BRIEFING

Towards climate neutrality

Understanding Loss and Damage

Addressing the unavoidable impacts of climate change

SUMMARY

Many consequences of climate change are already hard to reverse, and extreme weather events will become more frequent in the future. That shows a need to discuss which climate impacts are difficult or impossible to adapt to, and a need to address losses and damages. All regions will be affected by climate change, but the extent of loss and damage will vary between locations.

Although the concept of Loss and Damage (L&D) is not new, it is still quite vague and not well defined in climate policy. It has been discussed at many United Nations Framework Convention on Climate Change (UNFCCC) Conferences of Parties (COP), and some mechanisms to support countries facing losses and damages have been established.

One of the biggest challenges with L&D is the framing of the concept itself. Developing and developed countries have differing views on its definition as well as its urgency, which has resulted in limited progress on the issue.

A key issue on which stakeholders find it hard to agree is financing L&D. Developed country stakeholders tend to argue that L&D could be financed by existing climate funds, insurance schemes, humanitarian aid, or risk management, while many developing countries call for financial mechanisms directed specifically towards L&D.

At the UNFCCC climate conference in Glasgow in November 2021 (COP26), the European Union was open to discussing L&D as a topic but hesitant about creating a dedicated L&D fund. The topic is expected to be one of the main focus areas on the agenda of the forthcoming COP27 in Egypt.

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Introduction

Loss and Damage (L&D)[1] is sometimes understood as all negative consequences of climate change; however, this definition is quite broad. The definition accepted by most, and used most commonly in the literature, defines L&D as 'impacts of climate change that have not been, or cannot be, avoided through mitigation or adaptation efforts'. Losses and damages can result from both sudden-onset events (e.g. cyclones, heatwaves and flooding) and slow-onset events (e.g. sea-level rise, increasing temperatures and desertification).

As of now, the United Nations Framework Convention on Climate Change (UNFCCC) has no official definition of L&D, an issue which has become highly politicised. The relationship between mitigation, adaptation and L&D is viewed differently by the parties and differences between those concepts are open to interpretation.

Although L&D is often treated as one concept, it contains two different types of harm. Loss indicates irreversible damage, such as land loss because of sea-level rise or loss of freshwater resources because of desertification. Damage involves reparable harm such as shoreline or infrastructure impacts linked to climate change.

It is important to distinguish between economic losses and non-economic losses. The first term refers to the loss of resources, goods and services commonly traded in markets such as agricultural production, infrastructure or property. Non-economic losses are understood as losses that can impact individuals, society and/or the environment (e.g. loss of life or health, loss of territory, cultural heritage and identity, indigenous knowledge, loss of biodiversity or loss of entire ecosystems).

In literature, the scope of L&D is sometimes classified as avoided, unavoided and unavoidable. Avoided risk means climate impacts that will be avoided thanks to the undertaken action. Unavoided refers to losses and damages not avoided due to technical, institutional or financial reasons, despite the possibility of avoidance had stronger mitigation and adaptation efforts been implemented. The third category, unavoidable, refers to losses or damages that could not be stopped by any mitigation or adaptation action.

Climate change is already impacting societies and individuals around the world. As stated in the report on impacts, adaptation and vulnerability by the Intergovernmental Panel on Climate Change (IPCC), part of its sixth assessment report (AR6), in the near future many places will be increasingly affected by extreme weather events such as droughts, floods and storms, and action to limit global warming will not eliminate all of the projected losses and damages from sudden or slow-onset events.

Vulnerability to climate change differs among and within regions. Up to 3.6 billion people live in areas that are highly vulnerable to climate change. Such places are especially located in West, Central and East Africa, South Asia, Central and South America, Small Island Developing States and the Arctic. Managing losses and damages may be more challenging for locations with unsustainable development patterns (i.e. exploitation of natural resources), inequity, marginalisation and high levels of climate-sensitive livelihoods (i.e. fishing communities or smallholder farmers). Particularly in developing countries, constrained financial, governance, policy and/or institutional capacities could need strengthening in order to comprehensively address the issue.

Current status

The concept of L&D emerged for the first time during the drafting of the UNFCCC in 1991, when the Alliance of Small Island States (AOSIS) highlighted the importance of climate-related L&D, and called for the establishment of an insurance pool for loss and damage derived from sea-level rise. Although L&D was not mentioned in the final text of the UNFCCC (1992), Article 4.8 refers to insurance as a means to help developing countries address the adverse effects of climate change.

The UNFCCC aims to stabilise the concentration of greenhouse gases (GHG) in the atmosphere to prevent dangerous anthropogenic changes in the climate system. Developed countries, listed in Annex I of the UNFCCC, have a historical responsibility for GHG emissions and are expected to lead in reducing their emissions. Because of the different capabilities and national circumstances, developed countries should support developing countries' mitigation and adaptation efforts.

Warsaw International Mechanism for Loss and Damage

L&D was discussed within the UNFCCC for many years, but was only institutionalised in 2013 during COP19 with the establishment of the Warsaw International Mechanism for Loss and Damage (WIM). The role of the WIM is to promote the implementation of approaches to reduce loss and damage associated with climate change, acknowledging that some losses and damages are unavoidable.

The Executive Committee (ExCom) of the WIM is composed of 10 members from developing countries and 10 from developed countries, and its role is to guide the implementation of the WIM. A five-year rolling workplan lays out current focus areas and work in progress. Overall, the WIM has three main functions:

- Risk management approaches – enhance knowledge and understanding
- Stakeholder dialogue – strengthen coordination and dialogue
- Finance, technology and capacity building – increase action and support

Since the WIM's establishment in 2013, and until COP26, the issue of L&D was not an official agenda item during COPs, and only the work of ExCom was discussed. Experts from the Stockholm Environment Institute (SEI) argue that, through the WIM, knowledge-gathering and coordination have increased, yet on the final point, and especially when it comes to finance, the process has stalled. They find that the conflicting interests of parties are sidelining the issue, keeping it off the formal negotiation agenda.

The 2015 Paris Agreement mentions L&D specifically in Article 8, highlighting it as a separate pillar of climate policy from mitigation and adaptation. Signatories are, however, not legally obliged on the basis of this Article (see box).

The lack of a clear legal basis for finance directed at L&D, and the lack of obligation to deliver on it, makes progress on the issue challenging during negotiations. Article 8 also acknowledges the WIM as the main instrument under the UNFCCC to address L&D.

At COP25 in 2019, the UNFCCC parties established the Santiago Network on Loss and Damage (SNLD), which is intended to offer developing countries technical assistance on L&D. The network should connect organisations, bodies, networks and experts to help implement relevant approaches to address L&D in vulnerable areas. It should further facilitate access to information, finance, technology and capacity building. SNLD is not yet fully operational, but a number of countries expect it to finance the technical assistance and provide fundraising support, though it may not itself mobilise funds.

Why is Loss and Damage not legally binding?

The Paris Agreement is legally binding as a treaty under the Vienna Convention on the Law of Treaties (1969). However, certain articles are written in a way that does not create a legal obligation for countries. Every article that uses the word 'should' is not legally binding, while articles that use 'shall' create a legal obligation for parties.

In Article 8.3 of the Paris Agreement, it is written:

'Parties should enhance understanding, action and support, including through the Warsaw International Mechanism, as appropriate, on a cooperative and facilitative basis with respect to loss and damage associated with the adverse effects of climate change.'

The choice between 'shall' and 'should' often led to disagreement between parties during text negotiations.

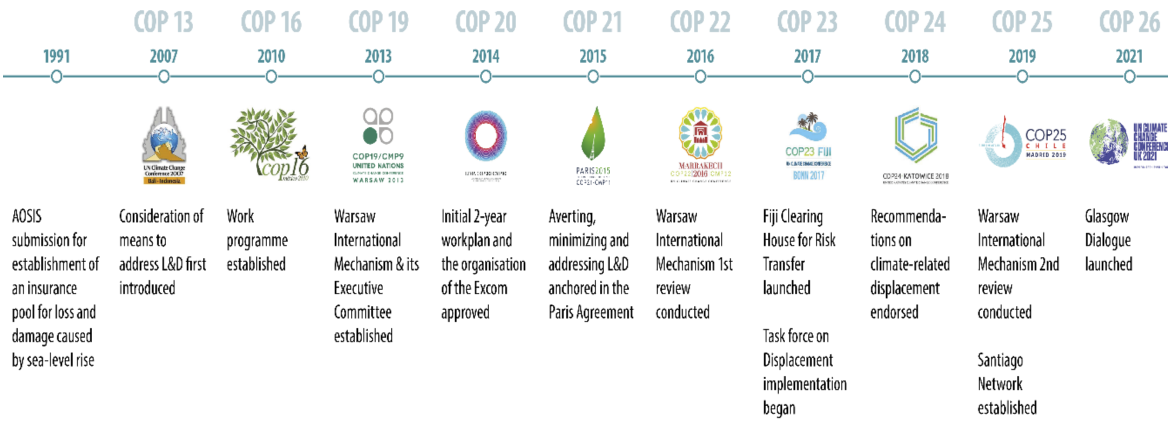
Source: The Legal Character of the Paris Agreement, Daniel Bodansky, 2016.

With the focus on knowledge-sharing and technical support, neither WIM nor SNLD currently deliver funding to help countries manage L&D. The SEI report states that a potential L&D fund within the WIM structure would make it easier to keep track of all the different types of financing options that are used to cover costs of loss and damage and other WIM activities. However, slow decision-making processes within the WIM, and the requirement for consensus on a potential fund among all the signatory parties, might make the WIM inadequate to address the urgency of the issue. The report also mentions that transforming the WIM towards a governance structure could be a long-term goal.

Latest UNFCCC developments on L&D

During the 2021 climate conference in Glasgow (COP26), L&D gained a lot of attention with the joint call of the G77 and China to establish a 'Loss and Damage Financing Facility' (LDFF). The COP26 decision acknowledges the importance of L&D and set up the Glasgow Dialogue that opens a space for discussion on financing L&D. Although developing countries hoped for a L&D fund among the COP26 outcomes, the fact that the COP decision recognised a need for L&D finance, and that it envisages further discussion, was considered a step forward. The first Glasgow Dialogue, part of the early June 2022 Bonn meetings, saw developing countries once again calling for the establishment of a L&D fund and for putting the topic on the formal negotiation agenda at the COP27 in November 2022. No consensus was reached to put L&D on the formal agenda, as the EU and other developed countries prefer to address the issue by strengthening existing arrangements and institutions.

Figure 1 – Timeline of significant international initiatives on L&D



Source: EPRS graphic, adapted from Loss and Damage Online Guide, UNFCCC, 2020.

Framing of Loss and Damage

One of the main challenges for progress on L&D is the framing of the issue. Researchers argue that developed and developing countries have a different understanding of the main problem with L&D. Different framings might result in slowing down and complicating negotiations and policy-making.

For developed countries, uncertainty about the impact and risk of climate change is what makes L&D important and dangerous. This perspective focuses on risk management and resilience-building. In this frame, the role of developed countries is limited to being donors and helping build capacity, while developing countries are responsible for minimising their vulnerability. Contradictory to that is the liability and compensation frame that focuses on attributing responsibility for climate change and potential losses and damages to developed countries. This framing is often represented by developing countries and civil society actors; in this narrative, the focus is put on economic and non-economic losses. Such a framing stresses the accountability of developed countries for the harm they did by emitting GHG and the subsequent moral obligation to pay compensation to developing countries. This framing is problematic for developed countries, as it puts all the responsibility and potential liability for climate change-derived L&D on them.

Compensation payments are often described as payments not linked to incurred loss and damage but more to be considered as a compensatory measure, which could be used to improve living conditions. A recent study shows that, while all respondents from developed countries reject the idea of compensation payments to raise L&D funds, many respondents from developing countries also find such an approach unfeasible. Compensation payments are a politicised issue and are currently rather impractical because of the legal basis that would need to be established to make compensation possible under international law.

A solidarity fund is sometimes mentioned as an alternative to compensation, as solidarity-based finance does not assign liability. However, developed countries might be reluctant to mobilise finance. Payments from such a fund could help with both immediate liquidity and long-term recovery action. Some point to the European Union Solidarity Fund (EUSF) as an example of a well-functioning fund that provides payments for occurred losses and damages to its members. The EUSF was set up in reaction to the severe floods in Central Europe in the summer of 2002 and has dispersed over €7 billion since then, especially following natural catastrophes.

Case study: Bangladesh

Bangladesh is a very climate-vulnerable country that already experiences a lot of climate-related hazards, where the frequency and intensity of floods and cyclones is likely to increase in the future. Agriculture is a key economic sector (14 % of gross domestic product) in Bangladesh, and is expected to be highly affected by the sea-level rise and greater rainfall on the mainland.

L&D is an existing issue against which the government of Bangladesh established, in 2010, a mechanism to assess losses and damages and help affected communities. The Climate Change Trust funds initiatives that address climate change and provides natural disaster response. The Ministry of Environment, Forest and Climate Change manages climate change adaptation, while the Ministry of Disaster Management and Relief oversees risk reduction and disaster risk response. Currently, the Bangladeshi L&D system does not cover slow-onset events and non-economic losses. The government is working on creating a more comprehensive national L&D mechanism.

Source: Assessing and addressing climate-induced loss and damage in Bangladesh, Practical Action, 2021.

Climate finance

As mentioned, specific L&D finance has not seen progress for many years due to the lack of formal definition and disagreements over liability and compensation. Developed countries are not willing to organise new financial schemes to cover L&D, often arguing that it is already covered by existing mitigation and adaptation funds as well as humanitarian aid.

Although climate finance has seen an upward trend in the last few years, financial promises (US$100 billion per year by 2020) have not been met. In 2019, US$79.6 billion for developing countries was mobilised from developed countries' public and private sectors. The majority of climate finance is directed towards mitigation (US$50.8 billion in 2019), and a smaller share to adaptation (US$20.1 billion). Asia is the main recipient of climate finance (43 %), followed by Africa (26 %) and the Americas (17 %). Mitigation and adaptation finance help with avoidable loss and damage, but there is also a need for finance to address occurred and unavoidable loss and damage.

Existing UNFCCC-initiated funding instruments to address mitigation and adaptation include the Adaptation Fund and the Green Climate Fund (GCF). The first was set up in 2001 under the Kyoto Protocol to finance developing countries' adaptation projects and programmes. COP15 founded the GCF in 2010, to mobilise funds towards low-emission and climate-resilient development.

During COP26, the government of Scotland created a £1 million L&D fund and challenged others to contribute to the fund. It is a symbolic amount, as by 2030 losses and damages are estimated to cost developing countries between US$290 billion and US$580 billion annually, rising to between US$1 132 billion and US$1 741 billion by 2050.

Addressing Loss and Damage

Measures to avert, minimise and address L&D can be divided into two categories: proactive and reactive. The proactive approach, before incurred loss and damage, includes climate change adaptation, disaster risk reduction, risk management, upskilling and long-term partnership. The second, ex-post measures, includes disaster relief and long-term recovery, grants through government programmes, insurance pools, humanitarian aid and potential compensation. Some of those are already covered by existing climate finance, but not enough to address L&D sufficiently. For example, according to a recent study, 27 out of 165 GCF projects explicitly aim to address L&D.

A recent Organisation for Economic Co-operation and Development (OECD) report reiterates the value of increasing forecast-based early action and financing in the form of humanitarian aid to reduce impacts from loss and damage, but states that such anticipatory finance can only apply to climate impacts that are easy to predict, such as storms and floods. Research also shows that, at least initially, costs of adaptation are smaller than potential costs of damages.

L&D finance requires all types of above measures, whether pro-active or reactive. Further assistance is still needed, especially to address non-economic L&D (see Figure 2 below).

Figure 2 – Addressing loss and damage (measures as yet unfunded through climate finance)

	Non-economic loss and damage	Economic loss and damage
Both sudden-onset and slow-onset events	Recognition and repair of loss (whether or not accompanied by financial payments)	Planned relocation/assisted migration
	Enabling access/safe visits to abandoned sites	Reskilling and alternative livelihoods provision
	Active remembrance (e.g. through museum exhibitions, school curricula)	Compensation and other social protection measures
	Counselling	
	Official apologies	
Sudden-onset events		Short and long-term recovery and rehabilitation
		Support for rebuilding livelihoods
		Insurance and risk transfer

Source: Adapted from Designing a fair and feasible loss and damage finance mechanism, Stockholm Environment Institute, October 2021.

Potential role of insurance

Also widely discussed in the context of L&D are insurance schemes, an idea that is supported by many stakeholders. In 2005, the Munich Climate Insurance Initiative (MCII) think tank was founded in response to the growing consideration of insurance as a possible tool for climate change adaptation. The MCII connects experts, NGOs and policy researchers to explore insurance solutions to climate change impacts. Building on the 2015 G7 InsuResilience initiative, in 2017 COP23 launched the InsuResilience Global Partnership (IGP). IGP builds on collaboration between the G20 and the Vulnerable Twenty Group (V20) nations but also counts academia, the private sector and civil society and NGOs among its current 118 members.

In 2021, IGP protected 150 million beneficiaries either directly or indirectly. Its delivery vehicle entails 122 programmes and over 200 projects and includes cooperation with regional funds within the Caribbean (see box below) as well as in Africa.

OECD research indicates that countries with higher insurance coverage recover four times quicker than those with lower insurance coverage and that, in 2021, in developed countries over half of economic loss and damage occurrences were insured, but just a tenth were insured in developing countries. As the SEI report states, insurance might provide financial protection for sudden-onset events, but is rarely suitable for non-economic losses or slow-onset events. Insurance is considered a reactive measure to L&D, with post-disaster guaranteed relief as a main benefit. However, MCII argues that insurance schemes can encourage risk reduction and also be considered a preventive measure. Although it may seem like an option to motivate countries to use risk management instruments, some research indicates that insurance leads to disincentives. Ways of making insurance more effective include: making better hazard maps, rewarding risk mitigation with premium discounts, monitoring household risk improvements, or inserting conditions or warranties into contracts. For vulnerable communities, paying insurance premiums might be unaffordable. Therefore, only if insurance were well-designed or subsidised, and potentially if developed countries paid the premium, could insurance could be a solution to some loss and damage. The OECD report from 2021 states that insurance companies would have to hold large reserves to cover loss and damage from high-impact and cascading events which could result in premium increases. The report points to government-backed insurance schemes or public insurance providers as a way to ensure affordability. The IGP's 2021 premium and capital support SMART principles aim to expand insurance cover and finance ex-ante risk action.

Two types of insurance that are most significant for developing countries are micro-insurance for households, farms and small and medium-sized enterprises (SMEs), and regional pools for national governments. National-level L&D systems could potentially reduce the possibility of financing not reaching the most at-risk communities. Regional funding entities (see box) might use more customised tools to help vulnerable communities' specific needs. Such systems would connect communities facing similar risks, which could ease the allocation process.

Caribbean regional funds

There are two examples of regional funding entities connected to L&D in the Caribbean.

The Caribbean Development Bank Community Disaster Risk Reduction Fund finances projects aimed at reducing natural hazards and climate change impacts in the region.

In 2007, the Caribbean Catastrophe Risk Insurance Facility (CCRIF) was established as the first multi-country risk pool in the world. The CCRIF provides financial help to regional governments after devastating events like hurricanes or earthquakes.

EU position

Ahead of COP26 in 2021, environment ministers in the Council set the EU's negotiating position. The Council mentions advancing work under the WIM and acknowledges the specific needs of developing countries. The Council's conclusions on the outcomes of COP26 express the EU's willingness to engage in discussion on the Glasgow Dialogue and recognise the urgency of cooperation on L&D. They also mention climate risk finance and insurance as initiatives that can help address L&D. The need for a separate L&D fund is not acknowledged.

The European Parliament issued a resolution before COP26 stressing the importance of operationalising the WIM to provide an adequate response to losses and damages. In June 2022, Parliament requested the Commission, together with the WIM Executive Committee and other international organisations, to assess potential EU compensation measures by the end of 2022.

At the COP26 plenary, Commission Vice-President Frans Timmermans stated that L&D is a key part of climate negotiations, recognising also the need to 'help vulnerable countries respond to the damage and destruction the climate crisis has already caused'.

Future of Loss and Damage

Discussions and a stronger call for action on L&D are expected to happen during COP27; however, adaptation will likely be the main topic. Several experts think that the Glasgow Dialogue is an important opportunity to finally get a dedicated fund for L&D. Stakeholders are likely to attempt to build consensus for L&D financing from a foundation of solidarity among nations. A new argument focuses on the global economy aspect, saying that an LDFF would support resilient supply chains.

Developing countries continue to work on L&D outside the UNFCCC. Citing growing impacts, a 98 % protection gap and a continued lack of international support, a recent communiqué from the April 2022 V20 ministerial dialogue announced that the group is directing its own resources to design and test a LDFF. The group invite G7, G20 and philanthropies to support the project and call for COP27 to bring finality to the L&D issue by establishing an international LDFF. The manner in which the V20 now seek to advance on a LDFF external to the UNFCCC is aligned with the SEI report's recommendation to overcome challenges with the WIM processes and ensure greater autonomy for countries, while building on solidarity. In a recent paper, experts criticise the lack of explicit EU focus on L&D, arguing that it has a negative impact on the EU's legitimacy in UNFCCC negotiations, adding to the mounting pressure ahead of COP27.

MAIN REFERENCES

Designing a fair and feasible loss and damage finance mechanism, Stockholm Environment Institute, October 2021.

Linnerooth-Bayer J. et al., Insurance as a Response to Loss and Damage?, Chapter 21, pp. 483-512 in Mechler R. et al, eds., *Loss and Damage from Climate Change*, November 2018.

Managing Climate Risks, Facing up to Losses and Damages, OECD, November 2021.

Pill M., Towards a funding mechanism for loss and damage from climate change impacts, *Climate Risk Management*, vol. 35, 2022.

Summary for Policymakers, Climate Change 2022: Impacts, Adaptation and Vulnerability, Contribution of Working Group II to the Sixth Assessment Report, Intergovernmental Panel on Climate Change, 2022.

SUPPORTING EP PUBLICATIONS

Erbach G. et al., EU climate action policy – Responding to the global emergency, EPRS, March 2021.

Jensen L., Looking to Glasgow: A scene-setter ahead of COP26, EPRS, October 2021.

Spinaci S., Green and sustainable finance, EPRS, February 2021.

ENDNOTE

[1] When capitalised, 'Loss and Damage' refers to the policy agenda. Lowercase and sometimes plural 'loss and damage' relates to incurred impacts and projected risks.

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