



Doc. 15999

07 June 2024

Safeguarding human rights for future generations

Report¹

Committee on Social Affairs, Health and Sustainable Development

Rapporteur: Mr Pedro CEGONHO, Portugal, Socialists, Democrats and Greens Group

Summary

The report is based on the observation that today's political decisions will have lasting impacts on future generations and respect for their human rights. It encourages States to adopt an integrated approach that takes into consideration environmental concerns, along with economic, social and cultural development. Intergenerational equity will need to be a guiding principle in any decision making involving children and youth and the generations that will inherit the planet.

The report takes stock of the progress and limitations resulting from the recent case law of the European Court of Human Rights on climate matters. It is more necessary than ever to continue to reflect on the efforts to be made to advance existing standards in order to safeguard future generations in environmental matters.

The Council of Europe recognised, in the Reykjavik Declaration, the need to move forward in safeguarding human rights for future generations. The report calls on member States to use this momentum to demonstrate leadership and a strong commitment to this imperative by putting forward a discourse that reaffirms the importance of respecting the rights of future generations, and by exploring the potential and limits of recent case law on climate to develop less anthropocentric environmental standards.

1. Reference to committee: [Doc. 15513](#), Reference 4651 of 20 June 2022.



Contents	Page
A. Draft resolution	3
B. Explanatory memorandum by Mr Pedro Cegonho, rapporteur	4
1. Introduction	4
2. Challenges and opportunities for intergenerational equity and human rights for future generations	4
3. Reaffirming commitment to future generations through reinvigorated multilateralism	5
3.1. United Nations: towards a “Pact for the Future”	5
3.2. Council of Europe: United around our values for present and future generations	6
4. Invoking the rights of future generations before the courts: environmental litigation	7
5. The Maastricht Principles: an attempt to clarify the scope of human rights for future generations	9
6. Conclusions	10

A. Draft resolution²

1. The Parliamentary Assembly emphasises that a sustainable world not only means meeting the needs of the present generation: it must also guarantee that future generations can likewise meet their needs. This is nothing less than respecting intergenerational equity and is all the more an absolute imperative in the face of the climate change challenge of today.
2. The Assembly stresses moreover that while the climate crisis has rightly been identified as the biggest existential emergency facing humankind, we must not overlook other significant risks to the rights of future generations, such as growing socio-economic inequalities, public health emergencies, wars and conflicts, and rapid technological advances.
3. The Assembly notes that numerous constitutional texts now contain references to future generations and that the notions of future generations and intergenerational equity are ever more frequently used before national and international courts in environmental litigation.
4. The Assembly welcomes the fact that the Final Declaration of the Reykjavik Summit has recognised the scale of the task ahead and that the Heads of State and Government of Council of Europe member States committed therein to meeting the current and future challenges, raising up to the expectations of future generations and making the environment and the intergenerational solidarity a visible priority for the Organisation.
5. In the light of these considerations, the Assembly invites Council of Europe member States to seize and build upon this strategic moment in the Organisation's life, and to strongly promote both at national level and in international forums:
 - 5.1. their political will to uphold, protect and develop the civil, political, economic, social and cultural rights – both at the individual and the collective level – of our future generations, based on the fundamental principle of equality and non-discrimination found in human rights law;
 - 5.2. their political will to advance rapidly and with determination on the existing environmental standards and practices, from a less anthropocentric perspective and taking into account recent legal developments in environmental matters, in particular the case law of the European Court of Human Rights in climate cases.

2. Draft resolution adopted unanimously by the committee on 3 June 2024.

B. Explanatory memorandum by Mr Pedro Cegonho, rapporteur

1. Introduction

1. On 28 April 2022, several members of the Parliamentary Assembly tabled a motion for a resolution on “Safeguarding future rights for future generations”.³ The motion was referred to the Committee on Social Affairs, Health and Sustainable Development for report and I was appointed rapporteur on 23 September 2022. At the committee meeting on 22 May 2023, the title of the report was changed to “Safeguarding human rights for future generations” to better reflect its scope.

2. The world is currently dealing with multiple intersecting crises that threaten human lives, livelihoods and rights of both present and future generations.⁴ It is internationally agreed upon that the present generations have a responsibility to halt and prevent developments that could threaten the survival of future generations.⁵ While the “triple planetary crisis” is the biggest existential challenge in terms of safeguarding rights for future generations, other mainly socio-economic challenges have a lasting impact on future generations and their human rights and pose threats to intergenerational equity. That is why the motion for a resolution covers all human rights for future generations and the corresponding obligations for the States.

3. At the level of the United Nations, the report on Our Common Agenda, adopted in 2021, sets out the UN Secretary-General’s vision for the future of global co-operation around the 2030 Agenda for Sustainable Development, calling for solidarity between peoples, countries and generations and a renewal of the multilateral system to accelerate implementation of existing commitments and fill gaps in global governance that have emerged since 2015. With that aim in mind, a Summit of the Future on “Multilateral Solutions for a Better Tomorrow” is to be held in September 2024.

4. In the same way, the Final Declaration of the Reykjavik Summit organised in May 2023 reaffirms the commitment of Heads of State and Government to meet current and future challenges, as well as to raise up to the expectations of future generations. It stresses that the Council of Europe is part of a wider international community and underlines the importance of strengthening dialogue with other international organisations and working together, notably for the implementation of the UN Sustainable Development Goals.

5. The Assembly has considered the impact of current policy actions on the rights of future generations on several occasions. In this context, I would mention [Resolution 2396 \(2021\) “Anchoring the right to a healthy environment: need for enhanced action by the Council of Europe”](#) and [Resolution 2415 \(2022\) “Inaction on climate change – A violation of children's rights”](#). These resolutions recognise States’ responsibility to protect and improve the environment for present and future generations. [Resolution 2023 \(2014\) “Measuring and fostering the well-being of European citizens”](#) holds policy makers responsible for enhancing collective well-being for the benefit of both present and future generations, while [Resolution 2197 \(2018\) “The case for a basic citizenship income”](#) urges States to undertake socio-economic reforms to ensure decent living conditions and adequate social protection for present and future generations.

6. Finally, [Resolution 2545 \(2024\) “Mainstreaming the human right to a safe, clean, healthy and sustainable environment with the Reykjavik process”](#) calls the Heads of State and Government of the Council of Europe to adopt a post-Reykjavik Strategy which will be implemented by and for the young generations and to lay down strict requirements in terms of transparency, ethics, accessibility, responsibility, efficiency, and reliability.

2. Challenges and opportunities for intergenerational equity and human rights for future generations

7. The term “future generations” refers to all people who will come after us. Their lives and eventual ability to effectively enjoy all human rights and meet their needs are already being influenced by our actions today.⁶ Human rights for future generations are inherently linked to sustainability, which requires an integrated approach that takes into consideration environmental concerns, along with economic, social and cultural development. A sustainable world must meet the needs of the present generation without compromising the ability of future generations to meet their own needs, thus ensuring intergenerational equity.

3. [Doc 15513](#).

4. www.rightsoffuturegenerations.org/about.

5. UN, Elements Paper for the Declaration for Future Generations, www.un.org/pga/76/2022/09/12/general-assembly-declaration-on-future-generations-pga-letter/.

6. www.un.org/sites/un2.un.org/files/our-common-agenda-policy-brief-future-generations-en.pdf.

8. The interlinked threats of climate change, biodiversity and ecosystem loss and pollution, also known as the triple planetary crisis, violate the rights of countless people across the world every day and threaten the effective enjoyment of human rights of future generations.⁷ Those who have contributed the least to climate change are also those who suffer the most, and future generations will have to live with the consequences of (in)action by current policy makers, raising questions of justice and equity between the rich and poor, nations and generations. The future of the planet and humankind are at risk if we don't step up efforts to ensure a safe, clean, healthy and sustainable environment for all.

9. The world is grappling with other challenges that pose significant risks to the rights of future generations, such as growing socio-economic inequalities, public health emergencies, wars and conflicts, and rapid technological advances, adding concerns about intergenerational solidarity and justice. While the rights of future generations are often associated with the preservation of natural resources and the environment for their benefit, it must not be overlooked that human rights are indivisible and interdependent. Thus, States must take action to safeguard the full range of human rights which are essential to enabling future generations to live in peace and dignity.

10. Halfway to 2030, the world is woefully off track to achieve the UN Sustainable Development Goals.⁸ Regional and international co-operation must be strengthened to fulfil the ambitions of existing agreements. In this regard, a reinvigorated multilateralism is imperative to effectively respond to current and future challenges and opportunities. The Reykjavik Summit and its Declaration showcased political commitment to meet these challenges, and several other multilateral initiatives, including at the UN level, are underway. For policy decisions to have legitimacy for future generations, it is important to empower children and youth, who will inherit the planet, and meaningfully include them in decision-making processes. Due considerations must also be taken to safeguard the interests of yet unborn generations, who are not alive yet to tell us what they need or think.

3. Reaffirming commitment to future generations through reinvigorated multilateralism

3.1. United Nations: towards a “Pact for the Future”

11. The idea of safeguarding rights for future generations emerged already in the mid-1940s. With the end of the second world war, the UN was built on the idea to save “succeeding generations from the scourge of war” as reflected in the preamble of the UN Charter. Subsequently, the idea found its way in other UN instruments. The 1972 Stockholm Declaration on the Human Environment lists as its first principle the need to protect and improve the environment for future generations, and the 1992 Convention on Biological Diversity expresses in its preamble the conservation of biological diversity for the benefit of present and future generations. In addition, the 1993 Vienna Declaration and Programme of Action provide that the “right to development should be fulfilled so as to meet equitably the [...] needs of present and future generations”. In 1997, UNESCO adopted the Declaration on the Responsibilities of the Present Generations Towards Future Generations, underlining that “present generations have the responsibility of ensuring that the needs and interests of present and future generations are fully safeguarded”.

12. However, since then the threats to the rights of future generations have further accumulated and must thus be continuously re-evaluated from a modern and critical perspective. In this regard, the priorities of young people can be a possible indicator. Their inclusion in decision-making processes can be considered as an investment in immediate returns. The UN underlines as the most urgent matters the safeguarding of a healthy planet, strong institutions, social protection, education, employment as well as strong health security and health emergency preparedness.⁹ For example in 2016, the UN Committee on Human Rights recognised that environmental degradation constitutes a serious threat to the ability of present and future generations to enjoy the right to life.¹⁰

13. In 2021, the UN Secretary-General launched “Our Common Agenda” a landmark report for action, which focuses *inter alia* on future generations and how to respond to future challenges.¹¹ In line with the agenda, the UN published a [Policy Brief “To Think and Act for Future Generations”](#) in March 2023. The brief includes suggestions for practical steps to safeguard the interests of future generations and preserve their

7. www.un.org/en/content/action-for-human-rights/assets/pdf/info%20sheet%20-%20future%20generations.pdf.

8. <https://news.un.org/en/story/2023/07/1138777>.

9. *Ibid.*

10. Human Rights Committee, “Views adopted by the Human Rights Committee concerning Communication no. 2728/2016”, 24 October 2019.

11. www.un.org/en/content/common-agenda-report/.

ability to effectively enjoy all human rights. The first step foreseen is the appointment of a Special Envoy for Future Generations with advisory and advocacy functions. The second step is the increase of a better use of foresight, science, and data, and the third step is a forum for future generations.¹²

14. As part of the policy brief, the UN has held several consultations and the General Assembly has decided to hold a Summit of the Future in 2024 on “Multilateral Solutions for a Better Tomorrow”, where a Pact for the Future will be central. The Summit is to be held in New York in September 2024. The UN proposes concrete measures to reinforce the human rights of future generations, including the implementation of long-term intergenerational thinking in decision making and the endorsement of a Declaration for Future Generations and a global digital compact, which will be annexed to the Pact for the Future, subject to intergovernmental support. The Declaration is supposed to identify and enable to manage and monitor global existential risks and orient policies and programmes towards long-term sustainable development.¹³ It will entail legally binding obligations and can therefore become a strong legal instrument in the fight for safeguarding human rights for future generations.

15. Moreover, the Office of the United Nations High Commissioner for Human Rights (OHCHR) held a roundtable on “[The Universal Declaration of Human Rights at 75: Looking to Future Generations](#)” on 26 June, 2023, in relation to the Secretary-General’s “Our Common Agenda” initiative. The event aimed to emphasise the significance of the Universal Declaration of Human Rights in tackling emerging issues and challenges, as well as to serve as a foundation for addressing future challenges, including the human rights of future generations. The roundtable reviewed recent progress in the area of human rights for future generations and identified the main challenges to be met in this area.

16. Based on the recommendations received during the roundtable mentioned above, the OHCHR put forward specific proposals to strengthen the human rights of future generations at its annual meeting with member States on 28-29 June 2023. These proposals involve various actions such as encouraging long-term intergenerational thinking in decision making; adopting a Declaration on Future Generations; assigning a United Nations Special Envoy for Future Generations; improving co-operation among UN entities; supporting civil society involvement; promoting education and awareness-raising; establishing accountability mechanisms; evaluating existing international human rights instruments; and developing new ones.¹⁴

3.2. Council of Europe: United around our values for present and future generations

17. In its work, the Council of Europe has also addressed the problems regarding the safeguarding of human rights for future generations in their multifaceted dimensions. For instance, it has recognised its own role in the matter and the need to contribute to improvements responding to new societal developments. This encompasses especially the protection of social rights in times of crises when vulnerable groups are at an increased risk of poverty, marginalisation, and social exclusion.¹⁵

18. The 2015 “[Brussels Document](#)” drawn up at the conference on the “Future of the protection of social rights in Europe”, at the initiative of the Belgian Chairmanship of the Committee of Ministers, sets out a variety of objectives and proposals for the improvement of the protection of social rights in Europe. It confirms a broad consensus on the “need to better take into account the requirements of social rights in policies implemented in Europe in the response to the economic, financial and sovereign debt crises; and to strengthen to this effect the possibilities of legal remedies against violations of social rights”. In this regard it was agreed that full effectiveness must be given to the European Social Charter (revised) (ETS No. 163) and co-ordination between the member States must be improved.

19. The former Commissioner for Human Rights has recognised in her work that environmental degradation may affect not only the right to life or the freedom from inhuman or degrading treatment, but also a variety of economic, social and cultural rights.¹⁶ In a Declaration made on 27 February 2020, the Georgian Presidency of the Committee of Minister said that “life and well-being on our planet is contingent on humanity’s collective capacity to guarantee both human rights and a healthy environment to future generations.” Moreover, it was noted that “[g]reater collective action at the European level would set a global precedent and reduce the foreseeable risk of irreparable harm to the human rights of future generations”.

12. UN, To Think and Act for Future Generations, www.un.org/sites/un2.un.org/files/our-common-agenda-policy-brief-future-generations-en.pdf.

13. *Ibid.*

14. Concept note, [OHCHR Roundtable on Human rights and future generations](#).

15. Istanbul Ministerial Declaration, “Building a secure future for all”, MINCONF SOC (2012) 2 final.

16. <https://rm.coe.int/third-party-intervention-by-the-council-of-europe-commissioner-for-hum/1680a26105>.

20. During the 4th Summit of the Council of Europe, held in Reykjavik, on 16 and 17 May 2023, it was underlined that “we need a modern Council of Europe enabling us to meet current and future challenges as well as the expectations of future generations”. One of the outcomes of the Summit was a political declaration which set the path for countries as well as for the Council of Europe, for the benefit of all Europeans, including future generations. This Declaration underlines in particular that the Council of Europe has the necessary tools and structures to address human rights and the environment, and that it can play an important role in this context.

21. I am especially pleased that the Reykjavik Declaration affirms that human rights and the environment are intertwined and acknowledges that a “clean, healthy and sustainable environment is integral to the full enjoyment of human rights by present and future generations”. In January 2024, the Secretary General of the Council of Europe set up a new directorate within the Directorate General Human Rights and Rule of Law which is dedicated to social rights, health and environment and more specifically to following up the Reykjavik process and the environment. An Intersecretariat Task Force on the Environment was subsequently established, its first task being to take stock of existing activities, planned activities and proposals for new activities. It also proposed elements for the development of a first Council of Europe strategy on the environment. It is my wish that this strategy will reflect a strong commitment to creating a new legal instrument in the field of human rights and the environment taking into account the global and transfrontier challenges of climate change.

4. Invoking the rights of future generations before the courts: environmental litigation

22. Numerous written constitutions nowadays contain references to future generations.¹⁷ This has given rise to citizens invoking the rights of future generations and intergenerational equity in litigation. Courts are increasingly reinforcing the protection of future generations, especially in cases concerning the environment and nuclear testing.¹⁸ Climate change-related litigation cases have more than doubled since 2015.

23. An example of approaches by national courts can be found in the “*Urgenda*” case by the Dutch High Court, in which it argued that a future risk of which the consequences are predictable may already give rise to an imminent risk of harm and the related duty to protect, respect and fulfil human rights in the present. The German Federal Constitutional Court took the reasoning even further by establishing an intergenerational duty to protect, related to human rights and climate in its “*Klimabeschluss*” (climate judgment) of 24 March 2021.

24. Some argue that courts in the Global South have been more progressive, ruling in favour of the plaintiffs. The cases brought before courts in developing countries “demonstrate significant and often successful use of human rights principles, based on strong rights provisions in national constitutions, precedent in regional human rights tribunals, a history of innovation in recognising environmental rights, and the urgency and immediacy of the climate change threat to human rights in many countries”.¹⁹

25. One important case is the Colombian case *Future Generations v. Ministry of the Environment and Others* from 2018, where 25 young plaintiffs filed a constitutional petition against the Colombian Government and several corporations to protect their fundamental and human rights, arguing that the Colombian Government had failed to comply with its international commitments to prevent the deforestation of the Amazon and that this had a disproportionate impact on young people and future generations.²⁰ The Supreme Court invoked the principle of solidarity and held that humans of every generation are entitled to environmental rights and that failing to tackle environmental damage compromises future generation’s access to resources and the enjoyment of their rights.

26. The International Court of Justice (ICJ) has on multiple occasions considered questions related to intergenerational equity.²¹ Judge Weeramantry in his dissenting opinion to the “Legality of the Threat or Use of Nuclear Weapons” held that: “[the ICJ], as the principal judicial organ of the United Nations, empowered to

17. www.un.org/sites/un2.un.org/files/our-common-agenda-policy-brief-future-generations-en.pdf.

18. United Nations Environment Programme (UNEP), “Global Climate Litigation Report: 2020 Status Review”.

19. www.law.georgetown.edu/environmental-law-review/wp-content/uploads/sites/18/2020/08/GT-GELR200020.pdf;

Joana Setzer & Lisa Benjamin, “Climate Litigation in the Global South: Constraints and Innovations”, *Transnational Environmental Law*, 1–25 (2019).

20. Global Network for Human Rights and the Environment, “[Reflections On The Call for Inputs: Enhancing climate change legislation, support for climate change litigation and advancement of the principle of intergeneration justice](#)”.

21. For example, Request for an Examination of the Situation in Accordance with Paragraph 63 of the Court’s Judgment of Dec. 20, 1974 in the Nuclear Tests (New Zealand v. France) Case, Order, 1995 ICJ Rep 288, 6 (Sept. 22); *Gabcikovo-Nagymaros* (Hung./Slovk.), Judgment, 1997 ICJ Rep 88, 106 (Sept. 25) (separate opinion by Weeramantry, Vice-President).

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". In March 2023, following the lead of the Pacific Island State Vanuatu, the UN General Assembly unanimously voted to request an advisory opinion from the ICJ on the legal obligations of States under international law to protect the rights of present and future generations against the adverse effects of climate change. In January 2023, the Inter-American Court of Human Rights also received a request for an advisory opinion on the climate emergency and human rights submitted by the Republic of Colombia and the Republic of Chile.²²

27. On 9 April 2024, the European Court of Human Rights delivered its decisions in the first "climate cases". In one of them, *Verein Klimaseniorinnen Schweiz and others v. Switzerland*, four women and an association representing over 2 500 older women claimed that the Swiss authorities' failure to take sufficient action to mitigate global warming violated several of their fundamental rights. The Court, sitting as a Grand Chamber, found a violation of Article 8 of the Convention (respect for private life). The Court's judgment was based on the clearly stated premise that the deleterious effects of climate change raised the question of sharing the burden between generations, including where future generations are concerned. I think it appropriate to quote one particular passage of that judgment here: "it is clear that future generations are likely to bear an increasingly severe burden of the consequences of present failures and omissions to combat climate change (...) and that, at the same time, they have no possibility of participating in the relevant current decision-making processes. By their commitment to the UNFCCC, the States Parties have undertaken the obligation to protect the climate system for the benefit of present and future generations of humankind... In the present context, having regard to the prospect of aggravating consequences arising for future generations, the intergenerational perspective underscores the risk inherent in the relevant political decision-making processes, namely that short-term interests and concerns may come to prevail over, and at the expense of, pressing needs for sustainable policy-making, rendering that risk particularly serious and adding justification for the possibility of judicial review" (paragraph 420).

28. This consideration given to intergenerational equity has resulted in some very concrete case law novelties potentially benefiting future generations.

29. As regards the admissibility of applications submitted by associations, the Court considers that the distribution of effort calls for a relaxation of the conditions required for associations to bring an action on behalf of individuals and complain of an infringement of their right to respect for private life. Without calling into question the exclusion of *actio popularis* by the Convention system,²³ the Court has introduced a new "test" for assessing whether an association has standing to bring an action before it. This test is mainly inspired by the principles set out in the Aarhus Convention on access to information, public participation in decision-making and access to justice in environmental matters. As a result, associations involved in the fight against climate change now have a form of collective action ("class action") to bring before the Court without having to demonstrate that their members are personally affected by the threats complained of.

30. When considering the merits of the case, the Court then ruled that the States Parties now had specific positive obligations in the area of climate change to reduce their greenhouse gas emission levels in order to achieve net neutrality, in principle over the next three decades. More specifically, the Court stipulated that, for this to be genuinely feasible and to avoid a disproportionate burden on future generations, the States must take immediate action and set adequate intermediate reduction goals for the period over which net neutrality is to be attained. (paragraphs 548 and 549).

31. Regardless of the potential offered by these case law developments, I would point out that environmental protection via the Court is by definition indirect as it is dependent on the violation of the human rights enshrined in the European Convention on Human Rights (ETS No. 5). Moreover, and to my mind, this seems to be a far more substantial limitation for future generations, the Court adopted a restrictive interpretation of the notion of jurisdiction of the respondent State to establish its own competence and refused to change it for climate litigation. In its decision of 9 April 2024 declaring the application in the case of *Duarte Agostinho and others v. Portugal and 32 Others* inadmissible, the Court held that the applicants came under the sole jurisdiction of Portugal and not of the 32 other States. The Court reiterated that it had "consistently rejected the idea that the fact of a decision being taken at national level which has an impact on the situation of a person abroad could in itself establish jurisdiction of the State concerned over the person" (paragraph 184). Accordingly, while recognising that "States have ultimate control over [greenhouse gas emitting] public and private activities based on their territories" (paragraph 192) and that these may have an "adverse impact

22. www.corteidh.or.cr/docs/opiniones/soc_1_2023_en.pdf.

23. Meaning that the Convention does not authorise individuals or groups of individuals to complain about a domestic law provision simply because they believe it violates the Convention while not directly suffering from its effects themselves.

on the rights and well-being of people residing outside its borders” (paragraph 193) the Court did “not find it possible to consider that the proposed positive obligations of States in the field of climate change could be a sufficient ground for holding that the State has jurisdiction over individuals outside its territory or otherwise outside its authority and control” (paragraph 198).

32. This approach leaves a substantial “vacuum”, with the Convention system falling short of the environmental challenges facing future generations and at odds with, for example, the Inter-American Court of Human Rights, which has recognised the extraterritorial nature of States’ human rights obligations in connection with environmental damage (or even the risk of such damage) attributable to a State party.²⁴

33. In its Resolution 2477 (2023) “Environmental impact of armed conflicts” the Assembly supported the need to recognise extraterritorial human rights obligations for State conduct outside territorial borders in situations where the environmental impact that can be attributed to the State is “direct and reasonably foreseeable”. In his explanatory memorandum accompanying Resolution 2545 (2024) and Recommendation 2272 (2024) “Mainstreaming the human right to a safe, clean, healthy and sustainable environment with the Reykjavik process”, our colleague Simon Moutquin (Belgium, SOC) quite rightly emphasises that with the speed at which environmental problems are growing and intensifying, a new reality has emerged: the right to a healthy environment is a shared human asset. Bearing this in mind, the Council of Europe’s standard human rights treaties may prove too narrow to guarantee environmental human rights effectively and provide solutions to global and transfrontier problems. I can but agree with his view that it seems inevitable that we will be forced to question the anthropocentric nature of the right to a healthy environment and rethink the approach centring on individual rights.

5. The Maastricht Principles: an attempt to clarify the scope of human rights for future generations

34. In 2017, a group of legal and human rights experts around the world²⁵ undertook a six-year process to examine the landscape of international human rights law as it applies to the rights of future generations, resulting in the Maastricht Principles on the Human Rights of Future Generations (the Maastricht Principles).²⁶ They were adopted in early February 2023 and presented at the UN Human Rights Council in June 2023.

35. The Maastricht Principles are a set of guidelines that intend to clarify how international human rights law applies to future generations. They should guide decision makers in their response to fundamental questions as to how to effectively integrate the human rights of future generations in laws and concrete declarations so that the rights of future generations are respected, protected and upheld on the basis of the legal architecture that has evolved over the last 70 years. The Principles state that there is no limitation *ratione temporae* to human rights, including the right to a clean, healthy and sustainable environment. Human rights are fully applicable to future generations. At a time when States are considering how future generations are to be protected, the Principles stipulate that we must first recognise that future generations are already inherently covered by the existing body of human rights law. Consequently, respecting, protecting and upholding the rights of future generations is simply a matter of upholding a fundamental concept of human rights law: equality and non-discrimination.²⁷

36. The Principles put forward a progressive interpretation and advancement of existing human rights norms in the context of the human rights of future generations. They acknowledge that as international human rights law progresses, States may have to take on additional obligations.²⁸

37. Moreover, the Principles emphasise that future generations have 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. They also recognise that some groups and peoples may be entitled to specific or additional rights as a result of their past or present situations of marginalisation or discrimination.

24. See Inter-American Court of Human Rights: “Advisory opinion on “The Environment and Human Rights”, 15 November 2017.

25. Including academic experts, national and regional current or former human rights mandate holders, civil society organisations, members of Indigenous Peoples, and social movements.

26. www.rightsoffuturegenerations.org/about.

27. *Ibid.*

28. www.ohchr.org/sites/default/files/documents/new-york/events/hr75-future-generations/Maastricht-Principles-on-The-Human-Rights-of-Future-Generations.pdf.

38. The Principles provide examples of how States should fulfil their responsibilities in various areas, including environmental protection, addressing climate change, promoting sustainable development, upholding the rights of indigenous peoples, children, women, LGBTQI+ community, managing migration and displacement, dealing with armed conflicts and post-conflict situations. They also propose ways for States to assess their adherence to these obligations through domestic legislation, judicial review mechanisms, reporting procedures, involving the public in decision making, facilitating discussions across generations, and promoting international co-operation.

39. Although the Principles are not legally binding *per se*, they represent a progressive interpretation and advancement of existing human rights norms with regards to the human rights of future generations. They serve as a helpful reference for States to ensure that any efforts to support future generations are consistent with international human rights law. It is believed that current and future proceedings pending before courts relating to the rights of future generations could be guided by the new Principles. As argued by the authors of the Maastricht Principles, “creating new legal mechanisms can take decades and does not come with a guarantee of action. However, adapting existing legal and regulatory regimes can have immediate impacts on legal outcomes to protect the human rights of future generations.”²⁹ The Principles are designed to be periodically revised as human rights law progresses.

6. Conclusions

40. The policy decisions that we take today will have long-lasting impacts on future generations and their human rights fulfilment. The world is currently faced with multiple and intersecting crises that threaten the rights of both current and future generations. It is thus important that States adopt an integrated approach that takes into consideration environmental concerns, along with economic, social and cultural development. Intergenerational equity should be a leading principle in political decision making involving children and youth, as well as due consideration for unborn generations – who will inherit the planet after us.

41. While a number of international treaties and multilateral agreements give rights to current and future generations with regard to sustainability and economic, social and cultural rights, stronger commitment is needed on the part of States to deliver on these. Courts have historically played a significant role in progressive human rights interpretation and laying the foundations for many of the rights we enjoy today. Some of the litigations concerning future generations have already, to some degree, influenced policy actions at national and multilateral levels. It is encouraging that the Council of Europe has acknowledged the need to move forward with safeguarding human rights for future generations. We trust that the post-Reykjavik Strategy will mark our Organisation’s firm commitment to show leadership in this field by building on existing work, such as the “Maastricht Principles on the Human Rights of Future Generations”.

42. In the field of climate change, which is currently the most visible, the Council of Europe is expected to make a major qualitative leap forward for future generations, and to question wisely how to go beyond the anthropocentric nature of human rights.

29. www.rightsoffuturegenerations.org/about.