



Ombudspersons for Future Generations as Sustainability Implementation Units

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- **Thought Leadership** – writing and commissioning think pieces on issues relating to sustainable development governance, to stimulate and inform discussion on this issue towards Rio+20
- **Sustainable Development Governance 2012 Network (SDG2012 Network)** – co-ordinating a multi-stakeholder network of experts to produce and peer review think pieces, discuss and exchange on issues relating to the institutional framework for sustainable development, and align with policy positions where appropriate
- **Information and Resources** – publishing informative guides and briefings and hosting an online clearing-house of information and updates on international environmental and sustainable development governance – 'SDG dossier'
- **Submissions** – making official submissions to the Rio+20 process based on think pieces and dialogue.

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Stakeholder Forum works across four key areas: Global Policy and Advocacy; Stakeholder Engagement; Media and Communications; and Capacity Building. Our SDG2012 programme sits within our work on Global Policy and Advocacy.

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If you would like to provide feedback on this paper, get involved in Stakeholder Forum's SDG2012 programme, or put yourself forward to write a paper, please contact Kirsty Schneeberger, Senior Project Officer at Stakeholder Forum – kirstys@stakeholderforum.org

ABOUT THE AUTHOR

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To grasp the diversity of life Maja explores the world as a student and teacher, activist and researcher, traveler and manager. She enjoys creating projects and teams that shake up apparent facts and champion shared values. Her particular passion lies in highlighting how worldviews and “objective” science influence behaviour and politics. She holds a PhD in Global Political Economy and a diploma in Media/Communications and worked with several non-governmental organizations on the link between ecology, globalization and justice. She lectured on International Relations, writes academic papers and develops campaigns for collaborative action. For the World Future Council Maja worked on climate/energy issues before launching the department on [Future Justice](#) in 2008. With its global expert commission she develops and promotes tools for governance solutions that integrate human security, ecological integrity, and social equity in the interest of future generations. Maja is also a member of the Balaton Group, a Senior Fellow with the Small Planet Institute, a Scientific Advisor to terre des hommes Germany and oikos Hamburg, and member of several networks on Post Growth Economies.

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Sustainable development enjoys widespread recognition as a policy goal which, if implemented, is capable of providing “healthy and fulfilling lives for the current generation, while entrusting to future generations the means to do the same” (UNCED definition of 1992). Progress has been made in this regard since the UN Conference on Environment and Development in Rio de Janeiro in June 1992 - for example, on sustainable development metrics. Yet, despite several international processes and agreements over the last 20 years, long-identified unsustainable trends continue. The multiple crises in food, fuel, ecosystem destruction and economic instability are the visible symptoms, rapidly closing down the preconditions for fulfilling lives in the future, even for those economically wealthy today.

The declared Objectives for the UNCSD 2012 are therefore: to secure renewed political commitment for sustainable development, assessing progress to date and the remaining gaps in the implementation of the outcomes of major summits on sustainable development and addressing new and emerging challenges.

This think piece discusses in which ways Parliamentary Commissioners/Ombudspersons for Future Generations and/or the Environment could further these goals, both in terms of renewed political commitment and in tackling implementation gaps with a new yet inexpensive institution that in terms of bureaucracy could be set up simply. Offices such as this could complement existing Sustainable Development Councils on all governance levels, improving policy coherence across sectors and successful vertical coordination.

While delivering research on concrete cases from the last decade, this proposal actually ties back with one of the World Commission on the Environment and Development's original proposals: : “...Consider the designation of a national council or public representative or ‘ombudsman’ to represent the interests and rights of present and future generations”.¹

The Challenge

“We borrow environmental capital from future generations with no intention or prospect of repaying... We act as we do because we can get away with it: future generations do not vote; they have no political or financial power; they cannot challenge our decisions.” Brundtland Report ‘Our Common Future’²

Transition to sustainable development is often a dilemma for politicians, as they fear that voters will not want to make sacrifices in the short term, thus making future-oriented policies unpopular and jeopardising chances of re-election. Once we look at the effects of keeping the status quo going, we are forced to define more clearly what these “sacrifices” are and who is bearing the consequences of the fear of change, who continues to cling on to privileges?

The future generations that the Brundtland Commission was concerned about are now 23 years old. Today, it is clear that we are not only sacrificing their environmental capital, but also human, social and economic capital: the International Labour Organisation speaks of

¹ World Commission on Environment and Development, Our Common Future, 1987, Chapter 12, para 84, full report at: <http://www.scribd.com/doc/50043161/Our-Common-Future-Report-of-the-World-Commission-on-Environment-and-Development>
ibid, ‘From one Earth to one World,’ para. 25 in summary version online at www.un-documents.net/ocf-ov.htm

our Youth as a “lost generation” because of record numbers in youth unemployment (13% globally among the 16-25 year-olds). Even in rich countries, child poverty has reached 30% (UK), and over 25% of children in the US lived off food stamps in 2010, double the percentage of adults. They witness a significant slashing of public expenditures on education and health care, core investments into future prosperity that former generations have enjoyed. 1 billion people live in chronic hunger, hampering any prospect of successful development, productivity, or training of their children. Another 2 billion live on less than 3 USD a day. Meanwhile, world GDP has reached 60 trillion, economic growth outnumbering population growth by far. Unsurprisingly, most countries face a fast-growing wealth gap in their societies (the Gini Co-efficient in China went from 0.3 to 0.5); in some cases it is the highest on record (US).

The Middle East in early 2011 provides a showcase of how these trends might play out. The science on biodiversity loss, climate change acceleration, water and food insecurity provide the context within which human development has to be adjusted to be long-term safe and sustainable.

A more detailed assessment of the persistence of governance roadblocks which hamper the achievement of this has been compiled in the Synthesis Report of the UN Secretary General in preparation for the UNCSD 2012 Summit. Based on questionnaires filled in by Members States, the following points have been identified to be central for the strengthening of Institutional Frameworks for Sustainable Development:

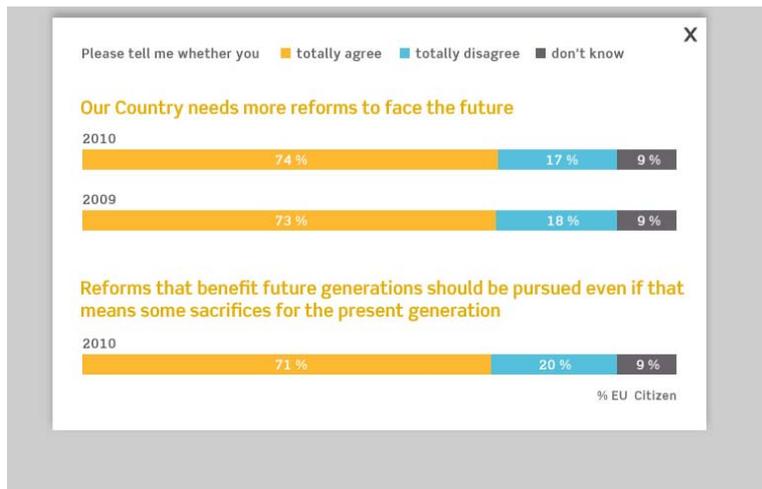
- ❖ Bringing long-term orientation into the heart of policymaking: The sustainable development agenda often remains separated from the core of policy formulation, leading to myopic cost-benefit arguments around policy trade-offs.
- ❖ Avoiding policy incoherence and inconsistency: Some policy sectors remain almost untouched by sustainability concerns, leading to silo thinking, to policy inefficiency and even contradiction in which economic considerations trump social and environmental concerns.
- ❖ Improving transparency and enforcement of SD goals: monitoring and accountability on agreed sustainable development strategies are weak on all governance levels, eroding trust and hampering education and learning.
- ❖ Lack of political support and meagre public participation: insufficient promotion of holistic policy assessments and superficial participation opportunities have led to poor commitment to sustainable development, which is increasingly perceived as a technocratic fix.

The Proposal

“If future generations are to remember us more with gratitude than sorrow, we must achieve more than just the miracles of technology. We must also leave them a glimpse of the world as it was created, not just as it looked when we got through with it.” Lyndon B. Johnson³

Equipped with unprecedented visibility of the negative impacts our current development model entails, we enter a new window of opportunity in which we can make judgements about “sacrifices” and far-sighted policy-making - at least in rich countries with high per-

³ <http://www.brainyquote.com/quotes/quotes/l/lyndonbjo144728.html>



Source: Eurobarometer September 2009/2010³

In order to “renew political commitment” it seems important to re-visit what the original ambitions were: The World Commission Environment and Development (WCED) and its message in 1987 were clear: “We have tried to show how human survival and well-being could depend on success in elevating sustainable development to a global ethic.”⁴ Given the high support of citizens for the protection of future generations we need to cut through the technocratic jargon that has emptied Sustainable Development of its original meaning and ethics: we are talking about the fundamental rights and living conditions of our children and children’s children.

In a representative democracy, interests of those affected by political decisions should be taken into consideration. Thus, bringing the voice of future generations directly to the negotiating table is an important step not only to change the discourse around sustainability judgments, but also to create an active advocate of the long-term view and a watchdog keeping us in line with agreed societal goals. A solution that some countries have pioneered is to appoint a legal representative, an Ombudsperson for future generations. If an independent permanent body in governments scrutinises each policy proposal for its long-term impacts and advocates this analysis publicly, he or she eases pressure on elected officials to combine their voters’ interests with those of future citizens. It ensures that policy-making and private actor commitments are accountable. Many business representatives, for example, demand long-loud-legal signals, reliable guidelines for market players who have to strategically plan changes in their investment, production and distribution patterns. Meanwhile, evaluating policy proposals vis-à-vis their effects on our descendants invites current joint responsibility rather than segregated and embattled defence of single issues for the immediate benefit of one group. Many will recognise this perspective to be at the heart of indigenous mentalities: respect for the past and trusteeship for the future are integral parts of the responsibility and success of those living today.

Referring back to the identified challenges in the Synthesis Report and drawing on experiences in New Zealand (Parliamentary Commissioner for the Environment), Israel (Parliamentary Commission for Future Generations), and Hungary (Ombudsperson for Future Generations), the following improvements in SD governance could be expected:

1. Appointing an Ombudsperson for Future Generations brings the SD agenda straight to the heart of governments and policy-making and intra-governmental expertise. He or she

³ http://ec.europa.eu/public_opinion/archives/eb/eb73/eb73_first_en.pdf, p.24

⁴ <http://www.un-documents.net/ocf-12.htm>; A Call for Action, para 2

engages directly in the policy-making process and assesses the long-term effects of policies from an integrated perspective (example: Commissioner for Future Generations in Israel)

2. Only an independent body without the requirement to be re-elected by current voters can fully focus on long-term analysis and represent it without any hesitation. Working as a mediator between government departments and stakeholders, he or she also improves knowledge and expertise in integrated policy-making (example: PCE in New Zealand)

3. With a mandate to veto policies which ignore agreed sustainable development goals and to bring them to Court in cases of non-dispersal of perceived violations, the shadow of power has proved to provide the long-loud-legal signals that businesses have called for (example: Ombudsman for Future Generations in Hungary).

4. With a mandate to be responsive to citizens and engaging with their empirical observations, Ombudspersons increase trust in policy implementation and government accountability. In addition, new trends in the population and civil society solutions are easily transmitted to the core of policy-making, improving the anticipation of emerging issues and future risk assessments.

This proposal therefore integrates many of the aspects summarised to have been successful strategies for Institutional Frameworks for Sustainable Development:

“Relevant lessons for sustainable development include recommendations to build on existing institutions; promote collaboration, coherence, efficiency and effectiveness in partnerships; and ensure meaningful and equitable public access to international forums related to sustainable development by adapting and structuring their processes and mechanisms in a way that they promote transparency and facilitate the participation of those groups that might not have the means for participation without encouragement and support.”⁵



Governance Characteristics of Ombudspersons for Future Generations

⁵ Synthesis report on best practices and lessons learned on the objective and themes of the United Nations Conference on Sustainable Development, paragraph 103, Note by the Secretariat, 21st January 2011, A/CONF.216/PC/8, available here: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N11/213/65/PDF/N1121365.pdf?OpenElement>

The Precedence

“The Parliamentary Commissioner for Future Generations shall follow with attention, estimate and control the emergence of the provisions of the law ensuring the sustainability and improvement of the situation of environment and nature (hereinafter together ‘environment’). It shall be his duty to investigate or to have investigated any improprieties he has become aware of relating to these, and to initiate general or particular measures for the redress thereof.” Hungarian Act on Parliamentary Commissioner, 27/B. § (1)⁶

The first more detailed proposal on setting up “Guardians for Future Generations” was introduced by the Maltese government in 1992 as a contribution to the March preparatory meeting of the first United Nations Conference on Environment and Development in Rio de Janeiro.⁷ In form of a 4-page letter to the Working Group III on Principles on General Rights and Obligations it outlines observable developments threatening future generations, references existing international agreements and declarations in which reference to future generations already exist and complements the adoption of the concept of responsibilities towards future generations in the preparation of principles on general rights and obligations in the Working Group. The text continues with an outline of the mandate of such a “Guardian” and concludes:

“Recognition alone, however, is not enough! There must be implementation of principles. Time is now ripe enough to translate words into concrete actions. The appointment of an advocate to alert the international community of threats to the well-being of future generations would be the most concrete step in the right direction to safeguard the disadvantaged members of the human species.”

The final proposal to Working Group III reads as follows:

“We declare that each generation has, in particular, the responsibility to ensure that in any national or international forum, where it is likely that a decision be taken affecting the interests of future generations, access be given to an authorised person appointed as ‘Guardian’ of future generations to appear and make submissions on their behalf, so that account be taken of the responsibilities stated in this Declaration and the obligations created thereby.”⁸

Whilst this proposal has not become an official outcome of the 1992 World Conference, some countries in the meantime have acted on creating institutions with particular reference to be guardians of the long-term. A legal study commissioned by the World Future Council and conducted by the Centre for International Sustainable Development Law (CIDSL)⁹ reviewed such existing mechanisms for the representation of future generations. The most effective ones have been or are in place in the forms of Parliamentary Commissioners/Ombudspersons for Future Generations and/or the Environment amongst others in Hungary, New Zealand and Israel. These three examples will be briefly reviewed here to give more concrete insights on how such offices work.

⁶ The full Act is for download at:

http://www.worldfuturecouncil.org/fileadmin/user_upload/papers/Ombudsman_Act.doc

⁷ See full submission at:

<http://193.166.3.2/pub/doc/world/UnitedNations/EnvironConf/PreConfDocs/wg3l8add02>

⁸ *ibid*, para 16 & 17

⁹ WFC/CIDSL, Official Representation for Future Generations, 2009, online at:

http://www.worldfuturecouncil.org/fileadmin/user_upload/PDF/RepresentationFuture_Generations.pdf

Parliamentary Commissioner for the Environment, New Zealand

In New Zealand, the first watchdog to oversee the implementation of environmental policy goals was appointed in the midst of the country's environmental reforms in the 1980s. The role of the Parliamentary Commissioner for the Environment (PCE) is to audit policy formulation and policy implementation in order to preserve ecosystems and improve environmental governance. The PCE was set up under the Environmental Act of 1986, which established the Commissioner's role as an independent environmental ombudsperson with a five-year mandate. The Commissioner's authority includes

- ❖ investigating 'the effectiveness of environmental planning and management carried out by public authorities';
- ❖ investigating 'any matter in respect of which, in the Commissioner's opinion, the environment may be or has been adversely affected';
- ❖ reviewing 'the system of agencies and processes established by the Government to manage the allocation, use, and preservation of natural and physical resources';
- ❖ if requested by the House of the Representatives, holding enquiries into matters with significant environmental impact.

The reviews and investigations carried out by the PCE derive mainly from the Commissioner's discretion or as a result of citizens or civil association complaints. The PCE and their staff have reviewed and investigated matters related to lignite, emissions trading schemes, national policy statements and national environmental standards for efficient environmental management, water allocation, business and others.¹⁰ Thus, the New Zealand Commissioner plays an active role in preventing and remedying environmental harms derived from governmental or private activities which, in turn, have a direct impact on the rights of future generations. Additionally, the PCE and staff experts have incorporated issues such as social and economic rights within their research, creating certain room of interpretation to move beyond the purely environmental realm in relation to the protection of future generations. For example, the PCE has issued several studies which examine the relationship between social and economic rights and the protection of future generations.¹¹ The PCE has also been commended by world-renowned Maori indigenous leaders for the willingness to solicit and respect the views and traditional knowledge of indigenous peoples.

Many of the reports issued were commended as visionary and timely and the importance of an independent office is widely recognized. There have been and still are proposals to rename the PCE into Office for Sustainable Development, as the idea of an agency that can mainstream sustainability is gaining support.¹²

National Commission for Future Generations, Israel

In March 2001, the Knesset—Israel's parliament—established a Commission for Future Generations. The idea was to establish an intra-parliamentary body with the resources to develop a comprehensive picture of Knesset legislation, and carry out an audit of ramifications that could affect coming generations. With specific focus on the creation of 'a dimension of the future that would be included in the primary and secondary legislation of the State of Israel', the Commission operated with a five-year mandate to defend the needs and the rights of future generations.

¹⁰ The Parliamentary Commissioner for the Environment online: <http://www.pce.parliament.nz/>

¹¹ For all reports see: http://www.pce.parliament.nz/reports_by_subject/all_reports

¹² Young, David, p.149.

One of the first steps in establishing the Commission for Future Generations was the need to explain and define what constitutes “of particular interest to future generations,” as stipulated in the wording of the law. It ended up with twelve policy areas that matched the principle components of sustainability with its three areas: society, economics, and the environment.

The Commission's scope therefore included natural resources, education, health, technology, law, development, demography, and any other matter of special concern to future generations as determined by the Constitution, Law and Justice Committee.^{11,12}

The Commission had the authority to:

- ✦ voice opinions on bills, secondary legislation, and regulations of interest to future generations;
- ✦ provide the Knesset with recommendations on any issue the Commissioner considered relevant to the rights of future generations;
- ✦ demand any information from institutions ‘subject to inspection by the State Controller’ such as ministries, state corporations and local authorities;
- ✦ request from a parliamentary committee ‘reasonable time’ to collect data and prepare evaluation regarding certain bills or secondary legislation with particular relevance for future generations.

The Commission might best be described as an advisory or consultative body restricted to the legislative work of the Israeli parliament, with little legal authority to propose bills, carry out enquiries, or pass judgement in the event of dispute. In practice, however, the Commissioner claimed the right to issue an informed opinion even when the Knesset was bound by law to make a decision within a given time frame. This effectively led to the Commission having informal veto power over lawmaking, similar to the impact of a filibuster in the US Congress.

The Israeli Commission for Future Generations was a significant initiative, the first explicit representation of future generations within government. Commissioner Shlomo Shoham 2001-2006 took a systemic and integrated approach in his opinions and challenged business as usual. After Shoham's term ended, the government changed and for budgetary reasons no new Commissioner was appointed. End of 2011 the Knesset terminated the Commission in its original design. A much smaller unit is supposed to continue to issue reports, but is not given an explicit mandate to represent future generations.

A Parliamentary Commissioner for Future Generations (Ombudsperson), Hungary

In 2008, as part of an overarching statute that created an Ombudsperson for civil rights, the Hungarian government established a Parliamentary Commissioner for Future Generations. The Commissioner has the same status as a special Ombudsperson, with the task ‘to ensure the protection of the fundamental right to a healthy environment.’

The Commissioner monitors policy developments and legislative proposals to ensure that they will not pose a severe or irreversible threat to the environment. The mandate includes providing opinions to Members of Parliament as well as to other bodies that seek to take actions that may affect the environment. The Commissioner may conduct investigations, and includes the ability to review the actions of municipal and other local governments and to provide assistance.

After an investigation the Commissioner can order that an action be stopped or modified and can bring a case to court, although to date this has not been necessary. The Commissioner has broad jurisdiction, the ability to investigate and hold public institutions accountable, giving the position a significant degree of independence. Sandor Fülöp, the first Parliamentary Commissioner, explains his mandate as follows: ‘Even if a decision can be interpreted to be true to the letter of the law, we can challenge the constitutional ‘spirit’ of the law in question and suggest that it violates, say, the right of future generations to a healthy environment’.

The Commissioner’s role in civil society is widely accepted due to the role of the ombudsperson and the frequent exchanges of information with citizens. Careful interdisciplinary analyses support cases in which local or professional groups seek to protect the environment. The form of engagement, also followed by the New Zealand Commissioner, is known as ‘reiterative procedure’: there is a site visit, conversations with local people and officials who actually work on the case, and before a legal opinion is finalised, a draft statement is sent to the parties concerned. This methodology has proven to be effective in raising credibility of the office and support for the procedures. Sandor Fülöp, points out that this method (some may call it crowd sourcing) allows for them to detect “system flaws”: if the number of cases brought to them is very high on a particular issue or in a particular region, this indicates that governance is not serving the population in a satisfactory manner.

Similar to New Zealand, the Commissioner’s mandate primarily focuses on environmental concerns, although cultural heritage is another area explicitly mentioned. In Hungary, the role is directly linked to defending the rights of future generations on the same level as the rights of people today - the Commissioner places future generations at the heart of advocacy and investigative powers. Yet, in comparison to the Israeli office, there are clear limits to the Hungarian Commissioner’s mandate, especially when it comes to the social and economic concerns of future generations.

The re-writing of the Hungarian Constitution in the spring of 2011 has grouped the Ombudsperson for Future Generations to be one of two “named” Ombudspersons with special mandates, operating in cooperation under one roof. The legal basis remains a long-debated but reaffirmed fundamental right to a healthy environment in the constitution – which makes Hungary a pioneering leader in another aspect in environmental protection.

Current Initiatives

The deficit of structural short-termism has been recognised widely by now, not only in politics, but also among scientists and businesses. Across Europe (the author’s primary area of work), several initiatives are developing to discuss concrete solutions to this. In Germany, for example, it is primarily some civil society representatives and scientists that have come forward in the public discourse to urge for “Ombudspersons for the Future” or “Permanent Sustainability Councils with veto rights” in order to be able to implement structural changes necessary for long-term prosperity.¹³ The *German Advisory Council on Global Change* has

¹³ Professor Joachim Schellnhuber, Director of the Potsdam Institute for Climate Change in Der Tagesspiegel: <http://www.tagesspiegel.de/politik/die-diktatur-des-jetzt-ueberwinden/3992668.html>; Andreas Troge, Honorary Professor for Environmental Economics at University of Bayreuth in Die ZEIT online: <http://www.zeit.de/2011/03/Nachhaltigkeit-Staatsziel>;

released its flagship report 2011 *World in Transition – A Social Contract for Sustainability* and calls for Ombudspersons to ensure adherence to long-term goals and parliamentary designees to speak up for the future.¹⁴

In the UK, a wide-ranging *Alliance for Future Generations* has been formed in early 2011 with the goal “to ensure that long-termism and the needs of future generations are brought into the heart of UK democracy and policy processes, in order to safeguard the earth and secure intergenerational justice”.¹⁵ At the outset it commissioned legal research on a range of opportunities concerning how to achieve this and is now investigating several concrete options.¹⁶ Also, the UK Sustainable Development Commission’s last report on *Governing the Future* in April 2011 (this institution, even though often referred to as positive example for SD governance¹⁷ has also been abolished) includes a recommendation of Offices for Future Generations or an Ombudsperson for the Future.¹⁸

On the European level, a civil society coalition is engaging with the European Institutions on how to improve intergenerational justice in the Union. A first workshop organised by the *Bureau of European Policy Advisors* took place in February 2011 and one concrete proposal to investigate further was an Ombudsperson for Future Generations as “an effective and relatively uncontroversial means of highlighting and increasing intergenerational fairness”.¹⁹

Civil society has commissioned legal research on how a Guardian for Future Generations could help to protect the aims of the European Union as defined in the Lisbon Treaty (similar to a constitution in its legal status) for the long term.²⁰ Article 3 lists three aims: “to promote peace, its values and the well-being of its peoples.” The objectives to reach the aims listed in Article 3.1-3.5 range across many issue areas from economics to security and culture and could provide the lens to decide which policy decisions need to be scrutinized regarding their impact on future peoples’ wellbeing. Such a mandate would directly support the commitments made on sustainable development, as it would improve coherence and efficacy of European policies drafted in single-issue departments and would provide the principle of intergenerational solidarity with teeth.

In the US, the Harvard Human Rights Clinic produced a study on Models for Protecting the Environment for Future Generations that includes a draft legislation for Ombudspersons for Future Generations²¹ and a loose coalition of scholars and civil society has put together a website on Guardians of our Future that provides legal research, articles and recommendations on how civil society could start acting with this intention in their own community.²² This idea of “legal guardians” has also been discussed in the New York Times

interview Der Spiegel online with Sandor Fülöp and Shlomo Shoham:

<http://www.spiegel.de/panorama/gesellschaft/0,1518,728070,00.html> (all in German)

¹⁴ Report online at: <http://www.wbgu.de/index.php?id=403&L=1>, reference at p.10

¹⁵ See <http://www.leftfootforward.org/2011/04/sustainable-development-commission-axed/>

¹⁶ WWF/FSDS Taking the longer view, 2010, online at:

http://www.wwf.org.uk/wwf_articles.cfm?unewsid=4545

¹⁷ E.g. OECD, Good Practices in National Sustainable Development Strategies in OECD Countries, 2006

¹⁸ Report online at: <http://www.sd-commission.org.uk/publications.php?id=1191>, reference p.37

¹⁹ Report of the meeting, online at: <http://ec.europa.eu/bepa/pdf/conferences/report-11-feb-2011.pdf> - the program and participants list can also be found on the event page:

http://ec.europa.eu/bepa/expertise/conferences/index_en.htm

²⁰ European Union, Treaty of Lisbon. In: JO C 115/01 of 9 May 2008

²¹ Report online at: www.law.harvard.edu/programs/hrp/news/newsid=43.html

²² <http://www.guardiansofthefuture.org/>

online.²³

In preparation of the UNCSD 2012 itself, a coalition of Civil Society and the Major Group Youth/Children are engaging actively during the Intersessionals and Preparation Committees²⁴ and have introduced the idea in the official consultation process of the UN Global Sustainability Panel, who picked it up in its Summary Report.²⁵ The final Chair's Text of the 64th UNDPF conference September 3-5, 2011 includes as one concrete proposal for the IFSD theme: "We call for the establishment of Ombudspersons for Future Generations at global, national and local level, who will advocate for sustainable development as envisaged and defined by the Brundtland Commission: --to enhance the well-being and prospects of present and future generations to meet their needs, serve as an auditor at the heart of governments and deal with citizens complaints."²⁶ It will be submitted to the UN General Assembly and to the UN Secretariat preparing the Zero Draft for the UNCSD 2012 Declaration.

Criteria for Effective Representation of Future Generations

As the examples illustrate, each Ombudsperson for Future Generations needs to be designed in accordance with local or national legal and cultural reality. In countries with Sustainable Development Councils, these may be the institutions whose mandate should be amended accordingly. Experience has shown, however, that the following criteria are important for effective impact:

Independence: The Ombudsperson and its staff should not hold another governmental post that would influence their freedom of reasoning nor should they have any interests in commercial sectors. Ideally, the office should be legally independent and its budget predictable over longer time spans.

Legitimacy: The office should enjoy large public support, so civil society – if not the driver behind setting it up – should be informed regularly about the developments. The selection process of the actual Ombudsperson should be designed to guarantee broad support. Direct access for citizens to deliver inputs and receive information is important.

Transparency: In order to enjoy and increase trust, the office needs a clear mandate to access all information, especially early in the policy-making process. In return, it should maintain open relationships with all stakeholders during investigations and should report regularly about its work in a format that is accessible to all citizens.

Authority: Research has shown that the "shadow of enforcement" is very important for effective intervention, even if it is not used. The Ombudsperson should have the opportunity to put actions or policies on hold if evidence on the long-term consequences are insufficient.

²³ <http://dotearth.blogs.nytimes.com/2007/12/29/does-the-future-need-a-legal-guardian/>

²⁴ See the official Statements at the Intersessional 01/2011 of Major Groups NGOs in Session 3 at: <http://www.uncsd2012.org/rio20/index.php?page=view&nr=190&type=12&menu=23&template=343> ; and at the Prep Comm 03/2011 of Major Group Youth/Children in Session 3 at: <http://www.uncsd2012.org/rio20/index.php?page=view&nr=170&type=12&menu=23&template=343>

²⁵ See <http://www.un-ngls.org/gsp>, especially p.17

²⁶ *Sustainable Societies, Responsive Citizens*, p.7, for download at: <http://www.un.org/wcm/content/site/ngoconference/resources/final>

At best, he or she can call on a Court if subsequent delivery of more information is not convincing, standing up for future generations.

Outlook

“A Sustainable Development Act? A Commissioner for the Long Term? An Office for Future Generations? All have been mooted for the UK by a range of stakeholders and some have been established, or are being planned, in other countries, as a way of taking the future well-being of people and our planet out of short-term parliamentary cycles and partisan politics. If ever there was a candidate for cross-party consensus this is surely it.” Final Communication, UK SD Commission²⁷

We know we need to change direction. We have committed to it, formulated goals and targets. The UNCSD 2012 provides a very important opportunity to courageously address some of the identified roadblocks in governance that makes overcoming them so difficult.

Appointing Ombudspersons for Future Generations would provide a better overview and a new impetus to steer policy making in a sustainable direction. Evaluating policy proposals for their effects on the lives of future generations invites a common vision and common responsibility for our common future. It reduces the potential for narrow-minded bargaining and oversight: giving a voice to the children of 2050 around today's policy-making tables connecting proposals with the lives in the future.

Changing the way we speak about the challenges we face is helping citizens re-engage with policy making. Choices become more important when it is clearly communicated how the lives of future generations – people's own children and grandchildren - are affected. A change of perspective such as this reconciles the current generation's hopes and desires with those of the generations to come and gives SD back its original meaning.

We need to create global acceptance of the paradigmatic shift that in practice leads to strong sustainability. This needs to include proposals on sound, just, rules-based systems with institutional checks and balances that promote, and if necessary enforce circumspect resource and ecosystem management and economic and social structures that deliver equity and protect every human's dignity. We need to leave less room and tolerance for irresponsibility and purposeful neglect of future consequences of our actions today.

The mandate of an Ombudsperson for Future Generations would address point 123 in section IV (p.30 - The Way Forward) of the Objective and Themes of the UNCSD Report of the Secretary General: “(...) insufficient progress has been made in integrating sustainable development into policymaking and implementation at all levels. (...)”. It could be set up at all governance levels, from the local to the international. Where in existence, the mandate could build on Sustainable Development Councils or Commissions, or it could be directly derived from constitutionally protected goals (in the European Union, for example, SD is clearly defined as “overarching policy goal”). ON the UN level, it could mean amending the mandate of the Commission Sustainable Development, helping to strengthen the UN's capacity to coordinate SD goals across its institutions and bodies and supporting the goal of Delivering as One.

Creating a supra-national Special Rapporteur for Future Generations would be another

²⁷ Press statement March 25, 2011, online at: <http://www.sd-commission.org.uk/presslist.php/119/what-next-for-sustainable-development>

option to improve SD implementation. An individual or working group such as this could be addressed by and support civil society from countries whose resources for SD governance are low and potentials for strong sustainability strategies are high: the importance of intact natural resources for the wellbeing and development of the poorest people is widely documented.

The integrity of our ecosystems is as relevant for future generations as the integrity of our social systems. Rebalancing our societies so that the children of 2050 can enjoy happy healthy lives means acting differently today. Reorienting our policies towards the goal of long-term wellbeing for all implies big structural changes in institutional frameworks by which we run our societies. With the help of Ombudspersons for Future Generations, our task will be made easier.

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