

The Right to Development need to overcome the Global North driven Pragmatism¹

1. Introduction

In the year, 2022, the State parties to the UN Framework Convention on Climate Change agreed to establish a Loss and Damage Fund (Fund). The Fund, to be hosted by the World Bank for an initial period of four years, came to life at COP28 with about USD800 million being committed by various States². The first meeting of the Board of the Fund will take place from 30 April to 2 May 2024 at Abu Dhabi Energy Centre, Abu Dhabi, United Arab Emirates³. To date, there is no official definition of loss and damage under the UN, but it is agreed that it happens when efforts to reduce emissions are not ambitious enough and when adaptation efforts are unsuccessful or impossible to implement⁴. While the Fund was an outcome of negotiations since 2007 as part of Bali Action plan⁵, the Loss and Damage Fund must recognize the dynamic context it operates within, considering current political landscapes and emerging paradigms that could potentially shape its formation and operation.

Changing Context: While we have SDG 2030 targets set, latest research on climate change indicate that we are likely to reach the 1.5C threshold by as early as 2029⁶. This would lead to unprecedented risks to health, livelihood, food security, water supply and human security⁷, erasing the successes of the SDG journey. The negotiations in 1970s by the Global South helped them earn the right to development, with overseas development aid set at a target of 0.7% of the GNP of developed countries⁸. However, 55 years later, it still remains at only half of that target. ⁹. Currently, 37 out of 69 of the world's poorest countries are either at high risk or already in debt distress, and an estimated additional 175 million people may fall into poverty by 2030.

While there is no disagreement that over the last five decades developing countries have primarily been the recipients of the adverse impact of climate change, the mitigation and adaptation strategies now being employed by businesses and countries have not necessarily translated into benefits for them. This is primarily due to multiple reasons. Firstly, the new jobs created owing to clean energy adaptation may not be in same region where job losses

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² The UN Loss and Damage Fund is a financial mechanism established to assist developing countries facing the negative impacts of climate change. It was agreed upon at the COP27 meeting in Egypt in November 2022.

³ The Board comprises 26 members, with 12 members from developed countries and 14 from developing countries. The Board holds the primary responsibility for the Fund's operations. This includes setting the strategic direction, establishing governance and operational procedures, and making funding decisions.

⁴ <https://www.wri.org/insights/loss-damage-climate-change>

⁵ <https://unfccc.int/resource/docs/2007/cop13/eng/06a01.pdf> cited by WRI.

⁶ <https://www.nature.com/articles/s41558-023-01848-5>

⁷ https://www.ipcc.ch/site/assets/uploads/sites/2/2022/06/SR15_Full_Report_LR.pdf

⁸ <https://www.oecd.org/development/financing-sustainable-development/development-finance-standards/the07odagnitarget-ahistory.htm>

⁹ <https://www.un.org/sustainabledevelopment/wp-content/uploads/2023/02/SDG-Stimulus-to-Deliver-Agenda-2030.pdf>

are expected to occur, leading to escalation of inequality in development. Secondly, while climate financing is being pursued aggressively with the aim of reaching 100 billion USD per annum, it is occurring at the expense of development aid. Report corroborating the above agreement state that that 93% of climate financing in developed nations was sourced from their development aid budget¹⁰. Finally, climate targets and growing focus on supply chain violations may provide developed countries with a carrot and stick approach to control trade and investment norms vis-à-vis developing countries. In other words, not only climate change, but also current mechanisms of promoting climate adaptations and mitigations might disrupt the realisation of the right to development.

Surrounding Politics: There is a need to acknowledge that globally in the name of Ease of Doing Business¹¹, there is a deliberate effort towards dismantling of collective bargaining institutions; and a re-emergence of stronger States vis-à-vis citizens, wherein the political rights of citizens are threatened even in what are otherwise considered democracies. There is a strong emergence of sectarian hatred against certain religious groups as well as migrants. In all of this, there is either tolerance or active ignorance of situations involving all marginalised communities, as well as conspicuous silence regarding indiscriminate murder and violence against Gazan civilians. Finally, even the debate on right to development does not focus on eliminating racism, capitalism, and patriarchy; instead, the solution is being searched within the conventional four walls, to prevent economic disorder. What is valued is paz absurda! In all this power politics, what is significant is that currently there are no influential global platforms where the voices of Global South, especially those of Least Developed Countries (LDCs), are heard and have decisive mandates. UN remains the sole platform¹²: and all eyes are on reclaiming UN as a platform for sustaining human rights movement¹³.

Remerging of the same Paradigm in different name: On one hand, it is encouraging to note that most large businesses and developed nations are committing to climate change targets and are contributing to financing. Companies are eagerly adapting newer practices. On the other hand, businesses that pursue win-win profitable sustainable options may inadvertently be causing a multitude of loss and damage to people and countries on the wrong side of power relationships. With weakening trade union movement and shrinking civil society spaces; increasing heavy debt burdens among LDCs and growing tax evasions- the race of businesses towards climate adaptations might just be at the cost of workers, communities, and the Global South. A new paradigm is emerging, with sanitized terms such as Green Capitalism or Eco-capitalism, which could potentially be even more detrimental to the planet and people than what Capitalism has already inflicted. Significantly, all powerful have positioned themselves in this so-termed new paradigm! The Fund must acknowledge that the right to development is in a narrow lane, losing the mechanisms that empowers it as a right and losing out on 'content'

¹⁰ [https://www.developmentaid.org/news-stream/post/168063/climate-financing#:~:text=A%20new%20report%20from%20the,Goals%20\(SDGs\)%20as%20well%20as](https://www.developmentaid.org/news-stream/post/168063/climate-financing#:~:text=A%20new%20report%20from%20the,Goals%20(SDGs)%20as%20well%20as)

¹¹ The World Bank came out with Ease of Doing Business ranking of all countries, where it defined doing business in one of the most irresponsible ways, wherein even issues of workers were not part of the indicators of ease in doing business. It is good that it is disbanded. However, there are news about its revival.

¹² <https://www.brookings.edu/articles/un-reform-and-the-global-south-at-the-2023-general-assembly/>

¹³ https://www.universal-rights.org/how-the-global-south-shaped-the-international-human-rights-system/?_cf_chl_tk=CFrnL38.w8hgILaY8lAGTqXKWnmNesrT5pl2cN.WvLU-1711722384-0.0.1.1-1706

to qualify as development. The urgency has fostered a new wave of dependency on businesses.

2. Principles governing the Architecture of the Fund

Ironically the initial tenure of the fund, set at four years, will end in 2029, just when we would have touched 1.5C threshold. These four years are very significant. Ironically, it is hosted by the World Bank, giving it yet another opportunity to reflect upon its own doing in the last five decades. It just has to undo and unlearn- to make a real paradigm shift¹⁴.

A study by Stockholm Environment Institute of the Fund has proposed an architecture for the Fund. It proposed mobilising loss and damage finance imminently based on solidarity, accounting for local needs, historical responsibility and the “polluter pays” principle, and the well-established notion of “common but differentiated responsibilities and respective capabilities”. The recommendations are pragmatic, but the challenge is that the urgency has given us an opportunity to push the boundaries of pragmatism. As usual, like many other Global North think tank, the report has a good diagnosis of the situation, but while prescribing medicines, it goes for paracetamols, rather than recommending surgery. The report has restated the question of liability, but has shied away from recommending shift in capitalist worldview. Are we prepared to acknowledge that the Global North, responsible for most carbon emissions to date, beneficiary of carbon-intensive economic growth models, capitalism, colonialism and perpetrators of racism and patriarchy has greater responsibility to compensate poor populations and countries for losses and damages from climate change?¹⁵

If we do not even push these boundaries, in the above context, the Fund will gradually gravitate towards an architecture that will have following characteristics: -

- **A tool of political control** in the hands of Global North, which has huge influence in decision making within World Bank.
- **A vehicle of symptomatic interventions**, with funds being utilised by companies and governments to validate their other business as usual practices, but with an image of environmental responsibility- without really addressing the root causes of climate change.
- **A decision-making apparatus** that views any organised groups and voices of workers, indigenous peoples, smallholder farmers, and vulnerable coastal populations as negative groups with vested interest.
- **A safety valve** to prevent any structural change through a provision of band aid solution, masking the need for systemic shift.
- **A funded platform** to promote green capitalism, wherein businesses are encouraged to make obscene profits with some positive steps towards Planet, but at the cost of human rights, and thus refusing to make the intrinsic link between environment justice and collective rights of communities.
- **A new instrument** of Debt-trap for recipient countries.
- **A timid initiative** erring towards maintaining the current ‘stable’ social order and refusing to directly address patriarchy, racism, capitalism and caste system.

¹⁴ <https://www.ohchr.org/sites/default/files/Documents/Issues/ClimateChange/COP21.pdf> and <https://www.undp.org/blog/six-ways-achieve-sustainable-energy-all>

¹⁵ <https://www.sei.org/wp-content/uploads/2021/10/211025c-davis-shawoo-loss-and-damage-finance-pr-2110l.pdf>

What would not be surprising is that the above characteristics might be seen as most appropriate characteristics by the current dispensation heading the development aid system. There is a need to recognise that the prevailing context and politics could result in a fund architecture that will not challenge the very foundation that has caused environmental injustice in the first place.

The need is to agree on certain core principles which need to govern the fund architecture. Following are the proposed principles:-

- **Acknowledges Urgency:** Recognize the critical importance of the five-year timeframe.
- **Promotes Human rights friendly systemic shift:** Establish institutions and mechanisms at the global level, firmly rooted in the voices of developing countries.
- **Makes World Bank and other development finance institutions accountable** for its past, current and future actions. Located within World Bank but as its reflective voice, ensuring accountability, with the UN System as delivery partners.
- **Making Businesses accountable:** Reinforce their commitment to adaptation, mitigation, and reparations, ensuring transparency and accountability in all processes.
- **Primacy to Small Island Developing States (SIDS) and Least Developed Countries (LDCs),** integrating the Multidimensional Vulnerability Index as a core component of mandatory financing mechanisms.
- **Expands Civil society actions:** Legitimise actors and human rights defenders that provide evidence-based information on the ground in decision-making processes.

In other words, the Fund should not be used merely to deliver relief to population who suffered losses and damages but should seize this opportunity to create mechanisms that prioritise and ensure their right to life and development through a paradigm shift.

Some immediate suggestions include:

(a) All institutions and organisations that have been ignored, need to get space on the decision-making table. Feminist social movements belonging to workers, communities, dalit, indigenous people, minorities and other marginalised, who are representative of organised voices of margins- were actively ignored by financial investors, governments and evaluators. Can the Fund empower them by including them in decision making spaces?

(b) Businesses, in their current sustainable models are not eliminating problems for Mexican coffee farmers¹⁶ and a few are profiting from insurance of illegally deforested lands¹⁷, and responsible investors are moving away from fossil fuel industries in developing countries with little concern about how governments would sustain its public sector¹⁸. In other words, businesses and investors are pursuing climate transitions without understanding its implications on people's right to development. The role of the Fund is not merely to have a watchful eye on such practices but to be actively find solutions that would address the

¹⁶ <https://stories.publiceye.ch/nestle-coffee/>

¹⁷ <https://stories.publiceye.ch/swiss-re-brazil/>

¹⁸ <https://www.wri.org/insights/just-transition-developing-countries-shift-oil-gas>

consequences. Businesses moving away from their climate-dirty enterprises need to be provided a role in mitigation and reparation- the fund could provide loans to such businesses, rather than providing loans to Global South Governments and making the latter more indebted¹⁹.

(c) The fund should be used to enforce ODA target of 0.7% for the developed nations and prevent its contamination by their targets on climate financing. The fund may organise a monthly report card on the target and create a sense of urgency in them. The climate change impact at 1.5C would surely be detrimental to human security in general.

(d) In the first four years, the primary focus could be on SIDS LDCs such as Comoros, Guinea-Bissau, Haiti, Kiribati, Solomon Islands, Timor-Leste and Tuvalu- with a clear plan for strengthening the use of Multidimensional Vulnerability Index to help them access support through mandatory mechanisms²⁰. Some of them might require mass relocation of populations. Similarly, there are other SIDS, which could be connected to the closest developed nations through certain mandatory mechanisms. The Fund needs to have an advocacy component, with World Bank being held responsible and accountable for advocating for global mechanisms to make certain financing mandatory.

(e) One significant component should be to promote spaces for negotiation on political rights of people- especially their right to expression, association, and protests. Making Governments accountable; exposing nexus between state and business; protection to human rights defenders; and re-strengthening collective bargaining. These are areas where the Fund needs to build mechanisms to actively monitor and use various multilateral financial instruments to build linkages. The only rider here is that this component should not become an instrument in the hands of Global North. The decision-making system needs to have space for independent social movements as stated in (a) above.

(f) This fund should be used to revive Ease of Doing Business Index, earlier hosted by World Bank, however, now being aligned with new paradigm of Ease of Doing Sustainable Business Index, wherein the indicators should help businesses locate themselves within the Right to Development ecosystem. This index should be hosted by UN agencies. There is a need to create level playing field for progressive businesses and progressive Governments. The indicators should define progressiveness in terms of commitment of business to people and planet.

3. Conclusion

Despite global efforts such as the UN Framework Convention on Climate Change and the Sustainable Development Goals, the world is facing a grim reality: temperatures have risen by 1.1 degrees Celsius, with projections indicating a potential increase of 1.5 degrees Celsius by 2029. The Fund must not be allowed to succumb to political control or green capitalism but should prioritise urgency, human rights, and accountability. The Fund must not be allowed to substitute other Climate finance support. By empowering institutions and human rights

¹⁹ <https://www.linkedin.com/company/102790046/admin/feed/posts/>

²⁰ <https://www.un.org/ohrlls/content/about-small-island-developing-states>

defenders who organise marginalised voices, holding institutions accountable, and prioritising feminist, anti-racism and anti-caste world views, the Fund need to have an explicit mandate for promoting and institutionalising genuine systemic change. Let the Fund not be another fund that delivers services to poor. This Fund needs to create enabling mechanisms for all other financial flows on climate adaptation, mitigation and reparation. The constraints of limited funds further exacerbate the challenge of ensuring meaningful inclusion and representation. The Fund needs to understand the importance of collective bargaining institutions for workers, farmers, communities, small enterprises and such other socially marginalised identities; and strengthening their participation in policy making on transition planning²¹. It is therefore imperative that the Fund's architecture reflects the context of urgency related to climate change, of shrinking spaces of civil society actions and collective bargaining and growing sensationalism towards repackaging capitalism as green capitalism, with the existing unprecedented dependency on businesses to make sustainable changes. Various collective entities, including trade unions, social movements, and groups, were deliberately weakened and are frequently discredited, and their opinions are marginalized or dismissed within these decision-making structures.

The next five years would be the litmus test for all UN conventions- international human rights conventions; cultural rights; ILO Conventions; UN Guiding Principles on Business and Human Rights; UN Framework conventions on Climate Change; International Convention on elimination of all forms of racial discrimination; CEDAW and Sustainable Development Goals (SDGs). The Right to Development of every individual as well as every community group needs to be ensured; and this is the opportunity. Let us not bow down to conventional mainstream Global North governed pragmatism again.

²¹ <https://www.linkedin.com/feed/update/urn:li:activity:7171202922322546689>