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**Discussion Paper 2**

**Climate Justice**  
**Bottlenecks and opportunities for policy-making in Nepal**

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## **Abstract**

The notion of climate justice has received importance in academic, activist and political circles globally and in Nepal. Political leaders, climate change activists, movement leaders as well as the academics hardly miss the point about justice—whether explicitly or implicitly—while they refer to climate change. Nepal's climate change policy has also incorporated the concept. While being so attractive to many groups, the notion has been hardly discussed to its nuances in Nepal as to how it is implicated to policies and practices. At the global level, climate justice is mostly understood in relation to the division between the global North and the South in relation to their contribution to generation of green house gases (GHGs) and hence the responsibility to reduce it, bearing the negative consequences and having the capacity to overcome the impacts. However, within a national context in Nepal, specifically in the formulation of public policies and programs, it remains unclear how the notion of climate justice has been conceptualized or operationalized. This paper explores through how Nepal's climate change policy-making and international representation conceptualize the notion and identifies their nuances and contradictions. It examines two specific policy instruments, viz., National Policy on Climate Change and National Adaptation Program of Action (NAPA) in regard to their commitment to and formulation of climate justice. This paper suggests that, while the notion of climate justice is conceived in contradictory and sometimes opposite ways, it offers a discursive device for articulating the needs and voices of backward groups. We also suggest that Nepal's environmental policy-making requires a change of approach to deliver the government's commitment to climate justice.

# 1 Introduction

In Dec 2009, on the eve of 15<sup>th</sup> meeting of Conference of Parties (COP 15) to the United Nations Framework Convention on Climate Change (UNFCCC) in Copenhagen, Nepal's cabinet meeting was held at the base-camp of Mount Everest. The meeting attracted considerable media attention as it was to indicate how the Government of Nepal tackled climate change. The meeting's 10-point declaration announced, among other things, increasing the area of the protected areas (PAs) in Nepal, and reducing vulnerabilities of marginalized communities.<sup>1</sup> The points in the announcement were proven to be mutually incompatible as the local rural communities started challenging the expansion of protected area. This contradiction has not been resolved so far.

Later in the same month, Nepal's Prime Minister strongly emphasized at the COP 15 meeting the notion of climate justice: common but differentiated responsibilities among countries for mitigation of climate change in the situation of differentiated capability.<sup>2</sup> He further stressed the higher vulnerability of people living in the least developed countries (LDCs), and asked for supporting them with greater priority. Nepal's Minister for Environment reiterated the same notion in the subsequent COP 16 meeting in Cancun. The minister pointed out the unequal distribution of benefits and burdens in regard to climate change and requested to keep the LDCs in the higher priority for any support system under climate change, since the LDC were the least contributors but greatest sufferers.

There was huge outcry in the media about the extensive deforestation in the Nepal's lowland Tarai in the summer of 2009. Most of the reports and analyses blamed bad governance in the Nepal's forestry sector for this destruction. The blame targeted the spectrum of actors, from the community level to forestry officials to the office of the Minister.<sup>3</sup> However, some journalists linked it with the restriction of logging in the neighboring states of India (Bihar and UP) as they were implementing 'Green India Mission' to tackle the climate change.<sup>4</sup> The mission was itself a result of the pressure created on emerging nations like India in order to reduce their emission. Due to such restriction, rapidly growing economy of the Indian states was satisfied by the supply of the forest product from the Tarai where the forest governance was very weak under the protracted political transition in Nepal. This incidence is particularly important to Nepal when emerging nations, particularly India and China that border to Nepal, are trying their hard to secure more emission rights in the name of climate justice. In the meantime, higher level of temperature rise and resulting acceleration of glacial melting in the Himalayan region was linked with the higher concentration of the black carbon shoot,

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<sup>1</sup> "Sagarmatha Ghoshanapatra", *Gorakhapatra*, 2066 Mansir 20 (5 Dec 2009), page 4.

<sup>2</sup> "Haritgriha GasUtsarjan Ghatauna Ahwan", *Gorakhapatra*, 2066 Pus 2 (17 Dec 2009), page 4.

<sup>3</sup> Similar interpretation was shared by participants in a public interaction held at Martin Chautari on the theme "Current deforestation in Nepal" in 13 July 2010.

<sup>4</sup> Khadka, Navin Singh. 2010. "Nepal's forests 'being stripped by Indian timber demand'" BBC News, 29 Sep 2010, <http://www.bbc.co.uk/news/science-environment-11430622>.

which is a result of local emission.<sup>5</sup> Nepal is yet to see more adverse impacts of the climate change in the future and but seems now trapped in the climate justice of emerging economies.

When Nepal's government was negotiating a loan in 2011 for climate resilient projects with the World Bank under Pilot Project on Climate Resilience (PPCR), there was huge outcry in the media and civil society against the loan. This outcry largely targeted the loan, which came in the place of grant outside the usual UNFCCC's course, for such a problem to which 'we' are the least responsible. The opposition was made in the name of climate justice that helped to make the initiative global. Later, some analyzed the role of an international conservation agency (WWF Nepal) in this contradiction and revealed that there was perceived difference in meaning of 'technical' terms: resilience (OK for loans) versus adaptation (not OK for loans).<sup>6</sup> Despite the opposition, the government has recently made the agreement with the Bank.

These are few examples that surfaced quite recently. They show that when progress was made in the policy process on climate change in Nepal, more and more contestations and contradictions emerged. In the course of such policy formulation, the notion of climate justice would become stronger. There are claims and demands made in the name of climate justice, at different level—global, regional, national and sub-national –by various actors. When climate change policies and strategies enter into the implementation in the future, a greater range of claims and counterclaims based on climate justice are certain to emerge. Therefore, it is important to start examining climate justice in relation to policy process, its nature and usefulness at different level in Nepal.

Globally, justice and equity are central to the climate change discourse since its inception. They were mainly framed in the North-South divide on the responsibility-impact-capacity to deal with climate change. It served as the basis for initial international instruments such as the UNFCCC (1992) and Kyoto Protocol,<sup>7</sup> and continues to shape the current global politics on climate change. There are various climate justice initiatives emerging globally. Due to the influence of such global discourses as well as due to increased concerns for environmental justice in Nepal, justice in climate change has become a strong normative basis for climate change policies and discourses in the country. For example, climate justice is also accepted as one component of the recently adopted national climate change policy. Although being passionately articulated notion, the concept of climate justice has not received detailed academic discussion it deserves. This paper aims to fulfill this gap in the discussion of justice in climate change in case of Nepal. However, this paper makes the modest claims to contribute to the discussion and

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5 Xu, Baiqing, Junji Cao, James Hansen, Tandong Yao, Daniel R. Joswia, Ninglian Wang, Guangjian Wu, Mo Wang, Huabiao Zhao, Wei Yang, Xianqin Liu, and Jianqiao He. 2009. Black soot and the survival of Tibetan glaciers. *Proceedings of National Academy of Sciences (PNAS)*. [www.pnas.org/cgi/doi/10.1073/pnas.pnas.0910444106](http://www.pnas.org/cgi/doi/10.1073/pnas.pnas.0910444106).

UNEP, 2009. *Recent Trends in Melting Glaciers, Tropospheric Temperatures over the Himalayas and Summer Monsoon Rainfall over India*. Nairobi: United Nations Environment Programme.

<sup>6</sup> Khadka, Navin Singh. 2011. "Double talk". *The Kathmandu Post*, Feb 25, Page 6.

<sup>7</sup> The Kyoto Protocol was adopted in Kyoto, Japan, on 11 December 1997 and entered into force on 16 February 2005.

policy making. Certainly it will not provide a comprehensive framework for understanding of justice in climate change in Nepal. It is expected that it provides a basis for furthering the debates and actions on climate change.

Thus, the broad aim of the paper is to understand (in)justices in climate change in case of Nepal, focusing on its public policy process (procedural justice) and to analyze why and how injustices are produced and reproduced in the course of CC policy processes.

There are three main reasons why we produced this Discussion Paper. Firstly, climate justice has been quite popular among activists and policymakers of countries like Nepal in the global forums. Obviously the notion has been framed in the North-South divide in such forums. However, inside the country, how climate justice looks like remains unanswered. Therefore this paper will broaden the current understanding of climate justice in Nepal. Secondly, Nepal's national policies have little or no elaboration on the justice question, despite being explicitly mentioned. Thus the engagement with the issue will inform national and local policy making. The third rationale is related to the analysis of Nepal's environmental policymaking through a normative lens of justice by taking a case of climate change. Although there are few policy and planning documents related to climate change in Nepal, the obvious question is why a policy is formulated and who are represented or recognized in the process. These questions form part of the discussion in this paper.

## 1.1 Theoretical background: Defining climate justice

Justice and equity concerns are strong in the global climate change debate since its beginning. However the debate has changed significantly over the last two decades. But it is difficult to find any universal standard to assess climate justice. Still, the concept has been useful for various actors to make claims and counter-claims. We cannot be sure as to what type of policies or institutions we need in order to achieve climate justice. If we bring Sen here, this is completely a wrong question to ask.<sup>8</sup> According to him, in order to achieve justice, we have to be careful whether our existing institutions and structures are creating any injustices and how to remove or reduce those injustices. Such formulation of justice demands that we have to move beyond the distributionist frame. To move beyond the distributionist paradigm, IM Young and Nancy Fraser have given quite compelling insights. It has also been incorporated in the environmental justice movement arguing that we should look recognition, redistribution and participation.<sup>9</sup> This becomes more important when we recognize that the understanding of justice would be different for different types of responses to climate change, namely mitigation and adaptation, as we see below.

Mitigation and adaptation are two types of responses usually identified in the climate change literature. Mitigation refers to the reduction of emission of GHGs; but adaptation

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<sup>8</sup> Sen, Amartya. 2009. *Idea of Justice*. London: Allen Lane.

<sup>9</sup> See Schlosberg, D. (2004) Reconceiving environmental justice: global movements and political theories. *Environmental Politics* 13(3): 517-540.

refers to actions aimed at coping with the negative consequences or vulnerabilities posed by climate change. In the first half of 1990s—when there was scientific consensus was building on the link between anthropogenic emission of GHGs and the rise in global temperature—the global debate on climate change focused on emission and its mitigation. But as the scientific agreement was achieved with the turn of new century, particularly with the publication of the third assessment report of Intergovernmental Panel on Climate Change (IPCC) and as many CC impacts became visible in different parts of the world, the debate shifted toward adaptation. Currently both responses, somehow interlinked together, have become part of policy making on climate change. Over this shift of emphasis, equity and justice concerns also shifted from mitigation toward adaptation. This, however, does not mean that discussions on equity and justice in the climate change impact, vulnerability and capacity did not exist earlier. Instead, climate justice literature previously only focused on emission and mitigation aspect, but now has turned increasingly into adaptation aspects. Some indeed suggest that the adaptation agenda itself is a product of equity and justice discourse.<sup>10</sup>

Initial literatures on climate change in the late 1980s and early 1990s were highly vocal on raising equity and justice concerns in the debate of global warming and global climate change. Such equity and justice concerns formed a basis for negotiating UNFCCC (1992) and Kyoto Protocol. Initial concerns of equity and justice in climate change were focused on differences on contribution to GHGs emission between developed and developing countries and hence argued for differentiated responsibility to reduce the emission. One of significant literature raising the so-called voice of south is of Agarwal and Narain.<sup>11</sup> In the similar vein, even more explicitly about justice (bringing Rawlsian distributive justice), Shukla analyzed the distribution of emissions entitlements across the nations calling it as an “intra-generational distributive justice problem... from the perspective of developing countries.”<sup>12</sup> However, his depiction of developing countries is limited to countries like India and China, who were demanding equitable share of the ‘environmental space’.<sup>13</sup> Shukla’s implicit logic behind invoking the notion of justice in climate change is to gain more leverage to the countries in the South in international negotiation on mitigation. However, Shukla seemed content to some extent for incorporating justice concerns in then international instruments, such as UNFCCC (1992), IPCC Second Assessment Report (1995) and Kyoto Protocol. Although he had categorized justice in climate change into two, procedural (issues related to participation of countries in international negotiation) and consequential (issues related to low emission and high risk but lacking resources and capacity for mitigation), his concerns are limited to equity and justice among nations in the international negotiation of mitigation. He has summarized equity perspective in climate change under eight categories: i) per capita or egalitarian principle, ii) historical responsibilities, iii) basic

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<sup>10</sup> See, for example, footnote 28.

<sup>11</sup> Agarwal, Anil and Sunita Narain. 1991. *Global warming in an unequal world: A case of environmental colonialism*. New Delhi: Centre for Science and Environment. at <http://www.nepalhomepage.com/development/unced.html>.

<sup>12</sup> Shukla, P.R. (1999). Justice, Equity and Efficiency in Climate Change: A Developing Country Perspective, Chapter 9. In: *Fairness Concerns in Climate Change*, Ference Toth (Ed), London: Earthscan Publications. <http://www.e2analytics.com>.

<sup>13</sup> Agarwal and Narain *op. cit.*, p.16.

needs, iv) obligation to pay - a composite criteria that combines historical responsibility and basic needs, v) Rawlsian criteria, vi) ability to pay, vii) “grandfathered” emissions, and viii) utility maximization.

While recognizing participation of developing countries is must for the success of any climate change regime and their participation is conditioned by how their equity concerns are addressed, Muller<sup>14</sup> identified climate change equity as a divide between the global North and the South. He argues that equity has been issue in both, in the North particularly for non-governmental stakeholders such as NGOs or academia who regard equity as an issue of allocating emission mitigation targets, whereas in the South this has been a concern of the governments who regard it as the discrepancy between the responsibility for, and the sharing of, climate impact burdens. Muller further argues that the root cause behind this divide is related to fundamental differences to perception of climate changes: in the North, climate change is seen as an ‘ecological problem’ as polluting environment and degrading the ecosystem or human victimizing nature and impacts to human welfare as life-style threatening; whereas in the South, climate change is seen as human welfare problem, where victim is the people, not nature, threatening life (not life-styles). Therefore, according to him, in the first case, the concern is about how to allocate emission rights so that nature can be least affected, whereas in the second case, concern is about identifying victims and culprits. He suggests that bridging this divide requires acknowledging and considering human impacts and their differentiated causal responsibilities in international instruments and by bringing innovative ways for redistribution of human impact burdens.

More recent literature on climate justice goes beyond simplistic characterization of responsibility and suffering by employing a variety of methods and approaches to explore issues of climate injustice, with particular focus on developing countries and future generations.<sup>15</sup> The literature on justice in mitigation frames the allocation of emission rights and mitigation duties mainly as a problem of distributive justice, reflecting a more general tendency among political and economic theories to frame all moral dilemmas narrowly as questions of just distribution.<sup>16</sup> There are four commonly suggested ways to resolve the justice dilemma in mitigation: to allocate to each country equal per capita emissions; to allocate to each country emission rights according to their historical responsibility; to allocate emission rights according to the countries’ ability and willingness to pay; to use a mixture of above described rules.<sup>17</sup> These four are all manifestations of a discourse of global managerialism that holds that fully defined exclusive property rights over the global atmosphere are an

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<sup>14</sup> Muller, Benito. 2002. *Equity in Climate Change: The great divide*. EV 31. September 2002, Oxford Institute for Energy Studies, [www.OxfordClimatePolicy.org](http://www.OxfordClimatePolicy.org).

<sup>15</sup> Sowers, Jeannie. 2007. The many injustices of climate change. *Global Environmental Politics*, 7(4): 140-146.

<sup>16</sup> Paavola, Jouni and W. Neil Adger. 2002. Justice and adaptation to climate change. Working Paper 23. Tyndall Centre for Climate Change Research, School of Environmental Sciences, University of East Anglia, Norwich, UK, p. 3.

<sup>17</sup> Jamieson, 2001 as cited in Paavola and Adger *op. cit*, p.3.

essential starting point for justice.<sup>18</sup> These alternatives curiously miss how the population size of a country and the per capita needs can be accounted.

Although initial literature on equity and justice in climate change focused on emission and mitigation, few also discussed about differential impacts and capacity and differential contribution. The latter argued that the developing countries were in the disadvantaged position due to climate change. For example, Gleick urged for action against anthropogenic GHGs emission and climate change, linking it with conflict and violence particularly in developing countries, through the resource scarcity and other vulnerabilities.<sup>19</sup> Similarly Meyer-Abich brought disadvantage of the third world countries in the debate indicating inequity in impacts (of climate change), capacity (to cope with), contribution (to GHGs emission) and responsibility (to cut emission).<sup>20</sup> He argued:

The forgoing analysis shows that those who cause about three-quarter of the climate change will be least affected by the implications or will even have absolute advantage. Those who will suffer from it most, share the responsibility only to the extent of about one-quarter.<sup>21</sup>

Thomas and Twyman brought the issue of equity and justice in climate change from country level to the sub-country level by linking it with the adaptation response.<sup>22</sup> This approach differed with the previous ones. Their target for justice and equity was to those communities which are highly dependent on natural resources and living in developing countries, therefore the most vulnerable to but least capable to cope with adverse impacts. For them, climate change impact is one of many sources of disturbances to livelihoods of those communities. They divided equity and justice concerns in climate change into two groups: one that can be applied to the process of climate change (that is GHGs emission) and the next, to the outcome of climate change that is related to impacts, vulnerability and adaptation. Thus, justice in climate change is both—distributive (distribution of benefits and burdens across the society) and procedural (how and by whom decisions on adaptive responses are made). While talking about adaptation of resource dependent people, it is related to outcome, but it has a strong procedural sense, since the adaptation is all about decision making process, that is who decides, who responds, what are options and so on. Therefore it has a strong procedural dimension of justice. According to them climate change adaptation offers a strong case for justice and equity, since it is accepted that the societies least able to cope with climate change are the ones that will be exposed to worst impacts and that these groups are heavily reliant on natural resources.

Important contribution of Thomas and Twyman is related with bringing immediate livelihood concerns of resource-dependent people or people in livelihood transition in

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<sup>18</sup> Paavola and Adger *op. cit.*

<sup>19</sup> Gleick, Peter H. 1989. Climate Change and International Politics: Problems Facing Developing Countries. *Ambio* 18(6) 333-339.

<sup>20</sup> Meyer-Abich, Klaus M. 1993. Winners and losers in climate change. In: Wolfgang Sachs (ed.) *Global Ecology: A new arena of political conflict*, pp. 68-87. London, New Jersey: Zed Books.

<sup>21</sup> Meyer-Abich, *op. cit.* p.81.

<sup>22</sup> Thomas, David S. G. and Chasca Twyman. 2005. Equity and justice in climate change adaptation amongst natural-resource-dependent societies. *Global Environmental Change*, 15: 115-124.

designing adaptation strategies. This is important because for those communities, climate change futures may represent real hypotheticals in the context of the immediacy of other livelihood disturbing factors. Therefore, they emphasize, national adaptation strategies should recognize climate change as only one of many livelihood disturbing factors to which equity and justice consideration are pertinent. They further argue that contemporary understanding of adaptation and its equity and justice dimensions must be embedded within the historical context of shift in the policies, which transform people's livelihoods.

Paavola and Adger present a framework for analyzing justice issues in adaptation.<sup>23</sup> The framework demands attention to distributive justice—how the beneficial and adverse effects of humanly induced climate change impacts and adaptation are distributed across groups of people and time. Equity and fairness are common concepts of distributive justice. They also point to procedural justice that is concerned with how and by whom decisions on adaptive responses are made. Recognition, participation, and legitimacy are common concepts of procedural justice. They argued that a broadly pluralist approach that acknowledges multiple justice concerns can adequately encompass all justice issues related to adaptation.

A refinement of this framework includes two dimensions:<sup>24</sup> procedural justice (referring to the degree of recognition and participation) and distributive justice (referring to the distribution of the beneficial and adverse effects of climate change and adaptation, between people and across time). Though often distinguished from each other, these two aspects are interdependent. The procedural aspect of the framework distills Nozick's libertarian approach (fair process for the legitimacy) and Young's procedural justice (fairness in access to democratic decision making by individuals, groups or nations). The procedural justice is important in adaptation to climate change for because it underpins legitimacy of the convention – it enjoys legitimacy among the parties to the extent that diverse voices are heard and counted for in the deliberation.<sup>25</sup> The legitimacy of national and local governments in planning and implementing adaptation strategies similarly rests on procedural justice. Similarly distributive approach to adaptation to climate change should not reduce issues of distributive justice to fair distribution of a single overarching good such as utility.

Others argue that justice in adaptation will require attention to recognition, participation and distribution of power at all levels and across levels.<sup>26</sup> According to them distributive justice is unlikely to be able to provide a sufficient foundation for climate justice because of the heterogeneity of involved parties.<sup>27</sup> Therefore procedural justice is needed to

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<sup>23</sup> Paavola and Adger (2002), *op. cit.* footnote 14.

<sup>24</sup> Adger, W, Neil, Jouni Paavola and Saleemul Huq. 2006. Towards Justice in Adaptation to Climate Change. In: Adger etal (2006) *Fairness in Adaptation to Climate Change*, pp. 1-19. The MIT Press, Mass., pp.14-16.

<sup>25</sup> Ibid.

<sup>26</sup> Paavola, Jouni, W. Neil Adger and Saleemul Huq. 2006. Multifaceted justice in adaptation to climate change. In: Adger etal (2006) *Fairness in Adaptation to Climate Change*, pp. 263-277. The MIT Press, Mass, p. 264.

<sup>27</sup> Paavola *et.al.*, *op. cit.*, p. 267.

underpin the legitimacy of climate change regime. Procedural justice is associated with Nozick's libertarian approach as well as with Fraser's recognition and participation and Young's democratic access to decision-making process. The later two are important because they set the foundation for the democratic practices. Following questions reflect procedural concerns in climate justice: Which parties and whose interest are recognized, and how, in planning, decision-making, and governance of adaptation? Which parties can participate in planning, decision-making, and governance of adaptation, and how? What is the effective distribution of power in planning, decision-making and governance of adaptation?

The four cornerstones of justice in adaptation are: "avoiding dangerous climate change", "forward looking responsibility", "putting the most vulnerable first" and "fair participation for all".<sup>28</sup> The first three principles address distributive justice involved in adaptation in a way that respects the diversity of affected parties and their situations. The principle of avoiding dangerous climate change can provide a degree of absolute protection to all vital interests, the principle of forward looking responsibility gives effect to efficiency concerns and the principle of putting the most vulnerable first justifies progressive redistribution to those who are most in need. The fourth principle provides a guideline for resolving dilemmas of procedural justice, suggesting that all affected parties have rights that have to be respected through recognition and participation. It forms a lens to understand justice in policies and policy-process, such as in the formulation of CC policies and program development.

Regarding the concern of equity and justice in adaptation in general and in national adaptation plan of action (NAPA) preparation in particular, Huq and Khan argue that NAPA is itself a product of equity and justice consideration in the CC at the global level since it demands for resources for adaptation for the least developed countries (LDCs).<sup>29</sup> Their main concern while evaluating NAPA through the prism of equity and justice is related to whether the process occurs through bureaucratized and centralized or open and participatory structures. Thus, they are concerned with who owns and controls process of NAPA development, and how.

The above literature on climate justice, particularly those that focus on the procedural aspects for adaptation, provides the framework for analysis of justice in this paper.

## 1.2 Question and approach

The specific questions this paper addresses are: how justice is conceptualized in Nepal's CC policies and planning documents? How justice is being practiced in making of those policies and plans? Here practicing of justice is not based on some imaginary perfectly just situation, rather it is related with understanding whether the CC policies and plans have helped reduce or increase the possibilities of injustices, that to be felt by some

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<sup>28</sup> Paavola *et.al.*, *op. cit.*, pp. 269-274.

<sup>29</sup> Huq S. and MR Khan. 2006. Equity in NAPA Bangladesh. In: Adger *et al* (2006) *Fairness in Adaptation to Climate Change*, The MIT Press, Mass.

groups or individuals. In other words, this paper asks whether the CC policies and programs and their formulation process reinforce or reduce the injustices, and how?

As the focus for analyzing justice in this paper is on policy process, the emphasis is placed more in favor of procedural justice or justice in the process than the distributional aspect. However we have to acknowledge that various aspects of justice, as discussed in the earlier section, are interconnected. That is to say, our discussion of the process of CC policy and program formulation also determines the outcome in the distribution of burdens and benefits.

There could be many ways to analyze whether particular policy process has reinforced or reduced injustices. This paper conceptualizes the analysis of justice in the policy process of climate change at three dimensions of policy process, namely, representation, implementation and accountability. The first, representation, is related with who are represented in the policy process, what about participation and recognition in the policies, who frames the issues, and whose voices are heard. The second, implementation, is concerned with whether and how the formulated policies are implemented. This includes, for example, the type of projects approved, funding mechanism, resources, institutions involved, mode of implementation and their role on producing and reproducing injustices. The third dimension, accountability, is related with how the implementation of policies and implementation schemes are monitored, what compliance and oversight measures are set in place, and who and how the lapses are detected and rectified. There could be many mechanisms by which injustices are produced and reproduced in the policy process in all these three dimensions. One mechanism, for instance, could be elite-expert nexus among various actors (activists, bureaucrats, politicians, civil society / NGOs, scientists / experts and media). Such nexus may cause participatory exclusion, scientific hegemony / pseudoscience, crisis narration, centralized system filled with rhetoric rather than creating thinking and innovations, neglecting or overemphasizing local / indigenous knowledge. Concerns in such cases may include why such nexus are being formed and strengthened, why there are no any contradictions or critical debate, and how these nexus are monopolizing resources and knowledge.

This paper will analyze all these aspects in climate change policies and plans in Nepal. There are a number of policy and planning instruments related with climate change in the country. Major policy threads housed at Ministry of Environment (that is designated as focal ministry for climate change) are National CC policy, National Adaptation Plan of Action (NAPA), National Communication Reports for UNFCCC (the first one is completed and the second is underway). This paper will look at the first two of them. It also analyzes the information gathered from interviews with a number of CC actors.

The following section starts with the analysis of Nepal's policy making in climate change. It is followed by an analysis of two public documents, NAPA and national policy of climate change. We then move on to how justice has been used / practiced to make claims and counterclaims taking one particular case from Nepal. Finally, the paper brings some conclusions along with the implication of this research.

## 2 Analysis

### 2.1 Nepal's policy response to climate change and climate justice

Nepal entered into the global environmental debates from the Stockholm conference of 1972. It joined the climate change policy discourse through its participation in the United Nations Conference on Environment and Development (UNCED) in Rio in 1992 and subsequent conference of party (COP) meetings. Nothing was mentioned the government's document submitted to the UNCED in regard to climate change and its impacts.<sup>30</sup> It simply highlighted Nepal's resource endowment, discussed environmental issues under, for instance, land degradation, and deforestation and pollution. The document spelled out the government's response to the environmental issues and highlighted the country's development options and trends in various sectors. Nepal signed the UNFCCC in 1992 and formally ratified it on 31 July 1994. It undertook some activities on climate change only after five years of ratification, with international support. It was Climate Change Enabling Activities Projects with the funds from Global Environmental Facility (GEF). Under this program, a high-level project steering committee (SC) was established.<sup>31</sup> The government instituted National Climate Change Committee (NCCC) and four separate National Study Teams (NST) to prepare country's response to climate change. The NCCC was chaired by the Director General of Department of Hydrology and Meteorology (DHM), while the SC was headed by Secretary of the Ministry of Population and Environment (MOPE). The MOPE was also designated at the government's focal point for UNFCCC. Nepal showed the commitment for integration of principles of UNFCCC and other international obligations in the national plans and policies, rules and regulation.<sup>32</sup>

Currently there are two major institutional structures operating at the governmental level for coordination and policy-making in climate change in Nepal: Climate Change Council (CCC) and Multi-stakeholder Climate Change Initiatives Coordination Committee (MCCICC).<sup>33</sup> The CCC is a higher level body and is chaired by Prime-minister and participated by representatives from various ministries and 'experts' from academia, private sector and NGOs. It was instituted in July 2009. It aims to provide the long-term policy and strategic guidelines for CC activities in the country. The MCCICC was formed under Ministry of Environment during the NAPA process in July 2010 with an aim to contribute to the program level. It includes representatives from line ministries, local government, donors and civil society.

Before 2000, Climate change discourses in Nepal at the governmental level were primarily centered on the measurement of greenhouse gas emission: its volume and trend.

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<sup>30</sup> HMG. 1992. Nepal's National Report on United Nations Conference on Environment and Development (UNCED). Team Members of New Era Consultants. Kathmandu: His Majesty's Government of Nepal.

<sup>31</sup> HMG. 2004. Nepal: Initial National Communication to the COP of UNFCCC. HMG, MOPE.

<sup>32</sup> Ibid.

<sup>33</sup> Wiseman, Katie and Raju Pandit Chhetri. 2011. *Minding the money: Governance of climate change adaptation finance in Nepal*. Kathmandu: Oxfam Country Programme Office, Nepal.

For example *State of Environment Nepal* discussed country's environmental issues more comprehensively, but touched the issue of climate change just by presenting the trend of GHGs in Nepal.<sup>34</sup> The tenth plan, which was adopted also around the same time, was also silent on climate change. Climate change appeared in the Sustainable Development Agenda of Nepal (SDAN).<sup>35</sup> It identified the sources of vulnerabilities of climate change, such as glacier melting, water scarcity, floods, change in weather pattern, loss of soil moisture, and the threats to infrastructure and biodiversity. The SDAN anticipated a vigorous economic growth in the adverse situation created by climate change, and raised, for the first time, justice aspect in climate change. Justice was labeled as 'low-blame high-vulnerability' in the document (p. 23), a feature to be shared by countries identified as mountainous or small islands. Nepal's 12<sup>th</sup> plan approach paper (2010-13) has incorporated climate change more explicitly and has set the objective of adapting and minimizing negative impacts posed by climate change by making human activity and development activities environment-friendly through encouraging green development.<sup>36</sup> It identifies some strategies and working policies to achieve that objective. However, it goes without giving any attention to the climate justice, in both procedural as well as distributional dimensions.

Nepal has been participating in the Conference of Parties (COP), highest level of decision making of UNFCCC, since 1996 (COP 2 in Geneva).<sup>37</sup> Only four people participated in that conference—two of the four from the technical background and two from the foreign affairs background. Thus the government initially conceived climate change as both a technical and international relations issue. Since then and until the 12th COP in Nairobi in 2006, Nepal's participation was limited, involving four or five representatives. But as the global as well as national discourse of climate change broadened in 2007, Nepal's participation increased from the COP 13 in Bali. Nepal also started participating in other meetings of LDC group and other committees. Regarding the participation in COP, COP 15 in 2009, Copenhagen has been a land-mark when Nepal also presented its position paper. The increase in participation has also expanded and strengthened government's interest and capacity of the Ministry of Environment to deal with the climate change. This has a direct impact on the formulation of CC policies and strategic documents. Now the global discourses, such as climate justice, have more direct influence on the policies and programs than ever before.

The first comprehensive public document on the climate change was the national communication report of Nepal, submitted to the COP of UNFCCC in 2004. The second report is in progress. The first communication report brought a comprehensive picture of country's climate change, its causes and impacts, and options for the response. It highlighted emission and mitigation aspects as well as adaptation approach in different sectors such as water resource, energy, agriculture, and infrastructure development. The

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<sup>34</sup> UNEP. 2001. *State of Environment Nepal*. Kathmandu: MOPE, ICIMOD and UNEP.

<sup>35</sup> NPC. 2003. *Sustainable Development Agenda of Nepal*. Kathmandu: National Planning Commission.

<sup>36</sup> NPC. 2010. Three Year Plan Approach Paper (2010/11 – 2012/13). GON, National Planning Commission, p.160.

<sup>37</sup> This section is based on a piece entitled Pharkera herda: Nepalko Sahabhagita (looking back at Nepal's participation) published in the CCNN Newsletter *Jalvayu Sarokar*, vol 3, no 1, page 10, special issue on Cancun conference, 2010.

document has technical contents only and does not spell out climate justice. Its formulation team, such as the steering committee, national climate change committee and study teams, composed of government bureaucrats, experts of science and technology, and a journalist. The report missed the diverse socio-political issues related to climate change. This has been merely a technical report.

Public discussion on climate change increased particularly during 2004-2007 period, when national and global studies as well as experiences brought more solid evidence of human-induced climate change and its adverse impacts. In the meantime, the Kyoto Protocol came into force in 2005, and carbon trade and Clean Development Mechanism (CDM) came under more frequent public discussion. These market-based mechanisms attracted popular concerns to the financial incentive for carbon protection in Nepal, and revealed the North-South divide in the global climate politics. They brought to focus that the USA and Australia, while being major polluters, were uninterested to accept binding mechanism for reduction of GHGs emission. In this way, justice aspect in the climate change became stronger even in Nepal's public discourse since 'we' were seen as suffered but 'they' are still indifferent to cut the emission. However, in Nepal such notion of justice is not as strong in the public discussion as in India. The market mechanisms were popularly seen as ways of minimizing the injustices. In the mean time after the ratification of Kyoto, Nepal accessed the CDM for Biogas program and attempted for community forestry which ultimately led to the mechanism called Reducing Emissions from Deforestation and Forest Degradation (REDD).

The post-2007 public discourses in climate change were more vigorous in Nepal as elsewhere. The country achieved three major policy and programmatic documents, namely national adaptation program of action (NAPA), national policy of climate change, and readiness to REDD, while the second National Communication Report is in progress. The three have been under implementation, and their distributional impacts will become visible once some results of their implementation become available. However we can assess their response to justice in terms of their preparation process and contents (as participation and representation), their conceptualization of implementation projects and accountability measures. Among the three public documents mentioned above, this paper analyzes below the NAPA and national CC policy. Similarly public concern on climate change peaked during 2009-10 when Nepal organized a cabinet meeting at the Everest base-camp, Kalapthar (December 2009), participated in the COP 15 in Copenhagen (Dec 2009) and COP 16 in Cancun (Dec 2010). Therefore we start below with the declarations made during these three events and move on to the analysis of NAPA and national policy.

The 10-point Kalapthar declaration made by the cabinet meeting at the Mt. Everest base-camp on 4 December 2009 have raised several points that have justice implications. At one hand the declaration pledges for reducing vulnerabilities of poor and marginalized section of population such as local and indigenous people, *dalits*, women and children. On other hand, the declaration aims at expanding the area of protected areas of country from 20 percent of total area of the country to 25 percent and expanding the forest coverage to 40 percent, without considering its implications for social justice. It also aimed at establishing new protected areas, which was challenged by the local people. For

example, a flyer was distributed against the proposed "Gaurishankar Conservation Area" under the title "Appeal: Lets end the government's monopoly on natural resources of Gaurishankar area and lets establish local people's sovereign rights over the resources". Forest Right Struggle Committee, Gaurishankar, made the appeal. This shows that the government is not serious about the justice implications of any declaration made in the name of climate change at home in spite of its reiteration of justice in the global forums such as those in Copenhagen and Cancun.

In Copenhagen, the Prime Minister emphasized the intergenerational and intra-generational equity by arguing that climate change would affect future generations as well as the people living in the least-developed societies in mountain and small island regions. He further asked for special priority to the most affected, least contributing and least capable group of people. He pledged to take action for the reduction of emission based on principles of UNFCCC and Kyoto—that is, the principle of common but differentiated responsibilities and differentiated capacity. Similarly, the Environmental Minister's address at Cancun COP 16 also made a request to give high priority to LDC countries and to follow the Kyoto principles.

The above discussion indicates that, while justice-lens in the climate change in terms of North-South divide is very important in order to articulate at the global forum how Nepal is victimized and thus deserves greater support. However, inside the country, justice is completely overlooked at the policy level beyond the rhetoric of inclusion of certain groups as a current political buzzword, as shown not only in the Everest declaration above, but also in the policy and programmatic documents, discussed below.

## **2.2 National Adaptation Program of Action (NAPA)**

It was generally agreed that the LDCs will be affected greatly by the adverse impacts of climate change and they are the least capable for adapting to the change. Based on this, UNFCCC mandated LDCs to develop NAPA in order to communicate adaptation needs of the country. UNFCCC also secured funding for the preparation and approved guidelines for NAPA preparation in its seventh COP (2001).<sup>38</sup> It was only through the NAPA that the LDCs access funding for adaptation, such as the LDC Fund and Adpatation Fund established through the Marakesh accord. The NAPAs were seen as the initial steps to correct the North-South divide in climate change and to address equity and justice concerns at the country level. The NAPA guidelines emphasized the participation of vulnerable communities in its preparation—here participation was considered a means to equity and justice. Most of the LDCs have now completed NAPA preparation—the forerunner being Bangladesh that completed it in 2005, whereas Nepal did it in 2010.

Although the NAPA guidelines were made available by UNFCCC in 2004, Nepal did not start the work for several years. One of the initial programs on Nepal's NAPA as a case study was presented in the regional workshop of Asian LDCs in Thimpu, Bhutan during

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<sup>38</sup> Huq and Khan, *op. cit.* Footnote 29.

9-11 September 2003.<sup>39</sup> But the NAPA preparation process took off only in 2009. The delay was caused by the disjuncture between national focal ministry and implementing partners or donors. The NAPA project was signed between Nepal's Ministry of Environment and United Nations Development Program (UNDP) on 14 November 2008 and its first inception workshop was held during 25-26 May 2009 in Kathmandu. The workshop was "the first step in developing the NAPA to share information on the projects' proposed activities and outputs and solicit inputs from stakeholders." The first day of the workshop focused on (a) NAPA preparation, and the second day on (b) Climate Change Knowledge Management and Learning Platform for Nepal and (c) development of a multi-stakeholder Framework of Action for Climate Change in Nepal. The workshop was attended by over 150 people: government agencies (22), associations and federations (6), academia, NGOs and projects (38), inter-governmental, UN, donor and other organizations (15), resource person group (3), advisory board (15), ministry of environment (21), NAPA team (6) and media (10). The workshop familiarized and refined the NAPA process. It identified seven thematic areas (agriculture, disaster, forest and biodiversity, water resources, energy, health, and cross-cutting issues). The 'cross-cutting issues' include vulnerability, gender and social inclusion, empowerment.

The inception workshop came up with some interesting points as presented in the report. In its group work on consultative mechanism and NAPA preparation modality (day 1, session 5, group 1), the importance of consultation at the community level was accepted. It further suggested to have at least at least 30 village level consultation, but later realized it was not possible in the existing time and resources. Therefore, the discussion recommended representing the local level issues through the NGOs / civil society and governmental agencies. Another group work (day 2, session 2, group 1) brought about the issue of representation of marginalized workers in the NAPA process and focus on local level for empowerment and other activities. Yet another group (day 2, session 2, group 2) recommended going beyond Kathmandu and up to the user group level, which was also realized in the closing session remarks. There were also suggestions to consider climate change as more than an environmental issue.

Following the workshop, six thematic working groups were formed and were led by line ministries: agriculture and food security, forest and biodiversity, water resource and energy, climate induced disasters, public health, and urban settlement and infrastructure. After the review study and vulnerability assessment, two national and three regional workshops and a number of consultations with various groups (youth, foresters, indigenous communities, media) were carried out. The discussions with these groups focused on enriching participants' understanding and identifying their role on climate change adaptation. A draft NAPA report prepared and was made public and validated through various regional and national level consultation meetings. The thematic groups formed and consulted the wider 'reference group'. Similarly, a transect appraisal was conducted in three regions in order to understand CC vulnerability which was complemented by GIS based assessment. The assessment estimated that almost 1.9

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<sup>39</sup> Raksakulthai, Vivian. 2003. Nepal NAPA Case Study Presented at LEG Regional NAPA Workshop organized in Thimphu, Bhutan in 9-11 September 2003. [http://www.napa-pana.org/files/workshops/buthan/09\\_Nepal\\_Case\\_Study.pdf](http://www.napa-pana.org/files/workshops/buthan/09_Nepal_Case_Study.pdf)

million of Nepal's population is highly vulnerable and 10 millions are at risk. The assessment identified nine districts with very high vulnerability (Kathmandu, Udaypur, Ramechhap, Lamjung, Mugu, Bhaktapur, Dolakha, Saptari, Jajarkot). The assessment also identified the vulnerable communities based on their holding of capitals and assets. For example, communities with low income, small land holding, lacking access to information and other services were identified as the highly vulnerable. It concluded that differences in vulnerability also existed within a district. For instance, a low-scored district such as Banke might possess extremely vulnerable communities. It shows the difficulties in the assessment on vulnerability that was calculated for administrative divisions as a function of exposure, sensitivity and adaptive capacity. The assessment demands rigorous operationalization of the terminologies. For instance, very recent incidence of GLOF in Humla indicated the flaw in the vulnerability assessment of NAPA in which Humla has been depicted as a district having no or very low risk of GLOF.<sup>40</sup>

The NAPA report identified adaptation options against the major thematic areas. It also came up with nine combined profiles as priority activities / projects for adaptation. The cost was calculated as USD 350 million. The report has also identified the priority groups for adaptation activities. While group identification is important for climate justice, the groups were denoted in vague terms, such as the poor and vulnerable (for multi use of water), flood-disaster vulnerable (for increasing resilience), and hill-mountain communities (for agriculture and food security). The priority geographic areas were identified as mid-hills and Churia, flood prone area, urban settlements and hill-mountain areas. The priority activities for adaptation were identified as multi-use system of water, flood management, construction of infrastructures (such as water retaining wall), research and piloting and on-farm soil management and water conservation.

One of important aspect of NAPA report with respect to social justice is that besides following the consultative method of preparation (annex 6, p.62) and incorporating the local perceptions of climate change impacts (annex 4, p.60), it includes the gender sensitivity analysis of CC impact in all six thematic areas (annex 5, p.61). However, any sense of such analysis can be found neither in the adaptation options (annex 7-14, pp.67-77) nor in the any prioritized activities and projects. Thus gender analysis was merely an instrumentalist approach, disconnected from the adaptation options and activities.

We assess below Nepal's NAPA for social equity and justice through the inclusivity analysis, as the discourse of social inclusion is strong in Nepal. Perch (2011: 32) has summarized how social equity becomes important for various mitigation and adaptation policies with various objectives. Following Perch,<sup>41</sup> Table 1 presents the inclusivity of NAPA with the use of these criteria: MG (mentions gender), PG (prioritize gender), MP (mentions poverty), PP (prioritize poverty), DVG (defines vulnerable groups), MEG (mentions ethnic groups), DPp (defines participation), using measures such as Y(yes), N (no), NC (not clear) and Yns (yes not specified).

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<sup>40</sup> Khadka, Navin Singh. 2011. "Left out in the cold." *The Kathmandu Post*, 12 August 2011, page 6.

<sup>41</sup> Perch, Leisa. (2011). *Mitigation of what and by what? Adaptation by whom and for whom? Dilemmas in delivering for the poor and the vulnerable in international climate policy*. International Policy Center for Inclusive Growth.

**Table 1: Inclusivity analysis of Nepal's NAPA vis-à-vis South Asian countries**

Country (and author of NAPA)	MG	PG	MP	PP	DVG	MEG	PEG	DPp
Afganistan (Government, UN, NGOs)	Y	N	Y	Y	Y	Y	N	Y
Bangladesh (Ministry of Environment and Forest)	Y	Y	Y	Y	Y	Y	N	Y
Bhutan (National Planning Commission)	Y	N	Y	Y	Y	N	N	Y
Nepal (Ministry of Environment)	Y	Y	Y	Y	Y	Y	Y	Y

Source: Entries for Afghanistan, Bangladesh and Bhutan from Perch (2011); Nepal entries from author's analysis of the text.

Thus, Nepal's NAPA has strong inclusivity comparable with other countries in South Asia. The prioritization in Nepal's NAPA included two major criteria, potential to support local livelihood and people's participation, that are two criteria specifically related with social justice out of seven criteria. These criteria emphasize equity in access to livelihood assets, local ownership and acceptance and inclusiveness (in terms of gender, indigenous people and *dalit*). However, reflection of such criteria in the adaptation options and activities is not clear. Besides almost non-existence of gender in the adaptation options, variables of inclusion and representation are not mentioned in the adaptation options and activities except the mention of marginalized and vulnerable communities. While the government stressed the participatory methods of NAPA preparation, three problems on participation exist in the NAPA process.<sup>42</sup> They are representation of 'local communities' in the 'regional consultation workshop' through the governmental and non-governmental organizations, 'instrumentalist' and 'top-down' nature of the workshops and relatively higher weights given to the 'expert' judgment in the prioritization.

Although the NAPA document does not present explicitly any objectives of climate justice, it incorporates justice aspects in various ways. It has been prepared in a participatory method at the regional and local level, somewhere directly and elsewhere indirectly. It also identifies priority areas and communities for adaptation activities. However, it has limited its scope for addressing climate justice and making it more contextual to the socio-political reality. Firstly, NAPA team comprised mainly of scientists or technocrats, NGO personnel and government bureaucrats. They understood the science of climate change, but had a limited grasp of socio-political concerns. There was a clear lack of social scientists, activists and politicians in the team. Some consultations were carried out with activists and indigenous communities, it is questionable whether and to what extent their concerns were addressed. Consultations might have been mere instrumentalist. The document has spoken very technical language, which has only reproduced black-boxing of Nepal's environmental and climate change discourse as mere technical issue.<sup>43</sup>

<sup>42</sup> These were identified for Bangladesh, and are also valid for Nepal. See Ayers, Jessica. 2011. Resolving the adaptation paradox: Exploring the potential for deliberative adaptation policy-making in Bangladesh. *Global Environmental Politics*, 11(1): 62-88.

<sup>43</sup> Forsyth (2003: 86) states that a concept can be said to be black-boxed when their internal nature is taken to be objectively established and immutable or beyond the possibility for human actions to reshape it.

Similarly there was also a lack of space for local level actors in the project formulation teams. In Bangladesh, local people and their representatives were one of three key stakeholders of the project. In Nepal, their absence was partly due to the vacuum in the local government units. Although the document was finalized and validated through the consultation meetings, one can easily assume who had effectively participated in such deliberations when the document was very technical and in English language.

Furthermore, most of discussions and recommendations in NAPA are theme-centric (sectoral). When they were brought under combined profile it seemed an artificial combination. Climate change vulnerability and adaptation are more comprehensive and complex, but this fact has not been realized in the document. If the assessment had been people / community-centric located in their ecosystem and institutional surrounding, the assessment would have captured Nepal's complexity. The flaw indeed began with the methodology for NAPA fixed in UNFCCC and so missed the Nepal context.

### **2.3 National climate change policy**

Nepal's interest in formulating the national policy on climate change is a result of such factors as an obligation of being party to Kyoto Protocol, that demands concrete CC policies and as providing a basis for securing support under climate financing. Therefore the interest on this policy emerged at the top, rather than the bottom, level. However, the formulation utilized some bottom up process, rarely seen in the policy formulation in Nepal. The policy has itself stated its need felt due to Nepal's commitment at the global forums such as in COPs of UNFCCC. It states that, new climate change policy was urgently needed in order to inform (convince) parties of UNFCCC about the institutionalized implementation of the convention and responding to the climate change through formal policy process.

The process of the formulation of the policy began in February 2007 when World Wildlife Fund (WWF) was preparing its future activities. It was later discussed and approved in a meeting of a newly formed coordination committee chaired by the secretary of the Ministry of Environment along with other members of ministry, Climate Change Network of Nepal (CCNN) and WWF Nepal who would provide the financial and technical support to the Ministry. The WWF prepared a draft TOR and was later revised and approved in the meeting. The first meeting of the committee held in July 2007 appointed a consultant for the review study. Consultants of thematic areas such as forest, mitigation, adaptation, and extension assisted the consultant. The committee had five subsequent meetings and in the fourth meeting a draft of the policy was presented. There were two consultation meetings on the draft at the central level. There were four regional consultations on the draft—in Kailali, Pokhara, Solukhumbu and Biratnagar. The policy was adopted on 10 Jan 2011.

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Forsyth, Tim. 2003. *Critical political ecology: The politics of environmental science*. London, New York: Routledge.

The consultation meetings should have been useful to bring various local perspectives and experiences to incorporate into the policy. The final list of people present in the consultations outside Kathmandu could not be found, and so were the method and agenda. However, a preliminary list of attended/invited participants was provided by WWF Nepal office. The list indicates that most of the participants were from government or NGOs from these localities. A news about the first consultation held in the far-western town of Dhangadhi reports that the questions posed in the meeting included, what types of climate policy was needed, what to be incorporated and so on.<sup>44</sup> However, the report describes the scientific basis of climate change and its possible impacts. Since it does not bring any positions on the policy, the consultation focused on broadening the climate change understanding of the participants by the experts rather than bringing participants' own ideas or contribution to the policies.

A glimpse of one of the consultations that this author attended provides greater insights. It was the second (open) day of the two-day consultation in which stakeholders were discussing on the initial draft of the National Policy on Climate Change. It was held in Lalitpur during 16-17 October 2008. The first day of the meeting was attended by at least 24 persons whereas the second day was joined by at least 79 persons.<sup>45</sup> Most of participants were officials, consultants, and NGO people. In the second day, in which draft of the policy was shared, the participants were asked contribute to the draft. The meeting was divided into initial technical session, working group session, and concluding session. In the technical session, consultants of each thematic area, such as emission of GHGs, legal provisions, carbon sinks and mitigation, and vulnerability and adaptation presented their analysis and contribution to the policy. At the end of this session, the main consultant presented the draft of the policy. A six-page draft had its contents in eight major sections. Although this version formed the basis for the final policy, it was completely changed in the final version. These deliberations were dominated through technical presentations, and were hard for many participants to understand and discuss. Although participants could have made contribution to the draft through the group work, it had a limitation the group had to contribute to the already formulated drafts. Since most of debates were related to technical themes and jargons, most of participants outside the capital must have spent the time to familiarize themselves with the terms and concepts.

Still, this policy explicitly mentions climate justice; it could have been its major consideration under its vision but without further elaboration. Interestingly the draft policy, which was discussed in the consultation meeting mentioned above, did not have any terms to refer to climate justice. Thus, the notion was incorporated in the policy towards its finalization under pressure of a particular member of Climate Change Council.<sup>46</sup> His recommendation was based on the popularity of the term in the global forum and its usefulness in the global negotiation and access to funding. The idea to put the notion into the policy was to highlight the responsibilities of developed countries for mitigation.

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<sup>44</sup> Bhatta, Shyam. 2064 BS (2008). Tarjuma ko tayari: Vatavaran jalvayu niti (Preparing the formulation: Environment Climate policy). *Samaya*, Chait 7 (20 March). page 36-37.

<sup>45</sup> This is based on the attendance register maintained by the organizer, Ministry of Environment.

<sup>46</sup> Based on the interview with a member of policy drafting group.

Although the policy has incorporated climate justice, there are so many provisions that would have implication to environmental injustice. For example what would be the implication for social justice while following a low carbon development pathway, searching more international funding mechanisms, and focusing more on technology? However, the policy has attempted to target the vulnerable communities. Most important provision in the policy is about channeling almost 80 percent of funding in climate change to the grassroots level. The provision has been repeated three times in the document. Similarly the policy has conceived about the creation of the CC Center, CC Fund and CC Award, all of which have not materialized yet.

Like NAPA, the CC policy is also technical but more serious on socio-political aspects. Its appreciation of the need of more technology, more research and study, networking of institutions, search for funding, establishment of CC Center, CC Fund and CC Award indicate that it has incorporated interests of the experts and practitioners.

## **2.4 Representation, implementation and accountability of CC policies**

As discussed earlier, NAPA is purely a technical document. Those who formulated the document were mostly the consultants and government bureaucrats. Thematic working groups were involved in the development of thematic sections and prioritization of the adaptation options, activities and projects. The groups used the information gathered from vulnerability assessment, transect appraisals in three regions, and other sources. They also consulted the wider 'reference groups'. But the core group was responsible to finalize the report. It is not quite clear what difference has been made through the wider consultation.

NAPA envisions three levels of its implementation: central level (Ministry of Environment), project level (project coordination committee in relevant line-ministries) and local level (district development committee). NAPA has developed nine combined profiles of adaptation activities, and they range from integrated resource management to public health to disaster management and urban management. It brings a range of sectoral ministries at one activity whereas the primary implementing authority is the Ministry of Environment. In fact the NAPA process was an attempt to achieve ownership to sectoral ministries and departments for their relevant adaptation options and activities as they were allowed to lead the thematic working groups. But the capacity of the Ministry of Environment in coordinating these ministries is questionable, as its capacity is nominal. While the coordination role also lies with the National Planning Commission, the current political transition and frequent change in governments pose a challenge to initiate any sustained initiative. Another challenge is related with securing funds to implement the projects. The NAPA preparation is mainly aimed to access to globally available funds for adaptation. Most of the support for its preparation also came from UNFCCC, and accountability lies toward the donors. This is also indicated by the fact that the preparation process largely ignored the political parties and leaders.<sup>47</sup>

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<sup>47</sup> A CA member who is active on the climate change and environmental issue shared this point in an interview with this author.

Similarly the national policy of climate change was also prepared in a participatory method. However, it also brought on board the same groups of people, technocrats and bureaucrats, whose preferences are indicated in the recommendations that favored top-level centralized institution, more research and capacity building projects, more flow of funds to the local level. The implementation responsibilities lie with Ministry of Environment at the functional level and some institutional structures such as Climate Change Council at the policy level, and others such as CC Center, and working groups. Financing is conceived to flow through Climate Change Fund, mostly supported by the international donors, of which 80 percent would go the community level. How such propositions materialize are yet to be seen.

Although both policies reviewed above have many points related to social justice in their process of formulation (in terms of participation and recognition) and implementation. It is important to align the accountability in regard to their implementation towards the people at large. However, they focus more on technical aspects. Little or no participation of political actors, partly conditioned by ongoing transition and instability, has blurred structure of accountability in regard to climate change programming and implementation. The vagueness in accountability disconnects these policy instruments from the very issue of social justice. One of the major evidence of such disconnection is reflected in the loan vs. grant debate when the government tried to obtain a loan from the World Bank –the issue that will be taken up later in this paper.

## **2.5 Initiatives on climate justice in Nepal**

Up to now, there are two initiatives carried out in the name of climate justice in Nepal. The first one was on the inclusion of the Sagarmatha National Park, the UNESCO World Heritage Site, in the danger list due to climate change (in 2004-05). The initiative also got support from Sir Edmund Hillary. The second initiative under the banner was carried out by some NGOs to block the World Bank loan on climate change to Nepal (in 2010-11). These seemingly unrelated initiatives came under climate justice due to efforts of so-called civil society groups and linked to similar initiatives in other parts of the globe. Among the two, the second was more recent and more popular in the public discussion. Thus, this is discussed below in regard to what justice issue is implicated in the case.

In 2010, the government attempted the ADB/World Bank loan under Pilot Project on Climate Resilience (PPCR). Nepal's NGOs and 'civil society' opposed the initiative labeling it as an issue of climate injustice. However, government's rationale for the project was also based on the notion commonly understood as climate justice. The government claims, "PPCR is to help countries transform to a climate resilient development path, consistent with national poverty reduction and sustainable development goals. PPCR is a targeted program and a part of the *Strategic Climate Fund (SCF)*, a multi-donor Trust Fund within the *Climate Investment Funds (CIF)* with dedicated funding to pilot new approaches with potential for scaling up."<sup>48</sup> There are 18 countries (two in South Asia) participating in the PPCR. The PPCR is to complement the projects

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<sup>48</sup> <http://ppcrnepal.gov.np/index.html>, accessed in August 2011.

conceived in the NAPA and is divided into two phases: the first phase on coordination and planning across ministries to mainstream adaptation in the development plans and the second phase on the implementation of the plans and programs.<sup>49</sup> The project was agreed in the joint mission of ADB / WB in November 2010 and also discussed in the subsequent mission, particularly in February 2011. During the same period it fell into the popular controversy. The committed amount for the PPCR was USD 60 million initially, divided between loan and grant, which was later on raised to 110 million (60 million loan and 50 million grant). Civil society groups abhorred the loan in the name of climate justice. However, quite interestingly, justification for the project as provided in the final report of the PPCR planning is also based on the notion of climate justice:

Nepal produces only 0.025% of global greenhouse emissions ... but is disproportionately at risk from climate change impacts. Nepal along with Bolivia were selected to receive support under the PPCR... as an example of a country in a *Mountain Region* which is vulnerable to climate change impacts associated with snow and ice melt, water supply, ecological zone and other consequences. ... The above hazards mean that Nepal is exposed to a complex web of potential climate change impacts, including elevated disaster risk, the loss of productive land and water resources, and possible abrupt changes in climate. ... With further screening using *Adaptive Capacity* criteria, Nepal was also selected over other candidate countries on the basis that Nepal is more vulnerable. The PPCR program in Nepal has the opportunity to *demonstrate viable interventions to address climate change risks associated with Mountain Regions with low adaptive capacity*.<sup>50</sup>

This shows that the government valued this fund, in contradistinction to the argument that the government was forced to accept the loan. Even during the public interactions, government officials defended the loan saying that it would provide the government some financial sources required for the implementation of the projects under NAPA.<sup>51</sup> Another official emphasized that the loan, which has a very low interest rate, gives more flexibility to the government to use the money on its discretion, as grants are attached with donor's interests. He further suggested that there are no alternatives for funding. His emphasis was that money was needed to address the challenges posed by climate change.

While countering the loan, civil society groups claimed that receiving the loan to fight climate change in which 'we' had the least contribution was unjust. They see that the loan continues already existing climate injustices between the North and South. Some expressed that the World Bank loan would shift the global climate financing from the usual UN course (such as LDC Fund, Adaptation Fund under UNFCCC) to the multilateral banks where developed countries have the strong hold.<sup>52</sup> According to them, this is only an upshot of the developed countries' global politics in climate change to derail the achievements made in the UNFCCC. This fear was also expressed in another campaign 'Say no to climate loan' launched by 12 NGOs calling themselves 'Civil

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<sup>49</sup> Wiseman, and Chhetri (2011). footnote 33.

<sup>50</sup> "Developing Nepal's Strategic Program for Climate Resilience (SPCR): Prioritisation Planning Process" Article 98, Section 5, page 32-33. Document accessed from [www.ppcnepal.gov.np](http://www.ppcnepal.gov.np), in February 2011.

<sup>51</sup> This was shared by Batuk Krishna Upreti, Joint Secretary of Ministry of Environment in the interaction program organized by Nepal Forum for Environmental Journalists (NEFEJ) on the loan controversy in 14 February 2011 in Kathmandu.

<sup>52</sup> As expressed in the same interaction program organized by NEFEJ.

Societies of Nepal'.<sup>53</sup> They argued that the loan would undermine the notion of climate justice emphasized by the government in national policies and in international forums. Thus the term climate justice, which appears in the national policy, became useful for activists.

The civil society groups that opposed the PPCR loan joined the similar initiatives made in other parts of the globe. The issue was presented in the World Social Forum in Dakar, Senegal in February 2011.<sup>54</sup> They also made solidarity with 'World Bank Out of Climate Finance Campaign', which was active during the UNFCCC's COP 17 meeting in Cancun, Mexico in December 2010.<sup>55</sup> This campaign of international organizations and networks and national organizations and networks from various countries of South (including Nepal) demanded to keep the World Bank and other multilateral banks out of the new Global Climate Fund and out of climate finance. The Nepali organizations, which were part of this campaign, were the same actors opposing the PPCR loan in Nepal. Therefore the issue of climate justice raised during the PPCR loan controversy provided space to Nepali organizations to join the global climate justice movement.

Discussion on the PPCR loan controversy gives an idea about how climate justice has been understood and practiced in Nepal. Here not only those opposing the loan, but those justifying the loan are making their claims based on climate justice. Therefore it indicates that there is no universal formulation of climate justice. This is a frame that provides space to make claims and counterclaims in the existing climate politics.

### 3 Conclusions

Over the past decade, Nepal started to take policy and programmatic initiatives aimed at tackling climate change. More recently, the government issued two policy instruments, namely, National Adaptation Program of Action (NAPA) and National Climate change Policy. The government has expressed its commitment to climate justice in these policy documents as well as in international forums. Beyond this, the notion of climate justice has attracted national and global level campaigns and initiatives, and many agencies, governments, academics and movements affirm this ideal. This paper showed, however, that the notion is used by different groups for divergent and, at times, opposite motivations. This paper set out to explicate (in)justices in climate change in Nepal, focusing on its public policy process (procedural justice) and to analyze why and how injustices are produced and reproduced in the course of CC policy processes.

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<sup>53</sup> "Say no to 'climate loan'", 20 Feb 2011, accessed from the website of GACF (Global Alliance for Community Forestry) <http://www.gacfonline.com/2011/02/say-no-to-climate-loan-statement-from-civil-society-organization-of-nepal/> in 5 June 2011.

<sup>54</sup> "Climate justice & global democracy: COP17 leadup: II" accessed in June 5, 2011 from <http://www.dailykos.com/story/2011/02/24/948184/-climate-justiceglobal-democracy:-COP17-leadup:-II>.

<sup>55</sup> "Join the 'World Bank Out of Climate Finance' Campaign!" accessed from <http://www.climate-justice-now.org/world-bank-out-of-climate-campaign/> in June 5, 2011.

One way of looking at justice is by analyzing who are represented or recognized in climate change policy and program formulation. It was shown above that both of Nepal's climate change policies were formulated in a participatory and consultative manner, and this approach was instrumental in regard to justice. However there were clear limitations regarding who were recognized or represented in those processes. The processes favored the representation and participation of mostly the scientists, technocrats and bureaucrats, and the concern groups from NGO. It was hard to see local people's representatives, political actors and leaders and social scientists represented in the policy formulation processes. While many people assume that virtually all national issues in Nepal have been politicized, it is quite interesting that the climate change policy-making 'survived' the 'political influence'. A member of Nepal's constituent assembly who is very active in climate change expressed his disquiet about participation in the formulation of NAPA as well as the national policy. While all people cannot be represented in any policy formulation the key question is who best represents people's concern in policy making. Does the good representation of technocrats, bureaucrats or NGO personnel secure the articulation of ordinary people's interests?

Nepal's environmental policy-making process has always been top-down and dictated with international agreements and led by experts. Quite often, policies are formulated, as they are required to implement an international agreement and are recommended by experts. Local people's needs hardly matter while formulating policies and institutions in environment and climate change. Once the demand for policies emerges in this way at the top, procedures are showcased to legitimize the policies. This is usually done through the consultative process. Thus, a question can be asked: where lies the accountability of policies and institutions formed or conceived? Certainly not at the below, it is somewhere above. Why were they formulated? Who realized their need--donors or experts? These are very hard questions which demand the discussion of justice in the policy making process. Even though policies were conceived at the top, justice discourse may make them pro-people and offer avenues for more deliberation and contestations.

Climate justice has emerged as an important discursive device for global negotiations for the LDCs such as Nepal. It enables the global South to raise voices in the global forums and provides ways for securing global climate finance to tackle climate change problem. However, inside the country, such a formulation of climate justice is not usually helpful.<sup>56</sup> A climate change expert shared in an interview that the notion of climate justice is a product of state-centric conceptions. According to him, we need more pluralistic notions of climate justice bringing various actors in the scene.

The issues of climate change adaptation prompt us to think climate justice in more plural ways. They demand due attention to the needs, concerns and voices of vulnerable groups and communities. Nepal's NAPA tries to identify and address the vulnerable communities. Through this, the procedural justice is linked with the distributional aspects. However, enough attention has not been given in the policies on how the climate change projects

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<sup>56</sup> In the mainstream thinking about justice, the two are understood in two distinct frames—one is considered in relation to nationalistic account of justice, whereas the other is understood in relation to cosmopolitan or international justice.

and activities can create injustice. It is more important to remove or minimize injustices than promoting justice per se.

Climate justice has been and will be popular frame to make claims and counterclaims in Nepal. The notion enhances deliberation and contestations, which are important for democratic policy making. Thus, climate justice has been and will be useful to make bargains during negotiations at the international and regional level. It also provides a basis to question and enrich climate change policies and decisions at the national and sub-national level, and to focus more vulnerable communities at the local level.