



**Earth Law Center**

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Earth Law Center (ELC) works to secure rights for Nature and future generations. We are leading experts in Earth-centered (or ecocentric) law, including through the United Nations, where we are honored to have consultative status with both the United Nations Economic and Social Council (ECOSOC) and the United Nations Environment Programme (UNEP). We welcome the opportunity to submit comments and recommendations on the Pact for the Future.

## **Chapter IV. Youth and future generations**

Concern for future generations is deeply embedded in the history of human civilization and has strong roots in a great number of cultures, religions, and philosophies. Across nearly all human value systems, the fundamental moral value of future people is widely recognized.<sup>1</sup> In the long succession of human generations, each generation inherits an obligation to preserve what is best of the past; and to steward the present on behalf of those yet to come.<sup>2</sup>

The need to act in defense of future generations has long been established and recognized by the UN: in 1945 with the UN Charter, in 1946 in the International Convention for the Regulation of Whaling and since then by over 30 international declarations and treaties covering a broad range of issues, as well as around 40 national constitutions.<sup>3</sup>

As noted in *Our Common Agenda*, humans are already feeling the impacts of the triple planetary crisis of climate change, biodiversity loss, and pollution, which will only become more devastating and irreversible in the future. Accounting for the interests of future generations would require two adaptations: (1) strengthening our capacities to understand and assess the future, building long-term thinking into important policies and decision-making; and (2) creating specific forums and instruments to protect the interests of future generations at all levels of governance.<sup>4</sup>

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<sup>1</sup> Hale, Thomas, Finlay Moorhouse, Toby Ord, and Anne-Marie Slaughter. "Toward a Declaration on Future Generation." (2023). [https://doi.org/10.35489/BSG-PB\\_2023/001](https://doi.org/10.35489/BSG-PB_2023/001).

<sup>2</sup> *Ibid.*

<sup>3</sup> Network of Institutions for Future Generations (NIFG). "Looking to 2030 and Beyond: How Institutions for Future Generations Can Assist in SDG Implementation." (2019). <https://futureinstitutions.com/documents/2238847/3008114/SDG+Policy+Paper.pdf/88e3ec40-c4ae-9f93-1c94-b2862121c593?t=1560252791810>.

<sup>4</sup> United Nations. "Our Common Agenda - Report of the Secretary-General." (2021). <https://doi.org/10.18356/9789210010122>.

Building from this precedent, Earth Law Center is encouraged about the potential for a bold and transformative Pact for the Future that supports a meaningful voice and rights for future generations. Below we have included six recommendations of important themes and concepts that we suggest you include in the Pact for the Future.

### **Recommendation 1: Incorporate Clear Language Extending Human Rights to Future Generations, Especially the Human Right to a Clean, Healthy and Sustainable Environment**

The Maastricht Principles on the Human Rights of Future Generations, which ELC recommends as foundational source material for developing the Pact for the Future, highlights that all human beings—including future generations—are entitled to the full and equal enjoyment of human rights.<sup>5</sup> We recommend that the Pact for the Future explicitly support rights for future generations. In particular, we emphasize the importance of extending the right to a clean, healthy, and sustainable environment, as recognized by the Human Rights Council in 2021 (A/HRC/RES/48/13) and the General Assembly in 2022 (A/RES/76/300), to apply to both present and future generations. Other important rights and interests of future generations may include, but are not limited to, the right to clean air, safe water, a healthy and non-toxic environment, a stable climate, a functioning ecosystem rich with biodiversity,<sup>6</sup> preserved cultural heritage,<sup>7</sup> and ultimately, to be heard and represented.

### **Recommendation 2: Clarify the Need for Long-term Intergenerational Thinking**

Protecting the rights and interests of those yet unborn will require long-term intergenerational thinking. It is the responsibility of those currently making decisions to consider long-term impacts and mitigate any harmful consequences that may occur in order to deliver a healthy planet to the future citizens of the world.

Reasonable restrictions must be imposed on activities that will threaten the enjoyment of human rights by future generations, including the unsustainable use of Nature and the destruction of the biosphere, to meet their obligations to future generations.<sup>8</sup> Achieving this goal requires a paradigm shift to move away from short-term thinking.

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<sup>5</sup> Over 200 human rights experts from a wide range of disciplines developed the Maastricht Principles on The Human Rights of Future Generations over six years, beginning in 2017. Maastricht Principles on The Human Rights of Future Generations (2023). <https://www.ohchr.org/sites/default/files/documents/new-york/events/hr75-future-generations/Maastricht-Principles-on-The-Human-Rights-of-Future-Generations.pdf>

<sup>6</sup> United Nations General Assembly, The human right to a clean, healthy and sustainable environment (2022) A/RES/76/300 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N22/442/77/PDF/N2244277.pdf?OpenElement>.

<sup>7</sup> Universal Declaration on Cultural Diversity (2001), General Conference of the United Nations Educational, Scientific and Cultural Organization <https://www.ohchr.org/en/instruments-mechanisms/instruments/universal-declaration-cultural-diversity>.

<sup>8</sup> Maastricht Principles on The Human Rights of Future Generations..

To ensure we leave a habitable, or thriving, planet for future generations, we must incorporate mechanisms and systems to support long-term thinking. Specifically, the Pact should support long-term thinking as a guiding principle in all UN policy choices, programming, and governance,<sup>9</sup> particularly in the context of environmental issues. The Pact for the Future should also encourage state parties to adopt long-term thinking within their own legal frameworks.

### **Recommendation 3: Incorporate Future Design into the Pact for the Future**

One important mechanism and system for long-term thinking and intergenerational stewardship is Future Design. Future Design, a concept introduced in Japan in 2015, opens a space to discuss how current decision-making will influence future generations. It is the design and implementation of social systems that activate participants' "futurability", that is, the possibility that the present generation will put the interests of the future generations ahead of its own.<sup>10</sup> Future Design aims for the well-being or happiness of the current generation as well as well-being or happiness of future generations.<sup>11</sup>

Future design, or a similar concept that trades short-sightedness for long-term thinking, can be implemented in both small and large scale, local communities and high-level governments, and would require decisions being made today to consider its impact on future generations. ELC recommends the Pact for the Future highlight Future Design as well as other specific mechanisms, frameworks, and tools to promote intergenerational equity.

### **Recommendation 4: Include Support for a Robust Special Envoy for Future Generations**

One way to build long-term thinking into important policies and decision-making is to establish an Envoy for Future Generations. The Envoy for Future Generations would represent, advocate for, and give voice to, future generations. National Institutions for future generations already exist in several countries around the world (see Recommendation 5 for details), with many other initiatives to establish Guardians or Ombudspersons for Future Generations at all governance levels currently proposed. These could provide a model for the representation of future generations at the international level.

ELC strongly supports the proposal of the Secretary-General to create an Envoy for Future Generations, whether a Guardian or Ombudsperson. Here are a few of the potential benefits:

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<sup>9</sup> See High-Level Committee on Programmes, United Nations System Common Principles on Future Generations (HLCP) (May 2023).

<sup>10</sup> Saijo, Tatsuyoshi. "Future Design for Sustainable Nature and Societies." (2022).  
[https://doi.org/10.1007/978-3-030-68074-9\\_145-1](https://doi.org/10.1007/978-3-030-68074-9_145-1).

<sup>11</sup> *Ibid.*

- The Envoy would encourage and implement the long-term intergenerational and intragenerational thinking required to protect the rights and interests of future generations.
- The Envoy would ensure that future generations benefit from the biodiversity of Earth's ecosystems and that the present generation should strive for sustainable development and preserve living conditions, particularly the quality and integrity of the environment.<sup>12</sup>
- The Envoy would ensure that future generations are not exposed to pollution which may endanger their health or their existence itself<sup>13</sup> and that present generations will preserve for future generations natural resources necessary for sustaining human life and for its development.<sup>14</sup>
- The Envoy would be proof of concept for giving a voice to other voiceless entities, particularly Nature, within the United Nations. Ultimately, we believe the Envoy could even build support for the UN General Assembly or other UN organs to include voting seats for Future Generations, Nature, and other voiceless entities.

An Envoy, once appointed, would be in a position to leverage other efforts already underway within the United Nations system in the context of Our Common Agenda to understand the future impact of today's actions and to systematically act on those insights.<sup>15</sup>

### **Recommendation 5: Provide Support for Mechanisms to Give Future Generations a Formal Voice in National and Sub-National Legal Systems**

In response to the environmental threats faced by future generations—the damage and destruction of Earth's life-sustaining systems, including the unsustainable use of Nature; the unsound management of chemicals and waste; the pollution of air, land, and water, including significant pollution of rivers and oceans worldwide; biodiversity loss; fragmented habitats; and exacerbated climate change, amongst many other harms—a growing number of U.S., foreign, and international governments now recognize that present generations have a legal duty to maintain a healthy environment to ensure the well-being of future generations and to provide them with a voice in governmental decision-making

A voice for future generations has already been successfully implemented in Wales, as the Future Generations Commissioner; in Hungary, as the Ombudsman for Future Generations; and in Malta, as the Guardian of Future Generations. Here are a few pertinent details:

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<sup>12</sup> United Nations Educational, Scientific and Cultural Organization (UNESCO) (1997). "Declaration on the Responsibilities of the Present Generations Towards Future Generations." Article 5, 1. <https://en.unesco.org/about-us/legal-affairs/declaration-responsibilities-present-generations-towards-future-generations#:~:text=Article%205%20%2D%20Protection%20of%20the%20environment&text=2..health%20or%20their%20existence%20itself>.

<sup>13</sup> *Ibid.*, Article 5, 2.

<sup>14</sup> *Ibid.*, Article 5, 3.

<sup>15</sup> Maastricht Principles on the Human Rights of Future Generations.

- In Wales, the Future Generations Commissioner acts as a guardian for future generations by protecting and promoting their needs and by encouraging public bodies to take greater account of the long-term impact of the things that they do.
- In Hungary, the Ombudsman for Future Generations acts as a defender of fundamental human rights, including the rights of future generations, promoting the right to a healthy environment, preserving cultural heritage, and protecting natural resources.
- In Malta, the Guardian of Future Generations is tasked with safeguarding intergenerational and intragenerational sustainable development. They are mandated to promote sustainable development advocacy across national policy making, legislation and practices and direct the focus of the competent authority to safeguard future generations.

The Pact for the Future should highlight these examples in its preamble or otherwise. We also hope the Pact highlights and elevates these models while encouraging other nations to develop their own mechanisms to give a voice and rights to future generations.

Additional insights can be found from the Network of Institutions for Future Generations, as they provide a platform for innovative ideas on the institutional protection of future generations and their environment.

### **Recommendation 6: Include Support for Rights of Future Generations for *All* Species and the Natural World**

The duty to preserve and protect the environment is a duty that is owed not merely to all other human beings and future generations, but other voiceless entities, such as non-human beings and ecosystems. In addition to the principle of “intergenerational equity,” as recognized a host of UN conventions and declarations that are concerned with the dignity, worth, and progress of mankind (*see e.g.*, Rio Principle 3), international law must begin to embrace the notion of “*interspecies* equity,” as well as equity amongst all living systems.

The UN Harmony with Nature Initiative provides support for an ecocentric vision of international law.<sup>16</sup> Since 2009, the UN Harmony with Nature Initiative has promoted the concept of Harmony with Nature, which has built capacity for an evolving, non-anthropocentric consciousness of the human relationship with Mother Earth. This concept has been explored and promoted through a series of annual reports, resolutions, and dialogues highlighting various ecocentric legal frameworks, including the Rights of Nature movement.<sup>17</sup>

If the UN is committed to living in Harmony with Nature, it must begin to treat the natural world as more than just a mere resource or property, instead recognizing that all life has intrinsic value

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<sup>16</sup> See United Nations. “Harmony with Nature.” <http://www.harmonywithnatureun.org>.

<sup>17</sup> *Ibid.*

that is worthy of protection. The Pact for Future Generations is an excellent opportunity to propose the notion that future generations of *all* life—human beings, more-than-human beings, and Nature in general—deserves special consideration and a voice within the United Nations.