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Scoping Existing National Policy Recognition of Future Generations: Prospects for Future Global Climate Justice

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ABSTRACT

Climate change impacts are increasing globally. A climate justice perspective highlights that impacts are unevenly felt, with vulnerable groups and future generations facing significantly greater impacts even if current goals are met. Recognition of future generations in policy is attracting increasing attention internationally, with the United Nations General Assembly adopting a resolution on the Pact for the Future in September 2024. However, there has been little research into the current state of existing future generations policy around the world, and how these existing policies might support or hinder climate action. The aim of this article is to compare and contrast national legislation and policies that consider future generations and relate these to key climate change policy areas. Targeted website searches located 59 national constitutions and 44 national and international policy documents that acknowledged future generations. Analysis of the context in which future generations are mentioned shows that it is commonly linked to natural resource and environmental issues that are aligned with the human system impacts highlighted by the latest Intergovernmental Panel on Climate Change Sixth Assessment Report. The results suggest that greater focus on future generations could support a climate justice and greater climate action.

1 | Future Generations and Policymaking

There is growing consideration and recognition of the needs of future generations in policy- and decision-making. At the international level, the United Nations (UN) is creating a Special Envoy on Future Generations and planning a Summit of the Future in 2024 to create a UN Declaration for Future Generations (United Nations 2024). On a national level, countries are beginning to experiment with ways to include future generations within decision-making frameworks (Au and Karacaoglu 2015; Jones 2019; Sarakbi 2021). This idea is nothing new: many indigenous cultures have long included consideration of future generations in their thinking about what Western academia might call well-being, sustainability and justice (Bawaka Country et al. 2016, 2019; Clarkson et al. 2001;

McNamara and Westoby 2015; Rowe et al. 2020; Winter 2021). However, spurred on by the climate and biodiversity crises and technological changes that have made sharing visions and fears for the future more accessible, future generations thinking is being (re-)discovered in Western-dominated national and international policymaking. This increased consideration of future generations reflects, and is reflected in, the academic discourse on intergenerational justice and equity (Brown Weiss 1984; Meyer and Pölzler 2022) and new climate-influenced concepts such as 'intergenerational preparedness' (Minnerop, 2024).

To guide future policy development that addresses intergenerational justice, it is useful to draw on existing policies that consider future generations; however, to date there is a lack of a comprehensive review of national measures. The

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Policy implications

- An increasing focus on the rights of future generations, leaning on constitutional provisions and policy, could be used to support a climate justice approach to climate action.
- Future generations are recognised in 59 national constitutions, mainly with respect to natural resources and the environment.
- Future generations policy overlaps closely with key climate change impact policy areas, which could provide policymakers with mechanisms to encourage greater climate action.
- Policymakers can use the UN Pact for the Future as a roadmap to advance policy and strategic frameworks at a national level to support intergenerational and climate justice.

Organisation for Economic Co-operation and Development (OECD) considers how governments can foster intergenerational justice in policymaking and public governance in their Governance for Youth, Trust and Intergenerational Justice Review (OECD 2020), but this only includes data from OECD countries up until its publication in 2020. Therefore, the aim of this review was to compare and contrast existing national and international policies that address intergenerational justice by considering future generations in the context of climate change and climate justice.

This review analyses the recognition of future generations in national constitutions and policies, then compares the focus of these with climate impacts on ecological and human systems, as outlined in the latest IPCC AR6 report (IPCC 2022). We seek to add weight to the consideration of intergenerational equity at national levels through the lens of climate change—a natural case study starting point to explore intergenerational policy impacts. Our review highlights where and how national policies might support intergenerational justice within climate action, and where and how this could be improved.

2 | Background

2.1 | Future Generations and Intergenerational Equity

It is widely recognised that there is an imbalance in power relations between current and future generations, whereby current generations often dictate the future for subsequent generations (Meyer and Pözlner 2022). Thus, it is increasingly argued that ensuring that health, resources and the environment are, at least, available for future generations is important to consider when making decisions that have long-term impacts, especially in policymaking (Brown Weiss 1989; Carmody 2012).

The concept of intergenerational equity has its origins in the Roman concept *res communes* (things owned by no one and subject to use by all), many indigenous cultures' conception of seven

generations thinking and connection to nature (Winter 2021), and the modern concept of planetary trust doctrine (Brown Weiss 1984). Under this doctrine, all governments must hold crucial resources in trust for present and future generations. Encompassing essential natural resources such as air, atmosphere, water, wildlife and sea, present humanity holds the natural world in trust for future generations.

It is still unclear if the obligation upon present generations to consider the needs of future generations is ethical or legal in nature. While some commentators maintain that the relationship between existing and future generations is best viewed through the lens of 'virtue ethics,' others have argued for intergenerational equity to be firmly based on legal obligations. The latter view was powerfully advanced in 1984 by Prof Edith Brown Weiss in her seminal work *The Planetary Trust: Conservation and Intergenerational Equity* (Brown Weiss 1984) and expanded upon in *Fairness to Future Generations* (Brown Weiss 1989). Brown Weiss argued that intergenerational equity was a central pillar of the planetary trust and a key indicator of sustainability.

At the time, Brown Weiss was developing the concept of the planetary trust; there was still greater uncertainty as to the science of global warming, in particular its impact and timeframes. In the intervening years, increased concerns over climate change combined with a growing biodiversity crisis (Barber et al. 2020) has resulted in the emphasis shifting from passing on an inheritance to succeeding generations to a more tangible concern for sustaining the planet's ecological integrity.

Today, law and policymakers around the world no longer speak of future generations in loose terms but have made efforts to crystallise the idea in law. This signals a move away from ritualistic overtures and the obligatory inclusion of future generations in preambles, towards operationalising the concept into a policy initiative capable of being measured and observed. In some corners of the world, such as Wales, the concept of intergenerational justice has been progressed to such an extent that well-being indicators can now be expressed in terms of qualitative and quantitative outcomes (Davies 2016; Jones 2019). Several decades on from Brown Weiss' early articulation of the concept, the term 'future generations' is ubiquitous in international discourse and appears in treaties, judicial decisions and national constitutions.

The assumptions are now so deeply rooted that they are now held to be an attribute of state sovereignty itself. Most states have passed Clean Air and Water Acts, endangered species and environmental protection legislation in order to operationalise the duty owed to present and future generations. Further, most domestic climate legislations rely on claims deriving from the principle of intergenerational equity and sustainability.

The shift from the normative to the substantive is most tangible in the area of resources sharing and the sharing of risk/burden associated with climate change. For this reason, the research here is confined to instances around the world where future generations are considered in the context of resources management and climate action. As Christine Winter questions: 'what proportion of benefits may the living take, and how much of the burden must future generations shoulder?' (Winter 2021, 10).

Our data reveals that 59 countries across the world have constitutionally enshrined in foundational/statehood documents the equitable sharing of burdens and benefits in solidarity with future generations.

2.2 | Intergenerational Justice, Climate Change and Climate Justice

Climate change is widely recognised as an intergenerational and a transboundary issue. The increase in carbon emissions that results in anthropogenic global warming began in the late 1800s, with the start of the industrial revolution. Even then, the risks were widely recognised (Jackson 2019). The 1950s saw a ‘great acceleration’ (Steffen et al. 2015), including a significant rise in carbon emissions. In the 1980s, civil society organisations and scientists began to raise the alarm, while companies recognised the risks but took little action, and from 1990 onwards the IPCC began to comprehensively synthesise the scientific knowledge on the issue approximately every 5 years. Global climate change projections now look at 2050, 2080 and 2100 (IPCC 2022). In other words, the impacts of climate change are being considered for children being born today—and those yet to come.

Crucially, as the impacts worsen, it is future generations that will ‘inherit’ these more severe impacts. We know that, regardless of action on reducing emissions, we are facing a number of worsening impacts. Sea-level rise is perhaps the starkest; projections indicate that sea level rise will continue beyond 2100, with low-lying countries facing an existential crisis, and beginning to plan as such (Falefou 2017). Future generations in these places face the reality that their homeland may not exist, at least in the way we currently understand it to. Many living in coastal areas face similar existential crises. This burden on future generations raises important issues of justice. Assuming action is taken on carbon emissions, future generations may not have the benefits of burning fossil fuels but will increasingly face the negative consequence of it, dating back several generations. Importantly, climate change impacts will affect every sector of society and policymaking, as highlighted by the IPCC (IPCC 2022). The original agreement establishing the United Nations Framework Convention on Climate Change in 1992 recognised these intergenerational aspects, stating that: ‘The Parties should protect the climate system for the benefit of present and future generations of humankind, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities.’ (United Nations 1992b, Article 3).

Climate justice can be defined as ‘safeguarding the rights of the most vulnerable and sharing the burdens and benefits of climate change and its resolution equitably and fairly’ (Mary Robinson Foundation—Climate Justice 2014, p. 2). The link between climate justice and future generations has been clearly recognised in the recent UN Pact for the Future (resolution A/ES/79/1) that was adopted by the UN General Assembly on 22nd September 2024. In the Pact, the parties have agreed to strengthen their climate commitments and explicitly recognise the importance of climate justice: ‘Prioritize urgent action to address critical environmental challenges and implement measures to reduce disaster risk and build resilience, reverse the degradation of

ecosystems and ensure a clean, healthy and sustainable environment; and reaffirm the importance of accelerating action to address climate change and its adverse impacts, based on the principle of common but differentiated responsibilities and respective capabilities in the light of different national circumstances, noting the importance for some of the concept of “climate justice”.’ (United Nations General Assembly 2024, para. 18).

Furthermore, this intergenerational justice aspect of climate change is widely recognised, and perhaps most obviously reflected in the growth of youth voices, with the School Strike for Climate movement and the profile of Greta Thunberg and other youth leaders driving activism being the most high-profile examples (Gorman 2021; Hilder and Collin 2022; Walker 2020), as well as participation in climate change conferences (Thew 2018). Young people frequently place climate change within their top concerns in polls in industrialised countries and regions (McHale et al. 2023; Nagireddy 2023; Youth for Europe 2019). This diverges with older generations, with these older generations in many Western democracies still dominating decision-making and voting and where climate change is, in many cases, a lesser issue (Colvin and Jotzo 2021), although recent research suggests the very obvious and growing impacts are beginning to affect voting patterns, at least in Europe (Hoffmann et al. 2022). Nonetheless, the real anger and feelings of intergenerational injustice regarding climate change highlight the criticality of understanding our policies safeguarding future generations—and where the biggest gaps lie.

2.3 | Intergenerational Justice and International Law and Policy

Progress has been made at an international level to progress the legal status of future generations to right holders, by articulating the legal principle of intergenerational equity in instruments such as the 1972 *Stockholm Declaration* (United Nations 1972) and the 1992 *Rio Declaration* (United Nations 1992a). The Stockholm Declaration and accompanying Action Plan included several references to future generations, noting that ‘to defend and improve the human environment for present and future generations has become an imperative goal for mankind’ and citing future generations in Principles 1 and 2 regarding the protection of the environment and natural resources (United Nations 1972).

On an international level, the idea of duties to the future is now firmly grounded in the concept of sustainable development which was formulated by the Brundtland Commission in the Our Common Future report in 1987 as ‘development that meets the needs of the present without compromising the ability of future generations to meet their own needs’ (World Commission on Environment and Development 1987) (emphasis added). Intergenerational equity and sustainable development are now synonymous. The idea of intergenerational justice as it appears in the definition of ‘sustainable development’ in the Our Common Future report underpins the UN’s the Rio Declaration on Environment and Development, 1992 and Rio + 20 declaration and through to the Sustainable Development Goals (United Nations n.d.). The United Nations

Sustainable Development Goals (SDGs) represent an effort by the international community to advance an organising legal framework imposing a sustainable development benchmark for all aspects of human living including health, poverty, work, water and sanitation, clean energy and consumption and production.

Further, through international consensus building as demonstrated by the *Paris Agreement* (United Nations 2015) and the *High Seas Treaty (BBNJ Treaty)* the global community is increasingly willing to place fundamental limitations on the power of governments over shared resources and the global commons, thereby prescribing intergenerational solidarity. Future generations are also recognised in the 1997 UNESCO Declaration on the Responsibilities of the Present Generations Towards Future Generations 1997 and the 2023 Maastricht Principles on The Human Rights of Future Generations, which recognise that future generations were legally entitled to human rights.

By way of offering operational standards, the Organisation for Economic Co-operation and Development (OECD) has developed guidelines for achieving intergenerational justice in policies, with five overarching principles: political leadership, strategic vision, accountability and oversight institutions, anticipatory and adaptive tools and age diversity in public life and decision-making (OECD 2020). Hence, intergenerational equity is now part of a non-binding legal instrument that gives rise to a legitimate expectation of equitable access to planetary resources and a corresponding duty to conserve planetary resources for the future.

This substantive international work has led to the *To Think and Act for Future Generations: Our Common Agenda Policy Brief 1* (United Nations 2023) that lays out the basis for a framework for preparations for the Summit of the Future in 2024 and policy priorities for dealing with the rights of future generations.

2.4 | Intergenerational Justice and National Law and Policy

At a national level, governments have begun fostering intergenerational justice in policymaking in concrete models that aim to publicly administer resource sharing and redistribution. Most notably, the *Wellbeing of Future Generations (Wales) Act 2015* establishes a strong political commitment to publicly administer intergenerational justice considerations through the statutory role of the Welsh Commissioner for Future Generations. In a slightly different vein, New Zealand established a more holistic *Living Standards Framework* that allows for the measurement of policy impacts across 12 domains of well-being.

In fact, considerations of future generations appear in a number of constitutions and national policies, and in the context of a wide range of sectors. Further, constitutions themselves have been argued as intergenerational compacts with strong connections to future generations (Avgoustinos 2023; Hiskes 2008; Schultz 2012). As a result, there may be a number of existing policy and legal tools available to address intergenerational justice in the context of climate change. However, there have been few systematic examinations of the inclusion of future generations

in national policies. Hence, this article seeks to examine systematically the consideration and recognition of future generations in national constitutions and consider how these might align with policies for climate action and climate justice.

3 | Methods

This research is based on a review of constitutions and national policies that consider future generations.

3.1 | Eligibility Criteria

Website documents presenting policies that acknowledged intergenerational justice were eligible for inclusion. Intergenerational justice was acknowledged in the policy if future human generations (youth or those unborn) were mentioned with or without consideration of current and/or past generations. Policies were referred to as a set of plans or recommendations, such as Constitutions, Acts, legislations or plans of action. Policies prepared by governments, organisations or institutions were included, while those written by individuals or businesses were excluded. Original policy documents or journal articles describing the implementation or development of a policy were included. Documents/articles reviewing policies were excluded, such as systematic reviews and policy briefs. Any type of policy was included (e.g., youth detention, climate change, urban planning, aged care, housing, planning and First Nations).

3.2 | Search Strategy and Study Selection

Literature was searched and screened from 30 January 2023 to 10 February 2023 by one investigator (MC) using a variety of search terms, including intergenerational, future generations and new generations. The exact search terms for each database searched are detailed in Tables S1 and S2. Targeted websites identified through stakeholder consultation were searched using a Google Advanced Search in an incognito Google Chrome browser (see Table S2 for literature search strategies). For each search, the first 100 results were screened based on the title and preview text. Additionally, the first 200 references sorted by relevance were screened from Google Scholar on 20 January 2023. Potentially relevant records were bookmarked in the browser, and the full webpage or document of each potentially relevant record was then screened (Higgins et al. 2019). Reference lists of pertinent literature were assessed up until 10 February 2023 to identify any additional articles that were not located in the search strategies.

3.3 | Data Extraction

Data extracted by one investigator (MC) were author, publication year, country, policy characteristics (direct quotations of visions/missions, goals/objectives, principles, strategies/actions, outcomes/measures and review/monitoring strategies that considered future generations) and implementation outcomes (if possible). Only data relevant to intergenerational justice were

extracted (i.e., components of the policy that did not consider future generations were not extracted). Results were synthesised in tabular and narrative format.

4 | Results

4.1 | National Constitutions

The review identified 59 national constitutions that acknowledged future generations (Table 1; see Table S3 for direct quotations of reference to future generations). The countries including future generations were widespread.

Notably, all constitutions mentioning future generations were all updated recently (other than Japan's post-war constitution in 1946, the next earliest is Argentina in 1994). The review did not go back to previous iterations of constitutions, so it does not reveal if future generations appeared in earlier versions. However, many of these constitutions are post-colonial and relatively modern in most countries. Almost all constitutions mention future generations after the inclusion of future generations in the definition of Sustainable Development in 1992.

The mention of future generations appears across many sectors within the constitutions. The need to protect the environment for future generations was the most recognised sector, being acknowledged in 42 (75%) of the 59 Constitutions. This included conserving biodiversity and a duty to prevent and repair environmental damage, including pollution. This reflects the inclusion of future generations in the Our common future report definition of sustainable development. Closely related to the environment and sustainable development, the sustainable use of natural resources to benefit future generations was highlighted in 24 (43%) constitutions. Preservation of water for future generations was specifically acknowledged in seven (13%) constitutions. In addition to the link to sustainable development, this perhaps reflects a desire of post-colonial countries to protect their natural resources from further outside exploitation and maintain greater control of them.

Minimising financial burden for future generations was stated in nine (16%) constitutions, ensuring no debt for subsequent generations and, in some cases, creating a fund for future generations. Relatedly, optimising economic development was acknowledged in seven (13%) constitutions. Health promotion for future generations was considered in five (9%) constitutions, ensuring health resources or protection of the human genome. Food security for future generations was promoted in four (7%) constitutions, with reference to adequate food supplies, fertile agricultural land and preservation of edible plant species. Adequate education for future generations was considered in three (5%) constitutions, and one (2%) constitution considered the right to housing for future generations.

Interestingly, preservation of culture for future generations was presented in eight (14%) constitutions. Again, this likely reflects recognition of colonisation and globalisation and the importance of protecting cultures. Finally, 13 (23%) of the 59 Constitutions made only general references to human rights when considering future generations (Constitute Project 2020).

Notable by exclusion were four out of five of the permanent members of the United Nations Security Council (United Kingdom, United States of America, China and Russia), many of whom are also noted as global 'norm entrepreneurs'. These 'norm entrepreneurs' 'actively propose the transformation of social norms' and 'mobiliz[e] support for particular standards of appropriateness and persuading states to adopt new norms' (Juwita 2024, 372)—in favourable and less favourable ways for international politics (Wunderlich 2020). Hence, they can have significant influence in global policy, with consequent impacts on national policy. It is also unclear to what degree these statements regarding future generations is related to tangible policy actions on future generations.

4.2 | National and International Policy Documents

The review also identified 44 national and international policy documents that acknowledged future generations, coming from 22 countries (plus the UN), as shown in Table 2. The full list of policy or legislation identified can be seen in Tables S3 and S4 for direct quotations of reference to future generations.

As in Table 2, only five countries have both constitutional recognition of future generations and policy or legislative recognition of future generations. This leaves 51 countries with constitutional recognition for future generations, but without the kinds of proactive policy infrastructure that could convert these considerations or rights into tangible practice or approaches. Hence, inclusion of future generations is more likely to be through legal avenues (see discussion below). At the same time, as international interest in future generations grows, these countries have a legal basis for inclusion of future generations. At the same time, these results highlight the fact that many countries that do not have constitutional recognition of future generations, or do not have a formal constitution, do at least make policy or legislation relating to future generations ($n = 17$). Constitutional recognition does not, therefore, appear to be a precursor for policy or legislative action on future generations.

As in the constitutional recognition analysis, similar trends were seen across the 44 policies found for analysis, with the environment being the most common sector where future generations were considered, although not in relation to natural resources. Policies also commonly acknowledged future generations in the areas of youth (and youth policies were often those that included a mention of future generations), employment and cultural preservation (Table 3). Again, the mentions of future generations are very general, and there are very few specific actions; these policies largely recognise impacts on future generations in their sector and the need to recognise these long-term impacts, but give little guidance on how this should be done.

5 | Discussion

Future generations are mentioned in a relatively small number of national constitutions and policies. However, it should be noted that almost all constitutions and policy documents only made general reference to future generations without consideration of specific actions. This is perhaps understandable for

TABLE 1 | Areas of national constitutions that acknowledge future generations ($n = 59$) (Constitute Project 2020).

Country	Year last updated	Area of constitution where future generations are considered										General human rights	Section/article
		Environment	Natural resources	Water	Food security	Health	Culture	Finance	Economic development	Education	Housing		
Albania	2016	✓										✓	59.1d
Algeria	2020		✓	✓									64
Angola	2010	✓	✓										39.2
Argentina	1994	✓											41
Armenia	2015	✓	✓										12.1
Azerbaijan	2016											✓	Preamble
Bhutan	2008	✓						✓					5.1; 14.5
Bolivia	2009	✓	✓						✓				9.6; 33; 108.15
Brazil	2017	✓											225
Burundi	2018	✓	✓										35
Côte d'Ivoire	2016	✓											Preamble
Cuba	2018	✓							✓	✓			67; 86
Czech Republic	2013											✓	Preamble
Dominican Republic	2015	✓	✓										67
Timor-Leste	2002	✓											61.1
Ecuador	2021	✓					✓						395.1
Egypt	2019	✓	✓		✓						✓		32; 46; 78; 79
Eritrea	1997	✓	✓	✓			✓			✓			8; 21
Estonia	2015											✓	Preamble
Eswatini	2005	✓	✓	✓									210.2; 216.1
France	2008											✓	Preamble
Gambia	2020	✓	✓					✓					61; 238.1c; 254.1d

(Continues)

TABLE 1 | (Continued)

Country	Year last updated	Environment	Natural resources	Water	Food security	Health	Culture	Finance	Economic development	Education	Housing	General human rights	Section/article
Georgia	2018	✓	✓									✓	29.1
Germany	2014	✓											20a
Guyana	2016	✓	✓						✓				149J
Hungary	2016	✓	✓	✓	✓		✓						P.1; 30.3; 38.1
Japan	1946											✓	11; 97
Kazakhstan	2017											✓	Preamble
Kenya	2010	✓	✓			✓		✓					42A; 201.c
Latvia	2016	✓											Preamble
Lesotho	2018	✓				✓	✓						36
Libya	2016	✓	✓	✓				✓	✓				173; 175; 184-5; 187
Luxembourg	2009	✓					✓						11bis
Madagascar	2010	✓											Preamble
Malawi	2017	✓											13d
Maldova	2016											✓	Preamble
Morocco	2011	✓											35
Mozambique	2007	✓	✓				✓						117.2d; 120.2
Nicaragua	2014											✓	Preamble
Niger	2017	✓	✓		✓	✓	✓	✓		✓			35; 149; 153
North Macedonia	2011											✓	Preamble
Norway	2016	✓	✓										112
Palestine	2005	✓											33
Poland	2009	✓											74
Portugal	2005	✓	✓										66.2d

(Continues)

TABLE 1 | (Continued)

Area of constitution where future generations are considered													
Country	Year last updated	Environment	Natural resources	Water	Food security	Health	Culture	Finance	Economic development	Education	Housing	General human rights	Section/article
Senegal	2016	✓											25.3
South Sudan	2013	✓	✓					✓	✓				41.2&3; 173.2; 178.3
Sweden	2012	✓											2
Switzerland	2014											✓	Preamble
Syrian Arab Republic	2017											✓	Preamble
Tajikistan	2016											✓	Preamble
Tunisia	2014	✓					✓		✓				42; 129
Uganda	2017	✓	✓	✓									27.i&ii
Uruguay	2004	✓	✓	✓									47.1b
Uzbekistan	2011											✓	Preamble
Vanuatu	2013	✓						✓					7d
Venezuela	2009	✓				✓							127
Yemen	2015	✓	✓					✓	✓				17; 355.5
Zimbabwe	2017	✓	✓		✓	✓		✓	✓				73.1b; 289.e; 298.1c

Note: ✓ = Area of constitution that acknowledged future generations.

TABLE 2 | List of countries with constitutional and/or legislative or policy recognition of future generations.

Name	Constitutional recognition	Legislative or policy recognition
Country		
Albania	✓	
Algeria	✓	
Angola	✓	
Argentina	✓	
Armenia	✓	
Australia		✓
Azerbaijan	✓	
Belize		✓
Bhutan	✓	✓
Bolivia	✓	
Brazil	✓	✓
Burundi	✓	
Canada ^a		✓
Côte d'Ivoire	✓	
Cuba	✓	
Czech Republic	✓	✓
Dominican Republic	✓	
Timor-Leste	✓	
Ecuador	✓	
Egypt	✓	
Eritrea	✓	
Estonia	✓	
Eswatini	✓	
France	✓	
Gambia	✓	
Georgia	✓	
Germany	✓	✓
Guyana	✓	
Hungary	✓	✓
Ireland		✓
Japan	✓	✓
Kazakhstan	✓	
Kenya	✓	✓
Kiribati		✓

(Continues)

TABLE 2 | (Continued)

Name	Constitutional recognition	Legislative or policy recognition
Latvia	✓	
Lesotho	✓	
Libya	✓	
Luxembourg	✓	
Madagascar	✓	
Malawi	✓	
Maldova	✓	
Malta		✓
Morocco	✓	
Mozambique	✓	
New Zealand ^a		✓
Nicaragua	✓	
Niger	✓	
Nigeria		✓
North Macedonia	✓	
Norway	✓	
Palestine	✓	
Poland	✓	
Portugal	✓	
Rwanda		✓
Samoa		✓
Serbia		✓
Senegal	✓	
Slovakia		✓
South Africa		✓
South Sudan	✓	
Sweden	✓	
Switzerland	✓	
Syrian Arab Republic	✓	
Tajikistan	✓	
Timor-Leste		✓
Tunisia	✓	
Uganda	✓	
United Kingdom ^a		✓
Uruguay	✓	

(Continues)

TABLE 2 | (Continued)

Name	Constitutional recognition	Legislative or policy recognition
Uzbekistan	✓	
Vanuatu	✓	
Venezuela	✓	
Wales ^b		✓
Yemen	✓	
Zimbabwe	✓	✓
Multinational		
United Nations ^a		✓

Note: Red shading indicates countries with only constitutional recognition; orange shading indicates only legislative or policy recognition; green shading indicates both constitutional and legislative or policy recognition.

^aThese countries have a partially codified constitution spread across multiple documents.

^bWales is part of the United Kingdom and has no constitution of its own but has an Assembly with some decision-making power.

TABLE 3 | Number of national policies referring to future generations in each policy area.

Policy area	No. of policies
Environment	37
Natural resources	0
Water	3
Food security	0
Health	5
Culture	12
First nations	6
Economic development	7
Employment	10
Finance	3
Education	5
Housing	3
Domestic violence	1
Youth	29
Research	2
Urban planning	6
Elderly	1
Other	0

constitutions, which tend to be general, but there would be scope for specific actions within policies. Even within constitutions, future generations are often referred to in the preamble. Nonetheless, the recognition of future generations within these constitutions could provide the basis for greater inclusion of

future generations and intergenerational justice considerations within policies in these countries.

Given the intergenerational nature of climate change, it is possible that increasing recognition of climate change and its impacts will, in turn, drive an increase in future generations thinking in the context of climate change. The rest of this discussion will focus on the implications of these results in the context of climate change.

It is notable that the environment and natural resources are the most common sectors where future generations are mentioned. Climate change is both an environmental challenge (see Figure 1) and closely linked to natural resources—burning of fossil fuels and deforestation are major contributors to carbon emissions. It is unlikely that climate change was being considered when these references to future generations were added to constitutions. However, other environmental challenges, such as forest loss and degradation and pollution, are widely recognised as long-term problems that adversely affect future generations. These inclusions of future generations in environmental elements of constitutions and policies no doubt reflect this acceptance. This provides, therefore, an opportunity to apply intergenerational considerations and protections to climate change policy. If the constitution calls for protection of the environment for future generations, for example, then continued carbon emissions breaches that constitutional requirement. Indeed, the IPCC reports make it very clear that the environment is already facing significant impacts, and the impacts in the face of inaction on emissions are even greater, with some possibility of tipping points that could lead to a future environment unrecognisable from the current long-term climate in which human civilisation developed (IPCC 2022).

The importance of natural resources for future generations that appears in many constitutions is also reflected in climate change, and especially in adaptation. Impacts of climate change on water and food security are well documented (see Figure 2). Many of these natural resources stem from environmental processes and functions. These benefits to people of ecosystem functions are commonly termed ecosystem services (Costanza et al. 2017; de Groot et al. 2002). Changes to the environment impact these benefits people receive, such as water regulation and food production. Constitutional recognition of maintaining these benefits for future generations has implications for climate change adaptation. Full acceptance of the likely impacts of climate change on the water, food and other sectors would conflict with any constitutional and policy requirement to protect these sectors for future generations. At the very least, such constitutional protection should encourage adaptation to climate change, and many of the countries with these protections are heavily focused on climate adaptation.

The recognition of the importance of economic protection for future generations aligns with the almost entirely negative economic impacts of climate change in every region (see Figure 2). Again, protecting economic benefits for future generations calls for rapid action on climate change. Notably, economic evaluation of the costs of climate action (e.g., the Stern Review (Stern et al. 2007)) clearly shows that the short-term economic costs

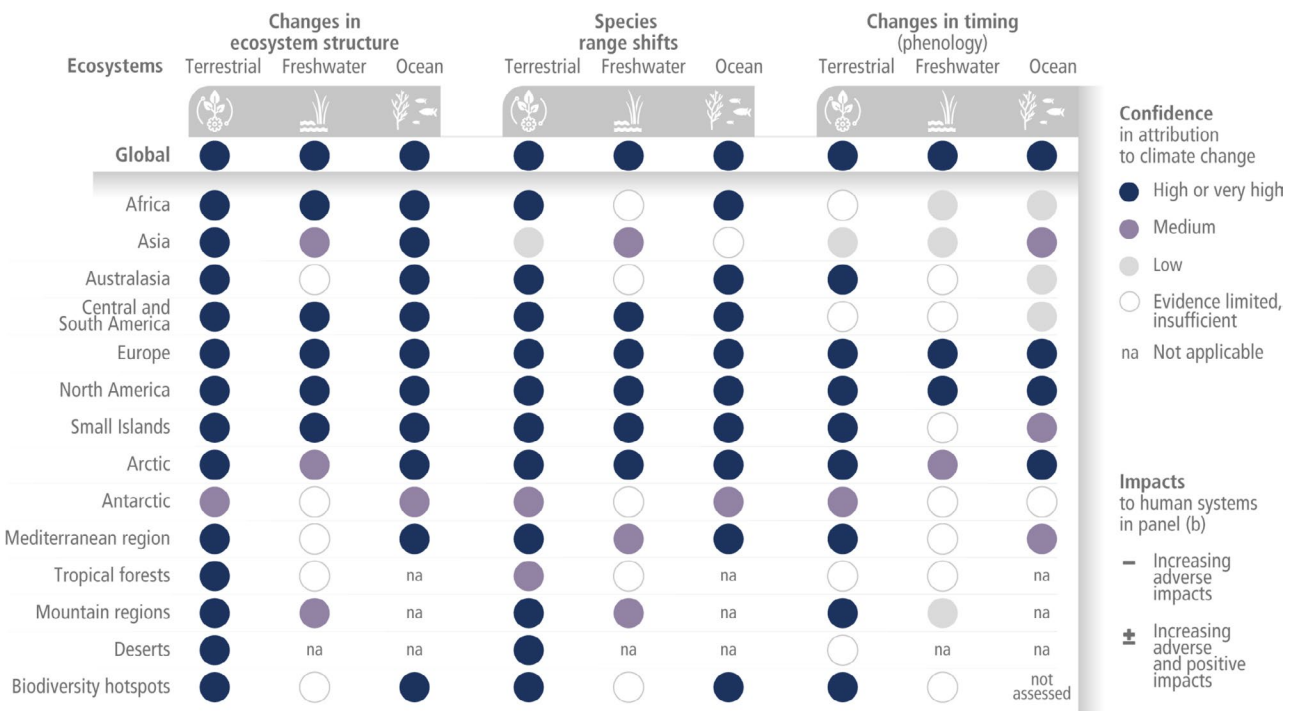


FIGURE 1 | Observed impacts of climate change in ecosystems. From IPCC.

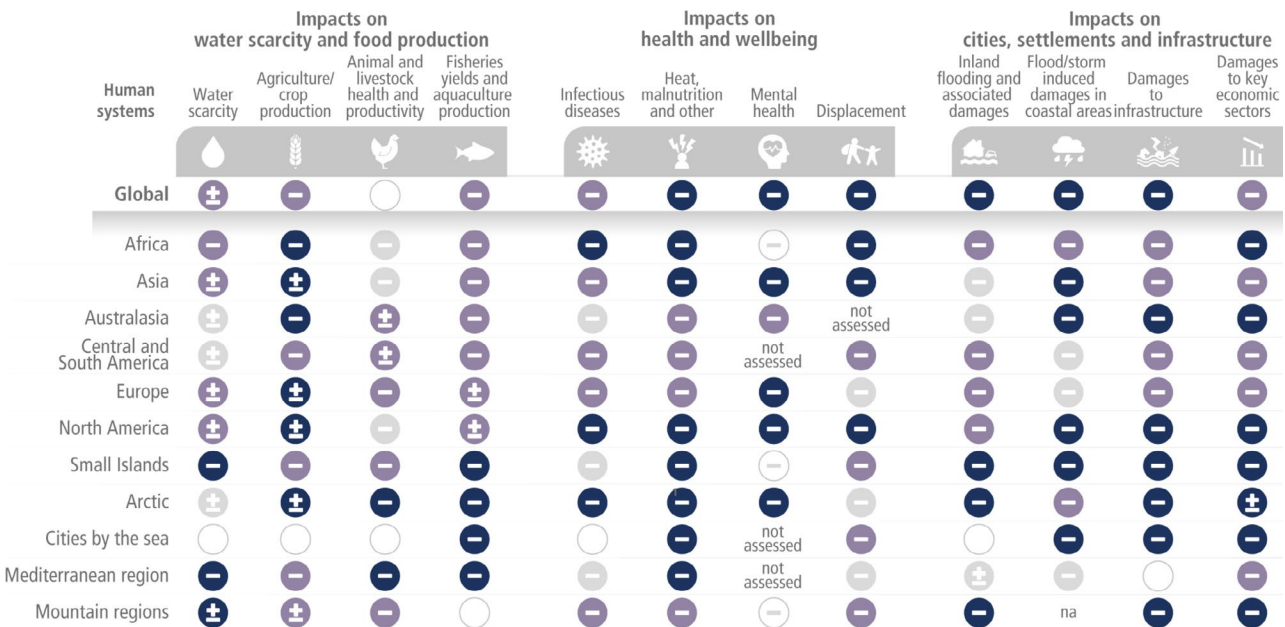


FIGURE 2 | Observed impacts of climate change on human systems. From IPCC.

of action (already relatively small in global terms) are massively outweighed by the medium- and long-term costs of inaction.

Clearly, there are significant overlaps between constitutional recognition of future generations and the impacts of climate change. Thus, there may be opportunities to use constitutional references to future generations to support climate action, and especially push for climate justice. Recent experience shows that explicit reference to future generations in key legal and policy frameworks can flow to concrete climate justice-related outcomes for communities. The Welsh experience with the

Wellbeing of Future Generations Act has led directly to climate justice outcomes (Sarakbi 2021). This included a moratorium on road-building, specifically because the impacts of roads, including carbon emissions, disproportionately harm the more disadvantaged, while benefits tend to flow to the more advantaged.

Hence, in countries where future generations are embedded in the constitutions, this could provide a legal framework for policy action on climate change. However, the results above (Table 2) suggest this does not yet seem to have filtered down to policies at a national level in many cases. Notably, the countries with

the strongest provisions for future generations are New Zealand, which does not have future generations in its constitution, and Wales, which does not formally have a constitution. This might suggest that constitutions are not currently drivers of intergenerational equity in policy, but in both of these cases the constitutions of the countries have a different place in their common law systems compared to other countries, and so this may partly explain why constitutional recognition of future generations does not seem to be important or necessary in these cases.

It is notable that certain sectors, such as health and migration, which are heavily impacted by climate change (see Figure 2) rarely include mention of future generations within those areas of constitutions. Another notable mismatch is the frequency of future generations in the context of culture in constitutions compared to climate change discourse more broadly. There is recognition of cultural impacts of climate change, but it rarely receives as much attention as economic, social or ecological impacts. Greater inclusion of Indigenous and First Nations authors within the IPCC and research more widely may change this, but both institutions remain Western dominated, with an accompanying focus on Western culture (largely tied up in economics). This is perhaps an important area for future research and, more importantly, advocacy. Certainly, consideration of future (and past) generations is common in many cultures worldwide, notably many Indigenous cultures. If these cultures are given greater recognition and inclusion within law and policy, this may provide another route for consideration of future generations in policy and climate action.

However, we suggest that the recent focus on linking human rights to climate change shows a clear path for consideration of future generations to drive future policy around climate change. The possibility for climate change litigation to drive action on climate policy is receiving increased attention (Kotzé et al. 2024; Sabin Center for Climate Change Law 2024a). Worldwide litigation is increasingly compelling governments to act on climate change. Around the world, successful claimants are testing numerous litigation pathways, relying on climate-related soft law frameworks to hold states accountable for duties owed to their citizens and internationally agreed targets. Claimants are basing their claims on international human rights law instruments and a growing trend in judiciaries willing to take an active role in shaping national responses to climate change. Commonly litigated rights such as the rights of the child, the rights to life and the right to cultural/self-determination have proven to be a highly transferable rights upheld in courts around the world.

Physical environmental impacts such as rising sea levels and extreme weather events have meant that claimants are able to demonstrate, through science, that climate change impacts and harm are attributable, preventable and foreseeable. Climate attribution evidence has been used to positively show that states have failed in their constitutional and human rights obligations to protect their citizens from harm associated with global warming. In addition, many countries have legislated emissions targets that have been the subject of extensive litigation globally (Sabin Center for Climate Change Law 2024a).

The Dutch *Urgenda* case, for example has been heralded as 'watershed moment' in climate litigation worldwide and has

caused a domino effect of similar styled cases. The landmark *Urgenda* by the Dutch Supreme Court ruling in December 2019, according to the then United Nations (UN) High Commissioner for Human Rights, Michelle Bachelet, '*provides a clear path forward for concerned individuals in Europe – and around the world – to undertake climate litigation in order to protect human rights*'. The Dutch court ultimately held that '*climate change threatens human rights*' and that '*in order to ensure adequate protection from the threat of those rights resulting from climate change, it should be possible to invoke those rights against individual states*'. There are many examples of climate change cases that have been brought, including in the United States (US), Australia, United Kingdom, European Union, New Zealand, Canada, France, Germany, Spain and Belgium (Sabin Center for Climate Change Law 2024a; Tigre and Barry 2024). Note that not all cases have been successful, especially in the US, but there have been more and more successful findings and even the unsuccessful cases have bought increased legal and wider attention to climate justice.

Many climate change cases around the world have been brought by young litigants representing young and future generations who will be disproportionately impacted by climate change. Young litigants have argued that a human rights-based approach that aims to protect the human rights of present and future generations is consistent with the wording of the preamble of the *Paris Agreement on Climate Change* and the *UN Convention on the Rights of the Child*. Again, it is notable that states such as the USA have not ratified the Convention on the Rights of the Child, which may have particular implications when considering guarantees and protections and existing pathways through which young people and their allies can advocate in a global norms ecosystem for action on climate.

In the context of climate change, there have been a number of attempts to argue for climate action on the basis of its impact on human rights. Vanuatu has successfully led an effort to request the International Court of Justice (ICJ) to issue an Advisory Opinion on the legal obligations regarding climate change. This was passed unanimously by the UN General Assembly on March 29, 2023, and asks the ICJ to clarify states' obligations regarding climate change, including their human rights obligations to reduce greenhouse gas emissions, and the guidance on questions of accountability for harm to the climate caused by countries (United Nations General Assembly 2023). The case is still pending in the ICJ.

A climate change case in Australia was brought to the United Nations Human Rights Committee (HRC) seeking a ruling that the Australian Government had failed to protect Indigenous Torres Strait Islanders against the adverse effects of climate change. The basis of the claim was that the failure of the governments violated the human right to enjoy culture free from interference across private life, family and home (*Daniel Billy and others v Australia (Torres Strait Islanders Petition)* 2022). On September 23, 2022, the U.N. Human Rights Committee found that Australia's failure to adequately protect indigenous Torres Strait Islanders against adverse impacts of climate change violated their rights to enjoy their culture and be free from arbitrary interferences with their private life, family and home, based on the Islanders' spiritual connection with their traditional lands,

and the dependence of their cultural integrity on the health of their surrounding ecosystems. Note, however, the Committee only indicated that Australia had violated these human rights with respect to a failure to support adaptation but did not address Australia's contribution to climate change, despite earlier noting its very high per capita carbon emissions (Lentner and Cenin 2024). Lentner and Cenin note that the 'Committee did find that existing human rights instruments should be interpreted in light of the Paris Agreement', opening the door to further cases challenging limits climate action on human rights grounds (Lentner and Cenin 2024, 143).

Another notable recent example is the litigation on behalf of European children to the European Court of Human Rights to complain that states had not sufficiently mitigated climate impacts in the form of bushfires, and the complaint specifically mentioned the concept of intergenerational equity, as well as rights under the UN Convention on the Rights of the Child. However, the European Court declared the application inadmissible because the applicants had failed to exhaust domestic remedies in Portugal (*Duarte Agostinho and Others v. Portugal and 32 Other States*, 2024). Individually and collectively, these enhance case law that policymakers will increasingly have to consider as they make climate policy. This and future decisions strengthen the likelihood that future policy should consider the human rights of a failure to take climate action.

Given this trend for using human rights to seek to influence climate policy, the national constitutions and policy analysed here do mention future generations in the context of human rights.

This might provide a valuable pathway for linking future generations and human rights as a way to influence climate policy. Returning to the point that constitutions are intergenerational contracts, the overlap in areas of constitutions that are related to climate change, combined with increasingly established pathways of climate litigation, may provide a route for intergenerational equity to support climate justice. Future research could benefit from deeper engagement with legal norms around justiciability and self-execution of constitutional provisions, and provide deeper analysis of the climate litigation in the context of intergenerational equity. Notably, in this context, the South Korean Supreme Constitutional Court recently handed down a ruling that the country's main climate change law does not conform with the constitutional right to a healthy environment and noted the importance of considering the burdens on future generations (*Case on National Greenhouse Gas Reduction Targets Addressing Climate Crisis*, 2024). The court declared on August 29, 2024, that parts of the Carbon Neutrality Act were unconstitutional because the Act failed to set greenhouse gas (GHG) reduction targets beyond 2030 and in doing so violated the right to a healthy environment under Article 35 of the Constitution. The judgement required that South Korea's measures on climate change must be based on scientific facts, international standards and the share of burden the nation ought to bear in the context of the global efforts against climate change, recognising one aspect of climate justice (Phillips 2024; Sabin Center for Climate Change Law 2024b). Furthermore, the judgement requires that the measures ensure continuous reduction of greenhouse gas and should not impose an excessive burden on the future—explicitly recognising climate impacts on future generations. Hence, this

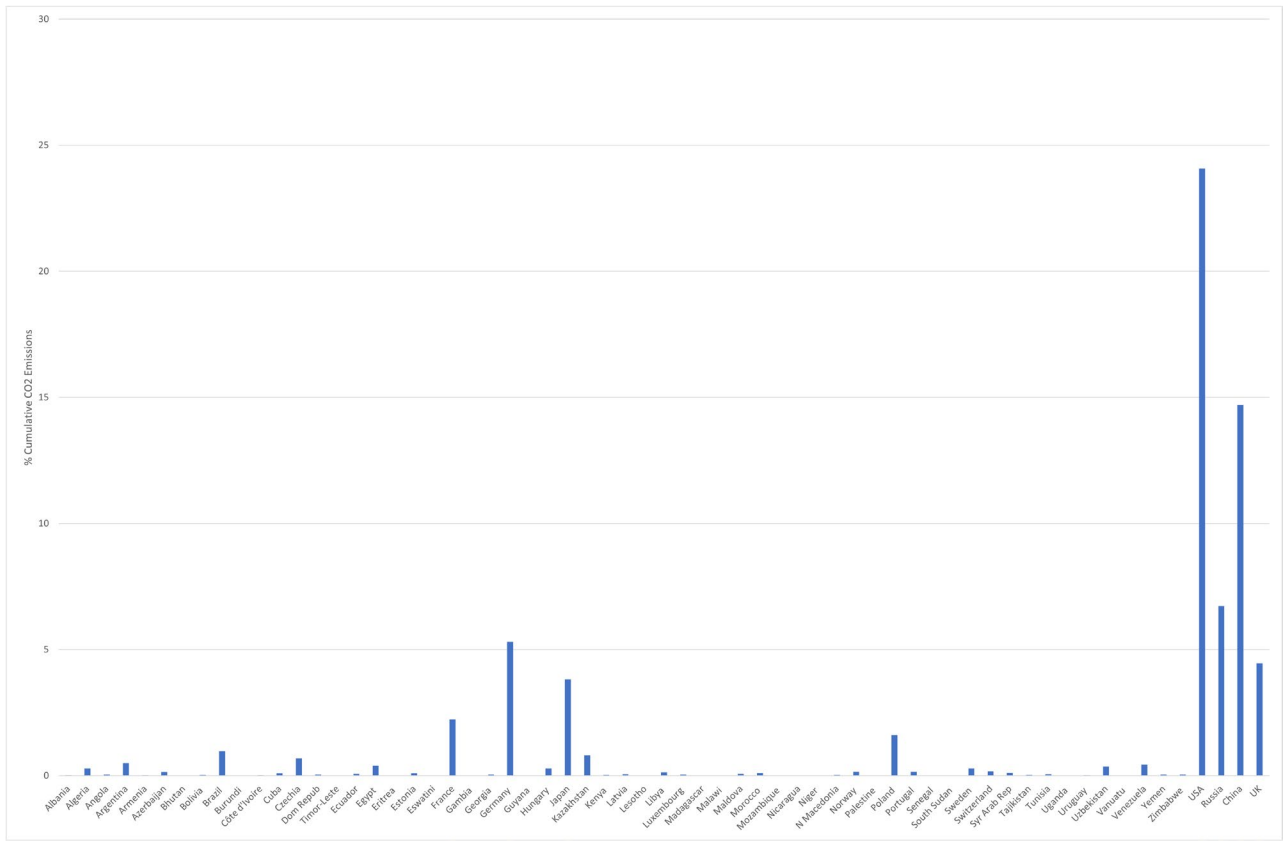


FIGURE 3 | Percent of cumulative CO₂ emissions (in 2022) of countries that include future generations in their constitutions and the four 'norm entrepreneurs': USA, Russia, China and UK.

case linked the element of constitutional rights to a healthy environment to future generations and climate justice.

Of course, a key challenge in applying any constitutional recognition or protection to climate change, whether to future generations or more generally, is that climate change is a global phenomenon, whereas constitutions are national. It is notable that many of the countries seeking to protect their environment for future generations in their constitution are 'Less Developed Countries' that face the biggest impacts of climate change, but have contributed least to its cause, carbon emissions (Figure 3). Their constitutions carry no weight to influence others. Notably, the 'norm entrepreneurs' have all made much more significant contributions to carbon emissions, accounting for almost 50% of historical emissions up to 2022. This links to the issue of climate justice, and the inequitable burden and responsibility for climate change. Although the UNFCCC adheres to the principle of 'common but differentiated responsibilities' of climate change, it has been challenging to hold wealthier countries, which have greater responsibility for carbon emissions, to account for the impact of these emissions.

Here, the recent UN Pact for the Future (United Nations General Assembly 2024) may provide a pathway to support action. Its clear statement to 'Prioritize urgent action to address critical environmental challenges and implement measures to reduce disaster risk and build resilience and reaffirm the importance of accelerating action to address climate change and its adverse impacts', agreed to by all 193 UN countries provides a common international soft law basis for linking intergenerational equity to climate action.

6 | Conclusion

The UN's push for a global agreement on the rights of future generations is already reflected in some constitutions. Recognition and protection of future generations are limited to only a few constitutions, it tends to be focused on aspects of these constitutions around the environmental and natural resources. There is limited evidence that this recognition of future generations is translated into national policy. Nonetheless, it is very clear that the consideration of future generations in national constitutions overlaps with key climate change impacts, especially environmental, natural resources (especially water and food security) and economic impacts. These overlaps provide the basis for intergenerational justice and consideration of future generations to drive climate policy in these countries. Recent and ongoing climate litigation and the use of human rights provisions to drive climate change arguments may provide examples of how intergenerational equity within constitutions and policy might be used to seek climate justice. This national focus may be limited in the face of a global problem, but the UN Pact for the Future could provide a common pathway to link intergenerational equity to climate justice.

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Conflicts of Interest

The authors declare no conflicts of interest.

Data Availability Statement

The data that supports the findings of this study are available in the Supporting Information of this article.

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Supporting Information

Additional supporting information can be found online in the Supporting Information section.