



COMPARATIVE STUDY ON CLIMATE CHANGE LAWS IN LATIN AMERICA





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SUMMARY

This report represents a study and analysis of Latin America's Climate Change Legal Frameworks (CCLF). A summary and review is provided for each framework in addition to a comparison based on 12 pre-established indicators.

This work was accomplished by the team at the 'Fundación Sustentabilidad sin Fronteras' (SSF) under the coordination of Mariano Villares.

TrustLaw, the global pro bono service of the Thomson Reuters Foundation, was responsible for connecting SSF with law firms which conducted legal research that helped SSF obtain data to inform the report.

The legal research was conducted in Spanish and the full report can be viewed [here](#).

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SCOPE OF THE STUDY

Worldwide, more than 1,500 climate laws and policies exist. Furthermore, each one of the 197 signatory countries to the Paris Agreement (PA) has at least one climate change law or policy. There is no one-size fits-all format for national climate policies as each have its own nuances.

In this report, the regulations of Latin American countries with a Legal Framework on Climate Change (CCLF) were analysed. This is understood as any regulation approved by the legislature that serves as a comprehensive and unified basis for climate change policies, and which addresses multiple aspects and areas of climate change mitigation and adaptation in a holistic and comprehensive manner.

Of the 35 countries in Latin America and the Caribbean that have ratified the Paris Agreement (PA), only seven countries, Argentina, Brazil, Chile, Colombia, Mexico, Paraguay and Peru, have a CCLF.

Having defined the type of legislation and the countries involved, a survey and analysis of the national regulations in force was carried out concerning 12 points:

1. Denomination of the Framework Law on Climate Change
2. Application Authority
3. Tools and Instruments for Adaptation and Mitigation
4. Financial Mechanisms
5. Participation Mechanisms and Public Information
6. Regulation on Just Transition, Energy Transition and Climate Justice
7. Regulation on Climate Migration
8. Regulation on Gender Perspective, Vulnerable Sectors and Indigenous Peoples
9. Enshrinement of Commitments Acquired at International Level, such as NDC and LTS, in the National Legislation
10. Specification of Short- and Long-Term Goals in National Law
11. Legislative Projects to Reform the Current Legal Framework
12. Climate Disputes

¹ Nachmany M., Fankhauser S., Townshend T., Davidová J., Kingsmill N., Landesman T., et al (2015). Estudio sobre legislación de cambio climático 2015. GLOBE International, Unión Interparlamentaria y Grantham Research Institute on Climate Change and the environment.



ARGENTINA



ARGENTINA

1. Denomination of the Framework Law on Climate Change

Law No. 27.520 was published on 20th December 2019 establishing the minimum environmental protection budgets to ensure adequate actions, instruments and strategies for the adaptation and mitigation of global climate change throughout the national territory.

2. Application Authority

The Law appoints the national enforcement authority as the highest-ranking agency with environmental jurisdiction. Currently, this is the Argentine Ministry of Environment and Sustainable Development.

3. Tools and Instruments for Adaptation and Mitigation

The set of strategies, measures, policies, and instruments developed to comply with the purpose of the Law make up the Argentine National Climate Change Adaptation and Mitigation Plan, and the response plans at a sub-national level.

4. Financial Mechanisms

There are two financing mechanisms provided for in Law No. 27.520. The first one establishes that the Argentine Public Administration Budget will each year incorporate the necessary budgetary credit for compliance with this law. The second determines that the competent authorities of each jurisdiction will establish measures that encourage the design and promotion of tax and credit incentives for producers and consumers to invest in technology, processes, and products that generate low greenhouse gas (GHG) emissions.

5. Participation Mechanisms and Public Information

The CCLF outlines that each jurisdiction must promote participatory processes, amongst all stakeholders and interested actors, which drive the creation of best actions for the adaptation to and the mitigation of Climate Change. Regarding environmental information, it establishes that all data and documentation related to the application of the Law is 'public environmental information' under the terms of Laws No. 25.831 and 25.675.

Additionally, the competent authorities must carry out actions within their jurisdiction to ensure the dissemination and communication of the information in their possession.



ARGENTINA

Finally, the CCLF creates the Argentine National Climate Change Information System as an instrument for the diagnosis and development of climate change response plans.

6. Regulation on Just Transition, Energy Transition and Climate Justice

These concepts are not covered by Argentine legislation.

7. Regulation on Climate Migration

This concept is not covered by Argentine legislation.

8. Regulation on Gender Perspective, Vulnerable Sectors and Indigenous Peoples

In relation to gender, the regulatory decree stipulates that gender balance must be considered in the Argentine National Climate Change Cabinet and in the External Advisory Council. It is incorporated as one of the four cross-cutting approaches in the draft Argentine National Adaptation & Mitigation Plan to Climate Change (NA&MPCC) of May 2022.

Moreover, the Law establishes that amongst the contents of the NA&MPCC there must be the identification of vulnerabilities and the establishment of appropriate adaptation measures in the short, medium, and long term. Its regulatory decree assigns the task of developing Sectoral Action Plans for mitigation in strategic sectors to the Argentine National Climate Change Cabinet at a ministerial level. This is in pursuit of national objectives and the adaptation of vulnerable sectors to the impacts of climate change.

Finally, the law includes indigenous peoples in climate change governance through the inclusion of indigenous peoples' representation in the External Advisory Council.

9. Enshrining Denomination of the Framework Law on Climate Change

The law does not explicitly mention the Nationally Determined Contributions (NDC) or Long-Term Strategy (LTS). However, the draft for the Argentine National Climate Change Adaptation and Mitigation Plan issued by the Argentine National Climate Change Cabinet in May 2022 outlines that said Plan "is the key document through which the country details the means and actions to be taken in order to achieve the adaptation and mitigation goals detailed in the Second NDC".



ARGENTINA

10. Specification of Short- and Long-Term Goals in National Law

Argentine legislation does not provide for short or long-term goals, however, these are included in the Argentine National Strategy on Climate Change. Once approved, this will become the LTS up until 2050, and the country's NDCs.

11. Legislative Projects to Reform the Current Legal Framework

The Carbon Neutrality by 2050 project, the Climate Budget, and the Emissions Regulation Bill (S-682/21), which introduces amendments to the CCLF, stand out. Indirectly, the Bill for the Promotion of Electromobility (PE-0016) can also be considered.

12. Climate Disputes

The most symbolic legal cases on the subject are: *Equística Defensa del Medio Ambiente Asociación Civil v. Santa Fe, Provincia de et al. S/ Amparo Ambiental*; and *Godoy, Ruben Oscar v. Estado Nacional - Ministerio de Ambiente y Desarrollo Sostenible et al. s/Amparo Ambiental*.





BRAZIL

1. Denomination of the Framework Law on Climate Change.

The main national regulatory framework aimed at combatting climate change is Federal Law No. 12.187/2009, which established the Brazilian National Climate Change Policy (NCCP).

Additionally, on 19th May 2022, the Brazilian government published Decree No. 11.075/2022 which establishes guidelines for the elaboration of Sectoral Mitigation Policies.

2. Application Authority

The application authority is not defined in the CCLF; however, this role is fulfilled by the Ministry of Environment.

3. Tools and Instruments for Adaptation and Mitigation

The CCLF establishes multiple adaptation and mitigation tools and instruments such as: the Brazilian National Climate Change Plan; the National Climate Change Fund; Action Plans for the Prevention and Control of Deforestation in the biomes; Brazil's National Communication to the United Nations Framework Convention on Climate Change, in accordance with the criteria established by this Convention and its Conferences of the Parties; among others.

4. Financial Mechanisms

Brazilian legislation establishes several initiatives to be highlighted: official financial institutions will provide specific lines of credit and financing to develop actions and activities that meet the objectives of this law and stimulate the development of the Brazilian Emissions Reduction Market; fiscal and tax measures aimed at encouraging the reduction and removal of greenhouse gas emissions (GHG), including differentiated rates, exemptions, offsets and incentives; specific lines of credit and financing from public and private financial agents and financial and economic mechanisms at the federal level, related to mitigation and adaptation to climate change. Furthermore, the Brazilian Congress enacted Law No. 12.114, which establishes the country's National Fund on Climate Change.

5. Participation Mechanisms and Public Information

In this regard, the CCLF only enshrines the principle of public participation.

6. Regulation on Just Transition, Energy Transition and Climate Justice

The CCLF does not expressly incorporate the concepts of just transition, climate justice and energy transition.

7. Regulation on Climate Migration

The CCLF does not expressly incorporate the concept of climate migration.

8. Regulation on Gender Perspective, Vulnerable Sectors and Indigenous People

The CCLF does not mention gender perspective, vulnerable sectors or indigenous peoples.

9. Enshrinement of Commitments Acquired at International Level, such as NDC and LTS, in the National Legislation

The CCLF predates the issuing of the NDC and LTS. However, the Law establishes that Brazil's National Climate Change Policy will be guided by the commitments made by Brazil in the United Nations Framework Convention on Climate Change (UNFCCC), the Kyoto Protocol and other climate change documents to which it has or will become a signatory. To date, the specific short and long-term goals set out in the Brazilian NDC 2022 have not been incorporated into current law.

10. Specification of Short and Long-Term Goals in National Law

The CCLF sets specific goals to reduce between 36.1% and 38.9% of its projected GHG emissions by 2020. Aside from this, no reduction goals have been set out in domestic legislation.

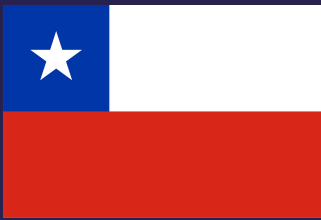
11. Legislative Projects to Reform the Current Legal Framework

At the federal level, there are several initiatives in the Chamber of Deputies and the Federal State to reform climate change legislation. Among the main ones is the Constitutional Amendment Proposal (PEC) No. 37/2021, which aims to amend the Brazilian Federal Constitution to recognise the guarantee of climate security as a fundamental right. The bill is being discussed in the Chamber of Deputies.

In addition, Bill No. 6.539/2019 seeks to amend the Brazilian Climate Change Policy (Política Nacional sobre Mudança do Clima, PNMC), updating it within the context of the PA and the new challenges related to climate change. Project No. 3.961/2020, which is under discussion in the Environmental Commission of the Chamber of Deputies, seeks to establish a state of climate emergency and define the objective of neutralising GHG emissions in Brazil by 2050. It seeks to do this through the creation of policies for sustainable transition.

12. Climate Disputes

There are currently more than 20 climate conflicts identified in Brazil, of which the following cases particularly stand out: *Brasilcom et. al. v. Ministério de Minas e Energia*; *Associação Brasileira dos Membros do Ministério Público de Meio Ambiente vs. Ministro de Estado do Meio Ambiente ADPF 814*; *Six Youths v. Minister of Environment and Others*; *PSB et. al. v. Brazil (on Climate fund)*, among others.



CHILE





CHILE

1. Denomination of the Framework Law on Climate Change

The CCLF in Chile was published on 13th June, 2022, under number 21.455.

2. Application Authority

The Ministry of Environment of Chile is the authority in charge of integrating environmental policy and related regulations. Therefore, it is the entity in charge of designing and implementing public policies, plans, programmes and regulations on climate change in collaboration with the President of the Republic.

3. Tools and Instruments for Adaptation and Mitigation

The Framework Law includes various concepts also seen in the PA. These indicate that the development and implementation of the Climate Strategy is contained within the instruments for climate change management. It must include the country's national GHG emissions budget for 2030 and 2050; the sectoral budgets for greenhouse gas emissions for 2030; the levels of absorption and storage of greenhouse gases to reach and maintain the target, among other issues.

It also includes NDCs, Sectoral Mitigation Plans, Sectoral Climate Change Adaptation Plans, the Chilean National Climate Change Action Report, Regional Climate Change Action Plans, Communal Climate Change Action Plans and Strategic Plans for Water Resources in Basins.

4. Financial Mechanisms

The CCLF requires the Ministry of Finance, alongside other relevant agencies, to develop the Climate Change Finance Strategy that coordinates the public and private sector contributions to climate change. This Strategy must contain the following: the mechanisms and actions for the identification of climate finance, the methodology which sectorial authorities must follow to identify sources of finance, the mechanisms to promote GHG neutral investments, and actions to promote and develop capacities for the management of risks associated with climate change in the financial sector. This Strategy must be approved by a supreme decree issued by the Ministry of Finance and should be updated at least every five years.



CHILE

Likewise, the Legal Framework clarifies that the Environmental Protection Fund (established in Law No. 1.300) may finance specific mitigation and adaptation projects and actions

5. Participation Mechanisms and Public Information

The CCLF created the Chilean National System for Access to Information and Citizen Participation on Climate Change. This National System will be administered and coordinated by the Ministry of the Environment with the support of other bodies. Additionally, it will promote and facilitate citizen participation in the elaboration, updating and monitoring of climate change management instruments.

For technical purposes, the CCLF has created the National Greenhouse Gas Inventory System for the elaboration of a greenhouse gas inventory and the response to international reporting commitments under the UNFCCC. Other systems created under this standard are the National Greenhouse Gas Foresight System, the Voluntary Greenhouse Gas and Water Use Certification System, the Climate Adaptation Platform and the Climate Change Science Repository.

The CCLF also recognises the right of any person or group of persons to participate in the development, review and updating of climate change management instruments. Finally, it gives special reference to vulnerable sectors and communities through a multicultural and gendered approach.

6. Regulation on Just Transition, Energy Transition and Climate Justice

In this regard, Chilean regulation establishes that one of the guiding principles of public policies on climate change must be equity and climate justice. Specifically, it is the duty of the Government to ensure a fair allocation of contributions, costs and benefits with a gender perspective and with a special emphasis on sectors, territories, communities and ecosystems vulnerable to climate change.

Likewise, the CCLF clarifies that climate justice seeks the fair treatment of all people and non-discrimination. The definitions in the aforementioned regulations include vulnerable groups, identified as that segment of the population that presents a high risk linked to adverse effects of climate change, either because they are marginalised groups or because of being



CHILE

in a previously vulnerable condition.

Chilean legislation does not expressly incorporate just transition and energy transition.

7. Regulation on Climate Migration

Chilean legislation does not expressly incorporate the concept of climate migration.

8. Regulation on Gender Perspective, Vulnerable Sectors and Indigenous Peoples

The principle of equity and climate justice includes a gender focus and special emphasis on sectors, territories, communities and ecosystems vulnerable to climate change. Additionally, it references the participation of the Ministry of Women and Gender Equity and the Ministry of Social Development and Family in the elaboration of the Sectoral Plans for Mitigation and Adaptation to climate change with the aim of incorporating a gender and vulnerable groups approach in these policies.

On the other hand, gender is included as a criterion to be considered in the development of the regulations for the formation of the Scientific Advisory Committee for Climate Change. Another criterion to be followed for the formation and functioning of the Scientific Committee is that of equity and territorial representation. This seeks to ensure that the members of the Scientific Committee have knowledge of the natural, cultural and productive diversity that are relevant features of the territory and represent the different geographical areas of the territory.

Regarding citizen participation in climate change management, the CCLF outlines that participation must be open and inclusive, with special consideration for vulnerable sectors and communities. Moreover, it requires applying a multicultural and gender approach without harming the standards of the indigenous consultation processes that must be carried out, where appropriate.

9. Enshrinement of Commitments Acquired at International Level, such as NDC and LTS, in the National Legislation

Chilean legislation mentions and regulates the implementation of the NDC



CHILE

and the LTS. With regard to the latter, it clarifies that GHG emission neutrality must be achieved by 2050 at the latest.

As for the NDC, it does not replicate the commitments made.

10. Specification of Short- and Long-Term Goals in national law

One of the main distinguishing features of the CCLF is that it sets an ambitious mitigation target explicitly in its domestic law: to achieve and maintain GHG emission neutrality by 2050. This target will be assessed every five years by the Ministry of Environment.

11. Legislative Projects to Reform the Current Legal Framework

Chile's legal framework on climate change is currently being updated due to the recent publication of the CCLF and the possibility of approving a new constitution (notwithstanding the rejection of the last project in the referendum).

12. Climate Disputes

Chile has experienced an increase in the number of climate disputes in recent years. As a result, definitions have been reinforced by legal parameters and jurisprudential criteria set by Tribunal decisions and even the Supreme Court of Justice. The judiciary has considered matters ranging from prevention measures in the face of extreme phenomena and consideration of climate change within the environmental assessment of projects, to cases of damage in which reparations must consider climate features. An example is the case of "Moraga, Pilar, Cornejo, M. Transición justa en la mitigación al Cambio Climático" (Moraga, Pilar, Cornejo, M. Just Transition in Climate Change Mitigation).



COLOMBIA



COLOMBIA

1. Denomination of the Framework Law on Climate Change.

Firstly, Colombia introduced Law No. 1.931 of 2018. Then, the Climate Action Law (Law No. 2.169) was introduced to complement this in December 2021.

2. Application Authority

The enforcement authorities are the territorial entities, the environmental authorities, the Ministry of Environment and Sustainable Development, and other agencies and entities of the National Environmental System. These all operate within the framework of the competencies assigned to them by the Constitution and the Law.

3. Tools and Instruments for Adaptation and Mitigation

The following instruments carry out climate change management, although there is an indication that more may be incorporated according to need, or international climate change agreements ratified by Colombia. The instruments include commitments to NDCs before the UNFCCC; the Colombian National Climate Change Policy; the Integrated Sectoral and Territorial Climate Change Management Plans; the development plans of territorial entities and land-use plans; the country's National Communications and National GHG Inventories; the biennial update reports (BUR) and other reports that modify or replace them.

4. Financial mechanisms created or promoted to achieve the objectives of the laws.

With regard to financial instruments, the Colombian regulations establish a particular regime which refers to a tradable GHG emission quota. This quota includes a tradable right that authorises its holder to emit one tonne of CO₂ or another GHG for an amount equivalent to one tonne of CO₂. Additionally, Colombia's Government may establish a system of incentives aimed at natural or legal persons, public, private or mixed, who carry out specific actions to adapt to and mitigate climate change.

5. Participation Mechanisms and Public Information

Climate legislation does not regulate citizen participation. However, the Political Constitution establishes that the law will guarantee the participation of the community in decisions that may affect their right to enjoy a healthy environment.



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This is a premise under which participation mechanisms of an administrative nature are framed, as well as mechanisms for judicial participation.

In terms of information, the law creates Colombia's National Climate Change Information System, which will provide transparent and consistent data and information for decision-making over time, related to climate change management. As part of this system, the Colombian National Registry for the Reduction of Greenhouse Gas Emissions is established as one of the necessary instruments for the management of information on GHG mitigation initiatives.

6. Regulation on Just Transition, Energy Transition and Climate Justice

Just transition is expressly mentioned in the climate regulation when indicating the pillars for transition in carbon neutrality; climate resilience and low-carbon development. In addition, just transition of the workforce is outlined in terms of contributing to the transformation of the economy towards sustainable production mechanisms, with the aim of creating green jobs that provide quality of life and social inclusion. It also establishes that by 2023 (at the latest) the Ministry of Labour, with the support of the Intersectoral Commission on Climate Change and the competent entities, will determine the strategy and actions for the just transition of the workforce in the country's transition towards carbon neutrality.

As for energy transition, it is not mentioned in the climate legislation, but there are regulations that seek to regulate and encourage it. For example, Law No. 679 of 2001, Law No. 1.715 of 2014, which offered tax incentives for those who make use of 'green' energies, and Law No. 2.099 of 2021.

Climate justice is not covered in Colombian legislation.

7. Regulation on Climate Migration

There are currently no regulations in Colombia governing the situation of climate migrants. However, Law No. 1.523 can be looked to as a regulation that does, however, address the issues of climate migration.



COLOMBIA

The Law reformed the Colombian National System for Disaster Risk Management and Environmental Migration and establishes emergency measures to address natural and unintentional human events.

8. Regulation on Gender Perspective, Vulnerable Sectors and Indigenous Peoples

Law No. 1.931 of 2018 establishes a goal to reduce the vulnerability of the population to the threats of climate change. Similarly, it positions indigenous peoples as key parties when it comes to making decisions on climate change prevention and adaptation actions.

However, the indigenous peoples have not been considered when regulating participation and decision-making mechanisms, such as when the country's National Council on Climate Change was created by Law No. 193. This Council is currently not made up by representatives of the country's ethnic communities, and therefore replicates the existing segregation of these groups when it comes to decision making and coordinating climate change management. Although the Political Constitution recognises the rights of indigenous communities to participate, and Colombia has signed multiple international treaties that regulate their rights in the field of climate change, there are no national norms that explicitly regulate this relationship, but rather some regulations which are indirectly incorporated.

Law No. 2.169 includes gender and ethnic diversity approaches in the areas of education, training and awareness-raising by establishing, among other things, that the Colombian National Environmental Education Policy must be updated by 2030. This aims to re-signify and highlight the importance and urgency of addressing climate change education at all levels, in accordance with the national, regional and local context, from a human right, intergenerational, differential, ethnic and gender perspective.

9. Enshrinement of Commitments Acquired at International Level, such as NDC and LTS, in the National Legislation

The goals set out in the NDC and LTS are enshrined in the latest Colombian CCLF.



COLOMBIA

10. Specification of Short- and Long-Term Goals in National Law

The latest climate legislation expressly establishes short and long-term commitments in line with the NDC and LTS presented.

11. Legislative Projects to Reform the Current Legal Framework

In order to reform the current legal framework in relation to climate change, the following bills are pending debate in the Senate of the Republic: Bill No. 251 of 2021, which aims to approve the Escazú Agreement (4 March 2018); Bill No. 013 of 2021, which seeks to create the "Climate Change Lecture", aimed at those who will hold public office as a requirement for the first sixty days from taking office; and Bill No. 336 of 2021, which drives low-carbon development in the country by establishing minimum targets and measures on carbon, climate neutrality and resilience.

12. Climate Disputes

Colombia has a large number of court decisions interpreting or enforcing the current legal framework. The most recurrent issue in case law is the right to prior consultation, which is one of the main mechanisms for participation in Colombia. It represents a fundamental right of ethnic communities as it guarantees representation, participation, and access to information on projects, works or activities that are intended to be carried out in their territory that are likely to affect them.

The following are among the most relevant cases: Ruling on the Atrato River: Constitutional Court, T-622 of 2016; Ruling on the Amazon: Supreme Court of Justice, STC4630-2018. 5 April 2018. MP: Luis Armando Tolosa Villabona; and Constitutional Right to Prior Consultation: Constitutional Court. Sentence SU-123 of 2018.



1. Denomination of the Framework Law on Climate Change

The CCLF is the Climate Change General Law, published on 6th June 2012 and updated in July 2018, aimed at aligning the national regulation with the PA (Paris Agreement).

2. Application Authority

The CCLF highlights that the Federation, by means of the Secretariat of Environment and Natural Resources (SEMARNAT) and the Mexican National Institute of Ecology and Climate Change (INECC), is the application authority at the federal level.

3. Tools and Instruments for Adaptation and Mitigation

The planning instruments for the Mexican National Climate Change Policy are the following: I. The National Strategy; II. The Program; III. The Adaptation National Policy; IV. Nationally Determined Contributions; V. Programs of Federative Bodies.

Regarding adaptation, the CCLF establishes the necessity to develop an Adaptation National Policy in the framework of the Mexican National System of Climate Change, supported by diagnosis, planning, measurement, supervision, report, verification and assessment. Likewise, in the programs to be developed in the following fields: Comprehensive Risk Management; Water Resources; Agriculture; Livestock, Forestry; Fishery & Aquaculture; Ecosystems & Biodiversity; Energy, Industry & Services; Transport & Communication Infrastructure; Ecological Planning of the Territory, Internal Displacement of People Caused by Climate Change Events; Human Settlement & Urban Development; and General Health & Public Health Facilities.

In relation to mitigation, the Mexican National Policy on Climate Change Mitigation is highlighted. This Policy must include —by means of planning, policy and economic instruments in the legislation— a diagnosis, planning, measurement, monitoring, report, verification and assessment of the national emissions. Furthermore, this policy must establish plans, programmes, actions, and economic, policy and regulatory instruments, in order to gradually achieve the goals to reduce specific emissions, by sectors, and using base-line scenarios and sector baselines as a benchmark.

4. Financial Mechanisms

Mexican legislation has many articles dedicated to economic instruments to cover the expenses of this policy. It also determines that the Federation and the federative bodies, in the field of their corresponding jurisdiction, will design, develop and apply economic instruments promoting the fulfilment of the country's National Policy goals concerning climate change.

According to the policy, economic instruments are the regulatory and administrative mechanism of a fiscal, financial or market nature, by which people absorb the benefits and costs related to mitigation and adaptation to climate change, promoting them to perform actions that will favour the fulfilment of the national policy goals on this matter.

Additionally, it creates the Fund for Climate Change with the purpose of collecting and channelling public, private, national and international financial resources in order to support actions to tackle climate change. The actions related to adaptation will be prioritised in the application of the fund's resources.

5. Participation Mechanisms and Public Information

The CCLF establishes that the three government branches shall promote co-responsible participation of society in the planning, execution and monitoring of the Mexican National Climate Change Policy. In order to fulfil this, the Inter-secretarial Commission for Climate Change (Comisión Intersecretarial de Cambio Climático, CICC) shall invite organisations from the public and private sectors to share their opinions and proposals on adaptation to and mitigation of climate change; reach covenant agreements with social and private organisations; promote the recognition of the most relevant efforts in society to eradicate the negative impacts of climate change; and perform actions and investments within the social and private sectors with the aim of implementing measures for climate crisis adaptation and mitigation.

In relation to information sharing, it creates an Information System on climate change ruled by Mexico's National Institute of Statistics and Geography, which shall create, with the support of governmental units, a set of key indicators established in the policy.

6. Regulation on Just Transition, Energy Transition and Climate Justice

The concepts of just transition and climate justice are not mentioned. Otherwise, energy transition is mentioned in the CCLF, although indirectly, as it is noted that the Secretariat of Energy must establish policies and incentives to promote the use of low carbon emissions technologies. Additionally, it is important to highlight that there is an Energy Transition Law, published on 24th December 2015, aimed at regulating the harnessing of renewable energy, alongside the obligations regarding Clean Energy and the reduction of polluting emissions from the energy industry. This Law seeks to support the implementation of the goals established in the CCLF and determines its own mechanisms and goals on clean energy.

7. Regulation on Climate Migration

The CCLF does not expressly include the concept of climate migration.

8. Regulation on Gender Perspective, Vulnerable Sectors and Indigenous Peoples

Regarding gender equity and the protection of indigenous communities, the CCLF establishes that, in the formulation of the Mexican National Policy on Climate Change (the country's National Strategy on Climate Change) and climate change programmes to be developed and implemented by the states of the Republic, (a) sustainability principles must be observed in the harnessing and use of ecosystems and the natural elements integrating them and in the conservation of ecosystems and their biodiversity, (b) and human rights must be intrinsically respected, as well as the right to health, development, gender equality, women empowerment and cross-gender equity, and the rights of indigenous people, local communities, migrants, children, people with disabilities and people in vulnerable situations.

9. Enshrinement of Commitments Acquired at International Level, such as NDC and LTS, in the National Legislation

The policy does not expressly mention the NDC or the LTS, but it replicates the goals and targets proposed in those instruments in its CCLF. In which sense, that which is established in the NDC and the LTS also becomes a legal obligation within their internal legislation.

10. Specifications of Long and Short Term Goals in the National Legislation

The policy establishes GHG-reduction goals to be fulfilled by 2030 and 2050.

11. Legislative Projects to Reform Current Legal Framework

To date, there are some relevant proposals for the regulatory framework on climate change, concerning to the following: establishing actions and guaranteeing the rights for climate change adaptation to indigenous and Afro-Mexican communities; imposing the obligation on SEMARNAT (the Mexican Secretariat of Environment and Natural Resources) to review the country's National Strategy of Climate Change, in collaboration with CICC, at least every five years. It also determines that the strategy shall correspond to the commitments established in the NDC, which shall include, as the subject-matter of law, the guarantee of the fulfilment of the international agreements signed and ratified by Mexico regarding climate change, among others.

12. Climate Disputes

Generally, topics related to climate change in Mexico have a limited interaction with the courts. However, there are some relevant cases, such as Greenpeace vs. Ministry of Energy and others, Mexican Centre for Environmental Law (CEMDA) vs. Ministry of Energy and Others (on the energy Sector Program 2022), Greenpeace vs. National Institute of Ecology and Climate Change and Others, Greenpeace vs. Mexico (Budget reduction for combating climate change), Youth vs. Government of Mexico, among others.



PARAGUAY



PARAGUAY

1. Denomination of the Framework Law on Climate Change

Paraguay has had, since 27th September 2017, the Paraguayan National Law on Climate Change (Law No. 5.875) that aims to establish the regulatory framework for response to the impacts of climate change.

2. Application Authority

The Ministry of Environment and Sustainable Development is the authority in charge of the application of the policies intended to regulate different fields concerning environmental affairs. Such affairs include the quality of the air, protection of wildlife, deforestation and reforestation regime, protection of natural resources, waste management and water management, among others. Additionally, it is the focal point of the UNFCCC.

3. Tools and Instruments for Adaptation and Mitigation

In relation to adaptation, this is not expressly regulated in the existing legal framework. However, the Paraguay's National Climate Change Policy (NCCP) established two tools: (i) the country's National Adaptation Strategy to Climate Change (NASCC) and, (ii) the National Adaptation Plan to Climate Change (NAPCC).

There is no express regulation in the CCLF relating to the mitigation of climate change. Nonetheless, since 2017, Paraguay has had a Mitigation Strategy and a National Plan for Climate Change Mitigation, which were collaboratively built.

4. Financial Mechanisms

The CCLF provides for the creation of a Climate Change Fund, with the purpose of capturing and applying public, private, national and international financial resources in order to perform actions to tackle climate change.

5. Participation Mechanisms and Public Information

The Paraguayan National Law on Climate Change (Ley Nacional de Cambio Climático, LNCC) does not expressly refer to public participation.



PARAGUAY

It can only be seen indirectly that it provides for the creation of a National Commission on Climate Change integrated by private entities such as the Industrial Republic of Paraguay, Paraguay Rural Association and the Network of Non-governmental Environmental Organisations of Paraguay. It also has a mechanism to add new members, whether they are public or private bodies.

Regarding access to public information, although the CCLF does not expressly mention it, the NCCP does include transparency as a ruling principle. This signals that climate change management should guarantee a process where asymmetries of information are avoided, making sure all actors of society have access to it.

6. Regulation on Just Transition, Energy Transition and Climate Justice

The concepts of just transition, energy transition, and climate justice are not expressly regulated in the CCLF. However, energy transition is mentioned in the NAPCC, largely in relation to transportation and industry sectors, but not in the CCLF.

7. Regulation on Climate Migration

Climate migration is not explicitly regulated within national policy or mentioned in the public policies of Paraguay.

8. Regulation on Gender Perspective, Vulnerable Sectors and Indigenous Peoples

These issues are not explicitly regulated in the LNCC.

Nonetheless, Paraguay has a Gender National Strategy in the face of Climate Change, aimed at actively and effectively promoting the incorporation of gender perspective in the adjustment, development, coordination, monitoring and evaluation of climate change public policies as well as in the actions from civil society, in order to achieve the wellbeing of the population, respecting the needs, interests of men and women.



PARAGUAY

9. Enshrinement of Commitments Acquired at International Level, such as NDC and LTS, in the National Legislation

They are not included in the Assessment Guidelines.

10. Specifications of Long and Short Term Goals in the National Legislation

The LNCC does not explicitly mention the long-term and mid-term goals. However, it does mention that the NCCP will establish the goals to be met by government to fulfil the obligations acquired in the framework of the UNFCCC.

11. Legislative Projects to Reform Current Legal Framework

To date, there are no legislative projects intended to reform the current framework in relation to climate change. However, the Paraguayan National Directorate for Climate Change is working on a bill that regulates the carbon market, and above all, the carbon property.

12. Climate Disputes

To date, there is no relevant case law on climate change.



PERÚ



PERÚ

1. Denomination of the Framework Law on Climate Change

Peru has a Framework Law on Climate Change (Law No. 30.754), passed in April 2018 and a Regulation approved by the Supreme Decree No. 013-2019-MINAM.

2. Application Authority

The Ministry of Environment is the ruling body and national authority on climate change, and the regulatory and technical authority at a national level on this matter.

3. Tools and Instruments for Adaptation and Mitigation

According to the current legal framework, the comprehensive management instruments for climate change are the following: sectorial, regional and local planning instruments, which include adaptation and mitigation measures; NDC; Peruvian National Strategies against Climate Change including REDD+ Indígena Amazónico; Regional Strategies against Climate Change; Local Plans for Climate Change; Gender and Climate Change Action Plan (GCCAP); and the Peruvian National Adaptation Plan.

Regarding mitigation, the Regulation of the CCLF established a series of tools for the Monitoring, Report and Verification (MRV) of emissions, removals, reductions of GHG-emissions and increase of GHG-removals, such as: (I) INFOCARBONO, (II) Peru's Carbon Footprint, (III) Peru's National Record of Mitigations Measures (Registro Nacional de Proyectos de Mitigación del Cambio Climático, RENAMI); (iv) national baseline of GHGs emissions and removals, and (V) the reports submitted to the UNFCCC. Likewise, for the MRV of GHGs in forests, the Regulation established the following tools: (I) Peru's National Forest Monitoring System (Módulo de Monitoreo de Cobertura de Bosques, MNCB), and (II) Safeguards Information System for REDD+ (Módulo de Información de Salvaguardas).

For the monitoring of adaptation and mitigation measures, the Regulation of the CCLF created the Monitoring System of Adaptation and Mitigation Measures, in order to monitor and report the advancement level in the implementation of mitigation and adaptation strategies, as well as all issues relating to their financing, access to payment by results, and transfers of GHG-reduction units. Tools such as INFOCARBONO and RENAMI belong to this System.



PERÚ

4. Financial Mechanisms

La CCLF does not create financial mechanisms for the fulfilment of its goals. However, it does foresee the necessities of creating warranty funds for the advocacy of investment in renewable and clean energies, ecosystemic services, research, technological development and innovation in adaptation to climate change, complementing the already existing funds in the country.

5. Participation Mechanisms and Public Information

The CCLF enshrines the principle of participation, and states that the relevant authorities, and public and private bodies administering financial resources for the mitigation and adaptation to climate change shall: have a person or an office responsible for organising, systematising and managing the information they produce or have in order to meet, in legal terms, the requests of information by public bodies and citizens; provide timely, appropriate and continuous information, considering intercultural approaches, the predominant language in the place where the public policy is to be applied or the investment project associated to climate change is to be run, in order to assure the actual exercise of the right to information; and establish mechanisms for information exchange, consultation and discussion, with the purpose of guaranteeing an effective participation of the interested parties along all the stages of public policies and investment projects linked to climate change.

Lastly, it makes a special reference to indigenous participation, making clear that the State safeguards the right to participation of indigenous or native people, respecting their social, collective and cultural identity, their customs, traditions and institutions.

6. Regulation on Just Transition, Energy Transition and Climate Justice

The concepts of just transition and energy transition are not considered in the local law. On the contrary, though indirectly, climate justice is mentioned in the local law and in the Supreme Decree No.003-2022 MINAM released on 25th January 2022.



PERÚ

7. Regulation on Climate Migration

The CCLF imposes, as an obligation of the State, the creation of a Plan of Action to prevent and handle forced migration caused by the effects of climate change. This aims to avoid the increase of pressure on urban infrastructures and services, the increase in likelihood of social conflicts, and the decrease of health, education and social indicators. To date, this Plan of Action has not been approved. Nonetheless, it is important to notice that Migration National Policy 2017-2025, approved by the Supreme Decree No. 015-2017-RE, includes provisions applicable to those who migrate due to natural and environmental disasters (such as the humanitarian visa).

8. Regulation on Gender Perspective, Vulnerable Sectors and Indigenous Peoples

An aspect worthy of note is the diversity of perspectives that CCLF includes in its approach climate change. Among them, the intercultural approach stands out, which includes the cultural perspectives and ancestral knowledge; the human rights approach, which intends the execution and design of adaptation and mitigation measures to consider their impact on human rights, especially of women, children, indigenous and native people and other vulnerable groups; and the equality approach, which intends the implemented actions to guarantee equality between women and men.

Regarding this, the Regulation of the CCLF mentions that the comprehensive management of climate change in Peru is governed by the principles and approaches included in the Peruvian National Policy on Gender Equality and in the Law on Equal Opportunities between Men and Women, Law No. 28.983.

9. Enshrinement of Commitments Acquired at International Level, such as NDC and LTS, in the National Legislation

Regarding the NDC, the policy in Peru establishes that these contributions are binding and compulsory instruments for the competent authorities. Regarding the LTS, there is no explicit reference, but it may be viewed within the section "Other Management Instruments Related to Climate Change", entrenched in the policy.



PERÚ

10. Specifications of Long- and Short-Term Goals in the National Legislation

The CCLF does not provide for short or long-term goals. Nevertheless, they are included in the Peru's National Strategy on Climate Change, which, once approved, will become the LTS by 2050, and the NDCs. Additionally, the policy does not contain the binding obligations for the Public Administration or the private sector.

11. Legislative Projects to Reform Current Legal Framework

So far, there is no policy project under assessment to approve reforms of the CCLF or its Regulation. Nonetheless, there are legislative projects linked to this legal framework, namely: Draft Guide for the Development and Update of Measures for Climate Change Adaptation and Mitigation of Peru's Nationally Determined Contribution; Draft Methodological Guide for Rapid Identification of Action Measures (IRMA); Draft Guidelines for REDD+ Implementation and Management of its Emission Reduction & GHG-Removal Units (URE); the Draft Provisions for the operation of the National Registry of Mitigation Measures (RENAMI).

12. Climate Disputes

To date, in Peru, there are no judicial or administrative decisions issued by the Peruvian State concerning the regulation on climate change. Nevertheless, we consider important to highlight a judicial process that is still open, currently pending resolution, which could become the first case law precedent on climate change: "Álvarez et al vs. the Peruvian State".

COMPARATIVE ANALYSIS

After analysing the national policy of the seven countries with CCLF, a comparison will be made among them based on the same 12 indicators previously analysed.



COMPARATIVE ANALYSIS

1. Denomination of the Framework Law on Climate Change

Each of the 7 countries analysed has a CCLF, which were published in the following order:



2. Application Authority

In all cases, with their different nuances, the application authority is the supreme environmental authority at the national level.

3. Tools and Instruments for Adaptation and Mitigation

In all cases, these tools and instruments are totally or, at least, partially considered within a climate change national plan, strategy or policy.

COMPARATIVE ANALYSIS

4. Financial Mechanisms

Brazil, Mexico and Paraguay have created a Climate Change Fund with the objective of capturing and applying public, private, national and international financial resources aimed at supporting the implementation of actions to address climate change. Brazil, however, established this fund in a law previous to the CCLF (Law 12.114). Furthermore, Brazil regulates the Brazilian Market of Emissions Reduction (Mercado Brasileño de Reducción de Emisiones, MBRE). Likewise, Colombia establishes a particular regime concerning a marketable quota of GHG emissions, which constitutes a negotiable right authorising its holder to emit a tonne of CO₂ or other GHG for a quantity equivalent to a tonne of CO₂.

Similarly, both Chile and Colombia have a specific environmental fund applicable to climate change. In Colombia, due to its CCLF, the National Government will be able to establish an incentive regime targeted at natural & legal, public, private & mixed persons who perform concrete climate change adaptation and mitigation actions.

Moreover, it is remarkable that Mexico devotes many articles in its CCLF to economic, financial and market instruments in order to pay the expenses and meet the goals established in this rule; and that Chile, by law, shall determine a Financial Strategy on Climate Change.

On the other hand, Argentina considers only two financing mechanisms. One refers to the budget credit that shall be included in the Public Administration Budget to comply with the law. The other refers to the implementation of measures by the competent authorities of each jurisdiction with the purpose of designing and promoting tax and credit incentives to producers and consumers for the investment on low-GHG technology, processes and products.

COMPARATIVE ANALYSIS

5. Participation Mechanisms and Public Information

In relation to this aspect, we can find many alternatives; however, by way of summary, we can highlight that Argentina, Chile, Mexico and Peru more seriously consider these topics within their CCLF, while Brazil, Colombia and Paraguay do not explicitly mention them.

6. Regulation on Just Transition, Energy Transition and Climate Justice

The concept of just transition is only considered in the Colombian policy, while the concept of energy transition is exclusively and indirectly mentioned in the Mexican policy. Regarding climate justice, it is only mentioned in the Chilean CCLF.

7. Regulation on Climate Migration

It is only included in the Peruvian policy.

8. Regulation on Gender Perspective, Vulnerable Sectors and Indigenous Peoples

Regarding these three issues, the policies in Argentina, Chile, Colombia, Mexico and Peru regulate in this respect, while the policies in Brazil and Paraguay do not. It is noteworthy that the policies mentioning these topics either mention all three issues, or none of them.

9. Enshrinement of Commitments Acquired at International Level, such as NDC and LTS, in the National Legislation

Argentina, Brazil and Paraguay do not mention, in their national policies, or undertake, within their local legislation, the obligations internationally recognised under the NDCs presented nor the LTS to be presented. On the contrary, Colombia, Mexico and Peru do. The first two countries replicate the targets established in the international commitments in their CCLF.

COMPARATIVE ANALYSIS

10. Specifications of Long- and Short-Term Goals in the National Legislation

Argentina and Paraguay do not mention short or long-term commitments in their CCLF. On the other hand, Chile, Colombia and Mexico do. The case of Brazil is particular since its law came before the PA and it does mention short-term commitments, though by 2020 (an already expired period that has not been updated via local regulations).

11. Legislative Projects to Reform Current Legal Framework

In Chile and Paraguay there are no legislative projects assessing the modification of their CCLF, while in the rest of the countries there are.

12. Climate Disputes

Paraguay is the only country that does not have any climate dispute examples in its case law; while the rest of the countries do have many filed lawsuits.

CONCLUSIONS

CONCLUSIONS

Latin America is projected as one of the regions of the world where the effects and impacts of climate change, such as heat waves, the reduction of crop yield, forest fires, the depletion of coral reefs and sea-level extreme events will be more severe.

All countries of the region ratified the AP and presented their NDCs. Nonetheless, just seven of them have a CCLF, and they are not ambitious enough in relation to the climate and ecological emergency we have to tackle. This is made worse by the fact that all of the CCLFs were enacted after the AP, except for in Brazil.

Most of the policies do not regulate on climate migration, though reports, such as the World Bank Groundswell Report, suggests that by 2050 the region could have 17 million internally displaced persons due to climate change. They also do not consider just transition, except for Colombia. Other European countries, such as Spain, devote a whole chapter and various articles of their CCLF to this topic. Similarly, climate justice is not mentioned, except in the Chilean legislation, although Latin America is one of the regions most affected by the losses and damage caused by climate change, and the one that will be most affected according to the above quoted research.

We still have much to do to ensure that the CCLFs are passed in the rest of the countries of the region that still do not have one, since this type of policy allows legislating in a comprehensive and transversal manner, in addition to imposing order within the applicable legislation that is scattered and, in many cases, not compulsory. Further, it grants the countries greater legal stability, prioritises the topic, and favours transparency and credibility, showing a political and institutional commitment to work on climate change. In summary, introducing climate policy in law helps to reduce the likelihood of recession on the matter and provides a mandate for the politicians in charge to advance the action being taken.

² World Meteorological Organization (2022) Status of Climate in Latin America and The Caribbean 2021

In relation to the seven countries that already have their CCLFs, we must continue promoting legislative projects that modify the current legislation in pursuit of more ambitious initiatives consistent with the reality that the Intergovernmental Panel on Climate Change every year increasingly points out.

