

REVIEW OF HUNGARIAN SCHOLARLY LITERATURE

Marie-Claire Cordonier Segger et al. (eds.), Intergenerational Justice in Sustainable Development Treaty Implementation. Advancing Future Generations Rights Through National Institutions (Book Review)

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“Carbon emissions to the atmosphere, pollution of the water resources, testing of nuclear weapons, surreptitious disposal of nuclear waste, deforestation, endangering of fauna and flora, uncontrolled disposal of industrial waste and depletion of the Earth’s resources are proceeding at an ever-increasing rate. This is regardless of the fact that the damage already done has been so great that it has even caused significant climate change in our time, which will increase exponentially if preventive action is not taken immediately. If such operations are continued even at the present rate, the environment will, in the next decade or two, have deteriorated to levels which will not be able to support the global population as we now know it.”¹

In his afterword to this volume, H.E. Justice C.G. Weeramantry, a standard-bearer for the clarion call to action in sustainable development and intergenerational justice, speaks to the urgency of the environmental problem we face on our blue and green planet. Justice Weeramantry’s legacy is best reflected by this Afterword. As his final piece of writing published posthumously, it draws the attention of the reader to the central issue this volume seeks to tackle. In short, this volume seeks to ascertain how the lives and identities of future

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1 Marie-Claire Cordonier Segger et al. (eds.), *Intergenerational Justice in Sustainable Development Treaty Implementation. Advancing Future Generations Rights Through National Institutions*, Cambridge University Press, Cambridge, 2021, p. 793.

generations will be impacted by the place given to intergenerational equity in law and policy.²

In linguistics, studies have investigated whether the academic community is using the right language: calling it climate change, and not a climate crisis.³ The question this debate asks is if the vocabulary we use is enough to explain the urgency with which these issues need consideration, and solutions. It seeks to investigate if the current definitional force given to the environmental challenge is adequate to prepare the present generation for the suffering and harm that is likely to inflict upon future generations if the *status quo* continues.

Despite my own optimism, in reading this volume, published in the series *Treaty Implementation for Sustainable Development*, it was this debate that played out in the background. This series of books addresses this need and provides a serious contribution to ongoing global debates by conducting a detailed analysis of how myriad new treaty regimes that cover the future's most pressing concerns can be made to work in practice.⁴ Admittedly, this is a lofty ambition. Previous volumes have tackled this challenge by focusing on specific regimes, for example, the Cartagena Protocol,⁵ International Aviation⁶ and International Criminal Justice.⁷ However, the most recent editions have seen a turn in the series, with a view to the future, with one volume on children's rights and sustainable development,⁸ and now, this seminal volume on intergenerational justice.

This volume in particular, surveys current commitments to sustainable development, analyzing innovative policies, practices and procedures to promote respect for intergenerational justice. Expert contributors provide serious scholarly and practical discussions of the theoretical, institutional and legal considerations inherent in intergenerational justice on the local, national, regional and global scale. They investigate treaty commitments related to intergenerational equity, explore linkages between regimes, and offer insights from diverse experiences of national future generations' institutions.

Conducting a study utilizing this approach is not new for any of the editors of the volume. In both theory and practice, each of them embody the spirit that the intergenerational perspective necessitates. A survey of their accomplishments and academic positions evidence this.

Professor Cordonier Segger is the Leverhulme Visiting Professor at the University of Cambridge, and Full Professor of Law at the University of Waterloo,

2 Id. p. 15.

3 Larissa Jaskulsky & Richard Besel, 'Words That (Don't) Matter: An Exploratory Study of Four Climate Change Names in Environmental Discourse', *Applied Environmental Education & Communication*, Vol. 12, Issue 1, 2013, pp. 38-45.

4 Cordonier Segger *et al.* (eds.) 2021, p. iii.

5 Marie-Claire Cordonier Segger *et al.* (eds.), *Legal Aspects of Implementing the Cartagena Protocol on Biosafety*, Cambridge University Press, Cambridge, 2014.

6 Armand L.C. de Mestral *et al.* (eds.), *Sustainable Development, International Aviation, and Treaty Implementation*, Cambridge University Press, Cambridge, 2018.

7 Sébastien Jodoin & Marie-Claire Cordonier Segger (eds.), *Sustainable Development, International Criminal Justice, and Treaty Implementation*, Cambridge University Press, Cambridge, 2013.

8 Claire Fenton-Glynn (ed.), *Children's Rights and Sustainable Development. Interpreting the UNCRC for Future Generations*, Cambridge University Press, Cambridge, 2019.

Canada. She is also laureate of the 2020 H.E. Judge C. G. Weeramantry International Justice Award and advises countries and international organizations on treaty commitments on climate change, biodiversity, trade, investment and other Sustainable Development Goals. Professor Szabó is a Full Professor at Pázmány Péter Catholic University in Budapest, and since 2016, also serves as Justice at the Constitutional Court of Hungary. In addition, between 2012 and 2016, he was the Deputy Commissioner for Fundamental Rights and Ombudsman for Future Generations in Hungary. Together with Professor Cordonier Segger, he sits on the International Commission for the unique UNESCO-Voices of Future Generations project, which aims to empower children's voices in shaping their futures. Professor Harrington is the Fulbright Canada Research Chair in Global Governance at the Balsillie School of International Affairs in Waterloo, Canada, and has written extensively on the interpretation of sustainable development goals. With the numerous contributing authors, they use their expertise to offer insight from their experiences and paint a holistic picture of what intergenerational justice in alignment with the sustainable development goals should look like. All three editors of this volume are leaders at the Centre for International Sustainable Development Law (CISDL), an independent international legal research institute integrating environment, human rights and economy through legal scholarship and empowerment.

This experience is perceptible in the introductory text of the volume, which provides the reader with the lens through which to look at the chapters that follow. The editors say,

“The implementation of intergenerational equity and justice commitments is complex, not least owing to the abstract nature of the State obligations laid down in treaty law, but also because of the multiplicity of areas which intergenerational justice touches upon, ranging from environmental, social and economic sustainability to questions of demographical trends, public participation, fiduciary duties and the contours of a common heritage for humanity.”⁹

From this premise, the promise of the volume emerges. To the reader, it offers a sweeping, cross-cutting, multidisciplinary look at what intergenerational justice means in substance. Here, the structure of the volume deserves much commendation. Instead of delving straight into these interdisciplinary challenges, the volume first paints a picture of what obligations exist upon the State under the *lex lata*, using the extensive experience of the Hungarian Ombudsman for Future Generations as a principal case-study. Once this is outlined, the volume proceeds to examine challenges, before proceeding to specific law, policy, and economic innovations necessary to achieve intergenerational justice. The future trends highlighted provide four useful frameworks by which to examine whether progress is made in achieving intergenerational equity – with two pressing sustainable development challenges: climate change and access to water, and two

9 Cordonier Segger *et al.* (eds.) 2021, p. 3.

conceptual frameworks, both of which have merit, and call for an adaptation of how law is made today.

What is also particularly appreciable, and is a novel contribution to existing literature, is how comparative insight is offered: it is not exclusively focused on the Global North, but provides space, in particular, for the rights of indigenous peoples, written by authors belonging to the indigenous community. This is particularly of relevance as critical international legal studies are gaining a prominent place in scholarship and offering perspectives from these groups leading to contextual learning. Given geographical, cultural, social, political, economic variance, it is impossible to transplant solutions (especially ones that call for innovation of this kind) from region to region. This volume makes that apparent. Moreover, the national case-studies are not theoretical, but linked to the *realpolitik*. In choosing to focus on national institutions, contributing authors had the opportunity to present the challenges they face and see in the field.

It is perhaps this, then, that is my only bone of contention with the volume and presents its one drawback. Despite the wealth of viewpoints on display, it does not present perspectives from two of the most highly populated countries in the world: China, and India. The chapter on lessons from Asia seeks to offer some comparison, but does not account adequately, in this reader's view, for the systemic economic differences that exist across the continent – which invariably, presents unique challenges to each of these countries for the future. Even if these were not included, it would have been relevant for the book to examine how population explosion and the resource crunch links to issues of intergenerational equity, a debate to which passing references are made throughout, but no explicit link is drawn.

This is, however, a minor flaw. In its contribution to existing literature on intergenerational justice, it is unparalleled, and sets the stage for a conversation that cries out for more ears. As a young lawyer and international law researcher, it has, in many ways, revealed to me, the promise of public international law, which detractors seem to confine to its limits. It has reinvigorated my sense of purpose in advocating for advancing the sustainable development goals, while being cognizant of the critiques that exist about its limitations. All in all, I have no hesitation in recommending that this book be read by as many people as it can reach from young students trying to decide the causes they want to champion, to established lawyers working in private law, there are takeaways for everybody. It becomes clear at the conclusion of the volume that this is an effort that calls upon every member of the community. Borrowing from Jona David and Tyra Sioni, UNESCO Voices of Future Generations Child Authors and Trust for Sustainable Living Medallists,

“For a real chance of global sustainability and justice, we need present generations of leaders, experts, and practitioners to make a deep commitment to help transform all the inefficient, wasteful, destructive systems by which we currently live.”¹⁰

10 Id. p. xxxvii.

With increased confidence, I can now say that the linguists were right – we do not, in our every day communication of the climate crisis or the development challenge, use the right vocabulary to convey the devastating impact natural and man-made events are having on livelihoods. This volume gives us a chance to use a new wealth and depth of vocabulary to confront the challenge head-on and so, with optimism, I look forward to the conversations and action that will surround actors who seek to engage with its mission.