

Assessing and Addressing Climate Governance Challenges in Low- and Middle- Income Countries

An Operational Guide



Authors Jesse WORKER (World Resources Institute)
 Eliza Northrop (World Resources Institute)

Coordination Léonie CLAEYMAN (AFD)



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AUTHORS

Jesse Worker is an Associate with the Environmental Democracy Practice at World Resources Institute (WRI). Eliza Northrop is an Associate with the International Climate Action Initiative at WRI. WRI is a global research organization that turns big ideas into action at the nexus of environment, economic opportunity, and human well-being.

SUMMARY

This guide is intended to help staff of Agence Française de Développement (AFD) and other interested stakeholders identify and address potential domestic governance barriers to implementing and enhancing climate policies and actions. The guide starts with the assumption that effective climate governance must build equity and must therefore address social inequalities and link closely with sustainable development. Rather than prescribing the specific actions that countries should take, the guide suggests that practitioners consider legal and regulatory frameworks, institutional capacity to carry out key functions, the role of nongovernmental actors, coherence between climate and sustainable development agendas, and the political economy of decisions made by key actors. The authors provide a framework for assessing potential political, economic, and institutional barriers to sample governance problems and suggest that readers downscale and adapt this framework to their contexts. The guide includes several brief case examples as illustrations of concepts and practices. It is not intended to be exhaustive and does not specifically address key sectors or the governance of climate finance, although it may still be useful to practitioners in these areas.

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Introduction

The groundbreaking Paris Agreement (PA) adopted under the United Nations Framework Convention on Climate Change (UNFCCC) in 2015 provides a new framework under international law for global cooperation on climate change (United Nations 2016).¹ It outlines ambitious long-term goals for mitigation,² adaptation,³ and shifting global finance flows⁴ and establishes new international processes and mechanisms to enhance climate action and support over time. The PA also raises the bar in terms of transparency and accountability of action.⁵

Enhancing domestic political commitment for climate action; building effective regulatory frameworks and mechanisms for transparency, public participation and accountability; and strengthening public institutions⁶ are key to ensuring that countries can meet their obligations under the Paris Agreement. These core elements of climate governance are also closely aligned with the goals and targets of the 2030 Agenda on Sustainable Development (2030 Agenda).

This guide aims to identify and respond to potential governance barriers to developing and implementing climate policies and plans, and is particularly directed to AFD staff and other development finance institutions. The guide does not intend to provide specific solutions, because these will be driven by national and local contexts and should involve local government officials and stakeholders. A country's legal and political systems; energy mix, including supply and demand pressures; land-use availability and practices; urban development trends; and projected impacts from climate change and adaptive capacity—among other factors—will influence the composition of relevant actors, incentives, and institutional relationships. For instance, countries with significant fossil fuel reserves are more likely have powerful interest groups organized to shape policies in favor of their exploitation. Countries with fewer civil and political rights or which have not established or enforced procedural rights⁷ will have less experience implementing climate information disclosure policies, enabling meaningful public participation, or ensuring effective grievance mechanisms. At the same time, implementing national climate actions will require agencies to adopt new rules and incentives, such as developing long-term plans or integrating climate impact into decision-making, and these rules and incentives may encounter bureaucratic inertia or active resistance. Finally, new streams of climate finance in the national budget call for functioning systems of monitoring and accountability to the public.

For the purposes of this guide and given the range of actions and sectors that climate action may encompass, granularity at the sectoral level is sacrificed. For instance, countries with emission reduction goals for the manufacturing and construction sector may consider how the governance considerations in the guide may be adapted to specific issues. The guide is also not intended to serve as a technical or legal manual for what to include in a climate law or policy but, rather, to provide examples on how these devices can be used to build effective and responsive frameworks to align institutional incentives and build political support for climate action that can be enhanced over time as envisaged by the Paris Agreement.

¹ The Paris Agreement was adopted by all 196 Parties to the United Nations Framework Convention on Climate Change at COP21 in December 2015. It subsequently entered into force on October 5, 2016. It is a treaty and binding on Parties to it under international law for the purposes of the Vienna Convention on the Law of Treaties.

² Paris Agreement, Articles 2.1(a) and 4.1.

³ Paris Agreement, Article 2.1(b) and 7.1.

⁴ Paris Agreement, Article 2.1(c).

⁵ Paris Agreement, Article 13.

⁶ To avoid confusion, we use the common governance definition of *institutions* to refer to formal and informal rules and norms that shape relations and behavior between people and organizations (North 1990) (Leftwich and Send 2010).

⁷ Including rights to access to information, public participation, and access to justice.

The first section of this guide contextualizes climate change governance at the country level with the scope of the climate-change challenge, advances in understanding of governance, and the obligations and opportunities presented by the Paris Agreement. Section Two examines the scope and role of legal and regulatory frameworks in creating a favorable enabling environment for effective climate action, drawing on a range of examples to highlight the diversity of potential options for countries to consider. Section Three outlines the capacities and functions that government agencies are expected to need to effectively implement mitigation and adaptation actions using processes that promote fairness, inclusion, and legitimacy. Section Four addresses the importance of ensuring coherence between climate and sustainable development agendas and offers insights into the governance of a synergistic approach. Finally, Section Five suggests a framework for identifying political economy constraints and opportunities to implement different climate policy options. Each section provides a brief explanation of the issue and its underlying importance, examples of actions countries have taken to address the issue, and operational guidance for staff.

The Climate Change Governance Challenge

I. Climate governance

A definition of climate governance, stemming from the AFD work on governance⁸ would be the following: the rule-making and decision-making mechanisms and modes within a given system or society that determine how institutions' interests are articulated, coordinated and negotiated; how power and authority are distributed, controlled, and exercised; how resources are accessed, allocated, used, and exchanged; and how conflicts are mitigated or resolved to enable and sustain effective climate-change mitigation and adaptation responses.

It is helpful to distinguish these key attributes of climate governance from governance more generally.⁹ First, the uncertainty of timing, scale, and location of climate impacts requires adaptiveness and flexibility in approach. This makes it especially important to establish decision-making structures that are responsive to new information and that enable information to be transmitted to and from communities and stakeholders—especially critical to addressing vulnerability. Second, climate change cuts across sectors and decision-making scales, requiring coordination that is unprecedented, especially when considering the changes that must take place in energy, transportation, infrastructure, agriculture, and human settlements. Policymakers may discount future climate impacts (and long-term benefits from immediate action) and delay action based on perceived short-term political costs when there is organized and visible opposition, particularly in electoral democracies where ideologies may influence perception of climate action.

Over the past decade, there has been considerable research on a range of governance topics to test theories of change and better understand the conditions under which governance reforms are most likely to be effective. While this is not the space for an in-depth discussion on this topic, it is useful to highlight a few areas of ongoing learning that are relevant to climate governance.

There is a growing movement to more explicitly consider how political power and economic resources are distributed across a network of actors and the rules and norms that affect when and how they are shared (McCloughlin 2014). This approach emphasizes local partner leadership in identifying the most relevant problems and to enable experimentation and learning. This “function over form” approach warns against importing “best practices,” arguing that decision-makers have often adopted outward reforms to appease development partners, but underlying functions and practice remain the same (Andrews et al. 2013). Proponents point to a history of failures when changes to procedures and policy were ignored in practice (Booth and Unsworth 2014). For climate policy, this means assessing the underlying governance dynamics when determining potential policy options and recognizing when coalitions may be needed to shift political dynamics.

Finally, for climate governance to be effective it can't be approached as a siloed issue but must be reflected within broader economic and sustainable development shifts. Achieving zero poverty by 2030 — one of 17 new UN goals adopted in September 2015 — will be impossible if global warming and its effects on the poor and vulnerable are not accounted for in development efforts. Analysis by the World Bank estimates that climate change could

⁸ Following the transfer, from the French Ministry of Foreign Affairs to AFD in January 2016, of the cooperation mandate on Governance. AFD has been working on a governance road map, providing elements of definition and strategic orientations for governance development cooperation.

⁹ The World Bank's 2017 World Development Report, *Governance and the Law*, defines governance as “the process through which state and non-state actors interact to design and implement policies within a given set of formal and informal rules that shape and are shaped by power.” (p. 3)

force more than 100 million people into extreme poverty by 2030. But with rapid, inclusive development that is adapted to changing climate conditions, most of these impacts can be prevented (Hallegatte et al. 2016). The Paris Agreement invites countries to develop long-term low emission development strategies, through which countries could set long-term objectives (e.g., from 2050 onward) to achieve zero net emissions and build resilience in a manner that also aligns with their long-term development plans.¹⁰ Aligning such strategies can enable countries to avoid short-term investments that may be inconsistent with their long-term objectives and harness benefits available through early action.¹¹ Achieving the goals of the Paris Agreement and objectives of the 2030 Agenda not only are deeply intertwined, but pursuing climate action through a sustainable development lens can also help countries identify and address many of the underlying governance challenges for climate action, such as promoting public access to information (Sustainable Development Goal [SDG] 16.10), social inclusion (SDG 5.5) and building strong institutions through responsive, inclusive, participatory, and representative decision-making (SDG 16.6 and 16.7).

II. Climate Governance and the Paris Agreement

The Paris Agreement is a multilateral agreement that is binding under international law and entered into pursuant to the UNFCCC. Although only states may join the PA, it sends important signals to a much broader group of stakeholders including subnational actors and private-sector and international organizations. The PA follows the Kyoto Protocol¹² but is much broader in scope and participation. It establishes several new obligations and processes that should be considered when assessing existing governance arrangements at the domestic level. These include:

- **Long-term goals for mitigation, adaptation, and finance.** The PA establishes a long-term temperature goal to limit warming to 1.5 to 2 degrees C above pre-industrial levels¹³ as well as a goal to peak greenhouse gas emissions as soon as possible so as to achieve a balance between sources and sinks in the second half of this century.¹⁴ The PA also establishes a long-term goal to increase the ability to adapt to the adverse impacts of climate change and foster climate resilience and low greenhouse gas emissions development in a manner that does not threaten food production.¹⁵ Finally, the PA also establishes a long-term goal for making finance flows consistent with a pathway toward low greenhouse gas emissions and climate-resilient development.¹⁶ These goals establish a clear direction of travel for global climate action.
- **A process to enhance action on emissions every five years.** Each party to the PA is required to prepare and communicate successive nationally determined contributions (NDCs) every five years. There is no legal requirement for Parties to achieve the targets and actions contained in the NDCs, but Parties are required to pursue domestic mitigation measures with the aim of achieving the mitigation objectives of the contributions.¹⁷ Successive NDCs (e.g., new NDCs) are expected to

¹⁰ Paris Agreement, Article 4.19.

¹¹ <http://www.wri.org/blog/2015/10/sending-right-signals-how-paris-agreement-can-close-emissions-gap>.

¹² Adopted under the UNFCCC at the third session of the Conference of the Parties (COP 3) in Kyoto, Japan, on December 11, 1997.

¹³ Paris Agreement, Article 2.1(a).

¹⁴ Paris Agreement, Article 4.1.

¹⁵ Paris Agreement, Article 2.1(b).

¹⁶ Paris Agreement, Article 2.1(c).

¹⁷ Paris Agreement, Article 4.2.

represent a progression beyond the country's then current NDC and reflect that country's highest possible ambition.¹⁸

- **A common system for reporting on mitigation efforts.** Through an enhanced transparency framework, all Parties will be required to report regularly on their emissions and track progress on achieving their NDCs.¹⁹ This information provided by all Parties will be subject to an individual expert review as well as a collective consideration of progress.²⁰
- **Enhanced action on adaptation and support.** All Parties are required to engage in national adaptation planning processes and regularly communicate information on their adaptation priorities, implementation and support needs, and plans and actions.²¹ Parties also agreed to balance public funding between adaptation and mitigation and agreed to significantly increase support for adaptation before 2020, which is of vital importance for the most vulnerable countries dealing with the impacts of a warmer world.²² Developed countries are required to report on the finance and support they provide, and developing countries are encouraged to report on the finance and support needed and received.²³

These international processes and obligations provide the framework under which domestic climate arrangements should be assessed and understood.

Legal and Regulatory Frameworks

A fundamental prerequisite for effective implementation of the Paris Agreement is a coherent and effective domestic legal and regulatory framework. This section outlines what a legal and regulatory framework is and how different instruments can be employed to respond to the climate governance challenge.

A country's legal and regulatory framework refers to the existence of the necessary infrastructure (mechanisms, instruments, and institutions) to support the control, direction, or implementation of a proposed or adopted course of action. In the case of climate change, it is the framework that enables a country to implement its international obligations as well as other national priorities related to emissions reduction and adaptation to climate impacts. The framework includes the development of proposed or adopted actions, rules, principles, or laws while supporting a process for their guidance, implementation, and monitoring.

Each country has a different legal tradition²⁴ and, within this, different forms of government²⁵ that will influence the development and content of its legal and regulatory framework.

¹⁸ Paris Agreement, Article 4.3.

¹⁹ Paris Agreement, Article 13.

²⁰ Paris Agreement, Article 13.11 and 13.12.

²¹ Paris Agreement, Articles 7.9 and 7.10.

²² Paris Agreement, Article 9.4.

²³ Paris Agreement, Article 13.9 and 13.10.

²⁴ Most nations today follow one of two major legal traditions: common law or civil law. The common law tradition emerged in England and was applied within British colonies across continents. The civil law tradition developed in continental Europe and was applied in the colonies of European imperial powers such as Spain and Portugal. Civil law was also later adopted by countries formerly possessing distinctive legal traditions, such as Russia and Japan.

See <https://www.law.berkeley.edu/library/robbins/pdf/CommonLawCivilLawTraditions.pdf>.

²⁵ In the case of its broad associative definition, government normally consists of legislators, administrators, and arbitrators. Government is the means by which state policy is enforced, as well as the mechanism for determining the policy of the state. A form of government, or form of state governance, refers to the set of political systems and institutions that make up the organization of a specific government. These forms include presidential, parliamentary, and totalitarian systems, including those with a one-party rule, and monarchies.

However, some general structures are common to most countries. Understanding the role of various legal and regulatory instruments can help assess whether a country's current framework (as a whole) is already fit for purpose to meet a country's climate goals and implement commitments and obligations under the Paris Agreement or whether further interventions are required to address challenges and overcome barriers. Each of the following factors should be considered when understanding the entire legal and regulatory framework relevant to climate change.

- A **constitution** establishes the basic structure of government and the rights and responsibilities of citizens. Many constitutions include information relevant to climate change, such as the structure of political institutions, checks and balances within the political system, legal process, human rights, and environmental protection.
- **National policies** should provide a coherent set of strategies and principles to govern behavior but are not legal instruments and have no legal force. Often, these policies will identify the need for specific legislation to implement an aspect of the policy. Countries can develop specific climate policies (based on mitigation and adaptation or both) or could integrate climate-change planning into national development policies. Increasingly, countries are developing overarching policies aimed at pursuing an integrated agenda (e.g., Ethiopia's Climate-Resilient Green Economic (CRGE) Plan).²⁶
- **Laws** are the legally binding set of rules that govern the vision established in a policy. The term *law* encapsulates legislative or statutory instruments, administrative or executive decrees or orders, and common law provisions.²⁷ Laws relevant to climate change can be both direct (e.g., a climate-change act or energy act) and indirect (local zoning laws, forestry laws, or freedom of information acts).
- **Regulations** are the implementing rules created by an executive body of government to operationalize legislation.²⁸ Regulations are most often tied to a law but provide significantly more detail. Often, the legislation will give some guidelines about what the regulations should cover.

Legal and regulatory instruments can play a number of crucial roles in responding to climate change and ensuring robust and effective governance systems. These include, but are not limited to:

- Determining the appropriate legal status of entities expected to play different roles in implementing climate policy;
- Establishing mechanisms for strengthening coordination among key line ministries (e.g., energy, health, infrastructure, transportation, and agriculture);
- Harmonizing or laying out common objectives and clarifying roles and responsibilities vis-à-vis those objectives;
- Ensuring public participation in decision-making processes (e.g., through mandatory consultation processes and periods and/or establishing multi-stakeholder advisory committees);

²⁶ <http://www.ethcrge.info/crge.php>.

²⁷ Laws include statutes, legislation, and acts enacted by a legislative body of a government, whether federal or state, as well as decrees issued by a head of state (such as the president of a republic or a monarch), according to certain procedures (usually established in a constitution) that have the force of law but are different from a statute or act that was passed by the legislative arm of government. Common law refers to the rules of law that come from the written decisions of judges.

²⁸ Regulations are authorized by statutes (sometimes called rules or administrative laws) and have the effect of law. Someone violating a regulation is, in effect, violating the law that created it. Regulations are designed to increase flexibility and efficiency in the operation of laws. Many of the actual working provisions of statutes are embodied in regulations.

- Ensuring access to information and relevant data for climate change (e.g., requiring information sharing within government and relevant climate data to be made accessible to the public); and
- Ensuring budget allocation for climate priorities and monitoring and evaluation of expenditure against those priorities (e.g., establishing compliance mechanisms to review sectoral budgets against policy or budgetary objectives).

In most cases, the development of a comprehensive legal and regulatory framework to address climate change typically takes place over a number of years in an iterative (or piecemeal) manner, influenced by both international and domestic factors. In terms of international factors, the propensity to legislate on climate is heavily influenced by the passage of similar laws elsewhere, suggesting a strong role for peer pressure and/or learning effects (Fankhauser et al. 2014). Domestically, the passage of climate-related laws has been found to be largely bipartisan, although more left-leaning political parties tend to favor enacting framework or flagship legislation than do those on the right. Generally, climate-related laws will respond to specific policy priorities or issues as they arise (e.g., domestic energy reform or planning legislation related to at-risk areas) or gain political momentum. Accordingly, much of national climate regulation consists of preexisting frameworks, typically in the areas of environment and development. Therefore, to understand a country's legal and regulatory framework for climate change, it is necessary to look beyond just those laws or policies that might have climate in the title or purpose.

National policymakers have been enacting climate-related laws and policies²⁹ with increasing frequency over the past 20 years. As of 2017, there were more than 1,200 climate relevant national laws in 164 countries (Nachmany et al. 2017). Assessments indicate that national climate-related laws have doubled in number every four to five years since the Kyoto Protocol was adopted in 1997, with three-quarters of the world's annual emissions now covered by national targets (Grantham Research Institute on Climate and the Environment 2016). Recent analysis revealed that 14 new laws and 33 new executive policies related to climate change have been introduced since the Paris Agreement was adopted in December 2016 with 4 of these new laws and policies specifically relating to NDCs (Wentz 2017).

These climate-related laws take many forms but can be characterized into two main categories: (1) comprehensive legislation,³⁰ such as national framework climate change laws, or (2) sectoral or thematic laws, such as energy laws, or climate risk-management laws. Those countries with national framework legislation on climate change often have additional sectoral or thematic legislation to support the implementation of the general provisions or principles established in the framework legislation, whereas many countries will only have sectoral or thematic legislation.

Fifty-eight countries³¹ have framework legislations that address both mitigation and adaptation (Nachmany et al. 2015). Here are some examples of national framework legislation on climate change:

²⁹These include climate legislation, regulations, policies, and decrees passed by legislative bodies or by the executive arm of government.

³⁰ Framework legislation is defined as a law or executive act with equivalent status that serves as a comprehensive, unifying basis for climate-change policy, addressing multiple aspects or areas of climate change mitigation or adaptation (or both).

³¹ Based on an analysis of 164 countries in the Climate Change Laws of the World database maintained jointly by the Grantham Research Institute on Climate Change and the Environment at the London School of Economics and Political Science, and the Sabin Center on Climate Change Law at the Columbia Law School and available at <http://www.lse.ac.uk/GranthamInstitute/climate-change-laws-of-the-world/>

1. United Kingdom's 2008 Climate Change Act³²

The UK's 2008 Climate Change Act was the world's first long-term, legally binding framework law to address emissions reductions (United Kingdom 2008). It sets a long-term goal for the UK to reduce its greenhouse gas emissions by 80 percent from 1990 levels by 2050. To achieve this long-term goal, the act establishes five-year carbon budgets, set by the secretary of state. (Three budgets were set in advance to balance certainty for business and investors with flexibility to respond to changes in emissions over time.) The fifth carbon budget (adopted in June 2016) has set emission reduction levels to 57 percent, compared with 1990 levels. It covers the period between 2028 and 2032 and is in line with UK commitments under the Paris Agreement.³³

The act also addresses UK's response to the impacts of climate change and efforts to adapt. It requires the government to report at least every five years on the risks posed by climate change and identify how these risks will be addressed. The act also introduces powers for government to require public bodies and statutory undertakers to carry out their own risk assessments and make plans to address those risks.

In terms of institutional arrangements, the act establishes the Committee on Climate Change to advise on cost-effective, long-term solutions. The committee is independent and charged with monitoring progress and reporting to Parliament, advising on the carbon budgets and amending the 2050 goal as necessary. The Adaptation Sub-Committee provides advice to, and scrutiny of, the government's adaptation work.

2. Philippines 2009 Climate Change Act

The 2009 Climate Change Act of the Philippines is intended to further the Philippine Agenda 21 framework, which espouses sustainable development to fulfill human needs while maintaining the quality of the natural environment for current and future generations. The act is a good example of a framework piece of legislation that outlines the main principles for climate action in the Philippines and results in the subsequent enactment of multiple sectoral pieces of legislation, policies, and executive orders consistent with these principles (including the National Framework Strategy on Climate Change, the detailed National Climate Change Action Plan, and local climate change action plans (Office of the President of the Philippines 2009)).³⁴

To this end, the act states the main principles of climate change policy: common but differentiated responsibilities, the precautionary principle, UNFCCC objectives (GHG mitigation and adaptation), and the Hyogo Framework for Action addressing disaster risk reduction. The act adopts a gender-sensitive, pro-children and pro-poor approach. The act acknowledges the Philippines' vulnerability to climate change and the need for appropriate adaptation and focuses on creating a comprehensive framework for systematically integrating the concept of climate change, in synergy with disaster risk reduction, in various phases of policy formulation, development plans, poverty reduction strategies, and other development tools and techniques. The act underlines the need to amend relevant legislative acts so as to ensure a regulatory framework that is conducive to implementing policies that reflect the linkages just mentioned (Republic of the Philippines 2009). The act establishes the Climate Change Commission, which is chaired by the president of the Philippines and is

³² Available at <http://www.legislation.gov.uk/ukpga/2008/27/contents>

³³ Climate Change Laws of the World database maintained jointly by the Grantham Research Institute on Climate Change and the Environment at the London School of Economics and Political Science, and the Sabin Center on Climate Change Law at the Columbia Law School and available at:

<http://www.lse.ac.uk/GranthamInstitute/climate-change-laws-of-the-world/>

³⁴ Provides for local government units in the Philippines to comply with their mandates under the Climate Change Act and relevant laws.

supported by a climate change unit and an advisory board made up of representatives from all relevant government departments, civil society, academia, and the private sector.

3. Kenya's 2016 Climate Change Act

Kenya's Climate Change Act, enacted in May 2016, is also an example of a comprehensive national framework legislation on climate change. It seeks to establish important functions to ensure coherence and to mainstream climate change considerations into decision-making at all levels. It establishes a Climate Change Directorate to implement the law, enforce compliance, and coordinate activities related to climate change throughout the government (Republic of Kenya 2016). The act provides incentives and obligations for private-sector contributions to low-carbon development; prioritizes civil society capacity-building and participation as well as gender equity; and promotes technology transfer, mobilization, and transparent management of climate finance. To facilitate coherence and implementation, the act establishes the National Climate Change Council, chaired by the president with cabinet secretaries representing the environment, economic planning, treasury, and energy. Innovatively, the act also requires representation on the council from civil society, the private sector, marginalized communities, and academia.

Framework legislation has been shown to encourage a more strategic and whole-of-government approach to climate policy and generates further legislative and policy action, as can be seen in the case of the Philippines and Mexico (Fankhauser et al. 2014). Such legislation can also focus on cross-sectoral mechanisms, such as carbon pricing and performance-based standards, create incentives to drive changes in practices to better account for climate-change risks, and be useful for enshrining long-term objectives or goals into legislative instruments.

Given the challenges of building the necessary political and public support for enacting framework legislation, the majority of climate-related laws and regulations are sectoral or thematic. Here are some examples of sectoral or thematic instruments:

4. Bangladesh's 2009 Climate Change Trust Fund Act

Closely linked to the Bangladesh Climate Change Strategy and Action Plan (BCCSAP), the act establishes a national trust fund dedicated to funding the implementation of climate-change projects in Bangladesh from national sources. The act allocated an initial budget of US\$100 million per year for three years between 2009 and 2011, stipulating that 66 percent of the budget be spent on the implementation of projects prioritized in the BCCSAP. The remaining 34 percent will be maintained as a deposit for emergencies. Funds could be used for both public-sector and nongovernment projects. The fund is the first ever national climate fund established by a least developed country. The fund is still in operation, although facing a number of challenges, including a trend in reducing the amount allocated to the fund, a lack of quality proposals submitted, concerns over political influence in decision-making, limited control over all implementing ministries, and capacity constraints (Ministry of Finance, Bangladesh 2010). Despite these challenges, the fund remains a model for institutionalizing national climate finance and ensuring that finance is available to support national climate-change priorities.

5. France's Law on Energy Transition for Green Growth³⁵

Ahead of COP21 in 2015, France passed an extensive law focused on diversifying its energy sector. The Law on Energy Transition for Green Growth (Energy Transition Law) covers a large scope of economic activities relevant to the sector and includes the following binding energy targets for transportation, the housing sector, and renewable energy:

- Cut GHG emissions by 40 percent between 1990 and 2030 and by 75 percent by 2050;
- Cut national energy usage by at least 50 percent by 2050;
- Reduce the share of fossil fuels in energy production by 30 percent, compared to 2012;
- Cap the total output from nuclear power at 63.2 GW and reduce France's reliance on nuclear power from the current 75 percent to 50 percent by 2030; and
- Bring the share of renewables up to 32 percent of the energy mix by 2030.³⁶

The law notably sets minimum energy consumption requirements for public buildings and, where possible, requires them to be energy positive. The law also introduces a package of measures to tackle air pollution through a clean transportation program. Through the Energy Transition Law, France became the first country to enact extensive mandatory climate-change reporting obligations for asset owners and asset managers (Rust 2016). Article 173 and an accompanying implementing decree apply to a wide range of investors, including asset managers, insurance companies, and pension and social security funds. They are being required to report not only on how they integrate environmental, social, and governance factors in general into their investment policies—and, where applicable, risk management—but also specifically on how climate-change considerations are incorporated. The Energy Transition Law and the reporting obligations contained in Article 173 are expected to be the first of a series of national-equivalent regulatory frameworks among the G20 countries. The Financial Stability Board's Task Force on Climate-Related Financial Disclosures was established shortly after the law passed, at the December 2015 G20 summit, and explicitly offers its guidance for compliance with Article 173 of France's Energy Transition Law.

One of the main challenges of this sectoral or thematic approach is that national laws and regulations may not align with a country's emissions profile or adaptation needs. For example, there are more than twice as many energy-related legislative and executive acts as there are for agriculture, even though the two make up similar amounts of global greenhouse gas emissions (Grantham Research Institute on Climate and the Environment 2016). Likewise, despite adaptation being a priority for most developing countries, very few have addressed this issue through their legal and regulatory framework. Half of the countries analyzed in this study only had minimal climate-change risk assessments, and many do not go beyond the reporting requirements for the UNFCCC.

An appropriate regulatory framework is one that successfully incorporates short- and long-term policy objectives across different sectors and governance levels. As circumstances change and new information becomes available, a framework that once was appropriate may need to be updated and improved over time. In the light of the new obligations created by the Paris Agreement, including to pursue domestic mitigation measures with the aim of achieving

³⁵ Law No. 2015-992 on Energy Transition for Green Growth (Energy Transition Law).

³⁶ Refer to the country-specific page for France on the Climate Change Laws of the World database maintained jointly by the Grantham Research Institute on Climate Change and the Environment at the London School of Economics and Political Science, and the Sabin Center on Climate Change Law at the Columbia Law School and available at <http://www.lse.ac.uk/GranthamInstitute/climate-change-laws-of-the-world/>.

the country's NDC,³⁷ the extent to which climate and non-climate legislation is sufficient and appropriate should be assessed. This requires a mapping of existing (versus required) regulatory provisions, as well as an assessment of a more qualitative nature, which helps identify (and eliminate) inconsistencies and contradictions.

The existence of implementation barriers must also be evaluated.³⁸ Implementation barriers may be faced by existing as well as proposed legislation or regulation. In understanding potential barriers to implementation, it is necessary to distinguish between direct and indirect legal and regulatory intersections for climate. Direct intersections encompass those laws that explicitly address climate-change policy, such as climate targets or renewable energy regulation, or consider climate change within a separate legal framework such as transportation or planning. Ensuring coherence among these laws and policies is a necessary first step but presents only half of the picture. Indirect intersections must also be mapped. These include laws or policies that are focused on pursuing a different regulatory function, such as land management, corporate accountability, and financial disclosure or even procedural aspects such as government procurement regulations, but that nonetheless can significantly affect or potentially undermine the ability of country to achieve its mitigation and adaptation goals.

Once gaps in the regulatory framework have been identified, changes can be introduced to bridge those gaps or address potential barriers. Changes can take the form of amendments to existing legislation and/or regulation, introduction of new legislation and/or regulation, or both. This form of review is most likely to be undertaken or instigated by the government authority responsible for climate change, triggered by an NDC implementation planning process, but the review also could be undertaken by external actors.

Consideration must be paid to whether the objective that is being sought would be most efficiently and effectively achieved through legal means or whether a policy-based option would be more suitable. While economy-wide framework legislation is often the aspiration, this may not be politically feasible and is not a guarantee of reaching commitments.

6. South Africa's National Climate Change Response

In 2011 South Africa adopted its National Climate Change Response (NCCR). The NCCR provides the framework for all climate-change actions in the country, setting out both conditional and unconditional mitigation targets, as well as the country's climate-change adaptation goals. As such, the NCCR plays a role that is similar to that played by the Climate Change Act in Kenya, or the Climate Change Act in the Philippines. However, South Africa's NCCR does not take the form of a law. Rather, it is a white paper. Nonetheless, all state-owned enterprises and governmental departments have been mandated to review their policies regularly to ensure that concerns related to global warming, as reflected in the white paper, are integrated into all governmental policies and plans.

Finally, there have been cases where, due to a lack of legal capacity (e.g., lawyers who can review and revise a set of complex rules in different areas), financial resources, or time, countries have opted to follow legislative routes developed by others. While existing legislation or broad templates for climate legislation may provide useful guidance for lawmakers, closely replicating existing approaches and the law of other countries is not

³⁷ Paris Agreement, Article 4.2. Despite the achievement of the targets, policies and actions communicated in NDCs not being required under the Paris Agreement there is a legally binding requirement to "to pursue domestic mitigation measures with the aim of achieving the objectives of such contributions".

³⁸ For a discussion on the types of barriers and a framework for assessing them relevant to climate change adaptation, see Moser, S. C., and Ekstrom, J. A. (2010). "A Framework to Diagnose Barriers to Climate Change Adaptation." *Proceedings of the National Academy of Sciences of the United States of America* 107(51): 22026–22031. <http://doi.org/10.1073/pnas.1007887107>

recommended. In general, a tailored approach, reflecting the specific needs and circumstances of different developing countries (and their legal systems) is needed.

III. Policy Stickiness and Commitment

Climate policy proponents want to help countries avoid locking in carbon-intensive or maladaptive policies or investments that will dictate a higher emissions trajectory or greater climate risks decades into the future (The New Climate Economy 2016). The inverse of this is also an important governance consideration: What are the factors that will help laws and policies be politically insulated from future repeal? Political shifts in power at the legislative or executive branches may be accompanied by efforts to repeal major legislation of the predecessor, particularly if there is organized ideological opposition. Laws created through the legislature or parliament are typically more difficult to undo because of institutional design that forces any attempt at repeal to meet high thresholds—such as a two-thirds majority of a parliament or congress. Credibility in compliance is likely to hinge on whether the costs of noncompliance outweigh those of compliance. One U.S. climate scholar suggests a series of rules and administrative procedures to make repeal of potential future climate laws more difficult, such as requiring independent analysis of future amendments, separating responsibilities for policy goal creation and implementation between different institutions, creating special participatory rights for disempowered groups, and promoting certain types of judicial review while limiting others (Lazarus 2010). However, creating climate laws through the parliament may not be feasible in the near term for some countries. Another tactic is to consider the political economy implications of a proposed law or policy and try and address them, whenever possible, in the design (see Section Five). Ultimately, policymakers should consider how the design of policies and the institutional context in which they are developed will create incentives for future political leaders to keep them in place.

When climate policies have the potential to create benefits (or spoils), these can create constituencies and feedback effects that make the policy politically difficult to repeal. Policies such as feed-in tariffs or carbon-price policies can enable new market entrants and produce revenues, which may be redistributed in a way to compensate communities that are adversely affected (such as those working in fossil fuel industries) or address socioeconomic inequalities. If these benefits are produced quickly, are visible, and are accompanied with a clear communications campaign through appropriate messengers, these beneficiaries can become constituencies of the policy. This effect can help the policy achieve stickiness, where law reversal is difficult due to institutions (constitutional provisions in this case) and because it becomes politically popular relatively quickly. If benefits increase over time and enable investments that would be costly to reverse or undo, the policy may become further entrenched (Levin et al. 2012). Finally, the visibility can attract other supporters (for instance encouraging other private power producers to enter the market), expanding the base of support. A case study of Germany's feed-in tariff policy demonstrates how visible benefits for private power producers (i.e., revenue for unused electricity helped make the policy stick while building broader political support for climate policies.

Key Functions and Capabilities of Implementing Agencies

Climate action requires implementing agencies to competently carry out a range of functions, to respond to climate threats, induce cooperation in energy transitions and other low carbon policies, and accountably manage climate finance. Some of these, such as accountable public financial management, are inherent to governance generally and likely have already been part of development aid portfolios. However, the timing, intensity, and location of climate impacts are characterized by uncertainty. Given the complexity of the climate system and the uncertainty as to how impacts may irreversibly change biological, social, or economic systems, decision-makers cannot be prepared for every type of extreme climate event. The following key capabilities and functions are necessary:

- information and data collection, management, and proactive disclosure in formats that are open and usable;
- stakeholder and public participation that is gender responsive and fully integrated into planning, decision-making, and monitoring of implementation, with a process to identify and involve marginalized groups;
- structure, incentives, and rules for national agencies to coordinate with each other (for instance, disaster management with agriculture) and with subnational and international actors and bodies;
- support of accountability through publication of responses to public comment and the provision of administrative grievance and redress mechanisms; and
- effectively, efficiently, and accountably managed climate finance and budgeting processes.

IV. Information and Data Management and Disclosure

Several indicators suggest that governments around the world are seeing transparency as central to effective governance. The number of right-to-information laws has increased from a few dozen to more than 110 today (Centre for Law and Democracy 2017). The Open Government Partnership (OGP), where countries commit to more open and inclusive processes, has expanded in six years since its founding to 75 countries and 15 subnational governments, which have made thousands of independently monitored commitments during that time. OGP members are increasingly including commitments in their OGP national action plans to make climate governance more transparent, inclusive, and accountable,³⁹ and in 2017 an open climate working group was launched to provide a space for knowledge exchange among governments and civil society. However, there is a wide range of legal strength and implementation progress, and often the effectiveness of a tracking and appeals system shapes whether useful information is disclosed (Trapnell 2014). How effectively countries can implement these measures depends on technical and institutional capacities. Even if data are technically feasible to gather, governments may withhold information that they deem politically sensitive as a way of avoiding accountability. In other cases, agencies are not sharing data that they have collected. A survey by C40 Cities of several municipal agencies found that accessing relevant national data was a key issue (C40 Cities n.d.).

³⁹ As of early 2017, 10 countries have created climate commitments with 7 coming in 2016.

While the Paris Agreement obliges all countries to report on their progress in implementing their NDCs,⁴⁰ it does not indicate the degree to which they must share information and data internally or with domestic stakeholders. Climate information transparency calls for a range of responsibilities and associated capacities, including climate-relevant data collection and management; institutions and incentives for sharing data with other agencies, other level of governments, and nongovernmental stakeholders; and coherence within a country's legal framework on access to information. It also can entail making climate policymaking and implementation processes more transparent, including the timeline, budget, projected impacts and effects, and milestones to implementation.

Operationally, this can be assessed and improved in the following ways:

1. Assess the state of implementation of access-to-information laws and open data policies in relation to climate-relevant data.
 - Are they coherent and consistent?
 - Do relevant agencies have the budget for implementation? If not, is there political opposition to data release?
2. Determine whether agencies are coordinating their data collection and sharing key datasets.
 - Establish protocols, platforms, and incentives to encourage better information and data sharing consistent at all levels of government (including subnational).
3. Conduct multi-stakeholder forums (or other culturally appropriate events) to identify the climate-relevant data and information that users need and their ability to access it.
4. Support and strengthen ombudsmen, administrative tribunals, and other redress mechanisms.

1. Creating Open Data Portals for Climate Action

Several countries have developed and launched open data portals and are including a range of different datasets relevant to climate for open use. A preliminary survey by WRI found that France,⁴¹ Australia,⁴² the United Kingdom,⁴³ the United States,⁴⁴ and Mexico⁴⁵ had the most climate-relevant datasets in open format. Climate-relevant datasets can include those that enable monitoring of progress toward emission reduction goals, renewable energy deployment, climate finance and use, climate impact scenarios, and vulnerability indicators, as well as progress toward relevant sustainable development targets. For instance, understanding the location, capacity, generation, and emissions of power plants can help decision-makers and stakeholders assess vulnerabilities and potential for emission reductions (Worker and Friedrich 2017). While it is good practice to make data available in raw form for the data literate, a key capability is transforming key datasets into formats that are relevant and usable for wider populations. Although one might expect an overrepresentation of developed countries, recent commitments to disclose climate and environmental data in open data formats have come from Tunisia, Sierra Leone, and Honduras through the OGP. While these political commitments are positive, it is important to monitor the comprehensiveness and consistency of disclosure to ensure that datasets that

⁴⁰ Paris Agreement, Article 13.

⁴¹ <https://www.data.gouv.fr/fr/search/?q=changement+climatique>.

⁴² https://data.gov.au/dataset?q=climate&sort=extras_harvest_portal+asc%2C+score+desc.

⁴³ <http://www.metoffice.gov.uk/>.

⁴⁴ <https://www.data.gov/climate/>.

⁴⁵ <http://cambioclimatico.datos.gob.mx/>.

are critical to monitoring implementation of mitigation and adaptation policies are not withheld.

V. Public Participation and Stakeholder Engagement in Climate Governance

Public participation⁴⁶ and stakeholder engagement⁴⁷ are necessary to establish a two-way information flow between government agencies and the public on climate policies that can identify vulnerabilities, stakeholder concerns, and how different policies may distribute benefits and costs across the population. The Intergovernmental Panel on Climate Change in its 5th Assessment Report recognized with high confidence that, “Adaptation planning and implementation at all levels of governance are contingent on societal values, objectives, and risk perceptions. Recognition of diverse interests, circumstances, social-cultural contexts, and expectations can benefit decision-making processes” (Field et al. 2014). But expanding the decision-making body to include the public is also important in determining an acceptable level of risk, prioritizing actions, monitoring results, and providing feedback (WRI et al. 2011). Implementing effective public participation procedures builds on decades of evidence from environmental governance literature as well as the legally binding Aarhus Convention.

1. Costa Rica’s Open Government Policy and Climate Change Citizen Consultation Council

Costa Rica’s NDC stands apart from those of other countries in that it includes a commitment to open government and public participation in achieving its climate goals. As part of the implementation of its open government policy, Costa Rica implemented a wide-ranging stakeholder participation process in the development of its NDC, citing as a benefit clearer definitions of the sectoral programs and plans that would be required to meet national climate goals (Government of Costa Rica 2015). Costa Rica recognizes transparency, public participation, and accountability as interlinked in its NDC, has created an open access National Environmental Information System, and is implementing an open data policy for climate-relevant data. It has also created two open participation councils, one of which is focused on technical-scientific issues, and a multi-stakeholder platform to inform climate planning and management. Perhaps most importantly, the government of Costa Rica sees citizen participation as critical to implementation as well. Its permanent Climate Change Citizen Consultation Council brings together citizens’ groups, the private sector, and academia to contribute to policies and processes emerging from sectoral workshops. This fully integrated approach is more likely to build institutions for information sharing and public accountability in climate-change governance.

However, many agencies, even with good intentions, may struggle to meaningfully engage a diverse range of actors and face threats of elite capture or subdued interest or understanding in the process. These risks can be mitigated through careful planning, appropriate budget, coordination, relationship-building with key messengers, and an iterative, flexible approach. Some general good practice includes the following components:

1. Develop a draft plan with clear objectives, opportunities for influence, and timelines and make the draft plan publicly available for feedback. Include any institutions or stakeholders who are critical for it to be perceived as legitimate and well-informed.

⁴⁶ Referring to natural persons, who may or may not be organized into a stakeholder group.

⁴⁷ May include individuals, civil society organizations, academia, the private sector, or subnational governments.

2. Recognize that public participation is likely to raise concerns that fall outside of one agency's jurisdiction and that coordinated approaches from implicated agencies can address these concerns.
3. Identify governance arrangements for ensuring accountability in implementing the plan, publicizing feedback, and providing responses to input.
4. Identify and map stakeholders and groups, including
 - a. Communities, groups, and individuals whose communities, livelihoods, or health are vulnerable to expected climate impacts (or who have historically been marginalized). It may not be enough to stop at the community level, which often has heterogeneous interests, access to resources, and political power.
 - b. Stakeholders who are likely to be directly affected by climate policies—including those who may bear costs and have a resistance capacity and could hinder policy implementation.
 - c. Local institutions and authorities who are respected and have credibility with specific stakeholder groups.
 - d. Those who have legal or customary claims to land, forests, or other resources that may be affected.
5. Create an information and communications campaign prior to beginning the process so as to build awareness and understanding of how policies connect to quality of life issues.
6. Ensure that participation occurs early in the process that there are frequent opportunities across a range of geographies and times of day, and that accessibility concerns have been addressed (multiple locations and times of day). For instance, having a few large forums in a capital city is not adequate.
7. Record, respond to, and publish public input to build trust in the process.
8. Ensure that there are functioning and accountable grievance redress mechanisms. These can be formal (ombudsman, anti-corruption agencies, human rights institutions, environmental tribunals) and informal (community based alternative dispute mechanisms).

VI. Appeal and Redress Mechanisms to Support Accountability

In cases where government agencies have failed to enforce the law or have not fulfilled their responsibilities to the public to disclose information or involve the public in decision-making processes, appeal, grievance, and redress mechanisms are critical to promoting accountability. Accountability of public officials to the public—often called social accountability—is determined by several factors, including the capacity, interests, and incentives of public authorities to respond; the actions that members of the public take (e.g., to demand information or action); the ease and modalities with which the public interacts with public officials; available information and the presence of intermediaries to interpret technical aspects; and the ability of the public to mobilize for collective action (Grandvoinet et al. 2015). These mechanisms can include administrative complaint mechanisms, ombudspersons, alternative dispute resolution, and court or tribunals where individuals and organizations are granted standing to bring suits. Strengthening internal oversight mechanisms, records management, staffing capacity to engage the public, and incentive structures can help build trust with civil society and avoid court battles. Providing responses to public comment can demonstrate that public officials have considered input and have a transparent and ethical rationale for their decision-making. However, grievance and redress

mechanisms should still be in place for a credible accountability check. These should be mediated through an independent and impartial institution, and information on the procedures for initiating the process should be easily available. High costs and long delays to hear cases may act as barriers to effectiveness.

1. Appeal and Redress for Information Disclosure in India

It is widely regarded as good practice for right-to-information legislation to contain provisions to ensure that information requesters can appeal and file complaints if they are ignored or denied information without legal justification.⁴⁸ India's 2005 Right to Information Act created the Central Information Commission (CIC) and State Information Commissions (SICs) to hear appeals from information requesters when their requests are denied. Under Article 19 of the law, the plaintiff can appeal to the public authority and, if denied, can appeal to the CIC or SIC. Both institutions are independent and impartial bodies. Additionally, any individual or legal person can request information and bring an appeal. In practice, the CIC has handled environmental cases, and in some cases compelled government bodies to release information that they had previously refused (Datta 2017). These legal mechanisms help provide credible, bottom-up accountability when there is institutional inertia or political opposition to greater disclosure.

VII. Promoting Effective Inter-Ministerial Coordination

Coordination underpins policy coherence, information sharing, efficiency, and learning across government. The fact that lack of coordination has been identified in the literature as a governance problem for more than 40 years (Pressman and Wildavsky 1973) suggests that the problem has no simple solutions. Still, the risks of an uncoordinated approach are considerable, including an incoherent policy framework or insulated climate policies and lack of sectoral integration, perverse incentives, inefficient or ineffective use of climate finance, competing intragovernmental narratives on climate and sustainable development, and public distrust. As countries enact climate laws, many of them include the creation of councils with the mandate to coordinate policy development, implementation, budgeting, monitoring, and reporting. These are likely a move in the right direction, but several of the following factors will determine if they are effective:

- Appropriate budgetary and human resources to carry out new activities
- Internal sector goals aligned with those of the council
- Effective mechanisms for resolving disputes and power struggles
- Appropriately senior staff who can carry out decisions
- High-level political support and oversight of the council
- Transparency of council activities to support accountability

While climate change policies may be developed with a dedicated climate change committee—or historically through a dedicated unit within a ministry of environment—ultimately implementation success rests with the capability and commitment of all implicated sectors. For instance, implementing policies to build resilience in the agriculture sector is likely to require the coordination of the ministries of water, planning, infrastructure, rural

⁴⁸ See for instance, the UNEP Bali Guidelines, Guideline 15: <https://wedocs.unep.org/rest/bitstreams/46803/retrieve>

development, finance, and environment, as well as agriculture. As such, responsibility for developing and coordinating climate-change policy should rest with a body or agency that has the necessary political capital to effectively convene all relevant ministries.

1. Mexico's Inter-Ministerial Commission on Climate Change

In 2012, Mexico enacted the General Law on Climate Change, a comprehensive framework climate law that establishes an emissions trading system, enshrines in domestic law Mexico's pledge under the Copenhagen Accord (an emissions reduction target of 30 percent below business as usual by 2020, subject to the availability of financial resources and technology transfer), and establishes a long-term goal of reducing emissions by 50 percent by 2050 compared to 2000 levels. It also created new institutions focused on climate change, expanded the mandate of existing institutions, and allocated responsibility for action across government institutions.

Highlighting the role that legislation can play in formalizing both horizontal (inter-ministerial) and vertical (across multiple levels of government) coordination, the law formalized the Inter-Ministerial Commission on Climate Change (Commission), initially created by presidential agreement in 2005, as the institution in charge of coordinating climate-change government actions and formulating and implementing national adaptation and mitigation policies. The Commission comprises 14 ministries (secretariats) and is charged with the following functions:

- Formulate and implement national policies for mitigation and adaptation to climate change and incorporate them into the relevant sectoral programs and actions;
- Promote the actions necessary for the fulfillment of the objectives and commitments contained in the Convention and other instruments derived from it;
- Participate in the implementation of the Special Climate Change Program; and
- Disseminate the Commission's work and results, as well as publish an annual activity report.

The Commission is officially chaired by the president, but these responsibilities are delegated to the Ministry of Environment.

The law also establishes the National Climate Change System, which includes the Commission, the National Institute of Ecology and Climate Change, state and municipal governments, and representatives of Congress. The system's main responsibility is to coordinate the efforts of the federal government, states, and municipalities.

Ensuring Domestic Policy Coherence between the Climate and Sustainable Development Agendas

The 2030 Agenda, comprising 17 global SDGs and 169 associated targets⁴⁹, was adopted in 2015. This universal agenda succeeds the UN Millennium Declaration, which established the Millennium Development Goals (MDGs) and represents a considerable expansion in scope and ambition.⁵⁰

The 2030 Agenda has two primary points of relevance when considering domestic governance systems for climate change. First, effectively responding to climate change and achieving sustainable development are deeply intertwined objectives. Any governance arrangements set up to facilitate implementation of the Paris Agreement and NDCs must therefore seize mutual benefits and avoid potential trade-offs. Second, many of the core elements of good climate governance are reflected in the SDGs themselves. (SDG 5, 10, 16, and 17 in particular embody many of the core principles.) Using the SDGs (and 2030 Agenda more broadly) as a lens can help build new constituencies and political support for building robust and enduring climate governance systems.

If left unchecked, the impacts of climate change could result in an additional 100 million people living in extreme poverty by 2030, slowing progress against SDG 1 and rolling back the gains previously made under the MDGs.⁵¹ Evidence also shows the substantial opportunities for social and economic gains from climate action, in addition to savings related to avoiding catastrophic impacts (Global Commission on the Economy and Climate 2014). This relationship is apparent when looking at the climate targets, actions, and measures in the NDCs and the SDG targets themselves. Analysis of the NDCs (covering mitigation, adaptation as well as means of implementation) reveals alignment with 154 of the 169 SDG targets (Northrop et al. 2016).

⁴⁹ UN (2015) A/RES/70/1 “Transforming Our World: The 2030 Agenda for Sustainable Development.” <https://sustainabledevelopment.un.org/content/documents/21252030%20Agenda%20for%20Sustainable%20Development%20web.pdf>

⁵⁰ The MDGs concentrated on meeting basic human needs in developing countries and saw, among other successes, the halving of the proportion of people living in extreme poverty relative to the baseline year of 1990.

⁵¹ Analysis by the World Bank estimates that, absent rapid and inclusive development practices to limit impacts on food price and production, natural disasters, health and labor productivity, climate change could result in an additional 100 million people living in extreme poverty by 2030. See Hallegatte, Stephane, Mook Bangalore, Laura Bonzanigo, Marianne Fay, Tamaro Kane, Ulf Narloch, Julie Rozenberg, David Treguer, and Adrien Vogt-Schilb. 2016. “Shock Waves: Managing the Impacts of Climate Change on Poverty.” *Climate Change and Development Series*. Washington, DC: World Bank. Doi: 10.1596/978-1-4648-0673-5. License: Creative Commons Attribution CC BY 3.0 IGO

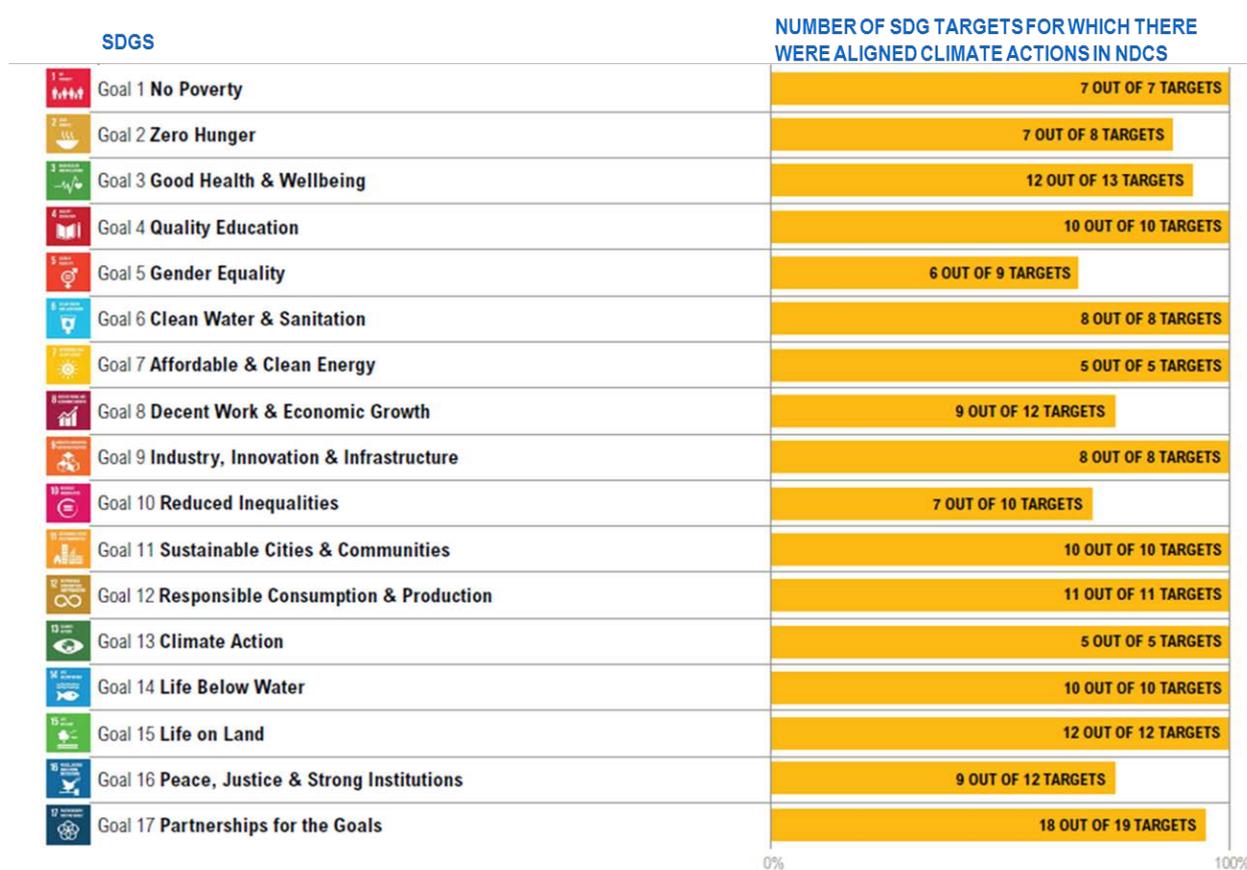


Figure 1: Alignment between NDCs and SDGs (Northrop et al. 2016).

While this analysis was undertaken at the international level based on what are essentially global targets of the 2030 Agenda, it reveals the degree to which domestic governance systems can either enable or hinder the ability of governments to realize the alignment between these agendas. At the same time as countries are developing governance systems to implement their NDCs and meet their obligations under the Paris Agreement, so too are they establishing institutional responsibility, coordination mechanisms, financing mechanisms, and plans and policies for meeting the targets of the 2030 Agenda.

The kind of well-designed and inclusive development interventions envisaged by the SDGs will be crucial to achieving the kind of whole of economy deep decarbonization required to achieve the goals of the Paris Agreement, while the climate policies and measures of the NDC can simultaneously advance many of the objectives of the 2030 Agenda, not just SDG 13 on climate action.⁵² To do this well, legal and regulatory frameworks, planning processes,

⁵² The interconnection between the NDCs and the SDGs goes beyond the inclusion of a goal dedicated to taking urgent action to combat climate change and its impacts (SDG 13) and the 11 additional targets that explicitly address climate-related mitigation, adaptation, and resilience efforts. A number of early studies sought to catalogue the interrelationships, synergies, and trade-offs between the proposed SDGs and climate change. See: World Wildlife Fund and CARE. 2015. *Twin Tracks: Developing Sustainably and Equitably in a Carbon-Constrained World*. London: WWF and CARE International; Scott, A., and H. Picot. 2014. *Integrating Climate Change in the Post-2015 Development Agenda*. London: Climate and Development Knowledge Network; Picot, H., and N. Moss. 2014. "The Sustainable Development Goals: Will They Deliver Climate Compatible Development for Vulnerable Countries?" Working Paper. London: Climate and Development Knowledge Network; Munro, K. 2014. *The Right Climate for Development: Why the SDGs Must Act on Climate Change*. London: Christian Aid, CAFOD, Greenpeace, Oxfam GB, WWF-UK, Practical Action and CARE International; Marston, A. 2014. "Doubling Climate Ambition: How the Post-2015 and UNFCCC Processes Complement Each Other." Discussion Paper. London: CAFOD; Leong, A. 2015. "Connecting the Dots between the UNFCCC and the

and institutional arrangements for implementing climate policies (as discussed in previous sections of this guide) need to be closely aligned, if not the same as those focusing on sustainable development and implementing the 2030 Agenda. Effective joint implementation will require strong engagement by central ministries along with comprehensive finance strategies that encompass the overarching priorities for both agendas and identify the nexus where public investments can have the greatest benefit.

Countries that do approach implementation in a joined up or integrated manner can avoid duplication or siloing of information relevant to both agendas, capacity, and technical expertise and potentially streamline international reporting and communication obligations under the Paris Agreement⁵³ and 2030 Agenda.⁵⁴

In addition to the potential mutual benefits that can be realized through maximizing alignment between climate and sustainable development priorities, viewing climate change through a sustainable development lens can support governments in building a more comprehensive and sustainable climate governance approach. Meeting the objectives of the 2030 Agenda will require an approach that focuses on social inclusion, whole-of-government responses, gender equality, and robust rule of law and accountability mechanisms. These are also the underpinnings of an effective and robust system of climate governance that is capable of steering a country's economic and social system toward a low-carbon and climate-resilient trajectory.

SDGs." Available at SSRN: <http://ssrn.com/abstract=2702831>; and Ansuageti, A., P. Greño, V. Houlden, A. Markandya, L. Onofri, L. G. Tsarouchi, and N. Walmsley. 2015. *The Impact of Climate Change on the Achievement of the Post-2015 Sustainable Development Goals*. London: HR Wallingford, Metroeconomica, and Climate and Development Knowledge Network. However, even these might have understated the degree of potential alignment evident in the NDCs and SDG targets themselves. Recent analysis found climate actions in the NDCs that were aligned with 154 of the 169 SDG targets. See Northrop, E., H. Biru, S. Lima, M. Bouye, and R. Song. 2016. "Examining the Alignment between the Intended Nationally Determined Contributions and Sustainable Development Goals." Working Paper. Washington, DC: World Resources Institute.

⁵³ Paris Agreement Article 13, paragraph 7(b).

⁵⁴ The 2030 Agenda for Sustainable Development stressed that governments have the primary responsibility for follow-up and review. In the 2030 Agenda, member states committed to fully engage in conducting regular and inclusive reviews of progress at the national level. National reports will allow assessments of progress and identify challenges and will inform recommendations for follow-up at the national, regional, and global levels.

The Political Economy of Climate-Change Governance

While few would argue that climate policymaking is somehow a purely technical, apolitical endeavor, published political economy approaches to understanding domestic climate policymaking have been lacking (Tanner and Allouche 2011). A more systemized method of considering how economic and political interests, incentives, and relationships affect implementation can help development partners pinpoint these constraints to identify policy alternatives or influence strategies. The literature suggests that the quality and usefulness of political economy analysis usually improves when it is conducted collaboratively with local decision-makers and experts, when it is conducted iteratively to track changing conditions, and when the analysis is applied as close to the problem as possible—i.e., at the sectoral or issue level (Booth 2014). This guide provides a brief overview of political economy obstacles and potential ways forward in the sections that follow.

VIII. Influence of Formal and Informal Rules on Actor Behavior

While climate laws and regulations should establish roles and responsibilities of implementing agencies (actors), they may leave some functions at the discretion of the agency or provide very little or no guidance at all. Although in some instances greater flexibility can help, when it leaves uncertainty over roles or creates overlapping mandates, governance issues can occur in implementation. When clear shifts in agency behavior are needed, clear language is often best. The clarity of formal rules may affect how transparently agencies operate, whether they integrate climate goals into strategies or plans, how information is managed and disclosed, and the commitment to stakeholder engagement.

In other cases, formal rules are created, but they may contradict what agencies see as their purpose, role, or function. This is not necessarily a case of stubborn bureaucratic culture. Rather, agencies, or even individuals within agencies, may resist what they view as conflicting or harmful new rules. Here, it is important to understand organizational identity and history to identify how agencies might respond to different climate policies. One classic example of this comes from the internal and external strife that the U.S. Forest Service faced from the 1960s to the 1990s.

1. The Evolution of the U.S. Forest Service

Until the 1960s, the U.S. Forest Service's (USFS) internal culture and external regulatory environment were aligned along two primary goals: the suppression of forest fires and managing national forests for timber production and watershed protection. The USFS mandate began to change with the passage of the Wilderness Act in 1964 in response to public demand to protect certain federal lands from commodity use. Public outrage over pollution and environmental degradation led to the passage of the National Environmental Policy Act (NEPA) (1970) and Endangered Species Act (ESA) (1973). NEPA required agencies to evaluate a range of alternatives to a proposed action with potentially environmental harmful impacts and to consider public comment. The ESA started a shift over the next few decades away from timber management toward biodiversity protection and ecosystem management. At the same time, civil society now had rights and federal resources to sue federal agencies to compel greater enforcement, and the new requirements led to an influx of new staff in the agency with different skills and values. Conflicts and

lawsuits in the 1980s and 90s over forest use demonstrated how the agency was subject to conflicting executive and statutory pressures, the empowered role of civil society, and the role of agency leadership. While the agency's role and mission has changed dramatically, it has happened because of new scientific information, public pressure, new statutes, a shift in internal culture and leadership, court cases, and the adoption of a new forest management paradigm (MacCleery 2008).

The parallel to this example for many practitioners may be ministries of energy, particularly in countries that are trying to introduce renewable energy policy, increase energy efficiency, reduce emissions, or phase out fossil fuel subsidies. These ministries often see their stated mission narrowly as providing low-cost, reliable energy supply and may not see an incentive to make near-term decisions to change their policies or practices. While the rapidly falling costs of renewables,⁵⁵ well-articulated financial cases for investment (Global Commission on the Economy and Climate 2014), and multiple sources of international climate finance are creating new incentives, the domestic politics of energy supply may still slow institutional change. This is more likely to occur in countries with domestic fossil fuel supplies and established industries for extraction, generation, transmission, and distribution. Given the centrality to economic development of energy supply and reliability, poverty alleviation, and episodes of social unrest, these industries—at times quasi-national—often wield considerable influence over the energy and climate policy agenda and implementation. They may reap the rewards of rent-seeking behavior, favorable regulations, and subsidies, further entrenching their economic power. Political power may be magnified through vertically integrated industries, trade unions, and prevailing narratives on energy supply.

2. Disrupting a State Electricity Monopoly in South Africa

In South Africa, energy supply has been dominated for years by a vertically integrated chain of primarily coal-powered generation, transmission, and distribution through ESKOM, a state-owned enterprise. While the South African government had introduced partial measures to allow more private power producers to enter the electricity market, no procurement policy had been developed, and ESKOM and its allies effectively exerted their political influence to protect their monopoly on power supply (Morris and Martin 2015). In this case, political opportunity was created by an electricity crisis that ESKOM was inadequately prepared to respond to with increased supply. This supply gap, as well high-level political desire for South Africa to signal a green agenda as it was about to host the annual UNFCCC meeting, provided the political cover for a multi-sectoral coalition of government agencies, private power producers, and civil society organizations to create the Renewable Energy Independent Power Producers Procurement Program (REIPPPP). (Since its creation, private investment in renewable energy in South Africa has grown to US\$14 billion as of 2014 (Eberhard et al. 2014). The REIPPPP was launched by the Department of Energy, which also receives assistance from the National Treasury's Public-Private Partnership Unit and the Development Bank of South Africa to manage the process. However, some experts have noted that its formation benefited in the South African political context by not being housed within one institution, enabling it to be more agile with its membership and its relative position to its backing agencies (Morris and Martin 2015). Although the growth of the program may force it to create a fixed institutional identity, it offers an alternative for countries to consider when creating inter-ministerial decision-making bodies.

Although adaptation actions may not seem to pose the same obvious threat to vested interests in the same way that mitigation actions do, without strong institutions and guidance to protect the interests of the poor and vulnerable or promote oversight and accountability,

⁵⁵ International Energy Agency. 2015. "Renewable Energy Medium Term Market Report." <https://www.iea.org/Textbase/npsum/MTrenew2015sum.pdf>

such actions may reinforce social, economic, and political inequalities, potentially worsening vulnerability (Sovacool et al. 2015). Adaptation finance, while historically far outweighed by mitigation finance, is expected to increase in proportion given the critical needs that developing countries face in addressing vulnerability. This is good, of course, but as pressure grows to hasten project approval, there is also risk that projects that do not fully account for drivers of vulnerability could have unintended consequences on entrenching inequalities. To avoid this, adaptation project decision-making should represent all relevant sectors as well as affected communities as well as provide an assessment of vulnerability that includes climate risk scenarios and models along with community input on climate vulnerability. Even with good processes, however, some projects may lead to maladaptive outcomes for some groups. Ensuring that adaptation planners are gathering feedback and monitoring results can support learning and course correction.

3. Political Economy of Investment Decisions in Bangladesh under the Pilot Program for Climate Resilience

A case study on Bangladesh, as one of a series by the International Institute for Environment and Development (Rai et al. 2015), analyzed the narratives, incentives, actors, and coalitions that interacted and competed to influence the final outcomes for projects to be funded under the Pilot Program for Climate Resilience.⁵⁶ The authors found that the narrative of infrastructure investment and economic development prevailed over a competing narrative of social innovation and inclusiveness because proponents of the latter were scattered and not part of a coalition. Even after approval of the loan, divergence in political ideas affected implementation, as the Ministry of Agriculture refused to remove barriers to private investment in adaptation projects, leading the IFC to channel funding through the Ministry of Environment instead. The case study also shows how previous incentives can institutionalize norms of response to climate problems for key actors and agencies. To illustrate this path dependency, Bangladesh had previously worked with multilateral development banks on large infrastructure projects and thus chose to continue to fund those that were in the pipeline as well as similar initiatives, rather than experiment with a different type of adaptation option. Finally, poor coordination between water and forest authorities undermined a project goal to improve forests around coastal embankments.

Drawing from these case examples and the literature more broadly, Table 1 below presents a framework for assessing potential root causes of political economy problems in climate governance and potential entry points for addressing them.

⁵⁶ The Pilot Program on Climate Resilience is a \$1.2 billion dollar program of the Climate Investment Funds (supported through multilateral development banks, headed by the World Bank) to assist national governments in integrating climate resilience into development planning across sectors and to help put the plan into action and pilot key projects.

Table 1: Political Economy of Climate Governance Diagnostic

| Problem type | Economic incentive questions | Political interest questions | Institutional questions | Potential entry points |
|--|--|--|--|--|
| Organized resistance to national climate policies (mitigation or adaptation) | Are there actors who expect to bear costs, reduced budgets, or profits from a proposed climate policy or action? | Who are their political allies, and how are they able to leverage influence? To what degree are their coalitions in support of the action, and how powerful are they? | Does the policy or action fundamentally change the mandate, role, or responsibility of a key actor? If this would create resistance, how likely are they to be compelled by overarching authorities? | Launch preemptive communications campaign, engaging key messengers to reach target audiences Hold early and frequent stakeholder engagement processes to build broader support If policy or action has beneficiaries or creates revenues, consider how to make these visible and quick to take effect to promote stickiness and entrench support Consider the trade-offs of compensation mechanisms |
| Poor coordination or diverging narratives on sustainable development and climate agendas | To what extent do key actors see low-carbon development as compatible with economic development plans? | Is climate action sufficiently linked to sustainable development in the narratives of political platforms? | Are the focal points for the SDGs and the NDC coordinating their approaches to implementation? To what extent are SDG targets and NDC goals reflected in national development plans? To what extent are NDC goals and SDG targets aligned with long-term low greenhouse gas emission development strategies? | Promote more coordinated approach to development of NDC revisions + long-term development strategies |
| Institutional and political barriers to effective and equitable use of climate finance (mitigation and adaptation) | How has the country's ability to access international climate finance incentivized implementation or ambition in | What kinds of coalitions are emerging to influence climate finance allocation or consolidate control? | Are the rules, incentives, and leadership in place for effective coordination across implementing agencies? | Strengthen incentives for coordination through rules, leadership, or budgetary allocations, etc. |

| | | | | |
|--|--|--|---|--|
| | <p>national climate policies?</p> <p>To what extent has international climate finance unlocked domestic sources of public or private finance?</p> | <p>What are the most prevalent political narratives on how climate finance should be allocated, and what might this mean for meeting national climate goals?</p> | <p>How transparent is tracking of climate finance sources, types, amounts, allocation, and use?</p> <p>What are the formal and informal mechanisms of accountability of climate finance expenditures, and to what extent is civil society involved?</p> | <p>Assess the quality, consistency, and transparency of climate-finance tagging and tracking</p> <p>Train civil society networks to engage in climate finance accountability</p> |
| <p>Policy incoherence between national climate goals and sectoral policies and plans</p> | <p>Have the sector's economically powerful actors taken policy positions?</p> <p>Has the national NDC process received an appropriate budget to support a whole-of-government approach?</p> | <p>Are climate policies interpreted as threatening how an agency operates?</p> | <p>Was the NDC process sufficiently inclusive of affected actors and stakeholders?</p> | <p>Assess whether incoherence was due to poor process or active resistance</p> <p>Support nationally-appropriate process or a mechanism for setting medium- and longer-term sectoral policy goals that are consistent with national climate goals</p> |
| <p>Adaptation plans and projects do not address or reinforce underlying drivers of vulnerability</p> | <p>How are trade-offs of adaptation benefits between groups assessed?</p> <p>Is there evidence that adaptation projects are reinforcing vulnerabilities based on gender, livelihood, age, education level, etc., even if they are addressing others?</p> | <p>What safeguards are in place to protect against elite capture of participatory processes and the resulting decisions on adaptation priorities?</p> | <p>How effectively are implementing agencies collecting, managing, and sharing climate data in ways that are useful to affected populations?</p> <p>Are there operational administrative or judicial tribunals for grievance and redress?</p> | <p>Support greater transparency and accountability in adaptation funding decisions to make clear that socioeconomic and political drivers of vulnerability were accounted for in addition to climate exposure and sensitivity</p> <p>Ensure that adaptation funding decisions involve a wide range of stakeholders</p> |

Conclusion

The Paris Agreement and 2030 Agenda have catalyzed international political momentum toward climate action and sustainable development that will require national governance arrangements that support long-term goals, build institutional capacity to carry out multiple important functions, ensure coherence between these two international efforts at the national level, and address political-economic constraints and opportunities in the design and implementation of new policies. This guide takes as a starting point that even the best-intended commitments to act on climate can go unrealized if regulatory frameworks are unclear or conflicting, institutional mandates and capacities are insufficient, information is inadequate or fragmented, stakeholders and the public are left out or disengaged, or domestic political economic incentives are organized against action. Drawing from a diverse literature, this guide distills major governance challenges that domestic actors may face and provides case examples of how various countries in different development contexts have created responses to similar issues. It does not attempt to be exhaustive on any one issue, but rather summarize the critical problems and good practices and make these accessible to development agency country staff and their partners.

Many countries have recently enacted or are in the process of enacting laws and regulations to establish long-term goals, create new mandates, or provide institutional support to the domestic climate agenda. Here, the guide offers insight on how these new rules can support a coherent policy agenda, clarify the legal status of different relevant entities, establish coordination mechanisms, ensure budgetary support, and clarify roles and responsibilities vis-à-vis climate objectives. Even with regulatory frameworks in place, some countries may struggle to shift agency behavior or practice because of resource constraints; conflicting incentives, norms, and ideology; or risk aversion to changing practices. Here, the guide provides insight on key institutional functions for effective climate governance, including information management and sharing, public participation and stakeholder engagement, accountability mechanisms, and coordination and coherence to support transparent, inclusive, and accountable climate policy development and implementation—including the management and use of climate finance. Section Four shows that many countries' NDCs have significant overlap with SDG targets and presents an argument for further realizing these synergies. In the final section, the guide offers a diagnostic table to help practitioners identify political economy challenges in climate governance and develop strategies in response. While the tools and approaches included in this guide are sure to require further contextualization by country practitioners, it is the writers' hope that it will help practitioners by identifying relevant good practices and approaches for solving climate governance problems.

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Agence Française de Développement
5 rue Roland Barthes – 75598 Paris cedex 12
Tél : +33 1 53 44 48 86 – www.afd.fr

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