

Global Essay Competition 2025

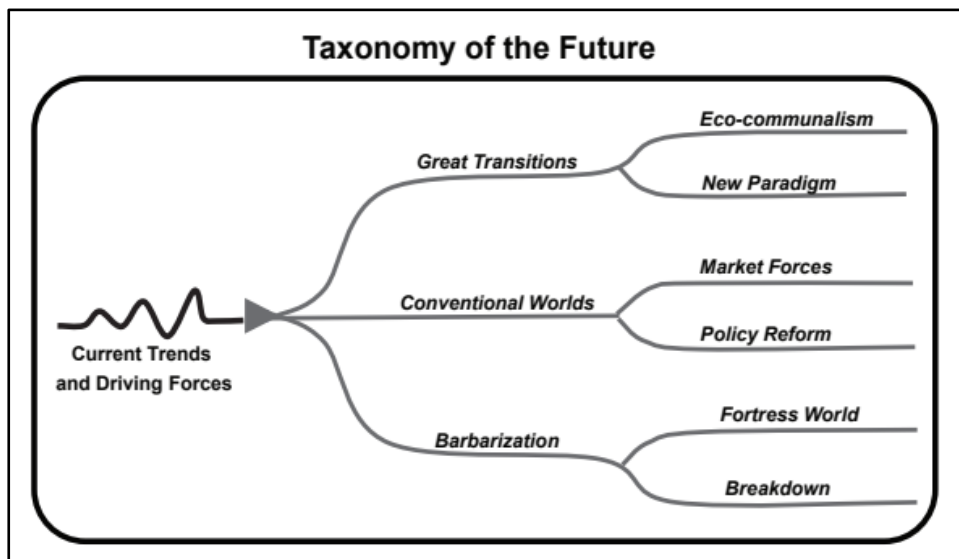
Title: A Treaty for Global Eco-constitutionalism: promising insights from the multipolar shift.

Essay:

1. Multipolarity's Choice: Barbarization or Great Transition.

Nearly ten years ago, Paul Raskin's *Journey to Earthland* shared a foreboding tale.¹ Through analyzing a range of intersecting, alarming trends - the growing wealth gap, democratic backsliding, and ecological degradation to name a few - Raskin unpacked a prophetic "taxonomy of the future".² Six paths lie ahead, each offering a different destiny for humanity and each diverging as a direct result of human action:

Figure 1: Paul Raskin's Taxonomy of the Future.³



Today, Raskin's taxonomy is as relevant as ever: indeed, we are only seeing an intensification of the forces sailing us into the oracular maelstrom ahead. The economic fallout of COVID-19, growing global conflict, and the intensifying climate crisis has been met with a wide turn to authoritarian populism.⁴ This movement almost perfectly traces the line Raskin draws between the present and global "barbarization"; a dilemma where fascist forces either maintain oppressive order via brutal "fortress worlds" or collapse into a chaotic "breakdown".⁵

Our die has been cast, but we can still shake the table. Shifting global power represents a last chance to change our fate. This shift is widely described as one of "unipolar dominance" to "a multipolar world"; that is, the ability for smaller economies to challenge the hegemonic influence of the post World-War

¹ P. Raskin, *Journey to Earthland: The Great Transition to Planetary Civilization* (Tellus Institute, 2016).

² Ibid at 27.

³ Raskin, supra 1 at 27.

⁴ See generally: T. Kuhner, *Tyranny of Greed: Trump, Corruption, and the Revolution to Come* (Stanford Briefs, 2020); Y. Abouzzohour, "The Amplification of Authoritarianism in the Age of COVID-19" *Project on Middle East Political Science* (June 2022) <https://pomeps.org/the-amplification-of-authoritarianism-in-the-age-of-covid-19>; N. Kaul & T. Buchanan "Misogyny, authoritarianism, and climate change" (2023) 23 *Analyses of Social Issues and Public Policy*.

⁵ P. Raskin, *World Lines: Pathways, Pivots, and the Global Future* (Tellus Institute, 2006) at 14.

Two powers.⁶ Unipolar dominance encourages us to align with a status quo designed to maximize their profit: one of reckless economic growth that pays mere lip service to ecological needs.⁷ However, Raskin predicts that maintaining a “conventional world” requires that the stress facing global systems produces mere “tolerable bumps”; a threshold clearly exceeded by the worsening effects of our cumulative, international crises.⁸

Multipolarity thus offers a fork, not a trifurcation. To stay the course is to risk barbarization. Our best hope lies in a “great transition” towards a “new paradigm”: a global society that celebrates bottom-up, localized approaches to resolving crises within a unifying international vision.⁹ One fundamental element of this vision is the rejection of humanity’s presumed dominance over nature.¹⁰ Such language captures a chorus of calls for an intersectional realigning of humanity’s relationship with the planet.¹¹ Undeniably, this is a vast and multifaceted goal. By what vessel might the multipolar world pursue it?

2. Eco-constitutionalism: a vessel to the New Paradigm.

I posit ecocentric constitutional law, or “eco-constitutionalism” as an ideal vessel for this goal. Specifically, I propose that the global community takes advantage of the multipolar shift via an international framework for the bottom-up, domestic implementation of eco-constitutional law: referred to here as the Treaty on Eco-constitutional Reform, Recourse, and Action (TERRA). This section details the high-level contents of TERRA through outlining eco-constitutional theory. The following sections address how TERRA itself might be implemented.

Eco-constitutionalism is an emerging legal theory developed by myself and others from earlier sources including Klaus Bosselmann, David Boyd, and Louis Kotzé.¹² The theory synthesizes domestic constitutional law with local approaches to ecocentrism: the recognition that humanity exists *within* a wider ecosphere on which we rely for our own survival.¹³ In this way, eco-constitutionalism encapsulates the united but bottom-up framework for realigning the human-planet relationship required by the new paradigm and enabled by multipolarity. The theory’s primary reference points are the Earth-science concepts of “ecological integrity” and “planetary boundaries”.¹⁴ Ecological integrity refers to the ability of

⁶ See for example: K. Dahiya & P. Kumar, “Global Power Shifts: understanding the changing world order” (2024) 5:5 *ShodKhosh Journal of Visual and Performing Arts*; M. A. Peters, “The emerging multipolar world order: A preliminary analysis” (2022) 55:14 *Educational Philosophy and Theory*; E. Ashford & E. Cooper, “Yes, the World Is Multipolar” *Foreign Policy* (5 October 2023) <https://foreignpolicy.com/2023/10/05/usa-china-multipolar-bipolar-unipolar/>

⁷ J. T. Roberts, “Multipolarity and the new world (dis)order: US hegemonic decline and the fragmentation of the global climate regime” (2011) 21:3 *Global Environmental Change*; A. Kenis & M. Lievens, “Greening the economy or economizing the green project? When environmental concerns are turned into a means to save the market” (2016) 48:2 *Review of Radical Political Economics*.

⁸ Raskin, *supra* 5 at 14.

⁹ Raskin, *supra* 1 at 27 – 29.

¹⁰ Raskin, *supra* 1 at 27.

¹¹ An overview of the concept’s usage is provided in R. Horner, “Towards a new paradigm of global development? Beyond the limits of international development” (2019) 44:3 *Progress in Human Geography*.

¹² For seminal eco-constitutional sources see L. Collins, *The Ecological Constitution: Reframing Environmental Law* (Routledge, 2021); <Own name withheld for anonymous review>, “An Eco-Constitution for Aotearoa New Zealand” (2022) 26 *The New Zealand Journal of Environmental Law*; J. Kersten, “Ecological Constitutionalism: a Necessity” *Springs: Rachel Carson Center Review* (31 October 2023) <https://springs-rcc.org/ecological-constitutionalism/>; for examples of earlier theory, see K. Bosselmann, “Global Environmental Constitutionalism: Mapping the Terrain” (2015) 21 *Widener Law Review*; D. Boyd, *The Environmental Rights Revolution: a Global Study of Constitutionalism, Human Rights and the Environment* (University of British Columbia Press, 2012); L. J. Kotzé *Global Environmental Constitutionalism in the Anthropocene* (Hart Publishing, 2016).

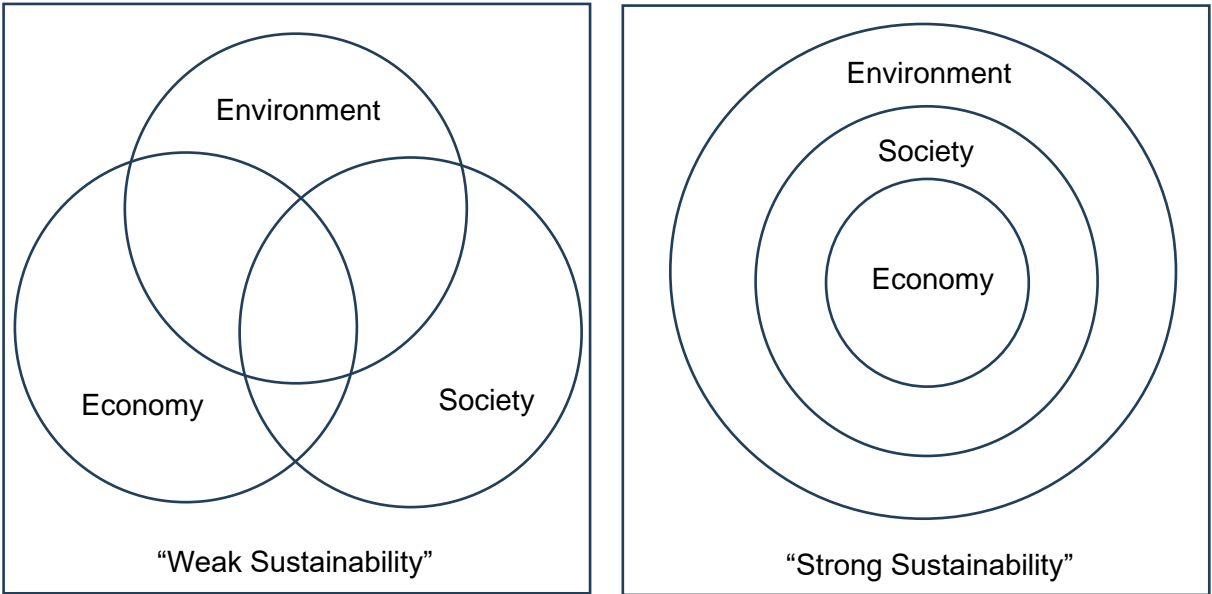
¹³ Collins, *supra* 12 at 5.

¹⁴ <Own name withheld>, *supra* 12 at 121 – 122.

an ecosystem to optimally sustain itself when it is free from external influence.¹⁵ Planetary boundaries are the delineated limits of external, anthropogenic strain that an ecosystem can endure before its integrity deteriorates.¹⁶

Eco-constitutionalism entrenches these concepts within the state’s constitution as its basis for authority, a “precondition for human aspirations and a fundamental principle of law”.¹⁷ Entrenchment protects a constitutional law from simple-majority amendment.¹⁸ Such safeguards are justified by the need for *intergenerational* ecocentric law that can endure the short-term politicking of election cycles.¹⁹ States thus become bound by “strong sustainability”, where socioeconomic development is embedded within, and therefore not permitted to outgrow, the ecological conditions necessary for life to thrive:²⁰

Figure 2: visualization of “strong” versus “weak” sustainability.²¹



Eco-constitutional mechanisms vary. Proposals generally prescribe rights directly to nature, given that enforcing *human* rights to enjoy a healthy environment typically requires a proximal infringement of anthropic life, liberty or property.²² By entrenching rights of nature, eco-constitutionalism recognizes that breaching ecological integrity is dangerous whether or not it immediately impacts humans.²³ Of course situations might arise where temporal deprioritization of ecological integrity is necessary to fulfil crucial human needs – but only where no alternative recourse is feasible.²⁴ Eco-constitutionalism also typically imposes positive responsibilities on the state to actively monitor and maintain planetary boundaries.²⁵

¹⁵ P. R. Elsen et al. “Priorities for embedding ecological integrity in climate adaptation policy and practice” (2023) 6:6 *One Earth* at 642; M. Schallenberg et al. “Approaches to assessing ecological integrity of New Zealand freshwaters” in *Science for Conservation* (Department of Conservation, 2011) at 10.
¹⁶ K. Richardson et al. “Earth beyond six of the nine planetary boundaries” (2023) 9:37 *Science Advances*.
¹⁷ *Oslo Manifesto for Ecological Law and Governance* (adopted at the IUCN WCEL Ethics Specialist Group Workshop, 21 June 2016), art 6; <Own name withheld>, supra 12 at 121.
¹⁸ N.W. Barber, “Why entrench?” (2016) 14:2 *International Journal of Constitutional Law*
¹⁹ <Own name withheld>, supra 12 at 121 – 122.
²⁰ B. Giddings, B. Hopwood & G. O’Brien “Environment, Economy and Society: Fitting Them Together into Sustainable Development” (2002) 10 *Sustainable Development*; Own name withheld>, supra 12 at 128.
²¹ Giddings, Hopwood & O’Brien, supra n 19 at 189.
²² <Own name withheld>, supra 12 at 132; Collins, supra 12 at 37 – 38.
²³ <Own name withheld>, supra 12 at 132.
²⁴ Collins, supra 12 at 79 – 81.
²⁵ <Own name withheld>, supra 12 at 139.

The theory further encourages accommodation for intersectional social interests: particularly indigenous rights, given the links between colonization and climate change.²⁶ Budding eco-constitutionalism can be seen in the constitutions of Ecuador and Bolivia, though the literature has emphasised the worrying room these frameworks leave for unchecked economic growth.²⁷

3. Proposal for a Treaty on Eco-Constitutional Reform, Recourse & Action (TERRA).

Eco-constitutional literature generally promotes bottom-up constitutional reform that draws on localized conceptions of environmental wellbeing. This distinguishes the theory from the unipolar, status-quo entrenching hegemony of past environmental treaties such as the Kyoto Protocol.²⁸ Under unipolarity, treaties have been negotiated with a presumption that the great powers *must* be involved as the world's major polluters.²⁹ This enables those powers to dictate top-down, unambitious approaches that maintain a conventional world.³⁰ Thus even when the 2016 Paris Agreement attempted a bottom-up approach via self-set emissions targets, the overall framework was tainted by a perceived need to keep the US at the table.³¹ To be clear, the Paris Agreement is not failing because the US is leaving; it is failing because - in pursuing consensus - it has not bound states to make real, systemic change.³²

TERRA addresses these drawbacks by offering eco-constitutionalism as a strong global vision that can be approached through domestic law. Parties would be bound to amend their constitutions to prioritize ecological integrity, and then bring wider law and policy into alignment with this. TERRA would propose mechanisms by which eco-constitutionalism might be upheld but would leave specific details for member-states to develop independently in the language of their own laws, values and norms. Semi-regular reporting would monitor compliance: consistent failure to comply would result in expulsion. TERRA's goal is therefore *bottom-up systemic change* as opposed to specific targets. This approach recognizes that meaningful emission reductions likely require systemic, institutional change to begin with.³³ By allowing each member-state to approach this change in consideration of their own historical and cultural context, TERRA offers room for equitable flexibility: for example, Global South member-states may have a lower burden to implement eco-constitutionalism than those of the Global North given the latter's disproportionate role in driving climate change.³⁴

This is doubtlessly an ambitious goal. Far more moderate attempts at environmental treaties have died around the negotiating table.³⁵ A comprehensive 2022 study by the Global Strategy Lab (GSL) found

²⁶ Collins, *supra* n 12 at 39.

²⁷ Constitution of Ecuador 2008; Law 071 of the Rights of Mother Earth 2010 (Bolivia); <Own name withheld>, *supra* n 12 at 134 - 135; Collins, *supra* n 12 at 68 – 69.

²⁸ I. Clark, "Hegemony in International Policy: The Climate Change Regime" in I. Clark *Hegemony in International Society* (Oxford University Press, 2011); M. Doelle, "The Paris Agreement: historic breakthrough or high stakes experiment?" (2016) *Schulich Law Scholars* at 3; *Kyoto Protocol to the United Nations Framework Convention on Climate Change*, 11 December 1997, 2303 UNTS 162.

²⁹ Roberts, *supra* n 7 at 781; Clark, *supra* n 27 at 206 to 208.

³⁰ Roberts, *supra* n 7 at 781.

³¹ R. Cléménçon, "The Two Sides of the Paris Climate Agreement: Dismal Failure or Historic Breakthrough?" (2016) 25:1 *Journal of Environment & Development* at 6; *Paris Agreement under the United Nations Framework Convention on Climate Change*, 22 April 2016, 3156 UNTS 79.

³² J. I. Allan, "Dangerous Incrementalism of the Paris Agreement" (2019) 19:1 *Global Environmental Politics*; L. Maizland & C. Fong, "Global Climate Agreements: Successes and Failures" *Council on Foreign Relations* (21 January 2025) <https://www.cfr.org/background/paris-global-climate-change-agreements>

³³ Allan, *supra* n 31 at 4 – 5.

³⁴ L. Thomas, *The Intersectional Environmentalist: How to dismantle systems of oppression to protect people + planet* (Souvenir Press, 2022) at 138 – 145.

³⁵ For example, J. Rinick, "World leaders fail to agree on a global treaty to stop plastic pollution" *World Wildlife Fund* (4 December 2024) <https://www.worldwildlife.org/stories/world-leaders-fail-to-agree-on-a-global-treaty-to-stop-plastic-pollution>

that most treaties fail to reach their aspirations.³⁶ What makes TERRA unique? The answer lies in multipolarity. Specifically, TERRA should adopt the innovative and often overlooked approach taken by two achievements of international collaboration: the United Nations Declaration on the Rights of Indigenous People (UNDRIP) and the Treaty on the Prohibition of Nuclear Weapons (TPNW).³⁷

4. Multipolar Soft-Power: Lessons from UNDRIP and the TPNW.

UNDRIP is a 2007 General Assembly declaration that defines rights of indigenous people.³⁸ Although non-binding, UNDRIP has been hailed for its power to uproot legal and political norms.³⁹ Notably, three key targets who initially rejected it - Canada, Australia and New Zealand – all have since endorsed UNDRIP and taken slow but significant steps towards its realization, progress that would be unlikely without its emanating soft-power.⁴⁰ The TPNW is a binding treaty, effective from 2021, requiring all its parties to prohibit nuclear weapons and pursue their total elimination.⁴¹ Although rejected by all nuclear powers, the TPNW has received praise for its normative weight: its absolute condemnation of nuclear weapons projects meaningful power that shifts the global dynamic towards one of nuclear abhorrence.⁴² The fact that nuclear powers are clearly threatened by the TPNW only lends weight to its potential for making real change.⁴³

In contrast to the unipolar approach described above, UNDRIP and the TPNW were driven by multipolarity: smaller economies and non-state actors prioritized meaningful action over consensus with great powers.⁴⁴ This direction understands treaties as *starting points* for bottom-up normative shifts in global culture, rather than prescriptive, top-down solutions concerned with short-term gains.⁴⁵ I refer to this approach as “multipolar soft-power”, and characterize it through three interlocking features:

³⁶ S. J. Hoffman et al. “International treaties have mostly failed to produce their intended effects” (2022) 199:32 *Proceedings of the National Academy of Sciences*.

³⁷ *United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)*, UN General Assembly Resolution 61/295; *Treaty on the Prohibition of Nuclear Weapons (TPNW)*, 20 September 2017, 3370 UNTS 9.

³⁸ UNDRIP, supra 36.

³⁹ See for example N. Metallic, “Breathing Life into our Living Tree and Strengthening our Constitutional Roots: the Promise of the United Nations Declaration on the Rights of Indigenous Peoples Act” (2022) *Schulich Law Scholars*; M. Pugin, “Indigenous Australian diplomacy and the United Nations declaration on the rights of Indigenous peoples” (2023) 77:6 *Australian Journal of International Affairs*.

⁴⁰ For examples of each jurisdiction see: *He Puapua: Report of the Working Group on a Plan to Realise the UN Declaration on the Rights of Indigenous Peoples in Aotearoa / New Zealand* (New Zealand Ministry of Māori Development, 2019), www.nzcpd.com/wp-content/uploads/2021/04/He-Puapua.pdf; *United Nations Declaration on the Rights of Indigenous Peoples Act Action Plan 2023 - 2028* (Department of Justice Canada, 2023) <https://www.justice.gc.ca/eng/declaration/ap-pa/ah/pdf/unda-action-plan-digital-eng.pdf>; *Inquiry into the application of the United Nations Declaration on the Rights of Indigenous Peoples in Australia* (Parliament of Australia, 2023) https://parlinfo.aph.gov.au/parlInfo/download/committees/reportjnt/RB000083/toc_pdf/Inquiryintot heapplicationoftheUnitedNationsDeclarationontheRightsofIndigenousPeoplesinAustralia.pdf at 23 – 24.

Australia Report at 23 - 24

⁴¹ TPNW, supra 36.

⁴² E. G. Whyte, “The Power of the Powerless: Lessons from the TPNW and Reflections on the Practice of Diplomacy” (2023) 6:2 *Journal for Peace and Nuclear Disarmament*; J. Krasno & E. Szeli, “The Treaty on the Prohibition of Nuclear Weapons: Strengths, Weaknesses and Current Status” (2024) 7:1 *Journal for Peace and Nuclear Disarmament*.

⁴³ A. Burnett, “UN nuclear ban treaty countries strongly condemn the doctrine of nuclear deterrence” *International Campaign to Abolish Nuclear Weapons* (1 December 2023)

https://www.icanw.org/un_nuclear_ban_treaty_countries_strongly_condemn_the_doctrine_of_nuclear_deterrence

⁴⁴ S. James Anaya & L. Rodríguez-Piñero, “The Making of UNDRIP” in J. Hohmann & M. Weller (eds) *The UN Declaration on the Rights of Indigenous Peoples: A Commentary* (Oxford University Press, 2018); Whyte, supra n 41 at 351.

⁴⁵ I. Côté et al. “The global implementation of UNDRIP: a thematic review” (2024) *The International Journal of Human Rights* at 18; Krasno & Szeli, supra 41 at 283 – 284.

1. Powerful demands that are clear and uncompromising.
2. Bottom-up, localized approaches to realizing those demands.
3. Pursuing agreement instead of complete consensus.

“Multipolar soft-power” both challenges unipolarity and becomes more viable through the emerging global shift. Unipolarity is not a myth: its influence is all too real. As it begins to fade, the international community has a unique chance to exert particular diplomatic pressure on the US and other hegemony via powerful demands for authentic change.

5. A Brief Roadmap to TERRA.

Eco-constitutionalism fulfills the first two features of multipolar soft-power: a *powerful demand* that facilitates *bottom-up* approaches to its objective. Because ecological integrity and planetary boundaries are scientific concepts, they can be more easily delineated and measured than vague concepts such as “sustainability” – although TERRA may need to settle on an agreed international definition.⁴⁶ The efficacy of local eco-constitutional frameworks can thus be effectively monitored, equipping TERRA with a stable basis for enforceability - a crucial factor for treaty success according to the GLS.⁴⁷ TERRA’s main enforcement lever is threat of expulsion – the “name and shame” approach of the Paris Agreement, but backed up with high expectations for substantial reform.⁴⁸ As TERRA generates soft-power over time, the normative force of this relatively simple approach to enforceability will only have a greater effect.

That only leaves the third feature: pursuing *agreement* rather than consensus. This distinction is crucial - seeking absolute consensus has enabled great powers to consistently water down past environmental treaties.⁴⁹ Of course, agreement still requires some initial political support.⁵⁰ Fortunately, such support is not hard to identify - only hidden by unipolarity’s shadow. As noted above, early moves towards eco-constitutionalism have already been made within Ecuador and Bolivia.⁵¹ New Zealand has prescribed sub-constitutional rights to nature, and recently proposed framing environmental law around “limits” akin to planetary boundaries.⁵² Ecocentric law has also gained momentum in courts from India and Bangladesh to Colombia and South Africa.⁵³ Once we look beyond *consensus*, we see that *agreement* on eco-constitutionalism between emerging economies may not be so distant.

Even so, the initial push for TERRA need not come from nation-states. The multipolar shift has also been described as improving the normative weight of non-state actors. Both UNDRIP and the TPNW

⁴⁶ P. Bridgewater, R. E. Kim, & K. Bosselmann, “Ecological Integrity: A Relevant Concept for International Environmental Law in the Anthropocene?” (2015) 25:1 *Yearbook of international Environmental Law* at 77 to 78; Richardson et al, supra 16.

⁴⁷ Hoffman et al, supra 35.

⁴⁸ B. Taebi & A. Safari, “On Effectiveness and Legitimacy of ‘Shaming’ as a Strategy for Combatting Climate Change” (2017) 23:5 *Science and Engineering Ethics*.

⁴⁹ Clark, supra 27 at 206 – 208.

⁵⁰ T. F. McInerney, “Factors Contributing to Treaty Effectiveness: Implications for a Possible Pandemic Treaty” *Global Health Centre Policy Brief Series* (Graduate Institute of Geneva, 2021) at 6.

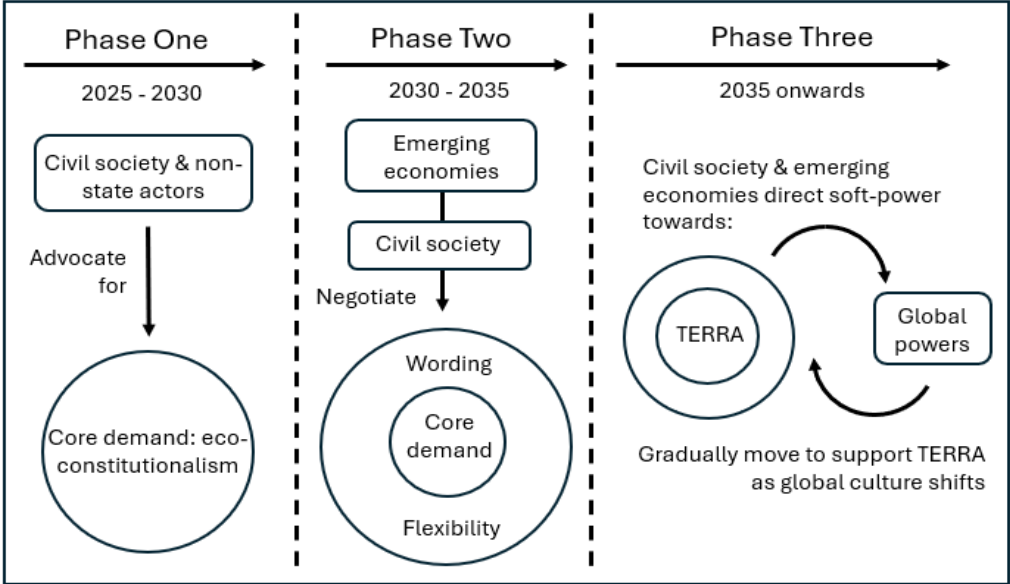
⁵¹ Constitution of Ecuador 2008; Law 071 of the Rights of Mother Earth 2010 (Bolivia).

⁵² Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 (New Zealand), s 14; Te Urewera Act 2014 (New Zealand), s 11; <Own name withheld for anonymous review>, “The Natural and Built Environments Bill” (2022) 28 *Auckland University Law Review* at 374 – 375.

⁵³ See, for example, *Salim v State of Uttarakhand* [2016] UTTAR 990 (India); *Human Rights and Peace for Bangladesh v Secretary of the Minister of Shipping* Supreme Court of Bangladesh 13898/2016, 31 January 2019 [the Turag River Case] (Bangladesh); *Centre for Social Justice Studies et al v Presidency of the Republic et al* CCC T-622/16, 10 November 2016, [The Atrato River Case] (Colombia); *EarthLife Africa Johannesburg v. Minister of Environmental Affairs and Others* High Court of South Africa CN 65662/16 (South Africa).

have their roots in coordinated advocacy from civil society and indigenous peoples. As such, I propose a high-level, three phase roadmap for TERRA's implementation:

Figure 3: High-level roadmap to TERRA via multipolar soft-power.



In phase one, civil society builds global support for its core demand: eco-constitutionalism. Five years is allocated to coincide phase two's commencement with the end of the 2030 Agenda for Sustainable Development, which may serve as a natural springboard for TERRA.⁵⁴ Phase two involves negotiations on the specific wording and degree of flexibility that TERRA will afford its parties. It is primarily lead by states but continues to involve civil society as a check and balance on the core demand's integrity. Again, five years is allocated as a reasonable timeframe for non-consensus treaty negotiations.⁵⁵ Phase two closes with TERRA opening for signature, heralding the open-ended phase three: consistent political and diplomatic pressure which, starting with the human-planet relationship, provokes a steady shift in global culture that even mighty economies will struggle to resist.

6. Conclusion.

The cumulative global crises facing our generation demand innovative, deep-seated change. Top-down solutions have been too susceptible to the status-quo entrenching interests of great powers. Multipolarity offers a chance at a new paradigm. This essay has posited eco-constitutionalism as a vessel for approaching this horizon, given its uncompromising *powerful demand* and capacity for *bottom-up approaches*. More significantly, however, this essay argues that TERRA – as a global framework for eco-constitutionalism – or indeed any treaty pursuing a new paradigm, must adopt a *multipolar soft-power* if it is to make real progress. The subtle but significant promise of UNDRIP and the TPNW demonstrate the power in understanding treaties not as immediate solutions but long-term catalysts for compelling global powers to action. Such change, however, is slow and our crises urgent if we are to avoid the grim future of barbarisation. Coordinated advocacy for TERRA should begin today.

Word Count (essay text only): (2100/2100)

⁵⁴ *Transforming our world: the 2030 Agenda for Sustainable Development*, UN General Assembly Resolution A/RES/70/1.

⁵⁵ *Negotiation Timelines of International Legal Instruments* (Center for International Environmental Law, 2024), <https://www.ciel.org/wp-content/uploads/2024/07/Treaty-Negotiation-Timelines.pdf> at 1.

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