

Guarding our Future

How to include future generations in policy making

As for the future,
your task is not
to foresee it,
but to enable it.

Antoine de Saint-Exupéry

HOW TO CONTACT US

Headquarters Hamburg, Germany

Mexikoring 29
22297 Hamburg, Germany
Phone: +49 (0)40 3070914-0
Fax: +49 (0)40 3070914-14
info@worldfuturecouncil.org

London, UK

100 Pall Mall
London, SW1Y 5NQ, UK
Phone: +44 (0)20 73213811
info.uk@worldfuturecouncil.org

For more information please see
our website

www.futurejustice.org

The World Future Council

The World Future Council brings the interests of future generations to the centre of policy making. Its up to 50 eminent members from around the globe have already successfully promoted change. The Council addresses challenges to our common future and provides decision-makers with effective policy solutions. In-depth research underpins advocacy work for international agreements, regional policy frameworks and national lawmaking and thus produces practical and tangible results. The World Future Council is registered as a charitable foundation in Hamburg, Germany.

Pictures:

- 1: WFC
- 5: Jan Wright
- 6: Peter Davies
- 8: Dr. Marcel Szabó
- 9: Fotolia
- 11: Maja Göpel
- 12: Fotolia
- 13: iStock

Design: Anja Rohde, Hamburg

Authors: Dr. Maja Göpel and
Ms. Catherine Pearce

Editing: Joanna Dober and Alice Vincent

Special thanks to Sándor Fülöp, Marcel Szabó, Trombitás Gábor, Jan Wright and Peter Davies for generously sharing their materials and insight and to *Solutions* for free use of the article published in Vol. 1/06 2010 www.thesolutionsjournal.com

Printed on 100% recycled paper
February 2013

Our Common Future

The quality of life for our children and grandchildren in 2050 depends on our decisions today

All over the world climate change, environmental destruction, financial crises, and the widening gap between rich and poor are spreading insecurity and fear. We know that big changes in running our societies are needed. Laudable declarations and inspiring ideas abound. Yet we seem to be experiencing deep inertia. How can we turn fine words into action?

Policy making seems to be stuck in a way of thinking that is inadequate in the face of severe global challenges. We have a collective responsibility to implement and deliver ambitious sustainable development strategies for an interconnected world of some 9.3 billion people by 2050¹.



We believe there is enough wealth on the planet to provide peace and wellbeing for all:

IF we update our policies to protect long-term interests.

IF the rules of engagement are fair and for the common good.

IF we protect diversity of life on this planet.

The World Future Council is advocating a vision of Future Justice – common sense policy solutions that will benefit society as a whole and provide a high quality of life for generations to come.

The integrated and interdependent nature of the new challenges and issues contrasts sharply with the nature of the institutions that exist today. These institutions tend to be independent, fragmented, and working to relatively narrow mandates with closed decision processes. Those responsible for managing natural resources and protecting the environment are institutionally separated from those responsible for managing the economy. The real world of inter-locked economic and ecological systems will not change; the policies and institutions concerned must.²

Our Common Future, Brundtland Report 1987

Issues and challenges confronting policy makers

It has been twenty years since the first global sustainability summit took place. The world cheered, yet the laudable declarations have done little in practice to bring about the deep changes needed. Despite many international meetings, the level of implementation of far-sighted global policy objectives remains dire. Targets for climate change mitigation; biodiversity protection; ocean protection; poverty eradication; health and social equity are continuously missed.

Looking at how we develop policies and the institutions we have designed to serve us, we can observe the following:

1. The interests of the 'here and now' always take precedence over future interests driven by the short-termism of election cycles typically of three to five years. Short-term business cycles, driven by quarterly earnings reports, aggravate the pressure for immediate rather than long-term returns on investment.
2. Decision-making continues to be divided between and within governing and administrative bodies despite a widespread appreciation for integrated policy making. Each single-issue department seeks to deliver on its own targets rather than identifying where long-term trends create policy

convergence. This approach creates policy incoherence between economic, social, and environmental measures and slows implementation. It is inefficient, often ineffectual and limits farsighted policy makers.

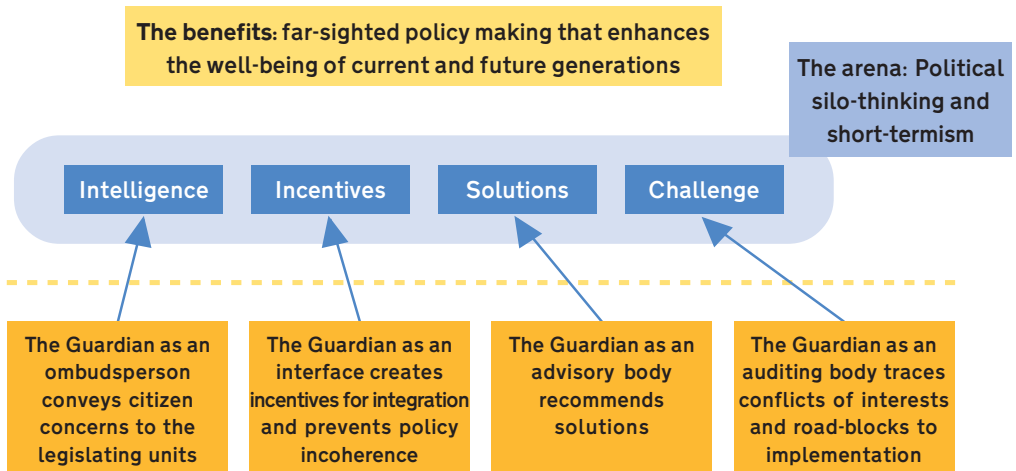
3. The concept of 'welfare' by which policy performance is guided focuses on GDP growth as a measure of success and views societies only as individual consumers. Yet, the wellbeing of people does not necessarily increase beyond a certain income level. It depends on many factors like health, work, social contact, democracy or free time. These factors of quality of life, just as the value nature provides, determine the wellbeing of societies. Yet, they are often sacrificed for economic growth goals.^{3, 4, 5}
4. Our culture of individualism shows its limits in times when the challenges ahead seem to overwhelm people's capacity to cope. Studies show that uncertainty and fear of loss are heavy burdens on peoples' wellbeing. To mobilise people to joint action we need a compelling vision of life in the future and trust in sharing responsibilities to get there. We need "a new common purpose defined by the needs of the current age".⁶

Where there is a will, there is a way

We need to tackle these issues and challenges head on. Bringing the voice of future generations to the negotiating table is fundamental for this. It is the quality of life of our children and grandchildren that we are deciding when we debate issues such as environmental protection, youth

unemployment, pension systems, public debt and so on. It is their wellbeing that is at stake. By appointing a legal representative, a Guardian that actively speaks up in the name of future generations, we can bring 21st century checks and balances to our political institutions.

How would a Guardian for Future Generations work?



Enabling our Future

The 1992 UN Conference on the Environment and Development recognised intergenerational equity as central for sustainability policy making. The principle of intergenerational equity is now enshrined in the constitutions of many countries. Its practical implementation is however rare.

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.⁷

Our Common Future, Brundtland Report 1987

Appointing a real person to represent future citizens means that people who are concerned now about the long-term impacts of policy decisions can have a focal point in government. And with over 70% of Europeans behind the idea that policies should protect future generations even where the interests of current generations are affected⁸, it is clear that a Guardian for Future Generations will help increase people's trust in government.

A Guardian for Future Generations would act as an ombudsperson, filtering public concerns and views directly into the relevant committees and departments. If the Guardian had access to all information in all governmental departments, he or she

could have a clear overview of policy developments and impacts, including unintended consequences, and take remedial action to keep long-term interests at the heart of government. Such a systematic overview of the work of government committees and departments would minimise the risk of policy incoherence. The Guardian for Future Generations would also, by ensuring information flow and exchange, improve the overall effectiveness of policy making.

Building on sustainability assessment mechanisms and wellbeing data (where in place), the Guardian for Future Generations would actively engage with different departments to help decision makers understand the effects of their decisions on the living conditions of future generations, thus helping to avoid significant future adverse effects that would cost much more to clean up than to prevent. Over time, the Guardian's office would become a service for integrated policy making and expertise in wellbeing. Such knowledge could help to inform and advise broader political goals, targets and indicators beyond GDP.

Keeping our common future in view and analysing how single decisions might support or harm that future helps to nurture a new common purpose: the shared responsibility to enable the children of 2050 to lead happy and healthy lives.



Keeper of the Long View

Parliamentary Commissioner for the Environment in New Zealand

The role of New Zealand's Parliamentary Commissioner for the Environment was created by the Environment Act of 1986 and was part of wide ranging environmental reforms of the period.

The Commissioner is an independent Officer of Parliament – a standing shared by the Auditor General and the Ombudsman and is focused on providing advice to Parliament as a whole and to the public.

The functions of the role are broadly defined. Indeed the Environment Act allows for the Commissioner to investigate *'any matter in respect of which, in the Commissioner's opinion, the environment may be or has been adversely affected'*. The Commissioner also submits on proposed legislation that affects the environment.

Both reports on investigations and advice on legislation contain non-binding recommendations. However many of these recommendations are implemented by the government of the day or are incorporated

into the policies of opposition parties and thus may be implemented in the future – a result in keeping both with the role's independence and its focus on providing Parliament with a long view.

The final decision to investigate an issue or submit on a piece of proposed legislation lies with the Commissioner. However investigations are often spurred by public concerns and there is also provision for Parliament to request an investigation.

The role has a term of five years. The two prior Commissioners, Helen Hughes and Dr Morgan Williams, both served two terms. The present Commissioner, Dr Jan Wright, is currently serving her second term. Dr Wright's work addresses many issues including climate change, fresh water quality, pest control, the preservation of wilderness, hydraulic fracturing, and renewable energy.

The Commissioner is assisted in her role by an office of sixteen staff.

A Legal Duty to Promote Sustainable Development

Sustainable Futures Commissioner in Wales



In the spring of 2011, the UK's Sustainable Development Commission⁹ closed following the decision by the UK Government to withdraw its funding.

In response, the Welsh Minister for the Environment, Sustainability and Housing announced the appointment of a new Commissioner for Sustainable Futures: "This appointment reflects how seriously we take our duty to Sustainable Development, and is proof of our commitment to do all we can to make Wales a truly sustainable nation". (Ms Davidson, Welsh Minister for the Environment, Sustainability and Housing)

Wales is one of only a few governments to have a legal duty to sustainable development. The main roles of the Commissioner are to:

- provide leadership and authority to the Assembly Government's vision for sustainable development in Wales
- convene stakeholders involved in sustainable development as well as develop partnerships on the most challenging issues
- advise the Assembly Government on long-term policies and approaches of

how to achieve sustainable development in all parts of society across Wales

- promote sustainable development as the central organising principle throughout Welsh politics, embedding this principle into all work and community sectors in line with the Welsh Assembly Government's Sustainable Development scheme: One Wales One Planet

The Commissioner has to undertake the following actions in order to fulfil the above-mentioned roles:

- provide expertise and evidence in support of sustainable development by drawing on best practice from the UK and internationally
- work with UK & Scottish Government and Northern Ireland Executive on best ways to promote sustainable development in the UK
- report to the Assembly Government on progress towards, and challenges facing a more sustainable Wales

Vetting Policies for Future Generations – National Commission for Future Generations in Israel

- submit independent commentary within the Assembly Government’s statutory Sustainable Development Annual Report.

The Sustainable Futures Commissioner is supported by Cynnal Cymru – Wales’ sustainable development forum. The Commissioner also works closely with the Wales Audit Office, as well as chairing the Climate Change Commission for Wales. Peter Davies was appointed to this role on April 1st 2011 as a continuation of his previous role as Commissioner for Wales on the UK SDC. His function will be further strengthened by the Welsh Government plans to introduce a Sustainable Development Bill in 2013, which will legislate to embed sustainable development as the central organising principle across Government and the public sector.¹⁰ The Bill will also provide for the establishment of an independent body to continue the legacy of the Sustainable Development Commission in Wales.

Mr Davies explains: “Sustainable development has been at the heart of the devolution process in Wales. The new Sustainable Development Bill will be an opportunity to introduce a stronger governance model to ensure we can make decisions that are fit for purpose in the long term, promoting social justice and operating within environmental limits.”

In March 2001, the Knesset – Israel’s parliament – established a Commission for Future Generations, an inter-parliamentary body to audit legislation on the impacts for coming generations.^{11, 12} 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.

One of the first steps in establishing the Commission for Future Generations was the need to define which policy areas were “of particular interest to future generations,” as this was the wording of the law. Even though the Commission’s initiators were apparently not familiar with the concept of sustainability, it ended up with twelve policy areas that matched the principle components of sustainability.

The Commission effectively had informal veto power over lawmaking, similar to the impact of a filibuster in the US Congress.¹² 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.¹³ After Shoham’s term ended, the government changed and for budgetary reasons no new Commissioner was appointed.



Ombudsperson for Intact Nature and Cultural Heritage

Deputy-Commissioner for Fundamental Rights

As part of an overarching statute amending the Act on the Ombudsperson for Fundamental Rights, the Hungarian Parliament established the position of a Parliamentary Commissioner (Ombudsman) for Future Generations (often referred to as the ‘green Ombudsman’) in 2007. The green Ombudsman had the task “to ensure the protection of the fundamental right to a healthy environment”, and enjoyed the same status as the three other former Ombudspersons.

The appointed environmental Ombudsman, Mr. Sándor Fülöp examined individual measures and monitored policy developments and legislative proposals to ensure that they would not pose a severe or irreversible threat to the environment or harm the interests of future generations. The mandate included issuing non-binding

statements to any administrative body including the Government and as a last resort the Ombudsman could address the Parliament in the cases when his statements were ignored. The Ombudsman conducted investigations upon complaints and *ex officio*, and in the course of these procedures had access to all relevant documents. His mandate included the right to examine the normative actions of municipality councils, first of all in spatial planning issues, and to put forward recommendations on how to make improvements in this field.

After an investigation, the Ombudsman could, as an exceptional measure order that an activity be stopped or modified, and could bring a case to either an administrative or a civil court. The Ombudsman had a broad jurisdiction; he could investigate both public institutions and private companies.

The green Ombudsman’s mandate primarily focused on environmental concerns, although his agenda also featured the protection of cultural heritage. In Hungary,

I am deeply convinced that nature is a common heritage of mankind and each nation is responsible to do its best to contribute to the conservation of these assets for future generations. It is indispensable to raise awareness and establish the institution of the Ombudsman for Future Generations all over the world for the effective protection of land, water supplies, forests, clean air, biodiversity and cultural heritage.

Dr. Marcel Szabó, Deputy-Commissioner for Fundamental Rights, responsible for the protection of the interests of future generations, Hungary



this role was directly linked to defending the interests of future generations on the same level as the rights of people of today – the Ombudsman placed future generations at the heart of advocacy and investigative procedures.

These mandates were strongly reinforced by the new Fundamental Law (the new Constitution) of Hungary that entered into force on 1 January 2012. The Fundamental Law describes in detail the natural resources that should be protected in the interest of future generations, especially “agricultural land, forests and drinking water supplies, biodiversity – in particular native plant and animal species – and cultural assets. These shall form part of the nation’s common heritage, and the State and every person shall be obliged to protect, sustain and preserve them for future generations”.

Under the new Fundamental Law, the Ombudsman for Future Generations serves as a deputy to the general Ombuds-

man, and can exert his powers with the approval of the general Ombudsman. This is not a step back regarding the whole legal protection of the ombudsman institution; however it reduces the individual authority and the international role of the green Ombudsman. As a consequence of this Mr. Sándor Fülöp resigned from the deputy position on 1st September 2012, and has been replaced by Mr. Marcel Szabó. Mr. Szabó continues to work on future generations issues, supported by a small staff.

As a consultative institution to the Parliament, the Ombudsman for Future Generations participates in the preparation of legislation related to the protection of the environment. In case of the infringement of the right to a healthy environment he may initiate proceedings at the Constitutional Court. Under certain conditions the Ombudsman may intervene in court proceedings to promote environmental protection or the interest of future generations.

Check-list for Impact

If a Guardian for Future Generations is to become a strong mechanism for 21st century checks and balances, the office should have the following characteristics:¹⁴

Independent

The office should be *independent*. The Guardian should not hold another governmental post, such as within a parliamentary committee. Ideally, the Guardian's office should also be legally independent. Of the examples discussed, the Hungarian Commissioner enjoys the most independence, even though the budget depends upon the will of Parliament.

Transparent

The Guardian's office should be *transparent* to increase trust. The office needs a clear and direct mandate and should report regularly about its results. While all the Commissioners presented as examples in this brochure provide regular reports, the Hungarian Commissioner has the most direct mandate for independent communication, whereas the New Zealand and Israeli Commissioners' opinions have tended to be influenced by executive or legislative bodies or the media.

Legitimate

The Guardian's office should be *legitimate* and should enjoy large public support. The New Zealand and Israeli offices were established by government decree. While the New Zealand Commissioners maintain good relationships with all stakeholders during investigations, and the results of the work of the Israeli Commissioner were communicated widely in the media, the Hungarian Commissioner enjoys more legitimacy. His position was created following an initiative by a civil society organisation.¹⁵

Access to information

The Guardian's office should have *access to information*. The office needs extensive authority to request whatever files it deems relevant. The mandate of the Hungarian Commissioner is most generous in this regard.

Accessible

The Guardian's office should be *accessible* and allow for all inputs from all stakeholders. In New Zealand and Hungary, but not in Israel, the mandate ensures direct access for citizens through petitions.

Guarding what we Value

These examples of visionaries – from New Zealand, Wales, Israel and Hungary – show that the mandate for a Guardian for Future Generations is entirely dependent on a country’s legal and cultural reality. Each country has distinct values, rights, duties and goals in its constitution and in its basic laws. In New Zealand and Hungary, mandates are limited to the protection of the environment and cultural heritage; the Israeli Commissioner, on the other hand, oversaw twelve policy areas and was closer to a holistic protection of living conditions for future generations.

On the European level, the World Future Council has developed proposed legislation for a Guardian to protect the overarching aims of the EU as defined in the Lisbon Treaty (similar to a Constitution in its legal status). Article 3 lists three aims: ‘to promote peace, its values and the wellbeing of its peoples’,¹⁶ This Article could provide the basis for deciding which policy decisions should be scrutinized for their impact on the wellbeing of future generations’. An EU Guardian for Future Generations with the mandate to represent the voice of future generations would directly support EU commitments on sustainable development: integrated policy making and intergenerational solidarity.



In the early 1990s the Cousteau Society started a campaign for a *Bill of Rights for Future Generations*. Article 1 in the proposed Bill declared that “Future generations have a right to an uncontaminated and undamaged Earth and to its enjoyment as the ground of human history, of culture, and of the social bonds that make each generation and individual a member of one human family” (Cousteau 2010). Over 9 million people in 106 countries signed a petition to which UNESCO became a partner in 1993. This was in the days before the Internet made petition signing easy. In 1997 the UNESCO General Conference **unanimously** adopted the Declaration.

Future Justice starts Today

We believe appointing a Guardian for Future Generations could provide the overview and the impetus to steer policy making in a new direction. Evaluating policy proposals for their effects on the lives of future generations invites a common vision and common responsibility. It reduces the potential for narrow-minded bargaining and oversight: Giving a voice around today's policy making tables to the children of 2050 connects today's proposals with the life of tomorrow.

Changing the way we speak about the challenges we face is helping citizens re-engage with policy making. Choices become more important when the lives of future generations – people's own children and grandchildren – are affected. Such a change of perspective reconciles the current generation's hopes and desires with those of the generations to come. This connecting view into the future is what the World Future Council is promoting and developing with its partners. We call this vision Future Justice.

Future Justice creates fair conditions for future generations by updating policies to reflect new knowledge about the planet and human wellbeing. Common progress implies respect for the dignity and the rights of all generations. Preserving our world and all its life forms becomes a core function of our economies.

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 will lay the foundations for Future Justice. We know where action is overdue. With the help of Guardians for Future Generations, our task will be made easier.

The role of an Ombudsperson at the local and the national level is an effective institution to act as a representative for those who are today not able to express their interests and also their needs and their responsibilities. It is a great step in the right direction.

Mr Achim Steiner, Executive Director,
UN Environment Programme (UNEP)



For more information on Future Justice and the Seven Principles for Just Lawmaking, please refer to our website www.worldfuturecouncil.org/future_justice.html

Sources

- 1 http://esa.un.org/wpp/Analytical-Figures/htm/fig_1.htm
- 2 *Report of the World Commission on Environment and Development: Our Common Future*, Ch. 12, para. 2 (WCED, 1987) [online]. www.un-documents.net/ocf-12.htm.
- 3 OECD. *Measuring the Progress of Societies* [online]. www.oecd.org/progress.
- 4 Wikiprogress [online]. www.wikiprogress.org.
- 5 Commission on the Measurement of Economic Performance and Social Progress [online]. www.stiglitz-senfitoussi.fr.
- 6 Reflection Group [online]. www.reflectiongroup.eu.
- 7 Report of the World Commission on Environment and Development: Our Common Future, From one Earth to one World, para. 25 (WCED, 1987) [online]. www.un-documents.net/ocf-ov.htm.
- 8 *Europeans losing faith in EU*, published 27 August 2010 [online]. <http://www.euractiv.com/en/pa/europeans-losing-faith-eu-news-497209>
- 9 SDC closing statement: <http://www.sd-commission.org.uk/presslist.php/119/what-next-for-sustainable-development>
- 10 <http://wales.gov.uk/topics/sustainabledevelopment/sdbill/?lang=en>
- 11 The Knesset. Commission for Future Generations, Amendment no. 14-5761/2001 [online]. www.knesset.gov.il/sponsorship/future/eng/future_index.htm.
- 12 Shoham, S., & Lamay, N., in *Do We Owe Them a Future? The Opportunities of a Representation for Future Generations in Europe* (Jávor, B & Rác, J, eds.), 89-113 (Védegylet – Protect the Future, Budapest, 2006).
- 13 Shoham, S. *Future Intelligence and Sustainability* (Verlag Bertelsmann Stiftung, Gütersloh, Germany, 2010).
- 14 For similar results on best features for Guardians see the study *Models for Protecting the Environment for Future Generations* of The International Human Rights Clinic at Harvard Law School
- 15 Jávor, B & Rác, J, eds. *Do We Owe Them a Future? The Opportunities of a Representation for Future Generations in Europe* (Védegylet – Protect the Future, Budapest, 2006).
- 16 Treaty of Lisbon. European Union Official Journal C 115/01 (May 9, 2008) [online]. <http://eur-lex.europa.eu/JOHtml.do?uri=OJ:C:2008:115:SOM:en:HTML>
- 17 Brown Weiss, E. *Intergenerational fairness and rights of future generations*. *Generational Justice!* 3:1, (2002).



“In all that we do, we inherently represent not only ourselves but past and future generations. We represent past generations, even while trying to obliterate the past, because we embody what they passed on to us. We represent future generations because the decisions we make today affect the well-being of all persons who come after us and the integrity and robustness of the planet they will inherit.”¹⁷

Edith Brown Weiss