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**ADDIS ABABA UNIVERSITY**  
**COLLEGE OF LAW AND GOVERNANCE STUDIES**  
**SCHOOL OF LAW**  
**PUBLIC INTERNATIONAL LAW STREAM**  
**THE PARIS AGREEMENT AND COMBATING CLIMATE CHANGE IN ETHIOPIA:**  
**A PROPOSAL FOR A LEGAL**  
**FRAMEWORK FOR THE GREEN LEGACYCAMPAIGN**

**A THESIS SUBMITTED IN PARTIAL FULFILLMENT OF THE REQUIREMENTS  
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### **Declaration of originality**

I, Daniel Atnafu hereby declare that this thesis is my original work. It has never been presented to any other university or institution. Where some one's work has been used due acknowledgment has been given. In this regard, I declare this work as originally mine. I present this work in partial fulfillment of the requirements for the award of the LLM Degree in Public International Law.

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## Acronyms

AR	Afforestation and Reforestation
BAU	Business As Usual
CBDRRC	Common But Differentiated Responsibilities and Respective Capabilities
CMA	Conference of the Parties serving as the Meeting of the parties to the Paris Agreement
COP	Conference of the Parties to the United Nations Framework Convention on Climate Change
CRGE	Climate Resilient Green Economy
E.C	Ethiopian Calendar
EFCCC	Environment Forest and Climate Change Commission
FDRE	Federal Democratic Republic of Ethiopia
GHG	greenhouse gas
GTP	Growth and Transformation Plan
INDC	Intended Nationally Determined Contribution
IPCC	Intergovernmental Panel on Climate Change
LDC	Least Developed Country
MRV	Measurement, Reporting and Verification
MtCO <sub>2</sub> e	Metric tons of carbon dioxide equivalent
PDRE	Peoples Democratic Republic of Ethiopia
REDD+	Reducing Emissions from Deforestation and Forest Degradation
SIDS	Small Island Developing States
SDG	Sustainable Development Goal
tCO <sub>2</sub> e	Tons of carbon dioxide equivalent
U.N.	United Nations
UNFCCC	United Nations Framework Convention on Climate Change
USD	United States Dollar

## **Abstract**

Climate change is a common concern of mankind. States have adopted the United Nations Framework Convention on Climate Change in 1992 to combat climate change. After adopting the convention states have been negotiating to find an equitable solution for global warming. At COP 17 in Durban, a negotiation was reached to conclude a legally binding agreement in 2015 which should be implemented in post 2020. As a result the Paris Agreement was adopted in 2015. Since Ethiopia has signed and ratified the Paris Agreement, the country is expected to implement the Paris Agreement as per its Nationally Determined Contributions. In line with the mitigation pillars of the first Nationally Determined Contribution, Ethiopia is developing the agricultural, the forest, hydroelectric power, transport, industry and building sectors. Comparative law shows that a state such as China which legally encourages and obliges Afforestation has rehabilitated its forest resources beginning from 1990s. This thesis by considering the comparative legal experience of Kenya, Uganda and China on the forestry sector provides justifications for the Green legacy campaign to be translated in to legislation to encourage and reward tree planting campaigns in Ethiopia.

The thesis by employing doctrinal and qualitative socio legal research methods concludes to the effect that Ethiopia is implementing the Paris Agreement under its NDCs, policies and legislations. However constraints on: knowledge management; coordination; and means of implementation exist. Therefore the research recommends that the government needs to prepare programs and directives for the synergistic implementation of the Paris Agreement in Ethiopia. Ethiopia needs to undertake strong negotiations on climate change in order to gain support on means of implementation to implement the Paris Agreement. And the county needs to adapt local technologies, solicit private finance and exert effort on educating about climate change for the effective implementation of the Paris Agreement.

**Key words and phrases: Paris Agreement; Climate Change; Climate Resilient Green Economy; green house Gas; Green Legacy.**



## CHAPTER ONE: INTRODUCTION

### 1.1 Back ground of the study

Climate change is the common concern of mankind and is a serious legal, social, and political issue in the present time.<sup>1</sup> The underlying cause of climate change is global warming caused by emissions of greenhouse gases (GHGs) to the atmosphere. Since the 1980s international policy makers started to acknowledge climate change as a serious harm and negotiations on reaching an international convention on climate change begun.<sup>2</sup> Thus the United Nations Framework Convention on Climate Change (UNFCCC) was adopted at the earth summit in Rio de Janeiro in 1992.<sup>3</sup> The UNFCCC is a comprehensive international climate change convention dealing with the stabilization of GHGs in the atmosphere.<sup>4</sup> In 1997 the UNFCCC was complemented by the Kyoto protocol, which obliged developed countries to fulfill quantified emission reduction commitments.<sup>5</sup> Even though the Kyoto Protocol succeeded in Europe, the United States of America did not ratify it and Canada later withdrew from the Kyoto Protocol. For industrialized countries a binding limitation of emissions was not acceptable as a domestic policy.<sup>6</sup> Parties finalized the Copenhagen Accord in 2009 through a series of negotiations which was initiated during the 13<sup>th</sup> Conference of the Parties to the UNFCCC (COP 13) in Bali, Indonesia. The Copenhagen Accord is a political will of states to urgently combat climate change by recognizing

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<sup>1</sup> United Nation General Assembly Resolution 43/53 of 6 December 1988; AtikiltFetene, 'Critical Assessment of the Role and Response of the African Union and Sub-regional organizations in combating climate change', LLM thesis in Public international law, Addis Ababa University p.11

<sup>2</sup> Daniel Bodansky, 'The United Nations Framework Convention on Climate Change: A commentary' (1993) 18 YJIL 451, 471

<sup>3</sup> Philippe Sands, *Principles of International Environmental Law* (2<sup>nd</sup> edn Cambridge 2003) 53

<sup>4</sup> United Nations Framework Convention on Climate Change, UN 1992 Article 2

<sup>5</sup> Daniel Bodansky and Lavanya Rajamani, 'Evolution and Governance Architecture of the Climate Change Regime', in Detlefsprinz and Urs Luterbacher (eds), *International Relations and Global Climate Change: New perspectives* 2018 p. 1

<sup>6</sup> Daniel Bodansky, 'The United Nations Framework Convention on Climate Change: A commentary' (1993) 18 YJIL 451, 471; Daniel Bodansky and Lavanya Rajamani, 'Evolution and Governance Architecture of the Climate Change Regime', in Detlefsprinz and Urs Luterbacher (eds), *International Relations and Global Climate Change: New perspectives* 2018

that the increase in global temperature should be below 2 degrees Celsius.<sup>7</sup> Meanwhile as a result of the failure of the Copenhagen Accord in 2009, initiations on reaching for a new legally binding agreement on climate change at 2015 started at COP 17 in Durban.

On December 12, 2015 in Paris 196 states adopted the universal Paris Agreement in pursuit of the objective of the UNFCCC, being guided by the principle of equity and Common but Differentiated Responsibilities and Respective Capabilities, (CBDRRC) in the light of different national circumstances.<sup>8</sup> Ethiopia has ratified and domesticated the Paris Agreement under proclamation 993/2017.<sup>9</sup> Under its Intended Nationally Determined Contribution (INDC), Ethiopia intended to reduce its GHG emissions by 64% from the Business As Usual (BAU) scenario in 2030.<sup>10</sup> As a party to the Paris Agreement, Ethiopia has the international commitment to strengthen efforts on combating climate change according to its Nationally Determined Contributions (NDCs). The effective realizations of the outcomes of the Paris Agreement depend on international cooperation on financial, technology transfer and capacity from developed country parties to the developing countries. Under its first NDC, Ethiopia's largest emission potential comes from agriculture and forestry sector.<sup>11</sup>

The forest sector plays an important role in addressing the adverse effects of climate change.<sup>12</sup> The 2010 Republic of Kenya's constitution provides that the "state shall work to achieve and maintain tree cover of at least ten per cent of the land area of Kenya."<sup>13</sup> The Constitution of Peoples Democratic Republic of China provides that the state encourages Afforestation.<sup>14</sup> The 2019 forest law of China provides that "the state encourages citizens to participate in tree planting and Afforestation". Currently the Federal Democratic Republic of

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<sup>7</sup>UNFCCC COP Report of the conference of the parties on its fifteenth session held in Copenhagen from 7 to 9 December 2009 p.5 paragraph 1

<sup>8</sup>Paris Agreement United Nations 2015, preamble paragraph 3; Daniel Bodansky, 'The Legal Character of the Paris Agreement' (2016) 25 RECIEL 142

<sup>9</sup>Proclamation No. 993/2017, Paris Agreement ratification proclamation

<sup>10</sup> FDRE Intended Nationally Determined Contributions p.1

<sup>11</sup> Id. p. 8

<sup>12</sup>Proclamation No 1065/2018, Forest Development, Conservation, and Utilization Proclamation

<sup>13</sup> 2010 Republic of Kenya's constitution Section 69

<sup>14</sup> The constitution law of People's Republic of China, Article 26 (2)

Ethiopia (FDRE) has launched the Green legacy campaign for four years as a component of the Green development action plan. The Green development Action plan has the purpose of transforming the degraded environmental resource of the nation into a healthy ecological system and to improve the living conditions of Ethiopians.<sup>15</sup> The government has executed the campaign by mobilizing citizens and different institutions for two consecutive years in 2019 and 2020. The third year program of the Green legacy campaign is to continue in the rainy seasons of 2021 E.C with an objective of planting 6 billion trees.<sup>16</sup> Laws are important social tools for environmental rehabilitation.<sup>17</sup> The Ethiopian government has launched a ten years development plan to increase the country's forest cover from 15.5% to 30% by 2030.<sup>18</sup> However in order to achieve the Green legacy campaign and the Green development action plan, legal frameworks having a purpose facilitating coordination across state organs are necessary.<sup>19</sup>

Against this background this research examines the current status and constraints Ethiopia is encountering in implementing the Paris Agreement. The research provides way outs for the existing constraints in the implementation of the agreement. The thesis inquires into the prospect of having a legal framework for the Green legacy campaign to enhance forest cover, and combat climate change.

## **1.2 Statement of the problem**

The effectiveness of the Paris Agreement depends on each and every state party's will and effort to combat climate change as per its NDCs, policies and legislations. As a Least Developed Country (LDC) seriously affected by the adverse effects of climate change, Ethiopia will benefit from the implementation of the Paris Agreement. The NDCs of Ethiopia submitted in 2015 and 2020 are conditional demanding support on means of implementation from developed and other country parties to the Paris Agreement. However, literatures show that: limited finance;

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<sup>15</sup> FDRE National Green development Action plan Amharic version p.6

<sup>16</sup> 'Countries joining Ethiopia's Green legacy initiative to receive Billion Tree saplings' (ENA, 1 April 2021)  
[www.ena.et](http://www.ena.et)

<sup>17</sup> Rafael B. Chaves, Giselda Durigan, Pedro H.S. Brancalion, James Aronson, 'on the need of legal framework for assessing restoration projects success: new perspectives from Sao Paulo state, Brazil' (2015) 23 The Journal Of The Society For Ecological Restoration 755

<sup>18</sup> Ten Years Development Plan: A Pathway To Prosperity (2021-2030) p.73

<sup>19</sup> FDRE National Green development Action plan Amharic version p.32

capacity; knowledge management and coordination gaps are constraints on the implementation of NDCs in Ethiopia.<sup>20</sup> This research by confirming such constraints tries to fill the existing knowledge gap by providing possible way outs for effective implementation of the Paris Agreement in Ethiopia.

Forests due to their potential as carbon sinks are crucial in climate change mitigation and adaptation.<sup>21</sup> This potential can be enhanced through Afforestation activities. Comparative legal experience of China shows as a result of forest law backed by large Afforestation activities the forest resources of China has been rehabilitated.<sup>22</sup> Coordination gaps between the executive organs and lack of sense of ownership by citizens exist on the implementation of the Green legacy. Such problems can be tackled through a facilitating legal framework encouraging the plantation of tree campaigns under the Green legacy. Therefore this research examines the implementation of the Paris Agreement in Ethiopia. The research inquires in to the prospect of framing a law for Green legacy campaign in order to combat climate change and enhance forest cover from 15.5% to 30% by 2030.<sup>23</sup>

### 1.3 Research questions

This thesis tries to answer the following questions:

- i. How do the NDCs of Ethiopia, the CRGE strategy and the ten years development plan implement the Paris Agreement?
- ii. How do the FDRE constitution, the ratification proclamation of the Paris Agreement (proclamation 993/2017), and the 2018 forest development, conservation and

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<sup>20</sup>Submission to the standing committee on Finance calls for evidence for the 2020 report on the determination of the needs of developing country parties related to implementing the convention and the Paris Agreement and the 2020 Biennial Assessment and overview of Climate Finance flows, FDRE, October 2020 pp. 9-10; Climate Action Tracker: CAT climate governance series Ethiopia December 2020 pp. 10-12

<sup>21</sup>Republic of Kenya, Ministry of Environment and Forestry, National Strategy for achieving and maintaining over 10% tree cover by 2022 p.13

<sup>22</sup> ‘How China brought its forests back in a decade ‘ (Rapid Transition Alliance, 2 December 2018)

<[rapidtransition.org/stories/how-china-brought-its-forests-back-to-lie-in-a-decade/](https://rapidtransition.org/stories/how-china-brought-its-forests-back-to-lie-in-a-decade/)>

<sup>23</sup> Ten Years development plan: A pathway to prosperity (2021-2030) p.73

- utilization proclamation and the draft regulation on forest development, conservation and utilization implement the Paris Agreement in Ethiopia?
- iii. What is the current status and constraints encountered in Ethiopia in the implementation of the Paris Agreement?
  - iv. How can Ethiopia solve the constraints encountered in implementing the Paris Agreement?
  - v. Can the Green legacy campaign be transferred in to law to combat climate change and achieve 30% nationwide forest cover by 2030?

#### 1.4 Research objectives

This research has the following objectives:

- Reviewing the NDCs, the CRGE, the ten years development plan and specific legislations that are relevant to implement the Paris Agreement.
- Analyzing the current status and constraints in which Ethiopia is encountering in implementing the Paris Agreement.
- Providing way outs for the constraints existing in Ethiopia to implement the Paris Agreement nationally.
- Proposing an enactment of a law for the Green legacy campaign.

#### 1.5 Literature review

Recent Literatures on the implementation of the Paris Agreement in Ethiopia, especially those studied beginning from the period of the adoption of the Paris Agreement i.e., 2015, until 2020 mainly focus on the CRGE strategy and Ethiopia's first NDC. Such literatures focus on the challenges and achievements of Ethiopia's climate actions Vis a Vis the Paris Agreement. The FDRE's submission to the standing committee on finance calls for evidence for the 2020 report on the determination of the needs of developing countries related to implementing the UNFCCC and the Paris Agreement underscores that, in order to achieve the goals of CRGE effective implementation at political and institutional levels is mandatory.<sup>24</sup> The report identifies lack of

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<sup>24</sup> Submission to the standing committee on Finance calls for evidence for the 2020 report on the determination of the needs of developing country parties related to implementing the convention and the Paris Agreement and the 2020 Biennial Assessment and overview of Climate Finance flows p.10

potential to distinguish climate investment to achieve the NDC/CRGE; and gaps in accessing on-public finance and global finance funds as challenges in implementing the NDC/CRGE.<sup>25</sup> The report states well organized institutions, clear plans and strategies, commitment on the side of the government to implement the CRGE, good interaction with development partners in the implementation of the Sustainable Development Goals (SDGs), and chances to connect the INDC/CRGE with green strategy during the COVID-19 as opportunities in implementing the Paris Agreement.<sup>26</sup>

The 2020 Climate Action Tracker series report assessed the climate change action of Ethiopia in light of four factors. The first factor is the commitment of the government towards net-zero emissions; the second is organizational structure of the government set for reducing the releasing of GHGs; the third is the series of actions the government has established to advance and put in to effect mitigation strategies; and the fourth is the government's potential and readiness to involve with interested parties on policy development.<sup>27</sup> With regard to political commitment, the series argues that Ethiopia's commitment on climate change is clear but it is not a priority.<sup>28</sup> As such even though there is continuity of efforts on combating climate change, there is no similar dedication like the times when the CRGE strategy was launched.<sup>29</sup> According to the series, high level nationwide mobilization at government level is an important factor to induce economy-wide transformation in mitigation.<sup>30</sup> Similarly the Climate Action Tracker states the quality of government decision making is important in order to execute climate policies.<sup>31</sup> The document claims that in Ethiopia there is continuity of policy on climate change between governments.<sup>32</sup> However, it is not clear to evaluate the level of support on climate change policies by opposition political parties.<sup>33</sup> Cooperation at ministry and regional administration involving local governments affects the ability of institutions to bring in to correct position climate change

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<sup>25</sup> Id pp. 9-10

<sup>26</sup> Id p. 10

<sup>27</sup> Climate Action Tracker: CAT climate governance series Ethiopia December 2020

<sup>28</sup> Id. p. 8

<sup>29</sup> Id.p.8

<sup>30</sup> Id. p. 8

<sup>31</sup> Id. p.9

<sup>32</sup> Id. p.9

<sup>33</sup> Id. p.9

policies effectively.<sup>34</sup> Ethiopia has set up coordination mechanisms at federal and state levels.<sup>35</sup> However, gaps remain in the functioning and efficiency of these coordination systems.<sup>36</sup> Another gap on implementation of climate policies as provided by the Climate Action Tracker is the Knowledge infrastructure competence of supporting policy development.<sup>37</sup> Finance and resource gaps are significant barriers to efficient implementation in Ethiopia.<sup>38</sup> The Climate Action Tracker argues that Ethiopia has shown some advancement in setting domestic transparency mechanisms even though they are not fully functioning and it is not consistent across sectors.<sup>39</sup>

The literatures' that exist on the forestry sector concentrate on the opportunities and challenges encountering the development of the forestry sector. According to Tigabu Population explosion and lack of effective strategy and policy have enhanced the problem of deforestation in Ethiopia.<sup>40</sup> The impacts of deforestation include climatic impact; ecological impact; and soil impact.<sup>41</sup> The solutions for deforestation are: improved stoves; Reforestation; soil and water conservation.<sup>42</sup> However Melkie argues that among the essential opportunities for forest development in current Ethiopia is the presence of: policies and legislations such as the CRGE; climate financing for the Reducing Emissions from Deforestation and Degradation (REDD+); and Afforestation and Reforestation (AR) programs, are some of them.<sup>43</sup> Melkie raises deforestation; agricultural expansion in respect of pasture land against forests; and forest fires as challenges for forest development.<sup>44</sup>

Rafael et al. have studied on how legal instrument on ecosystem restoration is predicted to result large environmental rehabilitation; involve a minimal cost, and assist in providing a solution for

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<sup>34</sup> Id. p.10

<sup>35</sup> Id. p.10

<sup>36</sup> Id. p.10

<sup>37</sup> Id. p. 12

<sup>38</sup> Id. p.12

<sup>39</sup> Id. p.14

<sup>40</sup> Tigabu Dinkayoh Gebru, 'Deforestation in Ethiopia: causes, Impacts and Remedy' (2016) 4 IJEDR 204

<sup>41</sup> Id. pp.205-206

<sup>42</sup> Id. pp.206-207

<sup>43</sup> Melkie Achenef Abate, 'Review of opportunities, challenges and future decisions of forestry development' (2020)

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<sup>44</sup> Id. pp. 142-143

the understanding in environmental policies.<sup>45</sup> The authors claim that states that have ratified the Hyderabad call of the United Nations (UN) had pledged to rehabilitate 15% of degraded national environment in 2020.<sup>46</sup> According to the writers the significant social tools to rehabilitate environment are laws.<sup>47</sup> But the writers underscore that few instruments and strategies are enacted to govern and facilitate environmental rehabilitation activities.<sup>48</sup> The writers argue that the obstacles for measuring rehabilitation achievement are collaboration between experts and statesmen responsible for making strategies, to point out adaptable environmental rehabilitation initiatives and related arrangements for valuation.<sup>49</sup> In Brazil in state of Sao Paulo, consistent interplay amidst statesman and experts has resulted in new law for directing ecosystem rehabilitation.<sup>50</sup> The Writers conclude that under the growing expenditure in the globe for environmental rehabilitation, it is necessary to formulate strategies for realizing the results.<sup>51</sup> Therefore, laws for appraising obligatory environmental rehabilitation can be prized tools if flexibility and sustenance are recognized from the beginning.<sup>52</sup>

However, the present research reviews and gives an analysis of the implementation of the Paris Agreement in Ethiopia at policy and legislative levels. The research relying on interviews with experts from the Environment, Forest and Climate Change Commission (EFCCC) analyzes the climate actions of Ethiopia Vis a Vis the Paris Agreement. The research studies in to laws having direct or indirect relevance with environment, climate change and the Paris Agreement such as the FDRE constitution, the ratification proclamation of the Paris Agreement, the forest development, conservation and utilization proclamation and the draft regulation on forest, development, conservation and utilization. The research identifies the status of the implementation of the Paris Agreement such as the mitigation pillars of the first NDC, and

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<sup>45</sup>Rafael B. Chaves, Giselda Durigan, Pedro H.s. Brancalion, James Aronson, 'on the need of legal framework for assessing restoration projects success: new perspectives from Sao Paulo state, Brazil' (2015) 23 The Journal Of The Society For Ecological Restoration 754

<sup>46</sup> Id. pp. 754-755

<sup>47</sup> Id p.755

<sup>48</sup> Id. p.755

<sup>49</sup> Id. p. 756

<sup>50</sup> Id. p.756

<sup>51</sup> Id p. 758

<sup>52</sup> Id p. 758



constraints such as: knowledge management; coordination; and gaps on climate finance, technology development and transfer; and capacity building. Based on such findings, the thesis theorizes way outs for the constraints such as using the powers of the EFCCC to prepare programs for the synergistic implementation of the Paris Agreement, soliciting private finance, adapting and accelerating local technologies and enhancing climate change education and awareness.<sup>53</sup> By depending on literatures relating to restoration activities and interviews with experts from the Ministry of Agriculture, the research explores the prospect and justifications of having Green legacy legislation to; fill the gap in the implementation of the Green legacy campaign in Ethiopia with the purpose of combating climate change and achieving and maintaining 30% forest cover in Ethiopia.<sup>54</sup>

## 1.6 Research methodology

To answer the research questions, the thesis uses doctrinal, qualitative socio-legal research and comparative legal methods. Under the doctrinal methods the research depends on international legal instruments such as the Paris Agreement, the Copenhagen Accord, the Kyoto Protocol, and the UNFCCC. The research also employs the COP decisions. The research benefits from Soft law instrument such as the Rio Declaration on Environment and Development. With regard to national laws, the research reviews the FDRE constitution; the ratification proclamation of the Paris Agreement (Proclamation 993/2017); the forest development, conservation, and utilization proclamation i.e., proclamation 1065/2018; the draft regulation on forest, development, conservation and utilization; and the proclamation providing for definition of powers and duties of the executive organs of the FDRE (proclamation 1097/2018). The reason for choosing a doctrinal research method is because the research questions are dependent on an international legal instrument, i.e., Paris Agreement. As a result it is first necessary to study the normative framework of the Agreement.

Commentaries, articles and literatures relevant to the: Paris Agreement; climate change; the forest sector and tree planting campaigns in the globe are used. National policies and strategies such as

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<sup>53</sup> Growth and transformation Plan I (2010/11-2014/15) p. 121; Paris Agreement, United Nations 2015 Article 10.5

<sup>54</sup> The environmental and climate change policy of the ten years development plan targets to increase Ethiopia's forest cover from 15.5% to 30%.

the first and the updated NDCs' of Ethiopia, the CRGE strategy of Ethiopia, and the ten years development plan (2021-2030) are studied.

Given that the thesis's main consideration is the implementation of the Paris Agreement at the national level and a legal reform based on the Green legacy campaign the research utilizes socio-legal research methods such as interviews. Interviews with experts from the EFCCC with regard to: the existence of laws and policies having the purpose of enforcing the Paris Agreement in Ethiopia; and the status and constraints of the implementation of the Paris Agreement are conducted since the commission is empowered to implement the Paris Agreement in Ethiopia.<sup>55</sup> The Ministry of Agriculture being a technical and steering committee to the Green legacy campaign, interviews with experts from the sector are held with regard: to the justifications of launching the campaign; opportunities gained in the last years of implementation; gaps in the implementation; if there are relevant laws to regulate the Green legacy campaign; and the relevance of the campaign to enhance forest cover from 15.5% to 30% by 2030.

Additionally the researcher chose to utilize socio-legal qualitative research methods like interviews in order to answer the research question relating to the status and constraints of the implementation of the Paris Agreement and way outs for the constraints. As such it was mandatory that data be gathered by methods in which the researcher could not find by other ways, like web sites. It is because of this reason that interviews were taken.

Comparative legal experience of the 2010 Kenya's constitution; the 2005 constitution of Republic of Uganda and the 2003 National Forestry and Tree Planting Act of Uganda; and the constitution of Republic of China and the 2019 forest law of China are employed in order to evaluate the comparative legal experience of forest and the prospect of creating a legal framework for the Green legacy campaign.

The researcher chose Kenya's Constitution because Kenya being a neighboring African state to Ethiopia is a party to the Paris Agreement which has set a policy to increase the country's forest

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<sup>55</sup> Article 36 (17) of proclamation 1097/2018 and Proclamation 993/2017 Article 3

cover to 10% by 2030.<sup>56</sup>The constitutional experience of the Republic of Kenya under section 69(1) (b) providing for the state to achieve and maintain a forest cover at least 10% of the land area of Kenya is deemed to be a good experience for Ethiopia to implement the environmental and climate change policies of Ethiopia's ten years development plan.

Uganda's national legislations were taken as a comparative experience because the researcher wanted to reflect the laws of African states who are party to the Paris Agreement and having a national legal framework facilitating planting of trees.

The justifications for the researcher to choose China's constitution and China's 2019 forest law is once in the history of China, the forest resources counted for 50% of the total land.<sup>57</sup> However during the formation of the Peoples Republic of China in 1949 the total forest cover in the country dropped to 8.9%.<sup>58</sup> Even though the 1998 Chinese forest law is criticized for excluding the principle of sustainable development,<sup>59</sup> the country's forest resource has increased since the 1990's because of large reforestation activities. And in 2015 the nationwide coverage of the country's forest increased to 22.2%.<sup>60</sup> The forest law of 2019 of China encourages citizens to participate in tree planting and Afforestation. China's INDC targeted to increase carbon sinks by increasing Afforestation, and encouraging voluntary tree planting by each and every citizen.<sup>61</sup> China is a country having a constitutional law and an ordinary law encouraging and obliging Afforestation and tree planting.<sup>62</sup>

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<sup>56</sup> See Kenya under its vision 2030 has set to achieve 10% forest cover by 2030. Similarly Ethiopia under its ten years development plan has set a policy to increase its nationwide forest coverage from the current 15.5% to 30% by 2030.

<sup>57</sup> Wang xi, 'Forest policy, law and public participation in China' p.204

<sup>58</sup> Id p.204

<sup>59</sup> Zhilin Mu, Shuchun Bu, Bing Xue, 'Environmental Legislation in China: Achievements, Challenges and Trends' (2014) 6 Sustainability 8967

<sup>60</sup> 'How China brought its forests back to life in a decade' (Rapid Transition Alliance, 2 December 2018) <<http://www.rapidtransition.org/stories/how-china-brought-its-forests-back-to-life-in-a-decade/>>

<sup>61</sup> Enhanced Actions on Climate Change: China's Intended Nationally Determined Contribution p. 10

<sup>62</sup> People's Republic of China's constitution of 1982 with amendments through 2018, Article 26; Forest Law of the People's Republic of China December 28, 2019 Articles 10 and 44

### **1.7 Significance of the study**

This research has significance in order to evaluate the relevance of Ethiopia's NDCs, CRGE strategy, the ten years development plan and specific legislations having relevance for the implementation of the Paris Agreement in Ethiopia. The research is important in order to examine the status and constraints of the implementation of the Paris Agreement in Ethiopia in light of the mitigation and adaptation activities under Ethiopia's first NDC and Ethiopia's international negotiations in the UNFCCC. The research will have significance to study the prospect for the Green legacy campaign to be translated in to law to combat climate change and enhance forest cover.

### **1.8 Scope of the study**

This research is limited to study the implementation of the Paris Agreement in Ethiopia in light of the CRGE strategy, the NDCs of Ethiopia and the ten years development plan. The research is also limited to review and give analysis on laws relevant to implement the Paris Agreement. Specifically the research limits itself to investigate prospects of the Green legacy to be transformed in to legal framework to combat climate change and implement the ten years development plan in light of comparative legal experiences.

### **1.9 Limitation of the study**

The limitation of the study is lack of literature on the implementation of the Paris Agreement in Ethiopia. The international COVID-19 pandemic was a major limitation throughout this research to access the campus internet service and to investigate empirical data in the relevant government institutions.

### **1.10 Organization of the thesis**

The rest of the paper is organized as follows. Chapter two explores in to the normative framework of the Paris Agreement. The chapter examines in to the core substantive elements of the Paris Agreement. The chapter assesses the differentiation between developing and developed countries under the Paris Agreement. The chapter will analyze the effectiveness of the Paris Agreement.

Chapter three reviews the NDCs of Ethiopia, CRGE strategy, and ten years development plan in order to study the implementation of the Paris Agreement and ramifications of such instruments for combating climate change and implementing the Paris Agreement. The chapter also reviews legislations such as the FDRE constitution, the ratification proclamation of the Paris

Agreement, the forest, development, conservation, and utilization proclamation and the draft regulation on forest, development, conservation and utilization. The chapter by giving an analysis on the current status and constraints of implementation of the Paris Agreement in Ethiopia provides way outs for the constraints. Chapter four studies about the prospect for transforming the Green legacy campaign in to law to combat climate change and enhance forest cover. The chapter gives an overview of forest conservation campaigns in Ethiopia throughout different regimes. Similarly the chapter will examine the international instruments, goals and national policies having implication for the Green legacy campaign. Similarly chapter four will investigate the comparative legal experiences of the Republic of Kenya, Uganda and Peoples Republic of China on the forestry sector. Finally the chapter will provide proposals for the Green legacy campaign to be transferred in to legislation. Chapter five gives conclusion and recommendations.

## CHAPTER TWO: THE NORMATIVE FRAMEWORK OF THE PARIS AGREEMENT

The Paris Agreement being adopted at COP 21 is an international climate change treaty related to the UNFCCC and aims to strengthen the global response to the threats of climate change.<sup>63</sup> The agreement was the result of negotiations that began in 2011 at COP 17 in Durban to adopt a legal instrument with legal force in 2015 and be implemented from 2020.<sup>64</sup> The agreement entered into force in November 4, 2016 after 55 parties of the UNFCCC accounting for at least 55 % of the total global GHG emissions have deposited their instruments of ratification.<sup>65</sup> The following sections of this chapter will explore in to: the core elements of the Paris Agreement; the treatment of developing and developed state parties under the Paris Agreement and the effectiveness of the Paris Agreement.

### 2.1 The core elements of the 2015 Paris climate change agreement

#### (I) Objectives

Article 2 of the Paris Agreement lays down the Paris Agreement's long term objectives. The agreement has an ambitious long term temperature goal, adaptation goal, and financial goal. The long term temperature goal sets to holding the increase in the global average temperature to well below 2 degrees Celsius above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5 degrees Celsius above pre-industrial levels.<sup>66</sup> The adaptation goal adds to increasing adaptation to the adverse effects of climate change and to promote climate resilience and low GHG emissions development.<sup>67</sup> The financial goal embraces making finance flows in conformity with low GHG emissions and climate-resilient development.<sup>68</sup> The Copenhagen Accord even though not a legally binding agreement endorsed that increase in global average

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<sup>63</sup>Paris Agreement, United Nations 2015 Article 2.1

<sup>64</sup>UNFCCC COP Report of the conference of the parties on its seventeenth session held in Durban from 28 November to December 2011 p.2 ; The Paris Agreement summary 28 December 2015 p. 1

<sup>65</sup>Paris Agreement, United Nations 2015 Article 21.1; 'Paris Agreement Status of Ratification', <<https://unfccc.int>>

<sup>66</sup>Paris Agreement, United Nations 2015 Article 2.1(a)

<sup>67</sup> Id. Article 2.1 (b)

<sup>68</sup>Id. Article 2.1 (c)

temperature should be well below 2 degrees Celsius.<sup>69</sup> However at Cop 16 in Cancun parties agreed to realize the global goal on the basis of scientific knowledge, including in relation to a global average temperature rise of 1.5 degree Celsius.<sup>70</sup>

## **(II) Mitigation**

In order to achieve the long term temperature goal of the Paris Agreement parties point towards achieving global peaking of GHG emissions as soon as possible to achieve a balance between emissions by sources and removals by sinks in 2050.<sup>71</sup>

Among the essential norms of the Paris Agreement is party's obligation to communicate and maintain successive NDCs that they intend to achieve in every five years.<sup>72</sup> NDCs are the national climate actions of nations (parties) with respect to their mitigation and adaptation efforts to combat climate change and to realize the universal objectives of the Paris Agreement. Accordingly the achievement of the purposes of the Paris Agreement depends on the efforts of state parties' willingness to implement their NDCs in line with the principle of CBDRRC, in the light of different national circumstances. The history of NDCs predates to COP 19 where parties to the UNFCCC were all invited to initiate domestic preparations for their INDCs consistent with the legal nature of the contributions in the context of endorsing an agreement in 2015.<sup>73</sup>

## **(III) Forests<sup>74</sup>**

Under the Paris Agreement, the obligation to protect and develop sinks of GHGs including forests is given a special recognition.<sup>75</sup> Article 5.2 of the Paris Agreement exclusively deals with

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<sup>69</sup>UNFCCC COP Report of the conference of the Parties on its fifteenth session, held in Copenhagen from 7 to 19 December, 2009

<sup>70</sup>UNFCCC COP Report of the conference of the Parties on its sixteenth session held in Cancun from 29 November to 10 December 2010 p.3

<sup>71</sup> Paris Agreement, United Nations Article 4.1

<sup>72</sup> Id. Article 4.2 and 4.9

<sup>73</sup> UNFCCC, COPs, Report of the Conference of the Parties on its nineteenth session, held in Warsaw from 11 to 23 November 2013

<sup>74</sup>Charlotte Streck, Paul Keenlyside, Mortiz Von Unger, 'The Paris Agreement: A new beginning' (2016) 13 JEEPL 3, 19

the role of forests and the implementation and support of the existing framework of the REDD+ mechanism under the UNFCCC. In order to reach global peaking by the second half of the twenty first century achieving a balance between anthropogenic emissions and removal by sinks is mandatory. Since forests do have a role in sequestering carbon from the atmosphere, it is vital that new climate regimes involve a provision for conservation of forests and the implementation of the REDD+.

#### **(IV) Cooperative approaches, Sustainable development mechanism, and non-market approaches**

Market mechanisms appeared for the first time in the Kyoto Protocol.<sup>76</sup> The purpose of market mechanisms under the protocol was to assist developing countries in achieving sustainable development and in contributing to the objective of the UNFCCC and to assist developed countries in achieving compliance with their commitments in the Kyoto protocol.<sup>77</sup> The Paris Agreement provides three voluntary cooperation methods in which parties can use to realize their NDCs for ambition in their mitigation and adaptation commitments and to promote sustainable development.<sup>78</sup> Among these methods “Cooperative approaches” under Article 6.2 is an internationally transferred mitigation outcome towards NDCs.<sup>79</sup> The use of internationally transferred mitigation outcomes shall be voluntary.<sup>80</sup> The second type of voluntary cooperation under the Paris Agreement is sustainable development mechanism under article 6.4. The sustainable development mechanism is established to contribute to the mitigation of GHG emissions and support sustainable development under the guidance of the Conference of the Parties serving as the Meeting of the Parties to the Paris Agreement (CMA).<sup>81</sup> It shall aim to promote the mitigation of GHG emissions; to encourage and facilitate participation in the mitigation of GHG emission by public and private bodies; to contribute to emission reduction in the host party which will take advantage from mitigation activities; and to deliver an overall

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<sup>75</sup>Paris Agreement, United Nations 2015, Article 5.1

<sup>76</sup>Daniel Bodansky, ‘The Paris Climate change Agreement: A new hope?’ (2016) 110 AJIL 288, 307

<sup>77</sup>Kyoto Protocol to the UNFCCC, UN, 1998 Article 12

<sup>78</sup>Paris Agreement United Nations Article 6.1

<sup>79</sup> ‘Cooperative action under Article 6’ <<https://www.carbom-mechanisms.de>>

<sup>80</sup>Paris Agreement, United Nations 2015, Article 6.3

<sup>81</sup>Id. Article 6.4



mitigation in international emissions.<sup>82</sup>The third voluntary cooperation mechanism approaches are combined and balanced non-market approaches available to parties in the implementation of their NDCs.<sup>83</sup>

## **(V) Adaptation**

Traditionally while mitigation was thought to have an international significance, adaptation was given a national recognition.<sup>84</sup> Though adaptation was for the first time institutionalized by the UNFCCC, the Paris Agreement established the global goal on adaptation and increasing resilience and reducing vulnerability to climate change.<sup>85</sup> The Paris Agreement provides that adaptation is a key element and makes a contribution to the long term international response to climate change to protect people, livelihoods and ecosystems.<sup>86</sup> The Paris Agreement confirmed that adaptation should follow gender-responsive, participatory and fully transparent approach.<sup>87</sup> Adaptation is very important issue in Small Island States where sea level rise is rampant and in Africa where desertification spreads to high extent.<sup>88</sup> The Paris Agreement prescribes that the current need for adaptation is significant and greater levels of mitigation can reduce adaptation efforts.<sup>89</sup>

## **(VI) Loss and damage**

In the negotiations of climate change, the debates between developing and developed countries do have a tense significance.<sup>90</sup> Formal discussions on loss and damage in the global climate

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<sup>82</sup>Id. Article 6(4)(a-d)

<sup>83</sup>Id. Article 6.8

<sup>84</sup>AsaPersson, 'Global adaptation governance: An emerging but contested domain' (2019) Wiley Interdisciplinary Reviews: Climate Change

<sup>85</sup> UNFCCC, United Nations 1992 article 4.1(e); Paris Agreement, United Nations 2015 article 7.1

<sup>86</sup>Paris Agreement, United Nations 2015 Article 7.2

<sup>87</sup>Id. Article 7.5

<sup>88</sup>VikromMathur, Aniruddh Mohan, 'Plus ca change, plus c'est la meme chose: Adaption in the Paris Agreement' (2016) 72 India Quarterly 330, 332

<sup>89</sup>Paris Agreement, United Nations 2015 Article 7.4

<sup>90</sup>Morten Broberg, 'Interpreting the UNFCCC's provisions on 'mitigation' and 'adaptation' in light of the Paris Agreement's provisions on 'loss and damage' (2020) 20 Climate Policy 527

change governance started during the negotiations steps of the UNFCCC in early 1990s.<sup>91</sup> At COP 16 parties to the UNFCCC decided to convene a forum with the objective of developing a work programme to address economic and social consequences of climate change.<sup>92</sup> The Warsaw international mechanism for loss and damage was established at COP 19 to address loss and damage related with impacts of climate change, including extreme events and slow onset events, in developing countries vulnerable to the adverse impacts of climate change.<sup>93</sup> The recognition of loss and damage under Article 8 of the Paris Agreement was a one step forward for countries exposed to the adverse effects of climate change like Small Island States and other developing countries'.<sup>94</sup> However paragraph 51 of the COP 21 decision underscores that the provision related to loss and damage in the Paris Agreement does not provide a basis for any liability or compensation.

## **(VII) Finance**

The provisions dealing with finance, technology development and transfer, and capacity building are called means of implementation for combating climate change under international climate change conventions.<sup>95</sup> At the Copenhagen Accord developed countries committed to mobilizing 100 billion United States Dollar (USD) by 2020 to address the needs of developing countries for mitigation actions.<sup>96</sup> Since the successful implementation of the NDCs in developing countries depends on climate finance, the Paris Agreement puts a clear obligation on developed countries to provide financial resources to assist developing countries with respect to both mitigation and

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<sup>91</sup> Morten Broberg and Beatriz Martinez Romera, 'Loss and Damage after Paris: more bark than bite' (2020) 20 Climate Policy 661

<sup>92</sup> UNFCCC COP Report of the conference of the Parties on its sixteenth session held in Cancun from 29 November to 10 December 2010 Paragraph 93

<sup>93</sup> UNFCCC COP, Report of the Conference Of the Parties on its nineteenth session held in Warsaw from 11 to 23 November 2013

<sup>94</sup> M.J. Mace, and Roda Verheyen, 'Loss, Damage and Responsibility after COP 21: All Options Open for the Paris Agreement' (2016) 25 RECIEL 197

<sup>95</sup> Annalisa Savaresi, 'The Paris Agreement: A new beginning' p.4

<sup>96</sup> UNFCCC COP Report of the conference of the Parties on its fifteenth session, held in Copenhagen from 7 to 19 December, 2009 paragraph 8

adaptation.<sup>97</sup> However other parties are encouraged to provide financial support voluntarily.<sup>98</sup> The goals of the Paris Agreement depend on finance flows consistent with low GHG emissions and climate-resilience.<sup>99</sup> As a result in COP 21 the parties decided that in the implementation of the agreement, financial resources provided to developing countries should enhance the implementation of their policies, and regulations, with respect to both mitigation and adaptation to contribute to the achievement of the objectives of the Paris Agreement.<sup>100</sup> The COP 21 decision provides in accordance with the Paris Agreement developed countries shall provide a numerical amount of financial support to mobilize USD 100 billion until 2025 as per their undertaking under the Copenhagen Accord.<sup>101</sup> Then after 2025, parties to the Agreement shall plan to provide financial support from the level of USD 100 billion per year considering the needs of developing country parties.<sup>102</sup>

### **(VIII) Technology development and transfer, and capacity building**

Article 4.5 of the UNFCCC provides that developed country parties and other developed parties shall take all practicable steps to promote and facilitate the transfer of, or access to, environmentally sound technologies and know how to other parties, particularly developing country parties, to enable them to implement the convention. At the Cancun Agreement in COP 16 parties emphasized the needs for effective mechanisms, appropriate enabling environments and the removal of obstacles to increase the development and transfer of technology to

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<sup>97</sup>Paris Agreement, United Nations 2015 Article 9.1; Charlotte Streck, Paul Keenly side, Mortiz Von Unger ‘The Paris Agreement: A new beginning’ (2016) 13 Journal For European Environmental and Planning Law 3, 19

<sup>98</sup> Paris Agreement, United Nations 2015 Article 9.2

<sup>99</sup> Id. article 2.1(c)

<sup>100</sup> UNFCCC COP: Report of the Conference of the Parties on its twenty first session, held in Paris from 30 November to 13 December 2015 paragraph 52

<sup>101</sup>Id. Paragraph 53; Daniel Bodansky, ‘The Paris Climate Change Agreement: A New Hope?’ (2016) 110 AJIL 288, 310

<sup>102</sup>UNFCCC COP: Report of the Conference of the Parties on its twenty first session, held in Paris from 30 November to 13 December 2015 paragraph 53; Daniel Bodansky, ‘The Paris Climate Change Agreement: A New Hope?’ (2016) 110 AJIL 288, 310

developing country parties.<sup>103</sup> The COP 16 also decided to establish a Technology Mechanism to facilitate mitigation and adaptation for the implementation of UNFCCC.<sup>104</sup>

The Paris Agreement in addition to the UNFCCC's dictates on promoting and transferring technology development from developed countries to the developing nations embodies party's vision on the importance of realizing technology development and transfer in order to improve resilience to climate change and to reduce emissions.<sup>105</sup> Speeding up and encouraging innovation is deemed critical under the agreement for long-term global response to climate change.<sup>106</sup> Financial support is to be provided for developing countries for the effective implementation of the provision dealing with technology development and transfer.<sup>107</sup>

Education, training and public awareness under article 6 of the UNFCCC was the foundation for latter initiatives on capacity-building under the COPs and subsequent agreements under the multilateral climate change regime.<sup>108</sup> The Kyoto Protocol under article 10(e) provides that all parties shall cooperate in and promote at the international level, and, for the development and implementation of training programs including the strengthening of national capacity building in particular. Capacity-building under the Paris Agreement should increase the ability of developing countries, especially, LDCs and Small Island Developing States(SIDS) to implement adaptation and mitigation.<sup>109</sup> Capacity-building is expected to be country-driven, responsive to national needs, and participatory.<sup>110</sup>

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<sup>103</sup>UNFCCC COP Report of the conference of the Parties on its sixteenth session held in Cancun from 29 November to 10 December 2010p. 18

<sup>104</sup>Id. Paragraphs 113 and 117

<sup>105</sup>Paris Agreement, United Nations 2015 Article 10.1

<sup>106</sup> Id. Article 10.5

<sup>107</sup> Id. Article 10.6

<sup>108</sup> 'Pocket Guide To Capacity Building 2018 edition', <<https://pubs.iied.org>> p. 7

<sup>109</sup> Paris Agreement, United Nations 2015 Article 11.1

<sup>110</sup> Id. Article 11.2

## **(XI) Transparency framework**

The Paris Agreement follows a flexible approach of regulation in climate change. While the bottom up approach of the agreement is manifested in the aspect of the NDCs; the top up approach is seen under the transparency framework, global stock take and the compliance mechanism.<sup>111</sup>The objective of the transparency framework is to provide a clear understanding of climate change action in the light of objective of the UNFCCC towards achieving parties NDCs.<sup>112</sup>The international climate governance is based on transparency which aims to set accountability for the actions of state parties.<sup>113</sup>Transparency makes it possible for the climate regime to develop trust and appreciate whether parties are achieving their commitments.<sup>114</sup>In order to build trust and to promote effective implementation, an enhanced transparency framework which takes in to account parties different capacities is established by the Paris Agreement.<sup>115</sup>As such each party is required to: provide information of a national inventory report of emissions and removals by sinks of GHGs and information necessary to follow progress made in achieving its NDCs.<sup>116</sup>

## **(IX) Global stocktaking and compliance**

The Paris Agreement is a multilateral environmental agreement based on ‘pledge and review’ system of compliance.<sup>117</sup>The global stock take is a compulsory review process which aims to investigate the collective progress towards achieving the purpose of the agreement.<sup>118</sup>The CMA shall undertake its first global stock take in 2023 and every five years.<sup>119</sup>The purpose of the global stock take will be to ensure the implementation of the long term goals of the Paris

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<sup>111</sup>Ralph Bodle, Lena Donat, Matthias Duwe, ‘The Paris Agreement: analysis, assessment and outlook’

<sup>112</sup> Paris Agreement, United Nations 2015 Article 13.5

<sup>113</sup> ‘A guide to transparency under the UNFCCC and the Paris Agreement’ <<http://pubs.iied.org>>

<sup>114</sup> Id.

<sup>115</sup> Paris Agreement, United Nations 2015 Article 13.1

<sup>116</sup> Id. Article 13.7 (a) and (b)

<sup>117</sup> Vegard Torstad, ‘Participation, Ambition, and compliance: Can the Paris Agreement solve the Effectiveness Trilemma?’ (2020) 29 Environmental Politics 761

<sup>118</sup> Paris Agreement, United Nations 2015 Article 14.1; Eri Ikeda, ‘Stock take for raising the climate ambition: Talanoa Dialogue for Global stock take’ <http://www.jstor.com/stable/resrep21809>

<sup>119</sup> Id. Article 14.2

Agreement as per the party's ambition in their NDCs. The decision accompanying the Paris Agreement decided to convene a facilitative dialogue among parties in 2018 to take stock of the efforts of parties in relation to progress towards realizing global peaking of GHG emissions.<sup>120</sup>

The compliance mechanism committee of the Paris Agreement is based on expert-based and it is organized to function in a manner that is transparent, and non-adversarial.<sup>121</sup>

## **2.2 The Paris Agreement and differentiation between developing and developed countries**

The topic of development and differentiation in international environmental law was a central issue starting from the Rio Declaration on Environment and Development.<sup>122</sup> Principle 7 of the Rio Declaration provides states have the common but differentiated responsibility in view of their societies place on environmental degradation. The principle of common but differentiated responsibilities is included in the UNFCCC, the succeeding negotiations on the COP and in the Paris Agreement. The UNFCCC obligates the parties to protect the climate system on the basis of equity and in accordance with the principle of CBDRRC.<sup>123</sup> Accordingly the developed country parties are compelled to take the lead in combating climate change and the adverse effects thereof.<sup>124</sup> The UNFCCC classified parties in to Annex I (developed countries) and non-Annex I (developing) countries to achieve the ultimate objective of the convention. This division was because of the largest share of historical and a current global emission of GHGs was originated in developed countries.<sup>125</sup> The Kyoto Protocol clearly followed rigid differentiation between developing and developed countries in that, it obliged the latter to ensure that their aggregate anthropogenic emissions of the GHGs listed in Annex I of the protocol does not exceed their assigned amounts in the commitment period of 2008-2012 although no developing

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<sup>120</sup>UNFCCC COP: Report of the Conference of the Parties on its twenty first session, held in Paris from 30 November to 13 December 2015 p.4

<sup>121</sup>Paris Agreement, United Nations Article 15.2

<sup>122</sup>Harald Winkler, Lavanya Rajamani 'CBDR&RC in a regime applicable to all' (2013) 14 Climate Policy 102

<sup>123</sup>United Nations Framework Convention on Climate Change, United Nations 1992, Article 3.1

<sup>124</sup> Id.

<sup>125</sup> Id. preamble paragraph 3

country had obligation under the protocol.<sup>126</sup> However, the strict division between countries did not manifest the growth in economy and emissions in nations since the adoption of the UNFCCC.<sup>127</sup>

The Paris Agreement did not refer to the strict differentiation between Annex I and non-Annex I countries that exists in the UNFCCC and the Kyoto Protocol. The agreement did not define developing and developed countries making sure that every party determines its status.<sup>128</sup> Rather it initiated a new regime of climate change where every party to the agreement will commit for reducing emissions of GHGs under its NDC. The agreement established a new process where by states' effort will be measured by the principle of CBDRRC, equity and their national circumstances. Thus the notion of climate justice was given a peculiar position in the efforts to combat climate change under the Paris Agreement.<sup>129</sup>

The Paris Agreement clearly stipulated the need to support developing countries for its effective implementation.<sup>130</sup> The fair and equitable sharing of burdens in light of different national circumstances was among one of the reasons for successful adoption of the Paris Agreement.

Each Party has an obligation to prepare and submit successive NDCs.<sup>131</sup> Under the Paris Agreement, it is well recognized that the global peaking of GHGs is to take longer for developing countries in order to achieve the long term temperature goal.<sup>132</sup> Developed countries should continue taking the lead by undertaking economy-wide absolute emission reduction targets while developing country parties should continue enhancing their mitigation efforts across

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<sup>126</sup> Kyoto Protocol to the United Nations Framework Convention on Climate Change, 1998 article 3.1; Pieter Pauw, Kennedy Mbeva, Harro Van Asselt 'Subtle differentiation of countries responsibilities under the Paris Agreement' p.2

<sup>127</sup> Pieter Pauw, Kennedy Mbeva, Harro Van Asselt 'Subtle differentiation of countries responsibilities' under the Paris Agreement' 5 Palgrave Communications 2

<sup>128</sup> The Paris Agreement : putting the first universal climate change treaty in context' [www.bakermckenzie.com/-/media/files/insight/publications/2016/01/the-paris-agreement/ar-global-climate-change-treaty-apr16.pdf?la=en](http://www.bakermckenzie.com/-/media/files/insight/publications/2016/01/the-paris-agreement/ar-global-climate-change-treaty-apr16.pdf?la=en)

<sup>129</sup> The Paris Agreement, United Nations preamble paragraph 13

<sup>130</sup> Id. Article 3

<sup>131</sup> Id. Article 4.2

<sup>132</sup> Id. Article 4.1

all the sectors of their economy.<sup>133</sup>The key achievement for developing countries is the Paris Agreement's recognition of the specific needs and special circumstances of developing country parties.<sup>134</sup> The specific needs and special situations of LDCs with regard to funding and transfer of technology also did get recognition in the preamble of the Paris Agreement as the UNFCCC did in its operative provision.<sup>135</sup> However it was only the COP 21 decision accompanying the Paris Agreement that mentioned Africa on the specific issue of recognition of the need to promote universal access to sustainable energy in developing countries, in particular in Africa.<sup>136</sup>

The cross-reference of sustainable development and eradicating poverty in Article 2.1 of the Paris Agreement is an ambitious objective from the perspective of developing countries since it has priority in their national development agenda. Article 4.5 of the Paris Agreement provides that support shall be provided to developing country parties for the implementation of the provision dealing with mitigation recognizing that support will allow for higher ambition in their actions. The urgent needs of developing country parties, especially those that are vulnerable with regard to adaptation are given recognition. The adaptation efforts of developing countries have to be recognized with the guidance of the CMA.<sup>137</sup>The issue of loss and damage is significant for developing countries since irrespective of mitigation and adaptation efforts, climate change may cause adverse effects.

Climate finance under the Paris Agreement is recommended to take account of the priorities of developing states.<sup>138</sup>Developed countries do have the obligation to mobilize financial resources and to take the lead in assisting developing countries.<sup>139</sup>Support is to be provided to developing country parties for the implementation of the provision dealing with technology development and

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<sup>133</sup>Id. Article 4.4

<sup>134</sup> Id. preamble paragraph 5

<sup>135</sup> Id. preamble paragraph 6; United Nations Framework Convention on Climate Change, United Nations 1992, Article 4.9

<sup>136</sup>United Nation Framework Convention on Climate Change: Conference of the Parties, Report of the Conference of the Parties on its twenty-first session, held in Paris from 30 November to 13 December 2015

<sup>137</sup>The Paris Agreement, United Nations 2015 Article 7.3; Ralph Bodle, Lena Donat, Matthias Duwe, 'The Paris Agreement: analysis, assessment and outlook' p. 25

<sup>138</sup>The Paris Agreement, United Nations 2015, Article 9.3

<sup>139</sup> Id. Article 9.1



transfer.<sup>140</sup>Capacity-building under the Paris Agreement should enhance the capacity and ability of developing country parties to implement adaptation and mitigation actions and to facilitate technology development, and access to climate finance.<sup>141</sup>

### 2.3 The effectiveness of the Paris Agreement

The Paris Agreement is effective by gaining broad participation by states around the world.<sup>142</sup> 196 states have adopted the Paris Agreement at Cop 21. The critical question about the effectiveness of the Paris Agreement arises in light of higher ambitions and compliance.<sup>143</sup>As a rule parties are to undertake ambitious efforts in their NDCs in light of the obligations provided for mitigation, adaptation, means of implementation and the transparency framework.<sup>144</sup>However the decisions at COP 21 clearly specified that the INDCs submitted by the time of the adoption of the Paris Agreement do not fall within least 2 degrees Celsius.<sup>145</sup> So the COP noted that much greater emission reductions efforts will be required than those associated with the INDCs in order to hold the increase in the global average temperature to well below 2 degrees Celsius above pre-industrial levels.<sup>146</sup>

To be effective each party's successive NDCs shall represent a progression beyond the party's then current NDCs and reflect its highest possible ambition.<sup>147</sup>State Parties need to transform their NDCs in to effective policies and legislation in order to implement the Paris

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<sup>140</sup> Id. Article 10.6

<sup>141</sup> Id. Article 11.1

<sup>142</sup> Vegard Torstad, 'Participation, Ambition, and compliance: Can the Paris Agreement solve the Effectiveness Trilemma?' (2020) 29 Environmental Politics 761

<sup>143</sup> Id.

<sup>144</sup> The Paris Agreement, United Nations 2015 Article 3

<sup>145</sup> UNFCCC: COP, Report of the Conference of the Parties on its twenty-first session, held in Paris from 30 November to 13 December 2015 paragraph 17

<sup>146</sup> Id.

<sup>147</sup> Paris Agreement United Nations 2015 Article 4.3

Agreement.<sup>148</sup> Each party to the Paris Agreement, be it LDCs, developing and developed need to reinforce their commitments in line with their NDCs.

The global nature of climate change calls for the widest possible cooperation by all countries and their participation in an effective and appropriate manner in accordance with the principle of CBDRRC and their social and economic conditions.<sup>149</sup> Both developed and developing countries need to address their developmental activities in line with the principle of sustainable development as provided under the Paris Agreement and the 2030 Agenda for sustainable development. As provided under principle 4 of the Rio Declaration “environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it.” The 2018 Intergovernmental Panel on Climate Change (IPCC) special report on global warming indicated that “1.5 degree Celsius consistent pathways are characterized by a rapid phase out of carbon dioxide emissions and deep emission reductions in other GHGs and climate forcers.”<sup>150</sup> Thus parties’ to the Paris Agreement need to adopt ambitious NDCs and try to implement such NDCs to realize the long term temperature goals of the Paris Agreement.

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<sup>148</sup>Nachmany M and Mangon E ‘Where are we going Aligning national and international climate targets’ Grantham Research Institute on Climate change and the Environment, Policy brief p.1

<sup>149</sup>United Nations Framework Convention on Climate Change, United Nations 1992, preamble paragraph 6

<sup>150</sup> IPCC, 2018: Global warming of 1.5 degree Celsius. An IPCC special report on the impacts of global warming of 1.5 degree Celsius above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, Sustainable development and efforts to eradicate poverty, pp.112

## **CHAPTER THREE: THE PARIS AGREEMENT AND COMBATING CLIMATE CHANGE IN ETHIOPIA: STATUS AND CONSTRAINTS**

Ethiopia is an LDC vulnerable to the impacts of climate change. Vulnerability to climate change in the country results from poverty, low adaptive capacity, and dependence on rain fed agriculture and natural resources, poor infrastructure and so forth.<sup>151</sup> Ethiopia is a party to the Paris Agreement, the Kyoto Protocol, the Doha amendment to the Kyoto Protocol and the UNFCCC.<sup>152</sup> Even though the implementation period of the Paris Agreement starts in 2020, Ethiopia had launched ambitious CRGE strategy in 2011 long before the Paris Agreement.<sup>153</sup> In line with invitation for parties to the UNFCCC in COP 19 to submit their INDCs, Ethiopia submitted its INDC in 10<sup>th</sup> June 2015.<sup>154</sup> The government of Ethiopia has also submitted its updated NDC as required per article 4.9 of the Paris Agreement.<sup>155</sup> Currently the FDRE has launched ten years development plan, which integrated climate resilient green economy strategy as a strategic pillar.<sup>156</sup> The following sections will embark on reviewing Ethiopia's NDCs, policies and laws; analyzing in to the current status and constraints of Ethiopia's implementation of the Paris Agreement and providing way outs for the constraints in the implementation of the Paris Agreement.

### **3.1 Ethiopia's Nationally Determined Contributions and the implementation of the Paris Agreement**

#### **3.1.1 Ethiopia's first Nationally Determined Contribution and its implementation**

Ethiopia's first NDC is anchored on the CRGE strategy of Ethiopia.<sup>157</sup> The NDC intends to mitigate emissions in 2030 to 145 MtCO<sub>2</sub>e or lower.<sup>158</sup> The sectors included on the first NDC of

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<sup>151</sup>Climate Change National Adaptation Programme of Action (NAPA) of Ethiopia, June 2007

<sup>152</sup>Interview with Mr. Wondwossen Tadesse, Environmental law expert in policy, law and standard office in the Environment Forest and Climate Change Commission

<sup>153</sup>Interviews with Mr. Wondwossen Tadesse and Mr. Mensur Desse, Environmental agreements coordination directorate director in the Environment Forest and Climate Change commission

<sup>154</sup>Summary of Ethiopia's updated NDC P.1

<sup>155</sup>Summary of Ethiopia's updated Nationally Determined Contribution

<sup>156</sup>Ten Years Development Plan: A Pathway to Prosperity (2021-2030) p. 6

<sup>157</sup>Intended Nationally Determined Contribution of Ethiopia p.3

Ethiopia are: agriculture, forestry, electric power, industry, and buildings.<sup>159</sup> The mitigation objectives of the NDC are contained on four pillars: agriculture; forests; hydroelectric power; and a rapid change to modern and efficient technologies in transport, industry and building sectors.<sup>160</sup> The first NDC indicates that in the long term the country has set a target of becoming carbon neutral middle-income economy.<sup>161</sup> This vision goes in tandem with the obligation of states under the Paris Agreement to reach global peaking of GHGs by 2050 and the obligation of developing countries to continue increasing mitigation efforts and to move to economy-wide reduction of emissions in the light of their national circumstances.<sup>162</sup>

Ethiopia's long-term adaptation goal under the NDC is that climate change adaptation objectives are mainstreamed to national development plans.<sup>163</sup> Efforts on combating change in Ethiopia will have to include the elderly, persons with disabilities and refugees.<sup>164</sup> It is provided that Ethiopia is willing to engage in carbon markets to realize the green economy strategy.<sup>165</sup> If Ethiopia's first NDC is fully implemented, it would reduce percapita emissions to 1.1 tons of carbon dioxide equivalents (tCO<sub>2</sub>e).<sup>166</sup> Given Ethiopia's highest emission under the NDC come from the agriculture and forestry, Ethiopia plans to extend its ambition by increasing forest cover by undertaking AR beyond 7 million hectares.<sup>167</sup> The full implementation of Ethiopia's first NDC demands support on means of implementation.<sup>168</sup> The Climate Action Tracker considers Ethiopia's first NDC to be fit with the 2 degrees Celsius goal of the Paris Agreement.<sup>169</sup>

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<sup>158</sup> Id p.1

<sup>159</sup> Id p.2

<sup>160</sup> Id. p. 2

<sup>161</sup> Id. p. 1

<sup>162</sup> Paris Agreement, United Nations 2015 Articles 4.1 and 4.4

<sup>163</sup> Intended Nationally Determined Contribution of Ethiopia p.4

<sup>164</sup> Id. P.4

<sup>165</sup> Id.p. 4

<sup>166</sup> Id. p. 7

<sup>167</sup> Id. p.8

<sup>168</sup> Id. p.9

<sup>169</sup> Climate Action Tracker, 6<sup>th</sup> November 2017

### **3.1.2 Ethiopia's updated Nationally Determined Contribution and its implementation**

Under its updated NDC, Ethiopia intends to reduce GHG emissions by 220.59 MtCO<sub>2e</sub>.<sup>170</sup> The predicted amount of the costs of mitigation and adaptation is USD 294,724,780,000 in which the government is dedicated to finance about 20% while 80% will be conditional.<sup>171</sup> Taking into account the obligation of Parties' under the Paris Agreement to communicate an NDC representing a progression beyond the first NDC, the updated NDC of FDRE is ambitious due to: improvements in methodology consistent with IPCC 2006 guidelines; strongly built emissions measurements consistent with the ten years development plan and Ethiopia's low emission pathways development strategy 2050; clear difference between conditional and unconditional contribution; willingness to increase ambition during the implementation of the first NDC by enhancing Ethiopia's emission reduction outside the framework of the Paris Agreement; an increased potential in realization of mitigation commitments with improved Measuring, Reporting and Verification (MRV) techniques.<sup>172</sup> Under the updated NDC, emissions coming from livestock and energy are considered as the significant drivers of all emissions accounting for 91.4% of the whole BAU trajectory in 2030.<sup>173</sup>

## **3.2 Implementing the Paris Agreement under national policies**

### **3.2.1 The Climate Resilient Green Economy Strategy**

The CRGE is Ethiopia's strategy for climate change mitigation and adaptation objectives launched in 2011. The strategy has a vision of realizing a carbon-neutral middle-income status before 2025.<sup>174</sup> The significance of the CRGE for Ethiopia's commitment under the Paris Agreement is that, the country's first NDC is anchored on the ambitious pillars and targets of the CRGE.<sup>175</sup> Since the CRGE was launched prior to the adoption of Ethiopia's INDC and the Paris Agreement, the strategy can be considered as an enabling policy which led to the adoption of the INDC.<sup>176</sup> This makes Ethiopia an African country which has framed a robust policy framework

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<sup>170</sup> Summary of Ethiopia's updated Nationally Determined Contribution p. 1

<sup>171</sup> Id. p. 2

<sup>172</sup> Id. p.3-4

<sup>173</sup> Id. p. 5

<sup>174</sup> FDRE, The path to sustainable development: Ethiopia's CRGE strategy

<sup>175</sup> Intended Nationally Determined Contribution of the Federal Democratic Republic of Ethiopia p.3

<sup>176</sup> Interview with Mr. Wondwossen Tadesse

for climate change prior to the adoption of the Paris Agreement.<sup>177</sup>The CRGE is compatible with the precautionary principle of the UNFCCC since it upholds that lack of certainty i.e. scientific, should not be used as a reason for postponing mitigation measures.<sup>178</sup>

The major challenge for the CRGE was the problem of realizing economic growth in line with the principle of sustainable development.<sup>179</sup>As a result even though it is difficult to predict the impacts of climate change such as droughts and floods, this uncertainty should not lag the actions on environmental problems.<sup>180</sup> The way out that the strategy provides for achieving economic growth in line with protecting the environment is to avoid BAU development model.<sup>181</sup> If Ethiopia were to depend on the BAU development trajectory, emissions would reach to more than 400 MtCO<sub>2</sub>e in 2030.<sup>182</sup>The underpinning goal of the CRGE is to achieve economic development and enhance the adaptive capacities of the nation to climate change and further resilience and lower emissions.<sup>183</sup>

With regard to adaptation the strategy has identified sectors vulnerable to the impacts of climate change as: agriculture, water and energy, buildings and transport.<sup>184</sup> The strategy states that the country is conducting Afforestation initiatives to enhance its adaptation efforts.<sup>185</sup>The Green economy strategy will have positive results on economic growth and to the international mitigation efforts.<sup>186</sup>

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<sup>177</sup>Simon Chin-Yee, 'Africa and the Paris climate change Agreement' (2016) 115 African Affairs 359, 361

<sup>178</sup>UNFCCC, 1992 Article 3.3

<sup>179</sup>FDRE, The path to sustainable development: Ethiopia's Climate Resilient Green Economy strategy p.6

<sup>180</sup> Id. P.7

<sup>181</sup> Id. P.7

<sup>182</sup> Id.P.7

<sup>183</sup> Paris Agreement, United Nations 2015 Article 2.1(b)

<sup>184</sup>FDRE, The path to sustainable development: Ethiopia's Climate Resilient Green Economy strategy p.8

<sup>185</sup> Id. p. 8

<sup>186</sup> Id. p.10

### 3.2.2 The ten years development plan (2020/21-2029/30) and its ramifications on climate change and the Paris Agreement

Among the strategic pillars of the ten years development plan building a climate resilient green economy is the essential one.<sup>187</sup> The policy has goals of: strengthening environmental and climate change diplomacy and negotiations so that technological, financial, and capacity building supports are realized; making sure that CRGE strategy is implemented and aligned in to the country's national plans; reducing emissions released across sectors; and strengthening the protection of forests and biodiversity protection.<sup>188</sup>

In order to achieve the goals of the plan, with respect to climate change; the policy has a specific target of reducing emissions of GHGs from the current 92.7 million MtCO<sub>2</sub>e to 162.3 million MtCO<sub>2</sub>e in 2030.<sup>189</sup> With regard to enhancing the national forest cover, the policy aims to increase the current 15.5% forest cover into 30% by 2030.<sup>190</sup>

Goals and targets of the ten years national plan are significant to climate change since they are built on the ambition of building a climate resilient green economy. Aligning the CRGE strategy in to the ten years plan is significant since the CRGE has an ambitious goal of achieving carbon neutral middle income economy before 2025. The long term emission reduction goal of the ten years development plan is evidence that Ethiopia is still committed to realize its commitment under the Paris Agreement and under its two successive NDCs submitted in 2015 and 2020. The high level commitment at the policy level to reduce GHG emissions makes Ethiopia a country to plan overall economic growth in line with sustainable development. The plan to double the present forest cover from 15.5% to 30%, if implemented properly, manifests the political commitment the government is taking on combating environmental degradation, climate change, deforestation and desertification.<sup>191</sup> According to the updated NDC of Ethiopia, 80% of the country's mitigation and adaptation interventions are conditional.<sup>192</sup> Being LDC

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<sup>187</sup> Ten Years development plan: A pathway to prosperity (2021-2030) p.21

<sup>188</sup> The Amharic version of the ten years development plan p.166

<sup>189</sup> Id .p.166

<sup>190</sup> Id. P. 166

<sup>191</sup> Ten Years development plan: A pathway to prosperity (2021-2030) p.73

<sup>192</sup> Summary of Ethiopia's updated Nationally Determined Contribution (NDC) p.2

vulnerable to the impacts of climate change, Ethiopia needs the support of high income countries with regard to finance, technology transfer and capacity building to combat climate change and implement its NDCs. Thus the ten years development plan has an impact on Ethiopia's effort to combat climate change by aiming to build a national climate negotiations and diplomacy which could strengthen the green economy strategy.<sup>193</sup> This in turn will have a positive outcome on the overall mitigation and adaptation objectives of the country and on its international commitment on combating climate change.

The ten years development plan of Ethiopia provides that Ethiopia will follow commitments made at international stages in areas of development.<sup>194</sup> Such global commitments include Ethiopia's pledge under the UN Agenda for sustainable development of 2030.<sup>195</sup> The ten years development plan is properly linked with the SDGs.<sup>196</sup>

### **3.3 Legislative implementation of the Paris Agreement in Ethiopia**

#### **3.3.1 The Federal Democratic Republic of Ethiopia's constitution**

Ethiopia has given recognition for substantive and procedural rights having implication for the environment and climate change. Under the 1995 FDRE constitution such rights are: the right to clean and healthy environment; the right to commensurate monetary or alternative means of implementation of all persons who have been displaced or whose livelihoods have been adversely affected; and the right to full consultation of peoples in the planning and implementation of environmental policies and projects that affect them directly.<sup>197</sup> The constitution provides that the peoples of Ethiopia have the right to improved living standards and to sustainable development.<sup>198</sup> All international agreements concluded by the state are expected to ensure Ethiopia's right to sustainable development.<sup>199</sup> Similarly the constitution provides that all persons

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<sup>193</sup>The Amharic version of the ten years development plan p. 166

<sup>194</sup>Ten Years development plan: A pathway to prosperity (2021-2030) p.22

<sup>195</sup> Id. P. 22

<sup>196</sup> Id. P. 22

<sup>197</sup> Articles 44, 92(3) of the constitution of the Federal Democratic Republic of Ethiopia; Girmachew AlemuAneme, 'The policy and legislative framework of environmental rights in Ethiopia' (2012) 4 Ethiopian Human rights Law Series 2

<sup>198</sup> Id. Article 43(1)

<sup>199</sup> Id. Article 43(3)



have the right to a clean and healthy environment.<sup>200</sup> Such fundamental rights and freedoms have to be interpreted in conformity with international instruments adopted by Ethiopia.<sup>201</sup> As provided under the Paris Agreement engagements of all levels of government actors with national legislations is a sine qua non in order to combat climate change.<sup>202</sup> States should enact effective national legislations to address climate change in addition to the five year cycles of communicating NDCs that parties have pledged by ratifying the Paris Agreement.<sup>203</sup> Such obligation of states' under the Paris Agreement for Ethiopia presupposes the enactment of laws which enable the implementation of NDCs and environmental policies within the framework of the right to clean and healthy environment. The constitution by incorporating the right to bring a justiciable matter to a court of law and other competent body- is an existing legal document presupposing the adjudication of environmental rights by competent organs. Legally speaking Ethiopia being a party to the international Paris climate change agreement which gives effect to the principles of combating climate change in the context of sustainable development and eradicating poverty is a nation being led by the constitutional principles of sustainable development for all peoples living in Ethiopia. When the right to clean and healthy environment of all persons is interpreted in light of climate change agreements such as the Paris Agreement, it means that government does have the obligation to lead the battle against climate change in Ethiopia by reducing emissions from all sectors and by mobilizing stake holders such as the agriculturalists; the private sector; women; elderly; and the disabled.

### **3.3.2 The ratification proclamation of the Paris Agreement (proclamation 993/2017)**

The Paris Agreement being signed by Ethiopia on 22 April 2016 was incorporated in to the domestic legal sphere by the federal parliament in 2017.<sup>204</sup> By domesticating the Paris Agreement, Ethiopia has shown its commitment to the international community its well established efforts on combating climate change. Proclamation 993/2017 has empowered the Ministry of Environment, Forest and Climate Change to implement the agreement in

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<sup>200</sup> Id. Article 44(1)

<sup>201</sup> Id. Article 13(2)

<sup>202</sup> Paris Agreement, United Nations 2015 preamble paragraph 15

<sup>203</sup> United Nations Framework Convention on Climate Change, 1992 Preamble paragraph ten; Rio Declaration on Environment and Development principle 11

<sup>204</sup> Proclamation 993/2017, Paris Agreement ratification proclamation

collaboration with the federal and regional government organs, city administrations and, global, national and domestic institutions.<sup>205</sup> The rights and obligations of the Ministry of Environment, Forest and Climate Change are transferred to EFCCC as per proclamation 1097/2018.<sup>206</sup> EFCCC has the mandate to engage in the negotiations of climate change conventions and agreements and it plays a crucial role in coordinating the nationwide responses to the conventions.<sup>207</sup> It is also mandated with the power to initiate and formulate policies, guidelines and strategies to implement international environmental agreements which Ethiopia is a party.<sup>208</sup> Concurrently the commission organizes activities to ensure that the environmental objectives under the constitution and the guiding principles of the environmental policy are achieved.<sup>209</sup> It facilitates actions to obtain resources required for building a CRGE in every sector and state administrations.<sup>210</sup>

### **3.3.3 Forest development, conservation and utilization proclamation (proclamation 1065/2018) and the draft regulation on the forest development, conservation and utilization**

The forest sector plays a significant role in addressing the negative impacts of climate change.<sup>211</sup> The forest development, conservation and utilization proclamation is promulgated with the intention of regulating: forest ownership; the rights and incentives of the right holders; obligations and liabilities attached to the ownership; techniques of forest development, conservation and utilization such as registration of identifying and registering state forests and demarcating a forest for carbon trade; and the powers and duties of federal and regional executive organs on the implementation of the proclamation.<sup>212</sup> A forest carbon-trade or sales as

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<sup>205</sup> Id. Article 3

<sup>206</sup> Proclamation 1097/2018 : Definition of powers and duties of the executive organs of the Federal Democratic Republic of Ethiopia, Article 36(17)

<sup>207</sup> Proclamation 1097/2018 Definition of powers and duties of executive organs of the FDRE proclamation Article 32(3) (g)

<sup>208</sup> Id. Article 32(3)(h)

<sup>209</sup> Id. Article 32(3)(a)

<sup>210</sup> Id. Article 32(3)(d)

<sup>211</sup> Proclamation 1065/2018, Forest development Conservation and utilization proclamation

<sup>212</sup> Id. Articles 4, 5-14, 19, 16 and 17 of proclamation 1065/2018

defined in the proclamation is “a carbon market system in which payment made for carbon emission reduction by reducing deforestation and forest degradation or carbon stored by increasing forest coverage.”<sup>213</sup>The proclamation stipulates that private and association forest owners shall benefit from carbon-sales.<sup>214</sup> Additionally, the management of productive or protected state forest shall be in such a manner to generate revenue from carbon trade.<sup>215</sup>

Conserving and enhancing forests is an obligation of states under the Paris Agreement.<sup>216</sup> Under its NDCs, Ethiopia intended of selling carbon-credits towards achieving its green economy strategy.<sup>217</sup> The proclamation is a step forward in implementing the Paris Agreement.<sup>218</sup> This is true especially, from the perspective of forest carbon-trade.<sup>219</sup> Given that the carbon trading mechanism provided under Article 6 of the Paris Agreement incentivizes and facilitates participation in the mitigation of GHG emissions by public and private bodies’, the proclamation by allowing private and association forest owners to engage in carbon sales is a law which enables and facilitates the implementation of Ethiopia’s climate change actions under its first and updated NDCs.<sup>220</sup> To implement the proclamation, especially, on the issues of Carbon trading, an implementation regulation is to be adopted.<sup>221</sup> Such draft regulation on the forest development, conservation and utilization among other things is intended to regulate forest carbon right and benefit sharing from emission reduction rights transfer.<sup>222</sup> Within this framework the draft regulation defines: the nature of carbon right; the scope of carbon right transfer; carbon units’ registry contents; carbon trade registry; the signatory of carbon right transfer agreement; establishment of carbon right programme governing body.<sup>223</sup> Under the draft regulation Carbon

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<sup>213</sup> Id. Article 2/24

<sup>214</sup> Id. Articles 5/1/f and 9/1/a

<sup>215</sup> Id. Article 15(3)

<sup>216</sup> Paris Agreement, United Nations 2015 Article 5.1

<sup>217</sup> FDRE Intended Nationally Determined Contribution p. 4

<sup>218</sup> Interview with Mr. Wondwossen Tadesse

<sup>219</sup> Id

<sup>220</sup> Id

<sup>221</sup> Id

<sup>222</sup> Council of Ministers draft regulation on the forest development, conservation and utilization, Articles 5-18

<sup>223</sup> Id. Articles 5-12

right may not be considered as ordinary property rather it shall be considered as natural asset of ecosystem services.<sup>224</sup> Article 16 of the draft regulation provides that emission reduction right transfer shall not affect Ethiopia's commitment under the UNFCCC.

### 3.4 Analysis of the status and constraints of the implementation of the Paris Agreement in Ethiopia

Even though the implementation period of the Paris Agreement begins in post-2020, Ethiopia is a pioneering country to launch a comprehensive climate change policy i.e., CRGE strategy in 2011 before the adoption of the Paris Agreement.<sup>225</sup> The CRGE puts forward an ambitious target of reducing GHG emission by 60% as compared to the BAU emissions pathway.<sup>226</sup> Since parties were invited to communicate their INDCs on the road to the Paris negotiations, Ethiopia has submitted its INDC in 2015. To achieve the long term temperature goal of the Paris Agreement and to realize carbon-free world by 2050, climate policies should be aligned in to national development plans.<sup>227</sup> The CRGE was fully integrated in to the second Growth and transformation plan (GTP II). Currently the ten years development plan endeavors to mainstream the CRGE strategy in to national plans. Ethiopia's INDC later changed in to the first NDC of Ethiopia is built on the CRGE strategy.

Improving crop and livestock production for food insecurity and increasing farmer income is the first mitigation pillar of Ethiopia's first NDC.<sup>228</sup> With respect to this specific pillar massive sustainable land and natural resource management actions and the productive safety net program are productive social policy to conserve the environment and protect poor people.<sup>229</sup> By advocating for production and productivity of agriculture i.e. crop production and live stock; and at the same time by advocating for reduction of emissions from such products the CRGE and

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<sup>224</sup>Id. Article 5

<sup>225</sup>Interview with Mr. Mensur Desse

<sup>226</sup>Interview with Mr. Mensur Desse; FDRE, The path to sustainable development: Ethiopia's CRGE strategy p.10

<sup>227</sup>Interview with Mr. Mensur Desse

<sup>228</sup>Intended Nationally Determined Contribution of the Federal Democratic Republic of Ethiopia p. 2

<sup>229</sup>Logan Cochrane, Y. Tamiru, 'Ethiopia's productive safety net program: Power, politics, and practice' (2016) 28 journal of international Development 649; Intended Nationally Determined Contribution of the Federal Democratic Republic of Ethiopia p. 5

the first NDC of Ethiopia depart from the old fashion of increasing agricultural yields at the expense of forests. Since the livestock sector did account for the high amount of emissions under the NDCs Of Ethiopia, instead of counting animal heads, increasing quality, and improving fodder and breed is regarded a pillar for the implementation of the NDCs.

Since the second pillar of Ethiopia's first NDC is founded on the forest sector,<sup>230</sup> developing and protecting forests' in the nation does have an important contribution to the economy and to the environment by sequestering carbon. AR initiatives such as the Green legacy can positively address climate change. For the last two years nine billion trees were planted under the Green legacy campaign. The government has plans to plant 6 billion trees across the country in the rainy seasons of 2013 E.C.<sup>231</sup> The forestry sector will increase the adaptive capabilities of communities since the sector is an alternative source of income.

The third pillar of the mitigation objective of Ethiopia's first NDC being expansion of electric power from renewable energy, the country is expanding hydroelectric, wind, and solar energy at the national level. Similarly Ethiopia is building the Grand Ethiopian Renaissance Dam a 6,450 mega watt hydroelectric power project nearing completion in the Blue Nile River.<sup>232</sup> Ethiopia is also committed to exporting electric power to neighboring countries. Under the fourth mitigation pillar of Ethiopia's first NDC i.e., leapfrogging to modern and efficient technologies, in 2015 Ethiopia has launched the Addis Ababa first light rail which avoided pollution by working by electric grid.<sup>233</sup>

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<sup>230</sup>Intended Nationally Determined Contribution of the Federal Democratic Republic of Ethiopia p.2

<sup>231</sup>Countries joining Ethiopia's Green legacy initiative to receive Billion Tree saplings' (ENA, 1 April 2021)

[www.ena.et](http://www.ena.et)

<sup>232</sup>'Ethiopia-Grand Ethiopian Renaissance Dam (GERD)' <[www.hyrdopower.org](http://www.hyrdopower.org)>

<sup>233</sup>Adanie Obsie, Mintesnot Woldeamanuel, Birhanu Woldetensae, 'Service quality of Addis Ababa Light Rail Transit: Passengers', views and perspectives' 2020; 'Addis Ababa Light Rail Transit entered traction works' (horn affairs, April 14, 2014)<<https://hornaffairs.com>>

With regard to the availability of institution mandated to implement the Paris Agreement and combat climate change, the EFCCC is a national institution mandated to negotiate climate change agreements and coordinate nationwide responses to the agreements.<sup>234</sup>

In the international negotiations in the UNFCCC, Ethiopia has led the LDC forum, a negotiation group of 47 countries after the adoption of the Paris Agreement. In this process Ethiopia took part in the negotiation of the Paris rule book in the manner that the negotiation realizes the interests of LDCs.

Nonetheless there are constraints encountered in Ethiopia in implementing the Paris Agreement. Gap related to consistent and reliable flow of knowledge management is the first constraint that Ethiopia has encountered against the implementation of the Paris Agreement.<sup>235</sup>

As per interview with Mr. Mensur Desse there are initiatives across seven federal sectors for the implementation of the NDCs. Since climate change has shown its impacts for long years in Ethiopia governmental and nongovernmental organizations, civil society organizations, private persons, and development partners are working to combat its effects. The government needs to collect these efforts and report and submit to the UNFCCC in order to show to the international community how does Ethiopia combat climate change and is implementing the Paris Agreement. However, in order to report such efforts there is a need and lack of modern information management.

Lack of coordination is the second constraint faced by Ethiopia in implementing the Paris Agreement.<sup>236</sup> The EFCCC is the focal point for the UNFCCC, the Paris Agreement and climate change in Ethiopia. As a result the UN expects reports relating to climate change and the Paris Agreement in Ethiopia from the EFCCC. In order to fulfill this, there is a need for vertical and horizontal coordination. Horizontally there is coordination between sectors in the federal government with regard to implementing the Paris Agreement and combating climate change. However, there is a gap and problem with regard to coordination with civil society organizations,

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<sup>234</sup> Proclamation 1097/2018 : Definition of powers and duties of the executive organs of the Federal Democratic Republic of Ethiopia, Article 32 (3) (g)

<sup>235</sup> Interview with Mr. Mensur Desse

<sup>236</sup> Id.

development partners, and private sectors. If there is a constraint on coordination with regard to centralizing the efforts of stakeholders on combating climate change there will follow a problem of data flow management.

The third and the critical constraint is problem of finance, technology development and transfer, and capacity building.<sup>237</sup> The impacts of climate change are apparent for all Ethiopians. Ethiopia is a frontrunner country in climate change negotiations and is following a green economy strategy for a sustainable future. However in order to implement such initiatives, developed countries do have an obligation under the Paris Agreement to support LDCs on finance, technology and capacity building. In spite of that since developed countries are not executing their commitments properly, there is a gap on climate finance, technology development and transfer and capacity building.

### **3.5 Way outs for the constraints in implementing the Paris Agreement in Ethiopia**

In order to solve the gaps related to knowledge management and stakeholder coordination between the federal and state level and parties such as civil society organizations, and the private sector, the EFCCC as per its legal mandate under Article 32(3)(f) of proclamation 1097/2018 shall take the initiative to prepare programs and directives for the synergistic implementation and follow up of the Paris Agreement with the purpose of avoiding gaps during implementation in all sectors and at all governance levels.

Ethiopia being aware of the impacts of weather variability was committed at the international stages towards climate change.<sup>238</sup> Late Prime Minister Meles Zenawi has led the African head of states from COP 15 until COP 17.<sup>239</sup> During COP 15 Meles was among the leaders who succeeded in ensuring the mobilization of USD 100 billion by developed countries from the year 2020.<sup>240</sup> Currently, the government of Ethiopia should prioritize climate change by taking in to account: the vulnerability of the nation and the impacts of climate change on the economy and on the population. As a result the government needs to mainstream and align climate change policies in to development plans. As pronounced under the ten years development plan the government

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<sup>237</sup> Id.

<sup>238</sup> Gebru Jember Endalew and Brianna Craft, 'Ethiopia's effective climate diplomacy: lessons for other nations' 2016

<sup>239</sup> Id.

<sup>240</sup> Id.

needs to align the CRGE strategy in to national plans so that an emission from sectors is reduced.<sup>241</sup>

To achieve carbon-neutral economy in Ethiopia appropriate federal and regional institutions and city administrations should align the NDCs of Ethiopia in to their development plans.<sup>242</sup> Under the current ten years development plan, Ethiopia needs to strengthen international climate negotiations in the UNFCCC so that the Country can secure finance, technology transfer and capacity to implement the green economy strategy and the NDCs.

Since Ethiopia intends to cover 20% of the mitigation and adaptation costs of the updated NDC the country need to mobilize private climate finance in the nation.<sup>243</sup> The country should enhance cooperation with development partners, international organizations and domestic institutions to strengthen the international efforts on combating climate change in line with sustainable development and attempts to eradicate poverty.<sup>244</sup> Given accelerating and promoting innovation is crucial for an effective international response to climate change under the Paris Agreement, the government of Ethiopia needs to accelerate research and development on climate smart innovations on agriculture, transport, and industry and other vulnerable economic sectors.<sup>245</sup> The country needs to adapt local technologies for mitigating and adapting the emissions of GHGs.<sup>246</sup> In order to implement the Paris Agreement and mobilize stakeholders across the nation Ethiopia needs to increase climate change education and public access to information to increase the understanding of the issues addressed in the Paris Agreement.<sup>247</sup> Such public access to information with regard to the Paris Agreement enhances the status and implementation of NDCs and environmental and climate change policies.<sup>248</sup>

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<sup>241</sup>The Amharic version of the ten years development plan p.166

<sup>242</sup> see <https://www.ndcs.undp.org>; Proclamation 993/2017 Article 3

<sup>243</sup>Summary of Ethiopia's updated Nationally Determined Contribution (NDC); Growth and Transformation Plan I, FDRE p. 121

<sup>244</sup>Paris Agreement, United Nations 2015 Article 2.1; Proclamation 993/2017 Article 3

<sup>245</sup>Paris Agreement, United Nations 2015 Article 10.5

<sup>246</sup>Growth and Transformation Plan I, FDRE p. 121

<sup>247</sup>Id. p. 121; Paris Agreement, United Nations 2015, Article 12 and preamble paragraph 14

<sup>248</sup>Convention on Access to information, Public Participation in Decision making and Access to justice in Environmental matters, done at Aarhus, Denmark on 25 June 1998



Under the updated NDC of Ethiopia the major sectors contributing to substantial emissions are the livestock and energy sectors.<sup>249</sup> And since biomass energy is the overarching emission source of emissions under the updated NDC, the government of Ethiopia needs to reduce emissions from such sector and realize affordable and clean energy in line with plan of the government to achieve universal access to national electrification by 2025.<sup>250</sup> Conservation of forests for their economic and ecosystem services being a pillar of the first NDC of Ethiopia, the government needs to enhance sinks of GHGs such as forests to implement the REDD+ mechanism and mitigate climate change.

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<sup>249</sup>Summary of Ethiopia's updated Nationally Determined Contribution (NDC) p.5

<sup>250</sup>Transforming our world: the 2030 Agenda for sustainable development A/RES/70/1; Federal Democratic Republic of Ethiopia: National electrification program 2.0, integrated planning for universal access 2019

## CHAPTER FOUR: THE PROSPECT OF TRANSFERRING THE GREEN LEGACY CAMPAIGN INTO A LEGAL FRAMEWORK TO COMBAT CLIMATE CHANGE AND ENHANCE FOREST COVER IN ETHIOPIA

### 4.1 Historical background of forest conservation campaigns in Ethiopia

AR initiatives and programs provided a best opportunity for the development of the forest sector in Ethiopia throughout different periods of governance.<sup>251</sup> Ethiopian rulers had a culture of forest conservation taken by various leaders such as King Zare Yakob in the 17<sup>th</sup> century and Emperor Menelik (1889-1913).<sup>252</sup> In 1980, the socialist People's Democratic Republic of Ethiopia (PDRE) government by proclamation provided for a law to regulate forest conservation and plantation activities.<sup>253</sup> The proclamation was promulgated with the intention of regulating plantation and conservation activities and administration of the nation's forest resources.<sup>254</sup> Since 2007 the government of Ethiopia performed large tree-planting campaigns in relation to the Ethiopian millennium.<sup>255</sup> Beginning from early 2007 Ethiopia has planted 1.7 billion trees under the UN Environmental Program's billion tree initiative.<sup>256</sup> As per the CRGE strategy the government by identifying the forest sector as pillar of the Green economy, has planned to transfer 2 million hectares of grazing land for Afforestation until 2030; similarly Ethiopia expects to reforest 1 million hectares of land.<sup>257</sup> Recently in 2019 the Green legacy campaign was launched for four years and was undertaken taking into account Ethiopia's vulnerability to climate change.

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<sup>251</sup>Melkie Achenef Abate, 'Review of opportunities, challenges and future directions of forestry development' (2020) 24 *Agricultural Research and Technology* 135, 137

<sup>252</sup>Birhanu Woldegiorgis, A history and policy analyses of forest governance in Ethiopia and REDD+, Master's thesis in Global Environmental history, Uppsala Universitet p.22

<sup>253</sup>Id. p. 32

<sup>254</sup>Id. p. 32

<sup>255</sup>Melkie Achenef Abate, 'Review of opportunities, challenges and future directions of forestry development' (2020) 24 *Agricultural Research and Technology* 135, 140

<sup>256</sup> See [www.unep.org](http://www.unep.org)<22 August 2012> Last date accessed 15 May 2021

<sup>257</sup>Ethiopia's Climate-Resilient Green Economy strategy: Green economy strategy p.110

## 4.2 The international instruments, goals and national policies having implication for the Green Legacy campaign

Forests do have a significant role to play in mitigating the adverse impacts of climate change by sequestering carbon dioxide and other GHGs from the atmosphere. The Paris Agreement provided that parties should take action to protect and increase sinks of GHGs including forests.<sup>258</sup> The Bonn Challenge is an international goal to rehabilitate 150 million hectares of deteriorated and deforested land in to re-establishment by 2020 and 350 million hectares by 2030.<sup>259</sup> The African Forest Landscape Restoration Initiative is a regional endeavor to develop 100 million hectares of land in the region by 2030.<sup>260</sup> At the 2014 New York Declaration on Forests, Ethiopia has pledged to rehabilitate 1/6<sup>th</sup> of the nation.<sup>261</sup> Reducing emissions from forest degradation in the world is important in order to put a limit to global warming by 2 degrees Celsius.<sup>262</sup> The SDGs under goals 13 (climate action), and 15 (life on land) have relevance for sustainable management of forests.<sup>263</sup> The voluntary and universal Global Forest Goals and targets provided that reversing the loss of forest cover including restoration, AR, and prevents forest degradation and contribute to the global effort of addressing climate change.<sup>264</sup> The UN General Assembly had designated the decade (2021-2030) as a decade of ecosystem restoration.<sup>265</sup> Ethiopia's Green legacy campaign came in to effect to realize the development objectives of the nation and to implement such international agreements, declarations and goals on climate change and environment.

The Green legacy campaign is an ambitious tree planting initiative with the purpose of planting 20 billion trees in four years. The campaign has been undertaken for the past two rainy seasons of Ethiopia i.e., (2019 and 2020). While launching the Second year of the Green legacy campaign

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<sup>258</sup> Paris Agreement Article 5.1; United Nations Framework Convention on Climate Change Article 4.1(d)

<sup>259</sup> 'About the Challenge' <<https://www.bonnchallenge.org>> last date accessed May 22 2021

<sup>260</sup> See <https://afr100.org>

<sup>261</sup> Katharine Suding et al, 'Committing to ecological restoration: efforts around the globe legal and policy clarification' (2015) 348 Science 638

<sup>262</sup> New York Declaration on Forests

<sup>263</sup> National Forest Sector Development program, Volume I: situation analysis

<sup>264</sup> United Nations, Department of Economic and Social Affairs: Global Forest Goals and Targets of the UN strategic Plan For Forests 2030

<sup>265</sup> 'The UN Decade on Ecosystem Restoration 2021-2030' UNEP/FAO FACTSHEET

in June 5, 2020 Prime Minister Dr. Abiy Ahmed announced that “like other parts of the world Ethiopia has been confronted by climate change and environmental degradation. The Green legacy initiative launched in 2019 resulted in the planting of over 4 billion trees nationally in that specific year. More than 20 million peoples were mobilized and on a historic July 2019 day Ethiopia planted close to 354,000,000 seedlings in twelve hours of a day. Therefore the Green legacy initiative is critical to Ethiopia’s aspiration to build green and climate resilient economy.”<sup>266</sup>The Green legacy campaign is launched based on the CRGE strategy which Ethiopia aims to achieve before 2025.<sup>267</sup> The campaign is a component of the Green development action plan which the sectors ministries and technical steering committees has launched in order to achieve sustainable forest management, development of cities and rehabilitation of ecoservices.<sup>268</sup>

The ten years development plan sets to increase the forest coverage of the country from 15.5% to 30% by 2030.<sup>269</sup> The commissioner of the EFCCC Professor FekaduBeyenemade a public statement that the Green legacy campaignis an initiative to combat desertification and climate change which are threats to the globe at the present time.<sup>270</sup>Ethiopia is making ready 7 billion seedlings for the third year Green legacy initiative from which one billion is expected to be assigned for the neighboring countries.<sup>271</sup> Djibouti and South Sudan did express eagerness to become a part of the initiative.<sup>272</sup>

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<sup>266</sup> Address on the launching of the second year of the Green legacy campaign by Prime Minister Dr. Abiy Ahmed in June 5,2020, [www.Youtube.com/watch?v=pbgexjd3ijs](http://www.Youtube.com/watch?v=pbgexjd3ijs),

<sup>267</sup> The Federal Democratic Republic of Ethiopia, the path to sustainable development: Ethiopia’s Climate Resilient Green Economy Strategy

<sup>268</sup> Federal Democratic Republic of Ethiopia, National Green development Action plan p. 4

<sup>269</sup>Ten Years Development Plan: A path way to prosperity (2021-2030) p. 73

<sup>270</sup>Dargie Kahsay, ‘How Ethiopia’s green legacy initiatives fits in Africa’s Great Green wall’ *The Ethiopian Herald* (Addis Ababa 20 June , 2020 ) p.2

<sup>271</sup>‘Countries joining Ethiopia’s Green legacy initiative to receive Billion Tree saplings’ (ENA, 1 April 2021) [www.ena.et](http://www.ena.et)

<sup>272</sup> Id.

### 4.3 Comparative legal experiences on forests

#### 4.3.1 The comparative legal experience of the Republic of Kenya

Kenya is located in the horn of Africa region, highly vulnerable to the impacts of climate change.<sup>273</sup> Being a party to the Paris Agreement, Kenya aims to achieve a climate resilient development pathway.<sup>274</sup> In 2015 the forest cover of Kenya was estimated to be 7.2% based on the national projection from the 2010 forest cover data.<sup>275</sup> Kenya has set the goal of increasing and maintaining the national tree cover to at least 10% by 2022.<sup>276</sup> Kenya's vision 2030 indicates that the country is planning to grow at an average rate of 10 per cent per annum.<sup>277</sup> Growth will heavily depend on exploitation of natural resources.<sup>278</sup>

In line with the national plans and international commitments of Kenya, Kenya's 2010 constitution provides that every person has the right to a clean and healthy environment which includes the right to protect the environment for the benefit of present and future generations through legislative and other measures.<sup>279</sup> Article 69(1) of Kenya's constitution regulates obligations of the state in respect of the environment. Article 69(1) (b) specifically obliges the government to achieve and maintain a tree cover of at least 10% of the land area of Kenya.

#### 4.3.2 The comparative legal experience Republic of Uganda

Uganda's natural attributes are comprised of forests, water resources, land, diversified flora and fauna, and minerals.<sup>280</sup> Such resources have been confronting serious degradation.<sup>281</sup> The government of Uganda has set different policies and enacted laws to regulate environmental and

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<sup>273</sup> Kenya's Intended Nationally Determined Contribution 23 July 2015

<sup>274</sup> Id.

<sup>275</sup> Republic of Kenya, Ministry of Environment and Forestry, National strategy for achieving and maintaining over 10% Tree cover by 2022, May 2019 p.7

<sup>276</sup> Id. p.7

<sup>277</sup> Kenya Vision 2030: A Globally competitive and prosperous Kenya pp.124

<sup>278</sup> Id.

<sup>279</sup> The Constitution of Kenya 2010 Article 42(a)

<sup>280</sup> Uganda Vision 2040 p.98

<sup>281</sup> Id. p.98

natural resources.<sup>282</sup> Uganda's 2005 constitution and the 2003 National Forestry and Tree Planting Act are significant to environment and tree planting activities. Section XIII of the constitution provides that the government shall protect key resources such as land, water, wet lands, minerals, plants and animals on behalf of the people. The National Forestry and Tree Planting Act enacted in 2003 has the purpose of guiding and causing citizens to plant trees.<sup>283</sup> The Minister responsible for forestry is obliged to give directions for planting and growing of trees.<sup>284</sup> Such directions are supposed to include: persons to perform the plantation; the period of time at which the plantation of trees is to occur; days on which the obligation of tree plantation is to be mandatory; and other matter relating to the plantation of trees.<sup>285</sup> Being a party to the Paris Agreement Uganda has set forest as a priority sector in its adaptation actions under its INDC.<sup>286</sup>

#### 4.3.3 The comparative legal experience of Peoples Republic of China

China is a country including a very large territory once covered by great variety of forests.<sup>287</sup> However when the Peoples Republic of China was established in 1949 the forest cover had lowered to 8.9%.<sup>288</sup> China has put in to effect the Great Green Wall program in 1978 to tackle desertification.<sup>289</sup> This program is intended to be carried out until 2050.<sup>290</sup> The project has proposals to plant 88 million acres of forests.<sup>291</sup> The major legal frameworks of China that have relevance for forest and tree planting activities are: the constitution of China; and the 2019 forest law of the Peoples Republic of China. Article 26 of the constitution provides to the effect that "The state organizes and encourages Afforestation and the protection of forests."<sup>292</sup> The 1984 forest law of China as amended in 1998, 2009 and for the third time on December 28, 2019 has

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<sup>282</sup>Id. p.98

<sup>283</sup>The Republic of Uganda, The National Forestry And Tree Planting Act 2003, Section 2(b)

<sup>284</sup>Id Section 39(1)

<sup>285</sup> Id Section 39(2)b, c,e, and f

<sup>286</sup>Uganda's Intended Nationally Determined Contribution (INDC), October 2015 p. 6

<sup>287</sup> Wang Xi, 'Forest policy, Law and public participation of China' p.204

<sup>288</sup>Id.p.204

<sup>289</sup>Judy Shin, 'What is the Great Green Wall in China?' <https://www.earth.org> last date accessed May 13, 2021

<sup>290</sup>Id.

<sup>291</sup> Id.

<sup>292</sup> The constitution of the People's Republic of China's constitution Article 26 (2)

given recognition for tree planting and Afforestation.<sup>293</sup> For that reason the obligation to plant trees has been a major norm of forest law in China since 1984. Article 10 of the 2019 forest law enshrines that Plantation of trees and forest conservation are the obligations that each and every citizen should fulfill.<sup>294</sup> Article 44 of the 2019 forest law provides that the citizens are encouraged to participate in tree planting and Afforestation by means of tending, management etc.<sup>295</sup> In 2009 China did announce that, by 2020 it will increase its forest coverage by 40 million hectares.<sup>296</sup> By 2014 the forest coverage increased by 21.1 million hectares.<sup>297</sup> Since the 1990s China has been achieving far reaching reforestation amount compared to the world.<sup>298</sup> By 2015 the country's forest cover increased to 22.2% of the total land area, from 16.74% in 1990.<sup>299</sup> By 2018 China has specified a target to realize more than 30% forest coverage in 2050.<sup>300</sup>

#### 4.4. A proposal for a legal framework for the Green Legacy campaign

Ethiopia expects to increase its forest cover by implementing through massive AR activities.<sup>301</sup> Massive environmental rehabilitation activities do have socio-economic, technical, and legal features that have to be taken in to account.<sup>302</sup> In LDCs environmental rehabilitation activities are supposed to halt biodiversity loss; forest degradation; and reduce the impacts of climate change.<sup>303</sup> Therefore rehabilitation activities need to be inclusive and economical.<sup>304</sup> Laws

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<sup>293</sup> Forest Law of the people's Republic of China Promulgated December 28, 2019 Chapter five

<sup>294</sup> Forest Law of the people's Republic of China Promulgated December 28, 2019 Article 10

<sup>295</sup> Id. Article 44

<sup>296</sup> Enhanced Actions on Climate Change: China's INDC p.3

<sup>297</sup> Id. p. 3

<sup>298</sup> 'How China brought its forests back in a decade' (Rapid Transition Alliance, 2 December 2018)

[rapidtransition.org/stories/how-china-brought-its-forests-back-to-lie-in-a-decade/](http://rapidtransition.org/stories/how-china-brought-its-forests-back-to-lie-in-a-decade/)

<sup>299</sup> Id.

<sup>300</sup> Id.

<sup>301</sup> Climate Action Tracker 6<sup>th</sup> November 2017

<sup>302</sup> James Aronson et al., 'What role should government regulation play in ecological restoration? ongoing debate in Sao Paulo state, Brazil' (2011) 19 The Journal of the society for ecological restoration international 690

<sup>303</sup> Id. pp.690-691

<sup>304</sup> Id. p. 691

concerning rehabilitation activities can achieve right set of circumstances or controversy among interested parties.<sup>305</sup> Being an environmental restoration initiative, the Green legacy campaign can contribute to the development of the carbon trade for Ethiopia.<sup>306</sup> The government is preparing budgets to implement the campaign.<sup>307</sup> Woreda administrative units and institutions are preparing seedlings. Among the 6 billion trees to be planted in 2021 Green legacy campaign, four billion are designated to increase the forest cover of the nation.<sup>308</sup>

According to interview with Mr. Fekede Adane, the Green legacy campaign is implemented in line with the existing legal frameworks in natural resource such as the forest development conservation and utilization proclamation.<sup>309</sup> When large environmental campaigns go hand in hand with legal frameworks, the rehabilitation of the ecosystem at national, regional and international levels can be assured.<sup>310</sup> It follows that if Ethiopia's Green legacy campaign is regulated by a legal framework the rehabilitation of forests and biodiversity can be realized. If the Green legacy campaign is formalized and transferred in to law, it can give Ethiopia the opportunity to achieve the global environmental restoration activities.

National legislations as a principle should be equitable, pertinent to well-defined area and conveyed to the general population.<sup>311</sup> The setbacks for the implementation of the Green legacy campaign are: coordination of state organs; lack of sense of ownership by citizens and institutions to conserve and follow the planted trees.<sup>312</sup> The law relating to the Green legacy campaign legislation can come up with a rule: to encourage and discourage undertakings related

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<sup>305</sup> Id. p. 691

<sup>306</sup> Interview with Mr. Lakew,, Expert of Environment and Climate change sector, Ministry of Agriculture, Ethiopia

<sup>307</sup> Interview with Mr. Fekede Adane, Higher expert on soil and water conservation, Ministry of Agriculture

<sup>308</sup> 'Preparations underway to plant 6 Billion seedlings in Ethiopia, Neighboring Countries' (ENA, May 15/2021)

<https://www.ena.et> last date accessed May 17, 2021

<sup>309</sup> Id.

<sup>310</sup> Katharine Suding et al, 'Committing to ecological restoration: efforts around the globe legal and policy clarification' (2015) 348 Science 638

<sup>311</sup> James Aronson, et al. 'What role should government regulation play in ecological restoration ? ongoing debate in Sao Paulo state, Brazil' (2011) 19 The Journal of the society for ecological restoration international 691

<sup>312</sup> Interview with Mr. Lakew, Expert of Environment and Climate change sector, Ministry of Agriculture, Ethiopia



to ecological harm; providing for incentives for institutions and citizens demanded for effective implementation of the Green legacy campaign; and the financial burdens of the campaign and the progressive research.<sup>313</sup> For Ethiopia forest conservation and protection is not a matter of choice.<sup>314</sup> But it is mandatory to achieve sustainable growth and realize the CRGE strategy.<sup>315</sup> The Green legacy campaign is an ambitious national forest restoration initiative taking in to account the mobilization by the government and commitment of citizens. China's 2019 forest law, which encourages citizens' effort in tree planting activities, can be a good comparative legal framework for Ethiopia to institutionalize and regulate the Green legacy Campaign by a national legal framework.

To combat the adverse impacts of climate change by implementing the mitigation pillars of Ethiopia's first NDC and to realize the ten years development plan, Ethiopia should treat the forest sector with priority. However there is a perception that the problem in Ethiopia is implementing the existing laws instead of acting them.<sup>316</sup> But in Ethiopia like Kenya, Uganda and China, there is a constitutional clause envisioning that government and citizens have the duty to protect the environment.<sup>317</sup> By taking a lesson from China Ethiopia can insert a clause on the draft forest regulation to encourage and oblige tree planting campaign to encourage the Green legacy campaign.

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<sup>313</sup>James Aronson et al. 'What role should government regulation play in ecological restoration ? ongoing debate in Sao Paulo state, Brazil' (2011) 19 The Journal of the society for ecological restoration international 691

<sup>314</sup> 'GGGI joined Ethiopia Green Legacy Campaign to plant 200 million tree seedlings in a day' <<https://gggi.org>> last date accessed 16 May 2021

<sup>315</sup> Id.

<sup>316</sup> Id.

<sup>317</sup> Constitution of the Federal Democratic Republic of Ethiopia Article 92 (4)

## CHAPTER FIVE: CONCLUSION AND RECOMMENDATIONS

### 5.1 Conclusion

Climate change is a crisis that any developing and developed country is encountering in the present time. Even though Ethiopia contributes negligible amount of emissions to the globe, it is seriously affected by the impacts of climate change. Ethiopia has been well committed to combat climate change by launching the CRGE strategy in 2011 and being a frontrunner in international negotiations. As a party to the Paris Agreement the country is implementing the agreement under its first NDC and has submitted its updated NDC in 2020. The federal constitution of Ethiopia includes a fundamental right of clean and healthy environment.<sup>318</sup> The country has enacted a proclamation for forest development, conservation, and utilization which ensures the legal frameworks for carbon trade as provided under the Article 6 of the Paris Agreement. The government of Ethiopia has adopted ten years development plan with environment and climate change policies. The policy contains the future mitigation policy and the natural resource conservation strategy of the country to be applicable for the next nine years. However there are constraints in implementing Ethiopia's NDCs including: Knowledge management; coordination; and support from developed countries as per their commitment under the Paris Agreement.

The Green legacy campaign is critical for Ethiopia to build a climate resilient green economy, combat deforestation and climate change and it is component of the mitigation actions of Ethiopia's first NDC towards implementing the Paris Agreement. Comparative legal experience shows that Afforestation and tree planting is framed by the 2003 National Forestry and Tree Planting Act and encouraged by China's constitution and the 2019 forest law of China. Accordingly China has been taking large Afforestation activities in line with laws and environmental policies starting from 1990s. Constitutional clauses and ordinary laws legally acknowledging Afforestation can enhance the nationwide forest coverage of the country by combating climate change.

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<sup>318</sup>Constitution of the Federal Democratic Republic of Ethiopia Article 44 (1)

## 5.2 Recommendations

The effective implementation of the Paris Agreement requires international, regional and national cooperation for an ambitious climate action by all parties, including civil society, the private sector, financial institutions, cities and other sub national authorities, local communities and indigenous peoples.<sup>319</sup>

Given that Ethiopia is facing the extreme impacts of climate change across different socio-economic sectors, the government and stakeholders need to combat climate change taking in to account the adverse effects in every economic sector. Various adaptation and mitigation measures need to be taken in light of national climate policies and international targets. These are: enhancing food security for the purpose of improving agricultural yield; strengthening forest management; diversifying the livelihood options of vulnerable people; and increasing the resilience of the urban and transport system.<sup>320</sup> In the case of gaps on coordination, as per its mandate the EFCCC should prepare programs and directives for the synergistic implementation and follow up of the Paris Agreement between all sectors and all governance levels.<sup>321</sup> To realize carbon-neutral economy, appropriate federal and regional institutions and city administrations should align the NDCs of Ethiopia in to their development plans.<sup>322</sup> To effectively combat climate change and implement the Paris Agreement, Ethiopia needs to strengthen negotiations' in the UNFCCC in order to secure support on finance, technology development and transfer, and capacity from developed countries.<sup>323</sup> The country needs to secure private finance, adapt local technologies and accelerate innovation.<sup>324</sup>

The Paris Agreement, the Bonn Challenge, The African Forest Landscape Restoration Initiative, the New York declaration on forests, the SDGs, and the UN decade on Ecosystem restoration

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<sup>319</sup> United Nations Framework Convention on Climate Change, COP: Report of the Conference of the Parties on its twenty first session, held in Paris from 30 November to 13 December 2015

<sup>320</sup> Ethiopia's Climate Resilient Green Economy, National Adaptation Plan, Federal Democratic Republic of Ethiopia, Addis Ababa 2019

<sup>321</sup> Proclamation 1097/2018, Definition of powers and duties of the executive organs of the FDRE Article 32(3) (f)

<sup>322</sup> see <https://www.ndcs.undp.org>; Proclamation 993/2017 Article 3

<sup>323</sup> The Amharic version of the ten years development plan p. 166

<sup>324</sup> Growth and Transformation Plan I p.121; Paris Agreement , United Nations, 2015 Article 10.5

(2021-2030) makes the 21<sup>st</sup> century a period of natural restoration. The Green legacy campaign is a component of the green development action plan having a purpose of planting 20 billion seedlings in four years. To be effective the Green legacy campaigns need to be coordinated.<sup>325</sup> Citizens and institutions need to show self-initiation and ownership for the campaign.

Backing up the Green Legacy campaign with legislation can enhance the implementation of the Paris Agreement and global environmental restoration movements. Ethiopia can take a lesson from China to formalize the Green legacy campaign into a level of law. China has a law providing for: encouraging and obliging citizens to plant trees. Such laws can enhance the consciousness of citizens and stakeholders on environmental issues.

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<sup>325</sup>Pedro H.S Brancalion, Karen D.Holl, 'Guidance for Successful Tree Planting initiatives' (2020) 57 *Journal of Applied Ecology* 10

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#### Interviews

1. Interview with Mr. FekedeAdane, Higher expert of soil and water conservation, natural resource development, conservation, utilization Directorate, Ministry of Agriculture
2. Interview with Mr. Lakew, Expert of Environment and Climate change sector, Ministry of Agriculture, Ethiopia.
3. Interview with Mr. MensurDesse, Environmental agreements coordination directorate director in the Environment Forest and Climate Change commission.
4. Interview with Mr. WondwossenTadesse, Environmental law expert, policy, law and standard office in the Environment Forest and Climate Change Commission.

#### Press release

1. DargieKahsay, ‘How Ethiopia’s green legacy initiatives fits in Africa’s Great Green wall’  
*The Ethiopian Herald* (Addis Ababa 20 June , 2020)
2. Prime Minister Dr. Abiy Ahmed address on the launching of the second year of the Green legacy campaign on June 4, 2020.

#### Interview questions for the Environment, Forest and Climate Change Commission

1. What were the main reasons for Ethiopia to adopt and ratify the Paris Agreement?
2. Did Ethiopia enacted or amended proclamations, regulations, or directives to implement the Paris Agreement at the national level?
3. Does Ethiopia have adequate policy frameworks to implement the Paris Agreement?
4. What is the current implementation level and status of the Paris Agreement in Ethiopia?

5. What are the constraints that Ethiopia encounters in the implementation of the Paris Agreement in Ethiopia?
6. What are the opportunities that exist in Ethiopia in the implementation of the Paris Agreement in Ethiopia?
7. What success does Ethiopia realized in the implementation of the Paris Agreement nationally?
8. What is the relevance of the Green legacy campaign to contribute towards the long term temperature goal of the Paris Agreement?
9. Is there relevant policy framework for the Green legacy campaign in order for it to be translated in to legislation?

#### Interview questions for the Ministry of Agriculture

1. What were the reasons for the Green legacy campaign to be launched in 2019?
2. What were the good experiences gained from the implementation of the Green legacy campaign during 2019 and 2020?
3. What gaps did the government encountered in the implementation of the Green legacy campaign?
4. Is there a legal framework applicable for the implementation of the Green legacy campaign?
5. What is the ramification of the Green legacy campaign to enhance forest cover from the current 15.5% to 30% by 2030?