

## Introduction:

Environmental law is a relatively new self-standing branch of law. It is not an exaggeration to say that when most judicial officers, who now sit in the higher judiciary, pursued their law studies this subject was not offered at the law learning institutions. Because of this many have had neither opportunity nor interaction with this branch of the law and yet they are now expected to adjudicate over important cases which have an impact on the environment. This simple emphasises the importance of developing a training manual on environmental law for the judiciary.

## Objective:

The objective of the training manual should dictate the key contents. It is important to avoid making it overly academic because the targeted group are the practicing or sitting judges/judicial officers. In this regard the aim should be to equip the participants with sufficient knowledge in select relevant areas of environmental law as well as capacitate them with the necessary judge-craft for adjudicating over environmental law cases.

## Contents:

- Overview of International and regional developments in environmental law with an emphasis on key mile stone and developed principles
- At the domestic level a look at of various relevant constitutional provisions and the principal statutes and policies which have an impact on protection of the environment. For example the Constitution of Zimbabwe, 2013 includes environmental rights in its Bill of Rights

### **Section 73 Environmental rights**

- (1) Every person has the right—
  - (a) to an environment that is not harmful to their health or well-being; and
  - (b) to have the environment protected for the benefit of present and future generations, through reasonable legislative and other measures that—
    - (i) prevent pollution and ecological degradation;
    - (ii) promote conservation; and
    - (iii) secure ecologically sustainable development and use of natural resources while promoting economic and social development.
- (2) The State must take reasonable legislative and other measures, within the limits of the resources available to it, to achieve the progressive realisation of the rights set out in this section.

### **Section 77 Right to food and water**

- Every person has the right to—
- (a) safe, clean and potable water; and
  - (b) sufficient food;
- and the State must take reasonable legislative and other measures, within the limits of the resources available to it, to achieve the progressive realisation of this right.

The question is what is the scope of such rights and what interpretation should the courts place on them bearing in mind the conflicting interests of industrialization/development and protection of the environment. What sort of remedies exist which try to balance these conflicting interests.

- Having set the tone the next area should discuss examples of real court cases in which the courts adopted certain principles well known in international law, like the 'polluter pays' and the 'precautionary' principle, the principle of sustainable development and inter-generational equity.