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## LOSS AND DAMAGE: QUEST FOR CLIMATE JUSTICE

2024



Image: WBA



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## Executive Summary

Climate change is the long-term change in global temperatures and weather patterns. Although it is a naturally occurring phenomenon, since the Industrial Revolution in the 1880s, human activities like burning fossil fuel, coal, and gas have exacerbated the current shift in temperatures and weather patterns. This is because these activities generate greenhouse gases, which trap the sun's heat in the earth's atmosphere and ultimately, raise the planet's temperature.

Greenhouse gas concentrations in the atmosphere are the highest they have been in 2 million years and the planet has warmed by 1.1°C (2°F) since 1880. Although the rise in temperatures seems marginal, millions of people worldwide are experiencing higher temperatures, rising sea levels, fiercer storms, and unpredictable rainfall, which has had profound real-life consequences on their livelihoods. These impacts will continue to worsen, so, to ensure a safer, more secure future for all, it is essential to rapidly reduce global greenhouse gas emissions and make major investments to protect vulnerable communities. Scientists and government reviewers agreed that a 1.5°C increase in temperature would allow us to maintain a livable environment. However, considering current activities, global temperatures are expected to increase by 2.8°C.

Although climate change is a scientific and environmental issue, 'it has [also] emerged through the economic and political systems that govern the world today'. These systems have been held liable to rectify the consequences of climate change, however, commitments and actions have fallen short. One of the primary issues in addressing climate change is the disparity in countries/communities/individuals who significantly contribute to climate change and those who bear the most burden. Although every nation contributes to global emissions, 60% of the greenhouse gas emissions are produced by 10 countries and the 100 least-emitting countries contribute only 3%. Furthermore, the 10 highest-emitting countries are more capable of dealing with the consequences of climate change, while developing countries are more vulnerable to its effects as they do not have access to as many resources. Thus, climate justice is also a social justice movement which recognizes that the adverse effects of climate change are not felt equitably around the world.

Despite collective efforts to curb greenhouse gas emissions, the speed and scale of climate change impacts have resulted in inevitable L&D. L&D refer to the irreversible economic and non-economic costs of both extreme weather events such as hurricanes, heatwaves, drought and wildfires, and slow onset climate disasters such as sea-level rise and melting glaciers. It's about holding the biggest fossil

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fuel polluters liable for the pain and suffering already caused by the climate crisis, separately and in addition to securing climate finance for mitigation and adaptation to help developing nations prepare for what's coming. It has been a key issue at UN climate change negotiations and beyond on how countries should respond to this L&D.

Economic costs include the lives, livelihoods, homes, food systems, and territory irreversibly lost, while the harder-to-quantify non-economic costs refer to the loss of culture, identity, sovereignty, human dignity, biodiversity, and psychological well-being. The most serious L&D are being felt by the poorest countries – by and large, those who've contributed least to global heating. As a result, funding for L&D has become a central tenet in demands for climate justice or, in other words, climate action that addresses the inequities behind the climate crisis. Island nations and other climate-vulnerable countries started raising the issue of L&D more than 30 years ago, but it's become an increasingly prominent and contentious issue in the past decade or so as the speed, magnitude, and cost of global heating have become apparent.

## **Rationale and Objectives of Study**

Although there is no official definition for “L&D” under the UN, it is a widely used term used in climate negotiations to refer to the consequences of climate change that cannot be adapted to. The term also refers to situations where although the consequences could be adapted to, a community lacks the resources or finances to do so.

There are a variety of causes for L&D. It can result from extreme weather events like cyclones, droughts, and heat waves, or the effects of slow-onset climate change, like sea level rise, desertification, glacial retreat, land degradation, ocean acidification, and salinization. In both cases, the L&D caused have profound, and in some cases, permanent consequences on the lives of those who are affected. For instance, the droughts that shrink freshwater resources turn once-productive farmland into barren land.

The subject of L&D has been fraught with contention, both within and outside UN climate negotiations. This is because the effects of climate change disproportionately harm vulnerable communities, making it an issue of 'climate justice', as well as environmental. Accordingly, in 2022, at the COP27 UN Climate Summit, developed countries agreed to create a fund for addressing L&D in particularly vulnerable

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nations. Although this was a step in the right direction, many questions remain about the feasibility of the fund, including how much money these nations will provide.

L&D can be divided into two overlapping categories, economic and non-economic losses. Economic loss refers to the negative impact of climate change at either a national or local scale on resources, goods and services commonly traded in markets, damage to critical infrastructure and property, and supply chain disruptions. Economic loss can impact individuals or communities at large.

According to the Intergovernmental Panel on Climate Change (IPCC), “[s]ince systematic scientific assessments began in the 1970s, the influence of human activity on the warming of the climate system has evolved from theory to fact”. Climate change disrupts the normal patterns of our environment which affects “our health, energy sources, and food production systems”.

Today, climate change is the most significant challenge we face as a global community. Since industrialization, humans have mistreated and neglected the needs of the planet in the name of development and the consequences of this are being seen all over the world. From extreme weather events to disruptions to markets, these effects demonstrate the world’s interconnectedness and our capacity as a global community to either conserve or destroy the Earth.

Although no one is safeguarded from the consequences of climate change, it is the poor and vulnerable that are the first and worst hit. The UN Blog has expressed that ‘the impacts of climate change will not be borne equally or fairly, between rich and poor, women and men, and older and younger generations.’ That is, climate change has ‘differing social, economic, public health, and other adverse impacts on underprivileged populations’ and exacerbates the social conditions of the poor and vulnerable. Thus, according to the Environmental Protection Agency (EPA), the goal of environmental justice is ‘to ensure all peoples, regardless of race, national origin, ethnic background or income, are protected from disproportionate impact of environmental hazards’.

It has become clear that climate justice is directly connected to human rights. To ensure environmental justice, it is imperative to safeguard our civil rights, and vice versa. That is, ‘free press, rights to information, right to speak and write freely, free election and right to participate in any organization or group are preconditions for environmental justice’. These preconditions must be met for affected communities to raise their voices and protest against environmental degradation, so, the climate justice movement must work in tandem with other social movements.

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Additionally, people all around the world are hoping for the next round of climate talks to yield a binding international agreement. It is becoming apparent that the decisions made by world economic and political powers have a direct impact on the daily lives of local inhabitants. Despite this, locals are unable to participate in the decision-making process and decision-makers are unaware of the local impact of their policies. Thus, to make effective and lasting change, decision-makers must consider the experience and expertise of those who are affected by climate change and integrate this into their policies.

The main objectives of the Study are:

- To assess L&D associated with the adverse effects of climate change on agriculture, forestry, fisheries, land and water and other ecosystem services.
- To highlight ongoing climate change adaptation and disaster risk reduction efforts as well as their synthesis at various levels.
- To support and facilitate the affected population to manifest their voice and concern regarding inequitable impacts of climate change in various local, national, regional, or international forms as and when appropriate.
- To assist the concerned stakeholders in better understanding the gap involving the equity dimensions of climate change and differing social, economic, public health, and other adverse impacts on underprivileged populations and the adaptation strategies thereof.
- To empower the affected community to seek redress in gaining justice on the foundation of the right to a clean environment, right to information, right to equality and non-discrimination regarding various legal measures as enshrined in the international treaties, instruments, conventions and other arrangements, constitution, laws and policies.
- To sensitize the stakeholders for action on biodiversity conservation and balancing ecosystems that have direct interlinkage with their livelihood and increase awareness of who is directly affected by climate change, disaster displacement and protection of vulnerable people.
- To exchange experience and identify priorities of action at the national level.

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## Acknowledgment

This cursory reflection on the impact of climate change on L&D reflects on the current global situation and approach towards securing climate justice. We have attempted to unveil dynamics, challenges, instruments, obligations, and the future course of direction in addressing the ever-challenging issue of climate change and securing justice regarding L&D.

We are grateful to JANIC for commissioning this report and for recognizing 'L&D', an integral component of our collaborative research, as a major issue of critical concern in the region. We would also like to extend our deepest gratitude to all JANIC-associated national and international thematic researchers from the region. Their insight and information sharing throughout the research endeavor added enormous value to this work and have helped develop the study conducted in connection with the previous DDSCA series.

We are thankful for all individuals who contributed to the development of the report. Mr. Aoi Horiuchi for providing continuous mentoring, guidance, and direction to make the research report a coherent, authentic, and realistic product. Ms. Shreejana Pokhrel, research associate and climate and gender expert, for her immense support in this study and its completion. The entire team at INHURED, for their technical and data generation support required for the research.

Finally, the author and INHURED would like to gratefully acknowledge the various institutions working on climate action and experts of UNFCCC Conference of the Parties (COP) Process Negotiation for their deep insight into relevant literature to harmonize the final product as per the prescribed table of contents. Please be advised that this is primarily a desk research-based study with citations from multiple sources as credited in the endnotes. Informants and experts in the region who took the time to share their perspectives, expertise, and feedback on this report also deserve our due appreciation and recognition.

## Acronyms and Abbreviations

<b>ADP</b>	Ad hoc Working Group on the Durban Platform
<b>AOSIS</b>	Alliance of Small Island States
<b>APGF</b>	Asia Pacific Greens Federation
<b>CCRIF</b>	Caribbean Catastrophe Risk Insurance Facility
<b>COP</b>	Conference of the Parties
<b>EPA</b>	Environmental Protection Agency
<b>FI</b>	Fossil-intensive
<b>GCF</b>	Green Climate Fund
<b>GGA</b>	Global Goal on Adaptation
<b>GST</b>	Global Stock Take
<b>IOM</b>	International Organization of Migration
<b>IPCC</b>	Intergovernmental Panel on Climate Change
<b>LDCs</b>	Least Developed Countries
<b>L&amp;D</b>	Loss and Damage
<b>OECD</b>	Organization for Economic Cooperation and Development
<b>SBI</b>	Subsidiary Body for Implementation
<b>SBSTA</b>	Subsidiary Body for Scientific and Technological Advice
<b>SIDS</b>	Small Island Developing States
<b>UNFCCC</b>	United Nations Framework Convention on Climate Change
<b>UNISDR</b>	United Nations International Strategy for Disaster Reduction
<b>UN OCHA</b>	United Nations Office for Coordination of Humanitarian Affairs
<b>WIM</b>	Warsaw International Mechanism



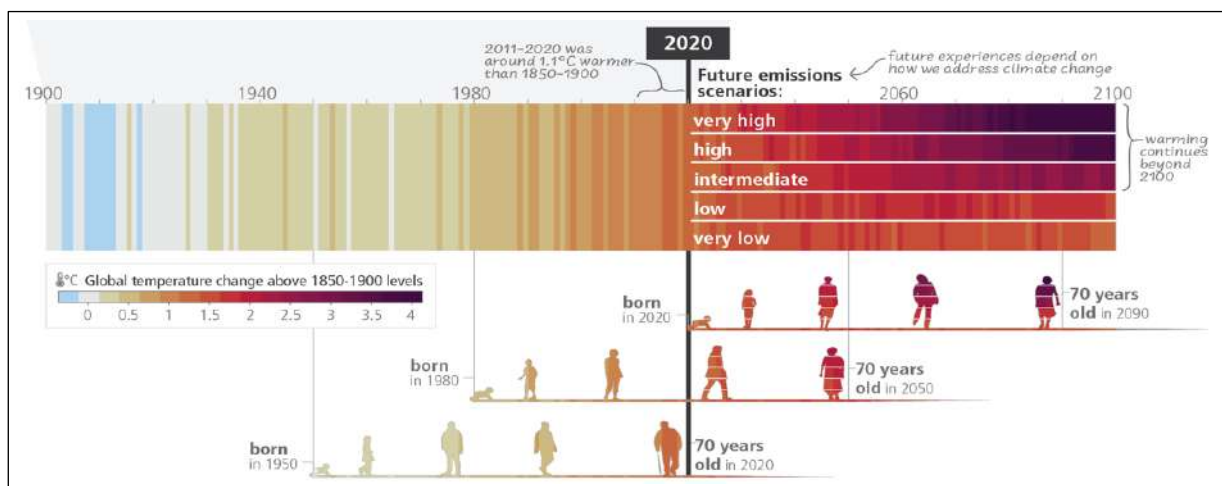
## Context and Scene Setting

'Loss and Damage (L&D)' were only brought to light by the United Nations Framework Convention on Climate Change (UNFCCC) in the last decade. In 2013, at COP19, the Warsaw International Mechanism (WIM) and its Executive Committee were established to address "L&D associated with impacts of climate change" (Warsaw, 2013). Two years later, the Paris Agreement recognized the importance of averting (climate mitigation), minimizing (climate adaptation), and addressing L&D. However, neither the UNFCCC nor the Paris Agreement gave a precise definition of the term 'L&D' and what it encompassed.

In the following years, several steps were made to progress the issue of L&D, including the launch of the Fiji Clearing House for Risk Transfer (at COP23), the establishment of the Santiago Network (at COP25), and the definition of its functions (at COP26). Although many important steps have been taken, the lack of an internationally recognized definition of 'L&D' remains a key issue. This has resulted in, among other things, no consensus on liability or compensation and made the task of establishing a finance flow dedicated to L&D difficult.

Addressing this topic will likely be at the top of the COP27 agenda in November 2022 in Sharm El-Sheikh. The first Global Stocktake, whose learnings will be published by 2023, will also be a welcome opportunity to analyze global progress on L&D-related issues. The Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation is mandated to frame how to assess such progress.

### Climate Impacts: Futuristic Prediction



The enormity of climate change, both now and in the future, will result in significant loss and harm, particularly to those who are most vulnerable, least fortunate, and least responsible. By 2030, in developing countries alone, the impacts of climate change are estimated to cost \$400 billion per year and by 2050, these costs are expected to rise to \$1 to \$1.8 trillion. The UNFCCC's 'common but differentiated responsibilities' principle claims that the most resourceful actors should carry a fair share of costs from climate change and support the least resourceful. Similarly, as in the Glasgow Climate Pact, the UNFCCC expects actors to provide greater support for activities addressing L&D.

Despite this, the Global North resisted calls from the Global South at COP26. This is where WBA, as the accountability mechanism, could help drive action. Guided by the right standards and practices, companies can better manage their climate impacts and drive positive change.

### **The L&D Phase**

We have moved past the period of mitigation and adaptation and are now in a new era of loss and devastation. This is largely due to the inactivity of affluent nations and insufficient climate change mitigation in the past. If drastic and immediate measures are not implemented, the amount of L&D sustained globally, and catastrophic risk will continue to rise unabatedly.

### **Connecting Climate Injustice**

Nations are not equally affected by loss and destruction. It is the poorest nations that are most vulnerable to the effects of the global climate catastrophe. They are experiencing, among other things, rising sea levels, hotter temperatures, ocean acidification, glacier retreat, deforestation, loss of biodiversity, salinization, and desertification. These processes substantially erode chances for attaining sustainable development by overloading their response capabilities and escalating challenges already presented by the increased intensity and frequency of catastrophic events.

The permanent loss and destruction from slow-onset disasters and catastrophic events are wide and far. They go much beyond financial losses; livelihoods will be disrupted, territories will have to be abandoned, and migratory populations from climate-affected regions will lose their homes, cultures, and communities. This is possibly the worst climate injustice of our time. Therefore, responses to climate change should also include supporting the most vulnerable nations to build their resilience and make reparations for the permanent loss and harm already caused by the lack of mitigation efforts by responsible parties.



Mustard fields, Ladakh – India. Photo-Unknown

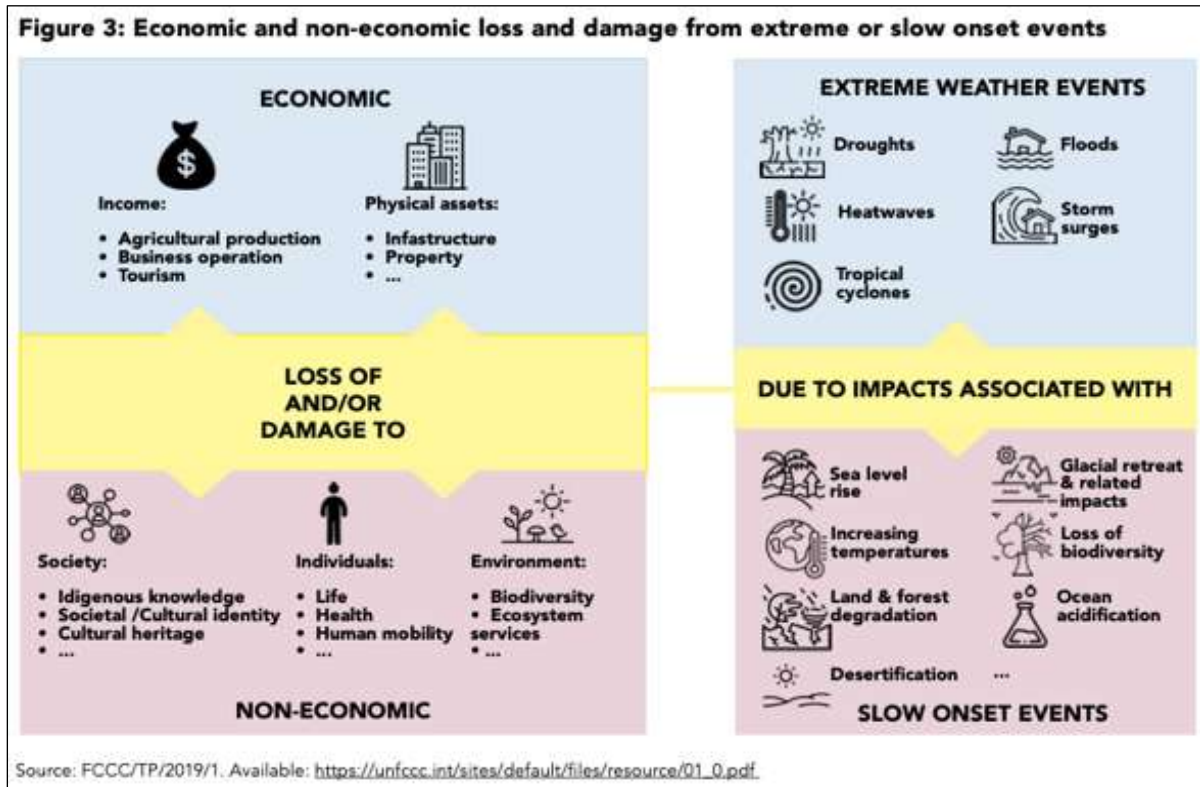
### **Moral and Statutory Responsibilities**

States are required by international law to implement measures to stop climate change and mitigate its negative impacts. These obligations are explicitly stated in the United Nations Framework Convention on Climate Change (UNFCCC), the Kyoto Protocol, and the United Nations Framework Convention on Infrastructure, as well as in international human rights law and the no-harm principle found in customary law. However, rich nations continue to fall short of their obligations and contribute disproportionately to global greenhouse gas emissions. This endangers the very survival of smaller states that have frequently made minimal contributions to climate change.

According to the UNFCCC, industrialized states have a clear commitment to take the lead in decreasing global emissions and to support poorer states with financial assistance, capacity-building, compensation, rehabilitation assistance, and technology transfers for L&D mitigation and adaptation brought on by both their actions and those of others. These duties are founded on the idea of 'shared but distinct responsibilities' for tackling climate change and also their historical culpability for contributing to the issue.

Despite this, the affluent nations of the world are egregiously failing to uphold their moral and legal commitments. Regardless of making significant contributions to climate change, they are failing to help

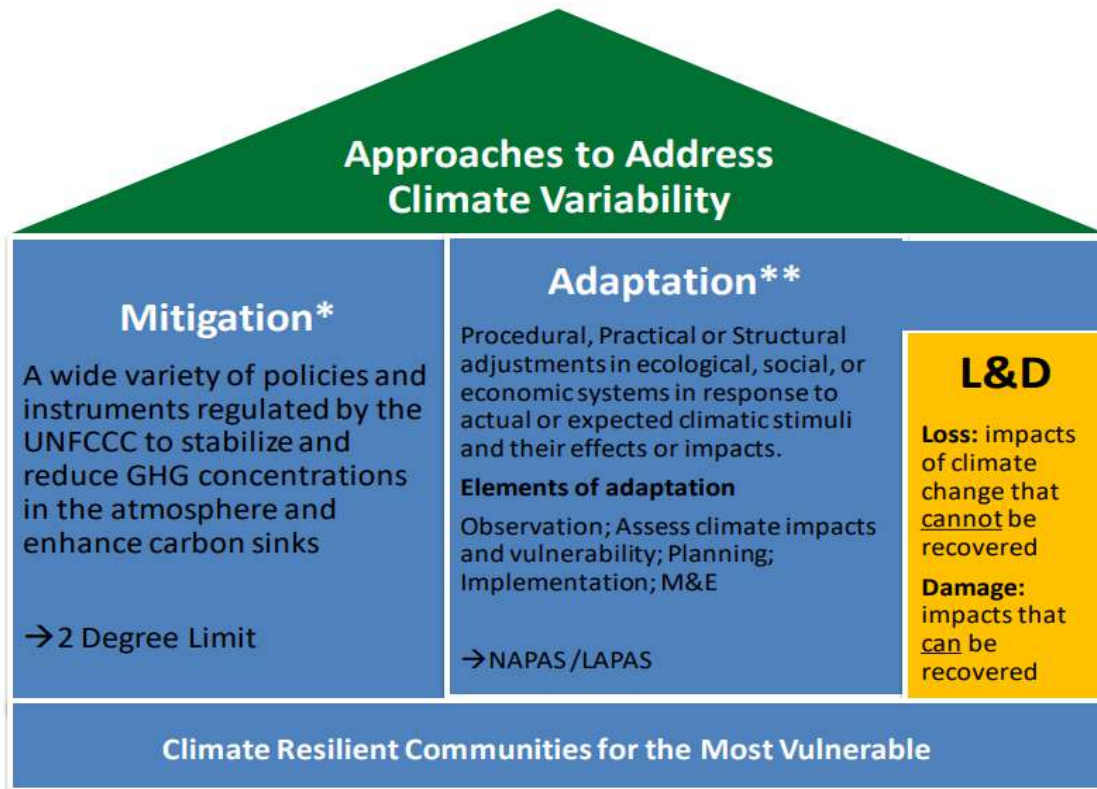
the most vulnerable nations strengthen their adaptability and cope with the growing effects of climate change. Consequently, potentially avoidable L&D in some of the world's most vulnerable are continuing to occur. This predicament should be corrected and remedied immediately.



## UNFCCC's Responsibility for Addressing L&D

The ability of states to limit risk and adjust to changing climate conditions is being outpaced by extreme weather occurrences and slow-onset effects. Therefore, to adequately address L&D caused by climate change, new institutional structures are required under the UNFCCC. That is, there is a need for new strategies for financing, compensating, and rehabilitating L&D. As the climate drastically changes, locally, regionally, and globally, people will lose their families, homes, communities, cultures, and means of subsistence. Thus, these innovative strategies must consider the difficulty of correcting non-economic losses, such as migration, displacement, and planned relocation.

The IPCC's (Intergovernmental Panel on Climate Change) A1fi emissions scenario assumes very rapid economic growth, a mid-century population peak and subsequent population decline, and the quick adoption of new, more effective technologies, with a focus on fossil-intensive (fi) technologies. (<http://www.ipcc.ch/ipccreports/tar/wg1/029.htm#storya1>)



\*IPCC ([http://www.ipcc.ch/pdf/assessment-report/ar5/wg3/ipcc\\_wg3\\_ar5\\_summary-for-policymakers.pdf](http://www.ipcc.ch/pdf/assessment-report/ar5/wg3/ipcc_wg3_ar5_summary-for-policymakers.pdf))

\*\* UNFCCC Website (<http://unfccc.int/focus/adaptation/items/6999.php>)

Parties to the UNFCCC should build a thorough framework on L&D with two goals to methodically address permanent L&D using the new strategies mentioned above:

- To make risk reduction and other risk management strategies that can stop and prevent loss and harm more easily available.
- To offer compensation in the event of L&D. The framework must also allow for coordination across all its components on a local, national, and international scale.

The following three crucial tasks of Convention bodies relating to L&D would consequently be ensured and provided consistency by a comprehensive structure under the UNFCCC:

- Prevention through methods of catastrophe risk reduction, climate change mitigation, and adaptation, backed by sufficient implementation tools including funding, technology, and capacity-building
- Via the creation of an international mechanism for compensation and rehabilitation, compensation, and rehabilitation
- Taking the lead and coordinating efforts at the regional and worldwide levels to address L&D beyond the scope of the Convention in a coherent manner, including those involving migration, displacement, and planned relocation, as well as international funding.

## **International Compensation and Rehabilitation Mechanism**

The creation of an international mechanism for compensation and rehabilitation is the key component of any comprehensive framework on L&D. There should be four different permanent loss and harm kinds addressed by the Mechanism:

- Damage and loss that may be covered by insurance or other risk-transfer methods.
- Extreme occurrences and slow-onset processes that cause economic loss and destruction but are not covered by risk-transfer mechanisms.
- Economic loss that is hard to measure.
- Non-economic costs such as the destruction of ecosystems, cultural heritage, values, and indigenous knowledge.

With the assistance and direction of a Board made up of Party members and with the cooperation of stakeholders, the Mechanism would be located under the auspices of the Convention and headquartered inside the UNFCCC Secretariat, where administrative support could be offered.

## **Moving Forward**

In conclusion, a thorough plan for dealing with L&D under the UNFCCC would consist of:

- An international compensation and rehabilitation Mechanism developed with the Conference of the Parties' advice.
- International coordination and direction provided by the Adaptation Committee.
- Ongoing work on L&D by the Subsidiary Body for Implementation (SBI), which is actively coordinated in conjunction with the Adaptation Committee and the Subsidiary Body for Scientific and Technological Advice (SBSTA).

As a result, to address the reality of catastrophic climate change harm and the existing lack of adequate mitigation action, COP18 which is an initial breakthrough on L&D expected to:

- Reaffirm prior commitments to take the lead in combating climate change and its negative effects, including through mitigation action and the provision of new, additional, and predictable financial resources, capacity, and technology transfer, based on the principles of equity and common but differentiated responsibilities.
- Provide an international mechanism for L&D compensation and rehabilitation.

- Agree on a process to develop the rules and guidelines of the International Mechanism, which will be run by the COP and become effective by the COP20 decision.
- Develop a second phase of the SBI's L&D work program to specify the final components of the all-inclusive framework on L&D.

## **Rationale for Climate Action**

“The pace of climate change is increasing, as is the frequency of extreme weather events. These events already impose L&D which is difficult to deal with by policy and decision-makers at multiple levels and by the vulnerable communities they represent due to uncertainty and volatility associated with the increasing pace of such change. In the future, increasing impacts from combinations of extreme weather and slow onset events are expected to induce more L&D.”(UNFCCC, *Background paper on a range of approaches to address loss and damage*. October 2012)

As the rate of climate change increases, the frequency and intensity of extreme weather occurrences and gradual onset disasters are also rising. This means that we are living in an uncertain and volatile environment, where policy and decision-makers at many levels (and the vulnerable groups they represent), find it difficult to respond and manage the subsequent L&D caused by the accelerating rate of climate change. (UNFCCC, *Background study on several methods for dealing with L&D*. November 2012)

In May 2012, several organizations produced a joint report, 'Into Unknown Territory', in recognition of the severe issues caused by climate change. According to the authors, who joined a plethora of voices in raising the alarm, "the planet is currently not on track to limit dangerous climate change; in fact, it's rapidly heading towards a world that will be 4 to 6°C warmer by the end of this century compared to pre-industrial levels." This increase "is incompatible with any reasonable characterization of an organized, equitable, and civilized global community... beyond what many people think we can reasonably adapt to... devastating for many if not most, ecosystems".

2023: Breaking of Climate-Weather Record



### **L&D: Historical and Scientific Contexts**

In 2010, Resolution 1/CP.16 of the Subsidiary Body for Implementation of the UNFCCC created the work program on L&D to "take into account...strategies to address L&D associated with climate change impacts in developing countries that are particularly vulnerable to the harmful effects of climate change." In Decision 7/CP.17 (2011), it was acknowledged that there is a "need to explore a range of possible approaches and potential mechanisms, including an international mechanism to address L&D".

Parties are required to elaborate on the potential work program components listed below when making recommendations on L&D to COP18 (in December 2012):

Since 1991, when the Alliance of Small Island States (AOSIS) proposed the notion of an International Insurance Pool and an International Climate Fund during talks towards the UNFCCC, the topic of how to manage L&D came up for discussion. In AOSIS member states, slow-onset temperature rise, and subsequent sea level rise will cause permanent L&D that cannot be avoided by disaster risk reduction or adaptation in the absence of sufficient mitigation efforts by those primarily responsible for anthropogenic greenhouse gas emissions. Unfortunately, this bleak future prognosis is increasingly becoming a reality due to large emitters' inactivity and L&D issues have only gotten more acute since 1991.

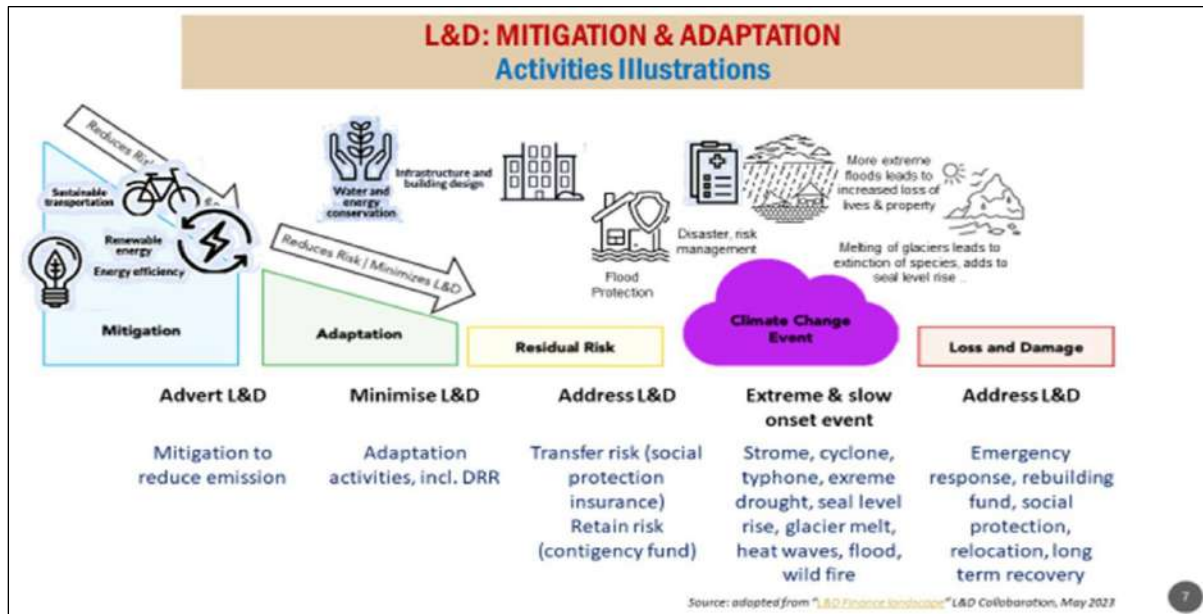
The so called highly developed countries are primarily to blame for both the current and anticipated future warming, who have consistently failed to significantly reduce their emissions, thereby evading historical liability for the issue they have created and avoiding their legal responsibilities under the Convention, including under Article 3.1: "The Parties should protect the climate system for the benefit of present and future generations of humankind, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities". Therefore, due to their greater capacities, developed nations should take the initiative to tackle climate change and its negative repercussions.

Despite the seemingly minuscule global temperature rise of 0.74°C, the effects of climate change can be observed worldwide. In South America and Asia, devastating monsoon floods have resulted in landslides and ruined crops. In low-lying nations like Bangladesh, rising sea levels and storm surges have exacerbated the salinization of land and aquifers, forcing people to migrate from now-unproductive coastal areas. In Australia, East and West Africa, and the United States (US), severe droughts are taking place. Additionally in the US, Hurricane Sandy slammed the East Coast as this



report was being put together, bringing with it a storm surge estimated to cost at least US\$50 billion in L&D. In all of these cases, the lives and livelihoods of populations are being severely disrupted.

With the onset of dangerous impacts that were predicted to occur far later, Kevin Anderson, Deputy Director of the Tyndall Centre for Climate Change Research, argues that we must begin to refer to 2°C as the threshold between "dangerous" and "extremely dangerous" climate change.



The UNFCCC background study on the variety of methods takes into account the effects of slow-onset climate phenomena when estimating the scale of probable L&D in the future. Future L&D caused by climate change might be of an unthinkable scale, especially due to the non-economic impacts exacerbated by global interconnectedness. As long-term 'process' climate change occurs, atmospheric dangers like heat waves might become more common. In addressing potential L&D, the idea of tipping components in societal, environmental, and climatic systems is crucial.

## Scope and Limitation of Adaptation

Adapting to 2°C warming will be far more difficult than 1.5°C and it might not even be possible to do so to 4°C. As the climate is changing rapidly, adaptation efforts will never be sufficient, but rather a continuous learning process to stay within ever-shifting boundaries.

When the abatement of greenhouse gas emissions by responsible nations is insufficient to "prevent dangerous anthropogenic interference with the climate system", nations are required to implement catastrophe risk reduction and adaptation measures to stop irreparable L&D. Even with these measures, there are limits to how much L&D can be mitigated by catastrophe risk reduction and adaptation.

As the climate changes, certain disasters will become more frequent and severe (see Box 1 containing the most recent IPCC findings regarding extreme events). This will overwhelm risk reduction efforts and the capacity of many developing countries to deal with the consequences of those disasters. Additionally, losses and damages from catastrophic disasters go beyond the immediate destruction of property and loss of life. Hurricane Tomas caused damage in St. Lucia equal to approximately 34% of the country's GDP. Thus, such catastrophic effects significantly disrupt long-term chances for sustainable development.

Inequality in socioeconomic infrastructure also influences how a nation can respond to the repercussions of climate change. Similarly, a country's ability degree of development will also influence how its people endure loss and harm. As global temperatures rise, there will be less assistance for adaptation like finances, technology, and ability. However, a nation's level of development (or lack thereof) should not be used as a justification by the international community for not assisting a nation in responding to extreme climatic L&D.

### **Inability to Adjust to Gradual Disasters**

There are significant limits to how human systems and ecosystems can adapt to the slow-onset processes mentioned in UNFCCC Decision 1/CP. This is especially true for climate change-related issues, including sea level rise, ocean acidification, biodiversity loss, salinization, and desertification. This is because these processes develop over time and operate at a broad scale, and accordingly, adaptation gradually becomes less feasible.

The territory will become inhospitable and unproductive as temperatures and sea levels rise. The amount of soil moisture will drop to the point that entire regions cannot support agricultural cultivation. Groundwater resources near the shore will eventually become too salty to be used for drinking. On low-lying islands, in towns that are near to the water, and in the driest areas, adaptation will be impossible. As a result, there will be permanent loss of lands, livelihoods, and cultural resources.

### **Extreme Events and IPCC SREX Report**

The most recent report from the Intergovernmental Panel on Climate Change (IPCC), 'Managing the Risks of Extreme Events and Disasters to Advance Climate Change Adaptation' (also referred to as the SREX Report), provides a summary of recent climate predictions which is useful in the context of L&D. A few of the report's most relevant conclusions are mentioned below. These are calculated with the usual IPCC conservative restraint about future impacts of climate change.

By the end of the 21st century, it is virtually certain that there will be an increase in the frequency and magnitude of warm daily temperatures over most land areas. Additionally, there will be an increase in heavy precipitation in some areas, including those associated with tropical cyclones, while a decrease in other areas. As a result, there is medium confidence that droughts will intensify in some seasons, also due to increased evapotranspiration. This applies to regions in southern Europe, the Mediterranean, central Europe, central North America, Central America, Mexico, northeast Brazil, and southern Africa.

That means sea level rise will likely contribute to upward trends in extreme coastal high-water levels in the future. There is high confidence that locations currently experiencing adverse impacts such as coastal erosion and inundation will continue to do so in the future due to increasing sea levels, all other contributing factors being equal. The very likely contribution of mean sea level rise to increased extreme coastal high-water levels, coupled with the likely increase in tropical cyclone maximum wind speed, is a specific issue for tropical small island states.

## **L&D: Legal and Moral Contexts**

The Convention's main goal is "to stabilize greenhouse gas concentrations in the atmosphere at a level that will prevent dangerous human interference with the climate system, in a time frame which allows ecosystems to adapt naturally and enables sustainable development". As a result of the Convention's failure to achieve its goal, the ability to prevent harmful tampering with the climate system may have already passed. Food production and ecosystems are already in jeopardy and the ecological systems that the poor and vulnerable depend on are being impacted. Similarly, nations that are dependent on climate-sensitive industries, like agriculture and fisheries, for the economy are being challenged. Climate change is also endangering internationally recognized human rights, such as the right to development.

### **International Law's General Responsibilities**

States are required by international law, namely the UNFCCC and Kyoto Protocol, to take action to stop climate change and to respond to its consequences. However, it can be argued that the strongest legal basis for this obligation is found in international human rights law and the no-harm principle found in customary international law. Thus, the anticipated effects of a developed state's failure to achieve its UNFCCC mitigation responsibilities may amount to a human rights violation.

This is because climate change poses a threat to the realization of human rights, particularly the rights to life and food, according to the UN Human Rights Council (and other human rights organizations). Numerous human rights accords have been ratified by almost all states worldwide, which guarantees these inalienable rights, and obliges States to refrain from interfering with them and to take effective steps to safeguard them. Therefore, both international human rights law and the UNFCCC should establish concurrent international liability for climate change damage.

As mentioned above, customary international law is a further legal foundation for governments' responsibility to take action to stop severe climate change. In line with the no-harm rule, states are required to "ensure that activities within their jurisdiction and control respect the environment of other States or areas beyond national control". According to Verheyen and Roderick, this obligation arises when a state can prevent or reduce the risk of transboundary environmental harm and anticipates (or is aware) that a certain action may result in such harm. If so, that state is required to implement preventative measures according to the risk. Given the transnational threat that climate change poses to the environment, the regulation would have to call for measures that are transformational in character and scope about climate change harm.

A state assumes international responsibility for every law it violates, including the no-harm rule. In violation, a state is required by the law of state accountability to stop the violation and rectify any hurt or damage it has caused. According to the International Law Commission, "after a violation has been proven, the offending state must terminate the conduct and give 'full compensation' for damages inflicted, including for 'any damage, whether material or moral'. Restitution, compensation, and satisfaction may be used alone or in combination as full reparation.

### **Statutory Requirements under UNFCCC**

The Convention specifies several significant principles and duties for Parties regarding adaptation and support towards developing nations to ensure the attainment of its aforementioned purpose. Articles 3.1 and 3.2 set out the principle of accountability and the need to fully consider the requirements of developing nations which are particularly susceptible to the negative consequences of climate change.

Article 3.1 reads as follows:

"The Parties should protect the climate system for the benefit of present and future generations of humankind, on the basis of equity and in accordance with their common but differentiated

responsibilities and respective capabilities. Accordingly, the developed country Parties should take the lead in combating climate change and the adverse effects thereof."

Additionally, Article 3.2 states that:

"The specific needs and special circumstances of developing country Parties, especially those that are particularly vulnerable to the adverse effects of climate change, and of those Parties, especially developing country Parties, that would have to bear a disproportionate or abnormal burden under the Convention, should be given full consideration."

Articles 4.1(b), 4.3, 4.4, 4.5, and 12.1 outline obligations regarding adaptation and the supply of means to execute adaptation action, including financing, technology, and capacity-building. The failure of Annex I and Annex II Parties to comply with these Convention requirements results in avoidable loss and harm.

### **Responsibility for Compensation**

Countries and their inhabitants are suffering significantly because of climate change, and further harm is likely. Developed nations have a responsibility to act, including implementing mitigation measures to stop the negative consequences of climate change in other states. Countries that fail to uphold these duties are accountable for paying redress or reparations to victims of loss and harm brought on by their acts or inaction.

The activities of the world's "haves" will, in many cases, considerably influence the livelihood and well-being of those living in the world's "have-not" regions. In other words, the effects of other people's activities (and inactivity) will influence those who have contributed the least to climate change. This gives rise to a moral duty to repair loss and harm caused by climate change and acting quickly to correct this issue is the only logical course of action.

Under the UNFCCC, a common plan for restitution and compensation shall be sought. "A raft of complex, uncoordinated and burdensome individual legal cases by States," warn Verheyen and Roderick. The fear of legal action, continues Burkett, "will not result in a remedy that is forward-looking and comprehensive." According to Lefeber, "states even have a legal duty to provide negotiated solutions where environmental damage is expected to occur."

### Loss and Damage in Least Developed Countries

Although COVID-19 was the main story in 2020–2022, and for good reason, there was another catastrophe that was causing chaos in the background. Climate effects, which largely affected the world's most vulnerable populations, kept breaking records as the epidemic tore through the globe.

One billion of the world's poorest and most vulnerable people live in the least developed nations (LDCs), which have made the fewest contributions to climate change yet bear the brunt of its effects.

Typical instances of L&D in LDCs include:

- While Cyclone Harold claimed over 30 lives, no COVID-19 deaths have affected the people of the Solomon Islands.
- South Asia's monsoons made a lasting impression. Almost a million homes were inundated and roughly 25% of Bangladesh was drowned by floods. At least 54 persons, mostly youngsters, died out of the five million affected individuals.
- Sudan had unprecedented flooding that destroyed villages nationwide, resulting in over 500,000 people being displaced and 100 fatalities.
- The greatest floods in over a century forced thousands of Ugandans from their homes along the Lake Victoria shoreline. The August flash floods in Yemen destroyed infrastructure, including UNESCO-listed world heritage sites, and left at least 172 people dead.

The loss and destruction brought about by climate-related disasters in LDCs are only briefly depicted here. And they bear witness to a worrying trend: over the past 50 years, 69% of global deaths resulting from climate-related disasters occurred in LDCs, despite the fact that only 13% of the world's population lives in LDCs and they are only affected by 18% of disasters.

Source: *Climate Impacts in the Least Developed Countries*, Reliefweb

Other environmental treaties provide examples of collective compensation and restitution. Two examples are the Hazardous and Noxious Substances Fund, created under the Hazardous and Noxious Substances Convention, and the International Oil Pollution Compensation Supplementary Fund established in 1992 under the Fund Convention.

Countries have a strong basis for legal action, and if an international mechanism on compensation and rehabilitation is not set up, there may be a proliferation of lawsuits for restitution and reparation for the negative impacts of climate change in the years to come. The UNFCCC, as the forum important to policy, must lead talks on potential actions to help nations cope with L&D.

However, as previously stated, while developing strategies for dealing with L&D, both economic and non-economic losses must be taken into account. Supplemental compensation plans will only cover a portion of the losses suffered, much like insurance and other risk-transfer mechanisms do. Rather, it is necessary to implement a comprehensive strategy that adequately also addresses non-economic losses, such as the loss of culture, territory, and livelihoods.

## **L&D: Accountability of Political Parties**

The discussion regarding the accountability of political parties in competitive democracies is a high-stakes conversation. It is vital to advance discourse on the topics such as democracy and climate pledges and seeks to incorporate climate action in the election manifesto and voter education. Further, it is also equally essential to delve on the roles of the private sector and civil society in promoting accountability of political actors.

### **Responding to L&D**

Although responding to L&D from climate change is a considerable challenge, there are some viable steps that political parties can set in their agenda to mitigate the negative impacts. This could include:

- Increasing investment in adaptation and resilience measures, such as flood defense and early warning systems
- Reducing greenhouse gas emissions to slow the rate of climate change
- Supporting vulnerable communities that are most affected by climate change
- Improving disaster preparedness and response, to minimize the impact of extreme weather events
- Promoting sustainable development that takes into account the potential risks and impacts of climate

It's important to recognize that L&D from climate change are already happening. There are countless accounts of lives lost and entire families and communities being uprooted due to severe droughts, floods, and typhoons. People throughout the world are now looking to strong political will, combined with legislative action, for assistance as they bear the human cost of climate change. They seek a remedy, redress, or some assurance from political parties and governments for a guarantee of non-repetition.

Environmental justice aims to ensure all people, regardless of race, national origin, ethnic background, or income, are safeguarded from environmental risks. For impoverished groups, the effects of climate change have varying, and sometimes disproportionate, negative social, economic, and public health effects. Moreover, the consequences of climate change worsen the current socioeconomic

circumstances, civil rights, and political freedom of the impoverished and marginalized. Thus, it becomes apparent that human rights and climate justice are closely related. Securing civil rights is crucial to achieving environmental justice and can be attained by enacting a strong legal framework through the parliamentary process.

Environmental justice concerning climate change is therefore contingent upon the realization of civil rights, including the freedom of the press, access to information, freedom of speech, and most importantly, electoral integrity. Political parties who spontaneously and with conscience and conviction exemplify climate action in their political doctrine and election manifesto are likely to enjoy full support from their constituents in contrary to those who don't.

Moreover, development must not come at the expense of endangering the environment or basic human rights. Therefore, to implement meaningful and long-lasting climate action, political parties and players must take a robust step through law and policy action in active partnership with their constituents. i.e. direct voters and the general public. By doing so, local constituents will not be left in the dark but instead, will be able to engage in the decision-making process.

### **Climate Action: Where do Political Parties Stand?**

The four main pillars of democracy are transparency, accountability, inclusive representation, and justice. These pillars are becoming increasingly complementary in light of the adversarial effects of global warming and subsequent climate change. This has been recognized in several international declarations, treaties, and accords.

Global public opinion on the environment, and in particular, climate change, has dramatically changed in the last few years. A UNDP study conducted in 2021 found that 64% of participants from 50 nations considered climate change to be an emergency and demanded that governments take more aggressive action. Consistent with this shift, there has been an increase in the quantity and political significance of Green Parties worldwide. For instance, the Global Greens Federations currently has 80 member parties and Green Parties exist in coalition governments in Austria, Belgium, Senegal, Finland, Ireland, Luxembourg, New Zealand, Sweden, and most recently, Germany (where Die Grünen doubled their votes from 2017 to 2021 and received 14.8 per cent of all votes). There are four Federations that constitute the Global Greens. One of these is the Asia Pacific Greens Federation (APGF), a coalition of national Green Parties (and related organisations) specifically in Asia-Pacific democracies.

However, Green Parties' aspirations are often marginalized and there is no evidence that their efforts

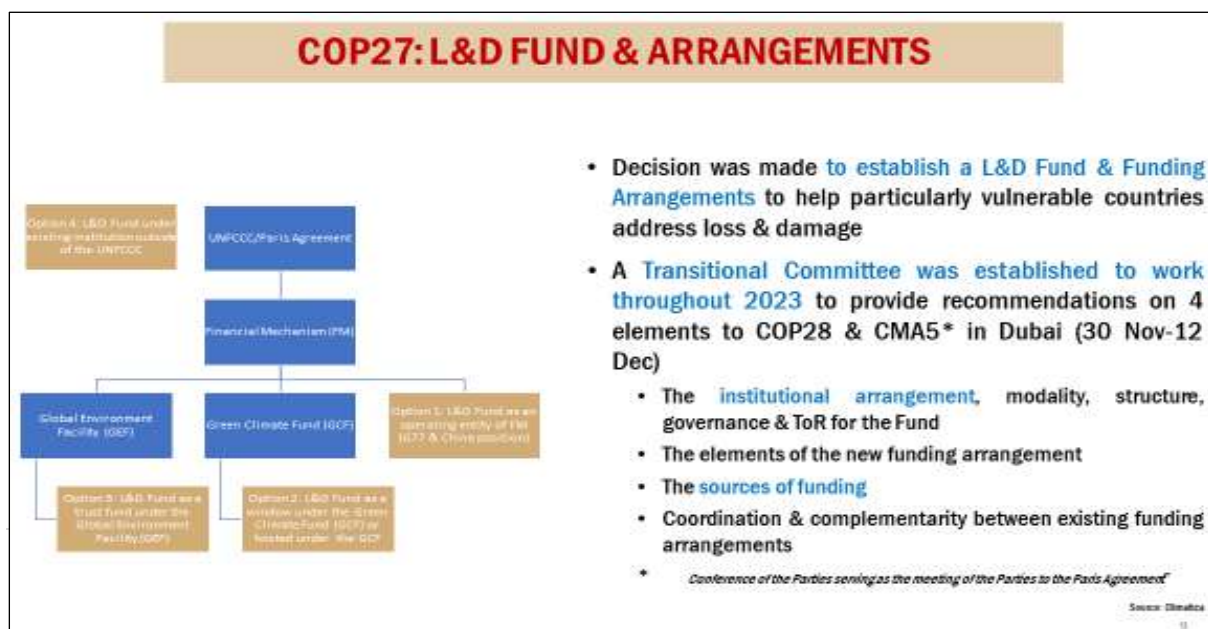


have robustly advanced the burgeoning climate affairs. Although a state may permit the existence of Green Parties, their ability to influence environmental policy is restricted unless they are given a statutory right to hold the government responsible for its actions or are marginalized in decision-making. This position is even worse in South Asia where there is the complete absence of an organized Green Party movement. Here, election campaigns barely mention environmental and climate concerns.

57 nation states and the EU had their climate policies appraised by the 2021 Climate Performance Index but many democratic nations saw a fall in their score. Thus, voter desire for climate action does not always result in more aggressive national and international climate policies. This is worsened by the fact that many governments of the world have been shrinking the political and civic space, especially in the wake of the COVID-19 pandemic and electoral integrity has in some cases been compromised.

Party rivalry is also a challenge to implementing new environmental policies as it unduly complicates the political processes. This is often the case in societies that are vertically divided in terms of political ideology or sharply polarized visions. Similarly, challenges are observed in societies that are dominated by the interests of powerful groups, such as transnational corporations and global business tycoons, as they steadfastly oppose strong environmental or climate change legislation.

In less democratic societies, opposition parties are frequently disregarded when designing environmental projects and allocating funds for development. This lack of all-party political agreement could put environmental commitment in jeopardy and result in policy reversals, especially during elections or leadership transitions. For this reason, attaining more ambitious policies and results requires not only bridging the gap between the major parties' perspectives on environmental issues. Rather, it requires strong, collective vigilance and advocacy from civil society regarding the environment and climate action, for which every voter should be included, aware of, educated, and empowered.



This brilliantly underscores how crucial it is for political parties of all strata to increase public knowledge and comprehension of environmental challenges. It is also crucial that there is an increase in the resources available to them to promote audacious action. To maximize their constructive influence, political parties should be included in international development programs and these programs should contain a clear environmental goal, a designed module, a timeline, and dedicated resources. Party manifestos, environmental laws, interparty dialogues on a national and international level, and other campaigns are required to promote political agreement on these matters.

Furthermore, it is the responsibility of political parties to take stern positions and action to avoid disparity between the equitable aspects of climate change and the various negative social, economic, and health effects it has on disadvantaged people. Political parties must encourage and assist impacted communities in expressing their concerns about the unjust effects of climate change, and the adaptation measures corresponding to these effects, in local, national, regional, and global forums as and when it is appropriate. As examples of good practices, political parties in some countries have shifted their rhetoric to reflect the growing concern about climate change that activists have advocated for years.

#### **L&D: EXPLORING JUSTICE**

- Climate change is a transnational problem that requires coherent, transnational solutions
- \$100 billion has been promised but not in operation yet!
- L&D aren't comprehensively addressed by current financial, governance and institutional arrangements, particularly in vulnerable developing countries
- L&D are unequally distributed across systems, regions and sectors
- As long as there's no authoritative, global case-law to define CC related HR obligations, protection, equal and fair justice is a distant reality

UNHRC: Recognition of right to a clean, healthy and sustainable environment-a universal HR & UNGA Resolution July 2022: Game-changing development on L&D

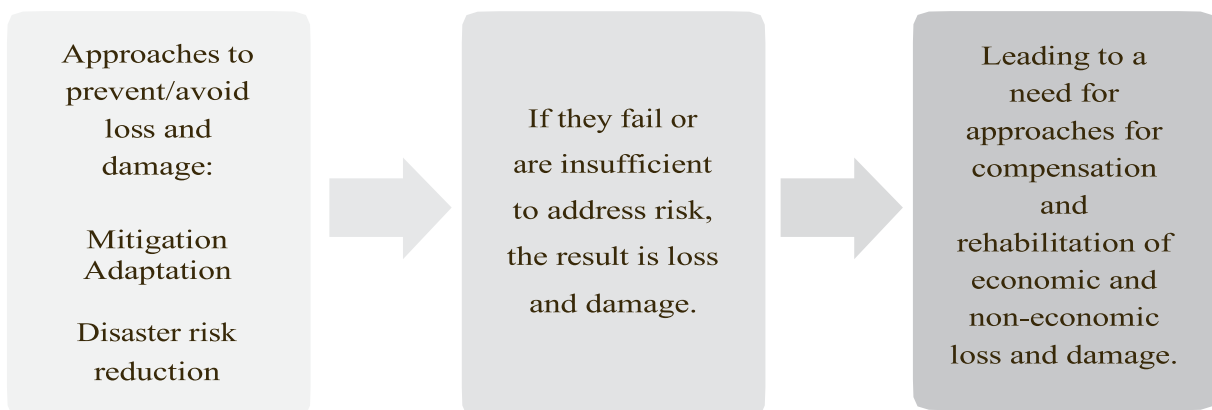
## Comprehensive Framework to Address L&D

By merely considering the estimated costs of Hurricane Sandy in Haiti, Cuba, and the United States, one can begin to understand the gravity of L&D caused by climate change and the scale of the effort required to undo its consequences. In the coming decades, climate catastrophes and slow-onset disasters will only bring about further L&D, particularly in developing countries vulnerable to its adverse effects. These impacts also have the effect of undermining human rights and the right to development.

The countries most accountable for emissions causing climate change have made appallingly insufficient mitigation measures. Given the present rate of global warming and current greenhouse gas concentrations in the atmosphere, the Earth will warm by 1.5°C in the coming decades. The funding for adaptation measures has been insufficient to meet existing levels of pledged warming, much alone the additional problems posed beyond 1.5°C.

The best platform for addressing the concerns of L&D is the UNFCCC. The duties of nations should be carried out methodically and within a broad framework.

### The Continuum for Addressing L&D



A thorough framework should, in general, achieve the following two goals:

- Encourage risk mitigation and other risk management techniques that can stop and prevent loss and harm.
- Provide compensation for loss and harm that cannot be prevented or avoided.

At the regional and international levels, coordination between the various components would be a third goal. There would be coherence between these three essential duties of Convention bodies linked to L&D within a comprehensive framework under the UNFCCC:

- Prevention through methods of catastrophe risk reduction, climate change mitigation, and adaptation, backed by sufficient implementation tools including funding, technology, and capacity-building.
- Via the creation of an international mechanism for compensation and rehabilitation, compensation, and rehabilitation
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- Taking the initiative and coordinating efforts at the regional and worldwide levels to address L&D beyond the scope of the Convention in a coherent manner, particularly those involving migration, displacement, and planned relocation, as well as international funding.

### Elements of a Comprehensive Framework to Address L&D

- Disaster risk reduction, climate change adaptation, and risk management frameworks to prevent or reduce L&D ex-ante.
- Research and systematic observation to understand the scope, magnitude, and character of climate change risks. Research on slow-onset events and tipping elements will be increasingly valuable in the context of predicting and addressing L&D.
- Scientific and technological advice on disaster risk reduction and adaptation measures.
- Mobilization of sufficient new and additional resources to support disaster risk reduction and adaptation measures, recognizing the stark inadequacies of current financial support.

FUNDING GAP TO ADDRESS L&D							
	Averting loss & damage	Minimizing loss & damage	Addressing loss & damage				
Impacts			<table border="1"> <tr> <th>Reversible</th> <th>Irreversible</th> </tr> <tr> <td> <ul style="list-style-type: none"> <li>• Super storms</li> <li>• Heatwaves</li> <li>• Forest fires</li> <li>• Floods</li> <li>• Droughts</li> </ul> </td> <td> <ul style="list-style-type: none"> <li>• Sea level rise</li> <li>• Desertification</li> <li>• Glacial melt</li> <li>• Erosion</li> </ul> </td> </tr> </table>	Reversible	Irreversible	<ul style="list-style-type: none"> <li>• Super storms</li> <li>• Heatwaves</li> <li>• Forest fires</li> <li>• Floods</li> <li>• Droughts</li> </ul>	<ul style="list-style-type: none"> <li>• Sea level rise</li> <li>• Desertification</li> <li>• Glacial melt</li> <li>• Erosion</li> </ul>
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Mitigate/Adapt/Address	<ul style="list-style-type: none"> <li>• Climate change mitigation</li> <li>• Reducing greenhouse gas emissions</li> </ul>	<ul style="list-style-type: none"> <li>• Climate change adaptation</li> <li>• Risk reduction:                             <ul style="list-style-type: none"> <li>- early warning</li> <li>- emergency preparedness</li> <li>- building cycles</li> <li>- retrofitting infrastructure</li> </ul> </li> </ul>	<table border="1"> <tr> <th>Recoverable</th> <th>Permanent &amp; irrecoverable losses</th> </tr> <tr> <td> <ul style="list-style-type: none"> <li>• Humanitarian assistance:                             <ul style="list-style-type: none"> <li>- relief</li> <li>- recovery</li> <li>- reconstruction</li> <li>- rehabilitation                                     <ul style="list-style-type: none"> <li>- social protection</li> <li>- resilient rebuilding</li> </ul> </li> </ul> </li> </ul> </td> <td> <ul style="list-style-type: none"> <li>• Loss of biodiversity (including extinction of species)</li> <li>• Loss of culture</li> <li>• Loss of heritage</li> </ul> </td> </tr> </table>	Recoverable	Permanent & irrecoverable losses	<ul style="list-style-type: none"> <li>• Humanitarian assistance:                             <ul style="list-style-type: none"> <li>- relief</li> <li>- recovery</li> <li>- reconstruction</li> <li>- rehabilitation                                     <ul style="list-style-type: none"> <li>- social protection</li> <li>- resilient rebuilding</li> </ul> </li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Loss of biodiversity (including extinction of species)</li> <li>• Loss of culture</li> <li>• Loss of heritage</li> </ul>
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Displacement			<table border="1"> <tr> <th>Temporary displacement</th> <th>Permanent relocation</th> </tr> <tr> <td></td> <td></td> </tr> </table>	Temporary displacement	Permanent relocation		
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Limited	No funding						

Source: [Gleeson, 2018; Hoffmann et al., 2011](#)

Most disaster aid comes in the form of ex-post and ad hoc humanitarian aid. Resources through the UNFCCC process, such as through the Adaptation Fund and fast-start financing, have been trivial compared to the scale of the need. So, it is integral to increase resources to prevent L&D.

### **Compensation and Rehabilitation: L&D Attainment Benchmarks**

- Regional and/or global catastrophe risk-transfer facilities
- Debt relief and other financial measures to lessen external financial obligations when countries are faced with catastrophic shocks
- A financial mechanism for redress, including for compensation and rehabilitation of unavoided and unavoidable L&D that cannot be compensated through traditional risk transfer facilities, such as for slow-onset events and transformational changes in state
- The means to assess and address less directly measurable economic losses such as lost sustainable development opportunities and impacts on economic growth
- The means to assess and address non-economic losses

To address L&D methodically and successfully in poor countries, a comprehensive framework under the UNFCCC must advance the following three axes:

1. Coordinating, integrating, and enhancing continuing institutional support under the SBI and SBSTA to stop and prevent loss and harm.
2. The creation of the Adaptation Committee's global coordination function to offer consistency with other regional and international activities on L&D.
3. Creation of a global compensation and rehabilitation mechanism.



### A Comprehensive Framework on L&D under UNFCCC

Operating under the guidance and authority of the Conference of the Parties:

A comprehensive framework on loss and damage.

Existing Convention bodies to address new challenges posed by loss and damage.

SBI: implementation of approaches to address loss and damage, including at transfer national level through the National Adaptation Plan's process

SBSTA: tools for assessment of loss and damage, research and systematic observation to increase understanding of slow-on set processes.

Adaptation Committee: coordination with regional centres and global institutions.

New International Mechanism on Compensation and Rehabilitation

- Insurance and other risk- mechanisms
- A compensation and rehabilitation fund
- Catastrophe finance
- Measures to address on-economic losses

## Institutional Assistance for L&D Prevention

Coordinated assistance is required to minimize L&D. Guaranteeing risk management through appropriate and predictable funding remains a top priority. The Adaptation Committee should consider assuming this responsibility after consulting with the other pertinent Convention organizations.

Preventing L&D might be the focus of current Convention-related initiatives, for instance, the work conducted under SBSTA in the Nairobi work programme and research concerning Article 5. The SBSTA may be given further support for the creation of suitable risk assessment and risk management tools for slow-onset processes. The SBSTA might also offer technical assistance for lowering risks connected with extreme weather occurrences in coordination with the United Nations International Strategy for Disaster Reduction (UNISDR).

Designing strategies to minimize or reduce hazards requires a scientific knowledge of the underlying causes. SBSTA might research to better understand slow-onset processes and the tools available to control and lower slow-onset risks through the work it does under Article 5.

### L&D TRANSITIONAL COMMITTEE: KEY TAKEAWAYS

- Funding to be designed to focus on objectives (such as saving lives, protecting livelihoods, decreasing disease morbidity, etc.) rather than to rigidly define specific types of activity or duration of activity
- Addressing L&D at the early stages of a hazard event, rather than waiting for a full accounting of damage done
- Flexible timeframes for funding to encompass both short & longer-term activities
- Adopting a broad perspective to the consideration of L&D actions & funding
- Slow-onset events, non-economic L&D, or migration – should not be funded in isolation. A flexible, long-term approach to funding should be developed

### International Coordination and Institutional Leadership

Other regional and international organizations must be involved in projects dealing with migration, planned and unplanned relocation, catastrophe risk reduction, and conflict. However, these initiatives must be successfully integrated with the UNFCCC's L&D work. Under the comprehensive framework on L&D, the Adaptation Committee should have a primary coordinating role.

*Organizations that should be involved:*

- Regional adaptation hubs located in different continents
- International organizations that play a part in addressing displacement, migration, and planned relocation due to the consequences of climate change, including, the International Organization of Migration (IOM) and the United Nations Office for Coordination of Humanitarian Affairs (UN OCHA)
- Under the UNFCCC, coordination and cooperation between UNISDR, the Hyogo Framework for Action, and the planned post-2015 Disaster Risk Reduction Framework.

**International Compensation and Rehabilitation Mechanism**

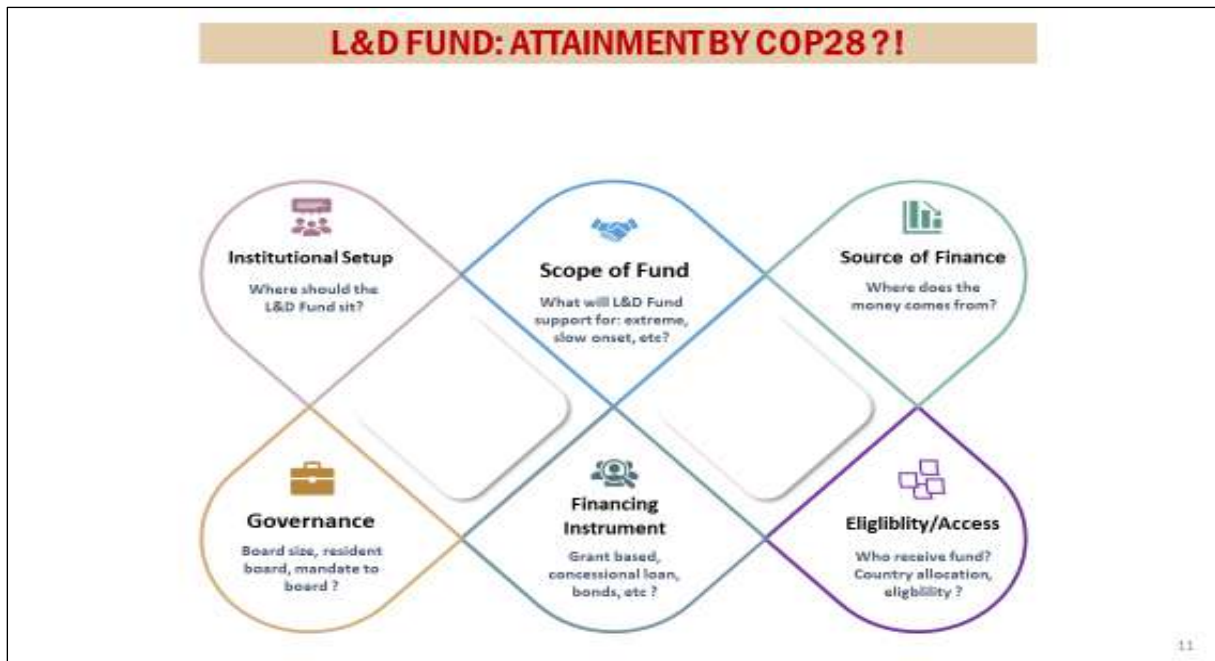
The methods used today to stop and avert L&D caused by climate change are insufficient. This is evident through the negative repercussions observed worldwide, especially in vulnerable nations, such as the loss of lives, livelihoods, culture, and territory. Therefore, a complete framework on L&D must include an international mechanism for compensation and rehabilitation.



There are four different categories of permanent loss and injury that would be addressed by an international mechanism for compensation and rehabilitation for L&D:

1. Damage and loss that may be covered by insurance or other risk-transfer methods
2. Extreme occurrences and slow-onset processes that cause economic loss and destruction but are not covered by risk-transfer mechanisms
3. Economic losses that are hard to measure, such as missed possibilities for sustainable development.





Through current or future risk-transfer systems, an international framework on compensation and rehabilitation would address insurable L&D. One of the functions of the international mechanism's risk-transfer component would be to evaluate whether current risk-transfer strategies, including regional mechanisms, are adequately compensating for insurable L&D. As the rising of extreme event frequency and severity will challenge the capacity of risk-transfer institutions to pay for the ensuing L&D, observing the range of risk-transfer strategies would also fall under this function. This component's work would encourage the diversification of effective initiatives across geographies. The system would also look at the creation of a risk-pooling system, similar to the International Insurance Pool that AOSIS has suggested. In this connection, the following progress is marked:

- Institutions that handle loss and destruction, such as regional risk-transfer facilities, have been highlighted in the activities of regional meetings, such as the Caribbean Catastrophe Risk Insurance Facility (CCRIF). If similar facilities can be reproduced in other places, more investigation could be conducted and given that extreme climatic events are becoming more frequent and severe, it is imperative to conduct a thorough assessment of their capacity to manage L&D.
- The creation of an international insurance pool has been recommended by AOSIS: "Where there is insurance, it is expensive, and certain areas have limited access to commercial risk sharing and risk transfer solutions. The risks from all vulnerable nations should be pooled through an international structure, which requires international coordination".<sup>50</sup>



Three methods would be used by an international mechanism on compensation and rehabilitation to deal with uninsurable L&D:

1. The creation of a global fund for rehabilitation and compensation to address the escalating negative effects of climate change, such as sea level rise, ocean acidification, and increasing sea and land temperatures. L&D will still exist and, in many situations, will be unavoidable, despite the existence of a variety of novel and inventive risk transfer methods. Nonetheless, the fund would compensate for L&D brought on by unavoidable adverse effects that cannot be otherwise compensated by a risk transfer facility. This includes for both extreme events that exceed the capacity of current risk transfer facilities and slow-onset events that cannot be compensated by risk transfer mechanisms.

Collective compensation plans, such as an international fund, have been developed under several international environmental responsibility regimes to offer victims an additional or alternative form of compensation. In significant part, attempts undertaken throughout time to get around insurance's limits as a compensation payment guarantee led to collective compensation agreements.

2. The creation and promotion of policies to address non-economic loss, damage, and missed opportunities for sustainable development, such as increased international funding for social protection policies in developing nations that are particularly susceptible to the negative effects of climate change. The most fundamental moral issue raised by climate change and its disproportionate effect on the most disadvantaged is addressed in this section.
3. The creation and marketing of financial tools that can be utilized in the event of devastating shocks to economies to help states deal with circumstances of catastrophic shock. This component will be created to proactively coordinate debt relief, donations to emergency trust funds, and other potential financial actions. Specifically creating a debt relief fund for natural disasters might be a possibility.

The International Mechanism on Compensation and Rehabilitation would be located under the auspices of the Convention and housed within the UNFCCC Secretariat, where administrative support could be offered. A Board made up of Party members would provide support and direction, and stakeholders would also be included.

## **Pre-COP28 Action and Recommendations**

Through UNFCCC and COP processes on L&D response plan, the following development was expected which helped build up actions during COP28.

- A continuing work program on L&D under the SBI with active coordination and collaboration with the Adaptation Committee and the SBSTA.
- An international mechanism on compensation and rehabilitation was established under the guidance of the Conference of the Parties.
- Global leadership and coordination carried out through the Adaptation Committee.

*As a result, COP18 and beyond were expected to:*

- Consent to the creation of an international mechanism for L&D compensation and rehabilitation.
- Launch a second phase of the work program on L&D under the SBI to elaborate on the remaining components of the comprehensive framework on L&D.
- Agree on a process to elaborate the modalities and procedures of the Mechanism, under the guidance of the COP, to become operational by COP20.

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Mitigate/ Adapt Address	Climate change mitigation	Climate change adaptation	Recoverable	Permanent & irrecoverable loss	
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Displacement			Temporary displacement	Permanent relocation	Loss of territory
Funding	Dedicated but insufficient		Limited	No funding	

Source: [UNEP, 2012](#)

### Phases of International Mechanism's Design

Initially, under the direction and control of the Conference of the Parties, the COP is expected to create a two-year work schedule to develop the modalities and processes of the International Mechanism. Several questions would be addressed during the first year of work, aided by submissions from Parties and technical papers created by the Secretariat. During this time, a series of workshops would also be held to assess the technical papers and submissions and offer suggestions on each of the components. Then, the organization leading the work program would report to COP19 where the progress in establishing the Mechanism's fundamental components would be evaluated. Finally, the work required to design mechanisms and processes would be elaborated upon at COP19 for a COP20 resolution to operationalize the Mechanism.

A work schedule to create the modalities and processes for the International Mechanism can be carried out by at least three institutional bodies:

- Directly under the COP, which was COP17's approach to long-term funding. Ideally, the Conference of the Parties President would name two co-chairs to continue the work.
- The Adaptation Committee which can be given the responsibility of creating modalities and processes and submitting the suggestions it produces to the COP.
- The Subsidiary Body for Implementation by the Conference of the Parties in combination with a second phase of the work program on L&D.

Although the period in which the Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP) is functioning, it is not optimal for delivering an operational Mechanism by COP20. Thus, a work program under Workstream 1 of the ADP provides a fourth option.

### **Issues of Concerns Regarding the Work Schedule**

The work program was expected to address the following issues to establish the four compensation and rehabilitation components of the International Mechanism on Compensation and Rehabilitation.

1. In some circumstances, compensation and rehabilitation money can be provided via insurance and other risk-transfer strategies, such as catastrophe bonds. It was considered essential to have a thorough grasp of the constraints of risk-transfer choices to create the Mechanism.
  - To better understand the boundaries and restrictions of conventional insurance and alternative risk-transfer strategies, the work programme must analyze the most recent trends in insurability regarding climate-related disasters. In this perspective, other non-market tools that guarantee or promote social protection measures should also be examined.
  - Through a technical examination of already-existing regional facilities like the CCRIF, the work program must examine risk-transfer strategies that are appropriate at the regional level. In addition to highlighting the drawbacks of such risk-transfer strategies for addressing economic L&D in poor nations that are more susceptible to the negative effects of climate change, this would illustrate the obstacles to the establishment of similar facilities in other locations.
  - While longer-term solutions to slow-onset disasters are being investigated, more knowledge and thought must be given to how insurance and non-insurance instruments may be used to mitigate negative consequences from slow-onset processes.
2. To construct the Fund for Compensation and Rehabilitation, further analysis of the current fund models, such as the Cook Islands Disaster Trust Fund and the Oil Spill Compensation Fund, are required. The evaluation should cover a variety of topics, including variations in modalities and methods, governance, financing sources, timetables, processes, and forums for making claims.
3. Options for the evaluation, compensation, or rehabilitation of non-economic damages in the context of climate change need to be well understood. As a means of making up for non-economic losses and the negative consequences of climate change on long-term sustainable development, external

funding for improved social protection measures and other risk retention strategies have been advocated. The work program should examine the breadth of financial possibilities identified, as well as how different choices may be included in an international mechanism on compensation and rehabilitation.

4. There is a need for further knowledge on potential financial strategies that may work in the event of devastating shocks to economies. An evaluation of potential actions should take into account the viability of a special fund for debt relief from climate disasters. As part of this endeavor, the technical document from 2008 on Financial Risk Management Systems should be revised.

### **Expectation from the Adaption Committee**

- Examination of sufficiency and predictability of climate funding in the context of preventable L&D.
- Working with Standing Committee as part of its mission for coordinating money under UNFCCC.
- Commencement of a workstream on migration, displacement, and planned relocation as part of its Nairobi work programme on effects, adaptation, and vulnerability in partnership with the SBSTA.

This workstream should look at the areas where the effects of climate change have already prompted migration and intentional relocation, as well as the organizations that are promoting and planning intentional relocation.

- Incorporating the duties under the comprehensive framework on L&D connected to cooperation with international and regional authorities into the adaptation committee's three-year work plan. This is to be done by coordinating efforts with regional centers to mitigate L&D in developing nations that are more susceptible to the negative effects of climate change.
- Invitation to the UN High Commissioner for Refugees, the International Organization for Migration, and the World Food Programme to the Adaptation Committee to combine meetings on climate change-induced migration, displacement, and planned relocation as part of the Adaptation Committee's work plan.
- Exploration of financial measures that might help nations deal with L&D. The Adaptation Committee should confer with parties outside the UNFCCC, including, but not limited to, international financial institutions.

## **Structure of COP28: Dawn of a New Promise**

The 28<sup>th</sup> Conference of Parties of the UNFCCC (COP28) was organized in Dubai, United Arab Emirates around the annual meetings of the three decision-making bodies of the Convention, the Paris Agreement, and the Kyoto Protocol. COP28 saw the largest attendance in history, bringing together 97,000 delegates, including over 150 heads of state, along with negotiators, business leaders, and non-state actors. A wide variety of climate-related agenda items were discussed and decided on.

The key outcomes of global climate action at COP28 were set by the Presidency and organized across four pillars:

1. Fast-tracking a just, orderly, and equitable energy transition
2. Fixing climate finance
3. Focusing on people, lives, and livelihoods
4. Underpinning everything with full inclusivity

The High-Level Champions and the Marrakech Partnership led several outcomes on Global Climate Action at COP28. They convened over 40 events, including Action Events, Implementation Labs, and High-Level Champion Special Events. These events showcased the collective momentum from diverse sectors and discussed issues crucial to encouraging global ambition and action.

### **Stocktaking Endeavor of COP28**

A significant outcome of COP28 was the first-ever Global Stock Take (GST). It recognized the scientific evidence that greenhouse gas emissions must be reduced by 43% by 2030 (as compared to 2019 levels) to keep global warming to 1.5°C. The GST was a mid-term review of the progress of UN member states towards the 2015 Paris Agreement and it highlighted that the Parties are falling short of their targets under the Agreement.

Accordingly, the GST urged Parties to triple global renewable energy capacities and double gains in energy efficiency by 2030. This is to be done by laying the ground for a swift, just, and equitable transition, underpinned by deep emissions cuts and scaled-up finance.<sup>1</sup> Furthermore, the GST promoted developed countries in continuing leading efforts towards the phase-down of unabated, inefficient coal power.

“Whilst we didn’t turn the page on the fossil fuel era in Dubai, this outcome is the beginning of the end,” said UN Climate Change Executive Secretary Simon Stiell in his concluding remarks. “Now, without delay, all businesses and governments must translate these promises into real-economy results.” That is, the discussions surrounding the GST should be utilized by nations to create more robust climate action plans. In their next round of climate action plans or nationally determined contributions, Parties are urged to propose aggressive, economy-wide emission reduction targets that address all greenhouse gases, sectors, and categories by 2025 to maintain the 1.5°C global warming limit.

### **Enabling Nations in Becoming More Resilient**

154 Heads of State and Government, and 22 International Leaders gathered for the two-week World Climate Action Summit (WCAS). For the first time, a significant decision was made on the first day of the conference as the parties agreed on the operationalization of the L&D fund and its associated arrangements. Soon after the decision was made, contributions totaling more than USD 700 million to the fund began to come in.

In subsequent days, more advancement was made in the area of L&D. It was decided that the Secretariat of the Santiago Network for L&D would be housed at the UN Office for Project Services and the UN Office for Disaster Risk Reduction. This platform will serve as a catalyst for the provision of technical support to poorer nations that are especially susceptible to the negative consequences of climate change.

Parties agreed on targets for the Global Goal on Adaptation (GGA) and its framework. The GGA framework reflects a global consensus on adaptation targets and sets out the requirements for funding, technology, and capacity-building assistance to achieve them. It identifies how the world needs to progress to be resilient to the impacts of a changing climate and evaluates countries’ efforts in this regard.

### **Scaling-up Climate Finance**

Climate financing, the “great enabler of climate action” according to Stiell, was the main topic of discussion throughout the meeting. Six nations pledged additional funds for the Green Climate Fund (GCF) during COP28, bringing the total number of commitments to a record of USD 12.8 billion (from 31 countries) and boosting the GCF’s second replenishment. Additionally, pledges totaling over USD 188 million were made to the Adaptation Fund during COP28, and, eight donor states announced additional commitments totaling more than USD 174 million to the Least Developed Countries Fund and Special Climate Change Fund.



However, the GST made it clear that these financial commitments fall far short of the billions of dollars required to assist developing nations with renewable energy transitions, implementing national climate policies, and assisting with adaptation measures. The stocktake emphasizes the necessity of changing the international financial architecture to enable new funding sourcing and processes.

Establishing a "new collective quantified goal on climate finance" for 2024 that takes into consideration the needs and priorities of poor nations' was another topic discussed during COP28. The new target will serve as a foundation for the creation (and eventual execution) of national climate policies and will begin with an annual baseline of USD 100 billion by 2025.

Anticipating future shifts towards decarbonized economies and societies, a consensus was reached to extend the mitigation work, initiated during COP27, program till 2030 with a minimum of two worldwide dialogues conducted yearly.

### **Event Participation and Inclusivity**

In the spirit of shared commitment to bridge gaps by 2030, international organizations, youths, charities, civil society, and Indigenous Peoples joined world leaders at COP28. Approximately 85,000 people came to COP28 to exchange concepts, find answers, and form coalitions and partnerships. The decisions made at COP28 highlight how crucial it is to provide all interested parties the tools they need to take climate action, especially with the Gender Action Plan and the Action for Climate Empowerment.

### **Strengthening Collaboration**

The Global Climate Action area at COP28 offered a forum for governments, corporations, and civil society to work together and present their practical climate solutions in addition to the official negotiations. Under the Marrakech Partnership for Global Climate Action, the High-Level Champions unveiled their 2030 Climate Solutions implementation roadmap. These are a series of recommendations that include the perspectives of numerous non-party stakeholders and provide practical steps that must be repeated and expanded upon to reduce global emissions in half, close adaptation gaps, and boost resilience by 2030. In addition, several announcements were made to decrease methane and agriculture-related emissions and strengthen the resilience of the food and public health systems.

## **Considering the Common Future Course of Direction**

The "enhanced transparency framework" debates at COP28 set the stage for a new phase of the Paris Agreement's implementation. The transparency reporting and review mechanisms that were demonstrated and tested during COP28 are being developed by UN Climate Change for use by the Parties. Parties should have access to the completed reporting tools by June 2024.

"We need to focus on implementing the Paris Agreement to its full potential," stated Stiell. "Countries will have to provide new domestically decided contributions by the beginning of 2025. All of our commitments, including those related to finances, adaptation, and mitigation, must align with a 1.5-degree world". Stiell continued, "[my] parting message is to regular people everywhere, raising your voices for change." "Each and every one of you is truly changing things. Your voices and tenacity will matter more than ever in the pivotal years ahead. I implore you never to relent. This race is currently ongoing. We promise to be by your side at every turn."

The Parties to COP28 also decided that Azerbaijan would host COP29 from November 11–22, 2024, and Brazil would host COP30 from November 10–21, 2025. These two years are going to be crucial. Governments are required to set a new climate financing target at COP29 that takes into account the gravity and urgency of the climate crisis. Additionally, to completely comply with the 1.5°C temperature limit, they must bring new nationally determined contributions to COP30 that encompass all greenhouse emissions and are economy wide.

In his closing remarks, Dr Sultan Al Jaber, President of COP28, stated that "[a] new path had to be found by the world. We have discovered that road by staying true to our North Star". "To ensure a brighter future for our people and our world, we have put in a great deal of labor. We need to feel proud of this historic accomplishment."

## **COP28 Climate Financing**

### *Overview*

The COP28 Presidency set four pillars for global climate action, one of which was "fixing climate finance". This pillar aimed to address the challenges in mobilizing and delivering finance for climate action and several funding packages targeting climate adaptation were announced at COP28. These included:

- Over \$1 billion for climate and health initiatives from philanthropies, donors, and multilateral development banks.
- \$2.6 billion in nature conservation finance from public and private sources.
- An additional \$2.6 billion for climate-resilient food and agriculture projects

#### *Role of Non-Party Stakeholders*

Non-party stakeholders, including businesses, cities, subnational regions, investors, and civil society, played a significant role in the climate finance discussions at COP28. Their contributions and efforts in achieving the goals of the Paris Agreement were recognized.

#### *Tracking of Pledges*

A tracker for five climate funds created under the UN climate convention was used to monitor pledges. This tracker explained what each fund does and tallied pledges in recent years.

#### *Challenges*

Despite these efforts, COP28 took place against a backdrop of efforts to reform financial institutions and mobilize new funds. There were ongoing discussions about updating the multilateral development banks, debt restructuring deals, and mobilizing new funds. So, in conclusion, although significant strides were made in climate financing at COP28, there is still a long way to go in terms of mobilizing the necessary funds and reforming financial institutions to effectively combat climate change. The role of non-party stakeholders and tracking mechanisms will be crucial in this journey.

### **The Transitional Committee**

The Transitional Committee was established at COP27 and CMA4 to operationalize new funding arrangements to assist developing countries that are vulnerable to the adverse effects of climate change. The Committee's recommendations were considered and adopted by COP28 and CMA5.

#### *Those being:*

1. Establishing institutional arrangements, modalities, structure, governance, and terms of reference for the fund
2. Defining the elements of the new funding arrangements
3. Identifying and expanding sources of funding
4. Ensuring coordination and complementarity with existing funding arrangements

*The committee was informed by:*

- The current landscape of institutions funding activities related to addressing L&D, and ways to enhance coherence, coordination, and synergies among them.
- The gaps within that current landscape, such as relating to speed, eligibility, adequacy, and access to finance.
- The priority gaps for which solutions should be explored.
- The most effective ways to address the gaps, especially for the most vulnerable populations and the ecosystems on which they depend.
- Potential sources of funding, recognizing the need for support from a wide variety of sources, including innovative sources.

The committee concluded its work at its fifth meeting and its report including its recommendations is available on the UNFCC website. The committee consisted of 14 members from developing countries and 10 from developed countries.

The significant impact of climate change on developing countries.

1. **Increased Vulnerability**: Developing countries are more vulnerable to the adverse effects of climate change. The impacts can vary significantly depending on the sector, location, and time under consideration.
2. **Economic Impact**: Climate change could push more than 130 million people in developing countries below the extreme poverty line by 2030. It affects the already floundering economies of developing countries, increasing poverty, health challenges, and economic upheaval.
3. **Natural Disasters**: Climate-induced disasters, which are intensifying and happening more regularly, outpace the plans to prevent damage. Natural disasters are more frequent and catastrophic, and developing countries are more vulnerable.
4. **Displacement of People**: More than 140 million economically disadvantaged people from Sub-Saharan Africa, South Asia, and Latin America will be forced to migrate internally due to climate change impacts including water shortages, decreasing agricultural productivity, and rising sea levels by 2050.
5. **Agricultural Impact**: Climate change effects include lower agricultural yields, and exacerbated weather events like droughts and floods.
6. **Health Impact**: Climate change has a major impact on human health.

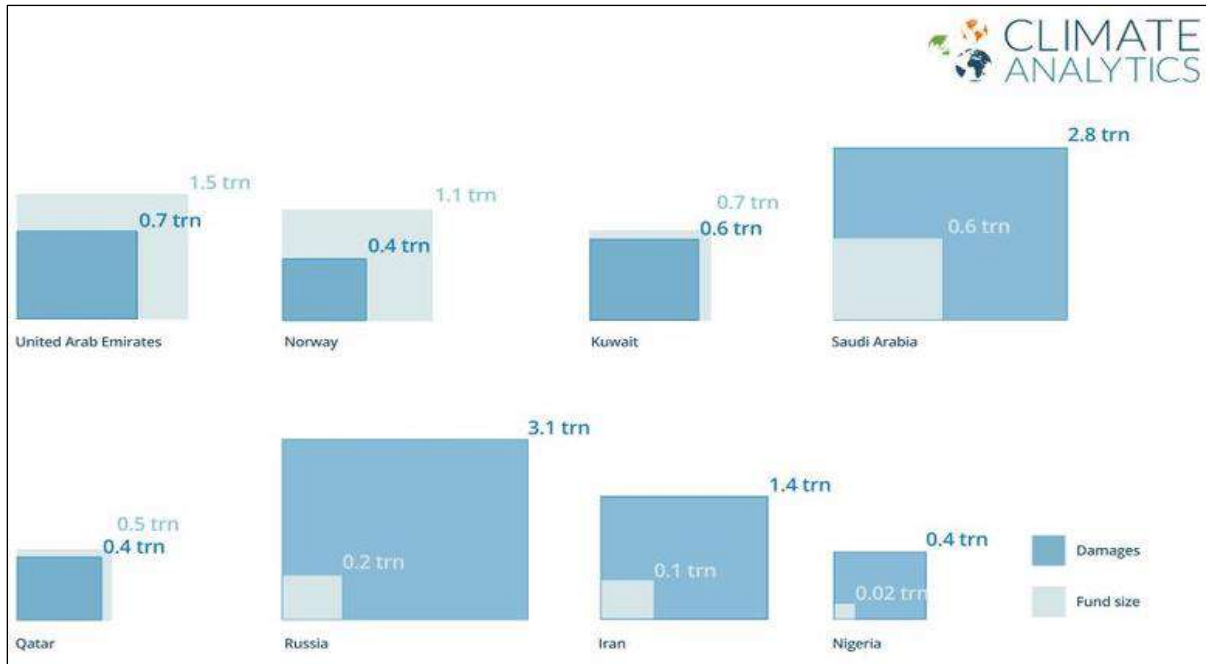
It's important to note that while climate change is a worldwide phenomenon, poor people and poor countries are more severely affected by its negative effects. Therefore, it's critically important to better understand the nexus between climate, conflict, and conflict-affected countries.

Highlights of L&D Mechanism in COP28
<ol style="list-style-type: none"><li>1. <i>Report of the Executive Committee: The Conference of the Parties endorsed the 2023 report of the Executive Committee of the Warsaw International Mechanism for L&amp;D associated with Climate Change Impacts</i></li><li>2. <i>Work of the Executive Committee: The Executive Committee and its thematic expert groups made progress in advancing the development of technical guides informed by the best available science</i></li><li>3. <i>Contributions: The committee expressed appreciation to the organizations, experts, and relevant stakeholders that contributed to the work reported</i></li><li>4. <i>Collaboration: The committee was requested to consider ways to collaborate with the entities that form part of the funding arrangements, including a fund</i></li><li>5. <i>L&amp;D Fund: The framework to operationalize the L&amp;D Fund was agreed on the first day of COP28. The purpose of the L&amp;D Fund is to assist developing countries that are particularly vulnerable to the adverse effects of climate change</i></li><li>6. <i>Financial Commitments: On the first day of COP28, adoption of those recommendations was followed by financial commitments from several countries accounting for a total of \$700 million so far</i></li><li>7. <i>Innovative Financing Mechanisms: Innovative financing mechanisms are being proposed, from windfall taxes on fossil fuel companies to international taxes and debt for L&amp;D swaps</i></li></ol>

It's important to note that while this is a significant step towards addressing the impacts of climate change, many contentious issues remain, including the lack of clarity on how funds will be financed or replenished.

### **COP28 and Progress Attained**

A last-minute deal on the L&D Fund was finally struck at the fifth and final meeting of the Transitional Committee in December 2023 in Dubai. The draft agreement, to be adopted at COP28, establishes the World Bank as interim host. Although a controversial choice, developing countries agreed to this on certain conditions. There was great relief as the Transitional Committee reached an agreement at the final meeting, however, the number of concessions settled on in the final moments in a 'take it or leave it' context curbed the enthusiasm in the room. The 'agreed recommendations' were also met with considerable pushback from civil society observers.



Following the COP27 decision, Committee members from developing countries and the wider G77 have been united on the need to design a new, fit-for-purpose, standalone fund that is operated under the UNFCCC.

This is primarily due to the concerns among developing countries about the working culture of the World Bank, its primary role as a lending institution, its donor-driven and shareholder-based interests, and its rigid, inflexible policies. To many developing countries, the World Bank's profile flew in the face of key concepts and requirements for the Fund. For example, ensuring the Fund can provide direct access to finance for vulnerable countries; the need for flexibility and responsiveness to different national circumstances; and the need for the Fund to receive financing from a wide range of traditional and non-traditional sources. Furthermore, the World Bank's ongoing struggles with reform and its perception as a soft power tool controlled by the interests of large donors exacerbated the narrative surrounding the Fund's negotiations.

After facing an impasse at the fourth Committee meeting, developing countries demonstrated flexibility early on in the fifth meeting, coming forward with a compromise and willingness to entertain a potential interim hosting arrangement with the World Bank. These concessions weren't made lightly; developing countries worked to introduce a set of conditions and review periods to safeguard their concerns. If the recommendations and draft decision text are agreed upon at COP28, these safeguards will fundamentally define the final form of the L&D Fund.

### **Safeguards Put Forward by Developing Countries**

Current World Bank policies would restrict the operations of the Fund and potentially override some of the key objectives of the COP27 decision that established the Fund. Accordingly, developing countries agreed on a set of central conditions that the World Bank should adhere to over the initial interim period. The conditions seek to safeguard the interests of developing countries and protect their role in the governance of the Fund.

Further, the conditions ensure that the Fund operates on the rules and basic parameters outlined in the text (and adopted at COP28). The conditions also state that the Fund's Board selects the Executive Director, not the World Bank. The Board can determine policies concerning eligibility and access to the Fund and so, there is no need to rely on existing World Bank policies. In the absence of these conditions, the World Bank may have designed the Fund according to its approach.

Finally, the conditions also specifically state that governments and non-traditional implementing entities (those beyond multilateral/regional development banks and UN agencies) can directly access the Fund. The overall gist of the conditions amounts to a package that ensures all countries oversee the design and operations of the Fund.

#### **COP28: Nepal's Position and Commitment on Climate Change and L&D**

- Commits to advocating for mountain nations affected by the climate crisis following the #COP28 outcome.
- Continue to urge global community to urgently reduce carbon emissions and fulfill obligations in mobilizing climate finance.
- Establish an inter-ministerial mechanism and an expert-led international negotiation team to represent Nepal's priorities in UN and multilateral forums.
- Strengthen domestic institutional mechanisms for carbon trade, and accessing resources from the Green Climate Fund and the L&D Fund. #Climate Action

If the World Bank meets all the conditions outlined in the Committee's draft decision, it will become the permanent home for this historic new Fund, beyond the interim four-year period. The Fund under the World Bank would still be accountable to the Parties to the Paris Agreement.

However, meeting these conditions takes more than the World Bank agreeing to accept them. If these conditions can't or won't be met during the interim period, countries have options to transition the Fund to a standalone, independent entity within a host country, similar to the Green Climate Fund.

### **Three Ways the Fund Could Exit the World Bank**

The final text includes three triggers that could cause the L&D Fund to exit the World Bank.

**1. The policy trigger:** Within six months of COP28, the World Bank must communicate its willingness and ability to meet the stated conditions. If it is not able to do so, the Board will launch a 'selection process for a host country' and begin work to establish a new standalone fund based on guidance agreed at COP29.

**2. The design trigger:** Within eight months of COP28, the World Bank must submit an internally approved proposal on the Fund's hosting arrangements to the Board. The Board then reviews this to determine if the overall design complies with the agreed hosting conditions. If the Board finds that under the World Bank's proposal conditions would not be met, countries can take steps at COP29 to set the Fund up as an independent entity. Otherwise, if the Board is satisfied, the Bank will be invited to host the Fund for an initial period of four years.

**3. The performance trigger:** Towards the end of the interim four-year period (in 2028), an independent performance assessment of the hosting arrangement will take place. Based on this and its considerations, the Board will decide whether or not the conditions have been met. If not, countries will take steps to establish a new standalone fund at COP33. If the Board is satisfied, the World Bank will continue to be the host of the Fund.



*“The Loss and Damage Fund must be operationalised at COP 28, a critical measure of success or failure. The scale of funds must be commensurate with the needs, and come from every possible source imaginable. And the Fund must be institutionalised in a way that really works for, and delivers to, the Pacific small island developing states. Funding our holistic national programmes, using our national systems, and with real direct access so that we are in control of our destiny.”*



**Hon. RALPH  
REGENVANU**  
Minister of Climate Change  
Republic of Vanuatu

This carefully constructed process of checks and balances gave developing countries enough assurance to trial the World Bank option in good faith. Given the ‘taboo’ status of L&D over the last three decades and despite the magnitude of challenges faced, the speed of recent progress in the area is astonishing.

However, as climate impacts worsen and compound, the issue becomes more and more urgent. Evidence of the links between human-induced climate change and escalating climate disasters is observed through the ongoing agricultural drought in Syria, Iraq, and Iran. In countries where people are losing their homes and lives, reconstruction efforts are swallowing up national budgets and causing growing debt stress. While the Transitional Committee has completed its task, the important work of setting up the Fund and making sure it delivers is just beginning.

(<https://climateanalytics.org/comment/safeguards-and-exit-points-for-the-world-bank-as-host-of-the-loss-and-damage-fund>)

## Concluding Observations

The consequences of climate change are already causing serious loss and hardship in developing countries. The amount of L&D experienced will climb in tandem with the rate of climate change. Ignoring these basic facts won't make the problem go away, and delaying the answer will make the bad impacts worse. Rather, it is the moment for courageous leadership and rapid action.

The climate financing in connection with L&D under the UNFCCC has been satisfactorily progressed on some of the pertinent issues, offering supporting data, encouraging debate, and outlining possible solutions. In the end, the international community and key stakeholders must work together to confront and resolve the challenge of climate change in regards to appropriate compensation on L&D. The

scientific community has been sending an alarming message and also by consistently emphasizing the need for quick action. The impact of the loss of snow in the Hindu Kush Himalayas is a glaring example of how the life and livelihood in the lower basin in South Asia and some parts of South East Asia will be adversely affected.

### **Climate Financing Challenges**

1. There may be project delays or cancellations as a result of committed climate financing not being delivered to recipients at the same rates as other forms of development finance. The pattern's implicit lack of predictability undermines recipients' confidence in providers' ability to fulfill commitments and hinders their ability to plan and integrate climate-related initiatives into larger development plans.

2. Grants are far less common than loans when it comes to funding climate programs, and they run the risk of increasing the unmanageable debt loads of the receiving nations. Loans account for more than two thirds of official climate money, which is a proportion far greater than the average of 52% for all official flows to developing nations. This contrasts with the requests made by beneficiaries for grant-based funding that is more reasonably priced. Furthermore, we discover that during the last ten years, a substantial increase has occurred in the proportion of loan-based climate financing to low-income nations deemed to be at high risk or experiencing external debt distress. This finding raises questions regarding the degree to which providers are coordinating their climate finance with broader debt sustainability considerations.

3. The scale of climate projects is decreasing as there are more providers of climate money. Although fragmentation of projects and multiplication of providers are common in development flows to many sectors, climate financing has observed these trends occurring at faster rates. Climate-vulnerable nations are finding it difficult to obtain money at the scale required to produce transformative effects in the face of an increasingly complex financing environment, and rising transaction costs are further taxing the ability of receivers.

4. Funding for reducing emissions is becoming less and less tied to individual nations. This pattern raises significant concerns about who should pay for and benefit from mitigation initiatives, how to balance the global and local benefits of funding for global public goods, and ultimately who "owns" climate mitigation programs, as around one-third of mitigation funding is now unallocated.

5. Government budgets receive very little direct funding for climate change. Budget support lags much further behind in climate funding, albeit making only a small portion of overall development finance. The majority of climate interventions are implemented through project-based mechanisms, which run the danger of adopting a disjointed strategy and avoiding national structures. Even if "direct access" project modalities have been proposed as a viable way to boost recipient ownership, there is still a lot of room to expand their effects.

6. There is a dearth of reliable data regarding the effects of climate finance. Even when taking into consideration the relative novelty of flows targeting climate action, there is a considerable disparity in the amount of evaluations and systematic reviews published on climate adaptation, mitigation, or resilience compared to other sectors that are targeted by development finance.

Source: *Climate Finance Effectiveness: Six Challenging Trends*, Beata Cichocka and Ian Mitchell

The UNFCCC anticipates that actors will support L&D-related activities more and better. To hold the private sector accountable for loss and harm, whether caused by non-financial or financial means, however, an extra framework is required. In an effort to define a funding mechanism, a recent study proposes using the "polluter pays principle" to extract money from large corporations in order to partially offset their environmental effect. Such a concept might serve as a springboard for additional research into the financial involvement of private parties. In terms of non-financial actions, businesses should conduct thorough evaluations and management of climate risk to efficiently guide investments in the mitigation of L&D. Companies should also promote inclusive policies that take the needs of people who will be directly impacted into account.

People who live in high-risk areas would incur a wide range of losses and damages, for which there is no one source of funding adequate. Therefore, it is important for national governments and other stakeholders to compile and organize various funding sources, and then organize and distribute them appropriately. In a similar vein, national governments and their international partners may establish a national solidarity fund to provide funding and access different sources of funding already in place. To efficiently layer sources in each scenario, institutional setups and financial architecture are needed.



*Image: <https://www.cop28.com/>*

## Recommendations for Future Direction

### To: Political Parties/Governments

- Enact and adopt adequate domestic laws and policies, coordination between agencies, awareness building, readiness, and reaction on climate action.
- Create a supportive environment for research, analysis, and evaluation to guide laws and policy and ensure effective participation on a global scale and involvement of national and local players.
- Design a solid legal framework to ensure victims of human rights violations brought on by climate change towards securing justice in real life.
- Uphold the notion of the advancement of environmental democracy with more cognizant of environmental challenges and climate change policy responses.
- Advance a crucial role in pushing the environmental agenda and defending fundamental democratic tenets through inter-party competition during election campaigns and through their election manifestoes.
- Work towards increasing public awareness of environmental issues and elevating them to a higher priority in countries where environmental concerns are not well-known or taken seriously.
- Design political/electoral manifestos to enshrine a commitment to adapt to climate change and reduce disaster risk, also by establishing a common understanding and practical strategy by all political forces around the L&D.
- Ensure accountability in protecting vulnerable populations, disaster displacement, and raising awareness among stakeholders about issues related to climate change, biodiversity conservation, and ecosystem balancing that directly affect their way of life.

### To: Global Corporates and Private Sector

- *Take immediate action to mitigate L&D risks by utilizing existing strategies and funding sources:* The overwhelming body of data indicates that L&D are already occurring and will only worsen as a result of global warming, particularly for disadvantaged populations and the impoverished in the global South, notably in LDCs and SIDS.
- *National and sub-national actors, as well as their international partners, start developing strategies and action plans to address L&D risks:* International donors and financial institutions should take the lead to explicitly allocate funds to real actions that mitigate L&D risks in the most vulnerable nations. They should promptly support LDCs/SIDS in their efforts to conduct thorough assessments of the risks they face and to create comprehensive multisectoral strategies to mitigate those risks.

- *Adopt a pragmatist strategy based on the multifaceted and intersectional risks faced by the poor and marginalized populations in the global South who are most vulnerable to the effects of climate change:* Starting from the ground up, such an approach should evaluate the nature of L&D risks as they relate to these groups and the specific risks associated with the various climate hazards that these communities are anticipated to encounter under various warming scenarios. They should pay close attention to the unique needs, preferences, and priorities of these groups, taking into account their understanding of the risks of L&D they face as well as the kinds of solutions they prefer to use in the pursuit of a future resilient to climate change.
- *Give the most vulnerable people's L&D risks priority:* Those who are poor and members of marginalized groups stand to lose the most from climate change. The negative effects of climate change are putting billions of impoverished and marginalized people in the global South at greater danger. These people could lose their cultures, social networks, sense of identity, and even their lives as a result of climate shocks. Despite having contributed the least to global warming, they are already the ones most affected, and their ability to adapt to the changes in climate is severely limited. Even the slightest climate shock can force them over the edge of adaptation and into an intergenerational downward spiral of poverty and vulnerability because of the non-economic losses and damages they suffer, which are not taken into account in conventional assessments of L&D risks or consequences.
- *Must first conduct a thorough assessment of the kinds of L&D that are most important to marginalized groups and those who are impoverished.* Actions to support these groups in addressing the risks they face must then be delivered with an emphasis on respecting their rights and being appropriate to their priorities, preferences, and circumstances. This should be done through a thorough analysis of their values, vulnerabilities, and lived experiences.
- *Recognize that the risks of L&D are multifaceted, intersectional, and dynamic:* Individuals are impacted by climate change in many ways, based on their unique situation as well as the social, political, environmental, and economic context in which they live. Because of these variations, different persons will be affected by climatic shocks in various ways, and measures taken to mitigate L&D must take those variations into consideration. Multidimensional risks and the intersectional lines that spread vulnerability to climate impacts must be taken into consideration when taking action to address L&D risks. Additionally, they need to be flexible and adaptable enough to react to how L&D risks change over time for various populations in various locations.
- *Assist nations and communities that are extremely vulnerable in evaluating their risks of L&D by employing strong methodologies:* There are currently no methods, instruments, or regulations for

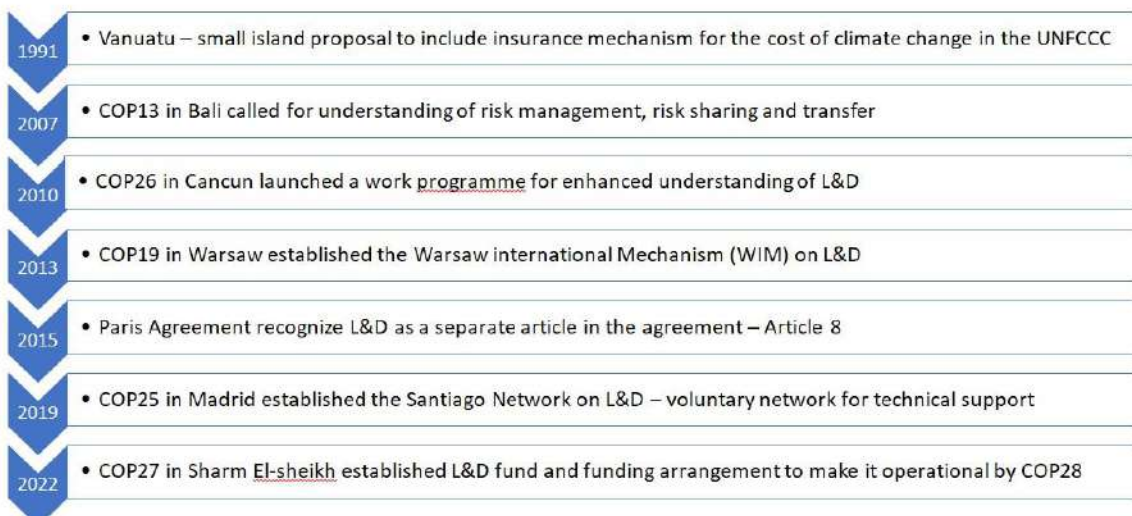
evaluating multidimensional L&D risks in a disaggregated manner that account for changing climate conditions and other scenarios; as a result, they must be created by using climate models to generate a variety of climate scenarios, including fat-tail events; overlaying climate projections on maps of socioeconomic and biophysical vulnerability; creating probabilistic models of climate risk for specific hazards in specific locations; and combining insights from traditional knowledge, community level data, or citizen science data with climate scenarios and hazard risk maps.

- *Ensure that strategies incorporate solid data on the multifaceted and intersectional vulnerabilities and exposure of marginalized groups and the impoverished:* Methods for evaluating the risks of L&D must also incorporate an evaluation of the possibility that preventable hazards may become inevitable residual risks and pinpoint the indicators or triggers that signal when the boundaries of adaptability are being crossed. Concerned agencies need to make it a top priority to develop procedures, instruments, and guidelines for conducting such assessments.
- *Create all-encompassing plans and strategies that overlay complementing procedures to mitigate L&D concerns:* Stakeholders at all levels—local, national, and international—should work to create all-encompassing strategies and action plans to deal with L&D. These plans should layer various action types in complementary ways to address the range of risks that are likely to affect various locations and people in various scenarios.
- *Consider the roles that various players at local, national, and international level can play in addressing threats by utilizing various capacities, resources, technologies, and knowledge formats:* The process of creating such policies would be very beneficial for national governments, especially in high-risk developing nations (LDCs & SIDS), and their international partners should give priority to providing the funding and technical assistance necessary to make this possible. For maximum efficacy, these tactics and plans of action must additionally:
  - Be integrated into other planning and strategy development processes that aim to deliver climate-resilient development.
  - Take an inclusive, whole-of-society approach that is focused on delivering locally-led action to address L&D, based on the principle of integrated subsidiarity, and that prioritizes the participation of marginalized groups and people living in poverty who have been affected by or who are at risk of L&D
  - Take a whole-of-government approach that uses the issue of L&D to bring together the various sectors and levels of government that will be affected by adverse climate impacts to develop a coherent strategy in which each arm of government adopts appropriate measures to tackle the forms of L&D that will impact them.

To: **Civil Society and the Media**

- Educate and enable voters to raise concern over a minimum standard for election manifestos that properly respond to climate and nature emergencies, are embedded in democracy and fairness, and include showing leadership on existing international commitments.
- Be vigilant that political parties incorporate electoral agenda containing clean, green home-grown energy, reduction of carbon emissions from transport, and ensure a healthy environment for all.
- Launch a campaign to ensure that political parties and candidates argue for cheaper, better public transport to create safer, quieter streets, cleaner air, and wider job opportunities, especially for young people.
- Initiate a major monitoring program to support and ensure clean industries and force polluting businesses and other private sectors to mandatorily align with climate and nature goals in conformity with the SDGs.
- Lobby for the introduction of a new human right to a clean, healthy, and sustainable environment to effectively tackle environmental pollution, protect nature, and uphold standards.
- Initiate a “Climate Voters” campaign to promote a climate pledge for contesting parties and candidates and rank them with public report cards in accordance with their commitment and words into action.
- Launch a systematic advocacy to spark a race to the top where the major parties strive to be the best on climate action with an aspiration to send a record number of MPs with stronger climate policies in the parliament.

## L&D: INT’L NEGOTIATION TIMELINE



## ANNEXURE

### Annex I: **Legal Obligations under UNFCCC**

The following are the legal obligations under the UNFCCC that have been referenced in this study:

Article 3.1: "The Parties should protect the climate system for the benefit of present and future generations of humankind, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities. Accordingly, the developed country Parties should take the lead in combating climate change and the adverse effects thereof."

Article 3.2: "The specific needs and special circumstances of developing country Parties, in particular those that are particularly vulnerable to the adverse effects of climate change, and of those Parties, in particular developing country Parties, that would have to bear a disproportionate or abnormal burden under the Convention, should be given full consideration."

Article 3.3: "The Parties should take precautionary measures to anticipate, prevent or minimize the causes of climate change and mitigate its adverse effects."

Article 3.4: "The Parties have a right to, and should, promote sustainable development. Policies and measures to protect the climate system against human-induced change should be appropriate for the specific conditions of each Party and should be integrated with national development programs, taking into account that economic development is essential for adopting measures to address climate change."

Article 4.1: "All Parties, taking into account their common but differentiated responsibilities and their specific national and regional development priorities, objectives and circumstances, shall:

- (b) Formulate, implement, publish and regularly update national and, where appropriate, regional programmes containing measures to mitigate climate change..... [and] facilitate adequate adaptation to climate change;
- e) Cooperate in preparing for adaptation to the impacts of climate change; develop and elaborate appropriate and integrated plans for coastal zone management, water resources and agriculture, and for the protection and rehabilitation of areas, particularly in Africa, affected by drought and desertification, as well as floods".

Article 4.3: "The developed country Parties and other developed Parties included in Annex II shall provide new and additional financial resources to meet the agreed full costs incurred by developing



country Parties in complying with their obligations under Article 12, paragraph 1". "The implementation of these commitments shall take into account the need for adequacy and predictability in the flow of funds and the importance of appropriate burden sharing among the developed country Parties."

Article 4.4: "The developed country Parties and other developed Parties included in Annex II shall also assist the developing country Parties that are particularly vulnerable to the adverse effects of climate change in meeting costs of adaptation to those adverse effects."

Article 4.5: "The developed country Parties and other developed Parties included in Annex II shall take all practicable steps to promote, facilitate and finance, as appropriate, the transfer of, or access to, environmentally sound technologies and know-how to other Parties, particularly developing country Parties, to enable them to implement the provisions of the Convention. In this process, the developed country Parties shall support the development and enhancement of endogenous capacities and technologies of developing country Parties. Other Parties and organizations in a position to do so may also assist in facilitating the transfer of such technologies."

Article 4.7: "The extent to which developing country Parties will effectively implement their commitments under the Convention will depend on the effective implementation by developed country Parties of their commitments under the Convention related to financial resources and transfer of technology and will take fully into account that economic and social development and poverty eradication are the first and overriding priorities of the developing country Parties."

Article 4.8: "In the implementation of the commitments in this Article, the Parties shall give full consideration to what actions are necessary under the Convention, including actions related to funding, insurance and the transfer of technology, to meet the specific needs and concerns of developing country Parties arising from the adverse effects of climate change and/or the impact of the implementation of response measures, especially on:

- a) Small island nations;
- b) Low-lying coastal regions;
- c) Arid and semi-arid regions; forested regions; and regions susceptible to forest decay;
- d) Regions vulnerable to natural disasters;
- e) Regions vulnerable to drought and desertification;
- f) Regions with high urban atmospheric pollution;
- g) Regions with fragile ecosystems, including mountainous ecosystems;
- (i) nations in transit and landlocked nations.

## Annex II: **Recommendations for Decision Text in Doha**

To address climate change and its negative repercussions, Parties should take the initiative to:

- Recognize that the main factor causing L&D caused by the adverse effects of climate change is insufficient mitigation measures.
- Acknowledge the findings of the most recent IPCC report on Managing the Risks of Extreme Events and Disasters to Advance Climate Change Adaptation, which featured proof that anthropogenic influences, such as increases in greenhouse gas concentrations in the atmosphere, had altered some extremes.
- Recognize that emissions from Annex I Parties have historically caused and will continue to cause loss and hardship in poor countries that are more vulnerable to the negative effects of climate change.
- Remember choices 13/CP, 16/CP, and 17/7.
- Understand that L&D can take the form of non-financial losses as well as financial ones, such as the devastation of values, cultural heritage, and ecosystems.
- Acknowledge that the L&D caused by the adverse effects of climate change are likely to jeopardize the right to sustainable development and erode the likelihood of long-term sustainable development.
- Acknowledge that the UNFCCC is the proper policy forum and that it ought to lead conversations about ways to assist developing countries—which are particularly susceptible to the adverse effects of climate change—in coping with L&D. This includes approaches for damage rehabilitation and compensation.
- Acknowledge further how important it is to address L&D in poor countries—which are more susceptible to the adverse effects of climate change—in a coherent and well-coordinated manner at both the international and local levels.
- Establish the International Mechanism on Compensation and Rehabilitation, or Mechanism, to compensate developing countries that are especially vulnerable to the adverse consequences of climate change for losses and damages they have sustained.
- Begin working on creating the rules and regulations for the International Mechanism on Compensation and Rehabilitation in order to have it operational by COP20.
- Request the President of the Conference of the Parties to nominate one co-chair from a developing country party and one from a developed country party for the work programme outlined in paragraph 2 above.

- Ask the co-chairs to provide the International Mechanism on Compensation and Rehabilitation's comprehensive policies and procedures to the Conference of the Parties for approval during its twentieth session.
- Specify that the International Mechanism on Compensation and Rehabilitation will carry out the following duties:
  - a. Offer global coordination and monitoring for risk-transfer strategies to address insurable L&D
  - b. Establishes and manage a fund for compensation and rehabilitation to address L&D that cannot be covered by insurance or other risk-transfer mechanisms.
  - c. Create and implement strategies to deal with non-economic loss.
  - d. Creates and encourage the use of financial tools, perhaps including emergency trust funds, to assist poor nations that are more susceptible to the negative consequences of climate change in the event that extreme or slow-onset catastrophes cause catastrophic shocks to economies:
- Determine that the Subsidiary Body for Implementation will develop the components of a comprehensive framework on L&D under the Convention as part of its work program. This framework, among other things will:
  - a. Offer institutional backing and systematic coordination of actions for L&D reduction and avoidance.
  - b. Coordinate efforts made in accordance with the Convention to comprehend and mitigate the effects of slow-onset occurrences.
  - c. Offer intuitive leadership and international coordination of efforts to deal with L&D, including by ensuring coherence and cooperation with the work of regional centers and other intergovernmental bodies, including the IOM and the UNOCHA.

Annex 3: **Members Nominated to the L&D Fund Board**

Abdulla Ahmed Belala Al Harthi	United Arab Emirates	Asia-Pacific States	Didar Temenov (Kazakhstan)
Mohammad Ayoub	Saudi Arabia	Asia-Pacific States	Ali Tauqeer Sheikh (Pakistan)
Mark Dennis Y.C. Joven	Philippines	Asia-Pacific States	Gholamhossein Darzi (Iran)
Richard Sherman	South Africa	African States	Selam Kidane Ababe (Ethiopia)
Mohamed Nasr	Egypt	African States	Tosi Mpanu Mpanu (Democratic Republic of the Congo)
David Kaluba	Zambia	African States	Sumaya Zakiedeen Hamdan (Sudan)
Liliam Beatris Chagas de Moura	Brazil	Latin American and Caribbean States	Corina Lehmann (Argentina)
Elena Pereira	Honduras	Latin American and Caribbean States	Jaime Tramon (Chile)
Avinash Persuad	Barbados	Latin America and Caribbean States	Anthony Ferguson (Bahamas)
Adao Soares Barbosa	Timor Leste	The least developed countries	Maheshwar Dhakal (Nepal)
Djibrillbila	Benin	The least developed countries	Madeleine Diouf Sarr (Senegal)

## Annex 4: **COP28: Key Consensus and Takeaways**

**Global Stocktake (GST):** In light of an abandonment of fossil fuels and a dedication to the energy shift, Parties adopted a decision on the GST in the last hours of the conference, after extensive debate over draft texts. The GST resolution was the conference's main decision. It covers nearly every topic that was negotiated and will influence how nations establish their next NDCs in 2025. Further, it encapsulates the political outputs from the technical assessment conducted earlier this year regarding the Parties' progress concerning their NDCs.

The announcement of the decision was welcomed by many Parties and dubbed "historic" by the COP28 Presidency, US, Germany, Denmark, and others. To reach net zero by 2050, the language of GST showed a commitment to a fair and just transition away from fossil fuels in energy systems. It also exhorts Parties to include aggressive, economy-wide emission reduction objectives in their next NDCs.

On the contrary, several states, including the Alliance of Small Island States (AOSIS), expressed dismay that the text was not stronger, noting that "the course correction that is needed has not been secured" and expressing concern about the lack of commitment to "phasing out" fossil fuels. As AOSIS were absent from the plenary room when the GST decision was made, their statement on the text will be attached to the final decision.

**Collective Progress:** The final GST decision acknowledges that significant collective progress towards the Paris Agreement temperature goal has been made. However, it highlights the concerns contained in the latest synthesis report on NDCs; that implementation of current national targets is not aligned with the emissions reductions needed to achieve this goal. Accordingly, the GST Decision prompts swift action and support to "keep the 1.5 °C goal within reach" and to address the climate catastrophe this decade. It expresses "serious concern" that 2023 is expected to be the warmest year on record and that repercussions from climate change are accelerating rapidly.

**Implementation and adaptation:** The decision highlights once more, with "alarm and serious concern," the conclusions of the most recent assessment report from the IPCC, which indicate that there are "significant adaptation gaps" that would only widen under the current course of action. The decision notes that the Parties have resolved to promptly address the "implementation gap" that exists between the current NDC commitments and policy implementation.

**Capacity building:** There is still a capacity gap between wealthy and developing nations, notwithstanding advancements in the Parties' ability to adapt to climate change and implement mitigation measures. In addition to asking the Financial Mechanism and Adaptation Fund to give poor nations more assistance with capacity building, the text asks the Paris Committee on Capacity Building to list current initiatives for improving capacity building in developing nations.

**L&D:** The decision notes the need for enhanced action on L&D, including through the Warsaw International Mechanism. A significant gap remains in how L&D is addressed and as the scale and frequency increases. So, by 2027, early warning systems for extreme weather and climate change must be operational around the world.

**Finance:** The main takeaway from the discussions on finance was that there is a significant funding gap, and that flows of financing that are aligned with climate goals need to be increased and made easier to access. The GST ruling expresses concern over the growing gap in adaptation financing and the continued inadequacy of technology transfer, climate finance, and capacity building for adaptation in response to the escalating effects of climate change on developing country Parties. The ruling demands that access to climate finance be made easier and that its scope and efficacy be maintained. This includes the provision of grants and other extremely favorable types of funding.

It also emphasizes the role of governments, central banks, commercial banks, institutional investors, and other financial actors in improving the assessment and management of climate-related financial risks, ensuring or enhancing access to climate finance in all geographical regions/sectors, and accelerating the ongoing establishment of new and innovative sources of finance, such as taxation for implementing climate action. These measures enable the scaling down of harmful incentives.

**Energy transition and treatment of fossil fuels:** The most contentious portion of the proposed GST texts was the wording regarding the transition from fossil fuels, specifically whether to include language advocating for a "phase out" or "down" of fossil fuels. All Parties expressed discontent with the draft texts when they were released earlier in the week, but high ambition nations expressed their displeasure in particular because they felt the texts did not match the 1.5°C temperature objective set forth in the Paris Agreement and rather, used ambiguous wording regarding fossil fuels. "Deep, rapid, and sustained reductions in greenhouse gas emissions in line with 1.5°C pathways" are acknowledged in the final conclusion. It asks Parties to make domestically defined contributions to a variety of

international initiatives, while keeping in mind the Paris Agreement and their unique national situations, paths, and strategies. Some of these initiatives are:

- Tripling renewable energy capacity globally and doubling the global average annual rate of energy efficiency improvements by 2030.
- Accelerating efforts towards the phase-down of unabated coal power.
- Transitioning away from fossil fuels in energy systems, in a just, orderly, and equitable manner
- Accelerating action in this critical decade, to achieve net zero by 2050 in keeping with science.
- Advancing low-emission technologies, including renewable, nuclear, abatement and removal technologies particularly in hard-to-abate sectors. For instance, carbon capture and utilization.
- Accelerating and substantially reducing non-carbon-dioxide emissions globally by 2030.
- Phasing out inefficient fossil fuel subsidies that do not address energy poverty as soon as possible.

**L&D:** One of the conference's first and most important decisions was the Parties' agreement to operationalize the L&D Fund. The United Nations Office for Disaster Risk Reduction (UNDRR) and the United Nations Office for Project Services (UNOPS) have decided to host the Santiago Network on L&D as a dedicated Secretariat.

**Climate adaptation:** The Parties decided on a framework for the GGA, which will direct international efforts at adaptation and improve assistance for developing nations' adaptation needs. Four 2030 targets related to risk assessments, planning, implementation, monitoring, and learning about climate change are included in the framework. The framework also includes other aims, such as reducing water scarcity caused by climate change and improving climate resilience to water-related hazards.

**Article 6 markets:** Parties were unable to agree on texts to advance markets in accordance with Articles 6.2 and 6.4 of the Paris Agreement, which was a disappointing result. However, several agreements under Article 6.2 were signed off-camera during the conference and Parties may still engage in bilateral cooperation under Article 6.2. It is important to note though that there is still some degree of uncertainty regarding reporting, transparency, and authorization procedures. It will take at least another year for the crediting system to operationalize due to the lack of consensus on methodology under Article 6.4. Aside from negotiations, the COP28 witnessed the endorsement of carbon markets by political and business figures as a crucial means of financing climate change. Additionally, voluntary standards announced cooperation to strengthen transparency and accountability in the voluntary market. These initiatives should serve to stabilize the voluntary carbon market, which has experienced significant volatility in the past year.

## Annex 5: **COP28-Key Themes for Consideration**

In addition to discussing the state of fossil fuels today and in the future, the GST decision includes important language relating to critical themes throughout the conference:

**Science:** There are multiple references in the decision to the findings of the IPCC's sixth Assessment Report which are significant. The IPCC's conclusion that human activity has "unequivocally" caused global warming of about 1.1 °C is noted with "alarm and serious concern" in the decision. It also states that the effects of the climate are already being felt in every region of the world and are disproportionately affecting those who have contributed the least to these impacts. The decision takes into account the IPCC's conclusion that, with the right assistance and collaboration in terms of technology, there are currently feasible and efficient mitigation solutions available in every sector to keep 1.5 °C within reach.

**Equity:** The importance of equity between Parties, as well as the principle of common but differentiated responsibilities and respective capacities, were reiterated frequently throughout discussions on the GST, and the final decision text.

**Nature:** Throughout the conference, a recurring theme was the vital connections between preserving biodiversity and attaining emission reductions. This is evident in the decision text, which highlights the significance of maintaining the integrity of all ecosystems and the preservation of biodiversity in addition to stressing the need of conserving, protecting, and restoring nature and ecosystems to meet the temperature target set by the Paris Agreement. The final wording also contained a reference to increased efforts to stop and reverse deforestation and forest degradation by 2030.

**Technology and AI:** The GST decision highlights the fundamental role that innovation, endogenous technologies, and technological development and transfer play in enabling quick adaptation and mitigation measures. Interestingly, the decision brought attention to the Technology Mechanism Initiative on Artificial Intelligence for Climate Action, which investigates how AI might help with mitigation and adaptation to climate change.

Outside of COP28 negotiations, the AI Innovation Grand Challenge was introduced to create AI-based solutions for climate action in developing nations, with an emphasis on Small Island Developing States and Least Developed Nations. The Parties' commitment to create a "technology implementation programme" to bolster support for the implementation of technology priorities recognized by developing nations is also documented in the GST resolution.

**International cooperation:** The final ruling emphasizes how crucial it is for Parties to continue working together and how crucial it is to frame their activities in the framework of accomplishing the Sustainable Development Goals.



### **What does the decision entail for the second GST and next round of NDCs?**

By March 1<sup>st</sup>, parties were asked to provide their insights on the lessons learnt from the first GST. The Secretariat will then compile this material into a synthesis report. Then, the decision of the GST will need to be taken into consideration when the Parties submit their next round of NDCs in 2025.

It is unclear how much the findings of the GST will encourage Parties to aim higher when they do so but in order to improve action and maintain the 1.5°C goal, the Parties have decided to develop a "Road Map to Mission 1.5°C". This seeks to strengthen global cooperation and drive ambition in the next cycle of NDCs. Based on lessons learned during the first GST, the subsidiary bodies will review methods for improving the logistical and procedural aspects of subsequent GST processes the following year.

Looking ahead, the eighth Conference of the Parties serving as the meeting of the Parties to the Paris Agreement (CMA) in 2026 will see the start of information gathering and review for the second GST, with outputs to be taken into consideration at the CMA's tenth meeting in 2028.

### **The L&D Fund**

Parties decided to operationalize the L&D Fund at COP28. Since the L&D Fund will give impoverished countries suffering from the negative effects of climate change much-needed financial help, this is seen as a major turning point in the discussions.

For a four-year interim, the Parties have invited the World Bank to operationalize the L&D Fund as a Financial Intermediary Fund. As per their agreement, even for developed countries, Parties are merely requested to contribute financially to the L&D Fund; there is no mandatory duty to do so. The Fund's Governing Instrument was also accepted by the Parties, and it states among other things:

- Both economic and non-economic L&D related to the negative effects of climate change will be covered by financing from the L&D Fund.
- The Board of the L&D Fund will have an equitable and balanced representation of all Parties within a transparent system of governance.
- All Parties will be fairly and evenly represented on the L&D Fund Board through an open governance structure.
- The L&D Fund will provide funding to developing nations that are more susceptible to the negative effects of climate change.
- The L&D Fund will pursue country-led strategies in an effort to develop and encourage national responses to L&D.

- Contributions to the L&D Fund will come from a multitude of sources, including grants and concessional loans from creative, public, and private organizations.
- The L&D Fund will provide financing in the form of grants and highly concessional lending.
- The L&D Fund quickly secured significant funding. By the end of the conference, pledges to the fund exceeded 700 million USD from:
  - €100 million pledged by France and Italy;
  - 100 million USD pledges by UAE and Germany;
  - and GBP£40 million pledged by the UK.

## **The Climate Finance**

At COP28, Parties continued discussions on setting a New Collective Quantified Goal (NCQG) on climate finance, which would expand on developed Parties' aim of mobilizing USD 100 billion annually by 2020. While a number of Parties claim that the USD 100 billion per year target has not yet been met, an agreement was reached to advance the development of a draft negotiating text for consideration by the Parties at COP29, including at least three technical expert dialogues in 2024 to allow for in-depth technical discussions on the elements of the NCQG.

Numerous initiatives were undertaken to advance climate finance outside of the negotiation rooms. The key announcements were:

- Thirteen national governments endorsed the UAE Leaders' Declaration on a Global Climate Finance Framework which includes 10 Articles over the four themes of making finance available: accessible, and affordable, collective action, opportunity for all, and delivering at scale.
- The UAE, with launch partners BlackRock, Brookfield, and TPG, announced the launch of ALTÉRRRA, an investment platform that aims to facilitate private capital towards climate investments, focusing on emerging markets and developing economies.
- The Australian Government announced that it will provide \$100 million to the Pacific Resilience Facility, which will provide grants for climate adaptation, disaster preparedness and nature-based solutions. It also announced that it will both rejoin and contribute \$50 million to the Green Climate Fund (GCF). The Department of Climate Change, Energy, the Environment and Water (DCCEEW) has stated that by rejoining the GCF, Australia will be better positioned to advocate for funding to meet the needs of the Pacific.

**SAVE SNOW: SAVE CIVILIZATION**



Karakoram-Pakistan: ICIMOD



*\*End of the Study Content\**

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## Reference Text Highlights

- Redress is compensation paid for economic harm, whether in the form of a monetary remedy (eg a voluntary payment, damages, restitution, or other monetary relief) or a conduct remedy with a restorative element (eg an exchange of a good or service, specific performance or rescission of a contract). Organization for Economic Cooperation and Development (OECD), 2007. Recommendation of the Council on Consumer Dispute Resolution and Redress. 12 July C(2007)74.
- University of Hawai'i law professor Maxine Burkett adds an important contribution to thinking about redress and compensation in a recent article on climate reparations (see footnote 42 below for citation). According to

Burkett, "reparation, broadly defined, describes programs that are justified by past harms and are also designed to assess and correct the harm and improve the lives of the victims into the future." She goes on to state that "the ability of reparations to express moral force is what makes reparations so compelling in the climate change context".

- Annex-I Parties are developed countries and countries undergoing the process of transition to a market economy, as defined in Annex-I to the UNFCCC. Annex-II Parties are developed countries. Each group of countries has specific obligations defined by the Convention. Annex-I Parties have specific commitments related to emission reductions established under Article 4.2. On top of these commitments, Annex-II Parties have commitments related to finance and technology transfer as articulated in Articles 4.3, 4.4 and 4.5. More detail on the financial commitments of Annex-II Parties is contained in a later section of the report.
- "Superstorm Sandy caused as much as \$50 billion in economic damage, with about \$10 billion to \$20 billion of insured losses, more than double previous estimates." Gittelson J. 2012. Sandy estimate raised to as much as \$50 billion. Bloomberg.com. 1 November. <http://www.bloomberg.com/news/2012-11-01/sandy-damage-estimate-raised-to-as-much-as-50-billion.html>
- Saleem ul Huq, Executive Director of the International Centre for Climate Change and Development. Comment made during the UNFCCC expert meeting on a range of approaches to address L&D associated with the adverse effects of climate change, including impacts related to extreme weather events and slow-onset events. Bangkok, Thailand. 27 August.
- The UNFCCC background paper (UNFCCC, 2012) provides some introduction to the limits of insurability, both concerning slow-onset events and extreme events. "Traditional risk transfer approaches like loss-based insurance payouts may be unsuitable for longer-term foreseeable climate stressors like sea level rise and desertification. Two preconditions for insurability of disasters are the unpredictability of a specific event, which means that losses occur suddenly and cannot be foreseen; and the ability to spread risk over time, regions, and

- between individuals/entities.
- Although human rights obligations are different for every state, virtually every State has ratified at least some treaties. For example, while the United States has not ratified some conventions—most famously it has not ratified the Convention on the Rights of the Child, which every other state in the world except Somalia has ratified—it has ratified other core treaties, such as the International Covenant on Civil and Political Rights.
  - The UNFCCC background paper on a range of approaches (UNFCCC, 2012) notes that “The impacts of L&D related to climate-related stressors and longer-term climatological shifts can set back socio-economic development and reinforce cycles of poverty across the world. ... Some of these impacts will involve L&D to life, property and other assets important for the sustainable development of those countries which need these resources most, including impacts that contribute to constraints on economic production and non-economic losses.”
  - UNFCCC decision 1/CP.16: “Slow onset events are defined as including sea level rise, increasing temperatures, ocean acidification, glacial retreat and related impacts, salinization, land and forest degradation, loss of biodiversity and desertification.”
  - The IPCC concluded in 2007 that “for the next two decades a warming of about 0.2°C per decade is projected for a range of SRES emissions scenarios”. IPCC. 2007. Climate Change 2007: Synthesis Report. Contribution of Working Groups I, II and III to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change. Geneva, Switzerland: IPCC.
  - The Barbados expert meeting concluded that more work is needed to identify non-economic L&D. Questions identified included: how to address the loss of livelihoods and cultural values; how to preserve the culture of relocated communities; how to “prepare with dignity”; what social protection measures must be developed and supported; what will happen to country sovereignty; how will the definition of economic zone change?
  - Decision 1/CP.16 “Invites Parties to strengthen and, where necessary, establish regional centers and networks, in particular in developing countries, with support from developed country Parties and relevant organizations, as appropriate, and to facilitate and enhance national and regional adaptation actions, in a manner that is country-driven, encourages cooperation and coordination between regional stakeholders and improves the flow of information between the Convention process and national and regional activities.”
  - A high-yield debt instrument that is usually insurance-linked and meant to raise money. In case of a catastrophe such as a hurricane or earthquake. <http://www.investopedia.com/terms/c/catastrophebond.asp#axzz2C70HGZo8>.