

File ID 122391  
Filename Chapter 2: Climate damage as wrongful harm to future generations  
Version Final published version (publisher's pdf)

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SOURCE (OR PART OF THE FOLLOWING SOURCE):

Type Dissertation  
Title Arguing about climate change : judging the handling of climate risk to future generations by comparison to the general standards of conduct in the case of risk to contemporaries  
Author M.D. Davidson  
Faculty Faculty of Humanities  
Year 2009  
Pages 141  
ISBN 9789056295530

FULL BIBLIOGRAPHIC DETAILS:

<http://dare.uva.nl/record/292194>

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# Chapter 2: Climate damage as wrongful harm to future generations

Published in adapted form in *Environmental Values* 17(4), 2008: 471-488

## 1. Introduction

The main aim of this thesis is to argue that in judging the validity of arguments for or against climate policy we have to test these arguments against the general standards of conduct deemed acceptable for handling risks to others, as laid down in tort law, for example. Basically, this requirement of consistency in argumentation follows from the formal requirement of justice. Although justice is difficult to define, the formal requirement of justice that equal cases be treated equally and different cases differently is an important starting point for any policy on justice. Amongst other things, this requirement means that every person should receive the same treatment under the law and the same treatment from the authorities. To treat people differently, one must have relevant moral grounds (see e.g. Rawls, 1972; Shrader-Frechette and Persson, 2001). In other words: if *trans-generational* air pollution due to the emission of greenhouse gases violates the rights of future generations just as *trans-national* air pollution violates the rights of contemporaries living across the border, then the climate risks ought to be handled consistent with the general standards of conduct deemed acceptable for handling trans-national air pollution.

Although we have as yet no well-defined legal duties towards future generations, there are ample signs that the international community does in fact consider climate policy a matter of intergenerational justice (see e.g. UNCHE, 1972; WCED, 1987; UNFCCC, 1992; UNCED, 1992; UNESCO, 1997; UK Government, 1999). The Parties to the United Nations Framework Convention on Climate Change (1992), for example, have stated that they are “determined to protect the climate system for present and future generations”. In 1997, the general conference of UNESCO adopted the ‘Declaration on the Responsibilities of the Present Generations Towards Future Generations’, of which Article 1 states that “The present generations have the responsibility of ensuring that the needs and interests of present and future generations are fully safeguarded.” Article 5.2 states that “The present generations should ensure that future generations are not exposed to pollution which may endanger their health or their existence itself”. In other words, the present commitment to intergenerational justice already *de facto* requires governments to handle climate risks experienced by future generations consistent with the general standards of conduct deemed acceptable for handling risks to other contemporaries.

From a theoretical point of view, however, to view climate damage to the health and property experienced by future generations as a violation of rights, i.e. as a wrongful harm, is by no means self-evident. First, it is not self-evident to view harm to future property a wrong. If we would not leave behind our own present property there would hardly be any future property and we seem entitled to do with present property whatever we like. Second, the idea that we can harm future generations is complicated by the fact that any climate policy will not only affect the future climate, but also who will live in the future, giving rise to the notorious so-called non-identity problem (Parfit, 1976, 1981, 1984). The purpose of the present chapter is therefore to examine these issues further. Are governments in fact justified in addressing climate risks by appealing to the rights of future generations to bodily integrity and personal property?

## **2. Present harm to future property**

Before discussing Parfit's non-identity problem let us first ignore it and investigate whether it makes sense to speak of damage to future generations' property as a wrongful harm or violation of rights. Since moral philosophers and environmentalists have generally had health risks in mind when speaking of harm to future generations, risks to future property have thus far received little attention (see for a few authors mentioning property rights of future generations: Bromley, 1991; Farber and Hemmersbaugh 1993; Narveson cited in Wolf, 1999; Shue, 1999). However, if future generations manage to adapt optimally to climate change, such change might even lead to no more than material losses.

Some argue that since we are entitled to our own property and all future property depends on (originates from) present property, damage to future property cannot be considered a wrongful harm. People would thus be under no moral obligation to be careful with their possessions before they bequeath them to their offspring, as Farber and Hemmersbaugh (1993) have argued:

“If your great-grand parents squandered the family fortune, you may feel that they acted reprehensibly, but you would have difficulty charging them with violating a personal obligation toward you or with violating a "right" that you possessed.”

If emitting greenhouse gases were a mere 'squandering of the family fortune', then climate policy would indeed be a supererogatory savings programme (Schelling, 1995) or 'gift' (Lind, 1999) to future generations, simply making them wealthier than they would otherwise have been. This line of reasoning is a little too straightforward, however.

First, in the case of climate change there is little chance that my individual present activities will damage the same future property as that originating from my present entitlements.<sup>1</sup> If my present activities cause a tree to fall on a house in China a hundred years from now, it is far from clear that I would be in any way entitled to make that happen. The entitlement to the future house does not originate from my present entitlements, nor did those who may presently be entitled to the particular future property – probably people in China – express their permission to me. As long as those from whose present entitlements future property originates do not grant permission for future damage to occur, then the future damage to property may still be considered a violation of rights. It should be noted, though, that a collective decision (coordination) to *relieve* the present generations of their individual duties not to pollute is conceivable. Moreover, we could assume spontaneous collusion or tacit consent.

A stronger argument, however, is given by the fact that climate change violates future generations' rights to self-ownership and the fruits of their labour. Although we put future generations on this world, we do not own them; future generations will own themselves. Consequently, we are neither entitled to harm future generations physically nor harm the fruits of their labour. *If* we were only to leave behind damaged property, future generations could build on this damaged property without us harming the fruits of their labour. We would not directly affect the results of their efforts. Then, Narveson's observation (cited in: Wolf, 1999) would make sense that:

“Obviously the property of future persons is not harmed by anything we can do now, for, since they do not yet exist, they own nothing, and by the time they get here, whatever it is that is currently destroyed will not be available to be owned by anyone.”

However, future climate damage does not result from latent damage inflicted on present personal property, such as overdue maintenance of a house, but indirectly from polluting the unowned atmosphere. The fact that climate change might damage future property is not an intrinsic quality of present property. Although present generations may have no particular duty to leave any of their possessions behind, neither are they particularly entitled to bequeath an alteration of the Earth's atmosphere. The global atmosphere is not a 'family fortune' which the present generations can legitimately squander. Polluting the global atmosphere creates the risk of damage to anything future generations will produce by their labour and own. Since future generations have no alternative but to build on what previous generations have left behind, this violates their right to self-ownership and their right to the fruits of their labour. The damage to the fruits of their

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<sup>1</sup> See for an analogous argument in relation to the non-identity problem: Carter, 2001, discussed later in this chapter.

labour is unavoidable. Therefore, damage to future property constitutes a wrongful harm.

Having raised the issue of an ‘unowned atmosphere’, it might seem an obvious line of reasoning to investigate the relation between future property and climate change along the *Lockean proviso*, according to which appropriation or use of natural resources is legitimate only if “enough and as good” is left for others (Locke, 1690, Chapter 5, section 27). However, in spite of the extensive literature on the Lockean proviso in relation to future generations (see e.g. Elliot, 1986; Bhaskar, 1995; Wolf, 1999), little has been written about its application to the extent to which we should be allowed to emit greenhouse gases or pollute the environment in other ways. In the climate debate, the Lockean proviso has generally been interpreted as requiring reduction of emissions to no-effect levels equal to the atmosphere’s capacity to absorb greenhouse gases, and subsequently distributing the available ‘emission space’ equally over all the world’s inhabitants. The first element would satisfy the condition that ‘enough and as good’ be left for members of future generations, the second that ‘enough and as good’ be left for members of the present generations (see e.g. Helm and Simonis, 2001; Singer, 2002: 14-50). The problem, however, is that a true ‘no-effect’ level is only achieved by completely abandoning the use of fossil fuels. Whatever amount of greenhouse gases the present generations emit, there will always be the risk of damage – to both health and property – being inflicted on future generations. Whether this risk is reasonable or negligent can only be determined by some form of assessment, both of the risk itself and of the cost of alleviating it. Therefore, the Lockean proviso does not help in the analysis of climate damage.

To translate the abstract intergenerational context into a more manageable situation for our moral intuitions, let us imagine two farmers, Alfred and Benjamin, living on two adjoining plots of land. Alfred has drilled a well to irrigate his own land, but as an unintentional side-effect leaks a substantial amount of water, thus irrigating Benjamin’s land as well. Since Benjamin’s land is irrigated free of charge, he receives external benefits from Alfred’s activities. Alfred is responsible for external costs as well, however, as he burns his waste close to Benjamin’s land and the prevailing wind means the smoke damages only Benjamin’s crops. Now let us assume that on balance Alfred’s activities are beneficial to Benjamin; if Benjamin had to choose, he would prefer the external benefits and costs to no externalities at all. Let us further assume that reducing the smoke would cost Alfred much less than it would benefit Benjamin. Is Alfred morally required to reduce the smoke? On the one hand, Alfred damages Benjamin’s crops, i.e. Benjamin’s property. On the other hand, Benjamin’s property results in part from Alfred’s activities. In the first place, we might consider it *reasonable* that Benjamin diverts a small part of the proceeds of his crops to compensate Alfred for reducing the smoke. However, Benjamin would be

*entitled* to require Alfred to reduce the smoke, just as Alfred would be entitled to prevent his unintentional irrigation of Benjamin's land. If Alfred were indeed capable of doing both, a bargaining process would probably start, resulting in Benjamin paying for the smoke reduction, given the fact that the negative externalities are outweighed by the positive. However, Alfred would not be *entitled* to compensation for the beneficial irrigation of Benjamin's land; Benjamin's eventual unwillingness to pay compensation for nonbargained benefits would not constitute a wrongful harm. This moral point of view that Alfred's smoke production entails a violation of Benjamin's right to his land and the fruits of his labour, while Benjamin's failure to compensate for the beneficial irrigation of Benjamin's land does not equally entail a violation of Alfred's rights, is reflected in current law. Under current law, the existence of positive externalities cannot compensate or justify the existence of negative externalities. In particular, when the creator cannot exclude the beneficiary from the external benefits, there are no legal grounds for demanding compensation for those nonbargained benefits (see e.g. Levmore, 1985; Hershovitz, 2006). Consequently, the creator of external costs and benefits cannot cancel them out one against the other either.

How does this example compare to the situation of climate change and future generations? First, the future wealth of future generations can be very well compared to the water streaming over Benjamin's land, i.e. an unintentional side-effect. Although occasionally people do deliberately invest or save resources for future generations, the overwhelming majority of future benefits arise in the form of the positive externalities of improving our own lives today. One example are the benefits of investments in public goods like infrastructure, scientific knowledge and technology, which will still be available for future generations when we are no longer around. To make this point clearer: it is hard to imagine how present society could organize itself in such a way as to *not* to leave anything behind for future generations without impoverishing our own lives as well. Second, the present emission of greenhouse gases is of course comparable to Alfred's smoke production. The main difference between the two situations, though, is that there is no possibility of a bargaining process and that future generations cannot transfer part of their wealth to the present to pay for the emission reduction. However, since the present generations cannot exclude future generations from the external benefits they are not entitled to compensation in the first place, as is acknowledged in analogous cases in current law. Therefore, there is still a moral ground for considering the property of future generations entitlements, which have to be taken into account today, and consequently for considering climate damage to future property a wrongful harm, even if this harm occurs through the infliction of damage to property originating from present property.

Although there is ground to consider climate damage to future property a wrongful harm, it is not a wrongful harm in the sense of a violation of a right to property against a baseline of the *same*, but *unharmful* property. After all, it is generally impossible to prevent damage to future property without changing future entitlements as well. Such a baseline could not be fixed, but would depend upon our present acts. Here, the baseline is defined at a more abstract level than as a particular distribution of property, but as unharmful fruits of one's labour. So harm to future property is wrongful against a baseline of *other*, but *unharmful* property the future person would otherwise have owned. Future generations are not entitled to any particular legacy or distribution of property, but are entitled to an unrestricted/unhindered/risk-free use of the possessions they will happen to own or produce. Future generations are not entitled to any amount of, say, television sets, but if they happen to own one they are entitled that it is not struck by a thunderbolt discharged by us, even if they would not have had the television without us. After all, future generations have no choice but to accept our legacy and to lead their lives on that basis. Since the risk of harm can never be entirely prevented, the baseline is set where future generations do not run 'unreasonable risk', where unreasonable risk is defined in the legal sense as the risk of harm to future property which exceeds the cost of precautions (see next chapter).<sup>2</sup> Please note that there is no hypothetical choice forced upon future generations between high material wealth, but high climate risk, and an impoverished life without climate risk. Various economists have argued that the costs of substantially reducing the risk of climate change hardly hinder economic growth (see e.g. Azar and Schneider, 2002; Stern, 2006). In other words, the material wealth, which future generations are expected to enjoy, does not depend upon our present emission of greenhouse gases.

### 3. The 'non-identity' problem

In *Utilitarianism and New Generations* (1967) Jan Narveson defended utilitarianism against the objection that if it were correct then we must be obliged to produce as many children as possible, so long as their happiness exceeds their misery. According to Narveson "all obligations and indeed all moral reasons for doing anything must be grounded upon the existence of persons who would benefit or be injured by the effects of our actions" (p. 68). By 'existence' Narveson did not mean *present* existence. If our present

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<sup>2</sup> Some authors have defined baselines in terms of minimum welfare or environmental quality levels. Lukas Meyer, for example, defines the baseline as a 'decency threshold' below which we feel no human person, whoever she might be, should ever sink (Meyer, 2004). A typical baseline according to the objective of *sustainability* is that future generations have at least the same options as we do have now.

actions were to benefit or injure people existing in the future, then we would have obligations to them as well (Narveson, 1973). It would not make sense, however, to say that *possible* future people are harmed by not being created or, conversely, benefited by being created. Therefore we would be under no obligation to create future people.

Although Narveson's 'person-affecting' view on morality is intuitively appealing, it may also lead to counter-intuitive results, as Parfit argued in *On Doing the Best for Our Children* (1976, p. 100-101; see also 1973). Parfit asks us to consider the case of

“a woman who intends to become pregnant as soon as possible. She learns that she has an illness which would give to any child she conceives now a certain handicap. If she waits for two months, the illness would have passed, and she would then conceive a normal child.”

Many people share the intuition that the woman is morally obliged to wait for two months and conceive a normal child, i.e. many people would *blame* the woman if she does not wait. A person-affecting view on morality does not seem to support this intuition, however. The child with a certain handicap, which would develop if the woman does not wait, seems not injured: he or she would not have existed if the woman had waited for two months and Parfit assumes the handicap is not so severe that the child will prefer not to have existed. Neither is the possible normal child injured, for this child does not and will not exist if the woman decides not to wait and becomes pregnant as soon as possible. Therefore, the woman seems to injure no other people.

Parfit's second example elucidates the problem in the case of long-term policy, such as climate policy (1976: 101-102):

“Suppose we have a choice between two social policies. These will alter the standard of living – or, more broadly, the quality of life. The effects of one policy would, in the short term, be slightly better, but, in the long term, be much worse. Since there clearly could be such a difference between two policies, we need not specify details. It is enough to assume that, on the “Short Term Policy,” the quality of life would be slightly higher for (say) the next three generations, but be lower for the fourth generation, and be *much* lower for several later generations.”

Here, too, Parfit adopts the same analysis. Since any attempt to change the future would influence the circumstances under which people are procreated, i.e. by whom and when children are conceived, a different policy would lead within a few generations to a planet inhabited by different people (individuals) from those who would have emerged under a different policy. As Parfit asks us to imagine: “How many of us could truly claim, “Even if railways had never been invented, *I* would still have been born?”” (1981:

115). Therefore, no particular future persons could benefit or be injured by the effects of our actions and consequently we would not be able to violate future generations' rights to bodily integrity and personal property by inducing climate change. Parfit coined this apparent unbridgeable gap between intuition and moral theory the *non-identity problem* (1976, 1981, 1984; see also e.g. Schwartz, 1978, 1979; Kavka, 1978; 1982; Adams, 1979).<sup>3</sup>

#### 4. A reflective disequilibrium

In spite of Parfit's analysis, the vast majority of moral philosophers have held to the intuitions that the woman in our example has a moral obligation to wait two months and conceive a normal child, and that we are under a moral obligation to opt for the long-term policy. Therefore, there has been an ongoing quest for solutions to Parfit's non-identity problem that can save and underpin the notion of duties towards future generations, in order to re-establish coherence between intuitions and theory. Over the last decades, various authors have claimed solutions, none of which have been entirely satisfactory, however. Generally, these authors have offered examples of cases involving only contemporary people, in which cases we have neither theoretical nor intuitive problems to see that wrongful harms are committed. It has then been argued that these cases are morally comparable to Parfit's cases involving future people. It can be shown, however, that all such examples involving contemporaries do differ from Parfit's cases in a relevant way.

In this section, I discuss a number of these attempts, which may serve to illustrate the debate, although it is unfeasible here to discuss or even cite the immense literature on this subject.<sup>4</sup> In the following section, I focus on one recent attempt following a rather different line of argumentation. Since this chapter is concerned specifically with the rights of and harms to future generations, I do not discuss the equally immense literature that attempts to resolve the non-identity problem along other lines, such as (non-person-affecting) utilitarianism. It should be noted, though, that an appeal to such utilitarianism raises new and equally difficult problems in the context

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<sup>3</sup> Please note that principally there are *two* non-identity problems. First, the problem whether one can logically compare a state of existence to a state of non-existence. Second, the problem whether someone can be harmed if one's life is worth living *on balance*. In this chapter the non-identity problem denotes this second problem. The first problem particularly plays in so-called pure wrongful-life cases, in which the assumed harm consist of creating someone whose life is considered *not* worth living on balance (see e.g. Feinberg, 1986; Den Hartogh, 2007).

<sup>4</sup> See for a specific solution proposed in the context of climate change: Page, 1999; Meyer, 2004.

of future generations, such as the ‘repugnant conclusion’ (Parfit, 1984; Ryberg and Tännsjö, 2005).

According to Baier (1981; see also Partridge, 1998; Kumar, 2003) moral principles apply to individuals by description and not denotatively:<sup>5</sup>

“Rights and obligations are possessed by persons not in virtue of their unique individuality but in virtue of roles they fill, roles that relate to others. For example, children, *qua* children, have obligations to and rights against parents *qua* parents. My obligations as a teacher are owed to my students, whoever they may be. ... As long as I believe that determinate actual persons will fill the role of students, will occupy a position involving a moral tie to me, my obligations are real and not lessened by my ignorance of irrelevant details concerning those role-fillers.”

In this line of reasoning, the indeterminateness of future people would have no moral significance for our dealings with them, either. However, although the ‘role-fillers’ in Baier’s examples may be indeterminate at the outset, for each possible ‘role-filler’ it holds that he or she has grounds for complaining if obligations are left unfulfilled. Whoever the student may be, he or she will have reason to complain if the teacher does not show up at classes. Whoever the student may be, he or she will be better off if there are lectures. Therefore, the indeterminateness of the role-fillers is irrelevant. The essence of Parfit’s problem, however, is that this is not true in the case of future generations, for their existence *depends* upon our acts.

A comparable but slightly different route was taken by MacLean (1983; see also Sikora, 1978), who introduced the notion of the ‘placeholder complainant’. According to MacLean, people would have reason to complain if someone’s act worsened the position they occupy, even if this means that without the act someone else would have occupied their place (p. 196):

“Imagine that Smith acts viciously to make things worse for the person who will occupy some position. Normally, if Smith succeeds, he will have harmed whoever that person turns out to be, and that person will have reason to complain. But if Smith’s act also inadvertently causes Jones to occupy that position, and Jones is still better off than he would have been otherwise, does Jones have reason to complain? Many of us have intuitions that lead us to think he does.”

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<sup>5</sup> See also the legal-philosophical discussion between Weiss and d’Amato. According to Weiss (1992), “Intergenerational planetary rights may be regarded as group rights, as distinct from individual rights, in the sense that generations hold these rights as groups in relation to other generations - past, present, and future. They exist regardless of the number and identity of individuals making up each generation.” D’Amato (1990: 193 note 11), however, rhetorically asks “whether, if every single member of group A is wiped out and replaced by someone else, we are still entitled to call it group A and claim that at least the group has been preserved.”

I do not think Jones has reason to complain if it is impossible for him to occupy his position without Smith having acted ‘viciously’. Any sensible complaint seems to imply a wish that Smith had acted differently and that the situation be altered (Feinberg, 1986: 169). If Jones wants the situation altered, he loses his job. Jones may still have this wish for altruistic reasons: another actual person exists who could have occupied Jones’ position under better conditions. Jones may feel this other person has been harmed. In the case of future generations, however, these others do not exist. Furthermore, the intuition that Jones has reason to complain may stem from the counterfactual idea that there would in fact have been an opportunity for Jones to both occupy his position and being better off.

Some authors, such as Visser ‘t Hooft (1999; see also MacLean, 1983, Partridge, 2002), have tried to substantiate our duties towards future generations with reference to historical examples:

"No doubt many Jews living as our contemporaries would not have been born as the particular individuals they are, had Hitler not appeared on the scene of history. It is easy to imagine chains of causation linking the one circumstance with the other. Does that mean that they must keep silent on the Holocaust, or even be thankful for its having caused them to be born?"

However, that many of the Jews alive today would not be here if Hitler had not appeared on the scene of history makes it in no way less appalling what Hitler did to their *ancestors* (and to those Jews killed without any descendants). There is therefore no reason at all why contemporary Jews should remain silent on the Holocaust rather than express their moral condemnation. There is nothing illogical in morally condemning an act for its consequences on particular people even though one’s own particular life depends upon that act. Therefore, the harm or benefits to existing people are sufficient to account for our moral intuitions about those past acts.

Woodward has argued that acts can wrong people even if the act results in the person becoming better off than he would otherwise be. Woodward (1986: 810-811) asks us to imagine the following situation:

“Suppose that Smith, who is black, attempts to buy a ticket on a certain airline flight and that the airline refuses to sell it to him because it discriminates racially. Shortly after, that very flight crashes, killing all aboard. There is a clear sense in which the airline’s action has the result that Smith is better off than he otherwise would be, and if selling or not selling Smith the ticket are the only relevant actions which the airline can perform, not selling leaves him better off than any other possible action the airline might have performed. Nonetheless, it seems quite natural to say that the airline’s action wrongs Smith.”

Likewise, Woodward argues, our present acts can wrong future people. In Parfit's example of a woman who intends to become pregnant as soon as possible, the future child would be harmed. However, although Woodward is correct in stating that people's rights can be violated although this makes them better off, Woodward's example misses the point. In theory, the airline could have respected Smith's right to buy a ticket, even though Smith would be killed in the plane crash. The racial discrimination is independent from the future consequences. In the case of future generations, however, if we act differently, then different future people will exist. The 'harm' of a disability, for example, is intrinsically connected to the 'benefit' of existence. It seems consequently impossible to respect the rights of the future people. It is difficult to see how a right that cannot, logically, be respected can be violated (see also Sanchez, 2006).

Shiffrin (1999; see also Hanser, 1990) has tried to solve the non-identity problem by taking a 'non-comparative' view on harm, i.e. the view that some states of a person are harmful states as such and causing a person to be in such a state amounts to (wrongfully) harming that person. A person with a disability, for example, would be wrongfully harmed by being brought into the world disabled, even if there would be no possibility for that person to exist without the disability. Shiffrin needs this 'non-comparative' view on harm to argue that the 'benefit of existence' cannot compensate the harm by a disability, for example.<sup>6</sup> Feinberg (1986: 169) has argued that viewing such a disability a wrongful harm would be like "holding a rescuer liable for injuries he caused an endangered person that were necessary to his saving that person's life." Shiffrin, however, considers the endangered person harmed nonetheless. This harm is only justified because it was necessary to avert a greater harm. According to Shiffrin, such a greater harm is not at stake when bringing people into this world. Shiffrin (1999) compares Parfit's cases to examples in which as she calls it 'pure benefits' are bestowed on others without their consent at the cost of a lesser harm (p. 127):

"it seems wrong to break an unconscious patient's arm even if necessary to endow her with valuable, physical benefits, such as supernormal memory, a useful store of encyclopedic knowledge, twenty IQ points worth of extra intellectual ability, or the ability to consume immoderate amounts of alcohol or fat without side effects."

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<sup>6</sup> According to Hanser, the fact that the benefit of existence outweighs the harm suffered is irrelevant since the benefit is purely accidental. We can have no foreknowledge of who will live in the future in particular, so the benefit of a particular person that he will live instead of someone else is purely accidental. Therefore, according to Hanser, it cannot compensate the harm in a morally relevant way.

According to Shiffrin, ‘pure benefits’, i.e. benefits that are just goods and which are not also removals of or preventions from harm, cannot compensate harms without consent.<sup>7</sup> Only the prevention of greater harms can justify the infliction of a lesser harm, such as in the case of a rescuer causing some injuries to an endangered person. The reason, according to Shiffrin, is that the infliction of harm without consent violates the autonomy and right to self-determination of these persons (“a cleavage between a person’s life and her will”, p. 130). Since Shiffrin begins from the assumption that being created is such a ‘pure benefit’, she also assumes that these benefits cannot compensate the harms future people suffer in Parfit’s cases, for example. The ‘non-comparative’ view on harm is problematic, however. First, in Shiffrin’s examples of the endangered person or the unconscious patient it is rather unproblematic to view breaking an arm as a harm, since these people could also have existed *without* their arm broken (although they would have missed later ‘benefits’). Someone’s arm is broken, whose arm was unbroken beforehand. In the case of future generations, however, these people cannot exist without the ‘harmed condition’. Therefore, it is difficult to view such ‘harm’ as a wrong. Second, without the comparison to another state to judge whether a ‘harmed condition’ constitutes a wrong, any ‘harmed condition’ becomes a wrong. Then no life is justified, since all life includes some harm. In fact, Shiffrin draws this strong conclusion by stating that “because procreation involves a non-consensual imposition of significant burdens, it is morally problematic” (p. 139).<sup>8</sup> However, it seems counterintuitive to say that a couple commits a wrongful harm by bringing into this world a child with a slight hearing impairment if that is the only child they can ever have. Clearly, to break an unconscious patient’s arm is committing a harm in comparison to not braking the patient’s arm. However, it is not clear that bringing into this world a child with a slight hearing impairment is committing a harm in comparison to not bringing the child into this world.

## 5. Individual responsibility

Allan Carter (2001, 2002) has suggested that, in the case of long-term policy, discerning individual responsibilities within collective action offers a solution to Parfit’s non-identity problem. While it may be true that present collective action changes the identity of all future people whose lives the action sought to affect, this would not be the case for individual action. As Carter argues, if I perform an act that worsens future living conditions, that

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<sup>7</sup> See also Weinberg (2007), who states “Existence, which is unnecessary, value neutral, and something all future people will have, does not outweigh anything.”

<sup>8</sup> See for this view explicitly defended: Benatar (1997).

act may result in a number of future people coming into existence with identities different from what would otherwise have been the case. In the case of an individual act, however, the chance is very small – even when considering the distant future – that precisely these people with a different identity will experience the change in living conditions. Most probably, someone will be harmed who will live irrespective of my act. This particular person will have reason to complain, since he or she is harmed by my present act and would also have existed if I had acted differently. It should be noted that Partridge (2002) disagrees with the idea that most future identities will be left unchanged by my present acts. According to Partridge, future identities are so contingent that even the slightest present change is sufficient to completely reshuffle the future. But let us continue for a moment on the road followed by Carter and investigate his solution by means of the following example.

Imagine once more our two farmers, Alfred and Benjamin, this time both polluting each other’s land and deciding whether or not to continue doing so. Now assume that each farmer’s decision whether or not to pollute determines only the identity of his own future child, but not the identity of his neighbour’s future child. On the other hand, each farmer’s decision whether or not to pollute determines only the conditions under which his neighbour’s future child will live, but not those of his own future child. The following possibilities are therefore available. If Alfred and Benjamin both continue to pollute, their respective future children Andrew and Benny will both develop asthma as a result of their neighbours’ pollution. If Alfred and Benjamin both stop their polluting activities, their respective future children will be the non-asthmatic Andrea and Bernadette. If only Alfred stops polluting, but Benjamin continues, Andrea and Benny will be born, with Andrea developing asthma. If on the other hand Alfred continues to pollute, but Benjamin stops, Andrew and Bernadette will be born, with Bernadette now developing asthma. The four possibilities are shown in the diagram.

		Benjamin	
		Pollute	Not pollute
Alfred	Pollute	Asthmatic Andrew / Asthmatic Benny	Non-asthmatic Andrew / Asthmatic Bernadette
	Not pollute	Asthmatic Andrea / Non-asthmatic Benny	Non-asthmatic Andrea / Non-asthmatic Bernadette

As can be seen from this situation, which has the characteristics of a prisoners’ dilemma, each farmer has an individual moral duty to stop polluting. For example, if Alfred stops polluting, Benjamin’s child (Benny or Bernadette) will be better off irrespective of Benjamin’s choice whether or not to pollute. After all, Alfred’s decision as to whether or not to pollute does not determine the identity of Benjamin’s child. However, the farmers have no *collective* duty to stop polluting. On the contrary, they might have a

reason to decide collectively to pollute. Imagine, for example, both farmers promising each other to continue polluting. If they do, what reason can Andrew and Benny have to complain for their asthma? The farmers can argue that it is due solely to their collective decision that Andrew and Benny exist, since their uncoordinated actions would have led to the existence of different children (Andrea and Bernadette) instead. Therefore, a collective decision (coordination) might *relieve* both farmers of their individual duties not to pollute. I therefore disagree with Carter, who believes each of us can avoid harming future people by “collectively adopting, and then individually acting in accord with, long-range welfare policies which conserve resources, curb pollution and limit population growth.” (Carter, 2001: 445). After all, in the very act of collective deliberation causing damage and causing identities to change become coupled. The idea of society coming together to relieve one another of the duty not to pollute may be far-fetched. The point, however, is that no collective deliberation can be required on the basis of duties towards future people.

A further oddity is that neither of the children have reason to act collectively, in the form of a collective complaint. Certainly, the children can complain individually against each of the individual farmers that they should not have polluted, whether this was decided individually or collectively. However, these complaints can only be made *in mutual competition*. If, with the aid of a time machine, the wish of one child could be effectuated, then the other child would cease to exist. Therefore, if the children were to collectively deliberate, they would probably agree to file neither individual complaints nor a collective complaint. If in the case of climate change future people can only complain individually, in mutual competition, and only a few complaints out of the many billions could in principle be recognized, then this is truly only a marginal solution to the non-identity problem.

In section 2, I offered an analogous argument with respect to the harming of future property: in the case of climate change there is little chance that my individual present activities will damage the same future property as that originating from my present entitlements. However, this argument (partly) works in the case of future property but not in the case of Parfit’s problem. The reason is that principally future generations can complain collectively about our present acts affecting future property, while they cannot in the case of identity-changing acts. The claim of one future person with regards to his property is not necessarily bad for someone else, while it is in the case of identity changing acts.

## **6. Present rights of future people**

Although I have only discussed a small number of attempts to defend the idea of present duties towards future people against Parfit’s analysis, I do not

believe the present literature offers a satisfactory solution. In this section I propose a different line of thinking, although I do not claim this view is immune for criticism. I believe, however, it corresponds best with our intuitions in which cases we fail to fulfil our duties towards future people and in which cases we do not.

All ‘solutions’ proposed to the non-identity problem discussed in the previous two sections take a future perspective to judge whether rights are violated, i.e. ask the question what future people would prefer retrospectively at the moment of harm to have happened in the past. Since it is impossible for future people to lead the same life without the harm, they seem to have no reason to complain. However, I believe it more fruitful to ask what a representative or proxy would prefer for the future person from the present perspective, i.e. the moment of the harmful act. To show this, we first have to be more precise when a certain act violates rights and what it means to violate a right.

To have a (negative) right is to have a right that someone else refrains from certain harmful acts. Connected to this right is the duty not to violate the right. If one violates a right one simultaneously fails to fulfil a duty; there cannot be a time lag between these moments. Nor can there be a time lag between the moment one performs an act leading to (future) harm and the moment one fails to fulfil a duty. That also happens simultaneously. Therefore, it has to be concluded that a right can only be violated at the moment of the act itself and cannot be violated in the future. Of course, at the moment of the act there is still uncertainty about the consequences. This fact is irrelevant, however, as clarified by Feinberg’s following example (1990: 20; see also 1986: 150), comparable to the example by Woodward cited earlier:

“A businessman in Sydney takes a taxicab to the airport with the intention of boarding a plane to Perth. On the way to the airport the reckless driving of the taxi driver causes a collision with a truck. The businessman, severely injured, is rushed in an ambulance to a hospital, and thus misses his plane. The plane, however, develops engine trouble and crashes shortly after takeoff, killing all the passengers. The taxi passenger, therefore, despite his injuries, is better off on balance as a consequence of the cab driver's negligence than he would be otherwise ...”

Still, as Feinberg agrees, we wish to maintain our intuition that the taxi driver has committed a *wrongful harm* to the businessman, i.e. violated the businessman’s rights. Therefore, Feinberg formulates the following principle: “*A* harms *B* only if his wrongful act leaves *B* worse off than he would be otherwise *in the normal course of events insofar as they were reasonably foreseeable in the circumstances.*” (1986: 153). In other words, the taxi driver violated the businessman’s rights because at the moment of the taxi driver’s reckless driving the businessman’s interest was a save taxi

trip on the basis of the *reasonably foreseeable normal course of events*. On the basis of the information available to the businessman, the businessman would not have permitted the reckless driving. This example strengthens the idea that whatever happens in the future, present rights are violated at the moment of the act itself.

What does the idea that present acts can only violate present rights mean for Feinberg's example of the *wicked misanthrope* (1986: 154; see also Parfit, 1984: 356-7)?

“A wicked misanthrope desires to blow up a schoolhouse in order to kill or mutilate the pupils. He conceals a bomb in a closet in the kindergarten room and sets a timing device to go off in six years. It goes off on schedule, killing or mutilating dozens of five-year-old children. It was the evil action of the wicked criminal six years earlier, *before they were even conceived*, that harmed them. It set in train a causal sequence that led directly to the harm.”

It means that if we accept that the misanthrope fails to fulfil his duties toward the future pupils, it must be at the moment he conceals his bomb. Therefore, the rights the misanthrope's act violates must also be the *present* rights of the future people. Of course, the violation of these rights is *contingent*. First, the misanthrope may dismantle his bomb at a later moment, but still before it may harm future pupils. The fact that the misanthrope may dismantle his bomb does not alter the rights violation. If he does dismantle his bomb, he just undoes or compensates his earlier act. If I steal your wallet, but replace it before you notice, my initial act still violated your rights. Second, there may be no future pupils in the kindergarten once the bomb goes off. This does not diminish, however, the misanthrope's duty not to perform his risky act. After six years we may observe and conclude that no pupils were present and consequently no rights were violated. However, as far as it is reasonable foreseeable that pupils will be around, it makes sense to take their rights into consideration. Whether one fails or not in fulfilling one's duty does not depend upon the consequences in hindsight, but on the reasonable foreseeable consequences.

Some moral philosophers have argued that present generations cannot violate future generations' rights, for the simple reason that future generations do not yet exist. De George (1979), for example, follows this Epicurean line of thought (see also Macklin, 1981; Steiner, 1994; Beckerman and Pasek, 2002):

“Future generations by definition do not now exist. They cannot now, therefore, be the present bearer or subject of anything, including rights. Hence they cannot be said to have rights in the same sense that presently existing entities can be said to have them. This follows from the briefest analysis of the present tense form of the verb ‘to have’.”

However, I do not see a problem in the acknowledgement of contingent present rights of future people. If we were to live in a deterministic world in which it was possible to predict with certainty that someone would exist in the future, then this certainty would be sufficient to grant this person present rights. Since we do not live in a deterministic world, we cannot be certain about the existence of future people. However, this uncertainty does not diminish the possibility to take the rights of future people into consideration as far as their existence is *reasonably foreseeable*. To have present rights future generations do not have to be present themselves. A proxy may be present in their place.

As Feinberg has argued, there are various legal examples of pre-conception harm, such as malpractice by pharmaceutical manufacturers. Of course, in the case of long-term risks, such as climate change, victims have little opportunity for claiming and enforcing rights themselves, for in all probability the perpetrators will already be dead by the time the damage has occurred. However, while this impossibility may be relevant in spurring present generations to action from a psychological perspective (see the previous chapter), I do not believe it is of *moral* relevance. Moral rights are called for by the principles of an enlightened conscience, not by merit of their (legal) enforceability (Feinberg, 1974).

What does the fact that present acts necessarily violate present rights mean for the non-identity problem? If we take the present perspective instead of the future perspective, the identity ceases to matter. Before turning to the troubling case of future people, let us first look at the uncomplicated situation in which a present adult is exposed to a risk materialising ten years later, for example by exposure to radioactive radiation. Clearly, the initial act does not alter the numerical identity of the person exposed to the risk. The exposure to radiation may, however, alter the course of life of the person exposed and thus his narrative identity. Therefore, if we take the future perspective, there may still be a non-identity problem. After all, the person who had been exposed to radiation ten years earlier may not wish to change the course of history (if it were physically possible) and to undo the initial act if this were to alter his narrative identity. However, if someone has no such wish, we cannot say his rights are violated from that momentary (future) perspective. From the present perspective, however, rights are in fact violated nonetheless. Although someone may not wish that history is changed from the point of view of hindsight, it is perfectly thinkable that someone does not wish his future to be endangered from the present perspective. No one prefers to be exposed to a risk such as radiation. So once someone's narrative identity is still open or unfixed, he may wish a certain harmful act not to be performed, while from a future perspective he may not wish the same.

Let us now take a bit more complicated example of a woman who is pregnant for five weeks and is considering taking a party drug. She is both aware of her pregnancy and aware that taking the drug imposes a risk on her foetus of developing into, say, an asthmatic adult. Since the woman is making her decision *after* the foetus has been conceived this is generally not the kind of situation which is thought to involve the non-identity problem. The numerical identity of the child is already fixed. Therefore, there should be no problem in reaching the conclusion that the mother wrongfully harms her child by taking the party drug. However, while the *numerical* identity of the child is fixed, his *narrative* identity is not. The child's narrative identity is changed by the decision of the mother. Once more, we cannot conclude that the rights of the future adult are violated, because he may not wish history to be changed from his future perspective. The rights of the foetus are violated, however. Of course, the foetus is unable to claim any rights. A representative or proxy may voice or defend the rights, however. The representative would certainly object against the mother taking the party drug, since this would harm the foetus' future. Therefore, taking the drug violates the foetus' rights not to run the risk of future harm to his health. These rights or interests are of a special sort, however, since they depend upon the certainty of the foetus becoming a conscious adult. If they would not depend upon this certainty, we would have to consider each abortion a violation of the foetus' rights. So *if* it is reasonably foreseeable that the foetus will develop into an adult, *then* the foetus has a right not to be harmed, as argued by Feinberg (1980: 180):

“I believe ... that unborn children are among the sorts of beings of whom possession of rights can meaningfully be predicated, even though they are (temporarily) incapable of having interests, because their future interests can be protected now, and it does make sense to protect a potential interest even before it has grown into actuality. The interest principle, however, makes perplexing, at best, talk of a noncontingent fetal right to be born; for fetuses, lacking actual wants and beliefs, have no actual interest in being born, and it is difficult to think of any other reason for ascribing in any rights to them other than on the assumption that they will in fact be born.”

So if we ‘harm’ a foetus, but not in such a way that he will lead a miserable life not worth living, we will have committed a wrongful harm to someone who will not for a single moment in his life prefer the initial act to be undone. As a foetus, he is incapable of having interests, and as an adult he is too late, since by then he will be unwilling to jump to another ‘narrative life track’. Only a representative may voice this preference at the moment of the act itself on the basis of the rights of the foetus not to be harmed.

However, if we are willing to attach a right to a foetus not to be harmed, although his future or life narrative is still open and unknown except that he will exist as an adult, why then would it be problematic to cross the

border of conception where even the numerical identity is still open? Why then wouldn't we be willing to attach a present right to 'the future child' of the mother in Parfit's example not to be harmed by a certain choice or act? If making an actual healthy foetus disabled constitutes a violation of the foetus' right, then also taking a decision which leads to the conception of a disabled child instead of the conception of a healthy child constitutes a violation of the rights of the 'child to be' if those were the two foreseeable options. If we know that a child will exist we can say it has rights before it's conception. If a third party may protect the interests of a foetus on behalf of the conscious person it once will become against the mother's act even if her act changes the child's narrative, why then wouldn't that third party may protect the interests of a *potential* person on behalf of the *actual* person it once will become?

Now it may be opposed that attaching present rights to future people would lead to right violations in counterintuitive situations. For example, that deciding to have no children would violate the rights of the possible future children. However, as Feinberg argues in the case of 'foetal rights', such rights are based upon the assumption that they will in fact be born. Likewise, in the case of future people, there are only rights on the basis of the assumption that they (reasonably foreseeable) will be conceived. If no child will exist, no rights are violated. The opposite may be claimed as well, that any conception violates the rights of the resulting person because of the 'harms' which are intrinsically connected to any life (Shiffrin, 1999). I do not believe, however, that such counterintuitive conclusions have to be drawn. The question we must ask ourselves is whether our present decisions create a *reasonably foreseeable* risk that future people (whatever their narrative or numerical identity) will be in a harmed condition (disabled for example) in comparison to the situation that we act differently. Leading in this case is the question what act would constitute a wrongful harm to a foetus. Making him disabled would, withholding a (genetic) treatment which would improve his looks or intelligence would not. If children have no right to the best possibilities once conceived, then 'children to be' have no such rights either. Children have a right that their bodily integrity is not violated. They do not have a right to, say, plastic surgery or the most expensive schools. Likewise, a 'child to be' has a right that if the choice is between a disabled future or a healthy future that the latter is chosen, but has no general right to a wealthier life above a less wealthy life. A more difficult question is whether withholding treatment to a foetus with a treatable disorder constitutes a wrongful harm. Because of the absolute dependency of the foetus on the parents, I believe there is no basic asymmetry between inflicting harm to a healthy foetus and preventing harm to an 'endangered' foetus.

I believe this idea of present rights of future people *whoever they will become* corresponds best with our intuitions in which cases we fail to

fulfil our duties and in which cases we do not. However, as I stated at the start of this section, the idea of present rights of future people *whoever they will become* is not entirely without its problems either. Perhaps, our moral intuitions are stretched too much if the case at hand is not a ‘same numbers problem’, such as in the case of the woman becoming pregnant of a handicapped or healthy child, or a long-term policy change which does not alter the number of future people.

## 7. A ‘precautionary’ approach

As stated before, I do not believe the present literature offers a satisfactory solution to Parfit’s non-identity problem. In the previous section, I have sketched a different line of thinking which might underpin our present duties towards future people. However, even if no solution to Parfit’s problem is presently available, I believe that the non-identity problem *as yet* ought not to determine how *governments* should handle climate change. I believe the present ‘reflective disequilibrium’ justifies a ‘precautionary’ approach, in which climate damage is treated *as if* it were a wrongful harm to future generations until such time as coherence between theory and intuition is regained.

First, it is a politically relevant fact that Parfit’s non-identity problem conflicts with the widely shared layman’s opinion that we do have moral duties towards future generations. Despite its electoral relevance, this fact in itself provides insufficient *moral* grounds for governments to give consideration to such duties towards future generations, as there may be good reason to deem the prevailing view (morally) *wrong*. More important from a government’s point of view, however, is that, a few exceptions aside (see e.g. Schwartz, 1978, 1979), the same moral philosophical community that queries the analytical soundness of moral duties towards future generations also holds on to its intuition that we *do* have such duties. Parfit, for example, expected that a solution would be found in the future, a solution implying an adaptation of moral theory and not a rejection of moral intuitions. He hoped that future research would offer a ‘principle X’, which would solve the non-identity paradox (1981: 172):

“My desired new principle, which will solve all problems, seems to some people a mirage – not something which might be discovered. While such pessimism may turn out to be correct, it cannot yet be justified. These are early days. Judged by the number of people who have made the subject part of their life’s work, rather than by the length of time since it began, non-religious moral philosophy is a very young subject. We should not be surprised that much of it is still puzzling.”

Although Parfit was unable to find ‘principle X’, he remarked: “On my view, the Non-identity Problem never affects what we ought or ought not to do” (1986b: 855). The vast majority of the moral philosophical community has shared Parfit’s response to the problem (see e.g. Govier, 1979; Smolkin, 1994, 1999). As a result, there has been an ongoing quest for moral theories that might support the intuitions that the woman has a moral obligation to wait for two months and conceive a normal child, and that we are under a moral obligation to opt for the long-term policy, in order to re-establish coherence between intuitions and theory. If this is the common intuition of moral philosophers, then societies and governments have good reason to handle climate damage as a wrongful harm to future generations, until such time as moral philosophers achieve consensus on disregarding such duties. In other words, the controversy among moral philosophers calls for a ‘precautionary’ approach.

The second argument for a presumption, or ‘in dubio pro futura’ approach, is that the issue at hand is not about a proposal for new moral principles or regulations to be applied society-wide, but about the *exclusion* of a particular group from the application of established principles and regulations. The question is whether governments are justified *not* to apply established legal rules governing the handling of risk and damage to the case of climate damage experienced by future generations. Of course, such a precautionary approach is not without its costs. Handling the risk of climate change with the same ‘reasonable care’ as positive law requires in the case of risk to our contemporaries will have an impact on present consumption and production patterns. However, the standard of reasonable care required in the case of risk to other contemporaries already includes a reasonable weighing of costs and benefits. Refraining from present consumption to a degree that prevents possibly greater harm to future generations seems a reasonable price to pay.

## 8. Transcendental needs

Parfit termed the non-identity problem a *problem* because of the apparently unbridgeable gap between intuition and moral theory. As explained in section 4, moral philosophers have generally held to their moral intuitions and consequently sought adaptation of moral theory. In his book *Genethics* (1992), however, David Heyd pursues the opposite route, preferring further investigation of our intuitions. According to Heyd, choices that affect *potential* beings should be judged by conventional moral principles only to the extent that such ‘genesis choices’ affect actual beings as well; but inasmuch as they have no such effect on actual beings, “they should be recognized as lying beyond the grip of moral judgment” (p. 194). Heyd

argues, however, that several general empirical facts of biology, psychology and ecology can *explain* our intuitions in such cases as presented by Parfit.

Few people would be able, for example, to project themselves into the mind of a woman who could not wait for two months until her illness had passed, but knowingly chooses to conceive a handicapped child. For most people, after all, the decision to have children is a selfish choice arising from a variety of motives, such as security for old age, status, power, psychological stimulation, expression of primary group ties (love), companionship, self-realization, the preservation of lineage, the continuation, multiplication or expansion of the self, or even simple fun (Heyd, 1992: 199). These reasons are not 'good' or 'bad' in a moral sense; they are simply 'normal' in an empirical sense. Therefore, most of us would be abhorred if someone were to strongly deviate from this 'normal' view on life. However, just as we would be abhorred were we to know of someone deliberately having his own healthy leg amputated, but would have no reason for a *moral* complaint, we can be abhorred by knowing of someone deliberately choosing to conceive of a handicapped child. According to Heyd, then, we can 'save' our cherished intuitions by realizing that the handicapped child will not itself be worse off, but its parents.

In the case of long-term policy affecting the distant future, too, we have reason to be abhorred by the prospect of declining conditions under which future generations will live. As many development psychologists argue, most people need to perceive their lives as being 'meaningful', taken to signify adding to or being connected to something of value that is greater than themselves (Maslow, 1968; Frankl, 1972; Yalom, 1980; Baumeister, 1991). As Heyd observes, people "write books, engage in long-term political activities, work for the preservation of nature, build mausoleums, and in general fill their lives with creative activity that is not only life-serving but also life-justifying" (p. 211). So if the value we attach to our own lives depends upon the value we can attach to larger frameworks (the scientific enterprise, our genetic lineage), we also have reason to be concerned about the future of these self-transcending activities even after our own deaths. The prospect of the future collapse of civilization – even if we were not around to experience it ourselves – would diminish our ability to attach value to our present activities (see also Partridge, 1980). As a matter of fact, Parfit took a similar view as a last refuge for explaining the repugnance of the prospect of the Earth being inhabited by hundreds of billions of people living at subsistence level, for which "the only good things would be muzak and potatoes" (1986a: 160, 163):

"When we are most concerned about overpopulation, our concern is only partly about the value that each life will have for the person whose life it is. We are also concerned about the disappearance from the world of the kinds of experience and activity which do most to make life worth living."

Subsequently, it may be queried *why* we would be concerned about the continued existence of activities after our own death. Related to a person-affecting view on morality is a person-affecting view on value: all value in the world is a value to *someone*. This value can be either a value to future people or a value to us. However, if we were to be concerned about the future because of its value to future generations, we once more encounter Parfit's non-identity problem. If the future is valuable to *us*, on the other hand, we may query why we should be concerned about it after our death, when we are no longer around. The clue, according to Heyd, lies in the idea of a wider conception of identity. "Begetting children is a sort of self-expansion, an attempt to extend one's existence, a guarantee for a kind of continuity of the self beyond its individual-biological bounds" (1992: 213). And of course writing books and the like serves a similar purpose. So the larger framework can be of value to us, because we remain part of it. Please note that in this case, self-transcendence should not be interpreted as deriving meaning from something larger than oneself, something which has value independent from oneself. Instead, self-transcendence is to be interpreted as transcending a narrow interpretation of the self, i.e. as something which completely ends with one's death (Heyd, 1992: 219-220):

"Self-transcendence implies that what happens to our descendants, projects, political aspirations, and social ideals affects *us*, even after our individual extinction, albeit in a roundabout manner. This is rather like the way in which ignoring their testaments is a violation of *people's* rights and interests. In both cases there is no need to assume a mysterious form of personal existence after death. If human interests extend beyond the biological life of their subject, then in the same way as people can be "affected" after their death, so can they be affected during their life by future prospects."

If the 'solution' to the non-identity problem indeed lies in rethinking our intuitions, how then should governments respond? If there is a general need for self-transcendence, people are certainly expressing it indirectly. It seems that in modern political discourse there is little room for such terms as self-transcendence, meaning in life or long-term ideals regarding the good worth pursuing. Where human interaction is concerned, a language of justice, rights and autonomy predominates, even in spheres where such language is less appropriate. Exemplary is the Brundtland definition of sustainable development as "a development that meets the needs of the present without compromising the ability of future generations to meet their own needs" (WCED, 1987). In this definition, future generations could have just as well been a newly discovered tribe in a different part of the globe – people with whom we have no special ties, but whose interests and autonomy nevertheless deserve our due consideration (see also O'Neill, 1993). Perhaps the reluctance to employ in political discourse such terms as self-

transcendence, meaning in life and long-term ideals stems from the modern, anti-perfectionist ideal of state neutrality when it comes to conceptions of the good. Alternatively, the dominant language of justice and autonomy may stem from the modern fascination with the self (Taylor, 1989; Baumeister, 1991). Finally, Nazism and communism may have made us rather ill-disposed towards ideals about future society or utopias.

Please note that the claim is not that the need for self-transcendence is strongly present in each individual, and therefore sufficiently strong to support a drastic climate policy. In fact, society's need for self-transcendence may be quite weak. However, the point is that there is no indication that the willingness to take intergenerational justice seriously is any stronger as explained in section 4 of the previous chapter. So even if society's need for self-transcendence were weak, this fact on its own would not prove that this weak need cannot (partly) explain the present concern for intergenerational justice. My statement is only that *as far as* people are concerned about the future, this concern can be (partly) explained by a need for self-transcendence.

Whatever the origin of this indirect expression of society's need for self-transcendence, I do not believe it would make sense if governments were to wait for a paradigmatic turn in the way people perceive and express their relation to future generations and meanwhile were to ignore stated preferences regarding intergenerational justice. Taking such preferences seriously would be justified because a climate policy based on a respect for future generations' rights to bodily integrity and personal property would, I believe, be largely congruent with a policy directly grafted onto transcendental considerations or long-term ideals. It is understandable that in a pluriform society in which conceptions of futures worth aiming for differ, people can agree *at least* to take reasonable care in preventing foreseeable future damage or harm due to our present acts. Agreement on this point is more likely than agreement about present investments in technological, scientific or cultural progress, for example. Future generations' rights might thus serve to define a lower limit or minimal 'self-restriction' to our present acts, given the unlikelihood of consensus about the future to be pursued.

Now it may be argued that if I want to live on through my children and further offspring, as argued by Heyd, that I just want them to be well. I would not be interested whether that fits within (legal) standards of reasonable care. Furthermore, it may be argued that although I may be interested in my children, this interest diminishes the further along the chain of generations. However, when organizing society, the first question is not how we wish to deal with our own offspring, but how we ought to deal with someone else's offspring. Even if I am not concerned about my own future that does not mean that someone else may put my future at risk. The fact that I discount my future does not give someone else the right to discount my future. Therefore, standards of reasonable care may still govern our dealings

with the far future, even if our concern about the future is grafted onto transcendental considerations and our concern diminishes the farther we look into the future.

Once more, this approach is not without its costs. In this case, the costs are a loss of transparency if the government uses two different languages for the purposes of internal justification and external communication. Liberals might be reluctant to pay the price of such a ‘manipulative’ use of language. However, given the urgency of a political response to climate change, such a loss of transparency seems a bearable cost compared to the costs of inaction.

## **9. Conclusion**

I started this chapter by observing that governments do in fact view the mitigation of climate effects experienced by future generations a matter of intergenerational justice. Therefore, consistency of governmental policy already requires climate risks to be handled consistent with the general standards of conduct deemed acceptable for handling risks to other contemporaries. Nevertheless, I investigated in this chapter whether governments are justified to handle climate damage as a wrongful harm to future generations. I have argued that although future generations’ entitlements to property originate in our present entitlements, the principle of self-ownership do require us to take ‘reasonable care’ of the products of future labour. I have also argued, however, that the present literature does not offer a solid solution to Parfit’s non-identity problem that can underpin any notion of rights of future generations. I offered a new approach which might offer a solution. However, even if no solution to Parfit’s problem is accepted as entirely satisfactory, I believe the present reflective disequilibrium justifies a ‘precautionary approach’ until a satisfactory coherence is regained between intuitions and theory. Second, I have argued that moral intuitions regarding future generations can partly be explained through an appeal to the human need for self-transcendence. On its own, this solution does not underpin any rights of future generations. However, given the dominance of anti-perfectionist language in modern political discourse, there is reason to assume that society translates its existing concern for self-transcendence and meaning in life into terms of duties to and rights of future generations. In such a political discourse, rights offer once more a guide for political action. Therefore, I conclude that governments are justified to address climate risks by appealing to the rights of future generations to bodily integrity and personal property.

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