



## **CAN (Climate Action Network) Press Briefing on the Loss And Damage Fund November 1, 2023 - 12:00 UTC**

### **LIEN VANDAMME**

Senior Campaigner, Center for International Environmental Law (CIEL)

“The establishment of the Loss and Damage Fund at COP27 was hailed as a historic win for communities that are facing harms caused by decades of climate delay. Ensuring effective remedy for people whose human rights have been harmed by the climate crisis has long been and is still being denied in the international climate negotiations. It is yet to be seen whether the Loss and Damage Fund will be a step in the right direction, because what we have seen during the four meetings of the Transitional Committee up until now, is nothing but a continuation of delay and an unwillingness by wealthy nations to take responsibility for the harms they have caused.

They have persisted in making unjust proposals about the governance and the structure for this Fund, such as setting it up under the World Bank, and continue to deny their responsibility to pay for loss and damage. These unreasonable positions have taken up a massive amount of space and energy of these talks, which should have been about how to design a Loss and Damage Fund that meets the needs and priorities of communities and people, and respects and fulfills their human rights.

We therefore chose to end this briefing by focusing on some crucial elements that have not been given the attention they deserve, and that need to be part of any decision taken at COP28 about the Loss and Damage Fund.

At COP28, a Governing Instrument for an independent Loss and Damage Fund under the Climate Convention must be adopted that explicitly recognizes the importance of human rights obligations in the context of addressing loss and damage, and also implements a human rights-based approach. This includes ensuring effective and meaningful participation by those most affected by the climate crisis and civil society organizations at all levels of the Fund, and taking a gender-transformative approach in all its activities.

It also means reaching those who need it most. A dedicated funding window for direct community access will be a key part of an effective Fund. We have heard a lot of talk about making sure this fund focuses on the most vulnerable, and we know from experience that ensuring community access to funding is the way to do so. Any decision that will not allow for this, such as a set up under the World Bank, or that doesn't explicitly put in place modalities for direct community access, will be unacceptable.

Additionally, the Fund must have policies in place focusing on marginalized groups, to avoid discrimination and ensure substantive equality. Which brings me to a last, crucial point.

It is essential that the Loss and Damage Fund does not contribute to or cause adverse social, human rights and environmental impacts. Social and environmental safeguards consistent with international law and standards must be in place to prevent harm and to ensure that the funding advances rights-compatible and transformative action. The Fund must also have effective mechanisms for monitoring and oversight and accountability in place, including an independent grievance redress mechanism at the Fund level that reports to the Board, for the public to raise concerns and to seek redress in the case of harms caused by the Fund's activities.

This relates to the first point made during this briefing, on the location of the Fund. The proposal to host the Fund under the World Bank entails that the safeguards and grievance mechanisms of the implementing agencies would apply, and that they will be held against the benchmark of the World Bank's safeguards. This is yet another reason why the Fund should be independent. It is essential to have one benchmark for all activities implemented by the fund, that is adapted to the distinct objectives of the Fund to address loss and damage. The Board must have full capacity, independence and a mandate to develop a dedicated set of safeguards, using an inclusive and participatory process. Also an independent, centralized grievance mechanism that reports to the Board is essential to ensure accountability.

So in conclusion, while developed countries claim they want to focus on the most vulnerable and ensure communities have access, they continue to put forward proposals that will lead to the contrary. Only a drastic change in wealthy nations' approach to these talks will allow for the fifth meeting to achieve what the fourth couldn't. And while they go into this last round of talks, they must keep in mind that a failure to deliver will not make the communities whose rights are at stake and who are entitled to remedy go away, to the contrary."