

Intergenerational Justice Review

Foundation for the Rights of Future Generations



Photo: Yara Lemke, © Association Memorial to the Murdered Jews of Europe

Issue Topic: Historical Injustice

Table of Contents

Issue topic: What is Historical Injustice?		Book Reviews	
Editorial	3	Roda E/ Howard-Hassmann / Anthony P. Lombardo: Reparations to Africa	30
Untangling Historical Injustice and Historical Ill <i>by PD Dr. Michael Schefczyk</i>	4	Lukas H. Meyer: Historische Gerechtigkeit / Lukas H. Meyer (ed.): Justice in Time	33
Intergenerational Rights? <i>by Prof. Dr. Richard Vernon</i>	8	Announcements and Interna	
Historical Responsibility and Liberal Society <i>by Prof. Dr. Janna Thompson</i>	13	Call for Papers: A Young Generation Under Pressure?	35
A List of Apologies World Wide <i>by Graham Dodds</i>	18	Call for Papers: Climate Change and Intergenerational Justice	36
David Miller on Inherited National Responsibility <i>by Pranay Sanklecka</i>	18	Call for Papers: The Rights of Children and Young People, With a Focus on the Right to Vote	37
Indigenous Minorities' Claims to Land <i>by Daniel Weyermann</i>	23	Members of the Editorial Board	37
Book Reviews		New Editorial Staff	43
Jon Miller / Rahul Kumar (eds.): Reparations. Interdisciplinary inquiries	28	Imprint	
		43	
		Become a friend of FRFG!	
		44	

The reviewers for this issue were as follows (in alphabetical order):

Dr. Daniel Butt: is tutor in politics at Oriol College, University of Oxford (UK).

Dr. Ulrike Jureit: is a historian at the Hamburg Institute for Social Research [Hamburger Institut für Sozialforschung] in Hamburg (Germany).

Prof. Dr. Tim Mulgan: is professor of moral and political philosophy at the University of St Andrews (UK).

Prof. Shlomo Giora Shoham: is professor of law and interdisciplinary lecturer at the Tel Aviv University (Israel).

Dr. Axel Gosseries: is a permanent research fellow for the Fund for Scientific Research (FRS-FNRS) and he lectures at the University of Louvain (Belgium).

Prof. Dr. Konrad Ott: holds a professorship of environmental ethics at the University of Greifswald (Germany).

Prof. Dr. Jan Narveson: is a distinguished professor emeritus of philosophy at the University of Waterloo in Ontario (Canada).

Prof. Dr. Wolfgang Buchholz: holds a chair for finance at the department of political economy at the University of Regensburg (Germany).

Prof. Dr. Dr. Bruno S. Frey: is professor of economics at the University of Zurich (Switzerland).

Prof. Nandita Biswas Mellamphy: is professor at the Centre for the Study of Theory & Criticism at the University of Western Ontario (Canada).

Prof. Dr. Andrew Williams: is professor of political philosophy at the University of Warwick (UK).

Prof. Jack Smart: is professor of philosophy at Monash University (USA).

Prof. Dr. Christopher Lumer: teaches philosophy at the University of Siena (Italy).

Prof. Dr. Kurt Lüscher: is professor emeritus of sociology at the University of Konstanz (Germany).

PD Dr. Stephen Schlothfeldt: teaches philosophy at the University of Konstanz (Germany).

Most previous issues of this journal laid the focus on the moral obligations of present vis-à-vis future persons. But 'intergenerational justice' is not only forward-looking, it also encompasses the relationships between past and present people. Thus, this issue of *Intergenerational Justice Review* is dedicated to the topic of how we ought to respond to past injustices and their lasting effects on the well-being of currently living people. The relevant past wrongdoings, especially such crimes that were committed in the name of an unlawful state, are often referred to as 'historical injustices'. They give rise to moral claims, and potentially even 'rights' of the deceased vis-à-vis the currently living generation. We are proud and happy to present to you five original contributions by authors from Australia, Canada, Germany and Switzerland. All articles published in this issue underwent a thorough peer-review process. We would like to thank all our reviewers (see full list on page 2) for their most helpful constructive criticisms and advice. From now on the *Intergenerational Justice Review* will be published with continuity as a peer-reviewed journal, aiming to improve our understanding of intergenerational justice and sustainable development through pure and applied ethical research. It will be published quarterly in English and German from now on.

It is less than obvious which acts rightly count as historical injustices for which we can blame past people accordingly. In his article *Untangling Historical Injustice and Historical Ill* Michael Schefczyk, who is lecturer of philosophy at the University of Erlangen-Nürnberg, argues that we should use the notion 'historical injustices' for what he has dubbed "legalised natural crimes". For Schefczyk, a 'natural crime' consists in the deliberate violation of a natural right, and 'legalised' means that it is prescribed, permitted or tolerated by the legal system. (those who do not use the concept of natural rights might want to replace 'natural crimes' by 'grave immoral acts'). This is, as Schefczyk acknowledges, a different understanding of historical injustices that is at odds with the standard definition in the philosophical literature which understands historical injustices not with regard to the internal features of events, but with regard to a relation between the event and a claimant. On one hand, Schefczyk's definition is wider than alternative definitions: our present policies like amassing nuclear waste or exposing pregnant women to cigarette smoke could be 'historical injustices'.

On the other hand, it is a narrow definition: if the members of one family killed dastardly all the members of another family in a conflict about water rights, it is a case of collective injustice, but it is no historical injustice, even if it happened in the distant past and the involved persons are deceased. Even if you disagree with the definition as proposed by Schefczyk, his terminological discussion is clearly useful for an introduction into the topic.

How then ought we to respond to historical injustices? There are three main problems. First, can the deceased victims of historical injustice be said to have rights or claims vis-à-vis currently living people? Second, can currently living people be understood to be indirect victims of injustices that were committed against past people owing to their standing? And if so, can indirect victims have rights to reparations? Finally, how can we identify the relevant bearers of the corresponding duties to provide reparations?

In his article *Intergenerational Rights?* Richard Vernon, who is professor of political science at the University of Western Ontario, Canada, is highly critical to the notion that deceased victims of injustice—or past people in general—can be understood to be bearers of rights vis-à-vis currently living people today. But for Vernon, disputing that past people have rights today does not rule out the possibility that the lasting effect of these injustices are normatively relevant today.

Janna Thompson, professor of philosophy at La Trobe University in Melbourne, Australia, takes issue with such an understanding of the normative relevance of historical injustices. In her *Historical Responsibility and Liberal Society* she argues that demands made by those who are now dead can be the source of obligations of people living today. This is despite the fact that people living today cannot be blamed for the injustices committed by others in the past and people cannot be benefitted posthumously. Thompson's general account of historical responsibility and her interpretation of obligations of reparation for historical injustices are based upon the following idea: for people to have meaningful lives they need to be members of transgenerational communities that enable them to make and have fulfilled lifetime-transcending demands; this, however, we cannot have without us as members of our transgenerational community taking responsibility for the acts carried out in the name of our polity in the past.

David Miller's account of historical responsibility differs from Thompson's. But this is not Prayank Sanklecha's concern in discussing Miller's understanding of how (transgenerational) nations can inherit responsibilities. In *David Miller's Account of Inherited National Responsibility* Sanklecha argues that, contrary to what Miller seems to claim, currently living members of a nation cannot be shown to have such inherited responsibility owing to past injustices committed in their name (and the obligation to provide measures of reparation) if the current members of the nation have not benefited from the injustice in question. Depending on how we interpret relevant cases Sanklecha's critique, if correct, would show Miller's account to be significantly limited.

Last but not least Daniel Weyermann, the second young Swiss philosopher who writes in this issue, submits an original interpretation of indigenous peoples' claims to their lands (from which they often were expelled). In his *Indigenous Minorities' Claims to Land* Weyermann understands their claims as being grounded in a just claim to self-determination. In turn, he interprets self-determination prepolitical property rights: indigenous peoples' claims to their lands are interpreted as claims to realising their prepolitical ownership rights to the land, and realising them is understood to be constitutive for their cultural autonomy.

As the quality of a journal depends to a large extent on its editorial board, we present the members of the editorial board from page 37 on. And do not forget to have a look at the Call for Papers for the next issues of *Intergenerational Justice Review* on such interesting topics like 'A Young Generation Under Pressure?' or 'Climate Change and Intergenerational Justice'.

We hope you will enjoy reading our newly peer-reviewed magazine.

Jörg Chet Tremmel
Editor-in-Chief



Lukas H. Meyer
Guest Editor



Untangling Historical Injustice and Historical Ill

by PD Dr. Michael Schefczyk

Abstract: This article distinguishes historical ills and historical injustices. It conceives the latter as legalised natural crimes, committed by morally competent agents. A natural crime consists in the deliberate violation of a natural right. 'Legalised' means that the natural crime must be prescribed, permitted or tolerated by the legal system. I advocate an approach which assesses moral competence on the basis of an exposedness criterion, that is: a historical agent must not be blamed for failing to see the right moral reasons if his epoch and social world is utterly unacquainted with these reasons. However, an appropriate application of the exposedness criterion should take social factors and psychological mechanisms into account that obstruct access to the right reasons. I state a number of factors that seem to be auspicious for the development of moral competence.¹

Some decades ago, Robert Penn Warren decried the "whole notion of untangling the 'debts' of history" as a "grisly farce".² One reason for scepticism with respect to the notion of historical justice has to do with unresolved problems of definition. Surprisingly, the philosophical literature lacks a debate on the defining features of historical injustice. My paper responds to this deficit by offering a working definition of the term. The proposed definition captures core cases of historical injustice, but avoids serious problems of the prevailing 'intuitive' usage.

In some instances, the intuitive approach gives rise to the following dilemma: It either ascribes contemporary conceptions of justice to historical agents who do not share them; hence, one horn of the dilemma is anachronism; or it assumes that the actions of historical agents were unjust even though they were not acquainted with the conception of justice which we, here and now, apply. This amounts to the violation of a fundamental principle of fairness, namely that the agent must know the standards which are used in order to evaluate his or her behaviour. Hence, the other horn of the dilemma is unfairness. In order to avoid this dilemma, the paper introduces a distinction between historical injustices and historical ills.

The paper is structured as follows: The first section titled 'Distinguishing historical ill and historical injustice' introduces what I call a

responsibility-centred approach (RCA). According to RCA, historical injustice presupposes that a class or group of persons bears moral responsibility. The second section 'A working definition of historical injustice' defines historical injustice as a particular form of political crime. On this basis, the third section titled 'Moral competence' advocates a 'contextualist' approach regarding the moral competence and responsibility of historical agents.

Distinguishing historical ill and historical injustice

How do we decide whether a historical event or institution should count as an instance of historical injustice? Historical injustices are, from a moral point of view, bad or ill states of the world. They are historical ills. As examples for bad- or ill-making features of a society take the exploitation of the rural population, the subjection of woman or, due to enormous ignorance, harmful medical practice.³ Other things being equal, a moral chooser would prefer a world without these practices and structures to a world with them.

However, not all historical ills should count as historical injustices. In the following, I propose

a responsibility-centred approach (RCA). RCA reserves the term 'historical injustice' for cases in which a class or group of persons bears moral responsibility for a historical ill. I shall advocate a version of RCA, which specifies the notion of ill-making properties on the basis of a natural rights approach. People have some elementary rights, such as the right not to be mutilated, murdered, displaced, exploited, raped, captured, robbed or enslaved. The violation of these rights is an ill-making feature in the relevant sense.

The advantage of this version of RCA consists in the fact that the idea of elementary individual rights is arguably less contended than any theory of justice. Thus, basing RCA on a natural rights approach gives us a relatively robust notion of historical injustice.

The distinction between historical ills and historical injustices allows for specifying appropriate reactions to the violation of natural rights. A class or group of agents that are responsible for a historical injustice are obliged to

repair the damage and to 'restore equality' with the victim. The fact that the members of this group or class have acted unjustly gives them a special reason to care for correcting the injustice. In other words, reparative justice regarding historical injustice is a special obligation. In some cases of historical ill, however, there is no group or class of persons that bears moral responsibility and is, thus, to blame. Those who were privileged by the unjust structures without being responsible for them (the profiteers of historical ill) do not deserve to be punished. Profiteers have neither a special obligation to rectify past ills nor have they a special claim on keeping their advantages. I call the latter the *invalidation effect of historical ill*. Historical ill invalidates entitlement claims on the part of the advantaged members of society that otherwise come into play in judgements about the just distribution of resources. In other words, deliberation on redistribution policy has, under such circumstances, not to balance general-right based arguments against

Justice is conscience, not a personal conscience but the conscience of the whole of humanity. Those who clearly recognize the voice of their own conscience usually recognize also the voice of justice.

/ Alexander Solzhenitsyn /

reasons of historical entitlement.⁴

In contrast, blameworthy perpetrators of historical injustice deserve punishment and have special obligations of reparative justice. Whereas historical ill invalidates or enfeebles entitlement claims on the part of the profiteers, historical injustice strengthens entitlement claims on the part of the victims. I call this the *amplification effect of historical injustice*. In such cases, deliberation on redistribution policy gives special weight to reasons of reparative justice, which are a form of historical entitlement.

A working definition of historical injustice

The natural rights-based version of RCA I am proposing, conceives 'historical injustice' to be a form of political crime. Acts of historical injustice have to be distinguished from 'ordinary political crimes', such as the assassination of tsar Alexander II or the Lockerbie bombing. This distinction is not a matter of magnitude. Presumably, most people would not call the

terror attacks of September 11 an instance of historical injustice, in spite of the fact that the death toll was on a similar scale as that of the Herero campaign.⁵ The distinction is also not a matter of 'historical significance'. September 11 is of considerable importance for the historical narrative and collective self-understanding of Americans and for the course of international affairs in the foreseeable future. Notwithstanding, presumably very few would call it a case of historical injustice.

What distinguishes historical injustices from ordinary political crimes is their relation to the legal order. Terrorist acts are ordinary crimes in the sense that they are illegal and that the perpetrators are aware of that. In contrast, historical injustices are non-ordinary crimes in the sense that the perpetrators had reasons to believe that their acts are compatible with the effective legal order. Perpetrators have reason to believe that their acts are compatible with the effective legal order if they correctly assume that they will not be prosecuted for them. What makes an injustice historical, then, is not the fact that it happened in the distant past or that the involved persons are dead but that the perpetrators know that the public prosecutor and other legal authorities will remain inactive; either because the code of law explicitly permits or prescribes the injustice or because the government, the law enforcement agencies and the courts tolerate it.

In order to give a more precise meaning to the idea that a legal action can be criminal, I introduce the concept of a 'natural crime'. A natural crime consists in the deliberate violation of natural rights. For instance, assassinating someone is a natural crime in so far as it violates knowingly and willingly the natural right of that person not to be assassinated. As I will state in section III with greater accuracy, I presume that the violation of natural rights can only be called 'deliberate' if the agent is morally competent, i.e. has the capacity to understand what a natural right is and what it consists in. Only morally competent agents can commit natural crimes.

I shall now turn to my *working definition of historical injustice* (WD): A historical injustice is a (complex of) natural crime(s), which is (i) legalised and (ii) being perpetrated by morally competent agents.

Since I will say more about the problem of moral competence in the next section, I can focus here on (i). I call an action 'legalised' if the agent correctly assumes that he will not be prosecuted for performing it under the current legal order; or if he correctly assumes that he will be prosecuted for refusing to perform it. Legalisation can take the form of a legal command, legal permission or legal toleration. Accordingly, a historical injustice is a natural crime, which is being prescribed, permitted or tolerated by the legal system.

The legalisation of a natural crime is itself a natural crime; for it is a deliberate violation of natural rights. This is obvious in the case of legal commands, but less so for legal permissions and legal tolerations. Why is it a violation of natural rights on the part of the authorities when they permit or tolerate natural crimes? My answer moves along the following (roughly Lockean) lines. Natural rights imply two orders of duties. The first order aspect is well characterised by the introductory sentence of *Anarchy, State, and Utopia*: "Individuals have rights, and there are things no person or group may do to them (without violating their rights)."⁶ First order duties require people to perform (or to abstain from) certain actions that have the right-holder as the object. The second order duty, though, requires that violations of first order rights are being punished. Their object is not the right-holder but the perpetrator.

If the legal order permits or tolerates the violation of first-order rights, it disregards its second order duty to sanction such violations. The failure of the state to prosecute a first-order violation is a second-order violation of a natural right. For this reason, the legalisation of a natural crime is itself a natural crime.

I use the term 'legalised' in contrast to 'legal' in order to take account of the fact that juridical opinions regarding legality may differ. The notion of historical injustice, though, should not depend on rather technical juristic questions. Using 'legalised' instead of 'legal' is supposed to make the notion of historical injustice sufficiently robust.

As an example for what I have in mind, one may think of the 'ordinary men' who were complicit in the Nazi genocide. Those who slew Jews were not afraid of being charged for murder by German courts, although, technically, they violated § 211 of the Reichsstrafgesetzbuch of 1941 (which dealt with murder). According to WD, the crucial question is whether the historical agents have reasons to believe that their actions are in accordance with the effective legal order or not. In the case of the Shoa (Holocaust), they correctly assumed that Nazi Germany had legalised natural crimes.

The history of the world is the world's court of justice.

/ Friedrich von Schiller /

WD is helpful in order to understand the 'collective nature' of historical injustices. Consider the following thought experiment: In 1818, an individual named *I* invented a technical device with which he murdered thousands of Cherokees. *I* acted as a lone operator. Neither did he conspire with others nor did he receive help or

expect approval for his act. In fact, the public is shocked and appalled by his mass murder.

The reason why one would not say that *I* did commit a historical injustice, I presume, consists in the 'individual nature' of his crime. We use the notion 'historical injustice' in order to address acts that were directed against individuals as members or representatives of groups. The victims suffer as Jews, African-Americans or Cherokees. Correspondingly, the perpetrators do not act on the basis of merely personal preferences but as members of a community, a culture or as agents of organisations.

Its collective nature distinguishes an act of historical injustice from crimes in the past that had been committed or suffered by individuals as individuals. It is important, however, to understand in what precisely the 'collective nature' of historical injustice consists. I propose to consider collective action as neither necessary nor sufficient for the understanding of the collective nature of historical injustice. If the members of the Miller family killed dastardly all the members of the Graham family in a conflict about water rights, it is a case of collective injustice, but it is no historical injustice, even if it happened in the distant past and the involved persons are deceased.

A test of one's intuition regarding a slightly modified version of the above thought experiment is instructive in this context. Imagine that *I*, although the public is shocked and appalled by his mass murder, is not being prosecuted. In this case, I think, one would not hesitate to speak of the mass murder as a historical injustice although *I* had acted as a lone operator and neither expected nor received moral approval for his deeds. However, the fact that the legal order tolerated *I*'s acts gives them a 'collective dimension'. For the political community upholds a legal order, which permits individuals like *I* to put their preferences into effect. Thereby, it negates the natural rights of the victims, even if, as in the thought experiment, no member of the political community conspired with the perpetrator or personally favours his deeds. In the thought experiment, the 'collective nature' of the mass murder consists in the omission on the part of the political community to prosecute a natural crime, an omission which implies the negation of the victim's natural rights.

Thus, conceiving historical injustices as legalised natural crimes, helps us to pinpoint in which sense they have a 'collective nature'. They are not necessarily collective actions; however, they are actions, or complexes of actions, which are in accordance with the collective will of the political community that upholds the legal order.

I shall now turn to three objections to WD. One may criticise that WD is not in harmony

with the *common philosophical view* according to which an injustice is historical if the victims and the perpetrators are dead. Following this view, the philosophical debate on historical justice deals with moral claims and obligations that contemporaries have because of injustices which their ancestors committed or suffered.⁷ In contrast to WD, the common philosophical view calls the above-mentioned (fictional) assassination of the members of the Graham family by the Miller family a historical injustice, even if it had been a criminal offence at the time. This approach has two disadvantages: First, in everyday English, the word ‘historical’ can be used in order to emphasise the importance of an ongoing event as in ‘This merger is a historical moment for our company!’. If ‘historical’ is understood in this sense, an injustice can already be historical while it happens. WD is compatible with this usage. Second, and more importantly, it is common in the philosophical literature to understand historical injustices not with regard to the internal features of events but with regard to a relation between the event and a claimant.⁸ A plain murder metamorphoses into a historical injustice by means of a claim on the part of the victim’s descendants. If there are no descendants, then there are no (potential) claimants and, thus, no historical injustices. I find this contingency unfortunate. In contrast, WD defines historical injustices by internal features of the action (legality, natural criminality). The passage of time, the death of the involved persons or the existence of (potential) claimants are irrelevant for the identification of an event as historical injustice.

It is one thing to settle what a historical injustice is and another to determine whether contemporaries have obligations or rights with respect to them. One may distinguish between *hot* and *cold cases of historical injustice*, hot being those regarding which contemporaries have obligations and rights.

The second possible objection criticises that WD excludes core cases of historical injustice such as (i) the consistent neglect of contractual obligations against indigenous people or (ii) the subjection of women. (i) Take, for instance, the notorious Treaty of Waitangi (1840) in which the British Crown promised to protect the Maori against the uncontrolled and unwished infiltration of settlers.⁹ The historical injustice, which the current restitution policy is supposed to rectify, is conceived to consist in the neglect of this contractual obligation. WD has the awkward consequence that a much discussed case of historical injustice like this would not count as such. I am prepared to bite this bullet. It is, indeed, the case that, according to WD, the breach of a treaty constitutes no historical injustice, unless natural rights of

individuals are being violated. However, this appears to be no serious disadvantage. For what makes the breach of a treaty wrong, is, first and foremost, the violation of the natural rights of individuals.

(ii) Similarly, one may opine that the subjection of women in Victorian Britain should be described as historical injustice but not as a complex of natural crimes. Admittedly, it may be unfamiliar to characterise the situation of women in Victorian Britain with terms like ‘violation of natural rights’ and ‘natural crimes’. If one consults Mill’s description of the legal situation of married women in Victorian Britain, however, one learns that they were not only disadvantaged, curbed in their professional ambitions and deprived of political rights, but that they had no legal protection against (what we would call) domestic rape.¹⁰ If rape is a natural crime, the legalisation of it is a historical injustice. Hence, at least in this regard, it is not true that my robust notion of historical injustice is too narrow.

A third objection claims that, according to WD, all historical injustices are essentially crimes by the authorities in so far as they legalise natural crimes. As I already mentioned, legalisation can take the form of toleration. In such a case, the authorities take no measures against natural crimes by non-state groups although they would be capable of ending the crimes. Thus, the claim that all historical injustices are essentially crimes by the authorities has to be taken with a pinch of salt.

It is correct that, following WD, shocking natural crimes, like mass murder, mass rape, mass mutilation and so forth, do not count as historical injustice if they happen(ed) in a state of nature, in civil war or in failed states. However, this is arguably not at variance with ordinary usage. We address the genocide in Sudan as historical injustice but not the unspeakable atrocities of the Lord’s Resistance Army that operates mainly in Uganda. The reason is, I presume, that the government of Sudan legalised the mass murder, whereas the government of Uganda is willing but so far unable to stop the Lord’s Resistance Army.

Moral competence

In the previous sections, I suggested to distinguish between historical injustice and historical ill. Historical injustice implies, among other things, that a class of persons bears moral responsibility for the violation of natural rights.¹¹ This section is devoted to the question under what conditions historical agents should be considered as *morally competent* and, thus, being capable of bearing moral responsibility

for some ill. I will argue that we should take seriously the social and cultural ‘embeddedness’ of historical agents.

A standard condition of moral competence is a person’s ability to grasp the relevant moral reasons. We blame Alfred for φ -ing only if Alfred has the capacity to understand that φ -ing is wrong. Blaming presupposes, on the one hand, that Alfred is able to comprehend the basic distinction between morally right and wrong actions. We do not blame wild beasts for killing a child since we assume that they lack the according ability. On the other hand, Alfred must have epistemic access to the right kind of moral reasons. In the following, I use ‘moral competence’ in the latter sense. A historical agent is morally competent if he has access to the right moral reasons; his failure to act upon these reasons, then, is blameworthy since ‘he should have known better’. An agent bears part of the moral responsibility for a historical injustice, if he should have known that a complex of actions, although legal, constitutes a natural crime and that he is under a natural duty not to participate in its execution.

Moral excellence comes about as a result of habit. We become just by doing just acts, temperate by doing temperate acts, brave by doing brave acts.

/ Aristotle /

The above-mentioned *access condition* is inherently normative in the sense that it involves statements about what an agent *should have known* to be right in a certain situation. In the following, I shall explore very tentatively aspects that seem to be relevant for our judgments regarding moral competence.

Let me begin with a brief remark on *absolutism*. Absolutism claims that all historical agents could and should have known the right moral reasons. Such a position would certainly be worth considering more closely if moral nativism were true. If our moral knowledge were innate, the access condition seems to be fulfilled for all cognitively competent persons. Even then, however, opponents could challenge absolutism with the argument that cultural influences can and often do corrupt our natural capacity to see what is right. The cultural context deprives agents in some cases of their natural moral competence. For this reason, absolutism is implausible.

In reply to this challenge, an absolutist could assert on a Kantian note that it is the agent’s recreancy and sloth, which keep him from using his own wit. Since moral incompetence is the result of the agent’s own vices, he or she is to blame for them.

Let me abbreviate this discussion with the apodictic assertion that the content of our moral beliefs and the modes of our practical delibe-

ration are not innate. We acquire them in the course of our acculturation. For this reason, judgements about the moral competence of an agent should take account of the cultural and institutional matrix within which a person is acting (*contextualism*). Naturally, the question whether or not the members of a culture are to blame for their failure to see the right moral reasons is fiendishly difficult to answer in many cases. These difficulties notwithstanding, the idea that the members of some cultures are not to blame for violations of natural rights has strong roots in common sense.

One way to spell out contextualism could take the following form: A historical agent is not to blame for his immoral views if they are in complete agreement with those of his social environment (*consensus criterion*). The buttressing idea of the consensus criterion is that it would be too demanding to expect individual actors to question what everyone else seems to take for granted, or to see what no-one else seems to be seeing.

In the remaining part of the paper, I shall argue that the consensus criterion is too coarse-grained and that one should distinguish between appropriate and inappropriate causes of societal consensus.

The consensus criterion is too coarse-grained since the fact that people agree on the acceptability of immoral practices is not necessarily a good indicator for their moral incompetence. The criterion does not exclude cases in which people have access to the right reasons but refuse to give them proper weight in their practical deliberation since they conflict with their self-interests. All slaveholders agreeing on the moral admissibility of slavery does not warrant the conclusion that they are morally incompetent. It is perfectly possible that their consensus stems from a collective rationalisation of shared immoral interests and is, thus, a product of wickedness and not of incompetence. In order to take account of this point, I propose a finer-grained criterion. This criterion is construed in analogy to norms that we accept in the realm of theoretical beliefs. The rough idea is that we would, for instance, criticise average students if they were completely ignorant of the basic principles of evolution; but, naturally, we do not blame Leibniz for his ignorance concerning this matter. Our different assessments are easily explained by the fact that most members of our society learn the principles of evolutionary theory in school, whereas Leibniz did not. He would have had to formulate them by himself. Thus, blaming him for his ignorance would simply amount to demanding too much, even of a genius like Leibniz.

A similar point, I think, can be made with respect to moral competence. According to the

exposedness criterion, a historical agent must not be blamed for failing to see that certain social practices are natural crimes if this insight is utterly unheard-of in his time and social world. We must not expect ordinary members of a society to be epistemic pioneers, i.e. people that have the extraordinary ability to see what is morally right when no-one else does.

We seem to apply something like the exposedness criterion when we exculpate members of traditional societies in view of natural rights violations. For instance, it is quite common to draw a moral distinction between the British slave trade and, say, the slave trade of the Cherokees. One reason appears to be that people tacitly apply the exposedness criterion and assume that the notion of a natural right not to be enslaved was entirely alien to the Cherokee culture, whereas it was not to the British culture at the time.¹² It is important to note, however, that exposedness is a matter of degrees; whether the demands of the exposedness criterion are being fulfilled will often be an object of reasonable disagreement.¹³

Regarding the interpretation of the criterion, the subjection of women in Victorian Britain is an interesting test case. The idea that human beings have rights and that 'there are things no person or group may do to them (without violating their rights)' was certainly familiar to the British society then. Moreover, one could find a vigorous defence of women's rights in the books and articles of one of the most highly esteemed intellectuals of the nineteenth century, John Stuart Mill. In this quite literal sense, educated men were confronted with expressions of right moral reasons; thus, one may argue that the exposedness condition is fulfilled and that Victorian men are, by and large, to blame for their failure to see what is right.

However, the question is whether the exposure to ideas in books and articles is sufficient to warrant the claim 'that someone should have known better'. A critic may argue that, in the nineteenth century, the overwhelming majority of men found the idea of women's emancipation outrageous. John Stuart Mill's promotion of the cause was vehemently denounced and ridiculed at the time. Even if Mill's male contemporaries knew about his views or read his books and articles, it must have been exceedingly difficult for them to take him seriously. In the light of their social context, blaming them for their ignorance would apply too high a standard.

Group pressure can undeniably be a corrupting force in the process of belief formation. But the presence of group pressure is no reliable indicator of moral incompetence. Frequently, group pressure does not distort the ability to grasp the right moral reasons but aims at suppressing their public expression. It

is even plausible to assume that social pressure exacerbates when people increasingly begin to question the morality of common practices. Thus, growing group pressure may be an indicator for a process of enhancement of moral competence, and not for its absence.

What happens when good people are put into an evil place? Do they triumph or does the situation dominate their past history and morality?

/ Philip Zimbardo /

On the other hand, there is certainly a strong tendency to avoid cognitive dissonance. With social pressures being intense, people have powerful incentives to adapt their process of practical deliberation to social expectations. Spelled out properly, this may serve as an argument for the view that the subjection of women in Victorian Britain was a historical ill but no historical injustice. Group pressure in combination with the tendency to reduce cognitive dissonance obstructed the access to the right moral reasons.

In reply to this view, one may emphasise the presence of cultural patterns and role models that facilitated or even demanded the use of one's own wit in order to examine the claims of authorities and traditions and the defence of one's own beliefs in public. Martin Luther's famous concluding remarks before the Diet of Worms in 1521 are a case in point.¹⁴ Educated people could and should have been aware that the arguments, which were used to justify the subjection of women, were below the common standards of sound reasoning. In a society that esteems personal courage in the critical examination of ideas, that acknowledges the existence of natural rights and that is used to open discussion in the free press, the conditions for the development of moral competence are auspicious. Thus, it appears not to be too demanding to claim that people in Victorian Britain could and should have grasped that women's natural rights are being violated.

Notes:

(1) I wish to thank Dominique Kuenzle, Peter Schaber and the anonymous reviewers for numerous helpful comments.

(2) Warren quoted in: Bittker 2003, 10.

(3) I wish to thank one of the reviewers for the last point.

(4) One may ask here, as one of the reviewers did, whether this means that the advantages of profiteers are fair game for dispossession by the authorities. My point is that profiteers cannot argue against dispossession on the basis of historical entitlement; but there may be other reasons against dispossession.

(5) 1904 soldiers of the *Kaiserreich* committed, perhaps, the first genocide of the 20th century in what is now Namibia. The German troops forced the insurgent *Herero* to take refuge in the desert where they were cut off from food and drink and died in the tens of thousands.

(6) Nozick 1999, 9.

(7) Pars pro toto: "Past-referring obligations are historical when those who are supposed to be responsible for keeping the promise, honouring the contract, paying the debt, or making the reparation are not the ones who made the promise or did the deeds, but their descendants or successors." (Thompson 2003, x). See also: Thompson 2000, 2001.

(8) In this understanding, the term 'historical injustice' is only applicable if living persons have rights and obligations on the basis of wrongs suffered by deceased people. Thus, a historical injustice consists in ignoring, here and now, a historical obligation (which is an obligation of living people in virtue of past wrongs). This is, presumably, the reason why Sher (1981) refers to injustices in the (remote) past as 'ancient wrongs'; historical wrongs are necessary, but no sufficient conditions of *historical* injustice. In a similar vein: "Central to the topic of historical injustice, as I understand it, is the question whether and how past injustice and, more generally, wrongs can affect present moral reasons for action." (Pogge 2004, 117, italics mine).

(9) Goodin 2000.

(10) "(...) a female slave has (in Christian countries) an admitted right (...) to refuse to her master the last familiarity. Not so the wife: however brutal the tyrant she may unfortunately be chained to (...) he can claim from her and enforce the lowest degradation of a human being, that of being made the instrument of the animal function contrary to her inclination." (Mill CW 21, 285).

(11) I tend to say that a violation of natural rights counts as a natural crime only if the perpetrator is morally competent. One may object that such a usage misses the distinction between the criminality of an act and the question of guilt. A natural rights violation should be considered as a natural crime even if the perpetrator is morally incompetent and, thus, not to blame for it. Otherwise, one would have to say that morally incompetent agents have the right to violate natural rights. My reply is that morally incompetent agents are beyond right and wrong and, hence, cannot possibly have a right to commit natural crimes. Morally incompe-

tent agents can be bad and produce extremely ill consequences but, like a wild beast that kills a child, they are no criminals.

(12) One aspect of the exposedness criterion, which some may find disturbing, is that it relieves the members of the 'worst societies' of moral responsibility. Since violations of natural rights – committed by members of morally incompetent societies – would not count as historical injustice, it would follow that the perpetrators would not be culpable or under special obligations of corrective justice. It is worthy of note, though, that contextualism does not deny claims of those who were harmed by historical ill; these claims, however rest upon the ongoing distributive consequences of past social practices, consequences that make the present structure unjust.

(13) I thank one of the reviewers for urging me to make this point more explicit.

(14) Luther's words were: "Here I stand; I can do no other. God help me. Amen."

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Michael Schefczyk is lecturer in the field of political philosophy, ethics and philosophy & economics. He wrote his habilitation on 'Responsibility for Historical Injustice' and is currently employed at the philosophy department of Erlangen-Nürnberg University / Germany

Contact Details:

Universität Zürich, Philosophisches Seminar, Zollikerstr. 117, CH - 8008 Zürich. E-mail: michael.schefczyk@access.unizh.ch

Intergenerational Rights?

by Prof. Dr. Richard Vernon

A *Abstract: Past injustices demand a response if they have led to present deprivation. But skeptics argue that there is no need to introduce a self-contained concept of 'historical justice' as our general concepts of justice provide all the necessary resources to deal with present inequalities. A rights-based approach to intergenerational issues has some advantages when compared to rival approaches: those based on intergenerational community, for example, or on obligations deriving from traditional continuity. While it is possible to ascribe rights to beings who are not presently in existence, the case for ascribing rights to future generations is much stronger than for past generations.*

Serious wrongs leave their mark on the descendants of their victims. The wrongs of slavery, for example, or of the dispossession of aboriginal peoples, have clearly left their marks – in the form of continuing deprivation – on their respective descendant groups. There have also, of course, been other great wrongs in the past for which no descendant victim group can be identified – for example, the cruelties suffered by sailors in 18th-century European wars. The fact that there is no descendant victim group clearly suggests, however, that the effects of the wrong have been dissipated, for if they had not, we would be confronted, in the present, by an identifiable group of people whose common life-situation had been decisively affected by 18th-century naval brutality. In

yet other cases, the long passage of time has interposed so many intervening events that the connection with past wrongs has become too tenuous: and there are also a few cases in which relatively recent wrongs have left no perceptible mark, for even though the victim group subsists it has subsequently done well. But for the most part, we pay serious attention to historical wrongs only when there is an identifiable group whose present deprivation continues to display the effects of past injustice.

There cannot be much doubt that present deprivation motivates much of the concern for injustice in the past. To lack concern about past events may display lack of imagination: to lack concern about present deprivation dis-

plays nothing less than moral callousness. To lack concern about, say, the helot class in ancient Sparta is surely forgivable, given more practically urgent claims on our thoughts, while to lack concern about African slavery and its current consequences is to lack a functioning moral capacity. So 'historical injustice' is undeniably important for its contribution to present injustice. Paradoxically, though, it is exactly that view that opens the idea of historical injustice to its most telling objection. For skeptics, adopting the above argument in full, may say: So, what compels a response is present deprivation, and present deprivation calls for a response on the basis of our ordinary views about justice. How the deprivation was caused is a matter of historical, but not moral, importance. Whatever our general theory of justice tells us to do, in cases of deprivation, is what we should do. So the main reason for taking historical injustice seriously can turn into a reason for rejecting the idea of *historical* injustice altogether.¹

According to 'historical-injustice skeptics', as we may call them, all cases of undeserved deprivation, whatever their origin, should stand, initially, on the same footing. One group of urban poor, for example, may be a group of aboriginal people whose way of life was extirpated by our ancestors; another group may be composed of refugees whose plight was caused by someone quite other than us, or our ancestors. Historical injustice skeptics would extend concern equally to both groups, or discriminate between them on the basis of their current deprivation – in either case, historical causes fall out of the picture. Is that the right approach?

Who can have a 'right'?

One important reason for questioning it would arise from the idea of inter-generational rights. Let us suppose that we decide, on the basis of the considerations sketched above, that we should approach matters of so-called historical injustice in terms of a present-focused idea of current entitlements. We would attempt, on that basis, to figure out what rights to a share in resources were due to various claimant groups. A *right* would be a claim to a share in common resources based either on equal membership status (civil rights) or on equal human status (human rights). We would decide the matter in terms of whatever indexes of fair distribution we were employing. But suppose that another set of rights were to be thrown into the equation – the violated rights of previous generations, the ancestors of those who suffer current deprivation? Then there would be something other than current deprivation to exercise a moral claim on us: moreover, that claim would be made within a theory of gene-

ral justice – a rights-based one – and so, if successful, would defeat the skeptical objection to historical reparations.

If past generations can be said to have rights, moreover, then we may also consider the possibility that future generations may have rights too. The idea of intergenerational rights, if valid, could help us not only with issues of reparation but also with issues about what we owe to the future. Just as some of the interests of living people have the status of rights, thus receiving special protection, so too some of the interests of both past and future people would have to be given special protection in the weighing and balancing of matters that enter into public policy. As rights, they could be set aside only by very weighty considerations, and compromised only in order to safeguard other rights. As rights, they could not be outweighed or compromised simply because they conflicted with the desires of the living. This would lead us to a strong normative position, and one that many will find attractive. But is it valid?

Rights and interests

We must first of all ask what a right *is*. A definition that is widely adopted in recent political theory is as follows: To say that someone has a right is to say that they have an interest that creates a duty on the part of others to respect it.² A theory that set out to justify rights, or else to explain why people take them seriously, would therefore need to set out the importance of certain interests to those who possess them, so that the idea of duty to do so would become compelling. This approach at once suggests the possibility of supposing that past or future generations have rights, for even those who no longer exist or who don't exist yet may be said to have interests. That claim has been defended by some moral philosophers (but criticized by others).³ Advocates claim that interests may exist even though those whose interests they are do not (do no longer, or do not yet), pointing out that we may define harm to an interest in terms of objective damage to it rather than in terms of preventing subjective disappointment (even though harm to our interests often does both). Past generations had goals; future generations may be assumed to have them; so things that objectively block those goals may be said to harm their interests – and, if the interests are of a sufficiently important kind, to violate their rights.

Because we don't think about future generations, they will never forget us.

/ Henrik Tikkanen /

Two other important considerations support this view. The first is that for some purposes it is wrong to define a person's life in terms of its

biological limits, for lives are made up in part of relations that extend backwards and forwards in time, and we may do things that affect those relations after a person's death and before their birth: we may, for example, do what we can to preserve institutions that past generations constructed, or create institutions – such as legal and political ones – that will fundamentally define the relations among people yet to be born. A second consideration is that, even in the case of living people, we do not suppose that they must be conscious of a harm to their interests if it is to count as a harm. Someone's interest in a good reputation is harmed by slander, for example, even if they remain unaware of the slander; is that *only* because there's a chance that they will eventually find out about it?⁴ If living persons' interests can be damaged without their awareness, it cannot be that the non-awareness of past or future generations is fatal to the view that we can speak of harming or protecting their interests, in their absence. It is the loss, not the sense of loss, that counts.

Against that background, attempts to explain reparations in terms of the rights of the deceased victims themselves look attractive. The most sustained attempt is offered in a well-known paper by Michael Ridge.⁵ Focusing on the case of African slavery, Ridge argues as follows. People have an interest in the welfare of their descendants, and African slaves would surely have had an especially strong interest, given the kin-oriented nature of their original culture, and given that family life was the one significant area in which they may (sometimes) have enjoyed some autonomy. They had, then, a powerful interest in the happiness and success of their children and their more distant progeny, and, given the sense (outlined above) in which interests may survive their bearers, we may say that this interest of theirs is one that can currently be advanced – or harmed – by how societies treat their descendants. To increase their opportunities for success – by means of affirmative action policies, for example – is thus to advance an interest *of the slaves themselves*; "one of the ways we can benefit the dead, if we can benefit them at all, is by promoting certain of their deeply held concerns."⁶ And since, in Ridge's view, we have 'duties' to do so, duties arising directly from the interests in question, a case has been made out for ascribing rights to deceased slaves, and by implication to other past generations of persons whose important interest in their descendants' welfare has been thwarted by oppression.

On this argument, if it can be sustained, we do not face the problem of explaining how it is that a wrong suffered by one generation can descend to another, a task that other theories of reparative justice may have to face: for nothing has 'descended,' the rights in question are

currently existing rights even though their bearers are deceased. Although we would also need to give due weight to the rights (such as property rights) of those who would be called upon to bear the costs of restitution, it would be a right of the deceased – not merely our concern for them – that would be in the balance.

Rights and traditions

But there is an important objection to this whole way of thinking. The objection is that it is too ‘impersonal,’²⁷ in the sense that it does not appeal to the personal location or identity of its intended audience: it does not claim, for example, that a duty falls to anyone because through their political membership they inherit a responsibility from the past, or that a right belongs to them because of facts about their family history or biological descent. Rather, the approach treats other generations much as we treat strangers, adopting an abstract idea of equal respect. Indeed, as we have just seen, advocates claim that as the strength of their approach, for it avoids problematic ideas such as descent or inheritance – ideas that are perhaps more clearly at home in connection with the transmission of physical things (genes, or property) than in the context of abstract notions such as responsibility or right. But we can readily see why this apparent strength accompanies a weakness. If other generations (past or future) have rights-based claims, then it does not much matter who it is who satisfies them: their claims are met, if they are, whoever meets them. But from a certain point of view, it *does* matter *who* it is that responds, for it is important that the response should reflect and acknowledge a connection. It is important that we should make redress for what our ancestors did, and that we should make provisions for our descendants *because they are ours*. So are ‘impersonal’ standpoints, such as rights-based ones, basically unsatisfactory?

The first version of this view builds on the idea of intergenerational *community*.⁸ As communitarians have argued, impersonal accounts of obligation fall short, notoriously, in cases in which persons are bound together by ties of affection or reciprocity and so incur obligations arising from their situation. Obligations of that kind, while they may ultimately be consistent with impersonal morality, cannot be derived from it, they maintain, because they are embedded in our specific circumstances. Now at least the central cases of affection and reciprocity occur among those who co-exist, and the communitarian case against impersonal morality has naturally centred on the community of coevals, those who share social and political space and contribute to shared life in mutually beneficial ways. But may we not arrive at a si-

milar sense of reciprocity between generations? An apt model is provided by intellectual traditions, such as scientific enquiry, for here there is a strong sense of participation in a transgenerational project. Scientists – and other scholars, and many artists – clearly have a sense that they are responding to the work of predecessors in ways that they hope their successors will endorse or at least appreciate; and implicit in this enterprise is the idea that each generation’s work has the potential to redefine what other generations have done. It is not just a matter that other generations will think of one’s work differently – to revert to the theme of ‘reputation’ noted above – but that *what you have done* will vary in consequence of subsequent work by later generations, and the new light cast by that on the work of generations previous to yours. You want *what you have done* to stand the test of transgenerational assessment. This view, like others that we have mentioned, rejects an idea of welfare that is tied (only) to subjective happiness, as opposed to objective success. One can derive subjective happiness from a fine reputation: but a fine reputation is worth something only if it expresses a fine achievement, and so it is the fine achievement that is actually the (rational) goal. It so happens that the measure of fine achievement is transgenerational, thus transcending one’s biological life in a way that supports the idea of community-in-time.

From ideal to reality

An immediate response to this proposal is that it does not fit well with the kind of society that we have. Modern societies, on this view, are poorly constructed in terms of transgenerational responsibility: their economic ethos calls for extracting maximum returns from existing resources, rather than for conserving them for the future, and it calls for maximal mobility of capital and labour, thus diminishing the sense of shared place that encourages and reinforces thoughts about what one has inherited and what one can pass on. Scientific and other intellectual traditions may only be (somewhat) protected islands, their inhabitants rejecting the market’s narrow temporal horizons out of respect for our essential links with the past and future. But there are at least two other contexts in which the idea seems plausible. First, in recent years ideas about transgenerational environmental responsibility have taken a remarkably firm hold, and in that particular context the model may now seem far less utopian than it once did. Second – a far older example – the whole idea of constitutionalism entails a deep concern for future generations. If

a constitution was not meant to outlast its creators, it would be no different from an ordinary

I look to the future because that's where I'm going to spend the rest of my life.

/ George Burns /

law.⁹

In both cases, however, the use of the model of tradition proves misleading. It is true that scientific traditions, environmentalist policies, and constitutions are all forward-looking; but they are not forward-looking in the same way. In the scientific case, intergenerational community exists in the sense that future generations will cast their verdict on the proposals that we make, and thus establish or change the meaning of what we do. In the case of environmentalist policies, however, the objective is not to advance hypotheses that will stand or fall with the unknowable judgments of future generations, but to avoid imposing on future generations conditions that we now know to be unpleasant or disastrous. And the case of constitutionalism is different again. Constitutional designers believe that they have a conception of political life that can best be sustained by arrangements that foster some kinds of contributions and forbid or impede others. In making and imposing those arrangements, the generation in question obviously takes into account the fear that future generations may think differently; but it designs institutions in a way that will constrain future generations’ choices. For example, the generation in question may fear that future majorities may wish to sweep away the rights of dissident minorities, and so it may build in devices that make it impossible or very hard to do so – a typical constitutional provision. Consider how entirely different that is from the scientific case: in that case, if future generations reject my proposals I will have failed, for I advance them in the hope that they will survive fuller scrutiny. In the constitutionalist case, if future generations reject my proposals *they* will have failed, for I advance them in order to close off action rather than, as in the case of a scientific tradition, to open enquiry.

So the proposed analogy with traditions may not illuminate the different kind of concern for the future that characterises policy- or constitution-making. In the latter two areas, our proposals must be guided by what is constant rather than what is variable in human experience, and by our desire to protect future generations from generic harms: the harms of environmental destruction and of political oppression. The idea of rights, premised as it is upon a notion of generic interests that demand protection, seems better fitted to convey this than the idea of traditional continuity.

Rights and community

But there is a second important version of the ‘too-impersonal’ critique of the rights view. This critical point of view relies on the continuity of political institutions over time, representing intergenerational justice in terms of enduring commitments by states.¹⁰ It is not just that other generations have rights: it is that we are committed to respect them, by virtue of our political membership. This is, at least in one regard, a promising starting-point, for if we are to suppose that responsibilities reach from past to present and from present to future, collective bodies such as states – and especially states – give us a solution to half of the problem, that is, the location of a bearer. States make claims, after all, based on their continuity through time, and it is easy to see how burdens of responsibility follow. It may not be so immediately clear that the other half of the problem is solved: locating the objects of responsibility. States have, after all, a general duty of care, and further steps must be taken before particular beneficiaries are to be singled out for special reparative concern; for most states have failed to protect many of their citizens over many centuries. But this half of the problem may be solved, too, in the special case of promises or promise-like undertakings such as treaties, for in that case the other party is also picked out, by an historical event.

As we saw in the previous section, states, rather more than traditions, affirm their identity through stable commitments such as constitutions, the point of which is to bind their future behaviour for reasons believed to be just. Treaties provide another clear example, and a particularly relevant one, since breaches of treaty obligations play a large part in the grievances of aboriginal peoples. Even beyond those cases, however, the model of treaty obligation may offer us a general way of understanding historical obligations. As a first step, treaty obligations are said to exemplify a ‘moral practice’¹¹ that binds generations together. As a second step, we may extend the implications of that practice beyond the case of formal and specific acts such as treaties. Let us consider the first step first.

In many ways, states find it in their interest to make commitments that, they propose, will bind their future representatives. They undertake projects whose time-to-completion exceeds one generational span, and pay for them by selling bonds whose interest and redemption costs will fall to future generations. Their doing so implies that future generations can be bound by undertakings of the present generation, and that view can hardly be (honestly) held unless accompanied by the view that we in turn are bound by our predecessors’ undertakings. And so we are led to a view of politi-

cal society as a chain of undertakings, each generation being obliged by decisions of its predecessors, and *by virtue of that* rightfully imposing obligations on its descendants.

But a society that believed it to be wrong to impose on future generations would have no obligation to include itself in this reasoning. Strong democrats, for example, may think it wrong to impose obligations on people without their consent: Thomas Jefferson, notably, maintained that even constitutions would lose their legitimacy after the passing of their makers, and therefore proposed that there should be a constitutional convention whenever demographic change resulted in a new voting majority (every 19 years, given life expectancy in his time).¹² Likewise, some fiscal conservatives object strongly to constraining future generations’ economic freedom by transferring public debt to them – a transfer reflecting an inefficient avoidance by one generation of the true costs of its consumption decisions. To those who hold such views, the ‘moral practice’ of intergenerational transfer is objectionable, and so we would seem to need a further argument to make it generally compelling. Since it is a practice that can be rejected, the bare fact of its existence carries no moral weight.

Even for those who value it, though, there is, as noted above, another step that needs taking before the model of treaty-observance can be generalised. One way of taking it is to extend the idea of a formal undertaking, contained in official documents, to embrace informal and implicit undertakings, which may also have legitimately created expectations in other parties. Another way, extending the core idea even further, is to appeal to the idea of a state’s general responsibility to all those subject to its control: its failure to exercise responsible care is often at least as damaging as its failure to observe treaty obligations, and the former type of failure is as morally serious as the latter. As briefly noted above, such extensions, while surely not mistaken, tend necessarily to make obligations less specific, given the enormous range of possible claimants on the state. The main reason for doubt, however, arises from questioning the core example itself.

Rights and existence

I believe, then, that the impersonal point of view, as I have termed it – one that relies upon the rights of persons whoever they are, past, present, or future – can survive both of these important critiques. On the one hand, a political society is only dubiously like a tradition; and on the other, the model of historical commitment seems too narrow to cover the moral ground.

But there is a further reason for questioning the rights-based approach, one that is, as it

were, internal to that approach. This line of criticism invites us to recall the *point* of using the language of ‘rights’ in the first place, and on that basis, while favouring the rights approach in general, questions the very idea of ascribing rights to those who do not exist.

The question is not, can they reason?
Nor, can they talk? But, can they suffer?

/ Jeremy Bentham, philosopher and animal rights activist /

Language is often a poor guide to sense, and the fact that language allows us to ascribe rights wherever an “interest” is to be found should not, in itself, persuade us that it is valid, or not misleading, to do so. So, for example, critics of ascribing rights to non-human animals may object on the grounds that the conditions that underpin the language of rights are overlooked: rights, they say, are statements about the terms of association on which members of a community can agree, on the basis of dialogue and experience – they get their point because persons consent to them as fair ways of defining their mutual expectations.¹³ All that makes sense only among beings who can reason, converse, consent, and comprehend the idea of fairness, that is, humans. That sort of critique is perfectly valid in principle, and if it fails it is because it artificially constrains the context in which rights can be used, for in fact the language of rights is commonly used outside the context of political association. We may have no direct association with people who, we believe, have human rights, for example, and the language of rights is often employed to broaden moral concern beyond the circle of association and reciprocity, even though it is beyond dispute that it was indeed that context that formed the original matrix for the language of rights.

Another possible line of critique, however, is far less limiting. It is true, as discussed above, that rights reflect important interests, and that ordinary language allows us to separate interests from their bearers and to speak of them in their bearers’ absence. But, it may be objected, we are concerned about protecting interests in the first place only because of the possibility of a serious kind of loss to a bearer; and without a bearer there can be no loss, so the basis of initial concern evaporates. Imagine, as an example, the absurdity of worrying about the interests, hence the potential rights, of fictional characters. That kind of consideration supports the emphatic claim that nonexistent beings can have no rights “because they do not exist.”¹⁴ As Ernest Partridge suggests, when we think of deceased persons as having rights we are playing with a hidden shift of temporal perspective: as living beings we can regret the loss that post-

humous damage to our interests will cause, and that anticipation may initially seem to justify speaking of the rights of the deceased – but reflection shows us that since the loss can be experienced only in the anticipation of a living person, it would have to be a living person's right that would be in play.¹⁵ So respect for the wishes of the dead, with regard to the protection of their interests, is best understood as part of a chain of expectations, whereby each generation, expecting its own wishes to be honoured posthumously, honours the wishes of the dead – it is best understood in terms of a continuing 'moral practice' of the kind discussed above in connection with historical reparations. It seems to me, however, that the case for valuing such a practice is much better at the personal than at the societal level, where, as noted above, whatever weight we gave it would need to be balanced by a very wide range of other public responsibilities.

Partridge, although a sharp critic of ascribing rights to the dead, acknowledges that this line of objection does not bear on the question of the rights of *future* generations, for the simple reason that the interests in question will eventually connect up with bearers, on condition only that they come into existence. We can, in that case, perfectly well speak of avoiding loss, and the language of rights is therefore meaningful even to those who make the objection in question. (The objection would, however, continue to apply in full to any alleged right to exist, for if no beings existed there would of course be none to register the loss of existence.)

From future to past?

A rights-based argument, then, is preferable to arguments from community or continuity, but is more successful in the case of future generations. Does that mean that the idea of historical injustice is negligible? That is a conclusion that most would find unfortunate, even if they found it defensible; but it would not in fact follow from the arguments above, for there are reasons other than those discussed to take past injustice seriously. Some of these are the same as the reasons for caring about any injustice whatsoever. We could call these interests-of-justice reasons: they are reasons for wanting injustice to be condemned regardless of time or place. Others relate to the interests of the living. These come into play whenever, as we began by discussing, past injustice leaves present marks, as is usually the case. But what deepens the connection between past injustice and its present marks is that the full comprehension of the past injustice is always important to understanding what remedy is due. Some fear that, if we understand past injustice only in terms of present deprivation, we reduce the recounting of the past to mere propaganda

– to a sentimental appeal designed to give emotional support to current interests.¹⁶ But surely that is not so. The marks left by past atrocities are both complex and specific to the case: what was lost and how it was lost are considerations without which one cannot even begin to consider how remedy or compensation are possible, for the present consequences of genocide, expropriation, and cultural destruction (for example) differ in significant ways. There are also, as noted, impersonal 'interests of justice' at stake. But to the extent that there are personal interests at stake, they are those of the living, and, no less, of course, of the future generations to whom the marks of injustice may be transmitted in turn. If what happened in the past carries wounds forward into the future, then even if we cannot say that past victims have rights, surely we can say that future generations have rights that will be better protected if the injustices of the past are confronted in the present. What could be more important than ending the undeserved transmission of evil? The idea of intergenerational rights is more persuasive in relation to future generations than in relation to past ones, I have argued: but that certainly does not mean that what happened in the past is irrelevant to what we owe to the future, for coming to terms with its consequences may be part of what we owe to our descendants. In that sense, perhaps we may say that past generations resemble the beneficiaries of the rights of future ones, rather than bearing rights themselves.

Notes

- (1) See Waldron 1992: 4-28; Vernon 2003: 542-557.
- (2) Raz 1984. This remains the standard statement of the "interest" theory of rights: see Ivison, 2008, 34. For the rival "choice" theory of rights, see Ivison, 33-35. It is not discussed in this article, since it precludes the rights of nonexistent people by definition.
- (3) See especially Feinberg 1980: 159-184; and the critique by Partridge 1981: 243-264.
- (4) Partridge 1981: 251.
- (5) Ridge 2003: 38-39.
- (6) Ridge 2003: 44.
- (7) The term is O'Neill's 2001.
- (8) For a powerful statement of this view, see O'Neill 2001.
- (9) On this topic see Holmes 1995.
- (10) A lucid version of this view is offered in Thompson 2002.
- (11) Ibid: 16.
- (12) Holmes 1995: 141-142.
- (13) Scruton 2000.
- (14) DeGeorge 1991.
- (15) Partridge 1981: 255-259.

(16) Simmons 1995: 149-184.

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Richard Vernon is professor of political science at the University of Western Ontario (London, Canada), where he teaches political philosophy. His recent publications include *Friends, Citizens, Strangers* (University of Toronto Press, 2005), and articles in *Political Studies*, *Ethics and International Affairs*, *Theory and Research in Education* and *Journal of Global Ethics*.

Contact Details: Department of Political Science Social Science Centre, Room 4154, London, Ontario, Canada, N6A 5C2. E-mail: ravernon@rogers.com

Historical Responsibility and Liberal Society

by Prof. Dr. Janna Thompson

Abstract: *Why should leaders of polities, as representatives of citizens, be required to apologise and make reparations for deeds committed in the historical past? Assumptions commonly made by liberals about the scope of responsibility and the duties of citizens make this question difficult to answer. This paper considers some unsuccessful attempts within a liberal framework to defend obligations of reparation for historical injustices and puts forward an account based on the lifetime-transcending interests of citizens.*

In my country (Australia) the newly elected Prime Minister recently opened Parliament by making an official apology to Aborigines and Aboriginal communities for unjust policies of the past – particularly for the attempts of past governments to wipe out Aboriginal culture by taking children away from their parents and putting them in orphanages or foster homes.¹ The apology was seconded by the Leader of the Opposition. People from Aboriginal communities were in attendance, including some of the individuals who had been ‘stolen’ as children. The apology was watched on television by millions of Australians, many of whom strongly supported this act of coming to terms with the past.

This ceremony of apology is one example of attempts by governments to address historical injustices. These attempts to make recompense, though often welcomed and applauded, raise difficult moral and political issues.² From a philosophical point of view one of the basic questions raised by attempts to make up for the past is why existing citizens and their governments have a responsibility for apologising and making recompense for historical injustices.

Three propositions held by many liberals make it difficult to understand or justify acts of apologising and making recompense for historical injustices like the wrongs committed in course of Australian history to Aborigines. According to the first proposition, what matters in ethics and political philosophy are the interests and preferences of existing and future individuals, their rights and responsibilities, or their ability to be autonomous agents. The dead don’t count. They have no rights and we owe them no duties. Subscribing to this proposition thus seems to rule out any historical claims or justifications that appeal to the interests of the dead

or the demands that they once made.

The second proposition is that individuals share responsibility for an action if and only if they participated in committing it, or at least could have participated. Citizens of a democracy can be said to participate in the deeds of their government if they participate or could participate in the electoral process. But most present citizens were not in the position to participate in bringing about events that occurred in the historical past, so they do not, according to the proposition, share the responsibility and cannot, as a collectivity of citizens, be expected to apologise and make recompense.³ The third proposition emphasises this point by contending that citizens of a democracy incur obligations only through consent or voluntary action. They cannot inherit political responsibilities from their familial or national predecessors.⁴

These three propositions are deeply embedded as assumptions in most liberal philosophies and they stand in the way of any account of historical obligations. So if we are to justify the idea that citizens ought to make recompense for historical injustices, then either we have to explain how liberals can find a way to reject or circumvent them, or we have to abandon liberalism. In this paper, I will examine some attempts by liberals to justify the existence of historical obligations and I will argue for an account that rejects the three propositions but nevertheless has a claim to be described as ‘liberal’.

History and rectification

If historical entitlements possessed by individuals or groups exist simply because of acts that took place in the historical past – if they do not depend on participation or consent of existing people or the interests of the dead – then reparative claims need not require the rejection of any liberal assumptions. A number of liberals have adopted this approach to explaining how people can now be owed reparation for historical deeds and why those who had nothing to do with the wrongs must take responsibility for ensuring that reparation is paid. Nozick makes use of Locke’s theory of how individuals acquire titles to property to present a historical theory of entitlement that has as its corollary a requirement of rectification.⁵ If someone has been unjustly disposses-

sed then he or his heirs ought to receive appropriate recompense and the passage of time, the death of those who did the wrong, and the innocence of present people make no difference to the existence of this entitlement. Those who are responsible for rectification acquire this duty not because they belong to a particular polity or family but because they happen to have something to which they have no rightful title.

Boxill, also appealing to Locke, presents a similar account of rectificatory obligations to explain why white Americans owe reparation to African-Americans for the historical injustice of slavery. Slave owners and everyone who consented to slavery (Boxill assumes that they included most white Americans living at that time) harmed those who were slaves and owed them reparation because of this harm, he says. This reparation was not paid and the debt remains outstanding. “Since present day African Americans are the slaves’ heirs, and have inherited their rights to reparation, it follows that they have inherited titles to a part of the assets held by the entire white population.”⁶

The main difficulty faced by these historical accounts of entitlement and obligation is explaining how any historical act or omission has the power to impose obligations that can persist through the generations. Waldron plausibly argues that injustices tend to be superseded by changes of condition or simply the passage of time.⁷ Property rights, he thinks, are justifiable because they enable people to carry out their life plans. Appropriation without the consent of the owner is clearly unjust, and victims of this injustice are owed reparation. But if time passes and reparation does not occur, the demand for reparation loses its force. Others now depend on the property for the pursuit of their life plans and the dispossessed and their heirs have had to find another way of living their lives. Moreover, factors that result from historical change – increases in population, changes of climate and the needs of present people – tend (in his view) to override entitlements that come from history. Boxill’s version of the historical entitlement thesis seems particularly vulnerable to this consideration. If reparation was owed to slaves for the harm that was done to them, then how can anyone else inherit their entitlement? If their descendants are suffering from the effects of slavery and from other in-

justices, then they are also owed compensation. But this is a different matter.

Unjust enrichment

Boxill's position can be interpreted as an argument about unjust enrichment rather than an argument about inheritance of entitlements to particular assets. Present American citizens are the beneficiaries of slavery and other injustices to African-Americans just as present Australians have benefited from the wrongs done to Aborigines. All white Americans, he says, owe a debt because "The whole of each generation of whites specified that only the whites of the succeeding generations were permitted to own or compete for the assets it was leaving behind."⁸ The benefits they gained, in other words, depend on an injustice and the beneficiaries ought to return at least some of their assets to the heirs of those who were wrongly dispossessed or exploited. The debt in question is not a particular possession or form of compensation which was owed to people of the past and should now be paid to their heirs. It exists only because the descendants of the victims of injustice have been unjustly prevented from getting equitable benefits from the deeds of the past. If, contrary to fact, African-Americans and Aborigines were as well off as white Americans or Australians, there would be no unjust enrichment and thus no grounds for compensation.

No evil is without its compensation. The less money, the less trouble; the less favour, the less envy. Even in those cases which put us out of wits, it is not the loss itself, but the estimate of the loss that troubles us.

/ Seneca; Spanish-born Roman Statesman, philosopher /

Since claims based on unjust enrichment, so understood, depend crucially on the relative benefits and burdens of existing people, it might be argued that what is called for is not reparation for past injustices, but an application of requirements of distributive justice. Distributive theories, like that of Rawls, insist that those who have gained more than their fair share from past transactions should compensate those who have less than their fair share. Why should it matter whether the inequity was the result of past injustices or some other occurrence such as a natural disaster?

Sometimes it does seem to matter. Suppose, says Gosseries, that someone finds money in his house and uses it to buy expensive wine, later discovering that the money is counterfeit and that his wine merchant has thereby suffered a loss.⁹ It is reasonable to suppose that the person, though innocent of wrongdoing, should return at least something of the gains he has made to the one who has suffered loss. Similarly, if you discover that your family for-

tune is the result of your father or grandfather cheating his clients, many of whom are now living in poverty, you might reasonably believe that the fact that *your* wealth was gained at the expense of others gives you a special responsibility to share at least some of these assets with those who suffered loss. However, it is probable that the further back in the past the injustice lies and the more that the situation of the heirs of the victims seems to be the result of other factors, the less inclined you will be to think that you have a personal responsibility to the descendants of victims – as opposed to a general, social responsibility based on duties of distributive justice. If claims based on unjust enrichment fade away, then it is an unpromising basis for historical obligations.

There are further disadvantages to basing an account of responsibility for reparation on an appeal to unjust enrichment. In the case of many injustices, no enrichment has been gained by present citizens. Most Australian citizens have gained nothing from the policy of taking Aboriginal children away from their families. And if social and psychological harms, as well as economic costs, are taken into account, there are grounds for believing that slavery in the US has resulted in higher costs to the white population than benefits. Moreover, some of the worst injustices of history – genocide, torture, use of 'comfort women' – are not properly treated by legalistic forms of reparation that have to do with loss of assets and the return of property. What seems to be required to do justice in the eyes of the victims or their heirs is not merely monetary compensation but some form of official apology and a demonstration of contrition. It was such a demand that the Australian Prime Minister was responding to. But such acts fly in the face of the liberal propositions discussed above. How can an apology be offered by people who played no role in committing the injustice and how can it be given to those who are not the actual victims but their descendants?

Restitution as reconciliation

Apologies and token gestures of compensation might be incorporated into the liberal framework by treating them not as an admission of responsibility and a demonstration of contrition but as a way of providing solace, recognition or 'closure' to victims or their descendants – as a way of reconciling communities within a political society. Waldron seems to take this position when he points out that historical memory is central to the identity of many people and that the suffering caused to present people by their memories of historical injustice can be best dealt with by offering an apology and ma-

king other token gestures.¹⁰ These gestures are made to the living, not the dead, and since they are really about achieving good relationships in the present and future, they do not involve the acceptance of responsibility for historical acts or the debts of past people.

The problem with this way of understanding acts of apology for historical injustices is that it means that these apologies are insincere. They do not mean what apologies are supposed to mean – those who make them are not admitting responsibility to those whom they victimised – and yet their affect on present people seems to require that people take the apology as meaning what apologies are supposed to mean.¹¹ If recipients of the apology come to believe that the act was only done for the purpose of making them feel better, they would probably reject it. Moreover, the reconciliatory approach to apology leads to the question of why apologise at all for historical injustices. There are probably more efficient, and certainly more honest, ways of making people feel better about the past of their community – psychological counselling for example.

Giving the dead their due

Ridge points out that by dropping the first liberal assumption – that the only individuals who count in theories of justice and right are present and future people – we can provide an economical account of why we should offer apologies and reparation for historic injustices. If we believe that we can harm or benefit the dead, then it is clear why reparation is required. Their rights were violated; they are owed. Though we cannot directly compensate them, we can promote objectives that we have reason to believe that they cared about. 'Most slaves probably cared very much about the welfare of their descendants, so the United States could provide reparations to the slaves by promoting the welfare of their descendants.'¹² And though we cannot apologise directly to the dead we can apologise to their descendants who act in this situation as their representatives.

Ridge's account makes the controversial assumption that has been defended by a few philosophers but opposed by others – that the dead can be harmed and benefited.¹³ He also assumes that these harms and benefits are sufficiently weighty so as to motivate us to engage in political acts or to make the sacrifices required by reparation. These assumptions have implications for moral and political philosophy that are largely unexplored. But the more immediate problem is that making these assumptions does not solve the problem of collective responsibility and inherited debt. Why should present citizens take responsibility for injustices that they had no role in committing? Why should they believe that they have a moral debt inherited from their predecessors?

Another approach

Working in a liberal framework, we have so far failed to find an account that makes sense of, or adequately justifies, apology and reparation for historical injustices. There are several responses that can be made to this failure. We might abandon the third proposition of liberalism and lay it down (as does Ridge) that citizenship simply requires people to accept an obligation to make recompense and reparation for what members of their polity did in the past. Treating states as agents that are accountable for the actions of past governments is a widely accepted legal convention. But liberalism has traditionally refused to take obligations of citizenship as given. It has always asked why individuals should accept them. Indeed, some liberals have regarded it as unjust that past citizens can impose burdens on their successors. “One generation is to another as one independent nation to another”, said Thomas Jefferson, thus insisting on the right of citizens of each generation to re-make their institutions, commitments and policies according to their own interests and values.¹⁴ Jefferson, who was himself the maker of constitutions, was inconsistent on this point, but it would be better, philosophically speaking, if we could provide an answer to the question of why citizens should take responsibility for the deeds of past generations.

Another more drastic response is to abandon liberalism. Communitarians and others who stress the communal source of identity have no difficulty explaining why we have historical obligations. Says MacIntyre: “I belong to this clan, this tribe, this nation. Hence what is good for me has to be the good for one who inhabits these roles. As such, I inherit from the past of my family, my city, my tribe, my nation, a variety of debts, inheritances, rightful expectations and obligations.”¹⁵ But for those who lack these tribal certainties, whose sources of identity are more diverse or who fail to identify with their nation or their forebears, a move from identity to obligation is unappealing. So let us return to the question of whether a justification can be found within the liberal framework.

The position that I will defend rejects the three propositions that so many people regard as fundamental to liberalism. Nevertheless, it counts as a liberal approach in so far as it rests on an even more basic liberal assumption: that the justification for a political society, and the duties it assigns to citizens, is its continuing commitment and capacity to protect and underwrite their ability to define and pursue their own good and to obtain the resources and to secure the conditions that they need, whatever good they decide to pursue. My contention is that when we take into account what it means

to most people to live a meaningful life we will understand why the obligations of citizens must be intergenerational and why they can have duties in respect to the historical past.¹⁶ My strategy is to re-examine the starting point for all liberal theories: the interests and needs of individuals. I will argue that these interests and needs require institutions that enable citizens to make and have fulfilled lifetime-transcending demands in the framework of an intergenerational polity that is prepared to take responsibility for the past.

Lifetime-transcending interests

To support this thesis, I make three claims which I cannot defend adequately here. I want to establish that they are at least plausible. The first is that all or most citizens pursued interests can be described as lifetime-transcending. Rawls in *A Theory of Justice* assumes that ‘fathers of families’ will be concerned about what happens to their descendants and that this will motivate an acceptance of duties to future generations.¹⁷ An interest in the well-being of descendants is clearly a lifetime-transcending interest. But it is important to recognise that people’s goals, including those of childless individuals, generally involve interests that are lifetime-transcending. Artists and academics may strive to produce works that they hope will be appreciated by people of the future; at least they like to think of themselves as making a contribution, however small, to a tradition or a practice that they hope and assume will continue indefinitely into the future. People work for ideals and reforms that they hope will triumph in the future, they care about the future fate of their communities, or they simply want their existence and their efforts to be properly remembered by future members of their group.¹⁸

Not all people have goals that are explicitly lifetime-transcending. A businessman may be interested only in building up his business and making a good profit and may not care what happens after his death. We can think of lots of cases, real or imaginary, where people are pre-occupied by interests that do not transcend their lifetimes. But it is important to note that these lifetime centred interests often depend, whether the individuals recognise it or not, on what people do after their deaths or on the persistence of a particular state of affairs. The businessman would probably not want people to claim after his death that he got his fortune in an illicit way or that he was not good at running a business. He is likely to want those whose opinions he cares about to respect his achievements, and he is likely to care about the persistence of a way of valuing that rates running a successful business as an admirable enterprise. I would not be so rash as to claim that

everyone has lifetime-transcending interests. But, then, not everyone cares about other goods that liberals think that societies ought to protect.

My second claim is that having lifetime-transcending interests is central to living a meaningful life. On this matter, philosophers who have discussed the ‘good life’ generally agree. According to Partridge, “Well functioning human beings identify with, and seek to further, the well-being, preservation and endurance of communities, locations, causes, artefacts, institutions, ideals, and so on, that are outside themselves and that they hope will flourish beyond their lifetimes”, and he uses data from psychology to back this up.¹⁹ To seek a meaningful life, says Nozick, is to seek to transcend the limits of one’s individual life.²⁰ A meaningful life, claims Wolf, is one in which a person actively engages in projects of worth – a pursuit that requires commitment to something enduring.²¹ Lomasky similarly claims

A stiff apology is a second insult....
The injured party does not want to be compensated because he has been wronged; he wants to be healed because he has been hurt.
/ G.K. Chesterton /

that a commitment to long-term projects that persist over time and project into the future is an important component of a person’s identity.²² Essential to a human agent, says Taylor, is the capacity to be a strong evaluator: “to evaluate the worth of one’s projects or one’s life, and this requires that he or she subscribes to a higher order of good such as justice, God, aesthetic beauty or knowledge, that makes him part of something larger than his own life.”²³ It would also be rash to claim that no one can live a life that he or she finds meaningful without having lifetime-transcending interests. But the fact that having lifetime-transcending goals and interests is so often central to living a meaningful life, means that individuals ought to have an opportunity to acquire goals that involve lifetime-transcending interests. And if this opportunity is to be real then they must live in a society that enables them to acquire goals that they have a reasonable chance satisfying. A society can be judged according to the range of options it provides to individuals to pursue goals that they can find meaningful. A liberal society will provide individuals with a large range of options to acquire and pursue lifetime-transcending interests.

My third, and most controversial, claim is that their lifetime-transcending interests can give individuals a justification for making demands of their survivors or successors. Consider the widely held view that it is wrong to destroy the

reputations of those who are dead by telling malicious untruths about their lives. To condemn this as wrong we do not need to suppose that the dead can be harmed by malicious lies. It is sufficient to appreciate why the living care about their posthumous reputation. They may care because of the harm that slander could do to their objectives, projects, ideals, and the people they love. Or they may care because they want their efforts, accomplishments, and objectives to be properly appreciated after their death by those whose opinion they respect, and by the members of groups and institutions to which they made contributions. In either case, their lifetime-transcending interest in their reputation makes it legitimate for them to de-

"Why should I apologize because God throws in crystal chandeliers, mahogany floors, and the best construction in the world?"

/ Jim Bakker /

mand of their survivors that their posthumous reputation be protected. For if a person thought that her posthumous reputation would be vulnerable to those who would have no compunction against telling malicious lies for their own gratification or profit, she could not with confidence pursue lifetime-transcending projects and causes, or believe that what she did would make a contribution or have a chance of being appreciated. She could not be confident that her attempts to provide benefits for her children and community would not be subverted by the suffering that they would later be caused. Her ability to achieve important objectives and to give her life meaning would be seriously undermined. In other words, her society would have failed to provide support for people to develop objectives that are central to living a meaningful life.

These considerations give members of a society reason to support a practice that requires survivors to protect the posthumous reputations of the dead. The motivation is not merely our own self-interest in our reputations but an appreciation of how protection of posthumous reputation contributes to the ability of individuals to live meaningful lives and to protect people and things that they care about. And given that we have good reasons, moral and pragmatic, for accepting the practice, we are also obliged to accept a duty to protect the reputations of those whom we survive.

Not all demands made by people of their successors are legitimate. I may desire that my children adhere to particular religious beliefs but I am not entitled to demand that they do so. I am not entitled to demand that my successors continue my projects. But it is not so implausible to suppose that I am entitled to de-

mand that they remember and appreciate the sacrifices that I have made for their sake. In general, a person can determine what she is entitled to demand of her successors by considering what she would accept as a legitimate demand of her predecessors.

Historical obligations

A liberal society ought to ensure that individuals are able to develop and pursue goals that involve lifetime-transcending interests and it ought to underwrite the performance of duties that arise from legitimate lifetime-transcending demands. A liberal polity that answers to these requirements is one in which citizens regard themselves as participants in relationships of intergenerational cooperation with the aim of maintaining institutions and practices that enable these requirements to be fulfilled. Citizens through the generations have the duty of ensuring that institutions and practices that enable legitimate lifetime-transcending demands to be fulfilled are maintained. They have the responsibility of maintaining institutions and practices, in the framework of which, individuals can develop and effectively pursue goals involving lifetime-transcending interests.

Their obligations arise from two sources: first of all, from the legitimate lifetime-transcending demands of citizens; and secondly from a consideration of how polities and other intergenerational groups, as associations of individuals with lifetime-transcending interests, ought to treat each other and to treat other intergenerational associations.

If citizens can make legitimate lifetime-transcending demands, then there should be institutions and practices that ensure that they are fulfilled and these institutions must also ensure, where appropriate, that recompense is made for a failure to fulfil them. Given the importance of their lifetime-transcending interests it seems reasonable, for example, that individuals should be able to provide an inheritance for their children or that they should be able to pass on a project to those who might be interested in continuing it. Though individuals cannot demand that their successors continue their projects, it seems reasonable that their society ought to underwrite their desire to pass on their projects to those who might be interested in pursuing them. So understood, entitlements of bequest and inheritance have a justification, though a society can legitimately choose to put limits on these entitlements for the sake of promoting greater equity. Nevertheless, a just society should provide some institutional support for bequest and inheritance. Within the framework of its institutions individuals can make legitimate demands concerning the disposal of their possessions, and if these demands are not properly fulfilled, and

there is no justified excuse, then restitution is owed to the heirs for their failure to obtain what was due to them. These considerations allow an appeal to rights of property as a basis for some historical obligations without having to subscribe to implausible ideas about historical entitlements that cannot be challenged by appeals to present needs and circumstances.²⁴

The second source of historical obligations and entitlements comes from a consideration of how intergenerational communities, whether polities or communities of other kinds, should treat each other and should treat other intergenerational groups given that their members have lifetime-transcending, as well as lifetime, interests. If we accept the idea that polities and communities ought to treat each other with respect (unless there is good reason not to do so), then this requires that they should respect each other as intergenerational communities. Out of respect, they ought to strive to reach long-term understandings and agreements with each other when their interactions make this appropriate, and out of respect for each other as intergenerational societies they ought to keep their agreements unless there is a good moral reason not to do so. If they fail to be properly respectful of each other or fail to keep their agreements without a good excuse then they commit an injustice and incur an obligation of reparation. If this obligation is not fulfilled by the present generation, then it becomes a duty of their successors. Just as individuals have obligations to fulfil legitimate demands of those they survive, they also, as citizens, have an obligation to keep the legitimate agreements made by their predecessors and to make recompense for their failure to treat other intergenerational communities respectfully. Those who deny that this responsibility exists fail to appreciate the nature and justification of a society in which people have intergenerational responsibilities.

Polities have intergenerational responsibilities to each other. The idea that polities ought to act as responsible intergenerational agents – thus committing their citizens to accept historical responsibilities – is supported by reference to the interests of citizens. But we can argue for the same reason, that polities and their citizens have intergenerational responsibilities in respect to other groups that enable individuals to pursue lifetime-transcending interests or are the focus of their lifetime-transcending demands: tribes, ethnic groups and even families. Slavery as it was practiced in the Southern states of the USA was an injustice not merely to individuals, but also to family lines, and the Jim Crow laws introduced by Southern states after the Civil War were designed to keep the families of former slaves in a position of per-

petual subordination. This way of understanding historical injustices like slavery make it intelligible why present people, as members of a family or a tribe that has suffered from a history of related injustices, can be owed reparation for injustice that includes acts committed in past generations.

It also makes intelligible the giving of apologies. An apology is an act of taking responsibility that is given by the members of one intergenerational community to the members of another. It is an acknowledgment of the entitlements of individuals as members of such a community. Present members of a polity can have a responsibility through their representatives of apologising for a historical injustice just as they can have a responsibility for reparation in other forms.

Conclusion

The account that I have offered of why citizens have historical responsibilities rejects all three of the propositions commonly associated with liberalism. It contends that demands made by those who are now dead can be the source of obligation (though it does not require believing that the dead can be benefited by what we do). It gives citizens responsibilities for deeds that they had no part in committing and it requires them to fulfil obligations that they inherit from their political predecessors. Nevertheless, the account is based on a view about the relationship between individuals and their political society that is even more fundamental to liberalism. Whether this is enough to make it a liberal theory is up to others to judge. But liberal or not, it is an account that answers to the beliefs that many people have about their responsibilities as citizens: the beliefs that motivated many Australians to welcome and applaud the apology made to Aborigines and their communities.

Notes:

(1) In the words of Rudd: "We apologise for the laws and policies of successive Parliaments and governments that have inflicted profound grief, suffering and loss on these our fellow Australians. We apologise especially for the removal of Aboriginal and Torres Strait Islander children from their families, their communities and their country" (Rudd 2008).

(2) I have written specifically on this issue in Thompson 2008.

(3) This view was presented by the former Prime Minister of Australia John Howard, as a reason for not apologising: See Howard 1997.

(4) I am assuming, as do most liberal political philosophers that a democratic polity consists of its citizens whose representatives govern in their name through the institutions of state. Citizens, according to this view are responsible for what their representatives do.

(5) Nozick 1974: 151-153.

(6) Boxill 2003: 77.

(7) Waldron 1992: 18-19.

(8) Boxill 2003: 76.

(9) Gosseries 2004: 9.

(10) Waldron 1992: 6.

(11) All accounts of the meaning of apology that I have encountered stipulate that the one who apologises takes responsibility for the act in question. See, for example, Davies 2002 and Gill 2000.

(12) Ridge 2003: 44.

(13) Feinberg 1984: Chapter 2, argues that the dead can be benefitted or harmed by our actions. For a criticism of this account, see Lamont 1998.

(14) Jefferson 1907: 456.

(15) MacIntyre 1981: 204-205.

(16) 'Generation' is a vague, but useful term. In this context, present generations are those who are in the position to participate, in one way or another, in making policies that will affect the young and unborn, and past generations consist of citizens who are now not in this position.

(17) Rawls 1971: 288.

(18) See Meyer 1997: 141-143.

(19) Partridge 1981: 204-207.

(20) Nozick 1989: 166-167.

(21) Wolf 1997: 211.

(22) Lomasky 1987: 32.

(23) Taylor 1989: 63-73.

(24) I have defended these ideas about inheritance and reparation in Thompson 2001.

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Janna Thompson is an associate Professor in philosophy at La Trobe University in Melbourne, Australia. She is the author of *Taking Responsibility for the Past* and has written extensively on

historical responsibility and intergenerational justice.

Contact details: Philosophy Program, La Trobe University, Victoria 3086, Australia. E-mail: j.thompson@latrobe.edu.au

A List of Apologies World Wide

by Graham Dodds

According to some observers, we are living in "the age of apology." (For example, see Mark Gibney, Rhoda E. Howard-Hassmann, Jean-Marc Coicaud and Niklaus Steiner, eds., *The Age of Apology: Facing Up to the Past*, University of Pennsylvania Press, 2007). Apologies from individual politicians are nothing new, but official apologies from governments to other states or to aggrieved domestic groups are increasingly common. Often, these actions are part of transitional justice. In certain circumstances, political leaders

choose to issue an official apology in order to come to terms with a problematic past, to heal old wounds, to reunite estranged communities, and to facilitate a better future for political victims, perpetrators, and the whole polity. These apologies may offer an attractive middle path between the alternatives of mass amnesty and criminal prosecution, and they may be part of a broader process of political reconciliation. Some political apologies are famous (e.g., the U.S federal government's apology for interning Japanese Americans in World War II, Pope

John Paul II's many apologies for various historical wrongs committed by the Catholic Church, and Australia's apologies for mistreatment of aboriginal peoples), but other political apologies are less well known. And of course they vary greatly in their motivation and efficacy. Information about hundreds of political apologies can be found via an online database [<http://political-apologies.wlu.ca/>], which was established and is maintained by Rhoda E. Howard-Hassmann, Wilfrid Laurier University, Canada.

David Miller on Inherited National Responsibility

by Pranay Sanklecha

Abstract: This paper offers a critique of David Miller's recent account of inherited national responsibility. It is argued that the account leads to a dilemma: either it does not make sense to say that we can accept the national inheritance, or, on a different sense of acceptance, it does, but then we encounter a serious conflict with one of our important intuitions about responsibility.

Introduction

David Miller argues that it makes sense to claim that nations can inherit responsibility. Given certain circumstances, current members of nation X can be said to have obligations to pay compensation of the relevant kind to either the victims or the descendants of victims of a past injustice that was committed by previous members of nation X. In this paper, I argue that while this account works for two sets of circumstances as distinguished by Miller, it does not for a third – the situation where the current members of nation X have not benefited from the injustice in question. My focus in this paper is narrow, and consequently I take many things as given. I accept the idea that nations can be held collectively responsible, I grant that it can be empirically possible to identify the victims or descendants of victims of past injustice and the effects that this inju-

stice had on them. I try, in short, to agree with Miller as much as possible, in order to disagree with him more effectively. In the first section 'Miller's Taxonomy: Three Types of Claims' I describe the three types of claims; the second section 'The First Two Claims Considered' deals with Miller's argument for the possible validity (given the right empirical circumstances) of the first two types of claims; the third section 'A Critique of Miller's Account in the Third Type of Claim' discusses problems which arise for the third type of claim from the impossibility or excessive cost of rejecting one's national inheritance; the fourth section 'The Challenge of Cultural Cosmopolitanism?' considers the view of cultural cosmopolitanism and its relevance to the question of inherited responsibility, national or otherwise; and the final section 'Considering One Response to the Critique of Miller' outlines a problem which arises for one plausible response to the problems outlined in the third section.

Before beginning the critique of Miller's account, however, it is necessary to deal with a generic concern that always arises when discussing historical injustice: how far back should we go? Several thousand years ago, Aryan groups migrated to the Indian sub-continent. In the process of establishing their civilization they indulged in the standard practice

of 'oppressing the natives'. Can descendants of those natives (the Dravidians) demand compensation from descendants of those Aryans? Could descendants of Adam, say, demand compensation from the descendants of Eve for her part in getting him to eat the apple?¹ Or is there some sort of limiting factor, some point in time such that acts beyond this point cannot be subject to claims of compensation?

This concern is discussed, for example and amongst others, by Jeremy Waldron and George Sher². It will not, however, be discussed in this paper. This is not to deny its importance. Miller, for instance, clearly recognises that it is important, but avoids discussing it because it bears 'on the issue of whether the alleged victims of injustice have a claim to redress, not on the issue of whether another group has an obligation to meet the claim ... even if we are able to ... establish that claimant groups have a justified demand for compensation of some kind, it is still necessary to investigate whether other groups, or institutions, have a responsibility to meet such a demand'³. That is to say, we can leave this concern aside and still meaningfully examine what we may colloquially call the 'duties and responsibilities' side of the equation. A comprehensive system for dealing with historical injustice must deal with the concern mentioned, but Miller is concer-

ned not with a comprehensive system but just one part of it, that of whether groups can have responsibilities to meet legitimate claims of compensation. Given that this paper is a critique of Miller's account of how groups can have inherited responsibilities, I follow Miller's lead here and therefore do not propose to engage with this standard problem of thinking about historical injustice.

It is easy to dodge our responsibilities, but we cannot dodge the consequences of dodging our responsibilities.

/ Josiah Charles Stamp /

Miller's taxonomy: three types of claims

Using a taxonomy established by Miller, let us narrow in on three kinds of claims that victims or the descendants of victims of past injustice can make in the context of nations:

1. 'Claims for restitution'⁴ – an example of this might be Greece demanding the return of the Elgin marbles.
2. 'Claims based on the idea of unjust enrichment'⁵ – an example might be a claim made by India today against the British, on the grounds that Britain benefited in the past and still benefits today from the exploitation of India that it carried out between (roughly) 1757 and 1947.
3. 'Claims based on the idea of a compensable historic wrong'⁶ – the key notion here, or at least the one I will want to concentrate on, is that these are claims for compensation in situations where (a) there was a historical injustice and (b) this historical injustice did not benefit the perpetrators or their descendants. We can refine the India-Britain case to give an example of this. Let's say Britain did perpetrate injustice against India by colonizing it, and by how it treated India during the period of colonization. Let's also say, however, and this is the difference between the previous case and this one, that the British were supremely inefficient exploiters, and derived no benefit from this exploitation, and that the present day members of the British nation are therefore not unjustly benefiting from this historical injustice perpetrated by previous members of the British nation.

Miller thinks that each of these three claims can, under certain circumstances, be valid. My argument in this paper concentrates on the third type of claim, but before proceeding to a consideration of it, it is necessary first to outline why Miller thinks these claims can be valid.

The first two claims considered

Miller claims that nations have, or can have, assets. These can be physical, for instance deposits of valuable minerals within the nation's

territorial boundaries, or indeed the territorial boundaries themselves, and intangible, such as effective institutions, a shared public culture, and so on. Given that they have such assets, it makes sense to claim, says Miller, that members of a nation can be said to inherit at least part of these assets from their predecessors. Functioning institutions or a shared public culture, for instance, are things that are the result

of generations of practices and policies – they are not created anew by each generation. The same can be said of

course of many physical assets – the railways, public buildings, etc, built by Victorians, for example, are still being used by present-day members of the British nation.

The claim so far is that nations can be said to have assets, and that these assets can be said to be inherited by succeeding members of these nations. So far, so unexceptionable, at least for the purposes of this paper. Having established this claim, Miller turns his attention to the individual as a way of approaching the question of whether responsibilities, and not just assets, can also be inherited.

English common law and Roman law both uphold the principle that they can, at least in the case of individuals. For instance, it is an established part of English common law, says Miller, that in the case of individuals 'those who inherit from wrongdoers are potentially liable to make compensation for the wrongs committed'⁷. Making this potential liability actual depends on establishing that the descendants of the victims 'are themselves made worse off by the effects of the wrong'⁸, and an upper limit on the compensation payable by the descendants of the wrongdoers is set by the principle 'that inheritors should not be punished for what their predecessors did'⁹, i.e. they do not have to pay more than they inherited, even if the harms suffered by the descendants of the victims are greater than the amount of the inheritance.

Deriving an 'ought' from an 'is' is of course a famously fraught enterprise, but there are good ethical grounds, thinks Miller, for why the basic principle – that those who inherit from wrongdoers can be liable to pay compensation – is established in these legal systems. The ethical case for inheritance is in general flimsy, thinks Miller, because the person inheriting has done nothing to deserve her inheritance¹⁰. So in a case like the following: A wrongs B, let's say by stealing B's car. A dies and leaves her assets to C. These assets include the car. B demands that C returns the car to him. It seems clear that B has a valid claim against C with respect to wanting the car back. The situation can be made a bit more complicated: let's say B

dies before he makes a claim against C, but D, who is B's child, makes a claim for the car against C. D has done nothing to deserve his inheritance either, so isn't it arbitrary whether we give the car to B or D? Not so, thinks Miller, because 'the right of A's successors to inherit might seem especially questionable, since they will in part be the beneficiaries of injustice – they will be benefiting from that portion of the estate which ought to have been transferred to (B) by way of redress'¹¹.

Let us accept then, that there are good ethical grounds to think that in the case of individuals it is right to say that they inherit responsibilities along with assets. Given the earlier story about nations having assets, and of members of nations being able to inherit assets, the analogy becomes clear. Claim 1 seems especially straightforward, as it seems simply to be an instance of the principle that 'you cannot bequeath goods to which you do not have a valid title'¹². The Elgin marbles, for instance, were not the property of the British nation in the first place, and therefore cannot be legitimately handed down to future generations of Britons. Claim 2 also seems reasonable – in the type of circumstance in which it can obtain, the goods in question were acquired through exploitation, and it seems as illegitimate to hand down goods that were acquired through exploitation as through unjust acquisition. Britons do not, then, have a valid claim to the goods that they have received as a result of previous exploitation of the Indian nation.

A critique of miller's account in the third type of claim

Claim type 3, however, seems more complex, because there are no goods in question. The present day members of the British nation have in no way benefited from the historical injustice; indeed, in my example, no members of the British nation have ever benefited from it. So the question of validity of title does not seem to arise, and consequently it cannot be used as an argument for the validity of the claim of compensation. There is a further disanalogy, which is that while in the case of individuals there is an upper limit on compensation payable for an injustice committed by the person they have inherited from, which is set by the amount they have benefited from the injustice in question, here there is no such limit – the current members of the British nation are being asked to compensate for an injustice from which they have not benefited in any way; it seems like they are, to use Miller's terminology, being punished for what their ancestors did.

Miller clearly recognises these dis-analogies, because he points out 'that the liability in cases like this is somewhat weaker than in the ear-

lier cases where the nation that had perpetrated the injustice also continued to benefit from it¹³. Nevertheless, he maintains that claims for compensation in this type of situation can be valid. His argument here is that we must think of national inheritance in a holistic kind of way. Present members of the British nation have inherited a wide variety of things from their predecessors, and at least some of these are assets they are benefiting from. For example, it is pretty plausible to claim that (a) they benefit from, for example, the secure establishment of English common law, or the roads they travel on and (b) these benefits were secured for them in part by the efforts of their ancestors. Miller's point now is that it is not acceptable for the current members of the British nation to accept as their inheritance only those things from which they benefit while disowning those aspects of their inheritance which are problematic, such as say the responsibility to compensate India for its colonization by previous members of the British nation. As Miller puts it, 'even where there is no unjust enrichment, a nation that wants to claim the advantages created by previous generations must also accept a responsibility to offer redress for the injustices they inflicted'¹⁴.

This is a persuasive solution to the difficulty created by the dis-analogies mentioned above, but in my view it is also problematic. Miller's argument in the type of situation denoted by the third claim is that we need to show that the present day members of X can be treated as the heirs of previous members of X for the purposes of redress, and then that 'it is unjustifiable to treat them in that way'¹⁵ when what is at stake is the inheritance of benefits, but not when what is at stake is the inheritance of liabilities¹⁶. That is to say, if the present day members of X benefit from at least some of the policies, practices, etc, of their ancestors then they cannot consistently accept these benefits and reject the responsibilities that arise from other policies of their predecessors – if they are to be treated as heirs to the national inheritance, then they must be so treated in all respects, not just the ones which are convenient. An important question this raises is about the possibility of rejecting your national inheritance at all, that is, the possibility of choosing not to stand in a particular relation with respect to the trans-generational community of the nation to which you belong. I will speak here only of the case of adults, in order to simplify the discussion as much as possible.

One obvious possibility for someone who wanted to reject her national inheritance comprehensively is emigration. Let us accept for the moment that if you emigrate you do succeed in comprehensively rejecting your national inheritance (I'm not sure if this is actually the case,

but I will explore this a bit later). Speaking generally, I think it's reasonable to claim that emigration involves considerable costs. Most obviously, there are the financial costs, which can already be substantial, but there are also other costs which are perhaps even more significant. There is the cost of leaving one's family and friends behind. There is the cost of no longer being rooted in a particular culture and way of life¹⁷, or at least of perhaps living in places which do not entirely share the particular culture you left behind. There is the cost of assimilating into the new culture, to the extent that this is possible. There is the cost of leaving behind a community in which you have a place, and a network of connections of all kinds, for one in which you will be mostly a stranger for at least a considerable amount of time. One could specify more costs, but I hope the general point is clear: emigration is in general an extremely expensive enterprise.

Let's say that for some people emigration is so expensive that it is ruled out as a possibility. They still want to reject their national inheritance, however, and they want to reject it comprehensively – i.e. they want neither the benefits or the responsibilities that come with membership in a nation. Is it possible for them to carry out this rejection while continuing to live within the relevant nation's boundaries? Let's imagine someone who attempts to reject his national inheritance by withdrawing from public life completely and living like a hermit. He goes off into the wilds, away from all modern conveniences and social interaction, subsisting on berries and the like. He makes, in short, the most dramatic effort imaginable – short of suicide – to withdraw from the benefits that membership in a nation provides.

Even in this scenario, however, it seems like he still can be said to enjoy some benefits. Remember that for Miller, the national inheritance consists of the benefits each generation derives from physical assets, such as coal mines or railways or just the national territory, for example, and from intangible things like functioning institutions, a shared public culture and so on. The wilds he lives in, for instance, might depend on the military apparatus of the nation it is part of for security from external aggression. It's kept free from highwaymen and bandits because of a functioning police and the rule of law. The berries he eats, the land he sleeps on, the water he drinks – all of these are part of the physical assets that make up part of his national inheritance. It seems impossible, then, for him, for anyone, to reject their national inheritance and the benefits flowing from it while physically still living in that nation.

There is also an argument to be made that even emigrating does not liberate you from your na-

tional inheritance, because it doesn't seem to be straightforwardly the case that emigrating means no longer benefiting from the intangible assets that are part of the national inheritance of the nation you emigrated from. Immigrants who have emigrated after a certain age will tend to benefit from the education and training in professional and social skills that they received in the nations they emigrated from. Further, if you look at immigrant groups across the world, one feature that is immediately obvious in most of them is the extent to which they attempt to preserve their old culture and old ways of life. Immigrant groups are often nourished and strengthened in new lands by their emotional and intellectual attachment to the practices of the nation or group they left behind. In many cases it seems undeniable that these groups are still benefiting from the intangible assets handed down to them as members of the nation they emigrated from. Moreover, it is not clear how it would be possible for any person or group to transcend the culture and society in which they developed to such an extent that they could be said to have rejected comprehensively the benefits deriving from that culture and society. And this comprehensive rejection is, it seems, necessary on Miller's account if they are to avoid bearing responsibility for the sins of their forefathers.

As a parenthetical point: there are, of course, different ways in which one could be said to own or disown one's national identity. One could, for instance, use the idea of national pride as a means of getting to national responsibility¹⁸. The idea might be that if one is proud of the achievements of one's predecessors then one has to accept responsibility for the undesirable effects of those achievements; so, for ex-

If you wake up at a different time, in a different place, could you wake up as a different person?

/ Chuck Palahniuk /

ample, if a currently living Briton was proud of the fact that Britain once had an Empire, she would have to accept responsibility for the undesirable effects of that Empire, such as say the exploitation of Indians. Rather than linking inherited responsibility to the benefits one receives by being a member of a nation, a link is made between inherited responsibility and pride in one's national past. This makes it much easier to own and disown one's national inheritance, and such a proposal would therefore not be open to the charge I have brought against Miller in this section. A significant merit of Miller's proposal, however, when measured against this alternative, is that it eliminates a crucial problem of this kind of alternative, namely that when it is up to the in-

dividual to decide if he or she identifies with her past, and which aspects of it, there is a lot of room for, as Farid Abdel-Nour puts it, “‘self-love’ to interfere”¹⁹.

The aim of this paper is not, however, to adjudicate between these two accounts, but rather to argue that Miller’s account faces a problem. For this reason I will not explore alternatives to Miller’s account here, but mentioning that they exist does bring out the important point that I make a very limited claim in this section of the paper, namely that Miller’s account of inherited responsibility faces problems arising from the difficulty of rejecting one’s national inheritance (on Miller’s definition of what the national inheritance consists of). I do not make the claim that these specific problems arise for every account of inherited national responsibility.

The challenge of cultural cosmopolitanism?

I stated at the beginning of this paper that I would be taking the existence of national responsibility for granted. The reason for this is that I wanted to concentrate on Miller’s arguments for inherited national responsibility, with the emphasis on the inherited. The discussion has led us to a point, however, where it would be as well to consider one challenge to the idea of national responsibility, because at first sight it is also a challenge to the idea that it is difficult or impossible to reject one’s national inheritance.

Jeremy Waldron argues in his paper ‘Minority Cultures And The Cosmopolitan Alternative’, that an individual’s cultural identity is not, in the modern world, defined by allegiance to one particular culture. Rather, it is made up of lots of allegiances and influences from various different cultures, and one strong version of the cultural cosmopolitan view would be to argue that this is the only type of cultural identity that is possible in the modern world. Put in different terms, this strong view would be that everyone (aside from a few scattered and isolated groups living in rainforests and the like) is, culturally speaking, a world citizen, not the citizen of any specific nation, and that this is the only citizenship that is possible. If this is true, then it seems as though it is not only not difficult or not impossible to reject one’s national inheritance, it is actually impossible not to.

Miller would not concede this view was correct, but even if it was, it seems possible to adapt his argument for inherited responsibility to take the stipulated correctness of strong cultural cosmopolitanism into account. Remember that for Miller, it is standing in a particular relation to the transgenerational community, that of being heirs to previous generations, that justifies being held responsible for the trans-

gressions of previous generations. The cultural cosmopolitan does not deny that culture shapes and benefits individuals, she just denies that this culture is a specific one. Now, even if the strong view is right, what follows is not that individuals do not stand in this relation to any previous generation, rather, that they stand in a particular relation – by virtue of inheriting culture – not the transgenerational national community, but rather the international one. Miller’s arguments therefore can, I think, with some work and modifications, essentially be transposed to the international realm. Indeed, it seems at first sight as though this transposition will immensely widen the range of inherited responsibilities we have. The challenge from cultural cosmopolitanism might,

in other words, lead to a rejection of a national inheritance and responsibility, but it is not necessarily a rejection of Miller’s arguments for inherited responsibility.

Further, and more importantly, the relevant point for the purposes of this paper is the difficulty of rejecting one’s (national) inheritance. Suppose we grant that there is no such thing as a national inheritance, it still remains true that rejecting one’s international cultural inheritance is extremely difficult. Indeed, given the wider range of the inheritance, it is difficult to see how one could escape inheriting it – one has to inherit *something*, after all, when it comes to cultural resources, whether it be language, philosophical beliefs, religious commitments, etc. The central point, therefore, I think still stands: it is either extremely expensive or flat out impossible to reject one’s inheritance, be it national or international.

Finally, my view, which I will not go into at length here, is that the strong version of cultural cosmopolitanism is implausible. There is certainly an important insight that cultural cosmopolitanism points to, namely that we inherit intangible assets from several different places. ‘Hamlet’, or the Pieta of Michelangelo, for instance, are part of the cultural inheritance of people from across the world, not just Britons or Italians, while the teachings of the Buddha, and the long culture of tradition and practice of Buddhism, are not the sole inheritance of current members of the Indian nation; indeed, modern-day India is largely non-Buddhist. But we can acknowledge this without having to deny the importance of a particular cultural identity, or the importance of national ties. Such a denial would, I claim, run contrary to the experience of most of the people in this world, and is therefore not plausible.

Considering one response to the critique of Miller

But in any case, it appears to me that we can leave the two last questions open: that is, the question of whether emigration can amount to a rejection of one’s national inheritance, and the question of whether cultural cosmopolitanism is correct. Even if the answers to both these questions are positive, I think that the nature of my criticism is clear, and that it is still forceful. Rejecting one’s national inheritance²⁰ is, when it is not impossible, generally extremely costly. Given this impossibility/costliness,

Bear in mind that the wonderful things you learn in your schools are the work of many generations. All this is put in your hands as your inheritance in order that you may receive it, honor it, add to it, and one day faithfully hand it on to your children.

/ Albert Einstein /

it is not clear that one can demand of members of a nation that they have to bear these costs if they want to avoid the responsibilities of compensating for injustices perpetrated by their predecessors as members of that nation.

The costliness or impossibility of rejecting one’s national inheritance speaks against the possibility of rejecting it. It does not seem to make sense, given how Miller characterises the national inheritance and how I have characterised the costs of rejecting it, to talk of accepting or rejecting it; how is one to go about, for example, ‘rejecting’ that air has oxygen in it, or that we need oxygen to survive?

There might, however, be a different sense in which one can accept or reject one’s national inheritance. Indeed, Miller seems to point to it when he writes that one has to consistently ‘own’ or ‘disown’ the policies of previous generations. This sense deals with reasons; in the context of national inheritance, what it might mean is the following. Let’s grant that it is impossible or unreasonably costly to escape from one’s national inheritance in the sense I have been talking about so far, i.e. in the sense of no longer benefiting from at least some of the things it comprises. We can, however, still choose whether we are happy with accepting it or not. That is to say, even if I cannot avoid benefiting from the national inheritance associated with being Indian, I can choose to regret this or be accepting of it. If I decide to accept it, perhaps am even proud of it, I can be said to have accepted my national inheritance; and then the claim would be that if I have accepted my national inheritance in this way I become liable to respond to claims for compensation made by people or groups who had injustice perpetrated against them by my predecessors. This might not be unproblematic. For example, a German person could have said in 1960 that she regretted benefiting from the national

inheritance, and on this account she has disowned the policies of her predecessors. A consequence of the view outlined in the previous paragraph is that this somehow lets her off the hook, that she therefore does not have an obligation to respond to claims for compensation made, for example, by the state of Israel. This consequence seems unacceptable, at least to me, because the view doesn't seem to capture one of our important intuitions about responsibility, namely that it can be the case that it doesn't matter what we accept or regret or choose, we can still be held responsible. This is a point that has been made several times in the context of individuals. I may not choose, for example, the circumstance of being by a pond while a child is drowning in it, but I can still be held responsible for not attempting to save her²¹.

These considerations have led us to two important and conflicting intuitions about responsibility. The first is the intuition that free agency, or free rational choice, is an essential component of any account of responsibility, the second is the idea that, to quote Miller, 'my responsibilities are thrust on me by my circumstances, but they do not cease to be my re-

Today, more than ever before, life must be characterized by a sense of universal responsibility, not only nation to nation and human to human, but also human to other forms of life.

/ Dalai Lama quotes /

sponsibilities because of that²².

To sum up the discussion so far, I think Miller's argument for historical responsibility in the third type of case leads to a predicament. To put the point in Miller's terms, on one plausible reading of what it means to accept one's national inheritance, it does not seem to make sense to say that members of a nation want to claim their national inheritance (which it must do if it is to be held responsible for various injustices committed by its predecessors) – they just have it, and therefore it does not seem to be plausible to base an account of the legitimacy of historical responsibility on the idea that one can choose to claim one's national inheritance in its totality (i.e. that in choosing to claim the benefits one also chooses to claim the responsibilities). So we move to the other reading, the sense in which claiming one's national inheritance involves something like having independent persuasive reasons to accept it or affirming that one doesn't regret having it, but then the problem is that on this reading we seem to stray too far from the intuition that it doesn't even matter if one wants to claim it or not, one can still be held responsible for it²³.

Conclusion

This paper has been focused on David Miller's account of historical responsibility, and even more specifically, on his account of historic responsibility in one specific type of situation. This is the situation characterised by what Miller describes as 'claims based on the idea of a compensable historic wrong'²⁴; cases, that is, where 'acts of injustice occurred which harmed their victims in one way or other (without necessarily benefiting the perpetrators or their descendants), and which can be compensated for, at least in part, by money payments or other forms of material compensation either to the victims themselves or their descendants'²⁵. I further sharpened this case, by considering a hypothetical situation such as the one above but with the further stipulation that it was one in which the perpetrators and their descendants did not benefit from the acts of injustice. Finally, I also stipulated, for obvious reasons, that in the type of case I was considering we would be talking about the descendants of the victims and the perpetrators.

As I have outlined earlier, Miller argues that claims for compensation can be valid in this type of case, because 'even where there is no unjust enrichment, a nation that wants to claim the advantages created by previous generations must also accept a responsibility to offer redress for the injustices they affected'²⁶. More generally speaking, the idea is that if you want to claim the national inheritance, you have to claim all of it.

I have tried to argue in this paper that this account of historical responsibility runs into either the problem of making it intelligible that a nation can be said to 'accept' its national inheritance, or of doing violence to our intuition that in some circumstances it doesn't matter in terms of responsibility whether we have accepted them (i.e. our circumstances) or not. Consequently, my claim is that Miller's account is, as it stands, unsuccessful in justifying the existence of historical responsibility in the specific type of situation I have picked out.

Notes:

* I would like to thank four anonymous reviewers and David Miller for their comments. I would also like to extend special thanks to Nora Kreft and Lukas Meyer.

(1) This would be an ingenious explanation of the centuries of sexist discrimination that the descendants of Eve have subsequently suffered.

(2) Waldron 1993: 4-28; Waldron 2002: 135-160 and Sher 1997.

(3) Miller 2008: 137.

(4) Ibid: 138.

(5) Ibid.

(6) Ibid.

(7) Ibid: 150.

(8) Ibid.

(9) Ibid.

(10) Ibid: 151.

(11) Ibid: 150.

(12) Ibid: 152.

(13) Ibid: 155-156.

(14) Ibid.

(15) I.e. as heirs.

(16) Miller 2008: 156.

(17) I recognise that this is sometimes a benefit of, and even a reason for, emigration. But it would be wrong to not simultaneously recognise that it is also often a serious cost.

(18) A view of this kind can be found in Abdel-Nour 2003: 693-719. I thank an anonymous reviewer for alerting me to this.

(19) Abdel-Nour 2003: 710.

(20) I will continue to write 'national' inheritance for the sake of convenience, and terminological coherence with the earlier part of this paper.

(21) It has also been made about groups, for example by Held 1991.

(22) Miller 2008: 121. Miller makes this claim in his discussion of national responsibility, where he rejects the claim that as people have not chosen to be in their historical situation they cannot be held responsible for things deriving from it. However, he seems to make the opposite claim in his discussion on the historical responsibility immigrant groups might have, where he rejects the analogy between an immigrant entering a nation and an individual joining a business partnership, on the grounds that often immigration is not a matter of choice, and further that at any rate the descendants of immigrants cannot be said to have given their consent to joining the nation. It seems here he is trading on the intuition about the importance of free consent to an account of responsibility, while earlier he rejects its significance.

(23) This difficulty has been brought out for the type of claim that takes place where no one has unjustly benefited, but I think it can be extended to any benefit-based argument for historical responsibility.

(24) Miller 2008: 139.

(25) Miller 2008: 139.

(26) Miller 2008: 155-156.

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Pranay Sanklecha is studying for a masters in political philosophy at the University of Bern, Switzerland. His major research interests are in individual and collective responsibility, especially in collective action situations, ideal and non-ideal theory, and justice and legitimacy in global contexts.

Contact details: E-mail: pranay.sanklecha@students.unibe.ch



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Indigenous minorities' claims to land

by Daniel Weyermann

Abstract: *Claims of indigenous minorities to land are a significant political issue in many parts of the world. These claims, though, are contested, be it in theoretical, political or legal terms. I consider a position, put forward by Jeremy Waldron, that asserts some theoretical reservations towards indigenous minorities' claims to reparations and land. Waldron seems to assume that indigeneity is no important factor regarding land claims and reparative issues. I propose a rivalling account of indigenous land claims, based on the idea of self-determination. Self-determination itself can be understood in two different ways, it can either be conceived as a form of political autonomy or sovereignty, or it can be understood as having pre-political property rights.**

Introduction

Political issues regarding indigenous or national minorities are arguably amongst the most burning ethno-political concerns throughout the world. The history of slavery, colonialism and imperialism, the emergence of nation states and power politics had fatal consequences for many cultural groups in every part of the world. As Lars-Anders Baer, president of the Saami parliament in Sweden, indicates indigenous minorities have for a long time been “the wretched of the earth”¹ when it came to ethno-cultural or economic justice. Things may have changed, at least to some degree, during the last years.² In international law at least indigenous minorities have, after decades of struggle, gained recognition and a juridical basis to make their interests heard.³ Issues regarding indigenous minorities, apart from concrete legal and political considerati-

ons, also raise interesting philosophical questions. In this essay, I would like to scrutinise one of them. I will, most generally, be interested in indigenous minorities' claims to land, i.e. claims to their traditional territory of settlement. Through the history of colonialism and imperialism, different groups that we today refer to as indigenous peoples, aborigines, first nations etc, lost their traditional homelands to the new settlers. Throughout the world—or at least where the interests of indigenous minorities are not completely denied or ignored—claims to regain rights to this land seem to be at the heart of indigenous peoples' political struggles.

One of the main aims of this essay is to scrutinise what is at stake when we speak about indigenous land claims. Put differently, the main question is: how should we understand indigenous claims to land? In a first step, I will sketch a recently presented position by Jeremy Waldron that takes indigenous land claims to be fundamentally problematic. They are, Waldron holds, confronted with some grave theoretical flaws. In a second step, I will then outline an alternative account on indigenous land claims, drawing on the axiomatic idea of self-determination. I will thus outline a possible understanding of indigenous land claims on other grounds than the ones presented by Waldron. Thus, I will propose a possible interpretation of what rationale might underlie indigenous land claims. I argue that by claiming land, what is actually aspired is self-determination in

the broadest sense. Self-determination itself can be understood in two different ways, it can either be conceived as a form of political autonomy or sovereignty, or it can be understood as having pre-political property rights. Self-determination in the first sense means amplified political influence, self-government and autonomy. Ownership over a certain piece of land does not convey any such political recognition. It just includes rights to use, management etc. Thus in its second sense, self-determination is reached by pre- or extra-political ownership rights in the land. In my definition, political rights can be granted independent of ownership rights, just as ownership rights can be granted independent of any political rights. We can, now, interpret some indigenous land

Land: A part of the earth's surface, considered as property. The theory that land is property subject to private ownership and control is the foundation of modern society, and is eminently worthy of the superstructure.

/ Ambrose Bierce /

claims as claims to the ownership of land. Ownership of the claimed land might confer self-determination independent of any political status.⁴ This interpretation, then, might also be important in more general discussions on reparative justice—not just regarding land claims. The account presented might help to understand what the (political and economic) injustice committed against indigenous peoples consisted in.

How to understand indigenous land claims?

One point of access to the understanding of

indigenous land claims is the notion of indigeneity. Thus, we might ask: what qualifies indigenous peoples to make such claims? Or, as Waldron puts it: “what is important about indigeneity?”⁵ In a recent article, Jeremy Waldron scrutinises this question “with regard to the issue of the remediation of injustice”.⁶

He proposes that there are basically two ideas or principles that underlie the notion of indigeneity. It is them that make indigenous land claims—or claims to reparations—morally appealing. Indigeneity, he holds, is “defined relative to a given territory and the special relationship to *the land* (...)”.⁷ Depending on how one conceives indigeneity more precisely, two fundamental ideas linked to the notion can be distinguished. The first idea refers to “preexisting entitlements”⁸ to land that have been disrupted. In this case, indigeneity is morally important regarding land claims because it invokes what Waldron calls the “Principle of First Occupancy”.⁹ This principle holds, in a nutshell, that the first individual or group that occupies a piece of land becomes its owner. In the light of this principle, indigenous peoples have a right to the claimed land because they were first—and, one might add, because it has been wrongfully taken from them by subsequent settlers.

Sometimes, speaking about indigeneity, the focus is not put on *first* occupancy but rather on *prior* occupancy. That brings us to the second possible principle that may underlie the notion of indigeneity in Waldron's analysis. This principle holds that indigeneity is morally important because it implies that “a prima facie right to be left undisturbed and allowed to develop according to its own dynamic”¹⁰ has been disrupted. This is what Waldron calls the “Principle of Established Order”.¹¹

As Waldron argues, neither of these principles makes the idea of indigeneity very appealing as both of them bear some grave theoretical problems.¹² Consider the Principle of Established Order. As an inherently conservative principle based on a human interest in security and sta-

The instinct of ownership is fundamental in man's nature.

/ William James /

bility, it may help to condemn injustices against an established order at one point in time. At the same time, however, the principle could also help to justify established orders that have been founded on exactly the same injustices. Following Waldron, all that matters regarding the Principle of Established Order is that there *is* such an order, not how it came into being. An obvious difficulty with this principle therefore is that the mentioned prima facie right to be left undisturbed counts for

every established order—also the one that is established now and has disrupted indigenous peoples' orders at some point in time. If indigeneity refers to the Principle of Established Order, it therefore does not add anything interesting to land claims by indigenous peoples.¹³

Even though Waldron does not state it more explicit, it seems to me that his analysis comes down to the upshot that indigeneity does not add anything interesting to the assessment of land claims. Put differently, for him, the fact that the claimant is an *indigenous* people is not morally interesting or significant, since he thinks the underlying principles are flawed.¹⁴ This proposition, though, is at least counterintuitive. Morally speaking, it seems to be quite a different matter if claims to a traditional Sioux reservation in the USA are put forward by the indigenous Sioux Nation or, let us say, a European company. It matters for the moral legitimacy of a land claim if the current occupier's ancestors were the very first settlers, or if they themselves occupied the place. Intuitively, at least, the land claims by the Sioux Nation in our example have a wholly different and more appealing moral character than hypothetical land claims by a European company. If indigeneity would not add anything morally interesting to land claims, however, why would intuitions differ so heavily regarding these two examples?

As the example just stated suggests, Waldron's account might be incomplete or miss an important point about the idea of indigeneity.¹⁵ I try to show that a rationale underlying indigenous land claims is the idea of self-determination – and not, as Waldron suggests, First Occupancy and Established Order.

Indigenous minorities' claims to land as claims to self-determination

Self-determination, political autonomy and ownership

Indigenous minorities' claims to land¹⁶ are reactions to historical or ethno-cultural injustices that have hindered (and continue to hinder) members of these groups “from fully realizing the values of being a member in the group”.¹⁷ Since these peoples once mainly lived self-determined and according to their own customs, with their own institutions and rules, these claims can be understood as claims to regain such self-determination. Thus, in a first step, I conceive self-determination as “the right of a group or people to be collectively self-governing”.¹⁸ Compared with Waldron's Principle of Established Order, self-determination seems to be more encompassing. Self-determination does not only invoke a temporal stability of an order; but it stresses the value of the societal culture¹⁹ for its members and the interest of the

members to be collectively self-governing regarding this order.

Indigenous land claims, though, do not have to be understood as reactionary claims to a state of affairs as it was before the indigenous people were incorporated into another political entity. Most of the time, anyway, this would not be a viable option. The influence of modernity has had an impact on traditional ways of life, changing indigenous cultures profoundly just as it has changed other societal cultures too. However, these land claims hint at the injustices suffered by indigenous peoples, and the self-determination lost over “economic, social and political development”.²⁰ Furthermore, it can be argued that nations have a right—at least a prima facie one—to self-determination as a condition for just international and ethno-cultural relations.²¹ Since indigenous peoples can—with reference to their societal cultures—be conceived as nations, this reasoning also holds with respect to indigenous minorities. On these grounds, it seems right that self-determination should be granted to indigenous minorities.²² In short, if peoples, nations and nation states do have the right to self-determination, so do indigenous minorities.

It is, however, far from clear what self-determination could mean exactly, and what would be the best way to achieve it.²³ In one way, these claims to land as claims to self-determination are most straightforwardly understood as claims to political autonomy, i.e. self-government. Political autonomy, as I conceive it here, can mean a wide range of things. Understood in a strong sense, it could mean political independence and secession from the actual state into which indigenous peoples have, often by force, been incorporated.²⁴ Or it could mean some form of increased regional influence. This could be achieved through the formation of something like a distinct sub-sovereign entity that could become a department of, or enter a federation with, the formerly encompassing state.²⁵

A weaker form of political autonomy could be reached by strengthening regional influence, for instance by enforced regional participation in decision making. There may, from case to case, be various options available, but it seems clear that different aspects would have to be considered in assessing which one may be just and viable; not only the interest of the indigenous people, for instance, but also of other groups, the concerned state(s) etc. In short, political autonomy can be reached in a number of ways. But all of them have to guarantee that the indigenous group gains a certain political status or influence, so that it would be represented more adequately in the national or international political sphere of nation states.

In another fashion, however, the claims to self-determination could be understood not so much in terms of political organisation or inter- and intra-national relations, but rather as claims to something like “prepolitical rights of property”²⁶. In this view, self-determination is not conceived in terms of a political status within a broader established political order. Rather it is seen as a, presumably, more fundamental or first-order right to the territory where the indigenous minority lived—as a group and community of memory²⁷—long before any (mainly) alien political system has been imposed from the outside. Nils Oskal makes a similar point when he states that “[indigenous peoples’ right to land and water use] (...) can be discussed in principle as a separate question from the issue of political participation rights for indigenous people in the general state governmental right”²⁸. From this point of view, claims to land are claims for the restoration of a people’s traditional homeland for their own use, management etc. This can be seen as a necessary condition to pursue many aspects of their distinct and unique lifestyle, features that may be reasons for the members to ascribe intrinsic value to their societal cultures.²⁹ The restoration of this property is, in other words, “understood as a precondition that enables the members of the group individually and collectively to fully realize the value of group membership”³⁰. In the context of the Saami in Northern Europe, for instance, we might think about traditional forms of nomadic reindeer herding and pastoralism.³¹ Indigenous minorities are conceived as societal cultures, just as other nations are; but they are furthermore societal cultures with a (traditionally) strong bond to the homeland that they occupied longer than the actual nation states have existed.³² Therefore, the control over this land in ownership terms might be a viable option to grant self-determination to indigenous minorities.

An objection: the inseparability of political and pre-political claims

After having drafted a possible view on indigenous minorities and self-determination, I would now like to bring up a problem of the dichotomic interpretation of self-determination as stated here: that the claims to a political status or to the ownership of land seems to be inherently intertwined. The problem is, concretely, that it is difficult to imagine political self-government that is not linked to some kind of ownership of land. In turn, a claim to property rights of land seems hollow when not linked to some stronger, political claim. How could we say, for instance, that a state is politically autonomous and sovereign when the territory of this state is owned by, let us say, the

neighbour state? There is a strange tension between the notions of self-government and ownership: ownership can, after all, also be understood as a kind of sovereignty, just as sovereignty of a state seems to imply ownership of the state territory.

This problem, however, is probably one of categorical confusion. Sovereignty, or political self-government, is—as I conceive it here—a term linked to a political status that may involve the power to decide, to rule etc. It is linked to a state or another political entity that manages this political power. Ownership, on the other hand, has nothing to do with a political status. It is in this sense “prepolitical”³³ that it does not necessarily have something to do with political organisation. It can thus be distinguished as something in its own right.³⁴ After all, the individual or collective ownership of a thing can meaningfully be distinguished from any kind of political power over the thing.

Note, however, that I conceive the distinction between political and pre-political not as a temporal one. Rather, it indicates that there are different domains or realms. The political domain is constituted through political entities such as nation states, the pre-political domain is constituted independent of the political do-

minories’ claims to land—at least if we understand them as claims to the ownership of land. It seems important to acknowledge, for the justifiability of these claims, that the property in the land existed before settlers, kingdoms and nation states created it; and that indigenous peoples also have natural, i.e. pre-political rights. This is a view that was not shared by Locke. It is a pejorative view on indigenous cultures that underlies his account of property. It is an account that can be understood as a method of dealing with the abundances of the ‘unowned’ land in America.³⁷

Nevertheless, the view that there are pre-political rights does not imply that the two aspects of self-determination proposed do not relate to each other at all. Levy, for instance, deduces a right to self-government from the pre-political right to ownership: “given a view that indigenous peoples had and have rights to their own land, and that they had and have rights of freedom to practice and maintain their own ways—[for] indigenous minorities self-government is justifiable (...)”³⁸

Therefore things might not be so clearly discernible as I have suggested earlier. However, the only point that I would like to make here is that it makes sense to consider political autonomy and ownership as two aspects of self-

You need to understand this. We did not think we owned the land. The land was part of us. We didn't even know about owning the land. It is like talking about owning your grandmother - you can't own your grandmother. She just is your grandmother. Why would you talk about owning her?

/ Kent Nerburn /

main and concerns moral rights. As Jacob T. Levy states: “If we think that Aborigines (and other indigenous peoples) had rights to their land before colonization, rights that the colonists and colonial states were wrong to violate, then we are committed to the idea that justice and injustice in property relations are in some sense pre- or extrapolitical.”³⁵

We can thus distinguish between political claims, i.e. claims to political autonomy in whatever form, and pre-political claims in the sense that they refer to a right that exists independently of any political order. As an illustration, consider John Locke’s well-known account of rights and property, where property can be acquired before any civil state is organised—even though this does, in his view, not count for indigenous peoples.³⁶ This view of property, as something pre-political and in this sense natural, is also stressed by many libertarians and other theorists of natural rights. Whether this is an adequate view on property, and a defensible one, is another question that I cannot treat here. However, it is important to note that this is in fact the view, as Levy states, that seems to underlie indigenous mi-

determination that are interesting on their own account. Even though they might be—even fundamentally—linked in one way or another. If seen as a theoretical abstraction and to gain a focus on the autonomy or property aspect of claims to self-determination, at least, the proposed dichotomy should be acceptable.

Outlook: Self-determination through ownership of land and a rationale for reparations

If one treats the whole problem of indigenous land claims in terms of self-determination, a richer account on why indigenous peoples are claiming land becomes available. By introducing the idea of self-determination, the two principles proposed by Waldron and presumably invoked by indigeneity—the Principle of Established Order and of First Occupancy—are conceivable in a new light. To narrow the issue of indigenous land claims on these two principles does no justice to such claims. To conceive the problem in more general terms of political autonomy and ownership seems to provide a more adequate understanding of indigenous land claims. Linked to the idea of self-determination, indigeneity thus remains

an interesting and important idea regarding land claims.

This understanding of indigenous land claims can, furthermore, also be important regarding the discussion of reparations for indigenous peoples. Investigating the rationale of indigenous land claims might help to formulate adequate reparative measures on a material level.

Notes:

* I would like to thank the Reviewers of this essay for the interesting and helpful commentaries and suggestions. Many thanks also to Hanna Lukkari for time and thought spent on these pages.

(1) Baer 2005: 248, and Fanon 2004.

(2) Kymlicka 2001c: 121 states: “there have been dramatic developments in international law regarding indigenous peoples in the last two decades (...)” See also Baer 2005: 248-251.

(3) United Nations 2007.

(4) Note that these interpretations are conceived of as mere theoretical possibilities. I do not say that indigenous peoples do in fact understand their claims in one way or the other. I would rather say that both interpretations of the claims are possible and plausible ones. How indigenous minorities do actually conceptualise or conceive land claims is another question that is not treated here.

(5) Waldron 2007: 24. In what follows, I will consider Waldron’s account of the notion of indigeneity in Waldron 2007. I limit my investigation to Waldron’s explicit conceptual analysis of indigeneity in Waldron 2007, despite the fact that Waldron’s extensive work on related topics would deserve more attention than I accord it here. Since this essay is not intended to be a commentary on all of Waldron’s theses, I think it is defensible to limit the scope of investigation in the way I do.

(6) Waldron 2007: 24.

(7) Waldron 2007: 28 (emphasis in the original).

(8) Waldron 2007: 29.

(9) Waldron 2007: 30.

(10) Waldron 2007: 31.

(11) Waldron 2007: 31-37. The crucial difference between these two principles thus is that “the Principle of First Occupancy looks to the dawn of time, to the moment at which the land in question was first taken peacefully into human use and possession” whereas the Principle of Established Order rather “looks to what was happening at a moment just before the present, just before the first European ships came over the horizon” (Waldron 2007: 31). The second principle does not, furthermore, “delve into tangled historical questions about any *status quo ante*”, but rather “recognizes the opacity of the past” and “prohibits overturning existing arrangements irrespective of how they were arrived at” (Waldron 2007: 31). However, it is questionable if this distinction is well-founded. When the first Indians arrived in North America, coming from Asia over the Bering Strait, they settled down and established an order. A settlement without some kind of order is unthinkable. It thus could be argued that Waldron’s distinction is an artificial one. I thank one reviewer for this point.

(12) Waldron 2007: 32-37.

(13) Waldron 2007: 32-33.

(14) This, at least, is what I assume Waldron says. I base this interpretation on the account in Waldron 2007: 32-37, especially the conclusions regarding the underlying principles of indigeneity on p. 33 and 37.

(15) Of course, it is also possible that the intuitions in favour of the Sioux have nothing to do with indigeneity but derive from some completely different sources. But the example nevertheless suggests that the idea of indigeneity might still be a pertinent idea to assess our intuitions regarding cases such as the one of the Sioux.

(16) Note that I am talking about self-determination of groups or collectivities, not of individuals. I am thus concerned with self-determination on an inter-group level, i.e. self-determination of societal cultures regarding other societal cultures. That is, between an indigenous minority and, let’s say, the group of new settlers.

(17) Meyer 2001: 286. Regarding the importance of this value, see Meyer 2001 in general.

(18) Moore 2003: 89: “self-determination is usually understood as the right of a group or people to be collectively self-governing.” Now we might want to discuss whether groups can be bearers of rights and what the consequences of such a conception of rights would be. This, however, is not at all the aim of this essay. It is true that I assume that groups can be bearers of rights and can be moral and legal agents. If one is not ready to accept this premise, a lot of what I put forward may seem very odd. For a discussion on groups as right bearers, see for instance Kymlicka 1995, p. 34-48, and Kymlicka 2001c.

(19) As Kymlicka 2001a: 53 states, to speak of societal cultures means that there is “a set of institutions, covering both public and private life, with a common language, which has historically developed over time on a given territory, which provides people with a wide range of choices about how to lead their lives”.

(20) Control over these aspects is, according to the United Nations, an international right of nations. See United Nations 1966b: part I, art. 1, sec. 1.

(21) Consider the Human Rights standards: “all peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.” See United Nations 1966b and United Nations 1966a: part I, art. 1, sec. 1.

(22) When we speak of self-determination and societal cultures, it also seems to make sense to introduce the notion of nation. First of all, nations are usually conceived in similar terms as Kymlicka’s societal cultures (see Kymlicka 2001c), therefore indigenous minorities can—in most cases—be referred to as societal cultures or nations. Consider also the fact that indigenous peoples are sometimes referred to as first nations. Secondly, the notion of self-determination is often used in the context of nations or international relations, speaking e.g. of national self-determination. Speaking of nations in this context therefore seems to be fruitful and justifiable.

(23) Note that in what follows, I do not propose any substantial analysis of the notion of self-determination, autonomy or ownership. Rather, I indicate possibilities of how to link indigenous land claims to the notion of self-determination, i.e. how to interpret indigenous land claims in terms of self-determination. In a further step, a more thorough in-

vestigation of these notions for the given context would be desirable.

(24) For a discussion of this option, see Meyer 2001: 286-290. For a critical position toward this option, see Horowitz 2003.

(25) For a favourable analysis of the latter option to gain political autonomy, see Kymlicka 2001b.

(26) Levy 2003: 133.

(27) For a discussion of the notion, see Meyer 2001: 263-269.

(28) Oskal 2001: 258.

(29) Meyer 2001: 270-271.

(30) Meyer 2001: 288.

(31) Beach 1994: 151-155.

(32) This may, however, no longer be the case with all indigenous minorities—due to forced population transfers or aggressive settlement policies, for instance. For considerations in this direction, see Levy 2003: 120.

(33) Levy 2003: 133.

(34) As Eide 2001: 138, states: “establishing sovereignty over a territory does not in itself mean that the state becomes the owner of land in the private law sense of property rights. Admittedly, sovereignty can give the state a right to establish for itself private property in land if there are not other prior rightful owners. This would imply that the territory is held to have been *terra nullius*, in the sense that it belonged to no one, when the state asserted its ownership.”

(35) Levy 2003: 133.

(36) Locke 2003: chapters II and V.

(37) Locke 2003: §49: “In the beginning, all the world was America (...)” According to Locke, therefore, when “a Swiss and an Indian” encounter each other “in the Woods of America” (Locke 2003: §14) they meet as if in the state of nature. For an overview on Lockean property theory and its links to colonialism, see Armitage 2004 and Tully 1993.

(38) Levy 2003: 133.

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Daniel Weyermann has graduated in philosophy and history at the University of Bern. He studied philosophy in Bern, Paris and Helsinki.

Contact details: E-Mail address: daniel.weyermann@students.unibe.ch



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Demographic Change and Intergenerational Justice

The Implementation of Long-Term Thinking in the Political Decision Making Process
J. C. Tremmel, Oberursel, Germany (Ed.)

Intergenerational justice has been achieved if the opportunities of the members of the next generation to fulfill their needs are better than those of the members of the preceding generation. For this, each generation ought to leave for the next generation an amount of resources is at least equal to its own amount.

The book deals with the complex relationship between intergenerational justice and demographic change and is characterized by its interdisciplinary approach. The authors come from a multitude of professional backgrounds and from several countries. This illustrates the implications of the demographic shift from many different perspectives. The book deals not only with the aspects of economic policy but also with environmental, societal and philosophical issues. The comprehensive volume is composed of five sections that pinpoint demographic trends, examine the impact of demographic changes on key indicators, investigate the relationship between key indicators and intergenerational justice, scrutinize population policies, and finally propose ways to implement long-term thinking on these issues.

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Jon Miller / Rahul Kumar (eds.): Reparations. Interdisciplinary Inquiries

Reviewed by Daniel Weyermann

Jon Miller and Rahul Kumar, both philosophers at Queen's University in Ontario, Canada, present a collection of highly interesting essays on reparative justice. As they indicate, reparation is an issue of some weight in today's political world. Be it civilian victims of war in Iraq, citizens of formerly colonized nations in Africa or South Asia, descendents of slaves in the United States or indigenous peoples around the world—most of them take reparations to be a crucial “tool for social justice” (p. 5).

Reparations as a means to redress historical injustices involve a wide range of problems and issues. Miller and Kumar hint at the importance of conceptual and normative clarifications (p. 5). On the other hand, they admit that the understanding of reparations claims and programs crucially requires the expertise of other disciplines—thus stressing the multi-faceted character of reparations issues. Bringing together contributions from different scientific fields such as history, law, political science, sociology or psychology, they take their volume to be an argument for the “understanding of reparations claims and programs as an inherently interdisciplinary inquiry” (p. 7). The fruitful discussions that emerge between the different contributors of the volume demonstrate the relevance of such interdisciplinary approaches to reparations issues.

To render the problem of reparations more accessible, the volume is structured around different “modules or types of reparations cases” (p. 7). Miller and Kumar put their focus on reparations involving indigenous minorities, slavery and Jim Crow in the United States, conflict, and colonialism. This division makes sense, since a lot of reparations-talk today is concerned with one of these types. Grouping the discussions around these cases also displays what is “unique about each type as well as what all the types share in common” (p. 7). Furthermore, the division facilitates the discussion among authors writing on one particular type. Reparations also raise some crucial conceptual and normative issues that affect all these cases of reparations claims. Miller and Kumar distinguish “four general clusters” (p. 5) of such issues that involve the following fundamental questions. Firstly, to whom are reparations owed, and who has the duty to make reparations? Secondly, what form should reparations



take? Thirdly, what is the relationship between reparations programs and other goals of social justice, such as distributive justice? And fourthly, what exactly is the aim of reparations? Such general concerns regarding reparations are examined in the particular context of the above mentioned reparations cases. This volume thus makes a significant contribution to the understanding of reparations in different contexts. Although introducing a wide range of particular problems and perspectives, it does not lose sight of fundamental and general problems.

Discussing reparations for indigenous peoples, Jeremy Waldron highlights some fundamental and highly interesting problems regarding the notion of indigeneity (see my article in this IGJR issue).

Janna Thompson, another leading scholar in the field of reparative justice, is concerned with reparations for Aborigines in Australia. Thompson states “a political backlash against Aborigines” (p. 71) regarding reparations, which is aggravated by some conceptual difficulties involved in reparations talk. For instance, for many it is not at all clear why present day Australians should be held accountable for past injustices to Aborigines. Furthermore, one may wonder what reparative justice can demand “in a situation where so many Australians depend on resources that

were unjustly taken from Aborigines” (p. 71). Regarding the first problem, Thompson hints at the “existence and moral desirability of intergenerational relationships” (p. 72) and the obligation “to keep the commitments of (...) predecessors” (p. 73). Therefore, reparations might also be owed by actual members of such intergenerational communities.

Concerning the second problem, even though interests of non-Aboriginal land users should also be taken into account, it is difficult to deny that Aborigines are owed something for past injustices. Thompson thus argues that “[r]eparative justice would be achieved when the harm done by injustice to relations of respect (...) is repaired or compensated for (...) in a way such that each party can, from its point of view, regard the settlement as a just basis for future coexistence and cooperation.” (p. 77). Thompson thus not only tackles some important theoretical problems regarding reparative justice, but her essay also gives a good overview on the reparations debate in Australia.

In the last contribution regarding reparations for indigenous peoples, Rebecca Tsosie—a professor of law at Arizona State University (USA)—stresses the importance of the concrete contexts of indigenous reparations claims. According to Tsosie, any discussion of reparations claims—and thus also of Native/non-Native relations—have to consider “Native normative frameworks” and “address Native epistemologies” (p. 43). Considering the Great Sioux Nation in the United States, Tsosie asks “what an intercultural framework for reparative justice might look like”, and suggests “that the starting and ending points might differ from group to group” (p. 44). An interesting enterprise that investigates the role of the damaged in discussions on reparative justice.

Investigating the second type of reparations claims, Glenn C. Loury—social scientist at Brown University (Rhode Island, USA)—argues for a certain kind of reparations (and against others) in the context of slavery and segregation (Jim Crow). Loury holds that “*racial stigma*, not *racial discrimination*, constitutes the deepest and most enduring historical harm done to blacks in the United States” (p. 89, emphasis in the original). The problem is not so much that blacks are discriminated—and thus deliberately deprived by society of moral

and political equality—, but that they were afflicted with a social stigma during the period of slavery and segregation.

To remedy this stigma, Loury proposes a “interpretative approach” (p. 104) to reparations rather than a “compensatory” one (p. 104). Reparations should not necessarily encompass financial compensations for the harm done—since this would not aim at the core of the problem—, but rather “public recognition” (p. 104) of historical wrongs. Through this recognition, “past injury and its continuing significance can enter into current policy discourse” (p. 104) and a “national narrative” (p. 105), thus countering the vicious circle of stigmatisation.

Andrew Valls and Carolyn Benson respectively from Oregon State University (USA) and Oxford University (UK) introduce further concerns regarding the issue of reparations to blacks in the US. Valls, from a point of view of political science, argues that the issue of reparations to blacks involves some severe misunderstandings. In his view, for instance, the history of slavery and Jim Crow are different issues that deserve separate considerations. Furthermore, he argues that reparations—against widely held views—do not necessarily involve monetary compensation. In fact, it might even be that such payments undermine certain aims of reparations policies, such as atonement and racial reconciliation. He also addresses the concern that the focus of the reparations movement on historical justice might be a strategic or political mistake. This is not the case, he holds, because to draw attention to the past injustices is substantial to address racial inequalities (p. 115). He also argues that “race-blind egalitarian theories of justice fail to address (...) the distinctive racial dimension of inequality in American society” (p. 115) and thus have to be complemented by reparative approaches to justice.

Carolyn Benson, a philosopher, introduces some “further trouble for unsettled waters” (p. 131). She argues that the attention to gender in the debate on black reparations has been neglected even though the “attention to the relationship between race and gender (...) will be an important factor in assuring that certain harms are not excluded from our list of reckonings” (p. 139).

All the essays in this section deliver important insight into the problems of reparations to blacks in the USA and are interesting contributions to the debate.

In the section on reparations for conflict, the main focus of the contributions is on situations where countries undergo transitions to democracy. Pablo de Greiff, director of research at the International Center for Transitional Justice, considers “reparations as a political and

not a juridical project” (p. 156). This means, amongst others, that reparations should in front of all “contribute to the reconstitution or the constitution of a new political order” (p. 156). To do so in the context of transitions to democracy, reparations should help to establish “recognition of individuals as citizens with equal rights” (p. 161), “civic trust” (p. 163) among citizens and “the attitude of social solidarity” (p. 165). Thus, de Greiff, similar to Loury and Valls, argues that reparations should be seen “in these explicitly political terms rather than in the more judicial terms of compensation (...)” (p. 165).

Debra Satz, a philosopher at Stanford University, investigates further the role of compensation to counter wrongs of the past. She argues that compensation is a plausible form of reparation and that “economic compensation remains a form of redress that belongs in the toolbox of those seeking to counter the crimes of the past” (p. 190). However, Satz admits that its applicability is limited. For instance, it is not appropriate in cases where restitution (and not merely compensation) is possible; or where the re-establishment of “relations of respect among groups and individuals” (p. 190) is at stake. In such cases, compensation might merely be a means to express “sincerity and regret” (p. 190); and can thus help to re-establish mutual respect.

Catherine Lu, a political scientist at McGill University in Montreal, gives an historical and systematic overview on several concrete cases of reparations—such as the German reparations after World War I and the Treaty of Versailles—to investigate their role in world politics. Focusing on the tension between reparative justice and reconciliation, Lu holds that “reparations may be important for achieving justice as accountability and as victim restoration, but it is also important for fostering social reconciliation between victims and perpetrators (...)” (p. 209). In the case of Germany after World War I, however, the reluctant payment of reparations did little to promote social reconciliation. The reason is that reconciliation also depends on the voluntary acceptance of perpetrators to meet their reparative obligations (p. 210). Reconciliation as a potentially pertinent aspect of reparations is also considered in many other contributions to the volume.

Regarding reparations for colonialism, attention is drawn to the wide range of injustices that have been committed during the colonial era. Rajeev Bhargava, from the Center for the Study of Developing Societies in Delhi, focuses on cultural injustices. He gives an enlightening account on how cultural injustices of colonialism could be addressed. He refers to apologies that depend on the experience of

shame (p. 242), to truth telling and the engagement in building “common space where different cultures can enter into dialog with one another” (p. 243). Former colonies like India, he suggests, could respond to the past wrongs in retrieving its “own forgotten and neglected traditions” (p. 246) and to “make sense of the West in Indian terms” (p. 247); thus contributing to a “richer, greater commonness” (p. 248) and reconciliation.

In his essay on reparations claims in South Africa, Brandon Hamber, former Programme Manager at the Centre for the Study of Violence & Reconciliation in Johannesburg, investigates the symbolic value of reparations. He gives a valuable overview on the history of the reparations debates, some relevant institutions and state actions. By asking what reparations mean in South Africa, he stresses the “deeper psychological and symbolic needs” that should be addressed by reparative measures. Furthermore, he insists on the separation of debates on economic development and reparations (p. 271).

The essay of Kok-Chor Tan, philosopher at the University of Pennsylvania, is a highly interesting investigation into some of the basic problems of reparations in the context of colonialism. He tackles some of the basic questions (why, to whom, from who, and what exactly?), focusing mainly on the question of responsibility. In some length, he argues that “corporate entities are capable of being responsible and of being wronged” (p. 302), thus establishing a view on reparations that affects not only individuals, but also companies, states etc. As the other sections too, the ones on conflict and colonialism deliver a highly interesting insight into problems and perspectives in the debate on reparations.

In general, the essays of this volume give an excellent overview on the crucial questions regarding reparations and the actual state of the debate. A fundamental concern are the aims of reparations. Many stressed that reparations should be understood as a project of reconciliation with some symbolic weight, thus favouring strategies of reparation that comprise acknowledgement, apology or truth telling. Nevertheless, monetary compensation might still be important to underline the sincerity of such reparations programs.

After all, the volume is mostly interesting for people interested in theoretical problems regarding reparations, since all contributions—although brought together in an interdisciplinary spirit—are to a great extent “philosophically minded” (p. 7).

Jon Miller / Rahul Kumar (eds.) (2007): Reparations. Interdisciplinary Inquiries, Oxford: Oxford University Press. 368 pages. ISBN 978-0-19-929991-1. Price: £58.00.

Rhoda E. Howard-Hassmann / Anthony P. Lombardo: Reparations to Africa

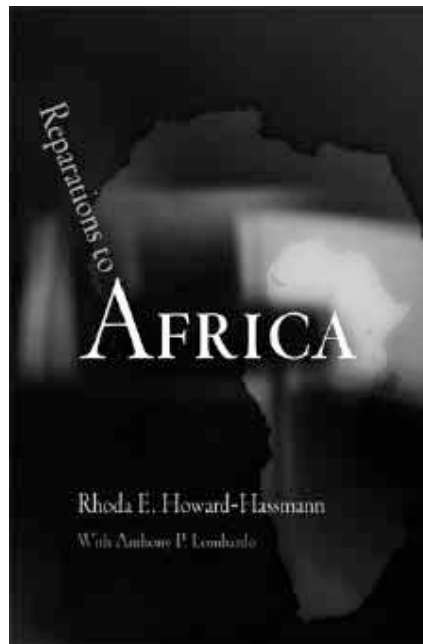
Reviewed by Daniel Weyermann

In terms of economic development, the rule of law or political stability, Africa is one of the weakest continents on the globe. Many African countries have experienced severe humanitarian crises, a considerable part of the continent's population is struggling with poverty and insecure political conditions. Considering the history of slavery and slave trade, colonial rule and postcolonial influence, many are tempted to blame the West for the evils that haunt the African continent—and demand reparations for the time of exploitation and submission.

Howard-Hassmann's comprehensive investigation of this issue considers African opinions, institutional backgrounds and argumentative strategies regarding Western reparations to Africa. In doing so, she delivers a splendid introduction to the debate on African reparations that is relevant in philosophical, sociological, historical and political respect as well as in terms of international relations and law. The more abstract considerations from these fields of investigation are balanced with a wide range of concrete case studies and examples.

In chapter I, the book gives a brief but valuable overview on “reparations in international law” (p. 4), on philosophical arguments regarding “transgenerational justice” (p. 9) and the range of reparative measures. Howard-Hassmann, holding the Canada Research Chair in International Human Rights at Wilfrid Laurier University, engages in a human rights approach to reparations that is based on the principle of human dignity—thus favouring reparative measures like acknowledgement, apology and truth telling. The calls for financial reparations, so she argues, are often “actually calls for the West to remedy the unequal distribution of world's wealth” (p. 12). Thus, they might better be considered in another framework of social justice, namely the one of distributive justice.

Conceived mainly as a work in political sociology (p. 1), another important aim of the book is to have a closer look at the social movement for reparations to Africa. In chapter II, Howard-Hassmann thus introduces “African voices” (p. 19), i.e. 74 interviews conducted with members of the intellectual and political elite of several sub-Saharan African countries (academics, diplomats, activists). Even though the



opinions gathered are not representative at all, they give an interesting qualitative account of widespread views that many Africans might hold on questions regarding reparations.

Still concerned with the social movement for reparations in Africa, chapter III delivers an overview on relevant institutions and recent conferences where the issue of reparations to Africa has been addressed. One of the most eminent events in this context was the UN World Conference Against Racism, Racial Discrimination, Xenophobia, and Related Intolerance in Durban (“Durban conference”). Scrutinising the reparatationist positions, Hassmann frequently draws on statements uttered at the Durban conference.

Chapter IV compares African reparations claims with precedent cases, such as the reparations to survivors of the Holocaust. In doing so, Howard-Hassmann puts the African claims in context and investigates more generally the “possibility of reparations from the point of view of social movements theory” (p. 52). Through this comparative approach, she identifies several “criteria of success” (p. 47) that reparations movements should fulfil in order to have some prospect of success in the political debate. The most important criteria to succeed in the “symbolic politics” (p. 48) of reparations is probably to persuasively frame demands, claimants and respondents. This seems to be the only way to mobilise the “rather large sen-

timent pool of supporters of reparations” (p. 50) and to acquire enough “symbolic capital” (p. 50) to get heard in the international political sphere. Until now, though, the social movement for African reparations is a fairly small community that “consists of disparate groups that promote incongruent ideas” (p. 50).

Claims for reparations to Africa usually refer to three striking topics of African history that strongly concern the relation of the African continent with the West. The first one is slavery and slave trade, in front of all the transatlantic slave trade, the second one is colonialism and the third one is postcolonial relations or what some might call “neocolonialism” (p. 106). Chapters 5 through 9—undoubtedly the core of this book—consider the arguments for reparations to Africa based on these appalling events of African history. Though sympathetic to certain claims for reparations, Howard-Hassmann basically stresses “the difficulty of attributing responsibility for and calculating the costs of the historical and contemporary events that have harmed Africa” (p. 167)—in front of all regarding postcolonial relations, but not only.

As a first concern regarding reparations for slave trade, colonialism or neocolonialism in Africa, the situation in international law is investigated. Furthermore, the rhetoric regarding these injustices is scrutinised, mainly drawing on statements at the Durban conference uttered by various participants or commentators. In the case of slavery, a brief overview on the historical debate—as a necessary balance to rhetoric inadequacies—is given to get a clearer picture of its dimension, participants and consequences.

An interesting feature in Howard-Hassmann's discussion of slavery, colonialism and neocolonialism are the opinions of the interviewed, i.e. the African voices. They get space to express their opinions and mirror presumably wide held opinions on the African continent. Thus, the African voices give a lively image of the reparations debate and illustrate widely shared concerns, narratives and argumentative strategies. They render the discussion on reparations more vivid and down-to-earth, since they represent the people in the name of which, after all, reparations are claimed. Therefore, the African voices are the most precious part of this book and an interesting contribution to the

academic and political debate on reparations to Africa.

Howard-Hassmann thus drafts arguments and counter-arguments for reparations to Africa regarding its history of slavery, colonialism and neocolonialism. She introduces legal and moral perspectives, considers international relations and the opinions of African citizens—an interesting and cogent, if not encompassing approach to the problem of African reparations. This general quality has the downside that some parts might seem overly cursory—at least for informed readers or specialists of the several fields of investigation involved. Acknowledging that the book intends to be “an introduction to the debate about reparations to Africa” (p. 2), though, this fact can scarcely be held against it.

In the last part of the book, Howard-Hassmann introduces possible remedies for ills in the African past. She builds on the findings of the previous chapters and investigates “symbolic reparations to Africa” (p. 167) in the form of acknowledgement, apologies (chapter 10) and a truth commission (chapter 11). Howard-Hassmann investigates these forms of remedy in some depth—be it philosophically, historically or in terms of political viability. One of the basic problems with symbolic reparations seems to be that these “measures might seem insincere (...) without subsequent material compensation” (p. 139).

Regarding the reparative tools of acknowledgement and apologies, she and many African voices thus conclude that, in any case, “it is not enough to issue apologies, however sincere, as long as [the conditions causing Africans’ offence and violating their dignity] continue and the West does not try to ameliorate them.” (p. 153). As to the truth commissions, “to be treated with dignity requires acknowledgement of one’s suffering and access to the truth about why that suffering occurs” (p. 166). But truth commissions should be handled with care, since “too much memory can be a disease” and “foster bitterness, fear and resentment” (p. 166). Nevertheless, “[s]ymbolic reparative justice can have positive effects” (p. 181). Basically, “African’s sense of human dignity might improve if the West acknowledges and apologises for the harm it caused” (p. 181) and if the truth about historical wrongs is honestly sought for in truth commissions.

As one can see—focusing on a human rights approach to the issue of reparations—Howard-Hassmann takes the principle of human dignity as a crucial standard for the evaluation of reparative measures and arguments. The same applies for financial measures of reparation such as compensatory payments or debt relief. They often are at the core of African reparative claims and thus are, of course, also discussed

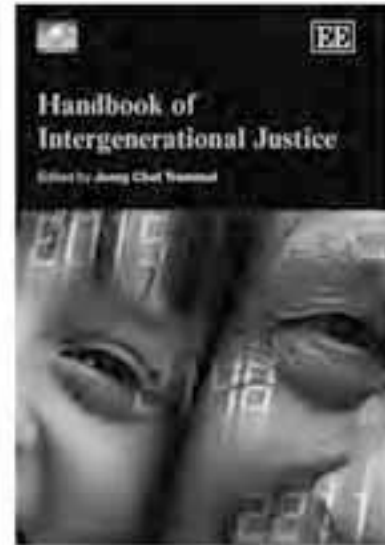
in the book. Regarding these measures, she concludes that there clearly are cases of historical injustice (in the recent past) that demand financial compensation. Death or physical injury, discriminatory policies or violations of the law of the day are strong reasons to financially compensate the victims or their children (p. 182).

Nevertheless, Howard-Hassmann basically takes a critical stance towards financial reparative measures for Africa. This is so, amongst others, because sometimes “Africans, desperate for any ideological tool they might find to assist their cause [financial aid, economic development etc, D. W.], frame their claims for justice as reparative” (p. 179). Howard-Hassmann thus indicates that what is often at stake in reparative debates in Africa are immediate problems and needs—such as poverty, hunger and underdevelopment etc—and not so much the actual injustice of historical events. Therefore, often a “focus on distributive rather than reparative justice” (p. 176) and on basic economic rights might be more adequate. Economic rights can be invoked independently of the past. “Human dignity demands respect for everyone’s basic economic rights” (p. 176), here and now. Making this point, Howard-Hassmann also gives an account on how these economic rights might be promoted, considering political and other contextual constraints (p. 176-178).

Howard-Hassmann concludes that there is “a strong case for Westerners to ensure distributive justice for Africa” (p. 181). Regarding reparative justice the “case (...) is weaker, although not entirely unpersuasive” (p. 181). She also adds that “[p]olitical action that calls for reparations for acts that occurred in the distant past while ignoring the causes or current African suffering is irresponsible” (p. 184). Furthermore, “reparative economic justice to Africa (...) should not take precedence over other policies or activities that might ameliorate the violation of the human rights that so many Africans now endure” (p. 184). Howard-Hassmann thus concludes that, regarding basic human rights, we ought to approach social justice in Africa in terms of distributive rather than reparative justice.

Howard-Hassmann draws a differentiated and rich picture of the reparations debate in Africa—regarding arguments and institutions as well as in terms of international law, history or sociology. Her book is a splendid introduction to and a great overview of the debate on reparations to the African continent. No proper theory of reparations concerning such reparations is delivered, but since the book is conceived as an introduction to the reparations debate, this is no flaw. A concern that has not thoroughly been addressed, though, is the problem that it seems strange to consider re-

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parations for a whole continent (even restricted to Sub-Saharan Africa, as it is the case). Regarding its vastness and all the cultural, political and historical differences, it seems to be almost impossible to achieve a reasonable discussion on reparations that allows for all these differences and particular contexts. The same may be true regarding the grossly generalising term "the West" that homogenises vast differences in history, culture, experience, and thought (see p. 2 for a comment on this).

Nevertheless, this book is highly recommendable to everyone interested in problems regarding reparations to Africa.

Rhoda E. Howard-Hassmann / Anthony P. Lombardo (2008): Reparations to Africa, Philadelphia: University of Pennsylvania Press. 264 pages. ISBN: 978-0-8122-4101-3. Price: \$49.95 / £32.50.

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Lukas H. Meyer: Historische Gerechtigkeit

Lukas H. Meyer (ed.): Justice in Time

Reviewed by Wolfgang Gründinger

In his book *Historische Gerechtigkeit* Lukas H. Meyer, professor of practical philosophy at the Karl-Franzens University of Graz, deals with the normative meaning of historical injustice and discusses its implications for generations. The author develops a general theory of intergenerational justice (see also his article “Intergenerational Justice” in the *Stanford Encyclopedia of Philosophy*). Historical justice “examines the moral claims, rights and duties of people owing to historical wrongs” (*Historische Gerechtigkeit*, p. 1). In this book, his investigations concentrate on historical injustices which were committed against trans-generational groups in the past, and in particular on such crimes that were committed in the name of a state when it was ruled by a regime not committed to upholding the rule of law. Despite the complexity of the subject the book reads pleasantly and fluently, even for a novice to the topic, without losing depth and precision, and takes a stand without losing the sobriety and distance necessary for a scientific work.

Meyer distinguishes three main types of duties of intergenerational justice: vis-à-vis future human beings, namely not to injure their claims to sufficient well-being; vis-à-vis presently living people, namely to provide them with measures of compensation for damages they have suffered due to the lasting effects of injustices committed against their ancestors; and thirdly regarding victims of historical injustice that are dead, but ought to be remembered adequately.

Many people deny that we bear moral responsibility today for the consequences of the (in-) actions and misdeeds which were committed by other people long before our birth. No young person living today is - as Meyer also underlines - responsible for past historical injustices like slavery in America or the Genocide committed by the Nazis on the Jews and also on the Roma and Sinti. Those slain are dead; past injustices were committed in the past and are therefore concluded. It remains true, however, that the harmful effects of earlier wrongs are still affecting people. For example the black population in the USA is still affected by structural disadvantages. Also the cultural heritage and the intrinsic value of the group affiliation of the Jews as well as the Roma and Sinti are still damaged.



A theory of historical justice systematically examines these and similar questions by taking into account philosophical-normative problems. One of these problems, the so-called non-identity or contingency problem, is equally important for the first two main types of duties of intergenerational justice: The actions of today's people have a high probability of effecting the personal identity, the number and possibly even on the existence of future people. Undoubtedly, shocking injustice was done to Africans who were kidnapped in Africa and enslaved in America. But if this injustice had not occurred, most of today's descendants of the victims of slavery would not exist at all. For their existence as persons with their respective identities depends, inter alia, on their genetic identity, and this depends on who their parents are and when their parents brought them into existence. Can persons living today make claims for compensation because of the historical injustices committed against their ancestors if it is true that the assumed bearers of the claim are not worse off than they would be if the injustice had not been committed? For in this case they would have never come into existence.

Even if we had an answer to the non-identity problem, how could the consequences for the people living today be determined reliably if the wrong would have remained undone? In the conference volume Meyer edited (see below for more on this) the legal philosopher Jeremy Waldron states that this hypothetical question is not answerable if we take seriously the freedom of choice of those indirectly affected by the historical injustice. For taking their freedom seriously does not allow one to attribute normative significance to their predictable decisions, argues Waldron. In the same volume the philosopher George Sher discusses how the decisions of the indirectly affected persons diminish the normative relevance of the impact of the historical injustice over the generations.

Meyer's theory offers a convincing solution for these two problems: the non-identity problem and the problem of how to measure the harm done to indirect victims (ch. 2). Responding to both problems he suggests a second conception of harm, namely to consider, additionally to the historical-hypothetical conception, a conception that is identity-independent. While according to the historical-hypothetical conception a person is harmed by an action if the person is worse off than had the action not been carried out, the identity-independent conception understands harm as based on a threshold level, forbidding actions which result in the descendants having a quality of life lower than this threshold level. So, and according to this conception, currently living people harm future people if as a result of their actions future people are worse off than they should be. Since generations living today are a future generation from the point of view of our ancestors, the conception of harm defined by Meyer can be used independently of time frames. In order to determine historical injustice a hypothetical comparison is no longer necessary. The conclusion that these persons are worse off than they should be according to a sufficientarian standard of well-being is enough. Descendants of victims of unjust actions can count as harmed (or injured) even if they would not exist without this wrong. However, the threshold conception of harm is meant to complement rather than substitute the hypothetical-historical conception. This is Meyer's "combined view". Therefore, persons can be harmed according to both conceptions (or according to one only). Meyer discusses the difficulty of whether harm that can be understood in accordance to both conceptions weighs heavier than harm that can only be understood in accordance to one conception, and in particular only the threshold conception. However, the threshold conception, while interesting, does not seem to be easily applicable. It is contested, for instance, whether historical injustice of slavery as practiced some centuries ago is causally significant for explaining the less than average welfare of the slaves' descendants, while the causal significance of the historical fact of colonisation, to which previously colonised states regularly refer to in order to justify their claims to compensation today, is similarly contested. Those rich colonial powers that are

unwilling to pay measures of compensation respond that these states' underdevelopment is caused by self-inflicted internal factors. To be fair, this is a problem for any conception of compensation that aims at justifying indirect victims' claims to compensation owing to the harmful consequences of historical injustice. At any rate, the threshold conception does not have to determine what the current state of affairs would be like had the historical injustice not been committed.

Meyer bases his reflections on justice as equality and on the homogeneity of generations without, however, discussing the basic concepts of 'justice' and 'generation'. Although for the 'Generation' concept numerous different definitions are conceivable (Old and young, present and future, the 68s generation / Boomerang generation / generation internship etc.), he renounces a sharp contouring. Although one may find this a pity it does not diminish the value of his work since the definition of a generation as a chronologic concept (past – present – future) is implicit in his work and the question of evaluating and handling historical injustice can still be discussed.

According to Meyer, even if no harm to the descendants of victims of historical injustice is noticeable we can still have reasons to relate to the victims that are dead today (chap. 3). There are at least two attempts to show that presently living people can have duties towards the dead even if we suppose that dead people bear no rights today. According to Joel Feinberg's position on posthumous harm, interests of people while they are alive can be injured through posthumous conditions. However, according to this position the harm must have occurred before the death of the person. This argument presupposes a deterministic view of when harmful action occurs, for example, the posthumous defamation. Meyer however explicates the view that presently living people can have duties towards dead people which today do not correspond with the rights of the now deceased persons. Considering historical injustices and given the frequently observable denial of such injustices it is a general duty for those who can be identified as the bearers of the duty to remember the victims of historical injustices properly. This right to be remembered even survives the death of the bearer of rights. The idea of the 'surviving duties' is interesting since it justifies duties of present generations to which no corresponding rights of the past generations exist. While deceased people can have no rights any more, living people today stand under the duty to keep alive the memory of the historical injustices suffered by them.

Based on these main elements of his theory of historical justice Meyer discusses the intrinsic

value of the affiliation to ethnic groups and develops political recommendations for Roma and Sinti which had to suffer from injustices under National Socialism, and the Saami, the only indigenous ethnic group in Europe, whose larger cultural and political autonomy should be supported (chap. 4-5). In other chapters he investigates the legality of prosecuting legal injustices committed under a previous regime that did not adhere to the principles of the rule of law (chap. 6), and subsequently deals with the question to what extent truth committees in connection with conditional amnesties can deal better with historical injustice than penal prosecutions by national or international courts of law (chap. 7).

Meyer's considerations of historical justice are richly supplemented by the contributions of the primarily English omnibus volume *Justice in Time – Responding to Historical Injustice*. The omnibus volume includes the contributions of renowned experts to an international conference held in Potsdam in 2001, chaired by Meyer and the Israeli legal philosopher Chaim Gans.

The conference volume publishes a total of 21 contributions from which the first half is devoted to the analysis and development of philosophical perspectives on historical wrongs, and the second half to institutional responses to historical injustice. The philosopher Paul Patton of the University of New South Wales, Sydney, for example uses a different approach to Meyer to solve the non-identity problem: If we suppose that the relevant identity of transgenerational groups remains steady over time and that these groups were harmed as such, then the non-identity problem does not arise and these groups can be bearers of claims to compensation and restitution today. Possibly the corresponding duties can also be ascribed to a group of culprits as such if we suppose that it does not change its identity in a relevant way over the course of time. Meyer discusses this view of the historical responsibility of groups in chapter 5 of *Historical Justice*. He argues convincingly that not only individuals as such, but also individuals as a part of a group, and a group as a collective, can have differing 'historical responsibilities'.

Contributors to the volume also ask under which conditions generations living today may, by their decisions, bind their successors, who are members of their group, who will exist in the future. A demand for consistency in this context, which Australian philosopher Janna Thompson states, is that present generations may only do so if they also accept themselves to be bound to the fulfilment of the obligations passed on to them by their predecessors. A further question concerns the normative signi-

ficance of identity-creating historical relations of a group to a territory, and in particular whether such relations can help to justify a claim for this land as the group's homeland, for example in the case of the Jews and Palestinians with respect to Palestine or in the case of indigenous peoples with respect to the land from which they were expelled (Chaim Gans, Paul Patton and Janna Thompson). Both are questions which Meyer tries to deal with in chapter 4 of his book.

A couple of other articles deal with aspects of the 'Transition to Democracy'. They focus on how presently living people may and ought to respond to the actions and sufferings of previously living people who lived under a regime with no established rule of law. Meyer dedicates chapters 6 and 7 of his book to socio- and legal-philosophical research on this topic and submits concrete legal and political reform suggestions. In the omnibus volume the sociologist Claus Offe examines the penal efforts of coping with the unlawful GDR regime, the legal philosopher David Lyons examines the racist history of the US and Jaime Malamud-Goti, one of the architects of the human rights trials in Argentina, examines how Chile came to terms with Pinochet's unlawful regime.

Also especially interesting is the contribution by Belgian philosopher Axel Gosseries who investigates the justice assessment of climate change. He analyses the case of two states: the first emitted massive amounts of carbon dioxide in the past and suffered no harms owing to this, while the second, without being responsible for such emissions, suffered harms owing to the emissions produced by the first. This contrived case can be considered an ideal type of scenario applicable in the real world, for instance, to the USA and Bangladesh. The earlier generations cannot be blamed because they could not know about the harmfulness of their actions. However, due to the ban on free riding (which can also be understood transgenerationally), a compensation by the descendants of the emitters is to be demanded for the injured people on moral grounds. Unlike the equality principle often proposed in the climate debate, the ban on free riders postulated by Gosseries would only balance out the value of the advantage originating from the wrong without having to necessarily completely compensate for the original damage. However, this view does not take into consideration the non-identity problem that is applicable to advantages also gained from the effects of historical wrong. Gosseries' involuntary free riders would probably not have come into existence with the personal identities they have had there been no industrialisation. One would argue, with Meyer, that it is only relevant whether certain actions press the prosperity of the descendants

of a group under a (sufficiency-) threshold value. The distribution of advantages from emitting carbon dioxide (by distribution of emission rights), exceeding such a threshold value of well-being, is not a question concerning the fair compensation for damages, but a question concerning the fair (global) distribution of these rights among presently living persons (see in particular Meyer (2004): "Compensating Wrongless Historical Emissions of Greenhouse Gases" as well as Meyer and Dominic Roser (2009): "Climate Justice and Historical Emissions").

Meyer's work offers a comprehensive answer to the most important philosophical questions on the relationship between the generations. In his book *Historical Justice* he focuses on the normative (moral as well as juridical) relationship between early and present generations. However, with respect to future generations Meyer's non-relational understanding of intergenerational justice is not the dominant view in the literature (which does not mean, of course, that it is mistaken): While most philosophers believe that we stand under the duty vis-à-vis future people to make them at least equally well off, Meyer allows for future people to be worse off as long as they reach the sufficientarian threshold of well-being. However, Meyer argues that currently living people do stand under duties, other than duties of justice, that speak in favour of making future people as well or better off than themselves. (Chap. 4 and 5)

Without getting involved in the contradictions of the complicated material, Meyer delivers a fully developed theory on the meaning of historical injustice and the moral and political consequences that follow. He does not only reason abstractly, but commits himself to practical action and recommendations for concrete cases.

Apart from Meyer's legal-political suggestions considering the statute of the international penal court of law in chap. 7, the discussion of how institutional measures can prevent possible historical injustice for future generations from the start is absent in *Historical Justice*: Meyer discusses the different possibilities for the material compensation and symbolic restitution for historical injustice, but disregards how a social order could be formed in order to ensure that historical wrong could be avoided from the start.

In other publications Meyer examined questions of environmental justice and in particular climate change under the aspect of historical justice. The historical injustice of excessive historical emissions is not committed against single (possibly ethnic) groups, but against today's and future generations as a whole (on the national level or worldwide). How do we proceed with the dilemma that the raw materials that past generations used irreparably have produced nuclear waste, manipulated the ozone layer and atmosphere, but at the same time have created prosperity through materials and in-

dustry which we profit from today at the expense of future generations? How could an adequate reaction to such an injustice be formed?

Surely not by continuing with the wrong. Nevertheless this is sadly the case today. The unpleasant outlook is that future generations could bring us to justice in tribunals.

Lukas H. Meyer (2005): Historische Gerechtigkeit. Berlin/New York: Walter de Gruyter. 458 pages. ISBN: 978-3-11-018330-6. Price: 49,95 €

Lukas H. Meyer (ed.) (2004): Justice in Time. Responding to Historical Injustice. Baden-Baden: Nomos. 544 pages. ISBN: 978-3-83-290503-3. Price: 66,90 €

Also cited in this review:

Meyer, Lukas H.: Intergenerational Justice, Stanford Encyclopedia of Philosophy (2008) (<http://www.plato.stanford.edu>). (approx. 50 pages.)

Meyer, Lukas H. (2004): Compensating Wrongless Historical Emissions of Greenhouse Gases. In: Ethical Perspectives. Vol. 11, 22-37.

Meyer, Lukas H. and Roser, Dominic (2009): Climate Justice and Historical Emissions. In: Meyer, Lukas H. and Matravers, Matthew (eds.): Justice, Equality, and Democracy (From a special edition of CRISPP).

Call for Papers for the next issues of *Intergenerational Justice Review*

The peer-reviewed journal *Intergenerational Justice Review (IGJR)* aims to improve our understanding of intergenerational justice and sustainable development through pure and applied ethical research. Regularly published in English and German, the *IGJR* (ISSN 1617-1799) seeks articles representing the state-of-the-art in the politics, law, and philosophy of intergenerational relations. It is published on a professional level with an extensive international readership. The editorial board comprises over 50 international experts from ten countries, and representing eight disciplines. The *IGJR* is not only read by the scientific community but also by members of parliaments, decision makers from the economy and persons with a general interest in intergenerational justice.

Proposal for articles:

If you are interested in submitting an article please send us a short proposal (up to 500 characters). Subsequently, the editors will contact you and discuss the details of your possible article.

Size limit of final article:

Up to 30,000 characters (including spaces, annotation etc.). These are between 4,500 and 5,000 words.

The editors are seeking articles in English for the upcoming issue 2/2008 of the *IGJR*:

A Young Generation Under Pressure? The Financial Situation and the "Rush Hour" of the Cohorts 1970-1985 in a Generational Comparison

The topic:

This issue is divided into two parts, the first one dealing with the time restrictions of the young generation, the second part with their financial situation – both from a life course perspective. The first part: even though life expectancy continues to rise, many people feel that they do not have the time to combine work, children and leisure. This focuses on the easing of the so-called "rush hour" of life between 28 and 38 years of age. In this period, people finish their studies; they take decisive career steps and have to decide whether or not to start a family. It is this crucial period of time we have to examine to detect the underlying causes for the difference between the desired and the (lower) actual number of children in various industrialized countries. Key questions are:

- To what extent should individuals change their life planning right from the start, knowing that their life expectancy is higher than the one of previous generations?
- How can the welfare state and/or the company sector support the 'life-domains balance' (formerly called work-life balance) and a rational life-course management that leaves enough time for every domain of life?
- How can motherhood at higher reproductive ages support easing the rush-hour of life?
- How can life-long learning support a life without rush-hours?

Regarding the second part: as shown by life course profiles of benefits and contributions, the elderly have become the main clients of welfare state redistribution, mostly through pensions and health care. In terms of legitimacy and distributional justice redistribution among age groups is unproblematic as long as we can expect everyone to live through the different stages of life. But recent research shows that today's young generation is relatively worse off in an indirect comparison with other generations. French sociologist Louis Chauvel has calculated that the difference in salary between generations has significantly risen during the last thirty years. In 1975, people in their thirties earned about 15 percent less than people in their fifties; today, they earn about 40 percent less. Also in Germany the relative level of income of young adults has diminished constantly in the last decades compared to other cohorts.

For continental Europe, several studies show an increasing percentage of graduates absolving at least one internship after their academic degree; half of them are uncompensated. Because of the difficult situation on the labour market the young cohorts are forced to enter precarious, temporary jobs or internships to avoid unemployment. These jobs are characterized by working overtime and on weekends, minor holiday entitlement, low or no wages nor social security. Key questions for the second part of the issue are:

- What empirical evidence is there for precarious employment for the young generation? In an historical comparison with cohorts that were young 30 years ago, is the situation of today's youth worse? Are young cohorts with a delayed entry in the labour market supposed to make up for this in later stages of life, or can we assume 'scarring effects' in their life courses?
- How can the problem of precarious jobs be faced since it is already affecting high qualified graduates, too? Which policies should be implemented to improve this situation? On which level should they be implemented?
- How do legal regulations like the seniority

principle respect generational justice in the labour market?

- How can the dismissal protection be changed, offering for both the young and the old the same level of security and stability?
- Using common typologies of welfare states, which political system is best in coping with the challenge of inter- or intracohort inequalities?
- How is the political participation process affected by ageing? Are we on the path to gerontocracy?

**Deadline for the submission of full article:
1st of February 2009**

The editors are seeking articles in English for the upcoming issue 3/2008 of the IGJR with the topic

Climate change and intergenerational justice

The topic:

General theories of intergenerational justice must answer two main questions: What to sustain for future generations? And how much to sustain? The field of global warming is a manifest example for the competition between the interests of present and future generations, making it an ideal case for the application of general theories of intergenerational justice. At present, worldwide energy generation and consumption patterns, based heavily on fossil fuels, facilitate a uniquely high standard of living, but the existing generation is thereby creating serious disadvantages for future generations in the next centuries. We now know that such behaviour has led to a greatly increased level of carbon dioxide in the atmosphere with the result that the Earth's natural greenhouse effect has been enhanced and global average temperature has risen. More frequent and devastating heatwaves, wind storms, floods and conflicts over resources will result from our short-sighted energy policies. The latest Intergovernmental Panel on Climate Change Report stated that climate change is occurring primarily as a result of human activity. Future persons will be more severely affected by climate change than existing persons as the adverse impacts of climate change unfold in a cataclysmic way. But climate change is a matter of international justice as well as intergenerational justice, and the fact that developing countries bear the brunt of the impact of climate change complicates the application of ethical theories.

The following research questions may give you an idea for your article:

- What principles regarding climate change policies could be derived from a veil-of-ignorance-model in an intertemporal context? Let us assume

that the different generations, who all meet under the veil of ignorance, are benefitted and harmed to a different degree by carbon emissions and ensuing global warming. What 'just carbon emission (and emission prevention) principles' would they agree on (if any)?

- How should the hotly debated post-Kyoto issues of grandfathering and the pattern of greenhouse emissions be judged from a moral point of view?

- Future scientific discoveries and technological developments are as unimaginable to us today as were gasoline engines, petrochemicals, household electrical appliances and telecommunications to people living 200 years ago. Such discoveries and developments may supply abundant, cheap and inexhaustible energy. What are the implications of levels of uncertainty on arguments regarding climate change and justice?

- According to some theorists, we cannot harm future persons by performing acts, or adopting policies, that exacerbate global warming since these acts and policies also operate as necessary conditions for these persons later coming into existence. Is this 'non-identity problem' relevant to the construction of climate policy or can it be solved?

- Climate change is a matter of distributive justice as well as compensatory justice. If countries, such as Bangladesh, which have contributed little to the emergence of the enhanced greenhouse effect, suffer from adverse climate impacts now, this seems to create weighty obligations on the part of states with significant historical and current emissions profiles. But what are the precise demands of compensatory or retributive justice that arise in respect of anthropogenic climate change? Do countries that bear the brunt of the consequences of climate change have justifiable claims for compensation against the major emitting countries?

- Why did some states ratify the Kyoto Protocol and others, who have similar "national interests", did not? What does the history of climate change regimes tell about political theories like 'realism' and 'idealism'? Which states and other actors advocate strict mitigation strategies and why?

- What challenges pose global warming to dominant theoretical approaches such as cost-benefit analysis and discounting? How should present costs for a global climate regime be evaluated regarding possible future damages?

**Deadline for the submission of proposal:
15th of February 2009**

**Deadline for the submission of full article:
1st of April 2009**

Guest Editors:

Konrad Ott is professor for environmental ethics at the Ernst-Moritz-Arndt University in Greifswald. He studied philosophy and achieved his doctorate with a work about the 'De-

velopment and Logic of the Historic Science'. At the "Centrums for Ethic at the sciences" at the Eberhard- Karls University in Tübingen he studied for his PostDoc stipendiary, and in 1995 gained a state doctorate at the University of Leipzig with a work for establishment of integrative economical ethics.

Edward Page is associate professor of political theory at Warwick University. He was trained in politics and philosophy at the Universities of Sheffield and Essex, before completing a doctorate on the topic of intergenerational justice (Warwick University: 1998). In 2002, he won a two-year Marie Curie Research Fellowship to pursue research on climate change ethics and politics at Lund University; and he was AHRC Research Fellow in "Global Justice and the Environment" at Birmingham University before taking up his current post in 2006. He is the author of *Climate Change, Justice and Future Generations* (Cheltenham: Edward Elgar, 2006).

.....
 Issue 4/2009 of the *IGJR* will be on "The rights of children and young people, with a focus on the right to vote"

The topic:

The Convention on the Rights of the Child, as detailed by UNICEF, spells out the basic human rights that children everywhere have: the right to survival; to develop to the fullest; to protection from harmful influences, abuse and exploitation; and to participate fully in family, cultural and social life. This convention is legally binding and fundamental to the lives of members of the young generation today. If these basic human rights are held as a standard across the world, is there a need for further development of children's and young people's rights? Are children and young people today really treated as individuals who have opinions of their own?

In policy and society it is required and expected that youngsters and children act responsibly and deliberately and form their own life. However, it is refused to them to take over such a responsibility within the scope of a franchise and/ or to participate actively in political developments. In the election program in countries world wide, children and youngsters below the age of 18 do not have a say and cannot vote due to age restrictions. In fact, it can often appear that the members of the young generation are only seen as personalities in

their own right, independent from their family, when they commit a crime. Should the rights of children and young people be expanded to include the right to vote or are their rights already sufficient for the world that we live in today?

Keep a look out for the full call for papers for issue 4/2009 that will be displayed on our website soon.

Contact and further information:

FRFG, P.O.Box 5115, D-61422 Oberursel, Germany; Phone: +49-(0)6171-982367, Fax: +49-(0)6171-952566, E-mail: editors@igjr.org

Presentation of the Editorial Board of *Intergenerational Justice Review*

I Presentation of the Editorial Board of *Intergenerational Justice Review*

In a letter to a friend of 18.4.1906, Max Weber wrote: 'Please criticise all my views as harsh as possible if you disagree with them.' Science is not possible without exposing one's views to criticism. The peer-review process is the best method to improve and select articles. As the quality of a journal depends on its editorial board, we present the members of the editorial board of *Intergenerational Justice Review* below.



Prof. Dr. Bruce Edward Auerbach

is an associate professor of political science at Albright College in Reading, Pennsylvania (USA). He was born in New York City and attended Reed College in Portland, Oregon, before receiving his BA and MA degrees in political science from Drew University and his PhD in political science from the University of Minnesota. Auerbach is the author of many articles and papers in political philosophy and constitutional

law. One of his most important publications is "Unto the Thousandth Generation: Conceptualizing Intergenerational Justice" (1995). His current research focuses on the "Due Process Clause" of the Fourteenth Amendment, and the erosion of constitutional and human rights in the war on terror.



Prof. Dr. Dieter Birnbacher

was born in Dortmund in 1946. Studies of philosophy, of English philology and linguistics in Düsseldorf, Cambridge and Hamburg. He obtained his BA (Cambridge) in 1969 and his PhD in Hamburg in 1973, and became a professor in Essen in 1988. Activity as assistant at the College of Education in Hanover and as akademischer rat at the University of Essen. From 1974 to 1985 co-operation in the work group "Environment, Society, Energy" at the University of Essen (director: Klaus Michael Meyer Abich). From 1993 to 1996 professor of philosophy at the University of Dortmund, since 1996 at the Hein-

rich-Heine University of Düsseldorf. Vice president of the Schopenhauer Society, Frankfurt/Main. Member of the constant commission for organ transplantation of the Federal Medical Association. Member of the central commission for Somatic Gene Therapy at the Federal Medical Association. Member of the editorial board of the journal *Ethik in der Medizin*. Member of the ethics commission of the medical faculty at the Heinrich-Heine University in Düsseldorf. Main fields of interest: ethics, practical ethics, anthropology.



Prof. Dr. Birgit Blätzel-Mink

is professor for sociology of industry and organisation at the Department of Social Sciences at the Goethe-University of Frankfurt/Main. She studied sociology at the University of Mannheim and habilitated in 2001 with the topic "Economics and Environmental Protection". Her research focuses on economics and sustainable development, gender studies and

transdisciplinarity in sustainable development research. In 2008 she edited the book *Beratung als Reflexion. Perspektiven einer kritischen Berufspraxis für Soziolog/inn/en Berlin: edition sigma* (together with Kendra Briken, Petra Wassermann and Andreas Drinkuth).



Dr. Axel Bohmeyer

was born in Georgsmarienhütte in 1975. He is the director of the Berlin Institute for Christian Ethics And Politics (ICEP) and he teaches anthropology and ethics at the Catholic University of Applied Sciences. He studied catholic theology, philosophy and pedagogy in Frankfurt am Main and did his PhD with a socio-philosophical work on "Recognition". His research focuses mainly on anthropology and ethics (especially in the context of social work).



Prof. Dr. Wolfgang Buchholz

holds a chair for finance at the Department of Political Economy at the University of Regensburg (Germany). He focuses on environmental economics, and more specifically on international environmental economics, innovative effects of eco-policy and intergenerational rights and sustainability. One of his most recent publications is a textbook on the economics of the welfare state (in co-operation with F. Breyer).



Dr. Daniel Butt

is fellow and tutor in politics at Oriel College, University of Oxford. He specialises in international political theory, and has recently worked on questions relating to the rectification of historic injustice. He is the author of *Rectifying International Injustice: Principles of Compensation and Restitution Between Nations* (OUP, 2009).



Prof. Dr. Jim Dator

is professor, and director of the Hawaii Research Center for Futures Studies, Department of Political Science, and, among other positions, an adjunct professor in the Program in Public Administration, the College of Architecture, and the Center for Japanese Studies, of the University of Hawaii at Manoa. He also taught at various universities around the globe, for example at Rikkyo University (Tokyo), the University of Maryland, Virginia Tech, the University of Toronto. He received a BA in ancient and medieval history and philosophy from Stetson University, an MA in political science from the University of Pennsylvania, and a PhD in political science from The American Uni-

versity. He is a Danforth Fellow, Woodrow Wilson Fellow, and Fulbright Fellow. He consults widely on the futures of law, governance, education, tourism, and space. Two of his recent books are *Democracy and Futures* (2006, with M. Mannermaa and P. Tiihonen) and *Fairness, Globalization and Public Institutions: East Asia and Beyond* (2006, with D. Pratt and Y. Seo).



Prof. Dr. Claus Dierksmeier

is associate professor for philosophy at Stonehill College in Easton (Boston), Mass., USA. He has published widely on the legal and social philosophy of Kant and German idealism. His current research focuses on the role of freedom in business and economic theory, and on the ethics of globalisation.



Prof. Dr. Andrew Dobson

is professor of politics at Keele University, UK. He specialises in environmental political theory. Among his publications are: *Green Political Thought* (4th edition 2006), *Justice and the Environment* (1998) and *Citizenship and the Environment* (2003). He was a founder editor of the international journal *Environmental Politics*.



Dr. Ralf Döring

After having studied economics in Kassel he did his PhD about inshore fishing in Mecklenburg-Vorpommern at the University of Greifswald. Since 1996 he teaches at the Institute for Landscape Economics in Greifswald. From 2000-2003 he was a member of the German Council of Ecologic Experts. Döring is a research assistant specialising on sustainable development, resource economics (especially fishing) and ecological economics. He is a member of the Technical and Economic Committee for Fisheries (STECF).



Dr. Peer Ederer

is director of the Human Capital Project of the Brussel-based Lisbon Council, head of the Innovation and Growth Project of Zeppelin University, Friedrichshafen, and academic director of the European Food and Agribusiness Seminar. He studied business administration at Sophia University in Tokyo and at Harvard Business School in Boston. He completed his PhD at the University of Witten Herdecke in Germany, exploring the financial relationship between the state and citizens. Ederer worked for four years in the German office of McKinsey & Co. specialising on issues of technology management and business

growth. He also co-founded the think tank "Deutschland Denken!", which is creating and publishing innovative public policy choices for the German society.



Prof. Dr. Bruno S. Frey

was born in Basle, Switzerland, in 1941. He studied economics in Basle (CH) and Cambridge (UK). Since 1977 has been professor of economics at the University of Zurich. He is the editor of the journal *Kyklos*, research director of CREMA (Centre for Research in Economics, Management and the Arts) and received an honorary doctorate in economics from various universities. He is a fellow of the Public Choice Society, a distinguished fellow of the Royal Society of Edinburgh (FRSE) and a distinguished fellow of CESifo Research Network. He is the author of numerous articles in professional journals, as well as the author of 20 books, some of which have been translated into nine languages.



Prof. Dr. Stephen Gardiner

is associate professor in the Department of Philosophy and the Program on Values in Society at the University of Washington, Seattle. He writes on ethics and political philosophy, with a special interest on issues involving future generations. He is the editor of *Virtue Ethics: Old and New* (2005), and is currently working on a book on ethics and climate change called *The Perfect Moral Storm*.



Dr. Axel Gosseries

is a permanent research fellow, Fund for Scientific Research (FRS-FNRS) and lecturer at the University of Louvain. He received his LL.M. in London in 1996, and his PhD in philosophy in Louvain in 2000. He is associate editor of *Revue de philosophie économique*. His research interests are in political philosophy, ethics, public policy, including theories of intergenerational justice, firms & states and their respective role from a normative perspective as well as ethical challenges to tradable quotas schemes.



Prof. Dr. Edeltraud Günther

holds a professorship for operational environmental economics at the Technical University of Dresden (Germany) since 1996. She studied business administration at the University of Augsburg and also French at the University of Geneva. After her doctoral thesis, which was titled *Ecologically Oriented Controlling*, she speciali-

sed, among other topics, in ecological performance measurement (product- and process-oriented) and eco-friendly resourcing. Under her direction, the TU Dresden initiated an environmental management system in accordance with the Eco-Audit Ordinance of the EU. From 2002 on, this management system is still validated regularly. As of 2005, she is also a guest professor at the University of Virginia.



Prof. Dr. Peter Häberle

is "one of the first constitutional legal academics of the world" (El País). After having studied law in Tübingen, Bonn, Montpellier and Freiburg he did his PhD about the tenor of fundamental rights. In 1969, he wrote his habilitation about public interest. He was appointed professor in Marburg, Augsburg and Bayreuth. Häberle regularly taught as a visiting professor in St. Gallen. He wrote 38 books and about 350 essays which have been translated in 18 languages. Häberle is honorary doctor at the universities of Thessalonica, Granada, Lima, Brasilia and Lisbon. Furthermore, he is a member of numerous national and international academies. In 1998, he was awarded with the Max Planck Research Award and later on, he got the medal of honour from the Constitutional Courts in Rome and Lima.



Dr. Ulrike Jureit

is a historian at the Hamburg Institute for Social Research (Germany). After her history and theology study in Muenster (Germany), she got her PhD in 1997 at the University of Hamburg with the topic *Biographical Memory Schemes*. In the years 2000 to 2004 she directed the exhibition "Crimes of the Wehrmacht. Dimensions of the Extermination War 1941-1945". Her projects, which are situated in the social and cultural history field, mostly deal with memory research as well as questions of political territories and collectivity. Apart from these, she also focuses on generational research.



Prof. Dr. Martin Kohli

(born 1942 in Switzerland) is professor of sociology at the European University Institute (Florence) and emeritus at the Free University of Berlin. He is a member of the Berlin-Brandenburg and the Austrian Academy of Sciences, and from 1997 to 1999 was president of the European Sociological Association. His research focuses on the life course, aging, generations, work, family and welfare. Currently he is engaged in a MacArthur Foundation Network on the aging society and in an Academy Group on fertility.



Jürgen Kopfmüller

is a political economist and since 2005 he is the chairman of the Association for Ecological Economics (VÖÖ). Besides, he is a research associate at the Institute for Technology Assessment and Systems Analysis (ITAS) at the Research Center in Karlsruhe (Germany). He studied economics at the University of Heidelberg (Germany) and from 1989-1991, he was a scientific assistant at the Institute for Energy and Environmental Research (IFEU) in Heidelberg. He has been in charge of a number of projects and publications on the topics sustainable development, global change, socio-economic aspects of environmental problems and environmental, climate and energy politics. He attends to several project advisory boards, for example PROSA (Product Sustainability Assessment).



R. Andreas Kraemer

has been active in sustainable development, environment policy, climate and energy policies for over 20 years, and R. Andreas Kraemer has also been director of the Ecologic Institute in Berlin since its foundation. In April 2008, he became chairman of the Ecologic Institute in Washington DC (Ecologic's newly incorporated presence). Since 1993 he is also a visiting assistant professor at Duke University, lecturing on European integration and environmental policy in the Duke Berlin Program. Kraemer focuses on integrating environmental concerns into other policies. He is particularly engaged in strengthening transatlantic relations and cooperation on environment, climate and energy security. Kraemer was awarded a fellowship by the Prince of Wales' Business and the Environment Programme, and a scholarship by the Carl Duisberg Stiftung (now InWent). Previous to the founding of Ecologic, Kraemer worked for a range of policy institutes: Science Center Berlin (WZB), the Institut für ökologische Wirtschaftsforschung (IÖW) and the Research Unit Environmental Policy of the Free University of Berlin (FFU).



Prof. Dr. Rolf Kreibich

has been involved in futures research since the 1960s, and has become a recognised figure in this field. Having studied mathematics and physics, Kreibich studied and moved into sociology and economics and began looking at the broad future impacts of new technological developments. Formerly the president of the Free University of Berlin, Kreibich is now the scientific and managing director of the Institute for Futures Studies and Technology Assessment Berlin and the Secretariat for Futures Research Dortmund. He is member of the World

Future Council as well as of numerous committees and advisory groups throughout Europe.



Nira Lamay-Rachlevsky

graduated from Hebrew University of Jerusalem Law School in 1997. In 2008, she received her LL.M. in Public and International Law from Northwestern University School of Law (Chicago, IL, USA) and she graduated from the same program in Tel-Aviv University Law School. As a lawyer, member of the Israeli Bar since 1998, she works for Knesset as the Legal Advisor of two parliamentary committees: Science and Technology Committee and Committee on the Rights of the Child. Former deputy Commissioner for Future Generations in the Knesset (2002-2008), participated in the establishing of the Commission and was mainly in charge of legislation and international affairs as well as sustainable development, science and technology.



Prof. Dr. Anton Leist

is a professor of philosophy at the University of Zurich since 1992. He studied philosophy, sociology and German studies in Munich and Frankfurt, and was also a scientific assistant at the Free University of Berlin. At present, he works in the fields "justice in a work-based society", consequences of pragmatism and action theory. His primary fields of activity are normative ethics, metaethics, applied ethics and political philosophy. He is the author of the book *Ethics of Relationships* (2007) and at the moment he works together with Peter Singer on editing the book *Coetzee and Philosophy*, which will be published in 2009.



Prof. Dr. Christoph Lumer

is professor of moral philosophy at the University of Siena (Italy) since 2002. Born in 1956, he studied at the universities of Münster, Bologna and Berlin (FU), receiving his Ph.D. in philosophy from the University of Münster (Germany). In 1993 he habilitated in philosophy at the University of Osnabrück (Germany). 1987-1999 he has been assistant and associate professor of philosophy at the University of Osnabrück, where he has also been a member of the working group "Environment, Development, Peace". His main fields of research are: general and applied ethics (in particular: justice; environmental, future and developmental ethics), theory of action, of rational action, of the good life and of argumentation. Among his books are: *Rational Altruism* (Osnabrück 2000) and *The Greenhouse – A Welfare Assessment and Some Morals* (Lanham / New York 2002). Homepage: www.unisi.it/ricerca/dip/fil_sc_soc/lumer.htm



Prof. Dr. Kurt Lüscher

studied at the University of Basel and at the University of Bern, where he was awarded his doctorate and his habilitation. In 1969/70 he was a visiting associate professor at the University of North Carolina. From 1971-2000 he held a chair in sociology at the University of Konstanz, where he directed, since 1989, the research center "Society and Family". He is a member of the scientific advisory board of the German Federal Ministry of Family, Seniors, Women and Youth (BMFSFJ), and of the "Network on Intergenerational Relations" for the Swiss Academy of Humanities and Social Sciences (SAGW). His major current interests are the analysis of intergenerational relations, generational politics and the interdisciplinary study of ambivalence. For recent publications and download see: www.kurtluescher.de.



Prof. Nandita Biswas Mellamphy

is teaching at the Centre for the Study of Theory & Criticism and assistant professor in the Department of Political Science at the University of Western Ontario. Her teaching fields are the history of Western political ideas, political theory (especially from a post-structuralist and interdisciplinary perspective), utopia studies and Nietzsche's political thought. Her research interests are Nietzsche studies and interrelation between 'life sciences' and political theories in late 19th century Germany.



Prof. Dr. Lukas Meyer

received his MA in philosophy from the Washington University in St. Louis, a diploma in political science from the Free University of Berlin, and his PhD from the University of Oxford. He was lecturer at the Free University and the University of Bremen where he wrote his habilitation on historical justice. After having been assistant professor at the University of Bern he is now professor of practical philosophy at the Karl-Franzens University Graz (since March 2009). He is also a member of the committee for "economic science and ethic" of the Verein für Socialpolitik.



Prof. Dr. Meinhard Miegel

was born in Vienna in 1939, studied philosophy, sociology and law in Frankfurt, Freiburg and Washington D.C. and received his PhD 1969 in law. After having been a company lawyer for Henkel for four years, he be-

came a co-worker of Kurt Biedenkopf, then-secretary general to the Christian Democratic Union party. From 1975 onwards he was also the chief of the main department for policy, information and documentation in the CDU federal headquarters. Until recently, Miegel was director of the IWG BONN, a think tank dealing with economy and society, which Miegel himself had founded together with Kurt Biedenkopf back in 1977. He closed the IWG BONN in 2008 and founded the new >Denkwerk Zukunft – Stiftung kulturelle Erneuerung-, a foundation for cultural renewal which aims to help to develop and spread a Western culture which shall be able to be universalised and sustainable. Furthermore, Miegel was an unscheduled professor at the University of Leipzig from 1992 to 1998, director of the Commission on Future Issues of the federal states of Bavaria and Saxony from 1995 to 1997 and advisor to the German Institute for Old-Age Provisions from 1997 to 2006.



Prof. Tim Mulgan

was educated at the Universities of Otago and Oxford, where he wrote his DPhil on *The Demands of Consequentialism* under the supervision of Derek Parfit. He is currently professor of moral and political philosophy at the University of St Andrews (UK), and director of the St Andrews/Stirling Graduate Programme in philosophy. He is the author of three books: *The Demands of Consequentialism*, OUP, 2001; *Future People*, OUP, 2006; and *Understanding Utilitarianism*, Acumen, 2007. He works in moral philosophy, political philosophy, and philosophy of religion.



Prof. Dr. Hubertus Müller-Groeling

was born and raised in Ostpreußen (1929-45). He obtained his diploma in economics at Heidelberg University and wrote his dissertation (on income equality and utility maximization) while being an assistant at the Institute for Social and Economic Policy at Saarbrücken University. From 1970 to 1994 he worked at the Kiel Institute of World Economics, as senior researcher on international business cycles and currency problems, later as department head and managing editor of the 'Review of World Economics' and the 'Kiel Studies', and finally as its vice president. He served in the Friedrich-Naumann-Foundation as member of the board of trustees (1974-87), of the board of directors (1987-2006), and as chairman of the fellowship committee. He also served in the Herbert Giersch Foundation as the head of the advisory committee (1990-2008).

Prof. Dr. Jan Narveson

BA (Chicago), PhD (Harvard) is distinguished professor emeritus of philosophy at the University of Waterloo in Ontario, Canada. He is the author of over two hundred papers in philoso-



phical periodicals and anthologies, mainly on moral and political theory and practice, and of several books: *Morality and Utility* (1967); *The Libertarian Idea* (1989); *Moral Matters* (1993); *Respecting Persons in Theory and Practice* (2002); and *You and The State* (2008); also, with Marilyn Friedman, *Political Correctness* (1995). He is editor of *Moral Issues* (1983); and, with John T. Sanders, *For and Against the State* (1996); and, with Susan Dimock, *Liberalism: New Essays on Liberal Themes* (2000). In 2007, a Festschrift of essays about his work was published: *Liberty, Games, and Contracts*. He is or has been on the editorial boards of several philosophic journals, and was elected (1989) a fellow of the Royal Society of Canada. In 2003, he was made an Officer of the Order of Canada, which is Canada's next-to-top civilian distinction.



Prof. Dr. Julian Nida-Rümelin

was born on 28. November 1954, emanated from a Munich artist family. He studied philosophy, physics, mathematics and political sciences. He completed his PhD thesis under the supervision of the scientific theorist Wolfgang Stegmüller. Afterwards, he became assistant at Munich University where he habilitated in philosophy in 1989. After a visiting professorship in the USA, Nida-Rümelin firstly had a chair for ethics at the biomedical sciences at the University Tübingen (1991-1993) and then a professorship for philosophy at the University of Göttingen (1993-2003). In the summer semester of 2004, he became an unscheduled professor for political theory and philosophy at the Ludwig Maximilian University in Munich. From 1998 to 2000, Nida-Rümelin was consultant of culture at the LHS Munich, and in 2001 and 2002 minister of culture and member of the administration of the Federal Government of Germany.



Prof. Dr. Bryan G. Norton

is distinguished professor in the School of Public Policy, Georgia Institute of Technology and author of *Why Preserve Natural Variety?* (Princeton University Press, 1987), *Toward Unity Among Environmentalists* (Oxford University Press, 1991), *Searching for Sustainability* (Cambridge University Press, 2003), and *Sustainability: A Philosophy of Adaptive Ecosystem Management* (University of Chicago Press, 2005). Norton has contributed to journals in several fields and has served on the Environmental Economics Advisory Committee of the US EPA Science Advisory Board, and two terms as a member of the Governing Board of the Society for Conservation Biology. His current research concentrates on sustainability theory and on problems of scale in

the formulation of environmental problems. He was a member of the Board of Directors of Defenders of Wildlife from 1994-2005.



Prof. Dr. Konrad Ott holds a professorship of environmental ethics at the University of Greifswald (Germany). He was born in 1959, studied philosophy in Frankfurt and got his PhD in 1989 with the topic *Emergence and Logic*

of Historical Sciences. Among other teaching activities, he temporarily held the chair for ethics in biological sciences at the University of Tübingen (Germany). His research focuses on ethical, especially eco-ethical fundamental questions, discursive ethics, theories and concepts of sustainable development, nature conservation history, animal ethics and ethical aspects of climate change.



Dr. Edward Page

is associate professor of political theory at Warwick University. He was trained in politics and philosophy at the Universities of Sheffield and Essex, before completing a doctorate on the topic of intergenerational justice (Warwick University: 1998). In 2002, he won a two-year Marie Curie research fellowship to pursue research on climate change ethics and politics at Lund University; and he was AHRC research fellow in "Global Justice and the Environment" at Birmingham University before taking up his current post in 2006.



Dr. Ernest Partridge

is a philosopher with a specialty in moral philosophy (ethics) and environmental ethics. He has taught at several campuses of the University of California and at the University of Colorado. Partridge has published over sixty refereed and invited scholarly papers, and is the editor of *Responsibilities to Future Generations* (Prometheus, 1981). Most recently, he has contributed numerous articles to progressive websites. He is the editor and sole writer of the website, *The Online Gadfly*. Partridge is currently at work on a book, *Conscience of a Progressive*, which can be seen in progress.



Prof. Dr. Dr. Franz-Josef Radermacher

is the director of FAW/n (Research Institute for Applied Knowledge Processing/n), Ulm, and holds a faculty position for Data Bases / Artificial Intelligence at the University of Ulm. 1997 Scientific Award of the German Society for Mathematics, Economics and Operations Research. 2005 Laureate of the Salzburg Award for Future Research, Salzburg, Austria.

2007 Laureate of „Vision Award 2007“ of Global Economic Network (for Global Marshall Plan Initiative). 2007 Laureate of Karl-Werner-Kieffer Award (Stiftung Ökologie und Landbau, SÖL). Member of the German National Committee of the UNESCO for the World Decade „Education for Sustainable Development“ (2005 – 2014). Member of the Club of Rome and of several national and international advisory boards as well as President of the of the Federal Association for Economic Development and Foreign Trade (BWA).



PD Dr. Stephan Schlothfeldt

is currently substituting the professorship for practical philosophy at the University of Leipzig. He studied philosophy and mathematics at the University of Göttingen and

was awarded his doctorate in 1988 at the University of Düsseldorf for a thesis on ethical problems of unemployment. Later he worked on a research project on social justice at the Humboldt University in Berlin and was a research associate for practical philosophy at the University of Konstanz where he qualified as a professor in 2006 with a paper on individual and collective duties to help. His areas of interest are applied ethics with a political focus, basics of ethics, social philosophy and political philosophy.



Prof. Dr. Uwe Schneidewind

studied business administration in Cologne and Paris from 1986 to 1991. After that, he was consultant at Roland Berger & Partner. From 1992 to 1997 he was research assistant at the Institute for Economics and Ecology at the University in St. Gallen where he completed his PhD. Schneidewind is director of the chair of production management and environment at the Carl-von-Ossientzky-University in Oldenburg. From 1997 to 1999, he was the chairman of VÖW (Association for Ecological Economic Research).



Prof. Dr. Wolfgang Seiler

was born in Remscheid in 1940. After his studies (meteorology and air chemistry) and the promotion in Mainz he did his state examination in 1980 at the Federal Technical University in Zurich. Parallel to his teaching activity there, from 1980 to 1992, he was director of the Fraunhofer Institute for Atmospheric Environmental Research in Garmisch-Patenkirchen from 1986 to 2001. Since 2002, he has been the director of the Institute for Meteorology and Climate Research at the Research Centre in Karlsruhe. Besides, he was a member of numerous commissions, of the 11th Bundestag "Prevention for the

protection of the earth's atmosphere" from 1987 to 1991; member of the scientific committee of the Leipzig Fair "Zerratec" from 1992 to 2002 and since 2000, he has been a member in the circle of experts for global environmental aspects (GUA) of the federal government department for education and research.



Prof. Shlomo Giora Shoham

is a professor of law and an interdisciplinary lecturer at the Tel Aviv University. He is a world-renowned criminologist, who has published more than a hundred books and more than a thousand articles on crime, deviance, philosophy, religion, psychology, and the human personality. Over the years, Shoham developed his innovative personality theory, which is a highly appraised new theory of personality development. In 2003, Shoham was awarded the Israel Prize for research in criminology. He has also been awarded the highest prize in American criminology, the Sellin-Glueck award; and recently the prestigious Emet Prize. Shoham has lectured all over the world, and has been a resident at universities of Oxford and Harvard, and at the Sorbonne.



PD Dr. Markus Stepanians

is currently the team leader of the research group "Law & Technology" of the Human Technology Centre (HumTec) at the RWTH Aachen. He began his studies of philosophy, literature and linguistics in 1980 at Hamburg University. After gaining an MA in philosophy and a doctorate scholarship, Stepanians stayed at Harvard University's Department of Philosophy as a 'visiting scholar' for two years (1991-1993) prior to receiving his doctorate in 1994 with a thesis on Frege and Husserl's theory of judgement. In 1998, he became an assistant to the chair of practical philosophy at the University of Saarland and gained in 2005 his *venia legendi* for philosophy. In 2006 and 2007 Stepanians held a temporary chair of practical philosophy at the University of Saarland and the RWTH Aachen before gaining a tenured position in practical philosophy of the RWTH Aachen. He acts as a regular reviewer for the journals *Erkenntnis - An International Journal of Analytic Philosophy and Ethical Theory and Moral Practice - An International Forum*.



Prof. Torbjörn Tännsjö

is professor of practical philosophy at Stockholm University. He has published extensively in moral philosophy, political philosophy, and bioethics. Two recent books are *Global Democracy. The Case for a World Government* (Edinburgh: Edinburgh UP, 2008) and *Under-*



Prof. Dr.

Leslie Paul Thiele

received his PhD from Princeton University in 1989. His research focuses on continental political thought, environmental ethics and politics, and the intersection of political philosophy, psychology, and cultural studies. His articles have appeared in the *American Political Science Review*, *Political Theory* and a dozen other journals. He is currently working on an interdisciplinary project that addresses the challenge of translating environmental attitudes and values into ecologically, socially and economically sustainable practices. He is also engaged in work that integrates Jungian psychology with contemporary political and cultural studies.



Prof. Dr.

Max M. Tilzer

is professor emeritus of aquatic ecology at the University of Konstanz, Germany. He studied biology with emphasis on ecology at the University of Vienna. After research appointments at Innsbruck and the University of California, Davis he became professor of limnology (Freshwater Ecology), first at the Technical University of Berlin and in 1978 at the University of Konstanz, where he initiated and directed an integrated ecosystem-related research project on Lake Constance. For five years he was scientific director of the Alfred-Wegener-Institute of Polar and Marine Research in Bremerhaven and for four years he was a member of the Scientific Council on Global Change (WBGU) to the German Federal Government. He has a strong interest in a wide range of environmental issues and concerns such as World population growth, freshwater shortage, biological species loss, and climate change.



Dr. Gotlind Ulshöfer

is a program director for economics, business ethics and gender issues at the Evangelische Akademie Arnoldshain, Germany. She teaches ethics at the Goethe University of Frankfurt am Main and is a post-doctoral researcher. Ulshöfer holds a doctorate in theological ethics (University of Heidelberg) and was a doctoral fellow at the Interfaculty Center for Ethics in the Sciences and Humanities (University of Tübingen). She studied economics (diploma 1998) and protestant theology (diploma 1994) at the universities of Tübingen, Heidelberg and at the Hebrew University, Jerusalem. In 1993 she graduated with a master of theology from Princeton Theological Seminary. She is also an ordained minister. In 2009 she is the Bonhoeffer scholar at Union

Theological Seminary, New York. Her areas of research span economics and business ethics, social ethics, gender studies, and public theology. Recent publication: *Corporate Social Responsibility auf dem Finanzmarkt. Nachhaltiges Investment – Politische Strategien – Ethische Grundlagen* (2009 with Gesine Bonnet).



Prof.

Michael Wallack

studied at the City College of New York and Syracuse University. He has been a member of the Political Science Department at Memorial University of Newfoundland since 1970 where he is an associate professor. His areas of interest include contemporary democratic theory, American politics and international relations. His publications include *Justice between generations: the limits of procedural justice in the Handbook of Intergenerational Justice*, J. Tremmel (ed.) Cheltenham, UK and Northampton MA, USA: Edward Elgar, 2006); *From compellence to pre-emption: Kosovo and Iraq as US responses to contested hegemony in The transatlantic divided. Foreign and Security policies in the Atlantic Alliance from Kosovo to Iraq*, O. Croci and A. Verdun (eds.) Manchester and New York: Manchester University Press, 2006; *The minimum irreversible harm principle: Green Inter-generational Liberalism in Liberal Democracy and Environmentalism: the end of environmentalism?* ECPR European Political Science Series, Marcel Wissenburg and Yoram Levy (eds), London: Routledge, 2004).



Prof. Dr.

Norbert Wenning

is a university professor of intercultural education at the Department of Paedagogy at University of Koblenz-Landau (Germany). His research concentrates, among other topics, on the social and educational methods of dealing with difference. One focus here is on the relation of school and heterogeneity. Recent publications mostly deal with the question how society deals with equality and inequality. His most recent monograph is called *School Policies for Different Ethnic Groups in Germany. Between Autonomy and Suppression*.



Prof. Dr.

Burns Weston

retired from full-time teaching at the University of Iowa Law Faculty in May 1999. Professor Weston began his legal career with the New York City law firm of Paul, Weiss, Rifkind, Wharton & Garrison. In 1999, Professor Weston spearheaded the founding, and thereafter directed for five consecutive years, the University of Iowa Center for Human Rights (UICHR). Upon his resignation from that position in 2004, he was named lifetime senior scho-

lar of the UI Center for Human Rights. At the same time, he was appointed as a senior human rights adviser ("Expert on Mission") to UNICEF's Innocenti Research Centre in Florence, Italy. Professor Weston's teaching and research interests have centered on international jurisprudence, international human rights law (including intergenerational rights), the laws of war, the law of state responsibility (particularly in relation to the concerns of developing countries), international environmental law, and US foreign relations law.



Prof. Dr.

Marcel Wissenburg

is professor of political theory at the Radboud University Nijmegen and (in 2004-2009) Socrates professor of humanist philosophy at Wageningen University, the Netherlands. In addition to articles and book chapters, he wrote *Green Liberalism* (1998), *Imperfection and Impartiality* (1999) and *Political Pluralism and the State* (2008). His current research interests include political and personal autonomy, liberal reconceptualisations of sustainability and nature, and libertarian views on intergenerational obligations.



Prof. Dr. Clark Wolf

is associate professor of philosophy and director of the bio ethics program at Iowa State University. The program he directs publishes *Bioethics in Brief*, a quarterly journal that discusses current ethical issues with pedagogues and the public. Professor Wolf is 45 years old, and has two children, aged 9 and 12. He hopes to avoid leaving any uncompensated debts, financial or environmental, for them to pay off.



Patrick Wegner,
24 years

Mr. Wegner is employed as a research associate (Wissenschaftlicher Mitarbeiter) at the Foundation for the Rights of Future Generations (FRFG) since December 2008. He studied political sciences, sociology and public law at the Justus-Liebig-University in Gießen and the University of Leicester in England, finishing his master in September 2008. During his studies he completed internships at the German Bundestag, the European Parliament and the regional parliament of Hessa. In the scope of these internships he was for the first time in earnest confronted with questions of demographic change processes, climate pro-

tection and intergenerational justice and sustainability in the educational system, in the economy and the social systems. Patrick Wegner says: "The variety of social topics and the amplitude of interesting questions that are connected with the work on justice between the generations tempted me. Therefore I am very glad that I have got the chance to help shaping the work of the FRFG in the future."



Hannah Taylor-Kensell,
21 years

Ms. Taylor-Kensell is employed since September 2008 as an editorial assistant for the Intergenerational Justice Review after completion of a BSc in Psychology from Swan-

sea University, Wales. Hannah Taylor-Kensell says: "After graduating this summer I was keen to grasp new experiences, different cultures and knowledge separate from my degree discipline."



Dan Sylvain,
24 years

Mr. Dan Sylvain studied foreign languages (Spanish and English). After a "Licence LEA" (this can be compared with a Bachelor) from the University Stendhal (Grenoble 3) in his home country of France, he is now working as an editorial assistant for Intergenerational Justice Review. Dan Sylvain says: "I am eager to learn German and to gain knowledge on the theme of intergenerational justice."

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Foundation for the Rights of Future Generations

Postfach 5115, 61422 Oberursel
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members of parliaments, decision makers from the economy and persons with a general interest in intergenerational justice. The internet version is free of charge, the printed version has an annual subscription cost of 25 Euros which has to be paid in advance. The cancellation period is three months until the end of the year. For subscription, see last page.

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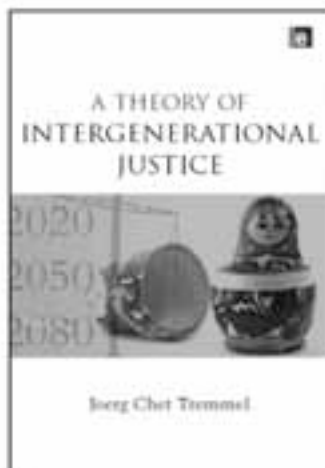
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