

**top**  
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## Review of South African legislation and policy related to agroecology and its effectiveness towards sustainable natural resource management and conservation

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# PRESENTATION OUTLINE

- Introduction
- Objectives and study approach
- Findings
  - ✓ Application of legislation, Karoo lamb as a Case Study
  - ✓ Key selected legislation
  - ✓ Application of the legislation, wild-life sector Case Study 2
  - ✓ Hypothetical hierarchy and prioritization of legislation in the context of agroecology
  - ✓ Hindrances and obstacles
- Conclusion and recommendations

# INTRODUCTION

- **Agroecology** is an integrated approach that simultaneously applies ecological and social principles to the design and management of food and agricultural systems (FAO, 2018)
- SA ranked top 3 countries globally for plant and marine species endemism (SANBI, 2019)
- Diversity and uniqueness of species and ecosystems SA one of the world's 17 megadiverse
- 10<sup>th</sup> position globally No. of different plant species found within specific habitats, landscapes and regions (WWF 2021), at least 5 000 species of plants only found in SA
- Rooibos tea in 2017, 29% local tea market in SA, and in 2019 turnover of R936 million (Western Cape Department of Agriculture, 2020)
- SA highest inequality, and high levels of hunger, in 2021 2,6 M, HH out of 17,9 M or 15% (StatsSA, 2023)
- DALRRD, in 2023 commissioned ARC to deliver an Agroecology framework, including an objective on review of legislation and policy

# OBJECTIVES & STUDY APPROACH

- **Objective:** Review existing legislation and policies on environment, CA & water to inform development of Agroecology framework
- **Study Approach:** systematic literature review and mixed-method approach employed
- Mixed-methods: focus-group discussions, consultative and validation meetings
- FAO framework on Agroecology, consisting of ten elements used for analysis
  - ❑ Diversification, Co-creation & sharing of knowledge, synergies, efficiencies, recycling, resilience, human & social values, culture & food traditions, responsible governance and circular and solidarity economy
- 18 pieces of legislation on environment, conservation and water analyzed
- 4 consultative meetings

# FINDINGS

- There is no legislation or policy on Agroecology in South Africa

## Application of legislation, Karoo lamb as a case study

- In 2023, the Karoo Lamb an agroecological product secured a GI status, an international trade mark and is produced in the semi-arid regions NC, WC & OFS
- Together with Rooibos and Honeybush tea, guided by legislation throughout whole value-chain
- Easily distinguishable sensory characteristics, based on organic production and region
- Rules against anti-biotics and hormones, and specifications for abattoirs
- Important legislations: CARA, NEMA, NEMBA and Agric. Product Standard Act

# FINDINGS

## Key selected legislations

- **SA constitution**

- ✓ Chapter 27 “health care, food, water and social security”, everyone has the right to sufficient water and food.
- ✓ Chapter 2, section 24 on the “Bill of Rights”, everyone has the right to environment:
  - (a) not harmful to their health or well-being
  - (b) protected, for the benefit of present and future generations, prevent pollution and ecological degradation; promote conservation; and secure ecologically sustainable development while promoting justifiable economic and social development.

- **PDLAB (replaces SALA)**

- ✓ Management of agricultural land; agricultural land evaluation and classification; agro-ecosystem management and agro-ecosystem authorizations
- ✓ Chapter 11 section (1), minister by *Gazette*, may—
  - (a) declare as a national protected agricultural area, protect high value agricultural land; and preserve the area primarily for food production.
- ✓ Chapter 9 section 3, municipalities in line with SPULMA consider Provincial Agric. Sector plan

**Application:** Across all spheres of governance

# Findings continues...

## Key selected legislations

- **NEMA**

- ✓ Chapter 7, permits for moving biological resources from one area to the other.
- ✓ Chapter 6 bioprospecting, access and benefit-sharing between R & D practitioners & local communities, consultation
- ✓ Chapter 4, protection and preservation of threatened or protected ecosystems and species
- ✓ Chapter 7, penalties against perpetrators of environmental damage

**Application:** across all levels of governance including at farm-level

- **NEMPA**

- ✓ Chapter 3 & chapter 4 declaration and management of protected areas
- ✓ Chapter 6 acquisition of rights in or to land by the state; Chapter 8 establishment of offences and issuing of penalties; rehabilitation and restoration of ecosystems
- ✓ **Application:** National, provincial and municipal level

- **NEMBA**

- ✓ Same as NEMA but with major focus on biodiversity and indigenous resources
- ✓ **Application:** National, provincial and municipal level

# Findings continues...

## Key selected legislations

- **SPULMA**

- ✓ Chapter 28 SPULMA, section (1) municipality may amend its land use scheme by rezoning
- ✓ Chapter 29, section (1) to (3) consult any organ of state involved in administering legislation Integrated Development Plans (IDPs), for environmental preservation

**Application:** municipal level

- **CARA**

- ✓ Sustainable cultivation practices at farm-level, control of invader species and weeds, grazing capacity, soil erosion, pollution of water resources etc.
- ✓ Incentives and grants to farmers willing to perform CA

**Application:** farm level

- **GMO Act**

- ✓ Chapter 14 Minister may, by notice in the *Gazette* prohibit activity involving GMOs
- ✓ Chapter 16 An inspector without warrant, inspect and examine any material for GMOs, seek documentation and labelling of products

**Application:** across all spheres of governance

# Findings, continues...

**Table 1: Key legislations according to FAO criteria**

Key legislations	1. Diversification	2. Co-Creation and Sharing of Knowledge	3. Synergies	4. Efficiency	5. Recycling	6. Resilience	7. Human and social values	8. Culture and food traditions	9. Responsible governance	10. Circular and solidarity economy	Across all 10
<b>1. SA constitution</b>	✓	✓	✓	NP	NP	✓	✓	✓	✓	✓	<b>8</b>
<b>2. NEMPA</b>	✓	✓	✓	✓	NP	✓	✓	NP	✓	✓	<b>8</b>
<b>3. NEMA</b>	✓	✓	✓	NP	NP	✓	✓	NP	✓	✓	<b>7</b>
<b>4. NWA</b>	✓	NP	✓	✓	NP	NP	✓	NP	✓	NP	<b>5</b>
<b>5. CARA</b>	NP	NP	NP	✓	✓	✓	✓	NP	NP	NP	<b>4</b>
<b>6. SPULMA</b>	✓	✓	✓	NP	NP	NP	NP	NP	✓	NP	<b>4</b>
<b>7. PDMIKA</b>	NP	✓	NP	NP	NP	NP	NP	✓	✓	NP	<b>3</b>
<b>8. PDLB</b>	NP	✓	NP	NP	NP	NP	NP	NP	NP	NP	<b>1</b>

# Application of the law: Case study 2

## Wildlife conservation breeding to preserve natural genetics

- In SA hunting of wild animals is allowed under stringent conditions, communities allowed to earn a livelihood while preserving nature, albeit equity challenges,
- Private initiatives: Endangered Wildlife Trust, SAHCGA, WRSA, involved in conservation breeding for natural genetics & training communities
- In 2019 when government under Animal Improvement Act 62 of 1998, sought to list 45 wild animals as “landrace breeds, indigenous & local” private sector lodged a court challenge, invoking Constitution of SA, NEMA, Act 107 of 1998, NEMBA, Act No. 10 of 2004, and won the case
- Enlisting of wild animals to encourage manipulated breeding towards GMO

# Hypothetical hierarchy and prioritization in context of Agroecology

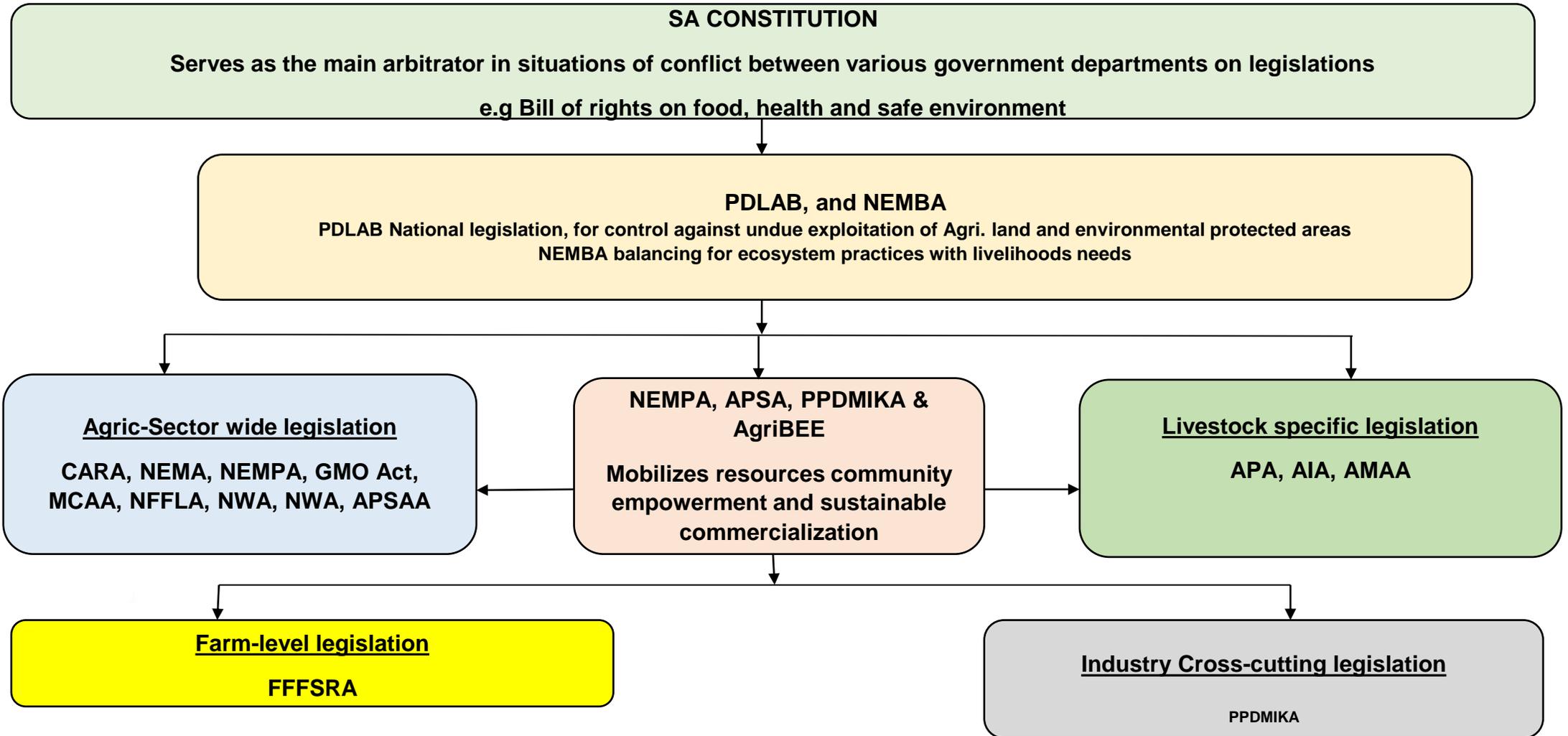


Figure 1: Hypothetical model for the hierarchy among different legislations

Source: Based on own insight from several legislations reviewed

# HINDRANCES AND OBSTACLES

- Traditional and trust land, lack of accountability e.g., overgrazing
- Plant Improvement Act No. 53 of 1976, vacuum and gap for Open-pollinated seed
- Role of Certification Scheme and SA National Seed Organization e.g. chapter 5 functions designated at own expenses & registered field for production sidelining resource-poor farmers
- No articulation for indigenous seed varieties for distribution and multiplication,
- Need to harmonize Plant Improvement Act with GMO Act, **do we need separate legislation on open-pollinated & indigenous seed?**
- Lack of synchronization for authority and mandates at Provincial. Dept. Agric.
- Bantustand legislation fragmented provincial legislation, SPULMA cross-cutting governance
- Agric. Product Standard Act no local control for labelling e.g. fresh produce, PPECB on exports



# CONCLUSION AND RECOMMENDATIONS

- Albeit challenges, existing legislative framework carry important legal parameters to inform Agroecology
- The nature of legal structure to be enforceable and not just persuasive
- SA lagging on Agroecology & strategy, Tanzania launched in Nov 2023
- Communities if put at center-stage for legislation, high chance for adoption
- Innovative approach for legislation: ecosystem protection to be informed by livelihood strategies (e.g., Mopani forests, Aloe vera & bee-keeping)
- Good prospects for GI trademarks (e.g. Karoo lamb) to exploit ACFFTA & job creation