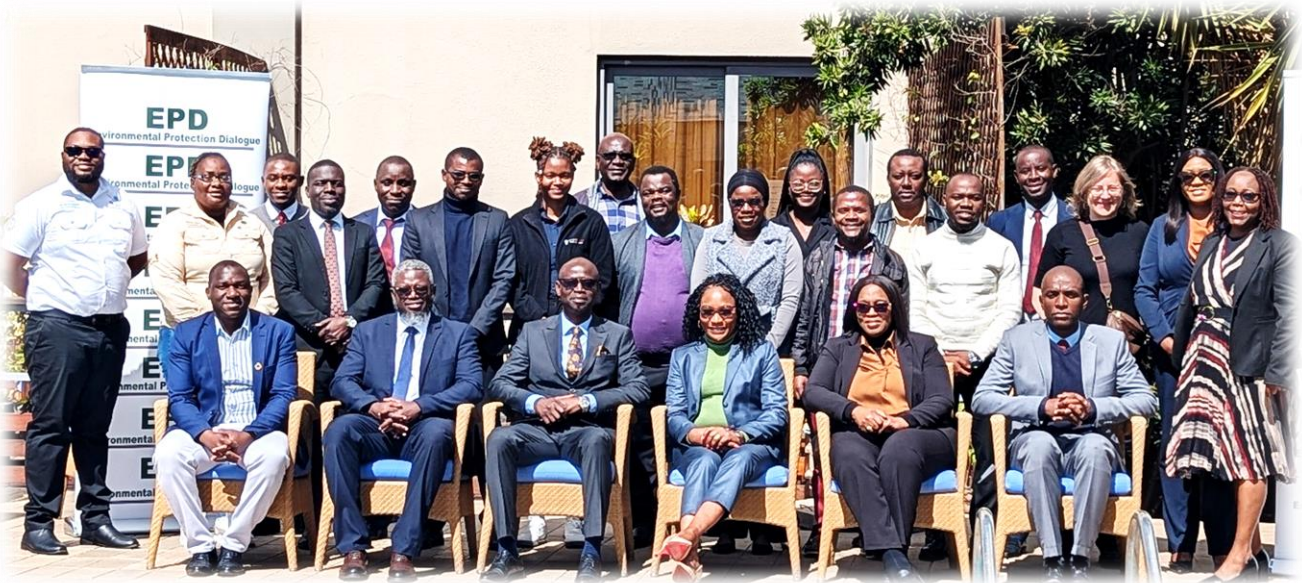




CENTER FOR ENVIRONMENTAL JUSTICE



HIGH-LEVEL DIALOGUE ON THE ESTABLISHMENT OF AN ENVIRONMENT TRIBUNAL/ SPECIALISED ENVIRONMENTAL COURT IN ZAMBIA

Held At Radisson Blu Hotel Lusaka

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FOREWORD

Environmental justice is fundamental to sustainable development and the protection of communities whose livelihoods depend on a healthy environment. In Zambia, the increasing need for robust legal mechanisms to address environmental disputes has highlighted the importance of establishing a specialised Environmental Tribunal or Court.

This report presents the outcomes of a high-level multi-stakeholder dialogue convened by the Centre for Environment Justice (CEJ), with the support of the European Union (EU). The dialogue brought together representatives from government institutions, the judiciary, civil society organizations, academia, and community leaders to assess the feasibility of a specialized environmental court. Through presentations, group discussions, and consensus building, participants examined policy gaps, institutional challenges, and practical steps toward strengthening environmental governance in Zambia.

The recommendations and roadmap outlined in this report provide a clear framework for collective action. They emphasise the critical roles of collaboration, legal capacity building, public awareness, and institutional reform in creating an effective environmental adjudication system.

It is my hope that the deliberations captured here will serve not only as a foundation for advocacy and policy engagement but also as a call to action for all stakeholders to work together in ensuring justice for both the environment and the people of Zambia.



MAGGIE MAPALO MWAPE (MS)
EXECUTIVE DIRECTOR
CENTRE FOR ENVIRONMENT JUSTICE (CEJ)

Executive Summary

The Centre for Environmental Justice (CEJ) convened a high-level stakeholder dialogue in Lusaka, Zambia, to evaluate the feasibility of establishing an environmental tribunal or specialised environmental court within the country. This dialogue was facilitated through the support of the European Union (EU). The primary objectives of the discussion were as follows:

- To raise awareness among stakeholders about the legal, social and environmental benefits of establishing a specialised Environmental Tribunal or Court in Zambia.
- To engage key actors-government, judiciary, legal institutions, civil society, and community leaders-in identifying existing gaps in environmental disputes resolution.
- To develop and align effective advocacy and lobbying strategies for influencing relevant policy and legislative reforms.
- To formulate practical and time-bound action points for continued multi-stakeholder engagement and public mobilisation.

The dialogue was attended by over 40 participants from various civil society organisations (CSOs), government ministries, and agencies. The theme of the event was **"Advocacy and Lobbying for the Establishment of an Environmental Tribunal/Specialised Environmental Court."** The discussions covered various pressing environmental issues through presentations and panel discussions. Highlights included a presentation on the legal gaps and opportunities in environmental adjudication, a reflection from the judiciary on the feasibility and institutional implications, and a discussion on whether Zambia is prepared for a specialised environmental court.

Key outcomes of the dialogue underscored the need for stakeholders to adopt clear strategies for their participation, whether through advocacy, fundraising, or contributing to policy and legal reforms. Participants further recognised the urgent necessity to strengthen environmental law expertise within the legal profession. This requires a multi-sectoral approach, including training more lawyers in environmental law, enhancing the capacity of existing legal practitioners and judges, and fostering mass advocacy on environmental rights. Such efforts are crucial for enhancing environmental governance, broadening public understanding, and fostering a shared sense of responsibility and patriotism towards environmental protection in Zambia.

I INTRODUCTION

I.1 Background of the Multi-Stakeholder Dialogue

The Centre for Environmental Justice (CEJ) convened a one-day multi-stakeholder dialogue meeting aimed at establishing an Environmental Tribunal or Specialised Environmental Court in Zambia. This initiative emerged as one of the resolutions from the Environmental Protection Dialogue 2024 (EPD 2024). The discussion, centred on the question, “Is Zambia Ready for a Specialised Environmental Court or Tribunal?” catalysed a national discourse, fostering significant interest and commitment from various Civil Society Organisations (CSOs) and key stakeholders.

Zambia is increasingly confronted with complex environmental challenges, including land degradation, water pollution, biodiversity loss, deforestation, and the adverse effects of climate change. These challenges predominantly impact rural and mining communities, which often lack access to effective legal recourse. Despite the existence of environmental laws and regulatory bodies such as the Zambia Environmental Management Agency (ZEMA), enforcement remains deficient. Consequently, environmental cases tend to be either deprioritised or inadequately addressed within the conventional court system. In efforts to address these institutional and legal gaps, there is growing concern about the need to establish a Specialised Environmental Court or Tribunal in Zambia. Such a court thus seeks to enhance legal accountability for environmental harm, provide timely and expert adjudication, and ensure that the rights of communities and ecosystems are upheld in accordance with Zambia’s constitutional, legal and sustainable development obligations.

The multi-stakeholder dialogues were designed to convene essential actors, including government institutions, the judiciary, civil society, legal experts, academic representatives, development partners, and impacted communities. This one-day engagement sought to cultivate momentum for the establishment of an environmental tribunal by promoting dialogue, advancing advocacy efforts, and outlining a strategic roadmap for legal and policy engagement.

I.2 Objectives of the Multi-stakeholder Dialogue

The objectives of the multi-stakeholder dialogue were:

1. To raise awareness among stakeholders about the legal, social and environmental benefits of establishing a specialised Environmental Tribunal or Court in Zambia.
2. To engage key actors-government, judiciary, legal institutions, civil society, and community leaders-in identifying existing gaps in environmental disputes resolution.

3. To develop and align effective advocacy and lobbying strategies for influencing relevant policy and legislative reforms
4. To formulate practical and time-bound action points for continued multi-stakeholder engagement and public mobilisation.

2 PROCEEDINGS OF THE MULTI-STAKEHOLDER DIALOGUE

2.1 Welcoming Remarks and Speeches from CEJ and Delegates

2.1.1 Remarks by Ms. Maggie M. Mwape – CEJ Executive Director

Mr. Freeman Mubanga delivered the opening remarks on behalf of the Executive Director, Ms. Maggie M. Mwape. He expressed gratitude to the Guest of Honour, Hon. Emmanuel Tembo, for his dedication to environmental engagement and green advocacy through his work. Mr. Mubanga emphasised that the Centre for Environmental Justice remains committed to addressing environmental issues, with the vision of achieving Environmental Justice in Zambia and establishing an environmental court in the future. He acknowledged and appreciated all partners, highlighting that it is through such collaborations that environmental protection can be effectively enhanced.



Figure 1: Mr Freeman Mubanga - Head of Research & Studies Delivering Remarks on Behalf of CEJ Executive Director

2.1.2 Remarks By CEJ Board Chair

Mr. Freeman Mubanga also delivered remarks on behalf of the board chair of the Centre for Environmental Justice-CEJ. Speaking on behalf of the Board Chair behalf, Mr. Mubanga thanked government for the open

doors policy towards CSO's and also thanked all stakeholders for their participation in this stakeholder Dialogue meeting on the feasibility of the creation of an environmental court, and he looked forward to the fruits of the dialogue with hope that one day such engagement will realize an Environmental Court in Zambia.

2.1.3 Remarks by Professor Chisala Mulenga

Professor Chishala Mulenga, a consultant at Pasher Advisory, began by acknowledging the presence of the guest of honour, Hon. Emmanuel Tembo, Member of Parliament for the Feira constituency, as well as Her Lady Justice Ms. Ruth Chibbabbuka and all other stakeholders. Prof. Mulenga pointed out that while there are many reasons for this gathering, the common theme uniting all stakeholders is the environment. He emphasised the importance of valuing and preserving our natural surroundings, as they provide for everyone.

He posed a critical question: What are we, as stakeholders, doing today to address environmental issues? While there are indeed legal gaps that need attention, the more pressing question is how these gaps can be resolved. Prof. Mulenga suggested that through dialogues like this, participants can identify the roles of each stakeholder and collaboratively find solutions to achieve the establishment of an environmental court.



Figure 2: Prof Chisha Mulenga Delivering His Opening Remarks

Professor Mulenga was glad that various key stakeholders were present, such as LAZ and the Judiciary; “to help dwell in legal entities needed in addressing issues, and these are basically issues this dialogue aims to focus on”. Prof Mulenga further reaffirmed that the need for an environmental court is something which

cannot be overlooked, as such a court will be a specialised court dealing with environmental issues effectively and efficiently.

Lastly, Professor Mulenga was glad to be part of the deliberations on such an important matter, and it was his sincere hope that Zambia could learn lessons from other countries that have done it, and the focus should be on research that has already been done and how it can be to actualise the establishment of this court.

2.1.4 Remarks by the Guest of Honour, Hon. Emmanuel Tembo, MP-Itezhi-Itezhi

The Guest of Honour, Hon. Emmanuel Tembo, Member of Parliament for Feira, commenced the dialogue by asserting his genuine commitment to engaging all stakeholders in the pertinent National Dialogue on the Establishment of a Specialised Environmental Court. He underscored that this dialogue signifies a pivotal advancement in reinforcing legal frameworks aimed at effectively addressing the environmental challenges confronting our nation.

Honourable Tembo acknowledged that environmental courts have emerged as a global phenomenon, primarily established in response to international discussions surrounding sustainable development and climate change. This trend stems from the growing awareness among the public and scientific communities regarding environmental concerns and has been amplified by increased advocacy and media coverage.

In Zambia, the judicial system has been grappling with the complexities of environmental cases, resulting in insufficient protection of environmental rights and delayed action in mitigating environmental degradation. This situation highlights the pressing need for a specialised environmental court.

The Guest of Honour assured all delegates that the members of the Zambian Parliamentary Caucus on Environmental and Climate Change (ZPCECC) are in favour of the establishment of a tribunal or environmental court in Zambia. The caucus posits that environmental issues—encompassing pollution, deforestation, and climate change—pose multifaceted and urgent threats to public health, the economy, and our natural heritage, thereby necessitating the creation of a dedicated environmental court. It is the belief of the caucus that such a court would serve as an essential mechanism for the efficient and equitable enforcement of environmental laws, providing specialised expertise and facilitating the swift resolution of environmental disputes.

In conclusion, on behalf of the ZPCECC, the Guest of Honour extended assurances to the Centre for Environmental Justice (CEJ) and its partners that the caucus stands ready to collaborate in promoting this critical agenda. Furthermore, the caucus offers itself as a platform for engagement with other parliamentarians to advocate for the enactment of laws and policies that will support the establishment and effective operation of such an environmental court. It is imperative to foster collaboration with the judiciary,

civil society, and all development partners to realise the vision of establishing an environmental court in Zambia.

3 CONTEXT SETTING: OVERVIEW OF ENVIRONMENTAL JUSTICE IN ZAMBIA

Mr. Freeman Mubanga, Head of Research at the Centre for Environmental Justice, provided a comprehensive overview of environmental justice in Zambia. His presentation aimed to offer participants insights into the initiatives undertaken by civil society organisations (CSOs) and various partners concerning the agenda of the Multi-Stakeholder Dialogue meeting. Mr. Mubanga indicated that the discussions in today's dialogue build upon the 2024 Environmental Protection Dialogue, during which the proposal for a specialised environmental court was highlighted at the national level as a significant topic of conversation.

In his remarks, Mr. Mubanga elucidated that the Environmental Protection Dialogue (EPD) was established in 2020 with the objective of convening diverse stakeholders from various backgrounds to create a forum for discussing critical environmental issues. This initiative was initially funded by Bread for the World and was attended by the then Permanent Secretary of the Ministry of Lands. Furthermore, Mr. Mubanga emphasised that the primary aim of the EPD was to provide a platform where individuals could voice their concerns regarding pressing environmental matters freely. Consequently, this event evolved into a national forum where the ideas and resolutions generated could be implemented effectively.

As of 2023, the Centre for Environmental Justice, in collaboration with its partners, launched a framework for the implementation of the resolutions from all previous EPDs. During the EPD held last year, the dialogue centred on the necessity of establishing an environmental court, attracting participation from various international and local CSOs, NGOs, and other stakeholders to share knowledge and develop actionable resolutions. It is in this context that we convene today to engage in similar discussions at a more consolidated level, involving higher stakeholders, experts, and specialists, to assess the feasibility of establishing an environmental court in Zambia.

4 PRESENTATIONS

4.1 Legal Gaps And Opportunities In Environmental Adjudication

A very cardinal presentation was given by Mr. Morgan Katati, the Executive Director of the Zambia Institute of Environmental Management, who also serves as Lecturer with the University of Lusaka in Environmental Law. Mr. Katati began by provoking the delegates' minds with a rhetorical question: What

constitutes adjudication in the space of the environment? He further added that Environmental Law is a sense of both public law and administrative law.

In this regard, there is a range of environmental disputes bearing on adjudication, natural resources, biodiversity, land use and pollution, among others. Other issues involved dangerous and controversial activities, dangerous chemicals, issues where strict liability applies and all require adjudication; as such this range of disputes shows the need for a specialised environmental court.



Figure 3: Mr. Morgan Katati during his presentation on the Legal gaps and opportunities in Environmental Adjudication

In his presentation, Mr. Katati further added that environmental problems may be resolved by generic or specialist courts, tribunals, departmental officials, ministers, ad hoc bodies, or through various forms of alternative dispute resolution. However, adjudicative decisions may be checked or supervised in a multitude of fora using different legal tests. Many environmental disputes have characteristics that create challenges for adjudication due to normative contestability.

Mr. Katati guided the house then that the legal gaps or challenges in reaching the decision to have a specialised environmental court included:

1. Adjudicators may be operating against a statutory background that is vague and open-ended when it comes to specific objectives.
2. statutory interpretation in environmental law can at times be more akin to 'legislative fact-finding' while adjudicators may be required to give legal meaning to complex ecological and socio-cultural

ontologies. Thus, creates difficulties for retaining a strict division between law and facts, or fact and values

3. Adjudicators may be required to oversee participatory and consultative processes that have the effect of creating structures for construing the law while simultaneously giving substantive content to the law

In light of the legal gaps and challenges presented by Mr. Katati. He proposed to the stakeholders of the meeting that various opportunities exist to which all committed to this agenda can participate and have an angle on and strategies towards achieving a specialised environmental court in Zambia. Some of the opportunities then included:

Table 1: Identified Legal Gaps and Opportunities from Mr Katati's Presentation

NO	LEGAL GAPS	OPPORTUNITIES
1	Environmental adjudication is conceptualised within the confines of established public law adjudication.	There is an opportunity to carve out special and specific measures for environmental law cases.
2	The Environmental Management Act provides for non-justiciable procedural rights	Environmental cases deserve a higher level of judicial scrutiny than is traditionally afforded in judicial review via dedicated courts
3	Access to review the substantive and procedural legality is currently a challenge	Administrative or judicial procedures to challenge acts and omissions by private persons and public authorities which contravene provisions Constitution/environmental law will be available
4	Modern environmental law is 'public law' and administrative in nature, where 'environmental aspects' may not be determinative	Presents the right to a review procedure to challenge the substantive or procedural legality of decisions, acts or omissions
5	The scope of traditional judicial review may not ordinarily allow for an assessment of the merits of the decision	In Environmental cases, the courts often end up having to strike a fine balance between determining what essentially is a 'merits' question and what falls within a claim of illegality
6	At times, contextual restriction on access to environmental information to the general public may not apply in environmental case determinations, as it is simply a procedural right and may lead to inconsistent application of the law	Rights, being admission, acknowledgement and privileges that law advances, will be claimed by individuals through specialised courts

In his closing remarks during the presentation, Mr. Morgan Katati, Executive Director of the Zambia Institute of Environmental Management, stated that we should not assume that simply establishing an environmental court will resolve all issues immediately. He emphasised that the court may need to evolve to address changing trends and challenges. Critical components should include specialised and competent jurisdiction, with competency being a particularly crucial aspect. Nevertheless, Mr. Katati believes that the establishment of an environmental court would lead to a more comprehensive approach to procedural and evidential rules in environmental cases and justice. He also noted that these procedural and evidential rules will require further development.

4.2 Global Models of Environmental Courts

Dr. Pamela Towela Sambo – Lecturer, School of Law- The University of Zambia (UNZA), began by acknowledging that Zambia today stands at a position where there is a shortage of Environmental lawyers. However, she was opportunistic; this will be a past narrative, as for instance, in one of her classes, currently she has about 272 students learning environmental law. Dr. Sambo then posed a Rhetorical question to the need of: why does Zambia need an environmental court? and if Zambia then needs a green Judiciary?

In her submission, Dr Sambo believed Zambia needed a green Judiciary because, among other things, Principle 9 of the principles of Environmental Justice affirms the right of victims of environmental injustice to receive full compensation and reparations for damages and quality healthcare. Further, most environmental issues usually end before the court, and she acknowledged the need for government system enforcement of environmental rule of law within the environmental space.

An Environmental court would then provide for a sound governance system that institutionalises a robust legal mechanism for enforcing the environmental law, and sound governance enforcement of the environmental rule of law is crucial to delivering the 2030 agenda for sustainable development and the Paris agreement.

Dr Sambo cited a reference that the Inter-American Court of Human Rights (I/A Court H.R.) recently pronounced the right to a safe, clean climate and environment and guided that there is a linkage between human rights and the environment. And as it stands, Africa actually awaits what stance the African Court on Human and Peoples Rights- AfCHPR will take on this intersectional issue, and its pronouncement will have huge weight on how African countries, including Zambia inclusive view the importance of the environment and environmental Justice.

Dr Sambo further guided the delegates that there is a need for establishing specialised legal and judicial infrastructure for the seamless access and effective delivery of environmental justice. Environmental courts

and tribunals (ECT) guarantee environmental democracy, access to justice on environmental matters, and proper enforcement of environmental laws and legislation. A specialist court could more ably deliver consistency in decision-making, decrease delays (through its understanding of the characteristics of environmental disputes) and facilitate the development of environmental laws, policies and principles.

In a conclusion part of her opening to her presentation, Dr Sambo added that the Judicial function has an important aspect on Human and environmental rights, specialist courts are better able to focus on certain key issues, and she strongly believed that there is a need to have specialist and competent environmental lawyers, actually before even getting to the argument of a Specialized Environmental Court.

4.2.1 Development Of Environmental Law And Principles

Dr. Sambo guided the house that Zambia at current as a number of good laws which need enforcement. However, the challenge is that the bar is raised too high in wanting to deal with and put to application international laws and policies such as the Paris agreement and others but do less on basic issues such as awareness of environmental protection, environmental degradation and such ideas of an environmental court. There is a need then to change the approach on education awareness and move the issues of the environment from being an elitist issue. It is further cardinal to establish a linkage on environmental and human rights, and the usage of the environment.

4.2.2 Environmental Law Frameworks In Zambia

Within her presentation, Dr Sambo brought to light the various legal frameworks that are already in existence in Zambia and pointed out that some of them included:

4.2.2.1 Constitution

The constitution is the supreme law in Zambia, and its provisions are the most supreme legislative in the country. All other provisions of the Environmental Management Act and other Acts of Parliament are subservient thereto. The Constitution, despite not containing a right to a clean, safe and healthy environment, holds important provisions for environmental regulations such as;

Article 43 (1) (c) and (d) provides that; *“A citizen shall — protect and conserve the environment and utilize natural resources in a sustainable manner; and maintain a clean and healthy environment.”*¹ And within the constitution lay other provisions important to environmental issues.

a). Article 8: **National values and principles**

The national values and principles are—

¹ Constitution of Zambia, (2016).

- a. morality and ethics;*
- b. patriotism and national unity;*
- c. democracy and constitutionalism;*
- d. human dignity, equity, social justice, equality and non-discrimination;*
- e. good governance and integrity; and*
- f. sustainable development.*

b). Article 120: **System of court**

1. The Judiciary shall consist of the superior courts and the following courts:

- a. subordinate courts;*
- b. small claims courts;*
- c. local courts; and*
- d. courts, as prescribed.²*

2. The courts shall be courts of record, except that local courts shall progressively become courts of record.

c). Article 133: **Establishment and composition of High Court**

1. There is established the High Court which consists of—

- a. the Chief Justice, as an ex-officio judge; and*
- b. such number of judges as prescribed.*

2. There are established, as divisions of the High Court, the Industrial Relations Court, Commercial Court, Family Court and Children's Court.

3. The Chief Justice may constitute, by statutory instrument, specialised courts of the High Court to hear specific matters.³

4. The composition of courts specified in clauses (2) and (3) shall be prescribed.

The question remains if these provisions have been implemented. The answer is no, and this is because most stakeholders today focus more on bread and butter and do not hold the state accountable.

4.2.2.2 Environmental Management Act No. 12 of 2011 (EMA)

Dr. Sambo further added that another legal provision is the Environmental Management Act No. 12 of 2011, which needs to be exploited and put to use. The provisions of this legislation are innovative and may have room for further legislative enhancement. However, the approach needs to be actualised, this is because there has been domestication of international laws dating back to 2010 legislation, but the big question remains, what has been done with the laws, in the process of an environmental court establishment?

² *ibid*

³ The Constitution of Zambia (2016)



Figure 4: Dr Sambo from the University of Zambia making a Presentation on Global Models of Environmental Courts

4.2.3 Global Models of Environmental Courts/Tribunals

Dr. Sambo emphasised that there are various models of environmental tribunals or courts worldwide from which Zambia can draw lessons, whether by establishing a physical structure or developing alternative mechanisms.

She highlighted several key points before discussing the different models available for analysis. Dr. Sambo suggested that the Zambian Judiciary could establish a "green bench" without needing to create or amend existing laws, as the country already possesses sufficient legislation on the matter.

Regarding standalone institutions like tribunals and green courts, it is essential to understand that environmental issues involve more than just legal expertise. Environmental law is dynamic; it is a scientific and interdisciplinary field. Therefore, lawyers should possess some understanding of environmental science, and it is crucial to establish a connection between legal practices and scientific knowledge.

Additionally, it is important to investigate the connections between causes, effects, and the necessary actions to address environmental injustice, considering not only the interests of lawyers but also the welfare of those affected.

4.2.3.1 Kenyan Model

The text discusses the establishment of specialised courts, including the Industrial Relations Court, Commercial Court, Family Court, and Children's Court. It mentions that the Chief Justice has the authority to create specialised courts of the High Court through a statutory instrument to address specific matters.

However, it raises the important question of whether these provisions have been implemented. The answer is no. This lack of implementation is attributed to stakeholders prioritising their immediate needs over holding the state accountable.

Additionally, Dr. Sambo pointed out another significant legal framework: the Environmental Management Act No. 12 of 2011 (EMA). He emphasised the need to fully utilise the provisions of this legislation, which contains innovative elements that could benefit from further legislative improvements. However, for this to happen, concrete actions must be taken.

4.2.3.2 Indian Model

Dr. Sambo presented a notable case from India that led to the establishment of the National Green Tribunal in 2010. Although it is referred to as a tribunal, it is much more comprehensive than what is typically understood by the term in the Zambian context. Appeals from this Tribunal can only be made to the Supreme Court of India. This court is not bound by strict procedural rules; rather, it adheres to the principles of natural justice. This raises a challenge that may need to be addressed in Zambia: the creation of a specialised court that operates with flexible procedures.

4.2.3.3 Malawian Model

Malawi established an environmental Tribunal; however, it has a wide jurisdiction. The nature of this court is more administrative than substantive justice, but however deals with environmental justice. It is led by qualified and suitably trained personnel or judges appointed by the President. The cases of this Tribunal may be appealed to the High Court; however, the challenge is that there is no guarantee of qualified and competent environmental judges at the High Court level.

4.2.4 What Then Are The Prospects In Zambia?

Zambia then may decide to either establish;

1. Environmental Tribunal
2. Environmental Division of the High Court

4.3 Reflections from the Judiciary

The lady Justice, Judge Ruth Chibbabbuka-High Court of Zambia, General Division, on behalf of the Chief Justice of Zambia, presented a paper on the Judicial reflection with regards to the establishment of the environment court in Zambia. Its feasibility and institutional implications. In her Presentation, Lady Justice, Judge Chibbabbuka began by stating that recognition of environmental degradation arose in the late 1960s. This public awareness gained momentum in the 1990s as it was acknowledged that meaningful solutions require the participation of all members of society. This awareness and committed dedication to come up with a solution have resulted in the establishment of the United Nations' 2030 Agenda for Sustainable Development



Figure 5: Her Lady Justice, Judge Ruth Chibbabbuka, delivering a presentation on the Reflection from the Judiciary: feasibility and institutional implications

Judge Chibbabbuka further guided that in a bid to attain the Sustainable Development Goals (SDGs) it is acknowledged that improving the environmental rule of law, access to justice, and effective mechanisms for environmental dispute resolution is indispensable for the realisation of the said United Nations' 2030 Agenda for Sustainable Development and the attainment of the Sustainable Development Goals (SDGs). These measures are particularly aligned with SDG Goal 16, which aims *“to provide access to justice for all and build effective, accountable, and inclusive institutions at all levels.”* In the words of Justice Brian

Preston, Chief Judge of the Land and Environment Court of the State of New South Wales, Australia, the first Environmental Court established as a superior court of record in the world:

*“The judiciary has a role to play in the interpretation, explanation and enforcement of laws and regulations. ... Increasingly, it is being recognised that a court with special expertise in environmental matters is best placed to play this role in the achievement of ecologically sustainable development.”*⁴

At international fora, the question of environmental courts has been raised. For example, on the sidelines of the 2012 UN Rio+20 Conference, over 250 of the world’s Chief Justices, Judges, Attorneys General, Auditors General, Chief Prosecutors, and other high-ranking jurists seized an opportunity to contribute to the development of environmental law, sustainability and access rights by adopting the “Rio+20 Declaration on Justice, Governance and Law for Environmental Sustainability.”⁵ That declaration emphasised the role of courts and tribunals in protecting the environment, including, for the first time in such an authoritative forum a call for Environmental Courts and Tribunals:

“Environmental sustainability can only be achieved in the context of fair, effective, and transparent national governance arrangements and the rule of law predicated on:

- a. public participation in decision-making, and access to justice and information, in accordance with Principle 10 of the Rio Declaration, including exploring the potential value of borrowing provisions from the Aarhus Convention in this regard;*
- b. accessible, fair, impartial, timely, and responsive dispute resolution mechanisms, including developing specialized expertise in environmental adjudication, and innovative environmental procedures and remedies;*
- c. recognition of the relationship between human rights and the environment; and*
- d. specific criteria for the interpretation of environmental law.”*⁶

⁴ Preston, B. (2012). Benefits of Judicial Specialization in Environmental Law: The Land and Environment Court of New South Wales as a Case Study, in 29 Pace Environmental Law Review 396, 398, <http://digitalcommons.pace.edu/pelr/vol29/iss2/2/>

⁵ UNEP, Environmental Rule of Law, <http://www.unep.org/delc/worldcongress/Home/tabid/55710/Default.aspx>.

⁶ UNEP, Environmental Rule of Law, <http://www.unep.org/delc/worldcongress/Home/tabid/55710/Default.aspx>.

4.3.1 Feasibility For Establishing An Environmental Court

Her Lady Justice began her argument by alluding that environmental courts can deliver and control environmental decisions; however, the big question is what happens with regard to expertise at the appellate courts? Will there be full expertise? Is another critical issue that may need to be looked at. Her Lady Justice, Ruth Chibbabbuka, then guided the house, then yes indeed, the cry for an environmental court is justified. For instance, prior to the amendment of the *Constitution by Act No. 2 of 2016*, the *Zambian Constitution* did not explicitly provide for specialised courts. The *Constitution* only recognised the following courts:

1. The Supreme Court
2. The High Court
3. The Subordinate Courts
4. The Local Courts

At the High Court level, there existed one division, apart from the general list division, being the Commercial list established as a fast-track court for commercial disputes. The commercial court list was created under *Order 53 (SI No. 71 of 1997)* which law also empowers the Chief Justice to designate a judge as Judge-in-Charge of the Commercial Court. The Industrial Relations Court (IRC) was the only specialised division established as a specialist tribunal to hear employment and labour relations disputes. The IRC was created by the *Industrial Relations Act, 1971*.

As can be noted, both the commercial court list and the IRC were created by subsidiary legislation, rather than the *Constitution*. Following the *Constitution* amendment in 2016, there were established, *under Article 133 (2)*, as divisions of the High Court, the Industrial Relations Court, Commercial Court, Family Court and Children's Court. *Article 133 (3)* also empowers the Chief Justice to constitute, by statutory instrument, specialised courts of the High Court to hear specific matters. Evidence of the exercise of this power has seen the establishment of the Economic and Financial Crimes Court in 2023, which was created as a response to demand for a fast-track court to hear and determine cases that relate to financial and economic crimes.

Consequently, there currently exists a constitutional framework that allows for the creation of the Environmental Court. As such **legally it is feasible** but the elephant in the room is whether it is practical in terms of the institutional implications.

4.3.2 The Institutional Implications

Her Lady Justice, aside from giving the various feasibility aspects brought to light to the delegates, on the various institutional challenges or implications in the creation of an environmental court.

4.3.2.1 Increasing the number of Adjudicators

Judge Chibbabbuka indicated that the current number of High Court Judges in the country stands at 60, as stipulated by The Superior Court (Number of Judges) Act No. 9 of 2016. These judges are distributed not only across four specialised courts at the High Court level but also within the 10 provinces. However, the ratio of judges to cases filed nationwide is significantly below what is necessary.

For instance, in 2023, one division of the High Court in Lusaka, known as the general list, had over 2,000 cases filed. Currently, there are only 11 judges working on this general list, and each judge is responsible for managing between 200 to 400 cases annually.

This situation highlights the urgent need to increase the number of judges at the High Court level, which will, in turn, necessitate an increase in the number of judges in other superior courts as well. Thus, the proposal contained in Bill 15 of 2025, which aims to raise the number of judges at the High Court from 60 to 100 and at the Court of Appeal from 19 to 31, is a positive development. This increase will ensure a sufficient pool of judges is available for selection to serve in specialised courts, such as an environmental court.

4.3.2.2 Capacity Building

Another institutional implication cited was capacity building. Her Lady Justice alluded that it is trite that specialisation requires expertise and specialised knowledge in the given field. As such, training of adjudicators will have to be ramped up. Her Lady Justice was aware that some training in this sector had been conducted and a few Judges have been able to attend to environmental cases; however, continuous training will have to be undertaken so that adjudicators are abreast with current developments in the environmental space.

4.3.2.3 Funding Constraints

Further, Her Lady Justice guided that establishing and running a new court requires sustained financing. The establishment of a new specialised court, such as an Environmental Court, for the Judiciary of Zambia would face significant financial and infrastructure challenges, given the existing realities of the judicial system.

I) Persistent Infrastructure Deficits

The Judiciary of Zambia has struggled to provide purpose-built infrastructure even for courts created almost a decade ago. After the 2016 constitutional reforms, which established the Constitutional Court and the Court of Appeal as well as several new divisions of the High Court, no dedicated or specialized court

buildings were constructed to house them. Many divisions continue to operate from general court premises or adapt existing facilities that are not suitable for their specialised functions.

A striking example is the Economic and Financial Crimes Court and the Children and Family Courts, which currently sit in offices belonging to the Ministry of Home Affairs rather than in purpose-built judicial facilities. While efforts have been made to secure appropriate accommodation, these courts remain in temporary arrangements nearly 10 years after their creation. This precedent underscores the difficulty of rapidly developing the necessary infrastructure when new courts or divisions are established.

2) Financial Constraints on the Judiciary

The Judiciary operates under tight budgetary allocations, which already constrain its ability to upgrade infrastructure for existing courts. Constructing specialised buildings for a new Environmental Court would require substantial capital investment in land acquisition, building works, furniture, ICT infrastructure, and security measures. The likely costs would be in the tens of millions of kwacha at a time when the Judiciary is still grappling with providing basic infrastructure for rural and underserved areas.

Even if temporary accommodation were secured, the additional costs of staff recruitment, training, and ongoing operational expenditure (e.g., utilities, maintenance, judicial support services) would further strain the budget. Without ring-fenced funding from either the Treasury or cooperating partners, establishing the court risks creating an under-resourced institution that mirrors the current challenges faced by other specialised courts.

3) Lessons from Existing Specialised Courts

The experience with the Constitutional Court, Court of Appeal, and the newer High Court divisions demonstrates that financial and infrastructure delays can persist for years after the legal creation of a court. Inadequate facilities can compromise the efficiency and dignity of court proceedings, limit public access, and hinder the court's ability to deliver on its specialised mandate. Unless a robust financing plan is in place prior to establishment, an Environmental Court could face similar obstacles, potentially undermining its effectiveness and public confidence.

4.3.3 Number of Environmental Cases

While there is an upsurge in the number of cases that impact the environment, the numbers are not enough to justify the establishment of just an Environmental Court as a specialised court. Rather, what is needed is a fusion and a workable solution for our current needs as a country would be to combine land, mining and environmental matters, thereby creating a Lands, Mining and Environmental Court, more so that environmental issues arise out of land and mining issues.

In concluding remarks, Her Lady Justice, Judge Chibbabbuka added that while legally Zambia is already positioned for the establishment of an environmental court, hence its feasibility, the real elephant in the room is institutional preparations, which need to be dealt with as soon as possible. This is so as to effectively ensure that the establishment of the said specialised court attains its objective by providing the people of Zambia efficient access to justice on environmental matters.

4.3.4 Overview Remarks From Presentation

Dr. Pamela T. Sambo stated that Zambia has legal provisions available to address environmental issues. However, one does not need to be directly affected by environmental problems to take an interest; anyone can be proactive about environmental concerns. This raises a critical question: how many individuals are willing to step out of their comfortable offices and homes to seek redress, even without having the legal standing of being directly affected?

Her Lady Justice, Ms. Ruth Chibbabbuka, opened the discussion by posing a rhetorical question about whether there is a model that Zambia can adopt. She suggested that Zambia could learn from Kenya based on the models presented earlier. However, she cautioned against adopting a "copy and paste" approach, emphasising the need to contextualise any model to fit local standards and determine what would be workable. Dr. Sambo supported Justice Chibbabbuka's comments on exploring models. She emphasised the importance of assessing the competency of the bar and bench, as well as the competence of lower courts. Collaboration with other stakeholders, academic institutions, and the judiciary is essential for effective advocacy and training in environmental issues. This would allow for the proper employment of any adopted model. Ultimately, as a nation, we should aim high, and the key question is where we can begin.

Professor Chishala Mulenga concluded by noting that the historical focus of legal training and practice in Zambia has primarily been on litigation, including environmental law. He highlighted the fact that environmental law is a highly specialised field that requires interest from an early stage and training that goes beyond litigation, as it is inherently cross-cutting and demands advanced specialisation.

The Guest of Honour, Hon. Emmanuel Tembo-MP, began by appreciating the various stakeholder presentations. Regarding models, he suggested that it would be beneficial to create further divisions within the environmental court specialising in land and minerals. He acknowledged the unfortunate reality of reduced budget allocations for environmental issues, often finding that the amounts released are even less than what was originally allocated or recorded in the white book. The Zambian Parliamentary Caucus on Environment and Climate Change (ZPCECC) is currently focused on increasing budget allocations for environmental matters. In relation to advancing the agenda of the environmental court, the Guest of Honour expressed his gratitude that the ZPCECC has been recognised. He noted that through this caucus, a motion

could be introduced in parliament for the establishment of a specialised environmental court. The caucus serves as an excellent platform for this purpose, with over 120 members of Parliament, representing a mix of political parties, which is advantageous for lobbying efforts.

4.4 The Law Association of Zambia

Counsel Mwape I. Kopulande, Member of the Law Association of Zambia-LAZ gave a presentation on the position of the Law Association of Zambia with regard to environmental issues in Zambia. In her remarks, she mentioned to the house that there currently exists a Climate Change Task Force with LAZ, which has a mandate to position LAZ as a key stakeholder on climate matters. These task forces exist to raise awareness on environmental laws, facilitate capacities on environmental laws and legal issues through capacity building training. The Terms of Reference for this Task Force are to support the government and individuals in redress for climate challenges at both the domestic and international levels within the legal framework.



Figure 6: Counsel Mwape I. Kopulande delivering a presentation on the position of the Law Association of Zambia-LAZ on Environmental issues in Zambia

The position of LAZ is thus to contribute to the development of National law and policy, and in this regard to climate change and environmental law. Further LAZ mandate is to be an interface of government and LAZ membership on environmental law and climate change issues with the international community as well.

Over the discussion today, LAZ's position is that there exist opportunities in developing climate and environmental laws in Zambia, and indeed, LAZ believes an environmental court should be established within the courts division. Such an establishment would further give LAZ a new opportunity for litigation and to contribute to both the national and global duty LAZ has. Lastly, indeed as we have the option of creating an environmental court, we may also consider creating environmental tribunals in efforts to start working and address environmental issues.

5 AN ADDRESS BY HON. TWAAMBO MUTINTA-MP

Hon. Twaambo Mutinta- MP Itezhi-Itezhi, Co-chair of the Zambian Parliamentary Caucus on Environment and Climate Change, began by acknowledging his sincere gratitude for the invitation to the dialogue. Looking at the magnitude of the discussion at hand, he thought it best to come with 2 other MPs, Honourable Emmanuel Tembo and Honourable Wamunyima, who are brilliant legal minds and as such thought best to have their inputs in the discussion. Hon. Twaambo Mutinta gave gratitude to the Centre for Environmental Justice-CEJ, European Union-EU, Hivos and other partners for staging such an important gathering to discuss a cardinal issue. He guided the house that Zambian Parliamentary Caucus on Environmental and Climate Change in the Zambian Parliament and Southern Africa at large, and aims at championing climate justice even beyond this dialogue. He acknowledged the fact that, as Members of Parliament, they too are affected directly and indirectly by climate change and environmental effects. Honourable Mutinta alluded that this is a serious issue, but in Zambia, it is not taken seriously. However, as Co-chair for the caucus and Parliamentarians, “we assure our support in achieving results of this conversation: advocacy issues towards achieving the agenda of an environmental court in Zambia.”

Hon. Twaambo Mutinta-MP further appreciated the initiators of this initiative and in the near future, looks forward to having this court. However, he firmly believed advocacy must begin immediately if Zambia as a nation is to achieve the feasibility of an Environmental court. He further believes that this court should be people-driven, there is a need to advocate for the understanding of this process at the local level and to the ordinary Zambian.

Further, there is a need to gather statistics on judicial environmental issues as a starting point, and political will is there; “As Members of Parliament, we will work with the team to achieve this. We will advocate for capacity building; the caucus is there to provide a platform for interaction between this driving team and government and or government agencies.” In conclusion, Hon. Mutinta firmly believe that this is an advocacy issue, which might not be won today or tomorrow; there is a need not to relent, with time, all stakeholders’ efforts can win over the issue of establishing an environmental court.

6 PANEL DISCUSSION

The multi-stakeholder dialogue held a panel discussion to discuss the Motion that Zambia is ready for an environmental court, led by Mr. Freeman Mubanga of the Centre for Environmental Justice, with panellists from various institutional backgrounds that included:

1. Her Lady Justice, Ms. Ruth Chibbabbuka -Judiciary of Zambia
2. Mr. Morgan Katati-Executive Director -Zambia Institute of Environmental Management (ZIEM)
3. Mr. Raymond Kaima- Policy and Governance Specialist-Conservation Advocacy Zambia (CAZ)



Figure 7: Panellist of the panel discussion consisting of Mr. Morgan Katati-L, Mr. Raymond Kaima-C and Her Lady Judge Ruth Chibbabbuka-R

6.1.1 Panel Discussion Deliberations

The moderator, Mr. Freeman Mubanga, wanted to find out what the key takeaways were on some challenges to establishing an Environmental Court.

Mr. Morgan Katati, Executive Director of the Zambia Institute of Environmental Management, described that there is a need to break down the nature of legal forms. It is critical to look at the procedural matters within legal providing and improve on substantial issues in managing environmental issues. A limitation exists on fines or penalties for changes of pollution against the effects or damages in certain cases, and this needs to be addressed significantly. Issues of rights and the need to ensure these rights are upheld fairly are another critical issue. However, with the various stakeholder assurances that have been given here today, we can overcome these challenges.

Her Lady Justice, Ms. Ruth Chibbabbuka, responded, highlighting interest in the framework, particularly in terms of financing. There is a need to increase financing for the judiciary for effective operations. further, there is a need to review current legal frameworks being used to adjudicate environmental issues and how effective they are. Lady Justice Ruth Chibbabbuka did then guide that currently we have various legal provisions that include:

1. The Constitution
2. Environmental Pollution Act No. 12 of 2011
3. Forestry Act No 4 of 2015

4. Wildlife Act No. 2015
5. Water Resources Management Act No. 21 of 2011
6. Minerals and Mines Act No. 29 of 2022
7. Solid and Waste Management Act No. 20 of 2018
8. Biodiversity and Safety Act No 10 of 2010
9. National Heritage Act No. 19 of 2021
10. Several International Agreements
11. Local Regulations on Climate Change

However, the effectiveness of these legal provisions is only tested when issues are brought before the court and the high court has unlimited jurisdiction. That being said, these legal provisions are effective, and it is just a matter of parties coming to court and bringing the issues, but other players must know the law and cite the correct law with the right evidence, because the judiciary is just a part of the process, and all players must take action correctly.

The Moderator, drawing from the cardinal point raised by Her Lady Justice, Judge Chibbabbuka, stated, “the effectiveness of legislation is tested based on cases brought before the court,” and wanted to further find out if there are any issues or challenges in terms of coordination. And why is it that most stakeholders think Zambia does not have legislation?

Her Lady Justice, Judge Chibbabbuka, responded to the question that “the challenge perhaps is how stakeholders think legislation should be used. It is not a matter of legislation being adequate or inadequate; there are enough legal provisions already. However, the challenge is the people, which includes that lawyers, litigants, and affected people; do they understand the cause of action in their matters. It is thus an issue of expertise, and the gap is the awareness, prerequisite and understanding of the legal framework.”

Hon. Twaambo Mutinta-MP in addition to the further understanding the legal perspective did pause a follow up question to Her Lady Justice, Ms. Ruth Chibbabbuka and intended to find out and seek clarity with regards to the environmental space emerging issues such as carbon trading or financing and mining rights which are being a current norm, was there a need to make changes to the laws or emerging issues are already covered?

In response, Her Lady Justice, Judge Chibbabbuka, stated that the existing laws in Zambia are sufficient to establish an environmental court. She emphasised that laws are constantly evolving, and as new issues arise, there may be a need for adaptation. Currently, there is no necessity to develop additional laws for creating an environmental court; however, future amendments may be required to address emerging challenges.

Mr. Raymond Kaima, a Policy and Governance Specialist at Conservation Advocacy Zambia (CAZ), echoed this sentiment, noting that the current laws are adequate and significant, though they may require

some amendments. He explained that for laws to be effective, they must respond to the ever-changing norms of society.

The Moderator also paused another vital question, citing that specialised environmental lawyers are few; what can be done to have a lot of students graduate in environmental law? What can generally be done to generate interest? Should this be handled at the school level, or university level or the CSOs and or practice level?

Mr. Morgan Katati stated that universities play a significant role in training and preparing lawyers in the field of environmental law. In his experience over the past ten years as a lecturer, he has been involved with universities that have graduated over 20-25 environmental law students each year, indicating that the numbers are steadily increasing.

Her Lady Justice, Ms. Ruth Chibbabbuka, added that the university curriculum may need to be revisited. Previously trained lawyers did not have environmental law as a subject, and while it has recently become an elective course, there is a need to make it a compulsory course for all law students. Furthermore, it should also be a mandatory subject at the school level. Overall, addressing this issue requires a multi-sectoral approach, and all stakeholders must collaborate to come on board.

Mr. Freeman Mubanga posed another cardinal question to the panellists and intended to find out: What benefits may be appealed from an environmental court with regard to the existing challenges?

Mr. Raymond Kaima suggested that establishing an environmental court would create a specialised court with original jurisdiction over environmental issues. This could expedite the resolution of cases, similar to how financial and criminal courts operate, as this court would have a defined timeframe to conclude matters. Additionally, having specialised judges would lead to more informed and higher-quality decisions.

Mr. Raymond emphasised the importance of differentiating this court from a typical procedural court, advocating instead for it to embody principles of natural justice, akin to the Economic and Financial Crimes Court. Lastly, he argued that it would be more beneficial to have an environmental court as a division of the High Court rather than as a tribunal.

The moderator wanted to find out, looking at the various issues currently, from the recent spillage in the Kafue River, to poisoning in Sinazongwe and other issues around the country. What system is the judiciary using to address these issues? what is Zambia doing as a nation, and what are the limitations?

Judge Chibbabbuka, Her Lady Justice, responded that the High Court of Zambia currently serves as the court of first instance for such matters, particularly those on the general list. For example, if individuals are

seeking damages, they must file a cause of action. However, the Judiciary cannot compel individuals to file cases; it is ultimately up to the parties to initiate action.

Regarding the High Court of Zambia, when issues are brought before the court, they undergo a natural process of analysis. If an injunction is necessary, the courts consider the context and, if warranted, grant the injunction. Essentially, this process relies on the knowledge of the parties involved. Her Lady Justice also mentioned that judicial review is another function of the Judiciary, which assesses whether relevant authorities are adhering to the law in making decisions such as issuing permits.

Criminal matters are initially addressed at the magistrates' court level within districts. However, the Judiciary currently lacks adjudicators who specialise in environmental issues. While there is an effort to identify relevant laws concerning the environment, judges rely on lawyers to cite the appropriate statutes. If litigants are knowledgeable about their cases, it facilitates the resolution of issues.

In conclusion, there is a need for greater specialisation and more adjudication, as well as improvements in Alternative Dispute Resolution (ADR), since not all matters require judicial intervention. One significant limitation is the lack of adequate infrastructure.

The moderator further wanted to find out what the implications are of issues to deal with advocacy? And where can the line be drawn between environmental rights and other laws or the rule of law?

Mr. Katati explained that addressing environmental issues can be challenging, as these issues may be complex and sometimes conflict with other laws. It is important to identify which laws apply when dealing with environmental issues, whether through civil or criminal procedures, as outlined in the Criminal Procedure Code.

Mr. Mubanga also paused to the panellists, How the aspect of public awareness may be integrated in the formation of an environmental court?

Mr. Raymond Kaima emphasised the importance of raising awareness about environmental issues. He noted that the Judiciary may not take action until cases are presented before the court. Therefore, Civil Society Organisations (CSOs) should actively develop programs to educate the public about environmental challenges and their implications. It is essential to familiarise citizens with the relevant laws discussed in this dialogue and to inform them in order to enhance advocacy efforts. This way, environmental issues will not be seen as concerns solely for the elite but will become important for everyone.

7 PLENARY SESSION

A session was opened to allow delegates to make comments and ask questions to the panellists, led by Mr. Mubanga.

Mr. Makambwe Jacob- Secretary General of Southern Africa Cross Boarder Trade Association - SACBTA and Board Chairperson of Zambia Council for Social Development -ZCSD submitted that;

In the process of establishing an environmental court and enhancing advocacy efforts, it is important to reconsider several key aspects, particularly the relatively low number of reported cases. We must also identify the target groups for both litigation and remedies provided by this court, as well as determine who will be responsible for bringing offenders to justice.

Mr. Makambwe emphasised that when it comes to advocacy, we need to ask critical questions: “Who do we want to sensitise? What should we prioritise? What actions are we currently taking?” Additionally, it is essential to establish community-level structures to support these initiatives.

Prof Chishala Mulenga-Senior Consultant with Pasher Advisory, contributed too that;

To establish this court, it is important to consider the challenges that it, like many courts, may face. We must examine what is more beneficial: the desire for economic development or the need for environmental protection. Additionally, in advocating for the creation of this court, it is essential to ensure that the individuals appointed to this bench are protected from external pressure and can function independently.

Mr. Nsama Chikwanka - Director of Publish What You Pay began by;

Mr. Nsama expressed gratitude to the Centre for Environmental Justice (CEJ) for its essential efforts in bringing all stakeholders together on this important issue. He emphasised that this matter should be a priority for every citizen. It is crucial for all stakeholders to engage in mass mobilisation, as the biggest challenge has been the inability of civil society organisations (CSOs) to speak with one voice, especially when the government and mining companies are well-coordinated.

He stated, “We must consider the significant questions at hand: How will the target of 3 million metric tonnes of copper production impact the environment in the future? What benefits will come from this production, and how will environmental issues be addressed? A lone voice may not be effective. Therefore, we need to work together as CSOs, because those who commit environmental crimes often succeed due to the lack of coordination among us.”

Mr. Raymond Kaima, CAS Director, did agree, actually with Mr. Nsama, that the fear around the 3 million tonnes capacity for copper production is the reason why, indeed, there is a need for an environmental court, because this target will come with a lot of environmental issues.

Mr. Geoffrey Sizala of ActionAid Zambia wanted to find out if the country had enough human resources to hand an environmental court.

In response, Her Lady Justice, Ms. Ruth Chibbabbuka, stated that at the moment the Judiciary of Zambia did not have enough human resources; but however, there is a bill currently in place to upscale the number of judges at the High Court level from 60 to 100, which might still not be enough but is progressive.

Mr. Evans Nsonkolo, of Mubombo Climate Change Response Organisation, submitted that for CSOs and NGO to advocate for the environmental court, there is a need for funding to enhance. He thus posed vital questions that included:

How can CSOs advocate for proper funding from the government?

How do we harmonise low local engagement in terms of the minerals, for more Zambians to own mines?

As CSO, what is being done or is championing enough for funding directed to the environmental court formulation?

Mr. Morgan Katati did respond that for funding in the environmental sector, this has been a huge challenge, and it may not increase abruptly even in the next 5 years, but there still needs to champion the cause.

Miriam Nasilele - Communication Program Manager: Wildlife Crime Prevention -WCP Zambia paused two questions.

Will the implementors in the planning process conduct a general public assessment to gauge the level of the public knowledge on environmental issues in Zambia, and;

What financial resources initiatives are being put in place? Is there low funding and low budgeting at the national level for environmental issues in Zambia?

8 GROUP SESSIONS

As part of the dialogue, participants broke into two groups to develop practical strategies and action roadmaps. Guided by the moderator, Mr. Borniface Mumba, each group focused on a specific question aimed at advancing the establishment of an Environmental Court in Zambia. The discussions generated concrete recommendations on both the actions required to actualise the court and the policy and legislative reforms needed to support its creation.

Table 2: Summary — Group Sessions and Presentations

Group	Focus question	Key actions/recommendations
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Group One	What action should be taken to actualize the establishment of an environmental court in Zambia?	1. Obtain a clear understanding of environmental issues and their impacts. 2. Streamline and map different environmental rights (e.g., right to clean water and air) and how they are infringed. 3. Document environmental violations and grievances to justify the court's establishment. 4. Form a coalition of CSOs and the Parliamentary Environment & Climate Change Caucus to lobby for the court. 5. Prepare and submit an evidence-based position paper to the Chief Justice of Zambia. 6. Conduct mass awareness-raising and build capacity in affected communities so they can identify violations and pursue litigation/negotiation. 7. Establish an Executive (Steering) Committee to lead and coordinate the process.
Group Two	How can we influence policy and legislative reforms to create an environmental court?	1. Convene stakeholder dialogue meetings to unpack policy gaps related to the environment. 2. Carry out evidence-based engagements on environmental actions and reforms. 3. Implement community sensitisation and awareness campaigns. 4. Train and create local community environmental educators. 5. Integrate customary-law environmental actions and practices that protect nature into reform processes.

9 DIALOGUE ROADMAP AND TAKEAWAYS

The multi-stakeholder dialogue generated a series of actionable recommendations that provide a clear pathway towards the establishment of a specialised Environmental Court in Zambia. These takeaways highlight the roles of different actors, the strategies required, and the immediate and long-term actions needed to strengthen environmental governance and justice. The roadmap below summarises the key commitments and proposed next steps for all stakeholders to build upon.

Table 3: Dialogue Roadmap – Key Takeaways for Action

No.	Action Point	Responsible Stakeholders	Proposed Actions / Next Steps
1	Strengthen collaboration with Parliament	Zambia Parliamentary Caucus on Environment & Climate Change, CSOs	Leverage the Caucus platform to engage central government, ministries, and agencies on the process of establishing an Environmental Court.
2	Define stakeholder strategies	All stakeholders (CSOs, legal bodies, academia, communities)	Choose clear participation angles: advocacy, fundraising, policy/legal review, or formulation.
3	Build legal capacity	Judiciary, Law Association of Zambia, Universities, Training Institutes	Train more lawyers in environmental law; provide capacity-building for existing practitioners and judges.
4	Mass advocacy & awareness	CSOs, Media, Community leaders, Academia	Undertake nationwide advocacy campaigns on environmental rights and laws to build public understanding and patriotism for environmental protection.

5	Lobby for increased funding	CSOs, Judiciary, Development Partners, Government	Advocate for enhanced funding to strengthen judicial capacity (more judges, infrastructure, and resources for specialised courts).
6	Establish an Environmental Tribunal as a first step	Parliament, Judiciary, CSOs	Demand and pilot an Environmental Tribunal to pave the way for a specialised court.
7	Review and amend laws	Parliament, Ministry of Justice, Legal reform commissions, CSOs	Update environmental laws to reflect current challenges, ensure fairness, and provide just remedies.
8	Test existing legal and institutional frameworks	CSOs, Legal experts, Zambia Parliamentary Caucus on Environment & Climate Change	• Request the Caucus to move a motion in Parliament for the creation of an Environmental Court. • Present evidence-based position paper to the Chief Justice under Article 113(3) of the Constitution.

10 CLOSING SESSION AND SOLIDARITY MESSAGES

10.1 Closing Remarks by Professor Chishala Mulenga

In his closing remarks, Professor Mulenga acknowledged the seriousness of establishing an Environmental Court. On one hand, there are challenges related to litigation and adjudication; on the other hand, there is an urgent need for an Environmental Court, especially considering the many communities severely affected by environmental injustices. These challenges and discussions raise the important question: Is Zambia ready for an Environmental Court? The answer is yes; Zambia needs a specialised Environmental Court. As a call to action, it is essential to finalise a roadmap for establishing this Environmental Court. A pragmatic approach is necessary, and practical steps must be taken to implement what has been discussed in this dialogue. There is an urgent need to establish such a court as soon as possible.

10.2 Remarks by CEJ Board chair

Mr. Bonface Mumba delivered closing remarks on behalf of the Chair of the Centre for Environment Justice Board. He noted that the discussion about the environmental court started as a simple conversation and has now evolved into a national dialogue. He emphasised the need for collective efforts to establish such a specialised court.



Figure 8: Mr Mumba delivering Closing Remarks on Behalf of the CEJ Board Chair

Mr. Mumba expressed gratitude to all partners, including the European Union, HIVOS, and ZIEM. He called for increased funding, reiterating what previous speakers have mentioned: this is not a one-day process, and he urged all partners to remain committed. Speaking on behalf of the CEJ Board Chair, Mr. Mumba appreciated the technical support, leadership, mutual assistance, and human resources provided by all stakeholders. He encouraged all delegates who attended the event to take the valuable information shared by the experts and disseminate it widely.