



Addressing Loss and Damage Resulting from Climate Change via the Warsaw International Mechanism under the United Nations Framework Convention on Climate Change

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The Nokoko journal is committed to a world where people are free from all forms of oppression and exploitation, where respect for individuals' varied differences is maintained, and where everyone can realise their full potentials. NokokoPod is a companion to the journal, covering current African issues. It aims to bring forth new perspectives that broaden, trouble, complicate and enrich current discourses. Edited and annotated versions of the conversations will be made available on the journal website.

This issue of NokokoPod covers loss and damage resulting from climate change. The podcast for this discussion is available on the Nokoko journal website. This conversation took place on November 27th, with Logan Cochrane in Canada, Erin Roberts in Spain, David R. Boyd in Canada and Idy Niang in Spain. This version of the PDF has

been reviewed by Logan Cochrane, Erin Roberts, David R. Boyd and Idy Niang. In addition to the conversation, a set of annotations have been added as footnotes so as to strengthen the value of these publications and enable them to act as a resource for listeners and readers who want to have additional context and/or find additional resources on the topics discussed.

Logan: Welcome to NokokoPod episode #13 of 2019. Earlier in the year when we asked for topics that people were interested in, one of them was around climate change and specifically around loss and damage. Fortunately, today we are joined by four people who will speak to us about loss and damage, what it is, where it comes from and where it sits within the current climate conversations. The four people who we are joined with are Dr. David Boyd,¹ who is the UN Special Rapporteur on the environment and human rights, and is also professor at the University of British Columbia, and who has recently authored a report on aspects related to loss and damage.² We are joined also by Erin Roberts,³ who is a researcher and consultant at the Climate Leadership Initiative, and also with the International Center for Climate Change and Development, as well as an affiliate with the Overseas Development Institute and has been working with the African Group of Negotiators on loss and damage issues. We are also joined by two members of the African Group of Negotiators.⁴ Idy Niang is with us and hopefully we will be joined by other, Alpha Oumer Kaloga, who is on his way.⁵ We will jump right into things. I would like to start with you, David, and maybe to bring us all up to speed and on board with some of the terminology and where it comes from. Could you tell us a little bit about where the UN Framework Convention

¹ For additional information on Dr. David R. Boyd, see: www.davidrichardboyd.com

² <http://srenvironment.org/report/a-safe-climate-human-rights-and-climate-change>

³ For additional information on Erin Roberts, see: <https://www.odi.org/experts/1705-erin-roberts>

⁴ For additional information on the African Group of Negotiators on Climate Change, see: <https://africangroupofnegotiators.org/>

⁵ Alpha Oumar Kaloga was unable to join us for this conversation.

on Climate Change (UNFCCC)⁶ sits in the bigger picture of things in the climate change space and then specifically how loss and damage came about? And its framing regarding harms caused and appropriate responses.

David: That is a pretty big set of questions. I really would defer to the expertise of people like Erin, Idy and Alpha, who have much longer experience in this realm than I do. The United Nations Framework Convention on Climate Change (UNFCCC) was negotiated in 1992, as a means of addressing this global environmental threat. We have 27 years of experience under our belt. And yet, if you look at what has changed between 1992 and 2019, we have seen a complete failure to respond adequately to this global challenge. Greenhouse gas emissions, which were supposed to be reduced pursuant to the UN Framework Convention on Climate Change, have grown by about 65% in the ensuing 27 years; coal use is up 68%; oil use is up 33%; natural gas use is up 82%.

On the specific topic of today's discussion, loss and damage, there have been discussions at the United Nations for 27 years about this issue, but really no tangible progress. The idea behind loss and damage is that while there are climate impacts that we are trying to avoid through mitigation (e.g. through reducing deforestation, reducing greenhouse gas emissions and reducing the impacts of industrial agriculture) and then there is the adaptation side, which is taking steps to make people more resilient to the impacts of climate change. Despite whatever we do in

⁶ The United Nations Framework Convention on Climate Change (UNFCCC) was established in 1992, the same year when the UNFCCC Secretariat was established. The Secretariat facilitates the intergovernmental climate change negotiations. It also provides technical support, which includes the registry for Nationally Determined Contributions, as were agreed within the Paris Agreement. The Secretariat organizes the Conference of the Parties (COP). In 2019, COP is being held in Madrid, Spain, and is COP 25. The language of COP and COP 25 are used throughout this conversation. Additional information is available at www.unfccc.int

terms of mitigation and adaptation, there will be some losses that are inflicted that simply we have been unable to mitigate and unable to adapt to. A classic example of that, I can relate from my own personal experience as a special rapporteur, is that I visited Fiji last year on an official UN mission.⁷ I visited a village called Vunidogoloa, which is one of the first communities in the world that had to be completely relocated because of the impacts of climate change.⁸ Once a waterfront paradise, palm trees and everything you would expect in a beautiful country like Fiji, but because of rising sea levels, storm surges and salt water contamination of their drinking water and their agricultural lands, they had to move inland by about 2.5 kilometers. It is clear that Fiji and the people Vunidogoloa have almost zero responsibility in causing climate change. And yet, they are left bearing the costs of having to uproot their community after living in that place for centuries and move to a different place. The idea behind loss and damage is that it would provide compensation to them both for their economic losses and the costs of having to move their community and also for the non-economic losses that are inflicted like damage to their culture and livelihood. That is the idea behind loss and damage.

However, 27 years after the UN Framework Convention and after countless hours of discussion about loss and damage, I think it is accurate to say that not a single dollar has actually changed hands - nothing has gone from wealthy countries that are causing climate change to the

⁷ Statement on the conclusion of mission:

<https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23964&LangID=E>

⁸ For some reporting on this, see:

<https://time.com/longform/sinking-islands-climate-change/>

<https://theconversation.com/climate-change-forced-these-fijian-communities-to-move-and-with-80-more-at-risk-heres-what-they-learned-116178>

<https://www.aljazeera.com/indepth/features/fiji-villages-move-due-climate-change-180213155519717.html>

least developed countries and small island states that are really at the forefront of suffering the impacts of climate change. In light of all of that inaction and an urgent need, in my recent report to the UN General Assembly on human rights and climate change,⁹ I made a pitch for revitalizing a proposal that has been kicking around for years, which is to establish an international air passenger levy on passenger flights around the world.¹⁰ I am going to stop there and allow some of my colleagues to chip in and fill in the many gaps in what I have said about the nuts and bolts of loss and damage.

Logan: Perfect. Thank you, David. Building on that, and you can fill in gaps where you like, Erin, one of the challenges in making progress on this is establishing liability and compensation mechanisms with some advocacy by some nations and resistance by other nations or groups of nations. Could you give us a sort of 101 on what has been happening over these last 27 years?

Erin: I can do my best. Building on what David said, it is really about the science in a way. The Intergovernmental Panel on Climate Change (IPCC) releases reports, at least five reports now, every five or six years.¹¹ The UN Framework Convention on Climate Change was established in 1992. As it became increasingly clear that mitigation ambition was not sufficient, as David said, to avoid the impacts of climate change, the emphasis on adaptation increased. Eventually, it became clear that adaptation was not going to be sufficient in many cases to avoid loss and damage. In terms of compensation, in my view, compensation has become a

⁹ See: Boyd, D. R. (2019). *Safe Climate: A Report of the Special Rapporteur on Human Rights and the Environment*. A/74/161. United Nations: New York.

¹⁰ For additional information, see:
<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25032&LangID=E>

¹¹ The IPCC reports are available at www.ipcc.ch

dirty word. What it is, as David quite eloquently described, is the countries that are responsible for anthropogenic climate change simply helping the countries that are not responsible address the impacts of climate change. There are communities all over the world that have already had to move. This includes in Senegal (perhaps Idy could give some examples as I know coastal erosion has prompted a lot of relocation there). In terms of compensation mechanisms, I am not sure that is the right terminology, but certainly we would want to see some kind of a financial mechanism that would trigger support for developing countries to address loss and damage.

The biggest challenge that we confront is the political nature of loss and damage and that is precisely because of the association with historical responsibility, liability and compensation. However, it is just about rich countries helping those that are less fortunate, that are more exposed to climate change impacts and have less capacity to address them. I see a real potential for global solidarity. As David said, the UN Framework Convention on Climate Change has existed for 27 years and the gap between where we are going in terms of emission trajectories and where we are in terms of action just continues to increase. We have to get past this political impasse, and we have to see real action on the ground. We need to see more of a willingness from developed countries, and I would definitely put Canada in that category. They have to start engaging in a more concrete, more constructive way. We have to figure out a way to start moving forward. The impacts of climate change are increasing so much, we have seen that over the past couple of years. Idy can reflect on this given his experiences.

Logan: Idy, could you speak to how things look from Senegal and the perspectives you bring as a member of the African Group of Negotiators?

Idy: Building on what David and Erin have said, I think we cannot now attest that we have a compensation mechanism because when we were discussing establishing the mechanism, the Warsaw International Mechanism,¹² it was our understanding that we will not ask for compensation. Even in the decision text, we did not mention, and until now we do not have any works mentioning, compensation in the COP decision. I cannot say that we have a compensation mechanism, but we have some action already in the decision set that can allow us to think that we can have some support in making some action at the national or continent level. However, that is a bit different than what we were thinking when we were establishing the mechanism. Until now, we do not have any practical or concrete action coming from the Warsaw International Mechanism, which would show that "we are initiating action". We have some documents and we have some decisions, which we are still working on, as a means to build the mechanism to make it work in the future. Until now, we cannot say that we have a compensation mechanism.

Logan: What would the African Group of Negotiators like to see? What are they putting forward as a first step as well as potentially the ideal vision that the African Group of Negotiators is pushing for?

Idy: When we are going through the African position in the negotiation, it is to have a clear financial mechanism established, that is the first thing. This includes proposing a permanent expert group on finance within the Executive Committee on loss and damage. That is one point where we may make progress in the work of the Executive Committee in implementing the work plan, specifically in Workstream E.¹³ That can

¹² The Warsaw International Mechanism was adopted at COP 19, in Warsaw, Poland. The agreement is available on the UNFCCC website (<https://unfccc.int/topics/adaptation-and-resilience/workstreams/loss-and-damage-ld/warsaw-international-mechanism-for-loss-and-damage-associated-with-climate-change-impacts-wim>) as are related documents and resources.

¹³ See: <https://unfccc.int/topics/resilience/resources/financial-instruments>

really help to develop a financial mechanism. That is the first thing. Secondly, we are really impacted by migration and displacement. The technical group started working and had some recommendations. Until now, we do not have enough concrete action taken in response to those recommendations. We have the same situation in non-economic losses and in slow onset events, et cetera. However, we need to initiate, from the Warsaw International Mechanism and the Executive Committee, very concrete action at the national level to implement and to reach this function of the Warsaw International Mechanism.

Logan: Erin, you are getting ready for the next COP, the 25th in Madrid. Are there conversations ongoing that you foresee or expectations that you have for loss and damage in the coming week?

Erin: The Warsaw International Mechanism, which Idy has described, will be reviewed at COP 25. We are preparing for that. We have been for some time. The expectation of developing countries is that the Warsaw International Mechanism starts to engage more on mobilizing action and support. As Idy described, the Warsaw International Mechanism has three functions. The first is enhancing understanding. The second is strengthening coordination. The third is enhancing action and support, basically mobilizing support for developing countries to address loss and damage. I think I can say, that it is the view of all developing countries that there has not been enough focus on enhancing action and support and mobilizing what is needed to address loss and damage. Developing countries expect that we will come out of this COP with a Warsaw International Mechanism that is stronger, more robust and able to start to meet those needs. As Idy said, we want to see the finance start to get triggered and to get to where it needs to get to support developing countries.

Logan: In some ways, David, I think the Warsaw International Mechanism for loss and damage is unique, in that it even goes down this road of, we could say a form of potentially, redistributive justice. Although there has not been any progress in the action space, more so on the research and in the dialog space, do you have any reflections on why even that step was taken in having that kind of a potential for redistributive justice in this type of harm as opposed to other types of human rights abuses or violations that have occurred historically or contemporary?

David: I think it is important that the Warsaw International Mechanism for loss and damage associated with climate impacts was established. However, that was in 2013. It has been six years. There has been lots of dialogue. I guess I am just an impatient person. I have been to these countries. I have seen people suffering the impacts of climate change. I do not see that it is that complicated. In 2006, academics started talking about this international air travel levy. In 2008, the Maldives put a formal proposal forward. That is 11 years ago. It is not rocket science, right? You could put together an international air passenger levy that would be \$10 on the cost of all air travel tickets. At current levels of air travel, that would raise over \$40 billion a year that could be allocated directly to loss and damage in least developed countries and small island developing states. Who is going to not fly because of a \$10 levy? It is absolutely meaningless to the wealthy people of the world that rely on air transportation. I am using my, I guess, my bully pulpit as the special rapporteur on human rights in the environment, to lean into this need for action. I am not willing to sit around and wait for the Warsaw International Mechanism. If I am stepping onto toes to say that, so be it. I really admire what France did a few years ago when they created a solidarity

levy on air travel.¹⁴ That solidarity levy was intended to raise money for the fight against HIV/AIDS, malaria and tuberculosis. France created that initiative, nine other countries have joined, ranging from Cameroon to South Korea. It is about \$6 on economy airline tickets and \$60 on a first-class ticket. Despite the fact that it is only 10 countries, it raises over \$200 million a year. I think actually that there is the possibility that we could form a coalition of the willing, that we could get a whole bunch of countries that are willing to move forward. Forget about the laggards and the deal breakers who are blocking progress on this. Get 100 or 150 like-minded countries together, put in an air passenger levy of \$10 a ticket and start raising tens of billions of dollars today for loss and damage. Let me tell you, I visited the first Fijian community to be relocated. There are 60 more on the list awaiting relocation. The Fijian government does not have the money to relocate those communities. Where is the money going to come from? Seems to me like an international air passenger levy would be a pretty simple, effective, efficient and equitable way to move forward.

Logan: Since you have recently put that forward, what is the response? Do you see that there is a coalition of the willing emerging or is there resistance to the idea?

David: While I was in New York, I had a meeting with a whole bunch of groups from small island developing states, from least developed countries and from landlocked developing countries. And there was a high level of interest in that. I think there is also high potential for interest from the European Union. I think that there is potential to get well over 100 countries to jump on this. I think it is just a matter of getting everybody together and recognizing the importance of taking action. If

¹⁴ For additional information on this, see: <https://unitaid.org/news-blog/french-levy-on-airline-tickets-raises-more-than-one-billion-euros-for-worlds-poor-since-2006/#en>

you look at these Fridays for Future climate strikes around the world,¹⁵ kids are telling us in no uncertain terms: we need action. If you look at the reports coming from the world's leading climate scientists, the Intergovernmental Panel on Climate Change, they are saying: we need action.¹⁶ I am just echoing the voices of children, youth and scientists and saying, here is an action we could take. It is not going to hurt anybody; \$10 a ticket is not going to stop anybody from flying. Because it is a small amount per person, it has no impact at the individual level. If it was widely used, it would have no competitiveness impacts on airlines or countries that depend on tourism. And, it would raise literally tens of billions of dollars, right away, to address this challenge. Yes, I believe there is a coalition of the willing that we can put together. There certainly are countries that will not be part of that initial coalition. However, I think that once you have a certain group of countries together, then it will eventually become an unstoppable force.

Logan: Thank you. For Idy, we had this topic raised as an issue that people would like to know more about. For the work that you are doing with the African Group of Negotiators, where can listeners or readers follow along with the work that you are doing and receive updates about changes or responses to proposals like David is describing? Is there a way that we can follow you on different platforms?

Idy: The intervention of David is the same as what I want to say. When you come to Senegal, from the north to the south, the country has 700 coastal kilometers. There are a lot of fishing villages along the coast. Those villages are suffering with sea level rise and with slow onset

¹⁵ Fridays for Future began when Greta Thunberg began protesting in Sweden in 2018, and has since become a global, youth-led movement of climate strikes and other forms of activism. See: www.fridaysforfuture.org

¹⁶ A month before this podcast was recorded, 11,000 scientists released a statement calling for action. See: <https://www.theguardian.com/environment/2019/nov/05/climate-crisis-11000-scientists-warn-of-untold-suffering>

events. I think that some villages were displaced, who have then come to the city. The impacts are gendered, often affecting women more, whose products were coming from the sea who are now jobless. What we need exactly is to find financing mechanisms. Where will the finance come? From aviation? From the GCF?¹⁷ Or the private sector? Who knows? We do not know. What is really important now is to have concrete action to find a financial mechanism for that. If you come to Senegal, there are droughts and most of the young people from those village have already migrated to the capital or Europe. Why? Because agriculture is not productive now and they cannot find jobs in their village. We need concrete action to see what we can do for those climate migrants to make them stay at home, to create jobs, and not having to migrate via the sea and dying in the Mediterranean or the Atlantic. What we need from the African perspective is to establish a clear financial mechanism, under the GCF first and then after implementing action with the decision under the Paris Agreement and the others (coming from the COP since 2013 until now). I think that is the key word in this discussion that we need to see: How can we do more to find solution for the mechanism?

Logan: Thank you Idy. Erin, could you potentially direct us to places, either individuals to follow or institutions to follow, where listeners and readers can see what happens next week at COP 25 and beyond? Places they could follow regarding issues related to loss and damage?

Erin: I'll do my best, thanks, Logan. I first just want to agree so vehemently with what David and Idy have said. The science tells us that it is so urgent. The urgency is there, and the action is not. David brought up Fridays for the Future. I feel so ashamed of how we are failing the youth and the world that they are inheriting. We have to do better. In the climate negotiations, in the space that we are working in, sometimes our

¹⁷ Green Climate Fund: www.greenclimate.fund

partners, our negotiating partners (which is what we call developed countries) and what they call us, they say things like 'we need to give the Warsaw International Mechanism time to do its work.' Well, it has been six years. It is clear that climate change impacts are escalating. As David said, we do not have to rely just on what is going on under the Convention and the UNFCCC. We need to find other measures, other mechanisms of supporting developing countries. The air passenger levy is one. The Climate Damages Tax another, which has recently been rebranded, 'Make Big Polluters Pay.'¹⁸ It is targeting the big oil and gas producers. There are different ways in which we can support developing countries and we have to start to engage. In terms of how people can follow what is going on at the COP, I would say probably Twitter is the best way.¹⁹ Lossanddamage.net has some information on it.²⁰ Watching Twitter for updates is probably the best way. We ourselves do not have websites that we can direct people to leave.²¹ As best you can, keep up to date and keep engaged in this process and put pressure. I would really

¹⁸ See: www.makebigpolluterspay.org

¹⁹ The website for the Climate Leadership Initiative is climateleadershipinitiative.org and the Twitter account is @youthmakechange.

²⁰ See: www.lossanddamage.org

²¹ For additional resources, see:

Roberts, E., Andrei, S., Huq, S., & Flint, L. (2015). Resilience synergies in the post-2015 development agenda. *Nature Climate Change*, 5(12), 1024.

Roberts, E. & Zakieldein, S. A. (2018). Pocket Guide to Loss and Damage Under the UNFCCC. European Capacity Building Initiative.

Roberts, E., & Huq, S. (2015). Coming full circle: the history of loss and damage under the UNFCCC. *International Journal of Global Warming*, 8(2), 141-157.

Roberts, E., & Pelling, M. (2019). Loss and damage: an opportunity for transformation? *Climate Policy*, 1-14.

Huq, S., Roberts, E., & Fenton, A. (2013). Loss and damage. *Nature Climate Change*, 3(11), 947.

Roberts, E., & Pelling, M. (2018). Climate change-related loss and damage: translating the global policy agenda for national policy processes. *Climate and Development*, 10(1), 4-17.

encourage Canadians, as a Canadian myself, to encourage our government to engage more constructively and to better support developing countries in their efforts to address loss and damage. I grew up in Canada and I benefited from growing up in a developed country. I feel that we have a moral and an ethical obligation to help others. I will leave it there. Thanks a lot, Logan, for this opportunity.

Logan: Thank you for joining us. David, on the institutional side from the UN or other institutions, would you like to direct us for things to follow, particularly beyond COP 25?

David: I have a Twitter account that I will be tweeting developments while I am in Madrid. That is @srenvironment²² People should follow leaders like Erin Roberts, Saleemul Huq, and organizations like the Association of Small Island Developing States. Beyond that, I do not really have a lot of other sources for you.

Logan: That was just a question because I think as we were looking for ideas about what the audience would like to hear about, there was an idea that loss and damage was a thing, but very few places to go and learn about it in a way that was not heavily technical or not deep in climate change jargon that was more accessible. Hopefully this is one space where we can bridge some of those gaps, where those who are interested in learning about mechanisms like the Warsaw International Mechanism for Loss and Damage, that this will be an introduction and potentially direct listeners and readers into more places where they can dive a bit deeper into those issues. I would like to thank all three of you for joining me today. I appreciate all of your time. I realize that you are all in the busy preparation period just before the beginning of COP 25, so an extra appreciation for taking the time today.

²² Twitter @SREnvironment

Erin: Thanks Logan. Thanks for the work that you are doing too.

David: Thanks very much, Logan.

Idy: Thank you very much. It was a pleasure to participate.