End Game

What the elderly have earned

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In the mid-1980s, a senator invited me to join the board of a new lobby he was forming that would be called Americans for Generational Equity, or AGE. The group was going to mobilize young Americans to fight against older citizens, who, the group's members believed, had increasingly burdened the young by grabbing an ever-larger percentage of American resources. The new interest group was going to counteract the AARP, the "all-powerful" senior lobby. The senator added that AGE would serve as a new civil rights movement, following in the footsteps of groups that fought for the rights of African-Americans and women.

The invitation made me wonder what ethical criteria we might use to judge whether resources were being distributed equitably between the generations. This question turned out to be much more tantalizing than I had originally envisioned. When we compare other groups, the question of equitable distribution can often be answered straightforwardly. For example, if a black person and a white person do the same work, they should be paid the same amount. Building on the assumption that ascribed categories (those we cannot change, such as race and gender) should be irrelevant, we can conclude that only our efforts and achievements should count toward what we are entitled to earn. In the early '90s, the Urban Institute published studies that tested for this simple notion of equality: same work, same pay. In one, blacks and whites applied for the same jobs, handing in similar resumés. If only whites were hired, this fact was considered prima facie evidence for discrimination. The Urban Institute also tested the renting of apartments to white couples versus black couples. Another ascribed category where the logic is clear is when men and women perform the same tasks or hold the same job: no ethical foundation exists for paying less to one gender than the other.

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Equality becomes somewhat more difficult to judge when the question is one of comparable worth. In this case, what is fair concerns differences in pay between jobs held primarily by males and jobs held primarily by females—jobs that require comparable skills, such as teaching in elementary schools (female-dominated) and teaching in vocational schools (male-dominated). Studies have shown that there are pay disparities between male-dominated jobs and those predominantly held by females, but the trouble is in determining what makes two different types of jobs comparable. Some might argue, for example, that vocational teaching is more demanding. When comparable worth comparisons have been made using this general concept, they have been controversial, with one side claiming discrimination and the other side seeing none. Still, the principle of equal work for equal pay, as enshrined in the U.S. Equal Pay Act of 1963, can be applied to comparable work, despite some technical difficulties, and provides sound ethical guidance.

In contrast, when we apply this concept of what is equal to young and old Americans, it does not serve at all. We might argue that a 17-year-old and a 66-year-old doing the same work at a fast-food joint ought to receive the same pay. But when we compare the two categories, which include millions of children and millions of nonworking older people, many of whom are infirm or in nursing homes, any simple notion of equality all but vanishes.

We might reasonably propose that equality would be achieved if both the average child and the average older citizen received the same number of federal dollars. However, these dollars buy such different types of services (education versus health care, for instance), come from such different sources (most of the dollars for older citizens come from Social Security and Medicare, to which they contributed all their working days), are taxed so differently, and above all, must address of such different needs, that such mechanical equality proves not to be equitable at all. To highlight this point, let's assume that both groups are allocated the same amount of public money, but many elders can add to their totals large amounts that they have saved over the years, which children and young parents cannot do. Are we still being fair? Or, assuming that the needs of older people are more expensive to meet, a given number of dollars could well take care of the young, but the same amount would not come close to paying for the health-care costs of the old. Still fair?

When to Say When

Daniel Callahan, a social philosopher and longtime champion of curtailing public expenditures on the old in favor of the young, uses quality of life to draw a line. As he sees it, after a given age (he once cited 82) people have lived out their "natural life span" and should focus on accepting death and overcoming the obsession with prolonging life. Society's responsibility to the elderly, he argues, is to provide the best health care available until a certain age, but after that point only do enough to make the elderly as comfortable as possible (with nursing care, painkillers, and so forth) until they die. According to Callahan, if the society would embrace this ethical concept, the large quantity of resources now used up by the old could be released for the young.

Interest groups that accuse the elderly of hogging too much public money have long supported the idea of rationing their health care—or have at least projected that rationing is inevitable. Peter G. Peterson, a secretary of commerce under President Nixon and cofounder of the Concord Coalition (a nonpartisan interest group seeking intergenerational equity), often speaks of the uncomfortable but necessary national discussion we must have about medical rationing. Richard Lamm, a former Democratic governor of Colorado and one of the most vocal advocates for intergenerational equity, has written and spoken extensively on the need for rationing. Although Callahan and Peterson only imply that it is ethically inappropriate for those who are long in the tooth to expend large amounts of money for health care and other needs, Lamm has been quoted as saying that the elderly who are terminally ill "have a duty to die and get out of the way." Just this February, an article appeared in the Business section of *The New York Times* entitled "How to Save Medicare: Die Sooner."

Behind these statements and many others like them is the implicit notion that after a certain age people contribute less and should therefore be entitled to less. We do not need to put them on the ice to die, the way Native Americans are said to have done, but rather we can cut off everything that extends life at high cost and merely make the last days of the old "comfortable." A similar ethical notion of human worth, tied to what a person produces, is a major criterion in judging awards due to the families of people who die by medical malpractice or some other non-natural cause, judgments rendered by juries and insurance companies. Such decisions often draw on the "future stream of earnings" concept (as the federal government did in compensating the 9/11 victims' families), in which the award a family receives is meant to approximate the amount of income the deceased would have earned had he or she lived a full life. Thus, in the 9/11 compensations, the family of a single 36-year-old project manager with a salary of $231,000 received an award of $3.4 million, while the family of a 47-year-old laborer with three dependents and a salary of $58,000 received about $1 million. And a 56-year-old married worker at the Pentagon with no dependents and an income of $116,000 received $685,573. We might argue that they all received substantial amounts, indeed much more than most other victims of terror. By ethical standards, however, the notion that people who earn less are worth less is unacceptable. Using that scale, we would conclude that the life of a homemaker is worth a pittance, people who are severely handicapped need not apply, and the young are to be enriched and the old impoverished.

Such judgments are blatantly unfair, whether applied to individuals or to generations. If the lack of future earnings justifies cutting off all but palliative care, those with a terminal illness, such as AIDS or cancer—at any and all ages—should receive a much smaller allocation of resources than others, including millions of older citizens who are still quite productive. We must ask whether earning potential ought to count in part or at all in our judgment of human worth. Many older people can give love, solace, and comfort as well as or better than younger folks. Other societies place great value on the wisdom and authority that elders provide. These qualities are, as the commercial says, priceless.

All age-based allocations of resources also raise the well-known threat of the slippery slope. Once we give up the precept that we should do all we can to avert death, and attempts are made to fix a specific age for a full life, why stop at 82? If, for instance, the American economy experiences hard times in the future, shouldn't the maximum age be reduced to 72, 65—or lower? And should the care for other so-called unproductive groups be cut off, even if they are younger? Should countries that are economically worse off than the United States set their limit at, say, 55? And what about those handicapped people who have no prospect of earning?

In Rights Begin Responsibilities

A more promising approach for finding a just relationship between generations is the communitarian ethical concept of a double-barreled societal covenant. To lay out the concept, I must first turn briefly to the framework from which it emerges.

The communitarian movement was born in 1990 out of the recognition that too many of our fellow citizens were all too keen to have their rights respected but unwilling to shoulder the personal and social responsibilities that are corollaries to these rights. For instance, an informal survey of students conducted in 1989 found that young Americans feel strongly about the right to be tried before a jury of their peers. But when called to serve on a jury themselves, they often sought to evade their responsibility. Most Americans favor less government and lower taxes, but they also often demand more government services, including more health care, education, and housing, among others. The pervasive language of rights is beyond reproach, the cornerstone of our free society, but too many citizens today consider responsibilities onerous if not oppressive. The communitarian movement argues, in short, that rights presume responsibilities, and calls for citizens to accept personal and social responsibilities that are being neglected. Many leaders have embraced this theme, from the Democrats President Clinton and Sen. Hillary Clinton to Republican Lamar Alexander and the prime minister of the Netherlands, Jan Peter Balkenende. Communitarian ideals played an important role in Tony Blair's landslide 1997 election victory.

Nursing Home Week celebrations begin on Mother's Day

PHOTO BY FLORIDA'S QUALITY IMPROVEMENT ORGANIZATION

If we apply this concept to the elderly, we examine the other side of the same rights-responsibilities equation: it follows from the basic communitarian moral thesis that if people have lived up to their personal and social responsibilities over the course of their lives, if they have kept their part of the societal covenant, then they are entitled when they retire to collect whatever the society explicitly and implicitly promised them; those allotments are now their right. Thus, if people have worked all their lives, raised their children, paid their taxes, and so on, then society owes them health care and the resources that basic creature comforts require, those that have been promised through Medicare and Social Security. The core communitarian concept that a good society honors its commitment to care for its responsible members when they grow old has long guided most traditional societies and, albeit to a lesser extent, has guided American society, at least until recently. This societal covenant provides an ethically sound foundation for the relationship between generations and must be honored. (I use the term "societal covenant" rather than "social contract" because it is not one negotiated and signed by two parties or based on extensive deliberations but is a profound, shared moral understanding.)

The idea that elders should give something back to society seems curious in this communitarian context. It implies that the various societal benefits older Americans receive are akin to foreign aid if not to charity, and not simply what is due them. This approach makes older citizens out to be poor souls who, though they cannot really repay the benefits they are awarded, should at least be asked to make the effort to give something back. (The word *something* clearly implies that they are unable to give a full measure.) In this view, the period after retirement becomes a new balance sheet of rights and responsibilities, separate from the rest of life; it overlooks the truth that elders have already spent a lifetime fulfilling their responsibilities. To the extent that they are well and able, which many are not, older people certainly should continue to contribute to the community's well being. But to do this should be a matter of choice and viewed by the rest of society as icing on the cake—much appreciated but not a foundation of the covenant.

But what about those seniors, we might well ask, who did not live up to their end of the societal covenant, those who lived off welfare collected under false claims, neglected their children, or cheated on their taxes? We should first note that society has mechanisms in effect, increasingly more forceful, to ensure that those who fail to discharge their duties are caught and punished. Over the last few decades it has become harder to collect welfare on false grounds or for fathers to get away with not paying child support. Even so, we should ask what is society's responsibility to an aging criminal who, after a lifetime as a public ward, is released from prison. What do we owe the welfare cheater immobilized by a terminal illness or to the deadbeat dad who suffers from dementia in his old age? The way we treat prisoners, including serial killers and terrorists, suggests the proper ethical answer: Our policies show that we hold that all human beings, merely by being human, are entitled to certain basics—provisions, shelter, and health care—that should never be withheld. Older citizens, no matter what their contributions to society, must be entitled to at least as much.

The American social safety net comes close to satisfying this concept and so should not be punched full of holes, let alone scrapped entirely. The federal government guarantees that America's citizens, in their later years, will at least get the basics, the very meager sort of life that Social Security by itself can provide.

Corporate Practices

Those citizens who are gainfully employed for extensive periods, if not throughout their lives, are also often covered by a second part of the societal covenant, one they have with their employers. In exchange for a given number of years of work, and for satisfactory performance, pensions and health-care benefits will be provided to workers after they retire and to their family members. Corporations here act as societal agents, both because the society requires them to provide a certain level of benefits that otherwise would have to be provided by the public, and because it is widely accepted that this is what a decent corporation ought to do.

One of the least discussed but increasingly widespread ethical abuses by American corporations is that they violate their part of the societal covenant with their employees by retroactively diluting or terminating pension and medical benefits. In 1996, for example, Allstate Insurance Company redefined 6,400 longtime employees as independent contractors, thus depriving them of the pensions and benefits they would have received as regular employees. Indeed the portion of the labor force that consists of temporary workers or workers on contract (who typically receive few or no benefits) has increased significantly since 1990.

Also, more and more of the country's major corporations have segregated retirees and active workers into separate risk pools and capped the amount the companies will pay in premiums, forcing retirees to shoulder an ever-increasing burden for health costs, one that many of the retirees simply cannot afford. Moreover, while it is illegal for companies to cut directly the benefits of those who have already retired, many companies terminate their pension plans altogether and then dump the responsibility for paying benefits onto the U.S. Pension Benefit Guaranty Corporation. Since the year 2000 more than 7,500 plans have been closed. Because Congress has set limits on what this agency can pay out (in most cases, $45,613.68 per year after age 65), many retirees face substantial cuts in their benefits—and those who have 401(k) plans are not covered at all. These losses have only been aggravated because, to beef up their reported earnings, many companies have made unrealistic assumptions about returns from their pension assets, leaving pension schemes drastically underfunded. All of these practices have left millions of workers, after long years of loyal service, without the benefits they have earned.

Promise Keeping

We might debate the precise level of the obligations that society owes to its older members, the other side of the intergenerational communitarian covenant, but not about the nature of these obligations. Violating this covenant endangers and offends not only the elders; when a society fails to keep such promises, no citizen can trust in a future that includes a dignified retirement with basic economic and social security. Such societal bad faith thus endangers not merely the old but the whole social fabric. The frequent attacks on entitlements for the old and the attempts to turn *entitlements* into a dirty word may be two reasons why younger members of society have so little faith in Social Security and why they increasingly emphasize their rights as citizens while ignoring the duties and responsibilities that go along with them.

The covenant between America and its old people—and all those who will become old—is not a real-time contract but one in which carrying out one's duties precedes collecting one's entitlements (in the memorable words of one of our senators, eating the spinach before you get your dessert). It differs in this respect from most contracts in which both the assumption of responsibilities and the assumption of rights occur simultaneously. By and large, older Americans who have worked all their lives, paid their taxes, and fulfilled other basic responsibilities are promised some support after retirement. To deny or significantly dilute these commitments evokes the same sense of unfairness and injustice we experience upon hearing that an insurance company has canceled its policies when its policyholders became sick or when they retroactively and unilaterally change the terms of the policy.

Compared to other developed societies, the United States does not lavish benefits upon its older citizens. Many developing nations show much more respect to their elders than we do, and all developed nations provide much more extensive benefits to them than we do. The United Kingdom, for example, dedicates nearly 18 percent of its GDP to senior care, while the United States dedicates 12 percent. Moreover, among developed nations, the poverty rate for senior citizens is highest in the United States. Our old people are clearly not living large at the expense of the rest of the society.

Passing It On

Yet even in the face of such facts, claims continue to abound that the allocation of resources in the United States is heavily and unjustly tilted in favor of older citizens. One former congressman has even claimed that federal programs for the elderly amount to "fiscal child abuse." And former governor Lamm has proclaimed that "in the name of compassion for the elderly, we have handcuffed the young, mortgaged their future, and drastically limited their hopes and aspirations." Such claims provide a fine case in point for those who argue that ethical (ought) statements and empirical (is) statements cannot be separated as sharply as they often are. The national discussion has assumed that the elderly may well be receiving a disproportionate share of the national pie (although we have seen how hard it is to determine what an equal share would be). Such claims consider public budgets but disregard the large private distribution of economic resources.

We are all familiar with older citizens who cover the costs of cars, residences, and college tuition for their children or grandchildren, and who help out when their kids are unemployed. Most important, many millions of the elderly do not spend down their assets but leave them for the younger generations to inherit, either directly or via foundations. According to a 1999 study by Boston College's Social Welfare Research Institute, charitable institutions can expect to receive up to $6 trillion from the estates of those who were adults in 1998. Moreover, economists predict that by 2040 baby boomers will have inherited more than $10 trillion from their parents. Although the intergenerational transfer of wealth runs both ways, there can be no doubt that by far the larger flow is from the old to the young. The young do not bequeath trillions—or millions—to their elders. Those who call for intergenerational arm wrestling over resources have based their moral claims on erroneous figures, and might rue the day when their arguments sway those who make laws. If the elderly decide to retaliate by spending their savings rather than passing it on, the young would become nostalgic for the era of the "greedy geezer."

The Vulnerable and the Rest

The question of who should get what has been profoundly miscast by the implied notion that there are only two societal groups, the old and the young, and hence whatever one group gives up (or has taken from it) will benefit the other, or if one group is judged not to deserve so much, the other group must be entitled to the freed-up resources. But a very large portion of the society is neither young nor old, and any reasoned examination must take into account these intermediary age groups. Compared to the middle-aged, both the young and the old are particularly vulnerable. Both groups contain millions of people who are dependent on others for financial and emotional support, a position much less common for those of intermediary ages. Both groups are much more likely to be abused. Both groups suffer because medications are not calibrated to their special needs but are made to suit those between the ages of 18 and 65. Without taking these intermediary age groups into account, any assessment of what is fair is at least woefully deficient. Once such an analysis is conducted it might well conclude that a fair allocation calls for allotting more resources to the young *and* the old.

The breakdown of the intergenerational covenant sets generations against each other without any clear and principled criteria for what behavior is predatory and what is called for morally. American society is already overburdened with conflicts between those who do not think or look alike and hardly needs another one. Unfortunate comments about older citizens, such as the one about elderly recipients of Medicare benefits being greedy geezers, overlook the nearly 80 percent of all Medicare benefits that go to households (not individuals!) whose annual income is below $25,000. The leaders of Third Millennium, a young people's organization for deficit reduction, have said that Social Security is a "generational scam." The argument has also been made that by living longer, older Americans are contributing to the dissolution of the bonds between generations. But the name-calling goes both ways; suggestions that young people these days are slackers do not help matters either. For political gain, deliberate attempts are being made to draw intergenerational fault lines, to set the generations off one against the other.

I did not accept the invitation to join the board of AGE. Much more important: the group failed to stir up the intergenerational conflict it was seeking to foment. Given the ethics of intergenerational equity, there are strong reasons to hope that such groups will not succeed in the future, either. ❖