

# INTERGENERATIONAL JUSTICE AND COERCION AS A GROUND OF JUSTICE

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In this comment piece, I will pick up on Axel Gosseries's suggestion in his article *Nations, Generations and Climate Justice* that it is instructive to investigate parallels and differences between issues of global justice and intergenerational justice for the sake of both a better understanding of the issues and of consistency. I will start from recent developments in the debate on global justice and explore some of their implications for thinking about intergenerational justice. In particular, I start from theories about the grounds of egalitarian justice and ask: if we accept that state-like coercion is the ground of egalitarian justice, can we still accept Gosseries's proposal for an intergenerational difference principle?

## 1. The Grounds of Justice

The debate on global justice has for the past three decades been largely defined by a divide between two views. In response to the question of whether liberal egalitarian principles of justice extend beyond the state, cosmopolitans (or globalists) answer yes, while statist (or social liberals) answer no.<sup>[1]</sup> Cosmopolitans believe that obligations of justice are global in reach whereas statist believe that the demanding obligations of egalitarian justice are confined to the domestic sphere of the state; beyond the

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1 Examples of statist accounts include Blake (2001), Nagel (2005), Rawls (1999). Examples of cosmopolitan accounts include Beitz (1979), Pogge (1989), Caney (2005).

state only weaker duties of humanitarian assistance exit.<sup>[2]</sup> Rawls's position, that justice is egalitarian within the bounds of the state and sufficientarian among states, is paradigmatically statist. It is not only the difference principle that Rawls believes should not apply internationally, but essentially egalitarian justice as a concept. Admittedly, and as Gosseries points out in his article, Rawls invokes the absence of a target and cut-off point and the argument from national responsibility as reasons against adopting a global difference principle. However, it is important to point out that these cannot be the only (or the most direct) reasons Rawls had for rejecting the principle. In fact, the difference principle is already excluded by the way Rawls raises and sets out to answer the question of which principles ought to govern relations between states. To start with, when it comes to the international realm Rawls takes peoples, a moralized version of states, and not individuals to be the relevant units of moral concern. Thus, he asks what principles should govern the relations between peoples. Secondly, peoples as Rawls conceives them have a fundamental interest in guaranteeing domestic justice for their citizens and in order to do so they need to "protect their territory, ensure the security and safety of their citizens, and to preserve their free political institutions and the liberties and free culture of their society" (Rawls, 1999: 34). Income and wealth which figure among the primary goods necessary to achieve the fundamental interest of persons are absent from the list of goods necessary to achieve the fundamental interests of peoples. As a result, the principles chosen by representatives of peoples in the international original position do not include principles such as the difference principle that are concerned with the relative material deprivation of peoples. Rather, the outcome of the original position are principles concerned with guaranteeing for peoples non-interference and sufficient resources to be internally just.

It has been generally assumed that the underlying reasons for Rawls's restriction of the scope of egalitarian justice to the state is his premise that the subject of egalitarian justice is a society's basic structure (a society's legal, political and economic institutions). The basic structure argument says that demands of egalitarian justice, and thus a concern for the relative material deprivation of individuals, only arise among individuals sharing a basic structure. Rawls considered that there is no global basic structure.

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2 The cosmopolitan view I refer to here is not one that is committed to defending the need for a global state. Many prominent views within the cosmopolitan camp defend global egalitarian principles while accepting that other institutional setups than a global state can realize those principles.

Therefore, there are no demands of egalitarian justice at the global level.<sup>[3]</sup> Some of the most influential early challenges to Rawls's statist position came from cosmopolitan theorists who accepted the basic structure argument but rejected Rawls's claim that there is no basic structure on the global level (See Beitz, 1999; Pogge, 1989). These challenges became the trigger of a lively global justice debate, largely divided on whether a global basic structure exists. An impasse, however, reached between statist and cosmopolitans has since pushed the debate towards a question about the grounds of justice: what is it about the basic structure that makes it a subject of egalitarian justice. Or, put differently, what is it that makes obligations of egalitarian justice arise among a particular set of agents?

## 2. Relational vs. Non-relational Accounts and Intergenerational Justice

A distinction between relational and non-relational accounts of the grounds of justice can be helpful to illustrate what is at stake in the debate on the grounds of justice for both the question of global justice and as I shall also suggest that of intergenerational justice.<sup>[4]</sup>

Non-relational accounts of justice hold that demands of egalitarian justice are triggered by properties that all human beings share in virtue of being moral agents (See Caney, 2005; Tan, 2004). They reject that obligations of justice have their grounds in certain kinds of social interaction or institutions. Therefore, they deny that the existence of a basic structure is necessary for demands of justice to arise. Typically, non-relational accounts advocate cosmopolitan principles of global justice.<sup>[5]</sup> From the idea that all humans are owed equal respect in virtue of being moral agents, non-relational cosmopolitans derive demands of distributive equality. If on a non-relational account of the grounds of justice restricting the scope of justice territorially to the state is unjustified, it would seem that for similar reasons

3 see Abizadeh (2007: 319) for a footnote in which he addresses the remark that it is a matter of some interpretive ambiguity whether Rawls actually endorses the basic structure argument.

4 For the distinction relational/non-retlation see Sangiovanni (2007: 5-8).

5 As we shall see next, it is not the case that all cosmopolitans are or need to be non-relationist. Whether non-relational accounts, however, commit one to cosmopolitanism is open to question. It is nevertheless the case that the most prominent non-relational accounts of the grounds of justice are cosmopolitan about the content. An exception is Mathias Risse's (2012) recent contribution to the global justice debate in which he argues that justice has multiple grounds some relational and others non-relational; with the non-relational justifying duties of justice albeit sufficientarian ones.

restricting justice temporally within generations would also be unjustified. Hence, a non-relational cosmopolitan who accepts Rawlsian principles of justice would have reasons not only to endorse the difference principle globally but also intergenerationally, adjusted along the lines suggested by Gosseries to the particularities of the intergenerational case.

The picture becomes less straightforward if we adopt a relational perspective. On a relational account, concerns of egalitarian justice only arise in the presence of particular types of relations or institutions. Two increasingly influential relational accounts are the cooperation and the coercion views.<sup>[6]</sup> On the cooperation view, demands for egalitarian justice are triggered in (and only in) the presence of a practice of social and economic cooperation for mutual benefit. On the coercion view, the phenomenon that triggers demands of egalitarian justice is the presence of coercive legal and political institutions. Both views can be seen, and indeed in their most sophisticated forms have been presented, as interpretations of the relevance of the Rawlsian basic structure to egalitarian justice. That said, neither view commits one to statism. One can agree that cooperation or coercion is the ground of justice but argue, against statist, that these relations exist globally which implies that demands of egalitarian justice are global and should not be restricted territorially.<sup>[7]</sup> In the context of intergenerational justice, the difficulties for defenders of the cooperation or coercion view who wish to argue against restricting demands of egalitarian justice temporally are far more challenging than for globalists.

### 3. Cooperation as a Ground for Intergenerational justice

For defenders of the cooperation view to argue that there are intergenerational demands of egalitarian justice, and for instance adopt Gosseries's intergenerational difference principle, they need to show that there is social cooperation for mutual advantage across generations. This is a difficult argument to make namely because cooperation for mutual advantage requires bidirectional exchange.<sup>[8]</sup> Indeed, we can read Rawls as advancing an argument from the impossibility of cooperation across generations

6 Another view is common culture (see Miller, 2007).

7 For statist cooperation accounts see Sangiovanni (2007), for cosmopolitan cooperation accounts see Beitz (1999). For statist coercion accounts see Blake (2001) and Nagel (2005), and for cosmopolitan coercion accounts see Abizadeh (2007)

8 Gosseries (2008a: 42) points out that bidirectional or reciprocal exchange is not the only challenge for the cooperation view. Another challenge is to show that the mutual benefit to partici-

to reject an inter-generational difference principle. He writes, "There is no way for later generations to help the situation of the least fortunate earlier generation. Thus the difference principle does not hold for the question of justice between generations and the problem of saving must be treated in some other manner" (1999: 254). In other words, on the assumption that cooperation is the ground for justice, absent the relation of cooperation there is no justification for intergenerational egalitarian concerns. In response, one way to salvage intergenerational egalitarianism from the cooperation view is by drawing attention to the generational overlap and by trying to use that overlap where mutual cooperation takes place to justify egalitarian duties. Such a strategy has been suggested and developed by some authors.<sup>[9]</sup> Whether they do so successfully is not the question I wish to take up here. Rather, in the remaining part of this piece, I wish to raise and explore the question of what accepting coercion as a ground of justice implies for intergenerational justice.

#### 4. Coercion as a Ground for Intergenerational justice

Holding that coercion is the ground of justice is an increasingly influential position in the global justice debate. It rests on two claims. First, that a coercive authority can only legitimately coerce individuals if it acts in accordance with egalitarian principles of justice. Second, and key to the understanding of coercion as a ground of justice is the claim that coercion is not only a sufficient condition for demands of egalitarian justice to arise, but that it is also a necessary condition. There are no other conditions or relational phenomena that can give rise to egalitarian demands of justice. The main proponents of coercion as a ground of justice are Michael Blake (2001) and Thomas Nagel (2005).<sup>[10]</sup> Both have defended a statist position, namely that (i) a concern for equal treatment or for relative material deprivation of individuals is only warranted within a group subject to state-like coercion and (ii) there is no state-like coercion at the global level. Indeed,

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pants in the scheme can be guaranteed through credible enforcement threats. The discussion of coercion below touches upon this second requirement of the cooperation.

9 See debate between Heath (1997) and Arrhenius (1999). Also see section on mutual advantage in Gosseries synopsis of theories of intergenerational justice (2008a: 42-43)

10 "Coercion, not cooperation, is the sine qua non of distributive justice, making relevant principles of relative deprivation"; (Blake 2001: 289). "Rather, in his [Rawls's] theory the objection to arbitrary inequalities gets a foothold only because of the societal context. What is objectionable is that we should be fellow participants in a collective enterprise of coercively imposed legal and political institutions that generates such arbitrary inequalities" (Nagel, 2005: 128).

both Nagel and Blake suggest that their arguments can duly explain Rawls's restriction of the scope of egalitarian justice to the basic structure of the state.<sup>[11]</sup> Nagel and Blake's statist conclusions, however, have been subject to serious challenges. For example, it has been pointed out that even if we accept the claim that coercion is the ground of justice, the empirical claim that the relevant form of coercion only exists at state level is false.<sup>[12]</sup> Cosmopolitans have argued that global institutions, territorial boundaries and state actions are coercive in the relevant sense and ought to be justified; the justification involves organizing such institutions according to principles of egalitarian justice (see Abizadeh, 2007; Cohen and Sabel, 2009).

What implications does the coercion view have for thinking about intergenerational justice? If one holds that coercive authority is a necessary and sufficient condition for egalitarian demands of justice to arise, can one still maintain that there are egalitarian intergenerational duties? In what follows, I do not question the plausibility of taking coercion as a ground of justice. Rather, I ask whether a relation of coercion exists intergenerationally that makes intergenerational egalitarian justice, and hence a difference principle, a justified stance. I explore the issue from the perspectives of the two notions of coercion underlying Blake's (2001) and Nagel's (2005) accounts, the two most discussed coercion accounts in the global justice debate. Both take state coercion to be unique, but whereas Blake puts emphasis on the autonomy-undermining legal and political coercive nature of the state, Nagel puts additional emphasis on the way state coercion engages (not simply subsumes) the will of its subjects making them not only subjects (as in Blake's picture) but co-authors as well.<sup>[13]</sup>

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11 Note that Nagel's view on what is demanded internationally differs from that of Rawls. Nagel (2005) takes the more radical view that there are no demands of justice beyond the state. What we owe our non-co-citizens on his account is a duty of humanitarian assistance but not a requirement of justice.

12 For a critique of coercion as a ground of justice see Sangiovanni (2012)

13 It is important to point out that a main weakness in both Blake and Nagel's view is that much of their argument is directed at showing that if state like coercion exists then there are demands of justice (coercion as sufficient); much less is said to show that absent state like coercion no concerns of justice arise (coercion is necessary). That said, the conclusion both aim to argue for is clearly that coercion is a ground of justice in the sense that it is necessary and sufficient condition (see footnote 13 above)

#### 4.1 Being a Subject of Coercion: Coercion as imposing or modifying options for action

Blake says that “only between people who share the coercive mechanisms of a state does concern for the specifically economic egalitarian justice become appropriate” (2001: 276). This is because a state’s legal and political system exercises ongoing and pervasive coercion against its subjects, encroaching on their autonomy by modifying the options they have for action and “subsuming their wills under another” (270).<sup>[14]</sup> Importantly, the coercion is also necessary for individuals to pursue their own ends.<sup>[15]</sup> Since it is required, we cannot do away with it. But, it is still coercive; therefore, we need to justify it to those individuals subject to it. Although Blake intends his argument from coercion to justify restricting the scope of egalitarian justice to the domestic sphere, it has been convincingly argued that even if we accept his claims as to why coercion triggers demands of egalitarian justice (and more problematically why nothing else but coercion does) we would not arrive at the conclusion that justice is state-bound (Abizadeh, 2007: 348–349). Put simply, state borders which are coercive institutions against outsiders, make it the case that individuals across borders share coercive mechanisms thus triggering obligations of justice among them. Moving to the intergenerational case, we can ask whether individuals across generations share coercive institutions or mechanisms that trigger egalitarian demands of justice.

On the face of it, it seems difficult to make the argument that there is coercion across generations in a relevant sense (Blake’s sense) for justice to arise.<sup>[16]</sup> For one might point out that central to Blake’s understanding of coercion is the idea that for an action to be coercive it ought to be backed by the threat of force<sup>[17]</sup>, yet this condition is not met when it comes to the relation between generations. In response, however, one could argue that it is simply mistaken to assume that coercion requires the threat of legal enforcement or sanctions (See Abizadeh, 2007: 350–351; Sangiovanni, 2012). An agent X can coerce another Y by eliminating certain options for Y or by imposing restrictions the avoidance of which would require significant cost of Y. In other words, it should suffice that Y has no reasonable

14 Blake follows Joseph Raz’s (1986: 154, 369, 276–378) understanding of autonomy.

15 This Hobbesian view is also shared by Nagel (2005: 114).

16 Henceforth when I use the term ‘justice’ I am referring to egalitarian justice which in a Rawlsian framework would include a maximin distributive component.

17 Blake (2001: 272) mentions state punishment as the typical form of coercion. Note that Nagel (2005: 128) also emphasizes the non-voluntary aspect of coercion which suggests that he also takes the threat of sanctions or force to be central to constituting coercion.

alternative by to comply because of the cost they would incur otherwise. Within this broader understanding coercion, let me briefly consider two possible avenues that one can pursue to provide a coercion-based account of intergenerational egalitarian justice. One suggests that exploiting natural resources in a manner that renders future generations unable to use them counts as coercion and the other that constitutional rigidity does.<sup>[18]</sup>

**Exploiting Natural Resources.** Does the exploitation of natural resources by a generation in a manner that renders subsequent generations incapable of using those resources constitute coercion? Are the restrictions on natural resources, comparable for instance to the impositions of borders in the global arena? To the extent that the imposed resource limitations constitute important restrictions on the abilities of future generations to pursue their interests, the two would be similar.<sup>[19]</sup> There are important differences, however. Unlike the mechanisms of resource exploitation, borders are institutional mechanisms and are intentionally imposed. Whether the institutional and intentional aspects of domestic state coercion and global border coercion are necessary components for rendering coercion egalitarian-justice triggering is not a question I can address here. It is worth noting, however, that neither Blake nor Nagel offers a comprehensive account of the notion of coercion they use. A fuller account would be of benefit to both the global and intergenerational justice debates.

**Constitutional Rigidity.** Can the argument from constitutional rigidity be a more promising (or less thorny) path towards coercion-based egalitarian intergenerational obligations? One may argue that amendment restrictions, where they exist and to the extent that they impose pervasive restrictive conditions, render the protected elements of the constitution coercive.<sup>[20]</sup> Furthermore, constitutions are legally enforced, they are institutional mechanisms, and their effects are intentional. Let

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18 Another avenue to establish coercion-based egalitarian intergenerational obligations but which does not require a broad understanding of coercion (that is it can be applied while accepting that coercion requires threat of sanctions) is one that refers to the overlap between generations. See Gosseries (2008c: 468ff) for a discussion of the argument from overlap and the difficulties it faces, namely the problem of self sanction

19 That said, Rawls (1999: 117) for instance thought that level of natural resources a country has did not play an important role in determining how it fares. But, presumably, even on his view there is a minimum level of resources below which a country is incapable of securing the interests of its citizens.

20 "Constitutions, through a variety of amendment restrictions (e.g. requiring a prior declaration of revisability by the previous parliamentary assembly before the elections, requiring special quorums, sometimes going as far as non-revisability), reduce the freedom of each generation to adopt its own rules on a simple majority basis" (Gosseries, 2008b: 32).



me now mention two difficulties that this argument will have to overcome if it is to establish that a justice-triggering coercive relation exists between distinct generations. Firstly, one could caution against exaggerating the constraint imposed by constitutional rigidity; constitutional revolutions, for instance, are always possible. As mentioned earlier, however, to show that coercion is absent it is not enough to show that one can escape the coercion, one must show that one can escape it at no great cost. Secondly, one could point out that a fundamental component of the coercion view is the idea that the coercion in question, namely the state's, although problematic is nonetheless required. Put simply, we cannot do it without it, hence we need to justify it and egalitarian demands of justice work to justify it. Is constitutional rigidity a coercive instrument that we cannot do without? In an insightful discussion of the problems constitutional rigidity raises in the context of intergenerational justice, Gosseries (2008b) presents two strategies for justifying constitutional rigidity. One suggests that constitutional rigidity provides the stability necessary for intragenerational justice; the other suggests that constitutional rigidity is necessary for protecting rights of future generations (also see Gosseries, forthcoming). Assessing the validity of these arguments goes beyond the scope of this essay. Nevertheless, let me note that the second strategy is likely to be more problematic than the first for our purposes because it already frames the justification in terms of what current generations owe future generations. Yet, what they owe each other is the outcome of principles of intergenerational justice which we are trying to determine.

#### **4.2 Being a Co-Author of Coercion: Coercion as engaging the will of it subjects**

Nagel thinks that state-like coercion is the ground of egalitarian justice not only because of the restrictive aspects involved in being a subject of coercion, but additionally because individuals are "joint authors" of the coercion (2005: 128). "Society makes us responsible for its acts, which are taken in our name and on which, in a democracy, we may even have some influence; and it holds us responsible for obeying its laws and conforming to its norms, thereby supporting the institutions through which advantages and disadvantages are created and distributed." (129) On this dual view of coercion, state borders are no longer coercive in the relevant sense because

the individuals they exclude are not authors of the coercion.<sup>[21]</sup> Taking up Nagel's perspective raises additional difficulties for establishing egalitarian intergenerational obligations of justice.

On the one hand, one might claim that in highlighting the dual nature of state coercion Nagel takes it that for coercion to be justice-triggering it has to be mutual. In the intergenerational context, this view creates a similar problem as that created by the cooperation view. Namely, in order to show that there are egalitarian demands of justice among two generations, one would need to show that coercion among them is bidirectional, that it runs forward and backward.<sup>[22]</sup> This might not be the unwinnable battle that it seems. Gosseries (forthcoming), for instance, has argued that there can be good reasons to impose, when practicable, backward constitutional rigidity. Of course, for this argument to succeed in establishing that a justice-triggering relation of coercion exists intergenerationally it would also have first to succeed in overcoming the challenges raised above against constitutional rigidity being coercive in the sense of 'being a subject' (that it is truly constraining and necessary). For, recall that on Nagel's account both conditions of being subject and author have to be met.

On the other hand, one might point out that, for Nagel, more important than the mutual coercion is the idea that the coercion needs to be imposed in the name of the subjects. Indeed the aspect of mutual coercion seems to drop from his view when Nagel submits that individuals in colonies are owed egalitarian duties of justice by the colonizing country. Clearly, the coercion in this case is not mutual. One even wonders in what way the authorship condition itself still holds; for, in which sense can the colonized be authors? In making his argument for why the coercive relation between colonizer and colonized is justice-triggering Nagel (2005:129) invokes a weak sense of authorship, or as he puts it "a broad interpretation for what it is for a society to be governed in the name of its members"; one which perhaps can apply to the intergenerational case. The colonial power, he writes " [...] is providing and enforcing a system of law that those subject to it are

21 Although Blake does not invoke the idea of authorship explicitly, he can be read as endorsing a similar condition put in terms of sharing liability. He writes, "concern with relative economic shares [...] is a plausible interpretation of liberal principles only when those principles are applied to individuals who share liability to the coercive network of state governance. Such concern is not demanded by liberal principles when individuals do not share such links of citizenship" (Blake, 2001: 258). That said, he does not elaborate on this condition in a way that makes it central to his argument.

22 I borrow the terms 'forward' and 'backward' from Gosseries (forthcoming) who use them to characterize two different types of constitutional rigidity.

expected to uphold as participants, and which is intended to serve their interests even if they are not its legislators. Since their normative engagement is required, there is a sense in which it is being imposed in their name” (Nagel, 2005: 129) What matters then on Nagel’s account is that the system of laws is ‘intended to serve the interests’ of those coerced. We can now ask whether a country’s laws are effected in the interests of its citizens across all generations? I take it that on Nagel’s account this is meant to be a factual question, for it is not clear that his coercion view has the resources to address the normative question, namely the question of whether a state’s laws **should** serve the interests of future generations. That said, if we are to understand it factually, we would see that some countries’ constitutions for instance clearly mention the interests of future generations and assigns them rights; whereas others do not.<sup>[23]</sup>

## 5. Conclusion

Cosmopolitans who have broadly accepted Blake’s or Nagel’s account of coercion as a ground of justice, have (successfully, I think) argued, with some modifications to the statist accounts, that their understanding of coercion can ground global egalitarian duties of justice. The task of deriving egalitarian intergenerational duties starting from coercion as a ground of justice seems more difficult. Starting from Blake’s and Nagel’s accounts, I have explored some of the main difficulties facing such a task and suggested, when possible, potential avenues to address them. Let me in way of conclusion recapitulate some of the key points raised.

We have examined the question from two perspectives on coercion. The first holds that the justice-triggering coercion is one which involves imposing or restricting courses of action (rendering agents subjects). On this account, we have considered two ways in which the intergenerational context might be seen to exhibit coercion. One suggests that exploitation of natural resources by a generation can be coercive against subsequent ones. The question, however, is whether restrictions that are non-intentional and non-institutional can count as coercion in the relevant justice-triggering sense. The other suggests that constitutional rigidity constitutes coercion. The challenge facing this line of argument is to show that reversing or avoiding the restrictions imposes unreasonable cost on the future genera-

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23 As Gosseries (2008b: 32) mentions Japan, Norway and Bolivia are among the countries which clearly mention future generations in their constitutions.

tions, and more importantly that constitutional rigidity is necessary. The second perspective on coercion holds that justice-triggering coercion is not only one which renders agents subjects but one which also takes them to be co-authors of the coercion. If we adopt this view, then in addition to facing the challenges of the first perspective, we would also need to show that distinct generations can be seen as joint authors of the coercion. We can either understand this as requiring mutual coercion or as requiring that the law governing the coercing generation is intended to serve the interests of the future generation. Either way we would need to look for the answers in the countries' respective constitutions. It is worth noting that on either account of coercion, we might, assuming we surmount all challenges, at best establish egalitarian intergenerational obligations in those countries which (mainly in their constitutions) satisfy the coercion conditions.

As a final remark, I think that Gosseries's important and perceptive invitation to think about parallels and differences between justice in the global and intergenerational realm should be taken up seriously by scholars in both fields. For as this discussion has revealed, transposing a conception of justice from the global realm to the intergenerational realm is not only instructive for thinking about the intergenerational case but also pushes one to re-think and further develop the conception itself in the global case.

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