

# Mapping the legal landscape of business continuity

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# Agenda

1. Context: Background, Research Question & Methods
2. Jurisdiction Scan & Analytical Framework
3. Staying up-to-date
4. Incorporating legal considerations into

Live Q&A &  
Polling



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# Background

We co-developed a research proposal through the Mitacs Accelerate program.

We ask: **what are the government-mandated business continuity and business continuity planning requirements in Canada, and how do these mandates compare to other jurisdictions?**



# Jurisdiction Scan

- Focus on statutes and regulations - **NOT** policies or standards
- Multiple databases used: CanLII, WestLaw & WorldLII\*
- Searched for “business continuity”, “business continuity planning” and “continuity planning” In French, English and Spanish

# Jurisdiction Scan

- **Globally:** 401 results in WorldLII - and discovered the limitations of that database
- **Canada:** 35 Acts & regulations, 15 analyzed in-depth
- **United Kingdom:** 17 Acts & regulations → varied
- **Australia:** 28 Acts & regulations → many COVID-19 related

We'll dive into what these are and what the trends are in a few slides.

First, I want to explain my analytical framework.

# Our laws do not reflect the polycrisis.



# Why the polycrisis as a framework?

The legal system is ***a complex and adaptive system (CAS)*** with indeterminate variables, especially when approached from a global perspective.

- Some characteristics of a CAS:
  - Path dependent
  - Systems have a history
  - Non-linearity
  - Emergence
  - Irreducible
  - Adaptive/Adaptability
  - Operates between order and chaos
  - Self-organizing



# Why the polycrisis as a framework?

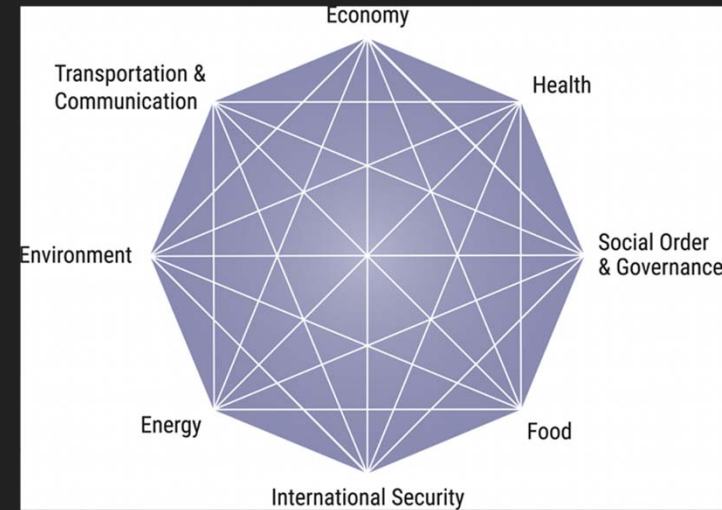
The difference between “systemic risk”, “existential risk” and “polycrisis”

But a polycrisis, by our definition, does not need to reach these levels of harm; and, in contrast to accounts of individual existential and catastrophic threats (arising from, for instance, an asteroid hitting Earth), a polycrisis necessarily involves multiple crisis events. **It could involve massive immediate casualties, but also a widespread and sustained decline in the quality of life into the future.**

# Why the polycrisis as a framework?

Vectors and conduits of global polycrises:

1. Energy
2. Matter
3. Information, consisting of instructions and symbolic representations — including genetic and digital codes, news feeds, ideologies, money, policies, **and laws** — that can be communicated between agents.
4. Biota



# Why the polycrisis as a framework?

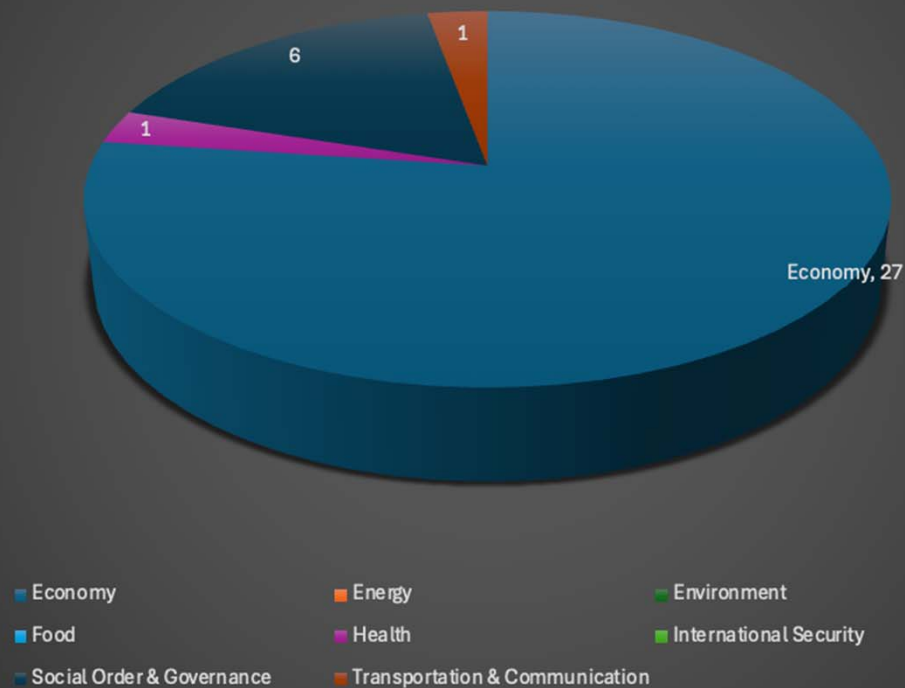
- The legal system is ***a complex and adaptive system*** with indeterminate variables, especially when approached from a global perspective.

COUNTRY	ECONOMY	ENERGY	ENVIRONMENT	FOOD	HEALTH	INTERNATIONAL SECURITY	SOCIAL ORDER & GOVERNANCE	TRANSPORTATION & COMMUNICATION	TOTAL
Canada	27				1		6	1	35
Australia	8	3	2	1		1	9	4	28
United Kingdom	8	1			2		5	1	17
TOTAL	43	4	2	1	3	1	20	6	80

Canada's BCM landscape prioritizes economic instruments - specifically, securities.

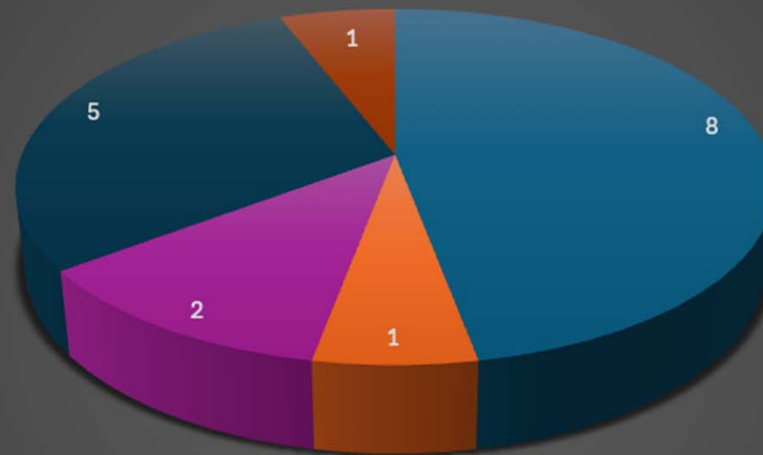
Total Laws: 35

Canada's BC laws are concentrated heavily in one area.



Australia and the UK have prioritized BCM across the polycrisis areas.

The UK is more diversified across categories.



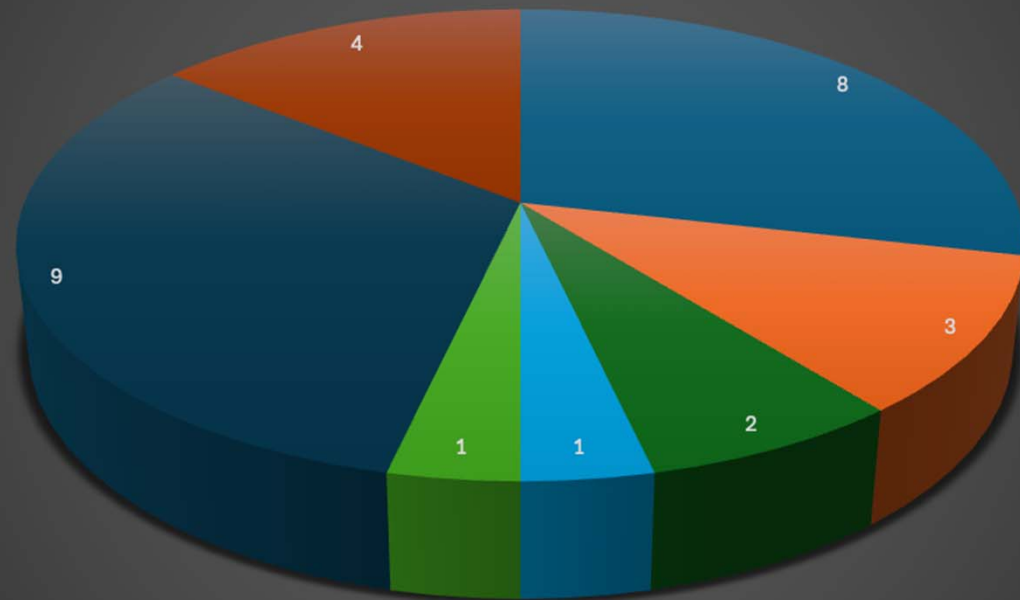
■ Economy	■ Energy	■ Environment
■ Food	■ Health	■ International Security
■ Social Order & Governance	■ Transportation & Communication	

Total Laws: 17

Australia and the UK have prioritized BCM across the polycrisis areas.

Total Laws: 28

Australia has the most diversity among the three nations - and globally as well.



■ Economy ■ Energy ■ Environment ■ Food ■ Health ■ International Security ■ Social Order & Governance ■ Transportation & Communication

# Staying up to date: gazettes

Old school, but perhaps under-used?

Alberta: Two parts - Gazette I and Gazette II <https://www.alberta.ca/the-alberta-gazette>

Part 2 contains new and amending regulations filed with the Registrar of Regulations. These regulations, as filed and published under the [Regulations Act](#), must be consulted when interpreting and applying the law.

2. British Columbia: Two parts - Gazette I and Gazette II  
<https://www.crownpub.bc.ca/home/gazette>

Part 2 contains British Columbia regulations which are required to be published under the Regulations Act. and is normally published every two weeks.

# Staying up to date: CanLII subscription

← → ↻ canlii.org/en/ca/laws/stat/rsc-1985-c-22-4th-supp/latest/rsc-1985-c-22-4th-supp.html?resultId=73177f4f5eaa4a69b63... ☆

CanLII Home / Canada (Federal) / Consolidated Statutes / RSC 1985, c 22 (4th Supp)

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AI analysis

(2) Where the Royal Canadian Mounted Police is used or employed in a province or municipality pursuant to an arrangement under [section 20](#) of the *Royal Canadian Mounted Police Act*, subsection (1) applies in respect of the Royal Canadian Mounted Police, subject to the terms and conditions of the arrangement.

## Revocation, Continuation and Amendment of Declaration

### Revocation by Parliament

**10** Parliament may revoke a declaration of a public welfare **emergency** in accordance with [section 58](#) or [59](#).

### Revocation by Governor in Council

**11** The Governor in Council may, by proclamation, revoke a declaration of a public welfare **emergency** either generally or with respect to any area of Canada effective on such day as is specified in the proclamation.

### Continuation by Governor in Council

**12 (1)** At any time before a declaration of a public welfare **emergency** would otherwise expire, the Governor in Council, after such consultation as is required by [section 14](#), may, by proclamation, continue the declaration either generally or with respect to any area of Canada for such period, not exceeding ninety days, as is specified in the proclamation if the Governor in Council believes, on reasonable grounds, that the **emergency** will continue to exist or that the direct effects of the **emergency** will continue to extend to that area as the case may be.

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# General legal considerations

Andresen advises that “two of the biggest areas of legal impact to a company are shareholder derivative actions and force majeure clauses for disasters and disruptions.” (Andresen, 2023, p. 130)

I argue that global trends in the laws mandating business continuity planning ***also*** inform the business continuity profession - see the BC EDMA and Indigenous knowledge

Intrigued and want to talk  
more?

Join one of my focus groups!



<https://tinyurl.com/mappingbc>

## Some recommended reading

1. Lawrence, M., Homer-Dixon, T., Janzwood, S., Rockstöm, J., Renn, O., & Donges, J. F. (2024). Global polycrisis: the causal mechanisms of crisis entanglement. *Global Sustainability*, 7, e6. doi:10.1017/sus.2024.1
2. Weaver, W. (1991). Science and Complexity. In G. J. Klir, *Facets of Systems Science* (pp. 449–456). Springer US. [https://doi.org/10.1007/978-1-4899-0718-9\\_30](https://doi.org/10.1007/978-1-4899-0718-9_30)
3. Andresen, E. (2023). Legal considerations when advising on business continuity. *Journal of Business Continuity & Emergency Planning*. <https://hstalks.com/article/8117/legal-considerations-when-advising-on-business-con/>