

POLICY BRIEF

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CONSTITUTIONAL PARADIGM
SHIFTS ON ENVIRONMENTAL
STEWARDSHIP AND
INTERGENERATIONAL EQUITY
IN GHANA

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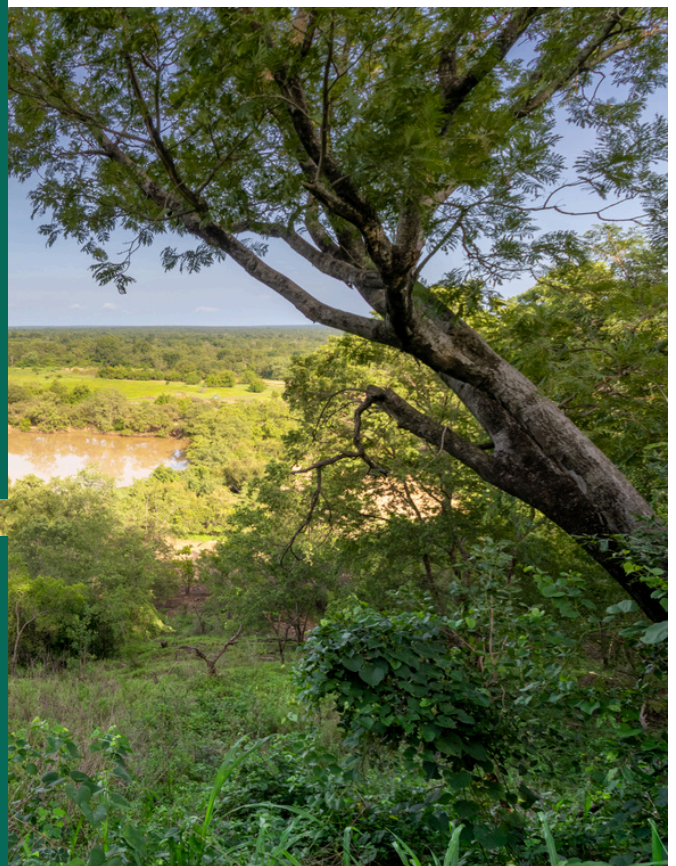


EXECUTIVE SUMMARY

On January 19, 2025, an eight-member expert committee was appointed to conduct a comprehensive review of Ghana's 1992 Constitution, culminating in the submission of its final report on the 22nd of December, 2025, titled "Transforming Ghana: From Electoral Democracy to Developmental Democracy." Comprising eminent figures in the legal profession, the judiciary, academia and civil society, the committee was mandated to synthesize past review efforts, engage the public and provide actionable recommendations for constitutional amendments to foster a more inclusive and effective governance framework.

Regarding environmental provisions and recommendations, the **Constitutional Review Committee (CRC)** proposals represent a transformative leap beyond the 1992 Constitution, seeking to embed a spirit of sustainability and intergenerational equity into Ghana's foundational legal fabric. By establishing enforceable public trust doctrines, fiduciary duties and comprehensive environmental principles, the recommendations aim to convert aspirational goals into actionable legal mandates.

This brief synthesizes the proposed framework, highlights its advancements over the 1992 Constitution and identifies critical omissions requiring attention to ensure a fully robust and holistic constitutional regime for environmental governance.



BACKGROUND

His Excellency President John Dramani Mahama, on January 19, 2025, appointed an eight-member expert committee to conduct a comprehensive review of Ghana's 1992 Constitution. Formally inaugurated on January 30, 2025, at Jubilee House, the committee was supported by a dedicated Secretariat and was provided operational facilities by the Government of Ghana in Accra.

The committee's mandate was fourfold:

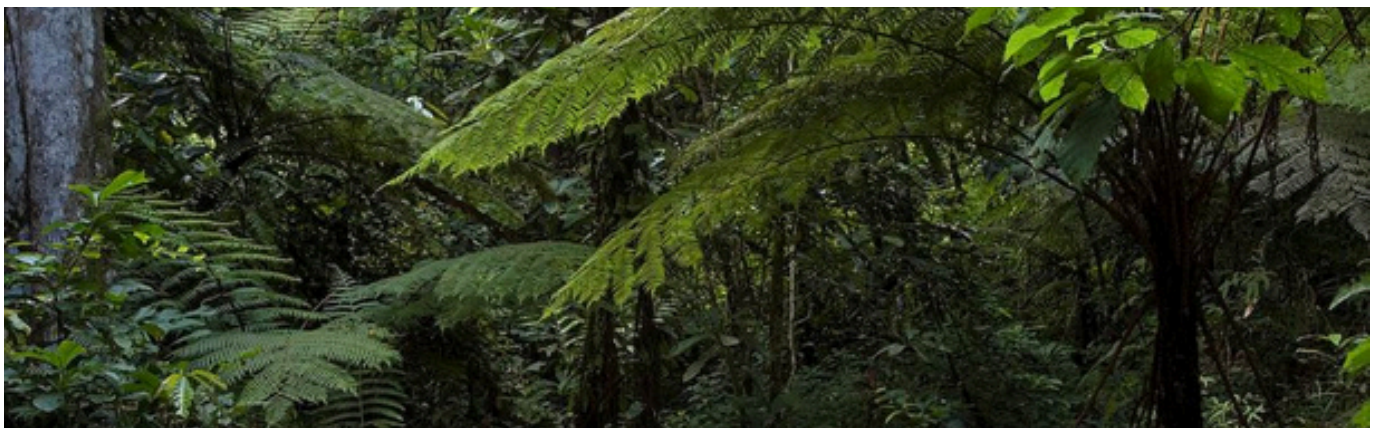
- To review the work of prior constitutional review bodies (2010 CRC-I, CRIC, and 2023-24 CRCC).
- To identify gaps and challenges in implementing past recommendations.
- To engage the public and stakeholders for new proposals.
- To make actionable recommendations for constitutional amendments aimed at enhancing democratic governance and creating a more inclusive and effective national framework.

Their work translated into the final report, titled "Transforming Ghana: From Electoral Democracy to Developmental Democracy," which they have now submitted.

THE IMPERATIVE FOR FOUNDATIONAL REFORM

Ghana stands at a critical juncture in its developmental trajectory, where the management of its rich endowment of natural resources, lands, forests, minerals, water and biodiversity will determine its prosperity and stability for generations to come. The 1992 Constitution provides a basic framework but has proven insufficient to halt environmental degradation, ensure equitable benefit-sharing and secure the long-term health of the nation's ecological base. The pervasive challenges of illegal mining, deforestation, contentious land acquisition and opaque resource governance underscore a systemic deficit in accountability, enforceability and a constitutionally embedded ethic of stewardship.

The recommendations of the CRC present a historic opportunity to rectify these foundational weaknesses. This policy brief provides a comprehensive review and analysis of the CRC's environmental governance proposals.

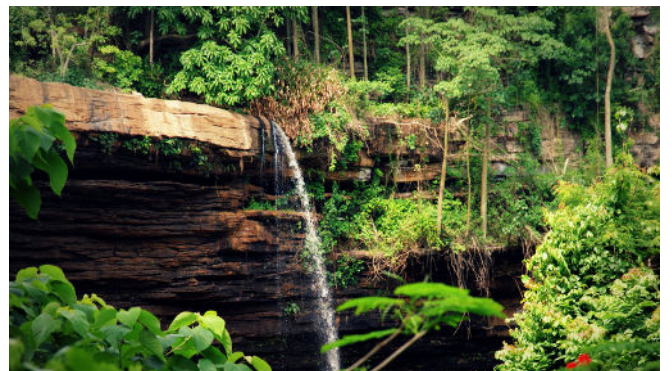


ENVIRONMENTAL GOVERNANCE RECOMMENDATIONS BY THE CONSTITUTIONAL REVIEW COMMITTEE

The CRC's proposals construct an integrated, principle-driven, and enforceable constitutional architecture for environmental governance. The following sections chronologically capture the full depth and breadth of these recommendations.

Foundational Principles and Framework: The Bedrock of Public Trust

The review proposes a fundamental re-orientation of the state's relationship with natural resources, anchoring it in the Public Trust doctrine.



PUBLIC TRUST DOCTRINE AND FIDUCIARY DUTY

Public Trust Doctrine:

The committee recommends a clear constitutional declaration that “all minerals in their natural state, water resources, and other natural resources vest in the people of Ghana and are held in trust by the State for the benefit of present and future generations” (p. 56). This principle of collective ownership and trusteeship is extended to public lands, which are to be “vested in the people of Ghana, to be held and managed in trust for the benefit of present and future generations” (p. 47).

Fiduciary Obligations:

To give teeth to the trust, the review imposes “direct fiduciary obligations” on all public authorities involved in land and resource administration. These duties explicitly include “loyalty to the public interest, transparency and reasoned decision-making, sustainability and intergenerational equity and prevention of waste, speculative alienation and abuse” (p. 48). This fiduciary standard is expressly applied to the management of stool lands (p. 55) and all natural resources (p. 56).

Consolidated Constitutional Principles:

The CRC proposes a dedicated constitutional article enumerating the core principles that must guide all laws and state actions concerning natural resources. This comprehensive list includes: “collective ownership and public trusteeship; fiduciary responsibility; intergenerational equity; sustainability and environmental stewardship; equitable and reasonable utilisation; precautionary principle; public benefit and national development; transparency and accountability; democratic and parliamentary oversight; meaningful community participation realised through access to information, Free, Prior and Informed Consent (FPIC) and equitable benefit-sharing; obligation to restore and rehabilitation; climate compatibility; and justiciability and enforceability of the public trust” (p. 56).



SECTOR-SPECIFIC RECOMMENDATIONS:

Translating Principles into Practice

A. Lands

Management: The Lands Commission is designated the “primary constitutional trustee and manager of public lands” (p. 47). Its power to dispose of land is constrained by procedures that must ensure “transparency, fairness, value for money and demonstrable public interest” (p. 48).

Compulsory Acquisition: The review severely restricts this power. Acquisition is permitted only for a “clearly defined, specific, and immediate public purpose” as a “last resort” and explicitly “cannot be used for ‘private development’” (p. 49). Compensation must be “fair and adequate,” covering not just market value but also “loss of livelihoods” and “social and cultural dislocation” (p.50). “Resettlement planning” is mandated prior to acquisition (p.50). Crucially, if the stated public purpose fails, original owners have enforceable “reversionary rights” (pp. 49, 50). A comprehensive public register of all acquired lands must be maintained (p. 50).

Stool/Family Lands: The stool’s role is clarified as holding lands in a “fiduciary capacity” for the “collective benefit of the members of the stool community” (p. 55). The Office of the Administrator of Stool Lands is to be integrated into the Lands Commission as a “Rent Management Division,” with its mandate expanded to cover family, clan, and Tindana lands (p. 52).

B. Minerals and Natural Resources

- A significant check on executive power is proposed: all natural resource agreements require “prior parliamentary approval” before being signed, with the signed agreement then returned to Parliament for confirmation (pp. 56-57).
- The review recommends allocating an percentage of gross revenue (capped at 3%) from resource extraction directly to mining communities. This fund is for “infrastructural needs, human developmental needs as well as for dealing with environmental challenges” and would be managed by a community board of trustees, inclusive of traditional authorities, youth, women, and persons with disabilities (p. 57).
- It advocates for a “minimum carried interest higher than 10 per cent” for the state in the short term, and for long-term agreements to give Ghana “control over the revenue of its natural resources.” It also recommends establishing a constitutional “heritage fund” for future generations (p. 58).
- The CRC proposes “the creation of an offence of ecocide with very stiff and punitive sanctions” to confront severe environmental destruction like illegal mining and affirm the right to a clean environment (p. 57).

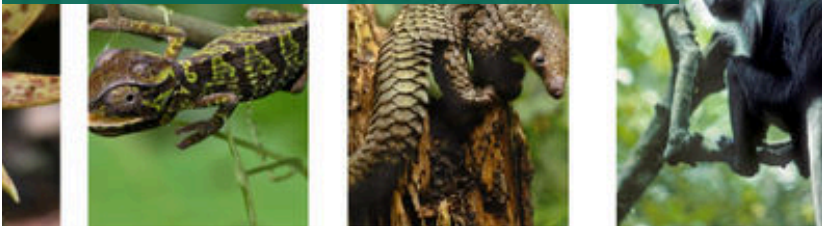
C. Forests, Water, and Biodiversity

- A proposed Natural Resource Commission is mandated to promote coherence across “forests, water resources, land use, agriculture, and environmental protection” (p. 58).
- The core constitutional principles for natural resources (p. 56) including “sustainability,” “environmental stewardship,” the “precautionary principle,” and the “obligation to restore and rehabilitation” are to govern these sectors.



D. Climate Change

Climate compatibility” is enshrined as one of the basic principles governing the management of all natural resources (p. 56).



E. Ocean and Maritime Resources

The review proposes a dedicated article on Ocean Governance, obligating the State to: “sustainably manage the ocean and ocean resources”; “ensure the security of Ghana’s maritime domain”; and “ratify all relevant marine environment related international conventions” (pp. 58-59).



EMPOWERING COMMUNITIES AND CITIZENS: RIGHTS AND REDRESS

The recommendations fortify the position of communities and citizens as active guardians of the environment.

Free, Prior and Informed Consent:

This is explicitly guaranteed as part of “meaningful community participation,” alongside access to information and equitable benefit-sharing, as a constitutional principle (p. 56).

Right to Challenge:

Citizens and communities are granted “accessible remedies” to challenge mismanagement of public lands (p. 48). Members of stool communities are specifically given the right to “enforce the fiduciary obligations” and “challenge mismanagement or abuse of authority” (p. 55).

Public Interest Litigation:

The framework enables any person acting “in the public interest” to apply to court for redress for violations of constitutional rights, including environmental rights (p. 111).



RESTRUCTURING ACCOUNTABILITY AND INSTITUTIONAL SYNERGIES

The proposals seek to rectify institutional fragmentation by constitutionally mandating integrated environmental governance. The Lands Commission is designated the “primary constitutional trustee” of public lands (p. 47). A new Natural Resource Commission is proposed to coordinate policy across forests, water, land use, and environmental protection (p. 58). Environmental stewardship is hardwired into national planning by making the National Development Plan binding and including the Head of the EPA on the National Development Planning Commission (pp.42, 46).

Parliamentary oversight is enhanced through approval powers and receipt of annual reports (pp. 47, 56-57), while independent bodies like a proposed Anti-Corruption Commission with exclusive prosecution power (p. 85) and a Security Services Oversight Authority (p. 122) are introduced to check abuse and corruption.

Specifically, the review reconfigures and constitutionalizes the following key institutions to execute the new mandate:

- 1. Lands Commission:** Constitutionalized as the trustee of public lands and manager of stool land revenues (pp. 47, 52).
- 2. Natural Resource Commission:** A new constitutional body proposed to coordinate and ensure compliance with principles across all natural resource sectors (p. 58).
- 3. National Development Planning Commission (NDPC):** Its composition includes the “Head of the Environmental Protection Authority” (p. 46). It serves as the central body for coordinating, monitoring, and evaluating the binding National Development Plan, ensuring all sub-national plans align with it (pp. 43, 44).
- 4. Environmental Protection Authority (EPA):** Confirmed as a key agency through its seat on the NDPC (p. 46).
- 5. Independent Devolution Commission:** Would oversee local governance to ensure “technical rationality rather than political expedience” (p. 113).
- 6. Council of State (Reformed):** Would nominate members for the Lands and Natural Resources Commission (p. 74).
- 7. Parliament:** Granted enhanced oversight powers: ratifying resource agreements (pp. 56-57), receiving annual reports on public lands and minerals (p. 47), and overseeing the Controller and Accountant-General (p. 62).

ENFORCEMENT, OVERSIGHT, AND REMEDIES:

Making Rights Real

- The core innovation is that breaches of fiduciary duties and public trust principles are declared constitutionally justiciable (pp. 48, 56).
- Accountability is reflected in provisions requiring mandatory annual audits of public land administration by the Auditor-General, as well as public registers and disclosure of public land allocations (p. 48).
- The Controller and Accountant-General must report annually to Parliament on all public fund withdrawals (p. 62).
- The proposal establishes an independent Anti-Corruption and Ethics Commission with exclusive power to prosecute corruption offences (p. 85).

Military deployment in civilian law enforcement is limited to exceptional circumstances under police control, and an Independent Security Services Oversight Authority (ISSOA) is proposed to provide civilian oversight (p. 122).

Cross-Cutting Themes: Ecocide, Defenders, and Intergenerational Equity

- **Ecocide:** The proposed constitutional offence carries “very stiff and punitive sanctions” and is defined with reference to acts causing mass ecological destruction (p. 57).
- **Environmental Defenders:** While the recommendations is currently silent on safety and wellbeing of environmental defenders, the framework protects activists via public interest litigation, community enforcement rights, and accessible remedies for challenging mismanagement (pp. 48, 55, 111).
- **Intergenerational Equity:** This is the heartbeat of the proposals. It is the core of the Public Trust (pp. 47, 56), a listed fiduciary duty (p. 48), a constitutional principle (p. 56), and the rationale for the proposed Heritage Fund (p. 58).
- **Polluter Pays Principle:** The CRC does not explicitly refer to the polluter pays principle, nor does it anchor any of its recommendations on the polluter pays principle, which is one of the key guiding principles in sustainable natural resource management. Nevertheless, the Committee’s recommendations regarding the “obligation to restore and rehabilitate” (p. 56) and the punitive sanctions for ecocide (p. 57) appear to carry elements of the principle

THE CRC RECOMMENDATIONS VERSUS THE 1992 CONSTITUTION

The CRC's proposals represent not merely an amendment but a transformative reconstitution of Ghana's environmental governance framework.

Citizens right to an healthy environment

The CRC proposes a fundamental transformation of Ghana's constitutional approach to environmental rights, moving decisively beyond the limited framework of the 1992 Constitution. The 1992 Constitution establishes the protection of the environment under Article 36(9) as a Directive Principle of State Policy, a provision that is non-justiciable.

Recommendations by the CRCs revolutionize this framework by weaving the right to a healthy environment into the Constitution's enforceable fabric through both direct and indirect means, aligning with international human rights standards. Directly, they seek to establish substantive, binding constitutional principles such as sustainability, intergenerational equity, and the precautionary principle. Most significantly, they explicitly propose criminalizing ecocide, creating a distinct constitutional crime for severe environmental destruction.

Additionally, the recommendations empower communities through robust procedural safeguards like FPIC for land projects and introduce a public trust doctrine that vests natural resources in the people, to be held in trust by the State for future generations. Indirectly, they establish strong safeguards for land and resource management, introduce community benefit-sharing from mineral revenues and create a dedicated governance framework for ocean resources. Institutional mechanisms like a proposed Natural Resource Commission and a reinforced Lands Commission are proposed to ensure accountability.

The following sections elaborate on how expressions of the right to a healthy environment are embedded in proposed new constitution and further discusses whether including ecocide is enough to contribute to guaranteeing protection for the environment and rights Ghanaians have to using and accessing the services and assets that the environment provides all of us.



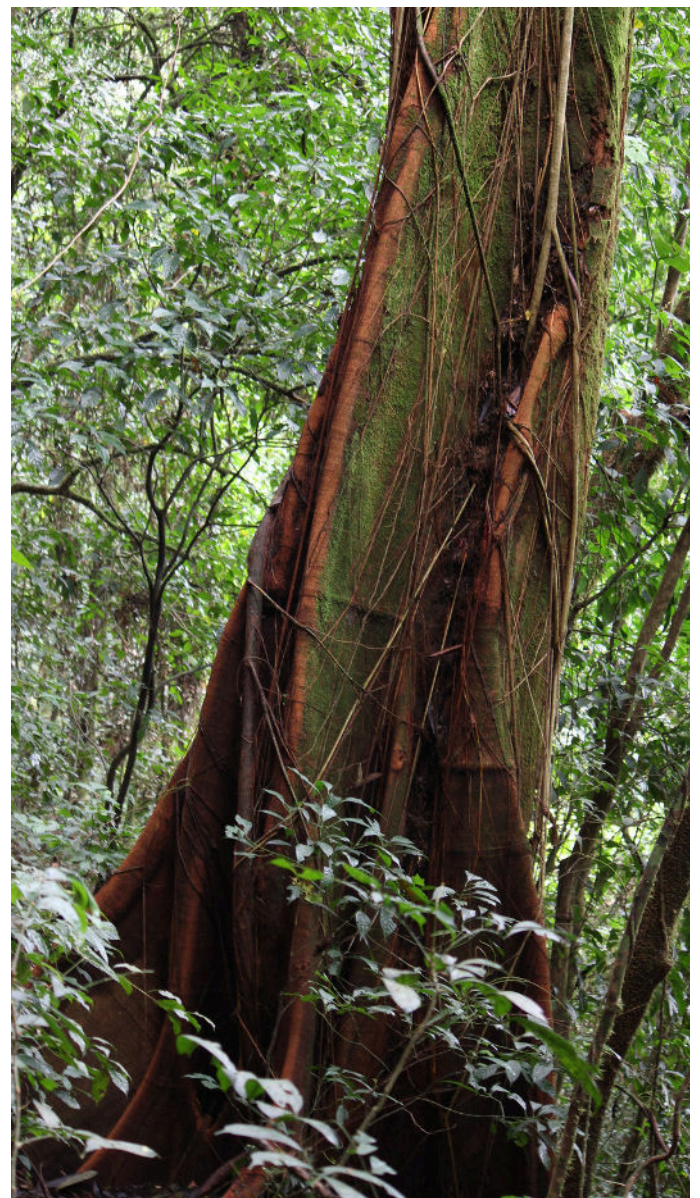
From Aspiration to Enforceable Duty: A Paradigm Shift

The 1992 Constitution, in Article 36(9), articulates a directive principle for the State to protect the environment for posterity. However, as a non-justiciable principle under Article 34(1), it lacks enforcement mechanisms, rendering it a symbolic commitment rather than a legal tool for accountability.

The CRC recommendations engineer a fundamental paradigm shift. They propose that all minerals, water, natural resources, and public lands be vested in the people of Ghana and held in trust by the State for present and future generations (pp. 47, 56). This Public Trust Doctrine is operationalized through direct, “constitutionally justiciable” fiduciary obligations imposed on all public authorities. These duties include loyalty to the public interest, transparency, sustainability, intergenerational equity, and the prevention of waste and abuse (p. 48). This transition from a non-enforceable principle to a legally actionable fiduciary duty is the cornerstone of the proposed reform, creating a powerful tool for citizens to hold the state accountable.

Constructing a Comprehensive Constitutional Framework

The 1992 Constitution lacks a consolidated set of environmental governance principles. The review moves beyond a single clause to propose a dedicated article outlining actionable constitutional principles for natural resource governance (p. 56). This suite of principles includes sustainability, environmental stewardship, the precautionary principle, equitable utilization, and the obligation to restore and rehabilitate. Critically, it mandates “meaningful community participation realised through access to information, FPIC and equitable benefit-sharing” and introduces “climate compatibility” as a governing consideration. This provides a clear, comprehensive benchmark against which all laws, policies, and executive actions must be measured.



Empowering Communities and Strengthening Procedural Safeguards

Whereas the 1992 Constitution recognizes traditional stewardship of stool lands, the CRC recommendations radically empower all communities. It constitutionalizes FPIC and benefit-sharing (p. 56) and specifically recommends allocating a percentage of gross mineral revenue to mining

communities, managed by a representative local board (p. 57). Communities and citizens are granted explicit “accessible remedies” to challenge mismanagement of public lands (p. 48) and to enforce fiduciary obligations regarding stool lands (p. 55).

Procedural safeguards are significantly tightened. The 1992 Constitution allows compulsory acquisition (Art. 20) and parliamentary approval for transactions (Art. 181) with broad criteria. The CRC imposes strict, pro-accountability rules:

- **Compulsory Acquisition:** Restricted to a clear, immediate public purpose as a “last resort,” explicitly excluding private development, with compensation for livelihood loss and enforceable reversionary rights (pp. 49-50).
- **Resource Agreements:** Requires prior parliamentary approval plus post-signing confirmation, a double-check on the Executive (pp. 56-57).
- To deter severe harm, absent in the 1992 text, the review proposes the constitutional creation of the offence of “ecocide” with stiff punitive sanctions (p. 57).

Reforming Institutional Accountability and Synergies

The 1992 Constitution establishes bodies like the Lands Commission and EPA but without a strong mandate for coordination or integrated planning. The proposals seek to rectify this fragmentation, as detailed in section 2.4, by constitutionally mandating a coherent system with enhanced parliamentary and independent oversight.



BEYOND RIGHTS TO REALITIES IN GHANA'S ENVIRONMENTAL FUTURE

The comprehensive analysis of Ghana's CRC recommendations reveals a visionary blueprint for environmental governance. By anchoring the state's role in the Public Trust Doctrine and enforceable fiduciary duties, the proposals successfully seek to transform the non-justiciable aspirations of the 1992 Constitution into a framework of legal accountability. The creation of offences like ecocide, the empowerment of communities through FPIC, and the institutional redesign for greater parliamentary and independent oversight collectively represent a paradigm shift towards stewardship and intergenerational equity.

However, for this blueprint to mature into a truly progressive and effective constitution, a living document that not only proclaims rights but secures them, it must confront and integrate two critical, yet currently understated, dimensions. The first is the architecture of enforcement and justice; the most eloquently drafted rights are meaningless without accessible, capable, and swift mechanisms to uphold them. The second is the socio-economic context of environmental harm; legal prohibitions will continually be undermined unless the constitution also addresses the root pressures and provides pathways for a just transition. It is in bridging this gap between lofty principle and grounded reality that the constitution can become a transformative tool for national development.

The Imperative for an Integrated Enforcement Architecture

A progressive constitution must do more than state rights; it must guarantee their passage from text to tangible outcome. The CRC's emphasis on justiciability is the essential first step, but it requires a dedicated institutional vehicle. While the recommendations strengthen the Lands Commission and propose a Natural Resource Commission for coordination, a glaring omission is a specialized judicial body equipped to handle the complex, evidence-intensive nature of environmental cases. Relying on the general court system risks delays, inconsistent judgments, and a lack of technical expertise, effectively placing justice out of reach for affected communities and diluting the deterrent effect of laws against ecocide or fiduciary breach.

Therefore, a foundational recommendation for a progressive constitution is the establishment of a Specialized Environmental and Natural Resources Court, established as a superior court of record. This court would have nationwide jurisdiction over the core of the new framework: constitutional violations of environmental rights, breaches of public trust and fiduciary duties, offences of ecocide, and disputes related to land acquisition and compensation. Its mandate should include powers to expedite cases causing irreversible harm, to compel access to information, and to enforce restorative orders. By creating this specialized pathway, the constitution would ensure that its groundbreaking provisions on justiciability are met with a competent, authoritative, and accessible forum, transforming legal theory into practical remedy.

From Reactive Restoration to Proactive Ecological Integrity

The CRC principles rightly include an “obligation to restore and rehabilitate,” a crucial reactive measure. Yet, a progressive constitution must also enshrine a proactive duty to protect and maintain ecological integrity. This shifts the state’s obligation from merely cleaning up damage to preventing it by safeguarding the vital systems, forests, watersheds, soils, and marine ecosystems, upon which all life and economic activity depend. This is best achieved by entrenching the Right to a Healthy Environment as a substantive, justiciable fundamental right within the chapter on Fundamental Human Rights. This elevates environmental quality to the same protected status as other core freedoms, empowering every citizen as a rights-holder.

Concurrently, in the Directive Principles of State Policy, which is explicitly marked as justiciable in this context, the constitution should impose a clear state duty to ensure ecological integrity, climate resilience, and the conservation of biodiversity. This duty would mandate that all state planning, budgeting, and licensing decisions actively demonstrate how they maintain and enhance the health of natural systems for present and future generations.

This dual approach of an individual right and a state duty creates a powerful, complementary legal force, moving governance from damage control to the sustained stewardship of our natural capital.

Addressing Root Causes and Ensuring a Just Transition

The strictest laws against illegal mining or deforestation will falter if citizens perceive them as denying their only means of survival. A constitution that is progressive in an African context must grapple with this socio-economic reality. Enforcement cannot be divorced from livelihood. Thus, alongside its punitive measures, the constitution must mandate the state to create and promote sustainable economic alternatives. This means directing state policy and resources toward green job creation, sustainable agriculture, community-based eco-tourism, and the skills training needed for green economy transition.

This leads to the essential principle of a Just Transition. A progressive Ghanaian Constitution should be the first to constitutionalize this concept, with provisions that recognises this transition in ways that are just and equitable. This would compel the state to protect vulnerable workers, communities, and sectors from undue hardship, ensuring that the burdens and benefits of environmental protection are shared fairly. By directly linking ecological sustainability with social and economic justice, the constitution would address the root drivers of environmental degradation and build a broader, more durable social consensus for its ambitious goals.

Operationalizing Civic Duty and Deepening Participatory Governance

The 1992 Constitution's Article 41(k), which notes the citizen's duty to protect the environment, is missing in the CRCs recommendations. A progressive Constitution must activate this duty. This can be done by linking it to concrete participatory mechanisms. For instance, the constitution could create a pathway for a citizens' petition, where a significant number of voters can trigger an independent audit or review of a project or policy alleged to violate environmental principles.

Furthermore, for projects of major national impact, the constitution could provide for citizen-initiated reviews, giving the public a direct voice in decisions that permanently alter their ecological heritage. This would take away the somewhat formality of open forums that EPA legislative instrument (L.I 1652) stipulates but which does not address community concerns most of the time. This moves beyond consultation FPIC into shared decision-making, fostering a deeper sense of collective ownership and responsibility. It transforms the citizen from a passive rights-holder or a protestor into an active governor, fulfilling their Article 41(k) duty through structured constitutional means.

Embracing Transboundary and Global Solidarity

Environmental challenges defy borders. River systems, forest basins, marine ecosystems, and atmospheric currents are shared. A constitution with a purely domestic purview is inadequate for the anthropocene. Therefore, a progressive constitution must affirm Ghana's sovereignty in tandem with its commitment to international cooperation. It should explicitly mandate the state to cooperate with neighboring nations in the joint management of transboundary resources, based on principles of equity and sustainability.

Moreover, it should constitutionalize Ghana's commitment to ratified international environmental and climate agreements, making them a benchmark for domestic policy. This positions Ghana not as a passive rule-taker but as a sovereign actor proactively integrating global standards into its supreme law, demonstrating leadership and securing its interests within the global commons.

An Analysis of the Ecocide Recommendation

Section 3.18 (p.57) addresses the protection of the environment through the creation of a criminal offence of ecocide.

The recommendation is explicitly motivated by a pressing domestic crisis: "society's revulsion and opprobrium to illegal mining in Ghana" (galamsey). The Committee frames the ecocide recommendation as giving "true expression to the right to a clean environment." This framing situates the recommendation within Ghana's existing constitutional provisions, particularly Article 36(9), which requires the State to protect the environment "for posterity," and Article 41(k), which imposes a duty on citizens to protect and safeguard the environment.

The Committee draws on comparative law examples from jurisdictions that have criminalized ecocide, citing definitions from Belgium, Armenia, and Uzbekistan. These definitions reveal distinct theoretical orientations. The Belgian and Armenian definitions exhibit ecocentric characteristics: the harm criminalized is damage to the environment itself, destruction of flora and fauna, and ecological catastrophe without requiring proof of harm to humans. These definitions treat nature as having value worthy of criminal law protection, independent of human utility.

The Uzbekistan definition, by contrast, is explicitly anthropocentric: environmental damage only becomes criminal when it “results in mass disease incidence of people.” Here, nature’s violation is merely the mechanism; the actual protected interest is human health and wellbeing. The Committee’s stated justification that ecocide “gives true expression to the right to a clean environment” centers the human/anthropocentric approach. A right to environment is a human right; the rights-holder is the person, not nature. Even when the prohibited conduct is harm to the environment itself (as in the Belgian/Armenian definitions), the underlying justification remains the human interest in environmental quality. Thus, nature is protected, but as an object of human concern rather than as a subject with independent moral standing.

The Committee’s citation of these divergent definitions without explicit guidance on which theoretical approach Ghana should adopt creates interpretive ambiguity for Parliament in drafting and implementing legislation.

The recommendation appears comfortable with enhanced environmental protection, even through the serious mechanism of criminal law, but stops short of granting nature independent legal personality or standing. This mirrors the fundamental structure of Ghanaian law, where humans (natural and juridical persons) are the only rights-bearers.

Conceptually, the Committee appears to be recommending a hybrid regime:

- A public trust framework that treats natural resources as held for the people (anthropocentric governance);
- Directive Principles and state duties to protect the environment for posterity (anthropocentric justification);
- An ecocide offense that may criminalize environmental harm per se, depending on how Parliament drafts it (potentially ecocentric in operation).

This hybrid can function coherently as a practical matter. But it leaves unresolved the deeper question of why environmental destruction is wrong. Is it wrong because it harms present and future humans? Or because nature has intrinsic value that warrants protection regardless of human utility or both?

The Committee’s choices suggest the former, even as some of the definitions cited gesture toward the latter. The Executive, Parliament, the courts and, ultimately, the Ghanaian society will need to grapple with these foundational questions as they give effect to these recommendations.

IDENTIFIED OMISSIONS IN THE CRC RECOMMENDATIONS

Despite its remarkable comprehensiveness, the CRC report is silent on two positive provisions of the 1992 Constitution.

- Article 41(k) - The Duty of the Individual Citizen: The 1992 Constitution states it is the duty of every citizen to protect and safeguard the environment. The CRC recommendations focus overwhelmingly on state and community obligations and rights, leaving this affirmation of individual civic responsibility unaddressed and unreinforced.
- Article 269(2) - The Stool Lands Revenue Formula: The 1992 Constitution prescribes a precise formula for distributing stool land revenues. While the CRC integrates the Administrator's office into the Lands Commission (p. 52) and emphasizes fiduciary duty (p. 55), it does not review, alter, or comment on this existing financial formula. This is a notable omission, especially as the review creates new community benefit-sharing models for minerals.



CONCLUSION AND FINAL RECOMMENDATIONS

The CRC's environmental governance recommendations constitute a visionary and transformative blueprint. They seek to replace a framework of discretionary, often unenforceable aspirations with a constitutionally mandated system of stewardship, accountability, and intergenerational justice.

To fully capture the spirit of sustainability and create a flawless social-ecological contract, the final constitutional provisions must address the identified omissions. It is therefore recommended that:

- The proposed constitutional principles should include a clause affirming and elaborating the duty of every citizen and legal entity to protect and restore the environment, actively reinforcing Article 41(k) of the 1992 Constitution to foster a culture of shared responsibility.
- The constitutional review opportunity should be used to holistically address fiscal devolution and accountability for all land-based resources. The final text should either explicitly affirm the existing Article 269(2) formula with enhanced transparency guarantees or, preferably, subject it to a principled review and constitutionalize a reformed framework that ensures alignment with the new fiduciary standards, intergenerational equity, and direct community benefit objectives that underpin the entire reform.
- Ghana must take leverage the opportunity to internalize extended resource user responsibility by ensuring the Polluter-Pay-Principle is an integral part of the heartbeat of reforms for sustainable environmental governance in Ghana.

Adopting the CRC's core environmental recommendations, while integrating these final elements, will provide Ghana with an unparalleled constitutional foundation. It will ensure that the nation's prosperity is built not on the depletion of its natural inheritance, but on its collective prudent stewardship, enhanced equity in resource allocation and distribution, for the enduring benefit of both present and future generations.

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SCAN TO READ THE FULL REPORT
BY THE CONSTITUTIONAL REVIEW
COMMITTEE (CRC)



This publication is made possible by A Rocha Ghana



A Rocha Ghana
4 Sabblah Link
North-Legon, Accra
P.O. Box KN 3480
Kaneshie- Accra

Digital Address:

GE 215-5083

Telephone:

+233 (0) 302 546 172

Email:

ghana@arocha.org



Prepared By:

Daryl Bosu
Deputy National Director
A Rocha Ghana

Estellamaria Ohene-Asante Esq
Associate
1st Chamber Law Consult.

Enam Antonio (PhD)
Co-Director ELPI
GIMPA Law School