

Learning from the Hungarian Parliamentary Commissioner for Future Generations

The office of the Hungarian Parliamentary Commissioner for Future Generations could offer useful insights for the UK. And as UKELA works to find ways to deliver better environmental outcomes through law, a forthcoming meeting with the Parliamentary Commissioner himself, Dr Sándor Fülöp, will provide direct opportunities to learn from this innovative office.

In 2007, the Hungarian Parliament resolved to create a new independent watchdog function, informally known as the 'green ombudsman', to safeguard the constitutional right of Hungarian citizens to a healthy environment.

The idea stemmed from work carried by a Budapest-based non-governmental organisation, Védegylet ('Protect the Future'). In 2000 Protect the Future had proposed an institution that could act as a spokesperson for those who are the "most excluded of the excluded" from democratic representation: that is, future generations. It was Protect the Future member László Sólyom, now President of Hungary, who drafted the law establishing the green ombudsman role.

In May 2008 the Hungarian Parliament elected environment lawyer, academic and former public prosecutor Dr Sándor Fülöp to become Hungary's first Parliamentary Commissioner for Future Generations for a six-year term. The Commissioner for Future Generations is one of four Parliamentary Ombudsmen, with others addressing civil rights, data protection and freedom of information, and the rights of 'national and ethnic minorities,' respectively.

The UK already has an Information Commissioner (dealing with data protection and freedom of information) and four Children's Commissioners (working to promote the views and best interests of all children and young people). But there is no direct equivalent of the Commissioner for Future Generations.

So is the model one that we should be considering more closely here in the UK? The UK's constitution, unlike Hungary's, does not directly recognise the right of UK citizens to a healthy environment. However, in August 2008, a report from the Joint Committee on Human Rights called on the Government to adopt an 'aspirational' UK Bill of Rights and Freedoms, arguing that there is a strong case for it to include a right to a healthy and sustainable environment (<http://www.publications.parliament.uk/pa/jt200708/jtselect/jtrights/165/165i.pdf>).

In any case, the Hungarian model has potential to offer inspiration even without a foundation in a written constitution. Certainly, the 'ombudsman' function is far from new to the UK. There are, for example, (at least) twelve government ombudsmen in the UK whose offices look into complaints about discrete organisations or kinds of organisations. And the British and Irish Ombudsman Association lists 27 full voting members.

Ombudsmen typically work to investigate organisational or functional 'maladministration' of one kind or another. In the UK, the scope of the term 'maladministration' was famously drawn in 1966 by then-leader of the House Richard Crossman MP who said that it applied to 'bias, neglect, inattention, delay, incompetence, inaptitude, perversity, turpitude, arbitrariness and so on'.

The Hungarian Green Ombudsman's functions are far broader even than this wide view. For whilst the Green Ombudsman is mandated to investigate complaints relating to a broad range of

environmental issues (familiar 'ombudsman' territory which brings potential for fruitful exchange of information with the UK's practising environmental lawyers), the functions assigned to his role reach deep into the policy process. The Green Ombudsman is also mandated to act as a policy advocate for 'sustainability' issues across all relevant fields of national and local legislation and public policy (including acting as a source of specialist advice to Parliament). And he has a wider mandate to widen the knowledge base: the third function is to undertake or promoting research projects targeting the long term sustainability of human societies.

This wide range of functions makes the Hungarian role not only unique, but also extremely challenging. How, for example, will the nexus between environmental and social issues play out in practice? And how will the Ombudsman gauge the interests of 'future generations'?

If the Green Ombudsman can be understood in part as an independent watchdog for sustainable development and future generations, the role already has some partial parallels here in the UK. For example, the Parliament's Environmental Audit Committee considers the extent to which the policies and programmes of government departments and non-departmental public bodies contribute to environmental protection and sustainable development. And the Sustainable Development Commission works as the Government's independent advisory body on sustainable development.

The Parliamentary Commissioner's mission to bring concern for future generations into the policy process could help further to inspire a recent proposal for a 'Congress for the Future'; one of nineteen 'Breakthrough ideas for the Twenty-first Century' selected by the Sustainable Development Commission following an open competition over 2008-9. The proposal, in SDC Commissioner Lindsey Colbourne's words, is to '*create a special Congress, convened by Parliament every year, to help build broad agreement and provide direction on long-term questions*'. (See Sustainable Development Commission, *Breakthroughs for the twenty-first century*, 2009). Participants in the Congress would be randomly-selected citizens and stakeholders, invited to engage on selected issues in an informed, deliberative process with the overall objective of reaching an informed consensus to give long-term vision and direction to the country.

In a second relevant initiative, the Corporate Responsibility (CORE) coalition (see <http://corporate-responsibility.org/>) whose members include some 130 civil society groups, some of the UK's best known charities among them, is pressing for the creation of a new UK Commission on Business, Human Rights and the Environment. The essential idea is that the Commission would provide guidance to companies on what standards they must adhere to when operating abroad, and act as a forum for hearing and resolving allegations of infringements. Whilst the Commission proposals are focused on the extraterritorial impacts of UK companies, the mix of functions that have been suggested – ranging from quasi-judicial dispute resolution and investigation to rule-setting – suggest that the Hungarian Green Ombudsman model is one that needs to be taken into account.

There are also parallels between the Hungarian Green Ombudsman's functions and parliamentary innovation elsewhere.

In Finland, the parliament established a "committee for the future" in 1993, charged with carrying on an "*active and initiative-generating dialogue with the Government on major future problems and means of solving them*". And in a different approach, the Israeli Knesset passed legislation to enable the creation of a Commission for Future Generations, a non-political entity which operated from 2001 until 2006. The Commission's functions included providing parliament with opinions and recommendations on regulation and other issues relevant to future generations.

So far, there are no signs that a 'green ombudsman' or anything like it will feature in any of the major parties' pre-election manifestos here in the UK. And it is too soon to pass judgment on the effectiveness of the Green Ombudsman's role in strengthening implementation and enforcement of environmental law or in bringing the interests of future generations to the heart of the policy process. It is nonetheless clear that the UK should be prepared to watch closely and learn from the Hungarian model.

With this in mind, on 22nd February 2010, the Hungarian Parliamentary Commissioner for Future Generations will be speaking at a special evening event hosted by the Ministry of Justice. The event is organised by UKELA, the Foundation for Democracy and Sustainable Development and the Government Legal Service Environment Group.

Dr. Fülöp is keen to promote wider debate within Europe to strengthen decision-making in the interest of future generations. And he adds: *"I personally very much appreciate the robust development of environmental law in the UK, especially in the field of climate protection... I am looking forward to the possibility of meeting with representatives of the UK legal profession engaged in environmental matters and to generating a lively exchange in order to further strengthen our joint efforts in the interests of future generations."*

You can register to attend Dr. Fülöp's talk by emailing greenombudsman@fdsd.org with your name, position and organisation. Further information and an invitation to attend will also be emailed to all UKELA members.

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