

NELD WORKSHOP REPORT



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A Summary of Presentations and Discussions

This document contains a proceedings summary of the workshop on Non-Economic Loss and Damage (NELD) held at the German Development Institute / Deutsches Institut für Entwicklungspolitik.

Edited by Ellie Waters and Olivia Serdeczny

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NELD workshop report

A SUMMARY OF PRESENTATIONS AND DISCUSSIONS

WELCOME AND INTRODUCTION TO THE WORKSHOP

Dr. Dirk Messner

Dirk Messner has been the Director of the German Development Institute (DIE) since 2003. Dirk has been working on globalization and global governance as well as on the transformation of nation states and governance under conditions of global change since the late 1980s. He has addressed the impact of China's and India's rise on processes of international politics and development policy. Furthermore, he has focused on the effects of climate change on global governance dynamics and socioeconomic development processes in Latin America and Asia. He is Co-Chair of the "European Think Tank Group on International Development" and Vice Chair of the German Advisory Council on Global Change (WBGU) and a member of the China Council for International Cooperation on Environment and Development.

Dr. Messner spoke of the transition of climate change from an environmental debate to that of an economic one. He emphasized how climate change has resulted in social impacts and that mitigation is much cheaper than adaptation, referencing the 2006 Stern Review, *The Economics of Climate Change*.¹

Dr. Messner presented his understanding of Non-economic Loss and Damage (NELD), divided into four categories:

1. Nature (natural heritage – beauty, aesthetics, biodiversity)
2. People (human rights, cultural heritages, identity, impact on many generations)
3. Fairness-Equality-Justice (how to distribute emissions budget, we need social consensus about fairness criteria – we cannot avoid this, impact on the poor people, cities, regions)
4. Future of Human Civilization and the Earth System (species extinction and large scale impacts, tipping points – changing our civilization setting, the Anthropocene and the civilizational challenge).

Reference was then made to Kwame Anthony Appiah and his work on how moral revolutions occur.² Appiah describes 5 steps of a moral revolution, with the end of a revolution being the point at which a society collectively asks: "How can we accept this?". Dr. Messner gave the example of the slave trade and how those who were against slavery often had slaves themselves. He emphasized that with regards to climate change, we are in the midst of a moral revolution and according to Appiah's steps, between step 3 and 4.

Appiah's five steps: 1. There might be a problem 2. There is a problem 3. We do have a problem 4. We need to solve the problem 5. How could we accept that?

¹ The Stern Review: *The Economics of Climate Change*, 2006. Available from: http://mudancasclimaticas.cptec.inpe.br/~rmclima/pdfs/destaques/sternreview_report_complete.pdf

² Appiah, Kwame Anthony. *The honor code: How moral revolutions happen*. WW Norton & Company, 2011.

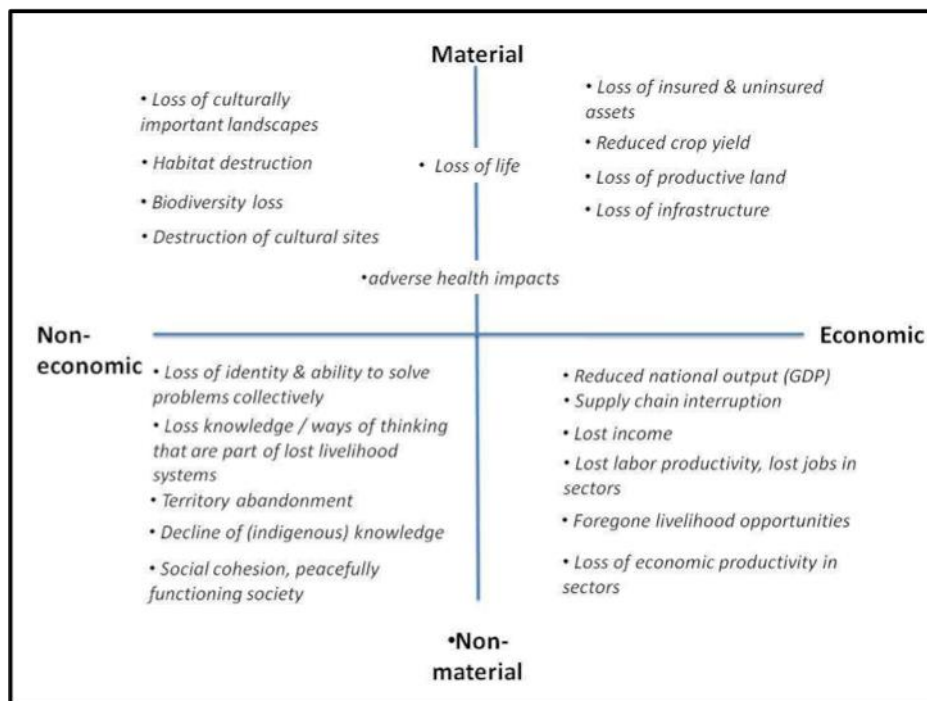
PRESENTATION | NELD IN THE ACADEMIC LITERATURE - THE KNOWLEDGE BASE SO FAR

Dr. Anthony Oliver-Smith

Anthony Oliver-Smith is Professor Emeritus of Anthropology at the University of Florida. He has done anthropological research and consultation on issues relating to disasters and involuntary resettlement in Peru, Honduras, India, Brazil, Jamaica, Mexico, Japan, and the United States. Anthony is a member of the scientific committee on Integrated Research on Disaster Risk of the International Council for Science and the Climate Change Task Force of the American Anthropological Association. His work on disasters has focused on issues of post-disaster aid and reconstruction, vulnerability analysis and social organization, including class/race/ethnicity/gender based patterns of differential aid distribution, social consensus and conflict, and social mobilization of community-based reconstruction efforts.

Dr. Oliver-Smith opened his presentation by describing some of his personal encounters with NELD. Examples included his experience in Yungay in the Peruvian Andes in the 1970s right up to his most recent field work in Panama in the San Blas Islands with the Guna people on Gardi Sugdub, 'The Island of the Crab', who are dealing with displacement.

He presented examples of NELD in the field of anthropology over the years, including: tourism studies, and the selling of culture; the losses experienced by development projects (development forced displacement and resettlement - DFDR); and disasters triggered by the energy industry and natural hazards. Dr. Oliver-Smith reminded the members of the workshop that studies on NELD are continually emerging and momentum is building. He also highlighted social vulnerability as a key concept that combines all issues, i.e. inequality, lack of power, lack of resources, etc.



Dr. Oliver-Smith explained that NELD may be both non-material and material, and both indirect and direct. Moreover, as Figure 1 reveals, there are some kinds of NELD that fall in both the non-economic and economic categories.

He made reference to cultural property and the work of Stuart Kirsch, and emphasized the ideas of kinship and belonging to a land. Cultural heritage insinuates ties to land and not just buildings, but also objects, places, natural features and practices. All of these are endangered by rapid climate change.

FIGURE 1: EXAMPLES OF ECONOMIC AND NON-ECONOMIC LOSS, MATERIAL AND NON-MATERIAL

Source: Morrissey and Oliver-Smith 2013

Dr. Oliver Smith spoke about climate change effects and NELD, the nature of land, and how to account for, compensate and address NELD. A brief description of the conceptual and practical challenges followed (see examples below).

He reminded us that NELD occurs at the levels of individual, community and environmental and that it is important to remember that, “a society in which making a living is culturally constructed involves cultural knowledge and has non-economic elements”. For example, if a fishing village closes, it is not just a loss of income but a loss of a way of life: “For them it is a way of life, and what we do often defines who we are. The people from Yungay asked who they would be if they were relocated? The Guna people of the island of Gardi Sugdub may well ask the same question when they leave the Island of the Crab.”

The idea of grieving for a lost home: “People grieve for lost homes, just as they do for lost loved ones. It isn’t just traditional peoples in rural environments. NELD has the power to undermine the whole frame of reference of identity.”

Conceptual Challenges of NELD:

- It defines something in terms of what it is not, rather what it is
- If something is not defined in economic terms, it runs the risk of not being seen at all
- The morality question (Why some things should not be for sale; contested commodities). Example of how people may get offended when barriers are crossed in a sphere of exchange.
- The power issue: Who determines value and from what position? What are the power positions in the discourse of compensation?
- The question of value. Value is developed by human relations and cultural conventions. The policy dilemma involves engaging these other forms of value with a currently dominant form of value assessment.

“People are hesitant to compensate others for losses as it often implies responsibility. There is a reluctance to accept a legal responsibility for the damages created by climate change.”

Dr. Olivier-Smith emphasized that dealing with NELD requires both non-economic and economic approaches that are participatory and collaborative. People need to be able to define losses and develop approaches themselves. Essentially, loss and damage is a loss of meaning and outside approaches cannot restore meaning to peoples’ lives - only affected people can do that.

“The least we can do is create a context that enables people to recover their basic cultural symbols and their fundamental concepts of how life should be lived, and use them to render coherent as much as possible their present realities.”

Dr. Oliver-Smith stated that if losses are not responded to, it may undermine communities’ capacity to recover. In his opinion, at the policy level we also need to undergo change: “We need to change the way we understand value - not all things can be quantified or valued in market terms”. These other forms of framing value must be respected and addressed.

Regarding the need for action and how NELD becomes part of a larger framework of understanding and addressing the current system: “If we don’t address social vulnerability and equality – our attempts on adaptation at many levels, will fail.”

Questions and Answers:

Q: What do we mean by economic? It shouldn’t only be understood in terms of the market. What we are really talking about is non-marketed LD, is it not?

A: We are asking the question: What is Non-economic? Things are not only defined as economic and can be defined in a multiplicity of ways. Moreover, many of the non-economic losses experienced in climate change will be non-material. Work needs to be done on the multiple ways value is created both in the material and non-material domains.

PRESENTATION | CLIMATE CHANGE AND INTERNATIONAL JUSTICE - A HUMAN RIGHTS BASED APPROACH TO NELD

Dr. Simon Caney

Simon Caney is Professor in Political Theory. He is the author of *Justice Beyond Borders* (2005) and many articles in politics, philosophy journals. His recent work has been published in *Philosophy & Public Affairs*, *Journal of Political Philosophy*, *Politics*, *Philosophy & Economics* and *Social Philosophy and Policy*. He currently co-directs the Oxford Martin School research programme on 'Human Rights for Future Generations'. In addition to publishing in academic journals, he has engaged in work for public bodies. He was a co-author of the Nuffield Council on Bioethics report *Biofuels: Ethical Issues* (2011) and has written background papers for the World Bank, the Mary Robinson Foundation Climate Justice, Oxfam America, and the International Council on Human Rights Policy. He is currently a member of the Nuffield Council on Bioethics.

Dr. Caney opened his presentation (via Skype) by explaining the universality of human rights; one has rights simply because they are a human being, and not because one is a citizen. He stated that there are both legal and ethical interpretations of human rights and elaborated on these:

Legal Version: rights recognized in the UDHR, ICCPR, and ICESR, etc.

Moral Version: “Human Rights specify minimum moral thresholds to which all individuals are entitled, simply by virtue of their humanity, and which override all other moral values”.³

In 2007 the ‘Malé Declaration on the Human Dimension of Global Climate Change’ stressed the relationship between climate changes and human rights. Following, the international council on human rights policy, the human rights council and other bodies began to investigate this relationship, which was eventually taken up in the COP negotiations. Even now in the late stages of the Paris document, there are still some references to human rights⁴.

Some examples of human rights jeopardized by climate change were provided:

³ Simon Caney (2010) ‘Climate Change, Human Rights and Moral Thresholds’ in *Human Rights and Climate Change* (Cambridge: Cambridge University Press), edited by Stephen Humphreys, pp. 69-90.

⁴ Note by the editors: In December 2015, reference to Human Rights has been adopted as part of the Paris Agreement.

- Human Right to Life
- Human Right to Health
- Human Right to Food
- Human Right to Adequate Housing
- (Moral) Human Right not to be Involuntarily Displaced
- Human Right to Self Determination

A Human Rights Based Approach to NELD

Dr. Caney stated that there need to be criteria for defining what constitute loss and damage and that the concept of human rights can provide such a criterion. In his hand-out (found in Appendix 2) he provided examples of how mitigation, adaptation, and loss and damage can be understood in connection to human rights:

Mitigation = reducing anthropogenic forcing: (through reducing emissions and/or enhancing sinks) to prevent climatic threats to human rights

Adaptation = social and economic policies which prevent climatic changes from undermining the enjoyment of human rights

Loss and Damage = **the harms to the enjoyment of person' human rights that result from climate change** because of inadequate Mitigation or Adaptation or both

Dr. Caney explained how examples of NELD items identified in the literature can be related to Human Rights. For example, losses of mobility and forced displacement can be expressed in terms of the loss of the human right to not be forcibly displaced. What is more, some NELD items such as displacement often leave people vulnerable to having other human rights violated. Another example might be indigenous and local knowledge, which have value in part because of their contribution to the enjoyment of other human rights; for example the loss of local knowledge can increase vulnerability of human rights to food water and housing. Other examples include: Biodiversity and its contribution to human health - ecosystem services are key for securing many other human rights, including the right to health; damage to educational facilities, such as the destruction to primary schools, and consequent loss of access to primary education, constitutes a clear threat to the enjoyment to education (UDHR 26).

NELD are directly linked to human rights found in legal documents or are indirectly related by undermining preconditions, e.g. solidarity, social capital, biodiversity.

What role might a human rights based approach play within the NELD discourse? Firstly, a human rights based approach could help with preparation for the risks ahead by giving people targets for the risks that need to be reduced. Secondly, a human rights based approach may serve as a basis for liability and lead to avenues for compensation: if you have a human right that has been violated, you have a claim to compensation. A human rights based approach emphasizes the values of individuals and minorities, as it respects the loss of each and every individual. This may be advantageous when picking out, categorizing, or prioritizing different kinds of NELD. While most approaches to measure climate change impacts deal with economic analyses, a human rights based approach can provide a useful way to address NELD by avoiding economic evaluation problems. In other words, a human rights based framework can be operationalized to measure and asses the full extent of loss and damage. In addition, a human rights based approach is normatively appealing as it captures why NELD is a matter of justice.

However, it is important to remember that a human rights based approach only captures losses directly related to humans, and thus may not be able to capture *all* the ethically relevant effects of climate changes.

Dr. Caney closed his presentation by stating that it is important to have an account as to what constitutes NELD and that a human rights approach can provide a definition of NELD.

“A human rights approach can provide a definition of non-economic loss and damage. It is *normatively appealing* (avoids problems with economic valuation; captures why it is a matter of justice); can be *measured and assessed*; and *corresponds with paradigmatic cases of noneconomic loss and damage*.” (From handout; see Annex 2)

Questions and Answers:

Q: What are some of the limitations and disadvantages of a human rights based approach?

A: Human Rights have been interpreted in a culturally specific way and can sometimes be seen as a western way of approaching the issue, which may do violence to some non-western cultures. Drawing on the idea of Amartya Sen, however, we can argue that the construction of Human Rights should, in part, be part of a global process, which is also done at the local level. We need to look into what the discussion at the local level is, and we should take this seriously so that the identification of human rights are framed in a way which gives due respect to different cultures.

Q: How do we deal with differing views of who is ‘human’?

A: Suggestion: The debate should be opened up to more contestation and deliberation of how people want to define NELD and make sure this is done in ways that are responsive to minority groups and individuals.

Q: Under a human rights based approach, who has the responsibility to remedy these violations?

A: In one important sense the primary duty bearer is the state. However, from a moral point of view the duties fall on all of us as individuals to work for a fairer world. In addition to this, we can draw on the doctrine of ‘common but differentiated responsibility’ for plausible parameters of who is obligated, i.e. those who have contributed to the problem the most.

Q: Does compensation mean restoring rights, or also compensating for time and the injustice of having suffered losses and damages in the first places? Does the human rights approach speak to these questions?

A: A human rights based approach promises to deal with the structural causes and drivers of harmful climate changes, rather than just trying to compensate people on the surface. A human rights framework thus would help prevent some of the harms in the first place. Again, referring to Amartya Sen, there is a relation between famine and the right the democratic participation - you will never have famine in a democracy. On the question of compensation: Compensation in monetary terms can often be insulting, so we must think creatively about what compensation might mean (for example, rights to self-determination).

Q: What about the instances where the impact of mitigation and adaptation projects impact on the realization of, and violates, human rights, for example the right to not be involuntarily displaced.

A: This is indeed alarming; there have been examples where mitigation policies have been said to have involved labor rights violations, land grabs, health rights violations, etc. Some say in response that we should prevent climate change no matter what, but I think that this is mistaken. We need a just world in which we adopt measures which effectively prevent dangerous climate change and also does so in a way that does not violate human rights. It would be unjust to go to a low carbon world that violates human rights – and we do not need to do that. It is important to bear in mind any human rights implications of measures such as hydraulic fracturing, constructing dams, etc.

Q: Within the human rights and the UNFCCC - How far do you see the moral, ethics, justice, equity, and human rights aspects being considered and taken into account? For example, more participatory research to enlarge our space of thinking: how far in your research have these issues been considered?

A: There has been discussion around economic norms and values, equity, and obligations to future generations. Some of this is evident in the preamble of the document heading towards Paris. People pay lip service to values of justice, equity, rights, and responsibility to future generations. The challenge is to then keep pressurizing and campaigning negotiators, decisions makers, and citizens to honor those values and comply with them as best they can.

Q: What about cases when a state fails to protect its citizen? Is it then the international system that has to step in? This would require cooperation. A climate justice perspective is different as the responsibility is with the polluter countries. What is the state responsibility to the affected people?

A: International lawyers assume the primary responsibility falls on the state, though this is an unsatisfactory way of looking at it. What if the state lacks sufficient resources, or it is not the state's fault that the rights are being undermined? This is where the idea of international cooperation comes in.

Q: We have just learnt that a human rights framework can be operationalized to measure NELD. Do you have examples of the tools used to measure human rights?⁵.

A: Examples of metrics include the human right to health – you can look at the number of deaths at childbirth, incidents of death before age 5, and access to health care. A standards based approach could be applied and indicators used to measure compliance. For displacement one would need to measure the number of people who have had to leave home. Another approach may be to use similar standards as laid out in the Human development index (UNDP). For example, education is measured using criteria such as the percentage of people in primary school in a particular region.

⁵ Todd Landman and Edzia Carvalho (2010) *Measuring Human Rights* (London and New York: Routledge).

DISCUSSION | WHAT IS NELD AND WHO IS TO SAY SO?

Dr. Petra Tschakert

Petra Tschakert is a professor of geography at the University of Western Australia. Petra was Coordinating Lead Author of the Fifth Assessment Report of the Intergovernmental Panel on Climate Change (IPCC). She worked on Chapter 13 (“Livelihoods and Poverty”) of the Working Group II Report on Impacts, Adaptation, and Vulnerability, and was part of the Core Writing Team of the AR5 Synthesis Report. Her research activities and practice focus broadly on human-environment interactions and more specifically on rural livelihoods, environmental change, marginalization, social learning, and deliberate societal transformation. Her academic training is in Geography, Applied Anthropology, and Arid Lands Resources Sciences, and her main interest lies in the theoretical and empirical intersections of political ecology, environmental justice, complex systems science, and participatory research.

BACKGROUND: “The session aims at sensitizing researchers and policy makers alike to the fact that value (or: what counts as loss) is a matter of perspective. In the coming years instruments will be developed, or agreed upon, on how to address NELD within the institutional framework of the UNFCCC. It is likely that an institutional setting like this (global in reach and thereby rather centralized) will be based on universalized, comparable indicators. Universalization comes at a cost: loss of details and context. In the particular case of NELD this detail and context, are arguably crucial in order to understand the weight of perceived loss at all. So there is a tension between a highly context-dependent concept and an institutional framework that is more or less “used to” dealing with universal indicators.” – Olivia Serdeczny

Dr. Tschakert began her presentation (discussion starter) by introducing a conceptual starting point: NELD is a value judgment. It is about what we value, or what another person values. What counts is their personal perspective – we call this socially constructed.

While discussing value judgments, she reminded the audience that there is a constructive tension between what is embodied and what is universal, and that what we are focusing on is human well-being. The questions is: What is valued, by whom, how, over time and over space?

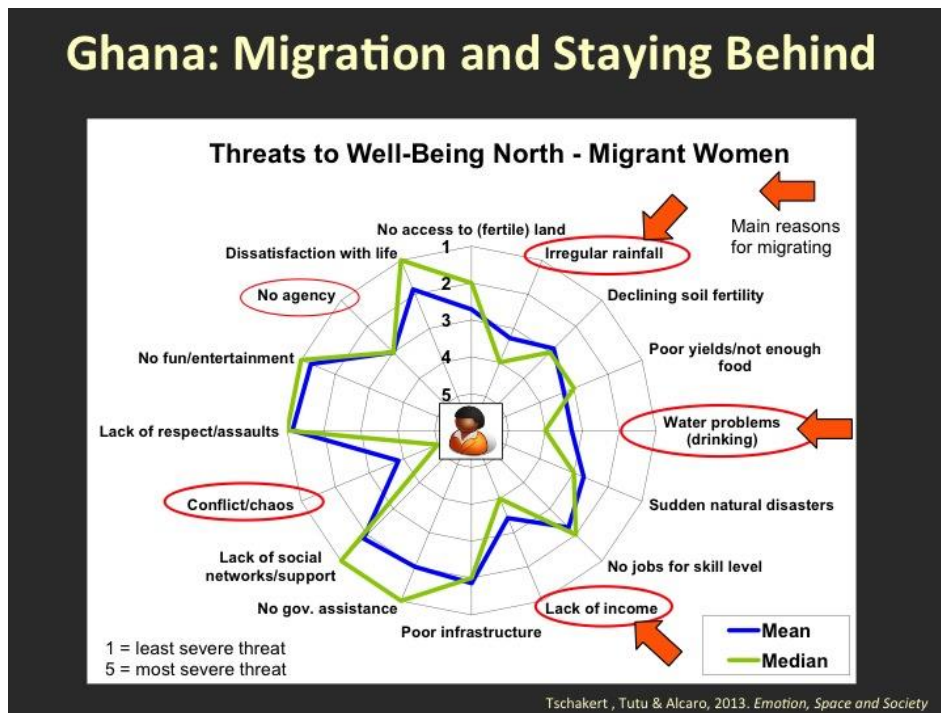
“Whatever counts is context specific; depending on experiences and identities.”

Dr. Tschakert introduced the concept of **Solastalgia**⁶: Sadness and distress caused by environmental change and loss of belonging in familiar landscapes and places. Essentially it is being homesick while still being at home, “but not because we have left our home, but because we don’t recognize our home anymore. It is the pain of not recognizing our home anymore, or having lost the sense of feeling at home.”

Dr. Tschakert discussed her own research and whether this concept could be used in Ghana in the context of slow, incremental environmental and climatic changes, and discussed some of the results:

⁶ G. Albrecht, Solastalgia, a new concept in human health and identity, *Philosophy Activism Nature* 3:41-44 (2005).

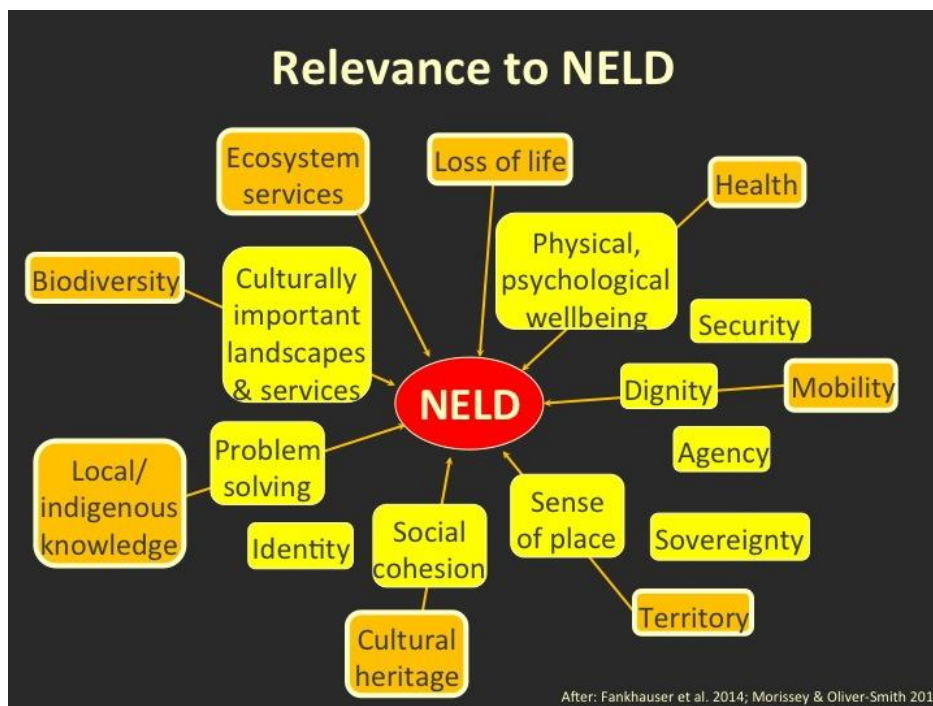
Ghana: Migration and Staying Behind



A way of studying solastalgia was through looking at emotions, how people felt about the slow onset of climate change: “The most present emotion was depression; people talked about the horror they experienced when sharing the same water source with an animal. This may seem trivial, but it matters to people. In Australia, solastalgia was felt by women not being able to water their home gardens anymore due to the long drought.”

“Proximate outsidership, desiccation of self and place (when you can no longer be who you are supposed to be), and thinned-out spaces — all expressions of environmentally-induced distress; this is exactly what we are talking about with NELD.”

Dr. Tschakert then discussed the challenges of integrating the results of her work and other research on observed impacts into the IPCC’s global map of observed impacts, based on sophisticated but nonetheless narrow metrics of detection and attributions as used in Working Group II. She argued that the controversy over including or excluding particular case studies was tied to the fact that significant research on embodied experiences of climate change, including affective dimensions, did not provide sufficient evidence whether or not climate change was indeed occurring. She thus raised the critical question of practical challenges of attributing the various dimensions of NELD, especially the non-tangible ones, to anthropogenic climate change.



“Devaluation of lived experiences in narrowly defined impact studies further silences marginalized voices and hence exacerbates inequalities.”

Dr. Tschakert discussed how dimensions of NELD are very context specific and that aggregate impact assessments at the global level are not able to capture most of such impacts. Furthermore, inquiring into what is acceptable and what is unacceptable to particular populations is related to people’s values and other human dimensions such as culture and identities; a well-being approach to climate change could help in better understanding these many aspects of NELD. She reminded the workshop participants that it is not about what particular scientific approach is valid for identifying thresholds or limits to adaptation, or about defining what threshold would apply for whom. She argued that it is about acknowledging what divisions exist between country negotiators and people who are most affected by climate change, and overcoming the divisions on value judgments and contested debates on compensation for loss and damage, acknowledging instead our collective responsibilities to protect.

“It is about acknowledging that negative impacts of climate change under a 0.8°C temperature increase are already widespread, across the globe, and that danger, risk, and harm would be utterly unacceptable in a 2°C warmer world, largely for ‘them’—the mollusks, and coral reefs, and the poor and marginalized populations, not only in poor countries—even if this danger has not quite hit home yet for ‘us’.” (Tschakert, *Climate Change Responses*, 2015)

Dr. Tschakert then opened up the discussion on ‘What is NELD and who is to say so?’

Question/Comment: Regarding the issue of empathy. There have been comparisons between loss of glaciers to the people in the Andes and to the loss of the twin towers. Perhaps this is a mechanism for evoking empathy; a way to identify with someone else's loss can be effective.

Response: Indeed. On the one hand we look for these icons or images, yet at the same time we have to recognize that millions of people have embodied experiences without such iconic figures and these experiences still matter to them just as much (e.g. women and their gardens in Australia).

Comment: Regarding the 1.5°C goal - It is theoretically achievable but we lack the will and the money. We're putting it in the stock markets.

Additional comment on 1.5°C goal: What heads of states decided is 'below 2 degrees'. We can act before this.

Comment: From whose perspective are we looking at this? It's about how to look at it ethically. We will have issues around attribution over the next few years. The human rights lens is very important moving forward. People will challenge the economic model itself that has created this crisis.

Response: The human rights perspective is useful but often ignores the rights of the less powerful or that entitlements to rights are not realized; let's make sure these people at the margin of society don't fall through the cracks, by thinking broader.

Question: Change is a normal part of life and climate variability can be one of these. How do we draw the line between this and climate change – which we are trying to address at the political level?

Addition: Maybe the greater question is, what is acceptable and what is unacceptable? Should we be compensating people for the destruction of capitalism, or should we be compensating people for climate change?

Response: How do we draw the line? This is what the IPCC has been discussing. There will probably not be NELD on the impacts of climate variability. Who are we to define what is acceptable for somebody else? There are no win-win solutions. We have to think about trade offs, what the acceptable tradeoffs are at the community level. Some risks and impacts we are willing to tolerate. It is up to the people who experience impacts to define this: i.e. what is it that we can live with and what is it we cannot live with?

Comment: What is the objective of NELD? It came out of the mitigation dialogue (moral push) and now it's more so part of L&D and a question of compensation. We have to look at why we are talking about this.

Comment: Regarding the SGDs – We should consider this conversation in the broader framework of SGDs. Accomplishing the SDGs will have positive impacts on climate change. Besides, it should be “non-market” rather than “non-economic”.

Comment: We should focus on bringing it more into the UNFCCC debate. We need to find a way to anchor it in the ADP texts, and it also needs flexibility to grow.

Response: In the IPCC, damages are considered as resulting from external climatic stressors, but also because of the social vulnerability within a society. Together with exposure, they constitute risk.

Final comments: The Warsaw Implementation Mechanism (WIM) is a dynamic mechanism in the making. It will need to respect the context-dependence of NELD. This is a good time to shape the debate.

PANEL | ADDRESSING NELD IN THE UNFCCC FRAMEWORK - TOOLS AND INSTRUMENTS THAT COULD BE DEVELOPED UNDER THE WARSAW INTERNATIONAL MECHANISM AND BEYOND

BACKGROUND: “The overall goal of the session is to generate an understanding over the tools and instruments that can potentially be applied to address NELD and that could be institutionalized under the WIM. The panel is composed of representatives from Annex I and Non-Annex I Parties. Views on what “adequate” response measures are will thus likely be diverging. However, the goal of the panel will not be to converge on a common ground and produce a unified statement. Rather, by the end of the first workshop day we would ideally have covered the entire spectrum of potential policy responses. A concrete outcome would be a comprehensive catalogue of potential tools and instruments, irrespective of their potential to be accepted by all parties. Participants have been asked to present their perspective on what should not be missing from a catalogue of potential tools and instruments addressing NELD. This may include background explaining positions and taking a standpoint in the debate.” – Olivia Serdeczny

Leon Charles

Leon Charles is the owner and manager of the Management Consulting firm, Charles & Associates (CAA), Inc. Leon Charles of Charles and Associates, Grenada, is one of the Caribbean region’s experienced climate change professionals. He has over 15 years experience in the UNFCCC negotiations, and has served in many different capacities during that period. He was the Lead Negotiator for AOSIS from 2007 to 2011. Along with other responsibilities, he is currently the Climate Finance Adviser to the Caribbean Development Bank, with responsibility for the bank’s climate finance readiness program.

The panel began with opening remarks from Leon Charles, introducing the panelists and setting the stage for the following discussion.

Gottfried von Gemmingen

Gottfried von Gemmingen is a policy advisor at the division for Climate Policy and Climate Financing at the German Federal Ministry for Economic Cooperation and Development / Das Bundesministerium für wirtschaftliche Zusammenarbeit und Entwicklung (BMZ). Prior to this position, he was a development assistance advisor at the German Embassy in Nairobi, Kenya, and an advisor for India at the BMZ. He also worked as a project manager for the German Association for Technical Cooperation / Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ), where he completed two long-term missions to the rainforests of Indonesia.

Gottfried von Gemmingen began the discussion on ‘what is a loss?’. He spoke of the drafting of the WIM, and how enhancing data and knowledge associated with climate change was an important topic, though there remain many open questions on the issue, leaving a lot of room for work ahead.

We’ll need to look into causality, measurement, and ethical questions. The big question is: How can the risk of NELD can be reduced and avoided? This topic is a mainstreaming issue.

Dawn Pierre-Nathoniél

Mrs. Dawn Pierre-Nathoniél is a Saint Lucian national with twenty years of knowledge and experience in fisheries, coastal and marine resource management, biodiversity, environmental education, protected areas and climate change. She holds a Bachelor's Degree in Natural Sciences and a Master's degree in Marine Management. Over the past eight years, Mrs. Pierre-Nathoniél has been based at the Ministry with responsibility for Climate Change, coordinating several programmes, projects and activities pertaining to Adaptation to Climate Change, collaborating with multiple governmental and non-governmental organisations, as well as international donor and implementing agencies. Mrs. Pierre-Nathoniél continues to represent the Government of St. Lucia at numerous national and international climate change meetings. She negotiates on behalf of Saint Lucia on Adaptation and Loss and Damage at COP and subsidiary meetings of the UNFCCC. She is the lead negotiator for the Caribbean Community (CARICOM) on Loss and Damage and further represents Small Island Developing States (SIDS) on the Ex. Comm. of the WIM.

Dawn Pierre-Nathoniél brought the reality of Small Island Developing States (SIDS) to the forefront of the panel discussion. She mentioned that there is sometimes a blurred line between non-economic loss and damage and economic loss and damage, especially as economic means are still required to address even non-economic losses.

She spoke of the Special Circumstances of SIDS, including their dependence on natural resources (for environmental, economic and social well-being), issues of finite space and limitations in the context of loss and territory and ecosystem services and as a result of sea level rise. Future generations in particular, will be impacted by non-economic losses as a result of climate change.

She gave the example of the current and massive influx of Sargassum seaweed (algae) into Saint Lucia's waters (and other neighbouring islands), associated with changes in sea current patterns, causing the significant build-up of algae on beaches and in nearshore waters, greatly impacting countries and communities that depend on tourism and fisheries; she also talked about a study done on modeling the costs of sea level rise (SLR) in the Caribbean; the economic losses associated with SLR will be devastating, but also in non-economic ways, including, but not limited to the fact that the impacted beaches are a form of recreation for locals.

Ms. Pierre-Nathoniél then directed the talk towards the tools that we can use to address NELD, emphasizing that whichever ones are employed, they will need to be context and place specific. What works for one country, or even one part of a country (including a small island) may not work well for another country or part of a country. In some cases, there are options/choices and in others, not. For example, a potential and last resort response in the case of lost territory for SIDS is the movement of populations out of the national territory. For those who live in Kiribati, relocation is perhaps inevitable. The "force" associated with this relocation must be emphasised, including the measures that must be put in place to facilitate the ease of the transition. For example, the government of Kiribati has developed a policy of "Migration with Dignity", which focuses on raising the level of education of people within Kiribati to allow them to be more attractive to the job market in other countries.

We need to be able to monitor and assess. We need a coordinated effort and proper plan to deal with the particular issues in local places.

Other examples of how slow onset impacts of climate change are threatening ways of life in SIDS were given. Ms. Pierre-Nathoniél stressed that there are indeed options to adapt in some cases, while in others,

measures are required to address an issue for which adaptation measures may not be useful or practical. Measures come at a cost, for which support is required. There is also need for capacity building in understanding the issue at hand, the potential measures available or possible and the best fit for a given situation. More exploration into innovative measures is needed, such as how debt forgiveness could be measured to address GDP issues. Other examples may include pension schemes or benefit schemes, i.e. for fishermen. While some measures can be coordinated at the national and regional level, there is also a role for international coordination, coherence and support toward finding feasible solutions and assistance for issues that affect the lives of everyday people.

Saleemul Huq

Saleemul Huq is an expert on the links between climate change and sustainable development, particularly from the perspective of developing countries. He was the lead author of the chapter on Adaptation and Sustainable Development in the third assessment report of the Intergovernmental Panel on Climate Change, and was the lead author of the chapter on Adaptation and Mitigation in the IPCC's fourth assessment report. His current focus is on supporting the engagement of the Least Developed Countries in the United Nations Framework Convention on Climate Change. He is researching the least developed countries' vulnerability to climate change and the impact of adaptation measures. He is also the director of the International Centre for Climate Change and Development (ICCCAD) in Bangladesh.

We need to be able to monitor and assess. We need a coordinated effort and proper plan to deal with the particular issues in local places.

Saleemul Huq brought attention to the Islamic symposium on climate change and stated that in Islam, and many other religions, we are told not harm the earth. What this means to Saleem is:

- We have to bring down our levels of pollution, collectively and personally, and become a zero-carbon world
- Not harming fellow human beings by our pollution
- As individuals, we have to take personal responsibility for our carbon footprint

Mr. Huq gave his opinions on civilization and justice and what that means in the context of our current climate crisis: "A civilized society takes care of the vulnerable population; we are unfortunately not here [...] What describes the situation now is manifest injustice; we need to fight for justice."

He then talked about achieving this within the context of the UNFCCC, by stressing the importance of reaching a 1.5 degree target:

What will the long-term goal be? If we decide on 2 degrees, we as polluters on behalf of the vulnerable are saying it is okay to write off people, ecosystems, and communities, because it is too hard for us to reduce our emissions. It is a moral issue that we accept 1.5 [degrees]. If we do not achieve this then the UN has lost its moral footing.

Feedback and questions round

Comment: It was mentioned that NELD should be mainstreamed and become part of adaptation plans. Adaptation planning often relies on cost-benefit analyses. However, monetization for cost-benefit analysis has been considered unacceptable in terms of NELD; we need to address the tension here.

Response: Dawn Pierre-Nathoniél mentioned the example of loss and territory and subsequent resettlement, for example, from SLR and what comes with it. We have to get better at resettlement. It often turns out to be a process of progressive impoverishment. It could be a solution, but really it often comes with another set of problems: loss of identity, breakup of social networks, etc. There is a recognition that these are not only outcomes of climate change. Resettlement is a fundamental issue – and a large part of the issue is monetary assistance to assist the affected. How much effort and what level of resources are put into planning and preparation that will facilitate the transition pre, during and post resettlement? How well-coordinated is the effort to assist persons who have to move, who are moving and who have moved? Thus, while there are problems associated with attaching a monetary cost to everything (some significant losses are not easily expressed in dollars), people understand the language of money (e.g. politicians) and the reality is that there is a cost associated with implementing measures to address NELD (e.g. loss of identity from resettlement may require special counseling that comes at a cost). It is a good idea to incorporate elements of NELD into national plans, but this should not negate the need for international assistance and support (including financial) in addressing national impacts as a result of human-induced climate change.

Question: How do we link the work between the ExComm and the NELD needs in the world?

Response – Gottfried von Gemmingen: A lot of work needs to be done by the ExComm to address tension. Findings need to lead to establishing safeguards, in terms of standards that need to be kept when implementing measures. The workplan is charged with enhancing understanding of issues of L&D under the UNFCCC. These are very diverse issues. We need to raise awareness about these issues and establish expert group forum to figure out how to factor data on NELD into measures addressing loss and damage. Once bits and pieces are conceptualized, we need to look at where to implement them.

Response – Dawn Pierre-Nathoniél: The 2-year workplan touches on NELD, specifically Action Area 4; however, a general criticism of the workplan is that it does not yet go into 'on the ground' solutions. However, we are hoping that it will give us the foundation to get there. We need to gain knowledge, but also, get past understanding and get to real solutions for the people before it is too late. Monitoring and assessment of specific NELD is necessary. The solutions for NELD, such as loss of life, territory, cultural heritage, ecosystem services are not easy. Working with agencies and experts under and outside the UNFCCC will be useful as we progress on this issue.

On resettlement: I agree that we still do it poorly. Perhaps we need to look at case studies such as Kiribati and the ways they are coming up with solutions (education). It needs to be well resourced, properly planned and mapped out, and properly conducted.

Response – Saleemul Huq: The fund that Bangladesh is setting aside for climate adaptation is 150 million/year. Other countries can do the same.

Question/Comment on NELD and L&D: Where do you draw the line between adaptation and L&D? When does L&D kick in – is it when we get to a point that we can't adapt? Avoidable and unavoidable loss and damage: there is a link between adaptation and L&D. Whatever term we use (i.e. transformative adaptation), we will see L&D. We need to look at NELD as separate from L&D. Here, we are looking at the moral issue more than the practical one. It is an 80% moral issue that can support mitigation, and the rest is practical.

Comment: Focus should be placed on dealing with the WIM as it is now, and thinking long term. 2016 is

around the corner (end of 2-year term). What are some practical next steps? What about tying this together with capacity building talk that is going on right now within the UNFCCC? What might it look like to map our concrete solutions to a capacity building framework, which has not yet formally been included in the WIM? There is an opportunity here to bring out forward thinking of WIM and capacity building framework. For example, building on a NAP process and country scoping; address how countries are dealing with L&D and how they are managing.

Response – Gottfried von Gemmingen: A risk-based standpoint should be looked into. The reason Germany proposed the fund for climate risk insurance is because we wanted to put focus on insurance as a tool to cover this. Though today's topics cannot necessarily be covered by quantitative research and results, the NAP process gives room for giving a voice to the people to identify their understanding and definition of value and loss. A bottom up process is something the BMZ is open to.

Response – Dawn Pierre-Nathoniél: There is a distinction between adaptation and L&D. L&D is when mitigation and adaption are not enough. Country/regional specific solutions are important regardless of whether we are talking about adaptation or loss and damage; education, capacity building and financial support remain important. There are measures that can be implemented to help reduce impacts from climate change and there are those that have to be implemented to address impacts when best efforts of mitigation and adaptation have failed. There will never really be a point that we have adapted so well that we can stop and this is because there is a lot of uncertainty with climate change and the landscape and situation are constantly evolving, requiring new or add-on solutions. The non-economic part of loss and damage is often neglected, hence the effort often made to monetize it to assist with visibility, understanding and means of support/implementation. Indeed, the measures to address non-economic loss and damage can be very different and require proper thought, planning and innovation to ensure that critical elements associated with addressing it are not omitted.

Response – Saleemul Huq: The IPCC WG2 has made a distinction: Ch. 14, planning adaption; Ch. 15, implementing adaption; Ch.16, limits and barriers to adaption; Ch.17, economic of adaptation. In the National context – Bangladesh has a national committee, where 2/3 of funding will be used for adaptation, and 1/3 will be held for loss and damage for when it occurs. In the United States, hurricane Sandy caused losses in several states. A bill was sent to congress for 81 billion, and they received 50 billion. → We need to figure out how to take the national successes for responding to L&D to the global level.

BREAK OUT GROUPS | WHAT IS NELD? POSSIBLE POLICY INSTRUMENTS TO ADDRESS NELD

Before splitting into three groups, 2 topics were presented to the workshop participants to discuss within their groups:

- Defining a universal set of NELD items?
- Scoping possible policy instruments to address NELD - Which instruments are considered applicable in the realm of the UNFCCC?

Reporting back from Group 1:

Group 1 discussed the conceptual way they understand L&D. They discussed how it relates to adaption and didn't get anywhere so they then went into "avoidable" and "unavoidable" L&D. When discussing definitions that would be useful to policymakers, the group struggled with how to navigate between context specific and generalized things that could be more useful to policy makers.

Group 1 came up with an approach: Top line – a finite list that is largest in the literature (loss of territory, livelihoods) that policy makers should look at. At the bottom of this, there would be generic ones (health, dignity, and other that relate to the human rights talk from earlier in the day). Specificity happens in between these two groups. E.g. the way that a loss of territory leads to a loss of dignity is very context specific. This is where group 1 saw the differences between impacts and losses (also largely discussed). This approach might be a way to get through this specific, general approach. Part of this process would have to be an education process, technological process, and could be connected to the vulnerability assessment processes. Moreover, a matrix of this list could be built, i.e. are they reversible, are they quantifiable in their value, temporary/perm? You could then hand them to countries and ask if they want to see, for example, dignity as a human rights issue.

The group also considered the WIM and ExComm and thought about using the above mentioned information in the list and bringing it to the country level, sub country level and also making it a participatory process: “We can go beyond risk assessment and get into context specific cases.”

Question: How would you marry the list with a participatory approach? A finite list would not be needed, but rather rigorous assessment criteria are needed.

Answer: A large amount of literature already exists over the past decades, but its just not called NELD. This list should not be prescriptive, but rather be brought to people and see where they place value.

Reporting back from Group 2:

Group 2 discussed why we talk about NELD in the first place, by listing a few goals:

- Bringing voices to marginalized
- Finding other institutions other than UNFCCC (UN bodies) that could be useful
- How to integrate into the national processes and development processes – not just the UNFCCC
- Broadening of what development is about, and bringing in a wider range of impacts to the discourse
- Adding stronger pressure to mitigation process

The group agreed that the policy instruments to address NELD will vary greatly depending on the different goals.

Specific policy instruments were brainstormed, such as liability and litigation aspects, on the ground policies (scales of utility), and building on existing environmental assessment models. A human rights approach should be advocated, but so should a development approach. The group discussed mainstreaming NELD into the NAP process and that the benefit of doing so is simply that NAPs already exist. However, they require a huge amount of resources and adding a NELD component to NAPs processes (that are already pushing people) might be problematic if it is not provided with significant support. Also, language could be a problem (i.e adaptation and L&D).

With regards to lists and categorization, the group highlighted the disadvantage of using system diagrams as they are so complex. A few questions arose:

- Is the lack of continuity an element of a loss?
- Issue of scale and systemic nature - does it have to be a large/small issue to be a loss? Systemic?
- Identity - how can we measure this? How do we accept this? How would communities accept this or not? What quantifies as a loss?

Reporting back from Group 3:

Group 3 refused to have a list. They started with the question of “what is NELD and what is not?”. Although they did not reach a positive definition, they stayed with something that is non-marketed. Perhaps something that at times it could be used or turned into a commodity.

Would a NELD item be irreplaceable in a cultural setting? Sometimes, non-marketed value may only reveal itself when it is lost, or be seen in very cultural specific contexts. The group agreed that it is intrinsic and subjective, seen as valuable, people centered, and that bio-diversity and ecosystem services are very important in this context.

There is a great deal of literature on loss of capabilities. NELD connects with cultural heritage. What we’re talking about here is intergenerational. Those at risk of suffering NELD need to be part of the assessment as well as the decision as to how many losses to we assess and how do we address them. This is ultimately very relevant to policy and governments.

Diagram on how an assessment process could look like: Avoid using items for it but rather rigorous criteria that guides whoever is doing these assessments (should be those at risk of suffering).

Limitations can further be explored regarding a proactive vs. reactive approach.

Recap and further remarks:

Question to participants: The first two groups were in favour of a list as it is useful for policy makers to have broader categories. Is this really true? It is a pre-requisite for policy to be able to respond to and identify NELD? Does policy need broad categories, or is it fine to live it context dependent?

Answer from participant: They require it. You don’t need a definition but you need some sort of categories, framework, and/or guidelines.

Comment from participant: Previous personal experience - It was impossible to get a doc. through without specifically naming capabilities (even though she was reluctant to do so).

Through the assessment of identifying approaches/categories, we could also develop a definition (we don’t need to come up with a definition now).

At the national level we need specificity. For example, what you would use for indigenous knowledge is very different from what you would use for loss of territory; there is certainly a place at the international level for having frameworks and guidelines. However, as you get the ground specificity is needed. Otherwise it’s just a pretty document but it can’t be implemented at the level where it is needed. For example, there is a plethora of literature on migration because it is a broad topic, yet information gets lost and losses affectivity.

- The more specificity at the global level, the easier it will be at the national lever (categorization is important)
- Presenting guidelines to to policy makers should include specificities on division of labor (who does what?). We cannot present policy makers with a methodology of what they have to develop and put into policy – that’s what we should be doing: “Specificity is needed, not a mechanism to develop specificity.”

This begs the question: Are we in the process where we could make recommendations that are then given to the WIM on how to do these assessments?

Comment/question from ExComm member: At the international level, what constraints might there be in terms of the ability to make requests, and how info might flow back and forth, and the possibility of providing guidance from the international level down to a regional/national level?

Overall there was a great consensus for creating space for specificity. There was disagreement on whether there should be a generic list to start with or if everything should be built from a participatory process and then categories will emerge from these processes.

Question from participant: Do we really think that we would come up with new categories other than the ones we have right now or would this be a waste of resources? If yes, then shouldn't we be spending our time fleshing out the specificity of these contexts? E.g. 'In this particular case dignity matters more than xyz...'

Comment from participant: The large framework could possibly match the generic categories that group on laid out. The most important thing is to bring this into a context and process with those that are actually affected. We have the literature and categories. These can be used to explain what we are actually talking about; we could use these items and elaborate on them. This is the most important experience that is not happening yet. This 'experience' is what is missing from the WIM, and we could bring it back to the WIM.

Comment from participant regarding the idea of risk: In a sense, this list of criteria or categories can address what has transpired but in some ways it should be preventative. If you engage with communities – are you limited to a response? E.g. If you have suffered 'these or that', you are at risk of suffering 'this'). We could look at it from the point of view as the risk of NELD, in order to avoid it. Adaptation precludes a loss and damage assessment.

Comment from participant: An example of the First Nations in Canada is given. Having initial frameworks is useful in helping them (communities) identify issues. It is important to bear in mind that people need to talk about their losses. There is something important in the saying itself and the voice itself. The danger of having this list is that it takes away this need for people to talk and tell stories. It may be messy, but it will have to be, because everyone will have to talk – that's just how loss is.

WRAP-UP AND CONSOLIDATION OF OUTCOMES FROM DAY 1

Olivia Serdeczny and Sander Chan wrapped up the fruitful day of presentations, discussions and brainstorming. They emphasized that we have reached a good starting point and that Day 2 will be more about the next steps that need to be taken. Some things that will be considered are: How do we raise the profile of NELD? What do we see emerging from this group? They invited participants to discuss products of the workshop, i.e. feeding some of the discussions into a paper. Another option might be to come up with a product from the workshop, such as a joint statement of recommendations. The participants were reminded that they may sign up for the open space in Day 2 to present their work and how it relates to NELD. They were also asked to think about concrete next steps and were prompted with the question: What would help us continue this discussion and keep it an open and inclusive dialogue?

WELCOME AND INTRO ON OBJECTIVES FOR DAY 2

The morning of Day 2 started with **Dr. Steffen Bauer** from the German Development Institute/Deutsches Institute für Entwicklungspolitik (DIE), who gave a brief introduction to the Klimalog Project at the DIE, which included listing the key five areas of the project:

- Global economic framework conditions (trade and investment interrelate with climate govt.)
- Political economy of de-carbonization
- Trade-offs between mitigation and adaptation, climate policy and sustainable development
- Climate Finance and multilevel governance
- Promoting science and policy dialogue – (NELD)

Referring back to Dr. Messner's opening talk on Day 1, Dr. Bauer also spoke of moral revolutions. He posed the question as to how we get to a moral revolution, and made reference to how Dr. Tschakert highlighted that the notion of 'us and them' still very much exists in our system.

Dr. Bauer emphasized that raising the profile of NELD is about getting the (NELD) message across within a policy-science interchange. He stated that creating such a dialogue among policy makers, decision makers, and ordinary people, may help bring about this moral revolution that we're looking for. The goal is to get to step five: "how could we ever accept that?".

Olivia Serdeczny briefly outlined what the Day 2 objectives were, acknowledged the demand for outcomes and main messages from this workshop, and encouraged participants to think about what the next steps might be to communicate to the outside world.

A BRIEF HISTORY OF NELD IN THE WIM – HOW IT GOT THERE AND WHY?

Juan Hoffmaister

Juan Hoffmaister was co-chair the UNFCCC Adaptation Committee. His research focus is on international environmental governance, particularly on adaptation to climate change and the evolution of policy mechanisms and institutions to support sectors vulnerable to global environmental change. Juan has completed field research on implementation of adaptation and disaster risk reduction activities, particularly on bottom-up adaptation to climate impacts and disaster risk reduction, working in partnership with host institutions in Fiji, Vietnam, and Namibia. He is currently focused on the creation of international policy instruments to incentivize adaptation and development synergies, including links with mitigation. He is also working on the evolution of adaptation institutions and governance in Latin America.

Juan Hoffmaister emphasized that it is important to focus on not only how to help the negotiators but also how to help the mechanism and the community. This conversation has been very political so far and we need to move towards recognizing the importance of executive action and delivering solutions.

Regarding the context of vulnerable groups in the convention, it was in 2010 that the first discussion on loss and damage occurred and with it a climate risk insurance mechanism as outlined in the Cancun Adaptation Framework. Subsequently, a realization came about that there is a whole lot more that needs to be talked about than just risk insurance (and financial losses):

“The recognition that in many developing countries, NELD may be more significant than LD; this aspect, along with this realization, became very central.”

Mr. Hoffmaister remarked that both NELD and slow on-set events make this conversation unique. He stated that, “people become paralyzed by uncertainty; we need to try to be okay with this [uncertainty] and move forward.”

He said we should look at societies that have been dealing with NELD already, in particular through tort and civil law, and find out how NELD have already been addressed in such cases. Mr. Hoffmaister warned that we may need to move away from the “obsession to quantify” NELD, as it may prove useless, and instead find a common space to begin to discuss other approaches to find solutions to these issues. He mentioned the growing displacement and migration research communities who are also working on these topics.

He posed the question as to how we can address issues for which there is no precedent, i.e. international law and the loss of territory. It is these types of questions that the WIM will be working on. Two specific goals of the WIM are to (1) raise awareness, and (2) establish an expert group (which will need to be able to bring to the table the needs of those who are most affected).

Questions and Answers

Question 1: Has there been thought given regarding the adaptation committee working with the committee of the WIM?

Question 2: Where does loss and damage sit right now in the convention? Is it in the adaptation framework? Is it happy there? Does it want to be its own unit? What’s going on?

Response 1: Adaptation committee has been mandated to be involved, and they are trying to integrate cooperation into the next workplan (more systematically). Yes, there are opportunities and recognition for the need to explore synergies.

Response 2: There will be a review in 2016 under the adaptation framework. Mr. Hoffmaister is not personally concerned whether it is under one or the other, as long as it is under the framework of the climate convention: “As long as it is connected to the objective of the convention, I don’t think we’re limited.” It’s too early to say whether it is happy there or not. Hopefully over the next years we will see the limitations to where it is at the moment. It shouldn’t be constrained by being under the Cancun adaptation framework (CAF), as long as it is connected to the convention and sits under article 2.

Question/Comment 3: From an assessment point of view, what about integrating NAPS in the process? If this is done, the ways to address residual will be very different than adaptation.

Response 3: Even if we are doing things jointly, it doesn’t mean they are the same. It is important to understand the 2 scenarios (assessment impacts under 2 degrees, and assessing those that go beyond that). Possible coordination mechanisms in the future to address synergies between adaptation and LD are expected. Again, it all shouldn’t be construed as being the same. Sometimes it helps to start with doing things together – especially when there is still so much uncertainty.

OPEN SPACE: RESEARCH ON NELD AND LESSONS LEARNED

In his presentation during the open space **Prof. Salif Diop** from the Senegal Academy of Sciences and University of Dakar brought the African context to the forefront. He spoke about achieving sustainable development without a large environmental footprint, and the importance of bringing issues such as NELD to the broader sustainability discussion. He stressed the need for developing training for green jobs and fostering people's capacity to understand and move forward, and stated that the great challenge is how to continue the conversation of NELD.

Besides GDP we have to consider other factors; the natural capital - social, and capacity building in relation to the creation of green jobs, indicators for low carbon economy and sustainable management of resources).

Two recommendations he presented the workshop participants with are as follows:

- Adoption and integration of environmental accounts that will supplement national accounts and will enable tracking and monitoring of physical fluxes of ecosystem services initially, and then to analyze the links between the use of natural resources and economic sectors for monetizing these assets in a second stage;
- The importance of investing in the development of the capacity of national institutions (statistics and environmental) to collect data on the physical and monetary accounts.

Stephanie Andrei from International Centre for Climate Change and Development (ICCCAD) gave a presentation on a study undertaken by ICCCAD, 'Non-Economic Loss and Damage Caused by Climatic Stressors in Selected Coastal Districts of Bangladesh'. The objective the study was to find out: 'What do non-economic losses and damages entail? What types of questions do we need to ask?'. Some methods used involved desk based research, community-level FGDs and KIIs, KIIs with Union/Upazilla level officials, and a stakeholder consultation workshop. Ms. Andrei gave examples of reasoning against contingent valuation methods and explained that the project did not attempt to quantify non-economic losses and damages. She relayed personal stories documented from people who had suffered NELD in the region, including health impacts, loss of food and fond memories, and cultural impacts. She concluded by offering the following recommendations:

- Thorough **analyses** are needed to **understand the immeasurable losses at the local level** as well as the creation of a **library** so as to collect future data on economic and non-economic losses and damages;
- Based on these findings, a strategy and action plan should be developed and **related pilot projects and programmes** need to be undertaken at the field level;
- **Pilot projects and programmes** would provide the related data and information, including on financial and technical aspects, for assessing and addressing loss and damage, which will ultimately **create a knowledge base** for providing guidance to adopt the policies at the national level;
- It is important to take initiative for regional and international collaborative efforts to deal with loss and damage resulting from climate change. This **bottom up approach** will also be useful for designing regional and international policy frameworks;

- All these aforesaid processes for adopting policies, legislations and institutions to address loss and damage including non-economic loss and damage can be delivered by a **National Mechanism**, which need to be established in Bangladesh without delay.

Vositha Wijenayake from Climate Action Network South Asia gave a presentation on ‘Enhancing the Capacity of Policy Makers on Loss & Damage & Slow Onset Events’. Ms. Wijenayake highlighted the needs for this work by reminding participants that the concept of loss and damage and slow onset events is new to many and the integration of it to developmental policies is needed. She emphasized the need for multi-stakeholder mobilization, spreading awareness on loss and damage, and sensitising, engaging and building capacity of stakeholders. Some of the key activities of her work in India, Sri Lanka, Nepal are:

- Preparing country specific background notes on slow onset events.
- Collating related information in the form of modules to build capacity on integrating L&D perspective, especially slow onset events, in DRR, CCA and development strategies
- Organizing capacity building workshops in 3 countries and one regional workshop to discuss the slow onset impacts and approaches to address loss and damage
- Sharing learning of the outcomes of national and regional consultations at appropriate forums to inform policymaking processes.

Mari-Josee Artist spoke of community based research in Suriname. The initiative started because of CBD Article 10C that states that indigenous peoples should conduct their own studies. With the Association of Indigenous Village Leaders in Suriname (VIDS), she has worked with indigenous communities in 5 regions in Suriname. The experience has been successful and produced a good framework and insight on how to work with communities on doing research. She mentioned how UNFCCC language is difficult to translate and how important it is to speak the language of the people you are working with, while letting them know what you want to speak about.

They know a lot about climate change and have been resilient. The problem is that everything is changing at a very fast tempo; people in the communities are not able to adapt quickly enough.

Ms. Artist mentioned how it is important to sit with people after you have talked with them about these subjects, and to remain flexible with interview approaches. She stressed that communities should choose their own researchers; “let them do the work; they need to learn about the skills and we have to teach them how to do research”. Communities and their reserachers should be also be the ones who design the questions – categories are good but they need to be broad and flexible. Ms. Artist mentioned that some experienced problems with reporting and often needed to assist with the drafting of reports. She also highlighted that verification is important, especially when working with local communities, to avoid conflicts.

Dr. Stuart Kirsch discussed his experience conducting research on the impact of mining on indigenous communities in Papua New Guinea, including NELD. He told of practical measures that were used to try to compensate for the losses, i.e. a village wanted a soccer stadium and another wanted a bridge or street lights. These were built by the company though they did not address the losses that people felt. He stressed how difficult it is to measure the impacts and losses people suggest, and that it is important to get into the communities to do the research. In order to address problems such as generation gaps (grandparents didn’t know what their grandchildren’s lives were like), “you need to work with them to develop ideas on what might work”. From Dr. Kirsch’s experience, the communities that did the best with compensation were the ones that pooled their money together (as opposed to individuals being paid) among lineage members and then spent it on business. He emphasized the significance of compensation that generates for the future.

Kashmala Kakakhel gave a presentation on research methodology and monetization methods, namely contingent valuation. Contingent valuation works by asking participants about their “willingness to pay” for a given product or item or the amount of compensation for which they would be “willing to accept” for the loss of a given product or item. She discussed her experience conducting research in Pakistan. Results showed large divergence in results between both methods. Ms. Kakakhel argued that if you use a method, it can be quantified in some form, and emphasized the fact that the research must first understand what is the data is intended to be used for. Despite the large divergence in results, she argued that contingent valuation could still be deployed to estimate the relative value or weight of different categories of loss.

Harjeet Singh spoke to the group about looking at the entire gamut of responses we need. He highlighted his work in seven villages in South and Southeast Asia, which combined science (desk research and climate modeling) with community research (focus group discussions). He stressed that impact matters in communities, not mere temperature numbers and impact scenarios.

He mentioned that when asked about NELD, people would talk about economic losses.

NELD are personal. Thus, it is really important to spend time with people and build relationships with people.

Mr. Singh reminded the workshop participants that researchers should use participatory approaches and talk with the communities to develop solutions within a complex system. He gave an example of teaching women to swim whilst wearing the sari.

DISCUSSION STARTER: METHODS FOR ELUCIDATING NELD

Dr. Kees van der Geest

Dr. Kees van der Geest is human geographer, specialized in studies of migration, environment, development, livelihood and climate change (vulnerability, impact, adaptation, loss & damage). He has extensive fieldwork experience, mostly in Ghana (5 years), but also in Burkina Faso, Vietnam, Bangladesh, Nepal and Bolivia. Currently he works as Associate Academic Officer at UNU-EHS in Bonn, coordinating the work on “Loss and damage associated with climate change impacts” leading and managing a 5-year research-to-action project about livelihood resilience in Bangladesh. He likes to believe that his work on loss and damage in rural Africa, Asia and the Pacific – with Dr. Koko Warner and national research teams from 12 countries – influenced the establishment and focus of the UNFCCC WIM.

In order to underline the personal value component of NELD and the inherent difficulties of quantifying NELD in monetary terms, Dr. van der Geest opened his discussion starter with the question: What would you take from your house in the case of a fire? The value of what you would save from the flames is most likely non-economic.

He discussed his experience researching loss and damage with the UNU-EHS, and the presence of NELD in the IPCC 5th Assessment Report, and then went on to discuss various methods used for assessing NELD. He argued that methods depend on objectives, i.e. addressing loss of cultural heritage may call on anthropologist expertise, whereas addressing the loss of ecosystems may require biologists. Moreover,

knowing whether the research at hand is addressing the actual or potential NELD (e.g. planning purposes) is crucial.

Assessing L&D involves: Measuring what is measurable and understanding or qualifying what is not.

Dr. van der Geest highlighted that method selection depends on a great number of things:

- The type of NELD
- The type of climate-related stressor
- Scale (household, community, regional, national, global)
- Timing of Assessment (during, directly after, or some time after the event)
- Study Location (e.g. rural or urban, high or low income country)
- Working definition of Loss and Damage
- Time and Budget

After giving examples of his work in Gambia and Burkina Faso, Dr. van der Geest offered insights on the implications of quantifying NELD in monetary terms through a statement made to the group for continued discussion:

Expressing NELD in monetary terms is not necessary if the aim is to minimize future L&D and find humane solutions for unavoided L&D. What is more: it may have perverse implications.

BREAK-OUT GROUPS: DRAFTING A RESEARCH AGENDA FOR NELD – AND MAIN MESSAGES TO TAKE FROM WORKSHOP

Olivia Serdeczny presented the group with two topics to discuss during the break-out session:

- Drafting a NELD Research agenda
- The main message to take to the outside community

She then elaborated on the context of these topics and listed three roles of NELD in the climate change context, taken from the discussions at the workshop.

- (1) moral push for more stringent mitigation targets and action (communication; increasing awareness)
- (2) an assessment framework to avoid future loss and damage beyond the market (ex-ante mainstreaming NELD in adaptation planning; comprehensive risk management)
- (3) an assessment framework for valuing residual climate impacts (ex post recognition; compensation; restoration)

A short group discussion regarding the 'roles' of NELD ensued before the participants split into three smaller groups.

One participant supported generating focus to #3. Another participant echoed this stance and emphasized the need to recognize the role that NAPs can play in this process. Some participants stressed the importance of #1. Others mentioned that we should be careful of using compensation with regards to #3 as developed countries will back down. Another participant mentioned that it is still not clear that we are doing adaptation or development very well and for this reason it may be premature to jump to #3 without properly looking at #2. Regarding #1, one participant noted that the discussion between 1.5 and 2 degrees automatically becomes very political and takes us away from research. Olivia Serdeczny mentioned that efforts could be made to maximize two in order to minimize 3. Another participant suggested that “valuing” in #3, be changed to understanding and addressing.

One last comment before splitting into groups was made; although Annex 1 countries may not want to talk about compensation, in a group of researchers we need to enhance the understanding of NELD and role #2 to develop approaches to deal with NELD. We will need to come up with a wide range of approaches. There is a political context, but this is also a broader range of academic context:

Compensation is not a panacea – but we shouldn't cut it off by smushing this into political arena, and then lose the richness in the academic arena.

Report back from breakout groups

The following main messages were first brainstormed by members of one breakout group, and later elaborated on by all participants in a plenary discussion. Please see Annex 1 for a complete version of the 'Key Outcomes' document.

Main messages and recommendations for policy makers and civil society

1. NELD has negative effects on social resilience to climate change and undermines sustainable development.
2. By taking NELD into account, the toll of climate change increases and calls for stronger mitigation efforts.
3. Assessing NELD involves value judgments and represents a moral challenge to ensure values of those affected are respected and accounted for. A number of research- and assessment approaches have been developed that allow for such inclusivity (e.g. capability approach). Those should be called for in assessments.
4. Affected people can best articulate what their losses are. Capacity building is needed to assess and operationalize this knowledge. .
5. Adaptation planning and risk management should include participatory NELD assessments, without necessarily pricing results into cost-benefit analyses. Instead, alternative decision-making criteria should be explored.
6. Irreversible NELD requires qualitatively different responses than adaptation and risk management.
7. More space should be created, and resources increased, to allow for a discussion of NELD and to increase the awareness of NELD in communities, countries and negotiation processes.
8. Developing solutions to NELD will have wider benefits, including on social resilience to future stress.
9. Synergies with related discussions, including on sustainable development goals, should be identified.

Main messages for research community

1. Research results on NELD are likely to be relevant in the political context, which ought to be recognized.
2. More (peer-reviewed) studies on NELD are needed, including a better geographical representation and a treatment of the extent to which climate change is a driver of observed changes.
3. The wider literature related NELD needs to be systematically reviewed to provide a first repository of the different NELD items and their relative weights in different regions.
4. More empirical work on the limits of adaptation is needed.

5. Better conceptual understanding of NELD, their characteristics, causal pathways and interactions with economic impacts is needed.
6. The causal link between anthropogenic climate change and NELD merit further interdisciplinary debate.
7. Understanding NELD and their societal effects requires systemic approaches.
8. There are limitations to the monetization of NELD. Sensitivity to the risks of monetization is required.
9. The best way to capture NELD is through transdisciplinary research, applying participatory approaches and community-driven assessments.
10. Community-driven assessments of NELD can foster high acceptance of adaptation measures among the affected communities.
11. Methods for quantifying irreversible NELD need to be developed, but also need to be critically discussed.
12. Synergies of NELD research with other scientific discussions, including on planetary boundaries, sustainable development and the climate impacts community, should be identified.
13. Greater emphasis is needed on research from a holistic perspective that addresses the integrated or interconnected nature of NELD.

WRAP UP & OUTLOOK ON FOLLOW-UP ACTIVITIES

Olivia Serdeczny & Sander Chan wrapped up the workshop by thanking the participants for the valuable contributions and discussing the way forward for the NELD community. A 'working-lunch' meeting was held by some participants to map out possible steps forward for the NELD network, including: offer support to WIM ExComm; write up and distribute a summary of main NELD research questions in research community; pursue broader NELD dimensions within research community; and scope and engage with potential funders.

ANNEX 1 – KEY MESSAGES

Non-Economic Loss and Damage – What is it and why does it matter?

On 26-27 August 2015 more than 40 researchers and policy makers participated in a workshop on non-economic loss and damage (NELD) in the context of the United Nations Framework Convention on Climate Change (UNFCCC), organized by the German Development Institute / Deutsches Institut für Entwicklungspolitik (DIE) in cooperation with Climate Analytics and United Nations University – Institute for Environment and Human Security. This briefing paper summarizes the workshop outcomes and provides main messages for policy makers, the research community and the wider public. [It is based on input by participants but does not present a consensus view on the subject.]

Participants engaged in a discussion on addressing NELD in the context of the UNFCCC. The emerging discussion on NELD helps to broaden the view of climate impacts beyond adaptation limits and highlights what climate change means to those affected. It pushes policy-makers and researchers to think critically about the climate impact indicators we use and about whose rights and perspectives count in defining dangerous climate change.

What is NELD?

NELD refers to the adverse consequences of climate change, that have not been or cannot be adapted to,⁷ on items (both tangible and intangible) that are not traded in markets.

The following broad categories of NELD have emerged from the current literature

- Human Life
- Identity
- Biodiversity
- Ecosystem Services
- Education
- Health (including mental health)
- Sovereignty
- Culture (including built sites and traditional knowledge)

These categories should not be understood as a finite list. They need to be refined if they are to drive local action to address NELD, and new categories may emerge through further research. Importantly, NELD items are interrelated. Losses and damages, both material and non-material, both economic and non-economic, reverberate throughout societies. If categories remain isolated the interconnectedness of human experiences is lost to any kind of analysis or understanding.

Notably, the political definition of loss and damage includes adverse effects of climate change that can be reduced through adaptation⁸. This means that NELD includes both potential losses and damages, which can be minimized, and residual losses and damages, which cannot be reduced. Measures to address NELD can accordingly be distinguished as to whether they aim at *avoiding* NELD or at *responding to* NELD.

NELD occurs as direct or indirect consequences of climate change, including through negative side-effects of adaptation, and their nature and scale will depend on social context and exposure to climate change. Given that economic theory does provide for such items, they could be more accurately described as non-marketed

⁷ Un-adaptability here is understood to be reached at adaptation limits, as defined by the IPCC 2014 (Klein et al.): *Adaptation limits*: The point at which an actor's objectives or system's needs cannot be secured from intolerable risks through adaptive actions, currently (soft limits) or in principle (hard limits). Further discussion is needed about adaptation constraints, which hinder the implementation of available adaptation options, and their role in the definition of loss and damage and NELD in particular.

⁸ In Decision 2/CP.19 Parties acknowledges „that loss and damage associated with the adverse effects of climate change includes, and in some cases involves more than, that which can be reduced by adaptation“.

loss and damage. However, 'non-economic' has political relevance, as these items are referred to as such under the Warsaw International Mechanism for Loss and Damage (WIM).

NELD items are characterized by the fact that their loss makes a substantial and permanent difference to the wellbeing of those affected. Various frameworks can be applied to understand and categorize NELD, including the capability approach (Sen 1985; Nussbaum 2011) or a human rights-based framework. Limitations of capabilities or violations to human rights could accordingly be used as criteria to define NELD.

Why does it matter?

In some cases NELD matters because they hold intrinsic value to certain communities (e.g. the intrinsic value of nature). Not accounting for NELD would raise questions of justice and, in decision-making based on cost-benefit analyses, would imply their value to be equal to zero. At the same time most NELD items are of instrumental value as they foster climate resilience and enable communities to organize on their own behalf: a well-integrated community bonded through mutual trust, traditions and daily customs is better able to plan and solve problems effectively than a stressed group of individuals who no longer feel connected to others or familiar in their world. Finally, NELD can exacerbate economic loss and damage, and undermine sustainable development in the long term: an island state will be more exposed to storm surges once its coral reefs have been irreversibly degraded and the economic toll of tropical hurricanes will rise.

What is the political context?

Three roles of NELD in the context of the UNFCCC have been discussed during the workshop:

1. *An argument for stronger mitigation*

If NELD is taken into account, the toll of climate impacts would correct upwards at any given level of global warming, as implied by the IPCC: "Disaster loss estimates are lower-bound estimates because many impacts, such as loss of human lives, cultural heritage, and ecosystem services, are difficult to value and monetize, and thus they are poorly reflected in estimates of losses." (IPCC 2014, WG2, SPM, p.19). This provides an argument for stronger mitigation efforts as the benefits of mitigation rise (in terms of avoided damage costs) and the safeguards of avoiding dangerous climate change are recognized to be well below 2°C or even 1.5°C average global warming above pre-industrial levels.

2. *An assessment framework for avoiding NELD*

Disaster and climate risk management are often suggested as instruments to avoid NELD. Similarly, it has been suggested that an assessment of expected NELD ought to be mainstreamed into adaptation planning so as to avoid both direct NELD from climate change and NELD as adverse consequences of adaptation. Indeed, at the ex ante assessment stage, there is overlap between adaptation to climate impacts and a framework aimed at avoiding NELD.

3. *An assessment framework for responding to NELD*

In line with the IPCC, which states with *very high confidence* that "some risks from residual damages are unavoidable, even with mitigation and adaptation" (IPCC 2014, Synthesis Report, p. 78), the concept of NELD is based on the acknowledgement that some climate impacts cannot be reduced by adaptation (see Decision 2/CP.19). Following this reading, response measures need to be designed in a manner that appreciates the irreversibility and permanence of losses. NELD thus requires different responses to cope with permanent losses that cannot be addressed by adaptation or disaster risk management.

What is the challenge?

The value of NELD is highly context-dependent (loss of land may mean a substantial loss of identity to one person and a mere nuisance of having to relocate to another) and some items may be deemed irreplaceable. This renders comparability and monetary assessment difficult. Given that many NELD items do often not occur in distinct units and monetary value is not available, quantification is often equally problematic. The challenge will thus be to assess NELD in a way that is sensitive to context and different value-systems, whilst still integrating it into decision-making processes that typically rely on a quantified and/or monetized

information basis. At the same time, decision-making needs to factor in the risks of NELD if solutions are to meet the needs of those affected. While this insight may not be new, it still remains to be translated into action - designing an institutional framework around loss and damage is an opportunity to do so.

Main messages and recommendations for policy makers and civil society

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12. Synergies of NELD research with other scientific discussions, including on planetary boundaries, sustainable development and the climate impacts community, should be identified.
13. Greater emphasis is needed on research from a holistic perspective that addresses the integrated or interconnected nature of NELD.

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UNFCCC, Decision 2/CP.19 (available at http://unfccc.int/documentation/documents/advanced_search/items/6911.php?preref=600007788)

ANNEX 2 – SIMON CANEY HANDOUT

Climate Change and International Justice – A Human Rights Based Approach to NELD Professor Simon Caney University of Oxford simon.caney@magd.ox.ac.uk

Aim: to explore the potential of a human rights approach for analyzing non-economic loss and damage.

Structure

I: Introducing Human Rights

II: Climate Change as a Threat to Human Rights

III: A Human Rights Approach to Noneconomic Loss and Damage

IV: Implications and Role of a Human Rights Based Account of Noneconomic Loss and Damage

V: Advantages

VI: Concluding Remarks

VII: Bibliography

I: Introducing Human Rights

I.1. Human Rights =

Legal version – rights recognized in the *Universal Declaration of Human Rights*, *International Covenant on Economic, Social and Cultural Rights*, *International Covenant on Civil and Political Rights*, etc.

Moral version – “human rights specify minimum moral thresholds to which all individuals are entitled, simply by virtue of their humanity, and which override all other moral values” (Caney 2010)

- (i) *Humanity*: rights held by persons in virtue of being a human being
- (ii) *Moral Thresholds*; they represent moral thresholds below which persons should not fall;
- (iii) *Universality*: they are held by each and every person
- (iv) *Priority*: generally enjoy priority over other values

Grounding: protect values of freedom, respect for persons, and ‘capabilities to function’ (Sen and Nussbaum).

1.2 Contrasts

with economic approaches for valuing activities - such as Cost Benefit Analysis, which *aggregate* benefits and costs.

II: Climate Change as a Threat to Human Rights

II.1. The relationship between climate changes and human rights

the ‘Malé Declaration on the Human Dimension of Global Climate Change’ invoked “the fundamental right

to an environment capable of supporting human society and the full enjoyment of human rights”. Small Island Developing States - adopted this resolution on 14th November 2007.

http://www.ciel.org/Publications/Male_Declaration_Nov07.pdf

ICHRP International Council on Human Rights Policy *Climate Change and Human Rights: A Rough Guide* (2008).

Human Rights Council

* 28 March 2008: the HRC passed a resolution which expressed concern that “that climate change poses an immediate and far-reaching threat to people and communities around the world and has implications for the full enjoyment of human rights” (Council Resolution 7/23) – (Human Rights Council 2008).

* 25 March 2009: HRC passed Resolution 10/4 (Human Rights Council 2009) which notes “that climate change-related impacts have a range of implications, both direct and indirect, for the effective enjoyment of human rights including, inter alia, the right to life, the right to adequate food, the right to the highest attainable standard of health, the right to adequate housing, the right to self-determination and human rights obligations related to access to safe drinking water and sanitation, and recalling that in no case may a people be deprived of its own means of subsistence” (Human Rights Council 2009, preamble).

OHCHR

Office of the United Nations High Commissioner for Human Rights (2009) *Report of the Office of the United Nations High Commissioner for Human Rights on the relationship between climate change and human rights*. (A/HRC/10/61) 15 January 2009).

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The Cancun Agreement states in its preamble that: “*Noting* resolution 10/4 of the United Nations Human Rights Council on human rights and climate change, which recognizes that the adverse effects of climate change have a range of direct and indirect implications for the effective enjoyment of human rights and that the effects of climate change will be felt most acutely by those segments of the population that are already vulnerable owing to geography, gender, age, indigenous or minority status, or disability,” (UNFCCC 2010, preamble).

More recently:

(i) the Joint statement by UN Special Procedures on the occasion of World Environment Day (5 June 2015) on ‘Climate Change and Human Rights’. See

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16049&LangID=E>

(ii) International Bar Association: International Bar Association Climate Change Justice and Human Rights Task Force (2014) *Achieving Justice and Human Rights in an Era of Climate Disruption*, the International Bar Association Climate Change Justice and Human Rights Task Force Report.

(iii) Ad Hoc Working Group on the Durban Platform for Enhanced Action: ‘Annex II - Co-Chairs’ Tool: A Non-Paper Illustrating Possible Elements of the Paris Package’ of the ‘Scenario note on the tenth part of the second session of the Ad Hoc Working Group on the Durban Platform for Enhanced Action: Note by

the Co-Chairs, 24th July 2015’. <http://unfccc.int/resource/docs/2015/adp2/eng/4infnot.pdf>.

II.2. Examples

Human Right to Life - affirmed in *Universal Declaration of Human Rights* (1948), Article 3; and *International Covenant on Civil and Political Rights*, (1976), Article 6.1.

Human Right to Health – *International Covenant on Economic, Social and Cultural Rights* (1976) - "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health" (Article 12.1); *Universal Declaration of Human Rights*, Article 25.1.

Human Right to Food - *Universal Declaration of Human Rights* Article 25.1; *International Covenant on Economic, Social and Cultural Rights* asserts "the right of everyone to an adequate standard of living for himself and his family, including adequate food" (Article 11.1) and "the fundamental right of everyone to be free from hunger" (Article 11.2).

Human Right to Adequate Housing – *Universal Declaration of Human Rights* Article 25.1; *International Covenant on Economic, Social and Cultural Rights*, Article 11.1. * Committee on Economic, Social and Cultural Rights (CESCR), General Comment 4 on ‘the right to adequate housing’ (1991) emphasizes “security of tenure” and “cultural adequacy” (para 8) * CESCR: General Comment 7 on “forced evictions” (1997) as “permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy”.

(Moral) Human Right not to be Involuntarily Displaced. [For closest legal concept see the Guiding Principles on Internal Displacement (1997). Article 6.1 states that “[e]very human being shall have the right to be protected against being arbitrarily displaced from his or her home or place of habitual residence.”]

Human Right to Self-Determination - *International Covenant on Civil and Political Rights* Article 1.1 (“All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.) and *International Covenant on Economic, Social and Cultural Rights* Article 1.1

III: A Human Rights Approach to Noneconomic Loss and Damage

III.1 A ‘Human Rights’ Based Approach to defining Loss and Damage:

The claim: there needs to be some criterion for defining what constitutes loss and damage, and the concept of ‘human rights’ provides such a criterion.

Mitigation = reducing anthropogenic forcing: (through reducing emissions and/or enhancing sinks) to prevent climatic threats to human rights.

Adaptation = social and economic policies which prevent climatic changes from undermining the enjoyment of human rights

Loss and Damage = the harms to the enjoyment of persons’ human rights that result from climate change because of inadequate Mitigation or Adaptation or both.

III.2. Observation: examples of ‘non-economic loss and damage’ given in the literature can be accounted for from a human rights point of view

Fankhauser, Dietz and Gradwell (2014). They list

- i. “Loss of life” (p.29) – cf human right to life.
- ii. “Health” (pp.29-30) – cf human right to health.
- iii. “Mobility” (pp.30-31) – cf human right not to be forcibly displaced. A rights approach captures the significance of “security” and “agency” (p.31). Displacement also leaves people vulnerable to having other human rights violated (and often involves threats to health, including psychological health).
- iv. “Territory” (pp.32-33) and v. “Cultural Heritage” (p.33) – human rights to self-determination and to minority rights
- v. “Indigenous and local knowledge and other social capital” (p.33-34). These have value, in part, because of their contribution to the enjoyment of other human rights. For example: social capital – right to democratic participation. Loss of “local knowledge” – increased vulnerability of human rights to food, water, housing.
- vii. “Biodiversity” (pp.34-36) – biodiversity loss undermines human right to health.
- viii. “Ecosystem Services” (pp.36-38) “freedom of choice and action” – these are the key values of a human rights approach

UNFCCC (2013): “Non-economic losses can be understood as losses of or related to, among other things, life, health, displacement and human mobility, territory, biodiversity, ecosystem services, cultural heritage, indigenous/local knowledge and other social capital.” (para 46, p.12).

Another example: from Bangladesh Centre for Advanced Studies (BCAS) (2015) *Non-Economic Loss and Damage Caused by Climatic Stressors in Selected Coastal Districts of Bangladesh*. This cites effects on education as an example of noneconomic loss and damage: records how climate change results in destruction of, and damage to, primary schools; loss of considerable periods of time in education (sometimes more than a year) (pp.36-37). corresponds to human right to education (*Universal Declaration of Human Rights*, Article 26).

Morrissey and Oliver-Smith (2015): “Loss of Life; Adverse health impacts; Loss of culturally important landscapes; Habitat destruction; Biodiversity loss; Destruction of cultural sites; Loss of identity and ability to solve problems collectively; Loss of knowledge/ways of thinking that are part of lost livelihood systems; Territory Abandonment; Decline of (indigenous) knowledge; Social cohesion; Peacefully functioning society” (Figure 1, p.11).

Conclusion: Non-economic loss and damage often takes the form of

- (i) undermining the enjoyment of human rights (loss of life, health, displacement, land) [*direct*] and/or
- (ii) undermining the social, cultural and environmental preconditions of the enjoyment of human rights (eg biodiversity loss, social capital and cohesion) [*indirect*]

IV: Implications and Role of a Human Rights Based Account of Noneconomic Loss and Damage

IV.1. Forward Looking Role

As a target for mitigation and adaptation – to reduce loss and damage (as stressed by Juan P. Hoffmaister, Malia Talakai, Patience Dampney & Adao Soares Barbosa (2014) ‘Warsaw International Mechanism for loss and damage: Moving from polarizing discussions towards addressing the emerging challenges faced by developing countries’).

IV.2. Backward Looking Role

As a basis for liability and compensation

V: Advantages

1. *Limitations of other Metrics*. Monetization does not capture the value of loss and damage. Economic measures (eg revealed preferences or stated preferences) are subject to well-known objections (putting a price on values that should not be monetized; incommensurability). As Fankhauser et al concede, economic valuation rests on a commitment to utilitarianism (2014, p.45: also UNFCCC 2013 para 128, p.41).
2. *Justice*. A human rights approach recognizes that what people are owed is a matter of *justice*, not charity or benevolence, but their *rights*. It can also explain why compensation is owed: it is because people’s rights have been violated.
3. *Protecting Vulnerable Individuals and Minorities*. A human rights approach gives voice to the voiceless, and respects the value of each and every individual.

4. *Political resonance*: Human rights have strong motivational and political significance.

Also

5. A human rights framework can be operationalized to measure and assess extent of loss and damage.

Literature on measuring the fulfillment of human rights

eg Social and Economic Rights Fulfillment (SERF) Index uses indicators of enjoyment of health, life, etc (relative to what is feasible in a given country) Sakiko Fukuda-Parr, Terra Lawson-Remer & Susan Randolph (2009) 'An Index of Economic and Social Rights Fulfillment: Concept and Methodology'.

Sakiko Fukuda-Parr, Terra Lawson-Remer, and Susan Randolph (2015)

Fulfilling Social and Economic Rights

Also: Todd Landman and Edzia Carvalho (2010) *Measuring Human Rights*.

However 6. may not be able to capture *all* the ethically relevant effects of climate change. eg non-anthropocentric values.

VI: Concluding Remarks

What is needed is an account as to what constitutes non economic loss and damage. A human rights approach can provide a definition of noneconomic loss and damage. It is *normatively appealing* (avoids problems with economic valuation; captures why it is a matter of justice); can be *measured and assessed*; and *corresponds with paradigmatic cases of noneconomic loss and damage*.

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