



El agua en las **Constituciones de África**



En el marco del proceso constitucional que actualmente se desarrolla en Chile, continuamos con un especial sobre “Agua y Constitución”, en que identificaremos cómo el tema del agua se recoge en las Constituciones del mundo.

Este número está dedicado a África, revisando la situación de los 54 países que integran este continente. Para visualizar de un modo más comprensivo e integral la materia que nos convoca, nos focalizaremos en tres grandes ámbitos: agua propiamente tal, saneamiento y referencias explícitas y generales a los recursos naturales, de modo de detectar las principales disposiciones que, a su respecto, tienen los textos constituciones vigentes en África. Se excluyen de esta enunciación las menciones y regulaciones relativas al medio ambiente, por exceder la extensión y el carácter más acotado y particular de este documento.

Se han utilizado las versiones oficiales y algunas traducciones de las respectivas Cartas Fundamentales, incluyéndose un hipervínculo en cada caso.

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I. Presentación esquemática de la regulación del agua en las Constituciones de África

La siguiente tabla muestra los aspectos más relevantes detectados en el análisis de la regulación constitucional del agua en África. Para facilitar la sistematización de las disposiciones que luego se transcriben literalmente, hemos categorizado nuestros hallazgos, distinguiendo los países cuyas Constituciones:

- i) no tienen ninguna referencia específica al agua;
- ii) incluyen el agua, normalmente de modo implícito, en preceptos más genéricos sobre recursos naturales;
- iii) precisan la naturaleza jurídica del agua;
- iv) aluden al carácter o función territorial del agua (integrante del territorio del Estado);
- v) contienen mandatos o prescripciones sobre el uso racional, sostenible, sustentable, equitativo o equilibrado del agua;
- vi) reconocen explícitamente el acceso al agua para uso personal y doméstico y/o saneamiento como derechos/derechos humanos;
- vii) consagran la propiedad privada sobre los derechos de aprovechamiento de aguas; y,
- viii) otras alusiones relacionadas.

País	Sin menciones específicas al agua	Preceptos genéricos sobre recursos naturales	Naturaleza jurídica del agua	Carácter o función territorial del agua	Uso racional, sostenible, equitativo o equilibrado del agua	Reconocimiento explícito de derechos al agua y/o saneamiento	Propiedad privada sobre derechos de aprovechamiento de aguas	Otros
Angola		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>				
Argelia			<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Benin	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>						
Botswana	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>						
Burkina Faso	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>						
Burundi		<input checked="" type="checkbox"/>						
Cabo Verde		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>
Camerún	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>						
Chad		<input checked="" type="checkbox"/>						<input checked="" type="checkbox"/>
Comoros		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>				
Congo		<input checked="" type="checkbox"/>						<input checked="" type="checkbox"/>
Costa de Marfil		<input checked="" type="checkbox"/>						<input checked="" type="checkbox"/>
Djibouti	<input checked="" type="checkbox"/>							
Egipto		<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Eritrea		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			
Eswatini		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>
Etiopía		<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Gabón	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>						

*Si bien la Constitución de Etiopía no consagra un derecho al agua propiamente tal, sí dispone, dentro de los objetivos sociales de la política nacional, que todas las personas deben tener acceso a agua limpia.

País	Sin menciones específicas al agua	Preceptos genéricos sobre recursos naturales	Naturaleza jurídica del agua	Carácter o función territorial del agua	Uso racional, sostenible, equitativo o equilibrado del agua	Reconocimiento explícito de derechos al agua y/o saneamiento	Propiedad privada sobre derechos de aprovechamiento de aguas	Otros
Gambia (República de)		<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/> **		
Ghana		<input checked="" type="checkbox"/>						<input checked="" type="checkbox"/>
Guinea	<input checked="" type="checkbox"/>							
Guinea Bissau		<input checked="" type="checkbox"/>						<input checked="" type="checkbox"/>
Guinea Ecuatorial		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>
Kenia		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Lesotho		<input checked="" type="checkbox"/>						
Liberia		<input checked="" type="checkbox"/>						<input checked="" type="checkbox"/>
Libia	<input checked="" type="checkbox"/>							
Madagascar	<input checked="" type="checkbox"/>							
Malawi				<input checked="" type="checkbox"/>				
Mali	<input checked="" type="checkbox"/>							
Marruecos		<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Mauricio		<input checked="" type="checkbox"/>						<input checked="" type="checkbox"/>
Mauritania								<input checked="" type="checkbox"/>
Mozambique		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>					<input checked="" type="checkbox"/>
Namibia		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>					
Níger		<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Nigeria		<input checked="" type="checkbox"/>						<input checked="" type="checkbox"/>

**Si bien la Constitución de Gambia no consagra un derecho al agua propiamente tal, sí dispone que el Estado debe garantizar acceso a agua limpia y segura.

País	Sin menciones específicas al agua	Preceptos genéricos sobre recursos naturales	Naturaleza jurídica del agua	Carácter o función territorial del agua	Uso racional, sostenible, equitativo o equilibrado del agua	Reconocimiento explícito de derechos al agua y/o saneamiento	Propiedad privada sobre derechos de aprovechamiento de aguas	Otros
República Centrafricana	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>						
República Democrática del Congo		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
República Unida de Tanzania		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>				
Rwanda	<input checked="" type="checkbox"/>							
Santo Tomé y Príncipe				<input checked="" type="checkbox"/>				
Senegal	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>						
Seychelles				<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>
Sierra Leona	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>						
Somalia		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Sudáfrica		<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Sudán	<input checked="" type="checkbox"/>							
Sudán del Sur		<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Togo	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>						
Túnez		<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
Uganda		<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
Zambia		<input checked="" type="checkbox"/>						<input checked="" type="checkbox"/>
Zimbabwe		<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>

***Si bien la Constitución de Sudán del Sur no consagra un derecho al agua como tal, sí prescribe que se promoverá la dignidad humana y se dedicarán recursos públicos a mejorar las condiciones de vida de las personas mediante el suministro de agua potable, entre otros.

Fuente: elaboración propia, en base a la Constitución de cada país.

I. Tratamiento del agua, saneamiento y recursos naturales (en general) en las Constituciones de África

1. Angola

Constitución de la República de Angola¹

“Artículo 3.º (Soberanía). [...] 2. El Estado ejerce su soberanía sobre la totalidad del territorio angoleño, comprendiendo éste, en los términos de la presente Constitución, de la ley y del derecho internacional, la extensión del espacio terrestre, las aguas interiores y el mar territorial, así como el espacio aéreo, el suelo y el subsuelo, el fondo marino y los lechos correspondientes.

3. El Estado ejerce jurisdicción y derechos de soberanía en materia de conservación, explotación y aprovechamiento de los recursos naturales, biológicos y no biológicos, en la zona contigua, en la zona económica exclusiva y en la plataforma continental, en los términos de la ley y del derecho internacional.”

“Artículo 16.º (Recursos naturales). Los recursos naturales, sólidos, líquidos o gaseosos existentes en el suelo, subsuelo, en el mar territorial, en la zona económica exclusiva y en la plataforma continental bajo jurisdicción de Angola son propiedad del Estado, que determinará las condiciones para su concesión, prospección y explotación, en los términos de la Constitución, de la ley y del Derecho Internacional.”

“Artículo 21.º (Funciones fundamentales del Estado). Constituyen funciones fundamentales del Estado angoleño:

[...] m) Promover el desarrollo armónico y sustentado en todo el territorio nacional, protegiendo el medio ambiente, los recursos naturales y el patrimonio histórico, cultural y artístico nacional; [...]

“Artículo 39.º (Derecho al ambiente). [...] 2. El Estado adoptará las medidas necesarias para la protección del medio ambiente y de las especies de la flora y de la fauna en todo el territorio nacional, para el mantenimiento del equilibrio ecológico, la correcta localización de las actividades económicas y la explotación y utilización racional de todos los recursos naturales, en el marco de un desarrollo sostenible y de respeto por los derechos de las generaciones futuras y de la preservación de las diferentes especies. [...]

“Artículo 95.º (Dominio público). 1. Son bienes de dominio público:

a) Las aguas interiores, el mar territorial y los fondos marinos contiguos, así como los lagos, lagunas y cursos de aguas fluviales, incluyendo los respectivos lechos;

[...] d) Los yacimientos minerales, los manantiales de agua minero-medicinales, las cavidades naturales subterráneas y otros recursos naturales existentes en el suelo y subsuelo, con excepción de las rocas, tierras comunes y otros materiales habitualmente utilizados como materia prima en la construcción civil; [...]

“Artículo 165.º (Exclusividad relativa de competencia legislativa). 1. Compete a la Asamblea Nacional legislar con carácter exclusivo (relativo), salvo autorización concedida al Ejecutivo, sobre las siguientes materias:

[...] l) Bases de concesión de la explotación de los recursos naturales y de la disposición del patrimonio del Estado;

¹ La versión oficial en inglés, actualizada a 2019, puede verse en <https://ictpolicyafrica.org/pt/document/415ulkedpccd>

m) Definición y régimen de los bienes de dominio público;

[...] q) Bases del sistema de protección de la naturaleza, del equilibrio ambiental y ecológico y del patrimonio cultural; [...]"

“Artículo 219.º (Competencias).- Las autarquías locales tendrán, entre otras y en los términos de la ley, competencias en materias de educación, salud, energías, aguas, equipamiento rural y urbano, patrimonio, cultura y ciencia, transportes y comunicaciones, ocio y deporte, vivienda, acción social, protección civil, medio ambiente y sanidad pública, defensa del consumidor, promoción del desarrollo económico y social, ordenación del territorio, policía municipal, cooperación descentralizada y alianzas.”

2. Argelia

Constitution de la Republique Algerienne Democratique et Populaire

“Art. 14. La souveraineté de l'Etat s'exerce sur son espace terrestre, son espace aérien et ses eaux. L'Etat exerce également son droit souverain établi par le droit international sur chacune des différentes zones de l'espace maritime qui lui reviennent.

“Art. 20. La propriété publique est un bien de la collectivité nationale.

Elle comprend le sous-sol, les mines et les carrières, les sources naturelles d'énergie, les richesses minérales, naturelles et vivantes des différentes zones du domaine maritime national, les eaux et les forêts. [...]"

“Art. 21. L'Etat veille à:

[...] -l'utilisation rationnelle de l'eau, des énergies fossiles et autres ressources naturelles; [...]"

“Art. 63. L'Etat veille à assurer au citoyen:

-l'accès à l'eau potable et à sa préservation pour les générations futures; [...]"

“Art. 139. Le Parlement légifère dans les domaines que lui attribue la Constitution, ainsi que dans les domaines suivants:

[...] 23)- le régime général de l'eau; [...]"

3. Benin

Constitution of the People`s Republic of Benin

“Article 98. Under the domain of the law are the rules concerning:

[...] The law shall determine the fundamental principles:

[...] • Of the protection of the environment and the conservation of natural resources; [...].”

4. Botswana

Constitution of the Republic of Botswana

“8. Protection from deprivation of property. [...] 5. Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of subsection (1) of this section-

a. to the extent that the law in question makes provision for the taking of possession or acquisition of any property-

[...] vii. for so long only as may be necessary for the purposes of any examination, investigation, trial or inquiry or, in the case of land, for the purposes of the carrying out thereon of work of soil conservation or the conservation of other natural resources or work relating to agricultural development or improvement (being work relating to such development or improvement that the owner or occupier of the land has been required, and has without reasonable excuse refused or failed, to carry out), [...]"

5. Burkina Faso

Constitution of Burkina Faso

“Article 14. The natural wealth and resources belong to the people.
They are utilized for the amelioration of their conditions of life.”

6. Burundi

Constitution of the Republic of Burundi

“Article 35. The State assures the good administration and rational exploitation of the country's natural resources, all in preserving the environment and the conservation of these resources for future generations.”

“Article 164. The following is the domain of the law:

[...] 4. The protection of the environment and the conservation of natural resources; [...]"

7. Cabo Verde

Constitution of the Republic of Cape Verde

“Artigo 6º (Território). 1. O território da República de Cabo Verde é composto:

a) Pelas ilhas de Santo Antão, São Vicente, Santa Luzia, São Nicolau, Sal, Boa Vista, Maio, Santiago, Fogo e Brava, e pelos ilhéus e ilhotas que historicamente sempre fi zeram parte do arquipélago de Cabo Verde;

b) Pelas águas interiores, as águas arquipelágicas e o mar territorial defi nidos na lei, assim como os respectivos leitos e subsolos;

c) Pelo espaço aéreo suprajacente aos espaços geográficos referidos nas alíneas anteriores.

2. Na sua zona contígua, na sua zona económica exclusiva e na plataforma continental, definidas na lei, o Estado de Cabo Verde tem direitos de soberania em matéria de conservação, exploração e aproveitamento dos recursos naturais, vivos ou não vivos, e exerce jurisdição nos termos do direito interno e das normas do Direito Internacional. [...]"

"Artigo 7º (Tarefas do Estado). São tarefas fundamentais do Estado:

[...] k) Proteger a paisagem, a natureza, os recursos naturais e o meio ambiente, bem como o património histórico - cultural e artístico nacional; [...]"

"Artigo 73º (Direito ao ambiente). [...] 2. Para garantir o direito ao ambiente, incumbe aos poderes públicos:

a) Elaborar e executar políticas adequadas de ordenamento do território, de defesa e preservação do ambiente e de promoção do aproveitamento racional de todos os recursos naturais, salvaguardando a sua capacidade de renovação e a estabilidade ecológica;

b) Promover a educação ambiental, o respeito pelos valores do ambiente, a luta contra a desertificação e os efeitos da seca."

"Artigo 91º (Princípios gerais da organização económica). [...] 7. São do domínio público:

a) As águas interiores, as águas arquipelágicas, o mar territorial, seus leitos e subsolos, bem como os direitos de jurisdição sobre a plataforma continental e a zona económica exclusiva, e ainda todos os recursos vivos e não vivos existentes nesses espaços;

a) Os jazigos e jazidas minerais, as águas subterrâneas, bem como as cavidades naturais, existentes no subsolo; [...]"

"Artigo 176º (Competência legislativa absolutamente reservada). Compete exclusivamente à Assembleia Nacional fazer leis sobre as seguintes matérias: [...]"

p) Definição dos limites das águas territoriais, da zona económica exclusiva e dos leitos e subsolos marinhos; [...]"

"Artigo 248 (Missões das Forças Armadas). [...] 2. As Forças Armadas, sem prejuízo do disposto no número 1, desempenham também as missões que lhe forem atribuídas, nos termos da lei e nos seguintes quadros:

[...] b) Vigilância, fiscalização e defesa do espaço aéreo e marítimo nacionais, designadamente no que se refere à utilização das águas arquipelágicas, do mar territorial e da zona económica exclusiva e a operações de busca e salvamento, bem como, em colaboração com as autoridades policiais e outras competentes e sob a responsabilidade destas, à protecção do meio ambiente e do património arqueológico submarino, à prevenção e repressão da poluição marítima, do tráfico de estupefacientes e armas, do contrabando e outras formas de criminalidade organizada; [...]"

8. Camerún

Constitution of the Republic of Cameroon

"Article 26. [...] 2. The following shall be reserved to the legislative power:

[...] d. The following financial and patrimonial matters:

[...] 5. natural resources. [...]"

9. Chad

Constitution of the Republic of Chad

“Article 57. *The State exercises its entire and permanent sovereignty over all the national natural riches and resources for the well-being of all of the national community.*

However, it may concede the exploration and the exploitation of these natural resources to private initiative.”

“Article 121. [...] *The law defines the fundamental principles:*

[...] • *of the protection of the environment and of the conservation of natural resources;*

[...] • *of agriculture, of livestock, of fisheries, of wildlife, of water and of forests. [...]"*

“Article 219. *The peace treaties, the defense treaties, the treaties of commerce, the treaties relative to the use of the national territory or to the exploitation of the natural resources, the agreements relative to international organization, those which engage the finances of the State or those which are relative to the status [état] of persons, may only be approved or ratified after the authorization of the National Assembly. [...]"*

10. Comoros

Constitution of the Union of Comoros

“Article 6. *The territory of the Union of the Comoros is composed of:*

- *the islands and islets of Mwali (Mohéli), Maoré (Mayotte), Ndzuwani (Anjouan) and Ngazidja (Grande Comore).*
- *the archipelagic waters and the territorial sea as defined by the law and the international conventions, as well as the respective seabed and subsoil; [...]"*

“Article 7. *The Union of the Comoros possesses sovereign rights in matters of conservation, of exploitation and of determining the value of the living and nonliving natural resources in the contiguous zone, in the exclusive economic zone, and on the continental shelf as defined by the law, and has jurisdiction over these regions, by virtue of domestic right and of the rules of international law.*

The State may not give up any parcel of the national territory or any sovereign rights it exercises over it.”

“Article 8. *The State has for fundamental missions:*

[...] • *to protect the landscape, nature, the natural resources and the environment, as well as the historic, cultural and artistic patrimony of the Nation; [...]"*

“Article 43. All citizens have the right to a healthy and ecologically stable environment, as well as having a duty to protect and conserve it.

The State and the communities must adopt policies of defense and of environmental protection with the collaboration of environmental protection groups and see to the rational utilization of all natural resources.”

11. Congo

Constitution of the Republic of the Congo

“Article 43. The transit, the importation, the storage, landfill, [and] dumping in the continental waters and the maritime spaces under national jurisdiction, the expanding in the airspace of toxic wastes, pollutants, radioactive [matter] or of any other dangerous product, originating or not from abroad, constitute crimes punished by the law.”

“Article 44. Any act, any agreement, any convention, any administrative arrangement or any other act, which has as [a] consequence to deprive the Nation of all or part of its own means of existence deriving [tirés] from its natural resources or from its wealth, is considered as an crime of pillage and punished by the law.”

“Article 125. [...] The law equally establishes the rules concerning:

[...]• the environment and the conservation of the natural resources and of sustainable development;

[...]• the regime of the natural resources;

[...] The law determines also the fundamental principles of:

[...]• water;

[...]• agriculture, of animal husbandry, of fishing and the waters and forests.”

“Article 217. The President of the Republic negotiates, signs and ratifies the international treaties and agreements.

The ratification may only intervene after the authorization of the Parliament, notably in that which concerns the treaties of peace, the treaties of defense, the treaties of commerce, the treaties relative to the natural resources or the agreements relative to the international organizations, those which engage the finances of the State, those which modify the provisions of a legislative nature, those which are relative to the status [état] of persons, [and] those that include cession, exchange or adjunction of the territory.”

12. Costa de Marfil

Constitution of the Republic of Côte d'Ivoire

“Article 40. [...] The State is committed to protecting its maritime space, its waterways, its natural parks as well as its historic sites and monuments against any form of degradation. [...]”

“Article 125. The objectives of the organizations referred to in Article 124 may notably include:

[...] • cooperation in environmental protection and management of natural resources.”

13. Djibouti

Constitution of the Republic of Djibouti

14. Egipto

Constitution of the Arab Republic of Egypt²

*“Article 32. **Natural resources.** Natural resources belong to the people. The state commits to preserving such resources, to their sound exploitation, to preventing their depletion, and to take into consideration the rights of future generations to them.*

The state commits to making the best use of renewable energy resources, motivating investment, and encouraging relevant scientific research. The state works on encouraging the manufacture of raw materials, and increasing their added value according to economic feasibility.

Disposing of the state’s public property is forbidden. Granting the right to exploit natural resources or a concession to a public utility shall take place by law for a period not exceeding 30 years.

Granting the right to exploit quarries and small mines and salterns, or granting a concession to a public utility shall take place for a period not exceeding 30 years based on a law.

The law sets the provisions for disposing of state private property, and the rules and procedures regulating such.”

*“Article 43. **Suez Canal.** The state commits to protecting, developing and maintaining the Suez Canal as an international waterway that it owns. It is also committed to the development of the canal sector as a significant economic pillar.”*

*“Article 44. **The Nile.** The state commits to protecting the Nile River, maintaining Egypt’s historic rights thereto, rationalizing and maximizing its benefits, not wasting its water or polluting it. The state commits to protecting its groundwater, to adopting methods appropriate to achieve water safety, and to supporting scientific research in this field.*

² La Constitución tuvo una última enmienda en 2019, la cual no altera los contenidos transcritos en este documento.

Every citizen has the right to enjoy the Nile River. It is prohibited to encroach upon it or to harm the river environment. The state guarantees to remove encroachments thereon. The foregoing is regulated by law.”

“Article 45. Seas, beaches, lakes, waterways, groundwater and natural reserves. *The state commits to protecting its seas, beaches, lakes, waterways, groundwater, and natural reserves.*

It is prohibited to encroach upon, pollute, or use them in a manner that contradicts their nature. Every citizen has the right to enjoy them as regulated by law. The state also commits to the protection and development of green space in urban areas; the protection of plants, livestock and fisheries; the protection of endangered species; and the prevention of cruelty to animals. All the foregoing takes place as regulated by law.”

“Article 46. Environment. *Every individual has the right to live in a healthy, sound and balanced environment. Its protection is a national duty. The state is committed to taking the necessary measures to preserve it, avoid harming it, rationally use its natural resources to ensure that sustainable development is achieved, and guarantee the rights of future generations thereto.”*

“Article 79. Food. *Each citizen has the right to healthy, sufficient amounts of food and clean water. The state shall provide food resources to all citizens. It also ensures food sovereignty in a sustainable manner, and guarantees the protection of agricultural biological diversity and types of local plants to preserve the rights of generations.”*

15. Eritrea

The Constitution of the Eritrea

“Article 1. The State of Eritrea and its Territory. [...] 2. *The territory of Eritrea consists of all its territories, including the islands, territorial waters and airspace, delineated by recognized boundaries. [...]”*

“Article 8. Economic and Social Development. [...] 3. *In the interest of present and future generations, the State shall be responsible for managing all land, water, air and natural resources and for ensuring their management in a balanced and sustainable manner; and for creating the right conditions to secure the participation of the people in safeguarding the environment.”*

“Article 23. Right to Property. [...] 2. *All land and all natural resources below and above the surface of the territory of Eritrea belongs to the State. The interests citizens shall have in land shall be determined by law.”*

16. Eswatini (antes Suazilandia)

The Constitution of the Kingdom of Eswatini

“210. Declaration of land, minerals and water as national resource. 1. *Subject to the provisions of this Constitution or any other law, land, minerals and water are national resources.*

2. *In the interests of the present and future generations, the State shall protect and make rational use of its land, mineral and water resources as well as its fauna and flora, and shall take appropriate measures to conserve and improve the environment.”*

“214. Minerals management board. [...] 6. A member of the Board (including the chairman) may be removed from office as far as may be practicable on the same grounds and in like manner as a member of a service commission under section 175 subject to the substitution of the Prime Minister in that section with the minister responsible for natural resources. [...]

“215. Water. There shall be no private right of property in any water found naturally in Swaziland.”

“217. Further provisions. Parliament may make laws –

[...] c. regarding the use of water naturally found in Swaziland; and

d. for the protection of the environment including management of natural resources on a sustainable basis.”

17. Etiopía

Constitution of the Federal Democratic Republic of Ethiopia

“Article 40. The right to property. [...] 3. The right to ownership of rural and urban land, as well as of all natural resources, is exclusively vested in the State and in the peoples of Ethiopia. Land is a common property of the Nations, Nationalities and Peoples of Ethiopia and shall not be subject to sale or to other means of exchange. [...]

“Article 49. Capital city. [...] 5. The special interest of the State of Oromia in Addis Ababa, regarding the provision of social services or the utilization of natural resources and other similar matters, as well as joint administrative matters arising from the location of Addis Ababa within the State of Oromia, shall be respected. Particulars shall be determined by law.”

“Article 51. Powers and functions of the federal government. [...] 5. It shall enact laws for the utilization and conservation of land and other natural resources, historical sites and objects.

[...] 9. It shall be responsible for the development, administration and regulation of air, rail, waterways and sea transport and major roads linking two or more States, as well as for postal and telecommunication services.

[...] 11. It shall determine and administer the utilization of the waters or rivers and lakes linking two or more States or crossing the boundaries of the national territorial jurisdiction. [...]

“Article 52. Powers and functions of States. [...] 2. Consistent with sub-Article 1 of this Article, States shall have the following powers and functions:

[...] d. To administer land and other natural resources in accordance with Federal laws; [...]

“Article 55. Powers and functions of the House of People’s Representatives. [...] 2. Consistent with the provision of sub-Article 1 of this Article, the House of Peoples’ Representatives shall enact specific laws on the following matters:

a. Utilization of land and other natural resources, of rivers and lakes crossing the boundaries of the national territorial jurisdiction or linking two or more States;

[...] c. Air, rail, water and sea transport, major roads linking two or more States, postal and telecommunication services; [...]

“Article 89. Economic objectives. [...] 5. Government has the duty to hold, on behalf of the People, land and other natural resources and to deploy them for their common benefit and development. [...]”

“Article 90. Social objectives. 1. To the extent the country's resources permit, policies shall aim to provide all Ethiopians access to public health and education, clean water, housing, food and social security. [...]”

“Article 97. State power of taxation. [...] 5. States shall levy and collect taxes on income from transport services rendered on waters within their territory. [...]”

18. Gabón

The Constitution the Gabonese Republic

“Article 47. Besides cases expressly provisioned by the Constitution, the law fixes the rules concerning:

[...] •The regulations over land, property, forest, mining, and the environment;

•The protection of nature and the environment; [...]”

“Article 103. The Social and Economic Council, governed by the dispositions of articles 8 paragraph 3, 28 paragraph 1, and article 53 above, has authority over all the aspects for economic, social and cultural development:

[...] • Policies governing natural resources; [...]”

19. Gambia

The Constitution of Gambia

“216. Social objectives. [...] 4. The State shall endeavour to facilitate equal access to clean and safe water, adequate health and medical services, habitable shelter, sufficient food and security to all persons. [...]”

“218. Cultural objectives. The State and all the people of The Gambia shall strive to protect, preserve and foster the languages, historic sites, cultural, natural and artistic heritage of The Gambia.”

20. Ghana

Constitution of the Republic of Ghana

“257. [...] (6) Every mineral in its natural state in, under or upon any land in Ghana, rivers, streams, water courses throughout Ghana, the exclusive economic zone and any area covered by the territorial sea or continental shelf is the property of the Republic of Ghana and shall be vested in the President on behalf of, and in trust for the people of Ghana.”

“258. (1) There shall be established a Lands Commission which shall, in co-ordination with the relevant public agencies and governmental bodies, perform the following functions -

[...] (e) perform such other functions as the Minister responsible for lands and natural resources may assign to the Commission;

(2) The Minister responsible for lands and natural resources may, with the approval of the President, give general directions in writing to the Lands Commission on matters of policy in respect of the functions of the Commission and the Commission shall comply with the directions.”

“259. The Lands Commission shall consist of the following persons appointed by the President under article 70 of this Constitution -

[...] (b) one representative each of the following bodies nominated in each case by the body concerned -

[...] (viii) the Ministry responsible for Lands and Natural Resources; and [...].”

“261. A Regional Lands Commission shall consist of the following persons appointed by the Minister responsible for lands and natural resources -

[...] (b) one representative each of the following bodies nominated in each case by the body concerned -

[...] (viii) the Ministry responsible for Lands and Natural Resources; and [...].”

“264. [...] (2) The office of the Chairman or a member of the Lands Commission or of a Regional Lands Commission other than the Executive Secretary and the Regional Lands Officer shall become vacant if -

[...] (c) he is removed from office by the President or, in the case of a member of a Regional Lands Commission, by the Minister responsible for lands and natural resources for inability to perform the functions of his office or for stated misbehaviour.”

“268. (1) Any transaction, contract or undertaking involving the grant of a right or concession by or on behalf of any person including the Government of Ghana, to any other person or body of persons howsoever described, for the exploitation of any mineral, water or other natural resource of Ghana made or entered into after the coming into force of this Constitution shall be subject to ratification by Parliament. [...].”

“269. (1) Subject to the provisions of this Constitution, Parliament shall, by or under an Act of Parliament, provide for the establishment, within six months after Parliament first meets after the coming into force of this Constitution, of a Minerals Commission, a Forestry Commission, Fisheries Commission and such other Commissions as Parliament may determine, which shall be responsible for the regulation and management of the utilization of the natural resources concerned and the co-ordination of the policies in relation to them.

(2) Notwithstanding article 268 of this Constitution, Parliament may, upon the recommendation of any of the Commissions established by virtue of clause (1) of this article, and upon such conditions as Parliament may prescribe, authorise any other agency of government to approve the grant of rights, concessions or contract in respect of the exploitation of any mineral, water or other natural resource of Ghana.”

21. Guinea

Constitution of the Republic of Guinea

22. Guinea-Bissau

Constitution of the Republic of Guinea-Bissau

“Article 10. Within its exclusive economic zone, defined by law, the State of Guinea-Bissau holds exclusive competence to maintain and explore natural resources, living or non-living.”

“ARTICLE 86. The National Popular Assembly has exclusive competence to legislate on:

[...] j. Definitions on the limits of territorial waters and the exclusive economic zone; [...]”

23. Guinea Ecuatorial

Constitución de Guinea Ecuatorial

“Artículo 3º. 1. El territorio de la República de Guinea Ecuatorial se compone de la zona continental denominada Río Muni y las islas de Bioko, Annobón, Corisco, Elobey Grande, Elobey Chico, Mbañe, Conga, Leva, Cocotero e islotes adyacentes, las aguas fluviales, la zona marítima, la plataforma continental que determina la Ley y el espacio aéreo que los cubre.

2. Sobre su territorio el Estado ejerce plenamente su soberanía y puede explorar y explotar de manera exclusiva todos los recursos y riquezas minerales y los hidrocarburos. [...]”

“Artículo 6º. El Estado fomenta y promueve la cultura, la creación artística, la investigación científica y tecnológica y vela por la conservación de la naturaleza, el patrimonio cultural de la riqueza artística e histórica de la Nación.”

“Artículo 28º. La economía de la República de Guinea Ecuatorial funciona a través de cuatro sectores básicos:
a) El sector público, compuesto por empresas de propiedad exclusivamente del Estado, constituidas principalmente para la explotación de los recursos y servicios enumerados en el artículo 29 de esta Ley Fundamental, así como para cualquier otra actividad económica. [...]”

“Artículo 29º. 1. Son recursos y servicios reservados al sector público:

[...] b) Los servicios de suministros de agua potable y electricidad. [...]

2. El Estado puede delegar, conceder o asociarse a la iniciativa privada para el desarrollo de cualquiera de las actividades o servicios antes mencionados, en la forma y casos que la ley establece.”

24. Kenia

Constitution of the Republic of Kenya

“5. Kenya consists of the territory and territorial waters comprising Kenya on the effective date, and any additional territory and territorial waters as defined by an Act of Parliament.”

“43. (1) Every person has the right-

[...] (b) to accessible and adequate housing, and to reasonable standards of sanitation;

[...](d) to clean and safe water in adequate quantities; [...]”

“56. The State shall put in place affirmative action programmes designed to ensure that minorities and marginalised groups-

[...] (e) have reasonable access to water, health services and infrastructure.”

“62. (1) Public land is-

[...] (g) government forests other than forests to which Article 63 (2) (d) (i) applies, government game reserves, water catchment areas, national parks, government animal sanctuaries, and specially protected areas;

[...] (i) all rivers, lakes and other water bodies as defined by an Act of Parliament;

[...] (l) all land between the high and low water marks; [...]”

“67. [...] (2) The functions of the National Land Commission are-

[...] (d) to conduct research related to land and the use of natural resources, and make recommendations to appropriate authorities; [...]”

“69. (1) The State shall-

(a) ensure sustainable exploitation, utilisation, management and conservation of the environment and natural resources, and ensure the equitable sharing of the accruing benefits;

[...] (h) utilise the environment and natural resources for the benefit of the people of Kenya.

(2) Every person has a duty to cooperate with State organs and other persons to protect and conserve the environment and ensure ecologically sustainable development and use of natural resources.”

“71. (1) A transaction is subject to ratification by Parliament if it-

(a) involves the grant of a right or concession by or on behalf of any person, including the national government, to another person for the exploitation of any natural resource of Kenya; [...]

“204. [...] (2) The national government shall use the Equalisation Fund only to provide basic services including water, roads, health facilities and electricity to marginalised areas to the extent necessary to bring the quality of those services in those areas to the level generally enjoyed by the rest of the nation, so far as possible. [...]”

“260. In this Constitution, unless the context requires otherwise-

[...] “land” includes-

[...] (b) any body of water on or under the surface;

(c) marine waters in the territorial sea and exclusive economic zone;

(d) natural resources completely contained on or under the surface; [...]

[...] “natural resources” means the physical non-human factors and components, whether renewable or non-renewable, including-

[...] (b) surface and groundwater; [...]

“FOURTH SCHEDULE (Article 185(2), 186(1) and 187(2))

Distribution of Functions Between the National Government and the County Governments

PART 1-NATIONAL GOVERNMENT

[...] 2. The use of international waters and water resources.

[...] 22. Protection of the environment and natural resources with a view to establishing a durable and sustainable system of development, including, in particular-

[...] (c) water protection, securing sufficient residual water, hydraulic engineering and the safety of dams; [...]

PART 2-COUNTY GOVERNMENTS. The functions and powers of the county are-

[...] 10. Implementation of specific national government policies on natural resources and environmental conservation, including-

(a) soil and water conservation; [...]

11. County public works and services, including-

(a) storm water management systems in built-up areas; and (b) water and sanitation services. [...]

25. Lesotho

Constitution of the Kingdom of Lesotho

“17. Freedom from arbitrary seizure of property. [...] 4. Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of subsection (1) or (2)—

a. to the extent that the law in question makes provision that is necessary in a practical sense in a democratic society for the taking of possession or acquisition of any property, interest or right--

[...] vii. for so long only as may be necessary for the purposes of any examination, investigation, trial or inquiry or, in the case of land, for the purpose of carrying out thereon of work of soil conservation or the conservation of other natural resources or work relating to agricultural development or improvement (being work relating to such development or improvement that the occupier of the land has been required, and has without reasonable excuse refused or failed, to carry out); or[...]

26. Liberia

Constitution of the Republic of Liberia

“Article 7. The Republic shall, consistent with the principles of individual freedom and social justice enshrined in this Constitution, manage the national economy and the natural resources of Liberia in such manner as shall ensure the maximum feasible participation of Liberian citizens under conditions of equality as to advance the general welfare of the Liberian people and the economic development of Liberia.”

“Article 22. [...] b. Private property rights, however, shall not extend to any mineral resources on or beneath any land or to any lands under the seas and waterways of the Republic. All mineral resources in and under the seas and other waterways shall belong to the Republic and be used by and for the entire Republic. [...]”

27. Libia

Constitution of Libya

28. Madagascar

Constitution of the Republic of Madagascar

29. Malawi

Constitution of the Republic of Malawi

“3. The national territory of the Republic of Malawi shall consist of all the territory, including airspace, waters and islands which comprised the territory of Malawi before the commencement of this Constitution, and shall include any territory lawfully acquired thereafter by adjustment of boundaries or otherwise.”

“13. The State shall actively promote the welfare and development of the people of Malawi by progressively adopting and implementing policies and legislation aimed at achieving the following goals -

[...] (d) The Environment

To manage the environment responsibly in order to -

[...] iii. accord full recognition to the rights of future generations by means of environmental protection and the sustainable development of natural resources; [...]”

30. Mali

Constitution of the Republic of Mali

31. Marruecos

Constitution of the Kingdom of Morocco

“Article 31. The State, the public establishments and the territorial collectivities work for the mobilization of all the means available to facilitate the equal access of the citizens to conditions that permit their enjoyment of the right:

[...] •to the access to water and to a healthy environment; [...]”

“Article 35. [...] The State guarantees the freedom to contract and free competition. It works for the realization of a lasting human development, likewise to permit the consolidation of social justice and the preservation of the national natural resources and of the rights of the future generations. [...]”

“Article 71. [The following] are of the domain of the law, other than the matters that are expressly devolved on it by other Articles of the Constitution:

[...]•the rules relative to the management of the environment, to the protection of the natural resources and to lasting development;

[...] •the regime of waters and forests and of fishing; [...]”

32. Mauricio

Constitution of the Republic of Mauritius

“8. Protection from deprivation of property. [...] 4. Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of subsection (1) -

a. to the extent that the law in question makes provision for the taking of possession or acquisition of property -

[...] vii. for so long only as may be necessary for the purposes of any examination, investigation, trial or inquiry or, in the case of land, the carrying out on it -

(A) of work of soil conservation or the conservation of other natural resources; [...];

[...] 5. Nothing in this section shall affect the making or operation of any law so far as it provides for the vesting in the State of the ownership of underground water or unextracted minerals. [...]”

33. Mauritania

Constitution of the Islamic Republic of Mauritania

“Article 57. [The following] are of the domain of the law:

[...] the general regime of water, of mines, and of hydro-carbons, of fishing and of the merchant marine, of the fauna, of the flora, and of the environment; [...]”

34. Mozambique

Constitution of the Republic of Mozambique

“Article 6. Territory. [...] 2. The breadth, limits and legal order of Mozambique’s territorial waters, the exclusive economic zone, the contiguous zone and seabed rights shall be fixed by law.”

“Article 90. Right to a balanced environment. [...] 2. The State and the local authorities, with collaboration from associations for environmental protection, shall adopt policies to protect the environment and shall promote the rational use of all natural resources.”

“Article 97. Fundamental principles. The economic and social order of the Republic of Mozambique shall aim to satisfy the basic needs of the people and to promote social wellbeing, and shall be based on the following fundamental principles:

[...] e. on public ownership of natural resources and means of production, in accordance with the collective interest; [...]”

“Article 98. State property and public domain. 1. Natural resources in the soil and the subsoil, in inland waters, in the territorial sea, on the continental shelf and in the exclusive economic zone shall be the property of the State.

2. The public domain of the State shall comprise:

[...] e. hydraulic resources; [...]”

“Article 102. Natural resources. The State shall promote knowledge, survey and valorisation of natural resources, and shall determine the conditions under which they may be used and developed subject to national interests.”

“Article 117. Environment and quality of life. [...] 2. With a view to guaranteeing the right to the environment within the framework of sustainable development, the State shall adopt policies aimed at:

[...] d. guaranteeing the rational utilisation of natural resources and the safeguarding of their capacity to regenerate, ecological stability and the rights of future generations; [...]”

35. Namibia

The Constitution of Namibia

“Article 91. Functions. The functions of the Ombudsman shall be defined and prescribed by an Act of Parliament and shall include the following:

[...] (c) the duty to investigate complaints concerning the over-utilization of living natural resources, the irrational exploitation of non-renewable resources, the degradation and destruction of ecosystems and failure to protect the beauty and character of Namibia; [...]”

“Article 95. Promotion of the Welfare of the People. The State shall actively promote and maintain the welfare of the people by adopting, inter alia, policies aimed at the following:

[...] (l) maintenance of ecosystems, essential ecological processes and biological diversity of Namibia and utilization of living natural resources on a sustainable basis for the benefit of all Namibians, both present and future; in particular, the Government shall provide measures against the dumping or recycling of foreign nuclear and toxic waste on Namibian territory.”

“Article 100. Sovereign Ownership of Natural Resources. *Land, water and natural resources below and above the surface of the land and in the continental shelf and within the territorial waters and the exclusive economic zone of Namibia shall belong to the State if they are not otherwise lawfully owned.”*

36. Níger

Constitution of the Republic of Niger

“Article 12. *Each one has the right to life, to health, to physical and moral integrity, to a healthy and sufficient food supply [alimentation], to potable water, to education and instruction in the conditions specified by the law.*

The State assures to each one the satisfaction of the essential needs and services as well as a full development [épanouissement]. [...]”

“Article 36. *The State and the other public collectivities see to the fight against desertification.”*

“Article 99. *The law establishes the rules concerning:*

[...] •research, the exploration and the exploitation of the oil and gas resources, [and] the mineral resources, [both] natural and [of] energy; [...]”

“Article 100. *The Law determines the fundamental principles:*

[...] •of the protection of the environment and of the conservation of the natural resources;

[...] •of the Water and Food Security Code; [...]”

“Article 142. *The President of the Republic is not responsible for the acts accomplished in the exercise of his functions except in the case of high treason. He is judged by the High Court of Justice.*

There is high treason when the President of the Republic violates his oath, refuses to obey [obtempérer] an order of the Constitutional Court, is recognized author, co-author or accomplice of graves and characterized violations of human rights, of fraudulent cession of a part of the national territory, of compromising the national interests in the matters of administration of the natural resources and the subsoil and of the introduction of toxic wastes inside the national territory. [...]”

“Article 148. *The natural resources and the subsoil are the property of the Nigerien people.*

The law determines the conditions of their prospecting, their exploitation and their administration.

“Article 149. *The State exercises its sovereignty over the natural resources and the subsoil.*

The exploitation and the administration of the natural resources and of the subsoil must be done with transparency and taking into account the protection of the environment, [and] the cultural heritage as well as the preservation of the interests of present and future generations.”

“Article 150. *The contracts for prospecting and exploitation the natural resources and the subsoil as well as the revenues paid [versés] to the State, disaggregated, company by company, are completely [intégralement] published in the Journal Officiel of the Republic of Niger.”*

“Article 152. *The receipts realized on the natural resources and on the subsoil are divided between the budget of the State and the budgets of the territorial collectivities according to the law.”*

“Article 172. *The Republic of Niger may conclude with any African State agreements of association or of community involving [empourtant] partial or total abandonment of sovereignty in order to achieve African Unity.*

The Republic of Niger may conclude agreements of cooperation and of association with other States on the basis of reciprocal rights and advantages.

It accepts[,] to create with these States, intergovernmental organs [organismes] of common administration, of coordination and of free cooperation.

These organs may have as [their] objective, notably:

[...] •to enhance [la mise en valeur] natural resources; [...]”

37. Nigeria

Constitution of the Federal Republic of Nigeria

“17. [...] 2. *In furtherance of the social order-*

[...] d. exploitation of human or natural resources in any form whatsoever for reasons, other than the good of the community, shall be prevented; [...]”

“20. *The State shall protect and improve the environment and safeguard the water, air and land, forest and wild life of Nigeria.”*

“44. [...] 2. *Nothing in subsection (1) of this section shall be construed as affecting any general law -*

[...] m. subject to prompt payment of compensation for damage to buildings, economic trees or crops, providing for any authority or person to enter, survey or dig any land, or to lay, install or erect poles, cables, wires, pipes, or other conductors or structures on any land, in order to provide or maintain the supply or distribution of energy, fuel, water, sewage, telecommunication services or other public facilities or public utilities.

3. Notwithstanding the foregoing provisions of this section, the entire property in and control of all minerals, mineral oils and natural gas in under or upon any land in Nigeria or in, under or upon the territorial waters and the Exclusive Economic Zone of Nigeria shall vest in the Government of the Federation and shall be managed in such manner as may be prescribed by the National Assembly.”

“162.- [...] *Provided that the principle of derivation shall be constantly reflected in any approved formula as being not less than thirteen per cent of the revenue accruing to the Federation Account directly from any natural resources. [...]*”

“214. [...] 2. *Subject to the provisions of this Constitution-*

[...] c. the National Assembly may make provisions for branches of the Nigeria Police Force forming part of the armed forces of the Federation or for the protection of harbours, waterways, railways and air fields.”

“251. 1. Notwithstanding anything to the contrary contained in this Constitution and in addition to such other jurisdiction as may be conferred upon it by an Act of the National Assembly, the Federal High Court shall have and exercise jurisdiction to the exclusion of any other court in civil causes and matters-

[...] g. any admiralty jurisdiction, including shipping and navigation on the River Niger or River Benue and their affluents and on such other inland waterway as may be designated by any enactment to be an international waterway, all Federal ports, (including the constitution and powers of the ports authorities for Federal ports) and carriage by sea; [...]”

“Schedule II. Legislative Powers

Part I. Exclusive Legislative List

29. Fishing and fisheries other than fishing and fisheries in rivers, lakes, waterways, ponds and other inland waters within Nigeria. [...]

36. Maritime shipping and navigation, including

a. shipping and navigation on tidal waters;

b. shipping and navigation on the River Niger and its affluents and on any such other inland waterway as may be designated by the National Assembly to be an international waterway or to be an inter-State waterway;

c. lighthouses, lightships, beacons and other provisions for the safety of shipping and navigation; [...]

64. Water from such sources as may be declared by the National Assembly to be sources affecting more than one state.

Part II. Concurrent Legislative List Extent of Federal and State Legislative Powers - Extent of Federal and State Legislative Powers

13. The National Assembly may make laws for the Federation or any part thereof with respect to-

[...] c. the regulation of the right of any person or authority to dam up or otherwise interfere with the flow of water from sources in any part of the Federation; [...]”

“Schedule IV. Functions of a local government council

[...] 2. The functions of a local government council shall include participation of such council in the Government of a State as respects the following matters-

[...] b. the development of agriculture and natural resources, other than the exploitation of materials; [...]”

38. República Centroafricana

Constitution of the Central African Republic

“Article 60. [...]The Government has the obligation to previously obtain the authorization of the National Assembly before the signature of any contract relative to natural resources as well as financial conventions. It is required to publish the said [ledit] contract within the eight (8) working days following its signature.”

“Article 91. The President of the Republic negotiates, signs, ratifies and revokes [dénonce] the international treaties and agreements.

The ratification or the revocation may only intervene after the authorization of the Parliament, notably in that which concerns the peace treaties, the defense treaties, the commercial treaties, the treaties concerning the environment and the natural resources or agreements concerning international organization, those which engage the finances of the State, those which modify the provisions of a legislative nature, those which concern the status of persons and the rights of Man, [and] those which involve cession, exchange or addition of territory. [...]”

“Article 149. The High Authority assures the protection of the national patrimony and transparency in the exploitation and the administration of natural resources.

It sees to the equitable redistribution of the profits generated by natural resources. [...]”

39. República Democrática del Congo

Constitution of the Democratic Republic of Congo

“Article 9. The State exercises a permanent sovereignty notably over the soil, the subsoil, the waters and the forests, over the air, river, lakes and maritime spaces of the Congo as well as over the Congolese territorial sea and over the continental shelf.

The modalities of management and of concession of the domain of the State specified in the preceding paragraph are determined by the law.”

“Article 48. The right to decent housing, the right of access to drinking water and to electric energy are guaranteed. The law establishes the modalities of the exercise of these rights.”

“Article 55. The transportation, the importation, the storage, the spilling [or] the disposal in the internal waters or maritime spaces under national jurisdiction, [or] the release into the airspace[,] of toxic, polluting or radioactive waste or of any other dangerous product, of foreign origin [provenance] or not, constitutes a crime punishable by the law.”

“Article 56. Any act, any agreement, any convention, any arrangement or any other act which has the consequence of depriving the Nation [or] physical or moral persons of all or part of their means of existence drawn from their natural resources or their wealth, is established, without prejudice to the international provisions on economic crimes, as the crime of pillage punishable by the law.”

“Article 202. Without prejudice to the other provisions of this Constitution, the following matters are of the exclusive competence of the Central Power:

[...] 21. maritime and internal navigation, air routes, railways, the routes and other means of communication, natural or artificial, which connect two or more Provinces or the territory of the Republic to a foreign territory or which a national law has declared of national interest although they may be entirely situated on the territory of a Province;

[...] 36. legislation concerning[,] notably;

[...] f. economic legislation including the laws concerning mines, minerals and mineral oils, the industry, the energy sources and the conservation of natural resources; [...]"

“Article 203. Without prejudice to the other provisions of this Constitution, the following matters are of the concurrent competence of the Central Power and the Provinces:

[...] 16. land and mining rights, territorial management, the regime of waters and forests. [...] 18. protection of the environment, of natural sites, of landscapes and of the conservation of sites; [...]"

“Article 204. Without prejudice to the other provisions of this Constitution, the following matters are of the exclusive competence of the Provinces:

[...] 26. the exploitation of non-nuclear sources of energy and the production of water for the needs of the Province; [...]"

40. República Unida de Tanzania

Constitution of the United Republic of Tanzania

“Article 2. (1) The territory of the United Republic consists of the whole of the area of Mainland Tanzania and the whole of the area of Tanzania Zanzibar, and includes the territorial waters. [...]"

“Article 27. (1) Every person has the duty to protect the natural resources of the United Republic, the property of the state authority, all property collectively owned by the people, and also to respect another person's property. [...]"

41. Rwanda

Constitution of the Republic of Rwanda

42. Santo Tomé y Príncipe

Constitution of the Democratic Republic of Sao Tome and Principe

“Article 4. National territory. 1. The territory of the Democratic Republic of São Tomé and Príncipe is comprised of the Islands of São Tomé and Príncipe, of the Islets of Rolas, Cabras, Bombom, Bone Jockey, Pedras Tinhosas and other adjacent islets, by the territorial sea within a circle of twelve miles beginning at the baseline determined by the law, by archipelagic waters situated within the interior of the baseline and the airspace that extends over the combined territory as previously defined.

2. *The Sao Tomean State exercises its sovereignty over the entire national territory, the subsoil of the terrestrial space, the soil and the subsoil of the maritime territory formed by the territorial sea and the archipelagic waters, as well as the living and non-living natural resources which may be found in all the aforementioned spaces and those existing in the adjacent waters overlying the coasts, outside the territorial sea, to the extent the law determines and in conformity with International Law.*”

43. Senegal

Constitution of the Republic of Senegal

“Article 25-1. The natural resources belong to the people. They are used for the amelioration of the conditions of life.

The exploitation and the management of the natural resources is made with transparency and in a fashion to generate economic growth, to promote the wellbeing of the population in general and to be ecologically sustainable.

The State and the territorial collectivities have the obligation to see to the preservation of the land patrimony.”

“Article 25-3. [...] Every citizen has the duty to preserve the natural resources and the environment of the country and to work for sustainable development for the benefit of the present and future generations. [...]”

44. Seychelles

Constitution of the Republic of Seychelles

“2. 1. The territory of Seychelles shall consist of-

[...] b. the territorial waters and historic waters of Seychelles and the seabed and subsoil under lying those waters; [...]

[...] 3. An Act shall declare the limit of the territorial waters and historic waters of Seychelles and may prescribe the limit of the airspace referred to in clause (1)(c). [...]”

“26. [...] 2. The exercise of the right under clause (1) may be subject to such limitations as may be prescribed by law and necessary in a democratic society-

[...] i. for vesting in the Republic of the ownership of underground water or unextracted oil or minerals of any kind or description. [...]”

45. Sierra Leona

Constitution of the Republic of Sierra Leone

*“7. **Economic objectives.** (1) The State shall within the context of the ideals and objectives for which provisions are made in this Constitution-*

(a) harness all the natural resources of the nation to promote national prosperity and an efficient, dynamic and self-reliant economy; [...]"

"18. Protection of freedom of movement. [...] (3) *Nothing contained in or done under authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision-*

(a) which is reasonably required in the interests of defence, public safety, public order, public morality, public health or the conservation of the natural resources, such as mineral, marine, forest and other resources of Sierra Leone, except in so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society; or [...]"

"21. Protection from deprivation of property. [...] (2) *Nothing in this section shall be construed as affecting the making or operation of any law in so far as it provides for the taking of possession or acquisition of property- [...]* h. *for so long only as such taking of possession may be necessary for the purposes of any examination, investigation, trial, or inquiry, or, in the case of land, the carrying out thereon-*

(i) of work of soil conservation or the conservation of other natural resources; or [...]"

"118. Loans. [...] (6) *The provisions of subsections (1), (2), (3), (4) and (5) shall also apply to any agreement for a loan entered into by the Government in respect of the natural resources of Sierra Leone, such as mineral, marine, forest and such other resources."*

46. Somalia

Constitution of the Federal Republic of Somalia

"Article 7. The Territory of the Federal Republic of Somalia. (1) *The sovereignty of the Federal Republic of Somalia extends over all the territory of the Federal Republic of Somalia, which includes the land, territorial sea, the islands, the subsoil, the air space, and the continental shelf, and any land and waters that join the Federal Republic of Somalia in accordance with a law that shall be passed by the Federal Parliament. [...]"*

"Article 25. Environment. [...] (2) *Every person has the right to have a share of the natural resources of the country, whilst being protected from excessive and damaging exploitation of these natural resources."*

"Article 27. Economic and Social Rights. (1) *Every person has the right to clean potable water. [...]"*

"Article 44. Natural Resources. *The allocation of the natural resources of the Federal Republic of Somalia shall be negotiated by, and agreed upon, by the Federal Government and the Federal Member States in accordance with this Constitution."*

"Article 45. Environment. [...] (2) *All people in the Federal Republic of Somalia have a duty to safeguard and enhance the environment and participate in the development, execution, management, conservation and protection of the natural resources and environment.*

(3) *The Federal Government and the governments of the Federal Member States affected by environmental damage shall:*

(a) Take urgent measures to clean up hazardous waste dumped on the land or in the waters of the Federal Republic of Somalia;

[...] (d) Take necessary measures to reverse desertification, deforestation and environmental degradation, and to conserve the environment and prevent activities that damage the natural resources and the environment of the nation. [...]"

"Article 52. Cooperative Relationships Between the Various Federal Member State Governments. (1) The Federal Government and Federal Member State governments shall ensure that meetings between the Presidents of the Federal Member States and high ranking officials be held regularly to discuss issues that affect their territories, including:

(a) Water sources; [...]"

47. Sudáfrica

Constitution of the Republic of South Africa

"24. Everyone has the right-

[...] (b) to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that-

[...] (iii) secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development."

"25. [...] (2) Property may be expropriated only in terms of law of general application-

[...] (4) For the purposes of this section-

(a) the public interest includes the nation's commitment to land reform, and to reforms to bring about equitable access to all South Africa's natural resources; [...]"

[...] (8) No provision of this section may impede the state from taking legislative and other measures to achieve land, water and related reform, in order to redress the results Chapter 2: Bill of Rights 11 of past racial discrimination, provided that any departure from the provisions of this section is in accordance with the provisions of section 36(1). [...]"

"27. (1) Everyone has the right to have access to-

[...] (b) sufficient food and water; and

[...] (2) The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of each of these rights. [...]"

"184. [...] (3) Each year, the South African Human Rights Commission must require relevant organs of state to provide the Commission with information on the measures that they have taken towards the realisation of the rights in the Bill of Rights concerning housing, health care, food, water, social security, education and the environment. [...]"

"Schedule 4. Functional areas of concurrent national and provincial legislative competence

[...] Part B

The following local government matters to the extent set out in section 155(6)(a) and (7): [...]

[...] • Stormwater management systems in built-up areas. [...]

[...] • Water and sanitation services limited to potable water supply systems and domestic wastewater and sewage disposal systems.”

48. Sudán

Constitution of the Republic of Sudan

49. Sudán del Sur

Constitution of the Republic of South Sudan

“35. Guiding objectives and principles. [...] (2) *This Constitution shall be interpreted and applied to advance the individual dignity and address the particular needs of the people by dedicating public resources and focusing attention on the provision of gainful employment for the people, and improving their lives by building roads, schools, airports, community institutions, hospitals, providing clean water, food security, electric power and telecommunication services to every part of the country.”*

“37. Economic objectives. [...] (2) *All levels of government shall: [...]*

(b) protect and ensure the sustainable management and utilization of natural resources including land, water, petroleum, minerals, fauna and flora for the benefit of the people; [...]”

“41. The Environment. [...] (3) *Every person shall have the right to have the environment protected for the benefit of present and future generations, through appropriate legislative action and other measures that:*

[...] (c) secure ecologically sustainable development and use of natural resources while promoting rational economic and social development so as to protect genetic stability and bio-diversity. [...]”

“46. Duties of the Citizen. [...] (2) *Every citizen shall in particular:*

[...] (h) protect the environment and conserve natural resources; [...]”

“152. Code of Conduct for the Armed Forces. *There shall be a code of conduct for the national armed forces that shall:*

[...] (e) make clear that all members of armed forces shall not be involved in illicit activities that may affect the environment and natural resources. [...]”

“165. Local Government. [...] (6) *The objects of local government shall be to:*

[...] (j) involve communities in decisions relating to the exploitation of natural resources in their areas and promote a safe and healthy environment. [...]”

“170. Land tenure. [...] (4) *Regardless of the classification of the land in question, rights over all subterranean and other natural resources throughout South Sudan, including petroleum and gas resources and solid minerals, shall belong to the National Government and shall be regulated by law. [...]*”

“Schedule (A) - National Powers. *The exclusive legislative and executive powers of the National Government shall be as follows:*

[...] 17. *National Lands and National natural resources;*

[...] 27. *International and Inter-State Transport, including roads, airports, waterways, river ports and railways;*

[...] 29. *The management of the Nile Waters, trans-boundary waters, national rivers and lakes; [...]*”

“Schedule (B) - Powers of States. *The exclusive executive and legislative powers of a state shall be as follows:*

[...] 7. *State Land and state Natural Resources;*

[...] 18. *The development, conservation and management of state natural resources and state forestry resources; [...]*”

“Schedule (C) - Concurrent Powers. *The National and state governments shall have legislative and executive competencies on any of the matters listed below:*

[...] 12. *Electricity generation and water and waste management;*

[...] 24. *Water Resources other than interstate waters;*

[...] 29. *Natural resources and forestry; [...]*”

50. Togo

Constitution of the Republic of Togo

“Article 84. *The law establishes the rules concerning:*

[...] • *the protection and the promotion of the environment and the conservation of the natural resources; [...]*”

51. Túnez

Constitution of the Republic of Tunisia

“Article 12. [...] *The state shall seek to exploit natural resources in the most efficient way.*”

“Article 13. *Natural resources belong to the people of Tunisia. The state exercises sovereignty over them in the name of the people. Investment contracts related to these resources shall be presented to the competent committee in the Assembly of the Representatives of the People. The agreements concluded shall be submitted to the Assembly for approval.*”

“Article 44. *The right to water shall be guaranteed.*

The conservation and rational use of water is a duty of the state and of society.”

“Article 136. [...] A portion of revenues coming from the exploitation of natural resources may be allocated to the promotion of regional development throughout the national territory.”

52. Uganda

Constitution of the Republic of Uganda

“National objectives and directive principles of State policy

[...] XIII. Protection of natural resources. The State shall protect important natural resources, including land, water, wetlands, minerals, oil fauna and flora on behalf of the people of Uganda.

XIV. General social and economic objectives. *The State shall endeavour to fulfil the fundamental rights of all Ugandans to social justice and economic development and shall, in particular, ensure that-*

[...] b. all Ugandans enjoy rights and opportunities and access to education, health services, clean and safe water, work, decent shelter, adequate clothing, food security and pension and retirement benefits.”

[...] XXI. Clean and safe water. The State shall take all practical measures to promote a good water management system at all levels.

[...] XXVII. The Environment. i. The State shall promote sustainable development and public awareness of the need to manage land, air, water resources in a balanced and sustainable manner for the present and future generations.

ii. The utilization of the natural resources of Uganda shall be managed in such a way as to meet the development and environmental needs of present and future generations of Ugandans; and in particular, the State shall take all possible measures to prevent or minimise damage and destruction to land, air and water resources resulting from pollution or other causes.

[...] iv. The State, including local governments, shall

a. create and develop parks, reserves and recreation areas and ensure the conservation of natural resources;

b. promote the rational use of natural resources so as to safeguard and protect the bio-diversity of Uganda.”

“237. Land ownership. 1. Land in Uganda belongs to the citizens of Uganda and shall vest in them in accordance with the land tenure systems provided for in this Constitution.

2. Notwithstanding clause (1) of this article

[...] b. the Government or a local government as determined by Parliament by law, shall hold in trust for the people and protect, natural lakes, rivers, wetlands, forest reserves, game reserves, national parks and any land to be reserved for ecological and touristic purposes for the common good of all citizens; [...]”

“Fifth schedule: regional governments (article 178). [...] 9. Functions and services of regional governments. The functions and services for which a regional government is responsible are as follows

[...] i. water;

j. sanitation; [...]”

“Sixth schedule: functions and services for which government is responsible (article 189). [...] 7. Land, mines, mineral and water resources and the environment. [...]”

53. Zambia

Constitution of the Republic of Zambia

“Article 16. Protection from Deprivation of Property. [...] 2. Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of clause (1) to the extent that it is shown that such law provides for the taking possession or acquisition of any property or interest therein or right thereover-

[...] t. for so long as may be necessary for the purpose of any examination, investigation, trial or inquiry or, in the case of the land, the carrying out thereon-

i. of work for the purpose of the conservation of natural resources or any description; [...]”

“Article 43. Responsibilities of citizen. (1) A citizen shall-

[...] (c) protect and conserve the environment and utilise natural resources in a sustainable manner; [...]”

“Article 168. Participation of chiefs in public affairs. [...] 3. The role of a chief in the management, control and sharing of natural and other resources in the Chieftdom shall be prescribed.”

“Article 255. Principles of environmental and natural resources management and development. The management and development of Zambia’s environment and natural resources shall be governed by the following principles:

(a) natural resources have an environmental, economic, social and cultural value and this shall be reflected in their use;

[...] (f) benefits accruing from the exploitation and utilisation of the environment and natural resources shall be shared equitably amongst the people of Zambia;

[...] (i) unfair trade practices in the production, processing, distribution and marketing of natural resources shall be eliminated;

(j) origin, quality, methods of production, harvesting and processing of natural resources shall be regulated; [...]”

“Article 256. Protection of environment and natural resources. A person has a duty to co-operate with State organs, State institutions and other persons to-

[...] (b) ensure ecologically sustainable development and use of natural resources; [...]”

“Article 257. Utilization of natural resources and management of the environment.-

The State shall, in the utilisation of natural resources and management of the environment-

(a) protect genetic resources and biological diversity;

(b) implement mechanisms that minimize waste;

(c) promote appropriate environment management systems and tools;

(d) encourage public participation;

(e) protect and enhance the intellectual property in, and indigenous knowledge of, biodiversity and genetic resources of local communities;

(f) ensure that the environmental standards enforced in Zambia are of essential benefit to citizens; and

(g) establish and implement mechanisms that address climate change.”

“Annex. Functions of national, provincial and local levels of devolved government (article 147(2)).

A. Exclusive national functions

Land, mines, minerals and natural resources

Water resources management

B. Concurrent national and provincial functions

[...] Nature conservation

C. Local Authorities exclusive functions

Storm water management systems in built-up areas

Water and sanitation services limited to potable water supply systems and domestic waste-water and sewage disposal systems”

54. Zimbabwe

Constitution of the Republic of Zimbabwe

“72. Rights to agricultural land. [...] (2) *Where agricultural land, or any right or interest in such land, is required for a public purpose, including-*

[...] (b) land reorganisation, forestry, environmental conservation or the utilisation of wild life or other natural resources; [...]”

“73 Environmental rights. (1) *Every person has the right-*

[...] (b) to have the environment protected for the benefit of present and future generations, through reasonable legislative and other measures that-

[...] (iii) secure ecologically sustainable development and use of natural resources while promoting economic and social development.

(2) The State must take reasonable legislative and other measures, within the limits of the resources available to it, to achieve the progressive realisation of the rights set out in this section.”

“77 Right to food and water. *Every person has the right to-*

(a) safe, clean and potable water; and

(b) sufficient food;

and the State must take reasonable legislative and other measures, within the limits of the resources available to it, to achieve the progressive realisation of this right.”

“270 Functions of provincial and metropolitan councils. (1) *A provincial or metropolitan council is responsible for the social and economic development of its province, including-*

[...] (c) planning and implementing measures for the conservation, improvement and management of natural resources in its province;

(e) monitoring and evaluating the use of resources in its province; [...]”

“289 Principles guiding policy on agricultural land. *In order to redress the unjust and unfair pattern of land ownership that was brought about by colonialism, and to bring about land reform and the equitable access by all Zimbabweans to the country's natural resources, policies regarding agricultural land must be guided by the following principles- [...]*”

“301 Allocation of revenues between provincial and local tiers of government. [...] (2) *The Act referred to in subsection (1) must take into account, amongst other factors-*

[...] (d) the need to provide basic services, including educational and health facilities, water, roads, social amenities and electricity to marginalised areas; [...]”

*Todos los destacados son agregados.

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