

## **Intergenerational justice and the family \***

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Until quite recently, intergenerational justice has been a neglected topic. Yet the writings of recent moral philosophers devote considerably more attention to problems of intergenerational justice. This is prompted by the realization that we have the power to affect significantly the lives of future persons. In addition, the aging of our society has turned attention in the opposite direction and prompted philosophers to consider the source and scope of obligations that younger persons owe to older generations. Although the problem of justice between extant generations is usually considered separate from the problem of justice between present and future generations, I will consider these problems in tandem, using the phrase “justice between generations” to refer to both issues.

In this essay my concern will not be the practical one of specifying the content and scope of intergenerational obligations. Instead, I investigate the possible bases of intergenerational justice claims. I begin by examining the bases of justice in the more common case involving members within the same generation. I then turn to intergenerational justice and argue that the framework invoked for the more standard case cannot be carried over. I propose instead that a quite different set of premises support intergenerational justice. The broader question to be asked is whether rendering an account of justice consistent throughout requires altering the basis of justice more generally. I show that a range of alternatives merits careful attention.

### **1. Justice within generations**

Discussions of justice often start with considerations of self-interest. Most of the major social contract theories of the seventeenth and eighteenth

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centuries start with this. Hume thought of most virtues as motivated by sympathy and fellow feeling, and he regarded justice as different precisely because it was not. “We have naturally no real or universal motive for observing the laws of equity,” he wrote, and “the sense of justice and injustice is not deriv’d from nature, but arises artificially ... from education and human conventions.”<sup>1</sup> Hume reached this conclusion by reasoning that the only natural motive for justice could be an impartial sympathy for humankind, but there is “no such passion in human minds, as the love of mankind, merely as such, independent of personal qualities, or services, or of relation to oneself.”<sup>2</sup> This led Hume to postulate that the stimulus for justice arise, “in the judgment and understanding,” when it grasps that justice is necessary to obtain the advantages of life in society. Thus, although our natural desire is to acquire goods and possessions for ourselves and our nearest friends, we limit our confined generosity when we learn that this passion is best satisfied by its restraint.

The peculiarity of justice that Hume observed is noted as well by contemporary philosophers of justice. Placing himself squarely in the social contract tradition, David Gauthier intends to ground justice on an agreement struck between rational persons who are concerned to maximize their own utility.<sup>3</sup> By beginning with a presumption against moral or other constraints on the pursuit of our interests, Gauthier intends to show that certain moral requirements would be accepted as the object of a fully voluntary *ex ante* agreement. Although the pre-moral stage of this agreement is hypothetical, Gauthier describes parties to the agreement as actual individuals who are aware of their different levels of power and authority, natural abilities, and life goals. Such individuals would accept constraints on maximizing behavior so long as the net advantages of constrained maximizing are greater than those of unconstrained maximizing. However, for such an agreement to go through, each must find initially acceptable what the others bring to the bargaining table: “our theory denies any place to rational constraint, and so to morality, outside the context of mutual benefit.”<sup>4</sup>

Rawls also identifies principles of justice as the object of a collective agreement. But he begins by imposing upon the choice situation a requirement of impartiality and insures that this requirement is met by placing parties under a veil of ignorance. On one interpretation, parties are free and rational beings blinded to differences between them, such as their natural talents and abilities, social position, and plan of life.<sup>5</sup> Parties do not regard any principles of justice as antecedently given; their aim is instead to choose the principles of justice that are most rational for them, given their circumstances. Rawls assumes that “parties take no interest in one another’s interest” and are “mutually disinterested.”<sup>6</sup> Therefore, they are unwilling to sacrifice their interests in order to further the interests of others. The basis

for eventual acceptance of principles of justice is that such principles advance parties' ends as far as possible.

The common thread that runs throughout the approaches of Gauthier and Rawls is that justice is artificial in the Humean sense. Principles of justice result from an agreement that disinterested parties are willing to accept, not because they harbor natural sympathy or concern for treating others kindly from the start, but because doing so works to their advantage. Only those principles that yield mutual advantage are accepted. **Individuals have, in other words, no antecedent right** to a minimum share of social resources. They have a right to the share that would be assigned to them by an agreement between persons concerned to advance their plans as far as possible.

Although both Gauthier and Rawls introduce a central role for self-interest, the role differs on each account. For Gauthier, self-interest **plays the primary role** in the derivation of morality. For Rawls, the role of self-interest is secondary. Rawls's theory of justice is modeled on the principles that hypothetically self-interested individuals choose under conditions that are designed to make a certain choice inevitable.

## 2. Justice between generations

When we turn to intergenerational justice, several differences emerge. First, in the case of living persons who belong to older generations, the premise of mutual disinterest is less obviously able to support duties of justice. Although our actions now can influence whether a younger generation will benefit us in the future, nothing that we do now will affect the benefits that members of older generations have conferred already. Thus, disenfranchising an older generation from a share of social resources will not cause those benefits to be taken from us. **Although most of the benefits younger generations confer will come in the future, most of what older generations as a group will contribute to those that come after them has been contributed already.** For example, most of the contributions an older generation is going to make to culture and science have been made. Hence, **leaving older generations out of justice considerations does not risk forsaking a pool of benefits we might otherwise receive.** In the case of future generations who live after us, a parallel situation arises. While present generations can make future generations better off or worse off, the forward direction of time means that future generations can neither benefit nor harm their deceased predecessors. If the source of justice is the mutual advantage it confers to disinterested parties, then present generations have little basis in justice to sacrifice on behalf of posterity.

Although Hume does not directly consider the possibility that self-

interest is not an adequate basis for intergenerational justice, Gauthier and Rawls each consider this possibility. Gauthier argues that we need not depart from the premise of mutual unconcern in order to establish moral relations between different generations. Confining himself to obligations toward future persons, Gauthier notes, “the generations ... do not march on and off the stage of life in a body”;<sup>7</sup> instead, mutually beneficial cooperation involves agreements between overlapping generations that continue over time. According to Gauthier, the forward direction of time establishes a link to future generations:

Each person ... must keep in mind his need to establish similar terms with those of [an immediately] later generation, who in turn must keep in mind their need to cooperate with members of a yet later generation, and so on. Thus, although each individual might be prepared to agree with his contemporaries that they should exhaust the world’s resources without thought for those yet to be born, the need to continue any agreement as time passes ... ensures that ... the terms must remain constant.<sup>8</sup>

A limiting feature of this approach is that it cannot easily be extended to account for obligations toward older generations. Just as disinterested contributors to a cooperative undertaking would exclude handicapped persons from the benefits of social cooperation if they would not increase the net goods produced, so contributors would refuse to share their wealth with members of an older generation who have already made the bulk of their contributions to social endeavors. In reply, we might claim that contributors will take notice of the forward direction of time and will foresee that they themselves will grow old and become less able to contribute. Recognizing this, each will want to reap the future benefit of a general practice that includes non-contributing elders in the share of social wealth. But even if including non-contributing older generations in the share of social goods is guaranteed to produce future benefits, Gauthier’s model does not thereby call for admitting them. To show that a group should be included requires showing that the group will itself produce benefits for others. Including present elders in the share of social goods does not satisfy this requirement, because the added benefits it brings are bestowed on future elders by future young people. So long as present elders are themselves non-contributors, they are in the very same position as other non-contributors who fall outside the scope of justice.

Even if this problem with Gauthier’s theory could be skirted, further difficulties remain. Any agreement between contributing parties intended to guarantee their future social benefits could be struck without including the present older generation. For example, younger generations could agree to a rule that in the future includes non-contributing older generations under the rubric of social benefits. This will benefit each young person in the future,

while at the same time avoiding the burden associated with sharing social goods with present elders. Asked to choose between the alternative of including or excluding the present older generation, utility maximizers could not rationally choose to include them.

Turning next to Rawls, we find that the discussion of intergenerational justice again is limited to the problem of justice between present and future persons. Rawls notes that this is a “special” problem and “must be treated in another fashion.”<sup>9</sup> He acknowledges that parties concerned to advance their ends will have no reason to take the interest of future persons into account, because sacrifices that they might make on behalf of future persons cannot be reciprocated. Rawls argues that any demands justice places on present generations must therefore be contingent on the assumption that persons choosing principles of justice care about their immediate descendants. This “motivational assumption” specifies that “good will stretches over at least two generations ... we may think of the parties as heads of families and therefore as having a desire to further the welfare of their nearest descendants.”<sup>10</sup> On this approach, the generosity of parties remains confined, since parties care only for their immediate progeny. However, since parties select principles without knowing the generation to which they belong,<sup>11</sup> their limited concern is rendered impartial and expressed as a concern for future generations generally.

An advantage of Rawls’s approach is that it rests justice on what Hume called “natural sympathy.” For Hume, natural sympathy is both limited in scope and focused on others’ particular qualities and relationship to ourselves. Rather than postulating an impartial concern for all future persons, Rawls accepts Hume’s starting point of confined generosity. Obligations to future generations are then supported by combining a limited motivational assumption with the veil of ignorance. To justify this proposed basis for justice between present and future persons we cannot merely show that the motivational assumption entitles us to “derive intuitively appealing conclusions about justice between generations.”<sup>12</sup> Instead, the motivational assumption gains support by the contingent fact that when parties emerge from behind the veil of ignorance imposed in the original position they are likely to discover that they *do* care about the welfare of their descendants.<sup>13</sup> In support of such a claim, Rawls makes the general point that it is “impossible to develop a substantive theory of justice founded solely on truths of logic and definition. The analysis of moral concepts and the apriori ... is too slender a basis. [Instead,] Moral philosophy must be free to use contingent assumptions and general facts as it pleases.”<sup>14</sup>

Note that Rawls assumes that each generation will be better off than its predecessor in terms of “real capital,” which includes such things as “factories and machines,” as well as “knowledge and culture.”<sup>15</sup> The central

problem of justice between generations therefore becomes how much better off present persons are required to make members of future generations. To settle this, parties must agree “on a path over time which treats all generations justly during the whole course of society’s history.”<sup>16</sup> In other words, parties must decide for all time what constitutes a just savings rate for the future. While this approach to intergenerational justice is limited, and it omits discussion of other kinds of obligations between present and future persons, Rawls’s general framework suggests a way of addressing these areas. It also provides a good way of dealing with justice duties that present younger generations have toward present older generations.

To see that this is so, consider how the motivational assumption might be invoked to support obligations owed to members of older generations. Following Rawls’s general approach, the most obvious interpretation is that persons in the original position are representatives from the same generation, yet the interests of their elders are taken into account because parties care about their immediate predecessors, that is, their living parents and grandparents. On this interpretation, parties are concerned to give just returns to those from whom they have benefitted in the past. The veil of ignorance assures that all members of older generations are looked after, because no one will know who in particular their immediate predecessors are. This interpretation displays the advantage of symmetry with Rawls’s account of intergenerational justice. Whereas Rawls supports justice to later generations by assuming that parties in the original position belong to the same generation but care about their descendants, the suggested interpretation of justice to earlier generations assumes that parties belong to the same generation but care about their predecessors.

To further elaborate this proposal, we might suppose that parties in the original position are both the parents of a family of procreation and the descendants of a family of origin. Each member of the original position cares about the well-being of both someone in the next generation and someone in the last. Assuming that for anyone in the prior generation someone exists in the present who cares about that person, persons in different generations will have obligations of justice to each other. Again, the justification for introducing a motivational assumption must be that when the veil of ignorance is lifted, parties will discover that they *do* care about their parents and grandparents, as well as their children and grandchildren.

On this reading, what gives rise to the problem of justice between generations is not that generations before us have lived an arbitrary number of years since birth. Instead, concerns of justice between generations arise by virtue of the fact that generations before us are our elders, and generations after us are young relative to us. Rather than drawing an arbitrary

line between old and young (say, age 65), and insisting that we must return to the original position to solve justice issues between these groups, this approach notes a perennial conflict between members of different generations within a family. This conflict arises regardless of the year of our birth and lasts through the march of each generation from youth to old age.<sup>17</sup> It is not membership in a particular age group or birth cohort, but our place in a family lineage, that frames the problem of intergenerational justice. So, for example, a twelve or fifteen year-old who asks, “What do I owe my parents?”, raises a question of intergenerational justice despite the fact that this person’s elders are, say, in their mid-thirties. Likewise, a teenage parent faces intergenerational justice issues with respect to offspring, despite the proximity in age between parent and child. Finally, problems of intergenerational justice do not arise between siblings, even when siblings are separated by many years so that older siblings approach old age well in advance of their younger counterparts. This reading is in keeping with the historical and genealogical meaning of “generation,” defined as “the offspring of the same parent or parents regarded as a single degree or step in the descent of a person or family from an ancestor.”<sup>18</sup> This interpretation also matches Rawls’s suggestion that parties in the original represent “continuing strands” in a family lineage.<sup>19</sup>

### 3. The first-person prudential alternative

While I propose that an affective basis of concern plays a significant role in an adequate account of justice between generations, other approaches cast doubt on this proposal. The most influential account of justice between the young and old is Norman Daniels’s view, which holds that the way to solve the problem of age group justice is not to assume bonds of care between the young and old, but to frame age group justice as a first-person problem of prudential choice. According to the prudential life-span model that Daniels develops, justice between age groups is a distinct problem because “Age is different ... We grow older, but we do not change our race or sex. [So] If we treat the young one way and the old another, then over time, each person is treated both ways,” provided that differential treatment remains stable over time.<sup>20</sup> Daniels submits, “we must replace the problem of finding a just distribution between ‘us’ and ‘them’ – between age groups – with the problem of finding a prudent allocation of resources for each stage of our lives.”<sup>21</sup> The task before us is the tangible one of devising our rational savings plan. Considerations of prudence insure that the principles we craft will judiciously serve our interests at each stage. Once the age group justice problem is transformed in this way, more specific problems of justice are

solved by deciding, as individuals, what constitutes a prudent rate of savings, what types of transfers should be made from one stage of our life to another, and how prudent rates and types of transfers can be secured over time.<sup>22</sup>

Is support for intergenerational justice possible along the lines that Daniels suggests for age group justice? Does the prudential life-span model succeed in the case of generations? To answer these questions, we should compare Daniels's proposal with the Rawlsian proposal discussed in the preceding section. An advantage of the Rawlsian alternative is that this alternative side-steps the problem of moving from intrapersonal to interpersonal distributive choices. There are two interpretations of how Daniels's account treats this problem. The first is that the move from the first person to the interpersonal case is avoided because the problem of justice between age groups is replaced by a new and different problem. We substitute one problem (What is a prudent allocation of resources through different stages of my life?) for another (What is a just distribution of resources between the young and the old?). So understood, the problem of age group justice is not solved; it is skirted. Prudent allocation does not determine age group justice, because it precludes this problem from arising. If each of us prudently allocated resources over our lifetime, we would not even need to consider what resources younger persons owe older persons.

This interpretation of the first-person approach renders it ideal in the strongest sense. Other theories, including Rawls's, are ideal in the sense of assuming full compliance with principles of justice, and then they enumerate principles of justice based on this assumption. By contrast, the strategy at hand assumes full compliance with standards of prudence, and then it dismisses the problem of justice between age groups as no longer relevant. In this way, no principles of age group justice are ever stated, and little guidance is given to answering the question of what justice requires us to do on behalf of older generations. This is no longer a theory of age group justice, but a method of avoiding the need for such a theory in the first place. The reason we should steer clear of first-person models (interpreted in this way) is not that the happy state they depict is not ours, but that they lend scant assistance to the problems of age group justice we face. They afford little insight into the problem of justice toward present older persons who have failed to save prudently over time.

An alternative interpretation reads the first-person model as suggesting a solution to justice between age groups. Then we need to return to the problem of justifying the move from the first-person problem of distributing limited resources over our life span to the interpersonal problem of distributing resources between groups. Here the difference between a first-person model and the Rawlsian account I am offering is notable. Only the



Rawlsian model is able to justify its decision procedure (that is, the original position) by appealing to the idea of fairness. The Rawlsian approach can claim that the original position, including the motivational assumption, represents a fair description of the conditions in which we should place ourselves when choosing principles of justice. For instance, we would accept the veil of ignorance as a fair condition for choosing fundamental moral principles. Rawls identifies an appeal to fairness as at the very heart of pure procedural justice, which he says, obtains, “when there is no independent criterion for the right result: instead there is a correct or fair procedure such that the outcome is likewise correct or fair, whatever it is, provided that the procedure has been properly followed.”<sup>23</sup>

In the first-person case, this approach is not available. For suppose we ask ourselves what conditions are fair for choosing principles that distribute goods between different age groups. To reply that fair conditions consist in deciding prudently for myself what the best distribution of goods is between different stages of my life will not suffice. This reply does not enumerate any conditions for choosing principles between different age groups. Instead, it changes the choice itself from a choice concerning several different persons to a choice concerning ourselves alone. Nor does applying pure procedural standards to the new choice avoid this concern. I cannot intelligibly ask what conditions would be fair for me to place myself under when I decide about the distribution of goods across my life span, because no conditions I could possibly specify would either violate or conform with standards of fairness. Even supposing I decide to **fritter my money away** foolishly early in life and have little left for my old age, my choice cannot be called unfair. Although such a choice may be legitimately criticized on any number of grounds (say, as uninformed or impetuous), we cannot plausibly hold that I have violated my rights or treated myself unfairly or unjustly.<sup>24</sup> If this is correct, then the justification for accepting prudential first-person procedures to determine justice between age groups is far from clear. Unless the appeal to first-person choice claims to identify a procedurally independent standard for the right result, we need some other method of justifying the procedure involved.

In summary, if the charges I have leveled against Daniels’s prudential life-span model are valid, then this model fails to offer an adequate reply to the problem of justice between age groups. For similar reasons, it would also be a poor guide to justice between generations. This lends further support to the account outlined in the preceding section (although the alternatives considered are hardly exhaustive), which construes principles of generational justice as springing from an agreement between parties who care about their predecessors and descendants.

### 5. Keeping justice and benevolence separate

I now draw attention to one of the implications of accepting the proposed solution to intergenerational justice. The Rawlsian approach I am defending whittles away at a traditionally sharp distinction between justice and benevolence. The distinction to which I refer is between ethical matters of right or entitlement, on the one hand, and ethical matters involving compassion or goodwill, on the other. While this distinction is variously formulated, the following theses are among the more frequently held and argued for:<sup>25</sup> (1) duties of justice may be enforced, but duties of benevolence may not; (2) duties of justice are perfect duties (that is, determinate both with regard to the content of what is required and with regard to the identity of the individual who is the object of the duty), while duties of benevolence are imperfect; (3) duties of justice have correlative rights, but duties of benevolence do not; (4) failing to discharge duties of justice is generally wrong, whereas failing to fulfill duties of benevolence is generally mean or cruel, but is not immoral.

My proposal states that parties in an original position agree to principles of just saving for generations living after them and to just returns for generations living before them. They agree to this because of a motivational assumption that ascribes to parties a concern for the welfare of members in both groups. On one interpretation, the institution of the family nurtures and sustains concern for both its older and younger members. Parties in the original position are parents of families, and they select principles of justice guaranteed to protect family members' interests. Since the criteria for justice between generations are what would be chosen in the original position, the benevolent concern family representatives have for younger and older members establishes principles of justice between generations. The specific content of the duties that follow from these principles, and the rights correlative of these duties, will be determined within the context of social institutions that form the basic structure of society. But notice that the duty to protect the welfare of other generations, which began as a duty of goodwill toward others, is no longer unenforceable, imperfect, lacking correlative rights, or morally optional.

To weigh these implications fully, we should examine the reasons why the distinction between justice and benevolence is supported in the first place. As my central aim is to justify intergenerational justice by invoking Rawls's theory, I propose to consider the nature and significance of the justice-benevolence distinction within this limited context. Rawls himself stresses the importance of keeping justice and benevolence separate, and he rejects the proposal to introduce benevolence as a general motive in the original position. His reasoning is, first, that disinterestedness displays the

merits of simplicity and clarity. To the extent that justice rests on benevolence, we need to specify further the relative strength of benevolent desires.<sup>26</sup> Second, mutual disinterestedness and ignorance represent weaker stipulations. If justice between contemporaries can be derived without the stipulation that contemporaries care about one another, then we need not introduce so strong a condition as general benevolence.<sup>27</sup> Third, benevolence is incongruent with the circumstances of justice that Rawls's theory assumes.<sup>28</sup> Taking this cue from Hume, Rawls assumes that justice would not arise in circumstances where "every man had a tender regard for another ... [because] the jealousy of interest, which justice supposes, could not longer have place; nor would there be any occasion for those distinctions and limits of property and possession, which at present are in use among mankind."<sup>29</sup> In other words, if we care strongly enough about others to begin with, others will not need to press claims of justice against us in order to protect their fundamental rights and interests. A final reason for extruding benevolence as a general motive in the original position has more to do with the liberal tradition of which Rawls is a part than the specific theory of justice he endorses. By construing persons in the original position as members of a disinterested group who hold competing conceptions of the good, Rawls ensures that the principles of justice selected in the original position do not depend for their support on a shared moral vision or community of common ends. Such an approach is appealing in light of the pluralism of contemporary society. Partly in response to the breakdown of a religious moral consensus, liberal philosophers, such as Rawls, typically cast a skeptical eye on moral or political theories grounded on a robust or "thick" conception of the good. The central worry has been that anything short of a thin conception lacks relevance to our historical circumstances.

Let us examine these reasons carefully and consider whether they tell against our account of intergenerational justice. The first reason for keeping a separation between justice and benevolence intact was that this separation displays the virtue of simplicity. Although simplicity carries some weight, the requirement of simplicity is limited. Even if our initial steps toward the complicated truth involve choosing the simplest hypothesis that is still tenable, we may later need to complicate our hypotheses to accommodate new data.<sup>30</sup> If I am right that accommodating the problem of intergenerational justice requires added complexity, then our theory of justice must adjust to account for this. Simplicity also is a relative term. The highest premium is not on the simplicity of each discrete principle and argument, but on simplicity of the larger whole. Justifying intergenerational justice by adjusting the motivational assumption is simpler in the broader sense that it enables requirements of both justice and benevolence to rest on a common foundation.

A second reason for keeping the original position free of assumptions about benevolence appealed to virtues of conservatism and modesty by requiring that we base a theory of justice on the weakest possible premises. The general idea is that one account is better than another if its premises conflict with the fewest possible number of our prior beliefs. Expressed differently: other things being equal, the less rejections of prior beliefs required, the more plausible the hypothesis.<sup>31</sup> However, this standard is only initially reasonable. Although weak premises will sacrifice as little as possible of the evidentiary support that our overall system of beliefs enjoys, the truth may be radically remote from our present system of beliefs.<sup>32</sup>

The third reason for emphasizing mutual disinterest, rather than benevolence, in the original position stated that justice arises only under the circumstances of “confined generosity” or “mutual disinterest.” By introducing benevolence we risk making justice irrelevant because justice is not needed in a “golden age”: “Encrease to a sufficient degree the benevolence of men, ... and you render justice useless, by supplying its place with much nobler virtues, and more valuable blessings.”<sup>33</sup> Yet in response it can be stated that our close relationships, even those within the family, do not come near to realizing so high an ideal of benevolence. (Hume denied that a golden age would ever be more than an “idle fiction.”<sup>34</sup>) If this is correct, we can expect that obligations of justice will be needed between generations and will stand alongside the “nobler virtues” of benevolence. Despite benevolent concern for family members, parties in the original position will still want to guarantee that the interests of their loved ones are protected by requirements of justice. Fully securing the welfare of those they care about will require placing themselves under constraints that assign basic rights and duties to other generations.

A fourth defense of setting benevolence outside the original position was that doing so enables us to mark off a moral territory where we can agree to fundamental principles of morality despite conflicting values, interests, and ends. In response, we might question whether theories of justice ever achieve this much. Rawls doubts that they do, when, in his later work,<sup>35</sup> he makes clear that his account of justice is reasonable only for persons who share fundamental insights and moral traditions. The account models what we regard as fair conditions for choosing principles of justice in light of our political and moral heritage, including: “the political institutions of a constitutional democratic regime and the public traditions of their interpretations.”<sup>36</sup> According to Rawls, since justification is addressed to others who disagree with us, justification proceeds “from some consensus, that is from premises that we and others publicly recognize ... for the purpose of establishing a working agreement.”<sup>37</sup> Assuming we generally do care about our immediate predecessors and successors within the family, positing a

motivational assumption reflecting this fact points to a consensus from which we can build an account of intergenerational justice.

## 6. Joining justice and benevolence

If my replies to the foregoing objections are sound, then neither Rawls's original account of intergenerational justice nor my extension of that approach represents a weak point in the overall theory of justice. To the contrary, the account I propose may reflect a more enlightened or fully encompassing picture of a just society. Quite independent of intergenerational justice issues, others have recently argued for incorporating relationships of care into the rubric of justice theories. In the area of health care, Allen Buchanan defends the position that coercive mechanisms are justified to enforce duties of charity or benevolence.<sup>38</sup> Elsewhere, he extends this analysis and considers the possibility that after institutional arrangements for enforcing duties of benevolence are in place, we may assign rights to receive benevolent aid.<sup>39</sup> In the area of promise keeping, A.I. Melden argues that care is at the foundation of the duty to keep promises and the correlative rights that promising creates. He maintains that the duty to keep promises must be motivated by the promisor's concern for others and for the forms of deprivation others might suffer, including the deprivation and disappointment of broken promises.<sup>40</sup> Finally, recent feminist scholarship has faulted current theories of justice for championing impartial and general principles, while omitting, or even forbidding, a concern for benevolence in personal relationships. Carol Gilligan, for example, claims that a concern with personal relationships predominates in the moral orientation of most women yet is underrepresented in currently favored justice theories. The result, she says, is that current justice theories evaluate women's justice reasoning as underdeveloped and "compromised in its refusal of blind impartiality."<sup>41</sup> While Gilligan develops an alternative ethic (which she dubs "an ethic of care") to convey the moral universe that she believes dominates the moral thinking of most women, the Rawlsian approach I defend takes Gilligan's concern in the opposite direction. I show that attending to caring relationships is quite possible under the rubric of justice, and I begin to fill out the areas of justice where this attention is possible and necessary.<sup>42</sup> While the focus of my argument is to invoke care in justifying intergenerational justice, the possibility of a broader joining of justice and care in moral theory remains an important possibility.

## Notes

1. David Hume, *A Treatise of Human Nature*. In L.A. Selby-Bigge (ed.), *A Treatise of Human Nature*, 2nd ed. (New York: Oxford University Press, 1978), p. 483.
2. *Ibid.*, p. 481. In the *Enquiry*, Hume suggests a different account. He there identifies sympathy with benevolence and argues that seeing someone experience pleasure or pain prompts in the spectator the thought of pleasure or pain regardless of one's relationship to that person. For a careful account of this alternative view see Jonathan Harrison, *Hume's Moral Epistemology* (New York: Oxford University Press, 1976).
3. David Gauthier, *Morals by Agreement* (New York: Oxford University Press, 1987).
4. *Ibid.*, p. 16.
5. This interpretation is often referred to as the "Kantian interpretation" of the original position. In his "Kantian Constructivism in Moral Theory, The Dewey Lectures," *Journal of Philosophy* 77 (1981): 515–572, Rawls endorses this approach and rejects the alternative that parties in the original position must be *fully contributing* members of society.
6. John Rawls, *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1971), pp. 127, 128.
7. Gauthier, *Morals by Agreement*, p. 299.
8. *Ibid.*, p. 16.
9. Rawls, *A Theory of Justice*, p. 211.
10. *Ibid.*, p. 128.
11. *Ibid.*, p. 288.
12. Brian Barry, *Theories of Justice* (Berkeley: University of California Press, 1989), vol. 1, p. 191.
13. *Ibid.*
14. Rawls, *A Theory of Justice*, p. 51.
15. *Ibid.*, p. 288.
16. *Ibid.*, p. 289.
17. My use of "generation" differs from Norman Daniels's use of this term in *Am I My Parents' Keeper? An Essay on Justice Between the Young and Old* (New York: Oxford University Press, 1988), p. 15. Whereas Daniels restricts the term "generation" to non-proximate future or past persons, I intend this term to indicate proximate or overlapping generations as well as non-proximate and non-overlapping persons.
18. "Generation." *The Compact Edition of the Oxford English Dictionary* (New York: Oxford University Press, 1984), vol. 1, p. 107.
19. Rawls, *A Theory of Justice*, p. 192.
20. Daniels, *Am I my Parents' Keeper*, p. 41.
21. *Ibid.*, p. 18.
22. *Ibid.*, pp. 18–19. While Daniels discusses these further questions in the context of a theory of fair equality in health care, I have omitted this from my discussion. Daniels explicitly states that his prudential life-span account can be separated from his account of justice in health care. See Daniels, "The Biomedical Model and Just Health Care: Reply to Jecker," *Journal of Medicine and Philosophy* 14 (1989): 677–680.
23. Rawls, *A Theory of Justice*, p. 86.

24. Although this position is shared by many, it is hardly uncontroversial. Some philosophers, Derek Parfit and Immanuel Kant among them, have argued that imprudent people can indeed violate their own rights and treat themselves unjustly. I assume that these views are mistaken.
25. I borrow here from Allen Buchanan, "Justice and Charity," *Ethics* 97 (1987): 558–575.
26. Rawls, *A Theory of Justice*, p. 148.
27. *Ibid.*, p. 149.
28. *Ibid.*, pp. 126 ff.
29. Hume, *A Treatise of Human Nature*, p. 494.
30. W.V. Quine and J.S. Ullian, "Hypothesis." In E.D. Klemke, Robert Hollinger and A. David Kline, eds., *Introductory Readings in the Philosophy of Science*, rev. ed. (New York: Prometheus Books, 1988), pp. 246–256, at p. 250.
31. *Ibid.*, p. 247.
32. *Ibid.*, p. 248.
33. Hume, *A Treatise of Human Nature*, pp. 494–495.
34. *Ibid.*, p. 494.
35. John Rawls, "Justice as Fairness: Political not Metaphysical," *Philosophy and Public Affairs* 14 (1985): 223–251.
36. *Ibid.*, p. 225.
37. *Ibid.*, p. 229.
38. Allen Buchanan, "The Right to a Decent Minimum of Health Care," in President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research, *Securing Access to Health Care*, vol. 2 (Washington: Government Printing Office, 1983), pp. 207–238.
39. Buchanan, "Justice and Charity."
40. A.I. Melden, *Rights in Moral Lives* (Berkeley: University of California Press, 1988), p. 109.
41. Carol Gilligan, *In a different Voice: Psychological Theory and Women's Development* (Cambridge, Mass: Harvard University Press, 1982), p. 18.
42. A similar approach is suggested by Susan Okin in *Justice, Gender, and the Family* (New York, Basic Books, 1989), pp. 15 ff. Okin sees the notion of care as integral to theorizing about justice, and she criticizes efforts to draw a sharp distinction between justice and care or to regard these as two contrasting ethics.