



Analysis Of The Legal Framework On Disaster Management In Uganda: Policies, Acts, Laws And Programs.

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ABSTRACT: This study analyzed the legal framework on disaster management in Uganda. Using documentary review, the study explored the laws, policies and government programs. Findings indicated that, the legal framework put in place to manage disasters in Uganda is so rich and sufficient. It is aimed to ensure that disaster management forms an integral part of the development process. However, such laws, policies, acts and programs are not fully implemented and most of them are completely ignored by Government which is supposed to be the principal implementer.

KEY WORDS; disaster management, legal framework and Uganda,

Received 17 October, 2018; Accepted 03 November, 2018 © The author(s) 2018. Published with open access at www.questjournals.org

I. INTRODUCTION

Famine, mudslides, floods and epidemics are some of the most frequent types of disasters Uganda faces. These have led to loss of lives and the biggest number of them arise out of inadequate planning than as a result of climatic or geological conditions (GoU, 2010). The government of Uganda has devised measures to mitigate and control the persistent loss of lives, suffering and disruption of economic activities by putting in place Policies, Acts, Laws and Programs to manage and reduce the occurrence of disasters. Notably among those are the laws enshrined in the Constitution, the National Policy for Disaster Preparedness and Management, National environmental Act, the Refugees Act, 2006 and National emergency management agency among others (GoU, 1995, 2006a, 2006b, 2010).

II. METHODS

This manuscript was purely library research that followed documentary review method were the researcher reviewed the Constitution of Uganda 2005 as amended (GoU, 2005b) environmental Acts and laws, government policies and government programs on environmental related issues. The researcher analysed the documents with the intention of understanding how they have supported disaster management in Uganda.

III. RESULTS

There are quite a number of legal instruments related to environmental management in Uganda although their effective implementation is still lacking and below are the various legal instruments that have so far been assented:

(a) LAWS

The Constitution of Uganda

The Constitution of the Republic of Uganda is the supreme legal instrument in Uganda. It was built on 29 objectives and principles that guide various statutory agencies and the private sector in implementing any policy decision.

Objective 23 talks about natural disasters. It states that “the State shall institute effective machinery for dealing with any hazard or disaster arising out of natural calamities or any situation resulting in general displacement of people or disruption of their normal life”.

Although the president is required to report to Parliament and the nation at large at least once a year highlighting all the steps taken to ensure that fulfillment of these policy objectives and principles (page 22 of the Constitution of Uganda), an analysis of the state of the nation address shows that issues of disaster management are not addressed. Instead, the State of the Nation address majorly addresses economic issues. For example, the

latest State of the Nation address only highlights the state of the economy and projects implemented by government (H. Y. K. Museveni, 2014; Y. Museveni, 2010).¹

Under the same Constitution, Article 249 puts in place a Disaster Preparedness and Management Commission for Uganda to address both natural and man-made disasters. The composition, prescription of functions and procedure for implementation of the functions of the Commission is a mandate of Parliament. This is one of the statutory commissions that have never been put in place. Three years after the promulgation of the Constitution, government established a Directorate for Relief, Disaster Preparedness and Refugees. This means that the Constitutional Commission was done away with as there would be a very thin difference if none between the functions of the Commission and the Directorate if the Commission was put in place.

Environmental Laws in Uganda

Environmental laws in Uganda are meant for protecting the environment and its natural resources from human degradation in order to prevent the adverse effects (disasters) from occurring. Laws have been enacted on soil quality, effluent discharge, genetic resources, wetlands, liver banks and lakeshores management, noise control, waste management, ozone depletion among others. They include: The National Environment (Audit) Regulations 2009, The National Environment (Minimum Standards for Management of Soil Quality) Regulations, The National Environment (Minimum Standards for Discharge of Effluent into Water and or Land) Regulations, The National Environment (Access to Genetic Resources and Benefit Sharing) Regulations 2005, the National Environment (Wetlands, Riverbanks and Lakeshores Management) Regulations, The National Environment (Noise and Standards and Control) Regulations, The National Environment (Waste Management) Regulations, 1998, The National Environment (Ozone Depletion and Substances Products) Regulations, the National Environment (Hilly and Mountainous Areas) Regulations and the National Environment Impact Assessment Regulations 1998 (GoU, 2009).

The National Environment Act, 9 enacted in 1995, is the framework law on environment. It provides for sustainable management of the environment and recognized the National Environment Management Authority (later referred to as NEMA) as the major government agency for the management of the environment. NEMA is authorized to manage, monitor and oversee all activities in the field of the environment.

The outline of the law had influence of generating alteration, enactment and synchronization of sectoral laws on environment. The exaggerated laws include the Tree Planting Act¹⁰ with a provision on EIA, National Forestry and the Land Act¹¹ under which all landlords and tenants of land are to administer it in agreement with the Tree Planting Act, National Forestry and the Mining Act, the National Environment Act, the Water Act, the Uganda Wildlife Act, the Town and Country Planning Act¹² and any other law; the Investment Code Act¹³ section 19(1)(d) of which makes it an indirect term and condition of every owner of an investment license to take necessary steps to ensure that the operation of their business enterprise does not cause any injury to the ecosystem or the atmosphere; the Uganda Wildlife Act¹⁴ sections 15 and 16 of which provide for EIA, audits and monitoring of projects that may have an impact on wildlife; the Mining Act,¹⁵ sections 108 to 112 of which require EIA, environmental audit, environmental protection standards, environmental restoration plans and environmental performance bonds in accordance with the National Environment Act; and the Local Government Act,¹⁶ the second schedule of which outlines environmental management areas for which district councils are responsible.

(b) ACTS

The Refugees Act, 2006

This Act was assented on 24th May, 2006 to cater for both single and mass influx of asylum seekers due to displacement from their places of origin by numerous disasters. Refugees are people who run away from their mother countries to another country due to disasters such as civil wars, epidemics, victims of torture and trauma. Such people always require urgent and special attention because they always lack the essential necessities of life.

The Act prevents criminal prosecution against refugees for unlawful entry in the country if he/she applies to be recognized as a refugee and has been granted refugee status.

The Act puts in place an Office of Refugees to cater for all administrative issues that affects refugees in Uganda, to coordinate inter-ministerial and NGO activities and programs dealing with refugees. The Office is supposed to be the Secretariat for Eligibility Committee that acts as a sieve for refugees. The Office among other duties, is supposed to protect refugees, coordinate service provision for their welfare, identify and initiate projects for refugees and refugee-affected areas, advise and work in liaison with the United Nations High Commission for Refugees and other organizations on refugee programs and their implementation, implement

¹State of the Nation Address delivered by H.E. the President on 4th June, 2010, 2014 and 2015 at Uganda International Conference Centre, Serena; www.parliament.go.ug

national and regional development plans relating to refugees, in line with the current international refugee practices, be the custodian of government properties in refugee settlements; issue identity cards and recommendations for travel documents for refugees, ensure maintenance of law and order in refugee settlements; and advise the Government on international and regional conventions and Government's obligations relating to refugees. The Act therefore, guarantees refugees continued and improved quality of life.

Environmental Acts

Like the Environmental Laws, Environmental Acts were put in place to sustainably manage the environment issues. The Acts put in place mechanisms for managing and conserving national resources and the environment. These include: The National Environment Act, 1998, The National Environment Water Act, the National Environment Mining Act and the National Forestry and Tree Planting Act.

(c) POLICIES

The National Environmental Action Plan (NEAP) and the National Environment Management Policy (NEMP)

The Government of Uganda developed a National Environment Action Plan (NEAP) IN 1991-1994 ². The NEAP outlined an agenda for addressing loopholes in environment administration as well as a plan for assimilating environment into the state socio-economic growth³. Some of the consequences of the NEAP was the design of the National Environment Management Policy (NEMP) of 1994.

The general Objective of the NEMP is sustainable community and financial growth which upholds or improves environmental excellence and resource efficiency that meets the needs of the current generations without conceding the capability of forthcoming generations to meet their own needs. This policy objective has knowledgeable successive policies such as the 2004/5-2007/8 Poverty Eradication Action Plan (PEAP) and the Plan for the Modernisation of Agriculture (PMA). The Policy offers plans to monitor and support decision makers and resource handlers in choosing priorities in the state context and also at the sectoral, private sector and individual level. It offers amalgamation of environmental distresses in national socioeconomic development forecasting process, opportunities for inter-sectoral collaboration, and wide-ranging and synchronized ecological administration. As a consequence, ecological administration is recently a key principle for national socio-economic development decisions.

The Policy also recognised the need for sectoral policies in addressing the specific worries of the recognised environmental segments. It consequently provided an agenda under which numerous sectoral policies were advanced. These took into account of the 1995 Water Policy, the 1996 National Wetlands Management Policy, the 1996 Wildlife Policy, the 2000 Fisheries Policy, the 2001 Forestry Policy and some district environment administration policies from 2000 to date.

Additionally, the policy offered a foundation for the design of all-inclusive environmental legal Structure under the 1995 Constitution and the National Environment Act. It also laid out a structure for multi-sectoral methodologies to resource forecasting and administration of natural resources. These tactics found appearance in the numerous environmental and expansion policies and in legislation such as the Uganda Wildlife Act ⁴, the Water Act ⁵, the Land Act⁶, the National Forestry and Tree Planting Act⁷ among others.

The Disaster Preparedness and Management Policy, 2008

This was comprehensively developed by the line Ministry (Office of the Prime Minister). It consists of mechanisms and structures that allow for effective and practical management of disasters.

The policy is comprehensive because it covers areas of vulnerability assessment, mitigation, preparedness, response and recovery which constitute a "comprehensive disaster management".

The policy coordinates all the necessary stakeholders including Local Governments, International Development and Humanitarian Partners, the Private Sector and NGOs. It also represents an institutional framework under which the stakeholders coordinate their operations.

²The National Environment Action Plan for Uganda (Ministry of Natural Resources - Uganda, 1995, 172 p.)

³Chapter 153-The national environment act.

⁴Chapter 200-The Uganda Wildlife Act.

⁵The Water Act, Cap. 152.

⁶Land Act (Cap. 227)-2000 (1998) and amended 2010

⁷The National Forestry and Tree Planting Act, 2003.

It further recognizes the need to emphasize vulnerable groups and other persons with special needs such as unaccompanied minors, elders, the mentally and physically handicapped, the pregnant and people with HIV/AIDS.

The policy is aimed at promoting positive behaviour and attitudes towards the management of disasters. It also seeks to establish a foundation for formulation of a comprehensive legal framework, build institutions and systems for disaster management.

This is a very good policy that helps to mitigate risks, prepare, prevent disasters and also provides for effective response and recovery after disaster trauma. However, such policies are not implemented. For example, in Uganda we don't have an effective monitoring and evaluation system. Disasters are first reported by the media before the government responds. This means that government does not have an effective monitoring and evaluation system as the policy directs. For example, the recent deaths of people in Karamoja area due to hunger were first reported by the press and the matter was raised on the floor of parliament by Hon. Simon Peter Aleper, (MP of Moroto Municipality) on 30th September, 2015. The area MP raised the concern of famine in Karamoja due to prolonged drought but was being downplayed by Government as a frivolous issue were twenty eight people had died. The Government Chief Whip promised that Government would respond to the matter (Editorial, 2017; Emwamu, 2013; IdaHorner, 2015; Mayanja, 2008; Okiror, 2016; Onyanga, 2017; Reporter, 2007, 2017; Ssemutooke, 2015).

Policy dissemination by government also appears to be largely lacking. The local communities, local governments are not aware of such good policies which would be very influential in managing disasters and yet the primary response for disaster risk management rests with the citizens. Government only plays a supportive role. When you open the website of the Office of the Prime Minister, information on dissemination of the policy states that the Ministry has plans of disseminating the policy which was put in place 7 years ago (Akello, 2007).

The National Policy for Internally Displaced Persons (IDPs) in Uganda, 2004

This was developed in August, 2004 with the primary aim of addressing the needs of those displaced by conflicts, natural or human-made disasters. This is one policy that comprehensively deals with addressing all issues of internal displacement in Uganda. The policy is aimed at minimizing internal displacement and its effects by providing an enabling environment for upholding rights and entitlements of the internally displaced; to promote integrated and coordinated response mechanisms to address the causes and effects of internal displacement; to assist in the safe and voluntary return and resettlement of the IDPs and to guide and develop programs to support IDPs; for example, construction of social and economic infrastructure in to support their resettlement. According to the policy, the Office of the Prime Minister – Department of Disaster Preparedness and Refugees is the primary Agency charged with the duty of protection and assistance of IDPs (GoU, 2004, 2005a).

(D) PROGRAMS

Programs on disaster preparedness and management are normally reactive in nature i.e. they are inaugurated to address a specific disaster and to a high extent drawn by the Government. They have specific time and budget limits and the outcomes are tangible. There are many programs implemented by the Government, notable among them include;

Karamoja Integrated Disarmament and Development Program

It was first developed in early 2005 and revised in January, 2007⁸. It aims at addressing the issues of human security, preparedness and recovery of the IDPs particularly in Karamoja region. The Program goes beyond addressing the needs of IDPs to resettlement and rehabilitation of people affected by natural disasters especially armed conflict and drought and the coordination of emergency relief to the affected people. The Program requires the identification of the communities affected in the Karamoja region. The Government of Uganda, is responsible for the implementation of this program together with development partners and civil society organizations (Krätli, 2010; Mkutu, 2008).

Emergency Plan for Humanitarian Interventions for the North (May, 2006)

This was designed by the Office of the Prime Minister to enhance protection of the civilian population in Lango and Teso Sub-regions, improve humanitarian assistance to the IDPs, to promote peace building and

⁸KARAMOJA INTEGRATED DISARMAMENT AND DEVELOPMENT PROGRAMME (KIDDP) - "Creating Conditions for Promoting Human Security and Recovery in Karamoja, 2007/2008-2009/2010

reconciliation, improve conditions in the IDP camps and continued planning for returnees in the Northern communities in the Northern region after the civil war⁹(Branch, 2011).

The Drought Risk Reduction Program, 2007

This is one of the many drought reduction program developed. It was developed to address the adverse effects of drought in Northern Uganda including loss of lives (both human and livestock), economic decline due to decline in crop productivity and environmental degradation. The program activities were being conducted by the Prime Minister's Office in 17 districts mostly affected by drought, refugee influx and IDPs in collaboration with humanitarian and development international partners especially AMREF, UNICEF and OCHA(César & Wolf, 2013; Krätli, 2010; Mukadasi & Lusiba, 2006).

Plan for Modernization of Agriculture

This is another drought reduction program by the Government of Uganda. It was aimed at increasing production per unit area and to promote sustainable use and management of natural resources; forests, wildlife and livestock among others(Bahiigwa, Rigby, & Woodhouse, 2005; Mukadasi & Lusiba, 2006).

Monitoring and Drought Information Data Analysis Program

The Department of Meteorology designed this program after recognizing the fact that the most effective way of managing drought and other weather vagaries is through monitoring and provide early warning information to the public to create their awareness before disasters hit them. The Department received support from World Food Program in form of equipment and infrastructural development and has been collaborating with the OPM¹⁰, Ministry of Agriculture and Makerere University. The Department is always very active in dissemination of information concerning drought and other weather vagaries that are likely to happen. For example, early warning messages in newspapers and television on the current El-Nino rains were relayed to make people in flood prone areas especially in Kampala to get prepared to avoid loss of properties(Kateregga, 2012).

Other programs to address the issue of drought include National Action Plan to Combat Desertification and Drought in Uganda, UN Convention on Combating Desertification, Uganda Program, Forestry Action Plan, Livestock and Pasture Management Program, Lake Victoria Environment Management Program among others(Kraybill, Bashaasha, & Betz, 2012).

Unfortunately, though such mitigation measures are in place, without action planning by government authorities, the same experience recurs. Floods continue to hit people especially slum dwellers. Without action, mere announcements lead to nothing. City authorities for example, need to clear drainage channels, de-silt clogging materials from water ways, remove garbage to avoid it being washed into drainage channels to cause blockage and to sensitize people on the dangers of dumping wastes in drainage channels.

Not only floods, Uganda also continues to suffer the adverse effects of drought. This is especially because the programs are partially implemented and eventually die a natural death due to limited funding, and fall in preference levels.

Government therefore, needs to increase its budget allocation for implementation of such programs. The programs should also be disseminated to the public and government should always adopt a participatory and holistic approach through involvement of communities, research institutions and Local Governments.

IV. ACCOMPLISHMENTS AND CHALLENGES OF MONITORING THE ECOLOGICAL LEGAL FRAMEWORK

Environmental forecasting as a tool of environmental administration is envisioned to safeguard advancement in events and misuse of natural resources for different purposes and are matched with the desire to protect the environment. The periodical for national state of environment information contribution in delivering the much desirable facts for planning devotions, resource distribution, state and organizational budgetary developments which are much needed in monitoring the ecology. However, tests to environmental preparation both at state and sub-national level do exist and these contain: populace size, progress ratio, arrangement and scattering that damagingly influences on delicate ecology like wetlands, river banks, lakeshore, hilly and mountainous areas; high dependence on firewood as a source of energy, leading to upsurges like deforestation¹¹

⁹Mr. Kutesa described the Joint Monitoring Committee and Emergency Plan for Humanitarian Intervention to be launched in Kampala by President Yoweri Museveni on 26 April. They would work in areas of northern Uganda affected by LRA activities.

¹⁰Office of the Prime Minister

¹¹Causes of deforestation also include land conversion to agriculture and unsustainable harvesting, urbanization, industrialization and institutional failures.

and land dilapidation; soil destruction and land deprivation due to poor farming approaches (UNDP, 2005) and insufficient subsidy for the environment sector which is still deeply dependent on the ever lessening backing from development partners/donors, thereby calling for instruments to make the sector self-sustaining.

Conservational intensive care and impact valuation (later mentioned to as EIA) procedures, provided for under the law outline, have been beneficial gears in controlling actions which have or are probable to have harmful influences on the atmosphere and an EIA databank has been generated to track these undertakings. The achievement of the EIA development is such that the number of EIAs has increased from ten in 1996 to about 1,500 in April 2008. There is, however, the requirement to uphold partisan support for use of EIAs at both dominant and native level and processes to expand public discussion. Additionally, the test ruins in assuring the implementation, watching and attaining obedience with environmental morals. Some of the lately permitted plans such as the use of DDT from inside enduring spraying for malaria control and endorsement of ecological phases for Bujagali hydro power expansion (GoU, 2007a) it was required to avoid this test by generating collective monitoring squads. We are yet to see how well these players will function, given their multi-sectoral landscape and the inadequate resources at their disposal.

Another encounter recounts on ecological auditing of the many production factories that were set up prior the enforcement of the charter regulation. Convincing stakeholders of factories to conform to environmental principles has proved to be very sluggish, painstaking and takes frequent appointments of environmental assessors, numerous compliance agendas and decided standards envisioned to accomplish steady obedience. The concerns that frequently a rise relay to the price of crackdown tasks and acceptance of suitable technology(Barigaba, 2009)¹².

In the same way the use of social and economic inducements as a method to environmental directive has offered a basis for imbursement of charges, levies and fees under the certification and authorization arrangement. The discouragement tactic was also used in the 2002-2003 National Budget to levy tax of 50 per cent (later reduced to twenty per cent), on polythene mover bags. This was similarly used in the 2006-2007 National Budget to force an environmental tax on imports of second hand clothing and motor vehicles of more than ten years from the production date. In addition, local government units at the districts such as Kamwenge, Iganga and Mukono have applied for the inducement/impediment method in the collection of user charges and levies in their authority. It could be contended, although, that the use of inducements should go hand in hand with appreciating the value natural resources, considering the price that expansion actions have on the environment and computing the influence of the environment sector to the gross domestic product (GDP), among other factors.

NEMA, in partnership with its growth partners, have ongoing works alongside appreciating and auditing natural assets. Nevertheless, a lot still needs to be done in this area. Implementation provisions comprise of the use of ecological reinstatement instructions, development posters, and announcements and checks. NEMA has positively used these enforcement procedures commonly after efforts of attaining obedience have failed country wide(César & Wolf, 2013; GoU, 2007b; Matovu, 2006). While alternative of the court is provided for and is commended, NEMA favors to use the above stated regulator tools at its disposal, taking into explanation the fact that in some occurrences ecological attentiveness and awareness has been done by government adequately to permit the use of prosecution measures, the price of obedience may be unreasonable thus calling for a slower agreeable timetable, and poverty controls on how the populace use natural resources thus calling for poverty mitigation interventions, among other factors.

Other implementation trials comprise of inadequate capacity of law enforcement officers, both in terms of environmental law and administration know-how and apparatus and simplification, in so doing stressing the significance of continuous training and human capital capacity building; unreliable political decisions and declarations on the environment, particularly during election weakens the integrity of the environment.

Nevertheless, implementation procedures were taken on including removal of "some" encroachers from forest reserves, swamps and other dwindling areas, seizure of apparatus used to landfill murrum in swamps or making noise, apprehension and trial of suspects. The remaining trials is in cumulative hunt of both criminal and civil approvals for environmental defilements.

V. CONCLUSION

The legal framework put in place to manage disasters in Uganda is so rich and sufficient. It is aimed to ensure that disaster management forms an integral part of the development process. However, such laws, policies, acts and programs are not fully implemented and most of them are completely ignored by Government which is supposed to be the principal implementer. The country therefore, continues to suffer with disasters to the extent of claiming lives and other adverse effects. Government should be seen to implement all the legal

¹²Uganda Breweries case is even shocking as the firm still discharges vast amounts of untreated waste into Lake Victoria despite investing in a multi-million wastewater treatment plant a few years ago.

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Nabukeera Madinah "Analysis Of The Legal Framework On Disaster Management In Uganda: Policies, Acts, Laws And Programs. " (Quest Journals) *Journal of Research in Humanities and Social Science* 6.10 (2018): 51-58