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**Loss & Damage: a Critical  
Discourse Analysis**

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Mattei (FEEM) and Euro-Mediterranean  
Center on Climate Change (CMCC)

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## Loss & Damage: a Critical Discourse Analysis

By Elisa Calliari, Fondazione Eni Enrico Mattei (FEEM) and Euro-Mediterranean Center on Climate Change (CMCC)

### Summary

The years-long negotiations on an international mechanism for loss and damage (L&D) associated with climate change impacts got to a milestone during the nineteenth session of the UNFCCC Conference of the Parties (COP-19), held in Warsaw in November 2013. The COP established the Warsaw international mechanism, aiming to address L&D associated with the adverse effects of climate change, including extreme events and slow onset events, in vulnerable developing countries (Decision 2/CP.19). The paper performs a Critical Discourse Analysis (CDA) of COP decision 2/CP.19 in order to evaluate its content and reflect on how the mechanism will be implemented. The analysis builds on Fairclough's (1992) three-dimensional model for CDA, and makes use of a wide range of materials including previous COP decisions, High Level Segment statements and Parties submissions to COP 19, press releases and other relevant documents. The analysis highlights the lack of a common understanding and representation of L&D by developed and developing countries, with this fact ultimately hampering the possibility to define actual tools to address the issue within the mechanism. The difficulty to come to a shared meaning on L&D is due to its connection to other controversial discourses under the UNFCCC: those of attribution, liability and compensation.

**Keywords:** Loss and Damage, Limits and Constraints to Adaptation, State Responsibility, International Liability, Attribution, Climate Change Negotiations, Critical Discourse Analysis

**JEL Classification:** Q5, Q58

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# Loss & Damage: a Critical Discourse Analysis

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**Keywords:** Loss and Damage; limits and constraints to adaptation; state responsibility; international liability; attribution; climate change negotiations; critical discourse analysis

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## **Introduction**

The years-long negotiations on an international mechanism for loss and damage (L&D) associated with climate change impacts got to a milestone during the nineteenth session of the UNFCCC Conference of the Parties (COP-19), held in Warsaw in November 2013. The COP established the so-called Warsaw international mechanism (WIM) (UNFCCC Secretariat 2012), aiming to address L&D associated with the adverse effects of climate change, including extreme events and slow onset events, in particularly vulnerable developing countries. Discussion on L&D, formally initiated with the 2007 *Bali Action Plan* (UNFCCC COP 2008) and later embedded in the *Cancun Adaptation Framework* (2010) (UNFCCC COP 2010), has been campaigned by the Alliance of Small Island States (AOSIS) since the early 1990s. AOSIS' claims have mainly focused on the establishment of a compensation mechanism, able to refund developing countries for those unavoidable impacts materializing when both mitigation and adaptation efforts fall short. However, the WIM does not recognize any liability of the most advanced economies for past and ongoing human induced climate change, nor makes any tangible commitment for helping low income and small developing island states to cope with L&D. Rather, it outlines a partnership for a better knowledge gathering, coordination and support, 'including finance, technology and capacity building'.

Up to date, L&D attracted little academic research (Warner, van der Geest and Kreft 2013) (Warner al. 2012). The existing body of literature is primarily composed by advocacy groups (Actionaid, Care International, WWF 2013, 2012; ActionAid 2010) and has mainly been produced in preparation of international meetings and with the aim of supporting developing countries' negotiating position. Interestingly, a recent branch of literature has been concentrating on a topic which is directly linked to that of L&D, i.e. the limits to adaptation (Dow and Berkhout 2014, 2013; Adger, et al. 2009; Morgan 2011). The IPCC AR5 has also devoted attention to the concept of "constraints and limits to adaptation" (Working Group II, Chapters 16 and 17) (IPCC 2014), where the first are those factors which make it difficult to implement adaptation actions, while the latter are insurmountable barriers to adaptation (Dow and Berkhout, 2013; Pedersen 2009). Nevertheless, the connection between L&D and the constraints/limits to adaptation is not always made explicit, leaving the integration of the two branch of literature at an embryonic stage.

As a result, no commonly agreed definition is available for the concept yet. In the literature review prepared by the Work programme on L&D under the Subsidiary Body for Implementation (SBI) to the UNFCCC, L&D is very broadly referred to as ‘the actual and/or potential manifestation of impacts associated with climate change in developing countries that negatively affect human and natural systems’ (SBI 2012). Such definition, however, does not clarify why L&D should be regarded as a different category within climate change impacts and should be therefore addressed with an *ad hoc* instrument. Other definitions make a step ahead, explicitly linking L&D with the inability to cope and adapt to climate change impacts (Warner, van der Geest and Kreft 2013). However, this does not allow for precisely setting the boundaries of the concept: is such inability to adapt stemming from institutional barriers, prohibitive costs or technical impossibility? All these cases holding true, what the difference with the concept of residual impact would be then?

The fluidity in the way L&D is conceptualized, also shows up at the negotiations level. While consensus around core concepts like mitigation and adaptation has been reached, this does not hold true for L&D. Discourses around the concept are still characterized by a strong juxtaposition between developing and developed countries, with the former claiming L&D to be something beyond adaptation and thus requiring additional instruments besides mitigation and adaptation, and the latter including L&D within the scope of adaptation.

The paper employs a Critical Discourse Analysis (CDA) to investigate how different discourses, i.e. way of understanding and representing the issue of L&D, have been endorsed by developed and developing countries and the possible reasons for their divergence. It also reflects on the consequences this had on the definition of appropriate and concrete actions to address L&D through the WIM. The first section provides an overview of the theory and method of discourse analysis: particular attention is drawn on the CDA approach and its theorization by Norman Fairclough. Making use of Fairclough’s three-dimensional model for CDA, the analysis carried out in section 3 highlights the lack of a common understanding and representation of L&D by developed and developing countries, with this fact ultimately hampering the definition of actual tools to address the issue within the mechanism. The difficulty to come to a shared meaning on L&D is due to its connection to other controversial discourses under the UNFCCC: those of attribution, responsibility/liability and compensation. The paper

concludes with some considerations on the possible developments of the L&D issue and on the near future implementation of the WIM.

### **Theory and method: Critical Discourse Analysis**

Being aware that there is no generally accepted definition of *discourse* in social science (Pedersen 2009), I adhere to its interpretation as a particular way of talking about and understanding the world, or an aspect of the world (Jørgensen and Phillips 2002). Therefore, discourse analysis becomes a strategy to reveal how the understanding of the world is built through language and how, conversely, the latter contributes to change social reality. It draws attention on the way discourse is produced, what it excludes, how some knowledge becomes significant and some other does not, and how power relations are reflected in language (Hesse-Biber and Leavy 2006; Friman 2013).

Discourse analysis is rooted in a social constructionist approach within social sciences and humanities (Pedersen 2009). Despite the common epistemological premises, approaches to discourse analysis vary, differing *inter alia* with respect to the role of discourse in the construction of the world and the analytical focus (van Dijk 2001). In this paper, I employ a CDA as mainly concerned with social problems and political issues and for its attempt not only to interpret but also to explain discourse structures (Fairclough and Wodak 1997). In particular, CDA focuses on the ways discourse structures enact, confirm, legitimate, reproduce, or challenge relations of power and dominance in society (van Dijk 2001). As negotiations under the UNFCCC are characterized by pronounced power asymmetries, CDA turns out to be useful in detecting whether the latter are reflected in the discussion on L&D.

Within the CDA approaches, I focus on Norman Fairclough's work and adopt his three-dimensional model for CDA (Fairclough 1992). According to it, the starting point of any analysis should be the consideration of two important elements of the discourse: (1) the *communicative event* (for example, a newspaper article or any other text or speech); (2) the *order of discourse*, i.e. the configuration of all discourse types used in a specific field. The communicative event has three dimensions, each of which should be covered by a specific analysis:

- (1) it is a *text*, and should be subject to a linguistic analysis (vocabulary, grammar,

syntax);

(2) it is a *discursive practice*: attention should be drawn on how the text is produced and consumed, focusing on the way power relations are enacted. The underlying hegemonic processes, through which consensus around meanings emerges, should be explored;

(3) it is a *social practice*, with this implying considering how the discursive practices reproduces or restructures the existing order of discourse and how this translates into social change.

Hence, Fairclough proposes three levels of analysis: at *micro*, *meso* and *macro* scales. Accordingly, the analysis of COP Decision 2/CP.19 (*communicative event*) in section 3 is carried out considering these dimensions. Although the text of 2/CP.19 constitutes the core of the analysis, it is worth noting that it is examined in connection with other relevant documents, including previous COP decisions (1/CP 16, 7/CP 17, 3/CP 18), High Level Segment statements made by Heads of States and Governments at COP 19/CMP 9, Parties submissions in preparation of COP 19, press releases and other relevant documents available on the UNFCCC website. This is functional to reconstruct in an organic way the different discourses adopted by developed and developing countries on L&D.

### **Analysis of the decision (2/CP.19) and discussion**

I start from the analysis of the discursive practice (*meso scale* in Fairclough's model) as crucial to understand how the authors of Decision 2/CP.19 draw on existing discourses when producing the text. It entails eliciting the particular ways in which authors understand and represent the issue, and detecting how such views interact, eventually reproducing or transforming the order of discourse. I have already recalled in the introduction how developing and developed countries frame L&D in two conflicting way, the former claiming L&D to be something *beyond* adaptation and thus requiring additional instruments besides mitigation and adaptation, and the latter including L&D *within* the scope of adaptation. The reasons behind such juxtaposition lie in the strong reference made by developing countries to the concept of compensation: in their view, developed countries should refund them for the unavoidable impacts already



materializing as a consequence of past and ongoing greenhouse gases (GHG) emissions. Talking about compensation, however, ultimately links the discourse on L&D to another controversial issue under the UNFCCC, i.e. that of historical responsibility for GHG emissions. Although the UNFCCC recognized industrialized countries as historically responsible for having emitted a larger share of GHG compared to developing countries (art. 3, §1 UNFCCC), the implications of such “common but differentiated responsibilities” have been interpreted more in terms of voluntary aid and differentiation on grounds of capacity (Friman 2013). A step ahead in this discussion has been recently made, with some scholars (Tol and Verheyend 2004) endorsing the possibility of holding a state generally responsible for climate change damages for breaching the *no harm rule* under international customary law. This argument, however, does not appear to be based on solid ground. Before holding a state responsible, it is necessary to prove the causal link between the damage and the act/omission attributable to the state. This is particularly challenging for the current state of scientific knowledge. As highlighted by the 2012 *Special Report on Managing the Risks of Extreme Events and Disasters to Advance Climate Change Adaptation* (IPCC 2012), while some slow-onset events are direct consequences of large-scale warming and can therefore be linked directly to past emissions, extreme weather events (which are also associated with greater loss and damage) cannot still be entirely attributed to climate change. Lacking the full causal link of L&D with climate change, claims for compensations become ultimately arduous to rise. Not least, it is difficult to distinguish the contribution and the sign of other factors, like exposure and vulnerability, to L&D. Within international law, talking about state liability, i.e. responsibility for acts not prohibited by international law, would provide a better framework for the issue. Indeed, liability is a form of more sophisticated and solidaristic responsibility (Conforti 2002), aiming at regulating certain socially useful but hazardous activities so that to guarantee their economic viability while providing prompt reparation in case of transboundary damages to the environment or the society (Barboza 2011). No international obligations has to be breached and no fault has to be proved: only causation is relevant (Barboza 2011). However, the concept has been rarely activated and is envisaged by the *Convention on International Liability for Damage Caused by Space Objects* (1972) only. Moreover, being causation the only parameter to matter, the same difficulties observed as for the traditional view of state responsibility would apply in proving the causal link between (lawful) activities and damages.

The analysis of the text of Decision 2/CP.19 (*micro scale* in Fairclough's model) confirms the presence of such Gordian knots. Firstly, the relationship between L&D and adaptation is defined in two clashing ways. According to line 6 of the Decision L&D 'includes, and in some cases involve more than, that which can be reduced by adaptation', while at line 13 the WIM is placed 'under the Cancun Adaptation Framework'. The first statement recognizes L&D as something which, in some cases, can go beyond adaptation and thus recognizes developing countries' claims. On the contrary, the second statement –placing L&D under the *Cancun Adaptation Framework*- suggests a relation of subordination between the concepts, with L&D being a part of adaptation as argued by developed countries. From a rhetoric point of view, this is a case of 'constructive ambiguity', a tool often employed in diplomacy to get over situations of impasse (Berridge and James 2001). It is a strategy used when parties have strong and contradictory interests and views and/or the negotiations are running short of time (Pehar 2001). The incapacity to get to a shared definition of the concept is also shown by the provision requiring a review of the mechanism 'including its structure, mandate and effectiveness' at COP 22 in 2016 (§1 and §15 of the Decision).

As for the attribution of L&D to climate change, in Decision 2/CP.19 (as well as in the decisions adopted since the Cancun Agreements), L&D is referred to as being *associated* with climate change impacts, including extreme weather events and slow onset events. Again, this could be seen as an example of constructive ambiguity in its lexical form. The verb 'associate' implies a connection between two things either because they occur together or because one produces the other (Angus Stevenson, editor 2010). Thus, the verb can entail different relationships linking the concepts: they can be on the same level, being simply connected, or one can be subordinated to the other, as caused by the latter. More research should be done in understanding whether this expression has been used in the decisions as a compromise on the different views on attribution of L&D to climate change, or simply because of the uncertainty that still lingers in science on the relationship between climate change and extreme events. However, it is interesting to note that developing countries, and AOSIS in particular, are more inclined in adhering to the second meaning of the verb, i.e. implying causality. Taking as an example Nauru's submission to COP 19 ('Views and information on elements of an international mechanism to address loss and damage from the adverse effects of climate change' (Nauru on behalf of The Alliance of Small Island States

2013), the alleged causal link between L&D and climate change impacts is made explicit by the same title. Indeed, the preposition ‘from’ indicates the source or cause of something (Angus Stevenson, editor 2010).

Drawing together the threads of the above arguments, it is hard to say whether during COP 19 negotiations the order of discourse on L&D has been truly transformed (*macro scale* within Fairclough’s model). It is true that power relations among developed and developing countries slightly changed, as the latter were able to introduce a ‘new’ discourse on L&D in the final text of Decision 2/CP.19, referring to it as something beyond adaptation. For the time being, however, it is still uncertain whether this will actually correspond to a new way of representing the issue and, most importantly, to a change in the way L&D has been addressed in the practice so far. In fact, as Fairclough notes (Fairclough 2003), a new discourse may come into an institution without being enacted or inculcated, or it may be enacted but never fully inculcated. Inculcation means that people own the discourse. What more reasonably happened in Warsaw is that developed countries have ‘learnt’ this new discourse for the purpose of closing the negotiation process, but at the same time they beware of internalizing it.

## **Conclusions**

One of the aim of discourse analysis is to investigate the relations of power and their possible changes through language. The insertion of the expression of L&D going beyond adaptation in the final text of Decision 2/CP.19 reflects a small but not negligible result for developing countries. It is actually expected that this point will be used in 2016 as a lever to move the issue of L&D out of the adaptation pillar and position it as a new field in the battle against the adverse impacts of climate change, subsequent to the ‘preventive’ phase of mitigation and the ‘managing’ phase of adaptation (CDKN 2012). Negotiating power on the issue can be therefore deemed to have somewhat increased for developing countries. Yet, the use of constructive ambiguity in the text reminds us that developed and developing countries have failed to come to a shared meaning and representation of L&D and that many unresolved issues remain on the table. The crux of the matter can be depicted as a ‘triangle of discord’ at whose vertex are the concepts of attribution, liability and compensation. Without untying such Gordian knots, it will not be possible to be of the same mind on what L&D

is and therefore arrange precise and concrete activities to address it.

Nevertheless, it would not be fair to depict the WIM as meaningless. It offers a set of tools, mostly related to knowledge and expertise sharing, data distribution and collection, technological support and international dialogue enhancement, that have the potential to tackle some important dimensions of L&D which cannot be addressed financially, like the loss of biodiversity, culture and statehood are. As recently stated by developing countries' negotiators on L&D at COP 19, 'financial compensation may represent a normative solution to the perils of vulnerable countries, but does not necessarily mean that the underlying needs are addressed' (Hoffmaister, et al. 2014). The establishment of the mechanism will therefore allow for further confrontation and advancement in the understanding of this complex and multifaceted issue. Nevertheless, its performance will need to be judged on the basis of its actual implementation, expected by the end of 2014.

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