

Bouknadel Declaration on African Environmental Law

We, Legal and Environmental Experts, virtually and physically gathered at the Hassan II International Environmental Training Center in Bouknadel, Morocco, on African soil, for the African Environmental Law Congress - Water, Desertification and Law, as part of the Second World Environmental Law Congress, on July 28th and July 29th 2021, at the invitation of the World Commission on Environmental Law, the United Nations Environment Programme and the Mohammed VI Foundation for Environmental Protection.

Recalling that the Eighth special session of the African Ministerial Conference on the Environment Ministerial statement on enhancing environmental action for effective post-COVID-19 recovery in Africa reaffirmed the commitment of African Countries to “continuing the efforts to conserve, protect and enhance the resilience of our environment and natural resources as part of our determined efforts in the fight against the COVID-19 pandemic”.

Recalling further that the Eighth special session of the African Ministerial Conference on the Environment Ministerial statement on enhancing environmental action for effective post-COVID-19 recovery in Africa noted that “an effective recovery from the pandemic could present opportunities to further mainstream environmental considerations across all facets of the African economy, striving towards a more environmentally friendly, resilient, low-emission and inclusive sustainable development pathway – one which enhances the availability of the natural resource base and protects the environment.”

Recognizing that the African Ministerial Conference on the Environment has expressed its support for the African Green Stimulus Programme as part of the recovery efforts in Africa which “to contribute to both the post-COVID-19 recovery plan for Africa and other response and recovery programmes on a more environmentally sustainable, resilient and low-emission developmental pathway”

Recognizing further the critical importance, for preventing and containing the COVID-19 pandemic, of adequate access to water, sanitation and hygiene services, as well as of appropriate legal tools for combatting desertification, soil erosion, halting biodiversity loss and reducing greenhouse gas emissions.

Stress the importance of public participation in decision-making, and non-discriminatory access to information and to judicial and administrative redress, particularly in water, desertification, soil erosion and climate related matters.

Emphasize the importance of inclusive, integrated and supportive processes in all multilateral fora related to water, desertification, soil erosion and climate change, including UNFCCC COP 26, UN CBD COP 15, UNCCD COP 15 and the IUCN World Conservation Congress, inter alia, that are mindful, cognizant of and responsive to the special circumstances and needs of Africa.

Call for enhanced and meaningful integration of law and governance dimensions in policy, planning, implementation and evaluation, in particular with regards to environmental issues related to water, desertification, soil erosion and climate change, in national African

jurisdictions, across African regional cooperation, including the African Continental Free Trade Area and the African Green Stimulus Programme, and globally, with a particular focus on South South and Triangular cooperation.

Further call for deepened and impactful consideration of education for sustainable development in all curricula, with a particular focus on environmental education, including law curricula related to water, desertification, soil erosion and climate change, at all levels, including both the rich ancestral African knowledge and the most recent conceptual and technological developments.

Stress the importance for all Countries and Major Groups and Stakeholders, including sub-national governments, regional integration organisations, and other relevant international organisations, legislators, judges, civil society, and the private sector in Africa and globally, to answer to the call of the 2016 IUCN World Declaration on the Environmental Rule of Law and contribute to the building, maintenance, and promotion of the environmental rule of law based, on the principles mentioned in the Declaration, as part of their shared responsibility to present, as well as future generations.

Urge for the accelerated development and implementation of an African contextualized translation of the International Law Association New Delhi Declaration of Principles of International Law relating to Sustainable Development into laws and regulations, including a heightened focus on the prioritization of precaution over scientific uncertainty, taking into consideration the 2020 Guidelines of the International Law Association on the Role of International Law in Sustainable Natural Resources Management for Development.

Further urge for the mainstreaming of water as a public interest good as well as the prioritization of water over remediation of harm and due consideration given to the *in dubio pro aqua* principle, as outlined in the 2018 Brasilia Declaration of Judges on Water Justice, thus achieving universal and equitable access to safe and affordable drinking water and adequate sanitation for all, and thereby ensuring effective enjoyment of the right to water.

Recommend the integration of environmental, ecosystem and sustainability considerations in the interpretation, application and enforcement of water and desertification laws, as well as water-related, desertification-related and soil erosion-related laws, while valuing and safeguarding traditional knowledge and customary systems of sustainable water and land resources management that promote community resilience to climate hazards.

Call all Countries and Major Groups and Stakeholders, in the spirit of the 2016 Marrakech Action Proclamation for our Climate and Sustainable Development, “for the highest political commitment to combat climate change, as a matter of urgent priority”, placing water, desertification and soil erosion issues and challenges prominently on the global climate agenda, in order to “inspire solidarity, hope and opportunity for current and future generations.”

Invite, bearing in mind the deep linkages between water, desertification, soil erosion and climate change, strengthened engagement, including from the legal and governance community, in global, regional and national initiatives, including but not limited to the

Marrakech Partnership for Global Climate Action, the Pan-African Action Agenda on Ecosystem Restoration for Increased Resilience, the Great Green Wall, the African Water Vision for 2025, the African Water Facility, the Africa Climate Change Fund, the African Renewable Energy Initiative, the Sustainable Energy Fund for Africa, the New Deal on Energy for Africa, the African Adaptation Initiative, the Adaptation of African Agriculture Initiative as well as the three Regional Commissions (Climate Commission of the Congo Basin, Climate Commission of the Sahel Region and the Small Islands States Climate Commission) launched at the 1st African Summit of Action for a Continental Co-emergence, organized on the sidelines of the COP22 in Marrakech in 2016, the latest COP to have taken place on African soil.

Underline the critical importance of the provision of support, in particular from developed countries, reflecting especially the principle of equity and international cooperation and the principle of common but differentiated responsibilities and respective capabilities, in the light of different national circumstances, particularly when it comes to means of implementation for the Rio Conventions, the Paris Agreement and the synergies between 2030 Agenda for Sustainable Development and Agenda 2063, in alignment with the Addis Ababa Action Agenda.

Express our hope for the transformational emergence of legal and governance arrangements that can foster and not frustrate ambition and action for peace, the planet, people, prosperity and partnerships in Africa, particularly for COVID-19 response and recovery action in the areas of water, desertification and climate change.

Urge for the full implementation and operationalization the Maputo African Convention on the Conservation of Nature and Natural Resources, in view of its direct relevance to the sustainable management of water, soil and land resources, calling especially for the holding of the first Conference of the Parties as a matter of urgency.

Express our utmost confidence in the potential and ability of our Continent to rise to the environmental challenges and create and capture sustainable development opportunities, in particular when it comes African youth and women's dedication to responsible management of water and land resources.