

# **Loss and damage (L&D) negotiations at the UNFCCC: Current status and future aspects**

## **Background paper**

on behalf of Bread for The World – Protestant Development Service

Written by  
Md Shamsuddoha,  
Center for Participatory Research and Development (CPRD),  
Bangladesh

## **Executive Summary**

Loss and damage associated with the impacts of climate change has got tremendous policy attention as climate induced loss and damage become increasingly inevitable and could not be avoided given the severity of climate change which is triggered by delayed and inadequate mitigation and adaptation actions. Loss and damage from climate change presents new, dynamic and significant challenges to already poor and vulnerable populations. Therefore, developing effective approaches to address loss and damage has become an increasingly urgent task.

Based on the legal obligations of the UN Framework Convention on Climate Change (UNFCCC), the state Parties had agreed on different measures to address loss and damage. Addressing loss and damage has become the functional responsibility of the Convention which has already been recognized through different COP decisions (1/CP.13, 1/CP.16, 5/CP.17 and 3/CP.18).

The decision 3/CP.18 on loss and damage at COP 18 has been an important milestone. It calls for the establishment of an institutional arrangement to address loss and damage associated with the impacts of climate change (such as an international mechanism, including functions and modalities) at its nineteenth COP session in Warsaw which should be elaborated in accordance with the role of the Convention.

Although there are political disagreements between developing and developed countries about the approaches how to address climate change (e.g. on liability and compensation establishing an international mechanism to address loss and damage) this issue must be at the core of the discussions in Warsaw. Further modalities and functions should be agreed by COP 20, and the mechanism should be fully operational by COP 21.

Based on the current state of the discussions and expectations of the Parties on loss and damage, the briefing paper analyzed the controversies among the Parties on the topic and a possible outcome on loss and damage in Warsaw and beyond.

**Brot**  
für die Welt

Brot für die Welt –  
Evangelischer  
Entwicklungsdienst

## **Legal foundation of Loss and Damage in the UNFCCC process**

The UN Framework Convention on Climate Change calls for attention on both – legal and functional – justifications of addressing loss and damage which is associated with the adverse impacts of climate change.

### **Legal Justification on Loss and Damage at the UNFCCC**

The preamble of the Convention recalls “that States have [...] the responsibility to ensure that activities within their jurisdiction control or do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.” This is in compliance with the ‘No-harm Rule’ principle of the customary international law that provides additional legal basis for state obligations to prevent dangerous climate change.<sup>1</sup>

Hence, Article 2 of the UNFCCC sets the ultimate objective of the Convention to “stabilize greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic [originating in human activity] interference with the climate system.” The UNFCCC called to meet such targets within a time frame which allows ecosystems to adapt naturally to climate change. Article 3.1 states that “parties should protect the climate system for the benefit of future and present generations of human kind on the basis of equity and in accordance with their common but differentiated responsibility and respective capabilities. Accordingly, developed countries should take the lead in combating climate change and the adverse effects thereof.” Article 3.2 states “the specific needs and special circumstances of developing country Parties, especially those particularly vulnerable to the adverse effects of climate change, ... [ ] especially developing country Parties, that would have to bear a disproportionate and abnormal burden of under the convention, should be given full consideration.” Article 3.3 calls Parties to take precautionary measures and states that scientific uncertainty should not be used to postpone action where there are threats of serious and irreversible damage.

Thus, the legal commitments under the UNFCCC oblige developed countries to reduce greenhouse gas (GHG) emissions and to facilitate the implementation of adaptation measures to counteract the adverse impacts of climate change. From the adaptation perspective, developed countries should take on the responsibility of reacting to the consequences and preventing further deterioration. Technological and financial resources should be provided, based on proportional contributions to climate change and according to respective capacities of the relevant state.

---

<sup>1</sup> Tackling the Limits to Adaptation: An international framework to Address Loss and Damage from Climate Change Impacts, November 2012

## Functional Justification on Loss and Damage at the UNFCCC

In line with the ultimate objectives of the Convention, the Kyoto Protocol was adopted in 1997 with its legally binding commitments for the developed countries for GHG emission reduction during its first commitment period from 2008-2012. Working on the extent, modalities and dimensions of the Principles of the Convention, the Conference of the Parties identified several key issues – i.e. adaptation, mitigation, technology transfer, finance etc. – for negotiation which should end up with a legally binding agreement for addressing climate change. In the meantime, more than two decades have passed since the global community signed the UN Framework Convention on Climate Change, but it will still take time until reaching a legally binding agreement for mitigation and adaptation measures including the relevant finance, technology and capacity-building. The objective of having a legally binding agreement shifted several times. Hence the new target is to develop a protocol, another legal instrument or an agreed outcome by 2015 with legal force under the Convention applicable to all Parties. This legal instrument will come into effect and will be implemented from 2020. In parallel to this, the Kyoto Protocol – the only legally binding agreement for emission reduction for the Annex 1 Countries – extended to its second commitment period from 2013 to 2017 with low GHG reduction targets and keeping the major Parties outside.

There is already a common consensus among the Parties that the global average temperature increase must be limited to 2°C above preindustrial levels. To achieve this goal the annual global carbon budget from all sources of greenhouse gases must not exceed 36.1 Gigatonnes (Gt) CO<sub>2e</sub> in 2020<sup>2</sup>, roughly equal to 1990 levels. Therefore, the inadequacy of current emission reduction pledges, especially by the developed countries, and the loopholes in accounting would result in global emissions of 55 GtCO<sub>2e</sub> in 2020 – and put the world on a pathway towards 3.5 – 6°C of global warming<sup>3</sup>. As the global average temperature rises, so does the sea level and the number of extreme climatic events resulting in permanent loss and damage.

Therefore, addressing loss and damage associated with the adverse impacts of climate change became the functional responsibility of the Convention which is recognized through the decisions 1/CP.13, 1/CP.16, 5/CP.17 and 3/CP.18.

At COP 13 in Bali in 2007, decision 1/CP.13 called for consideration of addressing loss and damage in the developing countries that are particularly vulnerable to the adverse effects of climate change.

At COP 16 in Cancun in 2010, decision 1/CP.16 mandated to consider inter alia the possible development of a climate risk insurance facility to address impacts associated with a) severe weather events, b) options for risk management and reduction, c) risk sharing and transfer mechanisms such as insurances, including options for micro-insurances, d) resilience building, including economic diversification, e) approaches for addressing rehabilitation measures associated with slow onset events.

---

<sup>2</sup> According to UNEP's report 'Bridging the Gigatonnes Gap in 2011'

<sup>3</sup> Climate Action Tracker & IEA

At COP 17 in Durban in 2011, decision 5/CP.17 agreed on the need to explore a range of possible approaches and potential mechanisms for addressing loss and damage including an international mechanism.

At COP 18 in Doha in 2012, decision 3/CP.18 decided to establish at its nineteenth session (COP 19) institutional arrangements to address loss and damage associated with the impacts of climate change – such as an international mechanism, including functions and modalities, which is elaborated in accordance with the role of the Convention.

## Milestones of dealing with Loss and Damage

Though negotiations on Loss and Damage don't trail a long history within the UNFCCC process, this topic gets tremendous policy attention as it became increasingly inevitable and could not be avoided given the severity of climate change triggered by delayed and inadequate mitigation and adaptation actions.

Fearing loss of territories, largely due to sea level rise associated with global warming, Vanuatu, on behalf of AOSIS tabled a proposal in 1991 asking for an International Insurance Pool as a collective loss sharing scheme to compensate victims affected by sea-level rise. The scheme was to be funded by mandatory contributions from industrialized countries based on their GNP and relative greenhouse gas (GHG) emissions. This means the contributions to the International Insurance Pool would be based on the countries' ability to pay and on their historical responsibility that contributed to climate change (AOSIS 2007);

*“[w]here adaptation cannot fully address the impacts of climate change on countries and their communities, impacted countries are justified in seeking compensation from those countries most responsible for the greenhouse gas emissions that have led to those impacts.”<sup>4</sup>*

However, the ideological basis of the AOSIS proposal – i.e. compensation out of liability to cause loss and damage – didn't get support from the developed countries, only the 'insurance' component survived as an adaptation option. Together with AOSIS the LDCs also called for compensation and rehabilitation of losses and damages associated with the impacts of climate change.<sup>5</sup>

---

<sup>4</sup> AOSIS 2007

<sup>5</sup> Khan, M.: Hafijul Islam, 2013

## **A brief history of Loss and Damage in the UNFCCC**

1991: Vanuatu tables a proposal that asks for insurance of island states that compensates against sea-level rise. The rationale was also that putting costs on climate impacts would drive down mitigation ambition. Watered down by industrialized countries, Vanuatu's proposal survives as the word 'insurance' in the UNFCCC.

2007: The Bali Action plan agreed at COP 13 mandates parties to explore "means to address loss and damage associated with climate change impacts in developing countries that are particularly vulnerable to the adverse effects of climate change".

2008: The Alliance of small island states (AOSIS) tables a proposal for a multi-window mechanism for international loss and damage mechanisms at the climate summit in Poznan (COP 14).

2010: The Cancun climate conference (COP 16) establishes a "work programme in order to consider approaches to address loss and damage associated with climate change impacts in developing countries that are particularly vulnerable to the adverse effects of climate change".

2011: In Durban, at COP 17, Parties agree to structure the organization of the work programme into three thematic areas: 1. Assessing the risk of loss and damage associated with the adverse effects of climate change and the current knowledge on the same, 2. A range of approaches to address loss and damage associated with the adverse effects of climate change, including impacts related to extreme weather events and slow-onset events, taking into consideration experience at all levels, 3. The role of the Convention in enhancing the implementation of approaches to address loss and damage associated with the adverse effects of climate change.

2012: In Doha, at COP 18, Parties decides to establish, at its nineteenth session, institutional arrangements, such as an international mechanism, including functions and modalities, elaborated in accordance with the role of the Convention.

Source: Adapted from *Into Unknown Territory*. ActionAid, CARE International, Germanwatch and WWF, 2012.

However, until the publication of the 4<sup>th</sup> IPCC Assessment report in 2007, the issue of loss and damage didn't get much attention, even the urgency of adaptation was not considered equally important as mitigation. The 4<sup>th</sup> IPCC Assessment report however considered adaptation as a necessary complement to mitigation. The 13<sup>th</sup> Conference of the Parties held at the end of the same year paid significant attention to adaptation as a necessary complement to mitigation to prevent and to adapt to climate change. The decisions of COP 13 – framed as 'Bali Action Plan' – called for the first time to consider addressing loss and damage in the developing countries which are particularly vulnerable to the adverse effects of climate change. The means to address loss and damage, as stated in the Bali Action Plan, are basically risk management and risk reduction of extreme climate events. The strategies were considered under the

‘adaptation pillar’. However, they didn’t consider those losses and damages that can no longer be avoided through adaptation.

Considering the limited scope of adaptation to address loss and damage, at the 14<sup>th</sup> Conference of the Parties held in Poznan in 2008, the Alliance of Small Island States (AOSIS) tabled a proposal for a Multi-Window Mechanism as a basis for future negotiations on loss and damage. The AOSIS proposal for a Multi-Window Mechanism – consisting of a) a risk management and prevention component, b) an insurance component, c) a rehabilitation and compensation component, and d) a risk management component – did not get much political support from the Annex I countries. Paying compensations by accepting liabilities from loss and damage made them uncomfortable.<sup>6</sup>

However, with the increased concern of the Least Developed Countries (LDC) and the global Civil Society Organizations (CSOs) to address unavoidable loss and damage and to support the AOSIS proposal, the 16<sup>th</sup> Conference of Parties (COP 16) held in Cancun in 2010 decided to establish a Work Programme on Loss and Damage under the Cancun Adaptation Framework.<sup>7</sup>

The Work Programme was further elaborated at the 17<sup>th</sup> Conference of Parties (COP 17) held in Durban in December 2011. The decision 7/CP.17 recognized “the need to explore a range of possible approaches and potential mechanism, including an international mechanism, to address loss and damage”. In line with this decision, three thematic areas were identified for further discussion before COP 18 for assisting Parties in enhancing their understanding and expertise of how to address loss and damage.

The expert meetings held under the guidance of the Subsidiary Body for Implementation (SBI) (referred to in decision 7/CP 17) advanced the understanding about the issues and challenges which should be incorporated into the Work Programme on Loss and Damage until COP 18.

## **COP 18 Doha outcome on Loss and Damage and looking forward to COP 19 in Warsaw**

The 18<sup>th</sup> Conference of the Parties opened with a very intense discussion among the Parties, especially on the second and third thematic areas. Regarding the second thematic area (i.e. to explore different approaches to address loss and damage) the developing country Parties, led by AOSIS and strongly supported by LDCs, asked for compensation (along with risk management and risk transfer) as one approach to address unavoidable and uninsurable losses and damages. The developed countries, led by the United States, stuck to their position not to participate in the discussion about compensation and liability.

---

<sup>6</sup> Zakieldean, Sumaya Ahmed and Warner, Koko, 2012

<sup>7</sup> Huq, Saleemul, 2013

On the third thematic area (i.e. defining the role of the Convention in implementing the different approaches) the developing country Parties wanted to establish an international mechanism under the Convention. The developed country Parties however wanted to put all issues related to loss and damage under the Adaptation Committee and National Adaptation Plans (NAPs).

In the end, a compromise agreement was reached: the developing country Parties agreed to ‘rehabilitation’ instead of ‘compensation’ while the developed country Parties agreed to examine options for establishing ‘institutional arrangements’ such as an ‘international mechanism’ and to take further decisions at COP 19 in November 2013 in Warsaw, Poland (decision 3/CP.18).

On the first thematic area, in elaborating further activities under the Work Programme on Loss and Damage, the Parties decided to continue the Work Programme to develop a further understanding of loss and damage (UNFCCC, 2013). As per decision 3/CP.18, the Secretariat is requested to carry out an expert meeting to consider future needs, including capacity needs associated with possible approaches to address slow onset events. Based on the results of the meeting, the Secretariat has to prepare a report for consideration by the Subsidiary Body for Implementation at COP 19.

In the meantime, several international and regional meetings have been held to explore ways forward until COP 19 with the aim to have an international mechanism on loss and damage in Warsaw. One of the regional meetings took place in Bangkok this August – organized by the Asia Pacific Adaptation Network with support from the Japanese government – where scientific aspects of loss and damage were discussed. They identified various research questions and areas in which researchers from developed and developing countries could collaborate.

## **Views and positions on Loss and Damage of different groups and countries**

Throughout the negotiations on loss and damage since the adoption of the Bali Action Plan, the developing countries consistently argued that there will be unavoidable loss and damage associated with the impacts of climate change and that they should be compensated by the developed countries according to the ‘polluter pay principle’ of the UNFCCC. Also referring to Article 2 of the UNFCCC<sup>8</sup>, in Principle 2 of the Rio Convention<sup>9</sup>, both LDCs and AOSIS argued that those countries responsible for doing harm should be held liable to provide means not only for adaptation but also for compensation to the affected countries.

Ambassador Pa Ousman, Climate Change Focal Point to the UNFCCC from Gambia and the immediate former Chair of the LDCs, is very firm in demanding compensation for

---

<sup>8</sup> The ultimate objective of the Convention aims to “prevent dangerous anthropogenic interference with the climate system”.

<sup>9</sup> States have the responsibility or even obligation to ensure that activities under their jurisdiction or control do not cause damage to the environment of other states or areas beyond national jurisdiction.

loss and damage associated with the adverse impacts of climate change. ‘If we lose the word ‘compensation’ from the text we will lose everything. The demand for compensation has been built on legal, justice, financial and even moral implications of the Convention and the spirit of demanding ‘compensation’ cannot be substituted by ‘rehabilitation’<sup>10</sup>. Although rehabilitation is formally mandated through the COP decisions, compensation is the only measure of addressing unavoidable and non repairable loss and damages, says Prakash Mathema, the current Chair of LDC group to the UNFCCC negotiation<sup>11</sup>.

## **Decisions on Loss and Damage: COP 18**

Agree that comprehensive, inclusive and strategic responses are needed to address loss and damage associated with the adverse effects of climate change.

Also agree that the role of the Convention in promoting the implementation of approaches to address loss and damage associated with the adverse effects of climate change includes, inter alia, the following:

- Enhancing knowledge and understanding of comprehensive risk management approaches to address loss and damage associated with the adverse effects of climate change, including slow onset impacts.
- Strengthening dialogue, coordination, coherence and synergies among relevant stakeholders.
- Enhancing action and support, including finance, technology and capacity-building, to address loss and damage associated with the adverse effects of climate change.

Decides to establish at the nineteenth session institutional arrangements, such as an international mechanism which a) includes functions and modalities b) is elaborated in accordance with the role of the Convention, c) addresses loss and damage associated with the impacts of climate change in developing countries that are particularly vulnerable to the adverse effects of climate change.

The LDCs called the Convention to play a central role, especially in assessing the link between progress towards achieving Article 2 of the UNFCCC and the associated loss and damage. The LDCs submission on loss and damage emphasized that the risk of loss and damage should be used as a yardstick to inform the wider UNFCCC regime on the extent of mitigation, adaptation, means of implementation and special needs of countries, which can inform concepts of equity and fairness<sup>12</sup>.

<sup>10</sup> Face to face discussion on 21 September 2013

<sup>11</sup> Face to face discussion on 20 September 2013

<sup>12</sup> Submission by the Gambia on behalf of the Least Developed Countries Group on Loss and Damage:

[http://unfccc.int/files/adaptation/application/pdf/submission\\_by\\_the\\_gambia\\_on\\_behalf\\_of\\_the\\_least\\_developed\\_countries\\_on\\_loss\\_and\\_damage.pdf](http://unfccc.int/files/adaptation/application/pdf/submission_by_the_gambia_on_behalf_of_the_least_developed_countries_on_loss_and_damage.pdf)



On the role of the Convention, LDCs are of the view that a UNFCCC work programme, an expert group or a permanent agenda item alone are not sufficient, rather a permanent, more institutionalized and coherent response is required in addressing loss and damage. Therefore, the LDC group proposed an international mechanism to address loss and damage which would work as an umbrella for activities required on different levels and which would perform the key functions required for an adequate response. COP as the central oversight body of the mechanism should provide the political direction<sup>13</sup>.

AOSIS also argued for a proper role of the Convention and for the establishment of an international mechanism to minimize and address unavoidable loss and damage from the impacts of anthropogenic climate change. Ghana also asked for an international mechanism that also should incorporate gender mainstreaming as an approach that will enhance efforts to address loss and damage associated with the adverse affects of climate change<sup>14</sup>.

In relation to compensation financing, Bolivia asked for the establishment of a 'solidarity fund' to provide compensation for residual or unavoidable loss and damage, compensation for lost development opportunities and rehabilitation support for the loss and damage from the adverse effects of climate change and slow-onset processes. Bolivia emphasized the development of a permanent process under the Convention to address loss and damage and the role of the Convention in addressing gaps of L&D, which includes slow-onset impacts and events, migration, identification of tipping points, non economic losses, as well as increasing certainty for longer-term planning and managing variability with insurance-like tools<sup>15</sup>.

In fact all the developing nations, led by the small island developing states and the least developed countries, have been arguing for an international mechanism that would compensate countries that suffer loss and damage.

In contrary to the LDCs position, the developed countries in united, more insistently the US, oppose compensation as an approach to address loss and damage but prefer other approaches like risk management, insurance and related capacity-building. The US, in its submission to the UNFCCC<sup>16</sup> (12 November 2012) defined "loss and damage" broadly as the adverse consequences of climate change which can be addressed by risk management approaches like: risk reduction, risk retention, risk transfer, and post disaster assistance. The US has not supported the concept of an international mechanism but rather asked the Convention to play a critical role in continuing to raise the profile of and enhance the implementation of adaptation actions through the

---

<sup>13</sup> IBID

<sup>14</sup> Submission from Ghana:

[http://unfccc.int/files/documentation/submissions\\_from\\_parties/application/pdf/ghana\\_loss\\_and\\_damage.pdf](http://unfccc.int/files/documentation/submissions_from_parties/application/pdf/ghana_loss_and_damage.pdf)

<sup>15</sup> Submission from Bolivia:

[http://unfccc.int/files/adaptation/cancun\\_adaptation\\_framework/loss\\_and\\_damage/application/pdf/submission\\_bolivia\\_for\\_loss\\_and\\_damage\\_cop\\_18.pdf](http://unfccc.int/files/adaptation/cancun_adaptation_framework/loss_and_damage/application/pdf/submission_bolivia_for_loss_and_damage_cop_18.pdf)

<sup>16</sup> Submission from USA: [http://unfccc.int/files/documentation/submissions\\_from\\_parties/application/pdf/us.pdf](http://unfccc.int/files/documentation/submissions_from_parties/application/pdf/us.pdf)

implementation of the Cancun Adaptation Framework in order to reduce the risk of loss and damage. An international mechanism with an international insurance pool and a compensation/rehabilitation pillar would inhibit a country-driven approach to adaptation, as the US argued.

Different opinions on loss and damage were also observed among the Northern and Southern NGOs and campaigning groups. The Director of Climate Action Network (CAN) thinks that compensation is controversial for now, thus CSO should give more emphasis on the establishment of an International Mechanism at COP 19. But CSO should not be too hard pressing on the demand of compensation. In contrary, the CSO members of CANSA (South Asian extension of Climate Action Network) consider 'compensation' as the key issues in the loss and damage negotiations at the UNFCCC process.

## **The possible outcomes on Loss and Damage between COP 19 and COP 21**

Based on the agreed decision on loss and damage, it is now expected that an international mechanism for addressing climate change-related loss and damage could be formalized in the upcoming 19<sup>th</sup> Conference of the Parties in Warsaw. Saleemul Huq, lead author of the chapter on adaptation in the 4<sup>th</sup> assessment report by the Intergovernmental Panel on Climate Change, says that he would like to see the adoption of the proposed "Warsaw International Mechanism on Loss and Damage", and the other details, e.g. functions and modalities of the mechanism, could be worked out later in the experts meeting during the next COPs<sup>17</sup>.

But still concern remains about possible debates and non-agreement in defining approaches to address loss and damage. As rehabilitation – as an approach to address loss and damage – is formally mandated through the COP decisions, the developed countries would highlight this as an issue for the mechanism or the Work Programme but 'compensation' is still in demand of the developing countries. Though a few argue that payment for rehabilitation could also be considered as compensation in the sense of polluter pays concern still remains on the mandate and coverage of rehabilitation measures.

Developing country Parties consider 'rehabilitation' mere a physical approach perceived as rebuilding of infrastructures damaged from a disaster event. Thus, rehabilitation refers to undertaking post disaster response measures to recover basically the damages caused by weather extreme events, which are usually considered as act of God. Given the context of the limitation of 'rehabilitation', this approach may not address loss and damage which is caused by human induced disaster events which are caused by climate change, by both slow and sudden onset event, e.g. permanent loss of arable land and territory due to erosion and sea level rise, loss of soil productivity due to saline ingress and drought, loss of ecosystem services or loss of income and livelihoods opportunities.

---

<sup>17</sup> Face to face discussion on 21 September 2013

There is a lack of clarity about the extent and coverage of rehabilitation measures. In the current disaster risk reduction (DRR) context, payments for rehabilitation measures from the developed countries are usually in the form of voluntary contribution as humanitarian response. But when 'loss and damage' associated with human induced causes is defined, then it refers to the potential causers of this harm and also to the 'polluter-pays' principle of the UNFCCC.

Although the term 'rehabilitation' is less controversial than 'compensation' and has a strategic value in reaching an agreement in the implementation of an international mechanism at COP 19 it could later emerge as a significant issue in the following COPs, between COP 19 and COP 21. There is strong apprehension that developing countries will push for compensation wording to be back in the mechanism discussion under the SBI.

Leaving such political controversy aside, the possible outcome between COP 19 and COP 21 would be: a) establishment of an international mechanism, including its functions and modalities; b) finalization of the Work Programme and undertaking pilot initiatives in the developing countries in addressing loss and damage; c) clear mandate of the COP for generating funds for addressing L&D.

## Addressing recommendations on policy makers on Loss and Damage to the UNFCCC process

The COP decision 3/CP.18 on loss and damage established the UNFCCC as the relevant policy forum to address loss and damage and allows other processes and stakeholders to fruitfully engage and interact. As per decision the roles of the UNFCCC are:

- (a) Enhancing knowledge and understanding of comprehensive risk management approaches to address loss and damage associated with the adverse effects of climate change, including slow onset impacts.
- (b) Strengthening dialogue, coordination, coherence and synergies among relevant stakeholders.
- (c) Enhancing action and support – including finance, technology and capacity-building – to address loss and damage associated with the adverse effects of climate change.

In relation to component (a), para 7 of decision 3/CP.18 calls for enhancing knowledge and understanding "how loss and damage associated with the adverse effects of climate change affects vulnerable groups, and how the implementation of approaches to address loss and damage can benefit vulnerable segments of the population".

On the other hand, the decision CP.18/para 6, 3 calls for actions by all countries to enhance the understanding and addressing of loss and damage through involving

vulnerable communities and populations, civil society, the private sector, and other relevant stakeholders in the assessment of and response to loss and damage.

Such a decision is clearly in line with the broader policy recommendation of development and aid organizations such as Bread for the World that called to identify those people in developing countries who are most vulnerable towards the adverse impacts of climate change, suffering from or being threatened by loss and damage, in order to understand loss and damage.

Though the policy recommendation "to ensure that those people being identified in the first step, become the main beneficiaries of any further action being taken in the framework of adaptation, in order to reduce loss and damage" has not been addressed directly, the opportunity still exists to implement this through country driven processes as noted in CP.18/para 6, 3.

Such a bottom-up approach, driven by the people facing adverse impacts of climate change, could be effective in driving forward effective action on loss and damage at the UNFCCC process.

## **Relevance of the policy recommendations on the way to COP 20 and COP 21**

Decision 3/CP.18 agreed for establishing an institutional arrangement such as an international mechanism, including its elaborated functions and modalities. This is ambitious as further analysis and discussion on the institutional arrangements, including the mechanism, would require to define functions and modalities of the mechanism. Besides the gaps that were identified under the Work Programme (such as dealing with non-economic losses), assessing and addressing residual loss and damage including rehabilitation and relocation etc. were addressed on the way to COP 20 and COP 21. Though there is a wide range of approaches to reduce and address disaster risks (which are mostly sudden onset disasters centric), there is no approach so far which addresses slow onset events like ocean acidification, salinity intrusion, loss of ecosystem services or loss of economic preferences.

Given the above context, the policy recommendation for the establishment of an international mechanism to address loss and damage by COP 21 could be reframed as 'establishment of an international mechanism linking to the national mechanisms with their elaborated functions and modalities by COP 21'.

A common understanding on core questions and gap areas, e.g. dealing with non-economic losses, assessing and addressing residual loss and damage including rehabilitation and relocation, should be developed by COP 20.

## References

AOSIS/Alliance of Small Island States (2007): Submission from AOSIS to the Dialogue on Long-term Cooperative Action to Address Climate Change, *Working Paper No. 14*, available at <http://unfccc.int/files/meetings/dialogue/application/pdf/wp14-aosis.pdf>

Huq, Saleemul (2013): Loss and damage from Climate Change, *The Daily Star*, 15 July 2013 <http://www.thedailystar.net/beta2/news/126778/>

Khan, M. Hafijul Islam (2013): Legal and Policy Responses to Loss and Damage Associated with Climate Change; OC Ruppel / C Roschmann / K Ruppel-Schlichting (Eds), *Policy and Legal Responses to Loss and Damage associated with climate change, Climate Change: Legal Responses and Global Responsibility Volume I*, Nomos Publishers, Germany

United Nations Framework Convention on Climate Change (UNFCCC, 2013): Report of the Conference of the Parties on its eighteenth session, held in Doha from 26 November to 8 December 2012; Addendum: Part Two: Action taken by the Conference of the Parties at its eighteenth session. FCCC/CP/2012/8/Add.1

Zakieldeen, Sumaya Ahmed & Koko Warner (2012): Loss and Damage in the Context of Adaptation to Climate Change, *European Capacity Building Initiative Background Paper*, available at <http://www.oxfordclimatepolicy.org/publications/documents/LossandDamage.pdf>

## Contacts

Author:

Md. Shamsuddoha, [m.shamsuddoha@hotmail.com](mailto:m.shamsuddoha@hotmail.com)

Bread for the World:

Thomas Hirsch, [thomas.hirsch@brot-fuer-die-welt.de](mailto:thomas.hirsch@brot-fuer-die-welt.de)

Sabine Minninger, [sabine.minninger@brot-fuer-die-welt.de](mailto:sabine.minninger@brot-fuer-die-welt.de)

Sophia Wirsching, [sophia.wirsching@brot-fuer-die-welt.de](mailto:sophia.wirsching@brot-fuer-die-welt.de)