

## APPENDIX 2

### Environmental Protection and Enforceability: Excerpts from 147 National Constitutions

This document provides a comprehensive inventory of constitutional provisions related to environmental protection and the enforceability of those provisions. It is intended to provide a tool for comparative research and a compendium of precedents for constitutional drafting. For information on the methodology used to identify these provisions, please consult Appendix 1 of *The Environmental Rights Revolution*, by David R. Boyd (UBC Press, 2012).

All excerpts, unless otherwise noted, are from R. Wolfrum and R. Grote, eds, *Constitutions of the Countries of the World*, Vols. I-XX (New York: Oxford University Press, 2010). Online versions of constitutions were checked to confirm that the versions in Wolfrum and Grote are the most recent available. The URLs provided for online sources were current as of September 2011. In the case of some recent constitutions (e.g. Ecuador [2008], Turkmenistan [2008], Bolivia [2009]), translations were done by the author, and these should not be relied upon for any legal purpose.

Dates in brackets following the name of a nation refer to the date when environmental provisions were included in that nation's constitution.

# Afghanistan (2004)

## Preamble

We the people of Afghanistan: ...

10. For ensuring a prosperous life and a sound environment for all those residing in this land, ...

Have adopted this Constitution ...

## Chapter 1: The State

### ARTICLE 9

Mines and other underground resources are the property of the state. The protection, management and proper utilization of public properties as well as natural resources shall be regulated by law.

### ARTICLE 15

The state is obligated to adopt necessary measures for safeguarding forests and the environment.

## Chapter 2: Fundamental Rights and Duties of Citizens

### ARTICLE 51

Any individual suffering damage without due cause from the administration shall deserve compensation, and shall appeal to a court for acquisition. Except in conditions stipulated by law, the state shall not, without the order of an authoritative court, claim its rights.

Source:

[http://supremecourt.gov.af/Content/Media/Documents/constitution2004\\_english3012201016726844.pdf](http://supremecourt.gov.af/Content/Media/Documents/constitution2004_english3012201016726844.pdf)

# Albania (1998)

## Chapter 1: General Principles

### ARTICLE 17

1. The limitation of the rights and freedoms provided for in this Constitution may be established only by law for a public interest or for the protection of the rights of others. A limitation shall be in proportion with the situation that has dictated it.
2. These limitations may not infringe the essence of the rights and freedoms and in no case may exceed the limitations provided for in the European Convention on Human Rights.

## Part Two: Fundamental Human Rights and Freedoms

### Chapter II: Fundamental Rights and Freedoms

#### ARTICLE 42

1. The freedom, property, and rights recognized in the Constitution and by law may not be infringed without due process.
2. Everyone, to protect his constitutional and legal rights, freedoms, and interests, or in the case of an accusation raised against him, has the right to a fair and public trial, within a reasonable time, by an independent and impartial court specified by law.

### Chapter IV: Economic, Social, and Cultural Rights and Freedoms

#### ARTICLE 56

Everyone has the right to be informed about the status of the environment and its protection.

### Chapter V: Social Objectives

#### ARTICLE 59

1. The State, within its constitutional powers and the means at its disposal, aims to supplement private initiative and responsibility with:  
...
  - e) a healthy and ecologically adequate environment for the present and future generations; and
  - f) rational exploitation of forests, waters, pastures and other natural resources on the basis of the principle of sustainable development.
2. Fulfillment of social objectives may not be claimed directly in court. The law defines the conditions and extent to which the realization of these objectives can be claimed.

## Chapter VI: People's Advocate

### ARTICLE 60

1. The People's Advocate defends the rights, freedoms and lawful interests of individuals from unlawful or improper actions or failures to act of the organs of public administration.
2. The People's Advocate is independent in the exercise of his duties.
3. The People's Advocate has his own budget, which he administers himself. He proposes the budget pursuant to law.

### ARTICLE 63

1. The People's Advocate presents an annual report before the Assembly.
2. The People's Advocate reports before the Assembly when it is requested of him, and he may request the Assembly to hear him on matters he determines important.
3. The People's Advocate has the right to make recommendations and to propose measures when he observes violations of human rights and freedoms by the public administration.
4. Public organs and officials are obligated to present to the People's Advocate all documents and information requested by him.

## Part Sixteen: Extraordinary Measures

### ARTICLE 170

1. Extraordinary measures can be taken due to a state of war, state of emergency, or natural disaster and last for as long as these states continue.
2. The principles for actions of public organs, as well as the extent of limitations on human rights and freedoms during the existence of such situations that require extraordinary measures, are defined by law.
3. The law must define the principles, the areas, and the manner of compensation for losses caused as a result of the limitation of human rights and freedoms during the period in which extraordinary measures are taken.
4. Acts taken as a result of extraordinary measures must be in proportion with the level of risk and must aim to re-establish the conditions for the normal functioning of the state, as soon as possible.

...

### ARTICLE 175

1. During the state of war or state of emergency the rights and freedoms contemplated by articles: 15; 18; 19; 20; 21; 24; 25; 29; 30; 31; 32; 34; 39, paragraph 1; 41, paragraphs 1, 2, 3, and 5; 42; 43; 48; 54; 55 may not be limited.
2. During the state of natural disaster the rights and freedoms contemplated by articles: 37; 38; 41, paragraph 4; 49; 51 may be limited.

3. The acts for declaring the state of war, emergency or natural disaster must specify the rights and freedoms which are limited according to paragraphs 1 and 2 of this article.

Source: <http://www.ipls.org/services/kusht/contents.html>

# Algeria (1996)

## Part 1: General Principles Governing Algerian Society

### Chapter III: The State

#### ARTICLE 17

Public property belongs to the national collectivity. It includes the underground, the mines and quarries, the natural resources of energy, the mineral, natural and living resources in the different zones, national maritime areas, waters and forests.

### Chapter V: Duties

#### ARTICLE 66

The duty of every citizen is to protect the public property and the interests of the national community and to respect the property of others.

Source: <http://www.algeria-un.org/default.asp?doc=-const>

# Andorra (1993)

## Preamble

The Andorran People, with full liberty and independence, and in the exercise of their own sovereignty,  
Willing to bring their collaboration and effort to all the common causes of mankind, and especially to those of preserving the integrity of the Earth and guaranteeing an environment fit for life for the coming generations,  
Approve the present Constitution, in the exercise of their sovereignty:

## Title II: Rights and Freedoms

### Chapter V: Rights, and Economic, Social and Cultural principles

#### ARTICLE 31

The State has the task of ensuring the rational use of the soil and of all the natural resources, so as to guarantee a befitting quality of life for all and, for the sake of the coming generations, to restore and maintain a reasonable ecological balance in the atmosphere, water and land, as well as to protect the autochthonous flora and fauna.

### Chapter VII: Guarantees of Rights and Freedoms

#### ARTICLE 39

1. The rights and freedoms recognised in chapters III and IV of this Title bind immediately all public authorities as directly enforceable law. Their contents cannot be limited by law and are protected by the Courts.
2. Aliens legally resident in Andorra can freely exercise the rights and freedoms of chapter II of this Title.
3. The rights of chapter V form the basis of the legislation and the actions of the public authorities, but they may only be invoked within the conditions determined by the laws.

#### ARTICLE 41

1. The rights and freedoms recognised in chapters III and IV are protected by regular courts through urgent and preferent proceedings regulated by law, which in any case shall be transacted in two instances.
2. A law shall create an exceptional Procedure of Appeal before the Constitutional Court against the acts of the public authorities which may violate the essential contents of the rights mentioned in the paragraph above, with the exception of the case provided for in article 22.

## Title VII: Justice

### ARTICLE 86

4. The jurisdictional defence of the general interest may be carried out by means of popular action in the cases regulated by the laws of procedure.

## Title VIII: Constitutional Court

### ARTICLE 102

A constitutional appeal against the acts of public authorities impairing fundamental rights may be lodged by:

- a) Those having been part or accessory to the previous legal proceedings referred to in article 41.2 of this Constitution.
- b) Those having a legal interest related to non-enforceable provisions or acts of the Counsel General.
- c) The Public Prosecutor in case of violation of the fundamental right to jurisdiction.

Source: [http://www.andorramania.com/constit\\_gb.htm](http://www.andorramania.com/constit_gb.htm)



## Angola (1992)

### Part II: Fundamental Rights and Duties

#### ARTICLE 24

- (1) All citizens shall have the right to live in a healthy and unpolluted environment.
- (2) The State shall take the requisite measures to protect the environment and national species of flora and fauna throughout the national territory and maintain ecological balance.
- (3) Acts that damage or directly or indirectly jeopardize conservation of the environment shall be punishable by law.

#### ARTICLE 43

Citizens shall have the right to contest and take legal action against any acts that violate their rights as set out in the present Constitutional Law and other legislation.

#### ARTICLE 52

- (1) The exercise of the rights, freedoms and guarantees of citizens may be restricted or suspended only in accordance with the law if such constitute a threat to public order, community interests, individual rights, freedoms and guarantees, or in the event of the declaration, a state of siege or emergency, and such restrictions shall always be limited to necessary and adequate measures to maintain public order, in the interest of the community and the restoration of constitutional normality.
- (2) On no account shall the declaration of a state of siege or state of emergency affect the right to life, personal integrity, personal identity, civil capacity, citizenship, the non-retroactive nature of penal law, the right of the accused to defense or freedom of conscience and religion.
- (3) A state of siege and state of emergency shall be regulated by a specific law.

Source: [http://www.servat.unibe.ch/icl/ao00000\\_.html](http://www.servat.unibe.ch/icl/ao00000_.html)

# Argentina (1994)

## Part I

### Chapter II: New Rights and Guarantees

#### SECTION 41

- (1) All inhabitants enjoy the right to a healthy, balanced environment which is fit for human development so that productive activities satisfy current needs without compromising those of future generations; and have the duty to preserve the environment. Damaging the environment generates the obligation to repair it, as a priority, in the manner that is established by law.
- (2) The authorities shall provide for the protection of this right, for the rational use of natural resources, for the preservation of the natural and cultural patrimony and of biological diversity, and for providing environmental information and education.
- (3) It falls to the Nation to dictate laws containing a minimum budget necessary for protecting the environment, and to the Provinces to dictate those laws necessary to complement the National laws, without such laws altering local jurisdiction.
- (4) The entry into the National territory of dangerous or potentially dangerous wastes and of radioactive materials is prohibited.

#### SECTION 43

Any person shall file a prompt and swift amparo [summary proceeding] regarding constitutional guarantees, provided there is no other legal remedy, against any act or omission of the public authorities or individuals which currently or imminently may damage, limit, modify or threaten rights and guarantees recognized by this Constitution, treaties or laws, with open arbitrariness or illegality. In such case, the judge may declare that the act or omission is based on an unconstitutional rule.

This summary proceeding against any form of discrimination and about rights protecting the environment, competition, users and consumers, as well as about rights of general public interest, may be filed by the affected party, the Defender of the People [ombudsman] and the associations which foster such ends that are registered according to a law determining the requirements and forms of their organization.

### Chapter VII: The Ombudsman

#### SECTION 86

The Ombudsman is an independent authority created within the sphere of the National Congress operating with full autonomy and without receiving instructions from any other authority. The mission of the Ombudsman is the defense and protection of human rights and other rights, guarantees and interests sheltered under this Constitution and the laws, in the face of deeds, acts or omissions of the Administration; as well as the control of public administrative functions.

The Ombudsman has capacity to be a party in a lawsuit. He is appointed and removed by Congress with the vote of two-thirds of the members present of each House. He has the immunities and privileges of legislators. He shall hold office for the term of five years and may only be re-appointed on one occasion. The organization and operation of this body shall be ruled by a special law.

Source: [http://www.argentina.gov.ar/argentina/portal/documentos/constitucion\\_ingles.pdf](http://www.argentina.gov.ar/argentina/portal/documentos/constitucion_ingles.pdf)

# Armenia (1995)

## Preamble

The Armenian People, ...  
to ensure the freedom, general well-being and civic harmony of future generations, ...  
Hereby adopts the Constitution of the Republic of Armenia.

## Chapter 1: The Foundations of Constitutional Order

### ARTICLE 3

The human being, his/her dignity and the fundamental human rights and freedoms are an ultimate value.  
The state shall ensure the protection of fundamental human and civil rights in conformity with the principles and norms of the international law.  
The state shall be limited by fundamental human and civil rights as directly applicable rights.

### ARTICLE 10

The state shall ensure the protection and reproduction of the environment and the rational utilization of natural resources.

## Chapter 2: Fundamental Human and Civil Rights and Freedoms

### ARTICLE 18

Everyone shall be entitled to effective legal remedies to protect his/her rights and freedoms before judicial as well as other public bodies.  
Everyone shall have a right to protect his/her rights and freedoms by any means not prohibited by the law.  
Everyone shall be entitled to have the support of the Human Rights' Defender for the protection of his/her rights and freedoms on the grounds and in conformity with the procedure prescribed by law.  
Everyone shall in conformity with the international treaties of the Republic of Armenia be entitled to apply to the international institutions protecting human rights and freedoms with a request to protect his/her rights and freedoms.

### ARTICLE 31

Everyone shall have the right to freely own, use, dispose of and bequeath the property belonging to him/her. The right to property shall not be exercised so as to cause damage to the environment or infringe on the rights and lawful interests of other persons, society, or the state.

#### ARTICLE 33.2

Everyone shall have the right to live in an environment favorable to his/her health and well-being, and shall be obliged to, individually or as a group, protect and improve it.

The public officials shall be held responsible for the concealment of or denial of access to information on environmental issues.

#### ARTICLE 43

The fundamental human and civil rights and freedoms set forth in Articles 23-25, 27, 28-30, 30.1, Part 3 of Article 32 may be temporarily restricted only by the law if it is necessary in a democratic society in the interests of national security, public order, crime prevention, protection of public health and morality, constitutional rights and freedoms, as well as honor and reputation of others.

Limitations on fundamental human and civil rights and freedoms may not exceed the scope defined by the international commitments assumed by the Republic of Armenia.

#### ARTICLE 44

Special categories of fundamental human and civil rights, except for those stipulated in Articles 15, 17-22 and 42 of the Constitution may be temporarily restricted as prescribed by the law in case of martial law or state of emergency within the scope of the assumed international commitments on deviating from commitments in cases of emergency.

#### ARTICLE 48

The basic tasks of the state in the economic, social and cultural spheres are: ...

- 10) to pursue the environmental security policy for present and future generations; ...

The state shall, within the scope of its possibilities, be obliged to undertake necessary measures for the fulfillment of the purposes prescribed in this Article.

### Chapter 4: The National Assembly

#### ARTICLE 83.5

The issues below shall be set forth exclusively by the laws of the Republic of Armenia:

- 1) terms and procedures for the exercise and protection of the rights by natural persons and legal entities;
- 2) restrictions on the rights and freedoms of natural persons and legal entities, their obligations, as well as forms, extent and procedure for liability thereof, means of compulsion and the procedure for such, types, amounts and procedures for the payment of taxes, duties and other binding fees paid by natural persons and legal entities; ...

## Chapter 6: The Judicial Power

### ARTICLE 101

In conformity with the procedure set forth in the Constitution and the law on the Constitutional Court the application to the Constitutional Court may be filed by:

- 6) every person in a specific case when the final judicial act has been adopted, when the possibilities of judicial protection have been exhausted and when the constitutionality of a law provision applied by the act in question is being challenged; ...
- 8) the Human Rights Defender — on the issue of compliance of normative acts listed in clause 1 of Article 100 of the Constitution [laws, resolutions of the National Assembly, decrees and orders of the President, decisions of the Prime Minister and local self-government] with the provisions of Chapter 2 of the Constitution;  
...

The Constitutional Court shall start proceedings only upon the receipt of an application.

## Chapter 9: Final and Transitional Provisions

### ARTICLE 117

After the amendments to the Constitution come into force: ...

- 3) The social rights provided in the Constitution shall be valid to extent specified by the appropriate laws.

Source: <http://www.president.am/library/constitution/eng>

## Austria (1984)<sup>1</sup>

### *Federal Act dated 27th November 1984 for Comprehensive Protection of the Environment*

#### § 1

- (1) The Republic of Austria (Federation, Laender and Municipalities) acknowledges its responsibility for the comprehensive protection of the environment.
- (2) Comprehensive protection of the environment is protecting the natural environment as the basis of mankind's life resources against detrimental effects. Comprehensive protection of the environment consists in particular of measures to keep air, water and soils clean and to avoid disturbing noise.

#### § 2

The Federal Government shall be in charge of executing this Federal Constitutional Act.

### *Federal Act on Environmental Impact Assessment (Environmental Impact Assessment Act 2000)*

## Section 2: Environmental Impact Assessment and Consolidated Development Consent Procedure

### *Locus standi, Right of Participation and Right of Appeal*

#### 19

- (4) (Constitutional provision) Comments according to Article 9 (5) may be supported by entering one's name, address, date of birth and signature on a list of signatures. The list of signatures shall be submitted at the same time as the comment. If a comment is supported by 200 persons or more who have the right to vote in municipal elections in the host municipality or in a directly adjoining municipality at the time of expressing their support, this group of persons (citizens' group) shall have locus standi in the development consent procedure for the project and in the procedure according to Article 20 or shall be considered to be a party involved (paragraph 2). Citizens' groups having locus standi shall be entitled to claim the observance of environmental provisions as a subjective right in the procedure and to complain to the Administrative Court or the Constitutional Court. ...

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<sup>1</sup> Austria's legal system is unique in that it is very easy to amend the body of laws known as "constitutional law," even by identifying a passage in regular legislation as "constitutional." The only requirement is a majority of two-thirds in the National Council. Only fundamental changes to the constitution—such as Austria's accession to the European Union in 1995—require a confirmation by referendum.

- (7) (Constitutional provision) In agreement with the Federal Minister for Economic Affairs and Labour, the Federal Minister of Agriculture and Forestry, Environment and Water Management shall decide upon request by administrative order whether an environmental organisation meets the criteria of paragraph 6 and in which Laender the environmental organisation is entitled to exercise the rights related to locus standi. Complaints against the decision may also be filed with the Constitutional Court.

### Section 3: Environmental Impact Assessment for Federal Roads and High-Speed Railroads

#### Decision and Post-Project Analysis

#### 24(H)

- (8) (Constitutional provision) The persons stipulated in the applicable administrative provisions and the persons affected by the subject of individual procedures pursuant to Article 19 (1) no. 1 shall have locus standi in the development consent procedures according to paragraph 6. The persons listed in Article 19 (1) no. 3 to 6 shall have locus standi subject to the provisions of Article 19, the right to demand compliance with provisions of environmental protection as a subjective right in the procedure and the right to complain to the Administrative Court; citizens' groups shall also be entitled to complain to the Constitutional Court. Persons according to Article 19 (1) no. 7 shall have locus standi subject to the provisions of Article 19, the right to demand compliance with provisions of environmental protection in the procedure and the right to complain to the Administrative Court. If the environmental impact assessment was performed in a simplified procedure, citizens' groups in accordance with Article 19 (4) may participate in the simplified procedure as parties involved with the right to inspect the files. Article 24c (2) and (3) shall apply to the development consent procedures pursuant to paragraph 6 and co-ordination according to paragraph 7.

Sources: (German, from Federal Law Gazette No. 491/1984, 1 Aug. 2005)  
[http://ris2.bka.gv.at/Dokument.wxe?QueryID=Erv&Dokumentnummer=ERV\\_1984\\_491;](http://ris2.bka.gv.at/Dokument.wxe?QueryID=Erv&Dokumentnummer=ERV_1984_491;)  
(English) <http://www.ris.bka.gv.at/englische-rv/>



# Azerbaijan (1995, as amended)

## First Section: General

### Chapter II: Basis of State

#### ARTICLE 16. SOCIAL DEVELOPMENT AND STATE

- II. The Azerbaijanian state participates in development of culture, education, public health, science, arts, protects environment, historical, material and spiritual heritage of the people.

## Second Section: Basic Rights, Liberties and Responsibilities

### Chapter III: Basic Rights and Liberties of a Person and Citizen

#### ARTICLE 39. RIGHT TO LIFE IN A HEALTHY ENVIRONMENT

- I. Everyone has the right to live in a healthy environment.
- II. Everyone has the right to collect information on the environmental situation and to get compensation for damage rendered to the health and property due to the violation of ecological rights.
- III. No one may cause threat or damage to the environment and natural resources beyond the limits set by law.
- IV. The state guarantees the preservation of ecological balance and protection of the species of wild plants and animals determined by law.

#### ARTICLE 60. GUARANTEE OF RIGHTS AND LIBERTIES BY LAW COURT

- I. Legal protection of rights and liberties of every citizen is ensured.
- II. Everyone may appeal to law court regarding decisions and activity (or inactivity) of state bodies, political parties, trade unions, other public organizations and officials.

#### ARTICLE 71. PROTECTION OF RIGHTS AND LIBERTIES OF A HUMAN BEING AND CITIZEN

- I. To observe and to protect rights and liberties of a human being and citizen specified in the Constitution is the responsibility of bodies of legislative, executive and legal power.
- II. No one may restrict implementation of rights and liberties of a human being and citizen.
- III. Rights and liberties of a human being and citizen may be partially and temporarily restricted on announcement of war, martial law and state of emergency, and also mobilization, taking into consideration international obligations of the Azerbaijan Republic. Population of the Republic shall be notified in advance about restrictions as regards their rights and liberties. ...
- VII. Any arguments related to violation of rights and liberties of a human being and citizen are settled in law courts.

## Chapter IV: Main Responsibilities of Citizens

### ARTICLE 78. ENVIRONMENTAL PROTECTION

Protection of the environment is the duty of everyone.

## Section III: State Power

### Chapter VII: Judicial Power

#### ARTICLE 130

- V. Everyone claiming to be the victim of a violation of his/her rights and freedoms by the decisions of legislative, executive and judiciary, municipal acts set forth in the items 1-7 of the Para III of this Article may appeal, in accordance with the procedure provided for by law, to the Constitutional Court of the Republic of Azerbaijan with the view of the restoration of violated human rights and freedoms.
- VI. In accordance with the procedure provided for by the laws of Azerbaijan Republic the courts may file the Constitutional Court of Azerbaijan Republic a request on interpretation of the Constitution and the laws of Azerbaijan Republic as regards the matters concerning the implementation of human rights and freedoms.
- VII. Ombudsman of Azerbaijan Republic in accordance with the procedure provided for by the laws of the Republic of Azerbaijan for solving the matters indicated in items 1-7, para III of the given Article shall apply to the Constitutional Court of the Republic of Azerbaijan in cases where the rights and freedoms of a person had been violated by legislative acts in force, normative acts of executive power, municipalities as well as the court decisions

Source: <http://en.president.az/azerbaijan/constitution/>

## Bahrain (1973)

### Chapter II: Basic Constituents of Society

#### ARTICLE 9H

The State shall take the necessary measures for the protection of the environment and the conservation of wildlife.

#### ARTICLE 11

All natural wealth and resources are State property. The State shall safeguard them and exploit them properly, while observing the requirements of the security of the State and of the national economy.

### Chapter IV: Public Authorities

#### *Section IV: Judicial Authority*

#### ARTICLE 106

- (1) A Constitutional Court shall be established, and shall comprise a President and six members, all of whom are appointed by a Royal Order for a period specified by the law. The court's area of competence is to watch over the constitutionality of laws and statutes.
- (2) The law shall state the regulations that ensure that the members of the Court are not liable to dismissal, and specifies the procedures that are followed before the Court. The law shall guarantee the right of the Government, Consultative Council, the Chamber of Deputies and notable individuals and others to challenge before the Court the constitutionality of laws and statutes. A ruling by the Court that a text in a law or a statute is unconstitutional shall have a direct effect, unless the Court specifies a subsequent date for the purpose. Thus if the Court's rule on unconstitutionality is related to a text in the penal code then the convictions made on the basis of such a text are deemed null and void.
- (3) The King may refer to the Court any draft laws before they are adopted to determine the extent of their agreement with the Constitution. The Court's determination is binding on all State authorities and on everyone.

Source: [http://www.servat.unibe.ch/icl/ba00000\\_.html](http://www.servat.unibe.ch/icl/ba00000_.html)

## Bangladesh (2011)

### Part II: Fundamental Principles of State Policy

#### ARTICLE 18A. PROTECTION AND IMPROVEMENT OF ENVIRONMENT AND BIODIVERSITY

The State shall endeavour to protect and improve the environment and to preserve and safeguard the natural resources, biodiversity, wetlands, forests and wild life for the present and future citizens.

## Belarus (1994)

### Section II: Individual, Society, and the State

#### ARTICLE 23

Restriction of personal rights and liberties shall be permitted only in the instances specified in law, in the interest of national security, public order, the protection of the morals and health of the population as well as rights and liberties of other persons. No one may enjoy advantages and privileges that are contrary to the law.

#### ARTICLE 34

Citizens of the Republic of Belarus shall be guaranteed the right to receive, store, and disseminate complete, reliable, and timely information on the activities of state bodies and public associations, on political, economic, and international life, and on the state of the environment.

#### ARTICLE 44

The State shall guarantee everyone the right of property and shall contribute to its acquisition.

...

- (6) The exercise of the right of property shall not be harmful to the environment or historical and cultural treasures, or infringe upon the rights and legally protected interests of others.

#### ARTICLE 45

Citizens of the Republic of Belarus shall be guaranteed the right to health care, including free treatment at state health-care establishments. The State shall make health care facilities accessible to all of its citizens. The right of citizens of the Republic of Belarus to health care shall also be secured by the development of physical training and sport, measures to improve the environment, the opportunity to use fitness establishments and improvements in occupational safety.

#### ARTICLE 46

Everyone is entitled to a wholesome environment and to compensation for loss or damage caused by the violation of this right. The State shall supervise the rational utilization of natural resources, protects and improves living conditions, and preserves and restores the environment.

#### ARTICLE 55

It is the duty of everyone to protect the environment.

#### ARTICLE 60

Everyone shall be guaranteed protection of one's rights and liberties by a competent, independent and impartial court of law within time periods specified in law. To defend their rights, liberties, honour and dignity, citizens shall be entitled in accordance with the law to recover, through the courts, both property damage and financial compensation for moral injury.

#### ARTICLE 61

Everyone shall have the right in accordance with the international instruments ratified by the Republic of Belarus to appeal to international organizations to defend their rights and liberties, provided all available intrastate means of legal defence have been exhausted.

#### ARTICLE 62

Everyone shall have the right to legal assistance to exercise and defend his rights and liberties, including the right to make use, at any time, of the assistance of lawyers and one's other representatives in court, other state bodies, bodies of local government, enterprises, establishments, organizations and public associations, and also in relations with officials and citizens. In the instances specified in law, legal assistance shall be rendered from public funds.

Opposition to the rendering of legal assistance shall be prohibited in the Republic of Belarus.

#### ARTICLE 63

The exercise of the personal rights and liberties specified in this Constitution may be suspended only during a state of emergency or martial law under the procedure and within the limits specified in the Constitution and the law.

In carrying out special measures during a state of emergency, the rights specified in Article 24, part three of Article 25 and Articles 26 and 31 of the Constitution may not be restricted.

Source: <http://www.president.gov.by/en/press10669.html>

## Belgium (1994)

### Title IBIS: On General Political Objectives of Federal Belgium, the Communities, and the Regions

#### ARTICLE 7BIS

In the exercise of their respective competences, the Federal State, the Communities and the Regions follow the objectives of sustainable development in its social, economic and environmental aspects, taking into account the solidarity between the generations.

### Title II: On Belgians and Their Rights

#### ARTICLE 23

Everyone has the right to lead a life in keeping with human dignity.

To this end, the laws, federate laws and rules referred to in Article 134 guarantee economic, social and cultural rights, taking into account corresponding obligations, and determine the conditions for exercising them.

These rights include among others: ...

4. the right to the protection of a healthy environment;

Source: <http://unpan1.un.org/intradoc/groups/public/documents/un-dpadm/unpan040595.pdf>

## Belize (1981)

### Preamble

Whereas the people of Belize ...

- e) require policies of state ... which protect the environment

Now, therefore, the following provisions shall have effect as the Constitution of Belize ...

Source: [http://www.belize-law.org/belize\\_constitution01.pdf](http://www.belize-law.org/belize_constitution01.pdf)



## Benin (1990)

### Title II: Rights and Duties of the Individual

#### ARTICLE 7

The rights and duties proclaimed and guaranteed by the African Charter on Human and Peoples' Rights adopted in 1981 by the Organization of African Unity and ratified by Benin on January 20, 1986 shall be an integral part of the Constitution and Beninese law.

#### ARTICLE 27

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.

#### ARTICLE 28

The storage, handling, and removal of toxic wastes or pollutants originating from factories and other industrial or cottage industry units installed in the national territory shall be regulated by law.

#### ARTICLE 29

The transportation, importation, storage, burying and the discharging on the national territory of toxic wastes or foreign pollutants and any agreement relating to it shall constitute a crime against the nation. The applicable sanctions shall be defined by law.

Source: <http://www.unhcr.org/refworld/category,LEGAL,,,BEN,3ae6b57d4,0.html>

## Bhutan (2008)

### Article 5: Environment

1. Every Bhutanese is a trustee of the Kingdom's natural resources and environment for the benefit of the present and future generations and it is the fundamental duty of every citizen to contribute to the protection of the natural environment, conservation of the rich biodiversity of Bhutan and prevention of all forms of ecological degradation including noise, visual and physical pollution through the adoption and support of environment friendly practices and policies.
2. The Royal Government shall:
  - (a) Protect, conserve and improve the pristine environment and safeguard the biodiversity of the country;
  - (b) Prevent pollution and ecological degradation;
  - (c) Secure ecologically balanced sustainable development while promoting justifiable economic and social development; and
  - (d) Ensure a safe and healthy environment.
3. The Government shall ensure that, in order to conserve the country's natural resources and to prevent degradation of the ecosystem, a minimum of sixty percent of Bhutan's total land shall be maintained under forest cover for all time.
4. Parliament may enact environmental legislation to ensure sustainable use of natural resources and maintain intergenerational equity and reaffirm the sovereign rights of the State over its own biological resources.
5. Parliament may, by law, declare any part of the country to be a National Park, Wildlife Reserve, Nature Reserve, Protected Forest, Biosphere Reserve, Critical Watershed and such other categories meriting protection.

### Article 7: Fundamental Rights

22. Notwithstanding the rights conferred by this Constitution, nothing in this Article shall prevent the State from subjecting reasonable restriction by law, when it concerns:
  - (a) The interests of the sovereignty, security, unity and integrity of Bhutan;
  - (b) The interests of peace, stability and well-being of the nation;
  - (c) The interests of friendly relations with foreign States;

- (d) Incitement to an offence on the grounds of race, sex, language, religion or region;
  - (e) The disclosure of information received in regard to the affairs of the State or in discharge of official duties; or
  - (f) The rights and freedom of others.
23. All persons in Bhutan shall have the right to initiate appropriate proceedings in the Supreme Court or High Court for the enforcement of the rights conferred by this Article, subject to section 22 of this Article and procedures prescribed by law.

#### Article 8: Fundamental Duties

2. A Bhutanese citizen shall have the duty to preserve, protect and respect the environment, culture and heritage of the nation.

#### Article 21: The Judiciary

18. Every person has the right to approach the courts in matters arising out of the Constitution or other laws subject to section 23 of Article 7.

Source: [http://www.constitution.bt/TsaThrim%20Eng%20\(A5\).pdf](http://www.constitution.bt/TsaThrim%20Eng%20(A5).pdf)

## Bolivia (2002, amended 2009)<sup>2</sup>

### Preamble

In ancient times mountains arose, rivers moved, and lakes were formed. Our Amazonia, our swamps, our highlands, and our plains and valleys were covered with greenery and flowers. We populated this sacred Mother Earth with different faces, and since that time we have understood the plurality that exists in all things and in our diversity as human beings and cultures. Thus, our peoples were formed, and we never knew racism until we were subjected to it during the terrible times of colonialism.

We, the Bolivian people, of plural composition, from the depths of history, inspired by the struggles of the past, by the anti-colonial indigenous uprising, and in independence, by the popular struggles of liberation, by the indigenous, social and labor marches, by the water and October wars, by the struggles for land and territory, construct a new State in memory of our martyrs. A State based on respect and equality for all, on principles of sovereignty, dignity, interdependence, solidarity, harmony, and equity in the distribution and redistribution of the social wealth, where the search for a good life predominates; based on respect for the economic, social, juridical, political and cultural pluralism of the inhabitants of this land; and on collective coexistence with access to water, work, education, health and housing for all.

## Part I: Fundamental Basis of State Rights, Duties, and Guarantees

### *Title I: Fundamental Basis of the State*

#### Chapter I: General Matters

#### ARTICLE 13

- I. The rights recognized in this Constitution are inviolable, universal, inter-dependent, indivisible and progressive. The State has the duty to promote, protect and respect them.
- II. The rights declared in this Constitution shall not be understood to deny other rights that are not enumerated.
- III. The classification of the rights established in this Constitution does not determine any hierarchy or superiority of some rights over others.
- IV. International treaties and conventions ratified by the Pluri-National Legislative Assembly, which recognize human rights and prohibit their limitation in States of Emergency, prevail over internal law. The rights and duties consecrated in this

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<sup>2</sup> Translated from the original Spanish by author.

Constitution shall be interpreted in accordance with the International Human Rights Treaties ratified by Bolivia.

## Chapter Two: Principles, Values, and Aims of the State

### ARTICLE 9

Essential State purposes and functions, in addition to those established by the Constitution and laws, are: ...

6. To promote and ensure responsible and planned use of natural resources, and promote industrialization through the development and strengthening the productive base in different dimensions and levels as well as environmental conservation, for the welfare of generations present and future.

## *Title II: Fundamental Rights and Guarantees*

### Chapter Two: Fundamental Rights

#### ARTICLE 16

- I. Everyone has the right to water and food.
- II. The State has an obligation to ensure food security for the whole population through a healthy, adequate, and sufficient diet.

### Chapter Four: Rights of the Indigenous Original Rural Nations and Peoples

#### ARTICLE 30

- I. The human community that shares cultural identity, language, historical traditions, institutions, territoriality and world view, whose existence predates the Spanish colonial invasion is the indigenous original rural nations and peoples.
- II. Under the state's unity and in accordance with this Constitution, the original rural indigenous peoples and nations enjoy the following rights: ...

To live in a healthy environment, with proper management and use of ecosystems.

### Chapter Five: Social and Economic Rights

#### *Section I: Right to a Healthy Environment*

#### ARTICLE 33

People have a right to a healthy protected and balanced environment. The exercise of this right should enable individuals and communities of present and future generations, and other living beings, to develop normally and permanently.

#### ARTICLE 34

Any person, individually or on behalf of a community, is empowered to bring legal actions in defense of environmental rights, without prejudice to the obligation of public institutions to act on their own against attacks on the environment.

#### *Section IV: The Right to Property*

#### ARTICLE 56

- I. Everyone has the right to private property individually or collectively, provided it fulfills a social function.
- II. Private property is guaranteed provided that the use made thereof is not harmful to collective interests.

#### Chapter Six: Education, Multiculturalism, and Cultural Rights

#### *Section I: Education*

#### ARTICLE 80

- I. Education shall aim at the integral formation of individuals and the strengthening of critical social consciousness in life and for life. Education shall be directed: to individual and collective training; the development of physical and intellectual skills, aptitudes, and abilities to link theory with productive practice; and to conservation and protection of the environment, biodiversity, and land for living well. Its regulation and enforcement will be established by law.

#### *Title III: Duties*

#### ARTICLE 108

The duties of Bolivia and the Bolivians are to: ...

15. Protect and defend natural resources and contribute to their sustainable use, to preserve the rights of future generations.
16. Protect and defend an environment adequate for the development of living beings.

#### *Title IV: Judicial Guarantees and Defense Actions*

#### Chapter One: Judicial Guarantees

#### ARTICLE 109

- I. All rights under the Constitution are directly applicable and enjoy equal protection of their guarantees.
- II. The rights and guarantees may only be regulated by law.

#### ARTICLE 110

- I. People who violate constitutional rights are subject to the jurisdiction and venue of the Bolivian authorities.
- II. The violation of constitutional rights makes their material and intellectual authors accountable.

#### ARTICLE 113

- I. The infringement of rights grants victims the right to indemnification, reparation and compensation for damage and harms in a timely manner.
- II. If the state is ordered to pay financial restitution for damages, it shall bring action for recourse against the authority or public servant responsible for the act or omission which caused the damage.

#### ARTICLE 115

- I. All persons will be protected by the judges and courts in a timely and effectively manner in the exercise of their rights and interests.
- II. The State guarantees the right to due process, defense and timely, free, transparent and expeditious justice.

### Chapter Two: Defense Actions

#### *Section II: Constitutional Protection Action (Amparo)*

#### ARTICLE 128

The Constitutional Protection Action (Amparo) will be used against unlawful acts or omissions or misuse of public servants, or a specific person or group, that restrict, deny or threaten to restrict or deny the rights conferred by the Constitution and the law.

#### ARTICLE 129

- I. The Constitutional Protection Action (Amparo) is filed by the affected person, or another person with sufficient power or with the authority according to the Constitution, before any competent court, provided there is no other means or remedy for the immediate protection of the rights and guarantees restricted, suppressed or threatened.
- II. The constitutional Amparo must be filed within six months, counted from the commission of the alleged infringement or notification of the latest administrative or judicial decision.
- III. The authority or person accused shall be summoned in the manner provided for the Action of Liberty with the purpose of giving this information and, where appropriate, the action taken concerning the act denounced, not later than forty-eight hours after the presentation of the Action.
- IV. The final hearing shall be public and will take place immediately after receiving the information from the authority or defendant and, failing that, it does so on the basis

of the evidence offered by the individual plaintiff. The judicial authority shall examine the competency of the public servant or public official or of the defendant and, if the demand is found to be true and effective, give the remedy requested. The decision can be appealed to the Constitutional Court for review within twenty-four hours after the issuance of the verdict.

- V. The final decision granting the claim for constitutional protection will be implemented immediately and without objection. In case of resistance, plaintiff may proceed in accordance with the stipulations stated in the Action of Liberty. The appropriate judicial authority that does not act in accordance with the provisions of this article shall be subject to the penalties provided by law.

#### *Section IV: Action of Unconstitutionality*

##### **ARTICLE 132**

Any individual or group affected by a rule of law contrary to the Constitution shall be entitled to pursue the Action of Unconstitutionality, in accordance with procedures established by law.

##### **ARTICLE 133**

The ruling declaring the unconstitutionality of a law, decree, or any kind of non-judicial resolution makes it inapplicable and has full effect for all.

#### *Section V: Enforcement Action*

##### **ARTICLE 134**

- I. The Enforcement Action will proceed in case of breach of constitutional provisions or of the law by public servants, in order to guarantee the implementation of the law or standard omitted.
- II. The action can be filed by the affected individual or group, or by another, with sufficient power, in their name, before a competent court and shall be handled in the same way as the Constitutional Protection Action (Amparo).
- III. The final resolution shall be announced in open court, immediately after receiving the information from the defendant authority and, failing that, it does so on the basis of the evidence offered by the applicant. The judicial authority shall examine the background and, if found the demand is true and effective, approve the Action and order the immediate implementation of the duty omitted.
- IV. The decision may be appealed to the Constitutional Court for review within twenty-four hours after the issuance of the verdict, without thereby suspending the execution of the decision.
- V. The final decision granting enforcement action will be implemented immediately and without objection. In case of resistance, plaintiff may proceed in accordance with the stipulations stated in the Action of Liberty. The appropriate judicial authority that does not act in accordance with the provisions of this article shall be subject to the penalties provided by law.



## *Section VI: People's Action*

### ARTICLE 135

The People's Action will proceed against any act or omission of the authorities or specific individuals or groups that violate or threaten to violate rights and interests related to property, space, safety and public health, environment and others of a similar nature recognized by this Constitution.

### ARTICLE 136

- I. The People's Action may be brought during the ongoing violation or threat to collective rights and interests. To bring this action it is not necessary to exhaust the judicial or administrative proceedings that may exist.
- II. This action may be brought by any person, individually or on behalf of a community and, in mandatory terms, the Public Prosecutor and the Ombudsman, when in the performance of their duties they become aware of these acts. The procedure of the Constitutional Protection Action (Amparo) will apply.

## Chapter Three: States of Emergency

### ARTICLE 137

In case of danger to state security, external threats, internal disorder or natural disaster, the President of the State shall have the power to declare a state of emergency in all or part of the territory where necessary. The declaration of emergency rule may in no case suspend the guarantees of the rights or fundamental rights, the right to due process, the right to information and the rights of detainees.

## Part II: Structure and Functional Organization of the State

### *Title III: Constitutional Court and National Judicial Body*

## Chapter Three: Agri-Environmental Court

### ARTICLE 186

The Agri-Environmental Court is the highest court specializing in agri-environmental matters. It applies the principles of social function, integrity, immediacy, sustainability, and multiculturalism.

### ARTICLE 187

To be selected as a Judge of the Agri-Environmental Court, one needs the same requirements as members of the Supreme Court, in addition to expertise in these areas and have served capably, ethically and honestly in the agricultural judiciary or as a university professor in this area for eight years. The screening of candidates will ensure the diverse composition, considering criteria of multinationality.

#### ARTICLE 189

The powers of the Agri-Environmental Court, in addition to those identified by law, include:

1. Resolve appeals and actions in farming, forestry, environmental, water, rights and use of renewable natural resources (including water, forests, and biodiversity); complaints about acts threatening the fauna, flora, water and environment, and practices that endanger the ecosystem and the conservation of species or animals. ...
3. Hear and resolve in a single instance the administrative proceedings arising from the contracts, negotiations, permits, granting, distribution, and redistribution of rights of use of renewable natural resources and other administrative acts and decisions.
4. Organize the Agri-Environmental courts.

### *Title VIII: International Relations, Borders, Integration, and Maritime Restoration*

#### Chapter One: International Relations

#### ARTICLE 255

- I. International relations and the negotiation, signing and ratification of international treaties serve the objectives of the state in terms of sovereignty and the interests of the people.
- II. The negotiation, signing and ratification of international relations shall be guided by the principles of: ...
  3. Defense and promotion of human, economic, social, cultural and environmental rights, with repudiation of all forms of racism and discrimination.
  4. Respect for the rights of native indigenous rural peoples.
  5. Cooperation and solidarity among states and peoples.
  6. Preservation of patrimony, capacity of State management and regulation.
  7. Harmony with nature, defense of biodiversity, and prohibition of forms of private appropriation for exclusive use and exploitation of plants, animals, microorganisms and any living matter.
  8. Food security and sovereignty for the entire population; the prohibition of importation, production and commercialization of

genetically modified organisms and toxic elements that harm health and the environment.

9. Access of the entire population to basic services for their wellbeing and development.

## Part IV: Economic Structure and Organization of the State

### *Title I: State Economic Organization*

#### Chapter One: General Provisions

##### ARTICLE 312

- I. All economic activity should contribute to strengthening the country's economic sovereignty. The private accumulation of economic power to such an extent that it endangers the economic sovereignty of the state will not be allowed.
- II. All forms of economic organization are required to generate decent work and contribute to reducing inequalities and eradicating poverty.
- III. All forms of economic organization have an obligation to protect the environment.

#### Chapter Three: Economic Policy

##### ARTICLE 319

- I. The industrialization of natural resources will be the priority in economic policies in a framework of respect and protection of the environment and the rights of indigenous rural nations and peoples. The joint exploitation of natural resources with the domestic productive apparatus will be a priority in economic policies of the state.
- II. In the commercialization of strategic natural resources and energy, the State shall consider, in determining the costs of commercialization, taxes, royalties and shares payable for the public finances.

### *Section Four: Sectoral Policies*

##### ARTICLE 337

- I. Tourism is a strategic economic activity to be developed in a sustainable manner taking into account the wealth of cultures and respect for the environment.

### *Title II: Environment, Natural Resources, Land, and Territory*

#### Chapter One: Environment

#### ARTICLE 342

It is the duty of the State and people to preserve, protect and sustainably use natural resources and biodiversity and maintain environmental balance.

#### ARTICLE 343

The public has a right to participation in environmental management, to be consulted and informed in advance about decisions that might affect the quality of the environment.

#### ARTICLE 344

- I. The manufacture and use of chemical, biological and nuclear weapons in the Bolivian territory, and the import, transit and storage of nuclear waste and toxic waste are prohibited.
- II. The State shall regulate the import, production, marketing, and use of techniques, methods, materials and substances that affect health and the environment.

#### ARTICLE 345

Environmental management policies are based on:

1. Participatory planning and management, with social control.
2. The application of systems of environmental impact assessment and environmental quality control, no exceptions and across any activity of producing goods and services that use, process, or affect natural resources and the environment.
3. The responsibility for implementing any activity that produces environmental damage and the resulting civil penalty, criminal and administrative liability for breach of the rules of environmental protection.

#### ARTICLE 346

The natural heritage is of public and strategic interest for the country's sustainable development. Its conservation and utilization for the benefit of the population will be the exclusive responsibility and accountability of the State, and does not compromise the State's sovereignty over natural resources. The law establishes the principles and arrangements for its management.

#### ARTICLE 347

- I. The State and society shall promote the mitigation of harmful effects to the environment, and environmental liabilities affecting the country. It states the responsibility for historical environmental damage and applicability of environmental crimes.
- II. Those engaged in impact on the environment should, at all stages of production, avoid, minimize, mitigate, remedy, redress and compensate for the damage which

occurs to the environment and health of people, and establish security measures needed to neutralize the possible effects of environmental liabilities.

## Chapter Two: Natural Resources

### ARTICLE 348

- I. Natural resources include minerals in all their states, oil, water, air, soil and subsoil, forests, biodiversity, the electromagnetic spectrum, and all those elements and physical forces that can be exploited.
- II. Natural resources are of strategic character and public interest for the development of the country.

### ARTICLE 349

- I. Natural resources are directly owned and controlled, indivisible, and inalienable of the Bolivian people and for the State administration on the basis of collective interest.
- II. The State shall recognize and respect individual and collective property rights over land and rights of use and exploitation of other natural resources.
- III. Agriculture, livestock, and hunting and fishing activities that do not involve protected species are activities that are governed by the provisions in Part IV of this Constitution relating to the structure and economic organization of the State.

### ARTICLE 351

- I. The State will assume control and management of the exploration, exploitation, industrialization, transport, and marketing of strategic natural resources through public agencies, cooperatives or community organizations, which in turn can hire private companies and form joint ventures.
- II. The State may enter into contracts with legal entities, Bolivian or foreign, for the use of natural resources. The state must ensure that economic profits are reinvested in the country ...

### ARTICLE 352

The exploitation of natural resources within a given territory shall be subject to a consultation process with the affected population, convened by the State, that will be free, timely, and informed. This ensures public participation in environmental management and will promote the conservation of ecosystems, in accordance with the Constitution and the law. For the indigenous rural nations and peoples, consultation will take place while respecting their own rules and procedures.

### ARTICLE 353

The Bolivian people have equitable access to benefits arising from the use of all natural resources. Priority of participation will be assigned to territories where natural resources are located, and indigenous rural nations and peoples.

#### ARTICLE 354

The State shall develop and promote research concerning the management, conservation and utilization of natural resources and biodiversity.

#### ARTICLE 355

- I. The industrialization and commercialization of natural resources will be priorities for the State.
- II. Proceeds derived from the exploitation and industrialization of natural resources will be distributed and reinvested to promote economic diversification in the different territorial levels of the state. The percentage distribution of profits shall be established by law.
- III. The industrialization process will be carried out preferably in the place of origin of production and create conditions that promote competitiveness in domestic and international markets.

#### ARTICLE 356

The exploration, exploitation, refining, processing, transportation and marketing of non-renewable natural resources will have the character of state necessity and public utility.

#### ARTICLE 357

Since it is social property of the Bolivian people, no foreign person or enterprise, nor any private Bolivian person or enterprise, may register the property title to Bolivian natural resources in stock markets, nor can they use them as means for financial operations that grant title to or use them as security. The annotation and registry of reserves is the exclusive authority of the State.

#### ARTICLE 358

The rights to use and exploit natural resources must be subject to the provisions of the Constitution and the law. These rights are subject to regular monitoring of compliance with technical, economic and environmental regulations. The breach of the law will result in the reversal or cancellation of rights of use or benefit.

### Chapter III: Hydrocarbons

#### ARTICLE 359

- I. The hydrocarbons, in whatever state they are found or form in which they are, are the inalienable and unlimited property of the Bolivian people. The State, on behalf of and in representation of the Bolivian people, is owner of the entire hydrocarbon production of the country and is the only one authorized to sell them. The totality of the income received by the sale of hydrocarbons shall be the property of the State.
- II. No contract, agreement or convention, whether direct or indirect, tacit or express, may violate totally or partially that which is established in this article. In the event of violation, the contracts shall be null and void as a matter of law, and those who have agreed to, signed, approved or executed them, have committed the crime of treason.

#### ARTICLE 360

The state shall define the policy for hydrocarbons, shall promote their comprehensive, sustainable and equitable development, and shall guarantee energy sovereignty.

### Chapter V: Water Resources

#### ARTICLE 373

- I. Water constitutes a fundamental right for life, within the framework of the sovereignty of the people. The State shall promote the use and access to water on the basis of principles of solidarity, complementariness, reciprocity, equity, diversity and sustainability.
- II. Water resources in all their states, surface and subterranean, constitute finite, vulnerable, strategic resources, and serve a social, cultural and environmental function. These resources cannot be the object of private appropriation and they, as well as water services, shall not be given as concessions and are subject to a system of licensing, registration and authorization pursuant to the law.

#### ARTICLE 374

- I. The State shall protect and guarantee the priority use of water for life. It is the duty of the State to manage, regulate, protect and plan the adequate and sustainable use of water resources, with social participation, guaranteeing access to water for all the habitants. The law shall establish the conditions and limitations of all the uses.
- II. The State shall recognize, respect and protect the uses and customs of the community, of its local authorities and the rural native indigenous organizations over the right, management and administration of sustainable water.
- III. The fossil, glacial, wetland, subterranean, mineral, medicinal and other waters are priorities for the State, which must guarantee its conservation, protection, preservation, restoration, sustainable use and complete management; they are inalienable, not attachable and cannot be limited.

#### ARTICLE 375

- I. It is the duty of the State to develop plans for the use, conservation, management and sustainable exploitation of the river basins.
- II. The State shall regulate the management and sustainable administration of the water resources and the basins for irrigation, food security and basic services, respecting the uses and customs of the communities.
- III. It is the duty of the State to carry out the studies for the identification of fossil waters and their consequent protection, management and sustainable administration.

#### ARTICLE 376

Water resources of the rivers, lakes and lagoons that form the water basins are considered strategic resources for the development and sovereignty of Bolivia because of their potential, for the variety of natural resources that they contain, and because they are a fundamental part of the ecosystems. The State shall avoid actions in the sources

and intermediary zones of rivers that may cause damages to the ecosystems or diminish the flow volume, shall preserve the natural state, and shall watch over the development and welfare of the population.

#### ARTICLE 377

- I. Every international treaty on water resources that the State signs shall guarantee the sovereignty of the country and shall prioritize the interest of the State.
- II. The State shall safeguard permanently the boundary and transboundary waters for the conservation of the water riches that contribute to the integration of peoples.

### Chapter VI: Energy

#### ARTICLE 378

- I. The different forms of energy and their sources constitute a strategic resource; access to them is a fundamental and essential right for full development and the social development of the country; and they shall be governed by the principles of efficiency, continuity, adaptability, and environmental preservation.
- II. It is the exclusive authority of the State to develop the chain of energy production in the phases of generation, transport, and distribution, by means of public, mixed enterprises, non-profit institutions, cooperatives, private enterprises, and community and social enterprises, with public participation and control. The chain of energy production may not be held exclusively by private interests, nor may it be licensed. Private participation shall be regulated by law.

#### ARTICLE 379

- I. The State shall develop and promote research, as well as the use of new forms of the production of alternative energy, compatible with the conservation of the environment.
- II. The State shall guarantee the generation of energy for internal consumption; the export of excess energy must anticipate the reserves necessary for the country.

### Chapter VII: Biodiversity, Coca, Protected Areas and Forest Resources

#### *Section I: Biodiversity*

#### ARTICLE 380

- I. The renewable natural resources shall be exploited in a sustainable way, respecting the characteristics and natural value of each ecosystem.
- II. In order to guarantee ecological equilibrium, the land must be used in accordance with its capacity for greater use within the framework of the process of the organization of use and occupation of lands, taking into account their biophysical, socioeconomic, cultural characteristics, and institutional policies.



#### ARTICLE 381

- I. Native animal and vegetable species are natural assets. The State shall establish the measures necessary for their conservation, exploitation and development.
- II. The State shall protect all genetic and micro-organic resources, which are found in the ecosystems of the territory, as well as the knowledge associated with their use and exploitation. For their protection, a system of registry that safeguards their existence shall be established, as well as a registry of the intellectual property in the name of the State or the local individuals who claim it. The State shall establish procedures for protection under the law of all those resources that are not registered.

#### ARTICLE 382

The State has the authority and duty to defend, recover, protect and repatriate biological material derived from natural resources, from ancestral knowledge and other sources that originate within the territory.

#### ARTICLE 383

The State shall establish measures for the partial or total, temporary or permanent, restriction of the uses of extracts from the resources of biodiversity. The measures shall be directed toward the need to preserve, conserve, recover and restore the biodiversity at risk of extinction. Illegal possession, handling and trafficking of species of biodiversity shall be criminally punished.

#### *Section II: Coca*

#### ARTICLE 384

The State protects the native and ancestral coca as cultural patrimony, as a renewable natural resource of the biodiversity of Bolivia, and as a factor of social unity. In its natural state coca is not a narcotic. The revaluation, production, sale and industrialization of coca shall be governed by law.

#### *Section III: Protected Areas*

#### ARTICLE 385

- I. The protected areas constitute a common good, and they form part of the natural and cultural patrimony of the country. They perform environmental, cultural, social and economic functions for sustainable development.
- II. Wherever rural native indigenous protected areas and territories are recovered, shared management shall be undertaken, subject to the norms and procedures of the rural native indigenous nations and peoples, and respecting the goal of creating these areas.

#### *Section IV: Forest Resources*

##### **ARTICLE 386**

The natural forests and woodlands are strategic for the development of the Bolivian people. The State shall recognize the rights to exploit the forests for the benefit of communities and individual traders. In addition, it shall promote activities of conservation and sustainable exploitation, the generation of added value to its products, and the rehabilitation and reforestation of degraded areas.

##### **ARTICLE 387**

- I. The State shall guarantee the conservation of natural forests in the areas of native forests, their sustainable exploitation, and the conservation and recovery of the flora, fauna, and degraded areas.
- II. The law shall regulate the protection and exploitation of the species of trees that have socio-economic, social and ecological importance.

##### **ARTICLE 388**

The rural native indigenous communities located within forest areas shall have the exclusive right to their exploitation and their management, in accordance with the law.

##### **ARTICLE 389**

- I. The conversion of tree-covered land to agricultural and other uses shall only be carried out in areas legally allocated for that use, in accordance with the planning policies and in accordance with the law.
- II. The law shall determine the ecological rights of way and zoning for internal uses in order to guarantee the long-term conservation of the land and bodies of water.
- III. Every conversion of land in areas not classified for such purposes shall constitute a punishable infraction and shall give rise to the obligation to repair the damages caused.

#### **Chapter VIII: Amazonia**

##### **ARTICLE 390**

- I. Because of its high environmental sensitivity, existing biodiversity, water resources and for the eco-regions, the Bolivian Amazonia basin constitutes a strategic area of special protection for the comprehensive development of the country.
- II. The Bolivian Amazonia includes the entire Department of Pando, Iturralde Province of the Department of La Paz and the provinces of Vaca Diez and Ballivan of the Department of Beni. The full development of the Bolivian Amazonia, as a territorial area of tropical rain forests, in accordance with the specific characteristics of the extract and harvesting resources, shall be governed by a special law in benefit of the region and the country.

#### ARTICLE 391

- I. The State shall prioritize the sustainable, integral development of the Bolivian Amazonia, through a comprehensive, participatory, shared and equitable administration of the Amazon jungle. The administration shall be directed to the generation of employment and the improvement of the income of its inhabitants, within the framework of protection and sustainability of the environment.
- II. The State shall encourage access to financing for tourism, eco-tourism and other initiatives of regional enterprise.
- III. The State, in coordination with the rural native indigenous authorities and the inhabitants of the Amazonia, shall create a special, decentralized organ, with headquarters in the Amazonia, to promote its own activities in the region.

#### ARTICLE 392

- I. The State shall implement special policies to benefit the rural native indigenous nations and peoples of the region in order to generate the necessary conditions for the reactivation, encouragement, industrialization, commercialization, protection and conservation of traditional extract products.
- II. The historical cultural and economic value of the siranga and the castano, symbols of the Bolivian Amazonia, is recognized, and cutting them down shall be punished, except in cases of public interest as regulated by the law.

### *Title III: Comprehensive Sustainable Rural Development*

#### ARTICLE 405

Comprehensive, sustainable rural development is a fundamental part of the economic policies of the State, which shall prioritize its actions to encourage all communitarian economic undertakings and those of the group of rural actors, placing emphasis on food security and sovereignty, by means of the following:

1. The sustained and sustainable increase of agricultural, livestock, manufacturing, agro-industrial, and tourist industry productivity, as well as their commercial capacity.
2. The articulation and internal complementary form of the structures of agricultural, livestock and agro-industrial production.
3. Achievement of better conditions for economic exchange of the rural productive sector in relation to the rest of the Bolivian economy.
4. The importance and respect of the rural native indigenous communities in all dimensions of their life.
5. The strengthening of the economy of the small agricultural and livestock producers and of the family and communitarian economy.

#### ARTICLE 406

- I. The State shall guarantee the sustainable comprehensive rural development by means of policies, plans, programs and comprehensive projects that encourage agricultural, artisan, and forestry production, and tourism, with the goal of obtaining better exploitation, transformation, industrialization and commercialization of renewable natural resources.
- II. The State shall promote and strengthen the rural economic productive organizations, among which are the artisans, the cooperatives, the associations of agricultural producers and manufacturers, and the micro, small and medium communitarian agricultural enterprises, which contribute to the social economic development of the country, in accord with their cultural and productive identity.

#### ARTICLE 407

The objectives of the policy of the State for comprehensive rural development, in coordination with the autonomous and decentralized territorial entities, are the following:

1. To guarantee food security and sovereignty, prioritizing the production and consumption of agricultural foods produced in the territory of Bolivia.
2. To establish mechanisms for the protection of Bolivian agricultural production.
3. To promote the production and sale of ecological agricultural products.
4. To protect agricultural and agro-industrial production from natural disasters and inclement climate, and geological catastrophes. The law shall provide for the creation of agricultural insurance.
5. To implement and develop technical, productive, and ecological education, at all levels and in all modalities.
6. To establish policies and sustainable projects, obtaining the conservation and recuperation of the soil.
7. To promote irrigation systems for the purpose of guaranteeing agricultural and livestock production.
8. To guarantee technical assistance and to establish mechanisms of innovation and transfer of technology in the entire agricultural productive chain.
9. To establish the creation of a seed bank and centers of genetic research.

10. To establish policies to encourage and support the productive agricultural sectors that have natural structural weaknesses.
11. To control the exit and entrance into the country of biological and genetic resources.
12. To establish policies and programs to guarantee agricultural sanitation and food safety.
13. To provide productive, manufacturing and industrial infrastructure and basic services for the agricultural sector.

#### **ARTICLE 408**

The State shall determine the incentives for the benefit of small and medium producers for the purpose of compensating for the disadvantages of unequal exchange between agricultural and livestock products and the rest of the economy.

#### **ARTICLE 409**

The production, importation and commercialization of genetically altered products shall be regulated by law.

Source: <http://pdba.georgetown.edu/constitutions/bolivia/bolivia.html>

## Brazil (1988)

### Title II: Fundamental Rights and Guarantees

#### Chapter 1: Individual and Collective Rights and Duties

##### ARTICLE 5

LXXIII. Any citizen has standing to institute a people's legal action seeking to annul an act to the public property or to property pertaining to an entity in which the State participates, to administrative morality, to the environment, and to historical and cultural monuments, and the plaintiff shall, except in the event of proven bad faith, be exempt from court costs and from the burden of paying the prevailing party's attorneys' fees and costs; ...

### Title VII: Economic and Financial Order

#### Chapter 1: General Principles of Economic Activity

##### ARTICLE 170

The economic order, founded on the appreciation of the value of human labor and free enterprise, is intended to assure everyone a dignified existence, according to the dictates of social justice, observing the following principles:

- I. national sovereignty;
- II. private property;
- III. social function of property;
- IV. free competition;
- V. consumer protection;
- VI. environmental protection, including through differentiated treatment in accordance with the environmental impact of the products and services and the processes by which they are elaborated and rendered; ... [amended in 2003]

### Title VIII: The Social Order

#### Chapter VI: The Environment

##### ARTICLE 225. ENVIRONMENT PROTECTION

Everyone has the right to an ecologically balanced environment, which is a public good for the people's use and is essential to healthy life. The Government and the community have a duty to defend and preserve the environment for present and future generations.

- (1) In order to ensure the effectiveness of this right, it is the responsibility of the Government to:
- I. preserve and restore essential ecological processes and provide ecological management of species and ecosystems;
  - II. preserve the diversity and integrity of Brazil's genetic wealth and supervise entities engaged in research and manipulation of genetic material;
  - III. determine, in all units of the Federation, territorial spaces and components which are to receive special protection, any alteration and suppression only being allowed by means of law, and prohibiting any use which adversely affects the integrity of the attributes which justify their protection;
  - IV. require, as provided by law, a prior environment impact study, which shall be made public, for the installation of works or activities which may cause significant degradation of the environment;
  - V. control the production, marketing, and use of techniques, methods, and substances which represent a risk to life, to the quality of life, and to the environment;
  - VI. promote environmental education at all school levels and public awareness of the need to preserve the environment;
  - VII. protect the fauna and the flora, prohibiting, as provided by the law, all practices which jeopardize their ecological function, cause the extinction of species or subject animals to cruelty.
- (2) Those who exploit mineral resources shall be required to restore the degraded environment, in accordance with the technical solutions required by the proper government agencies, as required by the law.
- (3) Conduct and activities considered harmful to the environment shall subject the individual or corporate wrongdoers to criminal and administrative sanctions, in addition to the obligation to repair the damages caused.
- (4) The Brazilian Amazon Forest, the Atlantic Woodlands, the Serra do Mar, the Pantanal of Mato Grosso, and the Coastal Zone are part of the national wealth, and they shall be used, according to the law, under conditions which ensure preservation of the environment, including the use of natural resources.
- (5) Vacant lands or lands which have reverted to the States through discriminatory actions, which are necessary to protect natural ecosystems, are inalienable.
- (6) Power plants with nuclear reactors shall have their location defined in a federal law and may otherwise not be installed.

Source: <http://www.v-brazil.com/government/laws/constitution.html>



# Bulgaria (1991)

## Chapter One: Fundamental Principles

### ARTICLE 5 (1)

The Constitution shall be the supreme law, and no other law shall contravene it. ...

(2) The provisions of the Constitution shall apply directly.

### ARTICLE 15

The Republic of Bulgaria shall ensure the protection and reproduction of the environment, the conservation of living Nature in all its variety, and the sensible utilization of the country's natural wealth and resources.

### ARTICLE 21

- (1) Land, as a chief national asset, shall enjoy particular protection on the part of the State and society.
- (2) Arable land shall be used for agricultural purposes only. Any change in purposes shall be allowed only in exceptional circumstances, when necessity has been proven, and on terms and by a procedure established by a law.

## Chapter Two: Fundamental Rights and Duties of Citizens

### ARTICLE 55

Citizens shall have the right to a healthy and favorable environment corresponding to the established standards and norms. They are obligated to protect the environment.

### ARTICLE 57

- (1) The fundamental civil rights shall be irrevocable.
- (2) Rights shall not be abused, nor shall they be exercised to the detriment of the rights or the legitimate interests of others.
- (3) Following a proclamation of war, martial law or a state of emergency the exercise of individual civil rights may be temporarily curtailed by law, except for the rights established by Art. 28, Art. 29, Art. 31 paras 1, 2 and 3, Art. 32 para 1, and Art. 37.

## Chapter Three: National Assembly

### ARTICLE 91A

- (1) The National Assembly shall elect an Ombudsman, who shall defend the rights and freedoms of the citizens.
- (2) The powers and activities of the Ombudsman shall be regulated by a law.

## Chapter Six: The Judiciary

### ARTICLE 120

- (1) The courts shall supervise the legality of the acts and actions of the administrative bodies.
- (2) Citizens and legal entities shall be free to challenge any administrative act which affects them, except those listed expressly by the laws.

## Chapter Eight: Constitutional Court

### ARTICLE 150

- (3) The Ombudsman may approach the Constitutional Court with a request for declaring as unconstitutional a law which infringes human rights and freedoms.

Source: <http://www.parliament.bg/?page=const&lng=en>

# Burkina Faso (1991)

## Preamble

We the Sovereign People of Burkina Faso ...  
Conscious of the absolute necessity of protecting the environment  
Approve and Adopt this Constitution of which this preamble is made an integral part.

## Title I: Fundamental Rights and Duties

### Chapter III: Economic Rights and Duties

#### ARTICLE 14

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

## Title I: Fundamental Rights and Duties

### Chapter IV: Social and Cultural Rights and Duties

#### ARTICLE 29

The right to a healthy environment shall be recognized; the protection, defense and promotion of the environment shall be a duty to all.

#### ARTICLE 30

Every citizen shall have the right to initiate an action or to join a collective action under the form of a petition against these acts:

- harming the public heritage;
- harming the interests of social communities;
- harming the environment or the cultural or historic heritage.

## Title VI: Respective Domains of the Law and of the Regulation

#### ARTICLE 101

The law determines the rules concerning:

- citizenship, civic rights, and the exercise of public freedoms ...

Statutes shall also lay down the basic principles of:

- the protection and promotion of the environment; ...

## Title VIII: The Judicial Power

### ARTICLE 125

The Judicial Power is the guardian of individual and collective liberties.

It sees to the respect of the rights and liberties defined in the present Constitution.

Source: (French) <http://www.chr.up.ac.za/index.php/documents-by-country-database/burkina-faso.html>

## Burundi (2005)

### Title II: Charter of Fundamental Rights and Duties of Individuals and Citizens

#### ARTICLE 19

The rights and duties proclaimed and guaranteed, among others, by the Universal Declaration of Human Rights, the International Covenants on Human Rights, the African Charter on Human and Peoples' Rights, the Convention on the Elimination of All Forms of Discrimination Against Women and the Convention on the Rights of the Child are an integral part of the Constitution of Burundi.

These fundamental rights are not subject to any restriction or derogation, except in certain circumstances which can be justified by the general interest or the protection of a fundamental right.

#### Chapter 1: Fundamental Rights

#### ARTICLE 35

The State guarantees the sound management and the efficient exploitation of the natural resources of the country, while preserving the environment and ensuring the conservation of these resources for future generations.

#### ARTICLE 38

Every person is entitled, in judicial or administrative proceedings, to a fair hearing of his cause and to a judgment within a reasonable time.

#### ARTICLE 47

Any restriction of a basic right must be founded on a legal basis; it must be justified by the general interest or the protection of a basic right of others; it must be proportionate with the set aim.

#### ARTICLE 48

The fundamental rights must be respected throughout the whole legal, administrative and institutional order. The Constitution is the supreme law. The legislative, the executive and the judiciary have to enforce it. Any law which is not in conformity with the Constitution is void.

#### ARTICLE 52

Any person is entitled to obtain the satisfaction of the economic, social, and cultural rights essential to her dignity and the free development of her person, thanks to the national effort and taking into account the resources of the country.

#### ARTICLE 60

The judiciary, guardian of the public rights and freedoms, guarantees the respect for these rights and freedoms in the conditions specified by law.

### Title VIII: The Judicial Power

#### ARTICLE 230

... Every interested physical or moral person, as well as the Public Ministry, may request the Constitutional Court to rule on the constitutionality of laws, either directly by means of an action or by the procedure of objection of unconstitutionality invoked in a matter tried before another jurisdiction.

### Title IX: The Ombudsman

#### ARTICLE 237

The Ombudsman receives the complaints and conducts the enquiries concerning management failures and violations of the rights of citizens by agents of the public function and the judiciary and submits recommendations on the subject to the competent authorities. He also ensures mediation between the Administration and the citizens and between the ministries and the Administration and fulfills a monitoring role concerning the functioning of the public administration. The organization and the functioning of his service are established by law.

### Title XIII: International Treaties and Agreements

#### ARTICLE 293

Agreements authorizing the storage of toxic wastes or other substances likely to harm the environment are prohibited.

Source: (French) <http://www.chr.up.ac.za/index.php/documents-by-country-database/burundi.html>

## Cambodia (1993)

### Chapter III: The Rights and Duties of Khmer Citizens

#### ARTICLE 39

Khmer citizens shall have the right to denounce, make complaints or file claims against any breach of the law by state and social organs or by members of such organs committed during the course of their duties. The settlement of complaints and claims shall be the competence of the courts.

### Chapter V: Economy

#### ARTICLE 59

The State shall protect the environment and balance of abundant natural resources and establish a precise plan of management of land, water, air, wind, geology, ecological system, mines, energy, petrol and gas, rocks and sand, gems, forests and forestry products, wildlife, fish, and aquatic resources.

### Chapter XI: The Judiciary

#### ARTICLE 128

The Judiciary shall guarantee and uphold impartiality and protect the rights and freedoms of the citizens.

Source: <http://www.embassy.org/cambodia/cambodia/constitu.htm>

## Cameroon (1996)

### Preamble

... every person shall have a right to healthy environment. The protection of the environment shall be the duty of every citizen. The State shall ensure the protection and improvement of the environment; ...

### Part XII Special Provisions

#### ARTICLE 65

The Preamble is an integral part of the Constitution.

Source: <http://confinder.richmond.edu/admin/docs/Cameroon.pdf>



# Cape Verde (1992)

## Part I: Fundamental Principles

### *Title I: The Republic*

#### ARTICLE 7. DUTIES OF THE STATE

The following are the fundamental duties of the State:

...

- j) To create, progressively, the necessary conditions for the transformation and modernization of the economic and social structures, so as to make the economic, social and cultural rights effective;
- k) To protect the land, nature, natural resources and the environment; ...

## Part II: Fundamental Rights and Duties of Citizens

### *Title I: General Principles*

#### ARTICLE 15. RECOGNITION OF THE INVIOABILITY OF RIGHTS, LIBERTIES AND GUARANTEES

1. The State shall recognize the rights and liberties enshrined in the Constitution as being inviolable and shall guarantee their protection.
2. Any public authority shall have the duty to respect and guarantee the free exercise of the rights and liberties and the compliance with the constitutional or legal duties.

#### ARTICLE 16. RESPONSIBILITY OF THE PUBLIC ENTITIES

1. The State and other public entities shall be liable for actions or omissions of their agents which take place in the exercise of their public functions or resulting therefrom and which, by any means, violate the rights, liberties and guarantees in detriment of the holder of such rights, liberties and guarantees or of third parties.
2. The agents of the State or of any public entity shall be criminally responsible for actions or omissions which result in violation of the rights, liberties and guarantees enshrined in the Constitution or established by law.
3. Everyone shall have the right to request compensation for the damages caused to him by the violation of his fundamental rights and liberties.

#### ARTICLE 17. AMBIT AND DIRECTION OF RIGHTS, LIBERTIES AND GUARANTEES

....

3. The constitutional and legal norm concerning fundamental rights shall be interpreted and the gaps filled in conformity with the Universal Declaration of Human Rights.
4. The rights, liberties and guarantees shall be limited by law only when expressly allowed by the Constitution.
5. The laws limiting rights, liberties and guarantees shall be necessarily of a general and abstract character and shall not have retroactive effect, nor shall they diminish the ambit and the essential content of constitutional norms and they shall be strictly limited to the safeguard of other constitutionally protected rights.

#### ARTICLE 18. JUDICIAL ENFORCEABILITY

The constitutional provisions relating to the rights, freedoms and guarantees are binding on all the public and private entities and are directly applicable.

#### ARTICLE 20. PROTECTION OF RIGHTS, LIBERTIES AND GUARANTEES

1. Every citizen shall have the right to request the Constitutional Court, through the amparo appeal, the protection of their constitutionally recognized fundamental rights, liberties and guarantees, in accordance with the law and pursuant to the following:
  - a) The amparo appeal shall only be filed against acts or omissions of public authorities, which are injurious of the fundamental rights, liberties and guarantees, once all other means of ordinary appeal have been exhausted;
  - b) The amparo appeal shall be filed through a simple petition and have an urgent character and its procedure shall be based on the summary principle.
2. Everyone is entitled to require, by law, compensation or damages for violations of their rights, freedoms and guarantees.
3. All citizens can complain, for actions or omissions of public authorities, to the Ombudsman requesting a review, without power of decision, but offering public authorities the necessary recommendations to prevent and remedy unlawful acts or injustices.
4. The work of the Ombudsman is independent of legal remedies provided under the Constitution and laws.

#### ARTICLE 21. ACCESS TO THE COURTS

1. Everyone is guaranteed the right of access to justice and to obtain, within a reasonable time and through a fair process, protection of their rights or legal interests.

2. Everyone has the right, personally or through associations defending collective interests, to promote the prevention, cessation and prosecution of offenses against public health, environment, quality of life, and cultural heritage.

#### ARTICLE 26. SUSPENSION OF RIGHTS, LIBERTIES AND GUARANTEES

The rights, liberties and guarantees shall only be suspended in case of the state of siege or emergency, in accordance with the provisions of the Constitution.

### *Title III: Economic, Social, and Cultural Rights and Duties*

#### ARTICLE 72 (RIGHT TO ENVIRONMENT)

1. All are entitled to a healthy and ecologically balanced environment and have a duty to protect and value the environment.
2. In order to guarantee the right to environment, the government shall
  - a) Develop and implement appropriate policies for planning, defense, and preservation of the environment; and promote the efficient use of all natural resources, safeguarding their capacity for renewal and ecological stability;
  - b) Promote environmental education, including respect for environmental values, the fight against desertification, and the effects of drought.

### *Title IV Fundamental Duties*

#### ARTICLE 84 (DUTIES TOWARDS THE NATION AND THE COMMUNITY)

Every citizen has the duty to:

...

- h) To defend and promote health, the environment, and cultural heritage.

## Part III: Economic, Financial, and Fiscal Organization

### *Title I: The Economic System*

#### ARTICLE 88. GENERAL PRINCIPLES

...

3. Economic activities must be undertaken in ways that preserve the eco-system, promote sustainable development, and contribute to the equilibrium of the relations between humans and the environment.

## Part V: Organization of Political Power

### *Title VII: The Public Administration*

#### ARTICLE 241. RIGHTS AND GUARANTEES OF THE CITIZENS BEFORE THE ADMINISTRATION

1. Any citizen shall, directly or through the association or organization to which he belongs and in accordance with the law, have the right:
  - a) To be heard in respect to administrative processes in which he has a vested interest;
  - b) To be informed by the Administration, whenever he so requests, about the evolution of the said processes, should he be so directly interested;
  - c) To be notified about administrative acts in which he has a vested interest and which shall always be substantiated in fact and in law;
  - d) To appeal judicially against any administrative act which offends his rights and legitimate interests, based on argument of illegality.
2. The citizen shall also have, in accordance with the law, the following rights:
  - ...
  - b) The access to administrative judicial means for the defense of his rights and legitimate interests;
  - c) The compensation for damages suffered as a result of the violation of his rights or legitimate interests, caused by action or omission of the civil servants and remaining agents of the State and of other public entities that take place in the exercise of their functions and as a result of them.

Source: <http://www.chr.up.ac.za/index.php/documents-by-country-database/cape-verde.html>

## Central African Republic (2004)

### Preamble

The Central African People, ...

Aware of the fact that only dedicated work and the rigorous and transparent management of public affairs and of the environment can ensure harmonious, rational and sustainable development, ...

### Title I: The Fundamental Basis of Society

#### ARTICLE 9

The Republic guarantees to each citizen the right to work, to a clean environment, to rest and to leisure subject to the requirements of national development. ...

#### ARTICLE 17

Every individual who is a victim of a violation of Articles 1 to 15 of the present Title has a right to reparation.

### Title VI: Constitutional Court

#### ARTICLE 73

... Any person who considers himself wronged may apply to the Constitutional Court with regard to the constitutionality of laws, either directly or by the procedure of objection of unconstitutionality raised before a jurisdiction in a case concerning him. The Constitutional Court is required to give its ruling within the period of one month. In the case of urgency, this period may be reduced to eight (8) days.

Source: (French) <http://www.sangonet.com/actu-snews/ICAR/Dsp/constitution2004-qmout.html>

## Chad (1996)

### Title II: Liberties, Fundamental Rights and Duties

#### Chapter I: Liberties and Fundamental Rights

##### ARTICLE 47

Every person has the right to a healthy environment.

##### ARTICLE 48

The State and the Decentralized Territorial Collectivities must see to the protection of the environment.

The conditions of stocking, handling, and removal of toxic or polluting wastes originating from national activities are determined by law.

The transit, importation, stocking, burying, and dumping on the national territory of foreign toxic or polluting wastes are forbidden.

#### Chapter II: Duties

##### ARTICLE 52

Every citizen has the duty to respect and protect the environment.

### Title III: The Executive Power

#### Chapter I: The President of the Republic

##### ARTICLE 87

When the institutions of the Republic, the independence of the nation, the territorial integrity or the execution of international commitments are threatened in a grave and immediate manner and when the regular functioning of the public powers is interrupted, the President of the Republic, after consultation with the Presidents of the Assemblies and the President of the Constitutional Council, may take in the Council of Ministers for a period not exceeding fifteen (15) days, such exceptional measures as are required by the circumstances. This period may only be extended following the affirmation of the two Assemblies. The President of the Republic informs the nation by a message. The Parliament shall meet as of right if it is not in session. These exceptional measures may never justify any negative effects to the rights to life, to moral and physical integrity and to the jurisdictional guarantees granted to individuals.

## Title VII: The Constitutional Council

### ARTICLE 171

Every citizen may raise the exception of unconstitutionality before any jurisdiction regarding a matter that concerns him. In such a case, the jurisdiction suspends judgment and seizes the Constitutional Council, which must make a decision within a maximum of forty-five days.

Source: (French with English abstracts) <http://www.chr.up.ac.za/index.php/documents-by-country-database/chad.html>

## Chile (1980)

### Chapter III: Constitutional Rights and Duties

#### ARTICLE 19. THE CONSTITUTION GUARANTEES TO ALL PERSONS:

...

- (8) The right to live in an environment free from contamination.  
It is the duty of the State to watch over the preservation of nature and ensure that this right is not affected.  
The law may establish specific restrictions on the exercise of certain rights or freedoms in order to protect the environment ...
- (24) The right of property in its different forms over all classes of corporeal and incorporeal property.  
Only the law may establish the manner to acquire property and to use, enjoy and dispose of it, and the limitations and obligations derived from its social function. This includes, to the extent required by the general interests of the Nation, national security, public utility and public health, and the conservation of the environmental patrimony. ...
- (26) The assurance that the legal precepts which, by mandate of the Constitution, regulate or complement the guarantees established therein or which should limit them in the cases authorized by the Constitution, may not affect the rights in their essence nor impose conditions, taxes or requirements which may prevent their free exercise.

#### ARTICLE 20

... The action for the protection of fundamental rights (recurso de proteccion) shall always lie in the case of numeral 8 of Article 19, when the right to live in an environment free from contamination has been affected by an illegal act or omission imputable to an authority or specific person.

### Chapter IV: Government

#### ARTICLE 39

The rights and guarantees, ensured to all persons by the Constitution, may only be affected in the following exceptional situations: foreign or internal war, internal disturbances, emergency and public calamity.

### Chapter VI: Judiciary

#### ARTICLE 80

The Supreme Court may, by means of an official letter or upon request of a party, in matters of which it takes cognizance, or which may have been submitted to it by an appeal filed for a cause followed before another Court, declare inapplicable for such



particular cases all legal precepts contrary to the Constitution. This appeal may be filed during any stage of the proceedings and the Court may order stay of proceedings.

Sources: (Spanish) <http://pdba.georgetown.edu/Constitutions/Chile/vigente.html>; (English) <http://confinder.richmond.edu/admin/docs/Chile.pdf>

## China (1982)

### Chapter I: General Principles

#### ARTICLE 9

All mineral resources, waters, forests, mountains, grasslands, unreclaimed land, beaches and other natural resources are owned by the state, that is, by the whole people, with the exception of the forests, mountains, grasslands, unreclaimed land and beaches that are owned by collectives in accordance with the law.

The state ensures the rational use of natural resources and protects rare animals and plants. Appropriation or damaging of natural resources by any organization or individual by whatever means is prohibited.

#### ARTICLE 26

The state protects and improves the living environment and the ecological environment.

It prevents and controls pollution and other public hazards.

The state organizes and encourages afforestation and the protection of forests.

Source: [http://english.gov.cn/2005-08/05/content\\_20813.htm](http://english.gov.cn/2005-08/05/content_20813.htm)

## Colombia (1991)

### Title I: Fundamental Principles

#### ARTICLE 8

It is the obligation of the State and individuals to protect the cultural and natural assets of the nation.

### Title II: Rights, Guarantees, and Duties

#### Chapter II: Social, Economic, and Cultural Rights

#### ARTICLE 49

Public health and environmental protection are public services for which the state is responsible. All individuals are guaranteed access to services that promote, protect, and rehabilitate public health.

It is the responsibility of the state to organize, direct, and regulate the delivery of health services and of environmental protection to the population in accordance with the principles of efficiency, universality, and cooperation, and to establish policies for the provision of health services by private entities and to exercise supervision and control over them ...

#### ARTICLE 67

Education is an individual right and a public service that has a social function. Through education individuals seek access to knowledge, science, technology, and the other benefits and values of culture.

The Colombian citizen will be educated in the respect for human rights, peace, and democracy, and in the use of work and recreation for cultural, scientific, and technological improvement and for the protection of the environment. ...

#### Chapter III: Collective Rights and the Environment

#### ARTICLE 79

Every individual has the right to enjoy a healthy environment. The law will guarantee the community's participation in the decisions that may affect it.

It is the duty of the state to protect the diversity and integrity of the environment, to conserve the areas of special ecological importance, and to foster education for the achievement of these ends.

#### ARTICLE 80

The state will plan the handling and use of natural resources in order to guarantee their sustainable development, conservation, restoration, or replacement.

Additionally, it will have to prevent and control the factors of environmental deterioration, impose legal sanctions, and demand the repair of any damage caused.

In the same way, it will cooperate with other nations in the protection of the ecosystems located in the border areas.

#### **ARTICLE 81**

The manufacture, importation, possession, and use of chemical, biological, or nuclear weapons are prohibited as is the introduction into the national territory of nuclear and toxic wastes.

The state will regulate the importation and exportation of genetic resources and their use, in accordance with the national interest.

#### **ARTICLE 82**

It is the duty of the state to protect the integrity of public space and its assignment to common use, which has priority over the individual interest.

Public entities will participate in the profits generated by their urban planning activities and will regulate the use of the soil and the urban air space in order to protect the common interest.

### **Chapter IV: The Protection and Application of Rights**

#### **ARTICLE 84**

When a right or an activity has been regulated in a general way, the public authorities may not establish or demand permits, licenses, or impose additional conditions for its exercise.

#### **ARTICLE 85**

The rights mentioned in Articles 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 23, 24, 26, 27, 28, 29, 30, 31, 33, 34, 37 and 40 are applicable immediately.

#### **ARTICLE 86**

Every person has the right to file a writ of protection before a judge, at any time or place, through a preferential and summary proceeding, for himself/herself or by whomever acts in his/her name for the immediate protection of his/her fundamental constitutional rights when that person fears the latter may be violated by the action or omission of any public authority.

The protection will consist of all order issued by a judge enjoining others to act or refrain from acting. The order, which must be complied with immediately, may be challenged before a superior court judge, and in any case the latter may send it to the Constitutional Court for possible revision.

#### ARTICLE 87

Any person may appear before the legal authority to demand the application of a law or fulfillment of an administrative act. In case of a successful action, the sentence will order the delinquent authority to perform its mandated duty.

#### ARTICLE 88

The law will regulate popular actions for the protection of collective rights and interests related to the homeland, space, public safety and health, administrative morality, the environment, free economic competition, and others of a similar nature.

It will also regulate the actions arising out of harm caused to a large number of individuals, without barring appropriate individual action. In the same way, it will define cases of civil liability for damage caused to collective rights and interests.

### Chapter V: Duties and Obligations

#### ARTICLE 95

... Every individual is obligated to obey the Constitution and the laws.

The following are duties of the individual and of the citizen: ...

8. To protect the country's cultural and natural resources and to keep watch that a healthy environment is being preserved; ...

### Chapter VI: Concerning the States of Exception

#### ARTICLE 214

The states of exception referred to in the previous articles [war, serious disruption of public order] will be subject to the following provisions: ...

2. Neither human rights nor fundamental freedoms may be suspended. In all cases, the rules of international humanitarian law will be observed. A statutory law will regulate the powers of the government during the states of exception and will establish the legal controls and a guarantee to protect rights, in accordance with international treaties. The measures which are adopted must be proportionate to the gravity of the events.

## Title X: Supervisory Bodies

### Chapter I: The Office of the Comptroller General of the Republic

#### ARTICLE 267

Fiscal control is a public function to be exercised by the Office of the Comptroller General of the Republic, which oversees the fiscal management of the administration and of individuals or entities which handle funds or assets belonging to the nation.

Said control will be exercised selectively ex post facto in accordance with the procedures, systems, and principles established by law. However, the law may authorize that in special cases, Colombian private enterprises, selected on the basis of a public performance contest and contracted according to the plan of the Council of State, may conduct the supervision.

Oversight of the fiscal management of the State includes the exercise of financial control, management, and performance, based on efficiency, economy, equity, and appraising the environmental costs.

## Chapter II: The Public Ministry

### ARTICLE 277

The National Attorney General, by himself/herself or through his/her delegates and agents, will have the following functions: ...

4. To defend the collective interests, especially the protection of the environment.

## Title XII: The Economic and Financial Regime

### Chapter I: General Provisions

#### ARTICLE 333

Economic activity and private initiative must not be impeded within the limits of the public good. No one may require permits or licenses to exercise economic activity except when authorized by law ...

The law will limit the scope of economic freedom when the social interest, the environment, and the cultural patrimony of the nation require it.

#### ARTICLE 334

The general management of the economy is the responsibility of the state. By means of the law, the state will intervene in the exploitation of natural resources, land use, the production, distribution, use, and consumption of goods, and in public and private services in order to streamline the economy with the purpose of achieving an improved quality of life for the inhabitants, the equitable distribution of opportunities, and the benefits of development and conservation of a healthy environment.

### Chapter V: The Social Purpose of the State and Public Services

#### ARTICLE 366

The general welfare and improvement of the population's quality of life are social purposes of the state. A basic objective of the state's activity will be to address unsatisfied public health, educational, environmental, and drinking water needs. For this purpose, public social expenditures will have priority over any other allocation in the plans and budgets of the nation and of the territorial entities.

Source: [http://confinder.richmond.edu/admin/docs/colombia\\_const2.pdf](http://confinder.richmond.edu/admin/docs/colombia_const2.pdf)

## Comoros (2001)

### Preamble

The Comorian people solemnly affirm their commitment to ... the right to a healthy environment and the duty of all to protect the environment.  
This Preamble is an integral part of the constitution.

### Title VI: Constitutional Court

#### ARTICLE 36

The Constitutional Court is the judge of the constitutionality of the laws of the Union and the Islands. It supervises the regularity of electoral operations both in the Islands and on the level of the Union, including as regards referendums; it judges any electoral disputes. It guarantees finally the basic rights of the human person and public freedoms. The Constitutional Court is guarantor of the distribution of competences between the Union and the Islands. It is charged to rule on the conflicts of competence between two or several institutions of the Union, between the Union and the Islands, and the Islands themselves. Any citizen can seize the Constitutional Court on the constitutionality of the laws, either directly, or by the procedure of exception of unconstitutionality called upon in a case that relates to it in front of a jurisdiction of the Union or Islands. Those must postpone their procedures until the decision of the Constitutional Court, which must intervene within thirty days.

Source: (French) [http://www.beit-salam.km/article.php3?id\\_article=34](http://www.beit-salam.km/article.php3?id_article=34)



## Congo, Democratic Republic of (formerly Zaire) (2005)

### Title II: Human Rights, Fundamental Liberties and Duties of the Citizen and the State

#### Chapter 2: Economic, Social, and Cultural Rights

##### ARTICLE 47

The right to health and to food security are guaranteed.

The law defines the fundamental principles and the rules of organization for public health and food security.

##### ARTICLE 48

The right to decent housing, the right of access to drinking water, and to electric energy are guaranteed. The law establishes the conditions for the exercise of these rights.

#### Chapter 3: Collective Rights

##### ARTICLE 53

All persons have the right to a healthy environment that is favourable to their development.

They have the duty to defend it.

The State ensures the protection of the environment and the health of the population.

##### ARTICLE 54

The conditions for the construction of industrial plants, the storage, the manipulation, the burning and the removal of toxic, polluting or radioactive waste produced by industrial units or workshops in the national territory are regulated by law.

Any pollution or destruction resulting from an economic activity gives rise to compensation and/or reparation.

The law defines the nature of the compensatory and reparatory measures as well as the conditions for their implementation.

##### ARTICLE 55

The transfer, importation, storage, spilling and disposal of toxic, polluting or radioactive waste or any other dangerous product in the internal waters or maritime spaces under national jurisdiction, or their release into the airspace, whether they hail from abroad or not, constitute a crime punishable by law.

##### ARTICLE 60

The respect of human rights and fundamental liberties guaranteed by the Constitution is incumbent on the public authorities and all persons.

## ARTICLE 61

In no case, not even when the state of siege or the state of emergency has been proclaimed in accordance with Articles 87 and 88 of this Constitution, is a derogation admissible from the following rights and fundamental principles:

- the right to life
- the prohibition of torture and of cruel, inhumane or degrading punishment or torture
- the prohibition of slavery and servitude
- the principle of legality of offenses and penalties
- the right to defense and to a remedy
- the prohibition of imprisonment for debt
- the freedom of thought, conscience and religion

## Title III: The Organization and Exercise of Authority

### Chapter I: Institutions of the Republic

#### *Section III: The Relationship Between the Executive Power and the Legislative Power*

## ARTICLE 143

... The rights and duties of the citizens in times of war or of invasion or of attack of the national territory by foreign forces are regulated by law.

#### *Section IV: Judicial Authority, Subsection V: The Constitutional Court*

## ARTICLE 162

The Constitutional Court rules on the objection of unconstitutionality raised by or before a court.

Any individual may appeal to the Constitutional Court for unconstitutionality of a statutory or regulatory measure.

In addition, he/she may appeal to the Constitutional Court by way of raising an objection of unconstitutionality in a matter affecting him/her before a court.

The former court suspends the proceedings and submits the matter to the Constitutional Court, by giving it preference over all its other work.

Source: (French) <http://www.chr.up.ac.za/index.php/documents-by-country-database/democratic-republic-of-the-congo.html>

## Congo, Republic of (Congo-Brazzaville) (2002)

### Title II: Rights and Fundamental Liberties

#### ARTICLE 35

Each citizen shall have the right to a healthy, satisfactory, and sustainable environment and the duty to defend it. The State shall strive for the protection and the conservation of the environment.

#### ARTICLE 36

Storing, manipulating, incinerating, and discharging toxic, polluting or radioactive wastes originating in factories and other industrial or artisan units installed on the national territory shall be regulated by law. All pollution or destruction resulting from an economic activity provides rights for compensation.

#### ARTICLE 37

The transit, importation, storage, concealment, dumping in continental waters and maritime spaces under national jurisdiction, emission in the airspace of toxic wastes, pollutants or radioactive materials, or other dangerous products of foreign origin, constitute a crime punishable by law.

#### ARTICLE 41

Every citizen who has experienced prejudice by an act of the administration has the right to seek justice, in the forms determined by law.

### Title IX: Constitutional Court

#### ARTICLE 149

Any individual, be it directly or by the procedure of exception of unconstitutionality, invoked before a jurisdiction in a matter that concerns him, may seize the Constitutional Court on the constitutionality of laws. In the case of exception of unconstitutionality, the seized jurisdiction is given one month to rule from the notification of the decision.

Source: (French with English extracts) <http://www.chr.up.ac.za/index.php/documents-by-country-database/congo.html>

## Costa Rica (1994)

### Title I: The Republic

#### ARTICLE 10

A specialized Chamber of the Supreme Court of Justice shall declare, by the absolute majority vote of its members, the unconstitutionality of provisions of any nature and acts subject to Public Law.

### Title IV: Individual Rights and Guarantees

#### ARTICLE 46

... The consumers and users have right to the protection of their health, environment, security and economic interests, to receive suitable and truthful information; to the freedom of election, and equitable treatment. The State will support any bodies established for defending these rights. The law will regulate these matters.

#### ARTICLE 48

Every person has the right to present writs of habeas corpus to guarantee his freedom and personal integrity and writs of amparo to maintain or reestablish the enjoyment of other rights conferred by this Constitution as well as those of fundamental nature established in international instruments on human rights, enforceable in the Republic. Both writs shall be within the jurisdiction of the Chamber indicated in Article 10.

### Title V: Social Rights and Guarantees

#### ARTICLE 50

The State shall procure the greatest welfare of all inhabitants of the country, organizing and promoting production and the most adequate distribution of wealth.

Every person has the right to a healthy and ecologically balanced environment, being therefore entitled to denounce any acts that may infringe said right and claim redress for the damage caused.

The State shall guarantee, defend and preserve that right. The Law shall establish the appropriate responsibilities and penalties.

### Title VII: Education and Culture

#### ARTICLE 89

The cultural aims of the Republic include: to protect its natural beauty, to preserve and develop the historic and artistic wealth of the Nation, and to support private initiative directed to scientific and artistic progress.

## Title IX: The Legislative Branch

### Chapter II: Powers of the Legislative Assembly

#### ARTICLE 121

In addition to other powers vested in it by this Constitution, the Legislative Assembly has exclusive powers to: ...

7. Suspend, by vote of no less than two thirds of its membership, in case of clear public need, the individual rights and guarantees conferred by Articles 22, 23, 24, 26, 28, 29, 30, and 37 of this Constitution. This suspension may include all or certain rights and guarantees, throughout the territory or only in a part of it, and for no more than thirty days. ... In no case may individual rights and guarantees not listed in this subsection be suspended.

## Title X: The Executive Branch

### Chapter II: Powers and Duties of the Executive Branch

#### ARTICLE 140

The following are the joint powers of the President and the appropriate Cabinet Minister: ...

4. During the period of adjournment of the Legislative Assembly, to order the suspension of the rights and guarantees to which Article 121(7) refers, in the same instances and with the same limitations as established therein, and to report it immediately to the Assembly. A decree of suspension of guarantees is equivalent, ipso facto, to a call of the Assembly, which shall meet in the next forty-eight hours. If the Assembly does not confirm the measure by a two-thirds majority of its entire membership, the guarantees shall be considered reestablished.

Source: (Spanish) <http://pdpa.georgetown.edu/Constitutions/Costa/costa2.html>

## Cote d'Ivoire (Ivory Coast) (2000)

### Title I: Freedoms, Rights, and Duties

#### Chapter I: Freedoms and Rights

##### ARTICLE 19

The right to a healthy environment is recognized to all.

##### ARTICLE 20

All persons have the right to free and equal access to Justice.

### Title I: Freedoms, Rights, and Duties

#### Chapter II: Duties

##### ARTICLE 28

The protection of the environment and the promotion of the quality of life are a duty for the community and for each physical or moral person.

### Title V: Relations Between the Executive Power and Legislative Power

##### ARTICLE 71

The National Assembly holds the legislative power. It alone votes the law. The law establishes the rules concerning:

- citizenship, the civic rights and the fundamental guarantees granted to the citizens for the exercise of the public liberties ...

##### ARTICLE 77

The laws can, before their promulgation, be referred to the Constitutional Council by the President of the National Assembly or by one-tenth at least of the Deputies or by the parliamentary groups. The Associations of the Defense of the Rights of Man legally constituted can equally defer to the Constitutional Council the laws concerning the public freedoms. The Constitutional Council decides in a time period of fifteen days from being seized.

### Title VII: The Constitutional Council

##### ARTICLE 96

Any litigant may enter a plea of unconstitutionality of a law before any court. The conditions for referring a matter to the Constitutional Council shall be determined by law.

Sources: [http://democratie.francophonie.org/article.php?id\\_article=492&id\\_rubrique=80](http://democratie.francophonie.org/article.php?id_article=492&id_rubrique=80)

# Croatia (1990)

## Chapter II: Basic Provisions

### ARTICLE 3

Freedom, equal rights, national equality and equality of genders, love of peace, social justice, respect for human rights, inviolability of ownership, conservation of nature and the environment, the rule of law, and a democratic multiparty system are the highest values of the constitutional order of the Republic of Croatia.

### ARTICLE 16

Freedoms and rights may only be restricted by law in order to protect freedoms and rights of others, public order, public morality and health.  
Every restriction of freedoms or rights shall be proportional to the nature of the necessity for restriction in each individual case.

### ARTICLE 17

During a state of war or an immediate threat to the independence and unity of the State, or in the event of severe natural disasters, individual freedoms and rights guaranteed by the Constitution may be restricted. This shall be decided by the Croatian Parliament by a two-thirds majority of all members or, if the Croatian Parliament is unable to meet, at the proposal of the Government and upon the counter-signature of the Prime Minister, by the President of the Republic.  
The extent of such restrictions shall be adequate to the nature of the danger, and may not result in the inequality of persons in respect of race, color, gender, language, religion, national or social origin.  
Not even in the case of an immediate threat to the existence of the State may restrictions be imposed on the application of the provisions of this Constitution concerning the right to life, prohibition of torture, cruel or degrading treatment or punishment, on the legal definitions of penal offenses and punishments, or on freedom of thought, conscience and religion.

### ARTICLE 19

Individual decisions of administrative agencies and other bodies vested with public authority shall be grounded on law.  
Judicial review of decisions made by administrative agencies and other bodies vested with public authority shall be guaranteed.

## Chapter III: Protection of Human Rights and Fundamental Freedoms

### *Part 3: Economic, Social, and Cultural Rights*



#### **ARTICLE 50. EXPROPRIATION, RESTRICTIONS FOR BUSINESSES**

- (1) Property may, in the interest of the Republic of Croatia, be restricted or expropriated by law upon payment of compensation equal to its market value.
- (2) The exercise of entrepreneurial freedom and property rights may exceptionally be restricted by law for the purposes of protecting the interests and security of the Republic of Croatia, nature, the environment, and public health.

#### **ARTICLE 52**

The sea, seashore and islands, waters, air space, mineral wealth and other natural resources, as well as land, forests, fauna and flora, other parts of nature, real estate and goods of special cultural, historic, economic or ecological significance which are specified by law to be of interest to the Republic of Croatia shall enjoy its special protection.

#### **ARTICLE 69. HEALTH, ENVIRONMENT, NATURE**

Everyone shall have the right to a healthy life.

The State shall ensure citizens the right to a healthy environment.

Everyone shall be obligated, within their powers and activities, to pay special attention to the protection of public health, nature and environment.

Source: <http://www.constitution.org/cons/croatia.htm>

## Cuba (1976)

### Chapter I: Political, Social, and Economic Principles of the State

#### ARTICLE 27

The state protects the environment and natural resources of the country. It recognizes the close links they have with sustainable economic and social development to make human life more rational and to ensure the survival, well-being and security of present and future generations. It corresponds to the competent bodies to implement this policy.

It is the duty of citizens to contribute to the protection of the waters and the atmosphere, and to the conservation of the soil, flora, fauna and nature's entire rich potential.

Source: [http://www.cubanet.org/ref/dis/const\\_92\\_e.htm](http://www.cubanet.org/ref/dis/const_92_e.htm)

## Czech Republic (1992)

### *Constitution of the Czech Republic*

#### Preamble

We, the citizens of the Czech Republic ...  
resolved to protect and develop their natural, cultural, material, and spiritual heritage ...

#### Chapter I: Fundamental Provisions

##### ARTICLE 3

An integral component of the constitutional system of the Czech Republic is the Charter of Fundamental Rights and Freedoms.

##### ARTICLE 4

The fundamental rights and basic freedoms shall enjoy the protection of judicial bodies.

##### ARTICLE 7

The state shall see to it that natural resources are used prudently and natural wealth is protected.

#### Chapter IV: Judicial Power

##### ARTICLE 87

The Constitutional Court shall rule on: ...

- (d) constitutional complaints filed against final decisions and other interventions by agencies of public authority, violating constitutionally guaranteed fundamental rights and freedoms ...

### *Charter of Fundamental Rights and Freedoms*

#### Preamble

The Federal Assembly, ...  
Recalling its share of responsibility towards future generations for the fate of all life on Earth, ...  
Has enacted this Charter of Fundamental Rights and Freedoms:

## Chapter One: General Provisions

### ARTICLE 1

All people are free, have equal dignity, and enjoy equality of rights. Their fundamental rights and basic freedoms are inherent, inalienable, non-prescriptible, and not subject to repeal.

### ARTICLE 4

- (1) Duties may be imposed upon persons only on the basis of and within the bounds of law, and only while respecting the fundamental rights and basic freedoms of the individual.
- (2) Limitations may be placed upon the fundamental rights and basic freedoms only by law and under the conditions prescribed in this *Charter of Fundamental Rights and Basic Freedoms* (hereinafter "*Charter*").
- (3) Any statutory limitation upon the fundamental rights and basic freedoms must apply in the same way to all cases which meet the specified conditions.
- (4) In employing the provisions concerning limitations upon the fundamental rights and basic freedoms, the essence and significance of these rights and freedoms must be preserved. Such limitations are not to be misused for purposes other than those for which they were laid down.

## Chapter Two: Fundamental Rights and Freedoms

### *Division One: Fundamental Human Rights and Freedoms*

### ARTICLE 11

- (3) Ownership entails obligations. It may not be misused to the detriment of the rights of others or against legally protected public interests. Its exercise may not cause damage to human health, nature and the environment beyond statutory limits.

## Chapter Four: Economic, Social, and Cultural Rights

### ARTICLE 35

- (1) Everybody has the right to a favourable environment.
- (2) Everybody is entitled to timely and complete information about the state of the environment and natural resources.
- (3) In exercising his or her rights nobody may endanger or cause damage to the environment, natural resources, the wealth of natural species, and cultural monuments beyond limits set by law.

## Chapter Five: The Right to Judicial and Other Legal Protection

### ARTICLE 36

- (1) Everyone may assert, through the legally prescribed procedure, his rights before an independent and impartial court or, in specified cases, before another body.
- (2) Unless a law provides otherwise, a person who claims that her rights were curtailed by a decision of a public administrative authority may turn to a court for review of the legality of that decision. However, judicial review of decisions affecting the fundamental rights and basic freedoms listed in this Charter may not be removed from the jurisdiction of courts.
- (3) Everybody is entitled to compensation for damage caused him by an unlawful decision of a court, other state bodies, or public administrative authorities, or as the result of an incorrect official procedure.
- (4) Conditions therefor and detailed provisions shall be set by law.

## Chapter Six: General Provisions

### ARTICLE 41

- (1) The rights specified in Article 26, Article 27(4), Articles 28 to 31, Article 32(1) and (3), Article 33, and Article 35 of this Charter may be claimed only within the confines of the laws implementing these provisions.

Sources: <http://www.hrad.cz/en/czech-republic/constitution-of-the-cr.shtml>

# Dominican Republic (2010)

## Title I: Nation, State, Government and Fundamental Principles

### Chapter IV: Natural Resources

#### ARTICLE 14. NATURAL RESOURCES

Non-renewable natural resources in the territory and maritime areas under national jurisdiction, genetic resources, biodiversity and the radio spectrum are the Nation's heritage.

#### ARTICLE 15. WATER RESOURCES

- (1) Water is the national heritage, strategic for public use, inalienable, indefeasible, and essential for life. Human consumption of water has priority over any other use. The State promotes the development and implementation of effective policies for the protection of the Nation's water resources.
- (2) The upper reaches of rivers and areas of endemic, native, and migratory biodiversity are under special protection by the government to ensure their management and preservation as fundamental assets of the Nation. Rivers, lakes, lagoons, beaches, and national coasts belong to the public domain and are freely accessible, while always respecting private property rights. The law shall regulate conditions, ways and easements in which individuals gain access to the enjoyment or management of these areas.

#### ARTICLE 16. PROTECTED AREAS

Wildlife, conservation units within the National System of Protected Areas, and the ecosystems and species therein, are heritage assets of the nation and are inalienable and indefeasible. The boundaries of protected areas can only be reduced by a law approved by two thirds of the votes of the members of the chambers of the National Congress.

#### ARTICLE 17. USE OF NATURAL RESOURCES

Deposits of minerals and oil and, in general, non-renewable natural resources can only be explored and exploited by individuals, under sustainable environmental criteria in grants, contracts, licenses, permits or quotas, under the conditions determined by law. Individuals can take advantage of renewable natural resources rationally in accordance with the conditions, obligations and limitations provided by law. Therefore:

- 1) It is declared to be of high public interest to explore for and exploit hydrocarbons in the national territory and in maritime areas under national jurisdiction;
- 2) It is declared to be a national priority and of social interest to reforest the country, and pursue forest conservation and renewal of forest resources;

- 3) It is declared to be a national priority to ensure the preservation and rational use of the living and the non-living resources of the national maritime areas, especially the set of banks and emersion in the national policy for maritime development [el conjunto de bancos y emersiones dentro de la política nacional de desarrollo marítimo;]
- 4) The benefits received by the State for the exploitation of natural resources will be devoted to the natural development of the Nation and the provinces where found in the proportions and conditions set by law.

## Title II: The Rights, Guarantees, and Basic Duties

### Chapter I: Fundamental Rights

#### *Section II: Economic and Social Rights*

##### ARTICLE 61. RIGHT TO HEALTH

Everyone has the right to comprehensive health care. Therefore:

- 1) The State shall ensure the protection of the health of all people, access to clean water, better food, health services, hygiene, environmental sanitation and seek means for prevention and treatment of all diseases, ensuring access to quality medicines and providing medical and free hospitals to those who require it;
- 2) The State shall ensure, through legislation and public policy, the exercise of economic and social rights of people with lower incomes and, therefore provide protection and assistance to vulnerable groups and sectors; and fight social vices with appropriate measures with the help of international conventions and organizations.

#### *Section IV: Collective Rights and the Environment*

##### ARTICLE 66. COLLECTIVE AND DIFFUSE RIGHTS

The State recognizes the collective and common rights and interests, which are exercised under the conditions and limitations established by law. Consequently the State protects:

- 1) The conservation of the ecological balance, of both fauna and flora;
- 2) The protection of the environment;
- 3) The preservation of cultural, historical, urban, artistic, architectural, and archaeological heritage.

## **ARTICLE 67. PROTECTION OF THE ENVIRONMENT**

The duties of the State are to prevent pollution, protect and maintain the environment for the benefit of present and future generations. Therefore:

- 1) Everyone has the right, both individually and collectively, to the use and sustainable enjoyment of natural resources; to live in an environment that is healthy, ecologically balanced and appropriate for the development and preservation of different forms of life, landscape and nature;
- 2) The State prohibits the introduction, development, production, possession, sale, transport, storage and use of chemical, biological, and nuclear weapons, and agricultural chemicals that are internationally forbidden, as well as nuclear waste and toxic and hazardous wastes;
- 3) The State shall promote, in the public and private sectors, the use of technologies and non-polluting alternative energy;
- 4) In the contracts that the State enters into or permits to be granted that involve the use and exploitation of natural resources, the obligation to preserve the ecological balance, access to technology and its transfer and the restoration of the environment to its natural state, if it is altered, shall be considered.
- 5) The public authorities prevent and control the factors causing environmental deterioration, impose legal sanctions including strict liability for damage to the environment and natural resources, and require their restoration repair. Also, cooperate with other nations in protecting the ecosystems along the maritime and terrestrial borders.

## **Chapter II: Guarantees of Fundamental Rights**

### **ARTICLE 68. GUARANTEES OF FUNDAMENTAL RIGHTS**

The Constitution guarantees the effectiveness of fundamental rights, through the mechanisms of tutela and amparo, that offer the person offering the possibility of satisfying their rights against the obligors or debtors of the same. The fundamental rights are binding on all public authorities, which should ensure effectiveness in the terms established by this Constitution and the law.

### **ARTICLE 69**

Effective judicial protection and due process. Everyone, in the exercise of their legitimate rights and interests, is entitled to effective judicial protection with respect for due process that will consist of the minimum guarantees set out below:



- 1) The right to accessible, timely and free justice;
- 2) The right to be heard within a reasonable time by a competent, independent and impartial tribunal previously established by law;
- 3) The right to be presumed innocent and treated as such, while not being declared guilty by absolute decree;
- 4) The right to a public, oral, and adversarial trial, with full equality and respect to the right of defense;
- 5) No person shall be tried twice for the same cause;
- 6) No person shall be compelled to testify against himself;
- 7) No person shall be tried except under laws that predate the act which he is charged, before a competent court and in compliance with the fulfillment of formalities of each trial;
- 8) Any evidence obtained in violation of the law is disallowed;
- 9) Any sentence can be appealed in accordance with the law. The higher court may not increase the penalty imposed when only the person sentenced appeals the sentence;
- 10) The rules of due process apply to all kinds of judicial and administrative proceedings.

#### **ARTICLE 72. AMPARO ACTION**

- (1) Everyone is entitled to pursue an action before the courts, by themselves or by anyone acting on its behalf, for the immediate protection of their fundamental rights when they are not protected by habeas corpus, when they are violated or threatened by any action or omission of any authority public or private, to enforce compliance with a law or administrative act, or to ensure the collective and diffuse rights and interests. In accordance with the law, the procedure is preferred, summary, oral, public, free and not subject to formalities.
- (2) The measures adopted during states of emergency that unreasonably violate suspended rights are subject to amparo proceedings.

### **Chapter III: Principles of Interpretation of the Fundamental Rights and Guarantees**

#### **ARTICLE 74. PRINCIPLES OF REGULATION AND INTERPRETATION**

The interpretation and regulation of fundamental rights and guarantees recognized in the present Constitution are governed by the following principles:

- 1) They have no limitation and therefore do not exclude other rights and guarantees of a similar nature;

- 2) The exercise of fundamental rights and guarantees may be regulated only by law, as permitted by this Constitution, with respect for their essential content and the principle of reasonableness;
- 3) The treaties, pacts, and conventions on human rights, signed and ratified by the Dominican government, have constitutional status and are of direct and immediate application by the courts and other state bodies;
- 4) The public authorities interpret and apply the rules relating to rights and fundamental guarantees in the manner most favorable to the person holding the same and in case of conflict between fundamental rights, seek to balance the interests protected by the Constitution.

## Chapter IV: Essential Duties

### ARTICLE 75. FUNDAMENTAL DUTIES

The fundamental rights recognized in this Constitution determine an order of legal and moral responsibility, requiring the conduct of men and women in society. Consequently, they declare as people's basic duties: ...

- 11) To develop and disseminate the Dominican culture and protect the natural resources of the country, guaranteeing the preservation of a clean and healthy environment;

## Title VIII: The Ombudsman

### ARTICLE 190. EMPOWERMENT OF THE OMBUDSMAN

The Ombudsman is an independent authority with administrative and budgetary autonomy. The Ombudsman operates exclusively within the mandate of the Constitution and the law.

### ARTICLE 191. ESSENTIAL FUNCTIONS

The essential function of the Ombudsman is to help safeguard the fundamental rights of people and the collective and diffuse interests set forth in this Constitution and laws, in case they are violated by State officials or bodies, by members of the public service or individuals that affect collective and diffuse interests. The law shall regulate matters relating to the Ombudsman's organization and operation.

## Title XI: The Economic, Financial, and Auditing System

### Chapter I: The Economic System

#### *Section I: Guiding Principles*

#### **ARTICLE 217. GUIDANCE AND FOUNDATION**

The economic system is geared towards the pursuit of human development. It is based on economic growth, redistribution of wealth, social justice, equity, social and territorial cohesion, and environmental sustainability, within a framework of fair competition, equal opportunities, social responsibility, participation and solidarity.

### **Title XIII: States of Emergency**

#### **ARTICLE 262. DEFINITION**

States of emergency are considered to be extraordinary situations that seriously affect the security of the nation, institutions and people in which the ordinary powers are insufficient. The President, with the authorization of Congress, declare states of emergency in three forms: State of Defence, State of Internal Disturbance, and State of Emergency.

#### **ARTICLE 263. STATE OF DEFENCE**

If national sovereignty or territorial integrity are compromised by serious and imminent external armed aggression, the Executive, without prejudice to the powers inherent in his office, may request the National Congress of State for a declaration of State of Defence. In this state the following rights may not be suspended:

- 1) The right to life, under the provisions of Article 37;
- 2) The right to humane treatment under the provisions of Article 42;
- 3) Freedom of conscience and of worship, according to the provisions of Article 45;
- 4) The protection of the family, under the provisions of Article 55;
- 5) The right to name, according to the provisions of Article 55, paragraph 7;
- 6) The rights of the child, according to the provisions of Article 56;
- 7) The right to nationality under the provisions of Article 18;
- 8) The rights of citizenship, under the provisions of Article 22;
- 9) The prohibition of slavery and servitude, according to the provisions of article 41;
- 10) The principle of legality and retroactivity, as provided in article 40(13) and (15);
- 11) The right to recognition of juridical personality, according to Articles 43 and 55(7);
- 12) The judicial, procedural and institutional guarantees essential for rights protection under the provisions of Articles 69, 71 and 72.

#### ARTICLE 266. REGULATORY PROVISIONS

States of emergency are subject to the following provisions: ...

- 6) In States of Internal Disturbance and Emergency, only the following rights recognized by this Constitution can be suspended:
  - a) Imprisonment without judicial scrutiny, according to the provisions of Article 40(1);
  - b) Deprivation of liberty without cause or without legal formalities, as provided in Article 40(6);
  - c) Deadlines for submission to the judicial authority or release from confinement, established in Article 40(5);
  - d) The transfer from prisons or elsewhere, arranged in Article 40(12);
  - e) The presentation of detainees in Article 40(11);
  - f) With respect to habeas corpus, as specified in Article 71;
  - g) The inviolability of the home and privacy, arranged in Article 44(1);
  - h) Freedom of movement, provided for in Article 46;
  - i) Freedom of expression in the terms provided for in Article 49;
  - j) The freedoms of association and assembly, laid down in Articles 47 and 48;
  - k) The inviolability of correspondence, established in Article 44(3).

Source: (Spanish) <http://pdba.georgetown.edu/Constitutions/DomRep/vigente.html>

## East Timor (2002)

### Part I: Fundamental Principles

#### SECTION 6. OBJECTIVES OF THE STATE

The fundamental objectives of the State shall be: ...

- f) To protect the environment and to preserve natural resources; ...

### Part II: Rights, Duties, Liberties and Fundamental Guarantees

#### *Title I: General Principles*

#### SECTION 24. RESTRICTIVE LAWS

1. Restriction of rights, freedoms and guarantees can only be imposed by law in order to safeguard other constitutionally protected rights or interests and in cases clearly provided for by the Constitution.
2. Laws restricting rights, freedoms and guarantees have necessarily a general and abstract nature and may not reduce the extent and scope of the essential contents of constitutional provisions and shall not have a retroactive effect.

#### SECTION 25. STATE OF EXCEPTION

1. Suspension of the exercise of fundamental rights, freedoms and guarantees shall only take place if a state of siege or a state of emergency has been declared as provided for by the Constitution.
2. A state of siege or a state of emergency shall only be declared in case of effective or impending aggression by a foreign force, of serious disturbance or threat of serious disturbance to the democratic constitutional order, or of public disaster.
3. A declaration of a state of siege or a state of emergency shall be substantiated, specifying rights, freedoms and guarantees the exercise of which is to be suspended.
4. A suspension shall not last for more than thirty days, without prejudice of possible justified renewal, when strictly necessary, for equal periods of time.
5. In no case shall a declaration of a state of siege affect the right to life, physical integrity, citizenship, non-retroactivity of the criminal law, defence in a criminal case and freedom of conscience and religion, the right not to be subjected to torture, slavery or servitude, the right not to be subjected to cruel, inhuman or degrading treatment or punishment, and the guarantee of non-discrimination.
6. Authorities shall restore constitutional normality as soon as possible.

## SECTION 26. ACCESS TO COURTS

Access to courts is guaranteed to all for the defence of their legally protected rights and interests.

Justice shall not be denied for insufficient economic means.

## SECTION 27. OMBUDSMAN

1. The Ombudsman shall be an independent organ in charge to examine and seek to settle citizens' complaints against public bodies, certify the conformity of the acts with the law, prevent and initiate the whole process to remedy injustice.
2. Citizens may present complaints concerning acts or omissions on the part of public bodies to the Ombudsman, who shall undertake a review, without power of decision, and shall forward recommendations to the competent organs as deemed necessary.

### *Title III: Economic, Social and Cultural Rights and Duties*

## SECTION 61. ENVIRONMENT

1. Everyone has the right to a humane, healthy, and ecologically balanced environment and the duty to protect it and improve it for the benefit of the future generations.
2. The State recognizes the need to preserve and rationalize natural resources.
3. The State shall promote actions aimed at protecting the environment and safeguarding the sustainable development of the economy.

## Part IV: Economic and Financial Organisation

### *Title I: General Principles*

## ARTICLE 139. NATURAL RESOURCES

1. The resources of the soil, the subsoil, the territorial waters, the continental shelf and the exclusive economic zone, which are essential to the economy, shall be owned by the State and shall be used in a fair and equitable manner in accordance with national interests.
2. The conditions for the exploitation of the natural resources referred to in item 1 above should lend themselves to the establishment of mandatory financial reserves, in accordance with the law.
3. The exploitation of the natural resources shall preserve the ecological balance and prevent destruction of ecosystems.

Source: [http://www.constitution.org/cons/east\\_timor/constitution-eng.htm](http://www.constitution.org/cons/east_timor/constitution-eng.htm)

## Ecuador (1984, amended 2008)<sup>3</sup>

### Preamble

We, the sovereign people of Ecuador ...

Celebrating Nature, the Pacha Mama, which is part and is vital to our existence, ...

We decided to build ...

A new form of citizen coexistence in diversity and harmony with nature, to achieve the good life, the *sumak kawsay*; ...

## Title II: Rights

### Chapter One: Principles of Implementation of Rights

#### ARTICLE 10

Individuals, communities, nations, nationalities and groups hold and enjoy the rights guaranteed in the Constitution and international instruments. Nature will be subject to those rights recognized in the Constitution.

#### ARTICLE 11

The exercise of rights is governed by the following principles:

1. The rights can be exercised, promoted and enforced individually or collectively with the relevant authorities; these authorities will ensure compliance. ...
3. The rights and guarantees established in the Constitution and international human rights instruments will be of direct and immediate application to any servant or public servant, administrative or judicial, ex officio or on application. To exercise rights and constitutional guarantees requires no conditions or requirements that are not established in the Constitution or the law. The rights are fully justiciable. You cannot claim lack of rule of law to justify its violation or disregard, to dismiss the action for those events or to deny them recognition.
4. No rule of law may restrict the content of rights or constitutional guarantees.
5. In terms of rights and constitutional guarantees, the servants and public servants, administrative or judicial, must apply the rule and the interpretation most favoring its actual effect.
6. All the principles and inalienable rights are inalienable, indivisible, interdependent and of equal standing.
7. The recognition of rights and guarantees established in the Constitution and international human rights instruments does not exclude other rights deriving from the dignity of individuals, communities, peoples and nationalities, which are necessary for its full development.

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<sup>3</sup> Translated from the original Spanish by author.

8. The content of the rights will be developed progressively through the rules, jurisprudence and public policy. The State will create and ensure conditions for their full recognition and exercise. Any act or omission relating to repealing, unjustifiably impairing or nullifying the exercise of rights will be unconstitutional.
9. The highest duty of the State to respect and enforce the rights guaranteed in the Constitution. The State, its delegates, licensees and any person acting in the exercise of public authority are obliged to remedy violations of the rights of individuals by the lack or deficiency in the provision of public services, or for acts or omissions of its officers, officials, and public employees in performing their duties. The State shall exercise immediately the right of recourse against those responsible for the damage, without prejudice to any civil, criminal, and administrative remedies ...

## Chapter Two: Rights of the Good Life

### *Section One: Water and Food*

#### ARTICLE 12

The human right to water is fundamental and indispensable. Water is a strategic national asset for public use, inalienable, indefeasible, unattachable and essential for life.

#### ARTICLE 13

Individuals and communities are entitled to safe and permanent access to safe, sufficient and nutritious food, preferably locally produced and in accordance with their different cultural identities and traditions. The Ecuadorian State shall promote food sovereignty.

### *Section Two: Healthy Environment*

#### ARTICLE 14

The right of people to live in a healthy and ecologically balanced environment that ensures sustainability and good living, *sumak kawsay*. There is a public interest in environmental preservation, conservation of ecosystems, biodiversity and genetic integrity of the country, prevention of environmental damage, and the recovery of degraded natural areas.

#### ARTICLE 15

The State shall promote, in both public and private sectors, the use of environmentally clean technologies and alternative, clean, low impact energy. Energy sovereignty will not be achieved at the expense of food sovereignty, or affect the right to water. The development, production, holding, trading, import, transport, storage and use of chemical, biological, and nuclear weapons, and of highly toxic persistent organic pollutants, agrochemicals banned internationally, experimental technologies, harmful biological agents, and genetically modified organisms harmful to human health or that violate the 25 ecosystems and food sovereignty, and the introduction of nuclear waste and toxic waste into the country are all prohibited.



### *Section Five: Education*

#### **ARTICLE 27**

Education will focus on the human being and ensure their holistic development, in a framework of respect for human rights, environment and sustainable democracy. Education will be participatory, mandatory, cultural, democratic, inclusive and diverse, of high quality and humane; promote gender equity, justice, solidarity and peace; encourage critical thinking, art and physical culture, individual initiative and community; and develop skills and abilities to create and work. Education is essential to understanding the exercise of rights and the construction of a sovereign country and is a strategic hub for national development.

### *Section Seven: Health*

#### **ARTICLE 32**

Health is a right guaranteed by the state, whose performance is linked to the exercise of other rights including the rights to water, food, education, physical education, labor, social security, and healthy environments that support good living. The State guarantees this right through economic, social, cultural, educational, and environmental policies and permanent access to timely (and without exclusion) programs, actions and promotion services and comprehensive health care, sexual and reproductive health. The provision of health services shall be governed by principles of equity, universality, solidarity, intercultural, quality, efficiency, effectiveness, care and bioethics, with a focus on gender and generations.

### **Chapter Six: Rights of Freedom**

#### **ARTICLE 66**

It is recognized and guaranteed to persons: ...

27. The right to live in a healthy, ecologically balanced, pollution free environment and in harmony with nature.

### **Chapter Seven: Rights of Nature**

#### **ARTICLE 71**

Nature or Pacha Mama, where life plays and performs, is entitled to full respect, existence, and the maintenance and regeneration of its vital cycles, structure, functions and evolutionary processes. Any person, community, nation or nationality may require the public authority to comply with the rights of nature. The principles enshrined in the Constitution will be used to apply and interpret these rights, as appropriate. The State will encourage individuals, legal persons, and collective entities to protect nature and promote respect for all the elements that form an ecosystem.

## ARTICLE 72

Nature is entitled to restoration. This restoration is independent of the obligation of the State and persons or companies to compensate individuals and groups that depend on affected natural systems. In cases of severe or permanent environmental impact, including those linked to the exploitation of nonrenewable natural resources, the State shall establish the most effective mechanisms to achieve the restoration, and take appropriate measures to eliminate or mitigate adverse environmental consequences.

## ARTICLE 73

The State will apply precautionary and restrictive measures to activities that could lead to species extinction, destruction of ecosystems, or the permanent alteration of natural cycles. The import of organisms and organic and inorganic material that may ultimately alter the national genetic heritage is prohibited.

## ARTICLE 74

Individuals, communities, peoples and nations are entitled to benefit from the environment and natural resources that allow them to live well. Environmental services are not subject to appropriation; their production, delivery, use and development are regulated by the state.

### Chapter Eight: Rights Protection

## ARTICLE 75

Everyone has the right to free access to justice and effective protection, impartial and prompt investigation of their rights and interests, subject to the principles of immediacy and speed; and in no case shall be defenseless. Failure to comply with court judgments shall be punished by law.

### Chapter Nine: Responsibilities

## ARTICLE 83

The duties and responsibilities of Ecuador and Ecuadorians, without prejudice to any other under the Constitution and laws, include: ...

5. Respect human rights and fight for their compliance.
6. Respect the rights of nature, preserve a healthy environment, and use natural resources rationally and sustainably.

## Title III: Constitutional Guarantees

### Chapter One: Policy Guarantees

## ARTICLE 84

The National Assembly and any body with regulatory powers will be required to adapt, both formally and materially, the laws and other legal norms on the rights provided in

the Constitution and international treaties, and those necessary to ensure the human dignity of communities, peoples and nationalities. In no case shall reform of the Constitution, laws, other legal rules or acts of public authority prejudice the rights guaranteed by the Constitution.

## Chapter Two: Public Policies, Public Services and Citizen Participation

### ARTICLE 85

The design, implementation, evaluation and control of public policies and public services that guarantee the rights recognized by the Constitution shall be governed in accordance with the following provisions:

1. Public policies and the provision of public goods and services will be geared towards the realization of the good life and all rights, and will be formulated based on the principle of solidarity.
2. Notwithstanding the prevalence of general interest over particular interests, when the effects of the implementation of public policies or the provision of public goods or services infringe or threaten to violate constitutional rights, policies or benefits shall be reformulated or alternative measures shall be adopted to reconcile the conflicting rights.
3. The State shall ensure the equitable and supportive provision of the budget for the implementation of public policies and the provision of public goods and services. The formulation, implementation, evaluation and control of public policies and public services will ensure the participation of individuals, communities, peoples and nationalities.

## Chapter Three: Judicial Guarantees

### *Section One: Common Provisions*

### ARTICLE 86

The judicial guarantees shall be governed generally by the following provisions:

1. Any person, group of people, community, nation or nationality may propose measures envisaged in the Constitution.
2. The judge with jurisdiction in the place where the deed or omission occurred or where its impacts were felt shall be the competent authority and the following rules of procedure shall apply:
  - a) The procedure will be simple, fast and efficient. At all stage and levels it will be oral.

- b) Access to judge will be available all days and hours.
  - c) They may be oral or written proposals, no formalities, and without citing the provision in question. Hiring a lawyer is not necessary to propose action.
  - d) Notification shall be by the most effective means that are available to the judge, the interested parties, and the body responsible for the act or omission.
  - e) It shall not apply the procedural rules that tend to slow its fast clearance.
3. Once the proceeding is initiated, the judge with jurisdiction shall immediately convene a public hearing, and at any time during the proceedings may order the collection of evidence and appoint committees to collect that evidence. The grounds alleged by the plaintiff when the public entity does not prove otherwise or does not report will be presumed to be true. The judge with jurisdiction shall decide the case, and if the violation is found, shall issue a declaration, order reparation, tangible and intangible, and specify and identify the duties, both positive and negative, to be met by the addressee of the judicial decision. The judgments of first instance may be appealed to the provincial court. Legal proceedings will end only with the full execution of the sentence or decision.
4. If the decision or resolution is not met by servants or public servants, the judge or court shall order his removal from office or employment, without prejudice to civil or criminal liability that may arise. Where an individual fails to comply with the decision or resolution, they shall be given the responsibility determined in the law.
5. All judgments rendered shall be referred to the Constitutional Court, for the development of its jurisprudence.

#### ARTICLE 87

The Court may order interim measures jointly or independently of the constitutional actions to protect rights, with the aim of preventing or restraining the violation or threatened violation of a right.

#### *Section Two: Protective Action*

#### ARTICLE 88

The protection action shall aim at the direct and effective defense of the rights recognized in the Constitution, and may be brought where there is a violation of

constitutional rights by acts or omissions of any non-judicial public authority; against public policy when involving the deprivation of the enjoyment or exercise of constitutional rights; and when the violation comes from a particular person, if the violation is capable of causing serious damage, if improper provision of public services, if acting under delegation or grant, or if the person concerned is in a state of subordination, powerlessness and discrimination.

#### *Section Four: Action for Access to Public Information*

##### **ARTICLE 91**

The action of access to public information will aim at ensuring access to it when it has been denied, expressly or implicitly, or, when furnished, is not complete or reliable. The action may be filed even if the refusal is based on secrecy, reserved, or any other confidential classification of information. The confidentiality of the information must be declared prior to the request by the competent authority and in accordance with law.

#### *Section Six: Enforcement Action*

##### **ARTICLE 93**

The remedy for breach shall be to ensure implementation of standards that make up the legal system, enforcement of judgments or reports from international human rights tribunals when the statute or decision under which compliance is sought contains an explicit and enforceable obligation to act or not act. The action shall be brought before the Constitutional Court.

#### *Section Seven: Extraordinary action to protect*

##### **ARTICLE 94**

The extraordinary protection action lies against definitive judgments or orders that have violated rights under the Constitution by action or omission, and shall be brought before the Constitutional Court. The appeal shall have been filed after the exhaustion of other legal remedies, unless the lack of filing of these cases is not attributable to the negligence of the person holding the violated constitutional right.

## **Title VI: Development Plan**

### **Chapter One: General Principles**

##### **ARTICLE 276**

The development plan has the following objectives: ...

4. Recover and conserve nature and maintain a healthy and sustainable environment that ensures local people equitable access, permanent air, soil, and water quality, and the benefits of subsoil resources and natural heritage.



## Chapter Three: Food Sovereignty

### ARTICLE 281

Food sovereignty is a strategic objective and a state obligation to ensure that individuals, communities, peoples, and nations achieve healthy and culturally appropriate food self-sufficiency permanently. These will be the responsibilities of government: ...

4. Promote redistributive policies that allow the access of peasants to land, water and other productive resources.

### ARTICLE 282

The State will regulate the use and access to land for meeting social and environmental functions. A National Land Fund, established by law, will regulate the equitable access of peasants to land. It prohibits large estates and the concentration of land and hoarding or privatization of water and its sources. The State shall regulate the use and management of irrigation water for food production, under the principles of equity, efficiency and environmental sustainability.

## Chapter Five: Strategic Sectors, Public Services and Companies

### ARTICLE 313

The State reserves the right to administer, regulate, control and manage the strategic sectors in accordance with the principles of environmental sustainability, precaution, prevention and efficiency. The strategic sectors are those which by their magnitude are of decisive importance and economic influence, social or environmental policy, and should be oriented to the full development of human rights and social interest. Energy in all its forms, telecommunications, non-renewable natural resources, transport and refining of hydrocarbons, biodiversity, genetic heritage, the radio-electric spectrum, water, and others determined by law are considered strategic sectors.

### ARTICLE 314

The State shall be responsible for the provision of public services of drinking water and irrigation, sanitation, electricity, telecommunications, roads, port and airport infrastructures, and others determined by law. The State shall ensure that public services and their provision meet the principles of obligation, generality, consistency, efficiency, accountability, universality, accessibility, continuity and quality. The State shall take steps to ensure that the prices and rates of public services are fair, and shall control and regulate those fees.

### ARTICLE 318

Water is a strategic national asset for public use, inalienable and inalienable. Water is a vital element in nature and the existence of human beings. All forms of water privatization are prohibited. Water management will be exclusively public or community-based. Public service sanitation, water supply and irrigation will be

provided only by state agencies or community. The State shall strengthen the management and operation of community initiatives around water management and provision of public services by encouraging partnerships between the public and the community to provide services. The state, through the single water authority, will be directly responsible for the planning and management of water resources to be used for human consumption, irrigation to ensure food sovereignty, ecological flow, and production activities. State approval is required for water use for productive purposes by the public, private and popular solidarity economy, according to the law.

### *Section Two: Property Types*

#### **ARTICLE 321**

The State recognizes and guarantees the right to property in its public, private, community, state, associative, cooperative, and mixed forms; and property must fulfill its social and environmental functions.

#### **ARTICLE 322**

Intellectual property is recognized in accordance with the conditions stipulated by law. All forms of appropriation of collective knowledge in the field of science, technology and ancestral wisdom are prohibited. The misappropriation of genetic resources that contain biological diversity and agro-biodiversity is also prohibited.

#### **ARTICLE 323**

In order to implement plans of social development, sustainable management of environment and collective welfare, state institutions, for reasons of public utility or social and national interest, may declare the expropriation of property, with fair value, compensation, and payment in accordance with law. All forms of confiscation are prohibited.

## **Title VII: Rules of Good Living**

### **Chapter Two: Biodiversity and Natural Resources**

#### *Section One: Nature and Environment*

#### **ARTICLE 395**

The Constitution recognizes the following environmental principles:

1. The State guarantees a sustainable model of environmentally balanced development, respectful of cultural diversity, to conserve biodiversity and the natural regeneration capacity of ecosystems, and to ensure the satisfaction of the needs of present and future generations.



2. Environmental management policies will apply on a cross-cutting basis and shall be binding on the part of governments at all levels and on all natural or legal persons in the country.
3. The State guarantees the active and permanent participation of individuals, communities, peoples and nations involved in the planning, implementation and monitoring of all activities that generate environmental impacts.
4. In case of doubt about the scope of laws on environmental matters, laws will be applied in the manner most favorable to the protection of nature.

#### ARTICLE 396

The State shall adopt appropriate policies and measures to prevent negative environmental impacts when there is certainty of harm. If in doubt about the environmental impact of any action or omission, although there is no scientific evidence of harm, the State shall take effective and appropriate protective measures. The liability for environmental damage is objective. Any damage to the environment, in addition to the penalties, will also imply an obligation to fully restore the ecosystem and compensate the affected individuals and communities. Each of the actors in the processes of production, distribution, marketing and use of goods or services will assume direct responsibility to prevent any environmental impact, to mitigate and repair the damage he has caused, and to maintain a permanent environmental control system. The legal actions to pursue and punish environmental damages cannot be barred.

#### ARTICLE 397

In case of environmental damage the state will act immediately and effectively to ensure the health and restoration of ecosystems. In addition to the appropriate sentence against the operator of the activity that produced the damage are the obligations of reparation, under the conditions and procedures established by law. Responsibility also lies with the server or servers responsible for performing environmental monitoring. To ensure the individual and collective right to live in a healthy and ecologically balanced environment, the State will:

1. Allow any natural or legal person, community or human group, such legal action and recourse to the judicial and administrative bodies, subject to its direct interest, for the effective protection of these environmental rights, including the possibility of applying measures allowing interim injunctions halting the threat or environmental damage in dispute. The burden of proof regarding the absence of actual or potential harm lies with the manager of the activity or the defendant.

2. Establish effective mechanisms for prevention and control of environmental pollution, recovery of degraded natural areas, and sustainable management of natural resources.
3. Regulate the production, importation, distribution, use and disposal of substances that are toxic and hazardous to humans or the environment.
4. Ensure the inviolability of the natural protected areas, so as to ensure conservation of biodiversity and maintain ecological functions of ecosystems. The State will be in charge of the management and administration of natural protected areas.
5. Establish a national system of prevention and risk management for natural disasters, based on the principles of immediacy, efficiency, caution, responsibility and solidarity.

#### ARTICLE 398

Any decision or state authority which may affect the environment must be consulted with the community, producing a timely and comprehensive report. The individual consultant will be the State. The law shall regulate the preliminary consultation, citizen participation, time limits, the subject consulted, the evaluation criteria, and objections to the activity subject to consultation. The State values the opinion of the community according to criteria set in law and international human rights instruments. If the consultation process results in the overwhelming opposition of the respective community, the decision whether to execute the project shall be taken by a duly reasoned decision of the superior administrative authority in accordance with law.

#### ARTICLE 399

The comprehensive exercise of state supervision over the environment and the responsibility of citizens in environmental preservation will be articulated through a decentralized national system of environmental management, which will be responsible for advocacy of the environment and nature.

### *Section Two: Biodiversity*

#### ARTICLE 400

The State shall exercise sovereignty over biodiversity. The administration and management will be handled with intergenerational responsibility. The conservation of biodiversity and its components, including agricultural and wild biodiversity and the genetic heritage of the country, is declared to be in the public interest.

#### ARTICLE 401

Ecuador is declared free of transgenic crops and seeds. Exceptionally, and only when national interests are duly substantiated by the Office of the President and approved by

the National Assembly, may genetically modified seeds and crops be introduced. The State shall regulate under strict biosecurity the use and development of modern biotechnology and its products, and their experimentation, use and marketing. It prohibits the application of risky or experimental biotechnologies.

#### ARTICLE 402

The State prohibits the granting of rights, including intellectual property, related to natural or synthetic products, obtained from the collective knowledge associated with the national biodiversity.

#### ARTICLE 403

The State does not engage in cooperative agreements or agreements containing clauses that undermine the conservation and sustainable management of biodiversity, human health, and the collective rights and rights of nature.

### *Section Three: Natural Heritage and Ecosystems*

#### ARTICLE 404

Ecuador's unique and invaluable natural heritage includes, inter alia, physical, biological and geological elements whose value from the standpoint of environmental, scientific, cultural or landscape requires their protection, conservation, recovery and advocacy. Its management is subject to the principles and guarantees enshrined in the Constitution and will be conducted according to land use planning and ecological zoning, in accordance with law.

#### ARTICLE 405

The national system of protected areas ensures the conservation of biodiversity and the maintenance of ecological functions. The system shall be comprised of state-decentralized autonomous, community, and private subsystems, and it shall be directed and regulated by the State. The State will allocate the necessary financial resources for the financial sustainability of the system and encourage the participation in administration and management of communities, peoples and nations that have ancestrally inhabited protected areas. The foreign natural or legal persons may not acquire title to any land or concessions in the areas of national security or in protected areas, in accordance with law.

#### ARTICLE 406

The State shall regulate the conservation, management, sustainable use, and recovery of fragile and endangered ecosystems including, among others, moorland, wetlands, cloud forests, tropical dry forests, humid mangroves, and marine and marine-coastal ecosystems.

#### ARTICLE 407

The extraction of nonrenewable resources in protected areas and in areas declared as intangible is prohibited, including logging. These resources may be exploited in exceptional circumstances at the request of the Presidency of the Republic and based on a previous declaration of national interest by the National Assembly, which as it sees fit, may convene a referendum.

#### *Section Four: Natural Resources*

#### ARTICLE 408

Nonrenewable natural resources and, in general, subsoil products, minerals and hydrocarbons, substances whose nature is different from the soil, including those located in areas covered by the waters of the territorial sea and maritime areas, as well as biodiversity and its genetic heritage and the radio spectrum are property of the state and are inalienable. These assets may be exploited only in strict compliance with environmental principles enshrined in the Constitution. The State will participate in the benefits of exploiting these resources, in an amount not less than those of the company that exploits them. The State shall ensure that the mechanisms of production, consumption and use of energy and natural resources preserve and recover natural cycles and allow living with dignity.

#### *Section Five: Soil*

#### ARTICLE 409

Land conservation, especially topsoil, is of public interest and national priority. The State will establish a policy framework for its protection and sustainable use that will prevent its degradation, particularly that caused by pollution, desertification and erosion. In areas affected by degradation and desertification, the State shall develop and encourage afforestation, reforestation and re-vegetation to avoid monoculture and using, preferably, native species adapted to the area.

#### ARTICLE 410

The State will provide farmers and rural communities with support for conservation, soil restoration, and development of agricultural practices that protect and promote food sovereignty.

#### *Section Six: Water*

#### ARTICLE 411

The State shall guarantee the conservation, restoration and comprehensive management of water resources, watershed management, and ecological flows associated with the hydrological cycle. It will regulate all activities that may affect the quality and quantity of water and the equilibrium of ecosystems, especially in the water source and recharge

areas. The sustainability of ecosystems and human consumption will be high priorities in water management and use.

#### ARTICLE 412

The authority in charge of water management will be responsible for planning, regulation and control. This authority shall cooperate and coordinate with the agency responsible for environmental management to ensure water management with an ecosystem approach.

### *Section Seven: Biosphere, Urban Ecology and Alternative Energy*

#### ARTICLE 413

The State shall promote energy efficiency, the development and use of environmentally clean technologies and practices, and healthy and diversified low impact renewable energy that shall not endanger food sovereignty, ecological balance, ecosystems and the right to water.

#### ARTICLE 414

The State shall take appropriate and effective measures to mitigate climate change by limiting emissions of greenhouse gases, deforestation, and air pollution, and will take steps to conserve forests and vegetation, and to protect the populations at risk.

#### ARTICLE 415

The central State and autonomous decentralized governments will adopt comprehensive policies for participatory urban land management and land use to regulate urban growth, manage urban wildlife, and encourage the establishment of green areas. The decentralized autonomous governments will develop programs that ensure rational water use, recycling, reducing waste, and proper treatment of solid and liquid wastes, and will encourage and facilitate non-motorized land transport, particularly through the establishment of bicycle routes.

## Title VIII: International Relations

### Chapter One: Principles of International Relations

#### ARTICLE 416

The relations between Ecuador and the international community must respond to the interests of the Ecuadorian people, and accordingly: ...

13. Promote the creation, ratification and observance of international instruments for the conservation and regeneration of the life cycles of the planet and biosphere.

## Chapter Two: International Treaties and Instruments

### ARTICLE 419

The ratification and denunciation of international treaties require the prior approval of the National Assembly in the cases: ...

8. That compromise the natural heritage and in particular water, biodiversity and genetic heritage.

## Chapter Three: Latin American Integration

### ARTICLE 423

Integration, especially with countries of Latin America and the Caribbean, will be a strategic objective of the State. In all instances and integration processes, the Ecuadorian State shall undertake: ...

2. To promote joint strategies for sustainable management of natural heritage, particularly the regulation of extractive activities, cooperation on sustainable energy, the conservation of biodiversity, ecosystems and water, research, scientific development and exchange of knowledge and technology, and implementation of coordinated strategies of food sovereignty.

Source: (Spanish) <http://pdpa.georgetown.edu/Constitutions/Ecuador/ecuador08.html>

## Egypt (2007)

### Part III: Public Rights, Freedoms, and Duties

#### ARTICLE 57

Any violation of individual liberty or the inviolability of the private life of citizens or on any other rights or liberties guaranteed by the Constitution and by the law shall be considered a crime, whose criminal and civil prosecution is not subject to the statute of limitations.

The State shall grant a fair compensation to the victim of such violation.

#### ARTICLE 59

Safeguarding the environment is a national duty, and the law shall regulate the right to a good environment and the measures necessary to safeguard it.

### Part IV: Sovereignty of Law

#### ARTICLE 68

The right to litigation is inalienable and guaranteed for all, and every citizen has the right to have access to a judge.

The State shall guarantee accessibility of judicature for litigants, and rapid decision on cases. Any provision in the law stipulating immunity of any act or administrative decision from the control of the judicature is prohibited.

Sources: <http://www.chr.up.ac.za/index.php/documents-by-country-database/egypt.html>

## El Salvador (1983)

### Title II: The Rights and Fundamental Guarantees of the Person

#### Chapter II: Social Rights

##### *First Section: The Family*

#### ARTICLE 34

Every child has the right to live in familial and environmental conditions that permit his integral development, for which he shall have the protection of the State.

### Title II: The Rights and Fundamental Guarantees of the Person

#### Chapter II: Social Rights

##### *Fourth Section: Public Health and Social Assistance*

#### ARTICLE 69

The State shall be equipped with the necessary and indispensable resources for permanent control of the quality of chemical, pharmaceutical and veterinary products through surveillance organisms. Likewise the State shall control the quality of food products and the environmental conditions that may affect health and well-being.

### Title V: Economic Order

#### ARTICLE 117

It shall be the State's duty to protect the natural resources as well as the diversity and integrity of the environment, and to guarantee sustainable development. The protection, conservation, rational development, restoration or replacement of natural resources are of social interest and will be managed according to laws. The introduction of nuclear residues and toxic waste into the national territory is prohibited.

### Title VI: Organs of the Government, Powers, and Competencies

#### Chapter IV: Public Ministry

#### ARTICLE 194

The Procurator for the Defense of Human Rights and the Attorney General of the Republic shall have the following functions:



1. It falls to the Procurator for the Defense of Human Rights:
  - 1st. To guard for the respect and guarantee of Human Rights;
  - 2nd. To investigate, officially or by a denouncement that has been received, cases of Human Rights violations;
  - 3rd. To assist alleged victims of Human Rights violations;
  - 4th. To promote judicial or administrative resources for the protection of Human Rights;
  - 5th. To maintain vigil over the situation of private persons with respect to their freedom. He shall be notified of all arrests and shall take care that the legal limits of administrative detention are respected;
  - 6th. To carry out inspections, where he deems necessary, to secure respect for Human Rights;
  - 7th. To supervise the performance of the Public Administration;
  - 8th. To promote reforms before Organs of State for the advancement of Human Rights;
  - 9th. To issue opinions on bills of law which affect the exercise of Human Rights;
  - 10th. To promote and propose steps he deems necessary to prevent violation of Human Rights;
  - 11th. To publicly or privately formulate conclusions and recommendations;
  - 12th. To elaborate and publish reports;
  - 13th. To develop a permanent program of promotion activities on knowledge of and respect for Human Rights;
  - 14th. The others assigned to him by the Constitution or the Law.

## Title IX: Scope, Application, Reform and Repeal

### ARTICLE 246

The principles, rights, and obligations established by this Constitution may not be altered by laws that regulate their exercise.

The Constitution shall prevail over all laws and regulations. The public interest shall come before private interest.

**ARTICLE 247**

Any person may seek amparo before the Constitutional Division of the Supreme Court of Justice for the violation of rights granted by this Constitution.

Source: <http://pdba.georgetown.edu/Constitutions/ElSal/constitucion2003.pdf>

## Equatorial Guinea (1982)

### Title I: Fundamental Principles of the State

#### ARTICLE 6

The State shall encourage and promote culture, artistic creativity, scientific and technological research, and shall assure conservation of nature, the cultural inheritance, and the artistic and historical wealth of the Nation.

Source: <http://www.chr.up.ac.za/index.php/documents-by-country-database/equatorial-guinea.html>

## Eritrea (1997)

### Chapter II: National Objectives and Directive Principles

#### ARTICLE 8. ECONOMIC AND SOCIAL DEVELOPMENT

...

2. The State shall work to bring about a balanced and sustainable development throughout the country, and shall use all available means to enable all citizens to improve their livelihood in a sustainable manner, through their participation.
3. In the interest of present and future generations, the State shall have the responsibility to regulate all land, water, air and natural resources and to ensure their management in a balanced and sustainable manner; and to create the right conditions for securing the participation of the people to safeguard the environment.

### Chapter III: Fundamental Rights, Freedoms, and Duties

#### ARTICLE 24. ADMINISTRATIVE REDRESS

1. Any person with an administrative question shall have the right to be heard respectfully by the administrative officials concerned and to receive quick and equitable answers from them.
2. Any person with an administrative question, whose rights or interests are interfered with or threatened, shall have the right to seek due administrative redress.

#### ARTICLE 28. ENFORCEMENT OF FUNDAMENTAL RIGHTS AND FREEDOMS

...

2. Any aggrieved person who claims that a fundamental right or freedom guaranteed by this Constitution has been denied or violated shall be entitled to petition a competent court for redress. Where it ascertains that such fundamental right or freedom has been denied or violated, the court shall have the power to make all such orders as shall be necessary to secure for such petitioner the enjoyment of such fundamental right or freedom, and where such applicant suffers damage, to include an award of monetary compensation.

Source: [http://www.chr.up.ac.za/undp/domestic/docs/c\\_Eritrea.pdf](http://www.chr.up.ac.za/undp/domestic/docs/c_Eritrea.pdf)

# Estonia (1992)

## Chapter I: General Provisions

### ARTICLE 5

The natural wealth and resources of Estonia are national assets, which shall be used economically.

## Chapter II: Fundamental Rights, Liberties, and Duties

### ARTICLE 53

Everyone shall be obligated to preserve the human and natural environment and to compensate for damages caused by him or her to the environment. The procedures for compensation shall be determined by law.

Source: <http://www.president.ee/en/republic-of-estonia/the-constitution/index.html>

# Ethiopia (1995)

## Chapter Two: Fundamental Principles of the Constitution

### ARTICLE 10. HUMAN AND DEMOCRATIC RIGHTS

1. Human rights and freedoms, emanating from the nature of mankind, are inviolable and inalienable.
2. Human and democratic rights of citizens and peoples shall be respected.

## Chapter Three: Fundamental Rights and Freedoms

### *Part Two: Democratic Rights*

### ARTICLE 37. RIGHT OF ACCESS TO JUSTICE

1. Everyone has the right to bring a justiciable matter to, and to obtain a decision or judgment by, a court of law or any other competent body with judicial power.
2. The decision or judgment referred to under sub-Article 1 of this Article may also be sought by:
  - (a) Any association representing the Collective or individual interest of its members; or
  - (b) Any group or person who is a member of, or represents a group with similar interests.

### ARTICLE 43. THE RIGHT TO DEVELOPMENT

1. The right of the peoples of Ethiopia collectively, or the nations, nationalities and peoples in Ethiopia, individually, to improve their standard of living and to sustainable development is guaranteed.
2. Citizens shall have the right to participate in national development, and in particular, to demand that their opinions be heard on matters of policies and of projects pertaining to the community of which they are members.
3. International agreements entered into or relations formed by the State shall be such as to guarantee the right to the sustainable development of Ethiopia. ...

### ARTICLE 44. ENVIRONMENTAL RIGHTS

1. Everyone has the right to a clean and healthy environment.
2. All persons who have been displaced or whose livelihoods have been adversely affected as a result of State programmes have the right to commensurate monetary or alternative means of compensation, including relocation with adequate State assistance.

## Chapter Ten: National Policy Principles and Objectives

### ARTICLE 85. OBJECTIVES

1. Any organ of Government shall, in the implementation of the Constitution, other laws and public policies, be guided by the principles and objectives specified under this Chapter.

### 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 91. CULTURAL OBJECTIVES

2. Government and all Ethiopian citizens shall have the duty to protect the country's natural endowment, historical sites and objects.

### ARTICLE 92. ENVIRONMENTAL OBJECTIVES

1. The State shall have the responsibility to strive to ensure a clean and healthy environment for all Ethiopians.
2. Any economic development activity shall not in any way be disruptive to the ecological balance or damaging to the environment.
3. People have the right to give their opinions in the preparation and implementation of environmental policies and projects that affect them directly.
4. The State and citizens shall have the duty to protect the environment.

## Chapter Eleven: Miscellaneous Provisions

### ARTICLE 93. DECLARATION OF STATE OF EMERGENCY

...

4. (a) When a state of emergency is declared, the Council of Ministers shall, in accordance with regulations it issues, have all necessary power to protect the country's peace and sovereignty, and to maintain public security, law and order.  
(b) The Council of Ministers shall have the power to suspend such political and democratic rights contained in this Constitution to the extent necessary to avert the conditions that required the declaration of a state of emergency.  
(c) In the exercise of its emergency powers the Council of Ministers can not, however, suspend or limit the rights provided for in Articles 1, 18, 25, and sub-Articles 1 and 2 of Article 39 of this Constitution.

Source: <http://www.chr.up.ac.za/index.php/documents-by-country-database/ethiopia.html>

# Finland (1995)

## Chapter 2: Basic Rights and Liberties

### SECTION 20. RESPONSIBILITY FOR THE ENVIRONMENT

- (1) Nature and its biodiversity, the environment and the national heritage are the responsibility of everyone.
- (2) The public authorities shall endeavour to guarantee for everyone the right to a healthy environment and for everyone the possibility to influence the decisions that concern their own living environment.

### SECTION 21. PROTECTION UNDER THE LAW

Everyone has the right to have his or her case dealt with appropriately and without undue delay by a legally competent court of law or other authority, as well as to have a decision pertaining to his or her rights or obligations reviewed by a court of law or other independent organ for the administration of justice.

Provisions concerning the publicity of proceedings, the right to be heard, the right to receive a reasoned decision and the right of appeal, as well as the other guarantees of a fair trial and good governance shall be laid down by an Act.

### SECTION 22. PROTECTION OF BASIC RIGHTS AND LIBERTIES

The public authorities shall guarantee the observance of basic rights and liberties and human rights.

### SECTION 23. BASIC RIGHTS AND LIBERTIES IN SITUATIONS OF EMERGENCY

Such provisional exceptions to basic rights and liberties that are compatible with Finland's international obligations concerning human rights and that are deemed necessary in the case of an armed attack against Finland or if there exists an emergency that threatens the nation and which according to an Act is so serious that it can be compared with an armed attack may be provided by an Act.

## Chapter 10: Supervision of Legality

### SECTION 108. DUTIES OF THE CHANCELLOR OF JUSTICE OF THE GOVERNMENT

The Chancellor of Justice shall oversee the lawfulness of the official acts of the Government and the President of the Republic. The Chancellor of Justice shall also ensure that the courts of law, the other authorities and the civil servants, public employees and other persons, when the latter are performing a public task, obey the law and fulfill their obligations. In the performance of his or her duties, the Chancellor of Justice monitors the implementation of basic rights and liberties and human rights. ...

### SECTION 109. DUTIES OF THE PARLIAMENTARY OMBUDSMAN

The Ombudsman shall ensure that the courts of law, the other authorities and civil servants, public employees and other persons, when the latter are performing a public



task, obey the law and fulfill their obligations. In the performance of his or her duties, the Ombudsman monitors the implementation of basic rights and liberties and human rights.

Source: <http://www.finlex.fi/fi/laki/kaannokset/1999/en19990731.pdf>

## France (2005)

### *Constitution of October 4, 1958*

#### Preamble

The French people solemnly proclaim their attachment to the Rights of Man and to the principles of national sovereignty as defined by the *Declaration of 1789*, reaffirmed and complemented by the *Preamble to the Constitution of 1946*, and to the rights and obligations defined by the *Charter of the Environment* of 2004.

#### Title V: On Relations between Parliament and the Government

##### ARTICLE 34. STATUTES SHALL DETERMINE THE RULES CONCERNING:

- civic rights and the fundamental guarantees granted to citizens for the exercise of their civil liberties; freedom, pluralism and the independence of the media; the obligations imposed for the purposes of national defence upon the person and property of citizens. ...

Statutes shall also lay down the basic principles of: ...

- the preservation of the environment; ...

#### Title XI A: The Defender of Rights

##### ARTICLE 71

The Defender of Rights shall ensure the due respect of rights and freedoms by state administrations, territorial communities, public legal entities, as well as by all bodies carrying out a public service mission or by those that the Institutional Act decides fall within his remit.

Referral may be made to the Defender of Rights, in the manner determined by an Institutional Act, by every person who considers his rights to have been infringed by the operation of a public service or of a body mentioned in the first paragraph. He may act without referral.

The Institutional Act shall set down the mechanisms for action and powers of the Defender of Rights. It shall determine the manner in which he may be assisted by third parties in the exercise of certain of his powers.

The Defender of Rights shall be appointed by the President of the Republic for a six-year, non-renewable term, after the application of the procedure provided for in the last paragraph of article 13. This position is incompatible with membership of the Government or membership of Parliament. Other incompatibilities shall be determined by the Institutional Act.

The Defender of Rights is accountable for his actions to the President of the Republic and to Parliament.

### *Charter of the Environment, 2004*

The French people, considering that:

- natural resources and ecosystems have contributed to the emergence of humanity;
- the future and the very existence of humanity are intrinsically linked with its natural environment;
- the environment is the common heritage of all human beings;
- mankind has a growing influence on the conditions of life and on its own evolution;
- biological diversity, personal fulfillment, and progress of human societies are affected by certain types of consumption or production and by the excessive exploitation of natural resources;
- the preservation of the environment must be achieved with the same devotion as other fundamental national interests;
- in order to ensure sustainable development, choices aiming to meet present needs must not compromise the capacity of future generations and other peoples to satisfy their own needs;

Hereby proclaim:

#### **ARTICLE 1**

Everyone has the right to live in an environment that is both well balanced and favorable to his/her health.

#### **ARTICLE 2**

Every person has the duty to take part in the preservation and the improvement of the environment.

#### **ARTICLE 3**

Every person must, in the conditions defined by law, prevent or, at a minimum, limit the harm that it is susceptible to bring on the environment.

#### **ARTICLE 4**

Every person must contribute to the reparation of damages that it causes to the environment, in the conditions defined by law.

#### ARTICLE 5

Upon the risk of damage, even when uncertain given current scientific knowledge, that might impact the environment in a serious and irreversible manner, public authorities will ensure, by application of the precautionary principle, the adoption of appropriate provisional measures aiming to avoid the risk of the damage and to implement evaluation procedures to measure the level of risk.

#### ARTICLE 6

Public policies must promote sustainable development. To this effect, they must take into account the protection and the improvement of the environment and must reconcile these objectives with economic and social development.

#### ARTICLE 7

Every person has the right, under limited conditions defined by law, to access information relative to the environment that is held by public authorities, and to participate in the creation of public decisions that have an impact on the environment.

#### ARTICLE 8

Education and information on the environment must contribute to the implementation of the rights and responsibilities defined by this charter.

#### ARTICLE 9

Research and innovation must bring their participation to the preservation and improvement of the environment.

#### ARTICLE 10

This charter inspires France into action within the European Union and international community.

Source: <http://www.assemblee-nationale.fr/english/8ab.asp>

## Gabon (1991)

### Preliminary Title: Fundamental Rights and Principles

#### ARTICLE 1

The Gabonese Republic recognizes and guarantees the inviolable and imprescriptible rights of Man, which obligatorily constrain public powers: ...

- 8) the State, according to its possibilities, shall guarantee to all, notably to the child, the mother, the handicapped, to aged workers and to the elderly, the protection of health, social security, a preserved natural environment, rest and leisure.

### Title IV: Relations Between the Executive Power and the Legislative Power

#### ARTICLE 47

Outside the cases expressly provided for by the Constitution, the law establishes the rules concerning:

- the exercise of fundamental rights and duties of citizens ...

### Title VI: Constitutional Court

#### ARTICLE 83

The Constitutional Court is the highest jurisdiction in the State in constitutional matters. It is the judge of the constitutionality of laws and it guarantees the fundamental rights of the human person and public liberties ...

#### ARTICLE 85

... The other categories of laws as well as regulatory acts may be deferred to the Constitutional Court, either by the President of the Republic, or by the Prime Minister, or by the presidents of the Chambers of Parliament or one-tenth the members of each Chamber, or by the presidents of the Judicial and Administrative Courts and the Court of Accounts, or by any citizen or moral person aggrieved by the law or contested act. ...

Source: (French) <http://democratic.francophonie.org/IMG/pdf/Gabon.pdf>

# Gambia (1996)

## Chapter XX: Directive Principles of State Policy

### SECTION 211

The principles of state policy in this chapter shall form part of the public policy of The Gambia for the establishment of a just, free, and democratic state. These principles shall not confer legal rights or be enforceable in any court but—

- (a) subject to the limits of the economic capacity and development of The Gambia, the Executive, the Legislature and all other organs of the State in taking policy decisions, making laws and in the administration of the Gambia, shall according to their respective functions be guided by and observe them with a view to achieving by legislation or otherwise the full realisation of these principles; and
- (b) the courts are entitled to have regard to these principles in interpreting any laws based on them.

### SECTION 215

(3) The State shall pursue a policy of ...

- (d) protecting the environment of the nation for posterity; and
- (e) co-operating with other nations and bodies to protect the global environment.

### SECTION 216

(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.

### SECTION 218

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.

### SECTION 220

- (1) The exercise and enjoyment of rights and freedoms are inseparable from the performance of duties and obligations, and accordingly, every citizen shall ...
  - (j) protect and conserve the environment of The Gambia.
- (2) It shall be the duty of every citizen to abide by and conform with the provisions set out in subsection (1), but such duties shall not, of themselves, render any person liable to proceedings of any kind in any court.

Source: <http://www.ncce.gm/files/constitution.pdf>

# Georgia (1995)

## Chapter One: General Provisions

### ARTICLE 7

The state shall recognise and protect universally recognised human rights and freedoms as eternal and supreme human values. While exercising authority, the people and the state shall be bound by these rights and freedoms as directly acting law.

## Chapter Two: Fundamental Human Rights and Freedoms

### ARTICLE 37

3. Everyone has the right to live in a healthy environment and enjoy natural and cultural surroundings. Everyone is obliged to protect the natural and cultural surroundings.
4. With the view to ensuring a safe environment, in accordance with the ecological and economic interests of society, with due regard to the interests of the current and future generations, the State shall guarantee the protection of the environment and the rational use of nature.
5. A person shall have the right to receive complete, objective and timely information as to the state of his/her working and living environment.

### ARTICLE 42

1. Everyone has the right to apply to a court for the protection of his/her rights and freedoms.

### ARTICLE 43

1. The protection of human rights and fundamental freedoms within the territory of Georgia shall be supervised by the Public Defender of Georgia who shall be elected for a term of five years by the majority of the total number of the members of the Parliament of Georgia.
2. The Public Defender shall be authorised to reveal facts of the violation of human rights and freedoms and to report on them to corresponding bodies and officials. The creation of impediments to the activity of the Public Defender shall be punishable by law.
3. The authority of the Public Defender shall be determined by the Organic Law.

### ARTICLE 46

1. In case of a state emergency or martial law, the President of Georgia shall be authorised to restrict the rights and freedoms enumerated in Articles 18, 20, 21, 22, 24, 25, 30, 33 and 41 of the Constitution either throughout the whole country or a certain part thereof. The President shall be obliged to submit the decision to the Parliament for approval within 48 hours.



## Chapter Five: Judicial Power

### ARTICLE 89

1. The Constitutional Court of Georgia on the basis of a constitutional claim or a submission of the President of Georgia, the Government, not less than one fifth of the members of the Parliament, a court, the higher representative bodies the Autonomous Republic of Abkhazia and the Autonomous Republic of Ajara, the Public Defender or a citizen in accordance with a procedure established by the Organic Law shall: ...
  - f. consider, on the basis of a claim of a person, constitutionality of normative acts in relation to fundamental human rights and freedoms enshrined in Chapter Two of the Constitution;

Source: [http://www.parliament.ge/files/68\\_1944\\_951190\\_CONSTIT\\_27\\_12.06.pdf](http://www.parliament.ge/files/68_1944_951190_CONSTIT_27_12.06.pdf)

## Germany (1994, amended in 2002)

### Chapter I: Basic Rights

#### ARTICLE 19(4)

Should any person's rights be violated by public authority, he may have recourse to the courts. If no other jurisdiction has been established, recourse shall be to the ordinary courts. The second sentence of paragraph (2) of Article 10 shall not be affected by this paragraph.

### Chapter II: The Federation and the Lander

#### ARTICLE 20(A). PROTECTION OF THE NATURAL BASES OF LIFE AND ANIMALS

Mindful also of its responsibility toward future generations, the state shall protect the natural bases of life and the animals by legislation and, in accordance with law and justice, by executive and judicial action, all within the framework of the constitutional order.

### Chapter IX: The Judiciary

#### ARTICLE 93. [JURISDICTION OF THE FEDERAL CONSTITUTIONAL COURT]

(1) The Federal Constitutional Court shall rule: ...

- 4a. on constitutional complaints, which may be filed by any person alleging that one of his basic rights or one of his rights under paragraph (4) of Article 20 or under Article 33, 38, 101, 103 or 104 has been infringed by public authority;

Source: <https://www.btg-bestellservice.de/pdf/80201000.pdf>

## Ghana (1992)

### Chapter Six: The Directive Principles of State Policy

#### ARTICLE 34

- (1) The Directive Principles of State Policy contained in this Chapter shall guide all citizens, Parliament, the President, the Judiciary, the Council of State, the Cabinet, political parties and other bodies and persons in applying or interpreting this Constitution or any other law and in taking and implementing any policy decisions, for the establishment of a just and free society.
- (2) The President shall report to Parliament at least once a year all the steps taken to ensure the realization of the policy objectives contained in this Chapter and, in particular, the realization of basic human rights, a healthy economy, the right to work, the right to good health care and the right to education.

#### ARTICLE 36

- (9) The State shall take appropriate measures needed to protect and safeguard the national environment for posterity; and shall seek cooperation with other states and bodies for purposes of protecting the wider international environment for mankind.

#### ARTICLE 41

The exercise and enjoyment of rights and freedoms is inseparable from the performance of duties and obligations, and accordingly, it shall be the duty of every citizen ...

- (k) to protect and safeguard the environment.

Source: <http://www.chr.up.ac.za/index.php/documents-by-country-database/ghana.html>

## Greece (1975)

### Part Two: Individual and Social Rights

#### ARTICLE 20

1. Every person shall be entitled to receive legal protection by the courts and may plead before them his views concerning his rights or interests, as specified by law.
2. The right of a person to a prior hearing also applies in any administrative action or measure adopted at the expense of his rights or interests.

#### ARTICLE 24

1. The protection of the natural and cultural environment constitutes a duty of the State and a right of every person. The State is bound to adopt special preventive or repressive measures for the preservation of the environment in the context of the principle of sustainability. Matters pertaining to the protection of forests and forest expanses in general shall be regulated by law.<sup>4</sup> Alteration of the use of forests and forest expanses is prohibited, except where agricultural development or other uses imposed for the public interest prevail for the benefit of the national economy.  
[Amended in 2002]
2. The master plan of the country, and the arrangement, development, urbanization and expansion of towns and residential areas in general, shall be under the regulatory authority and the control of the State, in the aim of serving the functionality and the development of settlements and of securing the best possible living conditions. The relevant technical choices and considerations are conducted according to the rules of science. The compilation of a national cadastre constitutes an obligation of the State.
3. For the purpose of designating an area as residential and of activating its urbanization, properties included therein must participate, without compensation from the respective agencies, in the disposal of land necessary for the construction of roads, squares and public utility areas in general, and contribute toward the expenses for the execution of the basic public urban works, as specified by law.
4. The law may provide for the participation of property owners of an area designated as residential in the development and general accommodation of that area, on the basis of an approved town plan, in exchange for real estate or apartments of equal value in the parts of such areas that shall finally be designated as suitable for construction or in buildings of the same area.

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<sup>4</sup> The Greek Constitution includes the following interpretative clause: "The term forest or forest ecosystem means the organic whole of wild plants with woody trunk on the necessary area of ground which, together with the flora and fauna co-existing there, constitute via their mutual interdependence and interaction, a particular ecosystem (forest ecosystem) and a particular natural environment (forest-derived). A forest expanse exists when the wild woody vegetation, either high or shrubbery, is sparse."

5. The provisions of the preceding paragraphs shall also be applicable in the rehabilitation of existing residential areas. Spaces remaining free after rehabilitation shall be allotted to the creation of common utility areas or shall be sold to cover expenses incurred for the rehabilitation, as specified by law.
6. Monuments and historic areas and elements shall be under the protection of the State. A law shall provide for measures restrictive of private ownership deemed necessary for protection thereof, as well as for the manner and the kind of compensation payable to owners.

#### ARTICLE 25

1. The rights of man as an individual and as a member of the society and the principle of the constitutional welfare state are guaranteed by the State. All agents of the State shall be obliged to ensure the unhindered and effective exercise thereof. These principles also apply to relations between private individuals to which they pertain. Restrictions of any kind which, according to the Constitution, may be imposed upon these rights, should be provided either directly by the Constitution or by the law, in case a reservation exists in the latter's favour, and should respect the principle of proportionality.
2. The recognition and protection of the fundamental and inalienable rights of man by the State aims at the achievement of social progress in freedom and justice.

Source: <http://www.hellenicparliament.gr/UserFiles/f3c70a23-7696-49db-9148-f24dce6a27c8/001-156%20aggliko.pdf>

# Guatemala (1985)

## Title II: Human Rights

### Chapter II: Social Rights

#### *Section Two: Culture*

##### ARTICLE 64. NATURAL HERITAGE

The conservation, protection, and improvement of the natural heritage of the Nation is declared to be of national interest. The State will promote the creation of national parks, reservations, and natural sanctuaries, which are inalienable. A law will guarantee their protection and that of the fauna and flora to be found in them.

#### *Section Seven: Health, Security and Social Assistance*

##### ARTICLE 96. QUALITY CONTROL OF PRODUCTS

The State will control the quality of food products, pharmaceuticals, chemicals, and of everything that can affect the health and well-being of its inhabitants. It will see to the establishment and programming of priorities to health and the improvement of the conditions of the basic environmental guarantee of the communities that are least protected.

##### ARTICLE 97. ENVIRONMENT AND ECOLOGICAL BALANCE

The State, the municipalities and the inhabitants of the national territory are obliged to promote social, economic, and technological development that would prevent the contamination of the environment and maintain the ecological balance. The State will issue all the necessary regulations to guarantee that the use of the fauna, flora, land, and water will be realized rationally, obviating their depredation.

#### *Section Ten: Economic and Social Regime*

##### ARTICLE 119. OBLIGATIONS OF THE STATE

The following are basic obligations the State: ...

- c. To adopt the means that may be necessary for the conservation, development and exploitation of natural resources in efficient form;

##### ARTICLE 126. REFORESTATION

The reforestation of the country and the conservation of forests is declared to be a matter of national urgency. The law will determine the form and requirements for the rational exploitation of forestry resources and their renewal, including the resins, rubber, wild forest botanical products and other similar products, and will promote their industrial use. ...

The forest and vegetation on the banks of rivers and lakes and in the vicinity of water sources will enjoy special protection.

#### **ARTICLE 127. WATER REGIME**

All the waters belong to the public domain and are inalienable and imprescriptible. Their exploitation, use, and enjoyment are granted in the form established by law in accordance with the social interest. A specific law will regulate this matter.

### **Title VI: Constitutional Guarantees and Defense of the Constitutional Order**

#### **Chapter II: Amparo**

#### **ARTICLE 265. PROCEEDING OF AMPARO**

Amparo is instituted for the purpose of protecting persons against the threats of violations of their rights or to restore the rule of same should the violation have occurred. There is no area which is not subject to amparo, and it will always proceed whenever the acts, resolutions, provisions, or laws of authority should imply a threat, restraint, or violation of the rights which the Constitution and the laws guarantee.

Source: (Spanish) <http://pdba.georgetown.edu/Constitutions/Guate/guate93.html>

## Guinea (1990)

### Title II: Liberties, Duties, and Fundamental Rights

#### ARTICLE 5

The person and the dignity of man are sacred. The State has the duty to respect and protect them.

The rights and duties enumerated hereinafter are inviolable, inalienable and indefeasible. They are the foundation of all humanity and guarantee peace and justice in the world.

#### ARTICLE 19

... The people of Guinea shall freely and [with] sovereignty determine its institutions and the economic and social organization of the Nation. They shall have an inalienable right to its resources. These shall benefit all the citizens in an equitable manner.

They shall have the right to the preservation of their heritage, culture and environment.

#### ARTICLE 22

The law guarantees to all the exercise of fundamental rights and liberties. It shall determine the conditions under which they shall be exercised.

The law shall only set limits on these rights and liberties which are indispensable to the maintenance of public order and democracy. ...

### Title V: Relations Between the President of the Republic and the National Assembly

#### ARTICLE 59

... The law shall fix rules concerning:

- guarantees of liberties and fundamental rights, the conditions under which they are exercised and the limitation imposed on them; ...

Statutes shall also lay down the basic principles of:

- cultural development and of the protection of the national heritage and the environment

Source: (French) <http://droit.francophonie.org/df-web/publication.do?publicationId=4279>



# Guyana (1980, as amended in 2003)

## Preamble

We, the Guyanese people ...

Acknowledge the aspirations of our young people who, in their own words, have declared that the future of Guyana belongs to its young people, who aspire to live in a safe society which respects their dignity, protects their rights, recognises their potential, listens to their voices, provides opportunities, ensures a healthy environment and encourages people of all races to live in harmony and peace and affirm that their declaration will be binding on our institutions and be a part of the context of our basic law;

Demonstrate our commitment to protect our natural environment and endowment; ...

## Part 1: General Principles

### Chapter II: Principles and Bases of the Political, Economic, and Social System

#### ARTICLE 25

Every citizen has a duty to participate in activities designed to improve the environment and protect the health of the nation.

#### ARTICLE 36

The well-being for the nation depends upon preserving clean air, fertile soils, pure water and the rich diversity of plants, animals and eco-systems.

#### ARTICLE 39

- (1) It is the duty of Parliament, the Government, the courts and all other public agencies to be guided in the discharge of their functions by the principles set out in this Chapter, and Parliament may provide for any of those principles to be enforceable in any court or tribunal.
- (2) In the interpretation of the fundamental rights provisions in this Constitution a court shall pay due regard to international law, international conventions, covenants and charters bearing on human rights.

## Part 2: Specific Rules

### *Title I: Protection of Fundamental Rights and Freedoms of The Individual*

#### ARTICLE 149J

- (1) Everyone has the right to an environment that is not harmful to his or her health or well-being.

- (2) The State shall protect the environment, for the benefit of present and future generations, through reasonable legislative and other measures designed to -
- (a) prevent pollution and ecological degradation;
  - (b) promote conservation; and
  - (c) secure sustainable development and use of natural resources while promoting justifiable economic and social development.
- (3) It shall not be an infringement of a person's rights under paragraph (1) if, by reason only of an allergic condition or other peculiarity the environment is harmful to that person's health or well-being.

#### ARTICLE 153(1)

- (1) Subject to the provisions of paragraph (6), if any person, including a person acting on behalf of another who is not acting in his or her own name, or a person acting on behalf of a group or an association acting on behalf of its members, alleges that any of the provisions of articles 138 to 151 (inclusive) has been, is being, or is likely to be contravened in relation to him or her (or in the case of a person who is detained, if any other person alleges such a contravention in relation to the detained person) then, without prejudice to any other action with respect to the same matter which is lawfully available, that person or association (or that other person) may apply to the High Court for redress.
- (2) The High Court shall have original jurisdiction -
- (a) to hear and determine any application made by any person in pursuance of the preceding paragraph;
  - (b) to determine any question arising in the case of any person which is referred to it in pursuance of the next following paragraph, and may make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing or securing the enforcement of any of the provisions of articles 138 to 151 (inclusive).
- (3) If in any proceedings in any court subordinate to the High Court any question arises as to the contravention of any of the provisions of articles 138 to 151 (inclusive), the person presiding in that court shall refer the question to the High Court unless, in his opinion, the raising of the question is merely frivolous or vexatious.
- (4) Where any question is referred to the High Court in pursuance of paragraph (3), the High Court shall give its decision upon the question and the court in which the question arose shall dispose of the case in accordance with that decision or if that decision is the subject of an appeal under this Constitution to the Court of Appeal, in accordance with the decision of the Court of Appeal.
- (5) Parliament may confer upon the High Court such powers in addition to those conferred by this article as may appear to Parliament to be necessary or desirable for

the purpose of enabling the High Court more effectively to exercise the jurisdiction conferred upon it by this article.

- (6) Parliament may make provision with respect to the practice and procedure -
- (a) of the High Court in relation to the jurisdiction and powers conferred upon it by or under this article;
  - (b) of the High Court and the Court of Appeal in relation to appeals to the Court of Appeal from decisions of the High Court in the exercise of such jurisdiction;
  - (c) of subordinate courts in relation to references to the High Court under paragraph (3), including provision with respect to the time within which any application, reference or appeal shall or may be made or brought; and, subject to any provision so made, provision may be made with respect to the matters aforesaid by rules of court.

## Part 2: Specific Rules

### *Title IA: Protection of Human Rights*

#### ARTICLE 154A

- (1) Subject to paragraphs (3) and (6), every person, as contemplated by the respective international treaties set out in the Fourth Schedule to which Guyana has acceded is entitled to the human rights enshrined in the said international treaties, and such rights shall be respected and upheld by the executive, legislature, judiciary and all organs and agencies of Government and, where applicable to them, by all natural and legal persons and shall be enforceable in the manner hereinafter prescribed.
- (2) The rights referred to in paragraph (1) do not include any fundamental right under this Constitution.
- (3) The State shall, having regard to the socio-cultural level of development of the society, take reasonable legislative and other measures within its available resources to achieve the progressive realisation of the rights provided for in paragraph (1).
- (4) If any person alleges that any of the rights referred to in paragraph (1), has been, is being or is about to be contravened in relation to him or her, then, without prejudice to any other action with respect to the same matter which is lawfully available, that person may apply to the Human Rights Commission in such manner as the Commission may prescribe, for redress.
- (5) Nothing contained in this article shall be construed so as to abrogate any human right, not enumerated herein, which a person had at the time of the commencement of this Article.
- (6) The State may divest itself or otherwise limit the extent of its obligation under any of the treaties listed in the Fourth Schedule, provided that two-thirds of the elected

members of the National Assembly have voted in favour of such divestment or limitation.

## Fourth Schedule: Conventions

*Convention on the Rights of the Child.*

*Convention on the Elimination of All Forms of Discrimination against Women.*

*Convention on the Elimination of All Forms of Racial Discrimination.*

*Convention Against Torture and Other Inhuman or Degrading Treatment or Punishment.*

*Covenant on Economic, Social and Cultural Rights.*

*Covenant on Civil and Political Rights.*

*Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women.*

Source: <http://www.parliament.gov.gy/constitution/constitutionindex.php>

## Haiti (1987)

### Title III: Basic Rights and Duties of the Citizen

#### Chapter II: Basic Rights

##### *Section J: Right to Security*

#### ARTICLE 42

No citizen, whether civilian or military, may be denied access to the courts open to him under the Constitution and the laws.

#### Chapter III: Duties of the Citizen

#### ARTICLE 52.1

Civic duties are the citizen's moral, political, social and economic obligations as a whole to the State and the country. These obligations are: ...

(h) To respect and protect the environment;

### Title IX: Economics, Agriculture, and the Environment

#### Chapter II: The Environment

#### ARTICLE 253

Since the environment is the natural framework of the life of the people, any practices that might disturb the ecological balance are strictly forbidden.

#### ARTICLE 254

The State shall organize the enhancement of natural sites to ensure their protection and make them accessible to all.

#### ARTICLE 255

To protect forest reserves and expand the plant coverage, the State encourages the development of local sources of energy: solar, wind and others.

#### ARTICLE 256

Within the framework of protecting the environment and public education, the State has the obligation to proceed to establish and maintain botanical and zoological gardens at certain points in its territory.

#### ARTICLE 257

The law specifies the conditions for protecting flora and fauna, and punishes violations thereof.

**ARTICLE 258**

No one may introduce into the country wastes or residues of any kind from foreign sources.

Source: <http://pdba.georgetown.edu/constitutions/haiti/haiti1987.html>

## Honduras (1982)

### Title III: Declarations, Rights, and Guarantees

#### Chapter I: Declarations

##### ARTICLE 62

The rights of every man are limited by the rights of all others, of collective security, and by the just demands of the general welfare and democratic development.

##### ARTICLE 64

Laws and governmental provisions or any other provisions that regulate the exercise of rights and guarantees recognized by this Constitution shall not be enforced if they diminish, restrict or evade such rights and guarantees.

#### Chapter VII: Health

##### ARTICLE 145

The right to the protection of one's health is hereby recognized.

It is everyone's duty to participate in the promotion and preservation of individual and community health.

The State shall maintain a satisfactory environment for the protection of everyone's health.

### Title IV: Constitutional Guarantees

#### Chapter I: Habeas Corpus and Amparo

##### ARTICLE 183

The State recognizes the guarantee of Amparo.

Consequently, every aggrieved person, or any other in his behalf, has the right to interpose the recourse of Amparo:

1. To have the enjoyment of his rights and guarantees under the Constitution maintained or restored; and
2. For a declaratory judgment in particular cases that a law or resolution or act of authority does not bind the petitioner, and is not applicable because it contravenes, limits, or restricts any of the rights recognized by this Constitution. The Recourse of Amparo shall be interposed in accordance with the Law.

## Chapter II: Unconstitutionality and Review

### ARTICLE 184

The Laws may be declared unconstitutional by reason of form or content ...

### ARTICLE 185

A declaration of unconstitutionality of a law and its inapplicability may be petitioned by anyone who considers himself injured in his direct, personal, and legitimate interest ...

## Chapter III: Restriction or Suspension of Rights

### ARTICLE 187

The exercise of the rights established in Articles 69, 71, 72, 78, 81, 84, 93, 99, and 103 may be suspended in the event of an invasion of the national territory, serious disturbance of the peace, an epidemic, or other general disaster, or by the President of the Republic in agreement with the Council of Ministers, by means of a decree that shall contain:

1. The reasons justifying the suspension;
2. The guarantee or guarantees that are restricted;
3. The territory to be affected by the restriction; and
4. The duration of the restriction ...

Source: <http://pdpa.georgetown.edu/Constitutions/Honduras/hond05.html>



# Hungary (1989)

## Chapter I: General Provisions

### ARTICLE 8

- (1) The Republic of Hungary recognizes inviolable and inalienable fundamental human rights. The respect and protection of these rights is a primary obligation of the State.
- (2) In the Republic of Hungary regulations pertaining to fundamental rights and duties are determined by law; such law, however, may not restrict the basic meaning and contents of fundamental rights.
- (4) During a state of national crisis, state of emergency or state of danger, the exercise of fundamental rights may be suspended or restricted, with the exception of the fundamental rights specified in Articles 54-56, Paragraphs (2)-(4) of Article 57, Article 60, Articles 66 -69, and Article 70/E.

### ARTICLE 18

The Republic of Hungary recognizes and shall implement everyone's right to a healthy environment.

## Chapter V: The Parliamentary Ombudsman for Civil Rights and the Parliamentary Ombudsman for the Rights of National and Ethnic Minorities

### ARTICLE 32/B

- (1) The Parliamentary Ombudsman for Civil Rights is responsible for investigating or initiating the investigation of cases involving the infringement of constitutional rights which come to his attention and initiating general or specific measures for their remedy. ...
- (3) Everyone has the right to initiate proceedings by the Parliamentary Ombudsmen in the cases specified by law.
- (4) The Parliamentary Ombudsmen for Civil Rights and for the Rights of National and Ethnic Minorities shall be elected by a majority of two-thirds of the votes of the Members of Parliament, based on the recommendation made by the President of the Republic. The Parliament may also elect special Ombudsmen for the protection of individual constitutional rights.

## Chapter XII: Fundamental Rights and Duties of Citizens

### ARTICLE 70/D

- (1) Everyone living in the territory of the Republic of Hungary has the right to the highest possible level of physical and mental health.
- (2) The Republic of Hungary shall implement this right through institutions of labor safety and health care, through the organization of medical care and the opportunities for regular physical activity, as well as through the protection of the urban and natural environment.

**ARTICLE 70/K**

Claims arising from infringement of fundamental rights, and objections to the decisions of public authorities regarding the fulfillment of duties may be brought before a court of law.

Source: <http://www.mkab.hu/index.php?id=constitution>

## India (1976)

### Part III: Fundamental Rights

#### ARTICLE 32. RIGHT TO CONSTITUTIONAL REMEDIES

- (1) The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed.
- (2) The Supreme Court shall have power to issue directions or orders or writs, including writs in the nature of *habeas corpus*, *mandamus*, *prohibition*, *quo warranto* and *certiorari*, whichever may be appropriate, for the enforcement of any of the rights conferred by this Part.
- (3) Without prejudice to the powers conferred on the Supreme Court by clauses (1) and (2), Parliament may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Supreme Court under clause (2).
- (4) The right guaranteed by this article shall not be suspended except as otherwise provided for by this Constitution.

### Part IV: Directive Principles of State Policy

#### ARTICLE 37

The provisions contained in this Part shall not be enforceable by any court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws.

#### ARTICLE 48A

The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country.

### Part IV A: Fundamental Duties

#### ARTICLE 51A

It shall be the duty of every citizen of India: ...

- (g) to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures; ...

Source: <http://indiacode.nic.in/coiweb/welcome.html>

## Indonesia (2000)

### Section XA: Human Rights

#### ARTICLE 28H

- (1) Each person has a right to a life of well-being in body and mind, to a place to dwell, to enjoy a good and healthy environment, and to receive medical care.

#### ARTICLE 28I

- (1) The rights to life, freedom from torture, freedom of thought and conscience, freedom of religion, freedom from enslavement, recognition as a person before the law, and the right not to be tried under a law with retrospective effect are all human rights that cannot be limited under any circumstances.
- (2) Every person shall have the right to be free from discriminative treatment based upon any grounds whatsoever and shall have the right to protection from such discriminative treatment.
- (3) The cultural identities and rights of traditional communities shall be respected in accordance with the development of times and civilisations.
- (4) The protection, advancement, upholding and fulfillment of human rights are the responsibility of the state, especially the government.
- (5) For the purpose of upholding and protecting human rights in accordance with the principle of a democratic and law-based state, the implementation of human rights shall be guaranteed, regulated and set forth in laws and regulations.

#### ARTICLE 28J

- (2) In exercising his/her rights and freedoms, every person shall have the duty to accept the restrictions established by law for the sole purposes of guaranteeing the recognition and respect of the rights and freedoms of others and of satisfying just demands based upon considerations of morality, religious values, security and public order in a democratic society.

### Section XIV: National Economy and Social Welfare

#### ARTICLE 33

- (3) The land and the waters as well as the natural riches therein are to be controlled by the state to be exploited to the greatest benefit of the people.
- (4) The organization of the national economy shall be based on economic democracy that upholds the principles of solidarity, efficiency along with fairness, sustainability, keeping the environment in perspective, self-sufficiency, and that is concerned as well with balanced progress and with the unity of the national economy. [Amended in 2002]

Source: <http://www.embassyofindonesia.org/about/pdf/IndonesianConstitution.pdf>

## Iran (1979, as amended)

### Chapter III: The Rights of the People

#### ARTICLE 34

It is the indisputable right of every citizen to seek justice by recourse to competent courts. All citizens have right of access to such courts, and no one can be barred from courts to which he has a legal right of recourse.

#### ARTICLE 40

No one is entitled to exercise his rights in a way injurious to others or detrimental to public interests.

### Chapter IV: Economy and Financial Affairs

#### ARTICLE 50

The preservation of the environment, in which the present as well as the future generations have a right to flourishing social existence, is regarded as a public duty in the Islamic Republic. Economic and other activities that inevitably involve pollution of the environment or cause irreparable damage to it are therefore forbidden.

### Chapter XI: The Judiciary

#### ARTICLE 156

The judiciary is an independent power, the protector of the rights of the individual and society, responsible for the implementation of justice, and entrusted with the following duties:

1. investigating and passing judgement on grievances, violations of rights, and complaints; the resolution of litigation; the settling of disputes; and the taking of all necessary decisions and measures in probate matters as the law may determine;
2. restoring public rights and promoting justice and legitimate freedoms; ...

Source: <http://www.servat.unibe.ch/icl/ir00000.html>

## Iraq (2005)

### Section One: Fundamental Principles

#### ARTICLE 2

First: Islam is the official religion of the State and is a foundation source of legislation:

- A. No law may be enacted that contradicts the established provisions of Islam
- B. No law may be enacted that contradicts the principles of democracy.
- C. No law may be enacted that contradicts the rights and basic freedoms stipulated in this Constitution.

### Section Two: Rights and Liberties

#### Chapter One: Rights

##### *First Part: Civil and Political Liberties*

#### ARTICLE 19

Third: Litigation shall be a protected and guaranteed right for all.

##### *Second Part: Economic, Social, and Cultural Liberties*

#### ARTICLE 33

First: Every individual has the right to live in a safe environment.

Second: The State undertakes the protection and preservation of the environment and biological diversity.

#### Chapter Two: Liberties

#### ARTICLE 46

Restricting or limiting the practice of any of the rights or liberties stipulated in this Constitution is prohibited, except by a law or on the basis of a law, and insofar as that limitation or restriction does not violate the essence of the right or freedom.

Source: [http://www.uniraq.org/documents/iraqi\\_constitution.pdf](http://www.uniraq.org/documents/iraqi_constitution.pdf)

## Italy (1948)

### Fundamental Principles

#### ARTICLE 9

- (1) The republic promotes cultural development and scientific and technical research.
- (2) It safeguards natural beauty and the historical and artistic heritage of the nation.

#### ARTICLE 24

- (1) Everyone may bring cases before a court of law in order to protect their rights under civil and administrative law.
- (2) Defense is an inviolable right at every stage and instance of legal proceedings.
- (3) The poor are entitled by law to proper means for action or defense in all courts.
- (4) The law defines the conditions and forms for reparation in the case of judicial errors.

Source: <http://servat.unibe.ch/icl/it00000 .html>

## Jamaica (2011)

### *Charter of Fundamental Rights and Freedoms (Constitutional Amendment) Act of 2011*

#### Chapter III: Charter of Fundamental Rights and Freedoms

##### SECTION 13

###### (1) Whereas

- (a) the state has an obligation to promote universal respect for, and observance of, human rights and freedoms;
- (b) all persons in Jamaica are entitled to preserve for themselves and future generations the fundamental rights and freedoms to which they are entitled by virtue of their inherent dignity as persons and as citizens of a free and democratic society; and
- (c) all persons are under a responsibility to respect and uphold the rights of others recognized in this Chapter,

the following provisions of this Chapter shall have effect for the purpose of affording protection to the rights and freedoms of persons as set out in those provisions, to the extent that those rights and freedoms do not prejudice the rights and freedoms of others.

###### (2) Subject to sections 18 and 49, and to subsections (9) and (12) of this section, and save only as may be demonstrably justified in a free and democratic society

- (a) this Chapter guarantees the rights and freedoms set out in subsections (3) and (6) of this section and in sections 14, 15, 16 and 17; and
- (b) Parliament shall pass no law and no organ of the State shall take any action which abrogates, abridges or infringes those rights.

###### (3) The rights and freedoms referred to in subsection (2) are as follows:

...

- (l) the right to enjoy a healthy and productive environment free from the threat of injury or damage from environmental abuse and degradation of the ecological heritage; ...

##### SECTION 15

- (1) No property of any description shall be compulsorily taken possession of and no interest in or right over property of any description shall be compulsorily acquired except by or under the provisions of a law that



- (a) prescribes the principles on which and the manner in which compensation therefor is to be determined and given; and
  - (b) secures to any person claiming an interest in or right over such property a right of access to a court for the purpose of
    - (i) establishing such interest or right (if any);
    - (ii) determining the compensation (if any) to which he is entitled; and
    - (iii) enforcing his right to any such compensation ...
- (3) Nothing in this section shall be construed as affecting the making or operation of any law so far as it
  - (a) makes such provisions as are reasonably required for the protection of the environment; ...

#### SECTION 19

- (1) If any person alleges that any of the provisions of this Chapter has been, is being or is likely to be contravened in relation to him, then, without prejudice to any other action with respect to the same matter which is lawfully available, that person may apply to the Supreme Court for redress.
- (2) Any person authorized by law, or, with the leave of the Court, a public or civic organization, may initiate an application to the Supreme Court on behalf of persons who are entitled to apply under subsection (1) for a declaration that any legislative or executive act contravenes the provisions of this Chapter.
- (3) The Supreme Court shall have original jurisdiction to hear and determine any application made by any person in pursuance of subsection (1) of this section and may make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing, or securing the enforcement of, any of the provisions of this Chapter to the protection of which the person concerned is entitled.
- (4) Where any application is made for redress under this Chapter, the Supreme Court may decline to exercise its powers and may remit the matter to the appropriate court, tribunal or authority if it is satisfied that adequate means of redress for the contravention alleged are available to the person concerned under any other law.
- (5) Any person aggrieved by any determination of the Supreme Court under this section may appeal therefrom to the Court of Appeal.
- (6) Parliament may make provision or authorize the making of provision with respect to the practice and procedure of any court for the purposes of this section and may confer upon that court such powers, or may authorize the conferment thereon of such powers, in addition to those conferred by this section, as may appear to be necessary or desirable for the purpose of enabling that court more effectively to exercise the jurisdiction conferred upon it by this section.

Source: [http://www.japarliament.gov.jm/attachments/339\\_The%20Charter%20of%20Fundamental%20Rights%20and%20Freedoms%20%28Constitutional%20Amendment%29%20Act,%202011.pdf](http://www.japarliament.gov.jm/attachments/339_The%20Charter%20of%20Fundamental%20Rights%20and%20Freedoms%20%28Constitutional%20Amendment%29%20Act,%202011.pdf)

## Kazakhstan (1995, as amended)

### Section II: Man and Citizen

#### ARTICLE 13

2. Everyone shall have the right to judicial defence of his rights and freedoms.
3. Everyone shall have the right to qualified legal assistance. In cases stipulated by law, legal assistance shall be provided free of charge.

#### ARTICLE 31

1. The State shall set objectives to protect the environment favorable for the life and health of the people.
2. Officials shall be held accountable, in accordance with law, for the concealment of facts and circumstances endangering the life and health of the people.

#### ARTICLE 38

Citizens of the Republic of Kazakhstan must preserve nature and protect natural resources.

Source: <http://www.cicce.org/pix/pdf/kazakhstan.pdf>

# Kenya (2010)

## Preamble

We, the people of Kenya— ...

RESPECTFUL of the environment, which is our heritage, and determined to sustain it for the benefit of future generations; ...

## Chapter 2: The Republic

### ARTICLE 10

(2) The national values and principles of governance include—

...

(d) sustainable development.

## Chapter 4: The Bill of Rights

### *Part 1: General Provisions Relating to the Bill of Rights*

### ARTICLE 19

- (1) The Bill of Rights is an integral part of Kenya's democratic state and is the framework for social, economic and cultural policies.
- (2) The purpose of recognising and protecting human rights and fundamental freedoms is to preserve the dignity of individuals and communities and to promote social justice and the realisation of the potential of all human beings.
- (3) The rights and fundamental freedoms in the Bill of Rights—
  - (a) belong to each individual and are not granted by the State;
  - (b) do not exclude other rights and fundamental freedoms not in the Bill of Rights but recognised or conferred by law, except to the extent that they are inconsistent with this Chapter; and
  - (c) are subject only to the limitations contemplated in this Constitution.

### ARTICLE 20

- (1) The Bill of Rights applies to all law and binds all State organs and all persons.
- (2) Every person shall enjoy the rights and fundamental freedoms in the Bill of Rights to the greatest extent consistent with the nature of the right or fundamental freedom.
- (3) In applying a provision of the Bill of Rights, a court shall—
  - (a) develop the law to the extent that it does not give effect to a right or fundamental freedom; and
  - (b) adopt the interpretation that most favours the enforcement of a right or fundamental freedom.

## ARTICLE 22

- (1) Every person has the right to institute court proceedings claiming that a right or fundamental freedom in the Bill of Rights has been denied, violated or infringed, or is threatened.
- (2) In addition to a person acting in their own interest, court proceedings under clause (1) may be instituted by—
  - (a) a person acting on behalf of another person who cannot act in their own name;
  - (b) a person acting as a member of, or in the interest of, a group or class of persons;
  - (c) a person acting in the public interest; or
  - (d) an association acting in the interest of one or more of its members.

## ARTICLE 24

- (1) A right or fundamental freedom in the Bill of Rights shall not be limited except by law, and then only to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors, including—
  - (a) the nature of the right or fundamental freedom;
  - (b) the importance of the purpose of the limitation;
  - (c) the nature and extent of the limitation;
  - (d) the need to ensure that the enjoyment of rights and fundamental freedoms by any individual does not prejudice the rights and fundamental freedoms of others; and
  - (e) the relation between the limitation and its purpose and whether there are less restrictive means to achieve the purpose.
- (2) Despite clause (1), a provision in legislation limiting a right or fundamental freedom—
  - (a) in the case of a provision enacted or amended on or after the effective date, is not valid unless the legislation specifically expresses the intention to limit that right or fundamental freedom, and the nature and extent of the limitation;
  - (b) shall not be construed as limiting the right or fundamental freedom unless the provision is clear and specific about the right or freedom to be limited and the nature and extent of the limitation; and
  - (c) shall not limit the right or fundamental freedom so far as to derogate from its core or essential content.

- (3) The State or a person seeking to justify a particular limitation shall demonstrate to the court, tribunal or other authority that the requirements of this Article have been satisfied.
- (4) The provisions of this Chapter on equality shall be qualified to the extent strictly necessary for the application of Muslim law before the Kadhis' courts, to persons who profess the Muslim religion, in matters relating to personal status, marriage, divorce and inheritance.
- (5) Despite clause (1) and (2), a provision in legislation may limit the application of the rights or fundamental freedoms in the following provisions to persons serving in the Kenya Defence Forces or the National Police Service—
  - (a) Article 31—Privacy;
  - (b) Article 36—Freedom of association;
  - (c) Article 37—Assembly, demonstration, picketing and petition;
  - (d) Article 41—Labour relations;
  - (e) Article 43—Economic and social rights; and
  - (f) Article 49—Rights of arrested persons.

#### ARTICLE 25

Despite any other provision in this Constitution, the following rights and fundamental freedoms shall not be limited—

- (a) freedom from torture and cruel, inhuman or degrading treatment or punishment;
- (b) freedom from slavery or servitude;
- (c) the right to a fair trial; and
- (d) the right to an order of habeas corpus.

#### *Part 2: Rights and Fundamental Freedoms*

#### ARTICLE 42

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.

#### ARTICLE 43

- (1) Every person has the right—

- (a) to the highest attainable standard of health, which includes the right to health care services, including reproductive health care;
  - (b) to accessible and adequate housing, and to reasonable standards of sanitation;
  - (c) to be free from hunger, and to have adequate food of acceptable quality;
  - (d) to clean and safe water in adequate quantities;
  - (e) to social security; and
  - (f) to education.
- (2) A person shall not be denied emergency medical treatment.
  - (3) The State shall provide appropriate social security to persons who are unable to support themselves and their dependents.

#### ARTICLE 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.

#### ARTICLE 58

(6) Any legislation enacted in consequence of a declaration of a state of emergency—

- (a) may limit a right or fundamental freedom in the Bill of Rights only to the extent that—
  - (i) the limitation is strictly required by the emergency; and
  - (ii) the legislation is consistent with the Republic's obligations under international law applicable to a state of emergency; and
- (b) shall not take effect until it is published in the Gazette.

### *Part 5: Kenya National Human Rights and Equality Commission*

#### ARTICLE 59

- (1) There is established the Kenya National Human Rights and Equality Commission.
- ...
- (3) Every person has the right to complain to the Commission, alleging that a right or fundamental freedom in the Bill of Rights has been denied, violated or infringed, or is threatened.

## Chapter 5: Land And Environment

### *Part 1: Land*

#### ARTICLE 60

(1) Land in Kenya shall be held, used and managed in a manner that is equitable, efficient, productive and sustainable, and in accordance with the following principles—

- (a) equitable access to land;
- (b) security of land rights;
- (c) sustainable and productive management of land resources;
- (d) transparent and cost effective administration of land;
- (e) sound conservation and protection of ecologically sensitive areas;
- (f) elimination of gender discrimination in law, customs and practices related to land and property in land; and
- (g) encouragement of communities to settle land disputes through recognised local community initiatives consistent with this Constitution.

### *Part 2: Environment and Natural Resources*

#### ARTICLE 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;
- (b) work to achieve and maintain a tree cover of at least ten per cent of the land area of Kenya;
- (c) protect and enhance intellectual property in, and indigenous knowledge of, biodiversity and the genetic resources of the communities;
- (d) encourage public participation in the management, protection and conservation of the environment;
- (e) protect genetic resources and biological diversity;
- (f) establish systems of environmental impact assessment, environmental audit and monitoring of the environment;
- (g) eliminate processes and activities that are likely to endanger the environment; and



- (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.

#### ARTICLE 70

- (1) If a person alleges that a right to a clean and healthy environment recognised and protected under Article 42 has been, is being or is likely to be, denied, violated, infringed or threatened, the person may apply to a court for redress in addition to any other legal remedies that are available in respect to the same matter.
- (2) On application under clause (1), the court may make any order, or give any directions, it considers appropriate—
  - (a) to prevent, stop or discontinue any act or omission that is harmful to the environment;
  - (b) to compel any public officer to take measures to prevent or discontinue any act or omission that is harmful to the environment; or
  - (c) to provide compensation for any victim of a violation of the right to a clean and healthy environment.
- (3) For the purposes of this Article, an applicant does not have to demonstrate that any person has incurred loss or suffered injury.

#### ARTICLE 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; and
  - (b) is entered into on or after the effective date.
- (2) Parliament shall enact legislation providing for the classes of transactions subject to ratification under clause (1).

#### ARTICLE 72

Parliament shall enact legislation to give full effect provisions of this Part.

### Chapter 10: The Judiciary

#### *Part I: Judicial Authority and Legal System*

## ARTICLE 162

- (1) The superior courts are the Supreme Court, the Court of Appeal, the High Court and the courts mentioned in clause (2).
- (2) Parliament shall establish courts with the status of the High Court to hear and determine disputes relating to—
  - (a) employment and labour relations; and
  - (b) the environment and the use and occupation of, and title to, land.

## Chapter 12: Public Finance

### *Part I: Principles and Framework of Public Finance*

## ARTICLE 204

- (1) There is established an Equalisation Fund into which shall be paid one half per cent of all the revenue collected by the national government each year calculated on the basis of the most recent audited accounts of revenue received, as approved by the National Assembly.
- (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 by the rest of the nation, so far as possible.

## Chapter 17: General Provisions

## ARTICLE 258

- (1) Every person has the right to institute court proceedings, claiming that this Constitution has been contravened, or is threatened with contravention.
- (2) In addition to a person acting in their own interest, court proceedings under clause (1) may be instituted by—
  - (a) a person acting on behalf of another person who cannot act in their own name;
  - (b) a person acting as a member of, or in the interest of, a group or class of persons;
  - (c) a person acting in the public interest; or
  - (d) an association acting in the interest of one or more of its members.

Source: [www.coekenya.go.ke/images/stories/Resources/the\\_proposed\\_constitution\\_of\\_kenya.pdf](http://www.coekenya.go.ke/images/stories/Resources/the_proposed_constitution_of_kenya.pdf)

## Kuwait (1962)

### Part II: Fundamental Constitutents of the Kuwaiti Society

#### ARTICLE 21. NATURAL RESOURCES

Natural resources and all revenues there from are the property of the State. It shall ensure their preservation and proper exploitation due regard being given to the requirements of State security and the national economy.

### Part IV: Powers

#### Chapter V: The Judicial Power

#### ARTICLE 166. RECOURSE TO THE COURTS

The right of recourse to the Courts is guaranteed to all people. Law prescribes the procedure and manner necessary for the exercise of this right.

#### ARTICLE 173. CONSTITUTIONAL REVIEW

- (1) The law specifies the judicial body competent to deciding disputes relating to the constitutionality of laws and regulations and determines its jurisdiction and procedure.
- (2) The law ensures the right of both the Government and the interested parties to challenge the constitutionality of laws and regulations before the said body.
- (3) If the said body decides that a law or a regulation is unconstitutional, it is considered null and void.

Source: <http://www.servat.unibe.ch/icl/ku00000 .html>

# Kyrgyzstan (1993)

## Chapter I: The Kyrgyz Republic

### *Section 1: General Principles*

#### ARTICLE 4(5)

The land, its underlying resources, airspace, water bodies, forests, flora and fauna, and other natural resources shall be the property of the Kyrgyz Republic, shall be used as the basis of life and activity of the people of Kyrgyzstan and shall enjoy special protection from the State.

## Chapter II: Citizens

### *Section 2: The Rights and Freedoms of the Individual*

#### ARTICLE 15

1. Dignity of an individual in the Kyrgyz Republic shall be absolute and inviolable.
2. The basic human rights and freedoms shall belong to every person from birth. They shall be recognized as absolute, inalienable and protected by law and the courts from infringement by any other person.
3. All persons in the Kyrgyz Republic are equal before law and the court. No person shall be subject to any kind of discrimination, violation of his rights and freedoms on the ground of ethnic origin, sex, race, nationality, language, religion, political and religious convictions, as well as under other conditions and circumstances of private or social nature.
4. Human rights and freedoms are valid in the Kyrgyz Republic. Such rights shall determine the meaning, content and application of the laws, shall be respected by legislative and executive branches and local self-government, and shall be guaranteed by the judicial system.

#### ARTICLE 17

1. In the Kyrgyz Republic no laws shall be enacted which abolish or infringe on human rights and freedoms.
2. Restrictions on the exercise of rights and freedoms shall be allowed by the Constitution and laws of the Kyrgyz Republic only for the purposes of guaranteeing rights and freedoms of other persons providing public safety and constitutional order. In such cases, the essence of the constitutional rights and freedoms shall not be effected.

## Chapter 2: Citizens

### *Section 3: The Rights and Duties of a Citizen*

#### ARTICLE 35

1. Citizens of the Kyrgyz Republic shall have the right to a healthy, safe environment and to compensation for damage caused to one's health or property by activities involving the exploitation of natural assets.

#### ARTICLE 38

1. It is the duty of the state and all its bodies and officials to provide for full, absolute and immediate protection of the rights and freedoms of citizens, to prevent the infringement of rights in this sphere and to restore the violated provision.
2. The Kyrgyz Republic shall guarantee judicial defence of all the rights and freedoms of citizens established by the Constitution and laws.

#### ARTICLE 40

Every citizen in the Kyrgyz Republic shall be guaranteed effective legal assistance and defence of the rights and freedoms provided for by the Constitution.

Source: (constitution) [http://confinder.richmond.edu/admin/docs/kyrgyz\\_const.pdf](http://confinder.richmond.edu/admin/docs/kyrgyz_const.pdf); (2010 amendments in Russian) <http://www.24kg.org/konstitucija2010/74533-v-kyrgyzstane-podgotovlen-okonchatelnyj-proekt.html>

## Laos (1991)

### Chapter II: The Socio-Economic System

#### ARTICLE 17

All organizations and citizens must protect the environment and natural resources: land, underground, forests, fauna, water sources and atmosphere.

Source: <http://www.un.int/lao/constitution.htm>

## Latvia (1998)

### Chapter VIII: Fundamental Human Rights

#### ARTICLE 92

Everyone has the right to defend his rights and lawful interests in a fair court. Everyone shall be presumed innocent until his guilt has been established in accordance with law. Everyone, where his rights are violated without basis, has a right to commensurate compensation. Everyone has a right to the assistance of counsel.

#### ARTICLE 115

The State shall protect the right of everyone to live in a benevolent environment by providing information about environmental conditions and by promoting the preservation and improvement of the environment.

#### ARTICLE 116

The rights of persons set out in Articles ninety-six, ninety-seven, ninety-eight, one hundred, one hundred and two, one hundred and three, one hundred and six, and one hundred and eight of the Constitution may be subject to restrictions in circumstances provided for by law in order to protect the rights of other people, the democratic structure of the State, and public safety, welfare and morals. On the basis of the conditions set forth in this Article, restrictions may also be imposed on the expression of religious beliefs.

Source: <http://www.satv.tiesa.gov.lv/?lang=2&mid=8>

## Lesotho (1993)

### Chapter III: Principles of State Policy

#### ARTICLE 25. APPLICATION OF THE PRINCIPLES OF STATE POLICY

The principles contained in this Chapter shall form part of the public policy of Lesotho. These principles shall not be enforceable by any court but, subject to the limits of the economic capacity and development of Lesotho, shall guide the authorities and agencies of Lesotho, and other public authorities, in the performance of their functions with a view to achieving progressively, by legislation or otherwise, the full realisation of these principles.

#### ARTICLE 27. PROTECTION OF HEALTH

- (1) Lesotho shall adopt policies aimed at ensuring the highest attainable standard of physical and mental health for its citizens, including policies designed to: ...
  - (b) improve environmental and industrial hygiene

#### ARTICLE 36. PROTECTION OF THE ENVIRONMENT

Lesotho shall adopt policies designed to protect and enhance the natural and cultural environment of Lesotho for the benefit of both present and future generations and shall endeavour to assure to all citizens a sound and safe environment adequate for their health and well-being.

Source: <http://www.chr.up.ac.za/index.php/documents-by-country-database/lesotho.html>



# Lithuania (1992)

## Chapter I: The State of Lithuania

### ARTICLE 6

The Constitution shall be an integral and directly applicable act.  
Everyone may defend his rights by invoking the Constitution.

## Chapter II: The Human Being and the State

### ARTICLE 30

The person whose constitutional rights or freedoms are violated shall have the right to apply to court.  
Compensation for material and moral damage inflicted upon a person shall be established by law.

## Chapter IV: National Economy and Labour

### ARTICLE 53

- (1) The State shall take care of people's health and shall guarantee medical aid and services in the event of sickness. The procedure for providing medical aid to citizens free of charge at State medical facilities shall be established by law.
- (2) The State shall promote physical culture of the society and shall support sports.
- (3) The State and each person must protect the environment from harmful influences.

### ARTICLE 54

- (1) The State shall take care of the protection of the natural environment, wildlife and plants, individual objects of nature and areas of particular value and shall supervise a sustainable use of natural resources, their restoration and increase.®
- (2) The destruction of land and the underground, the pollution of water and air, radioactive impact on the environment as well as depletion of wildlife and plants shall be prohibited by law.

Source: <http://www3.lrs.lt/home/Konstitucija/Constitution.htm>

## Luxembourg (2007)

### ARTICLE 11.2

The State guarantees the protection of the human and natural environment, working to establish a sustainable balance between nature conservation, especially its capacity for renewal, and satisfying the needs of present and future generations.  
It promotes the protection and welfare of animals.

### ARTICLE 95.3

(1) The Constitutional Court decides on the conformity of laws with the Constitution.

### ARTICLE 113

Nothing in the Constitution can be suspended.

Source: (French) [http://www.legilux.public.lu/leg/textescoordonnes/compilation/code\\_administratif/VOL\\_1/CONST\\_DROITS\\_HOMMES.pdf](http://www.legilux.public.lu/leg/textescoordonnes/compilation/code_administratif/VOL_1/CONST_DROITS_HOMMES.pdf)

# Macedonia (1991)

## Part I: Basic Provisions

### ARTICLE 8

The fundamental values of the constitutional order of the Republic of Macedonia are: ...

- development based on proper urban and rural planning to promote and improve social well-being and protection and promotion of the environment and nature

## Part II: Basic Freedoms and Rights of the Individual and Citizen

### 2. Economic, Social and Cultural Rights

#### ARTICLE 43

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

Everyone is obliged to promote and protect the environment and nature.

The Republic provides conditions for the exercise of the right of citizens to a healthy environment.

### 3. Guarantees of Basic Freedoms and Rights

#### ARTICLE 50

Every citizen may invoke the protection of freedoms and rights determined by the Constitution before the regular courts, as well as before the Constitutional Court of Macedonia, through a procedure based upon the principles of priority and urgency. Judicial protection of the legality of individual acts of state administration, as well as of other institutions carrying out public mandates, is guaranteed.

A citizen has the right to be informed on human rights and basic freedoms as well as actively to contribute, individually or jointly with others, to their promotion and protection.

#### ARTICLE 54

The freedoms and rights of the individual and citizen can be restricted only in cases determined by the Constitution.

The freedoms and rights of the individual and citizen can be restricted during states of war or emergency, in accordance with the provisions of the Constitution.

The restriction of freedoms and rights cannot discriminate on grounds of sex, race, colour of skin, language, religion, national or social origin, property or social status.

The restriction of freedoms and rights cannot be applied to the right to life, the interdiction of torture, inhuman and humiliating conduct and punishment, the legal determination of punishable offences and sentences, as well as to the freedom of personal conviction, conscience, thought and religious confession.

#### 4. Foundations for Economic Relations

##### ARTICLE 55

The freedom of the market and entrepreneurship is guaranteed. ...

The freedom of the market and entrepreneurship can be restricted by law only for reasons of the defence of the Republic, protection of nature and environment, or public health.

##### ARTICLE 56

All the natural resources of the Republic of Macedonia, the flora and fauna, the amenities in common use, as well as the objects and buildings of particular cultural or historical value determined by law, are goods of common interest for the Republic and enjoy special protection.

### Part III: The Organization of State Authority

#### 1. The Assembly of the Republic of Macedonia

##### ARTICLE 77

The Assembly elects the Public Attorney by a majority vote of the total number of Representatives, within which there must be a majority of the votes of the total number of Representatives who belong to communities not in the majority in the population of Macedonia.

The Public Attorney protects the constitutional and legal rights of citizens when these are violated by bodies of state administration and by other bodies and organizations with public mandates. The Public Attorney shall give particular attention to safeguarding the principles of non-discrimination and equitable representation of communities in public bodies at all levels and in other areas of public life.

The Public Attorney is elected for a term of eight years, with the right to one reelection.

The conditions for election and dismissal, the sphere of competence and the mode of work of the Public Attorney are regulated by law.

Source: <http://www.sobranie.mk/en/default.asp?vidi=ustav>

# Madagascar, Republic of (1998)<sup>5</sup>

## Preamble

... Aware, in the name of humanism, of the necessity to reconcile Man as much with his creator and his kin as with nature and its environment, as well as of the exceptional importance of the richness and the plant, animal, and mineral resources unique to it, which nature has endowed Madagascar with and that it is important to preserve for future generations; ...

## Title II: Freedoms, Rights, and Duties of Citizens

### Section I: Civil and Political Rights and Duties

#### ARTICLE 13

(6) The law shall assure everyone access to justice; lack of resources will not be an obstacle.

### Section II: Economic, Social, and Cultural Rights and Duties

#### ARTICLE 35

The Fokonolona may take appropriate measures to prevent destruction of their environment, loss of their land, seizure of herds of cattle, or loss of their ceremonial heritage, unless these measures jeopardize the common interest or public order. The coverage and terms of these provisions shall be determined by law.

#### ARTICLE 37

The State guarantees the freedom of enterprise within the limits of respect for the general interest, the public order and the environment.

#### ARTICLE 39

Everyone shall have the duty to respect cultural values, the public good, and the environment.

The State shall, with the participation of the autonomous provinces, assure the protection, conservation, and improvement of the environment through appropriate means.

Source: [http://www.servat.unibe.ch/law/icl/ma00000\\_.html](http://www.servat.unibe.ch/law/icl/ma00000_.html); (French, including minor revisions from 2007) <http://www.primature.gov.mg/webfiles/Projet-Rev-Constitution.pdf>

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<sup>5</sup> A new constitution was adopted by Madagascar in 2010. Minor revisions to these articles may be viewed in French at <http://aceproject.org/ero-en/regions/africa/MG/madagascar-2010-constitution-2011-french/view>.

# Malawi (1994)

## Chapter III: Fundamental Principles

### ARTICLE 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—

- 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.

### ARTICLE 14

The principles of national policy contained in this Chapter shall be directory in nature but courts shall be entitled to have regard to them in interpreting and applying any of the provisions of this Constitution or of any law or in determining the validity of decisions of the executive and in the interpretation of the provisions of this Constitution.

## Chapter IV: Human Rights

### ARTICLE 15

1. The human rights and freedoms enshrined in this Chapter shall be respected and upheld by the executive, legislature and judiciary and all organs of the Government and its agencies and, where applicable to them, by all natural and legal persons in Malawi and shall be enforceable in the manner prescribed in this Chapter.
2. Any person or group of persons with sufficient interest in the protection and enforcement of rights under this Chapter shall be entitled to the assistance of the courts, the Ombudsman, the Human Rights Commission and other organs of Government to ensure the promotion, protection and redress of grievance in respect of those rights.

### ARTICLE 41

1. Every person shall have a right to recognition as a person before the law.
2. Every person shall have access to any court of law or any other tribunal with jurisdiction for final settlement of legal issues.

3. Every person shall have the right to an effective remedy by a court of law or tribunal for acts violating the rights and freedoms granted to him by this Constitution or any other law.

#### ARTICLE 43

Every person shall have the right to:

- a) lawful and procedurally fair administrative action, which is justifiable in relation to reasons given where his or her rights, freedoms, legitimate expectations or interests are affected or threatened; and
- b) be furnished with reasons in writing for administrative action where his or her rights, freedoms, legitimate expectations or interests if those interests are known.

#### ARTICLE 44

1. There shall be no derogation, restrictions or limitation with regard to:
  - a) the right to life; ...
2. Without prejudice to subsection (1), no restrictions or limitations may be placed on the exercise of any rights and freedoms provided for in this Constitution other than those prescribed by law, which are reasonable, recognized by international human rights standards and necessary in an open and democratic society.
3. Laws prescribing restrictions or limitations shall not negate the essential content of the right or freedom in question, shall be of general application

#### ARTICLE 46

1. Save in so far as it may be authorized to do so by this Constitution, the National Assembly or any subordinate legislative authority shall not make any law, and the executive and the agencies of Government shall not take any action which abolishes or abridges the fundamental rights and freedoms conferred by this Chapter, and any law or action in contravention thereof shall, to the extent of the contravention, be invalid.
2. Any person who claims that a fundamental right or freedom guaranteed by this Constitution has been infringed or threatened shall be entitled:
  - a) to make application to a competent court to enforce or protect such a right or freedom; and
  - b) to make application to the Ombudsman or the Human Rights Commission in order to secure such assistance or advice as he or she may reasonably require.
3. Where a court referred to in subsection (2)(a) finds that rights or freedoms conferred by this Constitution have been unlawfully denied or violated, it shall have the power to make any orders that are necessary and appropriate to secure the enjoyment of

those rights and freedoms and where a court finds that a threat exists to such rights or freedoms, it shall have the power to make any orders necessary and appropriate to prevent those rights and freedoms from being unlawfully denied or violated.

4. A court referred to in subsection (2)(a) shall have the power to award compensation to any person whose rights or freedoms have been unlawfully denied or violated where it considers it to be appropriate in the circumstances of a particular case.
5. The law shall prescribe criminal penalties for violations of those non-derogable rights listed in subsection 44(1).

## Chapter XI: Human Rights Commission

### ARTICLE 129

There shall be a Human Rights Commission, the primary functions of which shall be the protection and investigation of violations of the rights accorded by this Constitution or any other law.

### ARTICLE 130

The Human Rights Commission shall, with respect to the applications of an individual or class of persons, or on its own motion, have such powers of investigation and recommendation as are reasonably necessary for the effective promotion of the rights conferred by or under this Constitution, but shall not exercise a judicial or legislative function and shall not be given powers so to do.

Source: <http://www.sdn.org.mw/constitut/dtindx.html>



# Maldives (2008)

## Chapter I: State, Sovereignty, and Citizens

### ARTICLE 9. CITIZENS

- (a) The following persons are citizens of the Maldives:
1. citizens of the Maldives at the commencement of this Constitution;
  2. children born to a citizen of the Maldives; and
  3. foreigners who, in accordance with the law, become citizens of the Maldives.
- (b) No citizen of the Maldives may be deprived of citizenship.
- (c) Any person who wishes to relinquish his citizenship may do so in accordance with law.
- (d) Despite the provisions of article (a) a non-Muslim may not become a citizen of the Maldives.

## Chapter II: Fundamental Rights and Freedoms

### ARTICLE 16

- (a) This Constitution guarantees to all persons, in a manner that is not contrary to any tenet of Islam, the rights and freedoms contained within this Chapter, subject only to such reasonable limits prescribed by a law enacted by the People's Majlis in a manner that is not contrary to this Constitution. Any such law enacted by the People's Majlis can limit the rights and freedoms to any extent only if demonstrably justified in a free and democratic society.
- (b) The limitation of a right or freedom specified in this Chapter by a law enacted by the People's Majlis as provided for in this Constitution, and in order to protect and maintain the tenets of Islam, shall not be contrary to article (a).
- (c) In deciding whether a right or freedom in this Chapter, has been limited in accordance with article (a) and (b), a court must be fully cognisant of and make reference to all the facts, including:
1. the nature and character of the right or freedom;
  2. the purpose and importance of limiting the right or freedom;
  3. the extent and manner of limiting the right or freedom;
  4. the relationship between the limitation of the right or freedom and the importance of the right or freedom;
  5. the extent to which the objective for which the right or freedom has been limited could have been achieved by limiting the right or freedom to a lesser degree;
  6. the extent to which the right or freedom must be limited in order to

protect the tenets of Islam, where the right or freedom has been limited pursuant to article (b).

- (d) The onus of establishing that the limitation to any extent, of a right or freedom included in this Chapter is within the reasonable limitations prescribed in this Constitution is on the State or the person asserting the limitation of the right or freedom.

#### **ARTICLE 22. PROTECTION OF THE ENVIRONMENT**

The State has a fundamental duty to protect and preserve the natural environment, biodiversity, resources and beauty of the country for the benefit of present and future generations. The State shall undertake and promote desirable economic and social goals through ecologically balanced sustainable development and shall take measures necessary to foster conservation, prevent pollution, the extinction of any species and ecological degradation from any such goals.

#### **ARTICLE 23. ECONOMIC AND SOCIAL RIGHTS**

Every citizen has the following rights pursuant to this Constitution, and the State undertakes to achieve the progressive realisation of these rights by reasonable measures within its ability and resources:

- (a) adequate and nutritious food and clean water;
- (b) clothing and housing;
- (c) good standards of health care, physical and mental;
- (d) a healthy and ecologically balanced environment;
- (e) equal access to means of communication, the State media, transportation facilities, and the natural resources of the country;
- (f) the establishment of a sewage system of a reasonably adequate standard on every inhabited island;
- (g) the establishment of an electricity system of a reasonably adequate standard on every inhabited island that is commensurate to that island.

#### **ARTICLE 43**

- (a) Everyone has the right to administrative action that is lawful, procedurally fair, and expeditious.
- (b) Everyone whose rights have been adversely affected by administrative action has the right to be given written reasons.
- (c) Where the rights of a person, a group or community has been adversely affected by administrative action, every such person, group or every person who may be directly affected by such action has the right to submit the matter to court.

#### ARTICLE 65. APPLICATION TO COURT TO OBTAIN A REMEDY

Anyone whose rights or freedoms, as guaranteed by this Chapter, have been infringed or denied may apply to a court to obtain a just remedy.

#### ARTICLE 67. RESPONSIBILITIES AND DUTIES

The exercise and enjoyment of fundamental rights and freedoms is inseparable from the performance of responsibilities and duties, and it is the responsibility of every citizen: ...

- (h) to preserve and protect the natural environment, biodiversity, resources and beauty of the country and to abstain from all forms of pollution and ecological degradation; ...

#### ARTICLE 68

When interpreting and applying the rights and freedoms contained within this Chapter, a court or tribunal shall promote the values that underlie an open and democratic society based on human dignity, equality and freedom, and shall consider international treaties to which the Maldives is a party.

#### ARTICLE 189

- (a) There shall be a Human Rights Commission of the Maldives.
- (b) The Human Rights Commission is an independent and impartial institution. It shall promote respect for human rights impartially without favour and prejudice.
- (c) The Human Rights Commission shall function as provided by the statute governing the Human Rights Commission. Such statute shall specify the responsibilities, powers, mandate, qualifications, and ethical standards of members.

#### ARTICLE 192

- (a) The Human Rights Commission's responsibilities and powers shall include the following:
  - 1. to promote respect for human rights;
  - 2. to promote the protection, development and attainment of human rights;
  - 3. to monitor and assess the observance of human rights.
- (b) The Human Rights Commission shall have the following functions and powers, as regulated by law:
  - 1. to investigate and to report on the observance of human rights;
  - 2. to take steps to secure appropriate redress where human rights have been violated;
  - 3. to carry out research, and to educate the public;
  - 4. to exercise such additional powers and functions prescribed by law.

## Chapter XI: State of Emergency

### ARTICLE 253

In the event of natural disaster, dangerous epidemic disease, war, threat to national security, or threatened foreign aggression, the President may declare a state of emergency in all or part of the country for a period not exceeding thirty days.

### ARTICLE 254

The declaration of a state of emergency shall specify the reasons for the declaration of an emergency, and include measures to deal with the emergency, which may include the temporary suspension of the operation of laws and infringement of certain fundamental rights and freedoms guaranteed by this Constitution in Chapter 2.

### ARTICLE 255

(a) Measures adopted in an emergency shall not contravene this Article.

(b) Measures adopted in an emergency shall not restrict the following rights and freedoms contained in the following Articles of this Constitution:

1. Article 21 (right to life);
2. Article 25 (no slavery or forced labour);
3. Article 27 (freedom of expression);
4. Article 28 (freedom of the media);
5. Article 42 (fair and transparent hearings);
6. Article 48 (b) (rights on arrest or detention);
7. Article 51 (rights of the accused);
8. Article 52 (confessions and illegal evidence);
9. Article 53 (assistance of legal counsel);
10. Article 54 (no degrading treatment or torture);
11. Article 55 (no imprisonment for nonfulfilment of contractual obligation);
12. Article 57 (humane treatment of arrested or detained persons);
13. Article 59 (retrospective legislation);
14. Article 60 (prohibition of double jeopardy);
15. Article 62 (retention of other rights);
16. Article 64 (non-compliance with unlawful orders).

- (c) Any infringement of rights and freedoms under this Constitution and the law shall be only to the extent strictly required by the emergency.
- (d) Measures adopted in an emergency shall be consistent with the obligations of the Maldives under international law applicable to states of emergency.

Source: <http://www.maldivesinfo.gov.mv/home/upload/downloads/Compilation.pdf>

# Mali (1992)

## Preamble

The Sovereign people of Mali ...  
undertake to assure the amelioration of the quality of life, the protection of the  
environment and cultural heritage ...

## Title I: The Rights and Duties of the Human Person

### ARTICLE 15

Every person has the right to a healthy environment. The protection, defense and  
promotion of the environment are an obligation for all and for the State.

## Title VI: Interaction Between the Cabinet and National Assembly

### ARTICLE 70

... Law shall establish regulations concerning:

- civic rights and fundamental guaranties provided to citizens so  
they may exercise their public liberties, constraints imposed by the  
National Defense on themselves and their possessions;

## Title VII: The Judiciary

### ARTICLE 81

The judicial power is independent of the executive and legislative powers. It shall be  
exercised by the Supreme Court and the other Courts and Tribunals.  
The power of the judiciary is the guardian of the liberties defined by this Constitution.  
It guards the rights and liberties defined by this Constitution.

## Title IX: The Constitutional Court

### ARTICLE 85

The Constitutional Court is the judge of the constitutionality of the laws and it shall  
guarantee the fundamental laws of the individual and public liberties. It is the  
regulating body of the functioning of the institutions and the activity of the Public  
Powers.

Source: <http://confinder.richmond.edu/admin/docs/Mali.pdf>

## Malta (1964)

### Chapter 2: Declaration of Principles

#### SECTION 9. [ENVIRONMENT, HISTORY, ARTS]

The State shall safeguard the landscape and the historical and artistic patrimony of the Nation.

#### SECTION 21. [APPLICATION OF THE PRINCIPLES CONTAINED IN THIS CHAPTER]

The provisions of this Chapter shall not be enforceable in any court, but the principles therein contained are nevertheless fundamental to the governance of the country and it shall be the aim of the State to apply these principles in making laws.

Source: <http://www.legal-malta.com/law/constitution.htm>

## Mauritania (1991)

### Preamble

With its spiritual values and influence of its civilization, it also proclaims solemnly, his attachment to Islam and the principles of democracy as they have been defined by the *Universal Declaration of Human Rights* of 10 December 1948 and the *African Charter on Human and Peoples Rights* of 28 June 1981 and in other international conventions to which Mauritania has signed.

Source: <http://www.chr.up.ac.za/index.php/documents-by-country-database/mauritania.html>



## Mexico (1992, amended in 1999)

### First Title

#### Chapter 1: Individual Guarantees

##### ARTICLE 4

... Every person has the right to live in an environment adequate for his development and wellbeing. ... [Added to Article 4 on 28 June, 1999]

##### ARTICLE 17

No person may take the law into his or her own hands or resort to violence in the enforcement of his or her rights.

Every person has the right to have quick, complete and impartial justice by courts, which shall be open for the administration of justice at such times and under such conditions as established by law. The courts' services shall be gratuitous and all judicial costs are, therefore, prohibited.

##### ARTICLE 25

The State is responsible for the direction of the national development, and ensuring that it is complete and sustainable ...

Economic enterprises of the social and economic sectors will be supported and encouraged under criteria of social equality and productivity, subject to the methods dictated by the public interest and the use to the general benefit, of all productive resources ensuring both their conservation and the environment. [Amended in 1999]

##### ARTICLE 27

The Nation shall at all times have the right to impose on private property such limitations as the public interest may demand, as well as the right to regulate the utilization of natural resources which are susceptible of appropriation, in order to ensure a more equitable distribution of public wealth, look after their conservation, achieve a more balanced development of the country and improvement of life for the rural and urban populations. Consequently, necessary measures shall be taken to organize human settlements and establish adequate provisions, uses, reserves, and end uses of lands, waters, and forests with the purpose of carrying out public works and planning and regulating their construction, conservation, improvement, and growth of centers of population; to preserve and restore ecological balance; to divide up large estates; to manage, consistent with the terms of the applicable regulations and law, the organization and collective functioning of common public lands and communities; to secure the development of small rural property; to encourage agriculture, ranching, forestry, and various economic activities in the rural setting; and to prevent the destruction of natural resources, and to protect property from damage to the detriment of society.

## Third Title

### Chapter IV: Judicial Power

#### ARTICLE 102

- B. The Congress of the Union and the legislatures of the federal entities, within the ambit of their respective competences, shall establish organs to safeguard the human rights guaranteed by the Mexican juridical order, which shall acquaint themselves with all complaints against the acts or omissions of an administrative nature committed by any public authority or official, with the exception of those of the Judicial Power of the Federation, that violate these rights.

The organs referred to in the preceding paragraph shall formulate non-binding public recommendations and denunciations and complaints before the respective authorities.

These organs shall not be competent in any electoral, labor, or jurisdictional matters.

The organ to be established by the Congress of the Union shall be known as the National Commission on Human Rights, which shall be autonomous in its management and budget, juridical personality, and its possessions. ...

#### ARTICLE 103

The Federal Courts shall resolve all controversies that arise:

- I. From acts of the authority that violate individual guarantees.

#### ARTICLE 107

All controversies referred to in Article 103 shall be subject to procedures and forms of the juridical order determined by law, in accordance with the following bases:

- I. A trial for judicial relief (*amparo*) shall always be held at the instance of the injured party.
- II. The judgment shall always be such that it affects only private individuals, being limited to affording them redress and protection in the particular case to which the complainant refers without making any general declaration as to the law or act on which the complaint is based. ...

Source: (Spanish) <http://www.diputados.gob.mx/LeyesBiblio/pdf/1.pdf>

# Micronesia (1978)

## Preamble

With this Constitution, we affirm our common wish to live together in peace and harmony, to preserve the heritage of the past, and to protect the promise of the future.  
... Our islands sustain us ...

## Article XIII: General Provisions

### SECTION 2

Radioactive, toxic chemical, or other harmful substances may not be tested, stored, used, or disposed of within the jurisdiction of the Federated States of Micronesia without the express approval of the national government of the Federated States of Micronesia.

Source: <http://fsmLaw.org/fsm/constitution/constitution.htm>

# Moldova (1994)

## Preamble

We, the Parliamentary representatives of the people of Moldova, ...

CONSCIOUS of our responsibility and duties towards the past, present, and future generations ...

Herewith adopt for our country this Constitution, and proclaim it to be the supreme law of our society and state.

## Title II: Fundamental Rights, Freedoms, and Duties

### Chapter II: Fundamental Rights and Freedoms

#### ARTICLE 20. FREE ACCESS TO JUSTICE

- (1) Any individual person shall be entitled to obtain effective reparation from the part of competent courts of law against actions infringing upon his/her legitimate rights, freedoms and interests.
- (2) No law may restrict the access to justice.

#### ARTICLE 37. THE RIGHT TO LIVE IN A HEALTHY ENVIRONMENT

- (1) Every human being has the right to live in an environment that is ecologically safe for life and health, to obtain healthy food products and safe household goods.
- (2) The State guarantees every citizen the right of free access to truthful information regarding the state of the natural environment, the living and working conditions, and the quality of food products and household goods.
- (3) Non-disclosure or falsification of information regarding factors detrimental to human health constitute offenses punishable by law.
- (4) Private individuals and legal entities shall be held responsible before the law for any damages they may cause to personal health and property due to an ecological offense.

#### ARTICLE 46. THE RIGHT TO PRIVATE PROPERTY AND ITS PROTECTION

- (5) The right of private property carries with it the duty to observe the rules regarding the protection of the environment, the maintenance of good neighbourly relations and the observance of all the other duties that have to be fulfilled by owners of private property under the law.

#### ARTICLE 54. RESTRICTION ON THE EXERCISE OF CERTAIN RIGHTS OR FREEDOMS

- (1) In the Republic of Moldova no law may be adopted which might curtail or restrict the fundamental rights and liberties of the person and citizen.
- (2) The pursuit of the rights and freedoms may not be subdued to other restrictions unless for those provided for by the law, which are in compliance with the unanimously recognized norms of the international law and are requested in such

cases as: the defence of national security, territorial integrity, economic welfare of the State, public order, with the view to prevent the mass revolt and felonies, protect other persons' rights, liberties and dignity, impede the disclosure of confidential information or guarantee the power and impartiality of justice.

- (3) The provisions under paragraph (2) shall not allow the restrictions of the rights sanctioned in Articles 20-24.
- (4) The restriction enforced must be proportional to the situation that caused it and may not affect the existence of that right or liberty.

## Title II: Fundamental Rights, Freedoms, and Duties

### Chapter III: Fundamental Duties

#### ARTICLE 59. PROTECTION OF ENVIRONMENT AND PUBLIC MONUMENTS

It is the duty of every citizen to protect the natural environment, and to preserve and protect the country's historical and cultural sites and monuments.

## Title IV: National Economy and Public Finance

#### ARTICLE 126. THE ECONOMY

- (2) The state must ensure ...
  - (f) the restoration and protection of the environment and the maintenance of ecological balance; ...

## Title VI: Revision of the Constitution

#### ARTICLE 142. LIMITS OF REVISION

- (1) The provisions regarding the sovereignty, independence and unity of the State, as well as those regarding the permanent neutrality of the State may be revised only by referendum based on a majority vote of the registered voting citizens.
- (2) No revision shall be performed, if it implies the infringement of fundamental rights and freedoms of citizens, or their guarantees.
- (3) The Constitution may not be revised under a state of national emergency, martial law or war.

Source: <http://confinder.richmond.edu/admin/docs/moldova3.pdf>

# Mongolia (1992)

## Chapter One: Sovereignty of Mongolia

### ARTICLE 6

- (1) The land, its subsoil, forests, water, fauna, and flora and other natural resources are subject to national sovereignty and state protection. ...
- (4) The State has the right to hold landowners responsible regarding the manner the land is used, to exchange or take it over with compensation on the grounds of special public need, or confiscate the land if it is used in a manner adverse to the health of the population, the interests of environmental protection, or national security.

## Chapter Two: Human Rights and Freedoms

### ARTICLE 16

The citizens of Mongolia shall enjoy the following fundamental rights and freedoms:

- 1) The right to life ...
- 2) The right to healthy and safe environment and to be protected against environmental pollution and ecological imbalance. ...
- 14) The right to appeal to the court for protection if one considers the rights or freedoms spelt out by the Mongolian law or an international treaty to have been violated;

### ARTICLE 17

- (2) It is a sacred duty for every citizen to work, protect his or her health, bring up and educate his or her children and to protect nature and the environment.

### ARTICLE 19

- (1) The State is responsible to the citizens for the creation of economic, social, legal, and other guarantees ensuring human rights and freedoms, for the prevention of violations of human rights and freedoms, and restoration of infringed rights.
- (2) In case of a state of emergency or war, the human rights and freedoms as defined by the Constitution and other laws are subject to limitation only by a law. Such a law may not affect the right to life, the freedom of thought, conscience, and religion, as well as the right not to be subjected to torture or inhuman and cruel treatment.
- (3) In exercising one's rights and freedoms, one may not infringe the national security or rights and freedoms of others or violate public order.

## Chapter Five: The Constitutional Court

### ARTICLE 66

- (1) The Constitutional Court examines and settles constitutional disputes at the request of the National Parliament, the President, the Prime Minister, the Supreme Court,

and the Prosecutor General, or on its own initiative on the basis of petitions and information received from citizens.

Source: [http://www.servat.unibe.ch/icl/mg00000\\_.html](http://www.servat.unibe.ch/icl/mg00000_.html)

# Montenegro (2007)

## Preamble

Stemming from:

The conviction that the state is responsible for the preservation of nature, sound environment, sustainable development, balanced development of all its regions and the establishment of social justice;

## Part One: Basic Provisions

### ARTICLE 16

The law, in accordance with the Constitution, shall regulate:

- 1) the manner of exercise of human rights and liberties, when this is necessary for their exercise;
- 2) the manner of exercise of the special minority rights; ...

## Part Two: Human Rights and Liberties

### Section 1: Common Provisions

### ARTICLE 20

Everyone shall have the right to legal remedy against the decision ruling on the right or legally based interest thereof.

### ARTICLE 21

Everyone shall have the right to legal aid.

Legal aid shall be provided by the bar, as an independent and autonomous profession, and by other services.

Legal aid may be provided free of charge, in accordance with the law.

### ARTICLE 23

Everyone shall have the right to a sound environment.

Everyone shall have the right to receive timely and full information about the status of the environment, to influence the decision-making regarding the issues of importance for the environment, and to legal protection of these rights.

Everyone, the state in particular, shall be bound to preserve and improve the environment.



#### ARTICLE 24

Guaranteed human rights and freedoms may be limited only by the law, within the scope permitted by the Constitution and to such an extent which is necessary to meet the purpose for which the limitation is allowed, in an open and democratic society. Limitations shall not be introduced for other purposes except for those for which they have been provided for.

#### ARTICLE 25

During the proclaimed state of war or emergency, the exercise of certain human rights and freedoms may be limited, to the necessary extent.

The limitations shall not be introduced on the grounds of sex, nationality, race, religion, language, ethnic or social origin, political or other beliefs, financial standing or any other personal feature.

There shall be no limitations imposed on the rights to: life, legal remedy and legal aid; dignity and respect of a person; fair and public trial and the principle of legality; presumption of innocence; defense; compensation of damage for illegal or ungrounded deprivation of liberty and ungrounded conviction; freedom of thought, conscience and religion; entry into marriage.

There shall be no abolishment of the prohibition of: inflicting or encouraging hatred or intolerance; discrimination; trial and conviction twice for one and the same criminal offence (*ne bis in idem*); forced assimilation.

Measures of limitation may be in effect at the most for the duration of the state of war or emergency.

### Part Two: Human Rights and Liberties

#### Section 4: Economic, Social, and Cultural Rights and Liberties

#### ARTICLE 59

Freedom of entrepreneurship shall be guaranteed.

Freedom of entrepreneurship may be limited only if so necessary in order to protect the health of the people, environment, natural resources, cultural heritage, or security and defense of Montenegro.

#### ARTICLE 78

Everyone shall be obliged to preserve natural and cultural heritage of general interest. The state shall protect the natural and cultural heritage.

### Part Two: Human Rights and Liberties

#### Section 6: Protector of Human Rights and Liberties

#### ARTICLE 81

The protector of human rights and liberties of Montenegro shall be independent and autonomous authority that takes measures to protect human rights and liberties.

The protector of human rights and liberties shall exercise duties on the basis of the Constitution, the law and the confirmed international agreements, observing also the principles of justice and fairness.

The protector of human rights and liberties shall be appointed for the period of six years and can be dismissed in cases envisaged by the law.

Source: <http://www.legislationline.org/documents/section/constitutions/country/57>

## MOROCCO (2011)

### Title II Fundamental Rights and Freedoms

#### ARTICLE 31

The State, public institutions, and territorial communities, are open to the mobilization of all available means to facilitate the access of all citizens to the conditions that permit their enjoyment of the rights:

...

- of access to water and to a healthy environment;
- to sustainable development.

#### ARTICLE 35

The right to property is guaranteed.

The law may limit the extent and exercise of this right if required for the economic and social development of the nation. Property cannot be expropriated except in accordance with the law.

The State guarantees free enterprise and free competition. It seeks the realization of sustainable human development that achieves social justice, preserves natural resources, and protects the rights of future generations.

### Title VII Judicial Powers

#### ARTICLE 117

The judge is in charge of the protection of the rights and freedoms of persons and groups, according to the law.

#### ARTICLE 118

The right of access to justice is guaranteed for all persons seeking to protect their rights and legally protected interests.

Source: <http://www.parlement.ma/fe/textesdebase1.php?filename=201108181122510>

# Mozambique (1990)

## Part I: Basic Principles

### Chapter IV: Economic and Social Organization

#### ARTICLE 37

The State shall promote efforts to guarantee the ecological balance and the conservation and preservation of the environment for the betterment of the quality of life of its citizens.

#### ARTICLE 38

Through the participation of citizens and the efficient use of human and material resources, the objective of State economic policy shall be to lay the fundamental bases for development, to improve the living conditions of the people, to strengthen the sovereignty of the State, and to consolidate national unity.

## Part II: Fundamental Rights, Duties, and Freedoms

### Chapter I: General Principles

#### ARTICLE 72

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

### Chapter II: Rights, Duties, Freedoms

#### ARTICLE 81

All citizens may contest acts that violate their rights recognized under the Constitution and other laws.

#### ARTICLE 82

All citizens shall have the right of recourse to the courts against any act which violates their rights recognized by the Constitution and the law.

### Chapter IV: Guarantees of Rights and Freedoms

#### ARTICLE 96

1. Individual rights and freedoms shall be guaranteed by the State and shall be exercised within the framework of the Constitution and the law.
2. The exercise of rights and freedoms may only be limited where the public order or individual rights, freedoms and guarantees are endangered, or where force is used or threatened.

#### ARTICLE 106

1. Individual freedoms and guarantees may only be temporarily limited or suspended in the event of declaration of a state of war, a state of siege, or a state of emergency.
2. A state of siege or state of emergency may not exceed six months and any extension must be made in the terms of the law.
3. The law shall define rules for a state of war, a state of siege and a state of emergency and shall establish judicial guarantees to protect the rights of citizens which are to be safeguarded.

### Part III: Organs of State

#### Chapter VI: The Courts

##### *Section 1: General Principles*

1. It shall be the function of the courts to guarantee and strengthen the rule of law as an instrument of legal stability to guarantee respect for the laws, to safeguard the rights and freedoms of citizens, as well as the juridical interests of other legal entities.
2. The courts shall educate citizens in the voluntary and conscious observance of laws, thus establishing a just and harmonious social community.
3. The courts shall punish violations of the legal order and shall adjudicate disputes in accordance with the law.

Source: [http://aceproject.org/regions-en/eisa/MZ/Constitution%20of%20Mozambique%201990.pdf/view?set\\_language=en](http://aceproject.org/regions-en/eisa/MZ/Constitution%20of%20Mozambique%201990.pdf/view?set_language=en)

# Myanmar (2008)

## Chapter I: Basic Principles of the Union

### ARTICLE 45

The Union shall protect and preserve the natural environment.

## Chapter VIII: Citizenship, Fundamental Rights and Duties of the Citizen

### ARTICLE 390

Every citizen has the duty to assist the Union with the following duties: ...

(6) environmental conservation

Source: <http://aceproject.org/ero-en/regions/asia/MM/Myanmar-Constitution-2010/view>

# Namibia (1990)

## Chapter X: The Ombudsman

### ARTICLE 91

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;

## Chapter 11: Principles of State Policy

### 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 101. [APPLICATION OF THE PRINCIPLES CONTAINED IN THIS CHAPTER]

The principles of state policy contained in this chapter shall not of and by themselves be legally enforceable by any Court, but shall nevertheless guide the Government in making and applying laws to give effect to the fundamental objectives of the said principles. The Courts are entitled to have regard to the said principles in interpreting any laws based on them.

Source: [http://www.servat.unibe.ch/icl/wa00t\\_.html](http://www.servat.unibe.ch/icl/wa00t_.html)

## Nepal (2006)

### Part 3: Fundamental Rights

#### 16. RIGHT REGARDING ENVIRONMENT AND HEALTH

- (1) Every person shall have the right to live in clean environment.
- (2) Every citizen shall have the right to get basic health service free of cost from the State as provided for in the law.

#### 32. RIGHT TO CONSTITUTIONAL REMEDY

The right to proceed in the manner set forth in Article 107 for the enforcement of the rights conferred in this part is guaranteed.

### Part 4: Responsibilities, Directive Principles and Policies of the State

#### 33. THE STATE SHALL HAVE THE FOLLOWING RESPONSIBILITIES: ...

- (g) To follow a policy of protecting and promoting national industries and resources. ...
- (o) To use existing natural resources including water resources of the country for the interest of the nation.

#### 35. STATE POLICIES

- (5) The State shall make necessary arrangements to maintain clean environment. The State shall give priority to the protection of the environment, and also to the prevention to its further damage due to physical development activities by increasing the awareness of the general public about environmental cleanliness, and the State shall also make arrangements for the special protection of the environment and the rare wildlife. Provision shall be made for the protection of the forest, vegetation and biodiversity, its sustainable use and for equitable distribution of the benefit derived from it.

#### 36. QUESTIONS NOT TO BE RAISED IN COURTS

- (1) No questions shall be raised in any court as to whether provisions contained in this Part are implemented or not.
- (2) The State shall mobilize or cause to be mobilized the required resources for the implementation of the principles and policies contained in this Part.



## Part 10: Judiciary

### 107. JURISDICTION OF THE SUPREME COURT

- (1) Any Nepali citizen may file a petition in the Supreme Court to have any law or any part thereof declared void on the ground of inconsistency with this Constitution because it imposes an unreasonable restriction on the enjoyment of the fundamental rights conferred by this Constitution or on any other ground, and extraordinary power shall rest with the Supreme Court to declare that law as void either ab initio or from the date of its decision if it appears that the law in question is inconsistent with the Constitution.
- (2) The Supreme Court shall, for the enforcement of the fundamental rights conferred by this Constitution, for the enforcement of any other legal right for which no other remedy has been provided or for which the remedy even though provided appears to be inadequate or ineffective, or for the settlement of any constitutional or legal question involved in any dispute of public interest or concern, have the extraordinary power to issue necessary and appropriate orders to enforce such rights or settle the dispute. For these purposes, the Supreme Court may, with a view to imparting full justice and providing the appropriate remedy, issue appropriate orders and writs including the writs of habeas corpus, mandamus, certiorari, prohibition and quo warranto.

## Part 15: National Human Rights Commission

### 132. FUNCTIONS, DUTIES AND POWER OF THE NATIONAL HUMAN RIGHTS COMMISSION

- (1) It shall be the duty of the National Human Rights Commission to ensure the respect, protection and promotion of the human rights and its effective implementation.
- (2) In order to perform the duty referred to in clause (1) above, the Commission may carry out the following functions:
  - (a) to conduct inquiries into, investigations of, and recommendation for action against the perpetrator, on the matters of violation or abetment of human rights of a person or a group of persons, upon a petition or complaint presented to the Commission by the victim himself or herself or any person on his/her behalf or upon information received from any source, or on its own initiative,
  - (b) to forward a recommendation to the concerned authority for taking departmental action against the authority, who has the duty or responsibility to prevent the violations of the human rights, failed to perform such duty or responsibility or show recklessness or negligence in performing his/her duty,

- (c) to make recommendation to lodge a petition in the court, if necessary, in accordance with the law against the person who has violated human rights,
  - (d) to work jointly and in a coordinated manner with the civil society to enhance awareness on human rights,
  - (e) to forward a recommendation to the concerned authority for taking departmental action or imposing punishment against the violators of human rights, mentioning clear reason and basis thereof,
  - (f) to review prevailing laws relating to human rights in a periodic basis and to recommend the Government of Nepal for necessary reforms and amendment thereto,
  - (g) to recommend with reasons to the Government of Nepal to become a party to any international treaties and instruments on human rights, if it is required to do so, and to monitor the implementation of the international treaties and instruments of human rights to which Nepal is a Party and if found not being implemented, forward recommendations to the Government of Nepal for effective implementation of such instruments,
  - (h) to publicize the names of the official, person or bodies not following or implementing the recommendations and directions furnished by the National Human Rights Commission regarding the violations of human rights in accordance with law, and to record them as human right violators.
- (3) The National Human Rights Commission in performing its functions and duties may use the following powers:
- (i) exercise the same powers as the court has in requiring any person to appear before the Commission for recording his/her statement and information or examining them, receiving and examining evidence, ordering for the production of any physical proof,
  - (j) enter, without prior notice, in case the Commission has received the information by any source that the incidents of the violation of human rights is occurred or going to be occurred, into any person or their residence or office, conduct search and seize any documents and evidences relating to human rights violations thereon,
  - (k) enter any government premises or other places, without prior notice, in case the Commission has received information that violation of human rights of a person is happening thereon and immediate action is required, to provide rescue,

- (l) order for the compensation, in accordance with law, to the victims of human rights violations,
  - (m) exercise or cause to be exercised other power and abide its duties as prescribed by law.
- (4) Notwithstanding anything contained in this Article, the National Human Rights Commission shall not have its jurisdiction on any matter which falls within the jurisdiction of the Army Act. Provided that nothing shall be a bar to proceedings in respect to the cases of violation of human rights and humanitarian laws.

## Part 19: Emergency Power

### ARTICLE 143. EMERGENCY POWER

- (1) If a grave crisis arises in regard to the sovereignty or integrity of Nepal or the security of any part thereof, whether by war, external invasion, armed rebellion or extreme economic disarray, the Council of Minister of the Government of Nepal may, by Proclamation, declare or Order a state of emergency to be enforced in any specified part or the whole of Nepal. ...
- (7) During the time of the Proclamation or Order of the State of Emergency made by the Council of Ministers of the Government of Nepal, pursuant to clause (1), the fundamental rights provided in Part 3 may be suspended so long as the Proclamation or Order is in operation.  
Provided that Articles 13, 14, 16, 17, 18, 20, 21, 22, 23, 26, 29, 30 and 31, and the rights to constitutional remedy and habeas corpus relating to such Articles shall not be suspended.
- (8) In circumstances where any Article of this Constitution is suspended pursuant to clause (7) above, no petition may be made in any court of law, nor any question be raised for the enforcement of the fundamental rights conferred by such Article.
- (9) If, during the continuance of a Proclamation or Order pursuant to clause (1), any damage is inflicted upon any person by an act of any official done in contravention of law or in bad faith, the affected person may, within three months from the date of termination of the Proclamation or Order, file a petition for compensation for the said damage, and if the court finds the claim valid, it shall cause the compensation to be delivered.

Source: [http://www.worldstatesmen.org/Nepal\\_Interim\\_Constitution2007.pdf](http://www.worldstatesmen.org/Nepal_Interim_Constitution2007.pdf)

# Netherlands (1983)

## Chapter 1: Fundamental Rights

### ARTICLE 17

No one may be prevented against his will from being heard by the courts to which he is entitled to apply under the law.

### ARTICLE 21

It shall be the concern of the authorities to keep the country habitable and to protect and improve the environment.

## Chapter 5: Legislation and Administration

### *Section 2: Miscellaneous Provisions*

### ARTICLE 103

- (1) The cases in which a state of emergency, as defined by Act of Parliament, may be declared by Royal Decree in order to maintain internal or external security shall be specified by Act of Parliament. The consequences of such a declaration shall be governed by Act of Parliament.
- (2) Such a declaration may depart from the provisions of the Constitution relating to the powers of the executive bodies of the provinces, municipalities, and water control boards, the basic rights laid down in Article 6, insofar as the exercise of the right contained in this article other than in buildings and enclosed places is concerned, Articles 7, 8, 9, 12(2), 13 and 113(1) and (3).

## Chapter 6: The Administration of Justice

### ARTICLE 120

The constitutionality of Acts of Parliament and treaties shall not be reviewed by the courts.

Source: <http://www.servat.unibe.ch/icl/nl00000.html>

## Nicaragua (1986)

### Title IV: Rights, Duties and Guarantees of the Nicaraguan People

#### Chapter I: Individual Rights

##### ARTICLE 45

Persons whose constitutional rights have been violated or are in danger of being violated have the right to present the writ of habeas corpus or of amparo, depending on the circumstances of the case and in accordance with the Law of Amparo.

#### Chapter III: Social Rights

##### ARTICLE 60

Nicaraguans have the right to live in a healthy environment. It is the obligation of the State to preserve, conserve, and recover the environment and the natural resources.

### Title VI: National Economy, Land Reform, and Public Finances

#### Chapter I: National Economy

##### ARTICLE 102

The natural resources are national patrimony. The preservation of the environment and the conservation, development, and rational exploitation of the natural resources are responsibilities of the state; the State may formalize contracts for the rational exploitation of these resources when required by the national interest.

#### Chapter II: Land Reform

##### ARTICLE 106

The land reform is the fundamental instrument for the democratization of ownership and the just distribution of land; it is a means constituting an essential part for the global promotion and strategy of ecological reconstruction and the sustainable economic development of the country. The land reform shall take into account the socially necessary man-land relationship ...

### Title VIII: The Organization of the State

#### Chapter V: Judicial Branch

##### ARTICLE 160

The administration of justice guarantees the principle of legality; it protects and safeguards human rights through the application of the law in cases and proceedings falling within its jurisdiction.

#### ARTICLE 164

The Supreme Court of Justice has the following functions: ...

3. To consider and determine *amparo* proceedings brought for violations of the rights established in the Constitution in accordance with the Law of *Amparo*
4. To consider and determine applications for the judicial review of the constitutionality of laws ...

### Title X: Supremacy of the Constitution, Its Reform, and Constitutional Laws

#### Chapter I: Of the Political Constitution

#### ARTICLE 185

The President of the Republic, in the Council of Ministers, can decree, for the totality or for part of the national territory and for a given time subject to extension, the suspension of rights and guarantees when the security of the nation, the economic conditions, or some national catastrophe demand it. The Law of Emergency shall regulate its modalities.

#### ARTICLE 186

The President of the Republic may not suspend the rights and guarantees established in Articles 23; 24; 25, no. 3; 26, no. 3; 27; 29; 33, nos. 2.1 (final part), 3 and 5; 34, except nos. 2 and 8; 35; 36; 37; 38; 39; 40; 41; 42; 43; 44; 46; 47; 48; 50; 51; 56; 57; 58; 59; 60; 61; 62; 63; 64; 65; 67; 68, first section; 69; 70; 71; 72; 73; 74; 75; 76; 77; 78; 79; 80; 81; 82; 84; 85; 87; 89; 90 and 91.

#### Chapter II: Constitutional Control

#### ARTICLE 187

An application for judicial review of any law, decree or regulation that is inconsistent with the Political Constitution may be brought by any citizen.

#### ARTICLE 188

The writ of Amparo may be used to challenge any provision, act or resolution and more generally any act or omission of any official or authority or one of the agents of the latter who is violating or trying to violate the rights and guarantees affirmed in the Political Constitution.

#### ARTICLE 190

The Law of Amparo shall regulate the remedies established in this Chapter.

Source: <http://pdba.georgetown.edu/Constitutions/Nica/nica05.html>

## Niger (1996)

### Title II: On Rights and Duties of the Human Person

#### ARTICLE 27

Each person has the right to a healthy environment. The State shall be charged with protecting the environment.

Everyone is obligated to preserve and improve the environment where he/she lives.

The stockpiling, handling and evacuation of toxic wastes, whether pollutants from factories or from other industrial or artisanal organizations situated in the national territory, are regulated by law.

The transit, importation, stocking, burial, dumping on the national territory of toxic wastes or foreign pollutants as well as any agreement concerning it constitutes a crime against the Nation punishable by law.

#### ARTICLE 33

A National Commission shall supervise the promotion and the effectiveness of the above declared rights and liberties, if necessary, in accordance with the international agreements to which Niger is a signatory.

### Title V: On the Relationship Between the Executive and Legislative Powers

#### ARTICLE 81

The law establishes the regulations concerning:

- citizenship, civic rights and the fundamental guarantees granted to citizens for the exercise of their public liberties ...

### Title VI: The Judicial Power

#### *Section I: The Constitutional Court*

#### ARTICLE 104

The Constitutional Court consists of seven (7) members of at least forty (40) years of age.

The Court consists of: ...

- a representative of the Associations of Defense of Human Rights recognized for his expertise in public law



#### ARTICLE 113

Any person who is party to a lawsuit may invoke the unconstitutionality of a law before any jurisdiction by means of exception. The jurisdiction must stay proceedings until the decision of the Constitutional Court, a decision which must be given within thirty (30) days.

A provision declared unconstitutional on the basis of the paragraph above is null and void as of right.

Source: <http://www.chr.up.ac.za/index.php/documents-by-country-database/niger.html>

# Nigeria (1999)

## Chapter I: General Provisions

### *Part II: Powers of the Federal Republic of Nigeria*

#### ARTICLE 6

- (1) The judicial powers of the Federation shall be vested in the courts to which this section relates, being courts established for the Federation.
- (6) The judicial powers vested in accordance with the foregoing provisions of this section: ...
  - (c) shall not, except as otherwise provided by this Constitution, extend to any issue or question as to whether any act of omission by any authority or person or as to whether any law or any judicial decision is in conformity with the Fundamental Objectives and Directive Principles of State Policy set out in Chapter II of this Constitution;

## Chapter II: Fundamental Objectives and Directive Principles of State Policy

#### ARTICLE 20. ENVIRONMENTAL OBJECTIVES

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

Source: <http://www.nigeria-law.org/ConstitutionOfTheFederalRepublicOfNigeria.htm>

## North Korea (1998)

### Chapter 3: Culture

#### ARTICLE 57

The State shall adopt measures to protect the environment in preference to production, preserve and promote the natural environment, and prevent environmental pollution so as to provide the people with a hygienic environment and working conditions.

Source: [http://www.novexc.cn/dprk\\_constitution\\_98.html](http://www.novexc.cn/dprk_constitution_98.html)

## Norway (1992)

### E. General Provisions

#### ARTICLE 110(B)

Every person has a right to an environment that is conducive to health and to natural surroundings whose productivity and diversity are preserved. Natural resources should be made use of on the basis of comprehensive long-term considerations whereby this right will be safeguarded for future generations as well.

In order to safeguard their right in accordance with the foregoing paragraph, citizens are entitled to be informed of the state of the natural environment and of the effects of any encroachments on nature that are planned or commenced.

The State authorities shall issue further provisions for the implementation of these principles.

#### ARTICLE 110(C)

It is the responsibility of the authorities of the State to respect and ensure human rights. Specific provisions for the implementation of treaties thereon shall be determined by law.

Source: <http://www.stortinget.no/en/In-English/About-the-Storting/The-Constitution/The-Constitution/>

## Oman (1996)

### Chapter Two: The Principles Guiding the State's Policies

#### ARTICLE 12. SOCIAL PRINCIPLES

The social principles are ...

The State cares for public health and for the prevention and treatment of diseases and epidemics. It endeavours to provide health care for every citizen and to encourage the establishment of private hospitals, clinics and other medical institutions under State supervision and in accordance with the rules laid down by Law. It also works to conserve and protect the environment and prevent pollution.

### Chapter Three: Public Rights and Duties

#### ARTICLE 25. RIGHT TO LITIGATION

The right to litigation is sacrosanct and guaranteed to all people. The Law defines the procedures and circumstances required for exercising this right and the State guarantees, as far as possible, that the judicial authorities will reconcile the litigants and settle cases promptly.

Source: [http://www.servat.unibe.ch/icl/mu00000\\_.html](http://www.servat.unibe.ch/icl/mu00000_.html)

## Palau (1981)

### Article VI: Responsibilities of the National Government

The national government shall take positive action to attain these national objectives and implement these national policies:

- conservation of a beautiful, healthful and resourceful natural environment; ...

### Article XIII: General Provisions

#### SECTION 6

Harmful substances such as nuclear, chemical gas, or biological weapons intended for use in warfare, nuclear power plants, and waste materials therefrom, shall not be used, tested, stored or disposed of within territorial jurisdiction of Palau without the express approval of not less than three-fourths (3/4) of the votes cast in a referendum submitted on this specific question.

Source: <http://www.unhcr.org/refworld/category,LEGAL,,PLW,3ae6b53f8,0.html>

## Panama (1983)

### Title III: Individual and Social Rights and Duties

#### Chapter 1: Fundamental Guarantees

##### ARTICLE 17

The authorities of the republic are established for the purposes ... of ensuring the effectiveness of individual and social rights and duties, and of observing and enforcing the Constitution and the Law.

The rights and guarantees recognized by this Constitution must be considered as minimum standards that do not exclude others which are related to fundamental rights and the dignity of the individual.

##### ARTICLE 54

Every person against whom a public servant shall issue a mandatory order or an injunction violating the rights and guarantees established by this Constitution, shall have the right of the order being revoked upon his/her petition or the petition of any other person.

The writ for protection of constitutional guarantee (amparo de garantías constitucionales) to which this Article refers, shall be subject to summary proceedings and the cognizance of Courts of Law.

##### ARTICLE 55

In case of foreign war or internal disturbance that threatens peace or public order, all, or a part, of the Republic may be declared in a State of Emergency, and the guarantee of Articles 21, 22, 23, 26, 27, 29, 37, 38, and 44 of this Constitution may be temporarily suspended, partially or totally....

#### Chapter 6: Health, Social Security and Social Welfare

##### ARTICLE 110

In matters of health, the State is primarily obliged to develop the following activities, integrating the functions of prevention, cure and rehabilitation in the:

1. Establishment of a national policy of food and nutrition, ensuring optimal nutritional conditions for the entire population, by promoting the availability, consumption and biological benefit of suitable food;
2. Training of individuals and social groups by means of educational actions concerning individual and collective rights and responsibilities, with respect to personal and environmental health;
- ...

4. Combating of contagious diseases through environmental health, development of potable water availability, and adopting methods of immunization, prophylaxis, and treatment to be provided collectively and individually to all the population; ...

## Chapter 7: The Ecology

### ARTICLE 118

The State has the fundamental obligation to guarantee that its population lives in a healthy environment, free of contamination (pollution), and where air, water, and foodstuffs satisfy the requirements for proper development of human life.

### ARTICLE 119

The State, and all the inhabitants of the national territory, have the obligation of promoting economic and social development that prevents environmental contamination, maintains ecological balance, and avoids the destruction of ecosystems.

### ARTICLE 120

The State shall regulate, supervise, and apply, at the proper time, the measures necessary to guarantee rational use of, and benefit from, land, river and sea life, as well as forests, lands and waters, to avoid their misuse, and to ensure their preservation, renewal, and permanence.

### ARTICLE 121

Benefits gained from non-renewable natural resources shall be regulated by law, to avoid social, economic and environmental abuses that could result.

## Chapter 9: Office of the Ombudsman

### ARTICLE 129

The Office of the Ombudsman monitors the protection of the fundamental rights and guarantees recognized in this Constitution as well as of those which are provided for by international human rights conventions and the law through the non-judicial control of the facts, acts, and omissions of public servants and providers of public services and makes sure that they are observed.

## Title VII: The Administration of Justice

### Chapter 1: The Judicial Branch

### ARTICLE 206

Among the constitutional and legal functions of the Supreme Court of Justice shall be the following:



1. To guard the integrity of the Constitution. For this purpose, and after hearing the opinion of the Attorney General of the Nation or the Solicitor General of the Administration, the Court in plenary session shall try and rule on cases concerning the unconstitutionality of laws, decrees, decisions, resolutions and other acts that for reason of form or substance are challenged before it, by any person.

When during the proceedings of a case, the public official entrusted with the Administration of Justice considers, or it is observed by one of the parties, that the legal or regulatory provision applicable to the case is unconstitutional, he/she shall submit the question to the cognizance of the Court in plenary session, and shall order a continuance of the case, until the question of constitutionality is decided. ...

2. ... Persons affected by the act, resolution, order or decision in question may resort to administrative litigation; and any natural or juridical person domiciled in the country may exercise popular action.

## Title X: National Economy

### ARTICLE 296

Hunting, fishing, and exploitation of forests shall be regulated by law, with special care in protecting and conserving the flora and fauna of the country.

Source: (Spanish) <http://pdpa.georgetown.edu/constitutions/panama/panama.html>

# Papua New Guinea (1975)

## Preamble

### *National Goals and Directive Principles*

#### 4. NATURAL RESOURCES AND ENVIRONMENT

We declare our fourth goal to be for Papua New Guinea's natural resources and environment to be conserved and used for the collective benefit of us all, and be replenished for the benefit of future generations.

We accordingly call for—

- (1) wise use to be made of our natural resources and the environment in and on the land or seabed, in the sea, under the land, and in the air, in the interests of our development and in trust for future generations; and
- (2) the conservation and replenishment, for the benefit of ourselves and posterity, of the environment and its sacred, scenic, and historical qualities; and
- (3) all necessary steps to be taken to give adequate protection to our valued birds, animals, fish, insects, plants and trees.

### *Basic Social Obligations*

We hereby declare that all persons in our country have the following basic obligations to themselves and their descendants, to each other, and to the Nation: ...

- (d) to protect Papua New Guinea and to safeguard the national wealth, resources and environment in the interests not only of the present generation but also of future generations. ...

Source: [http://www.paclii.org/pg/legis/consol\\_act/cotisopng534/](http://www.paclii.org/pg/legis/consol_act/cotisopng534/)

# Paraguay (1992)

## Part I: About Basic Principles, Rights, Duties, and Guarantees

### *Title II: Rights, Guarantees and Duties*

#### Chapter I: About Life and the Environment

##### *Section I: About Life*

#### ARTICLE 6. QUALITY OF LIFE

- (1) The State will promote the quality of life through plans and policies that are focused on conditioning factors, such as extreme poverty and impediments stemming from disability or age.
- (2) The State will also promote research on population factors and their links with socio-economic development, the preservation of the environment and the quality of life of the people.

##### *Section II: About the Environment*

#### ARTICLE 7. ABOUT THE RIGHT TO A HEALTHY ENVIRONMENT

- (1) Everyone has the right to live in a healthy, ecologically balanced environment.
- (2) The preservation, recovery, and improvement of the environment, as well as efforts to reconcile these goals with comprehensive human development, are priority objectives of social interests. The respective laws and government policies will seek to meet these objectives.

#### ARTICLE 8. ABOUT ENVIRONMENTAL PROTECTION

- (1) Those activities that are likely to cause environmental changes will be regulated by law. The law may also restrict or prohibit those activities that are considered hazardous.
- (2) The manufacturing, assembly, import, commerce, possession or use of nuclear, chemical, or biological weapons, as well as the introduction of toxic waste into the country are hereby prohibited. The law may be extended to other hazardous elements. It will also regulate the trafficking of genetic resources and related technologies to protect national interests.
- (3) The law will define and establish sanctions for ecological crimes. Any damage to the environment will entail an obligation to restore and to pay for damages.

## Chapter II: About Freedom

### ARTICLE 16. ABOUT DEFENSE IN COURT

Everyone has the inalienable right to defend himself and his rights in court. Everyone has the right to have his case heard by competent, independent, and impartial judges and courts.

### ARTICLE 38. ABOUT THE RIGHT TO DEFEND COMMON INTERESTS

Everyone has the right, either individually or within a group, to demand that public officials adopt measures to defend the environment, the preservation of the habitat, public health, national cultural heritage, the interests of consumers, and other areas that, because of their legal nature, pertain to the community and are related to the quality of life and to property belonging to the community.

### ARTICLE 39. ABOUT THE RIGHT TO JUST, ADEQUATE INDEMNIFICATION

Everyone has the right to just, adequate indemnification for damage or prejudice he may have sustained as a result of actions by the State. The law will regulate this right.

## Chapter III: About Equality

### ARTICLE 47. ABOUT GUARANTEES FOR EQUALITY

The State will guarantee every inhabitant of the Republic: ...

- 4) Equal opportunities to participate in the benefits of nature, in material assets, and in culture.

## Chapter XII: Constitutional Guarantees

### ARTICLE 131. ABOUT GUARANTEES

The guarantees established in this chapter, which will be regulated by law, are designed to enforce the rights contained in this Constitution.

### ARTICLE 132. ABOUT UNCONSTITUTIONALITY

The Supreme Court of Justice has the power to declare any legal provision or decision by the courts unconstitutional, within the manner and scope established by this Constitution and the law.

### ARTICLE 134. ABOUT AMPARO

Anyone who considers himself seriously affected by a clearly illegitimate act or omission of an individual or government official, or who may be in imminent danger that the rights and guarantees of this Constitution or the laws may be curtailed, and who in light of the urgency of the matter cannot seek remedy through regular legal channels, may file a petition for amparo before a competent judge. Proceedings will

be brief, summary, and free of charge, and will include actions in those cases established by the law.

The judge is empowered to safeguard rights and guarantees, or immediately restore the legal situation that existed prior to the violation. ...

A petition for amparo cannot be filed in relation to a case that is already being heard by the courts, against actions taken by judicial organizations, or in the process of discussion, approval, and promulgation of the laws.

The law will regulate the respective proceedings. Court rulings in amparo cases will not be final.

## Part II: About the Political Organization of the Republic

### *Title II: About the Organization and Structure of the State*

#### Chapter IV: Other State Organizations

##### *Section I: The Public Defender*

#### ARTICLE 276. ABOUT THE PUBLIC DEFENDER

The Public Defender is a congressional commissioner charged with defending human rights, channeling popular complaints, and with protecting community interests. In no case will he perform any judicial or executive function.

#### ARTICLE 279. ABOUT HIS DUTIES AND POWERS

The Public Defender has the following duties and powers:

- 1) To receive and investigate reports or complaints of human rights violations, as well as other actions as established by this Constitution and the law;
- 2) To obtain information from officials at all levels, including police and security organizations in general, without any kind of restrictions, so that he may adequately discharge his functions. He will have access to places where human rights violations have been reported. He may also act ex officio;
- 3) To publicly criticize behavior or actions that are contrary to human rights;
- 4) To submit an annual report on his activities to the two chambers of Congress;
- 5) To prepare and to communicate reports on the status of those human rights that, in his opinion, require urgent public attention; and
- 6) Other duties and powers established by law.

Source: <http://pdba.georgetown.edu/constitutions/paraguay/para1992.html>

## Peru (1993)

### Title I: The Individual and Society

#### Chapter I: Fundamental Rights of the Person

##### ARTICLE 2

Every person has the right ...

- (22) To peace, tranquility, the enjoyment of leisure time, and to rest, as well as to enjoy a harmonious environment adequate for the development of life.

### Title III: The Economic System

#### Chapter III: The Environment and Natural Resources

##### ARTICLE 66

Natural resources, renewable and non-renewable, are the patrimony of the Nation. The State is sovereign in their utilization.

The conditions of their use and specific allotments are determined by organic law. The concession of natural resources grants their title-holders an unencumbered right subject to the said legal regulations.

##### ARTICLE 67

The State determines national environmental policy. It promotes the sustainable use of its natural resources.

##### ARTICLE 68

The State is obligated to promote the preservation of biological diversity and of natural protected areas.

##### ARTICLE 69

The State promotes the sustainable development of Amazonia with adequate legislation.

### Title IV: The Institutional Structure of the State

#### Chapter VII: The State of Exception

##### ARTICLE 137

In agreement with the Council of Ministers, the President of the Republic can decree, for a specific period, across the entire national territory or in part of it, and giving an accounting to Congress or its Standing Committee, states of exception mentioned in this article, namely:

1. State of emergency in case of a disturbance of the peace or of the internal order, catastrophe, or grave circumstances affecting the life of the nation. In this eventuality, the exercise of constitutional rights may be restricted or suspended as they relate to personal freedom and security, the inviolability of the home, and the freedom of assembly and movement in the territory included in clauses (9), (11) and (12) of Article 2 and in clause (24), section (f) of the same article. Under no circumstances can anyone be exiled.

The period of emergency may not exceed 60 days. Its extension requires a new decree. ...

## Chapter XI: The Ombudsman

### ARTICLE 161

The office of the Ombudsman is autonomous. The public organs are obliged to cooperate with the Ombudsman's Office when the latter requires it. ...

### ARTICLE 162

It is the duty of the Ombudsman to defend the constitutional and fundamental rights of individuals and the community and to oversee the performance of the duties of the State administration and the delivery of public services to the citizenry. ...

## Title V: Constitutional Guarantees

### ARTICLE 200

The following are constitutional guarantees: ...

2. The Action of Amparo that may be filed against the commission or omission by any authority, functionary, or person of an act that injures or threatens the other rights recognized by the Constitution, with the exception of those identified in the following paragraph. It cannot be filed against legal rules or judicial decisions resulting from normal judicial proceedings. ...
4. The Action of Unconstitutionality which may be filed against norms that have the rank of law: laws, legislative decrees, urgency decrees, treaties, congressional rules of procedure, regional regulations of a general nature, and municipal ordinances which violate either the formal or substantial provisions of the Constitution.
5. The Popular Action which may be filed to prevent violations of the Constitution and the law by regulations, administrative rules and resolutions, and decrees of a general nature regardless of the



authority from which they emanate.

6. Action of Compliance which may be filed against any authority or functionary unwilling to comply with a legal norm or an administrative act, without prejudice to the liability established by the law. ...

The exercise of the actions of *Habeas Corpus* and *Amparo* is not suspended during the emergency situations to which Article 137 of the Constitution refers.

When actions of this nature are filed with respect to restricted or suspended rights, the competent judicial organ examines the reasonableness and the proportionality of the restriction. The judge is not competent to question the declaration of the state of emergency or siege.

#### ARTICLE 201

The Constitutional Court is the organ that oversees adherence to the Constitution. It is autonomous and independent.

#### ARTICLE 202

The Constitutional Court has the following responsibilities:

1. To adjudicate, as the unique instance, actions of unconstitutionality.
2. To adjudicate, as the court of last resort, decisions denying *habeas corpus*, *amparo*, *habeas data*, or an executory order.

#### ARTICLE 205

Whoever feels injured in his constitutionally recognized rights may, after the exhaustion of all domestic remedies, appeal to international tribunals or bodies established under treaties or agreements to which Peru is a party.

Source: <http://pdpa.georgetown.edu/Constitutions/Peru/per93reforms05.html>

# Philippines (1987)

## Article II: Declaration of Principles and State Policies

### SECTION 16

The State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature.

## Article III: Bill of Rights

### SECTION 11

Free access to the courts and quasi-judicial bodies and adequate legal assistance shall not be denied to any person by reason of poverty.

## Article VIII: Judicial Department

### SECTION 5

The Supreme Court shall have the following powers: ...

- (5) Promulgate rules concerning the protection and enforcement of constitutional rights, pleading, practice, and procedure in all courts, the admission to the practice of law, the integrated bar, and legal assistance to the under-privileged. Such rules shall provide a simplified and inexpensive procedure for the speedy disposition of cases, shall be uniform for all courts of the same grade, and shall not diminish, increase, or modify substantive rights. Rules of procedure of special courts and quasi-judicial bodies shall remain effective unless disapproved by the Supreme Court.

## Article XII: National Economy and Patrimony

### SECTION 2

... The State shall protect the nation's marine wealth in its archipelagic waters, territorial sea, and exclusive economic zone. ...

### SECTION 3

... Taking into account the requirements of conservation, ecology, and development, and subject to the requirements of agrarian reform, the Congress shall determine, by law, the size of lands of the public domain which may be acquired, developed, held, or leased and the conditions therefor.

### SECTION 4

The Congress shall, as soon as possible, determine by law the specific limits of forest lands and national parks, marking clearly their boundaries on the ground. Thereafter, such forest lands and national parks shall be conserved and may not be increased nor

diminished, except by law. The Congress shall provide, for such period as it may determine, measures to prohibit logging in endangered forests and watershed areas.

#### SECTION 7

The State shall protect the rights of subsistence fishermen, especially of local communities to the preferential use of the communal marine and fishing resources, both inland and offshore ... The State shall also protect, develop, and conserve such resources.

### Article XIII: Social Justice and Human Rights

#### SECTION 1

The Congress shall give highest priority to the enactment of measures that protect and enhance the right of all the people to human dignity, reduce social, economic, and political inequalities, and remove cultural inequities by equitably diffusing wealth and political power for the common good.

To this end, the State shall regulate the acquisition, ownership, use, and disposition of property and its increments.

#### SECTION 17

(1) There is hereby created an independent office called the Commission on Human Rights. ...

#### SECTION 18

The Commission on Human Rights shall have the following powers and functions:

- (1) Investigate, on its own, or on complaint by any party, all forms of human rights violations involving civil and political rights;
- (2) Adopt its operational guidelines and rules of procedure, and cite for contempt for violations thereof in accordance with the Rules of Court;
- (3) Provide appropriate legal measures for the protection of human rights of all persons within the Philippines, as well as Filipinos residing abroad, and provide for preventive measures and legal aid services to the under-privileged whose human rights have been violated or need protection;
- (4) Exercise visitorial powers over jails, prisons, or detention facilities;
- (5) Establish a continuing program of research, education, and information to enhance respect for the primacy of human rights;
- (6) Recommend to Congress effective measures to promote human rights and to provide for compensation to victims of violations of human rights, or their families;

- (7) Monitor the Philippine Government's compliance with international treaty obligations on human rights;
- (8) Grant immunity from prosecution to any person whose testimony or whose possession of documents or other evidence is necessary or convenient to determine the truth in any investigation conducted by it or under its authority;
- (9) Request the assistance of any department, bureau, office, or agency in the performance of its functions;
- (10) Appoint its officers and employees in accordance with law; and
- (11) Perform such other duties and functions as may be provided by law.

#### SECTION 19

The Congress may provide for other cases of violations of human rights that should fall within the authority of the Commission, taking into account its recommendations.

#### Article XVI: General Provisions

#### SECTION 9

The State shall protect consumers from trade malpractices and from substandard or hazardous products.

Source: <http://www.comelec.gov.ph/laws/constitution/toc.html>

# Poland (1997)

## Chapter I: The Republic

### ARTICLE 5

The Republic of Poland shall safeguard the independence and integrity of its territory and ensure the freedoms and rights of persons and citizens, the security of the citizens, safeguard the national heritage and shall ensure the protection of the natural environment pursuant to the principles of sustainable development.

## Chapter II: Freedoms, Rights, and Duties of Persons and Citizens

### *General Principles*

### ARTICLE 31

- (3) Any limitation upon the exercise of constitutional freedoms and rights may be imposed only by statute, and only when necessary in a democratic state for the protection of its security or public order, or to protect the natural environment, health or public morals, or the freedoms and rights of other persons. Such limitations shall not violate the essence of freedoms and rights.

### *Economic, Social, and Cultural Freedoms and Rights*

### ARTICLE 68

- (1) Everyone has the right to health protection. ...  
(4) Public authorities shall combat epidemic illnesses and prevent the negative health consequences of degradation of the environment.

### ARTICLE 74

- (1) Public authorities shall pursue policies ensuring the ecological safety of current and future generations.  
(2) Protection of the environment shall be the duty of public authorities.  
(3) Everyone shall have the right to be informed of the quality and protection of the environment.  
(4) Public authorities shall support the activities of citizens to protect and improve the quality of the environment.

### *Means for the Defense of Freedom and Rights*

### ARTICLE 77

- (1) Everyone shall have the right to compensation for any harm done to him by any action of an organ of public authority contrary to law.  
(2) Statutes shall not bar the recourse by any person to the courts in pursuit of claims alleging infringement of freedoms or rights.

#### ARTICLE 79

- (1) In accordance with principles specified by statute, everyone whose constitutional freedoms or rights have been infringed, shall have the right to appeal to the Constitutional Tribunal for its judgment on the conformity to the Constitution of a statute or another normative act upon which basis a court or organ of public administration has made a final decision on his freedoms or rights or on his obligations specified in the Constitution.

#### ARTICLE 80

In accordance with principles specified by statute, everyone shall have the right to apply to the Commissioner for Citizens' Rights for assistance in protection of his freedoms or rights infringed by organs of public authority.

#### ARTICLE 81

The rights specified in Article 65, paras. 4 and 5, Article 66, Article 69, Article 71 and Articles 74-76, may be asserted subject to limitations specified by statute.

#### *Duties*

#### ARTICLE 86

Everyone shall care for the quality of the environment and shall be held responsible for causing its degradation. The principles of such responsibility shall be specified by law.

### Chapter IX: Organs of State Control and for Defence of Rights

#### ARTICLE 208

- (1) The Commissioner for Citizens' Rights shall safeguard the freedoms and rights of persons and citizens specified in the Constitution and other normative acts.
- (2) The scope and mode of work of the Commissioner for Citizens' Rights shall be specified by statute.

### Chapter XI: Extraordinary Measures

#### ARTICLE 228

- (1) In situations of particular danger, if ordinary constitutional measures are inadequate, any of the following appropriate extraordinary measures may be introduced: martial law, a state of emergency or a state of natural disaster.
- (2) Extraordinary measures may be introduced only by regulation, issued upon the basis of statute, and which shall additionally require to be publicized.
- (3) The principles for activity by organs of public authority as well as the degree to which the freedoms and rights of persons and citizens may be subject to limitation for the duration of a period requiring any extraordinary measures shall be established by statute.

- (4) A statute may specify the principles, scope and manner of compensating for loss of property resulting from limitation of the freedoms and rights of persons and citizens during a period requiring introduction of extraordinary measures.

#### ARTICLE 233

- (1) The statute specifying the scope of limitation of the freedoms and rights of persons and citizens in times of martial law and states of emergency shall not limit the freedoms and rights specified in Article 30 (the dignity of the person), Article 34 and Article 36 (citizenship), Article 38 (protection of life), Article 39, Article 40, Article 41, para.4 (humane treatment), Article 42 (ascription of criminal responsibility), Article 45 (access to a court), Article 47 (personal rights), Article 53 (conscience and religion), Article 63 (petitions), as well as Article 48 and Article 72 (family and children).
- (2) Limitation of the freedoms and rights of persons and citizens only by reason of race, gender, language, faith or lack of it, social origin, ancestry or property shall be prohibited.
- (3) The statute specifying the scope of limitations of the freedoms and rights of persons and citizens during states of natural disasters may limit the freedoms and rights specified in Article 22 (freedom of economic activity), Article 41, paras. 1, 3 and 5 (personal freedom), Article 50 (inviolability of the home), Article 52, para. 1 (freedom of movement and sojourn on the territory of the Republic of Poland), Article 59, para. 3 (the right to strike), Article 64 (the right of ownership), Article 65, para. 1 (freedom to work), Article 66, para. 1 (the right to safe and hygienic conditions of work) as well as Article 66, para. 2 (the right to rest).

Source: <http://www.sejm.gov.pl/prawo/konst/angielski/kon1.htm>

# Portugal (1976)

## Fundamental Principles

### ARTICLE 9. FUNDAMENTAL RESPONSIBILITIES OF THE STATE

The fundamental responsibilities of the State shall be: ...

- d) To promote the people's well-being and quality of life and real equality between the Portuguese, as well as the effective implementation of economic, social, cultural and environmental rights by means of the transformation and modernisation of economic and social structures;
- e) To protect and enhance the Portuguese people's cultural heritage, defend nature and the environment, preserve natural resources and ensure proper town and country planning; ...

## Part I: Fundamental Rights and Duties

### *Section I: General Principles*

#### ARTICLE 18. LEGAL FORCE

1. The constitutional provisions relating to rights, freedoms and guarantees shall be directly applicable to, and binding on, both public and private bodies.
2. Rights, freedoms and guarantees may be restricted by law in only those cases expressly provided for in this Constitution; restrictions shall be limited to the extent necessary to safeguard other rights or interests protected by this Constitution.
3. Laws restricting rights, freedoms and guarantees shall be general and abstract in character, shall not have retroactive effect and shall not limit, in extent or scope, the essential content of the constitutional provisions.

#### ARTICLE 19. SUSPENSION OF THE EXERCISE OF RIGHTS

1. The organs with supreme authority shall not, jointly or separately, suspend the exercise of rights, freedoms and guarantees, except where a state of siege or a state of emergency has been declared in the manner laid down by this Constitution.
2. A state of siege or a state of emergency may be declared in all or any part of the national territory, but only in the event of actual or imminent aggression by foreign forces, of serious threat to, or disturbance of, the democratic constitutional order or of a public disaster.
3. A state of emergency may be declared where the circumstances mentioned in paragraph 2 are of a less serious nature; it shall at the most give rise to the suspension of some of the rights, freedoms and guarantees that are capable of suspension.



4. When the choice is made between a state of siege and a state of emergency, the principle of proportionality shall be respected in making the decision in favour of one or other state and in giving effect to that decision; in particular, the extent of application, the duration and the measures provided for shall be limited to those strictly necessary for the prompt restoration of the constitutional normality.
5. A declaration of a state of siege or a state of emergency shall be based on properly substantiated grounds, and shall specify those rights, freedoms and guarantees, the exercise of which is to be suspended; it shall be in force for a period of not more than 15 days or, where the declaration results from a declaration of war, for the period laid down by law, but it may from time to time be renewed subject to the same time limits.
6. A declaration of a state of emergency or a state of siege shall in no case affect the rights to life, personal integrity and identity, civil capacity, and citizenship, of the person, the non-retroactivity of criminal law, the defence rights of accused persons and the freedom of conscience and religion.
7. A declaration of a state of siege or a state of emergency may affect constitutional normality only within the limits set out in this Constitution and in law; in particular, it may not affect the enforcement of the constitutional provisions with respect to the powers and operation of the organs with supreme authority and the organs of self-government of the autonomous regions, nor the rights and immunities of their members.
8. A declaration of a state of siege or a state of emergency shall vest the authorities with the powers to take the action necessary and appropriate for the prompt restoration of the constitutional normality.

#### ARTICLE 20. ACCESS TO LAW AND EFFECTIVE JUDICIAL PROTECTION

1. Everyone is guaranteed access to law and to the courts in order to defend his or her rights and legally protected interests; justice shall not be denied to a person for lack of financial resources.
2. Everyone has the right, in accordance with the law, to legal advice and information, as well as to legal aid, and the right to be assisted by a lawyer before any authority.
3. The law shall provide for the definition and proper safeguarding of the secrecy of the investigation in the criminal proceedings.
4. Everyone shall have the right to have a cause which affects him determined in a fair trial within a reasonable time.
5. In order to defend personal rights, liberties and guarantees, the law shall provide citizens with legal procedures that are characterised by swiftness and priority, so that there is effective and timely protection against threats or violations of these rights.

#### ARTICLE 23. OMBUDSMAN

1. Citizens may present complaints concerning acts or omissions on the part of public bodies to the Ombudsman, who shall undertake a review, without power of

decision, and shall make such recommendations to the competent organs as are necessary to prevent or make good injustice.

2. The actions of the Ombudsman shall be independent of any acts of grace or legal remedies provided for in this Constitution or the law.
3. The office of the Ombudsman shall be an independent organ; the Warden of Justice shall be appointed by the Assembly of the Republic, for a term established by law.
4. The organs and personnel of the Public Service shall co-operate with the Ombudsman in the discharge of the Ombudsman's responsibilities.

## *Section II: Rights, Freedoms, and Guarantees*

### Chapter II: Rights, Freedoms and Guarantees Concerning Participation in Politics

#### ARTICLE 52. RIGHT TO PETITION AND RIGHT TO POPULAR ACTION

3. Everyone shall be granted the right of *actio popularis*, to include the right to apply for the appropriate compensation for an aggrieved party or parties, in such cases and under such terms as the law may determine, either personally or via associations that purport to defend the interests in question. The said right shall particularly be exercised in order to:
  - a) Promote the prevention, cessation or judicial prosecution of offences against public health, consumer rights, the quality of life or the preservation of the environment and the cultural heritage;
  - b) Safeguard the property of the state, the autonomous regions and local authorities.

## *Section III: Economic, Social, and Cultural Rights and Duties*

### Chapter II: Social Rights and Duties

#### ARTICLE 64. HEALTH

1. Everyone has the right to have his or her health safeguarded and the duty to defend and foster it.
2. The right to the safeguarding of health shall be met by:
  - a. A national health service available to all and free of charge to the extent that the economic and social conditions of citizens require;
  - b. The creation of economic, social, cultural and environmental conditions that guarantee, specifically, the protection of children, the young and the old; the systematic improvement of living and working conditions; the promotion of physical fitness and sports in schools and among the people; the development of health education for the people and practices of healthy living.

#### ARTICLE 66. ENVIRONMENT AND QUALITY OF LIFE

1. Everyone has the right to a healthy and ecologically balanced human environment and the duty to defend it.
2. In order to ensure enjoyment of the right to the environment within an overall framework of sustainable development, acting via appropriate bodies and with the involvement and participation of citizens, the state shall be charged with:
  - a) Preventing and controlling pollution and its effects and the harmful forms of erosion;
  - b) Conducting and promoting town and country planning with a view to a correct location of activities, balanced social and economic development and the enhancement of the landscape;
  - c) Creating and developing natural and recreational reserves and parks and classifying and protecting landscapes and places, in such a way as to guarantee the conservation of nature and the preservation of cultural values and assets that are of historic or artistic interest;
  - d) Promoting the rational use of natural resources, while safeguarding their ability to renew themselves and maintain ecological stability, with respect for the principle of inter-generational solidarity;
  - e) Acting in cooperation with local authorities, promoting the environmental quality of rural settlements and urban life, particularly on the architectural level and as regards the protection of historic zones;
  - f) Promoting the integration of environmental objectives into the various policies of a sectoral nature;
  - g) Promoting environmental education and respect for environmental values;
  - h) Ensuring that tax policy renders development compatible with the protection of the environment and the quality of life.

### Part II: Economic Organization

#### *Section I: General Principles*

#### ARTICLE 81. PRIMARY DUTIES OF THE STATE

In economic and social matters the primary duties of the State are: ...

- m) To adopt a national policy for energy that is in keeping with conservation of natural resources and a balanced ecology, while promoting international co-operation in this field.
- n) To adopt a national water policy, with rational use, planning and management of water resources.

## *Section II: Planning*

### ARTICLE 90. PLANNING OBJECTIVES

The objectives of the plans for economic and social development shall be the promotion of economic growth, harmonious and integrated development of the sectors and the regions, a just division of the national product among individuals and among the regions, coordination of economic policy with social, educational and cultural policies, protection of rural life, conservation of the ecological equilibrium, and the protection of the environment and the quality of life of the Portuguese people.

## Part III: Organization of Political Power

### *Section V: The Courts*

#### Chapter I: General Principles

### ARTICLE 202

1. The courts are the organs with supreme authority that have the power to administer justice in the name of the people.
2. In administering justice, the courts are under a duty to safeguard the rights and interests of citizens that are legally protected, to punish breaches of democratic legality and to resolve public and private disputes.

Source: [http://app.parlamento.pt/site\\_antigo/ingles/cons\\_leg/Constitution\\_VII\\_revisao\\_definitive.pdf](http://app.parlamento.pt/site_antigo/ingles/cons_leg/Constitution_VII_revisao_definitive.pdf)

## Qatar (2003)

### Chapter II: The Basic Pillars of the Society

#### ARTICLE 29

Natural wealth and resources are the property of the State. It shall preserve these and maintain an optimal utilisation from them in accordance with the provisions of the law.

#### ARTICLE 33

The State shall work to protect the environment and ecological balance so as to achieve comprehensive and sustainable development for the generations to come.

### Chapter IV: Organization of Authorities

#### *Part V: Judicial Authority*

#### ARTICLE 135

Litigation is a right secured and preserved for the people. The law shall define procedures and situations of practising this right.

#### ARTICLE 140

The law shall define the judicial agency that is authorised to settle disputes related to constitutional validity of laws and regulations; define its authority, and means of appeal and regulations that should be followed before this agency. The law shall also define the effect of a sentence declaring an act as unconstitutional.

Source: <http://www.qatarembassy.net/constitution.asp>

# Romania (2003)

## Title II: Fundamental Rights, Freedoms, and Duties

### Chapter I: Common Provisions

#### ARTICLE 21. FREE ACCESS TO JUSTICE

- (1) Every person is entitled to bring cases before the courts for the defence of his legitimate rights, liberties and interests.
- (2) The exercise of this right shall not be restricted by any law.
- (3) All parties shall be entitled to a fair trial and a solution of their cases within a reasonable term.
- (4) Administrative special jurisdiction is optional and free of charge.

### Chapter II: Fundamental Rights and Freedoms

#### ARTICLE 35. RIGHT TO A HEALTHY ENVIRONMENT

- (1) The State recognizes the right of every person to a healthy, well-preserved and balanced environment.
- (2) The State shall provide the legislative framework for the exercise of such right.
- (3) Natural and legal persons have a duty to protect and improve the environment.

#### ARTICLE 44. RIGHT TO PRIVATE PROPERTY

- (7) The right to own property implies an obligation to comply with duties relating to environmental protection and ensuring good neighborliness, as well as of other duties incumbent upon the property owner, in accordance with the law or tradition.

#### ARTICLE 53. RESTRICTION ON THE EXERCISE OF CERTAIN RIGHTS OR FREEDOMS

- (1) The exercise of certain rights or freedoms may only be restricted by law, and only if necessary, as the case may be, for: the defence of national security, of public order, health, or morals, of the citizens' rights and freedoms; conducting a criminal investigation; preventing the consequences of a natural calamity, disaster, or an extremely severe catastrophe.
- (2) Such restriction shall only be ordered if necessary in a democratic society. The measure shall be proportional to the situation having caused it, applied without discrimination, and without infringing on the existence of such right or freedom.

### Chapter IV: Advocate of the People

#### ARTICLE 58. APPOINTMENT AND ROLE

- (1) The Advocate of the People shall be appointed for a term of office of 5 years, in order to defend the natural persons' rights and freedoms. The Advocate of the People's deputies shall be specialized per fields of activity.

- (2) The Advocate of the People and his/her deputies shall not perform any other public or private office, except for teaching positions in higher education.
- (3) The organization and functioning of the Advocate of the People institution shall be regulated by an organic law.

#### **ARTICLE 59. EXERCISE OF POWERS**

- (1) The Advocate of the People shall exercise his powers ex officio or at the request of persons aggrieved in their rights and freedoms, within the limits established by law.
- (2) It is binding upon the public authorities to give the Advocate of the People the necessary support in the exercise of his powers.

#### **ARTICLE 60. REPORT BEFORE PARLIAMENT**

The Advocate of the People shall report before the two Parliament Chambers, annually or at the request thereof. The reports may contain recommendations on legislation or measures of any other nature for the defence of the citizens' rights and freedoms.

### **Title IV: Economy and Public Finance**

#### **ARTICLE 135.2**

The state is expected to secure: ...

- (d) the exploitation of natural resources in accordance with the national interest
- (e) the restoration and protection of the environment, as well as the preservation of ecological balance; ...

Source: <http://www.cdep.ro/pls/dic/site.page?id=371>

# Russian Federation (1993)

## Preamble

... proceeding from a sense of responsibility for our Fatherland before the present and future generations ...

## Chapter I: The Foundations of the Constitutional Order

### ARTICLE 9

The land and other natural resources shall be used and protected in the Russian Federation as the basis of the life and activity of the peoples living on their respective territories.

## Chapter II: Rights and Freedoms of Man and Citizen

### ARTICLE 18

The rights and freedoms of man and citizen shall be directly operative. They determine the essence, meaning and implementation of laws, the activities of the legislative and executive authorities, local self-government and shall be ensured by the administration of justice.

### ARTICLE 36

1. Citizens and their associations shall have the right to have land in their private ownership.
2. The possession, use and management of the land and other natural resources shall be freely exercised by their owners provided this does not cause damage to the environment or infringe upon the rights and interests of other persons.

### ARTICLE 42

Everyone shall have the right to a favorable environment, reliable information about its condition and to compensation for the damage caused to his or her health or property by violations of environmental laws.

### ARTICLE 46

1. Everyone shall be guaranteed judicial protection of his rights and freedoms.
2. Decisions and actions (or inaction) of bodies of state authority and local self-government, public associations and officials may be appealed against in court.
3. Everyone shall have the right to appeal, according to international treaties of the Russian Federation, to international bodies for the protection of human rights and freedoms, if all the existing internal state means of legal protection have been exhausted.



#### ARTICLE 48

1. Everyone shall be guaranteed the right to qualified legal assistance. In cases envisaged by law the legal assistance shall be free. ...

#### ARTICLE 55

1. The listing in the Constitution of the Russian Federation of the fundamental rights and freedoms shall not be interpreted as a rejection or derogation of other universally recognized human rights and freedoms.
2. In the Russian Federation no laws shall be adopted cancelling or derogating human rights and freedoms.
3. The rights and freedoms of man and citizen may be limited by the federal law only to such an extent to which it is necessary for the protection of the fundamental principles of the constitutional system, morality, health, the rights and lawful interests of other people, for ensuring defence of the country and security of the State.

#### ARTICLE 56

1. In conditions of a state of emergency in order to ensure the safety of citizens and the protection of the constitutional system and in accordance with the federal constitutional law certain limitations may be placed on human rights and freedoms with the establishment of their framework and time period.
2. A state of emergency may be introduced in the whole territory of the Russian Federation and in its certain parts in case there are circumstances and according to the rules fixed by the federal constitutional law.
3. The rights and freedoms envisaged in Articles 20, 21, 23 (the first part), 24, 28, 34 (the first part), 40 (the first part), 46-54 of the Constitution of the Russian Federation, shall not be liable to limitations.

#### ARTICLE 58

Everyone shall be obliged to preserve nature and the environment, and to treat natural resources with care.

### Chapter 7: Judicial Power

#### ARTICLE 125

4. The Constitution Court of the Russian Federation, upon complaints about violations of constitutional rights and freedoms of citizens and upon court requests shall check, according to the rules fixed by the federal law, the constitutionality of a law applied or subject to be applied in a concrete case.

Source: <http://www.constitution.ru/en/10003000-01.htm>

## Rwanda (2003)

### Title II: Fundamental Rights of the Person and the Rights and Duties of the Citizen

#### Chapter I: Fundamental Human Rights

##### ARTICLE 43

In the exercise of rights and enjoyment of freedoms, every person shall only be subjected to the limitations set by the law in order to ensure the recognition and respect of others' rights and freedoms, good morals, public order and social welfare which characterize a democratic society.

##### ARTICLE 44

The judiciary as the guardian of rights and freedoms of the public ensures respect thereof in accordance with procedures determined by law.

#### Chapter II: The Rights and Duties of the Citizen

##### ARTICLE 49

Every citizen is entitled to a healthy and satisfying environment.

Every person has the duty to protect, safeguard and promote the environment. The State shall protect the environment.

The law determines the modalities for protecting, safeguarding, and promoting the environment.

### Title VIII: Special Commissions and Organs

#### Chapter II: The National Commission for Human Rights

##### ARTICLE 177

The National Commission for Human Rights shall be an independent national institution. Its responsibilities shall include the following:

- educating and mobilizing the population on matters relating to human rights;
- examining the violations of human rights committed on Rwandan territory by State organs, public officials using their duties as cover, by organizations and by individuals;
- carrying out investigations of human rights abuses in Rwanda and filing complaints in respect thereof with the competent courts;
- preparing and disseminating an annual and other reports as may be necessary on the situation of human rights in Rwanda;

The National Commission for Human Rights submits each year its program and activity report to the Parliament and provides copies thereof to such State organs as may be determined by a law.

Source: <http://www.chr.up.ac.za/index.php/documents-by-country-database/rwanda.html>

## San Marino (1974)<sup>6</sup>

### *Declaration of Citizen Rights*

The Republic protects the historic and artistic heritage and the natural environment.

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<sup>6</sup> The Constitution of San Marino is distributed over a number of legislative instruments of which the most significant are the Statutes of 1600 and the Declaration of Citizen Rights of 1974, amended in 2002.

# Sao Tome and Principe (1990)

## Part I: Principles and Objectives

### ARTICLE 10. PRIME OBJECTIVES OF THE STATE

Prime objectives of the state are: ...

- c) Preserve the harmonious balance of nature and of the environment.

## Part II: Fundamental Rights and Social Order

### *Title I: General Principles*

#### ARTICLE 17. SCOPE AND MEANING OF RIGHTS

1. The rights consecrated in this Constitution do not exclude any which might be foreseen in laws or rules of international law ...

#### ARTICLE 18. RESTRICTION AND SUSPENSION

1. The exercise of fundamental rights only can be restricted in cases foreseen in the Constitution and suspended during the validity of a state of siege or state of emergency declared in the terms of the Constitution and of the law.
2. No restriction or suspension of rights may be established for longer than is strictly necessary.

#### ARTICLE 20. ACCESS TO THE COURTS

Every citizen has the right of resorting to the courts against acts which violate his rights recognized by the Constitution and by the law, justice not being deniable for insufficiency of economic means.

#### ARTICLE 21. OBLIGATIONS AND LIMITS TO RIGHTS

The citizens have obligations with respect to society and the State, not being able to exercise their rights through violation of the rights of other citizens, and not respecting the just demands of morality, of public order, and of national independence defined in the law.

### *Title III: Social Rights and Economic, Social, and Cultural Order*

#### ARTICLE 49. HOUSING AND ENVIRONMENT

1. All have the right to housing and to a healthy environment and the duty to defend it.

#### ARTICLE 50. RIGHT TO HEALTH CARE

2. In accordance with the National System of Health, it is incumbent upon the State to promote the Public Health which has as objectives the physical and mental well-being of the population and their balanced fitting into the socio-ecological environment in which they live.

### Part III: Organization of Political Power

#### *Title V: The Courts*

#### ARTICLE 103. JURISDICTIONAL FUNCTION

1. The courts are sovereign organs with competence to administer justice in the name of the people.
2. In the administration of justice it is incumbent upon the courts to assure the defense of the legally protected rights of the citizens, to settle public and private conflicts of interest and to repress the violation of the laws.

#### ARTICLE 107. PARTICIPATION OF THE PEOPLE

The law presupposes and stimulates appropriate forms of popular participation in the administration of justice.

Source: (Portuguese) <http://www.parlamento.st/>

## Saudi Arabia (1992)

### Chapter V: Rights and Duties

#### ARTICLE 32. ENVIRONMENT, NATURE

The state works for the preservation, protection, and improvement of the environment, and for the prevention of pollution.

#### ARTICLE 43. ROYAL COURTS

The King's Court and that of the Crown Prince shall be open to all citizens and to anyone who has a complaint or a plea against an injustice. Every individual shall have a right to address the public authorities in all matters affecting him.

Source: [http://www.servat.unibe.ch/icl/sa00000\\_.html](http://www.servat.unibe.ch/icl/sa00000_.html)

## Senegal (2001)

### Title II: The Public Freedoms and Freedoms of the Human Person

#### *Economic and Social and Collective Rights*

##### ARTICLE 8

The government of Senegal guarantees to all citizens the fundamental individual liberties, economic and social rights, as well as collective rights. These liberties and rights include: ...

- the right to a healthy environment ...

These freedoms and these rights are exercised within the conditions provided by the law.

### Title VII: Relations Between the Legislative Power and the Executive Power

##### ARTICLE 67

The National Assembly holds the legislative power. It alone votes the law. The law establishes the rules concerning:

- civil rights and the fundamental guarantees accorded to citizens for the exercise of public freedoms; ...

##### ARTICLE 70

The declaration of war is authorized by the National Assembly. The rights and duties of citizens, during the war or in case of invasion or attack of the national territory by forces from the exterior, are the object of an organic law.

### Title VIII: Judicial Power

##### ARTICLE 91

The judicial power is the guardian of the rights and freedoms defined by the Constitution and the law.

Source: <http://www.chr.up.ac.za/index.php/documents-by-country-database/senegal.html>



## Serbia (2006)

### Part II: Human and Minority Rights and Freedoms

#### Section 1: Fundamental Principles

##### **ARTICLE 18. DIRECT IMPLEMENTATION OF GUARANTEED RIGHTS**

Human and minority rights guaranteed by the Constitution shall be implemented directly.

The Constitution shall guarantee, and as such, directly implement human and minority rights guaranteed by the generally accepted rules of international law, ratified international treaties and laws. The law may prescribe the manner of exercising these rights only if explicitly stipulated in the Constitution or necessary to exercise a specific right owing to its nature, whereby the law may not under any circumstances influence the substance of the relevant guaranteed right.

Provisions on human and minority rights shall be interpreted to the benefit of promoting values of a democratic society, pursuant to valid international standards in human and minority rights, as well as the practice of international institutions which supervise their implementation.

##### **ARTICLE 20. RESTRICTION OF HUMAN AND MINORITY RIGHTS**

Human and minority rights guaranteed by the Constitution may be restricted by the law if the Constitution permits such restriction and for the purpose allowed by the Constitution, to the extent necessary to meet the constitutional purpose of restriction in a democratic society and without encroaching upon the substance of the relevant guaranteed right.

Attained level of human and minority rights may not be lowered.

When restricting human and minority rights, all state bodies, particularly the courts, shall be obliged to consider the substance of the restricted right, pertinence of restriction, nature and extent of restriction, relation of restriction and its purpose and possibility to achieve the purpose of the restriction with less restrictive means.

##### **ARTICLE 22. PROTECTION OF HUMAN AND MINORITY RIGHTS AND FREEDOMS**

Everyone shall have the right to judicial protection when any of their human or minority rights guaranteed by the Constitution have been violated or denied, they shall also have the right to elimination of consequences arising from the violation. The citizens shall have the right to address international institutions in order to protect their freedoms and rights guaranteed by the Constitution.

##### **ARTICLE 36. RIGHT TO EQUAL PROTECTION OF RIGHTS AND LEGAL REMEDY**

Equal protection of rights before courts and other state bodies, entities exercising public powers and bodies of the autonomous province or local self-government shall be guaranteed.

Everyone shall have the right to an appeal or other legal remedy against any decision on his rights, obligations or lawful interests.

## Section 2: Human Rights and Freedoms

### ARTICLE 74. HEALTHY ENVIRONMENT

Everyone shall have the right to healthy environment and the right to timely and full information about the state of environment.

Everyone, especially the Republic of Serbia and autonomous provinces, shall be accountable for the protection of environment.

Everyone shall be obliged to preserve and improve the environment.

## Part III: The Economic System and Public Finances

### Section 1: Economic System

#### ARTICLE 83. FREEDOM OF ENTREPRENEURSHIP

Entrepreneurship shall be permitted.

Entrepreneurship may be restricted by the Law, for the purpose of protection of people's health, environment and natural goods and security of the Republic of Serbia.

#### ARTICLE 88. LAND

Utilisation and management of agricultural land, forest land and municipal building land on private assets shall be permitted.

The Law may restrict the models of utilisation and management, that is stipulate terms of utilisation and management, in order to eliminate the danger of causing damage to environment or prevent violation of rights and legally based interests of other persons.

#### ARTICLE 89. PROTECTION OF HERITAGE

Everyone shall be obliged to protect natural rarities and scientific, cultural and historic heritage, as well as goods of public interest in accordance with the Law.

## Part V: Organization of Government

### Section 5: Civic Defender

#### ARTICLE 138

The Civic Defender shall be the independent state body who shall protect citizens' rights and monitor the work of public administration bodies, the body in charge of legal protection of proprietary rights and interests of the Republic of Serbia, as well as other bodies and organisations, companies and institutions to which public powers have been delegated.

The Civic Defender shall not be authorised to monitor the work of the National Assembly, President of the Republic, Government, Constitutional Court, courts and Public Prosecutor's Offices.

The Civic Defender shall be elected and dismissed by the National Assembly, in accordance with the Constitution and Law.

The Civic Defender shall account for his/her work to the National Assembly.

The Civic Defender shall enjoy immunity as a deputy. The National Assembly shall decide on the immunity of the Civic Defender.

The Law on the Civic Defender shall be enacted.

Source: [http://www.srbija.gov.rs/cinjenice\\_o\\_srbiji/ustav.php?change\\_lang=en](http://www.srbija.gov.rs/cinjenice_o_srbiji/ustav.php?change_lang=en)

# Seychelles (1993)

## Preamble

We, the people of Seychelles,

GRATEFUL to Almighty God that we inhabit one of the most beautiful countries in the world;

EVER MINDFUL of the uniqueness and fragility of Seychelles; ...

SOLEMNLY DECLARING our unswaying commitment, during this our Third Republic, to ... help preserve a safe, healthy and functioning environment for ourselves and for posterity. ...

## Chapter III

### Part I: Seychelloise Charter of Human Rights and Freedoms

#### ARTICLE 38. RIGHT TO SAFE ENVIRONMENT

The State recognises 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 realisation 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 socioeconomic 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.

### Part II: Fundamental Duties

#### ARTICLE 40. FUNDAMENTAL DUTIES

It shall be the duty of every citizen of Seychelles— ...

- (e) to protect, preserve and improve the environment.

### Part III: State of Emergency and Savings

#### ARTICLE 41. DECLARATION OF STATE OF EMERGENCY

1. The President may, where the President has reason to believe that—

- (a) a grave threat to national security or public order has arisen or is imminent; or
- (b) a grave civil emergency has arisen or is imminent in Seychelles or in any part of Seychelles,

by a Proclamation published in the Gazette, declare that a state of emergency exists in Seychelles or that part of Seychelles, as the case may be.

#### **ARTICLE 43. RESTRICTIONS OF RIGHTS AND FREEDOMS DURING A PERIOD OF PUBLIC EMERGENCY**

1. This Article shall apply during any period of public emergency.
2. Notwithstanding this Chapter but subject to clause (3), a law may provide for the taking during a period of public emergency of such measures as are strictly required to meet the exigencies of the situation.
3. A law referred to in clause (2) shall not provide for the taking of measures that are inconsistent with Articles 15, 16, 17, 18(3), 19(2) to (6) and (11), 21 and 27.

#### **Part IV: Remedies**

#### **ARTICLE 46. REMEDIES FOR INFRINGEMENT OF THE CHARTER**

1. A person who claims that a provision of this Charter has been or is likely to be contravened in relation to the person by any law, act or omission may, subject to this Article, apply to the Constitutional Court for redress.
2. An application under clause (1) may, where the Constitutional Court is satisfied that the person whose right or freedom has been or is likely to be contravened is unable to do so, be made by another person acting on behalf of that person, with or without that person's authority.
3. The Constitutional Court may decline to entertain an application under clause (1) where the court is satisfied that the applicant has obtained redress for the contravention under any law and where the applicant has obtained redress in the Constitutional Court for any matter for which an application may be made under clause (1), a court shall not entertain any application for redress for such matter except on appeal from a decision of such court.
4. Where the Constitutional Court on an application under clause (1) is satisfied that adequate means of redress for the contravention alleged are or have been available to the person concerned in any other court under any other law, the Court may hear the application or transfer the application to the appropriate court for grant of redress in accordance with law.
5. Upon hearing of an application under clause (1) the Constitutional Court may —
  - (a) declare any act or Omission which is the subject of the application to be a contravention of the Charter;
  - (b) declare any law or the provision of any law which contravenes the Charter void;
  - (c) make such declaration or order, issue such writ and give such directions as it may consider appropriate for the purpose of enforcing or securing the enforcement of the Charter and disposing of all the issues relating to the application;

- (d) award any damages for the purpose of compensating the person concerned for any damages suffered;
  - (e) make such additional order under this Constitution or as may be prescribed by law.
6. Where the Constitutional Court makes a declaration under clause (5)(b) the Court shall, subject to any decision in appeal therefrom, send a copy of the declaration to the President and the Speaker.
  7. Where in the course of any proceedings in any court, other than the Constitutional Court or the Court of Appeal, a question arises with regard to whether there has been or is likely to be a contravention of the Charter, the court shall, if it is satisfied that the question is not frivolous or vexatious or has already been the subject of a decision of the Constitutional Court or the Court of Appeal, immediately adjourn the proceedings and refer the question for determination by the Constitutional Court.
  8. Where in an application under clause (1) or where a matter is referred to the Constitutional Court under clause (7), the person alleging the contravention or risk of contravention establishes a prima facie case, the burden of proving that there has not been a contravention or risk of contravention shall, where the allegation is against the State, be on the State.
  9. The court in which the question referred to in clause (7) arose shall dispose of the case in accordance with the decision of the Constitutional Court, or if that decision is the subject of an appeal to the Court of Appeal, in accordance with the decision of the Court of Appeal.
  10. The Chief Justice may make rules for the purpose of this Article with respect to the practice and procedure of the Constitutional Court in relation to the jurisdiction and power conferred upon it by or under this Article, including rules with respect to the time within which an application or a reference may be made or brought.

#### Part IV: Principles of Interpretation

##### ARTICLE 47. SCOPE OF EXCEPTIONS

Where a right or freedom contained in this Charter is subject to any limitation, restriction or qualification, that limitation, restriction or qualification—

- (a) shall have no wider effect than is strictly necessary in the circumstances; and
- (b) shall not be applied for any purpose other than that for which it has been prescribed.

#### Chapter X: Ombudsman

##### ARTICLE 143. OMBUDSMAN

1. There shall be an Ombudsman who shall be appointed by the President from candidates proposed by the Constitutional Appointments Authority. ...

5. Schedule 5 shall have effect with regard to the Ombudsman.

## Schedule 5. Ombudsman

1. Subject to this Schedule, the Ombudsman may
  - (a) investigate an action taken by a public authority or the President, Minister, officer or member of the public authority, being action taken in the exercise of the administrative functions of the public authority in the circumstances specified in subparagraph (2);
  - (b) investigate an allegation of fraud or corruption in connection with the exercise by a person of a function of a public authority;
  - (c) assist an individual complainant in respect of legal proceedings in relation to a contravention of the provisions of the Charter;
  - (d) with leave of the Court hearing proceedings relating to a contravention of the provisions of the Charter, become a party to the proceedings;
  - (e) initiate proceedings relating to the constitutionality of a law or of the provisions of a law.

Source: [http://www.ecs.sc/resources/Constitution\\_.pdf](http://www.ecs.sc/resources/Constitution_.pdf)

# Slovak Republic (1992, amended in 2001)

## Title One

### *Section One: General Provisions*

#### ARTICLE 4

Raw materials, underground water, natural and thermal springs and streams are the property of the Slovak Republic.

#### ARTICLE 11

International instruments on human rights and freedoms ratified by the Slovak Republic and promulgated under statutory requirements shall take precedence over national laws provided that the international treaties and agreements guarantee greater constitutional rights and freedoms.

#### ARTICLE 13

- (1) No obligations shall be imposed on individuals unless such obligations are in accordance with the law and respect fundamental rights and freedoms.
- (2) Limitation of fundamental rights and freedoms shall be imposed only under the conditions set forth in this Constitution.
- (3) Restrictions of constitutional rights and freedoms shall be applied equally and consistently in all similar cases.
- (4) When imposing restrictions on constitutional rights and freedoms, respect must be given to the essence and meaning of these rights and freedoms and such restrictions shall be used only for specifically defined purposes.

## Title Two: Fundamental Rights and Freedoms

### *Section Two: Basic Human Rights and Freedoms*

#### ARTICLE 20

- (1) Everyone has the right to own property ...
- (3) Ownership includes obligations. Property may not be used to cause injury to another person or in contradiction to the other public interests protected by law. The exercise of ownership must not be detrimental to human health, wildlife, cultural monuments, or the environment beyond the standards set by law.

#### ARTICLE 23

- (1) Freedom of movement and residence shall be guaranteed.
- (2) Everyone residing legally in the Slovak Republic has the right to leave the country.



- (3) Freedoms defined in sections (1) and (2) of this Article may be limited by law only if such limits are necessary in order to protect national security, public order, the health, rights and freedoms of other people, or in order to protect the environment in designated areas.

### *Section Six: Environmental Rights and Cultural Heritage*

#### ARTICLE 44

- (1) Everyone has the right to a favourable environment.
- (2) Everyone is obliged to protect and enhance the environment and the cultural heritage.
- (3) No one must endanger or damage the environment, natural resources, and the cultural heritage beyond the extent established by law.
- (4) The State shall be responsible for the economical use of natural resources, an ecological balance and an effective environmental policy and safeguarding the protection of certain kinds of plants and wildlife.

#### ARTICLE 45

Everyone has the right to timely and complete information about the state of the environment and the causes and consequences of its condition.

### *Section Seven: Right to Judicial and Other Legal Protection*

#### ARTICLE 46

- (1) Every person may claim his or her right by procedures established by law at an independent and impartial court of law or other public authority of the Slovak Republic in cases specified by law.
- (2) Any person who claims to have been denied his or her rights through a decision made by a public authority may turn to a court of law to have the legality of the decision reviewed, unless otherwise provided by law. The review of decisions in matters of fundamental rights and freedoms shall not be excluded from the jurisdiction of courts of law.
- (3) Every person shall have the right to recover damages for a loss caused by an unlawful decision of the court, a governmental or public authority or by improper official procedure.
- (4) Details and terms of the judicial and other legal protection shall be regulated by law.

### *Section Eight: Common Provisions for Titles One and Two*

#### ARTICLE 51

- (1) The rights referred to in Article 35, Article 36, Article 37, paragraph 4, Articles 38 to 42, and Articles 44 to 46 of this Constitution may be claimed only within the confines of the laws implementing these provisions.

## Title Seven: Judicial Power

### *Section One: The Constitutional Court of the Slovak Republic*

#### ARTICLE 127

- (1) The Constitutional Court decides on complaints by natural persons or legal entities alleging a violation of their basic rights and freedoms, or of their basic rights and freedoms resulting from an international treaty ratified by the Slovak Republic and promulgated in a manner laid down by law, unless another court is competent to make a determination on the protection of these rights and freedoms.
- (2) If the Constitutional Court grants the complaint, it shall state in its decision that the disputed final decision, measure, or other act violated the rights or freedoms pursuant to paragraph 1, and shall annul such decision, measure, or other act. If the violation of rights or freedoms pursuant to paragraph 1 has arisen due to the inactivity of the other party, the Constitutional Court may order it to act on the issue. The Constitutional Court may at the same time return the case for reconsideration, prohibit further violations of basic rights and freedoms or human rights and fundamental freedoms resulting from an international treaty ratified by the Slovak Republic and promulgated in a manner laid down by law, or, if possible, order the restoration of the situation which existed prior to the violation.
- (3) The Constitutional Court may in its decision on the merits award an appropriate financial compensation to the person whose rights pursuant to paragraph 1 were violated.
- (4) Liability of the party that violated the rights or freedoms pursuant to paragraph 1, for damage or other harm, is not affected by the decision of the Constitutional Court.

#### ARTICLE 130

- (3) The Constitutional Court may commence proceedings upon the information presented by an individual or a corporation claiming to have rights violated.

Source: [http://www.vop.gov.sk/en/legal\\_basis/constitution.html](http://www.vop.gov.sk/en/legal_basis/constitution.html)

## Slovenia (1991)

### Title II: Human Rights and Fundamental Freedoms

#### ARTICLE 15. EXERCISE AND LIMITATION OF RIGHTS

Human rights and fundamental freedoms shall be exercised directly on the basis of the Constitution.

The manner in which human rights and fundamental freedoms are exercised may be regulated by law whenever the Constitution so provides or where this is necessary due to the particular nature of an individual right or freedom.

Human rights and fundamental freedoms shall be limited only by the rights of others and in such cases as are provided by this Constitution.

Judicial protection of human rights and fundamental freedoms, and the right to obtain redress for the violation of such rights and freedoms, shall be guaranteed.

No human right or fundamental freedom regulated by legal acts in force in Slovenia may be restricted on the grounds that this Constitution does not recognise that right or freedom or recognises it to a lesser extent.

#### ARTICLE 16. TEMPORARY SUSPENSION AND RESTRICTION OF RIGHTS

Human rights and fundamental freedoms provided by this Constitution may exceptionally be temporarily suspended or restricted during a war and state of emergency. Human rights and fundamental freedoms may be suspended or restricted only for the duration of the war or state of emergency, but only to the extent required by such circumstances and inasmuch as the measures adopted do not create inequality based solely on race, national origin, sex, language, religion, political or other conviction, material standing, birth, education, social status or any other personal circumstance.

The provision of the preceding paragraph does not allow any temporary suspension or restriction of the rights provided by Articles 17, 18, 21, 27, 28, 29 and 41.

#### ARTICLE 23. RIGHT TO JUDICIAL PROTECTION

Everyone has the right to have any decision regarding his rights, duties and any charges brought against him made without undue delay by an independent, impartial court constituted by law.

Only a judge duly appointed pursuant to rules previously established by law and by judicial regulations may judge such an individual.

#### ARTICLE 25. RIGHT TO LEGAL REMEDIES

Everyone shall be guaranteed the right to appeal or to any other legal remedy against the decisions of courts and other state authorities, local community authorities and bearers of public authority by which his rights, duties or legal interests are determined.

#### **ARTICLE 26. RIGHT TO COMPENSATION**

Everyone has the right to compensation for damage caused through unlawful actions in connection with the performance of any function or other activity by a person or body performing such function or activity under state authority, local community authority or as a bearer of public authority.

Any person suffering damage has the right to demand, in accordance with the law, compensation also directly from the person or body that has caused damage.

### **Title III: Economic and Social Relations**

#### **ARTICLE 67. PROPERTY**

The manner in which property is acquired and enjoyed shall be established by law so as to ensure its economic, social and environmental function.

#### **ARTICLE 72. HEALTHY LIVING ENVIRONMENT**

- (1) Each person shall have the right in accordance with the law to a healthy environment in which to live.
- (2) The State shall be responsible for such an environment. To this end, the conditions and the manner in which economic and other activities shall take place shall be regulated by law.
- (3) The conditions under which any person damaging the environment shall be obliged to make compensation shall be determined by law.
- (4) The protection of animals from cruelty shall be regulated by law.

#### **ARTICLE 73. PROTECTION OF NATURAL AND CULTURAL HERITAGE**

Everyone is obliged in accordance with the law to protect natural sites of special interest, rarities and cultural monuments.

The state and local communities shall promote the preservation of the natural and cultural heritage.

### **Title VII: Constitutionality and Legality**

#### **ARTICLE 157. JUDICIAL REVIEW OF ADMINISTRATIVE ACTS**

A court having jurisdiction to review administrative acts decides the legality of final individual acts with which state authorities, local community authorities and bearers of public authority decide the rights or obligations and legal entitlements of individuals and organisations, if other legal protection is not provided by law for a particular matter.

If other legal protection is not provided, the court having jurisdiction to review administrative acts also decides on the legality of individual actions and acts which intrude upon the constitutional rights of the individual.

#### ARTICLE 159. OMBUDSMAN FOR HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

In order to protect human rights and fundamental freedoms in relation to state authorities, local self-government authorities and bearers of public authority, the office of the ombudsman for the rights of citizens shall be established by law. Special ombudsmen for the rights of citizens may also be established by law for particular fields.

### Title VIII: The Constitutional Court

#### ARTICLE 162. PROCEEDINGS BEFORE THE CONSTITUTIONAL COURT

Proceedings before the Constitutional Court shall be regulated by law.

The law determines who may require the initiation of proceedings before the Constitutional Court. Anyone who demonstrates legal interest may request the initiation of proceedings before the Constitutional Court.

The Constitutional Court decides by a majority vote of all its judges unless otherwise provided for individual cases by the Constitution or law. The Constitutional Court may decide whether to initiate proceedings following a constitutional complaint with fewer judges as provided by law.

Source: [http://www.us-rs.si/en/index.php?sv\\_path=3583,3519,3520](http://www.us-rs.si/en/index.php?sv_path=3583,3519,3520)

## Somalia (2004)<sup>7</sup>

### *Transitional Federal Charter*

#### Chapter I: Sovereignty and Territory

##### ARTICLE 4. INTERPRETATION OF THE CHARTER

2. A person may bring an action in the Supreme Court for a declaration that any Law or action of the state is inconsistent with, or is in contravention of this Charter.
3. The Supreme Court shall determine all such applications on a priority basis.

#### Chapter XI: Land and Property

##### ARTICLE 67. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

1. The natural resources of the country such as the minerals, water, flora and fauna shall be public property and a law shall be enacted which defines the manner of exploitation for the common good.
2. The Transitional Federal Government shall give priority to the protection, conservation, and preservation of the environment against anything that may cause harm to the natural biodiversity and ecosystem.
3. Every person in the Somali Republic shall 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.
4. The Transitional Federal Government shall adopt urgent measures to clean up the hazardous waste dumped on and off shores of the Somali Republic. Compensation shall be demanded of those found liable for such crimes.
5. The Transitional Federal Government shall take urgent steps to reverse the trend in desertification, deforestation, environmental degradation, illegal charcoal burning and export of endangered wildlife species.

Source: <http://www.chr.up.ac.za/index.php/documents-by-country-database/somalia.html>

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<sup>7</sup> There is currently no Constitution in force in Somalia. However, a Transitional Federal Charter was established in February 2004 and is expected to serve as the basis for a future constitution in Somalia.

# South Africa (1996)

## Chapter 2: Bill of Rights

### 7. RIGHTS

1. This Bill of Rights is a cornerstone of democracy in South Africa. It enshrines the rights of all people in our country and affirms the democratic values of human dignity, equality and freedom.
2. The state must respect, protect, promote and fulfill the rights in the Bill of Rights.
3. The rights in the Bill of Rights are subject to the limitations contained or referred to in section 36, or elsewhere in the Bill.

### 24. ENVIRONMENT

Everyone 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 justifiable economic and social development.

### 27. HEALTH CARE, FOOD, WATER, AND SOCIAL SECURITY

- (1) Everyone has the right to have access to— ...
  - (b) sufficient food and water ...
- (2) The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realization of each of these rights.

### 33. JUST ADMINISTRATIVE ACTION

1. Everyone has the right to administrative action that is lawful, reasonable and procedurally fair.
2. Everyone whose rights have been adversely affected by administrative action has the right to be given written reasons.
3. National legislation must be enacted to give effect to these rights, and must:
  - a) provide for the review of administrative action by a court or, where appropriate, an independent and impartial tribunal;

- b) impose a duty on the state to give effect to the rights in subsections (1) and (2); and
- c) promote an efficient administration.

#### **34. ACCESS TO COURTS**

Everyone has the right to have any dispute that can be resolved by the application of law decided in a fair public hearing before a court or, where appropriate, another independent and impartial tribunal or forum.

#### **36. LIMITATION OF RIGHTS**

- (1) The rights in the Bill of Rights may be limited only in terms of law of general application to the extent that the limit is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors, including
  - a) the nature of the right;
  - b) the importance of the purpose of the limitation;
  - c) the nature and extent of the limitation;
  - d) the relation between the limitation and the purpose; and
  - e) less restrictive means to achieve the purpose.
- (2) Except as provided in subsection (1) or in any other provision of the Constitution, no law may limit any right entrenched in the Bill of Rights.

#### **37. STATES OF EMERGENCY**

- 1. A state of emergency may be declared only in terms of an Act of Parliament, and only when
  - a) the life of the nation is threatened by war, invasion, general insurrection, disorder, natural disaster or other public emergency; and
  - b) the declaration is necessary to restore peace and order. ...
- 4. Any legislation enacted in consequence of a declaration of a state of emergency may derogate from the Bill of Rights only to the extent that
  - a) the derogation is strictly required by the emergency; and
  - b) the legislation
    - i) is consistent with the Republic's obligations under international law applicable to states of emergency;
    - ii) conforms to subsection (5); and
    - iii) is published in the national Government Gazette as soon as



reasonably possible after being enacted.

5. No Act of Parliament that authorizes a declaration of a state of emergency and no legislation enacted or other action taken in consequence of a declaration may permit or authorise
  - a) indemnifying the state, or any person, in respect of any unlawful act;
  - b) any derogation from this section; or
  - c) any derogation from a section mentioned in column 1 of the Table of Non-Derogable Rights, to the extent indicated opposite that section in column 3 of the Table [sections 9, 10, 11, 12, 13, 28, and 35].

### **38. ENFORCEMENT OF RIGHTS**

Anyone listed in this section has the right to approach a competent court, alleging that a right in the Bill of Rights has been infringed or threatened, and the court may grant appropriate relief, including a declaration of rights. The persons who may approach a court are:

- a) anyone acting in their own interest;
- b) anyone acting on behalf of another person who cannot act in their own name;
- c) anyone acting as a member of, or in the interest of, a group or class of persons;
- d) anyone acting in the public interest; and
- e) an association acting in the interest of its members.

### **39. INTERPRETATION OF BILL OF RIGHTS**

1. When interpreting the Bill of Rights, a court, tribunal or forum
  - a) must promote the values that underlie an open and democratic society based on human dignity, equality and freedom;
  - b) must consider international law; and
  - c) may consider foreign law.
2. When interpreting any legislation, and when developing the common law or customary law, every court, tribunal or forum must promote the spirit, purport and objects of the Bill of Rights.
3. The Bill of Rights does not deny the existence of any other rights or freedoms that are recognised or conferred by common law, customary law or legislation, to the extent that they are consistent with the Bill.

## Chapter 7: Local Government

### 152. OBJECTS OF LOCAL GOVERNMENT

1. The objects of local government are: ...
  - (c) to promote social and economic development;
  - (d) to promote a safe and healthy environment
  - (e) to encourage the involvement of communities and community organisations in the matters of local government.
2. A municipality must strive, within its financial and administrative capacity, to achieve the objects set out in subsection (1).

## Chapter 9: State Institutions Supporting Constitutional Democracy

### 184. FUNCTIONS OF SOUTH AFRICAN HUMAN RIGHTS COMMISSION

1. The South African Human Rights Commission must
  - a) promote respect for human rights and a culture of human rights;
  - b) promote the protection, development and attainment of human rights; and
  - c) monitor and assess the observance of human rights in the Republic.
2. The South African Human Rights Commission has the powers, as regulated by national legislation, necessary to perform its functions, including the power
  - a) to investigate and to report on the observance of human rights;
  - b) to take steps to secure appropriate redress where human rights have been violated;
  - c) to carry out research; and
  - d) to educate.
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.
4. The South African Human Rights Commission has the additional powers and functions prescribed by national legislation.

Source: <http://www.info.gov.za/documents/constitution/1996/index.htm>

## South Korea (1987)

### Chapter III: Rights and Duties of Citizens

#### ARTICLE 35

1. All citizens have the right to a healthy and pleasant environment. The State and all citizens shall endeavor to protect the environment.
2. The substance of the environmental right is determined by law.
3. The State endeavors to ensure comfortable housing for all citizens through housing development policies and the like.

#### ARTICLE 37

1. Freedoms and rights of citizens shall not be neglected on the grounds that they are not enumerated in the Constitution.
2. The freedoms and rights of citizens may be restricted by Act only when necessary for national security, the maintenance of law and order or for public welfare. Even when such restriction is imposed, no essential aspect of the freedom or right shall be violated.

### Chapter VI: The Constitutional Court

#### ARTICLE 111

1. The Constitutional Court shall have jurisdiction over the following matters:
  1. The constitutionality of a law upon the request of the courts;
  2. Impeachment;
  3. Dissolution of a political party;
  4. Competence disputes between State agencies, between State agencies and local governments, and between local governments;  
and
  5. Constitutional complaint as prescribed by Act.<sup>8</sup>

### Chapter IX: The Economy

#### ARTICLE 120

- (2) The land and natural resources are protected by the State, and the State establishes a plan necessary for their balanced development and utilization.

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<sup>8</sup> South Korea's Constitutional Court Act establishes a procedure whereby citizens can file petitions with the court when their rights have allegedly been infringed by unconstitutional state action and they have exhausted all available legal remedies. Ginsburg, T. 2003. *Judicial Review in New Democracies: Constitutional Courts in Asian Cases*, 206-46. Cambridge: Cambridge University Press.

# Spain (1978)

## Title I: Fundamental Rights and Duties

### Chapter II: Rights and Freedoms

#### *Division 1: Fundamental Rights and Public Freedoms*

##### ARTICLE 24

- (1) All persons have the right to the effective protection of the judges and courts in the exercise of their rights and legitimate interests, and in no case may there be a lack of defense. ...

### Chapter III: Guiding Principles of Economic and Social Policy

##### ARTICLE 45

- (1) Everyone has the right to enjoy an environment suitable for the development of the person, as well as the duty to preserve it.
- (2) The public authorities shall concern themselves with the rational use of all natural resources for the purpose of protecting and improving the quality of life and protecting and restoring the environment, by relying on an indispensable collective solidarity.
- (3) For those who violate the provisions of the foregoing paragraph, criminal or administrative sanctions, as applicable, shall be established and they shall be obliged to repair the damage caused.

### Chapter IV: Guarantee of Fundamental Rights and Freedoms

##### ARTICLE 53

- (1) The rights and liberties recognized in the second chapter of the present Title are binding on all public authorities. Only by law, which in every case must respect their essential content, could the exercise of such rights and liberties be regulated, and they shall be protected in accordance with the provisions of Article 161(1)(b).
- (2) Any citizen may make a claim to the liberties and rights recognized in Article 14 and the first Section of the Second Chapter before the regular courts through a preferential and summary procedure and, when appropriate, by launching an individual appeal for constitutional protection (*recurso de amparo*) to the Constitutional Court. This latter procedure shall be applicable to conscientious objection as recognized in Article 30.
- (3) Recognition, respect and protection of the principles recognized in Chapter III shall guide legislation, judicial practice and actions by the public authorities. They may only be invoked before the ordinary courts in accordance with the legal provisions implementing them.

#### ARTICLE 54

An organic law shall regulate the institution of the Defender of the People as the High Commissioner of the Parliament, appointed for the protection of the rights contained in this Title, for which purpose he may supervise the activity of the administration, informing the Parliament of it.

#### Chapter V: Suspension of Rights and Liberties

#### ARTICLE 55

- (1) The rights recognized in Articles 17, 18(2) and (3), 19, 20(1)(a) and (d) and (5), 21, 28(2), and Article 37(2) may be suspended when a state of emergency or siege is declared under the terms provided in the Constitution. Article 17(3) is exempted from that which was established previously in the event of the declaration of a state of emergency.
- (2) An organic law may determine the manner and the cases in which, in an individual manner and with the necessary judicial intervention and adequate parliamentary control, the rights recognized in Article 17(2) and 18(2) and (3) may be suspended for certain persons with respect to investigations having to do with the activities of armed bands or terrorist elements. The unwarranted or abusive utilization of the powers recognized in said organic law will result in criminal responsibility as a violation of the rights and liberties recognized by the laws.

Source: <http://www.servat.unibe.ch/icl/sp000000.html>

## Sri Lanka (1978)

### Chapter VI: Directive Principles of State Policy and Fundamental Duties

#### ARTICLE 27. DIRECTIVE PRINCIPLES OF STATE POLICY

- (14) The State shall protect, preserve and improve the environment for the benefit of the community.

#### ARTICLE 28. FUNDAMENTAL DUTIES

The exercise and enjoyment of rights and freedoms is inseparable from the performance of duties and obligations, and accordingly it is the duty of every person in Sri Lanka ...

- (f) to protect nature and conserve its riches.

#### ARTICLE 29. PRINCIPLES OF STATE POLICY AND FUNDAMENTAL DUTIES NOT JUSTICIABLE

The provisions of this Chapter do not confer or impose legal rights or obligations, and are not enforceable in any court or tribunal. No question of inconsistency with such provisions shall be raised in any court or tribunal.

Source: <http://www.priu.gov.lk/Cons/1978Constitution/Index.html>

## Sudan (2005)<sup>9</sup>

### *Interim National Constitution of the Republic of Sudan, 2005*

#### Part I: The State, the Constitution and Guiding Principles

##### Chapter II: Guiding Principles and Directives

###### 11. ENVIRONMENT AND NATURAL RESOURCES

- (1) 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.
- (2) The State shall not pursue any policy, or take or permit any action, which may adversely effect the existence of any species of animal or vegetative life, their natural or adopted habitat.
- (3) The State shall promote, through legislation, sustainable utilization of natural resources and best practices with respect to their management.

###### 22. SAVING

Unless this Constitution otherwise provides, or a duly enacted law guarantees the rights and liberties described in this Chapter, the provisions contained in this Chapter are not by themselves enforceable in a court of law; however, the principles expressed herein are basic to governance and the State is duty-bound to be guided by them, especially in making laws;

##### Chapter III: Duties of the Citizen

###### 23. DUTIES OF THE CITIZEN

- (2) In particular every citizen shall: ...
  - (h) preserve the natural environment

#### Part II: The Bill of Rights

###### 35. RIGHT TO LITIGATION

- (1) The right to litigate shall be guaranteed for all persons and no one shall be denied the right to sue;
- (2) Everyone has the right to have any dispute, that can be resolved by the application of law, decided in a fair public hearing before a court of law or, where appropriate, before any other independent and impartial tribunal or forum specified by law or agreement.

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<sup>9</sup> The Interim National Constitution of the Republic of the Sudan was adopted July 6, 2005. South Sudan now has its own constitution.

#### **48. SANCTITY OF RIGHTS**

No derogation from the rights and freedoms enshrined in this Bill shall be made except in accordance with the provisions of this Constitution and only with the approval of the National Legislature. This Bill of human rights and fundamental freedoms shall be upheld, protected, applied and enforced by the Constitutional Court and other competent courts; the Human Rights Commission shall monitor its application and enforcement.

### **Part III: The National Executive**

#### **Chapter II: The Presidency**

#### **61. CONTESTING ACTS OF THE PRESIDENT**

Any person aggrieved by an act of the President of the Republic or of the Institution of the Presidency, may contest such act:

- (a) Before the Constitutional Court, if the alleged act involves a violation of this Constitution, the Bill of Rights, the decentralized system of government, or the Comprehensive Peace Agreement,
- (b) Before the competent court of law if the allegation is on other legal grounds; ...

#### **Chapter IV: The National Council of Ministers**

#### **78. CONTESTING MINISTERIAL ACTS**

An aggrieved person may contest an act of the National Council of Ministers or a National Minister:

- (a) Before the Constitutional Court if the alleged act involves a violation of this Constitution, the Bill of Rights, the decentralized system of government or the Comprehensive Peace Agreement,
- (b) Before the competent authority or court of law if the allegation is on other legal grounds.

### **Part V: The National Institutions of Justice**

#### **Chapter III: Public Attorneys and Advocacy**

#### **134. ADVOCACY**

- (1) The profession of advocacy shall promote, protect and advance the fundamental rights of citizens. Advocates shall serve to fend off injustice, defend the legal rights and interests of their clients, seek conciliation between adversaries and render legal aid for the needy according to law;



- (2) The law shall regulate the profession of advocacy;

## Part VII: Independent National Institutions and Commissions

### 142. HUMAN RIGHTS COMMISSION

- (1) A Human Rights Commission Act shall be promulgated; it shall, among other things, specify the powers, procedures and terms of service of the Commission;

## Part XIII: State of Emergency and Declaration of War

### 211. POWERS OF THE PRESIDENT IN THE STATE OF EMERGENCY

The President of the Republic, with the consent of the First Vice President, may during the state of emergency take, by virtue of law or exceptional order, any measures that shall not derogate from the provisions of this Constitution and the Comprehensive Peace Agreement except as may be provided herein:

- (a) to suspend part, or all, of the Bill of Rights of this Constitution.  
However, there shall not be infringement on the right to life, freedom from slavery, torture, the right of non-discrimination on basis of race, sex or religious creed, the right in litigation or the presumption of innocence and legal representation

Source: [http://Www.Sudantribune.Com/Img/Pdf/20050316\\_Sudan\\_Draft\\_Constitutional\\_Text.Pdf](http://Www.Sudantribune.Com/Img/Pdf/20050316_Sudan_Draft_Constitutional_Text.Pdf)

## South Sudan (2011)

### *Transitional Constitution of the Republic of South Sudan, 2011*

#### Preamble

We, the People of South Sudan, ...

Conscious of the need to manage our natural resources sustainably and efficiently for the benefit of the present and future generations and to eradicate poverty and attain the Millennium Development Goals;

Do hereby, through this Southern Sudan Legislative Assembly, amend the Interim Constitution of Southern Sudan, 2005, which shall be adopted and hereafter referred to as the “Transitional Constitution of the Republic of South Sudan, 2011,” and shall be the supreme law by which the independent and sovereign South Sudan shall be governed during the Transitional Period, and undertake to abide by, respect and defend it.

## Part Two: Bill of Rights

### Nature of the Bill of Rights

#### ARTICLE 9

- (1) The Bill of Rights is a covenant among the people of South Sudan and between them and their government at every level and a commitment to respect and promote human rights and fundamental freedoms enshrined in this Constitution; it is the cornerstone of social justice, equality and democracy.
- (2) The rights and freedoms of individuals and groups enshrined in this Bill shall be respected, upheld and promoted by all organs and agencies of Government and by all persons.
- (3) All rights and freedoms enshrined in international human rights treaties, covenants and instruments ratified or acceded to by the Republic of South Sudan shall be an integral part of this Bill.
- (4) This Bill of Rights shall be upheld by the Supreme Court and other competent courts and monitored by the Human Rights Commission.

### Sanctity of Rights and Freedoms

#### ARTICLE 10

Subject to Article 189 herein, no derogation from the rights and freedoms enshrined in this Bill shall be made. The Bill of Rights shall be upheld, protected and applied by the Supreme Court and other competent courts; the Human Rights Commission shall monitor its application in accordance with this Constitution and the law.

## Part Three: Fundamental Objectives and Guiding Principles

### Chapter I: Objectives and Principles

#### *Guiding Objectives and Principles*

##### ARTICLE 35

- (1) All levels of government and their organs, institutions and citizens shall be guided by the objectives and principles contained in this Chapter.
- (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.

#### *Economic Objectives*

##### ARTICLE 37

- (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; ...

#### *The Environment*

##### ARTICLE 41

- (1) Every person or community shall have the right to a clean and healthy environment.
- (2) Every 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 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 promote energy policies that will ensure that the basic needs of the people are met while protecting and preserving the environment.

## Chapter 2: Citizenship and Nationality

### *Duties of the Citizen*

#### ARTICLE 46

- (1) It shall be the duty of every citizen to uphold and abide by this Constitution and respect the laws of South Sudan.
- (2) Every citizen shall in particular:
  - ...
  - (h) protect the environment and conserve natural resources; ...

## Part Eleven: The States, Local Government and Traditional Authority

### Chapter I: Local Government

#### ARTICLE 165

- (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; ...

### Chapter III: Petroleum and Gas Development and Management

#### *Guiding Principles for Petroleum and Gas Development and Management*

#### ARTICLE 172

- (2) Petroleum and gas development and management shall be guided by the following principles:
  - ...
  - (i) protecting the environment and biodiversity; ...
  - (m) safeguarding interests of future generations;
  - (n) ensuring accountability for violations of human rights and degradation to the environment caused by petroleum and gas-related operations; and
  - (o) ensuring restoration of land and resources affected by development and management.

Source: [http://www.pachodo.org/attachments/2074\\_The%20Transitional%20Constitution%20of%20the%20Republic%20of%20South%20Sudan%202011.pdf](http://www.pachodo.org/attachments/2074_The%20Transitional%20Constitution%20of%20the%20Republic%20of%20South%20Sudan%202011.pdf)

# Suriname (1987)

## Chapter III: Social Goals

### ARTICLE 6

The social objectives of the State shall aim at: ...

- (g) creating and improving the conditions necessary for the protection of nature and for the preservation of the ecological balance.

## Chapter V: Basic Rights, Individual Rights, and Freedoms

### ARTICLE 12

- (1) Everyone has the right to legal assistance before the courts
- (2) The law shall provide regulations with regard to legal aid for the financially weak.

## Chapter XV: The Legal System

### *Fourth Section: The Constitutional Court*

### ARTICLE 144

- (1) There shall be a Constitutional Court which is an independent body composed of a President, Vice-President and three members, who—as well as the three deputy members—shall be appointed for a period of five years at the recommendation of the National Assembly.
- (2) The tasks of the Constitutional Court shall be:
  - (a) to verify the purport of Acts or parts thereof against the Constitution, and against applicable agreements concluded with other states and with international organizations;
  - (b) to assess the consistency of decisions of government institutions with one or more of the constitutional rights mentioned in Chapter V.
- (3) In case the Constitutional Court decides that a contradiction exists with one or more provisions of the Constitution or an agreement as referred to in paragraph 2 sub a, the Act or parts thereof, or those decisions of the government institutions shall not be considered binding.
- (4) Further rules and regulations concerning the composition, the organization and procedures of the Court, as well as the legal consequences of the decisions of the Constitutional Court, shall be determined by law.

Source: <http://pdba.georgetown.edu/Constitutions/Suriname/english.html>

## Swaziland (2005)

### Chapter V: Directive Principles of State Policy and Duties of the Citizen

#### SECTION 56. GENERAL OBJECTIVES

- (1) The Directive Principles of State Policy contained in this Chapter shall guide all organs and agencies of the State, citizens, organizations and other bodies and persons in applying or interpreting this Constitution or any other law and in taking and implementing any policy decisions for the establishment of a just, free and democratic society.
- (2) The Prime Minister shall report to Parliament at least once a year on all the steps taken to ensure the realization of the Directive Principles contained in this Chapter.
- (3) The provisions of sections 57 to 63 inclusive are not enforceable in any court or tribunal.

#### SECTION 60. SOCIAL OBJECTIVES

- (11) The State shall endeavour to preserve and protect places of historical interest and artifacts and the environment.

#### SECTION 63. DUTIES OF THE CITIZEN

The exercise and enjoyment of rights and freedoms is inseparable from the performance of duties and obligations, and accordingly, it shall be the duty of every citizen to ...

- (i) protect and safeguard the environment.

### Chapter XII: Land, Minerals, Water and Environment

#### SECTION 210. DECLARATION OF LAND, MINERALS AND WATER AS NATIONAL RESOURCES

- (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.

#### SECTION 215. WATER

There shall be no private right of property in any water found naturally in Swaziland.

#### SECTION 216. ENVIRONMENT

- (1) Every person shall promote the protection of the environment for the present and future generations.
- (2) Urbanisation or industrialization shall be undertaken with due respect for the environment.

- (3) The Government shall ensure a holistic and comprehensive approach to environmental legislation and shall put in place an appropriate environmental regulatory framework.

Source: <http://www.chr.up.ac.za/index.php/documents-by-country-database/swaziland.html>



## Sweden (1987)<sup>10</sup>

### *Instrument of Government*

#### Chapter 1: Basic Principles of the Form of Government

##### ARTICLE 2

... The personal, economic and cultural welfare of the private person shall be fundamental aims of public activity. In particular, it shall be incumbent upon the public institutions to secure the right to health, employment, housing and education, and to promote social care and social security.

The public institutions shall promote sustainable development leading to a good environment for present and future generations.

#### Chapter 2: Fundamental Rights and Freedoms

##### ARTICLE 18

The property of every citizen shall be so guaranteed that none may be compelled by expropriation or other such disposition to surrender property to the public institutions or to a private subject, or tolerate restriction by the public institutions of the use of land or buildings, other than where necessary to satisfy pressing public interests.

A person who is compelled to surrender property by expropriation or other such disposition shall be guaranteed compensation for his loss. Such compensation shall also be guaranteed to a person whose use of land or buildings is restricted by the public institutions in such a manner that ongoing land use in the affected part of the property is substantially impaired, or injury results which is significant in relation to the value of that part of the property. Compensation shall be determined according to principles laid down in law.

There shall be access for all to the natural environment in accordance with the right of public access, notwithstanding the above provisions.

#### Chapter 11: Administration of Justice and General Administration

##### ARTICLE 14

If a court or other public body finds that a provision conflicts with a rule of fundamental law or other superior statute, or finds that a procedure laid down in law has been disregarded in any important respect when the provision was made, the provision

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<sup>10</sup> The Constitution consists of four fundamental laws: the Instrument of Government, the Act of Succession, the Freedom of the Press Act and the Fundamental Law on Freedom of Expression. The Instrument of Government contains the most important rules regarding the organization of Swedish society and the major constitutional principles.

shall not be applied. If the provision has been approved by the Riksdag or by the Government, however, it shall be waived only if the error is manifest.

Source: [http://www.riksdagen.se/templates/R\\_Page\\_6357.aspx](http://www.riksdagen.se/templates/R_Page_6357.aspx)

# Switzerland (1971, amended in 1999)<sup>11</sup>

## Preamble

The Swiss People and Cantons ... are conscious of our common achievements and our responsibility towards future generations; ...

## Title I: General Provisions

### ARTICLE 2. PURPOSE

- (1) The Swiss Federation protects the liberty and rights of the people and safeguards the independence and security of the country.
- (2) It promotes common welfare, sustainable development, inner cohesion, and cultural diversity of the country.
- (3) It ensures the highest possible degree of equal opportunities for all citizens.
- (4) It strives to safeguard the long-term preservation of natural resources and to promote a just and peaceful international order.

## Title II: Basic, Civil, and Social Rights

### Chapter I: Basic Rights

#### ARTICLE 29. GENERAL PROCEDURAL GUARANTEES

- (1) In judicial and administrative proceedings, every person has the right to equal and fair treatment as well as adjudication within reasonable time.
- (2) The parties have the right to be heard.
- (3) Every person lacking the necessary means has the right to free legal assistance, provided the case does not seem to lack any merit. To the extent necessary for the protection of one's rights, the person also has the right to free legal counsel.

## Title III: The Confederation, Cantons and Municipalities

### Chapter 2: Security, National and Civil Defense

#### *Section 4: Environment and Zoning*

#### ARTICLE 73. SUSTAINABLE DEVELOPMENT

The Federation and the Cantons shall strive to establish a sustainable equilibrium between nature, in particular its capacity to renew itself, and its use by man.

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<sup>11</sup> The Swiss Constitution of 1874 governed, with extensive amendments, until a new constitution was drafted in the late 1990s. Provisions related to the environment began appearing in the Swiss Constitution of 1874 in 1971.

#### ARTICLE 74. PROTECTION OF THE ENVIRONMENT

- (1) The Federation shall legislate on the protection of humans and the natural environment against damaging and harmful influences.
- (2) It shall ensure that such influences are avoided. The polluters shall pay for the costs of avoidance and removal.
- (3) The federal regulations shall be implemented by the Cantons, insofar as the law does not reserve this for the Federation.

#### ARTICLE 75. ZONING

- (1) The Federation shall establish principles on zoning. Zoning falls to the Cantons, and shall serve to achieve an appropriate and moderate use of the land and its ordered inhabitation.
- (2) The Federation shall encourage and coordinate the efforts of the Cantons, and shall collaborate with them.
- (3) In fulfilling their tasks, the Federation and the Cantons shall take the needs of zoning into account.

#### ARTICLE 76. WATER

- (1) Within the limits of its powers, the Federation shall ensure the moderate use and the protection of water resources, and fight against harmful effects of water.
- (2) It shall establish principles on the preservation and use of water reserves, on the use of water for the production of energy and for cooling purposes, and on other interventions into the water cycle.
- (3) It shall legislate on water protection, on securing sufficient residual water, on hydraulic engineering, on the safety of dams and on interventions to influence precipitation.
- (4) The Cantons shall dispose of their water resources. Within the limits of federal law, they may levy dues for water use. The Federation shall have the right to use water for its traffic enterprises; it shall pay dues and compensation for this.
- (5) On rights concerning international water resources and dues connected with them, the Federation shall decide in consultation with the Cantons concerned. If the Cantons concerned cannot agree on rights to intercantonal water reserves, the Federation shall decide.
- (6) In fulfilling its tasks, the Federation shall take into account the interests of the Cantons from which the water originates.

#### ARTICLE 77. FORESTS

- (1) The Federation shall ensure that forests may fulfill their protective, economic and social functions.
- (2) It shall establish principles for the protection of forests.
- (3) It shall encourage measures for the conservation of forests.

#### ARTICLE 78. NATURE AND CULTURAL HERITAGE

- (1) The protection of nature and cultural heritage is a cantonal matter.
- (2) In fulfilling its tasks, the Federation shall take into account the objectives of the protection of nature and cultural heritage. It shall protect scenery, localities, historical sites, and natural and cultural monuments; it shall preserve them untouched if public interest so requires.
- (3) It may support efforts towards the protection of nature and cultural heritage, and may, by contract or by expropriation, acquire or secure objects of national importance.
- (4) It shall legislate on the protection of animal and plant life, and on the preservation of their natural environment and diversity. It shall protect endangered species from extinction.
- (5) Moors and marshland of special beauty and national importance shall be protected. No installations may be built on them, and no alterations of any kind may be made to the land. An exception is made for installations serving to ensure their protection or continuation of existing agricultural use.

#### ARTICLE 79. FISHERY AND HUNTING

The Federation shall establish principles on the exercise of fishery and hunting, in particular to preserve diversity of fish, game, and birds.

#### ARTICLE 80. PROTECTION OF ANIMALS

- (1) The Federation shall legislate on the protection of animals.
- (2) It shall regulate in particular:
  - a. the keeping and care of animals;
  - b. experiments and intervention on live animals;
  - c. the use of animals;
  - d. the importation of animals and animal products;
  - e. trade in animals and transportation of animals;
  - f. the slaughter of animals.
- (3) The federal regulations shall be implemented by the Cantons, insofar as the statute does not reserve this for the Federation.

#### *Section 5: Public Works and Transportation*

#### ARTICLE 84. ALPINE TRANSIT

- (1) The Federation shall protect the alpine regions from the negative effects of transit traffic. It shall limit the nuisance caused by such traffic to a level which is not harmful to persons, animals, or plants, or their environment.
- (2) Transalpine freight in border-to-border transit is to be transported by rail. The Federal Government takes the necessary measures. Exceptions are permitted only if they are inevitable. They have to be specified by law.

- (3) The transit route capacity in the alpine area may not be increased. Excluded from this restriction are by-pass roads, which relieve localities of the transit traffic.

#### **ARTICLE 85. CHARGE ON HEAVY GOODS TRAFFIC**

- (1) The Federation may levy a duty on the heavy goods traffic dependent on motor power or consumption, as far as the heavy traffic causes costs for the public, which are not covered by other services or duties.
- (2) Net proceeds of the duty are used for the covering of costs in connection with road traffic.
- (3) The Cantons have a share in the net proceeds. The shares are calculated by considering the special effects of the duty on mountainous and peripheral areas.

#### **ARTICLE 86. FUELS CONSUMPTION TAX AND OTHER TRAFFIC CHARGES**

- (1) The Federation may levy a consumption tax on hydrocarbon fuels.
- (2) The Federation levies a duty for the use of the national highways by motor vehicles and trailers, which are not subordinated to the heavy traffic delivery. ...

#### **ARTICLE 88. FOOTPATHS AND HIKING TRAILS**

- (1) The Federation establishes principles on networks of footpaths and hiking trails.
- (2) The Federation may support measures of the Cantons to establish and keep such networks, and to coordinate them.

### *Section 6: Energy and Communication*

#### **ARTICLE 89. ENERGY POLICY**

- (1) Within their powers, the Federation and the Cantons shall strive to ensure a sufficient, diversified, reliable, and economical energy supply compatible with the protection of the environment, and the economical and efficient use of energy.
- (2) The Federation establishes principles on the use of domestic and renewable energies and on economical and rational energy consumption.
- (3) The Confederation legislates on the use of energy for buildings, vehicles and appliances. It promotes the development of energy techniques, particularly in the fields of energy saving and renewable energy. ...

### *Section 7: Economy*

#### **ARTICLE 104. AGRICULTURE**

- (3) It shall conceive the measures in such a way that agriculture may fulfill its multiple functions. Its powers and tasks shall particularly be the following:
  - a. It shall complement agricultural revenues by direct payments, to secure a fair and adequate remuneration for the services rendered, provided that compliance with ecological requirements is proven;

- b. It shall promote, by way of economic incentives, forms of production which are particularly close to nature and friendly to the environment and the animals;
- c. It shall legislate on the declaration of origin, quality, production and processing methods for foodstuffs;
- d. It shall protect the environment against pollution due to excessive use of fertilizers, chemicals and other auxiliary substances; ...

**ARTICLE 120. GENE TECHNOLOGY IN THE NON-HUMAN FIELD**

- (1) Persons and their environment shall be protected against abuse of gene technology.
- (2) The Federation shall legislate on the use of the reproductive and genetic material of animals, plants, and other organisms. In doing so, it shall take into account the dignity of creation and the security of man, animal and environment, and shall protect the genetic diversity of animal and vegetal species.

Source: [http://www.servat.unibe.ch/icl/sz00000\\_.html#A002](http://www.servat.unibe.ch/icl/sz00000_.html#A002)

# Syrian Arab Republic (1973)

## Part 2: Economic Principles

### ARTICLE 14

The law regulates ownership, which is of three kinds:

- (1) Public ownership includes natural resources, public utilities, and nationalized installations and establishments, as well as installations and establishments set up by the state. The state undertakes to exploit and to supervise the administration of this property in the interest of the entire people. It is the duty of the citizens to protect this property. ...

Source: <http://www.servat.unibe.ch/icl/sy00000.html>



# Tajikistan (1994)

## Preamble

We, the People of Tajikistan ...

Realizing our debt and our responsibility to the past, present, and future generations ...

Adopt and announce this constitution.

## Chapter 1: Foundations of the Constitutional System

### ARTICLE 13

The land, its resources, water, the atmosphere, flora, fauna, and other natural resources are the exclusive property of the state, and the government guarantees their effective utilization in the interests of the people.

## Chapter 2: Rights, Freedoms, and Basic Duties of the Person and Citizen

### ARTICLE 19

Every person is guaranteed judicial protection. Every person has the right to demand review of her or his case by a competent and non-partisan court. Without lawful grounds, no one may be subjected to detainment, arrest, or deportation. From the moment of detainment, a person has the right to employ the services of a lawyer.

### ARTICLE 38

Everyone has the right to protection of health. Everyone within the framework determined by law enjoys free medical assistance in the State healthcare establishments. The State adopts measures to improve the environment, develop mass athletics, physical culture, and tourism.

Other forms of medical assistance to be provided are determined by law.

### ARTICLE 44

Everyone is obligated to protect nature and historic and cultural monuments.

## Chapter 8: Courts

### ARTICLE 92

Legal assistance is guaranteed at all stages of investigation and court proceeding. The organization of and work procedures of the bar and other forms of legal assistance to be provided are determined by constitutional law.

Source: <http://unpan1.un.org/intradoc/groups/public/documents/untc/unpan003670.htm>

## Tanzania (1977)

### Part II: Fundamental Objectives and Directive Principles of State Policy

#### ARTICLE 7

- (1) Notwithstanding the provisions of sub-article (2), it shall be the duty and responsibility of the Government, all its organs and all persons or authorities exercising executive, legislative or judicial functions to take cognizance of, observe and apply the provisions of this Part of this Chapter.
- (2) The provisions of this Part of this Chapter are not enforceable by any court. No court shall be competent to determine the question whether or not any action or omission by any person or any court, or any law or judgment complies with the provisions of this Part of this Chapter.

#### ARTICLE 9

The state authority and all its agencies are obliged to direct their policies and programs toward ensuring—

...

- (c) that public affairs are conducted in such a way as to ensure that the national resources and heritage are harnessed, preserved, and applied for the common good ...

### Part III: Basic Rights and Duties

#### ARTICLE 27

- (1) Everyone has the responsibility of conserving the natural resources of the United Republic, property under the care of the State and all properties collectively owned by the people, and also to respect the property of others.
- (2) Everyone is expected to protect with care properties under care of the State, and of collective nature, to combat all forms of destruction, and to participate in the economic development of the country in an orderly manner as if they are the future decision makers of their nation.

Source: [http://www.chr.up.ac.za/undp/domestic/docs/c\\_Tanzania.pdf](http://www.chr.up.ac.za/undp/domestic/docs/c_Tanzania.pdf)

## Thailand (2007)<sup>12</sup>

### Chapter III: Rights and Liberties of Thai People

#### Part 1: General Provisions

##### SECTION 27

Rights and liberties recognised by this Constitution explicitly, by implication or by decisions of the Constitutional Court shall be protected and directly binding on the National Assembly, the Council of Ministers, the Courts, the Constitutional organisations and all State organs in enacting, applying and interpreting laws.

##### SECTION 28

A person can invoke human dignity or exercise his rights and liberties in so far as it is not in violation of rights and liberties of other persons or contrary to this Constitution or good morals.

A person whose rights and liberties recognised by this Constitution are violated can invoke the provisions of this Constitution to bring a lawsuit or to defend himself in the Courts.

A person may bring a lawsuit against the State directly so as to act in compliance with the provisions in this Chapter. If there is a law enforcing the exercise of any right and liberty as recognised by this Constitution, the exercising of that right and liberty shall be in accordance with such law.

A person shall have the right to be enhanced, supported and assisted by the State in exercising of right under this Chapter.

##### SECTION 29

The restriction of such rights and liberties as recognised by the Constitution shall not be imposed on a person except by virtue of the law specifically enacted for the purpose determined by this Constitution and only to the extent of necessity and provided that it shall not affect the essential substances of such rights and liberties.

The law under paragraph one shall be of general application and shall not be intended to apply to any particular case or person; provided that the provision of the Constitution authorising its enactment shall also be mentioned therein.

The provisions of paragraph one and paragraph two shall apply *mutatis mutandis* to rules or regulations issued by virtue of the law.

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<sup>12</sup> The Thai Constitution was abrogated by a military junta/coup in 2006. There was an Interim Constitution stating that all rights under old Constitution would be upheld. In 2007, a new Constitution was proposed and passed a public referendum.

## Part 5: Right in Property

### SECTION 41

The property right of a person is protected. The extent and the restriction of such right shall be in accordance with the provisions of law. Succession is protected.

The right of succession of a person shall be in accordance with the provisions of law.

### SECTION 42

The expropriation of immovable property shall not be made except by virtue of the law specifically enacted for the purpose of public utilities, necessary national defense, exploitation of national resources, town and country planning, promotion and preservation of quality of the environment, agricultural or industrial development, land reforms, or other public interests, and fair compensation shall be paid in due time to the owner thereof as well as to all persons having the rights thereof, who suffer loss by such expropriation, as provided by law. ...

## Part 6: Occupational Rights

### SECTION 43

A person shall enjoy the freedom to engage in an enterprise or an occupation and to undertake a fair and free competition.

The restriction on such liberties under paragraph one shall not be imposed except by virtue of the law specifically enacted for ... preserving natural resources or the environment, ...

## Part 10: Right To Receive Information and Freedom of Petition

### SECTION 56

A person shall have the right to receive information, explanation and justification from a government agency, state agency, state enterprise or local government organization before permission is given for implementation of any project or activity which may affect the quality of environment, health, and sanitary conditions, quality of life or other material of interest to him or her or a local community and shall have the right to express his or her opinion on such matters to agencies concerned for consideration.

## Part 12: Community Rights

### SECTION 66

Persons assembling so as to be a traditional community shall have the right to conserve or restore their customs, local knowledge, arts or good culture of their community and of the nation and participate in management, maintenance, preservation and exploitation of natural resources, the environment and biological diversity in a balanced and sustainable fashion.

## SECTION 67

The right of a person to participate with state and communities in the preservation and exploitation of natural resources and biological diversity and in the protection, promotion and preservation of the quality of environment for usual and consistent survival in the environment which is not hazardous to his or her health and sanitary conditions, welfare or quality of life, shall be protected appropriately.

Any project or activity that may seriously affect the quality of environment shall not be permitted, unless its impacts on the quality of environment and on the health of the people in the communities have been studied and evaluated and consultation with the public and interested parties have been organized, and opinions of an independent organization, consisting of representatives from private environmental and health organizations and from higher education institutions providing studies in the field of environment, natural resources or health, have been obtained prior to the operation of such project or activity.

The right of a community to sue a government agency, state agency, state enterprise, local government organization or other state authority which has the jurisdiction to perform the duties under this section shall be protected.

## Chapter IV: Duties of Thai People

### SECTION 73

Every person shall have a duty to serve in the armed forces, render assistance in providing public calamity prevention and rehabilitation, pay taxes, render assistance to the official service, receive education and training, protect, preserve and pass on the national arts and culture and local wisdom and conserve natural resources and the environment as provided by law.

## Chapter V: Directive Principles of Fundamental State Policies

### Part 1: General Provisions

### SECTION 75

The provisions of this Chapter are intended to serve as directive principles for legislating and determining policies for the administration of State affairs.

In stating its policies to the National Assembly, the Council of Ministers which will assume the administration of State affairs shall clearly state to the National Assembly the activities and their implementation period intended to be carried out for the administration of State affairs in implementation of the directive principles of fundamental State policies provided in this Chapter and shall prepare and submit to the National Assembly an annual report on the result of the implementation, including problems and obstacles encountered.

## Part 8: Land Use, Natural Resources, and Environment Policy

### SECTION 85

The state shall implement the land use, natural resources, and environment policy as follows:

- (1) preparing and applying the rules on the use of land throughout the country with due regard for environmental conditions, nature of land and water and the way of life of local communities, the efficient measures for preservation of natural resources, the sustainable standards for land use and opinion of the people in the area who may be affected by the rules on the use of land;
- (2) distributing the right to hold land fairly, enabling farmers to be entitled to the ownership or the right in land for agriculture thoroughly by means of land reform or by other means, and providing water resources for the distribution of water to farmers for use in agriculture adequately and appropriately;
- (3) preparing town and country planning, and developing and carrying out the plan effectively and efficiently for the purpose of sustainable preservation of natural resources;
- (4) preparing a systematic management plan for water and other natural resources for the common interests of the nation, and encouraging the public to participate in the preservation, conservation, and exploitation of natural resources and biological diversity appropriately;
- (5) conducting the promotion, conservation, and protection of the quality of the environment under the sustainable development principle, and controlling and eliminating pollution that may affect health and sanitation, welfare and quality of life of the public by encouraging the public, the local communities and the local governments to participate in the determination of the measures.

## Part 9: Science, Intellectual Property, and Energy Policy

### SECTION 86

The state shall implement the Science, Intellectual Property and Energy Policy as follows:

...

- (3) The state shall consistently and systematically promote and support research, development, and use of natural alternative

energies which are beneficial to the environment.

## Chapter X: The Courts

### Part 2: The Constitutional Court

#### SECTION 212

A person whose rights and liberties recognised by this Constitution are violated, has the right to submit a motion to the Constitutional Court for its decision as to whether the provisions of the law are contrary to or inconsistent with the Constitution.

The exercise of right under paragraph one must be unable to exercise the right by other means as provided in the organic law on rules and procedure of the Constitutional Court.

## Chapter XI: Constitutional Organizations

### Part 2: Other Organizations

#### *2. The National Human Rights Commission*

#### SECTION 257

The National Human Rights Commission has the powers and duties as follows:

- (1) to examine and report the commission or omission of acts which violate human rights or which do not comply with obligations under international treaties to which Thailand is a party, and propose appropriate remedial measures to the person or agency committing or omitting such acts for taking action. In the case where it appears that no action has been taken as proposed, the Commission shall report to the National Assembly for further proceeding;
- (2) to submit the case together with opinions to the Constitutional Court in the case where the Commission agrees with the complainant that the provisions of any law are detrimental to human rights and beg the question of the constitutionality as provided by the organic law on rules and procedure of the Constitutional Court;
- (3) to submit the case together with opinions to the Administrative Courts in the case where the Commission agrees with the complainant that any rule, order or administrative act is detrimental to human rights and begs the question of the constitutionality and legality as provided by the law on establishment of Administrative Courts and Administrative Court

Procedure;

- (4) to bring the case to the Courts of Justice for the injured person upon request of such person if it deems appropriate for the resolution of human rights violation problem as a whole as provided by law;
- (5) to propose to the National Assembly and the Council of Ministers policies and recommendations with regard to the revision of laws, rules or regulations for the promotion and protection of human rights;
- (6) to promote education, research and the dissemination of knowledge on human rights;
- (7) to promote co-operation and co-ordination among government agencies, private organisations and other organisations in the field of human rights;
- (8) to prepare an annual report for the appraisal of situations in the sphere of human rights in the country and submit it to the National Assembly;
- (9) other powers and duties as provided by law.

In the performance of duties of the National Human Rights Commission, regard shall be had to interests of the country and the public.

The National Human Rights Commission has the power to demand relevant documents or evidence from any person or summon any person to give statements of fact including other powers for the purpose of performing its duties as provided by law.

## Chapter XV: Constitutional Amendments and Transitory Provisions

### SECTION 303

At the initial period, the Council of Ministers taking office after the first general election under this Constitution shall cause a preparation or amendment to laws in the matters and within the specific period as follows:

- (1) laws related to the determination of measures for supporting and protecting rights and liberties under section 40, section 44, Freedom of Expression of Individual and the Press in Part 7, Rights and Liberties in Education in Part 8, Rights to Public Health Services and Welfare in Part 9 and Rights to Information and Petition in Part 10 as well as laws on personal data under section 56, Community Rights in Part 12, law establishing autonomous consumer protection organisation under section 61 paragraph two, law on political development council under section 78 (7), law establishing organisation for reforming the judicial process under



section 81 (4), law establishing farmer council under section 84 (8), law establishing civil politics development fund under section 87 (4) and law on National Human Rights Commission under section 256; within one year as from the date its policies are stated to the National Assembly under section 176; ...

Source: <http://www.asianlii.org/th/legis/const/2007/1.html#C03P12>

## Togo (1992)

### Title II: Rights, Freedoms and Duties of Citizens

#### Subsection I: Rights and Duties

##### ARTICLE 10

Every human being has intrinsically inalienable and imprescriptible rights. The safeguarding of these rights is the aim of any human community. The State has the obligation to respect, guarantee, and protect these rights. ...

##### ARTICLE 14

The exercise of the rights and freedoms guaranteed by this Constitution shall only be subjected to the restrictions expressly provided by the law and necessary for the protection of national security or public order, public health, morality, or the fundamental rights and freedoms of others.

##### ARTICLE 41

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

### Title IV: The Relationship Between the Government and the Parliament

##### ARTICLE 84

The law shall set the rules concerning:

- citizenship, civic rights and the exercise of public freedoms

### Title VI: The Constitutional Court

##### ARTICLE 99

The Constitutional Court is the highest jurisdiction of the State in constitutional matters. It shall judge the constitutionality of the law and it shall guarantee the fundamental rights of the human person and of public freedoms. It shall be the regulatory organ for the functioning of the institutions and of the activity of the public powers.

### Title VIII: The Judicial Power

#### Subsection I: General Provisions

##### ARTICLE 113

... The Judicial Power protects individual freedoms and the fundamental rights of citizens.

## Title XV: The National Commission of Human Rights and the Mediator of the Republic

### Subsection I: The National Commission of Human Rights

#### ARTICLE 152

The National Commission of Human Rights is created. It shall be independent. It shall only be subjected to the Constitution and the law.

The composition, organization and functioning of the National Commission of Human Rights shall be set by an organic law.

#### ARTICLE 153

No member of the Government or the Parliament or any other person may interfere with the exercise of the functions of the National Commission of Human Rights, and all other State organs shall give it the assistance it may need to preserve its independence, dignity, and efficacy.

Source: (French) <http://www.unhcr.org/refworld/country.LEGAL,,LEGISLATION,TGO,456d621e2,48ef43c72,0.html>

# Turkey (1982)

## Part Two: Fundamental Rights and Duties

### Chapter One: General Provisions

#### *II. Restriction of Fundamental Rights and Freedoms*

##### ARTICLE 13

Fundamental rights and freedoms may be restricted only by law and in conformity with the reasons mentioned in the relevant articles of the Constitution without infringing upon their essence. These restrictions shall not be in conflict with the letter and spirit of the Constitution and the requirements of the democratic order of the society and the secular Republic and the principle of proportionality.

##### ARTICLE 15. SUSPENSION OF THE EXERCISE OF FUNDAMENTAL RIGHTS AND FREEDOMS

In times of war, mobilization, martial law, or state of emergency, the exercise of fundamental rights and freedoms can be partially or entirely suspended, or measures may be taken, to the extent required by the exigencies of the situation, which derogate the guarantees embodied in the Constitution, provided that obligations under international law are not violated.

Even under the circumstances indicated in the first paragraph, the individual's right to life, and the integrity of his or her material and spiritual entity shall be inviolable except where death occurs through lawful act of warfare ...

### Chapter Two: Rights and Duties of the Individual

#### *XIII. Provisions Relating to the Protection of Rights*

##### ARTICLE 36. FREEDOM TO CLAIM RIGHTS

Everyone has the right of litigation either as plaintiff or defendant and the right to a fair trial before the courts through lawful means and procedures.

No court shall refuse to hear a case within its jurisdiction.

#### *XV. Protection of Fundamental Rights and Freedoms*

##### ARTICLE 40. (AS AMENDED ON OCTOBER 17, 2001)

Everyone whose constitutional rights and freedoms have been violated has the right to request prompt access to the competent authorities.

The State is obliged to indicate in its transactions, the legal remedies and authorities the persons concerned should apply and their time limits.

Damages occurred by any person through unlawful treatment by holders of public office shall be compensated for by the state. The state reserves the right of recourse to the official responsible.

## Chapter Three: Social and Economic Rights and Duties

### *III. Public Interest*

#### ARTICLE 43. UTILISATION OF THE COASTS

The coasts are under the sovereignty and disposal of the State.

In the utilization of sea coasts, lake shores, or river banks, and of the coastal strip along seas and lakes, public interest shall be taken into consideration, with priority ...

#### ARTICLE 44. LAND OWNERSHIP

The state takes the necessary measures to maintain and develop efficient land cultivation, prevent its loss through erosion, and to provide land to farmers with insufficient land of their own, or no land.

### *VIII. Health, the Environment and Housing*

#### *A: Health Services and the Conservation of the Environment*

#### ARTICLE 56. HEALTH SERVICES AND CONSERVATION OF THE ENVIRONMENT

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

It is the duty of the State and the citizens to improve the natural environment, protect environmental health, and to prevent environmental pollution.

#### *B: Right to Housing*

#### ARTICLE 57. RIGHT TO HOUSING

The state shall take measures to meet the need for housing within the framework of a plan which takes into account the characteristics of cities and environmental conditions and supports community housing projects ...

### *XI. Conservation of Historical, Cultural and Natural Wealth*

#### ARTICLE 63

The State shall ensure the conservation of the historical, cultural and natural assets and wealth, and shall take supporting and promoting measures towards this end. Any limitations to be imposed on such assets and wealth which are privately owned and the compensation and exemptions to be accorded to the owners of such, as a result of these limitations, shall be regulated by law.

### *XIII. The Extent of Social and Economic Duties of the State*

#### **ARTICLE 65**

The State shall fulfill its duties as laid down in the Constitution in the social and economic fields within the capacity of its financial resources, taking into consideration the priorities appropriate with the aims of these duties.

## **Part Four: Financial and Economic Provisions**

### **Chapter II: Economic Provisions**

#### **ARTICLE 169**

The State shall enact the necessary legislation and take the necessary measures for the protection of forests and the extension of their areas. Forest areas destroyed by fire shall be reafforested; other agricultural and stock-breeding activities shall not be allowed in such areas. All forests shall be under the care and supervision of the State.

The ownership of State forests shall not be transferred to others. State forests shall be managed and exploited by the State in accordance with the law. Ownership of these forests cannot be acquired through prescription, nor shall servitude other than that in the public interest be imposed in respect of such forests.

Acts and actions which might damage forests shall not be permitted. No political propaganda which might lead to the destruction of forests shall be made; no amnesties or pardons to be specifically granted for offences against forests shall be legislated. Offences committed with the intention of burning or destroying forests or reducing forest areas shall not be included within the scope of amnesties or pardons on other occasions.

Source: [http://www.anayasa.gov.tr/images/loaded/pdf\\_dosyalari/THE CONSTITUTION OF THE REPUBLIC OF TURKEY.pdf](http://www.anayasa.gov.tr/images/loaded/pdf_dosyalari/THE_CONSTITUTION_OF_THE_REPUBLIC_OF_TURKEY.pdf)

## Turkmenistan (1992, amended in 2008)<sup>13</sup>

### Section I: Fundamentals of the Constitutional System of Turkmenistan

#### ARTICLE 11

The State is responsible for the safety of the national historical and cultural heritage, natural environment, and ensuring equality between social and ethnic communities. The State encourages scientific and artistic creativity and distribution of its positive results, and promotes the development of international relations in the fields of science, culture, training upbringing and education, sports and tourism.

### Section II: Rights, Freedoms and Duties of Man and Citizens of Turkmenistan

#### ARTICLE 18

Human rights and freedoms are inviolable and inalienable. No one can deprive a person of any rights and freedoms, or restrict the rights and liberty save in accordance with the Constitution and laws. The enumeration in the Constitution and the laws of certain rights and freedoms cannot be used to deny or diminish other rights and freedoms.

#### ARTICLE 36

Everyone has the right to a healthy environment. The state exercises control over the management of natural resources in order to protect and improve living conditions, as well as protect and restore the environment

#### ARTICLE 43

Citizens are guaranteed legal protection of honor and dignity, personal and political rights and freedoms of man and citizen by the Constitution and laws. Citizens have the right to appeal the court decisions and actions of state bodies, public associations and officials.

#### ARTICLE 44

Citizens have the right to seek redress in the courts of the material and moral damage caused by the unlawful actions of government agencies and other organizations, their employees, as well as individuals.

#### ARTICLE 47

Implementation of the present Constitution's rights and freedoms may be suspended only in emergency or martial law in the manner and within the limits established by the Constitution and laws.

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<sup>13</sup> Translated from original Russian by author.

## Section VI: Judiciary

### ARTICLE 99

Judicial power in Turkmenistan belongs only to the courts. The judiciary is intended to protect the rights and freedoms protected by law, public and community interests.

Source: (Russian) <http://www.turkmenistan.gov.tm/ru/info>



## Uganda (1995)

### National Objectives and Directive Principles of State Policy

#### General

#### I. IMPLEMENTATION OF OBJECTIVES

- (i) The following objectives and principles shall guide all organs and agencies of the State, citizens, organisations and other bodies and persons in applying or interpreting the Constitution or any other law and in taking and implementing any policy decisions for the establishment and promotion of a just, free and democratic society.
- (ii) The President shall report to Parliament and the nation at least once a year, all steps taken to ensure the realisation of these policy objectives and principles.

#### Political Objectives

#### V. FUNDAMENTAL AND OTHER HUMAN RIGHTS AND FREEDOMS

- (i) The State shall guarantee and respect institutions which are charged by the State with responsibility for protecting and promoting human rights by providing them with adequate resources to function effectively.
- (ii) The State shall guarantee and respect the independence of nongovernmental organisations which protect and promote human rights.

#### Protection and Promotion of Fundamental and Other Human Rights and Freedoms

#### 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.

#### Social and Economic Objectives

#### XIV. GENERAL SOCIAL AND ECONOMIC OBJECTIVES

The State shall endeavour to fulfill the fundamental rights of all Ugandans to social justice and economic development and shall, in particular, ensure that—

- (a) all developmental efforts are directed at ensuring the maximum social and cultural well-being of the people; and
- (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.

### The Environment

## 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 minimize damage and destruction to land, air and water resources resulting from pollution or other causes.
- (iii) The State shall promote and implement energy policies that will ensure that people's basic needs and those of environmental preservation are met.
- (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.

## *The Constitution of the Republic of Uganda, 1995*

### Chapter Three: Citizenship

#### *Duties of a Citizen*

## 17(1). IT IS THE DUTY OF EVERY CITIZEN OF UGANDA—

...

- (j) to create and protect a clean and healthy environment

### Chapter Four: Protection and Promotion of Fundamental and Other Human Rights and Freedoms

#### *General*

## 39. RIGHT TO A CLEAN AND HEALTHY ENVIRONMENT

Every Ugandan has a right to a clean and healthy environment.

#### 42. RIGHT TO JUST AND FAIR TREATMENT IN ADMINISTRATIVE DECISIONS

Any person appearing before any administrative official or body has a right to be treated justly and fairly and shall have a right to apply to a court of law in respect of any administrative decision taken against him or her.

#### 43. GENERAL LIMITATION ON FUNDAMENTAL AND OTHER HUMAN RIGHTS AND FREEDOMS

- (1) In the enjoyment of the rights and freedoms prescribed in this Chapter, no person shall prejudice the fundamental or other human rights and freedoms of others or the public interest.
- (2) Public interest under this article shall not permit—
  - (a) political persecution;
  - (b) detention without trial;
  - (c) any limitation of the enjoyment of the rights and freedoms prescribed by this Chapter beyond what is acceptable and demonstrably justifiable in a free and democratic society, or what is provided in this Constitution.

#### 44. PROHIBITION OF DEROGATION FROM PARTICULAR HUMAN RIGHTS AND FREEDOMS.

Notwithstanding anything in this Constitution, there shall be no derogation from the enjoyment of the following rights and freedoms—

- (a) freedom from torture and cruel, inhuman or degrading treatment or punishment;
- (b) freedom from slavery or servitude;
- (c) the right to fair hearing;
- (d) the right to an order of habeas corpus.

#### *Human Rights and Freedoms During a State of Emergency*

#### 46. EFFECT OF LAWS ENACTED FOR A STATE OF EMERGENCY

- (1) An Act of Parliament shall not be taken to contravene the rights and freedoms guaranteed in this Chapter, if that Act authorises the taking of measures that are reasonably justifiable for dealing with a state of emergency.
- (2) The provisions of any enactment other than an Act of Parliament dealing with a state of emergency declared under this Constitution shall apply only to that part of Uganda where the emergency exists.
- (3) Without prejudice to clause (1) of this article, an Act enacted in accordance with that clause may make provision for the detention of persons where necessary for the purposes of dealing with the emergency.

### *Enforcement of Rights and Freedoms by Courts*

#### **50. ENFORCEMENT OF RIGHTS AND FREEDOMS BY COURTS**

- (1) Any person who claims that a fundamental or other right or freedom guaranteed under this Constitution has been infringed or threatened, is entitled to apply to a competent court for redress which may include compensation.
- (2) Any person or organisation may bring an action against the violation of another person's or group's human rights.
- (3) Any person aggrieved by any decision of the court may appeal to the appropriate court.
- (4) Parliament shall make laws for the enforcement of the rights and freedoms under this Chapter.

### *Uganda Human Rights Commission*

#### **51. UGANDA HUMAN RIGHTS COMMISSION**

- (1) There shall be a commission called the Uganda Human Rights Commission. ...

#### **52. FUNCTIONS OF THE HUMAN RIGHTS COMMISSION**

- (1) The commission shall have the following functions—
  - (a) to investigate, at its own initiative or on a complaint made by any person or group of persons against the violation of any human right;
  - (b) to visit jails, prisons, and places of detention or related facilities with a view to assessing and inspecting conditions of the inmates and make recommendations;
  - (c) to establish a continuing programme of research, education and information to enhance respect of human rights;
  - (d) to recommend to Parliament effective measures to promote human rights, including provision of compensation to victims of violations of human rights or their families;
  - (e) to create and sustain within society the awareness of the provisions of this Constitution as the fundamental law of the people of Uganda;
  - (f) to educate and encourage the public to defend this Constitution at all times against all forms of abuse and violation;
  - (g) to formulate, implement and oversee programmes intended to inculcate in the citizens of Uganda awareness of their civic responsibilities and an appreciation of their rights and obligations as free people;

- (h) to monitor the Government's compliance with international treaty and convention obligations on human rights; and
  - (i) to perform such other functions as may be provided by law.
- (2) The Uganda Human Rights Commission shall publish periodic reports on its findings and submit annual reports to Parliament on the state of human rights and freedoms in the country.

### 53. POWERS OF THE COMMISSION

- (1) In the performance of its functions, the commission shall have the powers of a court—
- (a) to issue summons or other orders requiring the attendance of any person before the commission and the production of any document or record relevant to any investigation by the commission;
  - (b) to question any person in respect of any subject matter under investigation before the commission;
  - (c) to require any person to disclose any information within his or her knowledge relevant to any investigation by the commission; and
  - (d) to commit persons for contempt of its orders.
- (2) The commission may, if satisfied that there has been an infringement of a human right or freedom, order—
- (a) the release of a detained or restricted person;
  - (b) payment of compensation; or
  - (c) any other legal remedy or redress.
- (3) A person or authority dissatisfied with an order made by the commission under clause (2) of this article has a right to appeal to the High Court.
- (4) The commission shall not investigate—
- (a) any matter which is pending before a court or judicial tribunal;
  - (b) a matter involving the relations or dealings between the Government and the Government of any foreign State or international organisation; or
  - (c) a matter relating to the exercise of the prerogative of mercy.

## Chapter Fifteen: Land and Environment

### *Environment*

#### 245. PROTECTION AND PRESERVATION OF THE ENVIRONMENT

Parliament shall, by law, provide for measures intended —

- (a) to protect and preserve the environment from abuse, pollution and degradation;
- (b) to manage the environment for sustainable development; and
- (c) to promote environmental awareness.

Source: [http://www.ugandalawlibrary.com/ull/files/constitution/constitution\\_1995.pdf](http://www.ugandalawlibrary.com/ull/files/constitution/constitution_1995.pdf)

# Ukraine (1996)

## Chapter I: General Principles

### ARTICLE 8

In Ukraine, the principle of the rule of law is recognised and effective.  
The Constitution of Ukraine has the highest legal force. Laws and other normative legal acts are adopted on the basis of the Constitution of Ukraine and shall conform to it.  
The norms of the Constitution of Ukraine are norms of direct effect. Appeals to the court in defence of the constitutional rights and freedoms of the individual and citizen directly on the grounds of the Constitution of Ukraine are guaranteed.

### ARTICLE 14

Land is the fundamental national wealth that is under special state protection. ...

### ARTICLE 16

To ensure ecological safety and to maintain the ecological balance on the territory of Ukraine, to overcome the consequences of the Chernobyl catastrophe — a catastrophe of global scale — and to preserve the gene pool of the Ukrainian people, is the duty of the State.

## Chapter II: Human and Citizens' Rights, Freedoms and Duties

### ARTICLE 22

Human and citizens' rights and freedoms affirmed by this Constitution are not exhaustive.  
Constitutional rights and freedoms are guaranteed and shall not be abolished.  
The content and scope of existing rights and freedoms shall not be diminished in the adoption of new laws or in the amendment of laws that are in force.

### ARTICLE 41

Everyone has the right to own, use and dispose of his or her property, and the results of his or her intellectual and creative activity. ...  
The use of property shall not cause harm to the rights, freedoms and dignity of citizens, the interests of society, aggravate the ecological situation and the natural qualities of land.

### ARTICLE 50

Every person has the right to a safe and healthy environment, and to compensation for damages resulting from the violation of this right.  
Every person is guaranteed the right of free access to information about the environmental situation, the quality of food and consumer goods, and also the right to disseminate such information. No one shall make such information secret.

#### ARTICLE 55

Human and citizens' rights and freedoms are protected by the court.

Everyone is guaranteed the right to challenge in court the decisions, actions or omission of bodies of state power, bodies of local self-government, officials and officers.

Everyone has the right to appeal for the protection of his or her rights to the Authorised Human Rights Representative of the Verkhovna Rada of Ukraine.

After exhausting all domestic legal remedies, everyone has the right to appeal for the protection of his or her rights and freedoms to the relevant international judicial institutions or to the relevant bodies of international organisations of which Ukraine is a member or participant.

Everyone has the right to protect his or her rights and freedoms from violations and illegal encroachments by any means not prohibited by law.

#### ARTICLE 59

Everyone has the right to legal assistance. Such assistance is provided free of charge in cases envisaged by law. Everyone is free to choose the defender of his or her rights.

In Ukraine, the advocacy acts to ensure the right to a defence against accusation and to provide legal assistance in deciding cases in courts and other state bodies.

#### ARTICLE 64

Constitutional human and citizens' rights and freedoms shall not be restricted, except in cases envisaged by the Constitution of Ukraine.

Under conditions of martial law or a state of emergency, specific restrictions on rights and freedoms may be established with the indication of the period of effectiveness of these restrictions. The rights and freedoms envisaged in Articles 24, 25, 27, 28, 29, 40, 47, 51, 52, 55, 56, 57, 58, 59, 60, 61, 62 and 63 of this Constitution shall not be restricted.

#### ARTICLE 66

Everyone is obliged not to harm nature, cultural heritage and to compensate for any damage he or she inflicted.

### Chapter IV: Verkhovna Rada of Ukraine

#### ARTICLE 101

The Authorised Human Rights Representative of the Verkhovna Rada of Ukraine exercises parliamentary control over the observance of constitutional human and citizens' rights and freedoms.

### Chapter XIII: Introducing Amendments to the Constitution of Ukraine

#### ARTICLE 157

The Constitution of Ukraine shall not be amended, if the amendments foresee the abolition or restriction of human and citizens' rights and freedoms, or if they are



oriented toward the liquidation of the independence or violation of the territorial indivisibility of Ukraine.

The Constitution of Ukraine shall not be amended in conditions of martial law or a state of emergency.

Source: <http://www.rada.gov.ua/const/conengl.htm>

## United Arab Emirates (1971)

### Part Two: The Fundamental Social and Economic Bases of the Union

#### ARTICLE 23

The natural resources and wealth in each Emirate shall be considered the public property of that Emirate. Society shall be responsible for the protection and proper exploitation of such natural resources and wealth for the benefit of the national economy.

### Part Three: Freedoms, Rights and Public Duties

#### ARTICLE 41

Every person shall have the right to submit complaints to the competent authorities, including the judicial authorities, concerning the abuse or infringement of the rights and freedom stipulated in this Part.

Source: <http://www.helplinelaw.com/law/uae/constitution/constitution01.php>

## Uruguay (1996)

### Section II: Rights, Duties, and Guarantees

#### ARTICLE 47

The protection of the environment is of general interest. Persons should abstain from any act that may cause the serious degradation, destruction, or contamination of the environment. The law shall regulate this disposition and may provide sanctions for the transgressors.

Water is a natural resource essential for life. Access to potable water and access to sanitation constitute fundamental human rights.

- 1) The national policy on water and sanitation will be based on:
  - a) Land-use planning, conservation, environmental protection and restoration of nature;
  - b) The sustainable management, in solidarity with future generations, of water resources and preservation of the hydrological cycle, which are matters of general interest. Users and civil society will participate in all levels of planning, management and control of water resources, establishing watersheds as basic units;
  - c) Establishing priorities for water use by regions, watersheds or parts thereof, the first priority being to provide drinking water to all populations;
  - d) The principle that the provision of potable water and sanitation should put social reasons before economic reasons.

Any authorization, license or permit that in any way violates the above provisions shall be rescinded.

- 2) Surface water and groundwater, with the exception of rain, integrated in the hydrological cycle are an undivided resource, subordinate to the public interest, which is part of the State's public domain, as public water.
- 3) The public sanitation and the provision of piped water for human consumption shall be performed solely and directly by state corporations.
- 4) The law, with three-fifths of the vote of all members of each House, may authorize the provision of water to another country when it is out of supplies for reasons of solidarity.

## Section XV: The Judicial Power

### ARTICLE 256

Laws may be declared unconstitutional by reason of form or content, in accordance with the provisions of the following articles.

### ARTICLE 258

The declaration of the unconstitutionality of a law and the inapplicability of the provisions affected thereby, may be requested by any person who considers that his direct, personal, and legitimate interest is injured:

- 1) By means of lawsuit, which must be filed before the Supreme Court of Justice;
- 2) By plea of exception, which may be made in any judicial proceeding.

Source: <http://pdpa.georgetown.edu/Constitutions/Uruguay/uruguay04.html>

# Uzbekistan (1992)

## Preamble

The people of Uzbekistan, ...  
aware of their ultimate responsibility to present and future generations ...  
adopt the present constitution of the Republic of Uzbekistan.

## Part I: Fundamental Principles

### Chapter 10: Guarantees of Human Rights and Freedoms

#### ARTICLE 44

Everyone shall be entitled to legally defend his rights and freedoms, and shall have the right to appeal any unlawful action of state bodies, officials and public associations.

### Chapter 11: Duties of Citizens

#### ARTICLE 50

All citizens shall protect the environment.

## Part III: Society and the Individual

### Chapter 12: The Economic Foundation of Society

#### ARTICLE 54

A property owner, at her or his own discretion, owns, uses, and disposes of property belonging to her or him. The use of property may not cause harm to the ecological environment or violate the rights or legally protected interests of citizens, legal persons, or the government.

#### ARTICLE 55

The land, its minerals, waters, flora, fauna, and other natural resources constitute the national wealth, and are subject to rational use and protection by the state.

### Chapter 21: Fundamental Principles of Local Bodies of State Authority

#### ARTICLE 100

The local authorities shall:

... protect the environment; ...

Source: <http://www.umd.uz/Main/Uzbekistan/Constitution/constitution.html>

# Vanuatu (1980)

## Chapter 2: Fundamental Rights and Duties

### Part 2: Fundamental Duties

7

Every person has the following fundamental duties to himself and his descendants and to others:

...

- (d) to protect the Republic of Vanuatu and to safeguard the national wealth, resources and environment in the interests of the present and future generations;

Source: <http://www.parliament.gov.vu/constitution.html>

# Venezuela (1999)

## Preamble

The people of Venezuela, exercising their powers of creation and invoking the protection of God, the historic example of our Liberator Simon Bolivar and the heroism and sacrifice of our aboriginal ancestors and the forerunners and founders of a free and sovereign nation; to the supreme end of reshaping the Republic to establish a democratic, participatory and self-reliant, multiethnic and multicultural society in a just, federal and decentralized State that embodies the values of freedom, independence, peace, solidarity, the common good, the nation's territorial integrity, comity and the rule of law for this and future generations; guarantees the right to life, work, learning, education, social justice and equality, without discrimination or subordination of any kind; promotes peaceful cooperation among nations and furthers and strengthens Latin American integration in accordance with the principle of nonintervention and national self-determination of the people, the universal and indivisible guarantee of human rights, the democratization of imitational society, nuclear disarmament, ecological balance and environmental resources as the common and inalienable heritage of humanity; exercising their innate power through their representatives comprising the National Constituent Assembly, by their freely cast vote and in a democratic Referendum, hereby ordain the following:

## Title II: Geographic Space and the Political Division

### Chapter I: The Territory and other Geographical Spaces

#### ARTICLE 15

The State has the responsibility of establishing an integral policy in the terrestrial bordering spaces, insular and maritime, preserving territorial integrity, sovereignty, safety, defense, national identity, diversity and the environment ...

## Title III: Duties, Human Rights and Guarantees

### Chapter I: General Provisions

#### ARTICLE 26

Everyone has the right to access the organs comprising the justice system for the purpose of enforcing his or her rights and interests, including those of a collective or diffuse nature to the effective protection of the aforementioned and to obtain the corresponding prompt decision. The State guarantees justice that is free of charge, accessible, impartial, suitable, transparent, autonomous, independent, responsible, equitable and expeditious, without undue delays, superfluous formalities or useless reinstating.

#### ARTICLE 27

Everyone has the right to be protected by the courts in the enjoyment and exercise of constitutional rights and guarantees, including even those inherent individual rights not expressly mentioned in this Constitution or in international instruments concerning human rights. Proceedings on a claim for constitutional protection shall be oral, public, brief, free of charge and unencumbered by formalities, and the competent judge shall have the power to restore immediately the legal situation infringed upon or the closest possible equivalent thereto. All time shall be available for the holding of such proceedings, and the court shall give constitutional claims priority over any other matters. The action for the protection of liberty or safety, may be exercised by any person and the physical custody of the person of the detainee shall be transferred immediately to the court, without delay. The exercise of this right shall not be affected in any way by the declaration of a state of exception or restriction of constitutional guarantees.

#### ARTICLE 30

The State will have the obligation to indemnify entirely the victims of violations of human rights which are imputable to them and to the rightful claimants, including the payment of damages.

The State will adopt the legislative measures and those of other nature, in order to make effective the indemnities established in this article.

#### ARTICLE 31

Everyone has the right, on the terms established by the human rights treaties, pacts and conventions ratified by the Republic, to address petitions and complaints to the intentional organs created for such purpose, in order to ask for protection of his or her human rights. The State shall adopt, in accordance with the procedures established under this Constitution and by the law, such measures as may be necessary to enforce the decisions emanating from international organs as provided for under this article.

### Chapter VI: Cultural and Educational Rights

#### ARTICLE 107

Environmental education is obligatory in the various levels and modes of the educational system, as well as in informal civil education.

### Chapter IX: Environmental Rights

#### ARTICLE 127

It is the right and duty of each generation to protect and maintain the environment for its own benefit and that of the world of the future. Everyone has the right, individually and collectively, to enjoy life and a safe, healthy and ecologically balanced environment. The State shall protect the environment, biological and genetic diversity, ecological processes, national parks and natural monuments, and



other areas of particular ecological importance. The genome of a living being shall not be patentable, and the field shall be regulated by the law relating to the principles of bioethics.

It is a fundamental duty of the State, with the active participation of society, to ensure that the population develops in an environment free of contamination, in which the air, water, soil, coasts, the climate, the ozone layer and living species receive special protection, in accordance with law.

#### ARTICLE 128

The State shall develop a zoning policy taking into account ecological, geographic, demographic, social, cultural, economic and political realities, in accordance with the premises of sustainable development, including information, consultation and citizen participation. An organic law shall develop the principles and criteria for this zoning.

#### ARTICLE 129

Any activities capable of generating damage to ecosystems must be preceded by environmental and sociocultural impact studies. The State shall prevent toxic and hazardous waste from entering the country, as well as preventing the manufacture and use of nuclear, chemical and biological weapons. A special law shall regulate the use, handling, transportation and storage of toxic and hazardous substances.

In contracts into which the Republic enters with natural or juridical persons of Venezuelan or foreign nationality, or in any permits granted which involve natural resources, the obligation to preserve the ecological balance, to permit access to, and the transfer of technology on mutually agreed terms and to restore the environment to its natural state if the latter is altered, shall be deemed included even if not expressed, on such terms as may be established by law.

### Title IV: Public Power

#### Chapter IV: Public Municipal Power

#### ARTICLE 178

A Municipality has competence to govern and administrate its interests, as well as over the management of those matters which are assigned to it by this Constitution and national laws as regards local life, in particular the ordering and promotion of economic and social development, the equipping and providing of household public utility services, the application of policy with respect to these matters on a basis of fairness, justice and social interest content, according with delegation established on law related to this matter, the promotion of participation and improvement, in general, of living conditions in the community, in the following areas:

...

- (4) Protection of the environment and cooperation with environmental sanitation efforts; urban and household sanitation,

including cleaning, waste collection and treatment and civil protection.

## Title V: Organization of National Public Authority

### Chapter IV: Citizen Power

#### *Section Two: People Defender's Office*

##### ARTICLE 280

The People Defender's Office is charged with the furtherance, defense and oversight of the rights and guarantees established under this Constitution and international treaties on human rights, in addition to defending the legitimate, collective and diffuse interest of the citizens. The People Defender's Office shall act under the direction and responsibility of the People Defender, who shall be designated to serve for a single seven-year term. The People Defender must be a Venezuelan national over the age of 30 years, with manifest and proven competence in the field of human rights, and must meet with such requirements as to honesty, ethics and morality as may be established by law. If the People Defender is temporarily or permanently unavailable to serve, the vacancy shall be filled in accordance with applicable provisions of law.

##### ARTICLE 281

The following are functions of the People Defender:

- (1) To see that the human rights provided for in this Constitution and in the international treaties, agreements and conventions on human rights ratified by the Republic are effectively respected and guaranteed, investigating either on his own initiative or at the request of any denunciation of which he or she becomes aware.
- (2) To see to the proper functioning of public services; protect and defend the legitimate, collective and diffuse rights and interests of persons against arbitrary acts, abuse of authority and errors committed in the providing of such public services, filing when appropriate, any actions to demand that the State compensate parties subject to its administrative actions for any damages that may have been caused them in connection with the functioning of such public services.
- (3) To file unconstitutionality actions, summary constitutional remedies, habeas corpus, habeas data and any other actions or motions necessary in order to exercise the powers indicated above, where proper in accordance with law.
- (4) To urge the General Prosecutor of the Republic to pursue any appropriate actions or motions against public officials responsible

for violations of or encroachment upon human rights.

- (5) To ask the Republican Ethic Council to take the appropriate measures with regard to public officials responsible for violations of or encroachment upon human rights.
- (6) To ask the competent authority to apply appropriate corrective and punitive measures in cases involving violations of the rights of consumers and users, in accordance with law.
- (7) To submit to legislative organs at the municipal, state or national levels, bills or other initiatives for the progressive protection of human rights.
- (8) To protect the rights of native peoples and take such action as may be necessary to guarantee and protect such rights effectively.
- (9) To visit and inspect the dependencies and establishments of State agencies, to prevent or protect human rights.
- (10) To place before the appropriate organs recommendations and observations as necessary in the interest of providing optimum protection for human rights, to which end shall develop mechanisms for remaining in constant communication with national and international public and private organs for the protection and defense of human rights.
- (11) To promote and implement policies for the expansion and effective protection of human rights.
- (12) Such other functions as may be established by the Constitution and by law.

#### ARTICLE 282

The People Defender shall enjoy immunity in the exercise of his functions, and therefore shall not be subject to pursuit, arrest or prosecution for acts relating to the performance of his official functions. In any such case, exclusive competence shall be vested in the Supreme Tribunal of Justice.

### Title VI: Socioeconomic System

#### Chapter I: Socioeconomic Order and the Function of the State in the Economy

#### ARTICLE 299

The economic regime of the Bolivarian Republic of Venezuela is based on the principles of social justice, democratization, efficiency, free competition, protection of the environment, productivity and solidarity, with a view to ensuring overall human development and a dignified and useful existence for the community. The State, jointly

with private initiative, shall promote the harmonious development of the national economy, to the end of generating sources of employment, a high rate of domestic added value, raising the standard of living of the population and strengthen the economical sovereignty of the country, guaranteeing the reliability of the law; the solid, dynamic, sustainable, continuing and equitable growth of the economy to ensure a just distribution of wealth through participatory democratic strategic planning with open consultation.

#### **ARTICLE 304**

All waters are property in the Nation's public domain, essential to life and development. The necessary provisions shall be established by law to guarantee the protection, use, and recuperation, respecting the phases of the hydrological cycle and the criteria of planning of the territory.

#### **ARTICLE 305**

The State shall promote sustainable agriculture as the strategic basis for overall rural development, and consequently shall guarantee the population a secure food supply, defined as the sufficient and stable availability of food within the national sphere and timely and uninterrupted access to the same for consumers. A secure food supply must be achieved by developing and prioritizing internal agricultural and livestock production, understood as production deriving from the activities of agriculture, livestock, fishing and aquaculture. Food production is in the national interest and is fundamental to the economic and social development of the Nation. To this end, the State shall promulgate such financial, commercial, technological transfer, land tenancy, infrastructure, manpower training and other measures as may be necessary to achieve strategic levels of self-sufficiency. In addition, it shall promote actions in the national and international economic context to compensate for the disadvantages inherent to agricultural activity. The State shall protect the settlement and communities of non-industrialized fishermen, as well as their fishing banks in continental waters and those close to the coastline, as defined by law.

### **Title VII: National Security**

#### **Chapter II: Principles of National Security**

#### **ARTICLE 326**

National security is based on shared responsibility between the State and civil society to implement the principles of independence, democracy, equality, peace, freedom, justice, solidarity, promotion and conservation of the environment and affirmation of human rights, as well as on that of progressively meeting the individual and collective needs of Venezuelans, based on a sustainable and productive development policy providing full coverage for the national community. The principle of shared responsibility applies to

the economic, social, political, cultural, geographical, environmental and military spheres.

## Title VIII: Protection of the Constitution

### Chapter II: States of Exception

#### ARTICLE 337

The President of the Republic, at a meeting of the Cabinet of Ministers, shall have the power to decree states of exception. Expressly defined as such are circumstances of a social, economic, political, natural or ecological nature which seriously affect the security of the Nation, institutions and citizens, in the face of which the powers available to cope with such events are insufficient. In such case, the guarantees contained in this Constitution may be temporarily restricted, with the exception of those relating to the right to life, prohibition of incommunicative detention or torture, the right to due process, the right to information and other intangible human rights.

Source: (Spanish) <http://pdba.georgetown.edu/Constitutions/Venezuela/vigente.html>; (English) [http://www.analitica.com/bitbliblioteca/venezuela/constitucion\\_ingles.pdf](http://www.analitica.com/bitbliblioteca/venezuela/constitucion_ingles.pdf)

# Vietnam (1980)

## Chapter II: The Economic System

### ARTICLE 18

The State assumes the unified administration of land according to overall planning and in conformity with the law and ensures its appropriate and effective use. Land is allocated by the State to organisations and individuals for stable long-term use. Organisations and individuals who use the land are duty-bound to ensure its protection, replenishment, rational exploitation and economical utilisation. They are also entitled by law to transfer the right to use the land allocated by the State.

### ARTICLE 29

State organs, units of the armed forces, economic and social bodies, and all individuals must abide by State regulations on the rational use of natural wealth and on environmental protection. All acts of depleting natural resources and causing damage to the environment are strictly prohibited.

## Chapter VIII: The Government

### ARTICLE 112

The Government has the following duties and powers:

...

5. To take measures to protect the legitimate rights and interests of citizens and create conditions for them to exercise their rights and fulfil their obligations; to protect the property and interests of the State and society; and to protect the environment.

Source: [http://www.vietnamlaws.com/freelaws/Constitution92\(aa01\).pdf](http://www.vietnamlaws.com/freelaws/Constitution92(aa01).pdf)

# Yemen (1978)

## Part I: The Foundations of State

### Chapter II: The Economic Foundations

#### ARTICLE 8

All types of natural resources and sources of energy, whether above ground, underground, in territorial waters, on the continental shelf or the exclusive economic zone are owned by the State, which assure their exploitation for the common good of the people.

### Chapter III: The Social Foundations

#### ARTICLE 35

Environmental protection is the collective responsibility of the state and the community at large. Each individual shall have a religious and national duty to protect the environment.

## Part II: The Basic Rights and Duties of Citizens

#### ARTICLE 51

Citizens have the right of recourse to the courts to protect their rights and lawful interests. They also have the right to submit their complaints, criticisms, and suggestions to the various government bodies directly or indirectly.

Source: <http://www.unhcr.org/refworld/category/LEGAL,,,YEM,3fc4c1e94,0.html>

# Zambia (1991)

## Preamble

WE, THE PEOPLE OF ZAMBIA ... PLEDGE to ourselves that we shall ensure that the State shall respect the rights and dignity of the human family, uphold the laws of the state and conduct the affairs of the state in such manner as to preserve, develop, and utilise its resources for this and future generations ...

## Part IX: Directive Principles of State Policy and Duties of a Citizen

### 110. APPLICATION OF DIRECTIVE PRINCIPLES OF STATE POLICY

- (1) The Directive Principles of State Policy set out in this Part shall guide the Executive, the Legislature and the Judiciary, as the case may be, in the—
- (a) development of national policies;
  - (b) implementation of national policies;
  - (c) making and enactment of laws; and
  - (d) application of The Constitution and any other law.
- (2) The application of the Directive Principles of State Policy may be observed only in so far as State resources are able to sustain their application, or if the general welfare of the public so unavoidably demands, as may be determined by Cabinet.

### ARTICLE 111. DIRECTIVES NOT TO BE JUSTICIABLE

The Directive Principles of State Policy set out in this Part shall not be justiciable and shall not thereby, by themselves, despite being referred to as rights in certain instances, be legally enforceable in any court, tribunal or administrative institution or entity.

### ARTICLE 112. DIRECTIVE PRINCIPLES OF STATE POLICY

The following Directives shall be the Principles of State Policy for the purposes of this Part:

...

- (d) the State shall endeavour to provide clean and safe water, adequate medical and health facilities and decent shelter for all persons, and take measures to constantly improve such facilities and amenities; ...
- (h) the State shall strive to provide a clean and healthy environment for all;
- (i) the State shall promote sustenance, development and public awareness of the need to manage the land, air and water resources



in a balanced and suitable manner for the present and future generation ...

Source: <http://www.chr.up.ac.za/index.php/documents-by-country-database/zambia.html>