



UNAM

UNIVERSITY OF NAMIBIA

FACULTY	FACULTY OF AGRICULTURE, ENGINEERING & NATURAL SCIENCES		
DEPARTMENT	Environmental Science		
SUBJECT	ENVIRONMENTAL LAW		
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DURATION	120 MINUTES	MARKS	100

Regular Examination

Examiners: Dr Tapiwa V. Warikandwa & Dr Christian Harris

Moderator: Professor Chris T. Chimimba

This question paper consists of FIVE (5) pages, including the cover page.

Instructions:

1. Answer ALL questions in Section A, and 1(ONE) question in Section B.
2. Number the answers on the front of the answer book in the same sequence you have answered them.
3. Please write legibly, to the point and cite references where appropriate.
4. Underline all citations.

SECTION A (60 Marks)

Question 1

The effective enforcement of environmental laws and regulations is crucial for proper environmental management. Issues such as air and water quality, waste management, contaminant clean-up, chemical safety, and resource sustainability are regulated through various laws. Environmental laws play a significant part in protecting humans, animals, habitats, and resources. However, as emphasized in *Canada's Green Plan* (Government of Canada, 1990, p. 156), "Legislation and regulation are only as good as their enforcement."

Using a maximum of 5 pieces of Namibian legislation, critically discuss the various enforcement options which are or could be used in the enforcement of environmental law in Namibia, and provide some indication as to how effective such mechanisms are in practice.

[20 Marks]

Question 2

Namibia's biodiversity includes innumerable species of wild flora and fauna, but only approximately 20% of Namibia's wildlife has been described to date. More than 13,000 species have been described, of which almost 19% are endemic to Namibia. By 2006, the World Conservation Union classified 79 species in Namibia as threatened, which includes species listed as Critically Endangered, Endangered or Vulnerable. The Global Biodiversity Strategy has indicated, as one of its ten principles for conserving biodiversity, the principle that cultural diversity is closely linked to biodiversity. Humanity's collective knowledge of biodiversity and its use and management rests in cultural diversity; conversely, conserving biodiversity often helps strengthen cultural integrity and values.

Explain how Section 3(3) of the Namibian Traditional Authorities Act of 2000 can contribute to the protection of its biodiversity.

[20 Marks]

Question 3

Gundu and Adia (2014) (in "Conservation Methods of Endangered Species". *Journal of Research in Forestry, Wildlife and Environmental*, Volume 6(2), p. 76) reported that "An endangered species is a population of organisms, which are at high risk of becoming extinct either due to loss of habitat, high death rate or changes in environmental and predation parameters. An organism is termed an endangered species if its population has become small such that free mating and reproduction becomes difficult. Environmental degradation, climate change and changes in prey-predation ratio are some of the factors driving many species to extinction today. Without adequate protection, a preservation or conservation measure, an endangered species finally goes into extinction, that is, permanent disappearance from the earth surface. Such species are never seen alive again in this world except in form of fossil (remains) only..."

Critically discuss this quotation with special reference as to how the law in Namibia provides for the conservation of 'threatened and protected species'.

[20 Marks]

SECTION B [40 Marks]

Question 4

Alushe Orange, the Chief Executive Officer of Takeover Mining Co Ltd (TM), approaches you for advice on a mining development her company is planning to undertake. She is intending to undertake exploration activities for oil and gas in the Republic of Wapera portion of the Wapera Transfrontier Conservation Area (WTCA). The largest portion of the area covered by Petroleum Exploration Licence (PEL) 73 is located in the WTCA, a conservation initiative covering 650,000 square kilometres of the Republics of Nyama, Muto, Bonzo, and Katekwe. TM also has a licence to prospect for oil in another section of WTCA, a 1.5 million hectare area (2.5 million acres) north-west of Nyama, where it plans to begin drilling in 2022. Conservationists and local communities are concerned over the potential environmental impact that oil and gas extraction could have on such an important ecosystem. In addition, northern Wapera and Nyama have a number of inter-connected watersheds including the Toropito Delta where the potential for pollutants to enter watercourses and spread throughout the region are a particular concern.

WTCA's exploration areas in both Nyama and Wapera are largely located within the Toropito River Basin which flows into the richly-biodiverse Toropito Delta, a United Nations Education, Scientific and Cultural Organisation (UNESCO) World Heritage site. Conservationists are particularly concerned by the potential impact drilling for oil and gas here could have on the inter-connected watercourses of the river basin. There is a serious lack of knowledge on groundwater resources in the target oil and gas extraction area.

Alushe wants you to advise her if continuing with the exploration exercise is consistent with the international law. Discuss the advise you would offer her with specific reference to international principles of environmental law.

[40 Marks]

Question 5

In a litigation case, the applicants are 100 Republic of Kavango nationals who were (or are the immediate family of) employees of a ship repair yard run by the Government from 2000 to 2020 who had been exposed to asbestos, and in certain cases suffered conditions (including one fatal case through a malignant cancer) linked to its exposure. The applicants allege that they (or their relatives) were constantly and intensively exposed to asbestos particles during their employment repairing ship machinery insulated with asbestos. In January 2021 all the applicants brought constitutional redress proceedings alleging that the State had failed to protect them (or their relatives) from unnecessary risks to their health and they sought compensation.

Given the above information, critically discuss the interrelationship between human rights and the protection of the environment.

[40 Marks]

TOTAL 100 Marks