

**THE ROLE OF PUBLIC INTEREST LITIGATION IN PROMOTING
ENVIRONMENTAL JUSTICE IN UGANDA CASE STUDY ON THE OIL
EXPLORATION IN THE ALBERTINE REGION IN WESTERN UGANDA
PARTICULARLY BULIISA AND HOIMA**

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BKS21B11/110

**A DISSERTATION SUBMITTED TO THE SCHOOL OF LAW IN PARTIAL FULFILLMENT OF
THE REQUIREMENTS FOR THE AWARD OF THE DEGREE OF BACHELOR OF LAWS OF
UGANDA CHRISTIAN UNIVERSITY**

May, 2025



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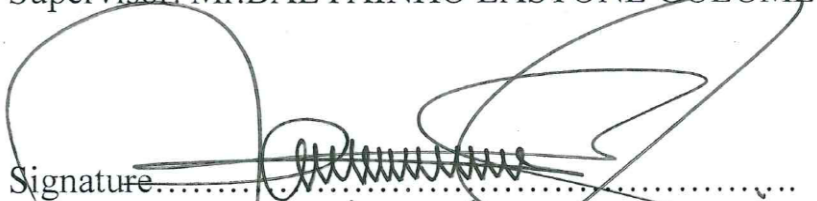
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APPROVAL

I certify that this essay report by Wembabazi Christine has been supervised, approved and submitted to UGANDA CHRISTIAN UNIVERSITY in line with the university guidelines under my expert supervision and approval.

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ACKNOWLEDGMENT

In my most sincere Heart, I want to thank the Almighty God for giving me the strength, wisdom, courage and good health throughout this research.

I want to thank my Supervisor Mr. Lastone Gulume for the support and time he has given to me during this research. To be really honest, this research would not have been a success if it wasn't for his great insights and words of advice. Thank you so much for the time you have been giving to each of us without any kind of delay. Your wonderful assistance has enabled me to come to the end of this journey and I Thank you for that. May God pour unending blessings to you Sir.

I am grateful to Uganda Christian University (staff) for the assistance they have provided throughout this journey.

To my class (LLB 2021-2025), I want to say Thank you for the love and encouragement. You became a second family since day one and I am grateful to God for the bond we have created.

Lastly, I want to thank the UCU Administration, lecturers and all the other Departments for the warmly support you have given me throughout my journey. Thank you UCU. THE CENTER OF EXCELLIENCE IN THE HEART OF AFRICA

DEDICATION

This research is dedicated to my lovely parents. To my Dear Mother Ms. Sanyu Rehema and Mr. Ajuna Christopher, words can never be enough to express my gratitude for all the things you have done for me. I pray God blesses you with long life so that I can make you proud and yield from all your hard work. Thank you for the moral and financial support you have given me throughout all my life of school

I would also like to dedicate this research to my brothers and sisters. To Chloe, Emily, Trevor, Chrispus, Shilla and Frank. Thank you for everything you have done to make this research a success.

I also dedicate this research to all my friends and family. My friends Acam Elizabeth Christine, Guma Persey Prudence and Asianzu Ruth Hilda, Thank you all for supporting and encouraging me. I thank God for you all. This list would be endless if I were to put all your names here. God bless you all.

ABSTRACT

This dissertation aims to bring out the impact public interest litigation has on the environment and how it can be a very good solution to promote environmental justice in the Albertine Region. With the oil exploration on Lake Albert, comes a lot of negative impacts on the environment. These impacts might not be felt now however after 50 years, Uganda might become a semi desert country all because Ugandans couldn't collectively organize themselves and fight for their environmental rights. The data for this dissertation was collected through observation in Buliisa District, Kibambura village passing through Wanseko and Ngwedo where oil drilling and equipment have been set up as well as in Buseruka where The East African Crude Oil Pipeline Project will be passing to Tanga in Tanzania. Interviews were also carried on the LC5 of Buliisa district Mr. Fred Lukumu and the King of Bugungu locally known Mutebengwa wa Bugungu by the names Lukumu Norman. The findings were quite absurd because the environment has been completely damaged and if we continue in the route we are following in these developments, it will take us a while to recover from all this tragic environmental damage. The implications are quite numerous starting with climate change, prolonged drought, displacement of wild animals and many other implications.

TABLE OF CONTENTS

DECLARATION	i
APPROVAL	ii
ACKNOWLEDGMENT	iii
DEDICATION	iv
ABSTRACT	v
ACROYMS AND ABBREVIATIONS	x
CHAPTER ONE	1
INTRODUCTION.....	1
1.1 Background of the Study	1
1.2 Problem Statement	3
1.3 Objective of the study.....	5
1.3.1 Main Objective of the Study	5
1.3.2 Specific Objective of the Study	6
1.4 Research Questions	6
1.5 Significance of the Study.....	6
1.6 Justification of the Study	7
1.7 Scope of the Study	9
1.7.1 Geographical Scope	9
1.7.2 Content Scope/Time	10

1.8 Literature Review	10
1.9 Methodology.....	13
1.10 Chapter Synopsis	13
CHAPTER TWO	15
PUBLIC INTEREST LITIGATION AND ENVIRONMENTAL JUSTICE IN UGANDA	15
NON LEGAL ASPECTS OF PUBLIC INTEREST LITIGATION IN UGANDA AND ENVIRONMENTAL JUSTICE	15
2.0 Introduction	15
2.0.1 Evolution of Public Interest Litigation in Uganda	15
2.0.2 History of Environmental Justice in Uganda	17
2.1 Analytical framework of Public interest litigation	18
2.2 Environmental Impacts of Oil Exploration in Uganda	19
2.3 PIL in Environmental Governance in Uganda.....	21
2.4 Conclusion	22
CHAPTER THREE	24
LEGAL REGIME GOVERNING PIL AND ENVIRONMENTAL JUSTICE	24
THE INTERNATIONAL PERSPECTIVE GOVERNING PIL.....	24
3.0 Introduction	24
3.1 International PIL.....	25
3.1.1 International Covenant on civil and Political Rights (ICCPR) 1966	25

3.1.2 European Convention on Human Rights (ECHR).....	26
3.1.3 Convention on Access to Information, Public Participation in Decision-Making to Justice in Environmental Matters (Aarhus Convention) (1998).....	26
3.2 International Perspective Governing Environmental Justice	27
3.2.1 Rio Declaration on Environment and Development 1992.....	28
3.2.2 Kyoto Protocol and the Paris agreement	28
3.2.3 The United Nations Framework Convention on Climate Change (UNFCCC) .	29
3.2.4 Cartagena Protocol on Biosafety.....	29
3.2.5 The convention on Biological Diversity (CBD).....	29
3.3 Regional Perspective Governing PIL	29
3.4 Domestic Perspective on PIL and Environmental Justice in Uganda	30
3.4.1 The Constitution of the Republic of Uganda as Amended.....	30
3.4.2 National objectives and directive principles of state policy	31
3.4.3 The National Environmental Act Cap 181.....	32
3.4.4 Petroleum (Exploration, Development and Production) Act Cap 161 together with the Petroleum (Exploration, Development and Production)(Health, safety and Environment) Regulations 2016.	33
3.4.5 Uganda Wildlife Act	33
3.4.6 National Climate Change Act	33
3.5 Case study from Nigeria a lesson for Uganda	34

3.6 Conclusion	35
CHAPTER FOUR.....	36
GENERAL CONCLUSIONS	36
4.0 Introduction	36
4.1 General Observations and Summary of Findings.....	36
4.2 Challenges of the Research	37
4.3 Recommendations.....	38
4.4 Conclusion	39
BIBLIOGRAPHY AND A LIST OF REFERENCES	40
A. Domestic Law.....	40
B. International Treaties, Covenants and Laws	40
C. Books.....	40
D. Articles, Documents and reports	41
E. Websites and online sources	42
F. Case Law	42

ACROYMS AND ABBREVIATIONS

EACOP	-	East African Crude Oil Pipeline Project
PAU	-	Petroleum Authority of Uganda
UNOC	-	Uganda National Oil Company
CNOOC	-	China National Offshore Oil Corporation
PIL	-	Public Interest Litigation
ACODE	-	Advocates Coalition For Development And Environment
NFA	-	National Forestry Authority
NEMA	-	National Environmental Management Authority
UDHR	-	Universal Declaration of Human Rights
ICCPR	-	International Covenant on Civil and Political Rights

CHAPTER ONE

INTRODUCTION

1.1 Background of the Study

The Albertine Region is located in the Mid-western part of Uganda covering core districts that include Hoima, Kikuube, Masindi, Kibaale, Buliisa, Kagadi, and Kakumiro. There are also other districts like Nebbi and Nwoya that were included in the Albertine Region Bursary Scheme indicating their connection to the area. The Albertine Region is famously known for its richness in oil deposits found in Lake Albert with 6.5 Billion Barrels of Oil present. This oil was discovered by E.J .Wayland a Government Geologist in the 1920s who documented his finding down in his book called "*PETROLEUM IN UGANDA*"¹ .The first deep well to be drilled was around 1938 in Waki B1 in Butiaba however activities were put to a hold following World War II and resumed in the 2000s.Oil activities resumed around 2006 with Hardman Petroleum now (Now Tullow) made its first commercial oil discovery in Kaiso Tonya. With the discovery of oil in the Albertine Region, it meant that Uganda as a country had to open up to investors like Total Energies E & P and also China National Offshore Oil Corporation because it lacked the resources to conduct all the processes that come with Oil extraction and more. With that, it meant that new developments had to be

¹ By E.J .Wayland .pp.60,4 maps,22 illustrations. Entebbe 1925 Petroleum in Uganda. Geological Survey of Uganda accessed on 1st May 2025

carried out on the Region. We can choose to call it developments however much it came with a lot of negative impacts on the environment. Particularly Buliisa where Lake Albert is found, and in addition, the biggest National Park in Uganda called Murchison Falls National Park has been affected. Natives of the Buliisa were compensated especially those who were near places like Kibambura village with money and had to move to other places and start new homes. The Project stated that for one to be eligible for compensation,² they had to be bonafide occupants and according to Section 29³, A bonafide occupant means a person who before the coming into force of the Constitution of the Republic of Uganda had occupied and utilized or developed any land and wasn't challenged by the land owner or agent of the Registered owner for twelve years or more. Section 110⁴ states that before carrying out any project, an environmental and social impact assessment is conducted to evaluate any environmental and social impact risks or any other concerns of a given project. This oil project had a lot of environmental and social impacts that I believe were ignored because the Government decided to value the profits that would come out more than the environment and the people. Looking at the African Continent, In *Nigeria, An oil spill occurred in the outskirts of the Dooh's village of Goi and more than 23,000 liters of oil had spilled and nearly 40 acres of mangrove forest had burned, poisoning the land and fishponds that were the lifeblood of the village. Families were forced to permanently abandon their homes because of the extreme pollution surrounding their village. The Village stood up together and*

²Albertine Region Sustainable Development Project (ARSDP) Resettlement Policy Framework (RPF) Volume 1 Final Draft Report November 2013 accessed on 28th May 2025

³ Land Act Cap 227

⁴ National Environmental Act Cap 181

*won the case against the big oil and the affected families were compensated with \$2billion in damages.*⁵ Something that Ugandans have failed to do especially those who are living where the EACOP is passing in Buseruka in Hoima. Nigeria is known for its very good legislative laws on the oil project but however an oil spill occurred. How safe is Uganda? This is the Question every environmentalist is asking, we have to pay for all this in the near future and some parts of the Albertine Graben have started experiencing this. An example is Buliisa which is too hot ever since the oil drilling started considering its closeness to the Lake however still remains hot going up to 36 or even 38 degrees.

Thus this Research aims to point out the role of the people in this quest to choose between economic benefits or having a good sustainable environment even for the future generation.

1.2 Problem Statement

Environmental Degradation is the primary problem affecting Uganda, with the country's rich biodiversity and natural resources; there are challenges of deforestation, pollution, climate change impacts, land degradation and use of unsustainable agricultural practices. Due to the current challenges at hand, like deforestation, forests are being cut down to establish industries and for example in Western Uganda around the areas that are near Lake Albert, like Hoima and Buliisa, these places are hot with very high temperatures because trees were cut down to

⁵ ⁵Jess Craig in Port Harcourt Wednesday 1st June 2022 The village that stood up to big oil and won. The guardian accessed on 28th April 2025

establish an oil base in Buliisa with camps and even people and animals were displaced from their homes bringing about change in the ecosystem

The reality of all these challenges is that they come with developments like for example the East African Crude Oil pipeline which will be transporting crude oil from Uganda to Tanzania particularly Tanga has come with several challenges like deforestation, displacement of people, loss of biodiversity. This means that Development comes at Cost and we are going to pay a heavy price for it since some of its effects have started being felt.

Uganda is facing Challenges already for example Prolonged drought and is still to suffer more consequences if we did not enforce the laws put in place. However this doesn't stand in my opinion because Uganda as a state has some of the wonderful laws on Environmental laws however they are not fully implemented even by the Courts. The Jurisprudence on the cases promoting environmental justice are very few with some people deciding to just keep quiet and sit on their rights due to fear and lack of money to institute legal proceedings against the government. Despite the existence of the **Constitution of the Republic of Uganda and the National Environmental Act Cap 181**, justice as I stated earlier is never sought by many communities affected by environmental harm in the name of development. The best way people would seek for justice would be through Public Interest Litigation, An avenue to which these concerns would be addressed and it would enable the citizens to hold the government and Private entities accountable for environmental harm.

However, since the Jurisprudence is low, even the effectiveness of Public Interest Litigation is also low. Some Small communities for example the native Bagungu who come from Butiaba, Wanseko do not even know what Public Interest Litigation is or what Courts they can even go to for redress. Thus the system has a lot of challenges starting with illiteracy, unexposed of the people to the low implementation of the Public Interest Litigation. Sadly, accessibility of these rights for these marginalized communities may never be achieved fully due to a lot of factors like illiteracy and poverty.

This Dissertation aims to examine the role of Public Interest Litigation in promoting environmental justice in Uganda by assessing its effectiveness, impacts and challenges. We shall be looking at the landmark cases, the legal framework and also the study is going to show how the Public International Litigation can be strengthened as a tool of environmental protection.

1.3 Objective of the study

1.3.1 Main Objective of the Study

The main Objective of the study is to evaluate the Role of Public Interest Litigation on promoting Environmental Justice in Uganda in the Albertine Region in Western Uganda Particularly Buliisa and Hoima.

1.3.2 Specific Objective of the Study

- I. To evaluate the effectiveness of Public Interest Litigation in ensuring environmental justice for the affected communities in Hoima and Buliisa in Uganda with the ongoing oil activities.
- II. To identify challenges and limitations facing Public Interest Litigation in the Environmental Context in Uganda.
- III. To propose recommendations for strengthening the use of public interest litigation as a tool for environmental justice in Uganda

1.4 Research Questions

- I. What is the Effectiveness of Public Interest Litigation in ensuring environmental justice for the affected communities in Hoima and Buliisa in Uganda?
- II. What are the challenges and limitations facing Public Interest Litigation in the Environmental Context in Uganda?
- III. Which recommendations could be adopted to strengthen the use of Public Interest Litigation as a tool for environmental Justice in Uganda?

1.5 Significance of the Study

In promoting environmental justice using Public Interest Litigation as a tool, this study was significant because of the following reasons;

- I. The study was significant because it enhanced access to justice for the affected communities of Hoima and Buliisa. It showed how public Interest

Litigation can empower vulnerable and marginalized people for example the Bagungu of Buliisa to seek for redress for environmental harm thus promoting social and environmental justice.

- II. This study also created awareness among the people of Albertine Region and beyond about the use of PIL to fight for environmental rights. For there are some people who were not even aware that PIL exists and what powers they hold together with PIL.
- III. It has also addressed the issues of Climate change and the contribution of oil activities towards the changes in climate.
- IV. This study would be used as a reference in the future as it adds on the body of knowledge on environmental justice.
- V. The study also brought out how the government and private sector have been held accountable for environmental degradation thus promoting transparency.

1.6 Justification of the Study

The discovery and ongoing oil activities in the Albertine Region on Lake Albert came with both economic gains and significant social and environmental challenges. With the displacement of people and animals to the cutting down of vegetation which posed very big risks in the local communities of Butiaba, Wanseko and Buseruka in Hoima. It came with soil contamination with the construction of the EACOP and loss of biodiversity. While Oil exploration contributed highly to the economic boost of the country by increasing revenue, employment opportunities and urbanization, it highly

also contributed to the environmental damage which may take us decades and decades to recover from.

Public Interest Litigation also created an important legal tool through which the affected communities and organizations would advocate for environmental justice and accountability. Although under Article 39⁶ which states that every person is entitled to a clean and healthy environment. Article 50(1) and (2)⁷ continues to add that a person who claims that their right has been infringed may apply to court for redress and also an organization may bring an action against the violation of another person's or groups human rights. A case in point is *ACODE vs. Attorney General*⁸. ACODE is an independent policy research and advocacy which covers a wide range of issues including environmental governance, peace and conflict. In this case, ACODE together with the community of Butamira forest sued the Attorney General for Government's failure to manage the environment by leasing the Butamira Forest to Kakira Sugar Works for Firewood production. The Ugandan Courts upheld the Community's Protest against Butamira Forest Lease to Kakira Sugar Works, and recognized conservation efforts.

However the use of PIL has remained unexplored and underutilized for many different reasons like lack of awareness for the local communities.

This study therefore was justified to examine how PIL would effectively be used to promote environmental justice in the Albertine Region. Focusing on Buliisa, Hoima

⁶ Constitution of the Republic of Uganda

⁷ *ibid*

⁸ Miscellaneous Cause No.0100 of 2004

and Masindi, this research also provided a more localized evidence-based analysis of the challenges and opportunities in using PIL to defend environmental rights.

1.7 Scope of the Study

Whilst PIL is the best solution in which the local communities can fight for their environmental rights, it has remained poorly understood. Many of the people in these local communities remained unexposed to PIL. The study mainly focused on examining the role of Public Interest Litigation in promoting environmental Justice within the context of oil exploration activities in the Albertine Region in Western Uganda. The scope of the study was limited to interviewing five volunteers which two of them will be from Buliisa district and three from Buseruka together with the King of Bugungu. These interviews lasted for a week duration. Each volunteer got a short questionnaire about the challenges they had faced in terms of environmental degradation as a result of oil activities.

1.7.1 Geographical Scope

Geographically, the scope was limited to Hoima and Buliisa which are central to Uganda's oil production efforts and have been the focal point of several legal and environmental controversies. This geographical focus provided a localized understanding of the environmental harm that these local communities are facing and how PIL can be a tool to get environmental Justice.

1.7.2 Content Scope/Time

The scope spun from 2013 after the Albertine Region Sustainable Development Project was established to 2025 with the ongoing oil activities. This Project had the compensation scheme for the people who had to relocate to other places. The period from 2013 has had a lot of activities from construction of an oil base in Buliisa, to establishing the Tilenga Project in Murchison National Park to the ongoing construction of the EACOP project which will run from Uganda to Tanzania in Tanga running through districts like Hoima, Kikuube, Mubende, Rakai and Gomba. With all these activities has occurred significant environmental harm from all these activities.

1.8 Literature Review

Whereas a number of Authors have acknowledged the economic gains that are going to come as a result of oil deposits in the Albertine Region, only a few have attempted to assess the impact these activities will have on the environment.

An Article written by Joshua Imoikor on the Environmental Impact of oil and Gas exploration in Uganda says, Oil exploration in any part of the world has not always been pleasant to the environment, especially in places where there is much biodiversity. Environmental degradation, habitat loss, loss of arable land for agriculture, loss of aquatic resources, food chain disruptions, water and land pollution and permanent destabilization of ecosystems are the aftermath of oil exploration.⁹

⁹ Joshua Imoikor ,THE ENVIRONMENTAL IMPACT OF OIL AND GAS EXPLORATION IN UGANDA,FEB 22,2023 accessed on 28th April 2025

*Clark Cunningham's argues that Public Interest litigation allows citizens to challenge government actions and policies that are unjust or harmful, particularly when those affected are marginalized or lack resources to pursue legal remedies on their own.¹⁰He adds on to say that the important innovation is elimination of traditional standings requirements, allowing any member of the public to file a writ petition on behalf of a person or a class of persons who by reasons of poverty, helplessness or disability or socially or economically disadvantaged position is unable to approach court directly¹¹. The natives of Buliisa are people who mostly illiterate and lack sensitization on the law. PIL is the best way that they can collectively come together and fight for their rights so that Government finds ways on mitigating factors like increase in temperatures due to the ongoing oil activities by carrying out on afforestation. **Public Interest Litigation describes legal actions brought to protect or enforce rights enjoyed by members of the public or large parts of it. It has been used as a tool of great social change in India, Pakistan, Bangadalesh and the Philippines on such diverse issues as the environment ,health and land issues in the book of Phillip Karugaba titled PUBLIC INTEREST LITIGATION IN UGANDA PRACTICE AND PROCEDURE..¹². Uganda allows for the use of PIL under Article 50¹³ and Article 137¹⁴.A case in Point is **Greenwatch Vs*****

¹¹ BY clarrk Cunnigham1987 Public Interest litigation in Indian Supreme Court:A study in the light of American experience. accessed on 28th April 2025

¹² By Phillip Karugaba 11-13 September 2005 Public Interest Litigation in Uganda Shipwrecks and seamarks Accessed on 28th April 2025

¹³ Ibid no 7

¹⁴ Ibid no 7(13)

Attorney General, NFA & NEMA ¹⁵. The Plaintiff instituted a suit against the defendant's on grounds amongst others that the defendants had failed in their duty to uphold the citizen's rights to a clean and healthy environment and neglected their duties as public trustees hence putting the right to a clean and healthy environment for both the present and the future generations at risk. It is still an ongoing case however it shows how the duty Government has to protect our environmental rights.. The late *Justice Kakuru Kenneth established a Non-Governmental Organization to be a vehicle for advancing enforcement of the constitutional right of right to a clean and healthy environment.*¹⁶

Case studies in the Albertine Region starting with an Article called **Impacts of the oil boom on the lives of the people living in the Albertine Graben Region of Uganda** by Tom Ogwang says that if oil developments are managed poorly, Uganda will join the list of the resource curse countries, which erode the achievements made in the past and potentially plunge the country into armed conflict and instability. Uganda could suffer from the Nigerian disease. Another Particular concern was displacement and involuntary settlement (Kuteesa, NAPE, 2016). As is well documented many projects cause displacements and if not managed well, resettlement can have many negative consequences.¹⁷

¹⁵ Greenwatch vs AG, NFA & NEMA

¹⁶

<https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://kakuruadvocates.co.ug/justice-kenneth-kakuru-1958-2023&ved=2ahUKEwiUnsa32P-MAxVGRKQEHSDlBnEQFnoECBcQAQ&usg=AOvVaw2-LJGgMU5QFnFalVLDlr> accessed on 28th April 2025

¹⁷

<https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://www.sciencedirect.com/science/article/abs/pii/S2214790X17301624&ved=2ahUKEwi-35uC2v-MAxWzTKQEHYXGKTEQ-NANegQIGRAM&usg=AOvVaw0CXw4FaVg-j6n8D1XxZ-gQ> accessed on 28th April 2025

It is clear from the above authors that a number of authors have researched on both global and national concerns on environmental justice and how PIL can be a very good tool to protect these rights.

1.9 Methodology

The study employed mixed research method involving both qualitative and quantitative approaches to explore the role of PIL in promoting environmental justice by relying on statutes, case law, relevant international cases. The findings of this research were facilitated by intensive readings and literature reviews of Articles, journals, case law both national and international publications, interviews with the King of Bugungu in Buliisa District and 5 volunteers from Buliisa and Buseruka. The readings were very helpful in terms of collecting data on how oil exploration has evolved together with its developments in the Albertine Region. The recommendations by different scholars on how to mitigate negative impacts that may come out of the oil activities after years were very helpful. The interviews brought out the localized evidence on how the natives have greatly been affected by the oil activities.

1.10 Chapter Synopsis

This research consists of four chapters. Chapter one is basically an introductory chapter to the research with a brief background of the Research, the objectives of the study, the significance of the study of the study as to why it is important, the scope of the study, a detailed literature review on the topic of the research clearly showing how literature informs this particular study.

CHAPTER TWO

PUBLIC INTEREST LITIGATION AND ENVIRONMENTAL JUSTICE IN UGANDA

NON LEGAL ASPECTS OF PUBLIC INTEREST LITIGATION IN UGANDA AND ENVIRONMENTAL JUSTICE

2.0 Introduction

2.0.1 Evolution of Public Interest Litigation in Uganda

The Evolution of PIL cannot be really traced from a specific year or a day it emerged in Uganda. It came about by a number of factors which are social, political, legal and environmental. It came for mainly the vulnerable people of the society to realize their rights. Mainly the legal system favors the “well to do off” kind of people, leaving out people whose rights are being affected massively but because they cannot afford the system, they end up sitting on their rights. The earliest observation of PIL in Uganda was the growing awareness and activism of various civil society organizations and community groups advocating for issues like human rights, environmental protection and social justice. There came up public campaigns, protests, and the raising of public consciousness about system injustices laid foundation for the cases that came later. Before PIL, there are events that helped shape public consciousness and influenced the development of PIL, through societal demand for justice, equity, and accountability. We could start with one of the earliest rebellions (protests) called the *Nyangire Rebellion in 1907* staged by the Banyoro refusing the British colonial administration and their appointed Buganda chiefs. This was led by the Famous King

of Bunyoro Kitara Kingdom who was called Omukama Kabalega. Now this rebellion brought up an aspect of people coming up together and fighting for their rights as a society.

The people of Bunyoro refused colonial administration through a non-violent protest and refused to cooperate with the Buganda administration. Another event that helped bring out the need for PIL was the land grabs in Kiryadongo in the 1970's where Idi Amin's Government declared about 3,800 hectares in Kiryadongo as government land. It was seized from the local communities. While there is limited information on organized resistance during this period, the displacement and dispossession of local communities sparked discontent and unrest.¹⁸ The 1980 Resistance to deforestation occurred in Uganda's Mabira Forest. This was against the plans of the government to convert the forest into a sugarcane plantation which brought out groups including the environmentalists and religious leaders to go into peaceful demonstrations which were later met with domestic violence. The resistance was driven by concerns about the potential impact of deforestation on the environment, including soil erosion and climate change¹⁹. This was according to the **WORLD RAINFOREST MOVEMENT**²⁰. All these events led to the evolution of Public Interest Litigation through people coming up and fighting for their rights. There were also movements more so on Human Rights Movements like the Foundation for Human Rights Initiative (FRHI²¹) that was established in 1991 to enhance knowledge, respect and observance of human rights.

¹⁸ <https://grain.org> accessed on 1st May 2025

¹⁹ <https://www.greengrants.org> accessed on 1st May 2025

²⁰ <https://www.wrm.org.uy> accessed on 1st May 2025

²¹ <https://fhri.or.ug> accessed on 1st May 2025

Public Interest Litigation came up through a number of events that occurred in Uganda even before independence and some of those events can be read above.

2.0.2 History of Environmental Justice in Uganda

Basically, the history of environmental justice in Uganda is deeply rooted in traditional practices, community resistance and cultural values. These aspects shaped awareness among the community. Here is a breakdown of some of these aspects.

- i. Traditions and customs. A lot of communities especially among the Bantu had customs that protected forests, rivers and lakes. Some of them were like inform of taboos like girls were never allowed to climb trees in the names that the tree would rot and would never yield again. This was among the Banyoro and it helped preserve the dignity of a girl but as well protect her life. In a way or another, the environment was protected. Sacred grooves and trees were preserved by clans for spiritual and cultural purposes. There are trees that were considered to be spiritually possessed and would never be cut for it was a rare spirit, however in a way or another, the elders were also preserving the trees for future generation.
- ii. Environmental National Governmental Organizations like National Association of Professional Environmentalists (NAPE), ACODE and Greenwatch also led public campaigns and education on deforestation, pollution and climate change. NAPE²² was mainly focused on sustainable solutions to environmental and economic challenges along with monitoring government actions and

²² <https://nape.or.ug> accessed on 1st May 2025

advocate for sustainable practices. Greenwatch being one of the biggest NGOs has from time immemorial fought for environmental with the founder being the Late Justice Kenneth Kakuru. To the present, it has played a significant role in fighting for environmental rights with being successful in most of its cases against the government in its failure to protect and preserve the environment.

2.1 Analytical framework of Public interest litigation

Many scholars have defined PIL in very many different terms, though there is a famous definition according to BHAGWATI J in BANDHUA MUKTI MORCHA-V-UNION OF INDIA AIR 1984 S.C;

“Public Interest Litigation is not in the nature of adversary litigation but it is a challenge and an opportunity to the Government and its officers to make basis human rights meaningful to the deprived and vulnerable sections of the community and to assure them social and economic justice, which is the signature tune of the constitution”²³.

There are key concepts under Public Interest Litigation that are very crucial when one is looking at PIL.

There is locus standi (Right to sue)

Traditional legal systems require direct personal injury to bring a case. However PIL relaxes this rule, allowing any concerned individual or organization to file a case on

²³PHILLIP KARUGABA 11-3 SEPTEMBER 2005 PUBLIC INTEREST LITIGATION IN UGANDA PRACTICE & PROCEDURE SHIPWRECKS AND SEAMARKS THE ENVIRONMENTAL ACTION NETWORK (TEAN) <https://greenwatch.or.ug> accessed on 1st May 2025

behalf of marginalized or affected communities. For example an organization like GREENWATCH that fights for environmental rights.

Access to justice for the Marginalized or affected communities. Its main purpose is to amplify the voices of affected communities, vulnerable and disadvantaged groups who may not have the resources or knowledge to access the courts. The groups that are under here are poor communities, indigenous people, women, children and even prisoners.

Public Good over Private interests. The primary focus of PIL is the welfare of the public not individual gain. Cases are brought to address broader social or environmental issues that affect communities as a whole.

Preventive Measures. PIL is not only about addressing existing violations but also preventing future harm.

2.2 Environmental Impacts of Oil Exploration in Uganda

There is basically nothing on this entire planet that would include adding new substances to the ground that wouldn't affect the environment in a negative way. It always doesn't matter the gravity of the activity, effects may be felt in the present or in the future. So many countries have like Uganda come up with what we call Environment Impact Assessment that is meant to study the effects of an activity before it even begins, and if it has effects, mitigation measures are done to reduce on the negative effects of the activity. Oil exploration activities which may include drilling, extractions, burning of fossil fuels have several negative impacts on the

environment, and in this instance Uganda may have to suffer the consequences in the near future because at the point where we have reached, there is no turning back.

Oil Exploration is being carried out in the Albertine Graben on Lake Albert in Buliisa and there is construction of the pipeline which will be reaching up to Tanga in Tanzania. There are different oil activities that are divided into three segments that is the upstream, midstream, and upstream. All these segments affect the environment differently.

The upstream segment is currently the only stage that is happening in Uganda. Activities like drilling, extraction, construction of camps and storage facilities, and land acquisition. Each of these activities like extraction has burning of fossil fuels included there and this affects the ozone layer because dangerous gases like methane and carbon dioxide are realized in the atmosphere. This gradually increases the temperatures of Buliisa and Hoima have increased over time. From increase in temperature, climate change occurs.

Still in the upstream segment, we have construction of camps for workers. This has come with displacement of people and wild animals since Lake Albert is also partly in Murchison Falls National Park. People have been displaced and only compensated with money with the task of finding new homes, something which is so terrible for people who have had all their life in the Buliisa.

Displacement of wild animals has also been a very big environmental impact of the oil activities. Ever since then, Wild Animals have strayed into people's homes and killed

people, destroyed crops and homesteads. According to the Buliisa district leaders, Wild animals started straying into communities in 2021 something some people attribute to the oil exploration activities.²⁴This alters the ecosystem because animals are forced to move from their original habitats to other places and that's they keep attacking people.

Another disastrous effect that has come with oil activities is pollution. Pollution may be broad starting with water pollution, air pollution and even noise pollution. In a lay's man's language, pollution may be defined as the release of harmful substances in the atmosphere or even water bodies. These substances may be in form of liquid, solid or gaseous state. Each of these substances always affects the environment in a negative way. Laws have been put in place like the polluter pays principle however; there are effects that cannot be reversed. Oil leaks easily contaminate the water and lead to the loss of aquatic life because water bodies are homes for aquatic animals like fish. Loss of aquatic life means that the food chain is altered with leaving human beings with no food at all.

2.3 PIL in Environmental Governance in Uganda

PIL, a mechanism where legal actions are taken to protect or enforce rights enjoyed by the public, often on behalf of those whose rights have been violated.

Organizations, groups of people or individuals' can take on PIL and challenge actions that may harm the environment and raise public awareness.

²⁴ By Alan Mwesigwa April 9,2024 Buliisa Leaders threaten demo over animal attacks accessed on 1st May 2025.

Under environmental governance, there are very crucial aspects that are key to be noted under this topic:

Who may file under PIL?

Any public spirited individual, group or civil society organization can file a suit²⁵ under Public Interest Litigation in Uganda.

The effectiveness of PIL is mostly seen in matters where people's rights have been violated especially in matters of health, environment and labour. The laws of Uganda specifically provide for the procedure how to go with PIL. The main Purpose is to enforce the rights of those who cannot stand for themselves so that their rights are realized. Through PIL, issues like deforestation, pollution, wetland encroachment and improper waste management are brought to public attention, often leading to policy changes and better enforcement of environmental standards.

2.4 Conclusion

PIL is a powerful tool in promoting environmental justice, however its effectiveness is greatly enhanced by non-legal aspects such as community mobilization, indigenous knowledge systems and civil society actions. These help to create awareness build public pressure and empower communities to demand accountability for environmental harm. By amplifying voices and bridging the gap between local

²⁵ Emmanuel Kasimbazi Chapter 23: public interest litigation as a mechanism for enforcing Environmental Rights and Duties in Uganda accessed on 1st May 2025

communities and formal legal strategies, these non-legal strategies lay the groundwork for impactful PIL actions.

CHAPTER THREE

LEGAL REGIME GOVERNING PIL AND ENVIRONMENTAL JUSTICE

THE INTERNATIONAL PERSPECTIVE GOVERNING PIL

3.0 Introduction

The concept of PIL can be traced to the early social action lawsuits in the United States and India, where Courts began accepting cases based on broader public interest rather than direct harm to the plaintiff. India is often cited as the birth place of PIL, with the Supreme Court expanding its jurisdiction to hear cases brought by individuals on behalf of the public, particularly for aggrieved communities. **Prafullachandra Natwarlal Bhagwati** who was the chief Justice of India from July 1985 to December 1986 introduced the concept of Public Interest Litigation and absolute liability in India, and for this reason along with **Justice V.R Krishna Lyer** are known to be the pioneers of judicial activism²⁶. PIL is not solely about court victories; it also encompasses activities like community organizing, public education, research, and media advocacy to raise awareness and promote social change. This concept has transcended national boundaries, gaining recognition and application in various legal systems across the world.

This chapter goes on to discuss the international perspective on PIL while recognizing earlier laws that were made to enhance the PIL in the evolving world.

²⁶ https://en.m.wikipedia.org/wiki/P._N._Bhagwati accessed on 1st May 2025

3.1 International PIL

Globally, the concept of PIL is supported by various international legal frameworks and principles, including:

The Universal Declaration of Human Rights UDHR (1948). Everyone has the right to effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the consultation or by law²⁷. Article 8 guarantees individuals the right to seek justice and obtain remedies when their fundamental rights are violated. This right is crucial for upholding human dignity and maintaining accountability within legal systems.

3.1.1 International Covenant on civil and Political Rights (ICCPR) 1966

Each state Party to the present covenant undertakes to ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity.²⁸.

Article 2(3) of the ICCPR is a cornerstone of the International human rights law. It obligates state parties to provide effective remedies for violations of rights recognized in the covenant, such as the right to life, freedom of expression, fair trial and protection against torture. This provision strengthens legal accountability by

²⁷ Article 8 UDHR

²⁸ Article 2(3) ICCPR

requiring governments to ensure that people can access justice when their rights are infringed.

3.1.2 European Convention on Human Rights (ECHR)

Everyone whose rights and freedoms as set forth in this convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.²⁹

This Article guarantees that individuals whose rights under the convention are violated have access to an effective remedy before national authorities. This is crucial for upholding justice and ensuring state accountability. It applies even if the violation is committed by Government officials or state agents.

3.1.3 Convention on Access to Information, Public Participation in Decision-Making to Justice in Environmental Matters (Aarhus Convention) (1998)

It is a multilateral environmental agreement adopted in 1998 that ensures public access to environmental information, public participation in environmental decision - making, and access to justice in environmental matters. The convention's core aim is to promote transparency and accountability in environmental governance, empowering citizens and NGOs to participate in decisions affecting their environment. There are three pillars under the convention.

- Access to Environmental Information.

²⁹ Article 13 ECHR

The convention guarantees the right of the public to access environmental information held by public authorities. This includes access to reports on the state of the environment, pollution inventories, and other relevant data.³⁰

- Public Participation in Decision Making

This convention mandates that the public be involved in the decision-making processes related to environmental matters. This includes opportunities for the public to provide comments, information, and opinions on proposed activities.³¹

- Access to Justice

The convention ensures that the public has access to fair and impartial judicial or administrative procedures when their rights to environmental information or participation are violated.

3.2 International Perspective Governing Environmental Justice

Environmental Justice emerged as a global concept to address the unfair global inequities particularly affecting the vulnerable and affected communities and also the poorer countries that often suffered environmental degradation despite contributing less to global pollution and climate change. The concept of Environmental Justice gained prominence during the 1980s in the United States, driven by grass roots movements against toxic waste sites disproportionately located in minority and low

³⁰ <https://eur-lex.europa.eu> accessed on 1st May 2025

³¹ Ch_xxvii _13 Vol-2 Chapter xxvii.Environment 13.Convention on Access to information. Public Participation in Decision-Making and Access to justice in Environmental Matters.Aarhus,Denmark,25 June 1998 accessed on 1st May 2025

income communities. Internationally, it began to surface through dialogues around sustainable development and the rights of indigenous populations, especially after the 1992 Earth Summit (Rio de Janeiro) which introduced the principles of sustainable development and highlighted the need for inclusive decision making.

There are different international laws, treaties and conventions that are governing environmental Justice.

3.2.1 Rio Declaration on Environment and Development 1992

Principle 10 recognizes that environmental issues are best handled with the participation of all concerned citizens .This includes appropriate access to information and the opportunity to participate in decision making.

3.2.2 Kyoto Protocol and the Paris agreement

These mainly address climate change, promoting emissions reductions and adaptation measures, which indirectly address environmental justice as climate change impacts disproportionately, affect vulnerable communities. Paris' agreement's goals solely are to mitigate the emissions.³²

³² Dr.hab.Maciej Nyka,prof.UG Trade-related environmental measures in the global climate protection regime accessed on 1st May 2025

3.2.3 The United Nations Framework Convention on Climate Change (UNFCCC)

It is an International treaty that recognizes the dangers of human-induced climate change, and that greenhouse gas emissions from human activities must be reduced to a level that prevents catastrophic impacts.

3.2.4 Cartagena Protocol on Biosafety

This was ratified by Switzerland on 26 March 2002. The Cartagena Protocol is an instrument of international law that addresses environmental and health aspects related to the use of living modified organisms.

3.2.5 The convention on Biological Diversity (CBD)

CBD focuses on the protection and sustainable use of biodiversity, and on how to manage and share genetic information. Under the CBD, biodiversity protection is always carried out at the national level, where local organizations and movements take on the role of ensuring that countries follow the rules to which they agreed.³³

3.3 Regional Perspective Governing PIL

PIL in a regional context often involves leveraging regional treaties, constitutions, and courts to address issues that transcend national borders or involve multiple states within a region. The East African Court of Justice, for example provides a forum for PIL cases to address disputes related to the East African Community and its members,

³³ <https://quno.org> accessed on 1st May 2025

furthermore, PIL has grown, the extent to which it has affected socioeconomic and political conditions in the region.³⁴

3.4 Domestic Perspective on PIL and Environmental Justice in Uganda

PIL and Environmental Justice in Uganda have been growing mechanisms that have evolved with time. The current and exact date when PIL came into place cannot be traced, however, we can put both these mechanisms to the different cases that have already been decided which proceeded with PIL as they were fighting for environmental justice and rights.

Different Authors have written about these mechanisms like the Late Justice Kenneth Kakuru who wrote a book called Greenwatch which has talks about PIL and even the decided cases like **Greenwatch VS NEMA, NFA** which were decided in favor of the Greenwatch which came to fight for environmental rights and the people.

These are the domestic laws that have been put in place to see that PIL evolves and promotes environmental justice.

3.4.1 The Constitution of the Republic of Uganda as Amended

Article 39 provides that every person is entitled to a clean and healthy environment. This thus means a person is entitled to live in a place with no pollution, no unlawful displacement of people and environmental degradation.

³⁴ J.Oloka-Onyango, 2015 Human Rights and Public Interest Litigation in East Africa: A Bird's Eye View

Article 50 provides that any person, who claims that a fundamental or other rights or freedoms guaranteed under the constitution has been infringed or threatened, is entitled to apply to a competent court for redress which may include compensation.

It goes on to say that any person or organization may bring an action against the violation of another person's or group's human rights. This one clearly provides for PIL and clearly states that they make bring an action to the courts of law.

3.4.2 National objectives and directive principles of state policy

To begin with, the case of **Amooti Nyakana Vs. NEMA and others**³⁵, It was held that Under Article 8A, Uganda shall be governed on the principles of national Interest and common good enshrined in the national objectives and directive principles of state policy

Under **Objective xxvii**, it provides that the utilization of the natural resources of Uganda shall be managed in such a way as to meet the development and environmental needs of the present and future generations of the Ugandans; and in particular, the state shall minimize damage and destruction to land, air and water resources resulting from pollution or other causes.

³⁵ Constitutional Appeal No.05 of 2011

3.4.3 The National Environmental Act Cap 181

This act is to provide for sustainable management of the environment; to establish an authority as a coordinating, monitoring and supervisory body for that purpose, and for other matters incidental to or connected with the foregoing.

Under Section 3, the act goes on to provide that every person has a right to a healthy environment and that every person has a duty to maintain and enhance the environment, including the duty to inform the **Authority or the local environment committee of all activities and phenomena that may affect the environment significantly**. This section brings in the aspect of PIL and how people can promote environmental justice.

Section 110 states that Environmental and Social Impact assessment shall be conducted before carrying out any activity that is likely to affect the environment like petroleum activities and construction of roads under schedule 5 . The purpose of the ESIA is to evaluate environmental and social impacts, risks or other concerns of a given project or activity, taking into account the environmental principles set out in section 5(2)

3.4.4 Petroleum (Exploration, Development and Production) Act Cap 161 together with the Petroleum (Exploration, Development and Production)(Health, safety and Environment) Regulations 2016.

The purpose of these regulations is to ensure the safe and sustainable management of the petroleum activities, protecting workers, the environment, and the public from potential hazards. This in a way or another promotes environmental rights thus promoting environmental justice. This is because protecting workers and the environment maintains that balance of the environment together with the people.

3.4.5 Uganda Wildlife Act

The Act was put in place to provide for the conservation and sustainable management of wildlife and also to strengthen wildlife conservation. This promotes environmental justice even though it has failed in Buliisa because animals have been displaced from their original habitats to new areas because of the oil activities.

3.4.6 National Climate Change Act

This Act addresses climate change and its impact, ensuring Uganda's compliance with International agreements.

3.5 Case study from Nigeria a lesson for Uganda

Nigeria's case study

Nigeria is considered to be one of the countries with the best oil laws in Africa. With the most organized law systems concerning the oil sector, Nigeria has enjoyed a lot of economic growth from the oil sector, however, with all this, an oil spill occurred and left families drinking, and breathing the oil.

On 10th October 2004, Eric Dooh received an urgent call from one of his father's employees; the waterway surrounding their houses was running black with oil. Near the outskirts of Dooh's village of Goi, a pipeline built by the Royal Dutch Shell in the 1960s carried oil from inland Nigeria to an offshore terminal where it would be barreled and exported around the world. Dooh suspected the pipeline had sprung a leak. He attempted to alert the pipeline operator, but both shell and its Nigerian subsidiary had largely abandoned oil operations in Goi a decade earlier in response to local uprisings. On that day, Shell's community relations officer was unavailable, Dooh recalled. He reported the leak to a nearby police station instead.

This event affected families negatively because they were even displaced from their homes and had to find new families. Water bodies got contaminated and become unsafe for human consumption.³⁶

³⁶ Jess Craig in Port Harcourt Wednesday 1st June 2022 The village that stood up to big oil and won. The guardian accessed on 1st May 2025

They have lived with these effects up to the present situation and they are currently facing corruption, embezzlement of funds from the oil sector in Nigeria.

This case study is important because as Uganda with our tremendous corruption and embezzlement, we are going to face a lot of challenges with our corrupt leaders, some projects may not even be done properly like using proper equipments for the construction of the pipeline leaving it with it leakages which may result into the same incident that happened in Nigeria.

We have to learn a lesson from Nigeria so that we can easily avoid what happened there because the people of Buliisa may suffer greatly and may never recover from that incident.

3.6 Conclusion

This chapter basically evaluates the different laws that govern both PIL and Environmental Justice in Uganda (A case study of oil activities in Hoima and Buliisa) The chapter shows how these laws promote the different mechanisms. They also show how these laws can be enforced through these different mechanisms.

CHAPTER FOUR

GENERAL CONCLUSIONS

4.0 Introduction

The main objective of this research was to evaluate the role of Public interest litigation on promoting Environmental Justice in Uganda in the Albertine Region in Western Uganda Particularly Buliisa and Hoima. In this chapter of the research, the instant chapter makes general observations while summarizing the findings of the research, points out the challenges faced in the collection of the data of the research, and climaxes with recommendations from the research and a general conclusion.

4.1 General Observations and Summary of Findings

The observations made under this research are based on the analysis of the Intensive Literature reviewed and the data collected from the field through interviews.

This research highlights several points,

Significance of PIL in Environmental justice

PIL serves as a powerful legal tool that enables communities and civil society organizations to seek justice against environmental degradation caused by oil activities exploration and extraction .It promotes accountability, even when government enforcement is weak and comprised.

Access to Justice remains a challenge

Many affected communities particularly in developing countries like Uganda face barriers such as high litigation costs, limited legal awareness and political influence which can hinder their ability to pursue PIL EFFECTIVELY.

Summary Findings

PIL Enhances accountability

Successful PIL cases have forced oil companies to pay damages, clean up spills and implement better environmental practices, demonstrating its capacity for real world impact like for example in Nigeria

4.2 Challenges of the Research

This research was faced with a couple challenges especially in respect to data collection.

- I. Firstly , PIL even though it has even been recognized in the Constitution under Article 50 of the Constitution is still a growing theory in Uganda, with the high illiteracy levels in Rural areas ,there is a lot of unawareness from the people in the villages. The people especially in Buliisa have a lot of illiteracy levels with some not even knowing how to even reply a simple greeting in English. It was challenge getting information from them although they are the people who have been mostly affected.

- II. Secondly, the scarce publication of the some of the ongoing cases on matters of land disputes with the government and the people of the Albertine Region. There are a lot of matters that have been in Hoima High Court with a lot of land disputes which are not being published because, first of all, it's a political thing, such matters cannot be published because the government has a lot of interest in the matter.
- III. Thirdly, there is a perception that the economic gains are at the fore front of both social and environmental issues of the people. The Oil activities have more negative outcomes than the good ones although the Government decided that it will ignore all the future impacts that may come out of the oil activities. The challenge here has been that some people see the presence of oil and gas activities as blessings and do not care about the environmental impacts that come out the activities.

4.3 Recommendations

- a) The government should strengthen access to justice by simplifying procedural requirements to make it easier for affected communities to file PIL.
- b) Establishment of legal clinics in vulnerable communities like in Buliisa to educate communities about their environmental rights.
- c) Advocate for Courts to interpret the right of life and dignity under the constitution to include the right to a clean and healthy environment unfair Article 39³⁷

³⁷ Constitution of the Republic of Uganda as amended

- d) Empower Public Participation and advocate for more inclusive decision-making processes in Environmental Impact Assessments.

4.4 Conclusion

In conclusion, PIL is a critical mechanism for advancing environmental justice in the context of oil activities. By providing affected communities with a platform to demand accountability, and transparency, PIL empowers vulnerable voices and ensures that powerful oil corporations and government adhere to environmental laws and human rights obligations. For PIL to be effective there must be strengthened legal frameworks, community empowerment, and International Corporation to address cross-border pollution and global environmental standards.

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