AMELIORATING THE PARIS AGREEMENT:
Critiques of the Current International Environment Paradigm and Policy Initiatives for Future Treaty Negotiations

Emmauel Coleman, Developing States’ Interests Consultant

J. Huntley Compton, Environmental Equity Consultant

Thien Hoang, Marginalized Stakeholders’ Interests Consultant

Peter Masue, Earth Project Management Consultant

Phyllis Muthoni, Renewable Energy and Development Finance Consultant

The Heller School for Social Policy and Management

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Course Instructor Dr. Laurence Simon

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# Abstract

This study guide makes some equity-based critiques of the Paris Agreement and provides some recommendations for improving equity in the Agreement, especially in the pursuit of renewable energy. The aim of the critiques and recommendations is to help development practitioners, policymakers, national and international lawmakers, statespersons, as well as ecological groups within the international community, in pursuing greater equity in climate change mitigation. We examine the Paris Agreement as a relevant example of how the current approach to climate change mitigation, which is based on hegemonic stakeholders making voluntary, top-down pledges, is harmful to both developing states and the Earth as a whole. Our vision of the next great human-environment paradigm shift is one in which the Earth is the primary stakeholder, renewable energy technology shifts from consumerism to restoration-based initiatives and marginalized developing and group stakeholders are present and meaningfully engaged in global discussions on how to reduce the emission of greenhouse gasses.

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**1. Introduction**

“*Parties acknowledge that adaptation action* ***should*** *follow a country-driven, gender responsive, participatory and fully transparent approach,* ***taking into consideration*** *vulnerable groups, communities and ecosystems, and* ***should*** *be based on and guided by the best available science and,* ***as appropriate,*** *traditional knowledge, knowledge of indigenous peoples and local knowledge systems, with a view to integrating adaptation into relevant socioeconomic and environmental policies and actions, where appropriate”-* Paris Agreement Article 7.5, 2015

The Paris Agreement is a legally binding international treaty on climate change adopted on 12 December 2015. It entered into force on 4 November 2016. The Agreement aims to reduce global warming to less than 2 degrees Celsius above pre-industrial levels (UNFCCC 2015). The generation and use of energy is the largest contributor to greenhouse gasses (United Nations n.d.), about 60% of which is made up of carbon dioxide (UNEP n.d.).

The Agreement has been hailed as a triumph in global collaboration in the fight against global warming (UN, 2015). However, because it calls for ‘nationally defined contributions’ (NDCs), it doesn’t specify mitigation finance targets for developed states or measures to demand the inclusion of marginalized populations in state adaptation plans. It also encourages developing states to participate in the reduction of carbon emissions even though, except for China, they are not a major contributor to the current level of greenhouse emissions.

 In this study guide, we argue that the Paris Agreement is inherently unfair to developing nations and that there is an urgent need for these nations to obtain equity in bearing the costs and benefits of climate change reduction. We also argue for greater transparency in the financial, environmental, and, most importantly, human costs of transitioning to ‘clean energy’ for developing nations.

***Our key concerns regarding the language and implementation of the Paris Agreement are the lack of equity for both developing states in mitigation contributions as well as the disregard for the customary and societal rights of the primary stakeholder in the fight against climate change: the Earth.***

**2. Developmental Equity**

Can the burden of climate change be equitably distributed amongst developed and developing countries? According to Me´jean et al. (2015), distribution issues have been critical in international negotiations on climate change. Three key difficulties are associated with this approach:

* Lack of consensus over what is equitable
* Uncertainty over estimates of policy costs
* Lack of political realism and economic effectiveness of large-scale international transfers

These difficulties point to the risk of failure of post-2020 negotiations if these are based on the same premises of ‘sharing the emission reduction pie’ within a cap-and-trade regime.

**2.1 Equity, Fairness, and the Paris Agreement**

While the end goal of the agreement is clear and laudable, it does not provide clear pathways of execution, places state sovereignty above the livability of the planet, and provides no consequences for partial or no participation despite being a legally binding agreement (Clémençon, 2016). There are no legal repercussions for states that under-finance or renege on their NDCs. Developing states who are a party to the Agreement rely on developed states to provide the financing and technologies to transition to renewable energy sources (Clémençon, 2016).

**2.2 Developing States, Development, and Climate Change Mitigation**

Developed economies have been built on fossil fuels. Correspondingly, they are also the largest emitters of carbon dioxide. Developed nations are already ahead of developing nations in terms of the technologies and financing required to transition to cleaner energy. According to the International Energy Agency (2016), minimizing the current utilization of natural resources through sustainable consumption can be achieved through promoting sustainable lifestyles that include reducing energy demand through better design of housing, transport infrastructure and food supply systems. Will transitioning to renewable energy be sufficient without addressing the underlying patterns of production and consumption? Will it be possible to achieve sustainable reduction or even maintenance of the global demand for energy without addressing mass consumption as the key focus of ‘development’?

**2.3 Women and Marginalized Populations as Stakeholders**

 The Agreement encourages rather than mandates collaboration between states and key minority stakeholders (Clémençon 2016) such as indigenous and vulnerable populations, societally oppressed genders, and, when deemed “appropriate” consider the traditional and holistic knowledge these groups provide for integration within the climate change mitigation plan of each state. Climate change is not “gender neutral”. Women and girls are affected disproportionately by the negative impacts of climate change. The changing environmental conditions put an extra burden on women and girls in feeding families, collecting water and wood fuel, and increase the risk of gender-based violence and human trafficking. Yet the meaningful participation and representation of women in global and local climate change forums remain very low (UNFCCC n.d.). The transition to clean energy is likely to hurt women if clean technologies are not affordable and the supply reliable.

**2.4 Climate Finance and the Transition to Renewable (Clean) Energy**

Sub-Saharan Africa has the largest access deficit to electricity and 20 countries with the lowest rates of electrification (World Bank, 2019). China and India combined are home to more than 1.3 billion people without access to clean cooking technologies. The 2022 World Energy report indicates that the access gap to energy widened after the COVID-19 pandemic. Nearly 90 million people in Asia and Africa who had previously gained access to electricity, can no longer afford to pay for their basic energy needs (World Bank 2019). The Report estimates that 650 million people will be without electricity by 2030, and 9 out of 10 of them will be in Sub-Saharan Africa

Given these gaps in access to electricity, the greatest demand for growth in energy supply will be in Sub-Saharan Africa and Asia. Will it be possible for developing nations to achieve and accelerate human development on clean energy without financing and support from developing nations? The extraction of raw materials for the manufacture of electric vehicle batteries has had a problematic impact on the environment and human rights in places like the Democratic Republic of Congo and South America (Vasil, 2020). There is a risk that the development and deployment of Renewable Energy Technologies will contribute to changes in land use that are detrimental to indigenous land rights, in order to obtain specialized minerals and metals for production purposes (Spillias et al., 2020).

**3. Environmental Equity**

While it is necessary to focus on the plight of developing states in relation to unequitable climate mitigation burdens, they are not the most consequential stakeholder. The continual threat to the existence of a climate stable habitat supersedes arguments regarding burden sharing, financing, and marginalized stakeholder participation in international environmental law moving forward.

**3.1 Earth’s Environmental Outlook**

Remaining within the parameters of the Holocene (current geological era) is the most just option for the Earth, as the anthropogenic actions of climate change are severely threatening the balance of ecosystems that is necessary for the existence of humans and other life forms. The Holocene, or roughly the last 11,000 years of modern existence, has remained relatively climate stable, allowing for the agricultural and societal birth and exponential growth of modern civilization (Robinson et. al 2011). Comparative warmings happened within the Pliocene era (5-3 million years ago) where entire ecosystems did not survive the extreme temperature changes before the eventual cooling of extreme temperature changes (Webb 2015).

With a greater human population than ever recorded in history, and nonnatural greenhouse emissions already comparable to the Pliocene era (Robinson et. al 2011), the devastation wreaked on Earth’s ecosystems is set to be greater than any preceding era, as a greater population of animals (especially humans) will be fighting for greater access to more limited environmental resources than ever recorded. Mitigation of greenhouse gasses (GHG) is essential for the Earth to remain in climate stasis, where the present flora and fauna may be assured of climate survival.

**3.2 Environmental Equity and the Paris Agreement**

The greatest ambition of the Paris Agreement is to mitigate a rise in GHG and consequently, an extreme rise in average global surface temperature which would potentially propel the Earth into a new era with similar climatic consequences to the Pliocene. However, the Nationally Determined Contributions (NDCs) of most signatories to the Paris Agreement are woefully inadequate to mitigate the less than 2-degree Celsius rise target (Watson et. al 2019). According to The Universal Ecological Fund-US, 65% of pledged NDC contributions by signatories are insufficient to contribute to reducing carbon emissions by 50% by 2030 (Watson et. al 2019).

Entering an era of erratic temperature shifts may cause environmental and ecosystem extinction, increase natural resource strain to combat extreme heat and cold in relation to livelihoods, agriculture, and standards of living, as well as increases in ocean acidification and levels. Man-made emissions have forced the Earth out of stability too soon and must be combated, with the greatest contributors leading the charge to alternative clean energy sources and mitigation technologies. Equity for the Earth must be addressed in further addendums to the Paris Agreement, as Earth remains the greatest stakeholder in the fight to combat climate change.

**3.3 Environmental Equity in Climate Finance and the Transition to Renewable Energy**

Environmental equity implies a situation in which no individual or group is disadvantaged in their ability to benefit from the natural ecosystem or are left worse off than others. This definition takes intergenerational equity into consideration - that future generations should not be left worse off as a result of human actions on the environment today. Cottier et al (2019) argue that current environmental laws are currently formulated within a temporal and jurisdictional framework, and therefore do not sufficiently cover future generations. The currently recognized philosophical understanding of sustainable development is still largely influenced by neo-liberal ideas of maximizing ‘utility’ from the Earth. As a result of this anthropocentric outlook, humans are more concerned about their own needs, wants, and comforts than the sustainability of the resource base that makes human and other life forms possible on the planet.

**3.4 Environmental Equity, Developing States, and Climate Change Mitigation**

According to Méjean et al. (2015), distribution issues have been critical in international negotiations on climate change. Article 4.1 of the Paris Agreement (UNFCCC 2015), states that signatories aim to reach global peaking of greenhouse gas emissions as soon as possible, recognizing that peak emissions will take longer for developing states. It will be difficult to distribute the burden of climate change impartially amongst developed and developing countries because all countries are not producing the same volume of GHGs. Most developing countries heavily depend on climate sensitive sectors such as agriculture, fisheries, energy, and forestry, leaving these countries vulnerable to the adverse effects of climate change. Without the assistance of developed states, developing states have little fiscal room to mitigate current emission rates much less financially invest in emission reduction. Some funding from developed countries comes with conditions.

**3.5 Environmental Equity and Gender Justice**

Women, children, and marginalized groups are more vulnerable to climate change impacts, yet they are excluded from meaningful participation in climate discussions. There is a close linkage between climate justice and gender inequality but in 2020, according to the IUCN’s data, women only held 15% of leading positions in environmental ministries globally (IUCN 2019), which was a slight improvement from 12% in 2015 (IUCN 2019). Among environmental organizations, women make up 77% of all leadership roles, but are excluded from global scale collaborations such as the Paris Agreement (OECD 2021). Women “own less than 15% of the world's land”, according to the OECD, (2019).

For thousands of years, indigenous communities, including women farmers, were successful in preserving natural resources, building, and maintaining a harmonious and sustainable relationship with nature. Traditional food production practices such as crop rotation, sustainable fishing and organic farming have been recognized by science as best practices for the environment (Drissi 2020). Capitalism and patriarchy have replaced local knowledge with mass production and destructive exploitation of the environment. Human actions have led to deforestation, air pollution, and destruction of biodiversity. The population of monitored vertebrates globally has declined by 60% since 1970 concluded by the research of World Wildlife Fund in 2018 (Living Planet Report).

Women tend to focus on the concerns facing the next generation, therefore if more female politicians are elected, we may see an emphasis to pass environmentally focused treaties (Norgaard et al. 2005). A study in natural conservation in Nepal and India concluded that including women in forest management brings better outcomes for both forest governance and conservation (Leisher et al. 2016). Without indigenous knowledge and women stakeholders as accountability partners for the Paris Agreement signatories, we are severely undercutting our ability to provide pragmatic agricultural and conservation solutions.

**4. Shifting Development and Earth Equity Paradigms**

*We, the peoples and nations of Earth:*

***considering that we are all part of Mother Earth, an indivisible, living community of***

***interrelated and interdependent beings with a common destiny;***

*gratefully acknowledging that Mother Earth is the source of life, nourishment and learning*

*and provides everything we need to live well;*

*recognizing that the capitalist system and all forms of depredation, exploitation, abuse and*

*contamination have caused great destruction, degradation and disruption of Mother Earth,*

*putting life as we know it today at risk through phenomena such as climate change;*

*convinced that in an interdependent living community it is not possible to recognize the*

*rights of only human beings without causing an imbalance within Mother Earth;*

***affirming that to guarantee human rights it is necessary to recognize and defend the rights***

***of Mother Earth and all beings in her*** *and that there are existing cultures, practices and*

*laws that do so;*

*conscious of the urgency of taking decisive, collective action to transform structures and*

*systems that cause climate change and other threats to Mother Earth;*

*proclaim this Universal Declaration of the Rights of Mother Earth, and* ***call on the General***

***Assembly of the United Nation to adopt it, as a common standard of achievement for all***

***peoples and all nations of the world****, and to the end that every individual and institution*

*takes responsibility for promoting through teaching, education, and consciousness raising,*

*respect for the rights recognized in this Declaration and ensure through prompt and*

*progressive measures and mechanisms, national and international, their universal and*

*effective recognition and observance among all peoples and States in the world.*

-Preamble, Universal Declaration of the Rights of Mother Earth, 2010

**5. The Rights of the Earth (Crime, Punishment, and Governance)**

Most of the Earth’s current destruction is sanctioned and encouraged by community, state, and international law, from gutting mountains for coal extraction, fracturing the Earth for oil and natural gas, and cutting the rainforest to extract timber, all to meet exponential consumption demands (Biggs et. al 2017). It stands to reason then, that the same systems that sanction the Earth’s destruction, is the best system to begin with to produce mitigation policies and legal repercussions. However, commencing a new legal framework alone will not be enough to shift the current capitalistic paradigm of human-environment relations. Similar to the determined customary rights of the Universal Declaration of Human Rights, the Earth collectively should be entitled to life, diversity of life, a functional water cycle, pollutant free atmosphere, ecological equilibrium, and ecosystem restoration (Callahuanca 2010)

**5.1 A Shift in State Sovereignty? Borderless Consequences, Borderless Collaboration**

Traditionally, international law is based on the sovereign equality of States. Being equally sovereign, all States have equal rights and obligations (Maljean-Dubois 2016). However, climate change respects no boundaries, no borders, and does not affect singular contributors. Establishing an Earth sovereignty paradigm does not necessarily mean the end of state sovereignty. The EU, NATO, etc.- all party states retain primary state sovereignty but pool sovereignty in key areas in order to accomplish economic and militaristic cooperation.

International acknowledgment of the Earth’s sovereignty would make the current paradigm of resource extraction and subsequently increased emissions no longer be a matter of state sovereignty, but one with severe international legal repercussions. As climatic changes affect all states but many states unequally, establishing pooled ecological sovereignty is the best solution for establishing justice reforms and compensations for both the Earth and developing states that are not significant historical contributors to carbon emissions. Pooled climatic democratic sovereignty ensures the developing states suffering under climate instability have an equitable voice in global deliberations.

**5.2 A Shift in Legality: Ecocide and the International Court of Justice**

A foundational framework for recognizing the rights of the earth and a prosecutorial body currently exist, but they lack the correct political and societal momentum behind its global acceptance and implementation. International law has an integral role in transforming the global mindset from state-centric sovereignty to Earth-centric (Ecocide Discussed at 20th Anniversary of the International Criminal Court, 2022). There is now a proposed definition for ecocide to be considered as an amendment of the Rome Statute of the International Criminal Court (ICC) (Expert Drafting Panel on the Legal Definition of “Ecocide” Convened by the Stop Ecocide Foundation., 2021) This amendment addresses crimes deemed to be of international interest and relevance, extends protections for the Earth against serious environmental harm (Expert Drafting Panel on the Legal Definition of “Ecocide” Convened by the Stop Ecocide Foundation., 2021) and builds on the existing law that criminalizes severe damage to the environment during armed conflict as most severe environmental damage currently occurs during times of peace (Expert Drafting Panel on the Legal Definition of “Ecocide” Convened by the Stop Ecocide Foundation., 2021)

“Ecocide” means unlawful or wanton acts committed with knowledge that there is a substantial likelihood of severe and either widespread or long-term damage to the environment being caused by those acts. -Article 8.1 (Expert Drafting Panel on the Legal Definition of “Ecocide” Convened by the Stop Ecocide Foundation., 2021)

(i) use of the terms ‘widespread’, ‘long-term’ and ‘severe’ to describe the prohibited damage;

(ii) a proportionality test (‘clearly excessive in relation to the concrete and direct overall military advantage anticipated’); and

(iii) the use of endangerment liability, rather than a requirement for materialization of harm.- Article 8.2(b)(iv) (Expert Drafting Panel on the Legal Definition of “Ecocide” Convened by the Stop Ecocide Foundation., 2021)

Potential benefits to international law protecting the well-being of the Earth include global consensus that the well-being of the Earth is a primary universal concern, fiscal reparations for developing states and marginalized stakeholders, expanded state accountability on the global stage, and deterrence from committing earth destructive acts. Criminalization is a form of environmental justice; however, it must work in tandem with changing developed states’ attitudes towards the Earth in order to be effective in practice. However, the international court system must take into account cultural relativism, as a standardized definition of Earth degradation may impede on spiritual, religious, and traditional indigenous customs.

**6. Multipolarity of Power (Developing States and Marginalized Stakeholders at the Forefront)**

To ensure equity in the Paris Agreement and other future agreements, a consensus approach must be used in developing policies. By doing so, it will help policymakers to incorporate the views of the women, girls, youth, disable, poor, rich, educated and uneducated across the globe. This will ensure the views of everyone is incorporated in a single document. This is important because climate change affects everyone, but the impact is mostly felt by the poor and those in vulnerable communities. Developed countries must be made to contribute a good portion of their GDP to developing countries to meet their NDCs minimal preconditions.

**6.1 A Shift in Women Education and Leadership**

Globally we must ensure young girls and women are educated to overcome natural disasters and adapt to environmental destruction and can access emerging jobs in the green market female-led eco-friendly initiatives. Women must equitably participate in the global decision-making process of climate change mitigation. We must also encourage women and girls to lead in STEM and formal sectors to make more meaningful changes in climate change mitigation at national levels. There must be policy and institutions in place for women leadership. For instance, the UNFCCC is continuing to call for more female leadership in the Paris Agreement enforcement such as the Women and Gender Constituency (Our Background | Women & Gender Constituency, n.d.).

**6.2 A Shift in Women-Led Initiatives Financing**

Financing for women-led initiatives and activities should be increased now as new and innovative technologies to combat climate change are urgently needed. Globally, we must make efforts to expand financial support and funding for female researchers. According to an Oxfam report, only one third of climate finance projects take gender inequality into consideration (Carty et al., 2022). Among those, there are very few that reach the local level. Only 0.2% of research led by women and female organizations receive funding.

**7. The Rules of Engagement: Sustainable Consumption**

The current notion of development as a replication of Western-style consumerism and our capitalist largely is to blame for our current climatic state (Wapakala & Ogolla, 2022).

Deforestation continues despite a rapid increase in “eco-labeling” (Dauvergne & Lister, 2010). To adequately address the effects of consumerism on resource depletion, we must reduce consumption, rather than just labeling it green. (Wiedmann et al., 2020). Acting morally with a willingness to compromise for the greater good of humanity could yield some significant achievements from the Paris Agreement.

The new pathway for sustainable consumption and production should include

* Improving the quality of life without increasing environmental degradation or compromising the resource needs of future generations.
* Decoupling economic growth from environmental degradation by reducing material/energy intensity of current economic activities and reducing emissions and waste from extraction, production, consumption, and disposal.
* Promoting a shift of consumption patterns towards groups of goods and services with lower energy and material intensity without compromising the quality
* Applying life-cycle thinking which considers the impacts from all life-cycle stages of the production and consumption process (UNEP, n.d.).

**7.1 Renewable Energy Technologies: Sustainable or Ecologically Detrimental?**

Renewable energy initiatives and products should consider whether they are continuing to contribute to mass consumption. Higher levels of consumption require higher levels of production and generate more waste by-products. Consumer goods may be produced in a different part of the globe, thereby contributing to “Environmental dumping” (Orecchia & Zoppoli, 2007). Recycling may not be a ‘be-all and end-all” solution to waste. Not all materials are recyclable, and markets must be created for recycled products (Ebreo et al., 1999). The European Energy Agency admits that recycling technologies and logistics for renewables still need to be fully developed (European Environment Agency, 2021). Current technologies are engineered with longevity in mind, posing a challenge to breaking them apart for recycling (Bomgardner, 2018).

Renewable energy is one of several strategies proposed for combating climate change; however, the demand for energy is an anthropogenic issue that does not address other concerns and goals such as SDG 15: "Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss", and there is a risk that the goals for renewable energy and protection of diversity will become siloed.

**7.2 The Way Forward: Depletion and Restoration in Tandem**

Forestation is an accessible biogenic strategy that is already under pressure from agriculture and other forms of land transformation (Fawzy et al., 2020). Forestation and other practices that enhance and protect biodiversity should be deployed side-by-side with RETS as complementary strategies - developments in renewable energy should not be linear and purely anthropocentric. Equitable energy distribution should consider technologies that are not only efficient, but also kinder to the Earth - could solar and wind farms be implemented alongside reforestation efforts? Financing for energy transition should be structured in such a way as to allow technology transfer and regeneration of ecosystems to utilize the same resources and efficiencies.

**8. Concluding Remarks**

As statespersons prepare to gather for COP27 this upcoming November, we ask that our Paris Agreement critiques and our proposal for a new Earth centric paradigm be taken into consideration. The global collective will not meet its Paris Agreement goals based on the current voluntary framework, power dynamics, and developed state centric solutions. Failure is not an option, with the threat of current carbon emission pressing the Earth closer daily into an era mirroring the ecologically devastating Pliocene. Economic wealth and development in the name of human progress is diminishing the changes of the Earth existing in a climatically stable state for not only the future anthropogenic generations, but for developing states plagued with unprecedented natural disasters.

The first step to shifting the global mindset about the urgency and amount of climate change mitigation that must be undertaken collectively, is to reframe carbon emissions as harm committed by developed states to the Earth, to crimes against the Earth. The Paris Agreement remains a positive step forward in universal collaboration, however it remains woefully inadequate in establishing the Earth as the primary and key stakeholder in climate change. Without this unified shift, every state will look out of its best (economic) interests, continuing the cycle of the ecological “tragedy of the commons.”

Multipolarity, and the formation of developing state alliances must remain the norm for upcoming climate change mitigation negotiations. Societally, there are few instances of top-down, hegemon based approaches retaining sustainable success in the economic and technology spheres, so why is it the assumption that this approach will work when attempting to combat ecological genocide? Marginalized stakeholders such as developing states and women bear the extra labor, time, and financial burden due to climate change induced diasters, loss, and damage (UNFCCC n.d.). Without their direct and lead input to holistically analyze the intangible and indirect costs, pragmatic solutions that will not incidentally hinder development cannot be created. Multipolarity within an Earth centric context diminishes the dominance of developed hegemonic voices in the conversation regarding climate change mitigation tactics. Lastly, a shift from mass consumption to mass conservation must be undertaken in both developed and developing states.

We are asking for a paradigm shift in international environmental law and policy, as this is the only way to ensure the Earth remains for our posterity. We encourage all political leaders to advocate for mandated climate emission mitigations in lieu of ineffective and voluntary contributions. We insist that indigenous knowledge is given the same weight as scientific, and indigenous and women stakeholders are not only at the table, but leading environmental treaty negotiations along with developing states excluded from the initial Paris Agreement conversation. These are the stakeholders at the forefront of the battle against climate change, and in no other sphere has a top-down approach been effective in problem solving. We cannot allow hegemonic thinking to thwart effective small scale mitigation tactics.

Our global society must move from consumption to renewal and restoration. The Earth is fragile and its resources finite. It is therefore entitled to retain its health and well-being, and we must set the precedent of reducing production and disposal, even if that means a shift in what a strong economy is viewed as. And most importantly, we must move from a state centric view of sovereignty and governance, to one where the Earth is the center of our governance and law, with severe consequences and deterrence tactics for those who still enact great harms upon her.

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