

Environmental Policies and Legislation in Burundi: Scope and Content

Olivier Dismas Ndayambaje (ndayambaje11@gmail.com)

Ecole Nationale d'Administration du Burundi, Bujumbura-Burundi

Emmanuel Zisheba Muzindusi, Hope Africa University, Bujumbura-Burundi



Copyright: © 2024 by the authors. Licensee [The RCSAS \(ISSN: 2583-1380\)](http://www.thercsas.com). This article is an open access article distributed under the terms and conditions of the Creative Commons Attribution Non-Commercial 4.0 International License. (<https://creativecommons.org/licenses/by-nc/4.0/>). **Crossref/DOI:** <https://doi.org/10.55454/rcsas.4.07.2024.005>

Abstract: *Burundi has had environmental policies whose implementation has required the adoption of laws aimed either at global protection of the environment or limited to sectoral objectives. By drawing attention to the content and shortcomings of these instruments in view of the ongoing environmental degradation, the ambition is to act on the behavior of different actors of sustainable development to make these tools effective and known of a large audience. It was therefore a blend of descriptive and normative form through a desk research by exploring data from existing documents and previous research related to environmental law and public policies analysis. This study shows the gaps of the environmental laws and policies in Africa emphasizing on the case of Burundi and the causes of their ineffectiveness. The aim was to propose the solutions of how to tackle the challenges of the sustainable management of the natural resources in developing countries.*

Keywords: Biodiversity, Climate Change, Environmental Degradation, Environmental Policy, Forest Policy

Article History: Received: 28 June- 2024; Accepted: 20 July- 2024; Published/Available Online: 30 July- 2024

1

Introduction

Public environmental policies generally focus on two essential objectives, namely the preservation and sustainable management of natural resources and the preventive and curative management of environmental risks and nuisances (Gardes, 2017).

In Burundi, environmental policies were initiated following international changes that led to awareness of environmental problems in the 1970's (Yang and Percival, 2009; Percival, 1998). This is how the first commitments in terms of the protection of natural resources came after the Stockholm Conference of 1972. The policies for the establishment of national parks and reserves are a perfect illustration of this.

However, at present, Burundi is experiencing an alarming degradation of its environment due to significant demographic pressure in a country where more than 90 percent of the population lives from agriculture. This translates into overexploitation of land, soil degradation, destruction of protected areas, mismanagement of water resources and deforestation.

It is therefore absolutely essential that the public authorities invest in appropriate policies to ensure environmental protection and sustainable management of natural resources. Indeed, the development of environmental policies can be explained by a number of factors, including the recognition and acceptance of sustainable development as the main development paradigm in the 21st century; the need to give greater priority to pro-poor growth policies and programs to reduce pressures on natural resources.

If, according to Muller (1990), any problem is likely to become political, can we say that environmental pollution and other degradation of natural resources are a concern that can push the Burundian public authorities to put in place environmental policies and protection laws? And if such instruments exist, how effective are they?

Thus, by presenting here an overview of environmental policies (I), the ultimate objective remains to discuss their influence in the formation and implementation of environmental law in order to assess the effectiveness of environmental protection in Burundi (II).

I. Why National Environmental Protection Policies?

At a time when traditional societies are very dependent on events that are external to them, modern societies have, thanks to their scientific and technological knowledge, the capacity to act on the problems that arise for them (Muller, 1990). It is in this sense that the various threats to the environment require the establishment

of public policies to deal with them. Environmental policies contribute to wellbeing and the long-term sustainability of growth (OECD, 2016).

The development of public environmental policies therefore responds to the desire of the Burundian government to acquire instruments for the planning and management of national natural resources for sustainable and harmonious development. It is also part of an international framework for the implementation of agreements and conventions to which the Burundian State has adhered. The logic is that the important regulations, policies and actions carried out in almost all countries demonstrate that it is possible to find solutions adapted to the specificities of environmental problems (Eid, 2007).

In Burundi, in terms of environmental protection and sustainable management of natural resources, environmental policy instruments have been put in place in the form of action plans or environmental strategies with these same objectives, a shared trend by other French-speaking African states (Granier, 2008).

2

1. Some Policy Documents

Without being exhaustive, this paragraph reviews a series of key environmental policy instruments in Burundi. We will therefore present current and past policies for their importance in the evolution of environmental protection measures.

Forest policy, 2012-2025: Faced with anarchic logging; repetitive bush fires; land clearing for agricultural purposes; overgrazing; overexploitation of forest resources; and the introduction of uncontrolled forest species and the impoverishment of the forest genetic heritage, Burundi adopted a National Forest Policy in 2012. The general objective of the policy is to sustain existing forest resources and the development new resources to meet the socio-economic and ecological needs of present and future populations. Specifically, it aims to plan the development of the forestry sector in order to meet the needs of the populations and the Country while sustaining the resource; rationally develop and manage forest resources (raise the forest cover rate to 20% by 2025); and enhance forest resources; strengthen human and institutional capacities.

National Strategy and National Action Plan to Combat Land Degradation, 2011-2016: The phenomena of soil degradation which are observed in all ecological zones forced Burundi to draw up the National Action Program for the Fight against Soil Degradation in 2005 within the framework of the United Nations Convention on the Fight against Desertification. Currently, 5 years after the implementation of this program, Burundi would like to develop the National Strategy and Action Plan for the Fight against Land Degradation within the framework of the Capacity Building Project for Sustainable Land Management, under the financing from the GEF/UNDP.

Burundi Land Sector Development Program, 2017-2021: The absence of a comprehensive national land policy explains Burundi's inability to effectively resolve most land disputes. The adoption of such a policy is necessary to define a long-term vision of the role played by land in development. From a normative point of view, such a policy includes agreed and clearly defined principles, objectives and targets relating to the promotion of access to land, land rights and land use, specifying in particular the restrictions and everyone's responsibilities. It also sets the rules that should guide the implementation of procedures that facilitate access to land, protect property rights and promote secure land tenure, and regulate sustainable use of land.

It is in this context that the UNDP has planned to help the Government of Burundi to develop and implement a National Land Policy adapted to national realities, with the aim of restoring or creating an environment conducive to sustainable development.

The Land Sector Development Program offers a comprehensive approach to the development of the land sector at the political, legal and administrative levels. It will help to learn from current interventions and international practices, capitalize on successes in land reform, and mobilize more financial and technical resources to meet the long-term needs of land reform and development in Burundi.

The National Water Policy, 2009: Water is essential for the existence of man and all living beings, water is life. As such, mastering the management and development of water resources has become a subject of strong national and international concern for initiatives such as water policy. It is in order to meet the international commitments to which Burundi has subscribed that the Government, with the support of its development partners, has undertaken a vast program to develop water resources. The National Water Policy, which is an

instrument of political orientation, is part of the water sector reform program. In its implementation, the National Water Policy was accompanied by the National Water Strategy 2011-2020.

National Strategy and Action Plan on Biodiversity, 2013-2020: It was in August 2000 that Burundi adopted its first National Strategy and Action Plan for Biological Diversity. The development of the National Strategy and Action Plan for Biological Diversity was an application of article 6 of the Convention on Biological Diversity (CBD) and was perceived as a contribution to the development of Burundi, in accordance with the spirit of this Convention that the country had ratified on April 15, 1997. Indeed, the formulation of the National Strategy and Action Plan for Biological Diversity aimed to correct the dysfunction in the conservation of biodiversity, the rational use of biological resources and the fair and equitable sharing of the resulting benefits. The purpose of establishing the National Strategy and Action Plan for Biological Diversity was therefore to establish harmonious development that ensures the best compromise between the goods and services that the populations need and the sustainable management of biological resources. It is therefore for all these reasons that Burundi started in May 2012 the process of revising the National Biodiversity Strategy and Action Plan under the financing of GEF/UNEP.

3

The National Policy on Climate Change / National Strategy and Action Plan on Climate Change, 2012-2025: The National Climate Change Policy was developed in 2012 and is intended to be a reference framework for the integration of climate change into all sectors of the country's socio-economic life. The Government's vision in the fight against climate change is as follows: "A State that promotes development that is resilient to the adverse effects of climate change". The strategy itself comes to operationalize this National Policy on Climate Change. It provides a solution to the constraints of coordinating interventions for climate change mitigation/adaptation by proposing an institutional framework as well as a strategy for mobilizing adequate funding to guarantee the implementation of the proposed programs and therefore long-term adaptation of Burundi to the adverse effects of climate change.

2. Criticism of Burundian Environmental Policies

A number of shortcomings can be observed when it comes to implementing environmental policies in Burundi. We discuss some of them here:

Environment sector extremely dependent on donors / Lack of appropriation: Environmental protection policies are not always defined according to national priorities but they often remain dependent on donor funding plans. Given the current financial situation that prevails among multinational donors, Africa is struggling to take its destiny into its own hands by initiating environmental policies in line with its own priorities (Moussa, 2014). The lack of external funding also means that even action plans or strategies that have expired are not updated or replaced even when the need is still relevant or when all the objectives have not been updated.

Lack of priority in development policies: Public environmental policies suffer from the harmful effects of a tacit agreement between political elites and economic elites (Bergandi, 2014). It is not therefore the real problems of environmental protection that lead to the development of environmental policies, but sometimes the action of political decision-makers is determined by the desire to ensure economic growth for the country, even when this growth is not sustainable. It therefore happens that certain practices of economic operators are tolerated in the name of economic growth to the detriment of the sustainable management of natural resources.

Forgotten domains: Perspectives of integrated natural resource management approaches are often lacking in the development of environmental protection policies. Efforts are focused on certain sectors, which prevents coordinated actions aimed at the sustainable use of natural resources (Granier, 2008). There is therefore a lack of a coherent and systematic approach, hence the persistence of areas not covered by natural resource governance policies and strategies. This reminds why the Sustainable Development Goals (SDGs) and the Paris Agreement on climate change stress the need for coherent policies across sectors, especially in the critical sectors of water, energy and food (Meuleman, 2018; Curran *et al.*, 2018).

Lack of sensitization: Even clearly defined policies are insufficiently popularized. However, the involvement of all public and private actors requires popularization of all the instruments that can contribute to ensuring good governance of natural resources (Oumba and LY, 2014).

Non-participatory planning: When it comes to environmental policies, policy makers often tend to use a “top-down” approach to planning. On the contrary, there is the obligation of the elected representatives of the people to carry out public policies which take into account the will and the needs of the citizens, especially when it comes to environmental questions, that is to say of “common goods” (air, water, soil, ecological regulation process, biodiversity management, etc.) which, by definition, are not, or should not be, the prerogative of particular individuals or economic groups (Bergandi, 2014). Some gaps of environmental policies in Burundi show that people's involvement in resource development is necessarily desirable for a need base bottom-up and participatory planning approach (Pokhrel, 2011; Keeley and Scoones, 2003). Most often, the increase of participation is a powerful catalyst towards achieving objectives, such as improved management of natural resources.

Insufficient institutional framework: The implementation of environmental policies often suffers from a failure of the institutional mechanism. Beforehand, it should be remembered that this is not a "public action sector" in the traditional sense of the term, but a series of programs that often cut across many traditional sectors (agriculture, equipment, energy, health, etc.), often strongly anchored since their origin in strict administrative divisions which control whole sections according to their internal logic. The Ministry of the Environment, where it exists, governs only a small part of the domain which is symbolically attributed to it by its title (Lascoumes, 2008). In addition, the addition of the environment portfolio to that of agriculture for some years in Burundi means that environmental protection concerns risk being relegated to the background in favor of the development of agriculture.

Environmental policies, and more broadly those claiming sustainable development, always aim to evaluate behavior, whether that of individuals or companies. We can very schematically consider that they call in turn on constraint and incitement. For the first, it is a question of authorizing or prohibiting by means of rules and norms. What we have the right to do or not to use is determined by the public authorities (Abdelmalki and Mundler, 2010). Secondly, the use of incentive measures encourage economic operators, on ethical grounds, to adopt ecologically responsible behavior such as taxation to encourage them to make rational use of natural resources and avoid their uncontrolled exploitation. However, in many states, and not only in Burundi, natural resource management policies have provided little incentive and the implementation of the process of accountability of environmental actors at all levels has been timid.

In the following paragraph, we wonder about the intelligent conditions so that the prudent and prudent policies for maintaining the biological diversity of ecosystems and for the fight against the nuisances and waste of natural resources become an obligation, legally founded (Eid, 2007).

II. Legal Rules for the Protection of the Environment in Burundi

Improving the management and protection of the environment through legal tools appears to be a necessity in almost all African countries, since the normative framework is of paramount importance in the perspective of the implementation of national environmental policies and strategies. Political responses to environmental issues and institutional coordination needs have contributed to the adoption of several environmental laws (Granier, 2008).

Environmental protection standards in Burundi are mainly made up of legal texts and their implementing texts. It should be noted that these instruments are strongly inspired by international conventions to which Burundi is a party. These are general texts aimed at ensuring global protection of the environment and specific acts devoted to entire areas of the environment such as forests, water, mines, protected areas, etc.

Despite the existence of environmental protection rules, it turns out that there are many important challenges (Islam *et al.*, 2001) that must be addressed to enable effective and efficient implementation of legal frameworks aimed at environmental preservation in Burundi. The various legal instruments remain essentially theoretical and have a low degree of effectiveness due to the ineffectiveness of the implementation mechanisms (Moussa, 2014, Faure, 1995).

Subordination of the rule: The pursuit of economic growth sometimes pushes political decision-makers to ignore the imperative of environmental protection. Thus, as Sime (2008) explains, economic considerations influence the development and application of environmental law standards. The major challenge remains to reconcile economic needs and ecological concerns.

Fragmentation of the environment domain: The abundance of rules relating to the protection of the environment is opposed to the very low effectiveness of environmental law as a whole. The fragmentation coupled with a lack of a comprehensive approach to environmental regulation means that there are still areas not covered binding legal rules.

Ignorance / relative youth: A relatively new field, environmental law remains unknown to the general public and to certain legal practitioners. It should also be added that it is a very technical branch of law which sometimes requires scientific knowledge to have a real understanding of it.

Some texts not updated: For a long time, environmental law was limited to a few scattered specific rules, most often from the colonial period or the 2nd Republic (1976-1987). These deserve to be updated to conform to the realities of the dynamics of sustainable development at the rate of scientific, technological and socio-economic changes.

5

Conclusion

In brief, policy is composed of goals and methods adopted by governments in order to influence certain outcomes - economic, environmental, political, etc. Generally, policy implies state-specific interventions such as, water policy, environmental policy, research policy, land reform policy, irrigation policy, or wildlife policy. It could be in the form of written or spoken statements aimed at solving particular problems. While law compels or prohibits certain actions or behaviour, policy merely guides actions towards the most desirable outcome (Nyariki et al., 2010). According to E. Moutondo (2008), the adoption of environmental protection laws was either motivated by the desire to meet a demand for environmental management or by a simple legal imitation dictated either by the international situation or by the pressure conditioning access to donor funding. In addition, these laws were a means of implementing sustainable development policies and new principles essentially resulting from the Rio Conference of 1992. Nevertheless, for these laws, it is to be deplored that the implementing texts are not systematically adopted.

Can we conclude that the existing law in terms of environmental protection has failed, given its ineffectiveness? By identifying the factors of this ineffectiveness, is it not permissible to be optimistic and believe that it is always possible to achieve effective protection of the environment and sustainable management of natural resources by acting on the behavior of different public and private actors involved in this field (Zoma, 2019; Idllalène, 2010)?

Bibliographic References

Abdelmalki, L. & Mundler, P. (2010). Chapitre 4. Les politiques de l'environnement et du développement durable. In L. Abdelmalki & P. Mundler (Dir), *Économie de l'environnement et du développement durable* (pp. 97-119). Louvain-la-Neuve: De Boeck Supérieur.

Albrizio, S., E. Botta, T.Kozluk and V. Zipperer (2014): "Do Environmental Policies Matter for Productivity Growth? Insight from New Cross-Country Measures of Environmental Policies," OECD Economics Department Working Papers, No. 1176, OECD Publishing

Bergandi, D., 2014. « Environnement, éthique et politique : les limites d'une démocratie inaboutie et leurs conséquences néfastes sur la protection de la nature », *Éthique publique*, Vol. 16, n° 1. En ligne. URL : <http://journals.openedition.org/ethiquepublique/1364> (consulté le 31 janvier 2023).

Curran, P., Dougill, A., Pardoe, J., & Vincent, K. (2018). Policy coherence for sustainable development in sub-Saharan Africa. Policy brief, Research Institute on Climate Change/Centre for Climate Change Economics and Policy.

Eid, C.Y., 2007. *Le droit et les politiques de l'environnement dans les pays du bassin méditerranéen : approche de droit environnemental comparé*. Université Paris Descartes - Paris V.

Faure M. G., 1995. "Enforcement Issues for Environmental Legislation in Developing Countries" UNU/INTECH Working Paper No. 19

Gardes, R., 2017. « Les politiques publiques liées à l'environnement : de la règle à la pratique locale, l'exemple des PNR », *Revue Droit et Environnement*, N° 10, pp. 8-15.

Granier, L. (Coord.), 2008. *Aspects contemporains du droit de l'environnement en Afrique de l'ouest et centrale*. UICN, Gland, Suisse.

Idlallène, S., 2010. «La Charte marocaine de l'Environnement et du Développement durable sera-t-elle une loi fondamentale ? », *Vertigo - la revue électronique en sciences de l'environnement* [En ligne], Débats et Perspectives. URL : <http://journals.openedition.org/vertigo/9956> (consulté le 02 février 2023).

Islam, N.; Martínez, I.; Mgbeoji, I. and Xi W. 2001. *Environmental Law in Developing Countries: Selected Issues*. IUCN, Gland, Switzerland and Cambridge, UK, CDG, Berlin, Germany and ZAV, Bonn, Germany. xiv + 140 pp.

Keeley, J. and Scoones, I. 2003. *Understanding Environmental Policy Processes: Cases from Africa*, New York:Earthscan.

Lascoumes, P., 2008. Chapitre 1 : Les politiques environnementales. Dans : Olivier Borraz éd., *Politiques publiques 1: La France dans la gouvernance européenne*. Paris: Presses de Sciences Po, pp. 29-67.

Meuleman, L. (2018). *Promoting Policy and Institutional Coherence for the Sustainable Development Goals*. Paper presented at 17th Session of the UN Committee of Experts on Public Administration, New York, United States. <https://undocs.org/E/C.16/2018/2>

Moussa, E.T., 2014. Insuffisance des ressources humaines et financières pour une meilleure application du droit de l'environnement au Mali. *Revue Africaine de Droit de l'Environnement*, N°01, pp. 103-106.

Moutondo, E.G., 2008. Lois-cadres environnementales dans les pays francophones d'Afrique, In Granier, L. (Coord.), 2008. *Aspects contemporains du droit de l'environnement en Afrique de l'ouest et centrale*. UICN, Gland, Suisse, pp 58-75.

Muller, P., 1990. *Les politiques publiques*, QUE SAIS-JE ?, Paris, PUF.

Nyariki, D. ; Sanginga, P. Yemshaw, Y. and Kakuru, W. 2010. "Policy and Governance in Natural Resource Management" in Ochola, W. O. Sanginga, P. C. Bekalo I. *Managing Natural Resources for Development in Africa: A Resource Book*. University of Nairobi Press.

OECD. 2016. *How stringent are environmental policies?* OECD Publishing.

Oumba, P. et LY, L., 2014. Gestion durable des ressources naturelles en Afrique : quelle place pour le droit ? *Revue Africaine de Droit de l'Environnement*, N°01, pp. 11-22.

Percival, R. V. 1998. "Environmental Legislation and the Problem of Collective Action", 9 *Duke Environmental Law & Policy Forum* 9-28

Pokhrel, K.P. 2011. "Role of participatory research on natural resource management: A case of Karnali Watershed Area, Nepal", *International Journal of Biodiversity and Conservation* Vol. 3(7), pp. 237-248.

République du Burundi, 2009. *Politique Nationale de l'Eau*, Bujumbura.

=====
2012. *Stratégie Nationale et Plan d'Action Nationale de Lutte contre la dégradation des sols*, 2011-2016, Bujumbura.

=====
2013. *Politique forestière, 2012-2025*, Bujumbura.

=====
2013. *Politique Nationale sur le changement climatique/ Stratégie Nationale et Plan d'Actions sur le changement climatique, 2012-2025*, Bujumbura.

=====
2014. *Stratégie Nationale et Plan d'Action sur la Biodiversité, 2013-2020*, Bujumbura.

=====
2016. *Programme de Développement du Secteur Foncier au Burundi (PDSF), 2017-2021*, Bujumbura.

Sime, R.N., 2008. L'intégration et l'harmonisation des normes de droit international de l'environnement dans le droit africain. In Granier, L. (Coord.), 2008. *Aspects contemporains du droit de l'environnement en Afrique de l'ouest et centrale*. UICN, Gland, Suisse, pp 157-177.

Yang T. and Percival, R. V. 2009. "The Emergence of Global Environmental Law", 36 *Ecology L.Q.* 615

Zoma, L. (2019). Perception et effectivité du droit de l'environnement : entre influence des niveaux de développement et nécessité de réduire les disparités. *Revue juridique de l'environnement*, 44, 321-338.