



# A Case for Guardians for Future Generations

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## 1. Fairness between generations – a climate justice perspective

**Intergenerational equity, understood as fairness between generations,** is a universal concept across the world and across cultures. It is a principle that informs constitutions, international treaties, economics, religious beliefs, traditions and customs<sup>1</sup>. Fairness between generations means that the needs of present generations are met without compromising the ability of future generations to meet their needs<sup>2</sup>. In providing for the social and developmental needs of all people alive now, as defined by the 17 Sustainable Development Goals (SDGs), it is necessary to ensure that human activity does not exceed the ceiling provided by the *planetary boundaries*<sup>3</sup>. As important as living within these planetary boundaries is the need to realise the rights and meet the development needs of all people – these are sometimes called the social foundations<sup>4</sup> and are captured by the 17 SDGs. The challenge is to get the balance right between meeting the needs of present generations in an equitable way while also safeguarding the rights of future generations to enjoy similar or improved opportunities. To achieve the goal set out in the Paris Agreement of holding the increase in the global average temperature to well below 2 °C above pre-industrial levels, and to pursue efforts to limit the temperature increase to 1.5 °C, there is an urgent need for moral leadership.

**The planetary boundaries framework** defines a safe operating space for humanity based on the natural processes that regulate the stability of the earth system. There are nine planetary boundaries in all including climate change, freshwater use, ocean acidification and ozone depletion. If we exceed these boundaries we risk destabilising the earth's system and compromising the opportunities of present and future generations.

**Climate justice** links climate change, development and human rights to achieve a people-centred approach. Informed by the Principles of Climate Justice, this approach seeks to realise human rights for all people living now, and to do so in such a way that the earth's planetary boundaries remain intact so that future generations enjoy equivalent or even better opportunities. It means meeting the goals set by the Paris Agreement to keep global warming well below 2°C above pre-industrial levels and to pursue 1.5°C while meeting the social, economic and environmental targets set by the Sustainable Development Goals. Importantly, for intergenerational equity, it also means sharing the benefits and burdens of climate action

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<sup>1</sup> UN Secretary General (2013) *Intergenerational solidarity and the needs of future generations. Report of the Secretary-General.* <https://sustainabledevelopment.un.org/content/documents/2006future.pdf>: Accessed 2<sup>nd</sup> June 2016.

<sup>2</sup> Bruntland Commission (1987). *Our Common Future*.

<sup>3</sup> Rockstrom et al. (2009). *A Safe Operating Space for Humanity*. Nature 461, 472-475 (24 September 2009) and Steffan et al. (2015) *Planetary boundaries: Guiding human development on a changing planet*. Science 13 Feb 2015: Vol. 347, Issue 6223.

<sup>4</sup> Raworth, K. (2009). *A safe and just space for humanity: Can we live within the doughnut?* Oxfam Discussion Paper.

equitably and strengthening efforts to realise the right to development for all people now and into the future. It delivers responsive action for sustainable development that does not exceed the ceiling provided by the planetary boundaries.

## 2. Intergenerational Equity, Sustainable Development and Climate Change

Intergenerational equity is understood as fairness between generations. Professor Edith Brown Weiss, defines the principle as follows: “the basic concept is that all generations are partners, caring for and using the Earth. The present generation must pass the Earth and our natural and cultural resources on in at least as good condition as it received them, so that future generations can meet their own needs.”<sup>5</sup>

It is a principle that has been recognised in many international processes and agreements including:

- **Climate change:** Protecting the climate system for current and future generations is a principle that underpins the 1992 United Nations Framework Convention on Climate Change<sup>6</sup>. Article 3 of the Convention recognises that climate change is fundamentally an intergenerational problem and commits Parties to “protect the climate system for the benefit of present and future generations of humankind, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities.” The Paris Agreement adopted in 2015<sup>7</sup> acknowledges that “climate change is a common concern of humankind” and reminds Parties to respect “intergenerational equity” when they take action to address climate change (preamble, Paris Agreement).
- **Sustainable Development:** The 1987 Report of the World Commission on Environment and Development (Brundtland Report)<sup>8</sup> grounds the concept of sustainable development in intergenerational terms: “Humanity has the ability to make development sustainable to ensure that it meets the needs of the present without compromising the ability of future generations to meet their own needs” The outcome document from Rio+20 in 2012, *The Future We Want*<sup>9</sup>, states in the first paragraph that countries renew their “commitment to sustainable development and to ensuring the promotion of an economically, socially and environmentally sustainable future for our planet and for present and future generations”<sup>10</sup>. Agenda 2030<sup>11</sup> reaffirms this commitment to develop in a manner that safeguards the needs of present and future generations.

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<sup>5</sup> Brown Weiss, Edith *Summary of Presentation to the Meeting of the Troika+ of Women Leaders on Gender and Climate Change*, 16 September 2013; see also Brown Weiss, Edith (1989) *In Fairness to Future Generations: International Law, Common Patrimony, and Intergenerational Equity* Transnational Publishers Inc, Irvington-on-Hudson, New York.).

<sup>6</sup> United Nations (1992). *United Nations Framework Convention on Climate Change*. Accessed 31/08/2016 [http://unfccc.int/files/essential\\_background/background\\_publications\\_htmlpdf/application/pdf/conveng.pdf](http://unfccc.int/files/essential_background/background_publications_htmlpdf/application/pdf/conveng.pdf)

<sup>7</sup> UNFCCC (2015). Paris Agreement. Accessed 31/08/2016. <http://unfccc.int/resource/docs/2015/cop21/eng/l09r01.pdf>

<sup>8</sup> Brundtland Commission (1987). *Our Common Future*.

<sup>9</sup> United Nations General Assembly (2012) Resolution 66/288, *The future we want*. Accessed 13<sup>th</sup> June 2016. [http://www.un.org/ga/search/view\\_doc.asp?symbol=A/RES/66/288&Lang=E](http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/66/288&Lang=E)

<sup>10</sup> United Nations General Assembly (2012) Resolution 66/288, *The future we want* available at [http://www.un.org/ga/search/view\\_doc.asp?symbol=A/RES/66/288&Lang=E](http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/66/288&Lang=E) Accessed 13<sup>th</sup> June 2016

<sup>11</sup> United Nations (2015). *Transforming our world: the 2030 Agenda for Sustainable Development*. Resolution of the UN General Assembly: A/RES/70/1. Accessed 31/08/2016. [http://www.un.org/ga/search/view\\_doc.asp?symbol=A/RES/70/1&Lang=E](http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/70/1&Lang=E)

- **Human Rights:** while scholars have debated the extent to which future generations have rights<sup>12</sup> it can be argued that as future generations will have rights when they are born, it makes sense for present generations to take action to protect these rights now. Looking to specific rights, the right to a healthy environment has elements of intergenerational equity as does the right to development. The 1992 Rio Declaration<sup>13</sup> on the Environment and Development declares that “the right to development must be fulfilled so as to equitably meet the needs of present and future generations”. The 1993 Vienna Declaration on Human Rights<sup>14</sup> (Part I, para 11) goes on to state that “The right to development should be fulfilled so as to meet equitably the developmental and environmental needs of present and future generations”. Several countries around the world have included right to a healthy environment in their constitutions<sup>15</sup> and this frequently includes a reference to the preservation of a healthy environment in the interests of current and future generations. Furthermore, there are a number of countries that have explicit constitutional recognition of the rights of future generations<sup>16</sup>.

However there is not yet a mechanism or institution at the global level to ensure its application in practice.

The challenge involves turning the commitments made to intergenerational equity in international agreements into practice in order to achieve climate justice. Careful balancing is needed to meet the current challenges of poverty eradication, hunger, inequality and conflict, while ensuring that decisions taken now are beneficial to future generations and protect the planet. This is a challenge for the global community, particularly as there are countries with lower levels of development, fragile states and countries affected by conflict.

The SDGs provide a framework for transforming lives now while ensuring long-term planetary sustainability; setting targets to eradicate poverty and reduce inequality by 2030 in a way that safeguards the planet’s natural resources for future generations (see examples in Box 1). The challenge is to ensure that these targets are met within the 15 year timeframe of the SDGs to improve the lives of people alive now, and to do so within planetary boundaries, so that the benefits of sustainable development can also be shared with future generations.

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<sup>12</sup> from Caney – Elliott, 1989, Beckerman & Paesk, 2001, Caney 2008, Weiss Brown, 1989




<sup>13</sup> United Nations (1992). *Rio Declaration on Environment and Development*. The United Nations Conference on Environment and Development. Accessed 31/08/2016

<http://www.unep.org/documents.multilingual/default.asp?documentid=78&articleid=1163>

<sup>14</sup> United Nations (1993). *Vienna Declaration and Programme of Action*. Adopted by the World Conference on Human Rights in Vienna on 25 June 1993. Accessed 31/08/2016. <http://www.ohchr.org/EN/ProfessionalInterest/Pages/Vienna.aspx>

<sup>15</sup> United Nations General Assembly (2013) *Report of the Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, John H. Knox* available at [http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session25/Documents/A-HRC-25-53\\_en.doc](http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session25/Documents/A-HRC-25-53_en.doc) Accessed 13<sup>th</sup> June 2016

<sup>16</sup> For example, the Constitution of Portugal affirms “the right to a healthy and ecologically balanced human living environment” and calls for “respect for the principle of inter-generational solidarity” (Article 66). Furthermore, Brazil’s Constitution contains similar commitments, asserting that “[a]ll have the right to an ecologically balanced environment, which is an asset of common use and essential to a healthy quality of life, and both the Government and the community shall have the duty to defend and preserve it for present and future generations” (Article 225). Similarly, South Africa’s Constitution affirms that “Everyone has the right - (a) to an environment that is not harmful to their health or well-being; and (b) to have the environment protected, for the benefit of present and future generations” (Article 24).

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| <b>Box 1: Achieving the ambition SDGs is important to securing intergenerational equity. However, it is important that the implementation the 2030 Agenda for Sustainable Development intentionally considers the needs of future generations so that short term progress towards the goals does not undermine future sustainability. Here are three examples:</b> |  |
|   | <p><b>Access to sustainable energy for all</b> would lift millions of the present generation out of energy poverty, increase productivity and create new jobs and livelihood opportunities. Meeting energy needs through sustainable, renewable energy would also benefit future generations by avoiding the greenhouse gas emissions associated with fossil fuel powered energy and by ensuring that clean air is part of the inheritance of generations to come.</p> |
|   | <p><b>Reducing current inequalities</b> (intra-generational inequality) and improving the lives of all people today is a precondition to protecting the opportunities of future generations. Eliminating poverty and ensuring human dignity for all now is an important step towards intergenerational equity and recognises the need to balance carefully current and future needs.</p>   |
|    | <p><b>By managing our soil and our forests sustainably</b> and restoring degraded land we can reduce soil erosion and deforestation now with benefits to present generations in terms of increased food security and reduced desertification; while providing benefits to future generations in terms of carbon sequestration and biodiversity.</p>  |

### 3. Representing Future Generations -

One way of ensuring that the commitments made to intergenerational equity in international agreements is applied in practice is to provide representation for future generations in decision making. In the lead up to the Rio+20 summit in 2012 there was some support for the establishment of a Commissioner for Future Generations to represent and advocate for future generations. Indeed institutions such as commissioners and ombudsmen for future generations already exist in several countries around the world and provide a model for such an institution at the international level<sup>17</sup>. While the Rio+ 20 summit did not establish a commissioner it did mandate a [Report of the UN Secretary General on Intergenerational Solidarity](#) which includes proposals relating to a high commissioner for future generations.

Now that Agenda 2030 and the Paris Agreement have been adopted, it is an appropriate time to reconsider institutional representation for future generations at the international level. While significant steps were taken in 2015 to reorient all development to be sustainable development, there is still a need to provide an independent assessment of progress at the global level that is based on guardianship of future generations and the need to balance the needs of present and future generations. There is also a need to build coherence between the timelines in the 2030 Agenda for Sustainable Development with the 17 Sustainable Development

<sup>17</sup> e.g. Hungary, New Zealand, Israel, Wales (source - research commissioned by Simon Caney for the Foundation); Harvard Law School, 2008 [http://www.sehn.org/pdf/Models\\_for\\_Protecting\\_the\\_Environment\\_for\\_Future\\_Generations.pdf](http://www.sehn.org/pdf/Models_for_Protecting_the_Environment_for_Future_Generations.pdf) accessed 3 June 2016; Roundtable of Institutions for a Sustainable Future: <http://futureroundtable.org/en/web/roundtable-of-institutions-for-a-sustainable-future/welcome> Accessed 3 June 2016.

Goals, the Addis Ababa Action Agenda on Financing for Development with the Sendai Framework for Disaster Risk Reduction and the Paris Climate Agreement.

The Mary Robinson Foundation – Climate Justice proposes that a commission or institution acting as Guardians for Future Generations be established by the Secretary General of the United Nations or the UN General Assembly to provide advice on achieving fairness between generations in the context of sustainable development, and encouraging coherence between the different frameworks on achieving sustainable development

## Guardians for Future Generations

A commission, as opposed to a single commissioner, would allow for greater diversity and more balanced geographical and gender balance. The balancing of the needs of present and future generations requires tough decision making in all countries, but particularly so for developing countries. It is important that the views of countries at different levels of development inform the work of the commission if it is to be truly equitable and consistent with the Principles of Climate Justice<sup>18</sup>.

In proposing a Commission for Future Generations the Foundation has researched various models including the High Level Panel on the Post 2015 Development Agenda; the SUN movement; national models of representation of future generations including ombudspersons, commissions and commissioners; the work of academic institutions such as the Oxford Martin Commission for Future Generations<sup>19</sup>; and reports by United Nations Environment Programme (UNEP), the World Future Council and others.

This research led to the identification of factors critical to the legitimacy and effectiveness of an institution representing future generations, in particular that it is:

- **Representative:** Both geographically and demographically, ensuring a full range of viewpoints.
- **Independent:** Able to deliver its message from a neutral perspective without perception of bias.
- **Authoritative:** Having sufficient scientific expertise and gravitas to have its message heard and respected.
- **Inclusive and transparent:** Have processes that engender trust and inclusiveness

These factors inform how and under which auspices a commission should be established and to whom it would report. They also inform the sources of information the Commission would use including those from member states and civil society. The commission could have roles ranging from data collection and analysis, to research and advocacy, all of which would need to be determined by the UN member states.

The Foundation is working with member states, the UN system and civil society to advance the ideas for representing future generations set out in this paper. The motivation is to achieve climate justice for current and future generations and to assist countries to deliver the goals agreed by the international community in 2015. The Foundation is particularly mindful of the immediate challenges which low income, fragile and conflict affected countries face, and their need to prioritise decisions that deliver benefits in the short as well as the long term.

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<sup>18</sup> Principles of Climate Justice available at <http://www.mrfcj.org/principles-of-climate-justice/>

<sup>19</sup> See for example the report entitled *Now for the Long Term*

[http://www.oxfordmartin.ox.ac.uk/downloads/commission/Oxford\\_Martin\\_Now\\_for\\_the\\_Long\\_Term.pdf](http://www.oxfordmartin.ox.ac.uk/downloads/commission/Oxford_Martin_Now_for_the_Long_Term.pdf) accessed 2 June 2016

A commission or institution acting as Guardians for Future Generations can provide advice and guidance so that decisions taken over the next fourteen years promote sustainable development that will ultimately improve the lives of the generations alive today as well as future generations. The international policy framework, agreed by consensus in 2015, provides an opportunity to transform our world where the values of equity and justice inform the implementation of actions at the national and international level.

As the first generation to fully understand the risks posed by climate change and the last generation to have the opportunity to act, there is a moral imperative to provide stewardship of the planet's resources for the benefit of present and future generations.