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# **Climate Justice in the UNFCCC? African Agency in the Loss and Damage Negotiations**

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## **Abstract**

More than a purely ecological issue, the climate crisis is strongly rooted in colonial histories and linked to questions of global social justice. One way in which this notion of climate justice has come to be articulated in the international environmental regime is through the negotiations on, and institutionalisation of, “loss and damage” under the UNFCCC. The African Group of Negotiators – representing a continent which is particularly vulnerable to climate change impacts – has been an important actor in these negotiations, although its particular role has not substantively been studied. An important question is the extent to which the AGN manages to express agency within an international framework which exists against the backdrop of unequal global power relations – especially considering the relationship between this global order and the origins of anthropogenic climate change, and the already devastating impacts experienced. Using insights from structuration, complexity and frame theory, this research finds that while on one hand, the behaviour of the AGN reflects and in some ways reproduces status quo power relations, there is also potential for transformation – particularly through the use of strong, justice-based ideational arguments.

## **Introduction**

We are living in the Anthropocene, ‘a new geological epoch in which human forces are dominant in shaping the biosphere’ (Newell, 2020, p. 1). As a result, threats to the climate and ecological spheres are becoming more frequent and extreme – compounded by feedback loops and the close interrelatedness of different eco-, social and climatic systems (IPCC, 2018b; Newell, 2020, p. 142). By extension all life on earth is increasingly threatened, including human life, as ecological issues cause and enhance ‘transregional or global social, economic and political crises’ (Biermann, 2014, p. 58). While all people, regions and states have to adapt to the impacts of climate change, there are stark differences in relative vulnerabilities and capabilities (Verisk Maplecroft, n.d.; ND-GAIN, 2021). Many developing countries lack adequate resources, and/or are increasingly facing impacts that cannot be adapted to – resulting in losses of lives, livelihoods and ecosystems, damages to vital infrastructures, and the like (Vanhala & Hestbaek, 2016, p. 112).

The United Nations Framework Convention on Climate Change (UNFCCC) is arguably the largest and most influential framework in existence to address the ecological crises (Okerere & Coventry, 2016, p. 6). This framework now knows 197 parties, and saw the birth of various international agreements, the only climate-related ones of this scale, most notably Kyoto (1997) and Paris (2015). While the main focus of the institution has been and still largely is on mitigation, there has been increasing attention for both adaptation to the effects of climate change that can no longer be prevented, and for the financial aspects of both mitigation and adaptation (Kuyper et al., 2018; UNFCCC, 2015). More recently, “loss and damage” (L&D) has become an established topic of

negotiation, although the relationship between this topic and adaptation is far from clear (Boyd et al., 2021, p. 1366), and concrete action on the ground tends to be considered lacking by proponents (e.g. Rowling, 2021). Loss and Damage is regularly referred to as one of the most “political” topics under the UNFCCC (Boyd et al., 2017). It sits squarely at the intersection between a number of particularly controversial topics such as vulnerability, responsibility and finance – controversial most notably because they highlight global power relations between “North” and “South”, and the way these relations shape and have shaped current climate and ecological realities. Consequently, progress on the topic is slow (*Ibid.*), until this day there are no legally binding commitments (Jegede, 2018, p. 212), and at the most recent COP26 in Glasgow many developing country representatives (e.g. Guinea on behalf of the G77) stressed their “extreme disappointment” with the way the principle has been encapsulated in the agreement (UNFCCC, 2021). While most research on specific groups’ engagement with Loss and Damage has focussed on the Alliance of Small Island States (AOSIS) (e.g. Adelman, 2016; Betzold, 2010), a coalition for whose member-states this topic is very important, but whose engagement has hardly been described, is the African Group of Negotiators (AGN).

The aim of this thesis is two-fold. First, it aims to fill a gap in the literature pertaining to the position and role of the African Group in relation to the Loss and Damage debate, and so contribute to the available knowledge about the role and behaviour of this relatively understudied coalition in the UNFCCC. In particular, recognising that Africa is already experiencing (and will increasingly do so) large scale losses and damages as a result of climate change, how is the AGN as a coalition using the available UNFCCC framework and resources to increase the capabilities of African states to respond to these challenges? Second, to investigate power relations in the UNFCCC against the backdrop of global North-South political and economic inequalities, by attempting to understand the relative agency of this particular “Southern” coalition in relation to a debate which at its’ core arises from and reflects those relations. Specifically, to what extent is African loss and damage from climate change seen as an international problem, and how are African self-articulated interests reflected in the multilateral UNFCCC process?

While these are particularly difficult questions with no conclusive answers, they are important for understanding the workings of global environmental politics, and touch upon one of the most important debates in International Relations theory: the structure-agency debate. Insights from the literature on the structure-agency relationship and on the notion of climate justice will be used as a theoretical framework. The research itself includes two interviews with AGN negotiators and an analysis of the AGN’s problem-definition framing of loss and damage over time; supported by a literature review pertaining to the structure and history of both the UNFCCC and the AGN, and the development of the principle of L&D over time.

## Theoretical Framework

### Structure and agency

Before addressing the agency of the African Group of Negotiators in the UNFCCC, it is necessary to consider what agency *is* in the first place. This relates to a major debate in International Relations - the structure-agency debate - which pertains to a number of disagreements about the respective importance of “structure” and “agents” in determining human behaviour. On one end of the spectrum, individualist or voluntarist approaches assert that the structures in which actors operate, and the potential for social change within them, are entirely determined by the behaviour of those actors themselves. From this view, it follows that actors possess a potentially unlimited amount of agency (O’Neill et al., 2004, p. 151). On the other end, there are the structuralist theories, which posit that both *whether* and *how* agents act is determined by structural factors - whether because of their bureaucratic, material, ideological or other dispositions. By extension, agency is seen as very limited, and social change may only follow from structural change (*Ibid.*). Wendt has criticised both types of approaches for prioritising either structure or agency over the other, and by doing so “rendering the other *primitive*” (i.e. simply assuming rather than theoretically establishing their properties), while both agent-centred and structure-centred research shows that they are in fact crucially dependent on each other (1987, p. 338-339). Consequently, voluntarist approaches are, for example, unable to explain preference formation, while structuralist approaches fail to explain social change (O’Neill et al., 2004, p. 154). As an alternative, Wendt proposes *structuration* theory, which centres on the *mutually constitutive* relationship between structure and agency to determine what motivates human behaviour.

Structure as understood by structurationists is a *process* rather than a state - it structures some aspect of life (O’Neill et al., 2004, p. 154-155). Structure can relate to the material (e.g. relative economic capacities) or the immaterial (e.g. interests or ideas, power relations, practices, technologies, territories, or even time and space) and thus may or may not be observable directly (Wendt, 1987, p. 356-357). It can both *constrain* and *enable* the social actions of agents (*Ibid.*, p. 342), on whose self-understanding it is relationally dependent (*Ibid.*, 359) and who to some extent *reproduce* the structure through their social actions (O’Neill et al., 2004, p. 155). Lastly, it is more than the sum of its parts, and determines what is *possible* rather than what is actual, through *causal mechanisms* rather than lawlike generalisations (Wendt, 1987, p. 357 & 370).

Agents, too, are *relational*, in that they are constituted by their relationships with structures (e.g. a state is not *inherently* a state, but because it is embedded in an international structure with set conditions for what qualifies as a state) (Wendt, 1987, p. 357 & 359). For *actors* to be *agents*, they need to possess certain qualities, although these are variably defined by different authors. The most prominent ones include: the ability to choose from different courses of action, reflect, learn

from experiences and effect change (O'Neill et al., 2004, p. 151 & 155); volition, autonomy, ability to employ policy instruments and recognition by other actors (Vogler in O'Neill et al., 2004, p. 155); and a theoretical understanding of (the reasons for) their own activities (Wendt, 1987, p. 359). Agency can have intended and unintended effects (i.e. the agent may not know they are an agent, or in what particular way) (*Ibid.*, p. 360). While all humans and their institutions have the capacity to be agents, the amount of agency depends on e.g. access to resources and knowledge of structural norms and rules (O'Neill et al., 2004, p. 155-156).

Social change, in this relational view of structure and agency, is defined as: '*[A] process by which the interaction between agents and structures creates new possibilities for collective action by changing norms and institutions, as well as the evolution of existing and emergent actors (and their interactions) who are both enabled and constrained in the pursuit of their goals.*' (O'Neill et al., 2004, p. 152)

Importantly for the current project, O'Neill et al. also bring structuration theory into conversation with the literature on norms (i.e. intersubjective understandings of appropriate behaviour within a certain context) and ideas (e.g. principled beliefs about justifiable/desirable behaviour). Norms and ideas can influence the structure-agency relationship in multiple ways. For example, they may act as a *constraining* structural factor by limiting agents' behavioural options (e.g. by condemning racism). They may also *enable* new forms of action, e.g. through the increasing acceptance of principles such as "the polluter pays" (O'Neill et al., 2004, p. 160). They may influence agents' understanding of their own interests, or guide the attention of decision makers towards particular problems (*Ibid.*, p. 161). Norms and ideas travel between local, national and international levels, and when institutionalised, can even start to lead a life of their own outside of the influence of those who created or spread them (*Ibid.*). Importantly, those with relatively less material power may use ideational arguments as another form of leverage or persuasion (*Ibid.*, p. 170).

The merits of Wendt's structuration theory notwithstanding, it contains two unresolved problems. First, Wendt makes a distinction between social (i.e. human) and natural structures, the latter of which are not defined but are said to 'exist independently of the activities they govern', whereas the former do not (Wendt, 1987, p. 358-359). How else they would continue to exist (especially considering the regenerative nature of most structures - e.g. ecosystems, the human body) is left unexplained. Ironically, Wendt has rendered "the non-human" unable of agency and thereby primitive. Second, on one hand Wendt treats structures and agents as *ontologically distinct* (1987, p. 360), but on the other recognises that structuration theory creates a 'structure-structure problem' (*Ibid.*, p. 367), which refers to the need to explain the different (in his words, internal and external) structures that constitute an agent. What, then, makes something *distinctly* an agent or a structure (rather than possessing qualities of both) is unclear.

While it would be beyond the scope of this paper to go into this in much depth, the work of posthumanist complexity scholars Cudworth and Hobden provides some resolution. Rather than structures and agents, the authors consider the world to be made up of *complex adaptive systems*, which possess the following properties: they are “open” (overlapping, interconnected, influencing and changing each other, responsive to both internal and external influences), “adaptive” (dynamic, constantly changing in response to both negative and positive feedback), “historical” (irreversible, contingent rather than law-like), and “organic” rather than atomistic (more than the sum of their parts, can not be taken apart and reassembled) (Cudworth & Hobden, 2013, p. 433-434). Through and within such systems, the authors describe three possible types of agency, some of which can primarily expressed by humans and some by the non-human as well. The first is *reproductive agency*, which pertains to behaviour which effectively maintains the existing system and the (power) relations within it. Next is *transformative agency*, expressed as *purposive* behaviour meant to change existing material and social relations. And lastly, *affective agency*, which is described as ‘mak[ing] a difference in the world’ or ‘not simply [...] causal powers [...], but a systemic impact that is collective and significant’ (Cudworth & Hobden, 2013, p. 446). Examples of the latter include global warming and viral pandemics, but also e.g. the role of the weather in the “regular” co-evolution of nature and culture (e.g. Yeh & Bryan, 2015, p. 532; Moore, 2015, p. 9). Agency, in all cases, is thus not an *intrinsic capacity*, but a matter of *situated relationships* (Cudworth & Hobden, 2013, p. 447).

Complexity theory thus offers, in relation to structuration theory, a broadened understanding of the possibility of agency. Importantly, it also further nuances the structure-agency debate. Beyond the understanding that structure and agency are co-constituted, it shows that - while it is possible to speak of individual entities - setting one entity apart from another is somewhat arbitrary. In addition, whether something is seen as a structure or an agent is not only (as Wendt seems to imply) dependent on its situated relationships to other entities, but also a pragmatic analytical decision. Even so, complexity theory - a very recent direction in social science - thus far offers very few tools for causal analysis, which is seen as difficult or even impossible (Cudworth & Hobden, 2013, p. 448). Contrary to Wendt’s own understanding then, and seeing as the focus here is on determining the agency of a predefined agent in a predefined structure, I would argue that structuration theory is a good *practical* approach for the purpose of this project. It recognises most of the same key understandings as complexity theory (e.g. relationality and co-determination) but makes analysable (within the context of a/*this specific research question*) that which would otherwise become indistinguishable. However, complexity prompts keeping a critical eye on the non-binary, non-exclusive nature of structures and agents vis-à-vis each other, the importance of which should become clear in later sections. As such, there also can and will not be “one exhaustive answer” to the questions raised in this paper. The discussion and conclusion should be read as an

approximation of the respective explanatory roles of some major processes among many other potential influences.

### Climate justice

An idea which is central to international climate change politics (Okerere & Coventry, 2016, p. 2), the positions of the African Group of Negotiators and other developing country groupings (Chin-Yee, 2021, p. 145) and the notion of Loss and Damage under the Convention (Calliari et al., 2020, p. 2; Boyd et al., 2021) is *climate justice*. Although there are different understandings of what climate justice entails - in particular in terms of whether and how it can and should be achieved - all are based on the observation that the environmental crisis is a socially unfair crisis, and most centre on the nexus between wildly unequal amounts of *historical responsibility* for causing climate change, *vulnerability* to climate change impacts, and *capability* to deal with them (e.g. Jegede, 2018, p. 212; Okerere, 2010, p. 466). Climate justice is both a well established critical social scientific framework for understanding the climate- and ecological crises, as well as a political project put forward by various actors in the international climate regime, civil society and social movements (Boyd et al., 2021, p. 1369).

In brief, climate change and interrelated environmental and social crises in many ways originate around the industrial revolution in what is now referred to as the “developed” world (Okerere, 2010, p. 464-465) - even if industrialisation itself can be seen as contingent on a number of earlier processes (Moore, 2015, p. 10). The need for cheap labour and natural resources was a primary motivator for Western imperialism and colonialism (*Ibid.*, p. 12). Rather than being a thing of the past, industrialisation until this day is associated with a.o. large emissions of greenhouse gases; various forms of pollution; exploitation of humans and non-humans alike; and a great shift in social and material relations globally and locally. While still present in specific localities, a wide variety of ontologies - including many relational ontologies - have become largely subordinated by a neoliberal capitalist hegemony which views the world and its inhabitants in atomistic terms, and which prioritises individual, short-term material gain over principles such as balance, harmony, cyclicity and reciprocity (Hokowhitu, 2021, p. 176; Yeh & Bryan, 2015, p. 536). Notably, this hegemony has co-evolved with legitimising ideas of separation and hierarchy: between (groups of) humans, and between humans and “nature” - which is seen as separate from, malleable by, or a threat to “us” (Carr Johnson, 2016, p. 310; Oliver-Smith, 2010, p. 4; Dalby, 1996). These are deeply integrated parts of “modern” consumerism and the capitalist ideal of wealth accumulation (Moore, 2015, p. 11-12), with “developing” states - and poor and/or marginalised regions and groups within all states - greatly overrepresented as victims of exploitation, pollution, and climate change impacts (e.g. Boyd et al., 2021, p. 1369; Eckstein et al., 2021; ND-GAIN, 2021). Not only vulnerability to such harms, but also



the ability to cope with them once they occur is shaped by global historical and present day power relations (e.g. Ribot, 2010). For example, owing to colonial and imperialist histories, many developing countries are among the most indebted in the world, and/or rely largely on eco-vulnerable industries (e.g. tourism, agriculture and fishing) specifically because they serve Western consumption hierarchies (Sealey-Huggins, 2017, p. 2445).

Even so, it should be noted that there is no neat binary divide between those “responsible for” and those “vulnerable to” climate change. “Developed” countries, too, are increasingly experiencing its impacts (e.g. Haasnoot et al., 2020; Kreienkamp et al., 2021; Jacobo, 2020; BBC, 2021; Givetash, 2020). Besides, at this stage no one can really be said to live outside of the global economic system, with which actors interact in different ways interrelated with their respective power and wealth positions. For example, there have been disagreements between and within developing country groupings in the UNFCCC about the “right to develop” (i.e. continue to emit more for a certain amount of time to be able to industrialise in the same manner now “developed” countries have) on one hand, and the “right to survival” (i.e. global emission reductions to avoid climate change loss and damage) on the other (Okerere & Coventry, 2016, p. 7; Sealey-Huggins, 2017, p. 2446; Bodanksy, 2010, p. 240).

The climate, ecological and social crises are thus anything but ideologically neutral. Addressing them will require not only material solutions, but also changes in norms and ideas about how to relate to each other and the world. Consequently, the justice dimension is integral to global climate politics in at least three ways: the “background” of global injustice against which negotiations take place; the unequal responsibility for causing the problem which cooperation aims to address; and ‘that avoiding questions of justice would ultimately result in the poor nations having to sacrifice their vital interests—survival interests in order for the rich nations to avoid sacrificing their trivial interests’ (Shue in Okerere, 2010, p. 464). However, in practice the international climate regime has been widely criticised for its neglect of the justice dimension. It has been argued that ‘the most important determinant of the “success” of equity norms in environmental regimes is the extent to which [...] [their] requirements could be met within the limits set by a prior commitment to the neoliberal economic order’ (Okerere, 2008, p. 26). As such, objectives are often formulated in average, quantitative (“objective”) target (e.g. the UNFCCC goal of limiting global warming to 1.5°C or 2°C), which - besides the unlikelihood of reaching them based on current trends - obscure local experiences and the historical social-economic processes through which the climate crisis has unfolded (Gupta & Van Asselt, 2019, p. 30; Shaw, 2013; Newell, 2020, p. 10-11; Sealey-Huggins, 2017, p. 2451; Meyer & Roser, 2010). Furthermore, state-specific attributions of responsibility and any proposals hinting at e.g. radical de-growth or forms of redistribution are kept at bay, and agreed “solutions” tend to take largely techno-managerial forms (e.g. Swyngedouw, 2011, p. 4).

Arguably there is no straightforward way in which these issues should be resolved institutionally. Climate justice is a political response based on a particular vision of morality: in particular the idea of “do no harm” as represented in environmental law, ‘which burdens countries responsible for environmental harm such as climate change to be held responsible for the entirety of the damage involved’ (Jegade, 2018, p. 212). The “no harm” principle can also be found in the preamble to the UNFCCC, including ‘the responsibility of states “to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction”’ (Horstmann, 2008, p. 13; see also Adelman, 2016, p. 40-42). This has been tied to discussions about *compensation* for climate change related harms incurred by developed countries on developing countries, although without any legal consequences due to immense resistance from the former (*Ibid.*). But even within the framework of climate justice there are disagreements about what “justice” entails in practice. For example, the adaptation (finance) negotiations have long seen a division between developing parties who pressed for support to adapt to new environmental situations/ threats, versus those who argued that support should be linked to the costs of implementing mitigation related response measures (*Ibid.*, p. 12-13). This raises the question of where the African Group - which represents all African states including members of other coalitions such as OPEC, AOSIS, BASIC, and the LDCs - stands on the issue of Loss and Damage – which ultimately originates in and revolves around differing conceptions and expressions of justice (see e.g. Boyd et al., 2021).

Before we continue, a brief note on the use of the words “developed” and “developing”. While all discursive distinctions relating to the divide between these “worlds” (e.g. North and South; first, second and third world; centre and periphery; West and East or Non-West) are disputed in some way, arguably “developed” and “developing” are among the most problematic in that they imply a qualitative hierarchy between states, regions and groups based on attributes related to e.g. industrialisation or cultural norms and practices (e.g. Escobar, 1995). However, as this is the language primarily employed by (actors in) the UNFCCC itself, and because it does capture differences in levels of industrialisation, material wealth and power, these terms will - however unhappily - be used throughout this paper.

## **Methods**

Causal analysis is difficult under any relational approach. In the words of O’Neill et al, the challenge lies in:

*‘[N]avigating the multiplicity of structures at different levels of aggregation, critically assessing the extent to which actors exert agency, and identifying causal mechanisms that reveal the mutual constitution of types of structures and agents over time.’ (2004, p. 156)*

Part of this challenge is resolved by explicitly delimiting the research question to one particular agent (the African Group of Negotiators) in one particular context (loss and damage negotiations under the UNFCCC). However, as described previously, these structures and agents are not static or bounded entities. Rather, they should be regarded as adaptive and open, and their relationship as interlinked with a multiplicity of other (overlapping) structures and agents. To navigate these complex interrelationships, Wendt proposes a *structural-historical analysis* (1987, p. 362). By this he means identifying both what is structurally *possible* and what is historically *actual*, and determining the causal mechanisms which led to the actualisation of one outcome over another (*Ibid.*, p. 364). Relevant elements that should be taken into account are the causal powers, practices and interests of agents (*Ibid.*); the logics, organising principles and reproduction requirements of the structures in which agents are embedded (*Ibid.*, p. 368); and an historical explication of the course of events and the relative importance of the described elements for the outcome under study.

Thus, the proceeding literature review will investigate first the relevant structural make-up and embeddedness of both the UNFCCC and the AGN, and then set out briefly the history of L&D under the UNFCCC including the AGN's involvement. Unfortunately, however, there is very little literature on this latter engagement. Thus, in addition to the literature review, two AGN members were interviewed, and four formal AGN submissions to the UNFCCC were investigated through frame analysis.

The interviews took approximately an hour each and were semi-structured. The participants are from Malawi and South Africa and were "selected" using convenience sampling - i.e. based on mutual connections and willingness to be interviewed. Due to time constraints and limited access to such contacts, it was not possible to reach a larger sample. The interviews took place early in the research process, and as a result the questions were quite broad and exploratory in nature - pertaining in particular to the negotiation process, the AGN's internal and external relations (e.g. with other coalitions or states), the history of L&D, and the possibility of realising justice or equity through the UNFCCC. Whereas one interviewee is specialised in topics related to loss and damage, the other is more involved in the mitigation and transparency tracks. Both had interesting perspectives on the areas described, and the interviews were flexibly tailored to those areas that yielded the most interesting and/or new information. Both interviewees prefer anonymity and will from here on be referred to as *Interviewee 1* and *Interviewee 2*.

The analysed submissions are from 2009, 2012, 2017 and 2018, and were selected based on availability and where possible *critical junctures*: 'moments of relative structural indeterminism in which agency matters and choices are possible' (Rixen & Viola, 2016, p. 13). These submissions address loss and damage at different stages in time and at different levels of the institutional framework. The 2009 submission is directed at the Ad-Hoc Working Group on Long-Term

Cooperative Action (AWG-LCA) as a response to the Bali Action Plan, which contained the first formal mention of L&D. While L&D is an important focal point, it addresses a broader range of topics. The document was therefore selectively coded, using only sections pertaining to L&D or closely related areas following the literature (e.g. adaptation, finance, vulnerability, responsibility). The other submissions do specifically concern L&D. The one from 2012 is directed at the Subsidiary Body for Implementation (SBI), and pertains to the establishment of a mechanism - which would later become the Warsaw International Mechanism for Loss and Damage (WIM). The other two were made to the Executive Committee of the WIM and concern finance for L&D and the establishment of a five-year rolling work plan respectively.

These submissions were coded using MAXQDA to determine *diagnostic* framing ('identifying the problem and assigning blame') and *prognostic* framing ('the articulation of a proposed solution to the problem') of L&D, following the example of Vanhala & Hestbaek (2016, p. 113). While it is sometimes suggested that effective cooperation depends primarily on the (e.g. material or "practical") characteristics of the issue at hand, O'Neill et al. contend that the production of particular meanings through the frames used by political actors (e.g. techno-managerial or moral/ethical) is at least as important in facilitating particular outcomes (2004, p. 165 & 167). Framing, while unavoidable and sometimes unconscious, is a political process concerned with the *way in which* information is (strategically) conveyed to specific audiences – e.g. by emphasising some aspects of an issue over others (Hjerpe & Buhr, 2014, p. 104). Framing is closely related to the movement and articulation of particular norms and ideas, and 'bring[s] some dynamism to a rather static conceptualization of ideology' (Snow & Benford, 2000, p. 3). The authors emphasise that frames should be seen as existing *between* rather than *within* us, or as 'the products of the interindividual, interactional, and contested *process* of framing' (*Ibid.*, p. 4). Thus framing refers to a dynamic interactive activity rather than the (re)production of static ideas. If ideologies are seen as larger and more stable sets of beliefs - recognising though that individuals tend to internalise and express parts of multiple, sometimes contradictory, ideologies at the same time (*Ibid.*, p. 8; Hjerpe & Buhr, 2014, p. 104) - frames 'can function to amplify and extend existing ideologies or provide innovative antidotes to them' (Snow & Benford, 2000, p. 4). In addition, 'framing may [...] function as remedial ideological work' and 'mutes the vulnerability of ideology to reification' (*Ibid.*, p. 10). The relationship between frames and ideology can thus be seen as amplificatory, corrective, or rejective.

As in the case of discourse more broadly, the naturalisation of specific frames (and with those, specific courses of action) over others is representative of the power relations between actors in a particular setting (Olausson, 2009, p. 423). In this regard, comparing the AGN's framing of L&D with those frames and types of solutions that are (following the literature) dominant in the L&D negotiations at large can be seen as an indicator of the AGN's relative agency. Arguably it is likely

that there will be overlap between the AGN's framing of L&D and that of other (particularly "Southern") coalitions. Where possible an attempt will be made to disentangle these. However, as the purpose of this paper is not necessarily to "isolate" the (behaviour of the) AGN from its allies and contexts (especially considering the recognition of their interrelationality as extensively discussed), but rather to determine whether and how "Southern" actors can make their voices heard, this overlap will be treated as relatively unproblematic.

## **Literature review**

### *The UNFCCC*

The UNFCCC saw its' birth in 1992 at the UNCED's Earth Summit in Rio de Janeiro, two years after the publishing of the first Intergovernmental Panel on Climate Change (IPCC) report. Since 1995, its signatories meet annually to discuss how to give substance to the Convention's ultimate objective: 'To achieve, in accordance with the relevant provisions of the Convention, stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system' (UNFCCC, 1992). Ironically, the primary *source* of those gases (i.e. the burning of fossil fuels) has been notoriously absent from the subsequent agreements. Coal was mentioned for the first time in 2021, whereas others such as oil and gas have yet to be acknowledged (e.g. Rincon, 2021). From around the 2009 negotiations in Copenhagen, the UNFCCC has focussed primarily on the prevention of global temperatures rising above an allegedly "manageable" limit (Bodansky, 2010, p. 239-240), which in turn was defined as 2°C above the 1990 global average temperature: '[the] mythical point that represents the 'right' climate' (Swyngedouw, 2013, p. 3). However, "developing" countries in particular have expressed the need to curb temperature rise at 1.5°C or lower, because of already significant existential threats at this level - in particular for islands and coastal regions, and regions that are already vulnerable in other (e.g. socio-economic) ways (Christoff, 2016, p. 776; Sealey-Huggins, 2017; IPCC, 2018a).

Structurally, the UNFCCC comprises three supreme governing bodies or legal frameworks: the COP or Conference of the Parties to the original Convention, and the CMP and CMA or conferences of the parties for signatories of the Kyoto Protocol and Paris Agreement respectively. Each of these bodies has its own bureau or process management body, and there is an overarching secretariat which is instrumental in maintaining coherence and facilitating follow-through on agreed plans. Furthermore, there are two financial bodies (the Green Climate Fund (GCF) and Global Environment Facility (GEF)), two permanent subsidiary bodies (one for scientific and technological advice (SBSTA), and one for implementation (SBI)) and a number of ad hoc and technical subsidiary bodies relating to particular agreements under the COP, CMP and CMA (UNFCCC, n.d.-a). While the UNFCCC is thus a continuously operating organisation, the annual COPs tend to be regarded as the

most important - or at least most publicised - events under its banner. The topics discussed at COP are usually divided into three categories: mitigation, adaptation and finance - the addition of loss and damage to this list is disputed and depends in particular on parties' framings of the relationship between L&D and adaptation.

Like other UN negotiations, the COPs work through consensus, not to be confused with unanimity. Whereas unanimity requires the *active agreement* of all parties to a certain proposal, consensus in practice at the UNFCCC means the *absence of voiced objections* at the presentation of a final proposal (Klöck et al., 2021, p. 2). On one hand, this mechanism has been heralded for its inclusivity, as it means that at least theoretically every party has equal say. On the other hand, in practice this also means that unless throughout the duration of COP parties manage to create a complete draft proposal to which all will formally agree, 'a reversion to past agreed language, and especially the Convention itself, serves as the default form of agreement' (Chan, 2021a, p. 323; O'Neill et al., 2004, p. 165). As such, the decision-making process comprises a complex bundle of formal, informal and private bilateral negotiations 'overseen by facilitators, chairpersons of subsidiary bodies, or the conference presidency' (Chan, 2021b, p. 63), who prepare draft proposals and repeatedly amend them to incorporate new insights and compromises.

Over time, the UNFCCC negotiations have increasingly happened between (e.g. regional or topical) coalitions rather than individual states (with the exception of the US). The amount of coalitions active under the UNFCCC has increased significantly over time, and many states are active in more than one coalition, 'creating a multi-layered system of alliances that shapes the political dynamics of the climate change negotiations' (Yamin & Depledge, 2004, p. 33). This is particularly true for developing countries, for whom the advantages of coalition membership are greater than for countries with greater material or political leverage, power and resources of their own. For example, developing countries often have smaller delegations and less well-established national climate change bureaucracies and research capacities (Klöck et al., 2021, p. 3). By bundling resources, these groups of representatives can develop informed positions about a larger number of topics, and physically "be in more places at the same time" - as there are typically many simultaneous negotiation streams and sub-streams at COP (Castro & Klöck, 2021, p. 28). In addition, coalitions 'reduce the complexity of multilateral negotiations, and they increase members' negotiation capacity and bargaining power' (Klöck et al., 2021, p. 2). In other words, by relegating a significant degree of compromise-making to an earlier (coalition-internal) stage, the amount of competing positions in a central negotiation is reduced. In addition, a position is likely to receive more attention and weight if it is presented by a large group than by an individual party (*Ibid.*, p. 3 & 18).

On the other hand, *maintaining* a coalition also requires significant coordination (i.e. delegates' capacity) and multiple coalition membership may also require "being at multiple places at

the same time". In addition, being in multiple coalitions may lead to conflicting positions (and alliances) between which individual states will need to either compromise or prioritise. Further, even *within* coalitions, there are significant power asymmetries between states, leading to the prioritisation of some states' interests over others: 'Even if the group position carries more weight, it may be rather far from an individual member's national position' (Klöck et al., 2021, p. 3). Additionally, the increased structuring of the negotiation process along coalition lines - e.g. by privileging groups over individual countries to first present their position at plenaries (Chan, 2021b, p. 63) - means that it is now increasingly difficult for individual countries (in particular those with less leverage) to make themselves heard *outside* of a coalition. These dynamics have become an incentive to create evermore coalitions based on specific topics and positions, and thus contribute to the proliferation of coalitions under the UNFCCC (Yamin & Depledge, 2004, p. 34).

In general, it can be said that a divide between developed and developing countries has been a central organising feature of the UNFCCC from its early days (Chan, 2021b, p. 53). Both the Convention and Kyoto protocol include the concept of *Common but Differentiated Responsibilities* (later including *and Respective Capabilities*) or CBDR(-RC) (Okerere, 2008, p. 32). The creation and application of this differentiation are modelled after the Montreal Protocol on Substances that Deplete the Ozone Layer, which allowed developing countries a ten year grace period before compliance with the agreement, and contained provisions on financial and technical support from developed to developing countries so as to enable them to comply (*Ibid.*, p. 33). The CBDR-RC principle rests on the two pillars of *culpability* and *capability*, where the first refers to the unequal responsibility that developed countries have for causing (and thus addressing) the climate and ecological crises, and the second to the 'superior technological and financial and resources commanded by the developed countries and their strong leverage to act in support of ecological protection' (*Ibid.*, p. 32). In the UNFCCC this differentiation has been formulated in the form of different country groupings with specific responsibilities vis-à-vis each other. *Annex I* parties include the states that in 1992 were part of the OECD, plus a number of Economies in Transition (EIT); whereas *Annex II* excludes these EIT countries. The latter are required to provide financial, technological and capacity-building support to so-called *Non-Annex I* (i.e. developing) countries. Among those, some groups are recognised as particularly vulnerable and therefore more entitled to support: the LDCs (Least Developed Countries), and SIDS (Small Island Developing States) (UNFCCC, n.d.-b; Chan, 2021a, p. 315). However, it has also been noted that the principle has been differently interpreted and/or framed, with developing countries focussing more on the *differentiated* and developed countries more on the *common* in CBDR (Okerere & Coventry, 2016, p. 9). Besides, it has been widely observed that pledged targets, such as the annual US\$100 billion that should be going into the Green Climate Fund, are not nearly being met - while a large amount of the finances that

are mobilised consist of loans, private investments and development funding that was already committed through the OECD but is now being re-counted as climate finance (e.g. Bracking, 2014; Hossain et al., 2021, p. 157). In short, the received support is not nearly sufficient to prevent and/or adapt to climate change impacts, or to account for the social, ecological and economic costs already incurred (Okerere, 2008, p. 33).

Another factor contributing to the North-South divide is that combined North-South coalitions are virtually non-existent. Chan attributes this to the “default” organisation of developing countries through the G77 as the primary coalition, in the spirit of solidarist and anti-colonial history (including e.g. the Bandung conference and growing South-South development cooperation) on which this grouping is built (*Ibid.*; Mohan & Power, 2008; Kamwengo, 2017; Inoue & Vaz, 2012). This has complicated recent (first ever) efforts to establish combined North-South groupings (i.e. the High Ambition Coalition and Cartagena Dialogue), as coordination with developed countries is considered - not without reason - problematic and ‘violat[ing] established [G77] practices’ (Chan, 2021b, p. 61). While these groupings, despite their troubles, were largely attributed with the success of the Paris Agreement, it is also noted by various commentators that developing countries may be worse off under and since Paris (Okerere & Coventry, 2016, p. 29). Here, developed country parties argued for parity in economic development, in extension of which it was - in their view - time for developing countries to contribute more to climate action (*Ibid.*, p. 30). The principle of CBDR-RC as a basis for state-specific action was largely abandoned for Nationally Determined Contributions (NDCs). This is a bottom-up approach where individual states pledge voluntary mitigation targets to the UNFCCC, with little to no enforcement components (Gupta & Van Asselt, 2019, p. 22). The agreement was ‘resoundingly attacked by the developing countries’ (Christoff, 2016, p. 774) for failing to differentiate between North- and South responsibilities, in addition to e.g. over-emphasising developing country transparency measures and capacity building compared to e.g. developed country mitigation (Gupta & Van Asselt, 2019, p. 22; Okerere & Coventry, 2016, p. 30). This shift in focus regarding responsibility and the relatively higher burden for developing countries to undertake action are reflexive of the context of ‘background injustice’ against which the UNFCCC operates (Okerere, 2010, p. 463), and has been described as “common but shifted responsibility” (Okerere & Coventry, 2016, p. 30). Even so, the authors warn against completely negating the foregoing justice related accomplishments and their continued influence on global climate politics (*Ibid.*). In fact, ‘the most significant impact of the series of United Nations Conferences on issues associated with global environmental and development issues may be the construction and institutionalisation of global norms, ideas, and discourses’ (O’Neill et al., 2004, p. 162). Whether and how this may be observed in relation to the African Group and the issue of Loss and Damage will be explored in the following sections.



### Loss and Damage

The term “loss and damage” (L&D) both refers to the sum of adverse impacts of climate change, and to the UNFCCC negotiation track that aims to address these, where “impacts” refers to a variety of things:

*‘They can be both financial and physical, and include the loss of property, assets, infrastructure, agricultural production and/or revenue, but also extend beyond this and can be difficult to quantify in economic terms. Degraded health, losses induced by human mobility, loss of cultural heritage, and loss of Indigenous and local knowledge are such examples.’ (Boyd et al., 2021, p. 1365).*

As a negotiation topic, L&D (although it was not yet called that at the time) finds its origins even before the Convention itself. In its earlier form, L&D was tabled by the Alliance of Small Island States (AOSIS) in the 1991 discussions of the Intergovernmental Negotiating Committee – which would later establish the UNFCCC. AOSIS proposed the creation of an international insurance pool, containing ‘a collective loss-sharing scheme to compensate victims of sea-level rise [...] funded by mandatory contributions from industrialised countries based on GNP and on relative greenhouse gas (GHG) emissions; that is, [...] based on ability to pay as well as responsibility for impacts’ (Siegele, 2021, p. 75). Even though the proposal itself did not make it in, the Convention does contain Article 4, which provides that countries should *start preparing for adaptation to the impacts of climate change*. In particular, it includes provisions on the need to develop ‘integrated plans for coastal zone management, water resources and agriculture [...] and the rehabilitation of areas, particularly in Africa [...] affected by drought and desertification, as well as floods’ (UN and Canada, 1992, Art. 4.1e). The explicit mention of Africa seems to stem from a combination of the early recognition of Africa’s vulnerability to climate change, concerns about food insecurity, and the similar treatment of Africa in the simultaneous negotiations about desertification (Downing et al., 1997; IISD, 2006; Chan, 2021a, p. 322). Curiously though, the AGN has been unsuccessful in securing “particularly vulnerable” status for Africa in the negotiations specifically pertaining to climate finance (Chan, 2021a), as will be discussed later. Article 4 further stresses that developed countries should ‘assist developing country Parties that are particularly vulnerable [...] in meeting the costs of adaptation’ (*Ibid.*, Art. 4.4), further specified as ‘including actions related to funding, insurance and the transfer of technology’ (*Ibid.*, Art. 4.8). However, these provisions do not contain any legal basis, and neither is there any mention of compensation as in the proposal by AOSIS. This has been a common theme throughout the struggles for climate finance in general, where ‘developed states have historically eschewed policy initiatives that place the responsibility for addressing the impacts of climate change on them [and] have used a variety of tactics to avoid discussion and to scupper policy initiatives on the issue.’ (Vanhala & Hestbaek, 2016, p. 111-112; see also Siegele, 2021, p. 79; Moore, 2012; Okerere, 2008)

After the initial proposal by AOSIS, it was relatively quiet on the issue of climate-related losses and damages, although insurance was raised a few times again and various workshops and expert meetings were organised on risks and insurance (Vanhala & Hestbaek, 2016, p. 115). However, since around 2007 there have been a number of breakthroughs. Before 2006, in the words of AGN spokesperson Seyni Nafo, ‘you had mitigation in the centre, but adaptation was almost like the orphan child in the process’ (Mbugua, 2021; see also Horstmann, 2008, p. 9). There were no formal arrangements on adaptation save for two funds (the SCCF and LDCF) which ran on voluntary donations (Siegele, 2021, p. 79). However, partly thanks to the pivotal agenda-setting and leadership role of the AGN, the Nairobi Work Programme (NWP) on Impacts, Vulnerability and Adaptation was established at COP12 (Siegele, 2021, p. 79; Roger & Belliethathan, 2014, p. 92). This is significant, as it marked the beginning of a departure from the strictly “preventative” focus of the UNFCCC, to a recognition of the already observable and increasingly anticipated effects of climate change on the ground - previously somewhat of a taboo (McNamara, 2014, p. 242; Horstmann, 2008, p. 3). This in turn opened the door for addressing those impacts that could not or were not simply “solved” through adaptation, and marked the revitalisation of the notion of loss and damage. The Bali Action Plan (BAP) marked the first formal mention of L&D under the UNFCCC. Under a designated section for enhanced action on adaptation, there are two provisions which call for:

- ‘● *Risk management and risk reduction strategies, including risk sharing and transfer mechanisms such as insurance;*<sup>23</sup> and
- *Disaster reduction strategies and means to address loss and damage associated with climate change impacts in developing countries that are particularly vulnerable to the adverse effects of climate change.*<sup>2</sup>’ (UNFCCC, 2008)

This elicited a number of developing party submissions calling for binding provisions on loss and damage at COP15 in Copenhagen, 2009. Although this proposal did not make it into the agreement primarily due to EU and US resistance (Vanhala & Hestbaek, 2016, p. 116), ‘the two-year process that was put in place to move down the road to a Copenhagen outcome put the notion of loss and damage on the table, in clear sight’ (Siegele, 2021, p. 78). The next COP in Cancún marked the official split of loss and damage from the adaptation *track*, although to this day it has not been recognised as an overarching negotiation *pillar* such as mitigation, adaptation and finance (Siegele, 2021, p. 81; Adelman, 2016, p. 46). A two-year L&D work programme was established, further elaborated in Durban in 2011. In Doha, 2012, it was decided that an international mechanism for addressing Loss and Damage should be adopted, actualised in 2013 with the establishment of the Warsaw International Mechanism on Loss and Damage (WIM).

The WIM has three functions: ‘Enhancing knowledge and understanding of comprehensive risk management approaches to address [L&D]’, ‘Strengthening dialogue, coordination, coherence

and synergies among relevant stakeholders’, and ‘Enhancing action and support, including finance, technology and capacity-building, to address [L&D]’(UNFCCC, 2014, Dec. 2/CP.19.5). Whereas finance and technology (-transfer) - even though they can come in many forms - are relatively straightforward, capacity building is a somewhat vague notion. It refers to the overarching set of conditions required for effective management of climate change related issues - including material, technical/scientific, institutional (whether on a local, national, regional or multilateral level), etc. (Yamin & Depledge, 2004, p. 290 & 293-294). While there is thus some overlap between these pillars, capacity in relation to finance and technology may be understood as the framework or ability to effectively *use* the finance and technology received. The WIM operates through an executive committee, consisting of five workstreams: ‘A) slow onset events; B) [non-economic losses]; C) comprehensive risk management approaches; D) human mobility; E) action and support’ (Calliari et al., 2020, p. 2).

L&D has also been included in Article 8 of the Paris Agreement, which states that:

*‘Parties recognize the importance of averting, minimizing and addressing loss and damage associated with the adverse effects of climate change, including extreme weather events and slow onset events, and the role of sustainable development in reducing the risk of loss and damage’ (UNFCCC, 2015, Art 8.1).*

The article further identifies ‘areas of cooperation and facilitation’, including ‘early warning systems; emergency preparedness; slow onset events; events that may involve irreversible and permanent loss and damage; comprehensive risk assessment and management; risk insurance facilities, climate risk pooling and other insurance solutions; non-economic losses; and resilience of communities, livelihoods and ecosystems’ (*Ibid.*, Art. 8.4). The WIM is reinstated as the primary body tasked with the facilitation of these workstreams, and placed under the legal framework of the CMA. However, it is also explicitly noted in an addendum to the agreement that ‘Article 8 of the Agreement does not involve or provide a basis for any liability or compensation’ (UNFCCC, 2016, Art. 51).

In 2019, a specialised facility for technical assistance to vulnerable developing countries was established - the Santiago Network for Loss and Damage, or SNLD (Boyd et al., 2021, p. 1366). To this day, finance for loss and damage continues to fall under the umbrella of adaptation finance, through the original establishment of the WIM under the Cancun Adaptation Framework which has not been revised since (Siegele, 2021, p. 81). In practice, this means that there is no additional funding for L&D beyond the already very limited resources provided for adaptation.

Despite the increasing institutionalisation of Loss and Damage, many commentators stress the slow speed of progress on this theme, and in particular on the lack of concrete action beyond discussions, dialogues and the collection of knowledge. This has often been attributed to the “political” nature of L&D (Calliari et al., 2020, p. 1; Cochrane et al., 2019, p. 6-7), referring to two

main points of contention which form a red thread throughout the L&D negotiations. First is the question of whether L&D should fall under the adaptation umbrella or be treated as a separate issue. Second are related questions pertaining to responsibility, attribution, liability and compensation (*Ibid.*, 2). In short, developing countries have traditionally linked climate change induced losses and damages to the notion of climate justice (i.e. historically skewed relative responsibilities, vulnerabilities and capabilities), and have framed potential solutions as mechanisms relating to *liability and compensation* (Vanhala & Hestbaek, 2016, p. 112; Siegele, 2021, p. 75). In response, developed country parties have focussed on the difficulty of attributing extreme and slow onset events specifically to climate change - although with increasing difficulty due to immense progress made in the field of attribution science (Boyd et al., 2021, p. 1367; Horstmann, 2008, p. 9; Mace & Verheyen, 2016, p. 213), and tend to circumvent the notion of historical responsibility (e.g. by drawing attention to the present day emissions of China and India). Even when historical responsibility is recognised, the notions of liability and compensation are rejected, out of fear of writing a “blank cheque”. Instead, their framing tends to focus on naturalised “risks” and insurance (Vanhala & Hestbaek, 2016, p. 122). These contrasting understandings ‘have different institutional implications [and] raise questions about the appropriate policy venue for addressing [L&D]’, such as whether it should be treated separately from adaptation (*Ibid.*, p. 121).

Insightful are the four frames identified by Boyd et al. (2017) based on interviews with delegates. First, the *adaptation and mitigation* frame. This frame stresses that the existing Mitigation and Adaptation tracks are sufficient for addressing Loss and Damage. Interviewees argued that L&D is the reason that the Convention exists at all – i.e. that all harmful climate change equals L&D, and expressed confusion about the difference between adaptation and addressing loss and damage (Boyd et al., 2017, p. 723-724). This perspective reflects early discussions about the establishment of adaptation as a negotiation pillar, when it was argued that doing so would distract and take away resources from mitigation. Besides, with successful mitigation, adaptation would not be necessary anyway - thus establishing it as a separate track was in a sense seen as an admission that mitigation was lagging behind (Horstmann, 2008, p. 9). The same might be said about the link between adaptation and L&D, as exemplified by the *limits to adaptation* frame. According to this perspective, Loss and Damage is ‘residual’ or ‘beyond adaptation’ (i.e. harms that occur despite adaptation efforts), and should therefore institutionally be treated as such. This frame incorporates a particular focus on vulnerable countries and people already affected (*ibid.*, p. 725). The third, *Existential*, perspective ‘represents a means to highlight the importance of addressing the inevitable harm which climate change will impose on vulnerable countries, populations, cultures, and ecosystems’ (*Ibid.*). Loss and Damage is described as unavoidable, irreversible, and non-economic. There is a focus on radical conceptions of justice, responsibility, and compensation (financial or other). Last is the *Risk*

*Management perspective*, which the authors describe as ‘a techno-pragmatic problem approach’ (*Ibid.*, p. 724). Interviewees view L&D as an opportunity for largely market-based risk-management approaches, linking to e.g. sustainable development and adaptation, where separating L&D from the latter is considered unhelpful. Insurance also fits primarily into this frame (*Ibid.*). The *risk management* approach is currently the dominant framework in the institutional arrangements around L&D, reflected e.g. in the first pillar of the WIM, which explicitly aims to ‘enhance understanding of comprehensive risk management approaches’ (Adelman, 2016, p. 46) and in the explicitly technology-centred Santiago Network (Boyd et al., 2021, p. 1366). For an indication of the parties associated with, and the relationships between these frames, see Figure 1, Appendix 1. Notably, contention exists not only between developed and developing countries, but also between developing countries vis-à-vis each other - particularly pertaining to the institutional separation from adaptation.

“Loss and damage”, then, is a sort of overarching compromise frame, whose deliberate ambiguity and vague prognostic implications are the defining reason that the topic has found its way into the formal agreements at all (*Ibid.*, p. 127), related to the earlier observations about the slow speed of social change in relation to consensus-based decision making (Yamin & Depledge, 2004; Chan, 2021a, p. 323).

### *The African Group of Negotiators*

The African Group of Negotiators (AGN), despite being one of the oldest coalitions in the UNFCCC (see Figure 2, Appendix 1), is relatively under-researched. Its formation was, according to Chan, ‘relatively uncontroversial, because it was based on the existing African regional subgroup within the G77 itself’ (Chan, 2021b, p. 60). Around the time of the establishment of the UNFCCC, the AGN was not an active or well-organised coalition, largely due to internal barriers, such as a lack of ‘material, ideational and institutional resources’ (Roger & Belliethathan, 2014, p. 91). However, Chin-Yee et al. argue that ‘even though [its] role in the negotiations has often been marginalised’, the AGN has been on the rise in recent years’ (2021, p. 136). According to the authors, the AGN first really found its voice and footing at COP12 in Nairobi, 2006 (*Ibid.*). Here, African states played a large agenda-setting role, in particular in relation to Adaptation and the Clean Development Mechanism (Roger & Belliethathan, 2014, p. 92). This increased engagement was also notable in Copenhagen, 2009, where the AGN ‘has [particularly] become a voice to be reckoned with in the climate negotiations’ (Chin-Yee et al., 2021, p. 136). COP17 in Durban, 2011, was really promoted as an “African COP” – similar to the way AGN spokesperson Seyni Nafo describes next year’s COP, which will be in Egypt (Mbugua, 2021). Here African countries were instrumental in the creation of the Durban Platform for Enhanced Action (Chin-Yee et al., 2021, p. 139).

According to Chin-Yee et al., the rise of the AGN can be attributed in particular to the increasing urgency of addressing climate change globally and in Africa, the 'young, impassioned, and determined' individuals who make up the coalition, and the AGN's split from other groups (*Ibid.*, p. 142-143). The latter refers primarily to the G77, where disagreements arose about the mitigation commitments of the emerging economies (later BASIC), and about the Clean Development Mechanism (CDM): 'a market-based instrument allowing developed countries to offset their emissions by subsidising sustainable development in developing countries, often overlooking African countries' (*Ibid.*, p. 143). While all African parties are also still G77 members, the AGN is now the primary organising coalition for most African states. Even so, all AGN member states are also part of other coalitions reflecting a broad range of positional foci related to different economic and vulnerability profiles (e.g. OPEC versus the LDCs; for a full overview see Appendix 2).

Roger and Belliethathan, in relation to the importance of individual AGN negotiators and those who support them, consider the following factors contributing to the AGN's ascent. First, African negotiators have been increasingly successful in persuading their state leaders to dedicate national resources to the UNFCCC negotiations, while additionally attracting more support from bilateral and multilateral donors (2014, p. 92). As a result, national and regional climate bureaucracies have significantly been strengthened, including e.g. through policy, technical education and funding to send personnel to events like COP - raising delegation sizes and the quality and quantity of submissions (Tsega, 2016, p. 6). Second, the incorporation of non-government-affiliated experts in climate related fields into the delegations, 'improving both the size and quality of African delegations at relatively low cost' (Roger & Belliethathan, 2014, p. 92). And lastly, the increasing institutionalisation of dialogue mechanisms between negotiators and African political leaders - improving the effective and efficient consolidation of national and international level policy (*Ibid.*).

AGN positions are agreed under the African Union (AU), guided in particular by the Committee of African Heads of State and Government on Climate Change (CAHOSCC), and the African Ministerial Conference on Environment and Natural Resources (AMCEN) - from which the AGN receives its mandate (for a visual overview see Appendix 1, figures 3 & 4). AMCEN predates the UNFCCC by seven years, meets bi-annually (though continuously supported by an executive board), and 'provide[s] political guidance to the negotiations in preparation of the African common position, and make[s] declarations and take[s] decisions at the AMCEN Conference' (AGN, n.d.). CAHOSCC was established preceding the Copenhagen COP in 2009, 'with the primary objective of providing visible continent-wide *political leadership* in climate negotiations' (*Ibid.*), which is described as having played a particularly large role in these negotiations. CAHOSCC meets at least once a year 'on the sidelines of the AU Summit, in which key messages and decisions are taken for recording by the AU

Summit' (*Ibid.*). The connection with the African Union is significant, considering that, even though its' legal order is still in its' infancy, the AU has given constitutional (thus legally binding) status to its' framework for promoting and protecting human rights – of which environmental rights are considered an important part – on the continent (Addaney, Moyo & Ramakhula, 2020, p. 4-5; Scholz, 2010, p. 21). The AGN is said to promote a “one voice, one Africa” narrative, reflected through three core themes of *responsibility*, *vulnerability* and *representation* (Chin-Yee et al., 2021, p. 150) in e.g. public interviews, but also notably in the “African common position” through which the coalition has articulated its demands since 2009 (AU General Assembly, 2009; AMCEN, 2014; Scholz, 2010).

*‘These common positions – and their fate – provide one way of analysing African agency “in the singular” (Brown, 2012), although part of the story is also how different subgroups of African states, such as regional powers, compete to shape common positions and claim leader-ship roles (Nelson, 2016).’ (Chan, 2021a, p. 316)*

In relation to loss and damage, Africa is of particular interest. As a region, it is among those least responsible for climate change, accounting for less than 4% of global historical emissions (Chin-Yee et al., 2021, p. 146), while being simultaneously hugely overrepresented in climate vulnerability indices. For example, African countries fill half of the top ten most affected countries in Germanwatch's Global Climate Risk Index (2021, p. 9), most of the “extreme risk” category in Verisk Maplecroft's Climate Change Vulnerability Index (n.d.), and 24 out of ND-GAIN's (2021) 30 worst scoring positions in terms of both vulnerability and readiness (see Figures 5-8 in Appendix 1). The experienced impacts are diverse, including unpredictable weather patterns, increased extreme heat events, droughts, desertification, floods, cyclones, crop failure, and food and water insecurity (Chin-Yee et al., 2021, p. 146; Chan, 2021a, p. 319). In addition to “straightforward” losses of lives, livelihoods and material assets, the socio-political consequences of these events are far-reaching, including e.g. economic instability, resource conflicts and large-scale forced migration (*Ibid.*). The costs of adapting to or otherwise addressing these challenges also impact the developmental capacity and political stability of many African countries, further reducing adaptive capacity (e.g. Roger & Belliethathan, 2014; Ribot, 2010; McKinney, 2019). However, it is important to note that these observations refer to the continent as a whole, and that vulnerability, adaptive capacity and greenhouse gas emissions vary - with e.g. South Africa and Nigeria being large emitters compared to the rest of the continent, whereas e.g. coastal regions or LDCs are relatively more vulnerable to adverse impacts (Chin-Yee et al., 2021, p. 146).

Loss and damage is then logically often referred to in press articles, AGN statements and academic literature as one of the most important foci of the coalition. For example, Chan argues that ‘the issue of “loss and damage” has been as championed by African countries as by SIDS’ (2021a, p. 319). In particular, authors stress that the AGN has focussed on the question of compensation or

rehabilitation for L&D, linked to historical responsibility for greenhouse gas emissions (McNamara, 2014, p. 224; Jegede, 2018, p. 211; Chin-Yee et al., 2021, p. 142; Tsega, 2016, p. 13). Further, it is noted that the AGN was among the most verbal in demanding an international mechanism to address losses and damages, in particular in relation to finance (McNamara, 2014, p. 224; Cochrane et al., 2019; Siegele, 2021, p. 84). The role of the coalition in staging a walkout in Warsaw in response to the dismissive position of developed countries on the notion of L&D is also stressed (Chin-Yee et al., 2021, p. 142).

Curiously, though, these accounts are all very brief, and there seems to be no dedicated research *specifically* on the AGN's position and behaviour in the L&D debates. There is, however, some literature on their engagement with related themes - in particular adaptation, vulnerability and finance. The AGN has been particularly vocal in placing adaptation on the agenda (Chan, 2021a, p. 319; Mbugua, 2021; Roger & Belliethathan, 2014, p. 99) - as demonstrated by its role in the establishment of the Nairobi Work Programme described earlier, its initiation of the "global goal on adaptation" in Paris (Chin-Yee, 2021a, p. 319), or locally, the Africa Adaptation Initiative (AAI, 2018; Jegede, 2018, p. 215). In addition to this important agenda-setting role, adaptation is linked to the right to (sustainable) development, and North-South assistance in the form of finance (McNamara, 2014, p. 244), capacity building and technological support (Chin-Yee et al., 2021, p. 139 & 145-148; Roger & Belliethathan, 2014, p. 92). Arguably, the need for North-South support for adaptation is something most if not all G77 members can agree on. However, as has been noted before, the actually provided support is still in short supply, and contentions exist about the ways in which it should be allocated (Ciplet & Roberts, 2019, p. 293). This is based on the recognition of some groups as "particularly vulnerable" (currently limited to the LDCs and SIDS) and has divided the South as others sought to be included in this definition (Moore, 2021, p. 35). The AGN has been among the most vocal, seeking recognition for all of Africa as particularly vulnerable, although thus far unsuccessfully so. Chan – from a historical institutionalist approach – attributes this lack of success to the temporal development of this principle. While the LDCs and SIDS were early movers in securing this vulnerability status during the establishment of the Convention, the AGN - having become an active and well-organised coalition only after 2000 - was essentially late to the party and was faced with strong opposition: from developed countries unwilling to provide more support, and both from those developing country groupings who currently *are* included as particularly vulnerable, as well as from those who are also *not* yet included as such - most notably South America (2021a, p. 315). This opposition stems from the limited availability of climate finance, and the earlier described effect of consensus-based decision making, where in absence of agreement 'outcomes revert to the initial equilibrium that limit recognition to SIDS and LDCs' (*Ibid.*).



Besides the institutionalisation of “particular vulnerability”, it has been argued that the *performance* of vulnerability is a crucial aspect of African agency (Chan, 2021a, p. 320; Chin-Yee et al., 2021, p. 145-146). This relates to the argument by O’Neill et al that moral/ethical ideational arguments provide leverage in particular in the absence of material power (O’Neill et al., 2004, p. 170), and has been symbolically expressed through e.g. walkouts staged by the AGN in negotiations that were seen as neglecting the existential or justice dimensions for African and other developing countries - including in relation to loss and damage (Roger & Belliethathan, 2014, p. 92; McNamara, 2014, p. 245).

Seeing as loss and damage is closely related to adaptation, finance and responsibility in all party framings (although in very different ways), and crucially depends on the notion of vulnerability, it is very likely that these same contentions play a role in the struggle for L&D. The primary difference is there is no allocated finance (separate from that for adaptation) for L&D (Hossain et al., 2021, p. 152), apart from a number of symbolic and incidental pledges made following COP26 (Jessop & Volcovici, 2021; Lo & Farand, 2021). Thus, it remains an important question to what extent this is considered a separate negotiation.

## **Results**

### Interviews

This section will be kept brief, to allow more space for the analysis of submissions and the discussion. Both interviewees underscored much of what has been described in the literature about the UNFCCC and AGN, which will be briefly mentioned but not otherwise elaborated on. New information and perspectives on L&D will be described in more depth, although - as described earlier - the interviews were rather cursory in nature, and the subsequent in-depth analysis of submissions is necessary to get a meaningful grasp of AGN positions on the matter.

In relation to the UNFCCC, both negotiators called attention to structural constraints such as delegation size and the simultaneous nature of negotiation streams, differences in material resources and national climate change bureaucracies. Coalitions were seen as indispensable for the negotiation process. When asked “where negotiations actually happen”, Interviewee 2 described the formal structure - including negotiations at COP, submissions, the subsidiary bodies and secretariat - as merely ‘the skeleton of everything else’. In practice, both interviewees noted the complex and comprimisatory informal process whereby items are negotiated in *packages*. Negotiators try to convince each other of proposals and make political *trade offs*: ‘so you may get some shift in one particular item that has nothing to do with whatever is being negotiated in that item’ (Interviewee 2). These trade-offs were being made at different levels (e.g. within and between coalitions or individual states), with differential material, social and environmental circumstances shaping both interests and

relative power/leverage. COP was seen as the culmination of all these different processes into a coherent agreement (if it can be reached). *Negotiator skill and creativity* were considered important factors for success. In accordance with the literature, it was pointed out that very little of what is agreed under the UNFCCC is *legally binding*, or if it is, *enforced*. Both interviewees instead stressed the importance of *political will* and *political pressure* for compliance/cooperation. Interviewee 1 related *political will* specifically to developed countries in the context of the finance and action components of the WIM. Interviewee 2 instead considered *political pressure* the key defining factor for action (both during decision-making and implementation), particularly the behaviour of powerful states at the international level. For example, a comparison was made between the US Obama and Trump presidencies and their influence on the 'sense of common purpose' at COP. As a result of these complex processes, agreements were described on one hand as being *inefficient* or *illogical*. On the other hand, both interviewees also pointed out that the significance of a centralised body like the UNFCCC, through which "everyone" can make themselves heard on an at least theoretically equal basis, should not be overlooked and does hold potential for "achieving" (measures of) climate justice. Thus, the structure and processes of the UNFCCC were both seen as *constraining* and *enabling* factors to effective climate change policy and climate justice.

In relation to the AGN, Interviewee 2 drew particular attention to the coalition's diverse membership - including members of the LDCs, LMDCs, Arab Group, AOSIS and BASIC - in particular regarding emissions and levels of development. "Natural" vulnerability was regarded as similar across larger regions, although "socially" different in relation to e.g. locally important economic sectors (agriculture-reliant countries being particularly vulnerable) and capability to deal with impacts.

*'So it's like a little mini version of the G77 [...] it's quite a big amorphous group of countries and there are quite a lot of tensions... [for example] between the LDCs and the more industrialised countries [or] politically between LMDCs and other countries in Africa. And all of those groups have their own North-South dynamics, you know, so the dynamics between the LDCs and the EU, for instance, are very different from the tensions between China and the EU, obviously.'* (Interviewee 2)

Regarding these North-South relations, particularly important here is the extent to which states rely on foreign aid/development cooperation - impacting not only the ability to cope with L&D directly, but also to some extent the positions adopted in international contexts such as the UNFCCC. For example, the LDCs reportedly depend quite heavily on a Scottish think tank to develop their positions, and although they do not always align with the EU in negotiations, they were said to express similar positions in public statements. Successful cooperation within the AGN then depends on the topic being discussed, with e.g. much agreement regarding finance ('we tend to agree that the

developed world should give us more money'), but less so on mitigation and reporting. Whether or not the coalition (or parts of it) express a common position depends on the level of agreement and the willingness or ability to make compromises. Rather than an all-or-nothing scenario, the interviewee spoke of "levels of coordination". Considering the advantages of coordination vis-à-vis other groups whose positions may differ even more, great efforts are made to reach some agreement prior to the larger negotiations. Remarkably, Interviewee 1 was rather adamant to point instead to the *unity* of developing party groupings. Whereas the contentions in the G77 about African "particular vulnerability" were addressed, the negotiator stressed that 'at the end of the day, you find your way of resolv[ing] that and agree[ing] on one thing'. In relation to L&D, it was said that:

*'There is no clear disagreement between the countries of Africa, and especially under the African Group. I think we are all talking one and the same thing, and we agree on many points. So on loss and damage, there are no issues between and among African stakeholders.'*  
(Interviewee 1)

and

*'For the G77 and China, I think we are actually agreeing on so many points. I'm not sure if there is any sort of major disagreement, but I think as the larger group we do agree on so many points regarding loss and damage.'* (Interviewee 1)

Perhaps it is true that there is less disagreement on L&D than on other topics, e.g. because there is no allocated finance as in the case of the contentions surrounding adaptation/vulnerability.

However, these statements do seem to somewhat contradict the previously described perspective of Interviewee 2, and the latter's assertion that there were contentions between developing countries in relation to L&D, e.g. regarding the separation from adaptation. One explanation may be that, more so than Interviewee 2, Interviewee 1 felt the importance of nurturing the 'one voice, one Africa' narrative (and perhaps a similar "Southern solidarity" narrative) as observed by Chin-Yee et al. (2021) - possibly enhanced by perceived ("North-South") identity dynamics between interviewer and interviewee which may have been less influential in the case of Interviewee 2.

In discussing the development of loss and damage under the UNFCCC, both interviewees applauded the establishment of the WIM and Santiago Network and considered them to be well organised mechanisms. However, both also expressed concern about the slow pace of institutionalisation and lack of action and financial support. L&D was considered 'one of the most contentious topics in the UNFCCC', especially with increasing climate impacts - both referring specifically to the multiple cyclones which hit Mozambique and surrounding countries in the past few years. According to Interviewee 1, developed countries do recognise that there is such a thing as loss and damage, but 'run away from their historical responsibility'. In this, finance was considered 'the main thing' or 'the sharp end' by Interviewee 1 and 2 respectively. For the latter, finance is ultimately

linked to *liability*, which developed countries have historically ‘refused to consider’, is considered ‘politically impossible’ and ‘has complicated all else’. Consequently, L&D is incorporated in the Paris Agreement in ‘the weakest legal language possible under the UNFCCC’. Interviewee 1 considered this to be the result primarily of economic motivations, using the example of *insurance* as a much pushed solution by developing countries:

*‘I don't think we own major insurance companies in Africa [...] So in the end, who's going to benefit [when] we want to actually ask governments to be paying premiums, to which insurance companies? [...] You are already saying your money is going somewhere else [...]. I think it's not all about assistance, it's also about the economic interests of the different countries that are going to be, you know, supporting loss and damage through the private sector facilities.’ (Interviewee 1)*

Beyond the link to finance and liability, both stressed that L&D is not a single topic, but should be seen in relation to a number of other negotiation areas. Interviewee 2 stressed the importance of *reporting* and *transparency* for both *attribution* and *agenda-setting*, where reporting was described as ‘political currency [which] in a sense makes things real’.

*‘We had a very long argument about whether countries should report on loss and damage at all. And another [...] about whether countries should report on whether they had provided finance for loss and damage or not. We won the one argument and we lost the other one.’ (Interviewee 2)*

In relation to adaptation, Interviewee 1 argued that loss and damage is indeed *beyond adaptation*, but that - despite the efforts of developing countries - it is not recognised as a main ‘negotiation pillar’ with a permanent place on the agenda. According to Interviewee 2, the creation of a separate L&D negotiation stream has been a contentious issue between developing countries. While an advantage is that the topic may receive more explicit attention, an unintended consequence is that discussions relating to the topic which arise in other negotiations are now being shut down, as these belong in ‘its own little box’. Which parties held which positions was unclear.

The interviewees were also asked how they perceived the relationship between L&D and norms, ideas, or ideology. Interviewee 1 seemed to consider these largely in the domain of developing countries - referring to moral/ethical arguments as a negotiation tactic particularly when parties were considered to possess fewer material resources/leverage. Interviewee 2 preferred the term *worldview* to *ideology*, which was seen as an important driving force, but also inherently dependent on local material circumstances. The negotiator spoke of varying *political economies* of L&D between parties (e.g. regarding types of events and capabilities to address them, and by extension in terms of problem definition - e.g. existential or developmental). However, the same

negotiator also raised the following question, which appears to hinge on a more-than-material rationale:

*'Another big question is the extent to which the international regime regards those things as international problems. There has been a kind of tacit war in adaptation about whether adaptation is a purely national thing or whether it's a global responsibility of some kind. Developed countries are of the opinion that this is primarily a national thing and developing countries are strongly of the opinion that this is a global responsibility. [...] But then there has been very little progress in actually thinking about what elements of the problem are global.'*  
(Interviewee 2, my emphasis)

### Submissions

While the interviews provided helpful insights into two AGN negotiators' perspectives on the UNFCCC as a structure, the state of L&D under it, and the operational and power dynamics of the AGN, they did not elucidate the *influence* of the AGN on L&D discourse and policy. Therefore, four loss and damage related AGN submissions<sup>1</sup> were coded and analysed using frame analysis - focussing in particular on *diagnostic* framing (i.e. what the problem is, including questions of responsibility and vulnerability) and *prognostic* framing (i.e. what the solution should be, including positions on finance and the relationship with adaptation). The frames identified by Boyd et al. (2017) are used as a framework to understand the relative position of the AGN vis-à-vis other actors, and the relationship between these frames and those dominant in the institutional arrangements on L&D (i.e. the WIM, Paris Agreement and Santiago Network).

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<sup>1</sup> United Nations Framework Convention on Climate Change. (2009). *Ideas and proposals on the elements contained in paragraph 1 of the Bali Action Plan: Submissions from Parties*. <https://unfccc.int/sites/default/files/resource/docs/2009/awglca8/eng/misc08.pdf>

United Nations Framework Convention on Climate Change. (2012). *Views and information from Parties and relevant organizations on the possible elements to be included in the recommendations on loss and damage in accordance with decision 1/CP.16: Submission from Swaziland on behalf of the African States*. <https://unfccc.int/sites/default/files/resource/docs/2012/sbi/eng/misc14a02.pdf>

Republic of Mali. (2017). *Submission by the Republic of Mali on behalf of the African Group of Negotiators on Views and relevant inputs on possible activities for the five-year rolling workplan of the Executive Committee of Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts*. [https://unfccc.int/sites/default/files/mali\\_agn\\_submission.pdf](https://unfccc.int/sites/default/files/mali_agn_submission.pdf)

Arab Republic of Egypt. (2018). *Submission by the Arab Republic of Egypt on behalf of the African Group of Negotiators: On matters related to the financing of actions to address loss and damage*. <https://cop23.unfccc.int/sites/default/files/resource/AGN%20Submission%20on%20matters%20related%20to%20financing%20of%20actions%20to%20address%20L%26D.pdf>

The submissions from 2009, 2012 and 2017 almost entirely leave the locality of climate-change related losses and damages unspecified, or relate them to “developing countries” at large. The last submission, from 2018, focusses almost entirely on L&D in Africa, with some references to specific countries. In terms of types of events, the primary focus has shifted over time from extreme events (e.g. floods, storm surges, cyclones and pests), to slow onset events (e.g. drought, desertification, erosion, sea level rise, rising temperatures, water stress, climatic variability, ocean acidification, salinisation, glacial retreat, and forest- and land degradation). Most of the specific examples mentioned here stem from the 2017 and 2018 submissions. Few differences are observed between the types of events referred to in relation to Africa or in general. Both economic and non-economic losses and damages are discussed, where the latter are more frequently specified. Where specified, economic L&D refers to infrastructure, “diverse sectors”, or personal property. Non-economic (or “non-quantifiable”, “social”) L&D includes losses of life, livelihoods, health, habitation, and culture; access to food and water, ecosystem/biodiversity loss, and territory. All submissions repeatedly call attention to ‘the risk of loss and damage for *vulnerable communities and populations*’ (UNFCCC, 2012, p. 2, my emphasis) - sometimes specifying these further as indigenous people, poor people, women and children. The emphasis on vulnerable people and communities is greater in 2009 and 2018 than in 2012 and 2017. Again, only the 2018 submission specifically addresses African L&D. While the distribution of types of L&D considered is similar, some categories are specified in more depth. In particular, food-related L&D (crop failure, decline in agricultural production and catch in fisheries, and famine/undernourishment), ecosystems/biodiversity L&D (animals and wetlands), infrastructure- related L&D (communication systems and coastal protection), and economic L&D (3/4th of all references now being to tourism). Lastly, rather than “territory”, Africa-specific utterances in this domain refer instead to “land”. The increased specificity in later submissions may be related to the context of the submissions (specifically addressing the functions and implementation of the WIM rather than calling for the establishment of a yet to be designed mechanism), but also to an increase in impacts in recent years (highlighted particularly by a large focus on floods in 2017 and 2018). Concurrent with the increased focus on Africa, there is a growing focus on the ‘current’ or ‘acute’ nature of L&D in recent submissions. Interestingly, while earlier submissions argue for the need to develop responses in line with the *agreed* level of mitigation, the 2018 submission calls for response projections in line with *different scenarios* of mitigation - which may also represent an increased sense of urgency, and/or disappointment with the state of mitigation in practice.

The notion of (historical) *responsibility* plays an important role in the 2009 submission. While this is the only submission that is *not* exclusively about loss and damage, it contains twelve mentions of the unequal responsibility of “developed countries” (which ones are not specified) for causing

climate change in the L&D-related sections alone. Afterwards responsibility is only explicitly mentioned twice in the 2018 submission - though only to stress that *African* countries are *not* responsible; in the others it is not mentioned at all. Developed countries are not mentioned either in 2012 and 2017, except for two calls for (financial and technological) support from Annex I to developing countries in the former. The 2018 submission includes three calls for financial support from developed to African countries. However, there are some - what may be considered - veiled references to responsibility, e.g.:

*'Loss and damage can be exacerbated due to underlying vulnerabilities, but vulnerability is not the cause of climate change, manifested, inter alia, through changes in climate variability and intensity, extreme events, or slow onset events.'* (UNFCCC, 2012, p. 6; my emphasis)

or

*'The AGN believes that higher ambition of both mitigation and adaptation (in the pre- and post -2020 period) are required to reduce the adverse impacts of climate change and the associated loss and damage.'* (Egypt on behalf of the AGN, 2018, p. 3)

In terms of vulnerability, Africa is consistently referred to as 'a hotspot of vulnerability to the adverse impacts of human-induced climate change' (Egypt on behalf of the AGN, 2018, p. 2). Thus, the combination of references to Africa's vulnerability, absence of responsibility, and the need for "increased mitigation ambition" may be interpreted as a kind of implicit climate justice perspective. However, except for the more radical submission from 2009 - which even stresses 'the need to reform the international and economic systems to ensure fair and equal voice and participation of developing country Parties, in particular, African countries' (UNFCCC, 2009, p. 4) - these utterances are rather vague and avoid any specific assignment of blame. As for the related themes of liability and compensation, the former only features once in 2012, whereas compensation is proposed once in 2009 and 2017, and four times in 2012. Both developing countries' "right to develop" (through industrialisation) and the need to institutionalise Africa's "particular vulnerability" only feature in 2009, which may indicate that the AGN has strategically separated the issues since.

Before examining a number of other concrete proposals, it is worth looking into some of the verbs associated with L&D. Some of these are experiential (e.g. "feel", "force (people to...)", "have to deal with", "face"), as may be expected in an *existential* framing of L&D. On the other hand, around half of all technically prognostic statements only stress the need to "address" L&D, without specifying what that entails. Other examples of such ambiguous statements include "redress", "avert", "misimise", "prioritise", "consider", "respond to", "overcome", and "avoid". Interestingly, words such as "avert" and "avoid" are typically associated with the *mitigation and adaptation* frame, according to which L&D is indeed *avoidable* through these other tracks. This frame is typically associated with developed countries who reject the notion that L&D should be a separate topic.

Thus, it is remarkable that the AGN uses this language, as it otherwise explicitly considers L&D to be ‘unavoidable’ (UNFCCC, 2009, p. 7), ‘permanent’ (Mali on behalf of the AGN, 2017, p. 6), ‘residual’ (Egypt on behalf of the AGN, 2018, p. 2) and ‘beyond adaptation’ (UNFCCC, 2012, p. 4) - although the precise relationship between L&D and adaptation is not always clear. Consider the following examples:

*‘A comprehensive adaptation programme to enhance action [...] including through [...] minimizing unavoidable loss and damage’ (UNFCCC, 2009, p. 7)*

and

*‘There is also a need to determine what position will be taken around the issue of residual loss and damage (the loss and damage that cannot be redressed).’ (UNFCCC, 2012, p. 5, my emphasis)*

and

*‘Even if all cost-effective adaptation is realised, Africa will still suffer large “residual” damages, which are estimated to be double the adaptation costs in the period 2030-2050.’ (Egypt on behalf of the AGN, 2018, p. 2)*

This appears to be somewhat of a definition question - i.e. is adaptation seen as preventative, or can impacts also be adapted to? And in the latter case, what is the difference between adaptation and “addressing” loss and damage? In part this ambiguity may relate to the broad range of issues included under L&D. But in addition, whereas on one hand the AGN overtly appears to “side” with the *existential* and *limits to adaptation* perspectives (e.g. through the relatively greater focus on non-economic and permanent losses - including of lives and livelihoods), it also clearly incorporates elements of the other frames. In particular, over time the AGN has increasingly framed L&D as a *risk management* issue, with explicit references to “risk management” growing from 2 in 2009, 5 in 2012, 9 in 2017 and 12 in 2018. Both 2012 and 2017 also suggest “management of L&D”, although it is unclear what this means. This shift is also observable in the proposed solutions over time. In particular, from a relatively greater focus on capacity building in 2009 and 2012 (with a particular focus on strengthening national institutions), to an increasing focus on technology (especially in 2018). Other, less prominent, proposed courses of action are mitigation (2009 and 2018, including a compliance mechanism for developed countries in 2009), adaptation (all), strengthening international cooperation and coherence between existing approaches (2009, 2012 & 2017), nature-based solutions (2009, 2017 & 2018), “context-specific approaches” (2012, 2017 & 2018), social protection schemes (2012, 2017 & 2018); and infrastructure, strengthening local/regional initiatives, community-based approaches and “sectoral approaches” in 2018. There was also a particularly large focus on research, gathering information and risk assessment in all submissions (less so in 2009, more in 2012 and 2018, and most in 2017). In some cases monitoring climatic data was proposed as a



form of capacity building or (technological) risk reduction, in which cases it was counted as such. The category mentioned pertains to information needed to develop policy. This is interesting, considering the common criticism expressed by developing country parties including the AGN, that the third pillar, or “action component” of the WIM is “lagging behind”. Finance is an overarching theme in all solutions, with different forms of finance being considered - although less defined in 2009, which only refers to compensation, “funding” and “support”. 2012 mentions the same, in addition to the Green Climate Fund. From 2012 onward there is also a large focus on insurance (including risk sharing and risk transfer mechanisms, and contingency finance). Other forms of finance considered in 2017 are private investment, market-based mechanisms, taxes, public funding from developing countries, subsidies, saving schemes, and credit. In 2018, the following are considered besides insurance: loans, credit, public funding from developing countries, subsidies, investment, and the Green Climate Fund.

Following this analysis, cross-checked with an analysis of the prevalence of commonly used keywords per frame as identified by Boyd et al. (2017, p. 725), it is quite clear that - while the AGN incorporates elements of all common L&D frames - its primary “alignment” has shifted over time. Whereas 2009 represents a combined *existential/limits to adaptation* frame, all other submissions rather take a *limits to adaptation/risk management* perspective - where the latter is dominant in all cases. *Mitigation and adaptation* does not play a large role.

In contrast to Africa and its inhabitants, which are presented largely as victims, the AGN is depicted as a very proactive actor - with a particular proliferation of positive self-referential language in 2017 and 2018. The 2018 submission is the first to also stress African agency beyond the AGN, pointing in particular to national policy initiatives and the African Adaptation Initiative. This may again have to do with the specific context of the submission (proposals on the financing of actions to address L&D), but also with the improvement of national frameworks for addressing climate change and/or a changing perspective on the appropriate scale of responses.

## **Discussion**

There seem to be some discrepancies between the AGN’s framing of L&D in different contexts. Whereas in the interviews conducted here (but also some previously referenced public statements), North-South power relations, historical responsibility, liability and compensation still play an important role, these themes are decreasingly prominent in formal submissions pertaining to L&D. Furthermore, while insurance and private finance as forms of support are criticised in interviews (e.g. Interviewee 1; Nafo in Mbugua, 2021), they are included in the proposals. Thus, while publicly or informally L&D is still largely framed along *existential/limits to adaptation* lines, formal submissions rather take a *limits to adaptation/risk management* approach - with an increasing focus on the latter.

In the words of a third AGN negotiator, what is said and written in the UNFCCC remains ‘within the confines of diplomacy’ (personal communication in Glasgow during COP26). However, considering changes over time in both framing and the institutionalisation of L&D, these diplomatic norms can hardly be static. Rather, the shift in framing is likely a result of the interrelationship between a number of structures, agents, and processes - in particular a number of structural constraints inherent to the UNFCCC, the increasingly pressing nature of climate change, the increasing institutionalisation of L&D, and the changing ‘agentiveness’ of the AGN itself.

An important structural factor is the resistance of consensus-based decision making to radical ideas and social change. The discursive production of “loss and damage”, as shown by Vanhala & Hestbaek, represents the need for ambiguous formulations - which can be variously interpreted by different parties - for contentious topics to be recognised under the UNFCCC (2016, p. 112). Thus, while the institutionalisation of L&D represents a certain breakthrough, it also highlights the extent to which parties need to compromise on their demands. Importantly, of course, parties’ paradigms do not emerge in a vacuum, but within the context of global social and economic inequality. According to Okerere, the successful introduction of equity norms to the environmental regime depends above all on the extent to which they ‘fit’ with the dominant framework of neoliberalism (2008, p. 26). In other words, whether they fit the paradigm which has enabled powerful actors to become and remain powerful, not only within the larger UNFCCC, but even within coalitions or individual states. This raises the question of whether any significant change can be made at all within a framework which essentially only allows for reformulations of dominant views. However, such reasoning may be too unilaterally linear. While this compromising dynamic explains why it took 16 years before L&D was formally *mentioned* in the Bali Action Plan, and 21 before the WIM was established, it does not explain why L&D was - in the end - considered sufficiently important to create an institutional framework to address it. Furthermore, drawing on insights from structuration theory - i.e. that structure and agency are mutually constitutive, it does not indicate how the issue may evolve *from here*, and how the establishment of a separate negotiation stream, the WIM, and the Santiago Network, may influence the agents who - through contention and compromise - established them.

Some contributing factors to the increased institutionalisation of L&D can be identified here. First, the increasing organisation of the UNFCCC process through coalitions which has allowed developing countries to pool resources and become more efficiently organised, and the growing solidarity amongst them in the L&D negotiations (Castro & Klöck, 2021, p. 27-28; Siegele, 2021, p. 84; Ciplet & Roberts, 2019, p. 296). The AGN may have played a more important role than it is generally given credit for. Its sheer size (one third of the G77), in combination with its (interrelated) increased assertiveness, increased coherence in positions and behaviour between African states acting as a

coalition, improved integration with national and regional policy mechanisms, increased regional attention for climate change, and improved access to material resources has allowed it to become a strong initiator and supporter of L&D proposals. Second, a structural factor which can be observed but hardly, if at all, substantively unravelled, is the practice of negotiating in “packages”, as described by Interviewee 2. It is likely that the various forms in which L&D has been institutionalised are at least partially the result of “trade-offs” between this topic and others prioritised by powerful states - perhaps not even limited to the UNFCCC domain (Roger & Belliethathan, 2014, p. 103). A third and very important but perhaps easy to overlook factor is the increasingly pressing nature of climate change, and the proliferation of impacts, “aided” by advances in attribution science. This has made the “performance” of vulnerability - and with it, the case for climate justice - more convincing (or perhaps, less deniable), thus enhancing the soft power of developing states. This has indeed been observed as an important aspect of AGN discourse, which emphasises on one hand the vulnerability of African states, but on the other hand (increasingly so) its own assertiveness or agency - in some cases even positioning the AGN as a champion for developing states at large (e.g. Nafu in Mbugua, 2021). This is in line with the dynamic described by O’Neill et al., who argue that ideational arguments are an important source of power for agents with less material leverage (2004, p. 168).

A last and particularly important factor is the adoption of more “acceptable” language by the AGN and other pro-L&D actors in the formal UNFCCC domain - where “acceptable” may refer to diplomatic norms, but also to proposing ideas which are more likely to gain international (financial) support (Ogunseitan, 2003, p. 107-109). Somewhat contradictorily, the shift from a more radical and justice-based *existential* frame to a *risk management* frame may in fact be related to the growing threat of climate instability, as it represents the most *pragmatic* approach (Sealey-Huggins, 2016; Hjerpe & Buhr, 2014, p. 104). In particular, this approach is pragmatically appealing in that it offers “concrete” and readily implementable techno-managerial “solutions” - which above all are politically uncontroversial as they ‘fit’ perfectly within the neoliberal framework. These approaches are described by Syngedouw as explicitly “post-political”, limiting room for discussion to ‘to the choice of technologies, the mix of organizational fixes, the detail of the managerial adjustments, and the urgency of their timing and implementation, not with respect to the socio-political framing of present and future natures’ (2011, p. 6). The psychological appeal of such “quick fixes” - even if they do little to address a problem at its core, or may even aggravate the situation in the long run - is in fact one of the primary reasons neoliberalism sustains itself so well more generally (Swyngedouw, 2010, p. 5-6; Moore, 2015, p. 15-16). Techno-managerial approaches are also popular in international development aid/cooperation (e.g. Escobar, 1995, p. 63; Ferguson, 2006, p. 61) – of which African countries are important recipients. On one hand, this may mean that African leaders, too, may have grown accustomed to addressing problems in this manner. On the other, the link to development

cooperation may influence AGN behaviour in that through it, a web of dependency relationships exists. At best, this may be reflected in the diplomatic avoidance of discourse which could antagonise international donors. The AGN, like other developing country coalitions, relies to a significant extent on Western and international organisations and institutions for funding, and scientific and technological advice (see ‘partners and key stakeholders’ (AGN, n.d.)). At worst, aid may be used as leverage against developing countries. In fact, WikiLeaks indicated that the US indeed used aid in this manner during the Paris negotiations (Sealey-Huggins, 2017, p. 2448-2449; “US Embassy Cables: EU Raises ‘Creative Accounting’”, 2010; “US Embassy Cables: US Urges Ethiopia”, 2010).

Thus, in many ways, the loss and damage debate is still characterised by a clear North-South divide, which is also reflected in AGN discourse - although more so in the past and in informal contexts - e.g. by consistently speaking of “developed” and “developing” countries. What may be particularly problematic is the apparent need for the latter to “perform” – and thus re-affirm – vulnerability/weakness in order to assert agency (Chan, 2021a), whereas the former are consistently referred to as providers of “support” (although spokesperson Seyni Nafo does make it a point to stress that “this is not charity/aid” (Mbugua, 2021)). This resembles age-old paternalistic colonial discourses, which are still used to legitimise economic inequalities and dependency relationships through development aid (e.g. Ferguson, 2007). Like in the example of G77-internal disputes about the allocation of adaptation finance, this highlights the permeation of the logics of the current global order into international institutions such as the UNFCCC. This also shows the difficulty of resisting this global order, as resisting it may simultaneously mean reinforcing its’ operating devices.

On the other hand, this research has also shown that there is no neat binary division between “North and South”, for example by highlighting the internal diversity within the AGN. Moreover, not only have the AGN and other developing countries adopted positions originally associated with developed countries, there are also some signs of convergence in the “opposite” direction. The gradual institutional recognition of, first, adaptation, and later loss and damage, and the recent (small and symbolic, yet first ever) financial pledges for L&D by Scotland and Germany (Lo & Farand, 2021; Schalatek & Roberts, 2021) do indicate that moral/ethical arguments have had some impact. Interestingly, some (postcolonial) authors have argued that the ordering of the world in terms of binaries such as West/South, developing/developed, rich/poor, modern/traditional is itself a function of Western hegemony, and that one way to “decolonise” is by dismantling these binaries (e.g. Moore, 2015, p. 9; Nayak & Selbin, 2010, p. 12). In some ways, then, the observed (measure of) convergence in L&D-related framing, institutionalisation and behaviour may represent a cautious source of hope for climate justice. The importance of the sentiment expressed by both interviewees - that the existence of a forum in which “everyone” can participate on an at least theoretically equal basis is significantly preferable to not cooperating at all - should not be negated. In addition,

according to O'Neill et al., 'the most significant impact of the series of United Nations Conferences on issues associated with global environmental and development issues may be the construction and institutionalization of global norms, ideas, and discourses' (2004, p. 162), which makes another case for the potential of Southern agency. Even so, the *degree* of convergence in either direction is not symmetrical, but reflective of existing power relations, and skewed in the direction of hegemonic neoliberal approaches. In other words, proposed solutions are most viable when they remain within the 'contours of the existing state of the situation— 'the partition of the sensible' in Rancière's words [...] — so that nothing really has to change!' (Swyngedouw, 2011, p. 4). Thus, structural changes that may actually address the causes of climate change and inequality may still be a long way out of reach. Seekers of climate justice - like the AGN - will have to continuously find a balance between using their knowledge of the structure to propose that which is likely to book short-term progress and may lead to some small measure of convergence, and using their ideational leverage to sufficiently challenge this status quo. Thus, the nature of the AGN's (potential) agency under the UNFCCC can be understood as a complex interaction between both *reproductive* and *transformative* agency.

From this research, it also becomes clear that there are different interrelated, interacting and overlapping levels of structure and agency. For example, the AGN can be seen simultaneously as an agent and a structure, encompassing many sorts of agents (e.g. states, delegations), and is itself embedded in many structural relationships (e.g. with the UNFCCC and the AU). Similarly, the UNFCCC (or parts of it) may in certain contexts be conceptualised as an agent (O'Neill et al., 2004, p. 159) - for example, in the relationship between agreed mitigation targets and national policy, or in the way the WIM now operates as an authority on L&D. Thus, depending on one's descriptive purposes, they may best be seen as complex adaptive systems. The growing threat of climate change presents another case for (post-human) complexity. Whereas climate change would normally largely be treated as an *effect* of human action (i.e. "anthropogenic climate change"), it is clear that a) these processes are already influencing and strengthening each other outside the reach of human influence (through feedback loops), and b) they motivate human behaviour (e.g. increasing priority given to loss and damage by developing and developed parties alike). This could be seen as an exogenous source of *affective* agency.

## **Conclusion**

Whereas in informal and public contexts, the AGN has quite consistently framed loss and damage as a climate justice concern, over time this focus has become less strong in its formal submissions to the UNFCCC. In these formal proposals, the focus has increasingly been on techno-managerial approaches to address loss and damage. The ambiguity between the AGN's framing tactics in

different contexts and instances simultaneously reflects the diverse membership of the AGN itself, an effort to *a priori* formulate compromise-like proposals which are likely to gain traction, and a discursive strategy to maintain amiable relations with different parties beyond the context of L&D alone. For example, while relations with developed countries are important for material support, it is also of vital importance for developing parties to maintain and convey a sense of “Southern solidarity” to make their interests heard in the context of Western political and economic hegemony. Furthermore, the shift in framing to a risk management approach may be seen as a result of a combination of structural factors - most notably consensus-based decision making, material relations and the hegemony of neoliberalism in today’s global order - and a form of pragmatism in the face of the growing threat of climate change. Whereas this discursive change signifies in some regards the reproductive nature of power relations in the UNFCCC and the agency of the AGN within it, there is also potential for transformation - in particular in the form of justice-based ideational arguments.

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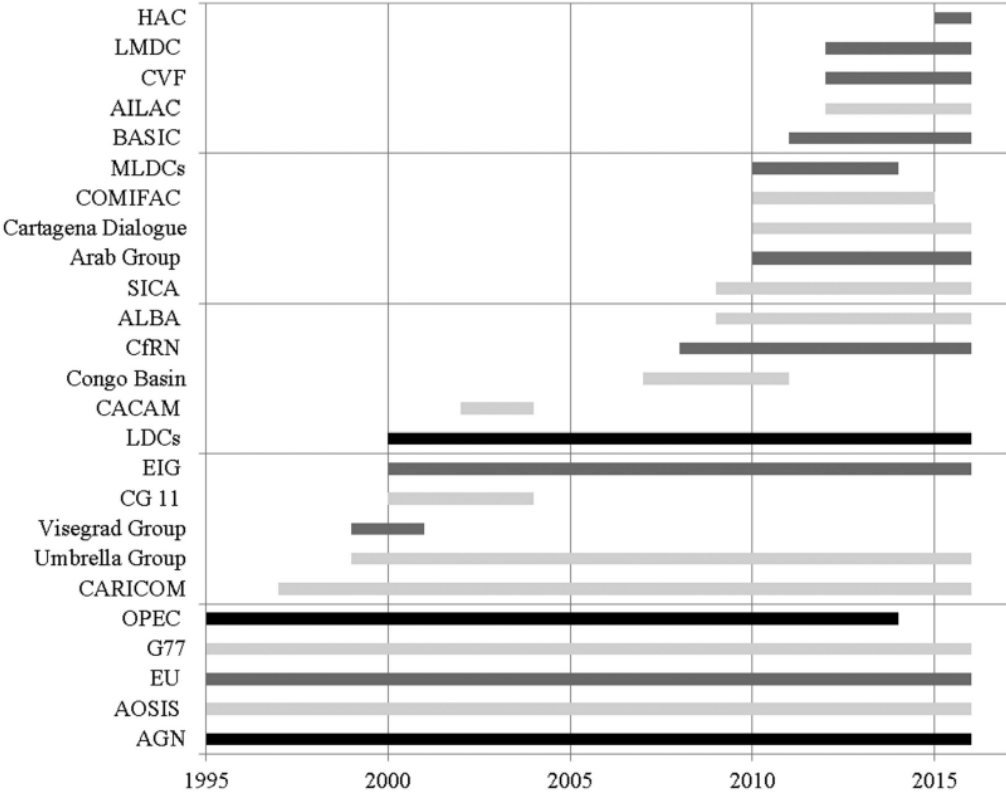
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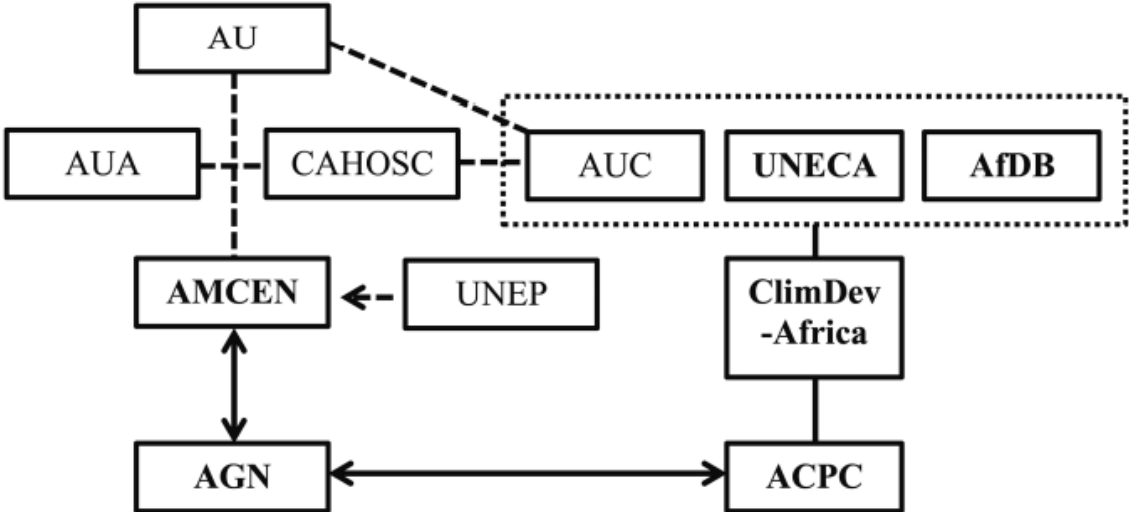
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**Appendix 1 – images, tables, and graphs**

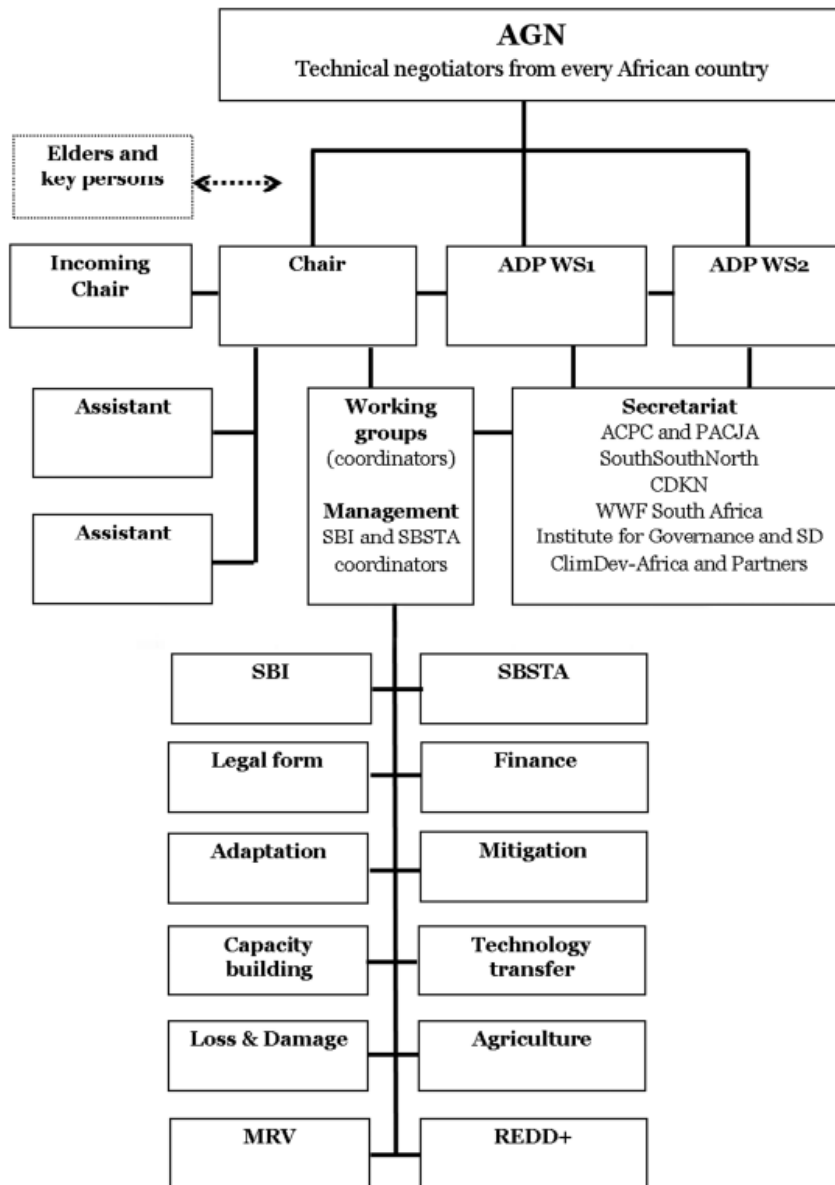
Colours indicate coalition cluster: black = global generic coalitions; dark grey = global climate-specific coalitions; light grey = regional coalitions.



**Figure 1:** Climate coalitions over time (from Castro & Klöck, 2021, p. 25).



**Figure 2:** AGN external organisational structure (in relation to climate change) (from Chin-Yee et al., 2021, p. 140).

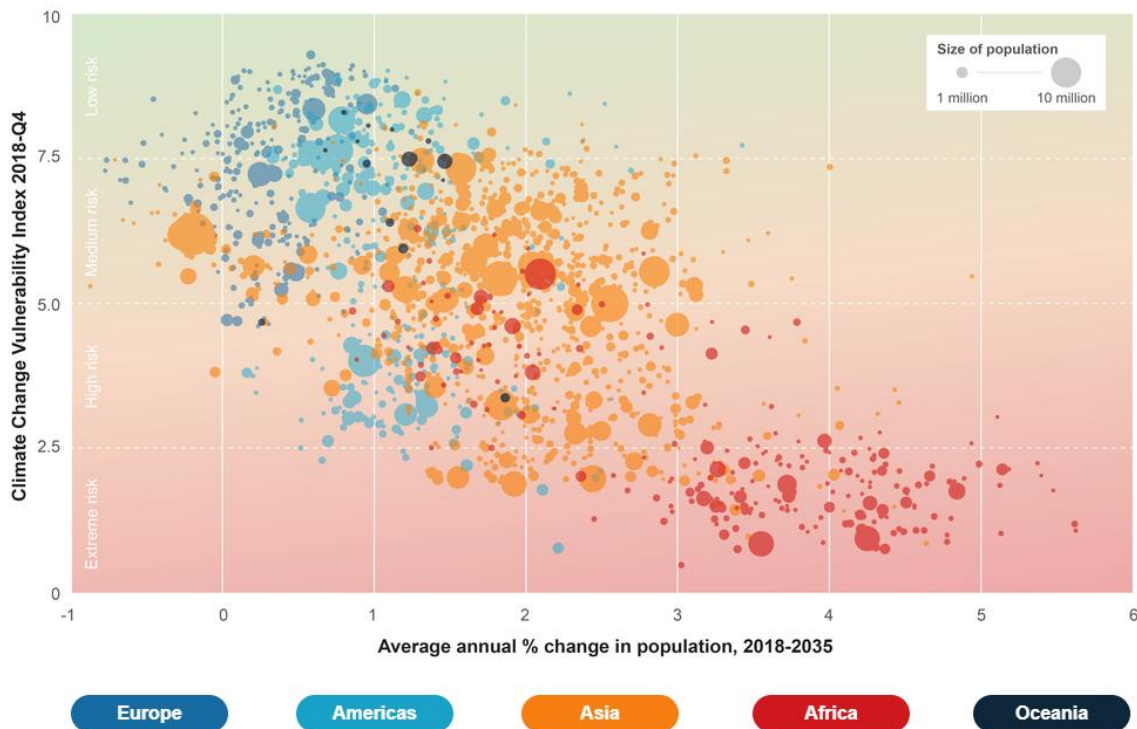


**Figure 3:** AGN internal organisation (in the lead-up to the Paris Agreement) (from Chin-Yee et al., 2021, p. 141).

Ranking 2019 (2018)	Country	CRI score	Fatalities	Fatalities per 100 000 inhabitants	Absolute losses (in million US\$ PPP)	Losses per unit GDP in %	Human Development Index 2020 Ranking <sup>14</sup>
1 (54)	Mozambique	2.67	700	2.25	4 930.08	12.16	181
2 (132)	Zimbabwe	6.17	347	2.33	1 836.82	4.26	150
3 (135)	The Bahamas	6.50	56	14.70	4 758.21	31.59	58
4 (1)	Japan	14.50	290	0.23	28 899.79	0.53	19
5 (93)	Malawi	15.17	95	0.47	452.14	2.22	174
6 (24)	Islamic Republic of Afghanistan	16.00	191	0.51	548.73	0.67	169
7 (5)	India	16.67	2 267	0.17	68 812.35	0.72	131
8 (133)	South Sudan	17.33	185	1.38	85.86	0.74	185
9 (27)	Niger	18.17	117	0.50	219.58	0.74	189
10 (59)	Bolivia	19.67	33	0.29	798.91	0.76	107

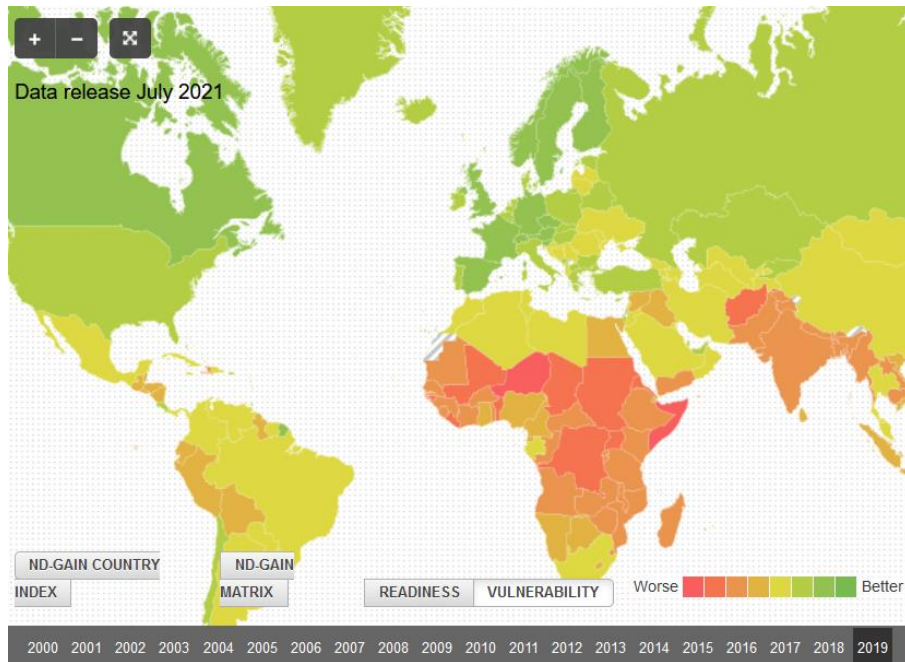
PPP = Purchasing Power Parities. GDP = Gross Domestic Product.

**Figure 4:** Top 10 most affected countries in 2019 (from Germanwatch, 2021, p. 9).

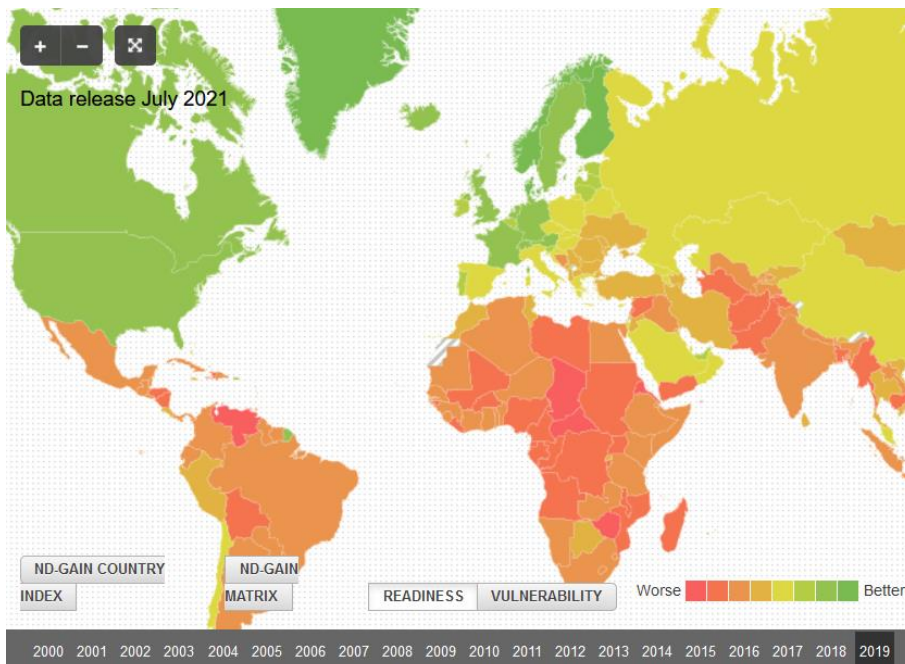


**Figure 5:** Climate Change Vulnerability Index 2018 (from Verisk Maplecroft, n.d.).





**Figure 6:** Notre Dame Global Adaptation Initiative’s Country Index, vulnerability (from ND-GAIN, 2021).



**Figure 7:** Notre Dame Global Adaptation Initiative’s Country Index, readiness (from ND-GAIN, 2021).

Top 5 Countries		Score	Bottom 5 Countries		Score
1	Norway	76.2	178	Dem. Rep. of the Congo	32.2
2	Finland	73.2	179	Guinea-Bissau	31.9
3	Switzerland	72.4	180	Eritrea	31.1
4	Sweden	72.1	181	Central African Rep.	28.9
5	New Zealand	71.6	182	Chad	28.3

**Figure 8:** Notre Dame Global Adaptation Initiative’s Country Index (from ND-GAIN, 2021). For the full list, see <https://gain.nd.edu/our-work/country-index/rankings/>.

## Appendix 2 – overlapping coalition membership

Adapted from Klöck, 2021.

AGN members	Arab AOSIS Group	Cartagena BASIC Dialogue	Congo CfrN	Congo COMIFAC Basin	Congo CVF/V20	G77	HAC	LDCs	LMDCs	OPEC	Sum
Algeria	x						x		x	x	5
Angola							x	x	x	x	5
Benin							x	x	x		4
Botswana			x				x				3
Burkina Faso					x		x	x	x		5
Burundi		x		x			x	x	x		6
Cameroon			x	x	x		x				5
Cape Verde	x						x	x			4
Central African Republic			x	x	x		x	x	x		7
Chad				x			x	x	x		5
Comoros	x					x	x	x	x		7
Congo (DRC)			x	x	x	x	x	x	x	x	9
Congo (Rep.)			x	x	x		x			x	6
Cote D'Ivoire							x				2
Djibouti	x						x	x	x		5
Egypt	x						x		x		4
Equatorial Guinea			x	x	x		x	x		x	7
Eritrea							x	x	x		4
Eswatini		x					x				3
Ethiopia		x				x	x	x	x		6
Gabon			x	x	x		x			x	6
Gambia		x				x	x	x	x		6
Ghana		x	x			x	x				5
Guinea							x		x		3
Guinea-Bissau	x						x	x	x		5
Kenya		x	x			x	x				5
Lesotho			x				x	x	x		5
Liberia			x				x	x	x		5
Libya	x						x			x	5
Madagascar			x			x	x	x	x		6
Malawi		x	x			x	x	x	x		7
Mali			x				x	x	x	x	6
Mauritania	x						x	x	x		5
Mauritius	x						x	x			4
Morocco	x					x	x				4
Mozambique			x				x	x	x		5
Namibia			x				x				3
Niger						x	x	x	x		5
Nigeria			x				x			x	4
Rwanda		x		x		x	x	x	x		7

São Tomé e Príncipe	x					x				x		x							5
Senegal								x		x	x	x							5
Seychelles	x									x	x								4
Sierra Leone						x				x	x	x							5
Somalia		x								x	x	x							5
South Africa			x			x				x									4
South Sudan								x		x		x							4
Sudan		x				x		x		x	x	x	x		x				8
Tanzania				x				x		x	x	x							6
Togo										x	x	x							4
Tunisia		x						x		x									4
Uganda				x		x				x	x	x							6
Zambia						x				x	x	x							5
Zimbabwe										x									2
<b>Sum</b>		6	10	1	10	22	10	6	17	54	34	33	6	7					