

The U.N. Global Plastics Treaty: How Narrative Shapes Global Environmental Policy

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ABSTRACT: Plastic production and pollution have created a significant global crisis. The damage it does to humans, animals, and the natural environment is well-documented and on the rise. Local, national, and international attempts to regulate the production, use, and disposal of plastic are inchoate and weak. To take control of the situation, the United Nations formed an Intergovernmental Negotiating Committee on Plastic Pollution (INC) and planned a series of five formal negotiating sessions that were intended to result in a global treaty to govern plastic at the international level. However, after four sessions, a small handful of powerful countries have mired the proceedings in a dispute about the rules of procedure that threatens to derail the entire negotiations. Making sense of the negotiations and understanding the varied positions of all parties can be a difficult task, especially because the situation is so complex, uncertain, and polarized.

This Article cuts through the complexity by applying the Narrative Policy Framework (NPF) to the treaty negotiations. The analysis reveals three narratives that underlie the negotiations: parties who see plastic as a villain, those who see plastic as a victim, and, finally, countries who see plastic as a hero. An understanding of these narratives, and which countries ascribe to each of them, provides a clear lens through which to view and assess the dynamics of the negotiations. This Article, one of only a few studies that apply the NPF in an international context, explores the impact of narrative on policymaking efforts and draws important connections between the INC negotiations and the global regulatory climate change regime. Our analysis demonstrates the profound influence that the construction and

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leveraging of narrative can have on public policy.

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I. Introduction

We are surrounded by plastic. From contact lenses and eyeglasses to clothing, from food storage containers to motor vehicles, from Barbie® dolls to body armor, plastic is ubiquitous. In fact, plastic has become the dominant material of the late twentieth century, surpassing our use of natural materials such as wood.¹

¹ INTERNATIONAL ENERGY AGENCY (IEA), *The Future of Petrochemicals* 11 (2018),

We are also surrounded by stories of plastic. Our recycling bins, for example, tell the story of our relationship with plastic. The presence or absence of plastic in those bins says something about what we know about plastic, how we view the natural environment, and the state of our local recycling laws. Some stories of plastic are literally stories, in the form of news stories on plastic pollution. Recent accounts of the deluge of microplastics on the Spanish coast,² the impact of plastic pollution on disease in humans,³ and the presence of plastic waste in Antarctica⁴ are but a few of these stories.

Regulation of plastic pollution has been largely fragmented,⁵ especially at the global level. While there are treaties addressing various aspects of pollution in marine environments, none of them were designed with a focus on plastic pollution.⁶ The gap in international regulation of plastic has meant that any efforts to mitigate plastic pollution occur at the national level,⁷ with the resulting fractured regulatory landscape unable to adequately address the problems created by plastic pollution. This is particularly true because plastic pollution presents transboundary issues. Plastic is produced using global supply chains that stretch

https://iea.blob.core.windows.net/assets/bee4ef3a-8876-4566-98cf-7a130c013805/The_Future_of_Petrochemicals.pdf [<https://perma.cc/RT4D-H657>]; World Economic Forum, ELLEN MACARTHUR FOUNDATION & MCKINSEY & COMPANY, *The New Plastics Economy—Rethinking the Future of Plastics* 15 (2016), <https://emf.thirdlight.com/link/faarmdpz93ds-5vmvdf/@/preview/1?o> [<https://perma.cc/XG5D-DYND>].

² Ido Vock, *Spain Pollution: Millions of Plastic Pellets Wash up on Coast*, BBC (Jan. 9, 2024), <https://www.bbc.com/news/world-europe-67921088> [<https://perma.cc/E9NP-W4DJ>].

³ Saul Elbein, *Plastics Pollution Led to \$250 Billion in Disease over One Year*, THE HILL (Jan. 11, 2024 9:00 AM), <https://thehill.com/policy/equilibrium-sustainability/4401535-plastics-pollution-disease> [<https://perma.cc/3R79-WKHH>].

⁴ Isabel Rosales, *Antarctica's Plastic Problem*, CNN, <https://www.cnn.com/videos/world/2024/02/04/exp-antarctica-plastic-pollution-rosales-pkg-cnni-world.cnn> [<https://perma.cc/AKB7-DM5W>] (last visited Sept. 8, 2024).

⁵ ORG. FOR ECON. COOP. & DEV. (OECD), *Plastic Pollution Is Growing Relentlessly as Waste Management and Recycling Fall Short, Says OECD* (Feb. 22, 2022), <https://www.oecd.org/environment/plastic-pollution-is-growing-relentlessly-as-waste-management-and-recycling-fall-short.htm> [<https://perma.cc/7YVJ-K3BW>]; OECD, *Global Plastic Waste Set to Almost Triple by 2060, Says OECD* (June 3, 2022), <https://www.oecd.org/newsroom/global-plastic-waste-set-to-almost-triple-by-2060.htm> [<https://perma.cc/W3PX-DHA6>].

⁶ See *infra* Part II.B.2.

⁷ See *infra* Part II.B.1.

from petroleum production sites to chemical refineries to resin production facilities.⁸ Plastic waste has similarly widespread impacts. Very little plastic is recycled, leaving the rest to either be incinerated or landfilled; much waste intended for landfills ends up in waterways, where it finds its way into oceans.⁹ Once in the water, ocean currents carry plastic waste into the open sea and, eventually, often onto the shores of coastal countries.¹⁰ Plastic also breaks down into microplastics, such as those plaguing the beaches in Spain.¹¹ Fish can ingest microplastics and introduce them into the human food chain, and humans can even do so directly through near constant contact with plastic.¹²

Regulation at the national level is not equal to the task of reaching the global impacts of plastic pollution. A major storyline on the regulation of plastic commenced in 2022 when countries from across the globe began negotiation of a multilateral treaty on plastic pollution. Under the auspices of the United Nations Environment Programme (UNEP), negotiations began in March 2022 with the goal of producing the completed treaty by the end of 2024.¹³ With the current fragmented nature of the regulation of plastic, and with plastic pollution on the rise, the time for public policymaking on a global scale has arrived.

Since the beginning of the negotiations, stories about plastic have only increased. News reports have followed the progress of the negotiating sessions.¹⁴ At the same time, states from around the

⁸ See CTR. FOR INT'L ENV'T (CIEL), *Plastic and Climate: The Hidden Costs of a Plastic Planet* (May, 2019), <https://www.ciel.org/reports/plastic-health-the-hidden-costs-of-a-plastic-planet-may-2019/> [<https://perma.cc/DN5E-28CU>] [hereinafter CIEL, *Plastic and Climate*].

⁹ See *infra* notes 50–61 and accompanying text.

¹⁰ See CIEL, *Plastic and Climate*, *supra* note 8, at 56.

¹¹ See Vock, *supra* note 2.

¹² See *infra* notes 45–49 and accompanying text.

¹³ Press Release, United Nations Environment Programme (UNEP), *Historic Day in the Campaign to Beat Plastic Pollution: Nations Commit to Develop a Legally Binding Agreement*, U.N. Press Release (Mar. 2, 2022).

¹⁴ See, e.g., Valerie Volcovici, *Countries Split on Plastics Treaty Focus as U.N. Talks Close*, REUTERS (Dec. 2, 2022) (reporting on the first negotiating session); Aline Maigret, *Global Plastics Treaty and INC-2—A Mixed (Plastic) Bag*, ZERO WASTE EUROPE (Jun. 6, 2023) (summarizing the results of the second negotiating session); UNILEVER, *A UN Treaty on Plastic Pollution Moves Another Step Closer* (May 24, 2023) (previewing the second negotiating session); GREENPEACE INT'L, *UN INC3 Ends in Frustration as Governments Allow Low Ambition Countries to Derail Global Plastics Treaty* (Nov. 19,

world have ratcheted up their negotiating postures, with hundreds of documents submitted as part of the negotiating process and hours of statements delivered in negotiating sessions.¹⁵ Through the first four of five planned negotiating sessions, the UNEP negotiations reflect the truth that stories do not just happen, but instead are human constructions. Political science and public policy scholars recognize that policy narratives are often not intended to reflect an objective “truth” but are crafted by policy actors as strategic tools used to influence which narratives ultimately guide policy solutions.¹⁶ This thread of political science scholarship, known as narrative policy analysis, studies the use and impact of narrative on policy issues. Narrative policy analysis examines a variety of different aspects of narrative, including the use of rhetorical devices,¹⁷ the impact of culture on narrative construction,¹⁸ and the influence of narratives on public opinion.¹⁹

The negotiations for the United Nations (UN) plastic treaty provide a fertile field to examine how policy actors construct and leverage narrative to capture policy. Delegations from virtually

2023) (critiquing the results of the third negotiating session); Carlos Mureithi, *Weeklong Negotiations for Landmark Treaty to End Plastic Pollution Close, Marred in Disagreements*, AP (Nov. 20, 2023) (chronicling the positions advanced at the third negotiating session).

¹⁵ See UNEP, Intergovernmental Negotiating Committee on Plastic Pollution, First Session (INC-1), <https://www.unep.org/inc-plastic-pollution/session-1> [<https://perma.cc/QT2K-5LPZ>] [hereinafter UNEP, INC-1]; UNEP, Intergovernmental Negotiating Committee on Plastic Pollution, Second Session (INC-2), <https://www.unep.org/inc-plastic-pollution/session-2> [<https://perma.cc/K9L3-XEYY>] [hereinafter UNEP, INC-2]; UNEP, Intergovernmental Negotiating Committee on Plastic Pollution, Third Session (INC-3), <https://www.unep.org/inc-plastic-pollution/session-3> [<https://perma.cc/H39N-8NNH>] [hereinafter UNEP, INC-3]; UNEP, Intergovernmental Negotiating Committee on Plastic Pollution, Fourth Session (INC-4), <https://www.unep.org/inc-plastic-pollution/session-4> [<https://perma.cc/6XMV-AULE>] [hereinafter UNEP, INC-4].

¹⁶ DEBORAH STONE, *POLICY PARADOX: THE ART OF POLITICAL DECISION MAKING* 158 (3rd ed. 2012) [hereinafter STONE, *POLICY PARADOX*]; Valentina Antonipillai et al., *Policy Agenda-Setting and Causal Stories: Examining How Organized Interests Redefined the Problem of Refugee Health Policy in Canada*, 15 HEALTH CARE POL’Y 116, 119 (2020).

¹⁷ STONE, *POLICY PARADOX*, *supra* note 16, at 168–82 (discussing the use of metaphors and ambiguity in policy language)

¹⁸ Michael D. Jones & Geoboo Song, *Making Sense of Climate Change: How Story Frames Shape Cognition*, 35 POL. PSYCH. 447 (2014).

¹⁹ Elizabeth A. Shanahan, Mark K. McBeth & Paul L. Hathaway, *Narrative Policy Framework: The Influence of Media Policy Narratives on Public Opinion*, 39 POL. & POL’Y 373 (2011) [hereinafter Shanahan et al., *Narrative Policy Framework*].

every country in the world are participating in the negotiations, representing a broad array of positions on the regulation of plastic. This article applies a relatively new narrative policy analysis tool, the Narrative Policy Framework (NPF), to investigate the deployment of narrative in the treaty negotiations. The NPF employs the traditional components of a story—setting, character, plot, and moral—as analytical lenses to deconstruct policy narratives. Doing so allows us to see how policy actors interpret and edit facts to create a story that supports their preferred policy outcomes. In this Article, we apply the NPF to written submissions and oral statements of the parties to the UN negotiations to unravel the complexities of the use of narrative on the critical issue of plastic pollution. NPF analysis reveals three broad narratives on plastic, each based on how the parties characterize plastic itself, whether as the hero, the victim, or the villain of the story. These narratives are each vying for control over the direction of the negotiations in an attempt to direct global public policy on plastic. More importantly, our analysis reveals how a narrative can be reconstructed to refocus the negotiations away from substantive issues to procedural ones. The consequences of this reconstruction for the UN negotiations are serious, as the reconstructed narrative has the potential to derail the entire negotiating process. Thus, our analysis demonstrates the profound influence that the construction and leveraging of narrative can have on public policy.

The analysis in this Article contributes to the literature on international environmental law in several ways. First, it provides an early in-depth analysis of the negotiations themselves. Second, and more broadly, it explores the impact of narrative on current policymaking efforts, drawing connections to the global governance of climate change. Finally, it bolsters the literature on the NPF as one of only a few studies applying the NPF in the context of international policymaking.

We build our analysis in Part II by setting out background information on plastic and its current regulatory landscape. Part III provides an overview of the field of narrative policy analysis, with emphasis on the NPF as an analytical tool, which we then use in Part IV to map the contours of the hero, victim, and villain narratives regarding plastic. Then, in Part V, we explain how the hero narrative was reconstructed to move the focus of negotiations away from substantive regulation of plastic and onto global decision-making processes as embodied in the negotiation's Rules

of Procedure. We compare this effort to the negotiations leading to the Paris Agreement²⁰ and subsequent climate change negotiations, revealing a similar clash of narratives that resulted in weak international agreements that have not moved the needle on climate change. The Article concludes that absent a decisive move on the issue of the negotiation's rules, the future of the treaty itself is in jeopardy.

II. Plastic and Its Regulation

This part sets the stage for the analysis of the treaty negotiation. It first covers the nature of plastic and the pollution it creates at each step of its lifecycle. It then examines the relevant regulation of plastic at both the domestic and international levels.

A. *The Science of Plastic and Plastic Pollution*

Although plastic has been produced for many years, beginning in the 1950s,²¹ plastic production has grown exponentially since the turn of the century, increasing more than two hundred times between 2000 to 2020.²² Today, “[n]early everyone, everywhere, every day comes into contact with plastics”²³ Plastic clearly has many beneficial uses.²⁴ However, because plastic does not degrade for hundreds of years, and plastic waste is difficult to manage and dispose of, a massive amount of plastic waste has entered the natural environment and is causing serious environmental pollution

²⁰ Paris Agreement to the United Nations Framework Convention on Climate Change, Dec. 12, 2015, T.I.A.S. No. 16-1104.

²¹ Roland Geyer, Jenna Jambeck & Kara Lavendar Law, *Production, Use and Fate of All Plastics Ever Made*, 3 SCI. ADVANCES 1, 1 (2017), <https://advances.sciencemag.org/content/3/7/c1700782>; Ali Chamas et al., *Degradation Rates of Plastics in the Environment*, 8 ACS SUSTAINABLE CHEMISTRY & ENG'G 3494, 3494 (2020).

²² Wijnand de Wit & Nathan Bigaud, *No Plastic in Nature: Assessing Plastic Ingestion from Nature to People*, WWF 6, 6 (2019), https://awsassets.panda.org/downloads/plastic_ingestion_press_singles.pdf [<https://perma.cc/T5KE-94UH>].

²³ MACARTHUR FOUNDATION ET AL., *supra* note 1, at 15.

²⁴ OECD, *Improving Plastics Management: Trends, Policy Responses, and the Role of International Co-Operation and Trade 2* (OECD, Environment Policy Paper No. 12, 3 2018), https://read.oecd-ilibrary.org/environment/improving-plastics-management_c5f7c448-en [<https://perma.cc/MB63-R65B>] (noting many benefits of plastic, including food packaging, reducing food waste, manufacturing lighter and fuel-efficient vehicles, helping to reduce greenhouse gas emissions, and substituting for biomass materials (paper, cotton, etc.) to help reduce change to the land and biodiversity loss).

problems.²⁵ To fully understand the impact of this dramatic increase in plastic production and the issues related to disposal of plastic, this section examines the nature of plastic and the magnitude of the pollution problem it has created.

1. *The Science, Production, and Use of Plastic*

Plastic is an entirely human-made substance.²⁶ Almost all plastic is made up of petrochemicals such as fossil oil, coal, and natural gas.²⁷ There are different types of plastics, and their properties vary depending upon the intended purpose,²⁸ but most plastics share common characteristics. Plastic is easily molded into different forms,²⁹ impermeable to liquids,³⁰ costs relatively little to produce,³¹ and does not degrade easily.³² Plastic is now used in virtually all sectors of society, including consumer goods, clothing and other textiles, transportation, construction, and medical devices.³³ Of all

²⁵ Geyer et al., *supra* note 21, at 1; Chamas et al., *supra* note 21, at 3494–95.

²⁶ Kai Zhang et al., *Understanding Plastic Degradation and Microplastic Formation in the Environment: A Review*, 274 ENV'T POLLUTION 116554, 116554 (2021).

²⁷ Chamas et al., *supra* note 21, at 3494–95. More technically, plastic is made up of entirely human-made synthetic polymers that are created when large numbers of monomers are linked together through chemical bonding. *Id.*; Geyer et al., *supra* note 21, at 1 (“The vast majority of monomers used to make plastics . . . are derived from fossil hydrocarbons.”).

²⁸ IEA, *supra* note 1, at 19 (“Different types of plastics, or ‘resins,’ are used for different purposes, depending on the specification required in the end-use application.”).

²⁹ Chamas et al., *supra* note 21, at 3494.

³⁰ OECD, *Improving Plastics Management: Trends, Policy Responses, and the Role of International Co-Operation and Trade 2* (OECD, Environment Policy Paper No. 12, 2 2018), https://read.oecd-ilibrary.org/environment/improving-plastics-management_c5f7c448-en [<https://perma.cc/MB63-R65B>].

³¹ *Id.*

³² Geyer et al., *supra* note 21, at 1 (“None of the commonly used plastics are biodegradable. As a result, they accumulate, rather than decompose, in landfills or the natural environment); Chamas et al., *supra* note 21, at 3494 (noting that the characteristics of various types of plastic “make them particularly long-lived when they are discarded”).

³³ Robert C. Hale et al., *A Global Perspective on Microplastics*, 125 J. GEOPHYSICAL RSCH.: OCEANS 1, 3 (2019) (listing many uses, including “single-use food and beverage containers, thermal insulation, home and workplace furnishings, electrical and electronic devices, vehicle interiors, toys, fabrics, surface coatings, and even medical devices (e.g., artificial joints, incubators, intravenous (IV) fluid bags, and drug delivery devices”); IEA, *supra* note 1, at 11 (noting that plastic is used to produce fertilizers, packaging, clothing, digital devices, medical equipment, detergents, tires, solar panels, wind turbine blades, batteries, building insulation, and parts for electric vehicles).

products made from plastic, single-use packaging is the most numerous.³⁴

Plastic has been produced in greater quantities than any other human-made material,³⁵ which means that plastic production is big business. Plastic production is expected to double in the next twenty years, and perhaps even triple by 2050.³⁶ In 2022, the global plastics market reached \$615.2 billion, and it is estimated to reach \$747.9 billion by 2028.³⁷

The current lifecycle of plastic results in damage to the environment in several ways, beginning with its production. The extraction of the fossil fuels needed to create plastic has clear negative environmental impacts,³⁸ producing greenhouses gases and

³⁴ IEA, *supra* note 1, at 16 (“Plastic packaging, much of which is used for food and, increasingly, beverages, is the largest component of single end-use plastic demand, accounting for approximately 36% globally.”).

³⁵ Geyer et al., *supra* note 21, at 3 (“The growth of plastics production in the past 65 years has substantially outpaced any other manufactured material.”); IEA, *supra* note 1, at 11 (“Demand for plastics—the most familiar of petrochemical products—has outpaced all other bulk materials (such as steel, aluminum or cement . . .”).

³⁶ MACARTHUR FOUNDATION ET AL, *supra* note 1, at 24. Demand for plastic rose dramatically during the COVID-19 pandemic. See Ana L. Patricio Silva et al., *Rethinking and Optimizing Plastic Waste Management Under COVID-19 Pandemic: Policy Solutions Based on Redesign and Reduction of Single-Use Plastics and Personal Protective Equipment*, 742 SCI. TOTAL ENV'T 140565, at 2 (2020) (noting the sudden surge in demand for plastic products by healthcare workers due to the pandemic); Tanveer M. Adyel, *Accumulation of Plastic Waste During COVID-19*, 369 SCI. 1314 (2020) (noting the increased plastic demand created by consumers ordering packaged take-out meals and home-delivered groceries during the pandemic); Stephanie Zimmermann, *Plastic Waste Problem “Amplified” by the Pandemic*, CHI. SUN-TIMES (Nov. 11, 2020), <https://chicago.suntimes.com/2020/11/11/21558733/styrofoam-plastic-waste-takeout-delivery-restaurants-coronavirus-pandemic-covid-chicago-recycling> [<https://perma.cc/KAH7-Q5CR>].

³⁷ *Plastics Market: Global Industry Trends, Share, Size, Growth, Opportunity and Forecast 2023–2028*, RSCH. & MKTS. (Feb. 2023), <https://www.researchandmarkets.com/report/plastics> [<https://perma.cc/U97T-SGNF>]. Another source estimated the industry to be worth more than four trillion dollars. See Sharon Lerner, *Waste Only: How the Plastic Industry Is Fighting to Keep Polluting the World*, THE INTERCEPT (July 20, 2019), <https://theintercept.com/2019/07/20/plastics-industry-plastic-recycling/> [<https://perma.cc/9TAJ-R47M>]. Plastic food packaging alone was projected to be a \$370 billion market by 2020. See Laura Parker, *Plastic Food Packaging Was Most Common Beach Trash in 2018*, NAT'L GEOGRAPHIC (Sept. 3, 2019), <https://www.nationalgeographic.com/environment/article/plastic-food-packaging-top-trash-global-beach-cleanup-2018> [<https://perma.cc/UXQ4-TTWF>].

³⁸ CIEL, *Plastic and Climate: The Hidden Costs of a Plastic Planet* (May 2019), <https://www.ciel.org/reports/plastic-health-the-hidden-costs-of-a-plastic-planet-may->

other forms of air pollution.³⁹ It also generates harmful chemical byproducts that can pollute the air and waterways.⁴⁰

The use of plastic and the subsequent degradation process also causes harmful, often unseen damage. The plastic just described, and that most of us use and are familiar with, is referred to as “macroplastic.”⁴¹ However, macroplastic is often broken down into smaller pieces of plastic, known as “microplastics”⁴² and “nanoplastics.”⁴³ Microplastics are created when macroplastic degrades, either in the environment or at designated plastic waste disposal sites.⁴⁴ Microplastics are often impossible to see⁴⁵ yet they are found almost everywhere, including our food and inside our

2019/ [https://perma.cc/4ZUS-89JQ] (“The extraction and transport of fossil fuels for plastic production produces significant greenhouse gases. Sources include direct emissions, like methane leakage and flaring, emissions from fuel combustion and energy consumption in the process of drilling for oil or gas, and emissions caused by land disturbance when forests and fields are cleared for wellpads and pipelines.”).

³⁹ IEA, *supra* note 1, at 16 (noting that the use of chemicals that make up plastic “releases carbon dioxide (CO₂) emissions and air pollutants and contributes to the demand for water for energy”); MACARTHUR FOUNDATION ET AL, *supra* note 1, at 29 (“[C]onsiderable greenhouse gas emissions are associated with the production and sometimes the after-use pathway of plastics.”).

⁴⁰ Lisa Anne Hamilton et al., *Plastic & Climate: The Hidden Costs of a Plastic Planet* 3 (Amanda Kistler & Carroll Muffett eds., 2019), <https://www.ciel.org/reports/plastic-health-the-hidden-costs-of-a-plastic-planet-may-2019/> [https://perma.cc/4ZUS-89JQ].

⁴¹ Lisa Lahens et al., *Macroplastic and Microplastic Contamination Assessment of a Tropical River (Saigon River, Vietnam) Transversed by a Developing Megacity*, 236 ENV'T POLLUTION 661, 662 (May 2018) (noting that plastic items greater than 5mm are referred to as “macroplastics”); K. Bucci, M. Tulio & C.M. Rochman, *What Is Known and Unknown About the Effects of Plastic Pollution: A Meta-Analysis and Systematic Review*, 30 ECOLOGICAL APPLICATIONS e2044–1 (2020); Denise M. Mitrano, Peter Wick & Bernd Nowack, *Placing Nanoplastics in the Context of Global Plastic Pollution*, 16 NATURE NANOTECHNOLOGY 491, 492 (2021).

⁴² Bucci et al., *supra* note 41, at e2044–1.

⁴³ Sharma et al., *Nanoplastics Are Potentially More Dangerous Than Microplastics*, 21 ENV'T CHEMISTRY LETTERS 1933, 1933 (2022) (noting that the size of a nanoplastic is below 1 um [or .001 mm], compared to microplastic at 1 to 5000 um [5 mm], and macroplastic [above 5000 um]; Mitrano et al., *supra* note 41, at 492 (“A few years ago, it was hypothesized that fragmentation of plastics does not stop with microplastics, but that further fragmentation to nanosized plastics may occur.”).

⁴⁴ Zhang et al., *supra* note 26, at 165562, 116565. (“Degradation of plastic wastes in the environment is considered to be a major process contributing to the formation of microplastics.”); *see also* U.S. NAT'L OCEANIC & ATMOSPHERIC ADMIN., *What Are Microplastics?*, <https://oceanservice.noaa.gov/facts/microplastics.html> [https://perma.cc/K37X-3Z7U] (last visited June 16, 2024).

⁴⁵ *See* Bucci et al., *supra* note 41, at e2044–1.

bodies.⁴⁶ The average person is estimated to eat and breathe at least 50,000 particles each of microplastics per year, although these numbers are based on an analysis of only a small number of foods and drinks so the actual amount is likely higher.⁴⁷ Compared to macroplastics, microplastics pose a potentially much higher risk to humans, animals, and plants because they are more difficult to track and manage due to their size, and are more toxic than macroplastics.⁴⁸ Much less is known about nanoplastics, but emerging science suggests that they too pose significant risk to human health.⁴⁹

Thus, plastic is easily and cheaply produced and used in virtually every industry across the globe. Yet the production of plastic and the subsequent degradation process raises serious concerns about the impact on human and animal health and the health of the planet. In addition to the physical risks it poses to humans and animals, plastic also poses grave dangers to the physical environment because a majority of plastic becomes waste relatively quickly,⁵⁰ and almost all plastic does not decompose for

⁴⁶ Mitrano et al., *supra* note 41, at 492; Nina Jensen & Declan McAdams, *This Is Why Microplastics Should Keep Us Up at Night and What We Can Do About Them*, EUR. STING & WORLD ECON. F., (Mar. 8, 2023), <https://europeansting.com/2023/03/08/this-is-why-microplastics-should-keep-us-up-at-night-and-what-we-can-do-about-them/> [<https://perma.cc/RJL7-8CA2>] (“We are eating, drinking, and breathing microplastics; they are raining down on us and are even found in breast milk and fed to our children.”).

⁴⁷ Jenson et al., *supra* note 46.

⁴⁸ Mitrano et al., *supra* note 41, at 492; Kieran D. Cox et al., *Human Consumption of Microplastics*, 53 ENV'T SCI. & TECH. 7068, 7072 (2019).

⁴⁹ See, Knavul Sheikh, *Bottled Water Is Full of Plastic Particles. Can They Harm Your Health?*, NY. TIMES (Jan. 11, 2024), <https://www.nytimes.com/2024/01/11/well/live/bottled-water-nanoplastics.html?searchResultPosition=17> [<https://perma.cc/8BFD-L8XR>] (reporting on recent research indicating that the amount of nanoplastics found in plastic water bottles may be higher than previously believed); Hanpeng Lai, Xing Liu & Man Qu, 12 *Nanoplastics and Human Health: Hazard Identification and Biointerface*, NANOMATERIALS (BASEL) 1298 (Apr. 11, 2022), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9026096/> [<https://perma.cc/82HE-CLCN>]. Although scientists are not yet aware of the specific hazards nanoplastics may present, see e.g., Mitrano et al., *supra* note 41, at 492 (“[E]ven though nanoplastics may be present in the environment, we are still uncertain of what specific hazard(s) this may pose.”), scientists do appear to acknowledge that they pose *some* harm, and that it is likely significant. See, e.g., Sharma et al., *supra* note 43, at 1933 (“Nanoplastics are probably much more dangerous for living organisms than microplastics because they are more abundant and reactive. They can potentially reach more remote locations and penetrate in living cells.”).

⁵⁰ Geyer et al., *supra* note 21, at 2 (noting that only an estimated thirty percent of all

hundreds of years.⁵¹

Plastic can generally be disposed of in three ways.⁵² The first is recycling or reprocessing.⁵³ However, recycling has not been a reliable solution for managing plastic waste. Plastic recycling rates across the globe are significantly low, and recycling generally “delays, rather than avoids, final disposal.”⁵⁴ The second option for plastic waste is to destroy it through incineration.⁵⁵ Incineration is also not a good option because, like the production of plastic, the process of incineration can be highly toxic.⁵⁶ The third option is to simply discard plastic waste, in either a landfill or, worse, by improperly disposing of it in the natural environment.⁵⁷

Not surprisingly, given the difficulties with recycling and incineration, the fate of most plastic is to be discarded. Geyer et al. estimate that of all plastics produced between 1950 and 2015, nine percent have been recycled and twelve percent incinerated, leaving the remaining approximately sixty percent discarded.⁵⁸ As such, in addition to the pollution caused upstream in the production process, plastic waste has created a staggering amount of pollution, affecting virtually every country on the planet. We turn our attention to this

plastic ever produced is still in use).

⁵¹ *Id.* at 1. See also Laura Parker, *Fast Facts About Plastic Pollution*, NAT'L GEOGRAPHIC (Dec. 20, 2018), <https://www.nationalgeographic.com/science/article/plastics-facts-infographics-ocean-pollution> [<https://perma.cc/43U8-YSTT>] [hereinafter Parker, *Fast Facts*].

⁵² Geyer et al., *supra* note 21, at 2 (“There are essentially three different fates for plastic waste.”).

⁵³ *Id.*

⁵⁴ *Id.* Many countries attempt to recycle plastic, but recycling efforts are minimal and do little to impact the amount of plastic waste. Although estimates vary, one study in 2014 reported that “[t]he overall recycling rate of post-consumer plastics was only 9%-30%.” Zhang et al., *supra* note 26, at 1116555; Parker, *Fast Facts*, *supra* note 51.

⁵⁵ Geyer et al., *supra* note 21, at 2. See Elizabeth Royte, *Is Burning Plastic Waste a Good Idea?*, NAT'L GEOGRAPHIC (Mar. 12, 2019), <https://www.nationalgeographic.com/environment/article/should-we-burn-plastic-waste> [<https://perma.cc/7SWL-HXER>] (reporting that the EU burns almost 42 percent of its waste, while the U.S. burns 12.5 percent.).

⁵⁶ Geyer et al., *supra* note 21, at 2.

⁵⁷ *Id.*; Royte, *supra* note 55 (noting that sites for incineration facilities are difficult to find, they can be expensive to operate, and they have the potential to emit toxic gas and other pollutants into the air, particularly if situated in countries that lack strict environmental enforcement laws or that do not properly enforce them).

⁵⁸ Geyer et al., *supra* note 21, at 2–3. See also Parker, *Fast Facts*, *supra* note 51.

problem in the next section.

2. *Plastic Pollution: A Global Crisis*

As the production of plastic and demand for it have dramatically increased, so too has plastic pollution and resulting efforts to curb both the production of plastic and the pollution it causes. Although plastic was first conceived of and introduced in 1950, the resulting environmental and social problems that resulted from the use of plastic did not gain global attention until 1997 when the Great Pacific Garbage Patch (GPGP) was discovered in the Pacific Ocean.⁵⁹ One estimate from 2010 indicates between 4.8 million and 12.7 million tons of plastic waste was in the ocean, and at least ten times more was predicted by 2025.⁶⁰ However, although much attention has been paid to marine plastic pollution, plastic waste begins as a land-based problem. A large majority of marine plastic pollution originates from land sources.⁶¹

For many years, China was the major importer of discarded

⁵⁹ Buoyant marine plastic accumulates in oceanic gyres. The Great Pacific Garbage Patch is a massive accumulation of marine plastic and has been described as a “gyre within a gyre.” See L. Lebreton et al., *Evidence That the Great Pacific Garbage Patch Is Rapidly Accumulating Plastic*, 8 SCI REPS. 4666-1, 4666-1 (2018) (citing E.A. Howell et al., *On North Pacific Circulation and Associated Marine Debris Concentration*, 65 MARINE POLLUTION BULL. 16–22 (2012)). Studies done after the GPGP was discovered indicate that it largely consists of marine-based plastics, such as fishing nets, ropes, and floats, rather than land-based plastic that entered the ocean later. *Id.* at 12.

⁶⁰ Jambeck et al., *Plastic Waste Inputs from Land into the Ocean*, 347 SCI. 768, 771 (Feb. 13, 2015); MACARTHUR FOUNDATION ET AL., *supra* note 1, at 17 (“Each year, at least 8 million tonnes of plastics leak into the ocean—which is equivalent to dumping the contents of one garbage truck into the ocean every minute.”); Laurence Smith, *How Does Plastic End up in the Ocean?*, NATURALER (Mar. 27, 2019), <https://naturaler.co.uk/how-does-plastic-end-up-in-ocean/> [<https://perma.cc/L8TK-E8KZ>].

⁶¹ W.C. Li, et al., *Plastic Waste in the Marine Environment: A Review of Sources, Occurrence and Effects*, 556–567 SCI. TOTAL ENV'T 333, 335 (2016) (“Land-based sources of plastic debris contribute 80% of the plastic debris in the marine environment, with densely populated or industrialised areas being the major sources due to littering, plastic bag usage and solid waste disposal”); Hannah Ritchie, *Where Does the Plastic in Our Oceans Come From?*, OUR WORLD IN DATA (May 1, 2021), <https://ourworldindata.org/ocean-plastics> [<https://perma.cc/YE6D-MBCP>]; OECD, *Improving Resource Efficiency to Combat Marine Plastic Litter* 3, 9 (Jan, 2019), <https://www.oecd.org/en/about/oecd-and-g20.html> [<https://perma.cc/GXB2-HVXA>] [hereinafter OECD, *Improving Resource Efficiency*]; Smith, *supra* note 60; Laura Parker, *The World’s Plastic Pollution Crisis Explained*, NAT’L GEOGRAPHIC (Feb. 21, 2024), <https://www.nationalgeographic.com/environment/article/plastic-pollution> [<https://perma.cc/G8KE-SWU3>] [hereinafter Parker, *Plastic Pollution Crisis Explained*].

plastic.⁶² However, in 2015, China changed its import requirements, resulting in a significant reduction in the amount of plastic allowed into the country⁶³ and a corresponding buildup of plastic trash in other countries.⁶⁴ With few options for recycling plastic, many countries, including the U.S., increased disposing of plastic in either landfills or by incineration.⁶⁵ However, these efforts have done little to stanch the increasing amount of plastic that finds its way into the natural environment. Plastic pollution is largely a result of mismanagement. Plastic trash may be deposited in open landfills that leak waste into the surrounding areas or dumped outside of landfills altogether.⁶⁶ Trash enters the ocean through rivers or directly from ocean vessels.⁶⁷

Plastic pollution causes a host of problems, including harm to animal and marine life,⁶⁸ human well-being, and the natural

⁶² Saabira Chaudhuri, *Recycling Rethink: What to Do With Trash Now That China Won't Take It*, WALL ST. J. (Dec. 19, 2019), <https://www.wsj.com/articles/recycling-rethink-what-to-do-with-trash-now-china-wont-take-it-11576776536>.

⁶³ *Id.* China's action to restrict the import of plastic was due to its increasing concern about the negative environmental impact of importing so much plastic waste into the country. See Ruth Jebe, *The U.S. Plastics Problem: The Road to Circularity*, 52 ENV'T L. REP. 10018, 10019, 10028 (2022).

⁶⁴ Kimiko de Freytas-Tamura, *Plastics Pile Up as China Refuses to Take the West's Recycling*, N.Y. TIMES (Jan. 12, 2018), <https://www.nytimes.com/2018/01/11/world/china-recyclables-ban.html> [<https://perma.cc/39V8-Q9G3>] (reporting on plastic waste build up in Britain, Canada, Ireland, Hong Kong, and much of Europe).

⁶⁵ Jebe, *supra* note 63, at 10028 (noting that China's action to restrict importing plastic caused other countries to similarly restrict importing, "creat[ing] a glut in global plastics recyclables markets" that in turn increased the cost of recycling, prompting many governments to begin either incinerating and/or dumping plastic waste in landfills).

⁶⁶ Li et al., *supra* note 61, at 344–45; Ritchie, *supra* note 61.

⁶⁷ Parker, *Plastic Pollution Crisis Explained*, *supra* note 61 (noting that major rivers "act as conveyor belts, picking up more and more trash as they move downstream"); OECD, *Improving Resource Efficiency*, *supra* note 61, at 9.

⁶⁸ Lau et al., *Evaluating Scenarios Toward Zero Plastic Pollution*, 369 SCI. 1455, 1455 (2020) ("Nearly 700 marine species and more than 50 freshwater species are known to have ingested or become entangled in macroplastic and there is growing evidence that plastic is ingested by a wide range of terrestrial organisms.") (citations omitted); Parker, *Plastic Pollution Crisis Explained*, *supra* note 61 ("Millions of animals are killed by plastics every year, from birds to fish to other marine organisms. Nearly 2,100 species, including endangered ones, are known to have been affected by plastics. Nearly every species of seabird eats plastics. Most of the deaths to animals are caused by entanglement or starvation.").

environment,⁶⁹ as well as socio-economics costs.⁷⁰ The impact of plastic pollution knows no boundaries, and it hits smaller countries particularly hard.⁷¹ Small countries, particularly those in Southeast Asia, lack the infrastructure to deal with plastic waste and thus are major contributors to the world's plastic pollution problem.⁷² Additionally, many small coastal nations, such as those that comprise the Small Island Developing States (SIDS) coalition, are hit the hardest by plastic pollution that washes onto their shores,⁷³ negatively impacting their economies that are heavily dependent on tourism.⁷⁴

In many of these countries, management of plastic pollution is done, at least in part, by an informal sector of the economy known as waste pickers.⁷⁵ Waste pickers provide a host of economic and

⁶⁹ Lau et al., *supra* note 68, at 1455 (noting that plastic has also damaged the “aesthetics of beaches” and has blocked drainage and wastewater systems).

⁷⁰ See Linda Del Savio, *The Role of Trade in Governing Plastic Pollution*, 27 OCEAN & COASTAL L.J. 1, 3 (2022); Alistair McIlgorm et al., *The Economic Cost and Control of Marine Debris Damage in the Asia-Pacific Region*, 54 OCEAN & COASTAL MGMT. 643, 644 (2011).

⁷¹ Parker, *Plastic Pollution Crisis Explained*, *supra* note 61 (“Plastic pollution is most visible in developing Asian and African nations, where garbage collection systems are often inefficient or nonexistent.”).

⁷² See Seruni Putri Soewondo et al., *5 Innovators Adding Value to Plastic Waste and Improving Working Conditions*, EUR. STING (Aug. 24, 2022), <https://europeansting.com/2022/08/24/5-innovators-adding-value-to-plastic-waste-and-improving-working-conditions/> [<https://perma.cc/A6CT-KCFW>] (reporting that plastic waste from Indonesia, the Philippines, Vietnam, and Thailand accounts for seventeen percent of the world's marine plastic pollution).

⁷³ Emma Samson, *Plastic Pollution Affecting Small Island Developing States (SIDS)*, OECD FORUM NETWORK (June 16, 2023), <https://www.oecd.org/en/about.html> [<https://perma.cc/CJ8E-DZ5G>] (“SIDS are disproportionately impacted by plastic pollution and immensely vulnerable to its impacts. Not only do they have to contend with the tsunami of waste that washes up on their beaches, they must also deal with the plastic waste they generate themselves.”); Elle Hunt, *38 Million Pieces of Plastic Waste Found on Uninhabited South Pacific Island*, THE GUARDIAN (May 15, 2017), <https://www.theguardian.com/environment/2017/may/15/38-million-pieces-of-plastic-waste-found-on-uninhabited-south-pacific-island> [<https://perma.cc/2FV5-6UVF>].

⁷⁴ UNEP, *How Countries Are Turning the Tide on Marine Plastic Pollution*, (July 12, 2021), <https://www.unep.org/news-and-stories/story/how-countries-are-turning-tide-marine-plastic-pollution> [<https://perma.cc/TN5D-L2AR>].

⁷⁵ The term “waste pickers” was formalized at the first international conference of waste-pickers in 2008. WOMEN INFO. EMP. GLOBALIZING & ORG., *Waste Pickers Without Frontiers Report of Conference Proceedings*, (Mar. 1–4, 2008), <https://www.wiego.org/sites/default/files/reports/files/WIEGO-WastePickers-Conf-Report-2008.pdf> [<https://perma.cc/G93S-8WQ9>] [hereinafter *Waste Pickers Without Frontiers*].

environmental benefits by collecting, sorting, transporting, and selling recyclable and reusable materials and products.⁷⁶ In some countries, waste pickers are the only source of solid waste collection, filling a significant gap in municipal services.⁷⁷ Waste pickers also serve as a conduit, channeling recyclable materials to companies that can reuse them.⁷⁸ However, waste pickers tend to come from disadvantaged groups such as women, migrants, and ethnic minorities or castes; they have low education levels and waste picking is often their only livelihood option. Waste pickers are also subject to compromised health from poor working conditions, low incomes, harassment, social stigma, and low life expectancies.⁷⁹

The rapidly rising amount of plastic waste across the globe has raised numerous concerns and attempts to regulate plastic across all stages of its lifecycle. Local governments, countries, and international bodies have enacted regulations that, thus far, have done little to stave off the influx of plastic pollution. These efforts are described in the next part.

⁷⁶ INT'L ALL. WASTE PICKERS (IAWP), *Mission*, <https://globalrec.org/mission/> [<https://perma.cc/UQ9B-ZC6G>] (last visited Feb. 14, 2024); see also Miriam Berger & Heidi Levine, *Plastics in the Gaza Strip Are Both a Curse and a Blessing*, NAT'L GEOGRAPHIC (Aug. 7, 2019), <https://www.nationalgeographic.com/environment/article/gaza-strip-plastics> [<https://perma.cc/9KJK-GW42>] (“In recent years a new culture and economy have risen up around recycling plastics: from collecting and cleaning to sorting and repurposing, people have created direly needed business opportunities.”).

⁷⁷ *Waste Pickers Without Frontiers*, *supra* note 75; INT'L UNION FOR CONSERVATION NATURE, *Waste Pickers Role in Plastic Pollution Reduction: The Ones We Cannot Leave Behind* (Apr. 22, 2021), <https://iucn.org/news/environmental-law/202104/waste-pickers-role-plastic-pollution-reduction-ones-we-cannot-leave-behind> [<https://perma.cc/U3VG-3AG7>].

⁷⁸ *Waste Pickers Without Frontiers*, *supra* note 75. Studies estimate that waste pickers collect close to sixty percent of all plastics that are recycled, which helps prevent plastic waste from becoming marine pollution and improves public health and sanitation. *Id.*; WORLD ECON. F., *Waste Pickers Risk Their Lives to Stop Plastic Pollution—Now They're Shaping Recycling Policies* (Dec. 6, 2022), <https://www.weforum.org/agenda/2022/12/waste-pickers-plastic-pollution-recycling-policies/> [<https://perma.cc/VYC3-TRM8>] [hereinafter *Waste Pickers Risk Their Lives*].

⁷⁹ *Waste Pickers Without Frontiers*, *supra* note 75; WOMEN INFORMAL EMPLOYMENT, *GLOBALIZING & ORG. (WIEGO), Waste Pickers*, <https://www.wiego.org/waste-pickers> [<https://perma.cc/XF3N-82NP>] (last visited Feb. 14, 2024); *Waste Pickers Risk Their Lives*, *supra* note 79. Several participating countries and organizations raised the plight of waste pickers at various stages of the negotiations. See *infra* notes 212, 213, 245, 247 and accompanying text.

B. Regulation of Plastic

Regulation of the production, use, and disposal of plastic has been haphazard, fragmented, and characterized as “still in its ‘infancy.’”⁸⁰ Attempts to regulate plastic have occurred at all levels of government in most countries across the globe and also at the international level. This section provides a brief survey of these attempts at regulation. It ends with a discussion of the international agreements that is necessary to understand the discussion of the UN negotiations.

1. Domestic and National Attempts to Regulate Plastic

The effort to regulate plastic in the U.S. has been varied. No federal law specifically pertains to plastic. The Solid Waste Disposal Act (SWDA)⁸¹ and Resource Conservation and Recovery Act (RCRA)⁸² have sometimes been mentioned as having possible applicability to plastic pollution.⁸³ However, both apply primarily to hazardous solid waste,⁸⁴ and RCRA specifically exempts household waste,⁸⁵ so as a result, control of municipal waste, including plastic waste, has been largely left up to state and local governments.⁸⁶

⁸⁰ Gerry Nagtzaam, *A Fraying Patchwork Quilt: International Law and Plastic Pollution*, 34 VILLANOVA ENV'T L.J. 133, 134 (2023); see also Thomas Maes et al., *A Little Less Conversation: How Existing Governance Can Strengthen the Future Global Plastics Treaty*, 1 CAMBRIDGE PRISMS: PLASTICS 1, 3, <https://www.cambridge.org/core/journals/cambridge-prisms-plastics/article/little-less-conversation-how-existing-governance-can-strengthen-the-future-global-plastics-treaty/CC0586864B36135FD532AF0244F60DE3> [<https://perma.cc/DMA4-SJSB>] (“[T]he existing international regulatory framework is disjointed due to its lack of coordination, limited enforcement mechanisms, resource strains, as well as its diverse set of interests and priorities by UN member states.”) (citations omitted).

⁸¹ 42 U.S.C. §§ 6901–6992k (1965).

⁸² 42 U.S.C. §§ 6901–6992k, ELR STAT. RCRA §§ 1001–11011.

⁸³ See, e.g., Jebe, *supra* note 63, at 10025; Robert W. Adler & Carina E. Wells, *Plastics and the Limits of U.S. Environmental Law*, 47 HARV. ENV'T L. REV. 2, 4, 38–39 (2023).

⁸⁴ Jebe, *supra* note 63, at 10025.

⁸⁵ Noah Sachs, *Planning the Funeral at the Birth: Extended Producer Responsibility in the European Union and the United States*, 30 HARV. ENV'T L. REV. 51, 58 (2006).

⁸⁶ Christina Everling, *Chasing Results From the Chasing Arrows: Strategies for the United States to Stop Wasting Time and Resources When It Comes to Recycling*, 52 UIC J. MARSHALL L. REV. 147, 159–60 (2018) (noting only minimal federal regulation of nonhazardous solid waste). Various bills have been introduced in Congress since 2020, most notably the Break Free from Plastic Pollution Act, which was first introduced in 2020, and then reintroduced in 2021 and 2023. The 2023 bill incorporates other related bills,

At the state level, attempts to regulate plastic waste increased significantly after China banned plastic waste import.⁸⁷ However, plastic use and waste regulation has become a political issue,⁸⁸ resulting in a patchwork of laws across the country, ranging from one extreme—outright bans or strict regulation on the use or disposal of plastic—to the other—a refusal to allow any type of regulation altogether, or to limit it to only the state level. For example, some states in the latter group have enacted legislation that forbids local governments within the state from regulating the use of plastic within their jurisdictions, which has been referred to as a “ban on a ban.”⁸⁹ However, other states, including California,⁹⁰ New York,⁹¹ and Maine,⁹² have enacted a ban on various types of plastic, including plastic grocery bags, straws, and stirrers.⁹³ Nonetheless,

including the Plastic Pellet-Free Waters Act and the Protecting Communities from Plastics Act. To date, none have passed either chamber of Congress. *See Reintroducing the Break Free From Plastic Pollution Act (U.S.)*, PLASTIC POLLUTION COALITION (Oct. 25, 2023), <https://www.plasticpollutioncoalition.org/blog/2023/10/25/reintroducing-the-break-free-from-plastic-pollution-act-u-s> [<https://perma.cc/G2ZM-MJ7J>]. In 2023, the Biden Administration indicated its intent to increase plastic regulation. *See* Sydney L. Fowler et al., *Efforts to Regulate Plastic Pollution Likely to Increase in 2023*, PILLSBURY (Jan 17, 2023), <https://www.pillsburylaw.com/en/news-and-insights/regulate-plastic-pollution-increase-2023.html> [<https://perma.cc/936U-Y244>]. In January 2024, the Biden administration announced plans to seek cuts in single-use plastic purchases. *See* Steve Toloken, *Biden Administration Seeks Cuts in Single-Use Plastics Purchases*, PLASTICS NEWS (Jan. 2, 2024), <https://www.plasticsnews.com/public-policy/biden-wants-federal-agencies-cut-back-single-use-plastics>.

⁸⁷ Jebe, *supra* note 63, at 10026 (“The increase in state activity after China’s import bans is marked, with more than five times the number of bills on all plastics waste considered in 2019 over 2015, and two-and-a-half times more activity on single-use plastic bags (SUPBs).”).

⁸⁸ *Id.* at 10026 (“Preemption battles demonstrate the politicization of regulating plastics. The plastics industry has lobbied aggressively against any regulation of the bags and exerts considerable power at the state level.”).

⁸⁹ Sarah Gibbens, *See the Complicated Landscape of Plastic Bans in the U.S.*, NAT’L GEOGRAPHIC (Aug. 15, 2019), <https://www.nationalgeographic.com/environment/article/map-shows-the-complicated-landscape-of-plastic-bans> [<https://perma.cc/F5JT-DQ5W>] (referring to this legislation as a “ban on a ban”). *See also* Jebe, *supra* note 63, at 10025-26 (“Some states rely on existing state legislation to invalidate local plastics bans, but others go a step further and pass laws creating bans on local plastic bag bans. For example, 17 states currently have preemption statutes in place, restricting regulation of plastic bags to the state level.”) (citations omitted).

⁹⁰ CAL. PUB. RES. CODE §§ 42280–88 (2023).

⁹¹ N.Y. C.P.L.R. §§ 27-2801–09 (McKinney 2020).

⁹² ME. REV. STAT. ANN. tit. 38, § 1611 (2019).

⁹³ *See* Gibbens, *supra* note 89; NAT’L CONF. STATE LEGISLATURES (NCSL), *State*

these efforts are considered limited and weak.⁹⁴ And in the absence of federal legislation, the U.S. is both a leading producer and consumer of plastic and also remains one of the largest global plastic polluters.⁹⁵

Other countries and regions have had more success at regulating plastic, although international regulations are also somewhat piecemeal or limited. In 2019, the European Union passed Directive 2019/904 which requires member states to pass comprehensive plastic legislation covering single-use plastic, recycling, and labeling.⁹⁶ Kenya was one of the first countries to enact a total ban on single-use plastic.⁹⁷ Lauded by many in the international community, the ban appeared to work in the first few years after it was passed.⁹⁸ However, by 2023 plastic bags were once again accumulating within Kenya's borders, in part because of wind and in part because neighboring companies have been smuggling in plastic bags for resale.⁹⁹ In 2018 the UN Environment Programme reported that at least 127 countries had passed some form of plastic

Plastic Bag Legislation (Feb. 8, 2021), <https://www.ncsl.org/environment-and-natural-resources/state-plastic-bag-legislation> [<https://perma.cc/98PY-Z42K>].

⁹⁴ See Jebe, *supra* note 63, at 10026 (“The federal strategy of delegating waste management to the state level has resulted in fragmented and anemic regulation. State-level efforts to regulate plastics waste have largely stalled. Only a few states have placed any serious restrictions on plastics use to date. The power of chemical and plastics industry lobbying, coupled with the rise of state preemption of the local regulation of plastics, undercut future regulatory efforts. This standstill highlights the regulatory challenges of managing plastics in the United States.”).

⁹⁵ Hannah Seo, *The US Falls Behind Most of the World in Plastic Pollution Legislation*, ENV'T HEALTH NEWS (Oct. 4, 2021), <https://www.ehn.org/plastic-pollution-2655191194.html> [<https://perma.cc/7LUL-M93H>].

⁹⁶ *Id.*; Laura Parker, *U.S. Generates More Plastic Trash Than Any Other Nation, Report Finds*, NAT'L GEOGRAPHIC (Oct. 30, 2020), <https://www.nationalgeographic.com/environment/article/us-plastic-pollution> [<https://perma.cc/5WHR-E7T6>] [hereinafter Parker, *U.S. Generates More Plastic Trash*]. According to Parker, China is the world's largest producer of plastics, but the U.S. generates the most plastics waste. *Id.*

⁹⁷ Scovian Lillian, *The Toughest Plastic Bag Ban Is Failing: A Tale of Smugglers, Dumps, and Dying Goats*, NPR (Aug. 9, 2023), <https://www.npr.org/sections/goatsandsoda/2023/08/09/1190211814/the-toughest-plastic-bag-ban-is-failing-a-tale-of-smugglers-dumps-and-dying-goat> [<https://perma.cc/YA5H-BUMR>].

⁹⁸ See Reality Check Team, *Has Kenya's Plastic Bag Ban Worked?*, BBC (Aug. 27, 2019), <https://www.bbc.com/news/world-africa-49421885> [<https://perma.cc/4M4W-9US8>].

⁹⁹ Lillian, *supra* note 97.

regulation, ranging from outright bans on some forms of plastics, to progressive phase-outs, to mere incentives for re-using plastic.¹⁰⁰ These also have been only marginally successful, in part because the regulations are limited to only particular uses, grant too many exceptions, or have failed to provide residents with alternatives to plastic.¹⁰¹

2. *International Agreements on the Use of Plastic*

Several international agreements apply generally to plastic, but few pertain specifically to plastic pollution. And, to the extent that they are applicable to plastic at all, international efforts at plastic regulation have also been fragmentary and disjointed.¹⁰² Nonetheless, a brief discussion of them provides important context for the treaty negotiations.

Marine pollution is addressed in several international treaties. The UN Convention on the Law of the Sea (UNCLOS)¹⁰³ was intended to create a regime to govern rights and responsibilities of member nations using the world's oceans.¹⁰⁴ Although parts of it may apply to marine plastic, UNCLOS is considered to be "overly vague" and lacking the specifics necessary to combat the

¹⁰⁰ See *From Birth to Ban: A History of the Plastic Shopping Bag*, UN ENV'T PROGRAMME (Dec. 20, 2021), <https://www.unep.org/news-and-stories/story/birth-ban-history-plastic-shopping-bag> [<https://perma.cc/V83D-X29V>].

¹⁰¹ Carole Excell, *127 Countries Now Regulate Plastic Bags. Why Aren't We Seeing Less Pollution?*, WORLD RES. INST. (Mar. 11, 2019), <https://www.wri.org/insights/127-countries-now-regulate-plastic-bags-why-arent-we-seeing-less-pollution> [<https://perma.cc/4VVD-539H>]. For example, the island nation of Dominica passed an outright ban on single-use plastic and styrofoam containers in 2019. See Sarah Gibbons, *This Island Nation Is Banning Plastic*, NAT'L GEOGRAPHIC (Aug. 7, 2018), <https://www.nationalgeographic.com/environment/article/news-dominica-plastic-styrofoam-ban> [<https://perma.cc/F3TX-F8AR>]; *Dominica Provides Entire Population with Plastic-Free Bags in Bid for Complete Plastic Ban*, PR NEWSWIRE (Feb. 14, 2020), <https://www.prnewswire.com/news-releases/dominica-provides-entire-population-with-plastic-free-bags-in-bid-for-complete-plastic-ban-301004954.html> [<https://perma.cc/ZAM9-GHAS>].

¹⁰² Maes et al., *supra* note 80, at 3 (The disjointed international regulatory framework "makes the implementation of an ecosystem approach difficult and undermines strong leadership and the formulation of generally agreed targets (like the [Sustainable Development Goals] SDGs), which could guide global action to reduce plastic pollution.") (citations omitted).

¹⁰³ United Nations Convention on the Law of the Sea, Dec. 10, 1982, 1833 U.N.T.S. 3.

¹⁰⁴ Nagtzaam, *supra* note 80, at 147.

complexities of plastic pollution.¹⁰⁵ The Convention on the Prevention of Marine Pollution by Dumping¹⁰⁶ (commonly referred to as the London Dumping Convention) prohibits almost all dumping of waste into the marine environment, but it too is not specifically focused on plastic.¹⁰⁷ The International Convention for the Prevention of Pollution from Ships (MARPOL)¹⁰⁸ is narrowly focused on the discharge of pollution from marine vessels.¹⁰⁹ Thus, while it may apply to plastic waste that is generated at sea, at least eighty percent of plastic pollution in the ocean originates on land, so MARPOL does not have a significant impact on reducing plastic pollution.¹¹⁰ Notably, none of these three agreements have been mentioned by the negotiating parties.¹¹¹

Only two international treaties specifically apply to the plastic pollution problem, and both apply broadly to plastic on either land or sea. The Stockholm Convention on Persistent Organic Pollutants regulates the use of some chemicals used to create plastic.¹¹²

¹⁰⁵ *Id.* at 151–53 (“At best, UNCLOS can be understood as only a declarative document regarding protection against marine pollution; it has not yet, and may never, evolve into an effective environmental regime on this issue.”).

¹⁰⁶ Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, Aug. 30, 1975, 1046 U.N.T.S. 120.

¹⁰⁷ Nagtzaam, *supra* note 80, at 139.

¹⁰⁸ International Convention for the Prevention of Pollution from Ships, Nov. 2, 1973, 1340 U.N.T.S. 184 [hereinafter MARPOL].

¹⁰⁹ Nagtzaam, *supra* note 80, at 140.

¹¹⁰ Maes et al., *supra* note 80, at 2. MARPOL is also somewhat toothless in that it relies on self-reporting of the amount of waste a marine vessel may have discharged into the ocean, and it does not include “accidental loss” in the list of prohibited marine pollution, providing a convenient excuse for marine operators to avoid reporting discharged waste. Nagtzaam, *supra* note 80, 144–45. Some NGO’s and other governmental organizations have also focused on marine plastics pollution, such as the Marine Debris Program, jointly administered by NOAA and UNEP. *See* NOAA MARINE DEBRIS PROGRAM, *International Collaboration*, <https://marinedebris.noaa.gov/current-efforts/international-marine-debris-collaboration> (last visited Feb. 17, 2024) [<https://perma.cc/4X42-GX5S>]. These organizations also face challenges, including limited labor and financial support that limit their ability to monitor and assess relevant data. Maes et al., *supra* note 80, at 4–5.

¹¹¹ The International Maritime Organization, the organization that administers MARPOL, attended the negotiation sessions and mentioned MARPOL in a submitted statement in INC-2 (and possibly others). *See* International Maritime Organization (IMO), Inc-2 Post-session Submission on Agenda Item 4, https://resolutions.unep.org/incres/uploads/agenda_item_4_-_imo_statement_-_inc-4.pdf [<https://perma.cc/YH75-3GCN>].

¹¹² Stockholm Convention on Persistent Organic Pollutants (adopted May 22, 2001, entered into force May 17, 2004) 2256 UNTS 119; Nagtzaam, *supra* note 80, at 153.

However, many forms of plastic do not contain the chemicals that are regulated by the Stockholm Convention, including the plastic used to create most forms of food packaging, so its application is limited.¹¹³ The second is the Basel Convention on Control of Transboundary Transportation of Hazardous Waste,¹¹⁴ which is “considered the most comprehensive global environmental agreement on hazardous waste.”¹¹⁵ The Basel Convention did not apply to plastic until 2019, when plastic waste was added to the list of hazardous waste the Convention seeks to regulate (through an amendment referred to as the “Norway Amendment”).¹¹⁶ The Norway Amendment is limited in ways similar to the Stockholm Convention. For example, the definitions and types of hazardous waste are vague and do not include household plastic waste, which is a significant contributor to global plastic pollution.¹¹⁷ Further, the United States, which is the biggest plastics polluter on earth per capita,¹¹⁸ is not a party to the Basel Convention.¹¹⁹

Many NGO’s and researchers have worked to contribute

¹¹³ Karen Raubenheimer & Alistair McIlgorm, *Can the Basel and Stockholm Conventions Provide a Global Framework to Reduce the Impact of Marine Plastic Litter?*, 96 MARINE POL’Y 285, 287 (2018); Nagtzaam, *supra* note 80, at 155–56.

¹¹⁴ Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, Mar. 22, 1989, 1673 U.N.T.S. 57.

¹¹⁵ Nagtzaam *supra* note 80, at 157.

¹¹⁶ *Id.*, at 163; Basel Convention Plastic Waste Amendments, The Conference of the Parties (May 10, 2019) <http://www.basel.int/Implementation/Plasticwaste/PlasticWasteAmendments/Overview/tabid/8426/Default.aspx> [<https://perma.cc/Y65J-JUES>].

¹¹⁷ Nagtzaam, *supra* note 80, at 165–66.

¹¹⁸ Parker, *U.S. Generates More Plastic Trash*, *supra* note 96.

¹¹⁹ Only a small number of states have mentioned Basel during the negotiations. The comments break out into two main categories. A few states want the plastics treaty to follow the general approach of the Basel Convention in stating the treaty’s objective. These states include Australia (INC-2 Pre-session Submission, at 3) (“We propose keeping the objective high-level, succinct and focused on the key aim of the instrument. Other multilateral agreements have taken a similar approach (such as Minamata Convention, Basel Convention, Montreal Protocol)”) and Canada (INC-2 Pre-session Submission, at 1). The second group focuses on making sure the plastics treaty does not duplicate obligations under Basel. In other words, they argue that the plastic treaty should defer to Basel in the limited areas that Basel does address, such as trade in plastic waste. Countries in this category include India (INC-2 Contact Group 2, at 6–8), Oman (INC-2 Pre-session Submission, at 4), Saudi Arabia (INC-2 Pre-session Submission, at 4), Australia (INC-2 Post-session Submission), Japan (INC-2 Post-session Submission on Agenda Item 4, at 5), and Cuba (Statement on Contact Group 1 About Core Obligations, at 4–5).

solutions to the plastic pollution problem.¹²⁰ In addition, many scholars have called for regulatory reform.¹²¹ However, despite all the regulatory and organizational efforts to address the increasing global plastic crisis, plastic production and use, and therefore plastic pollution, continue to rise. The UN, recognizing the need for action, stepped in to address the problem.

3. *UN Efforts Leading to the Treaty Negotiations*

The UN first showed official interest in global plastic pollution in the mid-2010s. At the second meeting of the UN Environmental Assembly (UNEA)¹²² in 2016, it established an ad hoc expert group to study marine litter and microplastics.¹²³ Over the next years, the UNEA followed the work of the expert group, while considering options for addressing plastic pollution.¹²⁴

¹²⁰ See, e.g., Poonam Watin, *8 Inspiring Innovations Tackling Plastic Pollution* (Aug. 5, 2022), <https://europeansting.com/2022/08/05/8-inspiring-innovations-tackling-plastic-pollution/> [<https://perma.cc/4SRH-YGAP>]; Soewondo, *supra* note 72; Espen Barth Eide & Jeanne d’Arc Mujawamariya, *How Multiple Countries Are Working Together to End Plastic Pollution by 2040* (Sep. 23, 2022), <https://europeansting.com/2022/09/23/how-multiple-countries-are-working-together-to-end-plastic-pollution-by-2040/> [<https://perma.cc/SFX8-Q6ER>]; Douglas Broom, *These Refill Innovations Are Stemming the Flood of Single-Use Plastics* (Apr 7, 2023), <https://europeansting.com/2023/04/07/these-refill-innovations-are-stemming-the-flood-of-single-use-plastics/> [<https://perma.cc/V94L-55S2>]; Lau et al., *supra* note 68, at 1455; Mark Schneider & Antoine de Saint-Affrique, *Why It’s Time for a Coordinated Global Approach to Plastic Solution*, EUROPEAN STING (June 2, 2023), <https://europeansting.com/2023/06/02/why-its-time-for-a-coordinated-global-approach-to-plastic-pollution/> [<https://perma.cc/Q55F-9LJN>].

¹²¹ See, e.g., Nagtzaam, *supra* note 80, at 137 (calling for a “coordinated global response, best realized by a global treaty on plastics that recognizes the joint responsibility of states for the millions of tons of plastic that pollute the planet—particularly the oceans—every year”); Maes et al., *supra* note 80, at 10 (“In light of the problems caused by plastic pollution, the urgent need for comprehensive and cohesive governance mechanisms cannot be overstated.”); Savannah Artusi, Note, *Coastal Marine Debris in Alaska: Problems with Plastics, Pollution, & Policy*, 39 ALASKA L. REV. 279 (2022).

¹²² The UN Environment Assembly is part of the UN Environment Programme. It is the world’s highest-level decision-making body on the environment, with a universal membership of all 193 UN member states. The Assembly meets biennially in Nairobi, Kenya to set priorities for global environmental policies and develop international environmental law. UN Environment Programme, The United Nations Environment Assembly, <https://www.unep.org/environmentassembly/> (last visited Feb. 20, 2024) [<https://perma.cc/6VY5-G4KK>].

¹²³ UNEP, UNEA Res. 1/6, UNEP/EA.2/5 at 1–2 (Mar. 8, 2016); UNEP, UNEA Res. 2/11, UNEP/EA.2/Res.11 (Aug. 4, 2016).

¹²⁴ See, e.g., UNEP, UNEA, Third Session, Res. 3/7, UNEP/EA.3/Res.7, at 3 (Jan. 30, 2018); UNEP, UNEA, Fourth Session, Res. 4/6, UNEP/EA.4/Res.6, at 2–4 (Mar. 28,

When the UNEA convened for its fifth meeting in early 2022, a key item on the agenda was plastic.¹²⁵ On March 2, 2022, the Assembly endorsed a resolution asking the UNEP Executive Director to establish an international negotiating committee (INC) to draft an international legally binding instrument to address plastic pollution.¹²⁶ Resolution 5/14 is grounded in the recognition of the threat to health and the environment posed by increasing levels of plastic pollution and the transboundary nature of the impact of plastic.¹²⁷ It identified the need to strengthen “global coordination, cooperation and governance” of plastic to eliminate plastic pollution.¹²⁸ The Assembly tasked the INC with developing a global legally binding agreement by the end of 2024.¹²⁹

The UNEP planned a program of five negotiating sessions, starting with the first, INC-1, in late 2022 and occurring every six months through INC-5 in late 2024.¹³⁰ To prepare for the INCs, the UNEP established an ad hoc Open-Ended Working Group (OEWG) that met before the negotiating sessions started and developed various work streams on technical and legal information to support

2019); UNEP, UNEA, Fourth Session, Res. 4/9, UNEP/EA.4/Res.9 (Mar. 28, 2019).

¹²⁵ In anticipation of the fifth session, several countries proposed resolutions to establish a committee to negotiate a binding treaty on plastic. See Draft Resolution on an Internationally Legally Binding Instrument on Plastic Pollution by Rwanda and Peru, https://wedocs.unep.org/bitstream/handle/20.500.11822/37395/UNEA5.2%20Global_Agreement_Explanatory%20note%20and%20Resolution%2027%20October.pdf [<https://perma.cc/3DZZ-6PGY>]; Draft Resolution on an International Legally Binding Instrument on Marine Plastic Pollution by Japan, https://wedocs.unep.org/bitstream/handle/20.500.11822/37625/Draft%20Resolution%20on%20an%20international%20legally%20binding%20instrument%20on%20marine%20plastic%20pollution_Japan.pdf?sequence=1&isAllowed=y [<https://perma.cc/3KBF-9ZYZ>].

¹²⁶ UNEP, UNEA Res. 5/14, End Plastic Pollution: Towards an International Legally Binding Instrument (Mar. 2, 2022), https://wedocs.unep.org/bitstream/handle/20.500.11822/39812/OEWG_PP_1_INF_1_UNEA%20resolution.pdf [<https://perma.cc/2XX4-FX5L>] [hereinafter UNEP, Resolution 5/14]. The Resolution was supported by 175 of the Assembly’s 193 members. UN, Nations Sign Up to End Global Scourge of Plastic Pollution (Mar. 2, 2022), <https://news.un.org/en/story/2022/03/1113142>. [<https://perma.cc/U66L-JJWX>].

¹²⁷ UNEA, Resolution 5/14, *supra* note 126, Preamble.

¹²⁸ *Id.*

¹²⁹ *Id.* ¶¶ 1, 3.

¹³⁰ *Intergovernmental Negotiating Committee on Plastic Pollution*, UN ENV’T PROGRAMME (last visited Oct. 7, 2024), <https://www.unep.org/inc-plastic-pollution> [<https://perma.cc/6W5K-6YBR>].

the work of the INCs.¹³¹ Work streams included overview documents on possible organization of the INC work and, significantly, draft Rules of Procedure to govern negotiation of the treaty.¹³²

INC-1 convened in Punta del Este, Uruguay, in November 2022,¹³³ the second session (INC-2) in Paris, France in June 2023,¹³⁴ the third (INC-3) in Nairobi, Kenya in November and December 2023,¹³⁵ and the fourth (INC-4) in Ottawa, Canada in April 2024.¹³⁶ The fifth session is scheduled for November and December 2024 in Busan, Republic of Korea, respectively.¹³⁷ The negotiations for the treaty are more than three quarters done, with less than four months to complete them and produce a treaty to address plastic pollution. The time is ripe to assess the progress and trajectory of the negotiations and to project the likely outcome of the INC's work. The following analysis of the negotiations leverages research by political science and public policy scholars on how narrative is constructed and deployed to influence the focus and contours of public policy measures. The next part reviews the literature and theories on use of narrative in policy analysis and introduces a key analytical tool, the Narrative Policy Framework.

III. Constructing Policy Stories: Narrative in Public Policy Analysis

A significant thread of contemporary public policy analysis sees policymaking as a “contested meaning-making enterprise.”¹³⁸ It assumes that public policy is a social construct and that policy can

¹³¹ The OEWG met May 30, 2022 through June 1, 2022 in Dakar, Senegal. UNEP, Ad Hoc Open-ended Working Group (OEWG) to Prepare for the Intergovernmental Negotiating Committee on Plastic Pollution, <https://www.unep.org/events/unep-event/inc/oewg> [https://perma.cc/WB8D-FE4S].

¹³² UNEP, Ad-Hoc Open-Ending Working Group (OEWG), *Meeting Documents*, <https://www.unep.org/events/unep-event/Intergovernmental-Negotiating-Committee-end-plastic-pollution> (last updated June 1, 2022) [https://perma.cc/5759-3WGR].

¹³³ UNEP, INC-1, *supra* note 15.

¹³⁴ UNEP, INC-2, *supra* note 15.

¹³⁵ UNEP, INC-3, *supra* note 15.

¹³⁶ UNEP, INC-4, *supra* note 15.

¹³⁷ *Fifth Session (INC-5)*, UN ENV'T PROGRAMME, <https://www.unep.org/inc-plastic-pollution/session-5> (last visited Oct. 7, 2024) [https://perma.cc/U8TU-7X48].

¹³⁸ Adam D. Koon et al., *Framing and the Health Policy Process: A Scoping Review*, 31 HEALTH POL'Y & PLANNING, 801, 803 (2016).

be cast in multiple ways to reflect multiple legitimate value considerations.¹³⁹ In this contested space, policy actors develop tools to organize their concepts and perceptions; one such tool is narrative.¹⁴⁰ Public policy scholarship defines narrative as a story with a sequence of events that unfold over time in a plot, that is populated by characters, and that culminates in a moral to the story.¹⁴¹ Narrative is a particularly useful analytical tool “when policy issues are uncertain, complex, and polarized,”¹⁴² which is the case in each of the INC sessions. This part examines the scholarship on narrative with an eye to using it to examine various parties’ policy positions on plastic pollution.

A. *The Power of Narrative in Public Policy Analysis*

Humans are storytellers. Empirical evidence supports the assertion that narrative is a primary means by which individuals organize, process, and convey information.¹⁴³ We make sense of what we perceive through interpretation that is both influenced by and influences our beliefs, values, and actions.¹⁴⁴ The issues we identify as most important and the stories we construct to communicate about those issues reflect our own interpretation of the world.¹⁴⁵ Thus, narrative functions as an interpretive framework or

¹³⁹ *Id.* at 801–03.

¹⁴⁰ *Id.* at 803.

¹⁴¹ Michael D. Jones & Mark K. McBeth, *A Narrative Policy Framework: Clear Enough to Be Wrong?*, 38 POL’Y STUD. J. 329, 329 (2010) [hereinafter Jones & McBeth, *Clear Enough to Be Wrong*].

¹⁴² Greg Hampton, *Narrative Policy Analysis and the Integration of Public Involvement in Decision Making*, 42 POL’Y SCI. 227, 228 (2009); Marcela Veselková, *Narrative Policy Framework: Narratives as Heuristics in the Policy Process*, 27 HUMAN AFF. 178, 178 (2017) (arguing that narrative is important in analyzing wicked problems that are characterized by value-based conflicts between coalitions).

¹⁴³ Anne E. Ralph, *Not the Same Old Story: Using Narrative Theory to Understand and Overcome the Plausibility Pleading Standard*, 26 YALE. J. L. & HUMAN. 1, 26 (2014) (“Narrative is an innately human way of presenting and understanding experiences.”); Jones & McBeth, *Clear Enough to Be Wrong*, *supra* note 141, at 330 (noting that multiple academic disciplines recognize the power of narrative in shaping beliefs and action).

¹⁴⁴ Taled El-Sabawi, *Defining the Opioid Epidemic: Congress, Pressure Groups, and Problem Definition*, 48 U. MEMPHIS L. REV. 1357, 1364 (2018); Koon et al., *supra* note 138, at 802; Todd Bridgman & David Barry, *Regulation Is Evil: An Application of Narrative Policy Analysis to Regulatory Debate in New Zealand*, 35 POL’Y SCI. 141, 141 (2002) (noting that individuals perceive the same world differently, depending on their values and experiences).

¹⁴⁵ Elizabeth A. Shanahan, Michael D. Jones, Mark K. McBeth & Ross R. Lane, *An*

framing technique through which meaning is contextualized and constructed.¹⁴⁶ Indeed, some policy scholars argue that narrative is more powerful than evidence or abstract ideas in shaping how people view policy issues.¹⁴⁷

Policy actors use narrative strategically to define and contest policy problems¹⁴⁸ and provide a lens through which individuals view those problems.¹⁴⁹ Narrative analysis theories argue that political actors deliberately portray issues in calculated ways,¹⁵⁰ using stories to frame issues to mobilize support for a specific agenda¹⁵¹ and create narrative to achieve their policy goals.¹⁵² They

Angel on the Wind: How Heroic Policy Narratives Shape Policy Realities, 41 POL'Y STUD. J. 453, 455 (2013) [hereinafter Shanahan et al., *Angel on the Wind*] (explaining that narratives are representations created by social actors and play a critical role in generating meaning).

¹⁴⁶ Ralph, *supra* note 143, at 26; Donna L. Lybecker, Mark K. McBeth & Elizabeth Kusko, *Trash or Treasure: Recycling Narratives and Reducing Political Polarisation*, 22 ENV'T POL. 312, 314 (2013) (noting that narrative is a framing technique); El-Sabawi, *supra* note 144, at 1365 (describing how policy scholars use meaning construction theory in researching policy processes).

¹⁴⁷ Veselková, *supra* note 142, at 182; *see also* Michael D. Jones, *Cultural Characters and Climate Change: How Heroes Shape Our Perception of Climate Science*, 95 SOC. SCI. Q. 1, 2 (2013) [hereinafter Jones, *Cultural Characters*] (arguing that narrative plays a more important role in shaping opinion than objectively oriented scientific communication).

¹⁴⁸ Deborah A. Stone, *Causal Stories and the Formation of Policy Agendas*, 104 POL. SCI. Q. 281, 282 (1989) [hereinafter Stone, *Causal Stories*]; Ellen Palm et al., *Narrating Plastics Governance: Policy Narratives in the European Plastics Strategy*, 31 ENV'T POL. 365, 367 (2022) (arguing that policy actors use narrative to pursue specific goals); Angela D. Morrison, *Framing and Contesting Unauthorized Work*, 36 GEO. IMMIGR. L.J. 651, 657 (2022); Mark K. McBeth, Elizabeth A. Shanahan, Ruth J. Arnell & Paul L. Hathaway, *The Intersection of Narrative Policy Analysis and Policy Change Theory*, 35 POL'Y STUD. J. 87, 87 (2007).

¹⁴⁹ Lybecker et al., *supra* note 146, at 314; Jones, *Cultural Characters*, *supra* note 147, at 6 (defining framing as categorization for sense-making); El-Sabawi, *supra* note 144, at 136 (identifying narratives as a way of communicating a specific view of the world).

¹⁵⁰ *See* Stone, *Causal Stories*, *supra* note 148, at 293.

¹⁵¹ Palm et al., *supra* note 148, at 366; Koon et al., *supra* note 138, at 803 (noting that frames can be used as “weapons of advocacy”); STONE, POLICY PARADOX, *supra* note 16, at 158; Mark K. McBeth et al., *The Science of Storytelling: Measuring Policy Beliefs in Greater Yellowstone*, 18 SOC'Y & NATURAL RES. 413, 415 (2005) [hereinafter McBeth et al., *Science of Storytelling*] (noting that policy actors use narrative strategically to define problems in a way that makes their favored course of action appear to be in the public interest by offering “the promise of a solution for [a] scary problem”).

¹⁵² Shanahan et al., *Angel on the Wind*, *supra* note 145, at 457; Shanahan et al., *Narrative Policy Framework*, *supra* note 19, at 374.

select and emphasize certain information that determines what those engaged on the issue will deem to be facts.¹⁵³ This framing itself defines the policy issue,¹⁵⁴ and the problem itself may change through the narrative framing.¹⁵⁵ Because narratives are based upon individual perceptions of the world, the resulting frameworks can be and often are contested because they differ from and challenge other framing of the same issue.¹⁵⁶ Political change occurs when new narratives come to dominate the discussion.¹⁵⁷

Narrative analysis is an important analytical tool. The stories policy actors tell show us how they interpret the world.¹⁵⁸ Narratives impact “perceptions of the trade-offs between different policy alternatives” and, therefore, the potential content of legislation.¹⁵⁹ However, policy scholars traditionally struggled to develop effective tools for examining policy narrative.¹⁶⁰ While scholars had recognized since the late 1980s the importance of narrative in shaping public policy, narrative policy analysis lacked clear concepts or tools for policy analysis.¹⁶¹

This tension led to creation of the NPF in 2010. The NPF is a policy process framework that examines “the role of policy narratives in the policy process.”¹⁶² The NPF was not the first

¹⁵³ Koon et al., *supra* note 138, at 803; Stone, *Causal Stories*, *supra* note 148, at 282.

¹⁵⁴ Elizabeth A. Shanahan et al., *Bounded Stories*, 46 POL’Y STUD. J. 922, 924 (2018) [hereinafter Shanahan et al., *Bounded Stories*].

¹⁵⁵ Koon et al., *supra* note 138, at 803 (arguing that policy actors may try to strategically change the problem by reframing the policy dilemma).

¹⁵⁶ Stone has characterized the construction of policy narratives as a tug of war between policy actors, each asserting their own story. Stone, *Causal Stories*, *supra* note 148, at 282.

¹⁵⁷ Jones & McBeth, *Clear Enough to Be Wrong*, *supra* note 141, at 334.

¹⁵⁸ McBeth et al., *Science of Storytelling*, *supra* note 151, at 414; Bridgman & Barry, *supra* note 144, at 141; Garry Gray & Michael D. Jones, *A Qualitative Narrative Policy Framework? Examining the Policy Narratives of U.S. Campaign Finance Regulatory Reform*, 31 PUB. POL’Y & ADMIN. 193, 195 (2016); Jones, *Cultural Characters*, *supra* note 147, at 6 (contending that narrative analysis is a way to understand policy actors’ message structure and its influence).

¹⁵⁹ El-Sabawi, *supra* note 144, at 1366.

¹⁶⁰ Veselková, *supra* note 142, at 182 (chronicling the evolution of narrative analysis theories); Gray & Jones, *supra* note 158, at 194–95 (describing use of narrative methodologies in regulation literature).

¹⁶¹ Veselková, *supra* note 142, at 182.

¹⁶² Elizabeth A. Shanahan et al., *How to Conduct a Narrative Policy Framework Study*, 55 SOC. SCI. J. 332, 332 (2018) [hereinafter Shanahan et al., *How to Conduct*].

methodology to study the use of narrative, but it has quickly gained traction as useful in understanding policy narratives.¹⁶³ The following section sets out the structure and features of the NPF and sets the stage for its application to the UN plastic treaty negotiations.

B. The Narrative Policy Framework as Analytical Tool

The NPF is a structural and systematic approach to understanding the social construction of policy realities.¹⁶⁴ It provides a framework for “systematizing” narratives to highlight points of variation among policy stories¹⁶⁵ and discern patterns in narratives.¹⁶⁶ The NPF embodies the idea that the policy process depends on the meanings actors attach to things and events.¹⁶⁷ It studies the socially constructed policy realities and factors that are captured in policy narratives¹⁶⁸ and attempts to measure how different coalitions of policy actors “compete to present the most compelling narrative” around a policy issue.¹⁶⁹ Understanding how different actors construct their problems through their narratives can shed light on why certain policy arenas remain intractable.

The NPF pulls together disparate threads of narrative analysis to create five core assumptions. First, the NPF is grounded in the idea that humans understand the world through stories. Narrative is understood to play a central role in human cognition and communication. The second assumption is based on the social constructionist theory that stories reflect the author’s own perceptions and interpretation of the world. While there are objectively verifiable facts in the world, the meaningful parts of policy reality are socially constructed. The third assumption, that of bounded relativity, posits that interpretations of the world embedded in stories can vary, but they are not random. Values, beliefs, and contexts influence meaning and those factors can be

¹⁶³ Caroline Schlauffer et al., *The Narrative Policy Framework: A Traveler’s Guide to Policy Stories*, 63 *POLIT VIERTELJAHRESSCHR* 249, 250 (2022).

¹⁶⁴ Jones & McBeth, *Clear Enough to Be Wrong*, *supra* note 141, at 339; Shanahan et al., *Angel on the Wind*, *supra* note 145, at 455.

¹⁶⁵ Palm et al., *supra* note 148, at 368.

¹⁶⁶ Gray & Jones, *supra* note 158, at 194.

¹⁶⁷ Michael D. Jones & Claudio M. Radaelli, *The Narrative Policy Framework: Child or Monster?*, 9 *CRITICAL POL’Y STUD.* 339, 341 (2015).

¹⁶⁸ *Id.*; Shanahan et al., *Angel on the Wind*, *supra* note 145, at 455.

¹⁶⁹ Veselková, *supra* note 142, at 178–79.

studied; understanding those elements leads to understanding meaning. The fourth premise provides the basis for studying stories by arguing that narratives have specific identifiable structural elements that distinguish them from other organizing modes. Finally, the NPF assumes that an issue always has more than one story, and policy narratives operate at multiple levels of discourse—individual, group, and cultural/institutional levels—and each level interacts with the others.¹⁷⁰

The NPF grounds its use in the structural elements of narrative.¹⁷¹ While the content of a narrative will vary depending upon the story being told,¹⁷² these structural elements are part of all narratives and provide a useful model for deconstructing stories. The four elements, as shown in Table 1, are setting, characters, plot, and moral.

TABLE 1. NARRATIVE POLICY FRAMEWORK ELEMENTS

Narrative element	Definition
The Setting	All factors that affect the policy issue, including physical, economic, and legal
The Characters	Participants in the policy narrative; the NPF identifies three categories—hero, victim, and villain
The Plot	Account of the action of the narrative
The Moral	Policy solution promoted by the policy narrative

The setting is the context within which the policy problem resides¹⁷³ and the space where the characters “exist and interact with [each other] . . . over time.”¹⁷⁴ Specifically, it is all “policy-consequential” facts within the story that are generally agreed upon by the actors.¹⁷⁵ However, the setting can itself be an interpretation of the relevant facts because the narrator decides what to include

¹⁷⁰ Jones & Radaelli, *supra* note 167, at 342; Shanahan et al., *How to Conduct*, *supra* note 162, at 333.

¹⁷¹ Jones & Radaelli, *supra* note 167, at 341.

¹⁷² *Id.* at 342.

¹⁷³ *Id.* at 341.

¹⁷⁴ Shanahan et al., *Bounded Stories*, *supra* note 154, at 928; Shanahan et al., *How to Conduct*, *supra* note 162, at 335.

¹⁷⁵ Jones & Radaelli, *supra* note 167, at 341.

and what to emphasize or de-emphasize.¹⁷⁶ “The purpose of the setting is to focus the audience’s attention on a particular space and time”¹⁷⁷ by providing a particular viewpoint of the story’s context.¹⁷⁸ A narrative’s setting can include a specific geography or location, such as the immediate surroundings of the issue.¹⁷⁹ However, it may also include broader components such as relevant institutional venues,¹⁸⁰ key laws and legal history,¹⁸¹ the social, economic, and political context of the issue,¹⁸² and the values imputed to actors.¹⁸³

In the NPF, characters are the participants in the policy narrative, the entities who act and who are acted upon.¹⁸⁴ NPF literature identifies three categories of characters: victim, villain, and hero.¹⁸⁵ The victim is the entity hurt or damaged by the policy problem and worthy of policy attention, the villain is the entity responsible for the policy problem, and the hero is the entity who can potentially fix the problem.¹⁸⁶

Broadly, the plot of a narrative temporally maps the action of the story.¹⁸⁷ The plot organizes the actions, draws attention to different facets of the setting, and, by doing so, keys in on what the story is about.¹⁸⁸ Plot can also be seen as establishing the relationships in the story, both the relationships between the

¹⁷⁶ Michael D. Jones et al., *A Brief Introduction to the Narrative Policy Framework*, in *NARRATIVES AND THE POLICY PROCESS: APPLICATIONS OF THE NARRATIVE POLICY FRAMEWORK 3* (Michael D. Jones, Mark K. McBeth & Elizabeth A. Shanahan eds., 2022) <https://oer.pressbooks.pub/scienceofstoriesv2/chapter/introduction> [<https://perma.cc/HC9B-QNMS>]; see also Koon et al., *supra* note 138, at 803 (explaining that frames determine what policy actors consider facts).

¹⁷⁷ Shanahan et al., *How to Conduct*, *supra* note 162, at 335.

¹⁷⁸ Shanahan et al., *Bounded Stories*, *supra* note 154, at 928.

¹⁷⁹ Shanahan et al., *How to Conduct*, *supra* note 162, at 335.

¹⁸⁰ Jones & McBeth, *Clear Enough to Be Wrong*, *supra* note 141, at 340.

¹⁸¹ Gray & Jones, *supra* note 158, at 196; Kelly Alison Behre, *Deconstructing the Disciplined Student Narrative and Its Impact on Campus Sexual Assault Policy*, 61 *ARIZ. L. REV.* 885, 908 (2019).

¹⁸² Shanahan et al., *How to Conduct*, *supra* note 162, at 335.

¹⁸³ Gray & Jones, *supra* note 158, at 203–04.

¹⁸⁴ Shanahan et al., *Angel on the Wind*, *supra* note 145, at 459; Jones & Radaelli, *supra* note 167, at 341; Shanahan et al., *How to Conduct*, *supra* note 162, at 335.

¹⁸⁵ Shanahan et al., *Angel on the Wind*, *supra* note 145, at 459, Table 1.

¹⁸⁶ McBeth et al., *Science of Storytelling*, *supra* note 151, at 414–15; Shanahan et al., *Angel on the Wind*, *supra* note 145, at 459, Table 1.

¹⁸⁷ Jones & Radaelli, *supra* note 167, at 341.

¹⁸⁸ Shanahan et al., *How to Conduct*, *supra* note 162, at 336.

characters and the relationships between characters and the setting.¹⁸⁹ This ordering of actions and relationships provides causal explanations and assigns blame for the policy problem.¹⁹⁰

The moral of a policy story is the solution promoted by the narrative.¹⁹¹ The moral often refers to the ethical aspects of the solution proposed by the narrative¹⁹² and is frequently fashioned as the action of the hero to protect the victim from harm.¹⁹³

IV. Negotiations as Narrative: Using the NPF to Understand the UN Plastics Treaty Negotiations

The UN plastic treaty negotiations are an attempt at policymaking at the international level. More significantly, the negotiations in the INC sessions are constructions of policy narratives that strive to influence the shape and substance of any final treaty. The NPF is a useful tool for analyzing the parties' statements to discern the stories that different actors tell about plastic. That analysis is the focus of this part.

Written submissions from treaty negotiation participants and observers were permitted both before and during each negotiating session and are posted on the dedicated UN webpage for the plastic treaty negotiations.¹⁹⁴ Actual negotiating sessions were held behind closed doors, with no public access or recording. Thus, parties' oral remarks are available only via recordings of the plenary sessions included as part of INC-2, INC-3, and INC-4, which are posted on

¹⁸⁹ Jones & McBeth, *Clear Enough to Be Wrong*, *supra* note 141, at 340; Jones & Radaelli, *supra* note 167, at 341; Gray & Jones, *supra* note 158, at 196; Veselková, *supra* note 142, at 186.

¹⁹⁰ Veselková, *supra* note 142, at 186; Jones & McBeth, *Clear Enough to Be Wrong*, *supra* note 141, at 340; Gray & Jones, *supra* note 158, at 196.

¹⁹¹ Gray & Jones, *supra* note 158, at 196; Jones & Radaelli, *supra* note 167, at 341 (identifying the moral as the "takeaway" of the narrative).

¹⁹² Jones & Radaelli, *supra* note 167, at 341.

¹⁹³ Shanahan et al., *How to Conduct*, *supra* note 162, at 336; Jones & McBeth, *Clear Enough to Be Wrong*, *supra* note 141, at 341.

¹⁹⁴ UNEP, INC-1, *supra* note 15, Pre-session Submissions, <https://www.unep.org/inc-plastic-pollution/session-1/submissions>; UNEP, INC-2, *supra* note 15, Pre-session Submissions, <https://www.unep.org/inc-plastic-pollution/session-2/submissions>; UNEP, INC-3, *supra* note 15, Pre-session Submissions, <https://www.unep.org/inc-plastic-pollution/session-3/submissions>; UNEP, INC-4, *supra* note 15, Written Statements, <https://www.unep.org/inc-plastic-pollution/session-4/statements>. The INC Secretariat provided templates for submissions before both INC-2 and INC-3, identifying specific topics as the focus of the submission.

the UN webpage.¹⁹⁵ The dataset for application of the NPF is comprised of these written submissions and oral statements from the plenaries. The submissions for INC-2 and INC-3 provided the most substantive content and are the core of the dataset, with additional material from INC-4. We conducted content analysis¹⁹⁶ of this data, using NPF elements, to identify patterns in narrative construction and policy positioning.

The submission template for INC-2 asked for comments on basic elements of any treaty, including the treaty's objectives and core obligations.¹⁹⁷ Review of the input on proposed objective surfaces what appears to be broad consensus, with nearly all countries and observers explicitly identifying UNEA Resolution 5/14's reference to "ending plastic pollution"¹⁹⁸ as stating the objective of the treaty negotiations. However, in-depth analysis of the data using NPF elements reveals three quite different narratives around this objective, leading to different sets of policy solutions. These story lines are distinguishable by how the groups characterize plastic itself, whether as the villain, the victim, or the hero of the story, and by different definitions of the plastic problem.¹⁹⁹ The narratives uncover the major elements of the political dispute over the regulation of plastic, including views on the physical nature of plastic and plastic pollution, the tension between social and economic aspects of plastic, and the appropriate role of international governance institutions. Differing stories around these themes distinguish the differing political positions on the global plastic treaty. This part draws the contours of these three narratives.

¹⁹⁵ UNEP, INC Webcast, <https://www.unep.org/inc-plastic-pollution/webcast> [<https://perma.cc/NP48-3AKR>].

¹⁹⁶ Content analysis is a research technique that uses a set of procedures to make replicable and valid inferences from text. ROBERT PHILIP WEBER, *BASIC CONTENT ANALYSIS* 9 (Michael S. Lewis-Beck et al. eds., 2nd ed. 1990); KLAUS KRIPPENDORFF, *CONTENT ANALYSIS: AN INTRODUCTION TO ITS METHODOLOGY* 18 (Margaret H. Seawell et al. eds., 2nd ed. 2004).

¹⁹⁷ Second Session (INC-2): Pre-Session Submissions, UNEP, <https://www.unep.org/inc-plastic-pollution/session-2/submissions> [<https://perma.cc/8P5Z-T9JM>] (follow "A template for submissions" hyperlink) (last visited Oct. 7, 2024).

¹⁹⁸ UNEA, Resolution 5/14, *supra* note 126.

¹⁹⁹ The Appendix provides a listing of countries in each of these categories.

A. *Plastic Is the Villain*

For a significant number of parties involved in the INC, the problem with plastic is literally plastic itself. Plastic is the villain of the story. They see the inherent properties of plastic as creating a cascade of negative environmental and social consequences. This subpart examines the group's view of the setting and moral of the story as it affects their definition of the plastic problem.

Seeing plastic as the villain reflects the group's interpretation of the context of the plastic problem and the setting of the narrative. All parties to the INC agree on the basic geography of the problem, i.e., that plastic has transboundary impacts, but they see the impacts playing out in quite different contexts. Their perspective on the environmental context of plastic is a case in point. The plastic-is-a-villain narrative situates plastic squarely in the triple planetary crisis of climate change, pollution, and biodiversity loss.²⁰⁰ These issues each have individual causes and effects but also have interlinked and cascading effects that exacerbate negative environmental impacts.²⁰¹ For parties acknowledging the connection between plastic and the triple planetary crisis, the environmental setting of the plastic problem is one of multiple forces combining to accelerate environmental degradation across several aspects of the physical environment.²⁰²

The connection to the triple planetary crisis underscores the complexity of the production and use of plastic. Many parties to the villain narrative recognize that plastic is not one thing, but rather has multiple aspects to its physical reality. These countries

²⁰⁰ *What Is the Triple Planetary Crisis?*, UNITED NATIONS CLIMATE CHANGE: UN CLIMATE CHANGE NEWS (Apr. 13, 2022), <https://unfccc.int/news/what-is-the-triple-planetary-crisis> [<https://perma.cc/KY9S-ENW2>].

²⁰¹ For explanation of the interconnected impacts of the triple planetary crisis, see, e.g., Melanie Bergmann et al., *A Global Plastic Treaty Must Cap Production*, 376 SCI. 469, 469–70 (2022); Dhruv Gupta, *The Triple Planetary Crisis*, THE CLIMATE CLUB: CLIMATE CHANGE BLOGS (Aug. 15, 2024), <https://www.theclimateclub.co/climatechangeblogs/the-triple-planetary-crisis> [<https://perma.cc/Z7LF-62MN>].

²⁰² Key parties calling out the connection between plastic and the triple planetary crisis are the High Ambition Coalition to End Plastic Pollution (HAC), Moldova, Monaco, New Zealand, Norway, Peru, Rwanda, Uruguay, CIEL), and the UN Children and Youth Major Group. The High Ambition Coalition to End Plastic Pollution is a collection of countries committed to develop an ambitious international legally binding instrument to end plastic pollution by 2040. HIGH AMBITION COALITION TO END PLASTIC POLLUTION, <https://hactoendplasticpollution.org/> [<https://perma.cc/5YWM-ZTF3>] (last visited Dec. 3, 2024).

recognize, for example, that there are numerous types of plastic polymers²⁰³ and that manufacturers use different categories of chemicals and additives to create plastic products.²⁰⁴ This group also presents a complex view of the socio-economic context of plastic. A large proportion of the countries in this group expresses an essentially technocratic perspective, proposing technical measures to address technological issues with plastic.²⁰⁵ However, an important number of countries and non-governmental organizations describe a broader view of the socio-economic context in their submissions, arguing for a human rights-based approach to plastic²⁰⁶ grounded on recognizing a clean, healthy, and sustainable environment as a human right.²⁰⁷

²⁰³ See, e.g., Georgia, INC-2 Pre-session Submission; Republic of Korea, INC-2 Pre-session Submission 3 (arguing for reduction in the number of petrochemical polymers); Pew Foundation, INC-2 Pre-session Submission 3 (noting the need to limit the variety of plastic polymers); Switzerland, INC-2 Pre-session Submission 2; Barbados, INC-3 Pre-session Submission (discussing different types of plastic).

²⁰⁴ See, e.g., EU, INC-2 Pre-session Submission 2–3; Moldova, INC-2 Pre-session Submission 1; Rwanda, INC-2 Pre-session Submission 4; Greenpeace, INC-2 Pre-session Submission 3 (arguing for reduction in use of problematic chemicals; MacArthur Foundation, INC-2 Pre-session Submission 5 (advocating elimination of problematic plastics).

²⁰⁵ See, e.g., Colombia, INC-2 Pre-session Submission 2 (proposing creation of standards and indicators to control plastic); HAC, INC-2 Pre-session Submission 3 (proposing restrictions on polymers); The National Resources Defense Council (NRDC), INC-2 Pre-session Submission 1 (arguing for production limits on various forms of plastic).

²⁰⁶ Parties advocating a rights-based approach include Micronesia, INC-2 Pre-session Submission 5 (arguing that the treaty's subsidiary body should incorporate interests of Indigenous peoples in a rights-based manner); Uruguay, INC-2 Pre-session Submission 1 (contending that the plastic crisis needs a worldwide rights-based approach); CIEL, INC-2 Pre-session Submission 2 (explaining that a rights-based approach should be pursued because it reflects the evolution of international environmental law); Greenpeace, INC-2 Pre-session Submission 2 (advocating that the treaty advance a rights-based approach as part of a just transition for workers); Center for Oceanic Awareness, Research, and Education (COARE), INC-2 Pre-session Submission 1–2 (asserting that the treaty objective should be to protect health following a rights-based approach); UNEP Youth Focus Group, INC-2 Pre-session Submission 4 (arguing that the treaty should take a rights-based approach).

²⁰⁷ G.A. Res. 48/13, at 1–3 (Oct. 8, 2021) (cited by CIEL). See also Marcos Orellana (Special Rapporteur on the Implications for Human Rights of the Environmentally Sound Management and Disposal of Hazardous Substances and Wastes), *Implications for Human Rights of the Environmentally Sound Management and Disposal of Hazardous Substances and Wastes*, U.N. Doc. A/76/207 (Jul. 22, 2021), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N21/201/78/PDF/N2120178.pdf?OpenElement> [<https://perma.cc/7MSE->

Some members of this group specifically recognize the disproportionate impact of plastic production and pollution on Indigenous peoples²⁰⁸ and vulnerable populations,²⁰⁹ including future generations.²¹⁰ Recognizing multiple populations and longer time frames as central to the setting of plastic means a human rights-based approach is needed for a holistic view of plastic.²¹¹ Several key parties, including the EU²¹² and Peru²¹³ advocate this approach, specifically identifying the importance of waste pickers as part of the plastic ecosystem and the corresponding need for a just transition for these workers.²¹⁴

The plastic-is-the-villain group takes a broad view of the governance architecture for plastic, beginning with the scope of the treaty. This group reads the text of Resolution 5/14 as extending

9R9N]; Office of the High Commissioner for Human Rights, Key Human Rights Considerations for the Negotiations to Develop an International Legally Binding Instrument on Plastic Pollution (Nov. 30, 2022), <https://www.ohchr.org/sites/default/files/documents/issues/climatechange/2022-12-01/OHCHR-inputs-INC1.pdf> [<https://perma.cc/YDU3-RRSZ>] (noting that the lifecycle of plastics has become a global threat to human rights).

²⁰⁸ New Zealand, INC-2 Statement, Contact Group 1, Core Obligation 12; Micronesia, INC-2 Pre-session Submission 5.

²⁰⁹ Mexico, INC-2 Opening Statement; CIEL, INC-2 Pre-session Submission 9–10 (advocating that treaty provisions should comply with human rights and environmental justice principles).

²¹⁰ Indonesia, INC-2 Pre-session Submission 2; UNEP Youth Focus Group, INC-2 Pre-session Submission 4; UNEP Children and Youth Major Group, INC-2 Pre-session Submission 2.

²¹¹ CIEL, INC-2 Pre-session Submission 2; Uruguay, INC-2 Pre-session Submission 2 (arguing for the need for an “integrated” view of plastics).

²¹² EU, INC-2 Statement, Contact Group 1, at 32.

²¹³ Peru, INC-2 Pre-session Submission 8.

²¹⁴ The concept of just transition concerns the intersection between the environmental aspects of greening an economy and the impacts on workers and frontline communities. EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT, *What Is a Just Transition?*, <https://www.ebrd.com/what-we-do/just-transition> [<https://perma.cc/8XBF-G84Z>] (last visited Sep. 6, 2024). Although there is no one definition of just transition, a common definition is: “A Just Transition means greening the economy in a way that is as fair and inclusive as possible to everyone concerned, creating decent work opportunities and leaving no one behind.” INT’L LABOUR ORG., *Climate Change and Financing a Just Transition* (July 9, 2024), <https://www.ilo.org/resource/other/climate-change-and-financing-just-transition>. See also Int’l. Trade Union Confederation (ITUC), Opening statement of the ITUC at the Fourth Session of the Intergovernmental Negotiating Committee on Plastic Pollution (INC-4) (Apr. 23, 2024) (arguing the importance of the Just Transition concept for the plastics treaty).

across a plastics lifecycle that begins with the extraction of oil, plastic's primary raw feedstock.²¹⁵ Thus, to this group, Resolution 5/14 authorizes the treaty to regulate upstream to the production of primary plastic polymers, as well as downstream to use and disposal of plastic waste.²¹⁶ Further, they see addressing the issues associated with plastic as a collective responsibility, needing significant commitments at the global level and broad transparency across multiple aspects of the plastic problem.²¹⁷

This group also focuses on accountability—who actually *has* voice in the treaty negotiations and who *should have* voice. A major cause of disagreement around the INCs is the villain group's accusation that the petrochemical and plastics industries are over-represented, with some industry representatives masquerading as non-profit organizations.²¹⁸ Studies of INC-3 and INC-4 participants

215 A focus on the entire lifecycle of plastic is often referred to as “circularity,” which recent scholarship explores in detail. *See, e.g.,* Del Savio, *supra* note 70, at 11 (“[A] circular economy approach to plastics . . . aims to shift the linear steps of production, use, and disposal towards a design, use, re-design and re-use approach in order to create a closed-loop.”); Jebe, *supra* note 63, at 10020 (“[C]ircularity looks at the full life cycle of a product and the relationship between resource use and waste.”); Maes et al., *supra* note 80, at 3 (noting that current international regulatory efforts do not pay sufficient attention to the need for circularity).

216 Costa Rica, INC-3 In-session Submission for Contact Group 1, https://resolutions.unep.org/resolutions/uploads/costarica_0.pdf [<https://perma.cc/HZ98-2UJ6>]; Norway, INC-3 In-session Submission for Contact Group 1, https://resolutions.unep.org/resolutions/uploads/norwayprimaryplasticproduction_0.pdf [<https://perma.cc/6WZ8-PMSP>]; Panama, INC-3 In-session Submission for Contact Group 1; Maldives, INC-4 Closing Statement by Maldives; UNEP, Report of the intergovernmental negotiating committee to develop an international legally binding instrument on plastic pollution, including in the marine environment, on the work of its fourth session, ¶ 40, UNEP/PP/INC.4/5 (May 6, 2024) [hereinafter UNEP, INC-4 Report] (noting that the EU argued a paradigm shift was needed in the upstream value chain for plastic to achieve sustainable production of plastic).

217 Pacific Small Island Developing States, INC-3 In-session Submission for Contact Group 2; Monaco, INC-2 Pre-session Submission 3; New Zealand, INC-2 Pre-session Submission 3–5; Uruguay, INC-2 Pre-session Submission 3.

218 UNEP Children and Youth Major Group, INC-2 Pre-session Submission 3; COARE, INC-2 Pre-session Submission 4 (noting the strong industry voice in the negotiations and the inherent conflict of interest between business and human rights). Current UN policies for observer participation do not allow businesses to register directly for observer status. CIEL, *Fossil Fuel and Chemical Industries Registered More Lobbyists at Plastics Treaty Talks than 70 Countries Combined* (Nov. 15, 2023), <https://www.ciel.org/news/fossil-fuel-and-chemical-industries-at-inc-3/> [<https://perma.cc/S4B9-Z24A>] [hereinafter CIEL, *Fossil Fuel and Chemical Industries*] (pointing out that several countries have fossil fuel and/or chemical industry

identified 143 registered industry lobbyists for INC-3 and 196 for INC-4, which means that business interests outnumber several other important constituencies.²¹⁹

This perspective on the context of plastic informs the identification of the story's characters. The victims, those being harmed, are essentially all humans. Where plastic, the villain causing the harm, poses an existential threat, we are all its victims, though vulnerable and underrepresented communities are under particular threat. The hero that will save us from harm is the transition away from the use of fossil fuels.

These characterizations lead directly to the proposed moral—the policy solutions—for this group's story. This group's focus on the environmental and justice impacts of plastic leads to calls for ambitious measures to avoid the most drastic consequences of plastic production and use. To that end, nearly all of the parties in this group advocate at least some reduction in the production of virgin plastic. The largest contingent argues for production limits and/or reductions achieved through production bans,²²⁰ national reduction targets,²²¹ or tax reforms.²²² Many in the villain group also

representatives on their official state delegations). Industry organizations must register as part of an intergovernmental or non-governmental organization (such as an industry association) or as part of a state delegation to participate. James Bruggers, *Fossil Fuel Lobbyists Flock to Plastics Treaty Talks as Scientists, Environmentalists Seek Conflict of Interest Policies*, INSIDE CLIMATE NEWS (Nov. 19, 2023), <https://insidclimateneeds.org/news/19112023/nairobi-plastics-treaty-talks-fossil-fuel-lobbyist-influence-conflicts-of-interest/> [https://perma.cc/SSH9-YKMF].

²¹⁹ CIEL, *Fossil Fuel and Chemical Industries*, *supra* note 218; CIEL, *Fossil Fuel Lobbyists Outnumber National Delegations, Scientists, and Indigenous Peoples at Plastics Treaty Negotiations* (Apr. 25, 2024), <https://www.ciel.org/news/fossil-fuel-and-chemical-industry-influence-inc4/> [https://perma.cc/SFJ3-CHC4]. This has led to calls for stronger conflict of interest policies for the negotiations. Bruggers, *supra* note 218.

²²⁰ This group includes Armenia, Cambodia, Georgia, Israel, Mauritius, Micronesia, New Zealand, Norway, Rwanda, Switzerland, Uruguay, the Pew Foundation, the UNEP Youth Focus Group, COARE, the Ocean Conservancy, and Greenpeace. Some countries call for bans on production of specific categories of plastic such as single use plastics. *See, e.g.*, Peru, INC-2 Pre-session Submission 3; Republic of Korea, INC-2 Pre-session Submission 3; Tonga, INC-2 Pre-session Submission 3; New Zealand, INC-2 Pre-session Submission 3.

²²¹ *See, e.g.*, Bangladesh, INC-2 Pre-session Submission 3.

²²² New Zealand, INC-2 Pre-session Submission 3 (advocating fossil fuel subsidy reform); Georgia, INC-2 Pre-session Submission 2 (advocating the use of taxes to control plastic production). A smaller subgroup advances the somewhat more moderate position of limiting plastic production to “sustainable” levels, which they tie to the idea of recyclability. Republic of Moldova, INC-2 Pre-session Submission 1; Peru, INC-2 Pre-

advocate for standardized measurement of plastic impacts and common reporting formats and templates,²²³ global standards to identify and regulate polymer formulas and toxic additives,²²⁴ and mandatory standards for design of plastic products.²²⁵

To support the call for production reductions, some parties also call for the treaty to contain specific targets to which countries commit. The UNEP Youth Focus Group, for example, argues that quantitative targets should form the “backbone” of the treaty.²²⁶ Similarly, Armenia identifies the need for “global goals outlined in the convention within specified timeframes”²²⁷ and Colombia proposes a sequence of graduated targets spread out over several years.²²⁸ Others argue that items to be included in national action plans (NAPs) should be specified in the treaty²²⁹ and that NAPs contain binding quantitative targets.²³⁰

Finally, this group argues that the treaty targets should be binding. They especially have less faith in reliance on nationally determined commitments and action plans, such as those called for under the Paris Agreement on climate change,²³¹ as the core of the plastic treaty, citing the lackluster results of this mechanism under the Paris Agreement.²³²

session Submission 3; Uruguay, INC-2 Pre-session Submission 3; Barbados, INC-3 Pre-session Submission.

²²³ See, e.g., Colombia, INC-3 Pre-session Submission 14–15 (identifying the need for common reporting items); Rwanda, INC-2 Pre-session Submission 6 (calling for harmonized reporting under the treaty); Moldova, INC-2 Pre-session Submission 1–2 (arguing for creating of global sustainability criteria for plastics); New Zealand, INC-2 Pre-session Submission 6 (calling for standardized data collection for reporting on plastic).

²²⁴ Ocean Conservancy, INC-2 Pre-session Submission 5 (proposing standard labeling for chemicals of concern); Ecuador, INC-2 Pre-session Submission 3 (calling for identification of criteria for chemicals of concern); EU, INC-2 Pre-session Submission 2–4 (proposing identification of global standards for problematic plastics).

²²⁵ Barbados, INC-3 Pre-session Submission 2.

²²⁶ UNEP Youth Focus Group, INC-2 Pre-session Submission 4.

²²⁷ Republic of Armenia, INC-2 Pre-session Submission 4–5.

²²⁸ Colombia, INC-2 Pre-session Submission 13–14.

²²⁹ See, e.g., EU, INC-2 Pre-session Submission 9.

²³⁰ Mauritius, INC-3 In-session Submission for Contact Group 2; Pacific Small Island Developing States, INC-3 In-session Submission for Contact Group 2.

²³¹ See *infra* notes 335 through 343 and accompanying text for detailed discussion about the Paris Agreement and its relationship to the plastic treaty negotiations.

²³² See, e.g., EU, INC-2 Submission for Contact Group 2, at 17 (arguing that national action plans should not be the only legal obligations under the treaty); United Kingdom,

B. Plastic Is the Victim

Another large segment of INC parties defines the plastic problem as one of poor waste management. Plastic itself is not the problem for them. Indeed, they at least tacitly accept the usefulness of plastic, while some explicitly extol the important role that plastic plays in society.²³³ For these parties, the culprits are problematic plastics and poor waste management practices²³⁴ that result in the release of plastic and plastic waste into the environment.²³⁵ This narrative characterizes plastic as the victim of unwarranted negative attacks on its reputation. We examine here this coalition's perspective on the setting and moral of the plastic story.

This coalition differs from the plastic-is-a-villain group in its interpretation of important contextual elements and their story's setting. From the environmental perspective, the plastic-is-a-victim group views the plastic problem as a single issue with discrete impacts. Only a handful of the members of this group mentions any connection between plastic and other environmental issues such as climate change,²³⁶ and they limit the connection to the role of plastic *pollution* as a contributor to other issues.²³⁷ More commonly, entities in this group are silent as to plastic's potential

INC-2 Submission for Contact Group 2, at D1 (noting that national action plans alone will not create cohesive global action); Mexico, INC-2 Opening Statement (arguing that voluntary commitments alone are not adequate to address the issues with plastic); UNEP Youth Focus Group, INC-2 Pre-session Submission 5 (contending that over-reliance on national action plans is inefficient).

²³³ Japan, INC-2 Pre-session Submission 3; United Kingdom, INC-2 Pre-session Submission 10; Ghana, INC-2 Pre-session Submission 3 (“Plastic plays a very important role in all our societies as a key component in all manner of products . . .”).

²³⁴ Ghana, INC-2 Pre-session Submission 3; Centre for Environmental Justice (CEJ), INC-2 Pre-session Submission 1–3.

²³⁵ CEJ, INC-2 Pre-session Submissions 1–2; United States, Intervention at INC-2 on Agenda Item 4, at 1.

²³⁶ Australia, INC-2 Pre-session Submission 2 (noting the connection between plastic and the triple planetary crisis); Canada, INC-2 Pre-session Submission 2 (identifying plastic as part of the triple planetary crisis); Thailand, INC-2 Pre-session Submission 1 (discussing plastic pollution's connection to biodiversity and climate); Palau, INC-2 Pre-session Submission 2 (connecting issues with plastic to climate change); ITUC, INC-2 Pre-session Submission 1 (explaining the relationship between plastic, biodiversity, and climate change).

²³⁷ See, e.g., Palau, INC-2 Pre-session Submission 2 (arguing that “[p]lastic waste exacerbates climate change impacts . . .”); Australia, INC-2 Pre-session Submission 2 (stating that “[p]lastic pollution contributes to the triple planetary crisis . . .”).

environmental ripple effect. At a micro level, this coalition distinguishes between different types of plastic with different levels of hazard.²³⁸ For example, several parties define a category of “problematic” plastics,²³⁹ others identify “toxic or hazardous plastics,”²⁴⁰ and a third group separates out single use plastics.²⁴¹

The plastic-is-a-victim perspective on the socio-economic context of plastic is grounded in the tensions between social and economic factors. Countries in this coalition generally recognize and acknowledge the negative impact of plastic waste on human health.²⁴² At the same time, several countries specifically identify plastic production and use as an economic plus or, at minimum, an economic necessity. Ghana and Japan, for example, both call attention to the usefulness of plastic,²⁴³ and Malaysia argues that the core obligations of the treaty should not hamper the economic benefits of plastic.²⁴⁴ The tension between the economic benefits of plastic use and the social harm of plastic pollution makes these parties loathe to replace plastic altogether. They thus carve out categories of plastic they deem to be troublesome and focus regulation on them.

The plastic-is-a-villain group recognizes the impact of plastic on waste pickers as a key driver of socio-economic tension. Far fewer parties in the victim group see this as part of the plastics landscape.

²³⁸ See, e.g., Malaysia, INC-2 Submission for Contact Group 1, at 2 (noting that “not all plastics pose the same level of hazard. Non-hazardous plastic should not be subject to the same control measures.”).

²³⁹ Japan, INC-2 Pre-session Submission 4 (defining problematic plastics as those that are hard to collect); Tunisia, INC-2 Pre-session Submission 2–3 (defining problematic plastics as those that are leakage prone); International Council of Beverages Associations, INC-2 Pre-session Submission 2 (identifying problematic plastics as plastics that have high leakage rates, are short-lived, or are from non-renewable materials); Uganda, INC-4 Statement on Article 1 (arguing for a focus on problematic plastics).

²⁴⁰ Africa Group, INC-2 Pre-session Submission 3; United States, INC-2 Pre-session Submission 3; Philippines, INC-2 Pre-session Submission 2; Brazil, INC-2 Submission for Contact Group 1.

²⁴¹ Philippines, INC-2 Pre-session Submission 2; Tunisia, INC-2 Pre-session Submission 3; Yemen, INC-2 Pre-session Submission 2–3; Bosnia & Herzegovina, INC-2 Pre-session Submission 2.

²⁴² See, e.g., Australia, INC-2 Pre-session Submission 2; Kenya, INC-2 Pre-session Submission 2; Singapore, INC-2 Pre-session Submission 2; Tanzania, INC-2 Pre-session Submission 2; Thailand, INC-2 Pre-session Submission 1.

²⁴³ Ghana, INC-2 Pre-session Submission 3; Japan, INC-2 Pre-session Submission 3.

²⁴⁴ Malaysia, INC-2 Pre-session Submission 1.

Country submissions identifying the issue are from Brazil and the Africa Group,²⁴⁵ both of which are home to significant populations engaged in waste picking. Several NGO submissions raise issues regarding the informal waste management sector, but these are organizations with a focus on labor, such as the International Labour Organization,²⁴⁶ or that are specifically connected to waste pickers.²⁴⁷ Absent that direct connection to informal sector workers, the parties in the plastic-is-a-victim coalition do not register these workers as part of the context of plastic.

In contrast to the plastic-is-the-villain group, the parties in the victim group see the governance context as one of largely individual country level decision-making, with only minimal commitments at the global level. They read the mandate of Resolution 5/14 as limited to preventing only pollution that presents a risk to health.²⁴⁸ The vast majority of parties in this group advocate reliance on NAPs as the primary governance mechanism. About half of the countries propose that the treaty require countries to create NAPs, with guidance on format and methodology of the plans provided by the treaty's conference of the parties (COP).²⁴⁹ However, the substance of NAPs would be determined at the country level, with no requirements or targets in the treaty itself.²⁵⁰ Decisions on individual country commitments to address plastic would thus be squarely in

²⁴⁵ Brazil, INC-2 Written Statement for Contact Group 1. Nigeria and South Africa, both members of the Africa Group, also noted waste pickers as a key issue in their individual country submissions. Nigeria, INC-2 Pre-session Submission 2; South Africa, INC-2 Opening Statement on Agenda Item 4.

²⁴⁶ International Labour Organization, INC-2 Pre-session Submission. The ITUC also referenced the need to consider just transition for workers in throughout the plastics value chain. ITUC, INC-2 Pre-session Submission 2.

²⁴⁷ International Alliance of Waste Pickers, INC-2 Pre-session Submission.

²⁴⁸ Uganda, INC-3 In-session Submission for Contact Group 1; United States, INC-3 In-session Submission for Contact Group 1; Indonesia, INC-3 In-session Submission for Contact Group 1. *See contra* Australia, INC-3 In-session Submission for Contact Group 1 (supporting binding limits on the production of primary plastics).

²⁴⁹ *See, e.g.*, Australia, INC-2 Pre-session Submission for Contact Group 2, at 4; Kenya, INC-2 Pre-session Submission 4; United States, INC-2 Pre-session Submission 3. Countries calling for guidance from the COP include Australia, INC-2 Pre-session Submission for Contact Group 2, at 5, Kenya, INC-2 Pre-session Submission 4, Morocco, INC-2 Pre-session Submission 4, and Thailand, INC-2 Pre-session Submission 3.

²⁵⁰ Canada, INC-2 Pre-session Submission 3–4; Malaysia, INC-2 Pre-session Submission for Contact Group 2, at 1; Philippines, INC-2 Pre-session Submission 3; United States, INC-2 Pre-session Submission for Contact Group 2, at 4.

the hands of those countries, with only the loosest collective goals. A few parties justify the focus on NAPs as the need to recognize differences in countries' circumstances,²⁵¹ but the majority provide no rationale for their position. Countries that address national reporting under the treaty promote a similar approach of some degree of harmonization of metrics or disclosure elements, but most decisions on reporting would be made at the country level.²⁵²

Interestingly, a small group of countries in this group recognize the potential limits of the majority's approach. While most see NAPs as a tool to implement the treaty, Japan, Singapore, and Yemen argue that the creation of NAPs should be a core treaty obligation to drive progress on treaty objectives.²⁵³ Similarly, the Alliance of Small Island States (AOSIS) references the similarity between the recommended structure of decision-making at the country level and existing "failed MEAs [multilateral environmental agreements]," specifically the Paris Agreement, warning against using a similar structure for the plastic treaty.²⁵⁴ Despite these warnings, the plastic-is-a-victim coalition clearly sees the governance context for plastic as dominated by individual country decisions with limited global involvement.

This group casts plastic as the victim by emphasizing its importance for society and the economic benefits it brings as positives that are overlooked in criticism of plastic. The villains here are groups that advocate banning production of primary plastics, which is seen as attacking a useful material and ignoring the varying circumstances of individual countries. For this group, the heroes are recyclers, in particular the formal waste management and recycling infrastructure that improves the reuse of plastic.

²⁵¹ See, e.g., Brazil, INC-2 Pre-session Submission for Contact Group 2; Philippines, INC-2 Pre-session Submission 3.

²⁵² See, e.g., Alliance of Small Island States (AOSIS), INC-2 Pre-session Submission 5 (arguing for the treaty to include minimum reporting criteria); Canada, INC-2 Pre-session Submission 4 (advocating that the treaty contain common metrics and formats for reporting); Iceland, INC-2 Pre-session Submission 5 (calling for the treaty to identify the elements for national reports); Kenya, INC-2 Pre-session Submission 4 (supporting treaty provisions to standardize reporting methodologies).

²⁵³ Japan, INC-2 Statement on Agenda Item 4, at 4; Singapore, INC-2 Pre-session Submission 3; Yemen, INC-2 Pre-session Submission 2–3. Japan also argued that NAPs should be required to include specific targets. Japan, INC-2 Pre-session Submission for Contact Group 2, at 17; Japan, INC-2 Statement on Agenda Item 4, at 2.

²⁵⁴ AOSIS, INC-2 Pre-session Submission 1–2, 4.

The policy solutions this group advocates as the moral to their story are tied directly to the view that UNEA Resolution 5/14's focus on pollution refers to downstream activities in the plastics life cycle.²⁵⁵ This formulation translates the plastic problem into one of waste management, with solutions directed toward managing waste to avoid pollution.²⁵⁶ It assumes that a significant amount of waste *can* be managed and equates "managed" with "recycled."²⁵⁷ Recyclability is the goal of waste management solutions for the victim group. To that end, parties in this group generally advocate restrictions or bans on the plastics they deem to be problematic.²⁵⁸

Setting aside problematic plastics still leaves a large volume of plastic that the victim group deem to be candidates for recycling. These parties essentially propose two waste management issues. First, many parties recognize the information asymmetries that hamper recycling efforts. Recycling plastic is impossible where the polymers and chemicals used in production are hidden from recyclers. A number of countries thus propose various product transparency measures to increase recycling rates, including monitoring and disclosure of polymers, chemicals, and additives used in production.²⁵⁹

A second focus of waste management revolves around resource efficiency and recovery of value believed to lie in recyclable materials.²⁶⁰ Parties in this group propose a variety of value recovery measures, including mandating design of materials and products for

²⁵⁵ UNEA, Resolution 5/14, *supra* note 126.

²⁵⁶ *See, e.g.*, Azerbaijan, INC-2 Pre-session Submission 2 (contending that "sound recycling of plastics is the best sustainable option").

²⁵⁷ *See, e.g.*, Japan, INC-2 Pre-session Submission 4 (arguing that countries should address plastic pollution by taking measures to promote recycling); IAWP, INC-2 Pre-session Submission (focusing on recycling as the primary waste management tool).

²⁵⁸ Brazil, INC-2 Pre-session Submission for Contact Group 2; Canada, INC-2 Pre-session Submission 2; Malaysia, INC-2 Pre-session Submission 1; Philippines, INC-2 Pre-session Submission 1–2. "Problematic" plastics are variously defined but the category typically includes plastics that contain additives or chemicals of concern, which make recycling the plastic dangerous. *See, e.g.*, Iceland, INC-2 Pre-session Submission 3; Palau, INC-2 Pre-session Submission 1, 3; Morocco, INC-2 Pre-session Submission 2; Thailand, INC-2 Pre-session Submission 2.

²⁵⁹ Australia, INC-2 Pre-session Submission 4; Kenya, INC-2 Pre-session Submission 3; Philippines, INC-2 Pre-session Submission 2; Bosnia & Herzegovina, INC-2 Pre-session Submission 4.

²⁶⁰ Canada, INC-2 Pre-session Submission 3 (noting the need for value recovery processes).

recyclability,²⁶¹ setting recycling or minimum content targets,²⁶² and instituting extended producer responsibility (EPR) regimes.²⁶³ These types of measures are intended to keep plastic materials in use, diverting them from disposal in landfills, by incineration, or leakage into waterways.

Finally, only a handful of parties in this group views the sheer volume of plastic produced as an issue to address. A few recommend restrictions on what they term “unnecessary” plastics to reduce overall production.²⁶⁴ Others advocate taxes on production of virgin plastic to disincentivize it.²⁶⁵ Still others argue the need for demand-side measures to increase consumer recycling rates²⁶⁶ and recommend consumer education programs as part of a waste management strategy.²⁶⁷

²⁶¹ Palau, INC-2 Pre-session Submission 3; Africa Group, INC-2 Pre-session Submission 3; AOSIS, INC-2 Pre-session Submission 3; Australia, INC-2 Pre-session Submission 3.

²⁶² Canada, INC-2 Pre-session Submission 2; Tunisia, INC-2 Pre-session Submission 3.

²⁶³ Canada, INC-2 Pre-session Submission 2; Tunisia, INC-2 Pre-session Submission 3; Uganda, INC-2 Pre-session Submission 3; Morocco, INC-2 Pre-session Submission 3; Palau, INC-2 Pre-session Submission 1. Extended producer responsibility schemes are laws that impose end-of-life responsibility for products on product producers and/or brand owners. See *What Is Extended Producer Responsibility (EPR)?*, PRODUCT STEWARDSHIP INST., <https://productstewardship.us/what-is-epr/> [<https://perma.cc/YS7B-DXZ4>] (last visited Feb. 17, 2024) (defining EPR as “programs and laws [that] create a network of accountability and harness sustainable funding to build supply chains for recycled feedstocks, which are often critical for meeting a company’s sustainability commitments”).

²⁶⁴ Canada, INC-2 Pre-session Submission 2; Palau, INC-2 Pre-session Submission 1; World Economic Forum – Global Plastic Action Partnership (GPAP), INC-2 Pre-session Submission 1.

²⁶⁵ Ghana, INC-2 Pre-session Submission; OECD, INC-2 Pre-session Submission 3–4.

²⁶⁶ Libya, INC-2 Pre-session Submission 3 (arguing that increased plastic production is driven by plastic consumption); Japan, INC-2 Pre-session Submission 4 (contending that the treaty should encourage demand-side management for plastic issues); Turkey, INC-2 Pre-session Submission 4 (challenging citizens to increase their sense of responsibility for their consumption of plastic).

²⁶⁷ Bosnia & Herzegovina, INC-2 Pre-session Submission 2–3, 5; Morocco, INC-2 Pre-session Submission 6; Nigeria, INC-2 Pre-session Submission 4; United States, INC-2 Pre-session Submission 7–8.

C. Plastic Is the Hero

A final coalition of INC participants has crafted a narrative where plastic is the hero. For these countries, the problem is not with plastic itself, but instead it is plastic leakage into the environment and the resource inefficiency this leakage represents. This is a small group, consisting of a dozen countries and industry associations, so its position might be minimized or dismissed. But the countries in this coalition, such as China, Russia, Saudi Arabia, and India, are powerful. Understanding this narrative is, therefore, critical.

The notion that plastic could be the hero of a story about plastic pollution may seem counter-intuitive. However, this group's view of the context of plastic makes clear how plastic achieves hero status for them. From an environmental perspective, these parties take a very narrow view of how plastic is situated in the physical realm. For example, none of them acknowledge a connection between plastic and climate change, despite the tacit recognition of plastic's connection to petroleum. Qatar, for example, argues that plastic only has a negative effect on human health because of poor management.²⁶⁸ China and India go even farther, contending that plastics are not per se pollutants,²⁶⁹ and Russia's remarks seem to disconnect plastic from oil, its primary feedstock, almost completely, arguing that the treaty should ignore the extraction phase of plastic production because the "extraction of natural resources has no direct relation to plastic pollution."²⁷⁰ Other countries narrow the geography of plastic pollution. While the plastic-is-the-villain group explicitly acknowledged the transboundary nature of plastic, countries in the hero group tend to see national borders as bounding issues related to plastic.²⁷¹

²⁶⁸ Qatar, INC-2 State of Qatar Proposals Regarding the Obligation 12 (arguing that dealing with plastics in a "safe way after usage" will not affect human health). *See also* Kuwait, INC-3 Pre-session Submission 3 (contending that the root cause of plastic pollution is ineffective waste management). Bahrain notes, similarly, that plastic is not hazardous if it is designed in a sustainable way. Bahrain, INC-2 Pre-session Submission 1.

²⁶⁹ India, INC-2 Intervention of India for Contact Group 1, at 1; People's Republic of China, INC-2 Pre-session Submission 2.

²⁷⁰ Submission by the Russian Federation on Issues that Were Discussed at INC-2 in Paris, France 1.

²⁷¹ *See, e.g.*, Saudi Arabia, INC-2 Pre-session Submission 3 (arguing that the treaty should address plastic pollution within each country's national geographic boundaries);

Parties in this coalition also express a straightforward perspective on the socio-economic context for plastic. Most of them note the importance of plastic for human life,²⁷² with one country referring to it as a “cornerstone of modern society”²⁷³ and others extolling the benefits of plastic as life-changing material necessary for “sustainable development.”²⁷⁴ A second subset of entities in this coalition focuses on the role plastic plays in the economy, characterizing plastic as its economic hero. For example, both the State of Palestine and Sierra Leone have domestic manufacturing industries that rely on plastic, making plastic crucial to their economies.²⁷⁵ Not surprisingly, oil producing countries also see plastic as the hero and note its economic importance.²⁷⁶ Thus, the overriding focus of the plastic-is-the-hero group is on the economic aspects of plastic, with scant recognition of social impacts. For example, only three countries in this group even mention informal waste workers, two of them arguing that protection of waste pickers should be left to individual countries, rather than incorporated into the treaty.²⁷⁷

Qatar, INC-2 Pre-session Submission 4 (contending that countries should fight plastic pollution at the national level).

²⁷² See, e.g., People’s Republic of China, INC-2 Pre-session Submission 2 (noting plastic’s significant contributions to society); Syrian Arab Republic, INC-2 Pre-session Submission 2 (arguing that plastic has great importance in lives); Saudi Arabia, INC-3 Pre-session Submission 2 (contending that primary plastic polymers are the “cornerstone of modern society”).

²⁷³ Oman, INC-3 Pre-session Submission 3; Kuwait, INC-3 Pre-session Submission 3.

²⁷⁴ Bahrain, INC-2 Post-session Submission on Agenda Item 4; Saudi Arabia, INC-2 Pre-session Submission 1; Venezuela, INC-4 Statement; Sierra Leone, INC-2 Pre-session Submission 3 (linking sustainable plastic consumption to the UN SDGs).

²⁷⁵ State of Palestine, INC-2 Pre-session Submission 1 (noting its domestic industries that depend on plastic imports); Sierra Leone, INC-2 Pre-session Submission 3 (noting that it has domestic industries that use imported plastic resins). See also Cuba, INC-2 Pre-session Submission on Contact Group 1 (arguing that any measure to restrict production of plastics would have economic impact on global trade and plastic prices).

²⁷⁶ Qatar, INC-2 State of Qatar Proposals Regarding the Obligations (noting the connection between plastic production and economic health); Bahrain, INC-2 Post-session Submission on Agenda Item 4 (opining that plastic is an essential part of economies); African Petroleum Producers’ Organization (APPO), INC-2 Pre-session Submission 2 (arguing that the petrochemical industry is linked to economic development).

²⁷⁷ India, INC-2 Intervention of India on Contact Group 1, at 13; Saudi Arabia, INC-2 Submission on Contact Group 1, at 5.

Not surprisingly, this group conceives of a narrow governance architecture for the treaty. They construe Resolution 5/14's language on pollution as focusing the treaty on measures in the downstream part of plastic's lifecycle. They contend that regulation of production of primary polymers is beyond the mandate of the Resolution.²⁷⁸ INC-4 saw several countries advance proposals for a narrow definition of "plastic" that would exclude the extraction process.²⁷⁹ Beyond the substantive scope of the treaty, the governance context for countries in this group is focused almost completely at the national level. A few of them identify NAPs as important tools for treaty implementation,²⁸⁰ but none of them advocate that NAPs be mandated by the treaty. They generally stand on the notion of their sovereign rights to reject collective responsibilities or governance.²⁸¹ These countries argue that any goals, standards, or targets should be determined by individual countries for themselves at the national level,²⁸² with no global oversight of any part of a country's NAP. India, for example, rejects the idea of any external review of a country's NAP,²⁸³ Saudi Arabia raised the potential of a COP to hinder individual sovereignty,²⁸⁴ and Russia explicitly stated that the treaty could not include "universal principles of environmental cooperation."²⁸⁵

In this story where plastic is the hero, the victims are the poor in developing countries who are the intended beneficiaries of sustainable development goals and/or who rely on the plastic and petrochemical industries as the foundation of their country's

²⁷⁸ People's Republic of China, INC-2 Pre-session Submission 2 and INC-4 Textual Submission on Part I 5. Scope; Kuwait, INC-3 Pre-session Submission 3; Russian Federation, INC-3 Pre-session Submission 3.

²⁷⁹ Russian Federation, INC-4 General Textual Proposal of the Russian Federation Applied Through the Text of the Instrument; Islamic Republic of Iran, INC-4 Opening National Statement of the Islamic Republic of Iran in INC-4.

²⁸⁰ People's Republic of China, INC-2 Pre-session Submission 4 (stating that NAPs are essential); Russian Federation, INC-2 Pre-session Submission 4 (noting that NAPs are a "universal" tool for implementing multilateral environmental agreements).

²⁸¹ Bahrain, INC-2 Post-session Submission on Agenda Item 4; Kuwait, Post-INC-2 Statement on Agenda Item 4; Saudi Arabia, INC-2 Submission on Contact Group 1, at 4.

²⁸² India, INC-2 Intervention of India on Contact Group 1; Qatar, INC-3 Pre-session Submission 3; Saudi Arabia, INC-3 Pre-session Submission 3.

²⁸³ India, INC-3 Intervention of India on Contact Group 2 (advocating "self-review" of national action plans).

²⁸⁴ Saudi Arabia, INC-2 Submission on Contact Group 1, at 4.

²⁸⁵ Russian Federation, INC-2 Pre-session Submission 5.

economic development. The villain for parties advancing this narrative is groups that advocate bans on the production of virgin plastic or specific types of plastic.²⁸⁶ Groups seeking bans on plastic production are characterized as hampering the economic development of poor countries, reducing the quality of life of populations in developing countries, and blindly leading the world down a less environmentally sound pathway,²⁸⁷ earning them the title of villain.

The plastic-is-the-hero group takes a novel position on proposed policy solutions, in that it essentially advocates against solutions at the global level. For this group, the treaty should contain no requirements or mandates,²⁸⁸ nor should it attempt to harmonize or standardize product specifications or disclosure.²⁸⁹ Any actions to address plastic pollution should be determined and executed strictly at the national level.²⁹⁰ It appears that, for the plastic-is-the-hero coalition, the treaty will amount to suggestions for voluntary action at the national level,²⁹¹ with perhaps a requirement to disclose whatever information on its progress the country desires in whatever format it prefers.²⁹²

²⁸⁶ Expanded Polystyrene Australia, INC-2 Pre-session Submission 2.

²⁸⁷ APPO, INC-2 Pre-session Submission 2–3; Expanded Polystyrene Australia, INC-2 Pre-session Submission 2; European Manufacturers of Expanded Polystyrene, INC-2 Pre-session Submission 4.

²⁸⁸ Bahrain, INC-2 Pre-session Submission 4 (arguing that the treaty should contain no bans on production); China, INC-3 In-session Submission for Contact Group 2, at 3 (proposing that the treaty request, but not require, NAPs); Cuba, INC-3 In-session Submission for Contact Group 2 (arguing against delineating the content of NAPs in the treaty); Gulf Cooperation Council, INC-3 In-session Submission for Contact Group 2 (proposing that parties develop NAPs that fit their circumstances); India, INC-4 National Statement for the Opening Plenary of INC-4 (contending that the treaty should have no targets or caps).

²⁸⁹ India, INC-3 In-session Submission for Contact Group 2 (arguing for removal of proposed text that would standardize NAP content); Bahrain, INC-2 Pre-session Submission 3 (arguing against the standardization of national reporting under the treaty); Saudi Arabia, INC-2 In-session Submission for Contact Group 1, at 4–5 (proposing that there be no harmonization or standardization for product design or certification).

²⁹⁰ India, INC-3 Pre-session Submission 7–8; Qatar, INC-2 Pre-session Submission 3; Sierra Leone, INC-2 Pre-session Submission 5.

²⁹¹ *See, e.g.*, Iran, INC-4 Opening National Statement of the Islamic Republic of Iran in INC-4 (advancing the position that a voluntary, bottom-up approach to regulation would better serve the treaty's goal than mandatory treaty provisions).

²⁹² Russian Federation, INC-3 In-session Submission for Contact Group 2, at 3 (arguing that there be no harmonization for reporting, with report updates not more

Application of the NPF to the parties' INC submissions demonstrates the range of, and differences between, the hero, victim, and villain narratives. Table 2 summarizes these narratives across the NPF elements setting, characters, and moral.

TABLE 2. PLASTIC POLLUTION NARRATIVE SUMMARY

	Plastic is the Villain	Plastic is the Victim	Plastic is the Hero
Setting	Plastic is an existential threat due to link with triple planetary crisis; necessity for collective action	Plastic is a necessary aspect of modern life, despite its shortcomings	Plastic promotes physical health, economic prosperity; importance of state sovereignty
Characters	Hero = global regulation of plastic Victim = all humanity, especially marginalized populations and future generations	Hero = recycling industry Villain = anti-plastics efforts; consumers	Victim = plastics and fossil fuel industries; poor populations Villain = anti-plastics efforts
Moral	Global limits on production of virgin plastic; phase out unnecessary plastic	Identify problematic plastics; improve recycling	Regulation of plastic left to individual countries

The setting, characterizations, and moral are the basic building blocks of a narrative. The plot focuses on how the characters' actions play out in the context of the other narrative elements. Understanding plot archetypes will help us see how characters construct stories to achieve specific aims, so we turn next to examining narrative plots.

frequently than every five years); Gulf Cooperation Council, INC-3 In-session Submission for Contact Group 2, at 3–4 (treaty should require poor countries to report only every ten years).

V. Strategic Reconstruction of the Plastics Policy Narrative Plot

In the NPF, the plot of a narrative is a story arc that maps the relationships between the characters and between the characters and the setting.²⁹³ These relationships provide an explanation of how the world works.²⁹⁴ Plot also structures the causal explanations in the narrative, affecting how blame is assigned to the story's villain²⁹⁵ and who bears responsibility for the policy issue.²⁹⁶ Professor Stone's seminal work on policy narrative identifies two broad plot types: stories of change and stories of power,²⁹⁷ both of which are illustrated by the plastic treaty negotiations. This section examines how the negotiations began as a story of change, focused on plastic pollution itself, but were reconstructed as a story of power grounded in global power struggles between states.

A. *The Two Sides of the Story of Change*

Stories of change characterize the setting of the story by describing the trajectory of conditions giving rise to the policy issue. That trajectory can be either positive or negative; Stone calls these stories of rising or stories of decline.²⁹⁸ The three groups discussed above in Part IV fall into one of these two types of stories. The positions of countries in the plastic treaty negotiations represent diametrically opposed narratives on the setting for plastic, contributing to the tension in the negotiations.

The narratives of the plastic-is-the-hero and plastic-is-the-victim groups are stories of rising. Stories of rising are narratives of forward progress²⁹⁹ and successful transformations.³⁰⁰ The hero and victim stories claim that plastic has improved the health of people as well as their economic position and is crucial to improving the living conditions of the most disadvantaged populations. The

²⁹³ Jones & McBeth, *Clear Enough to Be Wrong*, *supra* note 141, at 340; Jones & Radaelli, *supra* note 167, at 341.

²⁹⁴ STONE, POLICY PARADOX, *supra* note 16, at 158.

²⁹⁵ Gray & Jones, *supra* note 158, at 196; Jones, *Cultural Characters*, *supra* note 147, at 8.

²⁹⁶ Stone, *Causal Stories*, *supra* note 148, at 282.

²⁹⁷ STONE, POLICY PARADOX, *supra* note 16, at 160–68.

²⁹⁸ *Id.* at 160–65.

²⁹⁹ *Id.* at 164.

³⁰⁰ Antonipillai et al., *supra* note 16, at 120.

trajectory of the use of plastic is, thus, positive. But this positive trajectory is threatened by actors who want to reduce access to plastic by limiting production. In this story, the use of plastic creates only minimal problems, all of which can be remedied. It focuses its attention on key aspects of the *current* setting and is based on a relatively short time frame. It characterizes those countries and civil society organizations that want to impose limits on the production and use of plastics as uncaring villains³⁰¹ who do not see that the proposed reductions would harm developing countries who would lose the benefits of plastic³⁰² and potentially bear more than their share of the burdens of the treaty's provisions.³⁰³ These coalitions evoke disaster analogies, contending that restrictions on plastic will thwart the progress made possible by plastics.

On the other hand, the plastic-is-the-villain story is a story of decline. Stories of decline describe a world where conditions are deteriorating over time and heading for a crisis.³⁰⁴ The villain story sees plastic as part of a system—i.e., our dependence on fossil fuels—that presents an existential threat to humanity. Plastic's tie to fossil fuels guarantees negative environmental impacts that, because of the uncertainty of multi-dimensional systemic effects, we may not be able to mitigate. In this story, the problems with plastic are fundamental and intrinsic. Precaution and a long-term time horizon are needed to ensure that future generations do not end up paying the price for the present convenience of plastic use. Further, while disadvantaged populations may reap some of the benefits of plastic use, they also pay disproportionately for the negatives, a point the story of rising overlooks. This story of decline places blame on oil and plastic industry interests, as well as countries that prioritize those economic interests, characterizing them as either uncaring villains or evil villains³⁰⁵ who ignore the

³⁰¹ Gray & Jones, *supra* note 158, at 206.

³⁰² See, e.g., Libya, INC-3 Pre-session Submission, at 4 (arguing that developing countries must be able to consider the economic impact of environmental measures); United Arab Emirates, INC-3 Pre-session Submission, at 5 (proposing that the treaty embody the principle of the right to development for developing countries).

³⁰³ India, INC-3 Pre-session Submission, at 4 (expounding the principle of differentiated responsibilities for developed and developing countries); Syrian Arab Republic, INC-3 Pre-session Submission, at 3 (arguing that the treaty should not increase the economic burdens of developing countries).

³⁰⁴ STONE, POLICY PARADOX, *supra* note 16, at 160.

³⁰⁵ Gray & Jones, *supra* note 158, at 206–08.

impact of their actions on others.

B. Reconstructing the Story of Change into a Story of Power

The stories of rising and decline thus differ in their view of the relationship between the characters and the setting. But they also differ in how they see the relationship between each of the characters, primarily between the states participating in the negotiations. The narrative as the negotiations began was a story of change that focused on plastic pollution and its negative impacts on environmental and human health. Different groups advanced different narratives on this topic, but early narratives all focused on the substantive issues created by plastic pollution. However, some parties began to leverage the procedural aspects of treaty negotiations to redirect the focus of discussions away from plastic pollution and toward global power structures. What started as a story of change was thus reconstructed as a story of power.

For Stone, stories of power have two sides, either control or helplessness, that represent gain in power or loss of power respectively.³⁰⁶ Usually, stories of power focus on a sense of human control over the phenomenon that is the subject matter of a policy process. For example, early arguments around global warming and climate change were largely arguments about whether humans created global warming and, therefore, could exert some control over it.³⁰⁷ In this scenario, events that may appear to be accidents or random occurrences become amenable to human agency.³⁰⁸ The plastic treaty negotiations present a different type of power story, one focused on the international institutional structures represented by the treaty-making process.³⁰⁹ None of the treaty parties argue that

³⁰⁶ STONE, POLICY PARADOX, *supra* note 16, at 165; Antonipillai et al., *supra* note 16, at 120.

³⁰⁷ See, e.g., S. Fred Singer, *Global Warming: Man-Made or Natural?*, 36 IMPRIMIS (2007), <https://imprimis.hillsdale.edu/global-warming-manmade-or-natural/> [<https://perma.cc/H229-EBR2>] (arguing that human activities are not influencing the climate in a significant way); Piers Corbyn, *Man-Made Climate Change Does Not Exist!*, READING UNIV. DEBATING J. (Sep. 19, 2019), <https://www.bundestag.de/resource/blob/666002/21b43e1b155051227ef2981acd52c254/19-16-292-C-Corbyn-data.pdf> [<https://perma.cc/46F7-GCJS>] (contending that man-made global warming is “nonsense”).

³⁰⁸ STONE, POLICY PARADOX, *supra* note 16, at 166.

³⁰⁹ For a discussion of how stories of power can be affected by institutional arrangements, see Daniel Béland, *Narrative Stories, Institutional Rules, and the Politics of Pension Policy in Canada and the United States*, 38 POL’Y & SOC’Y 356 (2019).

plastic pollution is a random happenstance outside human control; all actors accept at least implicitly that the status quo of plastic was created by humans. The power struggle in the plastic treaty negotiations is not humans versus plastic. Rather, the power struggle is between individual states, and between individual states and the collective good. This power struggle is evident in parties' views on global governance architecture and, more specifically, global decision-making.

The plastic-is-the-hero and plastic-is-the-victim groups see global governance as fundamentally grounded in the idea of the sovereignty of individual states and the prerogatives that come with sovereignty.³¹⁰ They assume no state responsibility to other countries beyond that imposed by current international law.³¹¹ This story characterizes calls for specific environmental or social commitments in the plastic pollution treaty as intrusions into the national sphere of countries and an attempt to interfere with each country's right to make its own decisions.³¹² It sees developed countries in the plastic-is-the-villain group as villains who want to use the treaty-making process to dominate other countries.

The plastic-is-the-villain story starts not from the point of state sovereignty, but from its belief in the need for collective action to adequately address the plastic crisis. These countries are prepared to commit to treaty provisions that will of necessity influence their national decision-making and see such commitments as simply acknowledging the impact of actions taken at the country level on the global community. This story views the other two groups as states willing to sacrifice the collective good to pursue individual self-interest.

In terms of the story of power, the hero coalition narrative sees

³¹⁰ Several countries submitted a list of proposed principles that advocate the sovereign right to exploit resources as important for the treaty and included a call for developed countries to respect the principle of state sovereignty. *See* Bahrain, Pre-session Submission for INC-3, at 5; Kuwait, Pre-session Submission for INC-3, at 5; Qatar, Pre-session Submission for INC-3, at 5; Saudi Arabia, Pre-session Submission for INC-3, at 5; United Arab Emirates, Pre-session Submission for INC-3, at 5; Libya, Pre-session Submission for INC-3, at 3 (arguing for inclusion of the principle that sovereign states have the right to exploit their resources).

³¹¹ *See, e.g.*, United Arab Emirates, Pre-session Submission for INC-3, at 5.

³¹² *See, e.g.*, Russia Federation, INC-3 Pre-session Submission, at 5 (arguing for the exercise of "full national jurisdiction" for implementing the treaty, without "groups . . . or officials acting from abroad").

calls for including specific commitments in the treaty as a loss of power for individual states. They cast this plot as a story of helplessness where developing countries are pressured to cede control to richer, more powerful countries. They want to transform the negotiations into a story of control for developing countries through procedures that keep decision-making in the hands of individual countries. This group is attempting to leverage elements of the treaty-making process to push back against their perceived story of helplessness. This effort is illustrated by issues related to the Draft Rules of Procedure (DRoP) that would govern the negotiation process.

The OEWG drafted and adopted proposed Rules of Procedure to prepare for the treaty negotiations³¹³ and then formally introduced them at INC-1.³¹⁴ At the opening plenary meeting's discussion of the DRoP, the treaty's Secretariat noted that the OEWG had agreed on the content of the DRoP, with the exception of Rule 37, which remained open for discussion.³¹⁵ The priority of the INC chair was to move to negotiations on the substance of the treaty as expeditiously as possible, and, to that end, he proposed that the DRoP be applied provisionally to the negotiations, except for Rule 37.³¹⁶ This would allow substantive negotiations to commence and run on schedule, with informal consultations on Rule 37 taking

³¹³ UNEP, Resolution 5/14, *supra* note 126.

³¹⁴ UNEP, Draft Rules of Procedure for the Work of Intergovernmental Negotiating Committee, UN Doc. /PP/INC.1/3 (Sep. 8, 2022), https://wedocs.unep.org/bitstream/handle/20.500.11822/41260/Draft_Rules_Procedure_E.pdf [<https://perma.cc/YW3R-X725>] [hereinafter UNEP, INC Draft Rules].

³¹⁵ Webcast: INC-1 Opening Plenary, Statement of Executive Secretary Jyoti Mathur-Filipp, at 1:11:00 (Nov. 28, 2022), https://www.youtube.com/watch?v=N_GSIL0ILDs [<https://perma.cc/Y2PU-D2EB>]. Rule 37 pertains to voting rights, including the rights of "regional economic integration organizations" to vote as a bloc, and whether individual nations within such organizations must be registered and participating in the negotiations. See UNEP, INC Draft Rules, *supra* note 314. Several countries raised questions about Rule 37 and whether the EU could vote on behalf of *all* twenty-seven EU member countries or only those who were present and participating in the negotiations. See *And So It Began: The 1st Session of Negotiations for an International Legally Binding Instrument to End Plastic Pollution*, GLOB. PLASTICS POL'Y CTR (Jan. 10, 2023), <https://plasticpolicy.port.ac.uk/and-so-it-began-the-1st-session-of-negotiations-for-a-global-plastics-treaty-in-retrospect> [<https://perma.cc/G7Z3-RNB4>].

³¹⁶ Webcast: INC-1 Opening Plenary, Statement of INC Chair Gustavo Meza-Cuadra, at 1:13:30 (Nov. 28, 2022), https://www.youtube.com/watch?v=N_GSIL0ILDs [<https://perma.cc/Y2PU-D2EB>].

place during INC-1.³¹⁷

Delegates expressed no objection to provisional application of the DRoP; indeed, some registered explicit support for the proposal.³¹⁸ However, in the opening plenary session, China's delegation questioned the legal effect of the OEWG's adoption of the DRoP and contended that all of the rules were still open for renegotiation.³¹⁹ China's statement opened the door for other countries to also question the DRoP, even those who had supported provisional application of it.

Issues with the DRoP resurfaced at the INC-1 closing plenary meeting and turned what had started out as a limited review of one rule into a referendum on the DRoP generally. Members of the plastic-is-the-hero group advanced a variety of positions undercutting the effect of the DRoP. Saudi Arabia claimed that in negotiations, nothing is agreed to until everything is agreed to,³²⁰ while the Russian Federation argued that the DRoP were just a draft not yet adopted by INC-1 and, therefore, were open to renegotiation.³²¹ India argued that rules 37 and 38—which proposed that the INC “make every effort to reach agreement on all matters of substance” by consensus, but, if consensus failed, decisions would be made by a two-third majority vote³²²—were inextricably linked, requiring a review of more than just Rule 37.³²³

³¹⁷ *Id.*

³¹⁸ See, e.g., Webcast: INC-1 Opening Plenary, Statements of Saudi Arabia, Qatar, Egypt, and the United States, at 1:27:40–1:32:30 (Nov. 28, 2022), https://www.youtube.com/watch?v=N_GSIL0ILDs [<https://perma.cc/Y2PU-D2EB>].

³¹⁹ Webcast: INC-1 Opening Plenary, Statement of China, at 1:27:40–1:32:30 (Nov. 28, 2022) (exchange between China and Chair on status of Rule 37 and OEWG actions on DRoP) https://www.youtube.com/watch?v=N_GSIL0ILDs [<https://perma.cc/Y2PU-D2EB>].

³²⁰ Webcast: INC-1 Closing Plenary, Statement of Saudi Arabia, at 2:09:13 (Dec. 2, 2022), <https://www.youtube.com/watch?v=1fiohAv4jOo> [<https://perma.cc/X89L-TG5J>].

³²¹ Webcast: INC-1 Closing Plenary, Statement of Russian Federation, at 2:22:30 (Dec. 2, 2022), <https://www.youtube.com/watch?v=1fiohAv4jOo> [<https://perma.cc/X89L-TG5J>].

³²² UNEP, INC Draft Rules, *supra* note 314, R. 38.1. Most decisions of UN bodies are taken by consensus, rather than by a vote. When using consensus, a single country objecting to a proposal or calling for a vote on the proposal can stop action on the proposal. UN, *How Decisions are Made at the UN*, <https://www.un.org/en/model-united-nations/how-decisions-are-made-un> [<https://perma.cc/5PYM-UQTE>] (last visited Feb. 17, 2024).

³²³ Webcast: INC-1 Closing Plenary, Statement of India, at 2:12:58 (Dec. 2, 2022),

Other countries pushed back against what they saw as an attempt to renegotiate the entirety of the DRoP, arguing that the DRoP had been agreed on at the OEWG and could not be reopened, except for Rule 37.³²⁴ The issue of the status and application of the DRoP remained unresolved at the end of INC-1 and was left for discussion at INC-2.

INC-2 was scheduled over five days in May and June 2023; the intention was to hold plenary opening and closing sessions on the first and last day of the session and to use the middle three days for substantive negotiations in breakout sessions. However, this plan went awry when the dispute over the DRoP resurfaced in the first hours of the opening plenary session and completely disrupted the session's schedule. In particular, the focus of discussion was now on Rule 38. India, Russia, Brazil, Saudi Arabia and other countries all objected to the draft Rule 38 in the opening plenary session. They framed their objection as a belief in the principle of consensus and depicted their argument as protecting themselves from having an agreement "forced" on them by a vote.³²⁵ Voting, for them, is a pressure tool that could be used to impose an agreement that overburdened developing countries with treaty obligations they were not equipped to undertake.³²⁶ Thus, voting would unbalance international power, resulting in loss of control in individual countries.

These countries fought back against the story of helplessness by hijacking the opening INC-2 plenary to force continued discussion

<https://www.youtube.com/watch?v=1fiohAv4jOo> [<https://perma.cc/X89L-TG5J>].

³²⁴ Webcast: INC-1 Opening Plenary, Statements of Senegal and the United States, at 1:22:47–1:25:20 (Nov. 28, 2022), https://www.youtube.com/watch?v=N_GSIL0ILDs [<https://perma.cc/Y2PU-D2EB>]; Webcast: INC-1 Closing Plenary, Statements of Senegal, the United States, and Nigeria, at 2:18:15–2:21:39 (Dec. 2, 2022), <https://www.youtube.com/watch?v=1fiohAv4jOo> [<https://perma.cc/X89L-TG5J>].

³²⁵ Webcast: INC-2 Opening Plenary, Statements of India, Russian Federation, Saudi Arabia, Uganda, Bahrain, Iran, Qatar, Cuba, Guatemala, and Brazil (May 29–31, 2023). *See also* India, INC-4 National Statement for the Opening Plenary of INC-4 (arguing for consensus decision-making).

³²⁶ *See, e.g.*, Syrian Arab Republic, INC-3 Pre-session Submission, at 3 (arguing that the treaty's obligations should not increase the economic burdens of developing countries); Bahrain, INC-3 Pre-session Submission, at 6 (arguing that the treaty should limit the economic harm to developing countries); Kuwait, INC-3 Pre-session Submission, at 6 (stating that a bottom-up approach should be the main principle of the treaty); Russian Federation, INC-3 Pre-session Submission, at 6 (advocating that decision-making be by consensus only).

of the DRoP. The discussion was essentially a filibuster, with key nations in this group, one after the other, monopolizing the time for statements in the plenary by repeating their objections for the first two and one-half days of the five-day INC-2. Delegates managed to hammer out a “wobbly compromise” on the DRoP late on day three of the session, allowing the parties to spend the fourth day on substantive negotiations,³²⁷ but ultimately the tactic to refocus the opening days of INC-2 on the DRoP diverted the plot of the negotiations away from plastic pollution (the story of change) and created a plot about the fight between rich countries and poor countries (the story of power).

This same group of countries continued its efforts to gain power in INC-3, which took place in November and December of 2023. Due to a sense that the remaining negotiating sessions would not be enough time to complete negotiations and that specific issues needed more work before INC-4, the INC chair formed a contact group to discuss whether to authorize intersessional work, intending to present the issue to all parties in the closing plenary session. Many countries participated in the contact group discussions and requested in the plenary a short extension of time for the group to agree on the specifics of intersessional work.³²⁸ However, Russia objected to this extension of time, thus derailing the possibility of progress being made before INC-4.³²⁹ Similarly, the plastic is the hero countries succeeded in limiting the scope of intersessional work between INC-4 and INC-5 by objecting to investigation of issues surrounding the production of primary polymers and virgin plastic.³³⁰

³²⁷ Leonie Cater, *Global Plastic Treaty Talks Limp on Despite Blockade by Oil-Rich Countries*, POLITICO (June 2, 2023), <https://www.politico.eu/article/un-global-plastic-treaty-talks-limp-despite-blockade-oil-rich-countries/> [<https://perma.cc/GS7B-575S>].

³²⁸ Webcast: INC-3 Closing Plenary, Statement of the United States, at 1:14:45 (Nov. 19, 2023). Brazil made a statement in support of the United States' request. Webcast: INC-3 Closing Plenary, Statement by Brazil, at 1:16:00 (Nov. 19, 2023).

³²⁹ Webcast: INC-3 Closing Plenary, Statement of the Russian Federation, at 1:16:58 (Nov. 19, 2023); Webcast INC-3 Closing Plenary, Statement of Saudi Arabia, at 1:17:53 (Nov. 19, 2023) (making a statement also objecting to the request of the United States).

³³⁰ The request to address primary polymers during the intersessional period was made at the INC-4 opening plenary meeting and represented the views of a large number of countries' representatives. UNEP, INC-4 Report, *supra* note 216, ¶ 82. That proposal was not included in the discussions on intersessional work. INT'L INST. SUSTAINABLE DEV. (IISD), *Earth Negotiations Bulletin—Summary of the Fourth Session of the Intergovernmental Negotiation Committee to Develop an International Legally Binding*

While the hero coalition worked to increase control for individual states, the plastic-is-the-villain coalition advocated positions that would move control over plastic into the global collective.³³¹ It sees the resistance to treaty commitments as creating helplessness in the global community, which it views as the key actor in combatting plastic pollution. Its story of control would have states cede some authority to the global collective through a strong treaty with specific commitments from states³³² and a robust treaty governance structure to support and ensure treaty compliance.³³³ With its sense of the existential threat posed by the plastic status quo, this group considers it paramount to have a treaty in place by 2025 as originally planned. For the countries in the villain group, provisional application of the DRoP would accelerate the negotiation process to begin substantive negotiations as quickly possible. They view the OEWG adoption of the DRoP as binding and resist attempts to renegotiate procedural rules for the negotiations.³³⁴ This group similarly views Rule 38 as a necessity to ensure progress on the treaty. Reliance on consensus, where any objection from even one country could stall an initiative, would leave too much power in the hands of individual states at the expense of the collective good. Their fears of increasing global helplessness were confirmed when the proposal for intersessional

Instrument on Plastic Pollution 8 (May 2, 2024); BREAK FREE FROM PLASTIC, *INC-4 Negotiating Countries Fail to Respond to the Magnitude of the Plastics Crisis* (Apr. 30, 2024), <https://www.breakfreefromplastic.org/2024/04/30/inc-4-negotiating-countries-fail-to-respond-to-the-magnitude-of-the-plastics-crisis/> [<https://perma.cc/LG6P-72NE>].

³³¹ See, e.g., Bangladesh, INC-3 Pre-session Submission, at 3 (arguing that the plastic crisis requires a “collective and coordinated” response); New Zealand, INC-3 Pre-session Submission, at 3 (advocating the establishment of a global regime to combat plastic pollution); New Zealand, INC-2 Pre-session Submission, at 2–3 (calling for a common strategic direction to strengthen the collective will to address plastic pollution); AOSIS, INC-3 Pre-session Submission, at 3 (identifying the need for an urgent global response to the plastic crisis).

³³² See, e.g., United Kingdom, INC-2 Pre-session Submission, at 3; Rwanda, INC-2 Pre-session Submission, at 2; Monaco, INC-2 Pre-session Submission, at 3–5; Colombia, INC-2 Pre-session Submission, at 13–14; Ecuador, INC-3 Pre-session Submission, at 7–8; Cambodia, INC-3 Pre-session Submission, at 3; Peru, INC-2 Pre-session Submission, at 3–4.

³³³ See, e.g., Colombia, INC-2 Pre-session Submission, at 17 (arguing for standardized annual reporting on plastic pollution); Rwanda, INC-2 Pre-session, at 2–6 (outlining harmonized reporting standards for states).

³³⁴ Webcast: INC-11 Closing Plenary, Statement of Senegal, at 2:18:15; Statement of United States, at 2:19:20; Statement of Nigeria, 2:20:43 (Dec. 2, 2022).

work failed, establishing power gained for individual states.

The unfolding of the plot in the treaty negotiations demonstrates the ability of policy actors to influence policy process by reconstructing the focal point of narrative. What started as a story of change in the form of negotiations about plastic pollution was redirected by some states into a story of power in the form of contentions about global power balances. As such, the negotiations have become less about how to control plastic pollution and more about how to control states.

The INC negotiations on the plastics treaty mirror key aspects of negotiations on climate change under the UN Framework Convention on Climate Change (UNFCCC).³³⁵ The climate change negotiations, which began as focused on the specifics of combatting climate change, were gradually restructured to reduce commitments to and control by the global community, emphasizing instead the sovereign prerogatives of individual states. For example, while the UNFCCC itself has been nearly universally adopted and ratified by states,³³⁶ the Kyoto Protocol,³³⁷ which sought to set legally binding emissions targets for countries, has had less consistent support. The U.S. did not ratify the Protocol, Canada withdrew from it in 2012, and China tailored its application to various regions of the country.³³⁸ As climate negotiations continued through successive COPs, the approach to regulating greenhouse gas emissions moved away from global commitments enshrined in protocols to nationally determined commitments, as exemplified by the Paris Agreement.³³⁹

³³⁵ United Nations Framework Convention on Climate Change, May 9, 1992, S. Treaty Doc No. 102-38, 1771 U.N.T.S. 107.

³³⁶ There are currently 198 parties to the Convention. UN Climate Change, Status of Ratification of the Convention, <https://unfccc.int/process-and-meetings/the-convention/status-of-ratification-of-the-convention> [<https://perma.cc/U9YQ-GZBJ>] (last visited Feb. 17, 2024).

³³⁷ Kyoto Protocol to the United Nations Framework Convention on Climate Change, Dec. 10, 1997, 2303 U.N.T.S. 162.

³³⁸ UN Treaty Collection, A Kyoto Protocol to the United Nations Framework Convention on Climate Change (Feb. 16, 2005), https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXVII-7-a&chapter=27&clang=_en [<https://perma.cc/F33H-PKYJ>]. Although it initially ratified the Protocol, Canada withdrew from the Protocol in 2012. *Id.*

³³⁹ The Paris Agreement went into effect in 2016. UN Climate Change, *The Paris Agreement*, <https://unfccc.int/process-and-meetings/the-paris-agreement> [<https://perma.cc/D83L-8NW4>] (last visited Feb. 17, 2024).

The Paris Agreement signaled a shift in the narrative for global climate regulation. While Kyoto emphasized commitments to specific collective outcomes to increase the effectiveness of the treaty,³⁴⁰ the Paris Agreement created procedural, rather than substantive, obligations to honor state sovereignty.³⁴¹ The idea was that countries would be more likely to meet self-imposed voluntary commitments to address climate change than commitments that were externally imposed by the global community.³⁴² The Paris Agreement reconstructed the climate governance narrative from a top down regime of binding treaty obligations to a bottom up approach that produced a collection of non-binding goals created by individual countries,³⁴³ thus preserving state prerogatives.

The transition from a top down to a bottom-up narrative focused on voluntary goals raised concerns about the potential effectiveness of the Agreement.³⁴⁴ It also gave the oil industry greater influence in both the Paris Agreement negotiations³⁴⁵ and later COPs. For example, at COP28 in Dubai in 2023, industry lobbyists outnumbered nearly all individual country delegations,³⁴⁶ and OPEC

³⁴⁰ Daniel Bodansky, *The Legal Character of the Paris Agreement*, 25 REV. EUR. CMTY. & INT'L ENV'T L. 142, 149 (2016) [hereinafter Bodansky, *Legal Character*].

³⁴¹ *Id.*; Daniel Bodansky, *The Paris Climate Change Agreement: A New Hope?*, 110 AM. J. INT'L L. 288, 289–292 (2016) [hereinafter Bodansky, *Paris Climate Change Agreement*]; Todd Stern, *The Paris Agreement and Its Future*, BROOKINGS (Oct. 2018), <https://www.brookings.edu/articles/the-paris-agreement-and-its-future/>. Procedural obligations for states included communication of their national plans to combat climate change, reporting on and revising their national plans, and providing a national greenhouse gas inventory. Bodansky, *Legal Character*, *supra* note 340, at 146.

³⁴² Meinhard Doelle, *The Paris Agreement: Historic Breakthrough or High Stakes Experiment?*, 6 CLIMATE L. 1, 3 (2016).

³⁴³ *Id.* at 1; *see also* Bodansky, *Paris Climate Change Agreement*, *supra* note 341, at 290 (2016) (arguing that the Paris Agreement institutionalized a new paradigm for climate governance). These commitments are referred to in the Agreement as “nationally determined contributions” or “NDCs.” UN Climate Change, *Nationally Determined Contributions (NDCs)*, [<https://perma.cc/E3UD-QWHS>] (last visited Feb. 17, 2024).

³⁴⁴ *See, e.g.*, Jen Iris Allan, *Dangerous Incrementalism of the Paris Agreement*, 19 GLOB. ENV'T POL. 4, 7 (2019); Emma Cockett, *The Paris Agreement: An Exercise in Failure*, 7 N.E. L. REV. 81, 82 (2020); Tom Switzer, *Paris Climate Agreement Is a Triumph of Hope over Facts*, SYDNEY MORNING HERALD (Dec. 28, 2015).

³⁴⁵ Doelle, *supra* note 342, at 7.

³⁴⁶ Tina Gerhardt, *The UN Climate Conference Finally Names the Culprit, Fossil Fuels—But Is It Enough?*, THE NATION (Dec. 19, 2023), <https://www.brookings.edu/articles/the-successes-and-failures-of-cop28/> [<https://perma.cc/4NK3-UYFB>]; Manann Donoghoe & Andre M. Perry, *The Successes and Failures of COP28: Justice and Equity Take a Back Seat . . . Again*, BROOKINGS (Dec. 14, 2023), <https://www.brookings.edu>

specifically pressured its members to reject any proposed references to fossil fuels rather than to emissions.³⁴⁷ Overall, the oil industry succeeded in keeping treaty commitments relatively weak.³⁴⁸

Although some commentators were hopeful that the Paris Agreement would pressure parties to adopt more ambitious climate protection measures,³⁴⁹ others were concerned that the flexibility built into the Agreement would allow parties to act with less urgency on climate issues.³⁵⁰ These concerns appear to be well-founded. Significant evidence indicates that the structure, while supporting state sovereignty, has been bad for environmental integrity. There is a notable “ambition deficit,” with countries setting weak targets that climate experts argue are not ambitious enough to limit temperature increases to the needed levels.³⁵¹ Indeed, the review of progress at COP28 revealed gaps between the treaty’s goals and countries’ performances, with the overall assessment that the world is not on track to meet its goals.³⁵²

The Paris Agreement and its COPs signaled a narrative strain that haunts the UN plastic treaty negotiations. The same consensus-only narrative is the key threat to the negotiations and will ultimately play out in the clash over the DRoP and Rule 38. The plastic-is-the-hero coalition is arguing for essentially the same

/articles/the-successes-and-failures-of-cop28/ [https://perma.cc/832V-ALNU]. Some lobbyists even used the conference to promote the oil industry. Rainforest Rescue, *COP28 Outcome Falls Short—Bad News for People and Nature*, RAINFOREST RESCUE (Dec. 14, 2023), <https://www.rainforest-rescue.org/updates/11901/cop-28-outcome-falls-short-bad-news-for-people-and-nature> [https://perma.cc/HU3X-VUPK].

³⁴⁷ Areesha Lodhi, *COP28 Dubai Is Over: Four Key Highlights from the UN Climate Summit*, ALJAZEERA (Dec. 13, 2023), [https://perma.cc/Z25T-9MRM].

³⁴⁸ David Waskow et al., *Unpacking COP28: Key Outcomes from the Dubai Climate Talks, and What Comes Next*, WORLD RES. INST. (Dec. 17, 2023) (noting that the final agreement at Dubai contained loopholes that benefitted the fossil fuel industry). Notably, neither the Paris Agreement nor the COP28 agreement appear to have deterred expansion of the fossil fuel industry or of fossil fuel use. Switzer, *supra* note 344 (noting the increased use of coal after conclusion of the Paris Agreement); Gerhardt, *supra* note 346 (detailing news headlines projecting fossil fuel expansion, following COP28).

³⁴⁹ See, e.g., Doelle, *supra* note 342, at 17 (opining that there was “every reason to expect that each five-year stocktaking and review cycle will pressure parties to increase their ambition . . .”).

³⁵⁰ Cockett, *supra* note 344, at 82.

³⁵¹ *Id.* at 83; Lindsay Maizland, *Global Climate Agreements: Successes and Failure*, COUNCIL ON FOREIGN REL. (Dec. 5, 2023), <https://www.cfr.org/background/paris-global-climate-change-agreements> [https://perma.cc/F683-4VRY].

³⁵² Lodhi, *supra* note 347; Maizland, *supra* note 351.

structure as that of the Paris Agreement, advancing the same narrative that allows a minority of powerful countries to capture policy. Given that the Paris Agreement has failed to produce the results needed to mitigate climate change, adopting that same structure to regulate plastic is essentially agreeing to a pathway of failure.

An alternative narrative would prioritize a treaty with substantive provisions that actually have the potential to substantively address plastic pollution. This narrative learns from the lackluster results of the Paris Agreement regulatory model. Providing the option to vote if consensus fails should result in a more robust regulatory regime than consensus alone would produce. However, it is not yet clear how the disagreement over Rule 38 will play out. At INC-4, only Norway pushed for resolving the dispute over Rule 38;³⁵³ there was no other discussion of the DRoP at INC-4, leaving the issue of decision-making to be resolved at INC-5. If efforts to include Rule 38 stall, one or more of the anti-voting countries may formally object to the inclusion of Rule 38 in the DRoP, leaving the negotiations with no procedural rules to govern the creation of the treaty. If the pro-voting contingent continues to insist on the inclusion of Rule 38, the dispute over one rule could fracture the negotiations altogether.

What then? Perhaps a subset of countries who are prepared to accept the DRoP as is could reconstitute as a negotiating body and continue discussions on the existing draft. Presumably, some of the plastic-is-a-hero countries would choose not to join the reconstituted negotiations and thus may elect not to become parties to the treaty. Those countries, of course, could still elect to pursue whatever measures they chose to mitigate plastic pollution in their own countries, even without being parties to any treaty. After all, this is essentially all that they were prepared to agree to in a treaty anyway—that they have the authority to take whatever measures they want, with no actual obligation to act on them. Thus, it is difficult to see what would be lost if negotiations proceeded without them, and, more specifically, without the limitations imposed by the plastic-is-the-hero narrative.

³⁵³ INC-4 Statement by Norway (requesting that its proposal for language on decision-making be inserted in the draft treaty).

VI. Conclusion

Application of the Narrative Policy Framework brings the dynamics of the plastic pollution treaty into sharp focus by revealing the narratives that underlie the parties' negotiating positions. Transforming multilateral environmental negotiations from stories of change to stories of power signals an unfortunate loss of power in the global collective and places significant power in the hands of the industries that contribute most to the plastic problem and that have incentives to influence the negotiations to maintain the status quo.

The dispute over Rule 38 has the potential to dilute the substance of the treaty to nought. If the plastic-is-the-hero group objects to the voting provision, the INC will either have no formally adopted Rules of Procedure or will have Rules without the voting option. That means the treaty's substance can be determined only by consensus, resulting in a treaty with only lowest common denominator provisions that no country finds objectionable. The hero group has already expressed objection to the core of what the villain group sees as the necessary moral to the story (i.e., limits on production of new primary plastics) and important aspects of what the victim group calls for (i.e., the identification and elimination of problematic plastics). Indeed, the end of INC-4 saw a draft treaty with so much bracketed text that one commentator observed the negotiators could no longer see the text of the treaty for the brackets.³⁵⁴ The failure to deliver a cogent draft treaty demonstrates the lack of consensus among states on the basic direction and provisions of the treaty. What the negotiations have so far delivered is a clear picture of competing stories about plastic, one focused on combating plastic's harm and another focused on maintaining sovereignty. This difference is nowhere clearer than in the arguments around Rule 38. The power inherent in objection, where decisions are made by consensus, means the hero coalition can capture policy making and thus determine the outcomes of the negotiations. The result will be a treaty under which each country gets to decide for itself what steps it takes, if any, to address the impacts of plastic pollution. This is essentially the situation the world has now, without any treaty in place. The climate change regulatory regime has done little to stop temperatures from rising

³⁵⁴ IISD, *supra* note 330, at 10.

across the globe. If the INC negotiations result in the adoption of a similarly weak regime to regulate plastic, the ongoing harm caused by plastic pollution will continue unabated.

Appendix

Plastic is the Hero Group	Plastic is the Victim Group	Plastic is the Villain Group
Kingdom of Bahrain	African Group	Argentina
People's Republic of China	Alliance of Small Island States (AOSIS)	Republic of Armenia
Egypt	Australia	Bangladesh
India	Azerbaijan	Cambodia
Iran	Bosnia & Herzegovina	Colombia
Kuwait	Brazil	Costa Rica
Sultanate of Oman	Burkina Faso	Ecuador
Pakistan	Canada	The European Union (EU)
State of Palestine	Iceland	Georgia
State of Qatar	Japan	Ghana
Russian Federation	Kenya	High Ambition Coalition
Kingdom of Saudi Arabia	Libya	Indonesia
Sierra Leone	Malaysia	Republic of Korea
Syrian Arab Republic	Morocco	Mauritius
United Arab Emirates	Nepal	Micronesia
Venezuela	Nigeria	Moldova
Gulf Cooperation Council	Palau	Monaco
	Philippines	New Zealand
	Papua New Guinea	Norway
	Singapore	Panama
	Tanzania	Peru

	Thailand	Rwanda
	Tunisia	Sri Lanka
	Turkey	Switzerland
	Uganda	Tonga
	The United Kingdom	Uruguay
	The United States	
	Yemen	