Should We Use the Market to Address Climate Change?

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Alice Kaswan, *Energy, Governance, and Market Mechanisms*, 72 **U. Miami L. Rev.** 476 (2018).

The recent report from the Intergovernmental Panel on Climate Change this fall has made clear the urgent need to address climate change. What should be the primary policy tool that we use to address the problem? Economists have vociferously advocated for the use of carbon taxes or cap-and-trade permit systems, on the grounds that they provide the most efficient way to decarbonize global economies. Yet carbon taxes have had little success in the political arena. Many of the existing policies that countries and states have used to address carbon emissions have been regulations or subsidies, not market-based approaches. Is this a fundamental misstep on the part of policymakers?

In her recent article, *Energy, Governance, and Market Mechanisms*, Alice Kaswan argues that this is not a misstep, and that in fact there are good reasons—political, democratic, even economic—to prefer non-market-based instruments to advance decarbonization. Her article is ambitious in its scope but effective in raising important questions about what approach is best.

Kaswan raises a couple of key points about why non-market-based mechanisms may be superior to address the transition to a decarbonized economy. First, she argues that government coordination of climate policies can allow the achievement of multiple goals in addition to reducing carbon emissions at the least cost (which is what market-based tools excel at). For instance, we might be concerned about the distributional impacts of a transition to a decarbonized economy and adding on social equity measures to market-based tools may not be as effective as a fully integrated approach. Similarly, there are a lot of additional issues we are concerned about in energy production than simply carbon emissions (e.g., bird mortality from wind turbines, or long-term waste disposal from nuclear power), and a price on carbon alone cannot help us resolve those tradeoffs.

Second, Kaswan argues that long-term planning is an essential component of a transition to a carbon-free energy system, given the interconnectedness of a wide range of elements of our energy systems and the long timeframes for many investments in those systems. According to Kaswan, market-based tools may not be the most effective in managing these kinds of planned transitions—particularly if carbon prices are low, and so far we have only observed relatively low carbon prices in practice.

Third, Kaswan argues that public participation would be more robust for non-market-based regulatory measures, and that this public participation will result in a more equitable and more accountable approach to carbon reductions. And finally, Kaswan argues that non-market-based mechanisms appear to be more politically realistic than stringent market-based tools—something that has been quite apparent this fall as the French protest against a new gas tax and Washington state voters turned down a carbon tax proposal.

One law review article will not be able to conclusively answer any of these difficult questions about the role of market-based mechanisms in climate policy—the challenge spans the entirety of the modern economy, across countries with very different political and cultural settings, and an incredible range of technical problems. But Kaswan's piece is a vital starting point for the now-vibrant debate about which policy approaches will be more successful, and an important counterpoint to a policy discourse that has mostly been dominated by advocates of carbon pricing. Even if you don't agree with her arguments, Kaswan's analysis should give you important points to consider.

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