



INTERNATIONAL COURT OF JUSTICE

**OBLIGATIONS OF STATES IN RESPECT OF CLIMATE CHANGE
(REQUEST FOR ADVISORY OPINION)**

**WRITTEN STATEMENT SUBMITTED BY
THE CENTER FOR INTERNATIONAL ENVIRONMENTAL LAW (CIEL)**

MEMORANDUM ON THE RIGHTS OF FUTURE GENERATIONS

20 MARCH 2024

MEMO ON THE RIGHTS OF FUTURE GENERATIONS

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I. Introduction

1. In the request for an advisory opinion in respect of State obligations on climate change, the questions posed to the Court ask for clarification of the obligations of States to future generations, and the legal consequences of the breach of such obligations.¹ This submission asserts that the obligations of States in relation to climate change run to both present *and* future generations and that there exists no legal basis in international law to restrict such obligations to present generations. It annexes the Maastricht Principles on the Human Rights of Future Generations,² which clarify the present state of international law as it applies to the human rights of future generations. This submission also annexes an annotated list of relevant resources on the rights of future generations and the principle of intergenerational equity.
2. In advance of considering relevant legal norms, it is important to clarify the definition of ‘future generations’ and what is meant by the principle of intergenerational equity. There is at present no one authoritative definition of the concept of ‘future generations.’ Future generations have been variously defined as “all those generations that do not yet exist, are yet to come and who will eventually inherit this planet”³ and to “include persons, groups and Peoples.”⁴ They are considered distinct from children and young generations, although “present children, adolescents and youth occupy a proximate position to future generations”⁵ and the duty held towards the two categories, may to some extent overlap.⁶ The principle of intergenerational equity recognizes responsibilities towards future generations.⁷
3. While current levels of global warming are leading to devastating climate impacts in the here and now, the science is also clear regarding the risk of dangerous climate harm associated with exceeding 1.5°C.⁸ At current levels of warming, climate change is having deleterious effects on

¹ Rep. of the I.C.J., *Request for an Advisory Opinion of the International Court of Justice on the Obligations of States in Respect of Climate Change*, U.N. Doc. A/77/L.58, pp. 3-4 (2023).

² *Maastricht Principles on the Human Rights of Future Generations*, para. 1 (2023), <https://www.rightsoffuturegenerations.org/the-principles>.

³ *Elements Paper for the Declaration of Future Generations*, p. 1 (2022), <https://www.un.org/pga/76/wp-content/uploads/sites/101/2022/09/Elements-Paper-Declaration-for-Future-Generations-09092022.pdf>.

⁴ *Maastricht Principles*, para. 1.

⁵ *Maastricht Principles*, para. 22(c).

⁶ See generally Office of the United Nations High Commissioner for Human Rights, *Analytical study on the relationship between climate change and the full and effective enjoyment of the rights of the child*, U.N. Doc. A/HRC/35/13, paras.30-33 (stating in para. 30 that, “The importance of children’s rights in the context of climate change is explicitly recognized in the Paris Agreement under the United Nations Framework Convention on Climate Change, in which States are called on to respect, promote and consider their respective obligations on, among other things, the rights of the child and intergenerational equity when taking action to address climate change,” and in para. 33 that, “A child rights-based approach requires States to take urgent action to mitigate climate change by limiting emissions of greenhouse gases in order to prevent to the greatest extent possible their negative human rights impacts on children and future generations.”).

⁷ United Nations, *Our Common Agenda: Report of the Secretary General*, p. 43 (2021), https://www.un.org/en/content/common-agenda-report/assets/pdf/Common_Agenda_Report_English.pdf.

⁸ Intergovernmental Panel on Climate Change (IPCC), 2023: Summary for Policymakers, in, *Climate Change 2023: Synthesis Report. A Report of the Intergovernmental Panel on Climate Change. Contribution of Working Groups I, II and III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change* [Core Writing Team, H. Lee and J. Romero (eds.)], paras. A.2-A.2.7, B.2-B.2.4, figs. SPM.1, SPM.4 (2023) [hereinafter IPCC, AR6, Synthesis Report: Summary for Policymakers].

natural ecosystems and communities around the world. Every fraction of a degree of temperature rise accelerates and intensifies those effects. The 2023 Synthesis Report of the Intergovernmental Panel on Climate Change (IPCC) Sixth Assessment Report (AR6), published in March 2023, reaffirmed that “every increment of global warming will intensify multiple and concurrent hazards (*high confidence*).”⁹ The stark failure of States to take meaningful action to meet the 1.5°C temperature target of the Paris Agreement, leading to a worsening climate crisis, poses a direct, and possibly the greatest threat¹⁰ to the human rights of future generations. Failing to take climate action further curtails the fundamental rights of future generations as it deprives them of political choices.¹¹ Protecting the rights of future generations in the context of the climate crisis is a legal obligation “an essential dimension of humankind’s duty to uphold the inherent dignity, equality, and inalienable rights of all”¹² and critical to ensuring “both justice and sustainability across an array of timescales including the present, near term and distant future.”¹³

4. The subsequent paragraphs lay out how the rights of future generations and the principle of intergenerational equity are rooted in multiple sources of international law spanning almost a century; thereafter establishing that the rights of future generations apply in the context of climate change; and finally arguing that the principles of prevention and precaution apply with particular force in the context of the rights of future generations.

II. The rights of future generations and the principle of intergenerational equity are rooted in multiple sources of international law

5. The rights of future generations and the principle of intergenerational equity are rooted in a wide range of international legal norms and instruments across a great diversity of subject areas.
6. The ICJ itself, in interpreting customary and conventional law, referenced principles of intergenerational equity and the rights of future generations. In its *Advisory Opinion on the Legality of the Threat of Nuclear Weapons*, for example, the ICJ unanimously stated that “the environment is not an abstraction but represents the living space, the quality of life and the very health of human beings, including generations unborn.”¹⁴ In his dissenting opinion, Judge Weeramantry stated that, in regards to the environment, the Court must “pay due recognition to the rights of future generations” and noted that “the rights of future generations ...have woven themselves into international law through major treaties, through juristic opinion and through general principles of

⁹ IPCC, AR6, Synthesis Report: Summary for Policymakers, at para. B.1 SPM B.1.

¹⁰ Human Rights Committee, *General Comment No. 36 - Article 6: right to life*, U.N. Doc. CCPR/C/GC/36, para. 62 (Sept. 3, 2019) (stating “Environmental degradation, climate change and unsustainable development constitute some of the most pressing and serious threats to the ability of present and future generations to enjoy the right to life”); UNICEF, *Unless We Act Now: The Impact of Climate Change on Children*, p. 6 (New York, 2015);

¹¹ See *Neubauer et al v. Germany*, Bundesverfassungsgerichtshof (BverfG) (Federal Constitutional Court), p. 34 (Apr. 29, 2021).

¹² *Maastricht Principles on the Human Rights of Future Generations*, pmb., para. iv.

¹³ *Maastricht Principles on the Human Rights of Future Generations*, pmb., para. vi.

¹⁴ *Legality of the Threat or Use of Nuclear Weapons*, Advisory Opinion, 1996 I.C.J. (July 8), at para. 29 [hereinafter *Nuclear Weapons Advisory Opinion*].

law recognized by civilized nations.”¹⁵ Thus, “[w]hen incontrovertible scientific evidence speaks of pollution of the environment on a scale that spans hundreds of generations, this Court would fail in its trust if it did not take serious notes of the ways in which the distant future is protected by present law.”¹⁶ Subsequently, in the *Gabčíkovo-Nagymaros* case, the ICJ further recognized that protection of the environment includes protection for future generations.¹⁷ More recently the *Pulp Mills* case, which focused on transboundary environmental risks, reaffirmed that “inter-generational equity forms part of conventional wisdom in International Environmental Law.”¹⁸

7. In terms of conventional law, the UN Charter reflects the duty of present generations to protect future generations.¹⁹ Over the subsequent 70 years, this principle has been reiterated, reaffirmed, elaborated, and operationalized in numerous international legal agreements.
8. Several international instruments concerning environment protection, natural resources and cultural heritage enshrine the principle of intergenerational equity and explicitly reference the rights of future generations. These include, for example, the African Convention on the Conservation of Nature and Natural Resources, which, in its preamble, considers the “the present and future welfare of mankind,”²⁰ the World Heritage Convention averring that each State Party to the Convention has “the duty of ensuring the identification, protection, conservation, presentation and transmission to future generations of the cultural and natural heritage,”²¹ and the Rio Declaration, which in laying out numerous principles of international environmental law including obligations to future generations, proclaimed that “[t]he right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations.”²² To date, at least 42 international environmental agreements explicitly incorporate or reference the principle of intergenerational equity and/or references to future generations.²³
9. Multiple international human rights bodies have recognized the relevance of human rights treaty law for future generations.²⁴ Recent interpretations of international treaty law also make clear

¹⁵ *Ibid.* at pp. 233-34 (dissenting opinion of Judge Weeramantry who was dissenting on the merits of the case, but not this principle).

¹⁶ *Ibid.* at p. 234.

¹⁷ *Case Concerning the Gabčíkovo-Nagymaros Project (Hung. v. Slov.)*, Judgment, 1997 I.C.J. 7 (Sept. 25), at para. 140 [hereinafter *Gabčíkovo-Nagymaros Project*].

¹⁸ *Pulp Mills on the River Uruguay (Arg. v. Uru.)*, Separate opinion by Trindade, J., 2010 I.C.J. Rep 135 (Apr. 20), at para. 122, <https://perma.cc/F3GH-H6AQ> (last visited March 17, 2024) (both States in the dispute also highlighted intergenerational equity and considerations of future generations as central to the case).

¹⁹ See U.N. Charter pmb. (1945) (stating “We the Peoples of the United Nations determined to save succeeding generations from the scourge of war.”).

²⁰ African Convention on the Conservation of Nature and Natural Resources, pmb., Sept. 15, 1968, 1001 U.N.T.S. 3 (entered into force June 16, 1969, revised July 11, 2003).

²¹ UN Educational, Scientific and Cultural Organization (UNESCO), Convention Concerning the Protection of the World Cultural and Natural Heritage, art 4, Nov. 16, 1972.

²² Rio Declaration on Environment and Development, 31 I.L.M. 874 (1992), at Principle 3.

²³ See Annex 2.

²⁴ See, e.g., Committee on the Elimination of all Forms of Discrimination against Women, General recommendation No. 37 on the gender-related dimensions of disaster risk reduction in the context of climate change, U.N. Doc. CEDAW/C/GC/37, paras. 1, 19 (Mar. 13, 2018); Committee on the Rights of the Child, *General Comment No. 26* (2023) on children’s rights and the environment with a special focus on climate change, U.N. Doc. CRC/C/GC/26, paras. 11 (Aug. 22, 2023) [hereinafter CRC, *General Comment No. 26*]; Committee on Economic, Social and Cultural

reference to the rights of future generations and intergenerational equity.²⁵ For example, the Human Rights Committee mandated to monitor the implementation of the International Covenant on Civil and Political Rights has interpreted the right to life as applying to future generations, observing how “Environmental degradation, climate change and unsustainable development constitute some of the most pressing and serious threats to the ability of present and future generations to enjoy the right to life.”²⁶ In a similar vein, the Committee on Economic, Social and Cultural Rights, when interpreting the scope of State obligations under the International Covenant on Economic, Social and Cultural Rights has observed that, “[C]ultural heritage must be preserved, developed, enriched and transmitted to future generations.”²⁷ Furthermore, the rights of future generations are centered in regional human rights treaties and jurisprudence.²⁸

10. The ICJ also draws on general principles of law²⁹ reflected in “laws, norms, customs and values of States and peoples from all global regions and belief systems”³⁰ as another source of international law. It is thus relevant that the legal interests of future generations and principles of intergenerational equity are recognized in traditional legal systems across the world.³¹ In his separate opinion in the *Maritime Delimitations* case between Denmark and Norway, Justice Weeramantry noted that the principles of intergenerational equity and trusteeship of earth’s natural

Rights (CESCR), General Comment No. 15 (2002) on the right to water, U.N. Doc. E/C.12/2002/11, paras. 11, 28 (Jan. 20, 2003); Committee on Economic, Social and Cultural Rights, General Comment No. 19: the right to social security, U.N. Doc. E/C.12/GC/19, para. 11 (Feb. 4, 2008); Committee on Economic, Social and Cultural Rights, General Comment No. 21 on the right of everyone to take part in cultural life, U.N. Doc. E/C.12/GC/21, para 50 (Dec. 21, 2009) [hereinafter CESCR, General Comment No. 21]; Committee on Economic, Social and Cultural Rights, General Comment No. 25 (2020) on article 15: science and economic, social and cultural rights, U.N. Doc. E/C.12/GC/25, para. 56 (Apr. 30, 2020). The ICJ has referenced and relied on UN treaty body work in its jurisprudence. *See, e.g., Case Concerning Ahmadou Sadio Diallo (Guinea v. Dem. Rep. Congo)*, Judgement, 2010 I.C.J. 639 (Nov. 30), at para. 66 (“The interpretation above is fully corroborated by the jurisprudence of the Human Rights Committee established by the Covenant to ensure compliance with that instrument by the States parties... Since it was created, the Human Rights Committee has built up a considerable body of interpretative case law, in particular through its findings in response to the individual communications which may be submitted to it in respect of States parties to the first Optional Protocol, and in the form of its “General Comments”. Although the Court is in no way obliged, in the exercise of its judicial functions, to model its own interpretation of the Covenant on that of the Committee, it believes that it should ascribe great weight to the interpretation adopted by this independent body that was established specifically to supervise the application of that treaty.”); *see also* Legal Consequences of the Construction of a Wall in the Occupied Palestine Territory, Advisory Opinion, 2004 I.C.J. 136, para. 109 (July 9).

²⁵ *See, e.g.,* Committee on the Elimination of all Forms of Discrimination against Women, *General recommendation No. 37 on the gender-related dimensions of disaster risk reduction in the context of climate change*, U.N. Doc. CEDAW/C/GC/37, paras. 1, 19 (Mar. 13, 2018); CRC, *General Comment No. 26*, at para 11.

²⁶ Human Rights Committee, General Comment No. 36 - Article 6: Right to life, U.N. Doc. CCPR/C/GC/36, para. 62 (Sept. 3, 2019) [hereinafter HRC, General Comment No. 36, at para. 62].

²⁷ CESCR, General Comment No. 21, at para 50.

²⁸ *See, e.g.,* African Youth Charter, art. 19 (July 2, 2006); *Awasi Tingni Community v. Nicaragua*, Judgment, Inter-Am. Ct. HR (ser. C) No. 79 (Aug. 31, 2001), at para. 149; Inter-American Court of Human Rights (IACtHR), *Advisory Opinion OC-23/2017 on the Environment and Human Rights* (2017), at para. 59 [hereinafter IACtHR, *Advisory Opinion OC-23/2017*]; African Commission on Human and Peoples Rights (ACHPR), *The Centre for the Minority Rights Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council v. Kenya*, Communication No 276/2003, para. 152, 157 (2009) AHRLR 75.

²⁹ Statute of the International Court of Justice, art. 38(1), Oct. 24, 1945.

³⁰ *Maastricht Principles on the Rights of Future Generations*, at art.2.1(c).

³¹ *See, e.g., Gabčíkovo-Nagymaros Project*, separate opinion of Judge Weeramantry, pp. 94-95, para.(e); *Awasi Tingni Community*, at para. 141 (regarding the Indigenous Peoples’ worldview).

resources, according to which the latter shall be managed for the benefit of present and future generations, is contemplated in Pacific and Islamic traditional legal systems, among others.³² Furthermore, Indigenous legal systems have long recognized intergenerational equity.³³ Notably, Indigenous perspectives on future generations have also been recognized by a rich body of jurisprudence of the Inter-American Court of Human Rights.³⁴ Additionally, the human rights of future generations have been extensively recognized in global constitutions and case law. To date, 81 out of 196 national Constitutions in force mention future generations explicitly,³⁵ while decades of national level jurisprudence and legislation across regions have advanced the rights of future generations.

11. The aforementioned paragraphs make clear that the rights of future generations and the principle of intergenerational equity are well-established in international law. These rights also apply in the climate context, as will be laid out in the next section.

III. State obligations under international law with respect to climate change extend to future generations

12. State obligations in relation to climate change apply to the rights of present and future generations.
13. In advance of establishing that State climate obligations extend to future generations, there are two considerations, which are also relevant beyond climate, to take into account. Firstly, international human rights law has no temporal bounds, and thus extends to present and future generations. Secondly, intergenerational and intragenerational human rights obligations are deeply interconnected.
14. No human rights instrument limits its application only to present generations—there are no expressed temporal limits. *Travaux préparatoires* are a source of treaty interpretation,³⁶ and with respect to certain instruments these preparatory documents provide evidence that the treaties were intended to apply to future generations.³⁷ In fact, as seen in paragraph 9 above, numerous human rights bodies have recognized the relevance of human rights treaty law for future generations. In its first analytical study on the relationship between human rights and climate change, the UN

³² *Case Concerning Maritime Delimitation in the Area between Greenland and Jan Mayen (Den. v. Nor.)*, Judgment, 1993 I.C.J. 38 (June 14), Separate Opinion of Judge Weeramantry, paras. 242-243.

³³ See Margaretha Wewerinke-Singh, Ayan Garg & Shubhangi Agarwalla, *In Defence of Future Generations: A Reply to Stephen Humphreys*, 34(3) *European J. of Int'l Law*, p. 653-657 (Aug. 2023), <https://shorturl.at/gruKS>.

³⁴ *Ibid.* at 651–668.

³⁵ See Annex 2; World Constitutions Illustrated, <https://home.heinonline.org/content/world-constitutions-illustrated/>; see also the global survey realized by Renan Araújo & Leonie Koessler, “The Rise of the Constitutional Protection of Future Generations,” LPP Working Paper No. 7-2021 (2021) (containing a global survey) “The rise of the constitutional protection of future generations, p.4..

³⁶ Vienna Convention on the Law of Treaties, art. 31(2), May 23, 1969, 1155 U.N.T.S 331 (entered into force Jan. 27, 1980).

³⁷ See, e.g., William Schabas, *The Universal Declaration of Human Rights: The Travaux Préparatoires*, pp. 1643, 1842-43, 2551, 2719 (2013); Antonio A. Cançado Trindade, “Co-existence and Co-ordination of Mechanisms of International Protection of Human Rights (At Global and Regional Levels),” 202 *Recueil des cours de l'Académie de droit international* 21, 284-285 (1987).

Office of the High Commissioner for Human Rights (OHCHR) noted that the principles of equality and non-discrimination extend to future situations, as “it is understood that the value of these core human rights principles would not diminish over time and be equally applicable to future generations.”³⁸ This understanding was reinforced in *Neubauer et al. v. Germany*, with the Federal Constitutional Court of Germany emphasizing that fundamental rights are “intertemporal guarantees of freedom” and that mitigation burdens cannot be “unilaterally offloaded onto the future.”³⁹

15. The rights of present and future generations are not in conflict with one another, but rather very interconnected. Research demonstrates the intergenerational transmission of systemic disadvantage and trauma which means that the descendants of Peoples and individuals that have been historically marginalized and experienced human rights violations in a structural way are more likely to experience marginalization and human rights violations in the future.⁴⁰ Thus protecting the rights of present generations is critical to more effectively securing the rights of future generations. In speaking to a common agenda including in the context of climate change, the UN Secretary-General has expressed that “[u]pholding the rights and meeting the needs of those alive today is a precondition for securing a better future. Our first action on behalf of future generations must therefore be to fulfil the commitments to those currently alive, in a sustainable way and with more emphasis on long-term thinking.”⁴¹ While reasonable restrictions must limit activities that clearly impact or may impact the rights of future generations, such as unsustainable and inequitable resource use, particularly relevant in relation to climate change, care must be taken to impose restrictions in a manner that does not disproportionately impact marginalized peoples and individuals. Prominent legal scholar, Edith Brown Weiss, in discussing the need for trade-offs in resource use when balancing intra-generational and inter-generational equity, has reflected that, “[t]oo often, long-term costs are accrued for short-term benefits which often go only to the few.”⁴²
16. UN human rights bodies, UN Special Rapporteurs, and IPCC scientists have unequivocally spoken to climate change's disproportionate impacts on future generations' rights to life, food and water security, land, culture, and to a clean, healthy and sustainable environment.⁴³

³⁸ Human Rights Council, Report of the Office of the United Nations High Commissioner for Human Rights on the relationship between climate change and human rights, U.N. Doc. A/HRC/10/61, para. 90 (Jan. 15, 2009) [hereinafter OHCHR Report on Climate Change and Human Rights].

³⁹ *Neubauer at p.38*.

⁴⁰ See, e.g., *Azanian Peoples Organization (AZAPO) v. President of the Republic of South Africa*, (CCT17/96) [1996] ZACC 16, 1996 (8) BCLR 1015, 1996 (4) SA 672 (July 25, 1996), at para 43; Ambar Narayan et al, *Fair Progress? Economic Mobility Across Generations Around the World* (World Bank Group, 2018); United Nations, *The Sustainable Development Goals Report 2022*, p. 47 (2022).

⁴¹ UN General Assembly, *Our Common Agenda: Policy Brief 1: To Think and Act for Future Generations*, U.N. doc. A/77/CRP.1, para. 13 (Feb. 7, 2023).

⁴² Edith Brown Weiss, “The Theoretical Framework for International Legal Principles of International Equity and Implementation through National Institutions,” in MC Cordonier Segger et al (eds), *Intergenerational Justice in Sustainable Development Treaty Implementation: Advancing Future Generations Rights Through National Institutions* (2021), at pp. 16-45, 23.

⁴³ See HRC, *General Comment No. 36*, at para. 62; Towards a just transformation: climate crisis and the right to housing, Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, U.N. Doc. A/75/298 (2022), para. 9; IPCC, AR6, Synthesis Report: Summary for Policymakers, at paras. A.2-A.2.7, C.1.3, fig. SPM.1.

17. As set forth in paragraph 6 above, the ICJ has referenced the rights of future generations and the principles of intergenerational equity in the context of environmental law, which are of vital relevance to State climate obligations, as climate change is an environmental concern, although not limited thereto.
18. The right to a clean, healthy and sustainable environment encompasses the right to a safe climate.⁴⁴ Several Constitutions also protect the right to a clean, healthy and sustainable environment for future generations as we have seen in the preceding paragraphs, and these provisions also apply in the climate context in their distinct context, but also as general principles of international law. One compelling example of such constitutional protection can be found in article 40 of the Constitution of Fiji, which notes that “every person has the right to a clean and healthy environment, which includes the right to have the natural world protected for the benefit of present and future generations through legislative and other measures.”⁴⁵ Often, the constitutional protection of the rights of future generations is associated with a limit on the State’s power to use its natural resources.⁴⁶
19. There is a strong legal basis rooted in multiple sources which affirms that States’ climate-related legal obligations run to future generations. The United Nations Framework Convention on Climate Change (UNFCCC), adopted in 1992, introduced the principle of intergenerational equity in international climate law. The principle, affirmed at article 3.1 of the UNFCCC, and then reiterated in the preamble of the Paris Agreement, states that the parties should protect the global climate system for the benefit of present and future generations.⁴⁷ Since the adoption of these agreements, 33 decisions adopted by their Parties by consensus have referred explicitly to intergenerational equity and the need to protect the climate for the sake of future generations. Moreover, the United Nations has reproduced and developed such intergenerational commitments in several resolutions and also interpretations of treaty law, indicating the importance of climate action for future generations.⁴⁸
20. Human Rights Treaty Bodies, which are responsible for assessing Parties’ adherence to their obligations with respect to the relevant human rights agreement, have consistently countered the compatibility of fossil fuel-related activities with human rights law, including due to their

⁴⁴ Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, U.N. Doc. A/74/161, para. 43 (July 15, 2019) [hereinafter Special Rapporteur on Human Rights and the Environment, Safe Climate Report].

⁴⁵ Constitution of the Republic of Fiji, art. 40(1).

⁴⁶ *E.g.*, Constitution of Angola, art. 39; Constitution of Argentina, art. 41; Constitution of 2009 of the Plurinational State of Bolivia, art. 9(6); Constitution of the Republic of Chile, art. 57.

⁴⁷ United Nations Framework Convention on Climate Change, art. 3.1, May 9, 1992, 1771 U.N.T.S. 107 (entered into force Mar. 21, 1994) [hereinafter UNFCCC]; Paris Agreement to the United Nations Framework Convention on Climate Change, pmbl. Dec. 12, 2015, 3156 U.N.T.S. (entered into force Nov. 4, 2016) [hereinafter Paris Agreement].

⁴⁸ *See, e.g.*, UN General Assembly, *Charter of Economic Rights and Duties of States*, U.N. Doc. A/RES/3281/29 (2009); UN General Assembly, *Protection of global climate for present and future generations of mankind : resolution*, U.N. Doc. A/RES/46/169 (1991); UN General Assembly, *The Future We Want*, U.N. Doc. A/RES/66/288 (July 27, 2012). For interpretations of treaty law, which considers State obligations in relation to climate to extend to future generations, please, see paragraph 9, especially accompanying footnotes 25 and 26.

intergenerational impacts.⁴⁹ In that context, for example, the Committee on Economic, Social, and Cultural Rights and the Committee on the Rights of the Child have expressed doubts and concerns on the compatibility of a fracking project in Argentina,⁵⁰ and of continued investments in fossil fuels in Austria, Australia, and Japan,⁵¹ alluding to their impacts on future generations and children’s rights.

21. In several cases,⁵² Courts have found that State obligations in relation to climate change run to future generations. For example, the German Constitutional Court has found, “one generation must not be allowed to consume large parts of the CO2 budget under a comparatively mild reduction burden ... and expose their [future generations’] lives to serious losses of freedom.”⁵³ Similarly, the Hague District Court in *Urgenda*, which was upheld by the Supreme Court, held that “the [Dutch] State, in choosing measures [to combat climate change], will also have to take account of the fact that the costs are to be distributed reasonably between the current and future generations.”⁵⁴ Courts in France have likewise held that planned future action could not excuse the failure to meet near-term targets, given the long-term effects of current emissions⁵⁵, and the risk that delayed action would require drastic cuts later.⁵⁶ Furthermore based on their long-term effects, and in light of the principle of intergenerational equity, domestic courts have withdrawn or upheld the withdrawal of the authorization of coal, gas flaring and cement plants, in Australia, Ecuador and Pakistan⁵⁷ and partially invalidated an act to promote fracking.⁵⁸

⁴⁹ Center for International Environmental Law & Global Initiative for Economic, Social & Cultural Rights, *States’ Human Rights Obligations in the Context of Climate Change: Guidance Provided by UN Human Rights Treaty Bodies - 2023 Update*, pp. 10-11 (2023), <https://www.ciel.org/wp-content/uploads/2023/04/States-Human-Rights-Obligations-in-the-Context-of-Climate-Change-2023.pdf>.

⁵⁰ Committee on Economic, Social and Cultural Rights, *Concluding observations on the fourth periodic report of Argentina*, U.N. Doc. E/C.12/ARG/CO/4, paras. 13-14 (Nov. 1, 2018).

⁵¹ Committee on the Rights of the Child, *Concluding observations on the combined fifth and sixth periodic reports of Australia*, para. 41, U.N. Doc. CRC/C/AUS/CO/5-6 (Nov. 1, 2019); Committee on the Rights of the Child, *Concluding Observations on the combined fourth and fifth periodic reports of Japan*, para. 37, U.N. Doc. CRC/C/JPN/CO/4-5 (Feb. 1, 2019).

⁵² National level case law is relevant as judicial decisions are a source of interpretation under Article 38 of the Statute of the ICJ.

⁵³ *Neubauer*, at p.55.

⁵⁴ The Hague District Court, *Urgenda v. The State of the Netherlands*, Case. No. C/09/456689/HA ZA 13-1396 (June 24, 2015) (English translation), at para. 4.76.

⁵⁵ *Association Notre Affaire à Tous et al v. France*, Paris Administrative Court, No. 1904967, 1904968, 1904972, 1904976/4-1, para. 31 (2021).

⁵⁶ *Commune de Grande-Synthe*, Supreme Administrative Court (Conseil d’Etat) of France, No. 427301, para. 15 (Nov. 19, 2020).

⁵⁷ See *Waratah Coal Pty Ltd v. Youth Verdict Ltd & Ors*, (No 6) [2022] QLC 21, at para. 1603 (stating “The children of today and of the future will bear both the more extreme effects of climate change and the burden of adaptation and mitigation in the second half of this century. Their best interests are not served by actions that narrow the options for achieving the Paris Agreement temperature goal. This weighs the balance against approving the applications.”); Provincial Court of Justice of Sucumbios, *Herrera Carrion et al. v. Ministry of the Environment et al. (Caso Mecheros)*, Provincial Court of Justice of Sucumbios, No. 21201-2020-00170 (2020), at p. 18; *D.G. Khan Cement Company v. Government of Punjab*, Supreme Court of Pakistan (2021), at pp. 15-16, para. 19-20.

⁵⁸ *Robinson Township, Washington County, Pa. et al. v. Commonwealth of Pennsylvania*, 83 A.3d 901 (Pa. 2013).

IV. The principles of prevention and precaution apply with particular force in relation to the rights of future generations, including in the climate context

22. Directly related to the duty to protect the environment for future generations are the principles of prevention and precaution.
23. It is well established customary international law that States have a duty to prevent foreseeable environmental and human rights harm.⁵⁹ This duty extends to both present and future generations and requires States to take measures to prevent or minimize the known risk to people and the environment.⁶⁰
24. Closely related, but distinct, the precautionary principle applies earlier and requires States, in the face of scientific uncertainty about the potential consequences, to act proactively and in a manner that avoids or minimizes these potential harmful consequences.⁶¹ Article 3(3) of the UNFCCC establishes the precautionary principle as a core principle in preventing dangerous anthropogenic interference in the climate specifying that, “Parties should take precautionary measures to anticipate, prevent or minimize the causes of climate change.”⁶² The precautionary principle is firmly part of the corpus of international environmental law,⁶³ but given the inextricable link

⁵⁹ Trail Smelter Arbitration (U.S. v. Can.), 3 R.I.A.A. 1905 (1941), at 1905-82; Stockholm Declaration on the Human Environment, 11 I.L.M. 1416 (1972), at principle 21; Rio Declaration, at principle 2; Dispute over the Status and Use of the Waters of the Silala (Chile v. Bol.), Judgment, 2002 I.C.J. Rep. 614 (Dec. 1), at para. 99; Certain Activities Carried Out by Nicaragua in the Border Area (Costa Rica v. Nicaragua) and Construction of a Road in Costa Rica along the San Juan River (Nicaragua v. Costa Rica), Judgment, 2015 I.C.J. Rep. 665 (Dec. 16), at paras. 104, 118; Pulp Mills, at para. 101; Gabčíkovo-Nagymaros Project, at para. 53; Nuclear Weapons Advisory Opinion, at para. 29; IACtHR, *Advisory Opinion OC-23/17*, at paras. 95-103; Award in the Arbitration regarding the Iron Rhine (“Ijzeren Rijn”) Railway between the Kingdom of Belgium and the Kingdom of the Netherlands, decision of 24 May 2005, 27 R.I.A.A. 35, at para. 222; The Corfu Channel Case (U.K. v. Albania), Judgment of April 9th, 1949, I.C.J. Rep. at 22; HRC, General Comment No. 36, paras. 7, 18, 21-22, 62 (in para. 62 stating “Implementation of the obligation to respect and ensure the right to life, and in particular life with dignity, depends, inter alia, on measures taken by States parties to preserve the environment and protect it against harm, pollution and climate change caused by public and private actors”); Joint Statement by the Committee on the Elimination of Discrimination Against Women, the Committee on Economic, Social and Cultural Rights, the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Committee on the Rights of the Child and the Committee on the Rights of Persons with Disabilities, Statement on “Human Rights and Climate Change,” U.N. Doc. HRI/2019/1(May 14, 2020, originally released Sept. 16, 2019), para. 5 (stating “[f]ailure to take measures to prevent foreseeable human rights harm caused by climate change, or to regulate activities contributing to such harm, could constitute a violation of States’ human rights obligations”); African Commission on Human and Peoples’ Rights, General Comment No. 3 on The African Charter on Human and Peoples’ Rights: The Right to Life (Article 4), para. 3 (2015) (the Charter “envisages the protection of not only a life in a narrow sense, but of dignified life. This requires a broad interpretation of States’ responsibilities to protect life.”); Special Rapporteur on Human Rights and the Environment, Safe Climate Report, at paras. 28, 62.

⁶⁰ *Gabčíkovo-Nagymaros Project*, at para. 140; *Nuclear Weapons Advisory Opinion*, at para. 29.

⁶¹ See Rio Declaration, at principle 15; UNFCCC, at art. 3.3; Patricia Birnie, Alan Boyle and Catherine Redgwell, eds., *International Law and the Environment*, pp. 604-07(Oxford University Press, 3d ed. 2009).

⁶² UNFCCC, at art. 3.3.

⁶³ See International Tribunal of the Law of the Sea, *Responsibilities and obligations of States with respect to activities in the Area, Case no. 17, Advisory Opinion of February Ist, 2011*, ITLOS Rep. 2011 [hereinafter ITLOS, *Seabed Chamber Advisory Opinion*], at paras. 122, 131, (stating in para. 131 that “the precautionary approach is also an integral part of the general obligation of due diligence”); see also Anja Lindroos & Michael Mehling, From Autonomy to Integration? International Law, Free Trade and the Environment 77 *Nordic J. of Intl. L.* 253, 265 (2008) (and

between human rights and a clean, healthy, and sustainable environment, it is relevant when considering States obligations to respect and protect the rights of present and future generations.⁶⁴ Writing a separate opinion in *Pulp Mills*, Judge Cançado Trindade discussed the precautionary principle and intergenerational equity as interlinked.⁶⁵ The duty for “each generation to pass the planet in no worse condition than it received it in” and to respect future generation’s right to “inherit the earth in as good condition as it has been in for any previous generation”⁶⁶ demands a precautionary approach.

25. States’ acts or omissions that increase the risk of harm are contrary to the principles of prevention and precaution as they are aimed at preventing the risk of serious and irreversible damage to the environment and people. Thus, inaction or insufficient action to curb the causes of climate change (primarily the production and use of fossil fuels: coal, oil, and gas) today, increases the risk of harm to present and future generations, but with disproportionate impact on future generations. As the climate continues to warm, so too will the impacts on people and the environment. Every fraction of a degree of warming exacerbates ongoing harm and increases the risk of irreversible harm, and these burdens will fall disproportionately on future generations who will have to live the entirety of their lives in this warmer world, which, if we stay on the current path, will not be safe.⁶⁷ A stable climate is critical to “the ability of both current and future generations to lead healthy and fulfilling lives.”⁶⁸ The duty to prevent and act with precaution, therefore, requires States to take action that is known to curb the causes of climate change.

26. Climate measures taken today that have uncertain benefits or introduce additional adverse impacts (such as reliance on speculative technologies) increase the risk of harm to future generations. The 1997 UNESCO Declaration on the Responsibilities of Present Generations Towards Future

references therein). Already decades ago, scholars argued that the precautionary principle “ha[d] evolved into a general principle of environmental protection at the international level.” See James Cameron, “The Status of the Precautionary Principle in International Law,” in Timothy O’ Riordan & James Cameron, eds., *Interpreting the Precautionary Principle* (London, Earthscan Publications, 1994) 262 (and references therein).

⁶⁴ HRC General Comment No. 36, para. 62 (noting that States should “pay due regard to the precautionary approach”); IACtHR, Advisory Opinion OC-23/17, para. 180.

⁶⁵ *Pulp Mills*, at paras. 122-24 (noting also that both States in the dispute highlighted intergenerational equity and considerations of future generations as central to the case with Argentina asserting that effectively applying the prevention and precautionary principles “would have made it possible [for Uruguay] to comprehend the risks of grave harm for present and future generations”).

⁶⁶ Edith Brown Weiss, *Our Rights and Obligations to Future Generations for the Environment*, 84 *American Journal of International Law* 198, p. 200 (1990).

⁶⁷ See IPCC, 2018: *Global Warming of 1.5°C, An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty*, Technical Summary, p. 44 (V. Masson-Delmotte et al, eds., Cambridge University Press, 2018) [hereinafter IPCC, 2018 Special Report, Global Warming of 1.5°C] (The IPCC’s Special Report on Warming of 1.5°C explicitly states that “warming of 1.5°C is not considered ‘safe’ for most nations, communities, ecosystems and sectors and poses significant risks to natural and human systems as compared to the current warming of 1°C (high confidence),” especially for “disadvantaged and vulnerable populations.”); IPCC, 2018 Special Report, Global Warming of 1.5°C, Ch. 5 (“Sustainable Development, Poverty Eradication and Reducing Inequalities”), at 447.

⁶⁸ John H. Knox (Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment), *First Report to the General Assembly*, U.N. Doc. A/73/188, para. 59 (July 19, 2018).

Generations acknowledged that “each generation should ensure that life is not prejudiced by harmful modifications to the ecosystems and that scientific and technological progress in all fields does not harm life on Earth.”⁶⁹ Recently, the Committee on the Rights of the Child stated “Mitigation measures cannot rely on removing greenhouse gases from the atmosphere in the future through unproven technologies. States should prioritize rapid and effective emissions reductions now in order to support children’s full enjoyment of their rights in the shortest possible period of time and to avoid irreversible damage to nature.”⁷⁰

27. In conformity with the precautionary principle, States must not delay climate action in reliance on speculative future measures that risk an overshoot of 1.5°C and impose a disproportionate mitigation burden onto future generations.⁷¹ In assessing the adequacy of Germany’s climate plans, the German Constitutional Court applied the precautionary principle in reiterating that protecting the rights of future generations includes not delaying action especially given the irreversibility of climate change, and that precautionary measures must be taken to manage the anticipated future reduction burdens in accordance with respect for fundamental rights.⁷² Similarly, the Dutch Supreme Court in *Urgenda* noted that the technology to remove emissions does not currently exist at sufficient scale and that reliance on this would be irresponsibly risky and against the precautionary principle.⁷³

⁶⁹ UNESCO, Declaration on the Responsibilities of the Present Generations Towards Future Generations, 12 November 1997, art. 4 (“Preservation of life on Earth”).

⁷⁰ See CRC, *General Comment No. 26*, at para. 98(e).

⁷¹ HRC Advisory Committee, *Report on Impact of New Climate Technologies*, at para. 70; see also OHCHR Report on Climate Change and Human Rights, at para. 91 (stating “by drawing attention to the broader human rights implications of climate change risks, the human rights perspective, in line with the precautionary principle, emphasizes the need to avoid unnecessary delay in taking action to contain the threat of global warming”); Special Rapporteur on the promotion and protection of human rights in the context of climate change (Ian Fry), Report on the promotion and protection of human rights in the context of climate change, U.N. Doc. A/77/226, July 22, 2022, para. 16 (asserting that “[n]ew mitigation technologies associated with atmospheric changes and geoengineering also have the potential for significant human rights impacts”); Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes (Marcos Orellana), The toxic impacts of some proposed climate change solutions, UN Doc. A/HRC/54/25, para. 71 (July 13, 2023), <https://www.ohchr.org/en/documents/thematic-reports/ahrc5425-toxic-impacts-some-proposed-climate-change-solutions-report> (“Climate engineering is “large-scale, deliberate intervention in the Earth system to counteract climate change”. Such interventions are primarily considered as options to compensate for lagging international efforts to mitigate climate change. There is a lack of scientific certainty about the efficiency of climate-altering engineering technologies, such as solar radiation modification, and they can have a wide range of potential impacts on the effective enjoyment of human rights. Pinning humanity’s hopes on future technologies should not be used to justify insufficient action to reduce greenhouse gas emissions and phase out fossil fuels”); Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (David Boyd), Human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, July 15, 2019, U.N. Doc. A/74/161, para 83 (“Some proposed geoengineering strategies to mitigate climate change involve the large-scale manipulation of natural systems through measures such as fertilizing the oceans with iron, installing mirrors in outer space to reflect solar radiation, or shooting aerosols into the atmosphere (imitating the effects of large volcanic eruptions). These untested technological approaches could have massive impacts on human rights, severely disrupting ocean and terrestrial ecosystems, interfering with food production and harming biodiversity. These types of geoengineering strategies should not be used until their implications are much better understood”).

⁷² See *Neubauer*, at pp 68-69, 73; see also Supreme Court of the Netherlands, *The State of the Netherlands v. Urgenda*, Case. No. 19/00135 (Engels) (Dec. 20, 2019) (English translation), at paras. 5.3.2, 5.6.2 (holding that the State had a duty to act to address the risk of climate harm even if it was uncertain whether the harm will occur).

⁷³ *Urgenda*, at para. 7.2.5.

V. Conclusion

28. In light of the above and the following annexes which contain the *Maastricht Principles on the Human Rights of Future Generations* and a non-exhaustive reference list on the Rights of Future Generations, we respectfully request that the Court find that State obligations with respect to climate change extend to future generations.

VI. Annexes

Annex I:
**Maastricht Principles on the Human Rights
of Future Generations**

Maastricht Principles on the Human Rights of Future Generations

July 2023

Maastricht Principles on the Human Rights of Future Generations

July 2023

More information about the Principles can be found at RightsOfFutureGenerations.org.

Introduction

The rights of future generations have long been neglected in the analysis and application of human rights. Yet, human rights law does not limit itself to present generations. The foundations for international law to address the rights of future generations are established in international instruments in an array of subject areas spanning nearly a century; constitutions and legislative acts adopted by the majority of the World's States; in the laws, traditions, and cosmologies of Indigenous Peoples from every continent; and in the doctrine of major faith traditions representing the majority of the world's people.

The Maastricht Principles on the Human Rights of Future Generations seek to clarify the present state of international law as it applies to the human rights of future generations. The Principles consolidate the developing legal framework and affirm binding obligations of States and other actors as prescribed under international and human rights law. They also provide a progressive interpretation and development of existing human rights standards in the context of the human rights of future generations. They further recognize that States may incur additional obligations as human rights law continues to evolve.

These Principles provide examples of how realizing rights of future generations requires attention to the distinct rights of particular groups and peoples, but does not do so comprehensively. It is important to read these Principles together with other human rights standards setting out the implications of human rights for particular groups, including groups subject to historic and current systemic discrimination in its many forms.

The Principles represent the result of a process of close to six years of research, dialogue and collective brainstorming, with the engagement of a range of academic experts, national and regional current or former human rights mandate holders, civil society organizations, members of Indigenous Peoples, and social movements. They build on historic traditions and knowledge spanning millennia.

The Principles were adopted in Maastricht on 3 February 2023. Signatories include experts located in all regions of the world and include current and former members of international human rights treaty bodies, regional human rights bodies, and former and current Special Rapporteurs of the United Nations Human Rights Council. This initiative builds on expert legal opinions adopted in Maastricht, the Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights (1986); the Maastricht Guidelines on Violations of Economic, Social and Cultural Rights (1997); and the Maastricht Principles on Extraterritorial Obligations of States in the area of Economic, Social and Cultural Rights (2011) and its accompanying commentary.

The full explanation of each Principle, and the sources supporting them will be set out in the Commentary to these Principles.

More information about the Principles can be found at RightsOfFutureGenerations.org.

Preamble

- I.** The Universal Declaration of Human Rights, the International Covenant on Economic, Social, Cultural Rights, and the International Covenant on Civil and Political Rights all proclaim that recognition of the inherent dignity and the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.
 - II.** Neither the Universal Declaration of Human Rights, nor any other human rights instrument contains a temporal limitation or limits rights to the present time. Human rights extend to all members of the human family, including both present and future generations.
 - III.** Human generations exist within an unbroken continuum that is continually renewed and redefined as untold new members join the living human community. Any treatment of human generations and their respective rights must recognize and reflect this continuum.
 - IV.** The human rights of future generations form an essential dimension of humankind's duty to uphold the inherent dignity, equality, and inalienable rights of all.
 - V.** Decisions being taken by those currently living can affect the lives and rights of those born years, decades, or many centuries in the future. In recent decades, the need to recognize the intergenerational dimensions of present conduct have taken on increasing urgency. Humanity, the Earth on which we live, the natural systems of which we are but one part, and our political, social, cultural and economic systems, are in the midst of profound, rapid, and perilous change at humanity's own hands.
 - VI.** Recognizing and ensuring the rights of future generations demands an evolution of decision-making processes to consider and ensure both justice and sustainability across an array of timescales including the present, near term and distant future.
 - VII.** Children and youth are closest in time to generations still to come and thus occupy a unique position, and have an important role to play, within this transition to long-term, multigenerational thinking. Accordingly, their perspectives and participation in decision-making with respect to long-term and intergenerational risks must be accorded special weight.
 - VIII.** Intergenerational justice has both individual and collective dimensions.
 - IX.** Women and girls continue to bear the burden of many of societies' greatest challenges. Pervasive social norms and gender stereotypes continue to hold society back from attaining substantive gender equality. Women and girls face systemic discrimination in their enjoyment of all human rights, including a lack of meaningful participation in decision-making processes despite their influence and vital role in securing community and household resources. Gender inequality, if unaddressed, undermines the rights of both present and future generations.
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- X.** Systematic racial, ethnic, religious and other forms of discrimination, exploitation and the inequitable distribution of wealth, resources and opportunities, between and within countries, undermine the rights of present generations and compound the threats to future generations. Accordingly, efforts to address and remedy intragenerational injustice are essential to achieving justice between generations. This requires the fulfilment by States of their extraterritorial obligations, including in the context of the regulation of transnational corporations.
- XI.** The worldviews and ways of life of many Indigenous Peoples reflect the continuum of the relationship between present and future generations and the intrinsic linkage between humankind and the land and ecosystems of which humanity is a part. These systems, and the continuum and interlinkages they safeguard, are endangered through the taking and degradation of Indigenous Peoples' lands, territories, and resources. Accordingly, the full recognition of the sovereignty and effective implementation of the rights and sovereignty of Indigenous Peoples is a shared obligation to both present and future generations of humanity.
- XII.** Peasants and traditional communities, including fishers, pastoralists, forest-dependent people, nomadic people and rural women play a key role in conserving biodiversity and ensuring adequate and sustainable food systems for both present and future generations. Safeguarding their rights and resources is critical for safeguarding and realizing the human rights of future generations.
- XIII.** Humanity is a part of the world, not apart from it. The rights of future generations must be interpreted and applied in light of humanity's dependence on and responsibility to Earth's natural systems, now and throughout our species' future.
- XIV.** The human rights of future generations must be understood, interpreted, and integrated within the evolving legal context recognizing humanity's relationships with the natural world, and the best available science. This context includes the right to a clean, healthy and sustainable environment, the growing recognition of the rights of Nature, and the knowledge systems of Indigenous Peoples, local and traditional communities.
- XV.** The cessation of unsustainable patterns of production, consumption and lifestyles is required to guarantee the full enjoyment of human rights, including economic, social, cultural and environmental rights, by all members of present and future generations. Human development must be decoupled from the destruction of Nature and the overconsumption of natural resources to achieve the realization of the human rights of present and future generations and the integrity of nature and natural systems.
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I. General Provisions

1. Definition: Future Generations

For the purposes of these Principles, future generations are those generations that do not yet exist but will exist and who will inherit the Earth. Future generations include persons, groups and peoples.

2. Legal Basis for the Human Rights of Future Generations

2.1 Future generations are legally entitled to human rights on the basis of amongst others:

- a) International law in its various forms which recognizes human rights for all people, without limiting these rights to present generations;
- b) International law in its various forms that explicitly or implicitly recognize obligations and responsibilities towards future generations, and seek to ensure intergenerational equity; and
- c) General principles of law, as reflected in laws, norms, customs and values of States and peoples from all global regions and belief systems that recognize obligations and responsibilities towards future generations, or that are and will continue to be relevant to the protection of the human rights of all, without limiting them to present generations.

2.2 The above bases do not preclude other sources of law recognizing the rights of future generations that are consistent with these Principles.

3. Limitations and Derogations

States may only subject human rights, including the rights of present and future generations, to limitations and derogations expressly permitted under international law pertaining to those specific rights, and subject to the procedures and safeguards prescribed in the relevant international law.

4. Interpretation

- a) Nothing in these Principles should be understood to affect any national or international standards that are more conducive to the realization of the rights of future generations.
 - b) Nothing in these Principles may be interpreted to imply that any State, group, or person has a right to engage in any activity or to perform any act aimed at undermining any human rights recognized in these Principles, whether those of present or future generations.
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- c) Nothing in these Principles recognize any rights of human embryos or fetuses to be born nor does it recognize an obligation on any individual to give birth to another. These Principles may not be construed as accepting any interferences with the bodily autonomy of women, girls, and others who can become pregnant, including their actions and decisions around pregnancy or abortion and other sexual and reproductive health and rights.
- d) These Principles must be interpreted and applied in a manner that is consistent with humanity's dependence on Nature and all living beings, and with the need to uphold the realization of the rights of Nature and all living beings.

5. Universality and Indivisibility of Human Rights

- a) All human beings – in the past, present and future – are equal in dignity and entitled to the full and equal enjoyment of human rights.
- b) All human rights are universal, indivisible, interdependent and interrelated. Future generations are entitled to all individual and collective human rights, including but not limited to, civil and political rights, economic, social and cultural rights, the right to a clean, healthy and sustainable environment; the right to development; the right to self-determination; and the right to peace.

6. Equality and Non-Discrimination

- a) Future generations have the right to equal enjoyment of all human rights. States must guarantee the rights of future generations as set out in these Principles without discrimination of any kind. States and other duty bearers must refrain from any conduct which can reasonably be expected to result in, or perpetuate, any form of discrimination against future generations.
- b) States must eliminate all forms of direct and indirect discrimination, including intersectional discrimination, on grounds of race, color, ethnic origin, sex, gender, sexual orientation, gender identity, marital and family status, work, descent, disability, health status, place of residence, age, national or social origin, religion, culture or language, political or other opinion, property, birth, economic and social situation, or any other status recognized, or to be recognized under international human rights law.
- c) States must protect present and future generations against all forms of discrimination by public and private actors and prevent the emergence of new forms of discrimination.
- d) States must take special measures to eliminate and prevent all forms of discrimination against groups and peoples that have experienced historical and/or systemic forms of discrimination such as slavery, colonialism, racism, discriminatory gender norms and practices and patriarchy. Such measures must include eliminating and preventing the intergenerational transmission of inequality, poverty and oppression. States must also redress the continuing impacts of past injustices in order to ensure that present and future generations are not subject to similar abuses. Special measures must be continued until the full and equal enjoyment of human rights by all is achieved in law and in practice.

- e) Future generations must be free from intergenerational discrimination. This discrimination includes but is not limited to:
 - i. The waste, destruction, or unsustainable use of resources essential to human life;
 - ii. Shifting the burden of responding to present crises to future generations; and
 - iii. According less value to future lives and rights than the lives and rights of present generations, including discounting the impacts and burdens of present conduct on the lives and rights of future generations.

7. Intragenerational and Intergenerational Human Rights Obligations

- a) States must address and remedy intragenerational human rights violations – that is violations affecting members of present generations – in order to both realize the human rights of present generations and to avoid transmitting these violations to future generations.
- b) States must respect and ensure the full enjoyment of children’s human rights in the present as well as ensuring that their human rights in the future are not jeopardized, and refrain from conduct that would undermine their human rights as adult persons.
- c) To meet their obligations to future generations, States must necessarily impose reasonable restrictions on activities that undermine the rights of future generations, including the unsustainable use of natural resources and the destruction of Nature. Such restrictions must not impair or nullify the enjoyment of human rights of present generations; must rectify the vastly disproportionate levels of control over and use of resources by some members of the present generation; and not impose disproportionate burdens on disadvantaged groups.

8. Intergenerational Duties and Trusteeship

- a) Humanity is of the Earth, wholly dependent upon it, and interdependent with it. Every generation lives on the Earth and has an interlinked relationship with Nature and its biodiverse ecosystems. During their time on Earth, each generation must act as trustees of the Earth for future generations. This trusteeship must be carried out in harmony with all living beings and Nature.
 - b) Each generation has the duty to protect and sustain the Earth’s natural and cultural heritage for future generations.
 - c) The principle of trusteeship and intergenerational duties includes the decisions each generation makes about the near-Earth environment and the Moon.
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9. Prevention and Precaution

- a) Where there are reasonable grounds for concern that the impacts of State or non-State conduct, whether singly or in aggregate, may result in violations of the human rights of future generations, States have an obligation to prevent the harm, and must take all reasonable steps to avoid or minimize such harm.
- b) Doing so demands a strong approach to precaution, particularly when conduct threatens irreparable harm to the Earth's ability to sustain human life or to the common biological and cultural heritage of humankind.
- c) The burden of proof in all circumstances must lie with those who would undertake or persist in the conduct involved, not with those who might be harmed as a result. This burden grows proportionately greater as the scale, scope, and irremediability of threats to rights of future generations increases.

10. International Solidarity

- a) All human beings, whether within present or future generations, are entitled to a social and international order in which rights and freedoms can be realized for all. Such an international order is only possible, now or in the future, if people, groups and States adopt the principle of international solidarity.
- b) States have an individual and collective duty to recognize, respect and practice international solidarity in their relations with each other to ensure the rights of present and future generations, including the right to live in a clean, healthy and sustainable environment, and the rights of nature.

11. Learning from and Upholding the Rights of Indigenous Peoples

- a) In implementing and upholding the rights of future generations, States and non-state actors should draw inspiration and guidance from Indigenous Peoples' knowledges, cultures and traditional practices which contribute to sustainable and equitable development and the proper management of the environment.
 - b) Indigenous Peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, and other resources, and to uphold their responsibilities to future generations in this regard. States must respect and take active measures to protect the sovereignty of Indigenous Peoples over the lands, territories and resources they have traditionally owned, occupied or otherwise used or acquired.
 - c) States must respect and protect the rights of Indigenous Peoples to maintain their institutions, traditional lifestyles, languages, cultures, knowledge systems, and spiritual ontologies for the benefit of present and future generations of Indigenous Peoples and for future generations of humankind.
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12. Peasants, Local and Traditional Communities

- a) Peasants, local, and traditional communities, including small-scale fishers and fish workers, pastoralists, and forest-dependent communities, have a special relationship with the land, water, and natural processes on which they depend for their livelihoods. They play a vital role in conserving and restoring biodiversity, protecting cultural heritage, undertaking sustainable practices of agricultural production, and ensuring food security for present and future generations. States should draw inspiration and guidance from their knowledge, traditions, and practices.
- b) States must safeguard the full and equal enjoyment of all human rights to peasants and traditional communities, including, individually and collectively, their right to land, traditional knowledge, and seed systems; to participate equitably in sharing the benefits arising from the utilization of plant genetic resources; and to participate in the making of decisions on matters relating to their rights. In doing so, States must ensure that this knowledge and these vital resources remain available to future generations.

II. State Obligations

13. Obligations to Respect, Protect, and Fulfil the Human Rights of Future Generations

- a) States have obligations to respect, protect, and fulfil the human rights of future generations.
- b) These obligations extend to all conduct of States, whether through actions and omissions, and whether undertaken individually or collectively, including decisions made in their capacity as members of international or regional organizations. Such conduct includes, but is not limited to, the adoption or implementation of policies, practices, programs and legislation.
- c) Failure to comply with these obligations constitutes a violation of the rights of future generations.
- d) States must ensure an effective remedy for failure to respect, protect and fulfil these rights as set out in section IV (Accountability and Remedies).

14. Scope of Jurisdiction

Each State has obligations to respect, protect and fulfil the human rights of future generations in any of the following circumstances:

- a) Situations over which it exercises authority or effective control, whether or not such control is exercised in accordance with international law;
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- b) Situations over which its conduct brings about foreseeable effects in the enjoyment of human rights for present or future generations;
- c) Situations in which the State, acting separately or jointly, whether through its executive, legislative or judicial branches, is in a position to exercise decisive influence, or to take measures to realize the human rights of future generations in accordance with international law.

15. Limits to the Entitlement to Exercise Jurisdiction

The State's obligation to respect, protect and fulfil the human rights of future generations does not authorize a State to act in violation of the United Nations Charter and general international law.

16. Obligation to Respect the Human Rights of Future Generations

States must refrain from conduct they foresee, or ought reasonably to foresee, will create or contribute to, a substantial risk of violations of the human rights of future generations.

17. Violations of the Obligation to Respect

Violations of obligations to respect the human rights of future generations include, but are not limited to:

- a) Depriving future generations of sustainable and equitable enjoyment of natural resources, Nature or ecosystems necessary for the enjoyment of their rights to life, health, and an adequate standard of living for themselves and their families, including the rights to food, water, housing and sanitation;
 - b) Unsustainably using and depleting natural resources;
 - c) Polluting or degrading ecosystems;
 - d) Contributing to a decline in biodiversity or to anthropogenic climate change;
 - e) Creating human rights risks resulting from the development and/or deployment of technologies for reducing greenhouse gas emissions or removal of carbon from the atmosphere;
 - f) Engaging in conduct that results in discriminatory access to natural resources and benefits enjoyed by future generations as compared to present generations;
 - g) Impairing the ability of future generations to prevent and respond to climate change and other forms of environmental harm;
 - h) Censoring, withholding, intentionally misrepresenting, or criminalizing the provision of information related to the climate crisis;
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- i) Entering or remaining in bilateral or multilateral agreements that undermine the enjoyment of human rights by future generations;
- j) Interfering with the voluntary perpetuation of a community or peoples' cultural legacy to future generations;
- k) Taking measures that are foreseeably likely to result in displacement of future generations from their land, territories and/or housing, or that deprive them of enjoyment of Nature, ecosystems or natural resources;
- l) Developing or using surveillance or data gathering technologies or other means of social control that would infringe the human rights of future generations;
- m) Developing or using artificial intelligence systems that threaten the full enjoyment of human rights of future generations;
- n) Developing or using weapons of mass destruction, including, but not limited to, inhumane conventional weapons, nuclear and biological weapons;
- o) Producing or facilitating the production of any waste material or hazardous substances of a kind, or at a scale, that cannot be soundly managed, and safely and completely disposed of by the generation that produced it;
- p) Developing or using reproductive technologies that threaten or violate future generations' human rights, including but not limited to, the rights to privacy, health, safety, bodily integrity, and equality;
- q) Unjustifiably reducing expenditure on programs and institutions required to realize human rights, thus putting future generations at risk of diminished enjoyment of their rights.

18. Obligation to Protect the Human Rights of Future Generations

- a) States must take all necessary measures to protect the human rights of future generations against substantial risks posed by the conduct of public and private actors, including business enterprises.
 - b) States have a continuing obligation to reasonably foresee and prevent the creation of circumstances likely to result in the violations of the human rights of future generations.
 - c) Necessary measures include, but are not limited to:
 - i. Adopting and implementing appropriate legislative and administrative measures as well as establishing procedures, institutions and mechanisms so as to identify and effectively prevent national and international threats to the human rights of future generations;
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- ii. Establishing special mechanisms, processes or institutions to monitor and report on the extent to which public bodies are setting and meeting their human rights obligations towards future generations;
- iii. Ensuring effective and accessible judicial and other remedies for violations of the human rights of future generations in accordance with Part V.

19. Violations of the Obligation to Protect

Violations of obligations to protect the human rights of future generations by States include, but are not limited to:

- a) The failure to adequately monitor and regulate the conduct of public or non-State actors where it is reasonably foreseeable that such conduct will impair future generations' human rights, or failing to hold them accountable for such conduct;
- b) The failure by States to phase out fossil fuels within the shortest possible time, with States with the greatest responsibility and capacity to move most expeditiously;
- c) The failure to avert, minimize and address loss and damage associated with the adverse effects of climate change; including the failure of States with greater responsibility and capability to adequately contribute both financially and through all appropriate policies and measures;
- d) The failure to take steps to protect future generations from biological risks and threats;
- e) The failure to prevent the degradation or destruction of irreplaceable topsoils and freshwater vital to sustaining the lives and livelihoods of future generations;
- f) The failure to effectively regulate, and where appropriate prohibit, scientific research and activities that pose a reasonably foreseeable and substantial risk to the human rights of future generations, including genetic engineering and geo-engineering;
- g) The failure to adopt effective measures to protect State and international decision-making processes from undue corporate influence or corporate capture which nullifies or impairs the human rights of future generations;
- h) The failure to prevent the monopolization of access to knowledge and abusive corporate control of data required for the realization of the human rights of future generations;
- i) The failure to adopt legislation, programs, and policies to protect the right to work and rights in work in the context of technological innovations that pose a substantial and reasonably foreseeable risk to the full enjoyment of these rights by future generations;

- j) The failure to protect Indigenous Peoples, peasants and traditional communities' rights and prevent the appropriation of their systems of knowledge by State and non-State actors;
- k) The failure to investigate and provide appropriate remedies for human rights abuses by non-State actors, including prosecution where appropriate, and reparation.

20. Obligation to Fulfil Human Rights of Future Generations

- a) States must take all necessary measures to fulfil the human rights of future generations, including by providing and mobilizing adequate financial resources and technical assistance.
 - b) States must create an enabling environment to prevent and remove the causes of asymmetries and inequalities between and within States, and the structural obstacles and factors that generate or perpetrate poverty and inequality for future generations.
 - c) Necessary measures include, but are not limited to:
 - i. Recognizing the human rights of future generations in appropriate normative instruments, such as national constitutions and legislation;
 - ii. Adopting framework legislation that allocates duties and responsibilities in relation to the fulfilment of the rights of future generations to different levels and branches of the State and dedicated agencies and commissions, and sets appropriate time-bound targets;
 - iii. Establishing a domestic mechanism that conducts a prior review or audit of the potential effects of legislation, bills and policies and other governmental decisions on the human rights of future generations;
 - iv. Imposing duties on State and non-State actors to carry out environmental and human rights impact assessments of decisions, explicitly including impacts on the rights of future generations;
 - v. Ensuring that the burdens of mitigating and remedying climate change and other forms of environmental destruction are not shifted to future generations;
 - vi. Ensuring that disadvantaged groups, developing States, in particular least developed States, small island developing States, and States in conflict and post-conflict situations do not bear disproportionate costs and burdens of mitigating and remedying environmental destruction;
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- vii. Designing and implementing educational and awareness programs on the human rights of future generations;
- viii. Taking positive measures to facilitate knowledge and understanding of the human rights of future generations;
- ix. Phasing out unsustainable consumption and production patterns and waste generation that jeopardizes the Earth's ability to sustain future generations. Wealthier States must proceed more expeditiously under the principle of common but differentiated responsibilities and respective capabilities;
- x. Developing and implementing human rights-based governance and regulation of information and communication technologies that ensure, non-discriminatory access to the internet, and public control of data infrastructure;
- xi. Providing financial and other forms of support to representatives of future generations to participate in public deliberation, mobilize, and advocate for their human rights;
- xii. Creating an enabling environment that fosters and promotes the capacity of individuals, community-based organizations, social movements, non-governmental organizations, and Indigenous Peoples to defend all the human rights of future generations, including the right to self-determination;
- xiii. Removing barriers for women and girls to participate fully and equally in education and the economy, including in areas in which they are under-represented, such as science, technology, engineering and mathematics.

21. Violations of the Obligation to Fulfil

Violations of obligations to fulfil the human rights of future generations by States include, but are not limited to:

- a) The failure to take positive measures to facilitate knowledge and understanding of the human rights of future generations;
- b) The failure to adopt and implement legislation, policies and programs to eradicate the intergenerational transmission of poverty and disadvantage;
- c) The failure to establish appropriate monitoring mechanisms to evaluate progress in the fulfilment of rights, including the rights of future generations;
- d) The failure to ensure that the rights of future generations are fully integrated in national human rights strategies and plans of action;
- e) The failure to ensure, at the very least, the satisfaction of essential levels of social, economic and cultural rights for present generations, and to take measures that enable future generations to ensure these levels for themselves;

- f) The failure to take individual and collective measures to reduce inequality both within and between States;
- g) The failure to mobilize and allocate adequate resources, including from international assistance and cooperation, to facilitate the full and equal enjoyment of human rights by future generations;
- h) The failure to invest adequate resources to ensure a just and fair transition from the production and use of fossil fuels and other ecologically harmful activities;
- i) The failure to take appropriate measures to prevent potential public health emergencies in the future;
- j) The adoption of retrogressive measures that result in the unjustified reduction or diminishment in the enjoyment of human rights by future generations;
- k) The failure to prioritize the realization of the rights of marginalized and disadvantaged groups in realizing the rights of future generations.

22. Participation and Representation

- a) Future generations must be represented meaningfully and effectively in decision-making that may impact on their enjoyment of human rights.
 - b) States must create the enabling conditions for representation of future generations to participate in decision-making. This includes recognizing bodies established by Indigenous Peoples, peasants and traditional communities that have developed their own mechanisms to represent future generations.
 - c) States must recognize and respect that present children, adolescents and youth occupy a proximate position to future generations, and must protect their rights to be heard and other participatory rights, including when advocating for human rights on behalf of themselves and future generations.
 - d) States must create accessible and inclusive bodies and institutions at all levels to ensure that the representatives of future generations can effectively participate in decision-making that affects their human rights. Examples of such bodies and institutions include: Ombudspersons, guardians, trustees or commissioners; designated seats in parliaments, National Tribunals to protect Nature and/or National Human Rights Institutions. Special attention must be paid to ensure that these institutions and mechanisms are diverse and include meaningful and effective participation by groups that are disadvantaged or who have experienced systemic discrimination. The independence of such institutions must be guaranteed.
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- e) States must take adequate and effective measures to guarantee the rights of individuals or groups of individuals working to protect or promote the rights of future generations, including women, children and youth, Indigenous Peoples and environmental and human rights defenders. Such protection must ensure freedom from attacks, threats, intimidation, retaliation, stigmatization or criminalization.

23. Access to Information

- a) States must make every effort to ensure easy, prompt, effective and practical access to comprehensible information about issues that may affect the human rights of future generations, including by proactively making this information available. They must also put in place procedures that provide representatives of future generations with the right to seek and receive such access to information, and ensure transparency about decisions reached.
 - b) Fees, where charged, should not constitute an unreasonable impediment to access to information, and an appeals system should be in place to challenge failures to provide information.
 - c) States must provide and disseminate information on matters that are important for the effective protection of the human rights of future generations, such as environmental and climate-related information, information on inter-generational toxic, chemical and radiological hazards, technological developments and scientific research. They must respect, protect, and fulfil the freedom to seek, receive, publish and disseminate such information.
 - d) States must ensure disclosure of information necessary to fully and properly identify State and non-State actors that may be responsible for human rights impacts on future generations.
 - e) Information should be provided in languages used by affected peoples, groups and communities, in alternative formats, and through suitable channels of communication that are accessible to disadvantaged groups. Information must also be disseminated in an accessible manner for persons with disabilities, including through braille and other assistive technologies.
 - f) States must refrain from the dissemination of false and misleading information on issues that are important for the protection of the human rights of future generations including, but not limited to, climate change, the implications of technological developments, and scientific research. They must counter and, where appropriate, prevent dissemination of such misinformation by other actors. They should regulate and address conflicts of interest that undermine the right to information.
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24. Extraterritorial Obligations

- a) States have obligations towards future generations who will exist within their territory and outside their borders. These arise on the basis of:
 - i. Obligations relating to the acts and omissions of a State, within or beyond its territory, that have effects on the enjoyment of human rights outside of that State's territory; and
 - ii. Obligations of a global character that are set out in the Charter of the United Nations and human rights instruments to take action, separately, and jointly through international cooperation, to realize human rights universally.
 - b) States must take all appropriate legal, political, economic and diplomatic measures to refrain from conduct that would create a reasonably foreseeable risk of impairing the enjoyment of human rights by future generations, including outside their territory. They must conduct regular assessments of the extraterritorial impacts of their laws, policies and practices.
 - c) States must prevent corporations and other non-state actors under their jurisdiction from engaging in conduct domestically or outside their borders that would create a reasonably foreseeable risk of impairing the enjoyment of human rights by future generations, including outside their territory. States should provide effective judicial or other State-based mechanisms to hold corporations and other non-state actors legally accountable for such violations.
 - d) States must, individually and jointly, take deliberate, specific, and targeted measures in decisions and international agreements to create an international enabling environment conducive to protecting the rights of present and future generations. Such measures must include economic, social and environmental and climate-related measures. These measures must be taken in accordance with equity, and the common but differentiated responsibilities and respective capabilities of States.
 - e) States must ensure that international trade and investment agreements are applied and interpreted in a manner consistent with the human rights of future generations, and where necessary to realize these rights, terminate, amend or withdraw from existing agreements. Consistency between trade and investment agreements and human rights obligations require that the former be designed, implemented, applied and interpreted in a manner that does not undermine or restrict the State's capacity to fulfil their human rights obligations. They have the duty to notify, consult and negotiate with other States in situations where there is a substantial and foreseeable risk of violating the human rights of future generations.
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- f) States have an obligation to provide international assistance commensurate with their capacities, resources and influence, and to cooperate with each other, to ensure respect for, and the protection and fulfilment of, the human rights of future generations, as established in the Charter of the United Nations and in international human rights treaties.
- g) States in a position to do so should individually and collectively take steps to prevent and resolve unsustainable State debt (including, as appropriate, through unconditional debt relief) owed by other States that will infringe the human rights of future generations.
- h) States in a position to do so should provide international assistance, including financial, technological, and other forms of assistance, to contribute to the realization of human rights of present and future generations.
- i) International assistance should not undermine national development strategies or policies and domestic accountability mechanisms and procedures and must observe international human rights standards, including the right to self-determination, the right to participate in decision-making, and the protection of the human rights of future generations.
- j) States providing aid and those receiving it should be accountable to present and future generations for their actions and the results of their interventions. This requires that mechanisms are created for representatives of future generations to participate in decision-making about international assistance, and to seek remedy and redress on behalf of future generations.

III. Obligation, Duties and Responsibilities of Other Actors

25. Duties and Responsibilities of Non-State Actors Including Business Enterprises

- a) Non-State actors, including business enterprises, must at the very minimum, respect the human rights of future generations, and thus refrain from causing or contributing to adverse impacts on their human rights through their activities, products or services, and prevent harm, mitigate risk and remedy such impacts when they occur.
- b) Businesses and other non-state actors whose actions may negatively affect the enjoyment of human rights by future generations must adopt a clear policy commitment to respect future generations' human rights. They must comply with their duty of care including along their value chains. They must undertake human rights due diligence processes to identify and assess any actual or potential impacts on human rights posed by their activities, products and services in all their business relationships. They must also disclose, prevent harm, mitigate risks and remedy the adverse effects of their actions on the human rights of future generations.

- c) Non-state actors that breach these duties and responsibilities should be held accountable under international law.

26. Obligations of Intergovernmental Organizations

- a) States and international institutions of which they are members must create an enabling global environment with the aim of achieving the full realization of human rights of future generations.
- b) International financial institutions and other inter-governmental and supranational institutions are subjects of international law and have a duty to not impair the ability of their members to comply with their legal obligations. They must accordingly respect the human rights of future generations, and engage in conduct consistent with the realization of these rights. They must comply with all obligations imposed by the general rules of international law and ensure access to remedies for any violations of their obligations towards future generations.
- c) International financial institutions and other inter-governmental and supranational institutions must ensure that their policies, practices, and economic reform measures will contribute to the realization of, and not undermine, the human rights obligations of States towards future generations. They must refrain from designing, adopting, financing, and implementing policies or measures that, directly or indirectly, impair the enjoyment of human rights by future generations.
- d) Inter-governmental and supranational institutions, at the global and regional level, should support efforts by States to uphold the rights of future generations including through multilateral cooperation. Such support should include technical cooperation, financial assistance, institutional capacity development, knowledge sharing, exchange of experiences and transfer of technology.
- e) International financial institutions and other inter-governmental and supranational institutions must adopt effective measures to protect decision-making processes and spaces from undue corporate influence or corporate capture which nullify or impair the human rights of future generations.

27. Responsibilities and Duties of Individuals and Communities

- a) Every person has responsibilities and duties to themselves, their community and society, and to humanity as a whole, including duties to respect and promote the human rights of future generations.
 - b) Civil society organizations and non-governmental bodies have responsibilities to respect and promote the human rights of future generations.
 - c) National human rights institutions must have the competence to oversee decisions that may have an impact on future generations. They should incorporate the human rights of future generations in their plans
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and programs, and should put in place mechanisms to monitor and report on the activities, decisions or policies (and the implementation thereof) by States' authorities which affect the human rights of future generations.

- d) The recognition of individual and community responsibilities in no way diminishes the obligations of States to respect, protect, and fulfil or the duties of non-state actors to respect the human rights of future generations.

IV. Accountability and Remedies

28. Incorporation and Implementation in Domestic Law

States must ensure that the human rights of future generations are effectively incorporated into their domestic law, or otherwise recognized in their domestic legal system.

29. Victims

For the purposes of the present section, victims of violations refer to future generations, including persons, groups, and peoples, who face a substantial and reasonably foreseeable risk of suffering human rights violations, whether individually or collectively, through acts or omissions of present States and non-State actors. The designation of persons, groups and peoples subject to such violations as victims in this context refers to their entitlement to hold accountable those responsible for violations of their rights, while affirming their dignity, autonomy and self-determination.

30. Effective Remedies

Everyone has the right to an effective remedy for conduct violating their human rights. To that end, States must:

- a) Provide adequate judicial, quasi-judicial and administrative mechanisms for the supervision and enforcement of the human rights of future generations;
 - b) Investigate, adjudicate, and redress violations of future generations' human rights caused or contributed to by States or private actors;
 - c) Ensure that victims (and their representatives) have standing before courts and human rights bodies, and take all necessary measures to ensure that representatives are able to enforce the human rights of future generations through the judicial system;
 - d) Ensure access to justice, including by removing barriers to access and providing appropriate and adequate assistance to victims' representatives;
 - e) Disseminate, through public and private mechanisms, information about all available remedies for violations of the human rights of future generations;
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- f) Where the harm resulting from an alleged violation is expected to occur on the territory of a State other than the State where the harmful conduct took place, any State concerned must provide the victims with access to justice, whereas the obligation to provide reparations falls on the States responsible for the harmful conduct.

31. State Responsibility

A State is responsible for the breach of obligations to respect, protect and fulfil the rights of future generations from the moment that it fails to act in conformity with these obligations.

32. Prevention, Cessation, Non-repetition and Redress

States' obligations to respect, protect, and fulfil the rights of future generations include, among others, the obligations to:

- a) Take appropriate legislative, administrative and other measures to prevent violations, including the regulation of activities by non-state actors under their jurisdiction;
- b) Take effective measures aimed at the cessation and non-repetition of activities that risk harming the rights of future generations; including preliminary measures to prevent harm while remedial procedures are underway;
- c) Provide effective guarantees of non-repetition of violations;
- d) Provide adequate, effective, prompt and appropriate redress to victims, including reparation, as described below.

33. Full and Effective Reparation

Victims are entitled to full and effective reparation, as laid out in Principles 34-36 below, which include the following forms: restitution, compensation, and satisfaction. Reparation for violations of the human rights of future generations should be proportionate to the gravity of the violations and the harm caused by the violation. States, in consultation and cooperation with representatives of victims, must establish national and international programs for reparation for violations of the human rights of future generations.

34. Restitution

Restitution should be aimed at restoring the ability of victims to enjoy their human rights to the greatest possible extent. It should be informed by the best available scientific evidence, as well as Indigenous Peoples' and traditional knowledge, by precaution, and the participation of victims' representatives. Restitution includes, as appropriate: restoration of degraded ecosystems and means of subsistence and development, return of land, territories, resources, and other property, and means to identify, restore, revitalize and transmit cultural heritage.

35. Compensation

Appropriate compensation must be provided for any damage that cannot be prevented or repaired, including when restitution is not possible. Compensation may be made in kind, or in the form of monetary compensation committed to victims.

36. Satisfaction

Satisfaction must include, where applicable, any or all of the following:

- a) Verification of the facts and full and public disclosure of the truth regarding the causes and conditions pertaining to the violations, including the role and responsibility of non-state actors;
 - b) Mechanisms to provide victims and their representatives with information on the causes and conditions pertaining to the violations and to learn the truth in regard to these violations;
 - c) An official declaration or a judicial decision restoring the dignity, status and rights of the victims;
 - d) Public apology, including acknowledgement of the facts and acceptance of responsibility;
 - e) Judicial and administrative sanctions against persons liable for the violations;
 - f) Inclusion of an accurate account of the violations that occurred in national and international human rights law training and in educational material at all levels.
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***Note: Participation in the Maastricht IV process does not necessarily imply endorsement of the final Principles as adopted.**

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More information about the Principles can be found at RightsOfFutureGenerations.org.

Annex II:

Legal references: Rights of Future Generations

[This list is non-exhaustive]

INTERNATIONAL COURT OF JUSTICE

Judgments

The International Court of Justice highlighted the importance of preserving the environment, in the interest of present and future generations, in the following proceedings:

- *Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion*, I.C.J. Reports 1996, p. 226, International Court of Justice (ICJ), 8 July 1996, para. 29.

The International Court of Justice noted that “*the environment is not an abstraction but represents the living space, the quality of life and the very health of human beings, including generations unborn.*” The decision has been quoted in several State submissions presented in proceedings before the International Tribunal for the Law of the Sea (ITLOS) (Congo, EU, Nauru, New Zealand, Pacific Community, Rwanda, COSIS).

- *Gabčíkovo-Nagymaros Project, Hungary v Slovakia, Judgment, Merits*, ICJ GL No 92, [1997] ICJ Rep 7, [1997] ICJ Rep 88, (1998) 37 ILM 162, ICGJ 66 (ICJ 1997), 25th September 1997, International Court of Justice [ICJ], para. 140.

The Court noted that the growing awareness about the environmental risks faced by both present and future generations had driven the development of international law, i.e., of “*new norms and standards, set forth in a great number of instruments during the last two decades.*”

Separate or dissenting opinions recognizing the rights of future generations:

- Judge Weeramantry, *Separate Opinion in Maritime Delimitation in the Area between Greenland and Jan Mayen*, 1993 I.C.J. Reports 38, 14 July 1993, paras. 234- 240.

Judge Weeramantry noted the International Court’s function to represent “*the main forms of civilization and the principal legal systems of the world*”, and its obligation “*to search in all these traditions and legal systems for principles and approaches that enrich the law it administers.*” Based on an analysis of different legal systems and traditions, he noted the existence of an “*equity-based global jurisprudence,*” based on, among others, the notion of respect for the rights of future generations.

- Judge Weeramantry, *Dissenting Opinion in Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion*, I.C.J. Reports 1996, International Court of Justice (ICJ), 8 July 1996, p. 233.

In his dissenting opinion, Judge Weeramantry noted that *“this Court, as the principal judicial organ of the United Nations, empowered to state and apply international law with an authority matched by no other tribunal must, in its jurisprudence, pay due recognition to the rights of future generations.”* Already in 1994, the Judge considered that, “the rights of future generations” have long passed the stage of “an embryonic right struggling for recognition”. Instead, *“they have woven themselves into international law through major treaties, through juristic opinion and through general principles of law recognized by civilized nations.”* The Court is obliged to apply international legal instruments protecting the rights of future generations, even in the distant future, *“when incontrovertible scientific evidence speaks of pollution of the environment on a scale that spans hundreds of generations [...]”*

INTERNATIONAL TREATY LAW

International agreements and instruments explicitly incorporating the principle of intergenerational equity, or references to future generations:

- Charter of the United Nations and Statute of the International Court of Justice, 1 UNTS XVI, 26 June 1945, (Preamble)
- International Convention for the Regulation of Whaling, 161 UNTS 72, 2 December 1946, (Preamble)
- African Convention on the Conservation of Nature and Natural Resources, 1001 UNTS 3, 15 September 1968, (Preamble)
- UNESCO World Heritage Convention, 16 November 1037 UNTS 151, 23 November 1972, (Article 4, obligation)
- Declaration of the United Nations Conference on the Human Environment, 11 ILM 1416, 16 June 1972, (Clause 6, Principles 1, 2)
- Convention on International Trade in Endangered Species of Wild Fauna and Flora, 3 March 1973, 993 UNTS 243, (Preamble)
- Convention on the Prohibition of Military or any Other Hostile Use of Environmental Modification Techniques, A/RES/31/72, 14 December 1976, (Preamble)
- Convention on the Protection of Nature in the South Pacific, 26 ILM 38, 12 July 1976, (Preamble)
- Bonn Convention on the Conservation of Migratory Species of Wild Animals, 1651 UNTS 333, 23 June 1979, (Preamble)
- Berne Convention on the Conservation of European Wildlife and Natural Habitats, 19 September 1979, ETS No.104, (Preamble)
- Regional Convention for the Conservation of the Red Sea and Gulf of Aden Environment, 9 EPL 56, 14 February 1982, (Preamble, Article 1)
- Convention for Co-operation in the Protection and Development of the Marine and Coastal Environment of the West and Central African Region, 20 ILM 746, 23 March 1984, (Preamble)
- Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region 21 June 1985, (Preamble)

- ASEAN Agreement on the Conservation of Nature and Natural Resources, 9 July 1985, (Preamble)
- Convention for the Protection of Natural Resources and Environment of the South Pacific Region, 26 ILM 38, 24 November 1986, (Preamble)
- UN Framework Convention on Climate Change, 1771 UNTS 107, 16 June 1992, (Article 3.1)
- UN Convention on Biological Diversity, 22 May 1992, 1760 UNTS 79, (Preamble)
- UNECE Convention on the Protection and Use of Transboundary, Watercourses and International Lakes, 1936 UNTS 269, 17 March 1992, (Article 2.5.c)
- Paris Convention for the Protection of the Marine Environment of the North-East Atlantic, 2354 UNTS 67, 22 September 1992, (Preamble)
- Convention on the Transboundary Effects of Industrial Accidents, 2105 UNTS 457, 17 March 1992, (Preamble)
- Rio Declaration on Environment and Development, 31 ILM 874, 13 June 1992, (Principle 3) Non-legally binding forest principles (sic), 1992, (Principle 2.b)
- Vienna Declaration and Programme of Action, World Conference on Conference on Human Rights, A/CONF.157/23, 25 June 1993, (Paragraph 1)
- North American Agreement on Environmental Cooperation, 17 December 1993, (Preamble)
- Convention to Combat Desertification, 1954 UNTS 3, 23 December 1994, (Preamble)
- Convention to Ban the Importation into Forum Island Countries of Hazardous and Radioactive Wastes and to Control the Transboundary Movement and Management of Hazardous Wastes within the South Pacific Region 2161 UNTC, 1995, (Preamble)
- Revised Barcelona Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean, 1102 UNTS 27, 10 June 1995, (Preamble and Article 4.2)
- Agreement on the Conservation of African-Eurasian Migratory Waterbirds, 16 June 1995, (Preamble)
- Agreement on the conservation of cetaceans of the Black Sea, Mediterranean Sea and Contiguous Atlantic Area 1996, (Preamble) 1996
- Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 36 ILM 1, 7 November 1996, (Preamble)
- United Nations Convention on the Law of the Non-Navigational Uses of International Watercourses, 36 ILM 700, 21 May 1997, (Preamble)
- Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management, 53 UNTS 357, 5 September 1997, (Article 1 and Article 4)
- UNESCO Declaration on the Responsibilities of the Present Generation Towards Future Generations, 12 November 1997
- UNECE Aarhus Convention on Access to Information, Public participation in Decision-making and Access to Justice in Environmental Matters, 2161 UNTS 447, 28 June 1998, (Preamble, and Article 1)

- Protocol on Water and Health to the 1992 Convention on the Protection and Use of Transboundary Watercourses and International Lakes, UN Doc. MP.WAT/AC.1/1999/1, 17 June 1999 (Article 5.d)
- Agreement on the Conservation of Albatrosses and Petrels, 2258 UNTS 257, 21 June 2001, (Preamble)
- Stockholm Convention on Persistent Organic Pollutants, 2256 UNTS 119, 22 May 2001, (Preamble)
- International Treaty on Plant Genetic Resources for food and agriculture 3 November 2001, (Preamble)
- Convention for Cooperation in the Protection and Sustainable Development of the Marine and Coastal Environment of the Northeast Pacific, 2002, (Article 1 and Article 3)
- Protocol on Strategic Environmental Assessment to Espoo Convention, ECE/MP.EIA/2003/2, 21 May 2003, (Preamble)
- Black Sea Biodiversity and Landscape Conservation Protocol 14 June 2002, (Article 1.2)
- Charter of Fundamental Rights of the European Union, 2012/C 326/02, 2 October 2000 (Preamble) 18
- Protocol to the Aarhus Convention on Pollutant Release and Transfer Registers, 8 October 2009, (Preamble)
- Minamata Convention on Mercury, 10 October 2013, (Preamble)
- Paris Agreement on Climate Change, 12 December 2015, (Preamble)
- UN Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean, Escazú, 4 March 2018, (art. 1)
- Kunming-Montreal Global Biodiversity Framework, 19 December 2022, (Section C. 7)
- Agreement under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction, New York, 19 June 2023, (Preamble, Article 1.13)

CONSTITUTIONS

As of today, 81 out of 196 Constitutions mention future generations explicitly in their text. Among those, 57 explicitly recognize future generations' environmental rights, or the State's duty to guarantee the right to a healthy environment for present and future generations. Among the remaining ones, four explicitly recognize the rights of future generations in general terms, while others enshrine general commitments towards the protection of future generations.

Constitutions explicitly referencing future generations in the context of environmental protection or the management of natural resources*:

- Albania (art. 59)
- Algeria (art.63)
- Andorra (art. 31)
- Angola (art. 39)

- Argentina (art. 41)
- Armenia (art. 12)
- Bhutan (art. 5)
- Bolivia (art. 33)
- Brazil (art. 225)
- Burundi (art. 35)
- Chile (art. 57)
- Cuba (art. 75)
- Ecuador (art. 395)
- Egypt (art. 46)
- Eritrea (art. 8)
- Fiji (art. 40)
- France (Preamble)
- Gambia (art. 59)
- Georgia (art. 29)
- Germany (art. 20a)
- Ghana (art. 36.9)
- Guyana (art. 149)
- Hungary (Preamble; P1)
- Italy (art. 9)
- Iran (art. 50)
- Ivory Coast (Preamble)
- Kenya (art. 42)
- Lesotho (Preamble)
- Luxembourg (art. 41)
- Malawi (art. 13d)
- Maldives (art. 22)
- Malta (art. 9.2)
- Mongolia (art. 6.2)
- Mozambique (art.117)
- Namibia (art 95)
- Nepal (art. 51)
- Niger (art. 35; 149)
- Norway (art. 112)
- Palestine (art. 33)
- Poland (art. 74)
- Portugal (art. 66)
- Papua New Guinea (art. 4)
- Qatar (art. 33)
- Senegal (art. 253)
- Seychelles (Preamble)
- South Africa (art. 24)
- South Sudan (art. 41)
- Swaziland (art. 210)
- Sweden (art. 2)
- Switzerland (art. 2.4)
- Timor Leste (art. 61)
- Tunisia (art. 48)
- Uganda (art. 27)

- Uruguay (art. 47)
- Vanuatu (art. 7)
- Venezuela (art. 127)
- Zimbabwe (art. 73)

E.g.:

- Constitution of Luxembourg:

Art. 41 (Objectives with a constitutional value)

“The State guarantees the protection of the human and natural environment and works for the establishment of a durable equilibrium between the conservation of nature, in particular its capacity for renewal, as well as the safeguard of biodiversity and the satisfaction of the needs of present and future generations. The State is committed to fighting climate change and working in favor of climate neutrality. It recognizes animals as sentient non-human living beings and seeks to protect their well-being.”

***Among those, the Constitutions of Angola, Bolivia, Iran, Malawi, Mongolia, Mozambique and Norway, Venezuela, directly recognize the rights of future generations in the environmental context. See, e.g.:**

- Constitution of Fiji:

Art. 40 (Environmental rights):

“1. Every person has the right to a clean and healthy environment, which includes the right to have the natural world protected for the benefit of present and future generations through legislative and other measures.”

- Constitution of Bolivia:

Article 33 (Section I: Environmental Rights)

“Everyone has the right to a healthy, protected, and balanced environment. The exercise of this right must be granted to individuals and collectives of present and future generations, as well as to other living things, so they may develop in a normal and permanent way.”

- Constitution of Malawi:

Art. 13. (d)

“The State shall actively promote the welfare and development of the people of Malawi by progressively adopting and implementing policies and legislation aimed at achieving the following goal [...] d) To manage the environment responsibly in order to iii. accord full recognition to the rights of future generations by means of environmental protection and the sustainable development of natural resources.”

- Constitution of Norway:

Article 112 (Protection of the environment)

“Every person has the right to an environment that is conducive to health and to a natural environment whose productivity and diversity are maintained. Natural resources shall be managed on the basis of comprehensive long-term considerations which will safeguard this right for future generations as well. In order to safeguard their right in accordance with the foregoing paragraph, citizens are entitled to information on the state of the natural environment and on the effects of any encroachment on nature that is planned or carried out. The authorities of the state shall take measures for the implementation of these principles.”

Constitutions including general references to future generations and/or constitutional duty to protect future generations:

- Austria (art.14)
- Azerbaijan (Preamble)
- Belgium (art. 7 bis)
- Czech Republic (Preamble)
- DPR Korea (Preamble)
- Estonia (Preamble)
- Kazakhstan (Preamble)
- Latvia (Preamble)
- Libya (Preamble)
- Moldova (Preamble)
- North Macedonia (Preamble)
- Russia (Preamble)
- Sri Lanka (Preamble)
- Sudan (Preamble)
- Tajikistan (Preamble)
- Ukraine (Preamble)
- Uzbekistan (Preamble)
- Zambia (art. 198)

Constitutions assigning rights to future generations in non (strictly) environmental context:

- Jamaica (art. 13)
- Japan (art. 11, 97)
- Maldives (Preamble)
- Morocco (art. 35)

E.g.,

- Constitution of Japan

Article 97

The fundamental human rights by this Constitution guaranteed to the people of Japan are fruits of the age-old struggle of man to be free; they have survived the many exacting tests for durability and are conferred upon this and future generations in trust, to be held for all time inviolate.

CLIMATE & ENVIRONMENTAL LITIGATION

In multiple climate cases, Courts have recognized the State's constitutional duties towards future generations and/or the rights of future generations:

- **Advisory Opinion, Inter-American Court of Human Rights, OC 23/17, 15 November 2017**

The Court acknowledged the right to a healthy environment as a human right, and noted that both environmental degradation and climate change affect human rights. Furthermore, the Court noted that “the right to a healthy environment *“constitutes a universal value that is owed to both present and future generations.”* (p. 26, para. 59)

- **Future Generations v. Colombia, Constitutional Court of Colombia, 5 April 2018**

The Constitutional Court acknowledged that the insufficient protection of the Colombian Amazon Forest, by contributing to climate change and environmental deterioration, represented a direct threat to the human rights of present and future generations. Namely, the Court noted that:

“Sin ambiente sano los sujetos de derecho y los seres sintientes en general no podremos sobrevivir, ni mucho menos resguardar esos derechos, para nuestros hijos ni la generaciones venideras. [...] El deterioro creciente del medio ambiente es atentado grave para la vida actual y venidera y de todos los otros derechos fundamentales.” (p. 13, para. 2)

The Court explicitly noted that the State’s duty to environmental protection extends to all human beings, including unborn generations, who deserve to live in the same environmental conditions as the present ones:

“Como se anotó, el ambito de protección de los preceptos iusfundamentales es cada persona [...] pero, además incluye a los sujetos aún no nacidos [...].” (p. 18, para. 5.2)

- **Neubauer et al v. Germany, Constitutional Court of Germany, 29 April 2021**

The Federal Constitutional Court struck down parts of Germany’s climate law, alleging that the national mitigation targets allocated a disproportionate mitigation burden to the future, thus violating the State’s constitutional duty to environmental protection (art.20a). The Court found that Article 20a of the German Constitution *“also concerns how environmental burdens are spread out between different generations.”* (para.183) The Court also noted that, *“in their subjective dimension, fundamental rights – as intertemporal guarantees of freedom – afford protection against the greenhouse gas reduction burdens imposed by Art. 20a of the Basic Law being unilaterally offloaded onto the future.”* (para. 122)

- **Supreme Court of Pakistan, D.G. Khan Cement Company v. Government of Punjab, 15 April 2021**

The Supreme Court of Pakistan upheld a bar on the construction of new cement plants in environmentally fragile zones. In its reasoning, the Court emphasized the role played by the judiciary in protecting future generations from climate change:

‘This Court and the Courts around the globe have a role to play in reducing the effects of climate change for our generation and for the generations to come. Through our pen and jurisprudential fiat, we need to decolonize our future generations from the wrath of climate change, by upholding climate justice at all times. Through our pen and jurisprudential fiat, we need to decolonize our future generations from the wrath of climate change, by upholding climate justice at all times.’ (p. 16, para. 19)

- **Supreme Court of Pennsylvania (in the United States), Robinson Township v. Commonwealth of Pennsylvania, 2013**

The Supreme Court of Pennsylvania relied on the public trust doctrine to strike down a law supporting fracking for violating a healthy environment for both the current and future generations. The Court held that the public trust doctrine requires the trustee to “*refrain from permitting or encouraging the degradation, diminution, or depletion of public natural resources, whether such degradation, diminution, or depletion would occur through direct state action or indirectly, e.g., because of the state’s failure to restrain the actions of private parties.*” (p.10)

In a few climate cases, courts have recognized standing to young applicants or environmental organizations, to act as representative of future generations:

- **Supreme Court of Philippines, Oposa v. Factoran, G.R. no. 101083, 30 July 1993**

The Court recognized standing to children to act as representatives of future generations based on the principle of intergenerational responsibility and to the right to a balanced and healthy environment:

“Petitioners assert that they represent their generation as well as generations yet unborn. 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.” (para. 22)

- **Urgenda v. the Netherlands, District Court of the Hague, 24 June 2015**

The Court noted that Urgenda had sufficiently demonstrated to have standing, having among its aims, to defend the right of both present and future generations, and hence, to strive for sustainable development:

“In defending the right of not just the current but also the future generations to availability of natural resources and a safe and healthy living environment, it also strives for the interest of a sustainable society. [...]” (para. 4.8 - 4.10.)

UNITED NATIONS HUMAN RIGHTS BODIES

Human rights bodies have long acknowledged the disproportionate effects of climate change, and more recently, of the “new technologies for climate protection,” on youth and future generations.

- **Analytical study on the relationship between climate change and the human right of everyone to the enjoyment of the highest attainable standard of physical and mental health, (A/HRC/32/23), 6 May 2016.**

“Climate change [...] exacerbates existing health inequities and threatens the very notion of intergenerational equity because its impacts will be felt most severely by children and future generations who have contributed little or nothing to its making.” (para. 27)

- **Report of the Human Rights Council Advisory Committee, Impact of new technologies intended for climate protection on the enjoyment of human rights, A/HRC/54/47, 2023, paras. 18; 25-26; 38; 48; 53). See, e.g.:**

“Right to life. NTCPs could perpetuate and exacerbate the threats that climate change already poses to life and the enjoyment of the right thereto by present and future generations.” (para. 48)

Human Rights Treaty Bodies

- **Committee on the Elimination of all Forms of Discrimination against Women, General recommendation No. 37 on the gender-related dimensions of disaster risk reduction in the context of climate change, CEDAW/C/GC/37, 13 March 2018 (paras. 1, 19)**
- **Committee on Civil and Political Rights, General Comment No. 36 on Article 6: right to life*, CCPR/C/GC/36, 3 September 2019**

The Committee noted that climate change, among others, is among the greatest threat to the right to life of future generations: *“Environmental degradation, climate change and unsustainable development constitute some of the most pressing and serious threats to the ability of present and future generations to enjoy the right to life.” (para. 62)*

- **Committee on the Rights of Children, General Comment No. 26 (2023) on children’s rights and the environment with a special focus on climate change, CRC/C/GC/26, 22 August 2023**

The Committee notes that, based on the principle of intergenerational equity, States bear responsibilities with regard to foreseeable environmental threats that might only manifest in a distant future: *“The Committee recognizes the principle of intergenerational equity and the interests of future generations, to which the children consulted overwhelmingly referred. [...] Beyond their immediate obligations under the Convention with regard to the environment, States bear the responsibility for foreseeable environment-related threats arising as a result of their acts or omissions now, the full implications of which may not manifest for years or even decades.” (para. 11)*