

Gerhard Bos / Marcus Düwell (eds.): Human Rights and Sustainability: Moral Responsibilities for the Future

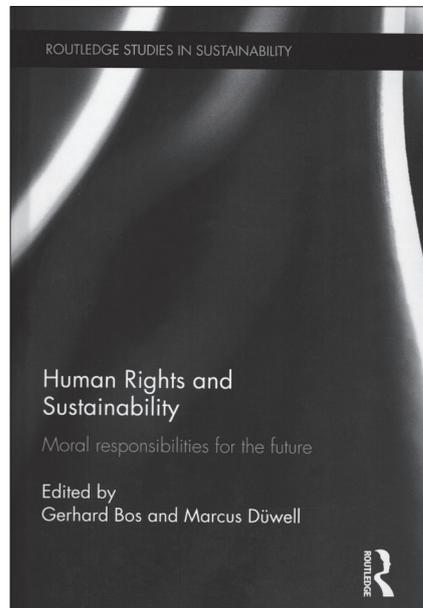
Reviewed by Julia Flegel and Maria Lenk

Should we, the existing people, be held responsible for the environment we leave behind for generations to come? Our intuition may lead us to say “yes”. However, reading the book at hand will prompt the reader to question this answer as she becomes immersed in the relationship between human rights, ecological challenges and our responsibilities to future generations.

The collection of 16 articles consists of interdisciplinary works by European scholars from the fields of law, philosophy and political theory. It explores whether human rights practices include a protection of the basic interests of future people and applies these reflections to the topic of climate change. All contributions ask whether human rights imply long-term environmental responsibilities to ensure future people’s well-being. And although all authors agree that there is an urgent need for progress on climate policy, they answer this question in many different ways. According to the editors themselves, in order for human rights to adequately respond to ecological challenges, they must be reinterpreted – which is why all articles are written with a philosophical scope.

Previous researchers have focused on explaining the importance of the moral aspects concerning sustainability and environmental problems, for instance Gilroy (2002), Potthast (2012) and Attapattu (2015), to name but a few. There are also a number of researchers who claim that environmental needs should be included in human rights, as do Woods (2010), Padhy (2008), or Piccolotti (2010). However, with this book, Bos and Düwell explore a new aspect within the discussion of human rights and sustainability by directing their focus towards future generations and the duties our generation (presumably) has when it comes to ensuring their rights. For reasons of space, we limit our discussion here to a selection of articles.

The first of four parts begins with “Greening the human rights laws” by Elina Pirjatanniemi.



In this article, the author addresses questions of environmental problems from a legal point of view by analysing whether long-term ecological responsibility could be integrated within the European Convention on Human Rights (ECHR). She detects obstacles to tackling environmental problems like global warming within this framework on the grounds that human rights violations, as such, are addressed directly to an individual or a group, but not to people who, as yet, do not exist (11f.). The author goes on to describe the trilemma of sustainably balancing economic, social and environmental aspects of development. To provide a better understanding of the possibilities and limitations of human rights, Pirjatanniemi draws on Barr’s “sustainability continuum”¹, a scale ranging from weak to strong. And while human rights and the ECHR currently only enhance the weaker forms of sustainability and face multiple obstacles when it comes to applying these rights to a stronger form and to future generations, Pirjatanniemi calls for stretching our understanding of human rights towards stronger forms of sustainability. Even though the author does so quite convincingly, the reader is left asking in which manner stronger forms of sustainability might

be implemented, for example, in court decisions.

In a subsequent chapter, “International human rights and duties to future generations”, Stephen Riley advocates the idea of an international constitution on the grounds that constitutions are meant to transcend time and generational limits. According to his argument, such a concept is vital to frame the debate towards sustainability duties and to fulfil our own intergenerational duties concerning sustainability. What is more, the author sees human rights as a synthesis of moral *and* legal rights. He goes on to argue that human rights, at least in part, may be the answer to problems of sustainability today and in the future. Nevertheless, he holds that a constitutionalist notion of human rights tasked with coordinating national constitutions as well as combining moral and legal understandings of human rights has significant advantages over other concepts. Riley also outlines the implications of a constitutionalist approach. Unfortunately, after proposing such an ambitious concept, he closes somewhat anticlimactically by pointing out that such a project would face enormous challenges and would greatly depend upon the degree of commitment it could attain (65). Taking the globally arising nationalist tendencies and the seeming return to preserving national self-interests into account, his proposed concept seems all the more improbable and utopian. This is even more so the case when he states that a precondition for an international constitution is an international society “committed to international human rights and not just to the self-preservation of states” (59).

In view of the book’s topic, or upon asking one’s own conscience, one might be under the impression that future generation’s rights ought to be protected no matter what. Jos Philips’ contribution “Human Rights and Threats Concerning Future People: A Sufficiency Proposal”, however, marks a counterpart to this notion.

The author asks how the interests of future people can be incorporated into human rights given that they will be affected by various risks and uncertainties. With this he contradicts Riley, who stated that “human rights are not dependent upon the calculation of risk” (55). Philips, however, presents a cost-effectiveness consideration, deriving his idea from works by Gardiner and Shue: Before acting upon a threat, one must consider aspects such as the urgency, severity and the probability of the occurrence of the threat as well as the amount of affected people and the effectiveness of possible measures (84). Following this consideration, reducing global warming should not come at the expense of other interests; and threats concerning future people – such as climate change – should therefore not always take priority over concerns of the present – or so he argues. He concludes that, while human rights may well be able to include future people and while climate change (and related threats to humankind) should still take priority within human rights, the costs for realizing these rights should not be “excessively costly for a society” (87). This article is well argued and structured, making it easy to follow in a compilation of otherwise quite demanding works. Nevertheless, the author’s sufficientarian approach leaves idealists with a sour taste.

Referring to a Dutch court which ruled that the government has a legal obligation to protect its citizens from climate change, Adina Preda’s “Human Rights, Climate Change and Sustainability” asks whether future generations, the environment, or distant others have any rights against us when it comes to climate change. She answers this question with a clear “no” – dismissing the issue of environmental justice entirely. Additionally, she bases her argument on a notion of human rights as a moral right rather than as judicial obligations arising from legal documents. Using Choice and Interest theory as well as the non-identity effect and problem, Preda argues not only that future people do not have rights against us, but that we are also currently *not* violating any duties owed to them (100f.). Concerning climate change as an issue of global justice, the author demonstrates how environmental rights can only be of a positive nature. She goes on to argue that the justification of a positive right requires the identification of a duty bearer. However, the environment has been altered and harmed by an unorganised collective, namely all of human-

kind, and according to Preda, an unorganised collective can hardly be considered as one agent.

The author concludes that climate change should not be framed in terms of rights. Nevertheless, she thinks, we still have a duty to combat climate change. Even though this contribution presents a sound line of argument and contains multiple examples, it still leaves these reviewers with the wish for more explanation and a fundamental question: If we don’t owe it to future generations, the environment, or other inhabitants of this planet to take actions against climate change, then to whom, in fact, do we owe it? Perhaps to ourselves? Furthermore, even though Preda is one of the few authors in this volume who actually provides her own definition of human rights, she concludes that “it may actually be more beneficial to admit that the language of rights is inappropriate here and [to] insist on the perhaps weaker but convincing claim that contributing to climate change is ‘merely’ wrong.” (104) After disarming the notions of ‘justice’ and ‘right’, with what does that leave us?

In the following chapter, Gerhard Bos is also concerned with the question of whether long-term environmental responsibilities should be accounted for as duties corresponding to future people’s human rights. And he, too, answers this question in the negative. He goes on to argue that questions of global and intergenerational justice should not be addressed as a matter between groups, e.g., in generational terms. This also means that long-term responsibilities are not to be seen as duties owed to future people. Instead, they should be viewed as long-distance and long-term responsibilities and duties between *individual* contemporaries *regarding* future people.

Michael Reder and Lukas Köhler open the third part of the collection with a more political point of view, linking human rights to political decision-making. Their aim is to demonstrate that human rights can, in fact, constitute a moral and normative basis for political decisions on climate policies. Criticising various approaches as too abstract, they strive to utilise a more pragmatic approach in exploring the normative foundations of human rights. By invoking a Hegel-oriented approach, they explore the normative and social practices essential to acting in accordance with Hegel’s notion of *Sittlichkeit*. They discover a potential in human rights to be guidelines for political

action on a global scale. These normative guidelines to sustainability are to be found in human rights’ moral principles such as freedom, equality, solidarity and participation. As a result, and taking moral and political implications into account, human rights can indeed provide a foundation for sustainability policies. In addition, the authors illustrate how negligence of policy to combat climate change will endanger future people’s human rights, and especially those of the most endangered groups. The authors close with addressing what this would mean in practice: Solving the conflict between developing and industrialised countries and the dilemma of mitigation vs. development by using, e.g., the principle of equality. However, the global distribution of power and the nations’ reluctance to sacrifice their own interests for the sake of cooperating by all means put a damper on the presented concept.

Bos and Düwell conclude the book by offering an overview of questions about the role of human rights and ecological challenges which they think need to be considered in future debates. First, they encourage us to consider what effect being aware of the role of future people will have for the current human rights regime and how a rising tension among different human rights might be resolved. Second, if future people were to be considered human rights-holders, how could they be represented in the political and legal order? And what would this mean for our understanding of democracy? Third, the authors point out that human rights were traditionally understood as rights held against the individual state. However, appropriate responses to global ecological challenges call for a higher degree of international coordination. Therefore, the question arises whether tackling issues such as climate change requires a new level of international coordination or even supranational institutions. These questions are both interesting and – especially concerning the latter point – of pressing relevance. Nevertheless, the book itself does not quite begin to answer them. Instead, it finishes with questioning the “role of human rights as the central reference point of our normative-political order.” (218) Hence, according to the authors, investigating the role of human rights regarding long-term (environmental) responsibilities, as done in this publication, is of utter importance.

The book provides a broad overview of the concept of sustainability as well as of

our moral and legal obligations to future generations. It is very comprehensive and clearly structured, and reading the introductory chapter alone will give the reader a very good idea of the research questions and issues at hand. All contributors to this volume agree that the topic of climate change needs to be taken seriously and that the existing generation's actions, our actions, will have an impact on future people. However, the authors disagree in their answers to the central question of this book. While some argue that human rights can be the carrier of long-term ecological responsibility towards future people, a considerable part of this book qualifies this or even takes an opposite point of view. Readers hoping to find a unanimous passionate plea for recognizing our long-term ecological responsibility within the human rights framework may find themselves disenchanted after reading. Be that as it may, the book challenges us to think more thoroughly about our behaviour and its impact on the future. The complexity of the issues surrounding human rights, sustainability and future generations is very well demonstrated here, and the reader is

taken on many excursions to gain a broader understanding of their philosophical roots. Moreover, the book benefits greatly from the interdisciplinary makeup of its contributors in that the reader is introduced to a great variety of approaches and views, making it possible to reflect on the topic from different angles and facilitating a profounder understanding of the issue at hand. However, the numerous references to complex concepts and philosophical theories also make this a rather sophisticated and demanding book which it is not always easy to follow. Consequently, this publication is mainly addressed to readers with some previous knowledge of the topics discussed, such as legal scholars, philosophers, political scientists, and other members of the scientific community. The fact that some authors do not define their – sometimes quite differing – understandings of the generously used concepts of “human rights”, “sustainability” or especially “intergenerational justice” also further complicates the reading experience. As a result, the reader is often left to keep up with a constant switch from, for example, human rights in a

legal sense (Pirjatanniemi) to a moral sense (Preda) to a notion which combines both their legal and moral aspects (Riley) – or, alternatively, she is simply left without any definition. Finally, some presented concepts leave open questions due to the fact that most contributions focus on the description but stop before addressing the policy implications, application or feasibility of their concepts.

Nevertheless, this is a highly valuable contribution which lays the groundwork for theorising about environmental concerns from a normative perspective and will be of great benefit to students and scholars from various backgrounds.

Notes

1 Barr, Stewart (2008): *Environment and Society: Sustainability, Policy and the Citizen*. Hampshire: Ashgate.

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