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29/09/2023

Workshop

Justice in Finance for Climate Change Adaptation and Loss and Damage:

Finance for Loss and Damage as a distributive share: the merits of risk pooling

Abstract:

How can climate ethics contribute to recommendations regarding new Loss & Damage funding arrangements? Justice applied to climate finance has three dimensions: distributive, procedural and recognition as highlighted by the IPCC in its Sixth Assessment Report. Concerning distributive aspects, much of the work to date has been on determining a fair and equitable distribution of climate burdens, balancing different allocation principles such as polluter pays, ability to pay, beneficiary pays, etc., against each other. We argue here for a shift in the ethical focus from duty-bearer and beneficiary accounts to building institutionalised distributive justice obligations within the UNFCCC. From an institutionalist perspective, distributive justice is an enforceable response to the needs of victims who receive distributive shares as their right. These characteristics differ from the principle of making victims whole again, which is at the heart of a corrective justice framework, but also from the principle of benevolence.

This shift in the normative focus from allocation principles to distributive justice as an institutional modality of Loss & Damage finance is in line with the numerous calls recently heard in various political arenas for a radical transformation of international financial architecture in relation to the financing of climate risks and impacts (the 2022 Bridgetown Initiative and 2023 Paris Summit). These calls signal that the current aporia of climate finance is not primarily related to a wrong distribution of climate burdens and benefits, but to its institutional modalities, which are characteristic of what is described in political philosophy as assistance or charity.

Current empirical analyses of existing climate finance flows tend to point to problems related to sources of finance, instruments and modalities of access as if they were separate issues. Ethical analysis shows how these elements are interrelated and form two distinct types of response to climate risks and impacts, either rooted in a distributive justice framework or an assistance framework. Systematic accounts of distributive justice and assistance will therefore prove extremely fruitful in developing recommendations for new L&D finance. More specifically, risk pooling, which consists in sharing a collective burden among a pre-defined community according to a pre-defined rule, allows security to be contractualised and provided on a legal basis. It therefore appears as a distinct modality of providing Loss & Damage finance compared to project-based finance and other risk financing options. Risk pooling is not limited to market-based mechanisms. It encompasses a wide variety of strategies, each representing a specific mode of burden-sharing between parties, such as the EU Solidarity Fund. The fairness of insurance instruments depends on the identity of contributors and beneficiaries (organisation of pools) and the criteria used to determine the risk premium.

In addition to risk pooling, we will try to identify other instruments able to allow finance as a distributive share such as taxes and levies (International Airline Passenger Levy, Bunker fuels levy, Global carbon tax etc.). They would however require to be associated with adequate delivery systems in order to align with justice.

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Policy relevance of contribution:

The institutionalist distributive justice framework derives from Rawlsian theory (duties of justice are triggered in specific institutional contexts, and are distinct from purely moral ones). In the context of adaptation and Loss & Damage finance, the use of the institutionalist framework in addition to the existing human rights-based approach is key to envisioning holistic reforms of current climate finance.

It will help to select the most relevant options for L&D finance, considering diverse funding sources, instrument types and access modalities, primarily by assessing enforceability, appropriateness to victims' needs and the ability of delivery systems to be entitlement-based. In this regard, an institutionalist theory of distributive justice will recommend favouring L&D funding options based on contractualisation and trigger-based funding such as risk pooling over regular funds allocating project-based finance.

Finally, the inquiry on institutional characteristics of financing instruments from the point of view of justice or assistance will allow us to characterize solidarity (specifically the one at work in social insurance pools) as a specific principle of distributive justice for dealing with climate risks (different from ability to pay, polluter pays etc.) and as a new way of assigning responsibilities for loss and damage.