

Rethinking Ethiopia's Land Policy for Climate Resilience: Analysis based on McAuslan's Land Policy Framework

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Abstract

Ethiopia does not have a comprehensive national land policy, and the constitutional provisions and land legislation serve as de facto policy instruments for land issues. A strong land tenure policy plays a significant role in building resilience to climate change. However, the extent to which Ethiopia's legal framework contributes to climate change mitigation and adaptation is an issue that needs due attention. This article examines the role and implications of land policy in climate mitigation and adaptation by using McAuslan's land policy framework. Doctrinal research method is employed, relying on primary and secondary sources. The primary sources in the research include the FDRE Constitution, Ethiopian laws (relating to land and climate change) and international and regional climate-based protocols and agreements. Secondary sources include academic literature and other published and unpublished documents. The analysis shows that Ethiopia's legal regime is not designed to clearly define land rights, efficiently regulate land allocation and use, equitably distribute land, or adequately encourage customary tenure rights. Nevertheless, by safeguarding the State and national patrimony regarding land, the current legal framework has some elements that contribute to climate resilience investments. This article calls for reforming various elements of Ethiopia's land regime and land tenure security through an efficient, equitable, clear and environment-friendly land policy that can enhance its ability to promote and support climate change resilience.

Keywords:

Land policy, land policy elements, climate change, climate resilience, Ethiopia

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1. Introduction

Land policy plays a central role in promoting climate change resilience. Climate change is a global challenge with long-term, uncertain, and irreversible effects. The persistent changes in average daily weather patterns lead to flooding, land degradation, drought, reduced agricultural productivity, food insecurity, displacement, and loss of livelihoods.¹ Climate change also affects land productivity and desirability, intensifying pressure on land and natural resources. Land policy plays a significant role in climate change mitigation and adaptation.

Land tenure security and climate resilience are strongly connected issues. The 2019 Intergovernmental Panel on Climate Change (IPCC) report provides land governance solutions, such as meeting new climate related land demands and achieving environmental objectives, to address climate change.² The 2022

Frequently used acronyms

FDRE	Federal Democratic Republic of Ethiopia
GHG	Greenhouse Gases
IPCC	Intergovernmental Panel on Climate Change

¹ Edwin Woerdman, M Roggenkamp & M Holwerda (2021). *Essential EU climate law*, Edward Elgar Publishing.

² Intergovernmental Panel on Climate Change (IPCC) (2019), *Climate Change and Land: An IPCC Special Report on Climate Change, Desertification, Land Degradation*,

IPCC report also shows the importance of secure land tenure for climate adaptation.³ Soma has also noted a strong relationship between secure land tenure and climate resilience.⁴ Furthermore, as highlighted in Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries, and Forests, secure access to land is important for environmental sustainability.⁵ An increased investment in land tenure security is crucial for climate change mitigation and adaptation. Therefore, a strong land policy that secures tenure rights is needed to support the transition to climate-friendly development.

Land rights are bases for climate resilience. Access to secure land rights encourages investments and addresses climate crisis. It also ensures clarity on the duration and content of rights, certainty, and guarantees of enforcement against interference. Therefore, secure access to land is a fundamental component of urgent climate action.

Land policy is crucial in the broader development policy; however, designing a universally applicable and appropriate land policy is challenging.⁶ There are attempts to identify and analyze the core principles that form the foundation of a sound land policy. In this context, McAuslan's contributions are particularly noteworthy.⁷ McAuslan has provided principles that must be

Sustainable Land Management, Food Security, and Greenhouse Gas Fluxes in Terrestrial Ecosystems, p 41.

Available at: <https://www.ipcc.ch/site/assets/uploads/2019/11/SRCCL-Full-Report-Compiled-191128.pdf> (last accessed 19 January 2026).

³ Intergovernmental Panel on Climate Change (IPCC) (2022), *Climate Change 2022: Impacts, Adaptation and Vulnerability: Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change*, Cambridge University Press, Cambridge & New York. Available at: https://www.ipcc.ch/report/ar6/wg2/downloads/report/IPCC_AR6_WGII_FullReport.pdf (last accessed 21 August 2025)

⁴ Soma Chakrabarti (2020). *The Land Tenure Security Advantage: A Catalytic Asset for Sustainable and Inclusive Rural Transformation*, International Fund for Agricultural Development Advantage Series. Available at: https://ageconsearch.umn.edu/record/304751/files/landtenure_security_advantage.pdf (last accessed 21 September 2025).

⁵ Philip Seufert (2013). 'The FAO Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests', *Globalizations*, Vol. 10, p 181.

⁶ Davinder Grover and Anteneh Temesgen (2006). 'Enhancing Land-use-efficiency Through Appropriate Land Policies in Ethiopia', Poster Paper presented at the International Association of Agricultural Economists (IAAE) Annual Meeting, Gold Coast, Australia, 12–18 August 2006. Available at: <https://www.researchgate.net/publication/23511692> (last accessed 22 February 2026)

⁷ Patrick McAuslan (1987). 'Land Policy: A Framework for Analysis and Action'. *Journal of African Law*, Vol. 31, p. 185.

considered in an effective land policy. McAuslan argues that any land policy shall recognize multidimensional aspects of land. This means the land policy is required to acknowledge economic, social, environmental, legal, and political dimensions of land. A land policy that acknowledges the interconnection between land and people is better equipped to promote climate resilience. Specifically, efficiency, equity, certainty, safeguarding of the State and national patrimony, and recognition of differences are McAuslan's principles of land policy. Therefore, these land policy principles could serve as a framework to justify climate action.

Land has a multi-dimensional aspect in Ethiopia. Secure access to land is a central element for livelihoods and the realization of human rights. The attachment of people to land is deep, given its high economic, social, cultural, environmental, legal, political, and developmental value. Agriculture is the backbone of the national economy. It serves as a primary source of income for the majority of the population, as well as GDP, foreign currency earnings, and supplies of raw materials for manufacturing.⁸ Economically, land is a source of wealth, economic growth, employment, and basic survival for most Ethiopians, and the country's future development remains heavily reliant on its land resources.⁹ Beyond its economic importance, land fulfills aesthetic, recreational, and environmental needs, contributing to the respect for and preservation of nature.¹⁰ Thus, the land policy, considering all these dimensions, plays a significant role in realizing climate mitigation and adaptation.

However, the role of Ethiopia's land policy and its implications in climate mitigation and adaptation are not well studied. Therefore, the purpose of this article is to investigate the role and implications of Ethiopia's land policy in achieving climate resilience. By using McAuslan's principles of land policy as a framework, the article examines Ethiopia's land legal regime in relation with climate change mitigation and adaptation.

⁸ Solomon Wassie (2025). *Digital Finance and Agri-Food Value Chains: Case Studies from Ethiopia*, IFPRI Project Paper, International Food Policy Research Institute, Washington, DC. Available at: <https://hdl.handle.net/10568/175447> (last accessed 22 February 2026).

⁹ Emelie Rohne Till (2022). *Agriculture for Economic Development in Africa: Evidence from Ethiopia*, Palgrave Macmillan, Cham, p 98.

¹⁰ Elias N. Stebek (2015). 'Access to Urban Land and its Role in Enhancing Business Environment: Multi-track versus Mono-route Land-use Markets'. *Mizan Law Review*, 9(1), p. 2

Based on doctrinal research the article examines the role and implications of land policy in climate change mitigation and adaptation. The research in this article is based on primary and secondary sources. The primary sources include international laws, the FDRE Constitution, and national rural land and climate governance laws, and the secondary sources include academic literature, reports and other documents that focus on land policy and climate resilience. Legal and content analysis techniques are used to investigate the relationship between land policies and climate action.

The next section analyzes policy and legal responses to climate change and it focuses on the role of global and national legal regimes. The third section examines the nexus between land policy and climate resilience. It identifies major land policy principles that contribute to ensure climate resilience. The fourth section investigates the role and implications of Ethiopia's land legal regime in climate mitigation and adaptation followed by concluding remarks.

2. Policy and Legal Responses to Mitigation and Adaptation in Global Climate Governance: Ethiopia's Commitments and Strategies

Mitigation and adaptation are the primary instruments to address climate change. Mitigation aims to reduce greenhouse gas (GHG) emissions and enhance carbon sinks to curb global warming.¹¹ Mitigation addresses the root causes of climate change by reducing emissions through tenure security, sustainable land use, forest protection, and land-based emission regulations.¹² By safeguarding land rights of local people from land use changes that lead to degradation, tenure security is a cost-effective strategy to tackle climate change.

Adaptation is based on minimizing negative impacts and adjusting society to the consequences of a changing climate. Woodward, Smith et al. (2014) define adaptation as "adjusting to actual or expected climate and its effects, as well as seeking to moderate or avoid harm or exploit beneficial opportunities."¹³ Adaptation to climate change involves actions to address its effects on ecosystems, people, and infrastructure.¹⁴ It responds to these

¹¹ David Markell (2011). 'Climate Change and the Roles of Land Use and Energy Law: An Introduction'. *Journal of Land Use & Environmental Law*, Vol. 27, Issue 2, p 231.

¹² Edwin Woerdman *et al.*, *supra* note 1.

¹³ Alistair Woodward *et al* (2014). 'Climate Change and Health: On the Latest IPCC Report'. *The Lancet*, Vol. 383, Issue 9924, p 1185.

¹⁴ Margaret B. Holland, Yuta J. Masuda and Brian E. Robinson (eds) (2022). *Land Tenure Security and Sustainable Development*, Palgrave Macmillan, Cham.

impacts and mitigates the consequences of climate change through measures such as building more flood defenses.¹⁵ Successful climate adaptation increasingly relies on secure land access, use, and governance. Secure land tenure policy sustains water management, reduces the risk of displacement, and strengthens climate adaptation efforts.

Mitigation and adaptation are the objectives of the United Nations Framework Convention on Climate Change.¹⁶ The primary objective of the UNFCCC, as stated in Article 2, was climate change mitigation, i.e., stabilizing global GHG concentrations at safe levels. Its goal of cutting GHG emissions was the key to achieving climate stability. The Convention was providing mitigation (Article 4/2) and adaptation (Article 3/2) obligations as its primary and secondary objectives. Article 4(1) (e) of the Convention also requires cooperation for adaptation to the impacts of climate change.

The Kyoto Protocol, replaced by the Paris Agreement, imposed an obligation on developed countries to reduce and limit greenhouse gas (GHG) emissions.¹⁷ While developing countries are not subject to binding reduction obligations, the Kyoto Protocol requires them to take “measurable, reportable, and verifiable” actions to mitigate climate change. The Protocol does not specify the instruments to be used by parties, although it introduces flexibility mechanisms such as joint implementation (Article 6), the clean development mechanism (Article 12), and international emissions trading (Article 17). As a result, the Paris Agreement came into force in 2015.¹⁸ As clearly provided in Article 2, the Paris Agreement aims to strengthen the global response to the threat of climate change by limiting the temperature increase to 1.5 °C. Under Articles 3 and 4, it also requires the adoption of nationally determined contributions (NDCs) as targets for reducing GHG emissions, while Article 7 provides strategies to adapt to climate change impacts.

Many African countries, including Ethiopia, are committed to more ambitious carbon reduction targets to address climate change. Article 3(c) of the Convention of the African Energy Commission identifies the development and use of sustainable and environmentally sound energy as a guiding

¹⁵ Woerdman *et al*, *supra* note 1.

¹⁶ United Nations Framework Convention on Climate Change (UNFCCC), adopted 9 May 1992, entered into force 21 March 1994.

¹⁷ Kyoto Protocol to the United Nations Framework Convention on Climate Change, adopted 11 December 1997, entered into force 16 February 2005.

¹⁸ Paris Agreement under the United Nations Framework Convention on Climate Change, adopted 12 December 2015, entered into force 4 November 2016.

principle.¹⁹ Even though Africa contributes less than 4 percent of global GHG emissions, it is disproportionately impacted by climate change.²⁰ In response, Africa advocates for an energy transition as part of a pathway toward carbon neutrality and a sustainable energy future.²¹ To support this transition, the European Union has proposed universal access to clean and modern energy as a key component of the Green Deal's cooperation with Africa.²² In alignment with these efforts, the African Union has adopted a climate strategy that seeks to enhance inclusion, alignment, cooperation, and ownership of climate strategies, policies, programs, and plans across all levels of government and stakeholder groups.²³

To address climate change and achieve carbon neutrality, Ethiopia is working towards net-zero carbon emissions by 2050.²⁴ The country has adopted the Long-Term Low Emission and Climate Resilient Development (LT-LED) Strategy to achieve net-zero emissions targets by 2050.²⁵ The primary objectives of the LT-LED strategy are achieving net-zero GHG emissions and ensuring climate resilient and sustainable economic growth. In addition to promoting economic and environmental sustainability, the strategy significantly benefits vulnerable groups in society. The LT-LED strategy focuses on deep decarbonization across priority sectors, strengthening climate resilience and adaptation, and supporting development as its key areas.

Climate resilience policy helps the country in addressing the adverse effects of climate change while contributing to GHG emissions mitigation

¹⁹ African Union (2004). *Strategic Plan 2004–2007*, African Union, Addis Ababa.

²⁰ African Union Commission (2022). *African Union Climate Change and Resilient Development Strategy and Action Plan (2022–2032)*, African Union Commission, Addis Ababa.

²¹ United Nations Economic Commission for Africa (2022). *Africa's Energy Transition Calls for Pragmatic Measures to Keep the Continent Competitive*, UNECA, Addis Ababa.

²² Anteneh Dagnachew and Andries Hof (2022). *An African Vision for the Continent's Energy Transition*, PBL Netherlands Environmental Assessment Agency, The Hague.

²³ African Union Commission, *supra* note 20.

²⁴ Xufeng Zhu and Xin Shang (2023). 'Positioning as Discursive Struggle for Equity: A Critical Discourse Analysis of the Nationally Determined Contributions (NDCs) of African Countries'. *Critical Discourse Studies*, Vol. 21, Issue 2, p 218.

²⁵ FDRE Ministry of Planning and Development (2020). *Ethiopia's Long Term Low Emission and Climate Resilient Development Strategy 2020–2050*, submitted to the UNFCCC.

between 2011 and 2030.²⁶ The strategy identifies and prioritizes renewable energy sources as its main pillars.²⁷ This pillar seeks to ensure the development of renewable energy power plants while phasing out fossil fuel-based power generation. Moreover, Ethiopia's national development plan (2021–2030) emphasizes climate change action over the next decade.²⁸ The plan aims to increase the country's capacity to reduce GHG emissions from 92.7 million metric tons of CO₂ to 162.3 million metric tons of CO₂ equivalent. Ethiopia adopted the Paris Agreement Ratification Proclamation to enforce its targets and strengthen the global response to climate change.²⁹ Article 3 of the Proclamation has mandated the Ministry of Planning and Development (MoPD) to implement it.

3. Land Policy, Tenure Security, and Climate Resilience: A Conceptual Framework based on McAuslan's Principles

Land is central to development and sustainability. It is a durable asset and a primary input in agricultural production, urban housing, and commercial development.³⁰ Access to and control over land empowers people to make climate-smart decisions and invest in sustainable land management practices. As a result, a land policy that acknowledges multidimensional aspects of people to land relations is essential. Therefore, a land policy that prevents land degradation, promotes effective land use, and provides efficient and equitable methods of land allocation is crucial. A defective land governance system leads to climate change-induced displacement, conflict, food insecurity, and biodiversity loss. This discourages long-term investments, leads to the overexploitation of land and natural resources, and impedes resilient climate action.

²⁶ Nikos Tsafos & Lachlan Carey (2020). *Ethiopia's Low-carbon Development Pathway*, A Report of the CSIS Energy Security and Climate Change Program, Center for Strategic & International Studies, Washington, DC.

²⁷ Christopher J. Paul & Erika Weinthal (2019). 'The Development of Ethiopia's Climate Resilient Green Economy 2011–2014: Implications for Rural Adaptation'. *Climate and Development*, Vol. 11, Issue 3, p 193

²⁸ Melkamu Tadesse Wazza (2022). *Ten Years Development Plan of Ethiopia (2021–2030): A Critical Review*. Available at: <https://doi.org/10.13140/RG.2.2.13412.86407>.

²⁹ Paris Agreement Ratification Proclamation No. 993/2017'

³⁰ Daron Acemoglu, David A. Ansell and William F. Hulten (2018). *Return of the Strivers: Cycles of Inequality and Political Change*, NBER Working Paper No. 24645.

The IPCC special report on climate change and land provides that “insecure land tenure affects the ability of people to make changes to land that can advance adaptation and mitigation”.³¹ Land tenure insecurity exacerbates the climate crisis, deters adaptation, and affects investments in land. Land tenure security ensures sustainability, promotes investment in climate-smart water and land management systems, and boosts agricultural productivity. Insecure or unregistered land tenure undermines land users ability and interest to invest in climate resilience. Strong land governance helps capture and store CO₂ emissions and adapt to climate change through agroforestry and water harvesting, prevents and reduces land degradation, and maintains land productivity.³²

A land policy that acknowledges the multidimensional values of land and its relationship with people is essential for climate action. A climate-resilient land acquisition policy is required to address social justice, economic efficiency, and environmental sustainability. In this regard, McAuslan's work is pivotal in discussing the role of land policy for climate action. He identifies several principles that justify interventions in land relations through land policy.³³ According to McAuslan, the components of national interest in land include efficiency, equity, and certainty, safeguarding the state and national patrimony, and recognizing the legitimacy of difference. These components directly influence the economic, social, administrative/legal, environmental, and political values of land.

McAuslan emphasizes that *certainty*, as a principle of land policy, defines the rights and duties of landholders. Certainty also includes the availability and accessibility of mechanisms for addressing land disputes. Under this principle, land policies must clearly define rights, their holders, and the scope of those rights. Effective land policy ensures mechanisms of certainty, clarifying who has what land claims and the extent of those claims. Thus, clearly defining rights, restrictions, and responsibilities regarding land promotes both climate change mitigation and adaptation.

McAuslan's land policy framework identifies *efficiency* as another key principle in land allocation and use. This principle recognizes land as a scarce resource requiring a system for proper allocation and utilization. McAuslan refrains from asserting whether market mechanisms or public regulation is the

³¹ IPCC, *supra* note 2.

³² William Critchley *et al* (2023). ‘Sustainable Land Management and Climate Change Adaptation for Small Scale Land Users in Sub-Saharan Africa’. *Land*, Vol. 12, Issue 6, p 1206.

³³ Patrick McAuslan, *supra* note 7.

more suitable means of achieving efficient land use. While efficiency is central to economics and often associated with market mechanisms, public regulation intervenes when market failures occur, ensuring land is allocated and used effectively.

Moreover, McAuslan identified *equity* as a fundamental goal for any land policy. McAuslan defines it as “a fair and reasonable proportion of land, availability to all members of society, and taking steps to ensure its availability.” Equity as a principle requires fair distribution and affordable land, especially for individuals with limited incomes. The principle of equity also acknowledges public participation in the process of decision-making. Equitable access to land not only promotes social justice but also plays a critical role in reducing carbon emissions.

Safeguarding of the state and national patrimony is another core principle under McAuslan’s land policy framework. This principle implies that land policy should uphold the principle of permanent sovereignty over natural resources. Land protection and state sovereignty are historically inseparable. Sovereignty reflects the right of nations to exercise control over natural resources for national development and the well-being of their people.³⁴ It also addresses issues such as preventing land grabbing and restoring or reclaiming lands that have been transferred. By controlling land grabs and mitigating the unintended environmental consequences of investments, land policy protects national patrimony and environmental sustainability.³⁵

McAuslan further highlights the recognition of the *legitimacy of customary tenure systems* as a major land policy principle. This principle acknowledges good land use practices, respects the customary land use system, and regulates unofficial and official land markets. It requires a land policy that equally recognizes customary and modern tenure systems and appreciates the relationship of people to land. This includes acknowledging customary land practices and their respective regulations, as well as unofficial land markets regulated by custom, alongside statutory codes that govern official land markets.³⁶ Therefore, an effective land policy ensures equal consideration for customary and statutory land tenure rights.

³⁴ Pierre Marie Dupuy and Jorge E. Viñuales (2018). *International Environmental Law*, Cambridge University Press.

³⁵ John Markakis (2011). *Ethiopia: The Last Two Frontiers*, Boydell & Brewer.

³⁶ Patrick McAuslan, *supra* note 7.

4. Ethiopia's Land Policy and Climate Resilience in Light of McAuslan's Framework

Ethiopia lacks a single and uniformly applicable land policy to address tenure issues.³⁷ In the absence of a comprehensive national land policy in the country, land related matters are found scattered under the FDRE Constitution and various subsidiary land laws. The constitutional provisions and land legislation serve as de facto policy instruments for land issues. Accordingly, this section critically examines the role of Ethiopia's land policy in fostering climate mitigation and adaptation, drawing on McAuslan's land policy framework.

4.1 Certainty

The principle of certainty in land policy requires exhaustively defining land rights and their scope. Well-defined land rights are essential to encourage investments in climate action. Land laws establish the rights and obligations of landholders and play a significant role in broadening the rights and removing restrictions. The right to access land is recognized for peasants, pastoralists and investors under the FDRE Constitution. It specifically guarantees peasants the right to obtain land and protects them from eviction. It also grants pastoralists the right to access land and safeguards them against displacement. In addition, the Constitution stipulates the land use rights of private investors upon payment arrangements. Expropriation is also recognized as a basic limitation on property rights, as outlined in Sub-Articles 4, 5 and 8 of Article 40 of the Constitution.

Subsidiary land laws further define rural land rights following the principles of the FDRE Constitution. The FDRE Rural Land Administration and Use Proclamation No. 1324/2024 contains several provisions on the lease, donation, inheritance, exchange, and mortgage of land use rights. For example, Article 4 of the Proclamation recognizes, in principle, free access to rural land for any person "engaged or who prefers to engage in agricultural activities for a living." Article 5 establishes mechanisms for non-governmental organizations (NGOs), social institutions, and private investors to access rural land. Article 8 of the Proclamation recognizes holding rights, including the right to use, lease, sharecrop, mortgage, jointly develop, donate, inherit, sell and consolidate properties fixed to it. Similarly, this Proclamation

³⁷ World Bank (2017). *Ethiopia's Move to a National Integrated Land Use Policy and Land Use Plan*. Available at: <https://tenuresecurity.org/research-publication/world-bank-2017-paper> (last accessed 27 January 2026).

in Article 9 entitles landholders to lease part or the entire holding for a specified period and donate their holdings. Article 12 of the Proclamation allows the transfer of rural land through succession, as outlined in the Ethiopian Civil Code. The Proclamation also embodies provisions on sharecropping (Article 13), joint development (Article 14), exercising land use rights as collateral (Article 15), and the exchange of holdings (Article 16).

There are regional rural land laws that expand on land rights. For instance, the Amhara Rural Land Administration and Use Proclamation No. 252/2017, revised in 2025³⁸, allows landholders to mortgage their land use rights to financial institutions (Article 19). The Oromia Rural Land Administration and Utilization Proclamation No. 248/ 2023 and Gambella Rural Land Administration and Use Proclamation No. 201/2021 also allow landholders to mortgage land use rights. Therefore, the detailed rights and obligations incorporated into both federal and regional rural land laws positively contribute to the principle of certainty.

On the other hand, the transferability of landholdings is restricted by the legal frameworks. The 1995 constitution and its subsidiary land legislation specifically prohibit the sale and other means of exchange of land. Scholars argue that restrictions on private land ownership may discourage landholders from investing in climate action.³⁹ The current land laws do not encourage landholders to invest in climate mitigation and adaptation.⁴⁰

However, certain provisions of land laws expressly refer to investment in climate change mitigation and adaptation. The national rural land law (Proclamation No. 1324/2024) in its preamble requires a modern land information system to promote improvements in natural resource use, strengthen tenure security, and reduce land disputes. In addition, it focuses on the importance of sustainable land use and natural resource conservation to ensure their availability for future generations. This includes preparing and implementing sustainable rural land use plans based on agro-ecological zone. A cumulative reading of Articles 28 and 29 suggests that a master land use

³⁸ የተሻሻለው የአማራ ክልል የገጠር መሬት አስተዳደርና አጠቃቀም አዋጅ (2018 ዓ.ም.), not yet published in Amhara National Regional State Zikre Hig Gazette.

³⁹ David Mitchell, Stig Enemark and Paul van der Molen (2015). 'Climate Resilient Urban Development: Why Responsible Land Governance is Important'. *Land Use Policy*, Vol. 48, p 190.

⁴⁰ Dessalegn Rahmato (2006). 'From Heterogeneity to Homogeneity: Agrarian Class Structure in Ethiopia since the 1950s', in Dessalegn Rahmato and Taye Assefa (eds), *Land and the Challenge of Sustainable Development in Ethiopia*, Forum for Social Studies, p. 9.

plan should be developed through a participatory approach to achieve sustainable land utilization.

Moreover, Article 31 of this Proclamation requires rural landholders to use land in a manner consistent with designated land use plans. If landholders fail to conserve their land, they may face penalties, including the loss of land rights. In Article 32, it imposes specific restrictions on land use. These restrictions include the requirement of water harvesting strategies in dry areas and the restrictions in the use of land with slopes greater than 30 percent. Lands with slopes between 31–60 percent may only be used for annual crops if proper conservation technologies are in place. The Proclamation also requires landholders to adopt improved traditional and scientific land management practices to ensure the productivity of agricultural and grazing lands. It also requires local communities to preserve and sustainably utilize wetlands with guidance from experts. These provisions show how a regulatory framework can contribute to climate change mitigation and adaptation.

Regional rural land laws also contain climate action provisions. The Amhara Rural Land Administration and Use Proclamation No. 252/2017, Article 21/1/e, imposes environmental protection obligations, including revoking land use rights if landholders cause serious damage on the land through maltreatment. Article 5(5) of the Proclamation requires the implementation of land use plan that prioritizes environmental protection. The Proclamation (in Article 27(1)(a), (4) & (12)) also requires landholders to care for their land, select appropriate crops, conserve soil, and protect water sources from drying out due to improper plowing methods. These obligations imposed on landholders create opportunities to address environmental challenges and enhance climate resilience.

Moreover, conservation and use of wetlands, management of sloped and gully lands, water harvesting, protection of forests, and conservation of mother trees are the major activities required under Articles 36-42 of the Oromia region rural land law.⁴¹ These measures strengthen environmental conservation and climate resilience. The measures also encourage the local community to rehabilitate degraded lands through physical and biological interventions and restrict farming in gully areas and on land adjacent to rivers and lakes. Equally important is the effectiveness of land administration and environmental institutions mandated to implement infrastructure and settlement programs to mitigate environmental impacts. These cumulative

⁴¹ Rural Land Administration and Utilization Proclamation No. 248/2023

efforts contribute significantly to addressing climate change challenges and building a resilient rural economy.

4.2 Efficiency

As land is a vital and scarce communal resource, efficiency in land administration system is crucial to address the crisis of climate change. However, scholars argue that Ethiopian land laws prioritize equity over efficiency, posing challenges to an optimal land administration system.⁴² Therefore, designing effective legal frameworks for land tenure security, valuation, and land use planning, and information management is essential for creating a well-functioning land administration system.

Land tenure refers to the rights and institutional structures governing land access, tenure security, and land use conditions.⁴³ Certainty in land rights, clarity of duration and accessible dispute resolution mechanisms are vital to ensure tenure security. However, there are various arguments which contend that Ethiopia's current land laws impose limitations that undermine tenure security and discourage investments in climate resilience.

On the other hand, the new Proclamation No. 1324/2024, in Article 7, recognizes the indefinite landholding rights of peasants and pastoralists. Article 39 of the Proclamation establishes negotiation, mediation and adjudication in regular courts as mechanisms for dispute resolution. If the government requires landholding rights for public purposes, the expropriation, compensation, and resettlement processes are regulated by Proclamation No. 1161/2019.⁴⁴ In Articles 2(8) and 7, this law requires the use of certified private valuation professionals to apply approved methods. If professionals are absent, it requires a valuation to be made by government bodies or committees. However, the lack of standardized valuation principles hinders efficient property valuation,⁴⁵ which is crucial for fostering climate resilience and ensuring fair compensation for landholders.

⁴² Brightman Gebremichael Ganta (2019). 'Access to Rural Land Rights in the Post-1991 Ethiopia: Unconstitutional Policy Shift'. *Journal of Land and Rural Studies*, Vol. 7, Issue 1, p. 1.

⁴³ USAID (2007). *Land Tenure and Property Rights: Volume 3 – Assessment Tools*. Available at: https://landwise-production.s3.amazonaws.com/2022/03/USAID_Land-Tenure-and-Property-Rights-Vol_3-Assessment-Tools_2007-85.pdf (last accessed 6 February 2026).

⁴⁴ Expropriation of Land holdings for Public Purposes, Payments of Compensation and Resettlement Proclamation No. 1161/2019

⁴⁵ Embial Asmamaw Aschale and Habtamu Bishaw Asres (2024). 'Valuation, Compensation and Rehabilitation for Expropriation and Its Impact on the

Land use planning is important to ensure economic, environmental and community benefits. Although Ethiopia lacks a national rural land use policy, existing fragmented laws (as stated above) attempt to regulate land use issues. To conserve natural resources, Proclamation No. 1324/2024 in Articles 2(5), 2(6) requires the development of a sustainable rural land use plan. In addition, Article 28 states that a national master land use plan should be prepared consistent with land suitability and regional plans. Articles 31 and 32 of this Proclamation restrict land use to prevent soil degradation and promote sustainable management practices. This implies that unregulated land use contributes to resource depletion and biodiversity loss, underscoring the need for robust planning and management systems.

Land information system is another element of tenure security. Proclamation No. 1324/2024, in its preamble, Articles 2(2) and 50, underlines the establishment of a modern land administration system that provides reliable data to users. This system is required to bring significant change in natural resource use and conservation practices through strengthening tenure security of landholders and reducing land related disputes. It also provides the role of land registration, records and organizes data on rural landholding and use rights, facilitating informed decision-making and better governance. The law requires the Ministry of Agriculture to develop and manage a national rural land information system that harmonizes regional systems.

Therefore, addressing challenges in tenure security, valuation, land use plan and land information system enhances the national land administration system. Specifically, this helps to promote sustainable practices, protect the environment, and facilitate investment in climate action.

4.3 Equity

Equity is a cornerstone of a sound land acquisition system. It ensures access to land and secure tenure, and in effect, this is vital to achieve social and environmental objectives. Equity is crucial to preserving the livelihoods and cultural practices of vulnerable groups, such as women and youth. The land policy of Ethiopia provides land to the rural community, claiming social equity as its goal. The FDRE Constitution states egalitarian social equity as its essential principle for access to rural land.⁴⁶ It recognizes the rights of rural farmers and pastoralists to free access to land under Articles 40(4) and 40(5). The Constitution promotes public ownership of land in Article 40(3) to ensure

Expropriated Households in Ethiopia: Evidence from Debre Markos City'. *Property Management*, Vol. 42, Issue 3, p. 363.

⁴⁶ Brightman Gebremichael Ganta, *supra* note 42.

equity in access to land. Scholars argue that the equity principle remains integral to Ethiopia's land laws, and meanwhile raise concerns regarding the challenges of in the infringement of these rights.⁴⁷

Consequently, equity as a land acquisition modality principle is crucial in climate mitigation and adaptation. Because, it helps vulnerable groups to obtain secure access to land, supports sustainable agriculture, and encourages environmental sustainability. Fair access to land is vital to address climate change. Therefore, establishing an equitable system that gives rural residents an opportunity helps to maintain their livelihoods, lowers their risk from climate shocks, and supports environmental stability where the equity dimension is concurrently accompanied by the other dimensions including certainty in tenure security and efficiency.

4.4 Safeguarding the state and national patrimony

Article 40(3) of the FDRE Constitution vests land ownership in the State and the People of Ethiopia. It declares land to be the common property of nations, nationalities, and peoples of Ethiopia. Under Article 40(6), the Constitution recognizes land use right to investors. Unlike peasants and pastoralists, investors are entitled to land use rights upon payment and the landholding rights have specified periods. Furthermore, Article 89(5) of the Constitution requires the government to hold land and natural resources on behalf of the People and deploy them for their collective benefit and development.

As indicated under Article 390 of the Ethiopian Civil Code, foreigners were prohibited and restricted from owning immovable properties in the country. However, the recently adopted Proclamation No. 1388/2025 allows foreign nationals to own residential houses in Ethiopia.⁴⁸ The Proclamation provides restrictions with respect to the number of residential houses that may be owned. The law requires houses to be built on land acquired through the lease system since land is not subject to individual ownership either by nationals or foreigners. The rationales behind this prohibition include safeguarding national security, preserving the nation's social fabric, prevent economic exploitation and land speculation, and limit economic dominance

⁴⁷ Daniel Behailu Gebreamanuel and Getiso Detamo Mekebo (2018). 'Res Nullius vs. Res Communis in Matters of Communal Lands of Smallholder Farmers in Ethiopia'. *Mizan Law Review*, Vol. 12, Issue 1, p. 99.

⁴⁸ Foreign Nationals' Ownership Right of Residential House Proclamation No.1388/2025

by foreign entities.⁴⁹ Allowing foreigners to own land in a developing economy like Ethiopia could lead to monopolies.

Although land ownership is limited to the State and the People, investors can access land through lease arrangements. Following the 2008 global economic crisis, several reforms were introduced to mitigate future crises.⁵⁰ Cross-border cooperation was identified as a key strategy to reduce the unintended consequences of the crisis.⁵¹ To make Sub-Saharan Africa an attractive destination and address their financial crisis, developed countries started investing in countries with abundant raw materials, cheap labor, and favorable investment conditions.⁵²

The Ethiopian government is promoting and attracting foreign investment. It has identified huge tracts of land with high investment potential. To facilitate this, various institutions, including an Agricultural Investment Support Agency, were established at the federal level.⁵³ Leasing large areas of farmland to foreign investors became a strategy, even though individual holdings in many regions of Ethiopia remain small, leading to dissatisfaction. According to Dessalegn Rahmato, the potential benefits of large-scale investments in agriculture are producing export crops and agro-industrial inputs, creating employment opportunities, benefiting local communities through infrastructure and social services, enabling technology transfer, and promoting energy security.⁵⁴

With regard to whether corporate farms have benefited the country as expected, Dessalegn observes that “the damage done at present by the projects outweighs the benefits gained.” The policy has resulted in forced evictions, environmental degradation, and minimal benefits to the host country.⁵⁵ Often,

⁴⁹ Jara Samuel Tura (2022). ‘Comparative Analysis on Ownership of Immovable Property by Foreigners and Its Implication on FDI: The Case of Ethiopia and Kenya’s Land Policy’. *Hawassa University Journal of Law*, Vol. 6

⁵⁰ Sher Verick and Iyanatul Islam (2010). *The Great Recession of 2008–2009: Causes, Consequences and Policy Responses*, International Labour Organization Working Paper, p. 55.

⁵¹ International Monetary Fund (2010). *The Great Recession: Lessons for Developing Countries*, IMF Working Paper WP/10/265, p 29.

⁵² Francisco A. F. dos Santos (2014). ‘Tenure Rights and Social Equity: Beyond Poverty and Efficiency’, *Land Use Policy & Development Review*, Vol. 2, Issue 1, p 1.

⁵³ John Markakis (*supra* note 35) 260.

⁵⁴ Dessalegn Rahmato (2011). *Land to Investors: Large Scale Land Transfers in Ethiopia*, Forum for Social Studies, Addis Ababa, p 12.

⁵⁵ Nyikaw Ochalla (2013). ‘Ethiopia’s Land Grabs: Stories from the Displaced’, <https://icmagazine.org/ethiopias-land-grabs-interviews-displaced/>

corporations utilize only a small fraction of the land they acquire, even in land-scarce communities.⁵⁶ In some cases, investments are not initiated despite significant environmental damage caused by clearing natural vegetation. For instance, reports from Gambella National Regional State indicate that less than 10% of corporate farms have been operational.⁵⁷ Moreover, the livelihoods of disadvantaged groups are frequently jeopardized. As a result, corporate farming investments are often criticized as “land grabs” or “the second scramble for Africa.”⁵⁸

In lowland areas, the agricultural investment process has led to large-scale deforestation and overuse of water resources. Foreign companies have disproportionately benefited under the guise of investment. For instance, Karuturi, an Indian-based company, received approximately 300,000 hectares of land at a lease rate of only US\$1.16 per hectare in 2011 through agreements with regional offices.⁵⁹ Therefore, the transfer of large tracts of land at lower lease prices is challenging the pursuit of safeguarding state and national patrimony and undermines land policy contributions to climate mitigation and adaptation.

The land policy framework also empowers the government to determine the rights of vulnerable groups to access land. Given their disadvantaged position in society, mechanisms should be established to ensure these groups' land rights. Furthermore, the contribution of land policies to safeguarding state and national patrimony must align with resource conservation and environmental protection. Governments are advised to prevent "race-to-the-bottom" competition, in which local governments lower environmental standards to attract foreign investment.⁶⁰

As a principle, the expansion of investment projects affects environmental protection. Without responsible investment governance, investments may cause deforestation and promote the use of chemicals, thereby threatening

⁵⁶ Azeb W. Degife (2017). ‘The Intricacies of Large Scale Agricultural Investment in Gambella Region, Ethiopia’, paper presented at the World Bank Conference on Land and Poverty, Washington DC, p 13

⁵⁷ Ibid.

⁵⁸ John Markakis (*supra* note 35) 27

⁵⁹ Elias N. Stebek (2011). ‘Between “Land Grabs” and Agricultural Investment: Land Rent Contracts with Foreign Investors and Ethiopia’s Normative Setting in Focus’. *Mizan Law Review*, Vol. 5, Issue 2, p. 175.

⁶⁰ Richard B. Stewart and P. Spector (1977). ‘The Development of Administrative and Quasi-Constitutional Law in Judicial Review of Environmental Decision-making’, in *Decision Making in the Environmental Protection Agency: Selected Working Papers*, Vol. IIb, National Academy of Sciences.

sustainable conservation and use of natural resources. The federal government enacts national rural and urban land laws, while states administer them in accordance with federal standards.⁶¹ Local policies need to be consistent with national standards to ensure environmental and land use protection. Therefore, formulating a standard framework helps to mitigate irregular practices and enhance the resilience of land policies in addressing climate change.

4.5 Recognizing the legitimacy of customary systems

Access to secure land right is regulated either through statutory or customary systems. Effective land policies recognize and protect legitimate tenure rights, which promote investment in climate action.⁶² Proponents of modernization theory argue for transitioning from customary to private tenure systems. Consistency with modern laws determines the existence of customary laws in Ethiopia. The FDRE Constitution acknowledges the customary tenure system unless it contradicts constitutional principles. Therefore, the existence of customary tenure in Ethiopia depends on its consistency with the constitutional principles and provisions. In the Afar and Somali regions, land tenure is mainly regulated by customary law. However, tenure system is valid only if it is consistent with the statutory tenure system.

The previous rural land law, Proclamation No. 456/2005, encouraged the conversion of communal landholding into a private investment at the expense of customary tenure rights. This creates legal uncertainties, and undermines the legitimacy and security of customary land rights, particularly in expropriation cases where compensation rights may not apply.⁶³ The failure to recognize customary land tenure system discourages due attention to environmental sustainability.⁶⁴ The Ethiopian land policy favors the statutory or modern land tenure system over customary land tenure. However, the statutory land tenure system overlooks traditional practices and community rights. Therefore, the Ethiopian land policy is required to integrate and safeguard customary tenure rights with statutory systems.

⁶¹ Constitution of the Federal Democratic Republic of Ethiopia, Arts 51(5) and 52(2)(e).

⁶² Food and Agriculture Organization (2022). *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security*, FAO, Rome.

⁶³ Temesgen Solomon Wabelo (2020). 'Legal and Institutional Frameworks Regulating Rural Land Governance in Ethiopia: Towards a Comparative Analysis on the Best Practices of Other African Countries'. *Beijing Law Review*, Vol. 11, p 64

⁶⁴ Patrick McAuslan, *supra* note 7.

4.6 Synthesis of land policy implications for climate resilience

As examined above, the progress in various Ethiopian land laws towards their positive contribution to climate mitigation and adaptation is encouraging although the country has no a single and coherent land policy. Various federal and regional rural land administration and use laws which state the land rights and obligations of landholder embody provisions that are in tandem with the certainty principle of a land policy. Clarity in rural land rights fosters tenure security, which encourages farmers, pastoralists, and investors to adopt long-term investment in climate action. The FDRE Constitution's sanction for free access to land for peasants, pastoralists and semi-pastoralists also shows the emphasis for equity considerations in land allocations. Egalitarian land allocation basically allows vulnerable groups to access land and engages in sustainable agriculture and natural resource conservation. The fact that the laws obligate landholders to strictly observe environmental standards reinforces the policy's potential to promote adaptation and mitigation. One can thus argue that the land governance framework is in the process of establishing a legal and institutional foundation to promote climate change mitigation and adaptation.

However, this legal framework has also entailed weaknesses that limit its effectiveness in fully supporting climate resilience. A major constraint in this regard is the restriction on the transferability of land rights. This is fundamentally linked to the prohibition of private land ownership and the *de jure* prohibition in the sale of land. Various research findings indicate that such a prohibition discourages landholders from making long-term investments to conserve the land, as their holding rights can be insecure in practice.

Moreover, rigid statutory provisions may not effectively respond to changing land management needs, mainly in the event of growing climate variability. Failure to adequately recognize customary tenure systems has also been a source of legal uncertainty, mainly in pastoral and communal areas where customary systems of resource conservation initiatives will likely be overlooked. Therefore, greater recognition and integration of customary tenure systems could strengthen climate resilience. Effective harmonization of statutory and customary systems needs to be targeted to promote participatory land governance, encourage sustainable land use, and harness local adaptive capacity to conserve the land resource.

With regard to large-scale agricultural investments, particularly by foreign companies there is the need for caveats against forced displacement, deforestation, and overuse of water resources. These dynamics threaten both the environmental integrity and the equity objectives of the land policy

framework. Unless carefully managed, all these challenges may undermine tenure security, which determines investment in climate mitigation and adaptation.

5. Concluding Remarks

This article examined the role of Ethiopia's land legal regime in climate change mitigation and adaptation based on doctrinal legal research methods. The analysis is based on the elements of land policy identified and framed by McAuslan: certainty, efficiency, equity, safeguarding of the State and national patrimony, and recognition of customary systems. The core argument in this article is that responsibly designed land policy has significant role in climate change mitigation and adaptation. The review of the FDRE Constitution, subsidiary rural land administration and use laws, and the literature reveals that Ethiopian land administration system has limitations in encouraging investment in climate resilience. This is mainly true if it is examined from the perspective of certainty, efficiency, and equity principles of a land policy.

Ethiopia's legal regime maintains the ownership of land and natural resources in the hands of the State and the peoples of Ethiopia. It considers land as the common property of nations, nationalities, and peoples, and it allows the government to manage and deploy land and other natural resources on behalf of the people. One can consider this as fundamental in maintaining the sovereignty and legitimacy of the state and the people over the most valuable natural resource, land. Moreover, the preceding sections indicate various laws that state the duty of landholders with regard to the prevention of soil erosion, safeguarding of water sources, and promotion of planting vegetation to address climate change.

On the contrary, the prohibition of private land ownership does not encourage landholders to undertake long-term investments over the land and protect the interest of the future generation. This is because when landholders are devoid of the strongest right over property, i.e. ownership, the motivation to manage their land sustainably remains limited. Likewise, unless the intended benefits from the resources can be secured, the landholders will have little motivation to utilize and conserve the resource sustainably. Landholders may emphasize obtaining short-term economic benefits rather than working for the resources' sustainable and long-term conservation. This weakens the effectiveness and outcomes of the framework in its contribution to climate change mitigation actions. Moreover, the rural land laws leave little room to customary land tenure rights, which, in the long run, adversely affect climate change mitigation and adaptation investments.

Increased investment in climate resilience requires a broader definition of land rights and the reduction of restrictions on such rights. More liberal and broader land rights are likely to pay the nation by investing in climate change resilience and adaptation investments. It is also important to regulate land allocation and distribution in an efficient, fair, and affordable manner to the people. Moreover, climate resilience requires recognizing and protecting legitimate land tenure rights. Appropriate land policy promotes investments in climate resilience by addressing the impacts of climate change over time. Therefore, designing an appropriate land policy positively contributes to land-based mitigation and adaptation of climate change and it facilitates the pursuit of climate-friendly development pathways. In effect, there is the need for legal reform in the context of a coherent land policy framework so that climate change resilience actions constitute the core and integral parts of sustainable land use.

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