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SCHOOL OF LAW

THE LEGAL AND POLICY FOUNDATION FOR PARTICIPATORY FOREST MANAGEMENT IN ETHIOPIA.

A SENIOR ESSAY SUBMITTED IN PARTIAL FULFILMENT OF THE REQUIREMENTS FOR THE DEGREE OF BACHELOR OF LAWS (LLB) AT THE SCHOOL OF LAW.

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DECLARATION

I declare that this entitled ’The legal and policy foundation for participatory forest management in Ethiopia”,which I submitted for award of degree of bachelor of law(LLB) is my original research work carried under the guidance of instructor Rediet Seyoum at Arbaminch Unversity.Ideas and expressions borrowed from others authors and materials duly achnowledged and properly cited.I further declare that this thesis wholy or in part,has not previsouly formed bases for award of the any degree,diploma or other similar titles.

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Thesis Approval

These thesis entitled “The Legal and Policy Foundation For Participatory Forest Management In Ethiopia.”by Mr. Tolosa Beyene is approved for the degree of Bachelor of Laws.

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Acronyms

1. ARDB-Agricultural Rural Development Bureau.

2. BERSMP-Bale Eco. Region, Sustainable Management Programme.

3 BOARD-Bureaus of Agriculture and Rural Development.

4 CBD-convention on Biological Diversity.

5 CBFM-Climates Resilient Green Economy.

6 CBFM-Community Based Forest Management.

7 EU-European Union

7 FDRE-Federal democratic republic of Ethiopia

8 FCoop; s-Forest Cooperatives

9 FMI’s-Forest Management institutes

10 FMA-Forest Management Agreements

11 GTP-Gross and Transformation Plan

12 GIZ-German Technical cooperation Agency

13 IFMP-Integrated forest management project

14 JFM-Joint forest management

15 JICA-Japan international cooperation agencies

16 MOA-Ministry of the agriculture

17 NGOs-non-governmental organizations

18NTFP-Non timber forest production

19 PDRE-Peoples democratic republic

20 PFM-participatory forest management

21 PFMA-participatory forest management agreements

22 SFM-sustainable forest management

23 SNNPRs-southern nation nationalities and peoples regions

24 SOS-save our life

25 SSLFMP-strengthening sustainable livelihood and forest management programme

26 WABUB-Wolda bulchinsa bosona afaan Oromo language abbreviation (forest management

Association)

27 WAJIB –forest dwellers association afaan Oromo language abbreviation

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ABSTRACT

This study deal with the legal and policy foundation for the participatory forest management in Etheiopia. Participatory forest management as it stands today in Ethiopia is a management regime aimed at achieving better sustainable forest management through balancing conservation, utilization and through participating the local communities.The general objectives of the this paper is to investigate legal and policy foundation for the participatory forest management and to evaluate the application and enforcement of the law and policy on the PFM approach in Ethiopia. In this researcher paper the national and regional legal framework was investigated and analyzed with the promotion of the PFM approach in a Ethiopia. Without the participation of the local communities to management activities of the forest, the sustainable forest development is unthinkable. During the past time the government manages the forest by the top-down approach management system, which doesn't reduce the forest deforestation in the country. As one of the solution, FM approach

introduced in that early 1990s by some non-state actors commitments. Even through the government recognizes the PFM approach in order to manage the natural resources, the country expreancing high rate of the deforestation,for this reason the effectiveness of the sector fall under the question. Main problem to this cause is week enforcement of the law and policy, lack of strong local institutions of the PFM, lack of the guidelines and lack of awareness of the people about the participatory forest management interest. In order to solve such problems the researcher raise two most important questions which is relevant to the study. What is the role of the existing law to solve such problem and promotion of the PFM approach. How the government give the proper recognition to communities participation at the management activities of the forest in Ethiopia. These research paper tries to answer such questions on the bases of the findings. This study also has the significance to solve such problems and further study on similar issue and it may encourage other regions that had not till adopt this approach.

CHAPTER ONE:

1. Introduction

1.1. Back ground of the study

Participatory forest management(PFM) as it stands today in Ethiopia is a management regime aimed at achieving better sustainable forest development through balancing conservation, utilization and through participating the local communities[1]. In the same manner it mobilizes and transfer management responsibilities to local communities living in around forest areas where resources are linked directly adjacent to the local communities[2]. It is the strategy of forest management that seeks to include local stakeholders, such as local communities, in to management decisions and integrate indigenous knowledge and practices in to sustainable forest management regime[3]. In order to protect forest from the deforestation, mismanagement or danger. The Proclamation to Provide the Development Conservation and Utilization of the Forests Proclamation No 94/1994 and 542/2007,both proclamations in their preamble opens the room for PFM in the Ethiopia to local communities in order to participate in forest management activities[4]. Whereas the sustainable utilization of the countrys forest resources is possible through the participation of people and benefit sharing by the concerned communities as well as by making forest policies and programs to be conducted in conformity with other economic sectors particularly agricultural developments[5] .This laws addressed in this research study by assessing and evaluating their role with the promotion of the PFM scheme in a country. Without participation of local communities sustainable development, protection and management of the forest sector in

[1] Messaye sintayew and Tsegaye Tadesse, Gidline for PFM in Ethipia moa(2012), p,4 last visited on September 4 32018.
[2] ibid
[3] ibid
[4] The proclamation to provide the development conservation and utilization of the forest proclamation No.94/1994 and 542/2007 preamble.
[5] ibid

a country is unthinkable[6] .During past time the government controls the forest by top- down approach, this means the government only centralized the management and controlling activities without creating the space for the local communities to participate in forest management activities[7]. In the same manner the approach also undermined the roles of local communities, their traditional institutions and knowledge of the forest management practices and considered the local communities as enemies (destroyers) of the forests, this leads illegal forest deforestation in the country[8]. For this reason the forest resources in Ethiopia have suffered decades of mismanagement due mainly to loosely defined property relations over these resources[9]. As one of the solution, PFM approach introduced in that early 1990s by some non-state actors commitments or nongovernmental organizations (NGOs), like farm Africa (British charity non-profit organizations) doing most of its works Eastern Africa in partnership with SOS Sahel(local NGOs)[10]. Thanks to this organizations nearly two decades experience of participatory forest management activities exist in the country[11]. However systematic assessments of the performance of the scheme are scanty or shortly performed[12]. The researcher also access the laws of different periods or eras in order to check whether or not such laws incorporate the provisions about participatory forest management in Ethiopia and analyze them with the promotion of the PFM .The emperor Haile Selassie 1931 constitution, 1955 revised constitution, Derg regime constitution and present day time constitution at federal level and regional level. By through this process the researcher examine and evaluate the role

[6] http;//www.reddplusethiopia word.press.com.(legal framework) last visted on September 5,2018.
[7] https;//www.research gate, net/publication/232692662-participatory –forest-management and its impacts on livelihoods and forest, the case of Bonga forest. Last visited on Sep, 10/1/2018.
[8] ibid
[9] ibid
[10] https;www//prtcepadia.net/en/cases participatory-forest-management Ethiopia Bonga case study, visited on last sep.12/1/2018
[11] ibid
[12] Cited above at note 7

of such law and legal and policy foundation for participatory forest management in Ethiopia.

The study also intended to discuss approaches of participatory forest management in Ethiopia.There are different approaches follow to establish PFM[13]. The first is WAJIB approach; it is Afaan Oromo language abbreviation which means forest dweller association[14]. It is the participatory forest management approach developed through continued consultations between major stakeholders after the conventional way of forest conservation has failed[15]. It is official launched in 2000 in Adaba-dodola forest in Oromia region[16]. Its purpose is in order to ensure a forest management system that makes a real contribution to secure local livelihoods there by securing also the feature fate of the forest resources[17]. It is an outcome of Ethio-German bilateral cooperation[18]. This approach is expected to discuss detail in this study with its principles and objectives. The second is WABUB approach; it is an abbreviation of the Afaan Oromo language which means; forest management association [19].The name was originally given by local community which establishes it at that time[20]. It also has its own principles and objectives to promote PFM .The paper also discuss participatory forest management under Ethiopian legal regime. In this section, researcher discuss federal and regional laws analysis, if this laws have put equal consideration of need for PFM implementation in forest governance , management and enforcement of the PFM approach.

1. **2 .Statement of problem**

[13] http; //www. Guideline for implementation of the WAJIB approach in Ethiopia based on the experience of the integrated forest management project (IPMF) Adaba Dodola Oromia region, in Ethiopia 2nd Ed, 2005 p1.visited on last sep,13/1/2018.
[14] ibid
[15] ibid
[16] ibid
[17] ibid
[18] ibid
[19] http;//www.WABUB field manual.Guidline for establishment of WABUB PFM unit, last visited on September, 22/1/ 2018.
[20] Ibid

At the time starting of participatory forest management in Ethiopia, the initiators of the idea of the participatory forest management members were faced different problems. Even through the government recognizes the PFM approach in order to manage forest resource under the national, regional legal framework and international instrument the effectiveness of the objectives of the sector fall under question. The policy and law enforcement of the forests and other related environmental regulation has remained difficult barriers for achieving the objectives of the programs and projects in the sector[21]. The first main problem for the performance of PFM originated from not policy or law deficiency, but lack of effective enforcement of the law and policy. The second one is lack of guidelines which regulates management of the forest by ensuring or harmonizing the benefit sharing of the local communities from such forest products[22]. The third one is lack of strong administrative and political support by local government, mainly from rent-seeking behavior by some local authorities[23]. The fourth one is lack of the awareness of the community about the PFM use and absence of the forest institution at the local level is also another factor[24].

. Therefore, the researcher identified problems which affects the effectiveness of the objectives of the participatory forest management in Ethiopia which leads to low effectiveness of the forest sector. This reason initiated the researcher to choose this area and undertake his study on this area. The study tries to address these issue mentioned above on the analysis and give possible recommendation to solve such problems.

3.1 Objectives of study

3.1 **General Objectives of the study**.

[21] Cited above at note 6
[22] ibid
[23] ibid
[24] ibid

The general objective of this paper is in order to investigate and eximane the legal and policy foundation for participatory forest management and to evaluate the application and enforcement of the law and policy on the PFM approach in Ethiopia.

3.2 Specific objectives of the study

Save as to the above general objectives of the study, the researcher also intended to achieve the following specific objectives

- To identify and evaluate legal frame work on PFM in Ethiopia.
- To evaluate international legal instrument with regard to PFM promotion in Ethiopia..
- To determine whether different Ethiopian existing law like land law, environmental law or policy regime is suitable for promote solution for PFM.
- To explain the approach of PFM and its approaches principles.
- To evaluate proper recognition of community participation by government at various level.

1.4. Research questions.

These research study trying to answers the following research questions.

- What is the role of the existing law to promote the solution for PFM problem in Ethiopia?
- How the governments give proper recognition to community's participation at the management activities of the forest in Ethiopia?

1.5. Significance of the study

The PFM approach is a new concept in Ethiopia. Over a long period of time, forest resources were is protected by rules and regulation from top- down approach. But this approach does not minimizing the problem of

deforestation or miming of the forest resource. By considering the unsuccessful classical approach the Ethiopian government currently opens a room for community to study factors affecting people participation in PFM activity which could help to see the success and failure of approach itself and replicate these kinds of collaborative forest management system. This study conducted in order to reduce the forest deforestation, to protect the environment and to manage natural resources by giving the awareness to local communities adjacent to the forest by the concerned government organs. Similarly it is essential reference to identify and evaluate the role of PFM in the conservation and management of natural resources particularly the forest and to discuss legal frame work and different policies on foundation of PFM in Ethiopia. In doing so, more or less it contributes laying foundation for the further studies in the area. The study also contributes or used as an initial point to those who wants to conduct further study on this issue and it may also encourage other regions that had not adopted the participatory forest management approach till now to adopt up on the achievement succeeded in the regions adopted participatory forest approach.

1.6. Scope of the study

As its title may suggest the scope of the study has been limited to the legal and policy foundation for the participatory forest management in Ethiopia. In conducting this study researcher would examine the laws which call the communities to participate in forest management at federal and regional legal framework and international instrumnts.Therefore the scope of the study limited on this area**.**

1.7. Research methodology.

In conducting this study, researcher were used the qualitative research methodology or doctrinal research approach .Therefore researcher has used litreture review like primary sources including the various federal

and regional laws which gives the opportunity for the communities' participation of the management of the forest with the respect of benefit sharing from the forest product. Laws intended to use conducting this study is constitutions, proclamations, environmental policies and international legal instruments which give the protection for the forest or natural resources. This materials used for the cooperative analysis of this study .The researcher also uses secondary sources like library research,book, and the articles to gather and secondary sources information for analysis of the study.

1.8. Limitation of the study

While the researcher conducting this study, researcher faced the different problems and limitations which hinder the proper accompishement of this research. The main problems which limits this study is shortage of the time due to proximity of the deadline of the submission of the paper, big loading regarding the class assessment and preparation for the exit exam. Lack of the well networked computer and inactive internet services, due to these the researcher lack adequate and relevant materials, which support the study . Lack of typing instrument of the prepared study, lack of good language usage and non-accessibility of important journals and books in the library.Further,financial constraint was one among the other factors that hindered the researcher while conducting the research.

1.9. Organization of the study

These researche paper is organized in to four chapters. The first chapter is an introductory chapter and generally provides brief case overview of the issue would be discussed in the research. The background of the study ,statement of the problem, the objectives of the study, research question, research methodology,signficance of the study, scope of the study, limitation of the study as well as organization of the paper. The second chapter devoted to discuss about the overview about the participatory

forest management and development of the forest laws in Ethiopia. In the third chapter the paper discuss about the policy and legal frame work on participatory forest management in Ethiopia and the finally fourth chapter in this section researcher concludes his study. It contains conclutions and recommendations on the way forward for the strengthening and effective implementation of the participatory forest management approach in our country.

CHAPTER TWO

2.1 OVERVIEW ABOUT PARTICIPATORY FOREST MANAGEMENT AND FOREST LAWS IN ETHIOPIA AT DIFFERENT REGIMES.

INTRODUCTION

Under this chapter the researcher discusses about the meaning of the participatory forest management, the process of its establishment, historical foundation of the PFM in Ethiopia and the approaches of the participatory forest management with its objectives and principles briefly. The research paper also discusses in this chapter about the forest laws in Ethiopia at different regime. Many environmental legislations were promulgated in past at different regimes in Ethiopia, among those legislations forest laws are one of the fundamental laws that interdependently related with the livelihood of the all living and non-living things. Under this chapter the attempts also made to see the Ethiopian forest laws in their chronological

order. These are forest laws before the 1974 revolution, forest laws between 1974 and 1991 and present laws including federal and the regional. The above all issues addressed in this chapter and the researcher discussed it briefly.

2 .1.1 Definition of participatory forest management.

There are different definitions that are given for participatory forest management. Among these the first definition is:-“Participatory forest management is an approach where two or more social actors negotiate, define and guarantee among themselves a fair sharing of the management functions, entitlements and responsibilities for a given territory or a set of natural resource[25]. The second definitions were given as follows:-“Participatory forest management is a mechanism to protect forests in which communities (forest users and managers) and government services (Forest department) work togather to define rights of forest resource use, identify and develop forest management responsibilities and agree on how forest benefits will be shared.”[26]By taking common elements of these two definitions we conclude that, participatory forest management is a participatory process creating a space or open the room for community members to participate in the management of forest in their locality and to take part in initiative to improve their livelihoods by using the product of the forest legally. It is fully defined as a community based approach to forest conservation and management, it is claimed to solution for in order to reduce deforestation of the forest.

2.1.2 The process for establishment of participatory forest management.

[25] http;//www.pfmp.farms.org/ssifm/ Advocacy policy, No.31211.p5 last visited on November 28.2018.
[26] http;//www.Farm-Africa/sos/ sahel Ethiopia, the key steps in establishing PFM.A field manual to guide practitioner in Ethiopia p.3 last visited on November 28.2018.

To establish participatory forest management systems the process is divided in to three distinct stages[27]. Those stages are:-

- Investigating participatory forest management- the gathering of information about the resources in the forest, the development of an understanding about forest users and other stake holders, the establishment of appropriate forest management group, the assessment and mapping of forest resources[28].
- Negotiating participatory forest management- the negation and signing of forest management plans (detailing forest management activities), the negotiation and signing of forest management agreements (specifying roles, responsibilities and rules).[29]
- Implementation of the participatory forest management- the implementation of forest management plan and adherence to the forest management agreement by the community forest management groups, supported by the government, joint plan and agreement reviews and revision as part of monitoring and evaluation systems.[30]

2.1.3 Historical foundation of participatory forest management in Ethiopia.

The general motives behind introducing PFM in Ethiopia is the following reasons, the main two objectives are environmental and social.[31] The former one emphasizes on the mitigation of the biodiversity loss, forest degradation and deforestation. While the later views as the concern for livelihoods in forest neighboring areas as well as the rights of the local communities to utilize such forest resources legally and without affecting the interest of the nature and sound manner. With the objective to in order to control or reduce the current trend of forest resource decline and recognizing the

[27] ibid
[28] ibid
[29] ibid
[30] ibid
[31] http;//.www regional office for eastern A. frica….last visited on November 30,2018

importance of forest resources to the rural poor and the role of sustainable natural resources management for economic development Farm- Africa and SOS Sahel Ethiopia has been piloting participatory forest management approach.[32] Farm-Africa has been involved in the forest sector in Ethiopia since 1992.[33]Neverthless,Farm-Africa and SOS sahel works in partinership with forest communities to support them to manage natural resource sustainably and profitable through participatory forest management[34].

As a result, participatory forest management development in Ethiopia has been take place almost in the absence of regulatory forest protection efforts due to weakness of forest institution, lack of enforcement and lack of effective policy guide.[35]In 1995 the Oromia regional state government took the land in working with Farm-Africa to establish participatory forest management at the chilimo forest site[36]The SNNPR regions followed this early initiative with the establishment of Bonga PFM project in 1996. Again working with Farm- Africa some year later in 1999, the Oromiya regional government state and SOS Sahel set up the Borana collaborative forest management project.[37] Establishing participatory forest management involves a considerable amount of work, since a entroducing new approach to forest management in a region is not an easy undertaking. However, with gradual process and commitment to learning forests and communities alike have taken up the practice of participatory forest management leading to positive change in the seemingly unstoppable war of forest degradation. As we all agree there is still a long way to go, but with the support of government, communities are now sustainably managing forest areas under legal rights agreements.

[32] Messaye and Tsegaye cited above above at note1 p,5
[33] ibid
[34] ibid
[35] id p3
[36] ibid
[37] ibid

Currently Farm-Africa and SOS (save our life) Sahel Ethiopia is working to mainstream participatory forest management in to policy and practice of forest management in Ethiopian in collaboration with other actors.[38]The Farm-Africa /SOS/ shale's participatory forest management project aims to balance sustainable utilization of forest protection by securing sustainable rural livelihood through securing forest users right and sustainable natural resource management.[39]

There are two participatory natural resources program of Farm-Africa and sos- Sahel in Ethiopia with the same objective.[40]These two participatory natural resources are Bale Eco-region sustainable management programme (BERSMP) and strengthening sustainable livelihood and forest management programme (SSLFMP). Both specifically aiming to.[41]

- Further contribute to the long term conservation and improvement of forest condition in Ethiopia through adoption, exposition and implementation of PFM in for a regions and Bale-Eco region.
- Increase the contribution to poverty reduction and improvement of livelihoods in forest dependent communities through identification and development of viable means.
- Ensure the adoption of PFM by federal and regional forest policy regulations and practice so sustainably managing forest resources and protecting the user rights of local communities including endegenous populations. To insure the effectiveness and sustainability of the PFM approach in Ethiopian forest policy and practice, the approach must be a prevailing practice with clear policy guide with in federal and regional government

[38] Messaye and Tsegaye cited above at note 1, p.5
[39] ibid
[40] ibid
[41]id , P.6

policies. For this reason this assignment of strategy to explicitly incorporate PFM approaches and formally recognize forest use right of local communities in to forest policy would be imperative.

When we come to Ethiopian forest Legislation or forest proclamation No 94/1994 call for people's participation in the conservation and protection of natural resources in their preambles[42].But the current proclamation No.542/2007 is a significant move to words community participation which emphasis on the need for community participation in the planning, implementation and benefit sharing forest management.[43] The government has also identified the areas of investments for the planning period and natural resources management. This provides a good opportunity to expand on the link of forestry to rural livelihood improvement through scaling up participatory forest management.

2.1.4 Approaches of participatory forest management (PFM)

There are different approaches of participatory forest managements. Some of its approaches are discussed as follow.

2.1.4.1 WAJIB approach; its Oromo language Abbreviation for ("forest dwellers association") is a participatory forest management approaches developed through continued consultations between the major stakeholders or the communities living around or in the forest, after the conventional way of forest conservation has failed.[44]It was officially launched in June 2000 in Adaba- Dodola forest in Oromia region.[45] The purpose is to ensure a forest

[42] Forest development conservation and utilization proclamation No 192/1994 preamble.
[43] Forest development conservation and utilization proclamation No 542/2007 preamble.
[44] Guideline for implementation of WAJIB approach in Ethiopia (based on experience of the integrated forest management project (IFMP) Adaba Dodola Oromiya region, Ethiopia (2nd, ed, 2005) p. 1
[45] Ibid

management system that makes a real contribution to secure local livelihoods there by securing also the future of the forest resources.It is an outcome of Ethio- German bilateral cooperation which to used not only on developing the technique but also on making it feasible. So that the approach can be implemented within the existing structures and capacities of government partner.[46]These approach clearly demonstrates that local people can perfectly shoulder the responsibilities of forest conservation if they can be made to take decisions about forestry issues that affect their lives. It can be used as a tool in the process of communal participation local people can share the responsibilities and the benefits of forest conservation.

The major purpose is to ensure that forest management makes a real contribution to secure local livelihoods there by securing also the future of the forest resources management activities[47].The process leads to collaboration and a relationship of equals. Prior to initiation of the this approach, the realization of forest conservation was believed to have come through conventional ways including the setting up of village forest protection committees awareness creation village development activities (as a means of buying cooperation) enrichment planting, forest guards, area colures etc.[48] Experience later re-leaved that this was not the case rather the best arrangement was to grant exclusive use rights to the primary stakeholders (the forest dwellers) through consensus by the whole village community (including the non-forest dwellers). This is then formulated as a management agreement to be signed by partners (the users) and the government.[49] This agreement contains management of forest resources and confirms the boundaries of the forest resource and specifies who own it who use it and in what manner.[50] It also assigns role and responsibilities for the local communities to protect forest resources.

[46] Ibid
[47] ibid
[48] Ibid
[49] Id p. 2
[50] Ibid

A. Principles of the WAJIB Approach. It contains different principles [51]. Those are:-

- Local people are capable of managing forest provided they are given proper rights and duties.
- Forests are not enough for all community members; therefore, identification of primary target groups in forest conservation is essentially.
- Granting excusive users rights to forest dwellers.
- Indigenous knowledge and respected to bring about necessary changes in forest conservation and the forest dwellers must derive tangible benefit to actively continue participating in forest conservation.

B, The objectives of the WAJIB approach[52].

- To empower local people in forest management
- To improve livelihoods of the forest dwellers through sustainable forest utilization.
- To contribute in order to institutionalization of PFM as alternative forest conservation approach.

2.1.4.2 WABUB Approach:- it is the second approaches of participatory forest management.“It” is an abbreviation of the local language of Afaan Oromo, meaning “(forest management association)”[53]. The name was originally given by community which established the first this approach. It is also used as a real unit which over laps with the administrative boundary of village or sub- village or a group of some sub- villages.This approach become effective once a forest management agreement is concluded with the signature of the chair person of WaBuB executive committee and

[51] Id, P.3
[52] Id. P. 4
[53] WABUB field manual. Guideline for establishment of WaBUB PFM unit p1.

Oromiya agriculture and rural development bureau (OARDB).[54] There by the member of WaBUB are granted an exclusive right to use forest management agreements (FMA).

The first phase of the Belete- Gera participatory forest management project established two WaBuB in “Chaffee” and “Afola” sub-Villages.[55] The second phase of Belete- Gera participatory forest management project plans to expand it to other sub-villages.The process of WaBUB approach- the Belete- Gera participatory forest management project (PFMP) also recognizes that the process of PFM is an endless effort, and yet the role and capacity of Balete-Gera PFMP and the Government is limited actually in achieving sustainable PFM as well as conserving remaining forest resources.[56]The process of the this approach could be divided in to two phases.[57] Phase one- about its establishment. Phase two – harnessing the approach to achieve economic development. The main purpose of phase one is to establish this approach and conclude provisional forest management agreements (P-FMA) with community of forest users.When we come to the second phase of this approach, once P-FMA is signed and WaBuB is founded in community of forest users the approach would be promoted to become an economic entity by engaging in value adding activities of forest product.

A.The principles of the WaBuB approach,it is built on three equally important and interdependent principles[58].These are;

i. Development of self-regulatory framework to ensure sustainable forest management (SFM).
ii. Enhancement of income generation and livelihoods and
iii. Development of local organizational capacity.

[54] Ibid
[55] Ibid
[56] Id. P. 2
[57] Id. P. 2
[58] Id.p.3

To be successful these approach demands a multi sectorial approach that takes in to account not only building a policy and institutional frame work for conservation of forest, but also enhancing livelihood and Organizational capacity of people.

B.Objectives of WaBuB approach;The main objectives of the this approach is in order to change the centralized management of regional forest priority area that managed only by government agencies to PFM through formulation of forest local user, institution to share management responsibility of the resource and improve their livelihood.[59]Finally it has its own forest management agreement (FMA) which is legally binding contract between a defined community of forest users and government[60]. The contract clearly states the role and responsibilities of both parties in promoting of sustainable management of forest resources.

2.2 Forest laws in Ethiopia at different regimes.

Many, Environmental legislation were promulgated in the past different regimes in Ethiopia.[61] Among those legislations forest Laws are one of the fundamental Laws that interdependently related with the livelihood of all living and non-living things. Under this section attempts will be made to see the Ethiopian forest laws in their chronological order. Accordingly these sections have three sub sections. These are forest laws before the 1974 revolution, forest laws between 1974 and 1991 and present forest laws including federal and regional.

2.2.1 Forest Laws in Ethiopia during emperor Hailaselassies regime.

2.2.1.1 **The 1931 Constitution**- in this constitution nothing was includes about the natural resources and their conservation[62].

[59] Id, p.21
[60] Id.p.21
[61] Mellesse Damteie, Environmental law, Teaching material (2010), P.114
[62] id, p.127

2.2.1.2 The 1955 constitution- This constitution had a provision on natural resource and it has better conservation rules for natural resources of the country as compared to 1931 constitution[63]

During emperor Haile Selassie regime there was many known environmental laws. There were water laws, investment laws (specially mining laws), forest laws, plant protection etc.[64]. According to the purpose of this section on forest laws hereby, forest laws in this regime were intended to be discussed. Series of proclamations and regulations were enacted in 1965 and 1968 that dealt with the conservation, protection and exploitation of state forests.[65] Management of protective forest conservation and utilization of private Forest and regulations which determine power of ranger and forest guards[66]. Before 1974/75, about half of the forest land in Ethiopia was privately owned or claimed and about half was held by government[67]. The legal regime until 1974 aimed at the protection of state forests and protected forests (forests that are protected from human and animal interference for the purpose of protection and development)[68]. Moreover, the exploitation of private forest was regulated with a view of balancing utilization with forest protection and development.

Specifically, there are three consequent proclamations that were enacted in 1965.[69] There are:

1. State forest proclamation No- 225/1965
2. Private forest conservation proclamation No -226 of 1965
3. Protective forest proclamation No- 227 of 1965.

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[63] Revised constitution of 1955 Article 130.
[64] Mellesse cited above at note 61 ,p. 124
[65] State forest proclamation No-225/1965, protection of state forest regulation No 344/1968 and exploitation of state forests regulation No 345/1968.
[66] Power of ranger regulation No 349/1968 and power of forest guards regulation No 350/1968
[67] http; //;www;new world.moleg.go.kr/fi/download/...gov14w6xkuw bwox312 Elias N .stebek .Dwindling Ethiopian forests:the carrot and stick Dilemma last visited on November 18, 2018.
[68] ibid
[69] Mellesse cited above at note 61 p.125

2.2.1.2.1 State forest proclamation No-225/1965

The state forest proclamation had purposes such as to protect, conserve,develop, and utilize forests in accordance with modern scientific principles so as to promote the economic development of the country and to ensure a continuous supply of forest products for the benefit of the present and succeeding generations of the Ethiopian people[70] and to protect the soil of the country from erosion, deflation and to balance the regime of there by preserve the natural beauty and fertility of the country.[71] The proclamation had ecological uses of forests as its purpose to develop forest resources. It also recognized the rights of the succeeding (feature) generation to utilize forest products. According to this proclamation all forest which were not owned or possessed by any person where designated as state forests[72].As provided in article (6) of this proclamation. No state forest should be alienated either in whole or in part. The duty of conservation, protection, management and utilization of state forest was performed by ministry of Agriculture[73]. Finally the proclamation provided for penalty clauses where one who violates its provision would be punished in accordance with the penal code.

2.2.1.2.2 Private forest Conservation proclamation No-226/1965

According to this proclamation, private forests were all forests not owned by the state but owned by a person or group of persons.[74] Although the private forests was owned by individual or group of peoples. The owner of this forest is under the control or strict control of ministry of Agriculture. For instance no person should remove, utilize process/destroy any forest product from private forest, unless he has obtained a forest exploitation

[70] Article 7(c) 0f state forest proclamation No 226/1965
[71] State forest proclamation No 225/1965(preamble)
[72] Article 4 forest proclamation No 225/1965
[73] Id article 6
[74] Article 4 of private forest conservation proclamation No 226/1965

permission from community as provided in the Articles 5 of this proclamation.

2.2.1.2.3 Protective forest proclamation No- 227/1965

The purposes of this proclamation were similar to that of state and private forests. It was the minister of agriculture who was to designate a certain land to be a protective forest.[75] such land would be covered by permanent trees; shrubs or other plants and doing that would be indispensable to ensure conservation of the soil and its protection from erosion[76] .

Conservation and the improvement of the water regime through the protection or development of water shed, catchment areas springs, water course and water reservoirs and the control of flood. From the above provisions of the proclamation one can understand that the minister, can designate even privately develop forests as much greater than the measure for the other type of forests. Therefore, on the recommendation of the minister to constructer of Agriculture and up on the secession of the council of minister, to constitute certain lands as a protective forests notice of such decision should be communicated by registered mail to all known persons whose right might in any be affected by such decision and in addition should by posted in government offices in the general vicinity of such lands[77]. Accordingly, protective forests should be administered and utilized under the general supervision of infinite of Agriculture and utilized process or destroy and forest product frame protective forest except in accordance with the relevant provisions of the proclamation and regulation to be is issued.This regulations come-up with the establishment of community forests which the community forests have grown, including all forests land on which the community forests have grown, including all forests and forest products there on, were the property of community members of the

[75] Article 5 0f protective Forest proclamation No 2271965
[76] Id article 4
[77] Article 5 0f sub(a) 0f protective forest proclamation No 227/1965

community were joints owner of land as well as the forests and the forest products[78]. Finally as we understand from the proclamations there were three types of forest owner ship during the regime of emperor Hailaselassie. Those are state forests, private forests and community forests.

2.2.2 Forest Laws in Ethiopia during Dergue regime

Among the laws made during the dergue regime the most prominent Environmental law was proclamation number 192/1980, a proclamation for the conservation and development of forest and wildlife resources[79]. The proclamation has repealed some of the forest and wild life laws and at the same time retained many of such laws. It established government office to be responsible for the enforcement of the proclamation. The proclamation changed the previous type of forest ownerships and introduced a new system of ownership. There were two types of ownerships[80]. These were,

1. State forests and
2. Peasant associations

Each peasant association was obliged by the proclamation Article 6(1) to develop and conserve its own forest by planting trees within its locality in areas to be designate by the authority. During this time (socialist regime) private forest ownership was avoided because of its inconstant with the ideology of the socialist government[81]. According to article 7 of the proclamation the authority had greater power on forest of peasant association (kebele forest).So no peasant association or urban dwellers association may sell kebele forest products without the permission from the authority. In this proclamation the powers and duties of the authority were

[78] Mellesse cited above at note 61 p.123
[79] ibid
[80] Proclamation for the Conservation and Development of Forest and Wildlife resources, article 5 No 192/1980
[81] Ibid article 6

discussed clearly[82]. For instance such authority has the power to plant, protect,develop, manage and utilize state forest, designate state forest from which forest product may or may not be utilized. There are certain prohibited activities in this proclamation[83]. Some of those prohibited activities are hunting wild animal or use the product, collect fell trees, collect, load or transport any state forest product. Lastly we conclude from this proclamation there is imposed penalty clauses by its own instead of referring to the penal code for the enforcement and implementation of this proclamation[84].

2.2.3 Forest Laws in Ethiopia during PDRE Constitution.

In the constitutional history of Ethiopia there are different long lived constitutions. However, this constitution was lived only for five years. That means, from 1987- 1991. Therefore, compared to other constitutions this constitution is a very short- lived constitution in Ethiopian constitutional history. This constitution had specifically considered the issue of Environmental protection and the duty of citizens in protecting forests, soil and water resources[85].Accordind to article 55 (3) of PDRE Constitution.“Ethiopians have the duty to protect and conserve nature and natural resources, especially to develop forests and to protect and care for soil and water resource” So from this provision of the constitution we can understand as the constitution recognize the issue of forest protection even if it imposed only duties to protect forest without recognizing the rights of the peoples over it. Except this provision of the constitution there is no other law on Environmental protection in this regime.

2.3 Forest Laws in Ethiopia at the present periods.

[82] Ibid Article 7
[83] Id Article 22
[84] id Article 24
[85] Mellesse cited above at note 61 p.127

2.3.1 Forest Laws in Ethiopia at Federal level.

2.3.1.1 FDRE Constitution.

FDRE Constitution had a provision about the protection of the natural resources. Pursuant to Article 51(5) federal government shall in enact laws for the utilization and conservation of land and other natural resources[86]. This constitution is the first constitution to recognize the right to live in health and clean environment as provided in Article 44(1) of the constitutions[87]. So from this one may understand that, unless otherwise there is conservation and protection of natural resource especial forest the issue of living in clean environment will be a dream. Therefore, the conservation and protection of natural resources like a forest and others are one a means to live in healthy and clean environment[88]. When we come to other laws, the following laws were discussed here under as follows on forest protection and management.

2.3.1.2 Forest Conservation, Development and utilization proclamation No- 94/1994

The forest proclamation of transitional period was replaced the socialist regimes, forestry laws is proclamation No-94/1994 has replaced proclamation No.192/1980. The forestry conservation, development and utilization proclamation has changed the types of forest ownerships[89]. There are three types of forest ownerships, that has recognized under this proclamation- these are

1. State forest (the federal government forest)
2. Regional forests and
3. Private forest

[86] Federal democratic republic of Ethiopia constitution proclamation No.1 1995 Negarit Gazeta 1st Year No 1 article 51(5).
[87] Id article 44(1)
[88] ibid
[89] Article 3 0f forest conservation, development and utilization proclamation No 94/1994

As any private property, private forests are under the control of their owners. However , owners of private forests must obey or respect the instructions given to them by the ministry of Agriculture[90]. There are different duties of owner of private forests that were provided under Article 6 of the proclamations. Such duties are:-

- Develop forests in a sound manner and replace trees made use of in different ways.
- Ensure that forest is protected from fire and other hazards.
- Implement the overall directives issued by ministry of Agriculture on Environmental protection and those pertaining to catchments, unique habitats as well as endangered trees species and forest communities with in a region.

Article 40 of FDRE Constitution respects the property rights of private individuals[91]. However, on the other hand proclamation gives broad powers to the ministry of Agriculture on forests which is developed by individuals. Owner of private forests have no full right over their own property. They are always obliged to obey the rules of directives given to them by the ministry of the agriculture .Article- 7 of the proclamation state that, the ministry or the appropriate regional body may designate any forest (including those developed by private individual) as “protected forest”. Protected, forest” are the ones which have secured the special attention of the ministry of Agriculture[92]. At the federal level, it is the ministry of Agriculture that designated any forest as “protected forest” and at regional level the appropriate regional body (agricultural bureau or any other body which is changed with the duty to protect forests) designates any forest as “protected forest”[93]. The purposes of designating any forest is a protected forest is to conserve the soil from erosion and degradation as well

[90] Id article 6 cum 9(3)
[91] FDRE constitution Cited above at note 86 article 40
[92] Article 7 of the forest conservation, development and utilization proclamation No 94/1994
[93] ibid

maintain and improve soils fertility, To protect rare or endangered endemic plant, animal and bird species and genetic resources in general. To protect and improve the status of water bodies, source of rivers and catchments and conserve unique and representative habitat or mutual resources[94].

Generally speaking the proclamation gave some discretionary powers to appropriate federal and regional bodies to allow the use of non- timber forest products for the members of the local communities. Prohibited activities has also discussed in this proclamation in Article 13. Some of prohibited activities are cut trees, carry out hunting activities, keep beehives or extract honey etc. For implementation and enforcement of Article 13 article 14 provides very important rules which are the power of forest guards and inspects have been issued. Although, the proclamation provides for the possibility of forest guards to control the transport of forest products, at this time one can realize that forest products transported from forest area to other places without fulfilling the necessary requirement set by the proclamation[95]. Accordingly, the proclamations provide the compulsory duty to have forest guards whose functions are protecting forest resources from illegal poarchers. Not only this, even not having them is illegal, if there is no their means of controlling the distraction of forest resources. A number of methods must be added to achieve good results. Under Article 16 of this proclamation penalty clause has been also discussed. Compared to proclamation number 192 of 1980 no graver penalty is adopted in proclamation number 94/1994

2.3.1.3 Forest development conservation and utilization proclamation No- 542/2007

The above Proclamation No 94/1994 was repealed by proclamation No 542/2007. As we can infer from the preamble of this proclamation there

[94] ibid
[95] Id article 14(3)

are different objectives and purposes[96]. Under one of its objectives the proclamation presumes the development, Conservation and sustainable utilization of forest plays a decisive role in satisfying the needs of the society for forest products and plays a significant role in the enhancement of national economy in general. Similarly it state that the sustainable utilization of the country's forest resources is possible through ensuring the participation of and benefit sharing by the concerned communities as well as by harmonizing forest policies and programs with those of other economic sectors, particularly with agricultural and rural development policy[97]. Lastly the development, conservation and utilization of forests plays decisive role in preventing soil erosion, expansion of desertification, disturbance of ecological balance, depletion of biodiversity and reduction of Agriculture due to the alarming situation of forest degradation in the country. The statements included in the preambles of the proclamation have clearly shown the purposes of law in protecting forest resources together with the ecological as well as economic functions of forests. The proclamation as it is policy objectives recognized the rights' of participation and bend it sharing of the local communities[98].Like proclamation No 94/ 1994 this proclamation has also recognized only two types of forest ownerships these are.

1. Private forest ownership
2. State forest ownership.

The state and regional forest ownership types in proclamation No 94/1994 were simply indicating ownership by the state. Because of this, it can be said that the repealed proclamation had recognized only two types of ownership that is state and private. Unlike proclamation No 94/1994 proclamation No 542/2007 has a provision that gives guarantee

[96] Forest Development Conservation and Utilization Proclamation No-542/2007 preamble
[97] ibid
[98] id Article9(3)

to private forest developers. Any person who develops forest on his holding or in a state forest area given to time on concession shall be given assurance to his ownership of the forest[99]. There is no substantial difference between the repealed and the new forest laws.

2.3.1.4 Forest Laws in Ethiopia at regional Level

It is not only the federal government that has the power to enact laws for utilization and conservation of land and other natural resources. States or regional government to administer land and other natural resource can enact their own laws in not contrary to the federal laws[100]. Such laws were discussed hereunder as follows.

2.3.5 The forest law of the South Nations Nationalizes and Peoples Regional state (SNNPRS) proclamation No 147/2012

This regional law was made after the enactment of proclamation No-94/1994 and before proclamation No-542/2007.[101] This forestry law of the SNNP's regional state has preamble almost similar to that of the federal laws. However the regional states forestry proclamation is not direct copy of federal law. There are certain differences. The definition of SNNPRs forestry law introduced some additional terms to be defined in the southern forestry law. The terms added include biodiversity concession agro-forest and Eco- tourism. Protected forest is a state owned forest with which it is possible to produce forest products useful for industrial and construction purposes[102]. This forest although owned by the regional government. Its main purpose is generation of income. This different it from protected forest means reserved forest land. A reserve forest area is an area of forest reserves for local genetic resource and biodiversity conservation purpose.

[99] Id Article 4(5)
[100] FDRE constitution cited above at note 86. Article 52(2)(d)
[101] Mellesse cited above at note 61 p.139
[102] ibid

Another difference between this proclamation and federal forestry law is that, the SNNPRs law has provisional in relation to economic advantages of forests[103]. Such concept is introduced in the regions law with the view to recognize that the local communities' participation in managing and protecting forest resources would be unthinkable without the full and genuine participation of local communities[104]. Local communities will have a sense of belongingness to the forest resource when they get some benefits from the forests. The last difference between the southern regions proclamation and that of the federal government proclamation is the penalty clause. The federal proclamation provides for the extent of punishment but the regions proclamation refers to the criminal code for punishment purposes.

2.3.6 The forest law of Oromia regional state proclamation No. 72/1995

The Oromia law recognized three types of forest ownerships these are state forests ownership, private forest ownership and community forest ownership. Under this proclamation community forest defined as the state forest where user right and management responsibility is transferred to organizes local communities of the forest developed by organized communities on communal land[105]. This proclamation has recognized in clear terms the user right and management responsibility of local communities on the state forests which are designated for this purpose. The proclamation of Oromia regional state forest law provides for the possibility of handing over of some state owned forests to the local Communities[106]. In other words, the Oromia forest proclamation has the sense that there could be the possibilities in which forest resources be better managed and developed by the local communities than the

[103] Id p.140
[104]The Southern Nation Nationalities and Peoples Regional State Forest proclamation No 147/2012 (preamble)
[105] Oromia Regional State Forest law Proclamation No 72/2003.Article 2(6).
[106] Id article 6

state.Pursuant to Article 11 of this proclamation community owned forest cannot be utilized arbitrarily. It can only be utilized with strict supervision of the rural land and natural resource administration authority of Oromia. From this rule you can understand that, utilization of community forests is under supervision and control of the authority. The purpose of such supervision and control is to ensure the sustainable utilization of forest resources by the local communities. Unlike previously discussed proclamations this proclamation also lists prohibited activities in a more extended manner[107] In this prohibited activities the Oromia forestry proclamation unlike the federal and southern regions proclamation does not make an exhaustive list of trees species which should not be cut. Moreover, it prohibits agricultural activities which are made after clearing forest resource. It is not even allowed to produce cash crops such as coffee and chat by cleaning forests. These forest proclamation provides a certain penalty clause for the enforcement and implementation of this forestry law[108]. Lastly when we compared Oromia regional state to the federal and the SNNP's forestry Law, the Oromia regional state passed a relatively stronger forest law.

[107] Id articles 14
[108] Id article 15

CHAPTER THREE

Policy and legal framework on participatory forest Management in

Ethiopia.

Introduction

Participatory forest management as it stands today in Ethiopia is a management regime aimed at achieving better and sustainable forest development through balancing conservation and utilization by mobilizing or gaining, participating and transferring management responsibilities to local communities living in and around forest areas where resources are linked directly. It is therefore, characterized to critically involved those communities and giving them clear responsibilities in forest protection and management aspects ensuring user rights of the available resources.[109]Participatory forest management, joint forest management (JFM) and community based natural resources (CBNR) are different forms of partnership between the government forest service and a community forest management group.[110]

[109] Messay and Tsegaye, cited above at note 1,p.4

[110] http;//www.pfmp/farms,os org/Docs/pfm%20 Mulugeta Leminih and Meleku Bekele PFM Best practice, Lessons, and challenges Encountered. The Ethiopia and Tanzania Experiences

JFM “is a collaborative management approach which divides forest management responsibility and return between the forest owner (Usually central or local government) but occasionally the private sectors and forest adjacent communities.” Community based forest management take place in a forest on village land and managed by village council villager take full ownership and management responsibility for an area of forest within their Jurisdiction. So from this one may conclude that these all can be applicable as management option to all kinds of natural resources forest lands by creating a space for community members to participate in forest management and other natural resources located in their jurisdictions. So PFM is captured worldwide as one option for sustainable management through active involvement of the community.PFM has been take place in Ethiopia in the mid of since 1990’ almost in the absence of regulatory forest protection efforts due to weakness of forest institutions, lack of enforcement of the and lack of effective policy guide line.[111]

At regional level in 1995 the Oromia regional state government took land in working with FARM- Africa to establish PFM at Chilimo forest site[112]. Similarly, PFM was initiated in late 1995 by German international Technical cooperation (GTz) in Adaba Dodola west Arsi zone, Oromia region. Currently there are different PFM projects in different regional states especially in Oromia regions and SNNPR state. Although there are no policy statements that promote PFM in the regions but forest laws that support the promotion of PFM.The bureau of the agriculture and rural development (BOARD) has drawn regulations for the success of PFM and regional government developed guideline for the regions.[113] Already the 1995 forest proclamation issued by the regional government of Oromia

p,6.last visited on December 12,2018

[111] FARM-Africa/sos Sahel Ethiopia. The key steps in establishing PFM.A field manual to guide practitioner in Ethiopia.p.3

[112] ibid

[113] http;//www.pfm farms os.org/docs.Ensermu Kelbessa and Camille Destop.PFM biodiversity and livelihood in Africa. proceeding of international conference.19-21 march 2007. Watching the trees growth. Last visited on December 18, 2018.

contained some statements that encouraged PFM and support community forest management development and protection. Notwithstanding of it is establishment, the objective of PFM is the empowerment of communities by introducing conformity between the forest community and community need of forest products.[114]

Practical experiences, and lessons learnt from the past pilot PFM initiatives in Ethiopia, have proven that the communities in and around forested areas can be part of solution for reducing deforestation and regeneration of forest resources. These practical experiences gained with in Ethiopia and elsewhere, have repeatedly shown that the participation of the locl communities in the negotiation and drafting of forest management conservation and use plans strongly contributes to create community ownership of the program and ensure community involvement at all stages of forest resource management through PFM approach, which is believed to be the crucial element for sustainable forest management.[115] The scaling-up PFM project is therefore, developed with the overall objective to improve forest condition and forest based livelihood options through in chanced capacity of both government institutions at all levels and the beneficiary communities to effective and effectively scale-up best management Practices in the area of PFM and non-timber forest product (NTFP) development.[116] In this respect the Ministry of Agriculture (MOA) must play the leading and coordination role of PFM harmonization process in Ethiopia. This harmonized PFM guidelines is therefore an important output of coordinated efforts of all key PFM actors and the scaling-up PFM project in Ethiopia was financially supported by European union (EU)[117].

Promoting PFM Should be considered as a process, a cycle of working in partnership for planning, implementation, monitoring and

[114] Cited above at note 104
[115] Guide line for Participatory forest management in Ethiopia MoA(2012) P.3
[116] Ibid
[117] Id p.4

learning to continuously improve the practice of forest management and provision of services shows PFM approach is aimed to consolidate the different approaches of PFM bring introduced in the country and come up with more simplified approach that could easily be taken by the key PFM actors and scale-up or increase, in their working areas in order to be consistent and maintain synergy between different initiatives. There are different guiding principles of PFM.[118] Some of those principles are provided as follows. Community as a forest manager, securing current and future rights of participating communities as decision maker's not only just protectors of the forest and establishing and legalizing representative and accountability of community based educations for the communities in order to give the awareness of the local people about the PFM.

3.1 Participatory forest management under Ethiopian legal regime.

In this section the researcher discussed with the federal and regional laws and analysis, if these laws have put equal consideration of need for promotion of the PFM implementation in forest governance or the management in our country.

3.1.1 National legal frame work on PFM

It is known more than two decades since PFM started in Ethiopia. Although PFM established in Ethiopia in the absence of legal framework, today after its establishment there are different legal framework under federal laws and regional laws and policies that provides reasonable legal basis for the implementation of PFM under national level in Ethiopia.

3.1.1.1. Constitutional Principles. The FDRE Constitution explicitly creates legal base or incorporates the provision which opens the room for community in order to manage natural resource. According to article 40(3) of the constitution the right to ownership of land and land based resources

[118] Id p.6

are exclusively vested in the state and the people[119]. This shows that natural resources of the country are jointly owned by the state and the people. Ethiopia is following a federal form of government system, this power of administering communal property vested in the federal government is further divided between the federal government and regional states. The federal government has the power to enact laws concerning the modalities of utilization of the resources as well as conservation of land and other natural resources.[120]

Again pursuant to article 43(2) of FDRE Constitution "nationals have the right to participate in national development and particularly to consult with respect to policy and project affecting their community[121]." This right essentially includes the right to develop community forest and the right of communities to at least be consulted and give approval before any forestry related projects implemented. In addition an obligation is placed on the government entity to respect the right of the people in getting full consultation to implement any environmental project. Article 92(3) of FDRE constitution provides that: People have the right to full consultation and to the expression of views in planning and implementation of environmental policies and projects that affect them directly[122]. Taking reference to the above discussed provision of the constitution we can understand the three most important point.The first one is clear that Ethiopian people at any level recognized as joint owners, together with the state of forests and other natural resources,the second they have the right to be consulted and participate in during the planning of forest related projects and the third they can involve in the implementation of forest development and utilization projects. There is thus sufficient enabling ground at the constitutional level to implement PFM in Ethiopia. But this constitutional provisions demands broader attention of governments to implement it in to practice. It requires

[119] FDERE constitution cited above at note 86 article 40(3).
[120] id article 51(5)
[121] Id. article 43(2)
[122] Id article 92(3)

detailed rules and guidelines to see enforce these principles implemented on the ground at the local community level. Although there is lack of explicit "forest policy" provisions that enshrine or shape community rights in forest management community groups and government forestary service negotiated, defined and guaranteed amongst themselves management functions entitlements and responsibilities for those forest areas, under PFM guided by overall policy provisions.[123]These rights so far achieved are based on the provisions of federal and regional policies and proclamations. Some of the provisions under the forest and forest related laws are discussed below.

3.1.1.2 Forest Development conservation and utilization proclamation No 542/2007.

The preamble of the Forest Development Conservation and Utilization Proclamation states that the sustainable utilization of the country's forest resources is possible through ensuring the participation of and benefit sharing by the adjacent communities.[124] Forest development conservation and utilization plans shall be formulated to allow the participation of local communities in development and conservation and also in the sharing modalities are pressumed under this law.[125] As far as benefit sharing is concerned, the proclamation state that the local community may reap grasses, collect fallen woods and utilize herbs from a state forest in community with the management plan developed for the forest, which actually appears to be more about recognizing traditional use rights.[126]under article 18 of forest proclamation discussing on powers and duties of regional states stipulated under sub- article (3) states that regional governments shall encourage forest development programs,

[123] Forest management Agreement (FMA)between government and community of PFM area
[124] Cited above at note 96 ,Preamble of the proclamation No-542/2007 paragraph 2
[125] Id article 9(3)
[126] Id article 10(3)

which encourages the participation of farmers and semi- pastoralists and provide technical support.

According to article 3 of this proclamation there shall be two types of forest ownership. These are private ownership and state forest. Therefore this proclamation doesn't recognize community ownership of forest expressly. However, we may say the issue of community ownership of forest may indirectly incorporate in state forest. Because state forest is under the ownership of federal government and regional governments. The forest development projection and utilization regulation is a significant step forward in providing specific legal provisions for guiding forest management practice. The regulation defines also the role and responsibilities of the forestary institution and community in forest management and more over gives provisions on the establishment and restoration of forest development associations.[127] It is clear that the forest regulation is used to provide implementation modality for forest proclamation and further clarity gaps observed in implementation of forest management. Therefore from this proclamation and regulation we may conclude that there is a significant move towards community participation which emphasis on the need for community participation in the planning implementation and benefit sharing of forest management that means participatory forest management.

3.1.1.3 Convention on Biological Diversity (CBD).

On the sphere of international agreements, the CBO takes a primary place when it comes to ensuring participation of local communities.[128] The provisions that are relevant to PFM include article 8(J) article 11 and article 15. Article 8(J) provides for recognition and promotion of indigenous knowledge and practices of local and indigenous communities[129].Under

[127] Cited above at note 122,
[128] Convention on Biological Diversity International Instrument ratified by Ethiopia in 1992.
[129] ibid

article 11 of the CBD provides for incentives measures for sustainable use and conservation of biodiversity.In the same convention article 15 provides that for regulating access to genetic resources including arrangements to ensure equitable benefit sharing on agreed terms[130]. Ethiopia has ratified the CBD in 1992. As all international instruments that Ethiopia has ratified are considered to be part and parcel of the body of the constitution per article 9(4) the CBD has an important place in laying foundational basis of PFM in Ethiopia[131].

3.1.2 Regional Legal Frame works on PFM.

3.1.2.1 Oromia Regional state Forest proclamation No-72/1995.

This law issued in 1995 attempts to explicitly recognize community participation in the conservation of resource. The proclamation starts by asserting what community forest means and defines as follows;.Community forest; means the forest that users right and management responsibility is transferred to organized community or developed by organized community on communal land.[132] The relevant provisions of this law regarding PFM are articles 4(3) and (6), 9(5), 11(1) and 12(1). According to article 4(3) of this proclamation of the development and protection of forest in Oromia region the authority shall strengthens community participation on forest development and protection. Under the same article sub article 6 state that the authority sign agreement with non- governmental organizations, private company, individuals, appropriate body and conclude bi-lateral agreement to strengthen forest protection, development and management. This provision directly support PFM implementation, other legal basis for PFM implementation under this proclamation is article 9(5) which provide the traditional users right of local people to use the state forest resource

[130] ibid
[131] FDRE constitution cited above at note 85 ,article 9(4)
[132] Cited above at note 105,article 2

and article 11(1) also provide about the utilization of community forest shall be in accordance with the agreement by community. Lastly Article 12(1) on utilization of protected forest the authority may permit the utilization of identified forest products, to the local community from the protected forest.

3.1.2.2 Revised Rural Land Administration and Use Determination Proclamation No-133/2006.

According to rural Land administration proclamation the task of administering land would be carried out based on public participation[133]. According to article 2(5) and article 2 (8) land administration essentially includes the enforcement of rights and obligations of communal holdings used by the local people in common for forestary peoples. The specific purpose of this law is to determine holding rights and security of rural land holding. It mentions that participation of the people is an important element of the process. The law however, does not describe how this enforcement of rights is carried out. It does not also guide one as to how public participation is under taken with respect to rural land administration. Accordingly we may understand from this law as it gives the place for public participation in rural land administration which essentially includes the rights and obligations in communal holdings of local people in common for forestary Purposes. But it lacks the enforcement mechanism of the rights. In this regard the government must pay the attention to show the practice on ground in order to achieve effectiveness of the objectives of PFM in the Ethiopia.

3.1.2.3 The Southern Nations Nationalities and Peoples Regional State Forest Development Conservation and Utilization Proclamation No-147/2012

[133] Art 2 of regional land administration Proclamation No 133/2006

This region prepared its own law on forest development, conservation and utilization of forest[134]. This law has incorporated basic elements that encouraged PFM implementation in the region and then discussed at more depth. The preamble of this law affirms that through meaningful participation of communities and assurance of benefit sharing from these resources, forest resources can be sustainably utilized in Ethiopia. The law has recognized community ownership of forest with in the broader sence of ownership. This articulated within the definition given to community forest[135]. The law has also opened up an opportunity forest to involve community participation in development and conservation of the resources. The regional administration is required under the law to prepare a forest management plan in order to ensure each type of participation in state forest management.[136] This is quite a good and relatively presented approach and care should be taken when the intended subsidiary legislation has been drafted. It needs to define details of intended benefit sharing mechanism, who can participate in this type of development and conservation, what the modalities of participation are, what the specific benefits the individual participants may get from it.

Therefore, the SNNPRs forest proclamation is quite progressive in the elements included in it in order to solve the problems occasioned for implementation of PFM in Ethiopia. Again it is open a room for community participation with in protected forest. Under the definitional part, it recognizes the fact that the good relationship between the people and the forest resources should at all times be maintained. There is a responsibility placed on the regional administration to support communities through appropriate training.[137] An important provision recognizing benefits is compensation for the community stewardship (protection fee) of forest. Communities living in and around natural forests should be given special

[134] SNNPRS Proclamation Cited above at note 104,preamble
[135] id 2(16)
[136] Id art 9(4)
[137] Id article 8

rewards and incentives for the effort they exerted in maintaining the resources this for and for its future up keep[138]. This provision is an important step toward implementation of PFM in natural forest areas of the region. Under part four and part five of this proclamation there is provided provisions to facilitate community participation or participatory forest management.[139] The proclamation further clarifies community participation, right and responsibilities on forest resource management. This law is quite progressive in the elements included it in order to solve the problems occasioned for the implementation of PFM in Ethiopia .Because it provides stronger penalties on offensiveness either imprisonment or fines. It also provides the application of summary procedure on offenders flagrantly caught and also argues to establishment of special courts for handling cases related to the misuse of forest resources.[140]

In generally, there are several policy backgrounds that enable the implementation of PFM in Ethiopia. This background is in away supported by the federal and regional legal framework. It is a constitutional principle that the law related to natural resource administration is adopted by the government.The regional states are expected to administer the resources based on federal set standard.When it comes to PFM concerns however the regional laws are explicit and better in approach that the federal forest specific law.

3.1.3. Major policies and Directives that can support the promotion of PFM in Ethiopia.

3.1.3.1 The Environmental policy of Ethiopia- it covers many issues related to environmental protection, livelihood, and the right of people to live in healthy environment, recognized, more specially the complementary role of communities, the private sector and the state in the

[138] Id article 8(4)
[139] Id article 15
[140] Id article 19

development of forest resources encourages their participation in designing and implementing forestary development programme, deals with the need to balance harvesting of forest products with the natural regeneration capacity of forest resource.[141]It also promotes Agricultural programs that can reduce the pressure on the forest areas and valuable ecosystem. It places a high significant to forest development as it puts separate attention to forest, woodland and tree resource as one sectorial programmer areas. Community participation and environment seeks to ensure that all phases of environmental and resource development and management from project conception to planning and implementation, as well as monitoring and evaluation are undertaken based on the decisions of resource users and managers[142].

Environmental sustainability is recognized in the constitution and in the national economic policy and strategy as a key prerequisite for lasting success of the participatory forest management in the Ethiopia[143]. However, there is as yet no overall comprehensive formulation of the cross-sectorial and sectorial issues in to a policy framework on natural resources and environment to harmonize these broad directions and guide the sustainable natural resources and environment. Therefore, given the current stage of the countries political and policy development, the time is opportune for developing a comprehensive environmental policy on natural resources and the environment[144]. So in order to overcome the problem of the PFM in our country the government must pay the attention on protection of the natural resources by participating the local community.

3.1.3.2 Ethiopian forest policy and strategy. The Ethiopian policy and strategy on development conservation and use of forests adopted in

[141] Mellesse cited above note 61,p.253
[142] http;//www.theredddesk,org/sites/...../environmental-policy-of Ethiopia 1 pfm last visited on December 15,2018
[143] ibid
[144]ibid

2006.[145] Under its introductory part states that the strategy is developed to bring sustainable development through community participation. The policy strategies pursued include a systematic control of forest resources from possible threats of theft and misuse[146]. The strategy devised to overcome this problem through community participation by way of priority state forests, planting trees species that has the natural propensity for resilience, sustaining participation through availing trainings and institutional support in fact the strategy does not recognize community ownership rights of the forest.

3.1.3.3 Biodiversity policy- Generally it ensures that the country's generic resources and essential ecosystems are preserved, developed and used in a sustainable way encourages integration of biodiversity conservation concerns in sectorial and cross- sectorial programs, encourage public participation in biodiversity conservation, development and utilization ensures that communities get their share of the benefits accrued from utilization of genetic resources and their traditional knowledge[147]. From this we conclude that as long as forest is one of genetic resource and hence the aim of this policy is to ensure and encourage integration of biodiversity and public participation in the development, utilization and conservation of biodiversity it impliedly create a forest management. In order to achieve this it is vital importance in the socio-economic well-being of the Ethiopian people, the conservation proper management and use of biodiversity need to be supported by policy, legislation and national capacity building.[148]

3.1.3.4. Growth and Transformation plan (GTP). This document describes Ethiopian's growth and transformation plan (GTP), a medium

[145] Mellesse cited above at note 61 p.11
[146] ibid
[147] http;//www.et.chm-cbd.net/convention/biodiversity-policy-Ethiopia.last visited on December 15,2018
[148] ibid

term strategic frame work for the five year period.[149]In this document Ethiopia has one of the lowest per capita rates of consumption of fossil fuel in the world. It is contribution to climate change is therefore, negligible. Although compared with the rest of world Ethiopians contribution to atmospheric pollution that cases climate changes has been negligible its impact going to increase with the growth of industrialization.Therefore, Ethiopia should do all it can to avoid emission of atmospheric pollutants and pursue a clean path of development. Ethiopia has resources and environmental conservation practices that do not entail climate change and that could also mitigation of climate change that is being introduced by industrialized countries has been increasing.[150]

Ethiopia stand to avoid emission of atmospheric pollutants and pursue a clean path of development through resource and environmental conservation practice in this GTP, it is key easy to incorporate the issue of PFM approach hence PFM is also one part of resource and environmental conservation practices. In general Ethiopian has socio economic development sector that have potential to mitigate climate change. For this successfulness PFM plays a great role and on the other hand the deforested land is in the last 20 years especially in northern Ethiopia has been reforested[151].

3.1.3.5 Climate Resilient Green Economy (CRGE)

Ethiopian's ambition to plan for "green growth" or "green economy" are elaborating in the climate resilient green economy strategy which is encored in the Gross and Transformation plan[152.]This CRGE Seeks to put Ethiopia on the path of environmentally sustainable economic development while off setting the potential impact of ambitious growth plans by 2030 in

[149] Ethiopian Gross and Transformation plan in (2014/15–2018/19),p.78
[150] http;//www.forest carbon partnership org/../ Reddiness preparation proposal assessment note. Last visited on December 16,2018 p.7
[151] ibid
[152] http;//www.undp.org/content/dam/Ethiopia/docs/Ethiopia%20 CRGE.pdf

term of Green House Gas (GHG) emissions. The CRGE vision document identifies the following necessary steps for achieving a climate resilient green economy.[153]

- The development of CRGE Strategy
- The development of CRGE environment plan,
- The establishment of CRGE facility to supports CRGE Strategy and environment plan implementation. So in order to successfully achieve the above identified steps in CRGE, PFM contribute its own essential share and in should have been incorporated in this strategy. Because the issue of forest management, protection and conservation is interrelated and interdependent with CRGE strategy. Since the country's ambition to build green economy is unthinkable without participatory forest management approach encouragement.

3.1.3.6 The Rio Declaration on environment and Development-

the Rio declaration on environment and development adopted by 178 member states in 1992 at the earth summit was at the time perceived as a progressive statement by all nations that enshrined the recognition of this declaration established sustainable development rnational legal framework.[154] This declarations have the following principles.The principle to provide poverty eradication (principle5), the importance of the environment for current and future generations and its equal footing with development (principle 3 and 4), lastly it also enshrine critical economic principle of polluter pay (principle 16). It also requested member's states to put in a place adequate legislative instruments to address environmental issue. So from the principles of this declaration we may understand that the issue of environmental protection and poverty eradiation is unthinkable without protection and conservation of natural resources, especially forest. Hence PFM approach plays a great role for the protection and conservation

[153] Ibid

[154] http;//www.UN. Csd 2012.org /United Nation Development of Economic and Social Affairs Division for Sustainable development. Visited last on December 16,2018

of forest, this contribute a vital role for successfulness of the achievement of environmental protection and poverty eradication[155]. Therefore, lastly researcher may conclude that for the successful achievement of its purpose and objective this Rio declaration principles implies incorporated PFM approach in its principles.

3.1.4 Challenges or Limitation which encountered for implementation and Achievements of the objectives of the PFM in Ethiopia.

The major objectives of the PFM is in order to achieve sustainable forest management though development of partnership between government and forest dependent local communities by introducing participatory forest management scheme in the country[156]. Even though the Ethiopian government recognized the participatory forest management approach in order to control the forest resource. The forest resources degradation continues to be major challenges to the environment and economic development in Ethiopia[157]. Forest are experiencing high rate of the deforestation due to the growing need of the fuel wood, agricultural land and overgrazing by livestock coupling the improper forest and land tenure policies and week enforcement of the law, are believed to the causes of the degradation of the forest[158]. Above all are problems and the others are a number of challenges in the process of implementing PFM and affect the achievement of its objectives in the country. The other challenges that may be grouped as external challenges which affects the effectiveness of the sector is[159]. The Week collaboration, sluggish or work procedures, long chains of bureaucracy, and sometimes even resistances for PFM by the government staff, particularly the beginning.Fear and shying away of locals

[155] ibid
[156] Mulugeta lemineh and Melaku Bekele participatory forest management best practices, lesson learned and challenges encountered the Ethiopian and Tanzanian experiences.
[157] ibid
[158] ibid
[159] id p.46

from collaboration with the outsider due to past bad experiences with government. Lack of commitment in institutionalization of PFM in the government system,lack of capacity in government offices for planning and implementing PFM, and week law enforcement.lack of legal clarifications regarding the legal status of local institutes (forest management institutes (FMI's) vs. forest cooperatives (FCOOP.s).And the high illiteracy rate among the locals delayed the process of participatory forest management in the Ethiopia.

3.1.4.5. Solution for participatory forest management problem in Ethiopia.

The researcher know above identify challenges which affects the effectiveness of the PFM approach in our country and then find the solution to such problems how to tackle or overcome the challenges and expand opportunities for PFM as one means to promote sustainable forest management (SFM) in Ethiopia. To this effect, the experiences of the PFM need to be grounded and consolidated and the government should be ready to scale up and out PFM in other forested areas of the country. It is therefore, important to institutionalize PFM in the government structures and thus as an integral part of the duties of concerned staff, enforcement of the law and the policy properly as their aim and purpose to ensure the PFMs objectives effectively. Capacity building of the partners, to achieve sustainable forest management through local community management system the capacity of the communities and their institutions must be strengthened by giving effective training. The capacity needed is not only technical (about forest management) but also organizational and managerial capacity for negotiation, conflict resolution and resource administration must be built. Mobilizing the local communities in order to participate in plantation and reforestation or rehabilitation of degraded lands, forest protection and utilization monitoring of the forest and evaluation of the forest management activities between themselves.Through this process

the government give the recognition to the communities participation at the management activities of the forest in Ethiopia

The another mechanism which the government give the recognition to communities forest management is by giving the training in order to ensure awareness for the community about participatory forest management interest and its uses.The past top-down forest management system has made local communities to be fearful and to dislike discussions about with outsiders on forest related issues. Commitment of the PFM staff, must respect locals and their traditions living among them and creation of friendly working environment coupled with multiple strategies of awareness creation are critical in building trust and winning communities' interest for PFM[160].The government must encourage local community participation by giving the incentives for PFM introduction from the government and the community sides often have different emphasize on one hand and livelihoods and utilization on the other. This can have implications for social and ecological sustainability of the projects and compromise its success.

[160] ibid

Chapter Four

4 Conclution and Recommendation

4.1 conclution

The researcher concludes the following on the bases of finding of the research. Participator forest management is a system in which communities (forest users and managers) and governments (forest department) work together to define rights of forest resource use identify and develop forest management responsibilities and agreement on how forest benefit will be shared.PFM as it stands today in Ethiopia, is a management regime aimed at achieving better and sustainable forest development through balancing conservation and utilization by mobilizing, organizing participating and transferring management responsibilities to local communities living in and around forest areas where resources are link directly. After the establishment of PFM in Ethiopia through certain stages currently there are different PFM project in different regions of Ethiopia, especially in Oromia and SNNPR regional states.There are different approaches of PFM that had been are any engaged in the implementation of PFM in different part of the country with different objectives and principles. Many, environmental legislation was promulgated in the past of different regime in Ethiopia. Among those legislations forest laws are one of the fundamental laws that interdependently related with the likelihood of all living and non-living things. Under this term paper chronologically Ethiopia forest laws of before the 1974 revolution between 1974 and present forest laws including federal forest laws and regional forest laws have discussed in detail.In this law there is a room for the implementation of PFM in Ethiopia.Government and different NGOs are playing a great law in implementation of PFM in Ethiopia. For instance, there are policies and different legal basis for PFM implementation under the federal and regional laws. As it clearly

understood and reality exist most of PFM project in Ethiopia was initiated and established by different NGOs. Even at this time there is the process of scaling–up PFM project by cooperation between different NGOS that developed with the overall objectives to improve forest condition and forest based livelihood options through enhanced capacity of both government institutions at all levels.

"It is possible to fail in many ways while to succeed is possible only in one way" From this one may understand always before the success of everything there is a challenge. There are a number of challenges in the process of implementing PFM in Ethiopia. In general, there are a number of legal provisions for implementation of PFM in Ethiopia both at federal and regional forest laws and policies but the problem is enforcement of the law and policies. Lastly the policy and legal frame work in Ethiopia provides reasonable legal basis for the implementation of PFM. The overall policy and legal basis provisions deeply acknowledge the need for public participation. In this regard, particularly the constitution of FDRE recognizes that the people have the right to directly participate at the local level development initiative as the exercise of the sovereign power of the people.There are also forest policies and proclamations at the federal level and in some regional states (Orimia and SNNPRS) that provide the legal basis for PFM implementation in our country.

4.2 Recommendation

After the all conclusion, on each points of this term paper, researcher would like to recommend the following points on bases of the findings of the study.

1. The legal frame work. Ethiopia has several policy provisions that calls for people participation and support PFM, but no proclamations, directives or subsidiary laws to help put them in to practice. So this gap should be fulfilled by concerned organ of the government.

2. Institutional frame work- a strong institutional frame work is needed to included PFM in the action plans of federal and regional government as well as up to local community level. For the PFM approach the government shoud give political and popular support to the sustainable use of the natural, man-made and cultural resources and environmental management for effectiveness at the federal, regional, zonal, woreda and kebele or community level of the objectives of the PFM.
3. There should be some kind of short- term appropriate incentives approved by rule and regulation in order to put national populations and policy in to practice and it should be given attention both the project and government.
4. There should be strong effort by PFM project enforcing realization of forest policy, rule, and regulation that protect the forest from damage and environmental consideration should be taken in to consideration before implementation of PFM.
5. Effort must be exerted to awaken the whole community about the economic and ecological benefit of forest. Also creating public awareness about economic and ecological benefit of forest resource is necessary. This can change the existing attitude of non- participatory forest management community towards this approach.
6. There should be legal framework at national and regional level separately by the policy which supports the participatory forest management.
7. Information is essential in the process of change therefore, use technologies and all types of media to disseminate information and create awareness about people's rights, thereby creating increased demand for change and for participatory forest management should be encouraged.

   8 Collaboration and communication. There are several short coming with regard to practical implementation of PFM in different part of

Ethiopia. To tackle this, the process of scaling up PFM project by collaboration and communicational relationship between different NGO'S should be encouraged and financially supported with others necessary incentives and integrate the issue of gender and youth participation in PFM when developing the legal framework should be taken in to account or consideration.

9 At the administrative level, difficulties may encountered include financial limitation for carrying out activities as well as achieve its objectives of the PFM.In order to avoid such problems the government should done closely with different national and international funding and donor organizations. In other cases the financial problem are deal with by local community members, participation in development activities and sharing the costs.

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