

Sharing Reflections from Indigenous Peoples in the context of the UN Framework Convention on Climate Change (UNFCCC)

Over the course of 2023, Indigenous Peoples under the UN Framework Convention on Climate Change (UNFCCC) organized several specific dialogues focused on uplifting the unique and rights-based perspectives of Indigenous Peoples on loss and damage.¹

In this brief submission, we share high-level reflections, comments, expertise, observations, and recommendations from these discussions to ensure that Indigenous Peoples' perspectives of and experiences with loss and damage are appropriately addressed in the global discussion. Historically, Indigenous Peoples have been structurally excluded from decision-making spaces including the discussion on Loss and Damage. This has been largely a result of the framing of Loss and Damage within the UNFCCC as a relationship between the Global North and Global South. However, Indigenous Peoples from all regions have been facing losses and damages for multiple generations with the invasions, colonization, dispossessions, environmental degradation, biodiversity loss, and violent removal from their Lands, their Waters, and their territories.²

We would invite further dialogue between the UN High Commissioner on human rights and the International Indigenous Peoples Forum on Climate Change (IIPFCC), which includes Indigenous Peoples from the seven UN socio-cultural regions.

Opening Context

Indigenous Peoples carry the burden of the impacts of climate change, including the economic and non-economic losses to our ecosystems, cultures, rights, and ways of life. These impacts are compounded by colonization, creating poverty and structural vulnerability, which impact our ability to adapt and respond to the climate crisis.

Climate change exacerbates human rights violations, including Indigenous Peoples rights violations.

Non-economic losses, including the losses of land, water, vital species and biodiversity, culture and spirituality, rights and identity are not measurable nor convertible into monetary compensation, nor can they be repaired, or compensated for, with financial assistance after the fact. There is no single understanding of what these losses are, due to the diversity of Indigenous Peoples, as well as the understanding of losses as both economic and non-economic.

For Indigenous Peoples, the focus must be on *preventing, averting and minimizing loss and damage* rather than on monetary compensation after the fact.

¹ Official Side Event at SB 58 in June 2023: [A roundtable dialogue: Indigenous Peoples' Perspectives and Experiences on Loss and Damage \(youtube.com\)](https://www.youtube.com/live/a8DDUYF3nYw?si=FlI4mLBwnPcn7I7F). Official Side Event at COP 28 in December 2023: <https://www.youtube.com/live/a8DDUYF3nYw?si=FlI4mLBwnPcn7I7F>. [A Call from Indigenous Peoples: Weaving a Human Rights-based Approach in Loss and Damage \(youtube.com\)](https://www.youtube.com/live/a8DDUYF3nYw?si=FlI4mLBwnPcn7I7F)

² Professor Kyle Whyte would describe this as 'colonial deja vu'. More here: <https://www.taylorfrancis.com/chapters/edit/10.4324/9781315642659-15/colonial-d%C3%A9ja-vu-indigenous-peoples-climate-injustice-kyle-powys-whyte>

Loss and Damage has intergenerational and multidimensional effects across all aspects of Indigenous Peoples' lives, including in our culture, spirituality, and language.

Loss and Damage is not just about sudden natural disasters happening. It is also about slow-onset events such as multi-year drought, desertification, coastal erosion, and rising sea levels, such as in the Arctic and Pacific small-island developing states (SIDs).

Loss and Damage is intertwined with the various structural challenges faced by Indigenous Peoples, including the criminalization of environmental defenders.

Due to our interconnected worldview of being and becoming, we understand ourselves as part of the natural world being damaged. This results in spiritual, social, cultural and emotional damage and despair, especially when our ecosystems and the plants and animals that are their relatives and are vital to their food systems, knowledge systems (knowledge production, reproduction and transformation), are harmed and begin to disappear.

Biodiversity loss and ecosystem degradation can result in the loss of knowledge systems related to food, medicine, spirituality, animals, including the ability of Indigenous Peoples to transmit this knowledge intergenerationally. For instance, Indigenous youth and children are severely impacted when ancestral knowledge and practice can no longer be passed down or continued.

Question 1. Concrete examples from the seven socio-cultural regions

The examples shared here are not intended to be comprehensive, nor representative of the diversity of experiences, impacts, and solutions that Indigenous Peoples across the globe face with respect to Loss and Damage. As such, these examples demonstrate the complexity of Loss and Damage faced by Indigenous Peoples, both economic and non-economic, as well as cumulative from the ongoing, structural legacy of colonization: impacts such as the generation of income, diversification of diet, tangible and intangible cultural heritage loss.

Many pastoralist communities are highly affected by drought and flooding. Pastoralist and hunter-gatherer communities in East Africa – Kenya, Uganda, Tanzania, and other countries – have experienced a huge loss of livestock and are becoming poorer. This has led to hunger, food insecurity, and conflict between communities because of the competition over scarce resources. These communities are also experiencing more landslides that produce property damage and have even killed people. The damage leads to the separation of families and villages, producing a loss of culture, knowledge, and language. Youths are migrating to cities, further weakening the transmission of knowledge. Governance systems have even been affected by all these impacts. For many of these pastoralist communities, these droughts are impacting the donkey, who is a very important element for survival, and water availability. As many communities do not have clean water, women fetch water from distant places with a donkey, allowing them to carry up to 40 liters.

Droughts also affect the availability of medicinal and ceremonial plants in various parts of the world. The inability to perform ceremonies directly affects cultural and knowledge systems.

Across the Arctic, warming temperatures are melting sea ice, which raises water levels, erodes coasts, and releases permafrost. This affects everything about Indigenous Peoples' way of life across the Arctic, including Inuit and Saami. It also affects Indigenous Peoples culturally, emotionally, spiritually, and physically, including impacts to mental health. Communities can no longer access their resources for food. It also affects the infrastructure – much of which was put there by the colonial governments. In some cases, entire communities have been displaced. As a result, Indigenous Peoples in the Arctic can no longer live their way of life as they have for thousands of years.

In Sápmi, climate change impacts on reindeer and reindeer husbandry stem from both slow-onset changes and extreme weather events. Changes in vegetation and plant community composition pose risks to the quality and availability of pasture and events related to precipitation, with extreme snowfall and increased occurrences of rain-on-snow and thawing-freezing due to shifting temperatures during winter and late spring, have already resulted in losses in herds in Sápmi due to thick snow cover and ice barriers over lichens and mosses starving reindeer. Other impacts related to climate change include political or cultural consequences related to changes in use of Sámi Indigenous Knowledge and skills. Climate change impacts in relation to reindeer husbandry are further complicated by limited flexibility and other non-climate factors. In the latest assessment of the IPCC (2022), Sámi reindeer herding highlighted under the section 'loss and damage to vulnerable livelihoods in Europe' which states that, "...impacts cascade due to a lack of access to key ecosystems, lakes and rivers, thereby threatening traditional livelihoods, food security, cultural heritage (e.g. burial grounds, seasonal dwellings and routes), mental health, and growing costs from supplementary feeding of reindeer."

In Nepal, Indigenous villages in the Himalayan rain shadow have been displaced by water shortages, and some other villages are experiencing devastating floods. This leads to communities breaking up their relationships and cultural loss.

In Peru, Indigenous Peoples in highland communities face various agricultural losses due to extreme and changing climatic conditions. Also, loss of medicinal plants and sacred sites.

In Fiji and Papua New Guinea (PNG), large, export-driven corporations operating in extractive industries such as bottling water, minerals, and precious metals, have pushed Indigenous Peoples through large, unplanned relocation. This unplanned relocation occurred without the free, prior, and informed consent of those Tribal Resource Owners, resulting in a wide variety of impacts, including: loss of highland Indigenous species trees cover, ceremonial lakes and wild ducks & bats, dry creeks and drying up of rivers; massive soil loss due to collapsing riverbank erosions and hills implosions and subversions at an alarming rate; and decrease in biodiversity due to drying up of valleys and catchment landscapes, thickening of siltation in river estuaries, extreme changing of biological cycles of inshore fisheries. These changes threaten fish stocks, seriously affecting the daily quantity and ranges of daily catches by fishers.

For Indigenous farming Peoples in the desert of Southern Arizona USA and Sonora Mexico, increasing summer temperatures, drought, diminishing groundwater, and unpredictable weather patterns are causing increasing challenges to Indigenous food production and the complex

interwoven web of biodiversity on which it depends. For example, amphibians such as the Sonora Desert Toad which naturally control the insects are rapidly diminishing in number, impacting the natural balance that is essential for Indigenous food production.

Question 2. Measure, monitor, report on, and evaluate the impacts of loss and damage

For Indigenous Peoples, the measuring, monitoring, reporting, and evaluation of Loss and Damage must ethically and equitably engage with Indigenous knowledge systems. These systems of knowledge encompass law, social practices, ceremony, spirituality, and governance, and are based on time-tested scientific knowledge. For centuries, Indigenous Peoples continue to create mechanisms to account for the most extreme events and adapt to their potential impacts. These knowledge systems are deeply place-based, reflecting the relationship that Indigenous Peoples and Nations have developed with the natural world. Each has different innovations, adaptations, and protocols. Indigenous women, in particular, have specific traditional knowledge, innovation, and collective practices that are based in collaboration, sharing, and mutual support where their voices, experiences, and ideas can be shared respectfully. Conversations on Loss and Damage must create appropriate space for these systems of knowledge, including special attention to uphold Indigenous-led research and education. This research must be supported through direct investments to Indigenous Peoples, and prevent proposed solutions that co-opt Indigenous understandings without engaging with its' underlying worldview.

Question 4. Promising practices and critical challenges in the promotion, protection, and fulfillment of the full enjoyment of human rights in the context of loss and damage.

Critical challenges:

- Commonly, the mechanisms to address Loss and Damage are conceived by actors who do not understand Indigenous Peoples' realities, values, priorities, and knowledge systems. Because of this, many responses to Loss and Damage further impact Indigenous Peoples' rights, self-determination, and knowledge systems.
- The lack of effective participation of Indigenous Peoples in the design and implementation of Loss and Damage mechanisms is the main challenge for the promotion, protection, and fulfillment of the full enjoyment of their human rights, as well as the rights of Indigenous Peoples, in this context. Symbiotic interconnectedness and relationships, and the ways of being and becoming of Indigenous Peoples have not been addressed in discourses of climate change impacts, including in loss and damage and mechanisms to address it.
- Another critical challenge is lack of access by Indigenous Peoples to loss and damage finance mechanisms. Indigenous Peoples face significant barriers to access climate finance, with less than 1% of climate-related Official Development Assistance (ODA) goes to Indigenous Peoples.³ One example of this barrier is the qualification criteria to access climate finance. When approving and disbursing these funds, governments and multilateral contributors apply a risk framework that is based on concerns about lack of

³ Rainforest Foundation Norway. (2021). Falling short: Donor funding for Indigenous peoples and local communities to secure tenure rights and manage forests in tropical countries (2011–2020), page 4. https://d5i6is0eze552.cloudfront.net/documents/Publikasjoner/Andre-rapporter/RFN_Falling_short_2021.pdf?mtime=20210412123104

accountability, compliance, or failure. They usually perceive Indigenous Peoples and their organizations as unable to meet funders' planning and reporting requirements, such as financial and risk management, planning, monitoring and evaluation. These requirements are based on colonial history and international development narratives about compliance, which create huge barriers to funding for Indigenous Peoples.

- These challenges are also present in the UNFCCC loss and damage mechanisms currently being discussed. COP 28 adopted the operationalization of the loss and damage funding mechanism, but Indigenous Peoples are only guaranteed to be active observers during board meetings, and the previous commitment to give Indigenous Peoples representatives a seat at the board has been discarded in Dubai.
- The new Loss and Damage fund is intended only for 'developing' countries, thus excluding many Indigenous Peoples who are experiencing the impacts of climate change in countries that are considered developed, and thus are vulnerable within the context of their countries. For Indigenous Peoples, access to Loss and Damage funding is essential for all seven UN socio-cultural regions.
- Moreover, even in the case of so-called developing countries, resources often go to the governments, who intervene in the communities with minimal results, if not with further harmful practices. There is currently no obligation for governments who receive loss and damage financial support to redirect these resources, fully or partially, to Indigenous Peoples' communities and territories where Loss and Damage is mostly taking place.

Promising practices:

- Indigenous Peoples are currently implementing methods and responses to minimize the impacts of climate change and to increase resiliency based on their ancestral knowledge and practices. This includes restoring the use of drought-resistant Indigenous seeds and food species (animals and plants), multi-crop production systems, water harvesting and management, removal of invasive species (such as cattle and non-native trees) and replacing them with original plants and animals that are adapted to climate variances and use less water. In addition, return to original chemical free growing methods based on Indigenous knowledge about soil health restores the carbon absorption capacity of soil.

Question 5. Recommendations.

We recommend the OHCHR, the Loss and Damage Finance Facility (including the Board), the UNFCCC, other global and regional multilateral bodies, as well as national and local governments, development agencies, financing institutions, civil society, and academia, to adopt the necessary measures to ensure the following priorities regarding Indigenous Peoples and loss and damage.

- Recognize and respect Indigenous Peoples as distinct rights holders, affirmed in the UN Declaration on the Rights of Indigenous Peoples (UN Declaration). The recognition of Indigenous Peoples' collective rights as distinct and additional to individual human rights requires that States recognize them as Peoples with the right to self-determination, and not categorize them amongst other sectors of civil society.

- To prevent further loss and damage, governments must invest in a swift phase out from fossil fuel sources of energy and adopt legal instruments, as well as the corresponding enforcement, for an urgent stop to fossil fuel extraction and processing in Indigenous lands and territories, in line with their free, prior, and informed consent (FPIC).
- Indigenous Peoples must have their sovereignty and self-determination guaranteed and respected, including full access and legal title to their traditional lands, territories and waters, as affirmed in Article 26 of the UN Declaration. Governments and agencies must develop trust in Indigenous Peoples' time-tested knowledge, ability, and capacity to manage these resources.
- Provide resources and support so Indigenous Peoples can further adapt, develop and promote Indigenous-led climate initiatives, including through direct access to loss and damage and other climate finance mechanisms.
- Guarantee direct, full, and meaningful participation of Indigenous Peoples in the decision-making processes regarding the development, implementation and operationalization of all loss and damage mechanisms, including the loss and damage fund.
 - For this fund, FPIC from affected Indigenous Peoples must be at the core of all mechanisms that assess and address Loss and Damage.
 - Foster collaboration between governments and Indigenous Peoples. Ensure involvement of Indigenous Peoples in their respective countries while designing and operationalizing loss and damage funds and measures.
 - Consider the intersections between Indigenous Peoples regarding gender, sexuality, youth, elders, knowledge holders, and persons with disabilities, as well as the diversity amongst Indigenous Peoples, their land and specific context.
 - Indigenous Peoples must be on the board of the loss and damage fund.
 - There should be an Indigenous Peoples-centered policy within the loss and damage fund (such as the Indigenous Peoples Policy at the Green Climate Fund), and all loss and damage guidelines must have a human rights approach.
- Guarantee direct access of Indigenous Peoples to loss and damage mechanisms, especially funds and financial instruments.⁴ Indigenous Peoples, regardless of geographic location, must be key beneficiaries of loss and damage funds in order to protect what is already there and minimize more damage.
 - Ensure that there is specific allocation of funds to Indigenous Peoples within funding mechanisms operationalization to address the impacts of the communities on the ground.
 - Requirements for access to loss and damage mechanisms must be directly accessible to Indigenous Peoples, meaning Indigenous Peoples can apply to resources without having to rely on Parties to access these funds and exercise their rights.
 - All Indigenous Peoples, regardless of geographic location—that is, Indigenous Peoples from so-called "developing" countries as well as from so-called

⁴ For more on Principles & Guidelines for Direct Access Funding for Indigenous Peoples, refer here: <https://assets.takeshape.io/86ce9525-f5f2-4e97-81ba-54e8ce933da7/dev/01375808-c4d4-412c-80a5-8a516e835976/Indigenous%20peoples%20-%20principles%20%26%20guidelines%20for%20direct%20access%20funding.pdf>

"developed" countries—must all be included and have direct access to loss and damage funds and climate finance mechanisms.

- Indigenous Peoples must have direct access to grievance redress mechanisms within loss and damage funds, both legally—meaning, being able to submit disputes independently—and financially—having exemption from all required grievance complaint fees, or financial support to cover any existing fees.
- Ensure the highest level of transparency on information disclosure to respect Indigenous Peoples' rights to self-determination and compliance. This includes having clear policy guidance, defined impact areas, and clear investment criteria.
- Address non-economic loss and damage, with equal consideration in work stream programming, investment in research, assessment, and compensation.
- Encourage, develop, and implement instruments of rapid response to upcoming loss and damage, providing immediate support to impacted communities and territories.
- Conceive and employ mechanisms with the goal of strengthening Indigenous Peoples and their organizations, and not of commodifying their territories.
- Funds must establish robust environmental and social safeguards, including effective grievance and redress mechanisms that fully guide the integrity of Indigenous Peoples and their future generations.
- Invest in ethical and participatory research to assess loss and damage (economic and non-economic), respecting FPIC, in particular Indigenous-led research on Loss and Damage that incorporates time-tested Indigenous knowledge systems for proper assessment of loss and damage, as well as proper implementation of initiatives to address loss and damage. For example, the creation of independent experts groups to assess loss and damage.
 - There are a few academic experiences that are championing issues that are relevant to Indigenous Peoples and including these issues into their programming, with some noticeable examples of South-South academic partnerships. These collaborations must be sought out by research institutions and ethically implemented with participation by Indigenous Peoples and their organizations.
 - Additional investment for North - South cultural exchange partnerships. There must also be serious thoughts of the funding and creation of devoted Independent Indigenous Advocacy Centers. This will empower and equipping of Indigenous Peoples with updated information and data on climate science, climate justice, climate law and other relevant topics to prevent further loss and damage.

Question 6: Closing Reflections

For Indigenous Peoples, the focus must be on **preventing, averting and minimizing loss and damage** rather than on monetary compensation after the fact. To do this, we must stop the expansion of fossil fuel-based energy production and the emissions resulting from fossil fuel extraction.