



Extract from the report:

Spotlight on
Global Multilateralism

Perspectives on the future
of international cooperation
in times of multiple crises

The Maastricht Principles on the Human Rights of Future Generations

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In 2021, the United Nations Secretary-General launched his report, *Our Common Agenda*, containing his recommendations to Member States for the reform of the UN system. The report includes a chapter explaining the importance of strengthening solidarity with younger and future generations and proposing specific measures to do so. Since 2017, a group of international law experts active in academic institutions and civil society have been working on a project which culminated in the adoption of the *Maastricht Principles on the Human Rights of Future Generations* (the Principles) at an Expert Seminar hosted by Maastricht Centre for Human Rights on 3 February 2023.

This article explains the relevance of these Principles for the UN reform process, their motivation, the main debates and process that lead to their adoption, and key themes in the Principles. The Principles seek both to consolidate and develop existing human rights standards to enhance the protection and fulfilment of the human rights of future generations. They provide a valuable guide to ensure that any action to strengthen solidarity with future generations is in line with international human rights law. It is hoped that the Principles will influence national, regional international governance processes, decision-making, standard-setting and jurisprudence, as well as promote social mobilization to advance the human rights of future generations.

The relevance of the Principles to “Our Common Agenda”

Chapter III of the report *Our Common Agenda*, representing the UN Secretary-General’s vision on the future of global cooperation, is entitled: “Succeeding Generations: Shaping the future”.¹ This Chapter builds on the UN Charter’s commitment to a better future for succeeding generations and represents a clarion call to strengthen solidarity between generations. It notes that:

“...[O]ur dominant political and economic incentives remain weighted heavily in favour of the short term and status quo, prioritizing immediate

gains at the expense of longer-term human and planetary well-being”.²

In his report, the Secretary-General calls for a Declaration on Future Generations, a repurposed Trusteeship Council, a Futures Lab and a UN Special Envoy to ensure that policy and budget decisions consider their impact on future generations. The report refers to significant values, including inter-generational equity and trust. However, it does not explicitly refer to persons, groups and peoples that will exist in the future as holders of fundamental human rights. Neither does it clarify the relationship between the continuing impacts of past injustices and the violations of the human rights of present and

1 UN Secretary-General (2021), p. 38.

2 Ibid.

future generations. Given that *Our Common Agenda* does not purport to be a human rights instrument, it is also not surprising that it does not elucidate states obligations vis-à-vis future generations. *Our Common Agenda* introduces a critical future-focused lens on current multilateral institutions and governance processes. However, it needs to be implemented and supplemented by the normative and accountability frame of international human rights law.

The newly adopted *Maastricht Principles on the Human Rights of Future Generations* provides a valuable resource for strengthening the human rights dimension of the institutions and mechanisms proposed in *Our Common Agenda*. We describe here the motivation for the drafting of the Principles, the process of their adoption, along with key themes contained therein.

The motivation for the Maastricht Principles

Already in the 1970s and 1980s, there was growing understanding that a “business as usual” model was exposing the Earth, present generations (particularly children and youth) as well future generations to extreme risk.³ In recent times, these threats have multiplied. They include the triple environmental crisis of climate change, pollution and biodiversity loss;⁴ the overshooting of “planetary boundaries” through unsustainable patterns of production and consumption;⁵ global health threats such as the COVID-19 pandemic; inadequately controlled and regulated new technologies; the scourge of war and the deployment of weapons of mass destruction, global conflict and the outbreak of war; and the erosion of long-established norms of democratic governance and civil and political rights in many countries. These and other developments are posing profound threats to the enjoyment of internationally recognized human rights by future generations.

Future generations are essentially voiceless and largely unrepresented in decision-making and yet

their human rights will be profoundly impacted by acts and omissions in the present. As one of the initiators of the Principles noted: “As long as future people’s human rights are ignored, States, business and consumers ‘can get away’ with trampling on those people’s livelihoods and happiness.”⁶

Despite the gravity of the human rights threats faced by future generations and a rapidly evolving body of scholarship on this subject,⁷ there has been relatively little attention to the human rights of future generations within the UN and other multilateral fora. The time was thus ripe to build on three prior Maastricht initiatives that made major contributions to the development of human rights law: The Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights (1986);⁸ the Maastricht Guidelines on Violations of Economic, Social and Cultural Rights (1997)⁹; and the Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights (2011).¹⁰ The fourth Maastricht project would thus focus on addressing the major gap in human rights protection – the human rights of future generations. What follows describes the process adopted in drafting and adopting these Principles.

The process towards the Principles

In July 2017, Fons Coomans (Maastricht University) and Rolf Künemann (FIAN International) started to discuss a fourth Maastricht project to develop Principles on the human rights of future generations. They contacted others involved in setting up the Consortium on the Maastricht Principles on Extraterritorial Obligations. A Steering Group for this project was established in 2017 consisting of members based at the Maastricht University, the University of Lancaster, the Center for International Environmental Law (CIEL) and FIAN International.

3 Brundtland (1987), para 25.

4 UNFCCC (2022)

5 Stockholm Resilience Centre (2009)

6 Künemann (2017)

7 Woods (2016)

8 ESCR-Net (1987)

9 University of Minnesota Human Rights Library (1997)

10 ETO Consortium (2011)

In April 2018, the steering group hosted an international conference at FIAN's headquarters in Heidelberg, gathering 24 international activists from La Vía Campesina, the International Indian Treaty Council, Transnational Institute, Children Rights International Network, Fundación Savia, Stockholm Resilience Center, World Future Council, Friends of the Earth, ESCR-Net, Earth Justice, Amnesty International, Future Justice Commission Hungary and academics from several universities. The participants produced a series of 26 research papers on a range of topics relating to the human rights of future generations.

Between 2018 and 2020 diverse supporters of the initiative carried out further research, building towards a workshop that took place in Geneva in 2020. Experts from diverse regions in the world presented papers and case studies on a range of topics at this workshop. From October 2020 to April 2021, eight Working Groups comprising some 40 participants produced research on key themes pertaining to the protection of the human rights of future generations. These included existing court judgments; issues of legal standing and justiciability; the general nature of States human rights obligations towards future generations; conceptions of future generations' rights in diverse legal traditions and cultures, including those of Indigenous Peoples; and specific policy fields impacting on future generations such as the sustainable use of natural resources and waste management, climate change, health, new technologies, food and water. The key findings of these research papers were collated in a reader of some 125 pages, which served as the basis for further written and in-person consultations.

In May 2021, the Steering Group appointed a Drafting Group of seven experts from a range of geographical regions, namely, Miloon Kothari, Sandy Liebenberg (Chair), Carroll Muffett, Ashfaq Khalfan, Magdalena Sepúlveda Carmona, Margaretha Wewerinke, and later Sharon Venne-Manyfingers. During 2022, the Drafting Group conducted extensive research and prepared draft versions of the Principles. These Principles received both written and oral feedback through different rounds of consultation, including with some 182 organizations and experts who joined a virtual platform dedicated to the project.

The Principles were finally adopted at an Expert Seminar hosted by the Maastricht Centre for Human Rights, Maastricht University, which took place 1 – 3 February 2023.

The next phase of the project is to seek endorsements for the Principles from human rights experts located in all regions of the world, including current and former members of international human rights treaty bodies, regional human rights bodies and former and current Special Rapporteurs of the United Nations Human Rights Council. Efforts will also be made to publicize the Principles and to bring them to the attention of key national, regional and international bodies, including the initiatives of the UN Secretary-General as set out in *Our Common Agenda*.

Key themes in the Principles

The Principles seek to both consolidate and provide a progressive interpretation of international law as a foundation for recognizing the human rights of future generations. They also recognize that States may incur additional obligations as human rights law in this sphere continues to evolve. The Principles are anchored in the universality and equal dignity of all members of the human family without temporal limitations. The entitlement of future generations to human rights is based on a variety of legal sources as well as general principles of law reflected in laws, norms, customs and values of States and Peoples from all global regions and belief systems. It is clearly stated that the Principles should not be interpreted to confer any rights on human embryos or foetuses, nor should they be interpreted as undermining reproductive rights and autonomy.

The Principles recognize that human generations exist along a continuum of time. In the same manner that historical injustices affect the enjoyment of human rights in the present, so the conduct of those presently alive will impact on the enjoyment of human rights by individuals, groups and Peoples who will exist in the future. There is thus a strong focus in the Principles on the interlinkages between intra- and inter-generational human rights obligations, and the measures required to eliminate inter-generational discrimination and disadvantage. An example

of the latter is according less value to future lives and rights through discounting the impacts and burdens of present conduct on future generations.¹¹

As children and youth are closet in time to generations still to come, they occupy a unique position, and have an important role to play in protecting and advancing the human rights of future generations. Accordingly, the Principles acknowledge “their perspectives and participation in decision-making with respect to long-term and intergenerational risks must be accorded special weight.”¹² The Principles also acknowledge the contributions of Indigenous Peoples, peasants and other local communities in light of their traditional knowledge-systems and ways of relating to, and preserving, the natural world on which humanity depends.

Specific Principles also focus on intergenerational duties and trusteeship of the Earth and its natural resources; prevention and precaution in decision-making where there are reasonable grounds for concern that present conduct may result in violations of the human rights of future generations; and the critical importance of building a new international order based on international solidarity.

The Principles apply the tripartite framework of obligations to respect, protect and fulfil human rights to future generations. They provide illustrative examples of what would constitute violations of the human rights of future generations in this context. An example of a violation of the obligation to respect is the production of waste material or hazardous substances of a kind or at a scale that cannot be soundly managed, and safely and completely disposed of by the generation that produced it. A violation of the obligation to protect the human rights of future generations would include the failure to effectively regulate, and where appropriate prohibit, scientific research and activities that pose a reasonably foreseeable and substantial risk to the human rights

of future generations, including genetic engineering and geo-engineering. Necessary measures to fulfil the human rights of future generations include phasing out unsustainable consumption and production patterns that jeopardize the Earth’s ability to sustain future generations whilst recognizing that wealthier States must proceed more expeditiously under the principle of common but differentiated responsibilities and respective capabilities.

The Principles also recognize the need for establishing specific institutions and mechanisms for representing future generations in participatory processes concerning decisions that may impact on their human rights. Special attention is paid to ensuring representation by traditionally marginalized or disadvantaged groups within such institutions and mechanisms. These include ombudspersons, guardians, trustees or commissions and designated seats in Parliament. The Principles further elaborate on the duties and responsibilities of intergovernmental organizations, non-State actors such as corporations, and individuals and communities.

Finally, in line with the key principle of human rights law that effective forms of accountability and remedies must be ensured to victims of human rights violations, the Principles elaborate on what this requires in the context of future generations. They also affirm the importance of ensuring that courts and other national and international human rights bodies recognize the legal standing of future generations and their representatives in proceedings aimed at vindicating their human rights.

Conclusion

The Maastricht Principles on the Human Rights of Future Generations represent a first attempt to elaborate in detail on the implications of regarding future generations as human rights-holders under international law. The aim of the initiative is that the Principles will be interpreted in harmony with other important and rapidly evolving legal developments including the recent recognition by the General Assembly of the human right to a clean, healthy and

11 On the prevalent practice of discounting in economic and development planning, see Krznaric (2020), pp. 73-77.

12 Maastricht Principles on the Rights of Future Generations, Preamble, para VII.

sustainable environment,¹³ and initiatives to recognize the rights of Nature.¹⁴ The Principles should contribute to the normative and institutional reforms required to effectively protect the human rights of those generations who will succeed us.

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¹³ UN General Assembly (2022)

¹⁴ GARN (n.d.)

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