



# **SAVE BUGOMA FOREST CAMPAIGN 2020**

**PROTECT UGANDAN CHIMPANZEES,  
FOREST' LIFE MATTERS**

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**FOR IMMEDIATE RELEASE  
KAMPALA**

## **SAVE BUGOMA FOREST CAMPAIGN TO APPEAL COURT DECISION ON BUGOMA FOREST**

The Save Bugoma Forest Campaign (SBFC) **will this Friday May 21, 2021 appeal the ruling** through which the High Court dismissed a case filed by the SBFC.

Through the case that was ruled on on May 7, 2021 by Justice Musa Ssekana, SBFC members sought court's intervention to quash the Environmental and Social Impact Assessment (ESIA) certificate of approval that was issued to Hoima Sugar Ltd (HSL).

The certificate was issued in August 2020 by the National Environment Management Authority (NEMA), allowing Hoima Sugar to destroy Bugoma forest for sugarcane growing among other 'developments'.

While the SBFC is respectful of courts, members are of the unequivocal view that the judge erred in his grounds for dismissing the case.

Moreover, if the judge's decision is left unchallenged, the mafia groups that are intent on grabbing all Uganda's forests and wetlands while being aided by some corrupt government agencies and officials who have continued to misuse and abuse our laws will be given the legal cover that they need to completely destroy the country's important ecosensitive areas.

This must be guarded against.

### **COURT CASE BACKGROUND**

In September 2020, SBFC members filed a High Court case for cancellation of the ESIA certificate that was issued to Hoima Sugar by NEMA. In the case, the SBFC members argued that both NEMA and Hoima Sugar Ltd committed procedural irregularities and violated

Environmental Impact Assessment (EIA) laws during the conduct of and prior to approval of Hoima Sugar Ltd's ESIA report for its Kyangwali Mixed Land Use project.

Specifically, the law provides for the following which was violated:

- (i) Regulation 10 of the 1998 EIA regulations states that an environmental impact study shall be conducted in accordance with the terms of reference (ToR) developed by the developer in consultation with NEMA and the lead agency.** Hoima Sugar violated this regulation as a substantial number of the January 20, 2020 ToR signed by NEMA for the Kyangwali Mixed Land Use project were not followed. In total, 11 of the 18 ToR set out by NEMA were ignored. For instance, Hoima Sugar failed to provide detailed baseline information on the plant and animal species found in the 21.54 square miles of Bugoma forest that it claims. The company also failed to show how endangered species in Bugoma forest including chimpanzees would be protected from its sugarcane growing project. Further, Hoima Sugar Ltd failed to show the hydrological and climate change mitigation functions of its claimed project area among others. This was a major flaw.
- (ii) Further, Regulation 12 requires a developer to take all measures necessary to seek the views of the people in the communities which may be affected by the project during the process of conducting the study.** The developer is also required to “publicise the intended project, its anticipated effects and benefits through the mass media in a language understood by the affected communities for a period of not less than fourteen days”. While this is the case, Hoima Sugar Ltd (developer) only consulted one community in Nsozi village in Kikuube district. For a forest that is surrounded by over 36 local communities (villages) with an estimated population of over 12,000 people that live off the forest, it would be absurd to conclude that consulting one community was sufficient consultation. Yet Hoima Sugar argued that it was and the judge agreed with them. Moreover, there was no evidence showing how the one community was selected. The proceedings of the meeting were also never translated into English to form part of the government’s official record. Clearly, the law was overstretched to dismiss the case.
- (iii) In addition, Regulation 19 requires NEMA’s Executive Director to within ten days of receiving the comments of the lead agency, and if he is satisfied that the environmental impact statement is complete, invite the general public to make written comments on the environmental impact statement.** The invitation is supposed to be made in a newspaper having national or local circulation and must be exhibited in the newspaper for such period as the Executive Director considers necessary.

Despite this provision, NEMA did not invite the **general public** to make comments on the Hoima Sugar ESIA report despite Bugoma forest being a national resource that plays climate stabilisation, rainfall formation, soil fertilisation, tourism attraction and other roles enjoyed by all Ugandans.

In violation of this regulation, NEMA wrote private letters to selected government agencies including the Ministry of Agriculture, Forestry Sector Support Department of the Ministry of Water and Environment, National Forestry Authority (NFA), Uganda Wildlife Authority (UWA) and Kikuube district local government. NEMA invited them to make comments on the ESIA. A letter to Bunyoro Kingdom was also written. The consulted parties especially UWA noted that it was best to conserve Bugoma and not grow sugarcane in the forest. More so, in their comments, NFA and UWA informed NEMA that they were never consulted by the developer during the ESIA study yet they are lead agencies. They called on NEMA to direct the developer to consult widely and organise public hearings because Bugoma forest is of international importance.

One therefore wonders: why did NEMA ignore inviting the general public through the mass media to comment on the ESIA as is provided for in the law? Remember, there is no law that allows NEMA to call for selective comments on any ESIA. It was therefore wrong for the court to conclude that it was legal for NEMA to selectively seek views on Hoima Sugar Ltd's ESIA.

- (iv) **Regulation 20 also requires NEMA to invite for comments, through the mass media among others, of the persons specifically affected** by a project to make comments on the ESIA report. This was not done. Unfortunately, court failed to differentiate between the developer's obligation to consult stakeholders and NEMA's responsibility and duty to seek views from the people.
- (v) **Furthermore, Regulation 21 makes it mandatory for NEMA to organise a public hearing on an ESIA report for a project that is controversial or one that has transboundary impacts.** No public hearing was organised despite the fact that Bugoma forest is part of the Albertine corridor of ecosensitive areas that extend to the Democratic Republic of Congo (DRC). Moreover, cutting down one of the few remaining tropical rainforests in Uganda for sugarcane growing is so controversial that NEMA's August 2020 decision to approve Hoima Sugar's ESIA report sparked a Twitter storm. This led to #SaveBugomaForest trending at number 1 on Twitter on August 24, 2020. Most recently, government plans to borrow over Shs. 280 billion to plant trees in the Albertine region has sparked intense public debate over the controversial destruction of Bugoma forest.

All the above violations endangered Bugoma forest, whose annual value some studies have put at Shs. 200 trillion. The violations also make it important to cancel the Hoima Sugar ESIA certificate.

### **SBFC MEMBERS' REACTIONS TO THE HIGH COURT RULING**

“It is unfortunate that the judge failed to address the violations by NEMA and Hoima Sugar Ltd. His conclusions also put our environmental resources, which are already under immense pressure, at risk.

For instance, the judge’s view that it was okay for the developer not to consult institutions like NFA, UWA, Kikuube district local government and others while the developer was undertaking the ESIA study is terrible. Such a ruling cannot remain a judicial precedent in our country. This is why we are challenging it,” Mr. Dickens Kamugisha, the chairperson of the SBFC, says.

He adds, “It was also unbecoming for the judge to rule that consultation with one community [85 people] out of many directly affected villages with over 12,000 people was adequate community consultation.

This could have implications as so-called developers may continue to selectively consult as few people as possible for projects that affect critical resources depended on by millions of Ugandans and they get away with it due to the precedent set by the judge.”

Joshua Mutale of the SBFC adds, “The judge’s conclusions that planting sugarcane in Bugoma forest is not controversial is also wrong. This is especially the case because in their comments, the lead agencies including NFA, UWA and Kikuube district appealed to NEMA to direct the developer to consult widely. They reasoned that Bugoma forest is an international resource and was about to be gazetted as national park for enhanced conservation of wildlife including endangered animals.

The judge’s view that NEMA was at discretion not to organise public hearings also sets a bad precedent that must be challenged.

Excuses that NEMA could not organise public hearings due to COVID-19 restrictions do not suffice when Zoom and other online technologies were available. Moreover, a decision on the ESIA could have been deferred until such a time when it was possible to organise public hearings safely, the way political campaigns for the 2021 General Elections were organised.”

Bashir Twesigye of the SBFC adds, “The judge failed to use the law to promote conservation. To rule that NEMA has a discretion to determine whether a community is satisfactorily consulted even where the law specifically provides for the consultation procedure is erroneous.”

Doreen Namara of the SBFC notes, “In his ruling, the judge made some derogatory remarks that inadvertently curtail civic space. He said that the SBFC members who filed the petition were seeking public attention ‘to justify their existence as bodies concerned with environment protection’. Such remarks must be condemned as they delegitimise the work of environmental

and human rights defenders yet these defenders, and the Ugandan public, are some of the few remaining hopes for protecting the environment.

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**ENDS**

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