

# Loss and Damage Fund: A Step Towards Addressing Climate-Induced Human Rights Issues

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As the 28th Conference of Parties or COP-28, takes place in Dubai, member states have approved a Loss and Damage Fund meant to support vulnerable countries in coping with the consequences of climate change. The fund was first announced at the conclusion of COP-27 in Sharm El Sheikh, Egypt, which was followed by meetings between transitional committees and is set to finally begin operation after the member countries managed to settle their differences allowing the fund to be officially launched at COP-28. The fund is provided to countries facing adverse consequences of climate change despite having low carbon emissions and carbon footprints. The fund is contributed by mostly wealthier industrial nations whose industrial activities in the previous decades have fuelled global warming and rising sea levels, changing weather patterns, and droughts affecting the livelihood of many individuals wiping their identities, and social and cultural traditions around the world. This fund may help ensure rescue and rehabilitation efforts by these countries. All developing countries are eligible to apply for the fund. A certain percentage of the fund has been set apart for a category of least developed countries and small island developing states. Even though some disagreements still persist among member countries, the launch of the fund is seen as a necessary step in the right direction.

All these developments highlight the importance of the United Nations Framework Convention on Climate Change (UNFCCC) and the Paris Agreement as expressions of the determination to decisively address the threat posed by climate change. In this light, there is a need to understand the relationship between climate change and human rights as the Loss and Damage fund seeks to address the issues faced by the humans residing in the developing, least developed, and small island states.

The small island developing states met in the Maldives in November 2007 and adopted the Male Declaration on the Human Dimension of Global Climate Change. The declaration laid down a roadmap for actions within the UN system. It was designed to explore and draw attention to the relationship between global warming and the full enjoyment of human rights, both civil and political, as well as economic, social, and cultural rights. The questions that this declaration seeks to answer include how to understand the complex and multifaceted relationship between climate change and human rights, whether climate change constitutes a violation of human rights, especially the rights of vulnerable people, and what are member states' national and international human rights obligations pertaining to climate change.

The reasons behind bringing the Male Declaration continue to exist even now, such reasons being frustration on the part of vulnerable communities at the slow pace of progress in tackling climate change, lack of emphasis on the victims around the world, and the lack of accountability framework to deal with a phenomenon caused by mankind having devastating economic and non-economic consequences.

In simple terms, the close connection between human rights and climate change can be understood from the dependence of individual rights like life, health, food, water, and housing on the existence of a safe and healthy environment. Accordingly, protection needs to be guaranteed with an emphasis on the need for effective access to administrative and judicial proceedings, including redress and remedy to the victims of climate-induced emergencies for which a fund like Loss and Damage can be put to use.

Similarly, the concept of sustainable development integrates this relationship by highlighting the economic, social and environmental sides. It states that the development carried out must not only meet the needs of the present but also not compromise the ability of future generations to meet their own needs.

Going forward, the need of the hour is to clearly stipulate the human rights obligations under the UNFCCC to use human rights law and its related mechanisms to influence and improve international climate change policy as governed by the UNFCCC to make that policy fairer and more effective. It is important to note that the losses arising from climate change are expected to rise in future, hence the impacted nations may be required to disproportionality share this burden in the absence of a comprehensive policy framework. The questions that must be clarified include but are not limited to how can human rights obligations and principles be best applied to national climate change policy across both mitigation and

adaptation, the precise nature of extraterritorial human rights obligations as they relate to climate change, and how can the international community, through the international human rights mechanisms, best draw attention to and enforce those obligations in a manner that complements and supports the UNFCCC process.

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