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Sustainable Development:

Intergenerational solidarity and the needs of future generations

Report of the Secretary-General

Summary

The present report is prepared pursuant to paragraph 86 of the Rio+20 outcome document, which requests the Secretary-General to provide a report on the need for promoting intergenerational solidarity for the achievement of sustainable development, taking into account the needs of future generations.

The report evaluates how the need for intergenerational solidarity could be addressed by the United Nations system and analyses how the issue of intergenerational solidarity is embedded in the concept of sustainable development and existing treaties, and declarations, resolutions, and intergovernmental decisions. It also reviews the conceptual

* A/68/100

and ethical underpinnings of intergenerational solidarity and future generations and how the issue has been taken into consideration in policy-making at the national level in a variety of institutions.

The report outlines options for possible models to institutionalize concern for future generations at the United Nations level, as well as suggesting options for the way forward.

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I. Introduction

1. This report is prepared pursuant to paragraph 86 of the Rio+20 outcome document, which provides that:

86. We will also consider the need for **promoting intergenerational solidarity for the achievement of sustainable development, taking into account the needs of future generations, including by inviting the Secretary-General to present a report on this issue.**

2. The purpose of this report is to consider the need for intergenerational solidarity, taking into account the needs of future generations, and evaluate how this need could be addressed by the UN system. The report analyses how the issue of intergenerational solidarity is embedded in the concept of sustainable development and existing treaties, and declarations, resolutions, and intergovernmental decisions. It also reviews the fundamental ethical underpinnings of intergenerational solidarity and future generations. The report also examines how the needs of the future generations have been taken into consideration in policy-making at the national level in a variety of institutions. Finally, the report outlines options for possible models to institutionalize concern for future generations at the UN level, as well as suggesting options for the way forward.

II. Conceptual framework

3. The dedication to future generations is visible worldwide and across cultures. It is a universal value shared amongst humanity. This value is foundational to constitutions and international treaties; it is a driving force in the economy; in households it manifests itself even in religious beliefs, traditions, and culture. It is also recognized that living members of a community benefit from the sacrifices and investments made by previous generations. Few would question the responsibilities the world owes to its children and grandchildren, at least in the moral sense if not strictly in the law. Our political thinking, mirroring these concerns, speaks to those obligations.
4. Despite this cultural value, a sense of responsibility towards future generations, in theory and even more so in practice, is a relatively new concept in the legal and political arenas. It has been suggested that the advances of science and technology have driven home the realization that future generations are vulnerable to our acts and policies.¹ Scientific inquiry allows society to understand the long-term impacts of our actions, while technological advancement means we are in a position to mitigate harmful consequences, if we so choose.

¹ Ernest Partridge, Future Generations, in Dale Jamieson, ed., **A Companion to Environmental Ethics** (2001)

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5. Future generations are politically powerless, with the representation of their interests limited to the vicarious concern of present generations. As the UN Report of the World Commission on Environment and Development, *Our Common Future* (1987), states: “We act as we do because we can get away with it: future generations do not vote, they have no political or financial power; they cannot challenge our decisions.”
6. Intergenerational solidarity is widely understood as “social cohesion between generations”². Most frequently, however, it refers to relations between the younger and older generations of those living,³ including children-parent relations, social participation of elderly people and children in communities, affordability of pensions and elderly care. Increasingly, policies related to intergenerational solidarity have been expanding from a focus on families with young children to the inclusion of all generations, based on rapidly ageing societies where family-oriented policies need to take into account the changing roles, needs and demands of all generations.⁴

² Bengtson, Olander and Haddad, The “generation gap” and ageing family members: Toward a conceptual model. In J. F. Gubrium (Ed.). *Time, roles, and self in old age* (1975); Katz, Lowenstein, Phillips & Daatland, *Theorizing intergenerational family relations: Solidarity, conflict, and ambivalence in cross-national contexts* (2005); Roberts, Richards and Bengtson, *Intergenerational solidarity in families: Untangling the ties that bind*. In S. K. Pfeifer & M. B. Sussman (Eds.). *Marriage and Family Review*, Vol. 16 (1991).

³ http://ec.europa.eu/public_opinion/flash/fl_269_en.pdf

⁴ Report of the Secretary-General, Preparations for and observance of the twentieth anniversary of the International Year of the Family in 2014, A/68/61–E/2013/3, para. 46.

7. The Madrid International Plan of Action on Ageing 2002 adopted at the United Nations Second World Assembly on Ageing, provides that: “Solidarity between generations at all levels – in families, communities and nations – is fundamental for the achievement of a society for all ages. Solidarity is also a major prerequisite for social cohesion and a foundation of formal public welfare and informal care systems.”⁵ Also, ECOSOC has identified “social integration: advancing social integration and intergenerational solidarity” as one of the three themes to guide the Commission on Social Development’s preparations for the twentieth anniversary of the International Year of the Family.⁶

8. In the context of sustainable development, intergenerational solidarity goes beyond the relations among currently living representatives of different generations and embraces future generations, who do not yet exist. At the 1995 World Social Summit, countries committed themselves to create a framework of action to, among other things, “fulfil our responsibility for present and future generations by ensuring equity among generations and protecting the integrity and sustainable use of our environment.”⁷ In this view, humanity as a whole forms an intergenerational community, in which

⁵ *Report of the Second World Assembly on Ageing, Madrid, 8-12 April 2002*, A/CONF.197/9, annex II, para. 42.

⁶ E/RES/2012/10.

⁷ Report of the World Summit for Social Development, A/CONF.166/9, para. 26(b).

all members (generations) respect and care for each other, fulfilling a common goal of the survival of humankind.

9. The next section outlines references in existing treaties and declarations and examines their relevance and significance for elaborating the way forward when promoting intergenerational solidarity and the needs of future generations at the international level. It also analyses some of the conceptual and ethical dimensions of the debate around future generations.

(a) Conceptual and ethical dimensions

10. Fairness between generations is embedded in the concept of sustainable development: satisfying the needs of the present generation should not come at the expense of generations to come. In broad terms, the pursuit of welfare by the current generation should not diminish the opportunities for a good and decent life for succeeding generations. Thus concern for the needs of future generations falls into the category of what is sometimes termed intergenerational equity or intergenerational justice, essentially the allocation of the burdens and benefits across generations. **Intergenerational equity** has been defined as “the issue of sustainable development referring, in the environmental context, to fairness in the inter-temporal distribution of the endowment with natural assets or of the rights to their exploitation”⁸.

⁸ OECD, Glossary of Statistical Terms. <http://stats.oecd.org/glossary/detail.asp?ID=1387>

Intergenerational justice is closely related, but can be understood as a broader concept which involves, apart from distributive, also procedural, restorative, and retributive dimensions.

11. If future generations do not exist *now*, whereas the alleged burdens of responsibility fall upon *the living*⁹, the present generations need to decide on which moral ground present people should act towards future people, especially if it involves significant sacrifices from the present generation. The present generations need to understand why leaving the planet to our descendants in at least as good condition as we found it is the right or good thing to do.

What do we mean by future generations?

12. Although general interest in the future and references to posterity have a long history, serious attention of philosophers to the issue of moral responsibility to future generations is quite recent. Defining moral status of future persons raises unique and extraordinary moral and meta-ethical problems, to which conventional moral and political theories are unable to provide an adequate response.¹⁰ Calls to act sustainably and save the planet “for future generations” or “for our children and grandchildren” appear almost interchangeably. From a moral perspective, however, there are

⁹ Partridge, Ernest *Future Generations* in Jamieson (eds) *A Companion to Environmental Ethics* (2001)

¹⁰ Gardiner, Stephen A *Perfect Moral Storm: the Ethical Tragedy of Climate Change* (2011)

important differences between our children and grandchildren and remote, unborn generations. For one thing, living generations are unambiguously rights-holders. Before the concept of intergenerational justice is applied, there needs to be clarity about who exactly falls into the scope of the discussion. It is plausible – and squares with our intuition – that people’s concern for what happens in the future and those living in the future tends to attenuate the further into the future we go. At the same time though, it has been argued that the notion that each generation holds the earth as a trustee or steward for its descendants strikes a deep chord with all cultures, religions and nationalities. For instance, the Confederation of the Six Nations of the Iroquois passed on the principle that decisions take into account the welfare and wellbeing of the seventh generation.¹¹ Nearly all human traditions recognize that we, the living are, sojourners on earth and temporary stewards of our resources.¹²

13. Our moral intuitions and observed human behaviour lead to the conclusion that many of us tend to care most deeply for those closest to us in time and space, e.g. our immediate family, friends, and those from groups with whom we identify. Geographical – let alone temporal - distance is observed to make a difference in concrete expressions of concern for our fellow humans.

¹¹ See also Bemidji Statement on Seventh Generation Guardianship, issued in 2006 by representatives of North American indigenous peoples. <http://www.sehn.org/bemidjistatement.html>

¹² Brown Weiss, Edith *In Farness to Future Generations: International law, Common Patrimony, and Intergenerational Equity* (1989)

That said, globalization and the information and communications revolution have tended to shrink space in recent decades, arguably extending outward our sphere of strong empathy. The technologies have done little to shrink temporal distance from future generations. Our efforts and sacrifices aimed at protecting and improving the world for the sake of our children and grandchildren are the most straightforward actions from a moral perspective. Yet it is not immediately obvious on what ethical grounds human beings should be treated differently based on their date of birth, as this has no bearing on their humanity. In fact, as stated in Article 1 of the Universal Declaration of Human Rights “All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in spirit of brotherhood.” The basis for our moral obligations towards future people is thus argued to be simply the equal concern and respect we owe to all humans, regardless of where and when they may have been born.

14. In the case of some global environmental problems, the consequences of our present actions would not appear before decades, if not hundreds of years. For instance, certain very high risk impacts of climate change would not likely fall on our children or grandchildren; they would impact people born perhaps five or ten or twenty generations hence.

Sacrificing the interests of current generations?

15. The sustainable development agenda is deeply intertwined with issues of intra-generational equity and justice. Not for nothing does the Rio+20 outcome document state that: “Poverty eradication is the greatest global challenge facing the world today and an indispensable requirement for sustainable development.”¹³ The fair and equitable distribution of benefits and opportunities among the currently living is one of world’s most difficult challenges. However, addressing the needs of future generations is not meaningful if delinked from addressing the needs of those living. Poverty eradication is not just about intra-generational equity but also about intergenerational equity given the strong tendency for parent-to-child transmission of poverty – this varies from society to society depending on social mobility, but mobility seems to be on the decline in many developed countries at least in recent decades. The poor are likely to stay poor into the next generation.

16. The vision of sustainable development does not endorse the sacrifice of the legitimate aspirations of the poorest in the name of future generations. At the same time, this in no way implies that the needs of present generations always enjoy priority over those of future generations, but at the very least

¹³ Para. 2

the poorest and most vulnerable should not be called to make sacrifices for the long-term good of humanity.

17. In a world of limited resources, the need to allocate resources among competing interests cannot simply be wished away, but ought to be faced openly. First, this implies that the needs of future generations should be identified and articulated as precisely as possible – current generations should not forego benefits unless it seems reasonable that it would make a difference. At the same time, small gains for current generations should not be pursued when the actions, with a strong likelihood, can incur large losses for future generations. Second, decisions made by present generations that materially affect the allocation of burdens and benefits between present and future generations should be arrived at in open, reasoned processes, not through closed or indirect systems of decision-making.

18. The point has also been made that the relationship between generations can be articulated in positive terms, with less emphasis on negative trade-offs and greater emphasis on synergies, or win-win situations.¹⁴ Along these lines, justice is also a matter of equal access to common resources – shared by humankind over time – rather than just the distribution of private property. This translates to a right to a common heritage, or patrimony,

¹⁴ Global Conference on Implementing Intergenerational Equity, Conference Synopsis, <http://www.futurejustice.org/wp-content/uploads/2013/07/Global-Conference-Synopsis.pdf>

which those alive today enjoy thanks to previous generations, and that should be protected and safeguarded for future ones. Such patrimony includes nature's wealth but also cultural treasures.

Future persons as holders of rights?

19. Even though intuitively many people may agree that present generations have obligations and duties to future generations, in moral and legal terms it is hard to assign moral significance to non-existing beings. Simply put, it is argued that future persons cannot have rights because they do not yet exist – they cannot possess anything, including rights. In legal terms, it is argued that rights go hand-in-hand with duties; legal duties cannot exist absent legal rights, so that present generations cannot have legal obligations to future generations. If the rights-holder does not exist, it is difficult to conceive of anyone being under a corresponding duty.

20. Furthermore, the argument goes that no particular lives in the future can be “improved” by present policies because whichever policy is adopted will create a different “set” of future people.¹⁵

21. One response to this view is that the link between rights and duties is not iron-clad, so that it is conceivable that persons can be subject to duties

¹⁵ Derek Parfit, *Reasons and Persons* (1983)

without the strict requirement of a corresponding rights-holder. Thus future generations can be considered the bearers of rights, e.g. the right not to be deprived of opportunities due to exhaustion of natural resources or not to be harmed by the conditions of a degraded environment.¹⁶ In this case, present generation would be regarded as subject to a duty to respect these rights.

22. It has also been contended that the environmental rights of future generations might be best captured in terms of group rights (“intergenerational planetary rights”¹⁷, “community of rights”¹⁸), distinct from individual rights. There is no consensus about an exact *list* of rights that future people should be considered to have: with rapid advancement of technology and changes in other aspects of human life it is very difficult to claim that we can know what future people would want. A broader agreement exists, however, that there are some basic rights (to life, health, subsistence, peace etc.) that would be relevant and important to people as biological human beings at any time in the future, and that these rights should be protected by the present generation insofar as it has the power to do so.

¹⁶ Ernest Partridge, *On the rights of future generations* (1990)

¹⁷ Edith Brown Weiss, *In Farness to Future Generations: International law, Common Patrimony, and Intergenerational Equity* (1989)

¹⁸ Alan Gewirth, *The Community of Rights* (1996)

23. One influential view, communitarianism, argues that we are morally bound to future generations through a shared membership in a “transgenerational community”.¹⁹ On this account present generations are bound to the future generations through cultural interaction and moral similarity; therefore, we have strong obligations to future generations as members of the same community. For some, applicability of a *communitarian* approach might be questioned in relation to environmental issues that are *global* in nature. However, communitarians call to “think globally, act locally”, stressing that many global environmental problems manifest both local and global causes and that international efforts to resolve these issues do not undermine local efforts or relieve local communities from their moral obligations to act to address such problems.

24. Another view provides that the main duty owed to our successors is the saving of sufficient material capital to maintain just institutions – fair systems of governance - over time, the so-called principle of “just savings”.²⁰ Savings can take different forms, from net investment in machinery and other means of production to investment in learning and education. While material capital is emphasized, this operates so that each generation should preserve the gains of culture and society, maintain intact fair systems of governance that have been established, and put aside in each

¹⁹ Avner De Shalit, *Why Posterity Matters* (1995)

²⁰ John Rawls, *A Theory of Justice* (1971)

period of time a suitable amount of real capital accumulation. Originally developed for a national entity, this view was later extended to a global level and applied to the environmental context. The outcome of this stipulation is a fundamental “principle of intergenerational equity, that each generation should leave to its successors a planet in at least as good condition as that generation received it”.²¹ This general principle has been fleshed out in three parts:

(a) “Conservation of options” – each generation should be required to conserve the diversity of natural and cultural resource base, so that it does not unduly restrict the options available to future generations in solving their problems and satisfying their own values, and should also be entitled to diversity comparable to that enjoyed by previous generations.

(b) “Conservation of quality” – each generation should be required to maintain the quality of the planet so that it is passed on in no worse condition than that in which it was received, and should also be entitled to planetary quality comparable to that enjoyed by previous generations.

(c) “Conservation of access” – each generation should provide its members with equitable rights of access to the legacy of past generations and should conserve this access for future generations.

²¹ Edith Brown Weiss, *In Farness to Future Generations: International law, Common Patrimony, and Intergenerational Equity* (1989)

25. In addition to the above points, it is useful to consider what additional conclusions could be drawn from this brief consideration of ethical views on the needs of future generations. Since we cannot with great certainty ascertain the precise needs and preferences of future generations, we could in devising policies at the very least begin with two considerations: minimizing harm and doing that which benefits both present and future generations. Rather than seeking to identify and promote what might be the good life for future generations, the focus for policy from a future generations perspective should be guided by avoiding and minimizing harm. Practically, this would mean avoiding irreversible impacts on the ecosystems that provide the basis for human life – today, as well as in the future.

26. Second, consideration for the needs of future generations would favour policies that work to the advantage of both present and future generations—and which, other factors being roughly equal, are least burdensome to the present generation. Third, where risks to the interests of future generations are reasonably clear and consequential, present generations should exercise forbearance, foregoing some benefits. This finds its expression in the precautionary principle, which is widely but not universally accepted. Activities that lead to irreversible harm to large and important ecosystems or do significant damage to natural capital for which there is no ready

substitute could be considered to fall into this category. Above considerations might also lead to taking the options with least risks to achieve a given end.

27. Fourth, education also has a key role to play. Education is itself critical to intergenerational solidarity, as the means of transmitting accumulated or at least latest scientific and other knowledge to future generations. Concern for future generations rests on an open and critical engagement with moral and ethical choices, carried out by informed stakeholders, at all levels. Possible actions would involve strengthening civic education, education for sustainable development and leadership training to foster attitude changes advancing intergenerational solidarity and justice. In this context, the importance comes to the fore of promoting education for sustainable development (ESD) and global citizenship for children, young people and adults in order to meet the challenges of the twenty-first century. This includes the demand for increased freedom and tolerance, as well as the importance of protecting, promoting and maintaining tangible (including both natural and cultural heritage) and intangible cultural heritage for current and future generations.

28. Fifth, long-term scientific research and development form part of an intergenerational strategy. Such research is necessary to develop substitutes

for depleted resources, to extract and use resources more efficiently and to understand and manage long-term threats to environmental quality²². While much of the research may take place in the private sector, there is a need for public support to catalyze transformative shifts in key areas, especially where market failures operate.

(b) Economics

29. Economic models have informed and guided environmental policies, including policies on climate change mitigation and adaptation, since at least early 1990s. Problems may arise with application of this framework of analysis in relation to irreversible impacts, e.g. losses of ecosystems like coral reefs, and the systems whose value cannot be captured adequately in monetary terms. Moreover, it can be argued that decisions on, for instance combating climate change or biodiversity loss, cannot be determined by the costs of action alone, because the understanding of costs is informed by assumptions about what we value.

30. Cost-benefit analysis is generally perceived as an objective approach to policy-making. However, it has been emphasized that initial assumptions on which projections are based represent value judgments²³. Such analyses

²² Edith Brown Weiss, *In Farness to Future Generations: International law, Common Patrimony, and Intergenerational Equity* (1989)

²³ Nicholas Stern, *Ethics, Equity and the Economics of Climate Change*, Working Paper (2012)

involve the comparison between the cost of a given policy and the benefit, e.g. damage avoided. But given that damages may be distant in time, it is necessary to quantify how much the avoidance of the damage would be worth in the present. This is done by applying a discount rate, reflecting that the more distant in time a benefit or damage avoided is, the less it is worth to us in the present, given competing investment opportunities. A high discount rate implies relatively modest action to address a problem, while a low discount rate implies immediate and dramatic action. For instance, a 5.5 per cent discount rate would value a cost in 100 years almost 53 times less than a 1.4 per cent discount rate. Thus it is argued that when a high discount rate is adopted in the analysis of climate change mitigation, people in the current generation are treated as more as more valuable than people in future generations.

31. More broadly, it has been argued that when a policy raises predominantly normative, political and institutional questions, as opposed to technical ones, cost-benefit analysis will not be effective²⁴. Furthermore, the conventional cost-benefit rationale is unsuitable for the valuation of irreversibilities²⁵. Overall, the rationale for selecting discount rates – whether based on observed market rates otherwise – remains unsettled in the literature.

²⁴ Jonathan Masur & Eric Posner, *Climate Regulation and the Limits of Cost-Benefit Analysis*, 99 California Law Review, 1557 (2011).

²⁵ WBGU, *World in Transition: Environment and Ethics*, Special Report (1999).

However, in the context of the needs for future generations, there is a good case to be made for lower discount rates, taking into account ethical concerns that the welfare of present generations not be valued more highly than that of those in the future.

III. Existing arrangements and lessons learnt

32. References to future generations are found in a range of legal instruments, including an increasing number of national constitutions. National institutions have also been established in various jurisdictions with mandates that relate to the protection of the interests of future generations.

(a) Needs of future generations in international legal instruments

33. A variety of treaties and declarations, on regional and international levels, already make reference to future generations.²⁶ The preamble to the United Nations Charter stated that one of the founding purposes is “to save succeeding generations from the scourge of war”. The Stockholm Declaration on the Human Environment (1972) refers to future generations in the context of the environment. Thus principle 1 expresses “the common conviction” that humanity “bears a solemn responsibility to protect and improve the environment for present and future generations.” Principle 3 of

²⁶ This review greatly benefited from the research done by Halina Ward and Peter Roderick as part of the Discussion Paper *Committing to the future we want: a High Commissioner for Future Generations at Rio+20* (2012).

the Rio Declaration states that: “[t]he right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations.”

34. The UN Framework Convention on Climate Change (1992), UN Convention on Biological Diversity (1992), as well as the Convention to Combat Desertification (1994) and the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management (1997) stand out in their highlighting the needs of future generations. The UNESCO Declaration on the Responsibilities of the Present Generations Towards Future Generations (1997) directly addresses the issue. Other declarations and UN General Assembly Resolution 37/7 on a World Charter for Nature (1982) all address the need to protect future generations.

35. Other international agreements and declarations that make references to future generations and common heritage are the International Convention for the Regulation of Whaling (1946), Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES, 1975), African Convention on the Conservation of Nature and Natural Resources (1968), Convention on the Prohibition of Military or any Other Hostile Use of Environmental Modification Techniques (1976), Bonn Convention on the Conservation of Migratory Species of Wild Animals (1979), Berne

Convention on the Conservation of European Wildlife and Natural Habitats (1979), Council of Europe Convention for the Protection of the Architectural Heritage of Europe (1985), ASEAN Agreement on the Conservation of Nature and Natural Resources (1985), Paris Convention for the Protection of the Marine Environment of the North-East Atlantic (1992), Convention on the Transboundary Effects of Industrial Accidents (1992), UNECE Convention on the Protection and Use of Transboundary, Watercourses and International Lakes (1992), North American Agreement on Environmental Cooperation (1993), UNECE Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (1998), Charter of Fundamental Rights of the European Union (2000), Stockholm Convention on Persistent Organic Pollutants (2001), WHO Framework Convention on Tobacco Control (2003), Vienna Declaration and Programme of Action, World Conference on Human Rights (1993), UNESCO Universal Declaration on Bioethics and Human Rights (2005), Antarctic Treaty (1959), Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (1979), United Nations Convention on the Law of the Sea (1982), UNESCO Universal Declaration on the Human Genome and Human Rights (1997).

36. The breadth and number of instruments demonstrate that concern for future generations has developed as a guiding principle in international norms. The

existence of these documents also shows that, at least to a certain extent, states are not only willing to make, but also have already made, international commitments for the sake of future generations. However, these references to future generations do remain, for the most part, in preambles and not in the operative text of the instruments. At the international level, there has been no legally binding instrument specifically committing states to the protection of future generations.

(b) Legal provisions at the national level

37. A number of countries have incorporated references to future generations in their constitutions. For instance, Bolivia, Ecuador, Germany, Kenya, Norway and South Africa have enshrined the rights of future generations within their constitutions. The Constitution of Bolivia provides that among the purpose and functions of the State are the responsible use of natural resources, the promotion of industrialization, and the conservation of the environment for the welfare of current and future generations.²⁷ The constitution of Ecuador provides in article 317 that in the management of non-renewable resources “the State shall give priority to responsibility between generations, the conservation of nature, the charging of royalties or other non-tax contributions and corporate shares...”²⁸ Article 400 states that: “The State shall exercise sovereignty over biodiversity, whose administration and

²⁷ Article 9(6), <http://pdba.georgetown.edu/Constitutions/Bolivia/bolivia09.html>

²⁸ <http://pdba.georgetown.edu/Constitutions/Ecuador/english08.html>.

management shall be conducted on the basis of responsibility between generations.” Article 110(b) of the Norwegian constitution provides that every person has a right to an environment that is conducive to health and that: “Natural resources should be managed on the basis of comprehensive long-term considerations whereby this right will be safeguarded for future generations as well.” Article 20a of German Basic Law (constitution) states that: “[t]he state takes responsibility for protecting the natural foundations of life and animals in the interest of future generations.” The phrase “foundations of life” “embraces all components of the environment which are necessary for the maintenance of life over long periods.” Thus the provision places responsibility for protection of the natural environment on the state. The South African constitution states that everyone has the right to “have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures...”²⁹ Similarly, the Kenyan constitution provides for the right to a “clean and healthy environment”, which includes the right to have the environment “protected for the benefit of present and future generations through legislative and other measures...”³⁰

38. Examples of references to future generations are found in the state constitutions of Hawaii and Montana. Future generations are also referenced

²⁹ Article 24 of the 1996 Constitution.

³⁰ Article 42 of the 2010 Constitution.

in environmental framework legislation, such as the United States National Environmental Policy Act³¹ and the South African National Environmental Management Act.³²

(c) National institutions for future generations

39. Canada, Finland, Hungary, Israel, New Zealand, and Wales either have or have had an office that serves to protect the needs of future generations. In the Philippines, while lacking a specific office, the judiciary in a well-known case accepted the protection of natural resources in the name of future generations. There are also developments in other countries, such as in Norway, to establish an institution for future generations.

40. New Zealand established its Parliamentary Commissioner for the Environment in 1986. While not explicitly addressing the needs of future generations, the Parliamentary Commissioner has committed to work specifically addressing those needs, functioning similarly to an ombudsman. The primary role of the Parliamentary Commissioner is investigative: the office collects information about the environment, reviews the government's management of resources, and inquires into specific environmental issues or

³¹ Section 101(a) providing that it is the "continuing policy of the Federal Government, inter alia, to "...fulfill the social, economic, and other requirements of present and future generations of Americans."

³² Stating in the preamble that "everyone has the right to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures....".

problems. The Commissioner also has an advisory role, and could encourage remedial actions and make reports to the House of Representatives.

41. Finland's Committee for the Future was established in 1993. Its role is relatively limited: although it may investigate "development factors and development models of the future" and may conduct "assessments of technological development and the effects on society of technology", it deliberates with parliament only upon request.

42. Canada's Commissioner of the Environment and Sustainable Development, established in 1995, is situated within the Office of the Auditor General, and conducts performance audits, and is responsible for assessing whether federal government departments are meeting their sustainable development objectives and for overseeing the environmental petitions process. Beyond these roles, the Commissioner may also process citizen petitions "about an environmental matter in the context of sustainable development" and monitors responses from federal ministers.

43. Israel, in 2001, was the first country to establish a Commission for Future Generations, with a judge as its Commissioner. The primary function of the Commission was for the most part investigative. The Commission was given the task of reviewing the ramifications of legislation and its effects on future

generations and was also tasked to define the areas of interest to future generations. The Commission had investigative power, such as the ability to demand information from state agencies. However, the Commission also had considerable advisory power. It could provide the Knesset with recommendations and voice opinions on legislative drafts and acts. In its investigative and advisory role, the Commission also claimed a right to voice an informed opinion on legislation that might affect future generations. The delay involved in collecting data and undertaking an evaluation meant that the Commission could impact the formation of legislation in a manner similar to the filibuster in the United States Senate. The first Commissioner's term (which lasts for five-years) ended in 2006. In 2007, the Knesset disbanded the Commission.

44. Hungary established its Parliamentary Commissioner for Future Generations in 2008. The primary task of the Commissioner, one of the four parliamentary ombudsmen, was to protect the constitutional right to a healthy environment. In this capacity, the Commissioner could investigate citizen complaints on environmental issues. This investigative capacity was considerably empowered, such as through the authority to obtain information and enter property. The other main task of the Commissioner was to advocate for policy that is sustainable and considerate of the needs of future generations. To advance both of these tasks, the Commissioner was

also tasked to develop and collect research and prepare reports on the environment, sustainability, and policy development in legislation. In 2012, the Commissioner's office, along with those of the other parliamentary commissioners, was replaced by a single, broader entity, the Office of the Commissioner for Fundamental Rights. The new Commissioner is to pay "special attention to the protection of... the values determined as 'the interests of future generations'" and a Deputy Commissioner is now tasked with the specific role of "protecting the interests of future generations."

45. Wales, whose government has a legal duty to promote sustainable development, established its Commissioner for Sustainable Futures in April 2011. The Commissioner's primary role is to provide leadership and advice on sustainable development. The Commissioner convenes regularly with stakeholders, develops voluntary partnerships and coalitions, and promotes sustainable development within civil society and the Welsh Government. The Commissioner also advises the Welsh Government on policy and approaches to sustainable development, in particular also focusing on long-term implementations.

46. In Norway the Ombudsman for Children possesses statutory powers to investigate individual complaints, and it also monitors legislation and policy

affecting children. There are civil society proposals for the establishment of an ombudsman for future generations.

47. The Parliamentary Advisory Council on Sustainable Development, established by the German Bundestag (Parliament) in 2009, is intended to serve as the advocate of long-term responsibility in the political process. Among other things, the Advisory Committee supports the Federal Government's National Sustainable Development Strategy in the parliamentary process and may also present recommendations on medium and long-term planning. The Advisory Council carried out an evaluation of the sustainability impact assessment that is mandated for all legislation and statutory orders. This assessment, based on the national sustainable development strategy, encompasses four areas: fairness between generations, social cohesion, quality of life, and international responsibility. However, the recommendations of the Advisory Committee on sustainability assessments remain advisory in nature, because the relevant parliamentary rules do not specify to what degree its recommendations must be taken into account by other parliamentary committees.³³

48. There exist a number of initiatives and institutions, at various levels, that relate to the needs of future generations. One example is the Oxford Martin

³³ Report by the Parliamentary Advisory Committee concerning the sustainability impact assessment in the context of regulatory impact assessments and optimisation of the procedure, Printed paper 17/6680.

Commission for Future Generations, comprising a number of eminent persons, which aims to foster longer-term thinking and identify ways forward in key areas, such as climate, trade, security, and other negotiations.³⁴ The Commission is due to report towards the end of 2013. Another is the inaugural report of the Australian National Sustainability Council, which examines the evidence behind the trends, issues and challenges affecting the environment, society, economy and collective wellbeing, as a basis for discussion of the kind of society Australians want for themselves and for future generations.

(d) Children and youth

49. The welfare of future generations is in a large part determined by our treatment of contemporary children, which means that caring for future generations should include a special focus on investing in the human rights and development of children today. Concern for children in the context of intergenerational justice has surfaced in international human rights instruments, prominently in the form of the United Nations Convention on the Rights of the Child (UNCRC).

50. Understanding linkages between parents and children is crucial. Studies confirm strong connections between maternal and child health, as well as

³⁴ <http://www.oxfordmartin.ox.ac.uk/commission/about>

between mother's and child's educational levels, especially in developing countries.³⁵ Parental wellbeing determines to a great extent options available to the children, including mechanisms of intergenerational poverty transmission. Maternal health and education, as well as overall quality of parent-child relationships, should be addressed as an integral component and a crucial contributor to intergenerational solidarity.

51. Another important aspect of intergenerational solidarity is participation of children and young people in the implementation of sustainable development. As recognized by leaders in Rio, the voices, choices, and participation of children and young people are critical for a sustainable future. Indeed, paragraph 50 of *The Future We Want* is very explicit: “We stress the importance of the active participation of young people in decision-making processes, as the issues we are addressing have a deep impact on present and future generations and as the contribution of children and youth is vital to the achievement of sustainable development. We also recognize the need to promote intergenerational dialogue and solidarity by recognizing their views.”

³⁵ Uchenna Onuzo *et al*, *Intergenerational Equity: Understanding the linkages between parents and children, a systematic review*; London School of Economics, Capstone Project, (2012).
http://www.unicef.org/socialpolicy/files/LSE_Capstone_Intergenerational_Equity.pdf

52. It is important to mention here that during Rio+20 it was the civil society Major Group Children and Youth (together with the Alliance for Future Generations) that put forward the proposal for a High Commissioner for Future Generations. Children of today, whether subsumed under future generations or not, deserve significant attention in the context of sustainable development and the post-2015 development agenda.

(e) Proposals related to a High Commissioner for Future Generations

53. The second Preparatory Committee Meeting for the Rio+20 Conference in March 2011 invited all Member States, relevant United Nations system organizations, and stakeholders to provide inputs and contributions to the Secretariat for inclusion in a compilation that served as basis for the zero-draft of the outcome document.³⁶ In their contributions, several Member States stressed the need for the Conference to address the needs and rights of future generations. In this regard, a proposal was put forward for an institution to safeguard long-term interest and the needs of future generations at the global level.³⁷ While echoed and supported by a number of governments and many civil society groups,³⁸ the proposal for a High

³⁶ All submissions can be accessed at: <http://www.uncsd2012.org/compdocument.html>

³⁷ The Alliance for Future Generations Rio+20 working group, "Rio+20: Open Challenge Paper." .

³⁸ UNEP Major Groups and Stakeholders Advisory Group on International Environmental Governance, "Submission to the UNCSD Bureau as input to the Zero Draft Outcome Document for the UN Conference on Sustainable Development (Rio+20)." Oct 2011.

Commissioner for Future Generations (HCFG) was spearheaded by the Major Group for children and youth, and the Alliance for Future Generations.

54. For instance, the Major Group Children and Youth called for the establishment of national level ombudspersons for Future Generations that would be mandated to provide an assessment of the long-term impacts of public policies and legislative proposals. They would also respond to citizen petition, investigating claims of environmental crimes and offences and engaging in either conciliation or litigation. This call was supported by other stakeholder groups as well reiterating the need for independent actors with legal powers. The establishment of these ombudspersons would be partly supported by the High commissioner for Future Generations, whose office would have both an agenda-setting and advisory role.

55. The call was reiterated in the Declaration adopted at the sixty-fourth annual Conference of the Department of Public Information for Non-Governmental Organizations held in Bonn, Germany, 3-5 September 2011³⁹. The declaration called for the *establishment of ombudspersons for future generations at the global, national and local levels, who will advocate for sustainable development, as envisaged and defined by the Brundtland*

³⁹ 64th Annual DPI/NGO Conference Declaration:
<http://www.un.org/wcm/webdav/site/dpingorelations/shared/Final%20Declaration/BonnEng.pdf>

Commission, to enhance the well-being and prospects of present and future generations to meet their needs, serve as an auditor at the heart of Governments and deal with citizens' complaints.

56. As argued by many civil society groups, HCFG would further the global objectives of intergenerational justice by encouraging focus on issues that are of critical importance to the wellbeing of future generations but are often sidelined within the structure and procedures of present political and legal systems. The existence of such an office at the United Nations would help address, in a focused manner, the long-term consequences of present-day actions, by spotlighting impact on the future in tangible, non-abstract terms and by rallying support for integrating sustainability into planning decisions by governments, business, and individuals. The office would also play an advocacy role by highlighting the moral imperative of leaving behind a healthy world in which future generations will live out their lives. Finally, such an office may function best in the context of the United Nations, where the vision of a better tomorrow and planning for future generations are in keeping with the United Nations Charter and are among the driving values of the Organization.⁴⁰

⁴⁰ Halina Ward, *Committing to the future we want: a High Commissioner for Future Generations at Rio+20*, Discussion Paper (2012).

57. Two High Commissioners already exist within the United Nations' system: High Commissioner for Refugees since 1951 and High Commissioner for Human Rights since 1993. Although neither model can be a potential analogue, it is argued that the elements of their existing responsibilities could offer direct inspiration for the powers and responsibilities of a High Commissioner for Future Generations. The list of core powers and responsibilities of High Commissioner for Future Generations are proposed to cover:⁴¹

- International agenda-setting and leadership;
- Monitoring, early warning and review;
- Public participation;
- Capacity for innovation at national and sub-national levels;
- Public understanding and evidence; and
- Reporting.

58. As presented, High Commissioner for Future Generations, as an international entity within the UN system, would have a scope of action significantly different from national institutions that serve the needs of future generations. Proponents maintain that the political dynamics, responsibilities, and powers of national institutions would largely be absent at an international level, with a High Commissioner for Future Generations

⁴¹ *ibid.*

playing a more limited role. A review of national institutions, while useful for several reasons, should not be considered as necessarily reflecting or predicting the difficulties, successes, or functions of an international one.

59. However, national attempts to institutionalize concern for future generations are illustrative of factors that may also be at play in the establishment of a similar institution at the international level. First, the number of countries that have established such institutions, in various forms, may be considered relevant. Second, how the idea has been implemented structurally and procedurally can provide a useful guide to key considerations for policymakers. Finally, the practical success and difficulties can highlight potential areas of concern.

60. There are a variety of other approaches that could be advanced to address the needs of future generations. These include raising awareness and focus on future generations within existing institutions and offices, recognition of the needs of young people and future generations in the Sustainable Development Goals, or establishing a special envoy. Proponents for the establishment of a High Commissioner for Future Generations argue, however, that the more limited or aspirational approaches, while beneficial,

have generally proven to be ineffective at addressing the needs of future generations.⁴²

61. At Rio+20, closely related to the call for a high commissioner was the proposal for a sustainable development champion who could raise awareness and mobilize political support. In similar way, some stakeholders called for appointment of a high-level official to lead a review of the achievements and shortcomings of United Nations programmes designed to support youth and future generations, and champion recommendations on how to more effectively address the challenges hindering the development and participation of youth.

IV. Options for a way forward

62. The report discusses multiple ways in which the Member States and the United Nations system could enhance intergenerational solidarity, and drawing on lessons learnt at the national and sub-national/regional level with analogous institutions. Within this broad context, a range of options could be considered by Member States, including those set out below.

63. *Commissioner*: During the preparatory process for the United Nations Conference on Sustainable Development, one of the proposals put forward,

⁴² Ibid.

with strong support from civil society, was the establishment of a “High Commissioner for Future Generations.”

- The High Commissioner could act as an advocate for intergenerational solidarity through interactions with the Member States and other stakeholders as well as across the United Nations entities and specialized agencies.
- Such an office could undertake research and foster expertise on policy practices to enhance intergenerational solidarity in the context of sustainable development on the international, regional and national and sub-national level and disseminate this expertise as deemed appropriate.
- The office could, on request from the United Nations or any of its entities, specialized agencies, or affiliated organizations, offer advice on implementation of existing intergovernmental commitments to enhance the rights and address the needs of future generations.
- The office could, upon request, also offer its support and advice, including to individual Member States on best practices and policy measures to enhance intergenerational solidarity.

64. The office of the High Commissioner would not have a field presence or receive reports from the Member States, unless on a voluntary basis. The establishment of the High Commissioner and the related office would require adequate financing in order to ensure the quality of services.

65. *Special Envoy*: A related option, but with a lighter institutional footprint, could be the appointment of a Special Envoy of the Secretary General on Future Generations. The Special Envoy would serve as a global independent advocate for intergenerational solidarity, with a particular concern for the welfare of future generations, and would promote and facilitate the inclusion of best practices in policy-making at all levels. The Special Envoy would promote and facilitate the engagement and full participation of all stakeholders in the UN processes related to intergenerational solidarity and future generations, such as the High-level Political Forum, as well as conduct public advocacy to raise awareness of measures needed globally. The Special Envoy would report annually to the GA and also on request to the High-level Political Forum on sustainable development. The Envoy would be appointed for a fixed period of time. The Secretary-General's Special Envoy on Youth is tasked with advocating for the needs of today's young people – education, employment, and respect for their rights. The mandate of a Special Envoy on Future Generations, while to some degree encompassing the needs of young people, would not be limited to the needs of a particular generation. The role of such an envoy would be to consider the impact of a far broader range of considerations, touching potentially also on the needs of future generations.

66. *Agenda item in high-level political forum:* The high-level political forum could address intergenerational solidarity and the needs of future generations as a recurring agenda item, which would serve to keep the issue on the agenda of international decision-making and promote its integration within the sustainable development framework. Specifically, intergenerational solidarity and future generations could be addressed through thematic plenary or roundtable discussions and result in possible recommendations included in the Forum's declarations.

67. *Inter-agency coordination on the needs of future generations:* The Secretary-General could be invited to promote intergenerational solidarity and future generations within the UN System through the Chief Executives Board (CEB) and its mechanisms to ensure policy coherence within the system.

Recommendation

68. Member States may wish to invite the high level political forum to consider, at its second meeting, in 2014, the possible institutional arrangements proposed in this report and other suitable mechanisms to promote intergenerational solidarity for the achievement of sustainable development, taking into account the needs of future generations.