

been determined, they should be made more visible in the democratic arena. Thompson's argument suggests that a more long-term oriented democratic process could be achieved not just through the use of an "Ombudsman for Future Generations", or a lowering of the voting age in order to incorporate the views of the young generation at the ballot box, but through a reconsideration of what we currently regard as rational interests of present people. In other words, Thompson

concludes by calling for a re-examination of the real interests, namely the intergenerational interests, of present generations.

Thompson offers an innovative approach to considering the rights and responsibilities of citizens towards posterity and directly confronts potential critique of her theory in a convincing and logically persuasive manner, although more space could have been devoted to its defence. Whilst certainly providing an original contribution to the debate, it remains

to be seen whether Thompson's theory is able to challenge the dominance of the contractualist school in intergenerational studies.

Janna Thompson (2009): Intergenerational Justice. Rights and Responsibilities in an Intergenerational Polity. New York: Routledge. 191 pages. ISBN: 0415996287. Price £80.75.

An Interview with Professor Dieter Birnbacher: Reflections on Ethical Universality

conducted by Hanna Schudy

Dieter Birnbacher is professor of philosophy at the University of Düsseldorf and a member of the Foundation for the Rights of Future Generations' scientific board. In 1988 he published the book *Verantwortung für zukünftige Generationen* (responsibilities for future generations), which was translated into French (Paris: Presses Universitaires de France 1994) and Polish (Warsaw: Oficyna Naukowa 1999). Hanna Schudy is an ethicist and environmentalist interested in questions of intergenerational responsibility concerning the natural environment. She is a doctoral student at the University of Wrocław and a DAAD scholarship holder. The interview was conducted in December 2011 at the Heinrich Heine Universität, Düsseldorf. It is part of Ms. Schudy's current research into "The principle of responsibility in Hans Jonas' and Dieter Birnbacher's environmental ethics".

Hanna Schudy: Within the framework of the ethics that is developed by you, it is emphasised that moral norms must be understood and accepted in general; that is why, according to you, not every concept of value can fulfil the requirements of universal ethics. You stress that the axiology which supports such an ethics should understand value as a result of an evaluation by the subject. According to this axiology, the value of the environment is equivalent to the interests of the evaluating subject(s). But, problematically from an intergenerational

perspective, most people, especially in Poland, are not interested in protecting primeval forests such as the Białowieża.¹ When one accepts your axiology, the logical corollary appears to be that, morally speaking, the area is worthy of no special protection. Is this an acceptable conclusion? Furthermore, what kind of moral norm with regard to human attitudes towards other similar cases can be recommended within the framework of your ethics?

Professor Birnbacher: Ethics should be universally applied, and moral norms should be formulated in such a way that they can be universally accepted and understood. This implies that our axiology, or our theory of value, has to be rather narrow and somewhat elementary. Therefore we cannot expect that the values we consider to be of importance will be shared by all subjects. In fact, in connection with the environment, there is a varied spectrum of different attitudes. On the one hand, many subjects hold anthropocentric attitudes towards the environment. On the other, there are many subjects who ascribe an intrinsic value to nature as a whole, or to certain nature systems, plants, animals, etc. In short, there exists a variety of values. How do we manage this variety? My proposal is that we try to make our axiology as universalisable as possible. This seems to me the correct route to a kind of utilitarian ethics that respects the variety of existing attitudes and evaluations and, in turn, ascribes value to the satisfaction of

these values, or, in other words, to a certain interpretation of utility. This route is not contrary to the protection of the environment since the interests of not only the present generation, but also future generations must be taken into account. These interests are crucial in our preservation efforts because we do not preserve landscapes and other natural items solely for those living now, but also for the indefinite future, and all this rests upon the irreversibility of much of the destruction of nature. In the process, we may not only lose *this* plant or *that* forest as an entity, but a specific facet of nature that is unique, such as the irreversible extinction of an animal species; it should make us reflect on whether this has compatibility with our intergenerational responsibilities. This responsibility is not indifferent to what we think our future will be, and the best guess concerning our future is that people will be better off than they are today; not only will civilisation continue, but it will spread and expand. Additionally, the degree of material wellbeing of humans will, at minimum, continue to grow, and it is also probable that human needs and wants will at some point become more concerned with non-material goods. Among them, natural goods will become increasingly important; they will become scarcer, and more wanted and desired in the future as the level of wellbeing increases.

Technical and scientific progress as well as the so-called internal logic of capital will, by yielding a constant surplus, ensure that

levels of wellbeing increase as economic growth continues.

Hanna Schudy: What sort of social and political factors can influence attitudes towards nature conservation?

Professor Birnbacher: It is a very difficult question, because there are a great variety of social and political factors that influence people's attitudes. If one assumes high levels of unemployment, or high levels of uncertainty about the financial situation, one can expect environmental interests to decline in relation to the more immediately pressing existential interests. In other words, if a society experiences environmental and economic crises simultaneously, then the interest in environmental protection will decline, because it is perceived as a luxury. The interest in nature therefore depends on many factors that often seem completely unrelated and turns on people's preferences. One important factor is the legal system: it is more stable than preferences and it has the power of sanction through which people can be compelled to act in accordance with certain rules. For example, the legal system in Germany is greener to a far greater extent than the preferences of many German citizens who act as the addressees of its rulings. The intrinsic value of nature principle is an established precedent in German law which, I would think, conflicts with the preferences of many German citizens. In this way, the legal system can be more progressive than public opinion.

Hanna Schudy: Does it follow that it is possible to shape moral attitudes towards nature through the establishment and observance of environmental law?

Professor Birnbacher: The legal system can play a very educational role. A famous German lawyer once spoke of the "*sittenbildende Kraft des Rechtes*". The phrase refers to the powerful effect the legal system can have in cultivating people's moral views and actions. Nonetheless, the legal system is only respected to the extent that politicians and governments respect their own rules consistently.

Hanna Schudy: A situation has developed in Poland recently in which some Natura 2000 areas, such as Czarny Groń,² have been allocated and used for commercial purposes. Investors and owners of ski lifts have arbitrarily started to use these lands without re-

quired permission. Inhabitants of the land believe that the transformation, or, more precisely, degradation of the area presents them with an opportunity to earn some money. Both investors and inhabitants have an intragenerational interest in continuing the process of environmental degradation even if it is against a law. What kind of solution can we find in such a situation when we refuse to accept the concept of intrinsic natural value?

Professor Birnbacher: This is a very complex question, because we have to determine whether the problem we are dealing with is a legal or moral problem. From the moral point of view, a legal system can be immoral, even if there is a presumption that adhering to existing laws is of primary importance to society.

The case you mention is in fact not a moral case. It is firstly a legal case and the question is whether the permission given to these investors of Czarny Groń was legal, given that the areas concerned are protected by national law. More questions with regard to a breach of the law follow. In particular, the question arises whether compensation and the restoration of the destroyed landscape can be demanded. This is a problem of equity and fairness. If there is no legal provision for this case, morality demands that this decision should be made by taking into account the interests of all parties concerned. If there is a legal provision, one is obliged to follow the highest possible legal redress. The question is whether the natural protection law is too strict in allowing too many or too few exceptions; this is a moral question. I believe that Polish law for the protection of the environment is not too strict, but justifiable by moral concerns for the intergenerational preservation of landscapes, species, and natural values in general. However, in the EU, we have supranational legal structures to a far greater extent than people believe; European law determines which policies are acceptable to pursue in national politics, environmental policy included.

Hanna Schudy: Do you think that, beyond the argumentation according to legal norms, there exists any reason, in the situation mentioned above, to admit that this case is morally relevant?

Professor Birnbacher: We should try to narrow the gap between morality and the

law in the service of rule observance. If a norm of the legal system is not understood and not respected as a consequence, then this weakens the authority of the law. I think this is undesirable. There is currently certain pressure and a strong reason to adjust public morality to the law, because this would make it less difficult for people to respect law. This applies at all levels of law-making.

Hanna Schudy: Does the German government meet the expectations of German society with regard to nature conservation?

Professor Birnbacher: There are high expectations in nature conservation, but they go along with high expectations in other fields of politics such as transport. In a contradictory manner, people tend to want both intergenerational integrity of nature and the freedom to drive cars. They want to go on holiday by plane, but they are irritated by air traffic and noise pollution; so they protest on the one hand for more income for consumption opportunities, and, on the other, for more environmental conservation. Both are incompatible, but politicians are usually wary of making clear that there is an ultimate incompatibility, to the effect that consumption has to be reduced in order to preserve nature. You cannot economically subsidise air, as most governments do, and try to introduce sustainability in fuel uses. There is a fundamental trade-off in this domain.

Hanna Schudy: How high is the level of public engagement of citizens in Germany? Does German society work collectively in order to confront environmental challenges?

Professor Birnbacher: It depends very much on the social strata. Of course, there is a very active upper middle-class stratum that is environmentally very sensitive and readily engages in political action. Those who vote for green parties are typically intellectuals, and they come from the upper strata of society. However, the majority of society lives in the lower strata; you can expect much less public engagement from these citizens. They put a higher priority on the stability of work, the regularity of their incomes, the receipt of social security payments and they are in general far less interested in public issues concerning the whole of society. You have also a certain gradient concerning age: the older the person, the less interested he will be in public issues because he does not expect to profit from the policies he helps to

shape. On the other hand, young people are very optimistic and interested in engaging in public issues because they have an expectation that they will profit from such policies within their own life-time.

Hanna Schudy: Is there hope that partial damage of the environment will create the necessary intergenerational consciousness and motivation required for environmental protection?

Professor Birnbacher: It is always difficult to make political objectives compatible. In democratic society, all processes take much more time than in a dictatorial society. Changes come from local activity and they require social commitment. It is also not acceptable in a democratic society to introduce any political changes without a social consultancy period. It is no use expecting that a different form of social organisation might be more effective; there are no examples of a dictatorial society that could teach us how environmental politics should be developed. I think you necessarily have to wait for a certain level of economic development within a democratic framework for meaningful green politics to develop. It is also very important to promote ecological education and work to increase levels of civic engagement. The price of all this is that some irreversible environmental damage will have occurred during the somewhat cumbersome democratic process which, if one follows democratic principles as one should, cannot be prevented.

Notes

1 Białowieża Forest is the name of the primeval woodland in eastern Poland and western Belarus. It is one of the last and largest remaining parts of the immense primeval forest that once stretched across the European Plain. It constitutes an important refuge for many endangered species and has been recognised as a UNESCO World Heritage Site as well as a Biosphere Reserve. In Poland, only part of it (30%) is under the protection of the Białowieża National Park. The remaining part is the property of State Forests (Lasy Państwowe) and used for the commercial purposes. Polish NGO *Pracownia na Rzecz Wszystkich Istot* as well as the Polish Ministry for the Environment state that current measures in place to protect Białowieża Forest are insufficient to ensure the long-term stability of its natural processes and, moreover, break the intergenerational principle of sustainability. Polish law allows local governments a *liberum veto* that currently prevents further parts of it being protected under the auspices of the National Park, even though it is officially property of the Polish state.

2 Czarny Groń is the name of a Polish ski resort in Beskid Mały, a mountain range in Western Beskid which constitutes part of the NATURA 2000 area. Czarny Groń was built by a private investor from Poland, even though a mandatory report on the environmental impact of the ski resort was not written prior to its construction. As a result, over 600 beech trees were cut down, protected

acidophile flora sites were violated and considerable interference into sites of fauna species has been noticed.



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