

TALKING NOTES AT THE THIRD JUDICIAL TRAINING ON

CLIMATE CHANGE JUSTICE IN UGANDA:

*Strengthening Collaborative Efforts of the Key Stakeholders in Advancing
Climate Justice in Uganda.*

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Outline

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1. What is environment?

land water air

regeneration

Environment means the physical factors of the surroundings of human beings, the biological factors of animals and plants and the social factors of aesthetics, health, safety, and wellbeing of people. Section 2 of the NEA.

beauty
safety
health

2. What is Climate Change?

The NEA Section 2 defines Climate Change as a change of climate which is attributed directly or indirectly to human activities that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods.

The main causes of climate change are: **Increased use of fossil fuels** – such as, oil and gas to generate electricity, run cars and other forms of transport, and power manufacturing and industry; **Deforestation** – because living trees absorb and store carbon dioxide; **Intensive agriculture** – which emits greenhouse gases like methane and nitrous oxide; **Volcanic eruptions and Garbage** among others.

The **Natural climate drivers** include **changes** in the sun's energy output, regular **changes** in Earth's orbital cycle, and large volcanic eruptions that put light-reflecting particles into the upper atmosphere.

3. What is Climate Justice?

Science continues to show that as the impacts of climate change accelerate, extreme weather events are taking a major toll in developing countries, particularly in Africa and Asia, home to some of the world's largest youth populations. Global warming of 2°C would put over half of Africa's population

at risk of undernourishment, as of today, we have already reached about 1°C above pre-industrial levels (1850–1900). Global warming is likely to reach 1.5°C between 2030 and 2052 if it continues to increase at the current rate.¹

Climate justice is a term used to frame global warming as an ethical and political issue, rather than one that is purely environmental or physical in nature. This is done by relating the causes and effects of climate change to concepts of justice, particularly environmental justice, and social justice.

4. Who are the key stakeholders and what are their roles?

a. Nature

Under section 4 of the NEA, nature has the right to exist, persist, maintain, and regenerate its vital cycles, structure, functions, and its processes in evolution. An action can be instituted before a competent court for any infringement of the rights of nature.

b. Every person and Citizen of Uganda

Under section 3(2) of the NEA, every person has a duty to create, maintain and enhance the environment, including the duty to prevent pollution. This is in line with Article 17(j) of the Constitution which imposes a duty on every citizen of Uganda to create and protect a clean and healthy environment.

¹ UN General Assembly's High-level Meeting on the Protection of the Global Climate for Present and Future Generations in March 2019

c. NEMA

Under section 5 of the NEA, NEMA is mandated to ensure observation of the established principles considering the finite nature of non-renewable resources and the productivity of the available renewable resources. The principles include: Public Participation, Intergeneration equity, precautionary principle, access to information, sustainable utilization, promotion of international cooperation, among others.

Under section 5(2)(s) of the NEA, NEMA is mandated to ensure that approaches that increase both the environment and people's resilience to impacts of climate change are prioritized in the implementation of public and private development projects.

Under section 9 NEMA is the principal agency in Uganda with the mandate of regulating, monitoring, supervising, and coordinating all activities relating to the environment. NEMA is mandated to advise on the formulation and implementation of environmental and climate change policies, plans and programmes.

d. The Developer ?

Under section 2 of the NEA, a developer means a person who proposes to undertake a new project or to rehabilitate, repair, extend, maintain, or operate an existing project with potential effects on the environment.

Under section 112 of the NEA, depending on the category of project proposed, a developer is required to undertake an environmental and social impact assessment

in a prescribed manner. The ESIA regulations set out the issues to be considered in the assessment and they include: (1) ecological considerations including; biodiversity, sustainable use, and ecosystem sustenance; (2) the physical environment including landscape, water, air quality, resource efficiency and pollution management, and climate change and climate variability which speak to the practices and activities likely to contribute to climate benefits, carbon foot prints and measures to adapt or mitigate the impacts; and (3) social considerations including land acquisition and land use, economic impacts, employment opportunities, impacts on human health and wellbeing, impacts on culture and heritage, impacts on the population size and level of stakeholder engagement.

e. Lead agencies

A “lead agency” is defined as a ministry, department, agency, local government, or public officer in which or whom the function of control or management of any segment of the environment are vested.

The designated lead agency for climate change management in Uganda is the Climate Change Department under the Ministry of Water and Development. However, as indicated, causes of climate change are triggered from different segments or factors therefore, several lead agencies have a role in climate change management and justice.

Under section 69 of the NEA the designated lead agency for management of climate change is mandated to put in place guidelines and prescribe measures to address the impacts of climate change on ecosystems including resilience,

emissions reduction and conservation of carbon stock; and advise institutions on strategies to address impacts of climate change.

f. The Civil Society, Communities, and other stakeholders

Under section 9(2)(g) of the NEA, NEMA is mandated to regulate, monitor, and coordinate private sector, intergovernmental organisations, non-governmental organisations, cultural institutions, indigenous people and local communities and religious institutions on issues relating to the environment.

Communities are the primary resource users and they directly bear the impacts. While the vulnerable and poor are usually identified as impacted, climate change impacts affect all regardless of social or economic class. Therefore, as guaranteed by the laws, they are entitled to information and participation at all levels of the development processes.

Civil Society on the other hand are designed to provide independent expertise on the different issues that should inform decision making and monitoring of development processes. They should conduct independent research and enrich discussions and engagements.

g. The Judiciary

Article 126 of the Constitution mandates the Judiciary to exercise the judicial power in the name of the people and in conformity with the law, values, norms and aspirations of the people. Subject to the law, the Judiciary is mandated to accord justice to all irrespective of their social or economic status, without delay and an award of adequate compensation to the victims ...

The laws governing the different segments of the environment which are critical factors to climate change clearly give measures for redress that could contribute to mitigating the impacts of climate change.

5. What are the successes registered to-date?

Uganda is signatory to the international instruments governing management of climate change. It signed the UNFCCC in 1992 and ratified it in 1993, ratified the Kyoto Protocol in 2002 and is party to the Paris Agreement which came into force in 2016.

The international obligations have informed the formulation and development of national policies, laws, regulations, standards, guidelines, strategies and plans to manage climate change in Uganda. Worthy of mention, National Climate Change Policy 2015(NCCP) was designed to guide the development of a NDP that mainstreams and strengthens climate change resilient and low carbon development pathways in all sectors of Uganda's economy and thereby promoting sustainable development. Several guidelines and measures have also been developed and are under implementation.

6. How can we strengthen the collaborative efforts? Opportunities

a. The Climate Change agenda is still relevant

The SDG Goal 13 calls for “urgent action to combat climate change and its impacts”, The proposed actions should be prioritized at all levels.

b. Un pack climate justice and at on the aspects that constitute climate justice.

According to the former president of Ireland Mary Robinson,

“Climate justice insists on a shift from a discourse on greenhouse gases and melting ice caps into a civil rights movement with the people and communities most vulnerable to climate impacts at its heart”.

- c. The Article published by Stanford University in 2020 brings out interesting ideas that could aid the different stakeholders in collaborative efforts to achieve climate justice. The Article proposes for clear understanding of issues, assessment of impacts, careful application of the intergenerational equity principle, clear assessment of the risk taking into consideration the uncertainties, clear responsibilities to assign liability, among others.

7. Conclusion

I will end with the quote from the UN website on Sustainable Development Goals, on Climate Justice posted in 2020;

“Although greenhouse gas emissions are projected to drop about 6 per cent in 2020 due to travel bans and economic slowdowns resulting from the COVID-19 pandemic, this improvement is only temporary. Climate change is not on pause. Once the global economy begins to recover from the pandemic, emissions are expected to return to higher levels.”

Therefore, “each one of us” as stakeholders is called upon to make their contribution within their line of duty.