



## NEPAL'S CLIMATE CHANGE POLICIES AND PLANS:

## LOCAL COMMUNITIES' PERSPECTIVE

Environment and climate series 2011/1

HELVETAS Swiss Intercooperation Nepal produced this paper working jointly with Rights and Resources Initiative. However, the views expressed in this paper are those of the author and contributors, and do not necessarily represent those of HELVETAS Swiss Intercooperation Nepal or Rights and Resources Initiative.

This paper highlights key issues and opportunities in the field of Nepal's climate change policies and processes. We would like to thank all the contributors to produce this publication and special thanks to Shanti Karanjit Ojha, the main author of the report for her intellectual inputs.

Shiva Prasad Aryal	Bharat K Pokharel
Country Director	Deputy Country Director
HELVETAS Swiss Intercooperation Nepal	HELVETAS Swiss Intercooperation Nepal

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Through publications, it contributes to the generation of knowledge and the process of learning through sharing on development and co-operation. For more details or comments, please contact:

HELVETAS Swiss Intercooperation Nepal  
Dhobighat-3, P. O. Box 688  
Lalitpur, Nepal  
Phone: +977 1 5524925 E-mail: [po@helvetas.org.np](mailto:po@helvetas.org.np)  
Fax: + 977 1 5531109 Web-site: [www.helvetasnepal.org.np](http://www.helvetasnepal.org.np)

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# 1 Introduction

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This review examines the provisions in Nepal's legal framework related to climate change and the local community's rights. The review starts with the broader international climate change regime, the nuances of the international climate justice, and key aspects of international climate policy. After laying background on the concept and status of global climate change policy, the review delves into the national legislation.

The review is meant to provide an in-depth assessment of the issues concerning the communities and how well the climate change related policies and regulations could address adaptation and mitigation options for those expected to be affected the most by climate change. It aims to reflect on their effectiveness and comprehensiveness from the community perspective. In addition, this analysis examines if these policies are just high-level documents, which may fail to acknowledge and address the actual needs and challenges at the local community level.

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## Setting the context

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In general terms, policy is a guiding gazetted document prepared with specific

objectives and prescriptions, instructions, and targets to meet the objectives. Some policies are borne of domestic necessity while some are prepared in response to international negotiations, agreements, and treaties. Most environment related policies in Nepal have originated from an international treaty to which Nepal is a signatory. Nepal has ratified the Kyoto Protocol, the international agreement dedicated to climate change. Among several commitments, drafting a climate change policy is a fundamental and essential one.

However, climate change policy should have been an outcome of domestic necessities because Nepal is a least developed country (LDC) and highly vulnerable to the adverse impacts of climate change. In its 2010 vulnerability assessment and mapping of climate change vulnerable countries, an independent and highly acclaimed risk analysis organization, Maplecroft, ranked Nepal as the fourth most vulnerable country in the world, next to Bangladesh, India, and Madagascar. The major drivers behind drafting national climate change policy for Nepal should have been this high level of vulnerability and lack of policy to guide the nation to adapt and

build resilience to the changing climate and the impacts it imparts.

With aid from donor agencies and bilateral organizations, Nepal has successfully prepared a Climate Change Policy, National Adaptation Programme of Actions (NAPA), Local Adaptation Plan of Action (LAPA), and REDD Readiness Preparedness Proposal (REDD RPP). Apart from policy documents prepared and promulgated by the Climate Change Division of the Ministry of Environment, various allied departments and ministries have drafted and implemented policies, Acts, and regulations associated with climate change issues – both mitigation and adaptation. This analysis assesses the four policy documents on climate

change (Climate Change Policy, NAPA, LAPA, and REDD RPP) and the allied regulations (Environment Protection Act 1997, Environment Protection Regulation 1999, Water Resource Act 1992, Water Resource Regulations 1993, Forest Act 1993, Forest Regulations 1995, Land Acquisition Act 1977, and Land Acquisition Regulations 1963, revised 1969). The Policies, Acts, and Regulations form a policy framework, which will be assessed to determine:

- Salient features of the existing policies, and policy shaping processes and their gaps
- Issues and opportunities to their implementation and potential ways forward

## Context

Climate Change Policy is the newest addition to Nepal's legislative framework. The policy is being prepared in the wake of global climate change awareness and the need for urgent responses to the impending adverse impacts of climate change. It was desirable for each country to have a policy dedicated to climate change. The Government of Nepal prepared and promulgated a Climate Change Policy in March 2011 in response to the international climate regime to which Nepal is also a signatory party.

Since local communities, whose livelihoods depend on natural resources and natural conditions, are the most vulnerable to climate change, they should get the most benefits from any climate change related policy or plan made by the government. With Nepal being one of the most vulnerable countries from the climate change perspective, it becomes even more crucial for its climate change policy to be centred on local communities in order to ensure optimum benefits to the climate vulnerable communities. This assessment has been prepared to reflect upon these policies from the

community perspective and assess the policy through the lenses of community benefits. The aim is to raise awareness of policy frameworks on climate change to mobilise local communities to translate policy into practice to mitigate and adapt to potential climate change induced risks and uncertainties.

## Chapter Briefs

This publication gives an overview of the climate change policy document and an account of each chapter in brief. The objective of this section of the publication is to orient the readers to the climate change policy.

The first three sections of the document link the climate change context in Nepal with international climate regimes and past efforts made by the government to combat climate change impacts, and the current situation.

Section four of the document lists existing problems and challenges that Nepal faces now and in the future due to the adverse impacts of climate change. Among many other problems, the unavailability of

solid scientific studies and findings and shortage of climate models to present the current and potential impacts of climate change, mainly attributed to the inadequate financial and human resources.

The fourth section lays ground and justification to the need for a new policy, which is the main content of the fifth section of the document. As per this section, a new policy is required to address current challenges and problems. The policy document says that it is *'urgently required to formulate and implement a national policy in order to utilize the opportunities created from the climate change phenomenon for reducing poverty and achieving sustainable development'*. This section also includes the vision and mission of the national climate change policy respectively.

The sixth section of the document states that *'the main goal of this policy is to improve livelihoods by mitigating and adapting to the adverse impacts of climate change, adopting a low-carbon emissions socio-economic development path and supporting and collaborating in the spirits of country's commitments to national and international agreements related to climate change'*.

Section seven of the document lists seven objectives of the national policy. The objectives of the policy range from establishment of various committees and centres at the national level to capacity building of the concerned staff and departments to optimize the use of available resources for reducing the greenhouse gas emissions and leading the country along the low carbon growth path.

In section eight of the document, various policies are mentioned which are formulated to achieve the objectives of the policy. These policy actions include:

- Climate adaptation and disaster risk reduction;
- Low carbon development and climate resilience;
- Access to financial resources and utilization;
- Capacity building, peoples' participation and empowerment;
- Study and Research;
- Technology development, transfer and utilization; and
- Climate-friendly natural resources management.

Section nine describes the strategy and working policy for the effective implementation of the afore-mentioned policies/ actions. The last sections mention about the institutional structure, financial aspects, legal aspects, monitoring and evaluation plans and risks.

## Salient Features

The National Climate Change Policy is a national policy document. The vision of the policy is to spare the country from the adverse impacts of climate change by considering climate justice, through the pursuit of environmental conservation, human development, and sustainable development -- all contributing towards a prosperous society. One of the most remarkable aspects of this policy document is that it gives space for concepts, which are considerably new in Nepal such as climate justice. The policy provides different angles to climate

change among which adaptation and mitigation are relatively common at both the national and local levels (see Figure 1) and justice is a new addition.

The policy document mentions in several places that the local communities will be entitled to up to 80% of the total climate change funds. The funds will be channelled through activities at the grassroots level. The three distinct sections emphasise community level activities through a mention of 80% funds allocation – section 3 justifies the need of new policy, access to financial resources, and utilization under the activities being envisioned for implementation of this policy; the strategy and working policy in section 9; and finally section 11, which describes the financial disbursement.

At some point, the policy intends to create new entities through the establishment of a Climate Change Center gets the highest priority among several other goals in the formulation of this policy. The climate change policy has seven goals as follows:

- Establishment of a Climate Change Center within one year for conducting climate change research and monitoring, and providing regular policy and technical advice to the Government of Nepal;
- Initiation of community-based local adaptation actions as mentioned in the National Adaptation Programme of Action (NAPA) by managing financial resources by 2011;
- Preparation of a national strategy for carbon trade in order to benefit from the Clean Development Mechanism by 2012;
- Formulation and implementation of a low carbon economic development strategy that supports climate-resilient socio-economic development by 2014;
- Assessment of losses and benefits from climate change in various geographical areas and development sectors by 2013;
- Promotion of climate adaptation and adoption of effective measures to address adverse impacts of climate change through technology development and transfer, public awareness raising, capacity building and access to financial resources;
- Development of a reliable impact forecasting system to reduce the adverse impacts of climate change to natural resources and people's livelihood in vulnerable areas of the mountains, hills, Churia, and Terai.
- Creation of a place for the concept of low carbon growth, although it might sound ambitious and impractical.

As stated above, one goal of this policy is to make provisions for financial resources to implement the priority activities at the community level as identified in the NAPA. The mention of formulation of a climate change fund is an important step towards ensuring financial means to translate the policies into actions in the adaptation programme. In the same manner, the policy document also mentions the LAPA - which recognizes planning at local government level and roles and responsibilities of the local communities. It also prioritizes sustainable forestry.

It is encouraging that the policy recognizes the value of local knowledge, skills, and technologies in adaptation and

mitigation measures, especially towards reducing the climate induced disasters and risks associated with them.

### Policy gap from community perspective

Any well-written and visionary policy document is expected to clearly outline the implementation strategy and schedule of implementation with clear goals and quantitative targets. However, the National Climate Change Policy fails to provide details on how to work with communities. Similarly, the policy is silent on the identity of the main vehicle of sustainable forestry.

The policy describes the goals and objectives of the policy in detail, but misses identifying the main agents of implementation. In the absence of executors, it is highly likely that the policy will have no one taking ownership over the specific objectives and activities.

The policy identifies local communities as the stakeholders and earmarks up to 80% of the climate funds for the local communities. However, these communities are regarded as passive beneficiaries instead of active partners in development. Clearly defined roles, rights, and responsibilities of the latter in the policy documents would have empowered local communities as active partners of development.

The policy identifies the above mentioned aspects as being essential for effective implementation of the national climate change policy; but it lacks a concrete plan of action and identification of the main agents of implementation on the ground.

Large sections of the policy document are dedicated to the establishment of funds and entities at the central level but there is very limited mention of the actions, plans, needs, and priorities for local communities. Hence, it will not be exaggeration to say that the policy is centre-centric with sparse address to communities. On the other hand, climate change policy is expected to include technical aspects of climate variability, vulnerability, and projections as integral parts of climate change adaptation and mitigation measures. In its current state, this policy document seems to be in between; it is neither technically or community-oriented – the two fundamental ingredients of a meaningful climate change policy.

The substance and depth of the policy document is not comparable to its promising table of contents. This document seems to have provisions to meet the requirements of international conventions - more upward accountability and not so much local level downward accountability, but needs to work further on the actual contents to provide a more elaborated strategy for implementation, which is possible only through local ownership.

The existing institutional arrangement of having the Ministry of Environment as the main entity responsible for the result-oriented implementation of the Climate Change Policy needs to be revisited. In the absence of decentralized executing units at the district and village level, the implementation of the policy on ground seems extremely difficult. Moreover, a policy requires a legal instrument for its on-the-ground implementation. At present, the climate change policy does not have supporting legislation to enable its implementation. Without a law and

Act there will be no real instruments to implement the policy. Hence, apart from an amendment in the content, the effective and successful implementation of climate change policy also calls for institutional and structural restructuring of the implementing government agencies.

**Key issues and opportunities**

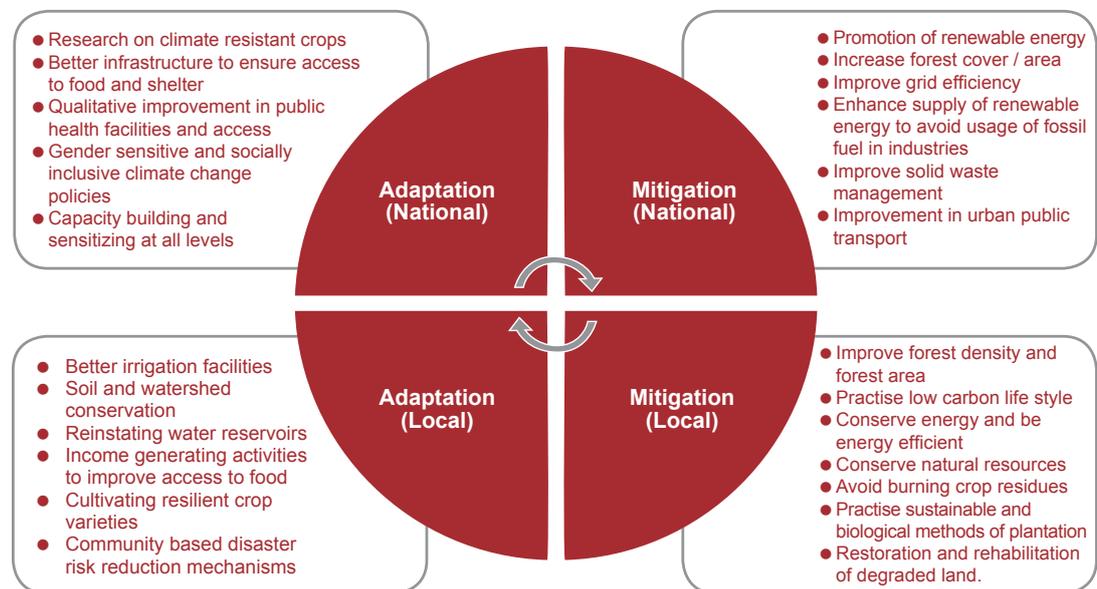
Climate Change Policy 2011 has the following provisions as opportunities for local communities

- Create awareness of the concept of climate justice
- Enhance the livelihood opportunities
- Conduct the adaptation based programmes
- Build the capacity of local communities to manage the natural resources
- Associate climate change adaptation activities and programmes with income generation
- Identify the most vulnerable communities and conduct adaptation

- programmes in sync with local knowledge, skills, and technology
- Utilize the benefits of climate change mitigation towards poverty alleviation
  - Provide relief to the victims of climate change
  - Disburse up to 80% of the climate change mitigation and adaptation funds for the community level activities
  - Ensure the participation of the local communities and stakeholders on the climate change mitigation and adaptation activities
  - Implement the climate change mitigation and adaptation activities through consumer groups.

Despite such opportunities, there are number of policy gaps as seen from community's perspective. For instance, there is no clarity on the concept of agreement on pre-information; no differentiation in the fund disbursement mechanisms (up to 80%) for the mitigation and adaptation programmes; and an absence of organizational structure for implementation of the policy.

**FIGURE 1 | Climate Change Policy: A Two Pronged Approach**



## Context

Each least developed country that is signatory to the UNFCCC Kyoto Protocol is mandated by the decision 29/CP.7 to prepare a National Adaptation Programme of Action (NAPA). Nepal prepared its NAPA following a rigorous consultation process with multiple stakeholders as prescribed in the annotated guidelines developed by the Least Developed Countries Expert Group. NAPA, the first comprehensive and climate change dedicated government document, was released to the public audience in September 2010.

The NAPA document was prepared with the objective of *assessing and prioritizing climate change vulnerabilities and identifying adaptation measures; developing proposals for priority activities; preparing, reviewing and finalizing NAPA focus areas; developing and maintaining a knowledge management and learning platform; and developing a multi-stakeholder framework of action on climate change.* The NAPA report consists of the summary

of eight independent reports prepared by six Thematic Working Groups<sup>1</sup> and two crosscutting groups. It is divided into four major sections – *Introduction and Background* of the country and NAPA; *Framework for Adaptation Programme*; *The NAPA Preparation Process* and finally *Identification and Prioritization of National Adaptation Needs and Activities*.

The content and the process of preparation of the policy document each have their own rightful significance and play equally vital roles in determining the effectiveness and ease of implementation. However, this policy brief will focus its comments mainly on the last two sections of the document – *NAPA Preparation Process and Adaptation Needs and Activities as identified and prioritized by the NAPA*, with the main objective of reviewing the NAPA document from the community perspective. In other words, the review will be done through the lenses of community benefits, rights, and equity in terms of vulnerability assessment, identification of adaptation needs, and prioritization of the adaptation activities laid out in the NAPA document.

<sup>1</sup> Six Thematic Working Groups include Agriculture and Food Security, Climate Induced Disaster, Urban Settlement and Infrastructure, Public Health, Forests and Biodiversity, and Water Resources and Energy whereas the two cross cutting themes include Livelihoods and Governance and Gender and Social Inclusion.

## Content briefs

The first section of the NAPA, **Introduction and Setting**, is written to orient the readers to the Nepal's geography and topography and climate of Nepal. This section also describes the development framework of Nepal for climate adaptation, which mainly covers a brief description of national plans (five-year and three-year interim plans – 2010 to 2012) and relevant legislations, which can be associated with NAPA goals and objectives.

The second section of the document – **Framework for Adaptation Programme** is the only science and technology centric section of the document. This section covers the observed and projected climate variability and forecast the potential impact of climate change on each of the NAPA themes i.e. agriculture and food security; water resources and energy; public health; forests and biodiversity; climate-induced disasters; urban settlement and infrastructure and the crosscutting themes namely livelihoods and governance and gender and social inclusion. This section provides glimpses of the changing trends in the physiographic factors, mainly precipitation and temperature. It orients the readers to the climate perspective of Nepal. It describes what the changing patterns in the climate mean for the different sectors of Nepal.

The third section - **The NAPA Preparation Process**, is an account of the methodology and approach followed by the NAPA team during the preparation of the document. It

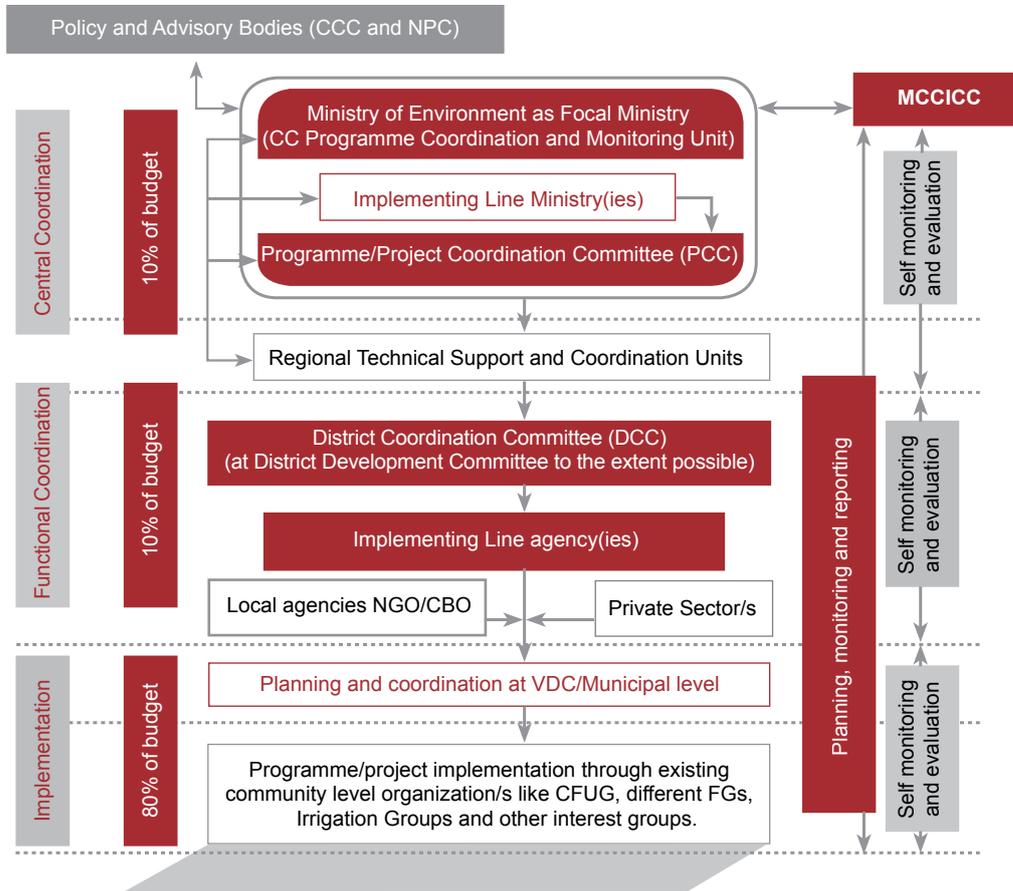
mentions about the composition of team, institutional arrangement; approach and methodology implemented for assessment of adaptation needs and prioritizing the adaptation activities; and the implementation framework.

The fourth section includes two chapters on adaptation activities – **Identification of Key Adaptation Needs, Existing Adaptation Practices and Options and Prioritized Activities for Climate Change Adaptation**. The document identifies and classifies the adaptation needs according to the NAPA themes. Over 250 adaptation activities identified and suggested by the thematic groups are grouped and prioritized into nine integrated activity packages.

## Does the NAPA Process ensure vertical and horizontal coverage?

In an attempt to cover as much ground as possible, NAPA developed a huge network of six line ministries, each heading a thematic working group. Each thematic working group (TWG) had about 15 members representing government, NGOs, academia, and relevant UN agencies. During the preparation of the document, the members of TWGs held transect meetings and consultations with more than 4,000 people (through consultation and transect appraisal), but the composition of the participants does not seem to be diverse and inclusive. Other than the transect appraisal exercise which covered more than 3,000 people during the climate change awareness raising activities, the overall coverage is not very impressive.

**FIGURE 2 | NAPA Implementation Framework**



The NAPA lacks explicit provisions for the rights and responsibilities and a clear mechanism of participation by local communities' representatives in decision-making, including policy-shaping process at local level. The centre level government agencies, national NGOs, representatives of the donor organizations and relevant UN agencies seem to have dominated the process. While the themes selected to implement the adaptation activities cater mostly to the micro-level such as communities, the NAPA preparation process was non-inclusive due to the very limited consultations with community stakeholders, such as women, indigenous groups, and the most vulnerable pockets.

Hence, the question lingers about whether the assessment and the framework, on which NAPA documentation is based, actually portray the "real needs and priorities of adaptation actions on the ground" of the people for whom the NAPA is ultimately designed and targeting at. The NAPA preparation started in May 2009 and finished in November 2010, spanning a period of 16 months. NAPA preparation process included numerous consultations and "stakeholder meetings" in the capital city. This gives an impression that the NAPA preparation process was more engrossed in getting the sanctions and presenting the "findings and drafts" at the central level to the like-minded audiences, rather than investing time and

resources, both human and financial, on fact-finding missions on the ground to present a more realistic and in-depth analysis of the adaptation needs.

The identification of the right set of adaptation activities and design of the most suitable adaptation plan is very crucial for NAPA because it will serve as a mainstay document for follow-up strategy documents, one of which is the Pilot Programme for Climate Resilience (PPCR). This adds to the importance of including full-fledged community participation in the NAPA preparatory process, which accentuates the existing gap. Interestingly, though the level of local participation was minimal at the preparatory phase, community level organizations were identified as the biggest beneficiaries of the total budget earmarked for adaptation in the NAPA Implementation Framework.

Another question regarding the ownership and effective implementation arises here. During the design and preparation phase, community-based organizations were not consulted through an institutionalized and sustainable mechanism. Hence, these grassroots organizations might not fully own or effectively implement the activities outlined in these programmes if they are not relevant for the communities.

### Key adaptation needs and priorities

In most situations, the identification of the needs is a fundamental part of any needs assessment and plan development. In the case of NAPA, the identification of line ministries, each with the responsibility of leading a Thematic Working Groups

seems to have been the key stage in the whole process. Therefore, the selection of themes and then identification of the crucial adaptation needs seems to have been conducted within a prejudiced framework.

The theme-wise disaggregation of the adaptation needs as identified during the transect appraisal exercises and consultations is good but this section is highly generalized. The key adaptation needs mentioned under the heads of each theme are very minimally described and fail to reflect the real on-the-ground needs furnished by the participants consulted during the 'consultations and transect appraisal exercise'. This section does not quote any live examples from the community and presents just a list of activities, which reads more like a "to-do-list" than an assembly of findings from grassroots consultations. It seems least relevant to associate the adaptation needs with the existing national level strategies, such as Water Resource Strategy and the existing programmes such as Community Forestry in this section.

Although the text in this section refers the reader to the annex for details on the adaptation plans, the annexure also fails to furnish quality information. The annexure provides a list of priority adaptation options for each theme and climate change relevant programmes, but the level of disaggregation and extent of details provided in the annexure is not uniform. Also, the annexure does not provide any information on the roles, rights, and responsibilities of local communities in execution of these activities, how these activities will benefit the local communities, and the implementation mechanism.

The last section presents the Combined Priority Project Activities and the challenges and barriers anticipated at the implementation phase. NAPA identifies the weak governance, lack of infrastructure, limited financial resources, and lack of public awareness on climate related disasters and climate change issues as the major barriers. For example, community forestry has been established as an exemplary programme in Nepal, which is undertaken under the stewardship of the communities. However, in the NAPA, communities are not seen as the main actors implementing the programmes.

The NAPA fails to allocate roles and specify the contemplated actions of the local communities when listing the benefits that the implementation of these prioritized adaptation activities can bring to the communities. Although mentioned in certain places, the role of the communities in implementation of NAPA and benefit of implementing NAPA to the communities is going amiss in the current version of NAPA.

NAPA describes the rationale, goal, objectives, activities and expected outputs of each of the priority projects, but bypasses other important elements that would contribute towards its success. These elements include the implementation strategy, identification of the potential collaborators and implementers, expected barriers for each priority activity, proposed fund disbursement plan and schedule of work among others. Most of these priority activities are being envisaged to cater to the community level as the title of these activities suggest.

However, in the absence of concrete implementation plan and mechanism, at the district, village and community level, the extent and effectiveness of these activities in addressing the adaptation needs of the communities cannot established within the existing framework of NAPA. Realizing this fact, despite all its weakness, one of the strongest positive elements of NAPA is the recognition of the need of having Local Adaptation Plan of Action (LAPA). See Chapter 4 for details.

### Adding the missing

Overall, NAPA seems to have covered the horizontal ground by consulting all the line ministries, but fails to provide a vertical assessment of how to link the government with the communities. NAPA needs to have bigger component of actions and activities detailing the plan and schedule of implementation along with the targeted goals and associated milestones. NAPA is a reframing of the activities or the priorities, which are more or less the mandates of the line ministries, which head the TWGs. This bypasses the major stakeholders of national adaptation plan – the communities -- both in process and content. The communities or the grassroots mainly in rural Nepal are the ones who need to be the centre-stage of any adaptation plan but in the NAPA, they are put in the backseat.

Not giving immediate attention to the community perspective during the adaptation actions can jeopardize the envisaged success of NAPA. Just mentioning that the 80% of the earmarked budget will be disbursed to the community for implementation of programmes is

not adequate. In absence of proper fund disbursement mechanism and concrete community level plan and devolution process, the earmarked budget will not be useful for the communities.

Unlike the REDD Preparedness Plan, NAPA does not mention follow-up work, such as an Implementation or Working Plan. For the community rights advocates, NAPA is an incomplete and 'toothless' document which caters to the central level prejudices without consideration of the communities. Following the footsteps of other progressive policy documents, which are upgraded and improved through amendments, it is expected that NAPA will also be a live document. During the course of amendment and further improvement, it is expected that the concerns and comments received from the public consultation will be incorporated to make NAPA a comprehensive, inclusive and effective policy document.

### Key issues and opportunities

Despite many gaps, NAPA has provided space for local communities as opportunities for local level actions as follows.

Among the nine prioritized activities envisaged in the NAPA, four are community centric. These four activities include:

- Activity 1 – Promoting Community Based Adaptation Through Integrated Management Of Agriculture, Water, Forests, and Biodiversity Sectors
- Activity 2 – Building and Enhancing Adaptive Capacity of Vulnerable Communities Through Improved System and Access to Service Related to Agricultural Development
- Activity 3 – Community Based Disaster Management for Facilitating Climate Change and
- Activity 8 – Empowering Vulnerable Communities Through Sustainable Management of Water Resources and Clean Energy Supply.

According to the implementation model, the local natural resource managing communities would implement the projects and the local communities will avail up to 80% of the funds secured by the NAPA.

From the local communities' perspective, the NAPA has two major gaps. Firstly, the main deciding entity of the NAPA, the Multi Stakeholder Climate Change Initial Coordination Committee (MCCICC), does not have any provision of representative from the community. Secondly, the NAPA does not provide a concrete structure and mechanism of disbursement of 80% of funds earmarked for the communities.

## Context

The Local Adaptation Plan of Action (LAPA) is expected to be more specific and effective in terms of design and implementation of local level adaptation activities. Unlike other policy documents, LAPA is being prepared in response to the needs identified by the participants of NAPA Inception Workshop. The LAPA framework was designed and piloted in nine districts across Nepal (Achham, Ilam, Udayapur, Dhading, Kaski, Kapilvastu, Pyuthan, Rukum and Kalikot)<sup>2</sup> during 2010 by the Climate Adaptation Design and Piloting-Nepal Project (CADP-N). Possibilities of integrating climate change resilience into local-to-national planning was assessed using diverse entry points, including agriculture, forestry, health, water and sanitation, watersheds and micro-finance<sup>3</sup>.

This policy brief on LAPA aims to bring out LAPA's salient features and provide fundamental information regarding the

LAPA framework. It will not be appropriate to scrutinize the LAPA in its current stage given the fact that this policy document is still being prepared and little information has been made public. The following work draws heavily from the LAPA Framework made available by the Ministry of Environment during a consultation held in August 2011.

## Salient features of the LAPA framework

1. The LAPA framework ensures that the process of integrating climate change resilience into local-to-national planning is **bottom-up, inclusive, responsive and flexible** (refer figure below).
2. Use of the LAPA framework will support decision-makers from local to national levels to<sup>4</sup>:
  - Identify the most climate vulnerable Village Development Committees, wards, and people and their adaptation needs and options;

<sup>2</sup> Basis for selection of the districts is their vulnerability to climate change (based on the NAPA Vulnerability Map).

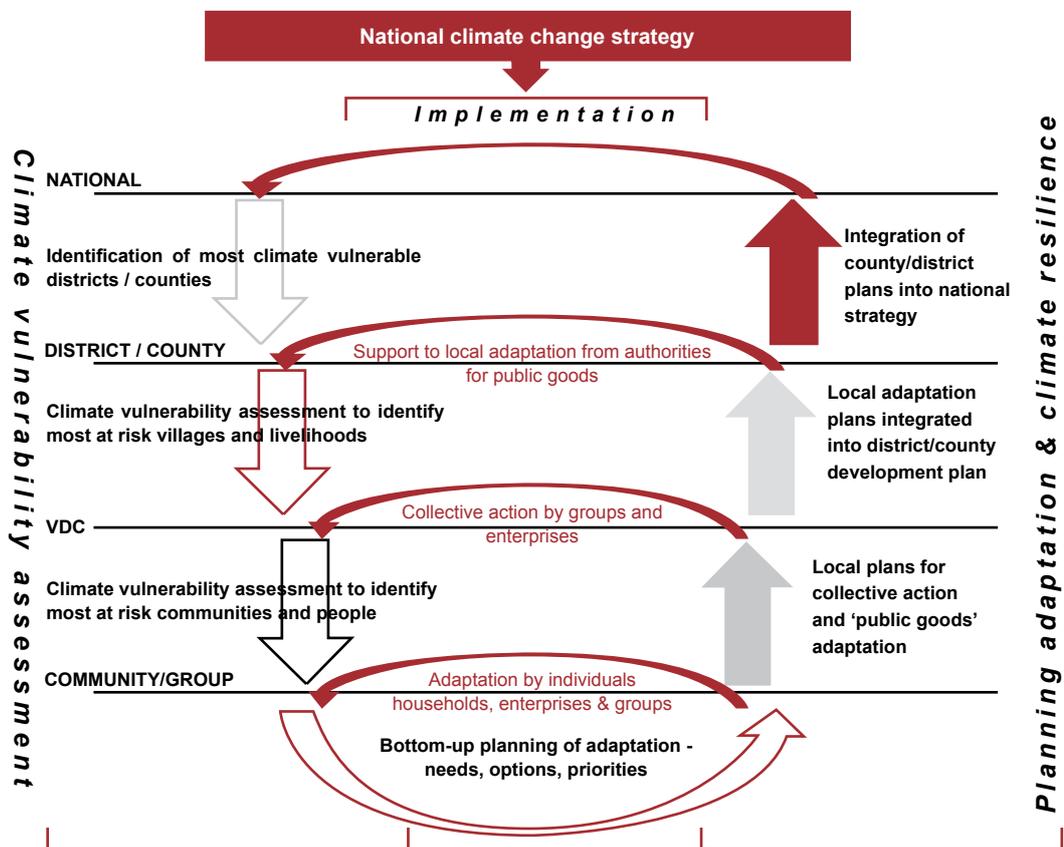
<sup>3</sup> CADP-N has been supported by the UK - Department for International Development (DFID). It has been implemented by: 1. Activity Coordination Committee comprised of MoE, DFID and CADP Team Leader; 2. Project Design Team comprised of IIED and ISET International; and, 3. Project Piloting Team comprised of Rupantaran Nepal, RIMS Nepal, BNMT, NEWAH, RSDC, LI-BIRD, and ISET Nepal.

<sup>4</sup> Decision-makers in the context of LAPA include formal and informal actors within the public, private, and civic sector. They include people who have a 'demand' for climate adaptive services and people who 'supply' climate adaptive services.

- Prioritise adaptation options in easy ways so local people can make the prioritisation decisions;
- Prepare and integrate local adaptation plans for action into local-to-national planning in accordance with the Local Self Governance Act
- Identify appropriate service delivery agents and channels for funding to implement local adaptation plans for action. The LAPA Framework can ensure that the most appropriate service providers carry out the best sequence of adaptation actions in a timely and resource efficient manner.
- Assess the progress of LAPA to ensure effective planning and delivery;
- Provide cost-effective options for scaling out local-to-national adaptation planning.

LAPA aims to build an integrated framework that is more bottom-up in terms of planning of adaptation needs, options, and priorities. This aspect of LAPA gives the impression that, unlike NAPA, it focuses more on local communities, local needs, and issues. LAPA followed a seven-step process during the process of its making. These steps include the following:

FIGURE 3 | LAPA Framework



- Climate Change Sensitization
- Climate vulnerability and adaptation assessment
- Prioritization of adaptation options
- Developing local adaptation plan for action
- Integrating the local adaptation plan for action into planning processes
- Implementing the local adaptation plan for action
- Assessing progress of local adaptation plan for action

Each of these steps involved activities conducted at the local community level. For instance, Step 1 includes the activities such as 'creating awareness of the local stakeholders at household, community, VDC, DDC, and national scale, on the impacts of climate change and means to address these impacts so that climate change resilience can be integrated into development planning'.

In order to carry out climate change vulnerability assessment, the LAPA got down to VDCs and ward level in Step 2 to identify climate vulnerable hotspots, vulnerable communities, and people within these wards; identify adaptation outcomes and actions that will reduce vulnerability to current and future climate change; and support effective and efficient targeting of resources.

In a quest to capture the basic elements at the community, and even household level, LAPA uses actions, tools and approach that is more bottom-up. However, depending upon the nature of actions and steps, LAPA adopts top-down approach as well for effective planning and design. For instance, during climate change vulnerability assessment in Step 2, LAPA '*combines* a top-down assessment that helps identify the status and quality of services and resources at the ward level, with a bottom-up assessment that helps identify the extent to which vulnerable communities and households can access these resources and services'.

The existing draft LAPA framework promises to be more inclusive, comprehensive and, more importantly, community centric -- both in the process and content -- and make major contributions to the gaps left by the NAPA. However, it is anticipated that LAPA will be a living document, which is open to amendments and adjustments per the changing context and circumstances. It is especially essential in the context of policy documents that cater to the dynamic and evolving issues like climate change and working directly with the local communities.

## Context

Government of Nepal has initiated several activities to implement mitigation and adaptation measures to combat climate change problems. Least developed countries (LDCs) like Nepal are not mandated to reduce the national greenhouse gases (GHGs). However, any action leading to the mitigation of the GHGs designed and implemented in these countries are encouraged and welcomed by the international climate change players. Among all the existing mitigation measures, afforestation and reforestation related activities are the most popular and implementable in the LDCs.

In this context, Reducing Emissions from Deforestation and Degradation of Forests (REDD) is at centre-stage in the international climate regime. Nepal is a LDC and a country with full potential that could contribute to further improve forest density, biodiversity and reduce the rate of deforestation. Hence, mobilization of appropriate local institutions can benefit Nepal immensely through implementation of the REDD+ initiatives.

The Ministry of Forests and Soil Conservation (MOFSC) has taken the lead role in designing and implementing the REDD (REDD+) in Nepal. To prepare Nepal for the REDD mechanism, MOFSC has initiated various programmes and activities, including the REDD Preparedness Plan (RPP), which is a groundwork that will feed in to the REDD Strategy. The readiness phase, which includes comprehensive consultation and participation, will be between 2010 and 2013. MoFSC intends to release the REDD Strategy in 2013.

MoFSC has established various entities under its purview such as REDD Cell and Climate Change Coordination mechanism for the preparation and implementation of REDD Strategy. This strategy will be aligned closely with the preparation of the upcoming National Forest Sector Strategy and climate change adaptation strategy. The main thrust of this policy brief is to screen the RPP and pick the salient features, positive aspects, and gaps within RPP from the local community perspective.

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**Local Communities: Real agents of change**  
 .....

RPP seems to have recognized the role and contribution of local communities in the planning and design phase as well as implementation phase unlike other policy documents that tend to overshadow, undermine, or even ignore the involvement of local communities for successful implementation and replication of the programme.

Credit for this this level of recognition and space for the participation of the local communities goes largely to the MOFSC's long association with community forestry and its huge success. As stated in the document, the main components of the plan are *capacity building, awareness, and consultations*. During the preparation process, consultations with multi-stakeholders from the community level will play a decisive role in determining the key strategic options.

Among other dedicated sections, the communication and outreach section and REDD Stakeholders' Forum are especially dedicated to disseminating and gathering information to and from the local communities. Viewing the components of RPP, which consists of *participatory and inclusive process; mainstreaming gender and equity concerns at all levels; multi-stakeholder collaboration; and integration with safeguard measures*, the approach of the RPP consultations seems to be very participatory and inclusive.

Moreover, the approach section clearly mentions a right-based approach that attempts to address the rights of the local communities in the REDD activities. In

other words, the RPP attempts to strike a balance between the political definition of communities by proposing socially inclusive process and resource justice through rights-based approach. Very few policy documents give equal emphasis to avoiding negative impacts while ensuring positive or additional benefits through their implementation.

The RPP is different from other policies by mentioning the importance of Strategic Environmental and Social Assessment in minimizing and if possible avoiding negative impacts and ensuring positive or additional benefits. Despite the fact that it is a document in making, it captures so much breadth and depth. It promises to cover more through the series of consultations and deeper analysis of the situations in the upcoming Strategy Paper. An important aspect of RPP is that it identifies the different strata of the community and recognizes the values therein, such as security of livelihoods and rights of indigenous peoples and local forest-dependent communities including women and Dalits. It also recognizes means of promoting the conservation of biodiversity and cultural heritages, gender equity, capacity development, and good governance.

.....  
**Acknowledging the acknowledgments**  
 .....

RPP might be one policy document that has succeeded in identifying the core strengths and abilities of the local community in the design and implementation phase of the programme. This section of the policy brief enlists the positive aspects of the RPP and means to acknowledge them.

The approach mentions about the monitoring and verification plans in many places. Therefore, it gives an impression that this policy unlike others takes care of the monitoring and verification of the plans and programmes.

The RPP has a provision for public hearing. The decision on the location to hold these hearings is based on geographic region, ethnicity, forest types and area, and forest management regimes.

The RPP lists all the pilot projects and programmes being undertaken under the scope of REDD and climate change in different districts. While addressing the REDD projects, the document also discusses the existing limitations towards the sustainable forestry. Among the challenges discussed, the paper recognizes *inadequate financial allocations for the forestry sector, lack of coordination and often clashes among and between the legislations and the guardian entities of these legislations, and the poor governance* as the crucial ones.

The RPP places social criteria in the first place among others in its quest to assess the strategic options. The other options include – economic, environmental, policy and governance and technical.

RPP outlines an impressive first-draft of an implementation mechanism that aims to 'ensure ownership of the process and effective implementation' based on four key principles:

- *establish the link between carbon ownership rights and land tenure and clarify land tenure issues as a priority during the preparation phase;*

- *utilize existing institution structures and arrangements rather than creating parallel structures*
- *build on successful experiences of benefit sharing from Nepal and elsewhere, learn from on-going pilots and encourage further piloting and sharing from these during the preparation phase and*
- *utilize multi-stakeholder mechanisms for REDD implementation and benefit-sharing at all levels.*

The RPP document offers great promise with its emphasis on the land and forest tenure rights, treatment of these issues with high priority, and its association with the carbon ownerships in Nepal's policy document, especially because tenure rights is comparatively new concept in Nepal and the mention of clarification of forest land tenure rights in is an utter surprise.

RPP has a good narrative on the implementation strategy which includes the *Forest ownership and land tenure; REDD implementation; Financing mechanisms; stakeholder engagement and governance; data management, monitoring, reporting and verification; institutional and governance reform and work plan and budget*. While talking about the financing mechanism, RPP seems to be clear that the REDD financing should be transparent and efficient and should be ensured that the funds reach the grassroots level.

The document identifies the local community as one of the important stakeholders among others, which include local governing bodies to ensure transparency, equity, and above all timely disbursement of funds. It also recognizes

the challenges, limitations, and downside of poor/ill governance in disbursement of funds from the central level to the local authorities and communities.

Within the existing framework of Nepal's forest tenure regimes, the ownership over forest carbon stocks seems to be a highly contested issue. Recognising the potential conflict that might arise over the benefit sharing from the forest carbon revenue, RPP suggests two solutions. The first option, believed to be short cut and temporary, is to distinguish between the above-ground and under-ground carbon and link the above-ground carbon benefits to the services per the existing legal framework. Opting for this solution would imply applying the prevailing mechanism. In other words, the users will have use rights on the timber as well as non-timber products but not the rights over the forestland). The other option requires in-depth analysis and rigorous consultations with a wide range of stakeholders to establish a 'clear and legally defined benefit-sharing mechanism that can deliver benefits to [the] communities at the grassroots level'. The latter one, however, will ensure the sustainability and success for REDD.

The implementation plan requires further details on the mechanism and strategy of implementation, because RPP will apparently follow a hybrid approach where national and sub-national vehicles will deal with strategic issues, such as policy, legal, and tenure arrangements, while multi-stakeholder mechanisms at the sub-national level will serve as the platform for details such as benefit sharing, financing, and monitoring .

### Does every cloud have a silver lining?

RPP dedicates a large portion of its commentary to the existing policy and institutional framework, historical rates of deforestation, and assessment of existing policy and governance. A meticulous outline of the proposed mechanisms, approaches, monitoring and evaluation plan, and schedule are the strong aspects of the document.

Given the fact that this document is just the trailer for a more comprehensive and detailed Strategy scheduled to be ready in 2013, RPP has accomplished much from both a content and process standpoint. RPP offers a 'three-tiered institutional mechanism for implementation' which includes a REDD Multi-sectoral, multi-stakeholder coordinating and monitoring committee as the apex body; the REDD Working Group at the operational level; and the REDD-Forestry and Climate Change Cell as the coordinating entity. The document also mentions about the dynamic nature and flexibility of the institutional arrangement that can be [re] adjusted in line with the new constitution in the post-restructuring phase.

The document mentions in its outreach section that there were some consultations held at the community level targeting women, indigenous groups, and Dalits. However, there were few of these events, which did not represent the country in any sense. Including the voices and recommendations from these 'namesake' consultations as the voices from the communities of Nepal would be grossly misleading.

The REDD strategy has high stakes and hopes that when it will be finally released it will address the existing gaps and include more in-depth analysis of the outstanding issues without losing the breadth and horizontal space covered by the current RPP.

### Key issues and opportunities

RPP at least in principle has brought some opportunities by:

- Recognizing some key livelihood issues that forest dependent poor and socially disadvantaged communities face in a climate change context that could further worsen their situation. It identifies a potential role that REDD+ initiatives could play.
  - Ensuring the participation of the multiple stakeholders in the entire process of REDD+ and made commitment to institutionalize such process
  - Correlating the national priority of addressing the issues of poverty and the contribution of REDD in enhancement of the livelihood
  - Recognizing the importance of forests in mitigating the climate change and increasing the adaptation to its impact through the REDD initiatives
- Creating new entity and mechanism to distribute the benefits obtained from REDD
  - Implementing multiple right protection standards to promote the positive impacts and reduce the negative impacts of REDD and periodically monitor them.

RPP promises to provide opportunities to the local communities through the implementation of REDD and the associated benefits from carbon trade. However, the complexity of the technical requirements in the REDD procedure, qualifying criteria, and conditionalities could be beyond the local capacity and hinder the transfer of the benefits from REDD to the local communities.

In addition, RPP has been crafted with the assumption that those local communities that play a role to reverse the rate of deforestation and degradation in the future will be awarded by REDD initiatives. What is missing in the document is recognition of the role that thousands of existing Community Forest User Groups have played in protecting forests for several years and demonstrating a visible positive impact on forest cover change in the mid hills – and the fact that they are less likely to benefit from REDD initiatives.

## Context

As described in earlier chapters, Nepal has successfully prepared a National Climate Change Policy, National Adaptation Programme of Actions (NAPA), Local Adaptation Plan of Action (LAPA), and REDD Readiness Preparedness Proposal (REDD RPP). The Climate Change Policy of Nepal, released in January 2011, is one of the latest additions to Nepal's policy framework. Besides policy documents prepared and promulgated by the Climate Change Division in the Ministry of Environment, various allied departments, and ministries have formulated and implemented relevant policies, Acts, and regulations. Some of these policy documents can be associated to the climate change issues – both mitigation and adaptation.

This analysis assesses the main elements that exist in allied legal instruments, including the Environment Protection Act 1997, Environment Protection Regulation 1999, Water Resource Act 1992, Water Resource Regulations 1993, Forest Act 1993, Forest Regulations 1995, Land Acquisition Act 1977, and Land Acquisition Regulations 1963 (1969).

In this regard, the review is divided into two sections – the Constitution of Nepal 2007 and the Natural Resource Legislation. The aim of this assessment is to identify the legal reforms that climate change initiatives may require.

## Climate Change Issues in the Constitution of Nepal 2007

The review briefly touches upon the constitution of Nepal and the provisions of climate change within it. The Constitution does not have any explicit discussions and provision on climate change; however, the issues of forests, environment, water resources, land, and agriculture find their mention in it. The noteworthy provisions in the constitution include inter alia,

- Right of every citizen to live in clean environment
- Right of every citizen to food security
- Right to free primary health care facility

Apart from these, the constitution mentions the responsibilities, principles, and policies of the state, which can be associated with the climate and environment. These provisions include *natural resource management*

*mechanism; water resources; land, agriculture and food; forests, environment and biodiversity; traditional knowledge and international obligations.*

Climate change was not discussed at length in the constituent assembly, but it was a topic of discussion in several committees within the assembly. These committees have proposed the incorporation of the issues of climate change into the provisions of **Fundamental Rights, Natural Resource, Financial Rights and Revenue Distribution, and State's Obligation and Policy.**

### Natural resource legislations

Some major legislation can be associated with either mitigation or adaptation measures of climate change. All the legislation mentioned below was promulgated long before climate change became a prominent issue. The legislation covered includes the following:

#### **Forest Act 1993 and National Park and Wildlife Conservation Act 1973**

Neither the Forest Act or the National Parks and Wildlife Conservation Act have any provisions directly related to climate change. However, provisions for Community Forestry and conservation of forests and wildlife provide for measures to mitigate climate change.

#### **Environmental Act and Regulations**

The main objective of the environmental legislation of Nepal is promoting sustainable development to ensure that the negative impacts of environmental degradation do not have adverse

impacts on humans, plants, animals, and other natural and physical resources. The review indicates that Initial Environmental Examinations and Environmental Impact Assessments are at the core of the Environmental Act 1997 and Environmental Regulations 1997.

#### **Water Resource Act 1996**

The existing Water Resource Act of 1996 does not seem to address the potential negative impacts of climate change on water resources. Nepal is one of the richest countries in water resources and relies on water resources for its economic development. The electricity generation in Nepal is largely from the water resources, which are also used extensively for irrigation, drinking, industrial, sanitation, and fishery purposes. However, the existing policy must be updated to prepare the country to mitigate climate change impacts.

#### **Land Acquisition Act 1977**

Most of the land related legislations in Nepal deal with land acquisition, land measurement and distribution, determining the ownership, public benefit land acquisition, land tax, and other physical-financial aspects. Several provisions in the land legislation can be associated with the climate change adaptation although there is no direct mention of climate change in existing and related legislations.

#### **Agriculture and Food Security Legislation**

As with other legislation, the existing agriculture and food security legislation also does not address climate change issues explicitly. The legislation

deals mainly with seeds, food, plant conservation, animal health and veterinary issues, and commercial plantations. adverse climate change impacts will severely affect agriculture so farmers are very vulnerable. However, none of the legislation about agriculture and farmers has any amendments or addendum to this effect. This fact instigated the provisions for financial aid for climate resistant seeds, fertilizer, and agricultural equipment. The government has to do more, such as providing agricultural insurance and compensation.

#### **Financial assistance and access to technologies related to energy**

Despite initiation of different programmes under a renewable energy grant since 2001, the establishment of the Rural Renewable Energy Grant in 2007 was a landmark provision to increase the access of the rural and disadvantaged communities to the energy. The government has claimed that this move was done for the cause of climate change. However, to make this provision more pro-poor and inter-relate it with climate

change mitigation and adaptation, the grant provision has to undergo several amendments.

#### **General overarching legislation**

Some provisions in other general legislation can be linked directly with climate change adaptation. These include *Natural Disaster Relief, (Eco)-Tourism, Local Self Governance Act, Public Road Act, Industrial Act, and Local Administration Act.*

The last portion of this section – ***Important legal structure for climate change adaptation*** starts with the key principles and political provisions that are desirable for developing countries in relation to climate change policies. The provisions include – adaptation policy, plan, and programme; local level policies for resilience; adaptation funds; insurance; incorporation of adaptation policies in regional and thematic policies; capacity building, education, training and public awareness; cooperation and coordination; and effective implementation and evaluation of adaptation plans.

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Nepal's climate change policy, programmes, and plans are still in the beginning phases and need to be developed further with strong institutional commitment to implement these policies. The recognition of the roles and rights of local communities' organisations is essential to ensure visible changes in the way the impacts and vulnerabilities of climate change are viewed and addressed. Local communities should have been consulted extensively, for policies and plans to cater to their needs and demands. The local stakeholders should get their deserved position in all these national level policies.

The concept of climate justice needs to be an integral part of each of these policies and plans. In the absence of climate justice, local communities will be the real victims of the adverse impacts of climate change and become climate refugees. Before the real stakeholders become refugees, the concerned people in decision making and planning need to take timely action to recognize the role the local communities can play in shaping and navigating these policies the right shape and direction. These affirmative and bold steps must be taken sooner rather than later.

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**HELVETAS**  
Swiss Intercooperation

**NEPAL**

HELVETAS Swiss Intercooperation Nepal  
Dhobighat-3, P. O. Box 688, Lalitpur, Nepal  
Tel: +977 1 5524925, Fax: + 977 1 5531109  
E-mail: [po@helvetas.org.np](mailto:po@helvetas.org.np)  
Web-site: [www.helvetasnepal.org.np](http://www.helvetasnepal.org.np)