

Representing Future Generations

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Munich School of Philosophy, Munich

Scientific Report

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1. Summary

The workshop held in Munich was organized by Axel Gosseries (Louvain University), Lukas Köhler (Munich School of Philosophy) and Ivo Wallimann-Helmer (University of Zurich). It has been financially supported by the European Science Foundation, the Munich School of Philosophy and the Zurich University Research Priority Program for Ethics. Scientific exchange was of considerable success. The mixture between philosophical and jurisprudential inputs allowed scrutinizing the legitimacy and feasibility of representing future generations in political institutions.

More specifically, some of the papers advanced skepticism about the normative justifiability of specific institutions to represent future generations. Another set of papers theoretically investigated the question of how to represent future generations and on what normative grounds such institutions can be defended. The contributions from the jurisprudential perspective critically reflected the feasibility of the theoretical proposals in the context of domestic or international law and proposed political strategies to fulfill the tasks to represent future generations, be it through specific institutions or not.

As a result it became clear that scientific as well as practical investigation into the questions raised by all workshop participants needed more exploration. Most of the speakers decided to contribute to a special issue in the journal 'Jurisprudence'. Some of the workshop participants contributed to the production of 6 short videos on the workshop themes (see below). Furthermore, we got firsthand information from the UN headquarters on discussions about intergenerational solidarity and the idea of a representative of future generations, and used the opportunity to provide some considerations from the theoretical perspective.

2. Scientific Content of and Discussions at the Event

The question of whether or not and how to represent future generations has been brought to the field of research by green activists and green political theory. It started out by the observation that political decisions tend to be short-termist and do not adequately take into account environmental risks as well as other long-term concerns. One possibility to counteract these challenges would be to represent future generations through a specific body. This idea provoked philosophical investigations with regard to two questions: a) How can future generations be represented as an extension of the already existing institutions of political representation? b) On what normative grounds is it possible to defend institutions that would specifically represent future generations and/or address intergenerational issues? Those contributions which were less skeptical about the idea of representing future generations and those dealing with the issue from a legal perspective mainly (but not exclusively) focused on the first question. The skeptical contributions took their main starting point from the second question.

Overall the issues discussed at the workshop can be divided into three main topics: i.) The design of institutions to represent future generations, ii.) the concept of representation with regard to future generations, iii.) problems with the non-existence of future generations.

i.) *Sandor Fülöp* as former Hungarian Ombudsman for Future Generations had mostly advisory tasks to fulfill in providing with his legal and scientific team anticipated clarification to influence political decision making. Although his office had the right to interfere in the political process with suspensory effect due to difficulties of acceptance this right has not been used that often. In contrast, philosophical proposals to represent future generations claim exactly this right of representatives of future generations as members of the legislative body. From the perspective of deliberative theory of democracy *Bernice Bovenkerk* made clear that for such representation to be effective it must be elected and controlled by an electorate different to the one electing the usual representatives. *Anja Karnein* argued in contrast to the Hungarian system that it should be a whole deliberative body and not only an advisory office representing future generations because decisions in the interest of future generations need first and foremost debate about what interests can be attributed to them. A claim along similar lines has been brought to the fore by *Jörg Tremmel*, who argued for a shift in the separation of powers in political decision-making by introducing besides the legislative, the executive and the judicial divisions a fourth branch of power representing future generations.

In contrast to these proposals *Karsten Klint Jensen* and *Joachim H. Spangenberg* argued that representing future generations cannot be justified within a democratic framework. Instead, they think that the moral responsibility of the currently living towards future generations should guide the decision making process. This might need some institutional support but does not necessarily need the specific representation of future generations. In this perspective, *Halina Ward* pointed out several times that although orientation towards the present is inherent in the normative ideal of democracy, this does not necessarily mean that political decisions taken have to be short-termed. Therefore, as demonstrated by *Sandor Fülöp*, one goal of an ombudsman representing future generations could be to engage in anticipatory clarifying and networking activities amongst all different relevant stakeholders in political decision-making to make them aware of the short-termed character of their decisions without the need to install further procedural mechanisms.

ii.) If the need for institutions to overcome democracy's presentism and risk of short-term political decisions is accepted, a further question to be answered will be how and what respective representatives have to represent. It seems obvious that representation of future generations cannot be conceived in the same way as representation of the currently living, because future generations do not yet exist. Discussing this question, *Anja Karnein* and *Bernice Bovenkerk* both defended the view that representatives of future generations should be understood as proxys. This means according to *Karnein* that representation of future generations fundamentally differs from standard forms of representation. This requires particular care with regard to establishing institutional safeguards to ensure adequate deliberation concerning the interests of future generations. In a similar direction, *Bovenkerk* emphasized the need not only for proxy representatives but also for a proxy *electorate* as institutional safeguard. Both these proposals are more procedural in character and leave it to the representatives of future generations to decide what is in their interest. A more substantial proposal has been made by *Marcus Düwell* and his colleagues. They argued that the main goal of institutions representing future generations should be to secure the generic rights of future persons. Generic rights are a presupposition necessary for individuals to be able to claim rights in general. As it can be assumed that in the future there will be human individuals, it must be ensured that they will be able to do so.

In contrast, *Ludvig Beckman* pointed out that institutions representing future generations could undermine the collective responsibility of the presently living with regard to long-term consequences brought about by climate change. In his contribution he showed that collective responsibility and democratic rights are the relevant concepts to deal with the ethical challenges of climate change. However, institutions to represent future generations can curtail this collective responsibility because such institutions would shift part of the responsibility of the

currently living collective to such institutions. *Ivo Wallimann-Helmer* on the other hand argued that to overcome the risk of short-termist political decisions what should be ensured is a long-term political perspective. Ensuring such a perspective, however, does not necessarily entail a need for representing future generations. It would be more to the point to design institutions pursuing the goal of ensuring an enduring of the political system valued by the currently living. The latter critical stand-point got at least some support by *Sandor Fülöp's* contribution, which showed that representing future generations is a task much wider than just to represent the interests of individuals living in the future. His office had to deal with all different sorts of environmental challenges brought to consideration by Hungarian citizens, interest groups and other relevant stakeholders.

iii.) An important challenge to the idea of representing future generations is not only the fact that they do not yet exist, but also what has been referred to in the literature as the non-identity problem. As already mentioned, this makes it difficult to determine which political decisions are in their interest. This was the reason why *Karnein*, *Bovenkerk* and *Tremmel* argued for a deliberative body to be necessary for adequately taking into account the interests of future generations. Moreover, this challenge makes clear why the goal of such institutions cannot be the same as it is for an ordinary representative body. What has to be ensured, as *Diüwell* and colleagues argue, is fundamental (or generic) rights which can be attributed to human beings irrespective of the time within which they exist. A similar point has been made by *Lukas Köhler*, who discussed the normative relevance of the fact that current policy decisions will affect future individuals yet unborn. Against the claim that there is no duty towards future generations because their existence depends on current policy decisions, *Köhler* advanced the argument that these decisions have only an indirect effect or no influence on which individuals will be born in the future.

In addition to these main themes, legal scholars made clear that international law already contains lots of reference to future generations which makes institutions for their representation necessary. *Halina Ward* and *Emilie Gaillard* in their contributions respectively stated that official documents of global governance provide legal and institutional space to provide adequate consideration of future generations. *Sandor Fülöp* as former Ombudsman for Future Generations in Hungary indicated the opportunities and challenges for such an institution to have an impact. *Beppe Lovoi* gave us some indications about the current debate at the UN, including through the concept of intergenerational solidarity.

3. Impact and Results

The discussion at the workshop showed that the idea to represent future generations to overcome political short-termism needs further investigation. Most of the contributors decided for a joint effort to fill in the gap of theoretical discussion needed. They all accepted to contribute to a special issue of 'Jurisprudence' (a journal published by Hart Publishing). Axel Gosseries will coordinate this project and collect the contributions. To secure high quality of the papers they will undergo a double blind peer-review process. In addition, six contributors to the workshop accepted the opportunity for short video statements (available on youtube: <http://www.youtube.com/channel/UCo05-1-vdtMHdpSIFYEWhkQ/videos?view=1&flow=grid>). Last but not least, discussion with Beppe Lovoi might have had some impact on discussion at the UN Headquarters. A volume on *Institutions for Future Generations* aimed at policy-makers might also be on its way as a result of this workshop.

4. Annex I: Programme of the Workshop

Friday, May 3th

9:00-9:20 *Axel Gosseries / President of MSfP*
Welcome and Introduction

The Role of Current Interests (Chair: Lukas Köhler)

9:20-10:10 *Ludvig Beckman (Stockholm)*
Future People and Climate Change: the Representation/Responsibility Dilemma
Comment: Karsten Klint Jensen

10:10-10:25 Break

10:25-11:10 *Ivo Wallimann-Helmer (Zurich)*
Why Representing Demands of Sustainability in Democracy?
Comment: Ludvig Beckman

11:10-11:40 Break (Coffee)

11:40-12:30 *Karsten Klint Jensen (Copenhagen)*
Future Generations in Democracy – Representation or Consideration?
Comment: Ivo Wallimann-Helmer

12:30-14:00 Lunch

The The Relevance of the All Affected Principle (Chair: Axel Gosseries)

14:00-14:45 *Lukas Köhler (Munich)*
The All Affected Principle and the Future
Comment: Inigo Gonzales (Louvain)

14:45-15:00 Break

The Challenge of Real Politics (Chair: Axel Gosseries)

15:00-15:50 *Sandor Fulop*
Two Strategies to Represent Future Generations
Comment: Halina Ward

15:50-16:20 Break (Coffee)

16:20-17:10 *Halina Ward*
Beyond the Short Term: Legal and Institutional Space for Future Generations in
Global Governance
Comment: Sandor Fulop

19:00 Dinner

Saturday, May 4th

Institutional Redesign for the Future (Chair: Ivo Wallimann-Helmer)

- 9:00-9:50 *Jörg Tremmel (Tübingen)*
An extended separation of powers model as the theoretical basis for the institutionalisation of responsibility towards the future
Comment: Joachim H. Spangenberg
- 9:50-10:10 Break
- 10:10-11:00 *Joachim H. Spangenberg (Halle)*
Reconciling Legitimacy, Concern and Competence: In Defense of an Expert Committee with Temporary Veto Power
Comment: Marcus Düwell
- 11:00-11:30 Break (Coffee)
- 11:30-12:20 *Marcus Düwell / Andreas Spahn*
TBA
Comment: Jörg Tremmel
- 12:20-13:50 Lunch
- Public Deliberation and Future Generations (Chair: Marcus Düwell)**
- 13:50-14:40 *Bernice Bovenkerk (Utrecht)*
Public Deliberation and the Inclusion of Future Generations
Comment: Anja Karnein
- 14:40-15:00 Break
- 15:00-15:50 *Anja Karnein (Frankfurt a.M.)*
Why it Takes More than One to Represent Future Generations
Comment: Bernice Bovenkerk
- 15:50-16:20 *Break (Coffee)*
- 16:20-16:45 *Beppe Lovoi (New York)*
Themes from the UN Secretary's General Report
Comment: Axel Gosseries
- 16:45-17:00 *Axel Gosseries*
Final Remarks, Organizational Matters
- 19:00 Dinner

5. Annex II: List of Speakers and Participants

Speakers

Beckman, Ludvig
Bovenkerk, Bernice
Düwell, Marcus
Fülöp, Sándor

Gosseries, Axel
Gonzales, Inigo
Karnein, Anja
Klint Jensen, Carsten
Köhler, Lukas
Lovoi, Beppe
Spangenberg, Joachim
Tremmel, Jörg
Wallimann-Helmer, Ivo
Ward, Halina

Participants

Gaillard, Emilie
Gheaus, Anca
Gutwald, Rebecca
Mkrtchyan, Naira
Norden, Fabian
Rechenauer, Martin
Reder, Michael
Rinderle, Peter
Schleidgen, Sebastian
Schleicher, Claudia
Schukart, Johannes
Thomas, Stephanie
Willner, Sabine

Affiliation

Stockholm University
University of Utrecht
University of Utrecht
Former Parliamentary Ombudsman for Future Generations in Hungary
Louvain University
Louvain University
Goethe University Frankfurt a. M.
University of Copenhagen
Munich School of Philosophy
United Nations Organization
Sustainable Europe Research Institute
University of Tübingen
University of Zurich
Foundation for Democracy and Sustainable Development

Affiliation

University of Caen
Sheffield University
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Ludwig-Maximilian University Munich
Munich School of Philosophy
Ludwig-Maximilian University Munich
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University of Tübingen
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