**Oxfam submission to the Special Rapporteur on the promotion and protection of human rights in the context of climate change’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. **Examples being faced by individuals and communities in vulnerable situations that have suffered loss and damage due to the adverse impacts of climate change.**

Oxfam sees the impacts of climate change first hand as it works in many areas on the frontlines of the climate crisis. Some examples are:

* Super-typhoon Rai (locally named Odette) made landfall in the Philippines in December 2021. It was the most powerful storm to hit the country that year, killing at least 407 people and resulting in hundreds of millions of dollars in damage, including: $336 million in losses to agricultural goods, $75 million worth of fishing boats, gear and stock in the fisheries sector, and $565 million in damage to homes, roads, electricity and water lines. More than 460,000 hectares of land were lost to flooding, and as many as 2.1 million homes were damaged or destroyed.
* Hurricane Maria, which struck Dominica in 2017, killed at least 65 people and resulted in economic losses equivalent to 226 percent of Dominica’s GDP.
* After Hurricane María struck Puerto Rico, and families struggled to endure without power or water for months, women shouldered more of the burden. Because women are usually managers of the household—responsible for taking care of people and the household—they were the ones who shouldered most of the burdens of managing water needs.
* Oxfam estimates that one person is likely dying of hunger [every 48 seconds](https://www.oxfam.org.uk/media/press-releases/one-person-every-48-seconds-estimated-to-be-dying-from-hunger-in-drought-ravaged-east-africa/#:~:text=Dangerous%20Delay%202%3A%20The%20Cost,Somalia%20%E2%80%93%20half%20of%20them%20children) in drought-ravaged Ethiopia, Kenya and Somalia (which climate change is playing a role in exacerbating).
* Hunger in El Salvador, Guatemala, Honduras and Nicaragua has nearly quadrupled in the past two years —from 2.2 million people in 2018 to almost 8 million in 2021 — as a result of the economic crisis caused by COVID-19 and years of extreme climate events.
* Timor-Leste was affected by major flooding caused by Cyclone Seroja which hit the country in April 2021. Oxfam research found major impacts the flooding has on land rights, in particular, how insecure land rights existing prior to the flooding has made it more difficult for affected communities to access relocation benefits and other relief. The floods have eroded the lands and washed away the houses and other belongings standing thereon, and without legal documentation to prove their presence on the land or their rights to it, the communities, especially women are in extremely vulnerable circumstances and their relocation and access to other forms of relief or compensation have been significantly delayed.

An important indicator of rising climate impacts and associated loss and damage is increasing humanitarian need. [New Oxfam research](https://www.oxfam.org/en/research/footing-bill-fair-finance-loss-and-damage-era-escalating-climate-impacts) finds that funding requirements for UN humanitarian appeals linked to extreme weather are eight times higher today than they were 20 years ago. As climate change escalates, the humanitarian system is being put under increasing strain and is unable to adequately respond. Oxfam research also estimates that over the past five years, UN humanitarian appeals linked to extreme weather were only 54% funded on average, resulting in an estimated funding shortfall of $28–$33bn. However, the true scale of loss and damage goes beyond humanitarian appeals and is rising. Estimated costs of loss and damage in low- and middle-income countries range from $290bn to $580bn by 2030.

Non-economic loss and damage is also profound and far reaching specially for women and girls, encompassing gender-based violence, loss of life, drop off from education, cultural identity, Indigenous and local knowledge, human health, biodiversity and territory. Women experience unequal access to resources and decision-making processes and bear gender based discriminatory norms and practices like limited mobility. In some regions mobility is only an option for men who move to find economic opportunities and women and girls are left behind to face worsening climate impacts. Accounting for and including non-economic loss and damage, particularly regarding women’s and girls’ unpaid work, is crucial in discussions around loss and damage finance.

1. **International, regional, and national policies and legal approaches necessary.**

An effective system to address loss and damage must include a new finance facility to govern action. Reform of existing humanitarian and development institutions remains crucial, as these will continue to play a role, both in building resilience to climate shocks and saving lives in the wake of climate-linked emergencies. A mechanism where contributions are mandated, not voluntary and not charitable, is what is required for finance that represents reparations for victims of climate change.

Initiatives to address loss and damage are often gender discriminatory, such that schemes may exclude women or increase household inequalities. For example, insurance schemes (which are often touted as a solution to address loss and damage) can increase inequalities – as without substantial and well-targeted subsidies, women are more likely to be excluded from micro-insurance schemes (where the individual is the policyholder) due to affordability, political, social discrimination or economic marginalization.

National policies and legal frameworks must ensure secure land rights for communities and for women, giving them greater autonomy over their lands and ability to make investments in order to make their lands more resilient to climate change and protect them from degradation. To this end, national land administration mechanisms must be simplified and made more accessible, and their implementation must be accelerated. Secure land and territorial rights will protect Indigenous and local communities from new waves of ‘carbon colonialism’, which will exacerbate land inequality, inflate land prices, and generate land grabbing and forced evictions, thereby serving to undermine intended emissions reductions.

States should adopt laws linking liability for climate impacts to specific contributions to GHG emissions, taking into account all relevant emissions including Scope 3 emissions. All emitters should be under a duty to report scope 3 emissions (as defined under the GHG Protocol methodology) linked to their products and investments, including public and private investors. It will be necessary for those affected by climate change to have access to this data if liability is to be related to relative contribution to climate change. Another factor that is relevant to liability is the degree to which emitters have actively sought to discredit the climate science through disinformation.

States should adopt laws governing liability which take account of both these factors: (1) specific total contribution including by reference to Scope 3 emissions and (2) participation in disinformation aimed at undermining climate science and climate change policy.

States should adopt legislation/policies protecting human rights/environmental defenders including those addressing the climate impact on vulnerable communities. Current levels of murders and retribution against defenders, and those with whom they work, makes clear there can be no possibility of effective redress for communities in vulnerable situations unless this problem is addressed explicitly in legislation and in government action and policy. Those advocating for vulnerable communities should be protected from retribution.

States should adopt laws and guidance on due diligence which ensures that due diligence, including human rights due diligence, adequately addresses the impacts of projects and investments on climate change. Liability should be linked to any failure to adhere to these standards.

Due diligence should as a minimum address:

* all GHG emissions including scope 3 emissions associated with the project or investment;
* an explicit consideration of the implications of the project or investment for the current emissions and production gaps (as addressed in the UNEP reports) and national and international carbon budgets and targets. This must take into account the risk of locking in high emitting infrastructure over the life time of the project and beyond;
* the contribution of the project or investment to the risk of crossing climate tipping points (as highlighted by the IPCC and others)
* low emission alternatives and an explanation as to why low emissions alternatives have not been pursued in place of a higher emitting project;
* the human rights impacts of the project/investment based on likely climate impacts including the right to life, health, housing and food among others

States should adopt specific legal remedies to accelerate the process for addressing community concerns to risks to life and health arising from climate impacts. Administrative and judicial procedures should ensure access to speedy and effective remedies without cost risk where there are grounds for concern. The principle that local knowledge is a key factor in determining risk should be recognised. Interim relief should be accessible where there is a risk of serious harm.

Access to early warning systems is an integral part of human rights protection including protection of the right to life (see for example the European Court of Human Rights 2008 judgment in Budayeva v Russia). Responses and policies should be proactive rather than reactive, taking into account Article 8(1) of the Paris Agreement and the 2015 Sendai Framework.

Access to justice should be seen as an integral part of climate resilient development within the meaning of Article 2(1)(c) of the Paris Agreement, given the direct impacts of climate change on basic human rights and welfares. This is relevant to all sectors including housing, health care and health and safety at work. Financial investment in administration and judicial infrastructure so that it is equipped to deal with climate related claims and loss and damage should be transparently assessed under the finance goal of the Paris Agreement.

1. **Ideas and concepts on how a new financial facility for loss and damage could provide redress and remedies.**

Addressing loss and damage can span a range of activities and should be shaped by the communities that are experiencing them. Developing comprehensive action plans in preparation for when climate-induced loss and damage hits should be part of this process. Some examples of what finance to address loss and damage could be used for are:

* Bolstering the lifesaving activities of humanitarian action (providing immediate and gender differentiated relief in the aftermath of a climate-induced event);
* Rebuilding schools, hospitals, roads and other vital infrastructure;
* Providing social protection and other safety nets to help manage the risks of extreme weather events, including violence against women and girls;
* Providing finance to support the safe and dignified movement of people forced to migrate because to climate change, considering the existence of gender discriminatory norms and practices limiting women’s and girls’ mobility;
* Building alternative livelihoods (e.g., when farming is no longer a viable option due to salinization of soil);
* Putting in place measures to address non-economic losses, including reparations and investment in women’s and girls’ right to education, to a life free from violence and to paid work, as well as cultural heritage.

In the longer term, funding for loss and damage can assist with migration and relocation of people that are likely to be permanently displaced, or help diversify skills if their original livelihoods are no longer available.  And to assist people, mainly women and children, who bear the consequences of not being able to migrate and who are remaining in unsafe regions. We must also ensure that any finance for loss and damage is accessible for women and women’s organisations by simplifying application and funding processes, and through provision of information and training. This must include mechanisms to implement and enforce women’s land rights.

Though conversion into monetary compensation is a key part of addressing non-economic losses and damages, it is alone not enough. Other ways to address non-economic losses and damages include formal apologies, counselling services, and active remembrance of loss (e.g., through a memorial or museum). The communities who have experienced non-economic losses and damages should be meaningfully included in deciding how to address it. There is no one-size-fits-all solution.

1. **Ideas and concepts on how a new facility would operate and how the funds needed to underwrite this fund would be established and maintained.**

A facility is vital to ensure financing is not business as usual. It must be additional to aid budgets, automatic and based on the ‘polluter pays’ principle. A facility is also needed to elevate political attention, drive greater action and bolster coordination across a fragmented and disparate landscape of relevant institutions. After years of stalemate, the establishment of a finance facility would also help developing countries trust that fair and far-reaching reform has begun.

Due to their past and current outsized contribution to climate change as well as their available capacities, rich countries are legally required under international law and big polluting companies required in view of their human rights responsibilities to pay for the harm and damage caused. Governments can help ensure this by shifting fossil fuel subsidies to address loss and damage and taxing the extraction of fossil fuels.

It’s also vital that the richest people, who are also the most polluting, shoulder their fair share of the costs. Oxfam estimates that the richest one percent of people on Earth are emitting twice as much carbon pollution as the poorest half of humanity.

A one-off 99 percent emergency tax on the pandemic windfalls of just ten of the world’s richest people, who are all men, could raise $812 billion, a share of which could be spent on loss and damage.

Other potential sources of finance for loss and damage include (elaborated on p.26 of Oxfam’s ‘Footing the Bill’ report):

* Tax on international shipping emissions (a carbon price of around $25 per ton on shipping emissions could raise $25 billion per year)
* Climate damages tax (at $5 per ton of CO2 equivalent, it could raise around $210 billion in its first year)
* Domestic taxes (e.g., a frequent flyer levy)
* Wealth taxes
* Redirecting money spent on fossil fuel subsidies — the UNDP estimates global fossil fuel subsidies are $423 billion per year.
1. **Actions necessary to enhance actions by States, business enterprises, civil society and intergovernmental organisations to dramatically increase efforts to reduce emissions of greenhouse gases.**

Staying with 1.5 degrees Celsius is vital to limit the impacts of climate change on people living in poverty around the world. Emissions must be reduced drastically through, inter alia, rapid replacement of fossil fuel energy systems with renewable energy, mandating and funding energy efficiency and reduction of energy demand through upscaling public transport. Yet an ever-increasing number of governments and corporations are committing to long-term net zero climate targets. While net zero climate targets can offer an opportunity for supporting the kind of truly systemic transformation that is needed across sectors to tackle the climate crisis it also presents several risks and could potentially end up being a dangerous distraction that delays real climate action.

Instead of reducing emissions at the scale and speed required to stay within a relatively safe level of warming, too many governments and corporations are hiding behind planting trees and unproven technologies to claim their 2050 climate change plans will be net zero. But [our data shows](https://policy-practice.oxfam.org/resources/tightening-the-net-net-zero-climate-targets-implications-for-land-and-food-equ-621205/) that these land-hungry plans would require at least 1.6 billion hectares of new forests – that’s five times the size of India. The explosion of net zero commitments, many of which lack clarity and transparency, could lead to a surge in demand for land, particularly in low- and middle-income countries – which, if not subject to robust safeguards, could pose increasing risks to the right to food and adequate standard of living especially for people and communities whose livelihoods depend on land.

Where land is used for climate mitigation, it must prioritize food security and build the resilience of small-scale farmers who rely on land. Positive nature-based solutions must strengthen the rights and livelihoods of local communities and protect women’s rights, ecosystems, and be subject to strong social and environmental safeguards that ensure that local communities, Indigenous people and frontline defenders have a seat at the table.

States should divert money away from fossil fuel subsidies and into support for climate resilience and renewable energy, some states have adopted new policies on overseas development aid and other financial support including export credits which prohibit or severely limit investment in fossil fuels and promote investment in renewables. This is a human rights issue (see above as to Article 2(1)(c) PA).

1. **Actions 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.**

The relationship between poverty and climate vulnerability is linked to many factors: social differences, discrimination and marginalization based on intersectional inequalities (gender, class, ethnicity and age) and overarching power structures. These factors affect an individual’s capacity to cope with environmental changes. Any adaptation planning processes must meaningfully include marginalised communities and people, particularly women as gender plays a significant role in vulnerability. In rural agricultural communities, women face a triple burden of work in often taking on child rearing, domestic, community and livelihood roles and adaptation plans must acknowledge this and actively work to reduce these pressures.

An example of how to make adaptation planning more inclusive and work to reduce vulnerabilities is the [Africa Climate Change Resilience Alliance programme (ACCRA)](https://oxfamilibrary.openrepository.com/bitstream/handle/10546/621114/cs-climate-change-adaptation-east-africa-041120-en.pdf?sequence=1), a unique consortium of national and international partners that was established in 2009, which seeks to improve the adaptive capacity of people most vulnerable to climate change in African countries through people-centred and gender-sensitive governance and planning processes. The inclusive and empowering approach employed by ACCRA enables change to be owned and led by participants and those at the bottom of the top-down political structures to have greater influence at differing levels, while remaining consistent with overarching aims for people-centred and gender-sensitive adaptation, and can be used as a model for how adaptation and resilience building can reduce vulnerabilities.

**List of publications linked in this response:**

1. Footing the bill: fair finance for loss and damage in an era of escalating climate impacts (2022) <https://www.oxfam.org/en/research/footing-bill-fair-finance-loss-and-damage-era-escalating-climate-impacts>
2. Tightening the Net: Net zero climate targets – implications for land and food equity (2021) <https://policy-practice.oxfam.org/resources/tightening-the-net-net-zero-climate-targets-implications-for-land-and-food-equ-621205/>
3. Climate change adaptation in east Africa: Mainstreaming gender-responsive and participatory approaches (2020) <https://oxfamilibrary.openrepository.com/bitstream/handle/10546/621114/cs-climate-change-adaptation-east-africa-041120-en.pdf?sequence=1>
4. Dangerous delay 2: the cost of inaction (2022) <https://www.oxfam.org/en/research/dangerous-delay-2-cost-inaction>