

Democracy, future generations and global climate change

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A myriad of decisions made today will affect the quality of life for generations to come. Some decisions will also affect the capacity of future generations to govern themselves democratically. Although we are becoming increasingly aware of our obligations with respect to the welfare of future peoples, much less attention has been given the obligations we may have in securing political freedom for the unborn. Future peoples will suffer not only from the ways in which the environment is degraded and the extent to which the earth's resources are wasted. They may suffer as well if the political institutions created by us impose severe limitations on political liberty or even creates long lasting political injustices.

In this paper I will sketch out the main features of the problem in securing for future people democratic institutions as well as an endurable climate. The idea is that it provokes what I call the "democratic problem of future generations", which consists in the fact that the living generation needs to consider the democratic no less than the environmental consequences for future people of reforms enacted today. The problem is thus how we should assess the relative importance of different interests future people may have. Here I will consider to what extent contractualism may

provide a structure for answering these questions. The aim is not to identify specifically what institutional changes the current generation ought to enact in order to treat the unborn generations justly. Rather, the aim is to identify the conditions under which such changes will be justified to future generations.

The democratic problem of future generations

In response to the perceived gravity of the environmental situation, many believe that governments should pursue radically different *policies* – e.g. restricting emissions of green house gases, promoting more sustainable sources of energy and encouraging ‘greener’ ways of life. More controversially, some argue a change is required in the way political *institutions* work and structure the incentives of decision-makers. In fact, democratic governments have sustained extensive critique for not adequately taking the interests of the unborn into account. Democracies are believed to be “systematically biased in favour of the present” (Thompson 2005:246). The major reason why this is thought to be so, is that political participation in democracies typically includes only living people, leaving the unborn without a “voice” (see e.g. Stein 1998:426; Stern 2006:23).

The idea that democratic institutions work systematically to the disadvantage of future generations is a powerful one. It constituted the starting point for the influential World Commission on Environment and Development that reported to the United Nations in 1987. The commission conveyed the message that the democratic character of our political system is among the main causes for the present neglect of future generations: “We act as we do because we can get away with it: future generations do not vote; they have no political or financial power; they cannot challenge our decisions” (Our common future, 1987: Chap I, sec 2). It is hardly surprising then that investigations into the potential for reforms that would alleviate the burdens for generations to come have devoted much attention to ways in which democratic institutions should be redesigned. Clearly, our obligations to the future calls for a new set of policies to be pursued. But in order for the correct political decisions to be made, political institutions need to be changed in ways that makes them less responsive to the preferences of the living generation. Or so, at least, the argument goes.

One set of arguments focus on techniques for weakening the powers of the living either by creating barriers to political participation or by curtailing the powers of those elected into office. The idea behind suggestions of the first kind is to soften the influence of preferences that favour the living most heavily. A case in point is Philippe van Parijs' proposal to disenfranchise people above a certain age, thereby excluding from the demos those presumed to have few incentives to invest in the future (van Parijs 1998). More common is a concern with the actions of elected representatives themselves who are seen as potentially short-sighted and unable to take responsibility for future generations. These worries are animating familiar arguments in defence of a second chamber in the parliament, such as the House of Lords, who is allegedly more capable of taking the "long-term view" (Tonn and Hogan 2006, see also Stein 1998:440). Constitutional provisions, reducing the powers of the living, are another device proposed in the literature. Paul Wood argues that "curtailments of the discretionary powers of the state" are needed in order to protect biodiversity (Wood 2004:415). A constitutional right to a "decent" environment would allow protection for the interests of future generations from the living majority's disregard for the environment (Brandl and Bungert 1992; Wood 2004; Doeleman & Sandler 1998:12). Others believe what is needed is a new set of administrative bodies, empowered to strike down laws and policies contrary to the interests of future generations. Thus, it has been argued that we need to create a "superagency" acting in a "countermajoritarian way" in order to promote "the best interests of future generations" (Mank 1996). Given the strong international dimension of many environmental issues, others advocate the formation of a supranational court – an International Court of the Environment – vested with the powers to review national legislation with the interests of futurity in mind (Low & Gleeson 1998:199).

Instead of diminishing the powers of the living, some believe we should strive to increase the powers of the unborn. What they need is a political voice. An original idea is to create incentives for the formation of political parties that promote the interests of future generations (Ekelit 2005). A different suggestion is to entrust environmental organizations with the task of representing the unborn in especially reserved parliamentary seats (Dobson 1996). Future generations may also be empowered by creating new political bodies authorized to interfere in the democratic

process on their behalf. This route is illustrated by the idea to install a “council for future generations” in the parliament (Weiss 1989:124; Agius and Busuttil 1994; Partridge 2003). A related idea is the notion of an ombudsman for future generations. A Commissioner for Future Generations, licensed to intervene in parliamentary select-committees to the alleged benefit of the unborn, already exists in the Israeli parliament (the Knesset) and is seriously contemplated elsewhere.

It could be argued that some of the institutional reforms referred here would make current political systems more democratic. In case the unborn are perceived as actual members of the political community, attempts to give them a political “voice” would be in line with the aspiration towards “full inclusion”. However, the idea that future citizens are members of the “demos” is controversial. From the reasonable assumption that the living has moral obligations towards the unborn it does not quite follow that the latter are “citizens” today or that the political exclusion of the unborn makes the political system less democratic. I have defended this view elsewhere and shall not add anything to this debate here (Beckman, *forthcoming*). Instead, as a simplifying assumption, I shall accept that future people are not members of the polity and that greater representation of the interests of the unborn would not enhance the degree of democraticness of contemporary political systems. But the issue considered here is a different one, namely, whether institutional reform could be defended on the basis of considerations of justice.

Turning to this issue, it should be noted that future generations are likely to have an interest in having the powers and liberties characteristic of democratic political systems. The unborn will benefit not just from a stable climate and a decent environment but from the resources necessary for making their own choices and pursue their own policies. Responding to these concerns, the United Nations has urged all nations to “make every effort to ensure [...] that future as well as present generations enjoy full freedom of choice as to their political, economic and social systems”.¹ Similar exhortations about the importance to sustain democratic institutions in the interest of future generations are found among scholars of democracy. Thus, Dennis Thompson argues that the living generation is obliged to

¹ United Nations Declaration on *Responsibilities of the Present Generations Towards Future Generations* (Article 2).

leave posterity with “enough and as good sovereignty as we have enjoyed” (2005:249).

Now, were we to accept Thompson’s argument that there is an obligation to preserve democracy for future generations, it seems certain that some of the proposals reviewed above will appear as problematic. The more general question provoked by these contrasting perspective seems to be this: under what circumstances are we justified in reforming democratic institutions in order to serve the interests of future people?

The first thing to notice is that steps taken by the present generation in order to tame democracy, are likely to remain in force long after the demise of the people introducing them. As a consequence, what is at one point in time a self-imposed restriction to the benefit of future peoples will later be a restriction imposed by the past on the living. In the process of protecting the unborn from the consequences of our short-sightedness, we may therefore end up weakening the power of future people to protect themselves.

The status of long-lasting constitutional constraints was questioned exactly on these grounds at a time when the nature of constitutional design was debated with much intelligence. Thomas Paine warned against legislating for the unborn generations: “as we are not to live for ever ourselves, and other generations are to follow us, we have neither the power nor the right to govern them, or to say how they shall govern themselves” (quoted in Ford 1995:574). In fact, Paine questions the capacity as well as the legitimacy of curtailing the powers of the unborn. Given that each living generation is ultimately sovereign, it is indeed vain to even consider legislating for the future as the laws made today are always amenable to change by the peoples to come. Peter Suber (1990, section 21) captures this truth very well:

The equal sovereignty of future generations, and their equal right to make and change their laws is contingently inviolate: if we violate the right of future generations to make and change law, then they may restore this right —revoke our limitation on their power— at will. No generation can bind its successors with categorically immutable rules.

Future generations will consequently always retain ultimate power over their constitution and institutions, whatever laws enacted by their predecessors. But even were we to grant the inviolability of sovereignty for future generations, the present generation could erect great obstacles and increase the costs of self-determination for those to follow. This is an effect the concern echoed by cautions against “inter-temporal tyranny” (Thompson 2005).

The democratic problem of future generations is thus that institutional reforms, potentially beneficial to the unborn in terms of the environment, may reduce the opportunity for coming generations to rule themselves democratically. The question is therefore not just whether the *living* generation ought to accept curtailments on democracy in order to preserve natural resources for future people. As remarked by Jeremy Waldron (1998:289) we should appreciate as well that “at some future date a large number of people [...] will experience the force of the constraint that we are setting up”. Therefore, the question turns out to be whether the preservation of natural resources for future people is a reason for reducing the political opportunities of future people. If this is the question, it is a tragic one, since it may imply that we cannot avoid reducing the opportunities available for the generations to come. Maximising the protection of future political opportunities will come at some costs to the environment and vice versa.

Before proceeding it is worth noticing what is a major and not altogether uncontroversial premise for the democratic problem of future generations. The premise is that “taming” democracy is a prerequisite for effectively tackling global climate change. The soundness of this assumption could certainly be questioned. It may well be, as have been pointed out many times, that democratic institutions provides the only real opportunity for combating environmental problems and the destructive policies of today. Compared to other political systems, democracy is clearly superior both in admitting for the growth of new knowledge and in securing legitimacy for controversial decisions (Holden 2002; Barry 1999). Yet, in this paper we are not asking whether democratic governments can respond effectively to the current hazards of our climate, but how democrats should respond in normative terms in case they cannot. What is the normative basis for reforming the institutions of democracy to the benefit of future peoples?

Respecting democracy

A concern with the environment triggers complex questions about what political institutions are best suited to protect future generations from the consequences of global climate changes. Yet, this concern may conflict with the aim to secure for the generations to come the political resources for effective self-determination. Following the democratic problem of future generations, we need to consider the extent to which attempts to make current political institutions more responsive to the interests of future generations are in effect introducing long lasting restrictions on the democratic process that are not in the interest of future people. In balancing these concerns, some have opted for an unconditional defence of the obligation to sustain democratic practices for the future. In support for this view, it has been pointed out that the living is virtually incompetent in estimating what allocation of goods future peoples would want. Mahoney (2002:783) points out that “there is a tendency to overestimate the competence of the present generation” in identifying the interests of generations to come. Some of us believe future people would be best served by a decent environment. Others believe that future people would prefer us to speed up economic development since the more wealth future people have available, the better they will afford the costs associated with environmental degradation and so forth. Whether the one or other assumption is correct cannot so easily be decided. As a consequence, we should as far as possible avoid “substantive” judgements about the interest of future generations. In fact, in order to remain faithful to this imperative, we can only assume that “future citizens will want to have a voice over the laws by which they are bound” (Thompson 2005:250). This is why an obligation to preserve democratic institutions should have priority over other interests that future citizens may have.

Convincing as this may sound, the contention is open to dispute. The contrasting argument could be made that qualified guesses are possible to make about the interests of future people. Could we not safely assume that future people would prefer more biodiversity rather than less, less global warming rather than more, and so on? A common view is that many values, such as good health, nutrition, species diversity, natural beauty, etc., “are unlikely to change” in the future (Mank 1996:449; see also Partridge 2003:7; Johnson 2007:75).

More importantly, we may question the correctness of Thompson's implicit claim, i.e. that minimizing assumptions about substantive interests of future people is more compatible with democratic principles than its alternatives. Although we may accept the "democratic" character of the assumption that we should respect the collective expression of preferences of future peoples, it does not follow that we should ignore whatever other interests they may have. At the least, in case avoiding "substantive" judgements means that we cannot pay attention to other ways in which the present generation may harm future ones, there seems to be little reason for accepting this stance.

The way to adjudicate between these conflicting intuitions is by clarifying what considerations are normatively relevant in this specific context. The context, in this case, may be characterised as constitutional since the task is to settle what political institutions we should reserve for the future in the face of increasing environmental risk. The question we should ask is consequently what assumptions about the interests of future people we could reasonably endorse as the basis for a just intergenerational contract.

I shall assume that the appropriate justification of political institutions, whether for us or for future peoples, should broadly follow contractualist reasoning. This is to accept the notion set out by Rawls (1993) that "our exercise of political power is proper and hence justifiable only when exercised in accordance with a constitution the essentials of which all citizens may reasonably be expected to endorse". The case we consider here does involve exercising political power with repercussions for future generations since we are considering changes in political institutions which form an essential part of the basic structure of society. The question we need to ask is hence whether we may reasonably expect future people to accept changes at this level even if they raise the costs for effective self-determination. Following Scanlon's more elaborate account of contractualism, this question can be answered only by considering whether the reasons for constitutional changes would be justified *to* future people themselves. As a general test for the correctness of our actions towards future people we should consequently try to imagine whether the reasons we provide could reasonably be accepted by them. Standing in a moral relation with people is to

recognise the force of legitimate expectations and the contractualist idea is that the content of these expectations is captured by imagining what reasons for actions they could not reasonably reject.²

The contractualist perspective is congruent with what I take to be basic intuition animating the worries about the sovereignty of future peoples expressed by Paine and Rousseau, in previous times, as well as by contemporaries as Thompson. What they all seem to have in common is the conviction that the living generation should not legislate for future people since they are equally free to pursue their own projects and to adopt their own laws. As Rousseau would have it, no one has the right to dispose of the liberty of the unborn because they, just like anyone else, is born to be free: “ils naissent hommes et libres; leur liberté leur appartient, nul n'a droit d'en disposer qu'eux” (*Du Contrat Social* I:4). Contractualism does indeed incorporate this worry by requiring that we think of “citizens as free and equal persons” (Rawls 1993:19). This includes future generations as well since, as Rawls makes clear, “all generations have their appropriate aims. They are not subordinate to one another any more than individuals are” (Rawls 1971: 289).

Yet, the idea that no one has the right to legislate for another, because we are all equals, should not be taken to mean that principles of justice could not reasonably be expected to be accepted by others. Contractualism holds that because all citizens are “free and equal” we should expect any proposed recipe for political reform to be justified to each and everyone. This does indeed mean that we “legislate”, in a moral sense, for others as well as for ourselves. The central tenet is that, in accepting a policy or constitutional reform, we are “legislating not just for [ourselves] but for other persons, whose status as such one is committed to respecting” (Kumar 2003a:35). We are thus respecting future people by asking what policies they could not reasonably reject given that they are self-governing creatures just as we are.

² Does it make sense to ask what policies future people could not reasonably reject if the identity of future people will to some extent depend on the policies we pursue? Rejecting a policy would in that case amount to a rejection of the conditions for one's existence and doing that may seem unreasonable (Solum 2001:206). Lately, however, Reiman (2007) and Kumar (2003b) have responded to this challenge and argued that contractualism need not consider what future people, conceived of as particular individuals, will actually accept. At stake is not how decisions affect the

It would be a mistake therefore to conclude that, just because future people should be approached as self-governing creatures, we cannot enact laws that would affect their political institutions and liberties. In other words, we should not assume that future people could only reasonably expect us to maximise democracy. Making this assumption would be mistaken from a contractualist point of view because it is not difficult to imagine other aims and interests that future people could reasonably expect us to take into consideration. There is consequently an important distinction between respecting future people as self-governing persons to whom we owe a reasonable justification of our policies, and respecting the institutions that allow future people to exercise self-government.³ Respect in the latter sense may of course be potentially required. But if so, this is because such respect is mandated by respect for future people as self-governing persons – i.e. respect in the first and more basic sense. Thompson in effect fails to distinguish these two senses of paying respect to the status of future peoples as self-governing creatures. The same lack of clarity is found in Paine's writing, which is illustrated by the following quotation about the relation between democracy and the social contract:

By this mutual compact, the citizens of a republic put it out of their power, that is, they renounce, as detestable, the power of exercising, at any time in the future, any species of despotism over each other, or doing a thing not right in itself, because a majority of them have strength of numbers sufficient to accomplish it. (Quoted in Ford 1995:573).

Paine explicitly uses the term "compact" which suggests a contractarian argument is under way. The conclusion that present generations should exercise no "power" over future people could be understood to mean that such power always is in need of justification. Yet, Paine's conclusion is a different and more specific one, namely, that the living owes future generations the resources for unconstrained self-determination. But this does not follow in any straightforward way from contractualism since all it says is that we should respect future people as self-determining persons to whom we owe a justification of our actions and decisions. Whether the living could justify the

"identity" of future people but what "properties" they could reasonably accept as a result of what we do (Reiman), or what the "kind of person" facing a future situation would reasonably accept (Kumar).

³ David Estlund (2003) further elaborates the distinct logics of the contractualist and the democratic idea respectively.

decision to enact constitutional constraints to future people or not remains an open question.

The question was not an open one however for Jefferson, Paine and Rousseau. As has been pointed out, their understanding of democracy is strikingly “presentist” (Strang 2004:935). Democracy is rule by the living people over themselves, unbound by the past and with no powers over the future. Given the presentist view of democracy legislation for the generations to come is inadmissible. The popularity of the presentist view can be accounted for by the belief that consent is essential for the creation of obligations of any kind, moral or political, since only so could the natural liberty and autonomy of the individual be preserved. Coupled with the belief that future people cannot consent in any meaningful sense to the decisions made today it clearly follows that legitimate democratic decisions cannot be made with the intention to bind posterity (see also Suber 1990: section 2B).

Although consent was taken very seriously by early contractualist thinkers, it remains true for Rousseau as well for Rawls and Scanlon that what confers legitimacy is not the act of consenting but the reasonableness of doing it. The “volonté generale” of Rousseau and Rawls’ “original position” establishes a model of hypothetical consent, a standard for what would be reasonable to accept as the basis for the regulation of social interaction. Now, if actual consent is no longer thought as necessary there is no reason to expect the validity of an argument to depend unconditionally on the capacity of the other parties to consent. Why should we be bothered by the fact that someone cannot presently consent, if what contractualism says is important is the reasonableness of the terms proposed? The focus is thereby shifted from the act of consent to the reasons and principles to which consent is expected. Another way of putting it, is that the contractualist idea is to evaluate what *is done*. And the reasonableness of what people are doing can be critically examined even when the people potentially affected do not yet exist (Kumar 2003b:110). This is why it seems right to admit, as Scanlon does, that contractualism will include every “being to which we have good reason to want our actions to be justifiable” (1998:179). And Scanlon’s contention is clearly that “we have reason to value justifiability [...] to those who are already dead, or not yet born, as well as to our contemporaries” (ibid. p 186). By contrast, if actual consent is what is needed for the legitimacy of laws and precepts,

you will reject the idea of the living being able to justify themselves to future people. Arguably, this is why Paine loathed the notion of “dictating the world to come” and described it as motivated by a “covetousness of power beyond the grave” (quoted in Ford 1995:574).

If we admit that the living may justify themselves to posterity, it is no longer true that any attempt to create laws or constitutions with binding force for the people to come is objectionable. What we owe future generations is institutions taking their interests into account in ways they could not reasonably reject. And it is far from obvious that they could not reasonably accept some restrictions on democracy in case the benefits offered in return are important enough. The conclusion is that attempts to defend categorically the right of future people to govern themselves without any constitutional constraints introduced by their ancestors are untenable. They are because they rest on the mistaken assumption that respect for future people is tantamount to the preservation of democratic institutions. It is not however, as we are reminded by contractualism.

Restricting democracy

It is possible then that constraints on the democratic process are sometimes justified. If the introduction of a constitutional constraint were necessary for some important benefit to materialize it would not be unreasonable to accept it. To the extent that this holds true for the regulation of relations within a generation, there is no reason why it could not also hold true for the regulation of relations between generations. Hence, there may be a good reason for believing that some restrictions on democracy would be justified to future people.

Indeed, the very idea of a constitution as a set of laws immunized from change by the will of simple majorities, could be understood as justified to future generations by appeal to the benefits it creates over time. This notion is made explicit in the American Constitution where the preamble states that the purpose of the document is to “secure the blessings of liberty to ourselves and our posterity” (see Gardner 1978:35). Some would simply dismiss such wordings as an expression of the “authoritarian postures of our founding fathers” because it deprives coming

generations of the right to create their own political universe (Michelman 1988:1515). But the fact that adopting a constitution deprives posterity of the right to create a new one at a simple vote does not prove that it is wrong. The decisive question is rather whether future people could reasonably reject being born into a constitutional order, and answering this question requires that the sum of costs and benefits associated with this decision is greater compared to any of its alternatives. The same requirement applies to any proposed restriction on democracy, introduced for the purpose of saving future people from the consequences of destructive environmental policies. That is, we need to probe the circumstances under which it would clearly be reasonable for future persons to yield some political rights in return for the benefits associated with less drastic climatological changes and so forth. It does not suffice to say, then, that constitutional reform will bring forth policies more hospitable to the planet by promoting policies slowing down the process of global climate change. In order to conclude that such reform is justified to future people it would have to be made clear as well that the costs of such reform are compensated for by the environmental benefits future people will eventually enjoy as a result of them.

Surprisingly, there are few attempts to demonstrate that future people would prefer being born into less democratic political institutions rather than living with the consequences of destructive environmental policies of their ancestors. In fact, the implicit assumption seems to be that changes in political institutions are virtually cost-free. And clearly, if they were, the case for remoulding the democratic process in order to induce more environmental-friendly policies would be obvious. The lack of consideration to the political costs for future generations is illustrated in the following by looking at a few examples of arguments defending changes in democratic institutions to the benefit of future generations.

Paul Wood (2000) argues that the present generation exerts “preemptive tyranny over future generations“ when decisions are made that will reduce biodiversity. The reason is that policies pursued today, destructive of the environment, are removing options for future generations that we ourselves enjoyed. In order to preserve these options for the people to come Wood believes that “authority of parliaments over land use need to be removed”. By firm constitutional protection of biodiversity we could consequently prevent the present generation from tyrannising future ones.

Clearly, however, the powers taken away from the parliament today will remain in force in the future as well. And this may well be considered a desirable implication since there is every reason to assume that future generations will be just as capable as we are to destroy biodiversity for succeeding generations. That is why the living have frequently decided to enact clauses of “eternity” or “perpetuity” in laws protecting areas of land and National parks (Thompson 2004:603). The decision to remove the “authority over land use” from the power of contemporary parliaments is consequently a decision to remove this authority from future parliaments as well. If Wood believes that decimating the options for coming generations amounts to “tyranny over future generations”, reducing the authority of future parliaments should exemplify a tyranny of some sorts as well. The fact that Wood does not appreciate this fact means that the costs incurred on future people by institutional reforms made today is essentially ignored.⁴ Wood’s reasoning is thus defective in the sense that it does not consider whether the full range of costs and benefits associated with his proposal would be acceptable to the unborn.

Enhancing the powers of future generations is an alternative way whereby we may ensure that decisions made today do not neglect the interests of tomorrow’s people. Instead of curtailments on parliaments by constitutional clauses, we may consider reforms that leave the powers of legislators untouched albeit making them more accountable to the interests of future generations. A set of measures proposed to achieve this goal is to allow organizations or parties speaking for future generations to be represented in political assemblies. They would act politically on the assumption that future people would want “both a viable environment” and “the possibility of satisfying their basic needs” (Dobson 1996:132). Such reasons might be thought to seem reasonable from the perspective of future people. Arguably, future people would have good reason not to reject institutional reforms making democratic institutions more responsive to the basic interests.

⁴ See Thompson (2004) who notes that reducing the flexibility of legislators in the future may undermine their ability to act effectively in order to preserve biodiversity given “that there likely to be significant changes in environmental norms, conditions and technology” (p. 605).

Yet, we may again cast doubt on the completeness of this argument in demonstrating that such reform are reasonable from the perspective of the unborn. Among the “basic needs” of future people is the capacity to make laws and to shape society according to their own views and visions. Even if the living would be prepared to sacrifice some degree of effective self-determination, by deferring legislative powers to representatives of the future, we cannot assume that future people will be equally disposed. The question that should have been tackled is consequently whether future people could reasonably accept ceding some of their legislative powers in return for a more “viable environment”.

As we have seen, contractualism holds that we should consider what policies future people could not reasonably reject. Now the point could be made that future persons will be able to consider the justifiability of their ancestor’s actions only if the circumstances of life are not too arid. Perhaps this observation provides a more consistent point of departure for a critique of the consequences of democratic institutions today. The point would be to appreciate the connections between the need for a safe environment and future people’s interest in the capacity to deliberate and to make choices. And the thesis should be that protecting this capacity requires reshaping democratic institutions in ways that invites, among else, policies less harmful to the environment. Genevieve Johnson recently elaborates an argument along these lines, contending that the living have an obligation to secure the “conditions necessary for future persons to engage in informed and uncoerced dialogue about policy” (2007:69, 77). And from this general obligation follows the requirement that the living preserve for posterity “the basics of life”, including such things as “clean water, fresh air, sufficient biodiversity” (p. 75).

Johnson’s argument is clearly more cogent than many others’ since it draws attention to the need to secure the democratic powers of the unborn. The conclusion that achieving this end justifies a reform of democratic institutions may nevertheless be challenged. The first is that Johnson does not seem to notice that the introduction of constraints on the democratic process in order to secure the ability of future people to govern themselves will in fact reduce their ability to do so. The extent to which it does will of course hinge on the precise character of the “modifications” Johnson believes is necessary to the way the living generation “makes decisions” (Johnson 2007:77).

The message at this point is far from clear. But if the argument would be that we need to circumvent the powers of parliaments, the costs of imposing these restrictions on future people would have to enter the calculus as well. It cannot be assumed that any benefit in terms of the environment is important enough to justify the introduction of a constitutional restriction.

When are restrictions justified?

The examples discussed in the previous section, illustrates the incompleteness of prevailing attempts to justify restrictions on democracy for future peoples. They are incomplete in the sense that they do not provide an acceptable justification for the actions recommended. And the reason why they do not is that they ignore the political costs incurred on future people by the introduction of potentially long-lasting constraints on democratic institutions.

Yet, as I have also argued, such restrictions could at least in principle be justified. They would be justified in case the costs associated with the creation of barriers for effective self-government for future generations were compensated for by other benefits. There is at least one kind of situation when this is likely to be the case. This is when future people run the risk of suffering immensely from the actions taken by their predecessors. If the policies pursued by the living will create catastrophic consequences for future people, and these could be avoided by reforming political institutions, it is reasonably to expect future generations wanting these reforms to be made even at some cost in political resources. As noted by Bradford Monk, there is no reason to make sacrifices for the purpose of improving “marginally” the lives of distant future generations. The situation is different however when the aim is to avoid “substantial risks of future disaster” (Monk 1996:450).

Now, the argument could be made that some policies pursued today will have dramatic consequences in the future. It is widely accepted that human induced climate changes will affect the conditions of life for millions of people in the future and be the cause of immense sufferings. The Stern review lists numerous examples of impacts from continuing global warming. A few examples: hundreds of millions of people will suffer from flooding, agriculture yields will diminish affecting basic food

supplies for up to half a billion people, millions more will be struck by malaria, and so on (Stern 2006:57). Moreover, drastic implications in the distant future of the current storage around the globe of radioactive waste cannot be overlooked. The containers currently at use are presumed to be safe for ten thousand years but even if they are (which no one can guarantee) the particles stored will remain contagious for much longer. There are, in brief, a number of realistic scenarios where death or injury is the likely consequence for many future peoples as the result of the policies pursued by the living generation. In case these consequences could be avoided by reforming democratic institutions it does seem reasonable that future people will have expected us to do that.

Support for this conclusion is to be found in the logic of contractualist reasoning. The basic element of justifying an act is to compare the reasons for its permission with the reasons for its prohibition. What is essential here is the distribution of costs and benefits between individuals (Scanlon 1998:195). Anyone suffering immensely from a policy and receiving few benefits will have a reasonable reason for rejecting it. As Scanlon says, no one has a reason to accept huge sacrifices in order for others to enjoy marginal benefits, even if the aggregative sum of these benefits is larger than the costs to the one individual (Ibid. p. 229ff.). This judgement is explained by the fact that anyone's reason for achieving a marginal benefit is much less important than anyone's reason not to suffer greatly.

Thus, an institutional structure that produces grave sufferings for many individuals in the future is likely to be unreasonable from the point of view of these individuals. Even if we accepted that the future value of ongoing economic and technological development would be very great, these aggregative benefits do not compensate anyone who suffers greatly as a result. This is, at least, the message conveyed by contractualism. And if correct, it refutes the relevance of the view common among economists that no institutional reforms are necessary in order to secure a viable environment for future people since "to be born in the future is to be born in a world that *typically* holds the promise of greater comfort and happiness" (Epstein 1988:1489, emphasis added). Its relevance is refuted since it does not matter, from a contractualist perspective, whether future people "typically" are better off as long as many people will at the same time be much worse off.

However, the reasonableness of a policy is not fully decided by the patterns of burdens and benefits it creates. A policy may seem reasonable with respect to the burdens it distributes and yet be ultimately unreasonable given available alternatives. No one has a reason to accept a policy producing however important benefits in case there is another policy that could create similar benefits less costly. Conversely, a policy could not reasonably be rejected because of its costs if the alternative would be even more costly (Kumar 2003a:34). A justification for a policy needs consequently to establish that it is “necessary” in order to achieve the proposed end.⁵

This point is important in this context because it forces us to examine the reasons for and against alternatives to reforming democratic institutions. It does not suffice then to establish that constraints on democratic institutions would reduce the risks for future catastrophes. In addition, we need some evidence to the effect that no alternative policy is available that would reduce these risks at a lower cost.

Evaluating these alternatives will be even more complicated once we are reminded that the costs imposed on the living should enter the calculus as well. Consider the case where the policies needed to avert a future disaster of moderate dimensions could be initiated either by introducing severe restrictions on the powers of parliaments, or by a remoulding the preferences of the voters. Assume further that institutional reforms involve small costs on living and future people whereas changing the preferences of voters is more costly but imposes burdens only on the living. Which alternative is preferable? The total costs associated with the first alternative are likely to be greater as the burdens imposed by it will continue over time. On the other hand, the immediate costs suffered by any individual are greater if the second alternative is pursued.

Identifying the policies justified following these criteria is a question beyond the scope of this paper however. Here, I have aspired only to establish a preliminary account of what these criteria should look like. The content of what I take these criteria to be is now reasonably clear. The first is that we need to consider not only the potential

⁵ Strictly speaking, no act will of course ever be necessary in order to create a certain outcome. There are always an endless number of coincidences that may eventually create it anyway. Here we shall

benefits of a policy but also its costs and in particular the costs involved in reducing the ability for future generations to rule themselves effectively. The second is that the costs we should expect future people to accept must be reasonable from the perspective of each person. This is to say that it would be reasonable for future people to reject a political system creating policies that impose great burdens on some of them even when it maximises the aggregative sum of costs and benefits. The third criteria, finally, holds that a policy creating huge costs on some people would nevertheless be expected to be accepted by them in case the alternatives would impose even more severe burdens on them or others. That is, in deciding the justifiability of a policy we would have to consider the costs and benefits of available alternatives.

The general difficulty is of course to determine the size of the costs falling on future people from restrictions on the democratic process. On the one hand, institutional reforms may always be undone by the people to come. Even “eternity” clauses are not immune to change and there is thus no risk of permanently depriving future citizens from effective self-determination. But constitutional constraints increase the costs for future citizens to make decisions. Making the process of legislation costlier may seem a good idea with respect to certain issues (e.g. in order to protect political and personal liberties). In others it may not, as the ability of future people to tackle the problems of their day is reduced as a result. Preferences as well as circumstances will change in ways that the living generation cannot hope to predict. The resources found in scarce supply today may not be scarce tomorrow or, if they still are, may suddenly be less valuable as alternatives emerge. The assumption that today’s people are more competent than their children or grandchildren in deciding what needs to be done tomorrow may therefore seem mistaken (Mahoney 2002). On the other hand, averting future environmental catastrophes clearly impels the living generation to do something. The aim of this paper has not been to pin-point any specific solution to this problem but to bring attention to the fact that much of what has been said so far on the subject seems deeply unsatisfactory from the vantage point of the democratic problem of future generations.

say that an act is necessary for an outcome X to materialize at a certain cost A, if there is no known alternative action that would produce X or any preferred alternative at cost significantly below A.

Final comments

The calls for measures addressing global climate change are important and should be taken very seriously indeed. The living generation certainly does have obligations to the future inhabitants of the earth that may justify a different set of policies and institutions than the ones currently pursued. At the same time, the call to preserve the institutions of political freedom intact for posterity are equally worthy of attention. The point made in this paper is that there will frequently arise conflicts in the pursuit of these dual aims. As noted by Dobson “democrats will legitimately take a step back” (1996:133) when confronted with the idea of introducing some members of the parliament appointed on the basis of their concern for future generations rather than on the basis of the support they could muster among the living. However, we should remember that reshaping the institutions of democracy in order to make them more responsive to the interests of the unborn today, will in effect weaken the powers at disposal for future citizens. The question we need to ask is therefore whether we could reasonable expect future “democrats” to yield a degree of effective self-determination in exchange for being less vulnerable to the decisions made by preceding generations.

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