Successes and Pitfalls of Global Climate Regimes in Kenya: Insights on Kyoto Protocol and Paris Agreement

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ABSTRACT

Kenya has been an active signatory to international multi-lateral conventions and ratifier especially on those touching on climate change, biodiversity loss, pollution, and distension on marine and terrestrial well-being. This study was set to establish the dynamics of international conventions on climate change and how they affected Kenya's environmental policies and legislations keeping in mind the fact that they were developed in an effort to mitigate climate change in line with the standards and targets laid down by the two most prominent global climate change regimes i.e. the Kyoto Protocol (1997) and Paris Agreement (2015). Focus was also directed at finding out how Kenya has successfully or otherwise implemented the objects and spirit of these conventions. The specific objectives included to examine the influences of the two climate regimes on Kenya's policy making and legislations on climate change and to evaluate the success and pitfalls that arose in an effort to comply with the obligations set by them. It was found out that Kenya, like other developing countries party to these environmental conventions receives a lot of financial and technical assistance. It is inferenced that Kenya has done pretty well in the achievement of targets in the areas of afforestation, land restoration, agroforestry, green energy, rehabilitation, and carbon storage enhancement in accordance with Article 34 of Kyoto Protocol. Furthermore, great strides in mobilizing internal resources to finance climate change mitigation, resilience, and adaptation are noted but overreliance on external financing is still a challenge.

Key words: Kenya, climate conventions, Kyoto Protocol, Paris Agreement, policies, financing, climate regimes.

INTRODUCTION

Nations were concerned when scientists developed a consensus on the dangers posed to humans and other living things as a result of climate change triggered by anthropogenic activities in the form of Green House Gas Emissions (GHGE) to the atmosphere. This led to the establishment of the Intergovernmental Panel on Climate Change (IPCC) whose damning findings submitted to United Nations(UN)forced negotiations. Members agreed on a framework that was dubbed the Framework Convention on Climate Change (FCCC) in 1992 in Rio de Janeiro Brazil also known as the Earth Summit on Climate Change(GEF 2023). The summit became the first successful attempt at negotiations over climate change that produced a set of agreements collectively known as the Rio Declaration. These agreements can best be described as "a first cornerstone document that provided guidelines for combating climate change including both consensus and efficacy among the guiding principles for international climate diplomacy" (Bacchetta, 2023:66).

The terms of agreement at the UNFCCC were a voluntary approach to climate change mitigation and adaptation strategies that failed to achieve emission reduction prompting developing countries to demand for a Conference of Parties named COP 1 in Berlin that established a roadmap for negotiation of the Kyoto Protocol. The Protocol aimed at compelling industrialized countries to accept absolute caps at the exclusion of developingones. The Protocol was agreed on during the COP3 in 1997 that gave room for flexible mechanisms (International Emissions Trading (IET), Joint Implementation (JI) and Clean Development Mechanism (CDM)) that ensured cost effectiveness. It was not until the operational rules were agreed during the COP 7 (Marra Kesh Accords) where mandatory caps with flexibility was adopted following the US proposals. From this, a foundation for carbon market was established supported by compliance rules, monitoring, and public participation. Despite its ambitious strategies, the Kyoto Protocol again did not meet the required good will from parties especially the major emitters (UNFCCC,2023).

The above development paved way for ParisAgreement thatwas negotiated with the purpose of bridging the gaps left by the Kyoto Protocol. It required parties to set Nationally Determined Targets (NDTs) where the goals included prevention of global average from rising above 2% and ultimately reaching global net-zero emissions where emitted gases and the amount removed balance at zero, also known as carbon neutral. By virtue of Kenya being a member of the United Nations and an active party to International Climate regimes (Kyoto Protocol and Paris Agreement) this study was an attempt to examine the successes and pitfalls that Kenya has experienced as a result of its commitments and ratifications. The authors engaged in an interrogation of subtle factors responsible for Kenya's successes and challenges in achieving the targets set by both national objectives for climate mitigation, financing, adaptation, and resilience and those of global climate change regimes.

Objectives of the Study

The objectives of the study included,

i. To examine the influences of the two climate regimes on Kenya's policy making and legislations on climate change.
ii. To evaluate the success and pitfalls that arose in an effort to comply with the obligations set by them.
iii. To Assess the efforts made to mobilize internal resources to finance climate change mitigation, resilience and adaptation in Kenya.

METHODOLOGY

In an attempt to ensure the attainment of the objectives, this study embraced the application of explanatory and descriptive methods with a sole purpose of accessing valid qualitative data that is analytical in nature. The methods also helped the authors to accurately expose their position concerning the substance of the matter under discussion. Of great help were official government documents that enabled the researchers to access policies and legislations, climate change plans and roadmaps for meeting the global climate change strategies, newspaper commentaries, editorials and opinions. Information was also gleaned from documents such as international conventions on climate change, working papers, expert opinions, journals, published books, research dissertations, Acts of parliament, regional organizations agreements on climate change, conference papers, civil society and NGO bulletins and documented opinions of vulnerable and disadvantaged groups like indigenous communities. For clarity, evidences were presented in tables, pie charts and graphs.

Kenya in International Diplomacy on Climate Change

Even before the 1992 Earth Summit on climate, Kenya wasan active and consistent participant in global climate mitigation negotiations because of its awareness of disastrous impacts to its citizenry and the economy. The World Bank captures this fact by stating that:

Kenya remains vulnerable to frequent climatic shocks that pose significant economic risk. Without adaptation measures, the impact from climate change could not only disproportionately affect the poor, but also result in real GDP losses of up to 7% from the baseline by 2050... (World Bank, 2023)

It can be inferenced from the above excerpt that the stated factors were the main motivators of Kenya's active participation in global climate politics. International diplomacy was required to guarantee a global coordinated effort in coming up with permanent sustainable solutions to pollutions as one of the pillars of containing the menace of climate change. So far, efforts are achieving some developments whereby climate change is being tracked through an institutional framework namely "a climate regime" that mobilizes countries into developing prudent and sustainable policies (Randals, 2010: Mayer, 2018: Lahn, 2020: Gupta, 2010).

For a climate regime to succeed, there are two pertinent requirements that should be met:consensus and efficacy. A condition for the first requirement is subscription as a member and for the second, dealing with policies that are under the promotion of climate regime. Dealing with the two is not difficult but the main task is on how to reconcile them because the regimes have attempted to modulate the interplay between consensus and efficacy. From the onset it should be understood that global climate mitigation and adaptation is a project that requires cooperation from all the stakeholders no matter how bigor small they are. Unlike global security where great powers can insulate themselves by use of might, climate change is indispensable for everyone who is willing to survive through posterity where Kenya is fully aware. This resonates well with Bacchetta's (2023:64) assertion that "combating climate change requires a global coordinated effort that calls for a solution at the international level".

Kyoto Protocol Obligation (Instruments)

Kyoto Protocol entered into force on 16 February 2005 after its adoption in 1997 and subsequent complex ratification process. By 2002 the parties to the agreement had reached 192. The protocol was designed to operationalize (UNFCC) whose key theme was to prevent dangerous human intrusion into the climate system. The convention came into effect in 1994 after borrowing important scientific aspects agreed upon in Montreal Canada also known as the Montreal Protocol of 1987 where members were bound to act for the sake of common interests of human safety (See, Sebutosi, 2006). According to the agreement the main objective was to ensure the stabilization of greenhouse gas concentration.

At a level that would prevent dangerous anthropogenic (human induced) interference with the climate system...such a level should be achieved within a time frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened, and to enable economic development to proceed in a sustainable manner (UNFCCC ,2023).

The Protocol's main achievement was the establishment of targets that aimed at the reduction of carbon dioxide (CO_2) and GHG. As a result, the Kyoto mechanisms were adopted that comprised of three instruments namely the Joint Implementation (JI), the International Emissions Trading (IET) and the Clean Development Mechanism (CDM). The first two were targeted at industrialized countries to meet their GHG reduction targets while the last one for less developed countries in which Kenya was a party. Through this instrument, Kenya was obligated to create a Designated National Authority (DNA) where local stakeholders were to be enabled to participate in it(Ramiah&Gregorious, 2016). This study found out that the above obligations are a mix of successes and failures in Kenya as shall be seen later.

Under the Protocol, industrialized countries pledged to support developing countries in the provision of financial support for climate change action. These countries to an extent provided funds through GEF in which Kenya was a beneficiary.Later on, other countries that included Russia and Japan decided to disown the Kyoto targets bringing them to a halt culminating in an urgent need for a new climate regime. The fall of the agreement can also be attributed to its architecture where the Annex-1 countries were compelled to finance mitigation without considering their willingness to commit resources. Their concerns that mitigation "will be expensive" offered just one alternative that was to shrink from the agreement. The experiences of the Kyoto failure were perceived by some observers as a milestone in the global quest for the reduction of GHG (See Bohringer, 2003) as it gave valuable lessons for future improvement of engagements and engineering of institutional architecture of climate regime.

Industrialized countries (who were the main emitters of greenhouse gas) were expected to do more in cutting down. They were labelled as Annex-1 countries and were 12 in number. These countries were also members of the Organization for Economic Cooperation and Development (OECD). They were expected to cut down emissions significantly by the year 2000 with majority not achieving the targets while some succeeded and others took strong action including Kenya. It is generally agreed that the Kyoto Protocol was the first climate regime that attempted to address the problem of climate change by invoking traditional diplomatic tools in its mobilization that later proved futile (Victory, 2011).

The treaty failed to practically set goals that governments were supposed to follow as a roadmap that could be honored. The salient feature of the Kyoto Protocol was the assigning of countries the bulk of mitigation based on their levels of development where the most developed carried more load as opposed to the least developed. This later proved problematic as the same agreement placed a clause that required parties to exercise discretion under the international law for the sake of meeting specific agreed emission outcomes that proved futile as the so called "developed" countries dragged their feet (Held and Roger, 2018, 529). Furthermore, the treaty continued to experience additional impediments "despite being considered a game changer treaty" (Bacchetta, 2023).

Another issue of concern was the listing of countries like India, China and Brazil as non-Annex 1 countries that provided a window for them not to commit to mitigation. Again, the protocol lacked a well thought of or a watertight compliance mechanism. As a consequence of the above bottlenecks best described as internal contradictions, the climate regime failed in the subsequent years as Annex-1 countries withdrew their commitments. The United States in 2001 argued that "the requirements of GHG emissions reduction were too costly and too demanding for the country's economy" (Gupta, 2010).

The Paris Agreement also referred to as the Paris Accords on the other hand was adopted in 2015 as a climate change international treaty for climate change mitigation, finance and adaptation. The treaty was adopted by 196 parties during the UN Climate Change Conference (COP 21). Its main agenda was to reduce increase in global temperatures that have been on an upward trend since the industrial era. The agreement is considered a watershed in global effort towards a binding covenant to fight climate change and to adapt to its effect. Unlike the Kyoto Protocol, the Paris Agreement was designed to work on a five-year ambitious climate cycle. Since 2020, it has been a requirement for countries to submit Nationally Determined Contributions (NDCs) aimed at climate action. The main characteristic of these NDCs were to consistently show higher ambitions compared to earlier submission by member parties. Parties were also required to ensure that their NDCs are aligned to the Paris Agreement especially on the issues of 2030 targets and temperature goals by the end of 2023 with the understanding of the unique circumstances experienced by different parties. Based on the agreement also, parties were required to indicate their individual effort and actions aimed at reducing greenhouse gas emissions and resilience building that will lead to adaptation to the impacts of climate change.

The Paris Agreement also bound parties to commit to long-term Low Greenhouse Gas Emission Development Strategies (LT-LEDS). This was a long-term template to be followed creatively by parties although not mandatory. This was a divergence from the Kyoto Protocol that compelled Annex-1 countries that later proved counterproductive. Probably this window was given to avert a repeat of the Kyoto debacle. It gave parties a leeway to place NDCs into their unique contexts of development priorities and planning by providing direction and vision for future development. The above binding statement is contained in Article 3 of the Convention. The three main goals of the Paris Agreement were to strengthen resilience adaptation to climate change,framework for opportunities provided to developing countries for climate financing and to amplify capacities for adaptation to climate change. It was in the interest of this study to find out how the financial provisions of the two climate regimes as recommended above were implemented in Kenya.

Global Environmental Financing and its Application to Kenya

The establishers of GEF were fully aware that climate finance for developing countries was an urgent requirement if reversal of climate change to pre-industrial levels was to be realized. They also observed that simplified and improved access to climate financing by these countries would allow quick disbursement of needed finance that will eventually reach the local needs of the office of the affected communities. According to GEF,

The current international climate financial architecture needs to develop to keep fit-for-purpose to deal with the growing multiple challenges. A shift to a system-wide climate financing architecture where all actors work together and better in more synergized and harmonious way is neede (GEF, 2023).

It was also argued that the multilateral climate funds (MCFs) could help in solving broad challenges that ultimately contributed to streamlining of international climate finance architecture. One of the big challenges experienced even in Kenya was the lack of coherence and complementarity of global multilateral funds. There was need to harmonize procedures that will guarantee access to climate finance that increase collective impact in combating climate change.

GEF provided funding to developing countries to enable them to attain the objectives of the international environmental conventions. The conventions included the Convention on Biological Diversity (CBD), United Nations Convention to Combat Desertification (UNCCD), and Stockholm Convention on Persistent Organic Pollutants (POPs). Both developed and developing countries are donors to GEF. The African countries that donated funds to the organization included Cote d'Ivoire, Egypt, Nigeria, and South Africa (GEF, 2003). Kenya was yet to contribute. According to the UNFCC, the Paris Agreement realized tremendous achievements in terms of sparking low-carbon solutions and new markets. By the year 2023, it was realized that zero- carbon solutions were becoming competitive globally with glaring evidence in power and transport sectors (UNFCCC, 2023).

In an effort to implement the Kyoto Protocol and Paris Agreement (Article 4(18) of the Paris Agreement) Kenya jointly with other African countries made attempts to adhere to their provisions by coming up with joint initiatives aimed at addressing challenges posed by climate change. The initiatives included the Africa Ministerial Conference on Environment (AMCE), the Framework of Southern and Northern Africa Climate Change Programmes (FSNACCP) and the East African Community Climate Change policy (EACCC). The salient features of the EACCC policy for instance included "promotion of energy efficiency, waste management, reforestation, efficient transport system, afforestation and efficient livestock and crop production (Mulea, 2015). The countries also in the policy committed to ensure that they provided a conducive environment for access to clean and affordable energy, encouragement of clean technologies and improvement of energy efficiency (See Parikh et al, 2013). In an attempt to achieve the above ambitions these countries committed to source climate change funds domestically and regionally. Kenya unlike other African countries made significant strides in an effort to source funds from international public private partnerships (which become a problem in itself by developing some dependency tendencies), domestic public and private source, carbon finance, adaptation fund, the County Climate Change Fund (CCCF) and most recently the establishment of Green Bonds.

Climate Funds

According to the World Bank, Kenya consistently received financing for climate action targeted at reducing GHG, poverty alleviation, adaptation and resilience from multiple domestic and global institutions, and stakeholders. Some of the listed included, "Climate Support Facility- Whole of Economy Programme (CFS-WDE), Global Water Security & Sanitation Partnership (GWSP), Japan- World Bank Programme for Mainstreaming Disaster Risk Management in Developing Countries (GFDRR) and PROBLUE (World Bank, 2023). Thebank recommended new avenues where Kenya could exploit access to climate finance in the 21st century "to increase Kenya's resilience to climate change". These new avenues included "carbon markets and risk transfer instruments in the short-term and debt instruments such as green bonds and sustainability linked bonds in the medium term" (World Bank, 2023). To access these funds, the country needed to adopt a multi-sectorial approach that encompass strong coordination between county governments, national government, the academia, Non-Governmental Organizations (NGOs), donors, private sector, and communities.

In April 2014, the government of Kenya and the United Nations Environmental Programme (UNEP) realized a report on findings of a study on the benefits Kenya would accrue as a result of the country's anticipated transition to green economy as a commitment to global climate agreements and regimes. The report highlighted economic benefits by 2030 to include, "higher natural resource productivity, a cleaner environment, increased food security and an estimated US $45 billion in economic benefits by 2030" (UNEP, 2014). Although the above strides were achieved,made in climate change financing in Kenya, some quarters of experts, climate scientists and civil society dismiss the thought behind carbon credits by arguing that they did nothing to mitigate global heating as a result of GHG explaining that some of them are linked to human rights abuses that include forced evictions as was the case with Ogiek of the Mau Forest.

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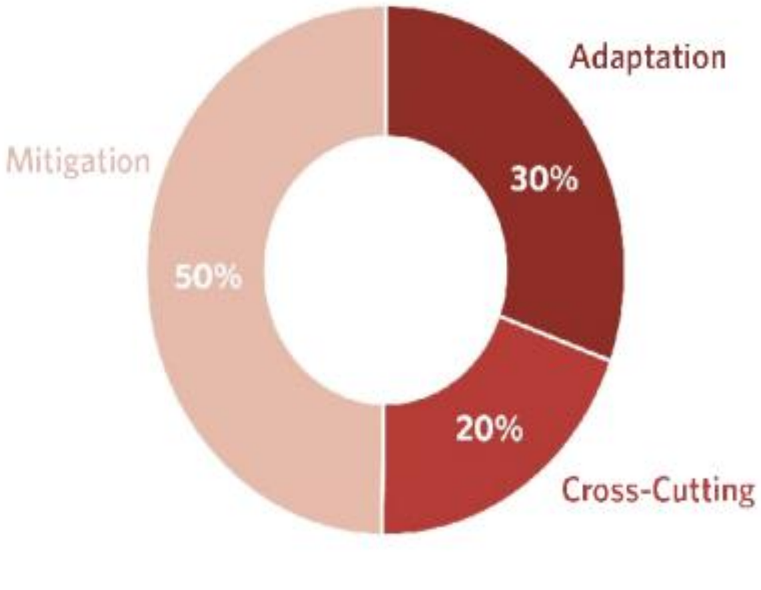
They also doubted the strategies and techniques recommended in the two global climate change regimes as interests predominantly driven by Western Countries. They urged that alternative solutions that favoured everyone should be adopted including "climate justice, reparations, adaptation and mitigation finance that are more inclusive and sustainable" (Njeru, 2023). African countries referred to the Kyoto Protocol as an opportunity for them to attract financing for their much-needed sustainable development but thirty years later, their anticipations grew grimmer year after year to a level where analysts were forecasting a convergence in the market towards a focus on a few projects types in a limited number of host countries. On this scale, Kenya was non-existent as the rest of sub-Saharan African countries (Sebitosi, 2006).

Climate Financing in Kenya

African Civil Society Organizations (CSOs) in 2023 came up with seven demands that neededattention at the Cop 28 held in Dubai United Arab Emirates after a report was published by UNEP showing that global adaptation was underfunded. The organization further reported that despite the establishment of the Loss and Damage Fund(LDF) during the Cop 27, there was no tangible progress in funding. They pointed out some of the key challenges that African countries faced in climate financing to include gender equity, agriculture for Africa, disputes over LDF, eligibility and governance. The CSOs called for prioritization of Africa in terms of "support and implementation of national adaptation plans, ensuring alignment with the Global Goal on Adaptation and addressing the specific needs of the African continent" (Mbuthia, 2023).

Solutions to above highlighted challenges as suggested included bridging the gap witnessed in adaptation finance, calling for parties who committed themselves during the Paris negotiations to fulfill their promises of doubling adaptation funding, setting new targets, prioritizing access to quality fiancé and reforming the financial system. Other areas of immense concerns included incentives to Africa in terms of financing options, tax relief, debt waivers and grants, technical assistance through the Santiago Network on L & D, its effective governance in the serving of both UNFCCC and Paris Agreement and recognition of the link between Africa's vulnerability, sustainable development and adaptation. The above demands by CSOs were problematic in the sense that the arguments were tailored towards dependency on external funding. From historical experiences as argued above, the major emitters have shown their gravitation towards the protection of their national interests. These demands might also take us back to the Kyoto tragedy.

In the financial year 2017/18, Kenya spend a total of KES 78 billion in various climate related cross cutting sectors. The spending was divided into three main categories that included adaptation, mitigation and cross cutting activities. According to the national treasury, the breakdown was as follows. Mitigation, 50%(KES 38 billion) adaptation, 30% (KES 38 billion) and 20% (KES 15 billion).



Source: The National Treasury, Republic of Kenya,2020.

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Kenya's Legislative and Policy Alignments to Kyoto Protocol and Paris Agreements

One of the Kenya's displays of commitment to global climate change is the Kenya Constitution 2010. The framers of this document were fully aware of Kenya's responsibilities to the mitigation of climate change through UNFCC and its other agencies. The document in its several Articles recognized climate change as a global challenge and through Kenya's unique role, was able to "provide grounds for the formulation of adaptation and mitigation legislation, policies, and strategies through a number of relevant Articles" (AFSA, 2020). The needs of domestic policies, international conventions and commitment are provided in Articles 11, Chapter 4 Article 42, Chapter 5 Article 69 and 72.In an effort to expedite the achievements of the Kyoto Protocol and Paris Agreements objectives bestowed on each party, Kenya developed the National Climate Change Response Strategy (NCCRS) in 2010 to ensure the integration of climate information into government policies. The main object of the strategy was to give attention to the threats posed by climate change and at the same time leveraging on the arising opportunities. Later programmes and strategies in Kenya had to be in line and agreement with the NCCRS which has over time proved to be pivotal as government's agenda guide on climate change (Kibe, 2018).

Forest Act 2005

In this Act, Kenya committed to the inter-sectorial development and sustainable use of forestry resources and is committed under international conventions and other agreements to promote the sustainable management, conservation and utilization of forests and biological diversity.The country in 2010, in line with the Forest Act 2005 and the spirit of the Kyoto Protocol initiated an integrated national effort to respond to climate change that was named the National Climate Change Response Strategy (NCCRS). As the first national climate planning document, it informed the development of the comprehensive policy. The Kyoto Protocol had identified some pertinent pitfalls that always disadvantaged developing countries that included lack of coherent policy framework, reactive rather than proactive and disintegrated responses. Through this paper, Kenya for the first time was able to formulate "proactive, coherent and integrated climate change response that focused on reducing vulnerability and building the resilience of the Kenyan people, property, environment and economy" (Republic of Kenya, 2016).

The County Government Act 2012

The County Government Act of 2012 officially bestowed the devolved units with the responsibility of tackling climate change within their jurisdictions. This was line with the central thesis of Green Politics theories and the strategy beliefs of the global climate conventions and protocols (See, Patterson, et al, 2005). Through the County Integrated Development Plans (CIDPs) committees were established to overlook the climate change funds that to an extent achieved some commendable climate change responses. Through it also, opportunities to identify climate change priorities at the County level were realized. The county governments by virtue of their proximity to communities were expected to play a leading role in financing climate mitigation projects within their areas of jurisdictions. Contrary to that, counties have been allocating very little as can be seen in the table below in some selected counties in eastern Kenya.

Table. Money used by selected counties in eastern Kenya for climate financing 2017/18

County	Number of Investments	Total Cost (KES)	Per Capita Amount KES/person.
Makueni	9	28,920,295	1,655
Kitui	12	59,217,778	1,752
Isiolo	44	76,113,760	718
Wajir	24	92,702,364	169

Garissa	5	9,969,011	119
TOTAL	94	266,923,208	

Source: BRACED,2020.

Despite the above achievements, some pitfalls can be identified. For example, majority of County governmentwere yet to develop legislation that is intended to address climate change issues. In the same breath most counties seem to be dragging their feet in ensuring some budgetary allocations to climate mitigation and adaptation plans (AFSA, 2020). In some cases, in these Counties, the climate money is embezzled by officials,

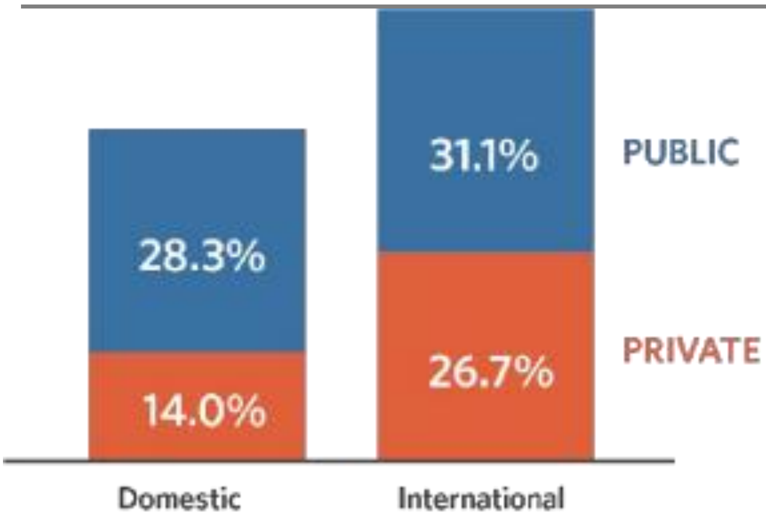
Environmental Management and Coordination Act (EMCA, 2015)

This was an instrument developed by the government to enable it prudently manage the environment by embracing all environmental management issues that included concerns and safeguards that enable degradation of protected areas such as forests, marine and game reserves among others. The Act provided opportunities for the implementation of the National Environment Action Plan (NEAP) that guaranteed the involvement of all stakeholders in development and implementation of plans, legislations and policies, values that were of high premium in the country's National Climate Change Action Plan 11, also in the "establishment of the National Environment Management Authority (NEMA) which is the Designated National Authority (DNA) for Clean Development Mechanism (CDM) and the National Implementing Entity (NIE) for Adaptation Fund" (AFSA, 2020). Although the Act had strong visions, it did not thrust strongly on the mitigation and climate change mitigation strategies.

National Adaptation Plan (2015-2030) (NAP) Policy

The National Adaptation Plan 2015-2030 (NAP) was another policy strategy developed by the government of Kenya and submitted to the UNFCC in 2017. The aim of the plan was to show commitment to the Paris Convention and the Kyoto Protocol. The plan was "to consolidate the country's vision on adaptation supported by macro-level adaptation actions that relate with the economic sectors and county level vulnerabilities to enhance long term resilience and adaptive capacity" (AFSA, 2020). This plan was strategic as it was intended to stress the importance of climate change adaptation for the purpose of building resilience and adaptation for development and to integrate climate change adaptation to both national and county budgeting and development planning process. The plan also anticipated the building of a climate resilient economy and vulnerable population through adaptation and forestalling of potential disasters as a result of climate change. One of the main shortcoming of NAP was that it emphasized macro-level strategies "creating a mismatch between national actions and county level indicators for monitoring and evaluation (AFSA, 2020). The strength of this plan was that it was aligned to most climate legislative frameworks.

The National Climate Finance Policy 2018 was formulated in order to meet national climate financing requirements in support to strategies that were agreed upon by parties that ratified the Paris Agreement. The policy was intended to promote the establishment of legal frameworks and institutions for access to climate finance that are geared towards the attainment of carbon climate resilience for national development. The policy was developed with clear focus on the provisions of climate change Act of 2016 especially on provisions of climate resource mobilization by encouraging other stakeholders such as the NGOs business and the private sector to participate in it. The policy was an ambitious document that if it was well thought of, it could have revolutionized Kenya's climate change financing but in real sense Kenya continued to rely heavily on external financing. With Kenya receiving a lot of external and internal climate finance resources, it is the responsibility of the public and civil society to amplify their demand for prudent use and accountability.As will be argued below this NDC was designed to depend on external financing in the form of technology transfer, development, financing, investment and capacity development. The NDC was expected to be implemented in 2021, but the pace was quite slow in terms of the formulation of key legislative framework related to climate change.



Source: The Treasury, Republic of Kenya,2020.

The graph above depicts the climate financing topography in Kenya. It is characterized by contributions from both domestic and foreign sources as well as public and private sectors as discussed above.

The Kenya Climate Smart Agriculture Strategy (2017-2016) was formulated to sustainably increase productivity by reducing GHGs by increasing climate resilience for the ultimate attainment of national food security and national development goals in line with global climate change commitments. This policy was in tandem with the "global agenda for investments in innovations that unite agriculture, development and climate change communities under a common agenda through integrating the three dimensions of sustainable development (AFSA, 2020). Climate smart agriculture in the long run will ensure Kenya realizes enhanced food and nutritional security thereby improving livelihoods. Again this strategy failed to acknowledge the locally determined and resilient agricultural practices that are climate smart based on local traditional knowledge (See Beinart,2000). Despite the inherent weakness of this strategy as cited above, the strategy if implemented to its full will enhance community resilience to climate change in line with the objectives of UNFCCC, Paris Agreement and Kyoto Protocol.

Forest Act 2016

Article 69(2) of the constitution of the Republic of Kenya stated that it was the duty of every individual and organizations in Kenya to assist the state in the protection and conservation of the environment that guaranteed sustainable ecology and development in the use of natural resources (Forest Act, 2016). In the same year, Kenya developed the (NDC) under the Paris Agreement of UNFCCC that made it a requirement for parties to make real their commitments towards adaptation and mitigation through customized contributions to climate change. The policy commitment in part read.

Kenya will ensure enhanced resilience to climate change towards the attainment of vision 2030, by mainstreaming climate change into Medium Term Plans (MTPs) and implementing adaptation action.

The adaptation actions mentioned in the excerpt above have encountered challenges in Kenya that need rapid explication if the Vision 2030 is to be achieved. The challenges include failure by policy makers and planners to provide guidance and resources to Counties, theexistence of knowledge gaps and institutional incapacities.

Sessional Paper No.3 of 2016

The paper was developed by the Government of Kenya in response to the dire need and cognizant of the UNFCCC process that laid an international framework for the protection of the climate system for the benefit of human generations. This was also a product of Kenya's commitment to international conventions that included UNFCCC ratified in 1994 and the Kyoto Protocol in 2005. In response also to the Paris agreement, the country actively participates in regional initiatives targeted at responding to climate change that include and not limited to the East African Community (EAC) climate change policy, master plan and strategy that also informs the National Climate Change Framework Policy. The East African Regional Climate Change Master Plan (2011-2031) is also recognized by the Government of Kenya as a blueprint that guides climate change response measures over the long term.

Climate Change Act No 11 of 2016

This Act is understood to have been the first comprehensive legal framework in Kenya for the governance of climate. A closer look at this Act one is able to realize that the main object was to build resilience on climate change and reduction of GHG for sustainable development. In Section 5, the Act established the National Climate Change Council, the Directorate in section 5 and Climate Change Fund in section 25. All these were aligned to the global climate change conventions and protocols as discussed earlier. Although the Act is lauded, it failed to address the plight of vulnerable and quantifiable emissions reduction targets.

National Climate Change Framework Policy (2018)

The Act was intended to amalgamate planning, budgeting, implementation and decision making processes at all levels of government and across all sectors that included local communities, county governments, national governments and other stakeholders such as NGOs on climate change. The main objectives as indicated in the Act included mainstreaming of climate change in all sectors of the economy, building capacity for climate change resilience, expediting of transformation to clean, low carbon emission, incentivization of the private sector to embrace low carbon development opportunities, mobilization of resources to finance climate change adaptation and resilience, gender mainstreaming in climate change mitigation effort and enhancement of research on climate change. Nonetheless the policy was silent on indigenous local knowledge and practices that reduce climate impacts at the local level.

The Climate Change Amendment Act, No.9 of 2023

This Act was an attempt to modernize Kenya’s laws pertaining rapid dynamics in the global climate change realities. The last time Kenya had updated its climate laws as witnessed above was the enactment of the Climate Change Act of 2016. In this Act new definitions were introduced, and some sections replaced to reflect the realities of the global climate change emerging trends drawing most of its principles from the Paris Agreement. Some of the introduced definitions included aggregate earnings, carbon budget, carbon credits, carbon project, carbon offset, carbon standards, community, nature-based solutions, mitigation outcomes, non-market solutions, share of proceeds among others. Insertions included regulation of carbon markets, promotion and mitigation of greenhouse gas emissions, environmental impact assessment, provision of social environmental benefits, conflict resolution offenses and penalties and fees.

Achievements and Pitfalls in Kenya’s Commitment to Global Climate Change Efforts

In order to meet the targets, set both by the Kyoto and Paris Agreement on the mitigation measures by individual parties, Kenya through the National Climate Change Action that covered the period 2013 to 2017 was able to realize what can be termed as milestone achievements. The plan advocated for pursuance of sustainable development through lowering of carbon emissions keeping in mind the country’s vulnerabilities if the opposite happens. Credible researchhave confirmed that carbon emissions from the energy sector is leading globally in increasing GHG where Kenya is not an exception. As pointed above, the energy sector is the highest contributor to carbon emissions at 51% with other sectors contributing 41% (Mulea, 2015). In the year 2003 Kenya witnessed a sharp decrease in carbon dioxide attributing to high usage of renewable energy sources at 84% of all energy sources (ibid). Sources of renewable energy in Kenya include wind, geothermal, biomass, biofuels, solar and great potential in the ocean energy along its 536-kilometer Indian Ocean coastline.

In the Least Cost Power Development Plan 2008-2030, the Government of Kenya recognized opportunities that could be leveraged on in the renewable energy sub-sector. These included “promoting the consumption of renewable energy and energy technologies for sustainable development providing duty free and tax incentives, and establishing an appropriate legal framework for renewable energies” (KIPPRA, 2010).In international for a forums of climate change, Kenya has been able to table its ambitious strategies that are expected to transform its economy in line with global targets of clean and resource efficient production processes and recycling. The strategies include reduction of emissions in the transport sector by promoting mass transit and lowering the age of motor vehicles. Others include development of national standards, introduction of tax rebates on green technologies which cumulatively will provide poverty alleviation, green job creation, and sustainable development.

At the Cop 27 during the launch of African Carbon Markets Initiative (ACMI) at Sham EL- Sheikh, Egypt, Kenya's President affirmed the need for the carbon credits markets to assist communities battling the adverse effects of climate change especially those found in Africa. That Kenya by 2020 was already a leader in the continent accounting for over 20% of Africa's volume for five years. From the proceeds, Kenya was able to invest in funding clean cooking and solar in homes. Kenya was willing to partner with initiatives like ACMI with the aim of expanding carbon markets and credit opportunities. Kenya was also focused in ensuring that 30 million tons of carbon credits to be generated every year that will ensure green jobs are created and earnings for the youth. He argued that "these resources would accelerate landscapes restoration, expansion of forest cover, tree growing, clean cooking and agroforestry (Republic of Kenya, 2022). The above sentiments sound noble and laudable but in reality, majority of carbon markets do not work for Kenyans and other African communities and in addition, 80% of the carbon credits are under the manipulation of intermediaries.

As the Government of Kenya works diligently to adhere to global climate regime's targets and demand for climate financing in terms of carbon credit funds, there are pitfalls that the effort is generating in the country. For example, an indigenous community in the Mau Forest Complex is complaining of the state's effort to evict them from their ancestral forest land in an effort to attract global climate funds "the community, which has been living in different forests in Rift-valley, accused the government of attempting to quickly evict them from Mau Forest Complex because it has been promised billions of shillings in carbon credit fund" (Macharia, 2023).

The Government of Kenya argues that the Ogiek are no longer the custodians of the Mau Forest but have turned into destroying and degrading it. It further argues that with the advent of money or capitalist economy, the Ogiek instead of protecting the forest as they used to do by use if indigenous knowledge, have turned into using forest resources that include land and trees for commercial benefit. Furthermore, the government argues that the Ogiek have been assimilated by other neighboring communities like the Maasai, Kikuyu and Kipsigis which makes it difficult to identify a genuine Ogiek people (Chemelil, 2024). The balancing act of conservation and the rights of indigenous communities together with adherence to global climate regimes standards seem to be giving the Government of Kenya and other African countries a dilemma. This is further complicated by global funds in the name of carbon credit. Funds being offered by the above mentioned climate regimes.by 2030 but contrary to that an increase was noted in 1997 (see World Bank, 2023).

RECOMMENDATIONS

To alleviate the challenge of climate financing, Kenya should adapt a multi-faceted approach that will accommodate creative domestic reforms and international partnerships. Again, more focus should be directed towards adaptation finance and mitigation measures. They should be aimed at projects in water, agriculture and forestry which are vital in building community resilience to climate change. Furthermore, the private sector should be incentivized for them to invest more in adaptation and renewable energy projects.

CONCLUSION

It has been shown in this study that Kenya by virtue of its membership even before the 1992 Earth Summit has enjoyed the benefits that accrue as a result. These benefits include access to climate financing, participation in global forums where decisions on climate change are negotiated and ratified. The global regimes under discussion (Kyoto Protocol and Paris Agreements) have realized several milestones in Kenya that include the establishment of targets for the reduction of GHG, adoption of mechanisms in the form of instruments i.e. JI, IET, and CDM, and the creation of a long term template to be creatively followed by parties. To show its

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commitments to the global climate conventions, Kenya through its 2010 constitution, ensured that the law is aligned to them. Great strides have been made by the country in an effort to achieve the climate change targets but there are also many bottlenecks that include overreliance on external funding, constricted capacity and conflict of interests.It is also argued that if the problem of GHG are not properly addressed in the international forum and domestically, Kenya will definitely find itself in a disadvantageous position in areas of poverty alleviation, jeopardizing policies, and programmes such as Millennium Development Goals (MDGs), Sustainable Development Goals (SDGs) and Vision 2030.

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