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Committing to the future we want: a High Commissioner for Future Generations at Rio+20

Discussion Paper

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Executive Summary

This is a discussion paper which makes the case for an independent and impartial High Commissioner for Future Generations and an associated Office: why it should be among the outcomes of the 2012 UN Conference on Sustainable Development ('Rio+20'); how the creation of a High Commissioner through Rio+20 would build on commitments that UN member states have already made; what a High Commissioner could do; where it could be sited; what powers and responsibilities a High Commissioner should have, and how practically the Office of a High Commissioner for Future Generations could work.

Paragraph 57 of the zero draft of the Rio+20 outcome document, *The Future We Want*, refers to the creation of an Ombudsperson or High Commissioner for Future Generations. But it is too weak. Currently the draft would commit states only 'to further consider' the establishment of a High Commissioner for Future Generations 'to promote sustainable development'.

The Rio+20 outcome document should commit UN member states to a timebound process leading to the creation of a UN High Commissioner for Future Generations by means of a General Assembly Resolution. The General Assembly Resolution could incorporate a Statute of the Office of the High Commissioner for Future Generations.

The mission of the High Commissioner for Future Generations should be agreed during the Rio+20 process and commended to the General Assembly. This paper proposes that the mission should be to promote and protect the interests of future generations in the context of the imperative to meet the needs of the present without compromising the ability of future generations to meet their own needs.

In 2012 and beyond, it is apparent that multiple pressures increase the temptation for 'short-termism' at government, individual and organisational levels. The result is a systematic failure to respect the needs of future generations; a failure that diminishes us as people and undermines, to the point of destroying, the collective commitment of nations to sustainable development.

When understood in the context of sustainable development, there is no trade-off between fairness between present generations and fairness to future generations. But there have been deplorable failings in global and national efforts to tackle inequality and unfairness between people alive today.

A key question is how to provide the most appropriate institutional underpinnings to reflect the inherent long-termism of sustainable development; institutional underpinnings capable of delivering lasting *outcomes*, not simply political rhetoric. The creation of a High Commissioner for Future Generations offers a central part of the way forward. It would resonate very strongly in terms of sustainable development. And it would also build on and complement existing references to future generations in a wide range of regional and global treaties and other international instruments.

The thematic scope of the High Commissioner's work should be limited only by the scope of sustainable development itself.

Across the United Nations, the Office of the High Commissioner for Future Generations would build a body of advice, analysis and practice to underpin a systematic approach to regard for future generations in UN policy-making and implementation. 'Could there be a better way?' will be a question heard frequently, and insistently, across the High Commissioner's programme of work. Multi-stakeholder review across themes, geographies and generations should be among the High Commissioner's key monitoring and assessment tools. Review at the national level should be

grounded in the consent of the state(s) concerned. But there should be a presumption of public transparency in the implementation of the High Commissioner's mission.

It must be widely understood that in addition to collaborative processes, the Office of the High Commissioner has authority of his or her own motion to initiate inquiries and to issue statements on matters of concern; to act independently and free from political interference.

A High Commissioner for Future Generations should be enabled at any time to receive representations related to his or her mission from individuals, states or groups. At the inter-state level, the High Commissioner's powers and responsibilities should be sufficiently broad from the start to encompass provision of advice, good offices and mediation in the event that requests for such services are received from states and accepted by the parties to any compliance-related question or procedure.

The work of the High Commissioner for Future Generations should be linked to the work of any umbrella body for sustainable development. However, the Office of the High Commissioner for Future Generations should be housed independently of other institutions or agencies, with day to day operational accountability to the United Nations Secretary General and annual reporting to the General Assembly.

As the individual at the head of a new independent and impartial Office, the High Commissioner for Future Generations must be a person of high personal integrity and expertise. Just as important as individual leadership qualities, are the staff associated with the Office. They will need to be equipped to take a highly multidisciplinary approach.

An early priority for the new High Commissioner for Future Generations should be to lead the development of a coordinated UN-wide strategy for protection of the interests and needs of future generations. The High Commissioner should work closely with the Secretary General and in consultation with UN member states and civil society to develop the strategy. Once adopted following discussion in the General Assembly, the High Commissioner for Future Generations would become the official charged with leading the United Nations future generations strategy.

In practice, the strategy and overall role of the High Commissioner for Future Generations will evolve over time. In particular, a phased approach will be needed in relation to UN-wide coordination and strategy; any complaints function; and the progressive development of international law related to future generations.

A High Commissioner for Future Generations would need a range of powers and responsibilities. Drawing on analysis of sustainable development, existing international instruments and practice, as well as the mandates of existing international High Commissioners, fourteen are suggested.

The proposed powers and responsibilities span international agenda-setting and leadership (including dialogue and advocacy on matters falling within the scope of the mission; and offering advice, on request, on implementation of relevant existing intergovernmental commitments); monitoring, early warning and multi-stakeholder review; capacity-building for innovation at national and subnational levels; and fostering understanding and analysis related to the mission.

The creation of a High Commissioner for Future Generations would be an act of faith in our collective ability as people, and to the collective ability of our governments, to overcome one of the most pernicious features of unsustainable development: the short-termism that undermines equity in the present and guarantees unfairness to future generations.

Part 1: Making the Case

Introduction

This is a discussion paper which makes the case for a High Commissioner for Future Generations: why it should be among the outcomes of the 2012 UN Conference on Sustainable Development ('Rio+20'); how the creation of a High Commissioner through Rio+20 would build on commitments that governments have already made; what a High Commissioner could do; where it could be sited; what powers and responsibilities a High Commissioner should have, and how practically the Office of a High Commissioner could work.

The discussion paper is a supplement to a short document published on 14th February 2012, *The Mandate of a UN High Commissioner for Future Generations*, written by Halina Ward, Peter Roderick and Catherine Pearce.

Paragraph 57 of the zero draft outcome document for the 2012 UN Conference on Sustainable Development, *The Future we Want*, includes the following text for further discussion and negotiation during preparations for the Conference:

"57. We agree to further consider the establishment of an Ombudsperson, or High Commissioner for Future Generations, to promote sustainable development".¹

Paragraph 57 incorporates two alternatives: an 'Ombudsperson', or a 'High Commissioner' for Future Generations. This paper focuses on the second of these options: the creation of a High Commissioner for Future Generations. The starting point is an assumption that this office ought to be sited within the broad family of United Nations organisations.

The Rio+20 outcome document must UN commit member states to a clearly defined process leading to the establishment of a UN High Commissioner for Future Generations. Paragraph 57 in its current form is too weak; committing states only 'to further consider' the establishment of an Ombudsperson, or High Commissioner for Future Generations. This paper is intended to supplement proposals from UN member states and Major Groups for amendments that would strengthen the text of paragraph 57.

The mission of a High Commissioner for Future Generations should be *"to promote and protect the interests of future generations in the context of the imperative to meet the needs of the present without compromising the ability of future generations to meet their own needs"*. This paper explains why.

Why we need a High Commissioner for Future Generations

In 2012, people around the world face the very real prospects of increasing resource scarcity, rapid population growth, and consequent strain on our ability to provide for even our most basic needs. In the words of the UN Secretary-General's High-level Panel on Global Sustainability: *"progress has been made, but it has been neither fast nor deep enough, and the need for further-reaching action is growing ever more urgent. At the same time, we face increasingly powerful drivers of change, including the impacts of current production and consumption patterns and resource scarcity, innovation, demographic change, changes in the global economy, green growth, growing inequality, changing political dynamics and urbanization."*²

In 2012 and beyond, it is apparent that pressure to identify solutions to the political crises that could be triggered or exacerbated by these drivers of change increase the temptation for 'short-termism' at government, individual and organisational levels.

The result is a systematic failure to respect the needs of future generations; a failure that diminishes us as people and undermines, to the point of destroying, the collective commitment of nations to sustainable development.

Current patterns of development are not sustainable. Ensuring that they become sustainable will require structural changes at many levels of politics and society. Yet at every turn, changes on the scale required are blocked by immediate short-term interests: those of nation states, politicians, the world's wealthier people and businesses among them.³

Today there is a real risk that "*e]ven 'sustainable development' is becoming code for, 'How do we keep the present game going?'*"⁴ All the more urgent, then, to take decisive action now to protect the original meaning of sustainable development, with its emphasis on intergenerational equity and the future impacts of action today.

A key question is how to provide the most appropriate institutional underpinnings to reflect the inherent long-termism of sustainable development; institutional underpinnings capable of delivering lasting *outcomes*, not simply political rhetoric. The creation of a High Commissioner for Future Generations offers a central part of the way forward.

Too often, the needs of the present are met at the expense of the needs of future generations. Too often, this happens not because there is any inherent conflict between the needs of the present and those of future generations, but because decision-makers are not aware of, or do not think about, the burdens that their decisions place upon future generations.

The imperative to protect 'succeeding generations' from the scourge of war is incorporated within the United Nations Charter.⁵ And the security threats now emerging out of the multiple challenges of poverty, social exclusion, environmental degradation and scarcity are among the greatest that the world has ever faced. The UN Charter places a responsibility on the UN to take a longer view.

The United Nations family of organisations and programmes has found it possible to adopt considerably longer time horizons for many initiatives than the typical election cycle. The Millennium Development Goals⁶ and the Water for Life Decade⁷ are two examples among many. The vision of the United Nations Food and Agriculture Organisation is "*[t]o help build a food-secure world for present and future generations*".⁸ And today, more than thirty international agreements and declarations recognise future generations in commitments spanning economic, environmental and social dimensions of human activities (see *Annex A*).

It is one thing to express a vision of a good life and a healthy planet handed to future generations: indisputably the United Nations is equipped to that end.

But the political reality is quite different.

The short-term self-interest of UN member states has prevented many a decision that might be in the collective global interest of humanity from going forward. Notwithstanding some real achievements, the positive vision and the road-map set by the Millennium Development Goals will not be fully met; thwarted by the reality of poor resourcing, poor commitment and inadequate implementation. And despite the vision and commitments made at the 1992 UN Conference on Environment and Development, the past two decades have witnessed many of the world's worst

environmental disasters. Planetary boundaries on biodiversity and on climate change have been breached despite the entry into force of UN Framework Conventions on Biological Diversity and on Climate Change.

International commitment; even legally binding commitment; is imperfect for so long as the institutional guarantees of its proper implementation are lacking. An independent and impartial High Commissioner for Future Generations and an associated Office would act as a guarantor of the future-orientation of sustainable development. The creation of the High Commissioner for Future Generations would build upon, reflect, and strengthen, the demonstrated mission and capacity of the United Nations to deliver vision, policies and programmes for the long-term.

Through the implementation of his or her functions, the High Commissioner would challenge short-termism within the international community: correcting system failures; seeking out and reporting on areas where the vision of the United Nations and the promise of sustainable development are undermined by short-termism in the execution; expressing the highest regard for the hopes and aspirations of all people around the world for their children and their children's children, down the generations and across communities.

This would also be an agenda-setting role. If the world is now faced with a complex web of interconnected environmental and social challenges bordering on the catastrophic, the institutional response must match the nature of the challenge. It cannot be an 'environmental' response or a 'social' response or an 'economic' response. Any institutional responses to the challenges that we now face must be capable of taking an integrated approach.

The link between *intragenerational* and *intergenerational* equity in the context of sustainable development is unbreakable. When understood in the context of sustainable development, there is no trade-off between fairness between present generations and fairness to future generations. But there have been deplorable failings in global and national efforts to tackle inequality and unfairness between people alive today. And around the world, governance systems consistently fail to respect founding principles of sustainable development; consistently discounting the imperative to be fair to future generations who cannot vote and whose voices cannot be heard.

A mission derived from sustainable development and international law

The mission of the High Commissioner for Future Generations should be to promote and protect the interests of future generations in the context of the imperative to meet the needs of the present without compromising the ability of future generations to meet their own needs.

This mission incorporates the most widely applied definition of sustainable development (that of the 1987 Brundtland report) and draws additionally on existing references to future generations in international instruments; and from comparative consideration of the mandate of the UN High Commissioners for Human Rights and Refugees respectively (highlighted further in the next section).

Future generations and sustainable development

The needs of present *and* future generations are already at the heart of sustainable development. The 1987 report of the World Commission on Environment and Development *Our Common Future* (often referred to simply as the 'Brundtland report' after the Commission's Chair Gro Harlem Brundtland), contains what remains to this day the most frequently adopted definition of sustainable development: "*development which meets the needs of the present without compromising the ability of future generations to meet their own needs*".⁹

The Brundtland report continues:

“[Sustainable development] contains within it two key concepts:

- *the concept of 'needs,' in particular the essential needs of the world's poor, to which overriding priority should be given; and*
- *the idea of limitations imposed by the state of technology and social organization on the environment's ability to meet present and future needs”.*

The Brundtland report gives no priority to present over future needs: whether in the present or in the future, it is the ‘essential’ needs of the world’s poor people to which overriding priority should be given.

The principle of intergenerational equity, as it has come to be known, is now firmly among the core principles of sustainable development. It is embodied in Principle 3 of the Rio Declaration¹⁰ (one of the outcomes of the 1992 UN Conference on Environment and Development), which states that:

“The right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations”¹¹

The work of a High Commissioner for Future Generations must always be formed, understood and implemented in the context of the original Brundtland vision of sustainable development. That in turn must mean understanding intergenerational and intragenerational equity as linked and indivisible.

Future generations and international law

The creation of a High Commissioner for Future Generations would resonate very strongly in terms of sustainable development; the process and goal to which the world’s nations committed so strongly at the 1992 UN Conference on Environment and Development. And it would also build on and complement existing references to future generations in a wide range of regional and global treaties and other international instruments. Research for this paper has identified more than two dozen (*Annex A*).

Almost without exception, these international instruments address present and future generations as equals, or even prioritise future generations. The effect in many cases is to extend the timeframe over which the matters addressed by the agreement in question are to be considered.

At the same time, no international instrument currently provides a comprehensive basis for the scope of the matters concerning future generations to which a High Commissioner for Future Generations might have regard in carrying out his or her functions. Perhaps closest in its breadth is a Declaration on the Responsibilities of the Present Generations Towards Future Generations¹², which was adopted by UNESCO’s General Conference in 1997. In twelve Articles, the Declaration describes a set of responsibilities towards future generations, beginning in Article 1 with the statement that: *“The present generations have the responsibility of ensuring that the needs and interests of present and future generations are fully safeguarded”*.¹³

The Declaration concludes in Article 12 with the call that *“States, the United Nations system, other intergovernmental and non-governmental organizations, individuals, public and private bodies should assume their full responsibilities in promoting, in particular through education, training and information, respect for the ideals laid down in this Declaration, and encourage by all appropriate means their full recognition and effective application”*.¹⁴

Some two dozen other regional and global agreements and declarations adopt a variety of drafting approaches in their references to future generations.¹⁵ The references span preambles, statements of principles or objectives, as well as the substantive operational parts of a wide range of international instruments.

A first kind of reference refers to future and present generations alongside one another – implicitly as equals, and addressed by common aspirations or commitments. In all but one of these references¹⁶ no balancing act is envisaged between present and future generations: these provisions serve to extend the time horizon through which the relevant aspirations or responsibilities are to be delivered.

A second kind of reference is a standalone reference to future generations – irrespective of their relationship with present generations. These instruments address activities where there is a *particular* concern that the impacts of those activities will harm future generations.

None of the existing formulations establishes a time horizon over which future generations might be considered: implicitly, the time horizon is determined by the subject matter under consideration.

There are strong arguments that people alive today – including their elected representatives – have ethical responsibilities towards future generations. These arguments deserve to feature strongly when framing the High Commissioner for Future Generations' ways of working; but the High Commissioner must also be equipped to connect with international law, and his or her mandate must resonate in terms of the existing commitments of UN member states.

The Brundtland definition of sustainable development refers to the 'needs' of future generations. But it is common also for advocates of future generations' institutions to refer to the 'interests' and 'rights' of future generations.

A number of formulations in existing international instruments avoid the need to introduce any qualifier at all to the words 'future generations', as for example in the Preamble to the ASEAN Agreement on the Conservation of Nature and Natural Resources, 1985: "*Recognizing the importance of natural resources for present and future generations*".¹⁷

Three international instruments of those reviewed refer to the 'interests' or 'interest' of future generations in the matters addressed by the agreement in question.¹⁸ But 'interests' are not a core part of the definition of sustainable development, and they shift over time.

If it is difficult to identify the *interests* of future generations generically, it is much easier to suggest that future generations have a general 'interest' in something that is already happening in the present. The words 'for the benefit of' future generations (as in the Convention to Combat Desertification) can also be understood functionally as a substitute for the words 'in the interest of': "*Determined to take appropriate action... for the benefit of present and future generations*".¹⁹

Three international instruments of those reviewed in *Annex A* contain references to the 'needs' of future generations in terms inspired by the Brundtland definition of sustainable development.²⁰ Only one, the Aarhus Convention, refers to 'rights' of future generations.²¹ A High Commissioner for Future Generations working to uphold, promote, protect or advocate for the 'rights' of future generations without the benefit of a guiding constitution setting out the nature of those rights would face difficulty in formulating decisions. And the creation of a guiding constitution on the 'rights' of future generations is not a necessary (nor a desirable) precondition for the creation of a High Commissioner for Future Generations.

On balance, taking account of international instruments referring to future generations, and wider considerations highlighted in this subsection, there is a strong case for framing the mission of the High Commissioner for Future Generations in terms of those ‘interests’ of future generations that relate to their ‘needs’.

The full range of subjects that are addressed by existing international instruments referring to future generations ranges from peace and security to health, education, cultural heritage, scientific and technological progress. A full listing can be found at *Annex B*. Alongside references to future generations in a wide range of international instruments, the international legal principle of the common heritage of mankind is also related to the intergenerational aspect of sustainable development. It too should provide a reference point for the functions of a High Commissioner for Future Generations.²²

The Brundtland definition of sustainable development, and the injunction to give ‘overriding priority’ to the essential needs of the world’s poor people, both present and future, point directly to poverty reduction as an important subject area for the High Commissioner’s work. That in turn points to a further broadening in the range of policy arenas to cover international trade, investment and debt; all areas in which existing international agreements do not directly reference ‘future generations’, and yet where, arguably, there is the greatest risk that existing international legal frameworks and their associated programmes, policies and institutions, prioritise the satisfaction of short-term interests or needs.

The thematic scope of the High Commissioner’s work should be limited only by the scope of the Brundtland definition of sustainable development itself.

What international ‘High Commissioners’ do

The United Nations system is already home to a High Commissioner for Refugees and a High Commissioner for Human Rights. *Annexes C* and *D* respectively highlight key features of the mandate of each of these existing roles.

The Office of the High Commissioner for Refugees was established in 1951 on the basis of a 1949 General Assembly Resolution. Subsequently a further resolution adopted the Statute of the Office of the High Commissioner and called on governments to cooperate with the High Commissioner. The Statute requires the High Commissioner for Refugees to provide for the protection of refugees in nine different ways.

In effect, the High Commissioner for Refugees is entitled to monitor, report on and follow up its interventions with governments regarding the situation of refugees. And the High Commissioner for Refugees also plays an important role in capacity-building of relevant authorities, judges, lawyers and non-governmental organisations.

The High Commissioner for Human Rights is “*the United Nations official with principal responsibility for United Nations human rights activities under the direction and control of the Secretary-General*”, charged with the ‘promotion and protection of all human rights’.²³ The 1993 Resolution in which the General Assembly decided to create the post of the High Commissioner for Human Rights contains what might be regarded as guiding principles for the implementation of the High Commissioner’s mandate²⁴ and goes on to set out eleven responsibilities of the High Commissioner for Human Rights.²⁵

Elements of the existing responsibilities of the High Commissioner for Human Rights and the High Commissioner for Refugees respectively offer direct inspiration for the powers and responsibilities of a High Commissioner for Future Generations. However, in drawing parallels, it is also important to note that there are important distinctions between the roles and responsibilities of the High Commissioner for Human Rights and the High Commissioner for Refugees respectively. In particular:

- the High Commissioner for Refugees has extensive supervisory functions in relation to the 1951 Convention Relating to the Status of Refugees. The Office of the High Commissioner for Human Rights provides secretariat services to the human rights treaty bodies, but does not exercise such a wide range of supervisory functions. Rather, complaints and communications from individuals or groups of individuals who claim that their rights have been violated by a state party to a human rights treaty can be made to most treaty bodies. Some may initiate inquiries and some have procedures for addressing inter-state complaints and disputes.
- The responsibilities of the High Commissioner for Human Rights are less specific than those of the High Commissioner of Refugees in relation to interactions with Governments; in relation to UN-wide coordination and 'streamlining' (etc); and education and public information.
- The Programme of the High Commissioner for Refugees includes an Executive Committee of 85 United Nations member states but the High Commissioner reports annually to the General Assembly through the Economic and Social Council. The High Commissioner for Human Rights reports annually to the Human Rights Council (itself a subsidiary body of the General Assembly), and also through the Economic and Social Council to the General Assembly. The Human Rights Council is able to adopt 'special procedures' to *"examine, monitor, advise and publicly report on human rights situations in specific countries or territories (country mandates), or on major phenomena of human rights violations worldwide (thematic mandates)"*.

The High Commissioners for Refugees and Human Rights respectively are not the only two 'international' High Commissioners. In the Council of Europe, the Commissioner for Human Rights is an independent, non-judicial institution of the Council of Europe mandated to promote awareness of, and respect for, human rights in the 47 member states. He plays both a watchdog and a promotional function.²⁶ And in the Organisation for Security and Cooperation in Europe (OSCE), the High Commissioner on National Minorities has been charged, since the creation of the role in 1992, with identifying and seeking to resolve ethnic tension. His role is "early warning" and, as appropriate, "early action" at the earliest possible stage *"in regard to tensions involving national minority issues which have not yet developed beyond an early warning stage, but, in the judgement of the High Commissioner, have the potential to develop into a conflict within the OSCE area."*²⁷

What 'ombudspersons' do

'Ombudspersons' or 'ombudsmen' typically work to investigate organisational or functional 'maladministration' of one kind or another; particularly when it relates in some way to the exercise of functions that are of public interest.

In this sense, ombudsmen exercise a quasi-judicial (but not judicial) dispute resolution function; responding to, and investigating complaints from, members of the public or other affected interests ('stakeholders') and issuing opinions on the associated rights and wrongs, with varying degrees of authority or legal weight. As Wikipedia's entry says: *"In its most frequent modern usage, an ombudsman is an official, usually appointed by the government or by parliament but with a*

*significant degree of independence, who is charged with representing the interests of the public by investigating and addressing complaints reported by individuals”.*²⁸

The idea of the ‘ombudsman’ can also be understood to embody the wider idea of playing an independent watchdog role. In one country that is particularly relevant to this report, Hungary, the functions of one of four ombudsmen (or ‘Parliamentary Commissioners’ as they are also known) go much further than traditional complaints and dispute resolution functions.

In 2007, the Hungarian Parliament resolved to create a new independent watchdog function, the Parliamentary Commissioner for Future Generations, to safeguard the constitutional right of Hungarian citizens to a healthy environment. In May 2008 the Hungarian Parliament elected Dr Sándor Fülöp to become Hungary’s first Parliamentary Commissioner for Future Generations for a six-year term. The Commissioner for Future Generations is one of four Parliamentary Commissioners. Others address civil rights, data protection and freedom of information, and the rights of ‘national and ethnic minorities,’ respectively.

Whilst the administrative and associated regulatory arrangements for the role have recently changed with the entry into force of a new constitution in January 2012, the powers of the Parliamentary Commissioner for Future Generations have remained essentially unchanged since the role was established in 2007.

The Parliamentary Commissioner for Future Generations is mandated to investigate complaints relating to a broad range of environmental issues. The functions assigned to the Hungarian role also reach deep into the policy arena: the Parliamentary Commissioner for Future Generations is mandated to act as a policy advocate for ‘sustainability’ issues across all relevant fields of national and local legislation and public policy (including acting as a source of specialist advice to Parliament). He also has a wider mandate to widen the knowledge base: the third function is to undertake or promote research projects targeting the long term sustainability of human societies.

At the UN level, to date the ‘ombudsman’ or ‘ombudsperson’ function has been rather conservatively applied. The United Nations Ombudsman and Mediation Services are exclusively concerned with workplace conflict resolution relating to UN employees. The office describes its role as being to “assist UN employees to address their work-related concerns and help to resolve conflict through informal means”.²⁹ However, UN specialised agencies within the World Bank Group have evolved to provide for what is in essence an ‘ombudsman’ function in relation to projects supported by those agencies by means of the World Bank Inspection Panel³⁰ and the Compliance Advisor Ombudsman of the International Finance Corporation and Multilateral Investment Guarantee Agency³¹ (the latter two being the private sector lending arms of the World Bank Group). The foundation for each lies with a set of agreed procedural and substantive operating procedures and policies (‘safeguards’).

Each is configured to receive complaints from citizens or communities who believe they have been adversely affected by World Bank IFC or MIGA-supported projects. However, neither is set up explicitly to receive representations concerning conflicts, gaps, or shortcomings in the operating procedures and safeguards policies themselves.

There are no UN-wide ‘operating standards’ or safeguards in relation to future generations to provide communities or individuals with the equivalent of the Operating Standards of the World Bank or the Safeguards of the International Finance Corporation for UN projects, initiatives and programmes. And in inter-state matters relating to future generations, complaints functions and compliance matters are treaty- or organisationally-based.

The penultimate section of this paper discusses further how evolving individual or civil society complaints and inter-state compliance functions could gradually be integrated within the work of the High Commissioner for Future Generations. However, from the start, a High Commissioner for Future Generations should be empowered to receive representations from States, individuals and groups on matters concerning the realisation of his or her mission.

Part 2: A High Commissioner for Future Generations in practice

Vision, qualities and ways of working

In *The Clock of the Long Now*, Stuart Brand explores what it might take to stretch the idea of 'now'; to make it a 'long now'. The trick, he says, is "*learning how to treat the last ten thousand years as if it were last week, and the next ten thousand as if it were next week*".³² In effect, the role of the High Commissioner for Future Generations is to act as keeper of 'the long now' at global level. Concern for social injustice and inequity in the present must be deeply embedded within his or her *modus operandi*; guided always by the Brundtland definition of sustainable development.

The High Commissioner for Future Generations must be, and be perceived to be, independent and impartial. The Office of the High Commissioner for Future Generations must be capable, through visionary leadership, of inspiring strategic commitment across the United Nations and catalysing and inspiring institutional innovation at the national and subnational levels.

It must be widely understood that in addition to collaborative processes, the Office of the High Commissioner has authority of his or her own motion to initiate inquiries and to issue statements on matters of concern; to act independently and free from political interference.

The High Commissioner should always strive to work to be 'of the people', present and future. The creation of a High Commissioner for Future Generations must embody the goal of democratising the United Nations, by bringing UN processes, policies, institutions and instruments closer to people and empowering people to scrutinise it from a 'future generations' perspective.

The High Commissioner for Future Generations should provide early warning of systems faults and possible solutions across the UN and its specialised agencies; areas where there are significant gaps or omissions, or areas where policies, decisions, policies, programmes and intergovernmental agreements, whether in execution or in implementation, undermine or weaken our collective ability to meet the needs of the present without compromising the ability of future generations to meet their own needs. This mandate could be met by developing a real-time ongoing capacity to receive and filter information from multiple sources, including from members of the public. The High Commissioner should have discretion in deciding how to manage and respond to this information, subject to any agreed policy on privacy and confidentiality.

There are many areas where it is not clear how best to meet the needs of the present without compromising the ability of future generations to meet their own needs: climate change and energy, water and food security are among them. Across the United Nations, the Office of the High Commissioner for Future Generations would build a body of advice, analysis and practice to underpin a systematic approach to regard for future generations in UN policy-making and implementation; spanning policies, programmes and hard and soft law instruments.

'Could there be a better way?' will be a question heard frequently, and insistently, across the High Commissioner's programme of work, whether carried out by the Office of the High Commissioner

alone or through collaborative multi-stakeholder engagement: often new and innovative solutions will follow. But the High Commissioner should also ensure across his or her mission that areas are highlighted where there is a need further to develop *alternative* ways to tackle intragenerational inequity without undermining the ability of future generations to meet their needs.

As the individual at the head of a new Office, the High Commissioner for Future Generations must be a person of high personal integrity and expertise; with the general knowledge and understanding of people in diverse cultural contexts and of their needs necessary for impartial, objective, non-selective and effective performance of his or her duties.

Just as important as individual leadership qualities though (that is, those of the High Commissioner for Future Generations him or herself) are the staff associated with the Office. The Office of the High Commissioner for Future Generations will need to take a highly multidisciplinary approach.

Negotiation skills, the capacity for moral reasoning and policy analysis as well as an ability to engage (with appropriate expert support) with law and legal reasoning; these will be among the core competences associated with the High Commissioner's mandate.

At the same time, the Office of the High Commissioner for Future Generations must be 'UN-savvy': able to build consensus, to cajole and to highlight good practice. Much of the High Commissioner's power to secure implementation of his or her agenda would be the soft power of negotiations with UN agencies, media coverage and publicity, and political acuity. The High Commissioner for Future Generations could be expected to build and sustain a strong media presence.

The new Office will understand and maximise the value of networking, engagement and dialogue – with UN institutions, states, individuals and groups, as key tools in creating the necessary agencies for change. It will play a significant role in connecting different actors across a growing movement for future generations around the world; a community of people focused on resolving the essential governance challenges of short-termism and its associated policy and cultural failures. Participation in that movement will not be defined by 'citizenship', 'age', language skills or access to capital of any kind: people young and old, entrepreneurial visionaries and institutions that can look back on many hundreds of years of experience; all should be valued as important in the process.

There should be a presumption of public transparency in the implementation of the High Commissioner's mission, whilst allowing for confidentiality in cases where this is appropriate or necessary (for example for the protection of individual privacy or in order to ensure access to full information in the course of a multi-stakeholder review process). Clearly, where the High Commissioner is invited in inter-state matters to provide good offices, he or she should respect requests for confidentiality. It may also be appropriate to set guidelines for confidentiality when agreeing terms of reference for thematic or country-specific review processes. But the existence of any agreement on confidentiality should always be made public.

Multi-stakeholder review across themes, geographies and generations should be among the High Commissioner's key monitoring and assessment tools.³³ Peer review is commonly understood as "*an examination of one state's performance or practices in a particular area by other states*".³⁴ In practice, where it is applied, civil society, business and labour are increasingly invited to contribute to reviews. Where the mission of the High Commissioner for Future Generations is concerned, reviews will take place in an arena where there are systematic governance challenges around the world; where ordinary people and organisations can be as responsible for short-termism as their elected representatives; and where considerable creativity and innovation is called for in overcoming the barriers to change. In this arena, it is appropriate to provide explicitly for multi-stakeholder peer review. This could potentially be based on a blend of stakeholder and skills

groupings to secure inclusivity, equitable participation, and expertise in the review process. At the national level, multi-stakeholder review should be grounded in the consent of the state(s) concerned.

Monitoring and review aside, there are other ways in which the High Commissioner could play an important role in fostering development of capacity to secure attainment of his or her mission at national and subnational levels. The High Commissioner should work to build capacity at national levels to take account of future generations in the context of sustainable development, including by helping to develop institutions (such as Ombudsmen or Committees for future generations) designed to play this role. Such capacity-building work at national or subnational levels should be grounded in the consent of the state(s) concerned. The outcome across the High Commissioner's work programme could be an outbreak of institutional and policy innovation for future generations, and its implementation from the global to the local.

Budget, reporting and office

The Office of a High Commissioner for Future Generations should be funded from regular UN budgets, without diverting resources from UN development programmes and activities.

Additional sources of funding and voluntary contributions could also be applied to supplement finance from the UN's regular budget. However, the High Commissioner for Future Generations must have access to sufficient core funding to carry out an ambitious, and rapidly evolving, programme of work.

The High Commissioner for Future Generations should report annually to the General Assembly. At least once every five years, this annual report should be supplemented by a strategic review of overall progress across the United Nations, its bodies and within its member states, in the realisation of the aspiration reflected in the High Commissioner's overall mandate. The first strategic review could be designed specifically to provide input to the pre-2015 review of the Millennium Development Goals and development of Sustainable Development Goals.

Over time, as coordination mechanisms in relation to future generations evolve within the United Nations, initial General Assembly-based reporting arrangements for the Office of the High Commissioner should be reviewed and potentially supplemented, with a view either to: a) linking reporting by the High Commissioner for Future Generations to any new intergovernmental arrangements in respect of future generations, such as a Future Generations Council (in addition to reporting to the General Assembly); or b) to any new Sustainable Development Council.

The High Commissioner for Future Generations should be empowered to present his or her views before the General Assembly and any other relevant intergovernmental UN Committee or working group or at any relevant Conference of the Parties.³⁵ This might be, for example, in order to present the results or findings of analysis, inquiries or multistakeholder review processes carried out under the auspices of the Office of the High Commissioner for Future Generations, or to initiate dialogue on matters relevant to the execution of his or her mission.

Given the thematic range of the High Commissioner's mission it would not be appropriate to link the High Commissioner for Future Generations exclusively to the environmental dimensions of sustainable development. Reporting to a strengthened United Nations Environment Programme, or even a World Environment Organisation were one to be created, would not be desirable.

We have proposed a mission for the High Commissioner that spans social, economic, environmental cultural and governance dimensions of sustainable development. Consequently, the work of the High Commissioner for Future Generations should be linked to the work of any umbrella body for

sustainable development. But neither the model offered by the High Commissioner for Human Rights nor the High Commissioner for Refugees offers a complete potential analogue for the High Commissioner for Future Generations.

The creation of the Office of the High Commissioner for Future Generations is driven by the need to *build* and *add* 'future generations' capacity and analysis to existing programmes, policies and instruments. It is designed to fill an existing gap; there is no immediate need for any transfer of functions from existing institutions.

It is not immediately necessary to fit a High Commissioner for Future Generations into the existing or revised umbrella sustainable development architecture in the same way as the High Commissioner for Human Rights fits with the human rights architecture, or the High Commissioner for Refugees the refugee architecture, though the relationship should evolve as new institutional arrangements for sustainable development themselves develop following Rio+20.

On balance, there is a strong case to be made for accommodating the High Commissioner and an Office of the High Commissioner for Future Generations independently of other institutions or agencies, with day to day operational accountability to the United Nations Secretary General and annual reporting to the General Assembly.

At an early stage, the High Commissioner may wish to designate a multi-stakeholder advisory group of up to fifteen people to provide strategic advice to his or her Office in the implementation of its mission.

Core features of a foundational General Assembly Resolution

The High Commissioner for Future Generations and associated Office should be created by means of General Assembly resolution, following the approach that led to the establishment of the High Commissioner for Human Rights and the High Commissioner for Refugees. The General Assembly Resolution could incorporate a Statute of the Office of the High Commissioner for Future Generations, drawing on the model of the High Commissioner for Refugees.

A list of the powers and responsibilities of the High Commissioner within the General Assembly Resolution and any accompanying Statute could usefully be supplemented by a set of principles to guide the execution of the High Commissioner's functions.

The General Assembly Resolution establishing the role of the High Commissioner for Future Generations should call upon governments to cooperate with the High Commissioner for Future Generations across a range of listed matters, including by assisting the High Commissioner in his or her efforts to build capacity at national and subnational levels on matters falling within the scope of his or her overall mission; in relation to implementation of existing treaties, declarations and agreements relevant in the realisation of the mission; and in relation to the peer review process and the High Commissioner's early warning role.

In practice, one of the High Commissioner's first tasks will be to establish a UN-wide strategy for future generations for adoption via General Assembly resolution. To support this process, the Rio+20 outcome document or a General Assembly resolution to establish the UN High Commissioner for Future Generations could call on all UN bodies to consider how their own procedures address future generations (including but not limited to compliance procedures) and to inform the High Commissioner for Future Generations of the results of that consideration.

A High Commissioner would need a range of powers and responsibilities. Initial recommendations for the powers and responsibilities of a High Commissioner for Future Generations in pursuit of his or her mission (referred to below as ‘the mission’) are set out below.

These are offered for further consideration when drafting a Statute for the Office of a High Commissioner for Future Generations for adoption via General Assembly Resolution (as with the High Commissioner for Refugees), or for direct inclusion within the text of a General Assembly Resolution (as with the High Commissioner for Human Rights). They are not intended, however, to serve as a proposal for the full text of any Statute or General Assembly resolution.

Fourteen powers and responsibilities

A High Commissioner for Future Generations shall be appointed to assume the functions of promoting and protecting the interests of future generations in the context of the imperative to meet the needs of the present without compromising the ability of future generations to meet their own needs. He or she shall have an Office and associated staff.

The High Commissioner shall have the following powers and responsibilities,³⁶ which shall be reviewed in the fourth year from the commencement of the role.

International agenda-setting and leadership

- To enhance international cooperation on matters falling within the scope of his or her mission, including through liaison and close contact with existing international institutions, treaty secretariats, international initiatives and states.
- To act as an advocate for matters falling within his or her mission across the family of United Nations organisations and specialised agencies as well as through interactions with United Nations member states so that implementation of the mission becomes a central, system-wide commitment in all UN activities, and to enhance support from relevant bodies of the United Nations system for this purpose.
- To play an active role in removing the current obstacles and in meeting the challenges to the full realization of the mission throughout the world.
- To engage in a dialogue with all states in the implementation of his/her mandate with a view to securing the full realization of the mission throughout the world.
- On request from the United Nations or any of its subsidiary organs, specialized agencies, or affiliated organizations, to offer advice on implementation of existing intergovernmental commitments to or recognition of future generations or the heritage, or common heritage, of mankind. Where requested and accepted by state parties to any dispute raising matters related to the protection of future generations, this may include provision of good offices.
- To develop or initiate proposals for the conclusion or ratifications of international legal frameworks for the protection of future generations.

Monitoring, early warning and review

- To provide states, United Nations organisations and specialised agencies with early warning and as appropriate recommendations for action in regard to acts or omissions which, in the judgment of the High Commissioner, have the potential systematically to undermine the realisation of the mission, and to make such early warnings and recommendations available to the public.

- To propose, coordinate and report on progress towards aspects of the mission based on thematic or country-specific and/or regional reviews conducted by international means of multi-stakeholder, international review groups. Country-specific or regional reviews should be carried out with the consent of the state(s) concerned. The final text of any such reviews and associated recommendations should be made available to the public.
- To request United Nations organisations and specialized agencies or affiliated organisations to consider and to report to the High Commissioner for Future Generations on how their norms and procedures address future generations.

Public participation

- To act as an advocate for, and to promote and facilitate, the engagement and full participation of the public in the identification and resolution of issues falling within the mission.

Capacity for innovation at national and subnational levels

- On request from or with the consent of the state(s) concerned, and taking account of requests from individuals or civil society groups, to work to build capacity at national and/or subnational levels on matters falling within the scope of his or her overall mission, including through cooperation and partnership with appropriate institutions and/or groups, advisory services and technical assistance. This may include provision of assistance and support, where requested, for the establishment of national or local level Commissioners, Guardians or Ombudsmen for future generations, or for convening events or other forums for sharing best practices.

Public understanding and evidence

- To catalyse develop and coordinate United Nations education and public information programmes within the mission.
- To catalyse and develop independent research and analytical excellence in order to promote learning and clarification of the issues faced by global, national and local communities in matters falling within the mission.

Reporting

- To report annually on the work of the Office of the High Commissioner for Future Generations to the United Nations General Assembly and in addition to any other body or agency that may be designated by the General Assembly.

In carrying out his or her functions, a High Commissioner should have regard to any submissions or representations from states, international organisations, individuals and civil society groups, including from the nine major groups.

An evolving strategy, evolving functions

In practice, the strategy and overall role of the High Commissioner for Future Generations will evolve over time. This section suggests, for further discussion, how the High Commissioner might get started. It also considers three areas where a phased approach will be needed: UN-wide coordination and strategy; citizen complaints; and evolution of international law related to future generations.

Strategy, coordination, network development and initial monitoring

A clear challenge facing a High Commissioner for Future Generations is to secure effective coordination across the United Nations in matters concerning his or her mission.

There is currently no ‘future generations’ programme within the United Nations. An early priority for the new High Commissioner for Future Generations should be to lead the development of a coordinated UN-wide *strategy* for protection of the interests and needs of future generations.

The High Commissioner should work closely with the Secretary General and in consultation with UN member states and civil society to develop the strategy. Once adopted following presentation to and discussion in the General Assembly, the High Commissioner for Future Generations would become the official charged with leading the United Nations future generations strategy.

The High Commissioner would need to develop a strategy for his or her own Office. This too should be developed in consultation with others, including UN agencies, states, civil society, and any advisory group established to support the work of the Office of the High Commissioner for Future Generations.

The High Commissioner’s initial strategy will need to outline distinct programmes of work in relation to capacity-building; engagement with UN institutions and treaty secretariats (including in particular umbrella institutions for sustainable development); network development and public participation; media and communications; and approaches to a first set of multi-stakeholder review processes which could usefully include a mix of thematic and country or region-specific reviews.

Regular dialogue and potentially joint activities with the High Commissioner for Human Rights should feature early on in the new High Commissioner’s work programme; and the Office of the High Commissioner for Future Generations should also ensure that it is fully engaged in further development of post-2015 Development Goals, or new Sustainable Development Goals.

The High Commissioner’s first strategy will need to incorporate an approach to engaging with the UN system under the ‘early warning’ role. In addition, related to that role, a number of emerging legal and governance issues are currently on the horizon in areas that raise significant issues about the sharing of benefits and burdens as between present and future generations and consequently where further development of international law might be expected for the short to medium term. To offer but a few examples, these include geo-engineering in the context of climate change and of bio-prospecting of marine resources; legal codification of best practice investment regimes for the governance of fossil fuel and minerals exploitation; legal and policy innovation to secure respect for planetary boundaries; and evolution in the international legal framework relating to bioethics³⁷ and associated scientific developments.

A High Commissioner for Future Generations could, of his own motion or on request from relevant UN agencies or treaty secretariats, provide advisory recommendations on issues and proposed ways forward in these areas, adopting a working style in line with the vision and ways of Working described earlier in this paper. Or he or she might choose to focus on these issues under the responsibility to develop independent research and analytical excellence.

The range of existing references and commitments to future generations spans a wide range of treaty regimes and institutions. Neither a General Assembly resolution nor the Rio+20 outcome document could directly impact on the compliance or complaints mechanisms associated with existing international instruments such as the Aarhus Convention communications procedure; the ILO’s procedure for representations from unions and employers; the World Bank’s Inspection Panel; the International Finance Corporation’s Compliance Advisor Ombudsman, and several more.

Even *without* a fully fledged individual complaints function however, a High Commissioner for Future Generations should be enabled at any time to receive representations related to his or her mission from individuals, states or groups; with discretion to investigate issues raised in those representations and subsequently power to issue requests for reasoned and public responses to states and/or international institutions. This could be via institutions associated with existing Declarations referring to future generations, or the secretariats of other treaties.

The powers and responsibilities proposed in this paper ensure that at the inter-state level, the High Commissioner's powers and responsibilities are sufficiently broad from the start to encompass provision of advice and good offices or mediation in the event that requests for such services are received from states and accepted by the parties to any compliance-related question or procedure. Such requests might be made from the earliest days of the creation of the Office of High Commissioner for Future Generations.

Embedding coordination (UN-Future Generations); People's Charter for Future Generations

With UN institutions beginning to implement the agreed UN-wide Strategy for Future Generations, the High Commissioner for Future Generations could turn to development of a lasting coordination structure. There is already potential inspiration in existing UN mechanisms that are relevant to sustainable development. On the environment side, the Environmental Management Group furthers inter-agency Cooperation in support of the implementation of the international environmental and human settlement agenda. Elsewhere, UN -Energy was launched in 2004: *"to coordinate the major initiatives undertaken by UN agencies in three areas: energy access.. renewable energy; and energy efficiency. This is a step towards a more coherent and integrated approach to energy, based on a sustainable development framework"*.³⁸ UN-Oceans and UN-Water have played similar roles in their respective thematic areas.

Over time a High Commissioner for Future Generations might evolve to provide a forum and Secretariat support for a UN-Future Generations; working to provide ongoing coordination and a source of political impetus for efforts fully to integrate the interests and needs of future generations across UN policies, programmes and decision-making.

Away from the corridors of United Nations institutions, the High Commissioner could initiate a process to develop a People's Charter for Future Generations. Rather than a Charter to mark evolution in international law relating to future generations, this should be a Charter to set out the minimum safeguards that people around the world – be they individuals or groups - can expect the United Nations family of organisations, programmes and initiatives, including intergovernmental Conferences and Committees and decisions taken under them - to follow to ensure the realisation of the mission embodied in the High Commissioner for Future Generations.

As an independent and impartial official with a clear mission, the role of the High Commissioner would be to ensure a broad base of citizen and civil society engagement in the development of the Charter. As a necessary starting point, the terms of reference for the development of the Charter should be closely connected to the High Commissioner's mission.

A People's Charter for Future Generations would provide a normative basis for the High Commissioner to investigate representations from individuals and civil society groups, including the Nine Major Groups.

A listing of representations received and the High Commissioner's initial view of them could be discussed as part of the High Commissioner's ordinary annual reporting cycle to the General Assembly. Each year, up to five 'representations' might be selected for review by means of multi-

stakeholder review processes linked to the subsequent of a public report and recommendations. These procedures would be additional to the 'country or theme-specific' review process that the High Commissioner will already have experience with, since they would have as their normative basis the People's Charter for Future Generations. Review activities carried out directly by the High Commissioner would remain subject to the consent of the state(s) concerned; however the High Commissioner might also choose to work by organising 'hearings' from a variety of stakeholders in neutral locations and subsequently publishing an advisory opinion.

As experience with the High Commissioner's Office and the implications of existing treaty and soft law references to future generations evolves, the functions of a High Commissioner for Future Generations could be connected with a refreshed 'soft law' international Declaration on the Responsibilities of the Present Generations Towards Future Generations.

Complaints, compliance, progressive development of international law

The international instruments that are listed in *Annex A* are products of their times. But it would be wrong to think that their multiple references to future generations and to the common heritage of mankind are the end of international legal regulation to ensure that future generations, particularly the poorest among them, are able to meet their needs.

International law related to future generations and to sustainable development is subject to a process of progressive development; a process that is linked to new needs and will involve both those treaties that already refer to future generations, as well as new treaties.³⁹ A High Commissioner for Future Generations could provide leadership, analysis and assistance to ensure the necessary process of legal adaptation. He or she would help to facilitate the progressive development of international law in the field of future generations.

Ultimately, a 'Framework Convention on Responsibilities Towards Future Generations' might place formal legal duties on states to cooperate with the Office of the High Commissioner for Future Generations in the exercise of his or her functions. It could also provide, in addition to his or her existing responsibilities, for the High Commissioner to supervise the application of the Convention and, as necessary over time, propose improvements or modifications to it.

A fully-fledged complaints function within the Office of the UN High Commissioner for Future Generations could evolve over time. Initially this could be grounded in a People's Charter for Future Generations. A citizen complaints function might gradually become more closely linked with formal UN resolutions and intergovernmental agreements as these themselves evolve.

The role of the Office of the High Commissioner for Future Generations in inter-state dispute resolution would also evolve further over time. Special procedures might be developed, administered under the auspices of the Office of the High Commissioner for Future Generations, building on the example of the human rights treaty bodies. Or the High Commissioner's role might begin to encompass, as of right, the submission of *amicus curiae* briefs in formal inter-state dispute resolution, alongside longer-standing good offices and mediation functions.

Next steps: Rio+20

The Rio+20 outcome document should commit UN member states to a timebound process leading to the creation of a UN High Commissioner for Future Generations and associated Office by means of General Assembly Resolution. The Resolution should be adopted no later than the commencement of the General Assembly's 68th session.

The mission of the High Commissioner for Future Generations should be agreed during the Rio+20 process and commended to the General Assembly.

A firm commitment by states to the creation of a High Commissioner for Future Generations at Rio+20 would provide the basis of a unique and timely institutional innovation.

The creation of a High Commissioner for Future Generations would be an act of faith in our collective ability as people, and to the collective ability of our governments, to overcome one of the most pernicious features of unsustainable development: the short-termism that undermines equity in the present and guarantees unfairness to future generations.

¹ Available online at

<http://www.uncsd2012.org/rio20/content/documents/370The%20Future%20We%20Want%2010Jan%20clean.pdf>

² The report of the United Nations Secretary-General's High-level Panel on Global Sustainability, *Resilient People, Resilient Planet: A future worth choosing*, January 2012. Available online at

http://www.un.org/gsp/sites/default/files/attachments/GSP_Report_web_final.pdf

³ See also 'The Future of Sustainability', IUCN, 2006: "A core challenge .. is how to 'sell' structural change against the immediate short-term interests of non-destitute citizens, businesses locked into current markets, financial institutions that believe they have no role beyond maintaining shareholder value, and timid politicians..."

⁴ Ruben Nelson, Whither Democracy? Reflections on the Prospects of Democracy in the 21st Century, In Mika Mannermaa, Jim Dator and Paula Tiihonen (eds) *Democracy and Futures*, Eduskunta/Committee for the Future, 2006, Helsinki, 160-169, at p 165

⁵ Charter of the United Nations, Preamble (first line). Available online via <http://www.un.org/en/documents/charter/>

⁶ See further <http://www.beta.undp.org/content/undp/en/home/mdgoverview.html>

⁷ See <http://www.un.org/waterforlifedecade/>

⁸ <http://www.fao.org/docrep/x4104e/x4104e17.htm>

⁹ *Our Common Future*, 1987, page 8

¹⁰ See <http://www.un.org/documents/ga/conf151/aconf15126-1annex1.htm>

¹¹ Paragraph 11 of the 1993 Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights one year later, also acknowledges that the 'needs' of future generations relate to development as well as to environment. See [http://www.unhchr.ch/huridocda/huridoca.nsf/\(symbol\)/a.conf.157.23.en](http://www.unhchr.ch/huridocda/huridoca.nsf/(symbol)/a.conf.157.23.en)

¹² See UNESCO, *Declaration on the Responsibilities of the Present Generations Towards Future Generations*, adopted on 12 November 1997 by the General Conference of UNESCO at its 29th session. Available online at <http://www.unesco.org/cpp/uk/declarations/generations.pdf>

¹³ *Ibid*, Article 1

¹⁴ Centre for International Sustainable Development Law, *National Policies & International Instruments to Protect the Rights of Future Generations*, Legal Working Paper, undated, World Future Council/CISDL. Available online at http://www.worldfuturecouncil.org/fileadmin/user_upload/PDF/RepresentationFuture_Generations.pdf

¹⁵ See Kate Cook and Rachel Taylor's chapter 'The Rights of Future Generations in International Law' in *Do We Owe Them a Future? Opportunities of a representation for future generations in Europe*, edited by Benedek Javor and Judit Racz (2006), page 157, footnote 2.

¹⁶ The 1997 Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management; an IAEA Convention. This envisages that implementation of the agreement may entail passing some burden to future generations. However, even then the relevant provision commits parties to "strive to avoid actions" that impose impacts on future generations greater than those permitted for current generations, and to "aim to avoid" imposing undue burdens on future generations.

¹⁷ Available online at <http://www.aseansec.org/1490.htm>

¹⁸ Article IV of the African Convention on the Conservation of Nature and Natural Resources, 1968. Available online at http://www.au.int/en/sites/default/files/AFRICAN_CONVENTION_CONSERVATION_NATURE_NATURAL_RESOURCES.pdf; Preamble of the 1992 Convention on the Transboundary Effects of Industrial Accidents. Available online via <http://www.unece.org/fileadmin/DAM/env/documents/2006/teia/Convention%20E.pdf>; Preamble and Article 1. Available online via <http://www.unesco.org/cpp/uk/declarations/generations.pdf>

¹⁹ See <http://www.unep.org/roa/docs/amcen/9eng.pdf>

²⁰ Article 2.5(c) (principle) of the 1992 UNECE Convention on the Protection and Use of Transboundary, Watercourses and International Lakes. Available online at <http://www.unece.org/fileadmin/DAM/env/water/pdf/watercon.pdf>; Article 1

(objective), the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management 1997. Available online at <http://www.iaea.org/Publications/Documents/Conventions/jointconv.html>; and The Preamble to the 1992 Paris Convention for the Protection of the Marine Environment of the North-East Atlantic, available online at http://www.ospar.org/html_documents/ospar/html/OSPAR_Convention_e_updated_text_2007.pdf

²¹ 1998 UNECE Aarhus Convention on Access to Information, Public participation in Decision-making and Access to Justice in Environmental Matters, Article 1. Available online at <http://www.unece.org/fileadmin/DAM/env/pp/documents/cep43e.pdf>

²² The principle of the 'common heritage of mankind' has been adopted in the 1982 UN Convention on the Law of the Sea and the 1979 Agreement Governing the Activities of States on the Moon and Other Celestial Bodies. The 1959 Antarctic Treaty refers to the 'interest of all mankind' in relation to the uses of Antarctica.

²³ A/RES/48/141, 20th December 1993, Paragraph 4. Available online at <http://www.un.org/documents/ga/res/48/a48r141.htm>

²⁴ *Ibid*, Paragraph 3

²⁵ *Ibid*, Paragraph 4

²⁶ See http://www.coe.int/t/commissioner/Activities/mandate_en.asp)

²⁷ See further <http://www.osce.org/hcnm/43201>

²⁸ See <http://en.wikipedia.org/wiki/Ombudsman>

²⁹ <http://www.un.org/en/ombudsman/what.shtml>

³⁰ See further <http://web.worldbank.org/WBSITE/EXTERNAL/EXTINSPECTIONPANEL/0,,menuPK:64129249~pagePK:64132081~piPK:64132052~theSitePK:380794,00.html>

³¹ See <http://www.cao-ombudsman.org/>

³² Stuart Brand, *The Clock of the Long Now*, 1999, Basic Books, New York, p 31

³³ See further OECD Policy Brief, *Peer Review as a Tool for Cooperation and Change*, OECD Secretariat, 2007, available online at <http://www.oecd.org/dataoecd/9/41/37922614.pdf>, and also Fabricio Pagani, *Peer Review as a Tool for Cooperation and Change: an analysis of an OECD working method*, African Security Review, Volume 11 Number 4, 2002. Available online at <http://www.iss.co.za/pubs/asr/11no4/Feature2.html>

³⁴ OECD Policy Brief, *Peer Review as a Tool for Cooperation and Change*, OECD Secretariat, 2007, available online at <http://www.oecd.org/dataoecd/9/41/37922614.pdf>

³⁵ The High Commissioner for Refugees has broadly parallel powers

³⁶ The extent to which these are framed as mandatory or discretionary must be a function, in part, of the budget available to the Office of the High Commissioner for Future Generations

³⁷ The Preamble of the 2005 Universal Declaration on Bioethics and Human Rights refers to the 1997 UNESCO Declaration on the Responsibilities of the Present Generations Towards Future Generations

³⁸ <http://www.un.org/en/development/desa/usg/statements/statement-to-the-ecosoc-coordination-segment.html>

³⁹ Adapted from Professor Tullio Scovazzi:
http://www.un.org/Depts/los/consultative_process/ICP12_Presentations/Scovazzi_Abstract.pdf