



Submission by “Brot für die Welt” (“Bread for the World”, Germany), EED (Church Development Service, Germany) and “DanChurchAid”, (Denmark)

## WORK PROGRAMME ON LOSS AND DAMAGE

**Setting up an appropriate framework for identifying, prioritizing and targeting people most vulnerable towards climate change induced loss and damage**

### Introduction

“Brot für die Welt”, “EED – Church Development Service”, and “DanChurchAid” are church based development NGOs who have been partnering with churches, civil society and community based organizations in developing countries since more than fifty years. Overcoming poverty and injustice, realizing human rights, food security, sustainable development, disaster management and climate change are main areas of intervention on program and policy level. All of us are among the main development organizations in our respective countries. Furthermore, we are members of the world’s second biggest humanitarian network ACT – “Action of Churches Together”, and of the Association of Protestant Development Agencies in Europe, APRODEV.

By this submission we are responding to an UNFCCC<sup>1</sup> call, giving our initial views on key elements of the proposed work program on loss and damage. We particularly argue that the work program should be designed in a way that fulfills a double function:

- To precisely identify those people in developing countries who are most vulnerable towards the adverse impacts of climate change, suffering from or being threatened by loss and damage, in order to *understand loss and damage*<sup>2</sup>

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<sup>1</sup> FCCC/AWGLCA/2010/I.7 Para 28)

<sup>2</sup> -/CP.16, AWGLCA Para 25

- To ensure that those people being identified in the first step, become the main beneficiaries of any further action being taken in the framework of adaptation, in order to *reduce loss and damage*<sup>3</sup>.

## **Scale and scope, relevance and definition of loss and damage**

It is still scientifically impossible to precisely calculate the negative effects of climate change. But empiric data suggest that growing frequency and intensity of extreme weather events are leading to higher vulnerability and risks of affected populations, in particular in developing countries. Most vulnerable are people living in Least Developed Countries, Small Island Developing States and African countries. In addition, poor and marginalized populations' lives and livelihoods in climate sensitive regions of other developing countries could be affected as well by both, sudden onset and slow onset impacts of climate change. Their particular risk derives from a combination of high geographical exposure to climate hazards and relatively weak resilience capacities, including low potential to recover from a climate induced disaster.

For those high risk groups which have not yet been identified systematically, improved response measures to reduce risks and to compensate unavoidable loss and damage are highly relevant, if not a question of survival. Non-action could even threaten the realization of core human rights standards as being enshrined in international human rights law (i.e. the Covenants on Civil Political and Economic, Social and Cultural Human Rights). Subsequently, non-action could be assessed from a legal human rights perspective as a breach of States' obligations under the Human Rights Covenants.

**Given the very likely fact that even ambitious mitigation and adaption efforts will not hinder unavoidable loss and damage to take place, risk reduction and compensation need to be developed as a strong pillar within the UNFCCC adaptation framework.**

Though loss and damage can be substantially limited by mitigation of greenhouse gases, it still will be significant

**Therefore residual damage needs to be part of those calculations, too. This needs to be quantified regionally and locally.**

A precise definition of loss and damage must be quite encompassing and inclusive taking into consideration its various aspects: **besides direct costs of physical impacts of slow and sudden onset events it should also include indirect costs e.g. loss of productivity and livelihoods, social disruption and relocation.** It is likewise important to not only consider public loss (e.g. damage of infrastructure) but also private loss.

Yet, there is no **definition** of loss and damage being broadly agreed by the parties. UN COP 15, however, did offer a reference to loss and damage in AWGLCA which should be taken as a starting point:

“Social, economic and environmental] loss and damage associated with climate change impacts in developing countries that are particularly vulnerable to the adverse effects of climate change, including impacts related to extreme weather events and slow onset events” (In footnote: Including sea level rise, increasing temperatures, ocean acidification, glacial

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<sup>3</sup> Para 25

retreat and related impacts, salinization, land and forest degradation, loss of biodiversity and desertification) UNFCCC, 2010, FCCC/AWGLCA/2010/14. Negotiating text, 13 August 2010, <http://unfccc.int/resource/docs/2010/awglca12/eng/14.pdf>)

**The working program on loss and damage needs to be based on a holistic definition of loss and damage that serves the rights and needs of those being affected and that guides effective and efficient risk reduction, compensation and rehabilitation.**

## **Main thematic pillars of a future SBI work program on loss and damage**

**A first pillar of a future work program should lead to a better *understanding* of climate induced loss and damage<sup>4</sup>, consisting in**

- (i) a **typology of (risks for) loss and damage**, differentiating between
  - high level risks, associated with sudden and extreme weather events such as cyclones/typhoons/hurricanes, thunderstorms, heavy rainfall and floods
  - medium level risks, associated with extreme weather anomalies such as heat waves, extreme changes in rainfall patterns, huge temperature anomalies
  - longer term foreseeable risks of slow onset changes like sea level rise, salinization, glacier melting, and other irreversible changes in ecosystems
- (ii) a **science based system to locate, document, calculate, report and verify loss and damage** in order to predict current and possible future risks of loss and damage as precise as possible.
- (iii) a **pilot project for national loss and damage inventories**, including a risk mapping of locations and people suffering from or being threatened by climate induced loss and damage

**A second pillar of a future work program should explore and estimate necessary financing.**

Though various **financial instruments** have been set up either under UNFCCC, or through various other multilateral or bilateral funding channels, none of them already foresees financial means for compensation of loss and damage.

**Therefore the working group on loss and damage should (i) estimate funding needs and (ii) explore financing options.**

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<sup>4</sup> Para 25

**A third pillar of a future work program should lead to the development of a climate impact and risk reduction facility<sup>5</sup>, consisting in**

- the implementation of systematic climate disaster risk and impact assessments for all high risk areas in developing countries, combining scientific desk studies and participatory field work in order to include the people affected, to raise their level of awareness and to mobilize common ownership on strategies chosen
- Develop and implement climate disaster risk reduction management strategies, programs and projects at the different levels, including the community level in those areas which have been identified as high risk areas.
- Establish inventories of successful climate disaster risk reduction projects and facilitate knowledge and technology transfer within and in between countries and regions, wherever appropriate

**A fourth pillar of a future work program should lead to the development of a climate risk insurance facility<sup>6</sup>, developing options for different types of insurance and micro-insurance mechanisms.**

Insurance is a form of risk management primarily used to hedge against the risk of a contingent, uncertain loss. Insurance is defined as the equitable transfer of the risk of a loss, from one entity to another, in exchange for payment. Accordingly, **insurance systems/companies do need quite precise and reliable information about the probability of future risk and its financial implications**, not only by examining the current economic costs of natural disasters but also the costs of social losses. **Conducting these data assessments** in the areas most prone to negative climate change impacts is crucial for further discussion on loss and damage.

It needs to be stressed that insurances are based on the presumption that the cause of a disaster cannot be ascribed to a culprit – they are based on risk sharing between different groups. Premiums are paid by potential victims. Loss and damage in the light of climate change is different though since climate change is basically caused by developed countries and their green house gas emissions, causing global warming and leading to negative climate change impacts for AOSIS and LDCs; amongst others. Therefore potential causers of harm should be held liable to provide means not only for adaptation but also for compensation in affected areas.

Approaches to dealing with victims of catastrophes can be mainly based on insurance solutions or can be organized on an ad hoc basis. But reliable systems are mostly elaborated in developed countries only. Even there poor people might only have limited access to voluntary private insurances. Therefore market based for-profit insurances are unlikely to be a feasible instrument to address poor peoples' needs in developing countries – even micro-insurances might not be able to adequately meet up with community needs, as first experiences in different countries (e.g. Ethiopia) suggest. **Insurance based solutions can help to address loss and damage** as promising proposals like the ones made by the

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<sup>5</sup> Para 28b

<sup>6</sup> Para 28a

Munich Re Climate Insurance Initiative or AOSIS indicate. They should be further assessed and elaborated in order to establish innovative mechanisms for risk transfer and risk sharing. **However, insurance schemes are not a “stand alone” solution and need to be accompanied by other instruments of equal importance.**

**A fifth pillar of a future work program should lead to the development of a compensation and rehabilitation facility<sup>7</sup>.**

**Compensation and rehabilitation mechanisms** need to be established that explicitly address the most vulnerable and quite often extremely marginalized people, including people without land or property entitlements and – in the extreme – climate induced migrants within and in between countries who need to be relocated and rehabilitated. Due to the adverse impacts of climate change many of these people have been or are threatened to be deprived from the enjoyment of fundamental human rights like the right to food, the right to water, the right to housing, the right to health, or even the right to life. States parties and the community of States are obliged under international human rights law (CPCR, CESCR) to facilitate and fulfill the realization of human rights of these people; they should further develop and establish the necessary mechanisms to compensate and rehabilitate these people.

It is a fact in many countries that in cases of climate catastrophes support for the victims is not being provided immediately – and it is hardly being guaranteed in advance. Emergency response instruments as established by the UN suffer by scarce resources. Even when funds are pledged they are often not put into effect. Therefore the working group on loss and damage should focus on how to link to and strengthen existing UN mechanisms like the Central Emergency Response Fund as well as conceptualize new instruments. Collecting lessons learnt and building on a partnership to advance understanding and prove solutions to address climate risks from macro to micro-level is crucial.

**Addressing loss and damage as consequence of climate change does need a strong reference to the principle of state responsibility to be coherent and legally sound.**

States have the responsibility or even obligation to ensure that activities under their jurisdiction or control do not cause damage to the environment of other states or areas beyond national jurisdiction (Principle 21 of the Stockholm Declaration; Principle 2 of the Rio Declaration). Where there is a breach of this international obligation, there is a duty to cease and to make reparation.

Principle 13 of the Rio Declaration states that states shall cooperate in an expeditious and more determined manner to develop further international law regarding liability and compensation for adverse effects of environmental damage caused by activities within their jurisdiction or control to areas beyond their jurisdiction. Furthermore a legally sound concept of loss and damage needs to reflect the Polluter Pays Principle as well as the acknowledgement of common but differentiated responsibilities and respective capabilities.

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<sup>7</sup> Para 28c

**A sixth pillar of a future work program should lead to the adequate engagement of stakeholders<sup>8</sup>** by approaching a wide range of relevant expertise at international, regional, and national level, including government representatives, specialized experts (meteorology, finance, insurance, disaster risk management, human rights, international law, community development etc), insurance companies, academia, and civil society, including community representatives); as loss and damage first and foremost affect vulnerable people who are quite frequently suffering from different types of exclusion (i.e. political, ethnical, socio-economic, gender, race, religion) it is extremely important to ensure that they will not be excluded again when it comes to risk reduction, adaptation, rehabilitation or compensation measures.

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<sup>8</sup> Para 28d