



SUBMISSION TO INFORM UN OHCHR'S CALL FOR INPUT ON THE IMPACT OF LOSS AND DAMAGE FROM THE ADVERSE EFFECTS OF CLIMATE CHANGE ON HUMAN RIGHTS

INTRODUCTION

The following submission from the [Loss and Damage Collaboration](#) (L&DC) is intended to inform the Secretary-General's analytical study on the impact of loss and damage from the adverse effects of climate change on the full enjoyment of human rights.

Recognising that loss and damage from climate change is already severely undermining the enjoyment of the rights to life, security, food, water, housing, health, education, livelihood, environment, participation in cultural life, as well as other rights, this submission stresses the need for a human rights-based approach to addressing loss and damage.

The Paris Agreement recognizes that:

Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity.

This is especially relevant in the context of loss and damage. The failure of Parties—particularly Parties bearing historical responsibilities with the most available resources—to meaningfully address loss and damage is causing immense human suffering, and is not compliant with international legal duties, including human rights obligations.

Therefore, the following human rights principles must form a foundational basis for any effective response to loss and damage.

- *Promoting international cooperation and assistance*
- *Guaranteeing access to information, public participation and access to justice*
- *Enforcing substantive equality, and preventing and redressing intersectional discrimination that individuals and communities disproportionately impacted by the climate crisis may experience in legal, political, policy and institutional responses to*



their situation

- *Ensuring accountability, including in relation to extraterritorial obligations*
- *Providing effective remedy*

SUBMISSION

In response to the call for input, the L&DC would like to highlight the following publications as resources to inform the study. In each case, we have provided the link to the resource, an overview of the document's content, and indicated a number of key recommendations and other relevant messages.

RESOURCE	FOCUS	KEY MESSAGE
What Does A Human Rights-based Approach To Addressing Loss And Damage Look Like?: Key Demands For The Outcomes Of Cop 27 At The Intersection Of Loss And Damage And Human Rights	<p>The briefing note first discusses principles for a human rights-based approach to addressing loss and damage and second translates these principles into concrete recommendations for COP27 (a number of which remain relevant to the SG's study).</p>	<p>Key recommendations include:</p> <p>New and additional finance for loss and damage that is needs and rights-centred, public and grant-based, and gender-responsive must be delivered to the scale of the needs;</p> <p>There is a need for a strengthened Gender Action Plan that includes loss and damage as an important area of improvement.</p> <p>It must be ensured that the Executive Committee (ExCom) of the Warsaw International Mechanism for Loss and Damage (WIM) protects the rights of those most affected.</p> <p>Other relevant key messages include:</p> <p>International human rights bodies and mandate holders, as well as national</p>



		<p>courts, have affirmed, in some cases with direct reference to loss and damage, that States need to protect affected individuals and communities from climate-induced human rights harm, domestically and extraterritorially.</p> <p>Five United Nations treaty bodies affirmed in a joint statement that “States must cooperate in good faith in the establishment of global responses addressing loss and damage suffered by vulnerable countries.”</p>
<p>Loss And Damage And Displacement: Key Messages For The Road To COP 28</p>	<p>This advocacy brief, co-published by the Loss and Damage Collaboration and Researching Internal Displacement, calls for the mainstreaming of population displacement, forced migration and other forms of involuntary human mobility into policy and practice addressing loss and damage related to climate change. The brief contains key messages on the human rights impacts of displacement and ensuring that human rights are upheld when loss and damage interventions are made.</p>	<p>Key recommendations include:</p> <p>Interventions to assess and address climate-induced loss and damage must account for displacement and its impacts if they are to be comprehensive. Displacement, whether from sudden or slow-onset events, threatens to erode human rights and should be addressed through comprehensive rights-based approaches.</p> <p>Other relevant key messages include:</p> <p>Displacement is one of the most detrimental outcomes of loss and damage, adversely impacting well-being and the enjoyment of fundamental human rights and potentially reversing development gains for communities, particularly those historically</p>



		<p>marginalized including children, women, girls, the elderly, people with disabilities, and entire nations.</p>
<p>Standing In Solidarity With Those On The Frontlines Of The Climate Crisis: A Loss And Damage Package For COP 28</p>	<p>This brief unpacked the Loss and Damage package that COP 28 should have delivered to meet the needs of developing countries, including ensuring that the rights of the child and, more broadly, human rights are upheld by the new Loss and Damage funding arrangements operationized at COP28.</p>	<p>Key recommendations include:</p> <p>It is essential that all funding arrangements for loss and damage - including new and additional resources, funds, processes and initiatives under and outside the Convention and the Paris Agreement - meet criteria that ensure they are genuine loss and damage resources. These criteria include, but are not limited to, the following: that they be new, additional, predictable and adequate, be equitably generated and governed, be debt-free, be grant-based and intersect with child and human rights considerations. They should be transparently reported and this information should be used to generate a regular loss and damage gap report.</p> <p>The Loss and Damage Fund must be human rights-based and gender-responsive. In addition to the principles of the Convention and the Paris Agreement, including equity, historical responsibility, and capacity, principles that respect and uphold human rights and ensure active, meaningful and effective participation of affected communities, including women, children,</p>



		<p>youth, Indigenous Peoples, and civil society organisations in the design, implementation, monitoring and evaluation of Loss and Damage Fund's policies and activities should be implemented. The Loss and Damage Fund must take into account Indigenous, traditional and local knowledge and act at the most local level possible.</p>
<p>The Loss And Damage Finance Landscape</p>	<p>This mapping study, a collaboration between the Loss and Damage Collaboration and the Heinrich-Böll-Stiftung Washington, DC, laid out the core principles, including those related to human rights, that should have guided the development of the new Loss and Damage Fund and its operational modalities. Although the report focused on the operationalisation of the Fund, a number of recommendations are still relevant as the Fund's Board, and the Fund it's self gets to work.</p>	<p>Key recommendations include:</p> <p>Finance to address loss and damage must reach those in need in a manner that is i) equitable, ii) economical, climate, and gender-just, and iii) human rights-aligned.</p>
<p>“Underemphasised And Undervalued”: Ways Forward For Non-economic Loss And Damage Within The UNFCCC</p>	<p>This policy brief seeks to bridge this gap between research and policy by providing specific recommendations, including on human rights, for negotiators, experts, and policymakers on how non-economic loss and damage (NELD) can be better integrated within the UNFCCC, in particular the</p>	<p>Key recommendations include:</p> <p>We strongly recommend that the diverse experiences and contexts of socially marginalised groups be taken into account and that they be given significant power in future NELD decision-making. These groups must include</p>



	<p>Loss and Damage Fund, Loss and Damage Funding Arrangements, the Santiago Network for Loss and Damage, and the Executive Committee for the Warsaw International Mechanism for Loss and Damage.</p>	<p>Indigenous people, women, youth and children, the elderly and people with disabilities, as well as other groups and civil society organisations (CSOs) that face structural marginalisation.</p> <p>Other relevant key messages include:</p> <p>NELD is inextricably linked to human rights. This connection has been made clear through scholarship (McNamara et al., 2023), and by UN Member States seeking a ruling from the International Court of Justice on obligations and rights of States in responding to climate change (UN, 2023).</p> <p>More than a decade of addressing climate impacts shows that consultative processes are not sufficient to substantively include the voices of disproportionately affected and marginalised groups, as climate interventions often still lack the incorporation of equity, justice, and human rights (Coggins et al., 2021; Waiwai et al., 2023).</p> <p>NELD is continuously underemphasised and undervalued within the UNFCCC. This has had, and will continue to have, catastrophic impacts on countless aspects of people's lives if left unaddressed. Immediate</p>
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		<p>and targeted changes are therefore needed to uphold human rights in a time of increasing and compounding climate-driven losses and damages.</p>
<p>Loss and Damage Collaboration (L&DC): Submission To Inform The UNFCCC's NELS Technical Paper 2023</p>	<p>The submission by the Loss and Damage Collaboration's Non-Economic Loss and Damage working group, aimed at contributing to the UNFCCC's 2023 NELS technical paper update, is structured into two main sections: the first part presents a series of case studies on non-economic loss and damage aligned with specified focus areas, while the second part offers critical insights and relevant literature to support the paper's revision, in line with the directives of the 18th session of the WIM ExCom.</p>	<p>Key recommendations include:</p> <p>There is a need for a more inclusive approach to addressing loss and damage that goes beyond anthropocentric views, considering more-than-human experiences and the interconnectedness of economic and non-economic losses.</p> <p>Root causes of vulnerability must be addressed to better manage and mitigate non-economic losses and damages.</p>