



E-ISSN: 2664-603X
P-ISSN: 2664-6021
IJPSG 2024; 6(2): 166-174
www.journalofpoliticalscience.com
Received: 08-07-2024
Accepted: 12-08-2024

Virendra Kumar
Assistant Professor,
Department of Political
Science, Satyawati College,
University of Delhi,
New Delhi, India

Corresponding Author:
Virendra Kumar
Assistant Professor,
Department of Political
Science, Satyawati College,
University of Delhi,
New Delhi, India

Financing loss and damage and international climate governance: A climate justice perspective

Virendra Kumar

DOI: <https://doi.org/10.33545/26646021.2024.v6.i2c.379>

Abstract

The idea of climate justice has emerged as a normative framework to examine policy decisions and outcomes at the United Nations Framework Convention on Climate Change (UNFCCC). This perspective questions the uneven contribution of advanced industrialised nations to climate change and demands just and fair redressal for the communities and nations that are the more vulnerable and bear disproportionate adverse climate impacts. Climate finance, which took center stage in 2009, is always taken as an important means to support mitigation and adaptation measures for vulnerable nations. The recognition of the Loss and Damage financing facility at COP 27 is hailed as a milestone given the fact that mitigation and adaptation have not been very successful in the Global South nations. This paper employs a climate justice framework to critically reflect on existing climate finance mechanisms within and outside UNFCCC. More specifically the paper examines whether finance meant for the Loss and Damage Fund is adequate, additional, and accessible to the most vulnerable nations, especially small island nations. The paper argues that discretionary and voluntary approaches to finance Loss and Damage amount to disregarding norms of equity and justice in climate governance. The paper further develops a critique of profit-driven insurance-based mechanisms and finally makes the point that international financial institution requires changes in governance to make accessible and adequate resources available for vulnerable nations and communities.

Keywords: Climate justice, compensation, state, responsibility, institutional reform, grant.

1. Introduction

Climate change with all its complexities and multifaceted ramifications has emerged as the most pressing issue in contemporary times. More than seeing climate change as a mere biophysical phenomenon and a subject of mere scientific study, it is to be conceived as an irreversible ongoing process that intersects with the existing social hierarchy and vulnerabilities of human communities. In a way, it deepens inequalities of resources, capacity, and vulnerabilities between the nations and communities within the nations and regions. Therefore questions of allocation of responsibility and transfer of resources to the vulnerable nations dominate the international climate regime. From the global South perspective, nations and communities of the global South have contributed least to carbon emissions, and yet are most vulnerable to adverse climate impacts including extreme weather events and sea level rise. For small island states and other developing nations, which also face development challenges, climate change tends to exacerbate pre-existing vulnerabilities and marginalisation and they therefore approach the adverse climate impacts including unavoidable economic and non-economic losses from the climate justice lens.

The Climate justice discourse aims to expose the asymmetrical and inequitable origins and impacts of climate change and argue that Global North owes a responsibility to Global South for the former has historically been responsible for polluting the Earth's atmosphere which belongs to all humanity equally (Shue 1999) ^[45]. Though 'historical responsibility' is contested on some grounds, it remains the guiding framework for multilateral climate regimes even as intellectuals debate 'responsibility' for climate change and competing grounds for 'compensation and reparation' for climate-affected communities and nations (Caney 2009) ^[7]. These debates manifest in the UNFCCC negotiations and decision outcomes as developed countries agreed to transfer resources and technology to the Global South, especially for mitigation and adaptation.

Mitigation entails reducing greenhouse gas emissions and enhancing sinks and reservoirs, adaptation refers to processes, practices, and structures to moderate the potential negative impacts of climate change (Wallimann-Helmer *et al.* 2019) ^[51]. L&D, in a climate change context, is taken to mean all those unavoidable adverse climate impacts that are ‘beyond mitigation and adaptation’ (Mace and Verheyen 2016) ^[30]. UNFCCC also states that L&D involves more than that which can be reduced by adaptation (UNFCCC 2014). From an alternative perspective, while adaptation involves responses to keep risks within the range of tolerable risks, L&D indicates responses to risks that cannot be kept within the range of tolerable risks (Dow *et al.* 2013) ^[16].

Loss and damage are understood as negative impacts of climate change that result from “extreme weather events” like cyclones and droughts and “slow onset events” including sea level rise and desertification. The Paris Agreement refers to L&D as negative impacts that human beings are unable to avoid and adapt to through mitigation activities of Greenhouse Gas emissions. While climatic losses refer to negative impacts to which reparation or restoration is impossible, climatic damages are negative impacts concerning which reparation or restoration is possible (Warner *et al.* 2012) ^[53]. The idea that all climatic losses and damages can be dealt with through existing mitigation and adaptation measures is problematic because it is difficult to establish the degree to which these measures have been successful (Craeynest *et al.* 2010) ^[15]. A comprehensive risk management approach that sees L&D along a continuum of avoidable, unavoids, and unavoidable risks and suggests a set of pro-market tools like disaster risk reduction and risk transfer mechanisms also has its limitations (Adelman 2016) ^[1]. Financing L&D entails complex challenges as the Paris Agreement (2015) deliberately avoids ‘compensation and liability’ and mentions ‘understanding, action and support, through Warsaw International Mechanism on a cooperative and facilitative basis’. In pursuance of this, COP27 (2022) developed a historic agreement on ‘Loss and Damage fund’ (LDF), based on voluntary contribution. This paper will reflect on the mobilisation and delivery of Loss and damage finance from the climate justice framework and provide a critique of the prevailing International Climate regime. While emphasising ‘adequate and additional’ public funding for the L&D, the paper also elaborates limitation of private financing mechanisms from the vantage point of vulnerable communities and nations. Finally, this study also dwells on mobilising innovative finance sources to address loss and damage in light of climate justice.

2. Objective of the Paper and Methodology

The paper critically examines the Paris Agreement (2015) which avoids ‘liability and compensation’ for climate-vulnerable nations and instead promotes discretionary financial contributions based on ‘cooperation and facilitation’ and ‘insurance solutions’ in L&D funding. The research question that this paper seeks to address is whether Loss and damage funding (LDF), agreed upon at COP 27, is in sync with the principles and criteria of climate justice which requires that nations and communities, subject to climate harm, are given just and fair reparation and compensation. The research question is how the climate victims of Loss and Damage can be compensated as a matter of justice which entails an obligation on the high

emitting states. The other related question is whether the pro-market private financial instruments and international financial institutions need to be driven by equity and justice, rather than profit-maximizing neo-liberal logic in the context of redressing loss and damage. The paper largely employs an analytical framework of climate justice to examine first, to argue in favour of binding financial compensation in the form of ‘grant’ instead of discretionary contribution and second ‘the adequacy, accessibility, additional, and affordability of climate finance related to loss and damage. These four criteria assume significance as dispersed and fragmented institutional financial architecture exists at the international level. The paper gathers and analyse secondary data from climate policy documents like UNFCCC official documents, research articles, think tanks’ reports, and various internationally recognized official reports and databases to present the case of particularly vulnerable states, especially small island states and Least Developed countries (LDCs).

3. Framework of climate justice

Justice is a matter of right, charity is not. Duties of justice are owed to someone for causing some wrong or harm in the past or present. The principles of justice are thus statements of what persons are owed either by others or by institutions or policies (Moellendorf 2015) ^[34]. Climate justice as an idea is concerned with a fair allocation of responsibilities regarding the burden of climate change. Moellendorf argues that both the relative poverty of developing states and the small share of total historical emission of greenhouse gases suggest that they have a claim not to be burdened by adaptation financing. Compensation claims arise because of the failure to mitigate and adapt; if there is insufficient mitigation and adaptation, then fundamental human rights to life, health, and subsistence will be violated and therefore those who have been wronged are entitled to compensation (Caney 2010) ^[8]. The historical responsibility principle entails that global warming and consequent climate change is the by-product of past emissions accumulated over time and that developed countries like the US, Canada, EU nations Australia, and Japan have contributed much more to the cumulative emission than developing countries and Least developed countries; therefore these developed countries have to compensate for this historic emission through sharing finance and technology with developing countries (Neumayer 2000) ^[36]. This historical principle further maintains that the developed world owes a ‘carbon debt’ by emitting a higher share of greenhouse gas emissions in the atmosphere that belongs to all humanity. A common objection to this principle is that those early emitters were unaware of the negative consequences of climate change and that many of them are no longer alive to discharge the responsibility and therefore it is unethical to impose a burden on the later generations. These objections can be overcome if one sees the state as a ‘historically persisting entity’ throughout the generations and benefits accruing to later generations. States can be held responsible for their acts, for ignoring the climate legislation and benefiting corporations (Stilz 2011) ^[46].

The Beneficiary pay principle entails that those states are under moral obligations that have benefitted from carbon-based industrialization including unsustainable economic growth and high standard of living to provide resources to developing LDCs for mitigation, adaptation, and now for the loss and damage (Adelman 2016) ^[1]. The obligation falls

on those benefiting from the harmful action (carbon emission) to *compensate* those adversely impacted by the same, even if the harming agent cannot be held liable (Batz 2013) ^[5]. The ability to pay principle is concerned more with ‘who can rectify the harm’ than ‘who caused the harm’. It holds that those who are advantaged and wealthy should bear the burden of climate change and rectify the harm (Caney 2010) ^[8]. Moreover, this principle believes that the duty to bear the burden of climate change falls greater on those whose wealth came about in unjust ways than those whose wealth came about in ways that were not unjust. This approach therefore makes not only the state but also other affluent actors such as corporate firms, international financial institutions and even sub state political authorities as duty bearer who are causally responsible for emission and spend money on adaptation. All three principles of climate justice thus make plausible arguments in favor of rectifying the harms of climate change and argue that developed states owe a moral obligation to compensate those adversely impacted by climate change, though the Ability Pay Principle (APP) lays more emphasis on capability than liability and culpability due to ‘wrongful emissions’.

4. Climate Finance architecture and financing Loss and Damage at the UNFCCC

The principles of climate justice and fairness were recognized by the UNFCCC, from the very beginning, in its core principle of ‘Common but differentiated Responsibilities and Respective Capabilities’ (CBDR) that assigns differential responsibility to developed and developing nations concerning common challenge of climate change. The developed world, in pursuance of this principle, would lead on mitigation and supporting adaptation to ‘provide financial assistance with new and additional monies’ for climate action in developing countries on account of their historical contribution to climate change and their greater financial and technological capabilities (Ferreria 2018) ^[18]. This means that climate finance to address mitigation and adaptation approaches has to be “new and additional” and therefore cannot be clubbed with the existing financial assistance under ‘Official Development Assistance’ (ODA). Article 11 UNFCCC defines a mechanism for providing financial resources on a grant or concessional basis, which is supposed to function under the guidance of, and accountable to, the Conference of Parties (COP) (UNFCCC 2009) ^[47]. This financial mechanism, however, has to be carried out by one or more international entities like the Global Environmental Facility (GEF) and the United Nations Environment Programme (UNEP).

From an early focus on financing mitigation projects to reduce carbon emissions under the Kyoto Protocol (1997), the focus shifted to funding the adaptation in vulnerable countries in the 2000s: Least Developed Countries Fund (LDCF); Special Climate Change Fund (SCCF), and UN Adaptation Fund. Global Environmental Facility (GEF), which was created in 1993 as a financing facility at the World Bank, worked as a trustee for these funds. The GEF also serves as a “financial mechanism” to five other conventions, including the United Nations Framework Convention on Climate Change (UNFCCC) the GEF, the World Bank-sponsored Climate Investment Funds (CIF) and the Green Climate Funds (GCF) together provide the main global pillar of multilateral public finance (Bracking and Leffel 2021) ^[6]. Developing Countries were skeptical of

GEF because it was donor controlled and required that all spending result in global public goods, leaving less financial leverage for regions specific adaptation measures (Khan and Roberts 2013) ^[25]. The Cancun UNFCCC meeting (2010) further provides for scaled-up, new and additional, predictable and adequate funding and also saw reaffirmation of developed nation’s commitment to provide US\$ 100 billion per year by 2020 under the Green Climate Fund (GCF), as agreed in Copenhagen Summit (2009) to address the needs of developing countries (UNFCCC 2013) ^[48]. At the same time, the agreement stipulated that funding may derive from multiple sources, including public and private, multilateral and bilateral, and alternative sources (Ludemann and Ruppel 2013) ^[29]. The GCF governing instrument emphasizes grant and concessional lending as financial instruments and balanced allocation between mitigation and adaptation. The institutional mechanism to address L&D and financing thereof did not get required attention in international climate governance until Bali Action Plan (2007).

The “Loss and Damage” as something ‘beyond adaptation’ and requires a separate financial mechanism was first proposed by Vanuatu, a group of smaller islands in the South Western Pacific Ocean and is part of the Alliance of Small Island States (AOSIS) in 1991. These island states, who suffer repeatedly due to both sudden onset events like cyclones and slow-onset events like sea level rise, demanded a mechanism for compensation for losses and damages. Specifically, they called for the creation of an international insurance pool apart from requesting the ‘industrialized nations to pay for the loss and damage. This proposal was not given much traction, especially by the developed world, particularly the United States (Mishra *et al.* 2023) ^[33].

The turning point came at COP 15 in Copenhagen (2009) where AOSIS's persistent demand for an international mechanism to address “unavoidable loss and damage” was endorsed by the African Group and larger Global South nations including India and Brazil. This collective pressure led to the creation of the Warsaw International Mechanism (WIM) for L&D, in 2013, as an institutional mechanism which aims to develop knowledge capacity, strengthen dialogue, and expanding action and support to address L&D associated with the adverse impacts of Climate Change.

The Paris Agreement (2015), an international binding agreement, further recognizes L&D as distinct and separate from adaptation. A separate Article 8 was added to the Paris Agreement (2015) that recognized the importance of “averting, minimising and addressing loss and damage” and that Parties should enhance understanding, action, and support on “a cooperative and facilitative” basis in the areas that include “irreversible and permanent loss and damage, slow onset events as also risk insurance facilities, climate risk pooling, and other insurance solutions” (UNFCCC 2015) ^[50]. Paragraph 49 of Article 8 further states the Executive Committee of the Warsaw International Mechanism (WIM) to establish a clearing house for risk transfers that serves as a repository for information on insurance and risk transfer to facilitate the effort of Parties to develop and implement comprehensive risk management Strategies”. Most importantly, Paragraph 52 unequivocally mentions that “Article 8 of the Paris Agreement does not involve or provide a basis for any liability or compensation” (UNFCCC 2015) ^[50]. This means the Paris Agreement does not provide for any new funding system; rather it permits

voluntary commitments without a binding legal framework (Karimi Schmidt 2020) ^[24]. Instead, private financial instruments like risk insurance or risk financing have been advanced as legitimate ways to address L&D. Some scholars interpret that the agreement recognizes the duty of ‘cooperation’ and by extension ‘state responsibility’ to realize the provision of ‘averting, minimising and addressing Loss and Damage’ and that it is possible to invoke liability and compensation according to the general rules especially the “no harm principle” which says that states must prevent activities that cause cross-boundary environmental injuries (Mayer 2016) ^[32].

While developed nations led by the US kept on obstructing the demand for compensation and liability for L&D due to fear of huge numbers of litigation and compensation claims in post-Paris COPs, a breakthrough came at COP27 (2022) in Egypt as the Parties agreed to a “new funding arrangement” to assist developing countries, including vulnerable nations and small island developing states (SIDS). With ample support from EU nations, the parties agreed to put the loss and damage funding arrangement on the formal agenda. Thus emerged a historical decision to establish a “Loss and Damage fund (LDF)”. On the very first day of COP 28 (2023), the Parties started pledging donations to the fund and agreed on critical details like selecting the World Bank as its host. Around US\$700 million had been donated to the loss and damage fund at the subsequent Dubai summit (COP 28, 2023) which looks smaller given the actual cost of losses and damages of only a few particularly vulnerable nations over the past few years.

5. How much public finance would be adequate and where will it come from?

States have thus pledged voluntary contributions at the Dubai climate meet (2023) and many such pledges are likely to come at subsequent summits in coming years. Some middle-income nations like Saudi Arabia have also donated handsome amounts but the contribution of the highest emitter USA is the least. These voluntary financial contributions on the part of developed states are believed to be inadequate to meet the increasing cost of economic losses and damages which will rather increase as climate change intensifies. The 2022 floods in Pakistan, for instance, are estimated to have caused up to \$40 billion of damage alone, leaving the funds insignificant (Henderson 2024). Cases like devastating drought and famine in Kenya, floods in Libya, and sinking of Pacific islands due to sea level rise and coastal erosion and consequent losses and damages will require massive funds. The escalating climatic losses are also believed to contribute to already high debt levels in developing countries by impacting their economies and the need to take on new debt to finance reconstruction. Some studies, using widely used modeling of loss and damage, give midpoint estimates of economic loss and damage of US\$425 billion in 2020 and US\$ 671 billion in 2030 (Markandaya and Gonzalez 2019) ^[21]. This means around US \$400 billion per year can be taken as a minimum (base) loss and damage fund which needs to be revised over time. States, especially developed states are therefore required to scale up their financial contributions regularly. The under-delivered pledges under the Green Climate Fund (GCF) are a pointer to huge challenges associated with mobilising adequate public funds through UNFCCC for loss and damage.

Developed states maintain that many better-off developing nations may give financial support to L&D funds. China, being a part of the Global South, is already doing enough to South-South cooperation, an initiative based on voluntary cooperation and solidarity; the developed countries should follow the Chinese strategy of promising less and delivering more instead of never-seen pledges (Pohnerova 2023) ^[40]. China also makes financial contributions to the Global South through bilateral donations. UAE, being the host of the COP28 Summit, contributed over 100 million dollars. China and Brazil have pledged to provide and mobilise finance for climate action in other developing countries (Ferreira 2018) ^[18]. Likewise, Indonesia, Mexico, and Korea who are part of Group 20 have provided voluntary contributions to the Green Climate Fund (Aggarwal *et al.* 2017) ^[2]. India has also undertaken a leadership initiative in the field of loss and damage in the form of launching the ‘Coalition of Disaster Resilient Infrastructure’ (CDRI), a multilateral partnership to address the challenges of building resilience into infrastructure systems and development associated with it (Mishra *et al.*, 2023) ^[33]. Voluntary financial contributions from the Global South nations make sense as they bear a disproportionate share of climate harm. It is also pertinent to mention that climate finance in general is marred with technical ambiguities

Whether finance for L&D is ‘new and additional’ needs careful investigation. A little reflection on the Green Climate Fund (GCF) will help us to see the mobilisation of additional climate finance from a proper perspective. At the Copenhagen Climate Conference (2009) developed countries collectively pledged specific amounts of climate finance to help developing countries with climate change adaptation and mitigation, providing US\$30 billion for the period 2010-2012 and mobilising US \$100 billion annually by 2020 (UNFCCC, 2009) ^[47]. This collective fund needs to be ‘new and additional’, ‘balanced’ between mitigation and adaptation, and may also be mobilized from the ‘private sector’ (Pauw, 2017) ^[38]. While the target of US\$ 30 billion was achieved, 80 percent of the amount was reported as Official Development Assistance (ODA), raising questions over the fund being new and additional’ (Pauw *et al.* 2022) ^[39]. The target of US\$100 billion was missed, with only US\$ 83.3 billion mobilised by the end of 2020 (OECD 2022) ^[37]. More critical voices, however, provide much lower estimates of as little as US\$ 23 billion (Carty and Kowalzig 2022) ^[10]. Technicalities of accounting and reporting thus make ‘what counts climate finance’ problematic as developed countries count all financial instruments (i.e. loans, grants, equity, insurance) at face value in their reporting to the UNFCCC (Pauw *et al.* 2022) ^[39]. This shows that ‘additional’ criterion of L&D fund (LDF) need be examined in view of the above possibility of overlapping and technical ambiguities. Unless UNFCCC secretariat comes up with some detailed report over actual disbursement of the (LDF), it would be premature to make generalization. Some studies show that high levels of climate finance do not automatically translate to climate justice (Ciplet *et al.* 2022) ^[14].

6. Can Insurance mechanisms be fair to climate victims?

Private financial instruments like risk financing and risk transfer insurance schemes have also been proposed by policymakers as an alternative financial mechanism to redress loss and damage. The Paris Agreement states that one of the areas of cooperation and facilitation to enhance

understanding, action, and support may include ‘risk insurance facilities, climate risk pooling and other insurance solutions’ (UNFCCC 2015) ^[50]. It is argued that insurance can provide timely and reliable finance to cover loss and damage, particularly compared with other post-disaster financing options such as aid or loans (GIZ 2016) ^[19]. The insurance approach to finance loss and damage is intertwined with an understanding of climate change in the framework of risk management. Aggregation of risk through risk management allows areas that are hit by disasters to access collective reserves when necessary and to ‘gain catastrophe insurance on better terms’ (Warner *et al.* 2009) ^[52]. Regional risk pool Insurance funds and facilities like the Caribbean Catastrophe Risk Insurance Facility (CCRIF) and the African Risk Capacity Programme (ARC) and the Pacific Catastrophe Risk and Finance Initiative serve as an example that risk pooling can be utilized to address L&D (Kempa *et al.* 2021) ^[26].

From the climate justice perspective, loss and damage cannot be an area of private financial return. Letting these products and schemes influence loss and damages would mean putting an onus on climate victims who are not only poor but also least responsible for climate change. Conventional insurance is problematic because premiums are likely to be unaffordable for vulnerable individuals and may not cover the cost of relocation and resettlement (Adelman 2016) ^[1]. More importantly, in many cases where climate disasters have occurred, insurance payments, while being quick, prove to be inadequate to meet the scale of financial requirements (Mishra *et al.* 2023) ^[33]. When Hurricane Irma hit the islands of Antigua and Barbuda, it led to the massive destruction of housing, infrastructure, and basic services apart from affecting lives and livelihood. Out of the total recovery needs which hover around 222 million USD, the Caribbean Catastrophe Risk Insurance Facility (CCRIF) made a payout totaling 6.79 million USD, merely 3 percent of the total needs (Richards *et al.* 2022) ^[42]. To cover the recovery needs, the island nations had to take loans from regional banks, thus putting them under greater debt burdens (Cummins 2022) ^[12].

It is believed that insurance and other pre-disaster risk financing instruments are not appropriate for slow-onset climate impacts such as desertification or sea level rise (Linnerooth-Bayer *et al.* 2018) ^[27]. In case of extreme risks of catastrophic events or higher layer risks, publicly backed insurance is often preferred since insurers are often reluctant to cover such risks insurance is costly and in the absence of donor support, ill-affordable for the poor since insurers require large and expensive capital backup or reinsurance. Insurance funds and pre-disaster financing are also not thought of as appropriate for slow-onset events such as desertification or sea level rise (Lu *et al.* 2018) ^[28]. The vulnerable and the worst affected are owed reparation and compensation as a matter of right and justice. Whatever climate effects they are subject to are not of their own making. Insurance models tend to shift the burden on already vulnerable and affected communities to pay premiums regularly to avail of the payout by insurance companies.

From a climate justice perspective, private financial instruments will not do justice to them. Undoubtedly more and more finance will be required to address the increasing losses and damages due to increasing extreme events as climate change intensifies in coming years. However, funding mobilised through financial instruments that either

leads to profit from the crisis or creates a greater debt burden for vulnerable communities, or shifts responsibility for finance onto vulnerable communities should not be considered as contributing to the overall loss and damage to the financial goal (Richards *et al.*, 2023) ^[42].

7. Restructuring debts of climate-vulnerable nations and alternative sources of financing

Most climate-vulnerable nations have been pressing for grant-based climate finance, yet a major share of climate funding, offered by Multilateral Development Banks, comes in the form of loans (Cichocka and Mitchell, 2022) ^[13]. These banks provide concessional finance under multilateral funds such as Green Climate Funds (GCF), apart from giving loans for development purposes at the market rate (Murphy and Parry, 2020) ^[35]. Many studies show that LDCs are under heavy debt on account of development loans from MDBs and therefore require restructuring of their loans (Savviidou and Atteridge, 2021) ^[44]. Climatic losses further increase the high-level debt by impacting the economies of vulnerable developing nations and the need to mobilise additional finance to reconstruct damaged public infrastructure and other losses. With ‘inadequate public grants’ and meager amounts from insurance companies in the event of catastrophic climatic events, these nations are forced to approach the World Bank and other financial institutions for loans at market rates. It is argued that the Bank may reduce the risk for private capital in developing countries by lowering its lending returns and suspending the repayment of debts for poorer countries. Given the unavoidable climatic losses and damages that constrain the vulnerable nations’ ability to pay debts to these banks, such debts must be restructured. This could free up capital national funds in the affected countries which could, in turn, be invested in measures to address loss and damage (Hirsch *et al.* 2019) ^[23].

This brings to the fore the significance of the ‘Bridgetown initiative’ that aims to mobilise climate finance through restructuring debts and innovative taxes but it requires political will and state interventions in the existing climate financial governance (Persaud 2022) ^[41]. Some of these proposals are as follows: Every debt contract is to have natural disaster and pandemic clauses. With such clauses, lenders are to suspend interest payment for two years in case of an emergency and the same will be paid in the last two years of the original term; Expanding the lending capacity of the multilateral development banks (MDBs) to one trillion; Loss and damage funding, which must be in grant or grant-like forms such as zero-interest bonds with long repayment periods, needs to be implemented immediately, based on an independent assessment of the occurrence of disaster. In addition, the Bridgetown initiative also recommends concessional funding, with long grace periods and low interest rates, to middle-income countries, besides the poorest countries to enable them to invest in climate resilience initiatives. The Bridgetown proposal goes further and recommends making fossil fuel companies accountable for their carbon emissions and therefore proposing to fund grants for L&D through a levy on producers of fossil fuels, with the levy linked to fluctuating gas and oil prices. The other suggestions for additional climate finance include international tax and levies on international container shipping, financial transactions, or airline travel.

The idea of Climate Damage Tax (CDT), which builds on an initiative by the Climate Justice Program and Heinrich

Boll Stiftung, proposes that each country to impose a tax on fossil fuel extractors for each ton of coal, a barrel of oil, and cubic meter of gas extracted on its territory (Hirsch *et al.* 2019) ^[23]. Proponents suggest that the level of taxes starts at USD 5 per ton of CO₂ and may rise to USD 10 per year. The collected levies could be directly paid to a “Solidarity Facility for Loss and Damage under the auspices of the Green Climate Fund (GCF) or Global Loss and Damage Fund. Such minimal taxes, which would hardly distort fuel prices in the market, may fetch around USD 300 billion in 2030 and generate many more funds. Critics, however, cite many limitations including CDT contradicting national tax regime and lack of interest of major fossil-producing countries in such an initiative. The idea of imposing a special levy on emissions sources and then using the revenue to compensate for loss and damage is worth considering at the multilateral level. Likewise redirecting public finance from fossil fuel subsidies, which run into many trillions, to redressing loss and damage could be another politically contentious issue to ponder over at the multilateral climate summit. Again, the largest subsidizers like the US and European Union can take the lead in cutting the subsidies and using the saved public capital to redress L&D, and better-off middle-income nations like China and India may follow suit.

These innovative and bold proposals, which are meant to mobilise additional finance for climate-vulnerable nations, reflect the concerns of climate justice framework that makes the high emitting states and fossil fuel corporations accountable for adverse and unavoidable climate impacts on least capable and responsible communities and nations. The proposals, if operationalized, would mobilize adequate and additional financial resources for the most vulnerable communities and nations.

8. Discussion

The questions of who should finance the L&D and whether such financing is adequate, additional and accessible for climate-vulnerable communities provides the vantage point to analyse the international climate governance, especially its financial framework. From the climate justice perspective, the loss and damage associated with climate change is not a random misfortune, but an injustice, and those who committed the injustice have a responsibility to compensate those who are harmed (Gonzalez 2019) ^[21]. This means the highest emitters like the US and European nations are required to provide adequate and additional resources to vulnerable developing nations and communities that are subject to triple inequality of unequal contribution, vulnerability, and adaptive capacity. Adhering to the principles of climate justice means institutions and policies are to be designed in a way that compensates for historical wrongful emissions and related climate harms. The Paris Agreement (2015) has, however, moved away from this larger concern in designing climate policies and institutional framework that relegates “liability and compensation” clause to back seat and making space for a discretionary financial contribution towards the Loss and Damage Fund. Moral responsibility of ‘wrongful emissions’ thus proves weaker in facing power dynamics and political feasibility at multilateral climate negotiations. Still it is argued that ‘responsibility’ can be invoked under international law customs and principles such as no-harm principle, other than the Paris agreement, to provide reparation and compensation and that the obligation arising from climate change treaty-

based regime do not replace the customary provisions such as no-harm rule (Amini *et al.*, 2023) ^[3].

The humanitarian approach classifies Northern assistance to the states of the global South as a response to ‘misfortune’ rather than ‘injustice’ and as ‘charity’ rather than as redress for centuries of uncontrolled greenhouse gas emissions (Gonzalez 2019) ^[21]. The philanthropic or voluntary contribution can be withdrawn at any time unless there is a legal obligation not to do so. A charity-based approach obscures the North’s historic responsibility for climate change and its ongoing obligation to mitigate its emissions and provides reparation for resulting harms (Gonzalez 2020) ^[22]. Not recognizing historic responsibility and culpability for climate harm and focusing solely on the capability to assist as advanced by the Ability to pay principle (APP) has only led to a ‘discretionary, voluntarist approach by states that are free to choose their contribution to loss and damage (Eckersley 2015) ^[18]. Thus what is provided by the biggest historical emitters and most wealthy states to climate victims always fall short of what climate justice requires.

This has led some scholars to see L&D and financing thereof from a distributive justice perspective. On this view, L&D can also be understood as ‘undeserved harms’ that require redistribution to even out unfair disadvantages (Wallimann Helmer *et al.* 2019) ^[51]. This framing, however, relinquishes ‘wrongful emitting’ as a relevant criterion to identify the duty bearer for compensation for the L&D. In this understanding, conceiving L&D as a ‘harmful but non-wrongful action’ requiring redistribution might help overcome political deadlock and potential conceptual confusion. This understanding, however, makes situations of vulnerable communities confronting irreversible sea level rise and the threat of potential disappearance a matter of “bad luck”, that requires redistribution, rather than a matter of injustice as mentioned earlier. One can argue that recognizing the ‘wrongful historical and present emission’ remains indispensable not only from a moral point of view but also because such unchecked emissions under the auspices of colonial control have shaped unequal development pathways between the global North and South (Roberts and Parks 2007) ^[43].

The approaches of comprehensive risk management and climate risk insurance facilities as advanced by the Paris Agreement (2015) tend to redirect responsibility back onto vulnerable countries (Richard *et al.* 2022) ^[42]. In so doing undermines the need to take transformative solutions to such pressing crisis threatening human existence. Slow-onset events like sea level rise and desertification take place over a long period and have permanent risks that cannot be quantified in advance. People with low income face multiple challenges as climate change intersects with existing vulnerabilities: they may face drought some years, flooding other years, crop failure, and so on. An insurance product will not address all of these vulnerabilities and may come at the expense of savings, which are more flexible coping strategy (Baumgartner and Richards 2019) ^[4]. Likewise, Regional risk transfer facilities such as the Caribbean Climate Catastrophe Risk Insurance Facility (CCRIF) are mainly based on mutuality and still limited in the provision of protection to the most vulnerable, who cannot afford to pay premiums for risk coverage (Hirsch *et al.* 2019) ^[23]. These risk-transfer insurance facilities need financial premium support from other potential sources like multilateral development banks sponsored multi-donor trust funds like the Asia Pacific Climate Finance Fund (ACLIFF).

These MDBs also can give debt relief to heavily indebted climate-vulnerable nations, especially small island nations and LDCs. The saved capital so generated can be utilised to invest in climate-resilient initiatives and other measures to redress loss and damage.

The disbursement and easy accessibility of L&D funds in the event of catastrophic climatic events also assume significance as losses and damages are experienced at the local level by vulnerable communities in the Global South. World Bank and Other international financial institutions need to overcome some of the major shortcomings to make L&D Fund accessible for affected people without delay. Project-based modalities which are the most common mode of delivering concessional finance often bypass existing country institutions or are poorly integrated with recipient country systems and budgetary processes (Cichocka and Mitchell 2022) ^[13]. Many low and middle-income nations argue that actual disbursement of funds takes relatively longer time to reach the affected population because of cumbersome process and conditionality. If the fund remains without any conditionality then it will be easier for concerned countries to utilise it for the given purpose without adding much burden to existing liability on account of development assistance. Studies show that small grants, targeted for specific purposes, are more likely to achieve their objective, making tangible impacts on the affected local communities than large projects (Chen *et al.* 2022) ^[11]. At the same time, poor and vulnerable people should not be treated as mere passive recipients of funds. Instead, these funds are mere compensation for inflicting harm on them. Being sufferers of various unavoidable harms and losses due to climate change they have a legitimate claim to the resources from the international community and financial institutions. The upcoming Climate Summit (COP29) will be important in setting new collective quantifiable goals on climate finance and laying down a governance structure to deliver effective funding and allow timely disbursement of funds taking into account the needs and priorities of vulnerable developing nations.

9. Conclusion

Financing for loss and damage has passed through many deadlocks and contestations and still needs binding financial commitment on the part of high-emitting states even as agreement over voluntary and discretionary financial contribution to the L&D fund is seen as a 'historic agreement'. The fact that developed states have not agreed to a 'liability and compensation framework' in the Paris Agreement does not mean that other institutional measures cannot be undertaken within the 'historical responsibility' principle of climate justice. This perspective provides a normative framework to see the plight of climate-vulnerable communities and nations as a matter of 'injustice', rather than a case of 'bad luck' and therefore mobilisation of financial resources and delivery thereof for unavoidable losses and damages are obligatory, rather a matter of charity. The losses and damages which are beyond adaptation are injustice and therefore concrete institutional measures related to finance are required, besides risk transfer and risk financing facilities that tend to redirect responsibility back to poor and vulnerable communities and nations. These nations may collectively push for institutional measures like restructuring of debts and premium support from special funds of MDBs. This will help mobilisation of adequate, additional supply of finance

to needy nations. International Financial institutions like the World Bank need to reform their governance to provide more speedy and concessional financial support in the event of extreme catastrophic climatic events in vulnerable nations. Some alternative funding mechanisms like taxing major fossil fuel companies and redirecting fossil fuel subsidies are also worth considering in the long run redressing loss and damage. These steps are not easy to come by as there is a close nexus between the political elites and corporate interest all over the globe along with other constraints. The climate justice approach thus equips us to question these deeper structural underpinnings and find a just and fair mechanism to redress increasingly adverse climate impacts in various forms and manifestations in the global South.

10. References

1. Adelman S. Climate Justice, Loss and Damage and Compensation for Small Island Developing States. *Journal of Human Rights and the Environment*. 2016;7(1):32-53.
2. Agarwal S, Boule B, Briand Y, Genscu I, Gonzalez-Zunzga S, Hagermann M, *et al.* Brown to Green: G20 Transition to a Low Carbon Economy. *Climate Transparency*, Berlin; c2017, p. 1-35.
3. Amini A, Abedi M, Daryadel E, Kolahi M, Mianabadi H, Fisher J. The Paris Agreement's approach towards climate change loss and damage. *World Affairs*. 2023;186(1):46-80. <https://doi.org/10.1177/00438200221147936>.
4. Baumgartner L, Richards J. Insuring for a Changing Climate: A Review and Reflection on CARE's Experience with Microinsurance. *CARE International*.
5. Baatz C. Responsibility for the Past? Some Thoughts on Compensating Those Vulnerable to Climate Change in Developing Countries. *Ethics, Policy and Environment*. 2013;16(1):1-24.
6. Bracking S, Leffel B. Climate Finance Governance: Fit for Purpose? *WIREs Climate Change*; c2021, p. 12. <https://doi.org/10.1002/wcc.709>.
7. Caney S. Justice and Distribution of Greenhouse Gas Emissions. *Journal of Global Ethics*. 2009;5(2):125-146.
8. Caney S. Climate Change, Human Rights and Moral Threshold. In: Humphreys S, editor. *Human Rights and Climate Change*. Cambridge: Cambridge University Press; c2010.
9. Caney S. Climate Change and Duties of the Advantaged. *Critical Review of International Social and Political Philosophy*. 2014;13(1):203-228.
10. Carty T, Kowalzig J. Climate Finance Short Changed: The Real Value of the \$100 Billion Commitment in 2019-20.
11. Chen S, Uitto JI. *Small Grants, Big Impacts: Evaluating the Environment in International Development*; c2022.
12. Cummings M. *Riders on Storm: How Debt and Climate Change Are Threatening the Future of Small Island Developing States*; c2022. www.eurodad.org/debt_in_sids.
13. Cichocka B, Mitchell I. Six challenging trends for climate finance effectiveness. *Centre for Global Development*. 2022;7-23.
14. Ciptel D, Falzon D, Uri I, Robinson SA, Weikmans R, Roberts JT. *The Unequal Geographies of Climate Finance: Climate injustice and dependency in the world*

- system. *Political Geography*. 2022;99:1-12.
15. Craeynest L, Sharman T, Singh H, Solomon I, Jefferna A. loss and damage from climate change: The cost for poor people in developing countries. ActionAid; Johannesburg; c2010.
 16. Dow K, Berkhout F, Preston BL. Limits to Adaptation to Climate Change: A Risk Approach. *Current Opinion in Environmental Sustainability*. 2013;5(3-4):384-391.
 17. Eckersley R. The Common but Differentiated Responsibilities of States to Assist and Receive 'Climate Refugees'. *European Journal of Political Theory*. 2015;14(4):481-500.
 18. Ferreira PG. Climate Finance and Transparency in the Paris Agreement: Key Current and Emerging Legal Issues. Centre for International Governance Innovation; c2018.
 19. GIZ. Climate Risk Insurance for Strengthening Climate Resilience of Poor People in Vulnerable Countries: A Background Paper on Challenges, Ambitions and Perspectives; c2016.
 20. Gonzalez CG. Climate Justice and Climate Displacement: Evaluating the Emerging Legal and Policy Responses. *Wisconsin International Law Journal*. 2019;36(2):366-396.
 21. Gonzalez CG. Climate Change, Race and Migration. *Journal of Law and Political Economy*. 2020;1(1):109-146.
 22. Henderson J. Ten Key Conclusions from COP 28: A Farewell to Fossil Fuel? Oxford Institute for Energy Studies; c2024, p. 1-19.
 23. Hirsch T, Bijoy MR, Etubi OB, Imuton LKJ, Jiva G, Masaba A, Minninger S, *et al.* Climate finance for addressing loss and damage: How to mobilize support for developing countries to tackle loss and damage. *Analysis*. 2022;91:3-54.
 24. Karim-Schmidt Y. The issue of loss and damage within the international criminal law. *Graz Law Working Paper 06*; c2020.
 25. Khan MR, Roberts JT. towards a binding adaptation regime: Three Levers and Two Instruments. In: Moser SC, Boykoff MT, editors. *Successful Adaptation to Climate Change: Linking Science and Policy in a Rapidly Changing World*. Oxford: Routledge; c2013, p. 132-148.
 26. Kempa L, Zamarioli L, Pauw WP, Cevik C. Financing Measures to Avert, Minimise and Address Loss and Damage: Options for the Green Climate Fund (GCF). Frankfurt School UNEP Collaborating Centre for Climate and Sustainable Energy Finance, Frankfurt am Main; c2021, p. 1-48.
 27. Linnerooth-Bayer J, Hochrainer-Stigler S. Financial Instruments for Disaster Risk Management and Climate Change Adaptation. *Climatic Change*. 2015;133:85-100.
 28. Lux L, Rexel A. Ways to Pay for Climate-Related Loss and Damage; c2018.
 29. Ludemann C, Ruppel OC. International Climate Finance: Policies, Structures and Challenges. In: Ruppel OC, Roschmann C, Ruppel-Schlichting K, editors. *Climate Change: International Law and Global Governance*. Nomos Verlagsgesellschaft mbH; c2013, p. 375-408.
 30. Mace MJ, Verheyen R. Loss, Damage and Responsibility after COP 21: All Options Open for the Paris Agreement. *Review of European, Comparative and International Environmental Law*. 2016;25(2):197-214.
 31. Markanday A, Gonzalez EM. Integrated Assessment for Identifying Climate Finance Needs for Loss and Damage: A Critical Review. In: Mechler R, Bouwer I, Schinko T, Surminski S, Linnerooth-Bayer J, editors. *Loss and Damage from Climate Change: Climate Risk Management, Policy and Governance*. Springer; c2022.
 32. Mayer B. The Relevance of the No-Harm Principle to Climate Change Law and Politics. *Asia Pacific Journal of Environmental Law*. 2016;19(1):79-104.
 33. Mishra M, Srivastava MK, Bhadwal SR, Rashmi R. Operationalization of the Loss and Damage Fund: Challenges and Opportunities. Discussion Paper. The Energy and Resource Institute (TERI); c2023.
 34. Moellendorf D. Climate Change Justice. *Philosophy Compass*. 2015;10(1):1-10.
 35. Murphy D, Parry JE. Multilateral Development Banks' Finance for Adaptation and Paris Alignment. International Institute for Sustainable Development; c2020.
 36. Neumayer E. In Defense of Historic Responsibility for Greenhouse Gas Emissions; c2000, p. 1-21. Available from: https://eprints.lse.ac.uk/18906/1/___Libfile_repository_Content_Neumayer,%20E.In%20defense%20of%20historic%20responsibility%20for%20greenhouse%20gas%20emissions.pdf
 37. OECD. Aggregate Trends of Climate Finance Provided and Mobilised by Developed Countries in 2013-2020; c2022.
 38. Pauw WP. From Public to Private Climate Change Adaptation Finance: Adapting Finance or Financing Adaptation? Utrecht University; c2017.
 39. Pauw WP, Moslener U, Zamarioli LH, Amerasinghe N, Atela J, Affana JPB, *et al.* Post 2025 Climate Finance Target: How Much More and How Much Better? *Climate Policy*. 2022;10:1241-1251.
 40. Pohnerova E. Loss and Damage and Climate Finance War with China. Policy Brief. Peace Research Centre Prague; c2023. Available from: <https://www.jstor.org/stable/resrep49087?seq=1>
 41. Persaud A. A Manifesto for Going from Billions to Trillions in Climate Finance Now. *Economic and Political Weekly*. 2022;57(42):10-12.
 42. Richards JA, Schalatek L, Achampong L, White H. The Loss and Damage Finance Landscape. Heinrich Böll Stiftung Washington DC; c2023, p. 1-90.
 43. Roberts JT, Parks BC. *A Climate of Injustice: Global Inequality, North-South Politics, and Climate Policy*. Cambridge: MIT Press; c2007.
 44. Savvidou G, Atteridge A. Why is it so Hard to Spend on Climate Finance? Aid Atlas Tool. SEI. *Quantifying International Public Finance for Climate Change Adaptation in Africa*. *Climate Policy*. 2021;8:1020-1036.
 45. Shue H. Climate Change and International Inequality. *Journal of International Affairs*. 1999;75:531-545.
 46. Slitz A. Collective Responsibility and the State. *The Journal of Political Philosophy*. 2011;19(2):190-228.
 47. UNFCCC. Fact Sheet: Financing Climate Change Action; c2009.
 48. UNFCCC. The Cancun Agreements: Outcome of the Work of the ad-hoc working group on long-term cooperative action under the Convention; c2013.

49. UNFCCC. Report of the Conference of Parties on its Nineteenth Session, Held in Warsaw from 11 to 23 November 2013: Part Two: Action Taken by the Conference of Parties at its Nineteenth Session; c2014.
50. UNFCCC. Paris Agreement: Article 8 - The Paris Outcome on the Loss and Damage. Available from: https://unfccc.int/files/adaptation/groups_committees/loss_and_damage_executive_committee/application/pdf/ref_8_decision_xcp.21.pdf
51. Helmer WI, Mayer L, Woo MK, Schinko T, Serdeczny O. The Ethical Challenges in the Context of Climate Loss and Damage. In: Mechler R, Bouwer I, Schinko T, Surminski S, Linnerooth-Bayer J, editors. Loss and Damage from Climate Change. Cham: Springer; c2019.
52. Warner K, Ranger N, Surminski S, Arnold M, Bayer LJ, Erwann MK, *et al.* Adaptation to Climate Change: Linking Disaster Risk Reduction and Insurance. Geneva; c2009.
53. Warner K, Geest VDK, Kreft S, Huq S, Harmeling S, Kusters and Sherbinin A de. Evidence from the Frontlines of Climate Change: Loss and damage to communities despite coping and adaptation. UNU EHS; c2012.
54. Weikmans R, Timmons Roberts J, Robinson S. A. What counts as climate finance? Nature; c2020, 588.