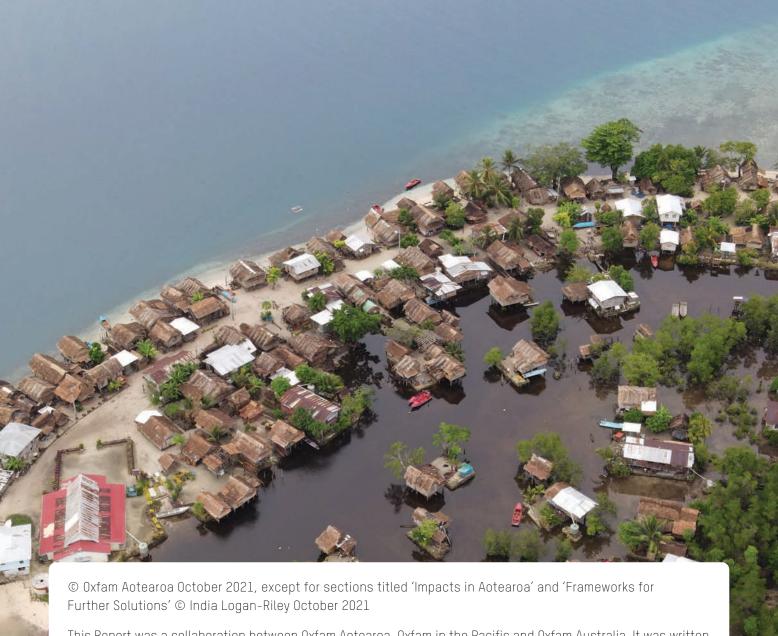


BREAKING THROUGH RED LINES

Ways forward for Loss and Damage Finance in the Pacific







This Report was a collaboration between Oxfam Aotearoa, Oxfam in the Pacific and Oxfam Australia. It was written by Alex Johnston, with contributions from Dr Jale Samuwai, Porter Jacobs and India Logan-Riley. It is part of a series of papers written to inform public debate on development and humanitarian policy issues.

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Cover photo: COP21, Paris. Activists create a red line through the west of Paris, to symbolise the ecological lines that can't be crossed for a "safe, just, and livable planet." **Credit:** David Tong.

Photo above: Housing vulnerable to storm surges and seal level rise in Solomon Islands. Credit: Collin Leafasia.

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SUMMARY

Despite efforts to reduce global emissions and adapt to the impacts of climate breakdown already underway, communities across the Pacific are experiencing unavoidable loss and damage to their health, homes, livelihoods and cultures. This loss and damage will escalate as the planet heats further.

This Report focuses on how finance to cover loss and recover from the damage caused by climate change can be provided to communities in the Pacific region. It starts by outlining what 'loss and damage' is and why it is important, and the state of the international debate on how to address loss and damage with finance. This first section outlines how existing solutions are not channelling finance at the scale required to cover loss and damage being experienced, and are largely limited to situations of sudden disasters, rather than the damage from slow-onset events like sea level rise. Mechanisms that address non-economic impacts are lacking altogether.

At the centre of the Report are examples of different types of loss and damage in the Pacific region, and examples of existing solutions for channeling finance to communities to address this. Lessons can be learned from New Zealand's Treaty settlement process to inform how non-economic losses from climate change might be identified, recognised and addressed.

The Report then details the current policy and practical responses of the New Zealand and Australian governments to loss and damage, and how much these align with Pacific Island country priorities. It addresses the legal arguments of liability and compensation as a barrier to delivering finance, and argues that many of the barriers to finance for loss and damage are political in nature, not technical, and can be overcome.

This Report concludes that the experiences of loss and damage throughout the Pacific region, including communities within New Zealand and Australia, provide an opportunity for a shared commitment to address it. Setting and scaling up finance mechanisms that can address unavoidable loss and damage in the region, and achieving results at the international level to pool and source new finance for such mechanisms can benefit everyone.

A thorough examination of how best to source finance beyond public finance is outside the scope of this Report, but some examples for further consideration are provided.

Final recommendations for the New Zealand and Australian governments include:

- Scaling up existing loss and damage finance mechanisms across the Pacific while more equitable and just mechanisms are progressed, and as ongoing gaps are filled.
- Aligning policy positions with Pacific Island Countries and advocating for development at COP26 of finance solutions based on the principles of solidarity and common but differentiated responsibilities.
- Addressing unavoidable loss and damage domestically, with particular responses for indigenous communities.

FINANCE TO ADDRESS
UNAVOIDABLE LOSS AND
DAMAGE FROM CLIMATE
IMPACTS IN THE PACIFIC
IS NEEDED URGENTLY.
SOLUTIONS EXIST BUT
AREN'T AT THE SCALE
REQUIRED AND SIGNIFICANT
GAPS REMAIN. NEW
ZEALAND AND AUSTRALIA'S
LIMITED RESPONSE IS
NOT MEETING THE NEEDS
OF PACIFIC ISLAND
COUNTRIES.

1. INTRODUCTION

The year 2021 has seen the impacts of climate change cement themselves more firmly in the minds of people across the world. From flooding in Germany, China and Aotearoa, to heatwaves and wildfires in North America, Greece and Russia, and the 'hidden' disasters of drought, coral bleaching and glacial retreat, those in high-income nations are waking up to what many in the majority world have been experiencing for years – the existential threat of climate breakdown. The IPCC's Sixth Assessment report reiterated the devastating projections if drastic action is not taken, but also that with 1.2C of warming underway and the window of reaching 1.5C coming closer by the day, there is unavoidable damage occurring right now that must be addressed.

No region is more attuned to this reality than the Pacific. The diverse and resilient communities of these large ocean states experience heightened vulnerability to climate change's impacts. Four of the top ten countries where people are most at risk of displacement from extreme weather disasters are Pacific Island States.¹ The effects of saltwater intrusion, ocean acidification and sea level rise, particularly to the low lying atolls of the Pacific ocean, mean that the stakes are as high as they come for any community around the world.² All countries in the region, including New Zealand and Australia, have recognised climate change as "the single greatest threat to the livelihoods, security and wellbeing of the peoples of the Blue Pacific".³

DESPITE BEST EFFORTS
TO ADAPT, THE PACIFIC
REGION IS EXPERIENCING
ACUTE IMPACTS FROM
CLIMATE CHANGE THAT
ARE CAUSING PERMANENT
LOSS AND DAMAGE
TO COMMUNITIES.

As countries gather for the pivotal COP26 climate talks in November this year, the urgency of increasing ambition to keep in reach the Paris Agreement's goal of limiting warming to 1.5C looms large. Despite this, it is clear that the mitigation goals and policies that governments have currently put forward for COP26 will leave an ongoing ambition and implementation gap. 4 Governments must urgently address the loss and damage caused by the climate change already underway, even as they work to limit the scale of the damage to come.

This Report focuses on the inadequate scale and scope of New Zealand and Australia's current efforts to address the unavoidable loss and damage communities across the Pacific are experiencing, and the opportunities to advance solutions in the region and globally.

After outlining the international deadlock on how to address loss and damage with finance and where the gaps in scale and scope exist, the Report presents examples of loss and damage across the Pacific, and examples of finance solutions that currently exist. It then analyses the policies and actions taken by New Zealand and Australia to address loss and damage. It addresses the legal arguments of liability and compensation as a barrier to delivering finance, and argues that many of the barriers to finance for unavoidable loss and damage are political in nature, not technical, and can be overcome.

Finally, the Report outlines recommendations for how New Zealand and Australia can work to scale up existing solutions, fill gaps, and work with Pacific Island Countries to overcome barriers to adequate loss and damage finance in the region and globally. A thorough examination of how best to source finance from new sources is outside the scope of the Report, but some examples for further consideration are provided.

What is loss and damage?

'Loss and damage' relates to the inevitable consequences and impacts of the climate crisis. Although it has no agreed international definition under the United Nations Framework Convention on Climate Change (UNFCCC), loss and damage is commonly understood as the effects of climate change that are not, or cannot be, addressed by mitigation and adaptation alone. Loss and damage covers a broad spectrum of events, ranging from those where adaptation has a significant role to play in limiting impacts, to those where a community's capacity to adapt to circumstances has been exhausted. Extreme weather events such as cyclones or wildfires are usually the focus of the media, but loss and damage can also be caused by the slow onset 'disasters' of sea level rise, desertification, ocean acidification, glacial retreat, loss of biodiversity and increasing temperature. Loss and damage covers both economic losses to homes, crops and income, as well as non-economic losses to communities, individuals and the environment. Lives lost, health impacted, communities displaced, cultures uprooted, indigenous ways of being no longer viable – crucial elements of life that are impossible to restore but typify the injustice of climate change and require redress.

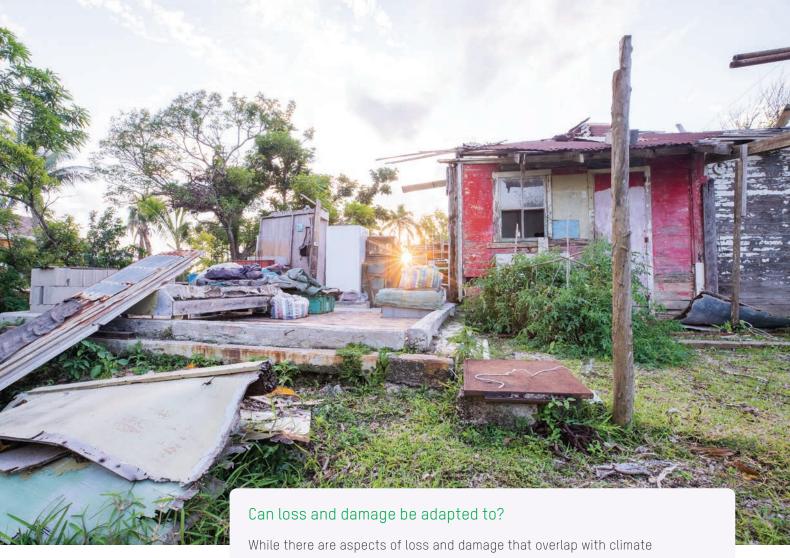
Figure 1: Types of loss and damage Source: UNFCCC Technical paper on loss and damage finance sources



These are experiences that are disproportionately being endured by communities in lower-income countries, indigenous communities, and small island states – those least responsible for contributing to the warming currently underway. These communities have been calling for finance to address these impacts as a key pillar of climate action, alongside mitigation and adaptation.

The global community's efforts to address these lived realities have been hindered by political negotiations about who is responsible, how to define and quantify the impacts, and whether loss and damage can fall under adaptation finance or needs its own finance structure. This impasse needs to shift. As climate breakdown escalates further, the urgency to address loss and damage alongside critical adaptation needs increases, particularly in the absence of adequate mitigation action from countries that have the responsibility to lead the way.

THOSE WHO HAVE
CONTRIBUTED THE LEAST
TO CLIMATE BREAKDOWN
ARE EXPERIENCING THE
WORST IMPACTS. HIGHINCOME GOVERNMENTS
MUST PROVIDE FINANCE
TO ADDRESS THIS, BUT
HAVE PROVED HESITANT
TO DO SO.



Homes destroyed by Cyclone Winston in Fiji, 2016. **Credit:** Alicja Grocz/Oxfam.

WHILE ADAPTATION
CAN HELP TO AVOID OR
MITIGATE SOME CLIMATE
IMPACTS, ALL COUNTRIES
HAVE RECOGNISED
THERE IS LOSS AND
DAMAGE THAT CANNOT
BE AVOIDED THROUGH

ADAPTATION MEASURES.

while there are aspects of loss and damage that overlap with climate adaptation, it is important that there is clarity on the form of loss and damage that needs distinct finance.

A degree of overlap is important to recognise, but it is clear that demands for loss and damage finance primarily refer to "adverse impacts of human-induced climate change that cannot be avoided [or that have not been avoided] by mitigation or adaptation, or that will not be avoided in the future by adaptation due to insufficient resources."

A literature review commissioned by the UNFCCC in 2012 defined climate losses as "negative impacts in relation to which reparation or restoration is impossible" and climate damage as "negative impacts in relation to which reparation or restoration is possible."

There are political differences in how loss and damage is understood alongside or distinct from adaptation. But at COP19 in 2013, all countries acknowledged 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".⁷

It could broadly be said that there are three types of loss and damage: avoidable, unavoided, and unavoidable. The avoidable loss and damage can be averted and minimised, either through sufficient mitigation action to prevent the climate impacts from getting worse, or through sufficient adaptation and risk reduction strategies. It is the unavoided and unavoidable loss and damage where there is a significant finance gap to address and minimise the (potential and actual) effects. This is the finance gap that this Report focuses on.

2. THE CURRENT DEADLOCK ON FINANCE TO ADDRESS LOSS AND DAMAGE

This section outlines how the global community has attempted to address loss and damage to date, at international climate negotiations and through regional mechanisms.

GLOBAL EFFORTS TO ADDRESS LOSS AND DAMAGE

The large ocean states of the Pacific have been strong advocates for loss and damage finance throughout the history of international climate negotiations. It was Vanuatu that first raised policies to address loss and damage in this sphere, with a call for an international insurance mechanism to compensate for losses caused by sea level rise back when the Framework Convention on Climate Change was negotiated. Moreover, the Alliance of Small Island States have been continuing advocates for loss and damage as an "existential issue" over the last 30 years.⁹

High-income countries at last recognised loss and damage as something that required finance to address it at COP19 in 2013. This saw the establishment of the Warsaw International Mechanism (WIM), which has the function of "enhancing action and support, *including finance*, technology and capacity-building, to address loss and damage." ¹⁰

The Paris Agreement in 2015 then reaffirmed the place of loss and damage in its own right in the international climate change architecture, distinct from climate adaptation, by recognising the "importance of averting, minimising and addressing loss and damage associated with the adverse effects of climate change." Governments "should" enhance support (which includes finance) through the WIM as well as outside it. This makes action in this area, alongside mitigation and adaptation, one of the key pillars in achieving the Paris Agreement goals.

The WIM has, however, struggled to fulfill the function of enhancing financial support. One of the apparent roadblocks is the correlation between finance to address loss and damage and the acknowledgement of responsibility for causing it. The concession for allowing an article on loss and damage to feature in the Paris Agreement was that in the decision adopting it, there was the express ruling out of this article leading to legal liability or compensation: "Article 8 of the Agreement does not involve or provide a basis for any liability or compensation." High income countries do not want to be seen to admit responsibility or opening up legal liability for causing the large majority of loss and damage from their cumulative emissions.

This conceptual distinction flows into the roadblock on whether WIM governance sits under the Convention or the Paris Agreement. Though the WIM was established prior to the Paris Agreement, countries like New Zealand have tried to limit the remit of the WIM to within the Paris Agreement, so that the questions of liability and compensation are put to rest.

PACIFIC ISLAND COUNTRIES
HAVE ADVOCATED FOR
LOSS AND DAMAGE
FINANCE FOR 30 YEARS.
HIGH-INCOME COUNTRIES
HAVE BEEN HESITANT
TO PROVIDE IT, DUE TO
LIABILITY CONCERNS.
THERE ARE LEGAL
OBLIGATIONS TO PROVIDE
SUPPORT TO ADDRESS
LOSS AND DAMAGE,
INCLUDING FINANCE.

This political impasse has meant the very urgent, real need for finance to address loss and damage is not being met, and the WIM has been held back in its remit to allow for the flow of resources and assitance to lower-income countries for loss and damage.

Following pressure from developing countries and civil society at COP25 on the urgency of loss and damage, governments agreed to establish the Santiago Network on Loss and Damage, aimed at providing technical assistance to lower-income countries to avert, minimise and address loss and damage. However, so far this has been little more than a web portal, with no timeline for any outcomes or deadline for being operational.

Despite these setbacks, ahead of COP26, over 100 lower income countries have determinedly reaffirmed the call for "the provision of new and additional finance for loss and damage to meet the needs of developing countries. Governments should take the decision to make adequate funds available for loss and damage and help countries access it". 15

Both the international deadlock and the divided positions of key countries in the Pacific region will come to a head at COP26. There have been promising signs from the UK COP26 Presidency, dedicating a day of COP26 to focus on "delivering the practical solutions needed to adapt to climate impacts and address loss and damage". At the time of writing, it is not yet clear whether loss and damage will be on the negotiation agenda. Nonetheless, advancing this issue, as well as a step change in climate finance is one of the 'make or break' issues for a successful COP.

What global and regional mechanisms currently exist?

CURRENT FINANCE FROM HIGH-INCOME COUNTRIES HAS FOCUSED ON AVOIDING LOSS AND DAMAGE THROUGH DISASTER RISK REDUCTION FINANCE, ADDRESSING IT THROUGH HUMANITARIAN RELIEF AND SETTING UP RISK INSURANCE MECHANISMS.

One of the main ways that loss and damage experienced by lower-income countries is currently responded to by high-income countries is through disaster risk reduction finance, though this is reported as adaptation finance to the UNFCCC. This finance helps avert avoidable loss and minimise unavoidable loss, but does not compensate for the loss that nevertheless occurs. When disasters strike, existing frameworks of humanitarian response to sudden onset events can address some of the damage caused through material relief, and immediate post-disaster rehabilitation and reconstruction. But the limits of the humanitarian system in the face of escalating climate impacts has driven the development of new global and regional mechanisms to increase the predictability and scale of finance for post-disaster relief and recovery. These mechanisms have primarily been insurance or risk transfer schemes, which can be useful, but as explored further in Section 4, have limitations "which may burden the most vulnerable countries and may not be reliable over time."17 Highincome countries have supported the establishment of these mechanisms, but are not providing the required finance to make these schemes functional - this comes from other sources, including the private sector and communities themselves.

A shift to this lack of donor support came at the 2021 G7 summit, where Germany and the United Kingdom committed funds to the InsuResilience Global Partnership and Risk Informed Early Action Partnership (REAP), both of which are partnerships that support insurance mechanisms globally, including in the Pacific region. It appears that these contributions are to partially subsidise the insurance premiums for regional insurance schemes to broaden communities' access to such schemes [including the Pacific Catastrophe Risk Assessment and Finance Initiative (PCRAFI)]. Such underwriting to expand access is to be commended, particularly as it was described as "tackl[ing] loss and damage". Mechanisms this might support in the Pacific region include the PCRAFI Program 19 The Pacific Resilience Facility is also in development, and is currently seeking support from donors to capitalise it, but this focuses on avoiding loss through disaster risk resilience and preparedness projects. 20

Are these mechanisms adequate and fit for purpose?

The regional and global mechanisms above serve an important purpose in either averting avoidable loss or addressing some of the unavoidable loss and damage from sudden onset events. However, these mechanisms are currently not. channelling finance at the scale required to properly address the loss and damage communities in the Pacific region are experiencing and will continue to experience. For example, the government of Tonga received a "record" US\$3.5 million insurance payout following Cyclone Gita in 2018 through the PCRAFI program. For a sense of scale, Cyclone Gita caused damage equivalent to US\$164.3 million in economic loss and damage, or 37.5% of Tonga's GDP at the time. These mechanisms are also exclusively designed to minimise or address post-disaster loss and damage. Of the available mechanisms collated in a review by the Executive Committee of the WIM, "none... were devised to apply to slow-onset events, or to non-economic losses and damages." There is a need for amplified and concerted action in this area, and it is vital the deadlock on global discussions is broken.

THESE MECHANISMS
DO NOT COMPENSATE
FOR THE SCALE OF
LOSS AND DAMAGE
BEING EXPERIENCED
IN THE PACIFIC, AND
DO NOT ADDRESS
SLOW-ONSET EVENTS.

Figure 2: Spectrum of mechanisms to respond to loss and damage

Avoiding loss and damage through mitigation finance SUDDEN ONSET EVENTS Avoiding or · Disaster Risk Reduction finance minimising loss and damage through SLOW ONSET EVENTS adaptation finance • Risk reduction finance (physical or otherwise, e.g. adaptive agriculture) · Resilience programming SUDDEN ONSET EVENTS · Humanitarian reconstruction · Cash payments relief and recovery Addressing · Debt cancellation · Risk Insurance unavoidable loss and damage SLOW ONSET EVENTS • Social protection mechanisms · Alternative livelihoods provision · Relocation funds Addressing unavoidable loss Acknowledgement of loss (with · Official Apologies or without financial redress) · Active rememberance and damage (non-economic)



3. EXAMPLES OF LOSS AND DAMAGE ACROSS THE PACIFIC

The Pacific region has been experiencing loss and damage associated with the impacts of climate change for many years, and also has been creating solutions to address these impacts. Two examples of loss and damage in the Pacific region are considered here. The first example details how sudden onset events made worse by climate change are creating economic loss and damage to assets, income and livelihoods for communities in Fiji, and social losses to homes and health. The second example shows how slow onset events of drought and changing weather patterns are creating economic and cultural losses to a Māori community in Aotearoa.

IMPACTS IN FIJI: SUDDEN ONSET EVENTS

Fiji is among the most disaster-prone countries in the world, meaning that not only does it experience loss and damage from protracted climate destruction, but also from severe weather events. Fiji is currently ranked 19th in the World Climate Risk Index.²³ In the past 37 years, the country has recorded a total of 124 natural disasters affecting almost all parts of the country. Tropical cyclones account for 50% of the events, followed by floods (33%). The majority of the population and infrastructure are located in coastal areas which increases exposure to sea-level rise and weather-related hazards.

CYCLONES AND FLOODING
EVENTS IN FIJI CAUSE
AVERAGE ANNUAL ASSET
LOSSES EQUIVALENT TO
5% OF GDP. IN 2016,
CYCLONE WINSTON CAUSED
DAMAGE AMOUNTING TO
20% OF GDP.

Economic and social loss and damage

Sudden onset events cause significant economic damage to communities in Fiji on an annual basis. Average asset loses due to tropical cyclones and floods are estimated at more than FJ\$500 million per year which is about 5% of Fiji's GDP.²⁴ For example, Tropical Cyclone Winston in 2016 caused havoc in Fiji with damage amounting to FJ\$2 billion or 20% of the country's GDP.²⁵

Tropical cyclones and floods also increase the risk of poverty in Fiji. It is estimated that the losses caused by tropical cyclones and floods alone translate to 25,700 people being pushed into poverty every year.²⁶ With the current trend, these figures are estimated to increase by 20% for 2050 and a further 11% by 2100.²⁷

Trends seem to indicate that rural and remote communities who largely depend on agriculture and marine sectors for their livelihoods are most affected during instances of climate-induced disasters in Fiji. Around 37% of household in Fiji (64,500) derive some form of income from agriculture and this income is particularly important for people living below or close to the poverty line. 28 The most common types of livelihood affected during TC Winston were those that rely on the agricultural sector (57%). This impact on agriculture leads to significant impacts on food security for people in Fiji. The World Bank estimates that a 1% increase in food price in Fiji due to local production losses (or global price increase) would push 1,000 people below the poverty line. Loss of food security also reduces people's ability to get sufficient and nutritious food, which impacts on their general health and well-being, as well as the physical and cognitive development of children. 29

Loss of homes and livelihoods during disasters is a severe issue in Fiji. A recent report from the Internal Displacement Monitoring Centre highlighted that from 2008 to 2019, 30 climate-induced disasters have triggered 153,000 displacements in Fiji. Tropical Cyclone Winston (the most powerful cyclone to strike Fiji) killed 44 people, affected 350,000 people, destroyed public infrastructure such as roads, health centres and schools, and destroyed or damaged 32,000 houses. Until the rural maritime communities, the impacts of the Cyclone were devastating, wiping some communities off the map in some instances, rendering entire communities homeless.

THE COST OF ADAPTATION
IS A SIGNIFICANT
FINANCIAL BURDEN ON
FIJI'S ECONOMY. CURRENT
CLIMATE IMPACTS AND
PROJECTIONS FOR THE
FUTURE MEAN THAT
DESPITE EFFORTS TO
ADAPT, MUCH LOSS AND
DAMAGE IS UNAVOIDABLE,
AND WILL NEED FINANCE
TO ADDRESS IT.

The cost of climate-related disasters is likely to increase in the coming decades, compounded by increasing urbanization and the concentration of development along coastlines. Parallel climate change impacts, such as sea level rise, ocean acidification, and the increased risk of flooding and vector borne diseases, also pose a threat to the development pathway of Fiji.³² Accrued over time, climate destruction is already causing a significant amount of unavoidable loss and damage to Fiji from both sudden-onset and slow-onset events, and this will escalate in future.

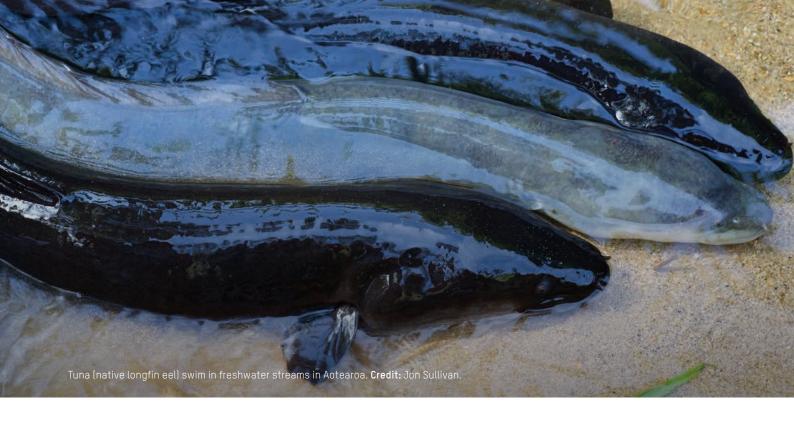
It is possible to avoid some loss and damage projected to occur in the future, but this requires donor countries to adequately fund climate adaptation in Fiji. The World Bank estimated that almost FJ\$9.3 billion (almost 100 percent of GDP) in investment is required over the next 10 years to strengthen Fiji's resilience to climate change and natural hazards for decades to come. The common significantly impacting the coronavirus pandemic and fall in international tourism significantly impacting the government's budget and sources of taxable income. Therefore, in addition to the unavoidable loss and damage there will likely be unavoided impacts due to the challenges the country faces financing its adaptation needs.

IMPACTS IN AOTEAROA: SLOW ONSET EVENTS AND CULTURAL AND ECONOMIC LOSS

Communities in Aotearoa also experience the loss and damage associated with the impacts of climate change. Like communities in small island developing states, indigenous communities within high-emitting and high-income nations are being disproportionately impacted by climate change, despite having negligible contribution to the problem. Indigenous communities are identified under the Warsaw International Mechanism as one of the groups 'already vulnerable' and so needing approaches to address loss and damage that are targeted towards benefitting them.³⁴

Ngāti Hine - cultural and economic loss

For communities in Ngāti Hine, a Māori nation in the Whāngarei and Far North regions of Aotearoa, changes in rainfall patterns are impacting their access to wellbeing through the disruption of their relationship with tuna, a native longfin eel. The geology of the Whāngarei area contains underground tunnels and channels. These are called purutuna for their use by tuna in their migration to the coast. There is a deep body of mātauranga (indigenous knowledge) about the tuna and Ngāti Hine's relationship to them. It is very common to hear stories of tuna appearing in the middle of fields inland, only for them to disappear into the ground again as they find another purutuna to enter. During the tuna migration, tuna are captured and stored in large boxes in wetlands. The flow of water through these boxes keeps the tuna nourished with nutrients and maintains them as a core food source for the whānau of 14 marae in the Ngāti Hine area.



For tuna to be able to travel through the purutuna, there must be good rainfall overall and periods of heavy rainfall to flood the tunnels. In 2020, the Northland region experienced a severe drought following a dry 2019 with rainfall in the Whangārei area receiving the second lowest summer rainfalls on record. This correlated with observations of decreased tuna migration and recently no migration at all because of the lack of rainfall in the Whāngarei area. Projections show that these events will increase, with rainfall to decrease by up to 17% in spring in the Whangārei area by 2090. An increase in drought frequency by 10% by 2090 as well as less rainfall and fewer heavy rainfall events, particularly in spring, will have devastating impacts on the tuna's ability to migrate to the coast and on to their spawning grounds in the Pacific, as well as on maintaining a high flow rate to nourish the tuna while they are being kept in the wetlands.

The disruptions of access to tuna is not only a tangible loss and damage through decreased access to reliable food sources. In understanding the crucial components of locally-grounded Māori wellbeing, we can also observe non-economic loss and damage for Ngāti Hine. Access to tuna supports good relationships within the community by bringing generations together to harvest and share food.³⁸ These are vibrant spaces of reciprocity between people and environment as well as knowledge sharing to grow the next generation of people who can provide for their marae. The climate crisis undermines intergenerational knowledge transmission and ongoing connection with key species, which directly damages mana whenua (the indigenous peoples who hold governance responsibilities for a particular area) sense of place and ability to actively practice kaitiakitanga (guardianship of the environment).³⁹

Vulnerabilities to loss and damage are an outcome of historical, social and political processes. 40 For Ngāti Hine these ongoing social and political processes are rooted in the large-scale land theft and governance marginalisation that came with colonisation. Systems that create vulnerabilities also increase the likelihood of loss and damage for those communities that have been the target of colonisation. For Māori communities this can amount to additional Te Tiriti o Waitangi breaches that the Crown has an obligation to provide redress for. This Crown responsibility will be explored further below.

DROUGHTS AND CHANGING WEATHER PATTERNS ARE DISRUPTING THE POPULATION OF TUNA (NATIVE LONGFIN EEL) IN THE FAR NORTH OF AOTEAROA, WHICH LOCAL MĀORI RELY ON FOR FOOD SECURITY AND CULTURAL WELLBEING.

4. EXISTING SOLUTIONS TO LOSS AND DAMAGE ACROSS THE PACIFIC

In response to the significant loss and damage being wrought on communities and the substantial financial burden that it has created, communities across the Pacific have been proactive in setting up solutions to address the finance needs associated with these impacts. Here, this Report highlights three existing solutions: two that address unavoidable loss from sudden onset events, and one that addresses displacement from slow onset events. These mechanisms support communities in Fiji, Vanuatu, Solomon Islands and Papua New Guinea. It also highlights a framework already in operation in Aotearoa that can be used to apply to addressing economic and non-economic loss from slow onset events.

SOLUTION A: FIJI PARAMETRIC MICRO-INSURANCE PRODUCT

On 25th August 2021, Fiji, in partnership with United Nations Capital Development Fund, the Government's of India, New Zealand, Australia and Luxembourg launched Fiji's Parametric Micro-Insurance Product that is targeted to rural Fijian communities, particularly farmers and fisherfolk.⁴¹

The parametric insurance product is designed to cater for shocks for farmers after a climate-induced disaster primarily that of a cyclone. The parametric insurance is a pilot initiative that will offer immediate post-disaster payout for those insured.

A PILOT INSURANCE
SCHEME WHICH PROVIDES
QUICK PAYOUT TO
FARMERS AND FISHERFOLK
FOLLOWING A CLIMATEINDUCED DISASTER IN FIJI
WAS LAUNCHED IN 2021.
THIS HAS POTENTIAL
TO ADDRESS LOSS AND
DAMAGE FROM SUDDEN
ONSET EVENTS.

This product was developed together with Fijian private insurance companies, digital service providers and intermediaries such as cooperatives and associations, with an index-based micro-insurance product targeting farmers, fisherfolk, small businesses, market vendors and other vulnerable groups.

The defining feature of the parametric insurance product is that it pays out the agreed amount when the weather event strikes, as soon as the threshold for wind speed and/or rainfall is met. This means there is no need for verification of actual loss to take place for the insurance-holder to receive the payment. This type of insurance has many advantages over indemnity-based insurance that focuses more on broad conventional areas, such as physical losses, which can be difficult to categorize. The biggest advantage is the quick payout of claims, which can be processed within seven days after an event occurs, allowing insurance-holders to immediately begin recovery.

This insurance scheme is particularly attractive for small-scale community farmers and fisherfolk, whose livelihoods are left in tatters after a cyclone. Providing cash payments quickly softens the shock and enables families to avoid selling off assets to cover losses, which increases financial resilience for families and communities that already live on or below the poverty line.

While the parametric insurance scheme provides a potentially scalable source of finance to address natural disasters, the scheme still requires premium payments of approximately \$2 per week from insurance-holders. For communities most at risk and

with little disposable income, this is a potential barrier to participation. Furthermore, it is not clear yet how high the threshold for wind speed/rainfall will have to be for a payout to be triggered. In launching the scheme, Fijian Economy Minister Aiyaz Sayed-Khaiyum said that it will contribute to being "ready when the next Cyclone Winston arrives". 42 Much damage has been caused to livelihoods and homes in Fiji from cyclones of lesser intensity, so it is important that appropriate payout thresholds are arrived at in consultation with communities.

The financial support provided by New Zealand and Australia for this scheme so far has been to set up the structure of the scheme, while the financial underwriting comes from Fijian private insurers. The ongoing success of the scheme is therefore dependent on the profit being able to be maintained.

Is insurance a just solution?

The limits of insurance mechanisms to address loss and damage

Many of the existing mechanisms set up to address loss and damage, with donor country seed finance, are risk insurance mechanisms with a strong reliance on the private sector. As in the Fiji Parametric Micro-Insurance Product example above, these mechanisms have the potential to provide quick finance in the event of a disaster. However, they have several structural issues associated with them that require addressing.

- There is a heavy reliance on co-payments or premiums exclusively paid for by the affected communities. This is at odds with the principle of equity or solidarity, when it is primarily high-income nations, not individual citizens of lower-income nations, who hold responsibility for exacerbating the climate events that cause the damage.
- Due to the reliance on private sector capital, a profit imperative is often a
 key driver of these schemes. While the private sector might give greater
 access to capital, the premium required to generate a profit for private
 sector investment will have to increase as the seriousness of climate
 disasters escalates. There is a risk of certain events or communities being
 deemed 'uninsurable' if it is not going to make a profit.
- The profit imperative also can lead to high thresholds for payouts to communities. The type of large shock events the insurance schemes are largely designed to cover does not address slow-onset events. If financial mechanisms remain limited to risk insurance for large-scale events, communities will not receive coverage for the devastating losses from the slower, ongoing impacts of climate breakdown.

Some of these shortcomings could be mitigated if high income country governments underwrite the schemes, or directly subsidise the payments to reduce the burden on the affected communities, and if they are designed with lower thresholds for payout.

INSURANCE SCHEMES HAVE STRUCTURAL LIMITATIONS, OFTEN PLACING A FINANCIAL BURDEN ON THOSE EXPERIENCING THE LOSS AND DAMAGE, NOT THOSE THAT CAUSED IT. HIGH-INCOME NATIONS COULD DIRECTLY SUBSIDISE PREMIUMS TO MITIGATE THIS BURDEN.



SOLUTION B: FIJI CLIMATE RELOCATION AND DISPLACED PEOPLE'S TRUST FUND FOR COMMUNITIES AND INFRASTRUCTURE (CRDPTF)

The Fiji CRDPTF is a National Climate Fund initiative of the Fiji government supported by the Government of Norway. 43 The CRDPTF is specifically designed to assist the Fijian Government in dealing with the cost of relocating communities due to the impacts of climate change. Fiji is the first country in the world to relocate a community in this way, due to sea level rise, with another 45 communities being identified as high risk of requiring relocation. 44

FIJI'S RELOCATION FUND
IS A FINANCE MECHANISM
THAT ADDRESSES SLOWONSET EVENTS, BY
COVERING THE COSTS OF
RELOCATING VILLAGES
DISPLACED BY SEA LEVEL
RISE AND OTHER CLIMATERELATED THREATS.

The CRDPTF is seeded through a percentage of the revenue from Fiji's Environment and Climate Adaptation Levy which is expected to be USD 5 million/year. The CRDPTF is designed as a mechanism where international donors can direct their support to Fiji's adaptation efforts. 45 In 2020, the New Zealand government donated NZD 2 million (USD 1.05 million) to the CRDPTF. 46 Donated funds went towards research, vulnerability assessments, land-scoping exercises, and the costs of relocating and supporting people and infrastructure. New Zealand has allocated \$0.5 million of the grant to develop relocation guidelines that considers human rights, free, prior and informed consent, and transparency and accountability. 47 This work is essential in a relocation programme, given the past human rights abuses that occurred across the world with relocation schemes for large-scale development projects, such as damns. Fiji has relocated four communities so far.

The CRDPTF is novel in allowing donor countries to directly cover the cost of relocation of displaced communities. Even though New Zealand's current contribution to the fund was from its existing development funding, and so classified as adaptation finance, this is directly addressing the loss and damage of communities for whom adaptation is no longer an option, causing them to relocate. The CRDPTF does not compensate for the non-economic side effects of relocation, such as cultural dislocation or communal disruption.

SOLUTION C: OXFAM UNBLOCKED CASH

One form of support for communities displaced or disrupted by a disaster is the direct payment of cash to affected individuals. Direct cash payments are widely accepted as the most dignified and appropriate form of humanitarian assistance, but for remote parts of the Pacific region, limited access to banks and centralised systems of resource delivery creates challenges in the delivery of traditional cash and voucher assistance (CVA). Oxfam's Unblocked Cash addresses these challenges by using blockchain technology to save aid distribution costs, reduce delivery times, and bring increase transparency and accountability in the process.⁴⁸

The project originated in 2019 in Vanuatu to support communities displaced from the island of Ambae by volcanic eruption. This was later extended to support recovery for people who's livelihoods were disrupted by the severity of Tropical Cyclone Harold and Covid-19 restrictions. In particular, the project focused on the households with pre-existing vulnerabilities, such as those who already had reduced income. Unblocked cash has since been extended to Papua New Guinea and the Solomon Islands. So far, US\$2 million has been distributed digitally to 35,000 people across the Pacific, with delivery time reduced by 96% and distribution costs lowered by 75%. 49

The programme consists of three key elements:

- 1. e-voucher 'tap-and-pay' cards provided to households which people can use to purchase goods;
- 2. smartphones with a pre-installed app through which vendors receive payments; and
- 3. a single-payment online platform where NGOs like Oxfam can disburse funds and monitor transactions remotely and in real-time.

The use of stable digital currencies has also introduced the potential for institutional donors to provide and track funds across multi-country programs, through a single contribution but with access to a central analytics dashboard. The platform has the potential to flexibly integrate direct cash distribution and individual donations, allowing for more transparent, direct financial assistance from both donor governments and potentially remittances from diaspora communities. This mechanism holds great promise for both creating and distributing loss and damage finance. Unblocked Cash is scalable and easily used to transfer finance to individuals and households that experience loss and damage events, without the complexities of insurance scheme co-payments. As such the Unblocked Cash project is a proven mechanism that could be greatly expanded for use in loss and damage financing.

OXFAM'S UNBLOCKED
CASH PROGRAM PROVIDES
SOCIAL PROTECTION
THROUGH DIGITAL CASH
PAYMENTS TO ALREADY
VULNERABLE COMMUNITIES
FOLLOWING SUDDEN
ONSET EVENTS. IT HAS
SO FAR PROVIDED CASH
ASSISTANCE TO 35,000
PEOPLE IN VANUATU,
SOLOMON ISLANDS AND
PAPUA NEW GUINEA.



FRAMEWORKS FOR FURTHER SOLUTIONS: TE TIRITI O WAITANGI AND LESSONS FROM THE TREATY SETTLEMENT PROCESS

Redress for harm experienced by certain communities is not unfamiliar to the New Zealand government. The Waitangi Tribunal investigates Crown breaches of The Treaty of Waitangi and makes recommendations to the Crown of redress for the harm inflicted by breaches of The Treaty. This is particularly the case for historic claims examining impacts of Crown actions that cannot be undone or minimised. Redress can be both cultural and/or commercial, including financial compensation, return of property or the restoration of original names to wāhi tapu. This is often accompanied by official apologies and Crown support for active remembrance of what was lost.

THE NEW ZEALAND
GOVERNMENT HAS
A FRAMEWORK FOR
IDENTIFYING, RECOGNISING
AND ADDRESSING HARM
IT HAS CAUSED TO MĀORI
THROUGH THE WAITANGI
TRIBUNAL AND TREATY
SETTLEMENT PROCESS. THIS
FRAMEWORK PROVIDES
LESSONS FOR ADDRESSING
ECONOMIC AND NONECONOMIC LOSS AND DAMAGE
DUE TO THE IMPACTS OF
CLIMATE CHANGE.

At the heart of this redress is an acknowledgement that the Crown has done harm that cannot be undone and that remedy in the form of redress is required to repair the relationship between the Crown and Māori. This redress is also meant to support the recovery and healing of Māori communities whose wellbeing was undermined by the Crown breaches.

This is very similar to the essence of loss and damage. As explained earlier, loss and damage encompasses the affects of climate change that are not or cannot be addressed by mitigation or adaptation. Along a similar vein, Crown breaches cannot be undone or adapted to without irreparable degradation to Te Ao Māori. Both require sufficient redress, both financial and non-financial, to enable community wellbeing and resilience into the future.

It is not just the Te Tiriti o Waitangi settlement process that is relevant to the government's response to loss and damage but also the content of Te Tiriti and the findings of the Waitangi Tribunal. In findings such as the outcomes described in the Wai262 claim report, it is identified that the New Zealand government has an obligation to actively protect mātauranga Māori (Māori knowledge systems) and relationships with lands, forests, oceans and taonga (treasured things). Any loss of these due to climate change requires a response from the New Zealand government that includes but is not limited to financial redress.

The New Zealand government's involvement in the Waitangi Tribunal and the settlement process demonstrates that the essence of loss and damage is not unfamiliar to it. It also provides an example of how both economic and non-economic losses can be identified, recognised and redressed through independent institutions. However, New Zealand's experience in redress processes can offer a blueprint for both effective and ineffective approaches to loss and damage.

One of the most recurring observations of the settlement process is that the redress is always far smaller than what is needed to restore the wellbeing and autonomy that was guaranteed in Te Tiriti o Waitangi. This offers a warning for loss and damage mechanisms; inadequate financing for loss and damage will fail frontline communities that it is intended to support.



5. WHAT ARE NEW ZEALAND'S AND AUSTRALIA'S CURRENT RESPONSES TO LOSS AND DAMAGE?

NEW ZEALAND'S POLICY POSITIONING

The New Zealand and Australian governments do not yet view climate change related loss and damage as something requiring distinct finance through the UNFCCC, taking an approach that treats loss and damage as a subset of climate change adaptation within existing climate finance streams.

The New Zealand Minister of Climate Change's advice to Cabinet in 2018 ahead of COP25 was that New Zealand should provide finance to respond to the "threat" of loss and damage through its climate-related support (averting or minimising it), rather than addressing the loss and damage that is unavoidable and already occurring.⁵²

In that advice, the Ministry of Foreign Affairs and Trade noted that New Zealand would support the WIM "[w]ithin the terms of the Paris Agreement, including its focus on averting, minimising and addressing loss and damage; but resist both expansion of the WIM's work programme on loss and damage in ways inconsistent with the Paris Agreement, and any efforts to pursue development of compensation mechanisms should these arise."⁵³

NEW ZEALAND'S POLICY
POSITION FOCUSES ON
AVOIDING AND MITIGATING
LOSS AND DAMAGE
THROUGH ADAPTATION
FINANCE, RATHER
THAN ADDRESSING
UNAVOIDABLE LOSS WITH
FINANCE. THIS DOES
NOT ALIGN WITH PACIFIC
ISLAND COUNTRIES'
POLICY POSITION.

This is not consistent with the distinct status of loss and damage within the Paris Agreement and earlier decisions of the COP that New Zealand was party to that specified that loss and damage was its own area needing action and support, including finance. As explored earlier, loss and damage are real and ongoing experiences arising from a variety of climate change impacts, and warrant a specific financial response. Developing a financial response to the "threat" of loss and damage is not addressing it once it has occurred.

This positioning reveals that conceiving of finance that addresses loss and damage as compensatory is a 'red line' for New Zealand. The government concedes that "[t] his is the only major issue where our position does not align with the Pacific island countries."⁵⁴

What is New Zealand doing on loss and damage?

Despite taking this positioning at international negotiations, there are areas where New Zealand has provided finance to respond to loss and damage. These are primarily in emergency preparedness and disaster risk reduction for avoidable losses (reported as adaptation finance), and support for risk insurance schemes for unavoidable loss and damage (as yet unclear how this is being counted).

New Zealand has tailored natural disaster expertise that responds to the geographic particularities of the Pacific region, and a laudable commitment to good practice

approaches in Disaster Risk Reduction (DRR). In 2018, within the OECD group of donor states, New Zealand provided the highest percentage of humanitarian aid to DRR programming. DRR activities are reported as climate adaptation finance to the UNFCCC. New Zealand also has a track record of funding humanitarian activities to respond to cyclones and other climate disasters across the Pacific, and though this is not counted as climate finance, it is often addressing unavoidable loss and damage caused by climate impacts through immediate material relief and rehabilitation support. However, the overall amount and the proportion of the overseas development assistance dedicated to humanitarian aid remains low compared to other countries, despite a 2018 funding boost. The countries of th

Recently, New Zealand's has contributed some finance to mechanisms in the Pacific region that address unavoided and unavoidable loss and damage. Both the New Zealand and Australian governments have supported the Pacific Insurance and Climate Adaptation Programme, which aims to support Pacific Island governments to develop affordable parametric insurance schemes for low-income communities that provide digital cash payments after a climate-related disaster. Se Currently however, the framework for these insurance schemes requires payments from the affected communities themselves, and are set up to respond exclusively to sudden onset events.

New Zealand has also been active in the area of climate-induced displacement, through its yet to be published "Action Plan for Pacific Climate Change-Related Human Mobility". Reports to the WIM committee in 2019 show that this plan focuses finance on avoiding climate-induced displacement, through financing adaptation that can "avert or delay" displacement, rather than addressing the displacement that has occurred. However, the government has committed NZ\$2 million for the Fiji Climate Relocation and Displaced People's Trust Fund for Communities and Infrastructure, which as outlined earlier, directly addresses community displacement. This appears to be the only financial contribution to addressing unavoidable loss and damage from slow-onset events.

Within New Zealand, the permanent impacts of climate breakdown on communities is becoming an increasing focus for policymakers. Towns are grappling with the costs of more frequent flooding events, while Māori communities, as explored earlier, face acute impacts to environmentally-linked cultural autonomy and knowledge systems. The first National Climate Change Risk Assessment identified that there is a funding gap for managed retreat of communities, among other permanent economic and non-economic losses. The proposed Climate Change Adaptation Act, though having a primary focus on adaptation, will address funding and financing unavoidable loss and damage including managed retreat of communities. The proposed Climate Change Adaptation Act, though having a primary focus on adaptation, will address funding and financing unavoidable loss and damage including managed retreat of communities.

IN PRACTICE, NEW ZEALAND
HAS CONTRIBUTED SOME
FINANCE TO ADDRESSING
UNAVOIDABLE LOSS AND
DAMAGE IN THE PACIFIC,
AND WILL BE DEVELOPING
A FRAMEWORK TO
ADDRESS DISPLACEMENT
DOMESTICALLY.

AUSTRALIA'S POLICY POSITIONING

The Australian Government's leadership on finance to address climate change has shifted dramatically in recent years. This is reflective of Australia's declining climate record across the board, with domestic priorities of fossil fuel expansion and fraught relationships with our Pacific neighbours demonstrating minimal climate ambition. As a result, loss and damage financing as separate from overseas development assistance has not yet received Australian Government adequate attention.

LIKE NEW ZEALAND,
AUSTRALIA'S POLICY
FOCUS IS ON AVOIDING
OR MITIGATING LOSS
AND DAMAGE THROUGH
ADAPTATION FINANCE.

Australia's engagement on the WIM work programme has historically focused on loss and damage as a subset of adaptation. Similar to New Zealand, Australia has been resistant to any framing of loss and damage around compensation or liability.

The Australian Government's Climate Change Action Strategy underpinning Australia's climate investments does not recognise loss and damage as a standalone item to fund. 62 It instead recognises the need for further integration of climate change adaptation and disaster resilience, and for stronger engagement with the private sector in finding solutions.

What is Australia doing on loss and damage?

Similar to New Zealand, the Australian Government has not financed loss and damage as a separate funding item from its development assistance program, where Australia has long provided support to climate change mitigation and adaptation.

Specifically, Australia has committed AUD\$1.5 billion to climate development assistance from 2020 to 2025 with no mention of loss and damage despite AUD\$500 million pledged to build Pacific climate change and disaster resilience. ⁶³ Unlike climate change adaptation and mitigation and humanitarian financing, Australia does not specifically account for or report on its current contributions towards loss and damage.

Examples provided by the Australian Government of its support in this space usually cover disaster risk reduction, preparedness and preventative action, resilience building, and facilitation of humanitarian responses to help communities recover more quickly. This contributes to averting avoidable loss and damage, and supports immediate recovery from some unavoidable loss from sudden-onset events. Australia is behind many other leading donors in supporting risk insurance in the Pacific region, with only a limited focus on local level risk insurance schemes in the region, such as the Pacific Insurance and Climate Adaptation Programme.⁶⁴

Domestically, the Australian Government and public are not explicitly using the language of loss and damage, or referencing UN agreements, however there is a groundswell movement seeking increased action to respond to unavoided and unavoidable impacts communities are facing from climate change. This response has largely been triggered by the devastating 2019 to 2020 bushfires across large parts of Australia.

In 2021, the Australian Government established the National Recovery and Resilience Agency in response to the Royal Commission into National Natural Disaster Arrangements. The Agency combines expertise in natural disaster response, recovery and resilience, working closely with affected communities and all levels of government and industry. More needs to be done, and this is a first step to align the responsibilities of, and coordination between Australian state, territory and local governments in relation to natural disasters. A major focus will be improving resilience and adapting to changing climate conditions but it is still unclear how loss and damage may be applied in the domestic context.



SUMMARY AND OPPORTUNITIES FOR PROGRESS

New Zealand and Australia's existing climate finance that focuses on disaster risk reduction or humanitarian response to climate events is commendable. At a policy level, these are aimed at largely minimising or averting loss, not addressing that which cannot be adapted to in the long term. It also does not address the other non-economic losses being experienced by communities. In practice, however, both countries are starting to direct existing development finance towards post-disaster insurance mechanisms. This has limitations in not directly compensating those affected, or addressing permanent loss and damage from slow-onset events. New Zealand has gone one step further to addressing slow-onset loss and damage by contributing a small amount (NZD 2 million) to the cost of relocating communities in Fiji.

Both countries are developing national frameworks to manage the costs of climate impacts to communities domestically. The synergies between these needs and the needs of communities in the wider region provide an opportunity to increase cross-border solidarity, and to open up political space to adequately finance responses to both domestic and regional loss and damage from climate change.

Adopting this regional lens to the issue of loss and damage is consistent with New Zealand's emerging indigenous foreign policy values. As articulated by the current Minister of Foreign Affairs, Nanaia Mahuta, this Government aims to support Pacific resilience "[b]y building on the values of whanaungatanga (kinship), kotahitanga (common purpose) and kaitiakitanga (stewardship and care)."66 Additionally, Australian Prime Minister Scott Morrison uses the Fijian word for family, vuvale, to describe the partnership Australia is building with Pacific island nations. The recognition of our connectedness across borders, in the way that some countries have caused impacts on others due to their activities, and the reciprocal responsibility to address those impacts provide a good opportunity to put those values into practice.

THE UNAVOIDABLE LOSS
AND DAMAGE BEING
EXPERIENCED IN THE
PACIFIC REGION, INCLUDING
IN NEW ZEALAND AND
AUSTRALIA, NEEDS A
SHARED COMMITMENT TO
ADDRESS IT. THIS CAN PUT
THE VALUES EXPRESSED
BY POLITICAL LEADERS
OF PACIFIC REGIONALISM
INTO PRACTICE.

6. OVERCOMING BARRIERS TO EXPANDING LOSS AND DAMAGE FINANCE

There are several perceived barriers to expanding loss and damage finance in the region and globally, including concerns about liability, issues of apportining responsibility, practicalities of what can be funded as loss and damage distinct from adaptation, and how to source the finance needed. Here we address each of these.

Loss and damage finance is possible legally

High-income countries create a false roadbock when they argue that they wish to avoid legal liability as a justification for not providing loss and damage finance.

ISSUES OF LEGAL LIABILITY
AND COMPENSATION IS
A FALSE ROADBLOCK TO
HIGH-INCOME COUNTRIES
ADDRESSING LOSS AND
DAMAGE WITH FINANCE.

Firstly, the decision adopting the Paris Agreement where the liability and compensation issue was 'settled' does not prejudice existing rights of states to push for compensation mechanisms outside of the Agreement. The WIM and concepts of loss and damage existed independent of this decision within the wider UNFCCC architecture. Parties' statements and actions prior to and since the Paris Agreement both recognise loss and damage as an issue, and have begun to finance ways to address it. This makes it clear that finance to support loss and damage does not necessarily amount to an admission of state liability. There is therefore nothing stopping a loss and damage finance framework from developing outside of the Paris Agreement architecture within the broader UNFCCC negotiation process.

Secondly, even within the scope of the Paris Agreement, there are ways that finance can be mobilised to satisfy the legal expectation to provide "support" to address loss and damage that does not trigger legal liability. The Decision adopting the Paris Agreement, which clarified that the expectation to provide support was not a basis for liability and compensation, "does not preclude the WIM or the parties to the Paris Agreement from agreeing over time to a legal regime which might resemble a liability scheme or which may provide some kind of monetary payout or financial support in case of actual damage – whether or not the terms liability and compensation are used. Even an international system of 'cooperation and facilitation' established under the climate change umbrella could and may wish to employ tools used by liability regimes or international or domestic solidarity schemes to address transboundary impacts." Therefore, the approach of New Zealand and Australia to limit loss and damage within the mandate of the WIM, and resist any effort to develop compensation mechanisms, cannot be justified on the legal argument of liability.

Loss and damage finance is possible practically

It is entirely possible to make progress on the practical frameworks that address loss and damage independent of the disagreements about legal implications of words such as 'compensation' and 'liability'.



Climate finance, particularly adaptation finance, is already a form of redistribution and compensation for those most impacted by climate change, as is the increased mitigation obligation of high-income countries through the principle of common but differentiated responsibilities, and respective capabilities. Those that contributed the most to climate breakdown and have the most resources are expected to provide finance to countries most impacted and least responsible. Extending the principle of countries' differentiated responsibility one step further to respond to loss and damage is not a big conceptual leap to make. As an international legal principle, which is already well-established through political negotiations, common but differentiated responsibilities neither assigns nor closes off strict liability, and provides a grounding for countries to negotiate solutions within a key principle of climate justice.

Many countries such as New Zealand and Australia already recognise their humanitarian responsibilities when climate induced disasters occur, and recognise that regional resilience and recovery benefits us all. The principle of common but differentiated responsibility could build on this by extending the onus on donor countries to address unavoidable loss and damage from climate change impacts, alongside existing work to to avoid or mitigate them through DRR and adaptation. This means more than immediate disaster response, but predictable and ongoing funding contributions to mechanisms that support people after the loss and damage has occured, whether it is a sudden or slow-onset event, and whether the loss is economic or non-economic.

Some high-income countries have started to address unavoidable loss in the area of sudden onset events by directly subsidising disaster risk insurance through existing development programmes, and more recently, this is being labelled as "reducing loss and damage." However, it is not clear if this is seperate to or part of these countries' commitments to the collective \$100 billion a year goal in climate finance, or if it will be counted as a distinct contribution.

LOSS AND DAMAGE
FINANCE SHOULD
BE BASED ON THE
PRINCIPLE OF COMMON
BUT DIFFERENTIATED
RESPONSIBILITIES. THE
PACIFIC REGION CAN
WORK TO ADVANCE
SOLUTIONS GLOBALLY TO
INCREASE THE SCALE AND
PREDICTABILITY OF LOSS
AND DAMAGE FINANCE.

The Pacific region can be part of finding solutions globally

The global deadlock can therefore be broken practically and legally, if there is political will to do so. The language of solidarity has emerged as an important framing for recognising the urgency of finance needs and engages both sides of the debate in a less confrontational manner. The onus is on high-income countries such as Australia and New Zealand to take up the issues in good faith and moving past the legal debate being a roadblock. As Dr Saleemul Huq, adviser to the Climate Vulnerable Forum puts it: "[l]osses and damages are increasing, so they have to be dealt with. If we focus on solidarity, I think we can do so without litigating liability and compensation in legal terms. The point is to acknowledge that there are victims, and they must not be left to themselves. Quite obviously, those who have caused the problem have the responsibility to do something. If all parties are serious about rising to this challenge, solutions are possible."⁷⁰

ONCE THERE IS A SHARED COMMITMENT TO ADDRESS LOSS AND DAMAGE URGENTLY WITH FINANCE, OTHER BARRIERS CAN BE WORKED THROUGH.

New Zealand and Australia are already supporting certain loss and damage mechanisms bilaterally through their development assistance, but it is clear that these do not meet the scale of financial need, nor cover all forms of loss and damage occurring. By working with other Pacific countries, who have been leading advocates of loss and damage issues, on a shared recognition that unavoidable loss and damage is occurring and has urgent need for global solutions and that requires finance to address it, there is an opportunity for the Pacific region to help galvanise progress at the global level.

If a breakthrough is not possible within the COP26 process, a 'coalition of the willing' of donor countries could coalesce in a similar way to other voluntary coalitions have coalesced at COP events. This could in the immediate term be a commitment from these countries to provide new and additional finance for loss and damage initiatives bilaterally and regionally based on the principles of solidarity and common but differentiated responsibilities.



Other practicalities can all be worked through

Other practical questions may arise, such as how to quantify loss and damage, attribute it to climate change, and to apportion responsibility for addressing it between states. A properly operational Santiago Network on Loss and Damage, the body established to provide technical assistance to lower-income countries on loss and damage, could help work through many of these questions, and negotiation capacity could be freed up to work through these if there was an agreed baseline that loss and damage is happening and the principle of differentiated responsibility required high-income nations to provide and mobilise finance to address it. The Network could be used to support national level needs assessments in countries facing losses and damage, which are necessary for determining what activities within different country contexts need to be funded and how finance should be distributed at subnational levels. Such a needs assessment would require capacity building and resources for countries.

The IPCC's Sixth Assessment report has shown the advancements in attribution science for extreme weather events, and for the first time gives regional assessments of climate risks and impacts around the world. The international climate finance architecture already lays out expectations of developed country parties, with collective goals, and different ways of apportioning what may be a country's share of meeting that collective goal. The same challenges of apportionment exist, but that hasn't stopped countries from providing climate finance, and from methodologies for fair shares of climate finance being developed.

Where will the money come from?

Finding new and innovative sources of finance is an ongoing need if governments are to meet the escalating loss and damage from climate change and growing finance gaps to address it with the money required. This comes within the context that public climate finance levels remain inadequate to meet adaptation and mitigation needs for low-income and climate-vulnerable countries, let alone loss and damage needs. It is important that loss and damage finance should not eat into existing small pool of climate finance, and that both of these should not displace other important development finance towards areas such as healthcare.

High-income governments have been able to mobilise resources when the urgency of the Coronavirus pandemic has struck their own populations. For example, New Zealand has so far spent NZ\$48.4 billion on the Covid-19 response, more than 160 times its fair share of the collective USD100 billion per year climate finance goal that high-income countries have so far failed to meet.⁷³ Mobilising public resources towards climate finance and loss and damage finance is therefore largely a matter of political will and treating the climate crisis with a similar urgency.

In addition, various means of developing new and innovative sources of finance have been floated internationally. With Australia being a large extractor and exporter of fossil fuels, one solution is a damages tax on carbon majors, or shifting fossil fuel subsidies. Other ways to progressively mobilise finance for frontline communities could be through wealth or financial transaction taxes. A levy on long haul flights has been floated in New Zealand, with part of the funds going towards climate finance, by the Parliamentary Commissioner for the Environment – this could equally apply to loss and damage finance. The Neither country is a major debt-holder of countries in the region, with their development finance coming almost exclusively in grant or grant equivalent form. Globally, cancelling country debt in the event of a climate-induced disaster would be an effective means of support. New Zealand is a leading advocate of fossil fuel subsidy reform globally, and could expand this advocacy towards other countries to cancel developing country debt during climate-induced crises.

MOBILISING SUFFICIENT
FUNDS TO ADDRESS LOSS
AND DAMAGE REQUIRES
POLITICAL WILL, AS WELL
AS NEW AND INNOVATIVE
SOURCES OF FINANCE.

7. RECOMMENDATIONS FOR THE NEW ZEAL AND AND AUSTRALIAN GOVERNMENTS

Based on the needs identified by Pacific Island country governments, the current approaches of the New Zealand and Australian governments, and the insights gained from the case studies of both impacts and existing solutions in the region, the following recommendations can be made:

Recommendations to advance loss and damage finance at COP26 and future UNFCCC negotiations:

- Align with the negotiating positions of Small Island Developing States within the Pacific on loss and damage.
- Support the operationalisation of an effective Santiago Network on Loss and Damage, meeting its mandate to provide action and support for vulnerable developing countries.
- Support making loss and damage a standing item for future COPs.
- Support the development of a financial arm of the Warsaw International Mechanism, to align with the WIM's existing mandate, with potential to build on the Executive Committee and Santiago Network.
- Alongside the COP process, advocate for a new loss and damage solidarity fund with a 'coalition of the willing' of donor countries based on the principles of solidarity and common but differentiated responsibilities.
- Support the establishment of a process at COP26 to develop new sources of
 international finance for loss and damage, which could include a climate damages
 tax on carbon majors, wealth tax, shifting fossil fuel subsidies and as a minimum,
 cancelling debt during climate-induced crises.





Recommendations to advance loss and damage finance in the Pacific region:

- Scale up finance for existing loss and damage mechanisms that prioritise the needs, rights, and interests of frontline communities, and
 - That is in the form of grants or grant equivalent;
 - To ensure additionality from adaptation finance, is labelled as 'loss and damage finance' where it addresses unavoidable impacts;
 - That evolves financial support for national or regional insurance schemes to directly subsidise the payments for communities, and enables coverage for a wider range of climate events;
 - That includes approaches providing cash delivered through voucher payment cards to communities affected by disasters and other climate induced events; and
 - That include mechanisms addressing slow-onset events such as relocation funds.
- Support capacity building and needs assessments for Pacific Island countries to record and quantify loss and damage, and identify what mechanisms are needed to respond to it within different country contexts, particularly non-economic losses.
- Include addressing unavoidable loss and damage in domestic disaster response and climate adaptation policy-making, with particular responses for indigenous communities.
 - For New Zealand, this includes redress for Māori in in the development of finance mechanisms (for economic losses) under the Climate Adaptation Act legislation and in the government's response to the Wai262 report (for noneconomic losses).

NOTES

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