

Environmental Law

Elective: 2015



Lecturer: Ms A. Haller-Barker

1. COURSE DESCRIPTION

Environmental Law is an elective course offered to final-year LLB students in the Faculty of Law.

Environmental Law seeks to enable students to understand and analyse the legal rules relating to the environment. It therefore explores the legal, social, economic and philosophical issues raised by attempts to protect and conserve the environment. More specifically, the course examines some of the fundamental principles of law relating to natural resource conservation and utilisation, and land-use planning and development. Issues of enforcement and the international dimension which has shaped much of the direction that environmental law in South Africa has taken will be considered. Crucial to any application of environmental law in South Africa is an understanding of the role played by the Constitution, which will also be examined. A core focus of the course will be on the National Environmental Management Act which provides the underlying framework for environmental law.

In 2015, the course will be taught by means of 3 lectures per week, over the third term only. During the fourth term, students will be given 3-4 short assignments to complete, which will require them to engage with the theory and legislation learned during the third term. These assignments will be emailed to the lecturer, and feedback will be given to students electronically. It is envisaged that this will more than adequately allow students to engage with and understand the important legislation, and will prepare students for the November examination.

2. ASSUMPTIONS OF PRIOR LEARNING

In order to successfully complete this course, students should

- Be capable of communicating competently in written and spoken English;
- Be able to work/study independently by reading, extracting and analysing relevant information from various sources of law;

- Know how and where to access resources, and so be capable of using the library and electronic resources;
- Be capable of applying legal problem-solving techniques;
- Have the ability to follow appropriate legal referencing conventions in written work.

3. OUTCOMES

1.1 Critical outcomes

Apart from the knowledge and skills which relate specifically to Environmental law, it is intended that by the end of the course students should demonstrate the ability to:-

- collect, understand and analyse information from various sources of information (cases, legislation and journal articles).
- communicate effectively through class debates and presentations.
- explain in writing the principles of law in legal and social contexts.
- use independent research skills, including the use of technology for legal research.
- identify and solve problems.

2.2 Specific Outcomes

It is intended that by the end of the course students should be able to:

- Define and explain the concept of environmental law.
- Critically explain the jurisprudential basis for environmental protection and management.
- Provide an overview of the development of environmental law in South Africa.
- Critically analyse the importance of the inclusion of the environmental clause in the Bill of Rights chapter of the South African Constitution.
- Identify and explain different legal environmental management tools.
- Evaluate the instruments containing environmental law principles as they currently exist and suggest law reforms where necessary.

4. TEACHING METHOD

Teaching will be by means of formal lectures and class discussions to promote active learning. It is therefore essential that students prepare themselves in advance for participation in the discussion by doing the appropriate research and reading. This approach is intended to promote critical and analytical thinking.

5. COURSE CONTENT

1. Introduction

- Scope and definition of environmental law
- Jurisprudential basis for protecting the environment.
- Legal norms and standards underpinning environmental management

2. International Environmental Law

3. Overview of the Evolution of Environmental Law in South Africa

- Sources & History of Environmental Law.
- The South African Constitution & Environmental legislation
- Administration & enforcement of Environmental Law in South Africa

4. Environmental Management

- Identification of environmental management tools in South Africa
- Evaluation and assessment of environmental management in SA.

5. Selected Topics: Natural Resource Conservation & Management

6. Conclusion

6. RESOURCES

In order to assist your preparation for lectures, a reading list is provided. However, it will be in your own interests to read more widely than the readings listed.

Recommended Textbooks:

- M Kidd *Environmental Law* (2011).
- A Paterson & LJ Kotzé (eds) *Environmental Compliance & Enforcement in South Africa: Legal Perspectives* (2009).

- J Glazewski *Environmental Law in South Africa* 2nd ed (2005)
- PW Birnie and AE Boyle *International Law and the Environment* (2002).
- P Sands *Principles of International Environmental Law* (2003).
- G Bradfield *et al* (eds) *Environmental Justice & the Legal Process* (1999).
- P Henderson *Environmental Laws of South Africa Vol 1 and Vol 2* (1996) – periodically updated.
- H.A. Strydom and N.D. King (eds) *Environmental Management in South Africa* (2009) (previously edited by RF Fuggle and MA Rabie).

7. ASSESSMENT

Intended Specific Outcomes: Upon successful completion this course, students will be able to:	Assessment Criteria: Students must provide evidence that they are able to:
1. Define and explain the concept of environmental law.	Give an account of what environmental law encompasses.
2. Critically explain the jurisprudential basis for environmental protection and management.	Clearly set out the different jurisprudential approaches underpinning environmental protection and management.
3. Provide an overview of the development of environmental law in South Africa.	<ul style="list-style-type: none"> • Discuss the development of environmental law, both prior to, and after, 1994. • Analyse the development of environmental law in South Africa in relation to the influence of international environmental law.
4. Critically analyse the importance of the inclusion of the environmental clause in the Bill of Rights chapter of the South African Constitution.	Give an analytical account of the environmental clause, and its enforcement, with specific reference to case law and academic commentary.
5. Identify and explain different legal environmental management tools.	<ul style="list-style-type: none"> • Identify the different tools used in environmental management and • give a detailed account of these and the manner in which they are used.
6. Evaluate the instruments containing environmental law principles as they currently exist and suggest law reforms where necessary.	<ul style="list-style-type: none"> • Evaluate the content and adequacy of environmental laws, • critically explain the shortfalls and • make informed suggestions for law reform, based on knowledge of relevant law / legal commentary.

Assessment Criteria: Class Work: 30 marks
 Examination: 70 marks
 Total: 100 marks

Assignments:

There will be 3-4 smaller assignments for this course, to be completed during the fourth term. The assignments are **compulsory** and comprise two-thirds of the class mark (20%). No late assignments will be accepted, and will receive 0% unless the student has a valid Leave of Absence. Failure to hand in an assignment by the stipulated date may result in the removal of the student's DP.

Test:

There is one test for this course, which will make up the rest of the class mark (10%). It will take place at the end of the third term. The test will contain questions equivalent to those which will be found in the November examination. The test is **compulsory**.

Examination

The November examination for this course is compulsory and will comprise a two-hour long paper. It constitutes 70% of the class mark. Students can expect both theory and problem-type questions in this exam. An external examiner will assess the quality of the examination paper and the students' answers.

8. EVALUATION

Students may be asked to evaluate the course by filling in a questionnaire. The responses are processed by the Centre of Higher Education Research, Teaching and Learning, which compiles a report summarising the strengths and weaknesses of the course. The feedback and issues arising from the evaluation will be conveyed by the lecturer to the students, as well as the action to be taken.