

Asserting the Environmental Rights of Future Generations

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Abstract

This paper critically examines the need to assert the environmental rights of future generations. The paper argues that environmental rights and human rights at large are not limited to present generations. It posits that future generations also need to be considered in the environmental and human rights debate. The paper explores the progress made towards asserting the environmental rights of future generations. In addition, it examines some of the factors hindering the protection of environmental rights of future generations. The paper also suggests measures towards asserting the environmental rights of future generations.

1.0 Introduction

Protecting the environment for future generations has become a clarion call in the wake of interlinked environmental crises of climate change, nature loss and pollution¹. These challenges violate the human rights of countless people every day and threaten the effective enjoyment of the human rights of future generations². It is widely acknowledged that environmental conservation has to be guided by respect for the ‘rights’ of future generations³. The need to protect the environmental rights of future generations is envisaged under ideal of Sustainable Development⁴.

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¹ United Nations., ‘Call to Action for Human Rights: Rights of Future Generations’ Available at <https://www.un.org/en/content/action-for-human-rights/assets/pdf/info%20sheet%20-%20future%20generations.pdf> (Accessed on 17/07/2024)

² Ibid

³ Beckerman. W., & Pasek. J., ‘The Rights of Future Generations’ Available at <https://academic.oup.com/book/10497/chapter-abstract/158385088?redirectedFrom=fulltext> (Accessed on 17/07/2024)

⁴ World Commission on Environment and Development., ‘Our Common Future.’ Oxford, (Oxford University Press, 1987)

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The concept of Sustainable Development aims to promote development that meets the needs of the present without compromising the ability of future generations to meet their own needs⁵. According to the United Nations, Sustainable Development is how we must live today if we want a better tomorrow, by meeting present needs without compromising the chances of future generations to meet their needs⁶. The concept of Sustainable Development relates to the principle of meeting human development goals while at the same time sustaining the ability of natural systems to provide the natural resources and ecosystem services upon which the economy and society depends⁷. It entails creating and maintaining the conditions under which humanity and nature can exist in productive harmony to support present and future generations⁸. The ideal of Sustainable Development seeks to strike a balance between environmental conservation, economic development and social progress⁹.

One of the key principles of Sustainable Development is the principle of *intergenerational equity*¹⁰. Intergenerational equity refers to the principle that the current generation should responsibly use and conserve natural resources for the benefit of future generations¹¹. It therefore embodies care for future generations¹². Asserting the environmental rights of future generations is therefore at the heart of intergenerational equity¹³.

⁵ Ibid

⁶ United Nations., 'Sustainable Development' Available at <https://www.un.org/sustainabledevelopment/blog/2023/08/what-is-sustainable-development/> (Accessed on 17/07/2024)

⁷ Mensah, J., 'Sustainable Development: Meaning, History, Principles, Pillars, and Implications for Human Action: Literature Review' Available at <https://www.tandfonline.com/doi/full/10.1080/23311886.2019.1653531> (Accessed on 17/07/2024)

⁸ United States Environmental Protection Agency., 'What is Sustainability.' Available at <https://www.epa.gov/sustainability/learn-about-sustainability> (Accessed on 17/07/2024)

⁹ Fitzmaurice. M., 'The Principle of Sustainable Development in International Development Law.' International Sustainable Development Law., Vol 1

¹⁰ Intergenerational Equity., Available at <https://www.sciencedirect.com/topics/earth-and-planetary-sciences/intergenerational-equity> (Accessed on 17/07/2024)

¹¹ Ibid

¹² Ibid

¹³ Ibid

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This paper critically examines the need to assert the environmental rights of future generations. The paper argues that environmental rights and human rights at large are not limited to present generations. It posits that future generations also need to be considered in the environmental and human rights debate. The paper explores the progress made towards asserting the environmental rights of future generations. In addition, it examines some of the factors hindering the protection of environmental rights of future generations. The paper also suggests measures towards asserting the environmental rights of future generations.

2.0 The Need to Safeguard Human and Environmental Rights of Future Generations

It has been noted that human rights are entitlements we have simply because we exist as human beings and that they are not granted by any state¹⁴. These universal rights are inherent to us all, regardless of nationality, sex, national or ethnic origin, color, religion, language, or any other status¹⁵. Human rights range from the most fundamental including the right to life to those that make life worth living, such as the right to food, education, work, health, and liberty¹⁶. Human rights are universal and inalienable meaning that all human beings are equally entitled to human rights and that these rights should not be taken away, except in specific situations and according to due process¹⁷. In addition, all human rights are indivisible and interdependent meaning that one set of rights cannot be enjoyed fully without the other¹⁸. The right to a clean, healthy and

¹⁴ Office of the United Nations High Commissioner for Human Rights., 'What are Human Rights' Available at <https://www.ohchr.org/en/what-are-human-rights#:~:text=These%20universal%20rights%20are%20inherent,work%2C%20health%2C%20and%20liberty>. (Accessed on 17/07/2024)

¹⁵ Ibid

¹⁶ Ibid

¹⁷ Ibid

¹⁸ Ibid

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sustainable environment encompasses various elements including clean and balanced ecosystems, rich biodiversity and a stable climate¹⁹.

Safeguarding human rights also extends to the environment²⁰. All human beings depend on the environment in which we live²¹. It has been noted that a safe, clean, healthy and sustainable environment is integral to the full enjoyment of a wide range of human rights, including the right to life, health, food, water and sanitation²². The United Nations Environment Programme (UNEP) opines that human rights and the environment are intertwined²³. Human rights cannot be enjoyed without a safe, clean and healthy environment²⁴. In addition, sustainable environmental governance cannot exist without the establishment of and respect for human rights²⁵. Consequently, the right to a clean, healthy and sustainable environment has emerged as a core human right²⁶. This right recognises that nature is a keystone of a dignified human existence²⁷.

¹⁹ Zimmer K, 'The Human Right That Benefits Nature' Available at <https://www.bbc.com/future/article/20210316-how-the-human-right-to-a-healthy-environment-helps-nature> (Accessed on 17/07/2024)

²⁰ Office of the United Nations High Commissioner for Human Rights, 'About Human Rights and the Environment' Available at <https://www.ohchr.org/en/special-procedures/sr-environment/about-human-rights-and-environment> (Accessed on 17/07/2024)

²¹ Ibid

²² Ibid

²³ United Nations Environment Programme, 'What are Environmental Rights?' Available at <https://www.unep.org/explore-topics/environmental-rights-and-governance/what-we-do/advancing-environmental-rights/what#:~:text=Human%20rights%20and%20the%20environment,and%20respect%20for%20human%20rights>. (Accessed on 17/07/2024)

²⁴ Ibid

²⁵ Ibid

²⁶ Muigua. K., 'Realizing the Right to a Clean, Healthy and Sustainable Environment' Available at <https://kmco.co.ke/wp-content/uploads/2023/06/Realizing-the-Right-to-a-Clean-Healthy-and-Sustainable-Environment.pdf> (Accessed on 17/07/2024)

²⁷ Ibid

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The human right to a clean, healthy and sustainable environment has been recognized by the United Nations General Assembly as a fundamental human right²⁸. The resolution by the United Nations General Assembly further affirms the importance of the right a clean, healthy and sustainable environment for the enjoyment of all human rights²⁹. The international recognition of the right to a clean, healthy, and sustainable environment paves the way for its effective integration in international law and stronger implementation domestically³⁰. Safeguarding human rights therefore equally calls for the protection of the right to a clean, healthy, and sustainable environment.

In upholding human rights, it has been noted that the rights of future generations also need to be safeguarded³¹. Future generations have been identified as holders of internationally recognized human rights³². This approach recognizes that the conduct of those alive today has profound implications for the human rights of people being born daily and those who will be born decades and even centuries into the future³³. Therefore, failure to recognize the human rights obligations of present generations towards future generations magnifies the risk that they will be born into circumstances that make it impossible for them to enjoy a range of human rights, including the right to a clean, healthy, and sustainable environment³⁴.

²⁸ United Nations General Assembly (UNGA)., 'The Human Right to a Clean, Healthy and Sustainable Environment.' UNGA Resolution 'A/76/L.75.' Op Cit

²⁹ Ibid

³⁰ The International Union for Conservation of Nature., 'The Right to a Healthy Environment' Available at <https://www.iucn.org/news/world-commission-environmental-law/202110/right-a-healthy-environment> (Accessed on 17/07/2024)

³¹ Liebenberg. S., 'The Maastricht Principles: Safeguarding the Human Rights of Future Generations' Available at <https://www.openglobalrights.org/maastricht-principles-safeguarding-human-rights-future-generations/> (Accessed on 18/07/2024)

³² Ibid

³³ Ibid

³⁴ Ibid

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The *Maastricht Principles on the Human Rights of Future Generations*³⁵ set out the need to assert the human and environmental rights of future generations. The Principles note that neither the *Universal Declaration of Human Rights*, nor any other human rights instrument contains a temporal limitation or limits rights to the present time³⁶. According to the Principles, human rights extend to all members of the human family, including both present and future generations³⁷. In addition, the Maastricht Principles note that the human rights of future generations form an essential dimension of humankind's duty to uphold the inherent dignity, equality, and inalienable rights of all³⁸.

The Maastricht Principles note that future generations are legally entitled to human rights on the basis of amongst others: international law in its various forms which recognizes human rights for all people, without limiting these rights to present generations³⁹; international law in its various forms that explicitly or implicitly recognize obligations and responsibilities towards future generations, and seek to ensure *intergenerational equity*⁴⁰; and general principles of law, as reflected in laws, norms, customs and values of States and peoples from all global regions and belief systems that recognize obligations and responsibilities towards future generations⁴¹.

The Principles also recognize the concept of universality and indivisibility of human rights⁴². They acknowledge that all human beings - in the past, present and future - are

³⁵ Maastricht Principles on the Human Rights of Future Generations., <https://www.ohchr.org/sites/default/files/documents/new-york/events/hr75-future-generations/Maastricht-Principles-on-The-Human-Rights-of-Future-Generations.pdf> (Accessed on 17/07/2024)

³⁶ Ibid

³⁷ Ibid

³⁸ Maastricht Principles on the Human Rights of Future Generations., Op Cit

³⁹ Ibid

⁴⁰ Ibid

⁴¹ Ibid

⁴² Ibid

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equal in dignity and entitled to the full and equal enjoyment of human rights⁴³. In addition, they provide that future generations are entitled to all individual and collective human rights, including but not limited to, civil and political rights, economic, social and cultural rights, the right to a clean, healthy and sustainable environment⁴⁴; the right to development⁴⁵; the right to self-determination⁴⁶; and the right to peace⁴⁷. They also enshrine the principle of equality and non-discrimination and state that future generations have the right to equal enjoyment of all human rights⁴⁸.

The Maastricht Principles further set out intragenerational and intergenerational human rights obligations⁴⁹. They urge states to address and remedy intragenerational human rights violations – that is violations affecting members of present generations - in order to both realize the human rights of present generations and to avoid transmitting these violations to future generations⁵⁰. It is necessary to implement the Maastricht Principles in order to assert the environmental and human rights of future generations.

Asserting the rights of future generation calls upon the current generation to protect and safeguard the environment⁵¹. It has been noted that the rights of future generations to natural resources should not be regarded as of lesser importance than the rights of present generations⁵². The theory of intergenerational equity posits that each generation holds the planet and its natural and cultural resources in trust for future generations, with

⁴³ Ibid

⁴⁴ Ibid

⁴⁵ Ibid

⁴⁶ Ibid

⁴⁷ Ibid

⁴⁸ Ibid

⁴⁹ Ibid

⁵⁰ Maastricht Principles on the Human Rights of Future Generations., Op Cit

⁵¹ Gillespie. A., 'The Rights of Future Generations as a Justification for Environmental Protection' Available at <https://academic.oup.com/book/4407/chapter-abstract/146384844?redirectedFrom=fulltext> (Accessed on 17/07/2024)

⁵² Right of Future Generations., Available at <https://www.sciencedirect.com/topics/earth-and-planetary-sciences/right-of-future-generations> (Accessed on 17/07/2024)

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each generation a trustee of the earth for future generations and a beneficiary of the trust settled by previous generations⁵³. Further, it has been argued that this dual role, as both trustee and beneficiary, imposes obligations on each generation – referred to as ‘planetary obligations’, and affords certain rights – known as ‘planetary rights’⁵⁴. Consequently, each generation is subject to planetary obligations to conserve the diversity of the natural and cultural resource base, to maintain the planet’s quality, and to provide equitable access to the legacy of the past and conserve future access⁵⁵. Intergenerational equity states that the natural environment and its natural and cultural resources may be used by one generation then passed on to future generations in at least comparable condition to that in which such resources were received⁵⁶.

The need to assert the environmental rights of future generations is recognized in multiple legal instruments. The *Declaration of the United Nations Conference on the Human Environment (Stockholm Declaration)*⁵⁷ affirms that all human beings have the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and that they bear a solemn responsibility to *protect and improve* the environment for present and *future generations*⁵⁸ (*Emphasis added*). The Stockholm Declaration further provides that the natural resources of the earth, including the air, water, land, flora and fauna and especially representative samples of natural ecosystems, must be *safeguarded* for the benefit of present and *future generations*

⁵³ Anstee-Wedderburn, J., ‘Giving a Voice to Future Generations: Intergenerational Equity, Representatives of Generations to Come, and the Challenge of Planetary Rights’ Available at <https://www.austlii.edu.au/au/journals/AUJEnvLaw/2014/3.pdf> (Accessed on 17/07/2024)

⁵⁴ Ibid

⁵⁵ Ibid

⁵⁶ Ibid

⁵⁷ Declaration of the United Nations Conference on the Human Environment., Available at https://www.google.com/url?sa=i&url=https%3A%2F%2Fwww.ipcc.ch%2Fapps%2Fnlite%2Fsrex%2Fnj-lite_download.php%3Fid%3D6471&psig=AOvVaw298xNxlI4VKv04zwnR1MAT&ust=1721313471695000&source=images&cd=vfe&opi=89978449&ved=0CAYQrpoMahcKEwjA1dTbPq6HAXUAAAAAHQAAA_AAQBA (Accessed on 17/07/2024)

⁵⁸ Ibid, Principle 1

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through careful planning or management, as appropriate⁵⁹(Emphasis added). The *Rio Declaration on Environment and Development*⁶⁰ further provides that the right to development must be fulfilled so as to equitably meet developmental and *environmental needs* of present and *future generations*⁶¹. The *United Nations Framework Convention on Climate Change (UNFCCC)*⁶² also calls upon all countries 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 capabilities⁶³.

The United Nations *2030 Agenda for Sustainable Development*⁶⁴ also seeks to assert the environmental rights of future generations. The Agenda seeks to protect the planet from degradation including through sustainable consumption and production, sustainably managing its natural resources, and taking urgent action to confront climate change so that the planet can support the needs of the present and future generations⁶⁵.

3.0 Challenges facing the Environmental Rights of Future Generations

Several factors are likely to impede the realization of environmental rights of future generations. According to the United Nations, the interlinked environmental crises of

⁵⁹ Ibid, Principle 2

⁶⁰ United Nations General Assembly., *Rio Declaration on Environment and Development*, A/CONF.151/26 (Vol. I), Available at https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_CONF.151_26_Vol.I_Declaration.pdf (Accessed on 17/07/2024)

⁶¹ Ibid, Principle 3

⁶² *United Nations Framework Convention on Climate Change*, United Nations, 1992., Available at https://unfccc.int/files/essential_background/background_publications_htmlpdf/application/pdf/conveng.pdf (Accessed on 17/07/2024)

⁶³ Ibid, article 3 (1)

⁶⁴ United Nations General Assembly., 'Transforming Our World: the 2030 Agenda for Sustainable Development.' 21 October 2015, A/RES/70/1., Available at <https://sustainabledevelopment.un.org/content/documents/21252030%20Agenda%20for%20Sustainable%20Development%20web.pdf> (Accessed on 17/07/2024)

⁶⁵ Ibid

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climate change, nature loss and pollution violate the rights of countless people every day and threaten the effective enjoyment of the human rights of future generations⁶⁶. The impacts of climate change are increasingly being felt in all regions of the world with growing challenges for water availability, food production and the livelihoods of millions of people⁶⁷. Further, it has been noted that the impacts of climate change will continue to increase if drastic cuts in greenhouse gas emissions are further delayed – affecting the lives of today’s children and those of future generations much more than the current generation⁶⁸. While climate change affects everyone, those who have contributed the least to the crisis including children, those in poverty, and future generations are the most affected⁶⁹. Therefore, actions taken now to reduce greenhouse gas emissions and adapt to climate change will have a profound effect on the quality of the lives as well as the health, well-being, and security of future generations⁷⁰.

Environmental degradation is also a major threat to future generations⁷¹. Environmental degradation refers to the deterioration of the environment through depletion of resources which includes all the biotic and abiotic element that form our surrounding including air, water, soil, plant, and animals⁷². Environmental degradation results in the depletion of resources such as air, water and soil; the destruction of ecosystems and the extinction of

⁶⁶ United Nations., ‘Call to Action for Human Rights: Rights of Future Generations’ Op Cit

⁶⁷ Intergovernmental Panel on Climate Change., ‘How will Climate Change affect the Lives of Today’s Children Tomorrow, if no Immediate Action is Taken?’ Available at <https://www.ipcc.ch/report/ar6/wg2/about/frequently-asked-questions/keyfaq3/> (Accessed on 18/07/2024)

⁶⁸ Ibid

⁶⁹ Effects of Climate Change on Future Generations., Available at <https://givingcompass.org/article/effects-of-climate-change-on-future-generations> (Accessed on 18/07/2024)

⁷⁰ Intergovernmental Panel on Climate Change., ‘How will Climate Change affect the Lives of Today’s Children Tomorrow, if no Immediate Action is Taken?’ Op Cit

⁷¹ Maurya. P. K., ‘An Introduction to Environmental Degradation: Causes, Consequence and Mitigation’ Available at <https://www.aesacademy.org/books/edcrs-vol-1/01.pdf> (Accessed on 18/07/2024)

⁷² Ibid

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wildlife and biodiversity⁷³. Environmental degradation remains one of the biggest challenges that future generations face⁷⁴. It affects the quality of the environment and its ability to provide key ecosystem services for present and future generations⁷⁵. Tackling environmental degradation is therefore key in asserting the environmental rights of future generations.

Biodiversity loss is another key challenge facing the attainment of environmental rights of future generations⁷⁶. It has been noted that plant and animal species are now disappearing hundreds, or even thousands, of times faster than the natural background rate of extinction⁷⁷. Biodiversity loss is caused by a range of different pressures, from habitat loss due to agricultural expansion, pollution or desertification to invasive alien species and climate change among others⁷⁸. Biodiversity provides numerous ecosystem services that are crucial to human well-being at present and in the future⁷⁹. Biodiversity loss is therefore detrimental to both present and future generations⁸⁰. Biodiversity underpins the health of the planet and has a direct impact on all our lives⁸¹. Biodiversity loss impacts the supply of key ecosystem services including food and water now and in the future⁸². It is therefore necessary to halt biodiversity loss in order to safeguard the environmental rights of future generations.

⁷³ United Nations Environment Programme., 'Environmental Damage' Available at <https://leap.unep.org/en/knowledge/glossary/environmental-damage> (Accessed on 18/07/2024)

⁷⁴ Nguyen. T. T et al., 'Security Risks from Climate Change and Environmental Degradation: Implications for Sustainable Land Use Transformation in the Global South' Available at <https://www.sciencedirect.com/science/article/pii/S1877343523000696> (Accessed on 18/07/2024)

⁷⁵ Ibid

⁷⁶ United Nations Environment Programme., 'UNEP and Biodiversity' Available at <https://www.unep.org/unep-and-biodiversity> (Accessed on 18/07/2024)

⁷⁷ Ibid

⁷⁸ United Nations Environment Programme., 'Global Biodiversity Loss' Available at <https://www.unep.org/resources/policy-and-strategy/global-biodiversity-loss> (Accessed on 18/07/2024)

⁷⁹ World Health Organization., 'Biodiversity and Health' Available at <https://www.who.int/news-room/fact-sheets/detail/biodiversity-and-health> (Accessed on 18/07/2024)

⁸⁰ Ibid

⁸¹ United Nations Environment Programme., 'Global Biodiversity Loss' Op Cit

⁸² Ibid

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Pollution has also been identified as a major threat to the environmental rights of future generations⁸³. For example, air pollution due to emissions of carbon dioxide and other greenhouse gases that build up in the atmosphere endanger the health and welfare of current and future generations by causing climate change and ocean acidification⁸⁴. Studies have also shown that exposure by women to dirty air before conceiving could have a negative impact on the heart health of their children later in life⁸⁵. In addition, water pollution affects water quality and makes water resources undesirable for future generations⁸⁶.

It is necessary to address these among other challenges in order to safeguard the environmental rights of future generations.

4.0 Conclusion

It is imperative to assert the environmental rights of future generations. The right to a clean, healthy, and sustainable environment is a fundamental human right that has been recognized as such by the United Nations General Assembly⁸⁷. Future generations have been identified as holders of internationally recognized human rights⁸⁸. According to the *Maastricht Principles*⁸⁹, future generations are those generations that do not yet exist but will exist and who will inherit the Earth. The Maastricht Principles note that future

⁸³ United States Environmental Protection Agency., 'Air Pollution: Current and Future Challenges' Available at <https://www.epa.gov/clean-air-act-overview/air-pollution-current-and-future-challenges> (Accessed on 18/07/2024)

⁸⁴ Ibid

⁸⁵ Pollution's Dangers Can be Passed on to Next Generation', Available at <https://www.ndtv.com/health/pollutions-dangers-can-be-passed-on-to-next-generation-1958814> (Accessed on 18/07/2024)

⁸⁶ Weiss. E. B., 'Sharing Water Resources with Future Generations' Available at <https://nap.nationalacademies.org/read/1911/chapter/3> (Accessed on 18/07/2024)

⁸⁷ United Nations General Assembly (UNGA)., 'The Human Right to a Clean, Healthy and Sustainable Environment.' UNGA Resolution 'A/76/L.75.' Op Cit

⁸⁸ Liebenberg. S., 'The Maastricht Principles: Safeguarding the Human Rights of Future Generations' Op Cit

⁸⁹ Maastricht Principles on the Human Rights of Future Generations., Op Cit

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generations include persons, groups and Peoples⁹⁰. Therefore, in upholding human rights, it is also necessary to safeguard the rights of future generations⁹¹. The Maastricht Principles provide a framework for asserting the human rights of future generations⁹². Further, the need to assert the environmental rights of future generations has been upheld in a number of instruments including the *Stockholm Declaration*⁹³; the *Rio Declaration on Environment and Development*⁹⁴; *UNFCCC*⁹⁵; and the *2030 Agenda for Sustainable Development*⁹⁶. However, it has been noted that the interlinked environmental crises of climate change, nature loss and pollution violate the rights of countless people every day and threaten the effective enjoyment of the human rights of future generations⁹⁷. It is therefore necessary to address these challenges in order to effectively assert the environmental rights of future generations.

It has been correctly noted that for environmental actions and Sustainable Development outcomes to be effective, they must be informed by human rights⁹⁸. It is therefore vital for all countries to promote and protect the right to a clean, healthy, and sustainable environment for present and future generations⁹⁹. Further, it is imperative to build and strengthen people-centred and effective institutions at all levels, especially those related to justice and human rights, to ensure they are accessible to all, and are equipped to

⁹⁰ Ibid

⁹¹ Liebenberg, S., 'The Maastricht Principles: Safeguarding the Human Rights of Future Generations' Op Cit

⁹² Maastricht Principles on the Human Rights of Future Generations., Op Cit

⁹³ Declaration of the United Nations Conference on the Human Environment., Op Cit

⁹⁴ United Nations General Assembly., *Rio Declaration on Environment and Development*., A/CONF.151/26 (Vol. I)., Op Cit

⁹⁵ United Nations Framework Convention on Climate Change., United Nations, 1992., Op Cit

⁹⁶ United Nations General Assembly., 'Transforming Our World: the 2030 Agenda for Sustainable Development.' 21 October 2015, A/RES/70/1., Op Cit

⁹⁷ United Nations., 'Call to Action for Human Rights: Rights of Future Generations' Op Cit

⁹⁸ Ibid

⁹⁹ Ibid

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monitor, enforce and implement environmental laws, and to respect, protect and fulfill the environmental rights of current and future generations¹⁰⁰.

In addition, it is necessary to institutionalize the environmental rights of future generations¹⁰¹. The Maastricht Principles are a good starting point towards achieving this goal¹⁰². It is prudent for all countries to embrace and implement the Maastricht Principles in order to assert the environmental rights of future generations. States have been urged to recognize and uphold the environmental rights of future generations in their national legal and policy frameworks¹⁰³. In Kenya, the *Constitution*¹⁰⁴ provides that every person has the right to a clean and healthy environment, which includes the right to have the environment protected for the benefit of present and *future generations* through legislative and other measures¹⁰⁵. Implementing this right is key in asserting the environmental rights of future generations in Kenya.

Countries have also been urged to appoint a public representative, or ‘ombudsperson,’ to represent the interests and rights of future generations¹⁰⁶. Such an appointee is key in scrutinizing environmental decisions in terms of impact on future generations¹⁰⁷. This

¹⁰⁰ United Nations Development Programme., ‘Promoting Environmental Justice: Securing our Right to a Clean, Healthy and Sustainable Environment through UNDP Programming’ Available at <https://www.undp.org/sites/g/files/zskgke326/files/2022-06/Environmental%20justice-Guidance%20Note.pdf> (Accessed on 18/07/2024)

¹⁰¹ International Institute for Sustainable Development., ‘Safeguarding Rights of Future Generations for Long-term Sustainability’ Available at <https://sdg.iisd.org/commentary/guest-articles/safeguarding-rights-of-future-generations-for-long-term-sustainability/> (Accessed on 18/07/2024)

¹⁰² Maastricht Principles on the Human Rights of Future Generations., Op Cit

¹⁰³ International Institute for Sustainable Development., ‘Safeguarding Rights of Future Generations for Long-term Sustainability’ Op Cit

¹⁰⁴ Constitution of Kenya, 2010., Government Printer, Nairobi

¹⁰⁵ Ibid, article 42 (a)

¹⁰⁶ International Institute for Sustainable Development., ‘Safeguarding Rights of Future Generations for Long-term Sustainability’ Op Cit

¹⁰⁷ Ibid

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approach is instrumental in ensuring that decisions taken today are beneficial to future generations and are aligned with the vision of inter-generational equity¹⁰⁸.

Finally, it is important to ensure that the rights of future generations are systematically considered in all decision-making processes, at international, regional, national, and local levels, including by youth representatives¹⁰⁹. Future generations should also be able to protect their human rights through national, regional, and international legal systems and effective remedies for violations of their human rights¹¹⁰. This involves securing the legal standing of representatives of future generations before courts and international human rights bodies when their fundamental rights are threatened or violated¹¹¹.

Asserting the environmental rights of future generations is an agenda that should be realized for Sustainable Development and intergenerational equity.

¹⁰⁸ Ibid

¹⁰⁹ Ibid

¹¹⁰ Liebenberg. S., 'The Maastricht Principles: Safeguarding the Human Rights of Future Generations' Op Cit

¹¹¹ For example, in *Oposa et al. v. Fulgencio S. Factoran, Jr. et al* (G.R. No. 101083), the Supreme Court of the Philippines held that the petitioners were able to file a class suit both for others of their generation and for succeeding generations as "the minors' assertion of their right to a sound environment constitutes, at the same time, the performance of their obligation to ensure the protection of that right for the generations to come." Embracing the rationale in this case is vital in securing the legal standing of representatives of future generations before courts and international human rights bodies when their fundamental rights are threatened or violated.

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