



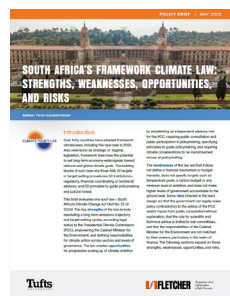
WORKSHOP SYNOPSIS | May 2025

WORKSHOP ON DESIGNING EFFECTIVE CLIMATE LEGISLATION

KEY TAKEAWAYS AND POTENTIAL RESEARCH AVENUES

The Climate Policy Lab organized a workshop on ‘Designing Effective Climate Legislation’ in February 2025. This brief presents a thematic summary of research and experiences shared on the day and some commonly identified policy and research needs to inform future collaboration.

Related Materials



 *Policy brief on South Africa's
2024 climate law*



 *Video compilation of workshop highlights*

Key Takeaways

This section summarizes the takeaways from four substantive sessions which featured presentations followed by questions and comments. The lunch discussion on South Africa's 2024 climate law is summarized in a [separate policy brief](#).

SESSION 1: GLOBAL AND COMPARATIVE TRENDS IN CLIMATE LEGISLATION DESIGN

- Legislative responses to climate change are proliferating and will continue to do so, as evidenced by thousands of climate-related laws worldwide, adoption of climate framework laws by a majority of countries in certain regions (e.g. Latin America) and continuing requests for expert input on designing climate laws (e.g. from governments in Africa).
- Laws modelled on benchmarks such as the 2008 UK Climate Change Act can fail to account for national context including different balances of power between executive and legislature, state constraints in regulating private actors, or the balance of priorities (e.g. mitigation and adaptation). Effective legislative design will borrow from templates successful elsewhere but must be adapted to fit national priorities, political and legal culture.
- There is emerging evidence that the adoption of a national climate law does not undermine economic growth, including in developing countries. This opens the possibility for more intentional integration of national economic goals into legislative design. Possibilities include designing climate laws to improve energy access or affordability, protect critical sectors such as eco-tourism, or mobilizing investment into emerging sectors such as clean energy manufacturing.

SESSION 2: CLIMATE LAW-MAKING THROUGH INSTITUTIONAL INTERACTION

- Climate law emerges not just from legislatures and the head of the executive, but from the interaction of multiple institutions including agencies and regulators, advisory bodies, and the judiciary. Framework legislation can guide the evolution of climate governance by creating new institutions, assigning climate-specific mandates to existing institutions, and directing institutions to engage with each other's mandates.
- Climate legislation and litigation are not independent strategies - climate legislation can catalyze more robust climate jurisprudence. While climate litigation generally relies on rights and obligations found in national Constitutions, framework climate laws have enabled judges to translate broad constitutional provisions into specific governmental responsibilities (e.g. in the Brazil National Climate Fund case).
- Legal frameworks are needed to protect against climate policy back-sliding. Agencies and regulators have tried to address climate change by interpreting or extending mandates under environmental or sectoral laws which pre-date the UNFCCC. However, as agency discretion is increasingly constrained (particularly in the United States), laws explicitly empowering or mandating institutions to act on climate change could improve the durability of policy outcomes across changes in government.

SESSION 3: THE ROLE OF LAW IN CLIMATE ADAPTATION AND RESILIENCE

- Capacity to respond to climate change is overwhelmed, most acutely at the local and community level. Climate laws can enable community self-organization or self-governance by creating norms and platforms to coordinate and share information, infrastructure, inventory, expertise and finance across silos and levels of governance.

- Climate liability legislation can contribute to redressing the resource deficit, particularly for adaptation and resilience. Previously, climate damage was difficult to attribute to particular polluters. Now, multiple laws in US states empower regulators to use advances in climate attribution science to quantify damages payable by historic climate polluters. The effectiveness of these laws is an open question.
- Climate action is inhibited by perverse incentives embedded in law, e.g. government assistance being triggered by post-disaster damage (compensation) rather than escalating pre-disaster risk (anticipatory investment). Removing these barriers is as important as creating new law.

SESSION 4: CLIMATE JUSTICE, PARTICIPATION AND LEGITIMACY

- Formal centralized governance systems are poorly equipped to deal with ground realities such as migration driven by interacting climate, economic and social factors, and increasingly climate-risked traditional occupations (e.g. fishing) which underpin social and cultural relations, apart from providing livelihoods.
- Public participation in legislative and judicial processes has the potential to produce paradigm-shifting outcomes (such as the Inter-American Court of Human Rights advisory opinion on the climate emergency), as well as to consolidate emerging norms (such as protections for vulnerable communities in Kenya's carbon markets legislation).
- Despite some legal processes nominally inviting public participation, the inclusion of vulnerable communities and civil society is not guaranteed, partly because of the diversity of contexts and interests. Coalitions are needed to assert the right to participate and counter-weight the policy influence of more naturally cohesive interest groups. When such coalitions do form, they aid policymakers by integrating diverse knowledge systems e.g. indigenous knowledge and climate science, or customary and formal legal traditions.

Future research

This section synthesizes ideas from presentations, questions and the closing discussion session on future research needs and potential avenues for collaboration.

Public participation in institutions: Participants repeatedly emphasized the importance of participatory governance in creating effective climate policy. It was also noted that despite public participation provisions being included in several climate laws, there is a significant divergence between the norms “as written” and “as lived”.

A potential avenue for future research is mixed-method analysis of the effectiveness and limitations of different types of public participation rules (e.g. coding legislative text combined with stakeholder interviews). Case studies on participatory governance that effectively leverage legislated rules could be useful.

Climate legal systems: Participants agreed that climate governance must be context-specific, while acknowledging the need to learn from previous experience, including from different contexts. In existing theory, legal developments such as framework laws and judicial decisions are often characterized as outcomes, at the cost of understanding their evolutionary role in creating climate action feedback loops over time.

A potential avenue for future research is comparing national experiences with the role of law in mediating interactions between actors and institutions. A theoretical framework for comparison could focus on components enforceable by law – e.g. legislation, executive orders, agency rulemaking, judicial decisions, and rules on public participation – which are present across contexts while varying in their specific form.

Preventing policy backsliding: One purpose of lawmaking is to ensure policy stability across changes in government. The evidence of climate laws guaranteeing such stability is mixed, in line with broader challenges to the rule of law across the globe. Using legal tools to sustain existing climate policy gains is as important as motivating new policy outcomes.

Sharing experiences in combating environmental deregulation and regulatory rollbacks is more common at the national level. A potential avenue for research is cataloging rapidly

emerging evidence from such experiences in ways that can inform legal strategies across borders, as well as assessments of the resilience of different legal and policy designs.

The role of law in climate finance: The well-known global shortfall in climate finance is reflected in the relative lack of emphasis on climate finance institutions in framework climate laws. National climate funds, even those mandated by law, are often under-resourced or diverted by governments. In light of constrained public budgets around the world, new sources of climate finance are needed.

Research is needed on the finance mobilization effectiveness of emerging legal tools such as rules on climate-related financial disclosures, central bank mandates to assess climate risk, and climate liability legislation. Another potential avenue for research is comparative analyses of the rules governing climate funds, climate budget tagging, carbon trading and sovereign green bonds.

Concluding note

The aim of this workshop was to discuss the role of the law in creating climate governance systems that can outperform the sum of their parts. Working towards such systems matches the nature of the problem – complex, multi-scalar, evolving – to the nature of the solution. It allows for policy efforts to start off modestly and strengthen over time, which can help in building civic coalitions and managing entrenched opposition.

Evaluating the effectiveness of such systems is a challenge. This challenge is multiplied when attempting to compare experiences across systems or isolating the impact of particular components. Nevertheless, there is a demand for such assessments from policymakers engaged with these challenges around the world. Developing a robust evidence base to respond to this need requires drawing on experience from across professions, contexts and disciplines. We hope that this workshop is a step toward such collaboration.

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Funding acknowledgement

This workshop was hosted by Climate Policy Lab at The Fletcher School, Tufts University, and made possible through financial support from the William and Flora Hewlett Foundation, Rockefeller Brothers Fund, Sequoia Climate Foundation, and Stichting SED Fund.



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of global affairs
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