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The Practice-Independence of Intergenerational Justice

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The question whether distributive justice is at bottom practice-dependent or practice-independent has received much attention in recent years. I argue that the problem of intergenerational justice resolves this dispute in favor of practice-independence. Many believe that we owe more to our descendants than leaving them a world in which they can merely lead minimally decent lives. This thought is particularly convincing given the fact that it is us who determine to a significant extent what this future world will look like. However, no practices that would trigger distributive obligations exist between distant generations. Thus, if we have to leave more than a minimum for future generations, we cannot conceive of distributive justice in terms of the justification of ongoing social interactions. Rather we have to think of the entire concept as an idea based on persons' legitimate interests and capacity for well-being, and which abstracts from participation in particular practices.

1. INTRODUCTION

This paper is concerned with the grounds of distributive justice. The general conclusion I defend is that when we consider distributive justice between generations and the kind of 'goods' it should ensure for future people (e.g. natural resources, a clean environment), we find that we have to conceive of the entire concept of distributive justice in practice-independent — rather than in practice-dependent — terms.

According to practice-dependent conceptions of justice, 'the content, scope, and justification of a conception of justice depends on the structure and form of the

practices that the conception is intended to govern.’¹ More concretely, for proponents of the practice-dependent perspective, the application of principles of distributive justice depends on the existence of particular social practices that are characterized by, e.g. coercion, cooperation, or contributions to a mutually beneficial practice. Consequently, for practice-dependent theorists only those persons who are co-members of such practices owe duties of distributive justice to each other. Practice-independent theories, on the other hand, are based on the idea that simply being a person with morally important and legitimate interests, and the capacity for well-being suffices for having distributive entitlements as a matter of justice.² The debate between these two camps is important because our understanding of the very purpose, nature, and scope of distributive justice depends on which of these views we hold.

My argument here is that the problem of intergeneration justice poses an insurmountable litmus test for practice-dependent views. By this I mean that practice-dependent conceptions cannot account for some, if not all, duties of intergenerational justice since they presuppose the existence of certain social practices between people — practices which are absent in the intergenerational

¹ Andrea Sangiovanni, ‘Justice and the Priority of Politics to Morality’, *Journal of Political Philosophy* 16 (2008), pp. 137-164, at 138. In the next section, I discuss which theorists have defended versions of the practice-dependent approach.

² Practice-independence, as well, comes in different versions. Advocates of practice-independent views of distributive justice are, for instance, Hillel Steiner (‘Just Taxation and International Redistribution’, *Nomos XLI: Global Justice*, ed. I. Shapiro, L. Brilmayer (New York, 1999), pp. 171-191), Simon Caney (*Justice Beyond Borders: A Global Political Theory* (Oxford, 2005)), Thomas Christiano (‘Immigration, Political Community, and Cosmopolitanism’, *San Diego Law Review* 45 (2008), pp. 933-961), and Chris Armstrong (‘National Self-Determination, Global Equality, and Moral Arbitrariness’, *Journal of Political Philosophy* 18 (2010), pp. 313-334).

context. Thus, because most people find the idea of duties of intergenerational justice very plausible, practice-dependent views are less plausible than their practice-independent rivals since practice-dependent views are unable to account for such duties. That is to say that (a) in light of the nature of our relations and duties toward future people and (b) the sort of ‘goods’ that intergenerational distributive justice has to ensure for our descendants, it will become clear that no particular social practices are needed for the application of distributive justice in any context.³

The aim of this paper is not to make a case for a full-blown egalitarian, sufficientarian, or prioritarian conception of intergenerational justice.⁴ This paper also does not aim at solving the problem of whether theories of intergenerational justice must appeal to impersonal or person-affecting conceptions of value. We face many theoretical difficulties when reasoning about intergenerational justice and most of us have very different intuitions about what we owe to the innumerable persons who will come after us and who will mostly live in a very distant future. (It is, for instance, extremely difficult to make sense in the indefinitely extending intergenerational setting of the rationally convincing idea that ‘no one’s interests are as such morally more important than the interests of anyone else’.) And yet it is not daring to assert that most people believe that it is not enough for us to leave future people with a world in which conditions are that hostile that they can merely lead minimally decent lives. This is particularly the case since we know now that we have great influence on what the environment that future people will have to live in will be

³ This is not to say, though, that practices are never of importance for determining the content of our distributive duties. My claim is the weaker one that the existence of social practices is not needed for the application of duties of distributive justice in general.

⁴ That is to say, the question about the ‘right’ kind of intergenerational justice is conceptually downstream from the question about the practice-(in) dependence of the concept of justice.

like. The point I defend in this essay is that — whatever else we think we owe to our descendants — proponents of the practice-dependent paradigm (for reasons to be explained) cannot even account for such modest duties of distributive justice to leave future generations with more than is necessary for a minimally decent life. Thus, my focus in the following sections will be on the relevance of the problem of intergenerational justice for the current practice-dependence versus practice-independence debate on justice.

First, a sketch of the argument: (2) I explain why the dominant interpretations of the practice-dependent paradigm are ill-equipped to address the challenges posed by intergenerational justice (such as climate change or the depletion of the world's resources). For this purpose I consider three versions of the paradigm that conceive of distributive justice as grounded in (a) the need for justifying coercively organized practices, (b) the requirement of justifying the background terms of cooperative practices, and (c) the necessity of fairly sharing the benefits and burdens of mutually beneficial practices. (3) I then analyze a refined account of the third, contribution-based conception of practice-dependent justice recently presented by Joseph Heath. Heath argues that we can account for certain intergenerational duties of justice if we broaden the requirement of reciprocal cooperation from 'direct' to 'indirect reciprocity' since the latter form of cooperation can also occur among different generations. However, I will show that Heath's suggestion also exemplifies why practice-dependent views are inadequate for addressing issues of intergenerational justice because it suffers from three serious problems. The first is (4) that there are reasons to think that cooperation based on indirect reciprocity is unstable. The second issue (5) concerns the fact that distributive justice based on reciprocity cannot account for certain kinds of goods that a plausible account of intergenerational justice has to secure for future people (like natural resources such as the atmosphere, or

nature as a source of well-being and an element of a good life). The final problem that I discuss (6) is that the notion of justice as reciprocity, which Heath's and many other practice-dependent conceptions are based on, grounds distributive obligations on the wrong reasons. (7) I conclude by summarizing my case for the practice-independent notion of distributive justice based on the idea of intergenerational justice.

2. THE INAPTITUDE OF PRACTICE-DEPENDENT CONCEPTIONS

Practice-dependent views of distributive justice have difficulties when it comes to making sense of our obligations toward future generations. This is because they hold that a distribution of what makes human beings' lives go well⁵ is not owed independently of certain social practices that make such a distribution necessary. Rather, they hold that ensuring that a valuable state of affairs obtains (such as, e.g. an equal distribution) is merely of derivative importance. As Miriam Ronzoni argues, 'no state of affairs can be judged just or unjust unless we refer to a specific practice within it.'⁶ Many practice-dependent theorists do, though, accept the idea that every human being is — as a matter of justice — entitled to what they require to lead a minimally decent life.⁷ Even though I do not think that this hybrid view of practice-independent minimal sufficiency and practice-dependent distributive justice is very convincing, for the subsequent discussion I will grant that practice-dependent views can plausibly generate such split obligations. However, for reasons that will become clear throughout my argument, I deny the plausibility of the claim that what we owe to future people is no more than what is enough for a minimally decent life.

⁵ For simplicity's sake, in the following I refer to these things as 'distributional goods'.

⁶ Miriam Ronzoni, 'The Global Order: A Case of Background Injustice? A Practice-Dependent Account', *Philosophy & Public Affairs* 37 (2009), pp. 229-256, at 233.

⁷ See, for instance, D. Miller, *National Responsibility and Global Justice* (Oxford, 2007), Thomas Nagel, 'The Problem of Global Justice', *Philosophy & Public Affairs* 33 (2005), pp. 113-147.

As is well known, John Rawls holds that ‘a political society is always regarded as a scheme of cooperation over time indefinitely.’⁸ However, even if we accept the idea that a society presents a continuous practice of some sort, this does not mean that it thereby includes practices of the kind that (according to practice-dependent theorists) are needed for triggering distributive obligations of justice. My criticism of practice-dependent views is that *the particular practices* they take to be the grounds of duties of distributive justice do not exist in the intergenerational context. Of course, various versions of the practice-dependent paradigm focus on different aspects of social practices that are seen as triggers of claims and duties of distributive justice. In this section I will show why the three most prominent strains of this paradigm fail to justify the idea that we owe our descendants more than is necessary for a minimally decent life.

(a) Coercion-based accounts

Let us call the first category of practice-dependent views, held by e.g. Thomas Nagel and Laura Valentini, ‘coercion-based accounts’. According to coercion views of distributive justice, claims to more than sufficiency are only held by those who are subject to coercive rules in common practices (like the state or international trade) because distributive justice is part of what is required to justify such coercion to those subject to it.

What necessitates an egalitarian distribution in Nagel’s view is the fact that people are coerced by the laws and the government of their state. Such coercion can only be legitimized, Nagel holds, if the state in return treats each of its subjects equally and such treatment has to include distributive equality. Nagel’s view has been criticized extensively, and it is inexpedient to rehearse all the objections here. What is

⁸ J. Rawls, *Justice as Fairness. A Restatement* (Cambridge, Mass., 2001), p. 162.

important for my purposes is that, for Nagel, having claims of justice to more than a distributive minimum presupposes coercive practices in which the members ‘are both putative joint authors of the coercively imposed system, and subject to its norms.’⁹ Thus, one obvious problem with applying Nagel’s view to the context of intergenerational justice is that it is impossible for future generations to be co-authors of our laws or to even represent adequately their own interests in our collective decision-making processes. However, there is a deeper problem for Nagel’s account.

According to Nagel, more than minimal distributive entitlements can only be claimed *if* a person is subject to rule-based coercion. It is far from obvious, though, that we actually coerce future persons with what we do right now. This becomes clear once we consider that the generic sense of coercion as ‘using force to get people to act in ways they would not otherwise have done’ does not adequately capture what is problematic about problems like anthropogenic climate change. After all, if we leave our descendants a world with adverse environmental conditions, they simply do not have a choice but to live in this world. Our laws and the practices they permit obviously have fundamental ramifications for the lives of these unrepresented future persons. But if we understand climate change as a way of closing off options (such as the option to live in a clean environment) for future generations, this cannot be seen as a form of coercion lest every other way in which we close off opportunities for others (e.g. marrying a person that thus becomes unavailable as a marriage partner for everyone else) has to be understood as a form of coercion — which seems implausible.¹⁰

⁹ Nagel, ‘Global Justice’, p. 128.

¹⁰ I thank Clare Heyward for pressing me to clarify this aspect. This problem is further discussed on section 6.

A more nuanced version of ‘coercion-based’ practice-dependence has been suggested by Laura Valentini. For her, coercion exists not only where a central agent imposes promulgated rules (a form of coercion Valentini terms ‘interactive coercion’). Coercion also occurs in a ‘systemic’ form, which is to say that ‘a system of rules S is coercive if it foreseeably and avoidably places non-trivial constraints on some agents’ freedom, compared to their freedom in the absence of that system.’¹¹ According to Valentini’s view, everyone who falls within the scope of justice is subject to implicit and non-centrally enforced constraints like those that govern our globalized markets. Her coercion-based view of justice is thus more encompassing than Nagel’s, which limits the scope of justice to the borders of centralized states. However, it is not clear how the notion of systemic coercion can make sense of the idea that future people have distributive entitlements and that we have correlative distributive obligations to respect their entitlements to some share of the relevant distributional goods. This concern arises because problems like climate change are not caused by (interactional or systemic) coercive practices that exist between us and our descendants. Rather, what is at stake with respect to intergenerational justice is that our actions and decisions are going to leave future people with an adverse state of the world in which they will have to live their own lives (characterized, for instance, by more frequently occurring, more devastating weather phenomena or irreversible submersion of low-lying islands). Thus, the problem of climate change is not one of coercive norms but of certain bad states of affairs that our rule-governed practices create for future people. This conceptual blind spot about bad man-made future states of affairs also troubles the next variant of practice-dependent views of justice.

(b) Background justice-focused accounts

¹¹ L. Valentini, *Justice in a Globalized World: A Normative Framework* (Oxford, 2011), p. 137.

This second version of practice-dependence focuses on the need to guarantee background justice for the practices we engage in and has been proposed by, e.g. Miriam Ronzoni. For background justice-centered approaches, the purpose of more than minimal distributive justice is to ensure that our cooperative endeavors take place within conditions that are fair to all participants and that these fair conditions remain intact while cooperation takes place. The fairness of the conditions under which contracting parties cooperate is assessable if we consider whether the parties

(1) enjoy sufficiently adequate material conditions; (2) and/or have an adequate range of alternative options available to them; (3) and/or have sufficient bargaining power, in such a way that (a) signing the contract is not the only reasonable thing for them to do to survive or live under socially acceptable circumstances (that is, each contractor has some reasonably effective freedom to refuse to sign), and (b) each of them has some reasonable power to affect the terms of the contract.¹²

However, with respect to the question of what justifies duties of justice, the problem with Ronzoni's criteria of fairness is that in the intergenerational context it is the sufficiently adequate material conditions themselves that future people will require that are at stake [clause (1) above]; further, future generations never have an alternative option to the state of the world that we leave for them [(2)]. And finally, future people (as was already pointed out in the discussion of Nagel's approach above) do not have any bargaining power when it comes to determining the rules of our practices that will determine what sort of world they will be born into [(3)]. The issue of intergenerational distributive justice exceeds the purview of practice-dependence framed in terms of background justice as this perspective is simply

¹² Ronzoni, 'The Global Order', p. 239.

inadequate to take into account what we are worried about when we think about our duties toward our decedents. Future people are not subject to our norms in such a way that we have to justify these rules to them because we enforce such norms only on our contemporaries. (Future people might well change the norms we enact without justifying these changes to us.) Instead, we have to be concerned about the consequences of our norm-governed practices. The idea of intergenerational justice relates to persons who will live in a future world in which a certain state of affairs obtains — one that we partly create by pursuing our current practices. The justification of norms and rules is therefore not what is at issue with respect to intergenerational distributive justice. This constitutes a problem for norm-centered practice-dependent approaches because (as was pointed out in the beginning) their advocates argue that the value of states of affairs cannot be assessed directly and without reference to a particular social practice. Thus, the two versions of practice-dependence we have scrutinized so far fail the test set for them by the idea of intergenerational justice, and this is because this problem is not one of coercion or background justice.

(c) Contribution-based accounts

A third version of the practice-dependent paradigm focuses on cooperation. According to these views, one can only claim more than minimal distributive entitlements if one contributes to a common project. This is because — while some of its proponents hold that such cooperation only occurs within states (e.g. Andrea Sangiovanni) and others argue that it also takes place internationally (e.g. Aaron James) — the central thesis of these views is that only ‘those who have submitted themselves to a system of laws and social rules in ways necessary to sustain our life as citizens, producers, and biological beings are owed a fair return for what those who

have benefited from their submission have received.’¹³ Consequently, ‘those who make no contribution to the practice are not in a position to lay claim to fair return.’¹⁴ Being entitled to more than a decent minimum thus requires that one contributes to a common social practice.

With respect to the idea of intergenerational justice, this perspective of distributive justice suffers from what Edward Page calls the ‘non-reciprocity problem:’¹⁵ while future people are left with a world that we largely create for them, they are unable to repay us for any sacrifices or efforts that we might make in order to leave them a world in a better state, and they cannot ‘punish’ us if we leave them a world in which their lives are barely worth living. The non-reciprocity is of a conceptual nature since, as Stephen Gardiner points out, ‘causation runs only in one direction [with the effect that] it is impossible [for future people] either to receive goods from and then give back to their predecessors.’¹⁶ Accordingly, the non-reciprocity problem ‘seems to rule out genuinely cooperative behavior between generations.’¹⁷ And there is no simple way for practice-dependent theorists to expand their notions of cooperation and reciprocity to cover the intergenerational context. We might think, for instance, that our descendants ‘do their part’ in the cooperative intergenerational practice that is our society by maintaining the projects we started. However, such a notion of

¹³ Andrea Sangiovanni, ‘Global Justice, Reciprocity, and the State’, *Philosophy & Public Affairs* 35 (2007), pp. 3-39, at 26-27.

¹⁴ Aaron James, ‘Distributive Justice without Sovereign Rule: The Case of Trade’, *Social Theory and Practice* 31 (2005), pp. 533-559, at 543.

¹⁵ Edward Page, ‘Fairness on the Day after Tomorrow: Justice, Reciprocity and Global Climate Change’, *Political Studies* 55 (2007), pp. 225-242, at 232.

¹⁶ S. M. Gardiner, ‘A Contract on Future Generations?’, *Intergenerational Justice*, ed. A. Gosseries, L. H. Meyer (Oxford, 2009), pp. 77-118, at 82.

¹⁷ Gardiner, ‘A Contract on Future Generations?’, p. 82.

cooperation cannot fit into practice-dependent theorists' criteria of reciprocity (e.g. it is not clear how reciprocity would work between the dead and the living). In addition, we would impose unreasonable constraints on the range of options of future people if, in exchange for not destroying the climate, we would demand that they maintain our collective projects. The contribution-based grounds for distributive justice are thus too narrow to account for the idea that future generations are as a matter of justice entitled to a share of distributional goods that exceeds what they need to lead merely minimally decent lives.

Since they presuppose the existence of particular social practices for the application of principles of distributive justice, it is the common problem of all versions of the practice-dependent paradigm that they are 'practice-sensitive.'¹⁸ That is, they hold that for a person to have (more than minimal) distributive entitlements of justice she needs to be a *contemporary participant* in existing social practices and be subject to social norms or contribute to a common goal within a practice.¹⁹ This criterion, though, immediately excludes people who will live in the future from the scope of distributive justice. As Dale Jamieson points out, the problem with any account of distributive justice that denies the independent relevance of valuable

¹⁸ Aaron James, 'Constructing Justice for Existing Practice: Rawls and the Status Quo', *Philosophy & Public Affairs* 33 (2005), pp. 281-316, at 312.

¹⁹ Practice-dependent theorists might hope to defend their views by claiming that these include a duty for participants in practices to leave equal possibilities and space for non-participants to conduct their own practices of the same kind. However, such an argument would have to rest primarily on the practice-independent value of the moral equality of all persons (and not on the importance of practices) as well. Thus practice-dependent theorists cannot account for duties of intergenerational justice by extending their notions of practice-dependence in this way. I have discussed this question in detail elsewhere (see my 'Fairness to Non-Participants: A Case for a Practice-Independent Egalitarian Baseline', *Critical Review of International Social and Political Philosophy* (forthcoming)).

states of affairs and focuses on wrongdoing (as do practice-dependent views) is that 'it excludes from primary moral consideration all those who are not parties to the relevant agreements [and, as we might add, practices]. Yet much of our environmental concern is centered on those who are so excluded — future generations, distant peoples, infants, animals, and so on.'²⁰ This points toward the conclusion that a focus on rules, norms, contributions, wrongdoing, and participation in practices is misplaced for addressing the general question of what we owe distributively to future people and, more concretely, what our duties are in view of problems like climate change that threaten to create bad future states of affairs in which our descendants will have to live.²¹

²⁰ Dale Jamieson, 'When Utilitarians Should be Virtue Theorists', *Utilitas* 19 (2007), pp. 160-183, at 162.

²¹ John Rawls's seminal approach contains certain practice-independent elements (such as the natural duty to promote and maintain just institutions and the global duty to assist burdened societies) as well as an obligation that has the specific purpose to save up for future generations (the 'just savings principle'). It is thus an interesting question whether his theory (that many practice-dependent theorists refer to in support of their claims) suffers from the same shortcomings as practice-dependent views. However, given this paper's focus on practice-dependent views of distributive justice, I will here only note that Gardiner has addressed this question (see his 'Rawls and Climate Change: Does Rawlsian Political Philosophy Pass the Global Test?', *Critical Review of International and Social Philosophy* 14 (2011), pp. 125-151). He arrives at the conclusion there is no straight-forward Rawlsian way to extend Rawls's theory to cover the problem of intergenerational justice.

3. INTERGENERATIONAL COOPERATION AS INDIRECT RECIPROCITY

Recently Joseph Heath has suggested that the notion of indirect reciprocity can explain how intergenerational cooperation might be possible.²² His argument can be understood as a refined version of the ‘contribution-based’ version of practice-dependence. If the question of our obligations toward future generations could be framed entirely in terms of our duties as participants in diachronic practices, the issue of intergenerational justice would be within the scope of the practice-dependence paradigm. Heath’s proposal to understand many of our practices as involving the cooperation of future people constitutes one of the most promising accounts of practice-dependent intergenerational justice. After introducing Heath’s view here, I will argue in the subsequent sections that it cannot accommodate all our intuitions about what we owe to future people and that this account therefore must be bolstered with practice-independent elements to yield a comprehensive theory of intergenerational justice.

In order to extend the notion of reciprocal contributions to the intergenerational context, Heath offers a new application of indirect reciprocity. The central idea is that once we drop the narrow notion of reciprocity (that efforts and benefits have to be immediately exchanged among the same persons within a practice) in favor of the idea of indirect reciprocity (according to which ‘the person *to whom* one supplies a benefit [does *not* have to] be the person *from whom* one receives a benefit’²³), the asymmetrical positions of different generations no longer prevent us from perceiving them as participants in a common diachronic cooperative practice. For Heath,

²² Joseph Heath, ‘The Structure of Intergenerational Cooperation’, *Philosophy & Public Affairs* 41 (2013), pp. 31-66. This essay builds on an earlier publication of Heath (see his ‘Intergenerational Cooperation and Distributive Justice’, *Canadian Journal of Philosophy* 27 (1997), pp. 361-376.

²³ Heath, ‘Intergenerational Cooperation’, p. 33.

adopting this idea of indirect reciprocity is possible once we realize that reciprocal cooperation exists whenever persons can gain from contributing to a joint project but also have the possibility and an incentive to refuse to contribute.²⁴ Such situations in which cooperation and defection are possible (what Rawls calls the ‘circumstances of justice’²⁵) are instances of the well-known prisoners’ dilemma. The key to solving such dilemmas is to sufficiently stabilize the participants’ expectations about each other’s contributions to the joint project (that is: to assure them that none will defect) so as to establish a cooperative equilibrium. However, as the idea of indirect reciprocity indicates, for cooperation to exist it is not necessary that I receive my benefit from the same person whom I benefitted. Instead, ‘what matters is simply that *cooperating now* induces someone else to *cooperate later*.’²⁶

Traditionally, the intergenerational context has been taken to prevent the establishment of such cooperative equilibria given the assumptions that (a) benefits can only run downstream in time (so that future people cannot benefit earlier generations); and that (b) future generations have no way to punish the present generations for free-riding and not cooperating with them. The idea of indirect reciprocity answers these concerns about the possibility of establishing intergenerational cooperative equilibria by relying on the self-interest of earlier generations instead of some independent moral motives or threats of punishment. What motivates preceding generations to contribute to intergenerational practices, Heath points out, is the fact that certain cooperative goods, namely investment goods, require ‘that we forgo consumption in the present, [so as to generate] benefits down

²⁴ See Heath, ‘Intergenerational Cooperation’, p. 52.

²⁵ See J. Rawls, *A Theory of Justice*, rev. edn. (Cambridge, Mass., 1999), pp. 109-112.

²⁶ Heath, ‘Intergenerational Cooperation’, p. 44.

the line.’²⁷ This is to say that — if we want to enjoy the benefits that derive from investment goods — we depend on the cooperation of those that come after us. One palpable example of such an intergenerational practice sustained by self-interest-driven indirect reciprocity that Heath offers is pay-as-you-go pension schemes. Here we benefit our parents’ generation by paying for their pensions. We do this with the expectation that our successors are going to continue this scheme, and that we will benefit ourselves from it once we have reached the retirement age.

The benefits produced by such pension schemes are such that they could not be produced by members of the same generation on their own but require the compliance of future members of the schemes. This is clear once we see that, given the ‘uncertainty about our own time of death’,²⁸ such schemes help us to prevent over- or under-saving for old age — which would most likely occur were we to save up for our own retirement. In this sense it is not true that future generations cannot benefit the present generations by conferring benefits ‘upstream’ on them that the latter earned by contributing earlier. But future people are of crucial importance for the operability of schemes of indirect reciprocity in another way as well. Such schemes have to be thought of as open-ended for a cooperative equilibrium to exist. If there would be a foreseeable end to the pension scheme, it would be clear that the last generation would not benefit but only contribute to the scheme. Since it is unrealistic to expect that the final generation will behave that altruistically, Heath points out that by backward induction reasoning, the cooperative scheme would never get started.

²⁷ Heath, ‘Intergenerational Cooperation’, p. 33.

²⁸ Heath, ‘Intergenerational Cooperation’, p. 51.

Cooperative pension schemes work because the expected reciprocity of future members is thought to extend ‘indefinitely into the future.’²⁹

Thus, what generates the cooperative equilibrium within pay-as-you-go pension schemes is, on the one hand, the threat that future generations will react to the non-compliance of present members and, on the other hand, conversely the self-interest of the present generation to benefit from the scheme in their old age.³⁰ If present members were not to cooperate and instead refuse to pay for the pensions of their parents’ generation (which they have an incentive to do), they would thus shift the ‘expectations [of future members] toward a [non-cooperative] equilibrium.’³¹ In other words, the non-compliance of present people would simply lead to a collapse of the entire diachronic practice of paying for the pensions of the previous generation because the diachronic practice was interrupted. Heath takes this to answer the above objection about the enforceability of intergenerational cooperation since the fact that the generations overlap within the scheme makes it possible that later generations can negatively affect the interests of the preceding one. Thus, it is the self-interest of the present generation in not endangering their own pensions that keeps constant (and makes predictable) their motivation to contribute to the intergenerational pension scheme. For Heath, the example of pay-as-you-go pension schemes shows that diachronic cooperation sustained by indirect reciprocity is possible and he

²⁹ Heath, ‘Intergenerational Cooperation’, p. 56. Gustaf Arrhenius, on the other hand, argues that it is far from clear that backward induction is a practicable or plausible way of reasoning, see Gustaf Arrhenius, ‘Mutual Advantage Contractarianism and Future Generations’, *Theoria* 65 (1999), pp. 25-35, at 29. For the sake of the argument, I assume that at least with respect to intergenerational pay-as-you-go pension schemes, backward induction reasoning can generate incentives for participants to continue the practice.

³⁰ See Heath, ‘Intergenerational Cooperation’, p. 51.

³¹ Heath, ‘Intergenerational Cooperation’, p. 43.

therefore asserts that 'the circumstance of justice obtains between ourselves and all future generations.'³²

Heath's account of indirect reciprocity presents an important challenge to my argument that the problem of intergenerational justice shows that we have to think of distributive justice generally as practice-independent. However, in the next three sections I will bring out three separate problems that show that the idea of indirect reciprocity fails to account for everything that we owe to future people. First, there are reasons to doubt that Heath's notion of indirect reciprocity can generate the conclusions he thinks it can even within cooperative practices such as pay-as-you-go pension schemes. Second, even if there are some intergenerational practices based on indirect reciprocity, these cannot account for all plausible 'objects' and duties of intergenerational justice (such as to leave some share of the world's natural resources for future generations or the preservation of 'natural values'). And finally, even if practices based on indirect reciprocity could account for all the distributional goods that we have to pass on to future generations as a matter of justice, the idea of indirect reciprocity grounds justice on the wrong reasons (viz. mutually beneficial contributions) because these reasons have counter-intuitive implications. All three problems will lead to the conclusion that a plausible comprehensive theory of intergenerational justice cannot do without the assumption of certain practice-independent duties toward and entitlements of future people that are beyond the conceptual scope of practice-dependence.

³² Heath, 'Intergenerational Cooperation', p. 65.

4. THE FIRST ISSUE: AN ARGUMENT FROM INSTABILITY

According to Heath, cooperative practices like pay-as-you-go pension schemes generate steady cooperation because all members have stable incentives to contribute and to not free-ride on the contribution of others.

However, it is questionable how stable such an indirectly reciprocal system of intergenerational cooperation really is and whether it can actually create binding duties of justice for our children to continue the scheme. This is because contributing to a pay-as-you-go pension scheme might be a necessary condition of its continuation, but it is hardly a sufficient one. Since the only motive that keeps people from defecting from the scheme is pure self-interest, a future generation might decline to continue the scheme if they determine a better way of avoiding under- or over-saving for their retirement. The entire system is based on the assumption that continuing the contributions is what will best satisfy our children's preferences when it comes to saving up for old age. It might be the case, though, that, e.g. future people will become less risk-averse, or wealthy enough so that they would prefer to save up individually for retirement. In this case, the interests of the last contributing generation will conflict with the preferences of the next generation. Since their parents didn't benefit them (but only their grandparents) by contributing to the pay-as-you go pension scheme, it is difficult to see why it would be wrong for the next generation to stop the entire project (assuming that they will ensure that all of their parents are guaranteed some social minimum while the pension scheme is phased out). Here the right to self-determination of the next generation could morally trump the claims of the parent generation to continue the pension scheme.

As Brian Barry points out, the incentives for purely self-interested reciprocity can simply vanish if new information becomes available that enables some members of the cooperative scheme to better pursue their goals by defecting or stopping to

cooperate. Schemes based on mutual advantage in general, and such grounded in indirect reciprocity more particular, are — as Barry observes — ‘no more than truces. As soon as one side or the other feels it can improve its position, there is nothing to restrain it so long as [...] the prospective gains outweigh the anticipated costs.’³³ Such a change in the circumstances in which an indirectly reciprocal practice takes place can happen even if the scheme is one that is maintained by different but overlapping generations. Such schemes might come under pressure, for instance, if subsequent generations grow ever smaller in size and the later generations thus have to shoulder an ever-growing burden in supporting the earlier ones.³⁴ An intergenerational pension scheme might thus become an ever larger burden on young generations while they at the same time stand to benefit less from the system than the generation that they currently support. The cooperative surplus, as Gustaf Arrhenius points out, will still be a surplus — yet to a more and more decreasing extent.³⁵ But the smaller the gain from cooperation, the more likely it might be that the younger participants in the scheme are motivated to find alternative ways to achieve their goals and that such an alternative might be found. Thus, this argument from instability casts doubt on whether indirect intergenerational reciprocity really generates a situation that is analogous to the circumstances of justice among contemporary persons who can set up their choice situation in such a way that defecting from a common scheme has immediate costs for the defector. Indirectly reciprocal cooperative practices, that is to say, may not be able to generate the stable incentive structure that Heath assumes they can. At least, the stability of such systems is not generated by the motives of the

³³ B. Barry, *Justice as Impartiality* (Oxford, 1995), p. 39.

³⁴ This problem is also discussed by Axel Gosseries (see his ‘Three Models of Intergenerational Reciprocity’, *Intergenerational Justice*, ed. A. Gosseries, L. H. Meyer (Oxford, 2009), pp. 119-146, at 138). To name concrete examples, this is the projected development for Germany and Japan.

³⁵ See Arrhenius, ‘Mutual Advantage Contractarianism’, p. 32.

participants but exclusively by the circumstances of the situations, and the latter can change quickly and considerably. If this happens and one generation is, for instance, able to save up better for retirement without continuing to cooperate within an established intergenerational pension scheme, on Heath's account there are no reasons of justice for the present generation to care about the distributive shares of all other generations. This, however, runs contrary to the thought that we owe more to future generations than what is necessary for a minimally decent life — which is a problematic implication of Heath's view.

To make matters worse for the idea of intergenerational justice based on indirect reciprocity, issues such as climate change escape this framework entirely because they involve the possibility that one generation derives benefits from costs that it imposes on future generations while the latter have no way of incentivizing their predecessors to not inflict these costs on them.³⁶ The next section deals with this sort of objection to Heath's account of intergenerational justice.

5. THE SECOND ISSUE: AN ARGUMENT FROM INCOMPLETENESS

It might still turn out to be the case that the important variables (such as the wealth of generations, their attitude toward risk-taking, and their size) remain similar enough across generations so that cooperative schemes fueled by self-interest are more or less stable.

However, a second problem illustrates that no practice-dependent approach to intergenerational justice (including Heath's model of indirectly-reciprocal diachronic schemes) can adequately explain all of what we owe to future people. This second issue regards the observation that purely practice-dependent views are unable to make sense of the idea that there are different kinds of values and distributive

³⁶ See S. M. Gardiner, *A Perfect Moral Storm. The Ethical Tragedy of Climate Change* (Oxford, 2011).

goods,³⁷ the use of which requires regulation as a matter of justice. This second issue pushes toward the conclusion that any plausible account of intergenerational justice has to assume that some distributive entitlements exist independently of people's membership in particular social practices.

In order to see this second issue, we have to consider whether practices like self-interest-based intergenerational schemes can account for all the duties that we can plausibly be said to have toward future people. According to Heath, many of our contemporary social practices are of a diachronic nature and would thus generate intergenerational duties: 'since Social Security and Medicare spending together make up more than 8 percent of the GDP in the United States, explicitly pay-as-you-go schemes of intergenerational cooperation [...] constitute a significant fraction of the economy, and of individual lifetime consumption.'³⁸ Still, it is a different issue whether framing intergenerational justice entirely in this way would enable us appropriately to take into account all the externalities and consequences these schemes have for future generations. It is clearly important that a theory of distributive justice is able to determine what effects a practice has on those who do not participate in it. Thus, we have to ask, for instance, what resources people can utilize in pursuit of an intergenerational pay-as-you-go pension scheme, or to what extent the maintenance of such a practice can permissibly pollute the oceans and the atmosphere. Heath agrees that 'climate change raises obvious questions about what the terms are to be (or what the principles of justice require) in the system of intergenerational cooperation that underlies saving and investment.'³⁹ Yet, nothing

³⁷ Such as, for instance, socially-produced benefits like a pension scheme versus the benefits that derive from clean air or water and from living in a natural environment.

³⁸ Heath, 'Intergenerational Cooperation', p. 60.

³⁹ Heath, 'Intergenerational Cooperation', p. 65.

within the purpose of a practice (such as a diachronic investment scheme) seems to imply that we have to leave more than what is necessary for a minimally decent life for those who are not part of or implied within that scheme. As Barry poignantly states, ‘the glaring limitation of justice as reciprocity is that it can say nothing about the initial control over natural resources. Once ownership rights are assigned, justice as reciprocity can tell us about fair trading. But it is silent on the crucial first stage.’⁴⁰

Our impact on the environment is arguably the most serious way in which we affect future people and the opportunities that will be open to them. Given that practice-dependent theorists claim that ‘social justice assessment is limited to *socially created* advantages and disadvantages,’⁴¹ we might wonder whether they can account in any way for the idea that we should not use up almost all *natural* resources to pursue our current practices without leaving much for subsequent generations. Yet, practice-dependent proponents might argue that Rawls’s claim (that many refer to) that the principles of distributive justice have the purpose of providing ‘a way of assigning rights and duties in the basic institutions of society and [to] define the appropriate distribution of the benefits and burdens of social cooperation’⁴² can be interpreted in a way that makes the use of natural resources subject to the requirements of practice-dependent distributive justice. After all, institutional rights over natural resources do not occur naturally and so the revenues of using these resources fall within the scope of the norms of practices.

However, when we closely consider natural goods like the earth’s atmosphere and oceans, which have paramount importance for the well-being of present and future

⁴⁰ Brian Barry, ‘Justice as Reciprocity’, *Liberty and Justice. Essays in Political Theory 2* (Oxford, 1991), pp. 211-241, at 235.

⁴¹ James, ‘Distributive Justice’, p. 554.

⁴² Rawls, *Theory*, p. 4.

human beings, it becomes clear that we cannot think of these goods (at least not entirely) as distributable resources in practice-dependent terms. Emission rights to the atmosphere, for instance, are not generally thought of as entitlements that people have a right to; instead, they are seen as limits to the harmful effects of human practices.⁴³ The atmosphere and oceans do not present devisable resources that are apt for being parceled up into chunks of individual property. They rather are commons whose natural balance (e.g. absorptive capacity) must not be upset so that future people can also enjoy their benefits (such as clean water and air and a temperate climate). Thus, the protection and sustainable use of such natural goods and resources is difficult to assess in terms of contributions to mutually beneficial social practices and instead more aptly described as the maintenance of certain valuable states of affairs (e.g. a clean atmosphere) and the prevention of harm (such that would be caused by climate change like a rise of sea levels, droughts, and other extreme weather phenomena). Further, the only distributable goods are the benefits and burdens that people produce within the limits of the natural balance of goods like the atmosphere (e.g. the 2° C temperature threshold) or the oceans (e.g. the acceptable acidity levels below an alteration of the entire maritime biosphere). Beyond these limits what is at stake for future generations are natural goods that open up opportunities that ought to be protected (such as a stable climate and clean oceans with stable fish resources). Such maintenance and protection is not necessitated by the mere existence of norms and coercive rules: the constraints that exist for our practices — if these are to keep intact natural goods such as the atmosphere and oceans — are set by *nature* (such as the limits of the absorptive capacity of the atmosphere) and they matter because they are important for the well-being of future people. These considerations indicate that some of the most crucial resources and goods at stake in the context of intergenerational

⁴³ I thank Daniel Callies for this point.

distributive justice are of a natural kind and are thus not easily captured by the practice-dependent paradigm.

Practice-dependent theorists might, of course, opt to argue that the present generation fails to do its fair share to ensure that practices can continue in the future if they irreparably pollute the environment and thereby objectionably exploit future generations.⁴⁴ However, if we want to determine the extent to which any generation can use up resources without failing to do their fair share in maintaining the conditions within which their descendants can continue their practices, we need to know what shares every generation is entitled to in the first place. Specifying the precise entitlements of all future generations is an impossible task given the unpredictability of future events. This does not mean, though, that we cannot say what future people are justly owed in general terms. Darrel Moellendorf suggests a negative sense in which all generations have to be treated equally. He argues that all generation should pay equally for preventing and mitigating climate change, which is to say that they should all use an equal share of their overall GDP for this purpose.⁴⁵ But philosophers also have put forward some positive ways in which we can plausibly understand the entitlements of all future people — in particular with respect to the natural resources of our planet. As Barry argues, ‘what justice requires is that the range of opportunities open to successor generations should not be narrowed. If some openings are closed off by depletion or other irreversible damage to the environment, others should be created (if necessary at the cost of some sacrifice) to make up.’⁴⁶ If we further take into account

⁴⁴ For a regarding argument, see Christopher Bertram, ‘Exploitation and Intergenerational Justice’, *Intergenerational Justice*, ed. A. Gosseries, L. H. Meyer (Oxford, 2009), pp. 147-166.

⁴⁵ See Darrel Moellendorf, ‘Justice and the Intergenerational Assignment of the Costs of Climate Change’, *Journal of Social Philosophy* 40 (2009), pp. 204-224.

⁴⁶ Barry, ‘Justice as Reciprocity’, pp. 240-241.

that the consequences of changing, for instance, the atmosphere are in their entirety unpredictable and that we can expect that future people — like us — will attach value to a natural environment, we might also endorse the concept of strong sustainability. At the core of this concept is the idea that we ought to keep the natural capital of our planet constant as far as possible and even invest into the reestablishment of lost natural capital where this is feasible.⁴⁷ But regardless of what we think the general entitlements of future generations are, the important point for the present discussion is that our duty to respect these entitlements is not premised on the fact that all of us are participants in one and the same social practice.

Moreover, even if we could figure out the precise shares of all current and future participants within an intergenerational scheme, if we merely care about the justification of social practices we lack the conceptual tools for identifying the extent to which the pursuit of one practice can justly limit the options of *non*-participants to develop their own cooperative schemes. An answer regarding the just limits to the use of natural resources, though, is clearly of great importance. With respect to the problem of using natural resources, for instance, it is important to keep in mind that many of these resources can only be consumed and not invested — which has the consequence that we either use them up completely, or can only re-use them at enormous cost (examples of such natural consumption resources are the atmosphere, the oceans, many valuable raw materials, the Earth's rain forests, and so on). This problem, then, also points toward the need to determine a distributive baseline or limit for the use of natural goods in pursuit of their practices that abstracts from

⁴⁷ For an explanation of the idea of strong sustainability see Konrad Ott, 'Institutionalizing Strong Sustainability: A Rawlsian Perspective', *Sustainability* 6 (2014), pp. 894-912. The concept of strong sustainability thus contrasts with the idea of weak sustainability according to which we have a duty to keep the overall capital available to humanity constant but that allows for the substitution of natural capital with other kinds of capital (e.g. technology, knowledge, infrastructure, financial capital etc.).

participation in particular social practices. To put this thought differently: in order to know when we exploit future people by not doing our fair share in maintaining the (natural and social) bases of our mutually beneficial practices, we need to assume that people have certain practice-independent distributive entitlements that set limits to the just pursuit and extent of human practices.

One final point with respect to practice-dependence and its treatment of natural goods and values, which exceeds the realm of human-related value, should be noted. Due to its anthropocentric focus, any version of the practice-dependent paradigm of distributive justice will find it difficult to accommodate the thought that there might be non-human animals (such as the great apes) whose interests are important enough to attribute to them entitlements such as a life within their natural habitat. Since gorillas do not participate in or contribute to our practices and they are unable to reason about the norms of our practices with us, we cannot ground a requirement to leave intact their natural environment in practice-dependent considerations. To do so would stretch the notion of what a practice (or participation in it) is beyond what is plausible. Instead, if we attribute to our closest relatives certain entitlements to distributional goods, we have to do so in practice-independent terms that focus on their capacity for well-being. Thus, if we are convinced of theories that extend the moral community to encompass some non-human animals, we cannot reasonably do this from a purely practice-dependent perspective.

6. THE THIRD ISSUE: JUSTICE FOR THE WRONG REASONS

It cannot be ruled out, though, that practice-dependent theorists might be able to account for distributional goods such as a clean atmosphere within the scope of their theories. However, even if this would be the case, their participation-based

conceptions of distributive justice are implausible for a more fundamental reason: they make entitlements of distributive justice dependent on the wrong reasons.

Practice-dependent views suggest that future people have claims of justice (instead of mere humanitarian claims) to an environment in which they can flourish (and not merely lead decent lives) *if*, and *only if*, they benefit us in some way or if they are members in joint cooperative schemes that are justly organized. Yet, future people are not responsible for the state of the world in which they will find themselves. At the same time, though, we have considerable influence on (and are therefore partly responsible for) the environment and the opportunities that will be available to them. We might thus wonder if benefits to us from future people (or whether they are in some sense co-members in our social practices) are the most central criteria when it comes to determining what we owe them.

The dubiousness of the rationale underlying participation-focused, practice-dependent conceptions of justice is particularly striking in the case of the instrumental conception of distributive justice that is employed by Heath, which is based on David Gauthier's Hobbesian account of morality.⁴⁸ According to Heath's model of intergenerational cooperation sustained by indirect reciprocity, you only have a claim of justice on me to leave you a world that offers more than opportunities for a decent life if you help promote my interests. If you do not add to the realization of my goals, you are outside the scope of intergenerational cooperation and, thus, of intergenerational justice. One fundamental problem with this kind of Hobbesian conception of morality, as Jean Hampton points out, is that it attributes to 'human beings with whom one will cooperate merely [...] *instrumental value*. [Accordingly, such a] moral theory gives us no reason to respect those with whom we have no need of

⁴⁸ See D. Gauthier, *Morals by Agreement* (Oxford, 1987).

cooperating.’⁴⁹ For Hampton, ‘this shows that Hobbesian moral contractualism fails in a very serious way to capture the nature of morality.’⁵⁰

More specifically, though, what constitutes a problem for self-interest-based conceptions of justice like Gauthier’s and Heath’s is the fact (noted above) that future people cannot represent their own interests. Thus they could be discounted or ignored in our calculations because they might appear to be irrelevant for the pursuit of our own present goals. In Heath’s system of intergenerational cooperation, we are not directly concerned with the interests of future generations as such. Rather, as we saw, in Heath’s pay-as-you-go schemes, future people figure in our self-interested calculations only in two ways. First, they are needed to perpetuate a practice that is supposed to generate the pay-offs of our long-term investments. Second, they are indispensable as future participants in a practice that necessarily has to be thought of as open-ended. Without such potential open-endedness, to recall, backward induction reasoning would prevent indirectly reciprocal cooperation from getting started because we can expect that the last generation of participants (who would just pay but not benefit) will refuse to contribute. However, if the interest of future people in more than decent living conditions is not (directly or indirectly) conducive to the pursuit of our own goals, it seems that — according to the Hobbesian account of morality — this interest does not give rise to duties of justice. It is therefore questionable whether we can adequately account for the legitimate claims of future generations from a perspective of justice that is limited to contexts of mutually beneficial and unconcerned

⁴⁹ Jean Hampton, ‘Two Faces of Contractarian Thought’, *Contractarianism and Rational Choice. An Essay on Gauthier’s Morals by Agreement*, ed. P. Vallentyne (Cambridge, 1991), pp. 31-55, at 48.

⁵⁰ Hampton, ‘Two Faces’, p. 49. For related criticisms see J. Rawls, *Political Liberalism. Expanded Edition* (New York, 2005), p. 52; N. Southwood, *Contractualism and the Foundations of Morality* (Oxford, 2011), ch. 2.

cooperation. If we hold that future people also possess inherent moral value, though, it is doubtful that we can do justice to their interests if they only figure in our considerations insofar as they can further our own interests. Within the Hobbesian framework, the legitimate interests of future people are only secured as long as the contingent fact applies that their interests are useful for the pursuit of our own present objectives.⁵¹

As a matter of fact, there currently does not exist a single unified scheme based on indirect reciprocity (such as a global pay-as-you-go pension scheme) that would generate duties to care for the interests of all present and future people. Maybe there are separate schemes that together cover all contemporary people. But in this case, how do we determine the just extent to which these individual schemes can have detrimental effects on, or foreclose opportunities for each other? Surely it is the case that individual schemes cannot extend indefinitely without regard for the interests of those who do not participate in them. But what reasons could there be for limiting the extent and influence of practices in a world of separate schemes if we do not assume that there are certain distributive entitlements that all people have irrespectively of whether they participate in some scheme or not?⁵² Maybe we have a duty to create a single global pension scheme so that we are able to care for the interests of all current and all future people. However, such a duty would have to be based on moral reasons that do not derive from considerations internal to the pension scheme. To make things even worse for an account of morality that is based on self-interest, the latter might even advise against establishing such a single global scheme and thereby

⁵¹ For this point see also Christopher W. Morris, 'Moral Standing and Rational-Choice Contractarianism', *Contractarianism and Rational Choice. An Essay on Gauthier's Morals by Agreement*, ed. P. Vallentyne (Cambridge, 1991), pp. 76-95.

⁵² Even if this scenario does not reflect the situation in our world, practice-dependent theories still have to be able to answer this question.

incurring distributive duties with other people. The idea that duties of distributive justice do not apply among people who are not part of or relevant to mutually advantageous intergenerational cooperative practices can thus lead to highly counter-intuitive implications.

Similar doubts (albeit for different reasons) arise for the other, more Rawlsian fairness-centered accounts of practice-dependent distributive justice that were canvassed earlier. For Aaron James,⁵³ for instance, people are morally prohibited from treating each other as mere means and morality is not merely an instrument to optimize the achievement of individual goals. Rather, justice requires the fair regulation of the socially-created benefits and burdens of our common practices (even if following the rules is suboptimal from the perspective of individual members in pursuit of their goals) — precisely because all human beings possess inherent value. According to its particular interpretation of the nature and purpose of justice, the Rawlsian version of contribution-based practice-dependent distributive justice, as well, requires that we clearly identify who participates in, and contributes to, those practices that require regulation according to fair rules. These views have the same implications with respect to our duties to future generations: if we cannot clearly identify future people as participants in our social practices, it is not clear how we could attribute to them justified claims that would give us duties to leave them with more than a minimally decent environment. Importantly, we should note that this question poses a problem for contribution-based views *even if* it would be the case that our world is in fact organized in such a way that all important interests of all future people are protected because they are members in diachronic, indirectly-reciprocal practices of the kind that Heath suggests. This is because such membership would merely constitute a contingent fact and we can thus imagine a scenario in which some future

⁵³ See James, 'Distributive Justice'.

people are not even indirectly implicated in our current practices. We therefore have to ask whether these future people (who would not be co-members in our social practices) could still be entitled to more than a world that offers them the bare opportunities to live minimally decent lives.

We miss what is at stake with respect to intergenerational justice if we take more than minimal distributive entitlements to be derivative of the justification of the terms of ongoing practices. Future people simply cannot be part of current processes of justification but they are the ones who will face the long-term consequences of our decisions. If being a participant in systematic and rule-governed social practices is a precondition for having claims of distributive justice, future generations are simply outside the scope of justice. To argue that we 'coerce' our children's children to live in a world that we partly create by our current practices, as well, misrepresents what is problematic about challenges like climate change: it is not so much coercion via rules and norms that puts constraints on the lives of future people that is the problem. Our descendants will be able to change and create their own rules. The problem is rather that our contemporary practices influence the future state of the world in which future people will have to make their decisions. Maybe it is permissible for us to limit their options somewhat (by, e.g. using up certain natural resources now to research new technologies or to adapt to climate change) if we thereby create benefits for them as well. However, the range of choices that we must leave for future people to decide among depends on what options they are entitled to in the first place. This is a question that has to be answered prior to the issue of justifying coercive rules and it cannot be reduced to the justification of coercion, either: as was pointed out, in order to understand what counts as coercion we need to know first what range of choices a person should have.

Thus, any version of practice-dependent justice encounters the problem that its focus on participation, reciprocity, and/or the justification of coercive rules leads to counter-intuitive results when it comes to determining our duties toward future people. Such views lead to the conclusion that you can only demand of me to ensure that you have the conditions for a more than decent life if (a) you either contribute to a mutually beneficial project or (b) I owe you a justification of the norms and rules that (openly or implicitly) coercively organize our common social practice. If you do not fulfill either criterion, all I have to do as a matter of justice is to leave you an environment in which your life will not be miserable — even if this means that you have very limited and unequal opportunities in life. Such a conclusion appears problematic because minimal concern is normally reserved for situations in which some are in a position to help others who suffer from some misfortune that is no one's fault. However, the detrimental environment that future people will find themselves in (and that might reduce the quality of their lives to a mere decent level) would not be entirely created by naturally-occurring disasters like earthquakes and draughts. Instead, given what we know today, the consequences of our current practices would play a decisive role in bringing about these adverse future environmental conditions and states of affairs. If practice-dependent philosophers accept conclusions of this kind, we have to wonder whether their accounts of justice are grounded in the right reasons. We have to ask whether justice and justifiability are really conditional upon mutually benefitting each other in some way or being subject to the same rules. However, any alternative view that would hold, for example, that people possess more than minimal distributive entitlements regardless of whether they contribute to our well-being or are subject to our collective rules would have to ground duties of justice in certain practice-independent values or considerations — an option that is not available to practice-dependent philosophers.

7. CONCLUSION

The only alternative to (self-interest-based, coercion-centered, or fairness-based) practice-dependent accounts of intergenerational justice is constituted by the idea of certain distributive shares that everyone is entitled to regardless of whether they are participants in some particular social practices.⁵⁴ Such an idea, though, would require more than the ‘fair distribution of the social product’ or the justification of a system of norms. It would also require us to ensure that a certain valuable state of affairs (e.g. that everyone has access to or possesses some share of advantages or opportunities) obtains — and such shares might be only to the advantage of the future people who enjoy them.

To many philosophers, the effects that, for example, climate change is likely to have on the opportunities that will be open to future people are not morally on par with a scenario in which Earth will be devastated by a small meteorite. It is thus implausible to hold that an account of intergenerational distributive justice can be exclusively based on considerations that are internal to (and limited to those who participate in) those practices that help bring climate change about. Instead, it makes more sense to hold, as Rahul Kumar does, that

Even if we do not [...] stand in any particular concrete type of relationship to those who will live in the future, [...] impartial justification suggests that we do stand in a morally relevant relation to them, as choices we make now that have implications for the quality of life likely to be available to them must be justifiable to any one of them by appeal to a

⁵⁴ However, this idea does not — without further argument — support the idea of egalitarian, sufficientarian, or prioritarian practice-independent intergenerational entitlements.

principle that no one can reasonably reject. They are owed this kind of consideration simply in virtue of being humans.⁵⁵

There is thus ‘no further goal, such as cooperation for the sake of mutual advantage, sought that would justify limiting the scope of those to whom justification is owed.’⁵⁶ That is to say: the need to justify the extent and effects of our cooperative practices shows that distributive justice is *practice-independent in two ways*: it applies independently of whether people are currently members of our social practices. And it applies to all advantages and opportunities independently of whether they are produced within a practice or occur naturally.

Thus, practice-dependent interpretations of justice cannot pass the litmus test set for them by the problem of intergenerational justice unless they overstretch their central notions of cooperation, coercion, and contributions. Heath presents a very refined idea of what intergenerational cooperation can look like. His model might very well show that some such forms of intergenerational cooperative practices do in fact exist and that a society is a continuous practice in some loose sense of the term. The two issues discussed in this paper, though, that (1) self-interest, fairness in cooperation, and justifying coercive norms are the wrong basis for thinking about distributive justice and that (2) not all goods and values relevant for the interests, well-being, and opportunities of future people are socially-produced or can be adequately understood in practice-dependent terms, cast serious doubts on the idea that any grounds that motivate the practice-dependent paradigm are adequate to think about the idea of intergenerational distributive justice.

⁵⁵ Rahul Kumar, ‘Wronging Future People: A Contractualist Proposal’, *Intergenerational Justice*, ed. A. Gosseries, L. H. Meyer (Oxford, 2009), pp. 251-272, at 264.

⁵⁶ Kumar, ‘Wronging Future People’, p. 265.

If pure time-preference is morally irrelevant,⁵⁷ we cannot simply assume that there are no limits to the just extent of our social practices, or that we can leave future people with a world that offers them merely the conditions for a minimally decent life. However, if we want to determine the just limits of our practices, we must assume that there are some distributive shares and (social and natural) opportunities that all persons — contemporary and future — are entitled to irrespectively of whether they are members in, or contributors to, any particular social practice. And we have to accept the idea that, while certain beneficial states of affairs are to be protected or guaranteed (such as a clean environment that can serve as the basis for a range of choices and the well-being of future people), other detrimental states of affairs (such as a depletion of natural resources, the destruction of the natural environment, and possibly the extinction of species, and so on) are to be avoided as a matter of the just distribution of those things that can make human (and possible also non-human) lives go well. Distributive justice, that is to say, fundamentally has to be conceived of as global, intergenerational, and practice-independent.⁵⁸

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⁵⁷ See Rawls, *Theory*, pp. 259-262.

⁵⁸ I am grateful to Lukas Meyer for the conversation that inspired this article. I also would like to thank Daniel Callies, Clare Heyward, Eszter Kollar, Markus Labude, Darrel Moellendorf, Cynthia Stark, Andrew Williams and audiences in Budapest, Frankfurt and Braga for their comments on earlier versions of this paper. Finally, I am indebted to the anonymous reviewer of *Utilitas* for the helpful comments and suggestions. This work was supported by the German Research Foundation (DFG) funded Cluster of Excellence ‘The Formation of Normative Orders’ at the Goethe University Frankfurt am Main.