

Four Hot Issues at COP28

Climate summit will mean wealth transfers, more bureaucracy

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Over 75 different agenda items will be discussed and negotiated in Dubai at the 28th annual Conference of the Parties of the United Nations Framework Convention on Climate Change, COP28. Most of the issues up for discussion are purely technical. A few, however, are important for the further development of the climate regime.

In any climate summit, some politically contentious issues arise amid all the technical discussions. Usually, they have to do with money or the expansion of the international mandate. These discussions generally follow the same choreography. Nations that are classified as “developing countries” make a negotiatory moonshot by making a very bold claim. “Developed countries” fight back until they cannot hold their ground anymore, finally acquiescing to what is sold as a “compromise.”

This compromise usually meets more than two-thirds of the developing Parties’ demands. In later COPs, the “compromise” is set in motion. Developing countries will also mount pressure and get the other third of their demands. Some of the major topics of COP28 showcase how this crude rendering mirrors reality. This paper highlights four of the major issues that will be discussed in Dubai.

Issue 1: Loss and damage

Loss and damage can be defined as “the actual and/or potential manifestation of impacts associated with climate change in developing countries that negatively affect human and natural systems.”¹ “Loss” is characterized as the permanent negative impacts of climate change, and “damage” refers to those impacts that can be reversed. A distinction has also been made between avoidable (through mitigation and adaptation efforts) and unavoidable loss and damage.²

Negotiations about loss and damage turned on this rough analysis: Developed and developing countries could reap the benefits of all economic development, although to different extents. However, developed countries, which have the largest share of externalities, never had to pay for them. It is said to be the developing world that bears the consequences. Therefore, developed countries should transfer money to developing countries to compensate for their varying externality burdens.³

In 2012, COP18 decided to act on loss and damage. At COP27 in 2022, governments agreed to set up a fund and a “transitional committee.” This committee is expected to make recommendations on operationalizing the fund at COP28.⁴



¹ Report of the Conference of the Parties on its Eighteenth Session, Held in Doha from 26 November to 8 December 2012 FCCC/ CP/2012/8/Add.1 (UNFCCC, 2013), <https://unfccc.int/documents/7642>.

² Saleemul Huq, Erin Roberts, and Adrian Fenton, “Loss and damage,” *Nature Climate Change*, 3(11), pp. 947-949, October 29, 2013, <https://www.nature.com/articles/nclimate2026>.

³ Reinhard Mechler, Laurens M. Bouwer, Thomas Schinko, Swenja Surminski, and JoAnne Linnerooth-Bayer, *Loss and damage from climate change: Concepts, methods and policy options*, (Berlin: Springer Nature, 2019), <https://link.springer.com/book/10.1007/978-3-319-72026-5>

⁴ Arthur Wyns, “COP27 establishes loss and damage fund to respond to human cost of climate change,” *The Lancet Planetary Health*, 7(1), e21-e22, January 2023, [https://www.thelancet.com/journals/lanplh/article/PIIS2542-5196\(22\)00331-X/fulltext](https://www.thelancet.com/journals/lanplh/article/PIIS2542-5196(22)00331-X/fulltext).

For a decade, developed countries fought against the concept of loss and damage or at least against the usual analysis of who bears the burdens of development. But then, in 2022, the European Union (EU) weakened. The EU accepted the idea of loss and damage and a fund associated with it. As the EU reversed its position, accepting the institution of a new loss and damage fund, some other developed countries, for example, the US, UK, and Switzerland,⁵ felt they could not stop it. Some holdout nations consented, promising to focus on strict methodologies and policies to be applied by the fund.

Key problems: Loss and damage is a contentious issue because of its lack of coherence and consistency. However, the Parties to the COP accepted loss and damage as a category and agreed upon setting up a fund to address it. This fund will serve as a means to compensate some countries for allegedly bearing the burden of externalities.

Arguably, it is reparations, although not in the sense that individual nations would be legally required to pay damages based on liability for its past actions. However, the concept of paying for past actions is an important element of loss and damage, thus making it certainly appear as a type of reparations.⁶ It is important to note that climate activists often refer to it as reparations.⁷ Some countries, including the US, are concerned that the loss and damage fund could introduce⁸ the idea of a legally enforceable climate change reparations scheme.⁹

In addition to concern over the fund suggesting or leading to reparations, there are several other contentious problems with loss and damage.

First, the discussion about loss and damage focuses only on negative externalities. This discussion assumes that any benefits from trade, logistics, research, education, electrification, innovation, and so on are automatically remunerated because of the price mechanism accompanying them. This is simply wrong. While most of these activities have a price mechanism, they also generate positive externalities in addition to the direct benefit of the parties involved.

For example, in addition to the economic benefit of, say, Sri Lanka being able to join the global production chain of ship-making, the country is generally better off because of this trade. It has a more diversified and resilient economic base. People with jobs in this industry tend to move up the social ladder, and their children have better education and healthcare. These indirect benefits are a byproduct of Sri Lanka's exports in the shipping industry and are not priced in the export goods.

As another example, selling and consuming foodstuff relies on a price mechanism. But the overall effect of trade having reduced 80 percent of world hunger¹⁰ and its benefits, e.g., in education, longevity, or human development, do not have direct prices. They are positive externalities of selling and hauling food. If loss and damage is about pricing in externalities, it should look at both negative and positive externalities.

Second, the methodologies for modeling and measuring loss and damage are controversial. The methodologies suggested so far have been rejected by developing countries. One of the reasons for this rejection is that these methodologies often include land use, such as agriculture and forestry, in the calculation, which developing countries see as putting them at a disadvantage. Developing countries generally have a much higher share of land use in their GDP than developed countries¹¹ and have a rich history of developing through the utilization of the land, such as through farming.¹²

⁵ Of course, Switzerland is not an EU member state.

⁶ Loss and damage and how it will work is ambiguous, and this is likely on purpose. The Paris Agreement is not a Treaty establishing international law obligations and the loss and damage process is not meant to involve a legal probe and other such proceedings, even though some academics and activists appear to want such a system. As it stands now (but it does not stand yet), it will be a fund in which some Parties pay and from which other Parties receive.

⁷ Brad Plumer, Lisa Friedman, Max Bearak and Jenny Gross, "In a first, rich countries agree to pay for climate damages in poor nations," *The New York Times*, November 19, 2022, <https://www.nytimes.com/2022/11/19/climate/un-climate-damage-cop27.html>, (accessed November 27, 2023).

⁸ Unsigned editorial, "'Loss and damage' — the most controversial words in climate finance today," *Nature*, November 22, 2023, <https://www.nature.com/articles/d41586-023-03615-0>, (accessed November 27, 2023).

⁹ One of the earliest conceptual discussions of the continuum from loss and damage to reparation is Melissa Farris, "Compensating climate change victims: The Climate Compensation Fund as an alternative to tort litigation," *Sea Grant Law and Policy Journal* 2 (Winter 2009/2010), pp. 49-62, <https://nsglc.olemiss.edu/sglpj/Vol2No2/farris.pdf>. A newer approach is Olúfẹ́mí O. Táiwò, *Reconsidering reparations*. (Oxford: Oxford University Press, 2022).

¹⁰ Sasatra Sudsawasd, Taweechai Charoensedtasin, and Piriya Pholphirul, "Does international trade enable a country to achieve Sustainable Development Goals? Empirical findings from two research methodologies," *International Journal of Sustainable Development & World Ecology*, Volume 27, No. 5, 2020, pp. 405-418, <https://www.tandfonline.com/doi/full/10.1080/13504509.2019.1709913>.

¹¹ "Agriculture, forestry, and fishing, value added (% of GDP)," The World Bank, <https://data.worldbank.org/indicator/NV.AGR.TOTL.ZS> (accessed November 27, 2023). Please note that emissions from fisheries may not be counted in some IPCC land use emissions data. Intergovernmental Panel on Climate Change (IPCC), "Climate Change and Land IPCC Special Report on Climate Change, Desertification, Land Degradation, Sustainable Land Management, Food Security, and Greenhouse Gas Fluxes in Terrestrial Ecosystems," (Cambridge: Cambridge University Press 2022), Summary for Policymakers at pages 12-13, <https://www.cambridge.org/core/books/climate-change-and-land/summary-for-policymakers/BACDCBE9CB0F9F0729BE006926569FDB> (accessed November 27, 2023).

¹² "Agriculture and Food: Overview" web page, The World Bank, <https://www.worldbank.org/en/topic/agriculture/overview> (accessed November 27, 2023).

Think of Brazil's and Argentina's coffee, milk, and meat exporting. Think of Nigeria's oil sector. Think of China's urbanization. There is, to some degree, consensus in including energy production, industrialization, building, and other human activities to the listed causes of anthropogenic climate change. However, no consensus exists on whether to include land use, such as agriculture and forestry. Developing countries do not want to extend methodologies to include land use emissions, although emissions are connected to this sector.¹³ This stance highlights the point that loss and damage is foremost a political demand, not open to technical development.¹⁴

Finally, loss and damage is just a way for developing countries to access finance via the global climate regime. By itself, this is hardly coherent with the global climate regime being about, well, the climate. It is even more problematic when considering that that regime already has a dedicated finance track. This new loss and damage fund is in addition to the climate finance fund.

Issue 2: Climate finance

High-income countries have long been criticized for failure to meet their annual goal — set in 2009 at COP15 — to mobilize \$100 billion to be transferred to global climate action. This amount is to be set aside expressly for adaptation, *i.e.*, for living with climate change.¹⁵ The Paris Agreement has three goals: the first is to mitigate climate change, the second is to enable living with it and adaptation, and the third is to manage financial flows to be consistent with climate action.¹⁶

There is also pressure to reform and capitalize on international financial institutions, such as the World Bank, so that they can invest more money in climate efforts. Some development experts have also called on

the United Nations to entrust the World Bank Group with a clear mandate to monitor countries' commitment to cut global greenhouse gases and accelerate the global energy transition. As the argument goes, the UN should entrust the World Bank Group with a clear mandate on global climate stability by monitoring countries' commitment to cut greenhouse gas emissions.¹⁷

COP28 will not be able to deliver on countries reaching the \$100 billion goal. It is highly doubtful whether the UN can mandate the World Bank or the International Monetary Fund (IMF) to "reform," but it is possible that developed countries will announce further financial means to the adaptation goal, and the World Bank and IMF will consent out of their own "need" to adapt their policies to climate change. After all, the World Bank Group is already the world's largest investor in climate action.¹⁸

Key problems: Instead of spending money that would not affect climate change and have minimal benefit when it comes to adaptation, developed countries should remove obstacles such as lending restrictions on developing countries from becoming developed nations. Developing countries should be expected to remove harmful obstacles that prevent their own development. Through more wealth and economic prosperity, these nations would be in a far better position to combat climate change if it is an issue and to adapt if necessary.

In addition, the World Bank and the IMF repositioning themselves to become climate-active is a massive breach of their mandate. Their means should be dedicated to development and financial relief. Suppose they were, however, to become even more engaged in climate activities. In that case, their donors' contributions should be attributed to meeting the \$100 billion climate finance goal. If it did, this would quickly fulfill the goal.

¹³ "Land Use, Land-Use Change and Forestry (LULUCF)" web page, United Nations, <https://unfccc.int/topics/land-use/workstreams/land-use--land-use-change-and-forestry-lulucf> (accessed November 27, 2023). Intergovernmental Panel on Climate Change (IPCC), *Climate Change and Land IPCC Special Report on Climate Change, Desertification, Land Degradation, Sustainable Land Management, Food Security, and Greenhouse Gas Fluxes in Terrestrial Ecosystems*, (Cambridge: Cambridge University Press, 2022), <https://doi.org/10.1017/9781009157988> (accessed November 27, 2023).

¹⁴ Elisa Calliari, "Loss and damage: a critical discourse analysis of Parties' positions in climate change negotiations," *Journal of Risk Research*, Volume 21, Issue 6, 2018, pp. 725-747, <https://www.tandfonline.com/doi/abs/10.1080/13669877.2016.1240706>.

¹⁵ Mizan Khan, Stacy-Ann Robinson, Romain Weikmans, David Ciolet, and J. Timmons Roberts, "Twenty-five years of adaptation finance through a climate justice lens," *Climatic Change*, No. 161, pp. 251-269.

¹⁶ UNFCCC. (2015). *Paris Agreement*. Paragraph 2, <https://unfccc.int/process-and-meetings/the-paris-agreement>

¹⁷ Frances Stewart, "Macroeconomic Policies for a Sustainable World," *Journal of Human Development and Capabilities*, Volume 24, Issue 4, pp. 1-23, <https://www.tandfonline.com/doi/abs/10.1080/19452829.2023.2243919>.

¹⁸ Independent Evaluation Group, *Climate Change and the World Bank Group: Phase One-An Evaluation of World Bank Win-Win Energy Policy Reforms*, 2009. World Bank Open Knowledge Repository, <https://openknowledge.worldbank.org/entities/publication/d6c76034-8293-5334-aa95-212120f206af>.

Issue 3: Global Goal on Adaptation

The Paris Agreement established the Global Goal on Adaptation (GGA) to drive collective action on climate adaptation. At COP26, countries agreed to launch a two-year work program to translate the GGA into concrete actions. At COP27, countries established a framework for achieving the GGA. The framework will be discussed during workshops leading to COP28 and will likely be considered and adopted at COP28.¹⁹

Currently, the GGA skeleton comprises the following goals: 1) define “indicators based on existing systems”; 2) design a global monitoring, evaluation, and learning (MEL) system; 3) strengthen “country-driven and participatory processes”; 4) establish “pathways for informing policy and practice”; 5) figure out how the MEL might be used to serve the broader GGA framework.²⁰

Key problems: This skeleton foresees a never-ending work program prolonging the deliberations at COPs, setting up new structures that need to be financed, and extending the reach of the global climate regime. Furthermore, the deliverables of such a system are not even part of the skeleton. In other words, a new process is being initiated but there are few indications about what that process is actually about.

Issue 4: Global Stocktake

The Global Stocktake is a two-year process for taking stock of the implementation of the Paris Agreement globally. This process will occur every five years. The first Global Stocktake began at COP26 and will come to an end at COP28. After COP28, the next Stocktake will come to an end at COP33. The Stocktake has three phases: information collection and preparation, technical assessment, and consideration of outputs.

A Synthesis Report of the first Stocktake process summarizes the main findings, wrapping up phase two, which is the technical assessment.²¹ While the report highlights the progress that has been made since the Paris Agreement — global temperatures are now expected to rise by 2.4-2.6 degrees C (4.3-4.7 degrees F) by the end of the century, compared to 3.7-4.8 degrees C (6.7-8.6 degrees F) in 2010 — it also explains the need for more action.²² It deems that current climate commitments are not in line with pathways needed to limit global warming to

1.5 degrees. But it also charts a path forward, emphasizing the urgent need for system-wide transformations to reduce emissions and ensure a climate-resilient future.

The measures identified in the report include scaling renewable energy; significantly shifting transport and industry; reducing non-CO2 emissions such as methane; and phasing out “unabated fossil fuels,” which generally refers to greenhouse gas emissions from the use of fossil fuels that are not captured and removed from the atmosphere.²³ The report also stresses adaptation, underscoring the need to “reorient trillions of dollars in global finance.”²⁴

At COP28, the third and final phase of the Global Stocktake, consideration of outputs, takes place. Negotiators will discuss the Stocktake’s technical findings, identify opportunities and challenges, and assess measures and best practices for climate action and international cooperation. Following these discussions, countries will collectively summarize key political messages, which can be referenced in COP28’s final decision. This final decision would formalize all countries’ guidance and commitments in developing their future climate actions and support. At the COP in 2024, Parties should hand in their new nationally determined contributions, incorporating the discussions of this Global Stocktake.

Key problems: It is expected that the negotiations of the Global Stocktake will take center stage at COP28. As a “big tent” agenda item, all issues can be discussed under the Stocktake and linked to it. The Global Stocktake can be, at the same time, a vector for all other financial and similar items to be discussed simultaneously and a tool for stopping any technical negotiation from advancing.

Technical negotiators will refer issues they cannot or do not want to solve to the Stocktake. This is a typical negotiating technique that aims to mount pressure for compromises in the last couple of hours of the conference by accumulating many unresolved items. To resolve them, all types of compromises will be made. Usually, this works in favor of developing parties.

Finally, the Stocktake furthers the international climate regime, its institutions, and bureaucracies. The Stocktake is a never-ending negotiation process and a dumping ground for every issue anyone can come up with. To put it differently, the international climate process will become more granular and more regulative.

¹⁹ Emilie Beauchamp and Iga Józefiak, *Next Steps for Defining a Monitoring, Evaluation, and Learning System for the Global Goal on Adaptation by COP 28*, International Institute for International Development, 2023, <https://policycommons.net/artifacts/3936894/next-steps-for-defining-a-monitoring-evaluation-and-learning-system-for-the-global-goal-on-adaptation-by-cop-28/4743965/> on 04 Oct 2023. CID: 20.500.12592/ts5b40.

²⁰ UNFCCC, *Paris Agreement*, paragraph 2, p. 18.

²¹ Technical dialogue of the first global stocktake, “Synthesis report by the co-facilitators on the technical dialogue,” United Nations, September 8, 2023, <https://unfccc.int/documents/631600> (accessed November 27, 2023).

²² Jamal Srouj and Deirdre Cogan, “What Is the ‘Global Stocktake’ and How Can It Accelerate Climate Action?” World Resources Institute, September 8, 2023, <https://www.wri.org/insights/explaining-global-stocktake-paris-agreement>.

²³ There is no official definition for “unabated fossil fuels” but it generally refers to greenhouse gas emissions from the use of fossil fuels that are not captured and removed from the atmosphere.

²⁴ Independent Evaluation Group, *Climate Change and the World Bank Group: Phase One—An Evaluation of World Bank Win-Win Energy Policy Reforms*, World Bank Open Knowledge Repository, 2009, <https://openknowledge.worldbank.org/entities/publication/d6c76034-8293-5334-aa95-212120f206af>.

Conclusion

The outcomes for these COP28 major issues will almost certainly mean more supranational and national bureaucracy, more money dedicated to unquantifiable goals, more structural discussion, and more celebration of a bubble that does not even seem willing to solve the problems it identifies. The real problem with this assessment is that it does not apply only to COP28, but also to every COP. This predictable pageantry still poses genuine costs, such as in the form of harmful governmental intervention and wealth transfers.

Policymakers should reject the underlying assumption that more government and more spending are the solutions to policy problems, including any concerns over climate change. Removing governmental obstacles, clearly defining private property rights, and defending economic freedom will lead to better environmental outcomes and human flourishing. Acknowledging and embracing these truths would go a long way for future COPs.

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