



World Future Council contribution to Rio+20 Outcomes

Theme II, Institutional Framework for Sustainable Development

Ombudspersons for Future Generations: Tackling Sustainability Implementation Gaps

October 2011

Rationale

In 1992 world leaders and civil society met in Rio de Janeiro, concerned and keen to address how human development and environmental protection continues in a harmonious way. They acknowledged that planet Earth is not only a resource, but the home for a wealth of biodiversity, ecosystems and natural cycles, upon which our security and wellbeing depend. They saw that the policies we had in place risked destroying the means for providing healthy and fulfilling lives for future generations:

“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.” World Commission Sustainable Development Report Our Common Future, 1987

A farsighted declaration with principles and recommendations for sustainable development and intergenerational equity was formulated for all countries of the world. Twenty years on and despite numerous international processes and agreements, unsustainable trends continue at an alarming rate and scale. 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, let alone the marginalised and impoverished.

The future generations that the Brundtland Commission was concerned about are now 23 years old. The International Labour Organisation (ILO) speaks of them as a “lost generation” because of record numbers in youth unemployment (13% globally). Even in the most developed 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. Most countries face rapidly increasing wealth inequality in their societies (the Gini coefficient in China has moved from 0.3 to 0.5). In some cases we have reached the highest inequality levels on record (US). In a world of 60 trillion USD of global GDP, around 1 billion people live in chronic hunger. Meanwhile, the planetary boundaries within which humanity can safely operate have been reached or overshot – with a clear rising tendency.

Analysis

Our existing institutional and governance structures have proved inadequate to meet our rising sustainable development challenges. Our core policy formulation, economic thinking and motivations remain consistently detached from our broader sustainability concerns. Monitoring and enforcement of agreed sustainable development strategies at all governance levels are weak and many central sectors and policies operate entirely without a broader sustainability overview. Since electoral cycles and business models of reporting increasingly define decision-making, short term gains take precedence over future and long term interests. Meanwhile, citizens and civil society appear disconnected from the core of policy-making. Without full representation of their needs, citizens are left without an adequate voice, or a legitimate means by which to question or present their concerns. We lack adequate mechanisms to facilitate accountability, access and monitoring of all sustainability policy decisions and their effective implementation.

Considerable evidence demonstrates that as long as sustainable development remains separated from core policy formulation and economic thinking, and as long as gaps in implementation are not secured, sustainability challenges will not be met.

“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.” Synthesis Report, UN Secretary General, 2011

“...governance accountability can be strengthened when stakeholders gain better access to information and decision-making, for example through special rights enshrined in agreements, charters and codes, and stronger participation in councils that govern resources, or in commissions that hear complaints. International environmental, developmental and economic institutions must adopt such novel accountability mechanisms more widely.” The Earth System Governance Project Policy Brief, Sept 2011

Proposal

Recalling the two themes of the UN Conference on Sustainable Development: a Green Economy in the Context of Sustainable Development and Poverty Eradication and the Institutional Framework for Sustainable Development:

We call for the establishment of Ombudspersons for Future Generations at national and international levels as a concrete proposal for the conference, under the Institutional Framework for Sustainable Development (IFSD) theme.

This institution is designed to safeguard economic, environmental and social conditions for the benefit of current and future generations by undertaking their institutional representation in all areas of policy-making. The institution provides the necessary checks and balances to help overcome the structural short-term orientation of our democratic institutions and brings the sustainable development agenda to the heart of governments and policy-making. The Ombudsperson (which could take the shape of a Parliamentary Commissioner, Guardian or Auditor depending how it fits best into each nation's

governance structure) facilitates coherence between the separate pillars of government, to overcome single issue thinking, and holds government departments and private actors accountable if they do not deliver on sustainable development goals.

With the mandate as citizen defenders, engaging with public concerns and safeguarding the right to a healthy environment, Ombudspersons increase trust in policy formulation and its effective implementation. In addition, emerging issues of concern to the population and potential civil society solutions are easily transmitted to the core of policy-making.

With respect to existing governance frameworks and legal architecture, there can of course be no uniform approach, nor identical institutions from one country to the next. Similar institutions which are already in place should be reformed or strengthened as necessary. However, for this institution to be effective, attention must be given to a core set of principles upon which it must be based. These principles are drawn from our understanding of existing good practice, including the Parliamentary Commissioner for Future Generations in Hungary. It should address the requirements of the separation of powers. This means it should be independent of government, while working at its heart, with its function to increase political accountability, thus reducing the risk of political and economic costs for present and future generations. We define six criteria in order to achieve successful impact:

- independent
- proficient
- transparent
- legitimate by democratic standards
- with full access to all relevant information
- widely accessible to external assessments and citizens' concerns

Sustainable development and environmental governance, at the international level equally needs to be strengthened with improved integration between the various bodies. Rio+20 must be used as a springboard in establishing a solid institutional framework at the UN level. It is widely accepted that UNEP requires reform; its mandate therefore should be strengthened and upgraded. As a functional commission of the UN Economic and Social Council, the Commission on Sustainable Development (CSD) has no power to require action from its decisions. As a subsidiary body, it does not report to the UN General Assembly and it does not have sufficient financial resources.

To strengthen sustainable development within the UN at least two paths may be taken concerning the CSD: one such path could be to reform the UN Economic and Social Council in order for it to operate more effectively as a mechanism for monitoring and implementation of sustainable development and give the CSD a more prominent, executive role within ECOSOC. This is possible without requiring an amendment to the UN Charter. The other path that could be taken would be to establish a permanent¹ Council for Sustainable Development reporting directly to the UN General Assembly. This would be formally possible by using the precedence established when the UN General Assembly decided to establish the Council on Human Rights. The Rio+20 conference should establish a high-level committee of experts, including representatives of the nine Major Groups to prepare a series of options on the mandate, structure, work areas, process and membership of both a reformed ECOSOC and a new Council, and deliver its proposal to the UN General Assembly. Establishing an attached office of Ombudsperson or High Commissioner for Sustainable Development connected to

¹ The mandate for the existing Commission for Sustainable Development ends in 2017. When the previous mandate for CSD was renewed by WSSD in 2002, it did not change the position of the CSD and it remains a subsidiary body with subsidiary importance.

the new institutional body should be based upon the core principles guiding the national institutions, as mentioned above.

The World Future Council calls for inclusion of ‘Ombudspersons for Future Generations’ in the outcomes of the Rio+20 Conference, with the following proposed text:

1. *Confirming* that the UNCSD must give renewed impetus to meet the planet’s sustainable development goals.
2. *Alarmed* at the rate of biodiversity loss, environmental degradation, natural resource depletion, climate change and its devastating effects and continued poverty for billions of people.
3. *Recognizing* that systematic institutional and governance reforms are essential to achieve sustainable development and intergenerational equity.
4. States commit to improved coherence across the UN system through upgrading of the roles and mandate of UNEP, ECOSOC and/or the UN Council on Sustainable Development, in order to better represent and integrate sustainable development at the highest level of UN decision making. An attached office of Ombudsperson or High Commissioner for Sustainable Development should be incorporated.
5. States agree to establish a high-level committee of experts which include representatives of all nine Major Groups to prepare a series of options on the mandate, structure, work areas, process and membership of the upgraded bodies and deliver its proposal to the UN General Assembly no later than at the termination of the next General Assembly session beginning in September 2012.
6. The high level committee of experts should develop a proposal for the new UN body on sustainable development complete with a ready-made structure containing, inter alia, mandate, modalities, work programmes etc to be presented to the proposed CSD session to take place in May 2013, according to the time line suggested in UN resolution calling for Rio+20.
7. In line with sentiments expressed at UNCED in 1992 and WSSD in 2002, the Rio+20 Conference should strongly urge nation states to commit to establishing in national law institutions to safeguard environmental and social conditions for the benefit of future and present generations, such as Ombudspersons, Commissioners or Guardians for Future Generations. These institutions will be independent of the executive, and have legal powers and duties at the national level which includes the following:
 - a) To act to safeguard those conditions, including requesting public authorities and private persons to act or refrain from acting and, where necessary, taking legal action
 - b) To report, monitor, examine and inquire into progress by government and public bodies towards achieving sustainable development
 - c) To participate in the development of law and policy relevant to those conditions, including initiating proposed legislation

- d) To receive and consider petitions from members of the public; to request responses from parliament, government, public bodies and private persons; and to make recommendations
 - e) To advise and make recommendations to parliament, government, public bodies and private persons on achieving sustainable development, including on the provisions, operation and implementation of international agreements and processes
 - f) To participate, as a member of national delegations, in relevant international processes
 - g) To have physical and virtual access to information held by public bodies and private persons, where necessary to perform its functions
 - h) To carry out research
 - i) To convene and to participate in, public hearings; and
 - j) To report annually to parliament on its activities
8. The Rio+20 Conference should urge national states to empower local authorities and devolved administrations to have the authority to introduce these institutions at these levels.
9. Paragraph 6 applies to the United Nations System and to regional economic organisations as they apply to States, *mutatis mutandis*.

The World Future Council

We bring the interests of future generations to the centre of policy making. The Council addresses challenges to our common future and provides decision-makers with effective policy solutions. In-depth research underpins our advocacy work for international agreements, regional policy frameworks and national lawmaking and thus produces practical and tangible results. The World Future Council Foundation is a registered charity in Hamburg, Germany where its head office is located. Additionally, we have staff working in Brussels, London, Washington and Johannesburg. For further information on our Future Justice campaign: www.futurejustice.org.

Contacts

Catherine Pearce
Future Justice Manager
World Future Council
Mobile: +32 485203672
catherine.pearce@worldfuturecouncil.org