

Uganda Leads the Way in the Recognition of Rights of Nature, Customary Laws and the Protection of Sacred Natural Sites

In 2019, Uganda became the first nation in Africa to recognise the rights of Nature in national legislation under Section 4 of the National Environment Act (2019).

Now, in western Uganda, Indigenous Bagungu communities, traditional leaders and Buliisa District Council have gone a step further, pioneering legislation to protect sacred natural sites and recognise the customary laws of the Bagungu People.

These customary laws inherently safeguard Nature's rights to exist, thrive and evolve. Their recognition at local level could be a paradigm-shifting precedent.

Uganda is now well placed to lead the way towards decolonised, ecocentric governance on the continent, rooted in the diverse knowledge and governance systems of Africa's Indigenous and traditional communities.

Customary laws



1 Murchison Falls, western Uganda. A sacred natural site of great importance to the Bagungu People and their ancestors. Photo: Ben Gray

On 22 December 2020, Buliisa Council, in collaboration with the Indigenous Bagungu People, passed an ordinance at district level that recognises the customary laws of the Bagungu People, who live along the shores of Lake Mwitanzige (Lake Albert). This law was informed by customary laws codified and passed by the same council in November, 2019.

These pre-colonial laws have enabled generations of Bagungu People to live in a mutually-enhancing relationship with their ancestral lands and waters, now encompassed by Buliisa District.

The bill provides for the protection of an interconnected network of sacred natural sites (*Mpuluma*) embedded within Bagungu ancestral territory. These sites are places of spiritual, cultural and ecological significance and potency. They maintain the energetic balance, health and integrity of the wider ecosystems, as well as the health of all communities that now live in the area.

The bill recognises the rights of custodians of sacred natural sites (*Balamansi*) to continue to access these sites, carry out the required ceremonies for which they are responsible and also protect the sites.

These custodians play a vital role in governing human activity in these highly sensitive ecosystems. Wetlands and lake shores, for instance, are recognised as sacred and off-limits for farming, fishing, hunting or other activities that would damage these vital havens for wildlife and sources of freshwater.

Decolonisation and embracing customary governance



2 Chief Balamansi, Alon Kiiza. Photo: Ben Gray

By recognising the existence and importance of Bagungu customary laws and sites, the new ordinance is an important step towards re-empowering the Bagungu to restore the resilience of their ancestral lands and Earth-centred traditions.

Chief *Balamansi*, Alon Kiiza, had this to say:

"I have a message for other Balamansi (custodians of sacred natural sites), especially those who are still living in fear. I call on you to come forward. It is then that Mpuluma (sacred natural sites) will regain their strength and reconnect in the spiritual network. We will reclaim the lost glory of our lands. Remember: there are those who came to take our spiritual power. It is time to reclaim that power."

The ordinance provides for the creation of a co-governance body led by Bagungu custodians, like Alon, and district officials which will oversee the implementation of the ordinance, promote and protect the health and well-being of sacred natural sites in Buliisa and safeguard the rights of the Bagungu People by blending traditional and state systems of governance.

One of the pioneering of this Ordinance is the provision it makes for restorative justice when an offence is committed. Those who violate customary laws will be required to make amends in ways that uphold the dignity and integrity of the sacred natural sites, such as restoring damaged areas, planting trees or offering seeds. This type of restorative justice is not clearly recognised in Uganda's civil justice system. Embedding it in this law is a clear way to balance customary law with civil law- a plurilegal system at work.

"The Buliisa ordinance demonstrates plurilegal systems in practice, implementing customary laws through district legislation to protect sacred natural sites as well as the rights of Bagungu custodian communities. It will be the first piece of district legislation in Africa to implement the African Commission on Human and Peoples' Rights' Resolution on the Protection of Sacred Natural Sites and Territories (ACHPR/Res. 372 (LX) (2017)) and it aligns with the vision of the African Charter on Human and Peoples' Rights, which calls for decolonisation on the continent", says Carlotta Byrne, Earth Jurisprudence Coordinator for The Gaia Foundation.

Grassroots organising and awareness



3 Bagungu women gather to display eco-cultural calendars produced through intense community dialogues. Photo: Hannibal Rhoades

This groundbreaking precedent follows several years of community organising in Buliisa District by Bagungu people and their partners.

Inspired by Indigenous communities in the Colombian Amazon, the Bagungu have undertaken 5-years of regular intergenerational community dialogues to revive their traditional knowledge and practices, governance systems, seed diversity, and community cohesion, healing some of the losses suffered in a region badly affected by colonialism and neo-colonialism.

In November 2018, Bagungu clans came together to develop eco-cultural maps and calendars and to document their customary laws and clan constitutions, supported by their partners the African

Institute for Culture and Ecology (AFRICE) and The Gaia Foundation. These co-created documents were central to building a dialogue with councillors, and achieving the new ordinance.

“It has been a long and rewarding journey to this point. Reviving culture and ecosystems is not easy after such a long period of repression. There are many scars that must heal. But confidence is returning to the Bagungu, especially to the custodians who are the keepers of the customary laws. The maps, calendars and constitutions they have made make their world, made invisible for so long, visible once more, enabling them to reclaim rights and responsibilities that were taken from them. Hopefully their example can inspire others”, says Dennis Tabaro, Earth Jurisprudence Practitioner and Director of AFRICE.

Rights of Nature



4 Balamansi offer an early morning prayer at the site of a community dialogue process. Photo: Hannibal Rhoades

Meanwhile, at national level, Advocates for Natural Resources and Development (ANARDE) have acted as key advocates for the recognition of the rights of Nature in Uganda’s National Environment Act (2019), working in collaboration with The Gaia Foundation.

ANARDE has broken new ground by drawing on the country’s ecologically-rooted customary governance systems, like those of the Bagungu, and Earth Jurisprudence, inspired by Thomas Berry, as the cornerstones for recognising Nature’s Rights.

Frank Tumusiime, the Executive Director of ANARDE said:

“The process of recognition of customary governance structures and Earth Jurisprudence that supports sacred natural sites stems from recognising that nature has her own inherent right to exist and flourish. With a progressive law like the National Environment Act, 2019, and the Rights of Nature Regulations that will be developed, we shall soon be standing before courts of law with custodians and traditional leaders to champion the rights of lakes, rivers, trees, and other sensitive ecosystems. We only have to embed these in the law first!”

Both processes, at local and national level, have made one fact abundantly clear - Africa's Indigenous and traditional Peoples have inherently recognised and respected the rights of Mother Earth for countless generations. Recognising their rights, practices and territories in law is therefore an essential step towards the goal of decolonisation and realising the rights of Mother Earth.

Earth Jurisprudence in Uganda and Africa



5 Sacred site custodians from Tharaka, Kenya, who are walking a similar path towards revival. Photo: Hannibal Rhoades

These promising developments at district and national level in Uganda are part of a wider movement in Africa, committed to reviving Indigenous knowledge and customary governance systems.

Together with Indigenous and traditional communities, an African Earth Jurisprudence Collective are working in East, West, Central and Southern Africa to revive and re-valorise ways of life that defend and restore the relationship between Africa's peoples and her lands, waters and forests after centuries of colonial harm.

Central to this work is the philosophy and practice of Earth Jurisprudence, which calls for a transformation of our relationship with Mother Earth, from human-centred to Earth-centred cosmologies, ways of living, laws and governance.

"The planetary ecological and climate emergencies and growing injustices we face cannot be solved by the same thinking and systems that created them. Africa's rich cultural heritage, which sustained the continent's biodiversity for millennia, is the root from which a viable future can grow. Earth Jurisprudence reminds us that for most of human history we understood that human laws must be derived from the laws that govern life, so that we do not destroy our source of life, Mother

Earth. The Bagungu's story shows that Earth-centred cultures can be revived across Africa", observes Liz Hosken, Director of The Gaia Foundation.

There is a lot more to be done, but hopes are high among the Bagungu, councillors and their allies in Uganda and around the planet.