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Book Review

***Law through the Life Course*, by Jonathan Herring, Bristol University Press, Bristol 2021, 292 pp, softback and EPUB £29.99, hardback £79.99 ISBN 978-1529204681.**

In the summer of 2021, 14-year-old Rosalinde wrote a letter to Dutch Prime Minister Mark Rutte, following the 2021 climate report of the United Nations Intergovernmental Panel on Climate change. In it she expressed her concerns about the current policy to prevent climate change, stating: ‘This is my future and the future of so many other young people. Unfortunately, we do not have a say in Parliament, but you do!’.¹ The situation of Rosalinde raises a number of questions. Why does Rosalinde, unlike the Dutch Prime Minister, not have the right to stand in the elections for a seat in Parliament and is this difference in opportunity justified? Is it right that Rosalinde does not have a say in affairs which can potentially have a huge impact on a later stage of her life? To what extent should the state consider the future interests of current generations, or the interests of future generations not yet born? And should there be a form of recompense in cases where the interests of current generations have been negatively affected by actions in the past? Answering these questions requires an approach enabling us to look beyond the confines of the law concerning a particular life stage—such as the law on children in this case—and examine the impact of the law on people’s lives more broadly. The life course perspective offers such an approach. This approach, already mainstream in various disciplines such as sociology, history, biology and economics, was until recently relatively unknown within the legal discipline. Herring’s monograph titled ‘Law through the life course’ has brought a welcome change in this regard. The book provides an insightful introduction of the life course perspective within the legal discipline and provides a solid basis upon which further development of this approach within the legal discipline can take place.

The introductory chapter briefly outlines the way in which the law can influence and shape the different stages of people’s lives. This can be done by means of implicit or explicit regulation determining or signalling how people are supposed to behave at certain life stages, such as the law on education for children and the law on

1 Nederlandse Omroepstichting (NOS), ‘Meisje (14) schrijft brief aan Rutte: ‘Dit is mijn toekomst en van zoveel andere jongeren’, via <https://nos.nl/collectie/13871/artikel/2393666-meisje-14-schrijft-brief-aan-rutte-dit-is-mijn-toekomst-en-van-zoveel-andere-jongeren> (accessed: 10 January 2022); R. Leijdekker, ‘Beste minister-president Mark Rutte, doe het voor ons’, NRC 12-08-2021.

pension entitlements for older adults. More important seems however the influence of legal norms. Herring notes in this regard: ‘the law tends to be based around certain assumptions about what people are like or what an ideal person is in the eyes of the law’.² This brings with it the risk that people at certain stages of life, who fulfil this norm, are favoured to the disadvantage of others and this is one of the major themes explored in the book. Chapter 2 continues with a thorough exploration of what is referred to as the ‘life course theory’. The chapter begins with addressing potential misunderstandings that might arise from the use of the word ‘theory’. Herring notes that instead of a theory, the life course perspective should rather be seen as ‘an approach or framework which evokes a series of questions and perspectives’.³ Elder et al. note in this regard that the term theory should be understood as referring to a theoretical orientation, providing a basis for research looking at human lives in context.⁴ To better capture this, the phrases ‘life course perspective’ and ‘live course approach’ in practice are also regularly used. The chapter goes on to explain that given the fact that the life course approach is used within a variety of disciplines by both scholars and policy makers, the approach is frequently used with different understandings. Herring notes however that these different understandings come together in a sense that:

All versions of life course theory accept that it is about examining people’s lives over time, through the different stages and events which give lives meaning. It seeks to explore the factors that shape our lives. It examines what causes and marks changes in a life and what influences its direction.⁵

Research based on this approach is guided by several themes or principles, established by previous research in the behavioural and social sciences, providing a rationale for the study of people’s lives over time and in context.⁶ Chapter 2 lists six themes, such as the notion that human development and ageing are lifelong processes and the notion that earlier life experiences can have a profound effect on later ones. The chapter highlights one theme in particular, namely the debate concerning the question to what extent individuals can control their own life trajectory. Herring notes in this regard that there are powerful assumptions and societal expectations concerning certain life stage or life events. These are within the life course perspective acknowledged as a factor influencing people’s lives. The impact of these expectations and assumptions is at the same time, however, also critiqued within the life course perspectives, whereby it is argued that the assumptions underlying particular life stages should no longer define or restrict people. The chapter goes on to explain that a powerful factor in this regard is individualism or the idea that every person

2 J. Herring, *Law through the Life Course* (Bristol: Bristol University Press 2021) 5.

3 *Ibid.*, 9.

4 G.H. Elder, M. Kirkpatrick Johnson and R. Crosnoe, ‘The Emergence and Development of Life Course Theory’, in J.T. Mortimer and M.T. Shanahan (eds), *Handbook of the Life Course* (New York: Kluwer Academic Publishers 2003), 3–19.

5 Herring (n 2) 9–10.

6 Herring uses the term ‘themes’, Elder et al. (n 4) speak of ‘paradigmatic principles’ which are based upon previous research and are meant to provide a foundation for research looking at the life course.

should be enabled to determine and shape their own life course. Herring recognizes this trend whereby societal expectations such as the life stage in which a person is supposed to marry (or the decision whether a person gets married at all) no longer have the same weight as they might have had in the past. Herring, however, also argues that the significance of individualism should not be exaggerated. He notes in this regard:

As we all know, an accident, illness or dramatic change in circumstances, can leave our plans in tatters or indeed open up unexpected and welcome new avenues for our life story. The current socio-economic situation can severely curtail the options that are open to you. The obligations of childcare or care of a relative may restrict the options available. There still powerful forces of patriarchy, racism, heteronormativity and classism which impact on how people behave.⁷

Herring goes on to note that for many the language of individualization does not chime with the duty of care and the sense of obligation they feel:

People do not get to write their life story in whichever way they wish, rather they meet the obligations that come with living in relationships and with responsibilities.⁸

The question which subsequently arises is to which extent the law reflects and accommodates this reality. This is the central question featuring throughout the book. The building blocks that are used to answer this question are provided by an exploration of the different stages of life and an analysis of the role of the law in establishing, reinforcing and regulating them.⁹ Chapters 3–7 discuss in successive order the life stage of the fetus, childhood, adulthood, old age and death. The outline of these chapter is more or less the same. Each chapter provides a unique insight into the different (sociological) perspectives that underlie the various stages of life. Each chapter subsequently proceeds with an analysis of how the law responds to the respective life stage, whereby an analysis of the interaction between the different (sociological) perspectives and the legal response is undertaken. In this regard, it becomes clear that the (sociological) assumptions underlying a particular life stage can influence the legal response to that particular life stage. Chapter 4, for example, illustrates how the law's protective response towards childhood is largely based on the assumption that children are vulnerable. In turn, the law's response to a particular life stage can also shape and reinforce the assumptions that underlie that particular stage of life. Chapter 6 presents an example of this; here Herring persuasively shows that a failure to adequately address age discrimination can reinforce a particular understanding of 'old age'. In addition to an exploration of particular life stages, chapters 8 and 9 discuss two particular areas of the law. Chapter 8 on family law examines the significance of family relationships within the individual's life course.

7 Herring (n 2) 22.

8 *Ibid.*, 266.

9 *Ibid.*, 1.

Chapter 9 on mental capacity, once again, highlights the value of the life-course perspective in understanding the individual's life as a whole. The chapter, among other, discusses the controversy surrounding advance directives concerning the question how the current interests, wishes and preferences of the individual should be balanced with the wishes and preferences of the individual as recorded in an advance directive. Taken together these chapters provide a wealth of information. The reader could easily read the book a second and third time and still uncover new insights.

As indicated the central question which runs as a connecting thread throughout these chapters is the question to what extent the law accommodates and reflects the reality that we all are, as Herring describes, 'vulnerable, relational and caring people'.¹⁰ Right at the start of the book, Herring signals the influence and impact of legal norms, whereby he notes that these legal norms tend to be based on what in the eyes of the law would be considered an ideal person. Herring notes in this regard:

The law is premised on a self which is independent, capacitous and rational. Hence, the law emphasizes as key rights autonomy, bodily integrity, privacy and liberty. Our right to be able to make our own choices over how to act, and to be subject only to those responsibilities we choose to take, are seen as central pillars of the economic, social and legal structures. The role for the law in such a model is to protect us as individuals from unwanted intrusions and to protect our liberty to pursue our own goals for our life.¹¹

Herring argues that the law's emphasis on the rights of autonomy, privacy and liberty does not chime with the reality of vulnerable, relational and caring people. This argument in itself is not new and is in line with Herring's earlier work.¹² With this book Herring adds a new dimension to this argument, however, by persuasively showing that the law's premise on a self which is 'independent, capacitous and rational' leads to the privileging of a certain life stage—adulthood—and considering factors such as gender, race and disability, to the privileging of a certain class of individuals, namely the 'self-sufficient, autonomous, privileged man'.¹³ The question which subsequently arises is how we should respond to this observation. Herring does not address this question in extensive detail. He confines himself to arguing that a reconceptualization of the law is needed. The starting point in this regard should be a system in which the law is premised on a norm of vulnerable, interdependent, caring people. Such a system, he argues, would break down the divisions between the regulation of different life stages.

As the aforementioned makes clear, Law through the life course is a thought-provoking book, worthwhile reading. The book challenges us to look beyond the confines of specific areas of the law and explore the law more broadly. It encourages us to explore the interconnection between the law and people's lives, not just at one stage of life, but across people's lives. If we subsequently agree with Herring's observation that the legal system is particularly attuned to the life stage of adulthood, we

10 *Ibid.*, 266

11 *Ibid.*, 128–29.

12 To name but one example: J. Herring, *Relational Autonomy and Family Law* (London: Springer 2014).

13 Herring (n 2) 266.

are challenged to consider how the law can better accommodate the whole of the life course, instead of this particular life stage. The book, in addition, provides an extensive introduction into a valuable perspective that has to date not received much attention within the legal discipline. As Herring also points out himself, the full depth and value of this perspective within the legal discipline is something that can be explored further. An aspect of the life course perspective upon which chapter 2 briefly touches concerns the theme of intergenerational justice or fairness. Reflecting on the example with which I started this review, the life course perspective can also provide a theoretical orientation for research looking at the question how the interests of current generations concerning the action that is taken with respect to climate change, should be balanced with the interests of future generations. As the life course perspective is in other disciplines, such as sociology and psychology, often used as a basis for empirical research, the potential of the perspective as a basis for empirical legal research is another aspect that can be explored. In the area of family law and elder law, the perspective might for example have great value in research looking at the interaction between the static nature of instruments such as prenuptial agreements, continuing powers of attorney or advance directives compared to the dynamic nature of life in which the wishes, preferences and most importantly the needs of individuals might change over time. Researchers intending to undertake such research would be well advised to use Herring's book as a starting point. It will provide them with a thorough understanding of the life-course perspective within the legal discipline.

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