

## March 2022; Issue 3

### COURTS MUST DO BETTER! DELAYED JUSTICE IS UNDERMINING CITIZENS' HUMAN AND ENVIRONMENT RIGHTS!



*Some oil refinery project-affected people who filed a court case against delayed, unfair and inadequate compensation by government in 2014.*

*Court is yet to conclude hearing of the case, eight years later.*



*Members of nine Tilenga-affected families and others during a meeting with AFIEGO in 2021.*

*In 2021, the families filed a court appeal to stop government from compelling them to take inadequate compensation. A hearing date on the appeal has not been fixed.*



*Members of the Save Bugoma Forest Campaign (SBFC) in a May 17, 2021 meeting.*

*The meeting agreed to file an appeal following High Court's dismissal of a SBFC court case seeking to protect Bugoma forest. The appeal is yet to be heard.*

### In this newsletter:

- Delayed justice: Judiciary must hear oil and environmental cases without delay to stop injustices
- Pictorial of our activities
- Lobbying
- In the media
- Upcoming events

Dear reader, welcome to our March 2022 newsletter. This month, between March 20 and 25 in particular, Uganda celebrated the 5th Uganda Water and Environment Week (UWEK).

The week was celebrated under the theme, “Water and Environment for peace and socio-economic transformation of Uganda”.

Activities such as walking to raise climate change awareness, discussions and others were held to mark the week.

The activities underscored the importance of sustainably using Uganda’s water and environment resources to meet current and future generations’ socio-economic needs among others.

As the week was ongoing, AFIEGO and our partners deliberated on the efforts that the Ugandan government, civil society, communities and other stakeholders have made to ensure that Uganda’s water and environment resources are conserved and sustainably used.

We also deliberated on factors undermining the conservation of resources such as forests, wetlands, lakes, rivers and others in Uganda.

While these factors are several, and many have been severally discussed, we noted that one factor has been under-discussed: that of a judiciary that is not environmentally-responsive and is therefore undermining environmental conservation in the country.

If the current and future generations’

socio-economic needs are to be met, this challenge must be addressed. We underscore the importance of this below.

Since 2014, AFIEGO and our partners have filed court cases to support oil-affected communities to access justice and protect their land rights. Land is the biggest factor of production in Uganda and to protect livelihoods, it is important to protect communities’ land rights.

AFIEGO and our partners have also filed court cases aimed at protecting critical ecosystems such as forests, national parks, lakes, rivers, wetlands, and others from oil and other dangers.

**Sadly, all the oil and environmental cases remain undetermined to date. Some of the cases have been delayed for over eight years!**

Yet Article 126 of the 1995 Uganda Constitution, among others, imposes an obligation on the judiciary to ensure that in the adjudication of both civil and criminal cases, “justice shall not be delayed”.

Further, the Constitution provides that judicial power is derived from the people and shall be exercised by the courts in conformity with the law and with the values, norms, and aspirations of the people of Uganda.

The Constitution also requires courts to administer justice to everyone irrespective of their social and economic status.

Relatedly, Article 50 of the same Constitution empowers any person to go to court in cases where constitutional rights and freedoms are infringed on or

threatened.

The objective of the Constitution is to ensure that everyone who feels aggrieved can go to any court and get redress in a manner that promotes human dignity.

However, due to several factors, the judiciary has failed to dispense timely justice.

In our **Word from the CEO and partners**, we discuss the dangers of delayed justice in human and environmental cases. We make recommendations to improve access to justice to enable the judiciary to regain trust and confidence from citizens.

Besides the above, we also bring you our **pictorial** section. In this section, we highlight the activities that AFIEGO and our partners implemented this month.

For instance, with our partners, we participated in the hearing of a court case against the East African Crude Oil Pipeline (EACOP) project risks that we filed at the East African Court of Justice (EACJ). Prior to the hearing, we organised an online public discussion and disseminated publications to raise awareness about the importance of the case.

In addition, we supported communities that own land near Budongo forest to organise a meeting with the National Forestry Authority (NFA). During the meeting, the communities discussed the grievances that arose out of the Budongo forest boundary opening for addressing by NFA.

Further, to promote awareness about the potential of Uganda's green economic sectors, we distributed publications such as calendars to various stakeholders.

In addition, AFIEGO organised meetings with members of the Inclusive Green Economy Network-East Africa (IGEN-EA) to discuss the production of research briefs for the promotion of green economic activities in Uganda.

Further, AFIEGO staff participated in engagements or meetings with the Pope, representatives of UN Special Rapporteurs, members of the French government, French legislators, social movements and others to discuss the Tilenga and EACOP oil projects as well as civic space challenges in Uganda.

AFIEGO staff were also recognised by the US Ambassador to Uganda, H.E. Natalie Brown, for our human rights work in the oil sector. We share this and other activities in our pictorial section.

In our **lobbying** section, we share some of the lobbying and advocacy products that we disseminated this month.

Finally, in **in the media** section, we bring you some of the newspaper articles written by our staff and partners that were published in the leading newspapers.

We hope you enjoy the newsletter.

**Editorial team:**

**Diana Nabiruma**

**Rachael Amongin**

**Balach Bakundane**

## DELAYED JUSTICE: JUDICIARY MUST HEAR OIL AND ENVIRONMENTAL CASES WITHOUT DELAY TO STOP INJUSTICES

**D**ear reader, from the time oil was first discovered in Uganda in 2006, the country has witnessed environmental and human rights abuses.

These abuses have included massive displacement of communities while violating the Uganda Constitution, harassment and detainment of human rights defenders who speak out against the violations as well as the degradation of critical ecosystems such as lakes, forests and national parks.

As a result, thousands of people, especially oil host communities, face untold suffering and live in deprivation.

To stop the above injustices, oil-affected communities, with the support of civil society groups such as AFIEGO, have filed several court cases.

Unfortunately, many of the cases take long to be decided. For the few cases that get determined in the high or lower courts, the judgments leave a lot to be desired. When appeals are made, they also take long to be concluded while some never get fixed for hearing.

Delayed determination of court cases contributes to the worsening environmental and human rights situation in the country.

The section below summarises some of the environmental and human rights cases that have remained undetermined in different Ugandan and East African courts.

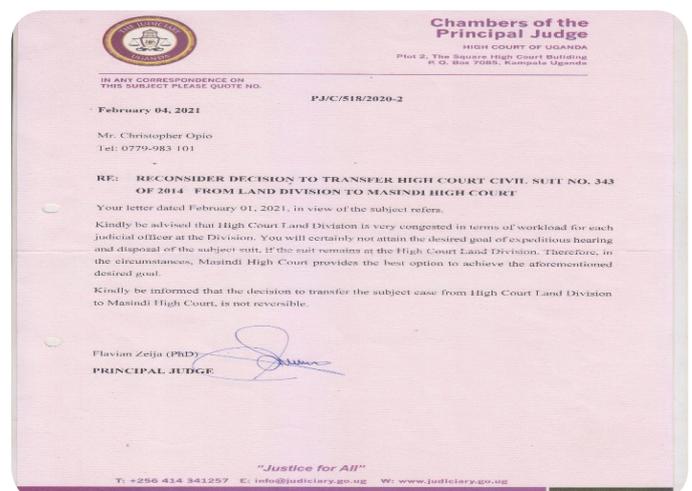
### COURT CASES

**(a) Oil refinery-affected people's case:** In 2012, the government of Uganda, through the Ministry of Energy and Mineral Development (MEMD), displaced over 7,000 people from

over 29sq. km of land in Kabaale-Buseruka, Hoima district. The people were displaced for an oil refinery. Unfortunately, the people suffered delayed compensation as confirmed by the **Auditor General** who noted that by February 13, 2014, only 104 or 4% of the project-affected persons had been compensated.

In March 2014, a case 'John Bosco Wandera, AFIEGO, and 9 others vs Attorney General of Uganda, 2014' was filed by the affected people. The people sought court's intervention to compel government to promptly, fairly and adequately compensate them. Unfortunately, **over eight years** later, the case is yet to be determined.

As court dilly-dallied in hearing the case, government compelled the affected people to accept delayed, inadequate and unfair compensation. In 2017, the **Auditor General** did indeed confirm that the people received delayed, unfair and inadequate compensation that could not allow them to replace all the land that they lost. This was a failure in the justice system.



A letter from the Principal Judge transferring the oil refinery-affected people's case to Masindi district in 2021.

The judge transferred the case after the people complained about the delayed hearing of their case. The 2014 case is yet to be determined, over eight years later.

## (b) AFIEGO & GPCOG vs NEMA and PAU:

On May 15, 2019, AFIEGO and our partners challenged the legality of the Environment and Social Impact Assessment (ESIA) certificate of approval that was issued by the National Environment Management Authority (NEMA) to TotalEnergies.

The EISA certificate of approval allowed TotalEnergies and government to commence oil exploitation under the Tilenga project in Bullisa and Nwoya districts. However, the ESIA certificate of approval was issued in violation of environmental laws including Article 39 of the Constitution, the National Environment Act, the 1998 Environmental Impact Assessment (EIA) regulations and others which provide that every citizen has a right to a clean and healthy environment.

AFIEGO and our partners filed the case to protect critical ecosystems such as Murchison Falls National Park, Budongo forest, Lake Albert, River Nile and others from oil dangers. We also wanted to protect communities' livelihood rights. Sadly, nearly three years since the case was filed, the high court has failed or ignored to complete determination of the case.



Part of the Tilenga ESIA court documents (L). AFIEGO staff, youth as well as lawyers after hearing of the case in 2020 (R). The case is yet to be concluded, nearly three years later.

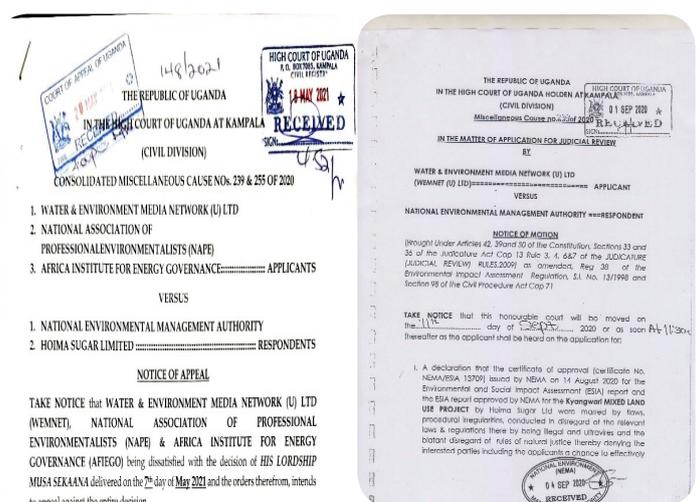
## (c) AFIEGO, NAPE and WEMNET vs NEMA and Hoima Sugar:

In 2020, AFIEGO and our partners filed a court case seeking cancellation of the ESIA certificate of approval issued by NEMA to Hoima Sugar Ltd (HSL).

The certificate allowed HSL to destroy Bugoma central forest reserve for activities such as a sugarcane plantation.

In May 2021, the high court overlooked the alarming evidence of illegalities around the ESIA process and ruled in favor of Hoima Sugar and the government, allowing HSL's destructive activities to go ahead. The judge also exhibited bias by accusing the applicants of having gone to court to seek relevance. The judge dismissed the court case and with our partners, we filed an appeal in 2021.

However, the Court of Appeal has failed or ignored to fix our appeal for hearing. Yet Hoima Sugar continues to rely on the illegal ESIA certificate to destroy Bugoma forest, which plays climate stabilisation as well as water and food provisioning among other roles that are now at risk.



A notice of appeal that was filed in 2021 to protect Bugoma forest (L). The appeal was filed after the high court dismissed a 2020 case that we and our partners filed to protect the forest.

**(d) CEFROHT, AFIEGO & 2 others vs Attorney General of Uganda & 2 others:**

In November 2020, AFIEGO, CEFROHT and our partners from Kenya and Tanzania filed a case in the East African Court of Justice (EACJ) challenging the legality of the East African Crude Oil Pipeline (EACOP) project.

We presented evidence showing the environmental and human rights dangers of the EACOP project and how the said project violates the treaty establishing the East African Community (EAC).

The project also contravenes other laws including the Protocol for Sustainable Development of the Lake Victoria basin, the Convention on Biological Diversity (CBD), the United Nations Framework Convention on Climate Change, the African Charter on Human and People's Rights, and the African Convention on Conservation of Natural Resources.

The said case argues that the EACOP project will cause irreparable harm to critical ecosystems and the livelihoods of East Africans. AFIEGO and partners sought the EACJ's intervention to stop the EACOP project dangers.

The case is yet to be determined yet the project is ongoing.

**(e) Happy Ignatius & 8 others vs Attorney General:**

In this case that was filed in 2021, AFIEGO and our partners are supporting nine families that were displaced by the Tilenga oil project to challenge a High court decision that attempts to indirectly amend Article 26 of the Uganda Constitution.

In 2021, while ruling on a case filed by Uganda's Attorney General against the nine families, the high court in Masindi ruled that once the Chief Government Valuer sets the compensation amount for an affected person and he/she rejects the amount as being unfair and inadequate, the government has a right to deposit such compensation money in court and proceed to evict the said affected person if court rules against the affected person.

The Masindi High Court ruling contravenes Articles 26 and 126 of the Constitution.

Article 26 of the Constitution provides against deprivation of property until payment of prompt, fair and adequate compensation. On the other hand, Article 126 provides that courts must exercise their judicial power by the law and with the values, norms, and aspirations of the people of Uganda.

It is against the above background that AFIEGO and our partners are supporting the nine Tilenga oil project-affected families to seek justice from the Court of Appeal. Unfortunately, since the appeal was filed in 2021, the families' case is yet to be fixed for hearing.

**DANGERS OF DELAYED JUSTICE**

The following impacts accrue due to judicial delays in determining environmental and human rights cases:

- People lose trust in the judicial system and take the law into their own hands.
- Companies, government and other people are encouraged to abuse the rights of poor local communities.

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- The companies also destroy critical ecosystems as is happening with Bugoma forest.

- Failure to protect communities' land and livelihood rights also pushes them into destruction of critical ecosystems as they seek to survive.

- Further, delayed justice contributes to the shrinking civic space as it encourages impunity in the country.

- Delayed justice also undermines the country's capacity to meet its national and international obligations such as the National Development Plan, Vision 2040, the Sustainable Development Goals, the Paris Agreement on Climate Change, and the Sustainable Energy for All (SE4ALL) initiative among others.

## **RECOMMENDATIONS**

The following should therefore be done to address delayed justice in human and environmental cases:

a) Government should establish a specialised environmental and human rights court and facilitate it to ensure speedy adjudication of cases.

b) The judiciary should ensure that any human and environmental rights case relating to oil impacts is determined in less than six months from the date of filing.

c) Relevant ministries should work with civil society to train judicial officers to appreciate the need for speedy hearing of environmental and human rights cases to protect human and environmental rights.

**By CEO and Partners**

# Pictorial of our activities

## AFIEGO SUPPORTS SECOND EACOP COURT CASE HEARING AT EACJ



On March 3, 2022, AFIEGO supported its legal team and CSO partners to participate in the second EACOP court case hearing at the East African Court of Justice (EACJ).

The hearing was held online. The applicants in the court case including AFIEGO were seeking a temporary injunction to prevent the EACOP project dangers.

Due to procedural issues raised by the government of Tanzania, hearing of the application for a temporary injunction was adjourned to a yet-to-be determined date.

## AFIEGO SUPPORTS BUDONGO FOREST HOST COMMUNITIES TO ENGAGE NFA



On March 4, 2022, AFIEGO supported representatives of Budongo forest host communities to participate in a meeting with the National Forestry Authority (NFA) at their head office in Kampala.

The community representatives discussed grievances such as contested Budongo forest boundary opening results, destruction of community crops without compensation and others during the meeting.

NFA committed to investigate the communities' grievances and forge a way forward.

## AFIEGO AND PARTNERS DISSEMINATE PUBLICATIONS TO PROMOTE A GREEN ECONOMY



In March 2022, AFIEGO worked with our IGEN-EA partners to publish and distribute IEC materials such as calendars to promote a green economy.

The materials were distributed to communities, Bunyoro Kitara Kingdom (BKK), religious leaders, parliamentarians and development partners among others.

## AFIEGO ENGAGES FRENCH GOVERNMENT AND THE VATICAN ON THE EACOP OIL PROJECT



On March 24, 2022, AFIEGO and our partners met with the French president's special advisor on global affairs and officials from the French foreign affairs ministry.

On March 16, 2022, AFIEGO and our partners also met with some members of the French national Assembly (parliament).

We discussed the impacts of the Tilenga and EACOP oil projects on communities, the environment and biodiversity in Uganda and Tanzania.

AFIEGO and our partners also met with the Pope and Vatican officials on March 23, 2022.

During the meeting with Vatican officials, we highlighted the impacts of the Tilenga and EACOP oil projects on communities, the environment and biodiversity in Uganda and Tanzania.

We hope that the engagements will lead to an end to the impacts.



## AFIEGO ENGAGES DEVELOPMENT PARTNERS ON CIVIC SPACE CHALLENGES



On March 23, 2022, AFIEGO engaged representatives of four UN Special Rapporteurs.

We discussed the situation of Human Rights defenders in Uganda and the civic space challenges faced by civil society groups working in the oil and gas sector in Uganda.

Prior to that, together with other civil society representatives, we participated in a meeting with US representatives on human rights and the ambassador to Uganda. We discussed civic space challenges in Uganda.

We hope that these engagements will improve the civic space in Uganda.



## AFIEGO RECOGNISED BY US AMBASSADOR FOR OUR HUMAN RIGHTS WORK



On March 12, 2022, AFIEGO staff were among the 12 women of courage that were recognised for their work by the US Ambassador to Uganda, H.E. Natalie E. Brown.

AFIEGO was recognised for our human rights work in the oil and gas sector.

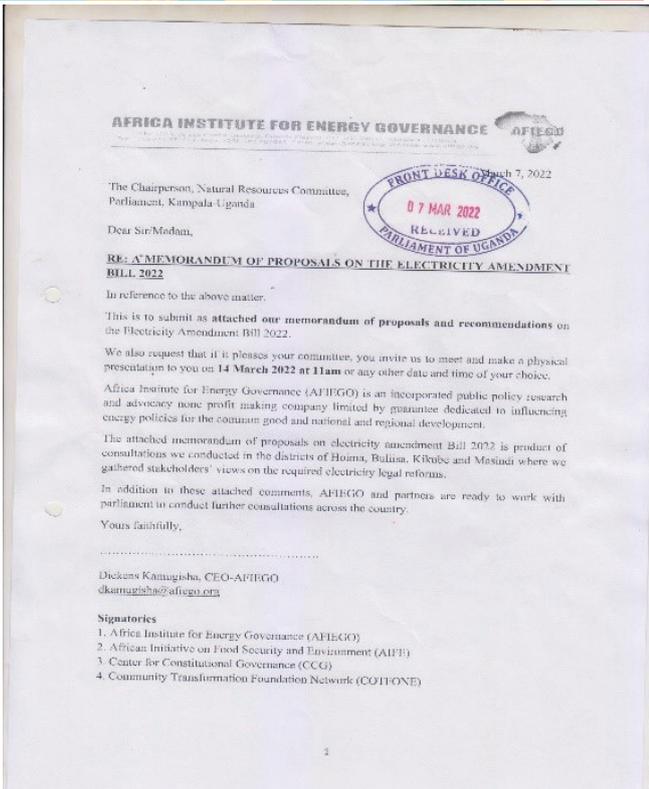
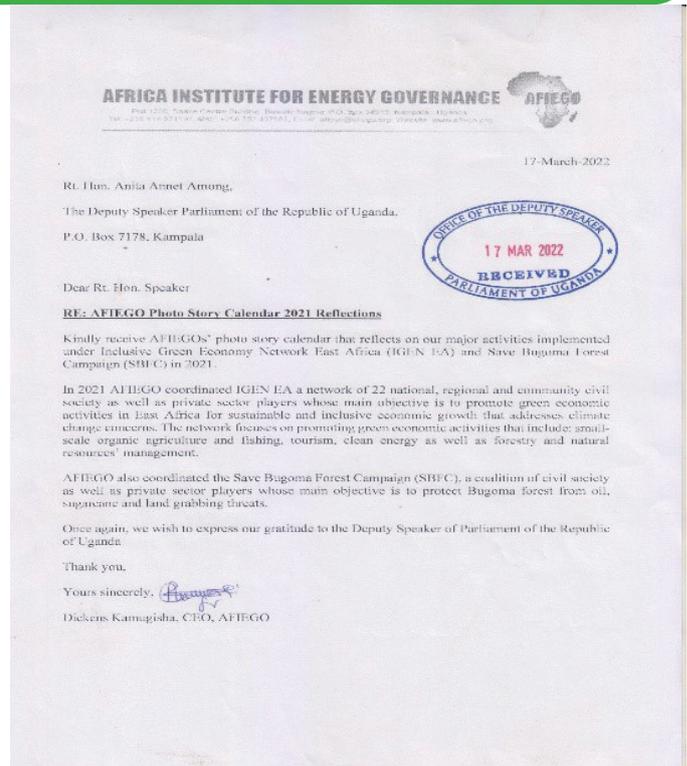
This month (March), AFIEGO submitted a memorandum of proposals to fill gaps in the Electricity Amendment Bill, 2022 to the climate change and natural resources committees of parliament.

Furthermore, AFIEGO and our partners joined the rest of the world to mark International Forest Day and International Women's Day. AFIEGO used these events to advocate for the promotion of a green economy and promotion of women's land rights amidst oil and gas projects.



Forestry and other green economic sectors can create nearly 4 million jobs by 2030.

Protect forests!



## International Women's Day



Respect women's rights in oil & gas land acquisition processes in Uganda

This month, AFIEGO staff, research associates and youth champions wrote over 12 newspaper articles that were published in the leading newspapers. The media also published articles from the media interviews we held this month. Some of the published articles are captured below

## WORLD WILDLIFE DAY: LET US REJECT ECONOMIC ACTIVITIES THAT HURT WILDLIFE

March 7, 2022 Written by Earthfinds Published in Opinion 0 comments

- Time
- Read 239
- font size
- Print
- Email
- 0 votes



Wetlands are the breeding grounds for the Crowned Crane.

By Ben Ntale and Paul Muvonge

On March 3, 2022, Uganda joined the rest of the world to mark World Wildlife Day. The day was celebrated under the theme, **recovering key species for ecosystem restoration.**

A February 17, 2022 **press statement** issued by the Ministry of Tourism, Wildlife and Antiquities notes that the theme of the day 'draws attention to the critical role that keystone species of plants and animals – many of which are threatened or endangered, play in ensuring ecosystem health and human survival.'



Mary Lawlor UN Special Rapporteur HR... @MaryLawlorhr... · 3h

I've written to the Ugandan Government about the arrest & intimidation of HRDs working with @AfieGoUG on oil and gas issues. No response received. Deeply troubling how @geneva\_uganda has only responded to 1 of 17 communications in the last 6 years.



srdefenders.org

Uganda: Arrest & intimidation of Human Rights Defenders working on ...  
The following is based on a communication written by the UN Special Rapporteur on Human Rights Defenders and other UN

## PRIORITIZE AFFORDABLE & RELIABLE CLEAN ENERGY ACCESS TO BOOST AGRICULTURE PRODUCTION

March 10, 2022 Written by Earthfinds Published in Opinion 0 comments

- Time
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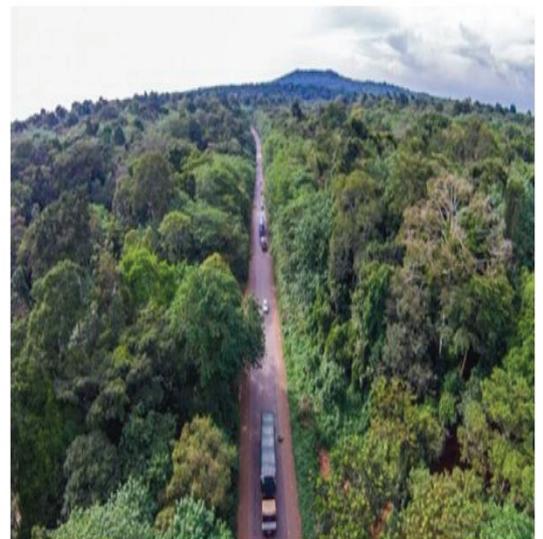
By Gerald Berekye

Last week the president of Uganda Yoweri Kagame Museveni instructed the ministry of defence to see that all army barracks in the country transit from hydroelectricity to solar power.

## CONSERVE FORESTS; CONSERVE A NATION "UGANDA"

March 10, 2022 Written by Earthfinds Published in Opinion 0 comments

- Time
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- Print
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By Aganira Combet

Forest conservation is the practice of planning and maintaining forested areas for the benefit and sustainability of the future generation. It also involves the upkeep of natural resources within a forest that are beneficial for both humans and the ecosystem.

Given the fact that, Uganda's forests host different species of animals, birds and trees, this implies that they are of great importance towards the economy of the country.

## Upcoming events

April 6, 2022, Kampala: Engage NEMA to put in place revised ESIA regulations

April 12, 2022; Kampala: Engage the Minister of Water and Environment to put in place regulations for the Climate Change Act

April 13, 2022; Kampala: Hearing of the Tilenga ESIA certificate cancellation court case

April 6-18, 2022; Kampala: Support IGEN-EA to engage parliament on the 2022/2023 national budget

April 24, 2022; DRC: Cross-border webinar on the Lake Albert oil project impacts

April 29-30, 2022; Greater Masaka and Bunyoro: Radio monthly news updates to promote clean energy alternatives in Uganda

### About Africa Institute for Energy Governance (AFIEGO)

AFIEGO is a non-profit company limited by guarantee that was incorporated under Uganda's Companies Act. AFIEGO undertakes public policy research and advocacy to influence energy policies to benefit the poor and vulnerable. Based in Kampala-Uganda, the non-profit company was born out of the need to contribute to efforts to turn Africa's clean energy potential into reality and to ensure that the common man and woman benefits from this energy boom. Through lobbying, research and community education, AFIEGO works with communities and leaders to ensure that clean energy resources are utilised in a way that promotes equitable development, environmental conservation and respect for human rights.

#### Our Vision

A society that equitably uses clean energy resources for socio-economic development

#### Our Mission

To promote energy policies that benefit poor and vulnerable communities