

Call for Papers: Constitutions and Intergenerational Justice

The *Intergenerational Justice Review* (IGJR) has been published by the Stuttgart-based think tank Foundation for the Rights of Future Generations (FRFG) since 2002. The 2012 edition was published in cooperation with the London-based Intergenerational Foundation (IF), and likewise the 2015 edition. For the latter as well as for the 2016 editions, the FRFG and IF have been joined by the University of Tübingen. The 2016 (2) edition will have the additional help of Professor Bruce Auerbach of Albright College, Reading PA, who will be serving as a guest editor.

Founded in 1997, the FRFG has played a leading role in gathering and supporting research in intergenerational issues at the academic level – research that usually falls within the compass of university departments of law, politics and philosophy. The *Intergenerational Justice Review* reflects this academic focus. Articles, submitted by senior academics and researchers in the field, are peer-reviewed and published only on the recommendation of two reviewers. From 2016, there will be two editions of the IGJR annually. The topic of the second 2016 edition will be:

“Constitutions and Intergenerational Justice”

We welcome submissions for this issue of the *Intergenerational Justice Review* that address the tension between constitutions and intergenerational justice, and how that tension can be resolved. How can constitutions be written to protect the rights and/or interests of future generations without at the same time becoming a barrier to future generations exercising full political sovereignty in the future?

We also welcome submissions that address creatively constitutions and intergenerational justice from other points of view, and from the perspective of other cultural and political traditions; and that test the feasibility of new ideas, such as a “permanent constitutional convention”, that reassess the current constitution every five years or so.

In addition to the above, other related questions include the following:

- How could a permanent constitutional convention (see above) be organised? What powers should it possess, and what should be its limitations? On the one hand such limitations should prevent a constitutional convention from being too dominant, while on the other its powers should be sufficient to ensure that it is more than merely symbolic.
- How can the legitimacy problems of such a constitutional convention be resolved? For example, parliaments, which usually propose constitutional amendments, are legitimised through elections.
- Are there any examples of countries where constitutions are regularly reviewed and amended? If so, how has this practice worked?
- What role should constitutional courts play? Are they the guardians of earlier regulations and therefore opponents of constitutional change?
- Are eternity clauses (clauses which prohibit changes to certain or all provisions of a constitution) generationally fair? To what extent do such guarantees take away from future generations the possibility to determine their own future?
- Where and how are young people actively engaged in debates about the constitution in force in their country? What lessons can be learnt from their experience?

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Background: By their very nature, constitutions are intergenerational documents. With rare exceptions, they are meant to endure for many generations. They establish the basic institutions of government, enshrine the fundamental values of a people, and place certain questions beyond the reach of simple majorities. Constitutions, especially written ones, are often on purpose difficult to modify.

The question of constitutions and future generations has at least two different aspects. On the one hand, constitutions provide the opportunity to guarantee consideration of the rights of future generations, and may serve to protect future generations against the actions of current electoral majorities. On the other hand, the provisions of a constitution may become outmoded, restricting the ability of majorities in the future to respond to the real problems in ways they see as necessary and proper. We want constitutions to provide firm guarantees of fundamental rights, including those of future generations. But we do not want those same guarantees to become fetters on future generations, preventing them from exercising the same rights of sovereignty we enjoy.

Ideally, constitutions strike a balance between seeking to protect and perpetuate those values and rights the present generation understands to be fundamental, while ensuring the right of future generations to define for themselves the values and rights they see as essential, and to modify the institutions they have inherited in light of their own experience.

This tension between durability and flexibility finds expression in Edmund Burke’s

concept of a constitution as an intergenerational covenant. It also informs the discussion among Thomas Jefferson (1743–1826), James Madison (1751–1836) and Thomas Paine (1737–1809) in the course of founding the United States of America. Jefferson represented the position that every law and therefore every constitution should lose its validity after 19 years, so that every generation can organise itself, with a freedom comparable to the preceding one. Madison disagreed and referred to the uncertainty that would emerge from such an arrangement. Thomas Paine sided with Jefferson and formulated the following famous sentence: “Every age and generation must be as free to act for itself in all cases as the ages and generations which preceded it.” This statement, written in 1795, defended the right to engage in revolution. This right was even enshrined in the French Constitution of 1793. Article 28 stated: “*Un peuple a toujours le droit de revoir, de réformer et de changer sa Constitution. Une génération ne peut pas assujettir à ses lois les générations futures.*” (“A people always has the right to review, reform, and amend its constitution. One generation may not subject future generations to its laws.”)

The preservation of the same number of options and opportunities for action is also regarded as the one of most important elements of intergenerationally just behaviour in modern generational ethics. Edith Brown Weiss, for example, made such arguments, as have Gregory Kavka in “The Futurity Problem”, and Brian Barry in “Circumstances of Justice and Future Generations”.

Size limit of each submission: Up to 30,000 characters (including spaces, annotation etc.) For questions about style and presentation, please visit our website at www.igjr.org for our guidelines for authors.

Deadline for submissions: 1 August 2016

Proposed date of publication of IGJR 2016 (2): November 2016

Articles may be submitted electronically to: editors@igjr.org

Intergenerational Justice Prize 2015/16:

Note that this topic is also be the subject of the Intergenerational Justice Prize 2015/16, promoted by the Foundation for the Rights of Future Generations (FRFG) and the Intergenerational Foundation (IF), and endowed with a total sum of € 10.000. Young researchers may also wish to participate in this essay competition, and it is hoped that this edition of the IGJR will contain a selection of the best prize submissions in English. For more information, see www.if.org.uk/prizes.

Recommended literature

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Wolf, Clark (2008): Justice and intergenerational debt. In: *Intergenerational Justice Review*, 13-17.