

The Right to Parent and Duties Concerning Future Generations*

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I. INTRODUCTION

WHY does the present generation have an environmental obligation concerning distant future generations? And does this obligation restrict the scope of legitimate procreation such as to avoid an overcrowded world? I address these questions by drawing on the claim that adults have a fundamental interest in rearing children that they can adequately parent, an interest which under normal conditions generates a right to parent. This right—as recently defended by several contemporary philosophers—could be interpreted either as a negative right, protecting potential adequate parents from interference with attempts to engage in parenting, or as a positive right, entitling potential adequate parents to active support such as assisted reproduction. Even if there is no entitlement to assisted reproduction, the right—I will argue—generates requirements on others that they preserve sufficient environmental resources to ensure adequate life prospects for the resulting children; therefore, it cannot be purely negative.¹ While it is not beyond dispute, this right may be the best justification of the universal practice of allowing an individual to parent a child even when better prospective parents for that particular child are available and willing to replace the existing parent.

The argument, in a nutshell, is:

P1: Each child has a right, against all, to adequate life prospects.

P2: For each child who has the potential, as an adult, to be an adequate parent, adequate life prospects require enough resources to justly raise children.

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C1: Thus, each child who has the potential to be an adequate parent has a right, against all, to enough resources to justly raise children.

P3: The right to enough resources to justly raise children includes the right to enough resources to provide one's children with enough resources to justly raise children.

C2: Thus, each child who has the potential, as an adult, to be an adequate parent has a right, against all, to enough resources to provide their children with enough resources to justly raise children.

The argument continues *ad infinitum* because P3 is recurrent—it can be reiterated for any number of future generations.

C3: Thus, each child who has the potential, as an adult, to be an adequate parent has a right, against all, to enough resources to provide an indefinite number of successors with enough resources to justly raise children.

A weak interpretation of the first premise, which I discuss in the third section, does not affect the conclusion: Thus, children's right to adequate life prospects may, in the first instance, be against those who raise them, and against others only in cases when the former are unable or unwilling to discharge their duty. The first premise is weak also because it states that children ought to have *adequate* life prospects. This is less demanding than the frequently endorsed principle of equality (assuming that it is possible to ensure adequate life prospects for all individuals in the current generation). A principle demanding equality would generate a simpler argument, but the argument also works on the more modest assumption of sufficiency. Commitment to equality as a principle of intergenerational justice would also place higher restriction on each generation's permissible consumption. I will specify, in due course, how making this plausible commitment justifies more demanding practical conclusions.

As I explain below, individuals have a fundamental interest in engaging in just parenting; an opportunity to do so is part of an adequate life. But just parenting requires environmental resources. It follows that a minimal duty of justice owed by currently existing adults to currently existing children is an environment capable of indefinitely supporting human life at the level of adequacy—in different words, a sustainable world. I explore several variations on this argument to discover what it can contribute to establishing duties of *justice* concerning future generations.

Models used by many theories of intergenerational justice tend to ignore, or explicitly assume away, the fact that we start life as children rather than as fully formed adults, and that raising children is a central component of most people's conception of the good. However, taking into account these facts helps defend the intuitive conclusion that we have a duty to provide the succeeding generation with what it will need to rear children, and to have an opportunity to provide *their* succeeding generation with a similar opportunity. Here I argue that the duty

is even more encompassing: it is a duty to leave at least enough for indefinitely many future generations. The above-mentioned facts, in conjunction with a conception according to which rights protect powerful interests, generate a fairly robust obligation owed by each generation of adults to its contemporary generation of children. The obligation is owed to already existing persons but concerns all generations to come and has important repercussions for the scope of individuals' right to consume and procreate.

In the next section I explain the attraction of this approach: it contributes to laying out a theory of intergenerational justice that bypasses the most important sources of scepticism concerning the possibility of such a theory. In the third section I make explicit several of my assumptions and explain how they justify *P1*. The fourth section defends *P2*, by explaining why individuals have a fundamental interest in parenting adequately and what this implies for a right to procreate. In the fifth section I develop the argument—from a set of plausible normative and empirical assumptions it follows that we owe currently existing children a fairly demanding duty of justice with respect to the likely future state of the environment. Section six examines what kind of moral wrong would be entailed by a failure to keep the world population at a sustainable level—that is, if we reached a population too large to be sustained by the existing level of resources and given existing technologies. In such a case, members of non-sustainable large populations would have to choose between forgoing parenthood for themselves and making it impossible—or at least very unlikely—for some individuals in the future to engage in adequate parenting. But to impose this kind of choice on one's child is incompatible with adequate parenting; therefore, the generation who creates the choice for its offspring fails to engage in just parenting. I analyse the wrong at stake by exploring why it is unjust to foreseeably, and with reasonable avoidability, force someone to either have one of their fundamental interests unsatisfied or prevent others from having the same interests satisfied. I conclude with a few remarks on the implications of my argument.

II. THE MINIMAL SCOPE OF INTERGENERATIONAL JUSTICE

Imagine that a particular generation consumes resources such that it only leaves enough for its current children, or perhaps for its current children and their own future children, and thereby brings an end to humanity. Imagine, moreover, that the members of that generation could have satisfied their fundamental interests with a lower level of consumption (thereby leaving more for future generations). A generation whose members have to abstain from procreating because they could not adequately provide for their children seems to be in a morally objectionable state.²

²On the wrongs of failing to ensure the survival of the human species, see Gregory Kavka, "The futurity problem," in *Obligations to Future Generations*, eds. R. I. Sikora and Brian Barry

Yet, it is difficult to see how the members of a generation violate a requirement of *justice* if, through their avoidable actions, they foreseeably make the world unable to sustain adequate lives for more than one, two, or, indeed, a large but limited number of future generations. This question—in various alternative formulations—is taken to be a foundational question of any theory of intergenerational justice. The argument I explore, premised on the belief that all individuals have an interest-protecting right to parent, answers this question by sidestepping the most important reasons for scepticism about theories of intergenerational justice.

Some people doubt that there can be a theory of justice towards distant future generations because the vast majority of the future generations' members do not yet exist and *may never exist*. This fact generates several difficulties. Philosophers who believe that some form of reciprocity must hold between individuals who owe each other duties of justice worry that since cooperation with not yet born people is in principle impossible, so is owing them duties of justice.³

Those who do not think that reciprocity is necessary for establishing who are the recipients of duties of justice can still be sceptical that any duties of justice are owed to distant future generations.⁴ There is a widely shared belief that one commits an injustice if and only if one violates somebody's rights. But it is not straightforward that unborn people can have rights: whether or not they will ever be born depends on their potential progenitors' decision. On this account, a theory of intergenerational justice must necessarily be restricted to what is being owed to those members of the future generation that already exist: the already born children. It cannot be about duties of justice towards more distant future generations, or even towards those children of presently living adults that have not yet been born (or, perhaps, conceived.) Moreover, those who adopt a choice theory of rights—like most libertarians—and who think that only individuals who have a capacity of choice at moment *t* can have rights at moment *t* will have to deny that there is *any* scope for intergenerational justice, since only currently existing adults can be right-holders.⁵

The purely choice-protecting criticism, however, is not relevant if one thinks about rights as protecting fundamental interests. On the interest account of rights, future people will have fundamental interests and hence rights if and when

(Philadelphia: Temple University Press, 1978), pp. 180–203. On why the survival of humanity matters, see Samuel Scheffler, "The afterlife," *The Tanner Lectures on Human Values*, 2012. A few misanthropists may welcome putting an end to human existence.

³This afflicts various contractarian theories of justice. For an early critical discussion of this problem, see Brian Barry, "Circumstances of justice and future generations," in *Obligations to Future Generations*, pp. 204–48.

⁴A helpful analysis of the difficulties of ascribing rights to future generations can be found in Axel Gosseries, "On future generations' future rights," *The Journal of Political Philosophy*, 16 (2008), 446–74.

⁵See Hillel Steiner and Peter Vallentyne, "Libertarian theories of intergenerational justice," in *Intergenerational Justice*, eds. Axel Gosseries and Lukas H. Meyer (Oxford: Oxford University Press, 2008), pp. 50–76, at p. 73.

they will exist—rights which we are now able to violate through our present actions that have delayed harmful consequences. An example is planting now a bomb that will kill people who have not yet been born but who will be born independently from the planting of the bomb; the bomb planter can clearly wrong these future people.

However—and this is the most difficult obstacle for theories of intergenerational justice—it is not clear that our current consumption and procreative choices *can* wrong members of distant generations, since these very same choices partly determine their identity. This is the much-discussed “contingency problem,” a variant of the non-identity problem to which Derek Parfit and others have first drawn attention.⁶ It is difficult to see how there can be a complaint of justice unless there are victims and perpetrators of justice, and unless the victim has suffered some sort of harm at the hands of perpetrators. It is very unlikely that our current decisions can wrong members of distant generations: if individuals’ numerical identity is determined by the identity of the particular sperm and ova that lead to their conception, then the time of conception plays a crucial role in determining one’s identity. The identity of the children who will be born in the future depends on decisions made by members of the current adult generation and the timing of action on those decisions. Present decisions that may result in an environmentally degraded future world—and hence in degraded living conditions for future people—will also determine which particular individuals will exist. Different decisions—decisions that will perhaps be better for the environment—would result in the existence of different future individuals. If so, future individuals, as long as their lives are worth living, will not have grounds to complain that our present decisions harmed them: they would not have existed at all but for these decisions. This famous version of the non-identity problem has been taken by many to show that there cannot be duties of *justice* concerning distant future generations. Several solutions exist to the contingency version of the non-identity problem. Yet, the problem continues to grip philosophers’ interest and to fuel scepticism about the possibility of theories of intergenerational justice. Side-stepping it is more appealing than denying its challenge. I do this by focussing on what we owe to already existing people.⁷

⁶Derek Parfit, *Reasons and Persons* (Oxford: Oxford University Press, 1984) and others. For a short and clear discussion, see Derek Parfit, “Energy policy and the further future,” in *Climate Ethics. Essential Readings*, eds. Stephen Gardiner, Simon Caney, Dale Jamieson and Henry Shue (Oxford: Oxford University Press, 2010), pp. 112–21.

⁷For another recent employment of this strategy—based on different premises—see Joseph Mazon’s “Liberal justice, future people, and natural resource conservation,” *Philosophy and Public Affairs*, 38(2010), 380–408. Mazon believes that duties concerning future generations are owed by adult individuals to each other, rather than to their children. Steve Vanderheiden argued we can circumvent the non-identity problem by showing that we owe duties of justice to conserve natural resources to our children (and to other children born within our lifetime); his argument prefigures some of the argument of this paper. In “Conservation, foresight, and the future generations problem,” *Inquiry*, 49 (2006), 337–52. Both Mazon and Vanderheiden assume equality as the distributive principle. Other philosophers who considered the possibility of a duty to provide for future generations in terms of a duty of justice owed to existing persons are Edwin Delattre, “Rights,

Sceptics about the possibility of intergenerational justice can recognise that it is morally objectionable to consume the world resources at a non-sustainable rate or to destroy the environment. They may even recognise that we are under an *obligation* not to create impoverished life conditions for distant future generations if there can be obligations owed to no one, such as the obligation to bring about better rather than worse states of affairs. But if there cannot be complaints of justice without rights violation, or at least without harmed victims, the obligation is not one of justice. Current over-use of resources and environmental destruction, while creating an unnecessarily bad future world, cannot violate the *rights* of unborn people (assuming that it is up to us whether or not there will be future people), nor can they *harm* any particular future individuals (assuming the truth of the contingency problem). And if duties concerning future generations are not duties of justice, it is unclear that they are capable of justifying coerced limitations, for the sake of future people, on consumption, pollution, and procreation. This is in line with a long tradition according to which justice is the sovereign virtue and that reasons of justice trump other kinds of normative reasons.⁸

Yet, many believe that the current threat of foreseeable environmental degradation is one of the most important and urgent ethical problems faced by our generation. Here I show that one can validate this belief and defend a demanding duty of justice concerning—but not owed to—distant future generations without rejecting either the conceptual relationship between justice and rights violation or at least infliction of harm, nor the relevance of the contingency problem. I will also not challenge the assumption that justice is the sovereign virtue. (The latter approach might be very promising, yet it is bound to remain especially controversial.) Hence, I assume that the scope of our duties of justice concerning distant future generations is indeed restricted to duties of justice owed to currently existing children.

III. THE FIRST PREMISE

This section identifies and discusses some of the key assumptions of my argument in order to justify the first premise of the argument: that each child has a right, against all, to adequate life prospects.

I rely on the interest theory of rights: rights protect fundamental interests.⁹ If individuals cannot satisfy their fundamental interests without violating other people's rights, then their fundamental interest does not amount to a right. Yet, the interest persists; if the impossibility of satisfying it legitimately cannot be

responsibilities and future persons," *Ethics*, 82 (1972), 254–8 and Don Hubin, "Justice and future generations," *Philosophy and Public Affairs*, 6 (1976), 70–83.

⁸On the importance of thinking about duties to future generations as duties of justice rather than duties of humanity, see Barry, "Circumstances of justice and future generations," in *Obligations to Future Generations*.

⁹Hence I fail to engage sceptics who believe both that only agents capable of making choices have rights and that only rights violations represents injustice.

blamed on the agent, then the agent is harmed.¹⁰ Moreover, as I argue in the penultimate section, if somebody foreseeably puts you in a situation in which you cannot satisfy your fundamental interests without violating the rights of others, although they could have avoided to at no unreasonable cost to themselves, they inflict an injustice on you.

Next, I make a largely uncontroversial assumption about duties correlative to children's rights: adults owe a certain level of welfare and/or resources to the members of the next generation. I do not take a position on whether duties owed to children are, fundamentally, collective duties¹¹ which then individual parents discharge towards individual children, or whether we collectively have duties towards children only in cases when parents fail to discharge their duties.¹² Similarly, I do not take a stand on whether individuals acquire parental duties by dint of causing the children's existence or by voluntarily taking on the parenting role. In any case, any generation of adults has a duty of justice towards the co-existing generation of children, to be understood either as a mere aggregation of individual duties or as a collective one.

In its most demanding plausible form, the duty is to ensure that children will enjoy *equally* good life prospects as the adults who rear them. In its least demanding plausible form, the duty is to ensure that children enjoy adequate life prospects. I assume that, if the latter is the correct principle of intergenerational justice, its threshold is not lower and probably it is much higher than the threshold beneath which life is not worth living. The choice between equality and adequacy may make the difference between a theory of intergenerational justice that *requires* intergenerational savings and one that merely *allows* them.

Finally, I assume several undisputed empirical facts: that currently there are children as well as adults in the world, that children come into existence through controllable human procreation, that we necessarily start life as children, and that different generations necessarily overlap. Less obviously, but still very plausibly, I assume that many—maybe most—people want and will continue to want to rear children. These last assumptions are needed to explain why *P1* will continue to be relevant in the future.

¹⁰“Harm” refers to the frustration of important interests. It amounts to wronging in case the individual has a right in the non-frustration of the respective interests.

¹¹These, in turn, could be duties collectively had either by all parents or by society at large, that is, parents and non-parents.

¹²The second is the more widespread, possibly common-sense, view. For a different way of endorsing the first view, see Peter Vallentyne, “Equality and the duties of procreators,” in *The Moral and Political Status of Children*, eds. David Archard and Colin MacLeod (Oxford: Oxford University Press, 2002), pp. 195–211, and Robert Goodin, “Responsibilities for children's well-being,” in *The Well-Being of Australia's Children*, eds. Sue Richardson and Margot Prior (Carlton, Vic.: Melbourne University Press, 2005), pp. 60–82.

IV. THE SECOND PREMISE

The second premise states that, for each child who has the potential, as an adult, to be an adequate parent, adequate life prospects require enough resources to justly raise children. This is because—as I explain below—all individuals who are able to be adequate parents have a fundamental, right-generating, interest in parenting, and, to lead an adequate life, one must have one's fundamental interests met.

The right to parent, which drives the present argument, is to *rear* rather than procreate. Only if procreation is either necessary or the overall best means to make available a child who needs raising could the right to rear as defended here entail a right to procreation. At the generational level, procreation is necessary for parenting; hence at least some individuals have a qualified right to procreate. I assume that bringing into existence individuals in general is not intrinsically wrong.¹³ However, there is no right to procreate if the prospects of the future child to lead a life worth living are dim. Therefore, the right of some individuals to procreate is qualified by the requirement that the prospective child will be likely to have a life worth living. It is possible that a life is not worth living, that is, that the mere value of being alive cannot offset the disvalue that that life contains. Relevant to this paper, if the environmental conditions are sufficiently deteriorated—if, for instance, we fail to prevent resource depletion and a rapid climate change to the effects of which we as a species cannot adapt—people's lives are not likely to be worth living. The amount of physical suffering provoked by constant natural disasters, lack of clean air and water and other basic resources, and the fear and social breakdown likely to ensue can be enough to make the lives of those confined to such conditions not worth living. If the fundamental interest in parenting cannot be justly satisfied because, for instance, the world is in a state of environmental disaster, the interest cannot ground a right. However, the interest remains and individuals unable to satisfy it justly are being harmed.

The belief that adults have a right to rear children is widespread and enjoys official protection in national and international legislations. It is also necessary in order to justify the current and past allocation of parental rights. There is a widespread belief, and a universal practice, that a parent—whether biological or adoptive—retains her right to rear her child even if other adults, who would make better suited parents for her child, are willing to take over the parental role in relation to that child. The traditional justification for allocating parental rights to sub-optimal parents when better parents are available and willing to parent is

¹³This is contested: David Benatar argued that we almost never have a right to procreate since we have a duty not to procreate. And Seana Shiffrin's account of harms, benefits, and procreation cast doubt on whether it is ever legitimate to bring another person into being. See David Benatar, *Better Never to Have Been: The Harm of Coming Into Existence* (Oxford: Oxford University Press, 2006) and Seana Shiffrin, "Wrongful life, procreative responsibility, and the significance of harm," *Legal Theory*, 5 (1999), 117–48.

that procreators have some form of ownership rights over their biological children. But this is incompatible with a belief that children are individuals with full moral standing. Parenting involves the exercise of control over important aspects of the children's lives and liberals usually believe that such control may be exercised in relation to persons unable to give their consent only if it advances those persons' best interests.¹⁴

Recently, Harry Brighouse and Adam Swift have argued that the right to rear is simultaneously grounded in the fundamental interests of children to be reared and in the fundamental interest of adults to rear children.¹⁵ Because the right to rear is primarily justified by appeal to the children's interest in being reared, it does not assume anything like parental ownership over children (and severely limits the content of the right). For the same reason, the right can be held only by those who can be adequate parents. Because the right to parent protects a *sui-generis*, and very powerful, interest of adults, it renders illegitimate its reallocation to the best available parents.

Specifically, the interest is in having an intimate relationship with children towards whom one has fiduciary responsibilities. Over time, the relationship is supposed to foster children's own development into autonomous individuals. According to Brighouse and Swift, several features of parenting taken together make it uniquely valuable. These are: the inevitable asymmetry of vulnerability between parent and children, that is, the fact that children have no power to exit the relationship; the spontaneous and unconditional nature of children's emotional responses to the parent; and the parents' responsibility for the present well-being and development of their children. The value of parenting consists both in the enjoyment of the child's spontaneous, initially unconditional love and trust, and in the unique opportunity it creates for adults to acquire self-knowledge and foster their personal and moral development. Through parenting well, adults experience what it is to be morally responsible for the well-being of an individual who is both structurally vulnerable to, and intimate with, them. These features make parenting a highly, and uniquely, valuable kind of relationship. On Brighouse and Swift's account, an opportunity to parent is a necessary condition for the full flourishing of most individuals. The unique joys and opportunities for moral growth afforded by parenting make adequate parenting a fundamental interest, which grounds a right to rear children (conditional on parenting ability).

An obvious objection to this account is that not all individuals value parenting—or value it for the reasons identified by Brighouse and Swift—and find

¹⁴And, indeed, some philosophers conclude that the best available parent has the right to parent. See Peter Vallentyne, "Rights and duties of childrearing," *William & Mary Bill of Rights Journal*, 11 (2003), 991–1020.

¹⁵Harry Brighouse and Adam Swift, "Parents' rights and the value of the family," *Ethics*, 117 (2006), 80–108. Other recent defenders of a fundamental right to parent include Matthew Clayton and Colin Macleod.

instead other ways of leading flourishing lives. While this is true, parenting is a central element of most people's conception of a good life. On Brighouse and Swift's account, it makes an objective contribution to flourishing if it is undertaken voluntarily and done well; this means that individuals can be mistaken about the importance of parenting in their lives. Thanks to its above-mentioned features, parenting is a paradigm of intimacy, and Brighouse and Swift believe it cannot be substituted by other kinds of intimacy. Therefore, they claim that, without parenting, many individuals who would make adequate parents and who desire to parent cannot have fully flourishing lives. (The thought that individuals who do not wish to parent are unlikely to make adequate parents in the first place adds to the plausibility of this claim.) Hence, in usual circumstances it is unjust to deprive those who wish to engage in adequate parenting from an opportunity to seek its satisfaction. The Brighouse-Swift account displays a form of mild perfectionism, which it shares with the capability approach.¹⁶

A second, related, objection is that, for low levels of adequacy, it is implausible that parenting is essential to adequate life prospects—especially if losses in the satisfaction of one interest can be offset by gains resulting from the satisfaction of other interests. The objection shows that the argument of this paper must assume a principle of justice demanding more than low levels of adequacy. But note also that people who wish to parent and who are unable to procreate naturally are often ready to make enormous economic and time sacrifices for the sake of becoming parents via IVF or adoption. This, and the sense of irreplaceable loss experienced by many people who wanted to, but could not, parent suggests there are strict limits on replacing an opportunity to parent with other opportunities as a way to ensure adequate life prospects.

None of the features that make parenting uniquely and highly valuable depend on individuals being either the genetic or the gestational parents of the children they rear. Relationships with adoptive children can display the same asymmetry, no-exit nature, and spontaneity of feeling, and call for the same duties as relationships with biological children. Therefore, they can afford the same joys and challenges. The right to parent, understood as an interest-protecting, *sui generis* right does not entail a general right to procreate because procreation is not necessary for satisfying the interest in parenting. On this account, it is possible that a particular individual does not have a right to procreate (because, for instance, she is the carrier of a transmissible disease that would make the life of the prospective child not worth living) but, at the same time, has an interest-protecting right to rear an adopted child. Conversely, this account of a right to rear allows for the possibility that an individual has a right to procreate (based, perhaps, on individual rights to bodily autonomy plus the availability of a adequate rearer for that child) yet, not being able to offer at least adequate care,

¹⁶As Brighouse and Swift point out themselves in *Family Values: The Ethics of Parent-Child Relationship* (Princeton: Princeton University Press, 2014), pp. 59–62.

she lacks a right to rear children. The right to rear and the right to procreate are, on this account, independent rights.

The argument in the next section presupposes an interest-protecting, *sui generis*, right to parent, understood as a right to rear rather than to procreate. The right to procreate children whose lives are likely to be worth living may be over-determined. It is possible that the right is grounded in a right to bodily autonomy, but it can also be, in some cases, entailed by a right to rear children: for an individual who—being an adequate prospective parent—has a right to rear, a right to procreate can be a necessary means for exercising her right to rear. This case is contingent on the existence of children in need of adoption. At the level of generations, however, a conditional right to procreate can be firmly grounded in the right to rear. Procreation by *some* people is the only means of bringing children into the world. If we have a right to the necessary means of fulfilling our rights, then a (conditional) right to rear entails a (conditional) right to procreate.

The amount of resources that a parent needs to parent adequately will depend on the resources to which the child and parents have independent access—for instance, on goods such as clean water, state funded schools, and public parks. Various positions on the justice of providing public goods are compatible with the present approach to intergenerational justice.

Some readers will fail to be persuaded that there is a fundamental interest in parenting—and, in particular, will be unwilling to embrace its mild perfectionism. They will need an alternative account of whether and why it is illegitimate to redistribute children to the best available parent. It is important to note, however, that even these readers are likely to find merit in the approach to intergenerational justice that I propose: They may believe that while there is no fundamental interest in parenting, there is a fundamental interest in there being children in the world and/or in not being part of the last generation. Samuel Scheffler—drawing on others—has argued that we all depend psychologically on the existence of future people. Our motivation to engage in most projects, possibly even our interest in continuing life, depend on our taking for granted the existence of future generations.¹⁷ The state of perpetual apathy and gloom that would likely obtain if we thought we were the last generation of human beings is incompatible with even low levels of adequacy. If this is correct, assuming a fundamental interest in parenting is not required for the argument of this paper. *P2* could be replaced by a premise saying that “For each child, adequate life prospects require that there will be another generation after her and therefore enough resources to justly raise children” and the argument would proceed to the same conclusion.

¹⁷Scheffler, “The afterlife.”

V. DUTIES OF JUSTICE TO CHILDREN AND THE UNACCEPTABLE CHOICE

Adults have both a right to rear children and a duty of justice, corresponding to children's rights, to ensure that their children have adequate life prospects. Various resources are needed for adequate life prospects, including environmental resources such as clean air, clean water, and sources of energy. In particular, individuals have adequate lives when their rights are not being violated. One of these rights is to engage in adequate parenting. Then, each generation of adults owes to its contemporary generation of children the conditions under which these children will be able, in due course, to rear their own children adequately. Since, at the level of generations, procreation is the only way in which children can be brought into the world, justice requires each generation of adults to give to their contemporary generation of children the environmental conditions necessary for legitimate procreation and rearing. Because the fundamental interest in parenting is moralised—it is an interest in rearing children well—children have a right to the environmental conditions in which they will be able to parent adequately. These include sufficient environment resources for their prospective children to have lives not merely worth living, but adequate.

Let me use the following model: call the first generation of adults *G1*, and its contemporary generation of children *G2*. *G2* will in due course become the second generation of adults with *G3* being its contemporary generation of children, and so on. For simplicity, I use "*Gn*" to refer to all members of *Gn* and make it explicit when I refer to only some members of *Gn*. *G1* has a duty to ensure that *G2* inherits the environmental resources that will allow it to exercise its right to rear children adequately. For this, *G2* must be capable of permissible procreation and childrearing.

A. CASE 1

Suppose that *G1* uses up environmental resources such that it fails to leave *G2* enough to engage in adequate parenting, but otherwise leaves enough to support an adequate life for *G2*. *G2* inherits from *G1* a world capable of sustaining *G2* at the level necessary for an adequate life minus the resources that *G2* would require in order to engage in adequate parenting. Yet, if having one's fundamental interests protected is part of having an adequate life, this means that *G1* has in fact failed in its duty to provide for an adequate life for *G2*. *G1* has wronged *G2* by dint of depriving *G2* of the conditions for fulfilling one of *G2*'s fundamental interests.

It is plausible that to lead an adequate life one needs more than the conditions beneath which life is not worth living. If members of *G2* were to procreate, there would be enough resources for members of *G3* to lead lives that are worth living, but not enough to have adequate lives. Because procreation is instrumental to the

exercise of the right to parent, and the prospective children of G2 will have lives worth living, G2 may have an autonomy-based right to procreate. Yet, they will not be able to fulfil their parental duty in the fulfilment of which, according to Brighouse and Swift, they have a fundamental interest. This means that G2 will have to sacrifice their fundamental interest in parenting adequately on pain of inflicting injustice on G3.

If, less plausibly, one assumes that the conditions necessary for having an adequate life coincide with the threshold beneath which life is not worth living, then members of G2 would inflict injustice through the very act of procreating: seeking to satisfy their interest in rearing, they will create children whose lives are not worth living and who have a complaint of wrongful life against their parents. Independently of where the level of resources necessary for an adequate life is, relative to the threshold beneath which life is not worth living, members of G1 have put members of G2 in the situation of being either victims or perpetrators of injustice.

Given the generational overlap, this model takes us all the way to a duty of sustainability. I showed why G1's duty to give adequate life prospects to G2 includes a duty to give them enough to sustain an adequate life for G3. Since members of G3 will also have a fundamental interest in rearing children, if G1 does not leave enough for a potential G4, then G1 forces on G2 the following choice: either some members of G2 forgo their right to parent adequately and thereby have a fundamental interest frustrated, or else G2 has children (the members of G3) some of whom it places in the position to choose between remaining childless or else having children (the members of G4) for whom it cannot provide adequately. That is, by leaving enough for only two more generations, G1 forces at least some people in G2 to forego parenting or else behave unjustly. The reasoning goes on, justifying the same duty for an indefinite number of generations—that is, as well as justifying a duty on G1 concerning G4, it also justifies a duty on G1 concerning G5 and so on *ad infinitum*. Cases 2 and 3 illustrate this.

B. CASE 2

Suppose G1 leaves G2 with more resources than in case 1—enough for G2 and G3 to have adequate lives if we ignore childrearing-needed resources, and enough for G3 to give G4 lives worth living but not better. In this case, G1 has put G2 in a situation in which G2 must choose to either not parent or else to fail in their duty to provide adequate life prospects for G3 who, by assumption, will not be able to engage in just parenting. For this reason, G1's failure to leave more resources makes it impossible for G2 to engage in just parenting.

C. CASE 3

Finally, assume that G1 leaves G2 with enough resources to sustain adequate lives for G2 and only a few more prospective generations down the line. In

this case, *G1* has put *G2* in a situation in which *G2* would only be able to have children by contributing to making it the case that at some point in the future people cannot give their children adequate life prospects due to environmental degradation. Therefore, at least some members of *G2* must choose to either not parent or else parent at the moral cost of creating persons, *G3*, who will be in the same predicament as themselves. In other words, at least some of the members of *G2* will have to decide between suffering an injustice by allowing a fundamental interest to remain unsatisfied and inflicting injustice on their own children. *G1* has put *G2* in the situation of being either victims or perpetrators of injustice (and thus have failed to be adequate parents). I explain why in the sixth section.

Here is a restatement of the argument: It would be unjust if someone decided to engage in parenting in conditions so impoverished that the prospective children would lack adequate lives. And it would also be unjust to put one's child in the situation of choosing between inflicting this injustice on their own potential child or else waiving their right to parent. This is because it is plausible that we have a very powerful interest, explored below, not to be put in a situation where we are forced to give up the satisfaction of a fundamental interest on pain of harming others or else on passing this choice on to our children to whom we owe adequate lives. Exceptions may be cases when it would be equally or more costly for someone *not* to place another person in that situation than it would be for this other person to find herself in that situation. For instance, resources may be so scarce that it is impossible for all existing individuals to have their fundamental interests met; it then may be permissible to use existing resources to satisfy a fundamental interest of mine at the expense of other individuals' opportunity to do the same. I assume, perhaps optimistically, that such exceptions do not apply in the case at hand.

One may object that parents from, say, *G2*, do not violate any duty when they fail to leave enough for their children in *G3* if the reason is that their own parents from *G1* left them with too little resources. If ought implies can, then parents from *G2* cannot have a duty of justice to leave enough for children in *G3*. Yet, in this case parents from *G2* still have a duty of justice to leave their children from *G3* as many resources as it is possible for them to leave in order to give their children life prospects that are as adequate as possible. This is the case even if the parents from *G2* will thereby lead inadequate lives themselves since, by assumption, the interest-based right in parenting is conditional on *adequate* parenting.¹⁸ This is a tragic situation because the plight of people from *G2* cannot be rectified, for lack of resources. And, assuming that *G1*'s leaving more resources to *G2* would not have

¹⁸I am grateful to Peter Vallentyne for this point.

affected the satisfaction of *G1*'s fundamental interests, their failure to do so amounts to unjust treatment of *G2*.

VI. THE WRONG OF IMPOSING A CHOICE BETWEEN THE PERPETRATION AND THE SUFFERING OF INJUSTICE

Any generation that passes on to its children a world that cannot sustain adequate lives indefinitely is in fact imposing on at least some members of the subsequent generation the following choice:

(a) to thwart their fundamental interest in parenting

or else

(b1) either to engage in illegitimate parenting or

(b2) to pass on the choice between (a) and (b1) on future individuals.

Imposing a choice between (a) and (b1) on an individual, or else forcing that individual to pass it on to another seems morally wrong. If, moreover, imposing such a choice could be plausibly understood as an injustice, then appeal to a fundamental interest in parenting can dispel scepticism about intergenerational justice.

Consider an analogy with the fundamental interest in drinking water: Ann and Mary live in England. Ann asks Mary to take her to a surprise holiday destination. Mary then leads Ann to a place where Mary knows there will only be enough drinking water for the people who already are in that place. For simplicity, suppose this scarcity is nobody's fault, and that Ann was not in a position to consent to go to a place where there is not enough water for everybody. The people living there are peaceful and meek, and Ann can easily take away their water: they will not resist. It is easy for Ann to satisfy her fundamental interest in drinking water. Yet, Ann has a complaint of justice against Mary, because Mary forced her to choose between inflicting injustice on those people or else having her own fundamental interest frustrated and *Mary could have avoided this situation without sacrificing her own fundamental interests*. Similarly, passing on to the contemporary generation of children an unsustainable world involves forcing some of its members to choose between not satisfying their fundamental interest in parenthood, or else engaging in illegitimate parenting, or else forcing this choice on some members of the subsequent generation, that is, on their own children.

It is, however, not clear upon what kind of right of Ann's has Mary infringed. Below I consider several plausible, and mutually compatible, ways to criticise the imposition of the choice between (a) and (b1) in terms familiar from the analysis of other, more widely recognised, forms of injustice. Together, they make the case for a right not to be forced to choose between not having a fundamental interest of yours satisfied and violating another person's right.

A. REASONABLE DISAGREEMENT

One way to argue that all cases of choice between not having an interest-right of herself satisfied or else violate other people's similar interest-rights raise a complaint of justice is by appeal to what one could have possibly, and reasonably, agreed to. According to an influential understanding of justice, we have a duty to abstain from performing an action "if any principle that permitted it would be one that could reasonably be rejected by people moved to find principles for the general regulation of behaviour that others, similarly motivated, could not reasonably reject."¹⁹ If one is morally wronged by being put in a situation one could not have reasonably agreed to, then one is surely wronged by having to choose between being either a victim or a perpetrator of harm. However, appeal to what one could reasonably agree to is particularly difficult in this case, since, on this reasoning, for members of the last generation with enough resources for themselves (but not for potential children) the choice is between existence without permissible procreation and parenting on the one hand, and non-existence on the other hand. If *G1* passes on to *G2* a world that has only enough resources for two more generations (*G2* and *G3*) then a prospective member of *G3* may perhaps reasonably say she would rather exist and not be able to engage in permissible procreation than not exist at all.

B. A RIGHT NOT TO BE FORCED TO THWART ONE'S FUNDAMENTAL INTEREST IN PARENTING AND A RIGHT NOT TO BE FORCED TO PARENT UNJUSTLY

If the imposition of *either* of the two options amounts to violating a right, then the imposition of a choice between them also amounts to a rights violation. In other words: if foreseeably and avoidably imposing a situation of the type (a) is a rights violation and imposing a situation of the type (b1) is a rights violation, then imposing the choice between (a) and (b1) is a rights violation.

The first horn of the choice is about imposing on an individual to remain childless against her will. Is there a rights violation in such imposition, if it is foreseeable and can be avoided at a reasonable cost? Thomas Pogge recently offered an analysis of (human) rights violations that, if correct, would entail that this type of situation is equivalent to a rights violation. He claims that rights violations involve unfulfilled rights in conjunction with an active and intentional causal relation of human agents to such non-fulfillment. Specifically, this causal relation obtains when agents foreseeably and with reasonable avoidability cause human rights deficits. Pogge thinks that: "(W)e are harming the global poor if and insofar as we collaborate in imposing an unjust global institutional order upon them. And this institutional order is definitely unjust if and insofar as it

¹⁹Thomas Scanlon, *What We Owe To Each Other* (Cambridge, MA: Harvard University Press, 1998), p. 4.

foreseeably perpetuates large-scale human rights deficits that would be reasonably avoidable through feasible institutional modifications.”²⁰ Pogge’s focus is on rights to clean water and medical care. However, if a right to parent exists, then foreseeably and avoidably making it impossible for someone to have this right respected would also count as a rights violation.

The second horn of the choice is about imposing a situation of type (b1), that is, foreseeably and avoidably pressuring someone into illegitimate parenting. The wrong at stake here is the same as the wrong of foreseeably and avoidably forcing an innocent agent to violate a duty of justice. Surprisingly, little philosophical literature addresses this issue, but some can be found in literature on moral dilemmas. Genuine moral dilemmas are those dilemmas that involve a choice situation in which the agent cannot avoid violating a duty.

According to Frances Kamm, this is how Bernard Williams thought about the Captain who made Jim choose between killing an Indian himself and letting all the Indians be killed by another: “Captain’s aims and intentions affect Jim’s actions so that these actions are no longer the expression of Jim’s own aims and projects. This constitutes an attack on Jim’s integrity as an agent.”²¹ If individuals have a moral right to be treated with respect *qua* rational agents, this involves that they should be allowed to exert their *rational* agency without unnecessary constraints and pressures such as moral dilemmas. And perhaps more can be said about the wrong of imposing moral dilemmas on innocent agents: not only it undermines their rational agency, but it also threatens their *moral* agency. If the dilemma is of the kind that leaves the agent “damned if she does and damned if she doesn’t” (as some insist that all *genuine* moral dilemma are) then it makes it impossible for the agent to preserve her moral integrity: whatever she does, she will have to compromise on principles, and whatever she does, she will be guilty of wrongdoing.

Suppose then that forcing Jim in Williams’ dilemma to choose between perpetrating injustice actively (shooting one Indian), and perpetrating it by omission (letting Pedro kill all the Indians) is disrespectful to his rational and moral agency. Then forcing agents to perpetrate injustice (without giving them a choice) is also disrespectful of both the rational and the moral integrity of that individual. If there is a moral right to preserve one’s rational or moral integrity, this amounts to a rights violation. In this case, people have a right not to be forced to parent unjustly.

If forcing people to remain childless against their will is a rights violation and forcing them to parent unjustly is also a rights violation, then imposing this choice on them—foreseeably and with reasonable avoidability—is also a rights

²⁰Thomas Pogge, “Severe poverty as a violation of negative duties,” *Ethics and International Affairs*, 19 (2005), 55–84, at p. 60 and “Severe poverty as a human rights violation,” in T. Pogge (ed.) *Freedom From Poverty as a Human Right* (Oxford: Oxford University Press, 2007), pp. 11–54.

²¹Francis Kamm, “Responsibility and collaboration,” *Philosophy & Public Affairs*, 28 (1999), 169–204, fn. 3 at pp. 170–1.

violation. The following three subsections are attempts to make sense of the nature of the this rights violation in terms of coercion, denial of one kind of moral autonomy, and denial of a voluntary choice with respect to engaging in parenting.

C. A RIGHT TO FREEDOM FROM COERCION?

An alternative, perhaps complementary, way to think about the wrong of imposing the choice between (a) and (b1) is in terms of coercion. Robert Nozick, for instance, argued it is coercive to make an agent choose between undesirable options that would not have been pressed on her in the absence of the coercer's actions.²² Moreover, the case at hand is a highly objectionable kind of coercion, one which diminishes the agent's freedom and responsibility. It is, however, not clear that we have a right to be free from (this kind of) coercion. Perhaps appeal to an interest in moral autonomy can strengthen the case that we do have such a right.

D. A RIGHT TO EXERCISE ONE'S AUTONOMY IN A MORALLY ACCEPTABLE FASHION?

Seana Shiffrin has argued that in order to enjoy moral autonomy—understood as a capacity to exercise one's general autonomy in a morally acceptable fashion—people need to have a range of morally permissible options.²³ If one can pursue one's interests in only one way without violating a moral requirement, then one lacks moral autonomy.

A lack of moral autonomy as lack of legitimate choices is particularly troublesome when the interest at stake is fundamental. Being forced to choose between letting your fundamental interest in parenting unsatisfied and either parent unjustly or else press the choice on your child (who can then press it on her own child and so on) is a particularly stark way of being deprived of one's moral autonomy. Individuals facing this choice seem to have only *one* morally permissible course of action open to them: forsaking parenthood. Moreover, this course of action necessarily involves the sacrifice of a fundamental interest. This kind of situation is then even more objectionable than the ones which make the focus of Shiffrin's analysis, in which agents do in fact have one way to satisfy their interests in a morally permissible way.

Perhaps, then, people have an interest-protecting right to pursue projects central to their identity—such as rearing children—without thereby doing any moral wrong or, at least, without having others avoidably impose serious moral costs on their pursuits of fundamental interests. This explains the injustice that others commit when they place individuals in a position in which they can only fulfil their interests by doing wrong.

²²See "Coercion," in *Socratic Puzzles* (Cambridge, MA: Harvard University Press, 1997), pp. 15–44.

²³Seana Shiffrin, "Moral autonomy and agent-centred options," *Analysis*, 51 (1991), 244–54.

E. A RIGHT TO VOLUNTARY CHOICE WITH RESPECT TO PARENTING?

Finally, one more way of defining the wrong involved in the discussed choice is that it makes it impossible for all individuals to make a voluntary choice about whether or not to become a parent. In Serena Olsaretti's influential analysis of voluntariness of choice, "an individual's choice is voluntary if it was not made because no other acceptable alternative was available." Coercion therefore is a typical but not unique way to undermine voluntariness because: "Choices made in response to offers, warnings, or other situations of constrained choice, for example, may all be non-voluntary, for the same reasons for which coerced choices are non-voluntary—that is, the agent makes the choice he makes because he has no acceptable alternative."²⁴ Any choice then is involuntary if choosing agents have only these options: to thwart their fundamental interests or to impose on their child that her fundamental interests remain unsatisfied or make her pass the choice on to her child. By assumption, people will continue to desire to satisfy their interest in parenting, and hence find it unacceptable to forgo parenting. So, even if facing the choice under discussion is not equivalent to being coerced, it is morally objectionable because it denies the individuals who face it voluntariness with respect to the choice to parent. Yet, it is widely endorsed that individuals who would make adequate parents *do* have a right to make a voluntary choice in this respect.

To conclude this section, a generation *G1* who fails to pass on a sustainable world to the next generation *G2* makes it impossible for all the members of *G2* to make a voluntary choice with respect to parenting, and thereby—at least for individuals who wish to parent—to achieve moral autonomy with respect to parenting. In this case, members of *G2* will have to refrain from parenting at the rate necessary to enable all of its members to parent adequately because the alternative—passing on the same or worse predicament on their on children—fails to constitute adequate parenting and is therefore unjust. Hence, *G1* ought to pass on to *G2* a sustainable world. Since *G2* is contemporary with *G1*, this explanation of what intergenerational justice requires is not vulnerable to the contingency version of the non-identity problem.

Note that a more robust sense of "sustainability" and therefore more demanding requirements of justice are justified if equality, rather than sufficiency, is the correct principle of inter-generational justice. A generation—alone or in cooperation with subsequent generations—may have the option to offset the earlier generations' policies, thereby allowing the next generations to have children without passing on a tragic choice to later generations. If sufficiency is the principle of inter-generational justice, a generation fails to live up to its duty if it passes on to its children a world that cannot sustain adequate lives indefinitely even if the succeeding generations engage in offsetting policies. But, if just

²⁴Serena Olsaretti, "Freedom, force and choice: against the rights-based definition of voluntariness," *The Journal of Political Philosophy*, 6 (1998), 53–78, p. 54.

distributions between generations were regulated by equality, the generation(s) that must make sacrifices to offset their parents' unsustainable policies would have a complaint of fairness for bearing this cost. If equality is the principle of inter justice, a generation fails to live up to its duty if it passes on to its children a world that cannot sustain adequate lives indefinitely if the succeeding generations continue the existing consumption policies. This, of course, is a more demanding sense of "sustainability."²⁵

VII. CONCLUSION

The argument I defend generates a demanding duty concerning future generations, duty that holds across a number of general theories of distributive justice. The present argument implies that each generation must pass on to the next generation sufficient resources for sustaining adequate life prospects for human beings indefinitely. This puts limits on how much each generation may permissibly consume, pollute, and procreate. It is, of course, very likely that human beings will inevitably cease to exist, at some point in the future, due to some non-anthropogenic catastrophe. If and when it becomes clear that only a limited and roughly identifiable number of human generations can continue to exist, the reason for ensuring sustainability as defined in this paper will disappear. But, as long as we have good reason to believe that it is possible for an indefinite number of generations to exist, justice demands that we do not consume, pollute, or procreate at a rate that will make it impermissible for some to parent adequately.

While the requirements to limit consumption and pollution are usual in discussions on inter-generational justice, the requirement to limit procreation is bound to be controversial. If correct, the conclusion of my argument entails that no generation is morally permitted to procreate at a rate so high that at least some members of the next generation will have to waive their right to parent on pain of endangering environmental sustainability. The number of individuals that can co-exist without endangering sustainability will, of course, depend on the level of consumption of those individuals as well as on existing resources and relevant technology. However, I assume that—given that the world resources are finite—only a limited number of individuals can co-exist, no matter how much they reduce consumption, without depriving at least some individuals of adequate life prospects. Procreation should be regulated such that, if that number is reached, individuals are not allowed to procreate beyond the replacement rate.

An interesting question is what are the implications of this argument for a world in which population is already too large to procreate at the replacement rate in a sustainable way. In this case there may be a duty to seek the fulfilment of the interest in parenting by several individuals co-parenting the same child or

²⁵I am grateful to an anonymous referee for helping me see how a choice of equality or sufficiency bears on the meaning of "sustainability."

children. An important issue concerns the minimal conditions under which the interest in parenting can be met. There are several sub-questions to answer here: “Is it sufficient to have, as a single parent or as a couple, one child in order to satisfy the interest in parenting?”; “Is there a right to be a single parent—that is, not to depend on another for rearing your child or children—or can the interest in parenting be satisfied by co-parenting? And, if the latter is the case, what is the maximum number of adults that can co-parent a child while retaining the distinctive character of the parenting relationship discussed above?”

One may respond to this account of the wrongs of environmental degradation with disbelief: is the interest-based right to rear children sufficiently important to warrant worries about its frustration in case of environmental collapse? Surely, it is wrong to over-consume, pollute, and bring about climate change mostly because this leads to famines, extreme weather events, forced population dislocation, and hence avoidable human deaths and suffering—and only secondarily because this can prevent people from fulfilling their interest in parenting. I think this remark is correct, and that a right to rear children is secondary in comparison to other interest-protecting rights such as rights to food, clean air and water, security and the like. Yet, assuming that there is an interest-protecting right to rear children, one can provide an answer to the challenge that the very existence of future generations should not be taken for granted. It is within our collective power to decide whether and how much we procreate and so an answer must be provided to the question of why it would be wrong to collectively bring about conditions in which procreation is illegitimate. Why do members of the current generation not have a right to consume all the world resources and stop procreating at the point when not enough was left for ensuring adequate life prospects to new people?²⁶ Appeal to a right to procreate derived from a right to bodily autonomy may not be enough to answer this challenge. A right to procreate seems difficult to defend as a *sui generis* right—or, in any case, more difficult than a right to rear children.

Is there anything that could let a generation off the hook of a duty of justice to ensure sustainability? If members of the next generation G2 were capable of making an authoritative decision to waive their right to parent, and they did waive it, then individuals from another generation could permissibly procreate at a rate higher than what was sustainable if all the members of G2 wanted to exercise their right to parent. But children cannot make an authoritative decision to waive their rights in general—and hence their right to rear children.

In the absence of a fundamental interest in parenting (and assuming there was no duty to procreate) it is at least conceivable that we are entitled to collectively decide not to bring future generations into existence in the first place and then,

²⁶Axel Gosseries, who also proposed what he calls a “zipper argument” for duties of intergenerational justice (that is, one based on what each generation owes to the next) is running into this problem. See his “What do we owe the next generation(s),” *Loyola of Los Angeles Law Review*, 35 (2001), 293–354.

together with already existing children, consume the entire stock of world resources. But if individuals have a fundamental interest in parenting, then making it impossible for our children or their descendants to parent adequately is unjust: this would necessarily frustrate some people's fundamental interest in parenting. Any generation that fails to pass on to the next generation a sustainable world is in fact preventing at least some of its contemporary children from making future voluntary choices with respect to procreation and childrearing.