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Loss and Damage Fund: A Step Towards Climate Justice, Finally

By: Harjeet Singh

Ending an impasse over the reluctance of developed countries to compensate developing nations for the damages caused by climate-related disasters, COP-27 achieved a major breakthrough by establishing a Loss and Damage Fund to help people recover from devastating climate impacts.

This year's annual climate conference, the 27th meeting of the Conference of Parties (COP-27), at Sharm El Sheikh in November achieved a major breakthrough by establishing a Loss and Damage Fund to help people recover from devastating climate impacts. It ended a three-decade old impasse due to the reluctance of rich industrialised countries to compensate developing nations for the damages caused by intensifying storms, floods, heat waves, and rising seas, all fuelled by climate change.

Carbon Brief's analysis shows that the US holds the first rank amongst historical carbon emitters with about a 20% share in total CO2 emissions since 1850, while China, the largest current emitter, is a distant second with 11%, followed by Russia (7%). Large post-colonial European nations, such as Germany and the UK, account for 4% and 3% of cumulative CO2 emissions respectively, without including overseas emissions under their colonial rule.

Drawing from scientific studies, Carbon Brief explains the direct, linear relationship between the total amount of CO2 released by human activity and the level of warming at the Earth's surface. It underlines that CO2 emissions from hundreds of years ago continue to contribute to the heating of the planet, and current warming is determined by the cumulative total of CO2 emissions over time.

Therefore, the historical responsibility of rich countries in causing the climate crisis (through extractive activities to fuel the wealth of their economies) cannot be understated. And this remains so despite the recent increase of emissions by a few emerging economies such as China, India, and South Africa.

Loss and Damage: A flashback

Loss and damage, which has emerged as a "third pillar" of climate action, refers to the adverse effects of climate change on human societies and the natural environment, which cannot be avoided because of inadequate mitigation action, insufficient adaptation, and/or conditions going beyond adaptation.

As mentioned in my recent opinion piece for BQ Prime, the demand to address climate-induced loss and damage under the United Nations Framework Convention on Climate Change (UNFCCC) was first raised by Vanuatu in 1991. Since then, the Alliance of Small Island States (AOSIS) and least developed countries, or LDCs, have been advocating concrete measures, which led to the setting up of the Warsaw International Mechanism for Loss and Damage in 2013. The rich countries, mainly the US, the European Union (EU), Japan, Norway, Switzerland, and Australia, continued blocking the issue of finance and did not allow any meaningful discussion on how to assess and address the finance gap.

The decision at COP-27 was significant since barely a few weeks earlier, in response to a question on loss and damage, US climate envoy John Kerry refused to engage on the issue, admitting that it would cost trillions of dollars and the priority should be given to mitigation and adaptation. Research studies indicate that the economic costs of loss and damage are projected to be between US$290 billion and $580 billion annually by 2030 in developing countries alone.

The main reason why the US and other rich countries resisted agreeing to pay for climate damages was to avoid accepting liability for their historical greenhouse gas emissions, fearing that this could open the floodgates to claims potentially worth trillions of dollars. However, a concerted campaign by global climate advocates and pressure from developing countries, which are facing devastating climatic disasters, forced the US to reverse its position.

What was achieved at COP-27?

For years, rich countries viciously created hurdles to prevent any meaningful discussion on the issue of loss and damage finance by excluding it from the agenda at executive committee meetings of the Warsaw International Mechanism for Loss and Damage (WIM) and at annual climate conferences. In 2021, civil society, led by Climate Action Network, declared the progress on loss and damage finance to be a "litmus test" for the COP-26 Climate Conference at Glasgow.

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The engagement with governments and media pressure led to the Group of 77 (G77) at the United Nations and China, the largest group of developing nations, proposing a Loss and Damage Facility. While rich countries did not agree to their demand, a compromise was reached in the form of the Glasgow Dialogue, a series of three discussions during the mid-year UNFCCC sessions from 2022 to 2024, with no further details agreed.

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Civil society contributed by producing a discussion paper entitled "Loss and Damage Finance Facility – Why and How" before the first Glasgow Dialogue in June 2022. It also exerted pressure through a letter signed by more than 400 non-governmental organisations (NGOs), prior to the meeting of the Heads of Delegation of the governments and constituted groups co-organised by the Government of Egypt in September in Cairo.

The sustained campaigning and pressure from developing countries led to an agreement on the first day of COP-27 to include the agenda item under finance, as "Matters relating to funding arrangements responding to loss and damage associated with the adverse effects of climate change, including a focus on addressing loss and damage."

Rich countries, however, insisted on including a footnote that said, "The outcomes of this agenda item are based on cooperation and facilitation and do not involve liability or compensation; and the agenda item will launch a process with a view to adopting a conclusive decision no later than 2024."

Their main intent was to safeguard themselves from future litigation and delay the decision by at least two years. Notwithstanding this, the developing countries included the phrase "no later than 2024" in the agenda to ensure a substantive discussion at Sharm el-Sheikh, Egypt.

Building on the initial recommendations of the AOSIS, the G77 and China submitted a proposal to establish an operating entity under the financial mechanism of the Convention, and demanding a transitional committee to take the work forward between sessions. It also underlined that the Fund must be established according to the UNFCCC principles of common but differentiated responsibilities and respective capabilities (CBDR-RC), equity, and historical responsibility.

As a negotiating tactic, the EU agreed to the Fund only for the "most vulnerable" and made it conditional on meeting their demand of aligning national plans to the 1.5 degrees Celsius target. While the proposal—devoid of equity and providing financial support to developing countries to meet their mitigation targets—was unacceptable to developing countries, it helped in isolating the US as the only major country not to agree to the Loss and Damage Fund at COP-27.

After intense negotiations and political wrangling, the unity of G77 and China, ensured by its chair, Pakistan, which faced devastating floods this year, led to a landmark decision. COP-27 established new funding arrangements, including a fund for assisting developing countries, with a focus on addressing loss and damage.

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The decision also included looking into "potential sources of funding, recognising the need for support from a wide variety of sources, including innovative sources" and tasked the UNFCCC secretariat with preparing a synthesis report on existing funding arrangements and innovative sources.

The Transitional Committee was established to work through 2023 to make recommendations for the operationalisation of the funding arrangements and the fund. It will consider the "institutional arrangements, modalities, structure, governance and terms of reference of the fund", and "elements of the new funding arrangements,'' amongst other things, and will make its report at COP-28 in the United Arab Emirates next year. In addition, the decision expanded the scope of the Glasgow Dialogue by inviting inputs and mandating a report of its discussions and outcome.

Another key progress made at COP-27 was the decision to establish an advisory board for the Santiago Network, which was established in 2019 to connect vulnerable developing countries with providers of technical assistance, knowledge, and resources they need to address climate risks comprehensively while averting, minimising, and addressing loss and damage. This is a key step towards operationalising the Santiago Network in 2024.

It has been agreed that a hosted secretariat will facilitate the Network's work, the Advisory Board will provide guidance and oversight, and that it will be supported by a network of member organisations, bodies, networks, and experts.

What next?

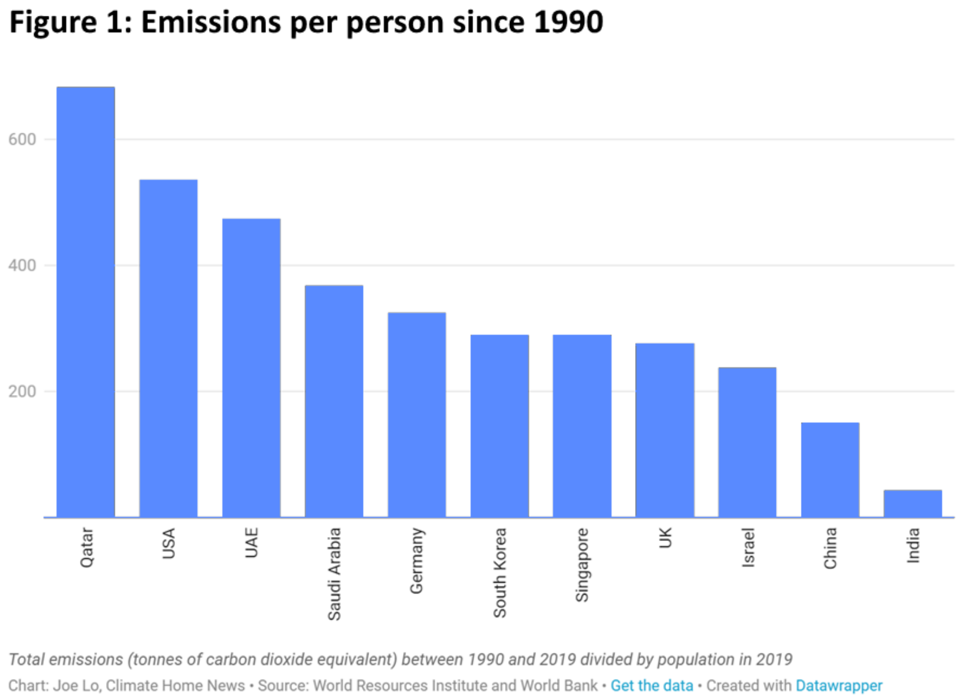
Together, these two sets of decisions have the potential to support communities and countries facing increased intensity and frequency of extreme weather disasters such as floods and storms; and slow onset impacts, such as sea level rise and melting of glaciers. However, the decisions on who will put money in the Fund, how much, and how it is to be channelled to developing countries will not be easy.

To dilute their historical responsibility, rich nations have been continuously trying to add more countries from emerging economies to contribute to the climate finance pool. The European Commission's Frans Timmermans argues that countries should be brought into the system of providing climate finance on the basis of "where they are today", echoing US climate envoy Kerry who has been targeting China and other large polluters.

To make matters worse, the majority (70%) of money-rich historic polluters have been providing climate finance in the form of loans. Such debt-inducing instruments are not fit-for-purpose for adaptation and certainly have no room in the new fund to address loss and damage.

A civil society report, "Can Climate Change-Fuelled Loss and Damage Ever Be Fair?", in 2019 found that the US and EU are jointly responsible for more than half (54%) of the cost of repairing the damage caused by climate disasters in the global South. The report calculated a country-wise "fair share" of responsibility using an equity analysis, based on historic contributions to climate change through greenhouse gas emissions and their capacity to take climate action, which in turn was based on national income and what is needed to provide basic living standards.

While the wealth and emissions of some developing countries have increased in the last few decades, the responsibility remains largely with the early industrialised nations. As highlighted in a recent Climate Home News article, even considering cumulative emissions since 1990 and the population of developing countries, China and India are nowhere near as polluting as the US, UK, or Germany.



In 2023, the Transitional Committee must look into who pays, who receives the most support, and how it is governed—all on the basis of equity, fairness, and justice. The fund must be set up under the new climate finance architecture that will need to emerge under the UNFCCC "to operationalise the third and missing arm of climate finance—that of addressing Loss and Damage", as I emphasised in my interview to the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), drawing from the paper I co-authored .

As both a coordination and financing mechanism, the Fund should be the primary vehicle to coordinate, mobilise, and channel new, additional, adequate, and predictable financial resources to address loss and damage for affected communities in developing countries. The coordination mechanism of the fund would align contributions by other funding bodies under the UNFCCC to support actions that that help recover from climate impacts and rebuild their lives and livelihoods. This would ensure that finance is not being diverted from mitigation or adaptation and efforts are not being duplicated.

Loss and damage finance should adhere to the principles of 1) international solidarity, historical responsibility, and the polluter pays principle; 2) new and additional; 3) needs-based, adequate, predictable, and precautionary; 4) locally driven with subsidiarity—enveloping gender responsiveness and equitable representation; 5) public and grant-based; and 6) balanced and comprehensive.

To respond to the need of vulnerable countries, the Loss and Damage Fund should prioritise providing direct access through regional, national, and sub-national entities, as needed and requested by the recipient countries. It should also allow access through international entities, such as UN bodies, while building their capacity for direct access.

It would be essential that finance addresses the needs and priorities of the most vulnerable and marginalised communities and reaches them. Such funds must have appropriate monitoring and evaluation processes that enhance local ownership and a stake in decision-making.

A request for funding support under this window could be triggered by countries declaring a "loss and damage event", which would be based on agreed criteria and verified by independent technical experts who could be housed under the Loss and Damage Fund. Such funding should not require a detailed implementation plan or proposal, but instead be provided in the form of direct and unconditional budget support to the recipient country to aid relief, recovery, and rehabilitation efforts with adequate safeguards in place.

Role of India

India ranks seventh amongst the 10 countries most affected by climate change in the Global Climate Risk Index 2021 published by the Bonn-based environmental think tank Germanwatch, and it has faced several devastating climate disasters in the last few years. In 2021, a London-based global think tank, the Overseas Development Institute, estimated that India may lose 3% to 10% of its gross domestic product (GDP) annually by 2100 due to climate change.

According to the World Migration Report 2020, India has the highest level of disaster displacement in South Asia in absolute terms and it is consistently among the highest in the world. In India, an average of around 3.6 million people a year were internally displaced between 2008 and 2019, the majority by flooding during the monsoon. Not long ago, the Intergovernmental Panel on Climate Change warned that climate change and rising demand would lead to at least 40% of the Indian population having to live with water scarcity by 2050.

Despite its vulnerability, India has only recently started seriously engaging on the issue of adaptation and particularly loss and damage in the global climate arena. As climate impacts are expected to rise due to increasing warming levels, India needs to systematically invest in the assessment of current and projected losses and damages. It is currently challenged by the lack of regional and sector-specific data to adequately respond to various socio-economic developments and adaptation needs, linking them with temperature rise scenarios and related adverse effects.

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The growing body of work in this field provides opportunities for exchanging knowledge amongst developing and developed countries through the Santiago Network. India, with its strong institutional and technological capacity, must offer its expertise to the developing world, particularly its neighbours, and allay fears that it will be a major beneficiary of the new Loss and Damage Fund. While the COP-27 decision does not take away its eligibility, it must actively support smaller and most vulnerable nations who do not have adequate resources to deal with rising climate damages by accessing loss and damage finance.

To achieve climate justice, rich countries must meet their obligations of reducing emissions and delivering finance in accordance with their fair share. It is time for the world to demonstrate the spirit of accountability, cooperation, and solidarity by operationalising the Loss and Damage Fund that meets the needs of people facing climate challenge on the scale necessary.

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