LEGAL FRAMEWORKS FOR REDD+ BENEFIT SHARING: EMERGING LESSONS FOR KENYA

POLICY BRIEF

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KENYA UK PACT

CONSERVATION INTERNATIONAL

Indigenous Livelihoods Enhancement Partners ILEPA "Enhancing Indigenous Resiliency"

KWCA Kenya Wildlife Conservancies Association Living nature, Living people

CDH CLIFFE DEKKER HOFMEYR INCORPORATING KIETI LAW LLP, KENYA

Key Messages

- Benefit sharing is a key component of REDD+. A robust framework for benefit sharing ensures effective, transparent, and fair distribution of REDD+ benefits to the stakeholders involved in a REDD+ initiative and contributes to the conservation of biodiversity and sustainable access to ecosystem services.

- Kenya's policy and legal framework emphasizes equitable benefit sharing and community engagement in natural resource management, and the framework has in the recent past evolved to make direct provision on benefit sharing for carbon projects, as well as projects involving the exploitation of natural resources such as forests. However, there still exist some gaps that may hinder the effective sharing of benefits.

- The experiences from key REDD+ countries demonstrate that for countries to successfully participate in REDD+ they must put in place clear measures to ensure the equitable sharing of benefits amongst all beneficiaries. These measures are varied and are based on the countries' unique national circumstances and local contexts.

- Kenya should address the gaps in its legal, policy and institutional framework by streamlining and harmonizing its REDD+ benefit sharing policy and legislative framework to avoid multiple benefit sharing instruments operating simultaneously at the national level. The country also needs to clarify its land ownership and tenure rights to ensure that the correct beneficiaries of REDD+ benefit and publish clear guidelines on critical aspects of REDD+ benefit sharing to prevent potential exploitation of communities. It is also important for Kenya to undertake capacity building for all stakeholders to ensure that they possess the capacity to negotiate on behalf of the community, identify, understand and address all opportunities and risk attendant to carbon projects, and resolve any arising disputes.

1. Introduction to REDD+ benefit sharing

Reducing Emissions from Deforestation and Forest Degradation and Sustainable Management of Forests and the Conservation and Enhancement of Forest Carbon Stocks in Developing Countries (REDD+) is an international climate change policy developed under the auspices of the United Nations Framework Convention on Climate Change (UNFCCC).[1] Through subsequent decisions such as the Cancun Safeguards[2], the Warsaw Framework[3], and the Paris Agreement[4], REDD+ has emerged as a promising mechanism both for reducing emissions from the forestry sector and for supporting good forest governance.

Benefit sharing is a fundamental principle and practice aimed at ensuring equitable access to resources and the efficient distribution of positive outcomes and advantages emanating from the exploitation of resources with all relevant stakeholders.[5] The concept acknowledges that various parties contribute to the success or progress of REDD+ (including nested projects), and, as a matter of fairness and justice, they should all have a share in the benefits derived.[6] This share is then determined according to among other factors the needs, participation, and investment of the respective stakeholders. In the context of REDD+, benefit sharing refers to the "distribution of indirect and direct gains from the implementation of REDD+[7]. This includes financial gains encompassing revenue generation, cost savings, and potential profitability[8], social gains arising from improvements in community well-being, health, education and overall quality of life, and environmental gains focused on the positive outcomes for ecosystems, biodiversity conservation and climate change mitigation".[9]

2. REDD+ benefit sharing in Kenya

Kenya's commitment to REDD+ progress is exemplified through its efforts to attain REDD+ readiness as well as its sustained engagement in REDD+ site-scale projects. Kenya has been a partner country to the UN-REDD Programme and a participant of the Forest Carbon Partnership Facility (FCPF). The country has used the FCPF readiness fund under the Kenya FCPF REDD+ Readiness Project to develop key REDD+ readiness instruments including the National REDD+ Strategy, Forest Reference Level, Safeguards Information System and National Forest Monitoring System.[10]

Kenya has implemented several site-scale REDD+ projects that contribute to both climate mitigation and community development. These include the Kasigau Corridor REDD+ Project which focuses on preventing deforestation and conserving biodiversity while generating benefits for local communities through carbon credit sales.[11] In the coastal region, the Vanga Blue Carbon Project and the Mikoko Pamoja Project emphasize mangrove conservation, recognizing the role of blue carbon in climate mitigation. These projects prevent deforestation, promote sustainable management, and channel carbon revenue into community-driven initiatives, including education, healthcare, and infrastructure.[12] Meanwhile, the Chyulu Hills REDD+ Project integrates community involvement with conservation efforts, reinforcing the link between environmental sustainability

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[1] United Nations Framework Convention on Climate Change (UNFCC), Report of the Conference of Parties on its 13th Session, held in Bali from 3 to 15 December 2007, Decision 1/CP.13, FCCC/CP/2007/6/Add.1 (UNFCC 2007).
[2] Decision 1/CP.16 The Cancun Agreements: Outcome of the work of the Ad Hoc Working Group on Long-term Cooperative Action under the Convention, (UNFCCC, 2010).
[3] Decision 9/CP.19, The Warsaw Framework: Work programme on results-based finance to progress the full implementation of the activities referred to in decision 1/CP.16, (UNFCCC, 2014).
[4] Article 5, Paris Agreement, FCCC/CP/2015/10/Add.1 Decision 1/CP.21.
[5] Wong G et al, 'Designing REDD+ benefits sharing mechanisms: from policy to practice', [2022] Center for International Forestry Research.
[6] Ibid, Wong 2022.
[7] Luttrell, C., et al, Who should benefit from REDD+? Rationales and realities. 2013 Ecology and Society,18(4), 52-70 at 54.
[8] Rakatama A et al, 'Perceived benefits and costs of REDD+ projects under different forest management regimes in Indonesia. [2020] Climate and Development' Volume12 Issue Number 5.
[9] *Ibid*, Rakatama 2020
[10] Government of Kenya, National REDD+ Strategy, (Government of Kenya, 2021).
[11] Chloe Farand, Kenya Banks on Carbon Credits – But at what cost to communities, Context, Thomson Reuters Foundation, March 30th, 2023.
[12] Fatima F, Mazza F et al, A Virtuous Cycle: Mangrove Conservation and Blue Carbon Initiatives in Coastal Kenya, (Reach Alliance, 2023).

and local livelihoods. [13]

Table 1: Kenya's REDD+ projects benefit sharing mechanisms.

PROJECT NAME	PROJECT PROPONENT	LAND TENURE SYSTEM	BENEFIT SHARING (MONETARY)	BENEFIT SHARING (NON-MONETARY)
Kasigau Corridor	Wildlife Works Carbon LLC	Private land (private and group ranches) and community land	WWC manages the carbon assets on behalf of the community members. The current benefits sharing formula entails giving a 1/3 of the total revenue to the ranch shareholders. From the remaining 2/3 WWC will deduct all costs and if there is any revenue remaining this shall be shared 50/50 between the broader community and wildlife works.[14]	Jobs: The 2022 annual report highlights that the project has created multiple jobs and built schools and hospitals for the local communities.[15]
Chyulu Hills	Maasai Wilderness Conservation Trust	Community land and public land (gazette forest and park)	The Chyulu Carbon project is a multi-partner initiative involving Kenya Forest Service; Kenya Wildlife Service; Mbirikani group ranch; Kuku A group ranch; Kuku Group ranch; Rombo group ranch; Maasai Wilderness Conservation Trust (MWCT); Big Life Foundation and David Sheldrick Wildlife Trust. The project has no fixed benefit sharing ratios and sharing of benefits is shared after costs have been deducted, according to the current needs of the Board members, project, and stakeholders. Board resolutions must be supported by a 75% majority for them to be binding.[16]	Improving livestock management practices, employing forest rangers, creating alternative income sources, jobs, and employment opportunities.[17]

[13] Doug B et all, Using Carbon and Wildlife Credits to Protect the Kasigau Corridor in Kenya, (Union of Concerned Scientists 2014) page 5.

[14] Jutta K, Kasigau Corridor REDD+ Project In Kenya: A Crash Dive for Athelia Climate Fund, (Re:Common, 2016).

[15] Aenor International S.A.U, Verification Report The Kasigau Corridor REDD+ Project Phase II – The Community Ranches (Aenor International, 2023).

[16] Stakeholder Interview, 19th January 2023.

[17] Conservation International and Everland, Chyulu Hills REDD+ Project Impact Report Q3-Q4 2022, (Conservation International 2022).

PROJECT NAME	PROJECT PROPONENT	LAND TENURE SYSTEM	BENEFIT SHARING (MONETARY)	BENEFIT SHARING (NON-MONETARY)
Mikoko Pamoja REDD+ project	Association for Coastal Ecosystem Services	Gazetted forests	Income from the projects will be deposited into the Scottish Charity Account. 6% of which will be held to meet the cost of 5year verification, 65% is transferred to Mikoko Pamoja Community Organization (26% of which is the community benefit, 36% payment of expenses, 3% group expenses), a further 23% is paid to the Mikoko Pamoja Steering Group's expenses.[18]	Schools, hospitals, beadwork projects for the local communities, improved livelihoods, improved fisheries, acquisition of a new project office.[19]
Vanga Blue Forest	Association for Coastal Ecosystem Services	Gazetted Forests	From the total income from carbon credits 60% is sent to the Community where the remainder after community costs have been deducted is used for community benefit projects. 40% is retained by ACES for payment of administration costs such as verification costs, marketing, reporting and maintenance of websites.[20]	Refurbishment of the science laboratory and purchase of medical equipment; reconstruction of nursery schools and construction of a community teachers' quarters; construction and electrification of two classrooms. As of 2022, projects under development include projects on protection of sea grass meadows, area expansions, installation of energy saving stoves.[21]

Policy and legislative framework

Equitable benefit sharing and community engagement in forestry management are emphasized on as principles of both policy and law in Kenya. Kenya's policy framework on benefit sharing refers to the set of policies, plans and strategies that govern the distribution of benefits derived from the utilization of natural resources. As there is no overarching policy on REDD+ benefit sharing and salient issues on benefit sharing are scattered across a variety of sector documents. The policies are further elaborated in the table below:

[18] Mikoko Pamoja and Plan Vivo, Plan Vivo Project Design Document 2020 Revision, (Plan Vivo, 2020).
[19] Shillan R, Kassim J, Huxham M et al, Mikoko Pamoja Annual Report 2022, (ACES, 2023).
[20] Vanga Blue Forest, Kenya Marine and Fisheries Research Institute, Vanga Blue Forest Project Design Document, (ACES, 2020).
[21] Mwanarusi M, Shillan R, Huxham et al, Vanga Blue Forest Annual Report 2022, (ACES, 2023).

Table 2: Kenya's benefit sharing policy framework

	SECTOR	POLICY	BENEFIT SHARING PROVISIONS
1	Forestry	National Forestry Policy of 2023[22]	The policy emphasizes valuing ecosystem services, integrating natural resource capital into forest management and national accounts, and incorporating sustainable forestry practices like REDD+. It promotes fair distribution of benefits across generations and calls for a regulatory framework based on participation, community forestry support, and good governance. This framework should ensure equal rights, financing, responsibilities, and effective benefit-sharing mechanisms.
		National REDD+ Strategy, 2021[23]	The National REDD+ Strategy emphasizes on inclusivity and the importance of community-led benefit sharing, where local communities are actively involved in identifying and prioritizing their own needs and benefits from REDD+ initiatives. The strategy emphasizes empowering local communities in forest conservation by ensuring they have a role in benefit-sharing decisions. It promotes results-based payments as incentives for sustainable forest management, rewarding communities for their conservation efforts. These payments, linked to performance indicators like reduced deforestation and improved forest health, provide direct financial support for sustainable practices.
2	Wildlife	National Wildlife Policy[24]	The policy emphasizes the critical importance of equitable benefit sharing in incentivizing local communities towards the protection and sustainable use of wildlife resources and habitats. The policy urges the government to consider enhancing the access to and equitable sharing of wildlife resources' benefits with both the present and future generations in order to conserve in perpetuity, these resources as a national heritage.
3	Land	National Land Policy[25]	The policy calls upon the State to protect community and individual interests over land-based resources and facilitate benefit sharing. The policy highlights that the management and utilization of land- based natural resources should involve all stakeholders
		National Land Use Policy[26]	Also premised on the philosophy of public benefit sharing, the policy calls upon the State to use national land resources in ways that encourage efficiency, access to land use information, equity, elimination of discrimination and public benefit sharing.
4	Climate Change	National Climate Change Framework Policy[27]	The policy recognizes that effective climate action requires the active involvement of various stakeholders, and benefit sharing is a crucial component of this approach. It outlines the importance of ensuring a fair and equitable allocation of effort and cost, as well as ploughing back of benefits to address disproportionate vulnerabilities, responsibilities, capabilities, disparities, and inter and intra-generational equity.

[22] Government of Kenya, National Forest Policy, (G.o.K, 2023).
[23] Government of Kenya, National REDD+ Strategy (G.o.K, 2021).
[24] Republic of Kenya, Ministry of Tourism and Wildlife, Wildlife Policy, Sessional Paper No.1 of 2020.
[25] Republic of Kenya, Ministry of Land and Physical Planning, National Land Policy, Sessional Paper No. 03 of 2009.
[26] Republic of Kenya, Ministry of Lands and Physical Planning, National Land Use Policy, Sessional Paper No.1 of 2017
[27] Republic of Kenya, Ministry of Environment and Natural Resources, National Climate Change Framework Policy, Sessional Paper No. 5 of 2016.

	SECTOR	POLICY	BENEFIT SHARING PROVISIONS
		National Policy on Climate Finance[28]	The policy highlights that the sharing of benefits emanating from climate finance and carbon markets is a constitutional requirement and that any benefits accruing from carbon markets activities and transactions such as fees, taxation of other related income would need to be shared between the national government, county governments and local communities.
		National Climate Change Action Plan (NCCAP)[29]	The plan highlights Kenya's desire to participate in jurisdiction/compliance REDD+ markets and cites that this can only be achieved by advancing the development of benefit sharing mechanisms, a registry, safeguards, and a Safeguards Information System. The NCCAP acknowledges that Kenya is well positioned to benefit from emerging carbon markets, selling carbon credits generated from the forestry sector, and reiterates that these benefits must be shared with all key stakeholders.

Kenya's commitment to benefit sharing extends beyond policy to a relatively robust legislative framework. The country has strategically embedded legal provisions within its legislative instruments to ensure that the benefits derived from the exploitation of natural resources are equitably distributed. The Constitution obligates the State to ensure sustainable exploitation, utilization, management and conservation of its environment and natural resources. This utilization, management and conservation of the environment and natural resources must be for the benefit of the people of Kenya and the government is called upon to ensure and encourage public participation in the management, protection, and conservation of the environment.[30] Any accruing benefits from these activities must be equitably shared with the people of Kenya.

Other than in the Constitution, the concept of benefit sharing is also ingrained in the country's land laws. The Land Act, Land Registration Act and Community Land Act enable REDD+ benefit sharing, by clarifying land tenure and ownership rights.[31] This delineation of tenure and ownership rights provides insight on land user rights, thus helping to determine who is eligible for benefits. However, community land rights in Kenya remain unclear as the registration process is costly for community to adopt and contains roadblocks that hampers the achievement of their rights.[32] This lack of clarity hampers the benefit sharing process as it becomes difficult to determine who is entitled to what benefits leading to the disenfranchisement of stakeholders.[33]

The Forest Conservation and Management Act, provides clarity on forest tenure and ownership rights by basing its delineation of forests in accordance with the Constitutional classification of land ownership and tenure rights. Forests are categorised as public, private and community forests. The Act defines benefits as the quantifiable and non-quantifiable goods and services provided by forest ecosystems,[34] and mandates the Kenya Forest Service to establish and implement benefit sharing arrangements.[35] The Act also requires that joint management agreements between the KFS and other entities specify the contributions, rights and obligations of all parties, and set out the methods of sharing the costs and benefits accruing from the utilization of forest resources.[36] Forest investors are mandated to share the benefits derived from the forests with local communities via infrastructure,

[28] National Treasury, National Policy on Climate Finance, (G.o.K, 2016).
[29] Government of Kenya, National Climate Change Action Plan 2023-2027, (G.o.K, 2023).
[30] Article 69 (1), Constitution of Kenya, 2010.
[31] Forest Conservation and Management Act, 2016.
[32] Wily L, The Community Land Act in Kenya: Opportunities and Challenges for Communities, (African Legal Information, 2021).
[33] Counsell Simon, Blood Carbon: How a carbon offset scheme makes millions from Indigenous land in Northern Kenya, (Survival International, 2023).
[34] Section 2, Forest Conservation and Management Act, 2016.
[35] *Ibid*, Section 8.
[36] *Ibid*, Section 2 and 41.

education, employment and social amenities.[37] There is under development Regulations on benefit sharing under the FCMA.[38] There is also proposed the Natural Resources (Benefit Sharing) Bill, 2022 to deal with benefit sharing in the exploitation of natural resources, including forests.[39]

However, it was only until the amendment of the Climate Change Act in 2023 and the development of the Climate Change (Carbon Markets) Regulations in 2024 that Kenya's benefit sharing arrangements for carbon projects were clarified in the country's legal framework.

Table 3: A summary of the existing forest carbon benefit sharing legal and regulatory framework

KEY ELEMENTS	THE CLIMATE CHANGE ACT 2016 AND THE CLIMATE CHANGE (CARBON MARKETS) REGULATIONS, 2024
Benefit Sharing Ratio	The term "benefit sharing" is not defined, but the Act and Regulations provide for an annual social contribution that must be disbursed for the benefit of the community. This annual social contribution is derived from the project proponent's aggregate earnings which are defined as "the total of all income in a carbon project without adjustment for inflation, taxation or types of double counting." The annual social contribution for land-based projects on community and public land shall be at least forty (40%) per centum of the aggregate earnings of the previous year less cost of doing business. The term less cost of doing business is not defined.
Benefit Sharing Agreement	Projects are to be implemented through a Community Development Agreement (CDA) that is to be recorded at the National Carbon Registry. The CDA must set out the roles of key stakeholders, including project proponents, impacted communities, and national or county governments, while ensuring meaningful engagement with local communities. It must also provide for an annual social contribution from the project's earnings to support community development and outlines how benefits from carbon markets and carbon credits are shared between project proponents and impacted communities. The CDA must also include plans for socio-economic development initiatives aimed at improving local livelihoods. Schedule Four of the Regulations sets out a template CDA that all projects must use. The CDA also sets out the institutional framework which includes the CDA Committee, Monitoring Evaluation and Reporting Sub-Committee and the Grievance Resolution Sub-Committee (GRS). To ensure transparency, the project proponent must maintain clear and up to date records of all disbursements made, provide an annual report to the Committee setting out its annual aggregate earnings and prepare an annual implementation report for the project. The CDA must be reviewed or amended at least every five years to remain effective and responsive to community needs. The CDA mandates that the CDA Committee conducts consultations with the Community in accordance with the laws of Kenya and the requirements of the applicable carbon standard and obtains their free, prior, and informed consent to the CDA, and that the CDA's content is consistent with the community's consent. The Committee's consultation process must be annexed to the CDA.
Dispute Resolution	Disputes arising under a land-based project shall be subjected to the dispute resolution mechanism set out in the CDA in the first instance and be resolved within 30 days from the date that the dispute is lodged. Where the dispute is not resolved within thirty days of submission, the dispute shall be referred to the National Environmental Tribunal. The CDA highlights that disputes shall be first resolved through dialogue and negotiation. If the dispute remains unresolved, it shall be lodged with the Chairperson of the GRS, who must acknowledge receipt of the grievance within ten days. The GRS Chaiman is to call the concerned parties to a dispute resolution session with the GRS, which must resolve the dispute within thirty days. If the GRS is unable to resolve the grievance, it shall refer the grievance to the CDA Committee for resolution at its next meeting or at an emergency meeting set for the same.

[37] Section 53, Forest Conservation and Management Act, 2016.
[38] The Draft Forest Conservation and Management (Benefit Sharing) Regulations, 2025.
[39] Natural Resources (Benefit Sharing) Bill, 2022

3. REDD+ benefit sharing experiences in other jurisdictions

Since REDD+'s debut on the global stage more than a decade ago, more than 50 countries have launched national REDD+ initiatives, dozens of subnational governments have experimented with "jurisdictional approaches" to REDD+, and more than 350 local REDD+ projects have been implemented globally.[40] Core to the success of these REDD+ efforts is the concept of benefit sharing.[41]

Experiences from the Republics of Ghana, Liberia, Fiji, Papua New Guinea and Nepal establish that it is fundamental for countries keen on implementing an equitable REDD+ to develop clear benefit sharing frameworks. Countries can establish these frameworks by either relying on existing benefit sharing frameworks such as in the case of Ghana[42] or by establishing a REDD+ benefit sharing guideline as in the case of Papua New Guinea.[43]

The countries' land and forest tenure and ownership rights influence the approaches to benefit sharing. For Liberia, the country adopts a jurisdictional approach to benefit sharing as the Constitution sets out that all forests belong to the State.[44] The Government receives the funds and then allocates and distributes them to various stakeholders. Counties receive funds through the County Forestry Development Fund, the exclusive channel for the national government to transfer funds under the National Forestry Reform Law's benefit sharing mechanism.[45] Communities, receive benefits through the National Community Benefit Sharing Trust, which is overseen by the National Benefit Sharing Trust Board. This board disburses funds to Community Forestry Development Committees, acting on behalf of affected communities.[46]

Fiji's REDD+ Benefit Sharing Plan (BSP) defines benefit sharing as the intentional transfer of monetary and/or non-monetary benefits (goods, services, or other benefits) to stakeholders for the generation of greenhouse gas 'carbon' emissions reduction and removals (ERRs) and other objectives funded by payments received under an Emissions Reduction Payment Agreement (ERPA).[47] The Benefit Sharing Plan lists the various monetary and non-monetary benefits of REDD+ projects and highlights the beneficiaries as either direct beneficiaries or indirect beneficiaries.[48] Fiji's benefit sharing ratios and method present a key learning point for Kenya, in that the country's mechanisms allows for the share of benefits with children within the communities where the projects are being undertaken.[49] The iTaukei Lands Trust Board (TLTB) distributes monetary benefits in equal parts to the bank accounts of the members of the Land Ownership Units (LOU). All LOU members over 18 years of age receive their benefits instantly whereas those who are under 18 have their funds invested to generate interest. Both the funds and the interest are issued to them once they get to 18 years.[50]

Papua New Guinea is comprised of private, public and community land and forest ownership and tenure rights, and its REDD+ benefit sharing guidelines provide for both jurisdictional and project level REDD+ benefit sharing arrangements.[51] Results-based payments claimed by Papua New Guinea under the compliance market will be subject to the following benefit sharing allocations: 20% towards the national government as it performs its monitoring, reporting and regulatory functions, most of which may be administered through Climate Change Development Authority, and other REDD+ sector agencies; 20% to be distributed at the sub- national government level; and 60% to the customary landholding communities.[52]

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[40] Angelsen A et al, 'Forest-Based Climate Mitigation: Lessons from REDD+ Implementation' (CIFOR, 2019).
[41] *Ibid*, CIFOR, 2019.
[42] Forest Commission of Ghana, National REDD+ Strategy, (Government of Ghana, 2016).
[43] Government of Papua New Guinea, National REDD+ Benefit Sharing and Distribution Guidelines, (GOPNG, 2023)
[44] Section 23 (b) (1), Forestry Development Authority Regulation No. 106-07 on Benefit Sharing.
[45] *Ibid*, Section 33 (a).
[46] *Ibid*, Section 33 (a).
[47] Ministry of Forestry, 'Republic of Fijis Islands Forest Carbon Partnership Facility Emissions Reductions Program', (Government of Fiji, 2019); Section 29, Forest Bill, Bill No. 13 of 2016.
[48] *Ibid*, (Government of Fiji, 2019).
[49] *Ibid*, (Government of Fiji, 2019).
[50] *Ibid*, (Government of Fiji, 2019).
[51] Government of Papua New Guinea, National REDD+ Benefit Sharing and Distribution Guidelines, (GOPNG, 2023).
[52] *Ibid*, (Government of Papua New Guinea, 2023).

Nepal's benefit-sharing mechanism under the Forest Act, 2019, ensures equitable distribution of funds from the Emission Reduction (ER) program. The Ministry of Finance deducts up to 20% before transferring at least 80% to the Forest Development Fund (FDF), which is managed by a committee chaired by the Ministry of Forests and Environment.[53] The FDF allocates 80% of its funds to community and government forest managers, with private forest owners and non-group households each receiving 5%. Overseen by the Department of Forests and Soil Conservation, this system supports community development and sustainable forest management.[54]

Countries implementing REDD+ programs must ensure that their benefit-sharing mechanisms are inclusive and provide equal opportunities for all individuals and communities to participate and benefit. This inclusivity can be achieved through capacity building and training, particularly for marginalized groups such as women, youth, migrant farmers, and people with disabilities. In Ghana, for example, the government, in partnership with organizations like Solidaridad West Africa, has launched a project to enhance social inclusion within the Ghana Cocoa Forest REDD+ Program. The project directly engages farmers across 100 communities, ensuring that vulnerable groups are actively involved in REDD+ action and benefit equitably from emissions reduction efforts.[55]

4. Recommendations

Based on the findings of the policy and legislative analysis as well as the case studies, this policy brief recommends that Kenya:

a. **Streamlines and harmonizes its REDD+ benefit sharing policy and legislative framework:** There are different existing and proposed policies, laws and regulations in Kenya, with a bearing on benefit sharing in REDD+. This includes the Climate Change Act, 2016 as amended in 2023 and the Climate Change (Carbon Markets) Regulations, 2024, the Natural Resources (Benefit Sharing) Bill, 2022 and the Draft Forest Conservation and Management Act (Benefit Sharing) Regulations, 2025. It is fundamental that the country harmonizes its REDD+ benefit sharing framework by developing specific REDD+ guidelines under the Forest Conservation and Management Act. This will avoid unnecessary transaction costs and eliminate confusion that emanates from having multiple legal and regulatory provisions on benefit sharing operating simultaneously in the country. Furthermore, as jurisdictional-based carbon project funding mechanisms require that specific benefit sharing requirements be met for countries to participate, Kenya needs to clarify its beneficiary identification, eligibility and modalities for jurisdictional REDD+.

b. **Clarifies land ownership and tenure rights:** Land tenure and ownership rights help to determine the beneficiaries of REDD+. Kenya's land rights remain unclear especially with respect to community land. The Community Land Act states that communities must be registered to own land, however the community registration process in Kenya is complex and few communities have been registered. Furthermore, some group representatives are yet to transition to communities, despite the requirements by the Community Land Regulations 2017, that group representatives transition to communities. There is therefore need for further clarification of land ownership and tenure in Kenya within the community land framework to ensure equitable benefit sharing, which is critical for the success of REDD+ projects.

c. **Clarifies key aspects of benefit-sharing requirements:** Kenya should provide clear definitions and guidelines on critical aspects of its REDD+ benefit-sharing framework to prevent potential exploitation of communities. It is important for transparency to be maintained in the calculation of aggregate earnings and the deductible cost of business to be based on verifiable project operational costs. Additionally, the process for disbursing benefits between national and sub-national entities, as well as the use of these disbursements in a

[53] Government of Nepal, Forest Act, 2019.
[54] *Ibid*, Forest Act, 2019.
[55] World Bank Group, World Bank Approved Grant to Boost Community Access to Funds Earned from Carbon Credits, last accessed at World Bank Approves Grant to Boost Community Access to Funds Earned from Carbon Credits on 3rd March 2025.

jurisdictional REDD+ programme, needs to be well-articulated to ensure transparency, equity, and accountability. This is particularly important as the National REDD+ Strategy highlights the country's keenness to pursue jurisdictional REDD+.

d. **Undertakes capacity building of key stakeholders:** Kenya's Climate Change Act requires benefit sharing in carbon projects to be carried out under the framework of a CDA. The CDA is governed by a CDA committee whose members form further sub-committees. Committee members comprise of representatives from youth, women, village elders, marginalized groups, persons with disability, civil society, and government. As these members are mandated to, amongst other functions, conduct consultations with the community and negotiate with the project proponents on behalf of the community, it is paramount that rigorous capacity building is provided to these stakeholders, to ensure that they possess the capacity to negotiate on behalf of the community, identify, understand and address all opportunities and risk attendant to carbon projects, and resolve any arising disputes.

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