

CRITICAL REASONING

Rights of future generations must guide climate debate

The Summit Of The Future, which is to convene at the United Nations in New York on September 22-23, 2024, aims to identify multilateral pathways to address the major problems that threaten the common future of humanity. The list is long – from conflict to climate change, pandemics to pollution and outrageous income inequalities to abominable forms of discrimination. The vision guiding this multi-stakeholder consultation is a world wherein people can thrive with a greater assurance of protection from the impact of such threats on their well-being.

'Future generation rights' as main theme
The rights of future generations to live in a safe and secure world, which is not irreparably burnt or blighted by the follies of the past and present generations, is a dominant theme driving demands for climate justice. It will undoubtedly dominate the discourse at the summit – in rhetoric if not in real commitments. There is indeed a moral imperative for the present generations to ensure a liveable planet for those who will follow in the future. But is there a legal obligation?

A spirited debate erupted on this issue, in the pages of the *European Journal of International Law* in 2023. A provocative essay by Stephen Humphreys, Law School, London School of Economics, was titled 'Against Future Generations'. A rebuttal by legal scholars from Netherlands, India and the U.S. was published later. Titled 'In Defence Of Future Generations...', its lead author, Wewerinke-Singh from the University of Amsterdam, had served as Vanuatu's counsel in climate change-related proceedings in the International Court of Justice. She was part of the drafting group of the Maastricht Principles on The Human Rights of Future Generations.

Humphreys avers that the appeal to protect the rights of future generations is ambiguous rhetoric which "abjures concrete urgent existing responsibilities towards those alive today" while assuming them for "an abstract unformed future". This argument resonates with governments which believe they have an obligation to pursue even environmentally



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There is a moral imperative to ensure a liveable planet for the next generations, but another issue is that of a legal obligation

destructive paths of development to ensure high living standards for the present generation whose interests they have been elected to protect. Humphreys also argues that the 'futures' call unfairly converts those to whom responsibility is presently owed into those who owe responsibility to the future.

In a counter, Wawerinke-Singh and her co-authors argue that the future generations discourse "has emancipatory power, offering potential for reshaping international law based on a vision of justice and solidarity across time and space". They draw upon the traditional beliefs and encoded wisdom of indigenous groups across the world, wherein a duty towards the welfare of future generations is regarded as a sacred norm. Such obligations are invoked towards four to seven generations ahead.

Judgments on environmental matters

They also draw upon judgments from many low- and middle-income countries on environmental matters. Among those they cite is a landmark judgment in Colombia which advanced principles of intergenerational solidarity by ordering the government to "formulate and implement an inter-generational pact for the life of the Colombian Amazon".

The Supreme Court of Pakistan upheld a bar on the construction of cement plants in an environmentally fragile zone, eloquently declaring, "Through our pen and jurisdictional fiat, we need to decolonise our future generations from the wrath of climate change, by upholding climate justice at all times".

The National Green Tribunal of India upheld the principle of intergenerational equity in the right to environment. The High Court of Kenya decreed that the present generation is legally obliged to maintain and enhance the health, diversity and productivity of natural resources' to benefit future generations. The High Court of South Africa declared that inter-generational justice requires the state to "consider the long term impact of pollution on future generations".

The Maastricht Principles clearly enunciate the case for linking sustainable development and climate justice discourses to the rights of future generations. The Preamble of that document

affirms that "neither the Universal Declaration of Human Rights, nor any other rights instrument contains a temporal limitation or limits rights to the present time". It avers that "human rights extend to all members of the human family, including both present and future generations". It declares that "human generations exist within an unbroken continuum that is continually renewed and redefined".

The Preamble further states that "human rights of future generations must be understood, interpreted, and integrated within the evolving legal context recognising humanity's relationships with the natural world, and the best available science". They emphasise that these rights must be "interpreted and applied in light of humanity's dependence on and responsibility to Earth's natural systems, now and throughout our species' future".

The document's 36 principles must guide actions at the national and global levels. One of these lists an obligation to protect the human rights of future generations "against substantial risks posed by the conduct of public and private actors, including business enterprises". Another stipulates that "future generations must be represented meaningfully and effectively in decision making that may impact on their enjoyment of human rights". As the generation which will usher in the future, young persons must have their voices heard and concerns heeded.

Pay heed to 'overshoot day'

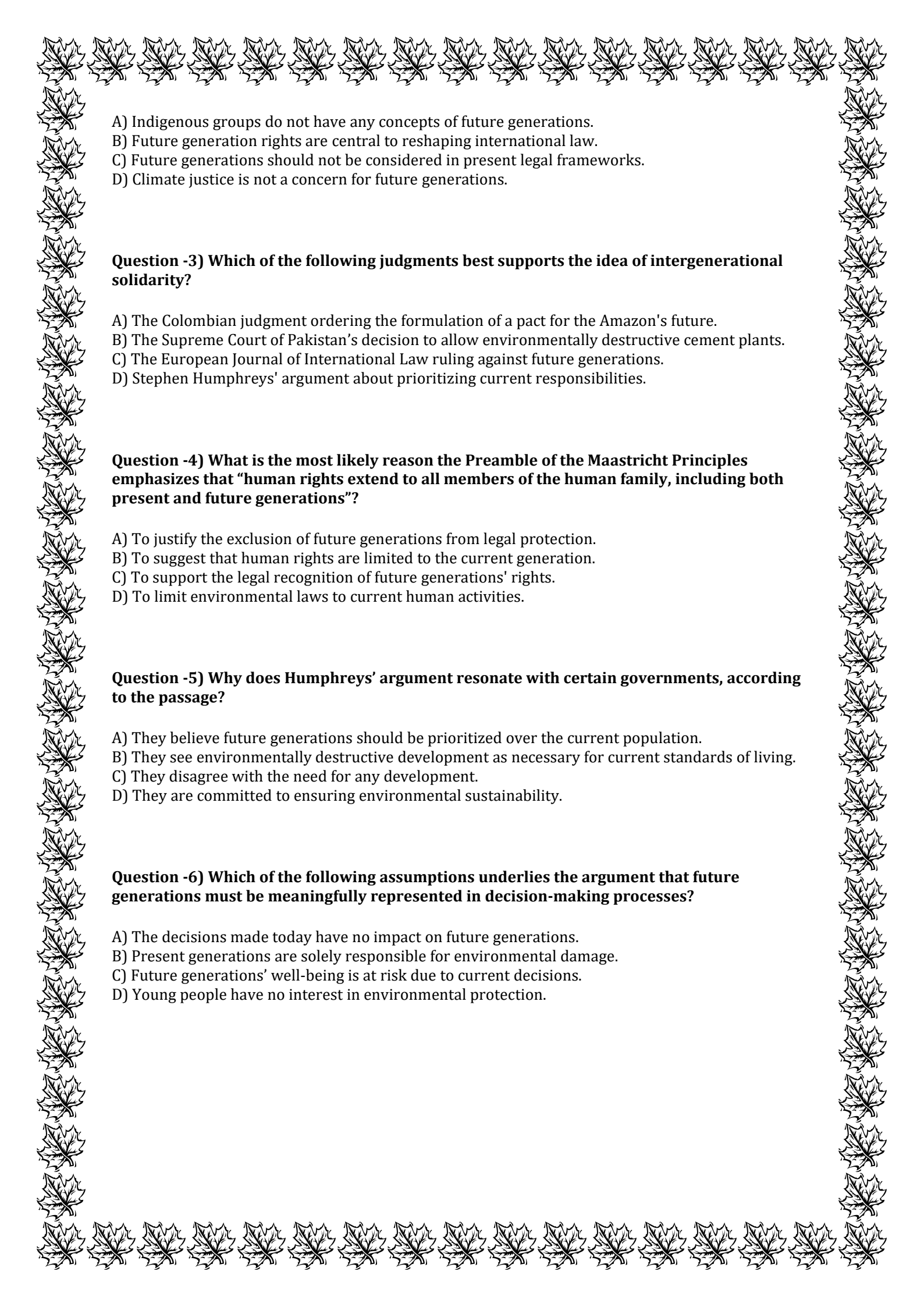
Eight of the nine planetary boundaries needed for earth's healthy survival have already been breached. The 'planetary overshoot day', when earth's capacity to renew its depleted natural resources each year is exhausted, has moved from December 30 in 1970 to August 1 in 2024. If this continues to recede in the calendar, future generations will be left with a bankrupt planet. We need to veer away from this rush to perdition not just to save those whose lives and well-being are at immediate risk but even more so to avoid the sin of shamefully scarring the lives of future generations.

The views expressed are personal

Question -1) What is the primary argument made by Stephen Humphreys in his essay 'Against Future Generations'?

- A) Protecting future generations is a moral responsibility.
- B) The appeal to protect future generations diverts attention from current responsibilities.
- C) Governments should prioritize the environment over economic development.
- D) The future generations' rights should be legally enshrined.

Question -2) Which of the following can be inferred from the counter-argument made by Wawerinke-Singh and her co-authors?

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- A) Indigenous groups do not have any concepts of future generations.
 - B) Future generation rights are central to reshaping international law.
 - C) Future generations should not be considered in present legal frameworks.
 - D) Climate justice is not a concern for future generations.

Question -3) Which of the following judgments best supports the idea of intergenerational solidarity?

- A) The Colombian judgment ordering the formulation of a pact for the Amazon's future.
- B) The Supreme Court of Pakistan's decision to allow environmentally destructive cement plants.
- C) The European Journal of International Law ruling against future generations.
- D) Stephen Humphreys' argument about prioritizing current responsibilities.

Question -4) What is the most likely reason the Preamble of the Maastricht Principles emphasizes that "human rights extend to all members of the human family, including both present and future generations"?

- A) To justify the exclusion of future generations from legal protection.
- B) To suggest that human rights are limited to the current generation.
- C) To support the legal recognition of future generations' rights.
- D) To limit environmental laws to current human activities.

Question -5) Why does Humphreys' argument resonate with certain governments, according to the passage?

- A) They believe future generations should be prioritized over the current population.
- B) They see environmentally destructive development as necessary for current standards of living.
- C) They disagree with the need for any development.
- D) They are committed to ensuring environmental sustainability.

Question -6) Which of the following assumptions underlies the argument that future generations must be meaningfully represented in decision-making processes?

- A) The decisions made today have no impact on future generations.
- B) Present generations are solely responsible for environmental damage.
- C) Future generations' well-being is at risk due to current decisions.
- D) Young people have no interest in environmental protection.



ANSWERS & EXPLANATION

Question -1) What is the primary argument made by Stephen Humphreys in his essay 'Against Future Generations'?

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- B) The appeal to protect future generations diverts attention from current responsibilities.
- C) Governments should prioritize the environment over economic development.
- D) The future generations' rights should be legally enshrined.

Answer: B

Explanation: Humphreys argues that the rhetoric of protecting future generations distracts from current responsibilities and imposes obligations on the present generation, as noted in the passage.

Question -2) Which of the following can be inferred from the counter-argument made by Wawerinke-Singh and her co-authors?

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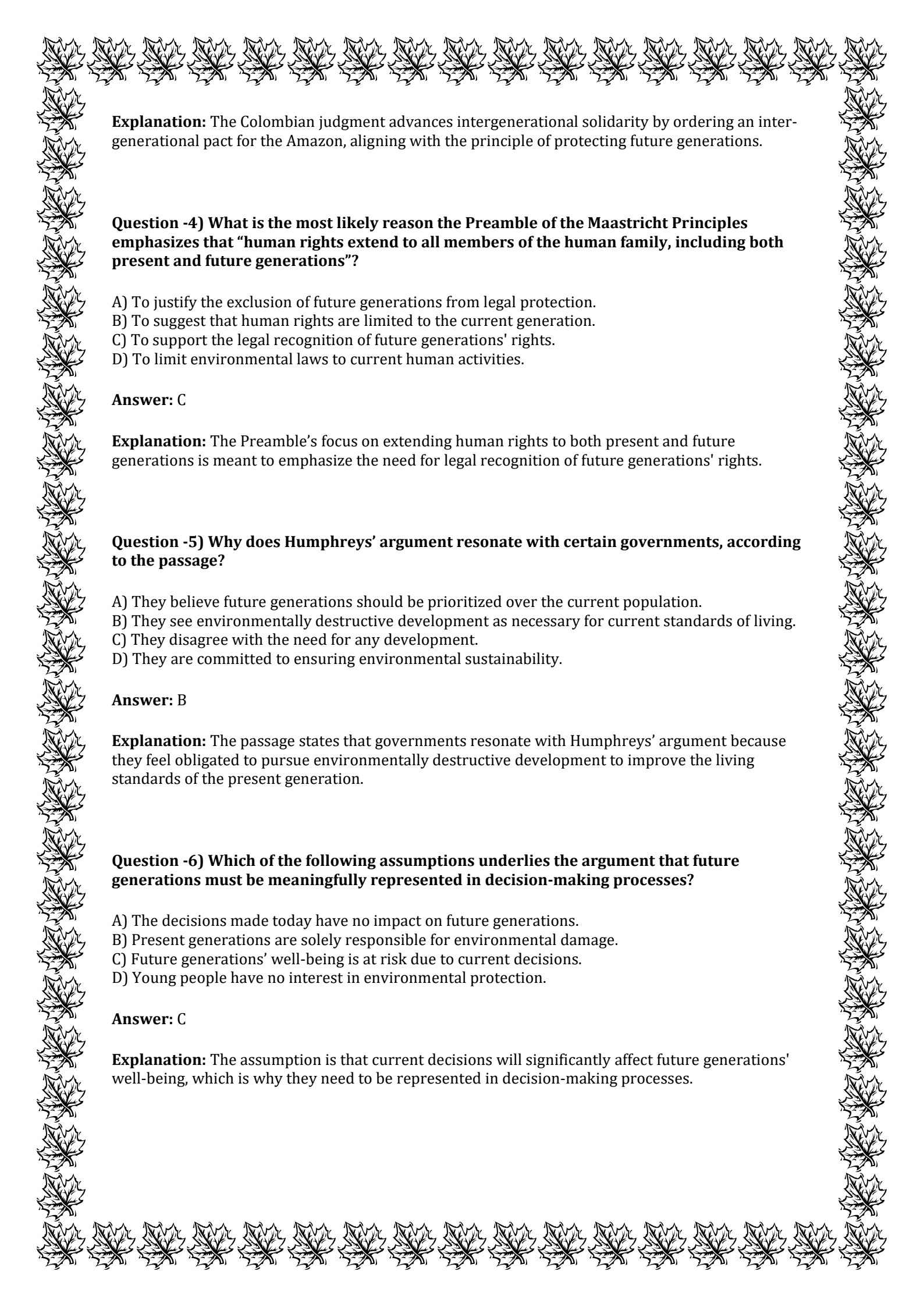
Answer: B

Explanation: Wawerinke-Singh and her co-authors argue that the future generations discourse has the potential to reshape international law, as shown in the passage.

Question -3) Which of the following judgments best supports the idea of intergenerational solidarity?

- A) The Colombian judgment ordering the formulation of a pact for the Amazon's future.
- B) The Supreme Court of Pakistan's decision to allow environmentally destructive cement plants.
- C) The European Journal of International Law ruling against future generations.
- D) Stephen Humphreys' argument about prioritizing current responsibilities.

Answer: A



Explanation: The Colombian judgment advances intergenerational solidarity by ordering an inter-generational pact for the Amazon, aligning with the principle of protecting future generations.

Question -4) What is the most likely reason the Preamble of the Maastricht Principles emphasizes that “human rights extend to all members of the human family, including both present and future generations”?

- A) To justify the exclusion of future generations from legal protection.
- B) To suggest that human rights are limited to the current generation.
- C) To support the legal recognition of future generations' rights.
- D) To limit environmental laws to current human activities.

Answer: C

Explanation: The Preamble’s focus on extending human rights to both present and future generations is meant to emphasize the need for legal recognition of future generations' rights.

Question -5) Why does Humphreys’ argument resonate with certain governments, according to the passage?

- A) They believe future generations should be prioritized over the current population.
- B) They see environmentally destructive development as necessary for current standards of living.
- C) They disagree with the need for any development.
- D) They are committed to ensuring environmental sustainability.

Answer: B

Explanation: The passage states that governments resonate with Humphreys’ argument because they feel obligated to pursue environmentally destructive development to improve the living standards of the present generation.

Question -6) Which of the following assumptions underlies the argument that future generations must be meaningfully represented in decision-making processes?

- A) The decisions made today have no impact on future generations.
- B) Present generations are solely responsible for environmental damage.
- C) Future generations’ well-being is at risk due to current decisions.
- D) Young people have no interest in environmental protection.

Answer: C

Explanation: The assumption is that current decisions will significantly affect future generations' well-being, which is why they need to be represented in decision-making processes.