

## **MAKING THE LOSS AND DAMAGE FUND ACCESSIBLE FOR VULNERABLE COMMUNITIES AND CIVIL SOCIETY**

**RECOMMENDATIONS BASED ON EXPERIENCE WITH THE GREEN CLIMATE FUND**

**BRIEFING PAPER, JUNE 2023**

### **COSTS OF LOSS AND DAMAGE**

Economic and non-economic loss and damage i.e., adverse climate impacts that occur when the limits of adaptive capacity of countries, communities and ecosystems are exceeded, including because of climate adaptation under-funding, have been rising in recent decades. Economic losses caused by extreme weather events alone have grown by a factor of five between 1970 and 2019, with an average annual loss of USD 140 billion since 2010.<sup>1</sup> According to the World Meteorological Organization, these events will continue to rise in terms of frequency, severity and unpredictability. Losses caused by slow onset events like sea level rise exacerbate these impacts. The future cost of these events for developing countries is estimated at USD 428 billion annually in 2030, and at USD 1.67 trillion in 2050, if global temperatures rise by 3°C.<sup>2</sup>

Most at risk are climate vulnerable countries and communities. The 58 member-countries of the Climate Vulnerable Forum, the majority of which are formed by Small Island Developing States (SIDS) and Least Developed Countries (LDCs) representing 1.4 billion people and responsible together for less than 5 percent of global GHG emissions, said that they lost 20 percent of their wealth in the last 20 years, due to climate change.<sup>3</sup> At the same time, the high reconstruction costs following severe weather events have become a major cause of their rapidly growing indebtedness, which grew from USD 464 billion in 2015 to USD 686 billion in 2020. In order to achieve the Sustainable Development Goals (SDGs) and put member countries on a development path compatible with the climate goals of the Paris

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<sup>1</sup> <https://www.cib.barclays/our-insights/extreme-weather/The-economic-costs-of-extreme-weather.html>.

<sup>2</sup> [https://www.brot-fuer-die-welt.de/fileadmin/mediapool/2\\_Downloads/Fachinformationen/Analyse/ClimateFinance\\_LossDamage.pdf](https://www.brot-fuer-die-welt.de/fileadmin/mediapool/2_Downloads/Fachinformationen/Analyse/ClimateFinance_LossDamage.pdf).

<sup>3</sup> [https://thecvf.org/wp-content/uploads/2022/05/Climate-Vulnerable-Economies-Loss-Report\\_Project\\_june\\_2022.pdf](https://thecvf.org/wp-content/uploads/2022/05/Climate-Vulnerable-Economies-Loss-Report_Project_june_2022.pdf).

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Agreement, further investments of USD 3.2 trillion are required by 2050 but sufficient financial resources are lacking, given the dramatic debt situation.<sup>4</sup>

Without international support, these countries will neither be able to close the protection gap against further massive climate loss and damage nor will they be able to make the transition to carbon-free sustainable development – two sides of the same coin.

## THE PROTECTION GAP

*“Let those who brought the sun closer to us come and put it back again, so that we will have rain; we will have water; we will have crops; we will have peace”.<sup>5</sup>*

The recent Intergovernmental Panel on Climate Change (IPCC) assessment report confirms that the largest resilience gap exists for poor populations, smallholder farming households, indigenous communities and for women, children, the elderly and coastal communities in developing countries. For them, insufficient access to finance is the biggest hurdle to become climate resilient<sup>6</sup>, given that only 4-8 percent of tracked climate finance since 2014 was spent for adaptation<sup>7</sup>, only 20 percent for decentralised action<sup>8</sup>, and less than 1 percent to address loss and damage.<sup>9</sup> According to the IPCC, food and water security, health, living standards and peace, among other things, are endangered by climate-induced loss and damage for an increasing number of vulnerable people. Beyond 2040 and depending on the level of global warming, adverse impacts will be multiple times higher, and related losses will escalate with every increment of global warming.<sup>10</sup> The fact that poor and vulnerable populations are disproportionately affected, and that they will be even more so in future, is a serious violation of fundamental principles of climate justice and equity.

## ADDRESSING LOSS AND DAMAGE AS A STATE OBLIGATION UNDER INTERNATIONAL HUMAN RIGHTS LAW

Core social and economic human rights, e.g., the right to adequate food, water, health and housing are threatened by loss and damage. These rights are acknowledged by the Paris Agreement in its preamble<sup>11</sup> and protected by human rights treaties enshrined in international law.<sup>12</sup> Legal human rights entitlements are different from aspirational political goals (e.g., the SDGs). They can be claimed by the rights holders, and State Parties to the human rights treaties are obliged to apply a maximum of available resources to respect, protect, and progressively fulfill human rights.<sup>13</sup> The Office of the United Nations High Commissioner for Human Rights presented a comprehensive report to the 21st Conference of the Parties to the United Nations Framework Convention on Climate Change (UNFCCC) (COP21) which demonstrated how loss and damage is negatively affecting human rights,

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<sup>4</sup> *Ibid.*

<sup>5</sup> Quotation from the Fourth African Dialogue on Loss and Damage, September 2022.

<sup>6</sup> See chapter 17 in [https://report.ipcc.ch/ar6/wg2/IPCC\\_AR6\\_WGII\\_FullReport.pdf](https://report.ipcc.ch/ar6/wg2/IPCC_AR6_WGII_FullReport.pdf).

<sup>7</sup> See chapter 15 in [https://www.ipcc.ch/report/ar6/wg3/downloads/report/IPCC\\_AR6\\_WGIII\\_FullReport.pdf](https://www.ipcc.ch/report/ar6/wg3/downloads/report/IPCC_AR6_WGIII_FullReport.pdf).

<sup>8</sup> <https://www.oecd.org/environment/climate-finance-provided-and-mobilised-by-developed-countries-in-2013-18-f0773d55-en.htm>.

<sup>9</sup> [https://unfccc.int/sites/default/files/resource/Initial\\_SR\\_25%20March%2025%201500hrs.pdf](https://unfccc.int/sites/default/files/resource/Initial_SR_25%20March%2025%201500hrs.pdf).

<sup>10</sup> [https://report.ipcc.ch/ar6/wg2/IPCC\\_AR6\\_WGII\\_FullReport.pdf](https://report.ipcc.ch/ar6/wg2/IPCC_AR6_WGII_FullReport.pdf).

<sup>11</sup> [https://unfccc.int/files/essential\\_background/convention/application/pdf/english\\_paris\\_agreement.pdf](https://unfccc.int/files/essential_background/convention/application/pdf/english_paris_agreement.pdf).

<sup>12</sup> See for instance the Covenant on Economic, Social and Cultural Rights at

<https://www.ohchr.org/sites/default/files/cescr.pdf>.

<sup>13</sup> [https://www.brot-fuer-die-](https://www.brot-fuer-die-welt.de/fileadmin/mediapool/2_Downloads/Fachinformationen/Analyse/ClimateFinance_LossDamage.pdf)

[welt.de/fileadmin/mediapool/2\\_Downloads/Fachinformationen/Analyse/ClimateFinance\\_LossDamage.pdf](https://www.brot-fuer-die-welt.de/fileadmin/mediapool/2_Downloads/Fachinformationen/Analyse/ClimateFinance_LossDamage.pdf).

stressing that States are accountable for ensuring that the human rights of their population are not threatened by climate-induced loss and damage<sup>14</sup>. If this cannot be avoided, States are obliged to take measures to redress the situation, as was again reiterated by the UN Special Rapporteur on Human Rights and the Environment, David Boyd, in 2019. On financing loss and damage, the Special Rapporteur recommended that “States must establish one or more new financing mechanisms that generate revenues to fund payments for loss and damage suffered by vulnerable developing countries”.<sup>15</sup> Providing financial support to redress human rights violations resulting from climate-induced loss and damage is thus not only a voluntary act of solidarity, but a legal State obligation. If the respective capacity of a State is strained i.e., a maximum of available resources was already spent, the legal obligation to provide financial support is extended to the community of States and particularly the richer States, which are more capable than others.<sup>16</sup>

Many poor and climate vulnerable States are overburdened with the fulfilment of the rights and legitimate compensation claims of their citizens. So far, the international community of States has breached its human rights obligation to support them. As pointed out above, there is **a gap of adequate funding arrangements to effectively address loss and damage of vulnerable communities**. Thus, the **Loss and Damage Fund** and the accompanying funding arrangements – agreed at the UNFCCC COP27 – **should be designed in such a way that it contributes in priority to closing this funding gap, as required to fulfil the aforementioned human rights duties of States**.

In terms of **scope and in order to be consistent with human rights**, the Loss and Damage Fund **should be mandated to use a maximum of resources available to meet the claims of the most vulnerable people**, as reflected in State obligations codified in international law.

## **DIRECT COMMUNITY ACCESS TO LOSS AND DAMAGE FUNDING: A KEY REQUIREMENT TO REACH THE MOST VULNERABLE**

In order to be able to effectively help people particularly affected by loss and damage in emergency situations, **rapid, unbureaucratic access to finance for those affected** is of central importance.

The provision of targeted support to those most affected by loss and damage, in the form of **rehabilitation, reconstruction or, where appropriate, resettlement activities**, requires, in addition to indirect support to those affected (via the respective governments), appropriate mechanisms to allow for **direct access be given to affected communities or civil society organisations (CSOs) that support them**. If this option does not exist, the risk is great that marginalised population groups or remote communities in particular will receive no, insufficient or very late support. This would be tantamount to the Loss and Damage Fund discriminating against the most vulnerable groups.

Apart from addressing loss and damage caused by extreme events, vulnerable communities also require access to direct support in case of **loss and damage caused by slow onset events** like sea level rise or drought, including **non-economic losses** (e.g., biodiversity loss, loss of habitat, artefacts, mental health).

By focusing on providing direct access to vulnerable communities and CSOs they work with, the Fund would emphasise the position of those directly affected as holders of inalienable rights, and would also comply with the principle of subsidiarity as well as with

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<sup>14</sup> <https://www.ohchr.org/sites/default/files/Documents/Issues/ClimateChange/COP21.pdf>.

<sup>15</sup> <https://reliefweb.int/report/world/safe-climate-report-special-rapporteur-human-rights-and-environment-a74161>.

<sup>16</sup> Ibid.

the principles for locally led adaptation.<sup>17</sup> It would make the Loss and Damage Fund **unique** and a **specialised place to galvanise expertise in addressing loss and damage suffered by vulnerable communities**. What is required for this to happen is explained below.

## LESSONS TO BE LEARNED FROM THE GREEN CLIMATE FUND (GCF)

The Green Climate Fund is the most recent, financially powerful, and prominent climate fund under the umbrella of the United Nations Framework Convention on Climate Change (UNFCCC). As such, it has been cited as an important reference point to learn from in the debate on the future form and function of the Loss and Damage Fund.<sup>18</sup> In 2021, CIDSE conducted a study analysing the GCF, its role vis-à-vis vulnerable communities and its openness to civil society.<sup>19</sup> The following is a recap of the key findings in light of the above **core requirements** for the Loss and Damage Fund in order to draw conclusions.

### Does the GCF prioritise vulnerable people and their basic needs and entitlements?

The GCF is mandated to especially take into account the needs of those developing countries particularly vulnerable to the adverse effects of climate change, resulting in the promotion of resilient livelihoods of vulnerable people, with a benchmark of at least 50 percent of the financial adaptation allocation to the needs of these countries (as per GCF definition: SIDS, LDCs and African countries).<sup>20</sup> As of mid-May 2023, the implementation record looked modest with respect to the vulnerability focus: USD 2.3 billion out of a total volume of 12 billion approved funds (22.5 percent) was spent on the thematic adaptation priorities that matter the most for vulnerable communities (food and water security, health and livelihoods), and 40 percent for adaptation altogether.<sup>21</sup> None of the projects that fall under this heading are implemented under the leadership of a national or locally-based NGO or even a community. Furthermore, only 11 percent of all approved projects have a funding volume of less than USD 10 million (micro projects) and only 41 percent are grant-based, to take two additional criteria that are relevant for communities and CSOs they work with.

### Does the GCF provide fast and unbureaucratic support?

Both the accreditation process and the actual application procedure are very lengthy and extremely bureaucratic processes which usually take several years from initial submission to approval by the GCF Board; they require highly specialised expertise and considerable financial resources on the part of the applicants as well as the full support of the project country's government. This model is completely unsuitable for quick support for loss and damage suffered by vulnerable people.

### Does the GCF grant access to affected communities and CSOs they work with?

CSOs, especially local CSOs are disproportionately disadvantaged in the highly bureaucratic and time-consuming accreditation access, given the Fund's high fiduciary standards and other legal and formal requirements that are designed for the private sector. This explains why only six CSOs were accredited at the end of 2020, including only two CSOs on the direct access track, one regional (Central America) and one national (Nepal). Apart from the cumbersome accreditation process which suggests that the GCF is not interested in

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<sup>17</sup> <https://gca.org/reports/principles-for-locally-led-adaptation-action/>.

<sup>18</sup> See for instance at [https://uploads-ssl.webflow.com/605869242b205050a0579e87/6462710b127e29f1b1e74ee7\\_The\\_Loss\\_and\\_Damage\\_Finance\\_Landscape\\_HBF\\_L%26DC\\_15052023.pdf](https://uploads-ssl.webflow.com/605869242b205050a0579e87/6462710b127e29f1b1e74ee7_The_Loss_and_Damage_Finance_Landscape_HBF_L%26DC_15052023.pdf).

<sup>19</sup> <https://www.cidse.org/wp-content/uploads/2021/06/EN-CIDSE-Climate-finance-study.pdf>.

<sup>20</sup> <sup>20</sup> <https://www.greenclimate.fund/sites/default/files/document/governing-instrument.pdf>.

<sup>21</sup> <https://www.greenclimate.fund/projects/dashboard>.

partnering with CSOs as project implementers, there are other hurdles that impair CSOs' access to GCF funding. As a result of GCF's country drivenness and no-objection approaches, CSOs depend on the full support of their national government to apply for a project in their respective country. They themselves cannot participate in GCF country programming if the respective government does not wish to do so. Second, the technical requirements, time horizons and costs of the application process drastically complicate access to GCF finance, especially for smaller applicants, such as most CSOs. Third, the lack of clarity about expected co-financing, as well as the preference of the GCF to provide concessional loans instead of grants disproportionately affects CSOs because of their limited financial resources. Perhaps the most promising way for CSOs to nonetheless benefit from GCF funding is to become a so-called Executing Entity, partnering with the Implementing Entity as the legal project holder to develop and implement a GCF project. If they find a suitable and interested partner among Implementing Entities, this approach can allow CSOs to bring their particular strengths to GCF projects: intense experience in trustfully working bottom-up and gender-responsive with climate-vulnerable communities, including indigenous people.<sup>22</sup>

### **Does the GCF provide support to address loss and damage, including those caused by slow onset events and non-economic losses?**

The GCF does not have a specific mandate to address loss and damage. To date, it has shown little flexibility in assessing project eligibility, to the extent that it tends to fund only projects that are clearly identified as "business as usual" climate mitigation or adaptation projects through predefined criteria. If this is not the case, the approval process is significantly delayed, or projects are rejected.<sup>23</sup>

### **Does the GCF provide a unique selling point (USP) and hub for knowledge generation and dissemination?**

The GCF considers itself as unique in terms of its institutional mandate and approach to climate finance as a dedicated multilateral fund serving as an operating entity of the Financial Mechanism of the UNFCCC.<sup>24</sup> However, this institutional set up is the reason for the Fund's sluggishness. In addition, neither is the Fund particularly innovative in its funding priorities, nor is it equipped to serve as a knowledge generation or dissemination hub.

#### **In summary:**

**The GCF is not a suitable model for a Loss and Damage Fund. In order to be so, it should combine the following characteristics:**

1. Quick and unbureaucratic compensation for vulnerable populations' loss and damage incurred as directly as possible;
2. Flexible recognition of a wide range of climate-related damages;
3. Continuous evaluation of experiences, knowledge generation and dissemination.

Nevertheless, recommendations for the form and function of the new Loss and Damage Fund can be derived from the experience with the GCF.

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<sup>22</sup> <https://www.cidse.org/wp-content/uploads/2021/06/EN-CIDSE-Climate-finance-study.pdf>.

<sup>23</sup> <https://www.cidse.org/wp-content/uploads/2021/06/EN-CIDSE-Climate-finance-study.pdf>.

<sup>24</sup> <https://www.greenclimate.fund/sites/default/files/decision/b33/decision-b33-13-b33annex07vii.pdf>.

## HOW TO TAILOR THE OPERATION OF THE LOSS AND DAMAGE FUND TO MEET THE NEEDS OF VULNERABLE COMMUNITIES

- **Fast and unbureaucratic provision of support:** to address loss and damage immediately after emergency situations, when the needs of vulnerable populations are most burning, **pre-arranged, trigger-based funding modalities** are recommended.<sup>25</sup> Experience on meteorological or hydrological triggers can be taken from parametric risk insurance services, ideally combined with community-based evidence. To ensure that pre-arranged support packages reflect community needs, **communities and CSOs should be included in the design of such packages or contingency plans.** To ensure fast delivery of support when a disaster strikes, **they should also be included in the implementation of support measures.**
- **Flexibility of delivery channels is essential** to reach the most vulnerable communities, which are often located in geographically remote areas, in fragile States or even in conflict zones. The special working expertise of humanitarian organisations, faith-based institutions and other CSOs in these contexts should be used.
- **Eligibility for pre-arranged support packages** should not be exclusively accessible to government agencies, ministries and departments. **Sub-national actors, including non-State actors such as vulnerable communities, indigenous people or CSOs should also be granted direct access** to financial support provided by the Loss and Damage Fund for their pre-arranged contingency plans. Furthermore, cooperation with CSOs as Executing Entities is highly recommended to harness their unique expertise.
- Vulnerable countries should urgently develop **National Loss and Damage Mechanisms** to ensure effective channeling of funding from the Loss and Damage Fund to affected communities, considering both economic and non-economic impacts, sudden and slow-onset events, and underpinned by the principles of subsidiarity, accountability and transparency. **Support from the Santiago Network on Loss and Damage (SNLD)** may be provided to help develop these mechanisms.
- The inclusion of CSOs and communities in the design and implementation of support measures financed by the Loss and Damage Fund is essential to ensure a **priority focus on most vulnerable people and communities**, irrespective of whether delivery is channeled via State- or non-State actors and if CSOs act as Implementing or Executing Entities. Strong CSO participation can contribute to making contingency plans to address loss and damage more ambitious and more focused on vulnerability. CSO participation reflects an all-of-society approach. **Community involvement reflects the subsidiarity principle, leads to local ownership, effectiveness and transparency.** However, whether this approach is followed, largely depends on the political will of national governments. **The Loss and Damage Fund can foster inclusiveness** by consistently addressing respective gaps, e.g., with regard to weak community consultation processes, lack of community ownership, low ambition and lack of CSO involvement.
- The Loss and Damage Fund should support efforts to set up a platform for knowledge generation and dissemination that **galvanises expertise in addressing loss and damage of vulnerable communities**, including through provision of finance, data and evidence. Specifically, this may include support to the SNLD in producing a register for loss and damage, integrating non-economic loss and damage faced by communities and how to

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<sup>25</sup> See suggestions of V20 in the Accra-Marrakech-Agenda at <https://www.v-20.org/accra-marrakech-agenda> ; see also Nasseem and other members of the Transitional Committee (TC) at <https://www.twn.my/title2/climate/info.service/2023/cc230401.htm> ; see also the respective suggestion of African CSOs (CISONECC et al) in their submission to the TC.

redress it. **The Fund could also support respective capacity-development programmes for CSOs and communities and planning and strategising processes.** This would enable local community-based organisations (CBOs) in the Global South to become engaged with loss and damage, better recognise, understand, minimise and address this issue.

## HOW TO ALIGN GOVERNANCE AND THE STRUCTURE OF THE LOSS AND DAMAGE FUND WITH THE NEEDS OF VULNERABLE COMMUNITIES

### In terms of governance:<sup>26</sup>

- A fund that has a **priority focus on vulnerable communities** should have a strong representation of vulnerable countries, communities and CSOs in its Board and governance system.
- A fund that is **gender sensitive and responsive** because women are disproportionately affected by loss and damage, should ensure a balanced representation of women in the governance system and adequate consideration of gender aspects in all policies and programmes.
- A fund that has a **strong rapid response capacity**, i.e., that is able to quickly deliver for the most vulnerable, has a decision-making structure that decides within less than 24 hours on a pre-arranged support package if a disaster occurs.
- A fund that is accountable and transparent, including towards vulnerable communities, sets up an **effective planning, monitoring, evaluation and reporting system** as well as a robust and independent and directly accessible complaints and dispute settlement mechanism.
- Considering that no fund alone can adequately address loss and damage, **a mosaic of funding arrangements is necessary, requiring intense coordination between them** and recognising the central role of the Loss and Damage Fund.

### In terms of funding windows:<sup>27</sup>

- The Loss and Damage Fund should at least have three specialised funding windows, each of them addressing non-economic loss and damage as a cross-cutting issue, where appropriate:
  - A **rapid response window** to address loss and damage in case of emergency situations;
  - A **micro-grant window** that provides financial support to local communities;
  - A **window to address loss and damage caused by slow onset events**.
- Funding for **capacity building support** on loss and damage should also be provided but managed by the Santiago Network on Loss and Damage (SNLD).

***“A true ecological approach always becomes a social approach; it must integrate questions of justice in debates on the environment, so as to hear the cry of the earth and the cry of the poor.” Laudato Si’***

<sup>26</sup> See also the respective suggestion of African CSOs (CISONECC et al) in their submission to the Transitional Committee.

<sup>27</sup> See also the submission of CISSONEC, CSCIAF and Trocaire Malawi to the Transitional Committee.



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