CHAPTER 18

The Boundary in Time: Intergenerational Justice

1 Justice Between Generations: A New Problem

In the last chapter I asked how we should draw the boundary in space around the society whose economic welfare we are trying to maximise. In this chapter I shall ask how we should draw the boundary in time. Until relatively recently this was, perhaps, a question that could be safely ignored. But during the last few decades we have come to realise that we may be seriously depleting the Earth's resources and damaging the environment that future generations will inherit from us. Hence, whereas the problem of distributive justice within any given society at any point in time has occupied philosophers for over 2,000 years, it now includes distributive justice across generations.[1] Only recently has it been important to ask questions such as 'What is a just distribution of the Earth's resources between us and future generations?' or 'Do we have obligations to future generations?' or 'Do future generations have rights to inherit the same environment as exists now?' These are not factual questions to which there may be definite answers. They are questions about values. How serious are the threats to the welfare of future generations is a factual issue. But the scale and nature of our response is a matter of values. Some philosophers have attempted to ground these values within the framework of general theories of justice. In this chapter we shall briefly examine some of the difficulties that such an attempt must encounter.

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2 Authority and a Contractarian Theory of Justice

Theories of international justice and theories of intergenerational justice share one major problem – or perhaps one major problem and one slightly less important problem. The *major* shared problem is the problem of 'authority'. In the previous chapter I discussed the importance attached by many philosophers to the existence of some 'authority' in any useful theory of justice between sovereign states. I mentioned that some steps have been taken over the years to establish specific international authorities in certain areas, such as the World Trade Organisation. But sovereign states have continued to guard their sovereignty jealously and have remained free to leave such organisations if, and when, they find it is in their interests to do so. Nevertheless, the question 'How far can there ever be an *international* authority?' is at least debatable. But the question 'How far can there ever be an *intergenerational* authority?' does not make sense. For, in the absence of time travel – and perhaps even then (it is hard to know) – there simply cannot be one.

The less important shared problem is the problem of a contract, which is related to the major problem. For the main function of the authority was to adjudicate between conflicting views of the relevant principles of justice and their application and, where necessary, to ensure that members of society could be punished, in one way or the other, if they broke the terms of the contract. And this also seems to rule out intergenerational justice, since there could not be any contract between different non-overlapping generations. And, clearly, since there cannot be any contract – written or otherwise – between different non-overlapping generations, it no longer matters whether there can be any intergenerational authority to implement it.

Given these difficulties it was perhaps inevitable that Rawls, the pre-eminent exponent of a contractarian theory of justice in recent times, should have concluded, in his *A Theory of Justice,* that '. . . the question of justice between generations. . . . subjects any ethical theory to severe if not impossible tests'.[2] Indeed, in this book he devoted only nine pages, out of 587 pages, to the problem of intergenerational justice.

This is not surprising, for two reasons. First, as explained in the last chapter, Rawls was setting out a *'political'* theory of justice, which meant that the principles of justice applied only within some political community that had the authority to enforce its principles. Clearly this cannot apply

between generations. Second, Rawls accepted the Humean 'circumstances of justice'. These are described by Rawls as the '... normal conditions under which human cooperation is both possible and necessary ... Thus many individuals *coexist together at the same time* on a definite geographical territory'[3] (my italics). The objective circumstances of the Humean concept of justice also include rough equality of power between the parties to the cooperation.

Under these Humean 'circumstances' people can reach some agreement or contract or convention that specifies the rights and obligations of the contracting parties, which, as explained in the previous chapter, is taken by Rawls and others to be a characteristic feature of any theory of justice. Thus, on this conception of justice, if, for example, conditions of inequality of power prevail but, nevertheless, the weaker are treated with decency and respect by the stronger, without any consideration of the advantages that they will derive from their benevolent behaviour, this does not mean that the situation is more 'just'. It merely means that the stronger people are virtuous and behave with decency and compassion according to some highly commendable instincts or sense of moral duty. And in the present context what matters is that, on Hume's 'circumstances' of justice, if people's behaviour towards future generations is motivated by considerations such as love for their children, this may be admirable but is nothing to do with justice. For example, when we bequeath assets to our children (or future generations in general) we do so because we are motivated by ties of affection or benevolence or sympathy, not doing on account of respect for some principles of justice.

A strict application of the Humean 'circumstances of justice' clearly appears to rule out justice between non-overlapping generations. It is obvious that one cannot talk sensibly about the relative degrees of power that different non-overlapping generations have over each other. Nor do we need to make any sort of concession or sacrifice in order to ensure the cooperation of future generations in any common endeavour. Rawls puts it quite bluntly when he says that 'we can do something for posterity but it can do nothing for us. This situation is unalterable, and so the question of justice does not arise'.[4] In short, if it is accepted that the function of principles of justice is to enable people with conflicting interests to live together in peace so that they can benefit from their mutual cooperation, there is no need for a theory of intergenerational justice.

3 Justice and Rights

Another obstacle to a coherent theory of justice between non-overlapping generations that is not shared with justice between contemporary countries at any point in time arises from the relationship between 'justice' and 'rights'. The attribution of rights' is believed to play a major role in most – and possibly all – serious theories of justice. For example, Rawls's classic exposition of what a theory of justice consists of begins with several references to this relationship between justice and rights. In the space of a few pages (pages 4–7) he repeats several times, if in slightly different words each time, that the principles of justice are those that '... provide a way of assigning rights and duties in the basic institutions of society', or that '... the primary subject of justice is the basic structure of society, or more exactly, the way in which the major social institutions distribute fundamental rights and duties and determine the division of advantages from social cooperation'.[5] Even Barry defines the rules of justice as 'the kind of rules that every society needs if it is to avoid conflict – on any scale from mutual frustration up to civil war. Ideally, rules of justice assign rights and duties to people in their personal and official capacities in such a way that, in any situation, it is clear what each person is entitled or required to do'.[6]

And even if the attribution of rights is not made explicit, theories of justice *implicitly* attribute them according to some criterion or other. For example, in an important article Gregory Vlastos gave a list of 'well-known maxims of distributive justice' such as 'To each according to his *need*' or 'To each according to his *worth*' and so on (Vlastos, 1984, p. 44). Clearly all such principles of justice imply certain rights.

Consider, for example, a contractarian theory of justice. There are various forms of such theories – 'actual', 'hypothetical', 'ideal' contracts and so on – but, with minor adjustments that are irrelevant to the argument here, they can all be represented in one of the maxims on Vlastos's, list, namely 'To everybody according to the *agreement* he has made' (Vlastos, *op.cit.* p. 44). This can then be converted into a proposition about rights, namely 'everybody has a right to what is specified in the contract'. In short, a defining feature of a wide variety of different conceptions of justice is that – explicitly or implicitly – they attribute rights (and hence counterpart duties). This creates special problems when we come to justice between non-overlapping generations. For, as De George pointed out long ago, non-existent people cannot 'have' anything, so they cannot 'have' rights.[7] This seemingly uncontroversial proposition would

seem hardly worth discussing, were it not for the fact that it is frequently claimed – particularly in the context of environmental issues – that future non-overlapping generations do have rights.

The problem is that future non-overlapping generations cannot 'have' – in the present tense – rights to anything, simply because properties, such as being green or wealthy or having rights, can be predicated only of some subject that exists. Outside the realm of mythical or fictional creatures or hypothetical discourse, if there is no subject, then there is nothing to which any property can be ascribed.[8] Propositions such as 'X is Y' or 'X has Z' or 'X prefers A to B' make sense only if there is an X. If there is no X then all such propositions are meaningless.[9] Thus the general proposition that future generations cannot have anything, including rights, follows from the meaning of the present tense of the verb 'to have'.[10] Unborn people simply cannot *have* anything. They cannot have two legs or long hair or a taste for Mozart.[11]

In connection with the more specific proposition, namely that future generations have rights to specific assets, such as the existing environment and all its creatures, a second condition has to be satisfied. This is that even people who do exist cannot have rights to anything unless, in principle, the rights *could* be fulfilled (Parfit 1984, p. 365). In the case of rights to particular physical objects, for example, like a right to see a live dinosaur, it is essential that the dinosaurs exist. In the same way that it does not seem to make sense to say 'X has Y' or 'X is Z' if X does not exist, it does not make sense *even when X does exist* to say 'X has a right to Y' if Y is not available or beyond the power of anybody to provide. Thus for the proposition 'X has a right to Y' to be valid, where Y refers to some tangible object, two essential conditions have to be satisfied. First, X must exist, and second, it must be possible, in principle, to provide Y.

In the case of our right to see live dinosaurs, for example, one of these two conditions is not satisfied. We exist, but dinosaurs do not exist. And before the dinosaurs became extinct, the dinosaurs existed but we did not exist, so we could not have any rights to their preservation. If, then, the inseparability of justice and rights set out earlier is accepted, it does seem to confirm the conclusion reached earlier on other grounds, namely that there is no place for a theory of justice between generations.

The argument is really very simple and can be summarised in the following syllogism:

(i) Any coherent theory of justice implies conferring rights on people.
(ii) Future generations of unborn people cannot be said to have any rights.

Therefore, (iii) the interests of future generations cannot be protected or promoted within the framework of any coherent theory of justice.

Of course, both of the first two propositions can be challenged. The first of them reflects a particular conception of justice and rights – which, following Rawls or Barry or others – is essentially that justice is a virtue of institutions and consists of defining the rights and duties of the members of the institutions in question. But other conceptions of justice and rights are certainly plausible. In particular, some philosophers subscribe to conceptions of 'natural justice' – and 'natural fairness' – according to which an injustice exists insofar as somebody is worse off than somebody else through no fault of her own, even if this state of affairs has not been imposed by anybody else and does not reflect a failure of any institution to act according to principles of justice.

The second proposition may be thought by many people to be non-controversial, or even obvious, and to correspond to what is generally understood by the present tense of the verb 'to have'. The claim that future generations do have rights has been supported by some reputable philosophers, and there is even, in Berlin, a 'Foundation for the Rights of Future Generations', that holds international conferences at which various professors solemnly discuss topics such as how to incorporate the rights of unborn people into national political constitutions.

For example, one widely quoted authority on intergenerational equity, Edith Brown Weiss, refers to the Preamble to the Universal Declaration of Human Rights, which states that 'Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world'. She then goes on to argue that the 'reference to all members of the human family has a temporal dimension, which brings all generations within its scope'. But future generations – of unborn people – are not 'members of the human family'. They are not members of any family, or of any tennis club, or of any national legislature, or of anything at all. They do not exist. The same objection applies to Annette Baier's conclusion that 'So far I have found no conceptual reason for disallowing talk of the rights of future persons. Neither their nonpresence, nor our ignorance of *who* exactly they are, nor our uncertainty concerning how many of them there are, rules out the appropriateness of recognizing rights on their part'.[12] In fact Baier is mistaken. There is no uncertainty at all as to how many future persons there *are*. There aren't any.

Some philosophers have argued that since future people will have interests they have rights, now. For example, the distinguished philosopher, Joel Feinberg, who is also the author of authoritative articles on the concept of 'rights', writes of the interests of future generations that, 'The identity of the owners of these interests is now necessarily obscure, but the fact of their interest-ownership is crystal clear, and that is all that is necessary to certify the coherence of present talk about their rights'. He concludes by saying that 'philosophers have not helped matters by arguing that animals and future generations are not the kinds of beings who can have rights now, that they don't presently qualify for membership, even "auxiliary membership," in our moral community'.[13]

But there seem to be two objections to the argument that because future generations *will* have interests they must *have* rights now.[14] First, having interests is, at best, merely a necessary condition for having rights contemporaneously, not a sufficient condition. Many people have an interest in seeing the horse they have backed to win a race winning it. But they cannot all have a right to such an outcome and, indeed, it would be absurd to maintain that they did. It is not necessary to scrutinise the borderlines between 'interests', 'needs', 'desires', and so on in order to see that we cannot have rights to all that is necessary for the good life. Second, the fact that future generations will have interests in the future, and may well have rights in the future, does not mean that they can have interests today, that is, before they are born. It is sometimes argued that having certain interests – such as 'vital' interests implies having certain rights. But future generations do not at this point in time *have* any interests.

However, for those of us who are concerned about the well-being of future generations, all is not lost. In the same way that justice does not exhaust the whole of morality neither do 'rights'. Consider an example that is often used in discussions of intergenerational justice, namely the case where somebody had made preparations to set off a bomb in, say, 200 years time, or buried some radioactive nuclear waste in an unsafe location. This would harm a lot of people who do not yet exist. According to the previous argument, it would be wrong to say that their rights not to be harmed had been violated. For since they did not exist when the delayed-action bomb was planted, they could not be said to have any rights to be violated. *But, it would still be a very wicked thing to do.* Any system of moral behaviour includes an obligation not to gratuitously inflict grievous harm on people, however removed from us they may be in time or space. One can violate this moral obligation by taking action that would harm

people who are not yet born without violating their 'rights' if we were to take advantage of the accidental temporal advantage that we have over them by storing up harm for them that cannot be justified by any need to avoid greater harm to ourselves.

In the same sense that we can harm posterity we can also help posterity. There is, therefore, a moral obligation to take this into account in any policy that affects future generations. In everyday life we do not act as if we have a free hand to do what we like as long as we do not infringe some principle of justice. We would not regard a person who fails to help other people when he can do so at no great cost to himself as being equally virtuous as somebody who does so. It is for this reason, therefore, and not out of respect for some probably unattainable and unnecessary theory of intergenerational justice, that society should take account of the interests of future generations.

4 Rawls and 'Just Savings'

The most obvious way to take account of the interests of future generations is to save for them. As Clark Wolf says, '... one crucial part of any theory of intergenerational justice is an account of whether and how much the present generations ought to save resources for the future rather than destroying or consuming them'.[15] Indeed, it is not clear what else a theory of intergenerational justice has to deal with. Hence, in his 1971 work Rawls attempted to construct a theory of 'just' savings within the framework of his contractarian model in order to maintain impartiality between generations. For example, he wrote that 'the parties (in the original position) do not know to which generation they belong ...' and that 'since no one knows to which generation he belongs, the question (of finding a just saving principle) is viewed from the standpoint of each'.[16]

However there is a fatal technical difficulty in using the original position in order to arrive at contract between different generations that covers savings. This is that, according to some commentators, the more that the earlier generations are allowed to use up all the Earth's resources the shorter the time span of the human race – that is, the fewer later generations there will be. Since the rules drawn up, therefore, would reduce the number of generations that are represented in the original position it cannot constitute a situation in which all potential generations are represented.

Rawls originally based his 'just savings' rule on the idea that the participants in the original position would have a sentimental interest in

the welfare of their descendants. But this rule, too, was fraught with other difficulties.[17] It is basically an *ad hoc* 'motivational assumption'. It no longer represents a negotiated contract between rational, self-interested participants. In other words it implies that Rawls has abandoned the ambition to produce a theory of justice that rescues justice from intuitionism.

But later he accepted that his original proposal was defective and, in 1993, he referred to a better solution that, he said, had been suggested to him in 1972 by Tom Nagel and Derek Parfit and which he set out later in the same work.[18] His version of it was that '. . . the correct principle is that which members of any generation (and so of all generations) would adopt as the one their generation is to follow and as the principles they would want preceding generations to have followed (and later generations to follow), no matter how far back (or forward) in time' (*op.cit.,* p. 274).[19]

This somewhat Kantian rule has some obvious appeal. For one would not want a rule that allowed every generation to be very stingy in their bequests to future generations since that would have exonerated previous generations from saving much. However, it is still not very convincing since (i) it provides little guidance as to what the just savings principles actually ought to be, or even what they are likely to be; and (ii) it totally fails – like virtually any other coherent theory of intergenerational 'just savings' – to allow for generations to have any view as to what would be the optimal rate of growth of population. And, as Dasgupta points out, '. . . public policies bearing on fertility and savings decisions can't be kept independent of each other: desirable investment policies are a function of demographic profiles, and defendable population policies depend upon investment rates. The two need to be discussed simultaneously'.[20]

Also, Rawls recognised (contrary to what is sometimes alleged) that a major feature of his theory of justice, namely his famous 'difference principle', was inapplicable between generations. He accepted that his 'difference principle' – that is, that at any point in time, the only inequalities that are allowed to exist in society are those that will improve the position of the worst off members of society – could not apply between generations. But, as he said, 'There is no way for later generations to help the situation of the least fortunate earlier generations. Thus the difference principle does not hold for the question of justice between generations'. He also pointed out that the difference principle between generations would lead to quite unacceptable results.[21] For the first generation would presumably be the poorest generation – not being endowed with

any starting capital – and if it cut its own consumption in order to invest for the future it would become even poorer. And it is a basic feature of Rawls's theory of justice that it sets out rules for cooperation between agents for their mutual benefit that are acceptable to all provided it is not at the expense of the worst off. For the more the current generation saves in order to invest for the future, the less it can consume itself, and hence its own standard of living would be reduced even further. This meant that application of the 'difference principle' between generations would rule out economic growth resulting from the accumulation of capital.[22] Rawls's exclusion of the difference principle between generations was subsequently endorsed by various eminent economists, though their conclusions have been challenged by Clark Wolf, who demonstrates that if one does drop the assumption that generations do not overlap, the application of a 'difference principle' between generations need not be rejected.[23]

5 Fairness and the Role of Initial Endowments

Suppose, then, that we abandon a contractarian approach to theory of intergenerational justice and concentrate on some less demanding approach based on a wider notion of 'fairness'. After all, I have repeatedly pointed out in earlier chapters, the 'fairness' of any situation depends partly on value judgements concerning the 'fairness' of the distribution of initial endowments. If we take the view that the concept of 'just' or 'fair' can apply to, say, relations between parties of very unequal strength or unequal initial endowments, it might be easier to construct some principles of what would be 'fair' behaviour towards future generations and 'fair' provision for their welfare. A stress on the possible unfairness of initial endowments corresponds closely to the criticism of the 'mutual advantage' contractarian conception of justice made by the late Brian Barry.

Barry accepts that the Humean 'circumstances of justice' would leave no room for justice between generations.[24] But this is one of the reasons why he rejected them. As I indicated in the previous chapter, Barry would prefer to broaden the scope of a theory of justice so that it would not exclude the notion of injustice in relationships between parties of unequal power. He believes that '. . . justice as mutual advantage fails egregiously to do one thing that we normally expect a conception of justice to do, and that is provide some moral basis for the claims of the relatively powerless'.[25] He gives the example of the treaties signed between Western

settlers and indigenous peoples in the early days of the USA (and many other parts of the world). Such treaties, or agreements, may well have been the best that the weaker parties could accept under the circumstances and to which, therefore, they may have been obliged to enter, but they should still be regarded as 'unjust'.

In the same way that in 1999 Barry broadened the scope of the theory of justice to encompass justice between different countries he broadened it to encompass different generations. He begins with some fundamental principles of justice between contemporaries and then considers how far they can be applied intergenerationally. One of these is the principle of the 'fundamental equality of human beings', which, as indicated in Chapter 17, is a normal axiomatic starting point in *cosmopolitan* theories of justice. Barry says that 'it is precisely because this premise does not make moral standing depend on the time at which people live that principles of justice valid for contemporaries are prima facie valid for intergenerational justice too'.[26]

Barry goes on to select two fundamental principles of justice that he believed can apply intergenerationally. One of these is the principle of responsibility, which is that the current generation would be acting unjustly if it followed policies that made future generations worse off than they would otherwise be. But, unless it is heavily qualified, this would be a very debatable requirement. It is not, in fact, universally accepted without qualification among coexisting people. For example, Utilitarianism would accept harming some people in the interests of the many. Why should it always be unjust to follow policies that *might* conceivably make future generations worse off than they would otherwise be even if this means certainly imposing burdens – and possibly even greater burdens – on some of the people alive today who might be much poorer than future people?

Barry seems to be applying a much more rigorous condition on relationships between different generations than is generally accepted among contemporaries. For he rules out doing harm to future generation even if, in doing so, the present generations suffer a much greater harm. It is not clear that, from the standpoint of, say, a neutral 'Time Lord', this would look like an equitable distribution of wealth between different generations. It certainly would not be sanctioned in a utilitarian approach, such as that followed by Lord Stern in his recent report on the economics of climate change, since total utility over the whole of time would be smaller.[27]

Furthermore, even when redistributing from richer to poorer within any contemporary society one can usually – though not always – know who is going to be affected, and in what way. One has a fairly good idea who are the richer members of society and who are the poorer. But the predictions that Barry makes about the inevitable harmful effects of current environmental practices and population policies on the relative welfare of future generations are very speculative. It is true that climate change could make future generations' welfare much lower than it would otherwise have been. But, if widely accepted projections – including even those used by the International Panel on Climate Change – are to be believed, future generations are likely to be much wealthier than are people today even if climate change means that they would be less wealthy than they would otherwise have been. Of course, in the event of climatic catastrophe, this would no longer be the case.

6 Locke's 'Proviso'

Attempts to rescue the notion of intergenerational justice are often buttressed by an appeal to the so-called 'Locke's proviso' as justifying the case for not depriving future generations of any resources. This proviso is the phrase '. . . where there is enough, and as good left in common for others'.[28] But this seems to be an unjustified use of Locke's proviso. What Locke was seeking to do in the chapter 'Of property', in which the aforementioned phrases appear, was to set out his theory of the original justification for the emergence of the rule of property rights.

This started from the assumption that Man had inalienable property rights in himself, and hence in his labour. Hence, if people used their labour to obtain other goods (such as edible game or fruits, etc.) they created a property right in the product in which they had mixed their labour.[29] At an early stage on earth, when there was an abundance of natural resources (he is referring chiefly to land and animals and fruits) – that is, there was no scarcity of such goods – this was sufficient to justify the acquisition of property in land and so on. In other words, this condition was sufficient to justify the acquisition of land and so on when '. . . there was still enough and as good left'. Locke's repetition of this clause was used by him as part of a literary device to emphasise that he is presenting a theory of the origin and justification of property rights in the state of nature *when there was no scarcity* (my italics).

He hardly ever mentions – let alone discusses – the rules that ought to apply in conditions of scarcity. And when he does so it is just to make casual – and almost parenthetical – remarks to the effect that, under such conditions, the appropriate division of the scarce resource would have to result from the laws upon which interested parties had agreed. He does not discuss what principles should govern such laws and agreements. His emphasis, in the same chapter, on the criterion of mixing one's own labour with the resource that one had appropriated and enclosed, and not using the resource wastefully or not at all, was in the context of widespread unrest at the enclosure of hitherto common land that had been taking place in England from the fourteenth and fifteenth centuries and that led to a landless proletariat in many parts of the country. It was in this that Locke was interested. At no point at all does he show any interest in our obligations to future generations. Of course, this does not preclude speculation as to how Lockean principles concerning property could be applied to the conservation of resources for future generations, though, at first sight, this does not look a very promising line of enquiry, since his suggestion that scarce resources would have to be allocated by laws to which people had agreed rather rules out any intergenerational guidance since non-overlapping generations are unable to agree to anything (a characteristic that they share, of course, with many people alive today).

7 The 'Non-Identity Problem' and Conflicting Intuitions

I have remarked at various points in this book that the main role of ethical theory is to help us sort out our ethical intuitions, particularly when they conflict. A particularly striking case that happens to have a bearing on the question of intergenerational justice is the conundrum known as the 'non-identity problem', which was made famous by J. Narveson and Derek Parfit.[30] This is derived from what is usually known as 'the person-affecting claim' discussed in Chapter 15 above in connection with egalitarianism. One definition of the claim is that 'one situation cannot be worse or better than another if there is no one who is worse or better' (Temkin, (1993:248). The 'person-affecting claim' appears to be intuitively very compelling.

But – adapting one of Parfit's examples – suppose society is faced with two possible policies, one of which is generally referred to as 'sustainable

development' policy, and the other is the 'depletion' policy. Whichever policy is adopted will affect which particular people are born in the future. For example, suppose that depletion of the atmosphere's 'carbon space' led to significant climate change. Everybody's lives would be changed. People would engage in different occupations, would live in different places, would meet different people and would get married at different stages of their lives, or produce children at different precise points in time. Hence, the people who will exist under the depletion policy will not be the same people as would have existed under the sustainable development policy. But can the people who will exist under the depletion policy complain they are worse off as a result of that policy?

After all, if that policy had not been pursued they would not have been born. So, if we stick to the person-affecting claim, they cannot say that *they* are worse off. Indeed, it can be argued that as long as they are living lives that are worth living they are better off than they would have been had they not been born at all. So they would have been better off than if the sustainable development policy had been followed since, in that case, they would not have been born at all. Other people would have been born instead. But I have argued in Chapter 14 that such a comparison is meaningless!

So we seem to have a clear case of a conflict of intuitions. On the one hand there is the appeal of the 'person-affecting claim', namely that one situation cannot be worse than another unless it is worse for actual people. This intuition suggests that a depletion policy would not make future people worse off since they would not be the same people as the people who would be alive under a sustainable development policy. On the other hand, it seems that it would be wicked to follow a policy that made the welfare of the people who happen to be alive in the future lower than would have been the welfare of the *different* future people who would have been alive under a different policy. So how can one escape from this dilemma of two apparently compelling but conflicting moral intuitions? Naturally, the 'non-identity problem' has been the subject of enormous debate in the philosophical literature.[31] It is a bit like the 'Liar Paradox' that stimulated many philosophers through the centuries to ask difficult questions about the concept of 'truth'.[32] The non-identity problem provides enormous scope for analysing the concept of 'worse off'.

One possible way out is to accept that different people would be born under different scenarios, so that, under the 'person-affecting claim', it does not make sense to say that they are worse off. This is the simple utilitarian cost-benefit approach, such as is adopted in the *Stern Review* of

the climate change problem.[33] A utilitarian could simply say that the welfare of the people who will exist as a result of, say, a 'depletion' policy, will be worse off than would have been the welfare of the *different* people who would exist under the 'conservation' policy.

But what this view amounts to is a rejection of the 'person-affecting claim'. What it implies is that in the place of the person-affecting claim of the form 'one situation cannot be worse or better than another if there is no one who is worse or better' one accepts, instead, the claim that 'one situation *can* be better or worse off than another if it is better or worse for the people in that situation than it would have been for whatever other people might have been in it'. These are two rival definitions of 'worse off' (or 'better off'), and the choice between them is a value judgement to which there can be no objective answer. It is just one more example of the way that ethical theory cannot provide simple answers to conflicts between our ethical intuitions.

It should not be assumed from the previous section, however, that if we accept the second concept of 'worse off' and follow the utilitarian approach, we do not have other problems. Many of the limitations on utilitarianism are discussed in Chapter 10. For a utility maximising Pareto-optimising move requires that the losers can – if only potentially – be compensated while still leaving the gainers better off. Otherwise one has not satisfied the Paretian condition for an improvement, namely that nobody is worse off. But in the intergenerational context, if the losers from any policy happen to be the present generation – for example, people alive today make sacrifices in the interests of posterity – it may not even be a *potential* Pareto-optimising move, let alone an *actual* Pareto-optimising move. For there is no way of ensuring that future generations will compensate the losers in the present generation.

8 Conclusion

The conclusion of Chapter 17 was that theories of international justice did not help much to resolve the question of how widely across *space* one ought to draw the boundary of the society in whose economic welfare we are interested. This was for two main reasons, namely (i) mainstream theories of justice relied on the existence of some overall 'authority' that could ensure respect for the principles of justice adopted in whatever units – individuals or states – are concerned; and (ii) mainstream theories of justice – from Hobbes to Rawls – have been 'contractarian'. And respect for sovereignty of

independent states made it difficult to arrive at meaningful and enforceable contracts between them except in a limited number of special cases.

These two ingredients of most theories of justice seem to completely rule out the feasibility of constructing a coherent theory of intergenerational justice. And there is a third difficulty. This is that all theories of justice appear to imply some specification of the rights and duties of the people, or entities, covered by them. In particular, it corresponded to the Rawlsian 'political' conception of justice, which referred to the rights and obligations of members of some political community. But it does not seem possible to allocate rights to unborn people, notwithstanding many opinions to the contrary. Future unborn generations cannot 'have' – *in the present tense* – any 'rights' or anything else for that matter.

Thus, for these three reasons, it seems that Rawls was right in doubting whether a coherent theory of justice between generations was attainable.

But should one worry about this? Probably not. From Hume to Rawls it has been widely – though not universally – believed that the function of principles of justice is that it enables members of any society to live more or less in peace and mutual cooperation for the general benefit of them all. It is a way of avoiding conflict of interests finishing up as war or chaos. But as between generations there is no danger of violent conflict anyway. So we may not really need a theory of intergenerational justice.

However, this does not give one a free hand to ignore the interests either of other countries or of distant future generations. It has been argued earlier – particularly at the end of the previous chapter – that there is always a case for old-fashioned beneficence and 'sympathy' for the interests of future generations. As with giving aid to poor countries, so saving resources to ensure a decent future for future generations is a form of the giving aid to the 'right people' that Aristotle included in his conception of virtue.[34]

Thus even without a theory of justice to guide us we still have as a moral obligation not to impose undue harm on future generations and to take account of their interests. To some extent the market mechanism provides for the needs of future generations through the investment that is carried out for purely selfish economic motivations. And over the last thousand years or so it has worked and led to significant economic growth. Also, to some extent one can expect some help from the way that the interests of future generations will be solved by reliance on personal relations between coexisting generations – such as those between parents and their children. For example, the notion of

reciprocity that plays a major role in any 'contractarian' theory of justice may play only a negligible part in the relationships between parents and children compared to a spontaneous feelings of affection, and of moral obligation to children for whose existence one is responsible. Such sentiments will usually suffice to ensure that each generation will provide adequately for the next generation. In other words, either (i) natural affection or respect for some conventions of 'duty' between parents and children will suffice to ensure adequate concern for the interests of future unborn generations, or (ii) these interests will be protected by what the philosopher John Passmore called the 'chain of love' (Passmore, 1974). Unfortunately, there are plausible reasons why this might not be enough. In particular, there are good reasons – such as Sen's famous 'isolation paradox' why free markets may not adequately protect the presumed interests of future generations.

Also, on account of limitations on the uncoordinated action of individuals, it is unlikely that the private sentiments of 'sympathy' are adequate to protect and prevent future generations fully from being harmed in ways that most people – in their capacity as citizens of a continuing society rather than in their capacity of private individuals concerned only with their self-interest – will deplore. It is true that, as Wolf has pointed out, it would be useful to have a theory of intergenerational justice as a standard against which one could compare what *actually* happens with what one thinks *ought* to happen.[35] But it is not the absence of such a theory that prevents the interests of future generations from being adequately represented in policy decisions. As with the practical problem of incorporating sympathy and concern with the welfare of other countries into our policies, so the real practical problem on incorporating concern with the interests that future generations into our policies is a problem of the extent to which collective action reflects the sympathies and benevolence of individuals rather than a problem of reaching an agreed theory of intergenerational justice.

Notes

1. According to Laslett and Fishkin, 'The revival of political theory over the past three decades has taken place within the grossly simplifying assumptions of a largely timeless world . . . (it) is limited, at most, to the horizons of a single generation who make binding choices, for all time, for all successor generations' (Laslett and Fishkin, (eds.), 1992:1). They go on to describe

recent attempts to bring time into the picture as little more than 'gestures' in that direction. This is, perhaps, rather unfair on Rawls, who discussed intergenerational distributive justice – if rather dismissively – back in 1971, and others, such as Dasgupta (1974), or the contributors to the volumes on the subject edited by Sikora and Barry (1978) or by Partridge (1981). However, Laslett has to be credited with one of the earliest insightful analyses of the relationship between justice between non-contemporaneous generations and contemporaneous cohorts – such as between different age groups (in Laslett and Fishkin, eds., *op.cit.*:24–47).

2. Rawls, 1971:284.
3. Rawls, *ibid.*:126
4. Rawls, *ibid.*:291
5. In similar vein, Vlastos writes that 'Whenever the question of regard, or disregard, for substantially affected rights does not arise, the question of justice or injustice does not arise', or 'Again, whenever one is in no position to govern one's action by regard for rights, the question of justice or injustice does not arise', or 'A major feature of my definition of "just" is that it makes the answer to "is *x* just?" (where *x* is any action, decision, etc.) strictly dependent on the answer to another question: "what are the rights of those who are substantially affected by *x*?"' (Vlastos, 1984:60–61).
6. Barry, 1995:72.
7. De George, 1981.
8. When rights are attributed to mythical or fictional creatures, for example, they are not believed to be rights that exist in the real world and that hence impose any obligations on real-world people, such as us.
9. I am using the term 'meaningless' here to describe propositions such as 'X is Y' when there is no X, although such propositions could be transposed into longer and clumsy propositions that are meaningful, such as 'X exits and if there is an X it has Y', but are false if, in fact, there is no X.
10. This fundamental and apparently decisive point was made by De George (1981). But with some exceptions, notably de-Shalit (1995, and 2000:137), it does not seem to have been given due weight in the literature on this subject.
11. As Dasgupta puts it, 'It would be an error to regard potential persons as a special sort of people' (1993:382/3). The 'unborn' aren't a class of people. It makes no sense to attribute a degree of well-being, low or high or nil, to the states of not being born . . . 'Possible people aren't actual (or future) people, any more than clay by the river bank is a mud hut. It is actual persons who have feelings, aspirations, needs, claims, projects, and a sense of justice. In short, it is actual persons who are moral agents' (*ibid*:384).
12. Baier, 1981.

13. Feinberg, 1981:148–149. The same argument is advanced at length by Sterba, 1980 and 1998.
14. See, in particular, Feinberg, 1981.
15. Wolf, C., 2010:270.
16. Rawls, 1971:287–288.
17. See critique of this rule in Beckerman and Pasek, 2001:36–40.
18. Rawls, 1993:20, fn.22.
19. A valuable survey of Rawls's views on intergenerational justice is given by Dierksmeier, 2006:ch. 4.
20. Dasgupta, 1993:377.
21. Rawls, 1971:291.
22. See also Brian Barry, 1989:189–202.
23. Wolf, C., 2010:282–287
24. For example, Barry, 1989:189.
25. Barry, 1995:46.
26. Barry, 1999:46.
27. Stern, 2006.
28. Locke, II, ch. V, para. 26.
29. As is well known, Nozick questioned this notion by postulating the example of Mr X pouring some tomato juice (which he owned) into the ocean. According to Nozick, Lockean theory would require us to interpret this as giving Mr X a property right in the ocean, whereas, as Nozick points out, it would be more reasonable to say that the person in question had lost some property (the tomato juice) rather than have gained any (the ocean). This is true, but in all fairness to Locke his theory of property rights has to be seen (i) in the context of the times, when there was much resentment at the enclosure movement, and his claim that property rights could be justified in terms of the effort that the owners had made in order to convert the hitherto unowned resource into their property. This was why he also repeated his insistence on this property right being dependent on the acquired asset not being wasted, as was often the case with much of the hitherto common land that had been enclosed by the landowners without their putting it to any good use; and (ii) in the context of Locke's attempt to establish property rights as one of the basic natural rights that people had in some state of nature.
30. Narveson, 1967, and Parfit, 1984.
31. A very comprehensive study of the 'person-affecting claim' in the context of intergenerational justice is Mulgan, 2008.
32. This is a reference to conundrums such as the one familiar to many school children that goes: 'Socrates said that all Greeks are liars. Socrates was a Greek. So Socrates was a liar. So one should not believe what he said about

all Greeks being liars. So he may have been telling the truth about all Greeks being liars . . . and so on'. Or, more briefly, 'What I say is untrue', with obvious implications.

33. Stern, 2006.
34. See esp., *Ethics*, 1120a9-b1.
35. Wolf, 1996, 2010.