Book review

Richard P. Hiskes, *The Human Right to a Green Future: Environmental Rights and Intergenerational Justice* (Cambridge University Press, New York 2009) 171 pp.

Kathryn Kintzele

Director, North American Global Responsibilities Program, Center for Humans and Nature, Chicago

I must admit that when I began reading Hiskes' *The Human Right to a Green Future: Environmental Rights and Intergenerational Justice*, I was somewhat concerned by his introductory remarks that 'a vocabulary from ethics full of righteous-sounding invocations to "care", to recognize a "moral obligation" ... are all guaranteed to move environmental policy to the rear of any political agenda ...'.¹ I was quite sure at that point, two pages in, that I was not going to be enthusiastic about this book. Hiskes' argument for the use of 'power words of contemporary politics' was something that my own line of work argues against. This apparent opposition however, is what piqued my interest to continue reading. When I read 'power words', I interpreted masculine overtones, which have indeed permeated many legal and policy narratives since time immemorial. If this is the current dialogue, and we are arguably at a tipping point concerning the future of the environment, the economy and even how we treat other humans, why should we acquiesce to the very 'power' paradigm that put us into this predicament?

Hiskes successfully argues, however, not that we should ignore these personal motivations of care and responsibility, but that we should and can translate them into action by narrowing our circle of care to each of our communities so that we can better relate to them and thereby better recognize our responsibilities to them. This requires both honouring the past by continuing the legacy of our shared values and principles, and respecting the future by affording posterity their due rights in the present so that they, too, can continue the legacy of the past. As he states, 'they are our future generations who will continue many of the political, institutional, and cultural practices and artefacts that define us today as a community and as an individual people'.² They are 'part of us'. This was something that I could relate to and do strongly support.

One of the strengths of this book is the ambition of Hiskes' arguments and his willingness to address 'big picture' issues. He gives strong historical accounts (see the section on 'International agreements and the addressees of environmental human rights'), current adversarial arguments (see 'Nationality and the obligation to the rights of the future', specifically pp 84–86 where Hiskes details the arguments against nationality as a moral category) and progressive and novel responses.

1. Richard P Hiskes, *The Human Right to a Green Future: Environmental Rights and Intergenerational Justice* (Cambridge University Press, New York 2009) 2.

2. Ibid 63–64.

In defending a human right to a green future, Hiskes blends at least four current discourses into his argument. One of these is human rights jurisprudence, which has acquired a precarious status in some individual nations in recent years. Under the George W Bush administration in the United States, controversial changes to the very definition of 'torture' were advanced, and many scandals arose, including at the Abu Ghraib prison in Iraq. Environmental rights constitute another discourse. Although they are becoming increasingly visible in national constitutions (eg Brazil, India and South Africa), and are sometimes conveyed with the most beautiful language, they are still difficult to implement and enforce. The argument for the rights of future generations has taken a similar path, being increasingly seen in international agreements of hard and soft law, but often these agreements are not well enforced. Hiskes also argues that environmental rights should be seen as human rights; this argument alone has its own body of literature and law in support of and against it. Hiskes succeeds in narrowing and structuring these profound issues adequately in defence of his main thesis for a human right to a green future.

Not only does Hiskes address multiple topics, each capable of standing on its own as a major treatise, but he addresses them in a cross-disciplinary manner. In support of his own arguments, and also when he canvasses opposing viewpoints, Hiskes draws from many disciplines, including history, philosophy (see the section on 'Moral particularism versus moral universalism', in which he cites Hume and Kant, among others), law and political theory. However, religion is notably absent from Hiskes' discussion. I would have liked to read how Hiskes sees the role of religion in his argument, given that the authority or culture of some nation-states is grounded in religion, and many of the constitutions that provide for intergenerational and environmental rights are drawn from these same nation-states. Although this interdisciplinary method is to be applauded, it may make some of Hiskes' arguments difficult to understand when one steps outside of one's own field of expertise. However, his generously referenced discussion makes it relatively easy for the novice reader to explore further literature on arguments that pique their interest.

Hiskes makes several novel arguments to support why each nation-state (or 'community') should advance a human right to a green future. These include reflexive reciprocity as a basis for intergenerational justice ('an action that rebounds on itself in furthering the interests of both present performer and future recipient'³); the principle of 'vulnerability' as a way to connect with the future ('[t]he principle of vulnerability offers a morality for an interconnected world'⁴); nationalism and communitarianism to build a global consensus (addressing political will and noting that the bias of nationalism and communitarianism is not absolute); environmental rights (being emergent group rights) as the most appropriate way to address intergenerational rights; and constitutionalism and democracy as 'the two most important requirements for global environmental health and justice'.⁵ On this last point, I have done much research into progressive constitutional rights, specifically environmental rights and their interpretation, and strongly agree that such rights should be included in each nation-state's constitution. However, it would have been useful if Hiskes could have elaborated on the question of *how* those rights can be enforced and implemented.

3. Ibid 49.

4. Ibid 80.

5. Ibid 142.

This question is actually applicable to each of his arguments. How, then, can we take these novel approaches and make them a reality in the legal system and culture of communities?

What I found particularly delightful was how Hiskes approaches some widely regarded troubling issues – some that make the reader initially think how in the world can one argue that particularism and nationalism are what will lead us to a more socially just and ecologically sustainable world? How can *narrowing* our human interests to those that we can personally relate to promote environmental rights and intergenerational justice across nation-states? Understanding that there will be no action if there is no will to act, Hiskes argues that, '[t]he political will to recognize environmental obligations to future generations is ... a communal will'.⁶ And if the answer resides in the community, how should we define a 'community'? What are its boundaries? According to Hiskes, '[i]t is within nations viewed as political communities concerned with their own successor generations that environmental justice finds its impetus'.⁷

Although I do appreciate the entire book, my favourite sections were 'Reflexive reciprocity and cross-generational communities' and 'Constitutionalism and the rights of the future'. I admired his argument for a community approach to a global issue, whereby he flips a stereotype on its head (this being that international agreements solve international issues). With his solution based in the community and its sovereignty, I would include Hiskes within the growing body of theorists and practitioners who argue for a bottom-up approach to international issues, or 'international environmental law from below'⁸ (see, for example, the work of Balakrishnan Rajagopal⁹). Hiskes makes a strong example of those who are pushing the local and national roots of democratic and ecological practice as being essential to international consensus and effectiveness.

Thus, I recommend that any legislator, or even legislative aide, as they are the ones writing the bills and often pushing the agendas, read the section on 'Constitutionalism'. I would even go so far as to say that this section should be required reading for all politicians, at all levels of government. I also found the section 'The democratic retrieval of communal nationalism' particularly intriguing; here, Hiskes argues that the communal rights and obligations of a citizenry, in particular public participation, are the 'human rights of democracy' and are what make a 'moral community'. Hiskes concludes that 'democratic politics turn nations into communities'.¹⁰

Although this book appears largely to be written for an academic audience, Hiskes is able to bring several of his intricate theories to a level of common understanding. This, I believe, is incredibly valuable for any book. For example, when he details the requirements for reflexive reciprocity, he refers to Plato, but then shows how 'our

6. Ibid 118.

7. Ibid 119.

8. 'International law from below' refers to the bottom-up approach of grassroots/civil society actions (the "below"). The argument is that these social movements will lead to greater social justice and ecological sustainability than the 'top-down' approach of creating laws within a legislative body (the "above") and enforcing them on the people below.

9. Balakrishnan Rajagopal, an Associate Professor of Law and Development at the Massachusetts Institute of Technology (MIT) and Director of the MIT Programme on Human Rights and Justice, is one of the leading scholars of this social movement theory and its application to international law. See, eg, B Rajagopal, *International Law from Below: Development, Social Movements and Third World Resistance* (Cambridge University Press, New York 2003).

10. Hiskes (n1) 90.

common experiences of everyday life can clearly deliver insights into what reciprocity requires'.¹¹ He then continues, '[f]riendship is instructive for justice ... because of what friends share that makes friendship possible as a cooperative or reciprocal relationship'.¹² Hiskes does this again when defining the borders of a community: 'we have difficulty recognizing obligations to – as future generations of other communities invariably are – perfect strangers'.¹³ This is why he places the boundaries to a nation-state in a community under a constitution, the very juridical document that represents the shared values and principles of the past that should guide the community into the future. Even when Hiskes canvasses a complex issue, or one incapable of being fully explored in his pithy account, he cites an array of literature that enables the reader to digress for further reading (see the section on 'Environmental rights and justice between present and future groups').

Overall, I would recommend *The Human Right to a Green Future: Environmental Rights and Intergenerational Justice* to anyone interested in any of the numerous topics that a discourse on the human right to a green future involves. The book is an excellent source for direct research due to the detailed historical accounts and novel progressive arguments, as well as a source for tangential research due to the book's extensive references. Although Hiskes addresses 'big' issues in a multidisciplinary approach, his structure is inviting rather than intimidating. In substance and procedure, Hiskes provides the reader with powerful language for a powerful concept.

11. Ibid 53.

12. Ibid.

13. Ibid 118.