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**Questionnaire in relation to Human Rights Council resolution 53/6 on human rights and climate change**

Felm and LI-BIRD are grateful for this opportunity to express ideas and experiences on the interlinkages between loss & damage and human rights. Felm is an internationally operating development and humanitarian NGO and operates in 24 countries with around 100 partners and cooperates closely with ActAlliance[[1]](#footnote-1). Felm headquarter is in Finland. One of Felm partners is Local Initiatives for Biodiversity, Research and Development (LI-BIRD) that is a non-profit, non-governmental organisation established in 1995. LI-BIRD is committed to capitalizing on local resources, innovations, and institutions for sustainable management of natural resources for improving livelihoods of smallholder farmers. Our submission is structured according to the set of questions and the focus is on Nepal.

***Question 1:***

By its biophysical conditions, Nepal is considered among countries most vulnerable to loss and damage but, at the same time, is among the least developed countries with significant capacity challenges. As a consequence, in Nepal, climate-induced disasters cause around 65 percent of all disaster-related annual deaths, and furthermore, decreases the growth of GDP. Nepal’s framework on loss and damage argues that *climate-induced L&D manifests itself as a cascading effect across interconnected natural and human systems and infrastructure, resulting in the cessation of services. In addition, the events also directly hit those who face death, injuries, and diseases, and trauma in rapid-onset events, and displacement in slow onset events.*[[2]](#footnote-2)Floods, landslides, lightning strikes, fires, windstorms, avalanches, hailstorms, glacial lake outburst floods, heat waves and cold waves are among the climate-related disasters that have been experiencing in Nepal. A significant number of people and property have been lost as a result of these disasters. The most lethal natural disasters that claimed 968 lives between 2017 and 2018 were fires, landslides, floods, and thunderclaps. An estimated NPR 6.83 billion has been reported to be lost during this time. In March 2019, gale-force winds, believed to be the first-ever tornado in Nepal, hitting Bara and Parsa districts, resulting in 28 deaths, 1,155 injuries, and significant property damage[[3]](#footnote-3). A summary of a few climate change induced disasters are highlighted below:

**a) Jure Landslide, Sindhupalchowk**

A devastating landslide happened in a densely populated area of Sindhupalchowk district which is 80 kilometers northeast of Nepal's capital, Kathmandu, on August 2, 2014. With 156 people killed, the landslide savaged over 120 houses and partially damaged over 37 houses. This landslide has been considered as one of the deadliest landslides in Nepal’s history. It completely destroyed all surrounding land, houses, businesses, and infrastructure, creating a 55-meter-tall dam in the Sunkoshi River. After the landslide, the river completely stopped flowing for nine hours that resulted in a three-kilometer-long lake formed by this debris dam submerged homes, farms, and a hydroelectric station. The people residing in the downstream were forced to evacuate due to the possibility of an unexpected flood [[4]](#footnote-4). Due to the major damage to the Araniko Highway, Nepal's only road linked to China, there were nationwide repercussions due to its impact on import of goods from China.

**b) Flood in Melamchi, Sindhupalchowk**

The recent report elucidated that the Melamchi flood caused damage to 539 homes, resulting in one fatality, six injuries, and 23 unaccounted-for individuals (Adhikari et al. 2023)[[5]](#footnote-5). A significant damage was also observed in infrastructure, including the headwork of the Melamchi Water Supply Project, several trail and motorable bridges, a hydropower project, and the Melamchi-Timbu road. In addition, the flood also destroyed farms and other agricultural areas used for raising trout, pigs, and chickens. The villages around Melamchi and Chanaute suffered terrible outcomes, with buildings that were completely destroyed, washed away, or buried deep under sediment.

**c) Floods in Mustang and Manang**

The traditionally dry regions of Mustang and Manang have recently experienced an unanticipated rise in heavy precipitation with a record-breaking 25 millimeters of rain fell in the 24 hours (according to the Department of Hydrology and Meteorology), resulting in consequent flooding that has resulted in substantial damage, especially in Kagbeni, a popular tourist and religious site. The local report claimed that 31 buildings were destroyed and there were financial losses as a result of the massive damage caused by the flood. Even though any casualties were not found, the entire amount of economic damage is still being determined because of the prompt sharing of information. Although the exact cause of this disaster was unknown, experts believe that the soft soil in the area struggled to absorb substantial amounts of rainfall, which may be a contributing factor for this flood.

**d) Sudurpaschim's flood and landslide**

In 2020, 13 people have died and seven more were missed as a result of flooding and landslides that have occurred across the Sudurpaschim Province of Nepal. Twelve people lost their lives as a result of swelling of the Kailash Khola in Achham district, and five more were reported missing. In a different incident, 29-year-old Sunil Dhami lost his life in a landslide in Apihimal Rural Municipality-5 of the Darchula district. After a landslide in Midi, Bungal Municipality-5 of the Bajhang district, two more people have been reported missing.

**e) Flood Across Nepal in 2017:** 2017's monsoon provided a record-breaking rainfall within a shortened calendar, causing flash floods to occur throughout Nepal's lowlands. From August 11 to August 14, 2017, there was non-stop rain that caused extensive flooding in 35 of the 77 districts in the nation. There was a significant loss of life and property in eighteen districts due to the devastating effect.

However, amidst this rising number of climate induced loss and damage we acknowledge the growing need to prioritize action to those population groups that are vulnerable, and that have lesser capabilities and capacities to cope with loss and damage. In this investigation titled as: ‘When Climate Becomes a Threat - Evidence of Climate Change Induced Loss and Damage in Nepal’ published by Danish Church Aid[[6]](#footnote-6) that is part of the ActAlliance, an empirically rigorous understanding about the pervasiveness of climate damages but also localized character and responses to those damages is articulated. Furthermore, it builds the argument about the need for tailored approaches with adequate support to prepare and to bounce back at the community level and beyond.

***Question 2:*** In the context of loss and damage, patterns of vulnerability are coinciding with those generalizations that are derived from adaptation. Vulnerability differs within communities and across societies and thus should be thought of as changing and dynamically affecting people and places in ways that are influenced by geographic and other factors. Under this broader understanding of vulnerability, the IPCC report also continues to define vulnerability in terms of particular regions and people, and furthermore, defines global hotspots for vulnerability in regional terms as being SIDS, specific regions in Africa, central and south America and the Arctic.[[7]](#footnote-7) Within Nepal, according to MoFE (2021) extremely sensitive sectors to climate crisis are transport, infrastructure, water, and tourism. Furthermore, agriculture is also an economically exposed sector that is vulnerable to climate extremes as the economy of Nepal relies on agriculture, dominated by small-scale and subsistence farming. When it comes to the most vulnerable populations those include the urban poor in informal settlements, internally displaced people, and those living in marginal areas. Women, children, senior citizens, people with disabilities, and socially and economically marginalized groups are also highly vulnerable.

We highlight, as per the Ministry of Forest and Environment's sectoral report on GESI, Livelihood, and Socio-Economic, on Vulnerability and Risk Assessment and Identifying Adaptation Options (2021) that social and gender factors dramatically impact vulnerability levels, with marginalized groups are reported to be more susceptible due to factors like discrimination, poverty, limited access to resources, disabilities, and age. Socioeconomic factors coupled with environmental and climate change stressors exacerbate gender disparities. Women are more severely affected by the effects of climate change because of socio-structural inequality and their responsibilities as primary caregivers. Factors such as higher illiteracy rates and limited access to information about climate change hinder their ability to respond. Out-migration of male family members for better job opportunities has also contributed to elevate women's drudgery in Nepal. Gender inequalities also make it challenging for women to diversify their livelihoods due to the unequal distribution of assets and limited access to financial capital. Women face increased risks of sexual violence and workload during and after disasters. Despite being among the most vulnerable groups to climate change and often excluded from climate change policy, women and girls play a crucial role in adaptation due to their unique knowledge of natural resources[[8]](#footnote-8).

***Question 3:*** Before venturing to the case of Nepal, we wish to highlight that, as a donor to climate finances, Finland has done little to in turning its finances towards loss and damage specifically. Namely, the first national plan of action for climate finance did not set specific targets for loss and damage but reframes ongoing support to UNDRR and meteorological cooperation as finances dedicated to loss and damage. In Dubai COP28, three-million-euro (not new or additional) finance was promised to the soon-to-be-established Loss and Damage fund while decreasing its funding to five other funds dedicated to climate action, including Adaptation and Green Climate Funds. Alas, a substantially more robust strategic approach would need to be taken to meet the growing needs for loss and damage finance, technologies and capacity needs in the Global South. However, Finland has made great progress in advancing human rights-based approaches to climate governance. The best practices identified and recommended in evaluating Finnish development policy and human rights-based approach could be integrated to governing loss and damage as well.[[9]](#footnote-9)

Nepal’s constitution has established a comprehensive institutional framework for disaster risk reduction across all levels of government. These institutions have been tasked with roles and responsibilities pertaining to disaster risk reduction measures. The Local Government Operation Act of 2017 has outlined the duties and responsibilities of local governments. Meanwhile, the 15th periodic plan has placed a high priority on disaster management. The Ministry of Forests and Environment is the designated government body responsible for handling climate change-related activities. It serves as Nepal’s central agency for the UNFCCC and the IPCC. The Ministry of Home Affairs is the primary government agency responsible for disaster risk reduction at the federal level. Additionally, the government has established the National Disaster Risk Reduction and Management Authority (NDRRMA) to oversee disaster-related activities in the country.

GoN’s National Climate Change Policy (2011) (NCCP) made a strong policy commitment to allocate at least 80 per cent of the available funds directly to programme implementation at the community level. Besides, the revised NCCP in 2019 reinstated the government's commitment to decentralize climate finance and mentioned mobilizing climate finance received from international financial resources. The National Climate Change Policy 2019 has warned of increased climate-induced losses in the future. The policy's main focus to addressing climate change impact across eight vulnerable sectors are adaptation and mitigation (GoN, 2019). The majority of the prescribed actions primarily aid in adaptation and mitigation, and the policy has not internalized the fundamental idea of loss and damage (beyond adaptation). The policy merely notes that a database of financial and non-financial loss and damage caused by climate change in various regions and development sectors must be regularly assessed and maintained. Nepal’s Nationally Determined Contributions (NDC) document included a provision for research and study on climate induced loss and damages together with scientific and academic communities (GoN, 2016). While in 2017, the Disaster Risk Reduction and Management Act was introduced, the Disaster Risk Reduction National Policy was formulated in 2018, aiming to reduce losses caused by disasters to life and property, health, livelihoods and production, physical and social infrastructure, and cultural and environmental heritage (GoN, 2018).

As mandated by the Disaster Risk Reduction and Management (DRRM) Act of 2017, the National Disaster Risk Reduction and Management Authority (NDRRMA) is tasked with creating policies and plans related to disasters as well as gathering data, including information on disasters caused by climate change. Loss and Damage (L&D) data is maintained via the Building Information Platform Against Disaster (BIPAD) portal; however, the data is fragmented and the system is still under development. Access to climate finance is crucial due to a significant gap between the financing need and available funds. Few people have benefited from the relatively new idea of risk transfer mechanisms. Accessing international finance is challenging due to complex procedures and financial structures. Limited institutional capacities, a lack of coordination among stakeholders, and policies not explicitly addressing intersectionality and inclusion issues further complicate the situation.

***Question 4:*** For certain, emphasis should be set in the rapid operationalization of the loss and damage fund and securing its adequate funding. However, new and additional capital from the new fund alone will not solve the loss and damage finance issue. A variety of mechanisms within the new funding arrangements —including through international financial institutions, multilateral development banks, central banks, and social safety net programs—are required to shape and channel support to address needs. Support in response to climate-related emergencies is currently channeled through versatile avenues:  humanitarian funding; emergency payouts inject cash and support for temporary shelter, food, and basic life support. Furthermore, debt instruments such as loans, bonds, and budget reallocations currently finance reconstruction and recovery.[[10]](#footnote-10) However, scientific understanding about which instruments are best suited to specific locations and events is still far from consistent.[[11]](#footnote-11)

Similarly, the Global Environment Facility (GEF) and Green Climate Fund (GCF) serves as the financial mechanism to the UNFCCC. Under the GEF, the two dedicated funds the Least Developed Countries Fund (LCDF) and the Special Climate Change Fund (SCCF) have also been established. The GCF is the biggest dedicated climate fund under UNFCCC. New funding arrangements have been established in the COP 28 to support developing nations that are especially vulnerable to the negative effects of climate change in responding to loss and damage. These arrangements specifically state that they complement existing sources, funds, processes, and initiatives both inside and outside of the Convention and the Paris Agreement, with a focus on addressing loss and damage through the provision of new and additional resources and assistance in their mobilization. In addition, a fund was established to respond to loss and damage in the context of establishing the new funding arrangements. Its mandate includes helping developing countries that are especially vulnerable to the negative effects of climate change respond to both economic and non-economic loss and damage associated with the adverse effects of climate change, such as extreme weather events and slow-onset events.

The Nepalese government has policies in place to assist households who have suffered losses due to natural catastrophes. A family may receive financial assistance of between NPR 300,000 and NPR 500,000 to restore their home if they lose their home or sustain irreversible damage. Geographical location, family size, and the degree of loss and damage all affect the amount. For repair, a house with minor damage receives NPR 50,000, while a totally damaged house receives NPR 300,000 or more (up to NPR 500,000). In addition, families that wish to buy property for housing but do not already own land elsewhere are given a financial award of NPR 300,000. Families that lose a member are given NPR 200,000; if more than one member of the same family passes away, each individual receives an extra NPR 100,000. Additionally, NPR 15,000 for a household of five and NPR 20,000 for individuals with more than five members are allocated for emergency food supplies after a crisis. In government hospitals, injured victims receive free care, with NPR 1000 covering their travel costs. In addition to this, the government has implemented a number of risk transfer programs, including livestock and crop insurance with premium subsidies. In order to create a secure and resilient Nepal, the National Strategy for Disaster Risk 2078 focuses on social security, property, life, and infrastructure insurance. Nevertheless, loss of land and other items is not covered by the existing compensation provision (except for houses). To help with post-disaster loss and damage financing, the Prime Minister's Rescue Relief Fund, the Central Disaster Management Fund, the Province, and the Local Disaster Management Funds have all been formed [[12]](#footnote-12).

***Question 5.***McDonnel et al (2023) lists four main gaps in loss and damage finance that have relevance in identifying additional avenues to protect right to development despite loss and damage: No available risk transfer finance products for slow-onset events; insurance premiums are often a barrier for climate-vulnerable countries; social protection schemes often suffer from inadequate funding; there is a need for more comprehensive data for social protection schemes. Additionally, Warner & Weisberg (2023) underscore that in order to be able to deliver loss and damage finance it needs to meet three necessary requirements: **timing**, **eligibility** **requirements**, and **access**. Decision 2/CP 27 underscored the need to construct the loss and damage financial architecture (both the fund and funding arrangements) in a manner that considers speed, eligibility, time and access to finance in the context of specific type of loss and damage event.  Achieving this coherence cannot be put onto the shoulders of a singular fund as coherence comes from multi-scalar and sectoral cooperation.  Apart from finances, we wish to underscore the role of building evidence about loss and damage and in particular building linkages to questions of liability. Namely, multiple public litigation interest cases on adaptation and loss and damage have been put forward but their success rate is low due to lack of solid evidence. In other words, while policies to respect human rights in changing climate might be in place, they lack their teeth without robust understanding of the links between changing climate and its negative effects on the realization of human rights[[13]](#footnote-13). Subsequently, we support the making use of best available science, e.g. event attribution mechanisms, to increase scientific evidence base to avoid stalling political and legal commitments based on the claims in scientific ambiguity[[14]](#footnote-14).

Policies to address landslide loss and damage can be categorized into three types: those aimed at preventing landslides, those that minimize impacts, and those that deal with residual impacts. To prevent landslides, respondents suggested measures such as placing more gabions in landslide-prone areas, planting trees, raising awareness of landslide risks, and conducting more scientific research on landslides. To minimize landslide impacts, suggestions included government-initiated resettlement schemes, assisted migration from high-risk areas, the creation of river embankments in lowlands, the promotion of more resilient building methods, and conducting risk assessments for infrastructure projects. Addressing health concerns post-disaster and setting up early warning systems against landslides were also highlighted. To address residual impacts, respondents suggested government compensation for losses, providing access to affordable loans for recovery, establishing alternative livelihood options, and providing subsidized insurance against landslide damage[[15]](#footnote-15).

***Question 6:*** The Adaptation Gap Report states that adaptation actions remain largely incremental in nature, typically do not address future climate change, and may reinforce existing vulnerabilities or introduce new risks, particularly for the most vulnerable. Inadequate involvement of stakeholders and exclusion of marginalised groups, inadequate attention to local contexts and ownership, retrofitting development activities as adaptation actions, short-term focus and neglect of future climate risks, narrow definitions of adaptation success, and inadequate metrics of success are among the factors for this unfair situation. Subsequently and likewise, implementing a human rights-based approach and including its principles (Participation, Accountability, Non-discrimination, Equity, Legality) should be at the core to loss and damage too. From the local to the global, the fight against climate change is inextricably intertwined with the fight against poverty and inequality[[16]](#footnote-16). A human rights-based approach must center the determination of programming response areas and approaches of the fund and its financial arrangements. Responding to loss and damage must be about safeguarding the rights of vulnerable and affected people, and redeeming their lost heritage and livelihoods to restore them back to dignified living enjoying their full right to development. The financial and technical support must reach those who need it most, respond to intersecting (e.g. disability inclusion) and gendered risks, and enable people to define their own paths to resilience and prosperity. As a part of promoting and strengthening national responses for addressing loss and damage, the contributions of grassroot organisations in humanitarian response, disaster risk reduction and adaptation need to be sufficiently acknowledged[[17]](#footnote-17).

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**Further knowledge and contact details:**

Adj. Prof., Niko Humalisto, Advocacy Specialist at Felm, +358 40 757 4036, [niko.humalisto@felm.org](mailto:niko.humalisto@felm.org)

Laxman Khatri, Programme Operations Director at LI-BIRD, +977 01 5440330, [laxman.kc@libird.org](mailto:laxman.kc@libird.org)

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