



The Meaning of Loss and Damage in the International Climate Negotiations

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The effects of climate change are becoming more frequent and severe, as a recent series of droughts, floods, wildfires, and storms in the United States and around the globe attest. Countries are therefore increasingly focused on the question of how to address climate-related harm—known as loss and damage in the language of the international climate negotiations—both individually and through multilateral forums, such as the U.N. Framework Convention on Climate Change, or UNFCCC.

The phrase “loss and damage” can refer to permanent loss or repairable damage caused by the manifestations of climate change, including both severe weather events and slow-onset events, such as sea level rise and desertification.¹ It can also refer to economic or noneconomic harm, such as loss of life, livelihoods, ecosystems, or cultural heritage.²

As the parties to the UNFCCC continue to negotiate a new international climate agreement—slated to be finalized in Paris this December—loss and damage has emerged as the topic that is perhaps most susceptible to misinterpretation.³ For those outside the negotiations process, it could be unclear how the concept of loss and damage is related to climate adaptation and why it should not be conflated with liability or compensation, which the United States and other developed countries have unequivocally rejected, including in any international climate agreement.

In order to shed light on the topic as the UNFCCC parties enter the final months of negotiation leading up to the Paris agreement, this issue brief recounts the recent history of loss and damage in the international climate negotiations and explains its meaning.

Recent history of loss and damage in the UNFCCC

The topic of loss and damage came to the fore during the 2013 Conference of the Parties to the UNFCCC in Warsaw, Poland.⁴ Although all parties had previously agreed to establish a mechanism to address loss and damage—with a particular focus on the most vulnerable developing countries—a debate unfolded over where in the structure of the

UNFCCC the mechanism should be situated.⁵ The UNFCCC was conceptualized as having two pillars: one on the mitigation of greenhouse gas emissions and one on adaptation to the effects of climate change.⁶

Negotiating blocs such as the Small Island Developing States and the Least Developed Countries held that addressing loss and damage was an area of climate action distinct from—and of equal importance to—mitigation and adaptation. As such, they argued that a new pillar in the structure of the UNFCCC was warranted. Many developed countries, however, held that loss and damage, in the context of the UNFCCC, should be addressed within the adaptation framework.⁷

Because all parties agreed that climate-related harm exists—sometimes even in the face of serious attempts to adapt—and is an area that deserves more attention, the question of where loss and damage is conceptually and institutionally situated could seem immaterial. Underlying the debate, however, were concerns about finance.

The financial commitments of developed countries to developing countries under the UNFCCC—such as the goal of mobilizing \$100 billion yearly from public and private sources by 2020—were negotiated to cover both mitigation and adaptation activities. A stand-alone loss and damage pillar could be seen as legitimizing demands from developing parties that closed negotiations on finance targets should be reopened.⁸

In the final hours of the Warsaw meeting, the parties achieved a way forward, establishing the Warsaw International Mechanism for Loss and Damage, or WIM, to address climate-related harm in developing countries that are particularly vulnerable to climate impacts. The WIM is situated within the UNFCCC's adaptation framework, though the mechanism and its placement are due to be reviewed in 2016.⁹ It includes the mobilization of finance among its objectives but does not reopen negotiations on finance targets. It excludes the concept of compensation—which was never under genuine consideration by negotiators during the Warsaw conference—and any other concepts with moral or legal implications. In 2014, the parties established a two-year work plan for the WIM, which had its first meeting of the Executive Committee in September 2015.¹⁰

The topic of loss and damage and the question of where it should be nested have re-emerged in the context of the Paris agreement.¹¹ For example, the parties are currently negotiating whether loss and damage should be addressed in the core legal agreement—which would give it more prominence—or in an accompanying decision text. During the negotiating session that began on August 31, the United States indicated its support for extending the work of the WIM beyond 2016. At the same time, the G-77—a negotiating bloc of developing countries—and China presented a submission on loss and damage that did not include reference to concepts such as liability or compensation.¹²

Wherever loss and damage comes to be situated in the Paris outcome documents, it appears likely that the parties will collectively recognize the importance of addressing loss and damage, support the ongoing work of the WIM, and approach the topic without an emphasis on moral or causal responsibility. Any other approach would not achieve consensus.

The meaning of loss and damage heading into the Paris climate regime

Loss and damage is most likely to be confused with adaptation or compensation. To clarify what is being debated in Paris, the concepts are distinguished below.

Loss and damage is a broader concept than adaptation

The debates over where loss and damage should be situated have obscured the fact that there is, in practice, broad overlap between efforts to adapt to climate change—that is, to avoid or reduce climate-related harm—and efforts to confront loss and damage. Although loss and damage is often spoken of as “beyond adaptation,”¹³ addressing climate-related harm does not imply that adaptation as a program has generally failed, bringing about a new era of climate action that is wholly discrete from the previous era. Instead, activities that address loss and damage are often the same as those geared toward adaptation: Responding to drought-induced damage to crops, for example, may involve planting a drought-tolerant variety.¹⁴

But there are also cases of so-called residual loss and damage caused by climate impacts that are capable of overwhelming even serious attempts to adapt. In those cases—such as when sea level rise necessitates the migration of entire populations or when severe weather decimates a nation’s infrastructure—the response is closer to disaster response than to traditional adaptation.

This does not necessarily imply that the WIM should be removed from the adaptation framework of the UNFCCC or that loss and damage should be addressed in a chapter separate from adaptation in the Paris agreement. The parties could determine, for example, that residual loss and damage should be addressed not by climate forums alone but by climate forums in collaboration with initiatives on disaster response, migration, and humanitarian assistance. They may also determine that when loss and damage overlaps with adaptation, it makes sense to keep them under the same metaphorical roof of the UNFCCC so that efforts to address loss and damage also help prevent further harm.

Loss and damage does not imply compensation

Early discussions of loss and damage in the UNFCCC involved calls for compensation, which are still common.¹⁵ Concepts with a moral or legal character, however, are not necessary elements of the concept of loss and damage. Furthermore, a focus on compensation and liability—and the project of trying to determine how much climate change contributed to an event, who is causally responsible, and to what extent that entity had knowledge of the dangers of carbon emissions—could detract from the core aim of establishing mechanisms that address current climate-related harms and prepare for future ones.¹⁶

Countries should not be afraid to acknowledge, however, that financial and technical assistance for particularly vulnerable countries, construed without legal or moral implications, must be part of the solution. In fact, this is already happening: Partnerships between developed and developing countries, international financial institutions, and private insurance companies—such as the Pacific Catastrophe Risk Insurance Pilot—are providing subsidized climate-related insurance to people in vulnerable nations.¹⁷ In June 2015, the G-7 also showed leadership on finance for loss and damage by committing to increase the number of people in vulnerable developing countries with access to climate-related risk insurance by up to 400 million.¹⁸

Pure financial support, however, cannot replace the full range of actions necessary to address climate-related harms. Activities such as planning and facilitating migration will also be necessary in the future, not only for developing countries but also globally. For example, due to coastal erosion caused by melting permafrost, flooding, and declining sea ice, the native village of Newtok, Alaska, has planned to relocate to the nearby island of Mertarvik since the mid-1990s.¹⁹ This is only one of several Alaska Native villages—including Shaktoolik, Kivalina, and Shishmaref—that must relocate.²⁰ Migration on a broader scale—both internal and cross-border—will be necessary as climate change becomes more severe and will require international collaboration. The international community can also research the nascent topic of how to address noneconomic harm, such as the loss of cultural heritage through displacement or damage to cultural sites.

Conclusion

Given the meaning of loss and damage, all countries should be able to express a shared view that mitigation, adaptation, and loss and damage are necessary elements of climate action without fear of creating a precedent—or of being charged with creating a precedent—for an international system focused on the assignment of liability.

There are interesting parallels between the histories of adaptation and loss and damage in international climate cooperation. Adaptation gained significant traction as a necessary component of climate action only in the early 2000s.²¹ At the time, it was contro-

versial: There were concerns, for example, that a focus on adaptation would siphon attention from mitigation or that it would lead to the impression that mitigation as a program had failed.²² Although there will always be disagreement about how to balance resources for these two goals, it is now recognized that climate change has physical manifestations that will not disappear and that policymakers must act to avoid or reduce any damage. This does not mean that the world is resigned to unstoppable warming. Instead, a focus on adaptation can increase the attention given to mitigation by highlighting the consequences of carbon pollution.

As with adaptation, so too with loss and damage. Although the concept of loss and damage is currently relatively new, misunderstood, and controversial, it is likely to become a conventional component of any effective, comprehensive climate effort in the future.

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Endnotes

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