

OSCAR FOUNDATION FREE LEGAL AID CLINIC-
KENYA (OFFLACK) ENVIRONMENTAL
REHABILITATION THROUGH ADVOCACY AND
LOBBYING: A LEGAL PERSPECTIVE

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1.0 PROJECT SUMMARY

Oscar Foundation Free Legal Aid Clinic Kenya (OFFLACK) is the sponsor and implementer of this project. The Foundation is a non-profit making organization registered under the societies Act in the year 2002 with an organizational structure comprising of the Board of Trustees who form the secretariat and an Executive Director who is responsible for the daily activities of the foundation. One of the major concerns for the foundation is to address the environmental issues and how they negatively impact on human beings and animals and how they can be tackled. This therefore calls for in depth advocacy and lobbying so that the people themselves can be involved in environmental management.

The Foundation which has its registered offices at China Centre on Ngong Road, carries out its activities throughout the country and works in collaboration with various stakeholders and partners. On environmental matters the Foundation intends to collaborate with the Ministry of Environment and Natural Resources and the National Environment and Management Authority (NEMA) in implementing this project with the involvement of various stakeholders, coupled with highly qualified staff at the Foundation, the capacity to implement this project is no doubt an easy task.

The proposal explores some of the impacts of environmental degradation both socioeconomically, political and healthwise and it focuses on strategies on how to tackle these problems. It emphasizes on advocacy and lobbying to both Kenyan Citizen, stakeholders and the government to participate hilly in environmental management and also for the Government to come up with comprehensive legislation on relationship between people and the environment. Principle II of the Rio document re-affirms that the states shall enact effective environmental legislation, Environmental standards and management objectives. Principle 13 calls for Governments to enact national laws regarding liability and compensation for victims of pollution and other environmental damage. Although there is growing awareness on environmental issues globally, information on environmental hazards are however, not readily available to the locals. There are many consumer associations which sensitize the public on harmful products and there is increased use of appropriate technology i.e energy saving stoves, yet much needs to be done as over 80% of Kenya's population are still lagging behind on environmental issues. Principal 10 asks state to involve all communities in environmental management. It asserts that environment issues are best handled with the participation of all concerned citizens, at the relevant level. All citizens should be accessible to information on hazardous materials and opportunity to participate in decision making

processes, states shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings including redress and remedy shall be provided. This is what Oscar Foundation is exactly intending to fulfill.

Though the Foundation intends to address the plight of Kenyans by sensitizing them on the dangers of environmental degradation and their role in combating the vice, it faces an enormous task as it does not have sufficient resources i.e finances. In view of this, Oscar Foundation will continue to lobby for additional funding to help manage the vice.

To empower Kenyans to control their destiny, Oscar Foundation aims to mobilize and sensitize Kenyans especially women and youth on dangers of environmental degradation and their participation in sustainable development. Principle 20 of the Rio declaration particularly re-affirms that women have a vital role in environmental management and development. Their full participation is therefore essential to achieve sustainable development.

2.0 PROJECT LOCATION

The project is managed from the Oscar Foundation Head office in Nairobi located on the 2nd Floor of China Centre along Ngong Road. However, the implementation of activities

is done throughout the country. OFFLACK has an efficient staff to be relied on for implementation of the project.

3.0 STATEMENT ON PROBLEM ADDRESSED

Environmental degradation threatens both rural and urban livelihoods and the economy of Kenya which is based on natural resources particularly agriculture. Over the past few years, several hectares of agricultural land, pastures, forests and woodlands have been degraded. Shortage of fresh water coupled with intermittent and unreliable rainfall is threatening to be a serious obstacle to food security and more that 50% of Kenya's fisheries are either over exploited or destroyed by hyacinth menace in Lake Victoria. Globally the climate is changing and facts indicate that the earth is heating up at an estimation of global temperatures rising between 1.8° to 6.4° according to the InterGovernmental Panel on Climate Change (IPCC) and Kenya is not an exception to this effect. Unpredictable weather and natural disasters like droughts are getting more frequent hence farming and pastoralism as a way of life are becoming less viable. These warmer and less stable climate brings massive bio-geophysical and socio-economic challenges. The bio geophysical

encompasses ecological and environmental pollution issues while socio-economic focuses on economic and occupational status, social patterns, social amenities and relationships, psychological features, physical amenities, health, cultural and religious, legal, aesthetic and statutory laws and acts issues. The overall negative economic impact of environmental degradation is lack of water and rainfall, hence fall in revenues from crops by almost 90% by 2100. On health matters the situation will create new malaria zones due to change in rainfall patterns e.g Kenya highlands which were malaria free but now are expected to be affected as the century nears the end. On political scene, warming of climate increases the risk of factors for conflicts among the tribes just as what we are experiencing in Mt. Elgon. In fact droughts increase likelihood of civil conflicts by 50%. Besides, there is haphazard dumping all over the country but worse in cities where, for example, most of Nairobi's waste is discarded at Dandora, which is a residential area of mainly poor in which plastics hold water, creating fertile breeding sites for mosquitoes which cause malaria and other diseases. Mortuaries are also within the vicinity of residential and office areas, for instance, City Mortuary in Nairobi which is situated near many offices and residential areas hence air pollution from there affects many people healthwise.

The above scenario brings us to focus on details of the negative impacts of environmental issues which affect people in both urban and rural areas, yet these people have no legal redress for compensation.

First and foremost is the issue of noise and pollution. Most urban environments are growing noisier while the air gets overloaded with particulate and gaseous pollutants. Sources of noise pollution include traffic (vehicular, railway and aircraft noise), industrial noise from heavy industries, people and their social cultural activities like, music, recreation, worshipping in charismatic churches. There is conclusive evidence on the relationship between noise levels and health in human beings. This ranges from annoyance and psychological stress to the impairment of vital metabolic processes like blood circulation, auditory and the nervous system. Sleep deprivation is perhaps one of the most serious health effects of noise pollution particularly in residential neighborhoods. This is caused mainly by nightclub, many sprawling churches who pray and sing throughout the night. Interestingly people endure this noise because they are either ignorant of their rights or there are no clear laws in Kenya that govern noise as an environmental impact on people.

Air pollution is another environmental impact. It falls in three categories; general, non-toxic dust from paint, toxic particulate chemicals and gaseous pollutants e.g. carbon, sulphur dioxide and carbon dioxide. This arises from various sources including mortuaries which are located close to

residential and commercial premises. The health effects of air pollution includes damage to the lungs and respiratory tract caused by sulphur and nitrogen oxides, impairment of the bloods capacity to carry oxygen and effects on cardiovascular, nervous and pulmonary systems caused by carbon monoxide. Volatile organic compounds cause mutations and cancer and contribute to the low-level ozone which causes nasal congestion, allergies and reduced lung function. These effect, therefore, calls for formulation and enforcement of permissible levels of emission of such pollutants besides campaigns and lobbying for mortuaries and Factories to be moved to secluded areas far from residential and commercial premises. Such standards can then be integrated into development controls. In fact Principle I of the Rio Declaration on environment and development provides that the polluter should bear the costs of pollution.

The second worst environmental issue which impacts negatively on people especially in urban areas is privacy and congestion. A typical day in most towns involves leaving a crowded home to take a crowded bus, moving through crowded streets to crowded lifts to crowded offices and vice versa. To some urban dwellers even the most fundamental privacy and toiletry needs is constantly invaded when the communal facility is offered as the only option. To others even a bedroom is far below the requirements of the inhabitants.

Annoyance caused by congestion leads to physical and mental fatigue, psychological stress and headaches. Human beings always search for structures, patterns, order and identity as mechanisms of interacting with their environment. A well structured and rich urban form constitutes a major environmental support for health through therapeutic effect of high quality. Therefore monotonously and poorly designed sprawling urban landscapes deny urban users the therapeutic rewards.

Another environmental issue that impacts negatively on human beings in both urban and rural areas is the hazardous construction materials and components. It is common knowledge that most construction materials are detrimental to health of workers and users and citizens in general. For instance lead affects the neurological system and causes mental retardation in children while asbestos contributes to the complications of the respiratory system. Most buildings and maintenance materials are made from synthetic chemicals especially the petro chemicals which affect human beings through headaches, nausea, loss of muscle coordination, leukemia, lung and liver cancer and depression. Most of these chemicals produce toxic fumes which lead to suffocation.

In fact, Principle 10 of the Rio declaration on environment and development, a UN conference held on 16th June 1972 in Stockholm reaffirmed access to information on hazardous materials by the workers and users and the effects on their health. Besides this, Kenya has not made the requirement mandatory to save the lives of many users of these materials.

Social amenities which include wildlife can either create good or bad environment for people. Spaces like public squares, parks and recreational spaces are used for relaxation and social interaction. Natural features like water, trees and wildlife (fauna and flora) when planned such as to harmonise with other urban land uses can significantly contribute the therapeutic effect.

Poor ergonomics at work and homes is another environmental factor. It focuses on the sensory and psychological requirements in relation to the performance of various tasks. While anthropometric focuses on the physical dimensions of users in relation to space and tools they use i.e. furniture and occupied space. MI these have environmental impact on people. There are regulations which govern the above but a wide range of new issues make these requirements inadequate. For instance with electronic age, new technologies have emerged hence need for new rules to consider gender and disabilities.

As mentioned earlier, haphazard dumping poses a great health risk to residents in cities and other towns which is blamed on lack of policy on waste management. Studies have found out huge concentrations of dangerous chemicals including dioxins, in soils around the dump sites especially in Dandora. Dioxins, which are found in plastics cause cancer. Most waste dumped have non-biodegradable materials i.e. metals and plastic while others are bio-degradable. Non biodegradable ones like plastic bags have choked soils as they do not allow flow of water and air thus block natural processes that cause soils to break down. They also block drains and sewerage system, further compounding sanitation problems that are already a major cause of water borne diseases such as cholera. Animals feeding on plastics eventually die after it blocks the intestines. Plastic bags are a menace and studies show that out of 2,400/- tones of solid waste per day generated by the residents in Nairobi, 20% of it is plastics. According to the same study, supermarkets, kiosks and markets are estimated to release 11 million plastic shopping bags per year while supermarkets account for 8 million of these bags. Even recycling of these plastics as a way of solving this menace produces dangerous chemicals that cause death. These chemicals include dioxin with differing levels of chlorine which cause cancer. They are usually produced when plastics are exposed to heat. In Kenya where there is no policy on disposal, households dispose plastics by burning thereby producing dioxins, the heat is also subjected to plastic during recycling. Lack of clean water and sanitation (sewer disposal) are major problems. There is inadequate or non-

existent garbage collection resulting effects like smells, diseases, vectors and pests attracted by garbage (rats, mosquitoes, flies, etc), drainage and drainage channel filled by garbage hence overflowing.

Having dealt with the environmental issues mostly in urban areas, let us briefly focus on the rural areas. Over 80% of Kenyans live in rural areas where poverty and hunger is predominant. These poor people need to be fed, clothed and protected from preventable vector borne diseases, they need clean water and fuel in form of charcoal and firewood. The key to meeting these needs is to increase productivity through modern farming technologies while ensuring the environment is protected and wildlife habitat is defended. However, on the contrary, due to unreliable and intermittent rainfall, people have invaded forests and parks and destroyed forests to burn charcoal. This has caused most parts of the country to dry up hence are at risk of desertification. Sources of major rivers have been interfered with thus the volume of waters has decreased and this has eventually resulted in conflicts and skirmishes among different tribes. Due to cutting of trees to burn charcoal, there is severe soil erosion thus interfering with the soil fertility hence poor yields.

4.0 JUSTIFICATION

Given the preceding scenario, the alarming situation provides a strong reason for OFFLACK to focus on the environmental issues which affect both human beings and animals by carrying out a comprehensive advocacy and lobbying to create awareness to people on how the environment around them both physical, social and economical affects them directly and indirectly and their rights in relation to that environment. It has become very clear that there are close links between environment and the health of Kenyan citizens and their socio-economic well being. This was reaffirmed under Principle 22 of the Rio declaration.

It has been very clear from the previous chapter that the environment impacts negatively on the health of people by inflicting diseases like psychological stress, malaria, cancer, sleep deprivation, annoyance, impairment, respiratory problems, cardio vascular, nervous system problems just to mention a few and subsequently death. Besides, animals are dying while wildlife has become extinct due to the encroachment on their habitat. In fact a report indicates that over 100,000 mammals, birds and fish die as a result of eating or being suffocated by discarded plastic bags.

Economically, farmers are experiencing reduced revenues due to unreliable rainfalls caused by interference of the environment thus affecting the national economy.

5.0 OBJECTIVES

5.1 Broad Objective

The broad objective is to achieve sustainable development through environmental protection by advocating and lobbying for national laws regarding safety standards of any environmental issues. Liability and compensation rules should be enacted to ensure that environmental degradation does not affect animals, human health and the socio-economy of the public in Kenya.

5.2 Specific Objectives

- ✓ Mobilise and sensitize the public on dangers of environmental degradation and need to protect it.
- ✓ Advocate for the establishment of environmental laws i.e. waste management rules and regulations.
- ✓ Advocate and lobby for all projects to be planned in consideration of their effects on health, for instance, irrigation projects and their effects on malaria and schistosomiasis. This calls for environmental laws and enactment of standard control. Besides the efforts of the Kenya Bureau of Standards, substandard products still enter the country.

6.0 PLANNED ACTIVITIES

- ✓ Advocacy and lobbying to establish and strictly follow standard safety measures. Factories to be sensitized on pollution laws so as to protect the environment. Lack of these laws results in incidences like the Bhopal in India. This therefore calls for enactment of safety laws.
- ✓ Lobby for the reduction of dependency on non-biodegradable (non-renewable) resources or material such as fossil, fuels, plastic bags and invest in cheap, clean, renewable energies and material such as the harnessing of energy of water, sun and wind while restoring to biodegradable materials.
- ✓ Lobby for the enactment of legal framework in which to penalize illegal logging, cultivation, grazing, encroachment and poaching. This will protect land degradation particularly troublesome in hillsides and mountains because of its impact on downstream watersheds, soil fertility, deforestation and loss of bio diversity.

- ✓ Promotion of cooking stoves to reduce the need for firewood.
- ✓ Advocate for property rights to resources such as land, water and trees. This will provide income as rural people rely on customary or informal rights that are not adhered to. Therefore it is essential to strengthen their rights to property resources.
- ✓ Introduction of drought tolerant crops.
- ✓ Carrying out integrated pest management.
- ✓ Mobilise communities and slum neighbourhoods to form associations or cooperatives that are sustainable for the purpose of moulding the biodegradable products to make handbags, pots, carpets and other products. Oscar Foundation is currently having a similar pilot project in Nanyuki where the mobilized youth are making such products hence helping them economically while protecting the environment.
- ✓ Carrying out training sessions for Nema Inspectors, Custom officers and other environmental experts on legal aspect of both Rio declaration and Kyoto Protocol. This is aimed to equip them with skills on how to determine harmful products when carrying out impact assessment.
- ✓ Carrying out training on both doctors, lawyers, planners, engineers, architects, sociologists, anthropologists and environmental officers, in order to apply an integrated approach to environmental protection.
- ✓ Lobbying for separation of non-biodegradable and biodegradable wastes to be
- ✓ dumped separately.
- ✓ Lobby for the relocation of Dandora dumpsite in Nairobi.
- ✓ Lobby for the relocation of major mortuaries.
- ✓ Lobbying for rules on resource access such as permit for mining, timber harvesting and grazing are subject to environmental planning and properly integrated into the planning process in a participatory manner.

7.0 PROGRAMME IMPLEMENTATION

The programme will be implemented first in Nairobi then extend country wide though a pilot one is currently being implemented in Nanyuki of Laikipia District as already mentioned. The

implementation will be done through widespread environmental education, awareness building and promotion of public participation. Environmental education includes learning in all fields concerned with a man's inter-relationships with his/her surroundings. The goals of any environmental education programme are:

- i. Awareness and sensitivity to environment.
- ii. Knowledge of environmental problems and their legal implications
- iii. Attitudes and values of concern for the environment and motivation to participate in its protection.
- iv. Participation in environmental protection activities.
- v. Skills to solve environmental problems and;
- vi. Ability to evaluate environmental measures.

The implementation will be done in phases.

Phase I: Recruitment of Staff and/or Resource Persons

Though Oscar Foundation has and will have a working relationship with different stakeholders who include Ministry of Environment and Natural Resources, Environmental Officers, National Environment and Management Authority (NEMA) experts and council officers, the Foundation will nevertheless hire a few technical and management staff to facilitate project implementation. Besides these people to be hired Oscar Foundation has an efficient staff to be relied on for implementation of this project.

It is run by an Executive Director who is a professional Lawyer and under him is a Finance Officer who has a Bachelor of Commerce Degree and wide range of experience especially in accounting and financial matters. Advocacy and mobilizations is headed by a trained and competent journalist. Other, include a consultant with experience in research, project planning and management with a wide working experience with Kenya/ Nordic Programme, DANIDA, ICIPE and the Government of Kenya.

Phase II: Capacity building, advocacy and Lobbying

Oscar Foundation recognizes community participatory approach as the preferred way in the execution of community projects and consequently plans to have its staff and the selected committee members of the groups democratically elected by their own. Once trained they will be expected to reach the larger population within their respective areas. As a control measure to environmental degradation in both urban and rural settlements, women must be fully involved and this will be done through imparting Sustainable Development Education (S.D.E) as a tool to equip women with skills for sustainable environmental management. Women, it is argued can play an important role in sustainable development but they are handicapped by lack of specialized knowledge and the existing decision making structures which continue to be male dominated.

Besides, both Rio Declarations and the Kyoto Protocol emphasizes the vital role women and youth play in environmental protection, therefore Oscar Foundation will identify women and youth both in groups so as to train them on environmental matters including management of the same in form of moulding biodegradable waste into useful products like handbags, posts and carpets.

Besides the above Oscar Foundation believes in multi disciplinary approach in environmental management. In order therefore to alleviate environmental degradation, it is indisputable that the Foundation involves other disciplines like Doctors, Sociologists, Planners, Architects, Engineer, Environmental experts, customs officers and others who will have to be trained on legal aspects of environmental consequences. The role of the user of environments is critical hence user education and participation need to be integrated into the decision making process.

It is important to note here that the work of advocacy and lobbying focusing on sustainable development with positive health effects without degrading the environment commences. As earlier argued, the need for comprehensive plastic and other metals that are non biodegradable waste management policy is vigorously advocated for in which all stakeholders are involved. Rules and Laws on safety standards and pollution are advocated for so that they can be entrenched in the national laws of the country. Other lobbying includes relocation of mortuaries, dumping sites and industries that re deemed to pollute the environment. More lobbying will have to be done to force supermarkets, manufacturers, shop and markets to use bio degradable plastics for shopping rather than the non-biodegradable ones.

Besides lobbying and advocacy on protection and rehabilitation of our forests to preserve the ecosystem that determines the flow and volume of our, rivers, our rainfall and our ground water supplies. These ecosystems include the aberdares, Cherangani Hills, Mau Complex and Mt. Kenya

which are also essential to Kenya's hydropower system, harvest, daily water needs and wildlife. Laws and rules should be enacted to protect them and this will be done through banning of logging, cultivation, grazing, encroachment and poaching.

Phase III: Actual Moulding and Recycling

Besides the ongoing Nanyuki Pilot Project, the rest of the mobilized youth, women and the public in general should embark on making handbags, posts, carpets and other products from the waste. This will be done by funding these groups to start off and then sustain themselves as the products are sold. Oscar Foundation will also assist these people in securing the market for the products they mould.

8.0 TARGET GROUPS

All Kenyans are targeted. However, emphasis will be on women and the youth. Besides, all professionals will be targeted so that they can approach the problem in multiplicity.

The emphasis on women is as a result of their role in influencing the entire family circle and especially children, in their environmental perceptions, values and attitudes and ethical perception as well as the use of natural resources, energy consumption and in waste management and recycling.

Secondly, women are also sole providers of domestic services e.g. fetching water, food and fuel and because of this, they should play a leading role in advising and educating others on the environment.

Thirdly, since women have easier access to local women's environmental knowledge and concerns than men, they are consequently better able to identify, convey and include women's concerns and knowledge in development.

The youth being jobless and idle and at risk of being lured into crime, environmental education should be targeted at them in which they can initiate activities to keep them busy and earn a living in terms of income.

9.0 METHODOLOGY

Many of the methods have been captured in the sections above. However, the Foundation stresses on enmasse public lectures to sensitize and mobilize the public to protect environmental degradation at the same time to know their rights as regards these hazardous effects. This will enable them seek legal redress in terms of liability and compensation.

Other methods will include advocacy and lobbying through both print and electronic media. Visits to various parts of the country and training sessions which encompasses seminars and workshops will be employed.

10.0 MONITORING AND EVALUATION

Oscar Foundation will carry out a continuo/ periodic review and surveillance at every level of the hierarchy of the implementation of this activities to ensure that input, deliveries, work schedules, target outputs and other required actions proceeds according to plan (monitoring).

The purpose of this monitoring will be to achieve efficient and effective project performance by providing feedback to enable the Foundation's management team to take timely corrective action in case of shortfall and constraint. Besides, evaluation which involves a process of determining systematically and objectively the relevance, effectiveness and impact of activities in the light of the Foundation's objectives will be carried out at the end of the implementation““

BUDGET

			1st Year		2nd Year	
Item	Units	Unit Cost	Total Cost	1 st Half	2 nd half	
A. STAFF						
1. Project Officers	4	150,000.00	7,200,000.00	3,600,000.00	3,600,000.00	
2. Environment Officers	6	150,000.00	10,800,000.00	5,400,000.00	5,400,000.00	
3. Support Staff	3	50,000.00	2,160,000.00	1,800,000.00	1,800,000.00	
B. VEHICLES						
Vehicles	4	4,000,000.00	16,000,000.00	-	-	
C. ADVOCACY & LOBBYING						
1). Electronic Media	---	---	1,600,000.00	800,000.00	800,000.00	
2). Print media	---	---	1,000,000.00	500,000.00	500,000.00	
3).posters, printed material	---	---	2,000,000.00	1,000,000.00	1,000,000.00	
D. TRAINING						
1. Workshops & seminars	20	31,500,000.00	30,000,000.00			
E. START UP CAPITAL						
1. Tools for moulding & recycling			4,000,000.00	2,000,000.00	2,000,000.00	
TOTAL IN Kshs.			74,760,000.00	37,380,000.00	37,380,000.00	

TOTAL REQUESTED FOR TWO-YEAR PERIOD IN KSHS. **149,520,000.00/=.**