Elements of a Pilot Loss and Damage Response Fund

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Benito Müller[1] with contributions[2] by **Diann Black-Layne**,[3], **Kishan Kumarsingh**,[4]

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I. Introduction

The issue of responding to Loss & Damage has been raised in the multilateral climate negotiations as early as 1991 [5] This post expands on the discussions at the 2022 ecbi Oxford Seminar, following a presentation by Michai Robertson on "Funding Arrangements for Addressing Loss and Damage"[6] More precisely, my aim is to provide some food for thought regarding three key questions concerning the idea of a ***Pilot Loss and Damage Response Fund*** (PLADRF, or 'Pilot Fund') that came out of these discussions, namely:

- Why a new fund?
- What type of 'response' should the pilot fund be focussing on?
- How could the pilot fund be resourced?

II. Why a new fund?

There have been reservations with regard to setting up a new funding instrument under the Financial Mechanism because of a fear that it would contribute to the 'fragmentation' of the multilateral climate finance architecture. Clearly 'fragmentation', in the sense of duplicating existing institutions is not necessarily a good thing, but this does not mean that creating a new funding instrument necessarily implies fragmentation in that sense.

Take the genesis of the Adaptation Fund (AF). In 2001, at COP 7 in Marrakesh, Parties decided that "*an adaptation fund shall be established to finance concrete adaptation projects and programmes in developing country Parties … to the Protocol* [to] *be financed from the share of proceeds on the clean development mechanism project activities and other sources of funding*."[7]

As this was a decision on "Funding under the Kyoto Protocol" the full operationalisation of the AF had to wait until the entry into force of the KP in 2005. In December 2007, the operationalisation of AF was completed at the third session of the KP governing body (CMP.3) in Bali, where it was decided that an 'Adaptation Fund Board' of the AF "shall be established [as a new operating entity] to supervise and manage the Adaptation Fund, under the authority and guidance" of the CMP as a new new operating entity"[8]

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Four months earlier, Amb. Enele Sopoga, later Prime Minister of Tuvalu, gave a presentation at the 2007 ecbi Oxford Seminar on the governance of the AF, highlighting *inter alia* the view of the participating developing country delegates (the 'ecbi Fellows') that "the AF was sufficiently different from other funds operating under the UNFCCC to necessitate the creation of a different governance structure with a new and separate operating executive body"[9] Indeed, Amb. Sopoaga collaborated with four other Fellows after the Oxford Seminar to produce an Opinion Piece which illustrates why there was seen to be the need to create "a 'stand-alone' governance and management structure featuring a new tailor-made expert executive body and a decision-making format that ensures the authority of the COP/MOP."

The main reason was that, as the intended recipient of the CDM share of proceeds, it was seen to be "unlike the other UN climate change funds [by not exclusively relying] on voluntary donations from industrialised countries." Moreover, the Fellows envisaged other potential innovative funding sources for the AF.[10] In other words, the AF was regarded as vehicle purpose-built to manage and develop innovative sources of funding. Or in the words of the authors: "This is why we are not convinced by the two main arguments put forward for operating the AF by the same entity as the other two UNFCCC funds — namely, that this would eliminate significant duplications in adaptation activities under the different funds, and prevent the unnecessary creation of a new body. We believe that the AF is in a league of its own, and that it is sufficiently different from the other funds to necessitate the creation of a 'stand-alone' governance structure with an entirely new operating body."

Having said this, if memory serves, there was also a certain discontent that the existing operating entity of the UNFCCC Financial Mechanism, the Global Environment Facility (GEF), was not able to deal with adaptation, not least because it was designed "for the purpose of providing … funding … to achieve agreed ***global environmental benefits***"[11] in its focal areas, including climate change. Adaptation is generally seen to provide primarily local benefits to human beings, and as such does not fit easily under the GEF remit, and indeed, the the GEF website acknowledges that it has outsourced adaptation to the other two UNFCCC funds created in Marrakesh, i.e. the Least Developed Countries Fund (LDCF) and the Special Climate Change Fund (SCCF).

It is also interesting in the current context to learn from the Preamble of the GEF Instrument that it was actually also "established in the [World Bank] as ***a***

pilot program in order to assist in the protection of the global environment…"

One additional distinct advantage of having a thematically focused multilateral fund, such as the AF, is that there can be no (multilateral) doubt whether contributions to such a fund are actually for the theme in question (i.e. for adaptation, in the case of the AF). Establishing a multilateral fund with a thematic focus on L&D would have the same advantage, which potential L&D funders might very well appreciate!

III. What "Response"?

a. The L&D Management Cycle

The issue of how to respond to damage inflicted by some on others has occupied societies since time immemorial, and there have been a number of quite different approaches to deal with it. There is, for one, the taking of **Reveng**e, as suggested in the Old Testimony maxim of 'an eye for an eye', but that has been discredited, not least because "it will make the whole world blind"[12].

Another approach is **Reparation** (a.k.a. compensation), defined by the OED as "the action of making amends for a wrong one has done, by providing payment or other assistance to those who have been wronged." It was a cornerstone of Roman law, as reflected in the Twelve Tablets which specified that "If a person breaks a bone of a freeman with hand or by club, he shall undergo a penalty of 300 asses; or of 150 asses, if of a slave." However, given the history of the L&D deliberations in the multilateral climate change regime, it is unlikely that focusing on this approach would succeed in detoxifying these deliberations. Instead, what might be more successful is to look at the response approaches that have been identified in the context of disaster management.

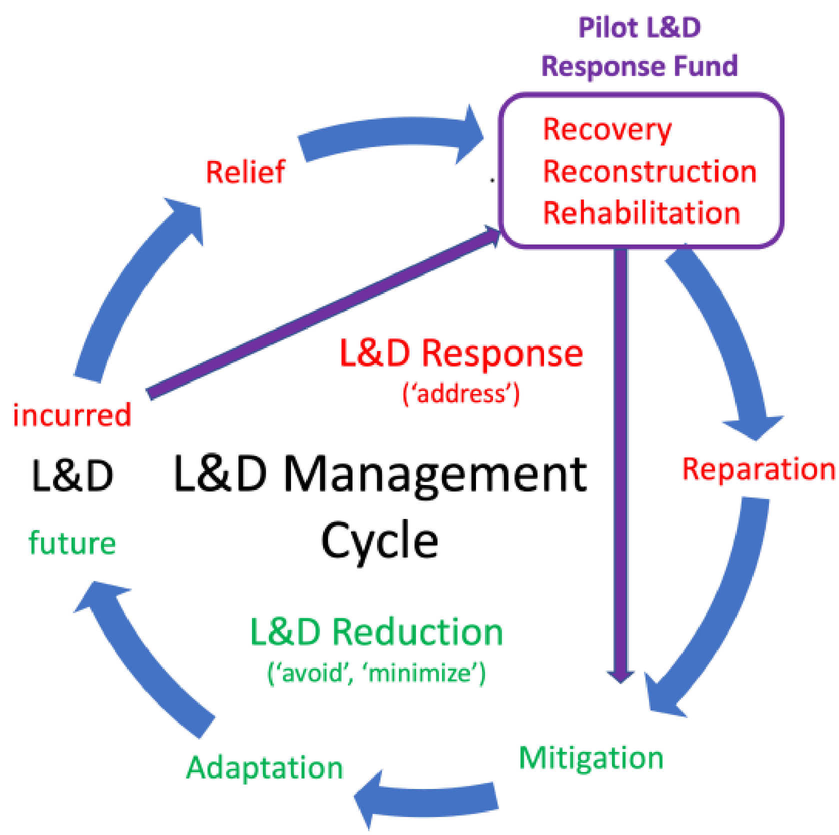

Figure 1. The role of the PLADRF in the L&D Management Cycle

The figure above depicts what could be called the 'L&D Management Circle' listing four more R's, based on the well-known Disaster Management Cycle: emergency **Relief**, **Recovery, Reconstruction**, and **Rehabilitation.** Two key points must be emphasized in this context:

- First of all, as reflected by the colour scheme in Figure 1, there is a fundamental difference between L&D ***Response*** and L&D ***Reduction***. The former deals with L&D that has been ***incurred through unavoided adverse climate impacts***, the latter deals with managing L&D of impacts that have not happened yet. Mitigation and adaptation are part of the toolkit to reduce ('minimise', 'avoid') L&D from future impacts, but they cannot be used in responding to ('addressing') L&D that has already been incurred. This means, in particular, addressing L&D is not 'delayed adaptation', nor can mitigation and adaptation be used to defer action to address L&D.
- Second, having recovery, reconstruction, and rehabilitation as Impact Response activities does not mean that impacts can generally be reversed. Once a species is extinct due to climate stress, it will remain extinct. Once a coastline is lost due to sea-level rise, it remains lost.

These activities simply help affected people to deal with the L&D they incurred.

b. The Role of the Pilot Fund

How could the proposed Pilot Fund fit into this L&D Management Cycle?

First of all, it is also clear to me now[13] that it would not be sensible to establish a UNFCCC L&D emergency relief regime in parallel to the existing humanitarian aid regime with the Office for the Coordination of Humanitarian Affairs (OCHA) as the key UN agency. Indeed, one way in which this could be avoided, as also reflected in Fig. 1, would be to focus the work of the Pilot Fund away from extreme (weather) events to impacts typically associated with **slow-onset events** and, possibly, **non-economic impacts**, on the impact side, and away from Relief to **Recovery, Reconstruction,** and **Rehabilitation**, in its original sense of 'making fit for purpose again'[14], on the response side.

Moreover, it might be judicious to look at L&D Response through a 'just transition' lens, as reflected in a recent interview in a Trinidad and Tobago newspaper: "Kumarsingh further explained how coastal communities which rely on the natural amenities that they live in like those who catch and sell fish, crabs and conchs will be affected and how they fall under the protection of the just transition policy."[15]

Indeed, in his L&D presentation to the 2022 ecbi Oxford Seminar, Saleemul Huq gave an example of L&D from slow-onset event: the steady stream of farmers that are loosing their livelihood due to climate stress and end up migrating to to slums of big cities in search of work, citing it as a matter of 'just transition' that should be covered by L&D.[16] To be noted, in this context, is that unlike disaster relief, and transnational migration, this sort of 'internal' migration is (to my knowledge) not covered anywhere else in the UN, be it under the UNHCR or anywhere else. To be clear, internal migration due to climate stress does not only occur in the context of slow-onset events, as recently pointed out in an OpEd by Malik Amin Aslam Khan, former Pakistani Minister for Climate change: "A population of over 33 million is awash in suffering with over 1400 killed, most of them small children, and 10 million people forcibly displaced to become hapless climate refugees in their own homeland. As the static flood waters now threaten increased hunger, disease and poverty the inescapable damage assessments are already running into billions ($30 billion as per some estimates) for the rescue, repair and massive rehabilitation."

Finally, it would seem judicious to exclude Reparation from the remit of such a Pilot Fund (as reflected in Figure 1), for it to be in a mutual comfort zone. This is not to remove Reparation as a L&D Response activities, but simply to remove it from the scope of the proposed Pilot Fund, mirroring the removal of emergency Relief.

IV. Innovative Sources of L&D Funding

a. Top-Down Approaches

In a recent interview, Gaston Browne, Prime Minister of Antigua and Barbuda addressed the issue of L&D funding, expressing his belief in the need for more innovative sources:

"There is no reason why companies in the fossil fuel energy business should be making windfall profits at this time without them being taxed and the proceeds utilized to fund the green energy obligations or to drive down the cost of renewables.

I am of the view that, at the individual level, if you charge people who travel an environmental levy of $1, it is not prohibitive, imagine how much money could be raised if each airline ticket is increased by a dollar – or each cruise ship passenger, each cargo ship, if every barrel of oil is charged – it is not inflationary, but it can be used to fund loss and damage.

On the loss and damage fund being proposed, there can also be creative ways to fund it – like I said, taxing at the individual level. We have to appreciate that, when we are in an airplane, we are polluting the air. It is not just organizational, but as individuals, we have to carry that burden too."

As it happens, there have been a number of proposals for innovative multilateral financing sources along the lines suggested by Prime Minister Browne. For example, at COP12 in Nairobi (2006) Switzerland proposed a global carbon tax as an innovative 'Global Solidarity' instrument for adaptation financing.[17]

Moreover, the idea of an airline levy as suggested above has been studied in some detail and even proposed by the Least Developed Countries Group in December 2008 at COP 14 (Poznan) as *International Adaptation Passenger Levy* (IAPAL). The original study concluded that "a very modest average level of €5 per ticket [would] raise €10billion annually"[18] Unfortunately, IAPAL did not fly at Poznan, but the idea that we need innovative sources of funding for the multilateral climate funds of the Financial Mechanism did not disappear, far from it.[19]

In December 2008, at COP 24 in Katowize, the PCCB (Paris Committee on Capacity Building) and ecbi joined forces to organize a joint Seminar showcasing five ideas aimed at generating innovative additional contributions to the funds of the Financial Mechanism:

1. The International Air Passenger Adaptation Levy (IAPAL);
2. The Climate Damages Tax;
3. The International Maritime Fuel Carbon Tax;[15]
4. The Western Climate Fund;
5. The Corporate Air Passenger Solidarity Programme (CAPS).

The first four were top-down concepts, involving government regulation. The last one, by contrast was a bottom up variant of the IAPAL scheme, involving voluntary contributions by travellers.[20]

b. Bottom-Up Approaches

'Bottom-up' here means that contributions are not obligatory, but voluntary, as in the case of what has become known as 'crowd funding'.

Crowd Funding

On 28 May 2013, Ambassador Diann Black-Layne (Antigua and Barbuda) presented an award-winning ecbi Report on "*Crowdfunding for Climate Change: A new source of finance for climate action at the local level?*" she co-authored at the first Forum of the UNFCCC Standing Committee on Finance. The Report recommended that "the new Green Climate Fund (GCF) should consider creating a microfinance and crowdfunding window as part of its Private Sector Facility. Under this window, the GCF could support countries that create an enabling environment for 'micro climate finance', through accredited National Financial Entities or competent private or non-governmental entities in the country."

Unfortunately, this recommendation was also not heeded, so that to this day, the Adaptation Fund remains the only operating entity of the Financial Mechanis with a donate button allowing it to crowd fund.

Air Passenger Crowd Funding

In 2016, an ecbi Policy Brief[21] introduced the concept of "Corporate Social Responsibility Air Travel Adaptation Crowdfunding" (CSR ATAC) promoting the idea of voluntary contributions by corporate travellers tothe Adaptation Fund. The Brief not only discussed why corporate air passengers, in particular, should support adaptation, but also estimated the potential revenue: "Assuming, conservatively, that only one in ten corporate air passengers who offset emissions switch to the proposed solidarity contribution, the scheme would raise over US$ 100 million annually at the suggested contribution of 1% of ticket cost".

In February 2017, Oxford Climate Policy and the Environmental Change Institute of the University of Oxford published a brochure on the "*Oxford Crowdfunding for Adaptation Initiative: Tapping into Socially Responsible Corporate Air Travel*", containing a one-page flyer on "Effective CSR for Corporate Air Travel" as well as a succinct market analysis of the target sector (Why focus on socially responsible corporate air travel? Market size and potential revenue) as well as the mechanics of the scheme. The brochure was complemented by the creation of a website for Corporate Air Passenger Solidarity (CAPS).

The concept of 'solidarity' evoked in this context is not necessarily tied to contributions to the Financial Mechanism for adaptation. It would equally well fit contributions to L&D. At the same time, CAPS is ready to be piloted and as such could be easily fitted with the envisaged Pilot Fund, if crowd funding were to be made one of sourcing modalities.

V. What now?

As indicated in my other post ("The time is ripe … for serious discussions on finance to address and indeed respond to L&D through a dedicated pilot fund"), the aim here was to put forward some elements on how an entity operating under the Financial Mechanism could be conceived so as to facilitate finding a mutual comfort-zone/landing-ground for the L&D finance negotiations. This is as much as I can do at this point. The next steps toward the proposed landing-ground will have to be taken by the Parties at the upcoming climate conference (COP27/CMA4) in Sharm el Sheik, Egypt.

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Notes

⇧1 Director ecbi, MD Oxford Climate Policy, University of Oxford, corresponding author: director@oxfordclimatepolicy.org

⇧2 *The author takes full responsibility for the content of this post, contributors may not necessarily agree with all the points, but they agree that they are worth raising for discussion to help the L&D finance negotiation find consensus*.

⇧3 Climate Ambassador, Antigua and Barbuda

⇧4 ecbi Chief Adviser, Trinidad & Tobago.

⇧5 Viz. the AOSIS International Insurance Pool. For an account of the L&D finance deliberations see my other Note on L&D finance, or the ecbi Pocket Guide on Loss and Damage under the UNFCCC.

⇧6 For more on this see the 2022 Oxford Seminar Report.

⇧7 Decision 10/CP.7. Paras 1 and 2.

⇧8 Decision 1/CMP.3 paras 3 and 4.

⇧9 2007 ecbi Oxford Fellowship and Seminar.

⇧10 “Moreover, there are other avenues of innovative funding for the AF that could and should be pursued — not least if the expected gap in adaptation funding is to be filled. These include an extension of the adaptation levy to the other mechanisms of the Kyoto Protocol (possibly at a higher rate), and the inclusion of bunker fuel-based emitting activities, such as air and maritime travel.”

⇧11 Instrument for the Establishment of the Restructured Global Environment Facility, para 1. Emphasis added.

⇧12 Attributed to Mahatma Gandhi

⇧13 In 2002 I was arguing for the establishment of a Climate Impact Relief Fund (B. Müller, *Equity in Climate Change: The Great Divide*, Oxford, OIES, 2002.

⇧14 From the Latin 'habilitare' based on the Latin adjective 'habilis', meaning 'fit for purpose' (Thanks to Dr John Penney, Wolfson College, Oxford)

⇧15 Ryan Bachoo, Where next for energy workers? Interview with Kishan Kumarsingh, Trinidad and Tobago Guardian, 2 October 2022. For more on this, see also: Müller, B., with S.Huq and M. Khan, 'Just Transition: Response Measures and Loss & Damage!', Oxford Climate Policy, 21 April 2022.

⇧16 For more on this, see Benito Müller with Saleemul Huq and Mizan Khan, "Just Transition: Response Measures and Loss & Damage!", OCP blog, 21 April 2022.

⇧17 UVEK 2007: Global Solidarity in Financing Adaptation, A Swiss Proposal for a Funding Scheme, Paper for further Discussion, Federal Office for the Environment, Berne. 40 pp

⇧18 Müller, B., and Hepburn, C., IATAL – an outline proposal for an International Air Adaptation Levy, Oxford, OIES, 2006.

⇧19 For more see: Müller, B., The Paris Predictability Problem: What to do about climate finance for the 2020 climate agreement?, Oxford, ecbi/OCP, 2015. Müller, B., 'Whatever happened to the Paris Predictability Problem? Part II. Unconventional Options for Enhancing the Predictability of Multilateral Climate Finance', *Oxford Climate Policy*, 20 June 2016.

⇧20 For more details on these five examples, see: Müller, B., 'Innovative Sources for Multilateral Climate Finance', *Oxford Climate Policy*, 2 January 2019

⇧21 Müller, B., with A. Kornilova, R. Tewari, and C. Warnecke, Two Unconventional Options to Enhance Multilateral Climate Finance: Shares of Proceeds and Crowdfunding, Oxford ecbi 2016

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