

Democratising international climate law

Reflections on a global citizens' climate assembly

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Government centred action has so far failed to respond adequately to the climate crisis, opening the space for new governance experiments, including through subnational coalitions, social movements and private standards. In the search for new ideas to facilitate the necessary transformations to move to a low-carbon economy, climate citizens' assemblies – randomly selected representative citizens gathered to make recommendations on how to meet greenhouse gas emissions targets – have recently gained in popularity. So far, citizens' assemblies on climate change have been organised in [Ireland](#), [France](#) and the [United Kingdom](#), with other countries, such as [Spain](#), planning to follow the lead. In addition, Laurence Tubiana, France's Climate Change Ambassador at COP 21, [floated](#) the idea that a global citizens' assembly could take place at COP 26 in Glasgow, now scheduled for 2021.

This short piece offers some preliminary thoughts on extending such a deliberative democracy experiment to the global scale. Sections 1 and 2 contextualise Tubiana's proposal by commenting on two on-going trends: first, national citizens' assemblies on climate change are not purely domestic experiments but operate within an influential global context; and second, international climate talks need to be reimagined as they are currently failing to respond adequately to the climate emergency. On that basis, section 3 explores the idea of holding a global citizens' assembly and reflects on how such a proposal might help re-shape international climate law.

National citizens' assemblies in a global context

A citizens' assembly is a representative group of citizens who are selected at random to deliberate upon and make recommendations in relation to a particular issue. Members meet over a series of weekends to learn about the topic, question experts, discuss in small and large groups and engage in a series of votes to agree on workable recommendations. Citizens' assemblies have been held successfully in the past in countries such as Canada, Ireland and the UK to deliberate on a wide range of controversial topics including electoral reform and abortion rights.

The specificity of citizens' assemblies on climate change lies in their focus on a global public good, which means that the impact of their work extends beyond national borders. The example of the citizens' climate assembly currently on-going in France – with the mandate to recommend measures to reduce greenhouse gas emissions by 40% by 2030 in a spirit of social justice – is telling. Its members very quickly came to the realisation that while given the task to improve national climate

law and policy, their work would have to take the global context into consideration. Their awareness of the globalisation of law found different expressions. Firstly, the aspiration that the French assembly, portrayed as one of its kind world-wide, could become a model to be replicated in other countries is widely shared amongst participants. Secondly, members of the assembly very quickly identified the opportunities and challenges offered by international law in fulfilling their mandate. Some attended COP 25 in Madrid to better understand how international climate talks operate, while others questioned the inability of trade and investment treaties to protect the climate. Thirdly, they rapidly became aware that existing rules and processes at the European Union (EU) and international levels would significantly constrain their innovative law-making exercise – a concern to which President Macron [responded](#) by proposing to include members of the assembly in the French delegation at EU and international talks to give them a voice in international forums.

Re-imagining international climate talks

While some states explore innovative solutions to raise their climate ambition, international talks on the implementation of the Paris Agreement are making limited progress. The argument that the UN Framework Convention on Climate Change (UNFCCC) is a convoluted process that is not fit for purpose is not new; it however recently re-emerged as traditional dividing lines resurfaced over the modalities relating to the implementation of the Paris Agreement. At COP 25 in Madrid in December 2019, commentators [noted](#) the striking gap between negotiators, adopting a business-as-usual approach and endlessly arguing in closed rooms over technicalities, and civil society, taking to the streets to demand urgent climate action. In addition, some long-standing UNFCCC negotiators, disappointed by the lack of progress at intergovernmental talks, have [announced](#) they would stop attending COPs or have [joined](#) public disobedience movements. Such dissatisfaction with how COPs are conducted evidences the limits of the paradigm shift that the Paris Agreement operated for international climate law: while the legal text adopted an innovative bottom-up approach, no consideration was given to revisit the workings of its governing body. As a result, a gap has now become apparent between a bottom-up text and institutional arrangements that have remained top-down.

International law beyond the state: Towards society-centred negotiations?

This leads us to the question of whether the model of citizens' assembly currently spreading transnationally could be replicated at the global level to offer an alternative to COPs. For the purposes of this short piece, an important discussion on the design, mandate, and institutional status via-à-vis the formal UNFCCC process of such assembly, is left aside. The discussion that follows concentrates on how such a mechanism might re-shape international climate law.

Firstly, a global citizens' assembly can be conceptualised as being part of an on-going phenomenon that has already significantly reconfigured how we understand and define climate law – the increased involvement of non-state actors in international climate talks that has transformed climate law-making into a more people-centric act. Attempts at bringing in the people more directly into the negotiations have been made but their impacts have remained minimal: they

have included giving members of civil society such as [Greta Thunberg](#) the symbolic opportunity to address the COP, [gathering citizens' views](#) on climate change before COP 21 or organising a '[People's Summit](#)' running in parallel of COP 20 to offer an alternative model to intergovernmental talks. The fundamental difference between such initiatives and a citizens' climate assembly is that it would not be about like-minded people with shared interests coming together. Rather, it would connect individuals representing diverse, often contradicting, views, give them the opportunity to explain their positions, explore and understand that of others, and result in socially acceptable positions on how to respond to the climate emergency.

Secondly and relatedly, a global citizens' assembly challenges the conception of the sovereign state as a 'black box' – according to which the state is unitary and the decision-making processes of the state are considered irrelevant. Intergovernmental talks on climate action are highly politicised and are perceived to be high stake by states concerned with preserving their national interests. However, the unicity of the state has in recent years been challenged as societies have become more polarised and the representativeness of decision-makers is being questioned. The inadequacy of electoral democracy – including short-termism and a tendency to favour the status quo – to act decisively to reduce greenhouse gas emissions is well-known. Concerned citizens have started to [act independently](#) of their governments, taking local action as well as demonstrating and litigating against their inaction. A global citizens' assembly would recognise that international climate law cannot only be made by elected leaders who do not necessarily adequately represent the aspirations of society.

Finally, a global citizens' assembly offers an alternative to the traditional making of international climate law by means of negotiation. It has been shown that citizens' deliberation is able to bridge ideological differences in divided societies, and hence does not suffer the same limitations as negotiations taking place between elected representatives ([Vlerick, Dryzek et al](#)). International climate talks customarily concentrate on deal-making, with participants aiming to see their fixed preferences reflected as extensively as possible in the outcome. This results in purposefully ambiguous texts that reflect everyone's interests but fail to represent a common position ([Stevenson](#)). Instead, a common ground might be more easily found through deliberative processes, resulting in intergovernmental outcomes that are less likely to freeride on the common good and adequately integrate equity and fairness considerations.

Overall, significant uncertainties remain regarding whether there will be enough appetite to hold a global citizens' climate assembly at COP 26, and, should it go ahead, how it would be designed and interact with formal processes. However, Tubiana's proposal contributes to highlighting the limitations of international climate processes and invites us to reimagine new forms of international climate law-making.

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