

# THREE PRINCIPLES

Toward Creating a Just Climate Legacy



Across epochs, cultures, and regional and partisan divides, the obligation to do right by our children carries moral and political weight. In fact, legal systems in the United States and around the world already include a great deal of law arguing for intergenerational rights and responsibilities. Much of this flows from three core obligations that each generation has to the next.

## Principle One: The Right to Diverse Options

The daily reality of our children's lives will be determined by decisions we make in the next few years. The climate crisis is rapidly approaching a tipping point, and it falls on us to make the right choices to avert disaster. This is a daunting task, but it is the responsibility that comes with a fundamental human right: the ability and freedom to make decisions about our own lives.

As we make choices about how to deal with this crisis, we still have many options available to us – options for clean energy, for efficient appliances, for land and water conservation. But some of the choices we make could limit the choices of future generations – perhaps severely.

This is why existing laws governing property, inheritance, and environmental clean-up make clear that we have a legal obligation to make sure that our children and their children have the same options open to them that we have today. We don't have the right to restrict the options available to future generations in solving their own problems, meeting their own needs, and satisfying their own values.

Ecosystems are more stable with a biological diversity of plants and animals. Stock portfolios are more healthy with diverse investments. Maintaining a diversity of options for future generations gives them a better chance of meeting their own challenges.

## Principle Two: The Right to Environmental Quality

Federal laws governing our public lands and national forests make clear that we have a legal obligation to ensure that our children inherit the same quality environment we have today. “Leave nothing but footprints” isn't just a good idea – it is written into the legal fabric of our national heritage.

Some states have broad public trust laws establishing the responsibility of preserving natural resources for future generations. The Montana state constitution, for example, enshrines this principle, holding that “[t]he state and each person shall maintain and improve a clean and healthful environment in Montana for present and future generations.” Similar protections are found in international agreements like the Montreal Protocol on the ozone layer.

Because so much damage has been set in motion already, the obligation to provide a quality environment is tested by the challenge of climate. But the responsibility is clear – in fact, it is continuous: if one generation fails to leave the planet as sound as they found it, succeeding generations must work to repair the damages they inherit.

Preserving environmental quality doesn't mean an end to critical economic development. It means balancing economic development and conservation and finding ways they can work together. That has never been more true than it is today, when visionary business leaders are realizing that enormous economic prosperity can result from a reinvention of our energy economy.



### Principle Three: The Right to Equal Access

For generations, American progress has been driven by a combination of ingenuity and plentiful natural resources. If our children are going to have a chance to improve their own lives, they need access to resources equal to the access we enjoy now. What's more, they need to share access equitably among themselves.

As an example of this principle, companies have an obligation to respect the atmosphere that belongs to all of us. If a company pollutes without limit, it is claiming more than its share of a public resource – which is bad for people living downwind today, and for future generations breathing the same air. In this way, the right to equal access works on two levels. Not only must future generations have the same degree of access we do, but they must have the same access as each other, a shared right to use and enjoy our common resources.

The right to equal access is already reflected in our legal structure. The National Environmental Policy Act, or NEPA, is the bedrock U.S. law that requires that we look at our impact on air, water, and the environment before undertaking any major construction project. It includes clear language demonstrating the legal obligation we have to ensure that our children have access to an environmental legacy at least as good as we received from the foresighted action of our parents.

Starting in their early years, we teach our children the value of sharing. We need also to ensure they are able to share the natural resources we pass on to them.

### Moving Forward

Working from these guiding principles, the Climate Legacy Initiative has developed detailed recommendations for policy makers that would make good on our legal obligations to future generations.

These recommendations are designed to translate abstract values into concrete ideas. They demonstrate how one might use the concept of intergenerational justice to assess real-world policy options, thereby aligning our laws with the realities of the climate crisis. One legislative recommendation, for example, calls for a new National Environmental Legacy Act (NELA) to preserve a public natural resource legacy for future generations. Another recommendation urges the US President and other governmental executives to create offices specifically to safeguard the interests of future generations. A third recommendation appeals to the UN General Assembly to adopt a declaration formally recognizing the atmosphere as a global “commons” shared by present and future generations. Taken together, the CLI's recommendations present a new way of thinking about our shared world and the shared crisis we face.

Most importantly, the Climate Legacy Initiative's work is intended to spark discussion of how our system of laws can adapt to, and confront, the climate crisis. A legal approach is just one tool in confronting this unprecedented challenge. But it is a critical one. Law underwrites all we do and how we do it.

Policy-makers, scientists, scholars, advocates, and citizens must work together to fight the climate challenge. Leaving the earth better than we found it is not merely a nice idea. It is our responsibility to our children, grandchildren, and generations beyond.