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MAKING A CASE FOR RECOGNITION OF WOMEN'S CONTRIBUTION IN THE LEGAL FRAMEWORK FOR ENVIRONMENTAL CONSERVATION (IN UGANDA)

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1 Introduction

The nexus between gender and environmental conservation has been the subject of scholarly discussion in the last few decades.¹ Gender connotes “the social attributes and opportunities associated with being male and female and the relationships between women and men and girls and boys, as well as the relations between women and those between men”.² Furthermore, “[t]hese attributes, opportunities and relationships are socially constructed and are learned through socialization processes”.³ Based on these attributes, women often assume the responsibility of caring for their households.⁴ On account of this responsibility, women are expected to engage in chores such as finding food and medicine for their families.⁵ Furthermore, with many of these women taking on roles such as the feeding of the family, the need to access basic necessities such as water and fuel is inevitable. For this reason, it has followed logically that tasks like collecting water and firewood have often rested on women.⁶ To accomplish and execute these tasks effectively, women’s dependence on natural resources such as lakes, rivers, forests and land has also become inevitable.

Women’s dependence on natural resources suggests that in the face of environmental degradation and biodiversity loss, they are the most affected. This reality places a demand on them to move longer distances in search of

¹ N Broeckhoven & A Cliquet “Gender and ecological restoration: time to connect the dots” (2015) 23 *TJSER* 729 730

² Office of the Special Advisor on Gender Issues (OSAGI) “Concepts and definitions” (undated) *United Nations Entity for Gender Equality and the Empowerment of Women (UN Women)* <<http://www.un.org/womenwatch/osagi/conceptsanddefinitions.htm>> (accessed 18-10-2018)

³ Office of the Special Advisor on Gender Issues (OSAGI) “Concepts and definitions” *United Nations Entity for Gender Equality and the Empowerment of Women (UN Women)*

⁴ Broeckhoven & Cliquet (2015) *TJSER* 730

⁵ 730; I Alvarez & S Lovera “New Times for Women and Gender Issues in Biodiversity Conservation and Climate Justice” (2006) 59 *SID* 263 263; UC Gupta, PU Verma & HA Solanki “Role of Ethnic women in Biodiversity Conservation” (2014) 3 2 *IJRDP* 855 855, 856

⁶ Broeckhoven & Cliquet (2015) *TJSER* 730; Alvarez & Lovera (2006) *SID* 263; Gupta et al (2014) *IJRDP* 856

food, water, firewood and medicines for their families.⁷ Suffice it to note that women do not merely draw or benefit from natural resources. Research shows that, on account of their close association with the environment, they play a critical role in its conservation.⁸ Based on this closeness, women have also acquired knowledge on how to take care of the environment and as such, if granted the opportunity, they can contribute to the development of sustainable solutions in the environmental conservation agenda.⁹ Not surprisingly, studies have revealed that women are more likely than men to support and work towards environmental protection.¹⁰ What is particularly disturbing, however, is that despite their critical role, women continue to be viewed merely as victims as opposed to agents of change in finding solutions to environmental degradation and depletion.¹¹ Often, women are kept out of environmental decision-making processes, yet, as already alluded to; these issues have a direct impact on their livelihood.¹²

It is an indisputable fact that women face historical inequalities in terms of “gender roles including limitations on education and ownership of resources like land”.¹³ In circumstances of environmental degradation, the already existing gender inequalities are exacerbated.¹⁴ These realities underscore the value of a strong legal and policy framework on both gender equality and the recognition of women’s role in environmental conservation. Having the notions of gender equality buttressed through law and policy would give legitimacy to the role of women in environmental conservation.¹⁵ The need for such recognition at the various levels including the international, regional and national has been underscored by scholars such as Prior et al, who deem such a framework indispensable in so far as sustainable environmental conservation is concerned.¹⁶ To Prior and others, effective frameworks aid in ensuring that the different needs of men and women are accorded due regard in the quest for sustainable solutions to environmental disasters and risks.¹⁷ The issue that remains unresolved, however, and one that forms the crux of the discussion in this article is whether the contribution of women in environmental conservation is effectively recognised in existing environmental conservation laws and policies at international, regional and national levels.

This article, therefore, explores the above issue. The article is divided into four parts. Subsequent to this introduction, the second section discusses the contribution of women to environmental conservation. This discussion

⁷ Broeckhoven & Cliquet (2015) *TJSER* 730; Alvarez & Lovera (2006) *SID* 263; Gupta et al (2014) *IJRDP* 856; SK Aditya “Role of Women in Environmental Conservation” (2016) 4 *IJPSD* 140 141

⁸ Aditya (2016) *IJPSD* 141.

⁹ T Prior, S Duyck, L Heinamacki, T Koivuova & A Stepien “Addressing Climate Vulnerability: Promoting the Participatory Rights of Indigenous Peoples and Women through Finnish Foreign Policy” (2013) 38 *JL* 127

¹⁰ K Norgaard & R York “Gender Equality and state environmentalism” (2005) 19 4 *GS* 506 508-509

¹¹ Broeckhoven & Cliquet (2015) 730

¹² 730

¹³ Prior et al (2013) *JL* 98

¹⁴ 98

¹⁵ Broeckhoven & Cliquet (2015) *TJSER* 730

¹⁶ Prior et al (2013) *JL* 101

¹⁷ 107

places into perspective the increasing need for an effective legal and policy framework at various levels to accord due weight to women's role in this regard. The third section critically analyses international and regional instruments on environmental conservation with a view to assessing whether they duly recognise women's contribution to environmental conservation. The fourth section narrows the discussion down to the national framework on the role of women in environmental conservation. As it is unfeasible to conduct a survey of all national frameworks across continents, Uganda is used as a case study. The question, however, arises – why Uganda? Like many other countries, Uganda continues to experience the effects of environmental degradation, with women being at the extreme end of the vulnerability continuum. But perhaps more importantly, although Uganda is placed at the heart of the discussion in the fourth section, the conclusions drawn are relevant to other states with similar realities.

2 The contribution of women in environmental conservation: an overview

It would be unrealistic and in fact problematic to vouch for legal recognition of women's contribution to environmental conservation without getting to grips with the exact role and practical ways that women engage with the environment and contribute to its conservation. Therefore, this section provides a practical dimension to women's role. It discusses women's role in agriculture and food security, their role in biodiversity conservation and forest conservation and management. To bolster the points made in this section, the discussion draws on, amongst others, the works of scholars, statistics from organisations and reports. In addition, although the analysis in the fourth section is limited to Uganda, in this section, examples are drawn from realities beyond Uganda including those in various countries across continents.

2 1 Women's role in agriculture and food security

According to the Intergovernmental Panel on Climate Change, climate change results in low agricultural production which ultimately translates into food insecurity.¹⁸ Women make profound contributions in agriculture based on the tasks they take on in this field including working as farmers, labourers or entrepreneurs.¹⁹ For example, women in rural Africa contribute up to 30% of labour in ploughing, 50% of labour in planting, 60% of labour in weeding, and 95% in processing and preserving food.²⁰ The foregoing tasks are in

¹⁸ IPCC *Climate Change 2001: Impact, Adaptation and Vulnerability* Summary for Policy makers. A Report of Working Group II of the Intergovernmental Panel on Climate Change (2001) 489

¹⁹ Food and Agricultural Organization (FAO) *The state of food and agriculture 2010-11: Women in agriculture, closing the gender gap* (2011) vi, vii, 3, 7

²⁰ L Adeniyi *Women Farmer's and Agriculture Growth: Challenge and Perspective for Africa Face the Economic Crisis* (2010) unpublished paper presented at the Joint 3rd African Association of Agricultural Economists (AAAE) and 48th Agricultural Economists Association of South Africa (AEASA) Conference, Cape Town, South Africa, 19-23 September 2010 11<<http://ageconsearch.umn.edu/record/97062/files/92%20Women%20labor%20and%20agriculture%20growth.pdf>> (accessed 11-05-2018)

addition to the domestic tasks they perform, with studies revealing that up to 95% of all domestic chores are performed by women.²¹ Women's labour-input across Africa triples that of men.²² Notably, in Kenya, women constitute 70% of the agricultural workers and contribute 80% of labour required for food production.²³ In Uganda, over 70% of the agricultural labour force comprises of women.²⁴ The Food and Agricultural Organisation ("FAO") affirms this view, with its figures showing that of the labourers in the agricultural sector in developing countries, a large percentage of them are women.²⁵ These statistics underscore the dominant role that women play in the food and agricultural sector.

With the well-documented role of women in this sector, it would be reasonable to expect that there are effective structures in place geared towards enhancing their role in this regard. Sadly, however, women contend with multiple social barriers²⁶ including lack of access to productive resources like land, lack of control of the income they raise from agriculture, less education and lack of access to credit.²⁷ This impacts negatively on their productivity in agriculture and ultimately, affects food security.²⁸ A major barrier in the context of sub-Saharan Africa is the low status accorded to women in society. This has had a direct impact on women's access to resources.²⁹ The implication of the foregoing challenge cannot be emphasised enough because, without access, women can hardly leverage this sector to their advantage and for environmental conservation. The FAO notes that female landowners make up 10 to 20% in developing countries, suggesting that not many women can access land for agricultural purposes.³⁰ Women also continue to suffer discrimination in modern contract farming. Whereas women do the farm work, men are often in charge of the contracts.

In a study conducted in Nigeria, it was established that households headed by women have higher percentages of cash-crop production than those headed by men.³¹ Yet, despite such productivity, men were reported to own larger and better breed livestock compared to the women.³² The study also revealed that males earn more money from agriculture than females because they own and control larger plots than their female counterparts. It was established further that females had access to only 0.3 hectares of land per capita compared to

²¹ 11

²² 11

²³ A Ellis, J Cutura, N Dione, I Gillson, C Manuel & J Thongori *Gender and Economic growth in Kenya. Unleashing the power of women* (2007) 11

²⁴ D Acidri "Women's Rights to Land Ownership in Uganda: Policy and Practice" (2014) 6 *CST* 184-203

²⁵ Food and Agricultural Organization (FAO) *The state of food and agriculture 2010-11: Women in agriculture, closing the gender gap* (2011) 11

²⁶ FAO *The state of food agriculture* 23; FAO, IFAD & WFP *The State of Food Insecurity in the World 2015. Meeting the 2015 international hunger targets: taking stock of uneven progress* (2015) 34

²⁷ FAO *The state of food agriculture* vi, vii, 3, 5, 23

²⁸ FAO, IFAD & WFP *The State of Food Insecurity in the World 2015*. 34

²⁹ G Oseni, M Goldstein & A Utah *Gender Dimensions in Nigerian Agriculture* (2013) World Bank Policy Brief No 6 1

³⁰ FAO *The state of food agriculture* 36 - 37

³¹ Oseni, Goldstein & Utah *Gender Dimensions in Nigerian Agriculture* 2

³² 2

men who have access to 0.6 hectares.³³ Further revealed was the fact that only 0.5% of the farms owned by females were irrigated. This is in contrast to the 3.5% irrigation of male-owned farms.³⁴ Moreover, whereas 78% of the male population reported that they could use their land as collateral security to access finances from banks, only 38% of the women answered in the affirmative. Additionally, while 42% of the male farmers had access to fertilisers for their farms, only 19% of their female counterparts had similar access.³⁵

These statistics support the argument that despite the critical role that women play in the agricultural sector, access to resources remains a chronic challenge. Not coincidentally, the FAO has noted that “if women had as much access to production resources as men, their food yields would increase by 20 to 30% and this has the ability to save about 100 to 150 million more people from hunger”.³⁶ This viewpoint has been affirmed by other commentators including Smith and Haddad,³⁷ the FAO and the Asian Development Bank.³⁸ Considered together, with women’s direct interaction with these resources, if greater emphasis is placed on gender equality, the impact of this on agricultural production and environmental conservation would be immeasurable.

2.2 The role of women in biodiversity conservation

Biodiversity generally entails the variety of animals and plants. A greater level of such variety is particularly essential for the ecosystem. Depletion of varieties, therefore, constitutes a threat to human life.³⁹ The reality is that women are more vulnerable in instances of natural resource depletion because of their dependence on natural resources. It is therefore not a coincidence that they have a keen interest in ensuring that the ecosystems and natural resources on which they depend are not undermined.⁴⁰ Women are “users and custodians of biological diversity” and research shows that they directly interact with wild and domestic plants species on a regular basis.⁴¹ Women’s role in agriculture enables them to be custodians and preservers of several plant varieties.⁴² Studies show that they are custodians of plant and animal varieties and have grown over 120 plant varieties on small farms.⁴³ The International Union for Conservation of Nature (“IUCN”) notes that “women provide close

³³ 2 and 3

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³⁵ 3

³⁶ FAO *The state of food agriculture* vi, vii, 3, 13

³⁷ LC Smith & LJ Haddad *Explaining Child Malnutrition in Developing Countries: A cross country analysis* (2000)

³⁸ FAO & ADB *Gender Equality and Food security. Women’s Empowerment as a Tool against Hunger* (2013) 1

³⁹ Alvarez & Lovera (2006) *SID* 263; UC Gupta, PU Verma & HA Solanki “Role of Ethnic women in Biodiversity Conservation” (2014) 3 2 *IJRDP* S855 855-856; Aditya (2016) *IJPSD* 142

⁴⁰ Alvarez & Lovera (2006) *SID* 263; Aditya (2016) *IJPSD* 14.

⁴¹ IUCN *Gender and Biodiversity* (2008) 1 <http://www.wocan.org/system/tdf/iucn_fact_sheet_linking_gender_and_biodiversity.pdf?file=1&type=node&id=202> (accessed 20-06-2018)

⁴² Secretariat of the Convention on Biodiversity *Guidelines for Mainstreaming Gender into National Biodiversity Strategies and Action Plans* CBD Technical Series No 49 16 <https://www.cbd.int/programmes/cross-cutting/gender/cbd_ts49_gender_guidelines.pdf> (accessed 10-06-2018)

⁴³ IUCN *Gender and Biodiversity* 1

to 80% of the total wild vegetable food collected in 135 different subsistence-based societies". Women use "extensively wild patches and marginal areas from which they collect wild plants for food and medicine".⁴⁴ The Convention on Biodiversity ("CBD") Secretariat, quoting FAO, recognises women's role in conservation and notes that "women produce, select and save up to 90 percent of seeds and germplasm that are used as planting material in smallholder agricultures".

In Rwanda, women produce more than 600 varieties of beans.⁴⁵ Similarly, in Kenya women grow varieties of bean species on their small farms.⁴⁶ Peruvian *Aguaruna* women cultivate more than 60 varieties of manioc.⁴⁷ Studies have also revealed that women produce 80% of the "wild vegetable food" from communities that rely on subsistence farming.⁴⁸ It has also been shown that often, women use plants for medicinal purposes and food.⁴⁹ Another notable example of the contribution of women in the conservation of plant varieties is the Green Belt Movement ("GBM") of Kenya which was established with the aim of conserving the environment through forestry. Women in Kenya plant trees and most especially indigenous and multi-purpose species in a bid to prevent extinction. It is reported that 80 000 Kenyan women planted trees during the GBM.⁵⁰ Altogether, these realities underscore the critical role of women in food production and security. This state of affairs is in total contrast to reports pertaining to men's interaction with the environment. Studies show that most men would rather use the plants for purposes like mulching rather than food production and medicinal purposes.⁵¹

Women have also been recognised as sustainable consumers of resources. For example, 90% of the crops that women plant is from preserved seeds.⁵² Women are often the custodians of kitchen gardens which contain a variety of plant species. With particular reference to Bangladesh, it has been noted that women keep seed species from these gardens and preserve them for planting in the next season.⁵³ Samoan women have over 1000 plant species which they use for medicine and birth control. The bottom line, therefore, is that women and men use forest resources differently.⁵⁴ Women are more likely to pick the fruits and leaves and men are likely to cut the trees down for firewood and

⁴⁴ IUCN *Gender and Biodiversity* 1

⁴⁵ Secretariat of the Convention on Biodiversity *Guidelines for Mainstreaming Gender into National Biodiversity Strategies and Action Plans* 17

⁴⁶ P Easton & M Ronald "Seeds of Life: Women and Agricultural Biodiversity in Africa" (2000) 1 <<https://openknowledge.worldbank.org/bitstream/handle/10986/10815/multi0page.pdf?sequence=1&isAllowed=y>> (accessed 06-07- 2018)

⁴⁷ Secretariat of the Convention on Biodiversity *Guidelines for Mainstreaming Gender into National Biodiversity Strategies and Action Plans* 17

⁴⁸ Secretariat of the Convention on Biodiversity *Guidelines for Mainstreaming Gender into National Biodiversity Strategies and Action Plans* 17

⁴⁹ Secretariat of the Convention on Biodiversity *Guidelines for Mainstreaming Gender into National Biodiversity Strategies and Action Plans* 17

⁵⁰ Gupta et al (2014) *IJRDP* 856

⁵¹ Secretariat of the Convention on Biodiversity *Guidelines for Mainstreaming Gender into National Biodiversity Strategies and Action Plans* 2

⁵² Gupta et al (2014) *IJRDP* 857

⁵³ 857

⁵⁴ 857

coal. Aditya affirms this viewpoint, arguing that unlike women who view the environment as “a key source for the basic needs”, men view the environment as a “commercial entity or an income generating tool”.⁵⁵

Women in the Himalayan region are taking part in the preservation of protected areas.⁵⁶ Himalayan women are very knowledgeable about traditional seeds and are responsible for seed management of 80 to 90% of seeds. In Zimbabwe, the survival rate of trees increased from 60 to 80% in 1982 because women took care of the forests. Similarly, in China women are taking part in forest conservation and have prevented desertification by planting willows and poplars and creating fertile soils for vegetable plantation.⁵⁷ The CBD Secretariat notes that women’s participation has been curtailed by limited ownership of land. To illustrate this point, the Secretariat relies on India, Nepal, and Thailand where only 10% of the women own land. The Secretariat further notes that in Kenya, even though the law is non-discriminatory in terms of land ownership, women still face hardships in land acquisition.⁵⁸

Studies also reveal that women in Asia and sub-Saharan Africa only receive 10% of the credit that the men acquire.⁵⁹ In addition, culture prohibits women in countries such as Bangladesh, Pakistan and Afghanistan from going out into public places.⁶⁰ This comes with profound limitations as it leaves women reliant on their husbands to sell their agricultural produce. The challenge with this arrangement, however, is that their husbands may not always be transparent about the proceeds from the sale.⁶¹ Similarly, in many Sub-Saharan African countries, women often have no say in what they produce or the proceeds from what is sold, with such decisions being the preserve of men.⁶² Despite the critical role that women play in biodiversity conservation, barriers resulting from discriminatory practices remain rife, thus, undermining their full potential to contribute effectively.

2 3 Women and forest conservation and management

The interaction between women and forests is unavoidable because of the forest-related activities that women engage in including forest-based agriculture and tree planting.⁶³ Forests are a source of employment for women because they are able to process wood and plant nurseries in these forests.⁶⁴

⁵⁵ Aditya (2016) *IJPSD* 143

⁵⁶ 143

⁵⁷ IUCN *Gender and Biodiversity 2*

⁵⁸ Secretariat of the Convention on Biodiversity *Guidelines for Mainstreaming Gender into National Biodiversity Strategies and Action Plans* 18

⁵⁹ Secretariat of the Convention on Biodiversity *Guidelines for Mainstreaming Gender into National Biodiversity Strategies and Action Plans* 42

⁶⁰ Secretariat of the Convention on Biodiversity *Guidelines for Mainstreaming Gender into National Biodiversity Strategies and Action Plans* 42

⁶¹ Secretariat of the Convention on Biodiversity *Guidelines for Mainstreaming Gender into National Biodiversity Strategies and Action Plans* 42

⁶² Secretariat of the Convention on Biodiversity *Guidelines for Mainstreaming Gender into National Biodiversity Strategies and Action Plans* 42

⁶³ FAO *Gender Mainstreaming in Forestry in Africa Forestry*(2007) Policy and Institutions Working Paper 1 <http://www.fao.org/tempref/docrep/fao/010/k0830e/k0830e00.pdf> (accessed 07-07-2018)

⁶⁴ FAO *Gender Mainstreaming in Forestry in Africa Forestry 1*.

Many households depend on forests for food, medicine and fuel (in the form of firewood). It is also the role of women to collect the food, medicine and fuel for themselves and their families and this makes them to further interact closely with forests.⁶⁵ Some examples suffice to buttress this role. In the Usambara Mountains of Tanzania, 46% of the population feeds on forest vegetables.⁶⁶ In dry seasons, the percentage reduces to 22%, the implication of this being that women who live far away from the forests walk longer distances in search of these vegetables from alternative forests.⁶⁷

In Burkina Faso, the shea butter tree serves multiple purposes including its cosmetic, cultural, nutritional and medicinal value. Because of its benefits, farmers, especially the women, are keen to preserve it to be able to benefit fully from it.⁶⁸ Women use the tree for its medicinal value to heal sicknesses like malaria and diarrhoea. The fact that women have a better understanding of the role that this plant plays has enabled them to develop effective mechanisms of preserving it, a task that their male counterparts are not often keen to perform.⁶⁹ In the words of Elias, women are better equipped to preserve this plant, being able to cultivate under it and “spacing it compared with their male counterparts who only mentioned that they weed and collect organic matter from under the tree to prevent the trees from catching fire”.⁷⁰

In the United States, while women manage forests, they lack the necessary resources to enable them to accomplish their role. 40% of Oregon's family forests are managed by women and 84% of the women have the desire to manage family forests but only 34% have the knowledge on how to manage them. According to Redmore, Tynon and Strong,⁷¹ women at times lack knowledge because they lack access to information, in a predominantly masculine society where women have limited resource access. Women managers also own substantially less land (85 hectares) per capita than men (183 hectares). Yet, despite such disparity in forest management and distribution, it is documented that through forest management, women still contribute to the economic growth of their communities, forest biodiversity and wildlife habitat.⁷² Women's role in the Reducing Emissions from Deforestation and Forest Degradation (“REDD+”) programme of the United Nations has also been documented. Rural women rely on the forests for their everyday needs like firewood and are therefore concerned about forest management and conservation. Many rural men, on the other hand, are usually more

⁶⁵ N Das “Women's dependence on forest and participation in forestry: A case study of joint forest management programme in West Bengal” (2011) 17 *JFE* 67-89 67, 73; FAO *Women in Forestry: Challenges and Opportunities* (undated) 3 and 4 <<http://www.fao.org/3/a-i3924e.pdf>> (accessed 15-06-2018); Das (2011) *JFE* 68

⁶⁶ FAO *Women in Forestry* 3 and 4

⁶⁷ M Elias “Gendered knowledge and uses of the shea tree, Burkina Faso” in L Aguilar, D D M P Shaw & A Quesada-Aguilar (eds) *Forests and Gender* (2011) 49 49

⁶⁸ Elias “Gendered knowledge and uses of the shea tree, Burkina Faso” in *Forests and Gender* 49

⁶⁹ Elias “Gendered knowledge and uses of the shea tree, Burkina Faso” in *Forests and Gender* 52

⁷⁰ Elias “Gendered knowledge and uses of the shea tree, Burkina Faso” in *Forests and Gender* 52

⁷¹ LE Redmore, JF Tynon & NA Strong “Women owning woodlands: a case study from the US” in L Aguilar, DDMP Shaw & A Quesada-Aguilar (eds) *Forests and Gender* (2011) 74 74 and 76

⁷² Redmore, Tynon & Strong “Women owning woodlands: a case study from the US” in *Forests and Gender* 76.

concerned about the monetary value of forests.⁷³ Furthermore, indigenous women's role in forest conservation cannot be underestimated. They work as herbalists and traditional healers by relying on forests for medicinal herbs.⁷⁴ Forests are also a source of livelihood for indigenous communities because these forests constitute food, medicine, shelter, firewood and employment.⁷⁵ In these indigenous communities too, women's roles remain dominant in as far as recourse to forests for food, firewood and medicine are concerned. This makes their role in all affairs pertaining to forests critical. Such a critical role also warrants their involvement in decision-making processes.

Coleman and Mwangi⁷⁶ have noted that where women participated in forest decision-making processes by being represented in decision-making bodies, there was better forest use and management, than when women did not participate in decision-making. However, women still face marginalisation, and this keeps them out of decision-making processes concerning forests. Women are also often kept out of forest conservation projects.⁷⁷ They are underrepresented in forest associations, groups and committees due to social-cultural norms that bar women's participation.⁷⁸ The implication of this trend has been the development of decisions which hardly take the needs and interests of women into account. In fact, often, the decisions arrived at burden women in their interaction with natural resources.⁷⁹ In a study conducted in India, for example, it was established that decisions arrived at without women's involvement (pertaining to a ban on access to forests including firewood collection), strained women profoundly as they had to move extremely long distances to search for firewood.⁸⁰

Overall, this section has underscored the central role that women play in agriculture, biodiversity conservation and forest conservation. By drawing on the experiences and realities of women from randomly selected countries, the discussion has established that despite women's critical role in environmental conservation, they continue to contend with multiple barriers, many of which limit their full potential in advancing the goal of environmental conservation. Explicit legal recognition of the role of women in environmental conservation would arguably go a long way in buttressing the role of women. The issue that warrants resolution and one that is the basis for the next section is whether the existing international and regional frameworks adequately recognise the critical role of women as underscored in this section.

⁷³ I Mustalahti, "Gender and REDD+: taking note of past failures" in L Aguilar, D D M P Shaw & A Quesada-Aguilar (eds) *Forests and Gender* (2011) 27 29; T Sunderland, R Achdiawan, A Angelsen, R Babigumira, A Ickowitz, F Paumgarten, V Reyes-Garcia & G Shively "Challenging perceptions about men, women, and forest product use: A global comparative study" (2014) 64 *World Development* S56 S56

⁷⁴ EM Naganag "The role of indigenous women in forest conservation in upland Kalinga province, northern Philippines" (2014) 3 6 *IJARMSS* 80

⁷⁵ 82

⁷⁶ EA Coleman & E Mwangi "Women's participation in forest management: A cross-country analysis" (2013) 23 *Global Environmental Change* 193 202

⁷⁷ Naganag (2014) *IJARMSS* S56

⁷⁸ Coleman & Mwangi (2013) *GEC* 202; FAO *Women in Forestry* 8

⁷⁹ Coleman & Mwangi (2013) *GEC* 202; FAO *Gender Mainstreaming in Forestry in Africa Forestry* 8

⁸⁰ Coleman & Mwangi (2013) *GEC* 202; FAO *Gender Mainstreaming in Forestry in Africa Forestry* 8

3 Recognition of women's contribution in environmental conservation under international and regional environmental law

International environmental law ("IEL") is not codified into one systematic set of rules but is distributed across different conventions that apply to different areas concerning the environment.⁸¹ Nevertheless, IEL is one of the effective means to ensure the incorporation and recognition of gender and women's role in environmental conservation. At the Rio Conference held in 1992, non-governmental organisations (NGOs) advocated for the recognition of gender mainstreaming into the IEL process. Their efforts resulted in the inclusion of gender equality in the Women's Action Agenda 21 which served as a stepping stone for gender inclusion into the Agenda 21,⁸² the Rio Declaration⁸³ and the forest principles.⁸⁴ The 1992 United Nations Conference on Environment and Development culminated into the Rio conventions, namely the United Nations Convention on Combating Climate Change ("UNFCCC"),⁸⁵ the Convention on Biodiversity ("CBD"),⁸⁶ and the United Nations Convention on Combating Desertification ("UNCCD").⁸⁷ The Rio Declaration was the first environmental document to recognise gender in IEL. It provides that "women have a vital role in environmental management and development; their full participation is, therefore, essential to achieving sustainable development".⁸⁸ This provision implies that the participation of women should be incorporated in policy formulation, negotiation processes, as well as environmental law and policy at national level.⁸⁹ Although not legally binding, the Rio Declaration was the first text on sustainable development and the first to recognise women as a group.⁹⁰

3.1 The Convention on Biodiversity

The main objective of the CBD is to conserve biological diversity. The CBD in its preamble recognises "the vital role that women play in the conservation and sustainable use of biological diversity, emphasising the need for the full participation of women at all levels of policymaking and implementation for biological diversity conservation ...".⁹¹ Further, the CBD gender action plan, which was adopted by the Conference of Parties ("COP") at its ninth meeting in Bonn, Germany in 2008, employs "gender mainstreaming as the methodology for integrating gender approach into any development or

⁸¹ E George "The Challenge of Climate Change and the Contribution of African Women to Engendering International Environmental Law" in JI Levitt (ed) *Black Women and International Law: Deliberate Interactions, Movements and Actions* (2015) 199

⁸² UN GAOR 46th Sess Agenda Item 21 UN Doc A/Conf 151/26 (1992)

⁸³ UN Doc A/CONF151/26 (vol I); 31 ILM 874 (1992)

⁸⁴ UN General Assembly, A/CONF 151/26 (Vol III) 14th August, 1992

⁸⁵ Adopted by the United Nations General Assembly, 20 January 1994, A/RES/48/189

⁸⁶ 1760 UNTS 30619

⁸⁷ 1954 UNTS 3

⁸⁸ Principle 20, Rio Declaration (1992)

⁸⁹ Prior et al (2013) *JL* 110

⁹⁰ 110

⁹¹ Convention on Biological Diversity (1992) para 13 of the preamble

environmental effort”. Article 8(j) of the CBD provides for the participation of indigenous women and encourages parties to put in place mechanisms for the full participation of women by taking into account their knowledge and experience. The CBD Secretariat, in a bid to realise this provision, applies gender considerations in selecting meeting attendees, research work, policy formulation and decision making at COPs, among others.⁹²

The CBD has been recognised as the only international environmental agreement mentioned by the Beijing platform for action.⁹³ The Platform calls upon states parties to enact national legislation which is consistent with the provisions of the CBD on the recognition of the role of indigenous women’s knowledge on among other things, traditional medicine and diversity.⁹⁴ The CBD strategic plan for biodiversity 2008-2020 (target 14) provides that “ecosystems ... need to be restored and safeguarded taking into account the needs of women”. The CBD gender action plan introduced development guidelines which call upon all states parties to mainstream gender into the CBD National Biodiversity Strategies and Action Plans (NBSAPs). This was followed by a decision⁹⁵ to have states parties mainstream gender in all programmes under the CBD.

Despite the above provisions, the role of women in biodiversity conservation has not yet been fully embraced.⁹⁶ The CBD provision on recognition of women’s role in conservation is preambular with no binding effect. Moreover, even assuming the provision was binding, there would remain barriers to its enforcement. For example, women continue to face discrimination and exclusion from decision-making processes concerned with biodiversity conservation.⁹⁷ Gender equality and women empowerment are lacking in many countries’ NBSAPs.⁹⁸ Women’s knowledge in biodiversity conservation needs to be appreciated and women’s participation in every area of biological conservation including education, training and technology needs to be embraced to achieve women empowerment.⁹⁹ The different roles of women and men need to be appreciated in order to achieve sustainability in conservation.¹⁰⁰

⁹² UNEP *Indigenous women and the Convention on Biodiversity: Work of the Secretariat of the Convention on Biological Diversity with indigenous women (2000-2005)* 2

⁹³ Point K, para 253(c), Beijing Declaration and Platform for Action (Adopted at the 16th plenary meeting of the United Nations General Assembly on 15th September 1995)

⁹⁴ Point K, para 253(c), Beijing Declaration and Platform for Action

⁹⁵ Decision Adopted by the Conference of the Parties to the Convention on Biological Diversity at its Tenth Meeting COP 10 Decision X/19 Gender mainstreaming Agenda item 4 9(e) UNEP/CBD/COP/DEC/X/19 29 October 2010 Tenth meeting Nagoya, Japan

⁹⁶ IUCN *Gender and Biodiversity* 1 and 2

⁹⁷ Aditya (2016) *IJPSD* 142

⁹⁸ B Clabots & L Aguillar *Gender and biodiversity: Analysis of women and gender equality considerations in National Biodiversity Strategies and Action Plans (NBSAPs)* (2017) 18; IUCN *Gender and Biodiversity* 2

⁹⁹ IUCN *Gender and Biodiversity* 2

¹⁰⁰ Secretariat of the Convention on Biodiversity *Guidelines for Mainstreaming Gender into National Biodiversity Strategies and Action Plans* 19

3.2 The United Nations Convention on Combating Desertification

It is reported that a third of the world's land has been degraded.¹⁰¹ It is further acknowledged that land degradation affects men and women differently.¹⁰² Women are, however, affected more severely because of their role in agriculture and food production.¹⁰³ Their vulnerability is further exacerbated by their limited access to resources like land, credit and technology among others.¹⁰⁴ In arid countries specifically, women contribute greatly to their communities through agriculture.¹⁰⁵ Women's productivity continues to be affected severely in the face of continued desertification and land degradation and, ultimately, the effect is felt by communities too.¹⁰⁶ This makes effective legal and policy frameworks on the protection of women in situations of desertification particularly critical in the protection of women.

The UNCCD in its preamble and in article 5(d) recognises the critical role played by women in environmental sustainability and calls upon states parties to involve women in decision-making processes to combat land degradation and drought. Article 10 of the UNCCD provides that "National Programmes shall provide for effective participation at the local, national and regional levels of non-governmental organisations and local populations, both women and men, particularly resource users, including farmers and pastoralists and their representative organisations, in policy planning, decision-making and implementation and review of national action programmes". Further, the Intergovernmental Negotiating Committee on Desertification¹⁰⁷ ensures the equal participation of men and women in the preparation of development and implementation of development activities in achieving the convention's agenda of local development and poverty eradication. These provisions are key for the African continent which has been projected to suffer the most from the effect of climate change, desertification included.¹⁰⁸

The above provisions have, however, not been adequately implemented in arid areas because women have continued to face discrimination and have not been involved in decision-making processes.¹⁰⁹ Women's limited access to and ownership of resources like land restrict them from tree planting, soil

¹⁰¹ T Mor *Towards a Gender-Responsive Implementation of the United Nations Convention to Combat Desertification* (2017) Research Paper 3 <https://www.conftool.com/landandpoverty2018/index.php/10-05-Mor-286_paper.pdf?page=downloadPaper&filename=10-05-Mor-286_paper.pdf&form_id=286&form_version=final> (accessed 03-11-2018)

¹⁰² T Mor *Towards a Gender-Responsive Implementation of the United Nations Convention to Combat Desertification* 3.

¹⁰³ 3.

¹⁰⁴ 3.

¹⁰⁵ BF Dias, L Gnacadja & C Figueres *The Rio Conventions Action on Gender* (2012) 8 <https://unfccc.int/resource/docs/publications/roi_20_gender_brochure.pdf> (accessed 08-04-2018)

¹⁰⁶ 8.

¹⁰⁷ UN General Assembly A/RES/47/188 22nd September 1992

¹⁰⁸ George "The Challenge of Climate Change and the Contribution of African Women" in *Black women and International law* 199

¹⁰⁹ V Nelson, L Forsythe & J Morton "Empowering dryland women: capturing opportunities in land rights, governance and resilience A synthesis of thematic papers from the series "Women's empowerment in the drylands" (2015) Natural Resources Institute, University of Greenwich, Chatham, UK 3 <http://catalogue.uncccd.int/568_Dryland%20women%20Synthesis.pdf> (accessed 03-11-2018)

fertility enhancement and conservation.¹¹⁰ Women are also unable to access agricultural extension services or access credit to invest in drought-resistant agriculture and modern machinery.¹¹¹ Due to social inequalities, women are generally less educated than men so they are usually disadvantaged when it comes to accessing information on drought.¹¹² Considered together, this diminishes women's opportunities to be engaged in drought-preventive measures. With women constituting the majority of people dependent on natural resources, it is imperative that their role in preservation is legally recognised and enforced.¹¹³ More critically too, a legal framework that takes due cognisance of the discrimination that women face in their various communities would go a long way in breathing life into women's roles.

3.3 The United Nations Framework Convention on Climate Change

Despite the gender provisions under Agenda 21 and the Rio declaration, the UNFCCC and the Kyoto Protocol did not make any reference to gender until the COP 7 held in Marrakech in 2001. The COP sought to include the participation of women in the representation of parties at COPs. This however only limited women to monitoring, convention posts and bodies.¹¹⁴ Subsequently, COP 11 held in Montreal in 2005 and COP 13 held in Bali in 2007 encouraged gender recognition and women participation. COP 14 held in 2008 in Poznan encouraged states parties to ensure that their climate change policies are strongly gender-inclusive as women are strong agents for climate change adaptation in their communities. COP 15 held in Copenhagen in 2009 recognised gender as a contributing factor to vulnerability and recognised the need for gender equality and women participation. COP 16 in 2010 in Cancun is famous for the Cancun agreements, which recognised women as a group vulnerable to climate change and emphasised the need for gender equality and women participation in climate change action. Subsequently, COP 20 held in Lima, Peru on the Lima work programme sought to improve the implementation of COPs, especially those on gender.

COP 23 held in 2017 in Bonn Germany adopted the first gender action plan ("GAP") which is aimed at ensuring implementation of gender-responsive policy in terms of mitigation and adaptation. The GAP also ensures involvement of women in implementation of the policies. This provision is in line with the Paris Agreement¹¹⁵ preambular provision which requires states parties to take into account "gender equality, empowerment of women"¹¹⁶ in finding solutions to climate change. This provision, being preambular, however, has no binding effect on states parties. The COPs have been criticised as not having been

¹¹⁰ Mor *Towards a Gender-Responsive Implementation of the United Nations Convention to Combat Desertification* 4.

¹¹¹ 5

¹¹² 3

¹¹³ George "The Challenge of Climate Change and the Contribution of African Women" in *Black women and international law* 199

¹¹⁴ Prior et al (2013) *JL* 115

¹¹⁵ Adopted at COP 21 in Paris on the 12th of December 2015

¹¹⁶ Paris Agreement (2015) preamble

effective especially due to lack of implementation at domestic level.¹¹⁷ The continued call of the COPs for the recognition of gender equality in climate change action is an indicator that it is still far from being achieved.¹¹⁸ The recognition of women's knowledge and contribution in seeking climate change solutions by climate change law and policy is still a hurdle that needs to be crossed.¹¹⁹

The climate change regime has further been criticised for lacking a framework for having gender incorporated into climate change mitigation and adaptation.¹²⁰ Gender is one of the guiding principles for the formulation of National Adaptation Plans of Action under the UNFCCC.¹²¹ Women are recognised as a group more vulnerable to climate change and their contributions are recognised as vital in seeking solutions for adaptation to climate change. It has, however, been noted that many reports submitted by states parties only recognise women as victims of climate change but not contributors to finding adaptation solutions.¹²² In Uganda, the National Adaptation Programme of Action records an increase in the number of families that marry off their daughters as a result of drought, in exchange for food, commonly known as "famine marriage".¹²³ George¹²⁴ recommends that just like the UNFCCC recognises the common but differentiated responsibilities of developed and developing states in protection of the natural environment, gender should also be legally recognised. This would be an opportunity to help states in achieving the objectives of the climate change regime.¹²⁵

3.5 The African Convention on the Conservation of Nature and Natural Resources (Revised) ("RACCN")

Africa's first formal attempt to protect the environment was through the African Convention on the Conservation of Nature (Algiers Convention) which sought to provide for conservation and protection of natural resources. The revised African Convention on the Conservation of Nature¹²⁶ sought to strengthen the Algiers convention in light of current international law developments. It introduced institutions to help implement the convention and put in place compliance and enforcement mechanisms by states parties. Article XVI(1)C calls upon states parties to ensure public participation in decision

¹¹⁷ S Atapattu *Human Rights and Climate Change* (2015) 204 and 206

¹¹⁸ J Tenzing S Andrei & S Gama, *Advancing gender equality in the post-2020 climate regime* (2015) 1 <<http://pubs.iied.org/17313IIED>> (accessed 25-04-2018)

¹¹⁹ Atapattu *Human Rights and Climate Change* 204 & 206

¹²⁰ TL Prior and L Heinämäki "The Rights and Role of Indigenous Women in The Climate Change Regime" (2017) 8 *Arctic Review on Law and Politics* 193 205

¹²¹ UNFCCC "National Adaptation Plans: Technical guidelines for the national adaptation plan process" (2012) 16 & 17 <https://unfccc.int/files/adaptation/cancun_adaptation_framework/application/pdf/naptchguidelines_eng_high_res.pdf> accessed 09-11-2018)

¹²² Prior et al (2013) *JL* 117

¹²³ Government of Uganda (GOU) *National Adaptation Programmes of Action* (GOU) (2007) 163 <<https://unfccc.int/resource/docs/napa/uga01.pdf>> (accessed 27-04-2018)

¹²⁴ George "The Challenge of Climate Change and the Contribution of African Women" in *Black women and International law* 202 and 204

¹²⁵ 204

¹²⁶ Adopted in Maputo, Mozambique, on 11 July 2003

making “with potentially significant environmental impact” while article XVII(1)3 calls upon states parties to involve local communities in the planning and the management of all resources on which the communities depend. Although these provisions do not directly refer to women, by implication, women are encompassed amongst those to be involved in decision-making processes. In its article IV, the Convention calls upon states parties to, among other things, consider “ethical and traditional values” in a bid to achieve the objectives of the convention. This provision has been criticised because the tradition in Africa has been a ground upon which women have been discriminated against.¹²⁷ With the contribution women have made in natural resource preservation and in the agricultural sector, it is disappointing that the convention does not in any way recognise this contribution. The RACCN, being the main convention on environmental protection in Africa should have direct provisions on women’s participation in environmental conservation and decision-making.

3 6 The Protocol to the African Charter on Human and People’s Rights (“Maputo Protocol”)

The Maputo Protocol provides for women’s right to an environment which includes, “greater participation of women in the planning, management and preservation of the environment and the sustainable use of natural resources at all levels”.¹²⁸ The Protocol also underscores the need to protect and enable “the development of women’s indigenous knowledge systems”.¹²⁹ It provides for the right of women to sustainable development and calls upon states parties to involve women in planning, as well as ensure women’s access to resources like land.¹³⁰ These provisions are particularly relevant in light of the fact that based on their socially constructed roles, women are generally more dependent on natural resources than men.¹³¹ The instructiveness of these provisions also finds relevance in the fact that women have knowledge on conservation of resources¹³² and are the most affected in the face of environmental degradation.¹³³ The challenge, however, is that these well-intentioned provisions are met by profound discriminatory practices at local levels, making it an uphill task for them to be wielded creatively to advance the role of women in environmental conservation.

From the African regional context, other frameworks are notable including the Africa EU Declaration on Climate Change, Decision of the African Common Position on Climate Change, Decision on the High Level Work Programme on Climate Change Action in Africa, Women and Gender Programme on Climate Change (“CWGPCC”) and the draft African

¹²⁷ George “The Challenge of Climate Change and the Contribution of African Women” in *Black women and International law* 204

¹²⁸ Maputo protocol CAB/LEG/66 6 (Sept 13, 2000); 1 Afr Hum Rts LJ 40 (2001), art 18 (2) (a)

¹²⁹ Article 18(2)(c) of the Maputo Protocol

¹³⁰ Article 19

¹³¹ Broeckhoven & Cliquet (2015) 730

¹³² 730

¹³³ Prior et al (2013) *JL* 127

strategy on climate change (“ASCC”).¹³⁴ The ASCC incorporates gender and recognises that women are more affected by climate change than men, especially because they are generally poor, and that because women stand in the face of climate change they therefore have a lot of knowledge on how to curb climate change.¹³⁵ The African Union also has in place the Women and Gender Programme on Climate Change (“CWGPCC”)¹³⁶ which was adopted so that women and gender would be involved in climate change actions. The Committee of African Heads of State and Government on Climate Change (“CAHOSCC”) developed a Women and Gender Programme on Climate Change to engage women and gender in climate change-related actions.¹³⁷

Although the above-mentioned instruments recognise the role of women in decision-making processes pertaining to environmental issues, they may not be implemented because they do not constitute substantive law. As such, they lack binding effect. Africa has been criticised for lacking a strong environmental regulatory framework¹³⁸ and much less one that recognises the role of women in conservation. In light of its international obligations, Africa needs a substantive law on climate change in order for women's role and participation in combating climate change to be emphasised and implemented.

Overall, the instruments at the regional and international levels cannot be exhausted. What can be garnered from the few that have been discussed, however, is that provisions on due recognition of the role of women in environmental conservation remain scanty in many respects. Although some instruments entrench relatively progressive provisions, they are either limited on account of their non-binding nature or operate in the face of discriminatory practices that make these otherwise praiseworthy provisions redundant. There are, however, instances where gaps in international law are effectively addressed at the national level. The next section briefly engages with the framework in Uganda to assess whether it effectively recognises the role of women in environmental conservation. As already noted, Uganda is randomly selected merely as a case study.

4 Legal recognition of women's contribution to environmental conservation in Uganda

As is the case elsewhere, women in Uganda are at the forefront of environment and natural resource use and are therefore key stakeholders in

¹³⁴ African Union Climate Change Strategy (2014) *United Nations* <http://www.un.org/en/africa/osaa/pdf/au/cap_draft_aclimatestrategy_2015.pdf> (accessed 29-04-2014)

¹³⁵ African Union Climate Change Strategy (2014) 54

¹³⁶ Adopted by 23rd African Union Summit of Head of State and Governments Decision on the High Level Work Programme on Climate Change Action in Africa (WPCCAA) Assembly/AU/Dec 538(XXIII) para 12 (iii), Malabo 2014 <[http://archive.aun.int/collect/auassemb/import/English/Assembly%20AU%20Dec%20538%20\(XXIII\)%20_E.pdf](http://archive.aun.int/collect/auassemb/import/English/Assembly%20AU%20Dec%20538%20(XXIII)%20_E.pdf)> (accessed 29-04-2018)

¹³⁷ African Union Report of the meeting of the committee of African Heads of States and Governments on Climate Change (CAHOSCC) *Women and Youth programme of Climate Change* (2016)1 held at African Union Inter African Bureau for Animal Resources (AU-IBAR) on 7th to 10th June 2016 2&3

¹³⁸ George “The Challenge of Climate Change and the Contribution of African Women” in *Black women and International law* 203

environmental conservation.¹³⁹ Notably, the contribution of women’s NGOs in environmental conservation has been underscored. Cases in point include National Association for Women’s Action in Development (“NAWAD”),¹⁴⁰ an NGO which among other things, focuses on ensuring the “sustainable natural resource management” as well as climate change mitigation and adaptation awareness.¹⁴¹ NAWAD further emphasises the recognition of the positive contribution women make in their communities and in the country as a whole, especially through the environment and natural resource management. NAWAD further seeks to promote women’s rights in relation to the management of the environment and natural resources in a sustainable manner.¹⁴² Similar to NAWAD, Environmental Women in Action for Development is an NGO which promotes the inclusion of communities, especially the vulnerable members of the community (women included) in “environmental protection and sustainable development”.¹⁴³ Similarly, the Association of Uganda Professional Women in Agriculture and Environment¹⁴⁴ among other objectives aims to promote advocacy for agricultural and environmental policies that are more gender-sensitive.

Uganda is a dualist state and in order for an international or regional instrument to be applicable in Uganda, it has to be enabled by an Act of Parliament.¹⁴⁵ Uganda is party to the International Environmental Laws regime, having ratified the CBD, UNFCCC and UNCCD in 1993, 2016 and 1997 respectively. The major laws applicable to environmental conservation in Uganda include the Constitution of the Republic of Uganda and The National Environment Act 5 of 2019 (“NEA”). The 2019 Environment Act replaces the 1995 National Environment Act, a twenty-four-year-old law which was no longer up to speed with developments in environmental law.¹⁴⁶ The NEA addresses a number of gaps including the environmental issues resulting from the petroleum activities in Uganda and those pertaining to climate change. There is now a unit, the Environmental Protection Force, specialising in the enforcement of the provisions of the NEA.¹⁴⁷ As the previous Act was profoundly outdated in as far as the notion of environmental crimes is concerned, the NEA incorporates new environmental crimes and has brought the sentencing framework applicable to these crimes up to speed with current developments in environmental law.¹⁴⁸ The 1995 Constitution of the Republic

¹³⁹ Government of Uganda (GOU) *Environment and natural resources sub-sector gender mainstreaming strategy 2016-2021* (2016) 2

¹⁴⁰ National Association for Women’s Action in Development (NAWAD) (2015) <<http://nawad.co.ug/index.php>>; [https://www.womankind.org.uk/what-we-do/our-approach/partners/detail/national-association-for-womens-action-in-development-\(nawad\)](https://www.womankind.org.uk/what-we-do/our-approach/partners/detail/national-association-for-womens-action-in-development-(nawad))> (accessed 13-08-2019)

¹⁴¹ NAWAD (2015)

¹⁴² NAWAD (2015)

¹⁴³ Environmental Women in Action (EWA) (2019) <<https://ewadevt.org/pages/our-objectives/>> (accessed 13-08-2019)

¹⁴⁴ Association of Uganda Professional Women in Agriculture and Environment (AUPWAE) (2017) <<http://aupwae.net/about-us-2/>> (accessed 13-08-2019)

¹⁴⁵ Article 123 (2) of the Constitution of the Republic of Uganda, 1995; Sections 2 and 4 of the Ratification of Treaties Act Chapter 204 Laws of Uganda 2000

¹⁴⁶ The Previous Act was titled: National Environment Act, Chap 153

¹⁴⁷ Section 25 of the NEA

¹⁴⁸ Section 152–175

of Uganda,¹⁴⁹ the supreme law of the land, provides for the recognition of women's role in society.¹⁵⁰ The fact that this provision is not qualified could imply that the unique role women play in environmental conservation is implicitly encompassed amongst the various roles of women. Article 32(1) further places a duty upon the state to take affirmative action in favour of groups that have been marginalised on grounds of, among other things, gender, history, tradition or custom. This is in a bid to try and redress these imbalances. Article 32(3) further requires that an equal opportunities commission be established to give effect to article 32(1). Uganda has been hailed for being one of the few African countries that have established an equal opportunities commission.¹⁵¹ Despite this milestone, however, it has been observed that the country still struggles with the realisation of gender parity in almost all its sectors, the environment sector included, with deep-rooted cultural practices being noted as major hindrances.¹⁵² Further, articles 33(4), (5) and (6) provide for women's rights and require the state to ensure equal opportunity with men in political, economic and social activities. The article underscores women's right to affirmative action and provides for the abolition of laws, cultures, customs and traditions which undermine the dignity and status of women, but as already noted above, deep-rooted culture still hinders women from realising their full potential. Article 180(2)(b) requires that women constitute one-third of each local governmental council. The same provision is reiterated in the Local Governments Act.¹⁵³ It has been noted that even if women are on the councils, they rarely air their views because culture strongly prohibits women from speaking in public and even if they air their views, they will usually not be considered, for the same reasons. It has further been observed that there has been an outcry among some men that having women on the councils is a practice that erodes tradition and culture.¹⁵⁴ Chapter 15 of the Constitution on Land and Environment provides for ownership and management of land as well as management of the environment. Whereas the chapter is gender-neutral and does not exclude women, it does not recognise the unique role women play in land and environmental management. George¹⁵⁵ points out that gender-neutral legal provisions are not enough to guarantee gender equality because, among other reasons, they ignore the unique circumstances and challenges of women and also undermine the unique role of women in society

¹⁴⁹ Adopted by the Constituent Assembly on 22nd September, 1995

¹⁵⁰ Constitution of Uganda, 1995 National objective and directive principle of state policy XV

¹⁵¹ Equal Opportunities Commission Act (2007) (Uganda) Section 2

¹⁵² S Ssali *A matrix and analysis of gender equality laws and policies in Uganda* (School of Women and Gender Studies and University Forum on Governance under the Gender Equality Project (Makerere University) (2019) 46-47 and 50 <<https://www.dgf.ug/sites/default/files/resrcr/A-Matrix-and-Analysis-of-the-Gender-Equality-Laws-and-Policies-in-Uganda.pdf>> (accessed 15-08-2019); World Health Organisation (Africa Regional Office) "MDG Goal 3: Promote Gender Equality and Empower women (Uganda)" <http://www.who.int/profiles_information/index.php/Uganda:MDG_Goal_3:_Promote_gender_equality_and_empower_women> (accessed 15-08-2019)

¹⁵³ Chapter 243, Laws of Uganda, 2000, Sections 10(e); 23 (1) (e), (2)(e), (3)(e), (4)(e), (5)(e); 47(3)

¹⁵⁴ D Johnson, H Kabuchu & SV Kayonga "Women in Ugandan local government: the impact of affirmative action" (2003) 11 *GD* 8 11 and 17

¹⁵⁵ George "The Challenge of Climate Change and the Contribution of African Women" in *Black women and International law* 204

and (in the context of this paper) the unique role women play in land and environmental management.¹⁵⁶

The NEA recognises the continuation of the National Environment Management Authority (“NEMA”), the body established by the repealed National Environment Act, Cap 153 and responsible for the monitoring of environmental matters.¹⁵⁷ Implementation of environmental matters is, however, the responsibility of the respective ministries.¹⁵⁸ As a result, the Directorate of Environmental Affairs in the Ministry of Water and Environment developed a gender strategy which is hoped to help with sustainable use of environmental resources.¹⁵⁹ The NEA, whose major objectives among others, as laid down in its long title, is to provide for the management of the environment for sustainable development, does not make mention of and neither does it recognise the role of women in the conservation of the environment. This is so, despite the fact that it recognises Uganda’s obligations under IEL.¹⁶⁰ The NEA only provides for the need to have women constitute at least a third of the board members of the NEMA (section 12 (4)). However, in terms of section 5(2)(a) of the NEA, participation of the people of Uganda in environmental management is recognised. Women could be generalised as part of the public. The NEA further introduces the term gender under the principles of national environment management.¹⁶¹ It underlines the need for “gender responsive and sustainable use of the environment and natural resources”.¹⁶² This provision has been left to the widest interpretation of gender and can be taken to mean that the different gender aspects in relation to men and women will be given due consideration. In relation to the argument advanced in this article, it could mean taking into account the different roles and vulnerabilities of women in ensuring sustainable management of the environment.

There are other laws in place which ideally should have encompassed the notion of gender equality in environmental conservation. Unfortunately, they remain silent on the issue. Notable among them are the Forestry and Tree Planting Act 8 of 2003 and the Water Act, Cap. 152. The silence of the Water Act on issues of gender is particularly disturbing in light of the role that women play in the conservation of water resources. In sub-Saharan Africa, for example, women spend 40 billion hours annually on collecting water.¹⁶³ Women have been noted to be instrumental in maintaining freshwater sources

¹⁵⁶ 204

¹⁵⁷ Sections 8 and 9 of the NEA; National Environmental Management Authority (NEMA) *State of the Environment Report for Uganda 2014* (2014) 8 & 9

¹⁵⁸ F Saito “Community Environmental Conservation in Uganda: Possibilities and Limitations of Decentralized Management” (2004) *Journal of the Socio-Cultural Research Institute (Ryukoku University)* 4

¹⁵⁹ Government of Uganda (GOU) *Environment and natural resources sub-sector gender mainstreaming strategy 2016-2021* IV

¹⁶⁰ Section 9(2)(r) and (s) recognises the binding effect of the Environmental Conventions Uganda has ratified

¹⁶¹ Section 5(2)(b) of the NEA

¹⁶² Section 5 (2)(b)

¹⁶³ George “The Challenge of Climate Change and the Contribution of African Women” in *Black women and International law* 190

due to their responsibility for agriculture and taking care of their families and therefore the need to cook and keep homes clean.¹⁶⁴ In the face of depletion of water sources, women will be most affected as agricultural production will be negatively affected and hence cause food insecurity and health hazards arising out of lack of clean water. Women in Uganda have been noted to hold key positions in water and sanitation committees at district level,¹⁶⁵ which has enhanced water and sanitation management. It is therefore surprising to note that the water law in Uganda does not recognise the key contribution of women in maintaining water sources.

Aside from binding provisions of law, policies abound on the role of women in environmental issues. Notable is the National Climate Change Policy¹⁶⁶ which provides that “Mainstreaming gender issues in climate change adaptation and mitigation approaches is of utmost importance in order to reduce the vulnerability of women and children to the impacts of climate change”.¹⁶⁷ Explicitly recognised in this policy too is the role of children and women in addressing climate change and other surrounding issues.¹⁶⁸ The National Environment Management Policy¹⁶⁹ emphasises the role of youth and women in decision-making processes pertaining to natural resources. It also provides for integration of gender and, more specifically, the recognition of the role of women in the environment and natural resource management.¹⁷⁰ The involvement of women in public participation and education is also recognised.¹⁷¹

The Uganda Forestry Policy¹⁷² recognises the need for the integration of gender in the development of the forestry sector. It further recognises that women do not deplete forests like men, going as far as to underline that women use forests sustainably for firewood and food production while men cut down forests for timber for business or building.¹⁷³ Men still dominate the leadership positions in the forestry sector. Men own 70% of the forests, and the rest are owned by government. This limits women's participation in decision making concerning forests. Women can only access forests for subsistence purposes like firewood and medicines. Traditional beliefs in some rural areas hinder women from planting certain tree species under the belief that when women do, those species do not grow or they dry up.¹⁷⁴ The National Water Policy¹⁷⁵ provides that women should be involved in design, construction, operation

¹⁶⁴ Swedish International Development Cooperation Agency *Gender and environment* (2016) 2 <https://www.sida.se/contentassets/0b57532e484543199b0485c0984d731a/gender_and_environment.pdf> (accessed 07-11-2018)

¹⁶⁵ NEMA *State of the Environment Report for Uganda 2014* 37

¹⁶⁶ Government of Uganda (GOU) *Uganda National Climate Change Policy*” (2015)

¹⁶⁷ GOU *Uganda National Climate Change Policy* viii and 17

¹⁶⁸ viii and 17

¹⁶⁹ Government of Uganda (GOU) *Uganda National Environment Management Policy* (2015) s 2 3(iv)

¹⁷⁰ Section 3 16

¹⁷¹ Section 3 16(2)

¹⁷² Uganda Forestry Policy (2001) 8

¹⁷³ 9

¹⁷⁴ C Mukasa “Gender and forestry in Uganda: Policy, legal and institutional frameworks” (2012) 53 <https://www.cifor.org/publications/pdf_files/infobrief/3855-infobrief.pdf> (accessed 05-11-2018)

¹⁷⁵ Uganda National Water Policy (1999) s 5 4 3(i)

and management of improved water supply and sanitation facilities. It also provides that women should be supported through training activities and should be involved in community management. However, these provisions, though promising, are in a policy document that has no binding effect.

The government of Uganda acknowledges that cultural discrimination against women has hindered them from being involved in environmental decision-making processes.¹⁷⁶ Decision-making organs, specifically policy-making organs, have continued to be male-dominated and as a result, women's needs have not been catered for. Social-cultural inequalities have continued to hinder women from being educated. As a result, men continue to occupy the decision-making positions which require technical expertise, keeping women representation low.¹⁷⁷ Deep-rooted negative cultural practices in Uganda, especially in some rural areas, still bar women from speaking in public and hence women continue to be barred from decision making.¹⁷⁸ In addition, despite women's contribution, employment in the natural resource sector like biodiversity, forestry and oil, gas and energy continues to be male-dominated.

Women in Uganda still have unequal access to control and ownership of land. A study conducted in central Uganda found that “for both individual and joint ownership, 88% of the men owned land against 33% of the women, while individual ownership for land was 43% amongst the men compared to 17% among the women”.¹⁷⁹ This hinders women from investing in biodiversity conservation measures as well as perennial crops like coffee and banana plants. Although women are widely involved in agriculture in Uganda, they struggle to obtain credit to invest in conservation measures like soil conservation and modern agricultural technology, which would enable better crop yields especially in the face of climate change.¹⁸⁰ With women being the major users of biomass fuel especially from firewood, many of them have contracted diseases associated with the inhaling of smoke. Women in Uganda have also been involved in the innovative climate change mitigation processes like making low energy stoves which do not emit gases.¹⁸¹

Overall, the environmental legal framework in Uganda lacks adequate recognition of women's roles in environmental management. The role of gender mainstreaming in the environmental sector in Uganda has not yet been appreciated.¹⁸² Although neutral legal provisions “prima facie” look ideal, they ignore the social environment which largely favours men and discriminates

¹⁷⁶ Government of Uganda (GOU) *Environment and natural resources sub-sector gender mainstreaming strategy 2016-2021* (2016) 2

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¹⁷⁹ NEMA *State of the Environment Report for Uganda 2014* 36

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¹⁸¹ R Price *Clean Cooking Energy in Uganda – technologies, impacts, and key barriers and enablers to market acceleration* (2017) Help Desk Report Institute of Development Studies 4 <https://assets.publishing.service.gov.uk/media/5bae05abe5274a3e019d86ae/191_Clean_cooking_energy_Uganda.pdf> (accessed 06-11-2018)

¹⁸² GOU *Environment and natural resources sub-sector gender mainstreaming strategy* 2-3

against women.¹⁸³ Neutral legal provisions miss the opportunity of appreciating the role of gender and specifically the unique and special contribution of women in environmental conservation.¹⁸⁴ Additionally, most of the provisions on women are integrated into policy provisions, which have no binding effect. Women still lack the opportunity to share their experience as well as their knowledge. There is still an urgent need for women to be included in project planning and policy formulation.¹⁸⁵ George,¹⁸⁶ quoting Fatima Denton, has pointed out that women in Africa have limited access, control and ownership of land without which involving women in environmental conservation will remain fruitless. The same holds true for Uganda.

5 Conclusion

This paper set out to analyse the contribution of women in environmental conservation and the extent to which this contribution has been legally recognised by the environmental conservation law at international, regional and national levels. The paper confirms that women relate with the environment more closely than men and therefore contribute greatly to the conservation of the same. Whereas the law at international level attempts to recognise women's contribution to environmental conservation, the provisions are not only inadequate but lack mechanisms for enforcement. As a result, implementation at the domestic and regional levels is poor. The law at regional level does not recognise women's role in environmental conservation. Uganda's substantive environmental protection laws do not recognise the role of women in conservation. The scanty recognition of women's contribution to environmental conservation in Uganda largely falls under a policy framework which is not legally binding hence making enforcement even harder. There is therefore urgent need to incorporate the contribution of women in conservation, within the law, especially since evidence of their contribution exists, as set out in this paper. The recognition of women's contribution is vital, especially in the face of a changing climate which comes along with severe environmental degradation leaving women more affected than men. This is vital especially seeing as women are socially responsible for the welfare of their households. Once empowered, the households of women and hence communities will be safer from the severe effects of environmental degradation.

SUMMARY

Environmental degradation negatively impacts both women and men. However, it is an indisputable fact that women experience its adverse effects more than men. This is based on women's socially constructed roles which make them more dependent on natural resources like forests, lakes and land. This responsibility enables women to interact more closely with the environment than men, thus,

¹⁸³ George "The Challenge of Climate Change and the Contribution of African Women" in *Black women and International law* 197

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¹⁸⁵ Prior et al (2013) *JL* 117-118

¹⁸⁶ George "The Challenge of Climate Change and the Contribution of African Women" in *Black women and International law* 197

giving them an opportunity to contribute to environmental conservation. Despite the relationship that women have with the environment and the contribution they make towards environmental protection and conservation, it remains largely unclear if their contribution is adequately recognised and implemented. This article examines the contribution of women in environmental conservation and the extent to which existing environmental conservation laws and policies at international, regional and national levels recognise this. It is concluded that some instruments at the international, regional and national levels scantily recognise the role of women in environmental conservation. However, these scanty provisions are met with discriminatory practices against women at the national level which makes it close to impossible for these instruments to advance the role of women in environmental conservation.