

Standing on Their Own: The Parallel Rights of Young People to Participate in Planning Processes and Defend Those Rights

Dawn Jourdan

Follow this and additional works at: <http://digitalcommons.wcl.american.edu/sdlp>

 Part of the [Constitutional Law Commons](#), [Energy and Utilities Law Commons](#), [Environmental Law Commons](#), and the [Human Rights Law Commons](#)

Recommended Citation

Dawn Jourdan (2011) "Standing on Their Own: The Parallel Rights of Young People to Participate in Planning Processes and Defend Those Rights," *Sustainable Development Law & Policy*: Vol. 11: Iss. 1, Article 15.
Available at: <http://digitalcommons.wcl.american.edu/sdlp/vol11/iss1/15>

This Article is brought to you for free and open access by the Washington College of Law Journals & Law Reviews at Digital Commons @ American University Washington College of Law. It has been accepted for inclusion in Sustainable Development Law & Policy by an authorized administrator of Digital Commons @ American University Washington College of Law. For more information, please contact fbrown@wcl.american.edu.

STANDING ON THEIR OWN: THE PARALLEL RIGHTS OF YOUNG PEOPLE TO PARTICIPATE IN PLANNING PROCESSES AND DEFEND THOSE RIGHTS

by Dawn Jourdan*

INTRODUCTION

Time Magazine recently featured an article about how the decisions made by women during their pregnancies could shape the rest of a child's life.¹ These decisions may lead to long-term issues like diabetes, obesity, and dependency issues, among others.² At the heart of the article is the notion that parents, particularly mothers, have a duty to take good care of themselves and their developing fetuses to ensure that their chances for improved health are increased. This duty to make decisions that protect the health and well being of children continues long after birth. Some of the most important decisions parents make include where and how much to work and where to live so that children will be safe and be able to attend quality schools. Parents make these decisions for their children. They do not usually consult them about these issues because it is commonly held that such decisions are the parent or parents' responsibility alone. However, the failure to consult children, particularly about issues that affect their daily lives, may result in long-term harm to the child as he or she matures, as well as negatively affecting the well-being of future generations to which children are closely tied. A prime example of important decisions from which youth are often excluded is where a family will reside.

Over the last sixty years, many families in the United States have sought to flee to suburbs for access to better lives.³ There is evidence that such moves enhance quality of life; the schools are of better quality and the children, for the most part, are safer in these suburban communities.⁴ And yet, strong evidence shows that the decision to suburbanize has contributed to a number of endemic problems that affect the lives of children, including childhood obesity and social alienation.⁵ The lack of walkability in suburban areas has contributed to a decline in the physical health of U.S. children.⁶ Evidence also demonstrates that the suburban lifestyle has resulted in the creation of a generation of young people who are "alienated from community" and "disengaged from democracy."⁷ Youth continue to express an unparalleled level of political indifference.⁸ According to Robert Putman, today's youth are less interested in community issues or political causes than previous generations.⁹ This lack of interest should be considered at least as troubling as the rise in juvenile diabetes and obesity rates.

Policymakers are starting to take these issues very seriously; for instance, cities have begun to adopt child-friendly policies.¹⁰ At their core, all of these policies seek to "save the

children" or "defend their rights," both admirable goals.¹¹ Yet, these policies fail because policymakers commonly assume that they know what is best for children.¹² Many of these efforts do not recognize that children and youth possess their own level of competency about what is in their best interest.¹³ Some scholars and youth advocates believe that cities will not truly be child-friendly until they view youth as competent citizens with good ideas about community form and invite them to plan for their own current and future well-being.¹⁴

This article seeks to connect a host of interdisciplinary theories pertaining to sustainability, youth participation, and legal standing. The centerpiece of this article is a case study of an intergenerational planning activity that occurred at the McDaniel Glenn public housing complex in Atlanta, Georgia between 2002 and 2003. The article then describes the threshold requirements for citizens, in this case children, who seek to challenge the decisions of policymakers who ignore their rights as specified by law. Finally, the author explores the ethical implications associated with granting the right of court access to young people in the context of participation in governance.

INTERGENERATIONAL EQUITY AS A COMPONENT OF SUSTAINABILITY

In her book, *In Fairness to Future Generations*, Edith Brown Weiss defines the concept of intergenerational equity:

We, as a species, hold the natural and cultural environment of our planet in common, both with other members of the present generation and with other generations, past and future. At any given time, each generation is both a custodian or trustee of the planet for future generations and a beneficiary of its fruits. This imposes obligations upon us to care for the planet and gives us certain rights to use it.¹⁵

These obligations include the duty to pass the earth on in the condition upon which the generation received it and also the duty to repair any damage caused by previous generations.¹⁶ According to the author, humans should behave in this manner because of "the realization that is essential to the health and well-being of even the present generation to know that our species . . . will

* Dawn Jourdan is an assistant professor of urban and regional planning at the University of Florida. She holds a joint appointment with the Levin College of Law. Dr. Jourdan teaches courses in: land use law, affordable housing, and growth management. Dr. Jourdan researches and advocates for the development of planning processes that are child-friendly.

exist beyond our own lifetime.”¹⁷ Beyond altruism, Weiss suggests that intergenerational equity should be pursued on the basis of ecocentrism.¹⁸ This philosophy embraces the notion that the environment has inherent value. From this perspective, intergenerational equity is important because “the human community is, in the end, only part of a much larger natural system . . .”¹⁹

The question which drives the notion of intergenerational equity—i.e., why we should care about future generations—may have an answer in biology.²⁰ Based on Darwinist principles, the present generation is concerned about future generations because individuals are genetically predisposed to do anything necessary to produce as many offspring as possible.²¹ The level of care humans exert toward others varies according to our genetic relationships.²²

Urban planners are amongst the ranks of professionals stressing the need for sustainable development practices for the sake of the preservation of intergenerational interests. Some planners and policymakers take on a paternalistic perspective and use their training to plan for future generations, including children who have not yet obtained legal rights to participate.²³ Simultaneously, others have embraced the opportunity to encourage children to participate in planning processes so that they may represent their interests and, perhaps, those of future generations to come.²⁴ While the primary goal is the same, i.e. intergenerational equity, the end result may be different. History has demonstrated that when communities plan for children, they plan with the fundamental goal of keeping children safe from harm.²⁵ In the urban context, planning for the safety of children has led to the development of gated suburban-style neighborhoods and the development of school campuses outside the neighborhood boundaries.²⁶ Arguably, these suburban features enhance the safety of children because children living in these environments lack the freedom to independently explore the natural and built environment. Nevertheless, neither the style of land development, nor the isolation experienced by youth is sustainable.²⁷ A great deal of planning scholarship substantiates the lack of social and environmental sustainability of suburban land development patterns.²⁸ The solution to the problems associated with urban sprawl lies partly in identifying and constructing more sensitive forms of development. This type of development is more likely to emerge from planning processes which involve children and youth in the planning process, helping to prepare them to be lifetime stewards of the environment.

PLANNING WITH CHILDREN

The 2005 American Institute of Certified Planners (“AICP”) Code of Ethics and Professional Conduct governs planning practice in the United States.²⁹ That Code mandates: “Planners shall give people the opportunity to have a meaningful impact on the development of plans and programs that may affect them. Participation should be broad enough to include those who lack formal organization or influence.”³⁰ This section of the Code seeks to be inclusive of disenfranchised groups who have not always found the planning process to be welcoming, which include the poor, the homeless, the disabled, and others.

Some scholars claim that young people are entitled to participate because of their lack of influence on policymaking.³¹ While there has always been an assumption in both planning and legal practice that the needs of children are best represented by their adult counterparts, planning discourse, in particular, reveals those areas where those needs do not align. Parents’ decisions about where to live and planning decisions concerning where to encourage development often limit the mobility of children and their ability to walk to school, the park, friends’ houses, or the grocery store, if any of these non-residential facilities are permitted in the suburban neighborhood.³² Generally, adults appear to be happy raising their children in suburban residential areas.³³ However, it is questionable whether the youth consider these desirable places to live.³⁴

While some might contend that children and youth do not have the knowledge or maturity to answer this question, others have sought to gain insight from the youth perspective for more than forty years. Urban designer Kevin Lynch began to explore the role of the child’s experience of the built and natural environment in the 1970s.³⁵ Lynch organized teams of researchers in Argentina, Australia, Mexico, and Poland “to help document the human costs and benefits of economic development, by showing how the child’s use and perception of the resulting micro-environment affects his life.”³⁶ Based on these efforts, Lynch impressed upon the planning and design community that children, even at very young ages, have a great deal of knowledge about the planned and unplanned areas of their built and natural environments.³⁷ Lynch advocated for the inclusion of the child in the planning process,³⁸ reflecting a departure from paternalistic planning practices prior to the 1970s.

Lynch’s ideas were not fully embraced by the planning communities in the 1970s.³⁹ Recently, sustainability advocates have revived Lynch’s call for youth participation.⁴⁰ The principles of sustainable development require that environmental, social, and economic goals meet the needs of the present generation without compromising the necessities of future generations.⁴¹

The concern for children’s rights within the sustainable development movement parallels developments made in substantiating the legal rights of children worldwide. International legal scholars have been advocating for the rights of the child since the League of Nations adopted the Geneva Declaration of the Rights of the Child in 1924.⁴² Subsequently, children were given the right “to special care and assistance,” as a part of the Universal Declaration of Human Rights.⁴³ The subject matter of Lynch’s study corresponded with the United Nation’s declaration of 1979 as the International Year of the Child.⁴⁴ The year of the child led to the Convention of the Rights of the Child (“CRC”), which became effective in 1990.⁴⁵ Among other important factors, the CRC identifies the well-being of children as an indicator of sustainable development practices, which the 1990 World Summit for Children’s Plan for Action,⁴⁶ the 1992 Rio de Janeiro Earth Summit’s Rio Declaration,⁴⁷ and Agenda 21 action plan more fully develop.⁴⁸ The Children’s Rights and Habitat Declaration, which UNICEF presented at the UN Conference on Human Settlements in Istanbul in 1996, further

identified this connection between children and sustainable development: “Children have a special interest in the creation of sustainable human settlements that will support long and fulfilling lives for themselves and future generations.”⁴⁹ The Declaration continued, “[Children] require opportunities to participate and contribute to a sustainable urban future.”⁵⁰ Policymakers are beginning to consider ways to bring children’s issues to the forefront.⁵¹ Some are even attempting to find ways to include them in more traditional participatory processes.

The American Planning Association catalogues many of these youth based planning activities in an on-line periodical entitled *ResourcesZine*.⁵² These activities range from those that are educational in nature to the actual involvement of young people in decision-making processes.⁵³ Research on these activities has provided the planning profession with invaluable information about play patterns;⁵⁴ access to local environments;⁵⁵ preferred land use patterns;⁵⁶ and empowerment.⁵⁷ Likewise, this research reveals that young people embrace the opportunity to participate and are typically empowered by such efforts.⁵⁸

The degree to which planners consult children as participants in the planning process is of utmost importance. While it is commonly assumed that planners should invite citizens to participate at the highest level of participation,⁵⁹ the same level of participation may not be required for obtaining invaluable youth perspectives or effectuating empowerment.⁶⁰ Planners should design a program to maximize the ability of a child to have a choice to participate at the highest level of his or her ability.⁶¹ Decisions regarding the degree of youth participation should be context dependent.⁶²

The most empowering form of participation in the planning process occurs when citizens initiate and control the process.⁶³ This level of participation is not appropriate for all decisions requiring community consultation. Citizen controlled and initiated participation is effective when the citizenry has identified an issue of great importance to them that they choose to champion rather than delegating directly to policymakers for solution. Those who seek to create opportunities for youth to participate in decision-making do not commonly advocate this type of participation. However, given the right issue and a willing planner to facilitate such processes, such activities may provide a unique opportunity for a better understanding of complex issues with intergenerational underpinnings while empowering participants. The efforts of the intergenerational planning committee at the McDaniel Glenn public housing community in Atlanta, Georgia provide a prime example of this type of participation.⁶⁴

In 2003, the Atlanta Housing Authority (“AHA”) initiated efforts to obtain a HOPE VI⁶⁵ grant for the revitalization of the McDaniel Glenn public housing community.⁶⁶ Like many other public housing communities, McDaniel Glenn had become a haven for concentrated poverty and the social ills that often accompany such disinvestment.⁶⁷ As required by law, the AHA commenced a series of public meetings to garner resident support for a grant that, if received, would result in the displacement of the residents as a result of the demolition of the public housing complex.⁶⁸ Attendance at the first meeting was high and included

residents of all ages, including community youth—even though they had not been officially invited.⁶⁹ When officials from the AHA asked the audience what was wrong with their communities, hands across the room shot into the air, including the waiving hands of children who did not understand that their voices are not often solicited as a part of such processes.⁷⁰ While their parents tried to hush them, the AHA official charged with organizing the participation process for the HOPE VI grant application saw an invaluable opportunity to learn from and empower children by allowing them to participate in the process.⁷¹ Subsequently, the AHA formed two separate committees: one for youth and one for adults.⁷² These committees ran parallel to one another.⁷³ There were no original plans to merge them.⁷⁴ However, during the process, the AHA official charged with organizing the participants came to value the insights shared by the youth participants whose ages ranged from eight to eighteen.⁷⁵ He arranged an event where the youth were allowed to present their findings to their adult counterparts who greeted the ideas of the young with great enthusiasm.⁷⁶

As the application process progressed, the youth planning group ceased to exist as an independent entity, but was not formally disbanded.⁷⁷ However, the youth remained interested in what was happening with the development of the HOPE VI grant application and many of them began attending meetings for the adult planning group.⁷⁸ They were never discouraged from participating.⁷⁹ They attended with regularity and many of their ideas were embraced in the final grant application, which was funded by the United States Department of Housing and Urban Development in 2004.⁸⁰ The youth who participated in this effort were proud of their work and empowered by the process.⁸¹ They uniformly agreed that they would participate again if invited to do so.⁸²

This account provides good evidence that, if welcomed and educated, youth can provide invaluable insights about ways in which development activities might enhance their present and future lives. However, unless properly educated about the politics associated with the planning process, young people may become frustrated or disappointed by the outcomes of such planning activities. As planners and policymakers well know, even the best plans are sometimes way-laid by politics. It is also possible that even when they are adopted, these plans will not be implemented as originally intended.

As adults, we have come to understand the nature of the political process. We are less surprised when our input is not included in final policy decisions. When we are disappointed by the outcomes of such processes, we are vested, by law, with a number of rights to challenge decisions made and those who make them. We can elect other representatives when policymakers do not listen to our ideas. We can run for office. We can use the legal system to challenge policies that infringe upon our rights. With very rare exception, young people, even those who have participated in planning processes, do not have the same rights. They must rely on adults to champion their challenges because the law, particularly land use and environmental regulations, have not given them *loci standing* to challenge decisions

that may infringe upon their rights as well as the rights of future generations.

STANDING TO SUE: THE RIGHT TO ENFORCING PLANS

The legal rights of children have evolved as a result of international efforts to shed light on their unique plight. A divide continues to exist within legal discourse about whether a child is a holder of rights that may have his or her wishes represented in the legal process or is a legal entity requiring guardianship to represent what is in his or her best interests.⁸³ One perspective proposes that the right to be heard and to have some say in what happens to a person is among the most fundamental of rights.⁸⁴ This perspective holds that the right to be heard does not mean giving the child ultimate decision-making power, but simply acknowledging the importance of the child's voice.⁸⁵

Despite such arguments, the court system has been reluctant to involve children in proceedings that directly affect them, like parental placement.⁸⁶ Instead, guardians are appointed to advocate not necessarily for what the child wants but for that which adults, including attorneys and judges, have deemed to be in the child's "best interests."⁸⁷ They act as *parents patriae*, roughly translated as "wise, affectionate, and careful parent[s]."⁸⁸ Even the Supreme Court has ruled that children have diminished rights under the Constitution and that such rights do not mature until young people reach the age of majority.⁸⁹ Advocates for a more child-centered approach to legal representation call for a shift in thinking, which presumes that children are capable in helping attorneys prepare to represent their rights.⁹⁰ The child-centered approach to legal advocacy provides a necessary link to the right of youth to participate in planning processes. As previously stated, even if youth are allowed to participate in planning processes, these rights are permanently limited if courts are unwilling to allow young participants legal standing to challenge decisions made with respect to the adoption and implementation of the plans they help craft.

The right of citizens to bring suits against local governments to enforce decisions made as a part of the planning process varies across jurisdictions and States. In Florida, for example, the State mandates comprehensive planning activities.⁹¹ These plans can only be modified after a formal public hearing process.⁹² If decisions regarding the implementation or modifications of the plans do not reflect the public's will, courts will likely void these decisions on the grounds that they are inconsistent with the comprehensive plan. The costs of ignoring these plans can be high, as recently demonstrated in *Pinecrest Lakes, Inc. v. Shidel*. There, the trial court in Florida invalidated an action of a county planning commission, which permitted development that was inconsistent with the comprehensive plan, and the District Court of Appeals affirmed.⁹³ The Court granted a remedy to the citizen group consisting of the demolition of a newly erected, multi-million dollar multi-family housing development that was permitted without a zoning change, despite the fact that the city had zoned the area for single-family development.⁹⁴ While these results are not commonplace, this case demonstrates the

importance of following the due process requirements attached to the planning process.

To be able to challenge planning decisions under the law of the United States, petitioners must have standing to do so. Standing is a threshold that a litigant must cross before proceeding with his or her legal claim.⁹⁵ Many environmental laws specify the requirements for standing, which vary considerably by regulation. Consider, for example, the Endangered Species Act ("ESA").⁹⁶ As drafted, the ESA gives "any person" the right to enforce the law "on his own behalf."⁹⁷ However, in *Lujan v. Defenders of Wildlife*, the United States Supreme Court limited this right.⁹⁸ The Court interpreted the ESA's standing provision to require that plaintiffs suffer an "actual" injury.⁹⁹ The Court said that all ESA plaintiffs must meet an "irreducible constitutional minimum of standing."¹⁰⁰ The constitutional minimum of standing includes proof of an "injury in fact."¹⁰¹ Generally, an injury in fact occurs when the injury is "concrete and particularized" and "actual or imminent."¹⁰² This may prove to be an insurmountable obstacle for future generations, as their interests are considered legally speculative.¹⁰³ The second requirement of standing is a causal link between the injury and the "challenged action of the defendant."¹⁰⁴ Finally, to prevail on the issue of standing, a plaintiff must show that his or her injury can be "redressed by a favorable decision" of the courts.¹⁰⁵

In *Lujan*, the Supreme Court ruled that the Defenders of Wildlife had failed to satisfy the injury in fact requirement.¹⁰⁶ Even though two members of the organization had provided affidavits regarding past travels to Sri Lanka and Egypt, the Court held that their future plans to return were speculative at best and therefore insufficient to amount to an actual and particularized injury.¹⁰⁷ The Court went further in limiting the "any person" language of the ESA to require that plaintiffs be current users of affected areas with future plans to return.¹⁰⁸ Under this interpretation, it would be difficult, if not impossible, for children and future generations to garner access to the courts to challenge laws and decisions made based on these laws as a result of standing requirements that do not embrace the principles of inter-generational equity. The *Lujan* ruling discriminates against the "poor, the physically impaired, the young, and the unborn."¹⁰⁹

The implications of the *Lujan* decision are vastly important to discussions regarding children's rights and, more specifically, their right to participate in planning processes. While it might be possible for parents with children to challenge decisions made by policymakers that fail to protect endangered species if the family has been to visit the place inhabited by the species and they intend to return, it would be difficult for a child who is not yet able to travel on her own to challenge actions that may, in the future, impact her ability to observe and enjoy these animals in the future. The issue becomes much more difficult to raise in the instance of future generations that have not yet been born who may lose the opportunity to enjoy the species if someone is not allowed to go to court on their behalf. In *Oposa v. Factoran*, the Supreme Court of the Philippines offered a model for standing that allows young people to defend their rights as well as future generations of those similarly situated.¹¹⁰

OPOSA: A MODEL OF INTERGENERATIONAL STANDING RIGHTS

In *Oposa*, the Philippine Supreme Court recognized the right of intergenerational standing.¹¹¹ The plaintiffs sought an order from the court directing the Secretary of Environment and Natural Resources to desist from processing any new timber licensing agreements.¹¹² The class of youths, along with their parents and the Philippine Environmental Network (an environmental non-governmental organization), challenged the actions of the government that had allowed timber companies to harvest protected forests.¹¹³ The class also included the interests of unborn generations to enjoy the nation's tropical rain forests at some point in the future.¹¹⁴ Collectively, the petitioners claimed that they were "entitled to the full benefit, use, and enjoyment of the natural resource treasure that is the country's virgin tropical rainforests."¹¹⁵ While standing was not an issue considered by the lower court, the Supreme Court considered the right of the class to bring suit.¹¹⁶ The Court held:

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."¹¹⁷

Upon final review of this issue, the Court ruled that because the youth had an obligation to preserve the environment, they were entitled to bring suit to preserve their rights, as well as the rights of future generations to protect this invaluable environmental resource.¹¹⁸ The Supreme Court remanded the case for trial.¹¹⁹

In the end, this case did little to reduce the effects of timbering practices in the Philippines.¹²⁰ However, the *Oposa* decision has attracted a great deal of international attention, in part, because of the difficulty that most young plaintiffs or those representing intergenerational interests experience in meeting the thresholds established for standing to sue.¹²¹ The *Oposa* decision in 1993 reflected the increasing discussion about intergenerational rights to sustainable use of natural resources on the international level. International treaties, such as the Convention on the International Trade in Endangered Species of Wild Fauna and Flora, the Amazonian Co-operation Treaty, and the Climate Change Convention, among others, have all embraced the rights of future generations to a healthy environment.¹²² While these rights exist, questions remain regarding who is the appropriate person to defend these rights before the courts. Young people are capable, with representation by those who are skilled in the representation of minors, and are the best positioned to bring these claims on behalf of themselves and future generations.

ETHICAL CONCERNS: SHOULD YOUTH HAVE THE RIGHT TO SUE?

Those who are critical of efforts to involve youth in planning processes often raise concerns that young people may be harmed by their participation, in part, because they are not mature enough to understand the politics of decision-making. The same issue is relevant when we discuss the rights of young people to bring suit against policymakers that violate the very regulations they have helped to draft. There is little doubt that, in the absence of special efforts to educate young people about these processes, disappointment may occur. Of greater concern is that encounters with such processes, particularly those that do not empower the participants, may have a negative effect on the youth's long-term willingness to participate in issues pertaining to governance.

The planning community does a great disservice to young people in inviting them into a planning process without giving them the right to seek to compel policymakers to adopt the plans of which they were a vital part of making. Imagine that the adults and youths who participated on the planning committee for the redevelopment of the public housing project in Atlanta had been actively engaged in participation and assured by the public housing authority and the project's future developer that the design they helped create would be built. This group has an expectation that what they have helped to envision will come to fruition. If their efforts are discarded, should they not have a right to challenge such decisions? If they should, then which of the members should have the right to sue? Clearly, adults who have met the standing requirements under United States law may sue. Why not extend the same rights to the young people who showed the same level of interest and commitment in the planning process? After all, their lives are as prone to disruption by the ensuing redevelopment activity as the older members of the community. Young people's injuries are very real and should be represented, not as a part of their parents' claims for injury, but as a result of the injuries they would personally suffer.

CONCLUSION

Access to justice by youth must accompany their right to participate in community planning decisions.¹²³ Without the simultaneous grant of both rights, the right to participate in decision-making is a mere invitation for discussion of possibilities, not realities. By giving participants in planning processes access to the justice system to enforce these rights, we reinforce the value of the process itself and ensure that plans and policies are implemented and enforced in the manner envisioned by all drafters. This certainly should include the young who are empowered to speak for themselves and future generations of similarly situated children. In the absence of the recognition of both the right to participate and to sue when policies are not adhered to, the rights associated with intergenerational equity may be sacrificed with little regard to the needs and desires of future generations. 

Endnotes: Standing on Their Own on page 68

ENDNOTES: STANDING ON THEIR OWN: THE PARALLEL RIGHTS OF YOUNG PEOPLE TO PARTICIPATE IN PLANNING PROCESSES AND DEFEND THOSE RIGHTS *continued from page 45*

¹ Annie Murphy Paul, *How the First Nine Months Shape the Rest of Your Life*, TIME, Sept. 22, 2010, available at <http://www.time.com/time/print-out/0,8816,2020815,00.html>.

² *Id.*

³ See ROBERT D. PUTNAM, BOWLING ALONE: THE COLLAPSE AND REVIVAL OF AMERICAN COMMUNITY 209, 214 (2000) (arguing that Americans moved to the suburbs for their “greater space, larger homes, [and] lower-cost shopping and housing”).

⁴ See Christopher B. Leinberger, *The Next Slum?*, THE ATLANTIC, Mar. 2008, available at <http://www.theatlantic.com/magazine/archive/2008/03/the-next-slum/6653/> (explaining that, beginning in the 1970s, parents believed they had

to move to the suburbs to ensure their children grew up in safety and had access to good schools).

⁵ See James F. Sallis & Karen Glanz, *The Role of Built Environments in Physical Activity, Eating, and Obesity in Childhood*, THE FUTURE OF CHILDREN, Spring 2006, at 92-94 (suggesting that the lack of walkable neighborhoods in the suburbs may correlate with increased childhood obesity); Willem van Vliet, *Neighborhood Evaluations by City and Suburban Children*, 47 J. AM. PLAN. ASS’N 458, 460 (1981) (explaining how suburban children become increasingly socially isolated as they grow up).

⁶ See Sallis & Glanz, *supra* note 5, at 92-94.

⁷ Barry Checkoway et al., *Young People as Competent Citizens*, 38 CMTY. DEV.

J. 298, 299 (2003).

⁸ See John R. Hibbing & Elizabeth Theiss-Morse, *Civics Is Not Enough: Teaching Barbarians in K-12*, 29 POL. SCI. & POL. 57, 57-62 (1996) (arguing that American students “lack the most rudimentary background information” about current politics).

⁹ See PUTNAM, *supra* note 3, at 25, 129 (arguing that members of “Generation X” are less civically engaged than previous generations as evidenced by their decreased volunteering).

¹⁰ See Checkoway et al., *supra* note 7, at 299 (arguing that cities are expanding services to assist youth).

¹¹ *Id.*

¹² *Id.* at 299-300 (asserting that journalists, social scientists, and social workers’ assistance weakens minority children’s ability to help and empower themselves).

¹³ *Id.*

¹⁴ *Id.*

¹⁵ EDITH BROWN WEISS, IN FAIRNESS TO FUTURE GENERATIONS 17 (1998).

¹⁶ See *id.* at 47, 50 (explaining the nature of human’s “planetary obligations” to “conserve diversity, quality, and access” to global resources).

¹⁷ *Id.* at 165.

¹⁸ See *id.* at 21 (arguing for obligations shared among and within generations in using the earth’s “natural and cultural resources”).

¹⁹ *Id.* at 23.

²⁰ Paul A. Barresi, *Beyond Fairness to Future Generations: An Intragenerational Alternative to Intergenerational Equity in the International Environmental Arena*, 11 TUL. ENVTL. L.J. 59, 69 (1997).

²¹ *Id.* at 70-71.

²² *Id.*

²³ Camille Passon et al., *Implications of Adolescents’ Perceptions and Values for Planning and Design*, 28 J. PLAN. EDUC. & RES. 73, 74 (2008).

²⁴ See Checkoway et al., *supra* note 7, at 300, 306 (explaining how empowered community members, rather than social workers, are the most effective at helping at-risk members of their communities).

²⁵ See van Vliet, *supra* note 5, at 459 (explaining that officials have consistently, if not completely effectively, attempted to improve the conditions that urban youth grow up in); Passon et al., *supra* note 24, at 74-75 (noting that urban planning “usually centers on the need to protect children from real and perceived harm”).

²⁶ See SUBURBAN SPRAWL: CULTURE, THEORY, AND POLITICS xviii (Matthew J. Lindstrom & Hugh Bartling eds., 2003) (outlining the use of child safety as a constitutional basis for the restriction of private property rights to promote the development of urban zoning); see generally, Robert E. Lang & Karen A. Danielson, *Gated Communities in America: Walling Out the World?*, 8 HOUSING POL’Y DEBATE 867 (1997), available at <http://content.knowledgeplex.org/kp2/img/cache/documents/2104.pdf> (positing that gated communities lead to alienation from local school districts).

²⁷ See Karen Malone, *Children, Youth, and Sustainable Cities*, 6 LOC. ENV’T 5, 6-7 (2001) (arguing that excessively regulated public spaces retard children’s social maturation and diminish “the integrity of the social, economic, and environmental fabric”).

²⁸ See *id.*

²⁹ AIPC CODE OF ETHICS AND PROFESSIONAL CONDUCT, AM. PLAN. ASS’N, (revised Oct. 3, 2009), <http://www.planning.org/ethics/ethicscode.htm>.

³⁰ *Id.*

³¹ Kathryn I. Frank, *The Potential of Youth Participation in Planning*, 20 J. PLAN. LITERATURE 351, 360 (2006).

³² See Malone, *supra* note 27, at 6.

³³ See van Vliet, *supra* note 5, at 458 (asserting that parents prefer to raise their children in “suburban settings”).

³⁴ Passon et al., *supra* note 23, at 73.

³⁵ GROWING UP IN CITIES 1 (Kevin Lynch ed., 1977).

³⁶ *Id.*

³⁷ See, e.g., *id.* at 1-2; Karen Malone, *Growing Up in Cities as a Model of Participatory Planning and ‘Place-Making’ with Young People*, 18 YOUTH STUD. AUSTRAL., June 1999, at 17; Jeff Bishop, *An Unrecognized Legacy – Children, the Environment and Kevin Lynch*, 2 CHILD. ENV’T Q., Fall 1985, at 7.

³⁸ See GROWING UP IN CITIES, *supra* note 35 at 57-58.

³⁹ E.g., Louise Chawla, *Putting Young Old Ideas into Action: The Relevance of Growing Up in Cities to Local Agenda 21*, 6 LOC. ENV’T 13, 16-17 (2001).

⁴⁰ See Malone, *supra* note 27, at 7 (noting that recently “[t]he connection between children’s rights and sustainable development has been formally articulated in a number of global declarations.”).

⁴¹ *Id.* (citing U.N. World Comm’n on Env’t and Dev., *Our Common Future*, U.N. Doc. A/42/427 (Mar. 20, 1987)).

⁴² *Geneva Declaration of the Rights of the Child*, League of Nations Doc. O.J. Spec. Supp. 21, at 43 (1924), available at <http://www.umn.edu/humanrts/instree/childrights.html>.

⁴³ Universal Declaration of Human Rights, G.A. Res. 217 (III) A, art. 25(2), U.N. Doc. A/RES/217(III), (Dec. 10, 1948), available at <http://www.udhr.org/udhr/udhr.htm>.

⁴⁴ Cleveland Ferguson III, *Of Politics and Policy: Can the U.S. Maintain its Credibility Abroad While Ignoring the Needs of its Children at Home? – Revisiting the U.N. Convention on the Rights of the Child as a Transnational Framework for Local Governing*, 14 TULSA J. COMP. & INT’L L. 191, 228 (2007).

⁴⁵ *Id.* at 226-27.

⁴⁶ World Summit for Children, Sept. 29-30, 1990, *New Plan of Action for Implementing the World Declaration on the Survival, Protection and Development of Children in the 1990s*, (Sept. 30, 1990), available at <http://www.unicef.org/wsc/plan.htm>.

⁴⁷ United Nations Conference on Environment & Development, Rio de Janeiro, Braz., June 3-14, 1992, *Rio Declaration on Environment and Development*, U.N. Doc. A/CONF.151/26 (Vol. I) (Aug. 12, 1992), available at <http://www.un.org/documents/ga/conf151/aconf15126-1annex1.htm> (proclaiming that “[t]he creativity, ideals, and courage of the youth of the world should be mobilized to forge a global partnership in order to achieve sustainable development and ensure a better future for all”).

⁴⁸ United Nations Conference on Environment & Development, Rio de Janeiro, Braz., June 3-14, 1992, *Agenda 21* § III ch. 25, U.N. Doc. A/CONF.151/5/Rev.1 (Aug. 12, 1992), available at <http://www.un.org/esa/dsd/agenda21/> (promoting the active participation of youth “in the protection of the environment and the promotion of economic and social development”).

⁴⁹ Malone, *supra* note 27, at 8.

⁵⁰ See *id.*

⁵¹ See *id.* (noting that local governments should consider not only the needs of children in sustainable development, but also how children may effectively participate in the policy planning).

⁵² *ResourcesZine*, AM. PLAN. ASS’N, <http://www.planning.org/resourceszine/> (last visited October 18, 2010).

⁵³ See *id.*

⁵⁴ See, e.g., Sandrine Depeau, *Urban Identities and Social Interaction: A Cross-Cultural Analysis of Young People’s Spatial Mobility in Paris, France, and Frankston, Australia*, 6 LOC. ENV’T 81, 81 (2001).

⁵⁵ See, e.g., Paul Tranter & Eric Pawson, *Children’s Access to Local Environments: A Case-Study of Christchurch, New Zealand*, 6 LOC. ENV’T 27, 27 (2001).

⁵⁶ See, e.g., Emily Talen & Mary Coffindaffer, *The Utopianism of Children: An Empirical Study of Children’s Neighborhood Design Preferences*, 18 J. PLAN. EDUC. & RES. 321, 321 (1999).

⁵⁷ See, e.g., Myrna Margulies Breitbart, *Banners for the Street: Reclaiming Space and Designing Change with Urban Youth*, 15 J. PLAN. EDUC. & RES. 35, 35-36 (1995); Ilaria Salvadori, *“Remove a Fence, Invite Chaos”*: *Children as Active Agents of Change*, 6 LOC. ENV’T 87, 88-89 (2001); Suzanne Speak, *Children in Urban Regeneration: Foundations for Sustainable Participation*, 35 CMTY. DEV. J. 31, 31-32 (2000).

⁵⁸ See Elizabeth M. Rocha, *A Ladder of Empowerment*, 17 J. OF PLAN. EDUC. & RES. 31, 37 (1997).

⁵⁹ See Sherry R. Arnstein, *A Ladder of Citizen Participation*, 35 J. AM. INST. PLAN. 216, 216 (1969) (describing citizen participation in government as “a revered idea”).

⁶⁰ See Frank, *supra* note 31, at 355, 359.

⁶¹ ROGER A. HART, CHILDREN’S PARTICIPATION 42-45 (1997).

⁶² See Frank, *supra* note 31, at 369 (arguing that youth should participate in projects that are “win-win-win” for “planners, youth, and the community”).

⁶³ See Arnstein, *supra* note 59, at 217, 223.

⁶⁴ See Dawn Jourdan, *Enhancing HOPE VI Revitalization Processes with Participation*, 39 J. CMTY. DEV. SOC’Y 75 (2008) [hereinafter Jourdan, *Enhancing HOPE VI*]; Dawn Jourdan, *Reducing Pre-Relocation Grief with Participation in a HOPE VI Grant Application Process*, 2 INT’L J. PUB. PARTICIPATION 42, 43 (2008) [hereinafter Jourdan, *Reducing Pre-Relocation Grief*].

⁶⁵ The HOPE VI program was adopted by Congress in the early 1990s after the results of a Congressional study revealed that a significant portion of the nation’s public housing infrastructure was “severely distressed.” See Jourdan, *Reducing Pre-Relocation Grief*, *supra* note 64, at 45-46.

⁶⁶ See *id.* at 53.

⁶⁷ See *id.* at 54.
⁶⁸ See *id.* at 56, 46.
⁶⁹ See Jourdan, *Enhancing HOPE VI*, *supra* note 64, at 9.
⁷⁰ See *id.*
⁷¹ See *id.*
⁷² See *id.*
⁷³ See *id.* at 9-11.
⁷⁴ See *id.*
⁷⁵ See *id.* at 9.
⁷⁶ See *id.* at 9-10.
⁷⁷ See *id.* at 11.
⁷⁸ See *id.*
⁷⁹ See *id.*
⁸⁰ Jourdan, *Reducing Pre-Relocation Grief*, *supra* note 64, at 63; Jourdan, *Enhancing HOPE VI*, *supra* note 64, at 14.
⁸¹ Jourdan, *Enhancing HOPE VI*, *supra* note 64, at 12-13.
⁸² *Id.* at 11.
⁸³ Linda D. Elrod, *Client-Directed Lawyers for Children: It is the “Right” Thing to Do*, 27 PACE L. REV. 869, 872 (2007).
⁸⁴ *Id.* at 875.
⁸⁵ *Id.*
⁸⁶ *Id.*
⁸⁷ *Id.*
⁸⁸ Finlay v. Finlay, 148 N.E. 624, 626 (N.Y. 1925).
⁸⁹ Planned Parenthood of Cent. Mo. v. Danforth, 428 U.S. 52, 74 (1976).
⁹⁰ See Barbara Bennett Woodhouse, *Children’s Rights*, in HANDBOOK OF YOUTH AND JUSTICE 377, 398-99 (Susan O. White ed., 2001) (explaining that “the idea that children must be provided with advocates whose role is to represent the child, not the parent or the state, is becoming firmly established”); Elrod, *supra* note 83, at 912 (arguing that “a child who has the capacity to direct litigation should be able to do so”).
⁹¹ FLA. STAT. § 163.3167 (2010).
⁹² FLA. STAT. § 163.3184 (2010).
⁹³ Pinecrest Lakes, Inc. v. Shidel, 795 So.2d 191, 193 (Fla. Dist. Ct. App. 2001).
⁹⁴ *Id.* at 207, 209.
⁹⁵ See Warth v. Seldin, 422 U.S. 490, 497 (1975) (explaining that “the question of standing is whether the litigant is entitled to have the court decide the merits of the dispute or of particular issues”).
⁹⁶ Endangered Species Act of 1973, 16 U.S.C. §§ 1531-1544 (2006).

⁹⁷ 16 U.S.C. § 1540 (g)(1).
⁹⁸ Lujan v. Defenders of Wildlife, 504 U.S. 555 (1992).
⁹⁹ *Id.* at 560.
¹⁰⁰ *Id.* (quoting Whitmore v. Arkansas, 495 U.S. 149, 155 (1990)).
¹⁰¹ *Id.*
¹⁰² *Id.* (citing Allen v. Wright, 468 U.S. 737, 756 (1984); quoting Whitmore, 495 U.S. at 155 (1990)).
¹⁰³ See Planned Parenthood of Cent. Mo. v. Danforth, 428 U.S. 52, 74 (1976).
¹⁰⁴ Lujan, 504 U.S. at 560 (quoting Simon v. E. Ky. Welfare Rights Org., 426 U.S. 26, 41-42 (1976)).
¹⁰⁵ *Id.* at 561 (quoting Simon, 426 U.S. at 38).
¹⁰⁶ *Id.* at 562.
¹⁰⁷ *Id.* at 563-64.
¹⁰⁸ *Id.* at 564.
¹⁰⁹ Raymond A. Just, *Intergenerational Standing Under the Endangered Species Act: Giving Back the Right to Biodiversity After Lujan v. Defenders of Wildlife*, 71 TUL. L. REV. 597, 607 (1996).
¹¹⁰ Oposa v. Sec’y of the Dep’t of Env’t & Natural Res., 33 I.L.M. 173 (1994).
¹¹¹ *Id.* at 185.
¹¹² *Id.* at 176-77.
¹¹³ *Id.* at 176, 183.
¹¹⁴ *Id.* at 177.
¹¹⁵ *Id.* at 176.
¹¹⁶ *Id.* at 185.
¹¹⁷ *Id.*
¹¹⁸ *Id.* at 185-86.
¹¹⁹ *Id.* at 198.
¹²⁰ See Dante B. Gatmaytan, *The Illusion of Intergenerational Equity: Oposa v. Factoran as Pyrrhic Victory*, 15 GEO. INT’L ENVTL. L. REV. 457, 467 (2003) (stating that the plaintiffs in *Oposa* dropped their suit upon the Supreme Court’s remand of their case to the trial court, and that commercial timbering continued).
¹²¹ See Gregory F. Maggio, *Inter/intra-generational Equity: Current Applications under International Law for Promoting the Sustainable Development of Natural Resources*, 4 BUFF. ENVTL. L.J. 161, 192 (1997).
¹²² See *id.* at 208-09, 214.
¹²³ See Malgosia Fitzmaurice, *The Right of the Child to a Clean Environment*, 23 S. ILL. U. L.J. 611, 652 (1999) (arguing that a child’s right to a clean environment ought to be tied to a child’s right to achieve environmental justice).