



October 16, 2015¹

A 'Non-Paper' for a 'Non-Effective' 'Non-Just' 'Non-Equal' Climate Agreement

On October 5th 2015, the co-Chairs of the ADP process released a new "[Non-Paper](#)" document including a draft of the Paris agreement and a draft of the COP decision, to be both adopted at COP21 in December 2015 in Paris.

The WGC, one of the nine official constituencies accredited to the UNFCCC, comprised of women's rights, feminist organizations and networks representing thousands of groups and individuals, wants **to express its profound concern about this new 'non-paper'** which aims to act as a basis for negotiations on the new climate agreement.

Having followed the ADP negotiations very closely, this document does not reflect the discussions in a balanced way. Many crucial issues voiced by Parties under the ADP have been glaringly left out. This undermines the promises of the co-Chairs for a Party-driven process, and threatens the collective will to actively engage towards an ambitious and fair agreement. The WGC has highlighted several key issues which must be brought back into the agreement in this upcoming week of negotiations.

1. Deletion of gender equality and human rights in the draft agreement

Since the first session of the ADP, and throughout this year, Parties have made strong calls for human rights and gender equality to act as guiding principles to all actions under the new agreement. In particular, in the last session where the co-Chairs had identified these issues in 'Part 3' of their negotiations tool, Parties made clear that they wanted these issues brought back into the agreement. Several Parties raised this in the discussions on the Preamble and in discussions on the General / Objective section. More than 40 Parties expressed their support in having human rights and gender equality expressly mentioned in the Paris agreement. Specifically on gender, three groups of Parties (AILAC, the Environmental Integrity Group and the African Group) alongside 12² individual countries raised their flags to make clear to the co-Facilitators that gender equality must be included under the operative part of the agreement and not just in the preamble or in a decision. Fundamentally, no Party expressed objection to this.

The WGC and many colleagues and allies are therefore **concerned and surprised** to see that these issues have been completely left out of the co-Chairs non-paper. Gender equality, which had been referenced across all areas of the new agreement, including prominently also in technology and finance sections, is now solely reflected in relation to adaptation. This is neither reflective of Parties views nor the progress/ current mandates which already exist on these issues under the UNFCCC.

¹ www.womengenderclimate.org

² Costa Rica, Philippines, Liberia, Malawi, Bangladesh, Dominican Republic, Cote d'Ivoire, Ecuador, Vietnam, Venezuela, Zimbabwe, Bolivia

2. Does not address the causes of the climate crisis

The unique mention of fossil fuels that was contained in the previous non-paper of the co-Chairs has disappeared in this updated version. With **80% of GHG emissions caused by the burning of fossil fuels** and public subsidies to this sector accounting for 700 Billion USD -- a multitude of the long-term finance promise of 100 Billion USD per year by 2020 from Copenhagen --, this is a glaring gap that obfuscates one of the systemic causes of the global climate crisis.

Additionally, accountability for mitigation commitments is wholly insufficient, instead prioritizing language on **voluntary promises and flexible targets**. Commitments made by Parties under the currently submitted INDCs are nowhere near the cuts needed to prevent an increase in the temperatures below 2C. The Geneva text contained an option that referred to a carbon budget, to be divided among countries according to their *"historical responsibilities, ecological footprint, capabilities and state of development"*. But this too has been omitted from the current non-paper.

The mitigation section doesn't at all challenge the structural causes of global warming. Wide ranging structural and lifestyle changes, reduction in current consumption and production patterns, and maintenance of ecological sustainability should be at the core of solutions to the climate crisis. Instead, the mitigation section includes false solutions, including the possibility of opting for a long term objective of "net zero" that promotes offsetting mechanisms such as forest plantations for carbon storage at the detriment of the rights of local people and indigenous communities and their livelihoods.

3. Inadequate reflection of CBDR

CBDR is one of the core principles of the UNFCCC. The mandate of the ADP is *"to develop a protocol, another legal instrument or an agreed outcome with legal force **under the Convention** applicable to all Parties"*. According to the very mandate of the Paris agreement, the Paris agreement should fully respect the Convention principles. Yet, the language proposed in this new text clearly waters down this core legal principle, allowing developed countries to avoid their responsibilities of providing support to developing countries to both mitigate and adapt to climate change as well as to take the lead globally in ambitious emissions reductions .

CBDR is a critical pillar of multilateralism, framing the nature of the responsibilities of developed and developing countries in the pursuit of sustainable development. It underscores the universality of the Paris agreement as well as the need, on principled and practical grounds, for differentiation of responsibilities between historical and 'new' emitters. Universality of the Paris agreement ensures that all states —rich and poor alike—commit to taking concrete actions to meet the ultimate objective of the Convention. CBDR ensures that the share of the responsibilities to take these actions be just and equitable, based on varying and diverse degrees of historical responsibility, national capacity, resources, levels of development and effective influence. Based on this differentiation, developed countries have far greater responsibility to deliver actionable means of implementation across the relevant areas of financial resources, technology and capacity development. The principle of CBDR is therefore not an excuse for inaction on the part of developing countries; it merely contextualizes their responsibilities.

According to this legal principle, the WGC has been advocating for developed countries to provide the means of implementation needed by developing countries to achieve their mitigation emissions reduction target. The new co-Chairs non-paper shifts away the legal responsibility of developed countries and **does not mention even once** CBRD in relation to mitigation action. Additionally, the only mention of support

to developing countries in their shift towards low-emission pathways is now in Article 3 (12) that simply states: *"Developing country Parties are eligible for support in the implementation of this Article"*, without addressing whom this support will come from nor any accountability or obligation for these provisions.

4. Insufficient attention to rights-based adaptation

To be relevant, adaptation action must take into account differences between people through a right-based approach, especially in terms of differential risk, adaptation ability, exposure and vulnerability. This includes adopting a gender approach, and we deplore the weakening of the language proposed which now only *"acknowledge[s]"* this crucial adaptation component, instead of requiring adaptation actions to be *"country-driven, gender-sensitive, participatory and fully transparent, take into account vulnerable groups and ecosystems, be based on science and traditional and indigenous knowledge, and promote the engagement of subnational and local authorities and other stakeholders"*.

5. Imbalanced reflection on key issues

The current proposal is clearly imbalanced towards the views and perspectives of developed countries, including the critical issue of Loss and Damage. Irreversible loss and damage caused by climate change goes beyond adaptation and is already a reality for many Parties resulting in forced displacement, loss of land and territorial integrity and resulting in breaches of social and economic rights. This is a long-standing developing countries' priority, and especially for small island states and LDCs, and in the face of the gigaton gap left unreduced by the INDC approach it is even more urgently needed, meanwhile, it is currently only reflected in one paragraph. We reiterate the necessity for loss and damage to be anchored as a standalone element that is separate and distinct from adaptation, and for a special provision to fast-track urgent action required to assist the most affected and vulnerable people that are already experiencing existential threats and human rights violations from climate change.

6. Finance must be new and additional

Climate finance should help developing countries to face the impacts of climate change and to curb their GHG emissions. There is no mention of the fact that climate finance should be new and additional to pre-existing commitments, including ODA and that it has to be delivered in a gender-responsive way (as several Geneva text options had suggested).

Developed countries have committed to disburse \$100 billion to developing countries by 2020. Yet the draft text contains no elements that would allow clarity and certainty on a time-table for scaling up from current disbursement levels to the full amount of the money pledged. Nor does it contain any reference to mechanisms to re-evaluate and review fulfilled finance commitments in regular intervals with a view to a significant scaling up of funding beyond 2020 whereas the needs of developing countries are evaluated to be far greater. Instead of clarifying the key role of public finance provision as the core of previous climate finance pledges, the new draft elevates private finance contributions to be counted as part of climate finance, stating *"the desirability of a wide variety of sources, public and **private**, bilateral and multilateral, including alternative sources, noting the need for a diversity of sources and instruments to fit recipients' changing economic circumstances"*. The main goal of private finance is fundamentally to profit private corporations interests - some of them, the *"carbon majors"*, collectively responsible for worst contributions to the climate crisis -, not to genuinely support affected communities to cope with climate change. However, the issue of innovative finance sources, such as a carbon levy of corporate polluters, is not further developed. The new draft also allows climate finance to be disbursed in the forms

of debt-creating mechanisms, adding further burden to the already highly indebted developing country economies.

7. Technology must be safe, appropriate and environmentally, economically and socially sound

The current co-Chairs non-paper is missing several critical elements which had been raised in the Geneva discussions under the ADP. For the WGC, this particularly includes mandates in the new agreement on the quality of the technologies which will be implemented to advance climate action, calling for “safe, appropriate and environmentally, economically and socially sound adaptation and mitigation technologies.” This language from the Geneva text needs to be brought back into the language of the agreement as well as language in regard to gender-differentiated technology needs and traditional technologies already used by local communities, including women.

We are also missing progressive language on assessment of appropriate technologies, such as language proposed in Geneva: “Technology assessment to ensure civil society participation with a gender perspective, and integrate a multilateral, independent and participatory evaluation of technologies for their social, economic and environmental impacts.”

The WGC has been actively monitoring the ADP and we have heard a number of countries - most of them developing countries - supporting the points raised here.

We have heard countries that refuse to give up as our civilization is facing one of the biggest challenges ever. We have heard countries that are asking for the ones that created the damage to repair it. We have heard countries that value human rights and gender equality and strive to centralize them in the design and implementation in all future climate actions.

When will the process hear and reflect these view?

-The Women and Gender Constituency