

REPORT OF

THE 2ND LEGAL WORKSHOP ON EARTH JURISPRUDENCE / EARTH LAW

Date: 22nd-24th, October 2014
Venue: Green Valley Hotel

The project is funded by: European Union



Organized by: NAPE



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1.0. Back ground

Since inception, National Association of Professional Environmentalists (NAPE) has been advocating for sustainable management of natural resources. NAPE has been especially promoting application of indigenous knowledge, practices, beliefs and traditions in ecosystems protection.

Last year in March, NAPE together with other African civil society groups embarked on an initiative on strengthening civil society groups to respond to rapid growth of extractive industries. Among others, NAPE and all other EC partners are advocating for promoting earth law/unwritten law in ecosystems governance. To realize this, NAPE identified a team of practicing lawyers, students in law schools, oil affected communities, national level Civil Society Organizations and Bunyoro kingdom to push for legal recognition of earth law/unwritten law. To further strengthen the knowledge base on earth jurisprudence and its relevance in ecosystems governance, NAPE has held a series of meetings/training for coalition members and some other stakeholders.

On 22nd to 24th October 2014, NAPE held a legal workshop on earth Jurisprudence /earth law. The meeting provided knowledge about the earth jurisprudence and its relevance to nature conservation, and also an opportunity for critical review of the legal strategy developed by EC partners and suggesting best way to implement it.

Participants in the workshop included representatives of law schools, practicing lawyers, communities and NGOs

The workshop was conducted in a participatory manner providing opportunities for sharing and learning.

The meeting took place at Green Valley Hotel in Ggaba-Kampala.

This report presents what transpired at the meeting.

Day 1

2.0. Self introductions

Day one started with all participants introducing themselves, mentioning their Names, organizations, communities, law firms they represented.

At the beginning of the meeting, NAPE explained the importance it attaches to natural resource conservation and earth Jurisprudence.

3.0. Brief about the project by Dennis Tabaro

He said that;

- The project is part of a bigger partnership supported by European union. Other partners are; Kenya, Ghana, Ethiopia, South Africa and the Gaia foundation.
- The founder of earth Jurisprudence (Thomas Berry) just celebrated his 100th birthday.
- Other partners around the globe are pushing for the recognition of earth law in the legal systems.
- The project is aimed at building a movement of lawyers which can spearhead pushing for the recognition of earth law in the legal system.
- The meeting was focused on discussing comparisons between written law Vs earth law.
- The 5 partners developed a legal strategy to guide in the pushing for legal recognition of earth law.
- NAPE and stakeholders are developing a case on L. Albert declaring it a no go zone for mining (legal entity).

4.0. Sharing experiences on current environment and ecosystems degradation & Relevance of the current legal system.

The facilitator (Ms Shillar Kyomugisha) led participants into a session of sharing views and opinions about current environmental crises versus the current legal system. Members shared the following;

- Wetlands are being destroyed and threatened and the environment generally at a great risk.
- Despite Acts like the NEMA act, the environment continues to be degraded at a high rate.
- Wetland ought to be reserved;
- Human beings are victims of environmental laws especially people in the oil region.
- Environmental bodies/institutions are partly responsible for degrading the environment.
- There are many contradictions to application of the environmental laws in Uganda. The current laws have failed to protect the earth.
- Currently the environmental acts in Uganda are being reviewed and revised. Members expressed the need to draft views and input/contribute to the laws, so that they are captured into making changes onto the environmental laws.
- Communities depend on the natural resources for survival.
- Members expressed need to come up and confront the people who are degrading the environment and also sensitise the ignorant people about the vitality of the environment.
- Stakeholders have rights to question on how environmental issues are being handled.
- Stressed the need to sensitise more lawyers on environmental issues.
- Implementation of the law in Uganda has become a big problem.

- Most people are ignorant about the importance of the environment.
- Need to come up with a law derived from nature/mother earth itself. Members observed that making the law from man's perspective will not help but making the law from the earth's perspective will be more effective.
- Stressed that in the African traditional society there used to be ways of enforcement on rules of conserving the environment and spirituality was part of the rules that guided them to effective environmental conservation.
- Emphasized the need to revive indigenous knowledge practices.
- Should sensitise people about the current laws on environment and advocate for incorporating them into the unwritten law for better results.
- Advocate for use of indigenous knowledge in conserving/protecting ecosystems.
- Bring on board religious leaders, Members of parliament who can be educated on environmental issues.
- Recognized that Ugandan constitution is one of the best constitutions in Africa but faces an implementation and enforcement challenge.
- Communities are responsible and have power to question the environment Acts and demand for accountability from their leaders.
- Need to criminalize some of the environmental Acts by putting tough penalties on people who abuse the environment.

Group work

4.1. Participants were divided in 2 groups and discussed the following questions

1. What are the major gaps/weaknesses in the current laws on ecosystems management?
2. What are the possible alternatives on ensuring ecosystems conservation in Uganda?



Group 1 discussing laws governing ecosystems and identifying gaps in the laws



Group 2 discussing possible strategies of ensuring ecosystems conservation in Uganda

The groups presented as follows;

Question 1

- Laws governing the ecosystems in Uganda included among others; NEMA Act, Mining Act, Forestry & Tree planting act, Fisheries Act, Land act and the Water act.
- Penalties are not deterrent.
- The law does recognise the rights of other beings.
- Conflict of interest among government officials.
- Impossible to get values of central forests e.g Mabira forest.
- NEMA Act is pro- ecosystems.
- Excessive authority given to EIA,s regulations.
- Mining Act, and oil exploration, petroleum and production Act suppresses access to information.
- The principles stated in the constitution do not give much power like other Acts about the environment.

Question 2

- Find alternative sources of energy e.g solar,eco-stoves etc.
- Finding alternative waste disposal ways e.g recycling the plastics.
- Advocating for use of local materials.
- Strengthening community ecology governance.
- Judicial activism.
- Domesticating international and regional laws into national laws.

- Stringent laws/punishments should be established and enforced not only in monetary terms but in double replacement of what they have destroyed.
- Should apply the united forefront approach.
- Carry out dialogues, consultations and sensitisation meetings across the country.
- Drafting some aspects of the unwritten law on nature to be embedded into written laws.
- Active involvements and empowering consultations.
- Active movements and empowering cultural leaders.
- The written law takes more precedence on the unwritten laws.
- Orient the judge on environmental issues.
- Draw a plan on how to implement the key points notes above.

5.0 Introduction to Earth Law and its relevance to Nature conservation

The afternoon session was dedicated to a presentation and discussion on Earth Jurisprudence. The facilitator asked all participants to share their understanding of jurisprudence. Members said that;

- Laws that come from the state to protect the earth.
- Laws which govern the earth and don't come from man.
- Earth law is the coexistence of each component to sustain each other.
- The law that deals with all elements of the ecosystems.
- The mother of knowledge from earth and human beings.
- Unwritten laws created by nature that are embedded in traditional practices of our communities..
- Forces that govern nature in its crude form.

The facilitator Ms.Asha Mwanga supplemented the above points with mentioning the following points;

- Clarified earth law is a subset of earth Jurisprudence.
- Human beings should appreciate other being like lakes,trees,forests etc.
- Man dominated and overruled nature thus should do it consciously.
- Human beings have monetised everything and this has contributed to the destruction of nature.
- Custodians of the earth should find away of how to co-exist with nature.
- Need to re-think the legal system so that we protect other being gs of the earth e.g mountains,lakes so that we achieve the well being of all inhabitants of the earth.
- Man is a trustee of other beings of the earth.
- Asked all to keep reflecting on the relevance of earth jurisprudence to nature conservation.



Participants during earth jurisprudence session

Day 2

On Day 2, members reflected on day 1`s work and presented as follows;

- The concept of earth democracy, to be defined as the well being of all things that exist on this earth.
- Wild law recognise other beings of the earth.
- Focus should be on harmonizing the written laws with the unwritten laws.
- Need to revise the difference between sacred natural sites and historical site.
- Need to use EJ principles to protect naturebecause principles of EJ and nature are interconnected.
- Should consider earth moral status by re-thinking the current legal frameworks.
- Legal concepts such as ‘ownership of property’ are the very language we use which is a hiccup to the work.
- We need to fundamentally alter understanding of the purpose of the law and governance other than focusing on merely changing laws.

6.0 Discussing the EC legal strategy

During the discussion, participants were divided into 2 groups and given guiding questions to reflect on.

- 1. What are the possible ways systematic ways through which the strategy can be implemented?*
- 2. What are the major issues/aspects that can be given priority implementing the strategy and why?*
- 3. Strategies for making the earth law recognised in the uganda legal structure?*

The groups gave the following feedback on the questions;

- Conduct awareness campaigns in various institutions at all levels about earth law.
- Empowering the present coalition of lawyers to advance the cause of earth law.
- Popularising sacred natural sites and their significance to nature conservation.
- Establishing a database and resource centre/establishing a network with other libraries/information centers and individuals and disseminating information on earth law.
- Filing strategic public interest cases.
- Encouraging the uganda curriculum to integrate earth law into the education curriculum.
- Dialogue and strengthen local community structures.
- Developing legal precedents.
- Establish other coalitions to support 'No to mining Yes to life campaigns'.
- Appreciation of traditional knowledge and cultural diversity.
- Strategically identify areas that can be declared as no go zone areas.
- Persistent Engagement of African commission on the issues.

6.1 Discussion and strategies on declaring Lake Albert as No go area for mining

Denis explained the importance of L.Albert onto other ecosystems and people in Uganda and the entire world. He led participants into a session of discussing strategies to declare Lake Albert a No go area for mining. He invited Asuman, a community representative living at shores of Lake Albert to update the meeting on the current situation in the oil region.

Asuman Irumba said that;

- Oil exploration started in 2004 by Hard man Oil Company.
- The oil exploration started from mputa 1 oil well, located in the Kabwoya wildlife reserve.
- The oil company started shifting from one oil well to another in the same location of kabwoya and within Lake Albert.
- Communities were informed by the oil company that they had come for oil research.
- Heritage oil company took over on the exploration from Hard man and finally Tullow took over from heritage and currently Tullow is mining oil in the Bunyoro region.
- Cultural sites in the area have been destroyed as a result of oil exploration, Ever since oil exploration began, they have faced a number challenges like such as low fish catch, destruction of cultural sites of high spiritual importance, low catch of fish as a result of influx of people

Members made the following reflections;

- Need to gather evidence on how waters in Lake Albert have been degraded.
- Oil companies never carried out a social impact assessment they only did an EIA.
- L.Albert is transboundary resource shared by other countries thus will be a challenge in building the case.

- Further research and consultations on facts about Lake Albert should be carried out.
- A team of lawyers and community members should site visit L.Albert and gather facts for enabling in building of the case.
- Lake Albert is a viable case that would be taken forward.
- Government, local communities (bunyoro kingdom), lawyers and oil companies were identified as stakeholders to help in building the case and each stakeholder was assigned roles as demonstrated in the table below.

	Name of stakeholder	Role of the stakeholder
	Government	<ul style="list-style-type: none"> ★ Provide information. ★ Provide accountability.
2.	Bunyoro kingdom and Local communities.	<ul style="list-style-type: none"> ★ Provide information on the cultural significance of Lake Albert. ★ Mobilize the communities to be witnesses. ★ Provide evidence. ★ Sign petitions. ★ Demand for accountability.
3.	Civil Society Organisations	<ul style="list-style-type: none"> ★ Mobilize local communities. Conduct consultations with different stakeholders and research. ★ Mobilize resources.
4.	Oil companies	Provide information.

Members also reflected on the step by step processes of declaring Lake Albert as a legal entity/no go area for mining as follows;

- ★ Conduct a baseline study on the lake and its surroundings.
- ★ Conduct community consultations.
- ★ Study and establish facts on ground.
- ★ Conduct public hearings about the case.
- ★ Set up a team of experts and draw up terms of reference.
- ★ Share information with international allies.
- ★ File a suite.
- ★ Seek an injunction.

7.0. Way forward

The meeting made the following way forward;

	Way Forward	Responsible people
	Judicial Activism	<ul style="list-style-type: none"> ★ NAPE ★ Counsel ★ Kefah Kaweesa ★ Ashar Rayzn Foundation(ARF)
	Dialogues and consultations	<ul style="list-style-type: none"> ★ NAPE ★ ARF Mr. Nsamba Yolamu ★ Students from Faculty of Law (Muk) led by Steve Muhwezi.
★	Empowering traditional Leaders	<ul style="list-style-type: none"> ★ NAPE ★ Mr. Nsamba Yoramu ★ Counsel Edwin Akoragye
★	Intergenerational Learning (orientation of youth on EJ)	<ul style="list-style-type: none"> ★ Mr.Swaibu Male ★ Muhwezi steve ★ Counsel Kawesa Kefah ★ Bunyoro Kingdom ★ Counsel Ashar Mwanga
★	Initiate more lawyers to come on board for EJ discussions.	<ul style="list-style-type: none"> ★ ARF ★ Swaibu Male ★ Teddy Nakamya ★ Andrew Katutubuya ★ Geoffrey Turyasiima ★ Frank Tumusiime Kaweesaa Kefah

8.0. Closure

During the closure, Denis thanked all for attending the workshop and participation maximally and encouraged all to keep sharing the EJ knowledge and keep in touch. He rendered the workshop closed.

Appendices

Agenda for the Workshop

3-Day Legal Workshop Agenda

Day 1

Topic	Facilitator	Time
Welcome and Self Introductions.	NAPE	8.30a.m-9.00 am
Sharing Experiences on current environment and ecosystems degradation & the relevance of the current legal system.	NAPE	9.00 am-10.30am
Break		10.30am- 11.00am
Introduction to the Earth law & its relevance to Nature conservation.	NAPE	11.00am- 1pm
Lunch Break		1.00pm- 2.00pm
Discussions and Observations	NAPE	2.00pm -3.30
Introduction and understanding of the proposed Legal strategy.	NAPE	3.30pm-500pm
Evening Tea		5.00
Closure for the Day.		5.15

Day 2 -

Topic	Facilitator	Time
Recap from the previous day.	NAPE	8.30a.m -9.00am

Developing strategies on implementation of the legal strategy and recognition of the earth law in Uganda.	NAPE	9.00am -10.30am
Break		10.30am-11.00am
Discussion on the proposed precedent; L.Albert as a protected area and laying strategies of realizing this aspect.	Frank Tumusiime	11.00am -1.00pm
Lunch Break		1.00pm-2.00pm
Discussion and strategies.	Frank Tumusiime	2.00pm -3.30pm
Way forward/Closure	NAPE	3.30pm-5.00pm
Evening		5.00pm - 15pm

List of Participants

	Name of participant	Organization
1	Sostine Namanya	NAPE
2	Paul Keishaari	Lawyer
3	Muhwezi Stephen Asiimwe	Faculty of Law- MUK
4	Harriet Bibangambah	Green Watch
5	Turyasingura Rogers	Makerere
6	Asuman Irumba	Kaiso - Toonya
7	Yolamu Nsamba	Bunyoro
8	Male Swaibu.N.	Mubende
9	Kyahurwa I.K Simon	Kaiso - Toonya
10	Nagodyo Asmailah	ARF
11	Bamulanga Edwin Mark	Legal World
12	Nakamya Teddy	Wakiso (MUK)
13	Shillar Kyomugisha	NAPE
14	Kaweesa Kafason	Mukono
15	Tabaro Dennis Nakunda	NAPE
16	Ahanya Sandra	Makerere university
17	Ashah .M. Mwanga	ARF
18	Akoragye Edwin	Lawyer
19	Tinyadii Geofrey	Lawyer
20	Andrew Katurubuya	Lawyer
21	Tabaro Denis	NAPE

