



# Environmental Law and Youth Protests: Future Generations Between Speech Acts and Political Representation

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## Abstract

This article aims to provide a semiotic analysis of environmental law and youth protests. More precisely, drawing on speech act theory this article regards both as types of communication and teases out the inherent voice and message, specifically with regard to the interests of future generations. The argument unfolds in three steps. First, the article looks into speaker and speech of environmental law and argues that it speaks, as legislation does, in the first-person plural voice of a ‘we’. Second, the article examines a speech of Greta Thunberg through the lens of Stanley Cavell’s theory of passionate utterances. This interpretation will unlock the political stakes of Thunberg’s speech as she claims standing with those responsible for enacting environmental law. Finally, the consequences of this reading will be analysed by relating message and voice of environmental law. As youth protests question ordinary forms of political representation, new ways of safeguarding the interests of future generations are called upon.

**Keywords** Speech acts · Passionate utterances · Political representation · Future generations · Environmental law

## 1 Introduction

Law is increasingly used to tackle climate change. In the relevant legal documents it is acknowledged that the problems that climate change causes will only exacerbate with the passing of time. In the legal literature this has been acknowledged and led to the formulation of the principle of intergenerational equity that ‘requires each generation to pass the planet on in no worse condition than it received it in and to provide equitable access to its resources and benefits’ ([4], p. 200). It is therefore not surprising that environmental law and policy documents claim to take into account the interests of the youth and future generations. These, however, do not seem

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convinced, as they have taken to the streets in marches under such names as School Strike for Climate and Fridays for Future. This article aims to provide a semiotic analysis of both environmental law and youth protests. More specifically, drawing on speech act theory this article regards both as types of communication and teases out the inherent voice and message, especially as it concerns future generations. The argument unfolds in three steps.

First, the article looks into speaker and speech of environmental law. After examining a number of exemplary cases, the article argues that environmental law speaks, as legislation does, in the first-person plural voice of a 'we'. In modernity, legislation is seen as the act of collective autonomy par excellence: self-legislation, for the whole people speaks about itself. In the case of environmental law, this act of collective self-legislation is performed by a 'we' pledging to strive for a sustainable future, while taking the interests of future generations into account.

Second, activists from NGO's and grassroots movements speak up and demand more and more effective measures to tackle the climate crisis. Children have taken a special place within these events. Greta Thunberg has become the spokesperson of a whole generation, skipping school in order to protest against the lack of political action. Her speech at the United Nations Climate Action Summit in 2019 formed the culmination of her year of protest. This speech will be analysed through the lens of Stanley Cavell's theory of passionate utterances. Cavell defines a passionate utterance as 'a mode of speech in or through which, I declare my standing with you and single you out, demanding a response in kind from you, and a response now, so making myself vulnerable to your rebuke, thus staking our future' ([6], p. 185). This reading will unlock the political stakes of Thunberg's speech as she claims standing with those responsible for enacting environmental law.

Third and finally, this paper brings to the fore the consequences of this interpretation by relating message and voice of environmental law. While environmental law is always voiced by a 'we', Thunberg's speech shows that voice and message do not correspond. The message of environmental law is meant to safeguard liveable conditions for future generations. However, these future generations are not present at the negotiation table. Those without voice, for whom Thunberg acts as a representative, despite herself, do not only demand that their interests are taken into account but also send the message 'Not in our name', thus contesting the representative claim made in environmental law and policy documents.

## 2 Environmental Law: A First-Person Plural Account

This section aims at analysing a number of characteristic examples of environmental policy documents and law. Despite the important differences that one may witness over the decades and that deserve a separate analysis, this article focuses solely on one specific similarity, i.e. the way in which environmental protection through legal means is linked to the interests of future generations. In order to prepare the ground for the semiotic analysis, in the first sub-section a number of exemplary passages of legal documents will be quoted in full. As the quoted passages are in English, the semiotic analysis is also restricted to that language. In

the second sub-section it will be argued that environmental law takes the canonical form of legislation in modernity, i.e. that of a first-person plural speech act.

## 2.1 Law, Environmental Protection and Future Generations

An obvious starting point for the analysis of environmental law is the Stockholm Declaration on the Human Environment of 1972:

*The United Nations Conference on the Human Environment, Having met at Stockholm from 5 to 16 June 1972, Having considered the need for a common outlook and for common principles to inspire and guide the peoples of the world in the preservation and enhancement of the human environment, Proclaims that' (...)*

Principle 1 Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and he bears a solemn responsibility to protect and improve the environment for present and future generations. In this respect, policies promoting or perpetuating *apartheid*, racial segregation, discrimination, colonial and other forms of oppression and foreign domination stand condemned and must be eliminated [17].

Then, the Rio Declaration on Environment and Development contains these considerations:

The United Nations Conference on Environment and Development, Having met at Rio de Janeiro from 3 to 14 June 1992, Reaffirming the Declaration of the United Nations Conference on the Human Environment, adopted at Stockholm on 16 June 1972, and seeking to build upon it, With the goal of establishing a new and equitable global partnership through the creation of new levels of cooperation among States, key sectors of societies and people, Working towards international agreements which respect the interests of all and protect the integrity of the global environmental and developmental system, Recognizing the integral and interdependent nature of the Earth, our home, Proclaims that:' (...)

'Principle 3 The right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations [19].

Making another leap in time, the Rio+20 Declaration on the 'Future We Want' starts with a common vision phrased in these words:

We, the Heads of State and Government and high-level representatives, having met at Rio de Janeiro, Brazil, from 20 to 22 June 2012, with the full participation of civil society, renew our commitment to sustainable development and to ensuring the promotion of an economically, socially and environmentally sustainable future for our planet and for present and future generations [22].

If one turns to formal sources of law, the United Nations Framework Convention on Climate Change of 1992 starts as follows:

The Parties to this Convention, Acknowledging that change in the Earth's climate and its adverse effects are a common concern of humankind, (...) Determined to protect the climate system for present and future generations, Have agreed as follows [20].

The Paris Agreement of 2015 commences in this way:

*The Parties to this Agreement, Being Parties to the United Nations Framework Convention on Climate Change, hereinafter referred to as "the Convention", (...) Acknowledging that climate change is a common concern of humankind, Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and inter-generational equity, (...) Have agreed as follows [23].*

Moving to the Convention on Biological Diversity of 1992, its preamble contains the following considerations:

*The Contracting Parties, Conscious of the intrinsic value of biological diversity and of the ecological, genetic, social, economic, scientific, educational, cultural, recreational and aesthetic values of biological diversity and its components, (...) Determined to conserve and sustainably use biological diversity for the benefit of present and future generations. Have agreed as follows [18].*

And, finally, the Minamata Convention on Mercury of 2019 reads:

The Parties to this Convention, 'Recognizing that mercury is a chemical of global concern owing to its long-range atmospheric transport, its persistence in the environment once anthropogenically introduced, its ability to bioaccumulate in ecosystems and its significant negative effects on human health and the environment, (...) Aware of the health concerns, especially in developing countries, resulting from exposure to mercury of vulnerable populations, especially women, children, and, through them, future generations, (...) Have agreed as follows [21].

Eschewing their differences, the excerpts from the different documents quoted above have two things in common. First, they (almost) all refer to obligations towards the environment and link these to future generations. In other words, one could say that the documents all claim to take into account the interests of future generations. Perhaps, the Minamata Convention is the most telling in this respect when it mentions 'children, and, through them, future generations'. In writing 'through them', the document acknowledges that the interests of future generations may at best be taken into account indirectly: while future generations remain absent, they are represented by children. The question arises: how has this claim been received by the

children themselves? The second point of similarity is that all quotes may be reconstructed as first-person plural speech acts. While the former theme will be dealt with more fully later, in the next sub-section the latter issue will be taken up.

## 2.2 Legislation: A First-Person Plural Speech Act

The above quote from the Stockholm Declaration's Preamble may serve as an example. One could rephrase it as: 'We proclaim that the environment is in need of protection.' Drawing on the seminal work of Bert van Roermund and Hans Lindahl, this sub-section interprets this utterance as a first-person plural speech act and distinguishes between several first persons in this statement [24].

First, there is a 'we' speaking ([11], pp. 99–102, [26], pp. 102–104). 'We' is uttered by singular individuals. These individuals act as spokespersons or representatives of a collective. Note that representation is not a contingent but a necessary element of first-person plural speech acts: since a plurality of speakers cannot speak with one voice, representation is indispensable. Or, in Bernhard Waldenfels's apt formulation, 'a we cannot say we' ([27], p. 39). This entails that, paradoxically, it is the spokesperson or representative who calls the collective into being in saying 'we'. Spokespersons can only perform their task as representatives when they are authorized substitutes and co-executives of the authority they claim to speak for. In the case of the declaration, there are different speakers saying 'we': heads of state, ministers, negotiators, civil servants, etc. These speakers represent an actual subject agent in the double sense that representation takes in these practices: while they claim to substitute the agent, at the very same time they will need to depict this agent as a unity of which they are already part. To reformulate this from the perspective of the spokespersons: only if they assert that they are already mandated by the collective, they will be able to paint a credible collective subject. Their success as a representative depends on this depiction.

Second, the speech act involves a 'we' deciding ([11], pp. 106–108, [26], pp. 104–106). Here, one encounters the underlying author of the regulation, as Hobbes would put it ([9], pp. 217–222). Within the confines of a singular state, this would be 'the people', as in the emblematic case of the Declaration of Independence [7]. In the case of the Stockholm Declaration, the collective comes under the name 'the UN Conference on the Human Environment.' In fact, this collective refers to (virtually) the whole human population, since each of the states acts on behalf of its own population.

Third, there is a 'we' acting ([26], pp. 106–108). This aspect emphasizes that legislation is a collective intention, where a collective self is thought of as the entity that performs the action. Again, one encounters here 'the UN Conference on the Human Environment' but this time under the specific aspect of the actor of the intention, in this context the protection of the environment. Notice that this does not imply a collective in the sense of an entity with a separate ontological status from the one of the individual entities it consists of. Rather, theories of collective intentionality have carved subtle models for understanding such an agent [3, 8]. While it would go too far to delve into these theories here, the key point to keep in mind is

that ‘in intentions one pictures *oneself* doing something. Thus, the ‘self’ is what one thinks about and what is about to act’ ([26], p. 106). One is dealing here with reflexivity, or identity in the sense of selfhood ([15], pp. 118–125).

Fourth and finally, in the speech act there is a reference to a ‘we’ at stake ([11], pp. 103–106, [26], pp. 108–110). The stakes are the interests protected by the legislation. It is important to stress that interests are not to be confused with purely subjective preferences. Rather, as stakes, preferences depend on an objective state of affairs. The question then becomes: whose interests are being protected by the Stockholm Declaration, and by environmental law more generally? The answer must be: those of humans, non-human animals, the environment and, crucial for our argument, future generations. Speakers of the legislative speech act can only be successful if they credibly take into account the interests of the collective they claim to represent. In other words, speakers should, in depicting the interests of the collective, reckon with their audience and how this audience sees its own interests.

As a result of this analysis, the structure of a legislative speech act may be presented in the following formula: The speaker says to the audience while posing as the ‘we’ acting that the constructed ‘we’ rules that the constructed ‘we’ X with regard to ourselves ([26], p. 111). Let me try and put some flesh on the bones of this rather abstract formula by returning to the Stockholm Declaration. One could reformulate the beginning of its preamble in the following way: We, the peoples of the world, proclaim that these peoples themselves pursue the protection of the environment. Note that what becomes apparent in the word ‘themselves’ is again reflexivity. This aspect is central to legislation in modernity, for it is always taken to be *self*-legislation or political autonomy ([26], pp. 16–95). In other words, this is law-making in the sense of the people as a whole ruling on themselves ([26], pp. 97–101). This structure is not different from what happens in the Stockholm Declaration, even if ‘the people’ in this case does not refer to one state but to the collective invoked under the name ‘the UN Conference.’ While only one document has been discussed to drive home the point that also environmental law takes the shape of a first-person plural speech act typical for legislation in modernity, it would not be too difficult to prove this also with other documents. Yet, this is not the place to do so. Suffice it to point out that the Rio+20 Declaration on the ‘Future We Want’ speaks in the first-person plural voice of a ‘we’ explicitly in every single one of its articles.

### 3 Youth Protests: Greta Thunberg’s Passionate Speech

While the previous section has looked into environmental law, this one will inquire into youth protests. In order to do so, one specific speech of Greta Thunberg will be studied, namely the one held at the United Nations Climate Action Summit in 2019. Although there are different groups that regularly protest for political action aimed at the protection of the environment, Thunberg has been chosen because she has become the spokesperson of the youth and future generations. This particular speech has been selected because of its audience and its content. It is probably one of her most famous ones. Here is an excerpt:

My message is that we'll be watching you. This is all wrong. I shouldn't be up here. I should be back in school on the other side of the ocean. Yet, you all come to us young people for hope. How dare you! You have stolen my dreams and my childhood with your empty words and yet I'm one of the lucky ones. People are suffering. People are dying. Entire ecosystems are collapsing. We are in the beginning of a mass extinction and all you can talk about is money and fairy tales of eternal economic growth. How dare you! For more than 30 years, the science has been crystal clear. How dare you continue to look away and come here saying that you're doing enough when the politics and solutions needed are still nowhere in sight. You say you hear us and that you understand the urgency, but no matter how sad and angry I am, I do not want to believe that. Because if you really understood the situation and still kept on failing to act then you would be evil and that I refuse to believe. (...) How dare you pretend that this can be solved with just business as usual and some technical solutions? (...) You are failing us, but the young people are starting to understand your betrayal. The eyes of all future generations are upon you and if you choose to fail us, I say: We will never forgive you. We will not let you get away with this. Right here, right now is where we draw the line. The world is waking up and change is coming, whether you like it or not. Thank you [16].

### 3.1 Passionate Utterances

This sub-section proposes to understand Thunberg's speech as an example of a 'passionate utterance', i.e. 'a mode of speech in or through which, I declare my standing with you and single you out, demanding a response in kind from you, and a response now, so making myself vulnerable to your rebuke, thus staking our future' ([6], p. 185). Here, the theory of passionate speech acts that will serve as the theoretical framework to analyse Thunberg's address will be introduced. In order to do so, one needs to return to the work of the founder of speech act theory: J.L. Austin. As is well-known, Austin introduced the notion of performative speech acts, performatives for short [1, 2]. These are speech acts in which saying amounts to doing. Examples include the baptizing of a ship, promising and the 'I do' in wedding ceremonies. As the last example already alludes to, performatives are often linked to specific procedures or conventions. In order to be successful or 'felicitous' as Austin puts it, performatives have to comply with six cumulative conditions that refer again to these conventions.

Another important aspect of Austin's theory is the distinction between the locutionary, the illocutionary and the perlocutionary ([1], pp. 109–110). The locutionary is the actual saying of something meaningful. The illocutionary is what is done in saying. The perlocutionary is what is done or achieved by saying. This distinction may be illustrated with an example. Imagine that Albert is taking a hike in the forest with Beatriz and is suddenly very hungry. Albert discusses this with Beatriz but there seems to be nothing they can do at the moment. Unfortunately, the food supplies are completely finished and it takes a number of hours to reach the next place where they can get something to eat. Then, Albert spots some berries growing just

next to the trail they followed. Albert reaches for the berries and just before he wants to pluck them, Beatriz says: ‘Don’t do that, they are poisonous.’ In this example, the locutionary is the phrase uttered by Beatriz, which is obviously a meaningful sentence. Remember: saying amounts to doing. The illocutionary is a warning: in uttering this phrase Beatriz wants to warn Albert against plucking poisonous berries and eating them. Finally, the perlocutionary may have different forms. Albert could, for example, refrain from plucking the berries and thank Beatriz for preventing him to do so. In this case, Beatriz has convinced Albert not to eat the berries. Alternatively, Albert’s hunger may be so great that he gets very annoyed with Beatriz, decides that his knowledge of berries is superior to hers and continues with his plan to pluck them. As this example shows, the perlocutionary refers to the affective or passionate dimension of language. It is important to recall that Austin explicitly writes that he focuses solely on the illocutionary ([1], p. 103). In other words, the perlocutionary is not developed further by him.

Cavell’s attention for the group of passionate utterances is exactly aimed at undoing this limitation ([6], p. 172). He presents the concept as an extension of Austin’s theory that remains faithful to the latter’s important groundwork ([6], pp. 156–157). Cavell develops a number of conditions for passionate utterances, (most of them) analogous to the ones sketched by Austin for performatives ([6], pp. 180–182). These conditions are:

*Analogous Perlocutionary Condition 1:* There is no accepted conventional procedure and effect. The speaker is on his or her own to create the desired effect. (...)

*Analogous Perloc 2a:* (In the absence of an accepted conventional procedure, there are no antecedently specified persons. Appropriateness is to be decided in each case; it is at issue in each. I am not invoking a procedure but inviting an exchange. Hence:)

I must *declare* myself (explicitly or implicitly) *to have standing* with you (be appropriate) in the given case.

*Analogous Perloc 2b:* I therewith *single you out* (as appropriate) in the given case. (...)

(The setting or staging of my perlocutionary invocation, or provocation, or confrontation, backed by no conventional procedure, is grounded in my being *moved* to speak, hence to speak in, or out of, passion, whose capacities for lucidity and opacity leave the genuineness of motive always vulnerable to criticism. With that in mind:)

*Analogous Perloc 5a:* In speaking from my passion I must actually be suffering the passion (evincing, expressing, not to say displaying it—though this may go undeciphered, perhaps willfully, by the other), in order rightfully to

*Analogous Perloc 5b:* Demand from you a response in kind, one you are in turn moved to offer, and moreover

*Analogous Perloc 6:* Now. (...)

*Perloc 7:* You may contest my invitation to exchange, at any or all of the points marked by the list of conditions for the successful perlocutionary act, deny that I have the standing with you, or question my consciousness of my passion,



or dismiss the demand for the kind of response I seek, or ask to postpone it, or worse. I may or may not have further means of response. (We may understand such exchanges as instances of, or attempts at, moral education) ([6], pp. 181–182).

Because of the last condition, refusal becomes an integral part of the passionate exchange ([6], p. 183). The same goes for interpretation: in a passionate exchange, interpretations are offered but may also be revoked and then offered anew ([6], p. 184). Rejecting moralism, Cavell wants to draw attention to speech as confrontation ([6], p. 187). What is at stake in this back-and-forth is the relationship between a speaker ('I') and the addressee ('you') ([6], pp. 184–185). In the words of Cavell: 'A performative utterance is an offer of participation in the order of law. (...) A passionate utterance is an invitation to improvisation in the disorders of desire' ([6], p. 185).

### 3.2 Thunberg's Speech as a Passionate Utterance

We may now look into the conditions phrased by Cavell in order to establish whether Thunberg's speech qualifies as a passionate utterance. Condition 1: whereas Thunberg takes the floor at a time and place where one is used to speeches, the tone and message of her speech transgress the limits of ordinary speeches. She seems, first and foremost, to give voice to her anger and indignation, something she does completely on her own. Condition 2A: as a representative of the youth and future generations, she declares standing with the adults, political leaders of the world. It is appropriate that she demands this, as these political leaders themselves claim to take into account the interests of future generations. Condition 2B: moved to speak out of anger and indignation, Thunberg singles the leaders present out as an appropriate audience. Condition 5A: her anger and indignation are clearly displayed by Thunberg, in her words but also in her tone of voice. Condition 5B: Thunberg's demand is one for immediate and unambiguous political action to tackle climate change. Condition 6: now. Condition 7: here it becomes more tricky. The immediate response to Thunberg's speech is applause, yet this might be seen as a subtle way of not taking her radical demands seriously and go over to business as usual. In that sense, one might say that there has been no real exchange between Thunberg and the politicians. A process of moral education has not started. As Thunberg's speech meets all the conditions, one may conclude that it is a passionate utterance in the sense of Cavell.

## 4 Voice and Speech: A Question of Representation

This section will discuss how the first person plural of environmental law relates to Thunberg's passionate speech. In the first sub-section, the political dimension of Cavell's theory of passionate utterances and what this means for Thunberg's speech will be unfolded. The concepts of claim-making and political representation will

take central stage in this exposition. The second sub-section focuses on Thunberg's speech.

#### 4.1 Claim-Making and Political Representation

Aletta Norval has teased out the political implications of Cavell's theory of passionate utterances by pointing out how Cavell's distinction between the conventional (law) and the unconventional (desire) is too strict and is mitigated at other points in his work ([14], pp. 174–175). Norval highlights the following characteristics of passionate speech: (1) the absence of conventional procedures (thus giving space to every kind of political claim or demand); (2) the fact that neither speaker nor addressee are specified in advance (thus making it dependent upon the acknowledgment of the addressee whether or not (s)he is convinced and making the relationship between the 'I' and the 'You' dependent upon the expression of this identity); and (3) that everything may be contested within this process (thus identity remains dependent on the process of response and revocability where no last word exists) ([14], pp. 170–172).

This points to an understanding of passionate utterances as forms of claim-making, opening the space where new claims may be heard ([14], p. 164). Making a claim is of pivotal importance in politics: it 'tells us something about the character of the community invoked and contested. It implies relations of equality, and not only of equivalence. It characterizes the place of assent and dissent as internal to the constitution of a democratic community. And it provides us with a clear account of the place of the individual within the account of community, and the responsibility of each for his or her claims' ([13], p. 179). Through representation the need for voice is expressed, putting our identity on the line ([14], pp. 174–175). As a consequence, a new terrain for claims and counter-claims is opened and remains open ([14], p. 176). Demanding a response makes a difference ([14], p. 176). Decisive is this elemental responsiveness: both the individual responsibility for claims and the fact that in every claim a community is invoked ([13], p. 171). Crucially, what is at play in making claims is not so much relying on a given community but rather the invocation and founding of community ([13], p. 173).

Hans Lindahl develops the crucial role of (political) representation in group agency ([11], pp. 109–113). Representation is an essential element in the invocation of community. Here, the strong thesis is that 'the unity of a collective is a representative unity' ([11], p. 109, [25], pp. 72–78). The collective acts solely through its participants in the sense that their actions are imputed to the collective. The unity of a collective is, in other words, never given directly but may only be encountered indirectly, through representation. This is already the case at the very birth of a collective as it is called into being by representatives who are by definition unauthorised because the very collective that is to do the authorising is born in their representational act. This means that 'representational acts are always *contestable*, hence *defeasible*' ([11], p. 110). If and only if the representational act remains uncontested and is actually followed up by others, one may retrospectively conclude that the representative was mandated. This is the paradox of representation ([11], pp. 292–293).

One should, however, not reduce the role of representation to the moment of inauguration. The process of representation takes place in each act of the collective, since a collective can only act *as a collective* through its representatives. Furthermore, the process of representation is one of identification and differentiation: the absent collective unity is presented both again and otherwise. The identity of the collective is reaffirmed and changed with every representation. Finally, this is a process that necessarily in- and excludes what is part of and what lies outside of a collective identity. In short representation is always ‘representation *of* (something) and representation *as* (this or that)’ ([11], p. 109). The inclusion and exclusion inherent in representation have as their corollary the misrecognition of some aspects of a collective identity ([11], pp. 320–327). This leads to the claim of a group of being misrecognised, in the sense that something that is important for them is not included within the action of the collective ([11], p. 321).

## 4.2 Representation Rejected: ‘Not in Our Name’

The typical formulation of such a claim contesting the representation of the collective is ‘not in our name’. This is essentially Thunberg’s message. She too says ‘not in our name’, since according to her, speaking on behalf of the youth and future generations, environmental law and policy documents and the whole process of negotiation and drafting that underlies them misrecognises what is really important, namely to take effective action to tackle climate change. The more modest proposals inherent in environmental law and policy documents are dismissed by her as ‘business as usual’ and even characterised as ‘blah blah blah’ [5]. Rereading Thunberg’s speech, one may notice how she rejects the claim made by her audience, the politicians, that their law and policy documents seriously take into account the interests of future generations. More specifically, where Thunberg rejects business as usual and technical solutions, she also seems to point to more radical instruments to tackle climate change.

Notice, moreover, that Thunberg does it by speaking in the voice of the first person plural of a ‘we’, thus explicitly posing as the spokesperson of a collective consisting of the youth and future generation. In other words, Thunberg’s contestation takes the form of political representation. As a representative of future generations, she effectively denies that politicians have the authority to act on behalf of future generations. Hence, the politicians’ claim to do so turns out to be a case of self-misidentification, when a collective wrongly includes what it ought to exclude or wrongly excludes what it ought to include ([10], p. 197). Here, politicians have wrongly included future generations in their collective self-identification and wrongly excluded more radical measures to tackle climate change. There is a triple misidentification of the youth at work in this case: it is not a symbol of hope but rather an angry and protesting group, it is not passive with regard to its own interests but takes the stage as a political actor, it is not satisfied with ordinary political compromises but demands direct action.

Thunberg, through her passionate speech, claims to have standing with these politicians as a representative of future generations. Here speech is a claim opening a

new domain for other political claims, a domain where non-represented or underrepresented groups may proceed and formulate their demands. According to the paradox of representation, this claim can only succeed when Thunberg has actually been recognised as speaking authoritatively on behalf of the collective of the youth and future generations ([10], p. 150). Only if others take up her claim, it may be said to have been successful or legitimate. Indeed, legitimacy may only be assigned *après coup* or retroactively, at the moment that others have followed her. Since Thunberg has become one of the leaders of the youth protests, one may argue that she has legitimately acted as spokesperson of the youth and future generations while asking attention for their interests. Yet, a real acknowledgement of the interests of future generations would require taking seriously the radical nature of this claim and its fundamental implications for our ethical, legal, and political theory and practise [12].

## 5 Conclusion

This article has drawn on speech act theory to analyse environmental law and youth protests. The former may be understood as a first-person plural speech act. This paper has distinguished between four different we-positions in the law and policy documents. In this regard, environmental law cannot escape the canonical form of legislation in modernity. Turning to youth protests, an exemplary speech of Greta Thunberg has been analysed with the help of Stanley Cavell's theory of passionate utterances. In speaking on behalf of the youth and future generations, Thunberg makes a claim for action that demands a response. Crucially, both in law and policy documents regarding the environment and in Thunberg's speech political representation plays a crucial role, raising the question who has the authority to speak on behalf of future generations. While environmental law claims to take their interests into account, Thunberg's protest may be understood as a counterclaim. This counterclaim says 'Not in our name' and resists the ordinary ways to take the interests of future generations into account.

This article has raised a number of fundamental questions regarding how law and language may deal with future interests in the protection of the environment. These questions cannot be dealt with here but may be considered as avenues for further research. At least three issues may be discerned. The first question regards the paradox of political representation and the interests of future generations. A second issue that has been touched upon in this article and deserves further attention is how to future-proof the law. The third theme regards the question what this entails for the global legal system of the future, both in terms of its concepts and in terms of its structure.

While these issues fall outside the scope of this article, it has pointed towards claim-making and political representation as the conceptual tools that might be of use in approaching these issues. The paradox of representation cannot be solved, neither on a linguistic nor on a legal-political level. The choice of a legal order is between hiding and acknowledging this paradox. The first option makes the order deny its own contingency, while the second alternative leads the order to embrace

and legally uphold this contingency. Such a legal order will institutionally guarantee ways in which representations of future generations may be offered, contested and alternatives may be formulated. The representation of interests of future generations and a legal order's ability to institutionally acknowledge claims from the future is also important when one wants to future-proof legislation. The challenge is to find new ways of political representation and different legal–institutional arrangements to give voice to future interests in the course of drafting and reviewing environmental law and policy. Finally, the global environmental legal system of the future should therefore accommodate and guarantee that the legal interests of the future may be taken seriously by welcoming future claims, opening itself to the strange languages in which these claims might be formulated.

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