

**Towards a Wellbeing and Sustainable  
Development Bill in Scotland  
Discussion Paper**

# Wellbeing and Sustainable Development Bill: A Discussion Paper

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# 1. Introduction

This paper has been produced to communicate findings of research carried out on behalf of Scotland's International Development Alliance to inform their work towards a Wellbeing and Sustainable Development (Scotland) Bill. The Bill was included in the legislative commitments of the Scottish Government.

## 1.2 Research Questions

This discussion paper is based on answering a number of research questions set by the Alliance:

- What should the purpose of a WSD Bill be in terms of enhancing PCSD and Scotland's contribution to sustainable development globally?
- What should the WSD Bill require? And of whom?
- How would a WSD Bill complement and enhance existing legislation?
- How should the WSD Bill be monitored and by whom?
- What is the learning from existing duties imposed on public bodies in Scotland?

The paper is informed by the Alliance's existing public statements in relation to the WSD Bill, but not bounded by them. Alongside addressing these questions, the overall aim of this paper is to support the Alliance's work to influence the development and passage of the Bill. We provide some discussion of our findings to inform the Alliance's thinking and offer analysis, commentary and information to stimulate internal discussions, and engagement with stakeholders and politicians.

## 1.3 Tasks & Methods

Our findings are based on a number of tasks that were carried out as part of the brief. These were namely around stakeholder engagement to gather views, review of international legislation, review of Scottish policy and legislation, review of the Wellbeing of Future Generations Act and the Welsh experience. Additional information has been provided as annexes, which summarise the methods used to complete these tasks and present some of the information gathered. This aims to provide the Alliance with an evidence base for reference. Not all of these may be made publicly available.

We engaged with stakeholders from the following organisations:

- Alliance Members
- Audit Scotland
- City of Edinburgh Council
- Highlands and Islands Enterprise
- The Law Society Scotland
- Learning for Sustainability Network
- NatureScot
- SDG Network Members

- Scottish Enterprise
- Scottish Land Commission
- Scottish Government
- SEPA
- UN House Scotland
- University of Dundee
- University of Edinburgh
- University of Stirling
- University of Strathclyde

## **1.4 Overview of the Paper & Recommendations**

Each of the sections is related to the above research questions, and the set of tasks that were detailed in the Alliance brief. A number of recommendations were generated from our work and are explained in more depth in each chapter. Below is an overview of each chapter and the list of numbered recommendations made in the chapter.

### **1.4.2 Overview of Chapter 2: Context**

Chapter 2 outlines some important contextual considerations: identifying key elements of the Scottish context that the Bill must address, summarising international practice around sustainability legislation, and highlighting key concerns to be considered in advocacy around the Bill's passage.

### **1.4.3 Overview of Chapter 3: Key Concepts**

This chapter outlines the key planks of the Bill as wellbeing, SD and policy coherence. The first two are contested and 'slippery' concepts, meaning they can be interpreted differently politically and in policy, as well as in research. The concepts are also interrelated and can be underpinned by further considerations such as underlying human needs.

On the concept of SD, the chapter introduces the post-war context and the commonly used Brundtland definition. It highlights some of the limitations of this definition as it pertains to avoiding ecological collapse and meeting social needs within the three pillar model. Alternative definitions from scientist-activist perspectives are outlined, alongside the UK Shared Framework for SD and the Doughnut Model.

On the concept of wellbeing, the chapter outlines the commonly used subjective/objective definitions of wellbeing. It also discusses the related concept of a wellbeing economy which is likely to be important to the Bill. A wellbeing economy could shift the focus away from economic growth. It is suggested that it might be possible to underpin current normative frameworks using an appeal to fundamental human needs.

On PCSD the chapter outlines how this concept can be understood as requiring attention to the

transboundary impacts of policies across the world, and the long-term impacts of policies on future generations, covering the 'here and now' and the 'elsewhere and later'. We reflect here also on the OECD's framework for PCSD and how it might link to the Bill. We conclude by discussing the interlinkage of the concepts.

**Recommendation 1:** Prior to the development of an influencing strategy, the Alliance should ensure that it is clear about what its conceptions of these three terms are, so as to ensure that it can advocate for statutory definitions that are most likely to support the hoped-for outcomes.

#### **1.4.4 Overview of Chapter 4: Purpose of the Bill**

This chapter focuses on the purpose of the bill, covering how it might complement and enhance existing legislation, and how the bill should incorporate PCSD and SD. Purpose is interpreted in two ways. First, as regards the aims - what the bill should be seeking to do, and second what the stated 'Purpose of this Act' might be, if one is desired. The aims that we are recommending here could form the basis of an influencing position or plan. We suggest five aims related to: giving force to existing SD provision in Scottish legislation through a retroactive definition of SD; resolution of conflicts with SD in existing statutory duties; improving coherence, scrutiny and participation requirements for national outcomes; setting out principles or requirements for the transition to a wellbeing economy; providing for clear accountability mechanisms (see Chapter 6).

The chapter covers: how stakeholders understand the purpose of the Bill; the scope of the Bill; the importance of definitions; ways to incorporate global responsibility and impacts; the place of the national outcomes and NPF; and the Scottish Government's likely approach to the wellbeing economy in contrast to alternative economic thinking.

#### **Recommendations**

**Recommendation 2:** Consider the following for inclusion in the stated 'Purpose of this Act':

- reference to domestic and global PCSD
- transition to a wellbeing economy

**Recommendation 3:** A clear definition of SD should be included at the outset of the Bill as (i) requiring ecological integrity and social equity, (ii) emphasising that Scotland's wellbeing and SD are inextricably linked to global wellbeing and SD and (iii) giving explicit direction towards global PCSD.

An SD definition will give greater guidance for implementation. It could be applied to SD clauses in preceding Acts, or specific amendments could be made. The inclusion of PCSD will help support a cultural shift in ways of working.

**Recommendation 4:** Alongside commitments to PCSD, there needs to be thought to how this will be implemented - what does PCSD mean in practice.

**Recommendation 5:** Scotland's WSD Bill could have a distinct element focusing on how actions

can have a 'positive impact on global wellbeing and sustainable development'. Rather than 'take account of', the language could suggest applying specific principles in decision-making and 'achieving' particular outcomes.

**Recommendation 6:** The WSD bill should support, strengthen, and embed use of existing sustainable development frameworks - in this case, the National Performance Framework (NPF), unless the NPF is considered "not fit for purpose".

### 1.4.5 Overview of Chapter 5: What should the bill require and of whom?

This chapter outlines the key actors that could be targeted for action by the Bill and the learning from existing public duties on public bodies. Key actors are public bodies; new public bodies; SG and Ministers; the private sector; and civil society. Examples from Scotland and other contexts are used to illustrate the content and effectiveness of duties. We outline possibilities for new duties that might 'achieve' particular outcomes, as well as discussing some of the potential limitations of duties within the wider context. Legislation will need to ensure that duties emphasise and encourage action rather than just reporting, and are accompanied by guidance and learning. The learning that accompanies the sensitive and supportive implementation of a duty is, in some literature, considered a more significant path to change than the establishment of the duty itself.

### Recommendations

**Recommendation 7:** The Alliance could push for the WSD Bill to be framed as an 'ambitious' piece of legislation to deliver a new approach to wellbeing and SD that recognises current economic systems are not meeting the needs of people or the planet. It could advocate for the Bill to put into practice new economic approaches to deliver a wellbeing economy that respects global ecological limits and delivers social minimums globally.

**Recommendation 8:** The WSD Bill could be an opportunity to advocate for a 'whole government approach' to wellbeing rooted in PCSD. Key aspects of this might be around increasing the transparency of decision-making especially where trade offs are concerned and encouraging cultural change.

**Recommendation 9:** The Alliance could lobby on the importance of finding ways to target and increase the accountability of private sector regarding their contributions to wellbeing and SD and/or consider whether there are industry and private sector allies for this Bill.

**Recommendation 10:** To enhance PCSD, the WSD Bill might be used to consolidate/amend existing duties offering a framework for ways that public bodies can take decisions which maximise synergies and recognise global responsibility. For example under the CC Act reporting on 'broader sustainability issues' is currently not mandatory and the WSD Bill could be used to strengthen this.

**Recommendation 11:** Consider advocating that the WSD Bill includes provisions to resolve existing conflicts in public bodies' duties. This may have to be done on a case-by-case basis, or through



provisions that give priority to SD, so that other functions must be carried out in a way that is compatible with / supports SD, including global PCSD.

**Recommendation 12:** The Alliance could lobby for the Bill to include duties on ‘achieving’ specific kinds of wellbeing, SD and PCSD outcomes. This could include a clear clause directing public bodies to avoid policy incoherence, and a duty to put into practice ‘do no harm’ or ‘positive global contributions’.

**Recommendation 13:** If new duties are to be proposed, then it is essential that duties are understood by duty-bearers and can be successfully implemented by them - which requires that duty-bearers are supported with resources, tools and training.

### **1.4.6 Overview of Chapter 6: Accountability and monitoring**

Chapter 6 focuses on the question of the kinds of monitoring and accountability processes the Bill might look to put in place. It draws on a range of examples from Wales and international practice to identify ways in which effective accountability, monitoring and scrutiny can be built into this legislation. It considers the potential contribution of reporting, indicators, audit processes, enforcement by the courts, scrutiny bodies and civil society. Key questions include the political constraints on accountability options, where accountability responsibilities might fall, and distinctions between more and less formal, active or passive, and more or less stringent frameworks and processes in these respects.

#### **Recommendations**

**Recommendation 14:** The most effective and robust scrutiny mechanisms politically possible should be built into the legislation - to ensure that there is ongoing scope to review impact and progress.

**Recommendation 15:** Ensure that proposed accountability structures are mindful of the need to cultivate longevity and legitimacy in the Scottish political context.

**Recommendation 16:** The WSD Bill should include a duty on Ministers to report annually on progress based on assessments made using appropriate indicators that include outlining Scotland’s global impacts on sustainable development and wellbeing.

**Recommendation 17:** The Bill should address the place of civil society, through a role in any panels, councils or commissions, and in a recognition in opening definitions of SD as a multistakeholder “whole of society” activity.

### **1.4.7 Overview of Chapter 7: Broader Considerations**

This chapter outlines broader considerations towards the WSD Bill, including dynamics related to the passage of the Bill and key government portfolios. The chapter also introduces the topic of decolonising development, suggesting ways to pursue this agenda by including perspectives from

the Global South in Alliance thinking around the key concepts. Additionally, recommendations around changing existing policy language are suggested. Finally we suggest where there may be gaps in stakeholder engagement and suggest particular organisations and sectors to target.

## Recommendations

**Recommendation 18:** The planning of engagement and influencing work should systematically consider which stages of the development and passage of the WSD Bill it might focus on, in order to maximise its impact.

**Recommendation 19:** Given that the Alliance's aspirations are global and long-term, it should consider what work might need to be carried out after the passage of the Bill.

**Recommendation 20:** The Alliance should consider planning some engagement with Michael Matheson's team, at least until the extent of its involvement in the development of Bill becomes clear.

**Recommendation 21:** Consider whether it would be effective to create a buzz around this 'world-leading' achievement, allowing the Scottish Government and Parliament to take credit. The Scottish Government can be held to account over positive public statements about the policy coherence provisions, e.g. how it supported them. In addition, if policy coherence is seen to be a strong demand, especially from a range of (interest) constituencies, it could further the cause of PCSD, as the Government may be more likely to take further ownership of the idea.

**Recommendation 22:** The WSD Bill could be explicitly framed as a human rights approach to align with the SG's principles for international development. However, the statement by SG to increase voices from the Global South in international development work, suggests opportunities to consider other types of 'rights' relevant to the WSD Bill.

**Recommendation 23:** The Alliance may wish to reflect on the use of the terms 'developed' and 'developing' countries to distinguish between countries which are structurally disadvantaged or advantaged by the international balance and dynamics of power. It should consider whether it would be appropriate to enshrine these terms in legislation, as has been done in the Climate Change (Scotland) 2009 Act.

**Recommendation 24:** The Alliance should consider working towards the enshrining of the approach or principle of self-defined development in the WSD Bill to provide a statutory basis for this and future governments' international development work.

### 1.4.8 Overview of Chapter 8: Conclusion

This chapter highlights some important considerations surrounding our findings. For example, relating to the process of working that was involved in this research. The chapter offers a brief summary of key points to consider having read the document.

## **Abbreviations**

GFN - Good Food Nation

NPF - National Performance Framework

OECD - Organisation for Economic Cooperation and Development

PCSD - Policy Coherence for Sustainable Development

SD - Sustainable Development

SDGs - Sustainable Development Goals

SFC - Scottish Food Coalition

SHRC - Scottish Human Rights Commission

SG - Scottish Government

WFG - Well-being of Future Generations (Wales) Act 2015

WSD - Wellbeing and Sustainable Development

## **List of Figures**

Figure 1: UK Shared Framework for Sustainable Development

Figure 2: Doughnut Model of Development

## 2. Context

This chapter introduces key contextual considerations for the WSD bill: the Scottish context, the international context and the conceptual and practical advocacy context. In each three areas there are opportunities and challenges that shape possibilities surrounding a WSD bill.

## 2.1 The current Scottish context

Politically, though SNP, Labour and Greens are all committed to some kind of legislation on SD, the manifesto commitments of key parties differ in ways that reflect some of the key points of contestation around the concepts involved. SNP's commitment is to:

*“a statutory requirement for all public bodies and local authorities in Scotland to consider the long term consequences of their policy decisions on the wellbeing of the people they serve, including those not yet born, and take full account of the short and long term sustainable development impact of their decisions, both in Scotland and elsewhere.”*

- Scotland's wellbeing framework, identified as mapping against the SDGs and NPF is felt (e.g. in the views of stakeholders at our workshops) as underused and underscrutinised, with the indicators addressing Scotland's global role clearly not fit for purpose from a standpoint of tracing global SD impacts.
- A large body of overlapping legislation in Scotland mentions the idea of SD. Notably, the Climate Change (Scotland) Act 2009 was amended to impose a duty on Scottish Ministers, so that they must have regard to extra-national impacts and climate justice as they develop climate change mitigations and adaptation plans.
- There is a current set of legislative and governance developments - notably around the establishment of a future generations commission, the Good Food Nation (GFN) bill, and new human rights legislation, that alongside this Bill must themselves be mutually coherent in support of SD.

## 2.2 The current international context

- Globally, legislation focused specifically on SD is relatively unusual. The best examples of such legislation globally are considered to be Wales and Malta, and to a lesser extent Canada and Zanzibar. This legislation is often at least partly framed as focusing on representing the interests of future generations.
- A large number of countries have adopted national monitoring frameworks around SD in response to the UN SDGs. Finland - with a national set of indicators, a committee and commission for SD, and citizens panel - is a prominent example. It is worth noting, though, that these institutions arise from a combination of constitutional foundations and government policies on the SDGs rather than new SD law.
- Almost all countries have a range of legislation covering issues related to SD, from human

rights, equalities, employment, land use to biodiversity, ecosystem conservation, forestry and increasingly, climate change - with distinct structures of monitoring and accountability.

- A number of countries - prominently Iceland and New Zealand, identify themselves as working towards wellbeing economies, and are adopting national wellbeing indicator frameworks in response. Current progress in the translation of these indicators into policy and law is unclear - partly as a result of the pandemic.

## 2.3 The conceptual and practical advocacy context

- SD, wellbeing and PCSD - the ideas at the core of the Alliance's approach to this legislation are all contested ideas. Though widely endorsed, SD faces an inherent tension between "sustainability" and "development" that is handled differently in various national and international texts and contexts. "Wellbeing" is widely understood as desirable, but its exact definition and policy implications are more unclear. PCSD, as recognised by the OECD partnership formed to advocate for it, faces difficulties, both in communication to policymakers and stakeholders and in operationalising this idea in political practice<sup>1</sup>.
- Legislation, and the establishment of statutory duties in particular, has limitations in what it can achieve and there are different understandings of the role of legislation in societal change: for example, whether the impact is meant to occur through regulation, compliance, and accountability, or instead through wider cultural, agenda-shaping, and educative effects.
- The interplay between the specificities of the Bill process - e.g. the processes of scrutiny at each stage, the context of governance in Scotland - e.g. how this sits amongst ministerial portfolios, and the advocacy positions of backers and blockers of different aspects of this Bill means that advocacy outcomes cannot be guaranteed and a range of strategic considerations come into play.

## 2.4 Conclusion

Some of the above contextual considerations are moving parts and the Alliance's strategy for this Bill may need to accommodate any new developments that are not covered by our work.

The next chapter focuses on the key concepts that this Bill will require.

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<sup>1</sup> [https://www.oecd.org/gov/pcsd/Coherence%20for%20Development\\_Issue\\_9.pdf](https://www.oecd.org/gov/pcsd/Coherence%20for%20Development_Issue_9.pdf) p1; [https://sustainabledevelopment.un.org/content/documents/21909Deliverable\\_SDG\\_Partnerships\\_platform\\_Report.pdf](https://sustainabledevelopment.un.org/content/documents/21909Deliverable_SDG_Partnerships_platform_Report.pdf) p.32

## **3. Key concepts**

## 3.1 Concepts in the Bill

The key planks of the Bill are envisaged as wellbeing, SD and policy coherence. The first two are ‘slippery concepts’, in that they can, and are, interpreted in different ways in political and policy narratives.

**Recommendation 1: Prior to the development of an influencing strategy, the Alliance should ensure that it is clear about what its conceptions of these three terms are, so as to ensure that it can advocate for statutory definitions that are most likely to support the hoped-for outcomes.**

To this end, prominent conceptions of the three planks are discussed below, followed by a brief outline of how they are interrelated.

First, it may be useful to consider the importance of concepts. Words or terms like ‘sustainable development’ symbolise a specific idea - a concept. The word/term is used to spread the idea. Words/terms arise to solve a specific problem<sup>1</sup>. For example, the concept of SD arose when people began to observe that the pattern of societal development could not be sustained in the long term, and that its effects could/should not be borne by the ecosphere, or by society<sup>2</sup>. Thus the term ‘sustainable development’ speaks both to the problem and the envisioned solution.

From this, it follows that a good test of a conceptualisation is whether that particular conceptualisation points to a solution to the problem which gave rise to it.

### 3.1.1 The concept of sustainable development

During the ‘golden age of economic growth’ following World War II<sup>3</sup>, two separate critiques of conventionally-defined economic growth emerged. One was about its pernicious effects on humans and human societies, and the other about its pernicious effects on the ecosphere. By the early 1970s, these critiques had merged into the normative<sup>4</sup> concept of SD, which can also be described as ‘social-ecological’ wellbeing, based on the recognition that human societies’ ability to survive and thrive is dependent on the integrity of the ecosphere.

The 1987 UN World Commission on Environment & Development popularised the term ‘sustainable development’, especially within the policy world, defining it as:

*“sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs.”*

This definition, named for the Commission’s chair, Gro Harlem Brundtland, is still widely found in policy and legislation.

Unfortunately, the Commission’s recommendation for a remedy to the ills of growth was increased

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1 Vygotsky, L.S., 1962: Thinking and Speech, MIT Press, Cambridge, Massachusetts.

2 Purvis et al. 2019: Three pillars of sustainability: in search of conceptual origins, Sustainability Science 14(3): 681-695.

3 Coyle, D. 2014: GDP: a brief but affectionate history, Princeton University Press, Princeton.

4 Prescribing or seeking to establish a particular norm.



growth. Thus the 'twin critiques' eventually became, in policy circles, the 'three pillars' - economic, social and environmental - as the UN sought 'to reconcile economic growth as a solution to social and ecological problems'.

The notion of 'balance' runs through the WCED report, and is perhaps what gave rise to the balancing approach that often accompanies the Brundtland definition/three pillar, whereby economic growth should be balanced against environmental and social concerns, resulting in trade-offs that do not resolve policy conflicts, and ultimately appear to be resulting in the ever-greater risk of social-ecological collapse<sup>5</sup>.

Nevertheless, the Brundtland definition does meet the conceptual test for SD as ecological integrity and social equity are essential in order to meet intra- and inter-generational human needs.

However, the three pillars conception is problematic in that it places 'economy' on a par with society and environment. While ecological integrity and social equity are clearly aims, economic growth/development is not an aim, but a *means* to whatever end a society seeks<sup>6</sup>. According to its parity with other aims gives it the status of an aim, against which the others can be traded off. International political processes for SD adhere firmly to the Brundtland prescription that the solution to the ecological and social ills caused by growth should be solved by growth, despite ongoing advocacy by scientists and civil society organizations to drop this. Enormous efforts were made during the international negotiations on the SDGs, but growth remains core to the 2030 Agenda. Perhaps because of this, ecological degradation and inequity appear to be deepening.

Several scientist-activist conceptions of SD remain true to its roots<sup>7</sup>, and would support integrated solutions to social-ecological wellbeing. Examples include the UK Shared Framework for Sustainable Development (Fig. 1) developed by the now-abolished UK Sustainable Development Commission, and the more recent doughnut model (Fig. 2)

The Shared Framework is so named as it was developed (in 2005) as a set of essential and supporting principles for SD, around which each of the four UK administrations could build their SD strategies. Note that the first support principle - achieving a sustainable economy - specifically avoids advocating growth. The Framework is still the extant policy framework for SD in Scotland, although it has no statutory basis.

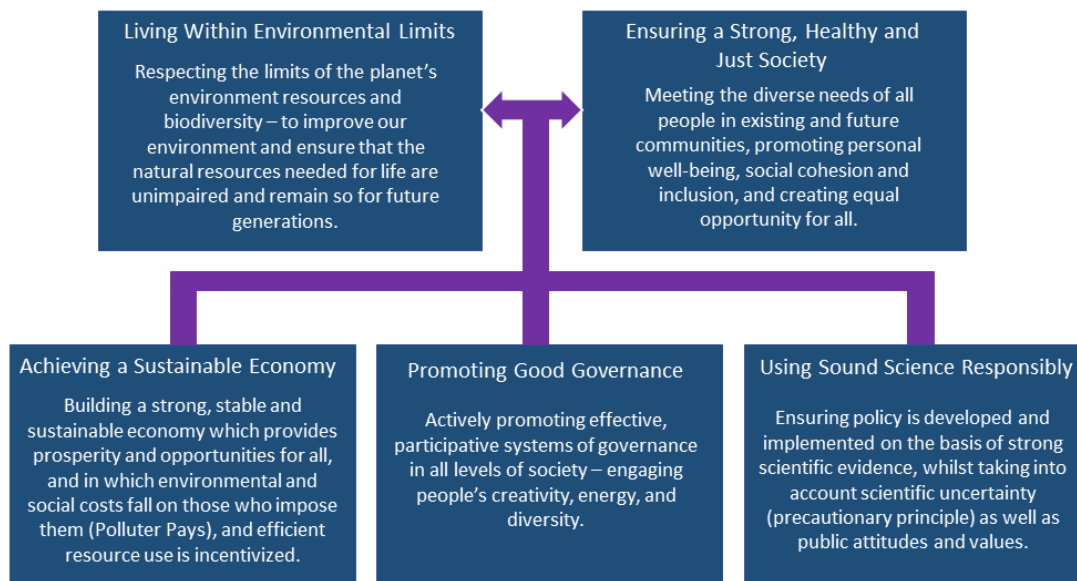
The doughnut model embodies the twin critiques or criteria for SD in the form of an ecological ceiling and a social floor, between which we can develop sustainably. The ecological ceiling is the extent to which we can disrupt those planetary systems which are key to maintaining the environmental stability that underpins the wellbeing of human societies. The social floor consists of the human needs below which human wellbeing may not be possible. Thus the space in

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5 Persson, L. et al 2022: Outside the Safe Operating Space of the Planetary Boundary for Novel Entities, *Environmental Science & Technology*: <https://pubs.acs.org/doi/pdf/10.1021/acs.est.1c04158>

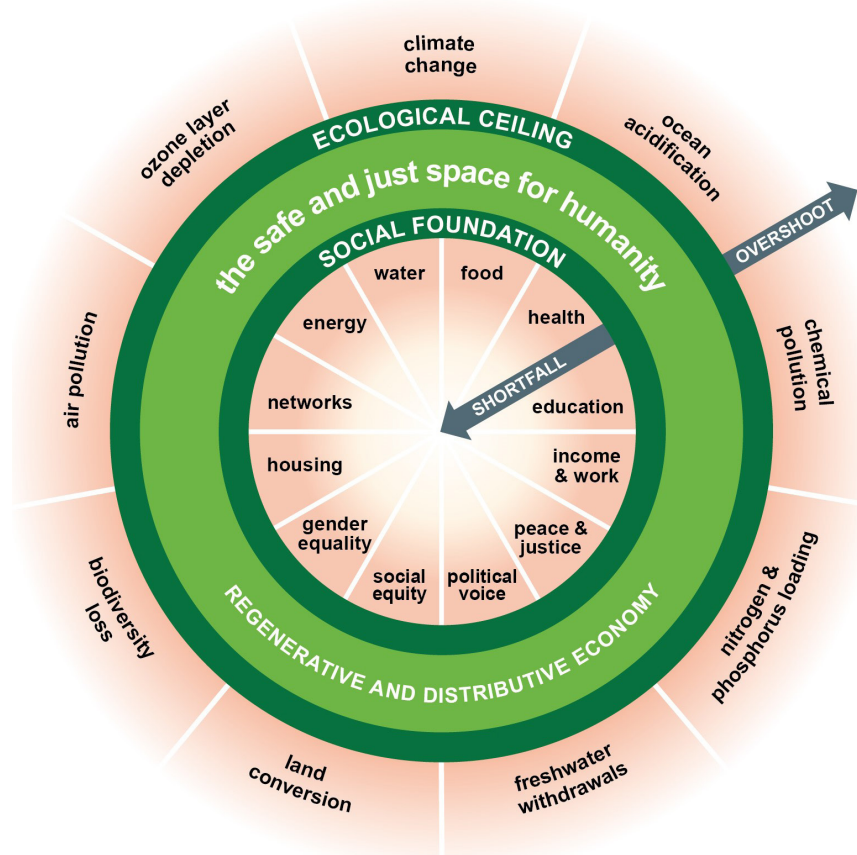
6 Smith, M. et al 2011: More than GDP: measuring what matters. Dunfermline: Carnegie UK Trust.

7 Purvis et al. 2019



**Figure 1: the UK Shared Framework for Sustainable Development**

credit: <https://democratic.bridgend.gov.uk/Data/Council/200604191400/Agenda/012974.pdf>



**Figure 2: The Doughnut Model of Development**

credit: <https://www.kateraworth.com/doughnut/>

between is labelled a 'safe and just space for humanity'.

It is important to note that the social-ecological world view and prescription for SD is unlikely to be effectively implemented on a narrowly-framed domestic-only basis - planetary systems operate at a global level, so ecological damage has implications for all people, and the wellbeing of human societies in a globalised world is also interlinked. Although a global perspective is implicit within the social-ecological and Brundtland definition of SD, it appears that states largely see their role in relation to domestic action, which can give rise to incoherent policies such as those which lead the off-shoring of dirty industries to countries where social and environmental regulation is weaker. (See section 4.5).

### 3.1.2 The concept of wellbeing

The term 'wellbeing' can be used in relation to individuals, societies, or to social-ecological wellbeing. Some who participated in this research pointed out that 'wellbeing' is a very broad term which can be misused. Although many appear to find it difficult to articulate, such as one participant who said 'wellbeing is what it says on the tin', there are two technical conceptions, which may be of use in relation to the Alliance's work towards a WSB Bill:

- **Eudaimonic / objective wellbeing** is the idea that wellbeing is the capability to satisfy our fundamental human needs. Wellbeing as capability is perhaps more important in policy terms, as it speaks to a policy prescription whereby the state has a responsibility to ensure that citizens are able to meet their needs, and can choose which needs to meet or prioritise.
- **Hedonic / subjective wellbeing** is the idea that wellbeing is how one is feeling, and is often described using terms like 'life satisfaction' and 'happiness'. Happiness can refer to immediate or short-term emotion, whereas life satisfaction generally relates to a longer-term assessment of how one finds one's life to be.

These ideas are complementary, and in terms of assessment, should both be taken into account.

As a social species, individual wellbeing is inextricably linked to societal wellbeing. As one species in a system of interdependent species, human wellbeing is inextricably linked to the wellbeing of the ecosphere as a whole.

### A wellbeing economy

Understanding an economy as a means to social ends rather than an end in itself is key to the idea of a wellbeing economy. Thus the first principle of a wellbeing economy may be that it should serve its members, rather than vice versa. A second principle may be to recognise that in an economy that is now global, the wellbeing of people all over the world is interlinked.

The dominant conception of an economy is based on indicators such as Gross Domestic Product (GDP). Broadly, GDP measures what is exchanged on 'the market'. It counts all products as positive, whether:

- they support wellbeing (such as nutritious foods, or safe drinking water);
- are required to mitigate detrimental impacts of economic activity, such as pollution clean-ups, or medication for pollution-related disease;
- actively detract from wellbeing, such as armaments or cigarettes.

A wellbeing economy could be conceived of as the activity we carry out to collectively meet our needs. This could include exchanging commodities, including labour, on a market. But it would also include much that isn't measured by conventional measures such as GDP, e.g. domestic labour, sharing, mutual care, donation, reuse, etc.

Thus a wellbeing economy would be one whose overarching policy aim would be to meet its members' fundamental human needs, rather than the perpetual increase of production and consumption. This is where the Scottish Government's Single Purpose falls down - its aim is flourishing, but predicated on the means of growth, thus embodying the Brundtland contradiction.

Shifting the focus away from growth and towards capabilities for needs satisfaction may still involve growth in some places in the world, or some sectors. It may also require a transition away from some economic activities, which would need to be supported and managed in order to safeguard the wellbeing of those involved in those activities, especially if they are in more vulnerable parts of the world.

### 3.1.3 Fundamental human needs as a unifying concept

The idea that most people share a set of fundamental needs, which are innate to human beings, can bring together potentially competing normative frameworks, such as SD, wellbeing, human rights, equalities, etc.

Maslow<sup>8</sup> posited three sets of fundamental human needs:

- material needs, such as food and shelter;
- social needs, such as belonging and participation;
- higher needs, such spiritual fulfilment, or the pursuit of knowledge.

Most frameworks which seek to improve the human lot are, at bottom, advocating different ways to meet our needs. However, each may advocate different types of solutions, and may be felt to be more important than the others. **The idea of fundamental innate human needs can help to resolve conflicts, should they arise.**

### 3.1.4 Policy coherence for sustainable development

PCSD is broadly understood as an approach that emphasises the need for consistency, mutual support, and integration across policies in support of SD objectives. It emphasises fostering synergies and minimising tradeoffs between policies, and in particular the need to address the

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<sup>8</sup> Maslow, A. 1954: Motivation and Personality, Harper & Row, New York.

*transboundary* impact of policies across the world, and the *long-term* impacts of policies on future generations, in policymaking: in other words, not just “here” and “now” but “elsewhere” and “later”<sup>9</sup>. Implementing policy coherence is widely taken to require a strategic vision that makes this a whole of government consideration; governance mechanisms that address policy interactions across sectors and tools to anticipate and assess overseas and long-term impacts<sup>10</sup>.

Whilst policy *incoherence* - policies undercutting each other - can be readily understood as something to avoid, determining exactly what policy coherence requires is more difficult. PCSD inherits its content from the understanding of SD involved, and so also two key arenas for disagreement - the first about whether SD is framed as “balance” between pillars, or instead the priority of avoiding ecological damage, and a second about what a country’s responsibilities are in respect of global ecological boundaries and global social justice. In these respects, accounts of PCSD can be more or less transformative in what they demand of governments<sup>11</sup>.

It is useful to reflect on what the Bill could do in the context of the OECD’s framework for PCSD. This framework proposes a set of principles for adoption of PCSD under three broad pillars: (i) a strategic vision and leadership for SD and PCSD; (ii) governance and institutional mechanisms to address policy interactions across sectors; and (iii) responsive, adaptive tools to anticipate, assess and address policy impact.<sup>12</sup> It seems a bill could contribute to all 3 of these pillars. On the *first*, opening sections of the bill could articulate a strategic vision for PCSD - e.g. by defining key ideas and their interactions - and the introduction of the Bill would both concretise political will and ensure PCSD retains traction despite changes in government; on the *second*, the Bill could aim to reinforce the use of an appropriate national framework and encourage intra-government coordination as institutional mechanisms to “mainstream” PCSD. On the *third*, the Bill would generate a need for tools and practice that give greater specificity to how policy coherence should be approached and managed, and could perhaps create an institution with the brief to develop these resources.

It is imperative, for the Alliance’s purposes, that these three ideas are linked in a way that emphasises the importance of PCSD to sustainable development and wellbeing, and emphasises they should be understood at a global rather than a national scale. One attempt to weave these aspects together is WEAll’s definition of SD:

*“[d]evelopment that allows for personal and community well-being to be achieved everywhere in the world and maintained across generations.”<sup>13</sup>*

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9 <https://ecdpm.org/wp-content/uploads/Universality-WRI-Mackie-August-2016.pdf> p.7

10 see e.g. <https://www.oecd.org/gov/pcsd/recommendation-on-policy-coherence-for-sustainable-development-eng.pdf>

11 The OECD’s formulation “Balancing domestic policy objectives with internationally recognised sustainable development goals” looks a deliberately weak formulation - leaning on international consensus to avoid the issue of how stringent global ecological limits should be, and asking only for balance with domestic policy objectives, without specifying the nature of that balance.

12 <https://www.oecd.org/gov/pcsd/oecd-recommendation-on-policy-coherence-for-sustainable-development.htm>

13 WEAll-Briefing-Understanding-Wellbeing\_July2020.pdf

To best make the case for consideration of global impacts, whose wellbeing must be understood in the widest sense, as the wellbeing of present and future generations in and beyond Scotland. SD, again, has to be framed in a way that emphasises not just the consideration of the *needs* of future generations of *Scots*, but of equity and respect for ecological limits for *all* present and future people. Without this framing, the scope for the Bill to foster a concern with global impacts in coherent policymaking will necessarily be limited (as we discuss below in the context of the Welsh Act).

In its advocacy, the Alliance might expect to face opposition not just from those who oppose policy coherence in any form, as tying the hands of a government to help its own people first, but also those who might support different weighting of these elements.

It might be that human rights is a frame within which common ground could be sought, since they constitute a globally-recognised set of universal standards to protect key aspects of human wellbeing for all. Human rights, though, are necessarily human centred, and so might not be thought to offer adequate protection for environmental goods; human rights are also designed to protect *minimum* standards of wellbeing, rather than something closer to equality.

## **Conclusion**

This chapter has outlined how key concepts and ideas related to the Bill can be understood. The next chapter focuses on the purpose of the Bill, including the importance of defining key concepts and how this has been approached in Scotland and elsewhere.

## **4. Purpose of the Bill**

This section of the paper address the purpose of the Bill, linking specifically to the two following research questions:

- How would a WSD Bill complement and enhance existing legislation?
- What should the purpose of a WSD Bill be in terms of enhancing PCSD and Scotland's contribution to sustainable development globally?

We have interpreted 'purpose' in two related ways. First, as regards the aims - what the bill should be seeking to do, and second what the stated 'Purpose of this Act' might be, if one is desired. The aims that we are recommending here could form the basis of an influencing position or plan.

Broadly, we suggest that rather than trying to address each specific relevant issue in isolation, the Alliance seeks a bill that will create a robust framework for SD, including PCSD and the transition to a wellbeing economy. The following aims are suggested:

- A significant proportion - 10%-11% - of Scottish legislation already contains explicit SD clauses, many of which confer SD duties on Scottish public bodies, but may not be particularly effective. This is due largely to a lack of definition, which makes enforceability and accountability difficult, and in some cases, allows for unchecked and untransparent ministerial discretion. It would therefore be expedient to give force to these existing requirements through the WSD Bill, including through definitions, and perhaps amendment of existing Acts. For example a retroactive definition of SD, which explicitly includes domestic and extra-national policy coherence, could give clear meaning to a number of previous Acts. This could also include setting out principles or requirements for public bodies to enact longer-term thinking and incorporate future generations into their decision-making as a core component of achieving SD and wellbeing.
- Resolution of conflicts with SD, for example in statutory duties or purposes. For example Scottish Enterprise had duties to foster growth, but also to act in the way best calculated to support SD.
- Improving the coherence, scrutiny and participation requirements for national outcomes and their means of implementation through amendments to the Community Empowerment (Scotland) Act 2015. It may be possible to include an SD requirement also.
- Setting out principles or requirements for the transition to a wellbeing economy.
- Provide for clear accountability mechanisms (discussed in chapter 6).

## **4.1 The stated 'Purpose of the Act'**

This would normally be in the introductory text at the beginning of a bill, and would set out the main purposes.

**Recommendation 2: consider the following for inclusion in the stated 'Purpose of this Act':**



- Domestic and extra-national PCSD - including this in the Purpose should ensure that this will be a foundational element, so unlikely to be lost during the passage of the Bill. It will also allow for PCSD provisions to be strengthened post-enactment. It may be possible to recognise the inextricable links between the wellbeing of people across the world, and/or human and ecological wellbeing here.
- Wellbeing economy - possibly something around establishing a framework or principles for a transition to a wellbeing economy. This could include reference to the essential conditions for SD ecological integrity (which could be expressed as planetary boundaries) and social equity (which could be expressed as social minima, or in terms of decent lives, reflecting a connection with human rights). It may also refer to the development and/or adoption of a headline wellbeing indicator/index, or a dashboard of these.

Influencing language around these can mirror the current Programme for Government's commitments to both PCSD and a wellbeing economy.

#### **4.1.2 Stakeholder discussion on the purpose of the Bill**

During stakeholder engagement, there were no negative sentiments expressed towards the idea of this Bill, however our engagement was geared towards organisations and individuals within the SDG network and the Alliance membership who are all likely to see the value in this legislation. There was broad support for the key aim of the Bill as enhancing wellbeing for Scotland and other societies, reducing Scotland's negative impacts overseas and enhancing positive contributions. However, this was at times considered 'big picture' thinking which may be difficult to make meaningful and monitorable.

- There must be pragmatism in terms of what the SNP have actually committed to and are likely to want the scope to be. It may be difficult to extend the scope of the Bill too much.
- The objective in any additional legislation should be to ensure alignment/incorporation within/extension of existing reporting responsibilities rather than simply adding new obligations/new organisations to report to.
- Should push things where there is already broad agreement.
- It should not be another framing bill, but should focus on delivery. There should be solid mechanisms related to implementation.
- There should be a focus on low-hanging fruits where it would be easiest to see benchmarks for assessing compliance and implementation. There was a broader tension regarding whether it would be useful to focus on higher level ambitions or make some specific recommendations.
- There was concern that this bill might become 'all things to all people' with the international component squeezed out.

- The bill and its associated elements (duties/targets) should account for global disparities and colonialism: supporters of the Bill should frame this in the context of the outflow of wealth from low to high income countries.
- The bill should reinforce the move beyond GDP towards wellbeing. There is a need for more holistic ways of defining and measuring wellbeing to replace growth-based and econo-centric approaches.

## 4.2 Scope of the Bill

There are questions about the ‘scope’ of the Bill. Stakeholders perceived that many different topics and sectors would fall within a WSD Bill: human trafficking, supply chains, the financial sector, arms manufacture and supply, carbon emissions; the oil industry, international trade transactions, climate, the healthcare sector, waste, nature restoration and conservation, employment rights and fair work (including the living wage and employee wellbeing) and fiscal policy.

These topics indicate the wide ranging scope with which stakeholders are viewing the potential in this Bill. Some of these are areas outside the full competence of the Scottish Parliament. This was also a major issue of concern with the WFG Act in Wales in terms of devolved and reserved matters and competences.

### 4.2.1 Learning from Wales

There is potential for the Bill to be narrower or broader in scope and for this to change. In Wales the scope of the WFG Bill shifted from initially more ‘environmentally’ focused, into a ‘broader’ bill on human aspects of SD. This had the following effects which can be interpreted as more or less positive.

- Moving across ministerial portfolios can generate support for the Bill across government and parliament, as it becomes more than a single issue (e.g environment) bill.
- The legislation was used in a way to define SD as a concern with broader concepts of ‘wellbeing’ and ‘justice’ It has changed the conversation in Wales from trying to ‘catch-up’ developmentally with more prosperous regions to one of ‘regional capacity’ and an attempt to define a progressive future for Wales. This means a shift in the Government’s approach to tackling regional inequalities<sup>1</sup>. A broader bill could similarly change narratives at a national level in Scotland and create new regional priorities.
- The bill is seen as ‘ambitious’ and the broader scope of the bill makes it relevant to all of Welsh society. This was supported by civil society dialogue and participation in the ‘Wales

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<sup>1</sup> Jones, R., Goodwin-Hawkins, B. and Woods, M., 2020. From Territorial Cohesion to Regional Spatial Justice: The Well-Being of Future Generations Act in Wales. *International Journal of Urban and Regional Research*, 44(5), pp.894-912.

we want' consultation which preceded the bill<sup>2</sup>. The opportunities for consultation around the WSD Bill create a change to 'envision new futures' for Scotland and the world.

- Civil servants are being encouraged to think and act in different and more effective ways driven by the WFG Act.
- Less 'ownership' of the Bill if it moves across portfolios and touches on everything.
- It became 'less specific' compared with the SD White paper.
- There was a chance at one point that the Bill would not pass.
- No one committee has had responsibility for the Act meaning lack of scrutiny.<sup>3</sup>
- The environmental lobby in Wales, who were engaged with the Bill, sought a stronger environmental Act with specific targets rather than a broader approach to SD. If specific asks are not met with a broader bill this could increase opposition during bill passage.

**Point of consideration:** The inter-ministerial working group on PCSD could be an important player in terms of determining the scope and interest in the Bill. The Alliance already has recommendations for what the purpose of this group should be<sup>4</sup>, which could be mobilised as part of engagement around the development of the Bill.

The Alliance's view of the scope of the Bill will depend strongly upon its thinking and definition of SD, and within that, PCSD, wellbeing and a wellbeing economy. For example, if SD is understood as environment-only, then the Bill will be an environmental protection bill, whereas if SD is understood in terms of (global) ecological integrity and social equity, then the scope of the Bill must be broader.

### 4.3 The importance of definitions

There are strong arguments in favour of providing some definition of SD in legislation:

- without a clear definition, the imprecise nature of sustainable development introduces a lack of consistency.
- there may be a lack of continuity in the meaning of the term over time.
- imprecision may give the executive (a public body) too much discretion.

Using the Brundtland definition does little to alleviate these concerns since it can be interpreted an endless number of ways<sup>5</sup>.

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<sup>2</sup> Jones, R., 2019. Governing the future and the search for spatial justice: Wales' Well-being of Future Generations Act. *Fennia: International Journal of Geography*, 197(1), pp.7-23.

<sup>3</sup> This changed as of Dec 2021

<sup>4</sup> [https://www.intdevalliance.scot/application/files/1916/1658/9915/Recommendations\\_for\\_PCSD\\_Ministerial\\_group\\_Briefing\\_April\\_2020\\_Final.pdf](https://www.intdevalliance.scot/application/files/1916/1658/9915/Recommendations_for_PCSD_Ministerial_group_Briefing_April_2020_Final.pdf)

<sup>5</sup> Ross, A. 2010. It's Time to Get Serious—Why Legislation Is Needed to Make Sustainable Development a Reality in the UK. *Sustainability*, 2(4), pp. 1101–112.

### 4.3.1 Stakeholder views

Defining key terms was also discussed by stakeholders as it pertains to setting and achieving particular SD outcomes:

- The Bill should set objectives for SD outcomes.
- To get a meaningful interpretation of SD, sustainable economic growth should be repealed - conflicting messages causes difficulties.

### 4.3.2 Learning from Wales

The importance of defining key terms in legislation emerged from analysis of the WFG Act. There has been some confusion about what SD and wellbeing means in implementation, particularly around the Social Services and Wellbeing Act due to two different interpretations of wellbeing. Launched in 2009, 'One Wales: One Planet', sets out the National Assembly for Wales' (the Assembly) approach to SD, which is defined in a way that offers a broad definition linking it together with wellbeing and explicitly addresses a "fair share" of the earth's resources as part of sustainability:

*"Sustainable development means enhancing the economic, social and environmental wellbeing of people and communities, achieving a better quality of life for our own and future generations in ways which promote social justice and equality of opportunity; and enhance the natural and cultural environment and respect its limits - using only our fair share of the earth's resources and sustaining our cultural legacy. Sustainable development is the process by which we reach the goal of sustainability."*

The definition of SD became a major issue in the passage of the Bill. In the end, the WFG Act contains a shortened and modified version of this definition:

*"sustainable development" means the process of improving the economic, social, environmental and cultural well-being of Wales by taking action, in accordance with the sustainable development principle.*

The addition of culture to the conventional content of SD reflects the nation-building aspirations of the devolved administration, not least in relation to the Welsh language. It might be worth considering, in the Scottish context, whether similar considerations apply.

The WFG Act, in using the Brundtland definition of SD, is also at heart about 'future generations'. The Act requires public bodies and PSBs to institutionalise long-term thinking and embed 'future generations' into their planning. Guidance suggests a generation is about 25 years, and so best practice would be to look 25 years ahead but in some contexts this could be longer. However, a review of PSBs suggests that future generations are not well represented in wellbeing priorities set locally and assessments lacked insight into future trends<sup>6</sup>. Overall the public sector needs skills to

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<sup>6</sup> Netherwood, A. and Flynn, A., 2021. A shift in public policy for future generations in Wales? Future generations and well-being planning. In Giving Future Generations a Voice. Edward Elgar Publishing.

develop more integrated and future oriented thinking to make reasonable judgements on behalf of future generations. Similarly stakeholders at our workshops felt that a key challenge identified was how you might anticipate the needs of future generations. What would wellbeing look like in 90 years, given how different things were 90 years ago?

**Point of Consideration:** The WSD Bill could include specific reference to future generations, however to align with the Alliance’s priorities this would need to incorporate more explicitly the needs of current and future generations outside of Scotland.

The Future Generations Commissioner of Wales said that historically ‘our decisions haven’t considered the impact on the future and in the global north haven’t considered the impact on the rest of the world.’<sup>7</sup> Given the need to lobby originally for the Welsh Government to include a global goal, the Alliance may need to lobby for a definition of SD and wellbeing that has a strong global component.

### 4.3.3. Reinforcing the global component

Linking national and global wellbeing can be seen as part of promoting Scotland’s responsibilities to the rest of the world, acknowledging Scotland has participated in and benefited from the colonial relationships. At the Alliance Conference Ndivile Mokoena<sup>8</sup> stated there is ‘no national wellbeing without global wellbeing’. It is vital that ‘we must not increase wellbeing here at the expense of people globally.’<sup>9</sup>

Wellbeing tends to be defined at an individual or national level, or as subjective or objective (see p.19), with various indicators used. To make a stronger connection between Scotland and the world, a definition of wellbeing with a more global focus could be developed.

- Layers of wellbeing: Community wellbeing (what we need to live well locally) and societal wellbeing (what we need to live well together as a society now and into the future) are interconnected along with personal wellbeing<sup>10</sup>. The societal element in particular should have a global focus.

Otherwise, the Alliance could use this model but argue for a fourth layer of ‘global wellbeing’ - this would be a useful way to conceptualise wellbeing in the WSD Bill.

- ‘Sustainable wellbeing’: a means to ‘motivate and guide the process of global societal change’. The three main elements of sustainable wellbeing are: Efficient allocation: building a living economy; Fair distribution: protecting capabilities for flourishing; Sustainable scale: staying within planetary boundaries. This is a framework that connects with and complements the

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7 At the Alliance annual conference in 2021

8 Gender CC Southern Africa

9 Stakeholder workshop respondent

10 Boyce, C., Coscieme, L., Sommer, C. and Wallace, J., 2020. WEAll Briefing Papers: Little summaries of big issues: Understanding wellbeing. WEAll. <https://wellbeingeconomy.org/wp-content/uploads/2020/08/WEAll-Understanding-Wellbeing.pdf>

SDGs and has culminated in a sustainable wellbeing index.<sup>11</sup>

The Alliance may want to use ‘sustainable wellbeing’ to promote global wellbeing as intrinsic to implementing the SDGs.

**Recommendation 3: A clear definition of SD should be included at the outset of the Bill as (i) requiring ecological integrity and social equity, (ii) emphasising that Scotland’s wellbeing and SD are inextricably linked to global wellbeing and SD and (iii) giving explicit direction towards global PCSD.**

An SD definition will give greater guidance for implementation. It could apply retrospectively to SD clauses in preceding Acts, or specific amendments could be made. The inclusion of PCSD will help support a cultural shift in ways of working.

#### **4.3.4 Learning from Canada**

An example of a detailed approach to defining SD in a closer and more action-guiding way is Canada’s Federal Sustainable Development Act (S.C. 2008, c. 33) (last modified 2020), which establishes a number of norms and principles to be reflected in actions and policies:

*“Principles*

*5 The following principles shall be considered in the development of sustainable development strategies:*

*(a) the principle that sustainable development is based on an efficient use of natural, social and economic resources and the need for the Government of Canada to integrate environmental, economic and social factors in the making of all of its decisions;*

*(a.1) the principle that sustainable development*

*(i) is a continually evolving concept,*

*(ii) may be achieved by, among other things, the protection of ecosystems, prevention of pollution, protection of human health, promotion of equity, conservation of cultural heritage, respect for domestic and international obligations relating to sustainable development and recognition of the present generation’s responsibility to provide future generations with a healthy and ecologically sound environment, and*

*(iii) may be advanced by, among other things, taking into account the precautionary principle, the “polluter pays” principle, the principle of internalization of costs and the principle of continuous improvement;*

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<sup>11</sup> See Costanza et al. 2016 - [http://www.idakub.com/academics/wp-content/uploads/2017/02/2016\\_Costanza\\_SDGs-EcoEco.pdf](http://www.idakub.com/academics/wp-content/uploads/2017/02/2016_Costanza_SDGs-EcoEco.pdf) (p.353 shows how SDGs cluster under the three headings of sustainable wellbeing)

*(b) the principle of intergenerational equity, which is the principle that it is important to meet the needs of the present generation without compromising the ability of future generations to meet their own needs;*

*(c) the principle of openness and transparency, which is the principle that the release of information should be encouraged to support accountability and public engagement;*

*(d) the principle that it is important to involve Aboriginal peoples because of their traditional knowledge and their unique understanding of, and connection to, Canada's lands and waters;*

*(e) the principle of collaboration, which is the principle that it is important for stakeholders to collaborate in the pursuit of common objectives; and*

*(f) the principle that a results and delivery approach — that allows for developing objectives, developing strategies for meeting those objectives, using indicators for reporting on progress towards meeting those objectives and establishing accountability — is key to meeting measurable targets.”*

The Canadian approach lacks references to global SD and/or extraterritorial impacts: this would be an innovation of a Scottish bill. Explicitly identifying the global dimensions of wellbeing or SD could be achieved through adding a principle on this; though it could also be achieved in other less direct ways, e.g. through referencing an NPF that itself adequately captured this principle.

#### **4.3.5 Learning from Scotland: Land Reform**

**Point of consideration:** It is likely that arguments will be made against a definition as being too constraining, or conflicting with other statutory duties, so thought should be given to counter-arguments which can be provided as part of the Alliance's advocacy work.

The push-back on defining SD can be seen in debates related to land reform legislation from 2003. Scottish Ministers argued that a definition could be constraining. Land reform legislation was predicated on SD precisely because it was seen to be an idea that was vague and broad enough to provide the constructive ambiguity needed for a consensus between the wide range of stakeholders.<sup>12</sup> Ministers and civil servants thus have a way to make seemingly arbitrary, and not necessarily pro-social or pro-ecological decisions. The strongest test of a legal concept is in the courts. The few court cases where the definition of SD was important, have been in the area of land reform, and highlight the problems associated with a lack of statutory definition.

Box 1 (p.31) is an excerpt from Erasmus (2021) which shows how SD can be viewed, and PCSD can

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<sup>12</sup> Pillai (2010) explains: 'the spectrum of approaches to the [SD] principle is so broad as to accommodate vastly differing and even opposing interests' and that 'it was arguably this ambiguous quality that commended the principle to the Scottish government as the underlying objective behind land reform' as 'it enabled different standpoints to be united behind a common goal.'

be thwarted through support for balancing rather than integrated policy solutions<sup>13</sup>.

As to effectiveness of courts' interpretation of SD, the handful of land reform cases show that:

- Sheriffs hearing appeals against ministerial decisions on right to buy may not have the capability to properly interpret SD and will assume Ministers know best.<sup>14</sup>
- Advocates similarly may not have a clear grasp on the concept.<sup>15</sup>
- Ministerial discretion is problematic - where ministers have the power to define something on a case-by-case basis, it is more difficult to hold them to account, as they can argue that the definition is whatever suits their purposes.
- Although Ministers have the final say, civil servants (who carry out the work of making a determination) may lack clear understanding of SD.<sup>16</sup>

Based on correspondence with a civil servant involved in making right to buy determinations, Erasmus (2021, p. 92) concluded that:

*“The response is not suggestive of much expertise in SD – fundamental principles, such as safeguarding environmental limits, equity, human needs, etc. are not mentioned. SD seems to be conceived of as something which ‘adds value’, rather than an integral approach to decision-making or societal development.”*

The table provided in Annexe A3 listing existing SD clauses shows that almost from its inception, the Scottish Parliament has been passing legislation with such clauses, starting with the National Parks (Scotland) Act 2000. Many of the Acts listed in A3 tend to confer duties on specific public authorities, such as:

- individual bodies such as Scottish Water, e.g. Water Industry (Scotland) Act 2002;
- groups of bodies such as local authorities, e.g. Local Government in Scotland Act 2003;
- Scottish Ministers themselves, e.g. Water Environment & Water Services (Scotland) Act 2003.

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13 It also illustrates how Bills and amendments can be used to appropriate power - such as in the GFN Bill.

14 In the case of Holmehill vs. the Scottish Ministers & Stakis Ltd. & Stirling Council, the sheriff simply argued that Ministers know best, and upheld their decision. That decision was that the community body, Holmehill, with its plans to remediate the land in question, develop a community orchard, and implement a number of the pro-social and pro-ecological initiatives, was trying to subvert the planning process by buying the land, which the landowner, Stakis, wished to sell to housing developers. He decided that this could not be in keeping with sustainable development, as he concurred with Ministers that SD should be construed as synonymous with property development, specifically construction.

15 In cases where written counts are available, that have failed to put forward SD definitions that support their arguments for pro-SD appellants.

16 In the absence of a legal definition, the official has written that SD ‘is defined in the community body’s constitution.’ This could be taken to mean that community bodies can define SD in any way they see fit, but if so, how does the CLT decide which community bodies’ constitutions are compatible with SD as required by the Act? At least one application has been rejected on the basis that it isn’t (Pillai, 2010), so they can’t all be deemed compatible on the basis of their own definitions of SD.’



### **Box 1: Excerpt from Erasmus (2021)**

Ross (2019) points out that the Land Reform Policy Group, on the basis of whose findings the 2003 Act had been drafted, had in fact included a definition of SD in its report, including that an integrated approach would be necessary for SD, different from a balancing approach based on trade-offs. Accordingly, the Land Reform (Scotland) Bill had originally included a definition of the sustainable development of a community, as being development which increased social and economic advantage and protected the environment. At Stage 2 of the scrutiny of the Bill, Ross Finnie, then Minister for Environment & Rural Development, proposed an amendment that would completely excise the definition. His deputy, Allan Wilson argued, on behalf of the Scottish Executive, that the definition was 'too inflexible', and there was no alternative that solved the 'problem' of 'defining the balance between economic, social and environmental benefits.' He continues:

'Any definition in the bill would restrict the courts' interpretation of the meaning of sustainable development. As we all know, sustainable development can mean different things to different people and I am concerned that opponents of the right to buy could use a restrictive definition of an objective to frustrate communities' attempts to buy land' (The Scottish Parliament, 2001, p.432).

Wilson goes on to say that defining and assessing sustainable development would instead be in the gift of the Executive, in 'line with current thinking on sustainable development' and that this should not 'be seen as weakening our overall commitment to the achievement of sustainable development' (The Scottish Parliament, 2001, p.433). It is deeply ironic that in the case of Holmehill, it was in fact ministerial discretion which frustrated the community's efforts to acquire and protect land... As Ross argues, a lack of definition simply allows the Executive to continue to pursue its (political) aims when 'the balancing can occur outside the interpretation of sustainable development where sustainable development is expressly balanced against other factors' (2019, np).'

The duties can be fairly loose, such as in Further & Higher Education (Scotland) Act 2005, where the phrases ‘have regard to’ and ‘encourage... so far as is reasonably possible’ are used:

*“20(2) In exercising its functions, the [Scottish Further and Higher Education Funding] Council is to–*

*(a) have regard to the desirability of the achieving of sustainable development; and*

*(b) in particular, encourage the fundable bodies to contribute (so far as reasonably practicable for them to do so) to the achievement of sustainable development. Other Acts make very definite stipulations, such as the Transport (Scotland) Act 2005:*

*5(1) It is the duty of each Transport Partnership to draw up a strategy for transport within its region.*

*(2) Its transport strategy shall include provision about each of the following matters...*

*...(d) how transport in the region will be provided, developed, improved and operated so as*

*(i) to enhance social and economic wellbeing...*

*...(iii) to be consistent with the principle of sustainable development and to conserve and enhance the environment*

*(iv) to promote social inclusion;*

*(v) to encourage equal opportunities and in, particular, the observance of the equal opportunities requirements;”*

A retroactive definition of SD would allow for scrutiny and accountability, and provide clarity to duty-bearing bodies regarding implementation.

Although there are 37 Acts listed in A3, there is currently no statutory definition of SD. While the policy landscape is littered with SD requirements, there is no legal standard against which to hold any public body properly to account.

#### **4.4 Resolving conflicts**

Some public bodies may have duties which conflict with their existing SD duties. An obvious case is Scottish Enterprise, whose founding legislation requires it to support (conventional) economic growth, while under the Climate Change (Scotland) Act 2009, it must act in way that supports sustainable development. In other cases, legislation can include requirements for both SD and sustainable economic growth.

It may be possible for the WSD Bill to address some of these conflicts in favour of SD This could be

done by:

- amending clauses which conflict with SD;
- defining sustainable economic growth as growth which does not threaten planetary systems, and whose benefits and disbenefits are equitably distributed;
- specifying a hierarchical approach, whereby some consideration such as ecological integrity take precedence over others, such as expansion.

## 4.5 Global Responsibility, Impacts and PCSD

### 4.5.1 Stakeholder views

Stakeholder workshop discussion raised the following key points:

- The Bill should include measures related to impacts on global wellbeing.
- We need to embed the principle of a globally just transition when thinking about global SD impacts.
- It must be clear what global impact means (what negative and positive impacts are) and how to measure them to ensure this is part of decision-making practice.
- One bit of coherence would be to ensure the review of the NPF next year supports global responsibility - reporting on the current National Outcome on Scotland's place in the world could be made more specific.
- PCSD is not an end goal but a process and a journey. It would be worth considering whether there is a need to ensure a 'minimal' baseline for PCSD.
- To reduce policy incoherence what is needed is to avoid imperatives set under any "Economic Development" strategy trouncing the requirements of the Climate Change or any other Sustainability-related legislation.

### 4.5.2 Learning from Wales

It was only through NGO lobbying that global impacts were considered in the WFG Act:

*"The Welsh Government needs to make it clear that international scope is central to delivery of the Bill. Failure to embed international scope within the Bill dilutes the meaning and potential of sustainable development as a driving force for positive change and does not provide clear leadership for the rest of the public sector."*<sup>17</sup>

The WFG Act enshrines a set of wellbeing goals, one of which recognises Wales' impact on the rest of the world. It states that actions to improve wellbeing of Wales should take account of how to make positive contributions to global wellbeing.

*“Goal 7 was specifically added to the well-being goals during the development of the Well-being of Future Generations Act to signal that a sustainable Wales cannot exist in isolation and that Wales should play its part in making the world a better place.”<sup>18</sup>*

The Welsh Centre for International Affairs frames positive impact as the strongest end of the scale from ‘stopping things that harm people and planet, to ‘do no harm’, to ‘making a positive contribution’<sup>19</sup>. The Globally Responsible Wales Goal is one of the least understood of the seven goals. It also does not have clear indicators and is the least well implemented. The Future Generations Commissioner reported recently that: ‘public bodies are not demonstrating clear and credible accounts of their positive contributions to the world.’<sup>20</sup>

**Point of consideration:** One of the challenges with the WFG Act goals and the NPF, is how the global dimension is an ‘add on’, separated from other goals and perhaps easier to ignore. An alternative approach would be to embed responsibility for global impacts *across* all aims, offering guidance on what these impacts look like. There is no precedent for this in legislation. Given the priorities afforded to national electorates this could be difficult to achieve politically. Global responsibilities may be seen as secondary to the core aim of strategies and legislation with a national focus. The same dynamics are likely to play out with the balancing of ‘future generations’ against current generations, and especially future generations outside of Scotland.

**Recommendation 4: Alongside commitments to PCSD, there needs to be thought to how this will be implemented - what does PCSD mean in practice.**

Scotland and the sustainable development goals: a national review to drive action<sup>21</sup> (2020) refers explicitly to PCSD in domestic and international terms, but provides little clarity on implementation.

The WFG Act has been described as an example of a ‘robust and legal framework for PCSD’ in the 2019 UK Voluntary National Review (VNR) of Progress Towards the SDGs. However, Senned researchers stated that:

- Some of the wellbeing goals set out in the Act are in opposition.
- The Act does not help to balance goals and work out interconnections.

Scotland ‘can do much more and demonstrate global leadership on this issue’.<sup>22</sup> Scotland currently scores low on in terms of elements of the OECD’s building blocks for progress on this goal but “could pioneer parliamentary or policy mechanisms which ensure policy coherence and which scrutinise policies that contradict domestic and international climate policy commitments.”<sup>23</sup>

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18 Oxfam Cymru

19 <https://www.wcia.org.uk/globally-responsible-wales-resources/>

20 <https://www.futuregenerations.wales/a-globally-responsible-wales/>

21 <https://nationalperformance.gov.scot/measuring-progress/national-indicator-performancehttps://nationalperformance.gov.scot/measuring-progress/national-indicator-performance>

22 <http://uwsoxfampartnership.org.uk/wp-content/uploads/2019/06/On-Target-July-2019-Web-FINAL.pdf>

23 <http://uwsoxfampartnership.org.uk/wp-content/uploads/2019/06/On-Target-July-2019-Web-FINAL.pdf>

### 4.5.3 Learning from Canada

Currently, no piece of legislation elsewhere offers PCSD in its purpose clause, though the Federal Sustainable Development Act (S.C. 2008, c. 33) with its mention of “domestic and international obligations” and “coordinated action” is not that distant:

*“The purpose of this Act is to provide the legal framework for developing and implementing a Federal Sustainable Development Strategy that makes decision making related to sustainable development more transparent and subject to accountability to Parliament, promotes coordinated action across the Government of Canada to advance sustainable development and respects Canada’s domestic and international obligations relating to sustainable development, with a view to improving the quality of life of Canadians.”*

Being more explicit about PCSD, would give the Bill a sufficiently clear purpose for implementation. Even though the WFG is ambitious and includes explicit definitions of SD, the associated wellbeing goals and legal duties were considered not to provide sufficient clarity on purpose. The purpose of the WFG Act was described as ‘wooly’. Stakeholders, including Senned researchers, have suggested that a clear purpose and set of duties is needed to make explicit what the Act aims to achieve.

### 4.5.4 An emerging narrative in Scotland

The SNP/Green government has committed to a beyond aid agenda which is based on ‘do no harm’ and ‘contribute to positive development outcomes overseas’.

The national outcome ‘International’ also includes reference to making a ‘positive contribution’ internationally. Recent indicators developed for this outcome recognise three elements: we are good global citizens; we avoid harm to the development of other nations; and we support development in other nations. The second of these, is to be measured using data on the % of waste processed in Scotland; the value of the low carbon and renewable energy economy in Scotland and the value of agricultural subsidies.

Scotland’s Environment Strategy,<sup>24</sup> makes reference to the need to ‘secure the wellbeing of our people and planet for generations to come’ and includes reference to ‘One earth. One home. One shared future’. A key outcome of the strategy is that ‘We are responsible global citizens with a sustainable international footprint.’ It is described as being about ‘adapting to live within the Earth’s sustainable limits, and ensuring that the overseas impact of Scotland’s consumption is sustainable’. There are three indicators to monitor this outcome: global environmental impact of Scotland’s consumption; sustainability of fish stocks; % of Scotland’s waste managed in Scotland.

Whilst these areas are sectorally specific, they exemplify recent rhetoric around how the Scottish Government perceive their approach to global responsibility and citizenship. However, an assessment of Scottish Government policies demonstrates significant variation in relation to international impacts. They can be categorised as:

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<sup>24</sup> <https://www.gov.scot/publications/environment-strategy-scotland-vision-outcomes/>

(a) Those which are likely to have international impact, but make little/no reference to this. For example, 'Agriculture and Environment' recognizes the sector's high greenhouse gas emissions, and its vulnerability to climate change, but does not explicitly consider impacts on environment or people outside Scotland, e.g., it recognizes the domestic dimension of harm caused by excessive application of nitrates, but does not mention that the global nitrogen cycle appears to be so severely deranged as to present a high risk to human societies.<sup>25</sup>

(b) Those which have some regard to formal international obligations, but do not explicitly connect Scottish policy to international impacts, for example 'Biodiversity' recognizes the importance of biodiversity to human wellbeing, and various international agreements. It seeks to honour international agreements within Scotland, but does not appear to connect domestic activity with international impacts, or set it in a global context. It recognizes that 'We need to move further in aligning policies across a wide range of areas concerned with biodiversity', but the frequent use of the term 'nature' is likely to lead to thinking about humans and the non-human world as separate entities.

(c) Those which include international action, but may not make a clear connection to domestic policy, e.g. 'Climate Change' explicitly recognizes that low-consuming countries are more vulnerable, but not that high-consuming countries are more responsible for emissions. It includes international action, but treats it separately from domestic activity. It is not fully integrated with other policy areas such as transport, which may undermine it.

(d) Those which require international co-operation, e.g. 'Human Trafficking' aims to take action in Scotland to look after victims, 'identify perpetrators and disrupt their activity' and prevent it from occurring. While this appears to be an integrated approach, and the strategy states that it will 'Address conditions, local and global, that foster trafficking', it contains little information about what will be done to address global conditions that lead to human trafficking.

(e) Those which include a clear recognition of international impacts, e.g. 'International development (ID)'. As part of its commitment to the beyond aid agenda, ID policy recognizes the need to take 'a holistic approach to sustainable development, requiring all - government, local government, public bodies, private sector, communities and individuals - to adapt their behaviour in support of the Global Goals.' It does not recognize the incoherence of Goal 8 for sustained economic growth, with social and ecological Goals.

On domestic policy coherence, Scottish policies do tend to refer to other policies in the same domain, but not to those in areas which may seem to policy makers to be unrelated. Awareness of international impacts is not widely evidenced, and there is almost no overt recognition of harms that may be being caused outside Scotland.

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<sup>25</sup> Rockstrom, J. et al 2009: Planetary Boundaries: a safe operating space for humanity, *Nature* 461(7263): 472-475; Steffen, W. et al 2015: Planetary Boundaries: guiding human development on a changing planet, *Science* 347(6223).

On the whole, Scottish Government policy does not appear to be developed with policy coherence in mind, which shows that it is not part of the policy-making culture, either in terms of domestic policy or international impacts. The current model of representative democracy provides little in the way of incentives for policy coherence. Political parties are likely to make a set of incoherent electoral promises in order to garner votes from a wider range of (interest) constituencies. In order to deliver on these, and/or to maintain support from various sectors, incoherent policy is likely to be developed by the party in power. It is possible that clear messages about the necessity/desirability and benefits of coherent policy from as wide a range of stakeholders as possible could begin to shift this approach.

**Recommendation 5: Scotland’s WSD Bill could have a distinct element focusing on how actions can have a ‘positive impact on global wellbeing and sustainable development’. Rather than ‘take account of’<sup>26</sup>, the language could suggest applying specific principles in decision-making and ‘achieving’ particular outcomes.**

#### 4.5.5 Existing Scottish legislation

The WSD bill is an opportunity to legislate on global impacts and responsibility. As noted in Annex A.1, a number of Scottish Acts require public authorities to assess or have regard to certain impacts which are likely to be extra-national as well as domestic. However, almost none appear to include explicit requirements to consider extra-national impacts. Thus it is likely that such duties are generally interpreted in a domestic light only, due to the generally self-interested nature of public policy<sup>27</sup>, and the fact that mutual international benefit is not a cultural narrative within the policy-making community in general.

Nevertheless, it is possible, in many cases, to interpret duties to consider impact as global, rather than just domestic. For example, section 7 of the Air Departure Tax (Scotland) 2017 states:

*“7 Tax bands and tax rate amounts to be set by regulations*

*(1) The Scottish Ministers must by regulations—*

*(a) define one or more tax bands by reference to the final destination (as defined in section 16(5)) of a chargeable passenger carried on a chargeable aircraft, and*

*(b) for each band defined in accordance with paragraph (a), set the amount, or the method for calculating the amount, of each tax rate described in section 16(3).*

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26 This is the language of the Globally Responsible Wales Goal: “A nation which, when doing anything to improve the economic, social, environmental and cultural well-being of Wales, takes account of whether doing such a thing may make a positive contribution to global well-being”.

27 Dissanayake, R. 2021. The Roots of Policy Incoherence: Domestic Policy, Global Public Goods, and International Development, Center for Global Development - <https://www.cgdev.org/publication/roots-policy-incoherence-domestic-policy-global-public-goods-and-international>

*(2) In preparing a draft of any regulations under subsection (1), the Scottish Ministers must have regard to the projected economic, environmental and social impacts of the proposed tax bands and tax rate amounts.*

*(3) The Scottish Ministers must keep under review the economic, environmental and social impacts of the tax bands defined and tax rate amounts set by regulations under subsection (1)."*

In section 7(2) and (3), economic, environment and social impacts are likely to be global, as social and economic outcomes occur in the context of an interconnected, globalised society, and the ecological systems that allow humans to survive and thrive are global in nature. Thus it could be argued that some of the impacts of any environmental, social or economic activity are likely to be extra-national, and in some cases, such as the climatic impacts that a tax on air travel could reduce, global.

There is thus an argument for making existing requirements to consider impacts in broad categories, such as ecological or social, explicitly extra-national in existing legislation, rather than being open to interpretation. This could help to foster a public sector culture that is more considerate of the impacts of its decision-making on those who live outside Scotland. This could be done through the WSD Bill.

## 4.6 National Outcomes

**Recommendation 6: The WSD bill should support, strengthen, and embed use of existing sustainable development frameworks - in this case, the National Performance Framework (NPF), unless the NPF is considered "not fit for purpose".**

The Alliance's position and our broader stakeholder engagement suggest that there is a desire for the purpose of this bill to interact with Scotland's pre-existing NPF, which has been described as a 'wellbeing' framework and is Scotland's way of operationalising the SDGs, including through the National Outcomes. Whilst this framework has been described as 'transformative', and Oxfam argue it has the potential to be 'groundbreaking' in terms of use as a measure of PCSD<sup>28</sup>, others suggest there is much still to achieve<sup>29</sup>.

Currently the NPF is underutilised as a resource. On this basis the WSD Bill might ensure that the national outcomes are embedded across all policy areas. There could be a way to use the NPF more widely as a reporting framework, it is currently non-binding and 'no one really has to do anything with it'<sup>30</sup>. It was noted that there will be concurrent consultation running in 2022 on the NPF if the WSD bill is introduced this year.

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28 <http://uwsoxfampartnership.org.uk/wp-content/uploads/2019/06/On-Target-July-2019-Web-FINAL.pdf>

29 Wallace, J. 2019. Wellbeing and Devolution: Reframing the Role of Government in Scotland, Wales and Northern Ireland. Cham: Palgrave Macmillan.

30 Stakeholder workshop respondent



Findings from international practice show that where there is a national set of indicators that track aspects of sustainable development, these are embedded in laws as a way of articulating key principles and actions required, notably in Wales. Where these are not considered to be present, establishment of such a framework is an explicit purpose of legislation: e.g. in the UK:

*“5(1):The Secretary of State must carry out a public consultation on the proposed wellbeing goals including with persons the Secretary of State, and the Future Generations Commissioner, deem to be appropriate.”*

And in Malta:

*“4(d):to develop a set of indicators for measuring the progress achieved in the area of sustainable development, and their progressive revision.”*

However, it is important to note that during discussions on the Community Empowerment Bill, it was felt that the NPF was an SNP framework, and this may be why the Bill sets out requirements for national outcomes and not a whole NPF. Political parties other than the SNP may reject a statutory basis for the NPF, as this would then require them to use an SNP framework if/when they come to power.

An alternative approach would be to advocate for the strengthening of Part 1 of the Community Empowerment (Scotland) Act 2015, so that:

- they must be assessed for (global) PCSD;
- the underlying means of implementation (e.g. policies, targets, etc.) must be similarly assessed;
- requirements for participation in the determination of the outcomes be enhanced;
- the time allowed for the parliamentary consultation be increased, as demanded by MSPs during the 2018 parliamentary consultation and agreed by Derek McKay on behalf of the Government.

## **4.7 Transition to a Wellbeing Economy**

**Recommendation 7: The Alliance could push for the WSD Bill to be framed as an ambitious piece of legislation to deliver a new approach to wellbeing and SD that recognises current economic systems are not meeting the needs of people or the planet. It could advocate for the Bill to put into practice new economic approaches to deliver a wellbeing economy that respects global ecological limits and delivers social minimums globally.**

A key purpose of this Bill could be to implement some of the major principles of a wellbeing economy.

*“Scottish Government has stressed the need to “redesign how we think about our economy” and has pledged to develop a “Wellbeing Economy monitoring framework”,*

*based on the NPF, with a “clear focus” on data for the hardest-hit groups. To encourage action flowing from this, a new headline metric capturing progress across the National Outcomes should be considered. This could, over time, help to fully displace inadequate measures, like GDP, and embed a new compass for national progress.”<sup>31</sup>*

In terms of ‘measures of national progress’, Oxfam proposes their own humankind index. However, the Wellbeing Economy Monitor looks likely to be framed by a four capitals framework<sup>32</sup>

If the WSD Bill is to be used to transition to a wellbeing economy, there could be scope to lobby for alternatives to ‘capital’ approaches which tend to leave growth-led economic thinking in tact. The Alliance could propose a combination of doughnut economics and ideas of ‘degrowth’. These follow principles of fairness, justice, equity and planetary boundaries.

*“By doing away with traditionally Western development models, such as GDP, degrowth aims to reduce world-wide inequality and at the same time advance environmental justice.”<sup>33</sup>*

Some of the essentials for a degrowth perspective<sup>34</sup> are:

- Self-determined life in dignity for all
- And economy and society that sustains the natural basis of life
- Reduction of production and consumption in the global North and liberation from the one-sided Western paradigm of development. This could allow for a self-determined path of social organisation in the Global South
- Extension of democratic decision-making to allow for real political participation
- Focus on sufficiency instead of improvements in ‘efficiency’ to solve ecological problems.
- Create open, connected and localised economies

This could be useful for moving beyond GDP and endless economic growth as a measure of success. The Alliance could connect with the Wellbeing Economy Alliance and the authors of a course on Degrowth in Scotland<sup>35</sup> to develop specific proposals for wellbeing economy implementation as part of the Bill.

## 4.8 Summary

This chapter focused on the recommendations related to the purpose of the Bill, chiefly that the influencing activity should centre around:

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31 Oxfam 2020

32 SNP Manifesto: “We will develop a set of wellbeing indicators for Scotland which create a dashboard to monitor and track economic success. The monitor will not only guide economic policy but will also identify barriers to wellbeing and integrate a four capitals approach to make sure that sustainability (environmental, economic, human and social) is embedded.”

33 <https://www.careaboutclimate.org/blog/what-is-the-degrowth-movement>

34 <https://www.degrowth.info/en/degrowth-definition/>

35 <https://www.enough.scot/degrowthcourse/>

- Ensuring that the Bill gives force to existing SD duties through clear definitions and principles, which explicitly include domestic and global PCSD;
- Seeking to address conflicts with SD duties in existing legislation, e.g. through amendments, or by creating hierarchies of duties;
- Strengthening provisions on the determination of national outcomes in the Community Empowerment (Scotland) Act 2015.
- Setting out principles or requirements for the transitions to a wellbeing economy.

It is also recommended that an influencing plan include action around the inclusion of clear accountability mechanisms on the above. This is addressed separately in Chapter 6. First, however, we consider the role of statutory duties in the following chapter.

**5. What should the WSD bill require, and of whom?**

The previous Chapter emphasises the importance of a WSD Bill giving force to the numerous SD duties in existing legislation. However, it may also be desirable to augment them. This Chapter addresses what else the bill should require and of whom, including specifics around the creation of duties on public bodies, and broader perspectives on who should be targeted by the Bill.

## 5.1 Key Actors

Beginning with the question of whom, there was a clear interest in the notion that the WSD Bill should target public bodies at the stakeholder engagement workshops, but that this should not be the full extent of the Bill. Based on this and learning from elsewhere, the Bill could place duties on, and/or require actions from:

1. Existing public bodies and partnerships
2. Future/new public bodies and partnerships
3. Scottish Ministers & The Scottish Government
4. The private sector

The Bill could also encourage wider civil society participation in determining aims and delivery of its provisions through mechanisms such as citizens' assemblies. Hence, the 'responsibility' for wellbeing and SD nationally and globally are shared by all members of Scottish society. It was suggested that the SDGs could be something people use as part of public scrutiny to hold the government to account. Each of the four key actors will be discussed in turn.

1. Statutory duties could be imposed on existing public authorities or on Scottish Ministers. It is likely that the main target of the legislation will be public bodies, so ensuring as many public bodies are included as possible would increase the scope of impact for the Bill.

In the WFG Act the definition of public bodies was narrower than might have been desired. This was due to the constitutional context. It was proposed during stakeholder engagement that the public bodies covered by the WSD Bill should be as defined in the Climate Change (Scotland) Act 2009, which is comprehensive.

2. The WSD Bill could create new bodies and place duties on them. The WFG Act for example set up 19 new public bodies called public services boards (PSBs). In a review of PSBs, this 'spatial dimension of well-being and approaches to growth and de-growth are fundamental to our understanding for future well-being in Welsh communities.'<sup>1</sup>

Learning from the WFG Act suggests that for some organisations it is unclear how the Act binds them. This was particularly to do with complications of formation of partnerships and bodies created after the Act, which are technically not bound by the duties in it. Discussion of the criteria for selection of public bodies was considered an important part of the process of bill development.

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<sup>1</sup> Netherwood, A. and Flynn, A., 2021. A shift in public policy for future generations in Wales? Future generations and well-being planning. In *Giving Future Generations a Voice*. Edward Elgar Publishing.

**Point of consideration:** Is there an appetite for the WSD Bill to create new bodies? At present, pilots of ‘regional land use partnerships’ are underway, which adopt a spatial approach. These and any other partnerships such as those in health and social care could be useful delivery mechanisms for implementation of Bill duties across Scotland.

3. The Bill could place duties on Scottish Ministers and on the Scottish Government (SG).

Ministers in Wales have a duty to produce an annual progress report; a Future Trends report; and set national indicators and milestones. Future Trends reporting ‘seeks to provide useful predictions on trends in relation to varied issues such as population, health, economy and infrastructure, climate change, land use and natural resources, and society and culture’, which can be used by public bodies and Welsh Government for planning.

Suggestions from stakeholders around the responsibilities on SG and Ministers include:

- The bill should establish a baseline for parameters that can account for Scotland’s impacts on other parts of the world, and then impose a duty on SG to report on and incrementally improve such quantifiable impacts. Timescale suggested reporting every 2-3 years.
- SG should be ‘incentivised’ to tackle policy incoherence where for example Scottish-based entities (e.g. arms manufacturers) are contributing to ‘negative impacts outside Scotland’.
- Ownership of the bill should be at the level of the First Minister.
- Global standards are a ‘failure’ and leadership is needed at a national level.

Alongside reporting duties and national leadership (see Chapter 6) SG must be encouraged to work in new ways, akin to a cultural shift.

**Recommendation 8: The WSD Bill could be an opportunity to advocate for a ‘whole government approach’ to wellbeing rooted in PCSD. Key aspects of this might be around increasing the transparency of decision-making especially where trade offs are concerned, and encouraging cultural change.**

‘An Act could establish sustainable development as the central organising principle of governance’ causing a cultural shift and driving SD forward<sup>2</sup>. An emphasis on inter-departmental collaborative working could be encouraged in the detail of the WSD Bill. The UK Wellbeing of Future Generation (No. 2) Bill, for example, says:

*“(f) how acting in collaboration with any other public body (or how different parts of the body acting together) could assist the body to meet its wellbeing objectives, or assist another body to meet its objectives.”*

The Welsh Act similarly references collaboration and coordination<sup>3</sup>. However, a report by

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<sup>2</sup> Ross, A. 2010. It’s Time to Get Serious—Why Legislation Is Needed to Make Sustainable Development a Reality in the UK. *Sustainability*, 2(4), pp. 1101–1127.

<sup>3</sup> The WFG Act defines five new ways of working: integration; collaboration; participation; long-term and prevention

WWF and the Welsh Government states: integrated impact assessment is needed for a ‘whole government’ approach to policy to deliver on the seven wellbeing goals which are interconnected. It is reported that progress is very slow in achieving the necessary cultural change associated with the WFG Act, especially from the Welsh Government itself. Key milestones to be set by Ministers, were only published in Dec 2021 - many years after the passing of the Act.

**Point of consideration:** Oxfam argue whilst the Scottish Government’s *Contribution to International Development Report* is welcome, there should be greater investigation of areas of incoherence and the activities of all public bodies, rather than focusing narrowly on Scottish Government-funded international activities. This illustrates that a WSD Bill should promote action across all sectors, and be seen as relevant to all branches of government and public bodies, requiring efforts towards PCSD across all areas and activities.

4. The private sector was considered to be an important target for the Bill at the stakeholder engagement workshops. Examples cited were related to due diligence, public procurement, taxation, or pensions/finance. Some specific suggestions on what could be introduced include labelling and taxing products related to indicators such as carbon footprint and human rights credentials to show the ‘real cost’. Other areas include paying closer attention to subsidies to ensure the Government is not subsidising activities with a negative impact, but directing investments into areas that can have a positive contribution e.g. ethical pensions and finance.

Similarly, Scotland’s Climate Assembly made the recommendation to:

*“Introduce a public sector procurement requirement for companies to provide details of their sustainability performance (measured against agreed standards) in any tenders for work, and for this to be used alongside costs in making the final decision on whom to select.”*

Responses to the GFN Bill also highlight the important role of the private sector, which was not referenced in the Bill as introduced, which makes the scope ‘narrower than necessary’. The SHRC and SFC highlight the impact of private businesses on the right to food. It is suggested that the government:

*“encourage, enable and furthermore ensure, that businesses play their part in creating a Good Food Nation as part of its implementation of international obligations... The Commission believes that it would be entirely appropriate and in accordance with international human rights obligations to protect, respect and fulfill rights for requirements to be placed on private food- related businesses in relation to the realisation of the right to food both in Scotland and globally.”*

For the WSD Bill to have a wider societal impact on SD and wellbeing, the private sector must be brought into consideration.

**Recommendation 9: The Alliance could advocate on the importance of finding ways to target and increase the accountability of private sector regarding their contributions to wellbeing and SD**

## and/or consider whether there are industry and private sector allies for this Bill.

The WFG Act did not explicitly consider the private sector, however, the Federation of Small Businesses (FSB) consultation response to the Bill, argued that were important knock-on effects. Along with Wales TUC, they were the only private sector consultees, and both were supportive. FSB was keen to see a stronger role for SMEs and stated:

*“while the Bill largely relates to the public sector, FSB Wales would argue that the behaviour and processes of the public sector can have a substantial impact on the private sector and as such this Bill is of relevance to all sectors of the Welsh economy.”*

## 5.2 Learning from existing duties, possible new duties & options beyond

This section considers what the role of duties might be in the WSD Bill, learning from existing duties, considering how new duties might look and discussing options beyond duties that focus on achieving specific outcomes.

### 5.2.1 Examples of existing duties for different agencies and actors

As an example of offering relatively clear and granular duties, Malta’s Sustainable Development Act places different duties on different bodies: 13 on the “competent authority” - the **prime minister’s office** - including to develop and revise a national strategy, review and audit government policy, identify present and future incoherence, advocate for sustainable development and liaise with stakeholders. **Public administration** should support these efforts; **Ministries** should appoint ‘focal point’ coordinators and report on their activities in response to the national strategy A new multi-stakeholder sustainable development **network** is charged with raising awareness of sustainable development, and a **Guardian** is appointed with scrutiny powers and a special focus on the interests of future generations.

As an illustration of a contrasting approach, the duties in the current UK bill are more generic:

*“4 Wellbeing duty on public bodies*

*(1) Each public body must carry out sustainable development.*

*(2) The action a public body takes in carrying out sustainable development must include—*

*(a) setting and publishing objectives (“wellbeing objectives”) that are designed to maximise its contribution to achieving each of the wellbeing goals, and*

*(b) meeting, in the exercise of its functions, its wellbeing objectives.”*

### 5.2.2 Learning from existing duties in Scotland

In Scotland, the implementation of the public bodies duties imposed by the Climate Change



(Scotland) Act 2009 shows that their efficacy is strongly related to the support provided and scrutiny carried out. The duties are on:

- Mitigation - reducing greenhouse gas emissions
- Adaptation - adapting to the impacts of a changing climate
- Sustainable development - integrating sustainable development into public bodies' functions.

**Regarding mitigation,** In exercising their functions, public bodies must act in the way best calculated to contribute to delivery of the Act's greenhouse gas emissions reduction targets. Reporting on this is mandatory, and is supported by Sustainable Scotland Network (SSN). As peer support measures were instituted very soon after the Act was passed, with a formal support mechanism following, this duty has been well-implemented and monitored.

It seems that there have also been some attempts to align this duty with other duties, particularly procurement.

*“Public bodies are required to prepare an Annual Procurement Report to demonstrate alignment between procurement activity and the organisation's Procurement Strategy, including compliance with the Sustainable Procurement Duty. Public bodies should engage with procurement colleagues and refer to their organisation's Annual Procurement Report when preparing the Procurement section of their Climate Change Report, as there will likely be interdependencies between these reports.”*

Regarding reporting on how procurement policies contribute to the duties of the Climate Act including compliance, SSN offers guidance for public bodies<sup>4</sup>.

**Point of consideration:** If non-mandatory reporting elements are important areas that are covered by the WSD Bill in terms of broader SD impacts and impacts beyond public bodies' estates, it could be worth using the WSD Bill as an opportunity to make this reporting aspect of the duty mandatory, and requiring new guidance on how such elements should account for PCSD, wellbeing and global responsibility.

**Regarding adaptation,** ...‘public bodies must act in the way best calculated to deliver any statutory adaptation programme.’

The Scottish Government funds Sniffer to deliver the Adaptation Scotland<sup>5</sup> programme which offers guidance and support to help organisations, businesses and communities prepare for, and build resilience to, the impacts of climate change. However, as support formal support mechanisms for adaptation were instituted later than for mitigation, progress has lagged.

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4 It is good practice to identify specifically how procurement policies are contributing to reducing emissions and adapting to climate change. Evidence of impact on emissions reduction and adaptation outcomes is also useful. [...] Include any measurable impacts that sustainable procurement activities have had in reducing emissions, adapting to climate change or addressing broader sustainability issues.

5 <https://www.adaptationscotland.org.uk/>

Nevertheless, learning from this duty suggests that there are effective ways in which to support public bodies to implement new duties. The Adaptation Capability Framework produced by Adaptation Scotland appears to be a useful example to learn from in this regard. It is based on collective knowledge and practitioner experience from local authorities, health boards, infrastructure providers, agencies and universities. The Framework aims to offer a 'holistic' approach and is based on local and international experience, using a 'capability-maturity' approach. There are four adaptation capabilities for organisations which can be developed by completing recommended tasks as they progress through the four maturity stages: starting; intermediate; advanced; mature.

The framework recognises that there is no one-size-fits-all approach to adapting to climate change. Similarly for the WSD Bill it would be useful to consider how frameworks and toolkits such as this one, will be necessary for public bodies to implement any new duties. There is a list of PCSD specific toolkits available here: <https://www.oecd.org/governance/pcsd/toolkit/tools/>

**Regarding the SD duty**, reporting is not mandatory, and there does not appear to be any formal support mechanism. SSN's latest guidance for reporting does not address SD beyond climate.

This has led to the third duty being poorly understood, and not well-implemented. This is likely to have been related to previous versions of the NPF reducing 'sustainability' to climate change, and contracting SSN to shift its focus from SD to climate. The efforts of local authority sustainability officers were accordingly shifted initially to focus on mitigation.

This prioritization of a single issue, albeit it major threat, risks leading to decisions that can policy conflicts, or have unwanted or perverse consequences in other areas.

**Recommendation 10: To enhance PCSD, the WSD Bill might be used to consolidate/amend these existing duties offering a framework for ways that public bodies can take decisions which maximise synergies and recognise global responsibility. For example under the CC Act reporting on 'broader sustainability issues' is currently not mandatory and the WSD Bill could be used to strengthen this.**

### **Conflicting duties**

There are likely to be genuine conflicts in some cases. For example, Scottish Enterprise's founding legislation, the Enterprise & New Towns (Scotland) Act 1990, requires it to '4.(d) otherwise promote or assist the establishment, growth, modernisation or development of industry or any undertaking in an industry', but it has a number of other duties under that Act, and others, including on SD (e.g. Climate Change (Scotland) Act 2009).

**Recommendation 11: Consider advocating that the WSD Bill includes provisions to resolve existing conflicts in public bodies' duties. This may have to be done on a case-by-case basis, or through provisions that give priority to SD, so that other functions must be carried out in a way that is compatible with / supports SD, including global PCSD.**

### 5.2.3 Considering New Duties

**Recommendation 12: The Alliance could lobby for the Bill to include duties on ‘achieving’ specific kinds of wellbeing, SD and PCSD outcomes. This could include a clear clause directing public bodies to avoid policy incoherence, and a duty to put into practice ‘do no harm’ or ‘positive global contributions’.**

Welsh stakeholders said the language of the WFG is not strong enough, particularly the wording of ‘seeking to ensure’. Senned researchers report that the Bill was ‘lawyerised’ meaning that the language was watered down and diluted. It was suggested that the Welsh Act constitutes more of a ‘policy’ than a series of legally enforceable duties. The Alliance could recommend that the WSD Bill has a strong focus on outcomes for example ‘achieving’ SD.

Some international examples of other related wording - “pursue” “ensure” “act in the way best calculated” - are provided below.

**In Belgium:** Article 7b of the Constitution specifies: “In the exercise of their respective powers, the Federal State, the Communities and the Regions shall pursue the objectives of sustainable development in its social, economic and environmental aspects, taking into account solidarity between the generations”.

**In Malta,** Article 5 of the 2012 Act defines the first function of the Competent Authority as (a) to ensure the development and implementation of Malta’s sustainable development strategy.

**In Northern Ireland:** s25 of Northern Ireland (Miscellaneous Provisions) Act 2006 says: “A public authority must, in exercising its functions, act in the way it considers best calculated to contribute to the achievement of sustainable development in Northern Ireland”.

Whilst policy coherence can be contested, policy incoherence is widely viewed as undesirable and could be an easy or ‘fall back’ demand for the Bill. There is precedent here from Malta. The Maltese SD Act 2012 (modified 2019) 5(g) places a duty on the “competent authority” - the Prime Minister’s office, to “identify any relevant process or policy which may be undermining sustainable development and propose alternatives processes or policies to the Government for adoption”.

Experience from the Welsh Act is that the existing duties are not sufficient to address global impact and it is unclear how this works in practice. Especially the balance of global wellbeing and national wellbeing and what global wellbeing/responsibility is. The main form of action taken by public bodies and LAs is to produce wellbeing plans and objectives. The FG Commissioner’s advice on setting wellbeing objectives states that public bodies and boards covered by the Act should:

- *Clearly demonstrate the connections between their well-being objectives and steps on being globally responsible.*
- *Clearly set out how they understand the definition of the goal of a Globally Responsible Wales.*

The onus is on public bodies to therefore demonstrate how they are implementing global responsibility, and more training is needed to ensure global impact is understood in practice and incorporated into decision-making.

The extent to which the WFG Act requires achieving objectives and implementing plans is weaker. The wellbeing duty refers to ‘setting and publishing objectives’ designed to ‘maximise contribution’ to achieving the wellbeing goals. This was criticised by Senned researchers because public bodies do not know how to use the wellbeing goals and what it means to ‘maximise’ contributions. There is also a lack of clarity in terms of local implementation.

Thus, if there is to be a duty that requires thinking about global impact, it seems very likely that it will be necessary to be specific about what this means in practice and how public bodies can go about taking action and making decisions that align with the duty aims. However, there may not be a one size fits all approach. A principles-based approach could be taken to ensure the duty can be applied in different contexts and by different actors. Regarding the Welsh Bill, the Auditor General suggested that: “a more clearly principle-based approach, rather than one that is mixed with a goals and objectives approach, as set out in the Bill, would be more streamlined and probably more effective”.

In an earlier section, the idea of using a list of principles to more closely define SD was canvassed, and this approach could also be used as a way to guide the operationalisation of PCSD. A general duty to implement a vague idea will have limited action-guiding impact (unless the desired impact is just to prompt debate over how the duty should be understood, which is an outcome that could be valuable). To guide implementation of a relatively general duty, a series of principles could be specified that would guide all attempts to assess policies and impacts, to give greater meaning to what a “good” or “adequate” assessment of policy impacts should look like. This would be a second opportunity to specify a “positive”, or a less-demanding “no negative” global impact principle to guide practice amongst other candidates, such as being mindful of both ecological ceiling and social floor; and having attention to long-term effects or a risk-averse approach.

**Point of consideration:** Of key concern, is how any new duties would be implemented and measured. The Alliance should seek legal advice on the wording of any proposed new duties and consider any processes and principles which would be needed to support duty-bearers.

#### **5.2.4 Limitations of Duties**

Stakeholders raised a concern over the number of duties that public bodies are subject to, particularly with upcoming legislation, and so felt that the question of overburden should be considered in relation to the WSD bill. There was discussion of how public bodies can be supported around implementation such as through impact assessment tools and toolkits.

The adaptation capability framework is useful for what might be needed in terms of support for public bodies to implement specific duties including ‘understanding the challenge’. It may be worth

considering how a bespoke Scottish toolkit will combine support to implement specific aspects of duties, the broader implementation of wellbeing and PCSD. There are already toolkits on the latter available.

Key learning from the implementation of other duties on public bodies in Scotland reinforce some of the limitations of a duty based approach. Compliance with the reporting component of the biodiversity duty has been found to be mixed at best, with a lack of communication from government, a lack of guidance, and limited understanding of how the duty applied to a public body were cited as factors (see Annexe A7). In the case of the Equality Duty, public bodies are placed under a duty to collect equality-specific data and then generate reports. A 2018 review highlighted the risk that this places pressure on already under-resourced organisations or staff without appropriate training (see Annexe A7). A further, wider fear is that the current approach might be counterproductive by diverting resources towards reporting from more concrete action.

Given the complexity of implementing PCSD in practice and the likelihood that public bodies will have to shift to new ways of working and thinking, a capability-maturity approach<sup>6</sup> as used by Adaptation Scotland, seems well suited to the WSD Bill in terms of allowing public bodies a step-by-step process of change.

Duty-bearers could be supported by new bodies, or existing bodies such as SSN which might be well placed to take on these additional roles. The latter would be particularly useful in the context of creating more synergy across policy domains and lowering the burden on public bodies if the reporting can also be integrated with existing systems and reports.

Experience with duties on public bodies in these other contexts highlight limitations and challenges to their ability to realise positive change. Legislation will need to ensure that duties emphasise and encourage action rather than just reporting, and are accompanied by guidance and learning. The learning that accompanies the sensitive and supportive implementation of a duty is, in some literature, considered a more significant path to change than the establishment of the duty itself.

**Recommendation 13: If new duties are to be proposed, then it is essential that duties are understood by duty-bearers and can be successfully implemented by them - which requires that duty-bearers are supported with resources, tools and training.**

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<sup>6</sup> See p.48 - <https://www.adaptationscotland.org.uk/how-adapt/tools-and-resources/capability-framework-climate-ready-public-sector>

## **6. Monitoring and accountability**

Accountability is important for the Bill as a way to motivate and monitor action and change. In general terms, an accountability relationship can be considered as having five components - (i) *who* is responsible, (ii) *to whom*, (iii) *against what standard*, (iv) *through what process*, (v) *with what sanction*. Together, how these elements are specified sets the overall demandingness of the accountability relationship. It is important to note that some of the discussion relating to accountability is in preceding sections. Vague definitions or poor wording in the content of the relevant duties are ways in which accountability can be undermined despite the presence of strong accountability institutions.

Whilst this section focuses on the creation of formal processes such as legal enforceability, mandates for audit institutions or creation of specific actors tasked with independent scrutiny, it should be noted that less formal or specialised options exist. General public awareness and scrutiny through an electoral process, or parliamentary committees (that do not need a legal basis, such as Finland's committee for the future) are possible options. Political considerations might restrict available options, and certainly in some countries advisory or awareness-raising bodies have been established that reflect such considerations. Consideration should be given to how far accountability is central to the model of change in the Bill. In other contexts, law - even though largely unenforced or without accountability or penalty, can be a powerful signal about the value of an agenda, and a way to encourage certain behaviours, and this might be true in this context. For example, it might well be that the Welsh Bill is, on balance, successful in highlighting and promoting sustainable development despite its relative unenforceability.

In what follows, though, a number of elements of a more formal and stringent process are discussed. More formal processes are preferable in key respects. First, they arguably do a better job of ensuring compliance and so make the legislation more effective. Second, accountability is an important moral principle and the use of independent processes and institutions ensures this accountability is to the right people, against the right standard, and backed by appropriate sanction. Third, charging a body with accountability powers in relation to sustainable development creates an institutional "home" for this idea, helping to establish SD as a norm in Scotland.

## **6.1 Building effective accountability, monitoring and scrutiny into the legislation**

**Recommendation 14: The most effective and robust scrutiny mechanisms politically possible should be built into the legislation - to ensure that there is ongoing scope to review impact and progress.**

The caveat "politically possible" here is important. In other contexts, extensive accountability powers in newly established sustainable development scrutiny mechanisms led to those sustainable development institutions being abolished or reformatted, notably in Israel and Hungary. Israel's Future Generations Commission, which had the power to scrutinise and delay

legislation, was dissolved in 2006 with its cost and the extent of its authority cited as reasons<sup>1</sup>. Prior to 2011, Hungary's Ombudsman had a constitutional mandate to halt environmentally damaging legislation. In the current, reworked system, the ombudsman can offer an opinion on legislation and still possesses some investigative powers.<sup>2</sup> Thus, an important consideration is to ensure that any monitoring body for a sustainable development duty can maintain and grow support within Scottish politics and society:

**Recommendation 15: Ensure that proposed accountability structures are mindful of the need to cultivate longevity and legitimacy in the Scottish political context.**

### 6.1.2 The role of reporting

The requirement to report, if built into the Bill, can itself be a standard to be assessed through accountability. It can also, by presenting data transparently, *enable* accountability. This enabling role, though, is dependent on the quality of reporting, e.g. by using the right indicators and metrics, and being oriented to relevant targets and also the quality of scrutiny - for example, where there exists a body with mandate and capacity to review and judge the adequacy of reporting. These components are addressed below - the role of indicators under 6.2.2 whilst 6.2.3 - 6.2.5 discuss bodies that might perform such scrutiny. Reporting requirements are a common component of legislation, internationally and from other relevant Scottish law, and as a component of accountability. Though reporting has drawbacks - for example, our research on public duties above identifies that reporting might become a focus at the expense of action, or that reporting necessarily creates additional work on stretched institutions - its presence in the Bill is considered relatively uncontroversial.

**Recommendation 16: The WSD Bill should include a duty on Ministers and potentially all public bodies as appropriate, to report periodically on progress referencing appropriate indicators that address Scotland's global impacts on SD and wellbeing.**

If the WSD Bill were to give meaning and force to the SD public bodies duty in the Climate Change (Scotland) Act 2009, (s.44(1)(c)), and provide a retroactive definition or set of SD principles which include (global) PCSD, as recommended in Chapter 4, this reporting could be included with reporting on the other two duties on climate change mitigation and adaptation.

### 6.2.2 The role of indicators

Indicator frameworks are important enablers of quality reporting and meaningful accountability: transparency is integral to accountability and publicly available reporting of performance on indicators can allow for a measure of accountability even where no formal body exists. Importantly, indicators can allow for **target-setting**, where these targets become actionable standards for accountability. The absence of target-setting in the context of a national indicator framework can

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1 <https://main.knesset.gov.il/EN/activity/mmm/me03194.pdf>

2 <https://www.ajbh.hu/en/web/ajbh-en/about-the-office>



be considered a weakness of Scotland's NPF - though it is unclear how far this Bill could remedy that.

### **Reflections on indicators from other national contexts:**

In Wales' framework, built around its national wellbeing goals, there are 46 national indicators reported on in the annual progress report. These are mapped to the SDGs and the public can use an interactive tool to investigate performance.

There is an Active Global Citizenship indicator which was added to the set in December 2021 and is currently under development. This indicator was not initially included due to being 'too vague', but has been campaigned for by Oxfam Cymru:

*"Setting a milestone against an indicator of active global citizenship would contribute to balancing the milestones so that they drive action specifically in pursuit of a globally responsible Wales demonstrating that this goal is taken as seriously as the others."*

National initiatives focusing on Wellbeing in Iceland and New Zealand have created national wellbeing indicator frameworks that could provide standards against which to hold governments accountable. In Iceland, The Prime Minister, Katrín Jakobsdóttir, set up a working group to develop measurements for wellbeing which resulted in a framework of 39 indicators aiming to capture elements of wellbeing, and aligned to the SDGs. A parliamentary motion approving the use of these indicators was passed in April 2020 but its incorporation into policymaking and accountability structures is currently unclear<sup>3</sup>. New Zealand self-identifies as taking a wellbeing-based approach to policymaking, with a Living Standards Framework<sup>4</sup> that will enable the government to "strengthen the quality of its policy advice through the more consistent use of wellbeing data and evidence."<sup>5</sup> However, the power of this guidance has yet to be established, and translation into meaningful impacts on policymaking and accountability are currently unclear.

In Finland, the creation of a national indicator framework is the basis for regular reporting and a citizens' panel has been convened to pass judgement on performance on those indicators as an input to monitoring. Many countries have instituted a national indicator set in response to the SDGs. Despite the SDGs containing relatively specific targets on overseas impacts, the authors are not aware of any country that systematically tracks its global impacts through these indicators, though this is an area for future study.

Scotland's own NPF is the obvious candidate framework of indicators, and better use of the NPF was identified during consultation as a potential key purpose for the bill. The Alliance may want to argue for better use of the current NPF and national outcomes however in their current state they are insufficient to address questions of global responsibility and are not congruent with some of the above recommendations on definitions. The Alliance could propose that the new WSD Bill

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3 <https://www.socialenterprisebsr.net/2020/05/iceland-39-well-being-indicators/>

4 <https://www.treasury.govt.nz/publications/tp/living-standards-framework-2021-html#section-4>

5 <https://mch.govt.nz/culture-wellbeing-and-living-standards-framework-perspective-june-2019>

includes a way to update the national outcomes to ensure that there is better alignment.

**If the national outcomes from the NPF are to be used as indicators against the progress of Scotland becoming globally responsible, the indicators must be fit for purpose and able to ‘measure’ this in practice.**

### 6.2.3 Audit processes

National audit processes could be charged in the Bill with scrutiny of SD activity, following precedents such as Wales and Belgium.

In Wales, Section 15 of the WFG Act requires the Auditor General to scrutinise performance. During the consultation on the Bill, the Auditor General stated that:

*“the lack of a specific review function for the Auditor General within the Bill will lead to an expectation gap in relation to review arrangements, which I believe will prove unhelpful to the achievement of the Bill’s purposes”.*

The wording of the legislation is that the Auditor General will ‘carry out examinations into the extent to which public bodies set objectives and take steps to meet them in accordance with the sustainable development principle’. This states that a body ‘must act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.’ It also covers five ways of working: long-term; integrated approach; involvement; collaboration; prevention. The Auditor General suggests that ‘the sustainable development principle is not something that can be uniformly applied or audited’.<sup>6</sup>

Examinations of public bodies must be carried out at least once between Welsh government general elections. A report must be made by the Auditor General on results to the national assembly. The Auditor General can also examine the efficiency and effectiveness of the use of resources by the Commission/Commissioner but does not have a remit to question the policy objectives. The latest findings from May 2020 of the Auditor General cover the first reporting period for the WFG Act from 2015-2020. 71 examinations took place across 44 public bodies. A single ‘step’ was selected that bodies are taking to meet wellbeing objectives. The Welsh Government itself was examined on three separate steps. Senned stakeholders highlighted that there has been no post-legislative scrutiny of the WFG Act. The auditor general’s report also argues for post-legislative scrutiny particularly to address barriers to implementation.

In Belgium, the Court of Audit is empowered to review progress on the UN Sustainable Development Goals which have become a cornerstone of Belgium’s national strategy. In 2020, the Belgian Court of Audit published a report titled ‘Sustainable Development Goals – 2030 UN Agenda: implementation, monitoring and reporting by the Belgian authorities’. The Court examined how the various governments in Belgium expressly commit to the SDGs and organise their efforts towards these goals. The audit was not aimed at evaluating the results of the

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<sup>6</sup> [https://www.audit.wales/sites/default/files/Well-being-of-Future-Generations-report-eng\\_11.pdf](https://www.audit.wales/sites/default/files/Well-being-of-Future-Generations-report-eng_11.pdf)

sustainable development policy, but rather at conducting an SDG preparedness review. The Court reviewed the preparedness of both the federal and subnational governments, as well as the coordination of efforts by the different authorities towards the SDGs. In Finland, again, the national auditor has a role in accountability, though this is not the provision of specific sustainability legislation.

Audit Scotland (AS) does look at how public bodies are performing against their duties. As the SD Commission Scotland was being abolished, discussions were held with AS, regarding whether it could help to fill the imminent scrutiny gap. Its position was that it could only hold the Scottish Executive to account against what it had committed to do.

However Scottish Ministers are bound by the public bodies duties in the Climate Change (Scotland) 2009 Act, and can therefore be audited against them. Should force and meaning be given to the third duty, including on domestic and global PCSD, then Audit Scotland would be better able to hold Ministers to account. Indeed AS itself is bound by the same duties, which means that in carrying out its audit functions, it must do so in a way that supports SD.

#### **6.2.4 Enforcement by the courts**

SD legislation has had little impact elsewhere in terms of legal enforcement. Cases in Wales have not gone to trial and where issues have arisen before courts in Belgium and Germany these are couched in terms of climate change rather than sustainability more broadly. These cases in Germany and Belgium, though, have both had the effect of prompting reconsideration of relevant sustainability law. In the case of Belgium, a reconsideration of article 7bis of the Constitution was proposed by the court.<sup>7</sup> In Germany, more significantly, the court ruled that German climate change legislation was insufficient as a way of fulfilling Germany's obligations, and explicitly considered the extent of Germany's extra-territorial duties and its duties to future generations, requesting a redesign of climate change legislation to reflect the more basic duty in German law to be "mindful of its responsibility towards future generations" and "protect the natural foundations of life and animals".<sup>8</sup> Nevertheless, it is not expected that enforcement by the courts would be a central plank of accountability in this legislation - at least in the short term.

#### **6.2.5 Scrutiny bodies**

There are key distinctions in the kinds of bodies that can be created to scrutinise sustainable development. One is the degree of *independence from government*. For example Malta's Guardian is a body composed of individuals appointed by the prime minister. The Finnish National Commission on Sustainable Development has members representing the Government, Parliament, public administration, business and industry, municipalities and regions, trade unions, the educational sector, non-governmental organisations, science and research, the arts, and the

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<sup>7</sup> <https://www.klimaatzaak.eu/en>

<sup>8</sup> <https://www.ejiltalk.org/sustainable-development-made-justiciable-the-german-constitutional-courts-climate-ruling-on-intra-and-inter-generational-equity/>

churches. This is not an independent accountability body - its chair is the Prime Minister - but rather an institution to develop policy around SD.

A second is the *passive* or *active* nature of the body. Malta's Guardian has at least some investigative powers. The Guardian has the mandate to promote sustainable development advocacy across national policymaking, legislation and practices. The Guardian can also propose goals and actions to Government Entities for them to take up in order to contribute towards the goal of sustainable development, and can also request any Government Entity to provide or collect data or information about any topic that could have a bearing on SD.

The Welsh WFG Act is another prominent example of setting up a new commission and commissioner for monitoring and accountability. The Commissioner adopts an advisory role, and has no enforcement powers. The choice of "commissioner" (over guardian, say) reflects an existing pattern of commissions that offer a template for this new role, however a key difference is that the existing commissions have more clearly defined constituencies of people to represent, compared to the interests of 'future generations'. Establishing this representative role, though, helps target political silo-thinking and short-termism, providing a far-sighted perspective on policy-making that enhances the wellbeing of current and future generations.<sup>9</sup> It is a strength of The Welsh approach that it creates public-facing institutional "home" with responsibility for the Act. However, the Commissioner role is seen as limited in terms of its impacts, mandate and resourcing.

Similarly, South Africa's model is one where the external "forum", though independent, has only advisory power, with a mandate to

*"to inform the Minister of the views of stakeholders regarding the application of the principles and:... (b) advise the Minister on— (i) any matter concerning environmental management and governance".*

The "Committee for the Future" in the Finnish Parliament has a more recognisable accountability role, with its functions including preparation of parliament's response to the government's "Government Future Report" and regular SDG reporting. It has independence to decide its own agenda. Importantly, this accountability institution does not arise through a specific legal provision, but rather the way that Finnish parliament and politics functions. Canada's approach to sustainable development scrutiny again uses a parliamentary committee as a key component, mandating annual reporting on the national sustainable strategy to parliament, then:

*" 12.1 A sustainable development strategy or report that is tabled in a House of Parliament under section 11 or 12 is deemed to be referred to the standing committee of that House that normally considers matters relating to sustainable development."*

Responses to the GFN Bill also indicate that the Scottish Human Rights Commission (SHRC) and the Scottish Food Coalition (SFC) support the creation of an independent oversight body in

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9 Pearce 2019

that context. The SFC argues that this should have a role and remit similar to the Scottish Land Commission, monitoring and reporting progress on the SDGs; scrutinising plans; facilitating partnership working; commissioning research; data gathering; providing guidance; ensuring legislative compatibility and policy coherence, and supporting citizen engagement. Interestingly, the SHRC argues that a new oversight body needs to be created, rather than the role absorbed by existing actors, and be a conduit for citizen engagement (e.g. via citizens' assemblies).

**Point of consideration:** the creation of a new commission and commissioner does not appear to have political support in the current governmental context given for example that this was not included in the GFN Bill as introduced at Stage 1. However, the possibility for a future generations commission is also on the cards.

If a commission/commissioner is considered important to the monitoring and scrutiny for the WSD Bill by the Alliance, there will need to be consideration of different options. E.g. is it still worth advocating for a new body and for this to have certain powers, or are there other approaches that might be more politically feasible e.g. amalgamating commissions but which might serve the same functions as a new commissioner would.

### **6.2.6 the place of civil society**

The Climate Assembly has been funded by the Scottish Government to deliver recommendations, other types of citizen and stakeholder assemblies might be useful on the topic of wellbeing and sustainable development. The Finnish model also composes a formal element of citizen engagement through a citizens' panel that gauges Finland's progress on sustainable development, though it does not directly rate government policies or strategies and is only one input to decision-making. It is perhaps worth highlighting that Malta's legislation establishes a multistakeholder Sustainable Development network as a framework for citizen engagement and assigns a duty to the prime minister to engage with stakeholders and raise national awareness.

**Recommendation 17: The Bill should address the place of civil society, through a role in any panels, councils or commissions, and in a recognition in opening definitions of SD as a multistakeholder "whole of society" activity.**

This Chapter has considered the major components for building accountability, monitoring and scrutiny into the WSD Bill. A stakeholder from the Law Society of Scotland, suggested at one workshop, that a stronger approach, for example, establishing an independent oversight body, is a good starting point, although this is not the only option, or the only consideration for the Alliance. Learning from the WFG Act also reinforces the importance of post-legislative scrutiny.

## **7. Broader considerations moving towards the Bill**

This section of the paper outlines next steps in thinking towards the WSD Bill, including dynamics related to the passage of the bill, and the broader context within which the Alliance are positioned which includes the need to ‘decolonise’ development thinking.

## 7.1 Passage of the Bill

The development of a government bill can be a lengthy process. It is led by a bill team, and can include several stages, such as in-house research, public consultation(s) and drafting.

Following drafting, it is introduced in the Scottish Parliament, where a number of processes then take place behind the scenes and publicly. The three main (formal) stages of scrutiny are:

Stage 1: Scrutiny of the general principles of the bill - at this stage, at least one committee can take written and oral evidence from stakeholders and decide whether the bill should pass or fall at this point. Stage 1 concludes with a Chamber debate.

Stage 2: Committee amendments - at this stage the bill will be examined line-by-line in committee, and amendments proposed by committee members and guest Members of the Scottish Parliament (MSPs). Government amendments can also be proposed by a Minister. An amended version of the bill, is then published for Stage 3 scrutiny.

Stage 3: Any MSP can propose further amendments to the bill (as amended). Those which are admissible are debated in the Chamber.

While the focus of the Alliance’s work is currently on the development and passage of the WSD Bill, it is important to note that Acts can undergo post-legislative scrutiny. Here, the impact of the Act can be scrutinised, which shines a light on its efficacy or otherwise, and could eventually lead to amendment. Acts can also be amended or repealed without post-legislative scrutiny.

Annexe F contains a simple flow chart showing some of the key stages of bill development and passage. It is not comprehensive, but shows that stakeholders can engage at any or all stages leading up to, during and after the passage of a bill.

**Recommendation 18: The planning of engagement and influencing work should systematically consider which stages of the development and passage of the WSD Bill it might focus on, in order to maximise its impact.**

**Recommendation 19: Given that the Alliance’s aspirations are global and long-term, it should consider what work might need to be carried out after the passage of the Bill.**

If the Bill is passed, this could include, for example, work to monitor the outcomes of the Act, hold duty-bearers to account, and build on what is in the Act. This last is important to consider, as it is unlikely that a single Bill will provide a panacea for unsustainable development, including incoherent policy.

## 7.2 Key Scottish Government Portfolios

In the SNP manifesto, the WSD Bill is included in the chapter on Scotland in the World, which relates to international affairs, suggesting the Bill will be introduced by the Minister for Culture, Europe & International Development, Jenny Gilruth. This would make her the Member in charge of the Bill under rule 9.2A of the Parliament’s Standing Orders.

In the Programme for Government 2021-22<sup>1</sup>, it is included in chapters on both A Net Zero Nation as well as Scotland in the World<sup>2</sup>. In the Net Zero chapter of the Programme for Government (p.57), it is mentioned briefly in a table of Scottish Government responses to the Just Transition Commission’s 24 recommendations, as follows:

Headline JTC <sup>3</sup> recommendation	Scottish Government initial response
<i>We must move beyond GDP as the only measure of national progress. For a just transition to be at the heart of Scotland’s response to climate change, the Scottish Government must champion frameworks that prioritise wellbeing</i>	<i>We will further develop the use of our National Performance Framework through the upcoming review of National Outcomes and through consultation on a Wellbeing and Sustainable Development Bill. We will publish the National Strategy for Economic Transformation in autumn this year, with the just transition to net zero and maximising economic, social and environmental wellbeing embedded as key themes. To monitor how we are performing as a wellbeing economy we will also develop and publish a Wellbeing Economy Monitor.</i>

It may be worth noting that SD is in the portfolio of the Cabinet Secretary for Net Zero, Energy & Transport, Michael Matheson<sup>4</sup>. So, although it appears likely that Jenny Gilruth will be the Member in charge of the Bill, Michael Matheson may have some involvement.

**Recommendation 20: The Alliance should consider planning some engagement with Michael Matheson’s team, at least until the extent of its involvement in the development of Bill becomes clear.**

In general, mobilizing supporters and working through allies can be effective in highlighting what stakeholders want, as diverse organizations/individuals can reach different targets at different

1 <https://www.gov.scot/publications/fairer-greener-scotland-programme-government-2021-22/>

2 The WSD Bill is not included in the list of bills summarised at the end of the Programme for Government.

3 Just Transition Commission

4 It may also be of interest that it is fifth of 22 areas of responsibility, whereas in the previous parliamentary Session, it was featured at the bottom of Roseanna Cunningham’s list, and in Session 4, it was not included in any portfolio at all.



stages of development and passage. These might include different civil servants, Ministerial offices, MSPs, Scottish Parliamentary Service clerks or researchers, etc.

A more consistent and coherent message, including in terms of terminology, can be powerful. On the other hand, priming a wide range of parties can limit the extent to which a flexible approach can be taken, which could allow the Alliance to adjust its position as events unfold.

### **7.3 Learnings from the passage of the Climate Change (Emissions Reduction) (Scotland) Act 2019**

The Climate Change (Emissions Reduction) (Scotland) Act 2019 which was the only Act we found that brought in explicit requirements to consider the consequences of domestic public policy beyond its own borders (see Annexe A.1). It is possibly an international precedent, which may make it a useful part of an influencing strategy for legislation on PCSD.

**Recommendation 21: Consider whether it would be effective to create a buzz around this ‘world-leading’ achievement, allowing the Scottish Government and Parliament to take credit. The Scottish Government can be held to account over positive public statements about the policy coherence provisions, e.g. how it supported them. In addition, if policy coherence is seen to be a strong demand, especially from a range of (interest) constituencies, it could further the cause of PCSD, as the Government may be more likely to take further ownership of the idea.**

However, care should be taken with such an approach, as although the Member in Charge of the Bill (Cabinet Secretary for Environment, Climate Change & Land Reform), expressed her support for the concept of policy coherence at Stage 2, she expressed her dissatisfaction with amendments proposed for the consideration of global impacts at Stage 3. Following is brief commentary on the debate around amendments for policy coherence, based on the summary provided in Annexe A.2.

At Stage 2, a number of amendments were lodged by Labour (Claudia Beamish), Conservative (Maurice Golden), SNP (Stewart Stevenson) and Green (Mark Ruskell) Members. Most were withdrawn at the behest of the Cabinet Secretary, who argued that international and social justice requirements were already included in the Climate Change (Scotland) Act, which the 2019 Bill was drafted to update. Other objections included that various of the amendments would create policy conflicts, although it is not clear from the debate what the specific conflicts were thought to be. For example, the Cabinet Secretary, Roseanna Cunningham, stated that amendment 104, to amend the purpose of the Act so that Scotland would make its fair share of global emissions reductions, and ensure ‘planet, its people and wildlife avoid the worst effects of climate change’, would place competing duties on Ministers. It could be speculated that ‘competing duties’ could relate to pursuing Scottish interests versus reducing emissions, to people versus wildlife, or perhaps to what might have to be foregone by Scotland in order to achieve a truly fair share of emissions reduction.

Cunningham requested that a number of the amendments be withdrawn / not moved, on the

basis that although the she / the Scottish Government supported the principles on which they were based, their construction was problematic. She offered to work with those proposing them over the summer to bring forward more appropriately constructed amendments at Stage 3. With the possible exception of amendment 152 and 95, the amendments were withdrawn / not moved.

Amendment 95 on the definition of a fair and safe emissions budget was felt to conflict with a Government amendment. 95 sought to define the emissions budget in terms of equity and limiting temperature rise, whereas the Government amendment was to define it only in terms of temperature. Cunningham suggested 95 be withdrawn pending summertime discussion, but Claudia Beamish argued that both should be withdrawn. In the end 95 did not gain enough votes, while the Government amendment was passed almost unanimously. Only Labour and the Green Member voted for 95, and SNP and the Conservatives against.

**Point of Consideration:** It may be useful to note that voting at Stage 2 can be an indicator of positions, and how political parties will vote at Stage 3, the final stage of bill scrutiny, and to consider continuing influencing activity between them. Bloc voting is common in both committees and Chamber, so cross-party support can be important.

The Ministerial offer of cross-party working can be viewed either as a genuine effort towards consensual politics, or in a more cynical light as an effort to delay or untooth proposed amendments. At various points during the Stage 3 debates both the Cabinet Secretary and opposition Members expressed disappointment either in the summer discussions, or in each other's subsequent actions. For example, regarding amendments 12A and 14A which sought to ensure that the contribution of the climate change plan and adaptation programmes to SD would not negatively impact the ability of other countries to achieve SD:

**Mark Ruskell (Grn):** Our industrial revolution created a huge climate debt that has been passed on to communities around the world, including ones that have barely begun their own development journeys. We have to allow countries in the developing world the room to breathe in the climate emergency. Our target setting must be equitable, and we have to be mindful of the climate injustice and suffering that is happening with just 1°C warming, let alone what might come in the decades ahead. Our role must also be to smooth the path to sustainable development for all countries, and not put barriers in their way through our actions at home...

**... Maurice Golden (Con)...** we have grave concerns that amendments 12A and 14A, which seek to “not negatively impact” the sustainable development of other countries could create a legal precedent, whereby Scottish ministers and the Scottish Government would be unable to make necessary changes to tackle climate change and instigate the creation of new sectors, industries or jobs, because those changes might have an impact on other countries...

**...Roseanna Cunningham...** I was... just a little disappointed was, however, to see that she [Beamish] had lodged further amendments that undermine some of the areas in which I

thought that we had established consensus...

... I cannot support amendments 20, 19, 12A or 14A and I urge members to reject them.

(Official Report, 25 September 2019, col.30-33)

## 7.4 Adopting a Decolonising Approach

**Recommendation 22: The WSD Bill could be explicitly framed as a human rights approach to align with the SG’s principles for international development. However, the statement by SG to increase voices from the Global South in international development work, suggests opportunities to consider other types of ‘rights’ relevant to the WSD Bill.**

Biocultural rights (BCR) emerged out of four key elements: the disappointing social and ecological results of the dominant development paradigm; campaigns for the rights of local communities to govern and manage local ecosystems (commons) to ensure effective conservation; the development of third generation human rights (as collective rights); the development of ‘minority’ rights for indigenous peoples. BCR

*“...denote all the rights required to secure community stewardship over their lands and waters. This role reflects a way of life, whereby a community’s identity, its culture, spirituality and system of governance are inseparable from its lands and waters. BCR do not denote exercise of ownership in the western legal sense but rather a duty of care and protection.”<sup>5</sup>*

The biocultural rights of communities and indigenous peoples should be respected and enhanced as part of Scotland’s ‘global responsibility’. Such rights can be seen as a useful tool against powerful development interests, giving indigenous people and local communities the autonomy to manage resources in culturally appropriate, sustainable ways. Without protecting such rights, there is a risk that environmental protection through conservation efforts undermines rights and wellbeing. This is linked to broader notions of biocultural heritage, a framework for resilient livelihoods and wellbeing, which is applicable in the UK, and aligns well ideas around participatory governance in the legislative agenda of community empowerment and community land ownership<sup>6</sup>. The IIED has been an important advocate in this area, and has a plethora of examples and research in these areas.

Examples and frameworks that have been developed in the Global South might be looked at in terms of approaches to wellbeing and sustainable development rather than perspectives from the Global North which have often been assimilated by, or emerged out of problematic colonial thinking and structures. In contrast, BCR and BCH, emerged from notions of reciprocity between

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5 Bavikatte, K., & Bennett, T. 2015. Community stewardship: The foundation of biocultural rights. *Journal of Human Rights and the Environment*, 6(1), 7-29, p.15.

6 Russell, Z. 2021. Biocultural Heritage in the UK. [https://www.inherit-institute.org/\\_files/ugd/49a044\\_ed36891c1e94ee88b3141e6e85c8f9f.pdf?index=true](https://www.inherit-institute.org/_files/ugd/49a044_ed36891c1e94ee88b3141e6e85c8f9f.pdf?index=true)

humans and nature, and often have been part of a broader movement around creating rights for nature and enshrining ideas of living well (Vivir Bien) into national constitutions and international conventions.

From a global point of view, it is not that the North must degrowth and the South needs to rapidly 'develop'. As explained here:

*“while acknowledging the need for real improvements in people’s livelihoods, public services, and so forth, it is imperative for groups in the South to avoid endorsing growth as the basis for these improvements; a key criteria is that growth and the economy should be subordinated to BV and the rights of nature, not the other way around.”*<sup>7</sup>

There is a question regarding the kinds of 'development' this bill will promote. The above ideas are part of a broader spectrum of approaches which argue in favour of radically new ways of living. BV refers to Vivir Bien, 'built from the principle of interdependence', 'symbiotic and harmonious relationships' between people and nature, economies of solidarity and resilience. BV is based on collective forms that 'have real-world benefits in well-being and reflect a view of human nature opposed to the individuality of Western societies'.<sup>8</sup>

Notions of BV have been discussed alongside the degrowth movement in relation to 'post-neoliberal development paths'. Both are 'radical' in that they go against the imperatives of global capitalism. If the purpose of this bill is to be the creation of a genuine wellbeing economy for people in Scotland and beyond. These perspectives are useful in their critique of the current problems and for advocating alternatives based on justice, equity and sustainability. However, they may not be politically well-received by the Scottish Government. Some of the principles of degrowth could be promoted by the Alliance without explicitly naming this as 'degrowth' approach if this is deemed to be too 'radical'.

**Recommendation 23: The Alliance may wish to reflect on the use of the terms 'developed' and 'developing' countries to distinguish between countries which are structurally disadvantaged or advantaged by the international balance and dynamics of power. It should consider whether it would be appropriate to enshrine these terms in legislation, as has been done in the Climate Change (Scotland) 2009 Act.**

Whilst these terms appear to be widely used they imply that some countries have completed their development while others have not. Used in this way, there is an implicit assertion that those countries we refer to have achieved a correct or desirable state, which others should strive and/or be helped towards. This is not factually accurate, as societal development is an ongoing process - no society exists in a finished state, or in complete stasis.

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7 Escobar, A. 2015. Degrowth, postdevelopment, and transitions: a preliminary conversation. Sustainability Science. 10. 451-462 Available: <https://link.springer.com/article/10.1007/s11625-015-0297-5>

8 Artaraz, K. et al. 2021. Vivir bien/Buen vivir and Post-Neoliberal Development Paths in Latin America: Scope, Strategies, and the Realities of Implementation. Latin American Perspectives. 48(3): 4-16.

This may lead to paternalistic approaches, or attempts to export approaches that have worked in one part of the world to another, where they may be inappropriate. The continued use of these terms can serve to perpetuate this interpretation of the status of different countries, and enshrining it in legislation could serve to further institutionalise these attitudes and approaches.

It may be more useful in relation to the WSD Bill to unpack the blanket terms developed / developing in relation to specific instances, in order to pinpoint more clearly what problem is being addressed. For example, when talking about climate change, 'developing' might be used as a blanket term for least-responsible, or low-consuming, or most vulnerable, or structurally and historically disadvantaged.

We note the Scottish Government's international development policy includes the principle of 'partner-country led development'<sup>9</sup>.

**Recommendation 24: The Alliance should consider working towards the enshrining of the approach or principle of self-defined development in the WSD Bill to provide a statutory basis for this and future governments' international development work.**

## 7.5 Stakeholder Engagement

There were some gaps in the stakeholder engagement that informed this discussion paper and research. Specifically the following sectors and organisations we sought engagement from, either did not respond to invites, did not have the capacity to engage during the specific time period of the work, or were unavailable on specific workshop dates. An important next step could be to engage with these organisations and topics further:

- COSLA
- CBI/FSB
- Scottish Human Rights Commission
- Poverty & Inequality Commission
- Procurement
- Healthcare
- Higher Education
- Finance and Investment

This Chapter has outlined some broader considerations for the Alliance in terms of positioning for the Bill. In order to use this report moving forward, we suggest that the Alliance must have their own deliberations regarding these recommendations, in order to solidify key priorities for lobbying and the next steps for stakeholder engagement or commissioning of any further research.

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<sup>9</sup> <https://www.gov.scot/publications/coronavirus-covid-19-international-development-review-principles/>

## 8. Conclusion

The discussion paper makes a number of recommendations that the Alliance can consider surrounding the move towards a WSD bill in Scotland. These recommendations are the product of our research with stakeholders, from academic literature, policy documents and legislation. Some of the tasks were completed independently of each other, however the report is a product of our collaborative efforts to reconcile this evidence and come to a consensus on the recommendations.

It should be noted that:

- A broad range of evidence was considered, but not everything could be covered in sufficient depth and some directions that emerged were outwith the scope of the Alliance's brief for this work.
- There were various directions to go in based on what evidence was suggesting. In a sense this is unsurprising given the range of evidence viewed and the differing perspectives each author brings to the work and the broad nature of the core concepts. We tried to accommodate the range of possibilities and this has contributed to the longer length of the paper.
- There is a huge possible scope for the WSD Bill in terms of subject matter and policy areas. As well as being challenging for our research work, there will be a need for the Alliance to find ways to bring together diverse interests. For the 'international development' voice to be heard, the Alliance should consider prioritising allying with those already advocating PCSD and with a focus on reducing Scotland's global impacts.

## Summary

This paper has covered a lot of ground making 24 recommendations and there are some key points to consider by way of conclusion:

- It is important to be clear about what you mean by wellbeing, SD, PCSD and wellbeing economy before developing an influencing strategy
- Take context into consideration, including that there is a huge body of existing SD legislation, and consider how best to work within this context
- Consider using the Bill to give force and meaning to existing SD legislation, including on (global) PCSD, and in relation to statutory duties
- Statutory duties require support and oversight
- Consider strengthening provisions for national outcomes in Part 1 of the Community Empowerment Act to increase participation, transparency, accountability and scrutiny
- Accountability, monitoring and scrutiny should be built into the legislation. Starting with a stronger ask of the Bill may be more fruitful as a lobbying strategy
- Be aware that anything can happen during the passage of the bill

- Consider adopting a decolonizing approach and using the WSD bill as a way to advance perspectives that go beyond ‘western’ development models

There is significant potential for the WSD Bill to create a stronger culture of PCSD in policy-making and to focus the collective efforts of multiple stakeholders towards achieving meaningful interpretations of wellbeing and SD that benefit people in Scotland and in the wider world.

*“Scotland for a Fairer World”*

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