

## **Advancing Rights of Nature in Buliisa District: ANARDE Supports Development of Ordinance on Preservation of Sacred Natural Sites in Buliisa District**

In partnership with the **GAIA Foundation** and **African Institute for Culture and Ecology (AFRICE); Advocates for Natural Resources and Development**, ANARDE provided technical legal support in the enactment of an Ordinance to protect sacred natural sites in oil-rich Buliisa District. As a first step, we conducted field research to ascertain the customary and ecological governance ways the Bagungu use to protect Mother Earth. After this phase, we embarked on the process of drafting the ordinance. Our team later participated in dialogues and public hearings to discuss the draft ordinance with the custodians of sacred natural sites, the Buliisa district Natural Resources Committee and district Community and Social Services Committee.

The ordinance Entitled; **The Local Governments (Buliisa District) (Bagungu Customary Laws) Ordinance 2020**, was passed unanimously by the Buliisa District Council on 23<sup>rd</sup> December, 2020 in a session held at Buliisa District Local Government Offices.

The law provides for preservation of Sacred Natural Sites (SNS) deriving from Earth Jurisprudence principles and practice, use of indigenous knowledge and practices to preserve the eco-system (customary governance systems) as well as the law on the rights of Nature.

The ordinance recognises customary law practices of the Bagungu that include preservation of Sacred Natural Sites (SNS) and sub-sites making them no-go zones for any individual or company. These areas are sacred and are used for the purpose of conservation of the eco-system, determination of seasons for agriculture, spiritual / religious practices among many other reasons.

This traditional system of preservation of the environment has been part of the tribal systems and norms of the Bagungu clan that inhabits Buliisa District. This law recognises that such customs, which feed into customary law as a system of governance in Uganda are essential for preservation of nature.

The law also provides for custodians (*Balamansi*) of these Sacred Natural Sites (*Mpuluma*) and chief custodians (*Balamansi Bahandu*) who are directly responsible for protecting these sites and carrying out rituals that are to keep the necessary balance between human activities and preservation of mother earth. It prohibits any other person from accessing or undertaking any activity in the said SNS.

The Ordinance sets up structures of administering these SNS and notable is the Customary Law Board, which comprises of Chief Custodians, Custodian (being the customary law duty- bearers) and district personnel. This board is clothed with various functions

including- negotiating with land owners or occupiers on access and take back of the SNS, implementation of the law and also advising relevant institutions including districts, Courts of law and government entities on matters relating to preservation of SNS.

This law derives force and equally brings to life Section 4 of the National Environment Act, 2019 which speaks to Rights of Nature. It provides that nature has the right to the right to exist, persist, maintain and regenerate its vital cycles, structure, functions and its processes in evolution. The ordinance looks at SNS as vital areas that can allow for such a right to be realised more so for special ecosystems such as lakes, rivers and swamps.

ANARDE participated from the inception in activities to include mapping of areas that are provided as SNS; undertaking research on management structures for SNS; drafting; and finally analysing legal issues that may arise. It provided the expert legal and technical guidance in generating a document that is sufficient before the same was adopted by various Buliisa district technical committees and finally the council, which passed the Bill.

The Bagungu Customary Law Ordinance is timely, if not late, given the increasing individual land ownership that is in the area. The oil and gas activities including acquisition of huge tracts of land for the Tilenga project and construction of roads makes the law immediately necessary so as to protect the areas that are sacred and help the ecosystems regenerate for the current and future generations.

This is big-win for Buliisa District given that it is the first District in Uganda to pass such an ordinance. It is even a bigger win for Uganda, which makes it one of the few countries in Africa to recognise -through legal enactment- the role of sacred natural sites in protection of African cultural and ecological heritage as envisaged under Resolution 372 of the African Commission.

The draft ordinance is currently before the Ministry of Justice and Constitutional Affairs, Office of the Attorney General, particularly the First Parliamentary Council for scrutiny to ascertain its conformity with the 1995 Constitution and other relevant laws as according to Section 38(2) & (3) of the Local Government's Act, Cap 243.

ANARDE is to see to it that the law is approved by the Attorney General's office so that it can be officially gazetted in a timely manner. Such legal and policy recognition of SNS and preservation thereof is a major step in recognising the role of traditional indigenous knowledge and customary governance systems in conserving the environment for the benefit of current and future generations.