Inter-generational Climate Justice for the International Court of Justice (ICJ4ICJ) Moot Court Workshop

IN THE INTERNATIONAL COURT OF JUSTICE

AT THE PEACE PALACE
THE HAGUE, THE NETHERLANDS

THE QUESTION ON THE LEGAL STATUS AND CONTENT OF THE PRINCIPLE OF SUSTAINABLE DEVELOPMENT TAKING THE NEEDS OF FUTURE GENERATIONS INTO PARTICULAR CONCERN

(REQUEST FOR ADVISORY OPINION)

ORDER OF 16 MARCH 2016

WRITTEN STATEMENT OF
THE LEAGUE OF ARAB STATES

September 2016
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INTRODUCTION

I. The General Assembly of the United Nations referred the following question to the International Court of Justice for an Advisory Opinion:

By resolution A/RES/70/xxx of 15 January 2016, the General Assembly of the United Nations decided, pursuant to Article 95, paragraph 1, of the Charter of the United Nations, to request the International Court of Justice urgently for an Advisory Opinion on the following question:

What is “the legal status and content of the principle of sustainable development taking the needs of future generations into particular concern”?

The General Assembly made this request following the increased threats from the climate change crisis the world faces.

Around the same time when people were becoming conscious of the environment, and efforts to protect it were becoming more popular, the first World Climate Conference (WCC) took place. Eventually, in 1988, the Intergovernmental Panel on Climate Change (IPCC) was created to perform research on climate change issues.¹ Over the next few years, climate change became one of the most important global issues. After the first IPCC assessment report was released, the second WCC called for a global treaty that addressed climate change.² In 1990 the UN General Assembly began negotiations on a framework convention, and by 1992 the International Negotiating Committee adopted the

² Id.
text of the United Nations Framework Convention on Climate Change (UNFCCC). The text was open for signatures at the Earth Summit in Rio, along with the UN Convention on Biological Diversity and the UN Convention to Combat Desertification. The UNFCCC entered into force in 1994, with 197 countries currently having ratified the Convention. Arab states recognize the need to take efforts to reduce GHG emissions and enhance GHG sinks as stated in Article 4.1(b) of the UNFCCC, and therefore all 22 League of Arab States members have joined the UNFCCC.

The ultimate goal of the UNFCCC is to prevent dangerous human interference with the climate system. According to the text of the Convention, the parties must be determined to protect the climate system for present and future generations, making climate change an intergenerational issue. Furthermore, the main objective of the Convention was to achieve the stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. It also states that these commitments can be achieved through cooperation, research, observation, education, training, and public awareness. The treaty additionally states that “the largest share of historical and current global emissions of greenhouse gases has originated in developed countries, that per capita emissions in developing countries are still relatively low and that the share of global emissions

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3 Background, supra note 1.


6 Id.

7 Id.
originating in developing countries will grow to meet their social and development needs.\(^8\)

International law goes far beyond the UNFCCC to establish a right of future generations to a healthy environment. While the UNFCCC and Paris Climate Agreement represent the most significant – and unanimously adopted – steps by the international community to address climate change, they are only the most recent measures to address intergenerational environmental rights. Beginning with the UN Charter and the Universal Declaration on Human Rights, international accords, the Sustainable Development goals, guidance documents of international organizations, regional legal frameworks, and national constitutions recognize the rights of future generations.

Notwithstanding the overwhelming support for intergenerational rights found in the UNFCCC, previous international treaties, and relevant customary international law, an Advisory Opinion of the International Court of Justice remains necessary to enlighten existing obligations which do not explicitly mention future generations. Furthermore, the opinion would ensure inclusion of intergenerational rights in all future negotiations and agreements related to climate change and environmental protection. **The Court in this situation is expected to consider the undisputed scientific evidence of human-induced climate change, the legal status of current international environmental and human rights law, and since climate change will harm future generations, answer the question quickly and precisely to what extent international law imposes an affirmative duty to upon states to protect future generations from environmental harm.**

\(^8\) Preamble, UNFCCC, 1992 U.N.T.S. 1771.
II. The standing of the League of Arab States in the Proceedings before the Court

The protection of the environment for future generations is implicit within the personal and public practice of Islamic law and the issue of global warming has always been a concern of the League of Arab States. According to the World Bank, “over the past 30 years, climate disasters have affected 50 million people in the Arab world, costing about $12 billion directly and many multiples of that indirectly.”9 Due to significantly low rainfall, drought has become a disastrous phenomenon that affects the Arab region.10 Water scarcity, sea level rise, and food security are just a few of the problems due to climate change faced by members of the League of Arab States.

The Arab region stands amongst the most vulnerable to future effects of climate change, many of which can be seen today. Future generations will be dealing with scenarios in 2041-2070 that “exhibit temperature changes rising by up to 3-4°C compared to changes of 1-2°C with the average scenario.”11 The Arab States have been displaying efforts to “combat climate change and its effects through various approaches including international agreements and conventions, building resilience capacities and progressing knowledge on the issues at hand.”12

The League of Arab States, being a regional agency according to the U.N. Charter is interested in resolving the issue of the global climate crisis and its impact on future

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10 UNEP, supra note 4.

11 Id. at 2.

12 Id. at 10.
generations through a comprehensive and reaching Advisory Opinion, leading to initiatives and further agreements aimed at proactively fixing the problem.\(^\text{13}\)

Therefore, the League of Arab States submits this written statement and requests the Court’s permission to appear before the Court in the oral proceedings. Pursuant to Art. 66 of its Statute, the Court decided that the League is likely to be able to furnish information on the question before it.

### III. This memorial is submitted on behalf of the League of Arab States

The League of Arab States (the Arab League) is an international organization composed of Arab nations that cooperate to safeguard the interests, independence, sovereignty, and affairs of Arab nations.\(^\text{14}\) The Arab League is comprised of twenty-two Arab nations that have signed the Charter of the League: Algeria, Bahrain, Comoros, Djibouti, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, Palestine, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Tunisia, United Arab Emirates, and Yemen.\(^\text{15}\) Each state holds only one vote in the Council of the League, regardless of the number of representatives the state may have on the Council.\(^\text{16}\) The Council decides how the Arab League interacts and cooperates on the international scene on matters of security, peace, economics and social regulations,\(^\text{17}\) all of which are impacted by climate change. All unanimous decisions reached by the Council are binding on all member

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\(^{14}\) Id. art. II.


\(^{16}\) Charter of Arab League art. III.

\(^{17}\) Id. art. III.
states.\textsuperscript{18} As the world changes, so do the needs of our member states. We now face new threats, not from other nations, but from our very planet. \textbf{Climate change is the topic of the century, with largely undisputed scientific research linking human greenhouse gas (GHG) emissions directly to these changes.}

Members of the Arab League individually submitted Intended Nationally-Determined Contributions (INDC) to the December 2015 Conference of the Parties (COP) to the UNFCC in Paris: Algeria, Comoros, Djibouti, Iraq, Jordan, Lebanon, Mauritania, Morocco, Oman, Sudan, Tunisia and Yemen. Somalia submitted specific INDC projects, and others such as Egypt, Kuwait, Qatar, Saudi Arabia and the United Arab Emirates promised more national focus on clean energy and sustainability efforts.\textsuperscript{19}

\textbf{In doing so, the Arab League recognizes a current duty to mitigate GHGs not only for our own well-being, but for the well-being of future generations.} Member states have independently expressed interest in participating in the international effort to reduce GHG emissions. By signing the Paris Agreement last year and in the months following, most of our member states have committed to achieve at least a baseline scenario target for mitigating emissions.

With international collaboration as well as the proper technologies and funding, member states are willing to go even further to mitigate emissions. For example, Tunisia is already well on its way to reducing emissions and aims to achieve a 41\% reduction of 2010 levels by 2030. However, it can only achieve 13\% of its goal alone, and will be forced to rely on the international community for the technology and funding for the

\textsuperscript{18} Charter of Arab League art. VII.

\textsuperscript{19} \textit{Submitted Intended Nationally Determined Contributions (INDCs), CENTER FOR CLIMATE AND ENERGY SOLUTIONS, http://www.c2es.org/international/2015-agreement/indcs.}
additional 28%.

Sustainable development can be overwhelmingly costly. The Arab League recognizes this, which is why it supported the adoption of the 2030 Agenda for Sustainable Development and the Sustainable Development Goals (SDGs) in September 2015, particularly endorsing their focus on poverty eradication and sustainable development.

This request for technological and economic aid has its basis in Principle 7 of the Rio Declaration on Environment and Development 1992, which states that, in regards to sustainable development, developed countries recognize their special responsibility to the international community that arise from the strain that societies of those developed nations place on the environment that we all share, as well as their advanced status in technological innovation and their more extensive financial resources. From Stockholm to Rio to Paris and the 2030 Agenda for Sustainable Development, Arab League practice supports the progression of international environmental and human rights law to establish a legal right of future generations to a healthy environment.

With the cooperation and collaboration of the international community, the Arab League presents to the ICJ the interests under international law of both its member states and future generations in regards to climate change.

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Established in 1945, the Charter of the United Nations opens with the preamble phrase “to save succeeding generations.” These were the very first words enacted by the international community following the Second World War, the death of 60 million people, and the advent of the nuclear age. There is nothing more destructive to human life, nor to the future of humanity, than warfare. The comparison is often made between warfare and climate change, excepting only that where warfare can be halted through a peaceful resolution, climate change can only be stopped through considerable technological, economic, and social cost and through great political will.

The very purpose of the United Nations was and is to create a lasting peace among nations so that future generations could inherit a peaceful world. Article 3 of the Charter established a right to life, and inherent in that right must be a right to the continuity of life itself. Climate change is no less a threat to that peaceful continuity than the scourge of war. Left unchecked, at present climate change may become a greater destructive force than all wars fought until now. Rising seas, the depletion of fresh water resources, desertification of agricultural land, and the increase in the intensity and frequency of hurricanes and tropical storms may come with unbearable cost. Climate change will not discriminate nor be geographically limited. It is global in nature and will affect every person on this planet, those already born and those yet to come.

The only viable solution is to pursue a global effort at sustainable development. Humankind has long recognized a right to economic and social development, but if

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23 U.N. Charter, Preamble.
24 U.N. Charter art. 3.
development continues to be pursued, then it must be pursued by sustainable means. Sustainable development is therefore understood as development that “meets the needs of the present without compromising the ability of future generations to meet their own needs.”

This solution has been woven into every environmental (and most other) international legal agreement for more than 40 years. It is this guiding principle that leads the Arab League to conclude that not only has the principle of sustainable development crystallized into customary international law, but also that future generations have a right under international law to have the principle of sustainable development enforced on their behalf.

INTERNATIONAL HUMAN RIGHTS LAW

A. Universal Declaration on Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social, and Cultural Rights

Greenhouse gases present one of the most complex sources of environmental pollution in our time. With the havoc that these gases are reaping on the planet, increased temperatures in certain areas will lead to an increase in disease and will widen the range in which some diseases were historically restricted to due to climatic conditions. To fulfill this duty towards children and successive generations, we must act on climate change today so as to worsen the weather changes that are sure to result. These weather

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changes will increase disease, restrict access to “adequate nutritious foods and clean
drinking-water,” and change food growing patterns, which will in turn lead to higher
rates of malnutrition in certain areas.\(^{27}\)

Much of the international law written in the 20\(^{th}\) Century was designed to
establish a framework for human rights, beginning with the Universal Declaration on
Human Rights (UDHR). The UDHR is accepted as customary international law and the
guiding document for human rights in the world. Article 25.2 establishes that both
“motherhood and childhood are entitled to special care.”\(^ {28}\) As the UDHR recognizes
childhood as a class entitled to special protection, international law has only required a
few great leaps to further recognize the legal status and rights of those children not yet
born.

From the UDHR came two universally-binding treaties on human rights in 1966,
the International Covenant on Civil and Political Rights (ICCPR) and the International
Covenant on Economic, Social, and Cultural Rights (ICESCR). Article 1 of both the
ICCPR and ICESCR establish the right of people to their economic, social, and cultural
development.\(^ {29}\)

While Article 1.2 of the ICCPR grants that “[a]ll peoples may, for their own ends,
freely dispose of their natural wealth and resources,”\(^ {30}\) ICESCR Article 11.2(a) requires

\textit{CRC}].

\(^{28}\) G.A. Res. 217 A (III), Universal Declaration on Human Rights art. 25.2 (Dec. 10, 1948)
(emphasis added) [hereinafter \textit{UDHR}].

\(^{29}\) International Covenant on Civil and Political Rights art. 1.1, Dec. 16, 1966, 999 U.N.T.S. 171
[hereinafter \textit{ICCPR}]; International Covenant on Economic, Social, and Cultural Rights art. 1,

\(^{30}\) ICCPR art. 1.2.
States shall take measures “developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources.” Taken together, from the beginning the human right of development included the caveat that development would progress toward efficient or sustainable development of environmental resources.32

B. The Convention on the Rights of the Child

The UDHR further recognized in Article 25 a right to well-being for the individual and family,33 a principle restated in the Article 11 of ICESCR. The right to a family’s well-being must include the well-being of children within the family. This principle was further accepted in the preamble of the 1989 Convention on the Rights of the Child (CRC), which recognizes “the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.”34

The CRC was signed by fifty-nine countries just two months after it was adopted by the United Nations on November 20, 1989. Since then, 194 countries have ratified the Convention, making it one of the most unanimous human rights conventions in UN history.35 The purpose of the Convention on the Rights of a Child is to protect children

31 ICESCR art. 11.2(a).
32 See also ICESCR art. 12: “The steps to be taken by the States Parties to the present Covenant to achieve the full realization of [the right of everyone to the enjoyment of the highest attainable standard of physical and mental health] shall include those necessary for the improvement of all aspects of environmental and industrial hygiene.” (emphasis added).
33 UDHR art. 25.
34 CRC, Preamble.
worldwide from various forms of political, social and physical harm, and “to ensure the protection, survival, and development of all children, without discrimination.\textsuperscript{36}

CRC Article 24.2 grants that States must pursue clean drinking water and environmental health on behalf of children.\textsuperscript{37} Furthermore, Article 29 establishes that children have a right to personal development, including education to develop a “respect for the natural environment.”\textsuperscript{38} If it is true that the philosophy of the school room in one generation will be the philosophy of the government in the next, then the CRC contemplates environmental education of subsequent generations as central to development.\textsuperscript{39}

Finally, Article 3 of the CRC holds that where children are concerned, “the best interests of the child shall be a primary consideration.”\textsuperscript{40} The framers recognized that because children cannot yet exercise their rights for themselves, protection by others is necessary while “evolving capacities,” until a time when they can exercise their rights fully.\textsuperscript{41} In the same way, future generations must rely on current advocates to protect the rights they cannot yet fully exercise.

\textsuperscript{36} CRC art. 2.
\textsuperscript{37} CRC art. 24.2(c,e).
\textsuperscript{38} CRC art. 29.1(e).
\textsuperscript{40} CRC art. 3.1.
\textsuperscript{41} CRC art. 5; see also Convention on the Rights of the Child, General Comment No. 7, ¶ 13(b), U.N. Doc. CRC/C/GC/7/Rev.1 (Sept. 20, 2006):

“All law and policy development, administrative and judicial decision-making and service provision that affect children must take account of the best interests principle. This includes actions directly affecting children (e.g. related to health services, care systems, or schools), as well as actions that indirectly impact on young children (e.g. \textit{related to the environment}, housing or transport).
C. The Law of War and Nuclear Weapons

Inter arma enim silent legis\(^{42}\) is an ancient maxim attributed to Cicero of Rome. We have throughout history recognized the failures of such a principle, and now we require the protection of the environment even during the destruction of fellow human beings. As this is true, then we cannot avoid recognizing that preservation of the environment for future generations is inherent within the law which governs armed conflict.

Legal obligations are placed on both the conduct and authorizations of warfare. Although objected to by a few states, international law has established protections for the environment, even during armed conflict.\(^{43}\) Additional Protocol I to the Geneva Conventions requires consideration of the environment during international armed conflict. Furthermore, the ENMOD CONVENTION states at Article 1(1) that parties cannot “engage in military or any other hostile use of environmental modification techniques having widespread, long-lasting or severe effects as the means of destruction, damage or injury to any other State Party.”\(^{44}\)

In a previous advisory opinion on the threat or use of nuclear weapons the court explicitly said that “[t]he existence of the general obligation of states to ensure that activities within their jurisdiction and control respect the environment of other states or of areas beyond national control is now part of the corpus of international law relating to the

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\(^{42}\) “In times of war, the law falls silent.”

\(^{43}\) See Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection on Victims of International Armed Conflicts art. 35(3), 55, June 8, 1977, 1125 U.N.T.S. 3.

This principle imposes on States a duty, which directly applies to the protection of future generations from issues such as climate change. The International Law Commission (ILC) defines ‘transboundary harm’ as harm caused in the territory of another state “whether or not the States concerned share a common border.” This emphasizes the principle by expanding the definition of transboundary harm to include global impacts.

Warfare is the state action during which we most readily lose our humanity and are most willing to commit environmental destruction. With the killing of fellow humans, one cannot say that future generations are offered any consideration, but the inclusion of environmental protections within the recognized laws of war is a testament to the right to the continuity of life itself. Whatever our political differences today, we recognize that future generations need to live on a safe and healthy planet tomorrow.

**ISLAMIC PRINCIPLES OF ENVIRONMENTAL LAW**

**A. Islamic principles require stewardship of the Earth for present and future generations**

The Arab League urges, for both practical and religious reasons, that conservation of the environment and natural resources is vital to the practice of Islamic Law and to observance of public international law. Islamic Law has been a general source of international legal principles and for many nations within the Arab League, Islamic

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Sharia is a primary source of law. Islamic Principles require protection of nature, and greater cooperation among all nations is required to end the environmental harms which drive climate change, overfishing, biodiversity loss, and ocean pollution. In the nearly 1500-year history of the role of Islam in the Middle East, environmental ethics has developed alongside and out of the foundations of the religion. “The protection of the environment in Islam is based on the Qur’an and on what the prophet Muhammad declared. God created the universe and...everyone who lives in this universe has the responsibility to protect the environment.”47 Not only are the religious values of Islam consistent with the goals of environmental protection and sustainable development, in order to adhere to religious values, the Arab League has a mandatory obligation to work towards these goals on behalf of the present and future generations.

B. Islamic Principles of Environmental Protection

For this Court to understand the role that natural resources have played in the Islamic world, it need only look at the geography over which the Arab League is stretched. Covering the Arabian Peninsula, the Levant, across North Africa, as well as Sudan and Somalia, the Arab League includes no country of which a significant portion is not desert. The history of the Middle East is tied directly to the history of water, and the management and conservation of water has been a priority for every Arab leader since history has been recorded, incorporated into the principles of Islamic law over the last 1500 years.

In the Qur’an it is written that water is the source of all life and a gift from God. Sharia (Islamic law) literally means “the road to the watering place,” or in other words

the righteous path to follow to reach the goals set by the Qur’an.48 It is against Islamic law to “corrupt” that which is necessary to sustain life. “[A]ny corruption in this element of life, whether by polluting or spoiling it with any material would cause an unsuitable environment” is forbidden.49 Furthermore, water is rationed under Islam to promote conservation and sustainable use.50

In addition to water, the protection of animal life, land conservation, and other environmental values have been recognized as inherent in the teachings of Islam. Just as a desert people value water, so too they must value arable land and soil. Two principles guide environmentalism in the Islamic faith: first, that of stewardship for the Earth as God’s creation; and second, that of mankind’s trusteeship over the Earth, and therefore the necessity of sustainability.51 The ethics of conservation are incorporated fully into the practice of Islam, both out of a sense of moral teaching and geographic necessity.

C. Islamic Principles of Sustainable Development

It is evident that a crucial part of Islam and Islamic principles is preservation of the universe, as well as the development and protection of its resources. These principles and doctrines hold strong language to ensure that the message gets across and that it is clear to all that it is not an option, but rather an imposition on every Muslim to monitor his own behavior and acts of others that better promote environmental stability. Moreover, the texts from both the Qur’an and the Sunnah are foundational sources of rules and laws and contain provisions on how to best handle the environment and ensure

49 Alturki, supra note 50, at 121.
50 Id.
51 Id. at 121.
sustainable development. Unfortunately, despite these doctrines and the rules that have been promulgated by Muslims pushing for sustainable development, lack of media attention and public awareness of these rules, doctrines and necessity, lead to modest application and enforcement within the Islamic world. If we begin to observe the teachings and doctrines, we will soon learn that these will ensure sustainable development for the entire world.

The values that lead to sustainable development in accordance with Islamic Sharia are namely, respecting and honoring humans, maintaining environment balance, and developing plans to sustain environmental resources for the longest amount of time possible. “The utilization of all natural resources – land, water, air, fire (energy), forests, oceans – are considered the right and the joint property of the entire humankind. Since Man is Khalifatullah (the vicegerent of Allah) on earth, he should take every precaution to ensure the interests and rights of others, and regard his mastery over his allotted piece of land as a joint ownership with the next generation.”

The universe was created in due proportion and measure both quantitatively and qualitatively. The controversy on sustainable development thus centers on the worry about the deteriorating environmental quality. The destruction persists unabated also in the Muslim world even as Islam preaches moderation in utilization, exhorts to prevent wasteful use of natural resources, reminds people of delicate proportions in the universe and enjoins on humanity to sustain the natural equilibrium. It cautioned that greed will induce human race to disrupt the proportions and point the balance. The following verse

from the Qur’an keep sufficient testimony on the point. "It is He who created the heavens and the earth in true (proportions)"\(^{53}\)

The Qur’an is not a book on ecology; however it could be considered a reference for environmental science. All that scientists and green thinkers have discovered was described centuries ago in a way or another.\(^{54}\) One should simply contemplate the words of the Creator, which covered anything contemporary societies may be focused on. Appropriately, every concept explained in the Qur’an has an equivalent common principle in environmental law and sustainable development policy.

The reality is, however, that our generation has been given the challenge of ensuring sustainable development for all, including our future generations, yet we are not yet “succeeding sufficiently in order to arrest the continuing deterioration of critical ecosystems.”\(^{55}\) The affirmative duties to protect the environment fall to the individual, and thus should be incorporated into the everyday practice of Muslims.\(^{56}\) It is also then the duty of government and government officials to secure society’s interests as a whole, and include conservation of natural resources and protection from environmental disasters.\(^{57}\) The protection of the environment for future generations is therefore implicit within the personal and public practice of Islamic law.

The ICJ should reflect these fundamentals of law in its Advisory Opinion.

\(^{53}\) An ‘am 6: 3 (Holy Qur’an).


\(^{55}\) Id.


\(^{57}\) Id. at 12-14.
INTERNATIONAL ENVIRONMENTAL LAW AND THE ENVIRONMENTAL RIGHTS OF FUTURE GENERATIONS

Over the last half century, human rights and environmental rights have become indivisibly linked. According to the Office of the High Commissioner for Human Rights, more than 60 national constitutions recognize a right to a healthy environment and 140 include explicit reference to environmental rights. This equates to approximately 70 percent of nations accepting environmental rights as a constitutional principle. These principles have been put into practice both in the guidance documents of international agencies and the regional frameworks which govern the Arab League.

Both statutory language and judicial opinions support the rights of future generations. The no-harm rule is a principle of customary international law whereby a State has a duty to prevent, reduce and control the risk of environmental harm to other states. First stated in the Trail Smelter Arbitration case, the principle repeated in several International Court of Justice (ICJ) opinions.

In light of such international precedent, in November 1997 UNESCO released its Declaration on the Responsibilities of the Present Generations Towards Future

58 See G.A. Res. A/RES/70/1, Transforming Our World: the 2030 Agenda for Sustainable Development, ¶ 53 (Oct. 21, 2015) (“the future of humanity and our planet are in our hands...[and we] must pass the torch to future generations.”) [hereinafter 2030 Agenda].


60 Id. at ¶ 31.


Generations. While not a binding treaty, over the past twenty years the UNESCO Declaration has come to represent customary international law, recognizing both the rights of future generations and the responsibilities of the present generation to protect them.

At the time it was drafted, the UNESCO Declaration not only spoke to the economic and social rights of future generations, but also the right to a healthy environment:

**Article 4: Preservation of life on Earth**
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.

**Article 5: Protection of the environment**
1. In order to ensure that future generations benefit from the richness of the Earth’s ecosystems, the present generations should strive for sustainable development and preserve living conditions, particularly the quality and integrity of the environment.
2. The present generations should ensure that future generations are not exposed to pollution which may endanger their health or their existence itself.
3. The present generations should preserve for future generations natural resources necessary for sustaining human life and for its development.

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64 *Id.* art. 1.
65 *Id.* art. 2.
66 *Id.* art. 4 (emphasis added).
4. The present generations should take into account possible consequences for future generations of major projects before these are carried out.  

UNESCO recognized both the environmental rights (Article 4) and individual rights to a healthy environment (Article 5). These principles have been incorporated into the statutory language of environmental and human rights instruments from 1997 through the 2015 Sustainable Development Goals and the 2030 Agenda for Sustainable Development.

Outside international conventions, the strongest statement tying together human rights and environmental rights is the Report of the Secretary-General “Human Rights and the Environment as Part of Sustainable Development.” The report examined the right to water, the rights of children, and state judicial practice with respect to future generations. The Report concluded that “important developments have taken place at

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67 UNESCO Declaration, supra note 63, at art. 5 (emphasis added).

68 2030 Agenda, supra note 61, Preamble (“We are determined to protect the planet from degradation, including through sustainable consumption and production, sustainably managing its natural resources and taking urgent action on climate change, so that it can support the needs of the present and future generations.”)

69 Human Rights and the Environment, supra note 42.

70 Id. ¶ 7 (“The realization of the right to water should take place in a sustainable manner, thus ensuring that the right can be realized for present and future generations”) (internal quotations omitted).

71 Id. ¶ 8 (“education needs to be designed and provided in such a way as to promote and reinforce the range of specific ethical values…including respect for the natural environment.”).

72 Id. ¶ 39 (“the Syrian Constitution contains special provisions which implicitly acknowledge the individual’s right to a healthy environment.” (internal quotations omitted); see also ¶ 42 (noting that “the 1993 case Oposa v. Factoran, the Supreme Court ruled that the right to a balanced and healthy environment [entitled] a group of Filipino children to stand in court on behalf of future generations.”) (internal citations omitted, emphasis added)).
the international and regional levels in recognition of the link between the protection of
the natural environment and the enjoyment of human rights.”73

The United Nations Economic and Social Council (ECOSOC), the United Nations
Office of the High Commissioner on Human Rights (OHCHR), and the United Nations
Economic, Social, and Cultural Organization (UNESCO) have all contemplated the
question before this court. All three agencies recognize the rights of future generations
and have explicitly left open the need for a debate on the status of customary law on the
right a healthy environment, specifically for future generations:

The increasing constitutional recognition of environmental
rights and responsibilities globally reflects growing
awareness of the importance of environmental values and
greater acceptance of a right to a healthy environment. The
practice of States in this area may eventually set the stage
for renewed debate on the status of customary law on the
right to a healthy environment.74

The time for this “renewed debate” has come. Having been codified and developed in
the conventions which follow, the right of future generations to a healthy environment
has become customary international law, and we ask the International Court of Justice to
declare the custom in its Advisory Opinion.

A. United Nations Conference on the Human Environment

In 1972, The United Nations Conference on the Human Environment was hosted
in Stockholm, Sweden where over twenty climate-related principals were established.
More than forty years ago, the importance of prioritizing future generations was debated
among 113 countries, including the following Arab League members: Algeria, Bahrain,

73 Human Rights and the Environment, supra note 42, at ¶ 49.
74 OHCHR, supra note 59, at ¶ 31.
Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Sudan, Syria, Tunisia, United Arab Emirates, and Yemen. The Stockholm Agreement proclaimed a need to address the growing global population and the problems that stem from population growth, emphasizing that “the capability of man to improve the environment increases with each passing day.” The conference declared the need for all of mankind “[t]o defend and improve the human environment for present and future generations” through economic and social development. Only forty years of continued progress has taken place since, further establishing the rights of future generations.

In order to achieve the lofty goals of Stockholm, all countries must take responsibility in “sharing equitably in common efforts” to “shape the world environment of the future.” The proclamations of the Stockholm Agreement complimented twenty-six principles covering humanity and climate change. The Principle 1 states that man bears the burden “to protect and improve the environment for present and future generations,” while Principle 2 proposes the protection of natural resources for generations to come. Whatever the minor differences in the drafting of Principles 1 and 2, it was clear to the fifteen nations from the Arab League who ratified the Agreement


76 *Stockholm Declaration*, Proclamation 5.

77 *Id.*, Proclamation 6 (emphasis added).

78 *Id.*, Proclamation 7.

79 *Id.*, Principle 1.

80 *Id.*, Principle 2 (emphasis added).
that protection of the environment specifically for future generations was paramount to human development.


The laws of the sea and international maritime trade go back millennium and are in fact the foundations of the law of international commerce and diplomatic relations. While much of maritime law evolved as custom, it was eventually codified in 1982 with the United Nations Convention on the Law of the Sea (UNCLOS). Article 235 outlines state responsibility under UNCLOS, triggered when States fail to meet required environmental duties: “States are responsible for the fulfilment of their international obligations concerning the protection and preservation of the marine environment and they shall be liable in accordance with international law.”

Although UNCLOS does not enjoy universal ratification, those countries that have not ratified still recognize that they are bound by its provisions as indicative of customary international law.

Of its 320 provisions, 59 of UNCLOS’ provisions obligate State parties to ensure environmental protection and conservation. Part XII (“Protection and Preservation of the Marine Environment”) begins by specifying that “States have the obligation to protect

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81 United Nations Convention on the Law of the Sea art. 235, Dec. 10, 1982, 1833 U.N.T.S. 397 [hereinafter UNCLOS]; see also UNCLOS art. 287 (the Convention provides four options for settling disputes over its provisions: (1) the International Tribunal for Law of the Sea (ITLOS); (2) the ICJ; (3) an arbitral tribunal; or (4) a special arbitral tribunal); see generally William C. G. Burns, Potential Causes of Action for Climate Change Damages in International Fora: The Law of the Sea Convention, 2 INT’L J. SUSTAINABLE DEV. L. & POL’Y 27 (2006).

82 All Arab League states except Syria and Djibouti are either parties or signatories to UNCLOS.

83 See Sarei v. Rio Tinto PLC, 221 F. Supp. 2d 1116, 1161 (C.D. Cal. 2002) (“Although the United States has not ratified UNCLOS, it has signed the treaty. Moreover, the document has been ratified by 166 nations and thus appears to represent the law of nations.”).

and preserve the marine environment.”85 However, States also “have the sovereign right to exploit their natural resources pursuant to their environmental policies and in accordance with their duty to protect and preserve the marine environment.”86 Critical among the provisions of Part XII is Article 194. Article 194 (2) provides:

“States shall *take all measures necessary* to ensure that activities under their jurisdiction or control are so conducted as not to cause damage by pollution to other States and their environment, and that pollution arising from incidents or activities under their jurisdiction or control does not spread beyond the areas where they exercise sovereign rights in accordance with this Convention.”87

Article 194 continues by stating these requirements must “deal with all sources of pollution [to] the marine environment” and explicitly covers “the release of toxic, harmful or noxious substances, especially those which are persistent, from land-based sources, from or through the atmosphere or by dumping.”88

**C. The Rio Earth Summit and the Convention on Biological Diversity**

In its preamble, the 1992 Convention on Biological Diversity states:

“Determined to conserve and sustainably use biological diversity for the benefit of present and future generations… States are responsible for conserving their biological diversity and for using their biological resources in a sustainable manner… conservation and sustainable use of biological diversity is of critical importance for meeting the

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85 UNCLOS pt. XII.
86 *Id.* art. 193
87 *Id.* art. 194(2) (emphasis added).
88 *Id.* art. 194(3).
food, health and other needs of the growing world population.”  

The first objective of the Rio Declaration specifically mentions future generations while the second objective reminds states of their responsibility towards biodiversity preservation and sustainability. **Sustainability itself is a forward-looking concept that focuses on future yield for steady and healthy use, lasting perpetually into the future. Both sustainability and biodiversity are not goals meant to expire with the current generation, but rather require continued availability for future generations.**

However, sustainability cannot be achieved and biodiversity cannot be protected without some degree of climate predictability. By continuing to emit GHGs, we are contributing to a more unstable, unpredictable climate. Biodiversity is crucial for “meeting the food, health and other needs of the growing world population,” for which we must also look beyond current generations to include future generations.  

**D. United Nations Framework Convention on Climate Change**

Preamble of the UNFCCC affirms that states have “the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other states or to other areas beyond the limits of national jurisdiction.” Furthermore, Article 2 states:

“[T]o achieve in accordance with the relevant provisions of

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90 Id. There are 196 nations that are party to the Convention on Biological Diversity and the document has been signed by 168 countries, see Convention on Biological Diversity, List of Parties (last visited Aug. 3, 2016), https://www.cbd.int/information/parties.shtml.

the Convention, stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. Such a level should be achieved within a time-frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner.\[^92\]

In order to interpret this provision within the context of the principle of sustainability, the Vienna Convention of the Law of Treaties establishes a two-step process beginning with a plain meaning interpretation and then moving toward subsidiary means.\[^93\] The plain text of the UNFCCC recognizes a need for future generations – and the environment generally – to be able to adapt to climate change while development can proceed sustainably. Looking to supplementary works, the UNFCCC implicitly recognizes the principle of sustainable development. The IPCC Fourth Assessment Report argued that because we have not been able to prevent “dangerous anthropogenic interference with the climate system,” ecosystems have not had sufficient time to adapt, and food production is threatened, Parties might already be in violation of the UNFCCC.\[^94\]

**E. 2015 Paris Conference of the Parties**

The progress of international environmental law culminated in the 2015 Paris Conference of the Parties (COP 21) to the UNFCCC, which produced goals to drastically reduce greenhouse gas emissions. Although discussion of environmental rights was largely avoided in the agreement, states adopting greenhouse gas emissions goals

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\[^92\] UNFCCC.
necessarily do so to benefit future generations. Were states simply acting in their immediate self-interest they would continue to emit, as the time scale for the effect of reductions on the climate is long-term. **Reducing GHG emissions is not intended to impact the climate for present generations, but rather can only meaningfully preserve the future.**

A multi-national, regional, and local approach is an essential component to “the long-term global response to climate change,”\(^5\) to ensure success. At the time of writing, 180 countries have already signed the Paris Agreement\(^6\) including nineteen members of the Arab League: Algeria, Bahrain, Comoros, Djibouti, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, Qatar, Sudan, State of Palestine, Syria, Tunisia, and United Arab Emirates.\(^7\) The countries that have signed onto the Paris Agreement have pledged to dramatically reduce their greenhouse gas emissions in an effort to preserve their country and culture now and for the benefit of future generations.

Global treaties have shaped international environmental law for present and future generations. The goals, principles, and pledges made at in agreements from Stockholm to Paris not only aimed to benefit the people alive at the time of the signing and ratification, but also serve as a starting point to improve the status of the environment for generations to come. The Stockholm Agreement places a greater emphasis on future generations directly through the wording of the document; but the Paris Agreement stands as a testament of the 180 countries that have signed and 23 of which have already ratified the

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\(^5\) UNFCCC.


agreement,98 asserting they are going to actively reduce their greenhouse gas emissions. Doing so will allow for a cleaner environment for future generations and to reach those goals countries are forced to make significant changes to their social and economic development agendas.

F. The 2030 Agenda for Sustainable Development

With 193 signatories, the 2030 Agenda for Sustainable Development and the included Sustainable Development Goals (SDGs) are the strongest evidence available that the principle of sustainable development has achieved universal recognition. The 2030 Agenda is a restatement of all the law concerning sustainable development which has already been established. The purpose of the 2030 Agenda and SDGs is noted in the preamble, namely to “protect the planet from degradation, including through sustainable consumption and production, sustainably managing its natural resources and taking urgent action on climate change, so that it can support the needs of the present and future generations.”99 Paragraph 18 further states that the 17 SDGs and 169 associated targets are “integrated and indivisible.”100 By implementing these goals, States will “implement the Agenda for the full benefit of all, for today’s generation and for future generations. In doing so, we reaffirm our commitment to international law.” By committing to the 2030 Agenda and the Sustainable Development Goals, states explicitly agree that the protection of the environment for future generations is consistent with their “commitment to international law.”

98 Paris Agreement, supra note 97.
99 2030 Agenda, Preamble.
100 2030 Agenda, Para. 18.
Finally, the preamble to the 2030 Agenda also recognizes that “there can be no sustainable development without peace and no peace without sustainable development.”\textsuperscript{101} This language draws upon the very purpose of the international system, to “prevent the scourge of war.”\textsuperscript{102} From the UN Charter in 1945 until today, states continue to recognize the right for human life to continue beyond our own.

G. Regional Legal Systems and State Practice within the League of Arab States

Beyond the international system, regional human rights systems have been quicker to establish “environmental dimensions of rights protected under relevant human rights instruments.”\textsuperscript{103} Through development of the law under these regional human rights systems, there is “a growing body of State responsibilities regarding decision-making processes relating to environmental policy and the protection of persons and communities affected by environmental risk.”

For example, the African Charter on Human and People’s Rights, signed in 1981, governs 9 Arab League states and one observer state.\textsuperscript{104} Article 24 of the Charter states that “All Peoples shall have the right to a general satisfactory environment favourable (sic) to their development.” Thus, if sustainable development means providing for current generations without detrimentally impacting future generations, then regional human rights law incorporates sustainable development as an implicit human right.

\textsuperscript{101} 2030 Agenda, preamble.
\textsuperscript{102} UN Charter, preamble.
\textsuperscript{103} Id. at ¶ 40.
\textsuperscript{104} Mauritania, Algeria, Tunisia, Libya, Egypt, Sudan, Somalia, Djibouti, Comoros are all signatories to the Charter. Eritrea, an observer member of the Arab League, is also a signatory to the Charter.
Subsequent state practice at both the individual and regional levels reflects this principle. The Arab League is committed to promoting sustainable development and alternative energy in the region. This is evident in the adoption of the “Pan-Arab Strategy for the Development of Renewable Energy Applications: 2010 – 2030” by the 3rd Arab Economic and Social Development Summit of January 2013, which set long-term targets for renewable energy technology deployment in the region.\footnote{INT’L RENEWABLE ENERGY AGENCY, \textit{Pan-Arab Renewable Energy Strategy 2030} (2014), \textit{available at} http://www.irena.org/DocumentDownloads/Publications/IRENA_Pan-Arab_Strategy_June%202014.pdf.}

a. **Arab Renewable Energy Framework (AREF)**

In order to fully bring about the realization of the strategy mentioned above, the Energy Department of the Arab League recently introduced the Arab Renewable Energy Framework (AREF) to provide guidance to member states in developing their medium to long-term national renewable energy action plans.\footnote{Id. at 21.} One of the many other highlights of the AREF is its aim to create a transparent, regional framework for reporting on all renewable energy progress.\footnote{Id.}

In its capacity as an intergovernmental organization dedicated to advancing the best interest of its Member States, the Arab League has joined forces with many regional and global organizations to ensure sustainable development. Most notably, the Arab League collaborated with the International Renewable Energy Agency (IRENA) and the Regional Center for Renewable Energy and Energy Efficiency (RCREEE) to create a regional process to advance the implementation of the Arab renewable energy strategy

\citep{IRENA_Pan-Arab_Strategy_June%202014}
and support the member states with the implementation of AREF. One of the outcomes of this partnership is the Pan-Arab Renewable Energy Strategy: Roadmap of Actions for Implementation. The study gives an overview of the Pan-Arab Renewable Energy Strategy, presents a full picture of the current state of renewable energy development in the Arab region, and identifies the main barriers to further development.

b. Key Principles of AREF

The Arab League devised AREF as a guide for countries in developing their national renewable energy action plans. Article 2 of AREF encourages countries to develop these plans based on specific renewable energy targets which must take into account the impact of all energy policies, including those related to energy efficiency, cooperation between local, regional and national authorities, and joint projects with other countries.

Furthermore, Article 5 of AREF promotes availability of information on support measures to all relevant actors, including consumers, builders, engineers, architects, and suppliers. Typical information that would be circulated includes benefits of energy efficiency and renewable energy equipment, as well as lists of qualified and trained installers and suppliers.

Finally, Article 7 of AREF requires countries adopting the Renewable Energy Strategy to provide the Arab League with annual reports on progress of implementation of the national renewable energy action plans, including details about the sector and

108 IREA, supra note 111, at 21.
109 Id. at 22.
110 Id. at 21.
111 Id.
overall renewable energy statistics and authorization procedures.\textsuperscript{112} The progress will be compared to the targets set in the action plans.

The ICJ Advisory Opinion should endorse the elements of AREF, which all states should observe for present and future generations.

c. Masdar City

In addition to developing progressive policy to advance alternative energy measures and implementation within the region, the Arab League is leading the world in developing sustainable technology and infrastructure through partnerships with the private sector.

Under the United Arab Emirate’s Masdar project, a revolutionary idea to create the world’s most sustainable eco-city is being brought to life. It will serve as a testament to the leadership of the Arab League on alternative energy and sustainable development. Masdar City is a clean technology cluster being developed on the outskirts of Abu Dhabi that will be powered entirely by renewable energy.\textsuperscript{113} In line with AREF’s underlying principles of availability of information and development of technologies, the city’s nucleus is the Masdar Institute of Science and Technology, a university dedicated to finding the most innovative solutions in the fields of energy and sustainability.\textsuperscript{114} The Institute encourages partnerships with companies in order to foster economic growth, entrepreneurship, as well as technological innovation. In addition to the university,

\textsuperscript{112} IREA, \textit{supra} note 111, at 21.


\textsuperscript{114} MASDAR INSTITUTE (2016), https://www.masdar.ac.ae/.
Masdar City is also home to IRENA’s Headquarters, the first to achieve the prestigious Four Pearl rating certification, under the Estidama Pearl Building Rating System. When addressing the needs of future generations in a world crippled by the current and inevitable challenges of climate change, Masdar City is a beacon of hope that technology and policy changes can provide sustainable living conditions for years to come.

H. The League of Arab States collaboration with UN to achieve Sustainable Development

The Arab League has taken greater strides in the last fifteen years to address sustainable development at the beckoning of international environmental conferences. The Sustainable Development Initiative in the Arab Region (SDIAR) has presented various progress reports to indicate its progress in implementing Agenda 21 from the Rio Earth Summit 1992 and the Millennium Development goals from the United Nations Summit in 2000. After a Ministerial Declaration on Sustainable Development was issued in Cairo in October 2001, the Arab League initiated a regional approach to address sustainable development. The Council of Arab Ministers Responsible for the Environment (CAMRE) and other specialized Ministerial Councils worked alongside international and regional organizations.

118 Id. at 4.
The third progress report from the Arab League was drafted in October 2011 in anticipation of the Rio+20 Conference in 2012. The comprehensive progress report seeks to bring together views of the public and private sectors, financial institutions, nonprofits, and academia.\textsuperscript{119} In order to achieve sustainable development, the report sets out a foundation for addressing peace and conflict resolutions in an attempt to bring stability to the region.\textsuperscript{120} Furthering this goal, the United Nations Environment Programme (UNEP) has conducted post-crisis environmental assessments in high impact areas such as Gaza and Sudan.\textsuperscript{121} Other initiatives include supporting the restructuring of the Iraqi government and providing more support for refugees that have been displaced because of wars in the region.

The Arab League has initiated programs to expand their efforts to address regional issues. Two of the most important initiatives are the creation of a regional joint secretariat in 2000 and the Joint Committee for Environment and Development in the Arab Countries (JCEDAR).\textsuperscript{122} The regional approach of the joint secretariat allows the coordination of activities and priorities in relation to sustainable development.\textsuperscript{123} Each member state of the Arab League has enacted their own legislation focused on environmental protection and has created regulatory agencies to provide increased leadership. These developments work in conjunction with the UNEP and other UN initiatives.\textsuperscript{124}

\textsuperscript{119} Gelil, supra note 117, at 5.
\textsuperscript{120} Id. at 6.
\textsuperscript{121} Id. at 7.
\textsuperscript{122} Id. at 9.
\textsuperscript{123} Id.
\textsuperscript{124} Id. at 10.
Water scarcity is a major issue affecting the region and is continuing to get worse as climate change alters rain patterns and the population in the region increases. When the report was published in 2011, “approximately 83 million people did not have access to safe drinking water.”

While some countries have the financial capability to improve their water infrastructure, many countries in the Arab League are not financially sound to improve water management resources or to address water pollution. Water resources have been a problem in the region for decades as noted in the Kuwait Regional Convention for Cooperation on the Protection of the Marine Environment from Pollution. In 1978, the following states Bahrain, Iraq, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates signed the agreement noting that oil pollution from refineries needed to be reduced as well as pollution from ships and from the land. The preamble mentions future generations when highlighting the need for each participating nation to cooperate and work together to ensure the safe-keeping of the marine environment shared by those countries.

In response to the UN Conference on Sustainable Development in June 2012, the Arab League and UNEP signed a memorandum of understanding (MOU) in November 2014 for environmental sustainability and resource management. Encompassing critical environmental issues such as post-conflict assessments, climate change, and sustainable consumption, this MOU is a continuation of a former memorandum from 1986 which has fostered cooperation between the UNEP and the Arab League for 20 years. Such a

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\footnotesize{125} Gelil, \textit{supra} note 117, at 22.

\footnotesize{126} \textit{Id.}

\footnotesize{127} Kuwait Regional Convention for Cooperation on the Protection of the Marine Environment from Pollution, April 24, 1978, 1140 U.N.T.S. 133.

\footnotesize{128} \textit{Id.}
comprehensive plan necessarily brings together leaders from around the region to address these problems. The problem of climate change requires solutions from every nation. Just as the Arab League has done, so too have most states begun to recognize the rights of future generations as inherent in their legal systems and state practice.129

I. Constitutional Right to a Healthy Environment

To examine the integration of environmental rights for future generations into a national constitution, consider the Arab Republic of Egypt. In the Constitution of 2014, Article 46 establishes environmental protection as a national duty, specifically guaranteeing the rights of future generations to “a healthy, sound, and balanced environment.”130 Article 32 commits the State to preserving natural resources and must “take into consideration the rights of future generations to [natural resources].”131 Article 78 further requires that decisions regarding urban planning must take sustainability into account and “improve the quality of life for citizens and preserve the rights of future generations.”132 The rights of future generations which we seek declared as international law principles are thus already codified into the constitutions of constituent states and incorporated into their subsequent state practice.133


133 See generally Human Rights and the Environment, supra note 42.
J. “Common but differentiated responsibilities” is not at odds with an enforceable right of future generations to a healthy environment

Arab League states have created mitigation and/or adaptation plans submitted to the UNFCCC COP 21 in Paris as “Intended Nationally Determined Contributions.” Having been accepted, they each fulfill the commitment these states have made through signing the Paris Agreement. These plans are expected to surpass existing emissions reductions goals, and contain varying levels of specificity and strategy. Least developed countries, of which the Arab League has a few, are allowed some flexibility, taking into account their “limited capabilities.”

Members of the Arab League are not large emitters of greenhouse gases. Despite this fact, they have put forth strong emissions reductions commitments that are sure to have an impact on the overall goal. In many of their NDCs, members not only announced specific and time-limited emissions reduction targets, but also pledged to increase the amount of renewable resources in their energy portfolios, detailed the process by which the government sought out public and private stakeholders to partner in these efforts, and relayed adaption plans to address the transformation that is already happening due to climate change.

A common theme among Arab League nations’ NDCs is insistence that international principles of common but differentiated responsibility and proportionality oblige wealthier nations to do their equitable duty. There needs to be significant

international investment in many of these countries if they are going to achieve the goals they have created for themselves. Nations have cited global funds and nation-to-nation financial assistance as two valued options. Some members, like Algeria and Saudi Arabia, are heavily dependent on fossil fuel production and exportation. However, they are still making strong commitments to reduce emissions, showing the strength of their resolve when it comes to international solidarity against climate change. Three Arab League members are still preparing their NDCs due to conditions that prevent their exercise of sovereignty presently (Libya, Syria, and the State of Palestine).

CONCLUSION AND SUBMISSIONS

As stated in the 2030 Agenda, the future of humanity and our planet is in our hands and we must pass the torch on to future generations. International environmental law, humanitarian law, regional legal institutions, and an overwhelming number of national constitutions recognize both environmental rights and the rights of future generations. It is not because future generations are political or economic actors, asserting power in the present. Nor is it because they will possess any special status once they arrive on the Earth. It is because they are the future of humanity. Future generations have rights, rights which we have recognized under international law, and rights which present generations must be able to enforce on their behalf so as to safeguard humanity itself.

The Arab League recognizes the importance of future generations and many member states have explicitly expressed their interest in participating in an international

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136 Open Climate Network, supra note 135.
effort to reduce GHG emissions. The role of Islamic faith in environmentalism is guided by the principles of stewardship for the Earth as God’s creation and that of mankind’s trusteeship over the Earth. The protection of the environment for future generations is implicit in the personal and public practice of Islamic law. Many Arab states have already made efforts to combat climate change by creating the Arab Renewable Energy Framework for renewable energy plans and Intended Nationally Determined Contributions for mitigation and adaptation plans. The Arab League strongly believes that the ICJ should give an advisory opinion which addresses the global climate crisis for the benefit of present and future generations of humankind.

Accordingly, the League of Arab States submits that the International Court of Justice should give an Advisory Opinion which states:

(A) that the General Assembly is competent to request an Advisory Opinion from the ICJ on this question and that the Court is competent to and should give an Advisory Opinion on the question submitted;

(B) that there is undisputed scientific research linking human greenhouse gas (GHG) emissions directly to climate change; and

(C) that there is a current duty to mitigate GHGs not only for our own well-being, but for that of future generations.
Respectfully Submitted for the League of Arab States

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