

**THE ROLE OF THE LOCAL GOVERNMENTS IN THE  
PROTECTION OF THE ENVIRONMENT IN UGANDA  
A CASE STUDY; KYENJOJO DISTRICT**

**BY**

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## DECLARATION

I NDOLEBIRUNGO JOB do here by declare that the work presented herein is, to the best of my knowledge, my original work and the first of it's kind except where acknowledged.

Signed Jobingiri.....

**NDOLEBIRUNGI JOB**

Date 7<sup>th</sup> July 2010.....

### **APPROVAL**

This dissertation has been supervised and submitted to Kampala International University under my supervision and approval.

Signed Lydia Nabiryo.....

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**SUPERVISOR**

Date 7/7/2020.....

## **DEDICATION**

This work is dedicated to my family especially my mother, Mwesige Joyce, My father Musana Jackson, my sister Kabagarama Mary ,my brothers Insigoma John and Masiko Jack may the Lord God almighty above every human understanding bless you all.

## **ACKNOWLEDGMENT**

I would like to express my gratitude and sincere appreciation towards those who have contributed in one way or another towards my academics and specifically in completion of my dissertation.

I am very grateful to my supervisor Ms Nabiryo Lydia whose guidance and help enabled me to complete this dissertation. May God greatly bless you.

Special thanks to my parents for their financial and moral support especially my mother who has passed through thick and thin to provide for me witness of hardships.

I am also very grateful to all my friends especially Basiirika Reacheal, Kintu George, Mulalira Faisal Umarl, Keeya David, Atwine Mark, Sempala Patrick, Namusiro Mary, Mwanje Abel and Otim Joyce who have assisted me in many ways in my academic struggle at this campus.

## TABLE OF CASES

Dr. Richard Kanyerezi Vs The Management Committee of Lubanga  
School H.C.C.A No.3 1996.

Green Watch and Advocates Coalition for Development and Environment  
Vs  
Golf course Holdings Ltd HC Misc App. No 390 of 2001.

Cambridge Water Company Vs Eastern Countries Leather P/C (1994) 10  
E.R. 910

Green Watch vs. Attorney and another Misc Cause No.14 2002.

A.G Vs Ali and Others [1989] L.R.C 474.

Giella Vs Cassma Brown Co Ltd (1978) E.A 358.

Mohiddi Frarooque Vs Banglash (1996)D.L.R 48.

Mtikila V A.G Civil case No 5 of 1995 at page 5.

Professor Wangare Matthai V Kenya Times Media H.C.C.C No 5405  
07/89

## TABLE OF ABBREVIATIONS

NEMA	-	National Environment Anteronty
NES	-	National Environment statute
DEO	-	District Environment Officer
LEC	-	Local Environment Committees
SOER	-	State of the Environment Reports.
UNCEB	-	United Nations Conference on environment and Development
UNFCCC	-	United Nations Frame work convention climate Change.
CBD	-	Convention on Biological Diversity
UNCCD	-	United National Convention to Combat Desertification
NRM	-	National Resistance Movement
LEC	-	Local Environment Committee
UNSC	-	United National Stockholm Conference.
EIAS	-	Environment Impact Assessments
NEIC	-	National Environment Information Counter
UNEP	-	United Nations Environment Plan
E.C.Z	-	Environmental Council of Zambia
UNDP	-	United Nations Development Plan

## **TABLE OF STATUTES**

The 1995 Uganda Constitution

The Local Government Act Cap 243 of 1997

The National Environment Act Cap 153 (NES /NEA)

The National Energy Policy 2002/3

The Uganda Wild life Act

The National Forestry and Tree Planting Act



## TABLE OF CONTENTS

Declaration .....	II
Approval .....	III
Dedication .....	IV
Acknowledgment.....	V
Table of cases .....	VI
Table of abbreviations.....	VII
Table of statutes .....	VIII
Table of contents .....	IX
CHAPTER ONE .....	1
INTRODUCTION .....	1
1.0 General Introduction.....	1
1.1 Historical Background of the Study.....	4
1.2. Statement of the Problem.....	4
1.3. Objectives of the Study .....	6
1.3.1 General.....	6
1.3.2 Objectives .....	6
1.4. Hypothesis.....	6

1.5. Scope of the Study .....	6
1.6. Significancy of the Study.....	7
1.7 Methodology .....	7
1.8. Literature Review .....	8
1.9 Synopsis .....	10
 CHAPTER TWO.....	12
THE ROLE OF THE LOCAL GOVERNMENTS IN PROTECTION OF ENVIRONMENT IN UGANDA.....	12
2.0 Introduction.....	12
2.1 Ways through which the local governments have protected the environment in uganda.....	13
 CHAPTER THREE .....	17
THE ROLE OF THE LEGAL SYSTEM IN THE PROTECTION OF ENVIRONMENT IN UGANDA.....	17
3.0 Introduction.....	17
3.1 Application of common law principles in environmental law .....	17
3.2 Evolution of environmental law in uganda.....	19

3.3 The role of the present legal frame work in protection of the environment by the local governments. ....	21
3.4 Limitations .....	24
CHAPTER FOUR.....	25
DISCUSSION OF THE RESEARCH FINDINGS.....	25
4.0 INTRODUCTION.....	25
4.1Activities Kenjojo district in the protection environment.....	26
CHAPTER FIVE.....	33
RECOMANDATIONS,OBSERVATIONS AND CONCLUSION. ....	33
5.0 Recommendations.....	33
5.1 Observations.....	35
5.2 Conclusion .....	37
BIBLIOGRAPHY .....	38
APPENDIX A:_General Questionnaire: .....	41

## CHAPTER ONE

### INTRODUCTION

#### 1.0 GENERAL INTRODUCTION

There are different legal definitions of environment some of which are too narrow and provide a non exhaustive list of reasons that should be included in these definitions as mentioned below.

**Environment** is a natural condition for example air, land and water in which people, animals and plants live<sup>1</sup>.

It can also be defined as physical factors surrounding a human being including land, water and atmosphere sound<sup>2</sup>.

The right to a clean and healthy environment<sup>3</sup> would therefore almost encompass everything such as provision of clean water ,protection from diseases that result from poor sanitation, poor environment condition for example cholera and malaria. In the case of **Dr Richard Kanyerezi vs The management of Lubanga school**<sup>4</sup>; where it was held that the smell from the pit latrines that defendant built adjacent to the plaintiffs'

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<sup>1</sup> As defined in the Oxford Learners Dictionary.

<sup>2</sup> As stated in S.1 of the National Environment Act of 1995 Caps 153.

<sup>3</sup> As stated in Article 39 of 1995 constitution of Uganda which states that every Uganda has a right to a clean and health environment.

<sup>4</sup> H.C.C.A No 3 of 1996

property constituted a nuisance. The smell would come to his property, this constituting e a nuisance.

Thus from the above case the smell which would come to plaintiff sitting room from the defendants' pit latrine violated the plaintiffs' right to clean and healthy environment under to Article 39 of 1995 Uganda constitution<sup>5</sup>.

Life and the environment are inseparable. Environment covers all forms of human existence. Life can not exist in a vacuum but in an environment. It should be noted that if the environment is changing significantly, it is likely that life will cease to exist on earth as well. The existence of or no existence of life depends on the environment.

In fact environment includes not only the natural resources both biotic and non biotic such as air, water, soil, fauna and flora but also their mutual interaction such as the habitual and the ecological balances. It further includes the cultural heritage, as the historical and artistic property that represents the environment credited by man influence the natural environment and the land escape in its cultural and natural characterized aspect<sup>6</sup>.

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<sup>5</sup> Supra at page 1

<sup>6</sup> As stated in article 2 (10) of the Brussels Convention on Environment

The international instruments on environmental rights include article 24 of African Charter on Human and Peoples Rights which states that “all people shall have a right to a general satisfactory environment favorable to the development”.

In the National Objectives and Directive Principle of the State Policy<sup>7</sup> states that the state shall protect important natural resources, including land, water, wet lands, minerals, oil, fauna and floral on behalf of the people of Uganda.

In addition National Objectives and State Policy XXVii[i] states that the state shall promote sustainable development and public awareness of the need to manage land, air, water resources in a balanced and sustainable manner for the present and future generations<sup>8</sup>. Thus it is upon every Ugandan to preserve the environment for the present and future generations.

The Constitution of Uganda gives parliament power to make laws to protect and preserve, manage the environment and promote environmental awareness<sup>9</sup>. Hence the parliament should always make sure the there is enactment of good laws which fit the present situation in which the environment is.

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<sup>7</sup> No xiii National Objectives and Directive Principles of the State policy in the 1995 Uganda constitution.

<sup>8</sup> As stated in No xxvii[i] Ibid.

<sup>9</sup> Stated in article 245 of the 1995 Uganda constitution.

## **1.1 HISTORICAL BACKGROUND OF THE STUDY**

When Uganda got independence from the British<sup>10</sup>, it adopted the colonial laws in place at that time. These laws were imported without modification, notably the Companies Act, Partnership Act, common laws and doctrines of equity and statutes of general application in English at that time.

The laws were enforced regardless of the interests or opinions of the subjects. For example the law that created National Parks and Game Reserves prohibited or restricted public access to these areas. The laws geared specific resources use that led to over exploitation of the resources, poor compliance, less conservation and rejuvenation leading to environmental degradation. This situation changed drastically with the coming of the National Resistance Movement (NRM) government in 1986. The National Environmental Statute (NES now Act) was enacted in 1995, followed by the Water Statute and the World Life Statute in 1996.

## **1.2. STATEMENT OF THE PROBLEM.**

It should be noted that the Local Government's roles in the protection of the environment is characterized by insufficient funding, limited skilled labour and population pressure on the natural resources being protected. For example, the Uganda's population is estimated to be 31

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<sup>10</sup> On 9 October 1962.

million people now as per the 2001 census, this clearly shows that there is increased pressure on natural resources like forests, wet lands and wild animals.

It should be clearly understood that the increasing population growth has led to deforestation which is due to lack of enough land for settlement and other materials obtained from forests such as building poles and firewood. There has been a lot of wetland reclamation where by different human activities has been carried out. For example Mukwano industries, game stores at Lugogo, Speke Resort Munyonyo, this has caused environmental degradation like soil erosion and flooding in most parts of our country and in particular Kampala city. As already discussed, the local governments lack enough funding and enough skilled labour to carry out sensitization of the public on the preservation of the environment and carrying out enough supervisory work in the different districts.

Local Governments are facing a serious problem of corruption which has hindered the progress of their activities in as so far as environment protection is concerned. This is due to the fact that some district official like the District Environmental Officers[DEO] are corrupted by some people who are interested in making use of the protected areas mainly forests and wet lands.



### **1.3. OBJECTIVES OF THE STUDY**

#### **1.3.1 GENERAL.**

To examine on the role of the Local Governments in the protection of the environment in Uganda.

#### **1.3.2 OBJECTIVES**

1. To examine how Local Governments have protected the environment
2. To examine the extent to which the present legal frame work allows for the protection of the environment by the Local Governments.
3. To make recommendations and proposals on the improvement of the role of Local Governments in the protection of the environment.

### **1.4. HYPOTHESIS**

It is the social, economic activities and cultural behaviors of the majority of the people in Uganda that has accelerated the destruction of the environmental resources like forests. The laws of Uganda are not effectivelly implemented and enforced, specifically on the protection of the environment.

### **1.5. SCOPE OF THE STUDY**

This study will examine the legal and non legal factors that effect the Local Governments in the protection of environment in kyenjojo district.

## **1.6. SIGNIFICANCY OF THE STUDY**

The study will help to point out the roles of the citizens in conserving the environment and the duty of the state in preserving it.

The study will help in the protection and preservation of the environment through the Local Governments by sensitizing the public about the ways of preserving the environment such as forestation.

The study can also be used by policy makers in formulating and implementing policies to ensure full local government participation in preservation of environment

## **1.7 METHODOLOGY**

In conducting this research reliance will be placed on the use of questionnaires, written materials and observable factors depending on their relevancy.

Libraries will be consulted and materials got from there for example, Kampala International University Library, Makerere University main library, Center for basic research, National Environmental Management Authority library, The World Bank library at Rwenzori house and the Makerere Institute of Natural Resources and Environment. The internet will be of great use.

## **1.8. LITERATURE REVIEW**

The main purpose of this work is to overcome some of the deficiencies in the present literature on the topic of Local Governments in the protection of the environment in Uganda. Although there is significant amount of material on the national and international environmental law. I failed to access any reference on the role of the Local Governments in the protection of the environment.

John Ntambirweki<sup>11</sup> discusses the common law position in his paper, 'the legal and policy frame work for natural resources management' talks about the past and present on how the law is dominated by common law which is not susceptible to change. He says that it is not means to be adopted to achieve immediate and revolutionary change. He also points out the role of customary law practices as regards to environmental conservation that can be best taken care of through community participation and awareness. He also says that there is no better means for bringing awareness to communities except through their own practices or customs. He again points out that the past laws lacked provisions aimed at conserving natural resource base. The force behind those laws was to encourage exploitation of resources as was the case with the Forest Act, Mining Act and Timber Act.

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<sup>11</sup> The legal and policy frame work on Natural Resources Management in Kabale, Kisoro, and Rukungiri districts 1997.

Now it is the role of Local Government to protect the environment to protect the environment because of the decentralization of government.

Jones Kamugisha in his book "Management of natural resources and environment in Uganda, Policy and Legalization Land marks", tries to state the environment in colonial era and also looks at the evolution of legislation concerning the environment that started as far as 1890 under the African Order in Council (1889)<sup>12</sup>.

He also examines the implementation mechanisms which led to the environmental degradation due to factors like financial penalties provided for in some of the old laws being so old and they acted much lesser than the deterrents to infraction. While looks at the deficient mechanism which led to the environmental degradation, he does not show ways and means of avoiding such problems. However, he sets out ways which the current legislation have been employed to the regard against such situations.

John Kigula recognizes the fact that the institutional structure for the environmental management which was established under National Environmental Statute (now Act) and the Local Government Act may meet a number of problems. These include; improper constitution of the

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<sup>12</sup> Jones Kamugisha in his book "Management of the natural resources in Uganda". Policy and regulation remarks.

relevant social institutions, institutional conflicts and lack of financial and logistical support. He also noted that there is an added problem concerning the people in the higher level of management position who may get money, occupied with personal aggrandizement. This has led to non performance of public duties in an environmental planning and enforcement of the relevant measures of the welfare of the lower social strata. He also points out that there are limitations associated with the financing of NEMA. This is semi autonomous and its status with the ministry of Water, Lands and Environment would compromise its effectiveness in carrying out superintendence and environmental policing duties it is assigned to.

## **1.9 SYNOPSIS**

The work is divided into five chapters.

Chapter one contains introduction, background, the statement of the problem, objectives, methodology, literature review and synopsis.

Chapter two contains the protection the environment by local governments.

Chapter three contains application of common law principles in environmental law, the role of the present legal frame work in protection of the environment by the Local Government, the statutory duties of NEMA and the Local Government limitations.

Chapter four will contain my research findings which was got by the use of a questionnaire shown in the appendix.

Chapter five contains recommendations, observations and conclusion.  
dations, observation and conclusion.

## **CHAPTER TWO**

### **THE ROLE OF THE LOCAL GOVERNMENTS IN PROTECTION OF ENVIRONMENT IN UGANDA.**

#### **2.0 INTRODUCTION**

Kyenjojo district is found in western part of Uganda, it was originally part of Kabarole district until the year 2000 when it gained a district status.

This was due to the decentralization system of the government which is mainly aimed at bringing services nearer to the Local Communities.<sup>13</sup>

Kyenjojo district is boarded by Kibale district in the North, Mubende district in the East; Kamwenge district in the South and Kabarole district in the West.

Kyenjojo district is blessed with natural resources' such as forests reserves like Matiri, National Parks like Kibale (as the same time a forest) game reserves like Karmenyi. All of which are protected by the Local Government<sup>14</sup>.

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<sup>13</sup> As stated in S.2 of the Local Government Act. Cap 243

<sup>14</sup> Under the Local Government of Kyenjojo district.

Local Government means the Local Councils established under section 3(2) to 5 of the Local Government Act.<sup>15</sup>

It should be noted that the Local Government shall be based on the district as a unit which there shall be lower Local Governments and Administrative units.<sup>16</sup>

The constitution of Uganda 1995 which explains the Local Government system that subject to Article 178, the system of Local Government in Uganda shall be based on the district as a unit under which there shall be such Local Governments and administrative units as parliament may by law provide<sup>17</sup>.

It is important to note that every Local Government council shall be a body corporate with perpetual succession and a common seal, and may sue or be sued in its corporate name.<sup>18</sup>

## **2.1 WAYS THROUGH WHICH THE LOCAL GOVERNMENTS HAVE PROTECTED THE ENVIRONMENT IN UGANDA.**

The protection of the environment in every district in Uganda is in the hands of the District Environmental Officer (DEO)<sup>19</sup>.

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<sup>15</sup> As stated in 3.1(1) of the Local Government Act Cap 243

<sup>16</sup> As stated in S.3(1) Of the Local Government Act Cap 243

<sup>17</sup> Stated in article 176 of 1995 of U ganda constitution.

<sup>18</sup> S.6(1) of the Local government Act.

<sup>19</sup> As it is stated in the National Forestry and Tree Planting Act ,and the National Environment Act.



The most important step taken is to increase participation in environmental management has been the decentralization of responsibility to district and sub district levels (in form of District and Local Environment Committees [DECS and LECS]).

The design of these local level institutional structures within the National Environmental Action Plan (NEAP) reflect fundamental reforms in governance and administrative structures in Uganda and the desire to have more participation in decision making on matters of environmental concern at the community level.

Though there remain areas requiring further clarification and harmonization, especially regarding the National Environmental Action Plans (NEAP) local Implementation arrangements and National Environment Management Authority's (NEMA) role in achieving this, the achievements to date must appreciated.

The linkages the District Environment Committees (DECs) and Local Environment Committees (LECs) have with local level development planning is beginning to yield results, with the first generation district development plans. This has lead to incorporating environmental screening procedures for local development projects.

Districts are now actively rerouting Environmental Officers and

Operationalizing these institutional structures. The election of secretaries for production and environment has helped to anchor this process firmly in the formal Local Government structures.<sup>20</sup>

Specific examples of the positive dynamic being created by District Environment Committees (DECs) can be found in Kasese district and Jinja municipal council. Not only have the Local Governments integrated environmental concerns in their development planning, but it is now well established that no new development can take place within these areas without sanction from the District Environment Officers (DEOs).

The District Environment Committees (DECs) have passed bye-laws aimed at controlling soil erosion and pollution and promoting sustainable agriculture. The channels of complaints and concerns have been clearly defined and there is a point of reference within the district through which grievances can be addressed.<sup>21</sup>

The recent demonstration by the affected community in Kasese district against pollution<sup>22</sup> and the consequent amicable resolution of the matter by the factory, community, District Environment Officer (DEO). The factory imported technology to reduce pollution, recovered a lot of time

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<sup>20</sup> It is effort by Local Governments to have skilled labour to provide quality services to the Local communities about the protection of the environment.

<sup>21</sup> It is in accordance to S. 19(2) of the National Forestry and Tree Planting Act.

<sup>22</sup> Pollution from Hema cement industry

and discovered they made profit from this intervention, running an award from National Environment Authority (NEMA).

Environment Officers from Kasere and Jinja have been fully involved in reviewing Environmental Impact Assessments. (E.I.A.S) on projects ranging from cobalt plants to hydro-electric power plants and tourist resorts consulting locally and providing local inputs during final renewals by National Environmental Authority (NEMA)<sup>23</sup>

The progress being made in capacity building at the district level is leading to increased participation of District Environment officers [DEOs]environment monitoring, Environment and various committees in Impact Assessment (E.IA) reviews, environmental awareness community environmental micro- projects and the guidance of community action.

In fact, it is increasingly common for community to demand the intervention of District Environment Officers (DEO's) or District Environmental Committees (DECs) (or through then National Environment Management Authority (NEMA) if they feel their environment is being compromised for individual interest to the detriment of the welfare of the majority.

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<sup>23</sup> Environment impact assessment (E.IA.) is a requirement of the National Environment Act.

## **CHAPTER THREE**

### **THE ROLE OF THE LEGAL SYSTEM IN THE PROTECTION OF ENVIRONMENT IN UGANDA**

#### **3.0 INTRODUCTION**

The legal system of Uganda contains common law and written law which are used in the protection of the environment in Uganda by the Local Governments.

Prior to the decentralization in Uganda which is now emphasized the government; the protection of environment was mainly in the hands of the ministry water and environment and a few people who new the importance of protecting the environment.

#### **3.1 APPLICATION OF COMMON LAW PRINCIPLES IN ENVIRONMENTAL LAW**

Common law is a body of legal principles that has evolved through decision made by judges of civil courts over time. Historically common law rights and remedies were developed to protect individuals against harm to their person or property. Examples of environmental law include harm to interference in case of unpleasant fumes, noise, and vibration, dust that settles in the house, sewage that escapes from a neighboring property, flooding excreta.

Today the legal basis for applying common law in Uganda is the 1996 Judicature Act. The Adverts in the High Court jurisdiction to apply (a) written law (b) subject to any written law and in so far as, the written law does not extent or apply in conformity with 6 the common law and the doctrine of equity<sup>24</sup>.

Common law has thus continued to apply in Uganda together with written law in **Cambridge Water Company V Eastern Countries Leather P/C**<sup>25</sup> Court held that the suit itself must be based on the traditional common law causes of action, trespass, nuisance, and negligence. Its injury suffered which arise out of riparian ownership.

The imitations of common law are well known first, these must be a plaintiff willing to sue who can prove that she /he is suffering the necessary physical harm or incidence and secondly that the plaintiff must have the necessary financial resource and persistence to pursue his or her case to a successful conclusion. Another interested party may also due<sup>26</sup>. In statutory law generally; it must be shown that the plaintiff has a cause of Action against the defendant<sup>27</sup>.

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<sup>24</sup> S.15(2) of the Judicature Act

<sup>25</sup> [1994] 10 ER 910

<sup>26</sup> *Pride of Berby and Derbyshore Angling Association V British Celanese* (1953) 1 ER 1798

<sup>27</sup> As it was discussed in the case of *Auto Garage V Motokov* [1973] E.A. 541

### **3.2 EVOLUTION OF ENVIRONMENTAL LAW IN UGANDA**

Environmental law may be defined as the ensemble of norms, rules, procedures, and institutional arrangements found in civil and criminal law. It includes statutes and implementing regulations, case law, treaties and soft law instruments that deal with or relate to protection management and utilization of environment and natural resources for sustainable development or intergenerational equity.

Environmental law is a relatively new but rapidly growing and expanding field of law that aims at protecting the natural resources and the total context within which they exist. The law of Tort has its own limitations foremost among which is that it is based on personal injury to property in other words, there must be proximity between the plaintiff and defendant for a cause of action to be sustained.

Since environmental wrongs are most of the time general wrongs where it is difficult, to prove personal injury to a personal right, it follows that the capacity of the public to enforce good environmental husbandry is limited. The law therefore including the constitution of most countries had to be changed to address this problem and other related issues.

**Lugakingira J.** reviewed many precedents on this issue and the common law position in the case of **Mtikila V. A.G.**<sup>28</sup>

In the English common law the litigants locus standi was the **Hand maiden** of judicial review of administration actions. Whenever a private individual challenged the decision of an administrative body, the question arose whether that individual has sufficient interest in the decision to justify the courts intervention, traditionally.

Common law confines standing to litigation protection of public rights to the Attorney Generals discretion in such cases may be exercised at the instance of an individual. In **Professor Wangare Matthani, V Kenya Times Media Trust**<sup>29</sup> the plaintiff who was the coordinator of Green belt movement sought an injunction to restrain the defendant from embarking on a proposed construction of a sixty –storey complex at Uhuru Public Park. The defendants raised objections to the application on grounds inter alia, that the plaintiff had sued on her own behalf. In the suit, there were no allegations of damage to any sort. Court held that the plaintiff lacked locus standi or any right of action against the defendant.

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<sup>28</sup> Civil Case No. 5 of 1995 at P.5 E.R

<sup>29</sup> H.C.C.C. No 5405 07/89

### **3.3 THE ROLE OF THE PRESENT LEGAL FRAME WORK IN PROTECTION OF THE ENVIRONMENT BY THE LOCAL GOVERNMENTS.**

Although there are statutes presently used in the protection of the environment by the local governments such as the constitution of the republic of Uganda 1995, National Environment Act (NEA); Land Act of 1998, National Forestry and Tree planting Act and the Local Government Act.

Although there are different statues used in the protection of the environment, it also upon every Ugandan to implement what those statues provide for.

**In the case of Green Watch and Advocates coalition for Development & Environment VS Golf Course Holding Ltd<sup>30</sup>.** The applicants were seeking inter locutory injunctions to restrain the respondents from constructing a hotel in a wet land.

The National Objectives and Directive Principle of the State Policy states that the state shall protect important natural resources, including land, water, wetlands, oil, fauna and floral on behalf of the people of Uganda<sup>31</sup>.

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<sup>30</sup> 7 H.C Misc. App. No 390 of 2001

<sup>31</sup> Stated in the 1995 Constitution of Uganda No xiii of the National Objectives and directive Principle of state policy.



In addition the National Objectives and State Policy states that the state shall promote sustainable development and public awareness of the need to manage land, air, water resources in a balanced and sustainable manner for the present and future generation.<sup>32</sup>

Further more it should be noted that parliament has powers to make laws to protect and preserve, manage the environment, and promote environmental awareness<sup>33</sup>. Hence the parliament should always make sure that there is enactment of good laws which fit the present situation in which the environment is.

It similarly the Government or local Government shall hold in trust for the people and protect reserves for ecological forestry and tourism purposes for the common good of the citizens of Uganda.<sup>34</sup>

A local community or a Local Council in the areas in which a local forest reserve is situated or an interested person may at any time in writing request the minister to review the status of a central forest reserve or local forest reserve with the object of seeking its reclassification as a local forest reserve or central forest reserve respectively.<sup>35</sup>

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<sup>32</sup> No xxvii(i) of the National Objectives and Directive Principles of State Policy

<sup>33</sup> Stated in Article 245 of the 1995 Uganda constitution

<sup>34</sup> Stated in S.5 of the National Forestry and Tree Planting Act.

<sup>35</sup> S.16 Ibid

Any revenue derived from the management of a community forest by the responsible body shall belong to and from part of it, shall belong to and from part of the accountable funds of the responsible body and shall be denoted to the sustainable, Management of the community forest and the welfare of the local community.<sup>36</sup>

The District Forestry Officer may issue directions to the owner of a plantation forest whether registered under subsection (1) of or not, requiring the owner to manage the forest in a professional and sustainable manner.<sup>37</sup>

Further more the Local Government may make bye- laws in accordance with the Local Governments Act 1997, applicable to any community forest in respect of any matter that the local government may deem necessary in accordance with this Act.<sup>38</sup>

In addition to the above the District Forest Officer (DEO) may issue directions to the manner of trees or forest produce situated on private land requiring the owner to manage the trees or forest produce in a professional and sustainable manner.

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<sup>36</sup> S.19 National Forestry and Tree Planting Act.

<sup>37</sup> S.21(3) Ibid

<sup>38</sup> S.19[2]Ibid

If the minister is satisfied that a local government has failed to manage, maintain and control a forest reserve as required may by statutory order transfer the responsibility for the protection, control and management of the local forest reserve to the authority<sup>39</sup>.

### **3.4 LIMITATIONS**

The Local Governments have limited resources which cannot be of used to fulfill all the obligations in the protection of the environment hence some of their obligations are half done or not done at all.

Uganda's Local Government's economic policies have created attractive conditions for investment, the competition between economic development and environmental management goals eliminate the poor of this country, lacking at alternatives, and the promise of earning income from development at the expense of the environment.

Due to the lack of enough funds there is a need to train more skilled labour purposely for the protection of the environment. These may include District Environmental Officers (DEOs).

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<sup>39</sup> S.12 of National Forest and Tree Planting Act.

## **CHAPTER FOUR**

### **DISCUSSION OF THE RESEARCH FINDINGS**

#### **4.0 INTRODUCTION**

This chapter describes assumptions that have been made about the general nature of the role of local governments on the protection of environment and fundamental principles that should govern the protection of the environment and its usage. These assumptions were got through dialogue with the District Environmental Officer [DEO], the local committees and legal officers.

The District Environmental Officer emphasised that it is mainly inadequate funding which has hindered the full realization of their goal as Kyenjojo district of protecting the environment. He also pointed out other problems like poor communication networks mainly roads although the district is trying to solve it.

When I contacted some legal officers like advocates who mainly emphasised that majority of the local communities in the district are ignorant about the law on environment for example public interest litigation in claiming environmental rights.

#### **4.1 Activities Kenjojo district in the protection environment.**

The general view of the respondents shows that in Kyenjojo district there are some many activities carried out which has led to environmental degradation forexample choarcoal burning and tea planting.

The District Environmental Officer said that, there are bye-laws restricting choacoal burning and lumbering, but in my findings. I found out that there is or was a lot of lumbering in the district mostly in places like Kikoda and Rwentenya.

It should however be noted that development can be achieved along side environmental management hence leading to sustainable development<sup>40</sup>.

In regard to the issue of protecting the environment, I found out that without sentizating the local communities about enmvironmental management, may lead to loss of important resources like bird and snake species mostly in wetlands. This due the fact the get building materials like poles and grass.

The District Environment Office is sensitizing the local communities about the importrance of afforestation to the environment. This has led to establishment of small forests by individuals like Mr. Rujumba who

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<sup>40</sup> As stated in No XX Vii (i) of Material Objectives and State Policy in the 1995 Constituion of the Republic of uganda .

planted trees on 10 acres of land near Kikoda trading centre.

There is a lot of sensitization to the local communities about avoiding carrying out activities near water bodies like streams and river banks. This has led to the easy flow of waters in the streams thus giving fresh water for species like frogs, toads and fish hence protecting the environment.

The local communities in the district have embraced better methods of farming like crop rotation used to allow the soil regain its fertility. Majority of the farmers in the district depend on natural factors to maintain soil fertility like leaving the soil to rest for some time. Other farmers in the district use inter-cropping as a method of maintaining soil fertility.

People told that they also had sensitization from NEMA on the protection of environment through their District Environmental Officer (DEO).

It's important to note that the National Environment Statute [NES] established the National Environment Management Authority [NEMA] in 1995, which is intended to provide a comprehensive legal framework for environmental coordination and management in Uganda.

NEMA was created by NES as an over-riding institution with the responsibility to coordinate environmental management

discussions, policy making and planning and oversee environmental law enforcement and compliance.

In the case of **Greenwatch Vs A.G and Another**<sup>41</sup> an action was against the attorney general and NEMA under article 50 of the constitution for among other things failing the preservation of the environment. It was held that the state owes that duty to all Ugandans and concerned Ugandan has a right against the government of the republic of Uganda and against NEMA for failing in its statutory duty.

The above was also discussed in the case of **A.G Vs Ali and 4 Others**<sup>42</sup> where the judge stated that, "in my view a citizen whose constitutional rights are allegedly trampled upon must not be turned away from the court by the procedural hiccups. Once a complaint is arguable away must be toward to accommodate him so the other citizens become knowledgeable of their rights".

NEMA has helped to prevent and stop the destruction of environmental resources like wetlands. In most cases NEMA has stopped the construction of houses in wetlands. It was also discussed in the case of **Green Watch and Advocates Coalition for Development and**

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<sup>41</sup> Misc Cause No 14 of 2002.

<sup>42</sup> (1989) LRC 474, Harper J.A stated at page 526.

**Environment Vs Gold Course Holdings Ltd**<sup>43</sup>.The applicants were seeking an interlocutory injunction to restrain the respondents from constructing a hotel in a wetland.

Also in the case of **Giella Vs Cassma Brown Co Ltd**<sup>44</sup>.where it was stated that, "to show that they have a *prima facie* case with probability of success and that the environmental damage likely to be occasioned cannot be adequately compensated in damage,"but if court is in doubt to decide the matter on a balance of convenience even if it came to considering the matter on that basis. This is because no development has commenced and it would be more convenient to prevent its commencement than to wait until the finalization of the case when it may become necessary to demolish any construction.

Kyenjojo district has encouraged reforestation<sup>45</sup>.This has been carried in Omuhura forest along Kampala-Fortport road near Rugombe trading centre.Omuruha forest was re-afforested with pain trees.

The citizens of Uganda should know that it is every persons obligations to protect the environment for the present and future generations<sup>46</sup>.This

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<sup>43</sup> Supra at page 21.

<sup>44</sup> (1978) E.A 358.

<sup>45</sup> It is in accordance to Article 176 (e) of the 1995 Constitution of Uganda which states that appropriate measures shall be taken to enable local government units to plan , initiate and execute policies in respect of all matters affecting the people within their jurisdictions.

<sup>46</sup> Stated in No xx vii (i) of the National Objectives and Directive Principal of the state policy in the 1995 Constitution of Uganda .



can done by initiating tree planting projects of the District Environmental officer should always supervise the projects to get better results.

The District Environmental Officers should make bye-laws for each individual found carrying out any activity in wetlands or forests without permission, should be heavily punished. Thus before the commencement of the bye-laws, the local communities should be popularly be sensitized about the bye-laws to avoid any excuse<sup>47</sup>.

The District Environmental Officers [DEOs] should encourage public interest litigation on environmental degradation. This can help in easily identifying and punishing the victims found involving in activities which cause environmental degradation.

In the case of **Mohiddi Farooque Vs Bangladesh**<sup>48</sup>. It was held that "any person other than an officer may intervene or away far without any interest in the case beyond the interest of the general people of the matter to dispute is qualified to be a person aggrieved and can maintain an action for judicial redress of public duty or for violation of some provision of such public duty and observance of such constitution or legal provision."

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<sup>47</sup> Stated in S. 19 (2) of the National Forestry and Tree Planting Act.

<sup>48</sup> (1996) DLR 48.

The above is the current position the law and has enabled the individuals to exercise their environmental rights. It was also discussed in Rio Declaration<sup>49</sup> that

“Environmental issues are best handled with participation all concerned citizens at the relevant level. At the national level each individual shall have appropriate access to information concerning the environment that is held by public authorities including, information on hazardous materials and activities in their communities and the opportunity to participate in decision making process states shall facilitate and encourage public awareness and participation by making information widely available effective access to judicial and administrative proceedings including redress and remedy, shall be provided”

Local government in my view are very useful in protecting of the environment. This is due to the fact that each local government, there

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<sup>49</sup> Stated in the Rio Declaration of 1992 Principle 10.

are other local governments and administrative units as parliament may by law provide<sup>50</sup>. These local governments include the activities of District Environmental Office which is mainly focused on the preservation and protection of the environment. This led to the creation of the District and Local Environmental Committees (DECs and LECs) which provide environmental services in the district up to local communities in different villages.

Local governments should adequately be funded and also provided with skilled labour like District Environmental Officers (DEOs). This will help in provision of quality services to local governments and easy supervision of environmental projects like forest reserves and wetlands.

In addition the local governments should emphasize on sensitization of the public in the ways of protecting the environment and bring up cases for redress by public interest litigation. This will make every Ugandan to know that he or she has an obligation to protect the environment against individuals who want to exploit the environment for their personal interests against the interests of the public or the state.

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<sup>50</sup> It stated in Article 176 of the 1995 Constitution of Uganda.

## CHAPTER FIVE

### RECOMANDATIONS,OBSERVATIONS AND CONCLUSION

#### 5.0 RECOMMENDATIONS

It is very clear that every Local Government shall be a body corporate with perpetual succession and a common seal, and may sue or be sued in its corporate name and may, subject to the provisions of the constitution, do enjoy or suffer any thing that may be done, enjoyed or suffered by a body corporate.<sup>51</sup>

Thus in accordance to the above the statement, Local Governments should always takes legal actions against the environment exploiters who do it for their own interests.

The Local Governments should implement bye-laws and their punishments. For those found carrying out unlegalized activities to the natural resources like lumbering and poaching<sup>52</sup>.

It should be noted that it is a duty of every Uganda to preserve the environment and keep it clean<sup>53</sup>. This will help to prevent hazards like prolonged droughts, flooding as it is always the case in some parts of Kampala such as in Bwayuise.

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<sup>51</sup> As stated in S.6 of the Local Government Act

<sup>52</sup> It is in accordance to S.19 [2] of the National Forestry and Tree Planting Act.

<sup>53</sup> As stated in Article 39 of the 1995 constitution of Uganda and S.5 (20 of the National Forestry and Tree Planting Act.

The Local Governments should provide information to the local communities (the public) at all times concerning environment. The courts should make a firm stand and help the public in accessing this information. The constitution of Uganda<sup>54</sup> states that. "Every citizen has a right of access to information in the possession of the state or any other organ or agency of the state except where the release of the information is likely to prejudice the security or the sovereignty of the state or interfere with the right to privacy.

In addition, the Local Governments should encourage the public interest litigation in the protection of the environment. This can be done through government and Non Government Organizations' (NGOs) which can be done through making the public aware of their role in the protection of the environment. This will empower the public to take up cases concerning of environmental exploitation.

The Local Governments should encourage the formation of Non Government Organizations (NGOs) whose main focus would be to protect the environment. If at least every Local Government has two NGOS which their main focus is on the protection of the environment the local community will become fully equipped with information on the protection of the environment such a forestation. This also will help the local

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<sup>54</sup> Stated in article 4[1] of the 1995 Uganda constitution.

communities to be equipped with information concerning the better methods of farming like crop rotation, and making of terraces on hilly and mountainous areas hence increment of the food production by the local communities.

The Local Governments should always carry out seminars in the local communities about the ways to conserve the environment for example by not carrying out farming in wetlands.

In addition the Local Governments with the help of District Environment Officers (DEOs) and the District Environment Committees (DECs) should always carryout demonstrations all over the districts on how to protect the environment for the present and future generations. <sup>55</sup>

## **5.1 OBSERVATIONS**

The Local Governments have tried to protect the environment in Uganda<sup>56</sup> though more efforts are need to get better results. The District Environmental Officers (DEOS) and District Environment Committees (DECS) have tried to carryout sensitization on the protection of the environment for example in Kyenjojo district there is always a

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<sup>55</sup> This is accordance with No xxvii (i) of the National Objectives and State Policy as ensured in the 1995 constitution of Uganda

<sup>56</sup> The District Environment Officer[DEO] from Kasese and Jinja have been fully involved in Environmental Impact Assessments (EIA) on projects ranging from cobalt plants to hydro –electric power plants and tourists resorts consulting locally and promoting local inputs during funal reviews by NEMA.

programmed on Kyenjojo Development Radio (KDR) on the ways how the local community can protect the environment in their everyday life mostly emphasis is on better farming methods.

There is some ignorance among the local communities in Kyenjojo who have continued encroaching on wetlands mostly for building materials like building poles and grass for roofing their houses basing on this fact small as the activities may be, if carried out continuously indifferent parts in Uganda there will extinction of wild life species like birds and snakes. This is because of the destruction of their places where their livelihood is based.

Local Governments lack enough funding to carryout their activities such as visiting places where they may have got a report of exploitation of the environment mostly forests. Due to the lack of enough funding there is continued exploitation of natural resources which takes a lot of time for the District Environmental Officers (DEOS) or District Environmental Committees (DECS) to visit the places.

There is a lot of political interference on Local Government's role on the protection environment. This is due to the political powers different people have which influence the District Environmental Officers to always bind with their demands.

The Local Governments lack enough skilled labour to use in the protection of the environment fore example district environmental officers and lack other people who are skilled in environmental protection to work with.

## **5.2 CONCLUSION**

In conclusion therefore, Local Governments have really tried to protect the environment mainly by first dividing responsibilities from the District Environmental Officers (DEOs) to the sub country levels. This led to the formation of committees respectively that is the District and Local Environment Committees (DECs and LECs). The main challenge the of Local Governments are having in the protection of environment is inadequate funding. In addition in protecting the environment local government should always aim at sustainable development for the present and future generations.



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**APPENDIX A:**

**GENERAL QUESTIONNAIRE:**

**TOPIC: THE ROLE OF THE LOCAL GOVERNMENTS IN THE  
PROTECTION OF THE ENVIRONMENT IN UGANDA.**

**CASE STUDY: KYENJOJO DISTRICT**

Background information

Age.....

Marital status.....

Sex.....

occupation.....

**SECTION A;**

**PROTECTION OF THE ENVIRONMENT**

1. What is environmental protection?

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2. Give three ways of environmental protection

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.....

3. Did you take any step in protecting the environment.

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.....

4. (a) If yes what did you do.

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(b) If no why?

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5. Do you know of any legal and institutional framework in place for the protection of the environment.

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.....

6. If yes what are they?.

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.....

## **SECTION B:**

### **THE ROLE OF LOCAL GOVERNMENTS**

1. What are the roles of Local Governments?

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2. Why are Local Governments necessary?

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.....

3. What are roles of the Local Governments in the protection of the environment in Uganda?

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.....

4. Has your Local Government participated in the protection of the environment.

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(a) If yes, which specific area of the environment

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.....

(b) What problems did you encounter?

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.....

( c) How can these problems be solved?

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.....

(d) If no why?

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.....

5. Apart from the role Local Governments, what other alternatives can be used for claiming in the protection of the environment?

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6. In your opinion, do you find the Local Government useful in protecting the environment.

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7. What recommendations do you suggest should be put in place to promote the role of the Local Governments in the protection of the environment?

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