



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

The World Future Council consists of 50 eminent global change-makers from governments, parliaments, civil society, academia, the arts and business. We work to pass on a healthy planet and just societies to our children and grandchildren with a focus on identifying and spreading effective, future-just policy solutions.

The World Future Council was launched in 2007 by Jakob von Uexkull, Founder of the ‘Alternative Nobel Prize’. It operates as a charitable foundation under German law and finances its activities from donations.

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PRINT

Published by: World Future Council Foundation

Date: March 2018

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Editors:

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Design: Anja Rohde, Hamburg

Print: Druckerei Kaspers GmbH, Konz

Special thanks to Sándor Fülöp, Marcel Szabó, Trombitás Gábor, Jan Wright, Sophie Howe and Rita Singh 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

PHOTO CREDITS

Cover: iStock; Page 1: WFC; 5: Simon Upton;

6: Sophie Howe; 8: Prof Gyula Bándi; 9: Fotolia;

11: Maja Göpel; 12: Fotolia; 13: iStock

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 9.6 billion people by 2050¹.

We believe there is enough wealth on the planet to provide peace and well-being 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 interlocked 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 over 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, people’s well-being does not necessarily increase beyond a certain income level. It depends on many factors such as health, work, social contact, democracy or free time. These elements, just as the value that nature provides, determine the well-being of societies. Nevertheless, 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’ well-being. 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 un-

employment, pension systems and public debt. It is their well-being 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 to 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. 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 would 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. A 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 well-being 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 redress than to prevent. Over time, the Guardian's office would become a service for integrated policy making and expertise in well-being. 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 sometimes spurred by public concerns and there is also provision for Members of Parliament to request an investigation.

The role has a term of five years. The present Commissioner, Mr Simon Upton, began his first term in October 2017. The Commissioner is assisted in his role by an office of 20 multi-disciplinary staff.

SAFEGUARDING THE WELL-BEING OF FUTURE GENERATIONS IN WALES

Commissioner for Future Generations



The Well-being of Future Generations (Wales) Act 2015⁹ imposes a sustainable development duty on public bodies in Wales, as one of the only governments to do so. It establishes a statutory Future Generations Commissioner¹⁰, Sophie Howe, in post since February 2016, taking over from Peter Davies as Sustainable Futures Commissioner.

The Act requires public bodies to incorporate long-term sustainability into their thinking, and to work with each other and the public to tackle problems in a joined up approach. This includes setting and publishing well-being objectives and ensuring that they are met.

This dedication to improving the social, economic, environmental and cultural well-being of Wales, represents a step change in how Welsh public services deliver for people and communities, now and in the future. The legislation identifies seven well-being goals:

- A globally responsible Wales
- A prosperous Wales
- A resilient Wales

- A healthier Wales
- A more equal Wales
- A Wales of cohesive communities
- A Wales of vibrant culture and thriving Welsh Language

Public bodies have to follow five criteria that make up the Sustainable Development Principle:

Long-Term – balancing the needs of today with those of future generations.

Prevention – focusing on early intervention and early action rather than just reacting to problems.

Integration – aligning public body's efforts in relation to each other's well-being goals and objectives.

Collaboration – working together towards well-being objectives.

Involvement – involving people who reflect the community in the area where the public body operates.

The Act establishes Public Services Boards (PSBs) for each local authority area in Wales. Each PSB must improve the economic, social, environmental and cultural well-being of its area by working to achieve the well-being goals.

We have big ambitions for improving the well-being of future generations in Wales and are leading the way with our Well-being of Future Generations (Wales) Act. The United Nations has said of our Act: *“What Wales is doing today we hope the world will do tomorrow. Action more than words is the hope of our future generations.”* The legislation gives us the words, but now we have the challenge of putting these words into action.

Ms Sophie Howe,
Future Generations Commissioner, Wales

The Future Generations Commissioner has a duty to promote the Sustainable Development Principle and acts as a guardian for the interests of future generations in Wales.

The Future Generations Commissioner holds several key responsibilities:

- Providing advice and support to public bodies and encouraging best practice
- Providing advice to Public Services Boards concerning the preparation of their Local Well-Being Plan
- Carrying out research to include the well-being goals, the national indicators and milestones, and the sustainable development principle and how public bodies apply it
- Conducting reviews into how public bodies are accounting for long-term impacts and make recommendations based on the findings, including to public bodies
- Preparing and publishing a Future Generations Report every five years to provide an assessment of the improvements public bodies should make in accordance with the sustainable development principle

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

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 FUTURE GENERATIONS

Deputy-Commissioner for Fundamental Rights

The need for an Ombudsman for Future Generations was recognised and accepted by the Hungarian Parliament in 2007. In 2011 the Parliament recognised the need to protect natural resources at constitutional level by stating in the Fundamental Law that: *“Natural resources, in particular arable land, forests and the reserves of water, biodiversity, in particular native plant and animal species, as well as cultural assets form the common heritage of the nation; it shall be the obligation of the State and everyone to protect and maintain them, and to preserve them for future generations”*.

It established a direct link between the environment, the interest of future generations and basic constitutional rights such as the right to a healthy environment and the right to physical and mental health.

This strong relationship was first established by the Constitutional Court when in 1994 it emphasised the link between the right to a healthy environment and the State duty for establishing an institutional system that provides substantive and procedural legal guarantees in this respect, together with emphasizing the non-regression principle. Since 2007 the Ombudsman has relied heavily on this argument and has called upon the State on several occasions to fulfil its duty in order to respect individual fundamental rights. While the institutional set up of the ombudsman system has gone through several changes over the years the main approach has not been changed. It was introduced by the first Ombudsman for Future Generations Mr Sándor Fülöp who led an independent office much like the General Commissioner and the other two specialized Parliamentary Commissioners. Due to the institutional changes that merged the offices into a single office, making the two independent Ombudsmen the Deputies of the General Commissioner and changing the way in which the specific fundamental rights could be represented, Mr Fülöp resigned in 2012.

Despite the institutional changes, the Ombudsman for Future Generations is still elected by the Parliament with a majority vote of two-thirds. In October 2012 Mr



Functioning as an official agent of the “green consciousness” of society, raising awareness on every level of decision making lies at the heart of my work. I believe that sometimes altering the main course comes about through several small steps taken in the right direction. Besides investigating individual complaints, I strive towards establishing a legal environment that provides better chances for environmental interests and gives less grounds for complaints.

Professor Gyula Bándi, Ombudsman for Future Generations, Deputy-Commissioner for Fundamental Rights, Hungary



Marcel Szabó was elected by the Parliament as the second Ombudsman for Future Generations for a six year period. Upon being elected a Constitutional Court judge, Mr. Szabó was succeeded by Professor Gyula Bándi in February 2017. Under the new institutional structure Professor Bándi may initiate and/or participate in investigations upon complaints and *ex officio* conducted by the general Ombudsman; propose that the General Commissioner turn to the Constitutional Court or the Curia of Hungary in cases where there is a strong belief that a national or local piece of legislation is in violation of the Fundamental Law. Also, he may initiate intervention by the General Commissioner in judicial review of administrative decisions in environmental matters. In the course of these procedures he has access to all relevant documents. His mandate includes the right to examine national and local legislative actions; to monitor policy developments and legislative proposals to ensure that they do not pose a severe or irreversible threat to the environment or harm the interests of future generations. He is

involved in the elaboration of non-binding statements and proposals to any public authority including the Government and ensures that the direct link between the nation’s common heritage and the fundamental rights of all generations (including future generations) are respected and not forgotten.

In his report of 15 August 2013 on ‘*Intergenerational Solidarity and the Needs of Future Generations*’¹⁴ the UN Secretary-General noted, among eight other institutions, the Hungarian Office of the Commissioner for Fundamental Rights, regarding its special mandate in protecting the interest of future generations. The virtues of this special institution have not been changed, only the legal status is somewhat different. Professor Bándi is a strong advocate for combining the protection of interests of future generations with the protection of national heritage as established in the Hungarian Fundamental Law; for joining forces with similar efforts and developing an international network of institutions aimed at protecting the interests 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:¹⁵

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 Welsh Commissioner enjoys the most independence.

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 Welsh and Hungarian Commissioners have 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 and Hungarian 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 Welsh Commissioner enjoys more legitimacy. The statutory position is created by legislation.

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 or Wales, 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 Welsh Commissioner, on the other hand, oversees a broad policy remit closer to a holistic protection of living conditions for future generations.

For over 50 years, international law has explicitly linked intergenerational equity and the environment. It is enshrined in some 20 national constitutions. A report by the UN Secretary-General, *Intergenerational Solidarity and the Needs of Future Generations*¹⁶ was published in 2013, making a strong case for action at the UN level, “*The present generations need to understand why leaving the planet to our descendants in at least as good condition as we found it is the right or good thing to do.*”

Drawing upon many of the examples detailed in this brochure, the report focuses on intergenerational equity and future generations. It addresses both the moral and philosophical arguments that form the discourse around safeguarding the needs of future generations and highlights existing and potential examples of mechanisms that help to bring the long-term perspective to our policy approaches.

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.¹⁷

FUTURE JUSTICE STARTS TODAY

We believe that 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 generations to come. This connecting

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, Former Executive Director, UN Environment Programme (UNEP), 2011

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 well-being. 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 well-being 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.



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“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.”¹⁸

Edith Brown Weiss