



# LAW REFORM COMMISSION

## *Discussion Paper on “Securing Tomorrow: A Proposal for Intergenerational Justice in Mauritius”*

[LRC\_R&P 192, July 2025]

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## **EXECUTIVE SUMMARY**

### **Discussion Paper on “Securing Tomorrow: A Proposal for Intergenerational Justice in Mauritius” [LRC\_R&P 192, July 2025]**

At the 29<sup>th</sup> the General Conference of the United Nations Educational, Scientific and Cultural Organization, held on 12 November 1997, it was declared that the present generations have the responsibility of ensuring that the needs and interests of present and future generations are fully safeguarded. Moreover, it was proclaimed that present generations have the responsibility to bequeath to future generations an Earth which will not one day be irreversibly damaged by human activity. Each generation inheriting the Earth temporarily should take care to use natural resources reasonably and ensure that life is not prejudiced by harmful modifications of the ecosystems and that scientific and technological progress in all fields does not harm life on Earth.

The Government Programme 2025-2029 is titled “A bridge to the future”. In the document, the Republic of Mauritius charts an ambitious and morally charged course: “to facilitate development of socio-ecological alternatives, models and experiences that will sustain a just transition towards a socio-ecological future society”.

Mauritius, like any other country, faces many challenges which would not only impact the current generations but also future ones, such as climate change, poverty, and health issues linked to the environment. The Commission takes note that as at present, there is no law in Mauritius that safeguards the rights of future generations and highlights that Wales is the only country in the world that has a Well-Being of Future Generations (Wales) Act, which came into force in 2015.

The notion of a “just transition” - central to the Government Programme - is articulated in the Discussion Paper not merely in economic terms (e.g. promoting green energy) but through the prism of intergenerational equity and procedural justice.

In this Discussion Paper, the Commission has reflected on the concept of “sustainable development” (A); has considered Mauritius current situation with regards to sustainability (B); the different legislation and policies pertaining to the protection of the rights of future generations (C); and has analysed the opportunity of having a similar type of legislation in Mauritius as that of Wales (D). The Commission has made recommendations (E) and proposes that a Well-Being of Future Generations Act be introduced in Mauritius that reflects most of the provisions from the Welsh legislation, whose object would be to require public bodies in Mauritius to contemplate about the long-term impact of their decisions, to work better with people, communities and each other, and to preclude persistent problems such as poverty, health disparities and climate change.

Far from importing a foreign model wholesale, the Commission situates its proposals within Mauritius’ unique historical and ecological trajectory - from the *Maurice Île Durable* project to its commitments under the Paris Agreement, the National Energy Policy, and the Climate Change Act. The future-oriented reforms proposed are thus not ruptures, but evolutionary affirmations of the island’s *autochtone volonté* to lead by example among Small Island Developing States (SIDS).

## **(A) INTRODUCTION TO THE CONCEPT OF “SUSTAINABLE DEVELOPMENT”**

1. The principle of sustainable development establishes that the needs of the present generation must not compromise the quality of the life of future generations.<sup>1</sup> The concept of future generations goes beyond the rights of children and youth to include the rights of those who have not been born yet.
2. Traditionally, the focus has always been on relations among members of the present generation or on the relationship between present and past generations. Nevertheless, what remains challenging is the ability to relate the present with the future.
3. In 1987, the UN World Commission on Environment and Development defined the concept of sustainable development in the Brundlandt-report *Our Common Future* which created the nucleus for a global movement centred around one fundamental question: how can economic activity be aligned with the needs and requirements of present and future generations?<sup>2</sup>
4. The concept of intergenerational solidarity may be found in various international declarations and conventions, for instance Article 1 of the Declaration of Stockholm 1972 which states that:  
*[...] man has a fundamental right to freedom, equality and satisfactory living conditions in an environment which allows him to live in dignity and well-being. He has a solemn duty to protect and improve the environment for future generations.*<sup>3</sup>

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<sup>1</sup> Journal of Financial Crime/2021/Volume 28/Issue 4, 1 December/Articles/The ILVA disaster: a study of environmental liability in Italy – (2021) JFC 28(4), 1044–1052, p. 2  
<[https://www.lexisnexis.com/uk/legal/results/enhdocview.do?docLinkInd=true&ersKey=23\\_T502752562&format=GNBFULL&startDocNo=0&resultsUrlKey=0\\_T502752586&backKey=20\\_T502752587&csi=385536&docNo=1&scrollToPosition=0](https://www.lexisnexis.com/uk/legal/results/enhdocview.do?docLinkInd=true&ersKey=23_T502752562&format=GNBFULL&startDocNo=0&resultsUrlKey=0_T502752586&backKey=20_T502752587&csi=385536&docNo=1&scrollToPosition=0)>

<sup>2</sup> Journal of International Banking & Financial Law/2020 Volume 35/Issue 8/Articles/Transition to hard law: ESG integration and the EU framework on sustainable finance – (2020) 8 JIBFL 553  
<[https://www.lexisnexis.com/uk/legal/results/enhdocview.do?docLinkInd=true&ersKey=23\\_T502750938&format=GNBFULL&startDocNo=0&resultsUrlKey=0\\_T502750940&backKey=20\\_T502750941&csi=280100&docNo=3](https://www.lexisnexis.com/uk/legal/results/enhdocview.do?docLinkInd=true&ersKey=23_T502750938&format=GNBFULL&startDocNo=0&resultsUrlKey=0_T502750940&backKey=20_T502750941&csi=280100&docNo=3)>

<sup>3</sup> N 1, p. 2.

5. A further example is the Aarhus Convention 1998 which states that adequate protection of the environment is essential for human welfare and the enjoyment of fundamental rights, including the right to life. Every person has the right to live in an environment that ensures his or her health and well-being and the duty to protect and improve the environment, individually or collectively, is in the interests of present and future generations.<sup>4</sup>
6. There are two schools of thoughts when the rights of future generations are concerned. The first one relates to having ethical considerations towards our contemporaries only, while the other focuses on having ethical and moral obligations towards future generations.
7. The concept of sustainability is connected to indigenous thinking. It is worth mentioning that there is a unique principle, known as the ‘Seventh Generation Principle’ that governs the Iroquois, a Native American people: every decision taken today must consider the impact on the next seven generations. Specifically, it means that their current actions must ascertain sustainability for future generations living around 140 years from now.<sup>5</sup> According to Law 28 of the Iroquois Constitution, the following principle has been stated: *“Look and listen for the welfare of the whole people and have always in view not only the present but also the coming generations, even those whose faces are yet beneath the surface of the ground -- the unborn of the future Nation.”*
8. UNESCO issued a declaration in 1997, consisting of 12 articles defining the responsibilities of present generations towards protecting the needs and interests of both current and future generations. The declaration recognises that UNESCO has as its ethical mission the task of safeguarding the needs and interests of future generations, particularly through education and that the fate of future generations depends to a large extent on decisions and actions taken today, the present-day problems, including poverty, technological and material underdevelopment, unemployment, exclusion, discrimination and threats to the environment, must be solved in the interests of both present and future generations.

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<sup>4</sup> N 1, p. 3.

<sup>5</sup> Laura Villadiego, ‘Should we legislate on the right of future generations?’ (26 June 2020) Available at: <<https://www.equaltimes.org/should-we-legislate-on-the-right#.YqLTq3ZBzrc>>

9. The present generations have the responsibility to bequeath to future generations an Earth which will not one day be irreversibly damaged by human activity. Each generation inheriting the Earth temporarily should take care to use natural resources reasonably and ensure that life is not prejudiced by harmful modifications of the ecosystems and that scientific and technological progress in all fields does not harm life on Earth.
10. Innumerable international as well as domestic sources recognise that the present generations' actions can impede the needs of future generations. In order to remedy this situation, legislation has been put in place worldwide such that the interests of future generations receive attention alongside those of present generations.
11. This Discussion Paper analyses the legislation of Wales, Canada, Québec and Malta and a Bill in the United Kingdom that focuses on the rights of future generations, and seeks to point out the reasons why Mauritius ought to have a similar legislation.

## **(B) SUSTAINABILITY IN MAURITIUS**

12. Many countries, including Mauritius, are faced with global environmental issues and this is the reason why there is an urgent need to take joint actions to address the impacts.
13. Countries have adopted the method of entering into international agreements known as Multilateral Environmental Agreement (MEAs) in order to work collaboratively to combat global environmental issues.
14. Mauritius has signed and ratified the Paris Agreement 2015, on 22 April 2016.<sup>6</sup> The Paris Agreement is a legally binding international treaty on climate change.
15. In 2008, “*Maurice Ile Durable*” (MID) was adopted by the Mauritian Government as the new sustainable vision to guide national development. This innovative milestone project has as its objective to make Mauritius a world model of sustainable development, particularly in the context of Small Island Developing States (SIDS). Initially, the project’s mission was to minimise dependency on fossil fuels through increased utilisation of renewable energy and a more efficient use of energy in general, but soon the concept widened to a reinforced integrated, participatory approach to sustainable development and which seeks to include each and every citizen of Mauritius.
16. In 2020, the Environment Protection (Control of Single Use Plastic Products) Regulations were prescribed in order to deter the importation for home consumption, manufacture, possess, sell, supply or use any non-biodegradable single-use plastic product.<sup>7</sup>
17. At the 144<sup>th</sup> Inter Parliamentary Union (IPU) Assembly which was held in March 2022, it was explained that the outbreak of the COVID-19 pandemic has globally changed the more complex development socio-economic outlook of Small Island Developing State, confronting them with yet more complex development challenges. He further mentioned that in spite of progress towards sustainable development being particularly challenging for

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<sup>6</sup> < <https://unfccc.int/node/61113> >

<sup>7</sup> Environment Protection (Control of Single Use Plastic Products) Regulations 2020, reg 4

small islands, Mauritius remains committed to protect the planet from degradation, through sustainable consumption and production, by sustainably controlling its natural resources and taking prompt actions with regards to climate change to enable it to support the needs of the present and the future generations.<sup>8</sup>

18. Mauritius has made concrete efforts towards the mitigation of Greenhouse Gas emission by integrating climate change issues into new development strategies.<sup>9</sup>
19. Although the production and consumption of energy are vital for economic development and households, it releases greenhouse gases, mainly consisting of carbon dioxide.<sup>10</sup>
20. There has been strong political will to further improve the existing policies such that resilience to the adverse impacts of climate change is developed and to ensure the achievement of sustainable development goals whilst integrating climate change in new development strategies.
21. Mauritius aims to reduce greenhouse gas emissions by 40% by 2030. In this respect, the Government of Mauritius launched an energy policy in 2021 in order to encourage the use of renewable and clean energy, which will help to decrease the country’s dependence of fossil fuels.
22. Moreover, on the occasion of the World Energy Day 2021, two new schemes, namely the Central Electricity Board (CEB) Renewable Energy Scheme for Charging of Electric Vehicles, and the CEB Renewable Energy Scheme for Public Enterprises, were launched.

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<sup>8</sup> 144th Inter Parliamentary Union (IPU) Assembly, ‘*Getting to Zero: Mobilizing parliaments to act on climate change*’ (21 March 2022) <Speech by Mr Speaker at the 144 IPU Assembly.pdf>

<sup>9</sup> ‘*Update of the Nationally Determined Contribution of the Republic of Mauritius*’ (01 October 2021) p. 4.

<sup>10</sup> Climate Change Act 2020, s 2, defines “greenhouse gas” as carbon dioxide (CO<sub>2</sub>); methane (CH<sub>4</sub>); nitrous oxide (N<sub>2</sub>O); hydrofluorocarbons (HFCs); and such other gas as may be prescribed.

23. In 2020, reportedly, 23.9% of electricity was generated from renewable sources.<sup>11</sup> Mauritius aims to produce 60% of its energy needs from green sources and a complete coal phase out by 2030.
24. The first ever wind farm in Mauritius is located in Plaine des Roches, in the north-east of the island and was put in place as a result of the country’s commitment to local and sustainable energy production. Until 2016, the energy supplied by the Central Electricity Board (CEB) consisted mainly of energy from the island’s diesel and coal/bagasse thermal power plants. However, since then, the CEB buys the energy produced from this wind farm, thus ensuring an energy mix in its supply. The farm produces 15 GWh of electricity annually and has the ability to supply around 15,000 people with electrical energy.<sup>12</sup>
25. Following this, the private sector intends to invest in the field of Renewable Energy, by setting up of a Wind Farm project of capacity 10 MW to 30 MW and the construction of three Solar Farms of 10 MW each.
26. With regards to the generation of solar energy, other projects are being implemented, namely a floating Photovoltaic (PV) at Tamarind Falls and an 8 MW Solar Farm at Henrietta. Furthermore, the CEB has created a dedicated Renewable Energy department which is staffed with the relevant skills and competencies in order to achieve the Renewable Energy objectives and targets.
27. Moreover, climate change features amongst the high-priority issues on the government’s agenda and Mauritius is committed to attain its obligations under climate-related multilateral agreements. Over the years, around \$ 150 million USD have been spent in support of the country’s climate agenda.

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<sup>11</sup> ‘World Energy Day 2021: Mauritius aims to decrease greenhouse gas emissions by 40% by 2030’ (22 October 2021) < <https://gis.govmu.org/News/SitePages/World-Energy-Day-2021--Mauritius-aims-to-decrease-greenhouse-gas-emissions-by-40--by-2030.aspx>>

<sup>12</sup><[https://www.qair.energy/en/realisations/mauritius/plainedesroches/#:~:text=This%20wind%20farm%2C%20the%20first,Sugar%20Investment%20Trust%20\(SIT\).>](https://www.qair.energy/en/realisations/mauritius/plainedesroches/#:~:text=This%20wind%20farm%2C%20the%20first,Sugar%20Investment%20Trust%20(SIT).>)

## (C) WORLDWIDE LEGISLATION PROTECTING THE RIGHTS OF FUTURE GENERATIONS

### i. WALES

28. Wales is the sole country in the world that has a legislation catering to the needs of future generations. Indeed, the Well-being of Future Generations (Wales) Act 2015 is the first piece of legislation in history to place the rights of future generations at the heart of the Welsh Government.<sup>13</sup>
29. The Act places a well-being duty on public bodies<sup>14</sup> to carry out sustainable development,<sup>15</sup> that is, they must perform in such a way so as to improve the economic, social, environmental and cultural well-being of Wales, by acting in conformity with the sustainable development principle to meet the well-being goals.<sup>16</sup>
30. The Act also sets out the seven well-being goals: a prosperous; resilient; healthier; more equal and a globally responsible Wales with cohesive communities, a vibrant culture and thriving Welsh language.<sup>17</sup>
31. The goal ‘A prosperous Wales’ relates to an innovative, productive and low-carbon society, which makes efficient use of resources and which develops a skilled and well-educated population and allowing its population to secure decent jobs. The next goal, ‘A resilient Wales’ involves the maintenance and enhancement of a biodiverse natural environment with healthy functioning ecosystems and the capacity to adapt to climate change. ‘A

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<sup>13</sup> Ariella Shalev, ‘The Well-being of Future Generations (Wales) Act’ (*Foundation For Democracy & Sustainable Development*, 9 March 2022) <<https://www.fdsd.org/ideas/well-being-of-future-generations-bill-wales/>> accessed 5 April 2022.

<sup>14</sup> Well-being of Future Generations (Wales) Act 2015, Pt 2, s 6 defines the term “public body” as including the Welsh Ministers; local authorities; NHS Trusts; a National Park authority for a National Park in Wales; a Welsh fire and rescue authority; the Natural Resources Body for Wales; the Higher Education Funding Council for Wales; the Arts Council of Wales; the Sports Council of Wales; the National Library of Wales and the National Museum of Wales.

<sup>15</sup> Well-being of Future Generations (Wales) Act 2015, Pt 2, s 3(1).

<sup>16</sup> Well-being of Future Generations (Wales) Act 2015, Pt 2, s 2.

<sup>17</sup> Well-being of Future Generations (Wales) Act 2015, Pt 2, s 4.

healthier Wales’ concerns a society that promotes the physical and well-being of the people and in which choices and behaviours that benefit future health are understood.

32. The goal ‘A more equal Wales’ is a society that enables people to reach their potential irrespective of their socio-economic background and circumstances, while ‘A Wales of cohesive communities’ reflects communities being attractive, safe and well-connected. ‘A Wales of vibrant culture and thriving Welsh language’ includes a society that promotes and protects culture, heritage and the Welsh language, and which encourages the participation of people in arts, sports and recreation. Finally, ‘A globally responsible Wales’ relates to how anything that the Welsh nation does in order to improve the economic, social, environmental and cultural well-being of Wales could have a global impact.<sup>18</sup>
33. Acting in accordance with the ‘sustainable development principle’ means that a public body must act in a manner which seeks to ensure that the needs of the present generation are met without compromising the ability of future generations to meet their own needs.<sup>19</sup>
34. The Welsh Ministers have a duty to set and publish well-being objectives no later than 6 months after the date of each subsequent general election,<sup>20</sup> while the other public bodies must do so at such subsequent times as the body considers appropriate.<sup>21</sup>
35. In order to measure the progress towards the achievement of the well-being goals and after having consulted the Commissioner, the other public bodies and such other persons as considered appropriate,<sup>22</sup> Welsh Ministers must publish national indicators,<sup>23</sup> which must be expressed as a value or characteristic that can be measured quantitatively or qualitatively against a particular outcome.<sup>24</sup> Furthermore, Welsh Ministers are under an obligation to publish an “annual well-being report” in respect of each financial year, on the progress

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<sup>18</sup> *Ibid.*

<sup>19</sup> Well-being of Future Generations (Wales) Act 2015, Pt 2, s 5(1).

<sup>20</sup> Well-being of Future Generations (Wales) Act 2015, Pt 2, s 8(1)(b).

<sup>21</sup> Well-being of Future Generations (Wales) Act 2015, Pt 2, s 9(2)(b).

<sup>22</sup> Well-being of Future Generations (Wales) Act 2015, Pt 2, s 10(9).

<sup>23</sup> Well-being of Future Generations (Wales) Act 2015, Pt 2, s 10(1)(a).

<sup>24</sup> Well-being of Future Generations (Wales) Act 2015, Pt 2, s 10(2)(a).

made towards the achievement of the well-being goals by reference to the national indicators and milestones.<sup>25</sup>

36. A “future trends report”, consisting of the predictions of likely future trends in the economic, social, environmental and cultural well-being of Wales and with regards to any appropriate analytical data and information, need to be published by the Welsh Ministers during the period of 12 months beginning with the date of a general election.<sup>26</sup> In the preparation of the report, the Welsh Ministers must consider any action taken by the United Nations in relation to the UN Sustainable Development Goals and assess the potential impact of that action on the economic, social, environmental and cultural well-being of Wales.<sup>27</sup>
37. The Welsh Ministers need to appoint a Future Generations Commissioner for Wales,<sup>28</sup> whose general duty is to promote the sustainable development principle, in particular to act as a guardian of the ability of future generations to meet their needs,<sup>29</sup> and to encourage public bodies to take greater account of the long-term impact of the things that they do,<sup>30</sup> and in this respect to monitor and assess the extent to which well-being objectives set by public bodies are being met.<sup>31</sup>
38. Each local authority area in Wales is required to have a public services board,<sup>32</sup> comprised of the local authority; the Local Health Boards for an area of which falls within the local authority area; the Welsh fire and rescue authority for an area any part of which falls within the local authority area and the Natural Resources Body for Wales<sup>33</sup> and whose duty is to contribute towards the achievement of the well-being goals.<sup>34</sup> Moreover, a public services

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<sup>25</sup> Well-being of Future Generations (Wales) Act 2015, Pt 2, s 10(10).

<sup>26</sup> Well-being of Future Generations (Wales) Act 2015, Pt 2, s 11(1).

<sup>27</sup> Well-being of Future Generations (Wales) Act 2015, Pt 2, s 11(2)(a).

<sup>28</sup> Well-being of Future Generations (Wales) Act 2015, Pt 3, s 17(2).

<sup>29</sup> Well-being of Future Generations (Wales) Act 2015, Pt 3, s 18(a)(i).

<sup>30</sup> Well-being of Future Generations (Wales) Act 2015, Pt 3, s 18(a)(ii).

<sup>31</sup> Well-being of Future Generations (Wales) Act 2015, Pt 3, s 18(b).

<sup>32</sup> Well-being of Future Generations (Wales) Act 2015, Pt 4, Chapter 1, s 29(1).

<sup>33</sup> Well-being of Future Generations (Wales) Act 2015, Pt 4, Chapter 1, s 29(2).

<sup>34</sup> Well-being of Future Generations (Wales) Act 2015, Pt 4, Chapter 2, s 36(1).

board is under an obligation to prepare and publish a ‘local well-being plan’ setting out its local objectives and the steps it proposes to take to meet them.<sup>35</sup> It also needs to prepare and publish annual progress reports, no later than 14 months after the publication of its local well-being plan, and subsequently no later than one year after the publication of each previous report under this section.<sup>36</sup>

## **ii. UNITED KINGDOM**

39. The United Kingdom had presented a Bill<sup>37</sup> in 2022 titled as the Wellbeing of Future Generations Bill.

40. This Bill has been copied from the Welsh and made slightly different. During his second reading speech, Lord Bird declared that more needs to be done with the future as the latter is always being postponed. His Lordship also stated that many of the problems that people face in life did not come from the future, but from the past, and had there been such a Bill a few decades ago, they would be hesitant to do certain things.

41. Lord Mackay of Clashfern was of the opinion that the spirit that enables people to have hope in the face of adversity, should form part of well-being and that they must do their best to provide their offspring with a spirit that allows them to have hope, which according to His Lordship, is the best protection against despair and the consequences of despair.

42. Lord Blunkett, whilst thinking for the future, stated that well-being cannot only be determined by health, housing and mode of employment, but that the well-being of the present and future generations will be obtained if before taking a measure, thought is given to what it will look like in 20 years’ time.

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<sup>35</sup> Well-being of Future Generations (Wales) Act 2015, Pt 4, Chapter 2, s 39(1).

<sup>36</sup> Well-being of Future Generations (Wales) Act 2015, Pt 4, Chapter 3, s 45(1).

<sup>37</sup> Wellbeing of Future Generation Bill [HL] of United Kingdom, (Bill 253).

43. Lord Thomas of Cwmgiedd, for his part, stated that the Bill is warmly welcome. However, His Lordship pointed two drawbacks of the Welsh legislation. The first problem being that the duties may not be clear and specific enough to be enforceable, and secondly, that there is no proper mechanism for legal enforcement.
44. The above-mentioned Bill is divided into six Parts consisting of 44 Clauses in total and of two Schedules. Part 1 of the Bill sets out an overview of the main provisions; Part 2 explains what is meant by “sustainable development”, the “future generations principle”, the well-being goals and objectives; Part 3 deals with the requirement of having a futures and forecasting report on the well-being of the United Kingdom’s population that should be published by the Secretary of State and also talks about the public bodies’ duty to report on and justify their preventative expenditure. Part 4 of the Bill places an obligation upon the Comptroller and Auditor General to carry out examinations into the extent to which public bodies set well-being objectives and take steps to meet them according to the future generations principle. A Future Generations Commission for the United Kingdom has been established under Part 5 of the Act and whose duty is to promote the needs of future generations. Part 6 of the Act sets out the final provisions.
45. In analysing the Welsh legislation and the Bill of the United Kingdom, a few changes can be observed that have been brought to the latter. For instance, Wales has established the office of Future Generations Commissioner, who is an individual appointed by the Welsh Ministers, while the UK Bill intends to put in place the office of Future Generations Commission for the United Kingdom,<sup>38</sup> which shall be a group of individuals, appointed by the Prime Minister, in consultation with the First Minister of Scotland, the First Minister of Wales and the First Minister and deputy First Minister of Northern Ireland.<sup>39</sup>
46. There is to be a panel of advisers to the Commissioner, consisting of administrative bodies and such other person as the Welsh Ministers may appoint. By contrast, there is to be a

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<sup>38</sup> Wellbeing of Future Generation Bill [HL] of United Kingdom, (Bill 253), Pt 5, Clause 24(1).

<sup>39</sup> Wellbeing of Future Generation Bill [HL] of United Kingdom, (Bill 253), Pt 5, Clause 24(2).

citizens’ panel consisting of at least 50 residents<sup>40</sup> of the United Kingdom for the purpose of providing advice to the Commission on the exercise of his functions.<sup>41</sup>

47. In the UK, provisions have been made under the Bill such that the Secretary of State publishes a future and forecasting report on the well-being of the United Kingdom’s population, which is non-existent in the Welsh legislation. This report should contain the possible long-term future trends concerning the economic, social, environmental and cultural well-being of the United Kingdom; plans to manage such long-term trends; a risk assessment that can emerge or grow in the future, for at least 25 years and the plans for preparing for the possible consequences of the identified future risks.

### **iii. (a) CANADA**

48. Canada enacted the Federal Sustainable Development Act in 2008, whose purpose is to provide the legal framework for developing and implementing a Federal Sustainable Development Strategy that renders decision-making with regards to sustainable development more transparent and subject to accountability to Parliament, promotes co-ordinated action across the Government of Canada to advance sustainable development and respects Canada’s domestic and international obligations relating to sustainable development, with a view to improving the quality of life of Canadians.<sup>42</sup>

49. In order to develop sustainable development strategies, certain principles need to be considered. The Act refers to the ‘sustainable development principle’ as being based upon an efficient use of natural, social and economic resources and the needs for the Government of Canada to integrate environmental, economic and social factors in the making of all of its decisions.<sup>43</sup> More precisely, this principle may be achieved by, among other things, the protection of ecosystems, prevention of pollution, protection of human health, promotion of equity, conservation of cultural heritage, respect for domestic and international

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<sup>40</sup> Wellbeing of Future Generation Bill [HL] of United Kingdom, (Bill 253), Pt 5, Clause 37(2).

<sup>41</sup> Wellbeing of Future Generation Bill [HL] of United Kingdom, (Bill 253), Pt 5, Clause 37(1).

<sup>42</sup> Federal Sustainable Development Act 2008 of Canada, s 3.

<sup>43</sup> Federal Sustainable Development Act 2008, s 5(a).

obligations relating to sustainable development and recognition of the present generation’s responsibility to provide future generations with a healthy and ecologically sound environment;<sup>44</sup> taking into account the precautionary principle, the “polluter pays” principle, the principle of internalisation of costs and the principle of continuous improvement.<sup>45</sup>

50. The principle of intergenerational equity, which relates to the importance of meeting the needs of the present generation without compromising the ability of future generations to meet their own ones,<sup>46</sup> as well as the principles of openness and transparency<sup>47</sup> and for stakeholders to collaborate,<sup>48</sup> need to be contemplated. Additionally, the principle of involving Aboriginal peoples due to their traditional knowledge and their unique understanding of, and connection to, Canada’s lands and waters<sup>49</sup> and that of a results and delivery approach are crucial to meeting measurable targets.<sup>50</sup>

51. A committee consisting of a Chairperson and other members of the Queen’s Privy Council for Canada, have oversight of the development and implementation of the Federal Sustainable Development Strategy.<sup>51</sup> In order to develop and maintain systems and procedures to monitor the progress on the latter’s implementation, a Sustainable Development Office has been established by the Minister of the Environment.<sup>52</sup> The Office has a duty to provide the Minister with a report of the Canadian Government’s progress in the implementation of the Federal Sustainable Development Strategy at least once within every three-year period.<sup>53</sup>

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<sup>44</sup> Federal Sustainable Development Act 2008, s 5(a.1)(ii).

<sup>45</sup> Federal Sustainable Development Act 2008, s 5(a.1)(iii).

<sup>46</sup> Federal Sustainable Development Act 2008, s 5(b).

<sup>47</sup> Federal Sustainable Development Act 2008, s 5(c).

<sup>48</sup> Federal Sustainable Development Act 2008, s 5(e).

<sup>49</sup> Federal Sustainable Development Act 2008, s 5(d).

<sup>50</sup> Federal Sustainable Development Act 2008, s 5(f).

<sup>51</sup> Federal Sustainable Development Act 2008, s 6.

<sup>52</sup> Federal Sustainable Development Act 2008, s 7(1).

<sup>53</sup> Federal Sustainable Development Act 2008, s 7(2).

52. Moreover, a Sustainable Development Advisory Council composed of one representative from each province and territory, six representatives of Aboriginal peoples, and three representatives each from the environmental non-governmental; the organizations representative of business; and the organizations representative of labour need to be appointed by the Minister<sup>54</sup> and whose mandate would be to advise the latter on any matter related to sustainable development, including matters referred to it by the Minister.<sup>55</sup>
53. The Act makes provision for the Minister to develop a Federal Sustainable Development Strategy at least once within every three-year period,<sup>56</sup> which shall set out the federal sustainable development goals and targets and an implementation strategy for meeting each target.<sup>57</sup>

## **(b) QUÉBEC**

54. The Sustainable Development Act 2006 of Québec caters for provisions in the pursuit of sustainable development. This term has been defined as development that meets the needs of the present without compromising the ability of future generations to meet their own needs, and that which is based on a long-term approach which considers the inextricable nature of the environmental, social and economic dimensions of development activities.<sup>58</sup>
55. For a better integration of the pursuit of sustainable development into its areas of intervention, the Administration<sup>59</sup> is required to follow several principles while framing its actions. Sixteen principles have been considered in the Act, which relate to “Health and quality of life”; “Social equity and solidarity”; “Environmental protection”; “Economic

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<sup>54</sup> Federal Sustainable Development Act 2008, s 8(1).

<sup>55</sup> Federal Sustainable Development Act 2008, s 8(2.1).

<sup>56</sup> Federal Sustainable Development Act 2008, s 9(1).

<sup>57</sup> Federal Sustainable Development Act 2008, s 9(2).

<sup>58</sup> Sustainable Development Act 2006 of Québec, Title 1, Chapter I, s 2.

<sup>59</sup> By virtue of Sustainable Development Act 2006, Title 1, Chapter I, s 3, “Administration” means the Government, the Conseil exécutif, the Conseil du trésor, all government departments, and government agencies within the meaning of the Auditor General Act.

efficiency”; “Participation and commitment”; “Access to knowledge”; “Subsidiarity”; “Inter-governmental partnership and cooperation”; “Prevention”; “Precaution”; “Protection of cultural heritage”; “Biodiversity preservation”; “Respect for ecosystem support capacity”; “Responsible production and consumption”; “Polluter pays”; “Internalization of costs”.<sup>60</sup>

56. Indeed, human health, an improved quality of life, the protection of the environment, an effective economy geared toward innovation and economic prosperity, favouring an ecoefficient approach with regards to production and consumption patterns that avoids waste and optimises the use of resources are at the centre of sustainable concerns.
57. The sustainable development strategy adopted by the Government needs to state the selected approach, the main issues, the directions or areas of intervention, and the objectives to be pursued by the Administration in the area of sustainable development. Furthermore, in order to monitor or measure progress in the economic, social and environmental fields, a status report on sustainable development in Québec must also be presented upon periodic reviews of the strategy based on sustainable development indicators or other criteria set in the strategy.<sup>61</sup>
58. The Minister of Sustainable Development, Environment and Parks, in collaboration with the other ministers concerned, is under a duty to ensure that the strategy is developed in a way that reflects the range of concerns of the citizens and communities and all living conditions in Québec. In addition, the public needs to consult the strategy and any review of it.<sup>62</sup>
59. Moreover, every government department and agency in the Administration must identify, in a publicly available document, the specific objectives it has the intention to pursue in

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<sup>60</sup> Sustainable Development Act 2006, Title 1, Chapter II, Division I, s 6.

<sup>61</sup> Sustainable Development Act 2006, Title 1, Chapter II, Division I, s 7.

<sup>62</sup> Sustainable Development Act 2006, Title 1, Chapter II, Division I, s 8.

order to contribute to a progressive and compliant implementation of the strategy, as well as the activities and interventions it plans on carrying to that end.<sup>63</sup>

#### iv. FRANCE

60. The European Commission's goal is to make Europe the first climate neutral continent in the world by 2050<sup>64</sup> since climate change and environmental degradation remain an existential threat to Europe and the world.<sup>65</sup> The European Green Deal has been introduced with the overarching aim of outlining this transformational change. To achieve climate-neutrality, all 27 EU Member States have pledged to reduce greenhouse gas emissions by at least 55% by 2030, compared to 1990 levels.<sup>66</sup>

61. France commits itself to respect the greenhouse gas emission reduction targets, in line with the Paris Agreement and the European Green Deal.<sup>67</sup> A new law known as "*Loi Climat et Résilience*" was enacted in 2021 in order to combat climate change and to strengthen resilience to its effects. The legislation contains 305 provisions and is focused around the five themes on which the *Convention citoyenne pour le climat* debated and presented its proposals.<sup>68</sup>

##### *Consumption*

62. Focus is laid on the creation of an environmental label for products and services,<sup>69</sup> a ban on advertisements relating to the marketing or promotion of fossil fuels, but which shall not be applicable to fuels whose renewable energy content is deemed to be greater than or equal to 50%,<sup>70</sup> on an experimental basis and for a period of three years, the distribution of

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<sup>63</sup> Sustainable Development Act 2006, Title 1, Chapter II, Division II, s 15.

<sup>64</sup> 'Delivering the European Green Deal', <[https://ec.europa.eu/info/strategy/priorities-2019-2024/european-green-deal/delivering-european-green-deal\\_en](https://ec.europa.eu/info/strategy/priorities-2019-2024/european-green-deal/delivering-european-green-deal_en)>

<sup>65</sup> 'A European Green Deal', <[https://ec.europa.eu/info/strategy/priorities-2019-2024/european-green-deal\\_en](https://ec.europa.eu/info/strategy/priorities-2019-2024/european-green-deal_en)>

<sup>66</sup> N 69.

<sup>67</sup> Article 1, Title I of Law n° 2021-1104 of 22 August 2021.

<sup>68</sup> 'Loi "Climat et Résilience": des avancées et des limites' < Loi Climat et Résilience : des avancées et des limites | vie-publique.fr >

<sup>69</sup> Article 2, Chap I, Title II of Law n° 2021-1104 of 22 August 2021.

<sup>70</sup> Article 7, Chap II, Title II of Law n° 2021-1104 of 22 August 2021.

unaddressed plastic, paper or cardboard prints for commercial purposes shall be prohibited to those people who do not expressly and visibly affix the label “Oui pub”<sup>71</sup> on their mailboxes,<sup>72</sup> and retail stores with a floor area of 400 square metres or more will be required to sell products without primary packaging, including bulk sales, either in a single package or in combination with other products by 2030.<sup>73</sup>

#### *Production and work*

63. In order for biodiversity to be restored as well as to adapt to climate change and mitigating its effects, and to combat pollution, aquatic and marine ecosystems need to be preserved,<sup>74</sup> companies need to be informed on the issues relating to sustainable development and how to adapt to the ecological transition,<sup>75</sup> as from the year 2025, new domestic and professional washing machines must be equipped with a plastic microfiber filter in order to reduce the release of plastic microfibers in the environment from the washing of clothes, from laundry,<sup>76</sup> the State encourages the implementation of methods and projects that may lead to the awarding of carbon credits under the “Low-Carbon” label in favour of sustainable forestry practices, throughout the country.<sup>77</sup>

#### *Travel*

64. By 2030, new passenger cars emitting more than 123 grams of carbon dioxide per kilometre will no longer be on sale, and by 2040, new heavy vehicles used for the transport of people or goods and mostly using fossil fuels will stop being on sale,<sup>78</sup> in line with the low-carbon strategy, the State has set itself the objective of supporting local authorities in the creation of cycling infrastructures on their territory,<sup>79</sup> the State shall prioritise those households living or working in low-emission zones towards the transitioning of less polluting modes

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<sup>71</sup> < Loi Climat et Résilience : des avancées et des limites | vie-publique.fr >

<sup>72</sup> Article 21, Chap II, Title II of Law n° 2021-1104 of 22 August 2021.

<sup>73</sup> Article 23, Chap III, Title II of Law n° 2021-1104 of 22 August 2021.

<sup>74</sup> Article 45, Chap III, Title III of Law n° 2021-1104 of 22 August 2021.

<sup>75</sup> Article 43, Chap II, Title III of Law n° 2021-1104 of 22 August 2021.

<sup>76</sup> Article 47, Chap III, Title III of Law n° 2021-1104 of 22 August 2021.

<sup>77</sup> Article 50, Chap III, Title III of Law n° 2021-1104 of 22 August 2021.

<sup>78</sup> Article 103, Chap I, Title IV of Law n° 2021-1104 of 22 August 2021.

<sup>79</sup> Article 104, Chap I, Title IV of Law n° 2021-1104 of 22 August 2021.

of transport,<sup>80</sup> feeder car parks will no longer be located near stations or at city entrances,<sup>81</sup> parking facilities offering more than 20 spaces and managed by public service operators need to have at least one recharging point for electric and rechargeable hybrid vehicles, located in a space that is spacious enough to allow access for people with reduced mobility,<sup>82</sup> the creation by 2024 of low-emission zones in urban areas with more than 150,000 inhabitants,<sup>83</sup> the banning of domestic flights when an alternative train journey of less than two and a half hours exists.<sup>84</sup>

#### *Accommodation*

65. A prohibition will be established on the use of energy-consuming heating or air conditioning systems operating outdoors,<sup>85</sup> in order to limit the impact of their combustion on air quality, the minister in charge of the environment may define the technical criteria to which certain categories of solid fuels placed on the market and intended for heating must conform,<sup>86</sup> the introduction of financial aid for renovation work, the development of ecological areas is proposed.<sup>87</sup>

#### *Food*

66. Catering services must offer a vegetarian menu at least once a week in schools,<sup>88</sup> and a 13% reduction in ammonia emissions by 2030 compared to 2005 and a 15% reduction in nitrous oxide emissions compared to 2015.<sup>89</sup>

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<sup>80</sup> Article 106, Chap I, Title IV of Law n° 2021-1104 of 22 August 2021.

<sup>81</sup> Article 108, Chap I, Title IV of Law n° 2021-1104 of 22 August 2021.

<sup>82</sup> Article 118, Chap I, Title IV of Law n° 2021-1104 of 22 August 2021.

<sup>83</sup> Article 119, Chap I, Title IV of Law n° 2021-1104 of 22 August 2021.

<sup>84</sup> Article 145, Chap IV, s 2, Title IV of Law n° 2021-1104 of 22 August 2021.

<sup>85</sup> Article 181, Chap II, Title V of Law n° 2021-1104 of 22 August 2021.

<sup>86</sup> Article 186, Chap II, Title V of Law n° 2021-1104 of 22 August 2021.

<sup>87</sup> Article 201, Chap III, s 2, Title V of Law n° 2021-1104 of 22 August 2021.

<sup>88</sup> Article 252, Chap I, Title VI of Law n° 2021-1104 of 22 August 2021.

<sup>89</sup> Article 268, Chap II, s 1, Title VI of Law n° 2021-1104 of 22 August 2021.

## v. MALTA

67. Malta’s statute on Sustainable Development Act 2012 creates a framework through which sustainable development is to be mainstreamed across Government.<sup>90</sup> The Office of the Prime Minister is designated as the competent authority<sup>91</sup> and whose functions include amongst others, to ensure the development and implementation of Malta’s sustainable development strategy;<sup>92</sup> to develop a set of indicators for measuring the progress achieved in the area of sustainable development, and their progressive revision;<sup>93</sup> to advocate sustainable development across the public administration, the private sector and society in general;<sup>94</sup> to review Government and specific Ministry policies, plans, programmes and projects to ensure that they are in line with the strategy;<sup>95</sup> to encourage and stimulate good practices in the use and sustainable management of natural resources, particularly their minimal use and maximum re-use in an environmentally sustainable manner;<sup>96</sup> to commit itself to work closely with Local Councils and other stakeholders for the promotion of sustainable development at a local level.<sup>97</sup>
68. The competent authority has the power to set recommendations that need to be achieved at a national, local, sectoral or any other level deemed appropriate;<sup>98</sup> to promote such activities that exemplify sustainable development practices;<sup>99</sup> and to request the public administration<sup>100</sup> for information,<sup>101</sup>

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<sup>90</sup> Sustainable Development Act 2012 of Malta, s 2(1).

<sup>91</sup> Sustainable Development Act 2012, s 4.

<sup>92</sup> Sustainable Development Act 2012, s 5(a).

<sup>93</sup> Sustainable Development Act 2012, s 5(d).

<sup>94</sup> Sustainable Development Act 2012, s 5(e).

<sup>95</sup> Sustainable Development Act 2012, s 5(f).

<sup>96</sup> Sustainable Development Act 2012, s 5(j).

<sup>97</sup> Sustainable Development Act 2012, s 5(k).

<sup>98</sup> Sustainable Development Act 2012, s 6(1)(a).

<sup>99</sup> Sustainable Development Act 2012, s 6(1)(b).

<sup>100</sup> By virtue of s 2(1) of the Public Administration Act 2019, “*public administration*” means the Government of Malta including its ministries and departments, specialised units and the agencies, government entities, commissions and boards referred to in this Act.

<sup>101</sup> Sustainable Development Act 2012, s 6(1)(d).

69. Every Ministry shall consist of a Sustainable Development Coordinator,<sup>102</sup> who shall be the Permanent Secretary<sup>103</sup> and whose duty is to provide the competent authority with any input that it may require in order to fulfil its functions and powers.<sup>104</sup>
70. Additionally, there shall be a Guardian of Future Generations with the aim of safeguarding intergenerational and intra-generational sustainable development in Malta.<sup>105</sup> The Guardian shall be a Commission composed of a Chairperson appointed by the Prime Minister<sup>106</sup> and four other persons, each appointed by the Minister, having the knowledge and experience in the Voluntary Organisations sector;<sup>107</sup> commerce, economy and industry;<sup>108</sup> social and community<sup>109</sup> and environmental affairs.<sup>110</sup> The Guardian shall have the mandate to promote sustainable development advocacy across national policy making, legislation and practices;<sup>111</sup> develop a scientific research network<sup>112</sup> and audits of various areas or sectors likely to contribute positively towards the sustainability of the society;<sup>113</sup> propose such goals and actions that government entities could follow;<sup>114</sup> permeate concepts of sustainable development within the private sector;<sup>115</sup> encourage the participation of non-governmental organisations in sustainable development advocacy<sup>116</sup> and to direct the focus of the competent authority to safeguard future generations<sup>117</sup> amongst others.

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<sup>102</sup> Sustainable Development Act 2012, s 7(2)(a).

<sup>103</sup> Sustainable Development Act 2012, s 7(2)(c).

<sup>104</sup> Sustainable Development Act 2012, s 7(2)(b).

<sup>105</sup> Sustainable Development Act 2012, Pt. IV, s 8(1).

<sup>106</sup> Sustainable Development Act 2012, Pt. IV, s 8(2)(a).

<sup>107</sup> Sustainable Development Act 2012, Pt. IV, s 8(2)(b).

<sup>108</sup> Sustainable Development Act 2012, Pt. IV, s 8(2)(c).

<sup>109</sup> Sustainable Development Act 2012, Pt. IV, s 8(2)(c).

<sup>110</sup> Sustainable Development Act 2012, Pt. IV, s 8(2)(d).

<sup>111</sup> Sustainable Development Act 2012, Pt. IV, s 8(4)(a).

<sup>112</sup> Sustainable Development Act 2012, Pt. IV, s 8(4)(b).

<sup>113</sup> Sustainable Development Act 2012, Pt. IV, s 8(4)(c).

<sup>114</sup> Sustainable Development Act 2012, Pt. IV, s 8(4)(d).

<sup>115</sup> Sustainable Development Act 2012, Pt. IV, s 8(4)(e).

<sup>116</sup> Sustainable Development Act 2012, Pt. IV, s 8(4)(f).

<sup>117</sup> Sustainable Development Act 2012, Pt. IV, s 8(4)(j).

71. In order to promote sustainable development in Malta, a Sustainable Development Network has been put in place,<sup>118</sup> comprising of a chairperson;<sup>119</sup> a deputy chairperson;<sup>120</sup> the Sustainable Development Coordinators responsible for economic, social and environmental issues;<sup>121</sup> a person from the Non-Governmental Organisations sector having knowledge of and experience in environmental matters<sup>122</sup> and two other persons each having the knowledge of and experience in commerce, economy and industry<sup>123</sup> and in social and community affairs.<sup>124</sup>
72. The competent authority is under an obligation to foster a higher level of knowledge and education in sustainable development across all strata of society.<sup>125</sup> In this respect, the University of Malta and the Malta College of Arts, Sciences and Technology shall promote sustainable development across all courses.<sup>126</sup>

### ***THE RISE OF FUTURE GENERATIONS IN CONSTITUTIONS***

73. The United States was the first country to mention future generations in its constitution in 1789, when it referred to “posterity” in its preamble.<sup>127</sup>
74. A provincial court in Ecuador, known as the “*Sala de la Corte Provincial*” became the first court ever to amend its constitution to recognise that nature has enforceable rights.<sup>128</sup> Furthermore, the Ecuadorian State has a constitutional duty to guarantee a sustainable

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<sup>118</sup> Sustainable Development Act 2012, Pt. V, s 9(1).

<sup>119</sup> Sustainable Development Act 2012, Pt. V, s 9(2)(a).

<sup>120</sup> Sustainable Development Act 2012, Pt. V, s 9(2)(b).

<sup>121</sup> Sustainable Development Act 2012, Pt. V, s 9(2)(c).

<sup>122</sup> Sustainable Development Act 2012, Pt. V, s 9(2)(d).

<sup>123</sup> Sustainable Development Act 2012, Pt. V, s 9(2)(e).

<sup>124</sup> Sustainable Development Act 2012, Pt. V, s 9(2)(f).

<sup>125</sup> Sustainable Development Act 2012, Pt. V, s 10(1).

<sup>126</sup> Sustainable Development Act 2012, Pt. V, s 10(3).

<sup>127</sup> United States of America's Constitution of 1789, Preamble: ‘We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.’

<sup>128</sup> Erin Daly, *The Ecuadorian Exemplar: The First Ever Vindications of Constitutional Rights of Nature Case Note*, 21 REV. EUR. COMP. & INT’L ENVTL. L. 63 (2012).

model of development, that is environmentally balanced and respectful of cultural diversity, conserves biodiversity and the natural regeneration capacity of ecosystems, and ensures meeting the needs of present and future generations.<sup>129</sup>

75. Future generations have gradually become more recognised in recent decades. In a global context, “future generations” have been referenced by 41% of constitutions, as at 2021. For instance, Palestine protects future generations in its constitution. It is a national duty to preserve and protect the Palestinian environment from pollution.<sup>130</sup> Tunisia explicitly confirms the rights of future generations in its Constitution. Its preamble links the rights of future generations with environmental rights, and with the right to sustainable development when stating that ‘the necessity of contributing to a secure climate and to the protection of the environment to ensure the sustainability of our natural resources, and the continuation of a secure life for coming generations.’ Furthermore, the Tunisian State has a constitutional duty to protect the cultural heritage and to guarantee the right of future generations to it.<sup>131</sup> The rights of future generations are further constitutionalised through the establishment of a Commission for Sustainable Development and the Rights of Future Generations.

76. The Brazilian constitution of 1988 mentions both present and future generations while outlining their state’s duty to protect the environment.<sup>132</sup> Additionally, the State of Niger has the obligation to protect the environment in the interest of present and future generations.<sup>133</sup> As for the constitution of Côte d’Ivoire, the Preamble consists of a commitment for contributing to climate protection and to maintaining a healthy environment for future generations.<sup>134</sup>

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<sup>129</sup> Constitution of Ecuador, Chap 2, s 1, Art 395.

<sup>130</sup> Constitution of Palestine, Title Two, Art 33.

<sup>131</sup> Tunisia constitution, 2014, art 42.

<sup>132</sup> Brazilian constitution, 1988, Chap VI Art 225: ‘Everyone has the right to an ecologically balanced environment, which is a public good for the people’s use and is essential for a healthy life. The Government and the community have a duty to defend and to preserve the environment for present and future generations.’  
<[https://www.constituteproject.org/constitution/Brazil\\_2017.pdf?lang=en](https://www.constituteproject.org/constitution/Brazil_2017.pdf?lang=en)>

<sup>133</sup> Niger’s constitution, 2010, Title II, Art 35

<[https://www.constituteproject.org/constitution/Niger\\_2017.pdf?lang=en](https://www.constituteproject.org/constitution/Niger_2017.pdf?lang=en)>

<sup>134</sup> Côte d’Ivoire constitution, 2016, preamble

<[https://www.constituteproject.org/constitution/Cote\\_DIvoire\\_2016.pdf?lang=en](https://www.constituteproject.org/constitution/Cote_DIvoire_2016.pdf?lang=en)>

## **(D) IMPORTANCE OF HAVING A WELL-BEING OF FUTURE GENERATIONS ACT IN MAURITIUS**

77. Although Mauritius does not explicitly have a legislation regarding the well-being of future generations, it does comprise various other statutes catering for such provisions that speak about sustainability. The Commission considers that it would be convenient for Mauritius to put in place such a legal instrument that would legally bind the Government to think of the generations that are yet to come and to safeguard their rights.
78. For instance, the Environment Protection Act has as its objective to furnish the protection and management of the environmental assets of Mauritius so that their capacity to sustain the society and its development remains unimpaired and to foster harmony between quality of life, environmental protection and sustainable development for the present and future generations; more specifically to provide for the legal framework and the mechanism to protect the natural environment, to plan for environmental management and to coordinate the inter-relations of environmental issues, and to ensure the proper implementation of governmental policies and enforcement provisions necessary for the protection of human health and the environment of Mauritius.
79. A National Network for Sustainable Development has been established under the Environment Protection Act which acts as a forum for discussions and consultations regarding matters concerning the harmonisation of the various sectoral, economic, social and environmental policies and plans operating in Mauritius; the quality and state of the environment and how it may be improved; pollution prevention and control and the protection and management of the environmental assets and the Mauritius national heritage in order to foster sustainable development.<sup>135</sup>

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<sup>135</sup> Environment Protection Act 2002, Pt II, s 11(1).

80. The Minister of Environment has the responsibility to prescribe standards for water<sup>136</sup> and air qualities;<sup>137</sup> noise emission;<sup>138</sup> hazardous wastes;<sup>139</sup> pesticide residues;<sup>140</sup> odours<sup>141</sup> and for built-up environment<sup>142</sup> in order to promote public health, welfare and environment. Furthermore, a National Environment and Climate Change Fund has recently been established under the Act.
81. The Mauritius Renewable Energy Agency has been established<sup>143</sup> and which has amongst its objects to promote the adoption and use of renewable energy with a view to achieving sustainable goals.<sup>144</sup> The forms of renewable energy that Mauritius uses include, *inter alia*, bioenergy, geothermal energy, hydropower, ocean energy, tidal, wave and ocean thermal energy and wind energy.<sup>145</sup>
82. In November 2020, the Mauritian Parliament enacted the Climate Change Act such that a legal framework and mechanism could be consolidated towards making Mauritius climate change resilient and achieving a low emission economy, in accordance with Sustainable Development Goals and the Government’s overarching objective of developing a greener economy.

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<sup>136</sup> Environment Protection Act 2002, Pt VI, s 38(1).

<sup>137</sup> Environment Protection Act 2002, Pt VI, s 40(1).

<sup>138</sup> Environment Protection Act 2002, Pt VI, s 41(1)(a).

<sup>139</sup> Environment Protection Act 2002, Pt VI, s 42(1).

<sup>140</sup> Environment Protection Act 2002, Pt VI, s 44(1).

<sup>141</sup> Environment Protection Act 2002, Pt VI, s 45.

<sup>142</sup> Environment Protection Act 2002, Pt VI, s 46.

<sup>143</sup> Mauritius Renewable Energy Agency Act 2015, s 3(1).

<sup>144</sup> Mauritius Renewable Energy Agency Act 2015, s 4(a).

<sup>145</sup> Mauritius Renewable Energy Agency Act 2015, s 2.

## **(E) RECOMMENDATIONS**

### ***Recommendation 1: Public consultation exercise***

83. The Commission is of the opinion that the youth of today is the future of tomorrow, and so, inspired by the UK Bill, recommends that a public consultation exercise needs to be established that would engage communities across the population with particular focus on young people and children from different social backgrounds while setting national well-being goals.
84. The public consultation shall be organised by a coordinating body appointed by the Minister and the members of such a coordinating body shall be appointed by the Minister upon consultation with the Prime Minister. Afterwards, a report setting out the well-being goals recommended through the public consultation needs to be produced by the public consultation coordinating body within one month of its conclusion. The well-being goals will have to be reviewed every five years by the Minister through a public consultation.
85. Each public body shall have a well-being duty to carry out sustainable development, failing which, proceedings may be filed against them.
86. The public bodies shall have regard, *inter alia*, to the importance of balancing short-term needs with the need to safeguard the ability to meet long-term needs, especially where things done to meet short-term needs may cause detrimental effect in the long-term; how deploying resources to prevent problems occurring or worsening may contribute to meeting the body well-being objectives, or another body’s objectives; the importance of deploying resources to undertake long-term planning; the need to forecast and manage emerging risks that may undermine the body’s well-being objectives, or another body’s objectives; the importance of involving other persons or bodies with an interest in achieving the well-being goals and how acting in collaboration with any other public body could assist that particular public body in meeting its well-being objectives.

87. Each government department must set and publish its well-being objectives, which must be reviewed after every futures and forecasting report is published, and if the well-being goals are amended.

***Recommendation 2: A “future generations impact assessment” needs to be published***

88. A public body shall be under an obligation to publish a future generations impact assessment of the likely impact of the proposal on its well-being objectives. In case such an assessment is not required, a statement setting out the reasons for such a conclusion need to be published by the public body. The Law Reform Commission recommends that in preparing a future generations impact assessment, a public body must have regard of the likely impact of proposals on all future generations, including at least 25 years from the date on which the assessment is published.

***Recommendation 3: Application of “national indicators”***

89. Taking inspiration from the Welsh legislation, the Commission proposes that national indicators, which should be applied for the purpose of measuring progress towards the achievement of the well-being goals, need to be published.
90. The national indicator should be expressed as a value or characteristic such that a quantitative or qualitative measurement against a particular outcome may be made.
91. Furthermore, the Minister should set milestones in relation to the national indicators that could assist in measuring progress.
92. However, before both the national indicators and milestones can be published, the Future Generations Commission, the other public bodies as well as such other persons as the Minister considers appropriate, need to be consulted.

***Recommendation 4: Reporting***

93. With reference to the national indicators and milestones, the Commission recommends that an “annual well-being report” on the progress made towards the achievement of the well-being goals, needs to be published by the Minister, in respect of each financial year beginning after the date on which national indicators are published.
94. Moreover, Ministers of the National Assembly of Mauritius must collectively publish, in respect of each financial year, an “annual well-being objectives report” of the progress they have made towards meeting the government departments’ well-being objectives, and a copy of which should be laid before the Assembly.

***Recommendation 5: Futures and forecasting report***

95. The Commission has been inspired by the Bill of the UK in recommending that the responsible Minister shall have the duty of publishing a futures and forecasting report that would contain, *inter alia*, the possible long-term future trends concerning the economic, social, environmental and cultural well-being of Mauritius; plans to manage same; a risk assessment, inclusive of the high-impact, low-probability risks, environmental risks, global risks and the ones that might emerge in the future, for at least 25 years.
96. In the preparation of this report, the Commission recommends that the Minister shall have regard to any long-term global goals and targets set in place by the United Nations in relation to sustainable development and the advice and reports of the Committee on Climate Change in Mauritius; the United Nations Framework Convention on Climate Change; the Paris Agreement 2025 and the Kyoto Protocol.
97. In addition, the Commission thinks that it is crucial to involve the youths. Therefore, it recommends that the views of those aged between 11-25-year-olds concerning the economic, social, cultural and environmental well-being, conducted in collaboration with the relevant youth and student bodies including the National Youth Parliament, be taken into account.

***Recommendation 6: Independent Future Generations Commission for Mauritius***

98. While analysing the Welsh legislation and the proposed UK Bill, the Law Reform Commission noted that the former provides for a Future Generations Commissioner for Wales, while the latter intends to put in place a Future Generations Commission for the United Kingdom.
99. The Commissioner for Wales is an individual appointed by the Welsh Ministers, when compared to the Commission in the United Kingdom, which shall comprise a group of individuals, appointed by the Prime Minister, in consultation with the First Minister of Scotland, the First Minister of Wales and the First Minister and deputy First Minister of Northern Ireland.
100. The Commission recommends that an Independent Future Generations Commission instead of a single Commissioner be appointed and whose membership shall consist of a Chairperson who shall be appointed by the Prime Minister; a representative of the Ministry of Environment, Solid Waste Management and Climate Change; a representative of the Ministry of Energy and Public Utilities; a representative of the Ministry of Health and Wellness; a representative of the Ministry of Agro-industry and food security; a representative of the Ministry of Local Government and Disaster Risk Management; a barrister, who shall be appointed by the Attorney-General; and two members of the civil society, who shall be appointed by the Prime Minister.

***Recommendation 7: Constitutional Approach to the rights of future generations***

101. The Commission thinks that it is fundamental to constitutionalise certain rights given that the current Mauritian Constitution nowhere mentions the rights of future generations. In this respect, it proposes the addition of a new provision that would cater to the needs and interests of future generations as well as the protection of the environment. This new constitutional approach would put an obligation on the present generation to strive for sustainable development and to preserve living conditions and natural resources; to ensure that the future generations are not exposed to pollution which may endanger their health or their existence itself.

102. The Commission, inspired by Article 4 of the UNESCO Declaration of 1997, proposes that a new section be added to our Constitution that would deal with the preservation of life on Earth and which would be particularised likewise as in the aforementioned Declaration as:

*“The present generations have the responsibility to bequeath to future generations an Earth which will not one day be irreversibly damaged by human activity. Each generation inheriting the Earth temporarily should take care to use natural resources reasonably and ensure that life is not prejudiced by harmful modifications of the ecosystems and that scientific and technological progress in all fields does not harm life on Earth.”*

***Recommendation 8: Reduction of carbon emissions***

103. The Law Reform Commission proposes that infrastructural development be made to accommodate cycling lanes along public roads and motorways in an attempt to reduce carbon emissions from motorised vehicles.

***Potential Economic Impacts of Enacting the Well-Being of Future Generations Act for Mauritius***

104. The proposed Well-Being of Future Generations Act does not merely represent a legislative innovation in the realm of environmental and intergenerational ethics - it may, if strategically implemented, serve as a pivotal economic development instrument capable of reconfiguring Mauritius’s growth trajectory. By embedding foresight and sustainability into the core of public decision-making, the Act could unlock new sources of capital, de-risk long-term investments, strengthen fiscal resilience, and reposition the island as a model jurisdiction for inclusive and future-proofed economic development among Small Island Developing States (SIDS).

*(i) Creating Regulatory Certainty for Green Investment* - The Act’s obligation on public bodies to conduct “future generations impact assessments” for major decisions will

significantly enhance policy predictability, a factor often cited by investors as critical in determining project viability. This becomes particularly important in sectors such as renewable energy, where long lead times, high capital expenditures, and dependency on public infrastructure (e.g. grid access, subsidies, feed-in tariffs) require firm and predictable policy frameworks. By translating Mauritius’s energy ambitions—such as the planned phase-out of coal and the target of 60% renewable energy by 2030—into binding statutory commitments, the Act will convert aspirational statements into actionable guarantees. This, in turn, is expected to accelerate financial closure for solar, wind, and biomass projects. According to the Economic Development Board, over USD 1.35 billion in energy-sector investment is currently in the pipeline, much of which could be unlocked through legal certainty provided by the Act.

*(ii) Strengthening Mauritius's Position in the Green Finance Ecosystem* - The statute also offers an unprecedented opportunity to position the Mauritius International Financial Centre (IFC) as a regional leader in ESG-aligned finance. With green, blue, and social bonds gaining momentum globally, jurisdictions that can provide robust legal backbones for environmental and social commitments are increasingly attractive to asset managers seeking credible ESG compliance. By requiring national indicators on sustainability and compelling Ministries to publish annual well-being and climate reports, the Act builds the infrastructure needed to support sustainable finance disclosures, risk assessments, and long-term scenario planning - all prerequisites for large-scale ESG bond listings. Mauritius’s first green bond issuances, such as EnVolt’s MUR 2 billion renewable energy bond programme, have already shown investor appetite. The Act could serve to catalyse a broader market by institutionalising the taxonomy, impact measurement, and verification protocols needed to make green finance mainstream.

*(iii) Reducing the Climate-Exposure Discount and Sovereign Risk* - In recent years, sovereign credit rating agencies and institutional investors have begun to incorporate climate risk into their country assessments, often imposing a “climate-exposure discount” on economies that are heavily vulnerable to climate shocks but lack coherent adaptation strategies. As a low-lying island nation facing sea-level rise, biodiversity loss, and cyclone

intensification, Mauritius is particularly exposed. By creating enforceable legal duties for resilience-building (such as climate-sensitive infrastructure investment, disaster risk mitigation, and long-term ecological forecasting) the Act could mitigate these systemic risks. A legal framework that compels anticipatory action and structural adaptation may thereby improve Mauritius’s creditworthiness over time, lowering its cost of borrowing on both sovereign and corporate debt markets.

*(iv) Boosting Employment and Domestic Value Chains in the Green Economy* - The Act’s downstream impacts on job creation are also likely to be significant. As the legislation obliges the State to transition toward a low-carbon and resource-efficient economy, several labour-intensive sectors stand to benefit. These include renewable energy (especially solar and wind), organic and regenerative agriculture, sustainable construction, waste management, ecosystem restoration, and nature-based tourism. For instance, the Government’s Circular Economy Roadmap anticipates the creation of over 9,000 green jobs by 2030 and a 1.5% GDP uplift, particularly if Extended Producer Responsibility (EPR) schemes and green procurement are scaled up through legislative obligation. The Well-Being Act would not only provide the statutory impetus for such schemes, but also ensure their inter-ministerial coordination and cross-sector accountability.

*(v) Enhancing the Export Profile and Eco-Tourism Branding of Mauritius* - Mauritius’s reputation as a tourist destination remains a cornerstone of its foreign exchange earnings. However, the global tourism industry is shifting rapidly toward eco-credentials and sustainability certifications. By enacting a law that constitutionally enshrines ecological stewardship and intergenerational responsibility, Mauritius could distinguish itself as the first SIDS to legally bind its public institutions to consider the well-being of the unborn. This branding edge could be leveraged to attract a new generation of environmentally conscious travellers, high-end “slow tourism” operators, and international conservation partnerships. Moreover, Mauritian exports—particularly those from agriculture, fisheries, and textiles—would be better positioned to meet evolving ESG compliance requirements in European and North American markets, where sustainable supply chains are becoming standard.

(vi) *Integrating Youth into the Future Economy* - The Act’s provisions for institutionalised youth consultation create a critical democratic and economic dividend: the alignment of educational pathways, employment policy, and innovation support with the concerns and aspirations of young Mauritians. In practical terms, this could spur the design of green-skills programmes, the integration of sustainability into vocational training, and the funding of start-ups in sectors such as eco-design, agri-tech, and smart mobility. In a context where the country faces brain drain and youth unemployment, giving institutional voice and planning power to the 11–25 age cohort could channel latent talent toward a vibrant green economy and nurture a new generation of entrepreneurs anchored in the ethics of stewardship.

(vii) *Fostering Fiscal Sustainability through Better Risk Anticipation* - Finally, by institutionalising long-term thinking, the Act promotes fiscal discipline, not by austerity, but by smarter planning. The futures and forecasting reports envisioned under the legislation would compel Ministries to identify, quantify, and budget for long-term risks such as coastal erosion, freshwater scarcity, and public health vulnerabilities. This will reduce the need for emergency spending, improve inter-temporal budget allocation, and strengthen the overall credibility of fiscal management. As the IMF has advised, Mauritius must “rebuild fiscal space” and anchor future-oriented spending. The Well-Being Act could provide the legal compass to do exactly that.

105. The enactment of the Well-Being of Future Generations Act offers Mauritius a rare opportunity to align moral clarity with economic ingenuity. Far from representing a regulatory burden, the Act stands to function as a catalytic policy tool - one that attracts green capital, strengthens public trust, deepens resilience, creates jobs, and generates reputational dividends in a global economy undergoing tectonic ecological realignments. The future, long regarded as a poetic abstraction in policy discourse, would thus emerge in Mauritius as a legally protected interest and an economic driver in its own right.

## **CONCLUSION**

106. In 2025, Earth Overshoot Day fell on the 24<sup>th</sup> of July<sup>146</sup>. This sobering milestone, marking the date when humanity exhausts nature’s annual regenerative capacity, is no longer a mere symbol - it is a planetary reckoning. Each passing year, the ecological deficit deepens, casting a long and irreversible shadow over those who are yet to be born. Against this backdrop, the Law Reform Commission firmly believes that the time has come for Mauritius to assume a position of principled leadership among Small Island Developing States by codifying the rights and interests of future generations into its legal framework.

107. The present Discussion Paper is not merely a policy reflection. It is an ethical summons - a call to recognise that the decisions made today reverberate across centuries. The proposal for a Well-Being of Future Generations Act is not about abstraction or utopia, it is about introducing enforceable legal duties that will compel public authorities to act in the long-term interest of the country. To anticipate rather than to react, and to leave a liveable Mauritius as a legacy. Not as an apology.

108. This vision aligns profoundly with the Government Programme 2025–2029, titled “A Bridge to the Future”, which pledges to “facilitate development of socio-ecological alternatives, models and experiences that will sustain a just transition towards a socio-ecological future society.” The notion of a just transition, which lies at the heart of the Programme, is not interpreted here solely in economic terms - such as the shift to green energy - but as a deeper constitutional and moral imperative to institutionalise intergenerational equity.

109. Our proposals respond to this governmental ambition with legal specificity. The Commission recommends mechanisms that move from principle to practice: mandatory long-term impact assessments, the creation of a Future Generations Commission, binding

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<sup>146</sup> Earth Overshoot Day is an estimate, not an exact date. It’s not possible to determine with 100 percent accuracy the day we bust our ecological budget. Adjustments of the date that we go into overshoot are due to revised calculations, not ecological advances on the part of humanity.

national indicators, and the institutionalisation of youth consultations. These are the legal scaffolds of a society that no longer considers the future a poetic idea, but a legal subject with interests of its own.

110. In drawing inspiration from the Welsh model - while rooting the proposed reforms in Mauritius’ own legal culture, ecological vulnerabilities, and policy history - this document does not propose a foreign transplant, but rather a sovereign affirmation of our national commitment to sustainability. From Maurice Île Durable to the Climate Change Act 2020, from the Paris Agreement to the Energy Policy 2021, Mauritius has consistently expressed its ecological will. The proposed Act will provide the juridical spine that allows these promises to stand upright.

111. Let us then bequeath more than debt and data to the unborn. Let us offer them the quiet confidence that their lives were considered, their rights defended, and their dignity respected - even before their first breath. In the spirit of the Iroquois’ Seventh Generation Principle, echoed in the 1997 UNESCO Declaration, the Commission urges to legislate with eternity in mind, and with conscience as its guide.

112. The Law Reform Commission therefore calls upon policymakers, civil society, and citizens alike to build this bridge to the future - not merely as an act of infrastructure, but as an act of intergenerational justice.

113. Let it be said, decades from now, that Mauritius did not hesitate when the future knocked.