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Rights and Future Persons

The Promise of Arguments from Present People's Identity

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Abstract: This paper examines the ways the two fundamental problems regarding the rights of future persons/generations (the non-existence problem and the non-identity problem) are usually tackled in scholarship. It is argued that while rights cannot be properly attributed to future people, rights *in respect to* future generations can be based on present persons' identity.

Keywords: future generations, rights, interests, trans-generational self, community, identity

Today's discourse on future generations is permeated by different conceptions of identity. It seems that at least some of the problems related to the use of future persons' or generations' rights as a topic of arguments can be best described as problems of making, sharing, shaping and reflecting on identities. In what follows, I shall focus on what is at stake in terms of argumentation if one refers to future people on the one hand, and rights on the other. The first part of the paper focuses on the uncertainty of the identity of future persons, summarising the problems following from the fact that the members of future generations are envisaged as not-yet-existing people, and taking a look at some attempts at tackling these issues. The second part then turns to the question of how focusing on present people's rights can be helpful, if one wishes to keep the language of rights when discussing present actions' consequences for posterity.

1. Rights, existence and identity

In environmental ethics as well as legal and political decision-making, references to future generations' rights and interests occur with an increasing frequency. The rights of future people are generally opposed to those of present persons, in order to protect the former from the harmful consequences of the latter's imminent actions. The rhetorical function of such arguments resembles, one may say, that of Socrates's *daemonion,* which allegedly only dissuaded the philosopher from certain plans, never persuading him to

anything. Socrates may have known his *daemonion* very well: future persons are by definition unknown to us. Indeed, the very basis of the concept is the separation of future generations from the present one. This separation can be interpreted in various ways, according to our understanding of 'present' and 'future'.[1] As for the present generation, it can be conveniently defined as the sum of persons living at a certain point of time. It is the future that makes for the puzzle. Focusing on time, we may oppose to the present moment a series of future moments. In this sense, the major part of people living in the present is also going to be the major part of those living in the immediate future: a change of generations comes about gradually, according to the pace of human life cycle. If, however, it is the generation that we take as the starting point of our distinction, we have to take a look on the more remote future: at least as remote as the moment where no one of the currently living persons will be alive any more, but rather to the life time of the generation whose members will be all born after the death of all those persons living in the present, which means that their generation does not overlap with the present one. Our choice among the possible definition of future generations obviously has certain consequences in terms of the interpretation and justification of rights.

The language of rights undoubtedly has a strong persuasive function: it is meant to give weight to the interests one wishes to protect. Using the concept of rights, however, makes it necessary to be consistent with some theoretical constraints, or otherwise our usage becomes counterproductive, losing much of its credibility (cf. Tattay, 2016). There seem to be two such fundamental requirements: to be able to attribute a right to a subject, and to be able to define the content of that right.

Both of these requirements pose a challenge when it comes to the rights of future people. In terms of the subject, the problem is that of non-existence. The content of the rights, in turn, raises the issue of uncertainty. The two problems also seem to be intertwined. Generally speaking, the rights usually attributed to future generations or individuals belonging to these are not specifically tailored to future persons but are the same ones which currently living people are thought to have. The consequence of this is that the subjects of these rights cannot be defined in a positive way, by referring to a certain situation or characteristic,[2] only through their lack of present existence. Thus, the group of subjects is not simply too narrow or too broad: it is infinite and non-existent at the same time. The problem in this respect is not that subjects of rights would have to exist in the present. What is troubling here is that in this case we are speaking of those not-yet-existing persons and, furthermore, this is the only (negative) characteristic we know of them for sure.

Moreover, the identity of future persons seems to be contingent on present actions. In his celebrated work, Derek Parfit pointed out some cases where it is not possible to speak of harming people who are actually going to exist, either. His 'Non-Identity Problem' is due to the fact that

[1] See e.g. Gosseries (2004), Tremmel (2009), Caney (2018) for some conceptual distinctions concerning future generations.

[2] See, however, Herstein's (2009) suggestion to focus on types of future people, or Beyleveld et al. (2015) focusing on generic interests.

> the identities of people in the further future can be easily affected. [...] When we are choosing between two social or economic policies, of the kind I described [i.e. whether to deplete or conserve certain kinds of resources], it is *not true* that, in the further future, the same people will exist whatever we choose (Parfit, 1984, p. 363, emphasis in the original).

Yet even if we accept that not-yet-existing persons can have rights, we still have to face uncertainty in terms of the content of these rights and the obligations they determine. This is all the more problematic, as the rights of future generations are apparently meant to provide the grounds for obligations of present people. For it seems clear that such rights are not exerted in the present by their holders: there is no pleading of claims, as it would not be possible with non-existing subjects.[3] If we concentrate, in turn, on the (potential) future existence of future people, then their rights will be the rights of then existing persons, who exert their rights and base their claims on them in their lifetime – and not the rights of the then future generations. We reach the same conclusion, only on a shorter run, if we consider all persons who will live in any moment after the present one as members of the future generations: in exchange for certainty, we have to sacrifice the possibility of saying something about the rights of the ever future generations.

Perhaps the most straightforward way of tackling this problem is to abandon 'substantive' concepts of law, those that include an element of justification, for a 'conceptual' one, somewhat in the vein of Hohfeld. According to such a definition, "a person has a right if and only if a feature of that person is a *reason* for others to have an obligation or impossibility. A person has a right if and only if a feature of that person is the justification of the obligations or impossibilities of others" (Rainbolt, 2006, p. xiii). Rights as the basis of justified constraint can indeed be attributed to those already dead or belonging to (possible) future generations, but it seems that justification is at the very heart of our problem: we need to be able to explain why we need to attribute rights to non-existing people, even if we move that question from the field of conceptual legal theory to that of moral philosophy.

Most responses rely in this respect on probability. As Joel Feinberg put it, it seems safe to assume "that there will still be a world five hundred years from now and that it will contain human beings who are very much like us" (Feinberg, 1974, p. 42). And we do not even have to go as far as that in time: it suffices to assume that there will be at least one person to be conceived after the last member of our generation has died to have grounds to talk about the rights of future people. Moreover, the assumption extends to the content of rights insofar as that one person can be thought to have rather similar interests to ours (cf. Feinberg, 1974, pp. 65–66; Kavka, 1979, sect. III).

[3] Feinberg (1974, p. 65) claims that "[o]ur remote descendants are not yet present to claim a livable world as their right, but there are plenty of proxies to speak now in their behalf. These spokesmen, far from being mere custodians, are genuine representatives of future interests". It is difficult, however, to see how contingent future interests could have genuine representatives.

2. The past and future of present communities

Moving to the level of communities, the first thing to note is that here too, the identity of future generations is assumed and perceived as problematic at the same time. As for the uncertainty of future people's identity, it was pointed out by Martin P. Golding (1972), who discussed the possibility of grounding present obligations to future generations on the assumption of moral community. According to his reasoning, obligations to future people can be justified only if we assume some kind of a moral identity, i.e. that the present generation's values are accepted as such by future generations. He claims, however, that such assumptions become increasingly uncertain as we look at generations more remote in time. As their life circumstances may differ considerably from ours, we cannot be sure whether our conceptions of the good life hold for them. What follows from this is that arguments in favour of our obligations to prefer the interests of future generations to present ones are unconvincing: either their interests coincide with ours (or with the interests of those less remote in time), or we would be sacrificing more certain interests for less certain ones. Yet Golding makes it clear that as the life circumstances of future generations can be influenced by present actions, so can be their values. In his conclusion which seems to anticipate, albeit in a positive form, Parfit's Non-Identity Problem, he says that "[i]t actually appears that whether we have obligations to future generations in part depends on what we do for the present" (Golding, 1972, p. 99).

Bearing in mind the caveats of Golding, Avner de-Shalit (1995) examined how future generations can actually make part of a community together with the present one, focusing on the question of identity in the case of political communities. While he does not exclude the possibility of a chain-like continuity of a political community's identity, he emphasises that changes in commonly accepted values can lead to a downright breach between two given generations that do not have immediate links with each other. He brings several historical examples in order to support this view (cf. de-Shalit, 1995, pp. 40–42, 46–48). His conception of community is therefore limited in both space and time: the present members of a given community have rather limited relations to other people that might be evaluated using justice as a criterion. In terms of future generations, this means that justice is applicable only as long as the sense of community exists in the members of the present generation: shared understandings and common values fade away with time. As for the generations that follow after this temporal divide, the present generation has no more obligations than towards their own contemporaries who are outside the community.

De-Shalit affirms that it is possible to envisage a trans-generational community, even if one excludes common life in a physical sense. There are two more criteria which can prove the existence of such a community: cultural interaction and moral similarity. These are strongly interconnected. Cultural interaction means an ongoing dialogue between the members of the community. Thus, it is necessary to create new common understandings and common conceptions of the good life, but also to challenge and discuss old ones. In this way, it contributes to the establishment and the continuous rethinking of moral similarity, which is defined as "common and more or less accepted" "attitudes, values, and norms" (de-Shalit, 1995, p. 27). On the one hand, cultural interaction needs a common

background, which is, at least partially, provided by moral similarity. Now, it seems rather counter-intuitive to expand the notion of cultural interaction to a trans-generational context. On the other hand, it is clear that every generation reflects on, sometimes even answers to ideas that stem from their predecessors, yet intergenerational communication works in one direction only. De-Shalit solves this problem by emphasising the diachronic character of the dialogue, and says that "in fact this communication will continue with the response of yet further future generations to the future generations with whom we communicate" (de-Shalit, 1995, p. 44). Accordingly, moral similarity is in a state of endless development: attitudes, values and norms of previous generations are submitted to deliberation in every new generation. And this is exactly, de-Shalit argues, why the sense of community fades away: "When it comes about that the values of the members of the community change drastically, many members will find themselves in a state of growing alienation from the community of their ancestors" (de-Shalit, 1995, p. 46). He therefore concludes that the present generation may reasonably assume that persons in some generation in the future will not consider themselves members of our community. Hence, if it comes to a conflict between needs of the present generation, or of some in the proximity, and the needs of more distant generations, priority should be given to the former (de-Shalit, 1995, pp. 54–55).

It is interesting to see how de-Shalit distinguishes between an internal and an external point of view. He makes it clear with the example of a member of the English nation. From the perspective of a historian (an outsider), the community in both the 17th century and now may be properly described as 'English', while a member of today's English political community (an insider) will hardly share the values of the 17th-century English nation (see de-Shalit, 1995, p. 46).

According to de-Shalit's accounts of cultural interaction and moral similarity, these factors provide for the constitutive character of the community through the moral and political debate,[4] while, on the long run, it is the debate that causes common understandings to disappear. But where do they really disappear? It seems that de-Shalit is too mechanical in distinguishing between the insider's and the outsider's point of view. The assertion that the question of shared values should be viewed from the former is justified as far as it is the present members of the community whose decisions concerning future generations are in the focus of the theory. Yet the link between the fading away of moral similarity (i.e. a set of shared values) and the discontinuity of the sense of identity would definitely need some explanation.

The examples given by de-Shalit concentrate on "people who left their communities because they no more felt any sense of belonging" (de-Shalit, 1995, pp. 46–47). This, however, makes their relevance somewhat problematic. Leaving one's community does not necessarily mean that one does not have any values in common with past members of the community. Nor does it mean that one is not going to participate in the on-going discourse inherited from past generations. If there is a split among the present members of the community, it is something past members would have taken into account as some possible dysfunction rather than the end of the identity of the community. If, however, the common

[4] For the opposition of communities based on moral similarity and of 'instinctive' ones, see de-Shalit (1995, p. 42).

values of the community undergo a change which is due to the "new circumstances, a new social environment, new technology" or "openness to ideas from the outside", it may be reasonable to assume that past members of the community, if they were living in the present, would share the new values, or at least participate in the discussion concerning these values.

The argument of de-Shalit is based on the claim that "the concept of a community is only compatible with rational agents, because the members ought not to define themselves according to values on which they have never reflected" (de-Shalit, 1995, p. 45). Given that the present generation cannot foresee the outcome of any debate which expands to after their lifetime, the only thing present members of a community know for certain is their view of their own community, that is to say, their own identity. If one would ask the Englishman of the example whether he considers himself to be part of the community referred to as the English nation, his answer is likely to be an affirmative, as well as that of one of his 17th-century predecessors. And it does not seem very far-fetched that the same would be true if one would make the question refer to the membership of 17th-century and present-day persons, respectively. To put it otherwise: even if we tend to assume that at some moment our descendants are going to leave all of our values and norms, we can still talk about them (with more or less confidence) as future members of our community. In fact, de-Shalit himself does apply a 'mixed' perspective in that he speaks of the (future and objective) non-constitutiveness of a community on the basis of the alleged subjective views of the community's future members, and concludes to principles of justice that, again, should be adopted by the actual community. This is one of the reasons why I think that present identities provide a more firm basis for envisaging obligations than future ones.

Another way of solving the problem caused by the lack of reciprocity between generations is simply challenging this notion. Such an attempt was made by John O'Neill (1993), who builds his theory on the notion of the 'transgenerational self', that also de-Shalit makes use of, but, unlike de-Shalit, he does not limit its application to a psychological assumption. Contrary to the widely accepted opinion on the lack of reciprocity between generations, he affirms that there are real harms and benefits posterity can do to us.[5]

O'Neill mentions the example of narratives to demonstrate how one's self transcends the limits of one's life and how future generations can play a role "in determining the success or failure of the work of previous generations". As narratives about one's work may well exist and even change after one's death, we can hardly speak of separate generations without links to each other (see O'Neill, 1993, pp. 28–36). Moreover, there is a wide group of human projects which can be successful only in the long term: here, it is necessary that more generations contribute to the same project, sometimes without enjoying any of its results. These insights were generally acknowledged by every culture, until the emergence of market-based societies. The idea of the market that emphasises mobility against

[5] This assertion is linked with a general criticism on modernity: "The assumption that future generations cannot benefit or harm us highlights a peculiarly modern attitude to our relation with the past and future which is at the centre of our environmental problems. [...] It is tied to the modern loss of any sense of a community with generations outside of our own times – of any sense of reciprocal action or dialogue with them [...]" (O'Neill, 1993, pp. 27–28).

ties of place, profession and so on, contradicts to identity across time, and that leads to a "temporal myopia that infects modern society" (O'Neill, 1993, pp. 38–43).

As for future generations, then, it is the responsibility of the present generation towards its past, future, but also to itself

> to attempt, as far as it is possible, to ensure that future generations do belong to a community with ourselves – that they are capable, for example, of appreciating works of science and art, the goods of the non-human environment, and the worth of the embodiments of human skills, and are capable of contributing to these goods (O'Neill, 1993, p. 34).

It is important to note that O'Neill's image of the community is a rather dynamic one, as it takes the history of a community into account. He emphasises the importance of arguments "both within generations and between them". Thus, the most important obligation of the present generation is to provide for both the external and internal conditions of the ongoing discussion, i.e. conditions of the (physical) existence of future persons, as well as the (cultural) conditions of their meaningful participation in the arguments (see O'Neill, 1993, pp. 35–36).

The theory of O'Neill is a very attractive one, as it helps to overcome some problems that are often criticised in communitarian theories. He rightly mentions debate (as opposed to a constant set of values) as one of the most important features of a community, without describing it as something that menaces the identity of the community, as does de-Shalit. Furthermore, his account of communities allows for envisaging a global community that may be essential for dealing with global environmental problems properly.

But let us come back for a moment to the influence of future generations on the success or failure of one's work. This argument is put forward by O'Neill in the context of reciprocity, as opposed to the view that future generations cannot help or harm presently living persons. The good of a successful life (one that we can obtain only with the help of posterity) is then paired with the harms present persons can do to future generations. According to O'Neill, these are the following: "(1) We can fail to produce works or perform actions which are achievements. Future generations may not be able to bring our deeds to a successful fruition. (2) We can fail to produce generations capable of appreciating what is an achievement or contributing to its success" (O'Neill, 1993, p. 34).

One still wonders how these points provide for an intergenerational reciprocity, since the goods of each party that depend on the contribution of the other, are of quite different nature. But let us take a closer look on them. First, the possible failures of the present generation necessarily harm further generations but also the present generation, at least from the perspective of the present generation: indeed, it is a harm to future generations if they do not have anything to appreciate or contribute to, or if they are unable to do so, and it is likewise a harm to us if they do not. But these harms exist, at least partly, only from our point of view, since if future generations cannot do something, they do not necessarily realise their lack of that capacity. To that, O'Neill would answer that it is a common subjectivist mistake to think that "what you don't know can't hurt you" (O'Neill, 1993, pp. 36–37). But that does not answer the objection that in a final analysis it is us who harms us if we fail to provide for the conditions of our (future) success.

The next problem arises if we do our best for future generations, since (fortunately enough) this does not compel them to render our work a success. Of course, the fact that they exist and are able to appreciate or contribute to our ongoing projects is a success in itself (one that we accomplished ourselves!), but they will not have the slightest obligation not to let our stories continue or end as failures. It is fair to note that O'Neill does not seek to prove the existence of reciprocity in order to justify intergenerational obligations, but rather to show that single generations within a community are not isolated from one another (see O'Neill, 1993, pp. 27–28). Fortunately, then, it is not necessary to accept the possibility of harming past people to agree with him on the trans-generational nature of communities.

Moreover, it has to be emphasised that adopting a present perspective is a virtue, rather than a vice, when dealing with future generations. With the help of his account of the trans-generational self, O'Neill seeks to prove the existence of a trans-generational community, that is aimed at certain trans-generational goods. He further concludes that each generation is responsible for contributing to maintaining the community and accomplishing its goods. As O'Neill himself states, however, there is a constant debate on many aspects of the community and its goods. There I see some tension between this latter, discursive approach and the semi-objectivist views O'Neill develops elsewhere in his book.[6] He seems to be aware of the uncertainty of particular contributions to the common goals as he formulates his principle that "our primary responsibility is to *attempt*, as far as possible to ensure that future generations do belong to a community with ourselves" (O'Neill, 1993, p. 34, emphasis added). This seems to be a pragmatical recognition of the fact that human action is always bound to a certain perspective: the most one can – and may be expected to – do is to contribute to the debate (and its conditions) according to one's best knowledge. But here again, the question of success emerges. One can never be sure if his story is a success: but neither can be any of the future generations, at least not in a final, 'objective' sense. Of course, there are some concrete achievements that can be understood as fulfilling one's trans-generational intentions. Still, it is nothing else but possibility what remains for those initiating trans-generational projects. This is enough for keeping the concept of responsibility – even justice – to future generations (as part of our community), but it also shows that uncertainty, and therefore precaution too, also has to obtain a central place in the discussion of the problem of future generations, which should then focus on reasons available from a 'temporally local', yet not egoistic perspective.

A view rather similar to that of O'Neill is advocated by Janna Thompson (2009). Based on Burke's notion of "a partnership [...] between those who are living, those who are dead, and those who are to be born" (Burke, 1790, p. 144), her main claim is that "[t]he generations share responsibility for maintaining the institutions and practices that enable transgenerational demands to be satisfied and successors to receive their inheritance" (Thompson, 2009, p. 33). Like O'Neill, she argues that 'lifetime-transcending interests' can be used in order to justify obligations in respect to past generations and to

[6] A fully objectivist view, in this sense, would be one which attributes inherent positive or negative values to actions, independent of whether these are perceived by other people as success or failure. Cf. e.g. his discussion of achievement and reputation (O'Neill, 1993, pp. 36–37).

future people. It is, then, through fulfilling the transgenerational demands of past generations that we can impose a similar 'obligation' on our posterity in terms of our interests, while at the same time, the present generation benefits future ones by maintaining what it inherited from its predecessors, thus making its demands more plausible.

Apparently aware of the possible objections as to the notion of past people imposing burdens on present persons, she repeatedly emphasises that her "purpose [...] is simply to establish that the demands of predecessors have a moral weight' in a number of cases" (Thompson, 2009, p. 43, n. 17). How far this 'moral weight' can overweight other considerations, is a matter of deliberation in every particular case. She does not deny the right of presently living people to modify or add to what they ought to preserve for the future: "We are entitled to express our own tastes and values but not to the extent of destroying everything that was meant to have been a heritage for future generations" (Thompson, 2009, p. 42).

While I think that Thompsons's image of intergenerational cooperation is a very convincing one, as it has the merit of avoiding the problem the lack of temporal coexistence causes for theories based on the idea of justice as reciprocity in the strict sense, I also think that what she wins in plausibility, she loses in the weight of moral reasons furnished by 'legitimate demands'. Let us consider one of the examples she gives for such demands:

> Suppose Aunt Mabel is a fundamentalist Christian and wants her body to be buried with proper Christian ceremony with all of its organs intact. I, her only surviving relative, am an atheist who believes that bodies should be cremated without ceremony after all their usable organs have been donated to save the lives of others. [...] it is reasonable to insist that lifetime-transcending demands of such importance to an individual should be fulfilled. [...] I do have an interest in how my body is disposed of [...] and think it reasonable to demand that my request be honoured by my successors. Even if I have no interest at all in the matter, I know that many people do. [...] So I have reason to support and act according to a transgenerational practice which requires survivors in most circumstances to dispose of the bodies of the dead according to the wishes that they expressed before death (Thompson, 2009, p. 40).

If we have a look at the actual reasons mentioned at the end, they may be of one of two kinds. If 'I do have an interest in how my body is disposed of', it is actually my interest that makes me observe the demand of the deceased. If, however, 'I have no interest at all in the matter', it really is the demand, which I consider legitimate, that becomes my reason – unless there is another, stronger one. Suppose Aunt Mabel was the atheist, wishing that her organs be donated and her body cremated, and I am the fundamentalist Christian. If I believe that the body of any person has to be buried intact and with certain ceremonies, then I may be justified to have her body buried, even if I think her wish was morally reasonable, in order to prevent the story of her life – as *I* read it – from coming to a bitter end. In this case, my reason still refers to her life and my interest in it rather than to my interest concerning my own body. But even if we take Thompson's example as it is, we can see that it is *me* who reconstructs the interests of past persons – and who takes interest in it.

From all that, two things follow. First, the obligations one can justify with the help of Thompson's reasoning are rather weak ones. They do not have greater weight than any morally reasonable demand from the part of our contemporaries, which we may accomplish or not, depending on our other reasons. And this is bad news exactly because intergenerational obligations, as I mentioned above, are referred to in order to counterbalance present interests. Second, the persuasive potential of her reasoning – as well as those of O'Neill and de-Shalit – can be improved by focusing on present identities rather than past or future ones: this is what I shall attempt to show in the last section of this paper.

3. Shaping *our* future

Thompson's opening statement, according to which "[a] political society is intergenerational" adequately summarises why communitarian theories can be helpful where individualist ones fail: having an identity as a member of a certain community (in this case, a polity) implies that one is interested in the past and the future of this community (cf. Thompson, 2009, p. 25). This may be the reason why John Rawls, too, starts to speak of families, these smallest of communities, when facing the problem of justice to future generations (see Rawls, 1971, p. 128). If, however, we envisage present persons as bearers of identities, then we also have to accept that these persons have interests in respect of both past and future generations. And present interests seem to be a much more adequate candidate for counterbalancing other present interests than (assumed) future or (reconstructed) past ones.

If the present members of a community have an interest in their past, it is this interest that can be referred to in order to protect the life stories (or narrative selves) of past members of the same community from malicious slander (cf. Thompson, 2009, pp. 39–40). Someone already deceased cannot continue her own story even if she had an interest in its good continuation while she was alive. Presently living persons, however, can do so and if they share the values of their predecessor, they will be interested in the adequate continuation, and consequently their interests will be harmed by any present action aimed at the contrary. The same applies to the interests present people have in the future of their community. If any action jeopardises the well-being of potential future members of a community, it necessarily harms the present members of the same community. Moreover, present interests in respect of a community's future include interests in being able to do something for posterity and to attempt – to use O'Neill's words again – "to ensure that future generations do belong to a community with ourselves", i.e. to maintain the values of one's community by way of passing them on to subsequent generations. It is these latter interests that form the basis of community rights, like e.g. the right of using minority languages.

That, however, does not solve the issue of 'generational selfishness'. With various generations within a community having conflicting interests, identity cannot be used as a solid ground of argumentation. The above considerations nevertheless provide some

insights relevant here. Firstly, the concerns of future generations, in contrast to those of the present, can only be brought up when there is a present disagreement. This may occur due to a part of the community disregarding the well-being of future generations while another part does not, or due to differing opinions on how best to serve posterity. Secondly, all community members invested in its future possess the right to engage in such discussions and decision-making, with their future-respecting interests being accepted as valid reasons. Thirdly, those within the community upholding its values and considering membership advantageous must actively contribute to preserving these values and, in line with O'Neill's notion, seek to ensure that their remote descendants remain part of this community. The fundamental doctrine of communitarianism suggests that being part of a community inherently involves sharing its future interests and values, considering membership as a personal good. Those completely neglecting the well-being of future members likely do so out of ignorance regarding the nature of their community. The most effective approach to persuade such persons, as well as others, is that of democratic deliberation.

4. Conclusion

In this paper I examined some of the problems related to the use of the concept of future generations in general and to speaking of the rights of future generations in particular. A brief overview of selected contributions has shown that the actual non-existence of (potential) future persons is an obstacle which cannot be removed easily. It seems therefore that communitarian approaches are more promising in that field, given that the concept of community helps to expand the individual self beyond the limits of the individual's lifetime. This does not mean, however, that we could speak of reciprocity between different generations in any sense of the word. I also argued that we cannot find sufficient basis for the concept of intergenerational obligations. Focusing on present identities, a concept that is already present in communitarian theories, can at least offer something in exchange. Instead of arguing with the rights *of* future generations, we can meaningfully speak of present interests and rights *in respect to* future generations. Certainly, such rights cannot be used to conceptualise intergenerational conflicts of interests. But as the concept of future generations is used in present debates about present decisions, this may not be an irrational price to pay.

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References

Beyleveld, D., Düwell, M. & Spahn, A. (2015). Why and How Should We Represent Future Generations in Policymaking? Jurisprudence, 6(3), 549–566. Online: https://doi.org/10.1080/20403313.2015.1065642

Burke, E. (1790). Reflections on the Revolution in France and on the Proceedings in Certain Societies in London Relative to That Event. 2nd ed. Dodsley.

Caney, S. (2018). Justice and Future Generations. Annual Review of Political Science, 21, 475–493. Online: https://doi.org/10.1146/annurev-polisci-052715-111749

De-Shalit, Avner (1995). Why Posterity Matters. Environmental Policies and Future Generations. Routledge.

Feinberg, J. (1974). The Rights of Animals and Unborn Generations. In W. Blackstone (Ed.), Philosophy and Environmental Crisis (pp. 43–68). The University of Georgia Press.

Golding, M. P. (1972). Obligations to Future Generations. The Monist, 56(1), 85–99. Online: https://doi.org/10.5840/monist197256118

Gosseries, A. (2004). Penser la justice entre générations: De l'affaire Perruche à la réforme des retraites. Aubier.

Herstein, O. J. (2009). The Identity and (Legal) Rights of Future Generations. The George Washington Law Review, 77(5–6), 1173–1215. Online: https://www.gwlr.org/wp-content/uploads/2012/08/77-5-6-Herstein.pdf

Kavka, G. (1978). The Futurity Problem. In R. I. Sikora & B. Barry (Eds.), Obligations to Future Generations (pp. 186–203). Temple University Press.

Light, A. & de-Shalit, A. (Eds.) (2003). Moral and Political Reasoning in Environmental Practice. MIT Press.

O'Neill, J. (1993). Ecology, Policy and Politics. Human Well-Being and the Natural World. Routledge.

Parfit, D. (1984). Reasons and Persons. Repr. with corr. 1987. Oxford University Press.

Rainbolt, G. W. (2006). The Concept of Rights. Springer. Online: https://doi.org/10.1007/1-4020-3977-8

Rawls, J. (1971). A Theory of Justice. Harvard University Press.

Tattay, Sz. (2016). Making Sense of a Nonsense: Representation of the 'Rights' of Future Generations. In M. Belov (Ed.), Global Governance and Its Effects on State and Law (pp. 195–210). Peter Lang.

Thompson, J. (2009). Identity and Obligation in a Transgenerational Polity. In A. Gosseries & L. H. Meyer (Eds.), Intergenerational Justice (pp. 25–49). Oxford University Press.

Tremmel, J. C. (2009). A Theory of Intergenerational Justice. Earthscan.