

# Law 757

## Environmental Law

2020/2021 Academic Session

Number of credits: 3 credits

### COURSE OUTLINE

Course days and time: **Mondays 18:00-19:50**  
**Wednesdays 18:00-19:50**

Venue: **Minaretein**

Instructor: **Professor Damilola S. Olawuyi**

Office hours for Instructor: Office hours are by appointment. Please feel free to email so that we can find a time to meet: [dolawuyi@hbku.edu.qa](mailto:dolawuyi@hbku.edu.qa)

### COURSE OBJECTIVES

This course exposes students to the various legal regimes governing human relationships with the environment. It begins by exploring the values, assumptions, and guiding principles, which underlie the field of environmental law, and how Qatar's model of environmental protection compares to other models. Drawing on principles of ethics, ecology, economics, and the science of risk assessment, this course will explore and analyze the regulatory regimes governing air and water pollution, hazardous waste, biodiversity and toxics. We will study some of the most hot-button issues in the field, including the remediation of hazardous waste sites, informational approaches to regulation, and the enforcement of environmental statutes through citizen suits. We will also learn the practical, problem-solving art of lawyering in this complex and fascinating field.

The course emphasizes practical skills and requirements on how stakeholders in Qatar, especially business enterprises, corporate organizations, lawyers and law firms can anticipate, prevent, and mitigate environmental liability in their operations, especially through corporate social responsibility, sustainability reporting, green supply chains and procurements, and strategic risk management.

### STUDENT LEARNING OUTCOMES

By the end of the course, students should be able to:

1. Understand the term "environment" and the nature of legal protection required to achieve a sustainable management of the environment and its resources under international and comparative law;
2. Appraise and understand the general legal framework governing the environment in Qatar;
3. Explore the laws and institutions that address specific environmental issues such as air pollution, water pollution, waste management, and environmental health in Qatar; and
4. Exhibit good cognitive and technical skills to independently examine, research, and analyze how stakeholders in Qatar, especially business enterprises, corporate organizations, lawyers and law firms can anticipate, prevent, and mitigate environmental liability in their operations.

## COURSE MATERIAL

1. Damilola Olawuyi (ed), Climate Change Law and Policy in the Middle East and North Africa Region (Routledge, 2021)
2. Patricia Bernie, Alan Boyle, and Catherine Redgwell, International Law and the Environment (Third Edition, Oxford University Press, 2009)
3. Damilola S. Olawuyi, The Human Rights Based Approach to Carbon Finance (Paperback, Cambridge University Press, 2018)
4. William A. Tillerman, Alastair R. Lucas, Sara L. Bag, Patricia Galvao Ferreira, Environmental Law and Policy (4th edition, Emond, 2020)

## KEY LEGISLATION

1. The Permanent Constitution of the State of Qatar 0 /2004.
2. Decree-Law No. (30) of 2002 issuing the Environmental Protection Law (the “Environmental Protection Law”)
3. Decision No. (4) of 2005 of the President of the Supreme Council of Environment and Natural Protection concerning the issuance of the Executive Regulations of the Environmental Protection Law issued by Decree-Law No. (30) of 2002 (the “Executive By-Law”);
4. Law No. (8) of 2004 concerning Protection of the Maritime Facilities of Petrol and Gas (the “Maritime Law”)
5. Law No. 5 of 2006 on the Regulation of Trade in Endangered Wildlife Fauna and Flora and their Products 5 / 2006 ( the “**Endangered Species Law**”)
6. Kuwait Regional Convention for Co-operation on the Protection of the Marine Environment from Pollution (the “**Kuwait Convention**”) and its protocols. See especially the Protocol concerning Regional Co-operation in Combating Pollution by Oil and other Harmful Substances in Cases of Emergency.

## OTHER RESOURCES:

All of the readings for this course can be found in the course packet, which will be made available to students. Supplementary brief news articles and commentary – in the manner of ‘current events’ – will be posted to the Canvas course page and assigned for class discussion.

## EVALUATION

Course grades are based on continuous assessment (50%) and a final examination (50%)

1. Continuous Assessment (50%): This involves a mid-term assessment (30%) and Online Skill Assessment Examination (20%).
  - ▶ Mid-term assessment : A one-hour in-class assessment will be administered on a date and time to be announced in class.
  - ▶ Online Skill Assessment Examination: The United Nations Environment Program has developed the *Introduction to Environmental Governance course*, a free three hour self-paced course which explains how international environmental agreements and policies are made, by whom, and how they are complied with, and enforced. Students are required to take this test at anytime during the course of the term. Participants successfully completing the course will receive a certificate jointly issued by UNITAR and UN Environment, and full assessment grade (20%) for this course. Free registration for the course, as well as the assessment, is available here: <https://web.unep.org/unepmap/introduction-environmental-governance-free-online-course-informea>
2. Final Examination (50%): A three hour in-class examination during the examination week. There will be no surprises. Students who have attended all the class sessions would normally have the ability to do well in this examination.

## **CLASS ATTENDANCE AND PARTICIPATION POLICY**

Regular course attendance at the CL is mandatory and essential for each student's success. Students are expected to be punctual and attend all class sessions. Coming to class more than 10 minutes after scheduled commencement will be recorded as non-attendance.

Students who, due to illness or serious personal problems, are unable to attend lessons will need to report their absence to the instructor, preferably before the class in question. According to the CL Policy, Students who miss six or more classes without providing a valid reason and supporting documentation (which has been approved by the Dean in writing) for doing so will be deemed to have failed the course and will receive a F grade).

Class participation will be considered in determining final course grades. Class participation includes attendance and the quality of students' contributions to class discussions and exercises. Exceptionally strong participation will raise your grade one "step" (e.g., from a B to a B+) and inadequate class participation will reduce your grade one step (e.g., from a B to a B-).

## **CLASS PREPARATION POLICY**

Most of the classes will be conducted in lecture/discussion format. Discussion questions will be posted in advance of class to help students focus on extracting the most relevant information from the readings and to form a framework for class discussion. Students are expected to be well prepared and actively engaged in the class discussions.

## **STUDENT SUPPORT**

As a student, you may experience a range of personal or health issues that can cause barriers to learning, such as personal loss, strained relationships, increased anxiety, feeling down, difficulty concentrating and/or lack of motivation. These stressful events may lead to diminished academic performance or inability to concentrate on daily activities. HBKU Law is committed to advancing the mental health and well-being of its students. If you are feeling overwhelmed, depressed and/or in need of support, support services are available at the clinic in the HBKU Student Centre.

## SYLLABUS

S/N	TOPICS
Topic 1	<p><b>Introduction to Environmental and Environmental Law</b></p> <ol style="list-style-type: none"><li>1. What is the Environment?</li><li>2. Introduction to Environmental Values: Anthropocentric and Ecocentric Viewpoints</li><li>3. What is Environmental Law?</li><li>4. Brief History on the Development of International Environmental Law</li></ol> <p>Readings</p> <ul style="list-style-type: none"><li>▶ Patricia Birnie, Alan Boyle, and Catherine Redgwell, International Law and the Environment (Third Edition, Oxford University Press) 1-37</li></ul>
Topic 2	<p><b>Sources of Environmental Law</b></p> <ul style="list-style-type: none"><li>▶ International law: meaning, nature and history of international law on environment</li><li>▶ Common law: Common law causes of action such as nuisance; negligence; trespass and strict liability</li><li>▶ The Permanent Constitution of the State of Qatar 0 / 2004.</li><li>▶ Statutes and Laws:<ul style="list-style-type: none"><li>▶ Decree-Law No. (30) of 2002 issuing the Environmental Protection Law</li><li>▶ Law No. (8) of 2004 concerning Protection of the Maritime Facilities of Petrol and Gas</li><li>▶ Decision No. (4) of 2005 of the President of the Supreme Council of Environment and Natural Protection concerning the issuance of the Executive Regulations of the Environmental Protection Law issued by Decree-Law No. (30) of 2002; and</li></ul></li><li>▶ Case Law</li></ul> <p>Readings</p> <ul style="list-style-type: none"><li>▶ Patricia Birnie, Alan Boyle, and Catherine Redgwell, International Law and the Environment (Third Edition, Oxford University Press) 1-37</li></ul>
Topic 3	<p><b>Layers of Environmental Supervision</b></p> <ol style="list-style-type: none"><li>1. International and Regional bodies<ul style="list-style-type: none"><li>▶ United Nations Environment Program</li><li>▶ United Nations Economic Commission for Western Asia (ECWA)</li><li>▶ Council of Arab Ministers Responsible for the Environment (CAMRE)</li><li>▶ Gulf Cooperation Council</li><li>▶ The Arab Maghreb Union (AMU)</li><li>▶ Arab Organization of Petroleum Exporting Countries (AOPEC)</li><li>▶ ROPME</li></ul></li><li>2. Government Ministries<ul style="list-style-type: none"><li>▶ Ministry of Municipality and Environment (Al Baladiya)</li><li>▶ Ministry of Energy</li><li>▶ Ministry of Public Health</li></ul></li><li>3. Regulatory Agencies<ul style="list-style-type: none"><li>▶ Qatar Petroleum</li><li>▶ Qatar General Electricity &amp; Water Corporation (KAHRAMAA)</li></ul></li><li>4. Local and municipal authorities</li></ol>

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5. Non-governmental organizations

- ▶ Arab NGO Network for Development (ANND)
- ▶ Centre for Environment and Development in the Arab Region and Europe (CEDARE)
- ▶ Arab Forum on Environment and Development (AFED)
- ▶ Arab Network for Environment and Development

Readings

- ▶ Patricia Birnie, Alan Boyle, and Catherine Redgwell, *International Law and the Environment* (Third Edition, Oxford University Press) 71-105
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**Week 4**

**Environmental Law Principles and Norms**

- ▶ Sustainable Development
- ▶ Principle of Cooperation
- ▶ Prevention Principle
- ▶ Precautionary Principle
- ▶ Polluter Pays Principle
- ▶ Common But Differentiated Responsibility Principle
- ▶ Distributive Justice
- ▶ Participatory Development
- ▶ Islamic Principles of Environmental Protection

Readings

- ▶ Patricia Birnie, Alan Boyle, and Catherine Redgwell, *International Law and the Environment* (Third Edition, Oxford University Press) 106-210, 268-334
  - ▶ Damilola S. Olawuyi, *The Human Rights Based Approach to Carbon Finance* (Paperback, Cambridge University Press, 2018) 25-52, 167-170, 241-297
  - ▶ Damilola S. Olawuyi, 'Human Rights and Environment in the MENA Region' in James May, *Encyclopedia of Human Rights and Environment* (Edward Elgar 2019)
  - ▶ Islamic Principles for the Conservation of the Natural Environment (IUCN Environmental Policy and Law Paper 20, 1983)
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**Topic 4**

**Regulation of Waste Management**

1. What is Pollution?
2. Identifying "Hazardous Waste" and Persistent Organic Pollutants (POPs)
3. Liability of Property Owners
4. Liability of Operators and Arrangers
5. Dumpsite Regulation and The Prior Informed Consent Procedure

Readings

- ▶ Patricia Birnie, Alan Boyle, and Catherine Redgwell, *International Law and the Environment* (Third Edition, Oxford University Press) 443-487
  - ▶ The Stockholm Convention on Persistent Organic Pollutants, 22 May 2001, 2256 UNTS119
  - ▶ The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal
  - ▶ The Rotterdam Convention on Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade
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Topic 5	<p><b>Air Pollution Control</b></p> <ul style="list-style-type: none"> <li>▶ What is an Air Pollutant?</li> <li>▶ Multi-State Air Quality Problems</li> <li>▶ Long Range Air pollution</li> <li>▶ Climate Change</li> <li>▶ Stratospheric Depletion of the Ozone Layer</li> <li>▶ Establishing and Revising National Ambient Air Quality Standards</li> </ul> <p>Readings</p> <ul style="list-style-type: none"> <li>▶ Damilola Olawuyi (ed), <i>Climate Change Law and Policy in the Middle East and North Africa Region</i> (Routledge, 2021)</li> <li>▶ Patricia Birnie, Alan Boyle, and Catherine Redgwell, <i>International Law and the Environment</i> (Third Edition, Oxford University Press) 335-377</li> <li>▶ Damilola S. Olawuyi, <i>The Human Rights Based Approach to Carbon Finance</i> (Paperback, Cambridge University Press, 2018) 3-62</li> <li>▶ UNFCCC 2015. <i>Adoption of the Paris Agreement</i>, UNFCCC Conference of the Parties, 21st Sess., U.N. Doc. FCCC/CP/2015/10/Add.1 Dec. 12, 2015 <a href="http://unfccc.int/files/home/application/pdf/paris_agreement.pdf">http://unfccc.int/files/home/application/pdf/paris_agreement.pdf</a>.</li> <li>▶ The 1979 Convention on Long Range Transboundary Air Pollution</li> <li>▶ 1985 Vienna Convention For the Protection of the Ozone Layer ("the 1985 Convention"), and its 1987 Montreal Protocol on Substances that Deplete the Ozone Layer</li> </ul>
Topic 6	<p><b>Water Pollution Control</b></p> <ol style="list-style-type: none"> <li>1. What is water pollution?</li> <li>2. Sources of water pollution</li> <li>3. Technology-Based Effluent Limitations</li> <li>4. Water Quality-Based Controls</li> <li>5. Water Efficiency and Behavioral Change</li> </ol> <p>Readings</p> <ul style="list-style-type: none"> <li>▶ Patricia Birnie, Alan Boyle, and Catherine Redgwell, <i>International Law and the Environment</i> (Third Edition, Oxford University Press) 379-441, 535-580</li> <li>▶ The United Nations Convention on the Law of the Sea (UNCLOS)</li> <li>▶ The International Convention for the Prevention of Pollution from Ships 1973/78 (MARPOL) and Protocols to the MARPOL Convention</li> <li>▶ Kuwait Regional Convention for Co-operation on the Protection of the Marine Environment from Pollution (the "Kuwait Convention") and its protocols. See especially the Protocol concerning Regional Co-operation in Combating Pollution by Oil and other Harmful Substances in Cases of Emergency</li> <li>▶ Convention on Wetlands of International Importance especially as Waterfowl Habitat</li> </ul>
Topic 7	<p><b>Biodiversity, Endangered Species and Cultural Heritage</b></p> <ul style="list-style-type: none"> <li>▶ What is biological diversity?</li> <li>▶ What are endangered species</li> <li>▶ International Legal Framework on biodiversity and endangered species: Convention on Biological Diversity and its protocols</li> <li>▶ Convention on the Conservation of Migratory Species of Wild Animals</li> <li>▶ Convention on International Trade in Endangered Species of Wild Fauna and Flora</li> <li>▶ UNESCO Convention for the Protection of the World Cultural and Natural Heritage</li> </ul>

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Readings

- ▶ Patricia Birnie, Alan Boyle, and Catherine Redgwell, *International Law and the Environment* (Third Edition, Oxford University Press) 583-648, 650-698
- ▶ Damilola Olawuyi and Olaitan Olusegun, *Achieving the United Nations Sustainable Development Goals on Biological Diversity in Nigeria: Current Issues and Future Directions* (2018) 7 (1) GLOBAL JOURNAL OF COMPARATIVE LAW (BRILL) 37-60.

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**Topic 8**

**Environmental Planning Process**

1. Introduction to Environmental Impact Assessment (EIA)
2. Environmental Reporting
3. Environmental Licensing
4. Monitoring and Detecting Violations, and Enforcement Authorities

Readings

- ▶ Damilola S. Olawuyi, *The Human Rights Based Approach to Carbon Finance* (Paperback, Cambridge University Press, 2018) 357-393
- ▶ Damilola S. Olawuyi, *Principles of Nigerian Environmental Law* (Afe Babalola University Press) 208-226

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**Topic 9**

**Recent Developments in Environmental Governance**

- ▶ Water-Energy-Food Nexus Issues
- ▶ Corporate Responsibility for Environmental Liability
- ▶ Risk Mitigation Strategies and Tools
- ▶ Green and Circular Economy Transition: Green Supply Chains and Procurements
- ▶ Renewable Energy Technologies
- ▶ Environmental Progress and Prospects: Where Do We Go From Here?

Readings

- ▶ Damilola Olawuyi, "Sustainable Development and Water-Energy-Food Nexus: Legal Challenges and Emerging Solutions" (2020) 103 (1) *Journal of Environmental Science and Policy* (Elsevier, London)
- ▶ Donald Zillman, Lee Godden, LeRoy Paddock, and Martha Roggenkamp (eds.) *Innovation in Energy Law and Technology* (Oxford University Press, 2018) 1-16, 354-370
- ▶ Patricia Birnie, Alan Boyle, and Catherine Redgwell, *International Law and the Environment* (Third Edition, Oxford University Press) 326-329, 488-453, 753-809
- ▶ Damilola S. Olawuyi, *Principles of Nigerian Environmental Law* (Afe Babalola University Press) 208-226

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**Topic 10**

**CONCLUSION**

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