




Scope and Content of Environmental Law

A PRESENTATION DONE AT A COLLOQUIUM ON
INTEGRATING ENVIRONMENTAL LAW TRAINING IN
JUDICIARIES IN AFRICA by Justice Kihwelo P.F





Who we are

- Located at the top of Usambara Mountains Range in a historic town of Lushoto dating back to 1880s.
- The Institute of Judicial Administration Lushoto (IJA) is a public institution established by the Act of Parliament in 1998.
- Chapter 405 Revised Edition 2002.
- The Act came in force in 1999 and the institute was officially inaugurated in 2000.
- IJA came into being as a result of two Presidential Commissions.






Who we are cont....

-  The Presidential Commission on Multiparty Democracy named after the former Chief Justice Francis Nyalali “The Nyalali Report”.
-  The Legal Sector Task Force known as “The Bomani Report” dating back to April 1993 whose report was submitted in 1996 and led to the LSRP: Medium Term Strategy (2000-2005).
-  Both two reports recommended the establishment of a dedicated institution for judicial training for judicial officers.

Who we are cont....

-  Sadly the Act did not come very clear with the continuing judicial education at least there is no express mention.
-  Instead the Act provides for offering and conducting local and international training programmes in legal disciplines as well as offer academic programmes.
-  To carry out research and consultancy in legal discipline.
-  The institute started with Certificate and Diploma in Law Programmes for a number of reasons.

Who we are cont....

-  To date IJA has 25 teaching staff and 83 support staff
-  It also has a pool of trainers from the judiciary for judicial training
-  It has 3 senior judicial staff who have been placed at the institute within the Directorate of Judicial and Continuing Legal Education.
-  Besides the academic training IJA carries out induction and regular training for judicial officers as well as non judicial staff.
-  The total number of staff in the Judiciary of Tanzania is 6,000 out of whom 1,200 are judicial staff while the rest are none.




IJA Governance

- The Institute is under the Governing Council.
- The Chairperson and the Principal appointed by the President upon the recommendations of the CJ.
- Other members are appointed by the Minister responsible for legal affairs.
- Members are drawn from Attorney General Chambers, Academia, Judiciary, Staff, Students and legal practitioners.
- The Principal reports to Council, CJ and Minister




Status of environmental law training

- IJA has no curriculum on environmental law training as a stand alone subject for judicial officers.
- The subject is taught as a compulsory course for Diploma and Certificate in Law.
- However, the subject is trained as an integral part of land law, wildlife management and protection.
- This training is done during induction and continuing judicial education to judicial officers.
- There is no manual in place to date nor bench books.





Precis

-  In the last 46 years international environmental law has evolved rapidly, as environmental risks have become more apparent and their assessment and management complex.
-  In the early 20th Century, there were a few dozen multilateral agreements, and mostly countries lacked environmental legislation.
-  To date there are hundreds of multilateral and bilateral environmental agreements and all countries have one or more environmental statutes and/or regulations.

Precis

-  Many actors and players in addition to states shape the development, implementation of, and compliance with international environmental law.
-  In the early days environmental law focused primarily on boundary waters, navigation and fishing rights.
-  With time environmental concerns have broadened from marine pollution from oil and damage from civilian use of nuclear energy to addressing potential conflict between economic development and environmental protection.

Genesis of the EL

-  There were few international environmental agreements concluded before 1972.
-  1972 to 1992 marked an important paradigm shift in the development of basic framework.
-  1972 the Stockholm Declaration (UN Conference on Human Settlement) where countries came together to identify and address environmental problems.
-  1973 CITES






Genesis of the EL

- 🌐 20 years later in 1992 the Rio Earth Summit came into being.
- 🌐 This **is the beacon** of environmental protection.
- 🌐 The main focus is on Environment and Development.
- 🌐 Since the Rio the world have witnessed major developments in EL and policy.
- 🌐 The field has become more robust and more comprehensive.
- 🌐 Trade, human rights and national security.






Content and Scope

- 🌐 The state of environment and the danger posed.
- 🌐 Constitutional rights and obligations to protect the environment (right to clean and safe environment)
- 🌐 Obligation to safeguard and protect the environment.
- 🌐 Water and Air Pollution
- 🌐 Industrial Pollution Control

Content and Scope

-  Waste Management & Disposal (IT and other hazardous wastes).
-  Land Degradation caused by human activities
-  Local regime
-  Regional legal framework
-  International Legal Framework

Content and Scope cont..

-  Marine Pollution Control
-  Conservation of natural resources (pollution destroys all animal and plant life).
-  Conservation of Cultural and Natural Heritage.
-  Mining activities threatening health and environmental security.
-  Climate change threatening food security.

Content and Scope

- 🌐 Emerging issues in environmental law
 - ✓ Public Interest Litigation (PIL)
 - ✓ Climate change
 - ✓ Environmental Constitutionalism
 - ✓ Environmental crimes
 - ✓ Form and Structure of Environmental Courts and Tribunals which are at increase in some countries.

Content and Scope

- 🌐 Principles of environmental law such as the PPP, The Victim Pays Principle, Sustainable Development Principle, Integration Principle, Prevention Principle.
- 🌐 Statutory interpretation of environmental statutes which should be purposive approach according to the popular view.
- 🌐 The role of interlocutory applications and orders.
- 🌐 Reliefs to be awarded.