ADDIS ABABA UNIVERSITY
COLLEGE OF LAW AND GOVERNANCE STUDIES
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REDD+ Benefit Sharing in Ethiopia: Challenges and Opportunities

A thesis submitted in partial fulfillment of the requirements for the Award of Master of Laws (LL, M) in Public International Law at School of Law, College of Law and Governance Studies, Addis Ababa University

By: Ashenafi Mamo

Supervisor: Dr. Mellese Damtie (Associate Professor of Law)

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Declaration

I, Ashenafi Mamo Gebre, hereby declare that the thesis entitled as 'REDD+ Benefit Sharing in Ethiopia: Challenges and Opportunities′ is my original work and that it has not been submitted for any degree or examination in any other university. Whenever other sources used or quoted, they have duly acknowledged.

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Acronyms and Abbreviations

BS	Benefit Sharing
CBD	Convention on Biological Diversity
CBDR	Principle of Common But Differentiated Responsibility
CDM	Clean Development Mechanism
CIFOR	Center for International Forestry Research
COP	Conference of Parties
CREG	Climate Resilient Economic Growth
EFCCC	Environment, Forest and Climate Change Commission
et al.	And Others
FCPF	World Bank's Forest Carbon Partnership Facility
GHG	Greenhouse Gases
Ha	Hectare
ILO	International Labour Organization
IPCC	Intergovernmental Panel on Climate Change
IUCN	International Union for Conservation of Nature
JFMA	Joint Forest Management Agreement
JI	Joint Implementation
KP	Kyoto Protocol
MRV	Measuring, Reporting and Verifying
NCBs	Non-Carbon Benefits
NDC	Nationally Determined Contribution
OFLP	Oromia National Regional State Forested Landscape Program
ORCU	Oromia REDD+ Coordination Unit
p.	page
para.	Paragraph
PFM	Participatory Forest Management
PLRs	Policies, Laws and Regulations
RBPs	Result Based Payments

REDD+	Reduction of Emission from Deforestation, Forest Degradation Conservation of Forest Carbon Stocks, Sustainable Management of Forests and Enhancement of Forest Carbon Stocks
R-PIN	REDD+ Readiness Preparation Idea Note
R-PP	Readiness Preparation Proposal
UDHR	Universal Declaration of Human Rights
UNCED	UN Conference on Environment and Development
UNDRD	UN Declaration on the Right to Development
UNEP	UN Environmental Programme
UNFCCC	United Nations Framework Convention on Climate Change
UNIDO	United Nations Industrial Development Organization
US$	United States Dollar
USAID	United States Agency for International Development

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Abstracts

The thematic focus of this research is to put light on the international fora revolving and making scrutiny on the Ethiopian legal system around BS in REDD+. Based on data collected from primary and secondary sources, and analysis finds out challenges and opportunities of BS systems in Ethiopia. Accordingly, it is becoming more complex and sophisticated than it perceived at the time of its inception, and creating perpetuating power differentials. Legal uncertainty over sequestered carbon remains highly prevalent, and due to low carbon prices, there are concerns over the sustainability of the programme. Lack of definitions for the benefits, beneficiaries and struggle to be a beneficiary, leakage, elite capture, good governance and law enforcement, and unclear jurisdiction between stakeholders are significant identified challenges in a national legal framework. As an opportunity, being implemented in a phased approach, which in turn provide for identification of root causes of deforestation and forest degradation and detail information, including legal and policy frameworks assessment, ongoing process of MRV and RBPs are enhancing opportunities for voluntary compliance, economic incentives, and co-benefits. Finally, this research recommends, in the absence of particular REDD+ BS legal frameworks, the legal character of the REDD+ BS elements could draw on existing laws and house in existing laws regarding environment, forests or natural resource management.

Chapter One

Introduction

1.1. General Background

The earth's climate is determined in large part by the presence in the atmosphere of naturally occurring greenhouse gases (GHG), including, in particular, water vapour, carbon dioxide (CO_2), methane (CH_4), CFCs, nitrous oxide (N_2O) and tropospheric ozone (O_3).[1] These are transparent to solar radiation but absorb and trap longwave radiation emitted by the earth's surface. There is a global consensus that climate change poses a significant threat to countries and populations worldwide. Forests support the livelihoods of 1.6 billion people and 80 per cent of all terrestrial biodiversity, and they help absorb up to 30 per cent of carbon emissions from the atmosphere through photosynthesis.[2] Tropical forest loss accounts for about 15% of global carbon emissions - more than the cars and trucks' emissions in the world.[3] Combating deforestation and forest degradation is one of the most cost-effective ways to lower emissions, and at the same time, can deliver significant low-carbon sustainable development benefits for local communities.[4]

The question of how to include forests in climate change mitigation took a longer time. However, since 2005, implementing a mechanism designed to tackle deforestation and degradation of tropical forests (known as the REDD+ mechanism) has started making better progress than other sectors or tools. At the Cancun conference in December 2010, an agreement was reached on implementing the tool at the national level, referred to as an "interim" period; countries have the option to put in place pilot and demonstrative initiatives at a sub-national level.[5]

REDD+ is a framework that aims to reduce GHG emissions from the forestry sectors located in developing countries. The framework encourages these countries to implement REDD+ action plans by offering payments in exchange for measurable GHG emission reductions from the

[1] P. Sands, *Principles of International Environmental Law,* (2nd ed., Cambridge University Press, 2003). p. 357

[2] *'Life on Land; Why It Matters',* (United Nations (UN) 2016) <www.un.org/sustainabledevelopment/wp-content/uploads/2016/08/15Why-it-Matters_Goal15Life-on Land_3p.pdf> accessed 23 April 2019.

[3] Scheer Roddy and Moss Doug, 'Deforestation and Its Extreme Effect on Global Warming', (13 November 2012) <http://www.scientificamerican.com/article/deforestation-and-global-warming> accessed 6 February 2019.

[4]World Bank Forest Carbon Partnership Facility (FCPF) "What Is REDD+?" <http://www.forestcarbonpartnership.org/what-redd> accessed 6 February 2019.

[5]Climate Report no.35 – Delivering REDD+ incentives to local stakeholders: lessons from forest carbon frameworks in developed countries, p. 1

conservation, enhancement, and sustainable management of forested areas.[6] It has also anticipated co-benefits of addressing socio-economic development challenges, such as poverty alleviation and promoting good governance.[7] Many developing countries accepted this program with open arms because the program's implementation came up with monetary promises as a reward or exchange for activities to reduce deforestation and forest degradation. The benefits considered a new source of income, which could increase their Gross Domestic Product (GDP) by sharing benefits both in terms of monetary and non-monetary benefits generated by implementing REDD+ projects and programs.[8]

Ethiopia has been in the process of developing its REDD+ program since 2009. The Readiness Preparation Proposal (R-PP) was prepared in 2011 in a participatory way, and its implementation started in January 2013.[9] Establishing and operationalizing a transparent REDD+ financial management mechanism, a Benefit Sharing system, and implementing a safeguards program for ensuring that Ethiopia's REDD+ implementation observes globally acceptable social and environmental safeguard standards. Particularly the development of a Benefit Sharing (BS) mechanism included as an objective of the national REED+ strategy.[10]

Benefits shared among different stakeholders affects the creation of these multiple benefits. The International Union for Conservation of Nature (IUCN) reports that well-functioning benefits sharing mechanisms include stakeholder engagement, incentives that encourage participation monitoring and reporting on benefit streams, and dispute settlement mechanism.[11] As advocated by Caroline and others, poorly designed REDD+ policies and measures may bring new risks to forest communities through the loss of, or reduced access to forest resources, conflict within and among communities, and the potentially destabilizing effects forest financing in local economies.[12] Critically, the REDD+ BS mechanism design will influence the ability to achieve efficient, effective, and equitable attribution, conveyance, and distribution of benefits and

[6] Godoy, L.F., 'Complexities in REDD+ Safeguard Development and Implementation', (2016) 20.p. 138

[7] Gizachew, B., Astrup, R., Vedeld, P., Zahabu, E.M. and Duguma, L.A., "REDD+ in Africa: Contexts and Challenges" (2017) 41. P.1

[8] PT Thuy, *et al*, *Approaches to Benefit Sharing: A Preliminary Comparative Analysis of 13 REDD+ Countries,* (CIFOR 2013). P. 1

[9] National REDD+ secretariat, 'National REDD+ Strategy' 18.

[10] ibid 21–22.

[11] J Costenbader, (ed.), *Legal Frameworks for REDD Design and Implementation at the National Level* (IUCN-The World Conservation Union, 2009).

[12] Haywood, C., Wardell, D.A., Segger, M.C.C. and Holmgren, P., '"Legal Frameworks for Implementing REDD+ in Zambia, Mozambique and Tanzania: Opportunities for a Sustainable Landscapes Approach"' (2015) 130. p 10

governance issues related to BS systems. Although REDD+ primarily developed to improve natural resources management efficiency and realize environmental objectives, the effect on BS is often a vital side objective, especially in developing countries. Since those who provide REDD+ services often constitute the disadvantaged groups in society, which is no exception for Ethiopia's case. Failure to establish clear BS mechanisms may lead to preserving results. REDD+ design and implementation often involve multiple intermediaries; issues of power and control at various government and community levels can influence how benefits are distributed. Weak institutions and the absence of clear legal frameworks could undermine the equitable distribution of benefits. This research, therefore, examines the legal frameworks BS elements of Ethiopian REDD+.

1.2. Statement of the Problem

BS is prominent in REDD+ because it generally understood to result in potential benefits that will need to distribute across the wide range of stakeholders linked to deforestation and degradation and forest conservation.[13] REDD+ in developing countries relies on guaranteeing effective forest cover maintenance over long timeframes while also avoiding negative social and environmental repercussions.[14] In its nature, REDD+ it is a voluntary initiative leaving more space for countries to undertake mitigation actions in their forest sector. Also, it gives rise to several practical and legal difficulties by being a recent trend because it does not detail what these benefits are.[15] This mechanism created to rectify the business as usual (*BAU*) trend of global environmental protection related to forest, the implementation of BS desire a detail elaborations.

Besides, Ethiopia does not have a national law that specifically addresses the legal nature and ownership or rights to GHG emission reductions and/or removals. In this edge, due to the absence of a particular legal instrument, there is still a considerable lack of clarity. Regarding the benefits, how they are shared, and how they balance with costs. Experiences in Humbo CDM reforestation and Bale Mountain Eco-region REDD+ projects, the unfairness for non-members,

[13] Peskett, L., ‘‘Benefit Sharing in REDD+: Exploring the Implications for Poor and Vulnerable People,’ (2010) World Bank,. p. 2

[14] Peskett, L. and Harkin, Z., ‘Risk and Responsibility in Reduced Emissions from Deforestation and Degradation”’ (2007) Forest Policy and Environment Programme, 15. p. 1

[15] David Takacs, ‘“Forest Carbon Offsets and International Law: A Deep Equity Legal Analysis”’ (2010) Geo. Int'l L. Rev. 22.

and inequities among members become a threat to this programs' success rate.[16] The enclosure managing mechanism of these projects questions the co-benefits[17] of the REDD+ project because, while sequestering in the project areas, it most likely leads to an increase of deforestation and forest degradation elsewhere. Again, under the National REDD+ strategy, the unclear BS system mentioned the indirect drivers of deforestation and forest degradation.[18] Therefore, it is common knowledge that these inequities in the BS, leakage, and nonperformance due to the BS system's unclear legal framework will make the REDD+ program seem ineffective or threaten this program's success rate. Reviews of the literature resulted in no one has explicitly researched how BS is understood in the context of national REDD+ systems and its possible implications of BS elements in Ethiopia. Hence, this study attempts to provide a solution for the above-mentioned legal framework more carefully. Also envisioned to assess the legal implications of BS systems at the national level to decide who has access to benefits derived from reducing forest-related GHG emissions or increasing carbon sequestration under REDD+. This conducted by assessing the existing relevant international and national laws, case studies, and REDD+, and other strategies.

1.3. Research Questions

This research mainly asks the question: what are the challenges and opportunities of BS systems of REDD+?

Specific questions related to the main question are-

1. How do international legal instruments and Ethiopian laws stipulate the BS from REDD+?
2. What is the benefit that shared, and what is/are the legal basis to claim these benefits?
3. How the legal frameworks of Ethiopia strengthened to regulate the BS system in REDD+?

1.4. The objective of the study

1.4.1. General objective

The main objective of this research is to examine BS systems of REDD+ in the Ethiopian Legal System.

1.4.2. Specific Objectives

In particular, the research has the following specific objectives:

[16] Kemerink-Seyoum, J.S., *et al*, 'Sharing Benefits or Fueling Conflicts? The Elusive Quest for Organizational Blue-Prints in Climate Financed Forestry Projects in Ethiopia' (2018) Global Environmental Change vol. 53. p 272

[17] The REDD+ projects other than serving as climate change mitigation tool, also have additional purposes of addressing socio-economic development challenges, such as poverty alleviation and promoting good governance in countries where these projects are implemented.

[18] National REDD+ Strategy, (n 9), p.26

1. Giving a clear picture about the legal and institutional regime of the Ethiopian legal system on REDD+ in general and with a specific emphasis to BS in this climate change mitigation tool, by exploring the type of benefits, legal basis to claim these benefits which could be derived out from the implementation of these programs,
2. To identify the possible challenges and opportunities of BS systems of REDD+ in the country, and
3. Suggest the way forward the improvements that our legal system needs to overcome identified challenges and uphold opportunities.

1.5. Significance of the study

This research examines the BS system in REDD+ projects in Ethiopia will significantly contribute to different stakeholders as it stimulates thinking among policymakers and academics. First, it will help policy and lawmakers in the environment, and REDD+ understand and give informed decisions on REDD+ and BS systems, which will fill the gap of the scanty literature on REDD+ BS system in Ethiopia. This research will also provide useful information that may help increase awareness regarding REDD+ issues.

1.6. Research Methodology

In terms of methodological approach, the research primarily based on an abroad survey of Climate Change, forest conservation management, and REDD+ kinds of literature. The methodology is a qualitative legal research methodology, qualitative data collected from primary and secondary data sources utilized in undertaking this research.

1.6.1. Source and Types of Data

Analysis of international and national legal instruments, interviews and discussions with authorities have conducted to gather relevant information. Primary data collected in the way of interviews and discussions with the concerned authorities in the area ran as it could help to identify the possible challenges and opportunities on BS systems and to understand the practical reality of the programme. Interview questions are semi-structured appropriately to collect sufficient data.

Case studies have conducted to indicate the practical realities of the subject matter in two countries. Because it can allow to produce a precise description of the phenomenon, to develop possible explanations to the phenomenon in Ethiopia, accordingly, Brazil and Cameroon selected as a sample from South America and Africa based on purposive sampling. Brazil chosen since it is the prominent and well-experienced implementers regarding this issue than any other country

and the Brazilian Amazon, covering 4.1 million km^2, accounts for one-third of the world remaining tropical forests.[19] Cameroon is a highly forested country, with over 40% of forest cover,[20] and there is the most time-tested and different experience of BS mechanisms and legislations in the country.[21] Since Ethiopia located in Africa, selected as a representative to indicate how this issue implemented and addressed in the continent.

Apart from these, the literature review used mainly to provide the conceptual framework of REDD+ and BS systems, analyze, and explain international instruments and national laws employed while making relevant references to BS in REDD+. The newly enacted proclamation[22] on forest and other relevant laws also assessed thoroughly relating to issues under consideration. Environmental policies and strategies and documents have considered and examined to evaluate their merits and rationales. Relevant books, scholarly articles, and working papers will explore as secondary sources to enrich the study's problem as secondary data sources.

1.6.2. Data Collection Tools

In conducting this research, the researcher will collect different treaties, protocols, and relevant documents from UNFCCC, UN REDD+ Programme, and Center for International Forestry Research (CIFOR), World Bank, and REDD+ Ethiopia web sites. Furthermore, different web sources used to collect various articles, COP decisions, commentaries, legal texts, and physical visit to the Ethiopian Environment and Climate Change Commission (EEFCCC) have collected relevant documentary sources and conducted an interview. The researcher used the triangulation method to combine multiple primary and secondary sources that improve their reliability and validity.

1.7. Scope of the Study

The scope of this thesis limited to studying and analyzing the BS systems of Ethiopian REDD+. Hence, this work seeks to spotlight the international fora revolving around BS in REDD+ projects and scrutinize the Ethiopian legal system. It specifically tries to assess how prudent enough our legal regulation is, finding the lope holes that could make this mitigation tool ineffective or slow its progress. What legal and institutional developments made to our legal

[19] PH May, B and Millikan, and MF Gebara, *'The Context of REDD+ in Brazil: Drivers, Agents and Institutions,'* (2nd ed, CIFOR 2011) 4.
[20] Freudenthal Emmanuel, Nnah and Samuel and Kenric Justin, 'REDD AND RIGHTS IN CAMEROON, A Review of the Treatment of Indigenous Peoples and Local Communities in Policies and Projects' 1.
[21] GP Dkamela, '*The Context of REDD+ in Cameroon: Drivers, Agents and Institutions,*'(CIFOR, 2010) 22.
[22] A Proclamation on Forest development, conservation and utilization, 2018.

system to secure the program's sustainability with particular emphasis on/from the perspective of/ the BS system within this program. Throughout this study, it referred to the relevant international legal instruments and domestic laws of Ethiopia.

1.8. Organization of the study

The thesis is organized into five chapters; chapter one discusses introductory remarks, the thesis proposal. The second chapter is devoted to discussing global environmental problems and mitigation tools and tries to provide the basic ideas of REDD+ and the international BS system. The third chapter discusses this mitigation tool and BS systems of benefits derived or collected from the implementation of the program. Emphasizing on legal framework BS and administered without having a special law on the issue. Chapter Four examines the challenges and opportunities in REDD+ concerning the BS system in light of existing proxy legal frameworks. Finally, chapter five summarizes the research findings and recommends what should be done concerning the BS system so that it could avoid, the likelihood of programme ineffectiveness and a threat to the success rate of this programme.

Chapter Two

2. Climate Change and Reduction of Emission from Deforestation and Forest Degradation (REDD+): An Overview

2.1. Climate Change

Today, climate change is one of the biggest environmental problems fronting the international Community. The impacts of climate change, such as sea-level rise, food insecurity, floods, and climate refugees, are resulting from an increase in GHG concentration in the atmosphere. Climate change refers to "an increase in average global temperature in global temperature."[23] The problem is that the increase in GHG's anthropogenic sources has destabilized the natural balance between the emissions of GHG and their removal by sinks.

The intergovernmental panel on climate change (IPCC) differentiates climate change sources into two categories, namely natural and anthropogenic sources.[24] The natural sources are derived from natural phenomena, such as volcanic eruptions. In contrast, the anthropogenic sources are human-induced GHG emissions through human activities of burning fossil fuels or land-use change and forestry (LULUCF). On the other hand, under the United Nations Framework Convention Climate Change (UNFCCC), this problem is defined, unlike the definition given by IPCC that includes natural sources. The convention seems primary to address the sources of GHG derived from human activities.[25]

The first world climate conference took place in 1979, and the World Meteorological Organization and the UN Environmental Programme (UNEP) created the IPCC in 1988.[26] The UNFCCC, adopted at the 1992 Rio Earth Summit and in force from March 21, 1994, was designed to achieve "stabilization of GHG concentration in the atmosphere at a level that prevents dangerous anthropogenic interference with the climate change system."[27] Parties under this convention committed themselves, among other things, to prepare and submit national

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[23] UNIDO, *Negotiating the Transfer and Acquisition of Project-Based Carbon Credits under the Kyoto Protocol,* (UNIDO 2007).

[24] See definition of climate change given by the panel in IPCC, *Climate Change, 2007, Synthesis Report,* p.30

[25] UNFCCC, U.N. Doc. A/AC.237/18 (May 9, 1992) under Article 1 (2), climate change is defined as "*a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time period*"

[26] IPCC Working Group1, Technical Summary Report, The objective of the IPCC is to "provide an assessment of the understanding of all aspects of climate change including how human activities can cause such changes and can be impacted by them." http://www.ipcc.ch/pub/wglTARtechsum.pdf and Elizabeth Burleson, '"Multilateral Climate Change Mitigation," (2007) 41 U.S.F. L. Rev., p. 379. (last visited November 12, 2019)

[27] UNFCCC, (n22), art. 2

inventories of GHG emissions and take measures to mitigate and to adapt to climate change. For developed countries, the goal was to reduce GHG emissions levels by 2000, but this goal was not legally binding.[28] The convention provides the guiding principles and architecture to assist Parties to meet that objective; there are now about 195 Parties to the UNFCCC.[29]

The Kyoto Protocol (KP)[30] sets legally binding standards for reductions of GHG emissions. As listed under Annex I of the framework convention, industrial countries must reduce aggregate emissions of six GHG[31] to 5% below 1990 levels between 2008 and 2012.[32] The Protocol is limited by the absence of some of the world's largest GHG emitters, notably the United States, which did not ratify it. The binding commitments of the KP are limited to the industrialized Annex countries. They do not extend to developing countries, not even to significant GHG emitters such as India and China.[33] The Protocol's second commitment period is expected to expire in 2020.

On December 12, 2015, 196 Parties to the UNFCCC adopted the Paris Agreement, a new legally binding framework for an internationally coordinated effort to tackle climate change. It represents the culmination of six years of international climate change negotiations under the auspices of the UNFCCC, reached under intense international pressure to avoid a repeat failure of the Copenhagen conference in 2009.[34] The agreement establishes the main framework for cooperative action on climate change beyond 2020. The recent legislative development to tackle climate change problems aims to hold global temperatures' well below 2°C above pre-industrial levels and pursue efforts to limit the temperature increase to 1.5°C.'[35]

2.2. Mitigation Tools

Addressing climate change and other environmental problems and their adverse effects generally understood to encompass mitigation and adaptation actions. The IPCC defines 'mitigation' as an

[28] Ibid, art. 4(1), (2)

[29] UNFCCC, 'Background on the UNFCCC: The international response to climate change, http://unfccc.int/essential background/items/6031.php and https://unfccc.int/process/parties-non-party-stakeholders/parties-convention-and-observer-states last accessed 14 November 2019)

[30] Kyoto Protocol to the UN Framework Convention on Climate Change, U.N. Doc. FCCC/CP/1997/L.7/Add.1 Dec. 10, 1997) entered into force Feb. 16, 2005

[31] Ibid, GHGs listed in Annex A are, $C0_2$, CH_2, N_20, HFCs, PFCs, and SF_6.

[32] Id, article 3, 7and 8

[33] Id, article 6

[34] Climate Focus, 'Client Brief on the Paris Agreement III, Summary of Paris climate agreement 28 December 2015,' p. 1-6 available on www.climatefocusbieif.org, last accessed November 11, 2019

[35] UNFCCC, Paris Agreement, 2015, Article (2 (1) (a)), Decision **1/CP.21,** Adoption of the Paris Agreement, Annex, UN Doc. FCCC/CP2-15/10/Add.1, 29 January 2016. (hereafter Paris Agreement)

"anthropogenic intervention to reduce the sources or enhance the sinks of GHG."[36] On the other hand, 'adaptation' as "an adjustment in natural or human systems in response to actual or expected climatic stimuli or their effects, which demonstrate harm or exploits beneficial opportunities."[37]

The KP marked the first time that industrialized countries accepted legally binding constraints on their GHG emissions. To ensure that emission trajectories curbed globally in a cost-effective way, the KP foresaw three flexibility mechanisms. They are "the most innovative aspect of the KP negotiations" [38] as s advocated by P. Sands. They enable Annex I parties to meet their commitments by purchasing or acquiring credits representing GHG reductions in other countries."[39] In addition to domestic mitigation efforts, can utilize market mechanisms to increase the cost-effectiveness of their GHG emission reduction.

The basic idea of these mechanisms is "to direct investments to areas where they would efficiently achieve emissions reductions and intended to be supplemental to policies and measures adopted by the parties."[40] Accordingly, the joint implementation, emission trading and, the CDM are the three mechanisms that provide flexibilities in meeting the obligations established under the KP. They are "welcomed by developing countries because of the realization that private investment could be used to spearhead their economies."[41] However, these anthropogenic interventions short failed to incorporate developing countries and ignored the tropical forest that contributes 20 per cent of global climate change.

2.3. Reduction of Emission from Deforestation and Forest Degradation (REDD+)

2.3.1. Emergence and Evolution of REDD+

Reducing Emissions from Deforestation and Forest Degradation, or REDD+ has emerged as an international initiative to address forest loss in developing countries.[42] In 2003 at COP 9, a group of Brazilian scientists proposed the concept of "Compensated Reductions," which would reward countries that reduced deforestation. This proposal based on an idea of project-based emission

[36] Houghton, J.T., Ding, Y., Griggs, D.J., Noguer, M., Van Der Linden, P.J., Dai, X., Maskell, K. and Johnson, C.A., *Climate Change: The Scientific Basis. Contribution of Working Group I to the Third Assessment Report of the Intergovernmental Panel on Climate Change* ((Cambridge University Press, 2001), p.881

[37] ibid.

[38] Sands (n 1).

[39] ibid.

[40] Schrijver, N.J. and Weiss, F. eds., *International Law and Sustainable Development: Principles and Practice* (Martinus Nijhoff Publishers, 2004), p. 183.

[41] Sands (n 1).

[42] Denier, L. Korwin, S., Leggett, M., Mac Farquhar, C., ‘, *The Little Book of Legal Frameworks for REDD+* (Global Canopy Programme: 2014). P. 24

reductions at COP 11 in Montreal, the early thinking of REDD+ furthered by Papua New Guinea and Costa Rica. They submitted to the COP the initiative on the agenda of the Subsidiary Body for Scientific and Technological Advice.[43]

These countries argued, "it was necessary for a global approach involving both developed and developing countries to actively contribute to emissions reductions from all sources, including land use forested areas."[44] They called for economic incentives to "reduce emissions from deforestation in developing countries (RED)."[45] The proposal of RED by these countries and growing evidence base for the need to take critical action on climate mitigation "led to considerable discussion in between 2005 and 2007 about the role of forestry in reducing emissions in tropical rainforest countries."[46]

The Bali Action Plan[47] included REDD+ and conservation, sustainable management, and forest carbon stocks enhancement in developing countries.[48] In 2008, the conference participants pushed to make sustainable forest management and "conversation" more prominent parts of REDD+ activities.[49] In the next COP, REDD+ formally established by including "enhancement of forest carbon stocks."[50] The Warsaw Framework (WFR) for REDD+, also commonly referred to as the 'REDD+ Rulebook,' clarifies and consolidates the requirements and methodological guidance countries must meet to access results-based finance.[51] Moreover, the WFR attributes the Green Climate Fund a "key role" among the entities channelling results-based finance to REDD+ and requests to apply consistently methodological guidance on REDD+ while encouraging financing entities not under the UNFCCC to do the same.[52] Its adoption has largely concluded negotiation on REDD+ under the UNFCCC.[53]

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[43] UNFCCC, *Reducing emissions from deforestation in developing countries: approaches to stimulate action: Submission from the Governments of Papua New Guinea and Costa Rica*, UN Doc FCCC/CP/2005/MISC.1 (11 November 2005) http://unfccc.int/resource/docs/2005/cop11/eng/misc01.pdf ('RED Submission'), accessed may 24, 2019

[44] Covington, B., McKenzie:, *Background Analysis of REDD Regulatory Framework,* (Report prepared for the Terrestrial Carbon Group and UN REDD Programme, 2009). P. 14

[45] ibid.

[46] ibid.

[47] UNFCCC, Decision CP/13: The Bali Action Plan, http://unfccc.int/files/meetings/cop13/application /pdf/cp action.pdf , accessed May 25, 2019

[48] Decision 1/CP.13, para 1(b) (ii)

[49] Covington, B., McKenzie: (n 42).

[50] ibid.

[51] UNFCCC Decision 9/CP.19 paragraphs 5 and 6

[52] Christina Voigt and Felipe Ferreira, 'The Warsaw Framework for REDD+: Implications for National Implementation and Access to Results-Based Finance,'' (2015) 113.

[53] ibid.

In the 2015 Paris Agreement, parties agree that they should conserve and enhance GHG sinks and reservoirs as described in UNFCCC article 4.1 (d), including forests.[54] They are encouraged to implement and support the existing framework as set out in related guidance, and the decision already agreed upon under the UNFCCC.[55] Developing tropical countries rewarded for avoiding GHG emissions through protecting and conserving forest resources. By adopting decisions over safeguard, alternative policy approaches, such as joint mitigation and adaptation, sustainable management of forest, and non-carbon benefits issues, closed the negotiations on REDD+.[56] Therefore, understood as a hybrid set of policies, programs, and projects at all scales that aims to reduce emissions and increase removals from forests in developing countries.

2.3.2. Scope of the Mechanism

As far as the scope of REDD+ is concerned, it seems clear as stated in the Cancun Agreement, the most current decisions of the UNFCCC, the following activities fall within the scope of REDD+: "reducing emissions from deforestation and forest degradation, conservation of forest carbon stocks, sustainable management of forests, and enhancement of forest carbon stocks."[57] However, "the COP has refrained from clearly defining or limiting the scope of eligible REDD+ activities listed in the Cancun Agreement."[58] Accordingly, it is up to policymakers within each country to define the scope of REDD+ activities consistent with the broad descriptions of mitigation activities. There have been differing opinions about the scope of the mechanism, although there is a consensus that "REDD should be voluntary and only apply to developing countries."[59] REDD+ is not only about climate change; other goals are known as 'co-benefits' are also included in the mechanism. Recognizing the '*plus*' elements, namely promoting conservation, promoting sustainable forest management, and enhancing carbon sinks, can generate more Non-Carbon Benefits (NCBs).[60]

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[54] Segger, M.C.C., "Advancing the Paris Agreement on Climate Change for Sustainable Development" (2016) Cambridge Journal of International & Comparative Law, 5. p. 210

[55] ibid. p. 227

[56] Danae Maniatis, 'Towards a Common Understanding of REDD+ under the UNFCCC A UN-REDD Programme Document to Foster a Common Approach of REDD+ Implementation,' (2016) UNDP, p. 6

[57] Ibid, p. 11-13 and Decision 1/CP.16, Appendix I, para 1.

[58] Covington, B., McKenzie: (n 42).

[59] Clarke, R.A., 'Moving the REDD Debate from Theory to Practice: Lessons Learned from the Ulu Masen Project"' (2010) Law Env't & Dev. J. 36, p.6

[60] Annies, A., *'Non-Carbon Benefits of REDD+: The Case for Supporting Non-Carbon Benefits in Africa'* , (2015), Climate and Development Knowledge Network and Economic Commission for Africa African Climate Policy Centre, p. 2

2.4. Development of Benefit Sharing

According to Elisa M. BS in natural resources, it a diffuse legal phenomenon in international law that has elicited little investigation regarding its nature, extent, and implications.[61] A growing number of international legal materials refer to 'BS' concerning natural resource use, environmental protection, and the use of knowledge.[62] States' relationship in the international environmental law characterized by sovereign equality and international cooperation, guided by the principle of common but differentiated by responsibility (CBDR).[63] The BS premised on the belief that developing nations hold most natural resources by imposing an obligation on created to share benefits derived from the utilization of these resources to operationalize a CBDR principle.[64] This BS extends to a territory of sovereign states between government and a community within its territory, characterized by the State's sovereign powers and international obligation.[65]

The International Labour Organization (ILO) Convention No. 169, Convention on Biological Diversity (CBD) and its Nagoya Protocol and the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA)[66] are dominant international instruments related with BS in natural resources and provide governing frameworks. Nonetheless, the earliest textual reference to BS likely found in the Universal Declaration of Human Rights (UDHR).

This declaration referred to "everyone's right to share in the benefits of scientific advancement."[67] The 1986 UN Declaration on the Right to Development (UNDRD) referred to member States' duty to ensure "active, free and meaningful participation in the fair distribution of the benefits resulting from national development for their entire population and all individuals."[68] The 1989 ILO Indigenous and Tribal Peoples Convention No 169 embedded a provision that deals with BS, and it provides that indigenous and tribal peoples "shall, whichever possible participate in the benefits' arising from the exploration of natural resources about their

[61] Morgera, E., 'The Need for an International Legal Concept of Fair and Equitable Benefit Sharing' (2016), European Journal of International Law 2, p. 357
[62] ibid. p. 354
[63] Rajamani, L., 'The Nature, Promise, and Limits of Differential Treatment in the Climate Regime' 2005, Y.B. INT'L ENVTL. L. 81, p. 91
[64] Stellina, J., "Access and Benefit Sharing under Nagoya Protocol and Sustainable Development-A Critical Analysis," AGORA Int'l J. Jurid. Sci. 38, p.44
[65] Morgera, E., (n 61).
[66] International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA) 2001, 2400 UNTS 303
[67] Universal Declaration on Human Rights, UN Doc, A/810 (1948) Article 27(1)
[68] UN Declaration on the Right to Development, GA Res 41/128, 4 December 1986, Article 2(3)

lands."[69] ITPGRFA foresees BS with all parties, explicitly pointing to developing countries as beneficiaries of technology transfer, capacity building, and commercial benefits allocation.[70]

In 1992, the Convention on Biological Diversity (CBD) was adopted in Rio de Janeiro. In its preamble explicitly recognizes States' sovereign rights over their biological resources instead of the view that these resources regarded as the common heritage of humankind and be freely accessible to everyone.[71] Regarding BS, it has one of its objectives the fair and equitable sharing of the benefits derived from the utilization of genetic resources, including by appropriate access to genetic resources and by proper transfer of relevant technologies, taking into account all rights over those resources and to technologies, and by appropriate funding.[72] The CBD has contributed to the significant normative development of BS, gradually building consensus among 196 parties on both its inter-state dimensions across different triggering bioprospecting activities.[73] The Nagoya Protocol[74] is the only instrument that provides a detailed list of benefits that may apply to intra-state and inter-state BS.[75] Regarding how benefits are shared, a domestic law approach could be used to share benefits, through direct payments or the establishment of trust funds by the government and the legal recognition of communities' customary practices, participatory planning, and/or shared or delegated natural resource management. These International treaties and conventions do not spell out in any comparable way to inter-state BS, except Nagoya Protocol,[76] which refers to mutually agreed terms.[77]

2.4.1. BS under REDD+

One of the most challenging hurdles for successfully connecting national governance systems with the REDD+ component of a future UNFCCC agreement will be "the receipt of financial inflows from international sources and distribution to relevant national actors."[78] In the same

[69] International Labour Organization's (ILO) Convention no. 169 Concerning Indigenous and Tribal Peoples in Independent Countries 1989, 28 ILM 1382,
[70] ITPGRFA, n.112, Art. 13(2)(b) (ii–iii), 13(2)(c), 13(4).
[71] Jorge Cabrera Medaglia, '*Access and Benefit-Sharing: North-South Challenges in Implementing the Convention on Biological Diversity and Its Nagoya Protocol In International Environmental Law and The Global South,'* (2015), p. 192-213
[72] Morgera, E., (n 60).
[73] ibid.
[74] A Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity, adopted 29 October 2010 at the Conference of the Parties to the CBD
[75] Morgera, E., (n 61).
[76] Nagoya Protocol, *n.* 116, Article 1
[77] Morgera, E., (n 61).
[78] Costenbader, (n 11).

scenario, all participants, i.e., government, private landowners, forest community actors, investors, and other stakeholders in REDD+ programs, will require BS arrangements to compensate them for their regime participation.

This mechanism established to provide '*compensation'* for tropical countries from international financial sources for taking measures, including legal reforms, to tackle the causes of deforestation and forest degradation.[79] A REDD+ program's objectives must clearly be established, and the term "benefit" to be defined before BS mechanisms designed. BS described the "distribution of both the monetary and the non-monetary benefits generated through the implementation of REDD+ projects and programs."[80] It understood as the sum of many different mechanisms.[81] IUCN reports that "well-functioning benefit-sharing mechanisms include stakeholder engagement; incentives that encourage participation; monitoring and reporting on benefit streams, and dispute settlement mechanism."[82] Failure to establish precise BS mechanisms may lead to preserving results and "may bring new risks to forest communities through the loss of, or reduced access to forest resources, conflict within and among communities, and the potentially destabilizing effects of forest financing in local economies."[83]

The 2015 Paris Agreement to the UNFCC also incorporates provisions that promote BS. It states that parties should conserve and enhance, as appropriate, sinks and reservoirs of GHGs, including forests, and encourage parties to take actions to implement and support, including through results-based payments (RBPs).[84] The nature of benefits defined concerning the parties triggering activity and shared among them "meant to preserve, restore, or enhance the conditions under which underlying global benefits produced."[85] Generally, BS serves to recognize, reward, promote, and renew or strengthen the conditions for the production of global benefits that drive from specific activities that trigger BS among particular parties.[86]

2.4.2. Case Studies from Brazil and Cameroon

[79] Schmidt, C.A. and McDermott, C.L., "Deforestation in the Brazilian Amazon: Local Explanations for Forestry Law Compliance' (2015) 24 Soc. & Legal Stud. 3, p. 5.
[80] Thuy, and others (n 8).
[81] Luttrell, C., Loft, L., Gebara, M.F., Kweka, D., Brockhaus, M., Angelsen, A. and Sunderlin, W.D., 'Who Should Benefit from REDD+? Rationales and Realities' (2013) 18 (4) Ecology and Society, p.51-52
[82] ibid.
[83] Haywood, C., *et al* (n 12).
[84] Cabrera, J. and Fred-Perron, M., 'Current Status and Future Research Agenda on Benefit-Sharing in International Sustainable Development Law,' (2017) 17 *J. Korean L.*, p. 197 and Paris Agreement, Article 5 (1) and (2).
[85] Morgera, E., (n 61). p. 367
[86] ibid.

REDD+ implementing countries followed different BS mechanisms. For instance, the State owns all forest resources and defining itself as the beneficiary of REDD+ rewards from emission reduction. State possess the revenue in a compensation fund, which would have a mechanism for redistribution. In Brazil, an Amazon Fund has developed a system of sharing benefits from REDD+ based on a competitive application process, by Decree No. 6527/2008 administered by the Brazilian Development Bank.[87] Accordingly, based on data of emission reduction calculated by the Ministry of Environment and verified by the Technical Committee of the Fund, the Bank authorized to raise donations for the Fund and issue certificates recognizing the Fund's donors' contribution. As per article 231 of the Federal Constitution, emission reduction in Indigenous lands would belong to Indigenous people.

Acre, Amazonas and Tocantins have passed climate and conservation laws at the subnational level, which state that carbon rights belong to the State. Under these laws, the providers of ecosystem services can gain access to financial resources, assuming they receive approval and legally based in the area where the services being provided.[88] In the case of Amazonas, this right may donate to the Amazonas Sustainable Foundation, responsible for managing conservation sites in the State.[89] Payments have made into the Amazon Fund based on Brazil's reduced emissions from lowered deforestation rates.[90]

On the other hand, participants and implementers control forest resources, including a decision over emission reduction benefits. Direct payments are made based on national performance and the traceability of interventions that contribute to it. Benefits can return to society through royalties or the taxation of revenue generated from sales of carbon or compensation based on verifiable performance. Cameroon has long-established legal mechanisms for the redistribution

[87] Chapman, S., Wilder, M. and Millar, I., 'Defining the Legal Elements of Benefit Sharing in the Context of REDD' (2014) CCLR. p. 274

[88] May, P.H., Millikan, B. and Gebara, M.F., *'The Context of REDD+ in Brazil: Drivers, Agents and Institutions,'* (2nd ed, CIFOR 2011). p.31

[89] Angelsen A., *et al*, (Eds), *Analysing REDD+: Challenges and Choices*, (Centre for International Forestry Research, 2012) 142; Grace Yee Wong, Cecilia Luttrell, Lasse Loft, Anastasia Yang, Thuy Thu Pham, Daisuke Naito, Samuel Assembe-Mvondo & Maria Brockhaus, "Narratives in REDD + Benefit Sharing: Examining Evidence within and beyond the Forest Sector," 1042.

[90] Richard , *et al* ''Clashing Interpretations of REDD+ "Results" in the Amazon Fund,' (2018) 150, Climatic Change, 433–445.

of forest revenues by which economic operations are to pay royalties that transferred to local forest communities.[91]

BS procedures enshrined in the 1994 Forestry law,[92] any kind of benefits resulting from exploitation of forest resources are subject to royalties to the State. In turn, the State distributes benefits or royalties collected. From the total amount of money collected, 50% goes to the State, 40% goes to the councils, and 10% goes to the local population.[93] The Act also provides a village tax allocation to the village communities bordering small forest concessions.[94] Again, this law requires project participants to undertake different installation, developmental, and social facilities to benefit the local Community.[95] In some instances, BS need not involve the government.

In some cases, NGOs or private companies may negotiate and set up an agreement for a REDD+ project directly, without government involvement with a community. This could be a payment for an ecosystem service scheme or cooperation on a community REDD+ project.[96] In case when Community owns the forest, 100% of the forest revenue disseminated to village communities. However, Article 243 of the recent 2015 Finance Law has set up a new Annual Forestry Fee grid of 50% for the State and 50% for councils.

2.5. Conclusion

In mitigating and providing adaptation of climate change and other environmental problems, KP, such as JI, Emission trading, and CDM, has developed different mechanisms. A REDD+, which introduced by Brazil and furthered by Papua New Guinea and Costa Rica to address the contribution of developing countries in emission reduction from tropical forests. By providing economic benefits counter measured against emission reduction, deforestation and forest degradation, conservation, sustainable management of forests and forest carbon stocks enhancement.

The main reason behind the idea of BS is that any kind of benefits acquired from the REDD+ "should not only benefit the agents who directly or indirectly exploit the resource but wider

[91] Assembe-Mvondo S, Wong G, Loft L and Tjajadi JS., "Comparative Assessment of Forest Revenue Redistribution Mechanisms in Cameroon: Lessons for REDD+ Benefit Sharing,' (2015) 190, CIFOR Working Paper, 25.
[92] Law No. 94/01 of 20 January 1994 on Forests, Wildlife and Fisheries (Republic of Cameroon)
[93] Costenbader, (n 11) 145; Assembe-Mvondo S, Wong G, Loft L and Tjajadi JS. (n 90) 1.
[94] ibid.
[95] Id
[96] Angelsen A., (n 89) 131.

constituency of stakeholders."[97] To create incentives for any sacrifice because of the program's implementation and legitimacy from the side of affected people and the broader society of the program are the main justifying reasons for BS.[98] As Nhantumbo and Camargo advocate, the benefits generated from REDD+ should act as "the reward for constructing livelihoods and economies on a platform of sustainable land uses, as well as practices that contribute to the mitigation of climate change."[99] Generally, BS understood as allocating, administering, and providing benefits to an actor's activities or results through some form of positive incentive, opportunity, payments, rent or profit, or other compensation.[100] It is monetary or non-monetary, carbon and non-carbon, or direct and indirect benefits. Clear obligations or responsibilities that need to attain the benefits are also important. There is also the need to develop systems for recording and monitoring the benefits and associated obligations and distributing the benefits to the beneficiaries.[101]

As an experience REDD+, implementing countries followed different BS mechanisms. States like Brazil own all forest resources and defining itself as the beneficiary of REDD+ rewards from emission reduction. Possess the revenue in a compensation fund, which would have a mechanism for redistribution. On the other hand, participants and implementers control forest resources, including a decision over emission reduction benefits as indicated in Cameroon. Direct payments might be made based on national performance and the traceability of interventions that contribute to it. Benefits can be returned to society through royalties or the taxation of revenue generated from sales of carbon, or compensation based on verifiable performance.

[97] Lindhjem, H., *et al*, "Experiences with Benefit Sharing: Issues and Options for REDD-Plus" (2010) 018 25.
[98] Lindhjem, H., and others (n 97).
[99] Nhantumbo, I. and Camargo, M., "REDD+ for Profit or for Good. Review of Private Sector and NGO Experience in REDD" (2015) 30, Natural Resource Issues 42.
[100] Hite, K., "Benefit Sharing and REDD+: Considerations and Options for Effective Design and Operation," 1.
[101] Chandrasekharan Behr, D., ''Making Benefit Sharing Arrangements Work for Forest-Dependent Communities: Overview of Insights for REDD+ Initiatives' 1.

Chapter Three

3. The Context of REDD+ and BS in Ethiopia

3.1. REDD+ Development in Ethiopia

Ethiopia's economy and the well-being of its more than 114 million[102] citizens depend on the productivity of its natural resources, principally land and water that used for the production of crops and animals that provide more than 40% of Ethiopia's GDP.[103] Forest resource plays a vital role in providing food, shelter, and livelihood and storehouses of natural diversity. In Ethiopia, forest resources have experienced so much pressure due to the increasing need for wood products and forestland conversion into agriculture. Ethiopia's trend is to protect the remaining natural forest resources for various social, economic, and environmental values.[104] According to the forest development strategy, the forestry sector's full potential not mobilized to contribute more to the nation's economy due to the absence of a lead institution for the sector.[105] There was also fragmentation and overlapping roles and responsibilities between different implementing institutions, both at the federal and regional levels. CREG identifies four pillars that play vital roles in sustainable development. These are agriculture, forestry, power, transport, industrial sectors, and buildings sectors, owing to its vast potential to reduce emissions from the forestry and other sectors.[106]

REDD+ selected as one of four initiatives for fast-track implementation[107] and evolving as a policy framework that encourages land rehabilitation.[108] It embedded within the CRGE strategy, which works together with the GTP.[109] In 2010, a CRGE Ministerial steering committee was established. Again, the federal REDD+ steering committee re-established and conducted its first meeting in March 2013. The committee was responsible for overseeing the development of the realization of the CRGE strategy and for reviewing and approving all mitigation initiatives,

[102] https://www.worldometers.info/demographics/ethiopia-demographics/ last accessed June 21, 2020
[103] USAID, 'Country Profile, Property Rights And Resource Governance of Ethiopia," 1.
[104] Y Moges, Z and Eshetu, and S Nune, 'Ethiopian Forest Resources: Current-Status and Future Management Options in View of Access to Carbon Finances" (2010) Ethiopian Climate Research and Networking and the United Nations Development Programme 16.
[105] Ministry of Environment, Forest and Climate Change (MEFCC), 'National Forest Sector Development Program' 19.
[106] According forest development strategy, the sector has the abatement potential is estimated at 130 million tCO_{2e}, see Forest Development programme, p. 77
[107] CRGE, p. 3
[108] Bekele M, Tesfaye Y, Mohammed Z, Zewdie S, Tebikew Y, Brockhaus M and Kassa H., "The Context of REDD+ in Ethiopia: Drivers, Agents and Institutions," (2015) 127 48.
[109] MEFCC, "Process Framework for the Implementation of the National REDD + Program in Ethiopia," 6.

including REDD+, achieving economic growth with zero net emissions.[110] The National Forest Sector Development Program (NFSDP) is an ambitious program that aims to transform the forest sector and anticipate contributing to the CRGE targets' achievement through improved management of existing natural forests and expansion of forest cover. The national REDD+ Readiness program - coordinated under the REDD+ secretariat at MEFCC[111] intends to serve as a vehicle through which the CRGE objectives on land use and forestry sector achieved.[112]

Ethiopia became an official member of the UN-REDD program in June 2011 and became eligible to access funding and capacity building support for REDD+ policy development.[113] In October 2012, the World Bank's FCPF approved a readiness preparation grant for the Ethiopian government to formulate a National REDD+ strategy and advance its institutional and technical readiness for REDD+. The Government of Ethiopia submitted its REDD+ Readiness Preparation Idea Note (R-PIN) to the World Bank in 2008, approved in 2009, creating the way to develop the R-PP from 2010 to 2012.[114] Ethiopia considered as a second-generation REDD+ country, with activities having begun mainly after 2011. Submitted its nationally determined contribution (NDC) in 2015, in which reduction of emission from the forest sector is a crucial component towards Ethiopia fulfilling its targets for GHG emission.[115] REDD+ projects being implemented in Bale Eco-region (500,000 ha), Tha Yayu and Gedo forests (190,000 ha), and in the Baro-Akobo area (7,610,300 ha) in addition to 165 project sites in five regional states.[116]

3.2. Stakeholders in Ethiopian REDD+

It is essential to understand different interested and resource user groups involved in sustainable forest management. These stakeholders will have their crucial contributions to relevant international and national decisions and guidance on stakeholder engagement in REDD+ and should be included in each process. A better means to minimize potential conflicts and unintended negative consequences while promoting trust is that at the international level, the

[110] National REDD+ secretariat, (n 9) 17.
[111] This Ministry re-established as Environment Forest Climate Change Commission (EFCCC) by Proclamation No.1097/2018, art. 32 (2) and 36 (17)
[112] Moges, Y, "Legal and Institutional Framework for the Ethiopian REDD+ Program, Final Report'.
[113] ibid.
[114] National REDD+ Secretariat, 'Mid-Term Progress Report from October 2012 to November 2015 of Ethiopia's R-PP Implementation' 2.
[115] 'NDC of Ethiopia' <http://www4.unfccc.int/ndcregistry/PublishedDocuments/Ethiopia%20First/INDC-Ethiopia-100615.pdf> accessed 12 April 2019.
[116] Interview with Dr. Yitebtu Moges, 'National REDD+ Coordinator', (24 April 2020).

UNFCCC set stakeholder's engagement pillars.[117] The UN-REDD+ and the FCPF have been developed joint 'guidelines on stakeholders engagement in REDD+ Readiness, with a focus on the participation of indigenous peoples and other forest-dependent communities.'[118] Accordingly, stakeholders in Ethiopia REDD+ are 'those groups that have a stake, interest or right in the forest and those that will be affected either negatively or positively by REDD+ activities'[119] and 'by the enforcement of institutional, policy & legal framework to be developed in REDD+ process.'[120] Under the Ethiopian REDD+ process, stakeholders are categorized 'by type as federal, regional and woreda; governmental, non-governmental, community-based, academia, international, religious, and cultural groups.'[121] Identified stakeholders further analyzed and categorized based on 'the degree of influence and importance in the REDD+ process and type of stake.'[122] Classified as implementers, contributors, beneficiaries.[123] Stakeholders identified as "contributors" are those "involved in funding, sponsoring and provision of technical support to the REDD+ process."[124] Stakeholders categorized under "beneficiaries" are those "benefiting or have the potential to be benefited from the REDD+ process."[125]

Starting from EFCCC up to Mass media, there are different stakeholders to participate in implementing the program. EFCCC, Ministry of Finance, Agriculture, Water, Irrigation and Energy, Federal Affairs and Pastoralist Area Development, Ethiopian Investment Agency, and Ethiopian Wildlife Conservation Authority as a government organization. Also, Judiciary and Natural Resource and Environment Standing Committee of House of Peoples Representative, Addis Ababa University, Hawassa University Wondo Genet College of Forestry and Natural Resources, Haromaya University and Mekelle University as Academia and wood-based industries, as private sectors are Federal level stakeholders.

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[117] Cancun Decisions; MEFCC, 'Strategic Environmental and Social Assessment (SESA) for the Implementation of REDD+ in Ethiopia, ' (2017).
[118] FCPF and UN-REDD Programme, 'Guidelines on Stakeholder Engagement in REDD+ Readiness With a Focus on the Participation of Indigenous Peoples and Other Forest-Dependent Communities' <http://www.unredd.net/index.php?option=com_docman&task=doc_download&gid=6862&Itemid>; UNEP, *'REDD+ Implementation: A Manual for National Legal Practitioners*, (2015).
[119] FCPF and UN-REDD Programme (n 119); UNEP, (n 119).
[120] MEFCC, (n 117).
[121] ibid.
[122] ibid.
[123] ibid.
[124] ibid.
[125] ibid.

Regional level stakeholders include Oromia Forest and Wildlife Enterprise (OFWE), Amhara Forest Enterprise, Agricultural Bureaus, Rural Land Administration and Environmental Protection Bureaus, Women and Youth Affairs Bureaus, and Cooperative Promotion Bureaus. Extended to *Woreda* level engaging *Woreda* Administration, Agricultural, Rural Land Administration and Environmental Protection, Women and Youth Affairs and Cooperative Promotion Offices. *Kebele* level *Kebele* administrative, communities, and community-based organizations (CBOs). Besides, there are multilateral and bilateral developmental partners' and NGOs participating by providing financial and technical support for implementing the REDD+ process, religious and traditional institutions, professional and other relevant institutions, and national and regional mass media implementation of REDD+.[126]

3.3. REDD+ BS in Ethiopia

Different COP decisions on REDD+, other frameworks and standards, and leading organizations involved in REDD+ offer general requirements and guidance about how benefits are sharing arrangements designed and implemented, without imposing any particular approach over the participating States.[127] It is also helpful to bear in mind that, as the final stage, BS seeks to generate, commoditize, and allocate REDD+ benefits. Moreover, a distinction is drawn between benefit allocation and benefit distribution, i.e., questions regarding who is entitled to receive benefits and to distribute those benefits, respectively.[128] This subsection analyzes the elements of a comprehensive legal framework required to support a REDD+ BS in Ethiopia. Issues related to definitions, types and legal basis to claim these benefits discussed from the country's existing legal framework.

3.3.1. Definition of REDD+ Benefits

The issues of BS possibly will be addressed using current legal frameworks as a starting point by clarifying where 'emission reductions' right resides in the legal frameworks. Working to clarify how existing legal frameworks could support REDD+ implementation. BS developed across the natural resource sector is relatively common for oil, gas, water, and forest resources.[129] There is no provided definition for UNFCCC, and other related treaties and conventions intentionally leave 'benefits' under REDD+ programs legal frameworks, and it. Do not adopt a 'one size fits

[126] MEFCC, (n 117).
[127] Chapman, S., Wilder, M. and Millar, I., (n 87).
[128] ibid.
[129] Peskett, L., (n 13) 2.

all' approach to define the issue, reflecting that the stakeholders and their rights and interests will vary between projects and challenge a full-fled definition for the term within the programme.

When we explore the definition provided for the term, the issue of BS came into the scholar's and legislator's attention when a proclamation on access and BS arising from the utilization of genetic resources enacted in 2006.[130] Ensuring equitable sharing of benefits arising out of the utilization of the genetic resource and sustainable usage of the country's genetic resources are the main objectives of the proclamation. However, the proclamation addresses issues only BS refraining from defining what these benefits are.

The policy set an overall goal of improving and enhancing the health and quality of life and promoting sustainable social and economic development. Under its specific policy objectives states the full incorporation of economic, social, and environmental costs and benefits of natural resource development into the planning, implementation, and accounting processes by a comprehensive valuation of the environment and the services it provides. They consider the social and environmental costs and benefits that cannot be measured in monetary terms.[131] Accordingly, benefits are environmental, social, and economical, which can be measured in terms of money, and others are benefits that cannot be measured in terms of money.

National REDD+ secretariat advocates the implementation of REDD+ program in Ethiopia should deliver "real and meaningful benefits that are economically sustainable, and shifting towards low-carbon practices in the country,"[132] without providing a clear definition of what are these meaningful benefits, including co-benefits. Nevertheless, the secretariat provides the benefits expected from the implementation of REDD+ programs as multiple benefits, including monetary and non-monetary "*incentives"* to achieve the objective of REDD+.[133] Furthermore, the distribution of benefits created by different policies, measures, and co-benefits (indirect-benefits), which expected to include environmental, social, or economic benefits. There are direct benefits as a reverse of these indirect benefits collected from the program's implementation, or we can easily conclude monetary and non-monetary benefits considered as immediate benefits.

[130] Proclamation No. 482/2006; A Proclamation and Regulation no. 169/2009 on Access to Genetic Resources and Community Knowledge, and Community Right were issued.
[131] FDRE, Environmental Policy, p. 3, specific objective d
[132] 'Benefit Sharing' (*REDD+ Ethiopia web blog*, 2019) <https://reddplusethiopia.wordpress.com>. last accessed May 5, 2019
[133] ibid.

The National REDD+ strategy identified "unclear and legitimate BS scheme as one among indirect drivers of deforestation and forest degradation."

The strategy intends to guide on "establishing and operationalizing a transparent REDD+ financial management mechanism and a fair BS scheme"[134] to overcome this and other drivers. Through "implementing safeguards program for ensuring that Ethiopia's REDD+ implementation observes globally acceptable social and environmental safeguards standards, particularly the development of BS mechanism."[135] With respect definition to BS from this mitigation tool, the strategy, pass over it by saying, "RBPs, will be defined during the preparation of the national BS framework."[136]

The 2018 forest proclamation lays the foundation for significant Ethiopian reforms by rectifying the previous forest proclamation gaps and lacunas.[137] All forest developers recognized by the proclamation 'have the right to use, sell, or add value to the products, including *carbon and ecosystem services*.'[138] The proclamation's preamble stated that repealing the previous proclamation required to enhance "environmental, social, and economic benefits that may arise from bilateral and multilateral agreements."[139] Moreover, the definition part declares that forest products are 'any timber and non-timber products, including forest carbon and ecosystem services'.[140] Still, without providing what the benefits are, the proclamation deals with BS, and it is an allocation of benefits between government and Community and among communities.[141] Distribution of benefits guided by a system developed to determine BS rights in forest products.[142] However, there are some interesting developments in the draft regulation. Defining 'Benefit' 'as means the gross benefits minus the costs incurred to reduce emission and increase removals,'[143] and providing a detailed elaboration about carbon-related issues that have not fully addressed by the same proclamation.

A legal framework for BS, which enables REDD+ payments to operate effectively, efficiently, and equitably, will both instil confidence in investors and donors and ensure that REDD+

[134] ibid 18.
[135] National REDD+ secretariat, (n 9).
[136] ibid 50.
[137] A Proclamation on Forest Development, Conservation and Utilization 2007.
[138] Proclamation no. 1065/2018, articles 5 (1) (f), 7 (1) (c) (d) (g), and 9 (1) (a), *emphasis added*
[139] Ibid, preamble, Para. 7
[140] Id, article 2 (18)
[141] Id, article 2 (31)
[142] Id, article 16 (7)
[143] Forest Development, Conservation and Utilization Council of Ministers Draft Regulation, art 3 (6)

contributes, through environmental and social co-benefits, to the country's development. This is important to avoid conflicts and design incentive structures to engage multiple stakeholders to support REDD+ implementation, including landholders. This proclamation is all about forest development and conservation and is not expected to define such concepts. Nevertheless, as newly enacted to fill gaps, passed during the program's implementation, it should develop clear and guiding principles regarding this concept. We can deduct benefits that are environmental, social, and economical which may arise from bilateral or multilateral agreements or timber or non-timber type forest products allocated between government and Community. BS (horizontally) between private owners and Community and among Community remains unsolved.

3.3.2. Types of Benefit

REDD+ discussed the contribution it can make to existing development priorities, particularly concerning livelihood benefits for communities. Nonetheless, the legal character of such benefits explicitly defined in either relevant policies or legislative instruments. Elisa M. argues the interplay and tension between economic and non-economic benefits and their immediate and global relevance remain unclear and contentious.[144] Besides, types of benefits vary considerably according to the national laws, with forest type, defining them and for what and how participative the process and the program is.

In particular, under this paper, the term "benefits" is used as a definition provided by Cecilia Luttrell *et al.* "both gross and net benefits." Net benefits are gross benefits minus costs. Costs are understood as either direct financial outlay or opportunity costs in the sense of income foregone because of a REDD+ action.[145] Accordingly, the *potential* types of benefits expected from the implementation of REDD+ in Ethiopia, are distinguished as benefits from implementing the program, project, or policy, commonly referred to as net-benefits. Those implementing REDD+ may derive gains from international and national transfers related to REDD+.[146] Those implementing REDD+ may derive gains from international and national transfers associated with REDD+.[147] These gains may be benefits derived from REDD+ credits in the carbon market, from other sources such as donors or government funds provided at the readiness phase, or payments

[144] Morgera, E., (n 61) 367.
[145] Luttrell, *et al* (n 81) 52.
[146] Luttrell, *et al* (n 81).
[147] Luttrell, *et al* (n 81).

based on results. It also consists of transactional and implementation costs, such as guarding forests, to prevent illegal logging and forest clearing.[148]

By implementing this program and conserving forests, there are other stopped or downscaled opportunity costs of agricultural and timber benefits; the second type of benefits are consists of these benefits from forest use change. REDD+ implementation also aims to enhance indirect ecosystem benefits, such as soil and water quality, biodiversity protection, and local climate stabilization. The surrounding Community, program-implementing bodies allowed better access to and higher income from forest products that do not reduce, rather enhancing forest carbon.[149] Besides, some benefits consist of indirect benefits from REDD+ implementation. Including strengthening tenure rights, law enforcement, technology transfer, enhanced participation in decision-making, and infrastructure provision.[150] Infusion of REDD+ funds "may also stimulate the local economy and generate new-earning opportunities."[151] According to the National REDD+ Secretariat, a range of financial and non-financial benefits is delivered as upfront or ex-post payments.[152] Indirect benefits such as legal rights (e.g., use, access) to resources considered.[153] The ABS proclamation states the types of benefits include monetary and non-monetary. The provision uses the word 'may,' which could indicate that the list is not exhaustive. The last sub-article also creates room for other forms of benefits.[154] One interesting point regarding this issue, Bekele M., *et al.*, from the experience of benefit sharing is that of PFM model, summarized types of benefits under three categories economic, environmental and social benefits.[155]

3.3.3. Legal Basis to claim benefits

Potential beneficiaries from REDD+ might perceive a moral claim to benefit, but from a legal perspective, a right to benefit needs linked to a legal instrument. The law has an essential role in clarifying who the beneficiaries are and the basis for benefit claims.[156] The implementation of REDD+ projects will require clarifying and securing land and forest rights. National policies, strategies, laws, and regulations are likely to play a vital role in creating and guiding REDD+

[148] ibid.
[149] 'Benefit Sharing' (n 135).
[150] Thuy, *et al*, (n 8) 13.
[151] Thuy, *et al*, (n 8).
[152] 'Benefit Sharing' (n 135).
[153] ibid.
[154] Proclamation No. 482/2006, article 18
[155] Bekele M, *et al* (n 109) 57.
[156] Chapman, S., Wilder, M. and Millar, I., (n 87) 16.

systems on the ground.[157] A significant question dominating the BS debate at both the national and project levels should receive the benefits associated with REDD+. In the absence of specific REDD+ laws, benefits sharing frameworks are nationally specific, finding a basis in existing "*proxies.*"[158] They can be conferred by statute or contract and can find a basis in and attach to concepts such as usufruct rights instead of the full ownership of forestland. Provisions relating to land tenure, forest governance, environmental protection, and human rights can affect how BS is conferred and governed.

In the analysis of existing legal frameworks related to legal basis to claim benefits, we have to identify how REDD+ benefits shared and whether existing regimes encompass the potential to address BS's issues. Rights bearers must have a clear right and predictable legal basis for claiming the benefits and opportunities generated by their forests.[159] The preliminary identification of beneficiaries and their benefit from the program will be essential to classify them based on the legal basis to claim beneficiaries. These bases determine the extent to which certain kinds of benefits may be due by laws versus benefits that need to be negotiated. It is a legal basis for claiming benefit from REDD+ in the Ethiopian legal framework derived from a constitution, statutes or legislative instruments, and contractual arrangements.

3.3.3.1. FDRE Constitution

As it is known, constitutions, most of the time, are a set of lasting principles. A country's entire government is built. It might contain general and aspirational principles and provide incentives for environmental protection and BS[160] and are not typically written with the level of detail to affect specific environmental programs such as REDD+.[161] However, national constitutions often recognize the importance of environmental protection and the services that forests and other ecosystems provide, thus creating an enabling environment for REDD+ and similar programs.[162]

Following the federal structure, the Constitution allows the devolution of power to regional States to manage and use natural resources, including forests. It provides a starting point for assessing the compatibility of REDD+ programs with existing national law. It enshrines the right

[157] Costenbader, (n 11) 11.
[158] Rose Norton, 'Forest Carbon Rights in REDD+ Countries: A Snapshot of Africa' 8 <URL: http://www.nortonrose.com/knowledge/publications/pdf/file32479.pdf?lang=en-gb> accessed 17 May 2019.
[159] A Savaresi and E. Morgera, "Ownership of Land, Forest and Carbon, Legal Frameworks for REDD," (2009) 77 21.
[160] Chapman, S., Wilder, M. and Millar, I., (n 87) 274.
[161] Costenbader, (n 11) 11.
[162] ibid 12.

to a clean and healthy environment[163] and the right to sustainable development. The land is the property of Nations, Nationalities, and Peoples of Ethiopia and cannot be subject to sale or other means of transfer or exchange.[164] All persons have the usufruct rights over the land, and all-natural resources, including forest resources, are under the State and Peoples' ownership.[165] On behalf of them, the State manages forest resources and legally entrusts forest management to specific groups. Throughout different provisions of the Constitution, the federal government has a power formulate and implement policies, strategies, and plans, establish and implement national standards and essential policy criteria, and even enact laws for the utilization of and conservation of natural resources.[166]

REDD+ designated as one environmental and economic development strategy under CGRE. Those designated as owners, possessors, or another category, i.e., participants, project implementers, local communities) by which these natural resources deployed for their common benefit and those *adversely* affected due to REDD+ legal right to claim benefits from such programs.[167] More detailed constitutions can provide enabling provisions for such programs, but implementing legislation is necessary to institute these constitutional provisions to provide a more detailed legal basis for implementing these programs and avoiding ambiguity. REDD+ does not need to be mandated constitutionally; at a minimum, a legal due diligence must be performed to ensure that the Constitution will not prevent the development of such schemes. Finally, constitutions can provide useful guiding concepts for REDD+, such as general rules on land and forest ownership and use rights, and the recognition and protection of local communities.[168] In addition to the Constitution, or next to a constitution, countries may decide to enact a single law or regulation to cover REDD+ issues comprehensively. We will also promote it as a national policy; next, we will examine the other legal basis to claim REDD+ benefits under the Ethiopian legal framework next to the Constitution. Before proceeding to the next discussion, it is possible to cross-reference international treaties, bilateral or multilateral agreements and conventions relating to the issue under consideration.

3.3.3.2. Relevant Existing Forest proclamation and draft regulation

[163] The Constitution of the Federal Democratic Republic of Ethiopia, 1995. article 44 (1), 43 and 44 (2)
[164] ibid. article 40 (3)
[165] ibid.
[166] ibid. article 51 (2), (3), (5)
[167] ibid. articles 89 (5), 4 and 44 (2), *emphasis added*
[168] Norton (n 158) 12.

As we noted above, constitutional provisions are general. If there is no particular and separate law REDD+ in the country's legal framework,[169] then an alternative option would be to integrate legal mechanisms to develop, implement, and control REDD+ activities into existing forest laws. The newly enacted forest proclamation provides an overall framework for forest ownership, use, and conservation in Ethiopia. The proclamation lays a foundation for significant forest tenure reform in Ethiopia by authorizing community and association forest tenure. Under the repealed proclamation, ownership had been only limited to public and private status,[170] to increase forest contribution to the national economy via sustainable management and resource utilization. It also promotes markets for forest development by emphasizing local communities' participation in managing and sharing benefits from forest resources utilization.

All forest owners and developers have the right to use, sell, or add value to the products, including carbon and ecosystem services, from the forests they develop.[171] Private owners and associations have the right to claim benefit from carbon sale and ecosystem services from the forest they grow for carbon trade, which is under their possession.[172] Regarding community forests, they must also develop community bylaws to govern how they manage their forest and share benefits as specified in their bylaws. Communities also have special status regarding access to and sharing benefits from state production and protected forests.[173]

Local communities reside inside, or the periphery of the forest and other individuals or entities are included in a BS system developed by the commission. Besides, those who contribute and cover costs to the development and conservation of forest will have a legal basis to claim such benefits and may obtain the environmental, social, and economic benefits.[174] Moreover, beneficiaries designated by the regulation, private sectors such as possessors of concessions, charcoal producers, and intermediaries of carbon sale. What is unique for these beneficiaries

[169] Interview with Interview with Dr. Ayele Hagena, 'Director General of Policy, Law & Standards of CEFCC', (4 May 2020) there is no intention to prepare a special REDD+ law.
[170] R McLain, *et al*, 'Fostering Tenure Security for Forest Landscape Restoration in Ethiopia: Creating Enabling Conditions for the 2018 Forest Proclamation', (2019) 267; Proclamation № 1065/2018 article 4; proclamation № 542/2007 article 3.
[171] McLain, *et al* (n 170).
[172] A Proclamation on Forest development, conservation and utilization, art 5 (1)(f) and 9 (1), besides there are guiding principles about BS under art. 16 (7) and 19.
[173] ibid. art. 7 (1) (c), (d) and (g)
[174] Ibid, art 16 (7) and 19 (9) and draft regulation (n 142) art 17(1) (b)

conducted based upon registered and verified reductions against a reference level for their sub-projects.[175]

3.3.3.3. Contracts as a Basis

In the absence of clear stipulation in the Constitution and other subordinate statutes, REDD+ projects implemented by private entities to determine a legal basis to claim benefit, contractual arrangements used to determine beneficiaries.[176] These agreements are tools to clarify the arrangements between different stakeholders involved in REDD+. They can provide essential clauses to apportion responsibilities and rights between various parties, identify ownership of emission reduction and other carbon and non-carbon benefits, and create a formula to allocate and share benefits among those who participate at different program implementation levels.[177] What's more, contracts are used to vest emission reduction benefits and transfer such rights from State to local groups. For instance, in the Bale Mountains Eco Region REDD+ project, beneficiaries determined based upon the Joint Forest Management Agreement (JFMA)[178] between local communities and government. Mellese also argues beneficiaries are not determined by invoking property rights[179] , but it is claimed based on the contract, which entered between the local communities and the government.[180] According to John, since they are flexible, 'allow the parties enormous freedom to adapt the terms to specific circumstances or avoid some terms altogether and identifies interests to be recognized,'[181] by addressing surrounding ownership and rights with identified beneficiaries. According to John, since they are flexible, 'allow the parties enormous freedom to adapt the terms to specific circumstances or avoid some terms altogether and identify interests to be recognized,'[182] by addressing surrounding ownership and rights with identified beneficiaries.

[175] Draft regulation (n 142), art 17 (1) (c)
[176] Sophie Chapman, *et al*, (n 86) 274.
[177] ibid.
[178] Oromia Forest and Wildlife Enterprise (OFWE), Farm Africa and SOS Sahel Ethiopia Bale Mountains Eco-region (REDD+) Project ETHIOPIA VCS + CCBA standards Project Description /Project Design Document, 2014, p. 49
[179] The draft regulation also considers carbon or emission reduction rights 'as natural asset of ecosystem services and the common property of the Ethiopian people and the state,' art 6 (1) and (2)
[180] Mellese Damtie, 'Forest Carbon Rights in Ethiopia, Case Study Background Paper,' 17.
[181] J Bruce, 'Identifying and Working with Beneficiaries When Rights Are Unclear: Insights for REDD+ Initiatives,' 22.
[182] ibid.

3.3.3.4. Other Basis

Beyond legal and contractual basis, those who carry out good stewardship of forest benefited regardless of legal rights. Stakeholders involved in ways other than indirectly managing the forest might also have claims to some of the benefits, noted by various authors.[183] There may be a need to distinguish between ownership of sequestered carbon, carbon sinks, and carbon sequestration potential. There may be a legal distinction between ownership of carbon stocks, including any increases in stocks and ownership of carbon emissions reductions.[184] Many sources have pointed out that insecure land tenure may be at the heart of distributing benefits. However, ownership of the land itself may not guarantee ownership or even benefits from REDD+, as there is great variety in ownership and complex forms of tenure in different situations. Several authors also suggested benefits need to form part of a much bigger bundle of relating to forests.[185] For instance, benefits should go to low emitting forest stewards, to those incurring costs, to effective implementers, actors requiring compensation for opportunity costs, and poorest in the society are other discourses of benefit claiming basis.[186]

3.3.3.5. Oromia Forested Landscape Programme Experience

Oromia's Forest proclamation 72/2003 was the first legally to recognize the ownership and participation of communities in forest management. OFWE, which owns concessions over forests in the region, is the legal owner of emission reduction generated. OFWE, OFWE will likely remain the legal owner of the emission reductions generated from REDD+ and therefore will act as the lead contractor in Emission Reductions Purchase Agreements. The Oromia National Regional State Forested Landscape Program (OFLP), the first pilot sub-national Emission Reduction (ER) program under implementation, was designed as part of Ethiopia's REDD+ Readiness Process. It has two financial instruments, an US$ 18 million mobilization

[183] ibid 1–40; Costenbader, J. *'REDD+ Benefit Sharing, A Comparative Assessment of Three National Policy Approaches,' 2011; FCPF – UN REDD 1-58*, pp 1–58.
[184] Balderas Torres, and M Skutsch, 'Splitting the Difference: A Proposal for Benefit Sharing in Reduced Emissions from Deforestation and Forest Degradation (REDD+)' (2012) 3 137–154.
[185] Knox, A., Caron, C., Miner, J. and Goldstein, A., "Land Tenure and Payment for Environmental Services. Challenges and Opportunities for REDD+' (2011) 2; Dressler, W., McDermott, M., Smith, W. and Pulhin, J., "REDD Policy Impacts on Indigenous Property Rights Regimes on Palawan Island, The Philippines" (2012) 40; Milne, S., 'Grounding Forest Carbon: Property Relations and Avoided Deforestation in Cambodia'' (2012) 40 693.
[186] A., Angelsen, *et al*, *Analysing REDD+: Challenges and Choices* (Centre for International Forestry Research 2012).

grant from Bio-Carbon Fund (BioCF)-plus support and a US$ 50 million RBP from BioCF.[187] The benefit to share is the net payment defined as "gross ER payment minus operational costs incurred in the program's management process."[188] This program will generate multiple monetary, non-monetary, and co-benefits. Even if it is not clear and well addressed the difference between non-monetary and co-benefits.

BS mechanism designed by OLFP involves a two-tier process, vertical and horizontal sharing.[189] The former refers sharing of benefits between communities, private forest developers, and Federal and Regional governments. While the latter refers to the distribution among the communities across the forested landscapes in the region.[190] Accordingly, the vertical proposed share has been set at 20%, 75%, and 5% for governments, Community, and private forest developers. Each share further shared between layers of participants, the 20% government of shared between 5% to federal and 15% to the regional government.

On the other hand, the remaining 75% shared among *Zones, Woredas,* and *Kebeles*, based on different criteria. Sharing among *Zones* applied by taking into consideration area of existing forest (50%), forest development (30%), and many Forest Management Cooperatives (FMCs) (20%), for sharing among *Woredas* in each zone.[191] *Woredas,* after receiving their share, further sharing among *Kebeles* within each *Woreda*. Forest area (60%) and forest development (40%) are the criteria and weights assigned to share benefit among *Kebeles* within *Woreda.*[192] *Kebele* or Community level sharing 75%, 45% invested in social development and livelihood improvement activities, while 50% invested in land use and related activities to generate more ERs. The remaining 5% of the share received 'is dedicated to serving underserved social groups in the form of revolving fund.'[193] The private forest developers could be individuals, Community or other shareholders, allocated 5% of the total benefits.[194] However, whenever private sector developers are absent, their share goes back to the Community's share.[195]

[187] ORCU 'Benefit Sharing Mechanism for Disbursing Result Based Payments from Bio-CF ISFL Program'2019.
[188] ibid.
[189] ibid.
[190] ibid.
[191] ibid.
[192] ibid.
[193] ibid.
[194] ibid.
[195] ibid.

3.4. Conclusion

Identifying how stakeholders perceive their rights and responsibilities, as well as those of others, is a crucial starting point in initiating discussions over who should have rights and responsibilities in the BS. From the introduction of the programme in Ethiopia, several activities conducted in a phased approach from the donation granted from bilateral and multilateral agreements by participating different stakeholders at federal, regional, and goes through to local level.

At the national level to identify, the legal character of the concept could draw on existing laws, i.e., land and natural resource regimes, community rights and constitutional provisions. As mentioned earlier, strategy and legal instruments have failed to determine the legal character of the concept or noting that there have been few attempts to define the benefits in the law. Benefits could be financial or non-financial and linked to the carbon outcomes, i.e. the quantity of carbon emissions avoided or non-carbon outcomes, protection of water sources or habitat conservation, achieved as the result of a successful REDD+ action.

The Oromia Environment Forest Climate Change Authority (OEFCCA) authorized to facilitate benefits from ER payment.[196] The regulation to establish Oromia Forest and Wildlife Enterprise (OFWE) also states that the utilization of the revenue obtained from ER shall be following the regulation issued by the regional government of Oromia.[197] There is an issue of the legislative mandate as per the Federal constitution related to the natural resource between the federal and regional governments.[198] Nevertheless, for legalizing this BS mechanism invoke article 2 (18), 5 ((1)(c)(e)(f)) and 9 (1) (a), of proclamation no. 1065/2018, which states that forest developers have the rights to sell forest products, benefit from carbon sales and transfer possession rights. The previously mentioned BS mechanism developed to disburse RBPs from Bio-CF ISFL Program, not to provide a lasting BS mechanism from REDD+. However, regionally legislative and policy framework that specifically stipulates ER rights and ratifies the developed BSM for the program is still lacking.

[196] Proclamation No.199/2015, article 41(7) and ORCU,(n 186) p.13

[197] Regulation, No. 122/2009

[198] According to article, 51 the legislative power related with land and natural resources vested up on federal government, while regional governments have the mandate of administering land and natural based up on the laws legislation enacted by the Federal government. It is not clearly stipulated what is administering land and natural resources. Does it is only conducting activities other than legislation or having a certain level of legislative power i.e. regional bureau directives.

Beyond this regional experience, the FDRE Constitution, statutes, and contractual arrangements are a national level legal basis to claim for a benefit from REDD+. Those who carry out good stewardship of forest also benefited regardless of legal rights. Considering the current legal frameworks, it implies that the state as owner and manager of forest and related resources will be the main beneficiary of any benefit obtained under REDD+. Furthermore, as the draft regulation shows, the government is in the way to allocate some privileges to concessionaries, REDD+ proponents or promoters expected to be the primary beneficiaries.[199] To avoid confusion, the basis for benefit claims clarified in law,[200] who is entitled to claim benefits from REDD+, and on what basis, is a vital aspect of a benefit distribution system. Legal frameworks, therefore, have an essential role to play in clarifying the status of rights linked to beneficiaries.

[199] Draft Regulation (n143) article 25-33.

[200] Martijn Wilder and Sophie May Chapman, 'Creating an Enabling Legal Framework for REDD+ Investments in Kenya,' 2014, Version 1, REDD+ Law Project, p. 62

Chapter Four

4. Challenges and Opportunities

4.1. Challenges

Although limited national legislation was developed to support the programme, challenges on the implementations seem inevitable. Different kinds of legal framework challenges identified in this research regarding BS schemes within Ethiopian REDD+. This research is aspiring to investigate how prudent our legal framework is, the overall challenges identified in one way or another way related to legal frameworks that are considered relevant concerning BS's from international and national legal frameworks of the program.

4.1.1. International Challenges

REDD+, as it names implies designed to tackle deforestation and degradation in developing countries, disregarding countries always conserved their forest stand to benefit nothing from REDD+ by continuing to save, which presents a preserve incentive, 'colloquially known as the "angels and sinners" dilemma.'[201] It is unclear how conservation measures will be rewarded, since, unlike the other elements, it cannot measure and is not additional.[202] Still, the main debate revolving around the underlying questions payments should be made based on carbon performance or the basis other indicators, i.e., "opportunity cost, inputs or efforts made for the REDD+ activities, or social needs poverty reductions."[203]

Developed countries perceive the program as to fulfil their obligations enshrined under different UNFCCC easily beyond their sovereign jurisdiction, and they are considering the program as cheap and easy. On the other hand, developing countries' perception is as a source of revenue generation to support their economies.[204] They considered the "low hanging fruit," a cost-efficient win-win instrument to reduce net carbon emissions.[205] It further criticized for creating and perpetuating power differentials between the global North and South because of its market-

[201] Mahanty, S., Milne, S., Dressler, W. and Filer, C., "The Social Life of Forest Carbon: Property and Politics in the Production of a New Commodity"' (2012) 40; N Anderson, "REDDy or Not? The Effects on Indigenous Peoples in Brazil of a Global Mechanism for Reducing Emissions from Deforestation and Degradation,"' (2009) 2.
[202] M Skutsch, "Slicing the REDD+ Pie: Controversies around the Distribution of Benefits" (2013) 8 144.
[203] Torres, and M Skutsch, "The Potential Role for Community Monitoring in MRV and in Benefit Sharing in REDD+" (2015) 6 250.
[204] D Bodansky, "A Tale of Two Architectures: The Once and Future UN Climate Change Regime. In Climate Change and Environmental Hazards Related to Shipping: An International Legal Framework," <available at http://papers.ssm.com/sol3/papers.cfn?abstract> accessed 25 May 2019.
[205] J Hein, *et al*, "Deforestation and the Paris Climate Agreement: An Assessment of REDD+ in the National Climate Action Plans" (2018) 90 7.

oriented nature. It provides disproportionate benefits to wealthy, high-polluting industries, which sees the wasteful consumption in the North as a direct cause of climate change.[206] The implementation of REDD+ can be conducted in different ways. Because of this continually negotiated by different interests at different levels, it also 'developed into a country-driven, voluntary mechanism with limited international oversights and manner of implementation is being made increasingly flexible and ad hoc.'[207] Many complicated issues were left unresolved, e.g. 'should funding go to compensate large, commercial forest producers or to indigenous groups that are conserving forests.'[208] UN-REDD Programme concludes REDD+ is not clearly defined as a consistent idea and has proven to be more complex and challenging to implement than what early proponents had envisioned. At the national level, becoming merely another form of development assistance, which contradicts its essential feature of result-based payments.[209]

Land tenure dominated as the starting point for REDD+**.**[210] The guarantee of land and forest resource for forest-dependent people within REDD+ decides largely if the mechanism will indeed contribute to poverty alleviation. There is no binding instrument related to rights property on an international level; part neither of the ICCPR nor the ICESCR. Thus, the UDHR is the only internationally applicable document regarding claims benefits from the program as a property right, but the UDHR was not a legally binding international instrument.[211] To address such kind challenges, we can rely on regional treaties; this regional international law binds most REDD+ implementers. BS is employed in international law as a treaty objective, an international obligation, a right, or a mechanism, making its status challenging to determine.[212]

Over 50 countries have developed strategies for REDD+ implementations.[213] Thus, there is considerable concern regarding the inflation of carbon prices on the international market. In 2008, The Eliasch Review estimated that approximately US$7-19 billion in such investment might be needed per year.[214] Since 2010, global pledges for dedicated REDD+ initiatives average

[206] Arild Angelsen, *et al*, 'REDD Credits in a Global Carbon Market Options and Impacts," 369.
[207] Wiersema, A., "Climate Change, Forests, and International Law: REDD's Descent into Irrelevance" (2014) 47.
[208] ibid.
[209] Angelsen, *et al*, (n 188) 49.
[210] Cotula, L. and Mayers, J., *Tenure in REDD: Start-Point or Afterthought?* (IIED 2009) 85.
[211] MN Shaw, *International Law*, (6th Ed., Cambridge University Press, 2008) 279; I Brownlie, *Principles of Public International Law* (Oxford University Press 1998) 58; Ludwig, G., "Property Rights and Participation in REDD+: The Case of Mozambique" (2012) 1 387.
[212] Morgera, E., (n 60) 366.
[213] Grace, *et al* (n 88) 1038.
[214] Eliasch J., *Climate Change: Financing Global Forests,'* (The Eliasch Review 2008) xiii.

US$796 million annually,[215] received only 3% of climate funding, less than a tenth of what is considered a fair share.[216]

According to Hou-Jones *et al.*, there are concerns over the sustainability of implementers' dissatisfaction with the projects' level of tangible benefits and financial sustainability.[217] Likelihood of continuing carbon prices and reduction in public financing in a context of escalating opportunity costs.[218] Furthermore, the tool's poverty alleviation is unlikely for REDD+ because planters of commercial crops or those cutting trees for high-value timber are most likely not compensated by REDD+ for the profits foregone by abandoning forest-related activities.[219] Campbell even argues smallholder intensive agroforestry is usually more profitable than REDD+.[220]

4.1.2. National Challenges

4.1.2.1. Lack of definitions

There should have to be adequately defined and enshrined rights by the legislative framework to claim benefits from the programme. The laws are either silent or general regarding the benefits that participants have from implementing the program. Forest resources benefit rights are rarely straightforward and secure because existing national laws regarding these resources are poorly formulated since they enacted to govern and address other issues, rather than REDD+.

This uncertainty exists as to how legal title to these rights can be securely established and transferred. The situation is more complicated where a third-party entity seeks to implement REDD+ on land owned by another. It requires recognizing the third party right in an intangible resource located on a publicly or privately owned right. Besides, even if examined policies and laws support BS, they cannot implement themselves due to the absence of subsidiary public documents, such as detailed standards, directives, or very appropriate guidelines.[221] The lack of definitions and specification of the right arguably presents a barrier to these interests' trade.

4.1.2.2. Beneficiaries and struggle to be a beneficiary

[215] Norman Marigold and Nakhooda Smita, ‘‘The State of REDD+ Finance,’ (2014) 378 2.
[216] A Angelsen and others (eds), *Transforming REDD+: Lessons and New Directions,* (CIFOR 2018) 2.
[217] Hou-Jones Xiaoting, Franks and Phil and Chung Jin-ho, ‘Creating Enabling Conditions for Managing Trade-Offs between Food Production and Forest Conservation in Africa: Case Studies from Ethiopia and Zambia,’’ 44–49.
[218] Karnetsy Alian, ‘Carbon Rights, REDD+ and Payments for Environmental Services,’’ (2014) 35 20–29.
[219] Mustafa Mucahid, Lawal Bayrak and Marafa Mohammed, ‘Ten Years of REDD+: A Critical Review of the Impact of REDD+ on Forest-Dependent Communities’, (2016) 8 9.
[220] BM., Campbell, ‘‘Beyond Copenhagen: REDD+, Agriculture, Adaptation Strategies and Poverty,’’’ (2009) 19 397–399.
[221] National REDD+ Secretariat, (n 115) 57.

R-PP provides the benefits of the REDD+ program shared equally among all relevant rights holders and stakeholders.[222] The sustainability of REDD+ initiatives requires an adequate determination of local as well as national beneficiaries. REDD+ offers a unique opportunity for new benefit streams from forest resources, which intensifies struggles for these forestlands' rights and control. It recognizes the new value in remote forestlands, and communities could suffer from loss of forest resource access. When the increased value of forest under REDD+ schemes added to already unclear BS schemes, existing competitions may worsen, and resolving these issues may prove unachievable.[223]

A conflict could also arise in claims over benefits once emission reduction rights sold. This likely to restrict long-term land use options for the specified area. Suppose the sale of emission reduction rights prevents forest-dependent and local communities from utilizing other forest products. In that case, this could significantly influence livelihoods and erode permanence in the long run. For instance, in Bale Mountains Eco Region, the enclosure of the forest for REDD+, previously used as a common poll resource, has led to tension between members and non-members of the forest dwellers association, who no longer allowed entering the forest and no longer consulted in decisions regarding the forest. In this way, they are deprived of access to various benefits that they need for their subsistence and the anticipated benefits of REDD+. Creating expectations of significant economic losses from the forest, mainly losing access to the forest,[224]will increase the demand even further, creating the potential for increased conflict, because of expectations of substantial and life-changing economic benefits from the project considering the forest as a '*green gold'* and hopping the project as a way out of overwhelming poverty.

4.1.2.3. Unclear jurisdiction between stakeholders

The national REDD+ Secretariat embraced the authority to make decisions about REDD+ implementation. Still, the implementation of REDD+ projects falls under the CFCCC, while the Ministry of Finance is responsible for monitoring and ensuring Fund and revenue collection and sharing.[225] At the national level CEFCC, Ministry of Agriculture, and Ministry of Water Irrigation and Energy are responsible institutions for key REDD+ agendas with no specific

[222] ibid 98.
[223] ibid 50.
[224] Kemerink-Seyoum, *et al* (n 16) 269.
[225] Interview with Interview with Dr. Ayele Hagena, (n 168).

coordination mechanisms in a place devoted explicitly to the land and forest resources.[226] These and other institutions' roles and responsibilities overlap on essential issues, which arise from a direct conflict out of lack of legal clarity or changing functions.[227] This lack of alignment between institutions protecting natural resources and different institutions authorized to take care of each of their areas creates uncertainty, conflicts, competition, and the power struggle between various institutions.

4.1.2.4. Leakage

It is a challenge often associated with REDD+. Leakage occurs when deforestation mitigation measures and related carbon emissions are offset by increased deforestation and emissions in another site[228] or the movement of destructive economic activities to another location because of a REDD+ project.[229] Local communities in the project areas depend on agroforestry activities for their livelihood. As clearly indicated by J.S. Kemerink-Seyoum, *et al.*, in the Humbo CDM project, there are frustrations deficiency of firewood, which question the additionality of such kind of programs.[230] Local communities were forced illegally to cut trees send their cattle for grazing into the project boundaries. On the other hand, to overcome these illegal encroachments government and other concerned entities forced to hire guards.[231] Implies how much enclosure of previous common pool resources ignored the carbon and co-benefits of mitigation programs arbitrarily determining who can do and who cannot use the resource and for what purpose.[232]

4.1.2.5. Elite Capture

Conflicts could arise surrounding the correct beneficiaries of a REDD+ strategy and/ or responsibility for any strategy failure. Private land tenure in Ethiopia is limited to the extent of possessory and usufruct; ownership rights belong to State on behalf of the people. Private possessors have weak powers to assert their land rights. Where rights do not exist, they may be particularly disadvantaged in negotiating and participating benefits, as they are often less able to assert their claims towards these benefits than power holders.[233] Locally powerful authority and association figures capture more of the benefits for themselves than shared with their fellow members.

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[226] National REDD+ strategy, *n.*10, p. 33
[227] National REDD+ secretariat, (n 9) 33.
[228] Kuik, O.J., "REDD+ and International Leakage via Food and Timber Markets: A CGE Analysis," (2014) 19 642.
[229] Mucahid, Bayrak and Mohammed (n 218) 2.
[230] Kemerink-Seyoum, *et al* (n 16) 270.
[231] ibid.
[232] ibid.
[233] ibid; Peskett, L., (n 13); Xiaoting, Phil and Jin-ho (n 216).

4.1.2.6. Governance and Law enforcement

The other challenge is the high rate of corruption in the country. Ethiopia has a fragile governance system with low political stability; there are ongoing threats of sessions by and armed violence in regional states. The budget distributed between states and institutions fails to consider the forest resources as criteria. States with more agricultural land get more, on the reverse areas with high coverage of forest get a lesser proportion.[234] In addition to the absence of special laws relating to REDD+, there is a lack of enforcement of these scattered laws, which encourages illegal activities. For instance, there were litigations CDM reforestation projects at Humbo and Oromia region, but the court decisions have not enforced, nor did farmers receive any land elsewhere as compensation.[235]

4.2. Opportunities

Internationally, the introduction and implementation of REDD+ enhance opportunities for voluntary compliance. The extensive information gathering in the readiness phase and MRV activities established under the mechanism most help shape states' understanding of environmental problems at hand and the need for action feasibility. A characteristic feature of UNFCCC is that it not merely treaties but establish bodies that facilitate the ongoing law-making process.

The regular meeting bodies such as COPs and other various subsidiary bodies and gathering of expert groups provide opportunity interlinking policy, legal and technical discourses, through providing forums for ongoing interactions and enhancing opportunities for the emergence of shared understanding of the forest sector and basic normative parameters. REDD+ also allows participants to pay attention to the demands of legitimate law-making to address issues.

An incentive to formalize land tenure and forest resources law reforms, participant states implemented it through a phased approach. This approach to legal reform consistent with its, the government should in a first stage and pending clarification of the international REDD+ legal framework. Plan to issue REDD+ specific laws or harmonizing existing laws that address governance and particularly BS issues associated with international REDD+, to ensure that implementation of REDD+ is consistent in Ethiopian law. A new proclamation enacted, regulation is at a draft stage, a national REDD+ strategy developed, different frameworks, and

[234] Interview with Interview with Dr. Yitebtu Moges, (n 116).
[235] ibid; Kemerink-Seyoum, and others (n 16) 270.

the institutional framework established to support the program's implementation. Local forest management has received a great deal of attention, particularly regarding community-based activities and the realignment of powers and responsibilities between federal and regional governments.[236]

Moreover, the implementation of REDD+ provides new income sources for actors, forest-dependent local communities, based upon different criteria to participate in and developed to address the root causes of deforestation and forest degradation, weak governance, and the lack of equity in benefit sharing. There is a strong belief in the implementation of REDD+ beyond helping to achieve about half of the national emission reduction goal.[237] Co-benefits are the primary and essential benefits expected from the program while increasing communities and ecosystems' overall resilience.[238] The forests in the country serve as a moisture reservoir for its neighbouring countries. Forests are essential modulators of water flows; provision of clean water is the most critical ecosystem service necessary for life.[239] Therefore, REDD+ activities possibly will boost the capacity to mitigate and adapt to climate change.

4.3. Conclusion

Throughout the implementation, REDD+ is becoming more complex and sophisticated than it perceived at its inception, which forges the perception of two blocks and creating perpetuating power differentials between these blocks. Although national legislation clarifying emission reduction rights has passed in a few instances, this has yet to occur in probable host countries under a REDD+ scheme. While this legal void is recognized and schemes like UN-REDD envisage assisting countries to clarify emission reduction rights and develop appropriate regulatory frameworks, legal uncertainty over sequestered carbon remains highly prevalent.

Lack of definitions for the benefits, beneficiaries, and struggle to be a beneficiary, leakage, elite capture, good governance, law enforcement, and unclear jurisdiction between stakeholders are major identified challenges in the national legal framework. Indeed, these are factors in delaying the fruitful implementation of the program. However, this program implemented in a phased approach, in turn, provides an opportunity to identify the root causes of deforestation and forest

[236] Proclamation 1065/2018, preamble para. 4, art. 4,7, 9, 16 (1) (13) and 17
[237] MEFCC, 'Proposal For REDD+ Investment In Ethiopia (2017-2020)' 13.
[238] Interview with Dr. Yitebtu Moges, (n 115); Wong Grace and others, "Results-Based Payments for REDD+ Lessons on Finance, Performance, and Non-Carbon Benefits," (2016) 138.
[239] Irena F. Creed and Meine van Noordwijk (eds.), *'Forest and Water on a Changing Planet: Vulnerability, Adaptation and Governance Opportunities'*, (A Global Assessment Report IUFRO World Series 2018).

degradation and provide detailed information, including legal and policy frameworks assessment. MRV and RBPs' ongoing process is enhancing opportunities for voluntary compliance, economic incentives, and co-benefits.

Chapter Five
5. Conclusion and Recommendations

5.1. Conclusion

REDD+ is highly loaded with expectations concerning benefits beyond carbon emission reductions. To deal with these carbon and non-carbon benefits, it requires legal and policy reforms and changes by creating clarity at different levels regarding the primary objectives of REDD+ and the degree to which emission reduction benefits should be addressed.

The previous chapters' analysis shows that the fundamental elements of BS have not been addressed in our legal frameworks. As Angelsen, it can be said, 'REDD+ projects are operating in a vacuum of uncertainty over what form of BS mechanisms will be ultimately classed as a legal and therefore what level and type of benefits will be available to be shared.'[240] Getting legal clarity over the benefits of REDD+ may not be realistic shortly; the distribution of benefits in a pilot project in the country might need to rely on contracts that specify legal rights and responsibilities.

Through legal framework how to make decisions and address BS elements from the planning phase to the implementation phase of the program requires a comprehensive review of current legal frameworks to determine the extent to which they provide a foundation for governing REDD+ policy interventions. Even if they lack what mentioned in the previous chapters, many of the current legal structures, including those related to land, environment, and property, used to support REDD+ implementation.

Seeing that the high rate of population growth alongside high unemployment rate, increasing land needs will drive up the opportunity cost of strictly avoided forest deforestation and degradation, and an oversupply of candidate beneficiaries could result. Nevertheless, starting from the Constitution, there are indications to be a basis to claim benefits. BS is not just about having clear legal principles, definitions, and guidelines to satisfy participants' interests, but more importantly, it should have to extend to implementation.[241]

Previously mentioned, different legal regimes in Ethiopia provide an entry point to how benefits under REDD+ are managed and served as a boundary for law-making and foundational structures. By informing how emission reduction units and co-benefits be dealt with under the law and whether it needs to be expressly defined in the national legal frameworks. Existing legal

[240] Angelsen *et al.*, (n 89) 150.
[241] ibid.

frameworks used to overcome these challenges. Still, at a minimum, their relationship with REDD+ issues need to address and clarified, which ultimately contribute to the development of BS arrangement in the country.

5.2. Recommendations

International challenges addressed with an international agreement that generates the support originally envisioned for REDD+. Accordingly,

- UNFCCC REDD+ mechanism should ideally contemplate minimum standards and guiding principles of BS.
- CBD, Nagoya Protocol, and Bonn Guidelines reflect a growing recognition that benefits from resource development activities are shared more equitably.[242] Also, rules under the KP related to CDM can provide insights into how BS issues are addressed for state and non-state actors under international law.
- The question of ownership has arisen concerning the carbon stored in forests. The international human rights instruments are, in principle, open to include these. However, because every form of property needs to be defined by law, national legislation on emission-reduction rights is necessary to make this concept applicable in practice.

On the other hand, notwithstanding the draft regulation, national challenges addressed,

- A comprehensive REDD+ policy would provide the reference points needed to assess how different laws apply to the various elements of REDD+ benefits, including identifying gaps and the best type of legal instrument to govern BS in REDD+. A national REDD+ program is also more favourable than several REDD+ projects because the former could reduce the risk of leakage within a country.
- It might also be possible to house REDD+ provisions within existing laws under a more comprehensive umbrella law addressing different BS elements, preferable in the longer term to coordinate the development rules in other existing regimes.
- Institutions need clear mandates, firm capacity, and sufficient resources to carry out their roles, reconsidering forest cover as a budget arrangement criteria.
- Recognizing rights is not enough; making firm commitments to overcome elite capture challenges and empowering communities to take full advantage of their rights to use and benefit from is necessary to complete the task of REDD+ BS.

[242] Lin, A.C., "Community Levers for Benefit Sharing," (2017) 21 378.

- There should be great caution and compensation by climate financing at minimum needs to cover livelihood losses and not lead to illegal practices and even violent clashes. It is crucial to integrate REDD+ benefit distribution into a more comprehensive framework of environmental and natural resource management and plan sustainable development financing and build to the extent possible on existing institutions rather than the new ones.
- The specification of REDD+ related benefits and duties, especially of the State and the way associated rights of individuals and groups recognized in law are essential for understanding 'how REDD+ related legislation affects people's possibilities to benefit from ecosystems and biodiversity.' [243]
- Considering each element of REDD+ BS, types of benefits, the legal basis for claiming benefits, and eligible beneficiaries, the program needs to develop a legal framework that supports a breadth of participants (beneficiaries) from a long-term perspective.

[243] Ituarte-Lima, C., and L McDermott, C, "Are More Prescriptive Laws Better? Transforming REDD1 Safeguards into National Legislation," (2017) 29 510.

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