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What Principles For Public Budgets After Covid-19?

Loïc Levoyer*

Abstract

The economic crisis linked to Covid-19 is unprecedented. It simultaneously combines a shock on supply and another on demand. In order to cushion the economic crisis, recourse to public budgets is indispensable alongside the use of the monetary instrument. Maintaining the confidence of the financial markets is essential. In order to enable states to cope with this economic crisis, recourse to public debt and deficits is unavoidable. Public budgets must be massively used. State budgets must, however, comply with certain principles in order to preserve future generations. These principles impose on the present generation a duty of responsibility and a duty of solidarity.

Keywords : Public budget - Covid-19 epidemic - public debt - public deficit - public expenditure - tax revenue - financial solidarity - European Union - public debt - public deficit - public expenditure - tax revenue - financial solidarity - public debt - public debt.

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* First –Vice-President of the University of Poitiers (www.univ-poitiers.fr), Senior Lecturer authorized to conduct research in public law. Instiute of Public Law (EA 2623) – Faculty of Law and Social Sciences
ORCID : 0000-0002-1914-0842

What Principles For Public Budgets After Covid-19?

Introduction

To question the future of public budgets after the Covid-19 health crisis is to question the duties of the present generations towards the following generations. It means carrying out a prospective exercise, taking the risk of venturing without a compass on a barely traced path. It is necessary to upset points of reference, to reconsider the obvious, to take new paths, to be enriched by different experiences. Legal professionals are well versed in this exercise. They are constantly adapting, creating and inventing the "rule after", the "principle of tomorrow" which enables the law to be adapted to social changes and to accompany social innovations[1]. Anticipatory sciences, the legal sciences know how to read the past in order to draw lessons for the future.

As far as public budgets are concerned, considering the principles of the post-Covid-19 era is less a matter of forecasting than of going back to the past. Indeed, history provides us with a number of lessons to help us glimpse what the post-Covid crisis could look like. The economic crisis linked to Covid-19 is, however, unprecedented. It simultaneously mixes a shock on supply and another on demand[2]. It is precisely this simultaneity of shocks that makes this recession so exceptional and so worrying. The melting of financial assets is unparalleled due to the closure of a large number of companies. This melting of financial assets is leading to precautionary behaviour that further depresses aggregate demand. This organised "coma" of the world economy is leading to a "risk of ruin" for some savers that had largely disappeared since the 1929 crisis. This situation is compounded by a sudden but undoubtedly lasting disintegration of supply chains, which is contributing to

[1] E. Gaillard, Générations futures et droit privé. Vers un droit des générations futures, préf. M. Delmas-Marty, LGDJ, coll. Bibliothèque de droit privé, 2011, Tomr 527.
[2] D. Strauss-Kahn, L'être, l'avoir et le pouvoir dans la crise, https://www.leclubdesjuristes.com/blog-du-coronavirus/libres-propos/letre-lavoir-et-le-pouvoir-dans-la-crise/

deepening the recession[3]. In France, and more generally in Europe, this economic downturn has resulted in massive recourse to public finances as a crisis buffer. Monetary action is largely mobilised. Public authorities and central banks responded quickly by flooding the market with liquidity. The FED cut its rates to zero as early as 15 March, while the ECB announced on 18 March the acquisition of securities for a total of 750 million euros. However, monetary action has its limits. Budgetary support remains irreplaceable. Public budgets come to the rescue of certain companies, some of which will once again have to be nationalised. The extension of short-time working in France and the use of social protection schemes will help to cushion the all too disastrous consequences for part of the population. The need for solidarity mechanisms is thus underlined with the utmost acuity, as is the interest of a social protection system. Faced with the scale of the shock linked to Covid-19, these necessary mechanisms must be coupled with a massive recovery plan which will result in even greater public deficits and debt... In terms of public budgets, the consequences of the "default" of one generation towards the next generation are unfortunately fairly predictable: loss of sovereignty and independence, considerable social and political costs, even bankruptcy.

Once the expenditure related to the Covid-19 epidemic has been secured, present generations will have no choice but to guarantee "sustainable" public finances and to proceed with the "expenditure of the future". Adopting and executing "sustainable" public budgets will mean avoiding building up a debt that, by its size and nature, would totally ruin the future of the following generations. Carrying out "future spending" will be necessary to ensure the sustainability of States and

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[3] Perpectives de l'économie mondiale, avril 2020, FMI : https://www.imf.org/fr/Publications/WEO/Issues/2020/04/14/weo-april-2020 ; Point de conjoncture, Insee: https://www.insee.fr/fr/statistiques/4478124?sommaire=4473296

the capacity for initiative of future generations, thanks to preserved fiscal resources.

These two requirements may appear to be out of step today in the face of the scale of the global health crisis of COVID-19. In the context of an unprecedented health crisis that inevitably leads to recession, it may seem surprising to state financial principles aimed at preserving the future. In the midst of an unparalleled economic crisis, supporting the present generations is naturally the priority and takes precedence over all considerations for future generations[4]. However, when it comes to public budgets, worrying about the future means giving investors and lenders guarantees about the present situation, about how well the situation is being taken into account. It means reassuring them about their ability to anticipate and find solutions to get out of the economic crisis. It is quite simply generating confidence.

However, to get out of the economic crisis, it is essential that present generations maintain the confidence of lenders. The conditions required to get the present generations out of the economic crisis are those that also preserve future generations[5].

These conditions impose for the present generations a duty of responsibility (I) and a duty of solidarity (II).

I. **A principle of responsibility**

In order to successfully emerge from the economic crisis linked to the Covid-19 epidemic, recourse to public debt is inevitable. Recourse to debt for operating and capital expenditure is a necessary buffer to cope with the economic recession. The question arises, however, whether there is a limit to public debt? Moreover, the post-covid-19 era requires public officials to adapt public management with risk control as a

[4] J.-P. Markus (Dir.), Quelle responsabilité juridique envers les générations futures ?, Dalloz, coll. Thèmes et commentaires, 2012.

[5] On the question of a right for future generations, see : D.Birnbacher, *La responsabilité envers les générations futures*, PUF, 1994.

priority. This principle of responsibility requires a capacity for anticipation without yielding to short-term injunctions.

A. Controlling public debt?

Should public debt be limited? There is no obvious answer to this simple question. Among OECD member states, the example of Japan shows that a country can have no difficulty in financing itself despite a particularly high level of debt, approaching 250% of GDP. The United States, on the other hand, experienced rising debt ratios until the early 1990s, "causing concern to many analysts, only to see the ratio decline rapidly over a decade, to the point that in the late 1990s, the same analysts were concerned about the risk of the disappearance of US public debt, the preferred investment vehicle of prudent investors worldwide"[6]; in contrast, Spain, in 2010, was attacked when its debt ratio was only 67% of GDP. It is therefore difficult to argue that there is an absolute threshold at which debt would suddenly become problematic or totally unsustainable. It all depends, in fact, on the capacity of the state to repay. Lenders rarely behave in an exclusively rational manner in this area. The trust placed in them by creditors depends on many factors. It is mainly dependent on the state's ability to raise taxes. It also depends on the level of growth, political stability and the degree of dependence on external financing. A single doubt and interest rates rise, increasing the debt burden accordingly. To quell speculation during the 2010 crisis, the European Central Bank lowered its key interest rate to the maximum and offered to buy back bonds on a massive scale if necessary. The question then arises as to whether central banks can buy back bonds without limit without the risk of causing hyperinflation by issuing too much money to finance public debt? The massive bond purchases during the subprime crisis by the

[6] J. Le Cacheux, « *Les politiques publiques entre soutien à l'activité et contrainte de financement – Fiscalité et rétablissement de l'équilibre des finances publiques après la crise* » in *Les politiques économiques à l'épreuve de la crise*, Cahiers français, n° 359, nov.-déc. 2010, p. 65

Federal Reserve (Fed), the Bank of England and the ECB suggest that there is nothing automatic about a return to inflation.

In any case, high public debt limits the ability of governments to invest in projects likely to revive the growth needed to help finance themselves. The control of public debt therefore appears, in the long term, a necessity to preserve the State's capacity for intervention and future generations. Outside a period of economic crisis, containing public debt within a reasonable limit is what present generations owe to future generations.

A public debt that is too high is indeed likely to weigh durably on future generations and mortgage their future. It forces future generations to repay the debt accumulated by previous generations: this is the "debt burden effect" or "Ricardian equivalence". Too much public debt can also lead to higher inflation and interest rates in the short term: this is known as the "interest rate crowding out effect". Finally, too high a level of indebtedness may increase the exchange rate, which is unfavourable to the competitiveness of firms: this is the "crowding out effect by the exchange rate" or "external effect". That is why, in the long term, budgetary discipline is necessary. A controlled level of public debt is an essential means of fiscal solvency. It should make it possible to guarantee sustainable public finances while preserving the capacity for intervention of future generations.

The commonly accepted standard is to be close to 60% of GDP. This is what the European texts provide for. However, compliance with this principle is no guarantee of independence from the financial markets. Within the euro zone, the example of Spain is enlightening. Between 2005 and 2007, Spain had no problems with budgetary discipline. It had a budget surplus. However, from 2008 onwards, it suffered from "a deterioration in its competitiveness leading to a deterioration in its current account, accompanied by a sharp increase in private debt and inflation linked in particular to the development of a real estate bubble. The advent of the crisis triggered a fall in real estate assets, leading to a sharp recession and a deterioration in public accounts[7]. In 2010, a public deficit of less than 3% of GDP and a public debt close to 60% of GDP did not prevent competitiveness imbalances. These imbalances accentuated public deficits. Spain, for example, was the victim of a market attack after being let down by the rating agencies. This example shows that compliance with financial criteria unrelated to the real economy is not sufficient to ensure the financial solvency of a State.

In order to successfully overcome the recession linked to the Covid-19 health crisis, which is causing a double shock, one on demand and the other on supply, public spending is an indispensable shock absorber. The public deficit is therefore an indispensable instrument of economic recovery. Nevertheless, the fact remains that once the economic recovery has been achieved, controlling public deficits will once again become a necessity, as will the adaptation of public management to risk control.

B. Adapting public management to risk management

In order to meet the challenges of the future, present generations must manage the available resources in the best possible way to meet present needs. Optimising public management is a means of limiting the resources needed to meet present needs and preserving unborn generations. The requirement of economy, efficiency and effectiveness of the means implemented is likely to optimise public finances. It is a means of meeting all current needs without neglecting the service provided to users. Improving the performance of public spending must therefore lead to "real control, so that we can spend better and raise less"[8]. It is a question of allocating funds according to the results

[7] Th. Brand, «*D'une crise à l'autre. Les déterminants de la soutenabilité des finances publiques*», in *Les politiques économiques à l'épreuve de la crise*, Cahiers français, n° 359, nov.-déc. 2010, p. 25.
[8] L. Fabius, D. Migaud, Groupe de travail sur l'efficacité de la dépense publique et le contrôle parlementaire, «*contrôler réellement, pour dépenser mieux et prélever moins* », A.N., T. I et II, janv. 1999.

obtained. An efficient and varied control system is needed. This is the responsibility of the representative bodies.

The search for performance by governments must also be demanded by citizens. This search must be relayed by the media so that it is imposed on governments, so that it becomes an imperative of all public management.

This demand for public performance research must be complemented by the implementation of a measure of the impact of public spending for the next generation. It is a question of defining the certain, known, potential and future financial risks[9]. This definition of financial risks must be carried out on the basis of present knowledge, reliable forecasts and assessments. The principle of Article 5 of the French Environment Charter, according to which "public authorities" must carry out risk assessments when their action is likely to "seriously and irreversibly affect the environment", must be applied to all public expenditure. Consequently, it must be refused that the search for the lowest "cost" should systematically become the sole criterion of the new public management.

II. A principle of solidarity

Preserving future generations requires the adoption and implementation of public budgets with a timeframe that extends beyond the year. Taking into account the unborn generations leads to the adoption of a public finance trajectory that goes beyond the strict annual framework of budget authorisation and execution. After the United Kingdom, Sweden, the Netherlands and Finland..., France's public finance programming laws are an initial response to the need to think about strategies for public resources and expenditure beyond the year. This is obviously not enough from the perspective of preserving future generations. It is a first response.

This logic of a multiannual public budget is a useful response to the economic crisis. It makes it possible to have cyclical budgets by

[9] F. Ost, Le temps du droit, Odile Jacob, 1999, p. 268.

spreading the public deficits necessary for economic recovery and surpluses during periods of growth[10]. This intergenerational solidarity requires a fair system of revenues in relation to GDP. It also requires that priority be given to the inclusion in public budgets of future expenditure while strengthening solidarity mechanisms.

A. Provide for a fair system of revenue in relation to GDP

Preserving the capacity for initiative of future generations and succeeding in overcoming the economic crisis linked to the Covid-19 epidemic requires that a resource system be passed on to future generations that allows the financing of future public policies. This means providing for constant adaptation of the tax system and risk control.

This requirement imposes the principle of citizens' consent to taxation. This principle is the only way to guarantee the collection of tax revenues over the long term to ensure the functioning of the State and the financing of the new challenges to be met.

This principle requires that the taxation applicable to present generations be fair, legible and correctly collected. Present taxation must be fair in order to be accepted and circumvented as little as possible. The present taxation system must accompany changes in society and anticipate these changes.

Unborn generations must be assured of public resources with a satisfactory return. The public resource base must also be in line with the requirements of preserving natural resources and respecting biodiversity. Tax revenues must also represent a decisive share of the resources that accrue directly to public authorities: this is a necessary condition for the preservation of the financial sovereignty of States; it is a minimum requirement for the attention paid to future generations.

[10] G. Orsoni (Dir.), Finances pubiques – Dictionnaire encyclopédique, 2ème éd., Economica, Paris, 2017.

The Greek example suggests that the increase in tax revenues must be at least proportional to the increase in gross domestic product in order to limit public debt of a structural nature. The public authorities must therefore ensure that, at the top of the economic cycle, they avoid cuts in taxes and social security contributions while keeping expenditure under control. Governments must set aside resources in sovereign wealth funds to guard against economic downturns.

Financial actors should avoid being the censors of governments by pushing rating agencies to raise the cost of borrowing. A "real tax on growth" must be implemented[11].

This condition for preserving the capacity for action of future generations requires the mobilisation of tax bases that penalise activity and employment as little as possible. The tax burden on the factors of production, i.e. labour and capital, must be reduced. Priority must also be given to the elimination of pollution and rents. From this point of view, taking care of future generations probably means strengthening ecological taxation, by introducing carbon taxes, taxing unjustified rents. The securing of borrowing resources must also be sought. Indeed, it must be realized that in the interest of future generations, borrowing must be mobilized in order to be able to carry out a certain number of "future expenses".

B. Favouring future-oriented spending

In the interest of future generations, the use of techniques for outsourcing the financing of public facilities must also be limited. Long-term financing mechanisms (such as partnership contracts) are in fact transfers of investment costs which place the financing of current costs on subsequent generations. These private financing techniques can be interesting to finance growth-generating public investments that would probably not have been possible without this mobilisation of

[11] Commission pour la libération de la croissance française, *Une ambition pour dix ans –Une mobilisation générale pour libérer la croissance et donner un avenir aux générations futures*, 15 oct. 2010, p. 61.

private capital. However, in the long run, these techniques are more expensive than traditional public financing[12]. They are not always a guarantee of quality compared to public project management. Consequently, risk control in terms of the methods of financing public expenditure must be a constant priority for present generations in the interest of future generations.

As regards future spending, only a "generational consensus" is capable of identifying a certain number of priorities and a minimum share of appropriations to be devoted annually to "future spending". It requires going beyond categorical interests and clearly debating the options linked to long-term issues. This is necessary because such a logic is likely to impose sacrifices on present generations. Therefore, in order to be accepted, the effort must be equitably distributed between generations and take into account in a balanced way the needs of the present and the needs of future generations.

This expenditure, which is carried out on the basis of the knowledge and projection capacity of the present generations, must be of two kinds: on the one hand, long-term investment expenditure, which accompanies and anticipates future changes (in this respect, one may think of expenditure linked to an oil-free society); on the other hand, contemporary operating expenditure linked, for example, to education, health, social protection or bio-medical research, which preserves future generations by creating conditions favourable to the resolution of contemporary challenges and the anticipation of future issues. The thesis of "giving priority to capital expenditure [to the detriment of social expenditure] is indeed dangerous"[13]. This solution "of little relevance from both a social and macroeconomic point of view" would

[12] L. Saïdj, Brèves réflexions sur quelques mots-clefs de finances publiques pour le futur, Revue Française de Finances Publiques, n° 100, 2007, p. 215.

[13] H. Sterdyniak, «*Les politiques publiques entre soutien à l'activité et contrainte de financement. La crise et la protection sociale*», in *Les politiques économiques à l'épreuve de la crise*, Cahiers français, n° 359, nov.-déc. 2010, p. 59.

lead to a "deficit in demand caused by the increase in social inequalities". This solution is a factor in a "new financial bubble"[14].

This is why the evaluation and forecasting capacity of public institutions must be strengthened. It is not only a question of anticipating the major changes in our societies, but also of analysing the impact of all the decisions taken by governments. In too many States, and mainly in France, this culture of evaluation is not sufficiently present. Parliament does not have the expertise to re-examine public policies and measure their immediate or long-term interest. It does not have an evaluation capacity to limit these policies or to increase their scope over time. However, taking future generations into account requires the development at all levels of public decision making of assessment and expertise tools that make it possible to take stock of the current situation in order to make informed choices for the future. This is a condition for going beyond the immediate interests of present generations. It is indeed through a greater knowledge of the impact of the decisions taken that a "pedagogy of the future" is able to develop in our societies. The evolution of our budgetary rules is probably another condition.

We must avoid a situation in which those who have an interest in immediate spending systematically outweigh those who care about future generations. To this end, point-based budgets could be created. The idea would be to make "spending for the future" a sanctuary for "future spending" in a legislature. Alternatively, a system of "legislature spending" could be created. This expenditure would correspond to a small number of medium- to long-term priorities for future spending, the inclusion of which in the State budget would be guaranteed. This method would make it less likely that there would be a difference

[14] H. Sterdyniak, «*Les politiques publiques entre soutien à l'activité et contrainte de financement. La crise et la protection sociale*», in *Les politiques économiques à l'épreuve de la crise*, Cahiers français, n° 359, nov.-déc. 2010, p. 59.

between capital expenditure and expenditure on which a broad consensus had been reached.

C. Strengthening financial solidarity

Financial solidarity between states became a requirement during and after the Covid-19 epidemic. It is also a requirement to preserve future generations. This solidarity is one of the necessary conditions for sustainable public budgets. It is a condition of a sovereign State, independent of its international creditors. It is also a condition for having sufficient fiscal resources to undertake the public programmes necessary for the revival of the economy and for the realization of the future expenditure indispensable to meet the challenges of future societies. The ability of a State to meet its obligations to its creditors at any time is, in fact, an indispensable condition for the preservation of future generations. Above a certain level of debt, the persistence of a high level of public debt reduces the effectiveness of fiscal policy and constitutes an obstacle to growth. The debt then leads economic agents to anticipate future tax increase policies. The increase in the savings rate cancels out the stimulating effect of fiscal policy and renders it ineffective. The increase in debt charges, combined with a rise in interest rates, thus monopolises an ever larger share of the available budgetary resources. The State loses a significant number of the means at its disposal. It is therefore no longer able to meet its collective costs. Future expenses are no longer being met. The capacity for initiative of future generations is mortgaged.

In a global world, financial regulation becomes global. Financial solidarity between States is becoming more necessary because the behaviour of some interferes with that of others in proportions never before equalled. Financial assistance to States that are heavily indebted and/or in serious balance-of-payments difficulties is all the more important as they belong to a monetary union. This is why, within the European Union, the ban in principle on financial solidarity in the euro area must be removed. The exclusion of financial solidarity between the Member States, which is justified on the basis of the budgetary sovereignty of the Member States and is based on the principles guiding

European monetary policy, is no longer justified when the sustainability of the monetary union as a whole is at stake.

In a global economy hit by an unprecedented health crisis, financial guarantees for future generations require collective responses more than in the past. The economic shock caused by the COVID-19 requires new and adapted financial regulation solutions to be found[15]. These solutions must be supra-national.

In the context of the economic crisis of 2008 and the rescue of the single currency, the euro area states showed their solidarity by creating the European Financial Stability Facility (EFSF) on 11 May 2010.

The introduction of a European borrowing mechanism, i.e. the possibility of issuing Eurobonds or "coronabonds" that would be guaranteed by all euro area Member States, is another response to the financial crisis resulting from the health crisis. This solution had been envisaged during the sovereign debt crisis at the European Union level. This proposal is an old one. It was proposed in 1993 by Jacques Delors, then President of the European Commission. This proposal was again the subject of a European Parliament resolution in 2009 (Resolution of 11/03/2009 on a European Economic Recovery Plan, 2008/2334/INI). This solution was not adopted at the European Union level. However, this debt pooling would have the merit of guaranteeing a minimum borrowing cost favourable to all EU Member States. Such debt pooling would make it possible to avoid the pitfalls associated with the individual placing of national debts on the market.

Such debt pooling would require States to accept a "right of scrutiny" over their public budgets. It is this "right of scrutiny" that is rejected by the majority. It calls into question the budgetary sovereignty of member states. Several obstacles also complicate the implementation of a European borrowing system. The first obstacle relates to the principle

[15] H. Sterdyniak, «*Les politiques publiques entre soutien à l'activité et contrainte de financement. La crise et la protection sociale*», in *Les politiques économiques à l'épreuve de la crise*, Cahiers français, n° 359, nov.-déc. 2010, p. 60.

of budgetary balance, which would require recourse to the technique of budgetary reserves in the current state of the European Union's budgetary practices. Another solution would be to rely on the powers of the European Investment Bank (EIB), for which borrowing operations, carried out on the basis of Article 352 TFEU, do not entail a direct charge on the general budget of the European Union. The financial impact is limited to the intervention of the guarantee in case of default of a debtor and the associated interest subsidies. The second obstacle to the implementation of a European borrowing scheme is the prohibition in principle of financial solidarity within the Union laid down in Articles 123 and 125 TFEU. However, as part of a crisis mechanism, the European loan could probably be implemented on the basis of Article 122(2) TFEU.

However, this solution of "coronabond" or Eurobonds remains widely rejected within the European Union.

It is therefore necessary to think of debt pooling in a different way: the pooling of interest rates. It is not a question of mutualising the repayment of debts between States. It is a question of pooling debts in order to have lower interest rates, to encourage a reduction in the cost of credit by grouping debts together. This solution is possible between several States of the European Union. If France pooled its debt with that of Italy, Spain, Portugal, etc., these countries would benefit from lower, more advantageous interest rates. However, these States would not lose their budgetary sovereignty. This solution would constitute a guarantee for future generations.

Within the European Union and particularly within the Economic and Monetary Union, the economic and financial crisis caused by the "Greek crisis" has favoured the adoption of certain forms of financial solidarity, which had hitherto been ruled out. These mechanisms of financial solidarity have been possible in the context of the crisis within the euro area. They are part of a very specific context of rescue operations in the euro area. Germany had an immediate interest in them. In the context of the health crisis and for the post-VID-19 period, Germany could have a similar interest.

The example of the Greek crisis within the euro zone demonstrates that financial solidarity between member states is an indispensable condition for the preservation of monetary union and future European generations. This example shows that monetary stability within the Economic and Monetary Union requires solidarity between states. This is a necessary condition for the independence of the Member States. Financial solidarity between Member States will also be necessary during and after the COVID-19 crisis.

This necessary solidarity calls for the rejection by Member States of any form, even atypical, of budgetary federalism within the European Union[16]. In order to reassure the markets and give credibility to the sustainability of their debt, will the Member States have any other choice than greater budgetary integration? Does the sustainability of financially independent and sovereign states for future generations not require greater budgetary solidarity?

Conclusion

For future generations, what is most to be feared is the evaporation of knowledge and know-how. The first wealth is above all education. It is from educational leadership that power flows. It is massive investment in education that makes it possible to take the economic and therefore financial ascendancy. Without education there can be no innovation. Without innovation there can be no economic and human progress. Ebola's experience has shown that the closure of schools - adopted by 180 countries around the world - has often resulted in permanent school drop-out, an education sacrificed for a generation of students and a lasting plunge into poverty. The first of the expenses of the future is therefore educational expenditure. The post-COVID-19 era calls for massive investment in education, knowledge and research. Mastering future crises will require more knowledge and know-how. Investing in

[16] See, K. Abdéremanne, La solidarité : un fondement du droit de l'intégration de l'Union européenne, Thèse de doctorat en droit public, soutenue le 24 sept. 2010 à Poitiers, sous la dir. de F. Hervouet.

the transmission of knowledge means improving the situation of present generations while at the same time caring for future generations.

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