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A Value or an Obligation? Rawls on Justice to Future Generations

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The Scope of Justice and its Circumstances

Every moral and political theory must define the scope of the subjects falling under its judgement. Kant thought that moral principles apply to all rational beings. Bentham held that they apply to all sentient beings. Plato and Aristotle restricted the scope of political morality to the free citizens of the *polis*. Christian theology referred to human souls created in the image of God. Every moral and political theory fixes the group of subjects with which it is concerned according to its fundamental normative principles: rationality in Kant; the maximization of pleasure in Bentham; the cultivation of virtue in the Greek case; or the salvation of the soul in Christianity. However, modern theories of justice, at least those belonging to the contractarian tradition, determine the scope of their subjects on the basis of formal rather than metaphysical, normative, or naturalistic constraints. Distributive justice, since Hume, is characterized in terms of a set of principles that regulate the relationship of cooperation between human beings. The formal constraints on the application of justice involve, accordingly, the description of the conditions under which human cooperation is, in Rawls' phrasing, 'possible and necessary'.¹

Following Hume, Rawls refers to these conditions of just cooperation as 'the circumstances of justice'. On the one hand, human beings have a common interest in cooperation, since it promotes their welfare. On the other, they find themselves in an inherent conflict, since every individual seeks for him or herself a larger share in the product of the cooperative effort. Hence the need for agreed upon principles of distributive justice. But human cooperation is possible and necessary only when human beings who

live side by side on the same territory are concerned;² only when they have roughly equal power (such power that prevents anyone from unilaterally gaining control over all resources); and only when there is moderate scarcity in resources (for an inexhaustible abundance makes cooperation superfluous, while extreme scarcity makes it impossible). These objective conditions of just cooperation are supplemented in Rawls’ theory by subjective conditions, such as the pursuit of individual life plans and mutual disinterest (or limited altruism).

The circumstances of justice are thus essentially associated with the condition of mutuality or reciprocity. Kantian respect for persons, Humean sympathy for suffering fellow creatures, the Christian duty of care for the salvation of other people’s souls, or, as we shall see, a principle of impartiality or a doctrine of an ideal observer—are all moral principles which are not conditioned by reciprocity, at least not in their actual exercise. However, just cooperation takes place only where human beings are mutually vulnerable as well as capable of benefiting each other. We can envisage an abstract or cosmic concept of justice, as in Plato, according to which everybody gets ‘his or her share’ in a way that is not dependent on the condition of reciprocity, but any concept of justice based on cooperation or agreement presupposes mutual relations. Since Rawls’ conception of justice is, in my view, essentially contractual, it must satisfy the ‘circumstances of justice’. The question is whether these circumstances hold in the intergenerational sphere.

Cooperation typically takes place only between people living in the same time and on the same territory. This explains why theories of justice have traditionally referred to individuals in a particular society and of a particular generation. In pre-modern times this double restriction (temporal and territorial) of the application of justice seemed very natural. For in the world preceding globalization the degree of influence of one society on another was quite limited. So was the impact of one generation on its descendants, particularly on distant future generations, and a given generation usually enjoyed a standard of living roughly similar to that of its parents, conducted its life by similar technologies and means of production, and received an education similar in quality and scope. Today, the third world is dependent on the first (and also, although to a lesser extent, the developed world is dependent on the developing world). And of course the welfare of future generations has become tremendously dependent on the actions and policies of the present

² ‘Same territory’ could have various references, depending on the state of communication and technology. It could mean anything from the same small island to the whole planet (especially if it becomes threatened by external powers of an alien planet).
generation: in long-term investment, the preservation of natural resources, pollution, and genetic practices—to name just a few dimensions of that dependence. Rawls has been the major pioneer in facing the theoretical and moral need to expand the theory of justice to both the inter-national and the inter-generational spheres.

However, it should be immediately pointed out that the extension of justice on the intergenerational axis raises a further problem that does not apply to the international realm: the dependence of various societies in the ‘global village’ of our age is mutual. Poor societies make claims on rich societies for economic assistance and immigration rights. They also pose a threat to the rich world if the latter should ignore their distress. But on the intergenerational dimension dependence seems to be in principle unidirectional, i.e. involves relations which are not and will never be based on reciprocity. We are dependent on the behaviour of our ancestors but they are in no way dependent on ours.³ The conditions of justice seem, therefore, not to obtain in relations with past or future generations. John Rawls was the first philosopher to consider this problem systematically. Until 1971 the subject was dealt with mainly by economic theorists interested in the principles of savings, but Rawls’ discussion has transformed it into an intriguing philosophical topic.⁴

Three alternatives seem then to suggest themselves regarding the extension of justice to future people: either modify the conception of the circumstances of justice, or establish intergenerational justice on non-contractarian grounds, or, finally, admit that intergenerational relations are in their nature not subject to judgements of justice at all (but rather to moral principles or duties of another kind). The first alternative is adopted by Rawls who invests much philosophical effort in redesigning the circumstances of justice so that they can capture the particular nature of justice to future people. My argument will be that this project fails. Some interpreters of Rawls’ theory believe that he can establish principles of intergenerational justice on a non-contractual basis and hence that the second alternative is not incompatible with his general theory of justice and even serves as a better reading of it. I will try to show that these interpretations (or even self-interpretations) of Rawls do not

³ ‘Either earlier generations have saved or they have not; there is nothing the parties can do to affect it.’ A Theory of Justice, 292 (and see a very similar statement at 140). Later in the paper I will qualify this thesis of unidirectionality by pointing both to a certain sort of dependence of a given generation on its descendants and to the problem of individuating generations due to their partial overlap.

⁴ Rawls’ discussion of justice between generations is concentrated in two main sections in A Theory of Justice, 44 and 45. But it is no coincidence that the beginning of the discussion is found in section 22 which deals with the circumstances of justice and in section 24 which is concerned with ‘the veil of ignorance.’
do justice to his fundamental idea of justice as fairness and hence that the non-contractarian option (particularly that of impartiality) cannot serve as part of his general theory of justice. If that is the case, the third (sceptical) alternative becomes persuasive. And indeed, I will argue at the end of the article that what remains of the duty of ‘just saving’ is not a principle of justice but only a statement about the value of justice and the duty to maintain or promote it. The problem of accommodating intergenerational justice within Rawls’ general theory of justice is an enlightening test to the general methodological issue whether Rawls is committed to a genuine contractarian method or whether his views can be understood in more impersonal (Kantian) terms of impartiality. Accordingly, my argument in this paper is partly interpretive, partly critical and partly constructive in ways which cannot always be easily separated.

Rawls is not prepared to renounce completely the application of judgements of justice in the intergenerational sphere, and understandably so. In a society that operates on the lines of capitalist economy the issue of savings for future generations is of much significance. Should we pass on to the next generation the capital which we have inherited from the previous generation? Should we promote the welfare of our descendants (in material goods, in the quality of education and health) as a token of gratitude to our ancestors for what we have inherited from them, or should we rather give to our children independently of what we have received from our parents? May we incur debts which our children and grandchildren will have to pay? Should we accept responsibility for covering the debts accumulated in the past so as to relieve the next generations from that burden? To what extent may we use natural resources for our advantage, on the assumption that future people will probably have access to other resources and to unpredictable technologies that will provide them with a similar level of welfare? Since Rawls wishes to maintain the applicability of justice to the intergenerational dimension, and to do so on a contractual basis, his theoretical task is to revise the conception of the circumstances of justice and interpret the condition of reciprocity as applying also to human beings who do not live at the same time.

Two Models for a Cross-generational Contract

Rawls discusses the just savings principle in the context of his analysis of the concept of the ‘social minimum’—that minimal standard of living of the worst off group in society that is required by the difference principle. He makes clear
that the difference principle does not require improvement of the condition of the worst off all the way up to making them equal to the rest of society. There are two reasons for this. The first relates to the danger of undermining economic efficiency, which would ultimately lead to a decrease in everybody’s standard of welfare, including the weaker members of society; the second, which is our concern here, concerns the possible harm to future generations. In other words, the difference principle obliges us to take into consideration not only the situation of the worst off in our society but also the kind of society we are leaving for future generations. The just savings principle demands that we leave enough capital and resources for future generations while making transfers to our contemporary poor (as required by the difference principle). But the question is how much is enough?

Rawls would not accept utilitarian responses to this question. One may think of conditions under which a very high rate of savings, a huge investment exclusively aimed at the future, could have an economic justification in terms of the overall welfare of all human beings across time. However, such utilitarian logic is contrary to the principle of justice which prohibits sacrificing the welfare of one person in order to maximize the general utility, or in our case the welfare of our contemporary poor for the sake of the overall welfare of our descendants. Rather than the utilitarian principle, Rawls appeals to the device of the social contract as the way to determine the right savings principle. The goal of the Rawlsian social contract is not the maximization of welfare but an agreement on principles of justice which would determine the basic structure of society. Similarly, the aim of intergenerational justice is not to advance the wealth of future people but to secure the necessary conditions and stability of just institutions and the fair value of liberty. The preservation and inculcation of just institutions is in Rawls’ terms ‘a natural duty’ of individuals, and the device of the original position (in its intergenerational application) is designed only to fix the proper savings rate which is necessary for the maintenance of

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5 A Theory of Justice, 285. Rawls refers to the egalitarian understanding of his idea of a social minimum (according to which ‘everyone has nearly the same income’) as ‘a misconception’.

6 A Theory of Justice, 286. There is still a debate about the right interpretation of the idea of a social minimum in Rawls (especially, as Rawls himself notes, regarding its scope), but I shall not go into it here since it does not bear directly on the issue of justice to future generations. Rawls himself, as we shall see, explicitly sets apart the intra-generational and the inter-generational conditions of justice when he distinguishes between the difference principle and the just saving principle, implying that the former does not apply to the intergenerational sphere. Rawls (2001), Justice as Fairness: A Restatement (Cambridge, MA: Harvard University Press), 159.

7 Saving is demanded as a condition of bringing about the full realization of just institutions and the fair value of liberty’ (A Theory of Justice, 290). Or in even stronger terms, ‘Real saving is required only for reasons of justice: that is, to make possible the conditions needed to establish and preserve a just basic structure over time’ (Justice as Fairness, 159).
just institutions. All we owe future people are life conditions which would secure liberty, just cooperation, meaningful work, and basic welfare. Wealth as such is not a value which creates a duty of saving for the future. Therefore, Rawls explicitly says that having achieved the level of welfare required for the preservation of the institutions of justice, society is permitted to stop saving for future generations, except for the necessary means to maintain this level of welfare.⁸

In order to decide the principle of just savings in terms of a fair contract Rawls has to re-draw the conditions of the original position so as to include the intergenerational axis. Rawls considers two alternatives. According to the first, the ‘general assembly’ version, all human beings of all generations, or at least representatives of all generations, take part in the original contract. According to the second, the so-called ‘present time of entry’ version, the contractors in the original position all belong to one generation. According to the first version, every representative of a particular generation knows that his fellow contractors belong to different generations but no one knows to which particular one. Similarly, the contractors in the second version know that they all belong to the same generation but due to the veil of ignorance do not know which one it is.

Both versions raise problems. Rawls himself admits that imagining a general assembly of representatives of all generations, actual or possible, is ‘to stretch fantasy too far’.⁹ Rawls does not explain why this is so, but his reasons are most probably psychological and epistemological. Thus, although we can in principle—given the necessary historical information—envisage ourselves as living in any particular generation of the past, we cannot imagine ourselves as belonging to any future generation about which we know nothing. Consequently,

⁸ And any further saving could be considered supererogatory from the point of view of justice. See *A Theory of Justice*, 288 and *Justice as Fairness*, 159: ‘If society wants to save for reasons other than justice, it may of course do so; but this is another matter’. Rawls suggests, for instance, that although bequests and gifts to future people may be taxed in a progressive manner, such a tax should be applied only for the sake of preventing the creation of wealth accumulation that would be ‘inimical to background justice’, i.e. hinder fair equality of opportunity or increase inequality in political liberties. See *Justice as Fairness*, 161. Axel Gosseries has pointed out to me the ambiguity in Rawls’ view here. He could be read as either requiring only the maintenance of the institutions of justice, or as requiring also that the same level of welfare enjoyed by the current generation (which might be higher than that required for preserving the institutions of justice) be bequeathed to the succeeding generation. The second reading is in line with Rawls’ claim that once justice is guaranteed, net savings may fall ‘to zero’ (but not below zero, as Gosseries adds); but the first reading makes more sense if we believe that Rawls is literally serious in making the duty to maintain future just institutions the exclusive concern of his savings theory. I am inclined to the first reading. There is nothing wrong from the point of view of justice if the current baby-boom generation in America leaves to its children a society which is constitutionally just and stable even though enjoying a slightly lower standard of living.

⁹ *A Theory of Justice*, 139.
Rawls concludes that the model of a trans-generational assembly is an unhelpful tool in forming our intuitions about the principles of justice. I propose to add another consideration which Rawls does not mention.¹⁰ A general assembly of representatives of all generations, which is expected to decide intergenerational principles of justice, is logically problematic, even absurd, since it presupposes the existence and size of all generations as given. But this presupposition ignores the connection between demographic policies and savings policies in modern society. Schematically, one may say that in order to secure and advance the level of welfare necessary for the existence of a just future society one can either increase the rate of savings and leave more capital and resources to the next generation, or reduce the rate of population growth and the size of the next generation, thus avoiding the duty to provide it with more resources.

Once a link is made between the just savings principle and policies of procreation it is easy to see why the general assembly idea is logically absurd. For how can an assembly of all possible people decide who is to be born? An assembly of individuals cannot decide on its own size. Even if we can imagine ourselves belonging to another sex or another social status, we cannot imagine ourselves unborn or assess the risks of such a situation. Hence, the number of represented generations must be fixed and so must the number of people in each generation if we wish to engage in the thought experiment of a contract. And although an assembly of all actual people (i.e. those who lived, are living and are actually going to live) is logically coherent, it is implausible. For we (at least since the invention of effective means of birth control) exercise control over the size of future populations, i.e. the number of people in the future is not given but subject to our choice (on the basis, among other things, of considerations of justice!).¹¹

The failure of the version of the general assembly leads Rawls to its alternative, the 'present time of entry'.¹² Its advantage lies in that it does not call upon us to imagine a hypothetical agreement between people of distant generations but rather an agreement between contemporaneous individuals,

¹⁰ This, in my opinion, is the reason why Rawls’ two versions of intergenerational justice can not be conflated, as suggested by Hubin, one of the earliest commentators on Rawls on that subject. D. Clayton Hubin (1976), ‘Justice and Future Generations’, *Philosophy and Public Affairs*, 6: 70–83. Hubin, however, draws attention to the paradox involved in the dependence of the existence of the circumstances of justice on the intergenerational axis on the present generation’s chosen savings policy (74).


¹² Rawls explicitly, though concisely, expresses his preference for this second model in *Justice as Fairness*, 86: ‘Can we enter it [the original position], so to speak, and if so when? We can enter it at any time. How? Simply by reasoning in accordance with the modeled constraints, citing only reasons those constraints allow.’
our own generation, as is the case in any actual agreement. We are asked to think of a chain of generations in which our own is located, without knowing where. Thus, we must take into account the possibility that we find ourselves closer to the beginning of the chain (and hence enjoying less of the fruits of intergenerational savings) or to the end of the chain (benefiting from the savings of our predecessors). This ignorance forces us to consider in a balanced and fair way the just savings rate: a low rate of savings would have negative consequences for later generations; a high rate would impose an unreasonable burden on the earlier generations; and with no duty of savings, all humanity (excluding the first generation) would lose. It seems that the veil of ignorance guarantees consent on a fair savings principle, as it does regarding the two intra-generational principles of justice.

However, in contrast to agreement on the intra-generational level, there remains on the intergenerational level a problem associated with the circumstances of justice mentioned above. In the present time of entry version, it would make sense for us to avoid savings, irrespective of our actual location in the chain of generations. For regardless of whether our ancestors have saved or not (thereby benefiting us or avoiding to do so), we have no reason to save for future generations. Unlike intra-generational relations, in which if we do not contribute our share to the common social project we will not benefit from the effort of others, on the temporal axis we do not have control over what our predecessors did or did not do for us and we have no reason to fear our successors’ response to our indifference to their needs. Due to the unidirectionality of time, the reciprocity condition does not apply in the intergenerational context. Cooperation, and thus also the applicability of the principles of justice, is possible when there are relations of give and take, and these are precluded across time, in which we can give only to those from whom we cannot receive and receive from those to whom we cannot give.

Rawls is well aware of this basic problem and tries to solve it by adding an assumption of the kind he tried to avoid when he initially formulated the conditions of the original position. He calls it ‘the motivational assumption’.¹³ Rawls cannot assume an obligation of human beings to care for their progeny, since it is exactly this obligation which he wishes to derive from the theory of justice, but he can assume that human beings have a natural motive of care for their children and maybe grandchildren. The motivational assumption simply extends the theoretical construct of ‘the contractor’ in the original position: it is not merely an individual concerned with his or her own welfare but also a ‘head of a family’ concerned with the welfare of his or

¹³ Ibid., 128–9, 292.
her offspring. Indeed, this concern does not extend beyond one or two generations, but since the children’s generation is endowed with the same caring attitude towards their children, this family connection becomes, due to its transitive nature, a unified intergenerational chain. Thus, the social contract, according to the added motivational assumption, is an agreement between heads of families who represent trans-generational ‘dynasties’. Take, for instance, a typical bourgeois family like Thomas Mann’s Buddenbrooks, in which the prominent economic and emotional concern of the head of the family is trans-generational: his primary interest is always tested in terms of his success to transfer the family business to his children in a prosperous condition and to raise them up on the ideal of intergenerational commitment to the (ever-expanding) family firm.

However, the motivational assumption is problematic and consequently the ‘present time of entry’ version as a whole is cast in doubt.¹⁴ Rawls himself feels uneasy about having to add, almost ad hoc, an assumption whose only role is to solve the problem of the intergenerational extension of his theory of justice. After all, he conceives the contractors in the original position as abstract individuals motivated exclusively by rational considerations. Furthermore, Rawls emphasizes that they are ‘mutually disinterested’. We should add that although Rawls is correct in noting that human beings usually feel that the satisfaction of their children’s interests is part of their own interest, this feeling does not depend on what they have received from their parents. Relations of justice are mutual, but on the intergenerational plane reciprocity is impossible and it would be artificial to consider the natural feeling towards our children in terms of gratitude to our parents for what they have given us.

But even if Rawls can show that direct parental concern for the welfare of the next generation is absolutely natural and guarantees a principle of beneficence within family chains, the issue of social justice to future generations remains unresolved. For the duty to save for the next generation (whether in the world at large or for one’s own society) cannot be conceived as an aggregation of the natural concern of individual citizens for their own respective offspring.¹⁵ Similarly, the duty cannot be based on the transitivity of the natural concern for one’s progeny, since, as we have seen, human beings worry about their children and grandchildren, but not about their grandchildren’s grandchildren.

¹⁵ Barry criticizes the motivational assumption noting that the assumption makes the rate of intergenerational savings dependent on the degree of the actual concern of parents for their children. The just savings principle, according to Barry, is a normative principle which fixes the just savings rate regardless of natural parental inclination. Brian Barry (1989), Theories of Justice (London: Harvester-Wheatsheaf), 192.
And although they know that their grandchildren will have a natural interest in their grandchildren, this fact does not establish commitments of justice.¹⁶ Take for example a long-term policy of storage of nuclear waste.¹⁷ We know that such waste may cause harm to future people living in one hundred years’ time. Due to the time distance, these are people for whom we have no natural feeling or personal interest. Although we know that our grandchildren would probably have a natural concern for those people, this knowledge cannot serve as a moral reason for avoiding the uncareful storage of this waste. The moral ground in this case lies in an abstract principle of justice which does not presuppose any personal relations, either direct or mediated by the transitivity of family relations.

From the discussion so far we can conclude that both interpretations of the conditions of the original position fail in their attempt to solve the problem of agreement on a just savings principle and other aspects of justice to future generations. The idea of a universal conference of all generations or their representatives faces logical and epistemological obstacles; and the idea of contemporary individuals deciding the principles of justice without knowing their identity in the chain of generations requires the addition of a motivational assumption which can guarantee intergenerational saving but only on a contingent rather than principled basis. Should Rawls give up the idea of extending the application of the principles of justice to the future?

Justice to the Future as an Intra-generational Commitment

We should remind ourselves that the whole idea of justice as fairness is based on the notion of a hypothetical or virtual consent. In reality, time is unidirectional and hence there is no reciprocity in the impact of human action across time: the earlier shapes the later, but not vice versa. But, as Rawls insists, from an abstract external point of view, which considers the chain of generations as a whole, fairness demands ignoring the temporal location of particular generations. There is no place for pure time preferences, that is to say, for giving a greater weight to the present or the near future only because they are closer to us.¹⁸ In the same way, as rational choice theory prohibits giving a greater weight to my present welfare than to my future welfare, so does

¹⁶ For a persuasive critique of the transitive application of the motivational assumption, see Hubin, 82–3.
¹⁸ *A Theory of Justice*, section 45.
fairness require impartiality towards all generations. However, Rawls does not deny the basic fact that humanity develops and makes progress across history and hence it would be absurd to interpret equal concern for all generations literally. That is to say, it is only natural and by no means contrary to justice as such that future generations should enjoy a higher standard of living, health, education, technological level, etc. than past generations. This inequality is no less legitimate than that between the better and the worse off in a given society, albeit for different reasons: in the former case, a natural parental wish that our descendants have better lives than us; in the latter, the safeguarding of incentives to produce for the benefit of all. All that Rawls requires is that this intergenerational inequality achieve at least the implementation of the principles of justice in future society.¹⁹

From this external viewpoint in which location in time plays no role, there is then no need for a motivational assumption but only for a universal rational commitment to the promotion of justice. Can such a commitment be derived from the virtual contract between contemporary individuals who see themselves as cooperating in the shaping of the future? Such a point of view is natural since we can look at human civilisation as an ongoing historical enterprise. Without the trans-generational perspective much of the present cooperation between ourselves and our contemporaries will be futile, since most of our deep social goals lie beyond our personal life expectancy.²⁰ Accordingly, seeing ourselves as part of a larger, intergenerational scheme of cooperation is not conditioned by a motivational (family) assumption but is a rational complement to the very possibility of intra-generational cooperation. Rather than ‘heads of families’, we should think of ‘heads of societies’ motivated by concern for the future of their political communities. And once we think about the realisation of deep human projects in trans-generational terms,

¹⁹ This formulation is certainly too simple and open to objections. See Axel Gosseries’ sophisticated argument developed in (2001) ‘What Do We Owe the Next Generation(s)?’, Loyola Los Angeles Law Review, 35: 293–355. Gosseries claims that not only should we not leave the next generation with too little, but equally we should not leave it with too much, once the steady state of a just society is achieved. His reason is that such over-bequest would come at the expense of care for our contemporary worst-off. I believe that this argument is compelling when we consider collective social savings policies, but we should think also of the (common) case in which the next generation is wealthier than ours due to numerous individual choices of parents to bequeath their (post-taxation) wealth to their children. Are we not allowed by Rawls to make intra-generational gifts to our friends (even if these could improve the condition of our contemporary poor)? Why would it be different on the intergenerational axis?

²⁰ Barry puts this point somewhat differently: I owe you, my contemporary, concern for the future of your children (and vice versa) since they form an important part of your interests (and mine). Theories of Justice, 192. As suggested to me by Axel Gosseries, marriage is probably the best example for such mutual obligation.
it seems that we have to qualify even the apparently trivial statement that people (and societies) are not vulnerable to harm by future people. They are vulnerable, at least in the sense that their long-term interests (like their posthumous reputation) can be frustrated after their death by the violation of the hopes, intentions and wishes which gave meaning to their lives and guided them in the way they invested their resources and brought up their children.

It seems then that a further way to ground our duties of justice towards future people lies either in our long-term rational self-interest or in the mutual obligations we have towards our contemporaries to respect everybody’s long-term projects. It is ultimately we (in the present) who are the subject of the contract. Hence, the problems of justice to future generations under the two interpretations discussed in the last section are circumvented. However, such ‘genero-centric’ solution to the issue of justice to the future seems to be too easy. It may be effective regarding the short-term future of a society, but it hardly solves such issues as global warming, nuclear waste, or eugenic research.

But there is one lesson we can learn from focusing on the intra-generational perspective on the problem of justice to future people. It is not the case, as one might think, that the extension of Rawls’ theory of justice on the temporal dimension is more problematic than that on the global dimension. Indeed, all contemporary people in the world are actual, while those in the future are merely possible, which creates an intractable logical obstacle to the formation of intergenerational principles of just distribution. But on the other hand, our motivation to cooperate with geographically distant contemporaries is much weaker than the motivation to cooperate with our close contemporaries regarding our own offspring, on whom we are much more dependent for the success of our fundamental life plans and with whose welfare we are far more concerned. The extension of society to its own projected future is more natural than to some global social entity. Most cultures see themselves as extending far into the future and have concrete stakes in the conditions of their self-perpetuation.

**Rawls’ Reconsideration of the Issue: Strict Compliance**

We come back to the circumstances of justice which stand at the foundation of the issue of justice to future people: what does the condition of reciprocity
mean? If we understand reciprocity only as mutual impact, the potential of benefit or harm to each other, then our relations to future people cannot be subjected to the principles of justice. But even in the intra-generational sphere we understand the principles of justice as applying to relations between people who as a matter of fact cannot harm one another (for instance, slaves and masters, or the third-world and first-world countries in the colonial period). The very idea of the veil of ignorance is to drop the condition of actual mutual influence and imagine a human community in which cooperation is based on the abstraction of all the contingent properties of its members, including their place on the temporal axis. Accordingly, based on considerations outlined in the previous section, we may speak of cooperation between generations despite the unidirectionality of time. Under the veil of ignorance it would be rational to choose a moderate savings principle for the sake of advancing the chances of some increase in welfare as well as for the sake of the realisation of just institutions for all across time. Opposing savings only because we happen to be located in the earlier links of the generational chain is a manifestation of envy of future generations, and as is well known Rawls does not allow envy as a legitimate consideration in the original position.

Furthermore, even from the psychological point of view envy is confined to the intra-generational level. We do not envy either past generations or future ones simply because we do not compete with them.

In the years after the publication of A Theory of Justice Rawls reached the conclusion that his theory of justice to future generations can determine the rate of just savings without recourse to the problematic assumption about people’s concern for their close descendants. Rawls was remarkably attentive and open to criticism and willing to change his views when convinced that the objections were justified. In his later Political Liberalism he devotes to the subject of intergenerational justice one paragraph accompanied by a footnote, in which he accepts his critics’ reservations about the motivational assumption and admits (following Tom Nagel, Derek Parfit, and Jane English) that it can be omitted without having to relinquish the virtual contract in the ‘present time of entry’ version. Rather than being concerned with their children, Rawls characterizes the contractors as required to comply strictly with the savings principle agreed upon in the original position. The contractors agree only to principles of savings that they want all previous generations to have followed. This agrees with the general condition of full compliance demanded by Rawls

²¹ If the saving principle agreed in a trans-generational contract guarantees care (i.e. saving) for the worse off generations, then the very fact that later generations enjoy a happier life does not create a legitimate claim of justice and the earlier generation should not feel envious towards them.
in his ideal theory of justice and without which no fair social arrangement is conceivable even on the intra-generational context.²²

One may raise the question, however, about the connection between the condition of strict compliance and the condition of the enforcement of compliance. Indeed, the whole point of strict compliance is that it belongs to the ‘ideal’ part of the theory,²³ while enforcement is called for only in the non-ideal world. But a complete theory of justice must address not only the ideal, but also the non-ideal circumstances of its implementation, and hence complement the abstract principles to which individuals are expected to adhere by principles of enforcement. But while in the intra-generational contract we can always include ways of enforcing the principles to which individuals agreed under the veil of ignorance, such threat of sanction or ‘corrective justice’ cannot be in principle applied on the inter-generational level. The way a just society responds to violations of justice exposes the conditions of cooperation and reciprocity which are essential to the very idea of justice. For instance, blocking the possibility of ‘free riding’ is part and parcel of the conditions for the implementation of justice in the human world. Part of my agreement in the original position to adhere to the principles of justice is grounded in the understanding that others, who might be tempted to ‘defect’ from the agreement would be deterred by rational considerations from doing so. But though this is a reasonable assumption in contracts between contemporaries, it is impossible in the relations between present and future people.²⁴ It is difficult to avoid Rawls’ above-mentioned earlier concern that in deciding the just rate of saving for the future, a representative of any given generation, under the veil of ignorance, would rationally opt for a policy of non-saving on the ground that previous generations have either saved for his generation or not, and ‘there is nothing the parties can now do to affect that’ (i.e. to enforce saving or retaliate for not doing so).²⁵

Take as an example Norway’s savings policy. After having discovered large amounts of oil in its waters, Norway made a decision to pump it slowly

²³ For instance, Hubin, 74–5.
²⁴ Roger Paden argues that the problem of justice between generations should not be discussed from the perspective of the ideal theory since we do not know whether future people will feel committed to the principles of intergenerational justice. Roger Paden (1997), ‘Rawls’s Just Savings Principle and the Sense of Justice’, Social Theory and Practice, 23: 27–51. Paden is right in advocating the framework of the non-ideal theory, but the reason is not the lack of knowledge but the absence of the ability to redress the violations of justice, i.e. to punish those who do not give their fair share to the common enterprise.
²⁵ A Theory of Justice, 140.
both in order not to overheat the economy and to save much of the oil for future Norwegian generations. Now, imagine that the next generation decides to waste all the oil reserves for the sake of an extravagant way of life, leaving nothing for their descendants. Would that be considered a violation of intergenerational justice? It would seem to be an act of free riding, taking advantage of the generous bequest of the past generation in contradiction to the original virtual understanding that the resource serve further generations. But then again, free riding can take place only in contexts of cooperation and contracts, and the current Norwegians cannot cooperate or make an enforceable contract with future people. If that is the case, infringing the will of past generations cannot be strictly viewed as injustice in strictly contractarian terms, but only as an act of disrespect.

The Scope of Saving

Yet we have still said nothing about the way the level of savings is to be decided. Rawls says that we cannot formulate exact criteria but only lay out the constraints that determine the minimum and maximum limits. Thus, a theory of justice rules out complete avoidance of savings but equally an excessive rate of savings which would come at the expense of the worst off in the present society. The correct rate of savings is determined, among other things, on the basis of the standard of living of the generation in question.²⁶ A society which fell victim to a natural catastrophe or to an economic recession is expected to save less than a society or a generation that was lucky to live in prosperity. Similarly, in fixing the rate of savings we might have a reason to return to a family model in which there is a connection between what we received from our parents and what we leave to our children: since concern for offspring usually extends over two generations, part of what our parents gave us was meant to promote our children’s welfare. In that respect, we owe our parents some savings for the sake of their grandchildren. Even though this is not, as we have just shown, a contract-based justification for the duty of savings as such, it could help determine the proper rate of savings.

In any case, we should remember that ultimately Rawls holds that the duty of just savings is limited and all it aims at is the establishment and perpetuation

²⁶ ‘Presumably this rate changes depending upon the state of society. When people are poor and saving is difficult, a lower rate of saving should be required; whereas in a wealthier society greater savings may reasonably be expected since the real burden is less.’ *A Theory of Justice*, 287.
of just institutions in society and the realisation of the liberty of its members.²⁷

Wealth and material welfare are not in themselves the goals of obligatory
saving, and in that respect Rawls’ principle is different from the Buddenbrook
bourgeois ideal according to which the transfer of the family capital and its
enlargement from one generation to the next is a value or even a duty.

But if protecting the conditions of justice for the future is a natural duty,
an impersonal commitment, then it cannot be justified by the motivational
assumption which focuses on the emotional concern we have for our own
children or future family.²⁸ Thus, the principles of intergenerational justice are
meant to be only constraints on the implementation of the difference principle:
the worst off in contemporary society have a right to have their welfare
promoted as long as this does not mean undermining the ability of future
generations to maintain just social institutions. Society may not distribute all its
resources among its members on the basis of time preference without leaving
enough for future people to be able to live in a just society.

But the question of scope does not refer exclusively to the maximal and
minimal limits of the amount of resources that are left aside for the future.
It also concerns the limit of the duty of saving itself in terms of the nature
of future society. As already mentioned, a contractual agreement must assume
knowledge of the kind of people with whom we are making the deal. There
are people with whom we do not wish to create relations of justice. Consider,
for example, a future generation that does not share the commitment to the
very idea of justice as fairness—a generation of anti-liberal fundamentalists
(unfortunately this is not a very far-fetched fantasy). How can we regard
such a generation as a partner in a virtual negotiation on principles of
intergenerational justice? Rawls admits that the idea of a social contract is
appropriate as a principle of justification only in a generally liberal society and
hence a trans-generational contract can take place only on the assumption of
the priority of the right over the good or of justice over any ideology or
a comprehensive moral conception. In the intra-generational context we are
permitted to make the same assumption since we know the society in which
we live and whose principles of justice we wish to formulate and justify. In
the intergenerational context we cannot make this assumption since we know
so little about future people. Although Rawls does not explicitly mention

²⁷ The duty to guarantee the conditions for the existence of a future just society implies a fairly
extensive measure of savings: securing minimal conditions of subsistence for all individuals, the
preservation of some natural resources, the fight against crime, defence of the borders with potentially
hostile countries, and obviously the education of the young to the value of just institutions and the rule
of law. See Roger Paden, ‘Rawls’s Just Savings Principle and the Sense of Justice’.

²⁸ Paden, 39.
this possible constraint on intergenerational obligations of justice, it may be implied by the analogy to the limits he draws for international justice. One of the main tenets of the ‘law of peoples’ is that it applies only among liberal and ‘decent’ societies. The so-called outlaw states, which do not maintain any respect for human rights or for international agreements, are beyond the pale of the relations of justice.²⁹ Although the use of force against such outlaw states, which is justified in international law, is impossible in the intergenerational case, present people should take into consideration the possibility that some future generations will abandon the commitment to justice and to the just savings principle altogether. If that were the case, the duty of saving, based on the commitment to the preservation of just institutions, would become vacuous. If we know that the resources we are now saving are going to be used to promote a racist dictatorship in the next generation, maybe it is our duty to consume them all rather than leave them for the future!

The Duty to Uphold Future Justice is Not a Duty of Justice

Having followed Rawls’ developing reflections on the issue of intergenerational justice and various possible responses to criticism against its coherence, we are left with a sceptical conclusion. Renouncing the ambitious attempt to formulate principles of just savings which would include a trans-generational original position, Rawls reaches a modest conclusion. The requirement of saving consists merely of the duty to contribute to the next generation’s ability to achieve just institutions, to secure a just scheme of cooperation, to maintain the basic conditions for leading an autonomously chosen way of life. Unlike the Buddenbrook family principle or the enterprise of scientific research, which are cumulative in nature, the project of justice is not open-ended but well-defined and limited. The philosophically crucial point is that as in the case of international justice, the theory is based on a two-tier model: there are strong obligations within a society, or within a given generation, most typically summarized by the difference principle; and there are much weaker duties to other peoples or societies and to future generations. In both cases, the difference principle does not apply beyond contemporaneous domestic society. What we owe distant societies, in space and in time, are the more limited duties of assistance (in the former) and the preservation of justice (in

the latter). We, contemporaneous members of a particular society ('people') may claim not only territorial sovereignty, but also 'temporal' or generational sovereignty. That is to say, we are entitled to choose our way of life and a particular scheme of distribution and re-distribution (within the constraints of the difference principle) with no regard to remote or future people (once we have secured the future of the institutions of justice).

What can be the ultimate justification of such a two-tier model of justice? Why resist the attempt to extend both globally and intergenerationally the principles of justice and particularly the difference principle and advocate weaker requirements on the extended level? The answer I wish to propose takes us back to the interpretation of the circumstances of justice. One of them consisted of the potential threat or harm to human beings at the hands of their fellow beings. However, the more meaningful reverse side of that condition is the positive motive we have to cooperate with particular people rather than with others, our wish to produce and consume together material goods and create for our society a fair scheme of cooperation and a common way of life. I refer to this motive as solidarity. Obviously, solidarity cannot be a requirement of justice, since it is a condition for its operation. It not only makes justice possible or imperative, but also serves to fix the scope of its application, namely it defines the group within which just cooperation is sought. Solidarity can be based on common cultural heritage, shared aspirations, economic interests and even on unchosen historical contingencies. But it is necessarily 'domestic' or partial, i.e. not extending indefinitely to all human beings, present or future. Unlike respect for human dignity, the protection of human rights, the natural duty to assist a person in distress—which are all universal in some Kantian sense—distributive justice and the principles of fair cooperation are 'local' in their nature, i.e. they apply only within a given society, a particular social practice, institution, etc.³⁰

our society only in the sense that it has to do with our identity rather than with a commitment to carry out their plans and respect their long-term intentions.

If the principles of justice are the product of a hypothetical contract under ideal conditions, the very requirement to establish just institutions and the scope of application of the principles cannot themselves be a matter of justice.³¹

A sense of solidarity may serve as the natural motive for entering into the original position, but what could the normative grounds for the creation and perpetuation of just institutions be? Two options are left open for Rawls. According to the first, there is a natural duty to inculcate just institutions for future generations, a duty which precedes contractual relations and is similar to the duty to assist human beings in serious need or to respect human beings as ends. According to the second, just distributions of resources between generations are not a matter of contract-based commitments but of impartiality.

From an external point of view (e.g. of an omniscient morally neutral divine power, an ‘ideal observer’, or Hare’s Archangel), each generation is entitled to a fair share of world resources across time, regardless of conditions of cooperation (which do not obtain trans-temporally). The point of view of impartiality, in contradistinction to contract-based justice, characterizes, for example, the (pre-contract) Lockean proviso, the idea that since the world was created by God for the benefit of all, everyone should leave ‘enough and as good’ for others. Unlike a contract, which is based on a negotiated agreement between individuals seeking their best interests, impartial judgement is aimed at independently based entitlements or deserts.

Amartya Sen has rightly argued that the model of impartial arbitration is more promising than that of consent in solving the problem of justice between societies and justice between generations.³² But there is a price to this shift from contractual agreement to neutral judgement, which Rawls, in my view, should consistently avoid, viz., the introduction of some external, impersonal, perspective. Impartiality is a point of view which is not necessarily adopted by everyone, while a contract is the product of the free exercise of everybody’s will. By being willing to consider the thought experiment

³¹ For a sharp way of putting it, see Robert P. Wolff (1977), Understanding Rawls (Princeton: Princeton University Press), 96. ‘Remember that, in Rawls’s model, their [the contractors’] task is not to select a just rate of savings, but to select a rate of savings that is, under the peculiar knowledge constraints of their situation, rationally self-interested.’ Thus, my claim that in the inter- (unlike the intra-) generational sphere, rational choice cannot serve as a sufficient guide for establishing a just distribution of the burdens and benefits of savings.

of the original position as an exercise within the mind of one person Rawls risks conflating the contract model with the impartiality model, thereby losing the gist of the former and abandoning the social contract tradition which is based on a bargaining between actual individuals (even though admittedly under a veil of ignorance).³³ Impartiality is a much more controversial and value-dependent principle than the fair conditions of cooperation or agreed upon rules of a game. Maybe, above all, the argument against the impartiality interpretation of Rawls' theory of justice is that it undermines the very idea of 'justice as fairness', which is the hallmark of his entire theory. The whole point of grounding justice on fairness is that there is no external, impersonal, impartial, ideal observer’s point of view which is independent of the terms of a fair agreement between cooperating individuals. Finally, we should note that despite appearances, impartiality does not take us much further than the idea of a contract in defining the scope of the group of the individuals concerned. For impartial judgement must also fix in advance the kind and identity of individuals about whom judgement is made.³⁴ Between whom should we be impartial?

Both alternatives, natural duty and impartiality, ground the requirements of intergenerational justice independently of the exercise of individual wills in the context of social cooperation. They both transcend the idea of justice as fairness in its original sense of an agreement on the fair rules of social cooperation. It seems, therefore, that Rawls must ultimately articulate principles of justice to future generations through the device of a hypothetical contract, or some extension of it, which we have shown to be highly problematic.³⁵ This does

³³ *A Theory of Justice*, 139–40. Rawls believes that the bargaining model of the original position can be disposed with and that the thought experiment can be undertaken by a single individual. This is true only in the sense that an individual can perform the mental experiment on her own, but I believe that the experiment still involves a virtual bargain with others, i.e., considering what others would claim. The impartiality model is, in contradistinction, devoid of any bargaining element. Like a Platonic ideal observer (e.g., the philosopher-king) it distributes welfare and deserts according to impersonal principles, regardless of individual wills.

³⁴ Tim Mulgan has raised the objection that contrary to his methodological requirement of metaphysical neutrality, Rawls adopts as the foundation of his theory a particular Western, individualistic conception of the human person. A Buddhist view of the rebirth of the human soul after the death of the individual could much more easily solve the problem of duties we owe 'future people' since these people are essentially 'us'. Mulgan’s point may be valid, but the principle of neutrality which is the object of his criticism is a straw man since some basic assumptions about the nature of the 'entities' to which any theory applies must be independently determined. For example, Rawls also assumes that animals are not partners to the original position (or, alternatively, to impartial concern). Is that a violation of the principle of neutrality? Tim Mulgan (2002), 'Neutrality, Rebirth and Intergenerational Justice', *Journal of Applied Philosophy*, 19: 13–15.

³⁵ My sceptical approach varies from Barry’s belief in the possibility of the extension of Rawls’ principles of justice to the future. Barry rejects the claim that relations of justice assume reciprocity and interdependence. After criticising both the ‘present time of entry’ model and the attempt to defend it
not mean that there is no moral justification for saving for future generations. Justice as fairness is itself a primary value in the political life of liberal democratic societies, and hence correctly considered to be worthy of dissemination across all societies in the world and of bequest to future generations. Upholding justice might also be deemed a duty. But this duty cannot be a duty of justice, or—following the standard distinction between duty and obligation—an obligation.³⁶ Maintaining a system of justice is arguably a desirable goal for human beings, a social good, even an intrinsic value. But it is not a matter of fairness. Accordingly, we should understand Rawls' term 'the just saving principle' as referring to the principle securing justice rather than a principle of justice.

This conclusion casts light on the widely discussed problems in Rawls’ persistent effort to circumvent comprehensive moral views in justifying the principles of justice. Even if justice is ‘political, not metaphysical’, the commitment to its perpetuation into the future must be ‘moral, not political’. The philosophical attempt to extend the scope of justice to future generations exposes the limits of the justification of the idea of justice itself. The conditions of justice include some sense of solidarity, on which all cooperation is based. In that sense, I wish to argue that some weakened version of the ‘motivational assumption’, which drew much criticism and which Rawls consequently abandoned, is not only necessary for intergenerational justice but is an essential condition for intra-generational, domestic justice as well! But solidarity is a given (or ungiven) fact, and cannot be treated as a duty, or at least not as a duty of justice or an obligation. Thanks to our natural parental feelings towards our progeny and the interest we have in cooperating with the next generation or two due to the so-called generational overlap and to our expectation that they carry on our projects, we usually feel solidarity with the next two generations (of our society). And maybe that is the limit we can expect in the scope of our duties to future people. This may demonstrate that the principles of a moral theory are bounded by the psychological structure of human beings and that by introducing the motivational assumption, Barry is left with the idea of a universal conference. But he is aware of the difficulties in maintaining the metaphysical assumptions that are necessary for this idea, primarily that of the moral value of the perpetuation of the human species. Brian Barry, 'Justice Between Generations', in P. M. S. Hacker and J. Raz (eds.) (1977), Law, Morality and Society (Oxford: Clarendon Press), 276 ff. See also his, 'Circumstances of Justice and Future Generations', in R. I. Sikora and B. Barry (eds.) (1978), Obligations to Future Generations (Philadelphia: Temple University Press), 239, where Barry argues that intergenerational justice can apply even when the Humean circumstances of justice do not obtain.

³⁶ Duty, according to this distinction, is a requirement derived out of a certain position or status (e.g. parent to child, human being as a human being, etc.); obligation is the product of a previous undertaking between people (e.g. a promise, an agreement, etc.).
in the end the relations of justice and fairness which we wish to establish in theory cannot lie beyond the scope of a group of human beings who have either mutual interests or some emotional ties.\footnote{Consider, as an illustrative thought-experiment, that human beings reproduced like bees: at the moment a new generation is born, the old one dies. Not only do we, present people, not raise our descendants; we do not know what kind of people they are going to be (or, alternatively, we know that they will be exactly like us). Would such a condition be considered as displaying the ‘circumstances of justice’? Could we seriously believe that there are relations of (distributive) justice between generations? And even if we want to extend the notion of justice so as to apply even to such a ‘fragmented’ idea of human existence across time, could this notion of justice be contractual in its nature, as Rawls seeks to establish?}

References


