

The High Commissioner for  
Future Generations:  
The Future We Want

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**THE HIGH COMMISSIONER FOR FUTURE GENERATIONS: THE FUTURE WE WANT**

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## EXECUTIVE SUMMARY

Establishing a High Commissioner for Future Generations at Rio+20 will contribute to humanity's wellbeing by bringing a long-term planning approach into the core of the UN activities. The creation of such an institution is both necessary and feasible. The creation of the High Commissioner is supported by an ethical and moral rationale and the existence of legal instruments that already refer to the interests of future generations but do not provide for an institution to actually implement such interests. The High Commissioner is expected to advocate for intergenerational equity in UN activities, promote the realization of the right to a healthy environment, and enhance considerations of intergenerational equity in sustainable development implementation. The set of functions and powers of the High Commissioner could be developed in a time-bound process, though necessary authority should be granted from the very beginning of the institution's creation. There are several options available with regard to the institutional "home" of the High Commissioner, such as creating the office as a part of the proposed Sustainable Development Council or High Level Forum, or under the Secretary-General, or as a subsidiary organ of General Assembly. By establishing the High Commissioner for Future Generations, the Rio+20 Conference has a unique opportunity to bring the necessary leadership, moral authority and inspirational direction to safeguard the rights and interests of future generations.

### I. INTRODUCTION

Humanity is on the threshold of irreversible environmental degradation, whose threat to ecosystems and environmental health is as serious today as was the question of peace during the post-WWII period.<sup>1</sup> It has been proposed that a High Commissioner for Future Generations should be created in order to address this threat for both present *and*

future generations. The outcome document of the Rio+20 Conference should explicitly define the steps that lead to the creation of such an international institution.<sup>2</sup> Sustainable development implementation includes taking into account the interests and rights of future generations in accordance with the Brundtland Commission's definition of sustainable development as development that meets the needs of present generation without compromising the ability of future generations to meet their own needs.

#### *Why do we care about future generations?*

Future generations are an unrepresented part of humanity<sup>3</sup> that do not live today but will be born in the foreseeable future.<sup>4</sup> Future generations are "mute": their existence is under threat, yet they cannot ask for remedies or protection.<sup>5</sup> By making decisions today that will have a long-term effect on future generations, the present generation "unavoidably bear[s] the responsibility to include elements of intergenerational justice in current decision-making"<sup>6</sup> through representation of future generations.<sup>7</sup> Such representation can be made possible by establishing the High Commissioner for Future Generations.

The High Commissioner offers the international community several advantages. The Commissioner will provide checks and balances<sup>8</sup> within the UN system by making decisions that have impacts on present and future generations, thus bringing coherence to current UN activities. Creating the institution is also cost-effective: by protecting generations today through the implementation of a long-term planning approach, we avoid expenditures future generations must otherwise bear. Moreover, the institution does not infringe national sovereignty of the Member States and will not add bureaucracy to the UN system. On the contrary, by promoting coherence, useless bureaucracy will be avoided. Furthermore, establishing the High Commissioner for Future Generations will raise the UN and Member

States' authority in the eyes of citizens. Importantly, the proposed office is expected to be small and thus will not be expensive to maintain.

## II. ETHICAL RATIONALE FOR ESTABLISHING THE HIGH COMMISSIONER FOR FUTURE GENERATIONS

The ethical rationale is premised on the idea that while a generation cannot know or control when it will be born,<sup>9</sup> it is entitled to live on the planet in the time and place where conditions are good.<sup>10</sup> Thus, "at any given time each generation [has to be] both custodian or trustee of the planet for future generations and [has a right to be] a beneficiary of its fruits."<sup>11</sup> This means that each generation has both rights and obligations with regard to the environment and to future generations.<sup>12</sup> Present generations therefore must pass the planet on to future generations "in no worse condition than it received it."<sup>13</sup> As to rights, every generation has the right to resources and the biosphere in a condition that is "essential to the continued health of our planet and to the sustainability of our ecosystem."<sup>14</sup> A right to a healthy environment is thus at the core of the principle of intergenerational equity.

## III. LEGAL DIMENSIONS OF INTERGENERATIONAL EQUITY

Not only an ethical but also a legal rationale exists to justify establishing the High Commissioner for Future Generations.<sup>15</sup> Several *international legal instruments* refer to the interests of future generations, as detailed in the Annex.

Furthermore, the Brundtland report "*Our Common Future*," which first brought to international attention the definition of sustainable development, recognized the obligation of states "to ensure an adequate environment for present as well as future generations" as a step to sustainable development. The report also provided the first proposal to establish national ombudsmen for future generations that advocate for the rights of present and future

generations and act as "environmental watchdogs."<sup>16</sup>

The International Court of Justice (ICJ) has also applied the principle of intergenerational equity, such as in its advisory opinion on the *Use of Nuclear Weapons*, when it considered impacts on future generations as an important factor.<sup>17</sup> The court recognized that "[t]he destructive power of nuclear weapons cannot be contained in either space or time. . . . Further, the use of nuclear weapons could be a serious danger to future generations."<sup>18</sup> Such danger not only threatens present generations and the environment, but also puts the very existence of future generations in jeopardy.

In *Gabcikovo-Nagymaros*, Judge Weeramantry stated in a separate opinion that modern environmental law contains "the principle of trusteeship of earth resources [and] the principle of intergenerational rights".<sup>19</sup> In a dissenting opinion in *Nuclear Tests*, Judge Weeramantry wrote that a court should consider itself a "trustee of those rights."<sup>20</sup> Furthermore, his separate opinion in the *Legal Status of Eastern Greenland* asserted that respect for the inheritance of succeeding generation was an impetus to dictate rules and attitudes based on the concept of equitable sharing between present generations and for the benefit of future generations.<sup>21</sup>

The link between human rights and the environment also provides a legal rationale to the establishment of a High Commissioner for Future Generations. To date, more than 140 countries have integrated the right to a healthy environment into their national constitutions.

The Stockholm Declaration articulated this connection in its Principle 1. ("*Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and he bears a solemn responsibility to protect and improve the environment for present and future generations.*") Later on, the Rio Declaration on Environment and Development in its Principle 1 proclaimed that "[h]uman beings

are at the center of concerns for sustainable development,” and that “[t]hey are entitled to a healthy and productive life in harmony with nature.” The Rio Declaration re-affirms the linkage between human rights and the environment and elaborates procedural rights central to environmental decision-making: Principle 10 highlights the right to information, public participation, and access to justice; Principle 11 calls for effective environmental legislation; and Principle 17 mandates environmental impact assessments.

Recently, in its 19th session, the UN Human Rights Council (March 2012) decided to establish an Independent Expert on Human Rights and Environment.<sup>22</sup> The connection between human rights and environment therefore has been re-affirmed by the international community. The success of the Rio+20 Conference depends on the explicit recognition of the right to a healthy environment to be reflected in the final agreement. There is much opportunity for collaboration between the recently established Special Procedure on Human Rights and Environment and the proposed High Commissioner for Future Generations.

On the *national level*, the interests, needs, and rights of future generations, the right to a healthy environment, and the concept of sustainable development have been addressed in numerous constitutional provisions<sup>23</sup> and courts decisions,<sup>24</sup> as well as by established institutions responsible for protecting future generations. The latter include the Brazilian Commission on Environment and Sustainable Development, Committee for the Future in Finland, Committee for Sustainable Development in Germany; Commission on Natural Resources, Environment and Natural Resources (Chile), National Commission on Future Generations (Israel), Parliamentary Commissioner for the Environment (New Zealand), Environment and Sustainable Development Commissioner (Canada), Parliamentary Commissioner for Future Generations (Hungary). The Hungarian Parliamentary Commissioner for Future Generations is a unique and effective institution that could be considered a success story for protecting future generations.<sup>25</sup> This

example shows that protecting the rights and interests of future generations can work in practice.

#### **IV. PRINCIPLES GUIDING THE HIGH COMMISSIONER FOR FUTURE GENERATIONS**

The following principles should inform the High Commissioner’s activities<sup>26</sup>:

a) Independence. The High Commissioner should be independently appointed within the UN system and he or she should be independent in exercising his or her powers.

b) Transparency. All of the High Commissioner’s activities should be transparent and allow broad participation of all stakeholders.<sup>27</sup> All reports issued by the High Commissioner should be publicly available.<sup>28</sup>

c) Fairness and objectivity. The High Commissioner should give equal opportunity and weight to all arguments presented by stakeholders during the investigation.<sup>29</sup>

d) Professionalism. The Office of the High Commissioner should consist of highly trained professionals, who “are expected to comport with the highest standards of objectivity, ethics and professionalism.”<sup>30</sup>

e) Accessibility. The Office of the High Commissioner should be accessible through all communication lines to everyone, especially to vulnerable groups,<sup>31</sup> and information should be provided in the language of the affected people.<sup>32</sup>

f) Effectiveness. The Office of the High Commissioner should keep track of the effectiveness of his/her activity and lessons learned for future activities. It should also receive feedback from stakeholders.<sup>33</sup>

g) Legitimacy. The High Commissioner’s office should have broad public support.<sup>34</sup>

h) Access to Information. The High Commissioner should have broad access to information with a limited number of exceptions.<sup>35</sup>

## V. OPTIONS FOR FUNCTIONS OF THE HIGH COMMISSIONER FOR FUTURE GENERATIONS

The High Commissioner would consider the interests and needs of future generations *alongside* the needs and priorities of present generations. This section discusses various available options for functions, in the realization that the institution would refine its work by incorporating lessons learned. Some of these functions could be established at the outset in the High Commissioner's mandate, while others could be gradually introduced over time.

The success of the Hungarian experience in establishing the Parliamentary Commissioner for Future Generations shows that mandates should include social, economic and environmental dimensions.<sup>36</sup> Such a broad mandate will guarantee the effectiveness of the High Commissioner.

From the outset, the High Commissioner should possess sufficient functions and powers to effectively implement its mission. These could be expanded over time.

### a) Advocate for Intergenerational Equity in UN Activities

The High Commissioner needs to ensure that all UN activities take into account the rights of future generations.<sup>37</sup> One of its functions therefore could be to advocate for intergenerational equity within the UN system.<sup>38</sup> This would require the High Commissioner to **bring intergenerational equity issues to the attention of the UN Organs and to participate in treaty negotiations,<sup>39</sup> in Conferences of the Parties of UN-administered treaties relating to SD, and in international agenda setting conferences.<sup>40</sup>** In addition, to effectively advocate for intergenerational equity in UN activities, the High Commissioner, as *amicus curiae* or as an interested third-party, could have a power to intervene in international dispute settlement.

It is crucial that the High Commissioner is involved in the treaty-, policy- and decision-making as early as possible.<sup>41</sup> Such early participation will save time, money, and

human resources and will be in conformity with the idea of good governance.<sup>42</sup> The High Commissioner for Future Generations could also have a power of promoting the conclusion and ratification of conventions that protect future generations.<sup>43</sup> The High Commissioner could “argue on behalf of future generations, hence bringing out the long-term implications of proposed action and presenting alternatives.”<sup>44</sup> The High Commissioner would enjoy no veto power,<sup>45</sup> but his or her opinions should be taken into account in decision-making.<sup>46, 47</sup>

The High Commissioner needs to identify, learn and understand problems faced by the global community in order to resolve these issues and promote a long-term planning approach in present policy and decision-making at international and national levels.<sup>48</sup> For this, the High Commissioner could have full access to information and the power to engage in a dialogue with UN bodies and organs “on how their norms and procedures address future generations.”<sup>49</sup> Possessing such power and information will ensure transparency and effectiveness in protecting present and future generations.

The High Commissioner could have the power to **identify threats to intergenerational equity resulting from UN activities.** Thus, the High Commissioner could identify and investigate gaps, weaknesses, and impairment of intergenerational equity in current legislation<sup>50,51</sup> and in activities taking place in international fora, making his/her reports publicly available.<sup>52</sup> Such power would make implementing sustainable development and the right to a healthy environment more effective.

The High Commissioner could also have the power to request **advisory opinions from the ICJ.**<sup>53</sup> The High Commissioner could be empowered to ask states to refrain from acting contrary to intergenerational equity and to propose remedies.<sup>54</sup> The High Commissioner could have the power to initiate legal action if the violations continue.<sup>55</sup> These functions would contribute to ensuring that the rights and interests of

future generations are properly taken into account in UN activities.

*b) Promote the Realization of the Right to a Healthy Environment in the Interest of Future Generations*

The promotion of the right to a healthy environment could be a part of the High Commissioner's mandate. The High Commissioner could **identify the substantive content of the right to a healthy environment as it relates to future generations**. Possessing expertise in protecting future generations,<sup>56</sup> the High Commissioner would understand the environmental sciences and the dependence of human beings on a healthy environment, as well as the economic and social perspective of these issues.<sup>57</sup> For this purpose, the High Commissioner should have access to experts who will track scientific progress and will provide the High Commissioner's Office with the knowledge and expertise necessary to properly balance environmental, social and economic concerns.<sup>58</sup> With the help of experts, the High Commissioner could also contribute to the policy-science interface by raising awareness of the condition of the global environment.<sup>59</sup> The High Commissioner could identify and assess threats to a healthy environment and propose alternatives to decisions and actions that could endanger ecologically healthy environments and sustainability for present and future generations.<sup>60</sup> He or she could propose goals and actions that will best protect and improve the health of the planet for present and future generations.<sup>61</sup>

Over time, the High Commissioner for Future Generations, in order to contribute to enhancing accountability with respect to the rights and interests of future generations, could also perform the functions of a **complaint officer**. Establishing an effective grievance mechanism through the "complaint officer" function would provide the international community with several **advantages**. First, effective grievance mechanisms provide transparent, predictable, and credible processes to all parties involved and leads to outcomes that are fair, lasting

and effective.<sup>62</sup> Second, such mechanisms build trust between stakeholders.<sup>63</sup> Third, they prompt the identification of trends and emerging issues and induce corrective actions.<sup>64</sup> Moreover, stakeholders will act in advance to improve environmental and human rights standards in order to avoid painful and expensive remedies and the "naming and shaming" in reports.<sup>65</sup>

Over time, the High Commissioner could also be empowered to receive complaints<sup>66</sup> from NGOs and affected persons<sup>67</sup> of violations of the right to a healthy environment.<sup>68</sup> A complaint should be classified in terms of its seriousness,<sup>69</sup> which will be determined by priorities set based on the seriousness of the issue. Seriousness depends on the gravity of potential or actual impact on present and future generations.<sup>70</sup> After examining the complaint, the High Commissioner could give recommendations,<sup>71</sup> whose implementation should be monitored.

*c) Enhance Consideration of Intergenerational Equity in Sustainable Development Implementation*

The High Commissioner for Future Generations could **provide advice in relation to technical assistance**,<sup>72</sup> including legal and judicial reform for effective integration of intergenerational equity and the right to a healthy environment in sustainable development implementation. Upon request, the High Commissioner could offer UN organs and organizations, specialized agencies,<sup>73</sup> and Member States advice on how to implement existing international commitments.<sup>74</sup> Upon request of civil society and governments, the High Commissioner could support building up the capacity of national institutions on matters that fall within the scope of the High Commissioner's mission.<sup>75</sup> For this purpose, he or she could provide guidance on creating institutions aimed at protecting the rights of future generations and offer information on the best practices.<sup>76</sup>

**Capacity-building for innovation at international, national, and subnational levels** is crucial for the successful achievement of the High Commissioner's goals.<sup>77</sup> The High Commissioner could identify

best practices in protecting future generations by drawing on international and national experience and promote these practices within UN activities. Upon request, the High Commissioner could provide national authorities and NGOs with advice in implementing best practices, help establish national ombudspersons for future generations, and convene events for sharing best practices.<sup>78</sup>

The High Commissioner could also promote vertical and horizontal information exchange,<sup>79</sup> involving collaboration between legislators, national institutions, the public, governments, international organizations, as well as UN bodies to develop and strengthen UN organs' capacity and Member States' capacities at the national level.<sup>80</sup> This would help the High Commissioner ensure that the best practices are carried out.<sup>81</sup> The High Commissioner could also promote and encourage independent research to deepen the understanding his or her mission.<sup>82</sup> Moreover, the High Commissioner could report annually and on a specific theme<sup>83</sup> about "the progress and challenges in implementation" of his or her mission.<sup>84</sup> Reports should become publicly available<sup>85</sup> and should encourage compliance by "naming and shaming" the violators and prevent future violations.<sup>86</sup>

The High Commissioner could **promote public participation** in protecting future generations<sup>87</sup> through specialized UN agencies and bodies. In order to carry out this duty, the High Commissioner should encourage governments and the public to submit their comments and recommendations on matters falling within the mission of the High Commissioner.<sup>88</sup> Through such a mechanism, he or she will earn trust both from governments and the public.<sup>89</sup> This will encourage States to consider a long-term planning approach in their decision-making.<sup>90</sup> The mechanism will also bring the interests of future generations into consideration during the decision-making processes well before laws are actually enacted.<sup>91</sup>

**Education and information exchange** would make important functions and powers of the

High Commissioner.<sup>92</sup> Naturally, since he or she will deal with protecting unborn future generations, public awareness of the rights of future generations should be raised around the globe and should be passed on to future generations. For this purpose, the High Commissioner should develop and coordinate with UN educational and informational programs relevant to the High Commissioner's mission.<sup>93</sup>

## VI. OPTIONS FOR INSTITUTIONAL "HOME"

There are a number of options available for the institutional 'home' of the High Commissioner. One option is to create it as a subsidiary organ of the General Assembly with the obligation to annually report to the General Assembly.<sup>94</sup> Another option is to house the High Commissioner within the Office of the Secretary General, building on the examples provided by the Special Advisor on the Prevention of Genocide. Yet another option is to create the Office of the High Commissioner within the Economic and Social Council with the view to periodic reporting to the proposed Sustainable Development Forum or Council. The latter option could provide added value and a broader perspective to the proposed Forum or Council by allowing for proactive work with different UN organs and affiliated organizations and bringing visibility to the issues at the highest level.

## VII. CONCLUSION

There is a need to establish the High Commissioner for Future Generations to protect the rights and interests of future generations. The time is ripe for the establishment of a High Commissioner for Future Generations, building on developments relating to intergenerational equity, the linkage between human rights and environment, and the reference to the interests and needs of future generations in numerous international legal instruments.

Importantly, establishing the High Commissioner for Future Generations is feasible. Indeed, humanity already has



sufficient experience with the tools necessary to protect present and future generations, including in the context of sustainable development. Finally, establishing the High Commissioner for Future Generations would break the cycle of short-term minded decision-making and provide a tool for the consideration of long-term perspectives for the benefit of future generations.

**ANNEX: International instruments directly or indirectly involving the rights and interests of future generations:**

The UN Charter (Preamble), 1972 Stockholm Declaration (Principle 1 and Principle 2), 1973 International Convention on Trade in Endangered Species (Preamble), 1946 International Convention for the Regulation of Whaling (Preamble), 1972 Convention Concerning the Protection of the World Cultural and Natural Heritage (Art. 4), 1982 World Charter for Nature (Preamble), U.N. Framework Convention on Climate Change (Art. 3), 1992 Convention on Biological Diversity (Art. 2, 5), 1992 Convention on Protection and Use of Transboundary Watercourses and International Lakes (Art. 2), 1968 African Convention on the Conservation of Nature and National Resources (Art. IV, Annex 2), 1976, Convention on the Prohibition of Military or any Other Hostile Use of Environmental Modification Techniques (Preamble), 1979 Berne Convention on the Conservation of European Wildlife and Natural Habitats (Preamble), 1985 Council of Europe Convention for the Protection of the Architectural Heritage of Europe (Preamble, Article 15), 1985 ASEAN Agreement on the Conservation of Nature and Natural Resources (Preamble), 1992 Paris Convention for the Protection of the Marine Environment of the North-East Atlantic (Preamble), 1992 Convention on the Transboundary Effects of Industrial Accidents (Preamble), 1992 UNECE Convention on the Protection and Use of Transboundary, Watercourses and International Lakes (Article 2.5(c)), 1993 North American Agreement on Environmental Cooperation (Preamble), 1994 Convention to Combat Desertification (Preamble), 1997

UNESCO Declaration on Responsibilities of the Present Generations towards Future Generations toward future generations, 1997 Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management (Art. 1, 4), 1998 UNECE Aarhus Convention on Access to Information, Public participation in Decision-making and Access to Justice in Environmental Matters (Preamble, Art. 1), 2000 Charter of Fundamental Rights of the European Union (Preamble), 2001 Stockholm Convention on Persistent Organic Pollutants (Preamble), 2003 WHO Framework Convention on Tobacco Control (Art. 3, Annex 1), 1993 Vienna Declaration and Programme of Action, World Conference on Human Rights (Paragraph 11), 2005 UNESCO Universal Declaration on Bioethics and Human Rights (Preamble).

**Endnotes**

<sup>1</sup> U.N. High Commissioner for Human Rights, An Open Letter from Special Procedures mandate-holders of the Human Rights Council to States negotiating the Outcome Document of the Rio+20 Summit 2, <http://www.ohchr.org/Documents/HRBodies/SP/Rio+20OpenLetterSPSignatures.pdf>.

<sup>2</sup> Halina Ward et al., *The Mandate of a UN High Commissioner for Future Generations*, World Future Council 1, 1-3 (Feb. 14, 2012), <http://www.futurejustice.org/assets/UN-High-Commissioner-for-FGs-mandate2-April.pdf>.

<sup>3</sup> Jorg Tremmel, *How can future generations be protected by changing constitutions?* in Do we owe them a future? 31, 36 (Benedek Javor & Judit Rácz eds., 2006), [http://www.worldfuturecouncil.org/fileadmin/user\\_upload/Maja/Future\\_Justice\\_Library/Library\\_0.pdf](http://www.worldfuturecouncil.org/fileadmin/user_upload/Maja/Future_Justice_Library/Library_0.pdf)

<sup>4</sup> Dieter Birnbacher, *Responsibility for Future Generations – Scope and Limits Handbook*, in Handbook of Intergenerational Justice 29 (Joeg Chet Tremmel ed. 2006).

<sup>5</sup> Maltese proposal at Rio-92, A/CONF.151/PC/WG.III/L.8/Rev.1/Add.2 (February 21, 1992).

<sup>6</sup> Benedek Javor, *Foreword*, in Do we owe them a future? 6, 7 (Benedek Javor & Judit Rácz eds., 2006), [http://www.worldfuturecouncil.org/fileadmin/user\\_upload/Maja/Future\\_Justice\\_Library/Library\\_0.pdf](http://www.worldfuturecouncil.org/fileadmin/user_upload/Maja/Future_Justice_Library/Library_0.pdf). See also Agius, *supra* note 5. See also Dieter Birnbacher, *Responsibility for Future Generations – Scope and Limits Handbook*, in Handbook of Intergenerational Justice 23 (Joeg Chet Tremmel ed. 2006).

<sup>7</sup> See Maltese proposal, *supra* note 5 (presentation of future generation is analogized by representation that persons that are legally incompetent and this tradition is well-established “in almost all civilized societies.”)

<sup>8</sup> Maja Gopel, *Ombudspersons for Future Generations as Sustainability Implementation Units*, Stakeholder Forum, 1, 2 (2012), <http://www.stakeholderforum.org/fileadmin/files/SDG%204%20Ombudspersons%20for%20Future%20Generations%20Thinkpiece.pdf>.

<sup>9</sup>EDITH BROWN WEISS, IN FAIRNESS TO FUTURE GENERATIONS:

INTERNATIONAL LAW, COMMON PATRIMONY, AND INTERGENERATIONAL EQUITY 24 (1992).

<sup>10</sup>*Id.*

<sup>11</sup>*Id.* at 17.

<sup>12</sup>*Id.* at 17-18, 21, 99.

<sup>13</sup>*Id.* at 20-24, 114-115.

<sup>14</sup>*Id.* at 23, 103-104.

<sup>15</sup>Halina Ward et al., *supra* note 2, at 1-3.

<sup>16</sup>See Secretary-General, A/42/427 (August 4, 1987), Report of the World Commission on Environment and Development.

<sup>17</sup>Advisory Opinion on the Legality of the Threat or Use of Nuclear Weapons, 1996 I.C.J. 226, 243-244 (July 8). The ICJ embraced a broad definition of the environment. It “represents the living space, the quality of life and the very health of human beings, including generations unborn.” *Id.* at 241.

<sup>18</sup>*Id.* at 243-244.

<sup>19</sup>Gabcikovo-Nagymaros Project (Hung. v. Slov.), 1997 I.C.J. 7, 110 (Sept. 25) (Sep. Op. Weeramantry).

<sup>20</sup>Request for an Examination of the Situation in Accordance with Paragraph 63 of the Court’s Judgement of 20 December 1974 in *Nuclear Tests* (N.Z. v. Fr.), 1995 I.C.J. 288, 341 (Sept. 1995) (Weeramantry, J. dissent) (“this Court must regard itself as a trustee of those [future generations’] rights in the sense that a domestic court is a trustee of the interests of an infant unable to speak for itself.”).

<sup>21</sup>Maritime Delimitation in the Area Between Greenland and Jan Mayen (Den. v. Nor.), 1993 I.C.J. 38, 277 (June 14) (Sep. Op. Weeramantry).

<sup>22</sup>HRC A/HRC/19/L.8/Rev.1 (March 20, 2012).

<sup>23</sup>*Center for International Sustainable Development Law, National Policies and International Legal Instruments to Protect the Rights of Future Generations*, 1, 5-7 (last visited Apr. 8, 2012), [http://www.worldfuturecouncil.org/fileadmin/user\\_upload/PDF/RepresentationFuture\\_Generations.pdf](http://www.worldfuturecouncil.org/fileadmin/user_upload/PDF/RepresentationFuture_Generations.pdf).

<sup>24</sup>See *Massachusetts v. Environmental Protection Agency*, 549 U.S. 497 (2007).

<sup>25</sup>Center for International Sustainable Development Law, *supra* note 23 at 30.

<sup>26</sup>See Catherine Pearce, *Ombudspersons for Future Generations: Tackling Sustainability Implementation Gaps*, World Future Council, 1, 3-4 (2011), <http://www.stakeholderforum.org/fileadmin/files/Ombudspersons%20for%20Future%20Generations%20World%20Future%20Council%20Alice%20Vincent.pdf>. See also Gopel, *supra* note 8, at 2,7.

<sup>27</sup>See Pearce, *supra* note 26, at 3. See also Gopel, *supra* note 8, at 2,7.

<sup>28</sup>Gopel, *supra* note 8, at 13.

<sup>29</sup>See Natalie L. Bridgeman & David Hunter, *Narrowing The Accountability Gap: Toward a New Foreign Investor Accountability Mechanism*, 20 Geo. Int’l Envtl. L. Rev. 187, 218 (2008) (discussing principles of a new investment accountability mechanism).

<sup>30</sup>See also Pearce, *supra* note 26, at 3. See also Gopel, *supra* note 8, at 2,7.

<sup>31</sup>See also Peter Roderick, *Protecting future generations in EU law: Proposal for a Regulation on Safeguarding and Enhancing the Conditions for Life of Present and Future Generations*, WORLD FUTURE COUNCIL 1, 2 (2010), [http://www.worldfuturecouncil.org/fileadmin/user\\_upload/Ma ja/Future\\_Justice\\_Library/GuardianModelLegisaltionEU\\_\\_08Jul10\\_1\\_.pdf](http://www.worldfuturecouncil.org/fileadmin/user_upload/Ma ja/Future_Justice_Library/GuardianModelLegisaltionEU__08Jul10_1_.pdf) (discussing duties of the proposed EU guardian for future generations).

<sup>32</sup>See also Pearce, *supra* note 26, at 3. See also Gopel, *supra* note 8, at 2,7.

<sup>33</sup>See also Pearce, *supra* note 26, at 3. See also Gopel, *supra* note 8, at 2,7.

<sup>34</sup>Gopel, *supra* note 8, at 13.

<sup>35</sup>See Act LIX of 1993 on the Parliamentary Commissioner for Civil Rights (Ombudsman), art. 27/H.

<sup>36</sup>Center for International Sustainable Development Law, *supra* note 23, at 30. See also Act, *supra* note 35, art. 27/A.

<sup>37</sup>Kornelia, *supra* note 37, at 16-17.

<sup>38</sup>See Pearce, *supra* note 26, at 2-3. See also Ward et al., *supra* note 2.

<sup>39</sup>*Id.* See Ward et al., *supra* note 2.

<sup>40</sup>See also Pearce, *supra* note 26, at 4-5.

<sup>41</sup>Pearce, *supra* note 26, at 2-3. See also Roderick, *supra* note 31, at 18.

<sup>42</sup>See Roderick, *supra* note 31, at 18.

<sup>43</sup>See Halina Ward and Peter Roderick, *Committing to the future we want: a High Commissioner for Future Generations at Rio+20*, THE WORLD FUTURE COUNCIL, 1, 20 (March 2012).

<sup>44</sup>Maltese proposal, *supra* note 5. See also Agius, *supra* note 5, at 323. See also WEISS, *supra* note 9, at 26, 47, 49, 121-122.

<sup>45</sup>World Future Council, *FAQ II – High Commissioner for Future Generations: Common concerns and Institutional intricacies*, 1, 2, <http://www.futurejustice.org/assets/FAQ-2.pdf>.

<sup>46</sup>Catherine Pearce, *Ombudspersons for Future Generations as Sustainability Implementation Units. Our Challenge: Renewed Trust in Political Leadership for Our Common Future*, WORLD FUTURE COUNCIL 1,2, <http://www.futurejustice.org/assets/2-Pager.pdf>. See also Gopel, *supra* note 8, at 6-7.

<sup>47</sup>World Future Council, *supra* note 47.

<sup>48</sup>Ward et al., *supra* note 2. See also WEISS, *supra* note 9, at 126.

<sup>49</sup>Ward et al., *supra* note 2.

<sup>50</sup>Kornelia, *supra* note 37, at 5-6.

<sup>51</sup>See Act, *supra* note 35, art. 27/B.

<sup>52</sup>WEISS, *supra* note 9, at 125.

<sup>53</sup>See Roderick, *supra* note 31 at 18-21.

<sup>54</sup>See Act, *supra* note 35, art. 27/B, 27/D. See also Pearce, *supra* note 26, at 4-5.

<sup>55</sup>See also Pearce, *supra* note 26, at 4-5.

<sup>56</sup>Ward et al, *supra* note 2.

<sup>57</sup>CLI Recommendation No. 10, *Adopt a Model Executive Order, Establishing an Office of Legal*

*Guardian for Future Generations and Provide for the Training and Certification of Legal Guardians* 1, 3-4, [http://www.worldfuturecouncil.org/fileadmin/user\\_upload/Ma ja/Future\\_Justice\\_Library/Draft\\_legal.pdf](http://www.worldfuturecouncil.org/fileadmin/user_upload/Ma ja/Future_Justice_Library/Draft_legal.pdf).

<sup>58</sup>*Id.*

<sup>59</sup>*Id.* at 2.

<sup>60</sup>*Id.*

<sup>61</sup>*Id.*

<sup>62</sup>The Office of the Compliance Advisor/Ombudsman, *A Guide to Designing and Implementing Grievance Mechanisms for development Projects*, 1, 1 <http://www.cao-ombudsman.org/howwework/advisor/documents/implemgrieveng.pdf>.

<sup>63</sup>See *id.*

<sup>64</sup>See *id.*

<sup>65</sup>See *id.*

<sup>66</sup>See also Janos Miko, *Concept paper for a proposal of an institutional guardian activity for the next generation*, in *Do we owe them a future?* 172, 177-191, (Benedek Jávör & Judit Rác eds., 2006),

[http://www.worldfuturecouncil.org/fileadmin/user\\_upload/Ma ja/Future\\_Justice\\_Library/Library\\_0.pdf](http://www.worldfuturecouncil.org/fileadmin/user_upload/Ma ja/Future_Justice_Library/Library_0.pdf). See also WEISS, *supra* note 9, at 113.

<sup>67</sup>WEISS, *supra* note 9, at 11.

<sup>68</sup>*Id.*

<sup>69</sup>See *id.* at 34.

<sup>70</sup>See *id.*

<sup>71</sup>See Act, *supra* note 35, art. 27/B.

<sup>72</sup>Pearce, *supra* note 26, at 2-3. See also Roderick, *supra* note 31 at 18.

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<sup>73</sup> See Act, *supra* note 35, art. 27/B. See also Ward et al., *supra* note 2.

<sup>74</sup> See Act, *supra* note 35, 27/B See also CLI Recommendation, *supra* note 61.

<sup>75</sup> Ward et al., *supra* note 2.

<sup>76</sup> *Id.*

<sup>77</sup> See CAMERON HOLLEY ET AL., THE NEW ENVIRONMENTAL GOVERNANCE 174-175 (2012) (discussing principles of a new environmental governance).

<sup>78</sup> Ward et. al, *supra* note 2.

<sup>79</sup> See HOLLEY ET AL., *supra* note 82 AT 177.

<sup>80</sup> Kornelia, *supra* note 37, at 16-17.

<sup>81</sup> See CLI Recommendation, *supra* note 61, at 2.

<sup>82</sup> Ward et al., *supra* note 2.

<sup>83</sup> See Miko, *supra* note 70, at 172, 177-191.

<sup>84</sup> Ward et al., *supra* note 2.

<sup>85</sup> See CLI Recommendation, *supra* note 61, at 2.

<sup>86</sup> See Bridgeman & Hunter, *supra* note 29, at 218.

<sup>87</sup> Ward et. al, *supra* note 2.

<sup>88</sup> See *id.* See also CLI Recommendation, *supra* note 61, at 2.

<sup>89</sup> Ward et al., *supra* note 2.

<sup>90</sup> *Id.*

<sup>91</sup> WEISS, *supra* note 9, at 126.

<sup>92</sup> WEISS, *supra* note 9, at 113-114.

<sup>93</sup> Ward et al., *supra* note 2.

<sup>94</sup> World Future Council, *supra* note 47, at 2.



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**Contact Information:**

Marcos Orellana  
Alyssa Johl  
CIEL  
1350 Connecticut Ave NW  
Suite 1100  
Washington, DC 20036 USA  
Tel: 1-202-785-8700  
[morellana@ciel.org](mailto:morellana@ciel.org)  
[ajohl@ciel.org](mailto:ajohl@ciel.org)

David Azoulay  
CIEL  
15 rue des Savoises,  
1205 Geneva, Switzerland  
Tel: 41-22-789-0500  
[dazoulay@ciel.org](mailto:dazoulay@ciel.org)

Catherine Pearce  
Future Justice Manager  
World Future Council  
Chaussée St Pierre 123  
1040 Brussels, Belgium  
Tel: 32-2-6481542  
[catherine.pearce@worldfuturecouncil.org](mailto:catherine.pearce@worldfuturecouncil.org)