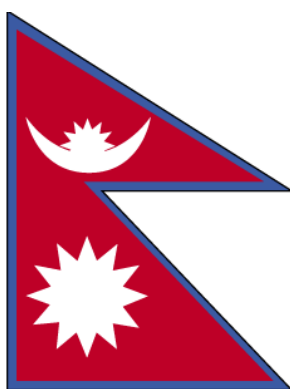


# CLIMATE CHANGE LEGISLATION IN

# NEPAL

*AN EXCERPT FROM*

## **The 2015 Global Climate Legislation Study** **A Review of Climate Change Legislation in 99 Countries**



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# **Federal Republic of Nepal**

## **Legislative Process**

The institutional structure of Nepal has been weakened through its recent experience of political instability. The king seized power in 2005, which precipitated the mass demonstrations of the People's Movement (Jana Andolan), which sought a return to, and the further development of, democracy in Nepal. This occurred in parallel with the culmination of the Maoist insurgency, which ended in 2006 under the Comprehensive Peace Agreement. Rebel leaders demanded a move to republicanism, and the convening of an assembly to draft a new constitution for the Himalayan state. These events heralded the beginnings of the constitutional reform process. Central to the facilitation of the reform is the Interim Constitution of Nepal, 2007, which replaces the 1990 Constitution of the Kingdom of Nepal. The first President was elected in July 2008.

The legal system is based on English Common Law. It adopted secularism as a key tenet of the constitution (and thereby declassified the country as a "Hindu Kingdom"). However, it retains some Hindu legal concepts. Despite the transition to a republic, the basis of the parliamentary system remains. There is now no Second House, the members of which were merged into the House of Representatives. As an interim document, the 2007 Constitution provides for the establishment of the unicameral Constituent Assembly (CA) and the preparation of the new constitution. There are 601 seats in the CA, 240 of which are elected by direct popular vote, 335 by proportional representation and 26 appointed by the Cabinet (Council of Ministers). The term of the CA is three years after the first CA meeting is held unless dissolved earlier. The CA dissolved in May 2012 after it failed to promulgate a constitution, and the second CA election was held in November 2014. President Ram Baran Yadav was elected in 2008 by the CA as the head of state. The presidency will last until the new constitution is promulgated. A Prime Minister is officially appointed by the President as the head of the Government. Prime Minister Sushil Koirala was appointed in February 2014.

## **Approach to Climate Change**

On top of the challenges of political instability, the geography and economy of Nepal place its people under severe risks from the impacts of climate change. The country has a large dependency on rain-fed agriculture. Approximately 86% of the population are dependent on agriculture for their livelihoods and the sector contributes about 33% of GDP. This means there is a high sensitivity to changes in precipitation, while the mountainous topography makes the land prone to flash floods. The severity of these is predicted to increase under climate change scenarios with more intense precipitation. Of particular concern are hazards associated with Glacier Lake Outburst Flood (GLOF) events. These relatively rare events have massive impacts. Temperature rises in mountain regions

increase the amount of meltwater from the retreating glaciers<sup>1</sup>, which accumulates behind natural dams of rock and soil (moraine). The moraine dams eventually break and release huge quantities of water with catastrophic consequences for people living in the valleys below. Moreover, changes in Himalayan glaciers present a huge challenge to populations downstream who are dependent on steady supplies of meltwater feeding streams and rivers. These concerns are all the more pressing given that temperatures appear to be rising more quickly at higher elevations.

The government identified the Ministry of Science, Technology and Environment (MoSTE) as the Designated National Authority for implementation and co-ordination of climate change policies. A Climate Change Management Division was established within the MoSTE in 2010. A more targeted response comes from the 2009 establishment of the 25-member Climate Change Council, headed by the Prime Minister. In addition, to co-ordinate and implement collaborative programmes, a multi-stakeholder Climate Change Initiatives Co-ordination Committee has been formed with representation from relevant ministries and institutions, international and national non-government organisations, academia, private sector and donors.

The key piece of climate change legislation is the 2011 Climate Change Policy. Implementation of the policy is complemented by a number of developments; most notably the National Adaptation Programme of Action (NAPA) and National Framework on Local Adaptation Plans for Action (LAPAs) accompany the Climate Change Policy. Other projects complement these national-level initiatives, such as projects focused on capacity building (e.g. National Capacity Needs Self-Assessment Project between 2007 and 2009), and impact assessments examining knowledge generation and assessments such as the Technology Action Plan and related Technology Needs Assessment Project, and the 2014 Economic Impact Assessment of Climate Change in Key Sectors in Nepal.

In the international arena, Nepal has been actively participating in climate negotiation under the UNFCCC process since 2007. As a result of its initiatives on climate change, Nepal has been nominated as the Chair of the Least Developed Countries (LDC) Co-ordination Group for 2013 and 2014 under the UNFCCC process. This provides an opportunity to lead 48 LDCs, and enhance climate change activities in the country. The MoSTE is currently preparing the Second National Communication.

### **Energy supply**

Total energy consumption between 2008 and 2009 was 9.3 million tonnes of oil equivalent (401 million GJ) and 87% of it derived from traditional resources or biomass (fuel wood from forests and trees, agricultural residues from crops and animal dung), 12% from commercial sources (coal, grid electricity and petroleum products) and less than 1% from the alternative sources (biogas, solar power,

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<sup>1</sup> Glaciers in the Dudh Koshi basin are retreating at rates of 10m/yr to 60m/yr

wind and micro-level hydropower). The Hydropower Development Policy of 2001 sets out strategies to develop hydropower to generate electricity for Nepal (including rural electrification) and for export. The Hydropower Development Plan 2009 aims to develop 10,000 MW of hydropower in 10 years to respond to energy crisis in the country. The task force has submitted the draft report, but it is yet to be discussed and ratified by the Government.

### **REDD+ and LULUCF**

The 2007 interim three-year plan referred to climate change and specifically the potential of REDD+ and carbon trading. There is anticipation that mitigation approaches through forestry can provide win-win outcomes, conferring watershed, biodiversity and soil conservation benefits. REDD+ can also contribute to poverty reduction in the context of climate change. Given the high proportions of people dependent upon agriculture and natural resources including forests, there is a strong focus on community-based forestry management under REDD+. However, there are concerns among forest users such as the Federation of Community Forest Users, Nepal that REDD+ implementation involves too much recentralisation, and that too much revenue from collaborative forest management programmes will be passed back to central government.

Institutionally, the Ministry of Forests and Soil Conservation has taken the lead role in implementing REDD+, and has developed a REDD+ department (“cell”) in addition to declaring it a ministerial priority. The cell is responsible for co-ordinating REDD+ readiness processes under the World Bank’s Forest Carbon Partnership Facility and other REDD projects including developing the REDD+ Preparedness Plan.

### **Adaptation**

With the aim of making the country’s economy and infrastructure climate-resilient, the National Planning Commission has emphasised the need to screen development plans for resiliency. Implementation of the Climate Change Policy (2011) and the NAPA were the first high-level responses to climate change, intended to mainstream adaptation to climate change within national policies and reduce vulnerability. The Policy also encourages development sectors to incorporate climate change concerns into policies and other instruments of relevant sectors. The Policy equally emphasises development and use of clean and renewable energies and knowledge generation to address impacts of climate change through adaptation and impact mitigation.

The Nepal Climate Change Support Programme (NCCSP) assisted by the United Nations Development Programme commenced in 2013 (and is expected to continue till December 2015). The NCCSP provides assistance to climate change adaptation for the poorest and most vulnerable communities and its key targets include the development of 100 LAPAs and to reduce the vulnerability of 1 million people by 2015. It implemented Nepal’s NAPA and endorsed the National Framework on LAPAs. The National Framework on LAPAs act as major guiding

policy instruments for mainstreaming climate change activities in general, particularly climate change adaptation. MoSTE is now engaged in implementing NAPA-prioritised projects with support from DFID and EU, and the Least Developed Countries Fund.

## ***Nepal: Executive Portfolio***

<b>Name of policy</b>	<b>National Framework for Local Adaptation Plans for Action (LAPAs)</b>
<b>Date</b>	27 February 2012
<b>Summary</b>	<p>This Framework is prepared to provide the effective delivery of adaptation services to the most climate vulnerable areas and people of Nepal. It supports the design of new and implementation of existing Local Adaptation Plans for Action (LAPAs) that have already been designed and piloted. It is expected to help integrate climate adaptation and resilience aspects in local and national plans.</p> <p>The main entry points to the LAPA are as follows:</p> <ul style="list-style-type: none"><li>• Agriculture</li><li>• Forestry</li><li>• Health</li><li>• Water and sanitation</li><li>• Watersheds</li><li>• Microfinance</li><li>• Education</li><li>• Infrastructure</li><li>• Disasters</li></ul> <p>The guiding principles of the Framework are that the process of integrating climate adaptation and resilience into local and national planning is both bottom-up, inclusive, responsive and flexible.</p> <p>The Framework supports the following activities from local to national level planning:</p> <ul style="list-style-type: none"><li>• Identify the most climate-vulnerable Village Development Committee, municipality, wards and communities and their adaptation challenges and opportunities</li><li>• Identify and prioritise adaptation actions in easy ways whereby local communities make the prioritisation decisions about their needs</li><li>• Prepare LAPA and integrate it into local and national plans in accordance with the Local Self-Governance Act</li><li>• Identify and mobilise appropriate service delivery agents and necessary resources for the implementation of the LAPA</li><li>• Adopt and/or implement adaptation actions sequentially by the service providers in a timely and resource efficient manner</li><li>• Conduct monitoring and evaluation by ensuring effective implementation of the plan for action</li><li>• Identify cost-effective adaptation alternatives for scaling up into local and national planning</li></ul> <p>The LAPA Framework consists of the following steps for the LAPA formulation and implementation:</p> <ul style="list-style-type: none"><li>• Climate change sensitisation</li><li>• Climate vulnerability and adaptation assessment</li><li>• Prioritisation of adaptation options</li><li>• LAPA formulation</li></ul>

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- LAPA integration into planning and processes
  - LAPA implementation
  - LAPA progress assessment
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<b>Name of policy</b>	<b>Climate Change Policy</b>
<b>Date</b>	3 March 2011
<b>Summary</b>	<p>The Climate Change Policy is the centrepiece of Nepal's response to climate change. The Policy's preamble discusses a vision of limiting the impacts of climate change through environmental conservation and sustainable development. It further states that the mission of the policy is to address the adverse impacts of climate change and take opportunities to improve livelihoods and encourage climate-friendly change.</p> <p>The Policy summarises the significance of climate change to Nepal, sets out the condition and context of Nepal's institutional response and outlines the following policies that have been adopted:</p> <ul style="list-style-type: none"><li>• Climate adaptation and disaster risk reduction</li><li>• Low carbon development and climate resilience</li><li>• Access to financial resources and utilisation</li><li>• Capacity building, peoples' participation and empowerment</li><li>• Study and research</li><li>• Technology development, transfer and utilisation</li><li>• Climate-friendly natural resources management</li></ul> <p>The Policy aims to achieve the following actions:</p> <ul style="list-style-type: none"><li>• Establishment of a Climate Change Centre within 1 year for conducting climate change research and monitoring, and regularly providing policy and technical advice to the Government of Nepal</li><li>• Initiation of community-based local adaptation actions as mentioned in the NAPA through managing financial resources by 2011</li><li>• Preparation of a national strategy for carbon trade in order to benefit from the Clean Development Mechanism by 2012</li><li>• Formulation and implementation of a low-carbon economic development strategy that supports climate-resilient socio-economic development by 2014</li><li>• Assessment of losses and benefits from climate change in various geographical areas and development sectors by 2013</li><li>• 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</li></ul>

<b>Name of policy</b>	<b>The National Water Plan</b>
<b>Date</b>	2005
<b>Summary</b>	<p>The water policy is a comprehensive strategy document that addresses the major issues relevant to water use, including agriculture, tourism, hydroelectric power production potential, and other ecosystem services such as fisheries.</p> <p>It mandates research into climate change and the creation of the Himalayan Climate Change Study and Research centre. It also sets out the need to conduct further research into the impacts of climate change in Nepal.</p> <p>The targets of this Plan includes the following:</p> <ul style="list-style-type: none"><li>• The number of rainfall stations is increased to 370</li><li>• Sufficient number of stations are equipped with telemetry facility to assist weather and flood forecasting</li></ul>

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- The Himalayan Climate Change Study and Research Centre is established within the Department of Hydrology and Meteorology (DHM)
  - The DHM station network is expanded to meet the World Meteorology Organisation standards by 2017
  - The dissemination of relevant quality data is to be improved by 2017
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<b>Name of policy</b>	<b>The Hydropower Development Policy</b>
<b>Date</b>	15 October 2001
<b>Summary</b>	<p>This Policy revised the original policy document of 1992. The objectives of hydropower development are to generate electricity at low cost and provide reliable and qualitative electric service for both own country and exportable commodity. Connecting electrification with economic activities and extend rural electrification are also the goals of this Policy.</p> <p>The strategies to accomplish these objectives include extension of hydropower services to the rural economy, implementation of small, medium, large and storage projects for hydropower development, attracting investment from both private and governmental sectors (as necessary through public-private joint ventures) and minimising the potential risks in hydropower projects with a joint effort of government and private sector. Key implementation policies for these include development of electric systems for domestic use and storage projects, provision of appropriate incentives and transparent processes, contribution to environmental protection by developing hydropower as an alternative to biomass and thermal energy, restructuring institutions in the public sector to create a competitive environment and fixing electricity tariffs in rational and transparent manner.</p>

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