



Ombudsperson for Future Generations

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“Humankind has become a force of nature. Shaping the planet, at an unknown speed, like no other force of nature or species has done before. We are part of nature. We are nature, benefit from nature and influence nature. We are also connected to past, present and future generations, through our history, people alive now, our children and their children. And so on. We have an obligation to allow future generations to choose their present, their development and their future. We have a duty not to restrict them in this.”

- Judge C.G. Weeramantry († 2017), Former Vice President, International Court of Justice

The Idea

In everything we do, we affect the lives of future generations. Our (Western) society is, however, mainly focused on the short term. Many choices that have a positive short-term impact, have a negative long-term impact on the living environment and the chances of those still to come.

Although the needs and interests of future generations form a crucial element for sustainable development, they are generally not institutionalised and not represented in relevant decision-making processes.

We want to change this by introducing an official Ombudsperson for Future Generations in the Netherlands.

As an independent institution, not subject to elections, political whims and compromises, this Ombudsperson could entirely focus on:

- Long-term analysis
- Undertaking its own research
- Collecting and handling complaints and alerts from society

Doing so, emerging trends in the population and civil society can easily be identified and handed over to the policy makers.¹

In the Netherlands, such a guardian of future generations would perfectly fit into the current framework of Ombudspersons. The new Ombudsperson would, in accordance with the current law², be a Vice Ombudsperson just as the Children's Ombudsman and Veterans Ombudsman, placed under the National Ombudsperson.

Outside the Netherlands

Various countries have already successfully established institutions for (the interest of) future generations. In Brazil, Chile, Finland, Germany and Israel, parliamentary commissions for sustainable development and/or environmental issues have been already established, mandated with the responsibility to safeguard the interests of future generations. Although these initiatives should be encouraged, analysis of the World Future Council shows that because of a lack of independency, institutionalisation and a restricted mandate, the impact of these initiatives is only limited when it comes to the interests, needs and rights of future generations.³

Wales took it a step further, with the introduction of a statutory Future Generations Commissioner in 2016. Parliamentary Commissioners for the environment are also established in Canada and New Zealand. In comparison with the earlier mentioned parliamentary commissions, the Commissioners are given a broader mandate. However, research shows that these Commissioners still lack independency, tools and competences to make their governments policies comply with the rights of future generations.³

The most effective instrument for protecting the rights of future generations seems to be the establishment of an Ombudsperson for Future Generations⁴, in which Hungary sets a good example. The Hungarian Ombudsman for Future Generations, until 2016 Marcel Szabo held this position and his successor will soon be announced, acts according to the following description: *"to make human responsibility felt in all the fields of state and civil live, with respect to the conversation of natural values entrusted to us, for the sake of protecting the next generations."*⁵

¹ Maja Göpel, Ombudspersons for Future Generations as Sustainability Implementation Units, Stakeholder Forum, 2012, p. 5.

² Law on the National Ombudsman, 4 February 1981, regarding the establishment of the National Ombudsman and the amendment of several laws, online: <http://wetten.overheid.nl/BWBR0003372/2011-04-01> ³ World Future Council, National Policies and International Instruments to Protect the Rights of Future Generations, A Legal Research Paper, p. 7.

³ World Future Council, National Policies and International Instruments to Protect the Rights of Future Generations, A Legal Research Paper, p. 10.

⁴ Also called a Parliamentary Commissioner for Future Generations.

⁵ Sándor Fülöp, Comprehensive summary of the parliamentary commissioner for future generations of Hungary, 2010, p. 9.

In addition, the Hungarian Ombudsperson has a constitutional mandate: *“The Republic of Hungary recognizes and shall implement the individual’s right to a healthy environment.”*⁶ According to Hungarian law, the Ombudsperson reviews legislative developments and proposals, and checks whether they form a threat for the environment and future generations.

In short, this Ombudsperson has proved to be effective for the following reasons⁷:

- The Ombudsperson has a strong mandate based on the constitutional right to sustainable development and a healthy and clean environment.
- The Ombudsperson works from the government, but with an independent position toward the political and administrative system.
- The Ombudsperson is not subject to electoral cycles, that so often cause national policy to be limited to short-term thinking.

Examples that show that this and other institutions for future generations are effective:

- Partly due to the interference of the Hungarian Ombudsperson for Future Generations, nature reserves and groundwater sources are protected and old city areas are recognized and protected as national heritage.
- The Finnish Committee for the Future has been indicating the long-term impacts of public policies for future generations since 1993, and has improved these policies with regard to the rights of future generations by commenting on proposed legislation.
- The Future Generations Commissioner (since the beginning of 2016) of Wales has successfully taken up its responsibility “to advise, promote and encourage sustainable ways of working” and encourages government agencies to enter and stay into dialogue with the citizens and to take into account the long-term impacts when making (budgetary) decisions.

Next steps

Already since September 2015, members of the Worldconnectors working group “Future generations” have been active as “acting Dutch Ombudsperson of Future Generations”. Chair Jan van de Venis and other working group members have started to reach impact in many areas. The political youth organisations have organised themselves around the idea and together drafted a Manifesto which was signed and received by Deputy Minister for Environment Sharon Dijksma and the WRR⁸ has given the interests of future generations a prominent place in the climate change policy letter *‘Environmental policy: from non-binding to anchored’*. Also, we provided the responsible government committee with advice on the (new) corporate

⁶ Constitution of Hungary, article 18.

⁷ The concept of “Ombudsperson” originally comes from Sweden, is established in the middle of the year 1700 and has expanded across the world to academic, public and private sectors. We prefer to use the gender neutral term “ombudsperson” to describe this institution instead of “ombuds” or “ombudsman”.

⁸ Scientific Council for Government Policy

governance code and the acting Ombudsperson has been asked to speak at events multiple times, such as The Association of Dutch Municipalities. At least four political parties proposed formal amendments for the parliamentary elections in 2017 to include an Ombudsperson for Future Generations in their election programmes.

To safeguard the rights of Dutch future generations, it is important to institutionalise this position.

I. The institutionalisation of an Ombudsperson for Future Generations

We will try to establish an official Ombudsperson for Future Generations as soon as possible, whose work will be based on the existing framework, with the same (minimum) level, the same (minimum) authority and the same capacities as the current Ombudspersons, but with a special purpose: to safeguard the needs of future generations.

The Ombudsperson for Future Generations will, just like the other current Ombudsmen, be able to launch an investigation on its own initiative or based on complaints by citizens. These investigations may concern the conduct of government agencies and the way in which authorities are carrying out their public duties.

The Ombudsperson must be given the possibility to advise, both requested and unrequested, on issues that fall within its competence and specialism. This is to make sure that the government authorities are performing their duties in accordance with the right to sustainable development and a clean and healthy environment. Finally, the Ombudsperson must be granted the role to publicly demand attention for intergenerational rights and sustainability.

The establishment of a new Ombudsperson is relatively easy to facilitate and would only ask for an amendment of the specific Dutch legislation, the 'Law on National Ombudsman'. We have already prepared a concept for a legislative proposal, based on the comparable amendments for the establishment of the Ombudsman for Children in 2011.

II. Inclusion of the right to sustainable development and a clean and healthy environment in the Dutch constitution.

In addition to the institutionalisation of an Ombudsperson for Future Generations, it is important that the Parliament recognizes the right to sustainable development and a clean and healthy environment for present and future generations.

The codification of a right to sustainable development and a clean and healthy environment in the Dutch constitution and the establishment of an Ombudsperson for Future Generations, are two sides of the same coin. On the one hand, the establishment of the right will give the Ombudsperson a strong mandate. On the

other hand, the Ombudsperson will be able to be proactive in protecting this right and to prevent it from becoming an empty promise.

In the meantime, there are multiple human rights treaties and other declarations – such as the Treaty of Aarhus and the UN Declaration on the Rights of Indigenous People – and over 100 constitutions that contain a provision or codification of the human right to a healthy and clean environment.

A good example of that is the Norwegian Constitution (Art. 110 b) which states:

“Every person has a right to an environment that is conducive to health and to a natural environment whose productivity and diversity are maintained. Natural resources should be managed on the basis of comprehensive long-term considerations whereby this right will be safeguarded for future generations as well.”

The European Court of Human Rights, as well as the European Committee for Social Rights, have confirmed that our governments need to safeguard our right to a clean and healthy environment, based on the European Convention on Human Rights and the European Social Charter.

With regard to the right to sustainable development, The Netherlands could follow the example of their neighbour Belgium, which Constitution (art. 7bis) states:

“In the exercise of their respective competences, the Federal State, the Communities and the Regions pursue the objectives of sustainable development in its social, economic and environmental aspects, taking into account the solidarity between the generations.”

Or The Netherlands could follow up on the sustainable priorities mentioned in the SDGs (Sustainable Development Goals) (proclaiming: We will implement this agenda 2030 for the benefit of all, present and future generations) and the Earth Charter could be used as a source of ethics and inspiration.

The time has therefore come for the Netherlands to recognize and respect the right to sustainable development and a clean and healthy environment for all, including future generations.

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⁹ Members of the Working Group for Future Generations include both Worldconnectors and Earth Charter Friends: Jan van de Venis, Tineke Lambooy, Alide Roerink, Lynn Zebeda, Kayin Venner, Ties Mouwen, Miranda Wilems, Christiaan Kuipers and Lavinia Warnars. Since September 2015, the Working Group acts as the acting Ombudsperson for Future Generations, with Jan van de Venis as Chair. We seek cooperations with organisations, knowledge institutions and Dutch as well as international networks.

