On Intergenerational Justice

John Frow

One of the tropes that runs through many Victorian novels—those of Dickens, of Wilkie Collins, of Sheridan Le Fanu, and many others—is the plot device of a will that controls the lives of the heirs, frequently through a codicil that has been kept secret or suppressed and that endangers the life of the one who inherits. In Le Fanu's *Uncle Silas* a codicil to her father's will requires Mary to live with her wicked uncle as a condition of her inheritance; if she dies before she comes of age the uncle will inherit the estate, and that condition then motivates a series of attempts against Mary's life. In *Bleak House* the conflicting wills in Jarndyce and Jarndyce drive several generations of claimants to poverty and despair before a newly revealed will closes the case, with almost all of the inheritance swallowed up in legal fees. And in Charles Palliser's magnificent pastiche of the Victorian novel, *The Quincunx*, the codicil to a will brings about the prolonged suffering of the hero, the forced prostitution and death of his mother, and the eventual collapse of the estate.

The device of the will and the codicil in that gothic strand of the Victorian novel thematises the grip of the old and the dead upon the young. The legacy that is in play is at once highly, even obsessively, desired and yet fraught with danger, and the post-mortem transfer of assets envisaged by the will frequently ends in failure as the estate turns out to be worthless. This is the image of a failed or even

threatening intergenerational transfer; although it is conducted through the apparatus of the law, what it brings about is an intergenerational injustice.

I use this trope by way of introducing the topic of intergenerational justice, by which I mean the actions taken by one generation to transfer a world in an enhanced state to those who come after. This is a transfer effected at the level of social structures, and we can think of it as tradition, the passing on of a culture, a language, a stock of knowledge, a way of life. It can take the form of the wealth amassed over a span of time and passed on as a legacy to the next generation. Or the world that is transferred can be understood literally: the planet earth as it has been handed on from generation to generation. Questions of justice have to do with the condition in which that world is passed on—of the stewardship exercised by those who have had it in their temporary care.

I take it that these questions are at once urgent and fraught because of the intergenerational *in*justice that is being perpetrated upon the inheritors of the earth by the failure of stewardship that has allowed the natural world to become degraded, polluted, and potentially uninhabitable. Blighted industrial landscapes, species extinctions, climate heating: these constitute the poisoned legacy that my generation is handing on to as many of the following generations as will live to deal with it.

I pass in silence over the overwhelming evidence of climate heating caused by human activity and of the sheer improbability that it will, under present political circumstances, be adequately abated. On present trends we are unlikely to restrict global heating to 2°C by the end of the century and quite likely to see a world with mean temperature increases of 4°C. The latest IPCC report warns that we have only a brief window of opportunity to prevent the coming catastrophe.

At the lower end of this range—an increase of 2°C—we will see—and we are already beginning to see—the following effects: extreme heatwaves of increasing frequency, with the concomitant widespread droughts making much agricultural land around the world unviable and with wildfires becoming more extreme and more frequent; more frequent and more intense precipitation events and widespread flooding; an increase in the proportion of intense tropical cyclones; increasingly unreliable monsoon precipitation; the melting of mountain and polar glaciers, continuing for decades or centuries; loss of permafrost carbon following permafrost thaw; continued loss of ice in the Arctic Sea, the Greenland Ice Sheet and the Antarctic Ice Sheet; continuing global sea level rise, with increased severity and frequency of coastal flooding in low-lying areas and coastal erosion; increased ocean acidification and deoxygenation, with the resulting loss of marine life; and possible trigger events including ice-sheet collapse and abrupt ocean circulation changes. The combination of these compounding and cascading

impacts will bring about the extinction of numerous land and sea species. Groundwater will become saltier, topsoils will erode, pests will infest crops, and harvests will fail. There will be increased competition for increasingly less fertile soil, forced migrations and the erection of fortresses against desperate refugees, increased civil disorder and even war; and the wretched of the earth will bear the burden of suffering.

At the upper end of this range, which will quite plausibly be reached by later this century on present levels of emissions reduction, an increase in global mean temperatures of 4°C would equate to around 5-6°C warming of global mean land surface temperature. Translated into local effects,

> [a] 4°C world would likely see the hottest days in China being 6-8°C warmer than the hottest days experienced in recent heat waves that China has struggled to cope with; Central Europe would see heat waves much like the one in 2003, but with 8°C on top of the highest temperatures; during New York's summer heat waves the warmest days would be around 10-12°C hotter—all as a consequence of an average global warming of around 4°C. As it is, our infrastructures and our way of living are not attuned to these temperatures... (Anderson 28)

In addition, however, a warming of 4°C would trigger a range of tipping points that would insert positive feedback into the climate system, leading to an instability that would have potentially catastrophic consequences. Such a future, as Kevin Anderson puts it, would be 'incompatible with any reasonable characterisation of an organised, equitable and civilised global community' (Anderson 29). And crucially, many of these effects are already irreversible: molecules of carbon remain in the upper atmosphere for hundreds and perhaps thousands of years, and sea-level rises are likely to remain in place for over a millennium. 'Climate change is a substantially deferred phenomenon' (Gardiner 150).

Stating the problem is, in a sense, the easy part. What's hard is to understand the basis on which action to reduce emissions of greenhouse gases could be taken in a rigorous and genuinely transformative manner. The dilemma, to put it simply, is that no country and no socially advantaged group is willing to take the lead in reducing its own prosperity for the sake of a common future: that the future is held hostage to the interests of the present (as those interests are conceived by political actors largely in capture to the fossil fuel industry). This is, then, but also is not, a problem of intergenerational transfer; it has to do with the transmission of a world, but the agents of transmission are not a unitary 'generation'; they are nation states, political parties, corporations, privileged social classes, and only in the last instance a citizenry with a stake in a future world.

These are the terms in which I understand the problem of intergenerational justice. Yet while the concept is intuitively appealing, it is riven with conceptual, political, and ethical difficulties; John Rawls says of it that it 'subjects any ethical theory to severe if not impossible tests' (Rawls §44 'The Problem of Justice Between Generations' 251). A large literature has grown up around this problem, particularly in the disciplines of moral philosophy and economics. I'll briefly indicate some of the main lines of argument here, but I'm going to avoid many of the intricate conundrums that philosophers and economists have spun around the problem.

'Why should I do anything for posterity? What has posterity ever done for me?' the philosopher Jan Narveson once asked (Narveson 38). 'Posterity' is the first tricky concept here: insofar as it means those not yet born, it designates people who do not yet exist, and who, depending on our actions, may never exist. We might, for example, assume that it would be an act of care to future generations to limit their number (as in the case of the one-child policy in China). People who do not yet and may never exist are by definition incapable of holding rights, and are therefore incapable of calling forth an obligation on my part. This is the non-identity problem promulgated by Derek Parfit and others, and it also undermines one major strand of thinking about justice, the notion that it is founded in reciprocity (the principle that I am obliged to return to others what I have received from them). Can we feel a responsibility towards people we don't know other than as an extrapolation from the present? To put this differently: what is the value of an abstract feeling of obligation, in contrast with the immediate ethical obligation I have towards my neighbour?

Various normative principles can be invoked to ground this sense of obligation towards a posterity that is only contingently existent. Peter Singer's influential paper 'Famine, Affluence, and Morality' argues from a utilitarian and consequentialist perspective that if I can do anything to alleviate the suffering of people who are not personally known to me without compromising anything of comparable moral importance, and without regard to their proximity to or distance from me, I should do so (Singer 229-39). Any utilitarian position necessarily deals in trade-offs between the aggregate welfare of a society—the welfare of the many—and the welfare of any one individual—or, in principle, between the interests of the many and those of the few, where an assessment of maximal utility would require a sacrifice of the latter. A particular problem in the case of intergenerational justice is the trade-off to be made between the fair distribution of wealth in the present and a fair distribution from the present to the future: should I argue for a redistribution towards the least well-off in today's world, or should redistribution be directed towards the welfare of those who will suffer the adverse effects of climate change (for example) in the future?

John Rawls's theory of justice attempts to spell out some of the problems with a utilitarian ethics when applied to the intergenerational transfer of resources, as well as attempting to deal with the question of accumulation between generations. Building on the Lockean principle that my application of labour grants me a property in that which I have removed from the 'common state of Nature… at least where there is enough, and as good left in common for others' (Locke §27 288), Rawls asks what that 'enough, and as good' might be and develops a contractual model of what would constitute the 'just savings' to be passed on from one generation to the next. 'Each generation', he writes, 'must not only preserve the gains of culture and civilization, and maintain intact those just institutions that have been established, but it must also put aside in each period of time a suitable amount of real capital accumulation' (Rawls 252). My obligation to future generations is only to ensure that those living in the future have enough to reach the threshold that Locke marks out; once a certain level of wealth and an infrastructure of just institutions has been established, I no longer have an obligation to save; instead, my obligation is to do with whatever is necessary to allow future generations to live under those just institutions.

A different kind of normative principle would invoke the altruism that a parent feels towards their children as the basis for a generalised altruism towards future generations; that altruism derives in part from the gift of care we have received from our own parents. Alternatively, we can understand ourselves to be the custodians of a world that we have, in a sense, borrowed from our children, or that we hold in trust for them. But what if that altruism is absent? What if we are indifferent to the fate of those who come after us, or find ourselves unable to project an altruism beyond the bounds of our immediate family or kinship group? And what about animal species other than the human: is it possible to feel altruism towards them, or do they matter to us only to the extent that they are *our* companions on earth?

There is ample evidence that altruism doesn't reach very far: that 'each generation secures benefits for itself by imposing costs on its successors, and avoids costs to itself by failing to benefit its successors' (Gardiner 149). Stephen Gardiner thus argues that 'the existence of temporally dispersed goods creates an incentive for cheating future generations, and there are ways in which our theoretical ineptitude creates good cover for this. The absence of good theory for dealing with questions involving future generations leaves open a convenient space for many mechanisms of moral corruption' (Gardiner 150). Here the problem is the inalterable power imbalance between those who live in the present and their posterity, where the power resides solely with the former: a power to give, a power to withhold, a power to defer the repayment of debt, a power to pass on a world that is in financial or environmental deficit. If we see ourselves as making a

gift to future generations, we should remember that any gift may be coercive; any gift may be unwanted; but this gift cannot be returned.

Who is the giver in this scenario? I have spoken of 'my generation', but the agent of the gift is not a homogeneous age cohort. The division of populations into successive waves with distinctive characteristics—baby boomers, gen X, gen Y, millennials, and so on—is descriptively worthless because each such age cohort is internally riven by inequalities of power and circumstance. The agent of the gift of a world to posterity is, in the first instance, fossil capitalism: a whole system of production and value creation that operates according to a logic of profit maximisation and the plunder of scarce resources, and that cannot be reduced to the individuals who drive it and benefit from it. We are all, but especially those of us in the advanced world, complicit in that system; and while my generation, by reason simply of the time it has had to accumulate wealth, has benefited more than more recent generations, it too is riven by inequalities both on a national scale and across nations.

The concept of intergenerational justice applies not only—although perhaps most urgently—to climate heating, but to a range of other areas of transfer: public debt, for example, or the passing on of a language. It has centrally to do with the handing on of wealth from one generation to the next, and it is here that one of the key contradictions between justice between and within generations comes into play. There are two dimensions to this. The first is that the handing on of accumulated wealth acts as one of the key mechanisms of class differentiation in Australia, as in most other countries. If my parents own their own home I am about 50 percent more likely to own one myself than if they did not. The second dimension has to do with the possibility of a reverse transfer of wealth, in which it flows from the young to the old. A number of areas of public policy, and particularly fiscal policy, support such a reverse transfer, from generous superannuation tax exemptions to the ability of landlords to negatively gear their property and the awarding of unearned franking credits to people who own shares but pay no net tax. In each of these instances it is older and wealthier Australians who benefit, younger and poorer Australians who lose out.

Another name for intergenerational transfer is *tradition*—literally, a 'giving across', a passing on across time. The inheritance that we have ourselves received and that we seek to pass on—an inheritance of knowledge, or public space, or language, or legal precedent, or cultural or social or economic capital, or of a physical world—is always ambivalent, always at once 'the locus of possible truth and factual agreement' and 'the locus of factual untruth and of persistent violence' (Wellmer 48-9, cited in Habermas 153). That formulation comes from Albrecht Wellmer's critique of the German philosopher Hans-Georg Gadamer, whose understanding of the concept of tradition as a conversation across time between

two autonomous 'thous', a conversation between fully present, fully constituted subjects on the basis of their equality, contrasts sharply with Walter Benjamin's, for whom tradition is a matter of political work on a past and present that are radically discontinuous. Indeed, the very notion of tradition as a continuous handing-on of an unchanging heritage falsifies the way the content of tradition is appropriated and shaped by the needs and the interests of each successive present. Tradition is a kind of gift-giving, but any gift can be unwanted, or at once an act of generosity and an act of control; and the gift must sometimes be refused, or else reworked to fit a world that has been transformed.

Of few areas of intergenerational transfer is this truer than of the passing on of a physical world. Here the key metaphor, running through a long line of thinking in Christian theology about the human duty of care for the earth, is that of stewardship. The steward is the manager of the king's household, and by the time of the New Testament 'the term steward (*oikonomos*) was almost always used to designate a household slave in a position of authority over other slaves' (Beavis 4). The most-cited biblical texts are two passages in Genesis and two in Luke. In the first passage in Genesis the initial inhabitant of Eden is almost instantaneously transformed into a couple:

> 1.27
> So God created man in his *own* image, in the image of God created he him; male and female created he them.
>
> 1.28
> And God blessed them, and God said unto them, Be fruitful, and multiply, and replenish the earth, and subdue it: and have dominion over the fish of the sea, and over the fowl of the air, and over every living thing that moveth upon the earth.

In the second, Eden is inhabited by a solitary man:

> 2.8
> And the LORD God planted a garden eastward in Eden; and there he put the man whom he had formed.
>
> 2.15
> And the LORD God took the man, and put him into the garden of Eden to dress it and to keep it.

The first passage grants a dominion that requires both the replenishing and the subduing of the earth; the second requires Adam 'to dress it and to keep it', that is, to establish and to maintain good order in the garden.

In the New Testament, the first of the two parables in Luke contrasts the steward who is 'faithful and wise' with another who is wasteful and whose master, surprising him, 'will cut him in sunder' and beat him 'with many stripes', 'For unto whomsoever much is given, of him shall be much required' (Luke 12.42-48). The second parable tells of a master who asks his steward to give an account of his stewardship, whereupon the steward cuts a deal with his master's debtors, encouraging them to falsify their accounts. The ambiguous moral of this morally dubious story is that 'the lord commended the unjust steward, because he had done wisely: for the children of this world are in their generation wiser than the children of light' (Luke 16.1-12).

The effects of these passages are somewhat different. Genesis is the source of a doctrine of the hierarchy of being, in which humankind is granted mastery over all other animal species and must manage God's estate on his behalf. The image of stewardship in Luke is that of the thrifty management of the household and of the threat of corporal punishment for dereliction of duty. As it evolved within predominantly agropastoral cultures, however, the doctrine of stewardship came increasingly to foreground an ethical duty of careful management of an estate which is another's property, including its replenishment and its preservation for the master's heirs. Marx formulates this ethos as well as anyone:

> Even a whole society, a nation, or indeed all concurrent societies taken together are not the owners of the earth. They are only its possessors, its beneficiaries, and like *boni patres familias*, they must hand it down to succeeding generations in an improved condition. (Marx 784)

For Australians another, quite different ethos of management of the estate will be salient. Bill Gammage's *The Biggest Estate on Earth* argues that before European invasion the Indigenous people of Australia managed 'an … estate they thought of as single and universal' (Gammage 1) using patterns of controlled burning in order to move grazing animals predictably from place to place as country regenerated. These patterns of controlled burning shaped the landscape in cycles extending over many generations and large areas, in close collaboration between neighbouring clans. Subtending this management of the earth was an ethos, a Law—'an ecological philosophy enforced by religious sanction'—that gave absolute priority to care for country, to which each person, each kinship group, is bound by ties of ancestral belonging. This ethos gives spiritual parity to all forms of life: human beings are the brothers and sisters of their totemic animals, and their obligation is to conserve the world created by the ancestors and filled with their presence. In Gammage's words:

> In its notions of time and soul, its demand to leave the world as found, and its blanketing of land and sea with totem responsibilities, [the Dreaming] is ecological. Aboriginal landscape awareness is rightly seen as drenched in religious sensibility, but equally the Dreaming is saturated with environmental consciousness. Theology and ecology are fused. (Gammage 132-3).

That fusion is no longer available for the governance of a secular world in which land is controlled by tightly ordered property rights and the planetary atmosphere is treated as *terra nullius*. The ability of Indigenous clans to plan the shaping of landscape by controlled low-intensity burning over vast stretches of time outlasting any one generation has been replaced by state decision-making processes bounded by the three- or four- or five-year scale of the political cycle and by the power of large corporations, including the major fossil-fuel companies, to enforce their short-term financial interests over any longer-term provision for care of the earth. We have seen the results in Australia: a sordid history of denial of the scientific evidence on global heating followed by ferocious resistance to a carbon pricing scheme; a refusal to plan for a transition to renewable energy; and a public discourse poisoned by political game-playing in place of serious policy discussion. In the fiscal domain that politicisation of the care of the estate and the wealth it produces has made it impossible to address the intergenerational injustices of the transfer of wealth from the young to the old that operates through a regressive tax scale, negative gearing of investment properties, the paying of unearned franking credits, and so on.

Any ethics of care for the earth that can be sustainably implemented in today's world faces the wicked problem that no nation will risk economic disadvantage in the short term for the sake of a common future, and that any public policy that can seriously address questions of intergenerational justice will be framed not by an ethos of altruism, not by an ethical commitment to long-term sustainability, but in the terms of the dominant discourse of our world, that of the market and the contract.

That discourse employs a number of different mechanisms to deal with intergenerational transfers, but its core instruments are the use of a standard discount rate to determine the present monetary value of future benefits, and, for dealing with climate change, the construction of specialised cap-and-trade markets in carbon emission permits.

Carbon markets work by imposing a limit on emissions of greenhouse gases and granting a restricted stock of credits for abatement (by capturing carbon in the soil, promising to avoid deforestation, and committing to plant crops rather than run livestock) which can then be traded for the right to emit. The expense of

purchasing credits acts as a disincentive, with the burden of cost falling on the companies most responsible for releasing carbon and other gases into the atmosphere, while the sale of credits is financially advantageous to those companies able to earn them by reducing their carbon output. These credits are constructed from one party's promise not to emit, and this means that what is traded is a virtual reality because 'the emission never occurs. The reduction is rather a mere reflection of the counterfactual, of what might have otherwise occurred' (Knox-Hayes 956, cited in Dalsgaard 71, n3).

Existing cap-and-trade schemes are, however, based on the continuation of carbon emission; the initial allocation of credits is mostly free, meaning they raise no revenue for alternative projects, and the schemes tend to be full of loopholes. In Australia, there is emerging evidence that farmers have been paid not to clear areas that would and could in fact never have been cleared, and to allow plant regeneration in low-rainfall areas where little useful carbon storage is likely to take place. Most recently, the government has manipulated the price of credits in a way that effectively transferred $3.5 billion from taxpayers into private hands, and dramatically cheapened the cost to emitters of abating their emissions (Seccombe). Similar problems exist for carbon tax schemes, which are applied to rich and poor alike. More broadly, the principle underlying both cap-and-trade schemes and carbon taxation is that greenhouse gas emissions are to be understood as externalities—unintended effects of the market system—which can be remedied by being internalised; getting the price signals right will realign incentives and the market will again function smoothly.

Economic logic seeks to put a price on the benefits and costs of present action and future consequences. It does so by calculating how individuals would behave in a market that facilitates the transaction of their different interests by the application of a discount rate to present expenditure for relatively uncertain long-term benefits. The discount rate calculates future benefits and costs by treating them in monetary terms; it assumes that future generations will be wealthier than us and that the utility of each dollar spent now therefore declines with that increase in wealth, and that building the real market return on capital into our calculation means that the present value of a dollar invested will diminish with increasing returns (Arrow et al. 349). Thus, if I assume a discount rate of 3 percent and a $100 cost of damage to the climate in a hundred years from now, then it would be worth $5.20 to me to pay for the mitigation of that damage. Another way of putting this would be to say that investing in climate mitigation is a rational thing to do if and only if it offers a higher rate of return than prevailing interest rates.

The most influential modelling in this area, that of the Yale economist William Nordhaus, sets a discount rate of between 3 and 5 percent, which means that in

the long run, with annual compounding of the rate, all but the most catastrophic costs disappear. One economist puts it like this:

> … at the standard 5 percent discount rate, the present value of the earth's aggregate output discounted 200 years from now is a few hundred thousand dollars. A simple computation shows that if one tried to decide how much it is worth investing in preventing the destruction of the earth 200 years from now on the basis of measuring the value of foregone output, the answer would be no more than one is willing to invest in an apartment. (Chichilnisky 235, cited in Gardiner 160)

But the choice of appropriate discount rate is effectively arbitrary: the Stern Review, unlike Nordhaus, opts for a discount rate close to zero, which completely changes the force of the modelling; economically driven action on climate mitigation thus varies as a function of that initial, ungrounded choice. And because cost-benefit analysis has difficulty handling questions of value that cannot be monetised, this means that the fundamental question of the *ethical* obligations of one generation toward later generations falls outside its scope, and thus that questions of the just distribution of costs and benefits are set aside as involving inappropriate judgments of relative value (even though 'ignoring these issues [means] that economic valuations and analyses [tend] to reproduce the status quo in the distribution of income, wealth, and power') (Dryzek, Norgaard and Schlosberg 45). Standard cost-benefit analysis thus fails to deal with questions of the historical responsibility for climate change, of the difference between 'luxury' emissions by the advanced economies and 'survival' emissions from third-world agriculture, and of the unequal impacts of climate change, which fall most heavily on the poorest countries on earth.

This is not to be dismissive of the discourse of economics. Talk of care, of stewardship, of ethical responsibility will count for nothing unless we can develop policy mechanisms that deal with the financial dimensions of intergenerational transfer. Australian public policy on climate change has been crippled by the ability of the hard right of the Liberal Party and the National Party, acting in synchrony with the mining and fossil-fuel sectors and the noxious Murdoch press, to demonise what they labelled a carbon 'tax'. We will need to put an effective price on carbon, as well as more equitable resource rental taxes, if we are to bring about an orderly transition to a renewable-energy economy. And we will need to plan for the prevention and mitigation of a future of regular and intense bushfires and floods. Similarly, if we are to avoid the further consolidation of narrowly based lineages of wealth and privilege, we will need to develop and implement taxes on the passing-on of estates—the so-called death taxes that have become unspeakable in Australian politics. And we will need to follow the lead of Norway

and New Zealand in investing in sovereign wealth funds, extending them beyond our present scheme, the Future Fund, which covers public-sector superannuation liabilities as well as the administration of a number of smaller funds, to construct a more generous and wide-ranging provision for future generations.

Let me finish by briefly mentioning a dimension of intergenerational justice that flows in the opposite direction: this is the justice that we owe to previous generations. Here the best model of a retrospective justice is perhaps that of the South African and Canadian Truth and Reconciliation Commissions, the Argentinean Commission on the Disappearance of Persons, and many similar bodies established in the aftermath of state terrorism or prolonged crimes against Indigenous populations. Australia has yet to establish such a commission at the national level, but its work was done in part by the 1997 report of the national enquiry into the stolen generations of Indigenous people, *Bringing Them Home*, together with Paul Keating's Redfern speech in 1992 and Kevin Rudd's national apology in 1997, making amends for John Howard's refusal in 1999 to accept the Report's recommendation of an apology. Howard was motivated by a conviction that Australians of the present cannot be blamed and therefore should not bear responsibility for the wrongs of the past; but the reparative justice envisioned by national truth commissions is about systemic wrongs and their resonance in the present, where that present is understood as the recipient, for good and for ill, of the actions of previous generations. Responsibility passes in a chain from present to future and present to past and we, in whichever present we stand, occupy each moment in that chain.

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