

Summary

„Klimawandel, Menschenrechte und neues Freiheitsverständnis – Herausforderungen der politischen Ethik“

by Felix Ekardt

This contribution presents the following theses from both an ethical and a legal point of view: Neither the scope of “protection obligations” which are based on fundamental rights, nor the theory of constitutional balancing, nor the issue of “absolute” minimum standards (fundamental rights nuclei, “Grundrechtskerne”), which have to be preserved in the balancing of fundamental rights, can be considered satisfactorily resolved – in spite of intensive, long-standing debates. On closer analysis, the common case law definitions turn out to be not always consistent. This is generally true and with respect to environmental fundamental rights at the national, European, and international level. Regarding the theory of balancing, for the purpose of a clear balance of powers the usual principle of proportionality also proves specifiable. This allows a new analysis, whether fundamental rights have absolute cores. This question does not only apply to human dignity and the German Aviation Security Act, but also to the problem of environmental policy accepting deaths, e.g. caused by climate change.

Overall, it turns out that an interpretation of fundamental rights which is more multipolar and considers the conditions for freedom more heavily – as well as the freedom of future generations and of people in other parts of the world – develops a greater commitment to climate protection.