The Right to Access to Justice and the Need for an Environmental Court in Uganda

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Abstract

Uganda is a country characterized by large areas of diverse and sensitive ecosystems. In recent decades, the country has experienced various environmental challenges, including displacement of people due to large-scale industrial projects, deforestation, pollution, and the threat of climate change. While access to justice is a fundamental human right protected by international law, in Uganda, the right to access to justice in environmental matters has been severely limited due to the lack of an appropriate institutional framework. This paper examines the need for an environmental court in Uganda to ensure the protection of the right to access justice in environmental matters.

Key Words: Access to Justice, Environmental Justice, Environmental Court, Law, Uganda

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1.0 Introduction: An Overview of Environmental Challenges in Uganda and the Need for Access to Justice Mechanisms

Uganda is very well endowed with natural and environmental resources. Among others, Uganda enjoys over 4.9 hectares of natural forests, both tropical and woodland.[1] These include tropical high forests, forest plantations, woodland, and forests in protected areas, including Forest Reserves, National Parks, and Wildlife Reserves.[2] Uganda is also endowed with 7.2 million hectares of arable land.[3] Furthermore, Uganda boasts of a variety of life species including animal, bird and plant species. Uganda is located in the great lakes region and covers a surface area of about 243,145km, 16% of which is reserved for terrestrial protected areas including national parks, forest reserves, wildlife sanctuaries, reserves, among others.[4] In addition to this, Uganda`s biodiversity includes mountain gorillas (Uganda possesses of 53.9% of the world`s mountain gorillas) and 50% of Africa's bird species; 39% of Africa's mammals; 19% of Africa's amphibian species, 14% of Africa's reptile species; 1,249 recorded butterfly species and 600 species of fish.[5] 16% of Uganda`s land mass is covered by water resources, 13% is covered by wetland resources whereas Uganda is a leading producer of freshwater fish in Africa.[6] The fisheries sector also produces about 15000 tons of fish from aquaculture.[7]

Despite Uganda`s rich biodiversity, like many other countries in the world, Uganda is facing an environmental crisis. Environmental is-

1 National Environment Management Authority (NEMA), *State of the environment report for Uganda 2006/2007,* (NEMA, 2007) 78-79.

2 Ibid.

3 Ibid at v.

4 S Snyman, McVey and D Ndizihiwe, *The State of the Wildlife Economy in Uganda: Policy Brief Adapted from S. Snyman, A. McVey and D. Ndizihiwe. The State of the Wildlife Economy in Uganda* (African Leadership University, a case study developed under the USAID CONNECT project, 2021) 1.

5 Ibid.

6 Robin D W Ibale, *Towards an appropriate management regime for the fisheries resources of Uganda,* (United Nations University, 1998) 1.

7 NEMA (n 1) VI.

sues, especially those that arise out of human activities have become a global concern.[8] Uganda`s environmental challenges include but are not limited to deforestation and loss of forest cover.[9] Between 2005 and 2010, Uganda lost 28.5% of forest cover annually. 200,000/= hectares of forest cover are lost.[10] Forests have been encroached for agricultural production and they are also being cut down for firewood, and construction of buildings due to urbanization and industrialization.

A case in point is the Namanve forest reserve which is no longer in existence. Overpopulation has also put a strain on ecosystems as populations encroach on forests for timber, fuel and food.[11] The wildlife species are also being threatened by poaching, illegal hunting, charcoal burning, human-wildlife conflict, plastic waste, and pollution of water bodies.[12] The fisheries sector on the other hand is facing pollution of the water bodies hence an increase in fish death, poor fishing methods, and illegal fishing of immature fish among other challenges. These have had a great impact on the freshwater biodiversity and in the long run, food security and health in Uganda.[13]

Although Uganda is facing several environmental challenges as outlined above, not much attention has been paid to access to justice in environmental matters. In the face of these environmental challenges, in order to combat this crisis, there is a need for an effective legal system that gives citizens the right to access justice. Access to justice has been construed from a human rights perspective to mean "…the ability of

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8 Di Eduardo Schneider Lersch, "Environmental Courts and Tribunals in Brazil and Bolivia: A Comparative Analysis between Institutional Systems of Environmental Protection" 2023 (2) *DPCE online* 575-592 at 575.

9 Ronald Naluwairo & Anna Amumpiire, `Enhancing Access to Justice in Uganda's Forestry Sector A Comparative Study of Uganda and Tanzania` 2017 *ACODE Policy Research Series No.82*, 1 <https://www.acode-u.org/uploadedFiles/PRS82.pdf> accessed 19 July 2023.

10 Ibid.

11 NEMA (n 1) v.

12 Ibid.

13 United Nation Environment Programme (UNEP), *Understanding the fisheries sector in Uganda*, (UNEP 2020) <https://www.unep-wcmc.org/en/news/understanding-fisheries-in-uganda> accessed 25 July 2023.

people to seek and obtain a remedy through formal or informal institutions of justice, and in conformity with human rights standards."[14]

Similarly, access to justice has been defined by Access Initiative as, "the ability of citizens to turn to impartial and independent arbiters to resolve disputes over access to information and participation in decisions that affect the environment or to correct environment harm."[15] These definitions indicate that access to justice places states under obligation to protect and promote the right of every person to be able to seek redress in the courts of law or before any other dispute resolution body in case their rights have been violated.[16]

In other words, the right to access to justice enables persons to have their other rights enforced. Access to justice has been described as a process and a goal, especially because other substantive, as well as procedural rights can only be enforced through the ability to access justice.[17]

In the environmental context, access to justice has been argued to be derived from the `access to environmental justice` notion[18] and therefore ensures environmental democracy and sustainable development. Furthermore, access to justice ensures the sustainable use and management of natural resources, protection of rights as well as environmental security. Moreover, states and other duty-bearers will be held accountable in the area of environmental protection and management.[19]

Access to justice gives persons the ability to seek redress for harm caused to the environment, in the courts of law.[20] It is undeniable that

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14 United Nations Development Programme (UNDP), *Programming for Justice: Access for All: A Practitioner's Guide to a Human Rights-Based Approach to Access to Justice* (UNDP 2005) 5.

15 Naluwairo & Amumpiire (note 9) at 4.

16 Luca Brocca, `Access to Justice in Environmental Matters` <https://just-access.de/access-to-justice-in-environmental-matters/> accessed 18 July, 2023.

17 Ibid.

18 Naluwairo & Amumpiire (n 9) 1.

19 Ibid at 5.

20 European Environmental Bureau, *Challenge accepted? How to improve access to justice for EU environmental laws* <https://eeb.org/wp-content/uploads/2018/11/Challenge-accepted-Report-1.pdf> accessed 18 July 2023.

environmental protection is now a public concern and a fundamental social need. This is because environmental destruction affects the quality of life. This means that states have to put in place mechanisms, both legal and institutional, to enable aggrieved persons to seek redress.[21] Courts of law, therefore, being the main institutions that enable proper implementation of law, are a mechanism through which persons can seek redress in the case of environmental destruction.[22] However, not only should the courts be accessible, they should be able to offer appropriate remedies and accessing them should be affordable.[23] This will go a long way in protecting the environment from harm and will ensure the enforcement of environmental laws and policies in a bid to ensure sustainable use of the environment.[24]

For purposes of this article, the discussion on the need for access to justice in the environmental context will be focused on the right of persons to approach the courts of law and seek redress for environmental harm. This is because Uganda`s environment is being destroyed fast yet environmental litigation and adjudication is still not yet largely grounded in Uganda.

The first part of this article gives an insight into Uganda`s biological diversity, the challenges it is facing, and the need for access to justice as a mechanism of environmental protection. The second part discusses the law on access to justice in Uganda and its efficacy in ensuring the same. The third part of the article discusses the justification for an environmental court as a mechanism for access to justice and the fourth part discusses the challenges that might hinder the establishment and functionality of an environmental court. In the fifth and final part, conclusions and recommendations are made on improved ways of enduring access to justice through an environmental court, as a mechanism for environmental protection.

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21 Brocca (n 16).

22 Ibid.

23 Ibid.

24 George Pring & Catherine Pring, *`Greening Justice: Creating and Improving Environmental Courts and Tribunals`* (The Access Initiative, 2009) 7.

2.0 Overview of the Legal Framework on Access to Justice in Uganda

2.2.0 International and Regional Legal Framework

It is important to analyse the legal framework on access to environmental justice at the international and regional levels especially because Uganda`s domestic law draws inspiration from international law and policy. Access to justice has generally been recognized under international human rights law. The *Universal Declaration of Human Rights* (UDHR) provides that everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted to them by the constitution or by law.[25] Similarly, the *Covenant on Civil and Political Rights* (ICCPR), provides that a person shall be entitled to a remedy where their rights have been violated and that remedy shall be determined by a competent judicial, administrative, or legislative authority, and that the remedy shall be enforced accordingly.[26] The *African Charter on Human and People's Rights* (ACHPR) (1981) provides that every person has the right to have their cause heard and a right to appeal in the event that their rights are violated.[27]

Whereas these are very important provisions on the right to access to justice and right to approach competent bodies to seek redress in the event that the rights are violated, it is specifically tailored to cater for general human rights. It is also tailored for persons to approach general courts of law. Whereas environmental matters have been heard in the courts of law and as has become common practice, before human rights tribunals, it is important that environmental matters, given their magnitude, should be heard before environment-specific courts, with

[25] UDHR (1948), Article 8 <https://www.un.org/sites/un2.un.org/files/2021/03/udhr.pdf.> accessed 19 July 2023.

[26] ICCPR (1966), Article 2 (3) <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights.> accessed 19 July 2023

[27] Banjul Charter (1981), Article 7 (a) <https://au.int/sites/default/files/treaties/36390-treaty-0011_-_african_charter_on_human_and_peoples_rights_e.pdf >accessed 19 July 2023

environmental experts as opposed to human rights experts. It is therefore important to analyse the international legal and policy framework specific to environmental protection and how the same has provided for access to justice in environmental matters.

Access to justice in environmental matters has been formally recognized from as far back as the United Nations Conference on the Environment and Development of 1992 and found its way into the *Rio Declaration on Environment and Development* (1992)(Rio Declaration).[28] Without access to justice through access to courts of law, the rule of law cannot be said to exist. Where a state lacks the capacity to afford its citizens access to justice, the state is entitled to international assistance in order to be able to afford its citizens this right. This is the whole essence of international cooperation.[29] Environmental protection and hence sustainable development have been noted to be enhanced by access to justice.

The Rio Declaration provides that environmental issues are best handled with "… effective access to judicial and administrative proceedings, including redress and remedy, shall be provided."[30] Access to justice is an essential component of environmental decision-making, omission of which will lead to environmentally damaging consequences.[31] The right to access to justice, among other rights, facilitates transparency, accountability, and inclusiveness in making decisions which concern the environment.[32]

Whereas the right to access to justice has been recognized in the Rio Declaration and in different legal provisions across the globe, the prac-

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[28] Principle 10 provides that "…Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided."

[29] Nicholas A Robinson, ` Ensuring Access to Justice through Environmental Court` 2012 (29) (2) *Pace Environmental Law Journal* 367.

[30] Rio Declaration on Environment and Development (1992), Principle 10, A/CONF.151/26 (Vol.I). <http://www.un.org/documents/ga/conf151/aconf15126-- 1annex1.htm.> accessed 25 July 2023.

[31] The Access Initiative, *Moving from Principles to Rights Rio 2012 and Ensuring Access to Information, Public Participation, and Access to Justice for Everyone* (July 2011) <https://www.refworld.org/pdfid/4e38f1f02.pdf > accessed 25 July 2023.

[32] Ibid.

tice of these rights in order for communities to be empowered is yet to be achieved. Governments need to honor the commitments they made under the *Rio Declaration*, *Agenda 21,* and the *Johannesburg Plan of Implementation*.[33] Even if countries already have legal provisions with respect to access to justice, they must invest in the operationalization of these legal provisions by establishing adequate institutions otherwise the legal provisions will not make meaning to an ordinary person.[34] This is where courts, specifically an environmental court, will become necessary.

The Rio Declaration, although non-binding, has influenced domestic laws and has influenced environmental law.[35] Moreover, the Rio Declaration has been overwhelmingly adopted by various states and has been recognized as the only international environmental law document that contains the principles of environmental law as a single document.[36] Uganda having attended the United Nations Conference on Environment and Development where the Rio Declaration was birthed and later the Rio+20, has expressed support for the same and should therefore put in place the relevant mechanisms for achieving the objectives of the Declaration even if it is for moral obligation purposes only.

2.2.1 United Nations Conference on Sustainable Development, the Rio 2012 and its outcome document[37]

This summit took place in 2012 and it was majorly a follow-up on the 1992 Earth summit. Its major objective was to follow up on the pro-

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33 Johannesburg Plan of Implementation of the World Summit on Sustainable Development, August 26-September 4, 1992 <http://www.un.org/esa/sustdev/documents/WSSD_POI_PD/English/POIToc.htm> accessed 25 July 2023.

34 The Access Initiative (n 31) 2.

35 Charlotte Kabaseke, *Women's right to participation in environmental decision making process in Uganda: Lessons from International and Comparative Law* (Unpublished PhD thesis submitted to the School of Law of Wuhan University in partial fulfillment for the award of the Degree of Doctor of Philosophy (Science of Environment and Natural Resources Protection Law) (2021) 76.

36 Ibid.

37 United Nations Conference on Sustainable Development, Rio+20. <https://sustainabledevelopment.un.org/rio20> accessed 25th July, 2023. See <https://sustainabledevelopment.un.org/index.php?menu=1298> for the outcome document.

gress of the commitments which were set at the 1992 summit and take note of the gaps that still exist and find solutions to the same.[38] The main theme of this summit was to achieve a green economy in sustainable development and to put in place an institutional framework to achieve sustainable development. Being a follow-up of the 1992, the 2012 summit observed that although progress had been made in the other rights under Principle 10 of the Rio Declaration, progress had been slowest in the right to access to justice.

Although there is a slow trend in the establishment of environmental courts and tribunals, it is a positive indicator that there is a growing belief that environmental courts and tribunals actually enhance access to environmental justice for purposes of environmental protection.[39] The improvement notwithstanding, challenges still remain. The time taken to obtain remedies is still long but not longer than it takes in ordinary courts. Litigants also face intimidation and the costs of litigation are still high.[40]

Uganda, by participating in the Rio+20 (2012) summit, has made commitments to advance the principle of a green economy. Uganda made its commitments in its position paper and committed itself to putting in place the required institutional framework for advancing a green economy.[41] Uganda therefore needs to live up to its commitment and put in place an environmental court. Although the outcome document of the Rio +20 conference is not a legally binding document, Uganda needs to honor her commitments.

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38 Ibid.

39 Access Initiative (n 31) 8.

40 Ibid.

41 Republic of Uganda Position paper on Rio+ 20 <https://wedocs.unep.org/bitstream/handle/20.500.11822/9243/-Uganda%20position%20paper%20on%20RIO%2B20-2011UGANDA%20POSITION%20PAPER-%201%20Nov%202011%20%283%29%20%284%29.pdf?sequence=3&isAllowed=y> accessed 25 July 2023.

2.2.2 *UN Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, 1988, (AARHUS)*[42]

The *AARHUS*, is a European regional treaty that is aimed to promote procedural environmental rights. Its main objectives are well laid out in its preamble and they include ensuring environmental democracy and transparency while environmental decisions are being taken.[43] The AARHUS Convention recognizes the procedural environmental rights elucidated there in as emanating from the Stockholm and the Rio declarations,[44] hence the interest based approach applied by the convention. The interest based approach basically aims at protection and advancement of the rights of the people for purposes of environmental protection as the main interest.[45]

The AARHUS convention has been classified as largely environmentalist, and a catalyst for advancing democratic environmental decision making.[46] It has also been recognized by the European Court of Human Rights as the international standard for the enforcement of procedural right generally, access to justice inclusive.[47] The Convention has been recognized as the most widely accepted avenue through which article 10 of the Rio Declaration as well as the other relevant provisions of the Declaration have been advanced.[48]

In article 1, the Convention provides that "…each state party shall guarantee…. Access to justice in environmental matters in accordance

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42 UN Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters 2161 UNTS 447 (1999).

43 Ibid, preamble.

44 Ibid, para. 1 and 2, preamble.

45 Kabaseke (n 35) 119

46 Ibid.

47 Kabaseke (n 35) 119.

48 Samuel E. Ojogbo, 'Public Participation and Environmental Degradation in Developing Markets: The Challenges in Focusing on Environmental Impact Assessment (EIA) in Nigeria' 2018 (6) 1 *Legal Issues Journal* 37-60 at 51.

with the provisions of this Convention."[49] More specific to access to Justice is article 9 which provides that persons who are aggrieved under any article of the convention shall have access to a review process under a court of law or other independent, competent, and impartial body.[50] Article 9 (3) further provides that, "members of the public have access to administrative or judicial procedures to challenge acts and omissions by private persons and public authorities which contravene provisions of its national law relating to the environment."

Although these provisions clearly provide for a near-perfect standard for access to justice in environmental matters, they are not specific to access to justice in an environment-specific court. More so, even if the AARHUS Convention has been lauded as being a near-perfect standard for access to justice, it is important to note that although the AARHUS Convention is a regional convention, other countries are free to ratify it.[51] States that are not members of the EU have, however, been slow in ratifying this treaty and much less acceding to it. This has largely been due to the fact that in addition to the technical procedures that come with these processes, it is largely viewed as a European treaty.[52] Uganda, in a bid to show its commitment to environmental justice, should consider ratifying the AARHUS convention.

2.2.3 Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean, 2018 (ESCAZU)[53]

Similar to her European counterpart, the American region entered into a legally binding environment agreement which specifically provides for procedural environmental rights. Its objective includes ensuring access to justice in environmental matters and strengthening

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49 AARHUS Convention, article 1.

50 AARHUS Convention (1999), article 9 (1).

51 AARHUS Convention, article 19 (3).

52 Access Initiative (n 31) 11.

53 Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (2018).

capacities and cooperation with the major aim of achieving sustainable development.[54]

In article 8, the agreement guarantees access to justice in environmental matters and requires states parties to make provisions, in their domestic laws for the ability to challenge or appeal any decisions related to the environment or actions and omissions which violate the environment. The objective to strengthen capacities in a bid to promote sustainable development alluded to the need to put in place institutional mechanisms including environmental courts and well-qualified and trained judges in the area of environmental law. Although this is a regional agreement, it has great provisions which a country like Uganda can borrow from.

2.2.4 Revised African Convention on the Conservation of Nature and Natural Resources.[55]

The Convention was adopted by the African heads of states which are member states of the African Union. The main objectives of the convention include, 'enhancing environmental protection, fostering conservation and sustainable use of natural resources as well as harmonizing and coordinating policies in these fields.'[56] Article XVI provides for procedural rights and specifically provides that, 'parties shall adopt legislation and regulatory measures necessary to ensure timely "…Access to justice in matters related to protection of the environment and natural resources." [57] By implication, this provision highlights the need for persons to approach the courts of law and seek remedies for environmental destruction or violation of the law or procedure in respect to environmental protection. The African region needs to borrow a leaf from her regional counterparts and enact a convention/agreement in

54 Ibid, article 1.

55 Adopted by the second ordinary session of the Assembly of the African Union in Maputo Mozambique on 11th July, 2003, entered into force on July 23, 2016. <https://au.int/sites/default/files/treaties/7782-treaty-0029_-_revised_african_convention_on_the_conservation_of_nature_and_natural_resources_e.pdf> accessed 28 September 2019.

56 Ibid, Article II.

57 Ibid, Article XVI (1) d.

respect to environmental procedural rights, which have detailed provisions on the same. Nonetheless, the existing provision on access to justice clearly points to environmental matters especially because the Convention is environment-specific. What needs to improve is the fact that the Convention needs to be amended in order to incorporate a provision that specifically provides for the establishment of environment-specific courts at the domestic level, across the different member states.

Although some of these international provisions which directly speak to access to justice in environmental matters are not legally binding, they are persuasive and Uganda has expressed commitment towards the implementation of the provisions. Moreover, it is imperative to note that access to justice has been recognized as a customary international norm where states are under obligation to ensure that their citizens have judicial access with regard to environmental law matters.[58] There issue of legal obligations under some international documents not being binding therefore, should not arise.

2.3 Domestic Legal Framework

2.3.1 The Constitution of the Republic of Uganda (1995)

The Constitution is the grundnorm of the land. It sets the foundation upon which all the other laws are based. The Constitution of Uganda also has binding force on the authorities and the peoples of Uganda.[59] In its National Objectives and Directive of State Policy, Uganda commits to "protect important resources including land, water, wetlands, minerals, oil, fauna and flora on behalf of the people of Uganda."[60] This provision is reiterated in article 237(2) (b) of the Constitution. This buttresses the commitment of Uganda to protect the environment and natural resources.

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58 Robinson (n 29) 366.

59 Constitution of the Republic of Uganda, Article 2 (1).

60 Constitution of the Republic of Uganda, Paragraph XIII of the National Objectives and Directive Principles of State policy.

Moreover, article 39 guarantees the right of citizens to a clean and healthy environment. This right, just like any other right, is unlimited and must be protected at all times. The implication of the right is that should it be violated; the violator must make good their violation through all possible ways. Article 28 provides for the right to a fair hearing. Although this provision seems to be leaning towards the rights of an accused person, it is important to note that some accused persons are environmental violators. The right to a fair hearing therefore indicates that environmental violators can be prosecuted in the courts of law and be afforded a fair hearing.

Most significant to environmental protection is article 50 which is to the effect that a person who claims that a fundamental right has been violated may apply to a competent court for redress. The person applying does not have to be directly affected. This is a clear indicator that in cases of environmental violation, the violators can be sued in the courts of law especially if the violation has a direct effect on human rights.

Moreover, the provision gives *locus standi* to persons who might not have directly suffered harm from environmental harm to petition court on people who have suffered harm but are unable to petition court due to one reason or another. This position was elaborated in the case of *British American Tobacco Limited v Environmental Action Network Ltd.*[61] Although this provision is a step in the right direction, it would be better if an environmental court is set up to better operationalize this provision. This is because judicial officers who are environmental law experts and therefore appreciate the *locus standi* concept will handle matters before the court. This will lessen the challenges of public interest litigation in respect to *locus standi.*

Article 126 provides for the courts of law in Uganda and it provides that courts of law are mandated to adjudicate both civil and criminal cases and that they shall deliver justice without delay. Although this clearly means that people can petition the courts of law over a wide

[61] Civil Application No. 27/2003.

range of legal violations, including environmental cases, there is need for an environment-specific court.

Article 138 provides for the High Court of Uganda. Although the High Court of Uganda has several divisions,[62] there is no environmental division.[63] This is surprising considering the fact that Uganda has expressed its commitment to environmental protection by ratifying several environmental treaties and by enacting several environmental protection laws. Uganda needs to take a further step to set up an environmental court since the effect of good laws can only be realised if institutions operationalise the laws are in place. This will further buttress Uganda`s commitment to environmental protection and access to environmental matters in particular.

2.3.2 National Environment Act (NEA) (2019)

The NEA[64] is the major law specific to environmental protection in Uganda. It repealed the National Environmental Act of 1995. It deals with a wide range of environmental issues and its main objective among others is to manage the environment for sustainable development.[65] The NEA, in section 3, reiterates the right to a clean and healthy environment as provided for under the Constitution.

This section further provides that should the right be threatened by any act or omission of any person, a civil suit can be instituted against that person and court may make any orders against that person in a bid to protect the environment. Furthermore, in sections 134,144 and 145 empower courts to make the necessary orders including conviction against persons who perform acts which are a threat to the environment.

One unique feature of the NEA is the introduction of the aspect of the rights of nature. Section 4 provides that a person can bring an action

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62 See <http://www.judiciary.go.ug/data/smenu/9/High#:~:text=The%20High%20Court%20of%20Uganda,go%20to%20the%20High%20Court> accessed 28 July 2023.

63 Ibid.

64 Act no. 5 of 2019 (Uganda).

65 Long title to the NEA (2019).

before a competent against any person who infringes the rights of nature. This section has introduced a wider scope to access to justice. The question however, remains, in respect to what amounts to a competent court especially seeing the challenges of ordinary courts as discussed in part three of this article.

The NEA without a doubt contains provisions on access to environmental justice. The challenge remains that these very progressive provisions still speak to the general courts of law. It is expected that such a progressive law on the environment would provide an environment-specific court. The NEA further provides for Uganda`s commitment to international obligations. In section 150, Uganda is committed to the domestication of her international obligations under different treaties. Similarly, in section 5, Uganda is committed to advancing the general principles of law, which originate from international law.

This was emphasised in the Supreme court case of *Nyakaana v NEMA, Attorney General & Others*[66] which stated that the fundamental environmental protection principles of the 'Polluter Pays Principle' (i.e. that it is the polluter who must pay for the damage done to the environment and to the victims of the pollution) and the "Precautionary Principle" (i.e. that a lack of scientific certainty should not be used to postpone action to protect the environment) were a part of Ugandan law.[67] This therefore implies that Uganda is committed to environmental law and since international law, as discussed in the preceding paragraphs promotes access to justice through access to courts of law and Uganda entertains environmental suits in the courts of law, Uganda should take a further step to establish an environment-specific court.

2.3.3 National Climate Change Act (NCCA) (2021)

The National Climate Change Act came into force in 2021 and is majorly aimed to give the force of law in Uganda, to the international climate change treaties. Section 26 empowers any person to bring an ac-

[66] Constitutional Appeal No. 5 of 2011 [2015] UGSC 14 (20 August 2015).

[67] Ibid.

tion against the government or any other person whose actions or omissions frustrate adaptation and mitigation measures. The High Court is empowered to make the appropriate orders. It is surprising to note that this is the only provision on access to justice especially in respect to such an important aspect as climate change. The provisions on access to justice in respect to climate need to be enhanced in the Act, especially in respect to handling the technical aspects of climate change litigation.

As highlighted in part 4 of this article, in the case of *Mbabazi & Others v Attorney General*[68] the government of Uganda was sued for its failure to protect its citizens from the impact of climate change. Among others, the plaintiffs sought orders against the Ugandan government to put in place agencies to enforce the provisions of the climate change treaties. Agencies could include a specialized environmental court.

This case, although filed in 2012, has not been resolved up to date. Although this case was instituted before the climate change came into force, the case sought to hold Uganda accountable in respect to its international obligations under the international climate change treaties. Under the Act, the international climate change treaties have the force of law in Uganda.[69] The reasons that have contributed to a delay in the conclusion of this case might be many but it cannot be ruled out that lack of a competent court with competent experts in environmental matters and specifically climate change matters has contributed to this.

2.3.4 Uganda Wildlife Act (UWA) (2019)

The main objective of the UWA is to "provide for the conservation and sustainable management of wildlife. "[70] Section 29 criminalizes actions aimed to destroy wild life whereas section 30 criminalizes entry into wildlife protected areas without permission. Section 62 and 71 further criminalize the illegal import and export of protected species, hunting and being in possession of protected specimen.

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68 *Mbabazi and Others v The Attorney General and National Environmental Management Authority*, Civil Suit No. 283/2012.

69 Climate change Act, 2021 (Uganda), Article 4.

70 Long title, the Uganda Wildlife Act, no 17 of 2019.

Although these provisions obviously point to the fact the perpetrators of the law will be prosecuted before the courts of law, the Act could have done better by providing for civil proceedings against persons who destroy wildlife as well. This would have given wider scope to the aspect of access to justice under this Act especially in a bid to strengthen such an important aspect of environment protection (wildlife). Although the Act does not specify which court has jurisdiction to hear wildlife related cases, Uganda has in place a wildlife courts.[71]

Although this court has been specifically designated to handle wildlife matters, the judicial officers in these courts are not necessarily experts in wildlife. Moreover, appeals from these courts (which are Magistrate courts) go to the general High Courts. There is therefore need for an environment court, especially at the High court level, to entertain the appeals on wildlife. This will better enhance wildlife protection in Uganda through expeditious disposal of cases by environment and, wildlife experts.

2.3.5 The Forestry and Tree Planting Act (FTPA) (2003)

This Act came into force in 2003 and its main objective is to provide for conservation and sustainable management of forests in Uganda. Section 34 prohibits any person from causing damage to a forest and section 35 prohibits the cause of fire in a forest. A person who contravenes these sections can be prosecuted. These are the only direct provisions on access to justice and just like the UWA analyzed above, they are only directed towards criminal prosecution and there are no provisions on civil suits against persons who might destroy forests.

Although part IX of the Act provides for offences and penalties, they are still largely general. The Act`s provisions on courts are general.

As highlighted in the first and third parts of this article, Uganda`s forest cover is being lost fast so there is urgent need for the forest law

[71] The Judiciary of Uganda, *Standards, Utilities and Wildlife Chief Magistrate Court*, (The Judiciary of Uganda) <http://judiciary.go.ug/data/causelist/156/Standards,%20Wildlife%20and%20Utilities%20Chief%20Magistrate%20Court.html> accessed 28 July 2023.

to contain enhanced provisions on access to justice as a mechanism for saving Uganda`s forests especially given the effect the loss of forests have on human health and the environment. An environmental court with experts in the area of environmental law would be a good place to start.

This is more so, given the fact that cases concerning forests have also been noted to drag in the courts of law yet matters to do with forests are crucial and should be handled expeditiously.[72] In order for effective access to justice to be realized, an effective legal framework is essential. Although Uganda has in place quite progressive environmental laws, they do not adequately cater for the need for an environmental court. It is important to note that without proper institutions, good laws may not achieve their objectives. It is therefore important that environmental courts be legally provided for as a means to ensure the effectiveness of environmental laws. The need for an environmental court is discussed in the next section.

3.0 The Need for Environmental Court as a Means of Access to Justice in Environmental Matters in Uganda

Literature indicates that across the globe, over 350 environment-specific courts exist.[73] Although it is not an international treaty requirement and neither is it a statutory requirement for states to establish environment-specific courts, rule of law demands that in order for access to justice to be realized, the right to access to justice through access to the courts of law cannot be underestimated.[74]

72 Refer to the Omuhereza case in part three.

73 Robinson (n 29) 368.

74 Robinson (n 29) 368.

3.3.0 The Challenges of Ordinary Courts in Adjudicating Environmental Cases

It is not in dispute that courts of law are the primary mechanism for ensuring access to justice. The need for an environmental court is therefore partly triggered by the fact that non-environmental courts (general courts) may not be adequately equipped to handle environment related cases. General courts have been placed on the spotlight for taking too long to dispose of cases.[75] This is, however, not surprising especially considering the fact that there are very many other cases which the courts are handling at the same time.[76]

In case of *Greenwatch and Another v Golf Course Holdings*[77] the Plaintiffs brought a case against the Defendant in order to obtain an order to prevent the Defendant from constructing a hotel in a wetland and green area after the Defendant presented a forged Environmental Impact Assessment report. Unfortunately, the hotel construction was completed and started operations before the case was disposed off. The Constitution of the Republic of Uganda provides that "justice shall not be delayed."[78] Environmental justice, therefore, being aimed to protect human health as well the environment for prosperity purposes should be expedited at all times.

In addition to the delays by the courts of law, the courts have been faulted for mishandling environment related evidence and misinterpreting environmental laws during adjudication of cases.[79] In the case of *Omuhereza Rwakaboyo & 119 others v The National Forestry Authority*,[80] the Plaintiffs` claimed to own land in the middle of a forest reserve (Matri forest reserve). They claimed that they occupied these lands for very

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75 Naluwairo & Amumpiire (n 9) 16.

76 Donald Kaniaru, `Launching a New Environment Court: Challenges and Opportunities` 2012 (29) (2) *Pace Environmental Law Review* 626-624 at 629.

77 High Court Civil Suit no. 834/2000 (Uganda).

78 The Constitution of the Republic of Uganda, 1995, as amended, Article 126 (2).

79 Ibid.

80 *Omuhereza Rwakaboyo & 119 others v The National Forestry Authority*, HCT-01-CV-MA-0060 of 2009.

many years. They were therefore opposed to a move by the National Forestry Authority (NFA) (a trustee of Uganda`s central forest reserves) to have a survey done and to have boundaries re-opened in order to have the forest reserve boundaries ascertained.

Although the court issued an interim order on the 4th of September 2009 to maintain the status quo until the case was heard and determined and although the court issued a temporary injunction for purposes of protecting the boundary activities as of 4th September, 2009, none of the orders was ever executed. The High Court further ordered a survey to be done and boundaries re-opened, but this order was also not executed. The parties later ended up in court again accusing each other of violating the court order. On the 6th of October, 2013, NFA filed a survey report in court, indicating the reserve demarcations, but the Plaintiffs rejected it.

On 25/07/2014, the court in its decision, lifted all the court orders earlier issued and held that NFA could protect the forest reserve and plant more trees. The Plaintiffs were also ordered to stop encroaching on the forest reserve and were given one month to vacate the forest reserve in accordance with the survey report of 6th October 2013, on the provisional boundaries. Unsatisfied, the Plaintiffs appealed against Justice Batema`s decision.

Although they applied for a temporary injunction to restrict the respondents (NFA) from interfering with their activities on the suit land, their application was dismissed and the appeal was found to be without merit. The relevance of this case is mainly to highlight the fact that the environment (in this case, the forest sector is prone to destruction yet cases filed to protect the same, take very long to be heard and determined.

This leaves the environment in a very vulnerable state. The Omuhereza case above was first filed in the High Court in 2009 yet it was disposed of in 2014. And although along the way, the court made some orders with respect to the protection of the forest reserve, these orders were never executed, yet the case was not quickly disposed off either. This forms part of the argument of this paper which is that an envi-

ronment-specific court will only have environmental matters to handle and this could contribute to the expeditious handling of these cases, in favour of environmental protection. This way, it is argued that persons will be able to have more faith in the courts of law with respect to environmental protection.

During the United Nations World Summit on Sustainable Development,[81] the UN member states in the Jonannesburg Declaration, which was as a result of the summit, unanimously agreed that sustainable development is the pillar of environmental protection.[82] Following this position, many governments recognised that it requires specialised environmental courts to adjudicate environmental matters and environmental law generally.[83]

This because ordinary courts have been observed to lack the required knowledge in respect to the science and technical knowledge surrounding environmental matters.[84] Environmental law jurisprudence is still largely developing and many judicial officers and legal practitioners were trained and graduated at a time when environmental law was not being taught. Even if it is currently being offered in the curriculum of many law programmes, it is an optional course. It therefore gets difficult for many judicial officers and legal practitioners to appreciate, understand, and apply basic principles and considerations of environmental law.[85]

Many of the practitioners are only conversant with the principles of common law such as nuisance, negligence, and trespass. These, whereas

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81 Held in Johannesburg from the 26th of August to the 4th of September, 2002.

82 Johannesburg Declaration on Sustainable Development, U.N. Doc. A/CONF.199/20 (Sept. 4, 2002).

83 International Symposium on Environmental Courts & Tribunals, Pace University School of Law (2011) <www.pace.edu/school-of-law/international-judicial-institute-environmental-adjudication-ijiea)> accessed 20 July 2023.

84 Kabaseke (n 35).

85 Justice Ruby Opio Aweri, "Access to environmental justice, the role of the judiciary and legal practitioners: Experiences and Lessons Learned" in *The Report of the Proceedings of the training workshop on the enforcement of environmental laws in Uganda for Grade II Magistrates* (Greewatch Uganda, 2006) 107.

vital for environmental protection, may not be sufficient in the protection of environment especially in the changing face of a multiplicity of environmental challenges.[86]

In the case of *Byabazaire Grace Thaddeus v Mukwano Industries,*[87] the Plaintiff sued the defendant, a factory owner whose factory was emitting obnoxious, poisonous and repelling smoke. The smoke was generally a health hazard to the community and to the plaintiff whose health was already affected. The court struck the plaint out on the ground that the Plaintiff lacked *locus standi* in the matter and that the National Environmental Management Authority (NEMA) should have filed the matter. Clearly both the Court and the lawyers did not adequately apply the law because the Constitution of the Republic of Uganda of 1995[88] provides for public interest litigation and therefore the Plaintiff was well within the law to have brought the suit in public interest of their community.

Similarly, in the case of *Greenwatch and Another v Golf Course Holdings*[89] the Plaintiffs brought an action against the Defendant for construction of a hotel in a wetland and green areas as well as carrying out an illegal Environmental Impact Assessment (EIA) for purposes of justifying the construction of the hotel. The Plaintiffs sought an injunction to stop the actions of the Defendant but the same was denied on grounds that the Plaintiffs did not prove a prima facie case against the Defendant and especially because the Defendants were in possession of a land title in respect to that property.

What the court missed is the fact that environmental protection and environmental justice go beyond property ownership and focus on sustainable use of the property as opposed to the application of common law principles which are rigid.[90]

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86 Ibid.

87 Miscellaneous Application no. 9091/2000 (arising out of Civil Suit no. 4061/2000) (Uganda).

88 The Constitution of the Republic of Uganda, 1995, as amended, Article 50.

89 *Greenwatch and Another v Golf Course Holdings,* High Court Civil Suit no. 834/2000 (Uganda).

90 Aweri (n 85) 107.

Another barrier to achieving access to justice in environmental matters through ordinary courts and hence a justification for a specialised environmental court is the doctrine of separation of powers. Matters related to the environment have largely been viewed as a preserve of the legislature and the executive. This is much more manifested under the political question doctrine.[91] Environmental issues have been considered to be best handled by the sister branches of the judiciary. This is more so where the cases have been instituted against the government especially where governments are in breach of their obligations under the doctrine of public trust. Courts have argued that if they are to entertain such cases, it would be in violation of the legislative and regulatory authority of government. This therefore has continued to hinder the delivery of justice in respect to environmental matters.[92]

Ordinary courts have further been observed to lack judicial activism. They are still stuck to the traditional methods of litigation and adjudication. There is therefore need for the law courts to appreciate the dynamic nature of law. Although *article 126 (1)* of the *Constitution of the Republic of Uganda* (1995) provides that judicial power should be exercised in the name of the people and in conformity with law and with values, norms and aspirations of the people, the courts in Uganda have been placed on the spot for not living up to this constitutional provision.[93] Dr. G.L. Peiris recommends that,

> "a judge is not simply to discover a body of rules then apply those rules mechanically to situations that arise in litigation where he is called upon to adjudicate. There is a creative role for the judge to discharge, in the sense that he must evaluate for himself the rationale of the rules that he is called upon to apply. It is only then that the law becomes a living mechanism, virile, vibrant, productive and of use to the community. Otherwise it becomes arid and sterile."

Ugandan courts need to follow suit and it is therefore hoped that a specialised environmental court will be equipped with experts who will appreciate the magnitude of environmental degradation, the need for

91 See Charlotte Kabaseke, `Adjudicating Climate Change in Domestic Courts in Africa: Challenges and Prospects` 2023 (vii) *Nials Journal of Environmental Law* (Forthcoming).

92 Ibid.

93 Aweri (n 85) 107.

environmental protection, and hence environmental justice. This goes a long way in encouraging the judges to apply activism as and when it is necessary.

3.3.1 The Need for an Environmental Court

Establishment of an environmental court is vital especially because the Jurisdiction of courts in handling matters concerning the environment will be streamlined. In the case of *Rev. Erisa Sentongo v Yakubu Tanzanza*[94] the Plaintiff brought a suit against the Defendant in the main suit for constructing an abattoir right adjacent to the Plaintiff`s residence. The Plaintiff sought a declaration to the effect that the Defendant`s action violated the right to a clean and healthy environment as enshrined in article 39 of the Constitution of the Republic of Uganda.

The Defendants raised a preliminary objection that the Magistrate`s court had no jurisdiction to hear some matters brought under article 50 of the Constitution of the Republic of Uganda on public interest litigation. Establishing an environment-specific court therefore, might go a long way in streamlining issues of jurisdiction in environmental cases.

Furthermore, the establishment of an environment court would aid the development of jurisprudence in the area of environmental law. The court will apply the various principles of environmental law as enshrined in the various environment related law both at the international and national levels.[95]

In addition to this, the court will play an important role in harmonizing different scattered legal provisions on the environment and it will enhance the application of international environmental law in Uganda, in line with the National Environment Act which provides that Uganda is committed to the domestication of international environmental law.[96]

The need for an environmental court is further compounded by the fact that there is a growing local demand for environmental protec-

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94 *Rev. Erisa Sentongo v Yakubu Tanzanza,* Miscellaneous Application No. 8/2003 (Nakawa) (Before a Magistrate Grade 1).

95 Kaniaru (n 76) 629.

96 The National Environment Act (Uganda), Section 150.

tion especially with the growing human population. Population growth places much strain on environment resources hence growth of environmental conflict and environmental degradation.[97]

The urgency that comes with environmental protection and restoration therefore demands that environmental matters are given urgent attention and hence the need for environment-specific courts. Lessons can be taken from China and India, the most populous countries on earth, which have increased their environmental courts and tribunals especially to cater for the environmental challenges which arise as a result of overpopulation in their countries.[98]

It is worth noting that although several countries have enacted environmental protection laws, they lack a systematic approach for the enforcement and operationalisation of the laws especially in respect to environmental justice.[99] The available number of environmental courts across the globe are not enough to meet the growing demand for environmental protection in the face of rapid environmental destruction.[100] The establishment of an environmental court in Uganda will go a long way in contributing to access to environmental justice in the face of growing environmental degradation.

The establishment of an environmental court in Uganda would therefore enhance citizens` with access to justice in environmental matters as it would focus exclusively on environmental issues. It would also serve as a specialised body that would be better equipped to handle such cases. Moreover, the creation of an environmental court would encourage citizens to bring environmental issues to the attention of the court and would act as a deterrent to those who would otherwise violate environmental regulations. The establishment of an environmental court is, however, not without challenges, as discussed in the next part of this paper.

97 Robinson (n 27) 369.

98 Ibid.

99 Ibid at 373.

100 Ibid.

4.0 Challenges and Limitations to the Establishment of an Environmental Court in Uganda

Although Uganda has had environmental cases adjudicated in the ordinary law courts, the Uganda government has at times passed off as adamant when it comes to handling environmental matters. A case in point is the already cited case of *Mbabazi and Others v. The Attorney General and National Environmental Management Authority*[101] which has not been concluded yet. The government, which is the first defendant in this case, was at first adamant about responding to these allegations.[102] The absence of the government's response dragged the case longer than it should have.

It only remains to be seen how the case will be concluded. The delayed action of government (through its representative, the Attorney General) to respond to a case filed against it was worrisome, yet the case involved serious environmental concerns. This behavior by government in respect to not quickly responding to matters concerning the environment might threaten the establishment of court and when it is established, it cannot be said for sure, whether the court will receive all the support it will need especially because government will continue to be a potential defendant in a number of environmental cases.

Further, establishment of an environmental court is one thing but trained judicial officers to adjudicate the cases is another thing all together. It is therefore imperative that judicial capacity for environmental adjudication be built. This notwithstanding, resources to train judicial officers and legal practitioners in this area, are scarce. Having already noted the fact that most judicial officers and practitioners lack training in the area of environmental law, capacity building is important but affordability, especially at the domestic level, is still a challenge.[103]

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101 *Mbabazi and Others v. The Attorney General and National Environmental Management Authority*, Civil Suit No. 283 of 2012.

102 See Kabaseke (n 91).

103 Robinson (n 29) 378.

Additionally, there is also need to invest in the necessary legal resources, literature and modern technology in respect to the environment. All these require that funds be available otherwise this will remain a bottleneck to access to environmental justice.[104] National budgets are usually limited and therefore budgeting for programs like conferences, short courses and even academic qualifications which would enhance the knowledge of judicial officers in the area of environmental law and adjudication is difficult.[105]

Relatedly, some states have been faulted for not placing environmental protection as a priority over other political interests. The government of Uganda has been faulted for focusing more on attracting investors at the expense of environmental protection.[106] In order for an environmental court to be established and have effect, political will is very essential and the government has to be intentional about giving environmental protection and hence environmental justice the attention it deserves.

Moreover, the need to have *locus standi* (legal standing) before a plaintiff can bring an action to court has been advanced as a barrier for courts to handle environment suits.[107] *Locus standi* is the criteria which a Plaintiff has to fulfil before they can bring a court action. Standing has been used by courts to maintain separation of powers in the sense that standing restricts the role of courts to adjudication of and protection of minority interests which are unlikely to be addressed politically.[108] The *locus standi* requirement has been critiqued for its restrictive rules which limit the possibility of addressing the breach of legal norms which undermines the principles of democracy and rule of law especially for government defendants.[109]

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104 Aweri (n 85) 113.

105 Robinson (n 29) 384-385.

106 Aweri (n 85) 110; See also, *Greenwatch and Another v Golf Course Holdings* (n 89).

107 United Nations Environment Program (UNEP), *The Status of Climate Change Litigation: A Global Review* (UNEP 2017) 28.

108 Matt Handley, 'Why Crocodiles, Elephants, and American Citizens Should Prefer Foreign Courts: A Comparative Analysis of Standing to Sue' 2002 (21) *Rev Litig* 97 at 109.

109 Aaron Barak, *The Judge in a Democracy* (Princeton University Press 2008) 194.

Although the criteria for determining *locus standi* varies from jurisdiction to jurisdiction, and where the plaintiffs are required to prove that they have suffered or will suffer an injury as a result of the defendant's unlawful act or omission, it has proven a hurdle to prove that the failure by government to legislate or control climate change or its effects actually affects the plaintiff.[110] On the other hand, jurisdictions which allow standing based on injuries suffered by the public have proved easier for environmental claims, specifically climate change claims to be brought before law courts.[111]

In the already cited case of *Byabazaire Grace Thaddeus v Mukwano Industries*[112] the suit against a factory that was emitting obnoxious smell was struck out because the Plaintiff lacked *locus standi*. Although an environmental court is established in Uganda, the issue of *locus standi* needs to be streamlined especially for environmental matter so that litigants do not get frustrated.

Additionally, even in the presence of environmental courts, costs of litigation continue to be high. In order for access to justice in environmental matters to be realised, the courts of law have to be accessible to the ordinary members of society, who are usually the most affected by environmental destruction yet they are unable to afford court fees as well as lawyers` fees. The courts need to be accessible and affordable.[113] Even if article 50 of the Constitution of the Republic of Uganda provides for public interest litigation which would be in favour of poor communities, fees are still not waived in public interest.[114] In order for the court to be effective therefore, subsidising or even waiving some fees for purposes of achieving environment protection, sustainable development and hence environmental justice is a very important consideration.

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110 UNEP (n 107) 28.

111 Ibid.

112 Miscellaneous Application no. 9091/2000 (arising out of Civil Suit no. 4061/2000) (Uganda).

113 Aweri (n 85) 106.

114 Ibid.

The United National General Assembly has placed the rule of law on its priority list, both at the national and international levels.[115] Access to justice as a human right is one of the indicators of rule of law. If at all nations hope to make progress in curbing environmental challenges like pollution, poor waste disposal, deforestation, land degradation, among other environmental challenges, effective courts must be in place. The United Nations has continually observed, through the Sustainable Development Goals, the Rio Declaration and the Johannesburg Declaration, 2002, without proper environmental protection, sustainable development cannot be realised.

The bottom line is, all environmental conservation efforts cannot be realised without judicial enforcement.[116] Although effective environmental laws are very essential for environmental protection and environmental justice, without judicial enforcement, the legal provisions will only amount to `good wishes.`[117]

5. 0 Conclusion and Recommendations

This article set out to analyse the need for access to justice in environmental matters through the establishment of an environmental court. The article argues that the establishment of an environmental court is a critical mechanism in enhancing access to justice in environmental matters and hence environmental protection in line with Uganda`s international obligations. An environmental court provides for environmental protection and implementation of environmental legislation.

However, the successful establishment of an environmental court in Uganda will require overcoming various challenges and limitations. The article analyses Uganda`s rich biodiversity and the challenges it is facing. The article then analyses the adequacy of Uganda`s legal framework in ensuring access to justice in environmental matters. The arti-

115 G.A. Res. 64/116, 1, U.N. Doc. A/RES/64/116 (Dec. 16, 2009).

116 Robinson (n 29) 386.

117 Ibid.

cle goes ahead to justify the need for environment-specific courts while highlighting the challenges which might come with its establishment in Uganda.

The chapter concludes that in Uganda, the right to access justice has been undermined due to a lack of adequate legal provisions on the need for access to justice through environmental courts coupled with the lack of adequate institutional framework, specifically, environmental courts. This is worsened by inadequate legal training of the judicial officers in environmental matters. As a result, many citizens are unable to access the justice system or are unable to receive justice even after accessing it.

It is recommended that the laws of Uganda be amended in order to be in line with Uganda`s international legal obligations on access to justice. The environmental laws also need to be amended in order to adequately highlight the need for environment-specific courts for the adjudication of environmental matters. Furthermore, judicial officers need to be trained in the area of environmental law, for example, judicial institutions for environmental adjudication be put in place at the international and regional levels in order to equip judicial officers with the requisite knowledge to adjudicate environmental matters.

To buttress this, judges need to be encouraged to exercise judicial activism and move away from rigid common law principles which might not be enough to save the environment in the face of rapid degradation. There is a need to educate citizens about their right to access justice, as well as the procedures and processes involved in accessing justice.

Finally, the court must be able to enforce its decisions and enforce them on time. There is also need for government to intentionally and adequately budget for environmental protection, including setting aside funds to sustain the environment court and setting aside resources for continuous judicial training. All this cannot be achieved without political will to do the same. This will go a long way in enhancing environmental protection in Uganda.

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