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Central European University in part fulfilment of the**

Degree of Master of Science

**Institutional representation of future generations;
successes and barriers**

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ABSTRACT OF THESIS submitted by:

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Four different national institutions were established with the aim of protecting the interests of future generations by challenging economic and political short-sightedness. The concept of 'future generations' is, however, inconsistently defined in the environmental discourse leaving much space for various interpretations. This research is conducted to find out how these institutions defined future generations, as it determines their role in practice, as well as how they perceive barriers and successes. Interviews, document sources, and conference materials serve the base of the execution. Findings reveal that future generations are not precisely defined for the work of these bodies. The lack of a coherent picture of the agent under protection can be explained by how the institutions operate to fulfill their goal. Rooted in the present legal systems these bodies are capable of promoting the protection of the life-supporting systems of present generations to empower them to sustain themselves in the long run. Therefore the successes of the institutions are mainly related to the appreciation expressed by present individuals, and to the political pressure that can be realized by direct or indirect mechanisms. The barriers revealed reflect more generalizations around political and economic interests, as well as a lack of holistic thinking in governance. The institutions offer four possible solutions to overcome these barriers all representing different entry points to challenge the political and economic status quo.

Keywords: future generations, democratic short-sightedness, institutional solutions

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*Justice between the old and young respectively
between present and future generations is,
in itself, one of the most important reasons why
environment and nature should be protected.*

/Joerg Tremmel/

Introduction to the research on the institutional representation of future generations

Imagine a country where 7 thousand tons of plutonium waste products (roughly the amount produced in Germany) have been produced, since the first nuclear reactor was brought on line. We know that the half-life of plutonium is 24.110 years. Thus we can predict that in approximately 789.000 years one gram of plutonium will still remain, as a sign of energy that has been exploited in less than a lifetime. We also know that even one gram of plutonium has considerable health effects on living beings.

This example appeared in Tremmel's study (2006a) where he tries to present how the ability of humankind to affect the future, and the life of succeeding generations has increased enormously over the last decade. Jávör is right to say: *“we understand that pollution and environmental problems know no borders. [...] That they know no time either, we rarely think about. Destroyed species will never revive.”*¹ (Jávör 2000, 6)

The realization of the temporal aspect of the effects of human actions has brought about a new way of seeing humankind's responsibility for its descendants. There was a long way, however, to the recognition of this responsibility. Many philosophical questions were raised in the fields of morals and ethics to define the agent, those inconceivable and non-existing

¹ The quote in its original language: „Tudjuk, hogy a szennyezések, a környezeti problémák nem ismernek országhatárokat. [...] Abba azonban ritkán gondolunk bele, hogy az időt sem ismerik. A kipusztított fajok soha nem élednek újra.”

individuals, who „have” claims on us, - or who we have responsibility for - to bequeath a planet worth living on. Future generations have not been uniformly defined to this day, as they refer to a group of overlapping and infinite generations of people. This group lacks not merely identity, but also unified interests and needs. These controversies have been put forward by many scholars to find a theoretical resolution, and lay down the fundamentals for our responsibility to the well-being of the future.

After coming to the conclusion that an extended responsibility towards future generations is necessary, an additional step has to be made. Responsibility lies in humanity’s capacity to leave a long-term mark in the future, as well as in its ability to foresee the consequences and to decide accordingly (Partridge 1990). Choice, therefore, is a cornerstone in the intergenerational discourse, as it leads to today’s decision-making mechanisms where the choice of society is represented through regular elections of democratic regimes (Nagy, 1998). This is the point where the problem arises, namely that long-term consequences of decisions oppose short-term power and accountability rooted in the very heart of democracy. This weakness is exacerbated by economic discounting and the lack of systems thinking and value debates in the current political governance (Meadows 1999, Mannermaa 2007).

Nagy, however, pointed out a potential solution: *“future generations need actors whose motivation is different from those waiting for re-election”* (Nagy, 1998, 61). There are few but remarkable examples for actors and institutions that got established with the aim of promoting a long-term vision and responsibility for the future through the representation of the interests of those yet to be born. Interestingly, however, the theoretical questions raised about these interests and the identity of the agent still remained open during the establishment of these bodies.

The aim of this research is to understand how these institutions defined future generations and what this definition implies in practice. Defining the agent under protection is particularly important because the way of conceptualizing future generations fundamentally determines how an institution operates, defines its role, and how it perceives barriers and successes.

Therefore my objectives are:

- (1) To identify the definition of future generations by the institutions
- (2) To understand what this definition implies in practice regarding the institutions' role in the implementation process of intergenerational justice
- (3) To analyze how the institutions perceive barriers and successes

The emphasis will be on the representation of the interests of future generations at the national scale, since this is the level where decisions are made democratically, and where legal redresses can be initiated if certain preferences are neglected or violated. Nevertheless, the experience and knowledge of international institutions working for the promotion of the establishment of such bodies at regional, and international levels will also be touched upon where relevant. From among the few national institutions in the world with the precise mandate to represent future generations this research focuses on four of such bodies with similar goals but different design. The choice is based on the institution's relatively long history in the field, and the representation of different cultural settings. Accessibility for interviews was also a practical criterion an institution needed to meet. The methodology of the research is based on interviews conducted with the representatives of the institutions. The following establishments were investigated:

1. Parliamentary Commissioner for the Environment, New-Zealand
2. Commission for Future Generations, Israel

3. Parliamentary Commissioner for Future Generations, Hungary
4. Commissioner for Sustainable Futures, Wales

Chapter 1: Theoretical journey around the problem of human activities, from morals to decisions

1.1. The problem of the scale of human interventions

The average “time-lag effect” (Partridge 1990), which means the time gap between cause and effect of an action, has widened so greatly, that exceeds the entire history of mankind (see Figure 1.), and separates the generations of originator and endurer. This enhanced ability to influence the future, at the same time, has raised the question of the need for an extended responsibility to posterity, and thus brought about a change in the moral judgment of human interventions.

Nevertheless, this new moral approach, as it is generally inevitable in the field of morals, was not at all accepted by all scholars without reservation (Beckerman 2006, Golding 1972). Moreover, this new interpretation of responsibility has brought forward other concepts that needed reclassification or extension in this theoretical framework. These are for instance the ambiguous notion of the rights of future generations (Beckerman 2006), the difficulties with the concretization of obligations of current generations (Golding 1972), or the conflicting interests of people living separated in time (Sólyom 2000), just to mention a few.

Philosophers, politicians and environmentalists have been working collectively to argue in favour, or against the possibility or the necessity of such a new moral approach. Exploring the extended literature of argumentations would go beyond the scope of this study, however, the investigation of the most important points is essential to lay down the ethical fundamentals for my further argumentation. Going over the basic principles of the concept of intergenerational justice is also necessary in order to understand that the moral base of any activity or decision

inherently entails what values we bequeath to posterity, and thus what kind of future we create.

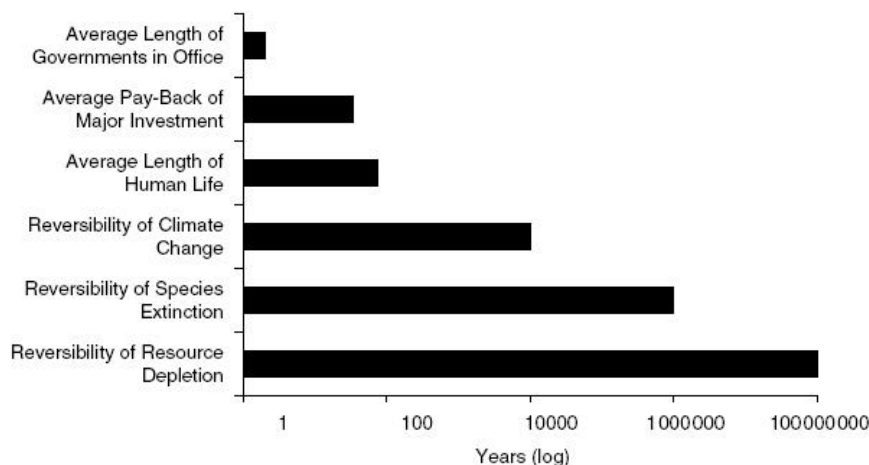


Figure 1. Time scales of human and natural processes. Current human interventions exceed the natural reversibility of environmental degradation and resource depletion. (source: Tremmel 2006a)

1.2. Ethical questions regarding future generations and their practical relevance

As pointed out above, the notion of intergenerational justice, which refers to the fair and equal treatment of every human generation, irrespectively of how far in the future they will exist, raised a number of conceptual questions. One of the major problems regarding this notion is that in the modern ethical-legal discourse, justice entails conferring rights to an agent that automatically opposes obligations to another (Sólyom 2000). In this section I will introduce the most challenging questions to the claim that the idea of intergenerational justice can be adopted and that future generations can have rights.

1.2.1. Are 'they' and 'we' the members of the same moral community?

The question of reciprocity.

The first question, whether present and future generations belong to the same moral community, is a fundamental one to answer in the theory of obligations and rights, since historically these concepts were developing among co-existing members of social communities. Thus at first sight the existence of such a community seems impossible, based on the fact that remote generations cannot have direct claims on each other, and any benefit (and burden) that future generations derive from the present generation cannot be reciprocated (Golding 1972).

Some authors, however, suggest that reciprocity is not an essential part of the social contract. Wenz (1999) defined justice and fair behaviour by using the example of Rawls' famous thought experiment. Here participants develop their principles of justice without being aware of their personal identities and their place in society. Rawls (1971) thought that with a chance of becoming the victim and not the beneficiary of inequality, people tend to give equal consideration to everyone's interests. This thought led Wenz (1999) to conclude that equal consideration is deserved by all people in a theory of justice, and it serves as a basic moral premise. Shrader-Frechette (1991) extends this thought by saying that this ignorance would lead members of different generations to the same deliberation in such a hypothetical context, and thus a social contract between generations is based on moral reasoning and justice, not on reciprocity.

Shrader-Frechette (1991) then goes further and refers to the example of a parent-child relationship to argue for an alternative interpretation of moral communities. In such a relationship parents take up an obligation towards their children on rational self-interest and just deliberation, where the other party (the child) is not asked whether it wishes to enter the

agreement or not. This is an implicit contract on which there is no expectation of reciprocity to return any benefit that has been received. Present-future relationships can be viewed this way, as no reciprocity or bilateral agreement is possible in this social contract.

On the other hand, the question arises whether such a moral contract automatically attributes rights and obligations to children and their parents, and future and present generations, respectively. Beckerman (2006) deliberately evades the example of parental obligations, because he finds that this kind of rational self-interest and sentimental bonds cannot be the base of moral duty. He is instead applying the Kantian point of view by saying that “*what is morally right, is a matter of duty, [...] doing what you fancy is nothing to do with moral duty.*”(Beckerman 2006, 54). Partridge (1990), on the other hand, argues in favor of the legislation of such morality. He points out that very often the preexisting moral consciousness enabled the enactment of laws, such as the right to life, liberty, property or free public education. Legal recognition very often originates from a preexisting realization of moral claims that, society believes, “*should be sustained and protected by the force of law*” (Partridge 1990, 51).

1.2.2. Can non-existing people have rights?

The question of determinacy.

Another important argument that is often referred to is well described by Beckerman (2006), who finds it a “futile enterprise” to ascribe rights to non-existing people. According to him, the present tense of the verb “to have” already precludes any logical reasoning of future rights. His proposition is based on two simple arguments: (1) because of their non-existence, future persons cannot have anything, including rights or interests, and (2) one can only have a right to something if that right, in principle, can be fulfilled. He explained these as follows:

“In the case of our right to see live Dodos, for example, one of these two conditions is not satisfied. We exist, but Dodos do not exist. And before the Dodos became extinct, the Dodos existed but we did not exist, so we could not have any rights to its preservation.” (Beckerman 2006, 55).

Beckerman (2006) thus suggests that only definite and identifiable people can have rights, and thus present generations can only have obligations towards “these” people. However, this suggestion, Partridge (1990) argues, misses the point not only regarding future, but present individuals as well. He says that when a citizen has a duty to every other person not to cause harm by its negligence, then this class of people (“every other”) are indefinite in identity and undetermined in time and space. His question to what extent are present strangers more identifiable than any other future persons is logically justifiable. Using the example of campers’ moral obligation to clean up the site after camping, he expounds:

“The next camper has a “right” to a clean campsite, not because of who he is (as an identifiable person), or when he is, but for what he is – a sentient, rational person (thus of our moral community) who might have an interest in enjoying the use thereof. That he may, at this moment, be nonexistent is, morally speaking, nonrelevant.” (Partridge 1990, 58).

Parfit also came to the same conclusion using the apposite example: *“Suppose that I leave some broken glass in the undergrowth of a wood. A hundred years later this glass wounds a child. My act harms this child. If I have buried the glass, this child would have walked through the wood unharmed. Does it make a moral difference that the child whom I harm does not exist?”* (Parfit 1984, 356-357)

Along with this argumentation however, Partridge (1990) also distinguishes between different types of rights and acknowledges that not all sort can be given to future generations. Designative rights, as he calls them, can be counterparts of *in rem* duty, which correlates to a

class of people “*identifiable by description*”(Partridge 1990, 60). These rights thus can be given to future generations, as their indeterminacy does not constitute a barrier. Denotative rights, however, correlate to *in personam* duty, which refers to a specific person or a well-defined group of individuals and thus are not possible to accord them to non-existing people (Partridge 1990). This distinction helps us remember that avoiding generalizations about the right concept can be of good use of concentrating our attention on rights, which pose direct obligations on present generations and demand concrete actions from us.

1.2.3. What are ‘their’ needs and conception of a good life?

The question of ignorance.

“*What good does it do to affirm that future generations have interests [...] and therefore that we have a duty to safeguard them, if we do not know, specifically, what we are obligated to protect?*” (Shrader-Frechette 1991, 73). Many scholars see the uncertainty of future needs and circumstances as barriers to adopt the idea of recognizing the rights of future generations. An often cited example of genetic inheritance shows why making a claim on behalf of them may be difficult. A given genetic pool or a particular chromosome can be advantageous under certain conditions in a given time, while deleterious after hundreds of years in other circumstances (Golding 1972). This dilemma represents a difficulty one might face when trying to make long-term decisions keeping the interests of future generations in mind.

Majtényi however, reminds us that given all uncertainties regarding the future, we ought to speak *not on behalf* of posterity but *in their interests*.(Majtényi 2000, 44) This means, that often the desirable act is to respect the autonomy of future generations with making the least possible decisions on their behalf (Sólyom 2000). Furthermore, Shrader-Frechette (1991) points out that we may know little about exact preferences and desires, but we have some idea

what can be really harmful to generations to come. Based on Rawls' thought experiment revealed earlier (Wenz 1999), Shrader-Frechette's (1991) argumentation seems logical saying that bequeathing considerable debts, carcinogenic pollutants, and a destroyed ozone layer to our descendants, or exploiting all non-renewable resources, would no doubt violate the principles of equal treatment and fair distribution.

Thus in situations of ignorance "*the morally responsible course is to follow the position least likely to violate possible rights*" (Shrader-Frechette 1991, 75). Even if envisioned technological developments will presumably solve some of the numerous environmental problems in the future, relying on knowledge that is not yet in our possession would be ethically disputable, and cannot justify the intentionally neglected effects of today's acts. Let alone the fact that by doing so, present generations bequeath not only burdens to posterity, but also the immense urge of finding solutions.

An apt quote can summarize why the matter of ignorance does not mean a barrier to the idea of rights of future generations, even if we do not stand for its recognition: "*if one follows the logic of those who deny that future persons have rights, then one is also bound not to destroy the possibility of distant generations' planning for themselves*" (Shrader-Frechette 1991, 75)

1.2.4. Future vs Present?

The question of priorities.

One final, but remarkable note should be taken here: whether or not scholars agree on the claim that future generations can have (or should have) rights, after laying down the arguments, they often come to a shared conclusion that without a just and equal treatment of

present generations, intergenerational justice can hardly be achieved. One can understand the importance of this point by looking at the premise made by Garrett Hardin.

Hardin's (1981) point is that weighing the costs and benefits of an action is not a sufficient method of evaluation if the two appear with a great separation in time. This is a well-known problem in the concept of cost-benefit analysis, where the trend of discounting the future is increasing, the further in time the costs of an action appears (Heinzerling and Ackerman 2002). This is, however, not the only problem. He quotes Thomas Aquinas by saying that "*necessity knows no law*" (Hardin 1981, 282) and then further explains: "*a man's personal discount rate is directly related to the emptiness of his stomach*" (Hardin 1981, 282). This means that societies that lack adequate means to meet their basic daily needs as well as a just and equal treatment and distribution of wealth, cannot serve (and cannot be expected to serve) the interest of posterity in a proper manner. Gundling (1990) in addition points out that the development that so many Third World countries are seeking now, will serve the base for long-term sustainable social and environmental solutions.

Beckerman (2006) goes as far to say that without the extension of basic human rights, the environment cannot be sufficiently protected. Steps should first be taken to enhance democratic participation in environmental decision-making through political freedom today, which then can contribute to an enhanced environmental quality in the future. An example can be the voluntary birth-rate reduction. If it is achieved by greater women empowerment, he argues, it can accordingly lead to poverty alleviation and lessened environmental degradation.

Shrader-Frechette (1991) approached this question from the opposite point of view, emphasizing that the well-being of present generations can be adequately protected by maintaining the conditions of a good life for future generations. From whatever perspective we look at the solutions to intra-, and intergenerational inequality, it seems that the problem of

justice is rooted not merely in the conflicting interests of present and future generations, but in what Wenz (1999) called the problem of “economic discrimination”.

The poor are considerably exposed to environmental harms and the threats of pollution, while the wealthy contribute to environmental degradation in a more significant proportion through increased consumption (Wenz 1999). This inequality cannot be solved as long as the “*profits determine who receives the costs of pollution and the benefits of resources*” (Shrader-Frechette 1991), irrespectively of whether this inequality appears between members of co-existing generations, or between two generations separated in time. One thing appears to be true: “*the most difficult challenge to all efforts to [...] achieve intergenerational equity will turn out to be what we have failed to achieve [...] within our own generation*”(Gundling 1990, 211), and without addressing this challenge, the conflicts between generations will inevitably become more severe (Gundling 1990).

1.3. The discourse of morals, rights and duties

The questions raised above could offer a glimpse of how the discourse of ‘justice’ and ‘rights’ is characterized by, and based on philosophical and ethical considerations. For some, ‘rights’ mean a *moral* claim to be accepted or not to be treated in a certain way, and the justification of this claim is based on an implicit agreement among the members of a class of people, e.g. society. For others, ‘right’ means a *legal* weapon through which any claim that has been attached to that right, can be ratified and granted by assigned legal authorities.

In the matter of recognizing posterity’s rights this distinction makes a real difference. We saw that Beckerman (2006) denies that rights can be given to non-existing people. However, he argues that this denial does not mean that future people would not have a “moral standing” and thus we have a “moral obligation” towards them. He compares this situation to the

example of a drowning man: “*if I am walking along the beach and see somebody in danger of drowning [...] I have a moral obligation to go to his assistance if I can, even though the person in danger may not have any ‘right’ to expect such assistance*”(Beckerman 2006, 58).

This case, however, seems not to reflect the relationship of present and future generations, in which the well-being of future persons is jeopardized by the deliberate actions of the present. In this position, the obligations of the present cannot be seen as merely voluntary and charitable.

Partridge (1990) therefore finds legal rights necessary to apply. They, he says, generally carry greater weight, have stringency and urgency, and ensure duties to the right bearers. These duties have priority over duties of beneficence in which “*need is irrelevant*” (Partridge 1990, 43). In addition, policymakers can also serve the needs of succeeding generations far better, if legal instruments can be at hand to protect them. In short, “*beings with rights deserve respect, [...] command our attention, and demand our response*” (Partridge 1990, 43).

Since scholars generally agree that rights counterpart duties, it is worth noting how duties have been seen in the moral discourse. O’Neill’s remark can be of good use here: “*Although the rhetoric of rights has become the most widely used way of talking about justice in the last fifty years, it is the discourse of obligations that addresses the practical question who ought to do what for whom?*”(O’Neill 1997, 132). Indeed, Sólyom (2000) also puts the emphasis on duties and suggests that rights should be talking about merely symbolically. His argument is that now only obligations exist, irrespective of what rights posterity will own one day. The Hungarian constitution for instance states our obligations to future generations without giving exact right claims to them (Sólyom 2000).

Beckerman (2006) collected the most important practical advantages of applying a “duty-talk”. Using the word ‘rights’ might be an effective tool in the political arena, but there is a

danger in its adaptation, as it does not provide any specification of what concrete steps of implementation those rights entail. Speaking about obligations on the other hand, provides a focus on actual persons, institutions or the state that those obligations can be associated to, and thus the holder of a duty becomes identifiable. Last but not at least, obligations have particular relevance to personal behavior at each level of society, and thus they can contribute to a paradigm shift in the perception of responsibility towards the future of humanity.

1.4. The scope of responsibility

After specifying the most important ethical queries, Birnbacher's (2006) conclusion appears to be correct, viz. the livings' responsibility and thus their duties towards future generations cannot be rejected merely on conceptual grounds. Nevertheless, going one step further and exploring the different scopes of responsibility can be of good use in two ways: on the one hand, to understand rightly this new approach of liability that connects us to generations to come, and on the other, to connect responsibility to its bearer. According to Partridge (1990) there are 3 factors that play important roles in the determination of responsibility: capacity, foresight and choice. I will use this classification for further investigation.

1.4.1. Responsibility based on capacity

Agius (2006) correctly points out that early human populations were too small, and their technological means not powerful enough to induce major and fundamental interventions in planetary systems. As we have seen from the example of nuclear power, this capacity has changed enormously over the last decades. There are two main processes through which current generations can foreclose posterity from planetary legacy: due to exponential

population growth, and to the corresponding depletion and degradation of natural resources (Birnbacher 2006, Weiss 1992).

Weiss (1992) makes several useful distinctions between different types of interventions and how they affect intergenerational equity. Regarding depletion, for example, the consumption and exhaustion of high quality resources lead to the elimination of basic materials (such as clean water) that people depend upon, while finding substitutes might be extremely expensive or even impossible. Exploiting resources that represent the corner stone of development for Third World nations, such as fossil fuels, is another issue which further exacerbates intra-, and thus intergenerational inequality.

In other cases certain resources are handed wastefully, because they are still “*prior to discovery of their best use*” (Weiss 1992, 6). In such cases the potential value of the resource is not assessed properly and can be discarded due to lack of consideration for the future. An apposite example can be the burning of gas released during oil-extraction, because in that era the cost of delivery is higher than the potential value of the raw material.

The degradation of natural assets can be manifested in pollution or distraction of natural services. Dumping hazardous or non-degradable wastes in the ground falls in that category, in which the environment is viewed as a cheap or free resource, while the potential health risk of the activity for future generations is not assessed. Mismanaging forests which thus lose their ability to prevent soil erosion and maintain biodiversity, contributes to the loss of resilience in the ecosystem including human communities (Weiss 1992). Due to the time-lag effect of this kind of degradations, future generations cannot be compensated for the costs of adverse effects on human health and the losses of valuable resource options.

Several concrete examples represent adequately our increased ability to create irreversible harm, and contribute to cultural, aesthetical, and life losses in the further future. Birnbacher

(2006) puts forward two significant arguments here: firstly, that the notion of irreversibility inherently bears a connection to succeeding times, and secondly, that “*responsibility as such means always and necessarily responsibility for the future*” (Birnbacher 2006, 23). It does not therefore present any difficulty to adopt the view that deliberately executed acts in the present necessarily and naturally entail accountability on the consequences of those acts, irrespectively of how far in time they occur. Responsibility based on increased capacity to affect the future is justified on the same moral ground than liability for effects appearing in a foreseeable space of time.

1.4.2. Responsibility based on foresight

The idea of designating foresight as one of the components of extended responsibility has been viewed differently by scholars. The best way to summarize the various perspectives is to adopt Bertrand Russell’s well-known quote:

“The final conclusion is that we know very little, and yet it is astonishing that we know so much, and still more astonishing that so little knowledge can give us so much power.”

(Russell 1925, 109)

Besides the technology to affect the future in the long run, humankind also developed means to increase the technical ability for foresight and early detection of adverse consequences and events. However, Birnbacher (2006) reminds us that the future can never be certain and therefore no one can be blamed for the consequences that could not have been foreseen. He rather embraces the idea that human history serves us enough examples of failures and successes to know when to assume an at least hypothetical risk regarding our actions. Others, like Vida (2000) for instance, see enhanced foresight as an opportunity through which gaining more information can help avoiding hazardous enterprises.

Another aspect of prevision refers to the common conception that technology is continually developing in ways which serve the survival and enhanced well-being of people (Gundling 1990). Therefore it is tempting to assume that future generations will solve the problems that current generations pose on them by their improved technological innovations. Such an argument can only be accepted if one keeps in mind that technological developments are, at the end, based on natural assets, which were always on hand for humanity. What are at stake now, however, are these assets.

Referring back to the example of the nuclear reactor, we know that the half period of plutonium is 24.110 years (Tremmel 2006a). We have an advanced knowledge about the health effects of plutonium, and an increased foresight about how long its degradation takes. This knowledge, as these two points of the scope of responsibility suggest, gives us not only power over the future, but an urgent need for extended responsibility (Birnbacher 2006). Partridge puts it aptly: *“with recent advances in scientific knowledge and technological power, we are losing our ability to hide behind the excuses of ignorance and impotence”*. (Partridge 1990, 48)

1.4.3. Responsibility based on choice

The third point is built on the first two and follows from their extension. The ultimate question of how modern societies live with their knowledge leads to the recognition that one's fundamental responsibility is based on the choices he makes. Responsibility, as Birnbacher (2006) puts it, is an act, not a passive feature that can be owned; and taking over this responsibility implies costs and opportunity costs for its bearer.

Hardin (1981) uses the example of planting a redwood tree to illustrate the problem of deciding on alternatives and to point out how much of caring for posterity depends on personal choice. In his example the investment of buying a seed for planting will pay back in the price of timber in 2000 years. Although neither him, nor any of his descendants will directly benefit from his act, he still decides to plant the seed. What he calls a “curious sort of quo” (Hardin 1981, 280) is the gratification that posterity in general will benefit from this act.

It is very important that choice inherently involves freedom: either to act or to refrain from acting. This point has been made accurately by Lányi:

“We are free to take the prominent achievements of our civilization: to prevent an approaching disaster by the means of scientific foresight, and treat our descendants in a way that is demanded by solidarity [...]. Just as we are free to default all these [...]. Not to be obliged to choose from the two is alone not in our freedom.”² (Lányi 2000, 34)

Freedom to exert enormous and long-lasting influence on the future through our own decisions bestows us with responsibility that is “*concrete on an unprecedented scale*” (Mannermaa 2007, 15). But freedom has another remarkable aspect. Sen (1999) indicated that a central point to take deliberate decisions is the understanding of the spectrum of choices available and consequences attached to them, respectively. He thinks that this understanding originates from open discussion and criticism among the parties concerned. In most modern societies it is assured through a democratically elected government to provide a surface for the realization of free speech and hence freedom to choice. Birnbacher (2006) then adds an important point here: if the nature of state power and its choices, priorities and values are put

² The quote in its original language: „Szabadságunkban áll, hogy éljünk civilizációnk kivételes vívmányaival: a tudományos előrelátás eszközeivel elhárítsunk egy közeli katasztrófát, és úgy bánjunk utódainkkal, ahogyan azt a szolidaritás [...] megköveteli. Valamint szabadságunkban áll az is, hogy mindezt elmulasszuk [...]. Egyvalami nem áll szabadságunkban: az hogy e két lehetőség közül ne kelljen választanunk.” In Lányi (2000).

into shape through democratic processes, then everyone who can have a direct or indirect political influence or has a decisive role can be held responsible for any decisions made.

Birnbacher's conclusion is that *"we need to be open to the extension of responsibility resulting from an extended foresight, extended abilities but, above all, from an extended moral goodwill and a willingness to act."* (Birnbacher 2006, 24) Now, that the arguments for an extended responsibility have been put forward and the bearers identified, the question arises whether modern democratic societies have the means for taking over this responsibility. In the following section this question will be elaborated on.

1.5. Barriers to taking over responsibility for the future: democratic blind-spots and the idea of economic discounting

The need for attributing rights to, and taking into account future generations have been acknowledged by several scholars and political philosophers, however, it seems that the practical implementation of this need meets serious obstacles. In the scientific literature there are usually two significant groups of barriers to futures thinking: political and economic. Although, scholars often investigate one or the other separately when trying to identify the limits of taking future generations into account; it is important to note that these barriers often complement each other and trigger their adverse effects (Lányi 2000, Meadows 1999). Therefore in the following section both spheres, and their most apparent limits will be briefly analyzed and their interfaces identified.

1.5.1. Political barriers or democratic blind-spots

When the Nobel Prize winner Amartya Sen was asked what he finds the most preeminent achievement of the twentieth century, his answer came with no hesitation: the rise of democracy (Sen 1999). In his view, its prominence lies in the demanding system of liberties

and freedoms which is not identical and indeed, goes far beyond the mechanic structure of a mere majority rule (Sen 1999). Expounding the ways of how democratic processes promote the prosperity of society is not the aim of this study, however, its recognition is important, in order to understand why most scholars seek for solutions to intergenerational justice inside the theoretic framework of democracy (Sólyom 2000, Beckerman 2006, Mannermaa 2007, Tremmel 2006a).

In Sen's view (1999) democracy possesses an intrinsic value manifested in political freedom and participation. Practicing civil and political rights contributes to a person's personal contentment and well-being in a community. It also provides a surface to the expression of claims and needs, whether economic or moral based. This is a so-called instrumental value which keeps the ruling government accountable. Sen (1999) also distinguishes a third, constructive virtue that is originating from a social practice of democracy, which enables participants to learn from each other, share and discuss ideas, and thus to contribute to the formation of collective values and priorities.

Because of its protective role and universal value, the notion of democracy and its core principles should not be rejected (Tremmel 2006a). However, there are some apparent shortcomings in democratic systems that pose barriers to fulfill its role in practice, and preclude the adequate protection of coming generations and their natural environment. There are two major spheres of deficiencies that can be distinguished: one is originating from structural problems and the physical buildup of democratic systems; while the other is rooted in the lack of systems and value thinking in the decision-making mechanism. These categories will be further examined in the followings.

Structural problems: short-sightedness and individualism

The short-sighted nature of democracy is one of the most striking barriers to futures thinking. It is also, at the same time, the most controversial one, because it lies in the very heart of its merit. The freedom of influence that people can exert on their own lives in a society, is realized through frequent elections, which entails ephemeral power to decision-makers, leaving the right to choice in the hands of electorates (Tremmel 2006a). This valuable characteristic, however, leads to several issues. The structure contributes to a survival attitude in the political sphere and diverts politicians' attention to the immediate present, to the satisfaction of the needs of today's generations (Nagy 1998, Shoham 2010, Tremmel 2006a). Since responsibility only extends as far as the possession of power, after the electoral term, there is no one to make liable for the long-term consequences of short-sighted decisions (Tremmel 2006a). In this way ephemeral power implicates ephemeral responsibility. This shortcoming becomes more and more significant as the time-scales of human interventions increase.

The other problem originating from this short-sighted nature appears in times of conflicting interests. In case of trade-offs between benefitting the present or future generations, those who look for the long-run are at a disadvantage in the political battles for votes and thus for the next political term (Tremmel 2006a). Richard von Weizsäcker, German politician's thought can summarize this point aptly:

“In general, every parliamentary democracy is built upon a structural problem, which is the glorification of the presence and the neglect of the future. The fact is, that we could not be ruled over and would not want to be ruled over by anyone else than by representatives chosen for a certain time, who in their offer of solutions to problems do not get any space for

planning farther ahead than the length of their legislative term. What I want to claim is that the whole concept of political representation is pointless for the long-term, future duties. It only stands for the need to procure majorities.

I am not saying that all politicians are unconcerned with the future. They are only faced with the problem of having to acquire a majority”³ (Richard von Weizsäcker 1998, 53).

Majority, however, is in itself a very unsteady and provisional concept. As Lányi (2008) finds, it is always the voiceless, the poor and the weak who constitute it. Osiatynski (2009) thinks that without a sufficient public support these powerless groups are not able to represent their interests through mere democratic processes, because they cannot mobilize voters, and thus influence the public agenda. From this perspective, Tremmel (2006a) sees future generations as a similar group of people, who cannot influence decisions that are often irreversibly affecting their living conditions. Lányi’s approach is different: he finds (2008), that future generations mean an infinite group of majority, and to support this argument he rephrases the words of Abbé Sieyès: “*What is Future Generation? Nothing. And what will it be? Everything.*”⁴ (Lányi 2008, 127).

Whichever point of view is taken, it seems that modern democracies’ indication of a majority means in fact a dominant position (Lányi 2008). Since present generations are no doubt in this position, the majority rule of democratic systems justifies the neglect of future individuals.

³ Partly in the translation of Tremmel (2006). The text in its original language: *Allgemein gesagt ist jede parlamentarische Demokratie auf einem Strukturproblem aufgebaut, nämlich der Verherrlichung der Gegenwart und der Vernachlässigung der Zukunft. Es ist nun einmal so, daß wir nicht anders regiert werden können und regiert werden wollen als durch auf Zeite gewählte Vertreter, die mit ihrem Angebot zur Lösung der Probleme gar keinen weiteren Dispositionsspielraum zur Verfügung gestellt bekommen als den ihrer Legislaturperiode. Damit will ich nicht behaupten, daß die gesamte politische Repräsentanz keinen Sinn für langfristige, zukünftige Aufgaben hätte. Nur steht sie vor der Notwendigkeit, sich Mehrheiten zu beschaffen.“* Damit will ich nicht behaupten, daß die gesamte politische Repräsentanz keinen Sinn für langfristige, zukünftige Aufgaben hätte. Nur steht sie vor der Notwendigkeit, sich Mehrheiten zu beschaffen.

⁴ The text in its original language: „*Mi a Jövő Nemzedék? Semmi. És mi lesz? Minden.*”

That is why Tremmel (2006a) calls for a radical change in the democratic framework and for the codification and institutionalization of a new future ethics and consciousness.

The question may logically arise whether this changed consciousness is present among today's citizens. Shoham (2010) finds that favoring short-sighted interest is often also triggered by a layer of pressure originating from public image. *"At all times this thought flows through the soul of a politician like a subterranean stream on a conscious and subconscious level: 'What I do must resonate with the public, here and now.'"* (Shoham 2010, 99). He (2010) finds that actions which are led by this preference of being popular, accepted, and first of all reelected, are often irrational and reflect the view politicians have on the public's opinion. This view, however, may appear to be wrong, and result in the belief that the more immediate a profitable outcome is, the more contented society will be. Whether the public is truly asked about preferences of long-term or instant solutions is not at all clear, and many times the decisions are driven by mere hypothetical answers (Shoham 2010).

As another structural feature, it is important to remember that there is a basic criterion to democracy to ensure the freedom of the individual as long as it does not have an adverse effect on another individual's freedom (Hamm 2006). This basic principle, however, is only formal in attitude (Lányi 2000). The ecological footprint and consumption patterns of one individual severely affect not only generations in the future, but also people living today. At the dawn of democracy it seemed evident that natural goods are indefinitely available for all generations, irrespective of humankind and its actions (Lányi 2000). There is, however, barely an autonomous act (Jávor 2000). Since the act and its effect exceeded the sphere of individual without measure, the individualistic approach is not anymore applicable for our legal considerations. Democracy chooses the legal person for its elementary unit, and the cornerstone of unfolding and liberty (Lányi 2012), and therefore lacks an important characteristic to analyze this unit in its interactions and as part of a bigger system both

naturally and socially. This point then leads to the next group of barriers regarding democratic systems.

The lack of systems and value thinking

“*Society is truly complex*” (Mannermaa 2007, 14). This complexity originates from the adaptive nature of people, economy and ecosystems, all creating and being shaped by numerous interconnections and feedback loops (Swanson *et al.* 2009, Meadows 1999). While handling uncertainty with humility, the understanding of the background concepts and relationships has to be given a great emphasis by decision-makers. Mannermaa (2007) and Shoham (2010) rightfully point out the neglect of strategic thinking in governance: the interdependence of certain sectors in the democratic structure allows leaders to take a sector-like “not my job” (Mannermaa 2007, 14) approach, where ministries are taking their own paths, without the realization of the effects of their actions on other political, social or ecological spheres.

This is intensified by an inherent, often applied logic of democracy to simplify correlations. Mannermaa (2007) thinks that while some politicians try hard to explain the complex interconnectedness of certain policies, more populist decision-makers would serve the esurient mass media with offering easy solutions and over-simplified sensations, misleading the opinion of the public and biasing its rational choice. This argument is affirmed accurately by Meadows (1999) who finds this information twist as the weakening of negative feedback loops controlling a democratic system. “*Free, full, and unbiased flow of information back and forth between electorate and leaders*” (Meadows 1999, 10) can hardly be found in such political systems, because information forms a major and integral part of the power struggle and political battles (Meadows 1999).

Swanson *et al.* (2009) indicate an essential point to the argumentation of systems thinking. The frameworks of the prevailing political structure need to be restructured, which is ultimately based on the reconstruction of how people think. Collaboration, the understanding of linkages and open deliberation are essential part of their theory (Swanson *et al.* 2009) and bring forth an inherently new paradigm (Meadows 1999). In today's highly dynamic and uncertain systems, governance cannot ensure sustainable, long-term policies without a sense of "systems intelligence" (Mannermaa 2007). A paradigm-shift, however, is largely precluded by the lack of meaningful and participatory debates exercised either in the public or in political spheres.

In an ideal election procedure, competing parties offer different, often conflicting future visions, from which voters choose according to their light and value judgment (Mannermaa 2007). This situation is argued to be ideal, because of the missing vision, and renewal of ideologies appearing from time to time. Visionary debates are not forthcoming about ideas for the future, which would be necessary for the outlined concept of ever quickening change (Mannermaa 2007).

Meadows' (1999) thought is that changing the players of the same game does not change the rules of the game. She thinks that many political system-changes and adjustments are only pseudo-interventions, and the sprouts of the same old ideology. It is too often merely "*diddling with the details, arranging the deck chairs on the Titanic*" (Meadows 1999, 6). Sticking to the status quo and constant positions and predictabilities is an often held desire in today's politics, however, not a sufficient one (Mannermaa 2007). As Hamm (2006) indicated very aptly, democracy is an evolving process that needs maintenance as any other human invention; a constant rethinking and active participation of citizens. Without an "I have a dream"(Mannermaa 2007, 163) approach, the improvement of democracy will be uneasy, and the engagement of a new value system unrealized (Mannermaa 2007).

1.5.2. Economic barriers: weighing cost, benefits, and the future

Economic barriers to the adoption of the rights of future generations can be understood by recalling the example of the redwood tree, planted by Hardin (1981). He looked at the seed as a financial investment, where the invested money (\$ 1) grows in the form of lumber, and brings the desired profit (\$ 14.000) in 2000 years. With such a long time span, however, the rate of interest is only about 0.479 percent annually, making him “*a rather stupid economic man*” (Hardin 1981, 280). The rate of interest, or in other words, the discount rate is a widely used economic notion to evaluate the potential future benefit of an investment in monetary terms (Heinzerling and Ackerman 2002). Planting a tree, however, can have value outside the economic sphere.

Sunstein and Rowell (2007) point out that while discounting money is a generally accepted, moreover supposed act, discounting non-monetary values, such as health or life remains a highly ambiguous issue. It is because money can be made to grow and increase wealth in time, entailing that any dollar received today is worth more than tomorrow (Heinzerling and Ackerman 2002). “*A life in 2025, [however], does not seem to be “worth less” than a life today, [and thus life] does not discount*” (Sunstein and Rowell 2007, 175). Therefore valuing the welfare of the future is not an economic, but a moral judgment (Sunstein and Rowell 2007).

The problem is that decision-making mechanisms are often based on monetary assessments in which costs are subtly balanced against benefits (Heinzerling and Ackerman 2002), and in which discounting is deeply embedded (Belzer 2000). Considering the temporal dimension of such decisions, it can be argued that it leads to an inherently unjust treatment of future generations, because the costs of certain actions (such as the exploitation of finite resources,

or green house gas emissions) will only occur later and be incurred by our descendants, while most of their benefits are enjoyed by the present risk-takers (Caney 2009).

Almansa and Martínez-Paz (2011) try to offer a solution by introducing various procedures how to better assess profitability in decisions with large time horizons. The examples include the method of time-varying discount rates (with a half percent decrease in every 30 years), or different discount rates for distinct, “tangible” and “intangible goods”⁵ (Almansa and Martínez-Paz 2011). The decision of whether to use discounting in a certain situation, and if so, at what rate of interest, poses a similar risk to the decision-making process, than the short-sighted interest of democracies revealed earlier. Namely, that projects with long-term yields can be argued for a lower discount rate to make them appear more beneficial, while others with large immediate gains, and delayed costs would look more attractive with higher discount rates (Belzer 2000). *“[No one] can legitimately pick and choose when to discount and when not, or use different rates to discount future costs and benefits, depending on how one wants the calculation to come out.”* (Belzer 2000, 782). Discounting seems to be a vulnerable principle to abuse.

Another problem that follows from the logic of monetary assessment is that if values (such as clean water or a diverse ecosystem) are expressed in monetary terms, than they allow for a complete and rational substitution with other elements of economy. A cost-benefit analysis implies and assumes commensurability and compensability of both burdens and benefits (Munda 1996, Wenz 1999). This idea is also reflected in the weak sustainability model, in which by financial compensation utility can be kept constant (Munda 1996). *“Rationality, [however], – as we now conceive it – may be insufficient to secure the end we desire”* (Hardin 1981, 280).

⁵ The so called „dual-rate discounting” (DRD) For more details see: Almansa and Martynez-Paz, 2011.

Ropke (1998) adds another important point to the theory: the price of something is shaped from two perspectives: on the one hand from a utility point of view, where a certain good is worth something, while on the other hand, from its related costs to provide it. Since cost-benefit analyses are based on the assumed preferences of consumers and their willingness to pay (Heinzerling and Ackerman 2002), such a rationale is inherently unjust, if we consider that people with lower consumer capacity or those of future generations are not represented in the market (Munda 1996, Wenz 1999, Cousteau 2009).

Consumer preferences are also misleading from another point of, namely that the sum of individual values does not equal society's values as a whole. It is because the lifetime of a society appears in continuity, allowing for a significant deviation of needs and satisfaction from that of the simple aggregate of individuals (Kiaassen and Opschoor 1991; Munda 1996). Mark Sagoff's experiment supports this point: his students were asked whether they would go skiing if a ski-run was built in a nearby natural area. However, as citizens they were against the commercial development, they would use the run if it was built (Heinzerling and Ackerman 2002, Ackerman 1997). Sagoff found no contradiction between the two behaviours, because *"as individual consumers, the students would have no way to express their collective preference for wilderness preservation. Their [...] willingness to pay for skiing would send a misleading signal about their views as citizens."* (Heinzerling and Ackerman 2002, 14).

This argument refers back to the individualistic approach of legal democratic systems, showing a similarity with the nature of the free market. The market, which allows shaping the future on the base of consumer's preferences, distorts the real value judgment of citizens and creates situations of distributional injustice (Heinzerling and Ackerman 2002). The judgment of citizens shapes what society should collectively do (Ackerman 1997), and only by this collective mechanism of decision-making can the notion of the "common good" get a priority

over individual preference (Ropke 1998). Moreover, due to the continuity of society's life, the judgments made today (either economic or other kind) shape the preferences of those living in the future (Ackerman 1997, Stone 1998). We not only bequeath resources, but also values *“such as love [...] measured not only by our willingness to pay for them, but by our unwillingness to pay.”* (Ackerman 1997, 56). Cousteau calls this an abstraction, because the drivers of economic growth are unreal, and entail the *“real value [to] get lost in the game”* (Cousteau 2009, 91).

In this chapter some of the most important economic and political barriers to futures thinking have been reviewed. As noted above, the distinction between voting and buying is many times unclear (Heinzerling and Ackerman 2002), especially in democracies, where deciding on economic policy is under the power of the political body, and thus the interconnectedness of these issues is even more significant. As Opstal and Timmerhuis put it: *“in the political debate [...] it is difficult to distinguish objective arguments from normative or political arguments or sometimes even arguments designed primarily to reach a preconceived goal”* (Opstal and Timmerhuis 2006, 299). Therefore any solution that challenges the status quo has to face the cobweb of politico-economic barriers. As the arguments for a collective responsibility and actions have been already put forward by numerous philosophers and scientists, there is now a need for the translation of these ethics into the language of social activity, that is law and politics (Jávor 2009).

In the following chapter thus the brief history of the pursuit for potential solutions to overcome these barriers will be introduced.

1.6. On the way of finding solutions

Interestingly, although the barriers for taking over responsibility for the future have been argued to come from the two major, economic and political spheres, initiatives for solution rather tackle the political side of the problem. These responses appear on the one hand in legal documents, trying to include future generations in the circle of right-holders, or as an agent on behalf of which present individuals can make a claim; and on the other hand in institutional solutions, which by representing future generations (often also by legal means) go against political short-termism and narrowness. Because of the interconnectedness of economic and political barriers, however, these processes also address issues of economic interests indirectly.

The notion of intergenerational equity or the “rights of future generations” has an approximately four-decade long history in the modern environmental discourse. Scientific literature usually originates the discussion of the “realization” of the need for generational equity from the Stockholm Declaration in 1972, when the United Nations brought together the leaders of the world to discuss humanity’s interactions with its environment for the first time (Uexküll and Girardet 2005). The outcome document states: “*The natural resources of the earth [...] must be safeguarded for the benefit of present and future generations... [...] Man has a special responsibility to safeguard and wisely manage the heritage...*” (UNEP 1972). Other scholars go back as far as the 1946 International Convention for the Regulation of Whaling, a preamble which recognizes the interests of nations to safeguard whale stocks for the benefit of present and future generations (Cook and Taylor 2006).

The development of the idea of intergenerational justice can be well traced in the history of international and national law. Such a retrospect can help to review the current position of this matter, as well as to understand how various international and national actors reflected on the idea while paving the way for potential solutions.

Before going through the brief history of the evolution of the recognition of these rights, an important recognition has to be made. The discourse on intergenerational equity may seem to be recent, and is often perceived as a western idea on the extension of basic human rights, the concept of it, however, is much older. The reason for originating the discourse from the second half of the 20th century is perhaps that fundamental difference, which characterizes the modern perception of the future. Intergenerational equity has not always been viewed as a struggle for rights and fairness, or as a necessary constrain for the sake of an extended responsibility of the present, but rather as the fundament of survival. I intend to make this difference more explicit now, because it has relevant contribution to the aim of my study.

Some indigenous people are argued to have a strong commitment and sense of responsibility for the future, seven generations ahead (Clarkson *et al.* 1992). Since indigenous peoples do not form one well-defined group of individuals with identical beliefs (Clarkson *et al.* 1992), I will now build upon the example of the Six Nations, due to their wide recognition in the scientific literature, and their strong commitment to the future.

The Six Nations Confederacy, or the nation of Iroquois, was founded in 1142 AD by the covenant of six tribes (Venabells 2010). The Iroquois were the first Aborigines to inscribe their governing system, from which much can be understood about the tribes' self-determination and sense of responsibility (Wilkins and Lightfoot 2008). The oath of office, which was delivered by the older members of the tribe as an instruction for the inducted leader, shows the nation's strong and implicit commitment to look after the future:

"We now do crown you with the sacred emblem of the deer's antlers, the emblem of your Lordship. [...] Look and listen for the welfare of the whole people and have always in view not only the present but also the coming generations, even those whose faces are yet beneath

the surface of the ground - the unborn of the future Nation.” (Wilkins and Lightfoot 2008, 395).

According to the Iroquois belief, the children of all creatures of following generations are just under the surface of the ground, looking up at the currently living (Venables 2010). This admission of a peculiar presence of the unborn in the everyday life, Venables (2010) argues, serves as a fundamental reminder that actions (positive or negative) can only be taken with the next seven generations in mind. This form of consciousness drove the development of Indigenous culture as a basic law, which became also reflected in the system of institutions, an extended structure of the family, and the mechanisms of decision-making based on consensus (Clarkson *et al.* 1992).

Interestingly, in the Iroquois society, the burden of making decisions rests not on a central “political body”, gathering at regular intervals. It is rather a flowing and flexible consensus process with assembling only in times when decisions have to be made, for instance on moving, or preserving a particular resource (Clarkson *et al.* 1992). Although it is difficult to imagine that coming to consensus is always possible without a system of majority vote, Clarkson *et al.* (1992) argue that because of the shared understanding of the needs of survival and the system of natural patterns, cycles, and balances, a decision-taking impasse rarely occurs.

This shared understanding about balance and foresight originating from the admission of the continuity of life is a cornerstone to the Six Nations’ ethics (Venables 2010). It is, however, important to understand that this knowledge is inseparably part of its bearer and its relationship with the natural world (McGregor 2004). This conception is fundamentally different from a non-Aboriginal point of view, where the body of knowledge can be held in possession, but it does not necessarily imply a certain behavior or concrete action from its

holder. As McGregor puts it: “*Non-Aboriginal views of traditional ecological knowledge are more concerned with what the knowledge consists of and how it is transmitted. Traditional ecological knowledge is not just knowledge about the relationships with Creation, it is the relationship with Creation; it is the way that one relates*” (McGregor 2004, 394). People, knowledge and land are an inseparable whole, which “*ensures the continuation of Creation, [...] what academics or scientists might call sustainability*” (McGregor 2004, 389).

Lyon (1993) points out that this does not have to leave one to judge these competing visions, and choose an approach accordingly. “*Each way of understanding the world and of living in it has important contributions to make to our common future, whether this understanding involves sharing the land in ways that respect the right of the seventh generation to healthy hillsides, [...] and groves, or using the liberating tools of a modern industrial society which can permit a fulfilling existence to all who seek it.*” (Lyon 1993, 352). He finds that what is important is the realization of the destructive elements and seeds struck root in “our” way of thinking, while challenging and reshaping them in a way that makes our laws, institutions, and existence sustainable. Muers (2003) comes to the same conclusion, namely that the question of intergenerational responsibility appears to be a contemporary problem which pushes the limits of current contract-, and right-based ethical frameworks.

In this new type of approach, triggered by the enhanced environmental consciousness of the public, the theme of ‘future generations’ joined the line of environmental concerns, and the need for taking posterity into account started appearing in various treaties and conventions. Besides the International Convention for the Regulation of Whaling, Cook and Taylor (2006) list eleven additional preambular references to intergenerational justice appearing in legally binding treaties.⁶ The Bern Convention on the Conservation of European Wildlife and Natural Habitats in 1979 for instance states that “*wild flora and fauna constitute a natural heritage of*

⁶ For the complete list see Cook & Taylor 2006, 157.

aesthetic, scientific, cultural, recreational, economic and intrinsic value that needs to be preserved and handed on to future generations...” The signatory parties of the 1992 UN Framework Convention on Climate Change were also “*determined to protect the climate system for present and future generations*”

Besides international treaties, there are several non-binding conventions and declarations, emphasizing the recognition and necessity of intergenerational justice. The Stockholm Declaration, as it was cited above, already refers to the responsibility to future generations in two of its principles. However this declaration was intended to accord rights and obligations to states and individuals, the idea was later rejected by the majority of the parties, resulting in a moral and political, rather than in a legal commitment (Pallemaerts 1994). Following the Stockholm Declaration, the World Commission on Environment and Development (WCED) published its famous report, *Our common future* (or Brundtland report), in 1987. The report urged the global transformation of politics to address developmental and environmental issues in an organic way, as well as initiated the most widely accepted definition of sustainable development (SD) (Göpel 2011): “*Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs*” (Brundtland Report 1987). The report also has an important contribution to the indication of the current, short-sighted paradigm:

“We borrow environmental capital from future generations with no intention or prospect of repaying. They may damn us for our spendthrift ways, but they can never collect on our debt to them. 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 1987).

The UN Conference on the Environment and Development in 1992, building on this previous recognition, integrated the concept of intergenerational equity in its action plan (Agenda 21) as a key principle (Göpel 2011). Although the recognition exists and appears not only in these but also in numerous other instruments, the commitments put forth stay rather “*aspirational in character*” (Cook & Taylor 2006, 153). Sands finds that one of the reasons for this is the lack of elaboration on the precise meaning of definitions: “*There was little, if any, discussion in the negotiations of the language here referred to which indicates what practical consequences might flow from the recognition of the needs of future generations. In each case the principle appears to have been accepted as an article of faith, drawing on pre-existing language in earlier treaty and other soft law developments*” (Sands 1998, 85).

Cook and Taylor (2006) further add that the acceptance of intergenerational equity is usually part of a broader scheme, where the recognition of the interests of future generations is not phrased in terms of rights, and their exact status is not accentuated. Although the direct and concrete impact of these instruments may appear to be weak, Sólyom (2000) argues that the consolidation of this principle has paved the way to the idea that humanity as a whole can become a legal subject. He finds that international law is inherently more capable to carry out these theoretical questions, because of its distance from daily national politics, and its ambitions. Besides, the principle became also reflected in an abstract democratic conception, since the question at issue is the “participation” of future generations in the current decision-making mechanisms (Sólyom 2000).

There are rare, but remarkable cases, when the principle was used in practice through the action of international or national courts. The project of the Gabcikovo-Nagymaros system of locks became particularly famous, as that was the first time when the International Court of Justice made reference to the concept of SD (Howley 2009). Vice-President Weeramantry’s dissenting opinion on the case is viewed especially important in the discourse of

intergenerational justice, because his argumentation for interpreting SD as a “*principle with normative value*” (Weeramantry 2013, 85) is based on a comprehensive review of different cultural traditions and laws calling for the trusteeship of natural resources for the benefit of the seventh generation (Koe 1998).

Another often cited jurisdictional recognition of the question of intergenerational equity was approved by the Supreme Court of the Philippines, where on behalf of future generations, petitioners were granted standing (Cook & Taylor 2006). The plaintiffs brought an action against the Secretary of the Department of Environment and Natural Resources to cancel permits of logging activities, threatening the survival of the remaining rainforests in the archipelago, while asserting that their claim stands not merely on their behalf, but on many more inhabitants yet to be born (Sands 1998). The Court finally concluded:

“We find no difficulty in ruling that they can, for themselves, for others of their generation and for the succeeding generations, file a class suit. Their personality to sue in behalf of the succeeding generations can only be based on the concept of intergenerational responsibility insofar as the right to a balanced and healthful ecology is concerned. Such a right as hereinafter expounded, considers the rhythm and harmony of nature. [...] Needless to say, every generation has a responsibility to the next to preserve that rhythm and harmony for the full enjoyment of a balanced and healthful ecology. Put a little differently, the minors' assertion of their right to a sound environment constitutes, at the same time, performance of their obligation to ensure the protection of that right for generations to come.” (Sands 1998, 87).

This lawsuit was a significant step in the history of intergenerational justice, because the court conceded legal standing on behalf of future generations (Nagy 2000). Cook and Taylor (2006), however, argue that this right was derived from the interpretation of the constitutional

“right to a balanced and healthful ecology”, and thus this case represents certain circumstances of a specific country’s normative law, rather than a general procedure. On the other hand, Tremmel (2006a) serves with an extended list of constitutions with clauses incorporating not solely the right to a healthy environment, but the responsibility to safeguard the environmental heritage for the future. The Constitution of Argentina is an example of them: *“All inhabitants are entitled to the right to a healthy and balanced environment fit for human development in order that productive activities shall meet present needs without endangering those of future generations.”* A clause of the German Constitution also says: *“Mindful also of its responsibility toward future generations, the State shall protect the natural bases of life by legislation and, in accordance with law and justice, by executive and judicial action, all within the framework of the constitutional order.”*

These examples indicate important aspects regarding the protection of future generations through constitutional means. Tremmel (2006a) points out that if the constitution does not provide the right to a healthy environment for the individual, then the statement remains an objective of the state, which legally entails a different potential than a right. It for instance does not allow a citizen to prosecute a claim for specific environmental matters. Another significant weakness coincides with that of the declarations’, namely that their language does not specify the exact criteria of responsibility and the levels of protection, heavily weakening its legal character (Tremmel 2006a). *“...[N]orms raise hope for an ecological, sustainable policy that the state does not want, or has, to fulfill.”* (Tremmel 2006a, 204).

At this point, it is useful to observe the parallel development of the concepts of sustainability and that of intergenerational justice. Considering the case of Gabčíkovo-Nagymaros, or the Brundtland Report, the question may arise whether the two notions are not intended to cover the same idea. Indeed, as it will be also revealed in the following chapters of this work, sustainability is a strongly connected concept to intergenerational justice. To answer the

question what makes it necessary to speak not merely about the sustainability of our actions, but explicitly about their fairness regarding our descendants, it is worth reviewing how these concepts relate to each other in different scholars' views.

Tremmel (2006b) argues for the combination of intra-, and intergenerational justice in the conception of sustainability, because it incorporates all the three pillars (economic, social, and environmental) with the recognition of their temporal dimensions. Thus, in Tremmel's (2006b) view, intergenerational justice forms an organic subsystem of the concept of sustainability with inter-linkages to the spheres of intragenerational justice (such as social justice, environmental justice, etc.). Sustainability requires that at the expense of the prosperity of the future, present well-being cannot be increased. *"...in simple terms, sustainability implies "living off the interest", rather than "living off the capital."* (ST & CS 2011, 23). It is SD governance, which considers the choices about the distribution of this capital, and whether to apply a weak or a strong sustainability model (ST & CS 2011).

Birnbacher, however, finds that intergenerational justice goes beyond the "minimalistic" approach of sustainability, which stands for *"[the preservation] of stock of resources inherited"* (Birnbacher 2006, 33). As the Brundtland definition of SD allows interpreting our right to use natural resources for development, as long as their total stock is not reduced, it does not oblige us to take into account the original level of natural capital, population growth, or the opportunities for improvement wherever possible (Birnbacher 2006). It is therefore, he says, a morally insufficient concept for the protection of future generations. Shoham and Lamay, although list many advantages of applying the principle as a base for taking concrete steps for the enhancement of intergenerational justice⁷, they also point to its limitations: *"...the concept of the rights of future generations is much more fundamental, thus much wider*

⁷ Among others it is a comprehensive concept, embracing all three pillars, which is recognised worldwide, and acceptable and comprehensible by various stakeholders and politicians, because it incorporates development in the environmental agenda. For more details see: Shoham & Lamay 2006.

than sustainable development. Thinking about the future and designing it is more than a human instinct and a moral imperative – it is a value in itself.” (Shoham and Lamay 2006, 256). They argue that the idea of SD covers too many issues, which either go beyond the boundaries of development, or allow for a too wide interpretation of the concept, and thus can easily be misused. It can be seen that while the theoretical status and exact frames of intergenerational justice and its relation to SD is still a manner in dispute, it will be revealed how it is applied in practice to resolve intergenerational conflicts.

1.6.1. A voice for the future

As Tremmel (2006a) pointed out, there are several weaknesses in dealing with the question of intergenerational justice by merely placing the issue in constitutions. Schneeberger also points to the fact that *”other than a sense of moral duty”* (Schneeberger 2011, 21), there are few mechanisms by which governments can be held accountable to respond to these long-term considerations and to take steps accordingly. This originates also from the above mentioned fact that future generations do not vote or lobby, which would be essential in representative democracies for claiming a legitimate interest (Schneeberger 2011). Osiatynski (2009) argues that a real democracy needs institutional guarantees to hold the government in check and provide remedies for individual rights infringements. In relation to future individuals, the role of such institutions is *“[to keep] the decision-making mechanisms [...] away from the [...] direct influence of political interests.”* (Shoham 2006, 257).

Besides the need to counterbalance the governments’ short-sighted policy, constitutional means are also inappropriate to prescribe the concrete responsibilities that current generations have for the future (Tremmel 2006a). The theoretical framework to lay down these precise duties has, however, been put forward by Edith B. Weiss, who summarized this responsibility

in three separate categories: the conservation of options, quality, and access (Weiss 1992). These so-called “*basic principles of intergenerational equity*” (Weiss 1992, 38) are well-known in the intergenerational discourse, and are to ensure that future generations will have their means to live by their own values and satisfaction of their needs (Weiss 1992).

This means that the role of such institutions would not only be to enhance long-term considerations, but also to create a medium which is capable of incorporating this conservation approach into the political and social life of the state. According to these needs several international and national organizations and state forums see the solution in “*bringing future generations to the negotiating table*” (Göpel 2011). This means that a mechanism is needed which is capable of – through the work of an institution – representing the needs and interests of future generations (Jávor 2006). Such an institution should have certain attributes to be able to effectively intervene in the decision-making processes, and prevent harmful policies on behalf of those coming after us. Göpel and Arhelger (2010) in a comparative study, analyzing 5 institutions established for this purpose, specify 6 different features by which their effectiveness can be evaluated. These are: (1) independence, (2) proficiency, (3) transparency, (4) legitimacy, (5) accessibility, and (6) possession of access. This study shows that divergence in the level of any of these attributes entails different capabilities of the institution to cope with the challenges posed. Tremmel (2006a) also points out that, however there are more international, national and regional institutions with the vision of protecting the future, the mandates have to give enough power to veto or propose laws and policies independently.

There are only a few institutions in the world with the precise mandate of representing future generations, and with the appropriate legal framework to influence legislative mechanisms and decision-making on national levels. My investigation has a focus on 4 such institutions.

Given this scope of study, further introduction on the nature and history of institutional representation will merely focus on these examples.

The Parliamentary Commissioner for the Environment (PCE), New-Zealand

The Parliamentary Commissioner for the Environment (PCE) was established in 1986, during a time, when major administrative changes were underway in the environmental management system of New-Zealand, due to an increased awareness about the harmful human actions affecting the natural environment (PCE 1997). During these reforms the concept of sustainability penetrated into the management of natural resources and the protection of environmental quality (Furusetth and Cocklin 1995). According to the Environment Act, which provided an independent legislation for the establishment of the office (Göpel and Arhelger 2010), the Commissioner is independent of the government, and appointed by the Governor-General based on recommendations of the House of Representatives. Its mandate lasts 5 years, which can be renewed (Environmental Act 1986).

The Commission's most important authorities are *“to review [...] the system of agencies and processes established by the Government to manage the allocation, use, and preservation of natural and physical resources, [and] to investigate the effectiveness of environmental planning and environmental management”* (Environmental Act 1986, sec.16). The office also has the authority to *“investigate any matter in respect of which [...] the environment may be or has been adversely effected”* (Environmental Act 1986, sec.16). This definition allows a broad interpretation of the issues for intervention (Pearce and Göpel, 2010), which was later broadened by the staff to cover also economic and social matters, respectively. (Göpel 2011).

Although the Commissioner's office was established top-down, it has direct connection with the public through petitions, and is argued to be respectful with, and appeal to the Maori indigenous people and traditional knowledge (Göpel 2011). It operates with a transparent

budget, and has to report to the Parliament every year on its work and financial statements. These reports are also available to the public (PCE 2013). The PCE defined its mission as to “*maintain and or improve the quality of the environment by providing robust independent advice that influences decisions.*” (PCE 2013). The Environmental Act also emphasizes that this has to be done by “*ensur[ing] that full and balanced account is taken of the needs of future generations*” (Environment Act 1986, 3).

Based on the clear, however, broad mandate of the Commissioner, it has the power to investigate matters that – in its opinion – have an adverse effect on the natural environment and thus threatens the well-being of present and future generations. To accomplish this, it can summon people under oath, obtain any information, and restrain data if it is necessary. Based on its investigation it can give recommendations to the government, which is non-binding, and does not have a veto power.

Commission for Future Generations, Israel

The Commission for Future Generations was established in 2001 as a result of an initiative coming from a liberal party politician, Joseph Lapid, who thus laid the foundation for the first national establishment with the explicit mandate to protect the rights of future generations (Shoham and Lamay 2006). The bill proposed an inter-parliamentary body with a 5 -year mandate and the ability to oversee the legislative work with regard to the long-term needs and interests of future generations (Harward Law School 2008). The bill states:

“A Commissioner for Future Generations [...] will be given the opportunity to examine each legislative act and to appear before the relevant Knesset committee wherever there is suspicion of possible prejudice against future generations. This may take the form of soil or

air pollution, harm caused to pension funds, the implications of genetic biology or the results of a technological development.” (Shoham and Lamay 2006).

It can be seen that the law ensuring the Commission’s mandate is intended to cover not only environmental, but various other aspects that can affect the life of future generations. Shomo (2010) argues that the fields of actions which were promoted by the law matched the principles of sustainable development, allowing the Commission to have a very broad, holistic approach to overview different legislations. These areas covered health, education, national economy, environmental issues, and harmful technological developments, such as for instance genetic cloning (Shoham 2010).

Its main functions, namely providing opinion and recommendation on bills and legislations regarding future generations, and requesting any relevant information as well as enough time to form deliberate position (Göpel 2011), show that its power lies a great deal in how the office is perceived in the Parliament and among the public (Shoham and Lamay 2006). Not being a democratically elected body, its opinions and recommendations are non-binding, and thus it “*can only raise awareness in a way that puts pressure on the committee discussing the legislation and on the voting parliamentarian.*” (Shoham and Lamay 2006, 249). Göpel (2011) compares its power to the American filibusters’, because the right to request enough time may delay and at the end entirely drop the vote on a decision, giving a *de facto* veto power to the Commission.

The first term of the Commissioner, Shlomo Shoham ended in 2006, after which no new commissioner was appointed. The Commission for Future Generations has been abolished in 2011 by the High Court’s claim that the body poses a groundless budgetary burden (Dror

2012). Shoham later argued: *“From all this, we learn that the path to instilling futures thinking among decision-makers remains a long one. Thinking that is based on the here and now is still stronger than independent thinking...”*(Shoham 2010, 183).

Parliamentary Commissioner for Future Generations, Hungary

Unlike the previous Commissions, the establishment of the Parliamentary Commissioner for Future Generations was the result of a bottom-up initiative coming from the Védegylet – Protect the Future! Hungarian Civil Society Organization. The procedure, to get the idea accepted by the political sphere, took 7 years of severe lobbying and negotiating procedures, which finally ended in an all-party agreement in 2007 (Jávor 2009). There were two important aspects that are worth mentioning in this process: first, coming to a common decision by all parties showed the skeptical public that cooperation can still exist in a typically factious political atmosphere, and second, timely released international environmental reports (4th IPCC Assessment; Stern Report) made the political elite more sensitive to such issues (Tóth 2010).

The Commissioner for Future Generations was elected in 2008, after the amendment of the Ombudsman Act, which created the frames for a completely separate Ombudsman office, independent of other Ombudsmen and the government (Tóth 2010, Sólyom 2000). According to Jávor (2009), the Commissioner was intended to have a dual character: to represent future generations as a guardian, advocating their interests in the public and among decision-makers, while having very strong legal competences for interventions at the same time. In the Göpel-Arhelger comparison (2010) this office proved to be the most efficient in terms of having legally binding tools, and *“the most direct mandate for action”* (Göpel and Arhelger 2010, 7).

The Ombudsman's authorities were based on the constitutional right to a healthy environment, which does not refer to future generations, however, leaves space for an inclusive interpretation (Tóth 2010). Unlike the Israeli commissioner, the Hungarian Ombudsman primarily investigates environmental issues, applying the following means: (1) provide opinion to MPs regarding matters of environmental protection; (2) conduct investigation on governmental and municipal levels; and (3) after the investigations, it can sanction, revise or veto actions (Göpel 2011). Investigations are based on *ex officio* interventions or on public complaints and petitions (Pearce 2012), which also contributed to the involvement of the views and concerns of the civil society (Göpel 2012). Fülöp (2010) points out that the complaints submitted were examined from a multidisciplinary perspective in order to give the most comprehensive solutions possible. Therefore the office worked through 3 departments: strategy and research; judicial; and international judicial units, working with a staff of 35 from various scientific and legal backgrounds (Fülöp 2010, Tóth 2010).

Fülöp (2010) argues that its advocacy role was manifested in influencing the legislative processes, primarily in environmental, agricultural, and environmental health related matters. Through these roles the Commissioner was “*directly linked to defending the interests of future generations on the same level as the rights of people today*” (Pearce 2012, 4). The new Hungarian Constitution re-grouped the separate ombudsman offices in 2011, downgrading the office to a deputy Commissioner (Pearce 2012, Göpel 2012).

Commissioner for Sustainable Futures, Wales

The Commissioner for Sustainable Futures is the youngest among the introduced institutions, having been established in May, 2011 due to a top-down initiative originating from the Welsh

Assembly Government (Göpel and Pearce 2013). The establishment of the body was preceded by the abolishment of the UK Sustainable Development Commission (SDC) (Pearce 2012), through which the government embedded the concept of sustainable development into its everyday practice (Schneeberger 2011) and which also had a Welsh unit.

When the government withdrew funding from the SDC and formally closed it in March 2011, the Welsh Assembly, recognizing its need to receive deliberate advice on long-term policies in order to fulfill its legal duty related to SD (Göpel and Pearce 2013), decided to set up the new body with strengthened arrangements with the SD Forum, Cynnal Cymru – Sustain Wales (SDC-UK 2011). Jane Davidson, Welsh Minister for Environment, Sustainability and Housing argues: *‘I [...] recognised the need for continued engagement and networking with all sectors and communities in Wales to ensure we can deliver our vision of a sustainable Wales. This [...] 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.’* (Davidson, 2011).

With the assistance of Cynnal Cymru, the Commissioner for Sustainable Futures (1) provides advice to the Assembly Government on long-term policies; (2) promotes SD as a fundamental principle in the work of organizations and community sectors; (3) provides leadership and creates surface for the sharing of knowledge and experience of all stakeholders, while developing partnerships for problem-solving (Göpel and Pearce 2013, SDC-UK 2011). The Commissioner is also bound to report annually on achievements and challenges, within the Sustainable Development Annual Report of the Assembly Government (Göpel and Pearce 2013). It can be seen that the Commissioner’s mandate puts a strong emphasis on the promotion of SD, through which it is said to raise a voice for the well-being of future

generations (SDC-UK 2011), and can “*make decisions that are fit for the purpose of the long term*” (Göpel and Pearce 2013, 7).

Despite the recognized common characteristics that are needed for challenging the status quo, these institutions all represent different approaches and entry-points to tackle democratic short-sightedness (Pearce 2012). Every legislative and cultural setting entails different possibilities a country can utilize for taking future generations into account when making decisions. Depending on the nature of fundamental rights for instance, the establishment can be justified on the grounds of the citizens’ right to a healthy environment (Göpel 2011). On the other hand, sustainable development, which was a fundamental principle of all of these bodies, allows for a more holistic approach to the problem of intergenerational justice, incorporating also economic and social spheres. The literature is extended regarding the justification of the need for the establishment of such institutions, and the necessary characteristics for effective interventions are well examined.

There is, however, an admitted missing link between the environmental and ethical discourse on future generations, and the concrete implementation steps taken for achieving intergenerational justice. As Sólyom (2000) puts it: “...*the conceptual grounds are rather unsteady; there are many unresolved, open questions around the representation of future generations. [...] Of course, just because fundamental questions are open, it does not mean that the mechanism cannot work. [...] Despite all the problems, it is beneficial to start a discussion, [...] and the answer, to what sort of [representative] future generations need, will take shape as we go....*”⁸ (Sólyom 2000, 35) The following section thus summons some of

⁸ Quote in its original language: „... az elvi alapok meglehetősen ingatagok; sok megoldatlan és nyitott kérdés van a jövő generációk nevében való fellépés körül. [...] Persze attól, hogy nyitva vannak alapkérdések, még működhet egy mechanizmus. [...] ...minden probléma ellenére is hasznos, ha megindul egy vita; [...] menet közben fog kialakulni milyen [képviselő] is kellene a jövő nemzedékeknek.

these unresolved questions, which lay down the fundamentals and set the course for my investigation.

1.7. Representation in practice: the missing link

The term ‘future generations’ came up in many different contexts throughout the literature, starting from the theoretical debate about the recognition of non-existing people, to concrete implementation steps regarding their respect and protection. It is thus striking that after reviewing this concept from various angles, the term has not yet been defined as to its precise implication in practice. Indeed, even legal documents undertaking the role to take into account or to protect the interests of future generations use this term inconsistently without relying on a recognized definition, or indicating a chosen interpretation of the term on their own (Cook and Taylor 2006). In practical context the term is rather used to point to the present’s responsibility to maintain the necessary natural, social, and economic capital to generations coming after us. This is on the one hand understandable given the heated and unresolved philosophical debates around the status of future generations, and the uncertainty regarding their needs. The question whether it is morally acceptable to favor future generations over the present sufferers also often comes up in this context, and grows the number of seemingly unanswerable questions.

On the other hand, however, these questions may appear to be merely philosophical, they have serious practical implications. Cook and Taylor (2006) bring up an example to illustrate such a case. When responsibility to the future takes real shape in, for instance, the preservation of concrete species, the question arises whether this act is qualified to prevent economic development of current generations in the area under protection. They also raise the question whether the survival of the species is in the interest of the present generation at all,

and whether the requirement for preservation applies to all species irrespective of their utility to humankind. Green (1981) warns us how such conflicts can also become part of the common life anxieties. He finds that different energy policies, such as green taxes, that are intended to encourage the use of energy saving technologies, jeopardize the livelihood of society's poorest, because of increased energy costs, and the constrain of being tied to fuel-inefficient appliances. He thinks that the lower middle class may actually respond with resilience to green programmes fearful of being put in a more difficult financial situation. Hardin also supports this argument by saying that it has to be made "*possible for [the poor] to believe in, and protect, the future.*" (Hardin 1981, 282). These points suggest that intergenerational justice has implications to present conditions, on which benefitting future generations needs a certain justification.

Moreover, it is also argued that two, more remote future generations can have the same conflicting interests in different matters as between present and future (Stone 1996), not to mention the fact that interests themselves are difficult to extend to a unified global scope (Sólyom 2000). As Nagy explains it: "*talking about future generations is not an abstract discourse. Global warming will benefit the population of Russia, Iceland, Britain or Canada while seriously threatening Bangladesh, the Netherlands and the Maldiv Islands. Can we treat prospective inhabitants of those countries as members of one community, the undivided future generations?*" (Nagy 1998, 51).

Given these implications it becomes important to make clear how an institution aiming to represent future generations defines its agent under protection, and what this definition implies in practice. This step is necessary to take to establish the underlying principles of the work of any such commission, and to determine its precise role. Although the literature is extended on the scope of authorities and political influence of the above described bodies, there is little focus on how they proceeded in resolving these theoretical controversies.

Moreover, whether the institutions can fulfill their purpose also depends on how they interpret their duty to look after the people not yet born. Given the enormous barriers to futures thinking outlined, another factor that affects the institution's success in the representation procedure is how they can find their ways to overcome these barriers and really challenge the status quo regarding democratic and economic short-sightedness.

In the followings thus I aim at starting filling up the missing link between theoretical discourse, and actual implementation, while revealing in what ways the institutions can tackle the barriers to futures thinking.

Chapter 2: Methodology

To limit the scope of my study, I chose 4 institutions that represent future generations on a national level. They are all different in design, but share some important common characteristics outlined in the literature review. My decision of selecting them was based on three features: relatively long experience in the field; representation of different cultural settings and worldviews; and accessibility for interviews. Since my investigation was not based on comparison, I did not group these bodies into categories, rather examined them separately.

I used 3 types of sources: semi-structured interviews, lectures from an international conference on the implementation of intergenerational equity, and literature sources.

Data collection

1. Interviews

To better understand the perception of future generations, and the concrete implementation steps following from it, I chose interviewees who have the best possible insight into the practical aspects of representation. These people either helped design or initiated the establishment of the institution, or led or are currently leading it.

The interviews were conducted in person or by Skype using the same set of broader questions (see Appendix). Keeping it wide was necessary for allowing a broader interpretation of concepts originating from cultural differences as well as personal experiences and viewpoints. This was particularly important as the underlying principles of intergenerational equity are to a large extent follow from ethical and moral considerations. The wording and the order of the questions were also different in each case, leaving more space for the interviewer to indicate

the importance of a question over another. Interviews were conducted in June-July, 2013 in Hungary and Geneva; and their average length were approximately an hour.

All my interviewees agreed to be named in the research; therefore I indicated their names in the discussion where relevant. The following persons agreed to participate:

Benedek Jávör

Founder of Védegylet, Civil Society Organization

Leader of the campaign for the establishment of the Parliamentary Commissioner for Future Generations, Hungary

János Zlinszky

Director of the Department of Strategy and Research in the Parliamentary Commissioner for Future Generations, Hungary

Term of office: 2008-2012

Morgan Williams

Parliamentary Commissioner for the Environment, New-Zealand

Term of office: 1997-2007

Peter Davies

Commissioner for Sustainable Futures, Wales

Term of office: 2011 – present

Sándor Fülöp

Parliamentary Commissioner for Future Generations, Hungary

Term of office: 2008-2012

Shlomo Shoham

Commissioner for Future Generations, Israel

Term of office: 2001-2006

2. Conference

For further insight and personal data gathering I attended the conference called ‘**Global Conference on Implementing Intergenerational Equity: Bringing Future Perspectives to the Status Quo**’ jointly held by the United Nations Environment Programme and the World Future Council. The conference took place in Geneva, on the 4th-5th of July, 2013, and was attended and lectured by philosophers, lawyers, academics, representatives of civil society organizations, UN officials, practitioners and youth representatives from around the world. The materials of the presentations, personal notes, and the synopsis of the conference are used in my investigation.

3. Literature sources

Literature sources were collected from the Commissions’ publication and report lists as well as through the library and interlibrarian service of the Central European University.

Limitations

The most serious limitation to the research is possibly the chance to get a duly objective picture about the performance of the institutions. There are only a few establishments representing future generations at national levels, and all of my interviewees are currently leading or once led or designed one of these. Because of the concern in the success of the bodies, a level of bias is undeniable. On the other hand, research is very scarce on what the theory of ‘representing future generations’ means in practice, and how the theoretical

controversies attached can be resolved in the implementation process. Thus, whether these institutions succeeded in resolving these problems, while implementing intergenerational justice is a question of great importance, and can be best answered by those few who actually participated in the work. Therefore, despite the admitted subjectivity, these opinions are still highly valuable in the field.

Chapter 3: Results and discussion

Since the concept of posterity has not been defined consistently in the scientific literature, the first step in the course of my investigation was to reveal how national institutions protecting the interests of future generations determined their subject of protection. Protecting future generations is inherently a long term goal, thus after conceptualizing the notion, I will investigate how the performance and success of the institution can be measured, especially if the outcome is in the further future, or requires present sacrifices. Finally, I discuss how a potential commission could address ethical, political and economic barriers. Perceptions of successes and barriers will be discussed together in the second half of this chapter, due to the realization of their close interconnectedness.

3.1. Defining the agent under protection and its practical implications

While one would think that the realization of the importance of representing future generations went parallel with the process of the formation of a standardized and unified definition of ‘future generations’, reviewing the data gathered reveals that it is not at all the case. At first sight the responses unfold great differences in the perception of future generations, frequently approaching the question from a technical point of view, reflecting the problematic elements of the representation in practice.

Answers regarding the conception of future generations can be grouped into 4 categories:

- A. Future generations are all those that have not yet been born: who will be born tomorrow, the next hour, the next minute, etc.

- B. Present individuals are already future generations: given the uncertainties regarding the future, and the fact that *“because we don’t know how the world will look like in 2040, in that matter we are all future generations. [...] Future generations mean everything that lives from tomorrow onwards”* (a respondent).
- C. Future generations defined at other levels:
- i. family or a social-psychological level, including generational conflicts;
 - ii. community, or sociological levels, including cultural differences;
- D. Future generations are not defined for the work of the institution.

Answers often overlapped, respondents referring to future generations in different ways within a particular interview. This implies an ambiguous nature of the concept, with a certain level of inconsistency, leaving much space for various interpretations on a case by case basis.

In order to reveal what this inconsistent interpretation implies in practice, Jávör (2013) gives a good starting-point. He argues that when such a principle is put into practice, different constraints will shape the face of the institution and draw the boundaries of future generations. The constraints depend on what type of representation the institution opts for. He distinguishes two sorts: an advocacy oriented, and a statutory institution. The first serves as a guardian or trustee, that represents future generations on their own behalf, based on scientific information of the long-term consequences of present actions, lobbying by means of soft law, and relying on prestige for influencing decision-making mechanisms. He argues that since substantive legal remedies cannot be claimed for non-existing individuals in constitutional frames, thus in this case, the scope of future generations does not have to be precisely defined (Jávör 2013).

The other type of representation aims at more concrete interventions and a legal basis for action to protect the interests of future generations. However, because of lacking a normative status, the institution has to be rooted in the present legal system, based, for instance, on the corpus of environmental law, or on the present individuals' right to a healthy environment (Jávor 2013). This entails that actions specifically based on the legal standing, or rights of future generations, cannot be taken. Shaping a hybrid of the two types, however, is also possible: *"We thought [the ombudsman] could have a mediator, awareness raising role with strong and concrete competences for law enforcement"* (Jávor 2013).

The institutions examined are rooted in the present legal system in different ways, and have the power to take concrete steps for the protection of posterity. This, however, did not promote the laying down of a strong and well-defined concept of future generations, supported by the force of law or policy commitment. The question therefore might arise how the institutions can take concrete action and protect overlapping, infinite generations with differing interests and needs, without determining the subject under protection. The answer, which appeared to be clear from the data, is that the protection of future generations as a whole rather comes to fruition through the protection and empowerment of the presently living systems (including human societies) to maintain themselves, than through the legal empowerment of a concrete set of future individuals. This feature appears to be a common denominator among the examined examples, despite the differences in responses to posterity's determination.

Reviewing the most important roles and principles on which the institutions' work were established supports this point, as it reveals what the representation of future generations entails in practice. The first substantial principle is sustainability and sustainable development, which played fundamental roles in the agenda setting of each institution. This is important because the protection of posterity in these cases is not grounded on a defined set of

future individuals, but on the need of preserving the ability of our descendants to meet their assumed own needs”⁹ (Brundtland Report 1987). *“We did not define future generations in those terms. We looked upon sustainable development as being a description for our long-term development path. We have tried to set indicators of development that would ensure that we would be leaving a proper legacy for future generations”* (Davies 2013).

Based on the principle of sustainable development there were three main modalities that have been identified as means through which to protect the interests of posterity: public participation, legal advocacy, and research. The weight given to these roles differs from institution to institution, but similar patterns can be observed.

Public participation is in most cases not a direct process. There are few established surfaces for actual discussion on the public’ preferences about future related issues. This rather takes shape in forms of public complaints or individual conversations regarding a certain issue of particular relevance to the commission’s work. These individual cases, however, served as bases for setting up the focus areas of the commissions. Fülöp (2013) for instance argues that since the ombudsman office’ primary task was to receive and resolve public complaints, the numerous cases investigated traced out the most important and real environmental conflicts. *“We phrased this as helping the blind aunty cross the street. It is not at all sure that she wants to cross. [...] complainers point to the issues waiting to be solved, and indicate the priorities of the people”*. Therefore they *“refrained from determining where the blind aunty wants to cross [...], and let [themselves] lead with no regret”* (Fülöp 2013). This means that setting the order of priorities is realized through individuals’ concerns about the conditions of the environment and its effect on human health. In the case of the Hungarian office these

⁹ The Commission for the Environment, New-Zealand developed the concept of sustainable development (SD) off the Resource Management Act (1991) as opposed to the rest of the exmaples, who originated SD from the Brundtland Report. As for its implications the New-Zealand definition deals with the cumulative effects of present generations’ acts, as well as with long-term resilience, ability to change, and maintaining natural capital (Williams 2013).

complaints mainly pointed to issues related to urban planning and noise control (Fülöp 2013). A broader type of surface for participation is now in its initiative phase and is put forward by the Welsh Commission. This aims to provide a surface for a ‘National Conversation about the Future’, which is a system to be built into the electoral cycle, stimulating a national public discussion on future related issues and views every five years (Davies 2013).

The second major sphere where institutions can play a protective role is related to system flaws and legal proceedings. This is often manifested in an advocacy function, by which the commission can submit recommendations and advice on bills viewed as having an adverse effect on future generations. For some this role was restricted to issues related to the environmental sphere (Fülöp 2013), while others found that under this criterion, they also have to include the revision of many other social and economic areas. The Israeli Commission for instance gave recommendation on issues stretching from child welfare and the rights of talented children contributing to the long-term fruition of the countries human capital, to concerns regarding human genetic cloning and its prohibition (Shoham 2010). This implies stronger or weaker authority to give advice, review or veto proposed policies and bills, as well as to incorporate sustainability principles into the legislative process. It also includes the resolution of issues related to maladministration and violation of peoples’ fundamental rights.

Research is the third and probably most proactive work of the institutions. The research projects are conducted on issues the commission itself finds relevant regarding the interests of future generations. Sources for this type of work are abundant, from different academia through the think-tanks of the Balaton Group, to local workshops and discussions. It is also typical for the commissions to have their own staff and surface for research. A great emphasis is put on the diverse and multidisciplinary background of the selected members (Fülöp 2013), which is important in the proper selection of issues besides those put in shape through public complaints. “*We had biologists, chemists, physicists, jurists and environmental economists.*

Luck seemed to be with us, because the best experts came to work for the office; no one said ‘no’ to us” (Fülöp 2013). These issues covered a wide range of topics, from climate change, through sustainable agriculture to urban planning and preservation of gene banks (Davies 2013, Williams 2013, Fülöp 2013). Besides the use of the latest and most accurate research findings, however, the New-Zealand Commission also puts emphasis on the integration of traditional knowledge into the institution’s agenda. For instance, in the marine fishing industry, where Maori play a key role by owning 40% of the commercial fishing quota (PCE 1999), a lot can be learnt about proper resource management. Williams (2013) explains that Maori have strict restrictions on fishing activities according to the seasons, the type of the fish and its quantity one can take at a time. They fish locally and are careful about not depleting the resource (Williams 2013).

“Through a process of careful observation, testing the parameters of human interaction with the resource and its sustaining environment, learning through trial and error, good times and hard times, hapū and whānau developed finely tuned systems to manage utilization and access, and to prevent overexploitation. Fishing, and any other interaction with the natural environment, is carefully controlled according to tikanga – a complex framework of practical management rules, ritual and protocol, recognizing the metaphysical dimensions as well as the ecological, working to sustain the mauri of each resource as well as to sustain its physical viability” (PCE 1999, 15).

Resolving environmental related complaints, influencing the legislature and decision-making mechanisms to better reflect the long-term interests, and conducting research to solve the most severe environmental problems of the country are clearly goals, from which the future will benefit. On the other hand, questions may arise whether establishing national committees for future generations makes a real difference to the role of already existing bodies advocating

sustainable development, environmental protection, or the rights and participation of children and youth in the political decision-making processes. These critics may argue that the emphasis put on the strengthening of the well-being and standing of present generations, and investigating their daily environmental complaints regarding environmental matters does not necessarily mean that these institutions represent those living after us, especially if we consider conflicting interests among generations. This argument may be reinforced by the admitted view that applying the language of “future generations” in the name of the institutions and their programmes, serves as a tool to resonate with peoples’ personal feelings and experiences, rather than to imply a consistent set of actions on behalf of posterity. Fülöp argues: *“In effect, our authorities referred to that of an ombudsman for the environment. The name was significant in the sense that it gave it a moral plus.”* Sólyom, while talking about the discourse of the rights of future generations, observes a similar thing: *“Talking about rights as the opposition to duty can only be symbolic; [...] the metaphor of the rights of future generations is necessary for its propagandistic power.”* (Sólyom 2000, 41).

However, another possible interpretation may reflect the nature and role of these institutions better, pointing out their unique mandate. This interpretation is based on the argument which was put forward in different ways by all interviewees, namely that the essential function of such an institution is that of maintaining the conditions of the life-supporting system of social and natural worlds. This work is rather manifested in the protection of continuity, rather than that of a certain population of future individuals. *“There is talking about [future generations] in respect of ways which are relevant to peoples’ experiences, so about children and grandchildren, and looking at generations going forward. [...] Future generations could be young people today, could be people born today or tomorrow, or they could be children and grandchildren in 20-30 years hence. So, it’s that sort of progression, that sort of pathway forward that we are trying to build”* (Davies 2013).

Zlinszy (2013) also points to the significance of seeing the relationship with posterity as continuance. He brings up the example of explanatory preambular texts in which the legislator justifies the reasons for provision of the protection of cultural heritage for instance. In this case the involvement of the interests of future generations in the preamble comes instinctively. It is because the existence of the state is an axiom; it is its most elemental interest, which appears to be not only natural, but at the same time extremely practical. It helps remove incremental boundaries between those who are born and passed, creating the substance of existence, while avoiding the need to re-claim the interest of the society, continuously changing in composition. *“This means, that coming generations are counted on; [...] we want the political community to last, and to be able to protect its interests. Now, the conditions of this make much sense to talk about: what are the criteria for the community to last and to support itself?”* (Zlinszky 2013). He concludes that by this, the existence of following generations naturally become part of the interests of the presently living, while *“the first swallows of backlash appear, [...] namely that when we are doing something in their interests, it turns out to be just as good for us. This is of course not a reason to act in their favour, but it is still true in most cases”* (Zlinszky 2013).

Building a pathway forward, as Davies (2013) argues, in practice can come true by the proper assessment of different entities’ turnover rates. Williams (2013) for example explains this through the case of New-Zealand farming communities. Farm systems are difficult to manage because of their slow ecological succession. For an investment to really contribute to the farm takes at least a decade. Therefore farming businesses to be successful have to have a long-term focus to keep the land healthy. This need is also triggered by the fact that in New-Zealand there are no subsidies in the farming system. *“The government doesn’t pay the farmers to do anything, [...] our farmers have to make their living out of the production of their farms, and that teaches you to focus on sustainability”* (Williams 2013).

Zlinszky (2013) serves with a similar example from the social world. In human societies, just like in nature, the development of different processes has different turnovers. Initiating a well serving stamp collector club, for instance, can happen relatively fast compared to the establishment of a community rich in trustful relationships. He explains: *“If I want to have a vivid social life in Nyíregyháza, which supports the people to turn to each other in any serious matter, because they have built out the necessary relationships in minor and basic matters of life, then this has to happen in the next 50 years, until when that generation comes, which stands in need of that support. I cannot say that I will start building it up in the 40th year, because then I have to do it from a social desert. It doesn’t work like that.”* (Zlinszky 2013). Systems and processes with faster turnovers have to be kept healthy to maintain the well-being of the whole.

The difference between safeguarding a group of future individuals or continuity itself becomes more definite when the problem of conflicting interests and their practical resolution is examined. As it was pointed out earlier, scholars argue that future generations cannot benefit at the expense of the present, and thus policies that aim at taking the long perspective should be carefully applied to protect the society’s poor (Green 1981, Hardin 1981, Beckerman 2006). Indeed, *“many were afraid that there will be a dictatorship of the future, exercised by these institutions, and everything will be subordinated to the long-term view. Who will then protect present generations from benefitting the future at the expense of their well-being?”* (Jávor 2013). Shoham (2006) also remembers how much criticism the commission encountered from the public and the political spheres, viewing the protection of future generations as a luxury, considering the economic crises and the cut-down on welfare expenditures in the country (Shoham 2006). Looking for the long-term was viewed as a Western, wealthy idea: *“The developed countries don’t have to fight for their lives. [...] They are not in danger. They have the resources and time to deal with [...] a multi-year budget, a*

sustainable economy, a long-term approach to the environment. But we, we must ensure our survival” (Shoham 2010, 60-61).

This fear does not seem to be realistic given the institutions’ strong focus on present environmental and social concerns and conditions outlined. The question, however, may rightly arise whether scholars arguing for the superior nature of intragenerational justice are correct in pointing to the existence of these conflicts. Conflicting interests between present and future generations are viewed differently by the representatives of the institutions. Opinions may seem to be contradicting, as some respondents argued for the existence of such conflicts, while others were rather skeptical about their significance. A probable interpretation, however, allows for the reconciliation of this conflicting view. In effect, those who choose to look at intergenerational conflicts from a wider perspective, where generations are overlapping and one naturally flows to the other, conflicts do not seem to play a realistic role. Those, however, who find conflicting interests between generations, look at the problem more closely, on a year by year, or even on a day by day basis. This suggests that the contradiction lies not on the content of the question, but rather on the level of observation one chooses. The following examples can help underpin this point.

First I will consider opinions arguing for strong conflict of interests. This reasoning also justifies the establishment of the future oriented body on the grounds of this antagonism: *“we thought a separate institution [for future generations] is needed, because there is a very serious conflict of interest between those living today and tomorrow. Moreover, there can also be conflicting interests among future generations themselves. Future generations are not like a mass with one unified concern.”* (Jávor 2013). There are two examples described that well reveal the nature of these conflicts.

Carbon-dioxide emissions stimulate the economy very profitably, as we do not have to pay for environmental externalities. The rate of return for energy efficient investments is not high enough, given the low energy prices. In the long run it leads to the fixation of certain life patterns such as long distance trade, and alike. This appears to be a benefit today, however, future generations have to pay for it in form of climate change as early as in 10-20 years hence (Jávor 2013). This example is also often recalled in the context of conflicting interests between two remote generations, with the alteration of choosing a more moderate climate change scenario (Stone 1996). In this case the economic growth of nearer posterity will threaten the living conditions of that of the farther future. The other example was taken from a real incident. During a smog alert in Budapest the use of private vehicles was argued to be prohibited, until the rates of health-endangering air pollutants will drop below the threshold level. Here the conflicts emerged around basic human rights: allowing pollution above a certain level would infringe peoples' basic right to a healthy environment, while prohibiting the use of private cars violates peoples' fundamental right to property (Zlinszky 2013).

The solution in such cases is argued to be based on the assessment and appreciation of differing interests of stakeholders for which a well-established system already exists in modern democracies. *“This is like different ministries in the government; it is not only a practical thing that one person cannot govern and represent everything, [...] but also a political philosophy that there are interests which have to be confronted straightly.”* (Zlinszky 2013). The interests of future generations thus also have to be represented by the institution along the needs and rights of presently living in order to be taken into account. *“The modern democratic decision-making process is like many brooks crossing each other, bringing out some final decision in the end. [...] Such an institution is in itself not a solution. It is an actor, [...] an element in the structure which brings out the results of the societal decision-making. I think in this respect future generations are deeply under-represented.”* (Jávor 2013). These

opinions suggest that the role of the institutions is not to make final decisions and value-judgments on their own, or to find a balanced, win-win solution regarding present and future generations, but to “*play an elemental role in the representation of the future in this big game*”. (Jávor 2013).

On the other hand, as it was pointed out interests can appear in accordance by looking at them from a further perspective: “*in an organic solution, when a local community is searching for a holistic answer to an environmental conflict, ... I actually could not recall a case when such a solution wouldn't have fit to the long run. It is exactly that short-sighted, speculative and economic interest, which starts up a harmful investment, and the local community stands up against it...; its starting point is already a long-term consideration.*” (Fülöp 2013).

Many respondents suggest that looking at problems from a certain, more distant perspective helps making deliberate decisions in the present which will equally serve intergenerational justice across generations. It is interesting to note how the team of the Israeli Commission used the methodology of “backcasting”, suggested by the futurologist David Passid, to create such a distant perspective and the possibility to look at problems in their continuity (Shoham and Lamay 2006). The method means “*making a sketch of how we wish our future to be, and then derive from that, what actions need to be undertaken in the present time, in order to reach those goals.*” (Shoham and Lamay 2006, 253). Shoham explains that “*if you want to have clean water in 20 years from now, and we have to know what to do tomorrow, coming back from the future desire to the present, it becomes easier to say what needs to be done. [It] gives us many more answers than simply going from the present to the future.*” (Shoham 2013).

This difference of opinions thus suggests that maintaining environmental and social capital for the well-being of humanity is a desire which is put in a temporal dimension (Conference

2013), and when one looks at this collective will, no conflicting interests between generations seems to appear. As Zlinszky also notes: “[m]an is not made to destroy the world. This is interesting, and at the same time very adaptive. An evolutionary biologist would also argue that [...] we would not even exist if we were encoded to ruin things around us.” (Zlinszky 2013). If, however, temporal dimension is taken out of, or significantly reduced in intergenerational decisions, then conflicting interests start popping up in various contexts.

Recalling the case of the smog alert, where the basic right to property was confronted with peoples’ fundamental right to a healthy environment, it can be argued whether the right perspective was taken in the decision of confronting the two rights, considering that health is a much more long-term concept, and a more fundamental interest of the individual, then the freedom of using a vehicle in a certain period of time. Similarly, the question may arise whether pushing economic growth for the next 10-20 years at the expense of prosperity of the future can be considered as an organic solution. On the other hand, it is argued that representing interests this way “*can at least make the concerns [of posterity] appear in the decision-making mechanism*” (Jávor 2013).

Fülöp (2013) argues, the implication of local communities in the formation of developmental projects, and other matters, directly influencing the life of the community, can actually serve intergenerational justice, which will automatically resolve such conflicts. He finds that the two interests (present and future) greatly overlap, and that the thinking of the community (just as the thinking of the state in Zlinszky’s example) inherently involves a long-term consideration and desire to flourish.

It can be concluded that, however, the institutions are established to represent the undetermined (and probably unidentifiable) future generations in today’s decision-making mechanism, this task is realized through the empowerment of present communities and the

state itself to realize its well defined interest for survival and prosperity. As Rolston puts it: *“future belongs not to some abstract, hypothetical others; it is our future, which we who exist now do bear and transmit. It does not appear ex nihilo, but flows through us, it is the future of our generation, the future we generate, the downstream of our life.”* (Rolston 1981, 124).

However, using the language of future generations as holders of defined interests oppositely to present individuals might have counterproductive consequences. Although, as it was argued earlier, it may resonate with peoples’ personal experiences and feelings about their own descendants, at a societal level it can also create a sense of removal and hostility. This is known as the “us” versus “them” issue, which is naturally part of the human social biology as a mean to determine group affiliation (Hofstede 2010).

The removal of this concept from the intergenerational debate was given great emphasis on the Conference of Implementing Intergenerational Equity in order to avoid a sense of exclusiveness, and to foster the temporary meaning of society’s existence (Conference 2013). To understand what this entails in practice, another point can be brought up from the discussions. Scholars distinguish intergenerational solidarity and intergenerational justice in the sense that while the former refers to sharing and affection among different age groups, the later is *“about the division of benefits and cost between people living now and in the undetermined future, [thus it is] about survival of our civilization”* (Conference synopsis 2013). The importance to distinguish future generations from the currently living youth also appeared in the interviews, as a practical legal necessity to avoid confusion between future generational and children’s rights in the current jurisdictional system (Jávor 2013, Zlinszky 2013).

VanderVen and Schneider-Munoz (2012), however, make a very direct link between the two, by claiming that contemporary intergenerational collaboration is a cornerstone for conflict

mitigation and the establishment of long-term, common interests. They identified 6 different methods by which this kind of intergenerational solidarity can be enhanced: (1) increasing understanding, (2) developing a sense of efficacy, (3) encouraging initiative, (4) promoting competence, (5) nurturing generativity, and (6) enriching wisdom (VanderVen and Schneider-Munoz 2012). Mastering these skills can benefit community life at all ages, and develop a sense of civic responsibility towards the future. *“Our future well-being relies on this recognition and the actions to which it leads. Central to this concept is the idea of doing ‘with’ rather than ‘to’ and ‘for’”* ((VanderVen and Schneider-Munoz 2012, 117), This idea was also brought up in Osiatynski’s (2009) work on well functioning democracies. He finds that disadvantaged people can only be empowered by working with, rather than for them, which in an intergenerational context entails the strengthening of intra-, and intergenerational connections (Davies 2013).

To sum up briefly, the implementation of intergenerational justice in practice does not rely on a consistently defined group of future individuals, but is rather realized through the empowerment of present policy-makers and communities to be able to think ahead and sustain themselves. Although, on a practical level, ascertaining the role of the institution as a defender of the interests and rights of future generations is argued to be an appropriate tool for the representation of long-term considerations in the present political decision-making process. On the other hand, there is also another way forward, where taking peoples’ personal desire for continuance and affiliation into account can actually play a role in the strengthening of intergenerational justice.

In the next chapter it will be revealed what success means in the work of these institutions, considering that due to the nature of the proceedings, real outcomes usually appear in a later

period of time. Along with this investigation, the most important barriers to the commissions' work will also be presented, as well as the ways they think they can overcome them, as a major aspect in efficiently protecting future generations.

3.2. Successes and barriers

Responses regarding the performance of the commissions are in almost all cases positive and mainly report about the successes achieved. There are only marginal remarks about failures if any. This is interesting from two aspects: first of all, there are few tools by which efficiency can be measured due to the interconnectedness of issues involved, and the long time-scale such a body aims to consider. This may entail that the feeling of being successful or that the commission accomplishes its purpose does not usually originate from a numeric achievement. The other aspect is that considering the enormous barriers outlined in the literature such a body has to face, one might expect that any goal may be difficult to achieve. Thus, after reviewing how the respondents look at their performance, I will continue with outlining the barriers they usually encounter, and how they can think about overcoming them. This can give a clearer picture about the commissions' performance in qualitative terms.

To better follow the structure of the section the most often recalled achievements and barriers are outlined here.

Successes	Barriers
<ul style="list-style-type: none"> • ability to approach complex socio-economic problems • transparency and accountability • ‘user-friendly’ methodology • effective pressure on political and economic interests 	<ul style="list-style-type: none"> • discrepancies in political and economic interests • lack of morals in jurisdictions and institutional systems • resistance to system approach • lack of capacity

During the interviews success rarely came out in the context of measuring progress along the institution’s journey. The nature of the commissions’ to look for the long run entails that the legacy they leave will be seen in decades, thus most of the respondents find it difficult to determine their performance in a broader time scale. Indeed, Tóth (2010) also argues that whether the work of the institutions has a positive impact on the future is difficult to predict due to the complexity and interconnectedness of several factors influencing an outcome. Finding the right methodology for impact assessment is thus also an issue to consider. She points out the importance of strategic planning in the determination of the chosen areas of intervention, however, also acknowledges that *“the more specific the models that research provides are and the deeper they affect our current materialistic values, the more impact they will have on future generations’ lives”* (Tóth 2010, 23).

Perhaps the most widely used method to track performance is the use of some previously determined set of indicators, which is also applied by the Welsh Commission. Their programmes and policies have dates attached to them, such as the climate change policy,

which links back to the EU 2020, 2050 targets. Their aim is to make the indicators of development in environmental, social and economic matters measureable along with the global sustainable development goals of the UN (Davies 2013).

Other institutions rather set up roadmaps (Williams 2013) or a statement in the institutional reports to put forth how they interpret their role (Zlinszky 2013). By undertaking pro-activity, a goal is set up to which performance can be compared (Zlinszky 2013). These differences between the methods applied might also originate from the different focus points each body has. Considering for instance the Hungarian institution, which is primarily a complaints office, and thus inherently reactive and preventive, benchmarking it from outside is especially difficult. *“A complaints office is very difficult to plan, because what if people don’t complain or they don’t complain about the things you planned the office for”* (Zlinszky 2013). Jávör (2013) adds that counting the number of cases investigated or solved, or statistically evaluating the effectiveness of bills vetoed or proposed might also be an option, however, probably not be the best index of future well-being.

Despite the lack of more concrete, numeric measures regarding performance, each institution was perceived to be a successful and great initiative. Answers regarding the nature of this success were often related to working methodologies, and opinions received from outside the office, both from public and scientific circles. Some respondents emphasized the holistic approach of the body to issues which were previously thought to have no solutions (Zlinszky 2013, Fülöp 2013), while others raised the importance of the merit of being transparent and accountable (Williams 2013). The most often cited achievement, however, is that the commissions can really challenge the status quo while also maintain independence of the governing system (Williams 2013, Jávör 2013, Fülöp 2013, Zlinszky 2013). Naturally, opinions also differ according to the nature of the commissions’ work.

The diverse scientific composition of the staff makes it possible to approach and handle complex socio-environmental problems, and overcome narrow-mindedness and limited scope of authorities. Fülöp for instance explains that his staff took interactivity and interdisciplinarity very seriously in the resolution of public complaints: *“we spent at least one-fifth of our time with exchanging views. This required extremely strong nerves, but everyone came over well, also on human qualities: we tolerated each other’s confronting arguments without a spoken word, or pique, and this led to fascinatingly fruitful results”* (Fülöp 2013). Urban development projects can come up in this context, as they are issues with numerous angles, and were also perceived as insoluble. *“[T]hey said that the stature cannot be unlawful. If the city council is corrupt or goofy then it will alter the wood of ancient oaks into a shopping mall, or build a parking lot on the marsh. [...] So we started splitting hairs, and it turned out that if you take the time and learn to see things in their complexity, you can make the solution clear to all stakeholders, avoiding to go to Court”* (Fülöp 2013).

Another perception of success was the description of peoples’ feedback on the commissions’ achievements and unique methodology. This was realized either in their transparency to stakeholders; in the appreciation of academies and international forums; or in the gratitude of people for properly investigating their concerns. Williams points to the first case: *“we got an amazing feedback from the government treasury. They said it was the best clarity ever seen from a public institution. Officials didn’t necessarily agree with some of the things, but it wasn’t the point; we were running a very good business model [...] and were perfectly transparent to them. [...] That’s why the commission is now 25 years old”* (Williams 2013).

Two out of the four institutions were eliminated, or degraded after the first term of office, which was sometimes also perceived as a sign of the body affecting its purpose. *“The system was put in place, worked, and indeed, was a thorn in the side of the authority. Of course, it could also have closed down if it had functioned wrong, or it had been pointless. But I don’t*

think that was the reason. [...] This work was 100% indisputable, and never could anyone reveal why we were wrong in a matter” (Zlinszky 2013).

Given the outlined barriers to plant long-term thinking in the decision-making mechanism it appears to be a real challenge for the establishments to run a successful mission. However, despite even the withdrawals of the two commissions, there is little talk about failures or ineffectiveness. Indeed, Shoham alone mentions flub-ups during his work: “[w]e had great successes, but yet, great great failures as well... so it goes to the extremes. [...] We had an impact on approximately 70% of the laws, [...] but at the end of the day, it’s not what I wanted to see” (Shoham 2013). The point of view from the other reduced office however claims: “[t]his was condemned to be successful. The idea was good, its background mighty, the people were fantastic, and the methods excellent. It had to work, and it worked” (Fülöp 2013). As I pointed out in the methodology, subjectivity is naturally inescapable on this matter, however, the level of confidence and optimism regarding the institutions’ work makes it worth considering how these bodies perceive the obstacles faced, and in what ways they can think they can overcome them.

Barriers revealed by the respondents usually reflect those described in the literature and are often expressed in rather general terms, such as ‘economic or political interests’. As the more detailed description of the exact nature of these obstacles can be found in previous chapters, here I will only present them with the descriptive examples brought up by the interviewees. There are also various approaches to suggest how to overcome these barriers. The solutions identified however, do not directly refer to each individual problem. They are rather processes that serve as entry points where the complex socio-political systems can be tackled. Interestingly, although all of the described institutions operate at national levels, ideas regarding the most effective places for intervention vary along a top-down scale. This means that while some institutions put more emphasis on working with the high level political and

jurisdictional spheres, others find a better solution to approach the problem bottom-up. I will start by introducing the most often revealed barriers, and then the possible solutions formulated.

Discrepancies in political and economic interests

Probably the most often cited obstacles are political and economic interests confronting long term considerations and values. As Zlinszky argues *“they were those economic interests and conceptions about the world from a century ago that we had to fight with. These forces still have their powers”* (Zlinszky 2013). How strong still these powers are can be seen from an example of the evolution of New-Zealand’s Maori communities. In the 1970s a commission was set up to look after the Treaty of Waitangi signed between the Maori tribes of New-Zealand and the crown, whether it was just or not, and what compensation should be allocated to the tribes to do justice (Williams 2013). *“A very large number of the tribes reached agreement, and there were apologies made by the crown to the tribes, and settlement of land, and settlement of cash, [...] tens of millions and hundreds of millions of dollars”* (Williams 2013). After these agreements young Maori people started setting up business enterprises, attending business schools, and growing the wealth of the tribes, while nice and slow becoming part of the modern commerce. Williams (2013) finds that preserving ancestral core values regarding the land and posterity of original Maori, and the importance of looking after the natural capital as opposed to *“making a fast dollar out of the business”* (Williams 2013) lead to fascinating tension between younger and older tribal members. This example reflects an inherent value discrepancy between economic interests of gaining and the interest in preserving.

Lack of morals in jurisdictions and institutional systems

The study of government and law lies on the common denominator of shared moral values (Zlinszky 2013). *“Pulling out morality from under legal systems is like stop teaching physics for bridging engineers”* (Zlinszky 2013); it is particularly dangerous in times of crisis when fundamental rights are to be sorted.

Resistance to system approach

Epistemological conflicts with the constituted authorities were seen as a major challenge in the institutions' life. As it is also the case in the compartmentalized structure of the government (Mannermaa 2007), other institutional settings also follow a pre-specified path in management and administration procedures. Approaching particular environmental problems from a holistic and multidisciplinary perspective, it becomes difficult to engage the actors of the present establishments to cooperate in the search for solutions. As Fülöp puts it: *“we worked with a completely different method. The bureaucrat could smell it that we are aliens, we speak a different language. [...] The postmodern and problem-oriented approach cannot move on tracks, and for those who did not get used to this, it's tiresome”* (Fülöp 2013).

Lack of capacity

“The butter was spread too thin”, that is how Zlinszky (2013) expressed that given the institution's authorities its biggest limitation is the number of people it could employ. However, the composition of the background group supporting the work of the office is carefully selected, budgetary or legal constraints on the number of staff does not allow for the investigation of all complaints of maladministration, or every case of violation of human rights (Zlinszky 2013).

As it was pointed out earlier, barriers are not necessarily reflected on in the solutions outlined. This may be because the solutions are examined on a more abstract level, explaining general

entry points for the institutions to tackle the short-sighted nature of politics, economics, and humans themselves. These suggestions were not put forward by one or another respondent alone, but rather took shape through the analysis of all the data gathered. As it was noted earlier these entry points represent different levels on a top-down scale, starting from the top.

3.2.1. The rights-based solution

The first approach has a strong focus on the decision-making and jurisdictional levels, arguing for the representation of the rights of future generations. Success can be achieved by struggling for the recognition of these rights, similarly to those of the abolitionist and civil rights movements (Jávor 2013). The initiation for children's rights in the UN Convention on the Rights of the Child also often comes up in intergenerational debates as a parallel example to the current efforts for the approval of future generational rights (Conference 2013). The argument put forward here is that the institution can protect these rights by confronting them with present political and economic interests, and standing for them in the mechanism of making decisions (Jávor 2013). The more the political elite fails to realize its short-sighted aims due to the institution's actions in representing future generations, the better these rights will be taken into account in modern democratic decision-making. *"This is not a convenient institution. [...] Protecting interests has always been a struggle. This is a continuous battle and it has just started. If we look at the abolitionist movement, we have 100-150 more years to get there where they are. We will probably suffer defeat many times, but I hope that we can also gain victory and enhance this concept"* (Jávor 2013). This idea represents a strong top-down process where the notion of future generations penetrates into society's mind as more and more projects and investments fail to materialize due to the generational rights.

3.2.2. The compromise-based solution

The next approach also focuses on the political sphere, but instead of emphasizing the struggle, it seeks to find a compromise. This idea suggests that approaching the problem of future generations with anxiety and conflict does not bring the desired outcome, and what is needed is a more positive, “*persuasive language*” (Shoham 2013), which builds on the state genuine desire for continuance, as Zlinszky (2013) put it. In this view the simultaneous exposure of the governmental bodies to (1) problems, (2) solutions, and (3) incentives to act is the most effective tool of the institution to overcome political barriers (Shoham 2010). The first two are generally in place in most environmental bodies, however, having a real influence to convince governmental bodies to act depends on the commission’s ability to choose the right subjects and language for intervention: “[o]ne must find the appropriate balance between promoting decision-makers’ legitimate personal interests and encouraging them to take political chances to advance issues in which they believe. [An institution] must act creatively, using its ability to influence and its acquired reputation to create change in awareness” (Shoham 2010, 82).

Williams (2013) also finds positive influence and proper delivery of the message a crucial factor in engaging politicians (and other stakeholders) for the cause of the future. He tells the story of a report the commission produced, and a bored minister glimpsed in his office: “*he said he just read the preface [...] that’s all he did, and he immediately picked up the phone and said he wants to talk to us. Just like that. It caught the eye, caught the attention, and caught imagination, all in 5 minutes. Simply because of the way it was presented*” (Williams 2013). From the above described barriers the first two approaches (a-b) may be applied in the reconciliation of political and economic interests with long-term considerations.

3.2.3. The educational solution

In the third approach the focus of the institution shifts to another audience. Although it still operates in the political arena, it avoids daily power struggles, and its primary consideration becomes the information of the wider public. In this case the establishment tries “*to work in front of today’s policy, [and] open up conversations about areas needed substantive policy debate and thinking tomorrow*” (Williams 2013). Profound research and forward thinking are essential here, as well as the ability to convey the message in an influential way, which universities, the private sector, and local communities can react to, and can amplify it to a wider extent (Williams 2013). Shoham (2013) finds that politicians are becoming more sensitive to the public opinion as social unrest is rising around environmental and social issues. Thus “*the most important thing is to empower the thinking part of society, [...] who then become your voice, [...] and who can put pressure on the government of the day*” (Williams 2013). This approach can help solve, among others, the capacity problem revealed earlier, as the institution can use a wider surface for distributing its findings and thus raise public awareness.

3.2.4. The personal solution

The last approach to tackle the problems of political short-sightedness is based on peoples’ personal experiences with their lineages, with each other, and nature itself. The approach has an emphasis on education of youth on sustainability (Shoham 2013, Davies 2013), as well as on building up bonds among generations. This may seem to be far from the actual political decision-making and legal proceedings, however, sowing the seeds of long-term thinking in the cultural settings of society can be the most permanent solution to the problems addressed. The Welsh institution sends a letter to every family with a newborn baby saying that a tree has

been planted in the country for the child (Davies 2013). The letter also gives directions to the tree, which thus can be visited by the person, its family, friends, and later on by the descendants of that individual. Putting the meaning into the concept of ‘future generations’ is indeed a task of such an institution. *“It is part of the commitment to trying to build the future into the experience of young people, and into... into policy thinking”* (Davies 2013). Thus in the last approach the institution’s success depends on its ability to change how one thinks about the future and its own place in it in order to foster the next generation which is capable of integrating this experience into policy-making. Such a solution might also be capable of restoring the moral base of jurisdictional systems in the long-run.

Chapter 4: Conclusions

The aim of this research was to understand how the raised theoretical questions are answered by the institutions representing the interests of future generations. The first step was to reveal how they define their subject of protection, and what this definition implies in practice regarding the institutions' role. After conceptualizing this term, it was investigated how successes are perceived by the institutions and how performance can be measured. Finally, the thesis discussed how these bodies identify and could potentially overcome economic, political and ethical barriers.

The term 'future generations' is not defined consistently in the work of the institutions, but is rather interpreted on a case by case basis. It is partly because future generations have not yet reached the status of normative standing, therefore the work of the establishments is rooted in the present legal systems. In practice, however, this entails that safeguarding the interests of future generations is not realized through the legal protection of a certain population of future individuals, but rather through the empowerment and maintenance of the presently living natural systems and human societies. This approach can also help reconcile the conflicting interests among generations, in which the enhancement of the bonds of the present generations can play a crucial role.

Measuring success and performance in numerical terms was argued to be a difficult process due to the interconnectedness of issues, the long time scale in which the outcomes are realized, and the features of the commissions' work, which is rather qualitative in nature. Despite the lack of concrete numerical measures, and the various barriers outlined, the work of the establishments is perceived to be very successful. Success was most often revealed in the following contexts:

- ability to approach complex socio-economic problems
- transparency and accountability
- ‘user-friendly’ methodology
- effective pressure on political and economic interests

Since the evaluation of performance was mainly based on personal value-judgements, reviewing the most significant barriers the establishments encountered, and the potential solutions suggested can give a clearer picture about the effectiveness of such a body. Based on the interviewees’ opinion, the following barriers appeared to be the most significant to the work of the commissions:

- discrepancies in political and economic interests
- lack of morals in jurisdictions and institutional systems
- resistance to system approach
- lack of capacity

Opinions regarding the obstacles are expressed in more general terms, and are found to be difficult to tackle merely by the commissions. The solutions put forward are thus not directly related to the barriers, previously outlined. They rather offer solutions regarding various top-down entry points where the socio-economic systems can be challenged. There are four main solutions identified:

- rights based
- compromise based
- educational, and
- personal.

These approaches represent solutions to the political, ethical and economic barriers in different cultural settings as well as for institutions with different mandates and powers. The first two levels try to find ways to challenge the status quo at the decision-making level, by legal means or by balancing interests. The third suggested solution focuses on an audience that can amplify the message of the institution, while the personal level aims to influence society's awareness about the temporal dimension of human actions, thus contributing to the most profound change in the way people think about the future.

APPENDIX

The following broader set of questions was used during the interviews:

1. Who are future generations?
2. What are their interests?
3. How do you feel about the institution's work?
4. Did you meet difficulties during your work?
5. What was the biggest barrier you encountered?

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Interviews

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