

Philosophy of history and generational ethics

Filosofia da história e ética geracional

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PHILOSOPHY OF HISTORY AND GENERATIONAL ETHICS

FILOSOFIA DA HISTÓRIA E ÉTICA GERACIONAL

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Abstract: Scholars of Philosophy of History and scholars of Future Ethics/Generational Ethics have started to explore the interdependencies between their respective disciplines. This article sheds light on Rohbeck's notion to incorporate Future Ethics within Philosophy of History. I argue that teleological concepts, such as Hegel's and Marx', are a constituting component of Philosophy of History. As they are incommensurable with Future Ethics/Generational Ethics, the prospects of a merger of the two disciplines look bleak. At the same time, the notions of 'progress' and 'development' play a central role in both disciplines. As the 'lead discipline', Future Ethics/Generational Ethics should take an interest in teleological concepts of history, historiography and philosophy of history instead of largely ignoring these disciplines, as is the status quo.

Keywords: generational ethics, philosophy of history, intergenerational justice, teleology

Palavras-chave: Ética geracional, filosofia da história, justiça intergeracional, teleologia

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Generational ethics makes use of knowledge from a wide range of disciplines. History provides an indispensable input for theories about intergenerational justice, since it supplies data about earlier ages and, thus, makes it possible to compare the living conditions of different generations.² Therefore, generational ethicists are, or at least should be, interested in history. Vice versa, historians have become more interested in generational ethics recently. Generational ethics or future ethics meeting the philosophy of history – this encounter could turn out to be fruitful for both disciplines. So far, however, the two discourses have largely ignored each other. But some scholars are now taking the view that philosophy of history is itself “an early form of future ethics.”³ Johannes Rohbeck, a German philosopher at Dresden University, makes this argument by pointing to classical theories about the (hitherto and future) course of history, most of which have called for shaping the future in one way or the other. “This presented an ethical perspective, because the envisioned improvement was not merely anticipated, but more or less explicitly declared as having desirable tendencies.”⁴ What Rohbeck has in mind are the *teleological* theories about the course of history. These theories answer the following questions in the affirmative (although differently):

- Does human history have a goal? Does history end if or when the goal is achieved?
- Is the history of mankind determined and can the future therefore be predicted?
- Is there anything or anyone “behind history” that moves it or controls its course?

This branch of theories reached a culmination point in Hegel and Marx. The former⁵, for example, wrote that “We have to consider the history of the world according to its final purpose; this final purpose is what is wanted in the world”(98). “World history is the progress of the consciousness of freedom – a progress whose necessity we have to investigate,” is another much-quoted remark from Hegel’s *Lectures on the Philosophy of History* (32). Hegel was an idealist in the sense that he considered the spiritual, and the spir-

2. Tremmel, Joerg C. (2009): A Theory of Intergenerational Justice. London: Earthscan. p. 9.

3. Rohbeck, Johannes (2013a): Zukunft der Geschichte. Geschichtsphilosophie und Zukunftsethik. Berlin: Akademie Verlag. p. 170. Rohbeck, Johannes (2013b): Für eine neue Geschichtsphilosophie, in: Deutsche Zeitschrift für Philosophie, vol. 62 (1), 1-22.

4. Rohbeck 2013a, 9.

5. Literal quotations are from the Hegel complete edition by E. Moldenhauer and KM Michel, Frankfurt 1971, cited by volume and page number; mere page numbers in Volume 12: Vorlesungen über die Philosophie der Geschichte, *Lectures on the Philosophy of History*; R = Rechtsphilosophie, *philosophy of law*). Rohbeck’s exegesis of Hegel, as laid out e.g. in his lecture script on the International Hegel Congress in Vienna 2014, differs greatly from my interpretation in this article. However, my own summary of Hegel’s thought on the course of history is supported by other interpretations of Hegel, e.g. Angehrn, Emil (2012): Geschichtsphilosophie. Eine Einführung. Basel: Schwabe. pp.91-104; Kolmer, Lothar (2008): Geschichtstheorien. Paderborn: Wilhelm Fink Verlag. pp. 33-37. Lembeck, Karl-Heinz (Hrsg.) (2000): Geschichtsphilosophie. Munich. pp. 21-24.

itual alone, to be the “real” in any meaningful sense. In his view, the aim of history was to achieve a self-discovered “self-consciousness of the mind.” Hegel took the “spirit” to encompass all manifestations of human consciousness, such as language, religion, art, jurisprudence, science and – above all – the state, which according to him marks the transition from pre-history to history proper (82). This “spirit” becomes increasingly evolved throughout the stages of history. The development is not linear; rather, it speeds up in times of crisis. History is the “Last Judgment” (R § 340) which assigns the peoples and civilizations their place and rank, and occupies the place of an absent supranational judicial body. According to Hegel, however, the masses are not able to detect this “plan.” The people are only pawn sacrifices on this great historical stage. Their passions bring forward the demands of history without them even being aware of it – Hegel uses the term “cunning of reason” to make clear that the ‘Weltgeist’ (world spirit) employs individual “great men” to accelerate the development of history (Alexander the Great, Caesar, as well as Hegel’s contemporary, Napoleon Bonaparte, whom Hegel described as “the world spirit on horseback”). The highest achievement of those chosen ones is that they overthrew the existing state of affairs and helped the new to break through. For Hegel, the history of the state and its populations reveals that reason slowly submits to the material world and eventually becomes “one” with it. The course of history is inevitable and determined by laws; or, as Emil Angehrn puts it: “Inevitably, this is due to its natural-teleological premises. That man, by nature a free being, must develop its essence by necessity, corresponds to the general development grid of in-itselfness and being for itself (Ansichsein und Fürsichsein), possibility and reality: What someone really is, due to his or her potential, will be realized. The seed must bring that which is invested in it to fruition; it must evolve to full life or perish. This is the law of life, to which the life of the world mind is also subjected.”⁶

Karl Marx also held a teleological conception of history. He characterized all history as a dialectical process in each stage of which the previous scheme of the relations of production is overcome. According to Marx, history started from a primitive paradise society and developed over several stages from slave society, feudalism, and bourgeois society to the current state of capitalist society. Marx predicted the overcoming of class society in the future and thus the end of “pre-history”. Lothar Kolmer summarizes Marx’s prediction of the future like this: “Within the progressive stages of development, the exploitation, misery and anger of the exploited working class grows (...) If the people possess nothing than their own bodies, and when the productive forces have reached such a degree of development, revolution and then the dictatorship of the proletariat will ensue.”⁷ Other classical authors have postulated different purposes of history, both abstract

6. Angehrn (2012), 95.

7. Kolmer (2008), 39: Kolmer appraises Marx’s prognosis sarcastically: “Marx attempted a social analysis in order to be able to understand and apply its laws of motion. But it is precisely the insights which he was most proud of, such as impoverishment, intensification of class struggles, revolution in the highly industrialised countries, classless societies with proletarian dictatorships and free development of the individual, which were not realised. The revolution broke out in Russia, where there was hardly a proletariat such as that which existed in England, and it was driven by intellectuals.”

ones such as ‘reason’, ‘progress’, and ‘equality’ as well as concrete ones such as “a society without inequalities,” “a society without war”, and “the Last Judgement.” The crucial move by Rohbeck in order to bring generational ethics/future ethics in touch with teleological theories of history such as Marx’s and Hegel’s is to argue that neither of them sought to predict what *was going to* occur, but only what *should* be happening. His new reading is that Hegel and Marx laid out what each current generation is morally obligated to do with regard to the future. In this knee-jerk interpretation, Rohbeck combines the philosophy of history with generational ethics, but, one must ask, can this strategy succeed? In order to evaluate his project’s chances of success, a deeper look at the core issues of the historical disciplines as well as some conceptual definitions are called for.⁸ Firstly, we have to make a conceptual distinction between ‘philosophy of history’ and the teleological theories of *some* philosophers who have come to the conclusion that history is determined by regularities (laws) and *that the future is therefore predictable*.⁹ For the sake of clarity, this group of philosophers, with Marx and Hegel as their most prominent proponents, is hereinafter referred to as “Teleologists of History¹⁰.” Moreover, the (likewise ambiguous) term “theory of history” will be used synonymously with the term “philosophy of history”.

Now, what is the relationship between philosophy of history (= theory of history) and historiography, and what is the relationship between philosophy of history (= theory of history) and teleological doctrines? Arguably, the epistemological sub-discipline of philosophy of history (= theory of history) could logically develop only after historiography had emerged as a scientific discipline. Fact-oriented, systematic approaches to historiography became successful in the second half of the 19th century; at the same time, metaphysical speculations such as Hegel’s were pushed back.¹¹ Scientific historiography as a discipline is primarily interested in the fact-oriented theming of history (objective sequence of events, the “brute facts”). Teleological views on history (and future) were eventually superseded by the methodology of historiography, the sub-discipline that reflects upon what historians should be doing do and how they should do it.¹² It is undisputed that historians must command their own artisanal and technical ‘on the ground’-methods when conducting their field work. However, it can be disputed whether or not historians should format¹³ the historical

8. This seems also necessary because the German term “Geschichtsphilosophie” cannot be literally translated into English. The direct translation would be the English term “philosophy of history” but this designates epistemological questions of history as a scientific discipline (for which the German term would be: “Erkenntnis-/Wissenschaftstheorie der Geschichtswissenschaft”).

9. Cf. Löwith, Karl (1953): *Weltgeschichte und Heilsgeschehen*. Stuttgart: Kohlhammer. P. 129; Sommer, Andreas U. (2006): *Sinnstiftung durch Geschichte? Zur Entstehung spekulativ-universalistischer Geschichtsphilosophie zwischen Bayle und Kant*. Basel: Schwabe. p. 230; Zwenger, Thomas (2008): *Geschichtsphilosophie: eine kritische Grundlegung*. Darmstadt: WBG. p. 78

10. There are graduations. That Hegel had a teleological understanding of history cannot be seriously disputed; the case with Kant is much less clear.

11. Lembeck (2010), 24

12. Lembeck (2010), 25

13. “Format” has been chosen as a neutral term; it could be replaced with

facts in order *to tell a story*. It is disputable if history itself needs to be theorized, and if so, in which way history as a discipline is reliant on theories. Some insist that history does need theory. In this vein, Kolmer criticizes the positivist “common opinion” (which he opposes) as follows: “Historians let events unfold chronologically. They believe that they are usually connected by cause-effect-explanation (heavy rain > crop failures > famine > revolution). (...) According to common opinion, historical reality is contained within the sources.”¹⁴ This is indeed a view that most historiographs/scholars of history as a university discipline nowadays would subscribe to. According to the “common opinion”, the historiograph/historian provides the raw material for historical novelists, but should not himself be writing “a story.” The historiograph, in line with Max Weber, should be value-neutral.

To be sure, any such historiography with an interest in being objective (criticized by opponents as being “objectivist” or “positivist”) does not, of course, work with the methods of trial and error used in the natural sciences. Even those scholars who call the university discipline “History” a science admit that it differs substantially from all natural sciences. Historians do not build experimental arrangements so as to test hypotheses empirically. History cannot be played out more than once. Most scholars of history as a discipline disapprove of searching for “laws of history” because they consider such nomothetic historical representation self-falsifying.¹⁵

However, Kolmer (and Rohbeck) insist that ‘history needs a theory’. But their alleged need for theory rests on a misinterpretation: they confuse the ‘need for a theory’ with the so-called ‘selection problem’. Natural, social and human scientists *alike* are concerned with the selection problem: Given the large number of important and interesting questions, how can I, as a scientist, use my working time optimally and efficiently? Nobody has the time, let alone the financial resources to investigate all scientific problems that are “out there.” Therefore, unfortunately, some kind of selection has to be made. These decisions can be made both strategically as well as according to personal preferences.¹⁶

“consolidate” or “select,” depending on from what point of view it is considered.

14. Kolmer (2008), 9

15. In 1894, Wilhelm Windelband coined the famous difference between the nomothetic method of the natural sciences and the idiographic method of historical science in his Strasbourg rectorship speech. See Windelband, Wilhelm (1924). *Preludes*, Vol II, Tübingen. P. 136-160. Quoted from Lembeck (2000), 30.

18 The objectivist Karl Popper also supports the idea that the science of history is characterized by its interest in actual, singular, specific events as opposed to laws or generalizations. He writes: “The issue is simply this: While the theoretical sciences mainly engage in the discovery and examination of universal laws, the historical sciences take all possible general laws as valid and are mainly concerned with the discovery and examination of singular sets. [...] If we specify the fact that the cause of death of Giordano Bruno was his being burned at the stake, we need not mention the general law by which all living things die when they are exposed to intense heat. However, such a law is tacitly assumed in our causal explanation. Popper, Karl R. 1979. *Das Elend des Historizismus*. 5th ed from the English second edition 1960. First published 1957: Tübingen: JCB Mohr p. 113).

16. Conveyors or university presidents sometimes give guidelines to encourage work sharing and networking.

In short, a historian is always faced with the problem of having to make this decision in terms of, for example, geographical scope: “Should I study the history of the United States, Europe, Easter Island, or of the whole world?”, or thematic scope: “Should I study the history of prostitution, money, state institutions, or human welfare?” When this fundamental decision is made, the normal business of the science of history begins with the search for, and evaluation of, sources. The problem of choosing a topic affects every scientist of every discipline, and it doesn’t cause a historian to have to become an author of a historical novel. It may well be the case that novelists with their beautiful prose make for a more interesting read – but to understand history as a “story” would be the end of historiography as a science.

With the rise of historiography as a scientific and university discipline, teleological thinking has lost its reputation and momentum. Hardly any other philosophical subfield has been subjected to such a devastating critique. So does Rohbeck really want to revive this almost extinct field? Is there at least a glimmer of hope for his project to link generational ethics and the historical-teleological thinking?¹⁷ As a matter of fact, there is. It is the idea of “progress,” which, while playing a central role in *both* disciplines, also feeds his project. Historical-teleological interpretation has always been, either implicitly or explicitly, directed towards the future. “Generational ethics” also considers the future (or more precisely: future generations). Future generations are the addressees (moral patients) of the moral reasoning of generational ethicists. One of their key questions is: How much does the living generation owe the future generations? The positions on this issue range, for example, from intergenerational sufficientarianism (“A later generation is treated fairly if their well-being is at least at the level of sufficiency. If, having reached such a level, whether it is better or worse than that of other generations is impertinent. The future can, therefore, be worse than the present but this doesn’t necessarily mean that future generations have been treated unfairly”¹⁸), to intergenerational egalitarianism (“Intergenerational justice is achieved when future generations are not disadvantaged due to their belonging to a certain generation”¹⁹), and to comparative concepts of improvement (“Intergenerational justice means to enable future generations to having not just the same, but better living conditions than we have today”).²⁰

17. Rohbeck (2014), 3

18. Meyer, Lukas H. /Roser, Dominic (2009): Enough for the Future, in: Gosseries, Axel; Meyer, Lukas H. (Ed.): Intergenerational Justice. Oxford: Oxford University Press. Pp. 219-248; Fishkin, James S. (1992): The Limits of Intergenerational Justice. In: Laslett, Peter/ Fishkin, James S. (ed.): Justice between Age Groups and Generations. New Haven/ London: Yale University Press, Pp. 62-83.

19. Barry, Brian (1978): Circumstances of Justice and Future Generations. In: Sikora, Richard/ Barry, Brian (ed.): Obligations to Future Generations. Philadelphia: Temple University Press. Pp. 205-248; Ott, Konrad/ Döring, Ralf (2004): Theorie und Praxis starker Nachhaltigkeit. Marburg: Metropolis Verlag, P. 92, Heubach (Andrea (2008)

20. Tremmel, Jörg (2009): A Theory of Intergenerational Justice. London: Earthscan; Pogge, Thomas W. (2002), World Poverty and Human Rights. New York, NY: Wiley. P. 143. In addition to the intergenerational egalitarianism and “intergenerational justice as an enabler of improvement” (Tremmel), there are many

Since generational ethics discusses the extent and basis of our obligations to posterity, it touches upon the question of “progress” (the above mentioned aim of improvement of later generations) and “stagnation” (intergenerational egalitarianism). Likewise, historical-teleological thinking conceptualizes the course of history either as progress, stagnation, or decline of mankind. These three options are metaphorically associated with the images of circles, waves or upward spirals or even linear ascending arrows.²¹ The idea of “progress” already existed in ancient times; it was largely (but not entirely) lost, however, in the European Middle Ages, before being revived in the Enlightenment period, especially in Turgot and Condorcet but also later in Hegel and Marx. A second seemingly similar approach to both historical-teleological thinking and generational ethics is that at least some generational ethicists take mankind as a whole into view. There are, of course, several distinct discourses in generational ethics. However, many theories of intergenerational justice treat “generations” equivalent to an average individual. Rohbeck is right to point out the parallel: “In the enlightenment period, philosophy of history treated humanity as an individual who is making progress and thereby exerts its perfectibility.”²² This apparent common ground will now be examined more closely.

Progress in what terms?

To the question: “Progress of what?”, Voltaire, Turgot, Condorcet and Comte unanimously replied: “Reason.” Hegel’s and Fichte’s answer was: “Freedom.” Since the naming of this discipline (Voltaire 1753: “La philosophie de l’histoire”), classical philosophers of history have taken a variety of perspectives on progress²³ – thus the question arises: Which of them could be compatible with generation ethics’ view of progress? Is the “currency of progress” the same in both disciplines?

As far as generation ethics is concerned, it answers the “currency” or axiological question on the one hand with the concept of capital and, on the other hand, with the idea of well-being. Reflecting on the first concept, Axel Gosseries, for example, states that “It [the basket that is transferred by each generation to the next one, J.T.] contains a capital, broadly understood, which consists of a variety of elements, namely physical ones, but also technological, cultural, relational, political and other elements.”²⁴

A second strain of thought that is more closely linked to the philosophy of his-

intermediary concepts which view equality as a minimum and betterment as the maximum target.

21. Rohbeck (2014), 2

22. Rohbeck (2014), 15. In Turgot and Kant it is the human “genus” whose past and future progress is discussed.

23. Other possible answers to the question of the reference object of progress are conceivable in principle: 1) Time: It does not stand still. 2) biological evolution, 3) progress in the sciences, 4) technological progress, 5) moral progress. Advances in natural or human history in terms of 2) - 5) certainly did not, if at all, occur so linearly.

24. Gosseries, Axel (2005): The Egalitarian Case against Brundtland’s Sustainability. In: GAIA, vol. 14 (1). Pp. 40-46. On a similar note, see Ott/Döring (2004), 100 (fn. 27)

tory sees human welfare in the sense of gratification as that which the present generation should, if possible, secure for future generations. Since man has been a “needy being” since its emergence in history, with basic needs (such as food, sleep, shelter, security, autonomy), it is possible to measure the degree of fulfilment of needs by indicators / indices such as the Human Development Index (HDI). There has been a strong increase of the HDI in the last 300 years, i.e. progress, which is also morally relevant. Welfare ethics are currently the best known and (at least potentially) completely universalist ethics. Welfare ethics define the moral value of an action based solely on its welfare effects for humans or sentient beings.

Utilitarian theories and welfare theories take a genuine interest in historical facts, esp. in the well-being of mankind at different points in time. The empirical findings as to whether the welfare of the average individual on the planet has decreased, increased or remained the same over time attains normative significance in welfare ethics. In short, many contemporary scholars of intergenerational justice, like myself, declare the welfare of mankind (not the “will of freedom” as in Fichte, or the “overcoming of class antagonism” as in Marx, etc.) as their ‘currency’ of justice. Over the past few decades, scientific research into objectively measurable “welfare” has made significant progress – a progress to which many disciplines have made their contribution. As discussed elsewhere²⁵, “welfare” should be conceptualized as the *fulfilment of basic needs*. According to the ethicists Len Doyal and Ian Gough, there are only a few different needs; and they are universal in the sense of being part of the *conditio humana*. Insofar as subjectivist and culturalist schools of thought assert that each culture and each generation has their own distinct needs, they are confusing ‘needs’ either with ‘interests’ or ‘desires’, or they are confusing them with different modes of need satisfaction. These modes of satisfying basic needs are, of course, numerous and vary from individual to individual and from culture to culture. The need for food is inherent to all people, but the possibilities of covering it, i.e. the number of foods and the ways of preparing them, are virtually infinite. The situation is similar with the need for safe housing which also is something that all people basically need, even though specific designs of housing are very varied. Unlike the sort of ‘utility’ which utilitarians have in mind, it is possible to empirically measure how many people can meet their basic needs. The development of indicators for, and ways of measuring, ‘well-being’ began in the 1960s – as a counter concept to purely economic measures such as GDP. The group of so-called objective (descriptive) approaches describes observable living conditions and resources that are usually monitored by experts in social sciences, economics or medicine.²⁶ These approaches include the Human Development Index (HDI), the Human Wellbeing Index and the Weighted Index of Social Progress. The most well-known of these indices is certainly the Human Development Index, which is calculated annually by the United Nations Human Development Programme (UNDP). It was developed primarily by scientists from developing countries (ul-Haq, Sen).

25. Tremmel, Jörg (2009): *A Theory of Intergenerational Justice*. London: Earthscan.

26. Due to the problems of the so-called subjective approaches to measuring well-being, only the objective approaches will be discussed here.

Historians have only recently considered how human well-being has developed throughout the history of mankind.²⁷ For thousands of years, changing power-relations and political borders were far more interesting than the every-day life stories of ordinary people. The science of history can be linked with generational ethics – provided this is understood as a form of welfare ethics – by starting with a description of the welfare of different generations. It is now almost undisputed that despite rapid increase in world population, an average individual in the world today has a much higher HDI than she would have had in past epochs. As recently as 1850, the average global life expectancy was 30-40 years. The majority of the population was not free, there were enormous gaps between social classes, and there were frequent wars and numerous epidemics. Doing the laundry took days, and travelling took weeks. The public masses could neither read nor write. The basic needs were met to a much lesser extent than they are today. Preventable diseases were widespread even in the most developed countries. Lawrence Stone, a historian, explains: “Since personal and public hygiene were almost completely unknown, spoiled food and contaminated water were a constant source of danger. [...] These primitive sanitary conditions resulted in constant outbreaks of bacterial stomach infections. The Ruhr was the most terrible and killed a huge amount of victims of both sexes and all age groups. Stomach problems of all kinds were chronic due to imbalances in diet among the rich and a lack of, or spoiled, food amongst the poor. [...] People frequently contracted worms, making for long and unappetizing suffering. [...] For women, childbirth was an extremely dangerous experience. [...] [Furthermore,] there was a constant threat of fatal accidents in [...] dealing with animals – horses were probably at least as dangerous as cars are today [...].”²⁸ And Yuval Noah Harari, another historian, calls to mind that “In the 19th century, even the best doctors were not able to treat infections and stop gangrene. In field hospitals, doctors amputated soldiers’ arms and legs after even just minor injuries for fear of infection. These amputations and other operations (e.g. pulling a tooth) were, of course, carried out without anesthesia. It was not until the mid-19th century that anesthetics such as ether, chloroform and morphine came into regular use. Before the discovery of chloroform, four soldiers had to hold their wounded comrades while the doctor sawed off an injured leg. The morning after the battle of Waterloo in 1815, there were mountains of sawed-off limbs next to the field hospital. The medical corps often employed carpenters and butchers, since they were the best to deal with knives and saws.”²⁹

27. For example: Braudel, Fernand (1981): *The Structures of Everyday Life: The Limits of the Possible*. London: Collins. (Originally in French: *Les structures du quotidien*. 1967). Stone, Lawrence (1979): *The Family, Sex and Marriage in England 1500-1800*. London: Penguin. The historian Yuval Harari of Hebrew University of Jerusalem explains this more clearly than anyone else in his recent bestseller: “Eine kurze Geschichte der Menschheit”

28. Stone, Lawrence (1979): *The Family, Sex and Marriage in England 1500-1800*. London, 62 et seq.

29. Harari, 327

Generational Ethics and Philosophy of History – Consensus and Disagreement

The notion of ‘progress’ is of great importance to both the philosophy of history as well as to generational ethics. Welfare ethics ascribe an intrinsic value to well-being. An empirically determinable phenomenon therefore receives normative value. It follows, according to the time perspective, that any living generation should increase the wellbeing of all ‘moral patients’ (here: generations, including their own). Here, however, we arrive at the first variance from the naive optimism about progress displayed by the philosophers of history who welcomed only the progressions *brought about by science and technology*. For generational ethicists, *progress in science and technology* is merely a sub-goal, that is, commendable insofar as it contributes to the *progress in human welfare*. The downsides of an unreflective use of technology and the dangers of ethically irresponsible scientific research, such as nuclear or genetic research, are generally deplored. It may be necessary for reasons of caution to brake or steer the progress of the sciences in this regard. The belief in a better world through technological progress has begun to crumble in the 20th century. However, this should not lead to the empirically false assumption that the welfare of the average individual on the planet is *currently* sinking. The constant and correct repetition that, for the first time in history, humanity is capable of utter self-destruction (e.g. by nuclear weapons or environmental disasters) should not lead to the mistaken conclusion that already today, fewer and fewer people are having their basic needs met. Since the late 1970s, the HDI has been calculated for almost all of the world’s countries. At a global level, it has risen steadily. This is not only true for the “developed” parts of the world, but even more so for poor countries. If the variance is assumed to be constant, our present era is the most attractive in history until now. The stakes have grown, and mankind is under the wire, but it has not yet crashed.

The biggest disagreement among philosophy of history and generational ethics is the question of whether or not the future is predetermined in any meaningful way. Even though an ethicist conceives of obligations towards posterity, she does not have to say anything about whether there will be more or less intergenerational injustices in the future. The ethicist makes neither an optimistic nor a pessimistic statement about the future. She makes no forecast at all. Generational ethics as a discipline never predict what is going to happen, but only what we should be doing. Since generational ethics aims to identify morally right actions, its implicit premise is that the future is, at least in principle, open to human intervention. This is also the standard view of historiographers nowadays. Harari writes: “A single path leads from the past to the present, but in the future there lies an infinite variety of possible paths. Some are wider and better signposted than others, which is why we strike them with greater probability, but often history takes completely unpredictable twists. [...] There are certainly scientists who find deterministic explanations for events such as the rise of Christianity. [...] Historians consider such deterministic theories with a large dose of scepticism. This is exactly what distinguishes the science of history: The more you know about a historical period, the more difficult it is to explain why the events took this course and no other. Those who only superficially know an era only recall the options that were eventually realized, and can easily explain in retrospect

why this development was not to be avoided. Those who know more about a particular era also recognize some of the paths that were not taken. [...] It's no different today. If we look to the future, we may ask for examples: [...] are we heading towards an ecological catastrophe or a technological paradise?"³⁰ Historiography is primarily retrospective, not prospective. It does not extrapolate history into the future. Instead, it shows the possibilities for humanity at different times.

Conclusion

First, the attempt to incorporate generational ethics/future ethics into teleological concepts of history, *thereby reviving the latter*, is bound to fail from the start. The teleological concepts of history could only be revived if our understanding of science were reduced to how it was in the 18th century. No one can seriously want this.

But what about the other way around? Would generational ethics/future ethics benefit from incorporating teleological concepts of history if itself stayed the 'lead discipline'? Yes, it makes sense that the currently booming generational ethics should not only note the knowledge of the historiography (of course, this is primarily important), but also the speculations of teleology of history because they may prove to be somewhat informative. Core questions of such a research program would then be about how the *futures* described in historical-teleological concepts ought to be, are intended to be, or whether they are, simply, impossible. These futures should be assessed but not forecasted by ethicists. This pool of futures ranges from Condorcet's highest level of human development to Marx's classless society. These possible futures are supplemented by the visions of society designed by great thinkers from the past, when the unknown was undiscovered space on the map, instead of future time. The pool of futures is supplemented by the creative utopists, for example; Morus, Campanella, Bacon, Harrington, Zamyatin, Mercier, Huxley or Orwell. Here is a wide, fallow field for generational ethics.

30. Harari (2013), 290

Democracy and intergenerational justice

Democracia e justiça intergeracional

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DEMOCRACY AND INTERGENERATIONAL JUSTICE¹

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It is taking place at a time of severe crisis, in which the hardest hit – beyond the elderly – are young people, who inevitably begin to understand the unconcerned way in which current generations have viewed future ones and, consequently, how the absence of Law has allowed this intergenerational situation to be forgotten.

Today, we better understand the fact that the world's democracies are facing a structural problem: they tend to favour the present over the future, which can lead to a collision with the imperatives of balance and intergenerational justice. We should, therefore, seek to find ways of reconciling democracy and intergenerational justice, institutionalising the interests of future generations in today's decision-making process. We should not forget that this attempt to protect a future that is open, uncertain and insecure and to allow the formation of intergenerational ties depends on accepting uncertainties in decision-making processes, since the situation is so dynamic and changeable for many reasons that forecasts, studies and diagnoses cannot be unchanging or reliable.

In The Field Of Principles

Concern with future generations certainly stems from the greatest principle of our legal system – **the dignity of the human person**. It requires a minimum living standard for human beings, with pillars in the quality of life and well-being of individuals and groups, dignity that should be maintained over time and includes concern with and respect for others, even if they do not exist.

The Portuguese Constitution does not refer to the rights of future generations, but it expressly mentions the **principle of intergenerational solidarity** in Title III, Economic, social and cultural rights and duties – in subparagraph d), paragraph 2 of Article 66 (*Environment and quality of life*). The principle of solidarity involves protecting the interests of future generations, requires that preventive measures are adopted, and justifies applying other principles such as

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the principle of liability and the use of the best technologies available. The **principle of sustainability**, which has direct, immediate reflections in matters of intergenerational justice, is also expressly enshrined in the Constitution: it is laid down as a fundamental task of the state in paragraph e) of Article 9.

During the 11th legislature – the last legislature in which the Assembly of the Republic assumed powers of constitutional revision – the draft revision of the Constitution submitted by the Social Democratic Party sought to take a further step towards protecting future generations. It proposed enshrining a general clause overseeing the interests and expectations of future generations, adding the promotion of intergenerational solidarity as a fundamental task of the state (in Article 9), which would mean extending this principle to all areas of state intervention, rather than being limited to environmental issues.

(The constitutional revision process lapsed when the Prime Minister José Sócrates resigned in 2011, leading to the dissolution of the Assembly of the Republic and the end of the 11th legislature).

In Practice

It is clear that establishing ties with the generations who succeed us means limiting our current desire for power and usage. But in reality there are still not adequate mechanisms to incorporate the interests of future generations in today's decision-making processes.

Conflicts between the interests of present and future generations are likely in two fields: the environment and financial policy. Traditionally, they were focused exclusively on environmental issues but, today, widening the discussion to financial issues is particularly important.

(1) To start with, the decisions about public spending and creating debt taken by the “generation in power” may represent a choice by the current generation of voters to live at the expense of those who are still too young to vote, which may mean breaking the intergenerational pact. In other words, the people who pay the fundamental costs of excessive indebtedness do not contribute in the precise moment of electing those who make the decision to use credit.

(2) Another example that illustrates the situation is related to the transfer of private pension funds to the state sphere, both from the banking sector and from certain public companies. Such operations provide a financial increase that makes it possible to satisfy the concerns of electors in the short term, by increasing availability for consumption and reducing budget deficits, without apparent drawbacks or costs. However, transferring those funds involves accepting a large obligation that will have repercussions in the future of new generations.

(3) As regards social security, too, the current system, in which current generations provide for the pensions of previous generations, is condemned to a limited lifespan because of demographics. The joint effects of low birth rates and

significant increases in average life expectancy mean that there are fewer and fewer people in the active population to pay social security and more and more retired people living on it. This structural cause is today joined by the effects of the crisis and the absence of growth that lead to decreased revenue for social security, due to company bankruptcies and unemployment, and increased social expenditure. In fact, our social security is based on generational solidarity and, essentially, it is being rendered unviable by structural changes introduced by our society's demographics (and also by the effects of the economic and financial crisis).

The Importance Of Intergenerational Solidarity And Long-Term Governance

To a certain extent, today's generation exerts power over future generations and has the chance to deplete resources in such a way as to deny future generations' rights, freedom and autonomy. And there is no way for the future to control the present. Furthermore, the current generation even exercises power over the existence of future generations.

It is here that the idea of community becomes useful, because within a community members of the collective find "a sense of identity that spreads across time". Therefore, justice considerations apply to relationships that go beyond the present ones.

Perceiving ourselves as a collective whole, it is easy to argue that we are obliged to be concerned about the fate of people in future generations. But the question is how and to what extent our present actions and decisions must be oriented to the future.

The key idea is that each generation receives a legacy from those before it and makes its contribution to those that follow, making investments that include education, science and culture (John Rawl's "*Theory of Justice*" and the "just savings" principle). Instead of breaks between generations, it is essential for there to be an agreement on the way to coordinate justice in the present with the promotion of just institutions in the future.

It is therefore up to the bodies that represent citizens – national parliaments and governments – to assume the function of taking precautions for the sustainability of present generations but also to perform its activities focusing on guaranteeing the sustainability of new and future generations. In other words, Law and public policies should go beyond short-term concerns and assume the responsibility of taking precautions for the future by identifying and minimising their impact on the living conditions of future generations. They should also focus on and be geared towards the future, with the aim of ensuring improvements in future generations' living conditions.

The right to intergenerational equity should, for all these reasons, be enshrined

in the Constitution to make it compulsory for it to be provided for and sustained, with the natural limitations that the unpredictability of the future always holds. This is the only way, by taking on the duty to be stricter with ourselves, that we can be fairer to those who come after us.

The ombudsman and the promotion and protection of
human rights – The present and the future

O provedor de justiça, a promoção e proteção dos
direitos humanos – O presente e o futuro

JOSÉ DE FARIA COSTA

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THE OMBUDSMAN AND THE PROMOTION AND PROTECTION OF HUMAN RIGHTS – THE PRESENT AND THE FUTURE

O PROVEDOR DE JUSTIÇA E A PROMOÇÃO E PROTEÇÃO DOS DIREITOS HUMANOS – O PRESENTE E O FUTURO

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1. Ethical Commitment Of The Ombudsman

The Ombudsman is an independent state body with its institutional framework upheld by the Constitution and whose mission is the protection of the intangible heritage of the community, anchoring its democratic legitimacy in the election by the Parliament.

The strong bond that connects him to the parliamentary Institution and to the citizen which avows itself as the primeval foundation of the Ombudsman's nature, is embodied in the first instance by the requirement of a qualified majority for his election - that ensures a greater array of social representation - and is strengthened everyday by his informal and close action in the relentless pursuit of a fair settlement through the reestablishment of legality.

The Ombudsman emerges from the genuine sense of the community for the protection of fundamental rights, supported in the bulwark of human dignity concerning the exercise of public powers, and shares with the Parliament the duty of supervising the activity of the executive power, albeit limited to administrative issues.

It is from this axiological dimension that the ethical commitment of the Ombudsman to Parliament and with his co-citizens emanates. Strong commitment that permeates through the legal construction of the state body and is expressed by his actions in defense of the community.

The hyper-complex social relations increasingly porous and dynamical require that everyone - and primarily those who are invested in a public function - guide their actions by the horizon of having an ethic of responsibility. Responsibility primarily before the legitimizing referent - the Constitution and the parliamentary election - but also towards the citizens who expect the Ombudsman's uncompromising defense of their rights, freedoms and guarantees.

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2. Achieving The Ethical Commitment In The Development Of The Activity Of The Ombudsman For The Promotion And Protection Of Human Rights.

The ethical commitment and responsibility signifies a new approach towards the actions of those who, like the Ombudsman, must provide for the realization of the human rights. Though, no longer is sufficient to foresee to provide, i.e. it is not enough to have the ability to anticipate possible sources of conflict and tension between citizens and public authorities. Today, unlike the past, it is essential that, at first, we must reflect on the reality of the people. And this implies to comprehend. Comprehend the everyday life, the stage where the rights or their offenses vivify. Comprehend the “I” of the citizen but also the “we” molded by the community and organized as a state.

This demanding reflective act, stripped and immune to preconceptions and prejudices, establishes a new paradigm of practice: comprehending to provide.

For this reason the Ombudsman - assumed as an organ of the State but also as a person - can not be alienated from the concreteness of life for the reason that only immersed in it he will be able to hear the expressions of discontent and to understand their reasons.

The discontent, dissatisfaction or even sadness are revealed in many ways and by various means. The primal source of that revelation is the complaint to the Ombudsman. Complaint where the citizen expresses his dissatisfaction towards the actions or omissions of the public authorities and that is, at the same time, the most formal of the informal means at his disposal - because it is not needed particular procedural solemnity, but in the other hand it is crystallized in the legal texts and is intrinsically linked to the genesis of the Ombudsman.

Despite the importance of the complaint, the Ombudsman can not limit his actions to the impulse of the citizen. The mission of the Ombudsman also requires that he is especially alert to their feelings, even when those feelings, because diffuse and fluid, are not materialized in a complaint.

Not infrequently, the citizen, because he will not, or does not know how or can not, materializes his disappointment or his grievance against the actions of public authorities in a formal complaint. This feature does not fall out of the spectrum of the Ombudsman's actions or concerns. To these expressions of genuine feelings from the citizens - as authentic and relevant as they are - we call lamentation - the Ombudsman must correspond with the proper attention.

But this time characterized by risks, paradoxes and ambiguities, the Ombudsman can not fail to act when, despite the silence, injustice is revealed before him. In this circumstance, the action of the Ombudsman, tempered by consideration of the reasons and the adequacy of the means, is a factor of assurance of citizen's rights. The Ombudsman has to apprehend the reality by his own initiative and can not be immobile or unmoved by the events.

2.1 The uniqueness of the power of the Ombudsman

The power of the Ombudsman arises in the framework of a democratic state ruled by the law as a singular power different from the classic trilogy separation of state powers - legislative, executive and judicial - for which the Ombudsman

is not entitled to govern legislate or judge.

His powers anchored in the community are accomplished through formal and informal channels, particularly the recommendation, suggestion, call to attention or composition of interests in the search for alternative solutions which encourage conflict resolution. That being said the power of the Ombudsman is a strong power - as paradoxical as it may seem – as it is inscribed in the historical matrix of the Ombudsman, who maintains the dialectical relationship with the public administration and protrudes in an exercise of a magisterium of influence, enabler of greater latitude of action, allowing the consensus.

It is in this greater latitude for action, freed from the corset of form or sanction, where we can find the strength of the Ombudsman's power. Subtracted from the traditional logic of state powers, the power of the Ombudsman is developed in another horizon. Spreads out precisely where the concrete justice could not be achieved within the formal system, and where the stiffness of the normative and institutional frameworks does not correspond with the appropriate solutions.

3. New Horizons Mission Of The Ombudsman

3.1 The Ombudsman as a National Human Rights Institution

The community entrusts the Ombudsman with the primary mission of upholding justice and legality. Albeit, we can identify since the institution of this State Body a distinctive constituent of the classic figure of the Ombudsman. And that distinctive component adds a new dimension to the responsibilities of the Ombudsman directed to the primary purpose of ensuring fundamental freedoms and rights.

The Ombudsman's field of intervention, revealed by the constitutional background that consecrates his institutional figure and developed by his legal statute, extends beyond the verification of the acts or omissions of public administration and the eventual mending of injustice or illegality. It extends from the outset of a functional point of view, to the entire material administrative activity, i.e. all entities, regardless of their nature, exercising public powers.

However, precisely because the evolution of the state organization in relation to the provision of services to citizens and to the community has changed completely over the past decades – moving to the sphere of private interactions areas of the communitarian life that previously were in field of the relationship between the state and its citizens - the legal norms provide that the Portuguese Ombudsman can intervene in relations between private entities that imply a special relationship domain, under the protection of fundamental rights.

From this we can conclude that the establishment in the Portuguese legal system of the Ombudsman was innovative because it is distinct from the traditional archetype, as he is considered a Human Rights Ombudsman. Therefore, the Portuguese Ombudsman is a National Human Rights Institution accredited within the United Nations, with the "A" status (fully compliant), according to the Resolution of the General Assembly of the Organization-chela, of December 20, 1993, which was known for shaping the Paris Principles.

In the particular Portuguese case, the Ombudsman, with democratic legitimacy resulting from the parliamentary election, is only bound to the Constitution and to the protection of fundamental rights. This intimate connection to the fundamental axiological building of the Portuguese society mirrors as well, and unequivocally, that it is an organ that represents a guarantee of fundamental rights. The Portuguese Ombudsman is presented to the community as a server for Justice and Law, carrying with him the defense of human rights as referential matrix, solidifying, through its action, a democratic culture based on the stronghold of human dignity.

3.2 What meaning can we find in the Ombudsman in times of crisis?

In a Democratic State the bond that unites the citizens to the state - based on a sense of belonging and trust - form the solid foundation upon which a community can be built. To cherish this tie, especially in times of crisis, is particularly relevant in the action of the Ombudsman, because the institutional nature of this figure, but also the human dimension that it involves constitute a trust factor. Trust that is fundamental in any democratic society and that trust is severed is a source of vulnerability and defenselessness, reaching more acutely those who by the lack of resources and social support are exposed to increased risks of exclusion.

4. The Promotion And Protection Of Human Rights In Under The Perspective Of The Present And The Future

It is in these institutional and social circumstances that the Ombudsman, constantly aware of an increasingly complex society, has to operate promoting and defending human rights. Rights that are anchored in the historical past but have an intrinsic connection to the future. I.e., all the preventive or corrective actions do not end in a single moment, rather through a temporal continuum where we find the reasons and effects of the act.

And this point is particularly important because it is one of the factors that should guide, without condition, the action of the political and social actors in their primal task of promoting and defending human dignity.

Recognizing that the cultural and democratic pluralism in which we live - that enriches us as a person and has a collective being - corresponds to different values, concepts and visions of the society, we find that there is a trend towards the polarization of thought and action in defense of a time that runs out in a single moment. One of the signs and tensions of the late modernity we live in, full of risks and uncertainties, is the intensification of conflicting currents that find exclusively in the present or in the future the alpha and the omega of the choices of our community.

The continuity of time and the effect our actions in what exists and in what is to come require that we go beyond a binary view of exclusionary ways and seek a path to build a society that does not extinguishes itself in the today or that does not projects in the tomorrow. Certainly the continuous advancement of science and technology showed that future generations are vulnerable to our policies and

actions, but it is no less true that this same scientific, technological and social advancement, which only exists because the community cares for whom in the present makes it possible, enables us not only to understand the meaning and scope of the long-term consequences of these policies, but also the ability to affect their results.

The promotion and protection of human rights starts, necessarily, in the present moment, because it is in the concrete life of each person where we can find their true meaning. The enjoyment of politic, social, economic, cultural rights by citizens may not, under penalty of the disaggregation of our community, be dwarfed in the name of an unforeseen future. On the other hand, a community that closes itself in an autistic way to the frenzy of instant gratification compromises the idea of perpetuation that all communities share.

In a final comment it is important to stress the strong idea that we are all slaves of history.

Each of us, in our uniqueness and in our relationship with others, participates in the construction of the axiological building of our community. This participation demands freedom and responsibility: this is the dialogical axis that legitimates the choices made by the community and that will serve as a reference for future generations.
