

treaty in history. The CRC enshrines specific rights of all children with principles of respect for the views of the child, best interest of the child, non-discrimination and the right to life, survival and development. This provides a useful framework for guiding decisions about the scale and speed of the transition from fossil fuel based economies to low carbon modes of development. It also provides a framework for international payments from countries with historical responsibility for greenhouse gas emissions to countries bearing the brunt of the impact but with little contribution to the problem.

Intergenerational principles have been used in the UK to argue for greater spending by the current generation rather than delaying spending for future generations (who it is argued may be better able to pay, or have better technological means of adapting to the changes). Lord Stern was commissioned by the previous UK government to conduct an analysis of the economics of climate change. He concluded that the economic decisions on climate change (how much to spend on a low carbon transition now, and how much the future costs of inaction may be) have such great potential impact that it is essentially an ethical decision: *“Questions of intra- and inter-generational equity are central. Climate change will have serious impacts within the lifetime of most of those alive today. Future generations will be even more strongly affected, yet they lack representation in present day decisions.”*<sup>1</sup>

A social contract based on intergenerational justice agrees that each generation passes on the land, country or world in a better or no worse state than it was received. Options and opportunities should be the same or increa-

sed for children as it was for their parents and grandparents. This principle can be found in the creation of a Trust for future beneficiaries, in conservation and land managed on behalf of the nation (e.g. National Trust).

A child rights approach to climate change would ensure that the views of children are heard on key policy decisions, and that government decisions are made in the best interests of the child. Considering the huge risk of climate change to child health and development both in the UK and internationally, this should mean action on mitigating greenhouse emissions, investing in a low carbon economy and adequate support for children in developing countries. A first step to a child rights approach has been taken with the establishment of a ‘youth panel’ by the Department for Energy and Climate Change, to consult young people on key policy decisions. But action on support for low carbon industry, penalties for greenhouse gas emissions, and financing for adaptation in developing countries, is not yet happening at the



*Third Panel “Intergenerational Justice and International Law”: Sébastien Jodoin, Lucy Stone, Dr. Marisa Matias and Patrick Wegner*

scale required to avert the impacts on child rights that has been forecast.

The new UK coalition government has already stated that: *“we need to protect the environment for future generations, make our economy more environmentally sustainable, and improve our quality of life and well-being.”* A child rights framework could ensure this vision becomes reality.

#### Notes:

1. Stern, N. (2006): Stern Review on the Economics of Climate Change. London: HM Treasury: p. 23.
2. <http://ww2.defra.gov.uk/about/>

#### Biography:

Lucy Stone leads the climate change programme for UNICEF UK based in London. This involves advocating for a child-centred approach to climate policy, and innovative funding for climate adaptation in countries most vulnerable to climate change. With expertise in climate change policy, behaviour change and community participation, she has worked as a policy advisor and researcher for UK-based think tanks. She has contributed to international conferences, such as the Global Environmental Change and Human Security conference in Oslo, the British German Environment Forum in Berlin and the UNFCCC Conference of the Parties in Copenhagen. She has an MSc in Environmental Technology at Imperial College and a degree in philosophy and religion from Newcastle University. Recent publications include a policy briefing on climate change and intergenerational justice with the Institute for Development Studies.

## CONFERENCE PAPERS

### The Failure of Copenhagen and its consequences for International Relations *by Dr. Marisa Matias*

Almost everything has been said about the Copenhagen Summit: its failure, the disappointment, the unrealised goals, a new global order, the re-configuration of power relations, the new ‘maps’ for inter-relations, the role of the United States and China, the news spaces generated by the counter-summit and the organization of the Cochabamba meeting on the rights of Mother Earth, the emer-

gence of a new civil society. Without unanimous agreement, the problems emerging from climate change raise important questions that demand reflection and action. One of the key issues is the role of the United Nations in the governance of climate change and the renewal of discussions regarding a dedicated commission inside its structure. Another important matter involves the attempts, mainly by some Latin American

countries, to create an International Court to deal with climate ‘crimes’. Finally, there is a transversal debate that cuts across all aforementioned dimensions: what is the role of politics in dealing with climatic problems and climate justice. How can our politics deal with a possible new global order together with issues of climate justice and issues of redistribution?

*This speaker was not able to provide us with a summary of her presentation. This text corresponds to the abstract published in the website of the conference [www.futuregenerations-law-conference.com](http://www.futuregenerations-law-conference.com)*

### Biography

Marisa Matias is a researcher at the Centre for Social Studies and has a PhD from the School of Economics, University of Coimbra. Her areas of interest are the relationships between environment and public

health, science and democracy. She became a member of the European Parliament in 2009 and is currently Vice-Chairwoman of the Delegation for Relations with the Maghreb countries. She also sits as a full member on the Committee on Industry, Research and Energy.

## CONFERENCE PAPERS

# The Role of the State in the Protection of Future Generations

*by Judge (ret.) Shlomo Shoham*

Facing the future that awaits us beyond the horizon, taking responsibility for the generations to come, it is time for all states to find the most effective way to create a desired future on planet earth.

I will focus on the need for Sustainability Units to be part of the constitutional structure in democracies, and how to establish such units within the governance structures. The most important goal of foresight bodies is to influence the state and its institutions, prompting each to act in a visionary way and to take long-term considerations into account. Yet this kind of long-term thinking is too often precisely what decision-makers lack – indeed, the lessons of future-oriented thinking are frequently neglected in favor of pressing political interests. Any discussion on the correct model for a sustainability unit must thus take the following factors as practical constraints:

a) Decision-makers and policymakers may seem to agree that conduct based on vision and foresight is desirable. However, foresight is sometimes in opposition to the hidden interests and motives (both personal and political) of the political system and its leading figures. It is these less obvious themes that determine the political agenda.

b) Decision-making and implementation processes in democratic systems are not rational, striving to reach and manifest logical, optimal solutions. Rather, they fluctuate between a model of “finding a satisfactory solution” and one of “organic chaos.” The precise balance will be determined by each country’s social and political structures, cultural tradition, and leaders’ ability to govern.

c) Our experience in Israel perhaps showed an extreme example of both constraints. Despite phenomenal progress in Israel’s mere 60 years of existence, the country’s democratic

government is subject to a multiplicity of fragmented and conflicting interests. The ability of the government and the political system to rule and act is relatively low. I learned that a successful sustainability unit must be modelled in a way that allows it to address this present-day political reality as well as to think about the future.

d) To this end, I claim that the secret to success is behavior emphasizing both of these goals. I therefore suggest a model in which sustainability units of all kinds are composed of two sub-units, one for content and another for impact management.

e) The rationale for this division is grounded in the often-imperfect processes of political decision-making. A sustainability unit will be influential only if it meshes with the way decisions are actually made.

f) All democracies, virtually by definition, show some level of fragmentation, conflict of interest, and resource constraints. Political pressure often pushes leaders to act from short-term, compromise goals rather than long-term vision. Orderly decision making is very rare.

g) Sound decisions are made and good policy is carried out only when the three elements – problem, solution, and incentive – appear or are exposed simultaneously. Sustainability units in governmental bodies should be constructed so they can recognize and address each element in a way that maximizes the influence of their recommendations.

h) A successful sustainability unit will have a specific relationship to all of these elements of decision-making, each of which is worth examining:

i) Problems: The unit should serve as an auditing body that forms an integral part of the legislative branch’s supervisory authority over

the executive branch. It should express its opinion on decisions that are in some sense damaging in the long-term view. In addition, the unit should be able to describe or anticipate problems that may occur in the absence of futures thinking – especially since crucial decisions are often a product of short-term thinking.

j) Solutions: The unit should serve as an advisory body that creates contingency plans and offers solutions created through futures thinking and long-term consciousness (not necessarily as a response to existing problems).

k) Incentives: The unit should be able to manage political stimuli in order to create incentives for decision-makers to act. It should draw attention to problems and its own solutions, thereby sensitizing decision-makers to the long-term consequences of their actions or, alternately, their inaction. In so doing, the unit facilitates timely change and helps prevent extreme situations from evolving into a crisis.

l) A body that addresses only a subset of these elements will have difficulties in carrying out its task. The most exquisite sensitivity to problems and the most brilliantly conceived solutions will be useless if the incentives to act are not in place.

m) Legal authority of the unit: The legal authority of the sustainability unit naturally has great significance in determining the way it operates. Any implementing law should thus be designed to give the unit sufficient range of action and authority – all in accordance with a given country’s regime and governing system. This said, I believe there is advantage in positioning the sustainability unit in the legislative branch, as an integral part of parliament (or at least an established part of the State Comptroller’s Office, which deri-