

Building Capacity for Lawyers on Environmental Law, Climate Change, and Mediation

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Abstract

This paper critically discusses the need to build capacity for lawyers on environmental law, climate change, and mediation. The paper argues that lawyers have a vital role to play in fostering Sustainable Development. Lawyers can aid in the effective management of environment and climate change disputes. The paper further posits that mediation is an appropriate avenue available for lawyers to foster Sustainable Development through effective management of environment and climate change disputes. As a result, the paper notes that it is imperative to build capacity for lawyers on environmental law, climate change, and mediation. The paper offers ideas towards building capacity for lawyers on environmental law, climate change, and mediation for Sustainable Development.

1.0 Introduction

Lawyers have been described as key agents of social engineering in society as well as justice, equity, and equality¹. It has been noted that lawyers are not mere professionals whose sole purpose is to represent clients but they are also meant to fix and help in controlling the social environments and communities using the law among other available legal channels². As a social engineer, a lawyer speaks out for the rights of vulnerable people and helps the society fight injustices³. Lawyers therefore play a

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¹ Muigua. K., 'Re-imagining the Role of Lawyers in Climate Justice' Available at <https://kmco.co.ke/wp-content/uploads/2023/07/Re-imagining-the-Role-of-Lawyers-in-Climate-Justice-Kariuki-Muigua-20th-July-2023.pdf> (Accessed on 15/07/2024)

² Why Lawyers are Social Engineers., Available at <https://www.iambenue.com/why-lawyers-are-social-engineers/> (Accessed on 15/07/2024)

³ Ibid

significant role in the development of the society⁴. They can ensure that justice is served to all including the weakest and most vulnerable sections of the society and can also help in the development of an egalitarian societies⁵.

The role of lawyers as social engineers has become more urgent in the wake of the Sustainable Development debate⁶. The ideal of Sustainable Development aims to promote development that meets the needs of the present without compromising the ability of future generations to meet their own needs⁷. It entails creating and maintaining the conditions under which humanity and nature can exist in productive harmony to support present and future generations⁸. Sustainable Development aims to achieve environmental conservation, economic development and social progress⁹.

Realizing Sustainable Development has become an urgent global concern in the wake of mounting problems facing the planet including environmental challenges such as climate change, pollution, and loss of biodiversity together with issues of poverty, increasing disparity between societies and the tensions brought by social inequalities¹⁰. It has been noted that lawyers have a key role to play in achieving Sustainable Development by challenging economic, social, and environmental injustices caused by environmental

⁴ Badlani. G., 'Lawyers Are Social Engineers, Not Mere Professionals Representing Clients: Justice Surya Kant' Available at <https://www.lawyersclubindia.com/articles/lawyers-are-social-engineers-not-mere-professionals-representing-clients-justice-surya-kant-14488.asp> (Accessed on 15/07/2024)

⁵ Ibid

⁶ International Lawyers Project., 'Environment and Sustainable Development' Available at <https://www.internationallawyersproject.org/environment-and-sustainable-development#:~:text=We%20build%20the%20capacity%20of,not%20disproportionately%20burden%20the%20marginalised.> (Accessed on 15/07/2024)

⁷ World Commission on Environment and Development., 'Our Common Future.' Oxford, (Oxford University Press, 1987)

⁸ United States Environmental Protection Agency., 'What is Sustainability.' Available at <https://www.epa.gov/sustainability/learn-about-sustainability> (Accessed on 15/07/2024)

⁹ Fitzmaurice. M., 'The Principle of Sustainable Development in International Development Law.' *International Sustainable Development Law.*, Vol 1

¹⁰ Giovannoni. E., & Fabietti. G., 'What Is Sustainability? A Review of the Concept and Its Applications.' In: Busco, C., Frigo, M., Riccaboni, A., Quattrone, P. (eds) *Integrated Reporting*. Springer, Cham. Available at https://doi.org/10.1007/978-3-319-02168-3_2 (Accessed on 15/07/2024)

damage, biodiversity loss, deforestation, illegal trafficking of natural resources, climate change and conflicts over natural resources, by helping affected communities hold actors to account, defending human rights, negotiating equitably, and halting illegal environmental acts that violate human rights and cause dispossession¹¹. Lawyers also have a crucial role to play in building the capacity of governments to better enforce environmental laws, protect environmental rights, and use climate finance instruments to promote a green economy¹². Lawyers are therefore key agents in the Sustainable Development agenda.

This paper critically discusses the need to build capacity for lawyers on environmental law, climate change, and mediation. The paper argues that lawyers have a vital role to play in fostering Sustainable Development. Lawyers can aid in the effective management of environment and climate change disputes. The paper further posits that mediation is an appropriate avenue available for lawyers to foster Sustainable Development through effective management of environment and climate change disputes. As a result, the paper notes that it is imperative to build capacity for lawyers on environmental law, climate change, and mediation. The paper offers ideas towards building capacity for lawyers on environmental law, climate change, and mediation for Sustainable Development.

2.0 The Role of Lawyers in the Context of Environmental Law, Climate Change, and Mediation

2.1 Lawyers and Environmental Law

It has been noted that the legal profession plays a critical role in realizing the environmental dimension of Sustainable Development¹³. Lawyers have a critical role in

¹¹ International Lawyers Project., 'Environment and Sustainable Development' Op Cit

¹² Ibid

¹³ United Nations Environment Programme., 'Framework Model Curriculum on Continuing Legal Education In Environmental Law' Available at <https://www.ibanet.org/MediaHandler?id=3D48AC6C-1A29-4190-9CF8-C2F057C3B77E> (Accessed on 15/07/2024)

the development, implementation, and enforcement of environmental law¹⁴. For example, lawyers play a crucial role in enacting and enforcing the legal framework on environmental sustainability¹⁵. In addition, in cases where environmental conflicts arise, lawyers play an important role in determining whether companies will be held accountable for their actions against the environment, including the climate¹⁶. Lawyers can represent clients in litigation related to environmental damage, pollution, and breaches of environmental regulation, among others towards realizing environmental sustainability¹⁷. In addition, it has been noted that lawyers and law firms can position themselves as thought leaders and promote awareness around environmental laws and regulations as well as the importance of Environment, Social, and Governance (ESG) and sustainability to clients and the general public¹⁸.

According to the United Nations Environment Programme (UNEP), lawyers have a major role to play in effectively enforcing and supporting the implementation of environmental law at the global, regional, and national levels¹⁹. They can achieve this goal through negotiating and drafting natural resource agreements and shaping laws and regulations on the environment and natural resources²⁰. Lawyers can also foster access to environmental information, public participation, and access to justice in environmental matters²¹. For example, it has been noted that public interest litigation or citizen suits is a tool that can be undertaken by lawyers against polluters, whether this are private or public in nature, to force the adequate implementation of environmental legislation or to stop the activity of any person, including governments and governmental bodies or

¹⁴ Ibid

¹⁵ Ibid

¹⁶ The Role of Lawyers in the Green Transition: Six Ways of Making a Positive Impact., Available at https://www.legal500.com/global_green_guide/the-role-of-lawyers-in-the-green-transition-six-ways-of-making-a-positive-impact/ (Accessed on 15/07/2024)

¹⁷ Ibid

¹⁸ Ibid

¹⁹ United Nations Environment Programme., 'Framework Model Curriculum on Continuing Legal Education In Environmental Law' Op Cit

²⁰ Ibid

²¹ Ibid

agencies, alleged to be in violation of the right to a clean, healthy, and sustainable environment²². Further, lawyers are crucial in providing continuing legal advice on environmental sustainability issues to clients including corporations towards strengthening environmental law²³.

Lawyers therefore have a major role to play in shaping environmental law. They can foster environmental rule of law through the development, implementation, and enforcement of environmental law²⁴. They can also foster the attainment of environmental justice by challenging economic, social, and environmental injustices caused by environmental challenges such as climate change, biodiversity loss, and pollution and fostering access to information, public participation, and access to justice in environmental matters²⁵.

2.2 Lawyers and Climate Change

Climate Change has been described as the most defining challenge humanity is currently facing²⁶. From shifting weather patterns that threaten food production, to rising sea levels that increase the risk of catastrophic flooding, the impacts of climate change are global in scope and unprecedented in scale²⁷. It has been noted that no corner of the globe is immune from the devastating consequences of climate change²⁸. The impacts of climate change including rising temperatures are fueling environmental degradation, natural disasters, weather extremes, food and water insecurity, economic disruption, and conflicts²⁹. Climate change is therefore a major global challenge that is affecting both

²² Ibid

²³ Ibid

²⁴ Ibid

²⁵ International Lawyers Project., 'Environment and Sustainable Development' Op Cit

²⁶ United Nations., 'Climate Change' Available at <https://www.un.org/en/global-issues/climate-change#:~:text=Climate%20Change%20is%20the%20defining,scope%20and%20unprecedented%20in%20scale>. (Accessed on 15/07/2024)

²⁷ Ibid

²⁸ United Nations., 'The Climate Crisis - A Race we Can Win' Available at <https://www.un.org/en/un75/climate-crisis-race-we-can-win> (Accessed on 15/07/2024)

²⁹ Ibid

developed and developing countries in their efforts towards realization of the Sustainable Development agenda³⁰.

Climate change also raises justice concerns³¹. It has been noted that there is unequal historical responsibility that countries and communities bear in relation to the climate crisis³². The impacts of climate change are more severe for vulnerable populations who have limited means to adapt to climate change impacts³³. The ideal of climate justice therefore seeks to ensure that countries, industries, businesses, and people that have become wealthy from emitting large amounts of greenhouse gases have a responsibility to help those affected by climate change, particularly the most vulnerable countries and communities, who often are the ones that have contributed the least to the crisis³⁴. Climate justice links human rights and development to achieve a human-centred approach, safeguarding the rights of the most vulnerable people and sharing the burdens and benefits of climate change and its impacts equitably and fairly³⁵.

Lawyers have a key role to play in the climate change debate. Lawyers play a pivotal role in addressing climate change by using environmental law as a tool to advocate for stronger regulations, holding polluters accountable and promoting sustainable practices³⁶. For example, lawyers work with regulators and lawmakers to draft policies and environmental protections laws that impose stricter standards on greenhouse gas

³⁰ Muigua. K., 'Achieving Sustainable Development, Peace and Environmental Security.' Glenwood Publishers Limited, 2021

³¹ United Nations Development Programme., 'Climate change is a matter of justice – here's why' Available at <https://climatepromise.undp.org/news-and-stories/climate-change-matter-justice-heres-why> (Accessed on 15/07/2024)

³² Ibid

³³ Ibid

³⁴ Ibid

³⁵ Mary Robinson Foundation Climate Justice., 'Principles of Climate Justice' Available at <https://www.mrfcj.org/principles-of-climate-justice/> (Accessed on 15/07/2024)

³⁶ 9 Ways Lawyers are Addressing Climate Change through Environmental Law., Available at <https://www.bestlawyers.com/article/tackle-climate-change-environmental-law/5346> (Accessed on 15/07/2024)

emissions³⁷. They also represent environmental groups and other stakeholders in proceedings before regulatory agencies³⁸. In addition, lawyers assist in the development of renewable energy projects by providing advice on regulatory compliance, securing permits and negotiating renewable energy contracts³⁹.

Climate litigation is another avenue available for lawyers in the climate change debate⁴⁰. Through litigation, lawyers pursue legal action against companies and individuals responsible for significant pollution and environmental damage. This includes filing lawsuits for violations of emissions standards and seeking compensation and remediation for affected communities⁴¹. Lawyers also have an important role to play in drafting and analyzing laws and policies that promote climate change adaptation and mitigation measures and green investments, in order to ensure that such measures do indeed support Sustainable Development⁴².

Lawyers are also important agents in achieving climate justice⁴³. They can help in protecting the rights of individuals and communities that are threatened by climate change and inducing governments and companies to adopt more climate-friendly policies and practices⁴⁴. It has been noted that lawyers can help advance climate justice through climate change litigation, fostering public awareness and education on climate

³⁷ Ibid

³⁸ Ibid

³⁹ Ibid

⁴⁰ Muigua. K., 'Promoting Climate Litigation in Kenya for Sustainability' Available at <https://kmco.co.ke/wp-content/uploads/2023/08/Promoting-Climate-litigation-in-Kenya-for-Sustainability-Kariuki-Muigua-August-2023.pdf> (Accessed on 15/07/2024)

⁴¹ Ibid

⁴² International Lawyers Project., 'Environment and Sustainable Development' Op Cit

⁴³United Nations Development Programme., 'UNDP Launches "Climate Justice" Training for Young Lawyers' Available at <https://www.undp.org/turkiye/press-releases/undp-launches-climate-justice-training-young-lawyers> (Accessed on 15/07/2024)

⁴⁴ Ibid

change, unlocking climate finance, participating in the formulation of laws and policies on climate change, and greening the legal profession⁴⁵.

2.3 Lawyers and Mediation

Mediation is one the Alternative Dispute Resolution (ADR) processes⁴⁶. ADR entails a set of mechanisms that are applied to manage disputes without resort to adversarial litigation⁴⁷. ADR has also been defined as a spectrum of less costly and more expeditious alternatives to litigation, where a neutral party assists the disputing parties in reaching a resolution⁴⁸. ADR processes include negotiation, mediation, arbitration, conciliation, adjudication, expert determination, early neutral evaluation, and Traditional Dispute Resolution Mechanisms (TDRMs) among others⁴⁹. These processes may be linked to but function outside formal court litigation processes⁵⁰. They are ideal in enhancing access to justice due to their advantages which include privacy, confidentiality, flexibility, informality, efficiency, party autonomy and the ability to foster expeditious and cost-effective management of disputes⁵¹. ADR mechanisms also allow for more creative and collaborative solutions than that of traditional litigation⁵².

Mediation has been defined as a process wherein parties to a dispute meet with a mutually selected impartial and neutral person who assists them in the negotiation of their differences⁵³. Mediation has also been defined as an informal consensual process in

⁴⁵ Muigua. K., 'Redefining the Role of Lawyers in Climate Justice' Available at <https://kmco.co.ke/wp-content/uploads/2023/06/Redefining-the-Role-of-Lawyers-in-Climate-Justice.pdf> (Accessed on 15/07/2024)

⁴⁶ Muigua. K., 'Alternative Dispute Resolution and Access to Justice in Kenya.' Glenwood Publishers Limited, 2015

⁴⁷ Ibid

⁴⁸ JAMS ADR., 'What is ADR? Defining the Alternative Dispute Resolution Spectrum' Available at <https://www.jamsadr.com/adr-spectrum/> (Accessed on 16/07/2024)

⁴⁹ Muigua. K., 'Alternative Dispute Resolution and Access to Justice in Kenya.' Op Cit

⁵⁰ Uwazie. E., 'Alternative Dispute Resolution in Africa: Preventing Conflict and Enhancing Stability.' *Africa Security Brief*, No. 16 of 2011

⁵¹ Muigua. K., 'Alternative Dispute Resolution and Access to Justice in Kenya.' Op Cit

⁵² JAMS ADR., 'What is ADR? Defining the Alternative Dispute Resolution Spectrum' Op Cit

⁵³ JAMS ADR., 'Mediation Defined: What is Mediation?' Available at <https://www.jamsadr.com/mediation-defined/> (Accessed on 16/07/2024)

which a neutral intermediary, the mediator, assists the parties in reaching a settlement of their dispute, based on the parties' respective interests⁵⁴. According to the United Nations, mediation is a process whereby a third party assists two or more parties, with their consent, to prevent, manage or resolve a conflict by helping them to develop mutually acceptable agreements⁵⁵. A mediator cannot impose a decision upon the parties⁵⁶. Rather, a mediator facilitates communication, promotes understanding, focuses the parties on their interests, and uses creative problem solving to enable the parties to reach their own mutually acceptable agreement⁵⁷.

Mediation is a powerful tool available to lawyers in enhancing access to justice⁵⁸. Its key features such as informality, flexibility, efficiency, confidentiality, party autonomy and the ability to promote expeditious and cost-effective management of disputes makes it suitable in promoting access to justice⁵⁹. It also has the ability to preserve relationships and provides parties with a wide range of solutions⁶⁰. Further, mediation has the potential to address the root causes of conflicts therefore preventing conflicts from reemerging in future⁶¹. Lawyers can therefore embrace mediation towards access to justice and amicable management of disputes. Where appropriate, lawyers can advise and assist their clients to negotiate an amicable solution with the opposing party through mediation and other ADR techniques⁶². They also provide valuable guidance and advice

⁵⁴ World Intellectual Property Organization., 'Guide to WIPO Mediation' Available at <https://tind.wipo.int/record/29081?v=pdf> (Accessed on 16/07/2024)

⁵⁵ United Nations., 'Basics of Mediation: Concepts and Definitions.' Available at <https://peacemaker.un.org/sites/peacemaker.un.org/files/Basics%20of%20Mediation.pdf> (Accessed on 16/07/2024)

⁵⁶ World Intellectual Property Organization., 'Guide to WIPO Mediation' Op Cit

⁵⁷ Bercovitch. J., 'Mediation Success or Failure: A Search for the Elusive Criteria.' *Cardozo Journal of Conflict Resolution*, Vol. 7, p 289

⁵⁸ Muigua. K., 'Resolving Conflicts through Mediation in Kenya.' Glenwood Publishers Limited, 2nd Edition., 2017

⁵⁹ Ibid

⁶⁰ Ibid

⁶¹ Ibid

⁶² The Role of an International Commercial Arbitration Lawyer., Available at <https://www.boccadutri.com/the-role-of-an-international-commercial->

clients on the strengths and weaknesses of their case while also helping to negotiate settlements or other resolutions as appropriate⁶³. A lawyer's role in mediation includes representing clients, providing practical and legal advice on the process and on issues raised and offers made, and assisting in drafting terms and conditions of settlement as agreed⁶⁴.

Lawyers can also utilize mediation to strengthen environmental rule of law and foster effective management of climate change disputes⁶⁵. Mediation is a key tool towards achieving environmental sustainability⁶⁶. It has been noted that many business conflicts stem from environmental issues, such as disputes over land use or pollution⁶⁷. By resolving these issues through mediation, companies can find solutions that protect the environment and promote Sustainable Development⁶⁸. In addition, mediation provides a unique opportunity for the parties involved to directly engage in resolving their conflicts⁶⁹. This approach allows companies to build stronger and long-term relationships with their stakeholders and to promote corporate social responsibility⁷⁰.

[arbitrationlawyer/#:~:text=Their%20responsibilities%20include%20developing%20an,hearings%2C%20and%20defe%20nds%20their%20interests](#) (Accessed on 16/07/2024)

⁶³ Understanding the Role of Arbitration Attorneys in Resolving Disputes., Available at <https://www.jlegal.org/blog/role-of-arbitration-attorneys-in-resolving-disputes/#:~:text=They%20help%20to%20prepare%20and,negotiate%20settlements%20or%20other%20re%20solutions> (Accessed on 16/07/2024)

⁶⁴ Law Council of Australia., 'Guidelines for Lawyers in Mediations' Available at <https://lawcouncil.au/publicassets/39a0c218-0994-ea11-9434-005056be13b5/Guidelines%20for%20Lawyers%20in%20Mediations%20Final%2016%20May%202019.pdf> (Accessed on 16/07/2024)

⁶⁵ Muigua. K., 'Resolving Natural Resource-Based Conflicts in Africa through Negotiation and Mediation' Available at <https://kmco.co.ke/wp-content/uploads/2024/05/Resolving-Natural-Resource-Based-Conflicts-in-Africa-through-Negotiation-and-Mediation.pdf> (Accessed on 16/07/2024)

⁶⁶ Maia. A., 'The Importance of Mediation in ESG: Promoting Sustainability in Corporations' Available at <https://mediationblog.kluwarbitration.com/2024/03/08/the-importance-of-mediation-in-esg-promoting-sustainability-in-corporations/#:~:text=Many%20business%20conflicts%20stem%20from,environment%20and%20promote%20sustainable%20development.> (Accessed on 16/07/2024)

⁶⁷ Ibid

⁶⁸ Ibid

⁶⁹ Ibid

⁷⁰ Ibid

Mediation is a key collaborative approach towards managing environmental and natural resource conflicts⁷¹. It has been noted that applying collaborative approaches in managing conflicts allows competing or opposing stakeholder groups to work together to reach an agreement on a controversial issue⁷². Collaborative approaches towards conflict management aim to preserve relationships, build trust, and promote long term positive change⁷³. In environmental and natural resources conflicts, sustainable outcomes are more desirable because the shared benefits of these resources often cross tribal, societal, communal, and national boundaries⁷⁴. Mediation can enhance collaboration over the ownership, management, and use of natural resources therefore promoting peace and stability⁷⁵. According to UNEP, mediation is a vital tool in preventing and resolving environment and natural resource- based conflicts⁷⁶. It further notes that mediation can be particularly effective in helping parties identify ways to maximize and share resource benefits⁷⁷.

In addition, mediation is a suitable process in resolving climate change disputes⁷⁸. It has been opined that as climate change is fast becoming a major test to humanity's collective ability to prevent and manage crises, mediators will increasingly need to consider its short-, medium- and long-term implications for their engagements and integrate climate-

⁷¹ Food and Agriculture Organization., 'Collaborative Conflict Management for Enhanced National Forest Programmes (NFPs)' Available at <https://www.fao.org/3/i2604e/i2604e00.pdf> (Accessed on 16/07/2024)

⁷² Ibid

⁷³ Miroslavov. M., 'Mastering the Collaborating Conflict Style In 2024' Available at <https://www.officernd.com/blog/collaboratingconflictstyle/#:~:text=It's%20one%20of%20the%20strategies,their%20underlying%20needs%20and%20interest> (Accessed on 16/07/2024)

⁷⁴ United Nations Environment Programme., 'Natural Resources and Conflict: A Guide for Mediation Practitioners' Available at https://peacemaker.un.org/sites/peacemaker.un.org/files/NRCMediation_UNDPAUNEP2015_0.pdf (Accessed on 16/07/2024)

⁷⁵ Ibid

⁷⁶ United Nations Environment Programme., 'Mediation Can Prevent, Resolve Natural Resources Disputes New UN Guide Launched' Available at <https://www.unep.org/news-and-stories/press-release/mediation-can-prevent-resolve-natural-resources-disputes-new-un> (Accessed on 16/07/2024)

⁷⁷ Ibid

⁷⁸ United Nations., 'The Implications of Climate Change for Mediation and Peace Processes' Available at <https://peacemaker.un.org/sites/peacemaker.un.org/files/DPPAPracticeNote-TheImplicationsofClimateChangeforMediationandPeaceProcesses.pdf> (Accessed on 16/07/2024)

informed practices into mediation and other forms of peacemaking⁷⁹. Such approaches are not only necessary to help parties to conflicts address the risks associated with the adverse effects of climate change, but they also allow mediators to take advantage of potential opportunities for bringing conflict parties together to discuss shared responses to common climate-related threats⁸⁰. Climate-informed mediation provides a platform to engage and better support the efforts of conflict parties to find a peaceful and sustainable solution to their dispute while strengthening the global response on climate change⁸¹. It has been noted that mediation can be a more flexible mode of resolving climate change conflicts⁸². Parties to such disputes may opt to appoint a mediator who is an expert on the specific matter involved in the dispute in order better to facilitate a mutually acceptable settlement agreement between and among the parties involved⁸³.

From the foregoing, it is evident that that the ideas of environmental law, climate change, and mediation are related. It is therefore necessary to build the capacity of lawyers on environmental law, climate change, and mediation for Sustainable Development.

3.0 Conclusion

It is imperative to build the capacity of lawyers in environmental law, climate change, and mediation. Lawyers play a major role in the development, implementation, and enforcement of environmental law⁸⁴. They can also represent clients in litigation related to environmental damage, pollution, and breaches of environmental regulation, among others towards realizing environmental sustainability⁸⁵. Lawyers are also crucial in

⁷⁹ Ibid

⁸⁰ Ibid

⁸¹ Ibid

⁸² Orsua. R., 'Resolving Climate Change-Related Disputes through Alternative Modes of Dispute Resolution' Available at <https://www.hkiac.org/content/resolving-climate-change-related-disputes-through-alternative-modes-dispute-resolution> (Accessed on 16/07/2024)

⁸³ Ibid

⁸⁴ United Nations Environment Programme., 'Framework Model Curriculum on Continuing Legal Education In Environmental Law' Op Cit

⁸⁵ Ibid

promoting awareness around environmental laws and regulations as well as the importance of ESG tenets and sustainability issues to clients and the general public⁸⁶. The role of lawyers in environmental law can also be realized by enhancing access to environmental information, public participation, and access to justice in environmental matters⁸⁷. Further, lawyers have a pertinent role to play in addressing climate change by using environmental law as a tool to advocate for stronger regulations, holding polluters accountable and promoting sustainable practices⁸⁸. They can also help in realizing climate justice through climate litigation⁸⁹. Mediation is a tool available to lawyers in enhancing access to justice⁹⁰. Lawyers can also utilize mediation to strengthen environmental rule of law and foster effective management of climate change disputes⁹¹. It is therefore imperative to build the capacity of lawyers on environmental law, climate change, and mediation.

In order to build the capacity of lawyers, there is need for continuing legal education on environmental law and climate change⁹². This is key in helping lawyers develop knowledge and skills to be able to effectively support the attainment of Sustainable Development, and the health of people and planet⁹³. Continuing legal education is also key in ensuring that lawyers are able to effectively support the enforcement and implementation of environmental rule of law globally, regionally, and nationally⁹⁴.

⁸⁶ The Role of Lawyers in the Green Transition: Six Ways of Making a Positive Impact., Op Cit

⁸⁷ United Nations Environment Programme., 'Framework Model Curriculum on Continuing Legal Education In Environmental Law' Op Cit

⁸⁸ 9 Ways Lawyers are Addressing Climate Change through Environmental Law., Op Cit

⁸⁹ Muigua. K., 'Promoting Climate Litigation in Kenya for Sustainability' Op Cit

⁹⁰ Muigua. K., 'Resolving Conflicts through Mediation in Kenya.' Op Cit

⁹¹ Muigua. K., 'Resolving Natural Resource-Based Conflicts in Africa through Negotiation and Mediation' Op Cit

⁹² United Nations Environment Programme., 'Framework Model Curriculum on Continuing Legal Education In Environmental Law' Op Cit

⁹³ Ibid

⁹⁴ Ibid

Lawyers should also be encouraged to embrace environmental law and climate change considerations including climate litigation as an area of practice⁹⁵. This will be key in building the capacity of lawyers as agents of environmental and climate justice⁹⁶. It is therefore necessary for law schools to embrace environmental law and climate change as key courses in order to build the capacity of lawyers in these areas⁹⁷. In addition, it is important for legal bodies and institutions to develop guidelines for law firms and law practitioners to encourage them to reduce their carbon footprint in order to build the capacity of lawyers on climate change⁹⁸.

Finally, it is imperative to embrace ADR in the legal profession⁹⁹. ADR has emerged not as a mere alternative but as a beacon of hope, offering a pathway to resolve disputes with grace and efficacy¹⁰⁰. Legal practitioners and disputants alike should therefore view ADR not as an avenue of last resort but as a preferred path towards mutual resolution of conflicts¹⁰¹. By embracing ADR mechanisms including mediation, lawyers can effectively discharge their mandate in ensuring access to justice while also being provided with an appropriate forum to manage environmental law and climate change disputes¹⁰². Strengthening the legal, policy, and institutional framework on ADR processes including mediation is also key in enhancing the effectiveness of these mechanisms¹⁰³.

⁹⁵ Muigua. K., 'Realizing Environmental Justice through Litigation' Available at <https://kmco.co.ke/wp-content/uploads/2023/07/Realizing-Environmental-Justice-through-Litigation.pdf> (Accessed on 16/07/2024)

⁹⁶ Ibid

⁹⁷ Muigua. K., 'Re-imagining the Role of Lawyers in Climate Justice' Available at <https://kmco.co.ke/wp-content/uploads/2023/07/Re-imagining-the-Role-of-Lawyers-in-Climate-Justice-Kariuki-Muigua-20th-July-2023.pdf> (Accessed on 16/07/2024)

⁹⁸ Ibid

⁹⁹ Barwell. J., 'A Tale of Conflict and Resolution: My Dive into Alternative Dispute Resolution' Available at <https://www.linkedin.com/pulse/tale-conflict-resolution-my-dive-alternative-dispute-john-barwell-dmwme/> (Accessed on 16/07/2024)

¹⁰⁰ Ibid

¹⁰¹ Ibid

¹⁰² Muigua. K., 'Resolving Natural Resource-Based Conflicts in Africa through Negotiation and Mediation' Op Cit

¹⁰³ Ibid

Building capacity for lawyers on Environmental Law, Climate Change and Mediation is an ideal that is necessary and achievable.

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