

Intergenerational Rights?

Vernon, Richard

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(6) Nozick 1999, 9.

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

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

(9) Goodin 2000.

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

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

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

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

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

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

References

Bittker, Boris I. (2003): *The Case for Black Reparations*. Boston, Mass.: Beacon Press (1st edition 1973).

Goodin, Robert (2000): *Waitangi Tales*. In: *Australasian Journal of Philosophy* 78 (3), 309-333.

Mill, John S. (1984): *The Subjection of Woman*. In: *Collected Works*. Vol. 21. Edited by John M. Robson. University of Toronto Press, 259-340.

Nozick, Robert (1999): *Anarchy, State, and Utopia*. Oxford: Blackwell Publishing (1st edition 1974).

Pogge, Thomas (2004): *Historical Wrongs. The Two Other Domains*. In: Lukas H. Meyer (ed.): *Justice in Time. Responding to Historical Injustice*. Nomos: Baden-Baden, 117-134.

Sher, George (1981): *Ancient Wrongs and Modern Rights*. In: *Philosophy and Public Affairs* 10 (1), 3-17.

Thompson, Janna (2003): *Taking Responsibility for the Past. Reparations and Historical Justice*. Cambridge: Polity.

Thompson, Janna (2001): *Historical Injustice and Reparation: Justifying Claims of Descendants*. In: *Ethics* 112 (1), 114-135.

Thompson, Janna (2000): *Historical Obligations*. In: *Australasian Journal of Philosophy* 78 (3), 334-345.

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

Contact Details:

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

Intergenerational Rights?

by Prof. Dr. Richard Vernon

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

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

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

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

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

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

Who can have a 'right'?

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

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

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

Rights and interests

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

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

/ Henrik Tikkanen /

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

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

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

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

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

Rights and traditions

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

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

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

From ideal to reality

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

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

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

/ George Burns /

law.⁹

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

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

Rights and community

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

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

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

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

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

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

Rights and existence

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

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

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

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

/ Jeremy Bentham, philosopher and animal rights activist /

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

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

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

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

From future to past?

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

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

Notes

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

(16) Simmons 1995: 149-184.

References

- DeGeorge, Richard T. (1991): *Morality in Practice*, 3rd edition. In: Sterba, James P. (ed.): *Morality in Practice*. Belmont: Wadsworth (1st edition 1988).
- Feinberg, Joel (1980): *Rights, Justice, and the Bounds of Liberty*. Princeton: Princeton University Press.
- Holmes, Stephen (1995): *Passions and Constraint*. Chicago: University of Chicago Press.
- Ivison, Duncan (2008): *Rights*. Montreal: McGill-Queen's University Press.
- O'Neill, John (2001): *Future Generations, Present Harms*. In: O'Neill, John, et al (eds.): *Environmental Ethics and Philosophy*. Cheltenham: Edward Elgar Publishing.
- Partridge, Ernest (1981): *Posthumous Interests and Posthumous Respect*. In: *Ethics* 91 (2), 243-264.
- Raz, Joseph (1984): *Rights-Based Moralities*. In: Waldron, Jeremy (ed.): *Theories of Rights*. Oxford: Oxford University Press.
- Ridge, Michael (2003): *Giving the Dead Their Due*. In: *Ethics* 114 (1), 38-39.
- Scruton, Roger (2000): *The Moral Status of Animals*. In: Hursthouse, Rosalind (ed.): *Ethics: Humans and Other Animals*. London: Routledge.
- Simmons, A. John (1995): *Historical Rights and Fair Shares*. In: *Law and Philosophy* 14 (1), 149-184.
- Thompson, Janna (2002): *Taking Responsibility for the Past*. Cambridge: Polity.
- Vernon, Richard (2003): *Against Restitution*. In: *Political Studies* 51 (3), 542-557.
- Waldron, Jeremy (1992): *Superseding Historic Injustice*. In: *Ethics* 103 (1), 4-28.

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

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