

Climate Justice and Disasters – a focus on the Pacific

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Climate Justice and Disaster Law

Rosemary Lyster





RESEARCH HANDBOOK ON
Climate Disaster Law
Barriers and Opportunities

Edited by
Rosemary Lyster • Robert Verchick



RESEARCH HANDBOOKS IN CLIMATE LAW

What is a climate disaster?



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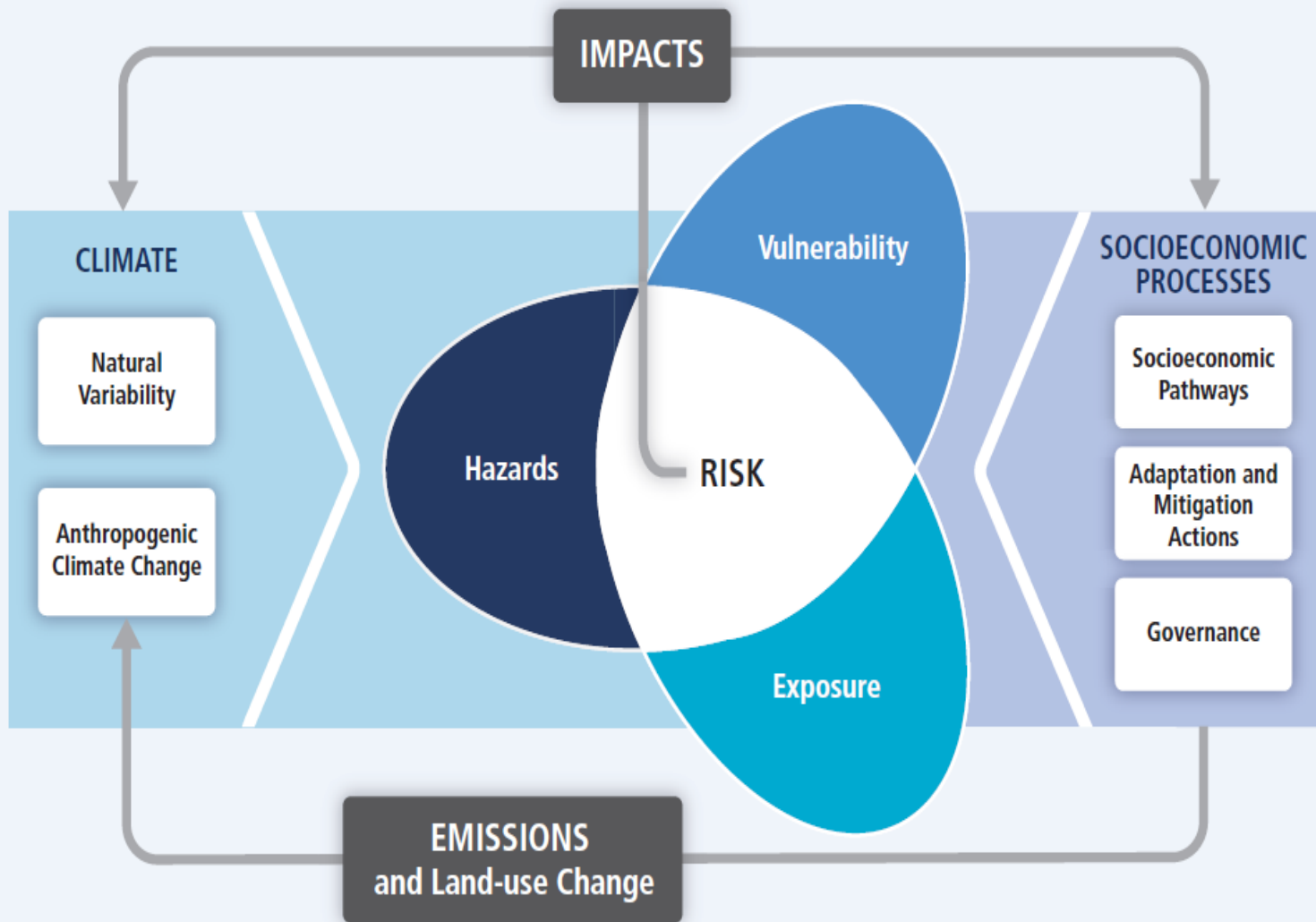


Figure SPM.1 | Illustration of the core concepts of the WGII AR5. Risk of climate-related impacts results from the interaction of climate-related hazards (including hazardous events and trends) with the vulnerability and exposure of human and natural systems. Changes in both the climate system (left) and socioeconomic processes including adaptation and mitigation (right) are drivers of hazards, exposure, and vulnerability. [19.2, Figure 19-1]

¹ A key finding of the WGI AR5 is, "It is *extremely likely* that human influence has been the dominant cause of the observed warming since the mid-20th century." [WGI AR5 SPM Section D.3, 2.2, 6.3, 10.3-6, 10.9]

² 1.1. Figure 1-1

Approaches to Climate Justice



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- I adopt a Capability Approach to climate disasters
- For Amartya Sen and Martha Nussbaum the essential question of the Capability Approach is ‘what is this person able to do and to be?’
- The impacts and extensive uncompensated losses of climate disasters destroy and undermine Capabilities
- This results in climate injustice

Report of Human Rights Council Special Rapporteur on extreme poverty and human rights (June 2019)

- Climate change will have devastating consequences for people in poverty. Even under the best-case scenario, hundreds of millions will face food insecurity, forced migration, disease, and death. Climate change threatens the future of human rights and risks undoing the last fifty years of progress in development, global health, and poverty reduction.

***The 1992 United Nations
Framework Convention on
Climate Change***



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– *United Nations Framework Convention on Climate Change*



1992 Mitigation – emissions reduction

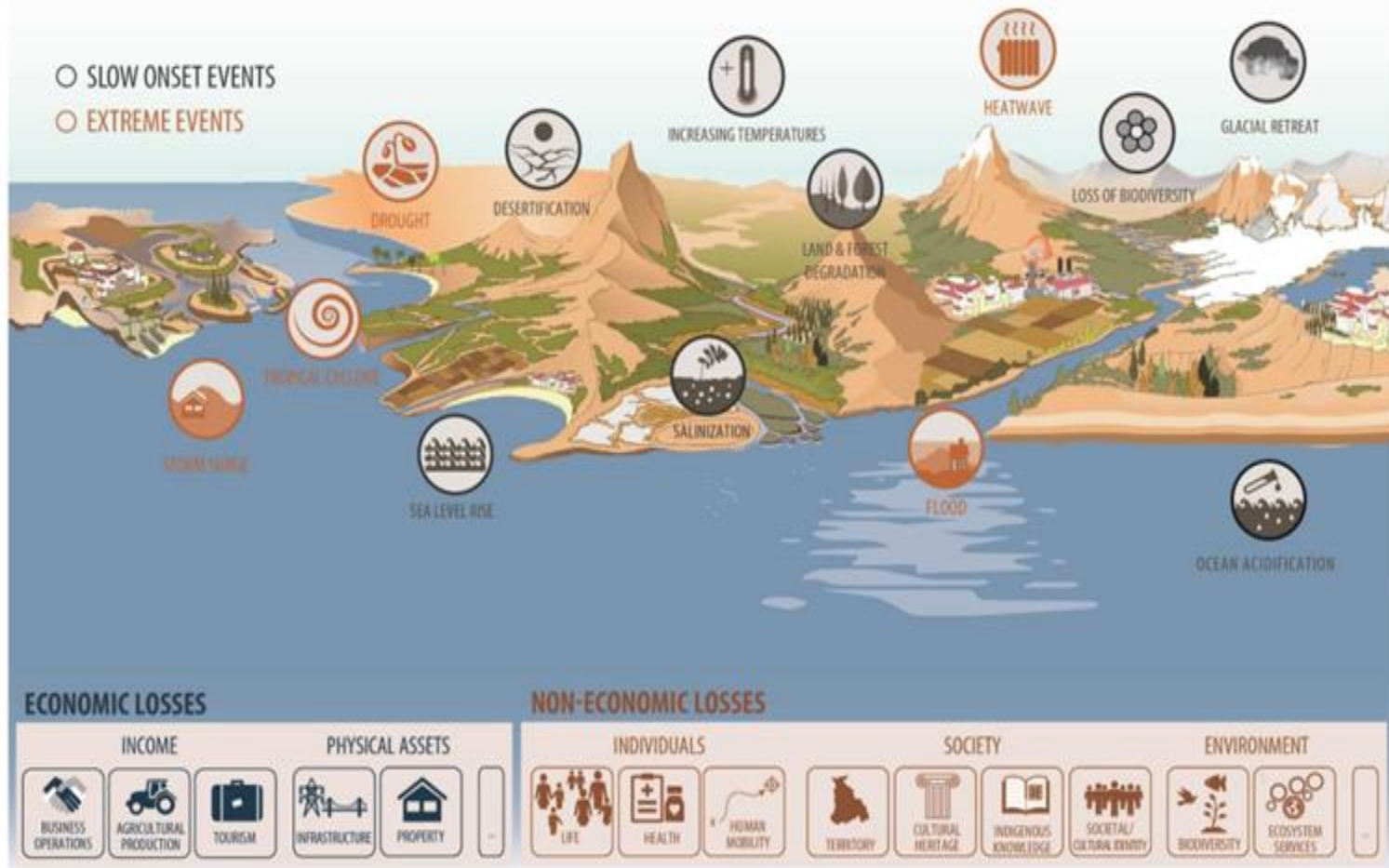
2010 Adaptation Framework

2013 Warsaw International Mechanism for Loss and Damage associated with the Impacts of Climate Change – for developing countries

LOSS AND DAMAGE ASSOCIATED WITH THE IMPACTS OF CLIMATE CHANGE



United Nations
Framework Convention on
Climate Change



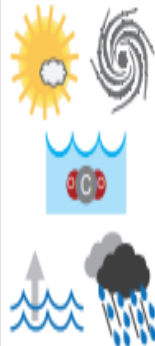









Loss and damage in the Asia Pacific



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2014 IPCC Impacts, Adaptation and Vulnerability

Small Islands				
Key risk	Adaptation issues & prospects	Climatic drivers	Timeframe	Risk & potential for adaptation
Loss of livelihoods, coastal settlements, infrastructure, ecosystem services, and economic stability (<i>high confidence</i>) [29.6, 29.8, Figure 29-4]	<ul style="list-style-type: none"> • Significant potential exists for adaptation in islands, but additional external resources and technologies will enhance response. • Maintenance and enhancement of ecosystem functions and services and of water and food security • Efficacy of traditional community coping strategies is expected to be substantially reduced in the future. 			Very low Medium Very high
			Present	
			Near term (2030–2040)	
			Long term 2°C (2080–2100) 4°C	 
The interaction of rising global mean sea level in the 21st century with high-water-level events will threaten low-lying coastal areas (<i>high confidence</i>) [29.4, Table 29-1; WGI AR5 13.5, Table 13.5]	<ul style="list-style-type: none"> • High ratio of coastal area to land mass will make adaptation a significant financial and resource challenge for islands. • Adaptation options include maintenance and restoration of coastal landforms and ecosystems, improved management of soils and freshwater resources, and appropriate building codes and settlement patterns. 			Very low Medium Very high
			Present	
			Near term (2030–2040)	
			Long term 2°C (2080–2100) 4°C	 

- The 2011 Thailand floods caused damage of US\$45.7 billion – **only \$12 billion insured**
- 2013 Typhoon Haiyan caused damage of US\$14.5 billion in Philippines – only **US\$ 300 million insured**
- 2015 Cyclone Pam caused damage of US\$450 million, **more than half of Vanuatu's yearly GDP**
- 2016 Cyclone Winston caused damage of US\$650 million in Fiji **14% of GDP**



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Institute for Environment
and Human Security

KIRIBATI: CLIMATE CHANGE AND MIGRATION

RELATIONSHIPS BETWEEN HOUSEHOLD VULNERABILITY, HUMAN MOBILITY AND CLIMATE CHANGE

**REPORT
NO. 20**

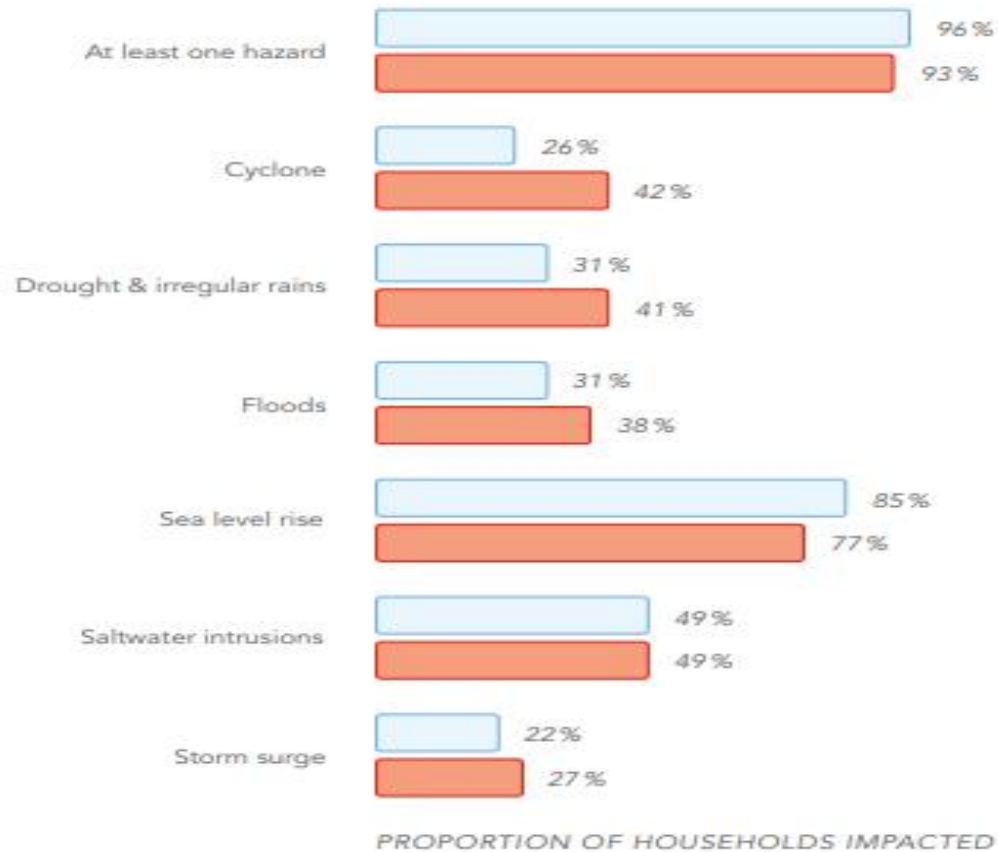
November 2016



UNITED NATIONS
ESCAP
Economic and Social Commission for Asia and the Pacific

**ROBERT OAKES, ANDREA MILAN
AND JILLIAN CAMPBELL**

NATURAL HAZARDS
2005-2015



□ SOUTH TARAWA
■ OUTER ISLANDS

Figure 6: Households affected by natural hazards 2005-2015

Source: PCCM Kiribati Fieldwork

Tuvalu

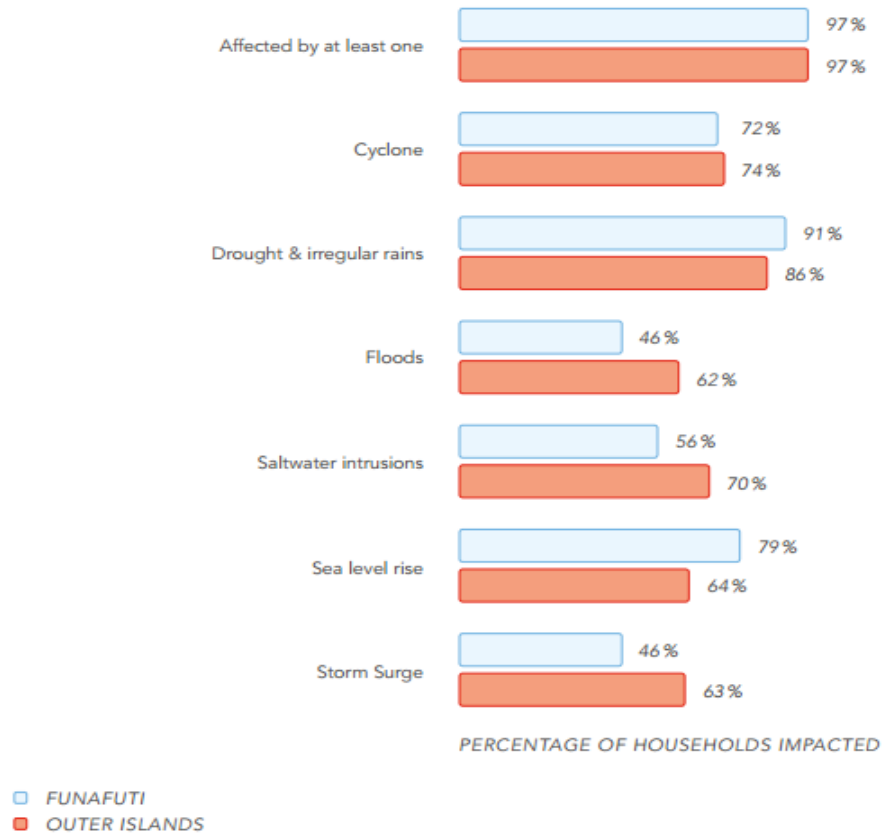


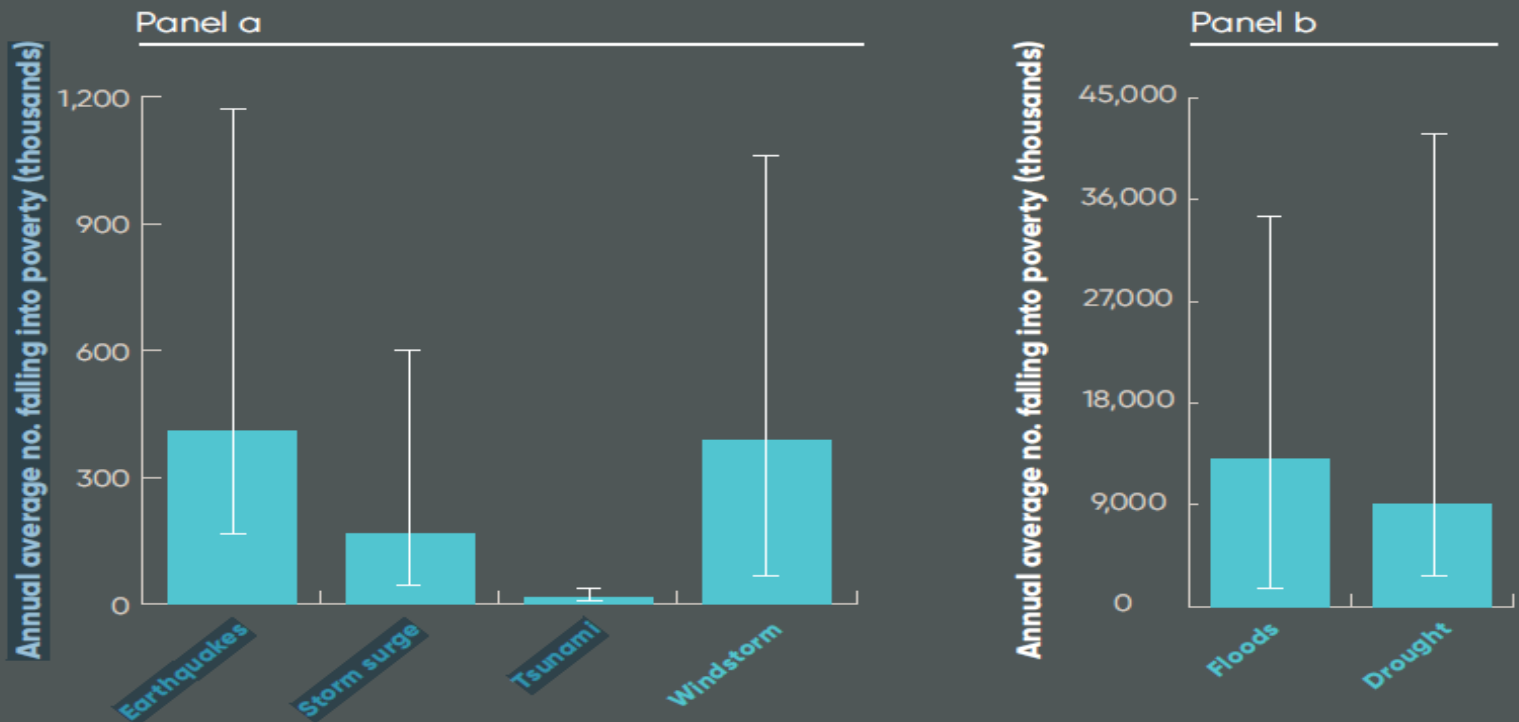
Figure 6: Households affected by natural hazards 2005-2015

Source: PCCM Tuvalu Fieldwork

Climate Disasters and Poverty

Figure 3.2: Natural disasters are responsible for the extreme poverty of millions of people

Simulated impacts of natural disasters on poverty headcount in 2012, 89 countries



Source: Rozenberg and Hallegatte, forthcoming.

World Bank *Unbreakable: Building the Resilience of the Poor* (2017)

What are the key Climate Justice issues?



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1. Responsibility for emissions reduction to meet the temperature goal
2. Responsibility for adaptation and disaster risk reduction at the national level
3. Responsibility for climate finance
4. Responsibility for compensation
5. Responsibility for Climate Displaced Persons

1. Responsibility for emissions reduction to meet the temperature goal



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The 2015 Paris Agreement temperature goal

- To hold the increase in the global average temperature to **well below 2° C** above pre-industrial levels and **to pursue efforts** to limit the temperature increase to **1.5° C** above pre-industrial levels

2018 IPCC *Global warming of 1.5 ° C*

- Human activities are estimated to have already caused approximately **1.0° C of global warming** above pre-industrial levels ... Global warming is likely to reach **1.5° C between 2030 and 2052** if it continues to increase at the current rate.

United Nations Environment Programme's 2018 *Emissions Gap Report*

- Current emissions reduction targets 'imply global warming of about 3° C by 2100, with warming continuing afterwards. If the emissions gap is not closed by 2030, it is very plausible that the goal of a well-below 2° C temperature increase is also out of reach.

Countries are not accountable for their fossil fuel exports

The **Australia Institute**
Research that matters.

High Carbon from a Land Down Under

Quantifying CO₂ from Australia's fossil fuel mining and exports

July 2019

Australia is the world's third biggest exporter and fifth biggest miner of fossil fuels by CO₂ potential. Its exports are behind only Russia and Saudi Arabia, and far larger than Iraq, Venezuela and any country in the EU. Yet Australia's economy is more diverse and less fossil fuel intensive than many other exporters. Australia has an opportunity and obligation to decarbonise its exports in line with the Paris Agreement.

**Formally under UNFCCC accounting rules
Australia is only responsible for 1.5% global
greenhouse gases**

2. Responsibility for adaptation and disaster risk reduction at the national level



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Paris Agreement

- All countries will establish the global goal not only of **adapting to climate change** but also **strengthening resilience** and **reducing vulnerability** to climate change, with a view to contributing to sustainable development.

3. Responsibility for climate finance



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- In 2010, developed countries agreed to **provide USD\$100 billion per year by 2020** to assist developing countries to **mitigate and adapt** to climate change – **USD\$1 trillion**
- Under the Paris Agreement, developed countries are required to **scale-up** these financial resources



**GREEN
CLIMATE
FUND**

Meeting of the Board

1 – 4 July 2018

Songdo, Incheon, Republic of Korea

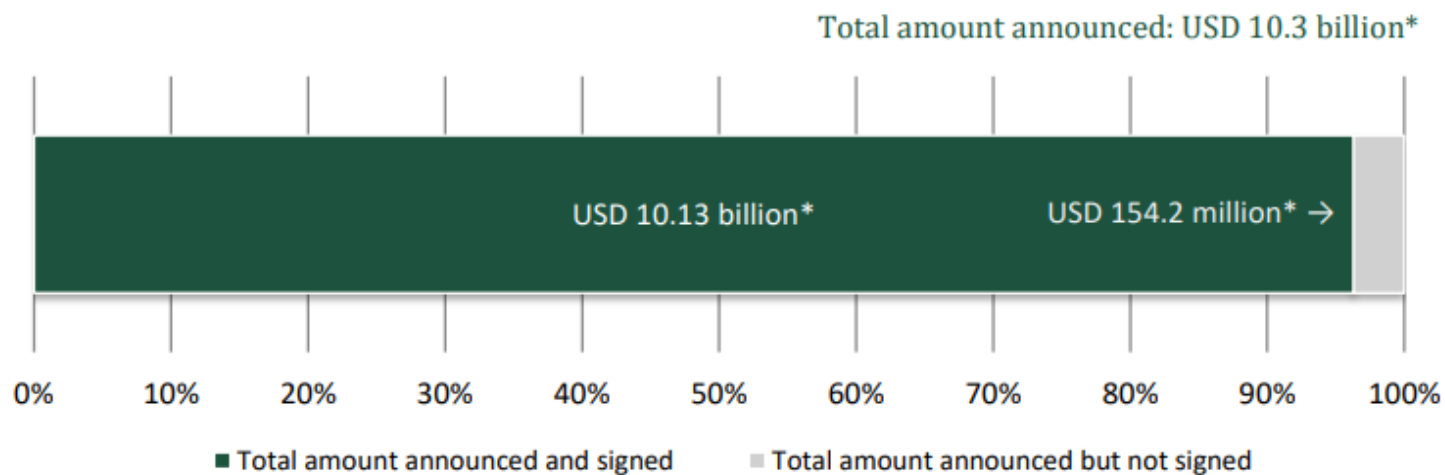
Provisional agenda item 22

GCF/B.20/15

8 June 2018

Seventh Report of the Green Climate Fund to the Conference of the Parties to the United Nations Framework Convention on Climate Change

Figure 5: Amount pledged to the GCF in the initial resource mobilization period and signed contribution arrangements as at 30 April 2018



* Amounts indicated are in United States dollars equivalent (USD eq.)

To be shared among 147 developing countries

3. Responsibility for compensation



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- › No compensation under the Paris Agreement
- › Inadequate government disaster relief payments
- › Donor relief is inadequate
- › Insurance - low penetration rates and the problem of affordability
- › Litigation – no claim for damages has yet been successful

Insurance risk pooling

- The Pacific Catastrophic Risk Insurance Company offers member countries sovereign parametric insurance, designed to pay-out within 10 days after a triggering event, providing those in need with valuable funds very soon after an event occurs, something that is vital for vulnerable regions when addressing the impacts of natural disasters and climate-related events.
- Current member countries include Cook Islands, Marshall Islands, Samoa, Tonga and Vanuatu

4. Responsibility for Climate Displaced Persons



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Types of human mobility and climate change

Human mobility

Displacement

Situations where people are forced to leave their home or place of habitual residence. Displacement is usually associated with intensive risk, where the occurrence of a disaster event is the primary driver of movement. It can take place within or across national borders.

Migration

Movements which are, to some degree, voluntary. This is usually associated with extensive risk, and can take place within or across national borders. The decision to move is complex and often linked to multiple drivers, including but not limited to climate risk.

Planned relocation

An organised relocation, typically instigated, supervised and carried out by the state with the aim of reducing (usually extensive) weather and climate risks. Ideally, planned relocation should be undertaken transparently and with the informed consent of, or upon the request of the community. It should also be accompanied by resettlement (the restoration of communities and socio-economic conditions) (McAdam and Ferris, 2015).

Source: Advisory Group on Climate Change and Human Mobility, 2014.

2015 Paris Agreement

Mandate of the Task Force on Displacement

Complement, draw upon the work of and involve, as appropriate, existing bodies and expert groups under the Convention including the Adaptation Committee and the LDC Expert Group, as well as relevant organizations and expert bodies outside the Convention, **to develop recommendations for integrated approaches to avert, minimize and address displacement related to the adverse impacts of climate change**

*(Decision 1/CP.21, paragraph 49,
ToRs, paragraph 5)*



Developments in 2018

- Report of the Task Force on Displacement (December 2018)
 - Extensive recommendations on averting, minimizing and addressing displacement related to the adverse impacts of climate change
- 2018 *UN Global compact for safe, orderly and migration*

Conclusion



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- There remains a significant gap between the demands of Climate Justice and the commitments made by countries, especially developed countries, to protect the Capabilities of people living in the Pacific
- National governments may also be failing to integrate climate change adaptation and disaster risk reduction
- Ultimately, the judiciary will be called upon to come to the assistance of those who have suffered, or who will suffer, the loss and damage of climate change
 - This is already occurring

31/07/19

Nadi Bay Declaration on the Climate Change Crisis in the Pacific

Thank you



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