

twice before claiming that intergenerational issues are too radically different to be dealt with on the basis of our standard moral and political theories. The intergenerational context raises specific challenges. Of course, it is often tempting, in the face of major *practical* challenges, to assume the need for paradigm shifts at the *conceptual* level. This temptation should be resisted, at least initially. Let us make the effort to understand first what standard theories have to offer us. They have things to tell us. They mobilize intuitions that are shared by various segments of the public. They exhibit some degree of robustness because their properties have been tested for a while. Moreover, relying on standard theories allows us to relate our intuitions in the intergenerational realm with those in the intragenerational one. And if it were to turn out that a paradigm shift is needed in the end, let us make sure that we justify such a need. And let us try and give enough flesh to such a new paradigm, to ensure each of us do not engage in new avenues without minimally understanding what it is about.

Notes:

1. Jefferson, T. (1789): Letter to J. Madison, 6 of September.
2. Daniels, N. (1988): Am I My Parents'

Keeper? An Essay on Justice Between the Young and the Old, NY/Oxford: OUP.

3. Parfit, D. (1984): *Reasons and Persons*. Oxford: Clarendon Press.
4. Arrhenius, G. (2000): An Impossibility Theorem for Welfarist Axiology. *Economics & Philosophy*, p. 16, pp. 247-266.
5. Gosseries, A. and Meyer, L.(eds.) (2009): *Intergenerational Justice*, Oxford: Oxford University Press, p. 419.
6. Gaspard, F. and Gosseries, A. (2009): Are Generational Savings Unjust? In: *Politics, Philosophy & Economics*, 6 (2), 2007, pp. 193-217.

Biography:

Axel Gosseries is a philosopher (PhD, Louvain, 2000) and law scholar (LL.M., London, 1996). He is a permanent research fellow of the FNRS (Belgium) and a Professor at the University of Louvain where he is based at the Hoover Chair in economic and social ethics. He has been spending time doing research in various parts of the world (Oxford, Canberra, Montreal, Collegium Budapest, Bergen) and has been lecturing abroad in various universities (Krakow, Bern, Montevideo, Bucharest, Prishtina, Braga, and Lille). He is a specialist of intergenerational justice issues. He is the author of *Penser la justice entre les générations* (Au-

bier, Paris, 2004) and the editor of *Intergenerational Justice* (with Lukas Meyer, Oxford University Press, 2009). He is the author of about 50 chapters and articles in books and journals, in philosophy (e.g. *Canadian J. of Philosophy*; *J. of Political Philosophy*; *Politics, Philosophy and Economics*; *Stanford Encyclopedia of Philosophy*; *Oxford Handbook for Practical Ethics*), law (e.g. *Loyola of Los Angeles Law Review*; *New York University Environmental Law Journal*) and economics (e.g. *International Economic Review*, *Economics and Philosophy*).



First Panel "What is Intergenerational Justice?": Prof. Dr. Dr. Jörg Tremmel, Prof. Dr. Viriato Soromenho-Marques, Prof. Dr. Almeida Ribeiro and Prof. Dr. Marques Guedes

CONFERENCE PAPERS

Intergenerational Justice – Scope and Limits

by Prof. Dr. Dr. Jörg Tremmel

The presentation is based on the speaker's new book:

Tremmel, J. C. (2009): A Theory of Intergenerational Justice. London: Earthscan.

Ever since Greek antiquity, the notion of justice has been at the centre of intense philosophical debate. Nevertheless, systematic concepts and theories of justice between non-overlapping generations have only been developed in the last few decades. This delay can be explained by the fact that the impact of man's scope of action has increased. Only since the twentieth century has modern technology given us the potential to irreversibly impair the fate of mankind and nature into the distant

future on a global scale. In Plato's or Kant's days, people did not have the same problems with regard to the environment, pension schemes, and national debts as we have today. Therefore, there was no objective need for theories of justice that were unlimited in space and time. According to Hans Jonas, the new territory man has conquered by high technology is still a no-man's-land for ethical theory which lives in the Newtonian age.

Comparisons between 'generations'

Statements on generational justice require comparisons between generations. Yet, the term 'generation' is ambiguous. Distinctions can be drawn between 'societal', 'family-re-

lated', and 'chronological' meanings of the term 'generation'. Statements on generational justice normally refer to the chronological meaning of 'generation'. They can also refer to the family-related meaning of 'generation', but not to its societal meaning. We can also distinguish various comparisons between chronological generations: vertical, diagonal, horizontal, and overall-life courses. Diagonal comparisons as well as comparisons of overall-life courses are decisive. Other comparisons are of only limited use for statements on generational justice.

Arguments against theories of generational justice

The non-identity problem coined by

Schwartz, Kavka, and Parfit says that we cannot harm potential individuals if our (harmful) action is a precondition for their existence. According to this argument, we would not harm future people by using up resources, because these particular people would not exist if we would preserve the resources. But the non-identity paradox is irrelevant for the kind of problems that are usually discussed in the intergenerational context such as wars, environmental pollution, or national debts. The 'butterfly-effect argument' states that a monocausal relationship cannot be construed on the basis of a weak multicausal connection. The causality between actions that are hostile to posterity, e. g. non-sustainable resource management, and the genetic identity of the next generation is not greater than the famous butterfly effect, according to which the beat of a butterfly's wing in Asia can set off a tornado in the Caribbean. A phrase like 'because of a war or a certain environmental policy, x percent of all children were conceived at a different time' is contestable because of the 'because of' in it.

There is also the objection that future generations cannot have rights. However, no logical or conceptual error is involved in speaking about rights of members of future generations. Whom we declare a rights-bearer with regard to a moral right is a question of convention. Whom we declare a rights-bearer with regard to a legal right is an empirical question.

What to sustain? Capital or wellbeing as an axiological goal?

Most accounts of intergenerational justice focus on *how much* should be sustained. But the axiological question of *what* should be sustained is of equal importance. *What* is ultimately the valuable good that should be preserved and passed on to the next generation? 'Capital' and 'wellbeing' (in the sense of need-fulfilment) are examined as two alternative axiological objectives of societal arrangements. Capital can be divided into natural, real, financial, cultural, social and knowledge capital. The many facets of 'wellbeing' require extensive discussion, and subjective methods of measuring are to be compared with objective ones. Ultimately, the axiological objective 'wellbeing' is superior to 'capital' because capital is only a means of increasing wellbeing. Many utilitarian accounts have only a weak conception of the axiological good, and refrain from operationalising it. A closer look at such

concepts as wellbeing, happiness, and utility reveals that the so-called 'repugnant conclusion' is an erroneous concept, based on misleading terms.

How much to Sustain? The Demands of Justice in the Intergenerational Context

Three conceptions of justice are established in the intragenerational context: 'justice as impartiality', 'justice as the equal treatment of equal cases and the unequal treatment of unequal cases' and 'justice as reciprocity'. How can they be applied to the intergenerational context? For 'justice as impartiality', it is worthwhile to use Rawls' 'veil of ignorance' for determining principles of justice between generations. Rawls himself did not complete this train of thought. In my book, I conclude after a long discussion that the individuals in the 'original position' would not opt for all generations to be equal, as it would mean that later generations would have to remain on the low level of earlier generations. In this context, the 'autonomous progress rate' is of particular importance: Later generations will inevitably benefit from the experiences, innovations, and inventions of earlier ones. There is no way earlier generations could benefit from future technology and medicine, because time is one-directional. Justice as 'equality' is not an option, unless the participants behind the veil of ignorance ordered each generation to burn down all its libraries and destroy all innovations and inventions before its death. But then, progress becomes impossible for all times, and all later generations of mankind would be doomed to vegetate on the low level of the Neanderthals.

On account of the inequality of all generations, only the second part of the formal justice maxim 'treat the equal equally and the unequal unequally' can be transferred to the intergenerational context. The second part of this maxim requires treating different generations in a differentiated manner. Each generation should have the right to fully exploit its potential and reach the highest wellbeing attainable for it (and only it). On account of the 'autonomous factors of progress', each generation has a different initial situation. The initial situation of later generations is normally better than that of earlier ones. So, opportunities are never equal in an intergenerational context. No generation has the right to spoil this initial advantage of its successors with reference to an ideal of equality. Instead of a savings rate in the sense of sacrificing consumption, a 'preventive savings

rate' should be imposed on each generation, i.e. an obligation to avoid ecological, societal, or technical collapses.

Whenever the principle 'justice as reciprocity' legitimises egoism, its consequences are purely and simply immoral, be it in the intergenerational or in the intragenerational context. In such cases, the wellbeing of the acting person is increased at the cost of another person (win/lose situation). But not every principle of reciprocity requires the assumption of an egoistic nature of man, thus many versions still can be applied as a moral concept. A variation of 'justice as reciprocity', namely the 'principle of indirect reciprocity', can even be applied to the intergenerational context and sensibly justify our actions affecting posterity. The core element of a convincing theory of generational justice, however, is the demand for making improvement possible for the next generation. Our duties to posterity are stronger than is often supposed. Intergenerational justice has only been achieved if the opportunities of the average member of the next generation to fulfil his needs are better than those of the average member of the preceding generation. This does not imply that today's generation must sacrifice itself for the next one. If a good has to be distributed among two generations with the same number of members, it is just for each generation to receive one half. How can equal distribution produce an improved standard of living? This is not a paradox because we have to take into account the autonomous progress factors. The members of today's generation A need not give more than they have received to the members of the next generation B. But if they give them as much of it, they will provide their descendants with the possibility to satisfy their own needs to a higher extent than A. Thus, I label my concept 'intergenerational justice as enabling advancement'.

The normative setting of our ethical obligations must not be confused with the empirical prognosis of whether future generations will have an equal or even higher welfare. The normative and empirical level must be strictly distinguished. To cut a long story short: while our normative obligations to future generations are greater than we commonly assume, the empirical probability that we will leave behind a world with better or at least equal opportunities for future generations has dropped over the past decades. Today's generation lives in a particularly decisive age. Just now, more and more states have nuclear weapons, there is man-made global warming, and we have huge amounts of toxic waste. So today's

generation has the potential to irreversibly reduce the wellbeing of numerous future generations. We have a great responsibility to avoid this.

Biography:

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Frankfurt (2003), and an MBA in economics from the European Business School, Oestrich-Winkel (1998). Research interests: 'Shorttermism' of Political and Business Systems; Applied Ethics (esp. Intergenerational Justice, Climate Ethics); Epistemology.

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Ontological debt and Intergenerational Justice –

The Case of Climate Change *by Prof. Dr. Viriato Soromenho-Marques*

John Rawls accurately described the problem of intergenerational justice (IJ) as an almost impossible test to any theory of justice.¹ Nevertheless, the way Rawls dealt with the extremely complex IJ problem was very much in the line of the classical framework in which the idea saw the first light of the day, in the late 18th century.

In 1784, Immanuel Kant explained that the idea of progress towards a cosmopolitan society was the only rational device that could allow any future generation to judge the contribution of previous generations.² Therefore, Kant introduced the model of a contract between generations, where, in spite of the temporal asymmetry in the reciprocity of duties between the living and those waiting to be born, we were able to identify a common endeavour, amidst a chain of efforts in time and space. No one was better able to depict than Edmund Burke the "partnership...between those who are living, those who are dead, and those who are to be born."³ The compact between generations raised the question of knowing what would be the real evaluation, either positive or negative, regarding the heritage brought within the timeline of succeeding generations.

The question about the "burden of history" (*die Last der Geschichte*), voiced by Kant in 1784, echoed by Burke in 1790, was transformed by Thomas Jefferson in his correspondence with James Madison (1789-1790) in what I call the 'standing debt paradigm' of the intergenerational justice principle (IJP).⁴ We may easily identify the same debt paradigm in Rawls (1971) who tries to explain the duties of each generations regarding the continuity and enhancement of the material and cultural flows of history's fabric.⁵

The main point this presentation wishes to sustain, however, brings the debt paradigm to its

own limits. Putting this IJP paradigm under test, within the contemporary landscape underlined by the huge challenges caused and brought by climate change and the global environmental crisis.

Climate change, under the perspective of the intergenerational justice principle (IJP) both precedes and goes beyond the debt paradigm: a) it precedes the debt paradigm because its ontological nature takes into consideration the basic pre-conditions of justice, namely the existence of a planet able to accommodate human beings; b) beyond the debt paradigm, because the implications of climate change are unable to be framed in a cost benefit analysis, given the risk of collapse.⁶ Therefore, I conclude that in order to have the expectation of a real legal implementation of international justice in the sphere of climate change, we will need to combine a double approach: a) the intergenerational justice principle (IJP), seen in the framework of the ontological debt prospect, may be understood as a meta-justice principle, more as a guide for practical reason, than a tool to concrete action; b) The key for workable justice will be the acting combination between the IJP and the Principle of Common but Differentiated Responsibilities (PCDR).

The future of climate change negotiations will depend dramatically on the right hierarchy between the rational priorities of IJP, as a meta-justice concept, over the PCDR, understood as a vital workable justice device. Only through that strong combination will we be in conditions of avoiding a legal vacuum after the expiration of the Kyoto Protocol, by the end of 2012.

Notes:

1. Rawls, John (1971): *A Theory of Justice*, New York: Oxford University Press, ed. 1990,

§44, p. 284.

2. Kant, Immanuel (1784): *Idee zu einer allgemeinen Geschichte in weltbürgerlicher Absicht* [1784], *Gesammelte Schriften*, Berlin: Königl. Akademie der Wissenschaften, ed. 1902, vol. VIII, pp. 30-31.

3. Burke, Edmund (1790): *Reflections on the Revolution in France*, Selected Works of Edmund Burke, Indianapolis, Liberty Fund, 1999, vol. 2, pp.192-193.

4. Banning, Lance (ed.) (1995): *Jefferson and Madison. Three Conversations from the Founding*, Madison: Madison House, 1995, p. 166.

5. Rawls, John (1971): *A Theory of Justice*, New York: Oxford University Press, ed. 1990, §44, p. 285.

6. "Perhaps in the end the climate-change economist can help most by not presenting a cost-benefit estimate for what is inherently a fat-tailed situation with potentially unlimited downside exposure...", Weitzman, Martin L. (2009) *On Modelling and Interpreting the Economics of Catastrophic Climate Change*, *The Review of Economics and Statistics*, Vol. XCI, February, p. 18.

Biography:

Prof. Dr. Viriato Soromenho-Marques (*1957) teaches in the Departments of Philosophy and European Studies of the University of Lisbon, where he is Full Professor. He was Chairman of Quercus (1992-95). He was Vice-Chair of the European Environmental and Sustainable Development Advisory Councils network (2001-06), being member of the Portuguese Council (CNADS). He is the scientific coordinator of the Gulbenkian Environment Programme. He is member of the Advisory Group on Energy and Climate Change by invitation of the President of the European Commission