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Source: *Philosophy and Public Affairs*, Vol. 6, No. 1 (Autumn, 1976), pp. 70-83

Published by: Blackwell Publishing

Stable URL: <http://www.jstor.org/stable/2265063>

Accessed: 21/02/2009 12:09

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## Justice and Future Generations

Man, as he seems bent on proving, has it within his power to render the earth a barren and hostile environment for posterity. The increasing awareness of this fact has led many to argue that we have a moral duty to conserve in unpolluted form the earth's resources for the benefit of future generations. I shall assume that morally sensitive people find this claim to have some cogency. I intend to examine a nonutilitarian foundation for such a moral requirement.

When I speak of future generations, I mean generations which do not overlap our own. The problem of what we are morally required to do for the people who are now children and will constitute the next generation (in the ordinary sense of the phrase) is interesting, but it is not the one I shall be discussing. I am interested here in what the present generation can be said to be morally required to do on nonutilitarian grounds for future, nonoverlapping generations.<sup>1</sup>

There are, admittedly, serious obstacles to the working out of a nonutilitarian account of the duty to preserve the environment for future generations. But for those of us who feel the force of this duty and believe that duties of beneficence are generally subordinate to

I am grateful to Professors Keith Lehrer and Ronald Milo and especially to Professor Jeffrie Murphy for their instructive criticisms of an earlier version of this paper.

<sup>1</sup>. I do not intend to exclude from consideration the problem of what a parent is required to do (as a matter of justice) for his children. The lifetimes of a parent and his child may not overlap. The point of excluding overlapping generations from the discussion is merely to see what justice requires us to do for people with whom we share no common period of life.

duties of justice, the overcoming of the obstacles will reward the effort.

I shall begin by assuming that we do *not* owe obligations to future generations and that when we speak as if we do, we are speaking either metaphorically or elliptically.<sup>2</sup> By doing so, I avoid the rather sticky problem of how persons who do not share a common period of life could come to acquire obligations to one another. This relationship could not result from a relationship of mutual benefit (reciprocity)<sup>3</sup> nor from explicit or implicit agreement. It is difficult to see how future generations could come to have a claim against us in any of the ordinary ways in which one comes to have a claim against another.<sup>4</sup>

It is possible, I think, to account for much of our duty to provide for future generations in terms of a duty of justice *with regard to* future generations (but not owed to them). But since questions of justice seem to arise most naturally with respect to competing claims of contemporaneous agents, we must ask how it is that duties of justice can extend to include actions the intended beneficiaries of which do not yet exist.

Most of what follows will be an attempt to show, using an ideal contract model, how we can have duties of justice regarding future generations. A solution to this problem has been offered by John Rawls.<sup>5</sup> Since my account will follow his in rough outline, while differing from

2. Consider the claim that we have an obligation to nonliving authors to interpret them in the most plausible way compatible with their words. I, at least, take this to be an elliptical way of saying that we have a (perhaps professional) duty regarding the interpretation of the works of nonliving authors. I think talk of obligations owed to future generations is similarly elliptical. My main reason for assuming this is that I find it exceedingly hard, if we hold reasonable metaphysical views, to make sense of the claim that we now owe an obligation to a person who is not now a person.

3. "We are always doing something for Posterity, but I would fain see Posterity do something for us." Joseph Addison, *The Spectator*, no. 587 (20 August 1714).

4. M. P. Golding argues that we have an obligation to future generations because, and to the extent that, they are members of our moral community. Golding's account seems to me to raise several problems—most seriously an odd and undesirable form of relativism. In any case, I will not pursue Golding's very interesting account here. See M. P. Golding, "Obligations to Future Generations," *Monist* 56, no. 1 (Jan. 1972): 85–99.

5. John Rawls, *A Theory of Justice* (Cambridge, Mass., 1971). Henceforth cited as *TJ*.

it in several crucial respects, a fairly close examination of Rawls' solution is called for.

On the ideal contract theory, the principles of justice are those principles which would be agreed to by rational agents in an initial situation of equality and in ignorance of certain facts. Perhaps the most obvious way to account for a duty of justice regarding future generations is to make all members of all generations parties to the original contract. Rawls dismisses this suggestion as stretching fantasy too far. His idea is that we should be able to think of ourselves as entering the original position at any time merely by arguing in accordance with certain restrictions. To conceive of the original position as an assembly of all actual persons (regardless of when they live) would make this more difficult. Instead, Rawls chooses to represent the interests of all generations by allowing the veil of ignorance to extend to the agents' knowledge of the generation to which they belong. He calls this interpretation of the original position the "present time of entry" interpretation.

It seems somewhat arbitrary on Rawls' part to draw the line where he does. Clearly there is an element of fantasy involved in conceiving of the original position as an assembly of *all* people now living. And it seems that it would serve as an even better guide to intuition if we imagined the original position as consisting of just one person suitably constrained from unfairly promoting his own interests by choosing behind the veil of ignorance. Without making clear why he is treating the problems differently, Rawls has provided for the actual representation of our contemporaries and the merely virtual representation of posterity. What is interesting is that although it seems to make no difference whether our contemporaries are actually represented or just virtually represented, Rawls believes that it does make a difference with regard to future generations (*TJ*, pp. 291–292).

In any case, Rawls chooses to represent the interests of other generations by using the veil of ignorance. The contractors, then, "have no information" as to the generation to which they belong. Rawls repeatedly speaks in this unqualified manner regarding the ignorance of the contractors about their place in time. He claims that the prin-

ciples arrived at treat "all generations justly during the whole course of society's history" (*TJ*, p. 289; see also p. 288).

But the attempt to represent all generations in such a manner seems to be ill-conceived. Rawls often points out that principles of justice can be agreed upon only when people in the hypothetical initial situation know that the circumstances of justice exist. Following Hume, Rawls views the circumstances which make justice possible and necessary as, among other things, limited altruism and relative (though not absolute) scarcity of goods. But it is not at all clear that the circumstances of justice exist for all generations of mankind. In order to show that the circumstances of justice will obtain for all future generations, we must postulate either that there will be ever-expanding sources of raw materials and energy for us to exploit or that, through population control and technological advances, mankind will achieve homeostasis in his environment. Otherwise the resources will be exhausted no matter how provident we are. And so, barring these optimistic assumptions, justice among all generations is not possible because the circumstances of justice will not obtain. Since there is no good evidence that either of these assumptions will be proven correct, we do not seem justified in supposing that the circumstances of justice among all generations of mankind exist.

Rawls himself has required that the contractors know that the circumstances of justice obtain for their generation (*TJ*, p. 137). And, though I shall later show why this assumption is false, I shall for the present assume that if the circumstances of justice exist for each member of a set of generations, then the circumstances required for justice *between* the members of the set of generations exists. Knowing that the circumstances of justice obtain for their generation makes it possible for the contractors to agree on principles of justice; it does this by removing the temptation for each contractor to hold out for an impossibly stringent principle of saving for future generations in order to increase his chances of being in a generation which has adequate supplies of energy and materials. Such a principle would better his chances by increasing the number of generations which are so endowed without, presumably, increasing the number which are

not. I will take it to be Rawls' considered opinion that the contractors do not know which generation they constitute *among those in which the circumstances of justice obtain*.<sup>6</sup>

We now seem to have a good reason for rejecting the interpretation of the original position that views it as an assemblage of all people regardless of their place in time. It is not clear that any principles of justice could be agreed upon by members of *all* generations. And if we amend the membership criterion to allow the members of only those generations in which the circumstances of justice obtain, an interesting paradox arises. Whether the circumstances of justice obtain for a given generation in the future depends in part on the rate of saving of this generation and those in between. But, assuming strict compliance with the principles of justice, the rate of saving will depend upon the principle of saving adopted by the contractors. So, whether a future generation will be represented or not depends in part upon which principles are agreed to in the original position.

It is interesting to note that Rawls believes that merely virtual representation of all generations in which the circumstances of justice obtain is not sufficient to obtain a principle requiring saving for future generations. This is because, as he argues, "Those in the original position know . . . that they are contemporaries, so unless they care at least for their immediate successors, there is no reason for them to agree to undertake any saving whatever. To be sure, they do not know to which generation they belong, but this does not matter. Either earlier generations have saved or they have not; there is nothing the parties can do to affect it" (*TJ*, p. 292). But there is an apparent inconsistency in Rawls' methodology here. His stated purpose is to construct an ideal theory. For this purpose, "strict compliance is one of the stipulations of the original position; the principles of justice are chosen on the supposition that they will be generally complied with" (*TJ*, p. 245).

One must remember that the principles of justice are never actually agreed to by any generation. The agreement is hypothetical in nature. It is the fact that they would be agreed to in an initial situation of fairness which makes them the principles of justice. Hence, they are time-

6. This is, I think, a charitable interpretation, for Rawls seems to forget about the requirement that the contractors know that the circumstances of justice obtain for their generation when he is talking about justice between generations.

less in the sense that they apply to all generations in which human cooperation is both possible and necessary (that is, in which the circumstances of justice obtain). But if so, then why hasn't Rawls required that the contractors assume strict compliance by all generations—even their predecessors?<sup>7</sup>

Furthermore, it is clear that Rawls takes the present time of entry interpretation to be tantamount to the contractors knowing that they are of the same generation (*TJ*, p. 292; see also p. 140). But there is no reason for this. The one is a restriction on who the contractors are and the other a restriction on what they know. If the results that would be obtained if the original position included representatives of all generations *are* the desired results, Rawls could obtain them without stretching fantasy so far by allowing that the veil of ignorance deny the contractors knowledge that they are contemporaries. So, Rawls' suggestion to the contrary notwithstanding, virtual representation *does* give the same results as actual representation—so long as the veil of ignorance is constructed so as to result in truly virtual representation.

In order to get a just saving principle out of the original position, Rawls believes that he must alter the motivational assumptions that he originally makes regarding the contractors. He chooses to look at the agents in the original position “as representing family lines . . . with ties of sentiment between successive generations” (*TJ*, p. 292). This is a move away from the assumption of mutual disinterestedness. Rawls says that this alteration of the motivational assumptions is “natural enough.” Still, he does seem to have placed himself on a slippery slope. If we allow that the contractors are motivated by sentiments toward members of their families, why not toward members of other associations as well? And why should the sentiment extend only to one or two generations? Why not three?

I have already suggested two ways in which Rawls, even without altering the motivational assumptions, could obtain the same results

7. At least at one point, Rawls does say something that suggests this view: “They [the contractors] are to consider their willingness to save at any given phase of civilization with the understanding that the rates they propose are to regulate the whole span of accumulation” (*TJ*, p. 287). However, this does not appear to be Rawls’ considered opinion.

as would be obtained if all generations in which the circumstances of justice obtain were actually represented: first, by interpreting the strict compliance stipulation as implying strict compliance on the part of all generations to which the principles apply; and secondly, by denying the contractors knowledge that they are contemporaries. It is not at all clear—indeed I shall argue that it is false—that these results are the ones which will be obtained by altering the motivational assumption as Rawls does, although Rawls clearly believes that the alteration in the motivational assumption is necessary only to capture the results which would be obtained by the actual representation of all generations (*TJ*, pp. 291–292). Now I wish to show how, without altering the assumption of mutual disinterestedness, Rawls could get the same results he obtains with the alteration. And more importantly, I want to examine the results yielded by this alteration of the motivational assumption—for they do not seem to be the ones that Rawls wants and expects.

In order to obtain the savings principles it is not necessary that the contractors be motivated to protect the interests of their immediate descendants *because* they *have* ties of sentiment toward them. They must simply be motivated to do so for some reason. If we assume that it is a general psychological principle that people who have children see their children's well-being as essential to their own, then they will represent the interests of their immediate descendants in the deliberations concerning the principles of justice.<sup>8</sup> Their motivation for doing this will be egoistic rather than altruistic. They will recognize that the possibility of their having children (and caring about their children in this way) makes it possible that in real life they will have a direct and vital interest in the conditions under which the subsequent generation lives. Thus, in agreeing to principles which are likely to advance the interests of the next generation, they are—given the limited ignorance under which the decision must be made—acting as rational egoists who recognize the possibility that in real life they may well not be egoists.

8. It does not really matter that the tie exist between a parent and his child. It is only required that members of this generation identify the interests of some member of a future generation with their own. As a matter of psychological fact, this sort of feeling seems widespread between parents and their offspring. It is for this reason that I single it out for the present purpose.

This solution has the advantage of not altering the minimal assumptions of the original position. But further, it allows us to avoid the slippery slope that Rawls is on. On this view, the fact that the contractors are not motivated to represent the interests of generations three or four times removed is not an arbitrary feature of the theory but, rather, a result of human psychology. If human beings are the kind of beings that have the requisite sort of vital and immediate concern for the well-being of descendants several times removed, then the interests of the members of these generations would be represented. Similarly, if we had no concern for members of even the next generation, their interests would not be represented in the original position and therefore no duty of justice would exist with regard to them. The other slippery slope argument can be handled similarly.

It may appear that there is a serious problem in altering Rawls' theory in this way. Since the principles of justice apply to all generations in which the circumstances of justice obtain, the principles of human psychology which are known to the contractors must state necessary features of human psychology; for only if this is the case can we be sure that they will be true of any given generation to which the principles of justice apply. It is not clear that the psychological principle I have mentioned is such a principle. Indeed, I suspect it is not. I do not believe that this is a serious problem and I will deal with it later. Nevertheless, it may be that the reason Rawls alters the motivational assumption is to avoid postulating a principle of this sort as a general principle of human psychology. But if such a principle does not characterize human psychology, importing Rawls' motivational alteration no longer seems a "natural enough" move.

Now we must ask what sort of saving principle results from Rawls' assumptions. It is not at all the principle that Rawls hopes to obtain. Rawls says that in the absence of his motivational alteration the parties will agree to a principle requiring no saving at all. But let us alter the motivational assumptions as Rawls suggests so that they are moved by sentiment for their children and, perhaps, their children's children. Now what is to prevent them from agreeing to a principle which requires them to save only enough for the next two generations? Either the previous generations have saved or they have not, to use Rawls' argument, and in either case the present generation can best advance

its own interests and those of its children by agreeing to a principle requiring saving only for the purposes of the next generation or two.

This argument ignores the obvious fact that members of each generation have an interest in the well-being of their children. Given this, the contractors cannot reason as above. Representing the interests of their children would require that they represent the interests of their grandchildren. And this, in turn, would require representing the interests of the next generation, and so on. There is much to be said for this response but it does not seem to be available to Rawls. If we allow the contractors to be motivated by the real-life interests of their children, why not by their own real-life interests? (The same possibility of unfairly promoting special interests could arise in either case.) But if we allow the contractors to be motivated by their own real-life interests and assume that one does have an interest in the well-being of one's offspring, then Rawls' argument for the alteration of the assumption of mutual disinterestedness fails. Even as mutually disinterested agents, the contractors would agree to a principle of saving because they will recognize that saving for future generations will best promote their own real-life interests. Therefore, it seems that even with the alteration of the assumption of mutual disinterestedness, Rawls cannot get a saving principle which redounds into the future in the way that he desired.

It is clear that Rawls has in mind, primarily, capital accumulation when he deals with a just saving principle, but he acknowledges that the question of justice between generations includes the problems of "conservation of natural resources and the environment of nature" (*TJ*, p. 137). A principle requiring saving only for the next generation superficially looks as though it will be adequate for Rawls' purposes if only capital accumulation is considered. Each generation is required to store some percentage of its capital for the next and, so, there is a progressive accumulation of capital. Clearly this principle is not one that would satisfy Rawls if we consider the saving of natural resources, for here the question is not one of accumulation but of conservation. Of course, if the principle fails for the conservation of natural resources, it must ultimately fail for the accumulation of capital, which itself depends upon the existence of natural resources. Still, the problem is more obvious in the case of the conservation of natural re-

sources. Applied to this problem, such a principle does not treat "all generations justly during the whole course of society's history" (*TJ*, p. 289).

This is not the kind of principle which Rawls wants, yet it may be precisely the sort that characterizes our duties of justice regarding future generations. It seems that Rawls has made a serious mistake in attempting to account for justice between generations in the same manner in which he accounts for justice within a generation. It is a mistake analogous to the utilitarian's mistake of attempting to extend what may be the principles of rational choice for an individual to apply to social choices. Justice and injustice are the sorts of things which take place between contemporaries within the same society. The relationship in which members of one generation stand to members of another (nonoverlapping) generation is not in any obvious way similar to the relationship in which the various individuals in the same society stand to each other. The former seems to be more like a benefactor/beneficiary relationship than like the cooperative competitor relationship that seems to characterize the latter (at least in societies in which the circumstances of justice obtain).

By examining Rawls' characterization of the circumstances of justice more closely we can see why, on his own premises, the attempt to treat the problems of our duties to others in our society as analogous to our duties to posterity is misguided. We will also see why our earlier assumption regarding the circumstances of justice (that if they obtain for each member of a set of generations, then they obtain between the members of the set) is false. Hume,<sup>9</sup> and those following him, require as a condition of justice that members of the society be roughly equal in those abilities which allow one person to dominate another. Rawls, in particular, requires that "the individuals are roughly similar in physical and mental powers; or at any rate, their capacities are comparable in that no one among them can dominate the rest" (*TJ*, p. 127). The idea is that even the strongest must be vulnerable to the weakest.

But this assumption does not hold between members of various

9. See, for example, Hume's discussion of this in §III of *An Inquiry Concerning the Principles of Morals* (London, 1751). For a modern treatment of the same issue, see H.L.A. Hart, *The Concept of Law* (Oxford, 1961), chap. 9, §2.

generations. Members of earlier generations are invulnerable with respect to members of later generations. When Hume discusses a situation in which rough equality of powers does not obtain, he maintains that only duties of beneficence apply.<sup>10</sup> One need not accept Hume's conclusion but, if one is serious about the circumstances of justice, one cannot accept Rawls'.

This is not to deny that we do have duties of justice, derivable from a Rawlsian social contract, toward future generations. It would be unjust for us to spoil the earth's environment to the extent that the next generation was deprived of the essentials of a decent life. But this is because in doing so we have treated our contemporaries unjustly.<sup>11</sup>

In order to make this point clearer and to tie it in more closely with the ideal contract theory, let us characterize the original position in a slightly different way than Rawls does—a way which, I hope, will serve as a better guide to our intuitions. So as to avoid the laborious task of constructing the original position from scratch, let us begin with the Rawlsian characterization and alter it in certain respects. First of all, I will assume that the contractors know to which generation they belong—that is, they know the level of development of their society and the amount and condition of natural resources their society can draw on. Ignorance in this respect does not help Rawls arrive at the notion of justice with regard to future generations, as we have noted earlier, and it does make it very difficult to construct principles of justice. This is because it is not clear that we can construct principles of justice which apply to all societies at all levels of development without making them either trivial or too complex to be manageable.<sup>12</sup> What I am

10. Hume, *Principles of Morals*, §III part I.

11. The view that our obligations regarding future generations have been incorrectly analyzed as obligations owed to future persons is shared by Edwin Delattre, in "Rights, Responsibilities, and Future Persons," *Ethics* 82 (April 1972): 254–258.

12. Appearances to the contrary, I am not embracing ethical relativism here. My only point is that in order for the principles to be specific enough to be helpful, they may have to be either too complex to be helpful or too specific to be universal. I think that the problem of the priority of liberty exemplifies this. Lexical ordering seems incorrect as a universal claim. Yet a satisfactory universal claim as to the relative weight of the two principles of justice in societies at various stages of development which does not demand intuition would require an extremely complex formulation.

suggesting is that if we are to arrive at principles of justice which avoid these two pitfalls, we may have to settle for principles which characterize only a certain period of development.

Secondly, I shall assume that the contractors are mutually disinterested. While in the original position, they neither have nor know whether they will forge bonds of affection to others.<sup>13</sup> The first restriction allows us to avoid the slippery slope upon which Rawls' argument rests. The second is required as a part of the veil of ignorance in order for agreement on any principle at all to be possible. And both help to keep the assumptions of the original position at a minimum.

Fortunately, we are not interested here in constructing a full theory of justice, but only in showing how principles defining our duties of justice regarding future generations can be "deduced" from the assumptions of the original position. In order to achieve even this limited goal, we must assume certain psychological principles to be true. But here the assumption of psychological principles does not pose the serious problem it could for Rawls, for they are claimed to hold for a particular society at a particular time. As such, their truth is subject to empirical testing. I shall assume that the contractors know that it is a general psychological fact about people in our society that they care about their offspring to such a degree that they to some extent identify their offsprings' interests with their own.

Under these circumstances the contractors would agree to a principle which would protect the interests of the next generation. The individual contractor would reason as follows: if a principle of saving for the next generation is agreed to and it turns out that in real life he hasn't any children or does not care about those he does have, he has lost relatively little unless such saving would impose terrible hardships on his own generation. On the other hand, if no principle of saving for the next generation is agreed to and it turns out that in real life he has children that he does care about in this special way, the extra material benefits to be gained by not saving will seem a small and

13. In addition to having what Rawls calls the veil of ignorance imposed on them, the contractors have what might be called a "veil of volition" imposed on them. That is, not only do they not know what their real-life wants will be, they are not, while in the original position, motivated by them.

bitter compensation for the knowledge that his children will have a barren and hostile environment in which to live.

The principle that would be chosen in the original position, given the psychological assumption, would require that we treat the interests of those in the next generation (at least) as if they were interests of persons in this generation—for, in a real sense, they are—except where doing so will cause severe hardship for this generation.<sup>14</sup> Now it must be admitted that our intuitions about duties with regard to future generations are somewhat shaky—we have only recently come to see the enormous impact our actions can have on entire generations in the future. Still, this principle does not seem to be entirely out of line with what intuitions we *do* have about what we must do for future generations *as a matter of justice*. Further, this account seems to avoid the problems raised by Rawls' account while insisting that our duties toward future generations are not to be viewed *solely* in terms of beneficence.

One might argue that the principle which would be chosen under the conditions I have described would be much stronger than the one I suggest. If the contractors are really motivated to represent the interests of their children, then they must represent the interests of their children's children, and so forth, for each generation has an interest in the well-being of the next. Hence, the principle chosen in the original position (as I have described it) *would* require that we save for *all* future generations.

This approach is mistaken for two reasons. First, there is no guarantee that the psychological principle on which it rests will continue to characterize man's relation to his offspring. But more importantly, it

14. A word needs to be said as to why the principle requires us to save only when it will not impose a severe hardship on us—for it is not generally the case that obligations become void if they impose a hardship. In the present instance, a principle requiring saving for future generations could be agreed to *only* if it is known that it will not create severe hardship for the present generation. The hardship case is not an exception to the rule—it is an exception *in* the rule. If such hardship would be created, then either no agreement would be possible regarding a saving principle (that is, the circumstances of justice have broken down) or the contractors would agree to a principle requiring no saving whatever. In either case, we would not have a duty of justice with regard to future generations. And, I should think, in either case we may well have a duty of beneficence not to procreate.

misunderstands the function of the psychological principle. The contractors are motivated to represent the interests of the next generation only because they know that, as a matter of psychological fact, if they have children they will identify their children's interests with their own. Now, again as a matter of psychological fact, this sort of identification of interests does not seem to hold between generations far apart in time. Since the contractors are acting as mutually disinterested agents, they will not represent the interests of generations far removed from them. They have no real-life concern for members of these generations. The attempt to use the psychological principle recursively will, perhaps, give people a reason why they ought to care about members of distant generations. But the enlightened egoist is not concerned with representing interests which he ought to have—only those he does have. So, under the conditions set down, the contractors would agree to a principle requiring saving only for the next generation or two.

Of course, such a principle does not capture the whole of our moral duty with regard to future generations. When it is reasonable to expect that there will be future generations, it seems reasonable to claim that we have a duty of beneficence toward them—that we are morally required to promote those conditions which are conducive to future human happiness. When we fail to do this, we have acted, at least *prima facie*, wrongly but not necessarily unjustly. My positive thesis has been that with regard to some future generations at least, failure to promote their interests involves us in an injustice—for our contemporaries have a claim on us in this regard.

In coming to this point, I have made many criticisms of Rawls' theory—but my criticisms have been on superficial points. Basically, I have tried to argue, within the framework of a Rawlsian theory, that whatever other duties we may have with regard to future generations, we have (if the psychological assumption is true) a duty of justice to preserve the environment and to conserve natural resources for the benefit of future generations provided that doing so does not involve us in an injustice to members of our own generation. This requirement alone, modest as it sounds, would have radical consequences for our lifestyle were strict compliance a fact rather than a fiction.