



Annex IV.**Recognition of the Right to a Healthy Environment in
Constitutions, Legislation and Treaties: Africa Region**

This Annex contains a chart summarizing the status of the right to a healthy environment in the constitutions, legislation, and regional treaties of States in the Africa Region. Following the chart is an alphabetical listing of States and the specific constitutional and legislative references to the right to a healthy environment in each of those States.

Much of the research conducted for this project on behalf of the Special Rapporteur was organized by the Cyrus R. Vance Center for International Justice and carried out on a pro bono basis by a consortium of law firms led by Clifford Chance and White & Case.¹ The conclusions expressed in the Annex, including the chart, are the Special Rapporteur's alone. Any errors and/or omissions are the sole responsibility of the Special Rapporteur on human rights obligations related to the enjoyment of a safe, clean, healthy and sustainable environment.

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Annex IV on the Issue of the Recognition of the Right to a Healthy Environment in Constitutions, Legislation and Treaties: Africa Region

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I. A chart summarizing the status of the right to a healthy environment in the constitutions, legislation, and regional treaties of States in Africa Region

Country	National Constitution	International Treaty	National Legislation
Algeria	Yes	Yes†‡	No
Angola	Yes	Yes†	Yes
Benin	Yes	Yes†	Yes
Botswana	No	Yes†	No
Burkina Faso	Yes	Yes†	Yes
Burundi	Yes	Yes†	No
Cabo Verde	Yes	Yes†	Yes
Cameroon	Yes	Yes†	Yes
Central African Republic	Yes	Yes†	Yes
Chad	Yes	Yes†	Yes
Comoros	Yes	Yes†‡	Yes
Congo	Yes	Yes†	No
Côte d'Ivoire	Yes	Yes†	Yes
Democratic Republic of the Congo	Yes	Yes†	Yes
Djibouti	No	Yes†‡	Yes
Egypt	Yes	Yes†‡	No
Equatorial Guinea	No	Yes†	No
Eritrea	No	Yes†	Yes
Eswatini	No	Yes†	No
Ethiopia	Yes	Yes†	No
Gabon	Yes	Yes†	Yes
Gambia	No	Yes†	Yes
Ghana	Yes*	Yes†	No
Guinea	Yes	Yes†	No
Guinea-Bissau	No	Yes†	Yes
Kenya	Yes	Yes†	Yes
Lesotho	No	Yes†	Yes
Liberia	Yes*	Yes†	Yes
Libya	No	Yes†‡	No
Madagascar	No	Yes†	Yes
Malawi	Yes	Yes†	Yes
Mali	Yes	Yes†	No
Mauritania	Yes	Yes†‡	Yes
Mauritius	No	Yes†	No
Morocco	Yes	No	Yes
Mozambique	Yes	Yes†	Yes
Namibia	Yes*	Yes†	No
Niger	Yes*	Yes†	Yes
Nigeria	Yes*	Yes†	Yes
Rwanda	Yes	Yes†	Yes
São Tomé and Príncipe	Yes	Yes†	Yes

Senegal	Yes	Yes†	Yes
Seychelles	Yes	Yes†	No
Sierra Leone	No	Yes†	No
Somalia	Yes	Yes†‡	No
South Africa	Yes	Yes†	Yes
South Sudan	Yes	Yes†	<i>Research pending</i>
Sudan	Yes	Yes†	No
Togo	Yes	Yes†	Yes
Tunisia	Yes	Yes†	Yes
Uganda	Yes	Yes†	Yes
United Republic of Tanzania	Yes*	Yes†	Yes
Zambia	No	Yes†	Yes
Zimbabwe	Yes	Yes†	Yes

† Denotes state party to the African Charter on Human and Peoples' Rights.

‡ Denotes state party to the Arab Charter on Human Rights.

* Denotes an implicit right. See country-specific notes for details

A. Algeria

Constitutional provisions

Article 68 of the Constitution of the People's Democratic Republic of Algeria

The citizen has the right to a healthy environment.

The State works to preserve the environment.

The law determines the obligations of natural and legal persons for the protection of the environment.

Le citoyen a droit à un environnement sain.

L'Etat oeuvre à la préservation de l'environnement.

La loi détermine les obligations des personnes physiques et morales pour la protection de l'environnement.

Treaty provisions

Party to the African Charter on Human and Peoples' Rights, and the Arab Charter on Human Rights.

Legislative provisions

N/A

B. Angola

Constitutional provisions

Article 39 (1) of the Constitution of the Republic of Angola

1. Everyone has the right to live in a healthy and unpolluted environment, as well as the obligation to defend and preserve it.

1. Todos têm o direito de viver num ambiente sadio e não poluído, bem como o dever de o defender e preservar.

Treaty provisions

Party to the African Charter on Human Rights and Peoples' Rights.

Legislative provisions

Article 3(1) of Law 5/98 June 19th, Base Law of Environment

3(1). All citizens have the right to live in a healthy environment and the benefits of the rational utilization of natural resources found in the country emerging from that, and obligations to participate in its defense and sustainable use, respectively.

1. Todos os cidadãos têm direito a viver num ambiente sadio e aos benefícios da utilização racional dos recursos naturais do país, decorrendo daí obrigações em participar na sua defesa e uso sustentado, respectivamente.

C. Benin

Constitutional provisions

Article 27 of the Constitution of Benin (11 December 1990)

Every person has the right to a healthy, satisfying and lasting environment and has the duty to defend it. The State shall watch over the protection of the environment.

Toute personne a droit à un environnement sain, satisfaisant et durable et a le devoir de le défendre. L'Etat veille à la protection de l'environnement.

Treaty provisions

Party to the African Charter on Human and Peoples' Rights.

Legislative provisions

Article 17 of the Law No. 2015-08 of 8 December 2015 establishing the Children's Code of Benin

All children have the right: ...

g) to live in a healthy and peaceful environment; ...

i) to access healthcare, in particular vaccinations and drinking water.

Tout enfant a le droit: ...

g) de vivre dans un environnement sain et pacifique; ...

i) d'accéder aux soins de santé, notamment à la vaccination et à l'eau potable.

D. Botswana

Constitutional provisions

N/A

Treaty provisions

Party to the African Charter on Human and Peoples' Rights.

Legislative provisions

N/A

E. Burkina Faso

Constitutional provisions

Articles 29-30 of the Constitution of Burkina Faso (1991)

Article 29

The right to a healthy environment is recognized; the protection, the defense and the promotion of the environment are a duty for all.

Article 30

Every citizen has the right to initiate an action or participate in a collective action under the form of petition against the acts:

- *harming the public patrimony;*
- *harming the interests of the social communities;*
- *infringing the environment or the cultural or historic patrimony*

Article 29

Le droit à un environnement sain est reconnu; la protection, la défense et la promotion de l'environnement sont un devoir pour tous.

Article 30

Tout citoyen a le droit d'initier une action ou d'adhérer à une action collective sous forme de pétition contre des actes:

- *lésant le patrimoine public;*
- *lésant les intérêts de communautés sociales;*
- *portant atteinte à l'environnement ou au patrimoine culturel ou historique.*

Treaty provisions

Party to the African Charter on Human and Peoples' Rights.

Legislative provisions

Article 5 of the Environmental Code of Burkina Faso (Law No. 2013-006):

Everyone has the right to a healthy environment. To this end, a person may lodge a complaint with the competent administrative or judicial authorities in order to put an end to the nuisances generated by activities which disturb the peace, undermine public safety or public health. The administration is required to respond to his request.

Toute personne a le droit à un environnement sain. A cette fin, elle peut porter plainte devant les autorités administratives ou judiciaires compétentes afin de faire cesser les nuisances générées par les activités qui troublent la tranquillité, portent atteinte à la sécurité ou à la salubrité publique. L'administration est tenue de répondre à sa requête.

F. Burundi

Constitutional provisions

Article 19 of the Constitution of the Republic of Burundi (dated March 18, 2005, as amended June 7, 2018):

The rights and duties established and guaranteed by international treaties related to human rights, as ratified from time to time, are an integral part of this Constitution.

Les droits et devoirs proclamés et garantis par les textes internationaux relatifs aux droits de l'homme régulièrement ratifiés font partie intégrante de la Constitution.

Amateka n'ibitegerejwe vyatangajwe bigakingirwa n'amasezerano y'isi yose yerekeye agateka ka zina muntu Uburundi bwemekje biri mu bigize iri Bwirizwa Shingiro.

Treaty provisions

Party to the African Charter on Human and Peoples' Rights.

Legislative provisions

N/A

G. Cabo Verde

Constitutional provisions

Article 72 of the Constitution of Cabo Verde (adopted September 1992, as amended):

1. Everyone shall have the right to a healthy and ecologically balanced environment and the duty to defend and add value to it.

2. In order to guarantee the right to environment, the public authorities shall:

(a) Compile and execute adequate policies of territorial distribution, defence and preservation of the environment and the promotion of the rational utilisation of all-natural resources, safeguarding their capacity for ecologic renewal and stability;

(b) Promote environmental education, respect for environmental values, fighting desertification and the effects of drought.

1. Todos têm direito a um ambiente sadio e ecologicamente equilibrado e o dever de o defender e valorizar.

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.

Treaty provisions

Party to the African Convention on Human and Peoples' Rights.

Legislative provisions

Article 2 of the Environmental Base Law 86/IV/93 (as amended):

1. All citizens have the right to a healthy and ecologically balanced living environment and there is a duty to defend it, by the State and Municipalities, through their own bodies, and by calling for and supporting popular and community initiatives, to promote the improvement of the quality of life, individual and collective.

2. The aim of environmental policy is to optimize and ensure the continued qualitative and quantitative use of natural resources as the basic prerequisite for self-sustaining development.

1. Todos os cidadãos têm direito a um ambiente de vida sadio e ecologicamente equilibrado e o dever de o defender, incumbindo ao Estado e aos Municípios, por meio de organismos próprios, e por apelo e apoio a iniciativas populares e comunitárias, promover a melhoria da qualidade de vida, individual e colectiva.

2. A política do ambiente tem por fim otimizar e garantir a continuidade de utilização dos recursos naturais, qualitativa e quantitativamente, como pressuposto básico de um desenvolvimento auto-sustentado.

H. Cameroon

Constitutional provisions

Preamble to the Constitution of Cameroon of 1972 (as amended 1996 and revised 2008)

Every person shall have the right to a healthy environment.

Toute personne a droit à un environnement sain.

Treaty provisions

Party to the African Charter on Human and Peoples' Rights.

Legislative provisions

Law No. 96/12 of 5 August 1996, being the Framework Law Relating to Environmental Management

5. The laws and regulations shall guarantee the right of everyone to a sound environment and ensure a harmonious balance within ecosystems and between the urban and rural zones.

7(1). All persons shall have the right to be informed on the negative effects of harmful activities on man, health, and the environment, as well as on the measures taken to prevent or compensate for these effects.

5. Les lois et règlements doivent garantir le droit de chacun à un environnement sain et assurer un équilibre harmonieux au sein des écosystèmes et entre les zones urbaines et les zones rurales.

7(1). Toute personne a le droit d'être informée sur les effets préjudiciables pour la santé, l'homme et l'environnement des activités nocives, ainsi que sur les mesures prises pour prévenir ou compenser ces effets.

I. Central African Republic

Constitutional provisions

Article 11(1) of the Constitution of the Central African Republic of 30 March 2016:

The Republic guarantees to each citizen the right to work, to a healthy environment, to rest and to recreation within the conditions established by the law. It assures to them the conditions favourable for their development through an efficient policy of employment.

La République garantit à chaque citoyen le droit au travail, à un environnement sain, au repos et aux loisirs dans les conditions fixées par la loi. Elle lui assure les conditions favorables à son épanouissement par une politique efficiente de l'emploi.

Treaty provisions

Party to the African Charter on Human and Peoples' Rights.

Legislative provisions

Article 2(2) of Law No. 07.018 of 28 December 2007 establishing the Environmental Code of the Central African Republic:

All citizens of the Central African Republic have the right to a healthy environment under the conditions established by the national and international legal texts in force.

Tout citoyen centrafricain a droit à un environnement sain dans les conditions définies par les textes juridiques nationaux et internationaux en vigueur.

J. Chad

Constitutional provisions

Article 51 of the Constitution of Chad (as amended 4 May 2018)

Everyone has the right to a healthy environment.

Toute personne a droit à un environnement sain.

Treaty provisions

Party to the African Charter on Human and Peoples' Rights.

Legislative provisions

Article 2 of Decree No. 904/PR/PM/MERH/2009 dated 6 August 2009 on the Regulation of Pollution and Damage to the Environment

The right of every citizen to a healthy environment is a fundamental right. The creation and maintenance of conditions favourable to the effective and sustainable management of this right are matters of public order.

Le droit de tout citoyen à un environnement sain un droit fondamental. La création et le maintien des conditions favorables à la gestion effective et durable de ce droit sont d'ordre public.

K. Comoros

Constitutional provisions

Preamble to the Constitution of Comoros 2001 (as amended 2009)

... the right to a healthy environment and the duty of all to preserve the environment ...

... le droit à un environnement sain et le devoir de tous à sauvegarder cet environnement ...

Treaty provisions

Party to the African Charter on Human and Peoples' Rights and the Arab Charter on Human Rights.

Legislative provisions

Article 4 of Loi cadre relative à l'environnement (framework law on the environment)

Each citizen has the fundamental right to live in a healthy environment. But he also has the obligation to contribute, individually or collectively, to its preservation.

Chaque citoyen a le droit fondamental de vivre dans un environnement sain. Mais il a aussi le devoir de contribuer, individuellement ou collectivement, à sa sauvegarde.

L. Congo

Constitutional provisions

Article 41 of the Constitution of the Republic of the Congo of 6 November 2015

Every citizen has the right to a healthy, pleasing and durable environment and the duty to defend it.

The State ensures the protection and conservation of the environment.

Tout citoyen a droit à un environnement sain, satisfaisant et durable et a le devoir de le défendre. L'Etat veille à la protection et à la conservation de l'environnement.

Treaty provisions

Party to the African Charter on Human and Peoples' Rights.

Legislative provisions

N/A

M. Côte d'Ivoire

Constitutional provisions

Article 27 of the Constitution of the Republic of Côte d'Ivoire (Loi 2016-886)

The right to a healthy environment is recognized to all throughout the national territory.

Le droit à un environnement sain est reconnu à tous sur l'ensemble du territoire national.

Treaty provisions

Party to the African Charter on Human and Peoples' Rights.

Legislative provisions

Article 33 of the Environmental Code of Côte d'Ivoire (Loi 96-766 of 3 October 1996)

Everyone has the fundamental right to live in a healthy and balanced environment. Everyone also has a duty to contribute individually or collectively to the safeguarding of the natural heritage. To this end, when deciding on a request, the court shall take into account, inter alia, the state of scientific knowledge, the solutions adopted by other countries and the provisions of international instruments.

Toute personne a le droit fondamental de vivre dans un environnement sain et équilibré. Il a aussi le devoir de contribuer individuellement ou collectivement à la sauvegarde du patrimoine naturel. A cette fin, lorsque le tribunal statue sur une demande, il prend notamment en considération l'état des connaissances scientifiques, les solutions adoptées par les autres pays et les dispositions des instruments internationaux.

N. Democratic Republic of the Congo

Constitutional provisions

Article 53 of the Constitution of the Democratic Republic of the Congo (18 February 2006)

Everyone has the right to a healthy environment conducive to their full development.

They have the duty to defend it.

The State ensures the protection of the environment and people's health.

Toute personne a droit à un environnement sain et propice à son épanouissement intégral.

Elle a le devoir de le défendre.

L'État veille à la protection de l'environnement et à la santé des populations.

Treaty provisions

Party to the African Charter on Human and Peoples' Rights.

Legislative provisions

Article 46 of the Law on Fundamental Principles of Environmental Protection (Loi 11-009, 9 July 2011)

Everyone has the right to a healthy environment conducive to their full development.

They have the duty to defend it by any means of law, in individual or collective action.

Toute personne a droit à un environnement sain et propice à son épanouissement intégral.

Elle a le devoir de le défendre, par toutes voies de droit en action individuelle ou.

O. Djibouti

Constitutional provisions

N/A

Treaty provisions

Party to the African Charter on Human and Peoples' Rights and the Arab Charter on Human Rights.

Legislative provisions

Law 51/AN/09/6th L (27 January 2009)

Title I

Every citizen has the right to a healthy environment under the conditions defined by this law. This right is accompanied by an obligation to preserve and protect the environment.

Tout citoyen a droit à un environnement sain dans les conditions définies par la présente loi. Ce droit est assorti d'une obligation de préservation et de protection de l'environnement.

Article 7, Chapter II

Everyone residing in the republic of Djibouti has a right to a healthy environment guaranteed by national and local authorities in charge of developing and implementing the environmental policy.

Toute personne résidant en République de Djibouti a droit à un environnement sain garanti par les autorités nationales et locales en charge de l'élaboration et de la mise en oeuvre de la politique environnementale.

P. Egypt

Constitutional provisions

Article 46 of the Constitution of the Arab Republic of Egypt (2014)

Every person has the right to a sound, healthy environment. Environmental protection is a national duty. The State shall take necessary measures to protect and ensure not to harm the environment; ensure a rational use of natural resources so as to achieve sustainable development; and guarantee the right of future generations thereto.

المادة 46 من دستور جمهورية مصر العربية (٢٠١٤)

لكل شخص الحق في بيئة صحية سليمة، وحمايتها واجب وطني. وتلتزم الدولة باتخاذ التدابير اللازمة للحفاظ عليها، وعدم الإضرار بها، والاستخدام الرشيد للموارد الطبيعية بما يكفل تحقيق التنمية المستدامة، وضمان حقوق الأجيال القادمة فيها.

Treaty provisions

Party to the African Charter on Human and Peoples' Rights and the Arab Charter on Human Rights.

Legislative provisions

N/A

Q. Equatorial Guinea

Constitutional provisions

N/A

Treaty provisions

Party to the African Charter on Human and Peoples' Rights.

Legislative provisions

N/A

R. Eritrea

Constitutional provisions

N/A

Treaty provisions

Party to the African Charter on Human and Peoples' Rights.

Legislative provisions

Article 5(6) of Proclamation 179/2017 (Environmental Protection & Management Framework)

The management and protection of the environment shall be governed by the following principles:

[...]

6. *Environmental rights and duties of persons: every person in Eritrea has the right to a clean, healthy and scenic environment and the corresponding duty to protect the environment against pollution and degradation as well as to contribute individually and/or collectively to the maintenance and enhancement of the environment.*

S. Eswatini

Constitutional provisions

N/A

Treaty provisions

Party to the African Charter on Human and Peoples' Rights.

Legislative provisions

N/A

T. Ethiopia

Constitutional provisions

Constitution of the Federal Democratic Republic of Ethiopia (1995)

Article 44(1)

All persons have the right to a clean and healthy environment.

Article 92

(1) Government shall endeavor to ensure that all Ethiopians live in a clean and healthy environment.

(2) People have the right to full consultation and to the expression of views in the planning and implementations of environmental policies and projects that affect them directly.

Treaty provisions

Party to the African Charter on Human and Peoples' Rights.

Legislative provisions

There is currently no Ethiopian legislation regarding the right to a healthy environment. However, the 1995 Environmental Policy of Ethiopia states:

2.3. The Key Guiding Principles

Underlying these broad policy objectives are a number of key principles. Establishing and clearly defining these guiding principles is very important as they will shape all subsequent policy, strategy and programme formulations and their implementation. Sectoral and cross-sectoral policies and environmental elements of other macro policies will be checked against these principles to ensure consistency.

The Key Guiding Principles are:

Every person has the right to live in a healthy environment; ...

U. Gabon

Constitutional provisions

Article 1(8) of the Constitution of Gabon (with amendments up to 2011)

The Gabonese Republic recognizes and guarantees the inalienable and imprescriptible human rights, which are necessarily tied to the public powers: ...

(8) The State, according to its means, guarantees to all, notably to children, mothers, the handicapped, aged workers and the elderly the protection of health, social security, a preserved natural environment, rest and leisure;

La République gabonaise reconnaît et garantit les droits inviolables et imprescriptibles de l'Homme, qui lient obligatoirement les pouvoirs publics: ...

8°) L'Etat, selon ses possibilités, garantit à tous, notamment à l'enfant, à la mère, aux handicapés, aux vieux travailleurs et aux personnes âgées, la protection de la santé, la sécurité sociale, un environnement naturel préservé, le repos et les loisirs;

Treaty provisions

Party to the African Charter on Human and Peoples' Rights.

Legislative provisions

Article 7 of the Law Relating to the Protection of the Environment in the Republic of Gabon (Loi no. 007/2014, August 1, 2014)

Everyone has the right to a healthy environment conducive to their development. The protection, the defence of the environment and the promotion of quality of life are a duty for all and for the State.

Toute personne a droit à un environnement sain et propice à son développement. La protection, la défense de l'environnement et la promotion de la qualité de la vie sont un devoir pour tous et pour l'Etat.

V. Gambia

Constitutional provisions

The current Constitution of the Gambia does not include the right to a healthy environment. However, the 2019 Draft Constitution includes the following provision:

59. Right to Clean Environment:

Every person has the right to a clean and healthy environment, which includes the right:

- a. to have the environment protected for the benefit of present and future generations through legislative and other measures, particularly those contemplated in Chapter XIV, and
- b. to have obligations relating to the environment fulfilled under Chapter XIV.

Treaty provisions

Party to the African Charter on Human and Peoples' Rights.

Legislative provisions

National Environment Management Act, 1994, Act No. 13 of 1994

Preamble

Whereas It is necessary to assure all persons living in the Gambia the fundamental right to an environment adequate for their health and well-being.

W. Ghana

Constitutional provisions

Although there is no positive law setting out a right to a healthy environment, Ghanaian courts have interpreted Article 36(9) of the Constitution (imposing a duty on the State to take appropriate measures needed to protect and safeguard the national environment for posterity and to seek cooperation with other states and bodies for the purpose of protecting the wider international environment for mankind) as recognising a constitutional right to a safe environment. See *Centre for Public Interest Law v Environmental Protection Agency* (EN)1/2005, High Court at Accra, 27 March 2009; *Stephens v Lands Commission*, BL78/2007, High Court at Accra.

Treaty provisions

Party to the African Charter on Human and Peoples' Rights.

Legislative provisions

N/A

X. Guinea

Constitutional provisions

Article 16 of the Constitution of Guinea (promulgated May 7, 2010)

Every person has the right to a healthy and sustainable environment and the duty to defend it. The State sees to the protection of the environment.

Toute personne a droit à environnement sain et durable et a le devoir de le defendre. L'Etat veille à la protection de l'environnement.

Treaty provisions

Party to the African Charter on Human and Peoples' Rights.

Legislative provisions

N/A

Y. Guinea-Bissau

Constitutional provisions

N/A

Treaty provisions

Party to the African Charter on Human and Peoples' Rights.

Legislative provisions

Law no. 1/2011, March 2, 2011, Art. 4(1)

Everyone has the right to a humane and ecologically balanced environment and the duty to defend it, and the State, through its own body and through popular and community initiatives, shall promote the improvement of individual and collective quality of life.

Todas as pessoas têm direito a um ambiente humano e ecologicamente

Equilibrado e o dever de o defender, incumbindo ao Estado, por meio de organismo próprio e por apelo a iniciativas populares e comunitárias, promover a melhoria da qualidade de vida individual e colectiva.

Z. Kenya

Constitutional provisions

Article 42 of the Constitution of Kenya

Every person has the right to a clean and healthy environment, which includes the right:

(a) to have the environment protected for the benefit of present and future generations through legislative and other measures, particularly those contemplated in Article 69; and

(b) to have obligations relating to the environment fulfilled under Article 70.

Treaty provisions

Party to the African Charter on Human and Peoples' Rights.

Legislative provisions

Section 3 of the Environmental Management and Coordination Act 1999

(1) Every person in Kenya is entitled to a clean and healthy environment and has the duty to safeguard and enhance the environment.

(2) The entitlement to a clean and healthy environment under subsection (1) includes the access by any person in Kenya to the various public elements or segments of the environment for recreational, educational, health, spiritual and cultural purposes.

AA. Lesotho

Constitutional provisions

N/A

Treaty provisions

Party to the African Charter on Human and Peoples' Rights.

Legislative provisions

Section 4 of the Environment Act, 2008

(1) Every person living in Lesotho -

(a) has the right to a scenic, clean and healthy environment; and

(b) has a duty to safeguard and enhance the environment including the duty to inform the Director [of the Department of Environment] of all activities and phenomena that may affect the environment significantly.

(2) Every person may, where the right referred to in subsection (1) is threatened as a result of an activity or omission which is causing or likely to cause harm to human health or environment, bring an action against the person whose activity or omission is causing or is likely to cause harm to human health or the environment.

BB. Liberia

Constitutional provisions

Although the right to a healthy environment is not explicit in the Liberian Constitution, the Environmental Protection Act 2003 clarifies that the right has constitutional protection.

Constitution of the Republic of Liberia (1986)

Article 7

The Republic of Liberia shall, consistent with the principles of individual freedom and social justice enshrined in this Constitution, manage the national economy and natural resources of Liberia in such a 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 11(a)

All persons are borne equally free and independent and have certain natural inherent and inalienable rights, among which are the right of enjoying and defending life and liberty, of pursuing and maintaining an security of the person and of acquiring, possessing and protecting property, subject to such qualifications as provided for in this Constitution.

Treaty provisions

Party to the African Charter on Human and Peoples' Rights.

Legislative provisions

Environmental Protection Agency Act 2003

Section 1

WHEREAS Article 7 of Chapter II of the New Constitution of Liberia, which came into force and effect on January 6, 1986, may be interpreted to provide for full public participation of all citizens in the protection and management of the environment and natural resources of Liberia

Section 32

1) Every person in Liberia has the right to a clean and healthy environment and a duty to take all appropriate measures to protect and enhance it through the Agency, the judicial process, the Environmental Court established under this Act and any appropriate organizations established for the purpose in accordance with this Act and any other written law;

2) Without prejudice to the generality of subsection (1) and in addition to the appeal provision of section (36) (4) of this Act, any person may bring an action under this Act to:

a) Prevent, stop or discontinue any act or omission to act which is deleterious or injurious to any segment of the environment or likely to accelerate unsustainable depletion of natural resources;

- b) *To compel any ministry, agency, public authority, organization and any public officer to take measures to prevent or discontinue any act or omission deleterious to the environment;*
- c) *To require that any on-going activity be subjected to an environment audit accordance with the provisions of this Act;*
- d) *To require that the ongoing activity be subjected to environmental monitoring in accordance with this law;*
- e) *To compel the person responsible for the environmental degradation to restore the degraded environment as far as it is practicable to its immediate condition prior to the damage;*
- f) *To provide compensation for any victim of pollution and the cost of beneficial uses lost as a result of an act of pollution and other losses the are connected with or incidental to the foregoing; and*
- g) *Apply for a court order for the taking of other measures that would ensure that the environment does not suffer any significant damage.*

CC. Libya

Constitutional provisions

N/A

Treaty provisions

Party to the African Charter on Human and Peoples' Rights and the Arab Charter on Human Rights.

Legislative provisions

Article 6 of the Law No. 2015-003 on the Malagasy Environmental Charter

Everyone has the fundamental right to live in a healthy and balanced environment.

Toute personne a le droit fondamental de vivre dans un environnement sain et équilibré.

DD. Madagascar

Constitution

N/A

Treaty provisions

Party to the African Charter on Human and Peoples' Rights.

Legislative provisions

Law n°2015-003 of 20 January 2015 on the updated Malagasy Environmental Charter.

Article 6 - *Everyone has the fundamental right to live in a healthy and balanced environment.*

Article 7 - *Every natural or legal person has the right of access to information that may have some influence on the environment. To this end, every natural or legal person has the right to participate in procedures prior to taking decisions likely to have adverse effects on the environment.*

Loi n°2015-003 du 20 janvier 2015 portant Charte de l'Environnement Malagasy actualisée.

Article 6.- *Toute personne a le droit fondamental de vivre dans un environnement sain et équilibré.*

Article 7.- *Toute personne physique ou morale a le droit d'accéder aux informations susceptibles d'exercer quelques influences sur l'environnement. A cet effet, toute personne physique ou morale a le droit de participer aux procédures préalables à la prise de décisions susceptibles d'avoir des effets préjudiciables à l'environnement.*

EE. Malawi

Constitutional provisions

Section 13(d) of the Republic of Malawi (Constitution) Act 1994

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—

- (i) prevent the degradation of the environment;*
- (ii) provide a healthy living and working environment for the people of Malawi;*
- (iii) accord full recognition to the rights of future generations by means of environmental protection and the sustainable development of natural resources; and*
- (iv) conserve and enhance the biological diversity of Malawi.*

Treaty provisions

Party to the African Charter on Human and Peoples' Rights.

Legislative provisions

Section 5 of the Environment Management Act 1996

(1) Every person shall have a right to a clean and healthy environment.

(2) For the purposes of enforcing the right referred to in subsection (1) any person may bring an action in the High Court.

FF. Mali

Constitutional provisions

Article 15 of the Constitution of Mali (1992)

Every person shall have the right to a healthy environment. The protection, defence and promotion of the environment shall be obligations for all and for the State.

Toute personne a droit à un environnement sain. La protection, la défense de l'environnement et la promotion de la qualité de la vie sont un devoir pour tous et pour l'Etat.

Treaty provisions

Party to the African Charter on Human and Peoples' Rights.

Legislative provisions

N/A

GG. Mauritania

Constitutional provisions

Article 19 of the Constitution of the Islamic Republic of Mauritania (as amended to 2012)

Every citizen must loyally fulfill his obligations towards the national collectivity and respect public property and private property.

The citizens enjoy the same rights and the same duties vis-à-vis the Nation. They participate equally in the construction [edification] of the Fatherland and have the right, under the same conditions, to sustainable development and to an environment balanced and respectful of health.

Tout citoyen doit remplir loyalement ses obligations à l'égard de la collectivité nationale et respecter la propriété publique et la propriété privée.

Les citoyens jouissent des mêmes droits et des mêmes devoirs vis-à-vis de la Nation. Ils concourent également à l'édification de la Patrie et ont droit, dans les mêmes conditions, au développement durable et à un environnement équilibré et respectueux de la santé.

Treaty provisions

Party to the African Charter on Human and Peoples' Rights and the Arab Charter on Human Rights.

Legislative provisions

Law No. 2000.045 of the Mauritania Environmental Code

Article 4

The environment constitutes a national heritage, the management of which must reconcile the rights of present generations with those of future generations and the exploitation of natural resources must guarantee their sustainable use. It is part of the perspective of integrating environmental concerns into development policies.

L'environnement constitue un patrimoine national dont la gestion doit concilier les droits des générations actuelles avec ceux des générations futures et l'exploitation des ressources naturelles doit garantir leur usage durable. Elle s'inscrit dans la perspective d'une intégration des préoccupations environnementales dans les politiques de développement.

Article 5

The laws and regulations organize the right of everyone to a healthy and balanced environment and fix the duties that the implementation of this right counts for all they also specify the conditions for the involvement of the populations in the development and execution of environmental policies.

Les lois et règlements organisent le droit de chacun à un environnement sain et équilibre et fixent les devoirs que la mise en oeuvre de ce droit compte pour tous ils précisent également les conditions de l'implication des populations dans l'élaboration et l'exécution des politiques de l'environnement.

HH. Mauritius

Constitutional provisions

N/A

Treaty provisions

African Charter on Human and Peoples' Rights.

Legislative provisions

N/A

II. Morocco

Constitutional provisions

Article 31 of the Constitution of the Kingdom of Morocco

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 [feminine] and citizens [masculine] to conditions that permit their enjoyment of the right: [...]

*to the access to water and to a **healthy environment**;*

L'Etat, les établissements publics et les collectivités territoriales œuvrent à la mobilisation de tous les moyens disponibles pour faciliter l'égal accès des citoyennes et des citoyens aux conditions leur permettant de jouir du droit: [...]

- *à l'accès à l'eau et à un environnement sain;*

Treaty provisions

N/A

Legislative provisions

Article 1 of the National Charter for Environment and Sustainable Development 2013 (loi-cadre 99-12)

Everyone has the right to live in a healthy environment, which provides security, health, economic development, social progress, and where the natural and cultural heritage and the quality of life are preserved.

Toute personne a le droit de vivre dans un environnement sain, qui assure la sécurité, la santé, l'essor économique, le progrès social, et où sont préservés le patrimoine naturel et culturel, et la qualité de vie.

JJ. Mozambique

Constitutional provisions

Article 90 of the Constitution of Mozambique (2004)

All citizens shall have the right to live in a balanced environment and shall have the duty to defend it.

Todo o cidadão tem o direito de viver num ambiente equilibrado e o dever de o defender.

Treaty provisions

Party to the African Charter on Human and Peoples' Rights.

Legislative provisions

Environment Law (Law No. 20/97, dated 1 October)

Preamble

The Constitution of our Nation confers on every citizen both the right to live in a balanced environment as well all the duty to defend this right. The realisation of this right necessarily requires the correct management of the environment and the elements of which it is made up as well as the creation of conditions which favourable to the health and well-being of people, to the socio-economic and cultural development of communities and to the preservation of the natural resources which sustain them.

A Constituição do nosso país confere a todos os cidadãos o direito de viver num ambiente equilibrado, assim como o dever de o defender. A materialização deste direito passa necessariamente por uma gestão correcta do ambiente e dos seus componentes e pela criação de condições propícias à saúde e ao bem estar das pessoas ao desenvolvimento sócio económico e cultural das comunidades e à preservação dos recursos naturais que as sustentam.

Article 4

Environmental management is based upon fundamental principles that are derivative of the right of all citizens to an ecologically balanced environment that is favourable to their health and physical and mental well-being, namely:

- 1. the rational utilisation and management of environmental elements in order to promote the improvement in the quality of life of citizens and to conserve biodiversity and ecosystems;*
- 2. the recognition and valorisation of the traditions and the knowledge of the local communities that contribute to the conservation and preservation of natural resources and the environment;*
- 3. Precaution, on the basis of which the management of the environment shall prioritise the establishment of system to prevent acts which are harmful to the environment in such a way so as to avoid the occurrence of negative environmental impacts which are material or irreversible, regardless of the existence of scientific certainty concerning the occurrence of such an impact;*
- 4. A global, integrated vision of the environment as a grouping of interdependent ecosystems which may be naturally occurring or constructed and which must be managed in such a way so as to maintain their functional equilibrium without exceeding their intrinsic limits;*
- 5. The broad participation of citizens as a crucial element of the implementation of the National Programme of Environmental Management;*
- 6. Equality which guarantees equal opportunities to women and men for access to and use of natural resources;*

7. *Responsibility, on the basis of which whoever pollutes or in any way degrades the environment shall always have the obligation to repair or compensate the resulting damage;*

8. *International cooperation, to obtain harmonious solutions to environmental problems, the cross-border, global dimensions of these problems are recognised.*

A gestão Ambiental baseia-se em princípios fundamentais decorrentes do direito de todos os cidadãos a um ambiente ecologicamente equilibrado, propício à sua saúde e ao seu bem estar físico e mental nomeadamente:

1. *da utilização e gestão racionais dos componentes ambientais com vista à promoção da melhoria da qualidade de vida dos cidadãos e à manutenção da biodiversidade e dos ecossistemas;*
2. *do reconhecimento e valorização das tradições e do saber das comunidades locais que contribuam para a conservação e preservação dos recursos naturais e do ambiente;*
3. *da precaução, com base na qual a gestão do ambiente deve priorizar o estabelecimento de sistemas de prevenção de actos lesivos ao ambiente de modo a evitar a ocorrência de impactos ambientais negativos significativos ou irreversíveis, independentemente da existência de Certeza científica sobre a ocorrência de tais impactos;*
4. *da visão global e integrada do ambiente, como um conjunto de ecossistemas interdependentes, naturais e construídos, que devem ser geridos de maneira a manter o seu equilíbrio funcional sem exceder os seus limites intrínsecos;*
5. *da ampla participação dos cidadãos, como aspect crucial da execução do Programa Nacional de Gestão Ambiental;*
6. *da igualdade, que garante oportunidades iguais de acesso e uso de recursos naturais a homens e mulheres;*
7. *da responsabilização, com base na qual quem polui ou de qualquer outra forma degrada o ambiente tem sempre a obrigação de reparar ou compensar os danos daí decorrentes;*

da cooperação internacional, para a obtenção de soluções harmoniosas dos problemas ambientais, reconhecidas que são a suas dimensões transfronteiriças e globais.

KK. Namibia

Constitutional provisions

Although no right to a healthy environment is provided for in Namibian domestic law, Article 144 of the Namibian Constitution directly incorporates international agreements. This includes Article 24 of the African Charter on Human and Peoples' Rights, which establishes a right to live in a healthy environment.

Article 144 of the Constitution of the Republic of Namibia (1990)

Unless otherwise provided by this Constitution or Act of Parliament, the general rules of public international law and international agreements binding upon Namibia shall form part of the law of Namibia.

Treaty provisions

Party to the African Charter on Human and Peoples' Rights.

Legislative provisions

N/A

LL. Niger

Constitutional provisions

Article 3 of the Constitution of Niger (2010)

Any person has the right to a healthy environment. The State has the obligation to protect the environment in the interest of present and future generations.

Each one is required to contribute to the safeguarding and to the improvement of the environment in which he lives.

The acquisition, the storage, the handling and the disposal of toxic wastes or pollutants originating from factories and other industrial or handwork sites, installed on the national territory, are regulated by the law.

The transit, importation, storage, landfill, and dumping on the national territory of foreign pollutants or toxic wastes, as well as any agreement relating to it constitute a crime against the Nation, punished by the law.

The State sees to the evaluation and control of the impacts of any project and program of development on the environment.

Toute personne a droit à un environnement sain. L'Etat a l'obligation de protéger l'environnement dans l'intérêt des générations présentes et futures.

Chacun est tenu de contribuer à la sauvegarde et à l'amélioration de l'environnement dans lequel il vit.

L'acquisition, le stockage, la manipulation et l'évacuation des déchets toxiques ou polluants provenant des usines et autres

unités industrielles ou artisanales installées sur le territoire national sont réglementés par la loi.

Le transit, l'importation, le stockage, l'enfouissement, le déversement sur le territoire national de déchets toxiques ou

polluants étrangers, ainsi que tout accord y relatif constituent un crime contre la nation, puni par la loi.

L'Etat veille à l'évaluation et au contrôle des impacts de tout projet et programme de développement sur l'environnement.

Treaty provisions

Party to the African Charter on Human and Peoples' Rights.

Legislative provisions

Framework Law on Environmental Management (Loi 98-56, 1998)

Article 4

Everyone has the right to a healthy environment. The state ensures the protection of the environment which is of general interest. Everyone is responsible for helping to safeguard and improve the environment in which they live.

Tout personne a droit à un environnement sain. L'Etat veille à la protection de l'environnement qui est d'intérêt général. Chacun est tenu de contribuer à la sauvegarde et à l'amélioration de l'environnement dans lequel il vit.

Article 5

Everyone has the right to be informed about his environment and to participate in the taking of decisions relating to it. An implementing text of this Law will define the substance and the conditions of exercise of this right.

Toute personne a le droit d'être informée sur son environnement et de participer à la prise des décisions s'y rapportant. Un texte d'application de la présente Loi définira la consistance et les conditions d'exercice de ce droit.

MM. Nigeria

Constitutional provisions

Although there is no explicit right to a healthy environment in the Nigerian Constitution, courts have ruled that there is an implicit right to a healthy environment. The High Court ruled that Shell's practice of flaring gas from its oil operations in the Niger Delta 'is a gross violation of the fundamental right to life (including healthy environment) and dignity of human person as enshrined in the Constitution'. See *Jonah Gbemre v. Shell Petroleum Development Company Nigerian Limited and Others*, Judgment of 14 November 2005, Suit No. FHC/ B/CS/53/05 (Federal High Court of Nigeria, Benin Division).

Treaty provisions

Party to the African Charter on Human and Peoples' Rights.

Legislative provisions

The African Charter on Human and Peoples' Rights – the right to a healthy environment contained in section 24 – is incorporated into Nigerian law by section 1 of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act 2004. The right to a healthy environment is reproduced in the Schedule to that Act.

1. As from the commencement of this Act, the provisions of the African Charter on Human and Peoples' Rights which are set out in the Schedule to this Act shall, subject as thereunder provided, have force of law in Nigeria and shall be given full recognition and effect by all authorities and persons exercising legislative, executive or judicial powers in Nigeria.

NN. Rwanda

Constitutional provisions

Article 22 of the Constitution of Rwanda (as amended)

Everyone has the right to live in a clean and healthy environment.

Toute personne a le droit de vivre dans un environnement propre et sain.

Umuntu wese afite uburenganzira bwo kuba ahantu hatunganye kandi hadafite ingaruka mbi ku buzima.

Treaty provisions

Party to the African Charter on Human and Peoples' Rights.

Legislative provisions

Article 6 of Law No. 04/2005 promulgated August 4, 2005

Every person in Rwanda has a fundamental right to live in a healthy and balanced environment. He or she also has the obligation to contribute individually or collectively to the conservation of natural heritage, historical and socio-cultural activities.

Toute personne physique ou morale se trouvant sur le territoire rwandais a le plein droit de vivre dans un environnement sain et équilibré. Elle a aussi le devoir de contribuer individuellement ou collectivement à la sauvegarde du patrimoine naturel, historique et des activités culturelles.

Umuntu wese uri mu Rwanda afite uburenganzira busesuye bwo kubaho mu bidukikije bizima kandi byuzuye. Afite kandi inshingano, haba ku giti cyeye cyangwa yishyize hamwe n'abandi, yo kubungabunga umurage kamere, amateka n'ibikorwa by'umuco.

OO. São Tomé and Príncipe

Constitutional provisions

Article 49 of the Constitution of the Republic of São Tomé and Príncipe (Law No. 1/2003)

Everyone has the right to housing and to an environment of human life and the duty to defend it.

Todos têm direito à habitação e a um ambiente de vida humana e o dever de o defender.

Treaty provisions

Party to the African Charter on Human and Peoples' Rights.

Legislative provisions

Article 2 of the Environment Basic Law (Law No. 10/1999)

All citizens have the right to an ecologically balanced human environment and the duty to defend it.

Todos os cidadãos têm direito a um ambiente humano ecologicamente equilibrado e o dever de o defender.

PP. Senegal

Constitutional provisions

Article 8 of the Constitution of Senegal (as amended; Loi No. 2001-03, January 22, 2001)

The Republic of Senegal guarantees to all citizens fundamental individual freedoms, economic and social rights, as well as collective rights. These freedoms and rights include: (...) § the right to a healthy environment...

La République du Sénégal garantit à tous les citoyens les libertés individuelles fondamentales, les droits économiques et sociaux ainsi que les droits collectifs. Ces libertés et droits sont notamment : (...) § le droit à un environnement sain...

Treaty provisions

Party to the African Charter on Human and Peoples' Rights.

Legislative provisions

Article Le Premier of Loi No. 2001-01, January 15, 2001 – Law on the Environment Code

(...) Every individual has the right to a healthy environment under the conditions defined by international laws, this Code and other environmental protection laws. This right is accompanied by an obligation to protect the environment.

(...) Tout individu a droit à un environnement sain dans les conditions définies par les textes internationaux, le présent Code et les autres lois de protection de l'environnement. Ce droit est assorti d'une obligation de protection de l'environnement.

QQ. Seychelles

Constitutional provisions

Chapter III, Part I, Article 38 of the Constitution of the Seychelles (Seychelles Charter of Fundamental Human Rights and Freedoms)

The State recognizes the right of every person to live in and enjoy a clean, healthy and ecologically balanced environment and with a view to ensuring the effective realization of this right the State undertakes – (a) to take measures to promote the protection, preservation and improvement of the environment; (b) to ensure a sustainable socio-economic development of Seychelles by a judicious use and management of the resources of Seychelles; (c) to promote public awareness of the need to protect, preserve and improve the environment.

Treaty provisions

Party to the African Charter on Human and Peoples' Rights.

Legislative provisions

N/A

RR. Sierra Leone

Constitutional provisions

N/A

Treaty provisions

Party to the African Charter on Human and Peoples' Rights.

Legislative provisions

N/A

SS. Somalia

Constitutional provisions

Constitution of Somalia

Article 25

(1) Every person has the right to an environment that is not harmful to their health and well-being, and to be protected from pollution and harmful materials.

(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.

(1) Qof kastaa wuxuu xaq u leeyahay inuu helo Deegaan aan waxyeello u lahayn caafimaadkiisa iyo bararihiisa nololeed oo laga ilaaliyey wasakhda iyo waxyaalaha halista ah.

(2) Qof kastaa wuxuu xaq u leeyahay in uu wax ka helo kheyraadka dabiiciga ah ee dalka, iyadoo laga ilaalinaayo ka faa'ideysi xad-dhaaf ah oo Deegaanka waxyeello u geysan kara.

Article 27

(1) Every person has the right to clean potable water.

(2) Every person has the right to healthcare, and no one may be denied emergency healthcare for any reason, including lack of economic capability.

(1) Qof kastaa wuxuu xaq u leeyahaybiyo nadiif ah uu cabo.

(2) Qof kastaa wuxuu xaq u leeyahay inuu helo dareyeel caafimaad, Cidna lagama hor istaagi karo dareyeel caafimaad oo degdeg ah sababkasta, oo ay kamid tahay awood la'aan dhaqaale.

Treaty provisions

Party to the Arab Charter on Human Rights and the African Charter on Human and Peoples' Rights.

Legislative provisions

N/A

TT. South Africa

Constitutional provisions

Section 24 of the Constitution of the Republic of South Africa (1996)

Everyone has the right –

- (a) to an environment that is not harmful to their health or well-being; and to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that –*
 - i. prevent pollution and ecological degradation;*
 - ii. promote conservation; and*
 - iii. secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.*

Treaty provisions

Party to the African Charter on Human and Peoples' Rights.

Legislative provisions

Section 2 of the National Environmental Management Act 107 of 1998

(1) The principles set out in this section apply throughout the Republic to the actions of all organs of state that may significantly affect the environment and-

(a) shall apply alongside all other appropriate and relevant considerations, including the State's responsibility to respect, protect, promote and fulfil the social and economic rights in Chapter 2 of the Constitution and in particular the basic needs of categories of persons disadvantaged by unfair discrimination;

(b) serve as the general framework within which environmental management and implementation plans must be formulated;

(c) serve as guidelines by reference to which any organ of state must exercise any function when taking any decision in terms of this Act or any statutory provision concerning the protection of the environment;

(d) serve as principles by reference to which a conciliator appointed under this Act must make recommendations; and

(e) guide the interpretation, administration and implementation of this Act, and any other law concerned with the protection or management of the environment. [...]

(4) (a) Sustainable development requires the consideration of all relevant factors including the following: [...]

(viii) that negative impacts on the environment and on people's environmental rights be anticipated and prevented, and where they cannot be altogether prevented, are minimised and remedied.

National Environmental Management: Air Quality Act 39 of 2004

Section 2

2. Object of Act. —The object of this Act is—

(a) to protect the environment by providing reasonable measures for— [...]

(b) generally, to give effect to section 24 (b) of the Constitution in order to enhance the quality of ambient air for the sake of securing an environment that is not harmful to the health and wellbeing of people.

Section 3

3. General duty of State. —In fulfilling the rights contained in section 24 of the Constitution, the State—

(a) through the organs of state applying this Act, must seek to protect and enhance the quality of air in the Republic; and

(b) must apply this Act in a manner that will achieve the progressive realisation of those rights.

Section 2 of the National Environmental Management: Waste Act 59 of 2008

The objects of this Act are- [...]

(d) generally, to give effect to section 24 of the Constitution in order to secure an environment that is not harmful to health and well-being.

Section 2 of the Mineral and Petroleum Resources Development Act 3 of 2000

2 Objects of Act

(h) give effect to section 24 of the Constitution by ensuring that the nation's mineral and petroleum resources are developed in an orderly and ecologically sustainable manner while promoting justifiable social and economic development; and...

Section 3 of the National Environmental Management Act: Integrated Coastal Management Act 24 of 2008

3. State's duty to fulfil environmental rights in coastal environment.

In fulfilling the rights contained in section 24 of the Constitution of the Republic of South Africa, the State

(a) through its functionaries and institutions implementing this Act, must act as the trustee of the coastal zone; and

(b) must, in implementing this Act, take reasonable measures to achieve the progressive realisation of those rights in the interests of every person.”

Section 3 of the National Environmental Management: Biodiversity Act 10 of 2004

3. State's trusteeship of biological diversity. —

In fulfilling the rights contained in section 24 of the Constitution, the state through its organs that implement legislation applicable to biodiversity, must—

(a) manage, conserve and sustain South Africa's biodiversity and its components and genetic resources; and

(b) implement this Act to achieve the progressive realisation of those rights.

Section 3 of the National Environmental Management: Protected Areas Act 57 of 2003

3. State trustee of protected areas. —

In fulfilling the rights contained in section 24 of the Constitution, the State through the organs of state implementing legislation applicable to protected areas must—

(a) act as the trustee of protected areas in the Republic; and

(b) implement this Act in partnership with the people to achieve the progressive realisation of those rights.

UU. South Sudan

Constitutional provisions

Article 41 of the Constitution of South Sudan

1. Every person or community shall have the right to a clean and healthy environment.

2. Each person shall have the obligation to protect the environment for the benefit of present and future generations.

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:

a. prevent pollution and ecological degradation;

b. promote conservation; and

c. secure ecologically sustainable development and the use of natural resources while promoting rational economic and social development so as to protect genetic stability and biodiversity.

4. All levels of government shall develop energy policies that will ensure that the basic needs of the people are met while protecting and preserving the environment.

Treaty provisions

Party to the African Charter on Human and Peoples' Rights.

Legislative provisions

Research pending.

VV. Sudan

Constitutional provisions

Article 11 of the Interim National Constitution of 2005 (constitution is currently suspended)

The people of the Sudan shall have the right to a clean and diverse environment; the State and the citizens have the duty to preserve and promote the country's biodiversity.

The State shall not pursue any policy, or take or permit any action, which may adversely affect the existence of any species of animal or vegetative life, their natural or adopted habitat.

The State shall promote, through legislation, sustainable utilization of natural resources and best practices with respect to their management.

المادة ١١ من الدستور الوطني المؤقت لعام ٢٠٠٥ (الدستور حاليًا مُعطل)

لأهل السودان الحق في بيئة طبيعية نظيفة ومتنوعة، وتحافظ الدولة والمواطنون على التنوع الحيوي في البلاد وترعاه وتطوره.

لا تنتهج الدولة سياسات أو تتخذ أو تسمح بأي عمل من شأنه أن يؤثر تأثيرًا سالبًا على وجود أي نوع حيواني أو صنف نباتي أو على بيئتهما الطبيعية أو المُختارة.

تطور الدولة، بموجب التشريع، الاستغلال الأمثل للموارد الطبيعية وانجح الأساليب لإدارتها.

Treaty provisions

Party to the African Charter on Human and Peoples' Rights.

Legislative provisions

N/A

WW. Togo

Constitutional provisions

Article 41 of the Constitution of Togo 14 October 1992

Every person shall have the right to a healthy environment. The State shall oversee the protection of the environment.

Toute personne a droit à un environnement sain. L'Etat veille à la protection de l'environnement.

Treaty provisions

Party to the African Charter on Human and Peoples' Rights.

Legislative provisions

Article 3 of Law No. 2008-005 of 30 May 2008 establishing the Framework Law on the Environment

Every person shall have the right to a healthy environment. The State shall oversee the protection of the environment.

Toute personne a droit à un environnement sain. L'Etat veille à la protection de l'environnement.

XX. Tunisia

Constitutional provisions

Article 45 of the Constitution of the Republic of Tunisia

The State guarantees the right to a healthy and balanced environment, and it is committed to the protection of that environment. It is the responsibility of the State to provide the necessary means to eliminate environmental pollution.

المادة ٤٥ من دستور الجمهورية التونسية:

تضمن الدولة الحق في بيئة سليمة ومتوازنة والمساهمة في سلامة المناخ. وعلى الدولة توفير الوسائل الكفيلة بالقضاء على التلوث البيئي.

Treaty provisions

Party to the African Charter on Human and Peoples' Rights.

Legislative provisions

Law No. 2007-34 of 4 June 2007, on air quality.

Article 1. - *The purpose of this Law is to prevent, limit and reduce air pollution and its negative impacts on human health and the environment, as well as to establish air quality control procedures, in order to give effect to the citizen's right to a healthy environment and ensure sustainable development.*

Act No. 94-122 of 28 November 1994, promulgating the Land Use Planning and Urban Development Code.

Article 1 - *The provisions of the present code establish the rules to be followed for the optimal organization and exploitation of space, planning, creation and development of urban agglomerations in order to ensure the protection of the environment and the sustainable development of the urban area:*

- to condition the living environment;
- to ensure the rational use of resources;
- to protect the wilderness areas;
- to protect natural and cultural sites, including archaeological sites as defined in Article 2 of the Code of Archaeological, Historical and Traditional Arts Heritage;
- to ensure public health and safety;
- ensure a rational distribution between urban and rural areas.

and this within the framework of harmonization between economic development, social development and ecological balances, with a view to ensuring sustainable development and the citizen's right to a healthy environment.

Loi n° 2007-34 du 4 juin 2007, sur la qualité de l'air.

Article premier. – *La présente loi vise à prévenir, limiter et réduire la pollution de l'air et ses impacts négatifs sur la santé de l'Homme et sur l'environnement ainsi qu'à fixer les procédures de contrôle de la qualité de l'air, afin de rendre effectif le droit du citoyen à un environnement sain et assurer un développement durable.*

Loi n° 94-122 du 28 novembre 1994, portant promulgation du code de l'aménagement du territoire et de l'urbanisme.

Article premier. — *Les dispositions du présent code fixent les règles à suivre pour l'organisation et l'exploitation optimales de l'espace, la planification, la création et le développement des agglomérations urbaines afin:*

- de conditionner le cadre de vie,
- d'assurer l'exploitation rationnelle des ressources;
- protéger les zones de sauvegarde;
- de protéger les sites naturels et culturels, y compris les sites archéologiques tels que définis par l'article 2 du code du patrimoine archéologique, historique et des arts traditionnels;
- d'assurer la sécurité et la santé publique;
- de garantir une répartition rationnelle entre les zones urbaines et rurales.

et ce dans le cadre d'une harmonisation entre développement économique, développement social, et équilibres écologiques, en vue de garantir un développement durable et le droit du citoyen à un environnement sain.

YY. Uganda

Constitutional provisions

Article 39 of the Constitution of the Republic of Uganda, 1995 (as amended)
Every Ugandan has a right to a clean and healthy environment.

Treaty provisions

Party to the African Charter on Human and Peoples' Rights.

Legislative provisions

Section 3 of the National Environment Act (Cap. 153)

Every person has a right to a healthy environment.

In furtherance of the right to a healthy environment and enforcement of the duty to maintain and enhance the environment, the National Environment Management Authority ("NEMA") or the local environment committee, is entitled to bring an action against any other person whose activities or omissions have or are likely to have a significant impact on the environment to:
a). *prevent, stop or discontinue any act or omission deleterious to the environment;*

- b). *compel any public officer to take measures to prevent or to discontinue any act or omission deleterious to the environment;*
- c). *require that any ongoing activity be subjected to an environmental audit;*
- d). *require that any ongoing activity be subjected to environmental monitoring;*
- e). *request a court order for the taking of other measures that would ensure that the environment does not suffer any significant damage.*

Section 2 of the National Environment Act (Cap. 153)

NEMA has the mandate of ensuring the observance of the principle of environment management of assuring all people living in Uganda the fundamental right to an environment adequate for their health and well-being.

ZZ. United Republic of Tanzania

Constitutional provisions

The High Court of Tanzania has found that the right to a healthy environment is implicit in Article 14 of the Tanzanian Constitution. See *Balegele v Dar es Salaam City Council*, High Court of Tanzania at Dar es Salaam, Miscellaneous Civil Case No. 90 of 1991; *Mavika v Dar es Salaam City Council*, High Court of Tanzania at Dar es Salaam, Miscellaneous Civil Case No. 316 of 2000.

Article 14 of the Constitution of the United Republic of Tanzania 1977 (as amended)

Every person has the right to live and to the protection of his life by the society in accordance with the law.

Treaty provisions

Party to the African Charter on Human and Peoples' Rights.

Legislative provisions

Section 4 of the Environment Management Act 2004

Every person living in Tanzania shall have a right to clean, safe and healthy environment.

The right to clean, safe and healthy environment shall include the right of access by any citizen to the various public elements or segments of the environment for recreational, educational, health, spiritual, cultural and economic purposes.

AAA. Zambia

Constitutional provisions

N/A

Treaty provisions

Party to the African Charter on Human and Peoples' Rights.

Legislative provisions

Section 4(1) Environmental Management Act No. 12 of 2011

Subject to the Constitution of Zambia, every person living in Zambia has the right to a clean, safe and healthy environment.

BBB. Zimbabwe

Constitutional provisions

Section 73(1) of the Constitution of Zimbabwe 2013

(1) Every person has the right-

(a) to an environment that is not harmful to their health or well-being; and

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

(i) prevent pollution and ecological degradation;

(ii) promote conservation; and

(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.

Treaty provisions

Party to the African Charter on Human and Peoples' Rights.

Legislative provisions

Section 4(1) (a) of the Environmental Management Act [Chapter 20:27]

Every person shall have a right to a clean environment that is not harmful to health.