

Strategic Environmental Litigation

Drafting Winning Applications under Ugandan Law & the Climate Change Act 2021

A Masterclass for Public Interest Lawyers in Uganda

Phase 1: Conception

Framing the Suit, Marshalling Locus Standi, and Building Alliances

Framing the Cause of Action

Constitutional Violations

Article 39 & 50 Framework: Focuses on violations of the right to a clean and healthy environment.

- Invokes Article 50 of the Constitution directly.
- Saves your suit from technicalities of traditional standing.
- Perfect for systemic public grievances rather than private claims.

Statutory Breaches

National Environment Act & CCA: Direct enforcement of statutory regulatory requirements.

- Violations of Environment Impact Assessments (ESIA).
- Non-compliance with national environmental standards.
- **Strategic Move:** Partner with established CSOs for legal status and institutional trust.

Collecting Scientific Evidence



Undeniable Chemical & Ecological Baseline

Do not rely solely on witness statements or narratives. Secure independent scientific indices before approaching the court.

Partner with accredited independent laboratories or university departments (e.g., Makerere University Chemistry Dept) to sample soil and toxic water effluents.

An independent baseline report provides the mathematical certainty required to satisfy court burdens and secure immediate temporary injunctions.

Sourcing Actionable Intelligence



Community Intelligence

Gather oral interviews, newspapers, direct contacts from victims, and local health clinic records to document human suffering and loss.



Corporate Structure

Search URSB registry under mandatory disclosure laws. Identify beneficial owners, holding companies, joint ventures, and subsidiaries.



Official Records

Formally request EIA approvals, local government compliance inspections, and monitoring reports to demonstrate systemic regulatory failure.

Phase 2: *Mastering Pleadings*

Drafting with Specificity under Civil Procedure Rules

Strict Rules of Fact Pleading

- ✓ **Plead Material Facts Only – Order VI Rule 1**

State only primary facts. Do not mix evidence or narratives with the material facts that form your legal claim.

- 1** **Chronological Summary Form**

Briefly, succinctly, and logically timeline each environmental occurrence. Technical clarity triumphs over emotional rhetoric.

- ! **Plead Point of Law of Substance**

If a point of law requires prolonged argument (such as failing to conduct mandatory EIAs), raise it in its own precise, dedicated paragraph.

Tactical Discovery & Interlocutories

Formal Notice to Produce

Bypass Corporate Secrecy: Issue formal Notice to Produce water logs and internal audits within 4 days.

- If ignored, file immediately for discovery on oath.
- Prove relevance, materiality, and company custody.

Parallel Discovery Route

Evidentiary Redundancy: Never rely on the polluter's integrity to hand over unaltered documents.

- Secure independent testing from trusted academic sources.
- Use this baseline for immediate interim relief (injunctions) while legal discovery struggles play out in court.

Anatomy of Specific Remedies (Prayers)

Version & Litigation Type	Core Declarations (A vs. B vs. C)	Consequential Orders & Enforcement Action
Version A: Private Boundary / Land Title Fraud	Declaration of lawful ownership; Declaration of fraud by 1st, 2nd, 3rd defendants.	Order for cancellation of fraudulent title registration; Permanent injunction restraining harassment/eviction.
Version B: Forest Clearance (e.g., Bugoma Forest)	Declaration that lease and clearance violate right to clean environment and escalate climate change.	Order for restoration of forest; Order requiring defendants to compensate for lost ecosystem functions.
Version C: Wetland Exploitation (e.g., Lwera Sand Mining)	Declaration that sand mining in wetlands infringes on the constitutional right to life and healthy environment.	Permanent injunction on sand mining; Order to deposit assessed funds into Court for supervised ecosystem restoration.

Ecosystem Valuation and Damage Trends



Figure: Trend of court-mandated restoration & ecological valuation damages awarded in Uganda (in Billions UGX).

Ecosystem Damage Valuation (Liability Model):
$$E = C_R + \sum_{t=1}^n \frac{V_s(t)}{(1+r)^t}$$

Statutory Remedies under Ugandan Law



National Environment Act (NEA) Section 3

Enables the court to prevent/discontinue deleterious acts, subject activities to audit/monitoring, compel degraded site restoration, and provide direct compensation to victims for lost beneficial uses.



The National Climate Change Act (CCA), 2021 Section 26

Empowers any citizen to sue the state or private entities threatening adaptation or mitigation efforts. Permits courts to stop the threatening act, compel the agency to reverse omission, or order victim compensation.



The Ultimate Strategic Lever: Section 26(3) CCA 2021

"A person may apply for relief notwithstanding that they cannot prove that the action or omission has caused or is likely to cause personal harm or injury to that person!"

Questions & Discussion

Defending Uganda's Ecosystems through Strategic Jurisprudence

The Mechanics of Strategic Public Interest Environmental Litigation

Designed for Public Interest Advocates and Civil Society Organizations in Uganda

Kampala, Uganda | Act responsibly, draft with precision.

Image Sources



<https://i5.walmartimages.com/asr/6d35bd69-bbb6-4969-92d1-b44afd7d943d.1ed35db308ef4d0fce1dd82637a01f0e.jpeg?odnHeight=612&odnWidth=612&odnBg=FFFFFF&format=avif>

Source: www.walmart.ca