

JUSTICE TOWARD FUTURE GENERATIONS

Exam Strategies: Consider transnational level (climate change, population growth, biodiversity loss...) and intrastate level (funding of welfare state, education, pensions...)

Questions to think about:

- What obligations, if any, do members of one generation owe to future generations?
- Do those currently alive owe different duties to overlapping generations than they do to those in the far future?
- Do future people have rights?
- What are the implications, if any, of the NI problem for our obligations to future generations and for moral concepts such as harm?
- What are the institutional implications of theories of intergenerational justice?

My own position: *We do have duties to future generations – they will have interests and as such it is possible to violate their interests and hence their rights. The location in time is also morally arbitrary, like place of birth. So we cannot just discriminate against future generations. Our duties consist in enabling future generations decent standards of living (they don't have to have the exact same resources as we do because maybe there is plausible reason to think they need more because of increased population). The NI problem should not play a role in this debate as its implications are deeply counterintuitive. With respect to overlapping generations, on reciprocity-based accounts of justice, we owe those generations with whom we overlap more than we do to those who are in the far future.*

DEFINITIONS AND CLARIFICATIONS

- › Any comprehensive philosophical theory of intergenerational justice should provide an answer to at least three questions (Gosseries 2001):
 - i. What is a generation?
 - ii. Do we owe anything to future and past people?
 - iii. If we do have obligations, at least to the people of the future, how should we define them?
- › How do intergenerational relations differ from relations among contemporaries?
 - > Present generations can affect future generations' desires, interests, living environment, number, identity and *very existence* – this would not be the case with contemporaries (or at least to a limited extent). There is a **stark asymmetry** between living people and those who will live in the future: present generations can exercise power over future generations - e.g. when they create conditions that make it costly for future generations to decide against continuing to pursue present generations' projects. **Remote future generations cannot exercise such an influence on presently living people** - they do not even have the potential to do so (Barry 1991)

Note that generations also overlap and coexist with each other – it is not that they simply replace each other. What implications does this have for duties?

- › What are the component parts of an account of intergenerational justice?
 - > **Caney 2014:**
 1. It must specify the **agent** in question and the **role** that they are occupying, as this affects what principles are appropriate
 2. Must specify whether we are according **equal moral status to all persons** (present and future)
 3. Must affirm a principle of **intergenerational equity** - e.g. leaving future people equally well off, above a sufficientarian threshold, maximization of well-being...
 4. Needs to outline and defend a **metric of justice**
- › What is the Non-Identity Problem?

- > The NI problem: *If performing an action A leads to the existence of a set of people X at some point in the future, and not performing A leads to bringing about the existence of another set of people Y, and A has some negative effect on future people, then the members of group X cannot say that they have been harmed on the grounds of justice, for they would otherwise not have existed at all.*

It appears that, given that non-existence is the alternative, **people negatively affected by the choices of present generations have not really been made worse off by the action, since they get lives still worth living** – which seems better than not having existed at all. Alternatively, one could also say that the comparison is meaningless or impossible.

- > What is the standard conception of harm?
 - > An action harms a person when it makes her worse off than she otherwise would have been, had the action not been performed (Harman 2004). Harman rejects this view because it leads to the NI problem.
- > What is the difference between age groups and birth cohorts (two ways of understanding a “generation”)
 - > **Birth cohorts** are groups of people born at a specific time and who age together.
 - > **Age-groups** are groups of people at a certain stage of their lives, e.g. children, young people or the elderly.
 - Thus, age groups are phases through which different cohorts pass as they age. Age groups themselves do not age.

INTEREST THEORY OF RIGHTS

- > What is the interest theory of rights?
 - > **Raz**: “*X has a right if X is the kind of being who can have rights and if X has an interest which is sufficiently weighty that we should respect that interest*” – Note that they are never absolute, but a plausible rights claim has to be in some way sensitive to interests
 - **Dworkin**: “*rights are like trumps against utility*”
 - > Interest theorists maintain that the **function of a right is to further the right-holder's interests**. An owner has a right, according to the interest theorist, not because owners have choices, but because the ownership makes owners better off. A promisee has a right because promisees have some interest in the performance of the promise, or (alternatively) some interest in being able to form voluntary bonds with others.
- > **Feinberg (1974)** suggests that “*the sorts of beings who can have rights are precisely those who have (or can have) interests.*” There are two reasons for this:
 - > Because a right holder must be capable of being represented and it is impossible to represent a being who has no interests
 - > Because a right holder must be capable of being a beneficiary in his own person, and a being without interests is a being that is incapable of being harmed or benefited.

In the future, people will come into existence, have interests, and hence they can also be right holders. As such, we can violate the rights of future people in the present.

ARGUING FOR DUTIES TO FUTURE GENERATIONS

- > Intuition: A person’s location in time is analogous to its country of birth – determined by luck – and hence morally irrelevant. We have no reason to attribute moral importance to someone’s location in time but should treat all individuals across time as moral equals.
 - > **Caney (2014)**: *A Person's place in time is not, in itself, the right kind of feature of a person to affect his/her entitlements*”
- > If we adopt a **person-affecting** view, future people count if they have interests, just claims or rights which can be frustrated (e.g. by presently living people). It is possible that we **violate a future person’s rights by frustrating**

her interests severely – they do not have to have these interests *right now*, because we can safely assume that future people will be bearers of rights in the future (Elliot 1989)

- › **Objection:** This view is incoherent, because it seems to be committed to the view that **non-existent objects can possess real properties**. A future person cannot be the present bearer or subject of anything, including rights. So future people do not have a claim on us for the simple reason that they do not exist (De George 1979).
 - › **Reply:** It seems indeed doubtful that non-existent individuals can possess real properties, in this case real rights. BUT there is another way of understanding the suggestion that future people have rights now, which is that **the rights themselves exist right now** (Elliot 1989). The present existence of that right is contingent on the future existence of some person who will be the bearer of that right. **Accepting that there can be present rights which do not have present bearers** does not seem that impossible (another case would be the rights of the dead).
 - “a present right, which is the right of a future person, exists, if it is the case that there will be a person in the future who will then be the bearer of the right.”
 - › To clarify: Feinberg thinks that only those future people who come into existence can be bearers of rights, not all possible future people.
- › **Objection (Less knowledge about the future):** We are ignorant about the future, and so it is not at all clear what exactly we owe to future generations – the obligations that we might have **lose in practical relevance**.
 - › **Resp.:** The interests of future generations **cannot be harmed by leaving them more choices rather than fewer**. It cannot be right to disregard totally the interests of even remotely future generations, to the extent that we have some idea of the way in which our current actions will affect those interests. (Barry 1991)

"Of course, we don't know what the precise tastes of our remote descendants will be, but they are unlikely to include a desire for skin cancer, soil erosion or the inundation of all low-lying areas as a result of the melting of the ice-caps."

 - Interesting point here: How narrowly or widely do we define interests? There is no obvious cut-off point
 - › Technological developments may mean that these are no longer problems – however, we don't know that, so we should not count on it.

CONTENT OF THOSE DUTIES

- › Reiman (2007) assumes that parties in the OP would agree on a principle that currently living people “*have a duty to do what they reasonably can, subject to their needs, rights and other moral duties, to ensure that future people are capable of normal functioning and live lives with normal life expectancies and normal morbidity rates.*” - in short, that future people have a right to “normal functioning”
 - › But I feel that distance in time matters: we might owe something different to generations that we are currently overlapping with as we have more information about them, and our actions affect them much more directly.
- › Do current generations have a duty to leave future generations resources to achieve a standard of living at least as high as their own?
 - › On a sufficientarian account, the answer would be no. We only have a duty to share our resources such that future generations can enjoy lives above a minimum threshold.
- › Does the distance in time matter for what we owe future generations (also see below for overlapping vs. non-overlapping generations)
 - › Key issue seems to be (Butt)
 - whether we should care less for distant future generations because they are more remote from us and therefore we can do less to predictably affect them. This is compatible with the idea that we have the same kind of duties to them as near generations but we just have much less confidence about how our actions will affect them

- whether the fact that they are further away from us in time *in itself* means that we owe them less – just because of the temporal distance – rather than because we can in practice plausibly affect them less.
 - This seems to mirror the discussion in “Global Justice” (PolTheory) whereby according to a relational account, if you do not have the kind of relation with a person at the other side of the world which triggers duties of justice, then you don’t owe them anything (this is distinct from the global cosmopolitan account)
 - I suppose one could still say that we are linked to distant future generations, albeit in a very sporadic way, and only through indirect links of intermediate generations.

NON-RECIPROCITY PROBLEM AND OVERLAPPING GENERATIONS

- › The **non-reciprocity problem** is often invoked to argue that we do not have duties to future generations.
 - > Arg.: Reciprocity-based justice requires that “*persons benefit for others, including members of different nations or generations, only if the recipients are in a position to reciprocate*” (Page 2007). But whilst earlier generations are able to provide benefits to future people, **later generations cannot reciprocate** this – thus, no duties of justice obtain between them.
 - > Writers on this topic have conceded the **fundamental power asymmetry between generations**:
 - “*It is natural fact that generations are spread out in time and actual economic benefits flow only in one direction*” (Rawls 1999)
 - “*The directionality of time guarantees that, while those now alive can make their successors better or worse off, those successors cannot do anything to help or harm the current generations*” (Barry 1989)
- › Objection to the Non-Reciprocity problem:
 - > If we had one generation replacing another, then indeed there would be a power asymmetry. But in reality we have generations overlapping.
 - > We need to distinguish between two distinct sets of relations (McCormick 2009)
 - “**earlier-later**” – this describes how two generations are positioned relative to each other. If generation A is born after generation B, then B may be called ‘earlier’ than A and A may be called ‘later’ than B.
 - “**past-present-future**” – this describes how two or more generations are distributed relative to each other in time, i.e. whether they are contemporaneous or non-overlapping.
 - > Using this distinction, we can see that even if generation A is later than generation B, they might still overlap. This is evident as **parents, their children and their grandparents often live together at the same time**. This entails that they may be mutually dependent.
 - A present generation, as it ages, becomes weak and frail and requires care, younger (later) generations are able to provide healthcare and security to them.
 - We anticipate **vulnerability at the beginning and end of one’s life**.
 - Thus, the claim that later generations cannot affect or reciprocate the efforts of present generations is mistaken.
 - “*The ‘first-comer’ advantage is undercut and opposed by degenerative features of the human condition*”
- › The implications for intergenerational justice are as follows:
 - > On reciprocity-based justice accounts, **current generations will have duties toward later generations with which they overlap and vice versa**. But the non-reciprocity problem seems to persist between non-overlapping generations (McCormick 2009)
 - > Does this mean that we don’t owe anything to far remote generations? No!
 - Consider earlier generation A, which overlaps with later generation B, but not with even later generation C. A has a duty to leave B enough resources to achieve decent levels of well-being

(due to reciprocity), but A does not have such a duty to C. However, much of the well-being of overlapping successors like B will depend upon these successors being able to offer enough resources to their own overlapping successors C.

- Hence, “*the present generation must provide those successors with means enough to ensure an ongoing agreement among all future generations.*”
 - This **creates chains of dependence and reciprocity**. Even if I am not directly dependent on generations in 200 years’ time, there are interconnected relations, so I am indirectly related to them.
- › Further complications
- > Technological advances which may make the elderly less dependent on care from younger generations.

RAWLS’S JUST SAVINGS PRINCIPLE

- › In his Theory of Justice, Rawls’s **difference principle does not hold for the question of justice between generations**, because there is no way for later generations to help the situation of the least fortunate earlier generation – the problem of saving thus must be treated in some other manner.
- › What is Rawls’s OP saying with respect to generations? Rawls essentially makes two assumptions:
- > Assumes his **people in the OP** to know that they are **all contemporaries, though they do not know to which generation they belong** – “present time of entry” assumption
 - In effect, the parties in the OP then represent all and only those people who, from this moment on, will ever exist (Reiman 2007)
 - > Makes “**motivational assumption**” which says that the goodwill of the parties stretches over two generations, because the parties in the OP represent **family lines** who care at least about their more immediate descendants. (note that Rawls revises this later on)
 - > The OP can then be used as a device to identify the rights of future people against currently living people, and correlative duties of current to future generations: “*Each generation must not only preserve the gains of culture and civilization, and maintain intact those just institutions that have been established, but it must also put aside in each period of time a suitable amount of real capital accumulation*” (Rawls 1999). This spells out the rights of future people and the duties of currently living people to them and essentially constitutes the **Just Savings Principle**.
- › In his **Justice as Fairness: A Restatement**, Rawls states that what is required, as a matter of justice, is “*to make possible the conditions needed to establish and to preserve a just basic structure over time.*”
- › In later work, **Rawls changes the way he reasoned to the JSP:**
- > Rawls identifies as correct principle of intergenerational justice not that all generations meet in a hypothetical situation in the original position, but rather that the **parties agree to a savings principle s.t. the condition that they must want all previous generations to have followed it**. The correct principle would be one “*the members of any generation (and so all generations) would adopt as the principle they would want preceding generations to have followed, no matter how far back in time.*”
 - > The question that generations have to ask themselves is “How much they would be willing to save at each stage of advance on the assumption that all other generations are to save at the same rates”
 - Rawls asks what a given rate of savings should be applied intergenerationally.
 - > Through progressive income taxation, justice might be preserved over time.
 - Just savings aims at achieving and preserving just institutions and the fair value of liberty (Gosseries 2001). As Rawls puts it, “*the just savings principle can be regarded as an understanding between generations to carry their fair share of the burden of realising and preserving a just society*”.

- › Rawls actually distinguishes a two-stage principle of just savings:
 1. **Accumulation Stage:** Each generation should save with the aim of achieving and maintaining just institutions and their material base, as well as taking into account the fair share of effort that each generation should bear.
 2. **Steady-State Stage:** Each generation should leave to the next at least the equivalent of what it has received (from the previous generation)

- › Critiques:
 - > **Barry (1991):** The principle only concentrates on how to make successors better-off, it **misses the point of avoiding harm.**
 - However, this might be easily incorporated.
 - > We cannot be confident that our efforts will have any net effect because everything depends on the behaviour of intervening generations, whom we have no way of binding. The "**motivational assumption**" relies on the goodwill of the parties and **does not stretch into the far future.** Derivation of obligations from this assumption is **pretty thin.** Just savings principle only deals with the question of one generation and its immediate successors.
 - But Rawls later revised his position and ditched the motivational assumption, reasoning to the JSP in another way.

- › Proposed solution:
 - > **Modify the device of the Original Position** to a meeting with all generations, not just contemporaries – thus abandoning the “present time of entry” interpretation (Barry 1991, English)
 - Veil of ignorance would disguise knowledge of which generation the parties are in and thus eliminates the unfairness built into the temporal asymmetry of power (Reiman 2007)
 - > What would parties in the modified OP decide on as duty to future generations?
 - The parties would then agree on a principle providing that currently living people have a **duty to do what they reasonably can to ensure future people are capable of normal functioning**, that is, that future people are capable of living lives with normal life expectancies and normal morbidity rates (Reiman 2007)
 - This would entail a significant duty to mitigate and adapt to climate change, since this will have detrimental effects on future humans’ capabilities of normal functioning

THE NON-IDENTITY PROBLEM

- › The NI Problem sheds doubt on future generations having rights due to the **contingency of future people upon our decisions.** It arises in the following way:

If performing an action A leads to the existence of a set of people X at some point in the future, and not performing A leads to bringing about the existence of another set of people Y, and A has some negative effect on future people, then the members of group X cannot say that they have been harmed on the grounds of justice, for they would otherwise not have existed at all. It appears that, given that non-existence is the alternative, people negatively affected by the choices of present generations have not really been made worse off by the action, since they get lives still worth living – which seems better than not having existed at all. Alternatively, one could also say that the **comparison is meaningless or impossible.**

- > This has the **deeply counterintuitive implication** that since different people will be alive in 100 years if we keep polluting the earth than would be alive if we stopped, we are not doing any harm to these future individuals by polluting (under the assumption that all of the lives in question are still worth living).

RESPONSES TO THE NI PROBLEM

1. Resort to **Threshold Conception of Harm** - suggesting an alternative notion of harm that is unaffected by the NI problem
 - > The NI problem is based on the **Worse-Off principle**, which states that we can only harm a person if our behaviour makes her worse off than she would have been if we had acted differently (Wollard 2012).
 - > The threshold conception of harm instead suggests that a person is worse off than she ought to be: "**We owe it to the person when she will have come to existence that she is not in a harmed state**" (Harman 2004)
 - "*An action harms a person if the action causes pain, early death, bodily damage or deformity to her, even if she would not have existed if the action had not been performed*". Harman argues that it is mistaken to assume that the only available point of comparison is what things would have been like if an action had not been performed - we can compare it to the state of a healthy bodily state.
 - > This threshold notion of harm is unaffected by the NI problem, because we could still meaningfully speak of a set of people being harmed, namely if an action puts them below the specified threshold.
 - > Critique:
 - This response only gets us to a limited set of duties, as it has **no concept of harm that happens above the threshold**. Hence, avoiding the NI problem via this response comes at the price of not being able to specify very demanding duties to future generations.
 - Wollard (2012) suggests that proposed responses to the NI problem are only partially a solution

2. **Distinction between properties and particulars**
 - > Reiman (2007) contends that people can differ in i) properties (height, hair colour, health etc.) and ii) particular. Identical twins may have same properties, but they are still two different particulars – they are **numerically different**.
 - > A **person's fate depends on her personal properties** and her worldly properties, not on which particular she is apart from these. Of course, which particular she is will also contribute her fate, but this contribution does not come from which particular she is *as such*, but rather which properties the world has when she is in it (Reiman 2007).
 - It is intuitive that when we decide about policies, **we consider which worldly properties these (safer or riskier) policies will lead to** and how this will affect future people – we do *not* consider which particular future people those decisions will lead to.
 - > This intuition is also captured by the OP: It represents the interests of future people as if which properties they turn out to have is morally important, but which particulars they turn out to be is morally irrelevant.
 - Seems intuitive to think in this manner, for **what society cares about when deciding is what the worldly and personal properties of future human beings are**, not whether they are exactly *this or that particular* individual.
 - > NI problem focuses on people having rights contingent on what *particular* individuals they turn out to be. But on Reiman's account, we can still violate future people's rights because the interests harmed are the interests of people considered **as if which particulars they are is irrelevant**.

COMPLETE LIVES EGALITARIANISM

- > What is **complete lives egalitarianism**?
 - > Endorsed by most egalitarian accounts of justice, it says that what matters to justice is that people get the same amount of what they are entitled to (opportunities, resources, capabilities etc.) **over their complete lives**. (Bidadanure 2016). On this view, age group inequalities do not pose much of a problem, since each

person is treating equally over their whole lives – only birth cohort inequality would be opposed by completed lives egalitarians.

- › [Bidadanure \(2016\)](#) argues that we **must endorse relational egalitarianism** to explain adequately our intuitions about some inequalities between age groups. What may be worrying in cases such as the **Unequal City example or the Swapping Cases** (which would be permissible as of the complete lives egalitarianism view) is not that there is a time-slice inequality in distribution as such, but rather **that relationships of inequality may pertain at all times**. “*Phases of domination, marginalization, or segregation cannot be thought to cancel out diachronically.*”
 - › Rejects the presumption that inequalities between age-groups are unproblematic as long as they do not result in cohortal inequalities and diachronic disutility. Instead, we should assess each case of intergenerational inequality through at least both **diachronic distributive and synchronic relational lenses**.

APPLICATION: CLIMATE CHANGE

- › **Key question:** What obligations do people have to future generations not to engage in activities that will trigger dangerous climate change and thereby impose harms on people in the near and distant future?
- › One of the reasons that we, as current generations, need to stop polluting the earth is because our actions will have severe consequences on our children and children’s children: Resources like water, fuel and land will become scarce, diseases might increase, heat-related illnesses and death ([Wollard 2012](#))
- › [Caney \(2014\)](#) advocates a zero pure time discount rate, i.e. that future generations are valued equally to the present ones. Presents two separate arguments for this:
 - › **Moral equality argument** maintains that we have no reason to attribute fundamental moral importance to someone's location in time. “*A Person's place in time is not, in itself, the right kind of feature of a person to affect his/her entitlements*”
 - › **Best use argument** maintains that pure time discounting results in suboptimal use of resources, because it allows something other than the optimal use of a resource to influence the use of that resource.
- › Policies toward climate change currently under consideration in order to enable the earth to reach 2100 with an increase in average global temperature of no more than 2°C depend to some extent on carbon dioxide removal, because it is already **impossible today to restrict cumulative GHG emissions** down to a sufficient level. [IPCC Report from 2018](#) says that 100-1000 Giga tons CO₂ needs to be removed in the mid of this century. **Does this mean that what appear to be dates-of-last opportunity for climate action are not in fact last chances?**
 - › [Shue \(2020\)](#) argues NO: Relaxes emissions reductions now would amount to **coercive transfers of risks and costs from present to future generations**. Also, temporary effects of reversible emissions will cause irreversible consequences, like melting of ice-caps.

“the possibility of carbon dioxide removal later must not be allowed to motivate persistence in half-hearted mitigation now in the totally groundless hope that CO₂ removed later would be equivalent to CO₂ emissions avoided now” (quoted from the Climate Ethics Seminar on 17.06.2020)

This is because the less ambitious the mitigation is, the more inherently objectionable the resulting intergenerational risk distribution is. Future generations would have to bear the costs of us being not ambitious enough about mitigation, and current generations would be the beneficiaries.

“less ambitious mitigation externalizes risks from current generations to future generations in order to save us most costs and inconvenience” – Shue calls this **temporal externalization**.

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