

# Trends in National Climate Legislation across the World

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**Abstract:** Strong legal frameworks and effective institutions are crucial in creating an enabling environment to achieve positive climate action and keep the average global temperatures below 20 C. Appropriate structures/ legal frameworks incentivize change, facilitating nations' transition to a low carbon development pathway. Broadly, there are two distinct categories of policy instruments, one at the international level (multilateral, bilateral and global treaties) and the other at the national level (state and local bodies' level). The failure of earlier treaties like the Kyoto Protocol (1997) and the ineffectiveness of current international treaties to arrest the rise of temperature and build an equitable carbon burden sharing framework has led to shifting the focus to more effective governance alternatives, both at national and sub national levels. The paper examines the broad trends in the formulation and adoption of national climate legislation across 193 countries. This sheds light on the policy and legal gaps necessary for achieving the climate target of keeping the average temperatures within 1.50 -2o C. It concludes with a broad analysis of the data and the full limitations and scope of this study.

**Keywords:** Climate Laws, Climate change policy; climate governance; national climate legislation

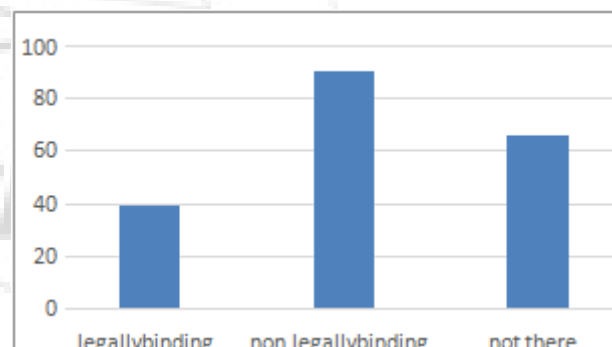
## Introduction

The challenge of climate change requires strong institutions and legal frameworks that create an enabling environment by incentivizing change that facilitate the transition to a low carbon development pathway. The failure of earlier international treaties like the Kyoto Protocol and the ineffectiveness of current international treaties in arresting the rise of greenhouse gases and creating a durable and equitable carbon burden sharing mechanism at the international level has shifted the focus to national and subnational level policy instruments. Post the Copenhagen Accord in 2009; we see an increase in the number of nations which underpinned their international commitments with strong national legislation on climate change. In the wake of the Paris agreement, a large number of nations have backed their INDCs with strong national climate legislations in an effort to keep the average global temperatures below 2°C.

Here, an analysis of the current trends in global climate legislations has been presented. A total of 193 countries are taken for the study the data for which was procured from *Climate Policy Database- New Climate Institute*. All these countries are UN member nations and by being a part the global dialogue on climate change they provide a near complete representation of trends in climate legislation across the world.

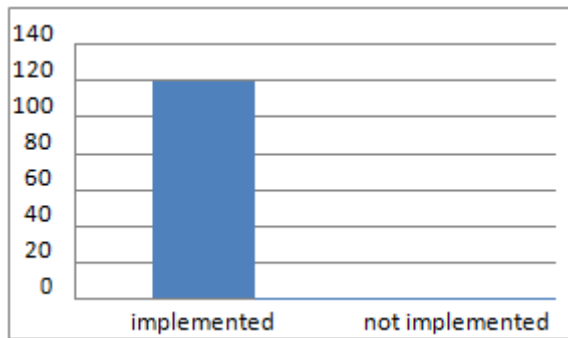
The evaluation of national climate legislations in the study countries was done on the basis of a definition of 'climate legislation' by Grantham Research Institute. It defines climate legislation as a "framework legislation which serves as a comprehensive, unifying basis for climate change policy action which addresses multiple aspects or areas of climate change mitigation or adaptation (or both) in a holistic, overarching manner". Only those countries were taken where the policies or laws (till 2017) had specific reference to 'climate change' aimed particularly at mitigation and adaptation. The climate frameworks are further divided into legislative (enacted by the parliament; formal laws passed by the legislative branch) or executive in nature (enacted by the government – includes executive orders, decrees, strategies and development plans).

The data clearly shows that a large number of countries have adopted legislations that are executive in nature rather than legislative. This is because legislations enacted by the parliament as formal laws are legally binding on the government and much harder to reverse in comparison to executive orders which just provide a broad guideline for actions having no legal implications.



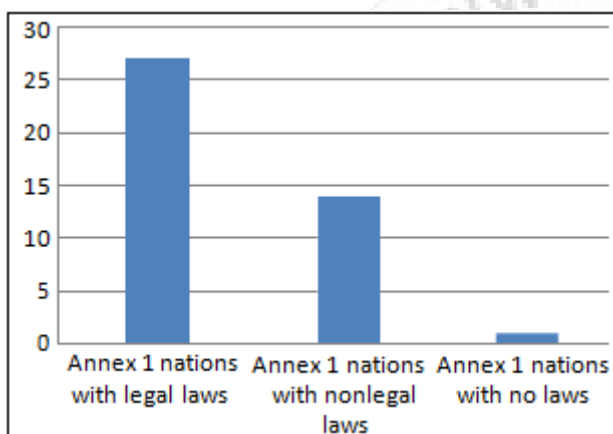
The data also shows a large number of countries having no legislation on climate change. Absence of climate legislation does not mean that there is no policy level action on climate change. There could be different sectoral policies in place that could or could not meet the objective of climate mitigation or adaptation. But studies indicate that laws which are specific on climate change are more effective in comparison to sectoral policies having multiple objectives and a narrower scope.

Implementation of climate legislation is the next step and in ways more crucial. Only framing laws and not implementing them is as good as not having laws. Of the total nations which have climate legislations (both legally and not legally binding) most of the nations have implemented their climate legislations only a hand few of them like Argentina have not yet implemented the climate laws. This could be because they could be under review or still in formulation stage.



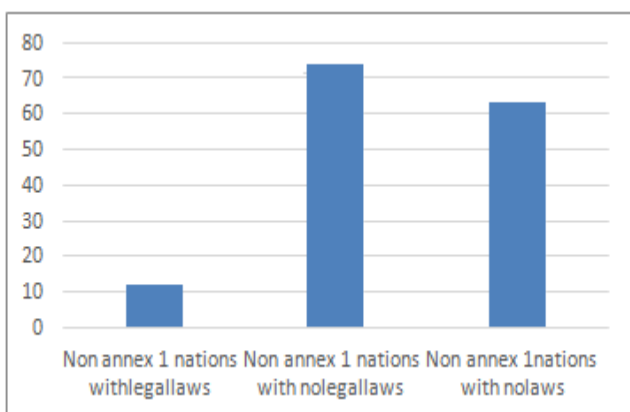
Equity remains a fundamental issue in climate action at the global level. The world is divided between the Annex 1 (developed nations) and non- annex 1 (developing nations) as laid out by the UNFCCC. The burden of emission reduction depends on the level of development and historic responsibility of every country.

In the Annex 1 category most of the countries have legally binding laws and only one nation which does not any law is Monaco.



Majority of Annex 1 countries with legally binding frameworks are European Nations with one or two exceptions like Japan (Law Concerning the Promotion of Contracts Considering Reduction of Emissions of Greenhouse Gases and Others by the State and Other Entities of 2007) and Australia (Climate Change Authority Act of 2011). These nations have taken a proactive step towards climate action

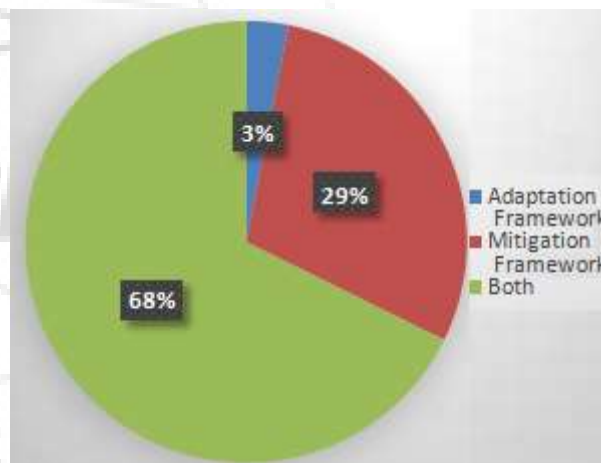
Whereas, in the Non Annex 1 category a majority of the nations have non- legally binding framework.



Countries which have legally binding frameworks are Brazil, Mexico, Pakistan and some others, rest have non-legally binding frameworks.

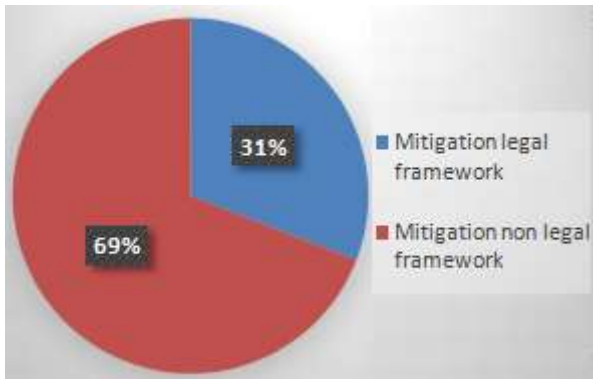
Non-legal frameworks show an early phase in climate policy development with scope for translating these existing policies into formal legislations. Examples of countries where initial policy development has led to strong binding climate legislations are **Kenya**, which had a Climate Response strategy in 2012 and a legally binding law in 2016; **Guatemala** had a Climate Strategy in 2009 and a legally binding law in 2013; **South Korea** had a Comprehensive Action Plan on Climate Change in 2008 and a Framework Act on Low Carbon growth, Green growth Korea in 2010, which is legally binding. These are examples of non -annex 1 nation. Some examples of annex 1 nation are **Finland** which had a National Climate Plan in 2012 and legally binding Act by 2015. Another example is Denmark which built its climate strategy of 2013 into a legally binding act by 2014.

Mitigation and adaptation are two pronged approaches in dealing with climate action. The climate legislations framed in different countries either adopt mitigation, adaptation or both as an approach. The graph below shows percentage of countries which have a climate legislation framework only on mitigation( 29%), adaptation (3%) and both mitigation and adaptation ( 68%)



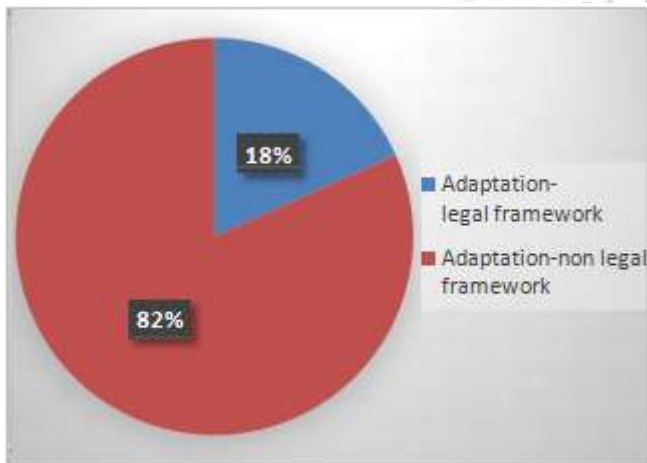
The data clearly shows that a large majority of countries have a comprehensive climate legislation covering both aspects of mitigation and adaptation. These are sometimes covered in a single overarching act or sometimes there are separate laws dealing with mitigation and adaptation. Both mitigation and adaptation is crucial to combat the challenge of climate change, and this has received growing recognition over the past few years. Countries which have climate legislation framework only on adaptation are mostly developing countries like Cuba, Bahamas, Tuvalu and Tonga which are extremely vulnerable to the impacts of climate change.

To get a more detailed analysis of the trends in climate mitigation I have divided mitigation, adaptation frameworks by their type i.e legally or non- legally binding.



The above graph shows that only 31% of the total countries have legally binding mitigation framework and 69% have a non-legally binding mitigation framework.

In the case of adaptation 82% countries have a non-legal adaptation framework and only 18% have legal adaptation framework.



As stated above legally binding frameworks are harder to reverse and hence could be seen as more effective instruments in curbing emissions.

But we should be cautious to draw hasty conclusions based on the fact if a nation has a legally or non-legally binding framework. The effectiveness of legislations in reducing emissions depends on how well they are being implemented which is a matter of national jurisdiction. Also, decrease in emissions could be a plausible outcome of factors other than national legislations. In absence of impact evaluation studies it would be very difficult to draw a definite link between the formulation of national legislation and decrease in emissions.

Other limitations of the study are to see how national level climate legislations proliferate into state and local level legislations. The formulation of legislation at a national level does not mean it would translate into action at state and local levels. This depends a lot on the political federal structure of nations.

Lastly, one of the major limitations is the ambiguity that exists when we talk about 'climate change legislation'. Both the terms 'climate change' and 'legislation' are riddled with complex interpretations and are understood by countries in

different ways depending on their national political cultures. Therefore this requires flexibility from a country to country basis in determining the nature, strength and depth of national climate legislation.

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