

Terms of Reference (TOR)
For
Consultant on Study on “Assessing Climate Change Related Laws, Policies and Exploring Marginalized Communities' Struggles in Absence of it in Nepal”

1. About ActionAid

ActionAid is a global justice federation working to achieve social justice, gender equality and poverty eradication. It was founded as a charity in 1972, and throughout its history it has innovated and evolved its approach to better address the structural drivers of poverty and injustice. ActionAid believes people living in poverty and exclusion have the power within them to create change for themselves, their families and communities and ActionAid is a catalyst for that change. In the 1990s, ActionAid adopted a human rights-based approach to development, which is ongoing as its core approach. In 2003, the ActionAid International federation was established, comprising members in every region of the world, and headquartered in South Africa.

ActionAid International Nepal (AAIN) is a member of the federation, established in 1982 as a non-governmental social justice organization, working locally across various provinces of Nepal. AAIN is deeply engaged in both national and global social justice movement and also a part of various civil society networks, alliances, and coalitions. Through a human rights-based approach, AAIN empowers marginalized communities to assert their rights and address the underlying causes of poverty and injustice. As a proud member of the ActionAid International federation, AAIN collaborates with like-minded organizations worldwide to advance its mission of promoting social justice, gender equality, poverty eradication and climate justice.

Recognizing the pressing need to address climate change, AAIN has prioritized climate justice within its organizational focus. Since then, it has been continuously working and advocating for marginalized communities who are disproportionately affected by climate change. AAIN actively lobbies for policy reforms and affirmative action with adequate funding by the state to mitigate and adapt the impacts of climate change on vulnerable populations.

2. Background and Overview

Climate change presents a formidable challenge on a global scale, with its impacts disproportionately affecting poorer and developing nations like Nepal. The impacts of these climatic changes range from drought and floods in the Tarai region; to melting glaciers; to reductions in snowfall that impact livelihoods, tourism and ecology in the mountain regions; to changes in the amounts and intensity of rainfall contributing to soil erosion and landslides in the mid-hills and downstream areas. These changes may have severe impacts to humanitarian crises, increased societal vulnerabilities and multi-hazard scenarios.¹ Climate change threatens to undermine the historical socioeconomic achievements of Nepal; with millions of Nepalese at risk from climate impacts that include reductions in agricultural production, food insecurity, damaged infrastructure, and reduced water supply. ² In the context of the policies, Nepal NAP set out priority programmes in the nine thematic sectors as outlined in the National Climate Change Policy (2019). The programmes include adaptation actions that are best able to address climate vulnerabilities and risks in the short (2025), medium (2030), and long-term (2050); as well as adaptation actions that

¹ UNDRR, 2019

² MoHA, 2017

contribute to the achievement of national economic and development priorities. The institutions involved in the implementation of NAP programmes are the Environmental Protection and Climate Change Management National Council, Inter-Ministerial Climate Change Coordination Committee, Ministry of Forests and Environment, National Planning Commission, Thematic and Crosscutting Working Groups, Province Climate Change Coordination Committee, sectoral and provincial ministries, local climate change management committees including academia, development partners, occupational federations, non-state stakeholders, media and private sector.³ Despite comprehensive strategies, translating policies into action encounters significant hurdles in implementation and enforcement at the grassroots level, impacting marginalized and impoverished communities to a higher degree and impeding the nation's ability to effectively respond and address climate change impact. Limited resources, institutional capacity, and coordination among governmental bodies hamper the execution of climate initiatives, thereby weakening their impact. Moreover, there exists a notable imbalance in the focus between mitigation and adaptation strategies, with the latter often receiving inadequate attention. Neglecting these aspects not only exacerbates the vulnerability of marginalized communities but also undermines the overall effectiveness of climate resilience efforts.

This research seeks to document the daily challenges experienced by individuals particularly women with diverse identity and background affected by climate change, highlighting the discrepancies between existing policies and their implementation. Furthermore, it aims to propose actionable strategies for progress in addressing these issues.

3. Need for Research

Nepal has actively participated in climate change negotiations under the UNFCCC and served as chair of the 2013 and 2014 least developed countries coordination group. Nepal's first nationally determined contribution (NDC) to the Paris Agreement includes a commitment to formulating national adaptation plans, improving adaptation strategies, and creating the Low Carbon Economic Development Strategy. By 2050, Nepal seeks to achieve 80% renewable electricity and a 50% reduction in fossil fuel dependence. Additionally, the government commits to clean energy quotas and aims to maintain as forest no less than 40% of its total land area. Nepal's NDC does not include any economy wide emissions reduction targets⁴.

In a decision issued on December 25, 2018, the Supreme Court found that action was needed to ensure climate justice, sustainable development, and intragenerational and intergenerational justice. Nepal's commitments under multilateral climate change treaties and the operation of the 2015 constitution required action. Article 51(g) of the Constitution of Nepal obligated the government to protect the environment. The court concluded that climate change impaired the petitioner's constitutional right to a dignified life and a clean and healthy environment. The Court further reasoned that the Environmental Protection Act of 1997 was inadequate to address needed climate change mitigation and adaptation, and ordered the government to implement existing national climate policy until the new law would be enacted. Further, pending passage of the climate change law, the court directed the government to implement its climate change policy, National Adaptation Programme of Action 2010, and National Framework on Local Adaptation Plans for Action 2011. Although subsequent acts have been introduced, they have addressed through the

³ National Adaptation Policy

⁴ Government of Nepal, Ministry of Population and Environment, 2016.

Environment Protection Act, 2019.⁵ On review it neglects a people centric approach (Human rights based) in addressing the issues of the marginalized and vulnerable population.

Amidst pressing challenges, there is an urgent imperative for research to delve into the overlooked dimensions of climate change impacts and policy frameworks in Nepal. through the evaluation and exploration of the extent of gaps in our existing laws and policies. Through the exploration of these gaps the research will help to establish the struggle which the people specially marginalized and vulnerable group such as women, farmers, indigenous group, and people living under the extreme poverty etc are facing in the absence of laws and policies. Furthermore, there is also a necessity to recognize the successes of the laws and policies in climate change impacts and their hindrances. Principally, there is an urgent need for in-depth research through both the theoretical, empirical and experiential lens which is able to suggest to lawmakers the existing gaps as it can take into account the practicality and fat-sightedness of the policies. In conclusion, this research shall provide insight on the non-economic along with economic effects of climate change, presenting the multifaceted challenges faced by marginalized and vulnerable communities and articulating the necessity for holistic, community-centric interventions.

4. Objectives

The consultant will undertake the responsibility of generating a comprehensive study report encompassing the following key areas:

- Evaluate Nepal's climate change related laws and policies, along with the inclusivity of gender perspectives in climate action initiatives. This involves meticulously identifying gaps and assessing the effectiveness of government policies in addressing these issues.
- Put legal perspective on documented case stories on the multifaceted challenges faced by vulnerable groups, including women, indigenous peoples, and individuals living below the poverty line, due to inadequate climate change-related laws and policies.
- Conduct an assessment of policy harmonization from the federal to the local level, focusing on ensuring coherence and effectiveness across all levels of governance, and provide recommendations for enhancement where necessary.

5. Scope of Work

The consultant will undertake a multifaceted approach to fulfil the objectives of the research. This includes conducting an extensive study to synthesize existing knowledge on climate justice laws and policies at various governance levels. Additionally, the consultant will employ qualitative research methods such as interviews, focus groups, and document analysis to explore the historical context and stakeholder dynamics shaping climate justice agendas, as well as developing strong case stories/studies from the field where AAIN is working to support the research demonstrating emerging non-economical and economic adverse impacts caused by climate change and incompetencies in existing policies. A comparative analysis framework will be

⁵ Climate Change Litigation Databases.

developed to assess the evolution and impact of climate justice legislation and policy frameworks across different geographical regions with strong evidence of case studies/studies.

6. Deliverables

Consultant Deliverables:

The consultant is expected to produce a comprehensive report study, encompassing the following components to effectively document and communicate the research findings. This document shall primarily include, but not be restricted to, the following:

- A Paper presentation with a concise summary of findings (in Nepali & English) to be presented at the event on June 5, 2024. This presentation will cover, among other aspects:
 - A detailed legal review summarizing existing trends in Climate Change-related laws and policies, emphasizing gaps in implementation status and the necessity for reform.
 - Legal case studies focusing on two registered Climate Justice cases at the High Court (up to 2), along with an overview of statistics concerning current registered cases related to Climate Justice.
 - Providing legal perspectives on local case studies compiled as part of the study by ActionAid Nepal.
- A comprehensive report on the situational analysis of Climate Laws and Policies in Nepal, highlighting trends, successes, and gaps. This report will be delivered by the end of June and will be in English.
- A Policy Brief aiming to provide a concise overview of key findings and recommendations tailored for lawmakers, policymakers, Civil Society Organizations (CSOs), and relevant stakeholders. This brief will also be delivered by the end of June. (Nepali and English)

Note: The report will serve as a fundamental document to another following comprehensive analysis report titled "Assessing Climate Change-Related Laws, Policies, and Exploring Marginalized Communities' Struggles in the Absence of Such Policies in Nepal." It will primarily focus on Nepal's climate laws and policies, meticulously examining trends, successes, and gaps, particularly regarding their impact on the rights and access to justice of marginalized communities. Additionally, the report will delve into community practices currently absent from policy procedures, enriching our understanding of grassroots approaches to climate justice. The assessment will also take into account progress made post the Paris Agreement, evaluating the effectiveness of climate justice legislation and policy frameworks across government structures. Drawing from research findings and best practices, the report will formulate recommendations to bolster these frameworks, ensuring alignment with the needs of marginalized communities and upholding principles of justice.

Hence, the consultant will be engaged merely for further consultation and recommendations, ensuring the subsequent analysis is comprehensive and actionable.

ActionAid's Responsibilities:

ActionAid will be responsible for providing qualitative information from across its working areas, including transcripts of interviews, thematic analysis, and case studies illustrating key emerging

issues, themes, and trends from the field. Additionally, ActionAid will oversee coordination between consultants and the consolidation of the comprehensive report. This entails coordinating with diverse consultants during the compilation of the final study report.

7. Evaluation Principles and Quality Standards:

The research or study design and implementation must adhere to the AAIN feminist research principles and quality standards, which will be provided to the successful candidate. The research should effectively capture learning, address power relations, promote transparency and credibility, and provide rigorous evidence. Moreover, it should establish connections between evaluations and monitoring and learning processes, foster partnerships, and advocate for credible and sustainable alternatives. (For further details, please refer Annex III)

8. Timeframe

The consultancy assignment will start from 20 May 2024 to 30 June 2024 for an estimated duration of 30 working days to cover the desk study phase, interviews, data gathering, drafting, and finalising reports. Consultant must submit the key presentation along with 1 pager summary study findings to AAIN by 27 May 2024. The final consolidated report must be submitted by the 30th of June 2024. For details refer Annex-II.

9. Reporting

The Consultant will work closely with and report to Project Officer of Women's Right Program-III, AAIN.

10. Consultancy Fees and Payment Modality

Interested Individuals should send their negotiable consultancy fee (including applicable taxes) with detailed breakdowns) for this assignment. The budget for the research should include all costs associated with data collection, management, analysis, and reporting.

11. Consultant's Profile

The consultant should be expert with the following competencies:

- Master's degree in law with a specialization in climate and environmental law.
- 5 to 10 years of practice and experience working in litigation research and advocacy.
- In-depth knowledge and experience in legal analysis, specifically in the field of climate change laws and policies, with a strong understanding of existing legal frameworks, trends, and implementation gaps.
- Proficiency in conducting comprehensive research, including gathering and analysing relevant data, case studies, and legal documents related to climate justice.
- Excellent writing skills in both Nepali and English to prepare clear, concise, and well-structured reports, papers, and policy briefs. Ability to deliver engaging presentations to effectively communicate research findings.
- Experience in policy analysis and translating research findings into actionable policy recommendations, understanding the perspectives of lawmakers, policymakers, CSOs, and other stakeholders.

- Strong understanding of community-based approaches and marginalized communities' perspectives, involved in assessing the impact of climate justice legislation on these groups.
- Skilled in engaging with diverse stakeholders, including government officials, NGOs, and community representatives, to gather input and insights for the research.
- Familiarity with the legal and policy landscape of Nepal, along with experience working within the country's context, providing an advantage for the project.
- Proven ability to work under tight deadlines and deliver high-quality work within specified timeframes.

Overall, the ideal candidate should be a legal expert with strong research, writing, and presentation skills, coupled with a commitment to social justice and community empowerment. They should also demonstrate the ability to collaborate effectively with ActionAid and other stakeholders to produce a comprehensive and impactful study on climate change-related laws and policies in Nepal.

12. Proposal Submission Guideline

Interested consultancy firms or individuals who meet the above requirements should submit their technical proposals and financial proposals. The technical proposal should include a detailed methodology, work plan along with budget, and CV. Submissions should be sent to jobs.nepal@actionaid.org by 5:00 pm on May 16, 2024.

- The proposal should demonstrate sound knowledge, technical skills and capability as required by the nature of the work of the assignment and understanding of the requisite tasks set forth in the terms of reference.
- Eligible individual should submit their individual profile and financial proposal.
- At least two positive references/recommendations from past employers must be submitted.
- Enclose a copy of company registration with latest renewal, VAT certificate with latest renewal, and citizenship certificate of the proposed consultant (in case of firm)
- Enclose a copy of citizenship certificate, bar licence and PAN/VAT certificate (in case of individual)

Annex 1: Structure of the Final Study

The content and structure of the final analytical research report with findings, recommendations and lessons learnt covering the scope of the assessment should meet the requirements of ActionAid Nepal:

- Executive summary (1-2 pages)
- Introduction (1 page)
- Description of the methodology (up to 3 pages)
- Situational analysis of Laws and Policies: Trends, Successes & Gaps (6-7 pages)
 - Legal Case Study (Up to 2 case studies)
 - Legal Perspective on ActionAid international Nepal Case studies
- Case stories (5 Pages)
- Recommendation & Way forward (3-4 pages)
- Conclusion (1 Page)

The consultant should use appropriate qualitative and quantitative research methods to capture these data points, while ensuring the safety and agency of all participants, and upholding ethical standards. The final report should provide clear recommendations for addressing the key challenges and opportunities identified through the baseline assessment, with a focus on promoting women's rights and empowerment.

Annex II: Detailed Timeline of the Consultancy

S.N.	Output	Timeline	Led by
1.	Initial meeting with consultant	3rd week of May	AAIN
2.	Field visit and qualitative case studies from field	2nd and 3rd week of May	AAIN
3.	Key Summary findings along with paper presentation	27 th of May	Consultant
4.	Comments, feedback, and inputs from team	4th Week of May	Joint
5.	Paper Presentation in National Stakeholder Consultation Workshop	5 th of June	Consultant
6.	Report Consolidation meeting	3 rd Week of June	Joint
7.	Submission of Policy brief and report	30 th of June	Consultant

Annex III: Reference document.



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