

Call for Papers
Constitutions and Intergenerational Justice
IGJR, Issue 2/2016

The Intergenerational Justice Review (IGJR) invites submissions 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? Submissions that test the feasibility of new ideas, such as a ‘permanent constitutional convention,’ that reassess the current constitution, in fixed intervals like e.g. every five years, are especially welcomed.

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.

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 regarded as the one of most important elements of intergenerationally just behaviour in modern generational ethics.

Key questions of submitted articles could be:

- 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 so-called ‘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?

Size limit of final manuscript:

Up to 30,000 characters (including spaces, annotation etc.).

Manuscript Submission Deadline

1 November 2015

Intergenerational Justice Prize 2015/16

The Foundation for the Rights of Future Generations (FRFG) and the Intergenerational Foundation (IF) will announce the Intergenerational Justice Prize 2015/16 on the same topic. Young researchers can also participate in the essay competition. More information can be found soon on www.srzg.de and www.if.org.uk

Date of Appearance of IGJR 2016

November 2016

Articles may be submitted electronically to:

editors@igjr.org

Please see the guidelines for authors for further information.

Literature:

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