

UNIVERSITY OF ESWATINI
INSTITUTE OF POST-GRADUATE STUDIES

BIO601 ENVIRONMENTAL LAW EXAM PAPER 12/2018

Programme of Study	:	Msc. ERM
Title of Paper	:	Environmental Law
Course Code	:	BIO601
Time Allowed	:	3 Hours
Total Marks	:	100

INSTRUCTIONS:

1. Answer **ALL** questions.
2. Begin each question on a new page.
3. Credit will be given for concise, well-structured answers and reference to applicable legal authority.

**THIS PAPER MAY NOT BE OPENED UNTIL PERMISSION HAS
BEEN GRANTED BY INVIGILATOR(S).**

QUESTION 1

After graduating from UNISWA, you join an environmental advocacy group dedicated to protecting disadvantaged communities from environmental hazards and toxins. Your first client is a neighbourhood association whose members include homeowners in Helemisi Township Manzini. They are extremely upset because the Manzini Municipal Council has built and started operating an entirely new large chemical production facility on the sports ground just adjacent to the township. The new facility lies within 500 metres from the neighbourhood. The facility produces artificial rubber, and these rubber products use feed stocks that include benzene and other organic compounds. The facility includes reactor towers that discharge volatile organic compounds through pipes to a large flare at the facility. Some fumes, including nitrous oxides, simply escape into the air as fugitive emissions. The facility draws water from the Mzimnene River to use in its production process, and then discharges the water back into the same river along with some production waste matter. The Municipal Council has employed about 50 Helemisi Township residents in the facility on permanent and pensionable terms.

Write a legal opinion in which you explain what rights the Helemisi Township residents might have to pursue, legal and administrative remedies for environmental justice in this situation, and the difficulties those environmental justice claims would possibly face.

[25 Marks]

QUESTION 2

To what extent is the environment protected in terms of the Constitution of the Kingdom of Eswatini? Also describe how the constitution provides for the domestication of international environmental treaties/conventions.

[25 MARKS]

QUESTION 3

Describe how the court/tribunal decisions in the *Trail Smelter* case (1938), the *Corfu Channel* case (1946), and the *Lake Lanoux* arbitration (1957) contributed to the development of international environmental law.

[25 Marks]

QUESTION 4

- (a) define international environmental law. [2]
- (b) Why do we need international environmental law? [5]
- (c) State three of the environmental principles set out in section 5 of the Environmental Management Act, 2002. [6]
- (d) Give a brief analysis of the principle of 'common but differentiated environmental responsibility' set out in the Rio Declaration. [4]
- (e) What do you understand by the concept of 'soft law' in environmental law? [4]
- (f) What do you understand by the legal requirement of environmental impact assessment? [4]

[TOTAL: 25 Marks]

END OF EXAM