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Master's Thesis

Human Rights of Future Generations under International Law
Ateities kartų žmogaus teisės pagal tarptautinę teisę

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ABSTRACT AND KEY WORDS

The thesis analyses future generations' human rights protection at the international level, particularly in the context of sustainable development and climate change. The thesis also investigates the role of existing regional and universal legal frameworks in protecting future generations' human rights. Recent practical recommendations aimed at strengthening the protection of future generations' rights are considered and evaluated.

Keywords: human rights of future generations, fourth generation of human rights, intergenerational equity, sustainable development, climate change

Disertacijoje analizuojama ateities kartų žmogaus teisių apsauga tarptautiniu lygmeniu, ypač tvaraus vystymosi ir klimato kaitos kontekste. Disertacijoje taip pat tiriamas esamų regioninių ir universalių teisinių sistemų vaidmuo saugant ateities kartų žmogaus teises. Nagrinėjamos ir vertinamos naujausios praktinės rekomendacijos, kuriomis siekiama stiprinti ateities kartų teisių apsaugą.

Pagrindiniai žodžiai: ateities kartų žmogaus teisės, ketvirtosios kartos žmogaus teisės, kartų lygybė, darnus vystymasis, klimato kaita.

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LIST OF ABBREVIATIONS

CJEU - European Court of Justice

CoE - Council of Europe

ECHR - European Court of Justice

ECtHR - European Court of Human Rights

EU - European Union

HLPF - High-level Political Forum on Sustainable Development

HRC - Human Rights Council

ICCPR - International Covenant on Civil and Political Rights

MDGs - Millennium Development Goals

NGO - Non-governmental organisation

SDGs - Sustainable Development Goals

UN - United Nations

UNESCO - United Nations Educational, Scientific and Cultural Organization

UNECE - United Nations Economic Commission for Europe

INTRODUCTION

There has been a growing interest in whether future generations should be granted human rights in recent years. This question has become increasingly relevant in light of new challenges the present generation faces, including the triple planetary crisis¹, bioethical dilemmas, the development of new technologies and others. Since these challenges affect not only the present generation but will also directly or indirectly affect the interests and welfare of future generations, this leads to the question of whether moral or legal rights can be granted to people who will exist in the future. If so, who can be considered future generations? Moreover, is there a legal framework to protect future generations' rights?

It must be emphasised that the thesis is focused on the protecting human rights of future generations in the context of sustainable development and climate change, where international instruments and jurisprudence is most abundant.

The aim of this thesis is to investigate how future generations' human rights are protected at the international level. Particularly in the context of sustainable development and climate change.

There are six primary tasks of the master's thesis:

1. to analyse the theoretical background of the human rights of future generations and the principle of intergenerational equity;
2. to define existing international (universal and regional) frameworks that relate to the rights of future generations;
3. to identify the role of regional and universal organisations in protecting the human rights of future generations;
4. to investigate the role of case law of the UN Human Rights Committee, the Court of Justice of the European Union and the European Court of Human Rights in promoting the protection of the rights of future generations;
5. to examine role of national legal instruments in protecting human rights of future generations to compare them with international ones;
6. to consider and develop practical recommendations for strengthening the universal and regional legal frameworks to protect the rights of future generations.

One of the objectives of the thesis is to determine whether future generations' rights are included in existing legal frameworks at the national, regional and international levels. First of all, arguments for and against the concept "future generations" and the principle "intergenerational equity" will be examined. Second, most important universal and regional

¹ The notion "triple planetary crisis" includes three main issues that present generation faces at the present time: climate change, pollution and biodiversity loss (UNFCCC, 2024).

instruments will be analysed. This will be followed by research of the effectiveness of existing legal mechanisms that protect future generations' rights. After that, the thesis will examine the impact of courts' jurisprudence, focusing on landmark cases related to climate change. Last but not least, practical recommendations aimed at promotion of future generations' human rights legal recognition will be provided.

Main methods used in the thesis include doctrinal legal research, comparative legal research and analysis of case law. Besides, the thesis includes an overview of main universal and regional documents and provisions of national constitutions in the context of sustainable development and climate change.

The originality of the research lies not only in the comprehensive analysis of the existing international and national legal frameworks and the role of case law in protecting future generations' human rights, but also in determination of practical recommendations that may influence the better protection of the human rights of future generations.

This research uses scientific literature and articles in scientific journals, international legal acts, clauses of national constitutions and courts jurisprudence. The theoretical basis of the thesis is works of such scholars as Edith Brown Weiss, Wilfred Beckerman, Joanna Pasek, Joerg Chet Tremmel, Marianne Takle and others. The most important international documents are the Stockholm Declaration, the Brundtland Report, the Maastricht Principles on The Human Rights of Future Generations, the United Nations Human Rights Committee General comment No. 36 and other legal acts of universal and regional organisations. The jurisprudence of the European Court of Human Rights, the United Nations Human Rights Committee and the Court of Justice of European Union in cases related to climate change also play an extraordinary role in the thesis.

1. PART I. Theoretical Aspects of Human Rights of Future Generations

1.1. Chapter I. Concept of Future Generations

1.1.1. Theoretical Background of Future Generations' Human Rights

Before defining the concept of future generations, it is important to identify the background of future generations' human rights. Traditionally, scholars recognise the concept of three generations of human rights, first provided in the 1970s by Czech scholar Karel Vašák (Domaradzki, Khvostova, Pupovac, 2019, p. 423-424). Nevertheless, there was an urgent need to develop the fourth generation of human rights as three human rights generations presented by Vašák do not sufficiently reflect the current processes of human rights development.

While the third generation of human rights² are "solidarity" or "collective" rights, the fourth generation addresses current global challenges. According to Adrian Vasile Cornescu, the fourth generation of human rights include rights related to genetic engineering, rights arising from the exploration and exploitation of cosmic space, rights of future generations, and "rights that cannot belong to an individual nor to social groups, including nations, they belong only to humanity as a whole", and others (Cornescu, 2009, p.6-7).

The fourth generation of human rights also covers the right to sustainable development. As Adrian Vasile Cornescu points out that "the doctrine about the environmental right, talks about these rights as "rights of future generations". We appreciate that they should be seen within the tendency of assertion of the rights of the fourth generation of rights, because right now, the rights of future generations are only some developments trying to crystallise in the form of solidarity rights (Cornescu, 2009, p.6-7)". Hence, the fourth generation of human rights, in particular future generations' human rights, is still in the process of settling nowadays. Therefore, it is difficult to fit future generations' human rights in the classical notion of legal rights. In addition, the enforceability of such rights is debated.

The fourth generation of human rights may be divided into two main groups: eco-issues and bioethical issues. Eco-issues focus on environmental human rights. Moreover, they include the right to sustainable development. Meanwhile, bioethical issues are focused on ethical considerations that arise from development in biomedicine. They are reflected in the Oviedo convention (1977).

² Human rights of third generation are rights which cannot be exerted only by an individual. The third generation rights include the rights to development, to peace, to healthy environment, to share in the exploitation of the common heritage of mankind, and right to self-determination (Cornescu, 2009, p.6-7).

To conclude, present generation faces an increasing number of new challenges nowadays. Such challenges have raised the question of future generations' human rights. Therefore, it becomes necessary to develop the fourth generation of human rights to cover a wide range of relevant challenges. Moreover, the fourth generation of human rights include future generations' human rights.

1.1.2. Defining The Concept of Future Generations

The concept of "future generations" has been recently developed and it is relatively new and controversial. Thus, there is no agreed definition on who can be referred to future generations. Therefore, the thesis includes different perspectives on that matter.

To answer the questions "Can future people have rights?" and "Do they actually have any rights?", Ori J. Herstein provides three options for future entities that can be holders of legal rights: future generations as groups, as future individuals, and as types of future people (Herstein, 2009, p. 1174). Firstly, Ori J. Herstein considers future generations as groups. A group can have both intrinsic and extrinsic moral significance. The extrinsic significance of a group derives from its input to the well-being of the group's members. In contrast, the intrinsic significance of a group derives from its cultural, social, or historical contribution (Herstein, 2009, p. 1175). However, future groups such as generations, age groups, or birth cohorts have neither intrinsic nor extrinsic moral significance. Therefore, Ori J. Herstein discusses that it has little moral content to group individuals because they live at the same moment in time. As in this case, a term "generation" composes a limited group with lacking characteristics that are able to contribute to the welfare of a group. Moreover, unlike other social groups (e.g., families, communities, nations, or societies), which are bounded by shared culture, values, language, sense of belonging, or identities, generations are simply a large number of individuals alive during a specific time frame (Herstein, 2009, p. 1180). Taken everything together, Herstein concludes that it is wrong to consider future generations as a group.

Secondly, Herstein discusses future generations as individuals. The key problem with this concept is that there are no future individuals yet, and therefore, their identities are undetermined. As Herstein notes: "future people are not individuals as they have no personal identity; "they" do not yet exist and who "they" will turn out to be is in most cases indeterminate" (Herstein, 2009, p. 1181). Thus, legal or moral rights cannot be granted to future individuals who have not been born yet as these individuals are indeterminate at present time.

Hence, Herstein emphasises that "types of future people"³ are the most promising candidate for the rights of future generations. First of all, when considering future generations as comprised of generic individuals, in other words, of a single type of person who has common interests with all humans, we are able to tackle better universal issues that affect all members of future generations. This approach allows broad application of intergenerational justice, particularly in fields such as shared interest in environmental sustainability (Herstein, 2009, p. 1181-1182). Also, the term "future generations" refers to a variety of different future groups and types of people. Consequently, intergenerational justice can address more specific needs of future generations, when we focus on specific types of future individuals (e.g., members of a particular family, nation's culture, or social group) (Herstein, 2009, p. 1182).

More importantly, Herstein states that "different legal systems do not, ..., similar concern themselves with the same future people" (Herstein, 2009, p. 1184). It means that different legal systems are oriented towards different types of future people. As a result, legal systems consider different concerns of their societies (e.g., cultural, national, or ideological). Moreover, another benefit is that "in many cases the rights of future people are collective rights, not individual rights (Herstein, 2009, p. 1185)." People are often interested in social goods, the "cost" of which is frequently too great to be justified by the interest of one individual. Thus, many rights for social goods are, in fact, collective rights. So such rights result from the alignment of the interests of many people, not only one individual. In particular, most of the interests of future generations are related to social goods (e.g., promotion and perseveration of knowledge and culture, public health, technology development, energy resources, sustainable economy) that require vast resources and collective actions as well. Last but not least, Herstein mentioned the epistemic benefit of his approach, as it is beyond our capacity to foresee the needs, wishes, and life circumstances of future individual people. That is why "tailoring rights for future individual people will often fail as a normative tool for regulating conduct (Herstein, 2009, p. 1186)."

Jörg Tremmel states that "future generations" stands for generations whose members are not alive at the time of the reference to them (Tremmel, 2009, p. 24). Accordingly, the notion of "future generations" depends on the point in time we are thinking about, since time always keeps moving forward. Tremmel suggests that instead of defining "future generations as "generations that will not overlap with the lifetime of contemporaries", it is

³ According to Herstein, a type of person is "a set of properties that more than one individual may exhibit (Herstein, 2009, p. 1182)."

better to define them as "generations that did not exist at a certain time (Tremmel, 2009 p. 24)".

However, Tremmel compares his definition to Golding's definition of "future generations," which states that: "obligations to future generations are distinct from the obligations we have to our presently living fellows [...]". According to Tremmel, Golding's definition excludes moral obligation to people that we can possibly meet in the future. It concerns generations with whom the possessors of the obligations cannot expect to share a common life. Moreover, intergenerational justice, which excludes overlapping generations, is not comprehensive (Tremmel, 2009 p. 24-26).

Last but not least, scholars disagree on whether the rights of future generations should be viewed as collective or individual rights. Tremmel argues that the rights of future generations are better understood as individual rights. As the concept of rights is typically grounded in the needs and interests of individuals (Tremmel, 2009, p.67). In contrast, Edith Brown-Weiss introduces the concept of "planetary rights"⁴. Planetary rights are a form of intergenerational rights that apply collectively to each generation (Edith Brown-Weiss, 1992, p. 24).

To conclude, the findings suggest that the concept of future generations is more theoretical and philosophical. Despite its philosophical nature, understanding of this concept is necessary for further research on intergenerational equity. For instance, Ori J. Herstein considers "future generation" as types of people is the most promising, as it embraces the diversity of individuals, the diversity of legal systems, and the collective nature of the rights of future generations. Furthermore, Jörg Tremmel suggests this it is better to define future generations as generations that did not exist at a certain point of time instead of defining them as generations that will not overlap with the lifetime of contemporaries. Furthermore, there is no consensus on whether future generations' rights are collective or individual.

1.1.3. The Non-identity and Non-existence Problems of Future Generations

Now it is important to briefly examine the problems future generations faces. These challenges include the "non-identity" and "non-existence" problems which are, to a greater extent, philosophical issues related to debates about the rights and obligations of the present generation toward people who are not born yet.

⁴ Planetary rights mean that each generation has the right to receive the planet in no worse condition than the previous generation, to inherit a diversity of natural and cultural resources, and to have equal access to the use and benefits of the legacy (Edith Brown-Weiss, 1992, p. 24).

According to Jörg Tremmel, there are two main objections to the theory of intergenerational justice: the "non-identity" problem and the statement that "future individuals cannot have rights" (Tremmel, 2009, pp. 34-69). Jörg Tremmel states that "non-identity" problem sounds like that: "not only do our present actions affect the conditions of life of future persons, they also affect which people (if any) will exist. We might say that the trouble with individual future persons is not that they do not exist yet, it is that they might not exist at all (Tremmel, 2009, p. 34)." Besides, Ori J. Herstein states that "non-identity" argument means that "future people cannot be made worse off by (most) acts and choices that occurred prior to their birth, so long as those particular people would have never been born (or conceived) had those events not occurred" (Herstein, 2009, p. 1196).

The most significant research in the field of intergenerational "non-identity" problem is "Reasons and Persons" (1987) by philosopher Parfit (Tremmel, 2009, pp. 34-69). Parfit established the terms "same-people choice" and "different-people choice" (Parfit, 1987, p. 356). "Same-people" choice takes place when our actions do not change the identity or the number of people who live (in an intragenerational context). In contrast, "different-people choice" takes place when our decisions affect who is to reproduce with whom and at what time, thereby determining who will exist in the future (Tremmel, 2009, p. 34).

Moreover, Parfit presents also two "time-dependence claims" (lately - TPC 1 and TPC 2):

TPC 1: "If any particular person had not been conceived when he was in fact conceived, it is in fact true that he would never have existed". (Parfit, 1987, p. 351)

TPD 2: "If any particular person had not been conceived within a month of the time when he was in fact conceived, he would in fact never have existed." (Parfit, 1987, p. 351)

According to TPC 1 and TPC 2 mentioned above, a person's existence depends on specific factors (e.g., the exact time of conception). Consequently, it can be concluded that the present generation's actions not only control future circumstances. Present generation's actions also determine the identities of the future people. Hence, we cannot argue that our actions harmed future individuals as long as our actions brought these individuals to life (Parfit, 1987, pp. 351-352; Tremmel, 2009, pp. 35-36).

Considering this argument, Nicolás Carrillo-Santerelli and Francesco Seatzu argue that one thing is to claim that future generations will be different individuals due to present generations, but it is another thing to deny harm, which is not hypothetical (Carrillo-Santerelli & Seatzu, 2024, pp. 132-133). Furthermore, existing law can already extend protection to non-anthropomorphic entities, such as rivers (e.g., the Atrato in Colombia) or ecosystems (e.g., Amazon). Therefore, scholars conclude that it is also possible to establish

protection for people who will exist in the future and who, as a consequence, are not endowed with conscience and human traits at the present time (Carrillo-Santerelli & Seatzu, 2024, pp. 132-133).

According to Beckerman and Pasek, there are two main premises for not granting rights for future generation: rights must be ascribed to individuals who are alive at the present time and rights must be capable of being fulfilled (Beckerman & Pasek, 2001, p. 15–16, 19).

The problem of "non-existence" derives from the first premise. According to scholars, rights are interlinked with the subject's existence. Therefore, future generations cannot have rights to anything because properties such as being eco-friendly or wealthy can only be attributed to someone who exists now. To prove his argument, they use a simple structure: propositions like "X has Y" or "X is Z" only make sense if X exists, otherwise, these propositions will be meaningless (Beckerman, 2006, p. 55). Moreover, it is important to point out that scholars consider future generations of unborn people in this case. So it does not include the case of "over-lapping generations (Beckerman, 2006, p. 56)." Therefore, this argument cannot be used for children or youth.

Next premise is the ability for those rights to be fulfilled. Beckerman states, "this is that even people who do exist cannot have rights to anything unless, in principle, the rights could be fulfilled". Beckerman came to conclusion that for the proposition "X has a right to Y" to be valid, where Y refers to some tangible object, two essential conditions have to be satisfied. First, X must exist, and second, it must be possible, in principle, to provide Y" (Beckerman, 2006, p.55). All in all, Beckerman states that: "... however widely society wishes to draw the boundary around the rights that future generations will have, they cannot have any rights now" (Beckerman, 2006, p.55). However, it is important to mention that Wilfred Beckerman reflects on moral, not legal rights (Beckerman, 2006, p.54).

Taking everything into consideration, after analysing problems of that "non-identity" and "non-existence", it was concluded that they are rather philosophical challenges than legal ones. The meaning of "non-identity" problem of future generations lies not only in future generations' quality of life. It also determines specific individuals that will exist in the future. Therefore, it is incorrect to state that future generations are harmed by the present generation's actions as these specific actions brought future people to life. Besides, another problem future generations face is "non-existence". It questions if any legal rights or obligations can be granted to people who do not yet exist. Some scholars argue that rights can belong only to existing people at the present time.

Nevertheless, present generations cannot reject impact of their actions on the well-being of future generations. Therefore, there is a need to recognise and protect legal rights and obligations of future generations.

1.2. Chapter II. Concept of Intergenerational Equity

1.2.1. The Principle of Intergenerational Equity: Arguments For and Against

Responsibility of present generation towards future generation is based on the principle of intergenerational equity. Several scholars have studied the principle of intergenerational equity: Edith Brown Weiss, Joanna Pasek, Wilfred Beckerman, Joerg Chet Tremmel and others.

To start with, in 1992, Edith Brown Weiss published an important article, "In Fairness To Future Generations and Sustainable Development (Edith Brown-Weiss, 1992, pp. 19-26)", in which she argues that future generations are entitled to rights, as at the beginning of the debate on future generations it was often argued that future generations had no rights, but at the same time current generations were only morally obliged to them (Tremmel, 2006, p.198).

According to Edith Brown Weiss, the theory of intergenerational equity means that "all generations have an equal place in relation to the natural system, and that there is no basis for preferring past, present or future generations in relation to the system (Edith Brown-Weiss, 1992, p.20)." Addressing intergenerational justice, Weiss presented the trusteeship and stewardship model (Edith Brown-Weiss, 1992, p.20). According to this model, the present generation are both beneficiaries and trustees simultaneously. It means that the present generation is responsible for the integrity of the planet. At the same time, present generation has an opportunity to use planet's benefits. It follows that the principle of intergenerational equity cover rights and responsibilities at the same time. Edith Weiss also highlights three core principles to achieve justice between generations: conservation of options, conservation of quality and conservation of access⁵.

⁵ The first requires the conservation of the diversity of the planet's natural and cultural resources, allowing future generations the same range of options to solve their problems and satisfy their values. The second represents the obligation to maintain the condition of our planet so that it is no worse in quality than the one it currently receives. The third means equitable access to the legacy and its conservation across generations (e.g., access to potable waters) (Edith Brown-Weiss, 1992, pp. 22-23). All in all, these principles recognise each generation's right to use the planet's resources and limit the use of the planet's resources to the present generation (Edith Brown-Weiss, 1992, p. 23).

In contrast to these, Wilfred Beckerman challenges the idea of intergenerational equity. He provides syllogism to present his argument: "(1) Future generations – of unborn people – cannot be said to have any rights. (2) Any coherent theory of justice implies conferring rights on people. Therefore, (3) the interests of future generations cannot be protected or promoted within the framework of any theory of justice (Beckerman, 2006, p.53-54)."

The main arguments against the theory of intergenerational equity stem from the "non-existence" and "non-identity" problems investigated in the previous subchapter. Despite this, Beckerman noted that policies of present generations affect also other sentient beings, including future beings as well. Moreover, scholar highlighted that future generations and present generations are in the interest of extending fundamental human rights, which means bequeathing better human rights to future generations. This implies that there is no conflict of interest between generations and, accordingly, no need for a theory of intergenerational justice (Beckerman, 2006, p.68).

Also, Carrillo-Santerelli and Seatzu state that intra- and inter-generational equity are to be seen as complementary and necessary parts of the content of the institution of future generations as subjects of international and domestic law (Carrillo-Santerelli & Seatzu, 2024, p.152). Intergenerational equity addresses the temporal concerns (e.g., intergenerational equity is based on the rights and obligations that each generation has in relation to the others) (Farchakh, 2003, p.8). While intragenerational equity it is spatial matter (e.g., intragenerational equity prevents the rights and obligations arising from the intergenerational dimension from being granted to only one part of the international community) (Farchakh, 2003, p.8). Sometimes the intergenerational justice may come into conflict with the goal of achieving intragenerational justice, for instance when alleviating poverty or meeting immediate needs may conflict with long-term environmental goals (Edith Brown-Weiss, 1992, p. 21). From one side, poverty alleviation is necessary for fulfilling sustainability because the poor may struggle to manage planet's resources sustainably. On the other side, poverty alleviation may contradict long-term goals, especially in the field of environmental protection. Therefore, meeting immediate needs of the poor can somehow threaten sustainable development (Farchakh, 2003, p.18-20).

To conclude, the first finding was that intergenerational equity attempts to strike a balance between present and future generations. It seems that scholars' approaches to the concept of intergenerational equity vary. Some agree with the existence of present generation's obligations to future generations, while others deny the concept of intergenerational equity. For instance, Edith Brown Weiss defines a theory of intergenerational equity and sets both the rights and obligations of future generations.

Moreover, she proposes three core normative principles of intergenerational equity: conservation of options, conservation of quality, and conservation of access. At the same time, Beckerman and Pasek deny the existence of the concept of intergenerational equity. They highlighted two main reasons: rights must be ascribed to individuals who are alive at the present moment and these refits must be capable of being fulfilled. Moreover, there is no need for a principle of intergenerational justice as both future and present generations are interested in extending fundamental human rights. As a result, it means bequeathing better human rights to future generations.

1.2.2. The Principle of Intergenerational Justice And its Relation to The Concept of Sustainable Development

In today's world the individuals are facing multiple challenges that may impact both present and future generations. As a response to these challenges a concept of sustainable development emerged within UN's framework in late 20th century. The concept of sustainable development was mentioned in the 1987 Brundtland Report for the first time. According to the Report, sustainable development stands for "development that meets the needs of the present without compromising the ability of future generations to meet their own needs (Brundtland Report, 1987, para. 27)." Nowadays this definition is the most common to define sustainable development today (Halkos & Gkampoura, 2021). Moreover, the Brundtland Report stressed that "sustainable development is not a fixed state of harmony", it is a "process of change in which the exploitation of resources, the direction of investments, the orientation of technological development, and institutional change are made consistent with future as well as present needs (Brundtland Report, 1987, para. 30)." Furthermore, in the 2002 Johannesburg Declaration three pillars of sustainable development are reflected. They include "economic development, social development and environmental protection (United Nations, 2002)."

Furthermore, according to Edith Weiss, "sustainable development relies on a commitment to equity with future generations. This ethical and philosophical commitment acts as a constraint on a natural inclination to take advantage of our temporary control over the Earth's resources ... (Edith Brown-Weiss, 1992, p.19)". Therefore, it can be concluded that sustainable development is intergenerational question. Sustainable development demand that future generations' needs are respected and preserved in actions and decisions that present generation make at the present moment. Moreover, Edith Weiss criticises that decisions that present generations make today are generally justified on the basis of the "discount rate." The term "discount rate" stands for the notion that present generation'

benefits are valued more than future generations' benefits. As a result, this fails to consider the long-term consequences of present generation' actions (Edith Brown-Weiss, 1992, p.19).

Additionally, precautionary principle should be also taken into account. According to Nicolás Carrillo-Santerelli and Francesco Seatzu, the precautionary principle emphasises the importance of preventing future damage (Carrillo-Santerelli and Seatzu, 2024, pp. 150-151). The definition of precautionary principle is provided in Principle 15 of the Rio Declaration: "in order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation" (Rio Declaration on Environment and Development, 1992). Principle 9 of Maastricht Principles on The Human Rights of Future Generations also mentions prevention and precaution: "where there are reasonable grounds for concern that the impacts of State or non-State conduct, whether singly or in aggregate, may result in violations of the human rights of future generations, States have an obligation to prevent the harm, and must take all reasonable steps to avoid or minimise such harm (Maastricht Principles, 2023)".

Despite this, in the article "Climate Change, Intergenerational Equity, and International Law", Edith Brown-Weiss points out that climate change "an inherently intergenerational problem with extremely serious implications for equity between ourselves and future generations and among communities in the present and the future" (Edith Brown-Weiss, 2008, p.615). Hence, present generation need to establish instruments that will consider not only the short-term consequences of their decisions that relate to future generations, but also the long-term consequences and their influence. Besides, Brown-Weiss suggests that international law has been "spatially oriented," and it has focused mainly on "the relationship of the present to the past." However, climate change problems focus mainly on the "relationship of the present to the future". Therefore, climate change issue requires to adapt legislation that consider future as well. Edith Brown-Weiss also offers to develop a Declaration of the Planetary Rights and Obligations to Future Generations. This Declaration should define principle of intergenerational equity in order to guide specific normative and policy developments in climate change field (Edith Brown-Weiss, 2008, p.624).

Furthermore, Edith Brown-Weiss mentions that "planning for global climate change inherently involves large scientific uncertainties (Edith Brown-Weiss, 2008, pp. 625-627)." It means that international agreements should be drafted in a way that they can respond to

changes in science. Hence, Edith Brown-Weiss points out a few approaches that are already in use for doing so. For instance, protocols and annexes can be used to adapt additional activities as scientific understanding improves. Moreover, she advocates for scientific advisory boards as one of the most promising approaches (Edith Brown-Weiss, 2008, pp. 625-627).

To summarise, sustainable development requires reaching balance between present and future generations' interests. To achieve sustainability it is also necessary to regard future generations' needs in decision-making processes nowadays. Therefore, it means that present generations' actions must go along with an understanding of one's impact on the future. In addition, precautionary principle was investigated. The precautionary principle stands for that preventive steps that should be taken by present generation to avoid potential environmental damage. Moreover, such steps should be taken even if science has not acknowledged the risk comprehensively. Besides, Brown-Weiss states that climate change is a fundamental intergenerational problem that may have critical implications for justice between generations. Considering the findings mentioned above, it is necessary to consider future generations' interests as well as long-term consequences in legislative processes at present time.

2. Part II. International Legal Mechanisms To Protect Rights Of Future Generations

2.1. Chapter I. International Legal Treaty Framework

2.1.1. International Instruments that Refer to Future Generations

In the existing international legal treaty framework there are number of references to the concepts "future generations" and "intergenerational equity". Despite, it is necessary to stress that some examples of international treaty provisions that safeguards future generations' rights are drawn from different branches of public international law (e.g. environmental law, the law on the conservation of natural species, human rights law, and so on). Moreover, Coomans states that "international law in its various forms which recognises human rights for all people, without limiting these rights to present generations is also an authoritative source of law (Coomans, 2024, p.179)." This emphasises that existing legal frameworks protect future generations' human rights at the present time.

To start with, the origins of references to the concepts "future generations" and "intergenerational equity" date to the post-World War II period (Bertram, 2022, p.124). The United Nations firstly mentioned the idea to "save succeeding generations from the scourge

of war" in its Charter' preamble in 1945 (United Nations, 1945). Therefore, the reference to the "succeeding generations" in UN Charter may be interpreted as a commitment of UN Member States to consider future generations in their further actions and decision-making processes (Charter of the United Nations, 1945). Moreover, some scholars state that today's children and youth are also considered as future generations. For example, Tremmel includes adolescents and present children in the term "succeeding generations". Hence, the notion of "succeeding generations" can be used instead of "future generations" as according to Tremmel "imminent future generations and today's infants are on a similar level of powerlessness (Tremmel, 2009, p.64)."

Furthermore, environmental issues found legal expression in the 1972 Stockholm Declaration that contains the idea to "defend and improve the human environment for future generations" and the objective of conserving natural resources "for the benefit of present and future generations" (United Nations, 1972). Although the Stockholm Declaration does not define how the balance between present and future interests should be conducted, it launched a general approach to preserving the environment for future generations (Schröder, 2021, p. 174). Ultimately, the Stockholm Declaration reflects the view that international law should incorporate concerns about "distributive justice" in relation to future generations. Nevertheless, its material effects remained fairly limited (Bertram, 2022, p.125).

The 1992 Rio Declaration on Environment and Development have a direct reference to future generations in Principle 3: "the right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations (Rio Declaration on Environment and Development, 1992)." This Principle is also reflected in paragraph 11 of the Vienna Declaration and Programme of Action. Moreover, in Article 3 (1) of the 1992 United Nations Framework on Climate Change it is mentioned that "the Parties should protect the climate system for the benefit of present and future generations of humankind, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities (The United Nations Framework Convention on Climate Change, 1992)." The 2002 Johannesburg Declaration includes a reference to the "children, who represent our collective future" and "sustainable development" (Johannesburg Declaration on Sustainable Development, 2002). All in all, declarations mentioned above commit the nations to sustainable development and intergenerational equity.

Several international instruments are focused on biodiversity issues: the 1992 Convention on Biological Diversity and Kunming-Montreal Global Biodiversity

Framework. For example, in the preamble of the 1992 Convention on Biological Diversity it is mentioned that the Contracting Parties are "determined to conserve and sustainably use biological diversity for the benefit of present and future generation (Convention on Biological Diversity, 1992)." Moreover, in 2022 at the United Nations Biodiversity Conference (COP15) the Kunming-Montreal Global Biodiversity Framework was adopted. It was stressed that the "implementation of the Framework should be guided by the principle of intergenerational equity (Kunming-Montreal Global Biodiversity Framework, 2022, p.8)." In the Kunming-Montreal Global Biodiversity Framework global goals and targets can be found. In particular, according to goal B of the Convention, "biodiversity is sustainably used and managed and nature's contributions to people, including ecosystem functions and services, are valued, maintained and enhanced, with those currently in decline being restored, supporting the achievement of sustainable development for the benefit of present and future generations by 2050 (Kunming-Montreal Global Biodiversity Framework, 2022, p.8)"

Among others, a number of international instruments are concentrated on bioethical issues such as the Universal Declaration on the Human Genome and Human Rights, the Declaration on the Responsibilities of the Present Generations Towards Future Generations, the Convention for the Protection of Human Rights and Dignity of the Human Being and so on. For example, in the Universal Declaration on the Human Genome and Human Rights (1997) there is no explicit reference to "future generations", but according to Article 1, the human genome is "the heritage of humanity (United Nations Educational, Scientific and Cultural Organization, 1997)." In 1997 UNESCO adopted the Declaration on the Responsibilities of the Present Generations Towards Future Generations, which was the first important step towards common standards on genetic issues (Andorno, 2005). The Declaration underlines in the Article 6 that "[t]he human genome, in full respect of the dignity of the human person and human rights, must be protected and biodiversity safeguarded. Scientific and technological progress should not in any way impair or compromise the preservation of the human and other species (UNESCO, 1997)." In addition, the 1997 Convention for the Protection of Human Rights and Dignity of the Human Being (Oviedo Convention) affirms that "progress in biology and medicine should be used for the benefit of present and future generations (Oviedo Convention, 1997)." Also, the Article 13 of the Convention recognises that "intervention seeking to modify the human genome may only be undertaken for preventive, diagnostic or therapeutic purposes and only if its aim is not to introduce any modification in the genome of any descendants (Oviedo Convention, 1997)." Last but not least, one of the aims of the Universal

Declaration on Bioethics and Human Rights (2005) is to "safeguard and promote the interests of the present and future generations". In particular, Article 16 Protecting future generations states that "[t]he impact of life sciences on future generations, including on their genetic constitution, should be given due regard (UNESCO, 2005)."

The 1948 Universal Declaration of Human Rights, the 1966 International Covenant on Economic, Social, and Cultural Rights, and the 1966 International Covenant on Civil and Political Rights, refer to "everyone" or "every human person and all peoples," which can also be interpreted as including future generations.

Moreover, general principles of international law are also taken into account. According to Schröder, these legal principles include the principle of common but differentiated responsibilities ⁶and precautionary principle⁷(Schröder, 2024, p.176-177).

In conclusion, the findings of this subchapter suggest that there is obviously an existing legal framework nowadays for protecting the human rights of future generations. Recognition of intergenerational equity and the human rights of future generations is found in a number of international instruments in different branches of international law. From the first reference after World War II in the UN Charter, to environmental and bioethics instruments, international law has increasingly emphasised sustainable stewardship for future generations.

The 1972 Stockholm Declaration, the 1987 Brundtland Report, the 1992 Rio Declaration and the 2002 Johannesburg Declaration have played a remarkable role in the development of the concepts "intergenerational equity" and "sustainable development". Moreover, the UNESCO Declaration on Bioethics and Human Rights, the Universal Declaration on the Human Genome, and the Oviedo Convention also support the principle of intergenerational equity. The research also mentions general principles of international law such as common but differentiated responsibility and the precautionary principle, which guide states in shaping policies that should take into account the long-term consequences of environmental degradation and possible bioethical issues. Last but not least, as the need to safeguard future generations' human rights is an inherent part of the concept of fundamental human rights,

⁶ In view of the different contributions to global environmental degradation, States have common but differentiated responsibilities (Rio Declaration on Environment and Development, 1992)." Accordingly, all states must take responsibility for global environmental problems, but at the same time it is necessary to keep in mind the wide differences in levels of economic development between states. The definition of precautionary principle, as it was mentioned in the previous part, is provided the Rio Declaration in Principle 15.

⁷ The principle of common but differentiated responsibilities is reflected in Principle 7 of 1992 Rio Declaration: "states shall co-operate in a spirit of global partnership to conserve, protect and restore the health and integrity of the Earth's ecosystem.

one can come to the conclusion that there are currently sufficient existing international instruments that can protect the interests of future generations.

2.1.2. The Maastricht Principles as an Attempt to Clarify the Scope of Future Generations' Rights

The Maastricht Principles on the rights of future generations are one of the latest developments in the field of protection of future generations' human rights. Although the Maastricht Initiative dates back to 2017, the Maastricht Principles were officially launched in 2023 (Coomans, 2024, p.176). It is clarified in the Introduction that Principles consolidate the already existing human rights framework and provide a progressive interpretation of existing human rights standards in the field of the future generations' human rights. Moreover, the Principles emphasise binding obligations of States and other actors to protect future generations' human rights (Maastricht Principles, 2023, p.1). Furthermore, the Maastricht Principles recognise that special attention should be paid to Indigenous Peoples, peasants and other local communities and to children and youth perspectives as they are closest in time to generations still to come and to (Maastricht Principles, 2023, p.2-3).

The principles of universality and indivisibility of human rights; equality and non-discrimination; intergenerational duties and trusteeship; prevention and precaution and international solidarity are included in the general provisions of Maastricht Principle (Coomans, 2024, p.177-178). For example, the universality principle is reflected in paragraph 5 of the Principles: "all human beings - in the past, present and future – are equal in dignity and entitled to the full and equal enjoyment of human rights". Specifies that future generations are entitled to all individual and collective human rights (e.g. civil and political rights, economic, social and cultural rights, the right to a clean, healthy and sustainable environment; the right to development; the right to self-determination; and the right to peace and so on) (Maastricht Principles, 2023, p.5.)

Besides, the Maastricht Principles set out specific obligations for States to respect, protect, and fulfil the future generations' human rights. It covers decisions taken by States in their capacity both as members of international or regional organisations (Maastricht Principles, 2023, p.8). Paragraph 14 sets the scope of jurisdiction regarding the protection of future generations' human rights. States must respect, protect and fulfil the human rights of future generations in following circumstances: (1) in situations over which States exercise "authority or effective control", (2) in situations over which States' "conduct brings about foreseeable effects in the enjoyment of human rights for present or future

generations", (3) in situations in which States, acting through the executive, legislative or judicial branches, have the ability to exercise decisive influence or take action for the enjoyment of human rights of future generations (Maastricht Principles, 2023, p.8-9). The Principles also recognises states' extraterritorial obligations towards future generations. They arise from states' "obligations relating to the acts and omissions of a State, within or beyond its territory, that have effects on the enjoyment of human rights outside of that State's territory" and "obligations of a global character that are set out in the Charter of the United Nations and human rights instruments to take action, separately, and jointly through international cooperation, to realise human rights universally(Maastricht Principles, 2023, p.15)."

Last but not least, the Maastricht Principles states that human rights violations' victims must be provided effective remedies. Hence, states must provide adequate judicial, quasi-judicial and administrative mechanisms to ensure respect for the human rights of future generations, investigate and adjudicate violations of the human rights of future generations, ensure access to justice, disseminate information through public and private mechanisms on all available remedies for violations of the human rights of future generations, and others (Maastricht Principles, 2023, p.19).

One must agree with the statement of Fons Coomans that the Principles "restate the law as it exists today (*lex lata*), but also contribute to the development of the law as it should be (*lex ferenda*) with respect to the human rights of future generations (Coomans, 2024, p.177)." On the one hand, the Principles consolidate the existing human rights standards and frameworks in order to protect future generations' human rights. On the other hand, the Principles also lead to the development and modernisation of existing law in face of new challenges humanity faces nowadays. Moreover, the Principles clarify who should be held responsible for violations of future generations' human rights and offer protection mechanisms and remedies for their rights. Moreover, Fons Coomans emphasises few reasons for developing the Maastricht Principles: (1) to be certain that the future generations' fundamental human rights are recognised as part of the existing law, (2) to fill a normative gap and clarify who is to be held accountable when the human rights of future people are jeopardised, (3) to clarify which protection mechanisms and remedies available to vindicate the rights of future generations (Coomans, 2024, p.178). Besides, the main purpose of the Principles is "to apply standard principles of human rights law to future generations (Coomans, 2024, p.178)."

Taken together the findings of this subchapter, it was concluded that Maastricht Principles on the rights of future generations is a significant contribution to the future

generations' human rights for few reasons. First of all, the Principles are the first attempt to detail the implications of considering future generations as holders of human rights. Secondly, the purpose of the Principles is to consolidate and develop existing human rights standards and frameworks in order to reinforce the protection of the future generations' human rights. Thirdly, the Principles recognise specific obligations of States to respect, protect, and fulfil the future generations' human rights of. Moreover, the Principles provide effective remedies for actions that affect the victims of human rights violations.

Besides, the biggest takeaway is that the Maastricht Principles mentions the need to interpret and develop existing human rights standards in the context of the future generations' human rights. The progressive approach supports the research's conclusion of the previous subchapter about the need to protect future generations as an inherent part of the concept of fundamental human rights.

What is more, the Maastricht Principles clarified who should be held responsible for violations of future generations' human rights, as well as what protection mechanisms and remedies to protect the future generations' human rights.

2.2. Chapter II. Role Of International Institutions In Safeguarding Future Generations 'Rights

2.2.1. Role Of UN

Nowadays, the United Nations is a "crucial driving force in formulating the need to consider future generations (Takle, 2023, p.62)." After the first reference to "succeeding generations" in the UN Charter, the idea of present generations' obligations to future generations has become one of the central principles of the UN. This idea was reflected in other United Nations' documents later on.

Along with the UN Charter, the Stockholm Declaration and the Brundtland Report are the historical basis for the intergenerational solidarity framework. The Stockholm Declaration introduced the responsibility to protect the environment for future generations (Stockholm Declaration on the Human Environment, 1972). The definition of sustainable development provided by the Brundtland Report functions now as a general guiding norm in several UN documents (Takle, 2023, p.64). Thereafter, a growing number of UN General Assembly declarations, resolutions, and Secretary-General reports have referred to global obligations to future generations. Between 1961 and 2023, there were at least 394 General Assembly resolutions that directly mentioned the term "future generations (Takle, 2023, p.62)."

Also, Member States of the UN adopted the Millennium Declaration in 2000. In the Declaration eight Millennium Development Goals to reduce extreme poverty by 2015 were established (United Nations Millennium Declaration, 2000).

At the 2012 Rio+20 Conference UN member states endorsed the General Assembly Resolution 66/288 called "The Future We Want", which is a comprehensive action plan to achieve sustainable development through cosmopolitan actions (General Assembly, 2012). In addition, this resolution established the universal, intergovernmental High-level Political Forum on Sustainable Development. The High-level Political Forum supported the implementation of the 2023 Political declaration (General Assembly on 29 September 2023, p.2).

In 2013, the Secretary General published the report "Intergenerational Solidarity and the Needs of Future Generations". Among other things, establishing the United Nations High Commissioner for Future Generations was the most important recommendation (Secretary-General, 2013). Unfortunately, this recommendation has not been implemented yet. It is clear that the High Commissioner for Future Generations would help in ensuring sustainable development and considering future generations' interest in decision-making processes at the global level.

The considerable attention must be also given to the UN 2030 Agenda for Sustainable Development, which was adopted by General Assembly on 25 September 2015. The Resolution "Transforming our world: the 2030 Agenda for Sustainable Development" states that the 2030 Agenda is a charter for people and planet in the XXI century. Moreover, the 2030 Agenda includes references to people who will exist in the future like "future of humanity" or "of all people" (UN 2030 Agenda, 2015).

The UN 2030 Agenda consists of 17 SDGs, 169 targets, means of implementation and a framework for follow up and review of the Agenda. 17 SDGs shape common frames for addressing and describing global challenges and their solutions, allowing member states simultaneously adopt common frames for considering the global challenges of managing long-term policy. When comparing the 17 SDGs with the 8 MDGs, Rita Vasconcellos Oliveira points out that SDGs went further in creating additional aims directly related to distributive justice (Rita Vasconcellos Oliveira, 2018 p.1). Besides, goals of the 2030 Agenda are considered to be more universal than 8 Millennium Development Goals. As 17 SDGs include different dimensions of sustainable development (e.g., economic, social, cultural, political and environmental).

The UN Secretary General launched "Our Common Agenda" report in 2021 (Secretary General, 2021). In line with the report the UN published the 2023 Policy Brief "To Think

and Act for Future Generations", which suggests four practical steps to fulfil long-standing commitment of present generations to meet their demands in a way that protects the interests of future generations and safeguards their ability to effectively enjoy all human rights (UN Policy Brief, 2023, p. 13-17). Steps related to the UN system include the appointment of the Special Envoy for Future Generations and ensuring better use of foresight, science and data. For example, two main functions of the Special Envoy for Future Generations include representation and advocacy of future generations' interests and raising awareness and advising on the possible intergenerational policy implications (UN Policy Brief, 2023, p. 13).

Other two steps include adoption of a declaration for future generations and the establishment of a dedicated forum for future generations. Such steps must be agreed upon by the States at the international level (UN Policy Brief, 2023, p. 15-17). A dedicated forum for future generations has not been established yet. In contrast, the Declaration for Future Generations was adopted recently. The Declaration includes a number of commitments for future generations. They include like promoting international stability and peace, taking actions to address urgent environmental challenges, strengthening cooperation in response to demographic trends and so on (United Nations, 2024, p.55-56). Moreover, the Declaration emphasises the need to include interests of future generations in decision-making processes (United Nations, 2024, p.55-56).

The Declaration for Future Generations is an urgent call for present generation to become aware of its responsibility for future generations who will inherit the Earth after us. I suggest the Declaration can play a critical normative and agenda-setting role. Raising awareness in this field can encourage world leaders to put more efforts to combat relevant current challenges that humanity faces nowadays in a way that do no compromise future generations' human rights. However, the Declaration is not legally binding. That means that it depends on voluntary compliance by States.

In contrast, the findings of this subchapter suggest that United Nation and its bodies have no authority over nation states' policies. Their tasks are limited only to reporting and monitoring. Although monitoring mechanisms make commitments morally binding, these commitments still weak. Their enforcement is limited to reputable consequences (e.g., shame). Despite global commitments, midpoint reports show that the SDGs are significantly off-track (Takle, 2023, p.74). In particular, according to Political declaration, "the achievement of the SDGs is in peril. At the midpoint of the 2030 Agenda, ... the progress on most of the SDGs is either moving much too slowly or has regressed below the 2015 baseline (General Assembly on 29 September 2023, p.2)." Similarly, Rita

Vasconcellos Oliveira states that the SDGs and their targets are meagre on intergenerational equity concerns. The 15-year target horizon for fulfilling the SDGs is a short-term perspective. Fulfilling the SDGs in such short term could jeopardise the establishment of long-term goals (Rita Vasconcellos Oliveira, 2018, p.18). It is believed that this is the consequence of tensions between States' commitments at the international level and national sovereignty. There is no global institution that can put pressure on a State trying to implement the SDGs. As a consequence, it is essential to create a future-oriented body within the UN. For example, to appoint a Special Envoy for future generations or a High Commissioner for Future Generations (Takle, 2023, p.74-75)

Inter alia, one disadvantage of the 17 SDGs is found. For instance, Bogers et al underscore that the network of international organisations has become more fragmented after the adoption of the SDGs (Bogers et al, 2022, p.5-6). The fragmentation can result in hampering the exchange of new ideas and knowledge between international organisations and preventing the establishment of joint standards and policies. In addition, it may have implications for national policies as international organisations play significant role in its shaping (Bogers et al, 2022, p.5-6).

Furthermore, on March 29, 2023, the UN GA adopted Resolution 77/276 that requests the ICJ for an advisory opinion to address two main questions, including "the obligations of States under international law to ensure the protection of the climate system and other parts of the environment ... for present and future generations" and "the legal consequences under these obligations for States where they, by their acts and omissions, have caused significant harm to the climate system and other parts of the environment" (United Nations General Assembly, 2023)." The ICJ hearings on the obligations of States in respect of climate change are going to take place from 2 to 13 December 2024 (International Court of Justice, 2024). Although the ICJ's advisory opinions are not binding⁸, they have great legal weight and moral authority.

Last but not least, the UN recognises the right to a clean, healthy and sustainable environment, adopting HRC resolution 48/13 in 2021 and GA resolution 76/300 in 2022. The recognition of such right is the most meaningful latest advancement in protection of the environment and human rights (OHCHR, 2024, p.3). However, the UNHRC resolution

⁸ Moreover, ICJ s advisory opinions "carry no less weight and authority than those in judgments because they are made with the same rigour and scrutiny by the "principal judicial organ" of the United Nations with competence in matters of international law (International Tribunal for the Law of the Sea, 2021, paras. 202–203)."

is not legally binding, the recognition of such right can raise public awareness, improve enforcement and provide a basis for filing lawsuits.

A significant role in recognising such right was played by the UN HRC. In 2008, the UN HRC adopted its first resolution 7/23 on human rights and climate change, where the "link between the enjoyment of human rights and the protection of environment" was mentioned (United Nations Human Rights Council, 2008). In 2011, the UN HRC adopted its first resolution 16/11 focusing on human rights and the environment. Also, the UN HRC adopted resolution 19/10 that appointed an Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment for a period of three years in 2012 (United Nations Human Rights Council, 2012). Later on, the mandate of Independent Expert was extended as the Special Rapporteur (United Nations Human Rights Council, 2015). On 3 April 2024, the UN HRC adopted resolution 55/2 that extended the mandate of Special Rapporteur and changed its title to the Special Rapporteur on the human right to a clean, healthy and sustainable environment (United Nations Human Rights Council, 2024).

The resolutions mentioned above reflect a human rights-based approach to environmental protection. This approach is an important tool for empowering those impacted by environmental activities and strengthening the accountability of environmental decision-makers and other actors (UNDP, UNEP, and OHCHR, 2023 p.12). In addition, David Boyd, UN Special Rapporteur on human rights and the environment (2018 - 2024), holds the view that "a rights-based approach is not only helpful but even essential to stimulating the many urgent actions needed to achieve the Sustainable Development Goals" (United Nations Human Rights Council, 2019, p. 19).

To conclude, the findings of this subchapter prove that United Nations and its bodies play pivotal role in protecting future generations' human rights and ensuring sustainable development. Since the first reference to "succeeding generations" in Charter, United Nations work on protection of human rights and interests of future generation by its initiatives and different instruments. Several important UN's initiatives towards future generations can be highlighted. First of all, it is essential to mention the adoption of the 2030 Agenda and its 17 SDGs. The 2030 Agenda described global challenges and their possible solutions. Although, as thesis' findings show, despite progress in certain areas, challenges in achieving SDGs still remain. Moreover, the monitoring of progress on the achievement of SDGs makes countries' commitments only morally binding because global institutions do not have power to put pressure on countries for falling to meet the SDGs. Secondly, the recent adoption of the Declaration for Future Generations is one more

important initiative. This Declaration is not legally binding. However, it highlights the need of incorporating long-term perspective into global decision-making processes in order to address current challenges. Thirdly, the upcoming ICJ's advisory opinion shows the need to balance legal responsibility with environmental protection. Moreover, the right to a clean, healthy and sustainable environment was recognised by the Human Rights Council and the General Assembly resolutions. What is more, the Special Rapporteur emphasised on human rights-based approach, which is essential for achieving the 17 SDGs and ensuring protection for all individuals affected by environmental degradation.

2.2.2. Role Of UN Human Rights Committee

The United Nations Human Rights Committee also play significant role in the protection of future generations' human rights. First of all, in 2018, the Human Rights Committee gave the General Comment № 36 on Article 6 (right to life)⁹ of the ICCPR. First of all, according to paragraph 7 of the Comment, State's obligations towards respect of the Article 6 covers both protection from the "arbitrary deprivation of life" and positive measures to protect the right to life (United Nations, 2019, paragraph 7). Furthermore, the Human Rights Committee highlighted the relationship between the right to life and the environmental issues: "environmental degradation, climate change and unsustainable development constitute some of the most pressing and serious threats to the ability of present and future generations to enjoy the right to life (United Nations, 2019, paragraph 65)." Thus, this highlights that environmental degradation, climate change and unsustainable development can violate the right to life, both present and future generations.

The jurisprudence of the Human Rights Committee also plays an essential role in safeguarding future generations' human rights. For instance, the ruling of Human Rights Committee in *Portillo Cáceres v. Paraguay* case is worth mentioning in the research. It is the first Human Rights Committee ruling in which it was decided that State is responsible for the death resulted in the pesticides poisoning. The Paraguayan family complained on effects of pesticide exposure that led to a person's death and 22 other individuals being poisoned. In 2019, the Human Rights Committee acknowledged that Paraguay had violated complainants' right to life (article 6) and private and family life (article 17) of the ICCPR (Human Rights Committee, 2019). As Greta Reeh states, the decision in the *Portillo*

⁹ "Article 6 of the International Covenant on Civil and Political Rights recognizes and protects the right to life of all human beings. The right to life is the supreme right from which no derogation is permitted, even in situations of armed conflict and other public emergencies that threaten the life of the nation(United Nations, 2019)."

Cáceres case represented one step closer to recognising environmental degradation as a threat to life and other rights (Reeh, 2020).

Furthermore, Human Rights Committee's decision in the *Ioane Teitiota v. New Zealand* case is also important for the thesis. *Ioane Teitiota* case links climate change to human rights under ICCPR. It concerned whether climate displaced person may be entitled to international protection under Article 6 of the ICCPR. Although the UN Human Rights Committee rejected the applicant's complaint, as it did not find *Ioane Teitiota* to be in a particularly vulnerable situation, it recognised that "the effects of climate change in receiving states may expose individuals to a violation of their rights under articles 6 or 7 of the Covenant, thereby triggering the non-refoulement obligations of sending states (paras. 9.11) (Reeh, 2020)."

Besides, the most significant UN Human Rights Committee's Views are on the case *Daniel Billy et al. v. Australia* in 2022. Views on this case are extremely important for the thesis, because it is the first case, according to Luporini, "in which an international (quasi-) judicial body has found human rights violations" due to climate change based on an individual complaint (Luporini, 2023). Moreover, until 2022 international human rights bodies had only decided on three climate change complaints that had unfavourable outcomes for the applicants¹⁰ (Luporini, 2023).

In *Daniel Billy et al.* case, a group of eight Australians, inhabiting the Torres Strait Islands, and six their children claimed that Australia violated their fundamental rights to life (Article 6), to be free from arbitrary interference with privacy, family and home (Article 17) and to culture (Article 27) of the ICCPR due to the Australia's failure to protect them from the impacts of climate change. They also claimed violation of Article 24 (UN HRC, 2022, p.4).

The Human Rights Committee found the Communication admissible. It concluded that the risk of impairment of rights "owing to alleged serious adverse impacts that have already occurred and are ongoing, is more than a theoretical possibility (UN HRC, 2022, p.13)." The Human Rights Committee also found that Australia violated Articles 17 and 27 of the ICCPR. The violation of this rights resulted from Australia's failure to take "timely and adequate" adaptation measures to address the impacts of climate change (Luporini, 2023).

¹⁰ 1. Inter-American Commission on Human Rights, *Inuit People v. United States* (Petition Seeking Relief from Violations Resulting from Global Warming Caused by Acts and Omissions of the United States), Dismissal, 16 November 2006; 2. Human Rights Committee, *Ioane Teitiota v. New Zealand*, Communication No. 2728/2016, Views adopted by the Committee, 7 January 2020; 3. Committee on the Rights of the Child, *Sacchi et al. v. Argentina et al.*, Communication No. 104/2019, Decision of 11 November 2021 (Luporini, 2023).

Therefore, the Committee did not consider the claim regarding Article 24. In addition, the Committee did not recognise the violation of Article 6, as the Australians failed to prove the existence of real risk that threatens their right to life (UN HRC, 2022).

In addition, Luporini focuses attention on three important aspects of the Committee's Views on Daniel Billy et al. case (Luporini, 2023). First of all, exhaustion of domestic remedies or victim requirement should be considered in such cases. Applicants must exhaust domestic remedies before applying to international bodies. In contrast, in Torres Strait Island case, applicants brought their complaint directly before international judicial body, relying on the exception to this requirement. Although the victim requirement was met for admissibility purposes, it raised problems on the merits. In this regard, it is difficult to prove direct risk for the claimants in the climate change-related cases (Luporini, 2023). Secondly, climate change is a global concern, and therefore, it is difficult to attribute specific harm to the actions of a single state. Daniel Billy et al. case is focused on the Australia's failure to take adaptation measures, rather than on mitigation. Inter alia, mitigation involves complex issues of global responsibility and emission reduction. Adaptation claims are, therefore, more directly linked to human rights obligations and often involve local impacts (Luporini, 2023). Last but not least, the Daniel Billy et al. case also indicates indirect positive effects, such as raising awareness, fostering political engagement and attracting additional funding for adaptation measures. One should agree with Luporini that "international human rights bodies serve as the primary international fora for climate change litigation (Luporini, 2023)."

In conclusion, the Human Rights Committee plays an essential role in the protection of future generations' fundamental human rights through its jurisprudence and comments on the ICCPR. Its General Comment № 36 highlights the connection between the environmental protection and the right to life. While the Committee's jurisprudence highlights the connection between fundamental human rights and environmental harm. Three cases were motioned in this subchapter, but the Daniel Billy et al. case seems to be the most important for the aim of the research. It is the landmark case because it was the first time when Committee recognised fundamental human rights violations resulting from climate change through State's failure to take adequate adaptation measures, also extending its legal argumentation in favour of the protection of rights of future generations. As a consequence, Human Rights Committee's Views may help regional and domestic courts to shape their approaches to similar climate change-related cases.

2.2.3. Role of EU and Other Regional Initiatives

Having discussed UN and its bodies initiatives, it is essential to consider regional ones, in particular within the EU and the Council of Europe. To start with, the European Union is committed to the implementation of the UN 2030 Agenda at the regional level. Daniel Silander notes that sustainable development became foremost part of the European Union policy after the Treaty of Amsterdam. In addition, the European Commission emphasised its dedication to become a frontrunner in protection of the sustainable development within the EU system (Silander, 2020, p.5-6). So the first part of this subchapter is going to address the most essential initiatives of European Union towards sustainability.

First of all, the United Nations 2030 Agenda was not the first one in that field. The European Commission published the EU 2020 Agenda in 2010. It was a response to the global socioeconomic crisis caused by the 2008-2009 global recession. The goal of EU 2020 Agenda was to promote growth, jobs and social integration in Europe (Silander, 2020, p.5). Inter alia, almost all goals of the EU 2020 Agenda were achieved by 2020 (Silander, 2020, p.9).

Secondly, on 22 November 2016, the European Commission presented its response to the UN 2030 Agenda and launched the Communication "Next Steps for a Sustainable European Future — European Action for Sustainability". The Communication acknowledged that the Europe had a favourable strong starting position and track record for implementing sustainable reforms (European Commission, 2016, p.2). The Communication also addressed challenges facing Europe like youth unemployment, aging populations, climate change, pollution, migration and so on (European Commission, 2016, p.2). Moreover, the European Commission noted that the global 2030 Agenda is the "world's blueprint for global sustainable development" and it is fully consistent with Europe's vision. That is why "the EU is fully committed to be a frontrunner in implementing the 2030 Agenda and the SDGs, together with its Member States, in line with the principle of subsidiarity (European Commission, 2016, p.3)."

Thirdly, in 2019, the European Commission presented the "The European Green Deal", which is an integral part of the Commission's strategy to implement the UN 2030 Agenda and the 17 SDGs (The European Green Deal, 2019). It cannot be achieved if Europe acts without any help, as it was previously concluded that climate change is global challenge. Therefore, global challenges are not limited to one State's responsibility. They should be dealt with collective efforts at the international level (The European Green Deal, 2019). Furthermore, the EU aims to guide international efforts in promoting sustainable development (The European Green Deal, 2019).

Another important European Union initiatives consist of the European Youth Strategy 2019-2027; the funding program for the research and innovations called Horizon Europe; the European Environment Agency that provides data on environmental issues. The European Union also supports macro-regional strategies¹¹.

Although the EU has made significant progress by 2020, there are still challenges ahead to achieve the 2050 Silander highlights challenges in economic and political dimensions. The 2008-2009 global recession revealed Europe's economic and structural weaknesses. They include "low average growth rate, low levels of investments in research and development, limited digitalisation ...(Silander, 2020, p.10)." Political challenges stand for more cohesively actions of EU Members to improve their policies and reforms (Silander, 2020, p.10). In contrast, in the light of political challenges, it must be stressed that it is important for EU Members to act more cohesively to improve their policies and reforms (Silander, 2020, p.10). In addition, EU Member States must overcome their differences in political cultures and productivity (Silander, 2020, p.10-11). This is essential for EU Member States to implement sustainable development policies. However, it can be concluded that implementing sustainable development policies requires joint action of EU Member States in order to avoid situations when States are focused only on their own priorities and short-term goals. Taken everything into account, one should agree that successful overcoming of economic and political challenges is essential for achieving the EU's 2050 targets within EU.

The EU Court Of Justice and domestic courts of EU Member States also take part in the protection of future generations' human rights. The EU Court Of Justice safeguard access to justice on environmental issues in the EU. For instance, the CJEU deals with the principles of environmental protection (e.g., "polluter-pays" and the precautionary principle) while "interpreting questions of EU law related to the transposition and correct interpretation of Directives and other secondary legislation by Member States (Avilés, 2014, p.267)."

Under EU law, Article 47 of the EU Charter of Fundamental Rights provides access to justice rights for all rights arising from EU law (European Union, 2012). In addition, the European Union and its Member States are party to the UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention). Article 1 of the Aarhus Convention

¹¹ Macro-regional strategies for the Baltic Sea region (EUSBSR, 2009), the Danube region (EUSDR, 2011), the Adriatic and Ionian region (EUSAIR, 2014), and for the Alpine Region (EUSALP, 2016)

establishes the right to live in an environment adequate for health and well-being for present and future generations (UNECE, 1998). Achieving such a right requires the "three pillars" of procedural rights: access to information, public participation in decision-making, and access to justice. Hence, Article 9 defines the regarding access to justice (Wolferen and Eliantonio, 2020, p.154).

According to "Communication: Improving Access to Justice in Environmental Matters in the EU and its Member States", to improve the European Union system on access to justice in environmental issues, it is essential that the rules of the EU Member States, which are applied in judicial practice, implement the case-law of the Court of Justice. Moreover, law in EU Member States must correspond to the requirements of the Aarhus Convention, the EU law and case law (European Commission, 2020, paras. 6). In addition, Communication provides four priorities to improve access to justice in environmental issues. First of all, its "correct transposition of EU secondary law", in particular provisions on access to justice (para. 32). Secondly, the inclusion of such provisions in new EU legislation (paras. 33). Thirdly, review of national legislation and regulatory provisions to remove barriers to access to justice (e.g., restrictions on legal standing or disproportionate costs) (paras.36). Fourthly, obligation of national courts to provide effective remedies under EU law for individuals and NGOs (paras.37) (European Commission, 2020).

Jacques Hartmann and Marc Willers argue that the CJEU's powers are like in national constitutional court. The reason is that the CJEU's judicial review powers include the possibility to annul legislative acts of the EU.

However, it is complicated to establish locus standi for parties. This can be illustrated by two recent climate change cases (Hartmann and Willers, 2021, p.3). In the *Armando Ferrão Carvalho and Others v. the European Parliament and the Council* (2021) and *Peter Sabo and Others v. European Parliament and Council* (2021) of the European Union cases applicants "challenged EU legislative acts on the grounds that they breached both the EU's founding treaties and the applicants' human rights, as protected under the EU Charter of Fundamental Rights (Hartmann and Willers, 2021, p.3)." In particular, the EU's climate change targets were challenged in *Carvalho and Others* case. In contrast, *Renewable Energy Directive* was challenged in *Sabo and Others* cases (Hartmann and Willers, 2021, p 3-4). Both cases were dismissed on procedural grounds (Hartmann and Willers, 2021, p.4). The *Carvalho and Others* case was declared inadmissible because the claimants failed to demonstrate that they were directly affected by Europe's climate policy (Court of Justice of the European Union, 2021). The Court dismissed *Peter Sabo and Others* case because the *Renewable Energy Directive* was an act of general application. Nevertheless, the

claimants appealed to the CJEU, which upheld previous decision to dismiss the case (Court of Justice of the European Union, 2021).

In 2021, the CoE Parliamentary Assembly suggested to extend the scope of the ECHR with the "the right to a safe, clean, healthy and sustainable environment" with a aspiration to adapt CoE's legal framework to the current global challenges the humanity faces nowadays (Parliamentary Assembly of the Council of Europe, 2021). In "Recommendation 2211: Anchoring the right to a healthy environment: need for enhanced action by the Council of Europe", it was stressed on the importance of CoE to get its standard-setting activities up to date in order to "embrace the new generation of human rights (Parliamentary Assembly of the Council of Europe, 2021, p.1)." This repeatedly confirms formerly mention thought that future generations' rights are covered by the emerging fourth generation of human rights. In addition, the Parliamentary Assembly recommend to Committee of Ministers to draw up an additional protocol to the ECHR and an additional protocol to the European Social Charter (Parliamentary Assembly, 2021, p.1-2).

Nevertheless, the Committee of Ministers replied that the ECHR system already indirectly contributes to the protection of the future generations and the environment through specific convention's rights and their interpretations by the ECtHR in 2022 (Committee of Ministers, p.1). Indeed, the ECtHR's case law displays that a few of ECHR human rights are already included in environment-related cases, in particular right to life (Article 2)¹² and right to respect for private and family life (article 8)¹³ (European Union Agency for Fundamental Rights and Council of Europe, 2016).

Moreover, the European Commission for Democracy through Law (the Venice Commission) raised the question of judicial control in the area of environmental protection: "as the future generations do not take part in present day democracy and do not vote in present day elections, the judicial branch appears to be best placed to protect the future generations against the decisions of present-day politicians" in 2020 (Venice Commission, 2020, paras.114, p.26). Consequently, it can be concluded that the best instrument to safeguard the protection of the future generations' human rights is the judicial branch. There are few reasons to prove this opinion. First of all, judicial branch is independent from

¹² According to European Union Agency for Fundamental Rights and Council of Europe, it is "Case of Öneriyildiz v. Turkey, No. 48939/99, 30 November 2004, paras. 111–118 (on procedural aspect of Art. 2)(European Union Agency for Fundamental Rights and Council of Europe, 2016, p.173)."

¹³ According to European Union Agency for Fundamental Rights and Council of Europe, "Lopez Ostra v. Spain, No. 16798/90, 9 December 1994, para. 58; ECtHR, Taşkin and others v. Turkey, No. 46117/99, 10 November 2004, para. 126. See also Council of Europe (2012), Manual on Human Rights in the Environment. See also Council of Europe, Convention on the protection of the environment through criminal law, CETS No. 172, 1998 (requiring States Parties to criminalise serious environmental offences and cooperate in their enforcement)(European Union Agency for Fundamental Rights and Council of Europe, 2016, p.173)."

political pressure. That is why judicial branch can ensure better balance between short-term and long-term goals. Secondly, judicial branch can progressively interpret existing legal norms and standards as well as adjust them to specific circumstances. As it has been proven by ECtHR case law. Last but not least, issuing a judgment may be less time-consuming than adoption of new laws.

Furthermore, on the 2023 Fourth Summit of the Council of Europe the "Reykjavik Declaration: United around Our Values" was adopted. The formerly mention Declaration includes an Appendix (V) "The Council of Europe and the environment", which underlines the "urgency of taking co-ordinated action to protect the environment" to act against current challenges that present generation faces today (Council of Europe, 2023). In order to do this the CoE is dedicated to reinforce its efforts on the "human rights aspects of the environment" and initiate the Reykjavík process (Council of Europe, 2023)." Next, on April 18, 2024, the Parliamentary Assembly adopted a resolution "Mainstreaming the human right to a safe, clean, healthy and sustainable environment with the Reykjavik process", in which the Parliamentary Assembly calls on drafting a legal binding instrument that recognises right to a healthy environment (Parliamentary Assembly, 2024, p.1).

Besides, such right is recognised within other regional human rights systems. For example, it was first recognised in the African Charter on Human and Peoples 'Rights: "all peoples shall have the right to a general satisfactory environment favourable to their development (Article 28) (OHCHR, 2024)." Moreover, the African Commission on Human and Peoples 'Rights has protected such right since 2001 (e.g., Ogoni people versus Nigeria case). The Arab Charter on Human Rights also includes the right to a healthy environment, although it has no body for its implementation or enforcement. Within the inter-American system, "the right to live in a healthy environment" is recognised by Article 11 (1) of the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights. In its Advisory Opinion, Inter-American Court of Human Rights stated that "the right to a healthy environment is an autonomous right with an individual and collective perspective, also protecting future generations (OHCHR, 2024)". Moreover, the Inter-American Court decided that Peru is responsible "for its failure to protect the inhabitants of the city and for violating their right to a healthy environment, and the rights to information, participation and access to justice" in Community of La Oroya v. Peru case (2024) (OHCHR, 2024).

To conclude, not only the UN, but also regional human rights systems play a major role in protecting and developing future generations' human rights as well as supporting sustainable development. The African Charter on Human and Peoples 'Rights, the Arab

Charter on Human Rights and the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights recognise and secure the right to a healthy environment, although not all systems have the body for implementation and enforcement of such right. Indeed, the thesis was specifically focused on the European Union and the Council of Europe initiatives.

On the one hand, the EU takes a critical part in protecting future generations' rights and sustainability within the EU. Specifically, significant progress in implementing initiatives targeted at achieving UN's 17 SDGs was made. Despite that, the EU is required to overcome challenges of economy and politics to achieve SDGs by 2050. Moreover, the EU Court of Justice ensures access to justice in environment-related cases and has power to annul the EU's legislation. Also it ensures compliance within EU Member States with Aarhus Convention and EU legal standards.

On the other hand, the Council of Europe has shown a proactive approach to recognising the right to a safe, clean, healthy and sustainable environment. Although the ECHR and its additional protocols do not yet include the right to a safe, clean, healthy and sustainable environment, the ECtHR has already successfully issued decision in cases related to climate change.

2.2.4. Invoking the Rights of Future Generations before European Court of Human Rights

The European Court of Human Rights plays an essential role in promoting human rights within ECHR's 46 Member States. In accordance with Article 46 of the Convention its Member States "undertake to abide by the final judgment of the Court in any case to which they are parties". This means that ECtHR's judgments are legally binding, ensuring execution through a supervisory mechanism (The Council of Europe, 1950). Moreover, the ECtHR judgments influence not only the respondent States, but also other national legal systems and human rights standards in all Council of Europe Member States. In particular, the ECtHR judgments serve as precedents that other Member States usually take into account when interpreting, developing or reforming their laws and applying the ECHR at the national level, which means they possess erga omnes effect¹⁴.

¹⁴ Although the ECHR does not include the right to a clean, healthy and sustainable environment, the ECtHR has given a ruling in over 300 environment-related cases recognising human rights violations. According to Special Rapporteur, the Court has a progressive jurisprudence. Moreover, in its judgments the ECtHR concluded that human-caused or natural disaster-related pollution, as well as the denying of access to information or participation, may affect recognised human rights (e.g., the right to private and family life, free speech and access to information) (OHCHR, 2024).

Furthermore, a new type of cases should be distinguished. As Andreas Hösli points out, although there is a large body of case law in which the ECtHR has interpreted human rights in the context of environmental issues, the *Verein KlimaSeniorinnen Schweiz v. Switzerland* is the first case in which the Court has taken a position on the issue of climate change (Hösli, 2024, p.2). In the landmark *KlimaSeniorinnen* case, the applicants, a group of four elderly women, claimed a violation of Articles 2, 8, 6 and 13 of the ECHR concerning their rights to life, respect for private and family life, a fair trial and an effective remedy. The central issue in *KlimaSeniorinnen* case concerns whether the applicants have victim status under Article 34 of the ECHR. Also, the representatives of Switzerland have argued that the claim constituted an *actio popularis* and that the ECtHR regime was not suited to offer general protection against climate change (European Court of Human Rights, 2024).

On 9 April, 2024 the Grand Chamber of the ECtHR delivered unprecedented judgment in the *KlimaSeniorinnen* case. The judges found a violation of Article 8 (right to respect for private and family life) and a violation of Article 6 § 1 (access to court) of ECHR. The ECtHR ruled that the right to respect for private and family life covers "a right to effective protection by the State authorities from the serious adverse effects of climate change on lives, health, well-being and quality of life (European Court of Human Rights, 2024)." The ECtHR also recognised that Switzerland had failed to comply with its positive obligations under Article 8. Moreover, in violation of Article 6 § 1 the ECtHR found that the failure of Swiss courts to discuss the merits of the case constituted. The ECtHR emphasised the crucial role of domestic courts in climate-change litigation and highlighted importance of access to justice in this area. In contrast, the judges denied victim-status of the applicants under Article 34 of the ECHR (European Court of Human Rights, 2024).

Moreover, it is important to point out that the Court used a wide range of domestic and international instruments for that judgment. In particular, the Court took into account the United Nations Framework Convention on Climate Change, the Aarhus Convention and the Paris Agreement (European Court of Human Rights, 2024).

What is more, in *KlimaSeniorinnen* judgment the Grand Chamber addressed the role of judicial branch in safeguarding the rights of future generations: "having regard to the prospect of aggravating consequences arising for future generations, the intergenerational perspective underscores the risk inherent in the relevant political decision-making processes, namely that short-term interests and concerns may come to prevail over, and at the expense of, pressing needs for sustainable policy-making, rendering that risk particularly serious and adding justification for the possibility of judicial review (para. 420)

(European Court of Human Rights, 2024)." It follows that risks in decision-making processes can overshadow the urgent need for sustainable development policies. Accordingly, this highlights the need for judicial review. This one intersects with the 2020 Venice Commission's opinion mentioned above.

On 9 April, 2024 the ECtHR handed down two more judgments relating to climate change, but it declared both application inadmissible. In *Duarte Agostinho and Others v. Portugal and Others* case, the applicants (Portuguese youth) argued that 33 European States are failing to comply with their positive obligations under Articles 2 and 8 of the ECHR, concerning their right to life and respect for private and family life, as well as the prohibition of discrimination under Article 14 read in conjunction with Articles 2 and/or Article 8 of the ECHR. While the *KlimaSeniorinnen* case focuses on the failure of one state, Switzerland, *Duarte Agostinho* case raises the issue of extraterritorial jurisdiction. The case is not only directed towards the applicants' home state of Portugal, but also towards 32 European states. Portugal exercise territorial jurisdiction, while the other States are responsible for causing climate impact outside their borders. Also, *Duarte Agostinho* case raises the procedural issue of non-exhaustion of domestic remedies across multiple jurisdictions. The applicants have not exhausted domestic remedies in any of the 33 States as required by article 35. They have argued that any attempt to exhaust local remedies would have been futile due to the lack of legal standing, non-existent prospects of success and the inadequacy of the remedies. On April 9, 2024, the ECtHR declared that the application is inadmissible because territorial jurisdiction was established in respect of and jurisdiction over the other respondent States could not be established. The applicants also failed to exhaust domestic remedies (European Court of Human Rights, 2024).

The application in *Carême v. France* case was declared inadmissible because of the lack of victim status of the applicant under Article of the Convention. The applicant was a French mayor, who claimed that France was not doing enough to protect his rights to life (Article 2) and to respect for private and family life or home (Article 8) in the face of the risk of a sea level rise in Grande-Synthe. But in 2019 the applicant moved to Brussels and, accordingly, he lacked the status of victim (European Court of Human Rights, 2024).

According to Corina Heri, the ECtHR's first wave of climate decisions has established the ECtHR is willing to hear climate change-related cases. But it "will do so under specific circumstances that allow it to control who can bring climate cases, and from where" (Heri, 2024). This is a pragmatic solution, as it balances institutional needs with climate justice requirements (Heri, 2024). Furthermore, Charlotte E. Blattner refers to the ruling in *KlimaSeniorinnen* case as "a game changer". Hence, Charlotte E. Blattner states that ruling

in this case "a precedent for the 46 member states of the Council of Europe and will act as a benchmark for climate-change litigation worldwide (Blattner, 2024, p.691)."

Taken everything together, the findings show that even the 1950 European Convention on Human Rights does not include the right to a sustainable environment, the European Court of Human Rights already gave judgments in climate change-related cases. For instance, the most important one is a landmark KlimaSeniorinnen case. KlimaSeniorinnen case created a significant precedent as State was held accountable for the lack of prevention mechanisms on the effects of climate change. In addition, the ECtHR emphasised a relationship between human rights and State's positive obligations regarding climate change prevention in KlimaSeniorinnen case.

Moreover, the findings of this part suggest that the protection of the future generations' rights can currently be carried out through two parallel processes: the development of new legal instruments and the development of case law via judicial decisions at both - international and national levels. The development of new legal instruments could contribute to modernisation of existing legal instruments. Moreover, new legal instruments can contribute to the establishment of new human rights as the right to a healthy environment. However, it cannot be argued that without new legal instruments, the interests of future generations remain unprotected. The judicial branch already provides protection for future generations through the interpretation of existing legal frameworks and the development of jurisprudence at the national and international levels. Therefore, it can be concluded that even in the absence of the new legal instruments, the rights of future generations would not remain unprotected, and the development of legislation and case law should go hand in hand.

3. Part III. Recommendations In Protecting Human Rights of Future Generations

3.1. Chapter I. The Importance of Ensuring the Rights of Future Generations at the national level

In light of the discussion on universal and regional instruments that refer to future generations' human rights, it is necessary also to consider national ones. For this purpose, the interlinked relationship between the national and international levels should be mentioned. As mentioned, climate change is a global challenge that one State cannot solve alone. States' cooperation at the universal and regional levels is crucial for reaching sustainable development and fulfilling their international obligations. Moreover, one should agree that international law contributes to the development and harmonisation of national legislation. So these leads to reflection of international law at the national levels.

However, the State's policy and laws also contribute to the prevention of climate change. The states already have protection clauses for future generations in their national constitutions. Moreover, domestic courts are the ones who directly apply and enforce laws to protect individuals from climate change. So, the relationship between the national and international levels could be categorised as a two-motion path, as both levels are essential in this field.

To start with, Marianne Takle refers to Dirth's (2018) study, in which 37 countries in their legislation directly mention future generations, while 120 countries have clauses in their constitutions that refer to sustainability and the environment. The inclusion of a protection clause for future generations obliges to consider future generations' interests in the contemporary decision-making process (Takle, 2023, p.104).

Tremmel distinguished three types of clauses for future generations in national constitutions: (1) general clauses for intergenerational justice, (2) ecological generational justice clauses, and (3) financial generational justice clauses (Tremmel, 2006, p.190). General clauses for intergenerational equity are usually included in the preambles of national constitutions. Clauses for the protection of the ecological interests of future generations explicitly mention the environment or sustainable development. They can come separately or cumulatively with a general clause (Tremmel, 2006, p.190). Besides the disadvantages of such clauses include that they formulate a state objective, not a public right. Moreover, such clauses are too vague (Tremmel, 2006, p.204). Last but not least, financial generational equity clauses protect future generations from excessive public debt. Such clauses usually come cumulatively with previous two type of clauses (Tremmel, 2006, p.190, 209). Financial generational equity clauses can be found in a relatively smaller number of national constitutions and, according to Takle, they are "hidden" with phrases like "balanced budget" or "financial policy" (Takle, 2023, p.104). Meanwhile, some countries (e.g., Israel, Hungary, Finland) create new institutions with the aim to protect future generations. Such institutions include the Ombudsman for Future Generations, Committee for Future Generations, Ecological Council, or Future Council, instead of including protection clauses in their constitutions (Tremmel, 2006, p. 191).

As it was proven in the previous Part, courts play a crucial and progressive role in human rights interpretation. National courts are also essential in these processes. A number of lawsuits concerning future generations have already influenced policy actions at national and multilateral levels (Parliamentary Assembly of the Council of Europe, 2024). On top of that, Burge and Tigre states that "Climate change litigation provides civil society,

individuals and others with one possible avenue to address inadequate responses by governments and the private sector to the climate crisis (Burge and Tigre, 2023, p.7)."

There has been growing number of climate-related cases in which claimants seek to promote new climate policies, change the behaviour of government or industrial actors or raise public awareness nowadays. For instance, the first case in the world in which citizens established that the government is legally obligated to prevent dangerous climate change is the Urgenda Foundation v. State of the Netherlands case (2019) (Takle, 2023, p.106).

Climate-related lawsuits have become a tool used by various groups of the members of society (e.g. children and youths) against their governments. One of the recent examples is the Neubauer et al. v. Germany (2021) case. The legislative background of this case is Article 20a¹⁵ of the Basic Law of Germany that established the responsibility for future generations (Takle, 2023, p.109). A group of individuals between 15 and 32 years old filed constitutional complaint directly to the German Federal Constitutional Court. The complaints challenged the Federal Climate Change Act for insufficient greenhouse gas reduction targets, claiming that it led to violations of their fundamental right to a future consistent with human dignity (Article 1) and their basic right to life and physical integrity (Article 2), and in conjunction with mentioned above Article 20a. They also argued that the Federal Climate Change Act did not consider Germany's obligations under the Paris Agreement and, therefore, did not include plans for reducing emissions for the period after 2030. The youth also requested the establishment of new targets and opposed the transfer of emission reductions to neighbouring European countries (Takle, 2023, p.110-111).

On 29 April 2021, the Court decided that the provisions of the Climate Change Act are incompatible with fundamental human rights due to its absence of "specifications for further emission reductions from 2031 onwards." This decision was a partial success for youth (Takle, 2023, p.112). It should be noted here that the Constitutional Court pointed out that national obligations to take measures on climate change are not invalidated by the fact that no state can solve climate change problems on its own (Takle, 2023, p.113). As a result, one should agree with German Federal Constitutional Court's opinion. No state can solve climate change problem on its own as it is one of the global challenges that all humanity faces nowadays. Following this, only joint actions taken together by all States at universal and regional levels and the devotion to long-term commitments within the

¹⁵ Article 20a of the Basic Law of Germany: "Mindful also of its responsibility toward future generations, the state shall protect the natural foundations of life and animals by legislation and, in accordance with law and justice, by executive and judicial action, all within the framework of the constitutional order (Takle, 2023, p.109)."

frameworks of international organisations can promote combating climate change and safeguard the future generations' welfare and human rights. Moreover, states must not prioritise their own short-term goals, when considering sustainability and climate change, as it can conflict with SDGs, for example.

Considering all of the above, the findings show that actions must be taken not only at the international level but at the national too. National instruments to protect the interests of future generations cover inclusion of protection clauses in national constitutions, the establishment of new institutions for the protection of future generations, and case law in domestic courts. The importance of inclusion general or ecological protection clauses in national laws can be proven by the Neubauer et al. v. Germany case. This case is essential for purpose of our research for two main reasons. First of all, Neubauer et al. case emphasise the need of taking immediate actions to combat climate change and protect present and future generations' human rights. Secondly, this case may be very helpful in resolving difficulties with the theoretical categorisation of such rights.

Furthermore, there is no doubt that courts play an essential role in climate change-relates cases both at the national and international levels. Indeed, the development of the ECtHR ' case law on climate change is important, but one should agree that protection of future generations' rights requires a comprehensive approach at the international and national level as well. The implementation and enforcement of future generations' human rights is the primary task of national courts. It is the national courts that directly apply and enforce laws. Therefore, this requires the adoption of binding legal norms at the national levels. All in all, binding legal regulations protecting future generations must be enacted primarily at the national level.

3.2. Chapter II. Practical Recommendations in Protecting Protecting Human Rights of Future Generations

3.2.1. Representation of Future Generations

As the findings show, rights of future generations have already been considered in national and international legal instruments. National and international courts consider the interest of future generations too. Moreover, according to paragraph 17 of the 2023 Maastricht Principles, other necessary measures to fulfil the human rights of future generations include: recognising the human rights of future generations in the constitutions and laws of states, adopting framework legislation to allocate duties and responsibilities for the realisation of the rights of future generations, developing and implementing education and awareness programs, providing financial and other forms of support to representatives of

future generations to participate in public discussions and protect their rights, and others (Maastricht Principles, 2023, 2023, p.12-13). In addition, paragraph 22 of the 2023 Maastricht Principles point out the need for establishing specific institutions and mechanisms to ensure that members of future generations are represented in decision-making process affecting their human rights. Examples of such institutions include ombudspersons, guardians, trustees or commissioners and designated seats in parliaments (Maastricht Principles, 2023, p.14).

This subchapter will examine representation of future generations in greater detail as it is the most relevant practical challenge in that filed nowadays. This challenge is highly relevant for two main reasons: future generations do not exist yet and future generation are "voiceless" and unable to express their needs. As the Secretary-General stated in "Our Common Agenda" in order to bring the principle of intergenerational equity to life, forums that would act on behalf of future generations and instruments to further protection of their interests could be considered (United Nations, 2024, p.45).

In her study, Takle has distinguished two types of national political institutions for future generations' protection: (1) those that ensures the country's implementation of the United Nations 2030 Agenda and (2) those that aims to ensure that future generations are represented in present-day policies (Takle, 2023, p.79). Takle also referred to term "proxy representation", which means that someone is appointed to defend assumed future generations' challenges and interests. This term is linked to the term "democratic myopia". "Democratic myopia" can be defined as "short-sightedness" in political decision-making (Takle, 2023, p. 81-82).

In addition, the representation of future generations can take following forms: representation of future generations in the parliament, representation of future generations in government bodies, and representation of future generations in independent bodies (e.g., commissions, councils, offices or ombudspersons) (Takle, 2023, p. 83-84). For example, a Committee for the Future was established in Finland. The Committee consists of 17 members and its main functions are to consider the Government's Report on the Future, to issue statements to other committees on future generations-related issues and to consider the implementation plan for the 17 SDGs. A Committee for the Future does not have legislative or budgetary power, it only presents different initiatives and opinions (Takle, 2023, p. 83). Moreover, there is the Commissioner of the Environment and Sustainable Development, who is embedded within the Office of the Auditor General, in Canada. The Commissioner provides analysis and recommendations on the federal government's efforts to protect the environment, promote sustainable development, and reduce the consequences

of climate change. Moreover, although future generations are not explicitly identified in the Commissioner's work, the audit function can draw attention to future generations (Takle, 2023, p. 83). Last but not least, the main purpose of representation of future generations in independent bodies is "ring in the long-term implications of actions and present alternatives essential for future generations 'well-being from outside the ordinary political institutions (Takle, 2023, p. 84)." For instance, Hungary has an ombudsman for future generations, who protects the constitutional right to a healthy environment, obtains information and seeks action from the Constitutional Court (International Foundation for Governance and Sustainability, 2024, p.10). Moreover, according to Tremmel the advantages of the ombudspersons include its "nomination does not need the participation of those represented by him, therefore it is easily possible for this to be established for the future generations without any legitimacy problems, and can fulfil the tasks deriving for the state from its responsibility for future generations, as stated in UNESCO's Declaration, 1997 (Tremmel, 2006, p. 287)."

On the contrary, Takle concludes that despite the fact that mentioned types of institutions have the potential to ensure "proxy representation" for future generations, they may have a limited influence on ensuring that measures for future generations are binding in practice (Takle, 2023, p. 84).

Moreover, there are main theoretical proposals for how to design national institutional constraints for future generations included in Takle's research (Takle, 2023, p. 94). First, the principle of deliberation was suggested by MacKenzie as a key way to encourage modern leaders to represent the future generations' interests. Takle refers to MacKenzie (2021) who believes that "inclusive, deliberative, democratic processes" are essential to establish a common future. One has to agree that "the future should not only be predicted, but also be shaped or created through our collective future-making capacities (Takle, 2023, p. 95)." Moreover, MacKenzie stressed out that "Deliberation is the only institutional mechanism that I am aware of that may plausibly play this role in public affairs (Takle, 2023, p. 95)." Secondly, Smith (2021) provides five principles of institutional design to safeguard the long-term interests of future generations: independence of institutions,

diversity¹⁶, deliberation¹⁷, institutionalisation¹⁸, empowerment¹⁹ (Takle, 2023, p. 95). Thirdly, Tremmel (2021) suggested to establish a fourth branch of power that can be focused on long-term thinking. In addition, it can be implemented in the form of an ombudsperson, guardian, commissioner, committee, and so on. Besides, Tremmel provided three conditions for the institution: "It must have power, be able to intervene in legislative procedures, and be at the national level (Takle, 2023, p. 94-95)." All in all, the proposals mentioned above highlight the importance of institutional constraints for future generations to address democratic short-sightedness.

Furthermore, one should agree with Carrillo-Santerelli and Seatzu's argument that law can accommodate creativity in the future generations' representation even though they do not endow with capacity or unmediated *jus standi* to make claims on their own behalf. In other words, this proves the opinion that the law can protect future generations' interest through institutions like committee, commissioner, ombudsperson and so on, even though future generations are not born yet (Carrillo-Santerelli & Seatzu, 2024, p. 133).

To conclude, the findings prove that future generations' representation is the most relevant practical challenge nowadays. It is essential to represent future generations' as they are non-existent at the present time and they cannot express their needs. Moreover, the findings of this subchapter have shown that future generations' interests are already taken into account in national and international legal instruments. Future generations are already represented in several countries (e.g., Finland, Canada, Hungary) nowadays through representation in the parliament, government bodies, and independent bodies.

Furthermore, theoretical proposals for the design of national institutional boundaries for future generations such as including the principles of deliberation, independence, and inclusiveness, as well as ideas for creating a fourth branch of government for long-term thinking should be considered. In contrast, although such institutions have the potential to represent future generations, their impact may be limited if these measures are not actually binding. However, one should agree that actors can be somehow creative in the future generations' representation.

¹⁶ The principle of diversity means including the voices of all types of groups in decision-making (Takle, 2023, p. 95).

¹⁷ The principle of deliberation means the importance of justifying choices in public (Takle, 2023, p. 95).

¹⁸ The principle of institutionalisation means that "compliance with political decisions over time requires permanent bodies that promote long-term thinking (Takle, 2023, p. 95)."

¹⁹ The principle of empowerment means that "institutions created to defend the interests of future generations must have decision-making power." This institutions must have the opportunity to veto or postpone decisions (Takle, 2023, p. 95).

3.2.2. Other Recommendations in Protecting Protecting Human Rights of Future Generations

Even though future generations' representation was discussed in the previous subchapter, there are other significant recommendations aiming at overcoming practical difficulties in protecting future generations' human rights. Some of them were mentioned in the "Overview of the implementation of the human right to a clean, healthy and sustainable environment" issued by the UN Special Rapporteur on the human right to a healthy environment. UN Special Rapporteur suggested transforming the economy, advancing legal recognition of the right to a healthy environment, implementing the existing framework and strengthening the rule of law, reviewing and updating frameworks, and so on (United Nations, 2024).

One should agree that promotion of legal recognition of the right to a clean, healthy and sustainable environment is one of the most significant steps in protecting future generations' human rights. The adoption of the GA Resolution and HRC resolution on such right and its recognition in national legal frameworks is only the beginning of the action needed to ensure the effective enjoyment of this right for everyone (UNDP, UNEP & OHCHR, 2023, p.16). The right to a clean, healthy and sustainable environment should be recognised and strengthened at the national and international levels (United Nations, 2024). The GA Resolution "The human right to a clean, healthy and sustainable environment" calls upon "States, international organisations, business enterprises and other relevant stakeholders to adopt policies, to enhance international cooperation, strengthen capacity-building and continue to share good practices in order to scale up efforts to ensure a clean, healthy and sustainable environment for all (UNGA, 2022)".

Hence, first and foremost obligation to respect and fulfil the right to a healthy environment lies on States. States can adopt constitutional clauses. Also, States can make sure that individuals have access to justice and remedy (UNDP, UNEP & OHCHR, 2023, p. 17). In addition, States should cooperate on universal and regional levels to protect future generations' human rights. Such cooperation can include adoption or accession to multilateral environmental and human rights agreements (UNDP, UNEP & OHCHR, 2023, p.18). Furthermore, as it was previously mentioned that States cannot combat climate change alone as it is global issue. So, cooperation on the international level is crucial. Furthermore, the right to a healthy environment should be protected by courts. In addition, National Human Rights Institutions can advise national governments after monitoring and reporting on climate change effects. NHRI can also provide support for communities to

participate in decision-making processes and education facilities on climate change (UNDP, UNEP & OHCHR, 2023,, p.18)".

Furthermore, as the findings of the previous chapters suggest, States' obligations to protect people from effects of climate change were recognised by domestic and regional courts. National and regional courts have already successfully dealt with several cases related to climate change (UNDP, UNEP & OHCHR, 2023,, p.18).However, legal recognition of the right to a healthy environment will help individuals to apply to the courts. Moreover, attention should also be paid to practical enforcement that includes "compliance with court decisions and the corresponding improvement of policies and laws, to also avoid further litigation and conflicts (United Nations, 2024)."

New global instruments also should be developed to incorporate the right to a healthy environment (United Nations, 2024). The establishment of a legally binding global instrument to recognise and protect such is pivotal for several reasons. First of all, it could ensure that all States adopt an agreed definition of such right. That can ensure uniformity of State legislation. Secondly, a legally binding instrument would help to held States accountable for failures to respect the right to a healthy environment. Therefore, the effective monitoring mechanisms are crucial to prevent environmental degradation and climate change.

As concluded in the previous part, the basis of a legal framework to protect the human rights of future generations exists. Although it should also be modernised to take into account the triple planetary crises and emerging science development as well. This will clarify the possible existing gaps in the protection of future generations. So, reviewing and modernising existing legal frameworks also remains a prime concern.

Furthermore, different proposal for potential institutions aiming at protecting future generations can be found Malcolm Fairbrother's Survey on public attitudes towards such institutions. These proposals include: lower the voting age in national elections to 15 years, establish an ombudsman or representative for future generations, reserve some seats in parliament/congress for elected representatives of future generations/members who are under 35 years of age, establish a rule that parliament/congress can only pass laws after discussing their implications for future generations, establish a publicly funded expert council for the future, change the law to allow people to sue the government on behalf of future generations, make future generations pay the cost of government programs or actions, if they will get most of the benefits, allow the prosecution of crimes against future generations at the ICC, let the World Bank and other global development agencies prioritise

projects with greater long-term benefits (International Foundation for Governance and Sustainability, 2024, p.11-13).

Taking everything into consideration, one should agree that those recommendations may be a great step towards integrating the future generations' interests into the governance structures. They are aimed to protect future generation's human rights and control that the present generation' actions and decisions taken at the present time do not jeopardise the welfare of people who will inherit the Earth after us. For instance, decreasing the voting age would help youth and young adults to participate in shaping and determining their future. They would also consider the implications and consequences of policies taken by present generation nowadays. On the other hand, one should consider if youth can critically analyse long-term consequences of their decisions. In addition, establishing a rule to proceed laws only after examining implications on future generations appears one of the most important practical recommendations. As this will help national governments to adopt policies in sustainable and future-oriented way. Moreover, it will help States to adhere international standards. However, discussing such implications can slow down legislative processes. Furthermore, the proposal for future generations to pay for programs that are more beneficial for them has some drawbacks. Firstly, it can burden future generations. Moreover, its implementation could cause a lot of practical difficulties. Hence, practical recommendations may have both advantages and disadvantages.

All in all, recommendations aiming at overcoming practical difficulties in protecting future generations' human rights are crucial for implementation. Although there were a lot of steps and initiatives taken at the international and national levels, present generation need to continue working on better protection of future generations' human rights.

CONCLUSIONS

1. The findings of the thesis support the idea that the protection of future generations' interests should be recognised as an integral part of fundamental human rights. Since humanity is currently facing the triple planetary crisis, bioethical dilemmas, and the development of new technologies, there is an urgent need for the fourth generation of human rights. Moreover, the human rights of future generations are still in the process of settling now; therefore, they are covered by the fourth generation of human rights. In addition, the legal recognition of future generations' rights is significant for ensuring intergenerational equity. The principle of intergenerational equity stands for the notion that present generation must take the long-term consequences of their actions and decisions into consideration with the aim not to jeopardise the well-being of future people.
2. One of the thesis's main objectives was to determine if there is currently a legal framework to protect future generations' rights and interests. After examining main international instruments that refer to future or succeeding generations, as well as the clauses of several national constitutions, it was concluded that there are legal frameworks for protection future generations' human rights at the present time. In particular, the recognition of the principle intergenerational equity is found in many international instruments from the 1945 UN Charter to the recent 2023 Maastricht Principles.
3. This thesis has also proved that universal and regional organisations significantly promote future generations' rights through various instruments and initiatives. At the universal level, sustainable development and intergenerational justice are promoted by the United Nations and its bodies. Since the adoption of the United Nations Charter in 1945, references to the responsibilities towards future generations have been included in the other key UN instruments. Thesis shows that adoption of UN 2030 Agenda and the recognition of the right to a clean, healthy and sustainable environment are main UN initiatives in the field of protection future generations' rights. Through such initiatives the UN and its bodies ensure that current global challenges are addressed in a way that does not jeopardise future generations' rights. Furthermore, it was shown the UN Human Rights Committee' pivotal role in promoting the protection of the rights of future generations through its jurisprudence and comments on the ICCPR. The Committee's jurisprudence demonstrates its role in addressing the intersection of human rights and environmental harm. In particular, the case of *Daniel Billy et al.* was a landmark in recognising human rights violations due to climate change. The judgment

of this case may serve as a precedent for future climate change-related cases. Taking the activity and initiatives of the UN and its bodies into account, it is worth emphasising the UN's significant role in the process of centralisation of the international law, in particular in the field of human rights of future generations.

4. Different initiatives at the regional level were also analysed. For instance, the African Charter on Human and Peoples' Rights, the Arab Charter on Human Rights and the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights recognise and secure the right to a healthy environment, although not all systems have the body for implementation and enforcement of such right. The thesis was specifically focused on the European Union and the Council of Europe initiatives. For instance, sustainable development is a key component of EU policy. For example, the European Union made some progress in achieving SDGs. However, to achieve all of SDGs them by 2050, the EU must overcome some economic and political challenges mentioned in the thesis. Furthermore, the Court of Justice of the European Union ensures access to justice within the EU framework in environmental matters. However, nowadays the CJEU powers are still limited because of procedural obstacles. Besides, the role off Council of Europe was analysed. Although the CoE has shown a proactive approach in recognising the right to a safe, clean, healthy and sustainable environment, the ECHR and its additional protocols currently do not contain such a right. In contrast, the ECtHR has already given judgments in climate change-related cases through interpretation of other ECHR rights.
5. The thesis also highlighted the importance of national legal instruments. Several countries have already included general, ecological or financial generational justice clauses in their national constitutions or created institutions aiming to protect future generations' human rights. The inclusion of protection clauses for future generations in national legislation is extremely important as this provides a further legal basis for filing lawsuits in domestic courts.
6. The findings of this thesis indicate that the court's role in the protection of future generations' human rights is of pivotal importance as courts progressively interpret existing legal provisions in climate change-related cases at the international, regional, and national levels. The jurisprudence of the United Nations Human Rights Committee, the European Court of Human Rights and domestic courts' judgments have underlined the essential role of the judicial review in interpreting laws that affect future generations. Moreover, it was also shown that the implementation and enforcement of future generations' human rights is the main task of the domestic courts. As long as

domestic courts apply and enforce laws. Therefore, it requires the adoption of binding legal norms which consider environmental challenges primarily at the national level.

7. The thesis has found that the protection of the human rights of future generations can currently be carried out through two parallel processes: the development of new legal instruments and the development of case law via judicial decisions at both - international and national levels. The development of new legal instruments could contribute to modernisation of existing legal instruments. Moreover, the development of the new legal tools can contribute to the establishment of new human rights as the right to a healthy environment, for example. Meanwhile, the judicial branch already provides such protection through the adaptation of existing provisions and the development of jurisprudence at the national and international levels. Therefore, the research concludes that rights of future generations will remain protected even if the new legal instruments won't be established. Moreover, the development of legislation and case law should go hand in hand.
8. Finally, a number of important practical recommendations aiming at future generations' protection were considered. Future generations cannot protect their interests and needs as they are non-existent at the present time. There is, therefore, a definite need for the representation of future generations in governance and legal processes. Future generations are already represented in states' parliaments, governmental or independent bodies. Although such institutions have the potential to represent future generations, their impact may be limited if these measures are not mandatory. Moreover, a priority recommendation therefore is to consider the long-term consequences of present' generation actions. The promotion of legal recognition of the right to a healthy environment and the implementation of the existing frameworks are also crucial in future generations' protection.

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SUMMARY

Human Rights of Future Generations under International Law

Anastasia Bashynska

This master's thesis analyses the theoretical background of future generations' human rights, defining them as the fourth generation of human rights. The thesis also determines who can be considered future generations and explores the issues of «non-identity» and «non-existence» that the concept of future generations raises. This research extends our knowledge of the principle of intergenerational equality. After that, the thesis explores arguments for and against such principle.

The results of the thesis indicate that existing legal frameworks already protect the human rights of future generations. Intergenerational equity is recognised in many international instruments, from the 1945 UN Charter to the recent 2023 Maastricht Principles. The thesis argues that universal and regional organisations significantly promote future generations' rights through various instruments and initiatives. The UN and its bodies play a significant role in the centralisation of international law, particularly in the human rights of future generations. The EU and the CoE play a substantial role in climate change and sustainability issues at the regional level.

The thesis has also examined the role of national legal instruments in safeguarding the human rights of future generations. It established that some countries have already included clauses in national constitutions or established new institutions for the protection of the human rights of future generations. The thesis findings also underline the significant role of the judicial review in interpreting and implementing laws that affect future generations. The thesis has found that the protection of the human rights of future generations can currently be carried out through two parallel processes: the development of new legal instruments and the development of case law via judicial decisions at both - international and national levels.

Finally, the thesis considered a number of important practical recommendations aimed at protecting future generations. Representing future generations in governance and legal processes and other practical recommendations are crucial for establishing intergenerational equity since future generations do not currently exist, do not have a voice to defend their interests, and cannot articulate their needs.

SUMMARY (IN LITHUANIAN)

Ateities kartų žmogaus teisės pagal tarptautinę teisę

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Šiame magistro darbe analizuojamas ateities kartų žmogaus teisių teorinis pagrindas, apibrėžiant jas kaip ketvirtąją žmogaus teisių kartą. Darbe taip pat nustatoma, kas gali būti laikoma ateities kartomis, ir nagrinėjami ateities kartų sampratos keliama „netapatumo“ ir „neegzistavimo“ klausimai. Šis tyrimas praplečia mūsų žinias apie kartų lygybės principą. Po to darbe nagrinėjami argumentai už ir prieš tokį principą.

Darbo rezultatai rodo, kad egzistuojančios teisinės bazės jau gina ateities kartų žmogaus teises. Kartų lygybė pripažįstama daugelyje tarptautinių dokumentų – nuo 1945 m. JT chartijos iki naujausių 2023 m. Maastrichto principų. Darbe teigiama, kad universalios = ir regioninės organizacijos įvairiais instrumentais ir iniciatyvomis reikšmingai skatina ateities kartų teises. JT ir jos organai atlieka svarbų vaidmenį centralizuojant tarptautinę teisę, ypač kalbant apie ateities kartų žmogaus teises. ES ir ET vaidina svarbų vaidmenį sprendžiant klimato kaitos ir tvarumo klausimus regioniniu lygmeniu.

Darbe taip pat buvo nagrinėjamas nacionalinių teisinių instrumentų vaidmuo saugant ateities kartų žmogaus teises. Jame nustatyta, kad kai kurios šalys jau įtraukė nuostatas į nacionalines konstitucijas arba įsteigė naujas institucijas, ginančios ateities kartų žmogaus teises. Darbo išvadose taip pat pabrėžiamas reikšmingas teisminės peržiūros vaidmuo aiškinant ir įgyvendinant įstatymus, turinčius įtakos ateities kartoms. Darbe nustatyta, kad ateities kartų žmogaus teisių apsauga šiuo metu gali būti vykdoma per du lygiagrečius procesus: naujų teisinių instrumentų kūrimą ir teismų praktikos plėtrą per teismų sprendimus tiek tarptautiniu, tiek nacionaliniu lygiu.

Galiausiai, darbe buvo aptarta keletas svarbių praktinių rekomendacijų, skirtų apsaugoti ateities kartas. Atstovauti ateities kartoms valdymo ir teisiniuose procesuose bei kitos praktinės rekomendacijos yra labai svarbios kuriant kartų lygybę, nes ateities kartos šiuo metu neegzistuoja, neturi balso ginti savo interesus ir negali išreikšti savo poreikių.