

# **NATIONAL FORESTRY AUTHORITY**

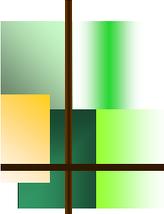
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**“STRENGTHENING COLLABORATIVE EFFORTS OF THE KEY  
STAKE HOLDERS IN ADVANCING CLIMATE JUSTICE IN  
UGANDA”**

*Presented by:*

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# OUTLINE OF THE PRESENTATION

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- Mandate of NFA
- Functions of NFA
- Climate Change
- Role of the Judiciary
- Judiciary Milestones
- Challenges
- Proposals to improve climate justice

# MANDATE OF NFA

- NFA was created by the National Forestry & Tree Planting Act No.8 of 2003 (NFTPA), a body responsible for **sustainable development and management of Central Forest Reserves (CFRS)** & provision of technical support to stakeholders in the sub-sector.
- NFA operates within the framework of the **National Forestry Policy** and directly within the following laws:
  - ✓ The 1995 Constitution of the Republic of Uganda
  - ✓ The National Forestry & Tree Planting Act No.8, 2003
  - ✓ The NFTPA Regulations of 2006
  - ✓ The Land Act, Cap 227
  - ✓ The Forest (Reserves) Declaration Order No.63 of 1998

# FUNCTIONS OF NFA

- To sustainably manage, protect & develop, manage Central Forest Reserves in Uganda.
- Identify & recommend to the minister areas for declaration as CFRs & amend the declarations.
- Promote innovative approaches for local community & private sector participation in management of CFRs;
- Establish procedures for sustainable utilization of Uganda's forest resources;
- Cooperate & coordinate with NEMA & other agencies
- Prepare & implement management plans for CFRs
- Develop tourist facilities in league with other agencies

# FUNCTIONS OF NFA cont....

- ~~Control & monitor industrial and mining facilities in CFR in conjunction with other authorities~~
- To enter arrangements others for provision of forestry services **subject to charges** as may be agreed upon
- To undertake/commission research for development & utilization of forests & for conservation including biological diversity & genetic resources.
- To ensure training of public officers in development & sustainable management of forests
- Expansion of partnership/licensing Private Sector to plant trees in CFRs

# ROLE OF THE JUDICIARY IN CLIMATE CHANGE JUSTICE

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- Climate change is the global phenomenon of climate transformation characterized by the changes in the usual climate of the planet (regarding temperature, precipitation, and wind) that are especially caused by human activities. As a result of unbalancing the weather of Earth, the sustainability of the planet's ecosystems is under threat, as well as the future of humankind and the stability of the global economy.

# ROLE OF THE JUDICIARY IN CLIMATE CHANGE

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- It is important to appreciate the judiciary is a key stake holder in the climate justice. It has a duty to adjudicate upon disputes between the poor and the rich encroachers on forests and the conservationists seeking to protect them. The courts have the power to stop the depletion and destruction of the forests.
- The Judiciary/Courts should be constantly alive to the growing trends in industrialization, urbanization and and population and provide holistic remedies.

# ROLE OF THE JUDICIARY IN CLIMATE CHANGE JUSTICE

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- **NASA's** definition of climate change says it is “a broad range of global phenomena created predominantly by burning fossil fuels, which add heat-trapping gases to Earth’s atmosphere. These phenomena include the increased temperature trends described by global warming, but also encompass changes such as sea-level rise; ice mass loss in Greenland, Antarctica, the Arctic and mountain glaciers worldwide; shifts in flower/plant blooming; and extreme weather events.”

# ROLE OF THE JUDICIARY IN CLIMATE CHANGE JUSTICE

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- Climate Justice, It begins with the idea that the adverse impacts of a warming climate are not felt equitably among people.
- Climate change, an inherently social issue, can upset anyone's daily life in countless ways. But not all climate impacts are created equal, or distributed equally. From extreme weather to rising sea levels, the effects of climate change often have disproportionate effects on historically marginalized or underserved communities

# ROLE OF THE JUDICIARY IN CLIMATE CHANGE JUSTICE

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- While the Courts adjudicate on these matters, certain questions may arise that you need to be prepared for in light of the extent to which we can stretch the judicial process;
- ✓ Should the courts permit communities/encroachers to stay in the forest (injunctions) during hearing and after judgment.
- ✓ What remedies are available to communities that have entered the forest with the sanction of political leaders, acquisition of legal interests through other government entities. Eg land titles

# ROLE OF THE JUDICIARY IN CLIMATE CHANGE JUSTICE

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- Climate justice” is a term, and more than that a movement, that acknowledges climate change can have differing social, economic, public health, and other adverse impacts on underprivileged populations. Advocates for climate justice are striving to have these inequities addressed through long-term mitigation and adaptation strategies.

# ROLE OF THE JUDICIARY IN CLIMATE CHANGE JUSTICE

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- ✓ Who is liable the remedies that will result from the encroachment, for example where another government entity has led to the destruction of the forest. Eg the case of illegal land titles.
- ✓ The conflict arising from ownership of titled land (bonafide purchaser for value without notice or fraud) of land forming part of forest reserve.
- ✓ These questions have already come to you or will come to you and you need to be prepared for them.

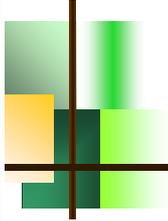
# JUDICIARY MILESTONES

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- I need to acknowledge that the judiciary has made positive actions in addressing climate change and will high light some cases.
- ✓ Omuhereza Basaliza and Others Versus NFA, Civil Appeal No.15 of 2019, the lead judgment of Hon. Justice Kenneth Kakuru JA made a land mark decision. The issue in contention involved a claim by the Respondents who claimed land forming part of a Buhungiro CFR in the Boundary Plan but the gazetting instrument mentioned a less acreage.

# JUDICIARY MILESTONES

- ✓ In the judgment it was ordered that the Attorney General be availed with a copy of the judgment to amend the gazetting instrument to reflect the acreage in the boundary plan.
- ✓ The judgment further ordered that the offer of freehold to the Respondent from Kyenjojo district land board be cancelled since it was on land forming part of Buhungiro CFR



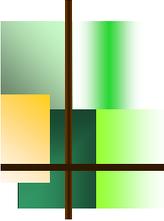
## JUDICIARY MILESTONES

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- Duncan Turyatunga & Others Vs AG, Supreme Court Civil Appeal No.05 of 2017. The lead judgment of Hon. Justice Butera Richard as then was declared the certificates of title created in Namanve CFR illegal and ordered for their cancellation.
- Equally in the case of Mugerwa Kafeero Evaristo Vs NFA HCCS No.05 of 2008, Justice Kibuuka Musoke (late) declared a certificate of title created in Mujuzi CFR in Masaka illegal and ordered cancellation to save the environment. The decision was upheld by the Court of Appeal.

# JUDICIARY MILESTONE

- Omuhereza Rwakoyo and Others Vs NFA Misc. Application No.060 of 2009, Justice Batama NDA lifted the injunction on Matiri CFR with a purpose to provide justice to the natural forest that was being depleted by plaintiffs who were holding an injunction. The same was upheld on appeal by Hon. Justice Kakuru in Court of Appeal Civil Application No.308 of 2014 who denied an injunction on grounds that the balance of convenience was in favor of NFA and that the Applicants could be compensated for any damage or loss resulting from the order of the learned judge but on the other hand the damage on the natural forest is likely to be irreparable and irreversible



## JUDICIARY MILESTONES

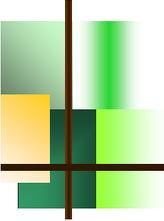
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- Okiring Ben & Others Vs NFA HCCS No. 031 of 2014. Hon. Justice Batema NDA deployed the scientific approach by considering the survey reports to determine conflicts between communities and forest reserves.

# CHALLENGES

Other government entities facilitating encroaching on the CFRs like Ministry of Lands, Housing and Urban Development, Uganda Land Commission and District Land Board creating titles in forest reserves. Encroachment on CFRs by illegal and erroneous creation of certificates of titles is one of the biggest challenges that has led to change of land use and destruction of forest cover. Some of the most outstanding examples include:

- ✓ Namanve Central Forest Reserve. With the degazetment of 1006 hectares of part of the forest reserve for the creation of the Kampala industrial park, these different entities allocated and titled out the remaining land in the CFR. Namanve measuring 1888 hectares is currently 100% titled out.
- ✓ Bugoma Central Forest Reserve which is the oldest tropical rain forest in East Africa, this is encroached on by a title of 22 square miles (which accounts for 14% of the forest) which is being converted into a sugar cane plantation.



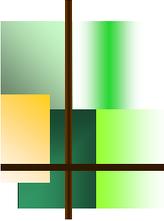
# CHALLENGES...

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- Mbarara Plantations (in western Uganda), the forest reserves in this plantation have been encroached on by illegal titles to 70% and now established with permanent settlements.
- Kimaka Central Forest Reserve (in Jinja) is 100% titled out to private individuals
- Kajjansi Central Forest Reserve is 80% titled out to private individuals
- Kitububulu and Kyewagga Central Forest Reserves (in Entebbe) are 100% titled out to private individuals.
- Mabira Central Forest Reserve is 30% titled out private individuals [currently undergoing litigation on a claimant with a title of 10 square miles of a heavily forested area]

# CHALLENGES...

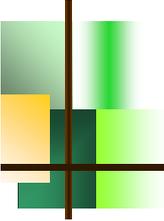
- Effect of regional laws e.g. endangered tree species not being protected/reserved. Illicit traders use that excuse to destroy our national reserved tree species.
- Corruption
- Low levels of funding to manage the vast land cover under the mandate of NFA. NFA is managing 506 CFRs in Uganda translating into 1,265,471 Hectares [3,125,731.37]
- In pursuit of revenue, Local Governments have turned to change land use of local forest reserves forest and harvesting forests with little or no consideration for planned forest management.
- The case backlog in courts and turn around time



# CHALLENGES...

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- Poor perception of forestry law and importance of forestry matters. There are common misconceptions about forestry matters which include but not limited to:
  - ✓ The case of forest reserves not having land titles, CFRs are gazetted by statutory instruments with boundary plans as opposed to other land tenure of land system which are in the form of land titles and certificates of occupancy and registration under the Registration of titles Act and the Land Act.
  - ✓ Unforested land perceived not be part of the CFRs



# CHALLENGES

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- ✓ Attaching no or little economic value to land in the CFRs
- ✓ The unforested grasslands perceived to have no or little value in terms of biodiversity.
- ✓ The case of Uganda Land Commission titling and offering out land forming part of CFRS.

# PROPOSALS TO IMPROVE CLIMATE JUSTICE

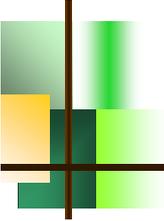
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- Continued efforts to create awareness in the judiciary on the impacts of climate change resulting from forestry related depletion and applicable laws
- Training of the Office of Director of Public Prosecutions Attorneys' on forestry offenses and applicable laws
- The setting up of the environmental High Court division to expeditiously climate change justice.
- Planning and carrying on environmental case backlog sessions. [the case of Iddi Mwandha Vs NFA C.S No.46 of 2002 which has been in court for 18 years affecting South Busoga Central Forest Reserve which was recently concluded in 2020 by Hon. Lady Justice Jean Rwakakoko]
- Restitution and remediation
- Increasing locus visits to disputed parcels of land in environmental matters.

# PROPOSALS TO IMPROVE CLIMATE JUSTICE

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- Reduction in level of illegal activities through intensified prosecution and deterrent sentences.
- Engaging the National Physical Planning Board to establish a strong linkage with the other land management entities like Uganda Land Commission, Ministry of Lands Housing and Urban Development and the District Land Boards curb the vice of allocating and titling out land on central forest reserves.
- I call upon all members of the judiciary that the time to act is now.



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***I thank you.***

***...FORESTS FOR  
PROSPERITY***