

**KENYA SCHOOL OF LAW
DIPLOMA IN PARA-LEGAL STUDIES
ENVIRONMENTAL LAW**



A. COURSE OUTLINE

1. The Concept of the Environment and Environmental Law

- 1.1. Introduction to the Environment
- 1.2. Introduction to Environmental Law
- 1.3. Environment Remedies Under the Law of Tort
- 1.4. Historical Development of Environmental Law in Kenya
- 1.5. The Right to a Clean Environment

2. Legal and Institutional Framework for the Environmental Law

- 2.1. Sources of Environmental Law
- 2.2. Institutional Framework of Environmental Law
- 2.3. Environmental Planning
- 2.4. International Environmental Law
 - 2.4.1. Treaties and Conventions
 - 2.4.2. Rights to and Use of Shared Resources
 - 2.4.3. Responsibility for Trans Boundary Pollution
 - 2.4.4. Using International Law to Interpret and Enforce Rights

3. Principles of Sustainable Development

- 3.1. Introduction to Sustainable Development
- 3.2. Principle of Public Participation
- 3.3. Cultural and Social Principles Traditionally Applied in Kenya
- 3.4. Principle of International Cooperation
- 3.5. Principle of Intergenerational Equity
- 3.6. Principle of Intragenerational Equity
- 3.7. Polluter-Pays Principle
- 3.8. Pre-Cautious Principle
- 3.9. Trusteeship Principle
- 3.10. Prior Informed Consent

4. Environmental Rights and their Enforcement

- 4.1. The Right to a Clean Environment
- 4.2. Right to Access to Environmental Justice and Equity
- 4.3. Right to Information
- 4.4. Right to Environmental Quality
- 4.5. Enforcement Of Environment Rights and Dispute Resolution
 - 4.5.1. Jurisdiction, Causation, Locus Standi and Timelines
 - 4.5.2. Litigation Including Rules of Procedure, Evidence, Standard of Proof
 - 4.5.3. Alternative Dispute Resolution Including Arbitration
 - 4.5.4. Environmental crimes, sanctions and penalties
 - 4.5.5. Dispute Resolution at the International Level
 - 4.5.6. Remedial Measures (Injunctions, Damages, Restitution and Remediation)

4.5.7. Enforcement of Judicial Decisions

5. Kenya's Legal Mechanisms for Environmental Protection

- 5.1. Strategic Environmental Assessment
- 5.2. Environmental Impact Assessment
- 5.3. Environmental Audit and Monitoring
- 5.4. Environmental Quality Standards
- 5.5. Licensing and Permits
- 5.6. Environmental Restoration Orders, Conservation Orders and Easements
- 5.7. Inspection, Analysis and Records
- 5.8. Prohibiting And Restricting Activities and Substances

6. Air, Atmospheric Pollution and Climate Change

- 6.1. Air Pollution
- 6.2. Noise
- 6.3. Atmosphere & the Ozone Layer
- 6.4. Climate Change

7. Land and Soil

- 7.1. Land Use Regulation and Planning
- 7.2. Transportation
- 7.3. Soil and Agriculture
- 7.4. Desertification
- 7.5. Forestry
- 7.6. Solid Waste Disposal

8. Biological Diversity and Nature Conservation

- 8.1. Tourism Sector Law and Policy
- 8.2. Protection of Cultural and Natural Heritage
- 8.3. Wildlife
- 8.4. Protection Biodiversity
- 8.5. Migratory Species
- 8.6. Trade in Endangered Species
- 8.7. Habitat Protection (Including Wetlands)
- 8.8. Biotechnology and Living Modified Organisms

9. Water Law and Policy

- 9.1. Surface and Ground Water
- 9.2. Marine Environment and Marine Pollution
- 9.3. Transboundary and International Water Courses

10. Energy And Mineral Resources Law and Policy

- 10.1. Oil and Gas
- 10.2. Non-Renewable Energy
- 10.3. Renewable Energy
- 10.4. Minerals

11. Management of Toxic and Hazardous Chemicals, Waste and Substances

- 11.1. Hazardous Wastes
- 11.2. Regulation of Pest Control
- 11.3. Control of Radioactive Substances
- 11.4. Medical Waste
- 11.5. Oil Discharge
- 11.6. E-Waste

B. TEACHING METHODS/MODE OF DELIVERY

1. Lectures
2. Tutorials
3. Practicals
4. Group Presentations
5. Research Assignments
6. Continuous Assessment Tests

C. ASSESSMENT

CAT 1	10%
CAT 2	10%
CAT 3	10%
End of Semester Examination	70%

D. KEY STATUTES

Constitution of Kenya, 2010

1. Environment Management and Coordination Act (EMCA)
2. Agriculture, Fisheries and Food Authority Act
3. Wildlife Conservation and Management Act
4. Forest Conservation and Management Act
5. Water Act, 2016
6. Mining Act, 2016
7. Physical Planning Act, 1996
8. Public Health Act, 2012
9. Radiation Protection Act, 2012
10. Maritime Zones Act, 1989
11. Climate Change Act, 2016
12. Energy Act, 2019
13. Petroleum Act, 2019
14. Community Land Act, 2016
15. Forest Conservation and Management Act, 2016
16. National Drought Management Authority Act, 2016
17. Natural Resources (Classes of Transactions Subject to Ratification) Act, 2016
18. Urban Areas and Cities Act, 2011
19. Environmental and Land Court, 2011
20. Fisheries Management and Development, 2016

21. Irrigation Act, 1966
22. Land Act, 2012
23. Land Registration Act, 2012
24. National Land Commission Act, 2012
25. Land Adjudication Act, 1968
26. Land Consolidation Act, 1959
27. Land Control Act, 1967
28. Sectional Properties Act, 1987
29. Protected Areas Act, 1949
30. Fair Administrative Action Act, 2015
31. Prevention of cruelty to animals, 1961

E. CORE TEXT

1. Pravin Bowry, A Guide to the Laws of Kenya (Law of Africa, 2021)
2. Kariuki Muigua, Didi Wamukoya and Francis Kariuki, Natural Resources and Environmental Justice in Kenya (Glenwood Publishers, 2015)
3. P. Birnie, A. Boyle and C. Redgwell, International Law and the Environment, 3rd ed. (New York: Oxford University Press, 2009)
4. D. Bodansky, The Art and Craft of International Environmental Law (Cambridge: Harvard University Press, 2010)
5. P. Sands and J. Peel, Principles of International Environmental Law, 3rd ed. (Cambridge: Cambridge University Press, 2012)
6. S. Alam, S. Atapattu, C. Gonzalez and J. Razzaque (eds.) International Environmental Law and the Global South, (Cambridge, Cambridge University Press, 2015)

F. REFERENCE TEXT

1. D. Bodansky, J. Brunne'e and E. Hey (eds.), The Oxford Handbook of International Environmental Law (2007)
2. D. Hunter, J. Salzman and D. Zaelke International Environmental Law and Policy, 4th ed. (New York: Foundation Press, 2011)
3. M. Fitzmaurice, D. M. Ong and P. Merkouris (eds.), Research Handbook on International Environmental Law (2010), Part III
4. S. Atapattu, Emerging Principles of International Environmental Law (New York: Transnational Publishers, 2006); N. de Sadeleer, Environmental Principles: From Political Slogans to Legal Rules (New York: Oxford University Press, 2002)