

Human rights, universalism and conserving human rights practice

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One objection to the recognition of human rights for future people is that human rights' existence, attribution and contents depend on a postwar agreement at the international level. In others words, human beings had no human rights before that and future people will have human rights only if and to the extent these will be recognized for them (Beitz, 2003; Raz, 2010). What is more, the content of human rights depends on postwar agreements at the international level, which were primarily a response to the atrocities in the world war – although they have had and continue to have their development today. Although there has been some recognition of the environmental aspects of human rights, this has been insufficient to focus the debate on long-term sustainability via human rights (Knox, 2009; Woods, 2010; Bos and Düwell, 2016; Düwell and Bos, 2016).

In moral philosophy, the question of long-term environmental responsibility has been discussed in a variety of theoretical frameworks. There are approaches that focus on our responsibilities regarding non-human nature as such; but also those pointing that treat our environmental responsibilities as a function of satisfying the basic needs of human beings – both present and future (Boylan, 2001; DesJardins, 2006). Some of the latter approaches ground in a moral understanding of human rights, i.e., the key idea of inherent dignity as the foundation of equal and inalienable rights of all members of the human family. On the moral understanding of human rights, human rights practices would be interpreted critically as ramifications of a normative core (Shue, 1996; Claassen and Düwell, 2012; Waldron, 2013).

The moral understanding of human rights is targeted by a variety of charges that are raised in the context of intergeneration justice more generally, which has lead to a variety of what I call 'direct approaches' to the protection of the rights of future people (Bos, 2016). The challenges raised concern the non-existence, non-identity of future persons; reciprocity issues our independence from them; as well as the impracticability given epistemically uncertain connections between action and harm and the indeterminateness of the victim etc. I will sidestep these concerns for a moment, although I assert that my arguments in what follows avoids them.

The moral understanding of human rights faces the following challenge: human rights may not have significant bearing on future people. The challenge, framed in this way, would allow for at least two readings. On a *first* understanding, unknowns concerning our impact on the planet's future as well as unknowns about future a person's needs and circumstances, would make it problematic to frame and tackle the question of long term responsibilities in terms of the human rights institutions as we have them. This points at issues related to a *second* one, i.e., the *determinate character* of human rights, i.e. that it's *origin, specification and justification* are primarily a matter of postwar international negotiations – that although ongoing, are primarily in *response* to the atrocities of that war. In other words, the human rights practices as we have them should *not* be interpreted as voicing the ramifications of the core idea of human rights that is central to a moral understanding of human rights. In other words: whether human rights practical apply to questions of long-term environmental responsibility, *does not* boil down to the question whether the normative core idea would require recognition of the environmental circumstances of future people to have their rights secure

The argument from human rights that I develop regarding the environmental condition of future persons avoids making assumptions about the justification, specification *and* draws only from the *conditions of attributing human rights*. Instead I will argue that, in conditions of temporal overlap between the lives of human beings, full recognition of human rights for our present contemporaries *concerns* the conservation of human rights institutions over time. What such 'conservation' entails would an interesting question. I will pick up on that later in this paper, but for now let me draw out the relevance of recognizing one way in which human rights can be said to be *universal*.

There is no denying that human rights are *attributed on universal grounds*, they are rights to be attributed to a human being without discrimination. In other words, human rights theory and practice is vitally committed to what I call the 'human rights conditional'

If x is a human person, then x should have, qua human being, certain rights secured for him

What I will do is elaborate the human rights conditional as one that, in conditions of partial overlap between lives of human persons, entails that we should be concerned with the possibility of that conditional to hold true in our lives *and beyond*. It should hold in our future and for that to be the case, I argue, the possibility that it holds true should be conserved for our future contemporaries, theirs and so on.

I have characterized *conditions of partial overlap* as follows:

- ‘(t1) Members of generation A exist; members of generation B do not exist; members of generation C do not exist.
- (t2) Members of generation A exist; members of generation B exist; members of generation C do not exist.
- (t3) Members of generation A do not exist; members of generation B exist; members of generation C exist.

In time, there is a chain between individual members of different generations based on a partial overlap of members of different generations. At t1, members of B are ‘future contemporaries’ of members of A, while at t2, members of C will be ‘future contemporaries’ of members of B. I will refer to this as the assumption of partial overlap.’

(Bos, 2016, pp. 108–9)

For theories of intergenerational justice the basic task is to account for current obligations regarding future non-contemporaries (Gardiner, 2003; Gosseries, 2008). This task can be approached in at least two ways. On the first, direct approach the claim is that we have duties to future people, primarily in response to their future human needs. On the second, indirect approach, our duties *to* our contemporaries require recognition of duties *regarding* certain conditions in the future – say because of normatively relevant chain of connections between current contemporaries, future contemporaries and future non-contemporaries.

This is not the place to delve deeper into differences between these approaches, but I would like to emphasize that they may in principle be compatible and may require recognition of them as two sides of the same coin. Notwithstanding this, they are two approaches that should be assessed in their own terms – especially since both face different objections.

I think that once we combine the human rights conditional and assumption of partial overlap, we get a normative perspective on the continuation of our human rights practices – including the task to keep the environmental preconditions of these practices in line with that perspective. Forget for a moment about the question whether or not we owe it to future people to leave them a hospitable environment. At least we owe it to each other to advance our human rights institutions and practices. We cannot allow for a treatment of the environment, so that the contents of human rights can only be secured for us, currently living, now and in our future, and for others only if and to the extent they are our contemporaries.

I have referred to this idea as the 'chain of status'. Roughly, the idea is that our status as bearer of human rights is relevantly connected with those of our future contemporaries, which in turn is again relevantly connected with those of their future contemporaries – even given that the latter are non-contemporaries for us. We should be concerned with the possibility that, in our future, rights are secured for us *simply* in response to our being human. That is to say, not necessarily because of the inner significance of human beings, but at least because we are committed to human rights institutions – institutions in which rights are to be attributed to human persons without discrimination. In other words, the truth of the human rights conditions should be possible into the future of us currently living. For that to be the case, it should be possible for our future contemporaries to have the same rights secured for them simply in response to their being human – then and in their future. This in turn implies, it should be possible for their future contemporaries *and so on ad infinitum*. Note that this possibility would not obtain, if these rights would be secured for them only as long as they live with us. For in that case, the rights would be secured for humans qua being our contemporaries. That would be a discriminatory specification of the human rights condition, which is fundamentally at odds with the human rights conditional. Hence, the possibility that certain rights are secured in our future for us qua humans, requires the possibility that the very same rights are secured for our future contemporaries as humans – while we live together and beyond that. Hence conditions of partial overlap require us to advance the robustness of institutions that secure human rights, and that for relatively formal reasons.

This may seem to boil down to a rather inflexible conservatism of current human rights practices. Not only would it require concern for the securability of all and any human right currently recognized, it would also demand concern for the institutions that are needed for their securability. At the same time, one can wonder whether such conservatism is warranted, in the face of the environmental threats we face.

To get rid of this sort of inflexible conservatism of human rights practices, I suggest, we would have to draw them together and critically reconstruct them in terms of central normative commitments – which then will allow us to focus the question of what should be securable and what institutions are up to that task.

Let me return to one of the objections that I raised earlier about the determinate character of human rights. This objection emphasizes that *origin, specification and justification* of human rights are primarily the results of postwar international negotiations – arguably *aimed to address the future possibility of atrocities* like that of that war. I think that the chain of status requires international politics to be vitally concerned about the possibilities of securing

human rights into the future – that is if they are committed to these practices. The only feasible way of doing so is by setting priorities on what requires protection as a human right, and accommodating institutionally so that the possibility of these protections is secured in the prospect of future environmental threats. This in the end, I assume requires a moral philosophical understanding of what it is that matters about human beings; and what we need institutions for to secure it (Düwell, forthcoming).

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