

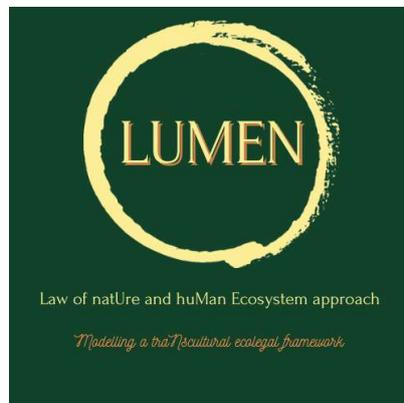


UNIVERSITÀ
DEGLI STUDI
FIRENZE

Dipartimento di
Scienze Giuridiche
Eccellenza 2023-2027

RETHINKING ENVIRONMENT AND LAW IN AFRICA

A LUMEN READER



PRIN LUMEN Project (2022–2025)

University of Florence Unit • under the guidance of Professor Veronica Federico



RETHINKING ENVIRONMENT AND LAW IN AFRICA

A LUMEN READER

This reader is an output of the PRIN LUMEN project (2022–2025), which involved the University of Florence, the University of Bologna, and the University of Trieste, with a regional focus respectively on Africa, Latin America, and Europe. More specifically, it has been prepared within the framework of the University of Florence research unit, under the guidance of Professor Veronica Federico.

Rather than offering an exhaustive bibliography, this reader is intended as a first mapping of some of the main lines of inquiry developed by the Florence unit during the project. In particular, it focuses on three interconnected strands of research: environmental rights in Africa; environmental cases in Africa; and the relationship between ubuntu, ecology, and the law. As such, it aims to provide a selective and reasoned overview of the scholarly and legal materials that have informed the unit's work over the course of the project.

The reader is also conceived as a possible resource for the design of university courses and teaching activities in environmental law, comparative law, and African legal studies. It brings together theoretically and legally sophisticated contributions while maintaining a selection of materials that can also provide students with an accessible point of entry into these debates. In this respect, it aims to support both research and teaching by offering a structured orientation to some of the principal issues explored by the Florence unit over the course of the project.

The bibliography is organised thematically rather than exhaustively. Some works could plausibly belong to more than one strand; they have been placed according to their principal relevance.

Strand 1: Conceptualising Environmental Rights in Africa

This strand gathers works on environmental rights, environmental constitutionalism, and procedural environmental guarantees in African and comparative perspective.

Addaney, Michael and Ademola Oluborode Jegede (eds), *Human Rights and the Environment under African Union Law* (Palgrave Macmillan 2020).

Ashukem, Jean-Claude N and Semie M Sama (eds), *Domestic and Regional Environmental Laws and Policies in Africa: A Research Companion* (Routledge 2024).

Ashukem, Jean-Claude N and Semie M Sama (eds), *Human Rights and the Environment in Africa: A Research Companion* (Routledge 2024).

Chenwi, Lilian, 'The Right to a Satisfactory, Healthy, and Sustainable Environment in the African Regional Human Rights System' in John H Knox and Ramin Pejan (eds), *The Human Right to a Healthy Environment* (Cambridge University Press 2018) 59.

du Plessis, Anél, 'South Africa's Constitutional Environmental Right (Generously) Interpreted: What Is in It for Poverty?' (2011) 27(2) *South African Journal on Human Rights* 279.

du Plessis, Anél, 'The Promise of "Well-being" in Section 24 of the Constitution of South Africa' (2018) 34(2) *South African Journal on Human Rights* 191.

Humby, Tracy-Lynn, 'The Right to Development-in-Environment and Its Ecological and Developmental Thresholds' (2016) 32(2) *South African Journal on Human Rights* 219.

Kotzé, Louis J, *Global Environmental Constitutionalism in the Anthropocene* (Hart Publishing 2016).

Kotzé, Louis J and Anél du Plessis, 'The African Charter on Human and Peoples' Rights and Environmental Rights Standards' in Stephen J Turner and others (eds), *Environmental Rights: The Development of Standards* (Cambridge University Press 2019) 93.

Madebwe, Tinashe, 'A Rights-based Approach to Environmental Protection: The Zimbabwean Experience' (2015) 15(1) *African Human Rights Law Journal* 110.

- Murcott, Melanie Jean, 'The Procedural Right of Access to Information as a Means of Implementing Environmental Constitutionalism in South Africa' in Erin Daly and James R May (eds), *Implementing Environmental Constitutionalism: Current Global Challenges* (Cambridge University Press 2018) 193.
- Murcott, Melanie Jean, *Transformative Environmental Constitutionalism* (Brill Nijhoff 2022).
- Mutesasira, Peter Davis, *Environmental Procedural Rights in Africa with Specific Reference to South Africa and Uganda* (PhD thesis, University of Amsterdam 2018).
- Odote, Collins, 'Human Rights-based Approach to Environmental Protection: Kenyan, South African and Nigerian Constitutional Architecture and Experience' in Michael Addaney and Ademola Oluborode Jegede (eds), *Human Rights and the Environment under African Union Law* (Palgrave Macmillan 2020) 381.
- O'Gorman, Roderic, 'Environmental Constitutionalism: A Comparative Study' (2017) 6(3) *Transnational Environmental Law* 435.
- Sgarbossa, Luís Fernando and Geziela Iensue, 'Environmental Constitution in Lusophone Africa: the Cases of Angola and Mozambique' (2023) 30 *federalismi.it* 16.

Strand 2: Environmental Rights in Action: Litigation and Case Law in Africa

This strand collects scholarship on environmental adjudication, landmark cases, and the judicial enforcement of environmental rights across African legal systems.

Ashukem, Jean-Claude N, ‘Setting the Scene for Climate Change Litigation in South Africa: Earthlife Africa Johannesburg v Minister of Environmental Affairs and Others [2017] ZAGPPHC 58 (2017) 65662/16’ (2017) 13(1) Law, Environment and Development Journal 37.

Bosek, Joel Kimutai, ‘Implementing Environmental Rights in Kenya’s New Constitutional Order: Prospects and Potential Challenges’ (2014) 14(2) African Human Rights Law Journal 489.

Claridge, Lucy and Daniel Kobei, ‘Protected Areas, Indigenous Rights and Land Restitution: The Ogiek Judgment of the African Court of Human and Peoples’ Rights and Community Land Protection in Kenya’ (2023) 57(3) Oryx 313.

Fuo, Oliver, ‘Role of Courts in Interpreting Local Government’s Environmental Powers in South Africa’ (2016) 18 Commonwealth Journal of Local Governance 17.

Healy, Hali, ‘Struggle for the Sands of Xolobeni – From Post-colonial Environmental Injustice to Crisis of Democracy’ (2022) 133 Geoforum 128.

Humby, Tracy-Lynn, ‘The Thabametsi Case: Case No 65662/16, Earthlife Africa Johannesburg v Minister of Environmental Affairs’ (2018) 30(1) Journal of Environmental Law 145.

Kaguru, Macharia, ‘The Undelivered Promise: Constitutional Environmental Rights and Judicial Redress in Kenya and South Africa’ (2025) 8(2) Strathmore Law Journal 23.

Krüger, Ruth, ‘The Silent Right: Environmental Rights in the Constitutional Court of South Africa’ (2019) 9(1) Constitutional Court Review 473.

Madebwe, Tinashe, ‘A Rights-Based Approach to Environmental Protection: The Zimbabwean Experience’ (2015) 15(1) African Human Rights Law Journal 110.

Murcott, Melanie, ‘The Role of Environmental Justice in Socio-Economic Rights Litigation’ (2015) 132(4) South African Law Journal 875.

- Murcott, Melanie Jean and Maria Antonia Tigre, ‘Developments, Opportunities, and Complexities in Global South Climate Litigation: Introduction to the Special Collection’ (2024) 16(1) *Journal of Human Rights Practice* 1.
- Murcott, Melanie Jean and Clive Vinti, ‘The Judge-Made “Duty” to Consider Climate Change in South Africa’ (2024) 16(1) *Journal of Human Rights Practice* 125.
- Okonkwo, Eloamaka Carol, ‘Assessing the Role of the Courts in Enhancing Access to Environmental Justice in Oil Pollution Matters in Nigeria’ (2020) 28(2) *African Journal of International and Comparative Law* 195.
- Rösch, Ricarda, ‘Indigenoussness and Peoples’ Rights in the African Human Rights System: Situating the Ogiek Judgement of the African Court on Human and Peoples’ Rights’ (2017) 50(3) *Verfassung und Recht in Übersee / Law and Politics in Africa, Asia and Latin America* 242.
- Suedi, Yusra and Marie Fall, ‘Climate Change Litigation before the African Human Rights System: Prospects and Pitfalls’ (2024) 16(1) *Journal of Human Rights Practice* 146.
- Van der Linde, Morné and Lirette Louw, ‘Considering the Interpretation and Implementation of Article 24 of the African Charter on Human and Peoples’ Rights in Light of the SERAC Communication’ (2003) 3(1) *African Human Rights Law Journal* 167.
- Waswa, Simon, ‘Hazardous Waste and the Right to a Healthy Environment: Reflections on the LIDHO Decision of the African Court on Human and Peoples’ Rights’ (2024) 8 *African Human Rights Yearbook* 554.

Strand 3: Ubuntu, Ecology and Legal Thought

This strand brings together literature on ubuntu, relationality, African environmental ethics, and decolonial approaches to law and ecology.

Behrens, Kevin Gary, ‘An African Relational Environmentalism and Moral Considerability’ (2014) 36(1) *Environmental Ethics* 63.

Belaidi, Nadia, ‘Observer l’Afrique (du Sud) pour penser le droit (de l’environnement): La relation homme-nature entre démocratisation et décolonialité’ (2020) 271–272 *Afrique contemporaine* 65.

Bujo, Bénézet, ‘Ecology and Ethical Responsibility from an African Perspective’ in Munyaradzi Felix Murove (ed), *African Ethics: An Anthology for Comparative and Applied Ethics* (University of KwaZulu-Natal Press 2009) 281.

Dube, Felix, ‘Ubuntu: An Underutilised Foundational Constitutional Principle of South African Environmental Law’ (2023) 10(1) *Journal of Law, Society and Development* 1.

Horsthemke, Kai, ‘Isilwane: The Animal – Ubuntu, Ukama and Environmental Justice’ in Rainer Ebert and Anteneh Roba (eds), *Africa and Her Animals: Philosophical and Practical Perspectives* (Unisa Press 2018) 3.

Kelbessa, Workineh, ‘African Environmental Ethics, Indigenous Knowledge, and Environmental Challenges’ (2015) 37(4) *Environmental Ethics* 387.

Lubbe, WD and Louis J Kotzé, ‘Holistic Biodiversity Conservation in the Anthropocene: A Southern African Perspective’ (2019) 27(1) *African Journal of International and Comparative Law* 76.

Moyo, Otrude Nontobeko, *Africanity and Ubuntu as Decolonizing Discourse* (Palgrave Macmillan 2021).

Murove, Munyaradzi Felix, ‘An African Environmental Ethic Based on the Concepts of Ukama and Ubuntu’ in Munyaradzi Felix Murove (ed), *African Ethics: An Anthology for Comparative and Applied Ethics* (University of KwaZulu-Natal Press 2009) 315.

Ndahinda, Felix M, ‘Peoples’ Rights, Indigenous Rights and Interpretative Ambiguities in Decisions of the African Commission on Human and Peoples’ Rights’ (2016) 16(1) *African Human Rights Law Journal* 29.

- Ndeunyema, Ndjodi, *Re-invigorating Ubuntu through Water: A Human Right to Water under the Namibian Constitution* (Pretoria University Law Press 2021).
- Nneji, Bellarmine, 'Eco-Responsibility: The Cogency for Environmental Ethics in Africa' (2010) 11(1) *Essays in Philosophy* 31.
- Nxumalo, Sfiso Benard, 'Introducing Ubuntu to Property Law: A Case for Environmental Stewardship' (2025) 5(2) *Edinburgh Student Law Review*.
- Ramose, Mogobe B, 'Ecology through Ubuntu' in Munyaradzi Felix Murove (ed), *African Ethics: An Anthology for Comparative and Applied Ethics* (University of KwaZulu-Natal Press 2009) 308.
- Samuel, Olusegun Steven, 'Addressing Fragmented Human–Nonhuman Interactions through an Ubuntu “Mixed” Ethics' (2023) 54(1–2) *Philosophical Forum* 79.
- Santos, Boaventura de Sousa, *Epistemologies of the South: Justice against Epistemicide* (Routledge 2014).
- Swemmer, Sheena, 'An Ubuntu Approach to the Realisation of Animal Rights under the South African Constitution' (2024) 40(3–4) *South African Journal on Human Rights* 226.

March, 2026



Next Generation EU

PRIN 2022 PNRR “LUMEN - Law of nature and human ecosystem approach: modelling a transcultural eco-legal framework”, P.I. prof.ssa S. Bagni, Università degli Studi di Bologna, finanziato dall'Unione Europea – NextGenerationEU a valere sul Piano Nazionale di Ripresa e Resilienza (PNRR) – Missione 4 Istruzione e ricerca – Componente 2 Dalla ricerca all’impresa – Investimento 1.1, Avviso PRIN 2022 PNRR DD n. 1409 del 14 settembre 2022, codice proposta P20222H49L – CUP J53D23018680001.

