the brothers infer that this would be the case in any other situation, leading them to conclude that he has a better business sense than they do.

produced by relevant evidence and not distorted by the position of the individuals occupying the currently existing distribution pattern – and by rational preferences – not produced by the position the individuals occupy in the distribution pattern which is supposed to be evaluated. Secondly, the assessment criterion must be acceptable independent from the consequences that the currently distribution framework has produced on the individuals to which it applies.

The first demand mentioned above establishes that the distribution pattern must not be acceptable just because of certain irrational beliefs and preferences. Nevertheless, it is the second demand that allows this question to be answered: Under what circumstances must one justify a distributive pattern according to an assessment criterion that is acceptable to all who occupy distributive positions, regardless of certain features which are characteristic of them as individuals? Firstly, a distributive pattern must exist which has generated certain consequences on the individuals it applies to. Secondly, as I pointed out in the previous section, there must exist the possibility of reconfiguring said pattern by a decision whose *authorship* is ascribed to all the individuals to whom the pattern applies and whose content any of them can influence. If this is the case, each individual will be subject to the requirement to offer to each other justifications that they can accept regardless of the consequences that the existing distributive pattern might have caused on the individuals it applies to.

In the case of our example, each brother has the requirement to offer the others justifications that they can accept without regard to their frugal or spendthrift characters<sup>43</sup>, to their greater or lesser negotiation skills, or to their greater or lesser level of development of certain natural talents because all of these circumstances are effects produced upon them by the currently existing distribution framework. Hence, the requirement to justify the distributive pattern on the basis of an assessment criterion acceptable to those to whom the *authorship* of the decision will be ascribable - that is, on the basis of a assessment criterion that is acceptable to them regardless of the effects that the existing distributive pattern has had on their capacity for acceptance - has not been satisfied. In this case, the content of the decision whose *authorship* is also ascribed to the other two brothers is acceptable to all but only on

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<sup>43</sup> The acceptance should be independent from the type of character or individual preferences because of the above-mentioned demands. If preferences are irrational, because they were produced by a causal mechanism over which they have no control. If they are rational and were produced deliberately, because they were created by circumstances generated from the currently existing distribution pattern.

account of the distorting effects that the existing distribution has had on them.

Finally, with this conclusion in hand, it is possible to tackle the second question: Under what circumstances the features from which acceptability must be independent are a person's social and natural circumstances? Or to put it differently: When must a distributive pattern be acceptable, regardless of social and natural contingencies, to those to whom it applies? When the currently existing distributive pattern has profound effects on the development of the natural talents individuals possess, on their social class, personal character, preferences, life prospects, etc., the beliefs and interests produced by such effects – that is, by the particular development of natural talents and social class – are largely the result of the distributive pattern one intends to evaluate. If the greater part of individuals' natural and social circumstances are affected by the currently existing distribution pattern – and not simply a limited number of them, as in the case of the brothers –, the distributive pattern must be acceptable to those to whom it applies regardless of the beliefs and interests they have on the basis of their natural talents and social position, that is, regardless of their social and natural contingencies.

#### *IV- THE REQUIREMENT OF MAXIMIZATION AS A CRITERION OF ACCEPTABILITY*

Finally, we come to the third question formulated in Section I. Under what circumstances must these justifications presuppose that all individuals to whom they are addressed have a maximizing interest? These circumstances are closely linked to the requirement of reciprocal justification although they do not derive exclusively from it, which warrants dealing with them separately. The requirement that those who occupy the different distributive positions must offer reciprocally acceptable justifications entails two characteristics that the principles proposed as a justification and the arguments sustaining them must have. They must be suitable for public acceptance and they must be available to individuals as a guide to assess the distributive pattern.

The first of these characteristics, publicity, refers to the fact that the principles put forward as a justification of the distributive pattern must be able to be known by all, all must be aware that all other individuals know them, all must know that everyone knows that everyone knows them, etc. A principle such as indirect utilitarianism<sup>44</sup>, for example, does not satisfy this

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<sup>44</sup> I do not include here the type of rule-consequentialism defended by Hooker, according to which: "An act is wrong if and only if it is forbidden by the code of rules whose internalization (2011) J. JURIS 294

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requirement. It would not be suitable as the reciprocal justification of a distributive pattern. They must also be principles that justify the division of distributive shares on the basis of information about which all those to whom the justification is addressed have access to. For example, a principle such as equality of welfare conceived in subjective terms does not satisfy this requirement. Individuals' subjective metric is not publicly accessible. The application of a principle that uses a subjective metric, such as welfare, cannot be publicly controlled, is not acceptable to all and, therefore, would not be suitable as the reciprocal justification of a distributive pattern.

The second characteristic, that referring to the aptness of the principles to be a guide, consists in the principles proposed as a justification of the distributive pattern needing to be sufficiently concrete and simple so as to be used as an assessment criterion by any one of the individuals to whom the pattern is applied. Therefore, if the number of individuals to whom the distributive pattern applies is large and the type of individuals is heterogeneous – and not just political philosophers – the principle put forward as a reciprocal justification must not require individuals to perform complex calculations and arguments. It must be a principle that the average man or woman can use as an assessment criterion of the distributive pattern affecting him or her. Principles that refer to the opportunity for welfare – proposed by Arneson – or to access to advantage – by Cohen – would require excessively complex calculations and brainwork. They could not be used as a guide to assess a distributive pattern by individuals who occupy the different distributive positions.<sup>45</sup>

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by the overwhelming majority of everyone everywhere in each new generation has maximum expected value in terms of well-being..." (2000: 33)

<sup>45</sup> Andrew Williams (1998) was one of the first Rawlsian scholars to draw attention to the requirement of publicity in Rawls' thought. Gerald Cohen (1995) had previously referred to the role that the requirement of publicity plays in Rawls' use of primary goods metric, but it is Andrew Williams who deserves credit for emphasizing the role of publicity in Rawls' thought. From this requirement Williams developed a characterization of the basic Rawlsian structure which allows one to avoid the dilemma Cohen attributes to Rawls. Its main line of argumentation indicates that if in a particular situation the Rawlsian conception of the well-ordered society is normative, the principle suitable for assessing the distributive pattern that exists in such a situation must satisfy the requirements of publicity and stability. Thus, if the Rawlsian conception of the well-ordered society is normative with regard to a situation, there is a justification to treat differently those sources of inequality that might be

In short, the two characteristics that principles must possess, if they are to justify a distributive pattern that applies to a large number of heterogeneous individuals in a reciprocally acceptable manner, are namely that they can be publicly known and that they can guide individuals. These two conditions lead to the exclusion of certain types of principles. The first excludes principles that use a subjective metric, such as welfare. The second excludes principles which are not sufficiently simple and concrete even though they use an objective metric.<sup>46</sup>

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regulated by principles that satisfy the requirement of publicity and stability. The inequalities produced by individual decisions that Cohen's egalitarian ethos claims to regulate, on the other hand, could not be regulated by the principles that satisfied these requirements of publicity and stability. Although I believe Williams's argument is right, I think it leaves us with the following question: Why should the Rawlsian conception of society apply to certain situations and not to others? Why should said conception of society be normative with regard to the distributive pattern produced by certain institutions and not to the pattern produced by other institutions or by individual behaviors? As will become clear later on, I think the existence of an institutional framework with political legitimacy is the answer to the question. Where there is a legitimate scheme, there is the requirement of reciprocal justification. In these circumstances the Rawlsian conception of the well-ordered society is normative. Political legitimacy is what justifies that it be valuable to see our society as a co-operative enterprise, as a well-ordered society.

That a behavior or institution has profound effects, even if they can be publically regulated, is not enough for the requirement of publicity to appear. This requirement only has a place where individuals must provide mutually acceptable justifications. The latter demand only has a place – as I will show below – inside politically legitimate communities.

<sup>46</sup> Following the line of reasoning initiated by Rawls and continued by Andrew Williams; Mathias Risse and Robert Hockett have offered an argument in defense of the use of the objective metric of primary goods proposed by Rawls (Risse and Hockett, 2006). The requirement of publicity in conjunction with the requirement that principles should be able to act as a guide for citizens, leads – in their opinion – to the use of the primary good objective metric. I fully agree with their conclusions. My entire argument adds to theirs in that it roots both requirements in that of reciprocal justification. The fact that a distributive pattern that is applied to a large, heterogeneous number of individuals should be reciprocally acceptable generates both requirements: that it can be publicly known and it can guide individuals. Risse and Hockett, on the other hand, link these requirements to the Rawlsian conception of society.

Thus, when there are reciprocal justification requirements of a distributive pattern that applies to a large group of heterogeneous individuals, the only relevant inequalities are those that can be objectively measured without the need for complex calculations. This does not yet show why it should be presumed that the individuals to whom the justification is addressed are interested in possessing these goods and want to maximize their distributive share. What justifies the first assumption, that the individuals are interested in these goods, is the fact that claims are formulated that conflict regarding the way they are distributed. If there is a distributive pattern and the individuals occupying distributive positions make conflicting claims regarding the size of their distributive shares, this justifies presuming they have an interest in these goods. That is to say, it justifies presuming they have goals that may be satisfied by these goods. This, however, still does not justify presuming they have an interest in maximizing. We could presume that the individuals to whom the justification is addressed are interested in certain goods – as distinct from subjective mental states which are not publicly accessible – without presuming that they are interested in maximizing their share of the goods. They might be interested, on the other hand, in obtaining *sufficient* goods to fulfill their different purposes. If we have presumed that they are interested in goods that are suitable for fulfilling their purposes, the most sensible thing would be to presume that they are only interested in obtaining *enough* to fulfill them. The interest in maximization would depend on the specific purposes each citizen might have, but could not be presumed of all in general. Some citizens, interested in accumulating, would have an interest in maximizing, but others might have different purposes. Why presume that they all have an interest in maximizing their distributive share?

What justifies this latter step is, on one hand, the publicly inaccessible content of that which grounds the interest individuals have in their distributive shares together with, on the other, the requirement of publicity. The latter does not, however, refer to the requirement that the principles should be the object of

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Although I do not disagree with this reasoning, I do not think this can be the definitive one, since it leaves us with the same question that William's argument leads us to: why should the Rawlsian conception of society be applied to certain situations and not to others? Why should said conception of society be normative with regard to the distributive pattern produced by certain institutions and not by other institutions or forms of non-institutional activity? My thesis is that where there is a legitimate scheme, there are reciprocal justification requirements, which – in turn – determine that the principles offered as a justification should have both characteristics: they can be publicly known and they can guide individuals.

common knowledge but rather to the parallel requirement that the argument grounding these principles should rest upon publicly accessible premises. The requirement of publicity not only establishes a restriction on the way the principles must be configured – namely, it requires using an objective metric – but also on the types of premises that can be used in the argumentation that leads to them.

What blocks the use of a presumption of *sufficientarian* interest on the part of individuals occupying distributive positions is the impossibility of public access to individual purposes or interests. Although it is possible to establish publicly that individuals pursue such purposes, from the fact that they make claims, it is not possible to establish publicly what they consist of and, therefore, what threshold of sufficiency is required by each person. It is this impossibility of public access to the purposes that ground individuals' interests in the distributed goods that generates the requirement that maximization be used as a criterion of acceptability. Given the practical impossibility of establishing case by case the size of the distributive share to which each person aspires, the only principle that would be publicly acceptable would be one whose justification presupposed the individuals' interest in maximizing their distributive shares as a premise. Given this impossibility of publicly establishing the level of *sufficiency* correlated to individual purposes, the only available way of justifying a principle is by showing that it would be acceptable to individuals even if they had an interest in maximizing the size of their distributive share.<sup>47</sup>

By combining the answers to the three questions formulated in the preceding sections, it is possible to answer the question regarding the circumstances that make inequality of resources and rights morally relevant. If there is a distributive pattern of resources and rights that can be reconfigured by a decision whose *authorship* belongs to all those occupying distributive positions, and if each of these can influence the content of this decision, then the requirement exists among them to offer reciprocally acceptable justifications for the way in which these resources and rights are distributed. At the same time, if this distributive pattern of resources and rights has profound effects on the development of the natural talents and the social circumstances of those who occupy distributive positions, there will be among them the requirement that reciprocally acceptable justifications be offered regardless of their actual social or natural contingencies. Lastly, if what grounds the

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<sup>47</sup> This way of justifying the *maximizing* supposition does not imply adopting an irrationally conservative attitude towards risk taking, when one can receive personal benefits. On the contrary, it implies adopting a conservative attitude – but not an irrational one – regarding the risk of doing wrong to others.

individuals' interest in their distributive shares is not publicly accessible, any argument that claims to be acceptable from all the distributive positions should presume a maximizing interest in these individuals. Since, as I have pointed out above, the *prioritarian* or *egalitarian* principles are the answer to the requirement that a distributive pattern must be acceptable to those who occupy different distributive positions – regardless of their social or natural contingencies – insofar as this pattern maximizes each one's share, we find that such principles are applicable to the above-mentioned situation. Finally, since the application of such principles to a situation is what makes the relative level of resources and rights morally relevant, we find that inequality is morally relevant only in the situation described above.

In short, for the inequality of resources and rights to be morally relevant the following circumstances must occur. Firstly, a distributive pattern must exist that has had profound effects upon the individuals. Secondly, it must be modifiable by a decision whose *authorship* is attributed to all those who occupy distributive positions, whose content all can influence. Lastly, each individual's interest in the size of his or her distributive share must be based on considerations to which, with some degree of certainty, the rest cannot have access. I shall devote what follows to analyzing why these circumstances are found within legitimate states.

#### ***V- THE RELEVANCE OF INEQUALITY IN LEGITIMATE STATES***

In a legitimate state, the three considerations that confer moral relevance on inequality are configured in the following way. Firstly, legitimate institutions can be modified by each one of the citizens exercising a power whose *authorship* is ascribed to all.<sup>48</sup> Secondly, said institutions produce profound effects on those who inhabit them. Thirdly, the individuals' interest in the size of their distributive share is based on their plans of life or conceptions of the good, which are not publicly accessible. In what follows, I shall examine each of them in turn.

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<sup>48</sup> When institutions exist whose authorship belongs to all individuals they apply to, and each individual can influence decisions about how the institutions should be configured, then a decision-making power whose authorship belongs to all individuals can arise.

## *V.1.- Political Legitimacy as a Basis of the Requirement of Reciprocal Justification*

### *V.1.1 An Institutional Conception of Political Legitimacy*

The state possesses decision-making mechanisms that allow it to modify its institutional framework and, as a result, the distributive pattern produced by these institutions. Government agencies have the power to adopt decisions that affect institutional design. Nevertheless, this power, and the decisions made in exercising it, do not always belong to the citizens. It is not always morally correct to ascribe the *authorship* of state decisions and the distributive pattern they produce to all the citizens they apply to. Only when political power is legitimate are their decisions ascribable to all its citizens.<sup>49</sup> A state institutional framework – and the decisions and actions adopted within in – is legitimate when all those citizens to whom said framework applies are its *authors*. Since this link between *authorship* and legitimacy can be traced back to Hobbes; the conception of legitimacy I am going to offer is indebted to him.<sup>50</sup>

According to Hobbes, two additional ideas are necessary to fully explain the relationship between *authorship* and legitimacy. The first is his conception of *authorization* as surrendering of rights. Citizens are *authors* of the sovereign's decisions and actions because they surrender their rights to the sovereign. Citizens create the sovereign when they are his/her *author*, they are his/her *authors* when they *authorize* him/her, and they *authorize* the sovereign when they surrender their rights to him/her. The unique act of individual *authorship* that citizens can perform is to surrender their rights.<sup>51</sup> The second is its

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<sup>49</sup> Affirming that political power is legitimate is compatible with showing that the contents of its decisions are unjust. However, for the reasons I am going to offer, the inverse is not true.

<sup>50</sup> The force of this Hobbesian idea is clear when one sees that it has persisted through Locke, Rousseau and, in general, throughout all modern thought. Locke and Rousseau, like Hobbes, connect political legitimacy and *authorship*, but they disagree with him as to what conditions must be satisfied for citizens to be *authors*.

<sup>51</sup> This is the explanation Hobbes offers in *Leviathan* of the *authorization* the citizens confer on the sovereign. The citizens surrender their rights to the sovereign -I.e. they authorize the sovereign- and in this sense they are *authors* of the actions that the sovereign effects in exercising these rights. In this work the sovereign is characterized as "...One Person, of whose Acts a great Multitude, by mutual Covenants one with another, have made themselves every one the author, to the end he may use the strength and means of them all, as he shall think expedient, for their Peace and Common Defence." (Hobbes, 132) This version of the *authorization* is different

institutional conception of collective *authorship*. This feature of Hobbesian conception is linked to his hypothetical contractualism. The sovereign is not created -authorized- by a real contract but by a hypothetical one.<sup>52</sup> Citizens do not authorize the sovereign by an act that they make, surrendering their rights. They do not authorize the sovereign by an effective act of authorization. On the contrary, they authorize the sovereign when he/she satisfies the interests that would justify that they surrender their rights to him/her. Hobbes thought these interests were related to the desire for self-preservation. Therefore, as *authors* -i.e. people who authorize the sovereign surrendering their rights to him/her- citizens have an interest in self-preservation. The idea is that when the sovereign satisfies this interest citizens have as *authors* -i.e. a self-preservation interest- they surrenders their rights -authorizing the sovereign- becoming *authors* of the decisions and actions of the sovereign. As a consequence, the central point of the institutional conception of authorship is that by satisfying the interests the citizens have as *authors*, the sovereign -or an institutional scheme- configures them as *authors* of the decisions he/she adopts.

Hence, Hobbes has a conception of individual *authorship*, from which the interests that citizens have as *authors* are established, interests whose satisfaction by the institutional framework configures citizens as collective *authors*.<sup>53</sup> In my opinion, this is the structure a conception of legitimacy should have. The institutional framework, upon satisfying the interests that the individuals to whom it applies would have as *authors*, configures them as *authors*. With clear ties to Hobbes' work in the field, this structure of an

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from that which Hobbes offered in *De Cive*. There he maintains that each citizen surrendered his or her right to resist the Sovereign. The citizens did not surrender their rights in general but only surrendered their right to resist. Jean Hampton has noted the two meanings that the word "authorization" has in Hobbes' works. On the one hand, "authorization" "...convey(s) the idea that the subject endorses the sovereign's use of absolute power when the subject surrenders his rights to the sovereign." On the other hand, Hampton says, "...Hobbes also uses "authorization" at times to invoke the concept of creation, emphasizing the word's root 'author'..." (Hampton, 127). In the text I have offered a way in which both meanings can be linked.

<sup>52</sup> I have adopted a hypothetical contractual interpretation of Hobbes and am aware of the controversial nature of this interpretation.

<sup>53</sup> The individual conception of authorship holds each citizen to be an author when he/she authorizes the sovereign. In Hobbes, being an *author* amount to *authorizing*. Consequently, the interest citizens have as *authors* are the same interest they have as *authorizers*; that is an interest in self-preservation.

institutional conception of collective authorship adequately explains my own views on the subject.

Adopting an institutional conception of collective *authorship* allows one to account for the general character of the bond that exists between a legitimate institutional framework and *all* the citizens to whom it applies. On the other hand, if one grounds legitimacy in some kind of interaction – such as consent<sup>54</sup> – one must give up conceiving of legitimate political power as a power whose authorship lies in the whole citizenry.<sup>55</sup>

Nonetheless, while Hobbes accurately offers an institutional conception of collective *authorship* and legitimacy, his conception of individual *authorship* and his characterization of the interests of *authorship* are inadequate. Specifically, the Hobbesian conception of *authorship* as authorization is not correct. Therefore, the interests that citizens have as *authors* are not those that would justify their surrendering of rights to a sovereign. The conception of *authorship* I propose to replace it holds that *authorship* is not linked to surrendering or authorization but instead to political participation.<sup>56</sup> If the institutional conception is modified on the basis of this assumption, the result is that an institutional framework is legitimate if it allows for the satisfaction of the

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<sup>54</sup> Locke's doctrine requires personal consent, unlike the conception defended by Hooker (1593-97) which only requires the *historical* consent of the members of the first generation of citizens. Locke points out in the *Second Treatise*: "Men being, as has been said, by Nature, all free, equal and independent, no one can be put out of this estate, and subjected to the political power of another, without his own Consent..." (Locke, 52). Here I have followed Simmons's (1979: 87) opinion, which diverges from the interpretation offered by Pitkin (1965) on Locke's thought.

<sup>55</sup> This is a difficulty shared by all conceptions that ground legitimacy in some kind of interaction. It is well known that in order to tackle this difficulty Locke had to extend the notion of consent – by appealing to the notion of tacit consent – to the point of disfiguring it. The failure of this type of answer that links *authorship* – and political legitimacy – to what citizens do with regard to their institutions has led some scholars to doubt political legitimacy and to question whether it is possible for there to be any sort of collective *authorship* of state decisions. Yet what the failure shows is that it is inadequate to abandon the institutional conception of *authorship* that was introduced by Hobbes.

<sup>56</sup> It is not the case that the unique act of individual authorship the citizens can perform is to authorize or to surrender their rights to the sovereign. Authorship is linked to political participation, and this kind of participation implies more than surrendering rights.

interest in political participation that those to whom the institutional framework applies have as *authors*.

Rousseau focuses on the problem of legitimacy in a manner similar to that which I propose. On one hand, he adopts an institutional conception of authorship<sup>57</sup> and, on the other, he maintains that the interests that citizens have as authors are linked to their participation in collective decision-making.<sup>58</sup> However, his conception contains a problem, which my conception attempts to correct. The problem lies in how – in Rousseau’s opinion – an institutional framework satisfies citizens’ interests in *authorship*. These interests are satisfied when, among other things, the institutions have been configured for the effective participation of all citizens through the voting system. However, this way of understanding the satisfaction of the interests in *authorship* threatens the institutional character of its conception. Suddenly,

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<sup>57</sup> The institutional character of *authorship* in Rousseau’s thought can be seen in his treatment of moral liberty. He viewed moral liberty as equivalent to self-government, self-legislation or *authorship*, and not as something individuals have prior to and regardless of the institutional framework they inhabit. It is not that individuals are free before institutions exist and that their free consent configures the institutions as their own, but instead it is the design of the institutions that configures them as free, self-legislators and *authors*. Specifically, according to Rousseau, only an institutional framework organized according to the *general will* allows the citizens to gain moral liberty. This type of liberty consists in abiding by laws which – following the *general will* – we have given ourselves. The idea of self-legislation in Rousseau is satisfied not by obeying laws we have given ourselves, but by obeying those we have enacted as a *people*; that is, laws whose content is the *general will*. He points out: “...to be driven by appetite alone is slavery, and obedience to the law one has prescribed for one self is liberty...” (Rousseau, 27). Moral liberty is distinguished from natural liberty – the right limited only by the individual’s strength to obtain everything he or she desires and can obtain – and from civil liberty – gained by means of the social contract by surrendering natural freedom.

<sup>58</sup> A general interest of all citizens – one which forms a part of the content of the general will - is that of actually participating in collective decision-making. When institutions satisfy this interest in participation – which the citizens have as *authors* – then the citizens are configured as self-legislators, that is, as free citizens, *authors* of political decisions. This interest in liberty is what leads to an interest in equality, since in Rousseau’s opinion personal liberty or independence cannot last without equality. No citizen should be so rich as to be able to buy another – making him or her a slave – nor so poor as to be obliged to sell him or herself (Rousseau, 46).

attention is focused once more on the individual interactions of citizens, on suffrage, and on effective participation.

What Rousseau does not see is that if what configures citizens as *authors* is the way the institutions are designed – as the institutional conception of *authorship* holds – the requirements that must be satisfied for *authorship* to exist cannot refer to individual behaviors, such as suffrage or effective participation. The requirements must, on the contrary, refer to the institutions, requesting, for example, that they allow some such form of participation. An *institutional* conception of *authorship* must establish how the institutions must be designed for the *authorship* interests to be satisfied. Thus, if citizens as *authors* have an interest in participating effectively in the shaping of their institutions – as Rousseau correctly points out – institutional design must allow this type of participation, for example, by establishing the right to suffrage. If there are ways of participating, then the institutional design can satisfy the interests of *authorship*. Effective participation makes no reference to any feature of the institutional design but rather to the citizens' individual behavior.

Therefore, the question we have to address concerns the interests citizens have as *authors* regarding the way institutions should be designed. Or to put it differently, we must ask ourselves about the features institutions should possess to allow the interest in participating effectively to be satisfied. Requiring effective participation or consent – such as Locke does and Rousseau also ends up doing – entails requiring the institutional design to do something it simply cannot; it entails introducing a requirement referring to individual behaviors as though it were a requirement addressed to institutions.<sup>59</sup>

The institutional conception of *authorship* and legitimacy that I will propose holds, as does Rousseau's, that citizens' interest as *authors* is to participate in collective decision-making. However, unlike Rousseau's, it holds that the citizens are configured as *authors* when the interests that they have as *authors* in relation to the institutional design, including the interest in political participation, are satisfied. If the institutional design satisfies these interests then the citizens are configured as *authors*, irrespective of whether they have consented or effectively participated.<sup>60</sup>

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<sup>59</sup> Indeed, legitimate norms can require certain behavior from individuals. What I emphasize is that the litmus test of legitimacy should not require individual behavior.

<sup>60</sup> The *institutional* conception of *authorship* or political legitimacy I defend allows us to synthesize the medieval and the modern conceptions of authority. The medieval conception maintains that political authority is such because it is the

My proposal, following Hobbes and Rousseau, affords an institutional approach to *authorship* or political legitimacy. Citizens are *authors* of certain institutions – and of the decisions adopted within them – when the institutions treat the citizens as *authors*, and this happens when the institutional framework satisfies their interest in *authorship*. Citizens are not *authors* of the institutional design because they configure it but rather it is the institutional design that configures them as *authors* when it satisfies the interests they have as such. To put it in what may be the most provocative words of the social contract, the institutional framework forces them to be its *authors*.<sup>61</sup>

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*author* of its citizens, in the sense that it models and configures them from its position of supremacy. For medieval Christian thought this was the sense in which all *authority* came from God. It was not that every governor was set up by God, but that if a governor possessed *authority*, he or she possessed it in the same way God possessed it. However, God possessed *authority* in the sense that only the *author* has any right over his or her work. As God was the author of man, he was the only one with direct *authority*. God had authority over men because he was their *author*, he had created them. Political institutions possessed *authority* in the same sense, except that this *authority* was not direct but derived. In the modern conception – exemplified by Locke – the relationship is the inverse. The notion of *authority* continues to be bound to that of *authorship* only that now authority is such that citizens are the *authors* of their decisions and actions. Put differently, while in the medieval conception those who have political authority are the *authors* of citizens, in the modern conception citizens are the *authors* of political authority. The conception I defend, like the medieval conception, holds that institutions that possess *authority* – and the decisions adopted within them – configure the citizens. In this sense, institutions that possess *authority* are *authors* of citizens. As with the modern conception, however, my conception holds that institutions that possess *authority* are those whose *authors* are citizens. This in turn asserts that institutions that possess *authority* – which are legitimate and have the right to command – are the ones that configure citizens as *authors*. Legitimate institutions are *authors* of *authors*.

<sup>61</sup> The words from the social contract refer to whoever refuses to abide by the institutional framework in accordance with the *general will* and points out that he or she shall be forced to be free (Rousseau, 26). The interpretation I have offered in the text sheds light on this enigmatic passage. If the institutional framework is what configures citizens as morally free – *authors* and self-legislators – and if said institutional framework applies to citizens regardless of their will – as in the case of state institutions – then the citizens inhabiting it are forced to be free.

My characterization of citizens' interest in authorship as centered on political participation is typical of Rousseau and distant from Hobbes. Additionally, the way I consider institutions as able to satisfy these interests in authorship – concentrating on the institutional mechanisms that enable participation, instead of on effective participation – is distant from Rousseau. I shall devote the following section to developing this last point.

*V.1.2. Interests in authorship with regard to Institutional Design.*

Given that the main interest that, as authors, citizens possess regarding institutions is that of effective participation in their design and configuration, if these institutions make such participation *possible*, then they are of the citizens' *authorship*; i.e. they are legitimate.<sup>62</sup> Participation may take place at two different levels. The first refers to participation in collective decision making while the second refers to the acceptance of collective decisions that have been made. Thereby two ways of not treating citizens as *authors* exist within the institutional framework by not satisfying their interests as participants. This is done by preventing their opinions from counting when collective decisions are made or by treating them as subjects, receivers of orders, of whom obedience, not acceptance, is expected.

In order to identify the interests that citizens have – as *authors* – in relation to institutional design, it is helpful to consider Charles Beitz's (1990: 109-117) determination of citizens' interests as a starting point for further discussion.<sup>63</sup> Since Beitz recognizes that citizens occupy the dual role of *authors* and *subjects* of institutions, the idea is to distinguish which, of all the interests citizens have, are bound to their role as *authors*. Beitz identifies three groups of interests bound to

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<sup>62</sup> If one adopts an institutional conception of legitimacy – not focused on what individuals do regarding institutions but rather on the characteristics they possess – the case in favor of obligatory participation, e.g. through compulsory voting, lacks vigor. According to the institutional conception, the fact that individuals do not effectively participate does not affect the legitimacy of the institutional framework, and, as a result, required participation through institutional mechanisms has no effect on the degree of legitimacy of the institutional framework.

<sup>63</sup> While I have used Beitz' works as a starting point to identify the types of interests linked to authorship, I have not followed him to determine if the requirements to satisfy these interests are *sufficientarian* or *egalitarian* in nature. Beitz conceives of these requirements in an *egalitarian* way just because his goal is to establish "...a set of requirements that apply to the institutions that enable citizens to participate in political decision making in a constitutional democracy..." (Beitz, 1990: xi). The aim I pursue in this work is more general; I attempt to establish the requirements that any institutional design – whether it be democratic or not – should satisfy to make citizens' political participation possible. Said another way, while Beitz is concerned with political equality, in this work, I deal with political legitimacy.

citizenship: interests in recognition, in the manner of treatment, and in deliberative responsibility.

The interest in recognition is connected to access to public roles and to participation in collective decision-making, both of which are interests that citizens have as *authors* of the institutions. This interest refers to the effects on public identity of the place assigned to individuals by the political procedure of collective decision-making and the structure of public roles. When institutions are designed in such a way that a person is completely excluded from access to any public role or when roles in the decision-making procedures reflect a social belief in the inferiority of a particular group, the interest in the recognition all citizens have as *authors* of the institutions applied to them is not satisfied.

The second of these interests, that referring to the manner of treatment, is linked to the type of participation that occurs through the citizens' acceptance of the institutional framework. The framework should be designed in such a way that it allows the voluntary involvement of the citizenry to which it applies. One type of institutional framework that does not permit the citizens' acceptance is one that only resorts to the use of force. A framework in which part of the population is enslaved or forced to work according to the will of another, or is not guaranteed the material means of subsistence, or is not protected from abuse or homicide, or is not allowed to profess a certain religion or way of thinking, or is not guaranteed unbiased treatment from the authorities, or does not enjoy a certain degree of protection from the government meddling in their private lives, would be a one that resorted to the use of force. This institutional framework would not be one in which institutions are in vigor due to citizens' acceptance – a minimal form of political involvement and participation – but simply due to the force exercised by rulers. Without the protection of these interests through certain minimum rights, the mere idea of a political system – as a system of social cooperation whose decisions are *authored* by the citizenry – lacks coherence.

Finally, the interest in deliberative responsibility refers, like the first one, to the possibility of participating in collective decision-making procedures. It is the interest in the fact that public issues be resolved on the basis of sufficiently informed public deliberation, where their opinions and reasons should be responsibly considered and evaluated (Beitz, 1990: 113-117). This third interest is satisfied when the institutions are sensitive to the opinions and interests citizens have regarding public affairs. A collective decision-making system that does not allow the opinions of a particular group to be considered does not satisfy this interest in deliberative responsibility.

Consequently, if the configuration of and access to public roles does not reflect any social belief regarding the inferiority of any group, if the institutional framework is sensitive to the citizens' opinions or reasons, and if the citizens possess the minimum rights and resources described above, such an institutional framework treats citizens as *authors*. It does so by satisfying the interest that the citizens – as *authors* – have in relation to the institutional design. Such a framework grants the citizens the institutional tools necessary to enable their participation.

Conceiving of legitimacy as co-authorship allows one to comprehend an important characteristic of the legitimacy requirements an institutional framework must satisfy. Such requirements, contrary to common thought, are sufficientarian in nature, not egalitarian. The reason for this lies in the fact that it is perfectly possible to be co-author of a collective endeavor without all the participants having to contribute equally. For example, being co-author of a book does not require writing the same number of pages as the other people involved, but rather writing a sufficient number of pages. Even though the degree of participation in a collective endeavor by all the involved individuals may not be equal, if the sufficiency threshold is met, all are equally rendered authors. This allows one to see the sufficientarian nature held by co-authorship interests. In this way co-authors are not interested in equal participation but rather simply in participation that meets the level of sufficiency required.

The same schema can be applied to the demands of legitimacy. Citizens' authorship interests regarding the institutional framework are sufficientarian in nature, not egalitarian. Their interest is in not being excluded from access to public roles. They are also interested in making certain that the role they fill in the collective decision-making process does not reflect a social belief regarding inferiority. Nevertheless, this is compatible with not having equal access to public roles or to an equal standing in the collective decision-making process.<sup>64</sup> They are interested in having the minimum rights required for the

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<sup>64</sup> In dealing with this interest Beitz himself oscillates between considering it sufficientarian in nature and egalitarian. He comments that "... (i)n the extreme case, when some people are excluded entirely from any public role (as, for example, with the wholesale denial of the franchise to blacks in the antebellum South), it has been said that those excluded 'are not publicly recognized as persons at all' and may be described as 'socially dead'...." Up to this point his position seems to be sufficientarian, but then he adds that "... (s)omething similar occurs when procedural roles are assigned in a way that conveys social acceptance of a belief in the inferiority or lesser merit of one group... because it is a fixed point in a democratic culture that public institutions should not establish or reinforce the perception that some people's interests deserve less respect or concern than those of others..." (Beitz, 1990: 109-110). In my opinion, this last demand for equal treatment is one of justice, not of legitimacy.

institutional framework to not be based on the use of force but rather that it be capable of involving their will and gaining acceptance. Nevertheless, this is compatible with not having equal rights.<sup>65</sup> Finally, they hold an interest in making certain that their opinions and interests are not excluded from the collective decision-making process. Nevertheless, this is consistent with the fact that these opinions or interests are not given equal consideration in the decision-making process.<sup>66</sup>

No sooner are these interests of *authorship* satisfied, and participation made possible, then the citizens are configured as *authors* of the institutional framework and the political community begins to exist as a *community of authors*, that is, an *us* to whom political power belongs. From this moment on, collective political power appears as a shared power. Thus, the decisions adopted within the institutions which satisfy the interests of *authorship* belong to all citizens. For a citizen to be an *author* of the institutional framework only implies that he/she is not *alienated*, that the institutional framework – and the decisions adopted inside it – are imputed as his/her own. It does not imply that said framework is equitable or treats individuals with equal respect or

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<sup>65</sup> Once again, Beitz himself wavers between sufficientarianism and egalitarianism in dealing with this interest. His position appears to be egalitarian when he points out “...Political decisions could then be said to satisfy the interest in equitable treatment when, over time, they promote (or do not systematically detract from) a distribution that accords with the requirements of justice, which are themselves to be worked out from a point of view in which each person’s prospects are taken equally into account.” (Beitz, 1990: 112) But later, he seems to take a sufficientarian stance stating that: “...in the context of reasoning about political procedures, the interest in equitable treatment will normally appear as an interest in safeguarding one’s urgent or vital interests in the face of the threat that they might be systematically subordinated to the competing but less urgent claims of others...” (Beitz, 1990: 113)

<sup>66</sup> Beitz appears to conceive of the demands to satisfy this interest as if they were sufficientarian but not egalitarian. He comments that “...deliberation should not be constrained by the exclusion of positions that would gain substantial support if they were sufficiently exposed to public scrutiny...” (Beitz, 1990: 114) Vacillation between sufficientarian and egalitarian positions can be found in Guttmann and Thompson, in their discussion of the way deliberative democracy can correct deliberative biases: “...To the extent that the least advantaged are excluded because they are too poor to have equal access to the political media, the principles of deliberative democracy support an effective critique of this unfairness...” (Guttmann and Thompson, 2004: 48). It is not clear if the problem lies in exclusion – and the unmet demands are sufficientarian – or in equality. Even Thomas Christiano, who adopts a clearly egalitarian position regarding legitimacy, relies on sufficientarian arguments: “...Each person has an interest in being taken seriously by others. When an individual’s views are ignored or not given any weight, this undermines his sense of self-respect...” (Christiano, 1997: 259)

consideration. An institutional framework can be *ours* – i.e. legitimate – and at the same time inequitable – i.e. unjust.<sup>67</sup>

Thus, if a State institutional framework produces a distributive pattern of resources and rights for its citizens that satisfies their interests of *authorship*, it follows that there is a requirement to provide a justification of the distributive pattern that is acceptable to everyone occupying the distributive positions. Since every citizen can influence the content of a decision whose authorship will be ascribed to others, this brings with it the requirement that every citizen must justify the institutional design – and the distributive pattern it produces – as satisfying a criterion of assessment or correctness that is acceptable to all the rest. And since the citizens occupy different distributive positions, the assessment criterion for the distributive pattern must be acceptable from the perspectives of all of the different distributive positions.<sup>68</sup>

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<sup>67</sup> The position that I have presented in this work distances itself from the vision defended by Ronald Dworkin who considers that “No government is legitimate that does not show equal concern for the fate of all those citizens over whom it claims dominion and from whom it claims allegiance. Equal concern is the sovereign virtue of political community – without it government is only tyranny –...” (Dworkin, 2000: 1) As I have pointed out above, the imposition of an action or a state of affairs through an institutional framework on a reason-responsive agent generates the moral requirement that the institutional framework *belong* to those upon whom it is imposed. It does not generate the moral requirement that it be *correct*, that is equitable or just, as Dworkin maintains.

As I hope to make clearer below, the moral requirements that make inequality relevant – including inequality of liberty – appear within institutional frameworks which already *belong to* those to whom they apply, that is, once sufficientarian demands of legitimacy have been satisfied. A defect in Dworkin’s position is that he does not allow distinguishing between two seemingly very different situations. The first situation refers to the illegitimate nature of the political decision-making process. The second refers to the inequitable or unjust nature. The position that I have put forward allows this to be done in the following way. If the decision-making process takes place in an institutional setting that does not meet sufficientarian interests of *authorship*, it is illegitimate. If, on the contrary, it does not meet the equity demands, it is unjust. This does not mean that a legitimate procedure for decision making can result in unjust decisions, but rather that the decision-making procedure can be classified as legitimate or illegitimate, just or unjust, or said another way, equitable or non-equitable.

<sup>68</sup> Thomas Nagel also links the attribution of *authorship* to the requirements of affording reciprocally acceptable justifications (Nagel, 2005: 128-130). Nevertheless, his position differs from the one I present in the text since he conceives of *authorship* in a different way. In Nagel’s opinion, the institutional framework treats those it applies to as authors when it expects acceptance as well as compliance. When each citizen complies with the institutional framework, he or she makes this claim his or her own by putting it to the rest of the individuals to whom this framework applies. By complying, each one

An example may help illustrate this point. Let us suppose we inhabit a legitimate institutional framework, one which treats us as *authors*, and we are called on to vote in order to reconfigure the way the income is distributed, for example, by means of tax reform. My vote (for, against, or abstention) must be justified as correct before all my fellow citizens, since whatever decision is adopted will be not only mine but also theirs insofar as we are a *community of authors*. Since I am able to determine the content of a decision of which we are all *authors*, I must – in return – justify it as correct before them, that is, in accordance with an assessment criterion acceptable to them. The same applies to each individual’s vote. Therefore the institutional design to be adopted as a result of this election must satisfy an assessment criterion that is reciprocally acceptable to all the citizens.<sup>69</sup>

What I have pointed out does not yet explain why the justification of the distributive pattern produced by legitimate state institutions should be acceptable to all citizens regardless of their social or natural contingencies. What justifies this requirement, the reader may recall, is the effect on individuals of a distributive pattern.

## *V.2. Effects of State Institutions on Personal Configuration*

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formulates to the rest the requirement of accepting the institutional framework that this claim possesses. This requirement, which is imposed upon others, produces in those who impose it the requirement for configuring the institutional framework in such a way that it is acceptable as correct to those to whom the requirement is formulated. My discrepancy with Nagel is, therefore, dual. Firstly, I do not consider that claiming acceptance is sufficient for an institutional framework to treat its citizens as *authors*. Secondly, I do not consider that the requirement of configuring an institutional framework in a manner acceptable to all those to whom it applies emerges as a result of complying with it. It is from the possibility of influencing the manner in which the framework is configured, exercising a political power whose authorship is ascribable to all, that this requirement emerges.

<sup>69</sup> In the example I have omitted the problem of political representation, but if it is accepted that some conception of political representation is suitable, what has been expressed in the text is equally valid for decisions adopted by the parliamentary vote and not by direct vote. Likewise I have made the vote cast (positive or negative) comparable to the vote not cast. The reason for this is that abstaining from voting does not free anyone from the responsibility of justifying a decision and the distributive pattern it would produce if it were adopted – for instance, one that was the same as the currently existing pattern – as acceptable to the rest of the citizens.

The way in which state institutions distribute resources, rights and liberties configures citizens as the people they are. Since these institutions apply to individuals from birth, there is no identity individuals possess prior to their entry into the institutional framework.<sup>70</sup> This causes two risks of irrationality that surface when current situations are evaluated (see Section III) to be found in a singularly severe fashion when the attempt is made to find assessment criteria for state institutions.

The first risk is that any proposed justification of the institutional framework – and its distributive pattern – may be based on irrational considerations – beliefs and preferences – generated by the position that individuals occupy in the distribution pattern created by state institutions. One of the first to notice this risk with regard to beliefs was Marx, who expressed it via his notion of ideological belief. His idea is that the distribution pattern generated by state institutions can provoke irrational beliefs in two different ways. In the first case, the position that an individual occupies in the distribution pattern leads him/her to commit inferential errors. The individuals' beliefs are illusions produced by their position in the distribution pattern. In the second, their beliefs are distorted by their preferences.

One example of an illusory belief is the one which maintains that social order is immutable. Given that the individual has never seen a social order different from the one in which he or she was born and raised, he or she infers that this is the only social order possible. Since the individual was born and raised in a social order where, for example, poverty and inequality existed, he or she infers that these are necessary and unavoidable phenomena.<sup>71</sup> The belief that

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<sup>70</sup> The fact that our socio-political bonds configure us as the subjects we are has been emphasized over course of the last decades by Communitarianism (Sandel, 1982, 1998). However, contrary to what some communitarians maintain, this is not a fact that is denied by egalitarian liberalism. Both acknowledge the influence of the institutional design on personal features such as personality, development of natural talents, interests, social standing, etc. The discrepancy lies elsewhere; namely, while liberals assert that it is feasible for individuals to take some distance from such features in order to assess our institutions, communitarians deny it.

<sup>71</sup> In reference to the case of illusory beliefs produced by the existing institutional framework, Elster states that "...Paul Veyne argues, convincingly to my mind, that any dependent man in Classical Antiquity had to believe that he owed his living and his security to his master: 'I owe my living and my existence to this master by the grace of God, for what would become of me

people occupying the inferior positions in the distribution pattern are in such a place simply because they have not worked hard enough, when it is held by those who occupy privileged positions, it is an example of a belief distorted by preferences. In this case, the desire that his/her advantageous position in the current distribution pattern be the fruit of personal effort makes the individuals believe that those who occupy disadvantaged positions simply have not made a big enough effort to improve their positions.

The institutional framework may have identical effects upon preferences. The distributive position citizens occupy may cause irrational preferences. An example of this is the adaptive preferences where an individual modifies his or her preferences and character on the basis of the opportunities afforded by his or her position in the distribution of resources, rights and liberties. Thus, an individual occupying the most disadvantaged positions may develop an adaptive preference for a frugal life.<sup>72</sup>

The effects institutions can exert on beliefs and preferences – distorting them – is a reason to exclude the distorted beliefs and preferences when it comes to affording reciprocal justifications that are acceptable to other reason-responsive agents. Put another way, the assessment criteria of an institutional framework – and the distributive pattern it produces – should not be accepted on the basis of beliefs or preferences caused by said institutional framework. To do otherwise would be tantamount to justifying the distributive pattern on the basis of irrational considerations. The assessment criterion should be acceptable on the basis of knowledge existing about the working of social institutions, not based on beliefs or preferences biased by the position occupied in the currently existing distributive pattern.

The second risk of irrationality that is present when evaluating currently existing state institutions comes from the fact that said institutions determine – on the one hand – life expectancies, opportunities, characters and preferences of those individuals to which it applies. In addition, it promotes and rewards the development of some natural talents. The risk lies in the assessment criterion being acceptable by individuals simply because of the

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without him, and that great domain – which he owns and on which I live?...”(Elster, 1983: 145)

<sup>72</sup> As Elster points out, it is a mechanism designed to reduce dissonance. There is an alternative mechanism that acts upon beliefs rather than upon preferences. In this case the fact of not having a chance to access an object that would satisfy our desire leads us to believe that the object possesses characteristics that are not real. (Elster, 1983: 123)

effects that the currently existing distribution pattern has produced on their life expectancies, opportunities, characters and preferences or on the development of natural talents.

An assessment criterion that is acceptable for some individuals only due to the weakest negotiating abilities they possess due to the socially-disadvantaged position that they occupy in the existing state institutional framework would be an example of this type of irrationality. The same would happen if the criterion were acceptable only based on the character traits that were developed – even if this was done deliberately – as a result of the position occupied in the existing state framework. An identical situation would arise if the criterion were acceptable only due to certain natural talents the individual has developed because of the current distribution schema.

It is the magnitude of influence that state institutions exert on the personal configuration of those to whom it applies – encouraging the development of certain natural talents as well as character traits or determining the socio-economic opportunities - that determines that the assessment criterion should be acceptable regardless of the citizens' social standing and their natural features. One thing stands out regarding the state institutions which require a criterion for evaluating them to satisfy the above-mentioned requirement; it is the profound effect that they exert on the natural and social circumstances of the individuals to whom they apply.<sup>73</sup>

### *V.3. The Publicly Inaccessible Basis of Interest in the Size of Distributive Shares*

Within legitimate state institutions individuals make conflicting claims regarding the size of their distributive shares. What grounds these claims is the interest in furthering their different plans of life.<sup>74</sup> However, there are two

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<sup>73</sup>The profound nature of these effects allow us to explain why a criterion apt to evaluate an existing state scheme has to satisfy stronger requirements than those that a criterion apt to evaluate others existing situations - such as the one that I presented above with the three brothers and their inheritance issues – has to.

<sup>74</sup> They are different in two senses. Firstly, not all life plans are the same. One person may have a religious life plan, another a life plan based on consumption, another centered on family bonds, etc. Secondly, everyone has his or her own plan. Although more than one may, for example, have a religious life plan, and subscribe to the same religion, this does not mean it is the same plan. This

reasons – one empirical, the other normative – why these plans are publicly inaccessible. The empirical reason refers to the fact that knowing individual life plans with any degree of certainty would require gaining access to mental states. It would be necessary to gain access to at least certain information about a person’s life which is unlikely to be publicly accessible. Unless we had at our disposal a “magic machine” that enabled us to see into the minds of individuals, their individual life plans – which ground their claims in relation to their distributive shares – would be publicly inaccessible.<sup>75</sup>

The normative reason presupposes the empirical possibility of seeing into the minds of individuals, and leads to the conclusion that, even if it were possible to publicly establish the content of individuals’ life plans, this would not be allowed in a legitimate political framework. The reason for this lies in that such an action would be an inadmissible invasion of the citizens’ privacy and a violation of at least one of their interests of *authorship*, namely, the interest in the manner of treatment. Specifically, such an intrusion would be contrary to the freedom and privacy any citizen should be entitled to in order to be able to occupy his or her role as an *author*.<sup>76</sup> Even if it were empirically possible to establish the content of the interests or plans of life on the basis of which individuals formulate claims for their distributive shares on the state level, it would not be possible for such a situation to occur within a legitimate state. Such an intrusion into an individuals’ private life would violate one of the interests of *authorship*, thus undermining the legitimacy of the institutional framework.<sup>77</sup>

In sum, in this section, we have found that the circumstances that make inequality of resources and rights morally relevant are configured within legitimate states. As I have shown in V.1. – if the state is legitimate, such an institutional framework can be modified by a collective political power whose decisions are ascribed to all those who occupy distributive positions, and whose content everyone can influence. Secondly, as I have shown in section

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explains why conflicting claims may exist even among individuals with the same type of life plan.

<sup>75</sup> A “magic machine”, a device to make plans of life publicly accessible, is analyzed by Risse (2002: 12-15).

<sup>76</sup> Risse has offered normative reasons based on individual autonomy to support the public inaccessibility of individual plans of life (Risse, 2006:10). Here I offer an argument based on political self-government or legitimacy.

<sup>77</sup> Such institutional framework would prevent the type of participation that occurs through the citizens’ acceptance because it would not be designed in such a way that it allows the voluntary involvement of the citizenry to which it applies.

V.2. –, State institutions – and the distributive pattern they generate – affect the social position and the development of the natural talents of the individuals they apply to. Finally, as I have shown in this section (V.3.), citizens in a legitimate state formulate claims for their distributive shares that are grounded on interests, plans of life or conceptions of the good that are not publicly accessible.

It is the dual role citizens inhabiting legitimate domestic institutions have, as *authors* of the institutions, on one hand, and as *subjects* whose natural and social contingencies are configured by them and whose plans of life are publicly inaccessible, on the other, that makes inequality morally relevant among them.<sup>78</sup>

## VI- THE MORAL IRRELEVANCE OF GLOBAL INEQUALITY

What has led some cosmopolitan thinkers to support the moral relevance of global inequality, I think, is having verified that one of the three circumstances I have indicated – referring to the profound effects of the institutional framework upon individuals – was satisfied on a global scale.

No doubt institutions exist on a global scale that affect the life perspectives of all human beings. In the face of those who deny this by stressing how the manner in which domestic institutions are designed affects such perspectives – for example, causing poverty – Thomas Pogge has shown how the existence of certain international rules promote the emergence of said domestic institutions. Pogge acknowledges the fact that citizens' life perspectives are determined by domestic institutions, for example, on account of having a deficient economic system or a corrupt political system. Nonetheless, he questions whether this empirical fact shows that international order only marginally influences individuals' life perspectives. It is the international order that promotes the emergence of economically inefficient domestic institutional frameworks with corrupt or inept political elites.

Pogge has specifically drawn attention to the causal role of two elements of the international order in the emergence of domestic institutions which in

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<sup>78</sup> The conclusion that inequality is not relevant at the core of illegitimate States can, at first glance, appear counterintuitive. It is thought that if inequality was irrelevant then even in situations where the most extreme inequality exists, there would be nothing to criticize. The counterintuitive appearance disappears once it is realized that it is possible criticize inequality even in circumstances where the applicable principle is a sufficientarian one. This would be the case when sufficientarian demands are not met as a result of inequality.

turn cause poverty to those individuals who inhabit them. The first element is the *privilege* the international order grants to any group that monopolizes coercion within a country's territory *in order to dispose of the country's natural resources*. The practice of granting international recognition to such groups – regardless of whether they came to power legitimately and whether or not they have popular support – and of granting them the right to transfer the property rights of the natural resources of the territory they control is what Pogge calls the *international resource privilege*. The second element consists of the privilege granted to these groups to borrow in the country's name and thus acquire debts that must then be paid by all the citizens. This second element Pogge calls the *international borrowing privilege*. (Pogge, 2002: 112-113)

Both privileges promote the emergence of a specific type of domestic institutions. The *privilege over resources* provides incentives for coups d'état and civil wars in countries rich in resources. In reference to the military groups that have gained power by force in recent years in Nigeria, Pogge points out:

“...Able to buy means of repression abroad and support from other officers at home, such rulers were not dependent on popular support and thus made few productive investments toward stimulating poverty eradication or even economic growth” (Pogge, 2002: 114)

That is to say, although it is true that what affects Nigerians' life perspectives is the corruption in their political system, this corruption, Pogge points out:

“...is not just a local phenomenon rooted in tribal culture and traditions, but encouraged and sustained by the international resource privilege.” (Pogge, 2002: 115)

The *international borrowing privilege* has similar effects upon the design of domestic institutions. Specifically, Pogge points out, it has three effects linked to corruption and poverty. Firstly, it allows even the most loathsome dictatorships to have their country's international credit at their disposal. This helps these kinds of governments to stay in power even though they face almost complete popular opposition. Secondly, since the privilege is indifferent to how governmental power is acquired, it concedes incentives for corrupt elites to go ahead with coups d'état with the aim of appropriating international credit. Thirdly, it constrains the legitimate regimes that come to power after those who gained it by means of coups d'état, since they find themselves under the obligation to pay off the debts incurred by their predecessors. The burden of these debts conditions the capacity of such

governments to carry out structural reforms aimed at improving their citizens' quality of life. (Pogge, 2002: 114-115)

Although what Pogge points out is true, the existence of a global institutional order that influences citizens' life prospects is not sufficient for inequality to be morally relevant in this domain. The reason why global inequality is irrelevant is not that there are no global institutions that produce it, but that, unlike what happens in a legitimate domestic framework, there is no global collective political power that is in a position to reconfigure them. There is no international institutional framework that can be shaped by exercising a political power that belongs to humankind as a whole insofar as it is a *community of authors*. As the international institutional framework is not configured by a political power whose decisions are ascribable to the whole of humankind as authors, its design and the distributive pattern it produces need not be justified as acceptable to all the individuals occupying the different distributive positions. The conditions for the reciprocal justification requirements leading to application of the *prioritarian* and *egalitarian* principles are not satisfied.

Global inequality is morally irrelevant because there is no unified institutional framework that treats all human beings as *authors*, that is, that satisfies their interests of *authorship*.<sup>79</sup> There is no mechanism currently available that enables humankind as a whole to reconfigure international institutions via a collective decision-making process. Put graphically, there is no world parliament, nor any other analogous mechanism of consultation. As long as this continues to be the case, the interests of authorship will not be satisfied and there will be no *global political community* nor reciprocal justification requirements, and therefore global inequality will remain morally irrelevant.<sup>80</sup>

Even if it is accepted that an institutional framework exists which is coercively imposed on each and every human being – determining life expectancy, freedoms and rights – it does not follow that each human being is required to give each other reciprocally acceptable justifications regarding the correction of such a framework. As I have highlighted above, the existence of

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<sup>79</sup> Although this is a factual assertion, I believe there are reasons for the continuing inexistence of a *global community of authors* to extend in time. What can be aspired to at this stage is the emergence of a *community of communities of authors*. However, space constraints do not allow me to examine this here.

<sup>80</sup> There is no *global community of authors* because at the international level the morally relevant units are politically organized individuals – legitimate states – and not isolated individuals.

a coercive framework generates the requirement to justify the institutional framework as *belonging* to those to which it applies, but not to justify it as *correct*. The requirements that would be applied to the global coercive order would be those of authorship and legitimacy – these being sufficientarian, not egalitarian or prioritarian. Those who may influence on the way global institutions are designed – for the most part inhabitants of developed economies – have not duty to design them to distribute resources, rights and freedoms among all human beings according to egalitarian or prioritarian criteria. They have a duty to contribute to establish institutional arrangements that allow all human beings to equally participate in designing the institutional framework that is coercively applied to them.

## ***VI- THE MORAL IRRELEVANCE OF INTERNATIONAL INEQUALITY***

The argument put forward in the preceding section does not establish the irrelevance of inequality between different states. The fact that at the international level there is no political power belonging to the whole of humankind does not mean that there is no political power belonging to all the states. If there were such a thing, there would be reciprocal justification requirements between the different states regarding the distributive pattern generated by international institutions. There would be a distributive pattern between different states generated by international institutions that could be reconfigured by the collective political power of states. The asymmetry shown by the argument in the preceding section between domestic inequality and global inequality would not exist in relation to international inequality.

The strength of this position becomes clearer when we consider the existence of international forums with a representative character, such as the UN or the WHO. The existence of these forums – provided that they are legitimate and have the power to reconfigure international institutions and the patterns of allocation they produce – would be enough to bring forth the reciprocal justification requirements that confer moral relevance upon international inequality. While a legitimate state would ascribe the *authorship* of its decisions to all the *individuals* who occupy distributive positions, a legitimate international institutional framework would ascribe *authorship* of its decisions to all the *states*. A legitimate international order would not be a *political community of authors* but a *community of political communities*. The existence of a legitimate international institutional framework – one which satisfied the interests of *authorship* of the states instead of the citizens considered individually – would produce reciprocal justification requirements.

Under this assumption, it would be the legitimate states – or individuals not as such but as members of a particular political community – that would have to afford reciprocal justifications and therefore the response to such a requirement of justification would not be moral principles that would refer to individuals. Put differently, the response to the requirement that reciprocally acceptable justifications be afforded between states would not be a global *egalitarian* or *prioritarian* moral principle but rather an international one.

One way of refuting this argument in favor of the relevance of international inequality would be to question the legitimacy of the institutional framework, showing that not all states are treated as *authors* by this framework. The same asymmetry that exists between domestic and global inequality would exist between domestic and international inequality. In fact, no legitimate institutional framework that would produce requirements of reciprocal justification exists. Nonetheless, I contend that even if a legitimate international order were to exist – a *community of political communities* – inequality between states would still lack moral relevance. For even granting that international institutions treat states as *authors* and have a causal impact on the amount of resources, rights and liberties collectively possessed by their citizens does not show that the case is symmetrical to legitimate domestic institutions. The reason for this lies in the different types of interests that ground claims to distributive shares at the domestic and international level. While at the domestic level individuals ground their claims in interests, plans of life or conceptions of individual good, at the international level, their claims are grounded in public conceptions of state legitimacy. In other words, while the relevant interests at the domestic level are the interests of the individuals considered separately, the relevant interest at the international level is the interest they all have as a *political community of authors*, that is, a publicly shared interest in self-government.<sup>81</sup>

As a result, one of the characteristics that make inequality morally relevant is absent; I refer to the publicly inaccessible grounding of the interest in the size of the distributive shares. Legitimate states have an interest in the distributive shares configured by international institutions, grounded in a conception of political legitimacy of self-government shared by its citizens that is publicly knowable by the remainder of the states. Individuals, on the other hand, have

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<sup>81</sup> Of course this is not the only publicly shared interest that a political community of authors can share. They can have other interests like increasing their GDP or promoting the development of certain cultural or artistic goods that are considered intrinsically valuable. Nevertheless, these are not the interests held by the political community as such. The interest held by a political community – as a community of authors - is that of self-governance.

an interest in the distributive shares configured by domestic institutions, grounded in a conception of the good or a life plan that is only knowable if the state meddles in individuals' private lives in a way that is incompatible with the state's political legitimacy.

Since legitimate states have an interest in self-government that is publicly accessible, the reciprocally acceptable justifications of the distributive pattern generated by international institutions ought not presume a maximizing interest in their distributive shares. Whereas at the domestic level public inaccessibility of individual purposes has the consequence that all reciprocally acceptable justifications would have to presume a maximizing interest in each of its citizens, at the international level the situation is different. Here it is possible to gain public access to the purposes that individuals organized into a legitimate political community pursue in common. The common interest is political self-government. It is possible to know more accurately when a justification would be reciprocally acceptable, namely, only when it guarantees that the distributive shares of the resources each state receives are of a *sufficient* size as to allow them to organize themselves legitimately. That the purposes of legitimate states are publicly accessible carries with it the consequence that the principles suitable for justifying the distributive pattern are *sufficientarian* rather than *egalitarian* or *prioritarian*. Since inequality is relevant only where these latter principles apply, the relative level of resources and rights enjoyed by states in the international order are not morally relevant. Only the absolute size of their distributive shares, as measured using the *sufficientarian* criterion of self-government or legitimacy, is morally relevant.

By way of summary of these last two sections, two characteristics of the international institutional order determine the moral irrelevance of both global and international inequality. The fact that there is no collective political power belonging to the whole of humankind results in the moral irrelevance of global inequality and the fact that states – or individuals as members of political communities – have a collective purpose that is publicly accessible to other political communities – or their members – results in the moral irrelevance of international inequality.

### ***VIII- CONCLUSION: A MODERATE STATIST POSITION***

My position differs from the positions held by cosmopolitans, but it does not therefore subscribe without reservations to statist conclusions. Unlike cosmopolitan positions, mine states that neither *global* nor *international* inequality is morally relevant. Unlike an extreme statist position, the one I defend does not maintain that all inequality occurring within state institutions

has this relevance. An additional requirement is necessary, that the domestic institutional framework be legitimate or, what amounts to the same, that it should satisfy the citizens' interests of *authorship*, that is, there should be a *community of authors*.

If there is a domestic institutional framework, even though it might produce profound effects upon its citizens, and even though the citizens make claims regarding their distributive shares based on individual life plans, if such a framework lacks legitimacy – by not satisfying the interests of *authorship* – the inequality is not in this case morally relevant. The reason for this situation is the same as in the case of global inequality. Since there is no *community of authors*, there are no requirements of reciprocal justification for the distributive pattern; *prioritarian* or *egalitarian* principles do not apply and, therefore, the relative level of resources and rights is not morally relevant. In an institutional framework of this type – an illegitimate one – no citizen is able to influence the content of the decisions whose authorship would be ascribable to the rest and, therefore, they do not have the correlative requirement that reciprocally acceptable justifications be afforded regarding the correctness of what is decided.

Naturally this does not mean that the existence of illegitimate domestic and international institutions does not generate moral requirements. The existence of illegitimate institutions generates *sufficientarian* requirements of legitimacy instead of *prioritarian* or *egalitarian* ones.<sup>82</sup>

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<sup>82</sup> Although illegitimate domestic and international institutions generate the same kind of sufficientarian requirement, the requirements generated in both cases are not the same. I cannot expound at length on this issue here, but the reason why the requirements are different is that both institutional schemes apply to different subjects. Domestic institutions impose upon their citizens courses of action or states of affair. International institutions, on the other hand, do not apply directly to citizens but to states. I have dealt with this problem in detail elsewhere. The fact that illegitimate domestic institutions are coercive, I have pointed out, generates moral requirements to satisfy the interests of *authorship* of those to whom they apply. In short, the existence of a coercive institutional framework generates the moral requirement that said framework be legitimate. Since the international framework does not apply directly to individuals but to states – politically organized individuals – the requirements of legitimacy or *authorship* that appear at this level are different. This is a question of the institutional framework satisfying the interests of *authorship* not of individuals but of the *communities of authors* it applies to. It is a

Finally, even if the existence of a legitimate international order is accepted – one that is constituted of States instead of individuals – the inequality among them would lack moral relevance. The reason for this arises from the fact that States, as political communities, are characterized by possessing a publicly shared interest in self-governance. That the interest is publicly accessible also makes *prioritarian* or *egalitarian* principles inapplicable at the international level.

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question of configuring a *community of communities of authors*. If we focus on the distribution of resources, the idea may perhaps be easier to explain. At the domestic level each individual has an interest in having enough resources to be able, for example, to make use of his or her political rights. At the international level, all individuals inhabiting the same domestic institutional framework have an interest in their states having sufficient resources for each one to have the sufficient resources to be able to make use of his or her political rights. It is obvious that these interests are not identical when one sees that either one can be independently satisfied. If my state possesses sufficient resources, but distributes them in such a way that I do not have enough to exercise my political rights, my interest is not satisfied at the domestic level, but it is at the international level. If my state does not possess sufficient resources, but in my particular case it has granted me enough to exercise my political rights, the situation is the reverse.

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