

POLICY BRIEF

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The Co-benefits Approach at the Local Level: Legal Perspectives

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Highlights

A co-benefits approach is a way to achieve several positive outcomes along multiple dimensions through a single policy. It is used in the climate change literature to refer to policies simultaneously addressing global warming as well as local development priorities.

Local legal contexts vary widely from one place to another. Understanding the legal context can help remove barriers or tap opportunities at the early stage of the policymaking process, and enable the adoption of co-benefits strategies.

Classifying laws and regulations according to their outcomes enhances the visibility of potential co-benefits and hence fosters evidence-based policymaking.

Some areas of policymaking are particularly well-suited to a co-benefits approach; yet achieving co-benefits will often depend on the specific governance framework within which it is embedded.

The Co-benefits Approach

The concept of “co-benefits” emerged in the 1990s when environmental economists coined the term to refer to the additional development benefits of climate policies (Miyatsuka and Zusman 2010). By the 2000s, international bodies such as the Organisation for Economic Cooperation and Development (OECD) and the Intergovernmental Panel on Climate Change (IPCC) began using the term to refer to policies with multiple goals, at least one of which was to reduce greenhouse gas (GHG) emissions (IPCC 2001). This usage was quickly adopted by scholars and international agencies, and the term is now employed to promote the implementation of policies and projects aiming for both climate change mitigation and development, linking global and local concerns within one measure or many.

Against this backdrop, the co-benefits approach (CBApp) has developed as a way to achieve more than one outcome through a single policy. It has been used, in particular, to encourage developing countries to implement climate-friendly policies by tackling both global and local environmental problems, while addressing local development priorities (Puppim et al. 2013). The additional local benefits can help countries with limited resources offset the costs of investing in GHG mitigation.

The Relevance of Law

Most studies on co-benefits focus on the quantitative assessment of possible policies, assuming institutional capabilities to implement them. Yet institutional barriers can frustrate implementation. It is therefore critical to identify legal drivers that could enable the promotion of co-benefits.

Studies on the governance of co-benefits initiatives indicate that law can be a significant factor in their success or failure (Puppim et al. 2013). In fact, governance defines the framework within which different stakeholders take action and the extent of their powers (governance level).

At a lower level, a law is a piece of legislation (law, regulation, ordinance, etc.), which is an outcome of decisions by public authorities at different scales: national/federal, regional/state and local. This is referred to as the “policy level”. Through planning tools, law can cut across sectors and address broad issues, such as energy consumption patterns, in a holistic manner. This is necessary and complementary to piecemeal technological measures. From a narrower perspective, law defines by whom and how activities are implemented. This brief refers to these activities as the “project level”. The CBAApp can be embedded in rules (policy level) or in activities (project level).

Law can be a hurdle to a CBAApp. At the policy level, a piece of legislation may have negative side effects if there is a lack of coordination between agencies. Ministries or municipal departments, which often work in isolation, might not measure the impacts of their decisions in different sectors. For instance, a law reducing oil prices to support economic development could prompt the advancement of fuel intensive technologies, and curb the efforts of other agencies to promote renewable energy. At the project level, legal uncertainties and weak legal institutions can create

limitations. Laws establishing monopolies can also be a barrier. A monopoly over the distribution of energy, for example, might impede new actors from entering the market and introducing innovations.

But laws can also enable development of a CBAApp. If legislation seeks to improve energy security, it may create conditions that favour the use of renewable energy, mitigate GHG emissions and improve local air quality. At the project level, a variety of regulatory instruments — such as taxes and subsidies, environmental impact assessments, building permits and codes — can be tailored to promote different goals. For instance, the government of China has established a differentiated system of taxation for Clean Development Mechanism (CDM) projects, which is indexed to the additional co-benefits that the projects provide. By coupling actions beneficial for the global environment as well as local development priorities, public authorities can create incentives to support multiple objectives (Curnow and Hodes 2009). At this stage, participatory processes in which local stakeholders articulate concerns and express their needs may help to determine development priorities, which can be addressed in combination with mitigation measures.

Classification of Laws According to Potential Co-benefits

Classification can be useful in assessing the legal context and the current rules in force, and in screening future laws and regulations. Table 1 classifies legislation according to its specific goals. This is relevant for national legislation as well as lower levels of regulations.

Classifications help assess existing policy contexts and establish baseline scenarios on which future benefits will be calculated. Such a classification is used, for instance, within the Kyoto Protocol regime to verify the additionality criterion in mitigation projects. More broadly, this classification clarifies the legal context and may help policymakers to avoid making decisions that overlap or contradict one another. It is particularly useful for coordinating the activities of public authorities.

Classification could be useful during the preparatory stage of a law or project. Ideally, each public authority department would “tag” their legal acts accordingly to create an index whereby L+1 or L+2 measures would highlight potential partners and resources for the development of a CBAApp. L+2 would help identify non-obvious partners, as they do not address climate change

Opportunities	
Type L+1	Laws that aim to promote several goals, one being the reduction of GHG emissions.
Type L+2	Laws that incidentally produce co-benefits; regulations which pursue one particular goal but have side effects and thus generate co-benefits.
Barriers	
Type L-1	Laws that produce negative side effects, which affect mitigation initiatives.
Type L-2	Laws that impede the realisation of a project.

Table 1: Classification of opportunities for and barriers to policy objectives in a domestic context.

Source: adapted from CDM Executive Board (1)

directly. L-1 or L-2 would identify areas which require discussion to remove barriers for the achievement of a co-benefits project. For instance, in Delhi, measures for the development of the metro could be classified as L+1, as their aims include reducing GHGs. Measures for setting up the bus rapid transit (BRT), which aim to improve public transport, would be L+2. However, national subsidies for diesel would be classified as L-1.

Legislative classification therefore provides indicators for planning and project development. It can also help in assessing the evolution of future environmental or economic data. Thus it simplifies the policymaking process and supports efficient decisions.

Co-benefits in Sector-specific Laws

Most current measures for addressing climate change are found in sector-specific legislation. The following are three key sectors for co-benefits policies:

Energy Sector

Through energy conservation and the use of renewable energy resources, industries and households reduce their GHG emissions. However, in many cases the main goal of energy legislation is energy security. This is true for Japan (Basic Act on Energy Policy 2002), as well as for developing countries (e.g., Indian Energy Conservation Act 2001). The Energy Conservation Law of the People's Republic of China explicitly stipulates the contribution of energy conservation to economic and social development (Article 1).

Transport Sector

Many air pollutants and GHGs have common sources, such as motorised vehicles. Transport laws aiming to reduce air pollutants as well as congestion often also curb GHG emissions, as long as they do not cause an additional use of energy from other sources. As a result, planning is essential and goes hand-in-hand with the development of better public transport. In Delhi, the government has made important investments to develop a multi-modal system of public transport.

Waste Management Sector

The waste sector also presents opportunities to integrate a CBApp. The primary goal of Japan's Basic Act on Establishing a Sound Material-Cycle Society (2000) is to ensure a healthy environment and a sound economy with a minimised environmental load by promoting resource conservation. However, its re-use and recycle strategies also reduce the GHG emissions that would result from the

extraction of virgin materials and energy consumption from production processes.

Multilevel Legal Context

Although global warming is a matter of international concern its impacts are experienced at the local level. Climate issues are mostly addressed at the national level and opportunities exist for co-benefits policies. For instance, the Indian National Action Plan on Climate Change (NAPCC) states that "The NAPCC identifies measures that promote our development objectives while also yielding co-benefits for addressing climate change effectively".

This shows the commitment and potential support available at the central government level, promising investments in technology, human resources, and research and development. This holds true in many parts of the world. Studies show that in centralised states the commitment of the central government is essential to engage local authorities in climate change action (Qi et al. 2008). However, local governments may go further than national governments. In Indonesia, a 1999 national regulation on air pollution control allows provincial governments to adopt more stringent limits. Thus in Jakarta the CO emission standards are stricter than the national target (ICCT 2014).

Consequently, looking only at national legislation does not provide a complete picture of the legal context within which CBApp policies and projects can be developed. The degree of decentralisation must also be considered, as this determines how much autonomy local governments have in developing their own policies and solutions. This allows for assessment of the resources from the central government or other sources, which are available for co-benefits projects.

Moreover, coordination between public authorities at various levels is a key element for effective implementation of policies facilitating co-benefits projects. In fact, local initiatives can contradict the national legal framework. In Sao Paulo, Brazil, the municipality has adopted a GHG mitigation target of 30% by 2012 with a baseline year of 2005 (D'Almeida Martins and Costa Ferreira 2011). However, the central government, in compliance with the principle of common but differentiated responsibilities, refuses to be bound by targets similar to those of the Kyoto Protocol.

Also, the additionality condition required by the Kyoto Protocol for CDM could favour local inaction. Indeed, any regulation that reduces GHG emissions makes it more difficult to yield additional benefits. Emissions reductions

resulting from municipal laws may therefore thwart national incentives used for CDM (Curnow and Hodes 2009).

Finally, coordination must integrate the bottom level of governance — citizens and other civil society actors including businesses. Co-benefits are perceived differently in different contexts, and need to respond to local needs. This requires participatory processes that remove potential behavioural obstruction (for instance, to new technologies or new transport modes) to CBAApp projects.

Recommendations

- City governments are part of a domestic administrative system, with powers defined by law. To develop local policies, including a CBAApp, one must identify sectors under the jurisdiction of public authorities, in which co-benefits can be achieved. This entails assessing the international and national legal frameworks as well as the leeway and resources of city governments.
- It is crucial to examine local political contexts and their development priorities. Policies and projects appear to be more efficient and more easily implemented if they are demand-driven and tailored to local circumstances.
- Participatory processes (workshops, face-to-face or community meetings, information display and feedback mechanisms) in which all local stakeholders may declare their needs and capacities are essential in the decision-making process. Potential deadlocks would then be revealed before implementation. Objectives would be defined and plans discussed in advance during the decision-making process (participatory back-casting).
- Coordination with other public actors is necessary. Dialogue mechanisms (meetings, conferences, bodies of public and private stakeholders) that bring together

upper-level government representatives and local decision-makers are important because the former may have the legal power to approve or reject local policies and projects. As co-benefits are inherently cross-sectoral, coordination is also needed across sector-specific policy areas.

Note

This policy brief is an outcome of the project "Urban Development with Co-benefits", which aimed to identify actions producing positive outcomes for both global climate mitigation and local development needs. It was commissioned in 2010 by the Ministry of the Environment, Japan.

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