

Response to the Special Rapporteur’s call for input on the

“Promotion and protection of human rights in the context of mitigation, adaptation, and financial actions to address climate change, with particular emphasis on loss and damage”

1. *What experiences and examples are you aware of that are being faced by particularly individuals and communities in vulnerable situations (as identified above) that have suffered loss and damage due to the adverse impacts of climate change?*

According to figures in the latest IPCC report, approximately 4 in 10 people today now live in areas and conditions that make them highly vulnerable to climate change. But the consequences of global heating are being felt differently between communities and countries due to varying exposure, susceptibility and ability to recover from the impacts. According to a new study, over the last 20 years, the most at-risk economies of the world's 55 most climate vulnerable economies have lost over half their economic growth potential due to the impacts of the climate crisis.[[1]](#footnote-1) On average a fifth of the GDP of these 55 national economies has been eliminated – meaning that, in a world without global heating, the people of those nations would be 20% wealthier today.

Examples abound from across the world of communities suffering loss and damage from the climate crisis. For example:

* Bangladesh is on the frontlines of the climate crisis. Cyclone Amphan was the most powerful storm to strike the country in more than a decade, killing more than 100 people and displacing millions. In EJF’s film “[Surviving the storm](https://ejfoundation.org/films/surviving-the-storms-climate)”, EJF followed a family rendered homeless by Cyclone Amphan, and who half a year after the storm were still struggling to recover. Sea level rise, storms, cyclones, drought, erosion, landslides, flooding and salinisation are already displacing large numbers of people. By 2050, studies suggest that one in every seven people in Bangladesh could be displaced by climate change. Already today, approximately one million Bangladeshis are displaced each year and climate related losses amount to an estimated 1% of the country’s gross domestic product.
* India is one of the most unequal countries globally, and around 35% of the urban population lives in so-called slums and at least 1.7 million people are homeless. Scheduled Castes and Scheduled Tribes, who are historically among the most marginalised groups, constitute a disproportionate share of deprived households. Most slum households face multiple housing deprivations including hindered access to basic facilities, from water to durable housing. This exacerbates vulnerability to heat waves, water shortages, shifts in monsoon and rainfall patterns and floods. At the end of 2015, the city of Chennai was impacted by severe floods after the heaviest rains in more than a century. In the aftermath of the 2015 disaster, the then Chief Minister of Tamil Nadu announced resettlements to sites located on the outskirts of Chennai. Consequently, the Government of Tamil Nadu carried out massive evictions and resettlements of flood-affected inhabitants of informal settlements and slums near the banks of the Cooum and Adyar Rivers. Reports found that families were resettled to sites which are also located in lowland, ecologically sensitive areas and lack basic infrastructure. The resilience of resettled communities to climatic extremes as well as their livelihoods were therefore not improved, leaving these communities who had already suffered extreme loss and damages during the flood event even more vulnerable to future climate change threats.
* Since the 1960s, extreme weather events including longer droughts and more violent storms have been increasing in frequency and intensity, putting the countries of Central America among the top 15 most climate-impacted countries in the world. Vulnerability to climate impacts is exacerbated by the high levels of poverty in the region, combined with shockingly high levels of malnutrition (10%), and some of the highest rates of violence worldwide outside of a warzone. In the fall of 2020 there was a record breaking hurricane season during which Central America experienced two violent storms - Hurricanes Eta and Iota - within two weeks of each other. Together, the storms killing hundreds, displacing over 100,000 families and affecting approximately 8 million people in the region, contributing to annual economic contractions of approximately 8.6% in El Salvador, 8% in Honduras, and 1.5% in Guatemala. Loss and damages of this scale can exacerbate patterns of migration, contributing to the emerging phenomenon of climate displacement, where the impacts of the climate crisis – both sudden and slow onset – erode livelihoods and jeopardise rights, health and wellbeing to such a degree that they force communities from their homes.[[2]](#footnote-2) There is a dangerous ‘protection gap’ for those displaced by the climate crisis, as evidenced by a lack of satisfactory measures addressing the various adaptation, disaster risk reduction, humanitarian assistance and legal protection needs of these individuals and communities. Protections, rights and legal status for those displaced by the climate crisis must be covered within the solutions debate on loss and damage.

For more examples of how the impacts of the climate crisis are deepening already existing vulnerabilities and inequalities within and across generations, communities and countries worldwide,  please reference EJF’s recent report on climate inequality, “In search of justice: How the climate crisis is driving inequality and eroding human rights”. [[3]](#footnote-3)

1. *What legislation, policies and practices do you think are necessary to provide redress for particularly individuals and communities in vulnerable situations that have suffered and will continue to suffer loss and damage due to the adverse impacts of climate change?*

In order to develop adequate mechanisms for redressing loss and damage, we need a shared understanding and measuring of loss and damage, rooted in a human rights approach which recognises both tangible rights such as the right to adequate shelter, and immaterial rights like the right to community and culture. Therefore,  States and multilateral bodies must urgently:

* Agree on a shared international definition of loss and damage.
* Develop shared tools, methodologies and standards for data collection, monitoring, analysing, and reporting on both economic **and non-economic** loss and damage caused by climate change, including community-based reporting methodologies.
* Develop platforms and mechanisms for correlating loss and damage data across national and sub-national scales.
1. *Please provide examples of policies and practices (including legal remedies) and concepts of how States, business enterprises, civil society and intergovernmental organisations can provide redress and remedies for individual and communities in vulnerable situations who have suffered loss and damage to the adverse impacts of climate change.*

 N/A

1. *Please provide examples of ways in which States, the business enterprises, civil society and intergovernmental organisations have provided redress and remedies for individuals and communities in vulnerable situations who have suffered loss and damage due to the adverse effects of climate change.*

N/A

1. *What international, regional and national policies and legal approaches are necessary to protect current and future generations and achieve intergenerational justice for particularly for individuals and communities, from the adverse impacts of climate change?*

All countries must immediately take action to the full extent of their abilities and in reflection of their respective level of responsibility and eliminate greenhouse gas emissions in line with the goal to keep the increase of global average temperature as low as possible and no higher than 1.5°C above pre-industrial levels. For more information on a pathway towards a just and climate-safe future for current and future generations, please refer to EJF’s 2021 Climate Manifesto.[[4]](#footnote-4)

* Industrialised countries must act fastest and aim for real zero GHG emissions by 2035 at the latest.
* All states should set science-based short- and long-term GHG emissions reduction strategies and translate these into concrete action plans based on just, effective, cross-sectoral and integrated measures. They must adopt enhanced NDCs aligned with their fair share and responsibilities towards human rights, and the commitments under the UNFCCC, and they should aim for annual climate target ambition raising at each UN climate summit. NDCs should explicitly include the most vulnerable groups, specific risks and reference human rights.
* Climate targets must be supported by concrete policies and long-term goals must be translated into real zero aligned 2030 targets.

Countries must strengthen international cooperation to drive a transition towards a sustainable, fair and climate-smart future in accordance with the duty of international cooperation, and with special regard to the needs of the most vulnerable in a spirit of solidarity, fairness and responsibility.

* Industrialised, wealthy countries should support, share and transfer financial resources, logistics and technology, as well as capacity building, according to their respective responsibilities.
* Industrialised, developed countries must urgently mobilise and allocate maximum available resources to meet and surpass the agreed target of US$100 billion international climate finance annually for developing countries from 2020 up to 2024. They should aim to double public climate finance by 2025 and significantly increase annual sums from 2025 onwards. Climate finance should be transparent, new and additional to existing development assistance and other government efforts. It should also prioritise concessional and grant funding. Finance flows must be accessible and predictable, and additional resources should be made available for the most vulnerable communities. An independent annual monitoring mechanism should be installed. Industrialised countries should base new goals on scientific findings, agree on a strengthened reporting and accounting framework, and commit to a clear definition of climate finance.
* All states must effectively and systematically address, avert and minimise loss and damage and advance the establishment of a robust, operational mechanism for the Santiago Network on Loss and Damage. Developed countries must deliver needs-based, large-scale, commensurate support, specifically including direct financial contributions, to address loss and damage based on specific financial commitments. Loss and damage funding must be new and additional, and should include the provision of effective finance prioritising grants, and the strengthening of risk management, climate information systems and social protection systems.

 All countries must ensure that climate policies, laws and practices are human rights consistent, inclusive, intersectional and intergenerational, and that they benefit both people and planet.

* All states should incorporate human rights-based obligations, standards and principles in all climate related measures. Stakeholders should provide information on how human rights are implemented and integrated into climate policies and laws as part of the reporting under the Paris Agreement to increase accountability.
* A new legally binding international agreement is needed to protect climate refugees. This instrument is crucial to provide definition and status to climate refugees, to define rights and obligations, and to coordinate and combine actions so that they are truly effective in protecting the fundamental human right to a safe home.
* The UN Human Rights Council recognised the right to a safe, clean, healthy and sustainable environment as a human right (Resolution 48/13). States should adopt national legislation recognising and implementing the right to a healthy environment.
* States must provide effective and comprehensive access to information and facilitate meaningful, free and active participation for local, Indigenous, marginalised and disenfranchised members of society in line with the International Covenant on Civil and Political Rights, and actively engage them as experts and agents of change.
* States should support the systematic assessment of climate impacts on populations and ensure that it reflects key characteristics of those affected or vulnerable to ensure, among other things, integrated human rights-based, context-sensitive and gender responsive approaches.
* Timely access to justice and legal remedy for human rights harms related to climate change impacts and action must be ensured, and judicial and administrative procedural rules should be clarified.
* Possible effects of projects and policies on environmental and human rights must be carefully and transparently assessed and prevented.
* The important role of environmental human rights defenders must be acknowledged and a safe environment must be ensured in line with the UN Declaration on Human Rights Defenders.
* States should ensure that climate action delivers for the most vulnerable people and areas in line with human rights obligations and serving the United Nations Sustainable Development Goals under the 2030 Agenda. Individual vulnerabilities, needs, perceptions, knowledge and capacities must be identified to capture and address the heterogeneity within and between countries. Climate action should target poverty, inequality, marginalisation, discrimination and specific vulnerabilities to make societies more just, sustainable and resilient.
1. *In 2021 at 26th session of the UN Climate Change Conference (COP26), some Parties and civil society organisations proposed a new financial facility to support loss and damage. Please provide ideas and concepts on how a new facility would operate and how the funds needed to underwrite this fund would be established and maintained.*

N/A

1. *Please provide ideas and concepts on how a new financial facility for loss and damage could provide redress and remedies for individuals and communities in vulnerable situations who have suffered loss and damage due to the adverse impacts of climate change.*

The failure thus far to establish a coordinated, effective and just response to address loss and damage is not due to the intractable nature of the issue nor the complexity of a necessary solution, but to a lack of political will from developed nations’ governments to accept responsibility for historical greenhouse gas emissions and pay up for the impacts of global heating. Over the past three decades, the most vulnerable countries have been proposing financing mechanisms and solutions for addressing loss and damage, but they have not received an adequate response from the international community.

A new financial facility for loss and damage must be led in design by governments, communities and civil society in those countries most vulnerable to climate change impacts. Funding must be separate and additional to existing climate finance commitments on mitigation and adaptation, and must explore creative ways of channelling funds and multi-level investments into the national, sub-national, and community scales. Funding disbursement must be equitably accessible, with special consideration given to intersectional vulnerabilities at the individual and community level.

1. *What actions are necessary to enhance actions by States, business enterprises, civil society and intergovernmental organisations to dramatically increase efforts to reduce emissions of greenhouse gases, including through support to developing countries, in particular small island developing States, least developed countries and landlocked developing States, to limit the human rights impacts on particularly individuals and communities in vulnerable situations to the adverse impacts of climate change?*

Meaningful access and representation of vulnerable groups and frontline community voices, including but not limited to young people, women, marginalised minorities and Indigenous peoples is absolutely critical to hold States, businesses and the whole of the international community accountable for reducing greenhouse gas emissions at the scale and pace compatible with 1.5C and in a way which contributes to the protection and enhancement of human rights for all. Much must be learned from the failure of COP26 in Glasgow to make genuine space for the voices, demands, expertise and leadership of the most vulnerable. At COP27 – and all future multilateral negotiations – we need to see meaningful engagement with the representatives from the frontlines of the climate crisis and meeting of their demands on mitigation ambition, adaptation planning, climate finance and loss and damage, instead of the superficial tokenization of civil society we often see. The leadership of those most vulnerable to the climate crisis is necessary to enhance action and address the full scale of the climate and justice emergency – without it, we will fail.

1. *What actions are necessary to enhance actions by States, business enterprises, civil society and intergovernmental organisation to increase efforts to ensure that actions to adapt to the impacts of climate change contribute to reducing, and not exacerbating, the vulnerabilities of individuals and communities in vulnerable situations to the adverse impacts of climate change?*

As above, the engagement, empowerment and elevation of the leadership of communities on the frontline of the climate crisis is critical to ensuring that policies to adapt to and mitigate climate change safeguard the rights of the most vulnerable. Without meaningful engagement and genuine commitment to co-implementation of solutions, climate policy risks reproducing patterns of inequitable development which have contributed to creating the climate crisis we face today.

1. Climate Vulnerable Forum (2022) Climate Vulnerable Economies Loss Report: Economic losses attributable to climate change over the last two decades (2000-2019). https://www.v-20.org/wp-content/uploads/2022/06/Climate-Vulnerable-Economies-Loss-Report\_Project\_june\_2022.pdf [↑](#footnote-ref-1)
2. EJF (2021) No shelter from the storm: the urgent need to protect and recognise climate refugees. https://ejfoundation.org/resources/downloads/EJF\_Climate-Refugee-Report\_2021\_final.pdf [↑](#footnote-ref-2)
3. EJF (2022) In search of justice: How the climate crisis is driving inequality and eroding human rights. https://ejfoundation.org/resources/downloads/EJF-Climate-Inequality-report-2021.pdf [↑](#footnote-ref-3)
4. EJF (2021) A Manifesto to Combat Global Heating. ​​https://ejfoundation.org/resources/downloads/EJF-Climate-Manifesto.pdf [↑](#footnote-ref-4)