

OVERVIEW

Enfranchising the future: Climate justice and the representation of future generations

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Abstract

Representing unborn generations to more suitably include future interests in today's climate policymaking has sparked much interest in recent years. In this review we survey the main proposed instruments to achieve this effect, some of which have been attempted in polities such as Israel, Philippines, Wales, Finland, and Chile. We first review recent normative work on the idea of representing future people in climate governance: The grounds on which it has been advocated, and the main difficulties that traditional forms of representation have encountered when applied to this particular case. We then survey existing institutional means to represent generations to come. We separate out representation in courts, in parliament, and by independent bodies, and review specific instruments including climate litigation, parliamentary commissions, future representatives, youth quotas, and independent offices for future generations. We examine the particular forms whereby each of these may suitably represent future people, including audience representation, surrogate representation, and indicative representation, and discuss the main challenges they encounter in so doing.

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1 | INTRODUCTION

Long-term consequences of climate change, including risks to food security, sea level rise, increase in displaced people, and aggregate economic losses (IPCC, 2014, pp. 15–16), are likely to affect the interests of generations to come. However, political, legal, and social institutions are often ill equipped to fittingly take such interests into account in present decisions (Gardiner, 2011; MacKenzie, 2016; Thompson, 2010). Sometimes, existing institutions are too focused on the short run and heavily discount the future. Some others, they face severe uncertainty with regard to the long-term effects of climate policies, or lack institutional capacity to enact them.

One response to these tendencies is to include future interests in present governance by institutionalizing representatives of future generations. To this effect, a wealth of reforms have been advocated, and in some cases adopted, in recent decades. They include, inter alia, independent offices with an environmental mandate, such as the Hungarian Commissioner for Future Generations or the proposal for a UN High Commissioner for Future Generations submitted to Rio+20; climate litigation on behalf of future generations, which courts in Philippines, Chile, or the Netherlands have authorized; parliamentary

commissions for future generations, such as the Finnish Committee for the Future; and environmental NGOs, think tanks, and other associations, such as the World Future Council, that often claim to represent and further the interests of future individuals (Boston, 2017; González-Ricoy & Gosseries, 2016; United Nations, 2013).

This article surveys the existing literature on these and other institutional means to represent future generations (by which we mean generations yet unborn, instead of younger generations of those living today, including children). We first review recent normative work on the very idea of representing future generations in climate governance. We then survey specific instruments to this effect in court, in parliament, and by independent offices. For each of these domains, we discuss the particular forms whereby each instrument may represent future interests and the challenges encountered in so doing.

2 | GROUNDS AND CHALLENGES

The idea that future generations' interests are underrepresented in climate policymaking is hardly new. As early as 1987, the Brundtland Report claimed that “We act as we do because we can get away with it: future generations do not vote; they have no political or financial power; they cannot challenge our decisions” (World Commission on Environment and Development, 1987). Yet it is not until recent years that the representation of future generations has been thought through, partly as a result of three developments. First, the literature on the fair allocation of burdens and benefits of climate change, which emerged in the 1990s amid international negotiations for a global climate treaty, has in recent years expanded to inspect institutional means to realize climate justice (Gardiner, 2014; Heyward & Roser, 2016; Lawrence, 2014; Stevenson & Dryzek, 2014). Second, the literature in democratic theory, which over the last two decades has experienced a “representative turn” toward inspecting nontraditional forms of representation (Näsström, 2011; Urbinati & Warren, 2008), has recently focused on the representation of generations to come, and the appropriate means to institutionalize it (Beckman, 2013; Ekeli, 2005; Karnein, 2016; Saward, 2010; Thompson, 2010; Zwarthoed, 2018). Third, numerous polities have experimented with instruments to represent future people in recent decades, which has accordingly spurred considerable empirical and theoretical literature (Boston, 2017; González-Ricoy & Gosseries, 2016; Jones, O'Brein & Ryan, 2018; Tremmel, 2006). Before surveying existing and proposed instruments to this effect, in this section, we outline the grounds on which representation of future generations has been championed and the main difficulties it has encountered.

2.1 | Two justifications for representation

Normative theories that claim that future generations be granted representation come in roughly two variants (Beckman, 2013; Zwarthoed, 2018). On a first view, representing future people in democratic processes is favored as a means to advance climate and intergenerational justice (Lawrence & Kohler, 2018; Van Parijs, 1998). On the assumption that present generations have obligations to future ones, climate change poses a formidable challenge to most existing accounts of intergenerational justice, such that, if unabated, it would entail an unfair overburdening of future generations by present ones. To be sure, climate change also raises concerns of domestic, global, and environmental justice, and representing future people may serve ends other than climate justice, including fiscal sustainability or the preservation of cultural heritage. But, on this view, the democratic inclusion of future interests is favored as an instrument to counteract intergenerational injustices stemming from climate change.

Analyses within this view have focused on three issues. One is the specification of what climate justice demands with regard to future people (McKinnon, 2011; Roser & Seidel, 2017). Another is the examination of the determinants that may preclude that such demands be met, including electoral cycles, uncertainty about the future, or failures to coordinate (Jacobs, 2011). A third issue is the inspection whether representation of future generations, and in which particular forms, best tackles such determinants, compared to alternative means (Boston, 2017; Jensen, 2015; MacKenzie, 2016).

A plausible objection to this view is that representing existing young people may suffice to address long-term injustices stemming from climate change, for its effects will be already felt by them. Yet, as we discuss below with regard to youth quotas, representation of unborn generations may still be necessary to address very long-term effects of climate change. For instance, existing young people may favor adaptation policies, whose effects are near-term, over mitigation efforts with distant benefits (Karnein & Roser, 2015). Moreover, representing unborn generations may still be required for reasons of democratic legitimacy.

Thus, on the second view, representing future people in climate policymaking is not required as a means to advance climate justice but on grounds of democratic legitimacy (Dobson, 1996; O'Neill, 2001). On an influential reading thereof, democratic legitimacy commands that all those whose interests will be probably affected by a decision have the right to democratic

inclusion in the decision-making process (Goodin, 2007). Thus, inasmuch as climate change is likely to affect the interests of future generations, failure to include such interests in present climate governance importantly undermines its democratic legitimacy, with the practical implication that representation of future interests is required whether or not it may suitably advance climate justice.

Four normative debates stand out within this view, with the first two likewise affecting the first view. One stems from the “nonexistence problem.” Since future individuals do not yet exist, they may not have rights, which may entail that no duties may be owed to them—a view that has been challenged, *inter alia*, by arguing that, if not present rights, future people have future rights that also constrain present policies or that obligations with no correlative rights may exist (Gosseries, 2008b). Another debate has revolved around the “nonidentity problem,” which questions whether harmful climate policies can really harm future individuals, in terms of making them worse off than otherwise (Parfit, 1984). The alleged reason, which many resist (Roberts, 2015), is that, absent such policies, and given that different policies yield different reproductive choices, those particular individuals would simply not exist. The other two debates are specific of the second view. One is whether a right to democratic inclusion demands being affected in a narrow, legal sense—in which case no such right would probably exist, as future individuals are affected but not legally bound by present climate policies (Beckman, 2013)—or in a causal sense, as is most often held (Heyward, 2008, p. 630). Another is whether future generations should be represented individually or as a group, and the specific weight their representatives should have in policymaking (Zwarthoed, 2018).

2.2 | Challenges to representing future generations

Whether for justice-seeking reasons or for legitimacy-seeking ones, a plausible case in favor of representing future people in climate governance seems available. On closer inspection, however, the very idea of representing unborn generations is fraught with difficulties. On Hannah Pitkin's (1972, pp. 8–9) classic definition, representation entails “the making present in some sense of something which is nevertheless not present literally or in fact.” It entails attribution: Representatives act on behalf of those they represent, such that, unlike in the case of guardians or advocates, we can attribute actions by the representative to the represented. We attribute, for example, the laws enacted by US Congress to the American people. The people, we say, have acted *through* Congress. On the traditional, narrow view of representation, attribution occurs when various formal and substantive requirements are in place. In particular, it occurs when some form of authorization and/or accountability and certain correspondence between representatives' actions and the interests of those being represented exists (Pitkin, 1972; Rehfeld, 2017). Both kinds of requirements are troubling when applied to future generations.

A first worry is that individuals who do not yet exist cannot, for obvious reasons, appoint those who claim to represent them today. Nor can they hold them accountable, such that if misrepresentation occurs, they can flag no concern or sanction them anyhow. There is, in brief, a problem of authorization and one of accountability (Urbinati & Warren, 2008). These problems would be perhaps mitigated if future individuals' interests could be accurately foreseen, and if present performance could be assessed for its correspondence with them. However, attempts to establish the content of future interests face a second cluster of concerns.

One concern is epistemic, as there are severe limitations to our present knowledge both about the interests of future individuals and about the impact of present actions on them—limitations whose severity increases the further in the future the relevant interests are. Some have questioned how intractable this problem is by reference to “objective” interests that future humans would predictably have, including physiological needs (Ekeli, 2007), human rights (Beyleveld, Düwell, & Spahn, 2015), and an interest in autonomy (Thompson, 2010). But some have found the latter troublesome (Karnein, 2016). For furthering autonomy typically entails paying due respect to whatever preferences future individuals may hold, rather than replacing them with our own judgment.

A further concern is related to the plurality of future interests, both across and within generations (Jensen, 2015; Smith, 2017). Future generations are not a homogeneous group with common interests. Each generation is likely to have different interests with regard to the intertemporal allocation of costs and benefits of climate policy, and diverse and conflicting interests are also probable within each generation. So, even if future interests were known, mere reference to “future people's interests” would not skirt around the problems of authorization and accountability.

These difficulties render the traditional notion of representation unsuitable for generations to come, particularly on the legitimacy-seeking view of representation. For while the justice-seeking view may license alternatives to representation of future generations to realize climate justice, democratic legitimacy commands that future people, if relevantly affected, be represented in present policymaking. Moreover, they raise a serious danger (Karnein, 2016). For absent authorization/accountability, and given uncertainty about and diversity among future interests, representatives may find speaking on behalf of

future generations a convenient way to advance their own agenda, instead of the interests of future people, while failing to discharge their duties to contemporaries. However, recent work on representation has shown that there are alternative forms whereby future people may be represented, absent electoral authorization and accountability, in a meaningful sense. Thus, theorists have argued that representation may occur when the representative is recognized as such not by the represented but by a relevant audience—a court, an international organization, for instance—before whom a particular instance of representation is addressed (Rehfeld, 2006; Saward, 2010). Alternatively, representation may occur due to some shared interests between the representative and the represented (Mansbridge, 2003). Others have posited that representation may be indicative, as when the representative acts, by virtue of its independence and expertise, as the represented would under comparable conditions (Pettit, 2013). In subsequent sections, we apply these accounts to the inspection of instruments on offer to represent future generations.

3 | REPRESENTATION IN COURTS

We start by looking into the legal domain, with a focus on climate litigation, and turn in subsequent sections to parliament and to independent bodies. In each section, we first survey existing instruments to represent generations to come. We then examine the particular forms of representation whereby each instrument may represent future individuals, and discuss the main challenges they encounter in so doing.

3.1 | Climate litigation

In recent decades, numerous countries have amended or entirely rewritten their constitutions to include, inter alia, principles protecting future generations, often in combination with a requirement to promote sustainable development (Cho & Pedersen, 2013; González-Ricoy, 2016; Hayward, 2004; May & Daly, 2015). Thus, Argentina's constitution requires the state that “productive activities satisfy current necessities without compromising those of future generations.” Norway's constitution commands that natural resources be “safeguarded for future generations.” Qatar's provides for the protection of the environment “so as to achieve sustainable development.” And Dominican Republic's constitution directs that “nonrenewable natural resources can only be explored and exploited for the benefit of present and future generations,” and further commands that natural resources be used “in accordance with the need of adaptation to climate change.”

Courts have most often deferred the enforcement of principles of this kind to legislatures (Hayward, 2004; May & Daly, 2015). For one thing, causation in environmental cases is difficult to establish accurately enough to assign liability, more so when the effects not only are diffuse but also involve unborn generations. For another, courts are often ill equipped, compared to legislatures, to balance the complex technological and economic tradeoffs involved in climate and intergenerational tradeoffs, including budgetary burdens that funding climate policies may impose. Some landmark decisions, however, have led to their legal enforcement. One is the 2015 *Urgenda* decision (Hague District Court, 2015), which was recently upheld by the Dutch Court of Appeal (Hague Court of Appeal, 2018) and where the Hague District Court found that Dutch climate policies were hazardous for present and future generations, and ordered the government to limit greenhouse gas (GHG) emissions by at least 25% by the end of 2020. Another is the 1997 *Trillium* decision, whereby the Chilean Supreme Court (Supreme Court of Chile, 1997) struck down the government's approval of a \$350 million logging project after finding that it threatened the constitutional right “to live in an environment free from contamination”—a right that the court interpreted as protecting both present and future generations. A third case is the 1993 *Minors Oposa* decision (Supreme Court of the Philippines, 1991), where the plaintiffs, all minors represented by their parents, who also claimed to represent future generations, invoked the constitutional right to a healthy environment to ask the Philippines Supreme Court to request the government to cease issuing licenses to cut timber.

What is relevant for the issue at hand is that in these and some other cases—certainly in *Minors Oposa* and in *Trillium* and on some interpretations also in *Urgenda* (Lin, 2015; Loth, 2016)—courts have granted intergenerational standing, that is, the right of an individual or an organization to represent future generations in court and to sue on their behalf. This is an issue of considerable importance. For whether or not the plaintiff is allowed to sue precedes the court's judgment about the legal merits of the particular suit. Thus, in *Minors Oposa* the Court granted the intergenerational standing of the plaintiffs, as it found “no difficulty in ruling that they can, for themselves, for others of their generation and for the succeeding generations, file a class suit” (Supreme Court of the Philippines, 1991). A doctrine that the court has later developed in a set of *Rules of Procedure for Environmental Cases* that allows suits brought by “[a]ny Filipino citizen in representation of others, including ... generations yet unborn” (Republic of the Philippines Supreme Court, 2010).

This has been a logical development, some legal scholars argue (May & Daly, 2015), as some countries have replaced traditional standing rules, which restrict the right to sue to those who are personally harmed, with rules of diffuse standing that authorize courts to vindicate interests other than those whose interests are harmed. Rules of diffuse standing were in turn pioneered by the Indian Supreme Court in the form of Public Interest Litigation, which extends standing to sue on behalf of those “which are not able to enforce their rights on account of their incapacity, poverty or ignorance of law” (Supreme Court of India, 1991). Once standing is expanded to protect the interests of those who cannot protect themselves, further expanding it to include unborn generations is no longer unwarranted.

3.2 | Audience representation

Which forms of representation are involved here, given that future generations surely did not appoint the plaintiffs whose intergenerational standing has been recognized? On some accounts, such as Rehfeld's (2006), representation can occur when the audience that the alleged representatives are attempting to influence—here, the relevant court—acknowledges an individual or a collective as representatives, whether or not the represented may have authorized them. According to Rehfeld (2006, p. 2), “Political representation ... results from an audience's judgment that some individual, rather than some other, stands in for a group in order to perform a specific function.” On this view, the above plaintiffs may represent future generations insofar as they are recognized, by the relevant judicial authority, to act in such capacity in bringing a suit before the court—a view that some have further extended to claim that climate litigation on behalf of future generations be allowed by international courts. Lawrence and Kohler (2018) have argued that this could happen if a state, for instance a Pacific island state, brought action against a major GHG emitter state, on behalf of the state's future generations, before the International Court of Justice. And it could also happen if the Court accepted, thereby broadening its interpretation so far of its statute, *amicus curiae* briefs from international organizations or NGOs claiming to represent the needs of future generations.

Either way, the relevant audience cannot proceed arbitrarily. It has to comply with certain rules of recognition, such as when the international community recognizes as the representative of a country whoever has control of the military. Rehfeld (2006) believes that the relevant audience may select any rule of recognition it deems appropriate. Yet it is questionable that just any rule can qualify. More reasonably, as some have argued (Karnein, 2016), rules of recognition have to comply with some background norms governing the relationship between the representative and the represented. Thus, in the case of climate litigation, courts have granted intergenerational standing on the basis of some correspondence between the plaintiffs' interests, or of certain policies they have publicly stood for, and future generations' interests. In the Filipino and Dutch cases, the rule of recognition employed to grant standing accords to legal instruments such as the *Rules of Procedure for Environmental Cases* and the Dutch Civil Code, respectively. In *Urgenda* (Hague District Court, 2015, para. 4.7), for instance, the court recognized an overlap between *Urgenda* Foundation's statutory aim to strive for “a more sustainable society” and future individuals' interests. Interpreting that the notion of sustainability has an intergenerational dimension, the court found that *Urgenda*'s interests also included advancing future generations' right to a healthy environment.

The suitability of climate litigation to represent future interests and advance climate justice, given courts' independence and ability to refer to fundamental principles, is often noted. But concerns of democratic legitimacy also exist. One is that when the enforcement of environmental rights overrides policies enacted by elected officials, as some decisions above do, they may undermine the separation of powers and upset the democratic credentials of court decisions, more so when significant technical tradeoffs and funding implications are involved. Indeed, courts have often found climate change cases nonjusticiable because they raise a political question. Another concern is intergenerational. For when future individual's environmental rights are constitutionalized, and hard to amend, they may undermine the right of subsequent generations to live under norms of their own choosing (Gosseries, 2008a).

One response to the first concern is that, in enforcing environmental rights, courts may prevent that majorities of presently living citizens and their representatives jeopardize climate justice. Moreover, when such rights are democratically adopted, court decisions safeguard, rather than chip away, democracy. Indeed, some have argued that courts are particularly suitable to represent the long-term will of the people, as enshrined in constitutional principles (Alexy, 2005; Eisgruber, 2001; Paretti, 1999; Rosanvallon, 2011). The intergenerational concern has not gone unanswered either. Some have argued that constitutional environmental rights need not thwart generational sovereignty if restricted to securing basic physiological needs (Ekeli, 2007) or when they are enshrined as general principles rather than as precise rules, such that courts can adjust their interpretation thereof to generational change (González-Ricoy, 2016). Others deny that constitutions can threaten generational sovereignty in the first place. Since future laws can only be enforced by future people, some posit (Beckman, 2013), no extragenerational enforcement is possible beyond the overlap. In any case, given that future individuals' rights are often found

nonjusticiable, as courts find them too controversial, and that the effects of climate change are increasingly imminent for current generations, as the Dutch Court of Appeal has argued in the 2018 *Urgenda* decision, representing current people in court, with no reference to future people, may often be enough for successful climate litigation.

4 | REPRESENTATION IN PARLIAMENT

The recent upsurge of climate litigation has partly resulted from frustration with legislative inaction on climate change—as a means to fill the resulting regulatory gap (Peel & Osofsky, 2015). Despite much recognition of climate change as a major hazard for generations to come, parliaments have been reluctant to adopt action-forcing targets and policies to reduce GHG emissions. Thus, an alternative to legal representation has been to represent future people in parliament. Legislatures are not only in charge of decisions with considerable future effects, including legislation in areas such as energy, transport, and land use. Presence in parliament also has a symbolic effect on its own. It may empower vulnerable groups, as feminists have long stressed (Mansbridge, 1999; Phillips, 1995; Williams, 1998; Young, 2000). Although proposals to represent future people in parliament abound, we here survey the three most influential.

4.1 | Parliamentary committees, future representatives, and youth quotas

A first way to represent future people in legislatures is to establish parliamentary committees for future generations. The Finnish Committee for the Future stands out here. In operation since 1993, the Committee comprises 17 members of parliament from all parties, and its tasks include promoting long-term policy goals, supervising other standing committees on future matters, and holding the government accountable for the long-term goals included in a Report on the Future that government is constitutionally directed to issue during its term in office (Boston, 2017). The Committee, which has been active on intergenerational matters, and particularly on climate change, is routinely included among institutions to represent future generations. Yet it is questionable whether it is suitably categorized as such, given that its target is not restricted to future generations and that its role is to advocate or to promote, rather than to represent, future interests. For this reason, we do not further discuss it here, nor we discuss other bodies and instruments not explicitly focused on future generations, like the committees on climate matters in place in numerous polities (see Boston, 2017).

More fitting in this respect is the proposal, advanced in various forms (Dobson, 1996; Ekeli, 2005), to reserve seats in parliament for specialized representatives of future generations (or future representatives, for short). On a first variant, seats in parliament (for instance, 5 % of seats) are reserved for future representatives, such that all voters have two votes: One to elect ordinary representatives and another one to elect future representatives that, unlike ordinary representatives, are drawn from specialized parties—and granted powers to delay legislation on issues affecting future generations, such as climate policy (Ekeli, 2005). On a second, more influential version, the rights both to elect and to serve as future representatives are restricted to members of environmental organizations (Dobson, 1996). On the assumption that environmentalists are particularly motivated and knowledgeable, in the sense of having interests similar to those of unborn generations (e.g., a special interest in avoiding dangerous climate change) and expertise about climate issues, they are regarded as an accurate proxy of future generations. Restricting to environmentalists the rights to choose and to be chosen is aimed at rendering future interests easier to place on the formal legislative agenda, rise public awareness about environmental issues affecting future generations, and promote well-informed deliberation on climate matters, thus inducing other representatives to justify their actions in terms that take future interests into account (Ekeli, 2005; O'Neill, 2001; Thompson, 2010).

A third alternative is to introduce youth quotas in parliament, such that young people function as proxies of future generations (Bidadanure, 2016; Tremmel, Mason, Godli, & Dimitrijoski, 2015). Although youth quotas are in place in some national parliaments, as in Morocco, where 30 seats are reserved for under 40 year olds, the global average age of parliamentarians (53) is well above the median age of global population (26) (Bidadanure, 2016). Securing a significant number of seats in parliament for young people (for instance, 10 % of seats for people under 30) has been advocated as a means to mitigate underrepresentation of unborn individuals on two assumptions, which we discuss below (Bidadanure, 2016; Karnein & Roser, 2015). The first is that the young have interests whose content is closer to those of future generations, for they will overlap with them more than the old will, and will be affected by long-term policy consequences more than older people will. The second is that the young are generally more concerned by the future, and by climate matters in particular, than the old, which makes them better proxies for generations to come.

4.2 | Surrogate representation

The form of representation that youth quotas and future representatives, at least on Dobson's model, most suitably advance is that of surrogate representation. This kind of representation, which is often deemed most able to represent future people, occurs by virtue of certain descriptive characteristics that the representative shares with the represented or standing policy commitments that the represented, if they could know the commitments, arguably would think furthered their interests. Surrogate representation requires no formal authorization by, or accountability to, the represented as a result. According to Jane Mansbridge (Mansbridge, 2003, p. 523), “surrogate representation is representation by a representative with whom one has no electoral relationship—that is, a representative in another district.” Think of self-declared gay legislators who claim to represent gays across their country, even though only one district elected them, or of black legislators who represent black minorities in other, white districts.

Originally conceived as enabling representation extraterritorially, such that elected legislators could represent individuals or groups outside their districts, Mansbridge's model of surrogate representation can be nicely extended extratemporally, to allow representation of individuals outside present generations. Representation across nonoverlapping generations is made possible, then, because surrogate representation obtains due to some substantive characteristics of the representative, such as being gay or being black, or to certain policies she stands for, such as publicly advocating measures to address sexual or racial discrimination or to abate climate change. Through a kind of surrogate representation of future people by present legislators, youth quotas and future representatives on Dobson's variant can be seen as suitable to represent future generations, on the assumption that young people and environmentalists have interests, and/or stood for policies, that closely correlated with future people's interests. Moreover, although Mansbridge's original model refers only to the legislative domain, Dobson's proposal would involve, by virtue of its restriction of future representatives' constituency to environmentalists, surrogate representation of future voters by present voters.

The assumption that representatives on these proposals would share descriptive characteristics with future people is contentious, alas. Regarding youth quotas, one objection is that age differentials between the old and the young may be irrelevant with regard to policies with extended time horizons. Once we factor in distant future generations, as we should in climate policymaking, the purported correlation between future interests and those of existing young people largely disappears. For instance, young people may prioritize adaptation policies, whose effects are near-term, overmitigation efforts with distant benefits (Karnein & Roser, 2015). Second, it is also questionable that young people are more concerned about the future. The evidence is mixed, with some studies suggesting that the old discount more than the young (Read & Read, 2004) and others suggesting the reverse (Whelan & McHugh, 2010). Indeed, perhaps having a lower stake in the future aids, instead of upsetting, impartial judgment about intertemporal tradeoffs (Karnein & Roser, 2015; Van Parijs, 1998). Finally, it has been objected that, even if young representatives are more future friendly than their older peers, their incentives to prioritize policies with immediate benefits for voters to secure reelection, perhaps partly due to higher turnout of the elderly, are the same (Van Parijs, 1998).

Future representatives, at least on Dobson's variant, may be less liable to these difficulties. For one thing, environmentalists' aptness to represent future generations is not justified on the purported overlap between their interests and those of future people but on their concern for the future, which we can safely assume to be above average, particularly on climate matters. For another, restriction of future representatives' constituency to environmentalists may mitigate short-termist pressures induced by electoral cycles, for environmentalists are presumably less likely to evaluate candidates on the immediate benefits of past performance. Despite these advantages, Dobson's proposal has been subject to fierce criticism, including charges of insufficient diversity among environmentalists to fittingly represent the plurality of future interests, of impracticability, and of democratic legitimacy deficits resulting from the uneven allocation of franchise (Boston, 2017; Ekeli, 2005). All in all, few nowadays regard this proposal desirable or realistic.

5 | REPRESENTATION BY INDEPENDENT OFFICES

Independent offices for future generations (OFGs) comprise a third institutional form to represent future interests—one that importantly departs from parliamentary means. OFGs are typically established at arm's length from parliament and the executive, briefed with clear benchmarks, often with a remit on environmental matters, and entrusted with powers to oversight parliament and the executive, instead of embedded in them. They are also typically staffed with trained specialists, whose expertise in intergenerationally relevant policy areas, like environmental law, is superior to that of elected officials. We here

survey the main attempted and proposed kinds of OFGs, and discuss the challenges they encounter in representing future people.

5.1 | Independent OFGs

In recent years, OFGs have been attempted in several polities, notably including Israel, Hungary, and Wales, with varying degrees of success (Boston, 2017; Smith, 2017; United Nations, 2013; Ward, 2012). The Israeli Commissioner for Future Generations, established by the Knesset in 2001 and discontinued after one term of office, had powers to investigate all government bodies and, drawing guidance from the notion of sustainable development, to review and delay legislation deemed potentially harmful to future generations. The Hungarian Parliamentary Commissioner for Future Generations was created in 2008, and later subsumed within a broader office in 2012, with the primary task of safeguarding the constitutional right to a healthy environment for future generations, including the power to suspend administrative actions and to seek action from the Constitutional Court. A more recent creation is the Welsh Future Generations Commissioner. Established in 2016 under the Wellbeing of Future Generations Act, which seeks to realize the principle of sustainable development, it is tasked with reviewing and advising public bodies and with publishing, every electoral term, a Future Generations Report that contains an assessment of the improvements that public bodies need to take.

Notwithstanding their differences, three common features are apparent. First, all three bodies are **created by statute** and tasked to address the underrepresentation of future interests in policymaking, most often with a particular remit on environmental issues. Second, they are **independent from, and provide oversight of, parliament and/or executive bodies, often with the authority to respond to requests from the public and sometimes with the right to seek action from courts**. Third, unlike parliamentary committees, they are staffed with trained specialists, typically with expertise in environmental law.

Recent proposals for a Guardian for Future Generations in the EU (Roderick, 2010) and for a High Commissioner for Future Generations within the United Nations (United Nations, 2013; Ward, 2012), the latter of which was submitted to the Rio+20 summit in 2012 and narrowly defeated, roughly follow the same blueprint. In both cases, the proposed offices are established to act independently from political interference. They are also entrusted with oversight powers, including authority to request information, to hold public consultations, and to provide expert advice on legislative and administrative actions potentially affecting future generations. And, in the case of the EU body, it is authorized to initiate legal proceedings on behalf of future generations before the European Court of Justice.

5.2 | Indicative representation

The above features render OFGs particularly suitable to represent future generations “indicatively” (Pettit, 2009, 2013). Indicative representation occurs when the representative acts, by virtue of its independence and impartiality, as the represented would under comparable conditions. “Indicative representers stand for the representees in the sense of typifying or epitomizing them; how they act is indicative of how the representees would act,” Philip Pettit (2009, p. 65) notes. Whereas responsive representatives, such as elected officials, have to follow the will of the represented, and are accordingly subject to mechanisms, like elections, that induce responsiveness, indicative representatives, such as juries and certain independent authorities, need not follow the demands of those they claim to represent. They function not as recipients of the will of the represented but as social indicators of how the latter would act. They may thus suitably represent individuals, like generations to come, who are unable to act or to express their will.

This may occur when various conditions are in place. One such condition is that indicative representatives, unlike elected officials, are restricted to resolving matters in a well-defined domain and subject to suitable constraints. To this effect, they are **briefed with clear benchmarks, including a clear mandate, and constrained by public scrutiny and parliamentary control**, such that actions within their remit are likely to be indicative of how the represented would act. These conditions, which are characteristic of independent offices (Stein, 1998; Thatcher & Sweet, 2002), nicely fit OFGs, whose purview, unlike that of parliamentary representatives, is clearly outlined, often with an environmental remit, and whose performance is typically monitored by parliament, who has control over their establishment, budget, and appointment of their titular. This is of particular relevance in their case: Since unborn generations are unable to authorize or to hold their present representatives accountable, a clear brief and close horizontal scrutiny by parliament and other actors, including external auditors, interested groups, and the media, are critical to ensure that they function as social indicators of future people, instead of advancing their own agenda. And it also casts doubt on the suitability of OFGs with a sweeping mandate, such as the Israeli Commissioner, whose remit included all policy areas except defense and foreign affairs (Shoham & Lamay, 2006).

Pettit assumes, however, that the criteria by reference to which decisions within indicative representatives' remit are to be made are largely accepted by the represented. This is delicate with regard to OFGs, not only because the represented cannot communicate their acquiescence, or absence thereof, to such criteria. Efforts to establish such criteria against future individuals' interests are also liable to problems of uncertainty and diversity, as noted above. Some have attempted to mitigate these problems by restricting OFGs' remit to securing future generations' "objective" interests, like their physiological needs (Ekeli, 2007) and an interest in self-government (Thompson, 2010), assuming that these are less uncertain and more likely to be shared.

A second condition is independence from elected officials and electoral pressures. "[Indicative representatives] will serve the community but not ... at the pleasure of those elected to power," Pettit (2013, p. 147) reckons. This is particularly relevant with regard to climate policymaking, which often requires imposing short-term pain for long-term gain, and is thus especially liable to short-termist electoral pressures. But it raises concerns about the ability of OFGs, at least when modeled on the three experiences surveyed above, to indicatively represent future generations. For, although established at arm's length from parliament and not directly elected, OFGs independence is often fragile. Their members are appointed by elected officials, who also control their budget. And since they are typically established by statute or at the discretion of the executive, they are also under the permanent threat of being discontinued, as the short-lived Israeli and Hungarian cases suggest. Indeed, a reason why the Israeli Commission was disbanded is that it was perceived to wield too much authority to interfere with parliament (Smith, 2017).

One way to shield OFGs from such pressures is to grant them constitutional standing (Beckman & Ugglá, 2016). But this may undermine their "derivative legitimacy" (Rosanvallon, 2011), which OFGs obtain precisely from their being created and revocable by elected officials. It may also make them harder to ever be established. Another way of shielding them is to increase their political capital by embedding public engagement in their operation—for instance, through a public complaint system, on which the Hungarian Commissioner operated, or by actively reaching communities and other stakeholders, as the Welsh Commissioner seeks to do (Beckman & Ugglá, 2016; Smith, 2017). The hope is that this will render OFGs less fragile, due to wider public support, and more confident to act independently.

A third condition is expertise and internal motivation. Ideally, indicative representatives are trained specialists with professional skills in the policy areas within the purview of their office, such that they can supply expert input. And they are appropriately motivated, either endogenously due to shared interests with the represented or exogenously, for instance, by reputational costs of misbehavior. OFGs suitably fit this requirement, as they typically comprise experts with long-established reputations, often in environmental law.

But the requirement of expertise is not without problems. One is that OFGs' mandate, which is often regarded as purely technical, also involves thorny normative and philosophical dilemmas. The Israeli Commissioner struggled with questions like the following (Boston, 2017, p. 326; Shoham & Lamay, 2006): Who are future generations, and do they include those alive, such as children? What are their interests, and how should they be balanced? Which policies should have priority, given their distinct distributional effects? If indicative representatives are supposed to act as others would under appropriate conditions, then a sensible concern is whether experts in environmental law or climate science are more suitable than nonexperts, like elected officials, to answer these questions. Another concern is that expert composition, which often correlates with social background, may inaccurately represent future people's plural interests and views. Proposals to mitigate these concerns include collegial composition of boards, mixed composition of experts and elected officials, and systematic public engagement in the workings of OFGs (Beckman & Ugglá, 2016; Rosanvallon, 2011; Smith, 2017).

6 | CONCLUSION

Representing future generations to more suitably include future interests in climate governance has awakened much recent interest. For reasons of length, we have been unable to cover some relevant means to achieve this effect. These include social forms of representation, such as self-appointed representatives (Houtzager & Gurza Lavallo, 2010; Montanaro, 2017), like NGOs who claim to represent future generations in climate matters, as well as citizen representatives (Warren, 2008), like randomly appointed citizen assemblies and mini-publics (Brown, 2006; Fishkin, 2018; Stevenson & Dryzek, 2014). Instead, we have focused on courts, parliaments, and independent bodies, and have surveyed the main instruments to represent generations to come in each domain. Some of these are fraught with insurmountable difficulties, including specialized parliamentary representatives and youth quotas, either because they unsuitably represent future people or because they raise intractable legitimacy and feasibility concerns. But some others hold promise. In particular, climate litigation and independent OFGs may, if aptly devised and operated, properly represent future interests.

Institutionalizing representatives of future generations is no silver bullet, however. One reason is that fair and effective action on climate change is hampered by numerous determinants other than the underrepresentation of future interests, including budgetary restrictions, failures to coordinate, and thorny economic tradeoffs. And since some effects of climate change are already imminent for current generations, representing future people may sometimes be unnecessary. Another reason is that, since most proposed and attempted instruments are national in jurisdiction and not specifically focused on climate policy, our understanding of how to suitably represent future generations in international climate governance is still poor. A final reason is that representation of future people is not the only, and perhaps not always the best, means to address failures to take future interests into account. Instruments that are not specifically aimed at representing future generations, such as foresight practices and market mechanisms, may sometimes be more effective, or easier to establish and to sustain over time, to render policymaking more farsighted and more respectful of future interests. This is something that also commands further inspection (see Boston, 2017). The task ahead is, therefore, significant.

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CONFLICT OF INTEREST

The authors have declared no conflicts of interest for this article.

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