



Environment & Society



White Horse Press

Full citation:

Davidson, Marc D. "Wrongful Harm to Future Generations: The Case of Climate Change." *Environmental Values* 17, no. 4, (2008): 471-488.
<http://www.environmentandsociety.org/node/6049>

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Wrongful Harm to Future Generations: The Case of Climate Change

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ABSTRACT

In this article I argue that governments are justified in addressing the potential for human induced climate damages on the basis of future generations' rights to bodily integrity and personal property. First, although future generations' entitlements to property originate in our present entitlements, the principle of self-ownership requires us to take 'reasonable care' of the products of future labour. Second, while Parfit's non-identity problem has as yet no satisfactory solution, the present absence of an equilibrium between theory and intuitions justifies a precautionary approach, i.e. treating climate damage as a wrongful harm. In addition, a supplementary consideration is described as arising from transcendental needs.

KEYWORDS

Climate change, future generations, wrongful harm, non-identity problem

1. INTRODUCTION

Climate change due to the emission of greenhouse gases involves substantial risk of damage to human health and property (IPCC, 2007). Because of the thermal inertia of the oceans, however, it takes about 50–100 years before the climate responds to changes in emissions (see e.g. Hanser, 2005). Consequently, most of the climate change we may experience today or in the near future will not be due to our present emissions but to the actions of our ancestors, while most of the impacts of our present acts will be felt when the planet is occupied by future rather than present generations. How to deal with climate risks is thus

pre-eminently a question of intergenerational justice (see also Gardiner, 2006; Singer, 2006).

An example where the issue of intergenerational justice arises in actual climate policy making is cost-benefit analysis (Portney and Weyant, 1999; Padilla, 2004; Toman, 2006; Stern, 2006). The standard approach in conventional economic analysis is to discount future climate damage because future generations are empathically remote from us and are expected to be much wealthier. At a typical so-called *social rate of time preference* of four percent, a dollar of consumption today is preferred to preventing *fifty* dollars of climate damage in a hundred years' time. Unsurprisingly, therefore, many economists consider climate policy such as that required under the Kyoto Protocol to be a waste of money (see e.g. Nordhaus and Boyer, 1999).

As a descriptive model of actual behaviour, the concept of a social rate of time preference has already been questioned on the basis of empirical psychological research (see e.g. Frederick et al., 2002). As a prescriptive or normative position (see e.g. Arrow, 1999; Beckerman and Hepburn, 2007), a positive social rate of time preference for climate damage is questionable as well. To attach less weight to the damage experienced by future generations on the basis of their emphatic remoteness and anticipated greater wealth is in sharp contrast to the generally accepted standards of conduct in the case of risk of harm to our contemporaries. No legal interpretation of 'reasonable care', for example, is conceivable in which the risk creator explicitly characterises losses by the risk bearer as being less important on the argument that the risk bearer is wealthier than the risk creator or (empathically) remote (Arlen, 2000). This legal duty to exercise reasonable care holds not only nationally, but also internationally (UNCHE, 1972; UNCED, 1992). For example, the Mexican government is not permitted to discount the risk of harm to US citizens due to transnational air pollution, on the grounds that US citizens are remote from them and, on average, much wealthier. Intergenerational justice is difficult to define, but 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 for doing so (see e.g. Rawls, 1972; Shrader-Frechette and Persson, 2001).

In his discussion of the social discount rate, Derek Parfit has in fact already observed this discrepancy between the treatment of trans-*generational* air pollution, such as the emission of greenhouse gases, and trans-*national* air pollution – it being clear to him that we should not discount the risk of harm to our remote contemporaries, 'we should take the same view about the harms that we may impose on our remote successors' (1984: 486; see also Spash, 1993). It is by no means self-evident, however, to consider the damage to health and property experienced by future generations a *wrongful harm* to them, in the same way we

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consider trans-national air pollution a wrongful harm to contemporaries living across the border. First, future property originates from present entitlements, complicating the idea that our present acts violate future generations' right to property. Second, as Parfit of all people must have been aware, any climate policy will affect not only the future climate, but also who will live in the future, giving rise to the so-called non-identity problem to which his name is attached (Parfit, 1976; 1981; 1984).

The purpose of the present article is to argue that governments at any rate can, and should, address climate risks by appealing to the rights of future generations to bodily integrity and personal property. The focus on governments is deliberate. For even if no satisfactory theoretical underpinnings of future generations' rights yet exist, governments nevertheless are justified to act *as if* those generations do have such rights. The set-up is as follows. In section 2, I shall first argue that there is no logical problem in the existence of a present duty to respect possible future rights of future generations. In section 3, I investigate whether it makes sense to speak of damage to future generations' property as a wrongful harm or violation of rights if we ignore Parfit's non-identity problem. In section 4, I argue that the present reflective disequilibrium with respect to Parfit's non-identity problem justifies the presumption to treat climate damage as a wrongful harm. Section 5 introduces supplementary considerations by looking at transcendental needs. Finally, section 6 offers conclusions.

2. NON-ACTUALITY

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 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, as Feinberg (1986), Partridge (1990) and Meyer (2004), for example, have argued, the non-actuality of future generations is in itself insufficient grounds for claiming that we cannot now violate the rights of future people. This is because there is no need for future generations to have rights *now* for us to be able, presently, to violate the rights those people will have in the *future*. Clearly, future people will have interests and there is no logical impossibility entailed in our present acts affecting those future interests. If we can adversely affect the interests of future people, then it also makes sense to say we can violate, now,

the rights that future people will come to have. Feinberg has clarified this point with the following example (1986: 154):

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.

If we add to this example a face-to-face confrontation in court between one of the surviving children – by now grown up – and the ‘wicked misanthrope’, it would make perfect sense for the victim to say that the bomber had violated his right to bodily integrity and that the child was therefore *wrongfully* harmed. In fact, as Feinberg (1986) has argued, there are various legal examples of pre-conception harm, such as malpractice by pharmaceutical manufacturers. Of course, victims of climate change 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 e.g. Care, 1982), 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). It should be noted, though, that because the claim so far is that there is no *logical* impossibility involved in violating the rights of future generations, it is essential in the example that the existence of the children (being conceived) did not in any way depend upon the acts of the bomber. If it did, Parfit’s non-identity problem would be introduced, which I shall discuss later.

Now imagine one of the children in Feinberg’s case of the wicked misanthrope was not only injured, but his antique wristwatch, given him by his grandfather at birth, was damaged as well. Did the bomber violate the child’s rights to his property? Or should we say that the child was not harmed in this respect, but rather the grandfather who owned the wristwatch at the time the bomb was placed, and that the child simply received a wristwatch of which the life span was intrinsically shortened? Narveson, for example, takes the latter position:

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. (cited in Wolf, 1999: 112)

I am inclined to take the first position, that the child is harmed. Provided the person owning the property at the time the future damage is caused does not permit that damage to be caused, the future harm is transferred to the future owner. Even if both the first and future owner knew in advance about the future

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damage, as long as neither of them gave permission the future owner will have a valid claim against the person who caused the damage that his rights have been violated. Imagine, for example, an old woman losing money through fraud. If she were unable to recover the money prior to her death, and her daughter inherits her possessions, the daughter would also inherit the right to recover the lost money from the swindler. Likewise, in our example of the 'wicked misanthrope' the child acquires the right to an undamaged wristwatch. Not only do I assume that the child will have a right, to be respected in the present, to everything he voluntarily and legally obtains from others. Additionally, he will have a right to whatever he himself produces from or by means of previously unowned goods or voluntarily transferred property. So I see no logical problem in the existence of a present duty to respect possible future rights of future generations.

3. PRESENT HARM TO FUTURE PROPERTY

Before turning to Parfit's non-identity problem, let us investigate further 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 (for a few authors mentioning property rights of future generations see Spash and d'Arge, 1989; 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 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. (Farber and Hemmersbaugh, 1993: 294–5)

If emitting greenhouse gases were a mere 'squandering of the family fortune', then climate policy would indeed be a supererogatory savings programme for future generations (Schelling, 1995), simply making them wealthier than they would otherwise have been. This line of reasoning is a little too straightforward, however, since 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 entitled neither to harm future generations physically nor to 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. In that case, Narveson's observation would make sense that 'by the time [future persons] 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 directly 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 the fruits of their labour. The damage to the fruits of their labour is, for them, 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 an act of negligence 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.

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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. The same activities give rise to external costs as well, however, as Alfred 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 non-bargained benefits would not constitute a wrongful harm. Consequently, the creator of external costs and non-bargained external benefits cannot cancel them out one against the other either, a moral point of view which is reflected in current law.

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 external benefit. 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 is 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 organise itself in such a way as to *not* to leave anything behind for future generations without lowering our own standard of living 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 emissions reduction. However, since the present generations cannot exclude future

generations from the external benefits, they are not entitled to compensation in the first place.¹ Therefore, there is still a moral ground for considering the property of future generations entitlements, which must 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.

It is important to note that although climate damage constitutes a wrongful harm, this does not imply a moral duty to prevent all harm. First, such a duty would be impossible to fulfil since the risk of harm can never be entirely prevented. Second, many minor risks of harm can only be prevented against unreasonably high costs. Therefore, positive law generally requires taking reasonable care, i.e. preventing the risk of harm which exceeds the cost of precautions. Intergenerational justice would thus require a similar prevention of 'unreasonable risk'.

4. THE 'NON-IDENTITY' PROBLEM

In Feinberg's (1986) example of a misanthrope placing a time bomb in a school house, the underlying assumption was that causing the future damage did not in any way affect the life of the future people prior to the occurrence of the damage. In the case of future *global* effects like climate damage, however, this assumption is troublesome, as first remarked by Parfit (1976) in response to an article by Narveson (1967).

In *Utilitarianism and New Generations* Narveson (1967) 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 (1967: 68), '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'. By 'existence' Narveson did not mean *present* existence. If our present 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). 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. (Parfit, 1976: 100–101)

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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 support this intuition, however. The child with a certain handicap, which would develop if the woman does not wait, is 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 injures no other people. Parfit coined this apparent unbridgeable gap between intuition and moral theory the *non-identity problem* (Parfit, 1976; 1981; 1984).

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

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. (Parfit, 1976: 101–102)

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 (1981: 115) asks us to imagine: ‘How many of us could truly claim, “Even if railways had never been invented, I would still have been born”?’ It would therefore be impossible for any particular future persons to 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.

There is general agreement that the implications of Parfit's analysis are counter-intuitive, and that the woman in his first example has a moral obligation to wait two months and conceive a normal child, and that in Parfit's second example we are under a moral obligation to opt for the long-term policy. Understandably, therefore, there has been an ongoing quest among moral philosophers 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. Although Parfit himself was unable to resolve his problem, he remarked that ‘on my view, the Non-identity Problem never affects what we ought or ought not to do’ (1986: 855). None of the attempted solutions to the non-identity problem that have been advanced so far, however, have escaped

criticism. The result is that we find ourselves in a situation described by philosophers as ‘reflective disequilibrium’ (Rawls, 1972): as long as our considered judgements or intuitions do not point in the same direction as our theoretical considerations, we cannot really trust either of them. After a brief review of some of these attempted solutions,² and the criticisms they have encountered, I offer a proposal about how we (or governments) ought to respond to such a situation. Since the present article is concerned specifically with the rights of future generations and therefore assumes a person-affecting approach, 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 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:

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. (Baier, 1981: 173–4)

In this line of reasoning, the indeterminateness of future people holds 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, they will have due reason to complain if the teacher does not show up at classes. Whoever they may be, they will be better off if there are lectures. The indeterminateness of the role-fillers is therefore 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.

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? (Visser ‘t Hooft, 1999: 51)

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However, the fact 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. The harm or benefits accruing to existing people are thus sufficient to account for our moral intuitions about those past acts.

Woodward has argued that someone can be wronged by an act even if the act results in the person becoming better off than he or she would otherwise be. Woodward (1986: 810-811) asks us to imagine the following situation (see also Hanser, 1990):

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. (Woodward, 1986: 810-11)

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, 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. In the case of future generations, however, if we act differently, then different future people will exist. It seems consequently impossible to respect *their* rights. It is difficult to see how a right that cannot, logically, be respected can be violated.

Finally, Carter (2001) has argued that 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. If I perform an act that worsens future living conditions, that 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. According to Partridge (2002), however, future identities are so contingent

that even the slightest present change due to an individual act is sufficient to completely reshuffle the future. Still, if Carter is right, there is another oddity left. Future generations will never have reason for a collective complaint, but only *in mutual competition*. If by the aid of a time machine the wish of one future person could be effectuated, then others would cease to exist. Therefore, if future generations were to collectively deliberate, they would probably agree to file neither individual complaints nor a collective complaint.

It would appear that the present literature does not yet offer a satisfactory solution to Parfit's non-identity problem. Nevertheless, the moral intuition among moral philosophers and laymen about duties towards future generations remain undiminished. How should governments deal with such a 'reflective disequilibrium'? My contention is that it 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. The main argument for such 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.

5. TRANSCENDENTAL NEEDS

In the previous section I have argued that the present reflective disequilibrium justifies the presumption to treat climate damage as a wrongful harm. This section introduces supplementary considerations. Parfit termed non-identity a *problem* because of the apparently unbridgeable gap between intuition and moral theory. As explained, moral philosophers have generally held to their moral intuitions and consequently sought adaptation of moral theory. In his book *Genethics*, however, Heyd (1992) pursues the opposite route, preferring further investigation of our intuitions. According to Heyd (1992: 194), 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

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grip of moral judgment'. Heyd argues, however, that several general empirical facts of biology, psychology and ecology can *explain* our intuitions in the kind of cases presented by Parfit.

Few people would be able, for example, to project themselves into the mind of a woman who cannot wait for two months until her illness has passed, but instead 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-realisation, the preservation of lineage, the continuation, multiplication or expansion of the self, or even simply fun (Heyd, 1992: 199). These reasons are not 'good' or 'bad' in a moral sense; they are 'normal' in an empirical sense. Therefore, most of us would be appalled if someone were to strongly deviate from this 'normal' view on life. However, just as we would abhor someone deliberately having his own healthy leg amputated, but would have no reason for *moral* complaint, we can also abhor someone deliberately choosing to conceive of a handicapped child. According to Heyd (1992), then, we can 'save' our cherished intuitions by realising 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 abhor 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 (Baumeister, 1991). As Heyd (1992: 211) 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'.³ 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 civilisation – 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).

Subsequently, it may be queried *why* we would be concerned about the continued existence of activities after our own death. Related to our 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 (1992: 213), 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.' 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.

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.

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. 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

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urgency of a political response to climate change, such a loss of transparency seems a bearable cost compared to the costs of inaction.

6. CONCLUSION

In this article I have investigated 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 requires us to take 'reasonable care' of the products of future labour. I have also argued, however, that no satisfactory coherent solution has yet been found to Parfit's non-identity problem that can underpin any notion of rights of future generations. Nevertheless, 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.

NOTES

¹ If the present generations were able to exclude future generations from the external benefits of e.g. technological progress, then perhaps we could imagine a *hypothetical* bargain between the generations. In such a bargain, the present generations could ask future generations to accept the external costs (future harm) and consider the external benefits as compensation or to forego both. Since future generations cannot be excluded from external benefits, there is no moral justification to assume 'tacit consent'.

² For a specific solution proposed in the context of climate change, see Page, 1999.

³ Please note that this observation is not contradicted by the view expressed in section 3 that only occasionally do people deliberately invest or save resources for future generations. 'Life-justifying activity' is generally not aimed at (material) investments or savings. Future generations cannot live on books and mausoleums alone, however.

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