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PHILIPPE VAN PARIJS

The Disfranchisement of the Elderly, and Other Attempts to Secure Intergenerational Justice

In 1970, a visiting professor at the University of California, San Diego got very impatient at the conservative retirees flocking into Southern California and trying to impose their values, with Governor Ronald Reagan's help, upon the University of California's emancipated students. So impatient was he that he published in *The New Republic* an article charmingly entitled "Disfranchise the Old." Here is its trenchant conclusion:

There are simply too many senile voters and their number is growing. The vote should not be a privilege in perpetuity, guaranteed by minimal physical survival, but a share in the continuing fate of the political community, both in its benefits and its risks. The old, having no future, are dangerously free from the consequences of their own politi-

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cal acts, and it makes no sense to allow the vote to someone who is actuarially unlikely to survive, and pay the bills for, the politician or party he may help elect. . . . I would advocate that all persons lose the vote at retirement or age 70, whichever is earlier.¹

One generation later, the concern that the elderly are becoming politically too powerful has taken, in a number of countries, unprecedented proportions. The main fear is no longer that the elderly may be animated “by a desire to see old prejudices vindicated” (ibid.), that they may use their electoral strength to impose their values. It is rather that they may use it in excessive manner to benefit their unavoidably short-term self-interest. Such a fear has found countless expressions in the last two decades,² in some countries far more and earlier than in others, and sometimes no doubt in an overblown sensationalist form.³ I shall not attempt to assess to what extent such fears are justified. I shall simply take for granted that there is a problem of this sort,⁴ and use the latter for illustrative purposes in order to stimulate thinking on the fol-

1. Douglas J. Stewart, “Disfranchise the Old,” *New Republic* 29, no. 8 (1970):20–22.

2. Here are just a couple of typical formulations: “In an aging population, the great danger is that the electorate will become more and more focused on the short term, for there will eventually be fewer and fewer voters who are parents of young children and more who are concerned with having the state provide either for their own aged parents or for themselves in retirement” (Phillip Longman, *Born to Pay: The New Politics of Aging in America* [Boston: Houghton Mifflin, 1987], p. 143). “But the elderly are growing both richer and more numerous, and unless something is done to curb their expanding political power, programs to benefit them may yet become untouchable” (Alexi Bayer, “Let’s Give Parents an Extra Right to Vote,” *New York Times*, 4 May 1997).

3. Binstock describes and denounces some aspects of this in the U.S. (Robert Binstock, “Transcending Intergenerational Equity,” in *Economic Security and Intergenerational Justice: A Look at North America*, ed. T. R. Marmor, T. M. Smeeding, and V. L. Greene [Washington, DC: The Urban Institute Press, 1994], pp. 155–85). Several other essays in Marmor, et al., eds. (ibid.) reflect on why this issue became more salient in the U.S. than in Canada. The age-inclusiveness of Canada’s health-care system (in contrast to the restriction of Medicare to the elderly) and the far greater inequality among the elderly in the U.S. (and hence the conspicuous affluence of some of them) are likely to have played an important role.

4. In doing so, I put myself in good company: “For example, there are sensible proposals for what should be done regarding the alleged coming crisis in Social Security: slow down the growth of benefit levels, gradually raise the retirement age, impose limits on expensive medical care for only a few weeks or days, and finally, raise taxes now, rather than face large increases later. But as things are, those who follow the ‘great game of politics’ know that none of these sensible proposals will be accepted” (John Rawls, “The Idea of Public Reason Revisited,” *The University of Chicago Law Review* 64 no. 3 [1997]:765–807).

lowing more general question. Suppose we know what social justice is, what political institutions should we attempt to put into place in order to achieve it as closely and safely as possible?⁵

FOUR ASSUMPTIONS

More precisely, I shall make four basic assumptions, one of a normative nature, three of a factual nature, which jointly cause the illustrative problem to arise. First, I shall adopt a conception of intergenerational justice that requires each generation, each birth cohort, to make sure the situation of the next generation—somehow measured, on a per capita basis—is no worse than its own. This requirement follows, for example, from a general conception of social justice as a liberty-constrained maximin. According to this view—one version of which I present and defend in *Real Freedom for All*—social justice demands that, subject to the protection of certain individual rights, the worst off should be as generously endowed with socioeconomic advantages, resources, opportunities, real freedom (or whatever other magnitude is chosen to express a person's "situation") as is sustainably feasible across successive generations.⁶

5. The intergenerational dimension I found a particularly interesting aspect of this more general question, but the fact that this article focuses on it should not be taken to imply that I regard other aspects—for example, justice between wealth or skill categories, or between genders, ethnic groups, or regions—any less important. See Philippe Van Parijs, "Justice and Democracy: Are They Incompatible?" *Journal of Political Philosophy* 4, no. 2 (1996):101–17; Van Parijs, "Should the European Union Become More Democratic?" in *Democracy and the European Union*, ed. A. Follesdal and P. Koslowski (Berlin and New York: Springer, 1997), pp. 287–301; and Van Parijs, "Power-Sharing versus Border-Crossing in Severely Divided Societies: A Comment on Horowitz," in *Designing Democratic Institutions. Nomos* 41, ed. I. Shapiro and S. Macedo, forthcoming, for an exploration of some of these other dimensions.

6. Along these lines, see, e.g., John Rawls, *A Theory of Justice* (Oxford: Oxford University Press, 1972), pp. 284–93; John Hartwick, "Intergenerational Equity and the Investing of Rents from Exhaustible Resources," *American Economic Review* 66 (1977): 972–74; Brian Barry, "Justice Between Generations," in Barry, *Liberty and Justice* (Oxford: Oxford University Press, 1989), 242–58; and Philippe Van Parijs, *Real Freedom for All: What (if Anything) Can Justify Capitalism?* (Oxford: Oxford University Press, 1995), pp. 38–41. The conception of intergenerational justice that follows from this view is significantly different from the more generous "solidaristic" conception of Léon Bourgeois, *Solidarité* (Paris: Armand Colin, 1902), which requires each generation to improve the situation of the next one just as previous ones contributed to improving its own situation. It is also crucially distinct from the meaner "equal exchange" conception which provides much of so-called "generational accounting" with a simple ethical ideal of equal "benefit ratios" (see, e.g., A. J. Auerbach, J. Gokhale, and L. J. Kotlikoff, "Generational Accounts: A Meaningful Alterna-

Secondly, I shall assume that, to an extent that may vary greatly from one industrialized country to another, unchanged socioeconomic institutions are leading to a major injustice being inflicted to future or younger generations. One dimension of this impending injustice relates to the depletion of natural resources and long-term environmental damage. It has become clear enough that the way of life of the industrialized countries is not sustainably generalizable to the whole of mankind, and hence that major changes are required to plausibly meet the requirement that "as good" be left for the next generation as patterns of consumption and production spread throughout the world. A second dimension of impending injustice stems from the fact that, as life expectancy keeps growing and medical techniques become more sophisticated, old-age pensions and medical care for the retired absorb a share of the Gross National Product (GNP) that rises rapidly. Even if this share rose so steeply that people of working age would end up far worse off than retirees, intergenerational injustice, as characterized, would not necessarily be present. No more may be involved than each cohort treating itself to a more comfortable old age in exchange for a more Spartan youth. But this thought cannot provide much relief if the resulting shifting of burdens to the active population is unsustainable—as is emphatically argued for a number of countries. Subjected to taxes and social security contributions whose revenues are disproportionately geared to the old, it is claimed, men and women of working and procreating age increasingly find that they lack the money and/or leisure to have the children who will pay for their own pensions.⁷ It is not just that the bag gets bigger: the swelling of the bag makes the carrier shrink. It is therefore possible—indeed perhaps, as we shall see, politically unavoidable—to postpone the adjustment, but not indefinitely. Hence, whether smoothly or brutally, cohorts will stop being compensated for

tive to Deficit Accounting," *Tax Policy and the Economy* 5 [1991]:55–110, and Lawrence J. Kotlikoff, "Justice and Generational Accounting," in *Justice Across Generations: What Does It Mean?* ed. L. M. Cohen [Washington, DC: American Association of Retired Persons, 1993], pp. 77–93). But those who are committed to either of these alternative conceptions of intergenerational justice should find the considerations below no less relevant to their concerns.

7. As pointed out by Claus Offe ("Zusatzstimmen für Eltern. Ein Beitrag zur Reform von Demokratie und Wahlrecht?" in *Zukunft wählen—Zusatzstimmen für Eltern?*, ed. G. Grözinger and H. Geiger [Bad Boll: Evangelische Akademie, 1993], pp. 1–26, 9), in countries in which pension levels are highly sensitive to the completion of a full working career, this phenomenon is further amplified as a result of women giving up the idea of having (more) children because of a cost in pension rights far more than proportional to the immediate loss in earnings.

their rougher youth by a cosier old age, and the growing burden of the older age group for the younger one will reveal its underlying nature: that of an injustice between successive cohorts.

Thirdly, I shall assume that the political feasibility of a reform that would prevent such injustices is exceedingly problematic, given how our democracies are currently organized. Why? The age of the median elector—the person who is exactly in the middle when people entitled to vote are ranked from the oldest to the youngest—has kept rising steadily and is expected to keep rising. In a typical West European country such as Belgium, the age of the median elector was about 41 in 1980. It has now become 45 and is expected to rise to 56 by 2050. Between now and 2050, the gap between the median elector's age and the standard retirement age of 65 is therefore expected to shrink from 20 to 9 years, while the remaining life expectancy at 65 is expected to rise from 14 to 21 years.⁸ Hence, the median elector—whose preferences power-hungry parties are out to satisfy—will soon be expecting to spend in retirement well over two thirds of her remaining life.⁹ And the significance of this rising trend in the median *elector's* age is further strengthened by a strong and widely documented correlation between voting turnout and age, which makes the median voter systematically older than the median elector.¹⁰ Unsurprisingly, political entrepreneurs have seized the new opportunities arising from this conjunction of factors. In some countries using proportional representation, new parties targeting the

8. Figures and 1998 estimates for Belgium (assuming an unchanged minimum voting age of 18) have been kindly provided by Paul-Marie Boulanger and André Lambert (ADRASS, Ottignies). The estimates are based on the assumptions of 1.55 children per woman, a net immigration of 0.1 percent per year, and a life expectancy gradually rising to its "natural limit" of 90 years.

9. Bear in mind that, in some European countries, the average effective retirement age for men and women was well below 60 in the 1990s. Moreover, between the time of a particular election and the time at which it has an impact on age-sensitive policies, there may be a considerable time lag. With a median electoral age of 56, an average retirement age of 58, and a 3-year policy lag, an absolute majority of the electorate can expect to be in retirement at the time their votes produce their effects.

10. In Switzerland's 1991 national election, for example, the turnout was 52 percent among the over-65s, while it was only 30 percent among those aged 18 to 23 and 44 percent among those 24 to 39 (Silvano Mückli, "Demokratische Struktur und Volksabstimmungen," Hochschule St-Gallen: Institut für Politikwissenschaft, 1993, p. 3. Also in *Hilfe, die Schweiz schrumpft*, ed. P. Füglistaler (Verlag Orell Füssli, 1994), pp. 13–25). In the U.S. 1992 national election, the turnout was 70.1 percent among the over-65s, while it was only 38.5 percent among those 18–20 and 45.7 percent among those 21–24 (Matthew C. Price, *Justice Between Generations: The Growing Power of the Elderly in America* [New York: Praeger, 1997], p. 82).

elderly have sprung up or are threatening to do so and thereby exert electoral pressure on established parties, who have had to readjust their platforms in order to retain the traditionally most reliable segments of their electorates. In corporatist countries, separate trade unions for the retirees have set themselves up and claimed a direct voice in the various bodies in charge of those policies that directly affect the aged. In lobby-prone countries, powerful organizations have had no difficulty raising adequate funds to put pressure on governments, representatives, and public officials in order to promote the adoption and implementation of aged-friendly policies.¹¹

Fourth, I shall assume that age-differentiated self-interest affects voting behavior to a significant extent. To this assumption, which is simply taken for granted in the alarmist literature on intergenerational justice, it has been objected that party preference hardly varies among age groups: in the U.S., for example, the over-60s share their votes between Republican and Democrat presidential candidates in pretty much the same proportions as younger voters (Binstock, "Transcending Intergenerational Equity," pp. 164–65). But this is a weak challenge, as this lack of correlation may simply reflect the fact that candidates were driven to converge to the same positions on age-sensitive issues. A more powerful challenge arises from surveys that show that the degree of support for the old-age pension system is about the same (and very high) among all age groups.¹² However, as long as the system is believed to be sustaina-

11. In the U.S., the lobby of the elderly has been a mass-based movement since the mid-1960s (Henry J. Pratt, *The Gray Lobby* [Chicago & London: The University of Chicago Press, 1976], chap. 4). It is far better organized than the family lobby, for example, despite the fact that there are nearly twice as many households with children as households of retirees (see Frank Levy and Richard J. Murnane, "Orphans of the Ballot Box," *The New York Times*, 6 June 1992, p. A23). With over 33 million members aged 50 or more, the American Association of Retired Persons (AARP) is the biggest organization in the U.S. apart from the Catholic Church. One out of four registered voters is a member of it, and it can count on the involvement of 350,000 active volunteers (Price, *Justice*, pp. 88–89). It may be true that, in the U.S. for example, the enactment of the major old-age policies is "attributable for the most part to the initiatives of public officials in the White House, Congress, and the bureaucracy," rather than to the lobby of the elderly (Binstock, "Transcending Intergenerational Equity," p. 165). But by no means does this prevent the aging of the electorate from significantly affecting the content of the platforms that candidates feel they have to put forward or the content of the policies that incumbents feel they can get away with adopting.

12. This was apparently the case through the 1970s and 1980s in the U.S. See Christine L. Day, *What Older Americans Think: Interest Groups and Aging Policy* (Princeton, NJ: Princeton University Press, 1990), pp. 41–52: "older people are nearly indistinguishable from younger adults (both middle-aged and younger categories) on most issues—including age policy issues."

ble, the simple fact that we shall all be old one day (if not too unlucky) suffices to reconcile these data with the assumption.¹³ On the other hand, even U.S. data show a significant negative correlation between age and attitude toward expenditure on education, and surveys in countries in which cash transfers for the young are more developed than the U.S. similarly reveal a sharp decrease in support for such programs as age increases.¹⁴ Moreover, voting at referenda on long-term ecological issues—such as whether or not a country should abandon nuclear energy—has been shown to be strongly related to age.¹⁵ Hence, there is at least some *prima facie* evidence showing that age-related self-interest affects voting behavior. Moreover, this impact is likely to grow as a result of a decline in the identification of older people with the interests of younger people. Such a decline can be expected in part because geographical and social mobility loosens the ties between generations, in part because both the proportion of households currently without dependent children and the proportion of people who are and will remain childless keeps increasing.¹⁶

The conjunction of our first two assumptions implies that some urgent action needs to be taken in industrialized societies in order to pre-

13. Support for the U.S. social security system (versus private old-age insurance) may of course also reflect, apart from age-group-sensitive interests, ideological stances about redistribution that are unevenly distributed across birth cohorts, depending on the economic and cultural contexts in which each of these grew up. This might upset any simple correlation between attitudes on transfer systems for the elderly and age-related interests even if the latter were certain to have a significant causal impact. (On the relevance of generations as cohorts on political attitudes in Germany, see Matthias Metje, *Wählerschaft und Sozialstruktur im Generationswechsel. Eine Generationsanalyse des Wahlverhaltens bei Bundestagswahlen* [Wiesbaden: Deutscher Universitätsverlag, 1994]).

14. On U.S. data, see Day, *What Older Americans Think*, p. 48. According to a Belgian 1982 survey, for example, support for higher pensions went up monotonously from 61 percent among the under-25s to 80 percent among the over-65s, while support for higher child benefits peaked at 52 percent among those 25–34 and dropped to 31 percent among the over-65s (Paul-Marie Boulanger, “Vieillessement et gérontocratie dans une constitution démocratique,” in *Populations âgées et révolution grise*, ed. M. Loriaux, D. Remy, and E. Vilquin [Louvain-la-Neuve: CIACO, 1990], pp. 971–81, at p. 979).

15. In Switzerland’s September 1990 national referendum on this issue, 47 percent of all those taking part voted in favor of the proposal (which was therefore rejected), compared with 57 percent among the voters aged 30–39 and 64 percent among those aged 18–29 (Möckli, “Demokratische Struktur,” p. 5).

16. In the U.S., the proportion of households with children under 18 has declined from over half to slightly over a third between the 1950s and the 1990s (Levy and Murname, “Orphans of the Ballot Box”).

vent major intergenerational injustice. The conjunction of our last two assumptions implies that we cannot reasonably expect such action from their democratic systems, because of the growing weight of increasingly selfish elderly voters. If we care about intergenerational justice, what should we do? Reshape our democratic institutions in such a way that our last two assumptions become less true, i.e., in such a way that older members of the electorate either possess less power or exercise it less selfishly.

THE RAWLS-MACHIAVELLI PROGRAM

This institutional engineering for the sake of intergenerational justice can be viewed as a facet of a more general social-justice-guided consequentialist research and action program, which could be described as a combination of “Rawls” and “Machiavelli.” The “Rawls” component refers to a publicly defensible vision, an explicit conception of social justice—including intergenerational social justice—that articulates equal respect and equal concern, typically in the form of a liberty-constrained maximin. Unlike the real Rawls, however, the “Rawls” component of the program I shall here illustrate does *not* stipulate anything by itself about political institutions—not even universal suffrage—and it does not assume any sharp dichotomy between self-interested economic behavior and sense-of-justice-guided political behavior.¹⁷ The “Machiavelli” component, on the other hand, refers to an approach to political institutions that aims to shape them in such a way that those acting within them will end up generating the “right” collective outcome, even though they may be moved by little else than their own private concerns. Unlike the real Machiavelli of the first few chapters of the *Discorsi*, however, this “Machiavelli” component of the program to be discussed does not try to design the rules of the political game so as to foster the greatness of the city, but so as to promote the achievement of social justice, as defined by the “Rawls” component.¹⁸ Bearing in

17. See Rawls, *Theory of Justice*, pp. 60–61, 223–24, on the (slightly qualified) immunity of universal suffrage and eligibility from consequentialist consideration, and *ibid.*, pp. 199, 359–61, 454 on the sharp contrast between the motivational assumptions required within market and democratic institutions. In a less than ideal political world, however, Rawls (*ibid.*, pp. 57, 198) allows this contrast to lose its sharpness.

18. See Niccoló Machiavelli, *Discorsi sopra la prima deca di Tito Livio* [1517], in N. Machiavelli, *Opere*, ed. E. Raimondi (Milan: Mursia, 1969), pp. 69–342, at 81–92; and Quentin

mind this exegetically unwarranted trimming, the two components slot perfectly into each other and their combination defines the program, which it is the central purpose of this article to test, using intergenerational justice as an illustration.¹⁹

This test will be twofold and can be spelled out as follows. Suppose we know what social justice is (“Rawls”) and are worried about the ability of our current democratic arrangements to deliver, for example along the intergenerational dimension, what social justice requires. How much potential is there for improving our polity’s performance in this respect, not through high-minded preaching but through shrewd tinkering with features of the constitution or other measures that will improve the outcomes of the political process, without relying on the moral improvement of citizens and legislators (“Machiavelli”)? This is a factual question, partly empirical—to be settled, insofar as it can be, by assessing the comparative and historical evidence on the impact of potentially relevant features of democratic design—and partly speculative—to be settled, as far as it can be, by examining arguments about the possible impact of more or less dramatic alterations, as yet untried, of the way our democracies are organized. The desire to find the best possible, unavoidably tentative answer to this question is the main motive behind the present inquiry. What is the point of dreaming up a splendid vision of the just society if our collective decision-making institutions are ill-suited to turn into reality anything resembling that dream? By raising questions more than providing answers, the main purpose of this paper is to illustrate the research program—social-justice-guided constitutional engineering²⁰—which is prompted by this concern. From

Skinner, *Machiavelli* (Oxford: Oxford University Press, 1981), pp. 64–71, for clear formulations of this consequentialist approach to constitutional design, formulations of which can also be found in David Hume, *Essays: Moral, Political and Literary* [1741] (Indianapolis: Liberty Classics, 1985), p. 42; John Stuart Mill, *Considerations on Representative Government* [1861], in *On Liberty and Other Essays*, ed. J. Gray (Oxford: Oxford University Press, 1991), pp. 203–467, at 298; and indeed Rawls, *Theory of Justice*, pp. 57, 198.

19. John Roemer made me aware of the fact that this program could be viewed as a special case of the intellectual ambition behind so-called implementation theory—the attempt to design payoff structures in such a way that the individual agents’ behavior will generate the socially preferred outcomes—at least providing one allows these outcomes to be characterized in nonwelfarist terms. Unlike implementation models with neat behavioral assumptions, however, our Rawls-Machiavelli program moves in the messy world of people “as they are or can realistically be made to be,” on the lookout for context-dependent local institutional improvements.

20. I shall be using the term “constitutional” throughout in a broad sense that encompasses all the rules of the political game, including those (such as some electoral rules or

this angle, the program will be successful if it turns out that the prospects for “Rawlsian” social justice can be made significantly brighter through the use of “Machiavellian” thinking. Fruitfulness in this sense defines the first test to which the program is being subjected.

Unavoidably, however, the program will at the same time be put to a distinct, philosophical test. For by giving the “Machiavellian” component total freedom to come up with any arrangement that would further the achievement of the goals defined by the “Rawlsian” component, one runs the risk that what it comes up with as its best bet will turn out to be, in reflective equilibrium, impossible to stomach. What is being put to the test of our considered judgments, in other words, is an uncompromisingly consequentialist approach to political institutions, in which democracy itself, however thinly defined, should not be taken for granted and in which anything goes, as long as the expected outcomes are the best we can hope for. The strategic inquiry, therefore, is simultaneously a philosophical inquiry. Picking the intergenerational dimension for illustrative purposes, this paper also investigates whether the ruthless consequentialism inherent in the program generates any outcomes which one should be embarrassed by.²¹ Put differently, watching the program at work may make us deny it our support on two distinct grounds: because it proves fruitless, unable to generate any promising nontrivial proposal, or because it proves repugnant, prone to make recommendations inconsistent with some of our considered moral judgments.

AGE-DIFFERENTIATED POLITICAL RIGHTS

How could our democratic institutions be altered in order to reduce the weight of the older generation? A first family of proposals consists of various ways of tinkering with the age condition for the exercise of political rights. One might first think of the right of eligibility, the age limits for access to public office. Just as “parity” has been proposed for gen-

the rules which govern the funding of political parties) which are not part of a country's constitution but of its ordinary laws.

21. I thereby pursue the inquiry I undertook, along other dimensions, in Van Parijs (“Justice and Democracy,” and “Should the European Union Become More Democratic?”). The uncompromising justice-consequentialist approach tested in this way is akin to the one sketched by Richard J. Arneson (Arneson, “Democratic Rights at National and Workplace Levels,” in *The Idea of Democracy*, ed. D. Copp, J. Hampton, and J. E. Roemer [Cambridge: Cambridge University Press, 1993], pp. 118–48).

ders²² and quotas for minorities,²³ one could conceive of introducing a statutory parity for the young and the old, or quotas for the various age groups in representative assemblies. One could, for example, require proportional representation for the under-25s,²⁴ or have a general system of age quotas,²⁵ or introduce a maximum age limit for holding an elected office (or lower that limit if there is already one in place). But this is hardly promising. Not because age quotas, unlike gender or ethnic quotas, would not serve the separate aim of equalizing opportunities. Nor mainly because quotas for the young would propel to the legislature people who have had little time to find out what the world is like, while the exclusion of the older would deprive the political system of the services of experienced, less ambitious, and hence less corruptible people who still have a lot to offer. But fundamentally because a strategy focused on representatives would not address the problem, which is not the aging of the representatives (whose average age may well have declined in many countries) but the aging of the electorate: whether old or young, those who want to be elected or reelected will have to promise and do what the aging electorate wants them to do.

The first family of proposals on which I want to concentrate therefore consists, more narrowly, in the age-differentiation of the right to choose, not of the right to be chosen. Its crudest member is the one advocated in the opening quotation: simply strike off the elderly's suffrage. But one can think of smoother methods than political death at age 70. If the objective is to reduce the median age, it is of course also possible to work from the other end. Minimum voting age was still around 25 in many countries at the end of World War II. It is now down to 18 in most of them.²⁶ But some countries have gone further. In Brazil and Nicaragua, voting starts at 16, in Iran at 15, and in 1994 Nelson Mandela

22. Mechtild Jansen, ed., *Halbe-Halbe: Der Streit um die Quotierung* (Berlin: Elefanten Press, 1986); Françoise Gaspard, Claude Servan-Schreiber, and Anne Le Gall, *Au Pouvoir Citoyennes: Liberté, égalité, parité* (Paris: Seuil, 1992).

23. Wilma Rule and Joseph F. Zimmermann, eds., *Electoral Systems in Comparative Perspective: Their Impact on Women and Minorities* (Westport, CT & London: Greenwood Press, 1994); Andrew Reynolds and Ben Reilly, *The International IDEA Handbook of Electoral System Design* (Stockholm: Institute for Democracy and Electoral Assistance, 1997), pp. 98–99.

24. Anne Phillips, *The Politics of Presence* (Oxford: Oxford University Press, 1995), p. 63.

25. Offe, "Zusatzstimmen für Eltern," p. 16.

26. Minimum voting age is still 19 in Austria and 20 in Switzerland, though (Joseph M. Vallès and Agustí Bosch, *Sistemas electorales y gobierno representativo* [Barcelona: Ariel, 1997], p. 53).

(unsuccessfully) proposed to go even further by fixing the voting age at 14 in the newly democratized South Africa.²⁷ In Western Europe, Germany is at the forefront. Since 1992, politicians from all parties are advocating the lowering of the minimum voting age to 16. In 1994, both the Greens and the (East-German) PDS included the proposal in their manifestos for the national elections. Several Länder have since implemented the proposal for local elections: Lower Saxony since 1995, Schleswig-Holstein and Saxony-Anhalt since 1997. Moreover, some academics and politicians have been arguing in favor of generalizing this measure to all elections and even of considering a further lowering of the voting age to 14.²⁸ Economic dependence and the inability to fully understand what is at stake cannot be prohibitive obstacles, they argue, for otherwise the electorate would be much slimmer than we currently allow it to be. Nonetheless, there are obvious limits below which it would be unreasonable to proceed, and the expected impact of any lowering of the age threshold of voting rights is strongly dampened by the low turnout of younger voters.²⁹

Instead of working either at the top end or at the bottom end, one can

27. *Ibid.*, p. 44; Jean-Pierre Perrin, "Un mollah outsider à la présidence de l'Iran," *Libération* 26 May 1997; and Robert Ludbrook, *Should Children Have the Right to Vote?* (Sydney: University of New South Wales: National Children's and Youth Law Centre, 1996), p. 19.

28. For a presentation and discussion of these ideas, see Klaus Hurrelmann, "Für eine Herabsetzung des Wahlalters," in *Jugend und Politik*, ed. C. Palentien and K. Hurrelmann (Neuwied: Luchterhand, 1997), pp. 281–90; Klaus Hurrelmann and Christian Palentien, "Jugendliche an die Wahlurnen! Argumente zur Verbesserung der politischen Partizipation der jungen Generation," *Diskurs* 2 (1997):38–45; Christian Palentien, "Pro- und Contra-diskussion zu einer Veränderung des Wahlrechts," in *Jugend und Politik*, ed. Palentien and Hurrelmann, pp. 290–300; and Hans Hattenhauer, "Über das Minderjährigenwahlrecht," *Juristische Zeitung* 1 (1996):9–16. The lowering of suffrage to 16 was also proposed by a New Zealand Royal Commission in 1986, by the UK's liberal democrats in the late 1980s and by the Australian Youth Organisation AYPAC in 1994 (Ludbrook, *Should Children Have the Right to Vote?*, pp. 18–19). More radical proposals for the extension of suffrage to all children had been made for example by John Holt (*Escape from Childhood* [New York: Penguin Books, 1974], p. 118); and Hubertus von Schoenbeck, "Deutsches Kindermanifest," in *Quellen und Dokumente der Antipädagogik*, ed. Ulrich Klemm (Frankfurt am Main, 1980). Many more modest proposals can also be found. For example, Campiglio ("Political Participation, Voting, and Economic Policy: Three Problems of Modern Democracies," in *Understanding Democracy: Economic and Political Perspectives*, ed. A. Breton, G. Galeotti, P. Salmon, and R. Wintrobe [Cambridge: Cambridge University Press, 1997], pp. 196–208, at p. 199) suggests that teenagers should have their own representatives (themselves not older than 30) with a political agenda restricted to "the problems of the young."

29. See Ursula Feist, "Niedrige Wahlbeteiligung—Normalisierung oder Krisensymptom?" in *Protestwähler und Wahlweigerer*, ed. Karl Starzacher, et al. (Cologne: Bundverlag, 1992); for Germany; Möckli, "Demokratische Struktur," p. 3, for Switzerland; Price, *Justice*,

work at both ends at the same time. This is in effect being done in a very differently motivated proposal by Friedrich Hayek. His aim is to make the members of the legislative assembly independent representatives of prevailing opinions of right and wrong, rather than spokespersons for particular interests. He therefore proposes that they should be elected every year, for a fixed and nonrenewable term of 15 years, among the people who reach the age of 40 in that year and by them. Since it would permanently block the median age at 40, this would be highly effective for our present purposes, on the background of an expected rise of the age of the median elector from 41 to 56 (see above). It would certainly be more effective than lowering the minimum age to 16 and even than introducing a maximum age at 70, while sounding less risky than the former and less discriminatory than the latter. Countless variants can be imagined with a similar impact. For example, candidates of any age could be elected for renewable terms of a standard 4-year length, but by an electorate consisting exclusively of those who have become 18, 38, 58, or 98 since the last election. (Since the over-98s are very few, the median age should be about the same as in Hayek's formula.) Any such formula looks less shockingly discriminatory toward the elderly than one in which they simply lose the suffrage at some given age, presumably because at each election some of the younger age groups are also disfranchised. But whichever variant is chosen, the proposal implies reducing—not necessarily to one, as in Hayek's formula—the number of occasions on which each citizen's interests and views are allowed to express themselves through elections. The fact that holes are being made in the electorate all over should of course not blind us to the fact that people are de facto deprived from a certain age of any electoral weight.³⁰

Altering the franchise—whether at the top, at the bottom or both—may be the most obvious, but it is by no means the only, way in which electoral weight can be shifted between age groups. A fourth proposal relies on the introduction of plural voting.³¹ It amounts to making the

p. 82, for the United States. Voter turnout is particularly low among those 16 to 18 in Brazil (Offe, "Zusatzstimmen für Eltern," p. 9).

30. Friedrich A. Hayek, *Economic Freedom and Representative Government* (London: Institute of Economic Affairs, 1973), Occasional Paper no. 39, pp. 19–21. Another, very different, way of working from both ends at the same time would consist (as suggested to me by Axel Gosseries) in introducing a competence test below and beyond a certain age, in such a way that a significant proportion of the under-18s would be enfranchised and a significant proportion of the over-70s disfranchised.

31. Stuart White and Andrew Williams suggested an analogous effect is achieved by attributing political power to an age-stratified random sample of citizens (at referendums

weight of a person's vote age-sensitive, for example by giving one extra vote to the under-60s³² or by giving a weight of 2 to the vote of an 18-year old and having that weight reduced by 1 percent every year,³³ or, most consistently perhaps, by making the number of an elector's votes proportional to her remaining life expectancy, each elector being entrusted with a proxy vote for her future selves.³⁴ It obviously makes a big difference whether these future selves are chopped up in small or big chunks, i.e., whether the remaining life expectancy is to be measured in months or in half-centuries. To keep things simple and moderate, one additional vote could be given for each quarter of a century of remaining life expectancy. Under current conditions in the U.S., for example, this would mean being given three votes at 18, losing one at about 27, and losing another one at about 55.³⁵

But let us think this through. If the underlying principle is that people should be empowered to influence decisions in proportion to the extent to which they are likely to have to bear the consequences of these decisions, then there is no reason not to differentiate further. For example, the average remaining life expectancy of American women reaches 50 years at the age of 30, and 25 at the age of 57, while that of American men is already down to 50 at 24, and to 25 at 52. If implemented, therefore, the proposal would give one more vote to women than to men in the 24–30 and 52–57 ranges, thereby further increasing female majorities in Western electorates. As this is unlikely to stop men from grabbing far more than an equal share of elected positions (and presumably paying the associated toll in reduced life expectancy), perhaps one should not feel sorry for them. However, it is not only gender but also the level of education, for example, which is strongly correlated with life expectancy. As the level of education is nearly as easy to ascertain as a person's gender, this suggests introducing through quite a different path the plural voting advocated by Mill (*Considerations*, pp. 335–37): if you have a degree, you'll get more votes, because this creates a presump-

or in assemblies), whose sampling bias favors younger age groups. (The coefficient of overrepresentation must equal the weight of one's vote in the parallel case of plural voting.)

32. Claimed by Jacques Lefèvre ("Le troisième âge: riche mais inexploité," *Le Soir*, 5 Aug. 1997, p. 15) to have been unsuccessfully put to a referendum in a Swiss canton.

33. Möckli, "Demokratische Struktur," p. 13.

34. Gerd Grözinger, "Achtung, Kind wählt mit! Ein Beitrag zur allmählichen Aufhebung der Diktatur der Gegenwart über die Zukunft," *Blätter für deutsche und internationale Politik* 10 (1993):1261–67, at 1265.

35. These are figures for 1994, derived, as are the figures in the next paragraph, from John W. Wright, *The New York Times Almanac* 1998 (New York: Penguin Books, 1997), p. 396.

tion, not that you are more competent, but that you will live longer and therefore should care more for the future. Why not? There is, however, another equally obvious but far more awkward implication. In the U.S., while white males reach a remaining life expectancy of 50 years at the age of 24 (and white females at 31), black males reach that same threshold at the age of 16. It follows, under the above proposal, that black males should never be entitled to three votes, reflecting the fact that they cannot expect to live over half a century as they reach voting age. Our “Machiavellian” component has no difficulty perceiving that such racial discrimination can hardly be expected to boost a country’s political potential for maximin policies, and the “Rawlsian” component is bound to say that this is simply unacceptable. But this need not kill all variants of the proposal. The fact that unequal socioeconomic conditions cause statistically identifiable categories of people to enjoy different average life expectancies cannot be allowed to justify giving a lesser electoral weight to the victims of these inequalities. But this need not prevent age—as a proxy for every category’s life expectancy in the absence of those inequalities—from being a legitimate criterion of differentiation. In the most promising variant, therefore, voting rights should shrink at the same pace, irrespective of race, education, and gender.

A fifth option consists in modifying the age structure of electoral power without touching the electorate, through working on the discrepancy between being entitled to vote and actually voting. I mentioned before that younger electors tend to vote in lesser proportions than older ones. To cancel or reverse this disproportionality, one could think of introducing asymmetric compulsory voting, with the younger voters paternalistically fined if they do not show up at elections, while the older electors would be exempted from this obligation.³⁶ If asymmetric incentives are thought to be cleaner than asymmetric coercion, one could design a suitably age-sensitive tax-and-subsidy scheme: while a poll tax would discourage the older from voting (without disfranchising them),

36. Similarly, in Nasser’s Egypt, both men and women had the right to vote, but only men the obligation (Asad Abukhalil, “Women and Electoral Politics in Arab States,” in *Electoral Systems in Comparative Perspective: Their Impact on Women and Minorities*, ed. W. Rule and J. F. Zimmermann [London and Westport, CT: Greenwood Press, 1994], pp. 127–37, at p. 131), and in Belgium, where voting is compulsory for Belgian citizens at all elections, E.U. citizens now entitled to vote for local councils and the European Parliament are only subjected to this obligation if they choose to register as electors.

a poll fee would bribe the young into voting (without obliging them to). A more subtle variant relies on the conjecture that the age of the candidates and of the elected may affect who, among the electors, will actually vote. The younger voters' comparatively low turnout may be partly caused by their feeling alienated from a political system run by people they do not regard as being of their own kind. Age quotas among the candidates and the elected may therefore matter after all, not for their own sake, but because of their indirect impact on the median voter's (as distinct from the median elector's) age.³⁷

A sixth possibility arises if each age group elects its representatives, or takes part in referenda, in separate constituencies. Use can then be made of the requirement that the adoption of a law requires not only an overall majority, but also majorities in some or all of the age groups. This sort of device has been in use as a form of minority protection in some ethnically divided societies, where a majority among the representatives of each ethnic group is required on issues sensitive to community relations (in Cyprus in 1960–63, in Belgium since 1970). Analogously, one could require each age group to elect its own representatives—possibly but not necessarily among candidates belonging to it. When issues of special importance for the long term are being voted on in Parliament, a law could be adopted under this proposal only if, in addition to an overall majority, it obtained a majority among the representatives of the younger group. For the same sort of issues,

37. A further option, suggested to me by Erik Olin Wright, would remove altogether the problem that arises from the young turning up in lesser numbers. It consists in giving each age group a weight proportional to its total size in the electorate, rather than to the fraction of it that actually votes: "one could have a vote-inflater attached to each vote that is a function of the proportion of the age group in the electorate which simply multiplies the vote of a given 18-year-old, so that the total of 18-year-old votes is proportionate to their number in the population. (If 50 percent of 18-year-olds vote and 66 percent of 25-year-olds vote, then each 18-year-old vote gets a weight of 2 and each 25-year-old vote a weight of 1.5)." This vote-inflater technique is likely to create a self-regulating dynamics favoring the equalization of turnout rates—since my vote matters more if I belong to an age group with a low turnout, candidates and parties will be particularly keen to get my vote out—but even if it did not, the younger electors' lower turnout no longer translates into a lesser political weight. Even with a small number of age categories, the ex post calculation of inflation rates obviously makes for some sizeable complications. But the fact that this proposal, unlike those mentioned in this paragraph but like those mentioned in the next one, requires a separate counting of the votes cast by each age group should not be a prohibitive obstacle. What about extending the technique to the gender or ethnic or class divide?

a special majority among the younger category of voters could similarly be required at referenda.³⁸

A final option leaves voting weights and voting rules unchanged but targets the public funding of election campaigns. Using the commonly used method of public funding based on party scores at the previous election, one could require people below a certain age to cast their votes separately (though not for separate candidates), and distribute public funds among political parties according to electoral performance in that category only. Alternatively, one could use the voucher system for campaign spending advocated by Bruce Ackerman and distribute vouchers exclusively to electors in the lower age group.³⁹ Depending on the level of this public funding and on the extent to which private resources can be used, concurrently with it, to fund political parties and election campaigns, this measure would either only provide a very mild corrective to the overwhelming control of political sponsoring by older people or make parties and candidates completely dependent financially on the support of the young. The closer one moves to the latter extreme, the more parties and candidates will be induced to pay particular attention to the interests of the younger, even if the electoral rules, as such, are strictly unchanged.

THE PARENTS' VOTE

Disfranchising the elderly, it thus turns out, is only one, and not exactly the most promising, of at least seven different ways in which one can imagine altering the balance of electoral power between the various age categories. But our potential arsenal is still far from exhausted. Instead of concentrating on electoral power's relationship with the electors' age, one can focus instead on its relationship with parenthood.⁴⁰ The sim-

38. See Möckli, "Demokratische Struktur," p. 12.

39. Bruce Ackerman, "Crediting the Voters: A New Beginning for Campaign Finance," *The American Prospect* 13 (1993):71–80.

40. Here again, and for reasons analogous to those spelled out in connection with the first family of proposals, the focus is on the electorate rather than the representatives. Introducing a parents' quota among the latter (a possibility mentioned, though not endorsed, by Claus Offe, "Zusatzstimmen für Eltern," p. 10) would be just as inadequate as the quota for the young mentioned above (indeed, even more so, as no analogous impact on turnout can be expected). It would leave electoral pressures unchanged, while not guaranteeing a better defense of the interests of parents and their children. Indeed, these interests may be far more effectively defended by an energetic childless person trying hard to tap the parents' votes than by some of the latter's overstretched, exhausted peers.

plest element in this second family of proposals can be—and has repeatedly been—presented as the introduction, at long last, of genuine universal suffrage: every member of the population is given the right to vote from the very first day of her life.⁴¹ This can easily be achieved without requiring minor children to cast votes themselves. As for so many other things of far more momentous importance to their personal fates, one can simply entrust their parents with the responsibility of doing so on their behalf, by granting them proxy votes.⁴² The expansion of the electorate that would result from giving one proxy vote per child is huge, though not quite as dramatic in today's aging Western societies as it would have been a generation ago. In the U.S., for example, this extension of the suffrage would have meant an increase of the electorate by half in 1960, but only by one third in 2000.⁴³

To my knowledge, this proxy vote for children existed only briefly and in a very restricted form: in the interwar period, each father of four children or more was given a second vote in the French protectorates of Tunisia and Morocco.⁴⁴ However, it has been repeatedly discussed for over a century, especially in France, and mostly with natalist motivations. The earliest proposal was made in 1873, shortly after Prussia's vic-

41. As pointed out by Alfred Sauvy (*Bien-être et population* [Paris: Edition sociale française, 1945], p. 214), there are countries, including France, in which the size of a constituency is measured (for the sake of seat allocation) by the size of its population, not of its current electorate, and extending the suffrage to all children would be consistent with this practice.

42. Even without giving parents extra votes, our electoral systems are arguably already assuming now that children's interests are represented through their parents: "Their parents have the vote, and we trust them to use it (at least in part) to protect their children's interests as well as their own. . . . There is nothing illegitimate, in those circumstances, in letting such others speak on the child's behalf" (Robert E. Goodin, "Enfranchising the Earth, and Its Alternatives," *Political Studies* 44, no. 5 [1996]:835–49, at p. 843). Moreover, in some countries at any rate, parents are entitled to vote on behalf of their children qua shareholders (Konrad Löw, "Es gibt kein allgemeines Wahlrecht," *Frankfurter Allgemeine Zeitung*, 11 July 1997).

43. In 1960, 35.7% of the U.S. population was under 18; in 2000, only 25.7% is expected to be (Wright, *New York Times Almanac*, p. 276).

44. See André Toulemon, *Le Suffrage familial ou suffrage universel intégral* (Paris: Librairie du Recueil Sirey, 1933), pp. 121–22. A *de facto* approximation to a more general form of parental vote is the plural voting system that was in place in Belgium between 1893 and 1910. Universal male suffrage was combined with an extra vote for married (or widowed) men, providing they were also taxpayers, and most of these married men (given that the average number of children per family was then larger than now and life expectancy shorter) had at least one nonvoting child at home (see, e.g., Andrew McLaren Carstairs, *Short History of Electoral Systems in Western Europe* [London: George, Allen & Unwin, 1980], p. 102).

tory over France, by a certain Henri Lasserre, “the universally known historian of Notre-Dame de Lourdes”: in his proposal, every French citizen, whatever his or her age or gender, is given one vote, with the (male) head of each family exercising this right to vote on behalf of his wife and each of his children. The proposal was hardly noticed, however, except by the philosopher Gabriel de Tarde, who took it over enthusiastically as a way of enforcing a concern for the interests of younger and unborn generations. The first law proposal was made in October 1910 by the deputy Henri Roulleaux-Dugage, which was seriously discussed by the *Assemblée nationale* only in 1923. The latter first decided to couple introduction of the proxy vote for children and that of women’s suffrage, and next took them jointly into consideration with a large majority (440 against 135). However, the Poincaré government was not very keen and procrastinated. New elections took place in 1924, followed by a financial crisis that wiped both proposals off the agenda until women’s suffrage, on its own, was introduced in 1946.⁴⁵ Since the end of World War II, it was for example defended by the socialist political thinker and demographer Alfred Sauvy, sympathetically expounded in Adolphe Landry’s classic treatise of demography, unsuccessfully proposed, in the late 1950s by General de Gaulle’s Prime Minister Michel Debré, and recently revived by Jean-Marie Le Pen’s right-wing National Front.⁴⁶

In Germany, the idea seems to have been first aired by a political

45. Lasserre, *De la Réforme et de l'organisation du suffrage universel* (Paris: Victor Palmé, 1873); Tarde, “Le suffrage ‘dit’ universel,” in *Etudes pénales et sociales* (Paris, 1892): “For while children mean future and hope, women are above all the children’s mothers, and the interest of the nation is that its statesmen should worry, not about the present generation, on which the thought of adult men usually gets stuck, but about posterity” (see Toulemon, *Le Suffrage*, 108–9, 111–13, 200–201; on the “near miss” see pp. 115–39 and 217.)

46. Sauvy, *Bien-être et population*, pp. 213–14; Adolphe Landry, *Traité de démographie* (Paris: Payot, 1949), p. 634; Charles F. Westoff, “Marriage and Fertility in Developed Countries,” *Scientific American* 239, no. 6 (1978):51–57, at p. 56. The Front national’s web site phrases the proposal as the attribution of extra votes to families in proportion to the number of minor children. Support in France is broader than the extreme right, however: just before the 1997 general election, the conservative representative Christine Boutin (from President Chirac’s Gaullist party) gathered the support of 123 members of the French Assembly from various parties around a proposal that included, in vaguer terms, some sort of family vote. In Belgium, the right-wing Flemish-nationalist party has also picked up the idea: “Children, on whom policy exerts a great influence, are not democratically represented. Therefore, the Vlaams Blok advocates that parents should vote on behalf of their children until they reach majority” (Gerolf Annemans, et al., *Een Keuze voor het leven* [Brussels: Vlaams Blok, 1998], p. 9).

scientist from the University of Bayreuth.⁴⁷ But it only started being seriously discussed in the 1990s, first at the initiative of the Christian-Democratic representative Wilfried Böhm (in July 1992), soon supported by the conservative archbishop of Fulda Johannes Dyba and by the youth section of Bavaria's Christian-Social Union. Support, however, has by no means been confined to the Christian right. Proposals along these lines have also been made, for example by the family affairs spokesperson for Bavaria's Social Democratic Party, and by the justice minister for the city of Berlin, Lore Maria Peschel-Gutzeit, also a Social-Democrat. Furthermore, in July 1993, the all-party Children's Commission of the National Parliament unanimously asked the government to look into the feasibility of introducing a proxy vote for children.⁴⁸ Outside France and Germany, nothing resembling a serious discussion has come to my attention. However, a number of scholars seem to have hit upon the idea independently, including the Norwegian sociologist Stein Ringen, the American political scientist Paul Peterson, the economic consultant Alexei Bayer, the Italian economist Luigi Campiglio, and also, years earlier, Harvard University lecturer Manuel Carballo.⁴⁹

47. Konrad Löw, "Das Selbstverständnis des Grundgesetzes und wirklich allgemeine Wahlen," *Politische Studien* 213 (1974):19–29.

48. Heiko Schultz, "Mit Familienwahlrecht Einfluß nehmen," *Sozialdemokratischer Pressedienst*, 25 Aug. 1992; Lore Maria Peschel-Gutzeit, "Unvollständige Legitimation der Staatsgewalt oder geht alle Staatsgewalt nur vom volljährigen Volk aus?" *Neue juristische Wochenschrift* 43 (1997):2861–62. For further details, see Dieter Suhr, "Transferrechtliche Ausbeutung und verfassungsrechtlicher Schutz von Familien, Müttern und Kindern," *Der Staat. Zeitschrift für Staatslehre, öffentliches Recht und Verfassungsgeschichte* 29 (1990):69–86; Grözinger, "Achtung, Kind wählt mit!"; Konrad Löw, "Verfassungsverbot Kinderwahlrecht? Ein Beitrag zur Verfassungsdiskussion," in *Familie und Recht* 1 (1993):25–28, and Löw, "Es gibt kein allgemeines Wahlrecht"; and Hattenhauer, "Über das Minderjährigewahlrecht," as well as the proceedings of a conference on the subject gathering left-of-center academics and activists at the Akademische Akademie Arnoldshain (ed. Gerd Grözinger and Helmut Geiger, *Zukunft wählen—Zusatzstimmen für Eltern?* [Bad Boll: Evangelische Akademie, 1993]).

49. Stein Ringen, "In a Democracy, Children Should Get the Vote," *International Herald Tribune*, 14–15 Dec. 1996; Paul E. Peterson, "An Immodest Proposal," *Daedalus* (1996):151–74; Bayer, "Let's Give Parents an Extra Right to Vote"; Campiglio, "Political Participation, Voting, and Economic Policy," 198–99; Manuel Carballo "Extra Votes for Parents?" *Boston Globe*, December 17, 1981, p. 35. In his short piece in the *Boston Globe*, Carballo writes: "I am left with an uncomfortable sense of imbalance in our political system. In a society all too ready to live for the present, how do we create a political force for our children's pensions?" Here is his answer: "My proposal is quite simple. Give parents a vote weighted by their number of minor children. Two parents with two children get four votes. One parent with one child gets two votes." According to Harvard University's web site,

Let us now turn to specifics. Some of the proposals—from Lasserre (1873) and Toulemon (1933) to Carballo (1981), Grözinger (1993) or Löw (1997)—go all the way to “genuine universal suffrage,” granting one extra vote for each minor child. One at least, adopted in 1930 by the French Republican Party, goes beyond this, by allowing parents to keep the extra votes even after their children have become voters themselves.⁵⁰ Others—such as Ringen (1996)—stop at conferring one extra vote as soon and as long as there is at least one minor child in the household. Others still—such as several of the proposals discussed in France in the 1920s and the one actually implemented in Tunisia and Morocco—reserve the extra vote to large families. Whether one or more proxy votes are awarded to a family, the question arises of which of the parents should receive them. The pioneering proposals by Henri Lasserre in 1873 and by Henri Roulleaux-Dugage in 1910 and 1923 gave them all to the father, as does the Front national’s. Stein Ringen (1996), on the contrary, gives all extra votes to the mother: his empirical research on the allocation of family budgets establishes that mothers, on average, can be trusted to take their children’s interests to heart far more than fathers can.⁵¹ At a time at which the lower age limit for voting was still 21, Alfred Sauvy proposed that mothers would vote for their children up to age 10, and fathers from 11 to 20. Grözinger (“Achtung, Kind wählt mit!” pp. 1264–65), instead, proposes that fathers should vote for their sons and mothers for their daughters, on the basis of empirical evidence showing gender-specific electoral preferences. Somewhat more complicated to administer is the strictly egalitarian one, which gives half a vote to each parent (Hattenhauer, “Über das Minderjährigenwahlrecht,” p. 16). The compromise adopted in 1930 under feminist pressure by the French parents’ vote lobby is close to this, while dispensing with half votes: it gives one vote to the father for each of his children of odd rank, and one vote

“throughout a life dedicated to public service, Carballo was committed to serving the poor, the vulnerable and the public at large”, so much so that Harvard’s Kennedy School of Government set up a Manuel Carballo Memorial Prize to encourage “innovations for improving the quality and effectiveness of programs to serve the poor and disadvantaged.” This is worth remembering, just in case anyone tried to disparage the idea by exhibiting such embarrassing supporters as France’s Le Pen or Germany’s Dyba.

50. Article 8 of the law proposal by Sallies, et al., of the Fédération républicaine, gave each father as many extra votes as he currently had minor children, and one extra vote for as long as he lived (Toulemon, *Le Suffrage*, p. 217).

51. Ringen, *Citizens, Families and Reform* (Oxford: Oxford University Press, 1997).

to the mother for each of her children of fair rank (see Toulemon, *Le Suffrage*, 132–33, 137, 216, who endorses the proposal himself). More sensible, no doubt, would be the symmetric proposal giving mothers proxy votes for their children of rank 1, 3, 5, etc., and fathers for the others. The resulting significant pro-mother bias could easily be justified using Ringen's argument quoted above.⁵²

Further details need to be filled in. Most obviously, each of the formulas listed above has to make provisions for cases in which one at least of the two parents has died or disappeared. These provisions may or may not generalize to cases in which at least one of the two parents is not entitled to vote, because of being a foreign national or below 18 or in prison. Most importantly, for the large and growing proportion of children whose parents are alive and entitled to vote but do not live together, how much of a sharing of parental responsibilities should there be for both parents to be able to claim their children's votes? And if adoptive parents are given proxy votes, why not also stepparents?⁵³ There is an obvious trade off between on the one hand the scheme's ability to track each parent's concern for their children's welfare and distribute votes accordingly, and on the other its administrative simplicity, uncontentiousness and unintrusiveness. Given that what is at stake here is not the effect of the decision on the welfare of any particular child, but the scheme's general effect on policy, it is clear that the second set of considerations should prevail and that the scheme should therefore operate on the basis of very rough and simple presumptions.

The choice among the many variants of the family vote, or parent's vote, or children's proxy vote, obviously depends on the objectives that are being pursued. Four main distinct objectives feature in the justifica-

52. Alternatively, one could restrict the same assignment formula using the children's rank order, not among all children born in the family, but only among those of them who are still under voting age. Not unlike Sauvy's scheme mentioned above, this variant could be interpreted as making fathers and mothers take turns in proxying for their children (except the first one) as these grow older (even though, for the sake of administrative simplicity, it may be better to sever the individual proxy link between parent and child and simply give the mother one more vote than the father if they have an odd number of minor children). Note too that this variant involves a much greater bias in favor of mothers: at any one time, mothers would have at least as many votes as fathers in all, not only in most households.

53. In the U.S., nearly a third of all children were not living with both their parents in 1995 (see Wright, *New York Times Almanac*, p. 284). Several of these difficulties are articulated by Claus Offe ("Zusatzstimmen für Eltern," fn. 3).

tions given for the proposals.⁵⁴ Firstly, from Lasserre (1873) to Peschel-Gutzeit (1997), natalist considerations are conspicuously present: to halt demographic decline, it may help to publicly express in this way the consideration society owes to those who secure its future and even more to give families the political power that will enable them to successfully push for child-friendly and hence birth-promoting policies. Secondly, irrespective of any demographic impact, the proposals are often advocated on the ground that, by correcting the overrepresentation of small households, they would make it possible for policies to be adopted that more closely approximate what inter-household distributive justice requires (see, e.g., Ringen, “In a Democracy, Children Should Get the Vote”). Thirdly, they would have as a consequence—it is sometimes claimed—to optimally locate the peak of the average person’s electoral power at “an age at which he is still young enough to muster enthusiasm, yet already old enough to possess experience.”⁵⁵ Finally, they are justified, particularly today in green circles on the ground that, by increasing the influence of those with “a deeper sense of the community’s permanent interests” (Landry, *Traité de démographie*, p. 634), they would increase the time horizon of the electorate or, as Grözinger (“Achtung, Kind wählt mit!” p. 1261) puts it, reduce “the dictatorship of the present over the future.” Obviously, this fourth justification is the one most closely related to our present concerns. It crucially relies on the empirical conjecture that on average adults with minor children in their households care about a more remote future than other adults.

POPULATION POLICY

This empirical conjecture suggests a third, quite different but no less plausible, family of proposals. Consider the following three highly stylized conjecture about relevant voting behavior: (1) Voters are guided by

54. Note that all of these justifications, in the interpretation I give them, are consequentialist. It would be absurd to claim that this unequal distribution of voting rights among adults according to the number of their children is just in itself: what about those who could not find a partner, for example, or those who cannot have children, or those whose children have died? It can only be shown to be just (if at all) by virtue of its indirect effects on the distribution of resources.

55. André Toulemon, “Influence du vieillissement de la population sur la composition du corps électoral,” in *Actes des journées pour l’étude scientifique du vieillissement de la population* (Paris: Alliance nationale contre la dépopulation, 1948), pp. 107–15, quote at p. 114. In his earlier book, Toulemon (*Le Suffrage*, pp. 200–201) quotes at length the philosopher and psychologist Tarde (“Le suffrage ‘dit’ universel”): “The electoral peak would be

their own self-interest. (2) Voters are guided by an abstract sense of intergenerational justice. (3) Voters are guided by their own self-interest and that of their children, grandchildren, etc. No doubt many of us would find this third conjecture the most plausible one, to an extent that may vary greatly from one time or country to another. If this is the case, there is less reason to worry about an aging electorate, providing a large proportion of the latter actually have children.⁵⁶ But as mentioned before, in some countries at any rate, the proportion of adults who never have children is on the increase, even when average family size is pretty stable.⁵⁷ In order to lengthen the time horizon of the electorate, and thereby of governments and legislators, it would be useful to identify ways of increasing the proportion of voters who can be moved by a concern for their descendants. This must be achieved, however, without boosting total population too much. It would not make sense to create an electorate more favorable to the younger or unborn generations using a means whose side effect is to harm the latter's prospects.

The controversial area of population policy therefore forms another promising corner of our "Machiavellian" arsenal, at least providing it contains levers that can affect the distribution of children between households. That some tools at a government's disposal can have a deep and lasting effect on fertility draws some plausibility from a number of fairly spectacular facts. A textbook case is provided by the comparison between fertility rates in East and West Germany in the 1955–1985 period.

the 45–50 age slice, i.e. the culmination point, not of imagination and love, but of experience and political capacity among most men. . . . The reform I am dreaming of would have the indisputable advantage of making the numerical weight of a person's vote proportional . . . to his physical or mental strength and to his civic importance throughout his life."

56. One may wish to replace the most plausible conjecture (3) by the following variant: (3) Voters are guided by their own self-interest and that of the other people with whom they actively interact outside market relations and with whom they thereby develop close emotional ties. As persuasively pointed out to me by Erik Wright, the extent to which the elderly are firmly integrated into multigenerational communities—not just multigenerational kinship structures—then becomes of decisive importance: "If the elderly live in settings where children and young adults help them and interact with them, then [they] will develop a stronger sense of obligation towards future generations." Even more than the child-spreading policies to be considered in this section, packages of policies (housing, town planning, public transport, social services, health care) that encourage socially active generationally mixed neighbourhoods—rather than segregated old people's homes and condominiums—could then be expected to boost the political potential of intergenerational justice.

57. In the U.S., the proportion of childless women in the 40–44 range has increased from 10.2% to 17.5% between 1976 and 1994, while the total fertility rate went up from 1.8 to 2.0 children per woman in the same period (Wright, *New York Times Almanac*, p. 282).

Initially, the East and West German trends ran closely parallel to each other, with the number of children per woman going up from about 2.2 to 2.4 between 1955 and 1965 and then steeply down to about 1.5 by 1975. In May 1976, the East German government introduced an explicitly natalist policy package including half a year of maternity leave at full pay, and another 32 weeks on sick benefit as from the second child. The fertility rate soon jumped up from 1.5 child to about 1.9 in 1980 in East Germany, while the West German rate kept declining to 1.4. After that date, both rates declined again in parallel, but with the East German rate consistently remaining about 0.5 child above the West German rate.⁵⁸

The problem with these pair-wise comparisons is that many other potentially relevant variables have behaved differently in the two countries over the period. Hence, inferring from the striking covariation of fertility rates and family policies to the existence of a causal link is far too hasty. To try to correct this defect, one can lump together countries and years and check whether any correlation between policy and birth

58. Thomas Büttner and Wolfgang Lutz, "Estimating Fertility Responses to Policy Measures in the German Democratic Republic," *Population and Development Review* 16, no. 3 (1990):539–55, at pp. 540–43. Less clear-cut, but still quite spectacular, is the case provided by Italy and Sweden swapping positions in the European fertility league between 1970 and 1990. Italy went down from about 2.4 children per woman in 1970 to 1.7 in 1980 and 1.3 in 1990, while Sweden went first down from 1.9 in 1970 to 1.7 in 1980 and then up to 2.1 in 1990 (far above the European Union average of 1.5). It is hard to resist the temptation to relate this swapping of positions to a number of striking policy differences. Child benefits are generous and kept pace with inflation in Sweden, but now hardly exist in Italy, where annual government expenditure on children outside education is about \$400 per capita, compared to \$1800 in Sweden (1992 figures). Italy's maternity leave of 20 weeks at 80% of pay is not bad at all on European standards, but no match to Sweden's full year (or more) of parental allowances (for either mother or father) with a 70 to 90 % rate of salary replacement—probably the world's most generous scheme. Moreover, the world of work is so organized that the rate of women's participation in the labour force is 85% in Sweden (with two fifths in part-time jobs), double the corresponding Italian rate. (See Jean-Claude Chesnais, "Fertility, Family, and Social Policy in Contemporary Western Europe," *Population and Development Review* 22, no. 4 (1996):729–739, at pp. 730–33; and Anne Hélène Gauthier, *The State and the Family: A Comparative Analysis of Family Policies in Industrialized Societies* (Oxford: Oxford University Press, 1996), pp. 174–75). Note, however, that since 1990, the difference has been shrinking, with total fertility rate down in 1995 from 1.3 to 1.2 in Italy, but from 2.1 to 1.7 in Sweden (Chesnais, "Fertility," 730). Note too that Italy has a particularly developed preschool system (with over 85% of the children between three and school age in subsidized institutions compared to 80% in Sweden (Gauthier, *The State*, p. 181) and that Italy, unlike Sweden, has a tax credit system for dependent children. For this reason, the difference between Sweden and Italy is less sharp than non-educational government expenditure figures suggest.

rates emerges. When this is done, for example by Blanchet and Ekert-Jaffé for 28 countries in the 1970–1982 period, no correlation emerges.⁵⁹ But there is no lack of ways of explaining away this negative result: for example, low fertility countries can plausibly be expected to introduce generous benefits as a natalist policy (negative feedback link) and greater affluence may generate both relatively more generous benefits and lower birth rates (spurious correlation). These interactions can be controlled for, as much as they can, through multiple regression analysis. And then, the relationship reappears. For example, using data for 22 industrialized countries in the 1970–1990 period, a more differentiated set of family policy indexes, and dynamic regression analysis, Gauthier and Hatzius produced results suggesting that an increase in benefit levels for a two-child family by 1 percent of average earnings would boost the number of children by nearly 4 percent.⁶⁰ As the current levels of benefits vary widely across countries, this strongly supports the view that there is plenty of room for manoeuvre for effective demographic policy.⁶¹

Our concern, however, is not to revive demographic growth or to slow it down. It is to spread whatever number of children are being born as widely as possible among all households. Econometric results of the type cited above are relevant to the extent that they strongly suggest—not beyond any doubt, but far more than introspection, anecdotal evidence, or casual observation of trends and correlations could do—that

59. Didier Blanchet and Olivier Ekert-Jaffé, “The Demographic Impact of Family Benefits: Evidence from a Micro-Model and from Micro-Data,” in *The Family, the Market and the State in Ageing Societies*, ed. J. Ermisch and N. Ogawa (Oxford: Clarendon Press, 1994), pp. 79–103, at pp. 92–93.

60. Anne Héléne Gauthier and Jan Hatzius (“Family Benefits and Fertility: An Econometric Analysis,” *Population Studies* 51, no. 3 [1997]:295–307, at p. 302) show that a 25% increase of the benefits given for the first two children would raise total fertility by 0.01 child per woman in the short run, by 0.07 in the longer run. Given that, in the countries considered, the average level of benefits for a two-child family was about 5% of average earnings and that the average total fertility rate was 1.71, this implies that a benefit increase by 1% of average earnings increase births by nearly 4%. Earlier, using data for 11 European countries in the 1969–83 period, Blanchet and Ekert-Jaffé (“Demographic Impact,” p. 93) came up similarly with a significant and positive regression coefficient between the total fertility rate and a family policy index consisting of a ratio of the weighted average of child benefits to the average wage: a 25% increase in the latter index increases the total fertility rate by 0.04 child per woman. (The total fertility rate in a given calendar year is the expected number of children per woman, with each woman experiencing each year between the ages of 10 and 50 the probability of giving birth exhibited in the current calendar year by women in the corresponding age categories [between ages 10 and 50].)

61. In the case of families with average earnings and two children, from 0% in Italy or the U.S. and 0.3% in Spain to 10.4% in Belgium or 11.3% in Austria (Gauthier, *The State*, p. 166).

some effective policy tools should be available for this objective too. Further results can help identify the nature of the most effective among these tools. For example, when a broader index of child benefit was used, so as to include tax relief for dependent children, the relationship between benefit level and fertility ceased to be significant. "This may reflect the higher 'visibility' of cash benefits as couples may be less aware of tax relief opportunities when deciding when to have a child. Besides, low-income families, who are likely to be most responsive to transfer payments, will benefit relatively less from tax relief if marginal tax rates increase with income" (Gauthier and Hatzius, "Family Benefits," p. 305). For a given cost, therefore, it is clear that one should go for cash benefits rather than tax allowances.⁶² Further, it turns out that "at the margin, increasing assistance for the first child by a given amount has a greater effect on fertility than for subsequent children."⁶³ This is good news for our strategy of getting people to have at least one child. We should not rejoice too quickly, however. In the data set that produced the result, no birth-specific fertility variable was included, and one cannot, therefore, rule out that the significant positive impact may be due, not to otherwise childless households deciding to have children, but to households otherwise with one or more children ending up with

62. This result conflicts with L. A. Whittington's econometric analysis of the impact of tax relief on birth rates, on the basis of 1979–83 U.S. individual sample data (Whittington, "Taxes and the Family: The Impact of the Tax Exemption for Dependents on Marital Fertility," *Demography* 29, no. 2 [1992]:215–26). The average annual nominal tax value of the exemption for a family in the 15% bracket was about \$300 per child, i.e., a modest 8% of the estimated cost of a child. Depending on the tax bracket in which it fell, the real tax value (base year 1983) to a family ranged from \$0 to \$812. For a given income, it varied over the period, owing to a fall in the top bracket tax rate from 70% to 50%, to a rise in the exemption and to inflation (Whittington, "Taxes," pp. 216–17). The results support the conjecture of a significant positive impact of the average value of the tax exemption. However, because of the short time span, they cannot rule out that this may simply be a timing effect (Whittington, "Taxes," p. 223), without any lasting impact on either total fertility or rate of childlessness. Even this short term impact, however, given the modesty of the amounts involved (see Gauthier, *The State*, p. 170 for an international comparison) and the fact that they are inversely related to income, remains a challenge to the cross-national negative results.

63. Gauthier and Hatzius, "Family Benefits," p. 300. This is not necessarily a blow for those countries—such as France or Germany (Blanchet and Ekert-Jaffé, "Demographic Impact," p. 90)—which chose to pursue natalist aims by generously focusing benefits on the third child: focusing on the third child is so much cheaper than focusing on the first that it may well yield better natalist value for its money, despite the greater demographic impact of a given per-capita increase of the benefit for the first child than for the third.

an additional one as a result of having the first one earlier (Gauthier and Hatzius, "Family Benefits," p. 301). Nonetheless, this kind of result provides strong support for a presumption in favor of cash benefits targeted at the first child,⁶⁴ or possibly in favor of other tangible benefits—housing subsidies, for example—the value of which decreases with the rank of the child.⁶⁵ Using such policy instruments should enable us to help enlist, in the service of intergenerational justice, the electors' spontaneous concern for the interests of their progeny.

GUARDIANS

A fourth family of proposals aims to foster the achievement of intergenerational justice by strengthening the direct grip of a concern for it on political decision-making. How can this be achieved? One can of course invite the voters to drop a veil of ignorance over the particular generation they belong to. But it is most doubtful that, in the secrecy of the

64. The presumption might seem to be, more specifically, in favor of benefits targeted at poorer households, since it is hard to imagine how the demographic impact could not be greater, for a given cost, if benefits were concentrated on lower-income families than spread more thinly over all families. But one must realize that it is a serious mistake to reason about redistribution schemes in the same way as one reasons about other expenditure programs (a point well put, for example, by Daniel Shaviro, "The Minimum Wage, the Earned Income Tax Credit, and Optimal Subsidy Policy," *The University of Chicago Law Review* 64, no. 2 (1997):405–81). Whereas the cost of these programs matches an opportunity cost in terms of other things one could have done with the same resources, increasing or decreasing the "cost" of a redistribution scheme is more appropriately described as a shifting of the profile of marginal and average net tax rates applying to the various components of the population. In particular, rather than as a "cheapening" of an expenditure program, the phasing out of benefits as family income increases is more appropriately described as the subjection of households with children, and hence de facto in most cases their female secondary earners, to a higher effective marginal rate of taxation than childless households: any additional euro earned is not only subjected to the explicit rate of tax but also to the rate of benefit withdrawal. There might conceivably be reasons for taxing mothers at a higher marginal rate than other workers, but they are most unlikely to have anything to do with the encouragement of a first birth.

65. An econometric study by John Ermisch ("Economic Analysis of Birth Rate Dynamics in Britain," *Journal of Human Resources* 23, no. 4 (1998):563–76, at pp. 571–75) on the basis of individual British Census data for 1971–85, that higher hourly wages for women (relative to men's weekly wages) and higher housing costs (relative to the cost of living) were the main factors behind the increase in the proportion of women remaining childless. Leaving aside, for the moment, the influence of wages, his results suggest that doubling housing costs would add another 7% of childless women, while reducing family size by 0.16 child only, and doubling the parity-independent child benefits would reduce the proportion of childless women by about 3.5%, while increasing average family size by 0.17 child. If the

voting booth, the most powerful and high-minded eloquence will have any lasting impact on whether or not the aging voter will cast her vote for the candidate who was most adamant about protecting the vested interests of the elderly. In a representative democracy, however, where governments and legislators have a significant degree of discretion and need to publicly justify the stance they adopt, the legislative assemblies may be a more appropriate locus for action. To help secure intergenerational justice, various people and organizations have proposed to set up a position of “Guardian” for the interests of younger or unborn generations.⁶⁶ This Guardian could be an appointed officer, or an expert commission, or a full-scale institution, whose views must be heard by the government and/or the legislative assembly whenever a decision is about to be taken with an irreversible long-term impact that can be presumed to be considerable.⁶⁷

While conceding that there may be nothing else on offer to protect the interests of distant generations, one may be tempted, in “Machiavelian” spirit, to dismiss such devices as idealist daydreaming. But the following analogy may make them appear in a different light. In matters of intragenerational justice, some surveys suggested that there was hardly any difference between the content right and left voters gave to the ideal—some form of equality of opportunities—but that there was a significant gap between their respective perceptions of the extent to

aim is to reduce childlessness (or stem its progress) rather than to increase (or maintain) family size, child benefits look less appropriate a tool than keeping housing costs down, as the latter has a much more powerful effect on childlessness than on average family size. However, acting on housing costs (rents, mortgage interest rates, housing subsidies) may well just be a clumsy, distortionary, truly costly way of providing implicit child benefits at a decreasing rate as family size increases. The same asymmetric effects should therefore be expected from increased cash benefits if they were focused on the first child, rather than parity-independent.

66. See, for example, Dieter Birnbacher, *Verantwortlichkeit für zukünftige Generationen* (Stuttgart: Reclam, 1988).

67. In the more ambitious versions, the Guardian would be empowered to take governments to court on the basis of clauses in a constitution or in an international treaty which protect future generations against both the governments’ actions and their inaction. This may be thought to be question-begging, as it presupposes that the constituent or treaty-endorsing bodies are sufficiently driven by a sense of intergenerational justice to enshrine some features of what it commands in legal clauses that can be enforced even against governments and assemblies. However, while it is obvious that this device could not work on its own, it could nevertheless prove quite effective by virtue of the fact that representative assemblies may be willing to adopt principles in a certain form and at a certain time, which they may be under pressure to abandon when confronted to specific issues.

which distributive justice, so conceived, was realized in actual fact.⁶⁸ The same may well hold, *mutatis mutandis*, for intergenerational justice. People of all ages may be officially committed to nondeterioration as a minimal condition of intergenerational justice, while differing significantly, and in a way that strongly correlates with their age, on whether or not the current pension system is viable or on whether or not the use of nuclear energy generates long-term risks. In this context, the summoning up of expert evidence by the “guardian” of the interests of younger or unborn generations may well play a significant role, at least as long as one can rely on the scientific community’s professional ethos and discipline to provide a sufficient guarantee of independence. An astutely institutionalized guardian, therefore, is not something the “Machiavellian” component of our program would dismiss out of hand, not because of any equivalent of an electoral weight the guardian may be given, but because of the ability she may have to effectively challenge and discredit self-serving beliefs.⁶⁹

THE PROGRAM AT WORK

Whether by listening to current debates, by foraging through the dustbins of the history of ideas, or by exercising one’s own imagination, it is thus possible to come up with a whole range of possible reforms that may bend the operation of the political system in the required direction. By looking and thinking harder, one could certainly come up with far more. But I doubt that this would take us beyond variants of the four families of options sketched above, and for our purposes, in any case, no more is needed. No rushing to firm proposals, though. The literature on constitutional design is replete with horror stories about unintended, sometimes even disastrous and sadly irreversible consequences.⁷⁰ It is a cen-

68. See Adam Swift, Gordon Marshall, and Carole Burgoyne, “Which Road to Social Justice?” *Sociology Review* 2, no. 2 (1992):28–31.

69. The sheer fact of systematically bringing the intergenerational issue into the open may also exert a civilizing influence on the monopoly-power-wielding generation through a mechanism that does not rely on belief formation. Hover strong the self-interested pressure on the representatives of this generation, they may shy away from publicly dismissing a perfectly audible strong case on behalf of the unrepresented (whether other countries or future generations) out of anticipated shame for the moment these will find out that their interests were deliberately ignored.

70. See, e.g., Gerald Curtis, “The Unintended Effects of Japan’s Electoral Reform,” paper presented at Yale University, Department of Political Science, 25 Feb. 1998, and Donald L.

tral part of the Rawls-Machiavelli program to screen the alternative proposals carefully, whether in isolation or in interaction, checking the possibility of counterproductive unintended effects. Some of these effects may concern intergenerational justice itself, irrespective of any other dimension of social justice. Here are three examples.

With the exception of the last one, all proposals mentioned above crucially rely on the assumption that voters are, to a large extent, guided by their self-interest and the interest of their children, and they aim to promote intergenerational justice, not by making voters or their representatives more public-spirited (as the fourth family tries to do), but by shifting electoral weight in favor of those whose interests are at risk of being insufficiently taken into consideration. But, one might wonder, will not the very nature and justification of such proposals strengthen the legitimacy of self-seeking political behavior at the expense of whatever public-spirited motives did exist? The net effect on the prospects for intergenerational justice would then be unclear, as the effect of the weakening of the older categories of the electorate would be offset by the effect of their now feeling entitled to go for the unbridled pursuit of their self-interest.⁷¹ This is a relevant objection, which must not be rejected out of hand. People need to be taken as they are or can feasibly be made to be, not as elementary economic textbooks posit they are. There is no need to assume that voters are strictly selfish, let alone to make them more selfish than they currently are or to waste precious moral resources that we should be keen to put to good use. Historical precedents offer some reassurance, however. True, granting suffrage to women might be said to have relieved male family heads of their duty

Horowitz, "Constitutional Design: An Oxymoron?" in *Designing Democratic Institutions, Nomos 41*, ed. I. Shapiro and S. Macedo (New York: New York University Press, 1999).

71. This concern is expressed by Offe ("Zusatzstimmen für Eltern," pp. 21–22) in connection with the proxy vote for children. That there is ground for concern is strongly substantiated by the virulent attack on the "civil servant" (versus self-interest-seeker) conception of the elector by the most articulate advocate of the parents' vote André Toulemon (*Le Suffrage*, pp. 179–89, esp. pp. 184–85): "When voting, the elector does not attempt to hide that he defends his interests and nobody blames him for it; quite the contrary, in order to catch his votes, the most honest and even the wisest candidate endeavors to show the elector that his interest, well understood, commits him to accept his program and his person. Whoever would tell the electors 'Vote for this program, even though this will be in your interest neither now nor later; free yourself of the selfishness that is natural to any well born creature,' would rightly be considered a madman or an imbecile; for it is obvious that the electors have indisputably the right to vote in defence of their interests."

to represent their wives' interests. But there is little doubt that whatever was lost in this way for the purpose of giving women's interests fair consideration was far more than offset by the power shift in their favor from which this loss is supposed to have resulted. So, perhaps, negative side effects can be avoided through a careful phrasing of the justification for the proposed electoral reforms: they are less about shifting the balance of power between self-interested individuals than about giving a stronger guarantee for the inclusion of younger people in the operative definition of the common good or about giving greater weight to those who can more easily imagine what fairness to the younger or the unborn may mean.

Consider, secondly, any of the proposals—tinkering with the age conditions or introduction of the parents' vote—that amount to giving less political power to the older portion of the electorate. This may be an improvement for the fair consideration of the interests of the younger among those currently living, but a definite deterioration for more remote unborn generations. For while the elderly have less to lose from any mismanagement of the planet's resources, they also have less to gain from the persistence of a way of consuming and producing that jeopardizes the welfare of mankind generations hence, and may therefore be, on average, more receptive to bad news about long-term damaging impacts and hence more capable of the sort of impartiality that fairness to remote generations requires.⁷² Clearly, assessing this argument requires not only empirical evidence about age-differentiated voting motives, but also a more refined elaboration of our normative conception of intergenerational justice: what does it require when keeping the situation of the next generation at least as good as ours can only be achieved at the expense of making it impossible for the situation of more remote generations to reach that level?

Thirdly, consider more specifically the proposal to extend the relevant time horizon by distributing proxy votes to parents in proportion to the number of their children. Might this number not be inversely correlated with the time horizon of the parents? For example, owing to

72. The possibility of this counterproductive effect was pointed out to me by Andrew Williams. It is arguably documented by the fact that in the 1990 Swiss referendum on the abandonment of nuclear energy, support went down monotonously from 64% for the 18–29-year-olds to 32% for the 50–59-year-olds, but went up again to 46% for the over 60s (Möckli, "Demokratische Struktur," p. 5).

procreation incentives built into the structure of some welfare states, poorer families may have, on average, more children and, being subjected to more pressing needs, have a more short-term orientation on policy issues. Or the sheer fact of having a greater number of children may reflect a disregard for the overcrowding of the planet and hence for the (per capita) welfare of future generations. Under such circumstances, the extension of the suffrage through proxy votes for children would still mean that the interests of younger people would be expressed by the people who most care for them, but as the number of proxy votes given to a person would tend to increase with the short-termism of her interpretation of these (as well as her own) interests, the net effect may be a shortening rather than a lengthening of the time horizon of the electorate as a whole.⁷³ Here again, empirical evidence is needed to assess this puzzling conjecture. If the latter turned out to be true, the radical proposal of genuine universal suffrage would clearly become unwise, even though the favorable impact of a more modest scheme that would give, say, no more than one proxy vote to each mother or father of minor children under voting age would not be in doubt.

The screening of counterproductive effects should not be narrowly focused on intergenerational justice, however, as intragenerational dimensions of social justice may be badly affected by reforms aiming to better protect the interests of the younger or the unborn. A first illustration of this possibility has already been provided above, in connection with the idea of giving people proxy votes for their future selves in the form of a life-expectancy-sensitive plural voting. The implied intragenerational shift of electoral power away from disadvantaged categories—manual workers, racial minorities—makes this idea unpromising for the achievement of social justice as a whole, however effective it may be for the sake of lengthening the electorate's time horizon.

Secondly, consider the parents' vote proposals. While protecting better the interests of the younger, they also increase the electoral power

73. This possibility displays a standard case of fallacy of competition. If, for any particular type of person (in terms of propensity to care about the future), votes are distributed according to the number of children, the overall time horizon is lengthened. Also, if there were no correlation between type and number of children, such a proportional distribution of votes would lengthen the time horizon. But if there is a strong correlation, voting power is being shifted across types as well as within types to such an extent that the net effect may be a shorter overall time horizon.

of those who have children, or more children, at the expense of those who do not, whether because they could not have them or because they would not. Indeed, when the parents' vote was nearly adopted by France's National Assembly in the 1920s, a recurrent argument was that out of the eleven million electors, seven million had no children or only one and made their interests prevail over those of the remaining four million, who bore the burden of bringing up the bulk of France's children (Toulemon, *Le Suffrage*, p. 126). But by distributing votes in proportion to children, is injustice not going to swing the other way, not of course because an unequal distribution of votes is inherently unjust, but because the new majority will be able to use its newly gained electoral power to subsidize, at the expense of the childless, the way of life they had the capacity and desire to choose.⁷⁴

Thirdly, consider the proposal of an extended maternity leave at full pay and without loss of pension rights, all at the employer's expense. This would considerably reduce the opportunity cost of having a child by enabling working mothers to take several months off work without incurring any fall in their incomes, and should therefore boost the propensity to have children.⁷⁵ If it turns out that this boosts population growth too much, the measure can easily be fine-tuned through targeting the first birth. Moreover, the proposal can also be expected to have the side effect of depressing women's wages relative to men's, as a fall in the demand for the labor of women at child-bearing age would unavoidably follow from the employers' obligation to pick up the full bill of maternity leaves. This would also make it relatively more attractive for not (yet) (full-time) working women to have children rather than to

74. More contingently, having more children may also be strongly correlated, in some countries, with membership in religious communities—say, Mormon, Hassidic, Amish, catholic traditionalist, or Islamic fundamentalist—which tend to adopt political attitudes—for example, in favor of state-imposed morality or against State-organized social policy—inimical to other dimensions of the full ideal of social justice (understood as some liberty-constrained maximin). The parents' vote would boost the power of these communities and may therefore, under certain demographic and institutional conditions, badly damage a country's overall political potential for social justice. This possibility too must be paid the attention which Erik Wright convinced me it deserves.

75. Note, however, that in the most extensive cross-country study "maternity leave (duration and benefits) did not appear to be significantly related to fertility" (Gauthier and Hatzius, "Family Benefits," p. 304)—contrary to what was suggested by the East/West-Germany and Italy/Sweden comparisons (Büttner and Lutz, "Estimating Fertility Responses"; Chesnais, "Fertility").

enter the full-time work force—an expectation borne out by empirical evidence.⁷⁶ We here seem to be exceptionally lucky: the measure produces a side effect which, far from subverting the explicit objective, further contributes to its achievement. But we must not get carried away. Statistical discrimination against women would unavoidably take significant proportions on a free-labor market—either in the form of unequal pay or, if equal-pay rules were strictly enforced, in the form of unequal unemployment rates—if employers were subjected to the above-mentioned obligation. When this is taken into account, concern with intergenerational justice may still justify, for child-spreading reasons, the provision of material support after the birth of at least the first child.⁷⁷ But, whatever the variant, the bill should be footed by society at large, or by all firms, rather than only by those firms that happen to employ pregnant women—or, in the more restrictive variant, women pregnant with their first child.⁷⁸ Most of the impact on male-female wage differentials should thereby be avoided. However fortunate this reinforcing side effect might have looked for our narrowly defined objective, the effective pursuit of our overall objective requires us to do without it.

These six examples illustrate the sort of activity the Rawls-Machiavelli program consists in: both imaginative and reflective, fearless but cautious, combining tireless fact finding, informed guesswork, special attention to interdependencies, and a constant reminder of the overall

76. Ermisch's ("Economic Analysis," pp. 571–75) estimates for the U.K. suggest that a 35% increase in women's hourly wages relative to men's (similar in magnitude to the increase in the 1971–85 period) would add about 7% to the (then) current 16% of childless women and depress average family size by 0.3 child from its current level of 2.0. Note, however, that, in Gauthier and Hatzius's cross-national study ("Family Benefits," p. 300), women's wages display a slightly significant positive relationship with fertility levels, which suggests that the opportunity cost of large families, for given women's wage rates, may be very different depending on the extent to which being the mother of more than two children means giving up one's career altogether (availability of child care and part-time jobs, extended parental leave with a right to return, etc.).

77. Though possibly at a flat rate (irrespective of a woman's current wages and past career) and rather in the form of benefits not contingent upon the interruption of work (so that they can, for example, be used to top up wages in order to improve one's housing rather than to enable one of the parents to stay at home).

78. An alternative way of removing the side effect (suggested to me by Andrew Williams) would consist in enforcing substantial paternity and maternity leaves of equal length. This would get rid of the gender bias, but might further contribute to the shrinking of the number of families with at least one child (by strengthening the base for the male partner's veto power), thereby killing the solution at the same time as the defect in the solution.

goals. For it is crucial that the “Machiavelli” component should not go about her business in too rash, too heavy-handed a way. It must not only take the time to consider possibly counterproductive effects with respect to some partial objectives, such as intergenerational justice. It must also pause to talk things over with the “Rawlsian” component in connection with the broader set of goals that make up the full picture of a just society. Even when this is done, the best package one can ever hope to come up with will never be a recipe valid for all times and places. The effectiveness of any combination of proposals is contingent on a large number of factual assumptions, only a small subset of which has been touched upon above. It can therefore be challenged as more data become available, or as the causal factors of political or procreative behavior are subjected to a more subtle analysis, or as the details of the particular society concerned are being further specified. No particular combination of constitutional rules (and of policies affecting the latter’s operation) can be identified with absolute certainty or claimed to be universally optimal. Yet, by shaping political institutions in the light of whatever little or much can be known about their consequences in a specific historical context, one can serve the cause of social justice far better than if one simply accepted whatever political institutions happen to be in place or if one only tried to make them as “democratic” or “efficient” or “legitimate” as possible. Indeed, taking such steps before it is too late may prove of crucial importance to prevent social justice from turning ever more into a sheer dream, as the rules of the political game inexorably drive our societies away from anything resembling it.

FATAL TROUBLE?

This is, at any rate, the conviction that underlies the Rawls-Machiavelli program. But beyond quibbling about the crucial factual assumptions of any specific proposal the program generates, there are a number of general objections that seem to threaten its very core. One of them applies to any package that includes a change in the rules of the political game. The problem, so it is often pointed out when constitutional engineering is being contemplated, is that the people who have the power to change the rules owe whatever power they possess to the very rules they are expected to change. This certainly accounts for the fact that significant changes in the rules of the game do not happen very often.

But as recent history has reminded us with gusto—from Russia to Japan and from Italy to New Zealand—they do change now and then, and sometimes quite dramatically. Those involved in the Rawls-Machiavelli program should not expect the political system to be receptive to their advice as soon as they are ready with it, but they can meaningfully aim to be ready for those rare opportunities, for example when outside pressure for a change is mounting and a vigorous case one way or another may make all the difference, as governments and legislators feel they have to change something in order to deflate the pressure, but are at a loss as to which way to go. Moreover, some significant shifts in the institutionalized balance of political power may be politically feasible, even if a very large parliamentary majority is required and in the absence of outside pressure, simply because the shift the Rawls-Machiavelli program advocates does not fit standard party cleavages. On this point, the program's radical instrumentalism is to be sharply distinguished from a partisan approach to constitutional engineering. Its "Machiavellian" component does not start off checking which party's platform looks most conducive to social justice as defined by the "Rawlsian" component, next proceeding to rig the rules of the game so as to favor its favorite party.⁷⁹ By promoting reforms which it believes it can justify using

79. This is of course, with or without public-interest embroidering, the distinct form of instrumentalism that drives attempts by political parties to modify the rules of the game for their own benefit. This partisan instrumentalism is vulnerable in a way in which "Machiavellian" instrumentalism is not. Think, for example, about transitions from "first past the post" to proportional representation (PR). When Belgium became the first country to make the move in 1899, Vandenpeereboom's Catholic government first made a limited proposal that would have introduced list PR in the largest constituencies only—which happened to be industrial constituencies in which Catholics were the minority. This clearly partisan proposal aroused the indignation of opposition parties and led to the resignation of the government. A few months later, de Smet de Naeyer's (no less Catholic) government made the more radical but bias-free proposal of list PR in all constituencies. The proposal was adopted and proved stable, gradually spread to all levels of government, and indeed, as of 1906, to many other countries (see Léon Moureau and Charles Goossens, "L'Évolution des idées concernant la représentation proportionnelle en Belgique," *Revue de droit international et de droit comparé* 35 (1958):378–93). Similarly, "the French Socialist Government's decision in 1986 to switch from their existing Two-Round System to PR was widely perceived as being motivated by partisan reasons, and was quickly reversed as soon as the government lost power in 1988" (Reynolds and Reilly, eds., *International IDEA Handbook*, p. 123), in sharp contrast, for example, to New Zealand's 1993 well-prepared switch from First Past the Post to list PR, also motivated by the expected consequences but in nonpartisan fashion (Nigel Roberts, "New Zealand: A Long-Established Westminster Democracy Switches to Proportional Representation," in Reynolds and Reilly, eds., *International IDEA Handbook*, pp. 129–31).

impartial arguments, it tries instead to shape the institutional framework in such a way that all parties, now and later, will be under pressure—as much as they can be made to be—to promote social justice. In certain historical contexts, these reforms may happen to strongly favor one party over another. But this is by no means necessarily the case. For example, introducing the family vote in Germany would induce a major shift in the political power of different age groups, but, judging from survey results, the immediate gains or losses to be expected by each of the four main parties are very limited.⁸⁰ Each can therefore hope to increase its following through designing and publicizing policies better tailored to the new electorate. No comparison, therefore, with the strong resistance opposed by some European Social Democratic and Liberal parties to the extension of suffrage to women on the basis of the (roughly correct) expectation that women would more than proportionally vote for confessional parties.⁸¹ The absence of any clear partisan bias is possible and, when it applies, it makes things easier. But by no means does it constitute a necessary condition for successful reform, as this example of the introduction of female suffrage—or even more clearly that of universal male suffrage—clearly show.

Although a change in the rules of the game may not be intrinsically impossible, it may still face a fatal dilemma if it is advocated, as the Rawls-Machiavelli program requires it to be, on consequentialist grounds. If one is to gather a majority in favor of the parents' vote, for example, one needs a majority in favor of the policies this change is designed to promote. But, as Claus Offe ("Zusatzstimmen für Eltern," p. 20) puts it: "If the latter majority obtains, then it is not necessary to change voting rights. If it does not, then it is not possible to change them." Beyond the case of the parents' vote, this challenge can easily be generalized to any of the other proposals mentioned earlier for modifying the rules of the political game, and no less to the demographic policies advocated by virtue of their indirect effect on the outcome of the

80. A survey conducted at the 1990 West German election showed that the electoral scores of Social Democrats and Greens would go up slightly, while those of the Christian Democrats and the Liberals would shrink slightly, if parents were given proxy votes for their children (Grözinger, "Achtung, Kind wählt mit!" p. 1266). In contrast, a lowering of the minimum voting age to 16 would seem to have a more clearly favorable effect for Greens and Social Democrats (Klaus Hurrelmann, "Mit 16 Jahren an die Wahlurne?" *Reutlinger General Anzeiger*, 23 Feb. 1996).

81. Even in the 1980s there would have been left majorities throughout Europe, had only males been allowed to vote! (Offe, "Zusatzstimmen für Eltern," p. 20).

political process. But it can be defused by scrutinising each of the two horns of the dilemma.

Firstly, if a majority favors the sort of policy which it is the ultimate aim of the proposed reform to favor, there is still a point in bringing about this reform as long as one does not have full confidence that future electorates will similarly favor this sort of policy without the help that the reform would provide. This may be because the trends that undermine support for such policies are expected to develop further. Or it may be because the high-minded concern for future generations that one happens to be able to draw on for the time being is forthcoming only under exceptional circumstances. These possibilities make it safe to economize on future moral resources and restructure institutions so that less of these resources are required in the future to get the same sort of policies adopted.⁸²

Secondly, if no majority favors the sort of policy which it is (from the program's perspective) the ultimate aim of the proposed reform to favor, there may still be a majority in favor of this reform, though not, by hypothesis, because of the particular consequences the program deems decisive. Take again the parents' vote.⁸³ Perhaps some women support it because of the extra recognition it gives to mothers or because of the further increase in women's electoral weight it implies. Perhaps the Front national's leaders support it because they believe it will boost the native French population. Perhaps some people are attracted by the beautifully simple logic of "one person, one vote, full stop." Why should we care? Opportunities to get the right reforms through are few and far between. Hence, when one arises, it cannot afford the luxury of requiring a majority not only to support the appropriate reforms but to support these for the appropriate reasons. If the rhetorics of "democracy" or of "equality" or the appeal to some factional interests helps move things forward, it would be foolish to be fussy. As long as no counterproductive side payments need to be made, even unholy alliances

82. Grözinger ("Achtung, Kind wählt mit!" p. 1267) points out, in response to a similar objection to his proxy-vote proposal that it may be rational for a majority to bind itself through constitutional change in order to protect itself against the weakness of its will. This is another way of formulating the second case just mentioned.

83. See again Grözinger ("Achtung, Kind wählt mit!" p. 1267), who similarly hints at the diversity of the reasons different categories of people may have for supporting his proxy vote proposal.

and disreputable bedfellows are perfectly welcome. The proof, the program says, is entirely in the pudding.

A third objection follows directly from Jon Elster's view that "it is impossible to predict with certainty or even quantified probability the consequences of a major constitutional change."⁸⁴ Constitutional change—indeed any major institutional reform—can therefore only be justified on nonconsequentialist grounds, for example on the ground that the proposed institutions better express some notion of political equality, and not on the basis of more or less speculative conjectures about its likely lasting effects on the achievement of distributive justice. One can readily concede that the prediction of these effects is not always easy, and welcome Elster's reminder that global net steady-state effects, in which the Rawls-Machiavelli program is primarily interested, should not be rashly inferred from local, partial or transitional effects. Indeed, as illustrated in the previous section, much of the program's activity precisely consists in taking this reminder seriously, by tirelessly exploring the possibility of unanticipated consequences. But by no means should this awareness inhibit the firmly advocacy of some specific change (or combination of changes) which one feels confident would significantly improve upon the status quo. True, this confidence will often rest on a complex set of convictions about facts and causal links, and may therefore have some difficulty spreading widely and motivating key political actors. But as illustrated above, there is no objection, in such cases, to mobilizing the rhetorics of democracy or enlisting factional interests. From the standpoint of the Rawls-Machiavelli program, it is essential that an adequate justification could be given for the reform, not that this reform should be driven by nothing but this justification. This is how Elster's challenge needs to be handled, not as an argument showing why the program must fail, but as an explanation of why it is needed.

A fourth general objection can be gathered from Giovanni Sartori's argument—presented to counter Elster's plea for nonconsequentialist justice-based constitutional reform—to the effect that "constitutions are, and must be, content-neutral. A constitution that takes upon itself

84. Elster, "Comment on van der Veen and Van Parijs," *Theory and Society* 15 (1986):709–22; Elster, "Arguments for Constitutional Change: Reflections on the Transition to Socialism," in *Constitutionalism and Democracy*, ed. J. Elster and R. Slagstad (Cambridge: Cambridge University Press, 1988), pp. 303–23.

to establish policies, i.e. policy contents, pre-empts the popular will and tramples upon the policy-making bodies.”⁸⁵ But even when they do not stipulate any specific policy themselves, some constitutional arrangements—if only those which specify who can vote and how campaigns are financed—obviously and massively affect the probabilities different policies have of being adopted. One can recognize the importance—stressed by Sartori—of assessing potential constitutional changes by anticipating the likely political consequences of the induced changes in incentive structures (number of parties, government stability, accountability, etc.), while insisting that the operation of the political system is not to be judged exclusively by reference to standards internal to itself. There is no reason to regard purely political consequences as the sole relevant ones in a consequentialist evaluation of constitutional design. Indeed, the program’s central purpose is precisely to liberate the discussion of constitutional engineering from the narrow focus to which political scientists have tended to confine it.

Finally and most seriously, it may be objected that just-policy-motivated constitutional engineering is constantly at risk of overshooting. Convinced that the socioeconomic policies in place are too favorable to the elderly or to the childless, one may endeavor to shift the balance of electoral power in favor of the young or of families with children. But once the reform is in place, the new majority may soon adopt policies that tilt the situation of the elderly or the childless below what justice requires. Given the inertia inherent in constitutional change, the pursuit of social justice through this type of means seems a very clumsy instrument that does not allow for much fine tuning. Consequently, not only must a direct appeal to what justice requires have sufficient power over the decision-makers at the constitutional stage, when the rules of the game are being designed or redesigned. There is, moreover, no way in which, within the rules of the game, the sheer balance of power between suitably weighted interests could durably bring about what justice requires.⁸⁶ Conceding this—as I think one must—does not make non-

85. Giovanni Sartori, *Comparative Constitutional Engineering: An Inquiry into Structures, Incentives and Outcomes* (London: Macmillan, 1984), p. 202.

86. See Rawls, *Theory of Justice*, 359–61: “A peculiarity of the ideal market process, as distinct from the ideal political process conducted by rational and impartial legislators, is that the market achieves an efficient outcome even if everyone pursues his own advantage.” In contrast, “there seems to be no way of allowing [citizens and legislators] to take a narrow or group-interested standpoint and then regulating the process so that it leads

sense of justice-instrumental constitutional engineering. But it invites us to pay special attention to those features of our democratic institutions—such as the maximum inclusion of all those affected or the firm regulation of campaign finance—which bring the actual objectives of key political actors closer to the demands of social justice. For this reason, disfranchising the elderly is definitely a bad idea, while the enfranchisement of younger people and the compulsory hearing of “guardians” of future generations are more surely good ones.

In terms of the twofold test—ethical acceptability and strategic fruitfulness—to which the Rawls-Machiavelli program is here being put, the concession just made is two-edged. On the one hand, at any rate by the standards of my own considered judgments, it gets rid of any lingering fear there might have been about the program being morally repugnant. I feel morally embarrassed by none of the program’s implications disclosed in the preceding pages. Perhaps there are other implications that would make me feel far less comfortable. I would be grateful to anyone who could spell them out. On the other hand, the concession I made destroys any extravagant “Machiavellian” hope I might otherwise have entertained about shrewd institutional reforms that would enable ordinary political life to dispense altogether with an active sense of intergenerational justice. Yet, there is no principled reason why the program should restrict itself to reforms that would help bring about Rawls’s well-ordered society, by strengthening this sense of justice, spreading it more widely or tightening its grip over political decision-making.⁸⁷ There may sometimes exist quicker and safer institutional means for preventing serious injustice, for example along the intergenerational dimension. And if they exist, they must be used.

to a just outcome.” Does this mean that the same holds for Rawls as for Pascal’s God: “Un peu de pensée éloigne de [lui], beaucoup y ramène”?

87. The absence of any such restriction distinguishes the radical instrumentalism defended here from a milder “epistemic” variant that might be ascribed to David Estlund (“Democracy without Preference,” *Philosophical Review* 3 [1990]:397–423) or Thomas Christiano (*The Rule of the Many: Fundamental Issues in Democratic Theory* [Boulder, CO, and Oxford: Westview Press, 1996]).