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The supersession thesis, climate change, and the rights of future people

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ABSTRACT

In this article, I explore the relationship between the supersession thesis and the rights of future people. In particular, I show that changes in circumstances might supersede future people's rights. I argue that appropriating resources that belong to future people does not necessarily result in a duty to return the resources in full. I explore how these findings are relevant for climate change justice. Assuming future generations of developing countries originally had a right to use a certain amount of the carbon budget, changing circumstances could result in rights-supersession. Consequently, members of future generations of industrialized countries may be allowed to use part of the share of the carbon budget belonging to developing countries.

KEYWORDS Historical injustices; intergenerational justice; restitution; rights; supersession; Jeremy Waldron

Introduction

Jeremy Waldron (1992, 2002, 2004) developed the 'Supersession Thesis' in a series of works exploring how to fairly respond to historical injustices. According to this thesis: 'Historic injustices may be overtaken by changes in circumstances so that a situation that was unjust when it was brought about may coincide with what justice requires at a later time' (Waldron, 2004, p. 237). The implications of this thesis for the rights of future people have not yet been analyzed in detail. This discussion is vital because, as Lukas Meyer (2020) claims, considerations of justice apply to intergenerational relations if 'future or past generations can be viewed as holding legitimate claims or rights against present generations, which in turn stand under correlative duties to future or past generations.'

Consider anthropogenic climate change. Some authors argue that we may violate future people's human rights by emitting high amounts of greenhouse gases (GHG) (Caney, 2006), and that measures of reparation are owed

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because, otherwise, future people's rights are likely to be violated (Bell, 2011, p. 115; McKinnon, 2009, p. 269). However, if changes in circumstances result in the supersession of future people's rights, then considerations of justice might not apply to intergenerational relations. So the supersession thesis may cast doubt on the existence of a duty not to emit large amounts of GHG, if the argument for that duty is grounded on the rights of future people.

While I do not argue for such a radical conclusion in this article, I do demonstrate how changes in circumstances may supersede future people's rights. To support my argument, I first explain two different ways of understanding the rights of future people: the non-concessional-view and the concessional-view. Second, I summarize Waldron's supersession thesis. I distinguish between (what I call) the *strong* and *weak* senses of supersession, focusing on the latter. Third, I consider a hypothetical scenario, similar to the real-world climate case, in which members of the past generation of a particular group illegitimately appropriates resources belonging to the future generation of another group. I argue that neither the non-concessional-view nor the concessional-view can offer a justification for why resources should be restituted in full. According to the non-concessional view, rights-supersession may occur due to changing circumstances, and people may lose their right to use resources at the level they were entitled to in the past. On the concessional view, a supersession-like effect may prevent future people's right from ever existing.

The rights of future people

There are two accounts concerning the function of rights. For the *will-theory*, the rights-holder is a 'small-scale sovereign to whom the duty is owed' (Hart, 1982, p. 183). Claiming that someone has a right *vis-à-vis* another individual requires that the former has the power of exercising it. On this view, although present people can affect future people, future people cannot make demands on present people (Steiner, 1983, p. 155), and so conceptually cannot have rights against them.

In contrast, for the *interest-theory* of rights, to claim that X has a right is to assert that 'an aspect of X's well-being (his interest) is a sufficient reason for holding some other person(s) to be under a duty' (Raz, 1986, p. 166). On this account, having the power to demand or waive one's right is not necessary to be a right-bearer (Meyer, 2020). Hence, on this view, the lack of future people's power to demand the fulfilments of the correlative duties does not undermine the possibility of future people having rights. If the interest-theory is endorsed, considerations of justice could apply to intergenerational relations.

Nevertheless, even if the interest-theory of rights is accepted, the fact that future generations do not presently exist casts a different doubt on the possibility of future people having rights. The objection is that because future people do not exist now, they cannot be rights-bearers in the present (De George, 1980, p. 159). Robert Elliot (1989) provides two classical responses to this objection. The first, the *non-concessional-view*, does not concede this objection's point; it denies that 'there cannot be rights whose bearers do not yet exist' (Elliot, 1989, p. 160). The second, the *concessional-view*, concedes this point but denies that the present non-existence of future people's rights can be the basis for rejecting the idea that present living people have right-based duties towards future people, provided that there will be future people (Elliot, 1989, pp. 161–162).

Accepting either of these two views requires rejecting one of the following two conditions (Bell, 2011, p. 105). According to what Gosseries (2008) calls the *obligation-right contemporaneity requirement*, 'for an obligation to exist, its correlative right would already need to exist' (p. 455). In contrast, according to the *right-bearer contemporaneity requirement*, 'when and only when a person *will* come into existence, she *will* have rights' (Gosseries, 2008, p. 456, emphasis in original). The non-concessional-view rejects the right-bearer contemporaneity requirement because this view allows the claim that the rights of future people exist themselves in the present. By accepting that the rights of future people exist in the present, the non-concessional-view meets the obligation-right contemporaneity requirement since the duties of the present people exist at the same time that the correlative rights do.

The concessional-view, in contrast, accepts the right-bearer contemporaneity requirement. Hence, on this view, future people do not have rights in the present. However, future people might still come to have rights in the future. On this account, future people will have interests in the future and those interests will determine their rights. Since our actions and policies might affect and also frustrate future people's interests, we can also violate their future rights (Meyer, 2020, Section 2). Understood in this way, currently living people have present duties toward future people due to the rights these people will have in the future. Since, on this view, we speak of present duties that correlate with future rights, the concessional-view rejects the obligation-right contemporaneity requirement.

The supersession thesis and the supersession of rights

In the previous section, I discussed two ways future people could have rights. However, under certain circumstances, rights can be superseded. Waldron introduces the supersession thesis through several 'waterholes' scenarios, reconstructed by Meyer and Waligore (2016; see also 2018, p. 216) as follows:

> [I] Suppose that at T_1, many waterholes exist in the desert. Some group [S] legitimately appropriates a waterhole [H_s] for their own use, leaving enough waterholes for others. However, [at T_2] a natural disaster occurs, drying up all the other waterholes except the first group's one. The group with the remaining waterhole [S] would then [at T_3] be obliged to share their waterhole [H_s], even though their original appropriation was just at the time it occurred.
>
> [II] The first group [S] justly holds one waterhole, and the second group [N] justly hold a second waterhole [at T_1]. The second group [N] starts to unjustly make incursions on the first group's waterhole [H_s], making use of some of their water, without also reciprocally sharing their own water. However, [at T_2] through a natural disaster, the second group's waterhole dries up. It would now [at T_3] be unjust for the first group [S] not to share their waterhole [H_s] with the second group [N].

In scenario I, even if the original acquisition was legitimate, changes in circumstances affect rights and entitlements. After circumstances changed, group S, who has the remaining waterhole, no longer has the right to refuse to share it with group N. In scenario II, at time T_3, justice also requires that S share the waterhole with N. This is true even though in scenario II, N committed an injustice at time T_1, by making use of H_s. Nevertheless, at T_3, changed circumstances make it just to maintain the state of affairs in which both groups share the remaining waterhole, H_s. In scenario II, Waldron (2002) says that the original injustice is 'superseded' by changing circumstances (p. 152).

In both scenarios, the right S had at T_1 to have exclusive use of their waterhole H_s can no longer be justified at T_3, and S must share H_s with N at T_3. Waldron uses the term supersession for scenario II (and not in scenario I, where no injustice occurs), but the term can be used in different, fruitful ways. I speak of supersession in a *strong* sense when an injustice occurs and when changing circumstances cause duties stemming from past injustices to lose their moral weight. However, strong supersession is not my focus here.

Instead, I analyze the *weak* sense of supersession, which refers to losses of rights (but not necessarily duties) because of changes in circumstances. Simmons (2016, pp. 154–156), for instance, claims that the supersession of rights is a special kind of prescription of moral rights not associated with the right-holder's behavior: it is a non-voluntarily loss (unlike consensual transfers of rights) and not grounded on some wrongdoing performed by the right-holder (unlike forfeiture of rights). Weak supersession can occur with or without an earlier rights violation or injustice. In both waterhole scenarios, at T_3, changes in circumstances mean that S loses the right to exclusively use H_s whether or not at T_1 such right was violated.[1] Nonetheless, weak supersession does not assume that the duties stemming from any past injustice or violations of rights no longer have moral weight.

Weak supersession has significant implications. Reparations usually take the form of restitution or compensation. Restitution requires returning the thing originally taken, while compensation refers to measures aiming to offset the consequences of wrongs (Ivison, 2006, p. 514). Rights violations that involve the appropriation of 'something' belonging to another usually call for restitution. However, if the right to that 'something' is fully superseded, no restitution is owed to the original right-holder.[2] This is so because the interest that in the past was weighty enough for holding others under the duty not to use that 'something', *now* is no longer weighty enough for justifying such a duty. However, unless supersession has occurred in a *strong* sense, victims of past injustices might still deserve compensation. The secondary duty to compensate exists for the same reasons as the primary duty of not committing injustices (Gardner, 2018). Hence, to the extent that at least one of the reasons why such a primary duty existed remains undefeated, the historical injustice still has moral weight that calls for compensation, making it harder to find injustices fully superseded in the strong sense.

This paper is about supersession in the *weak* sense, which is grounded on the idea that rights are sensitive to background circumstances. This sensitivity may seem odd, as we tend to think of rights as 'trumps' over non-right-based considerations, for instance, utilitarian concerns (Dworkin, 1985, pp. 153–159). However, Raz (1986) has popularized a view of rights that makes this sensitivity less odd: '[A right] is the ground of a duty, a ground which, if not counteracted by conflicting considerations, justifies holding that other person to have the duty' (p. 171). On this view, granting rights to someone requires examining how burdensome its correlative duties would be for others (Marmor, 1997, p. 10). Therefore, the task of balancing interests and burdens is not entirely ruled out in the justification of rights, and since the balancing result varies according to circumstances, variations in circumstances affect the justification of rights. Waldron (2002) highlights this idea as follows:

> In the case of almost every putative entitlement, it is possible to imagine a pair of different circumstances, C_1 and $[C_3]$, such that the entitlement can only barely be justified in C_1 and cannot be justified at all in $[C_3]$. The shift from C_1 to $[C_3]$ represents a tipping point as far as the justification of the entitlement is concerned (p. 153).

This illuminates why, in both waterhole scenarios, the right of group S at T_1 to have exclusive use of H_s is justified in C_1; and why, at T_3 that right cannot be justified anymore in C_3. It does not matter that, in scenario II, the right was violated at T_1. In both scenarios, at T_3, both groups must share the use of the remaining waterhole. In both scenarios, the right of S to have exclusive use of H_s is no longer justified.

The previous outline helps in identifying the conditions for a right to be superseded. The first condition of rights-supersession is that (1) the right is lost non-voluntarily in a way not associated with some wrongdoing committed by the right-holder. In both waterhole scenarios (I and II), the right of group S to use the waterhole H_s exclusively was justified at T_1 but not at T_3, and S loses that right without doing anything. The loss of that right was not associated with the decisions or wrongdoings of S. The second condition of rights-supersession is that (2) newer rights replace the original right. In both waterhole scenarios, at T_1, N had the duty not to use H_s, which belonged to S. However, at T_3, N could not meet its basic need for water while fulfilling this duty. So, at T_3, a 'new' right of N to H_s arises. The third condition of rights-supersession is that (3) both the loss of the old right and its replacement with new rights are associated with changing circumstances. Here, a waterhole dries up after a natural disaster.

Climate change and the supersession of the future people's rights

So far, I distinguished between *strong* and *weak* supersession, and identified the conditions for a right to be superseded. These findings are relevant for discussions of climate justice. Greenhouse gasses are absorbed by carbon sinks, such as the atmosphere, ocean, forests, and soils. At first sight, waterholes and carbon sinks may seem disanalogous, because while resources such as waterholes are finite, there is no 'natural' limit for our emitting GHG. However, from this fact, it does not follow that there is no limit, but only that it does not depend on some 'natural' fact. Such a limit can be determined normatively by applying theories of intergenerational justice to climate change (Meyer & Roser, 2006, p. 226). We know that for future people to have a good chance of satisfying their basic needs, global warming should be limited to a 1.5° – 2°C rise above pre-industrial levels (1870). Exceeding that limit would have catastrophic consequences.[3] If future people have or will have a right not to be below a certain threshold of well-being, we should not take actions that would lead to this. Hence, the permissible upper level of global GHG emissions is set so as to not to endanger the possibility of future people satisfying their basic needs. Thus, carbon sinks can be regarded as a limited resource. In this way, they constitute our 'carbon budget,' which can be treated in a sense somewhat similar to waterholes.

For the sake of simplicity, imagine a hypothetical scenario (which I will call the Resource-R scenario). There are two groups, the North or N (which represents industrialized countries) and the South or S (which represents developing countries). Each group has three generations: Past at T_1, Present at T_2, and Future at T_3. Further, assume that the capacity of global carbon sinks is limited to 300 units.[4] This is the entire carbon budget. These 300 units of (what I call) resource-R represent the total of GHG emissions to be distributed among the

three generations of these two groups. For simplicity, assume these groups have an equal number of members equally distributed among generations. At time T_1, each generation of each group requires 25 units of R to meet their basic needs (similarly at T_2 and T_3). However, if the first two generations of both groups used up the entire budget (all 300 units of R), nothing would be left for the basic needs of future generations. Further, since all these people are relevantly alike, there are no reasons for thinking that some of them should receive more than the others (see, Meyer & Roser, 2006). Therefore, the fair distribution is an egalitarian distribution, which also assures that each group fulfils their needs without endangering the availability of R. Hence, each generation of each group is entitled to use 50 units of R.

What normative consequences follow if the past generation of some group uses more than they are entitled to? Imagine that at T_1, members of the *past generation of S* used 50 units of R, as they were entitled to do, but members of the *past generation of N* used 100, far more than they were entitled to use. At T_2, the *present generation of N* knows how their predecessors behaved, and they make several efforts to reduce their level of consumption of R below that of their predecessors. However, they believe that they are justified in using 50 units. They provide several reasons in favor of this claim. They assert that using 50 units is allowed by the initial fair distribution of R. They claim that, for the time being, reductions should not be greater than halving the previous use of R made by their predecessors, since radical reductions may threaten their life plans.[5] Furthermore, they claim that using 50 units of R still could allow future people to meet their basic needs, so they would not violate any sufficientarian duties of intergenerational justice. At the same time, the members of the *present generation of S* also claim that they are justified in using 50 units: they did not cause the current situation, have not benefited from the misbehavior of the past generation of the other group, and there is no reason from them to bear the burden.

The claims of the present generations of both groups are contentious. However, they are not far from many arguments held in actual climate justice debates concerning the duties of currently living people.[6] If we argue and behave this way now, actual future people might face a situation similar to that of the members of the future generations of groups S and N in my hypothetical resource-R example.[7] Imagine that, as members of the future generations of S and N at time T_3, we have to make decisions about the use of the remaining units of R, and we know that partly due to the behavior of the past generation of N, there are not 100, but only 50 units left. In this story, at T_3, it is no longer possible that future generations of both groups use the 50 units of R they were entitled to at T_1, if both are to meet their basic needs. However, a claim by members of the future generation of S to have 50 units of R would seem stronger than a claim by the future generation of N to the same amount of units of R.[8]

Supersession and the non-concessional-view

Suppose that at T_3, group S asserts that group N violates the right to 'their' 50 units as long as the two groups are sharing the remaining units of R on equal terms. Should N return 25 units of R to S? The response to that question may vary depending on which view of the rights of future people is assumed.

Let us begin with the *non-concessional-view*, which rejects the right-bearer contemporaneity requirement. Therefore, it explains why the right of the members of future generation of S to 50 units of R exists at T_1, even if at T_1, these members of S did not exist. On this account, the relevant question is whether or not this right survives at T_3.

In section 3, I highlighted three conditions of weak supersession. Hence, if these conditions obtain concerning the right of the members of the future generation of S to 50 units of R, that right will be superseded.

Condition (1) requires a non-voluntary loss of the right not associated with wrongdoings committed by the rights-holder. In our story, at T_3 only 50 units of R remain. Therefore, claiming that the future generation of S has the right to exclude others from using 'their' 50 units implies that the members of the future generation of N no longer could rightfully access the 25 units of R they require in order to satisfy their basic needs. Thus, it seems that at T_3 there are conflicting considerations of greater weight that speak against the future generation of S having a right to 50 units of R. At T_3, this right seems to no longer be justified. Furthermore, the future generation of S did nothing to lose their right. Therefore, the first condition of rights-supersession is fulfilled.

In the real-world, according to the non-concessional-view, future generations of developing countries had, at some earlier time, T_1 (1870), the right to emit GHG according to a certain level. However, if business continues as usual for global emissions levels, that right will soon become something that could not be justified anymore, because they will have to share the remainder of the carbon budget with the industrialized countries. The supersession thesis says that justice must respond to changing circumstances, even if caused by unjust actions. Therefore, in this possible future of the real-world, developing countries would involuntarily lose their right to emit according to the levels they were entitled to at T_1.

However, things might not continue as usual. For instance, some empirical studies show that it is technically possible that, in 139 countries, 80% of energy demand could be met without fossil-fuels by 2030, and fossil-fuel use would not be required by 2050 (Jacobson et al., 2017). If so, it can be objected that while in my imaginary case, only resource-R could be used for producing the necessary energy for the basic needs' satisfaction, in the real-world climate situation, less emission-intensive sources of energy, and not only fossil-fuels, could be used. If the basic needs of future people of industrialized countries are satisfied by using these alternative sources, the objection continues, the

right of future generations of developing countries to use their share of the carbon budget would not be lost, given that such use is compatible with the future generation of industrialized countries fulfilling their basic needs.

A full response to this objection requires detailed analysis of the notion of basic needs and how they can be satisfied, a task that I cannot perform here.[9] However, even if such a transformation is technically possible and economically convenient, the strength of the objection depends in part on whether the transformation is politically feasible or likely. Unfortunately, the oscillating attitude of the US concerning the Paris Agreement and other facts suggest the situation is heading in the opposite direction. In any case, my claim is not that the right of future generations of developing countries to use their share of the carbon budget according to the levels they were entitled to at T_1 will necessarily be lost. Instead, I endorse the weaker claim that if business continues as usual, they no longer will have such an extensive right. Further, in that case, the fact that developing countries could not justly use their (full) share of the carbon budget would mainly be due to the industrialized countries' policies. Therefore, that right would be lost non-voluntarily.[10]

Another possible objection is that future generations of industrialized countries might benefit from the fact that their predecessors emitted more than their fair share. As a result, they might have sufficient resources for fulfilling their basic needs without further emissions. Hence, in such a situation, industrialized countries would not require use of part of developing countries' share of the carbon budget. Thus, the right of future generations of developing countries to emit according to the levels they were entitled to at T_1 might not have been lost.

My first response is that if developed countries have benefited from emissions, they may owe compensation to developing countries. Rights may be superseded, but duties of compensation may remain. Compensation measures may help developing countries adapt to the effects of climate change (see, Page, 2008). Second, sometimes past emissions have not in fact benefited later generations (consider the wasteful emissions of Communist-era Eastern European countries). Third, virtually all human activities now require emissions, directly or indirectly (Meyer & Sanklecha, 2014, p. 373). If future generations of industrialized countries still need to emit GHG to meet basic needs, then no matter how much countries have benefited from past emissions, developing countries seem to lack the right to emit according to the levels they were entitled to at T_1 (though compensation may be required). Additionally, I am willing to concede that technology could develop so that emissions are no longer required. But, as before, I do not assert that the right of future generations of developing countries of emitting according to the level they were entitled to at T_1 will necessarily be lost, but only that this will be the case if certain circumstances obtain in the future.[11]

Condition (2) of rights-supersession requires that new rights replace the original. In my hypothetical case, I claimed that one of the reasons why the members of the future generation of S no longer have a right to the 50 units of R that they were entitled to at T_1 is that, at T_3, the future generation of group N requires some of those units for fulfilling their basic needs. These needs are also the basis for claiming that a new right has arisen: the right of the future generation of N to retain 25 units of R that, at T_1, belonged to the future generation of S. These 25 units are required for the fulfilment of their basic needs. Therefore, the second condition of rights-supersession is also met: The old right of the future generation of S to 50 units of R was replaced with the new right of the future generation of N to retain some of those units. The real-world case is similar, if business continues as usual. In a future with a limited remaining global carbon budget, members of the industrialized countries would seem to have the right to use part of that budget that, in the past, belonged solely to the developing countries.

Condition (3) of rights-supersession demands that such loss of rights and their replacement with new rights are associated with changing circumstances. In the hypothetical resource-R example, the difference in the availability of R between T_1 and T_3 is one of the reasons why the older right of the future generation of S to 50 units of R no longer exists. It is also one of the reasons why the future generation of N has the right to retain some of those units in order to satisfy their needs. Hence, both the loss of rights and their replacement with newer rights are associated with the difference in the availability of R, as the third condition of rights-supersession demands. Analogous reasoning seems to apply to the real-world climate situation. If business continues as usual, between T_1 (1870) and the near future, the remaining carbon budget will decrease significantly, so that the particular share that belonged to developing countries will have to be shared with industrialized countries. If this is correct, then in both the hypothetical example and in the real-world climate case, the right in question is superseded. In the former, at T_3, the right of the future generation of S to their 50 units of R would no longer exist. In the latter, the right that developing countries had at T_1 to have exclusive use of a particular share of the carbon budget, at T_3, would also no longer exist.[12]

One might still object to the previous reasoning. In the original waterhole scenarios (I and II), the circumstances at T_3 are triggered by circumstances that are *entirely* external to the actions performed by group N. However, in my resource-R example, like in the climate situation, the circumstances at T_3 are *partially* the result of the behavior of the past generation of the group N. Does this fact make any difference? Consider a third waterhole scenario Waldron (2004, pp. 242–243) provides that I rephrase as follows:

> [III] At time T_1, in circumstances C_1, groups N and S each have their own water holes (just like in scenario II). N unjustly uses H_s, the waterhole of S, but in this scenario, N settles in its vicinity (unlike in scenario II). At T_2, H_n dries up. Had N remained in the proximity of H_n, they could have moved to other waterholes, further away from H_s, but reachable from the proximity of H_n. However, at T_3, with these circumstances C_3, that is not an option anymore. Both groups are stranded at H_s.

This example shows, according to Waldron (2004), that 'the change of circumstances referred to in supersession thesis may include changes that are the immediate causal product of the very injustice originally complained of' (p. 243). The supersession may occur even in these cases because conflicting considerations of greater weight can override the reasons that justify the existence of rights. In waterhole scenario III, group N requires use of waterhole H_s for satisfying their basic needs in circumstances C_3 at time T_3. Hence, if in C_3 the right of group S to exclusive use of H_s could not be justified in the previous waterhole scenarios (I and II), then such exclusive use by S of H_s could not be justified in scenario III. The circumstances are relevantly the same in all three scenarios at T_3. It does not matter that, in scenario III, the shift in circumstances from C_1 to C_3 is *partially* the result of the injustice committed at T_1.[13]

One can still object that relevant differences remain between waterhole scenario III and my hypothetical Resource-R example (or the real-world climate situation). In scenario III, C_3 arose in *part* because of what N did at T_1 and in part due to a *natural* disaster. In contrast, in my Resource-R example, the disaster is caused entirely by human behaviors; circumstances at T_3 were not *partially* but *entirely* caused by the behavior of the past generation of N. This objection, however, fails. Even if there is no natural disaster in the Resource-R example, innocent third party actions could be the normative equivalent. Even if C_3 is entirely caused by humans, the causes include not only the objectionable actions of the past generation of N, but also innocent actions of the past generation of S and the present generations of N and S. If some of the innocent parties would have used the resource differently, circumstances at T_3 would be different. These factors are beyond past members of N's control. Thus, at T_3, the behavior of past members of N (or, in the climate case, the past members of industrialized countries) is not the *entire* cause of C_3. As in waterhole scenario III, circumstances at T_3 were not *entirely* but *partially* caused by them.

Supersession and the concessional-view

So far, I explained that in my resource-R example, according to the non-concessional-view, at T_3 the future generation of S does not have a right to 50 units of R, if only 50 units remain. Perhaps the *concessional-view* of the rights

of future people provides a different response. For the concessional-view, as I interpret it, future people do not have rights before their existence. Thus, on this understanding, the only moment in the hypothetical Resource-R example in which the members of the future generation of S can have rights is at T_3. The problem is that at T_3, circumstances are such that if they had a right to 50 units of R, and only 50 units remain, the future generation of group N could not satisfy their basic needs. Therefore, at T_3, that right cannot be justified. If at T_3, the right of members of the future generation of S to the 50 units of R cannot be justified, such a right does not exist at T_3.

If such a right does not exist at T_3, two consequences follow. First, the right of the future generation of S to 50 units of R did not exist at any time. If the right to have 50 units of R never existed at all, it is harder to justify (at either T_1, T_2, or T_3) a correlative right-based duty not to use those units.[14] Second, since the right has never existed, this is not quite rights-supersession. However, the point is that, as before, changes in circumstances between the moment in which the action was performed and the outcome occurs have normative effects, in this case not by superseding a previous existent right but preventing such right to 50 units of R from existing in the first place.

In the real-world climate situation, the same reasoning applies if business continues as usual. However, as explained above, by 2050, many countries might not need to use fossil-fuels to fulfill their needs. If that occurred, it seems that developing countries would have rights to use 'their' 'original' share of the carbon budget. One problem is that, because of this possibility, present people have perverse incentives to make things continue as usual since they would thereby prevent the existence of the right of future people to have exclusive use of a certain share of the carbon budget. Even without supersession, there is a supersession-like effect.[15]

A final objection is that starting with hypothetical examples in climate ethics typically leads to mischaracterizations of empirical features and, hence, to reflections of little relevance. I have three responses. First, in constructing my example, I tried to isolate some properties that I think relevant for the real case. Certainly, further properties should be considered. Nevertheless, as long as I have isolated some of them, the conclusions obtained can be understood as *prima-facie* reasons to be balanced with others that might stem from a more complete or accurate descriptions of the real situation. This way of approaching intricate problems allows for clarifying specific issues before going to a more complex 'all-things considered analysis.' Thus, it is a valuable enterprise to pursue even if we accept Shue's (2009) point that 'practical judgments need to be all-things-considered judgments' (p. 308). Second, beginning with a hypothetical scenario can be legitimate *if* empirical factors are discussed later, as I tried to do regarding a possible situation where fossil fuel use is no longer

necessary. Third, one purpose of using hypothetical examples is to test certain moral principles so that we are able to argue for theoretical conclusions (Connelly, 2009, p. 324). Even if my example is not fully analogous to the real-world climate situation, or I could dive more fully into the empirical details of the case, the findings of this article can help in testing the plausibility of the theoretical idea of rights-supersession.

Conclusion

In this article I explained how future people can have rights. I showed that both the non-concessional-view and the concessional-view illustrate how considerations of justice could apply to intergenerational relations. Further, I distinguished between the *weak* and *strong* senses of supersession, focusing on the former. On the non-concessional view, when *weak* supersession occurs, future people may lose their right to use resources at the level they were entitled to in the past. On the concessional view, the rights of future people do not exist yet, so they cannot be superseded. But a supersession-like effect can prevent those rights from existing. In the climate situation, if things continue as usual, future generations of the industrialized countries may be allowed to use (some of) the share of the global carbon budget that originally (would have) belonged to future generations of developing countries.

Notes

1. In contrast, for Waldron, supersession cannot occur without prior injustice.
2. Meyer and Waligore's (2016, 2018) distinction between *full* and *partial* supersession could apply here. Full rights-supersession materializes if all the reasons why some right was justified at T_1 no longer have any moral weight. However, if such moral weight is only diminished, partial rights-supersession might occur. The right of group S to use H_s *at their sole discretion* could be superseded in the waterhole scenarios, but S could have the right to use *more* water from H_s than N does, if N could meet their basic needs.
3. See Gough (2017, pp. 21–37).
4. I set aside the possibility of adding new carbon sinks.
5. This exemplifies the so-called 'carbon-law' (Rockstrom et al., 2017).
6. I refer to arguments for grandfathering, legitimate expectations, sufficientarianism, and fairness (see, Meyer & Sanklecha, 2017).
7. An anonymous reviewer suggested that the most relevant climate justice problem is reducing emissions *now*. In case we do not reduce emissions, it is worth discussing how future people should act.
8. I speak of "members of groups" and "groups" interchangeably.
9. See further Gough (2017).
10. China might be an exception.
11. I thank an anonymous reviewer for pressing me on this and the previous objection.

12. If a transformation to less emission-intensive sources of energy occurs by 2050, we can still talk about what Meyer and Waligore (2016; 2018, pp. 228–229) call *dormant* supersession. This kind of supersession, unlike what they call *final* supersession, implies that for a certain period the superseded right no longer exists; however, it can re-arise if circumstances change again.
13. It might affect the terms of sharing (Meyer & Waligore, 2016, 2018).
14. This is not to say that future consequences of our present actions cannot set-back future people's future interests.
15. Waldron (2004) himself discusses arguments that 'fall slightly outside the ambit of the Supersession Thesis,' because no *injustice* existed to be superseded, but a supersession-like effect occurs (pp. 264–265). Here, no *right* existed to be superseded.

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