



UNIVERSITY OF ESWATINI  
Faculty of Health Sciences  
Department of Environmental Health Science

B.Sc. DEGREE IN: ENVIRONMENTAL MANAGEMENT AND  
WATER RESOURCES

**MAIN EXAMINATION PAPER 2021**

TITLE OF PAPER	:	WATER LAW AND INSTITUTIONS
COURSE CODE	:	EHS 438
DURATION	:	2 HOURS
MARKS	:	100
INSTRUCTIONS	:	READ THE QUESTIONS & INSTRUCTIONS CAREFULLY
	:	ANSWER <b><u>ANY FOUR</u></b> QUESTIONS
	:	EACH QUESTION <b><u>CARRIES 25</u></b> MARKS.
	:	WRITE NEATLY & CLEARLY
	:	NO PAPER SHOULD BE BROUGHT INTO THE EXAMINATION ROOM.
	:	BEGIN EACH QUESTION ON A SEPARATE SHEET OF PAPER.

DO NOT OPEN THIS QUESTION PAPER UNTIL PERMISSION IS GRANTED BY  
THE INVIGILATOR.

**QUESTION ONE** ( 25 marks total and each question below carries 5 marks)

- 1A.** List the problems that can arise in the course of utilization of water resources justifying the need for legislation and regulatory control.
- 1B.** What was the basic contest between the Confucians and Legalists in ancient China that later culminated in the emergence of a combined system of laws addressing also water utilizations?
- 1C.** Describe the difference between i) law and ii) legislation.
- 1D.** List the possible challenges of a modern water legislation
- 1E.** List the possible solutions to the occurrences of externalities in water utilizations.

**QUESTION TWO** ( 25 marks total and each question below carries 5 marks)

**2A.**

- i. State the three forms of acquiring water use rights ( 2 marks)
- ii. What procedure should be specified in water legislation for the granting of permits for water use? ( 1 mark)
- iii. What is the difference between a permit and concession? ( 1 mark)

**2B.** What is the possible problem with the declaration that all water resources belong to the state as stated for example in the 2003 Water Act of Swaziland.

**2C.** State the type of regulation that should be enforced as preventive measure to prevent the discharge of harmful effluents from say industries to natural water courses.

**2D.** List the benefits of a water resources plan.

**2E.** Define the following four forms of ownership of ground i) absolute ownership ii) Reasonable use, iii) correlative rights iv) prior appropriation.

**QUESTION THREE** ( 25 marks total and each question below carries 5 marks)

- 3A.** List the events/ condition that may lead to emergency declaration to be included in water legislation and the measures to be taken during this period of emergency.
- 3B.** Discuss the mechanisms of conflict resolutions arising out of water uses within the framework of the water law of the Kingdom of Eswatini. State if the administrative mechanisms currently in place are adequate enough to address issues of conflicts related to water use.
- 3C.** Discuss the principle of community of property in water in relation to the rights over international water resources.
- 3D.** List the issues that the broad policy declaration of water resources management policy must address. What considerations should be given in the course of drafting modern water legislation in relation to existing customary uses of water?
- 3E.** List and discuss the difference between de-centralization and de-concentration of water resources management activities. What are the respective conditions that favor de-concentration or de-centralizations.

QUESTION FOUR ( 25 marks total and each question below carries 5 marks)

- 4A. Consider the following to aspects of water resources management, i.e., i) water resources allocation and ii) issuing of water permit. Explain which modes of administration (centralization or decentralization; concentration or deconcentration) would be appropriate for each of the above two components of water management. Support your answer with adequate reasons.
- 4B. Discuss the Absolute Territorial Integrity principle as an international principle in relation to sovereignty. State also how this principle affects the use of trans-boundary water resources among riparian countries.
- 4C. List the factors that must be taken into account in determining the extent of decentralization in water resources planning, management and administration.
- 4D. Define and describe the different water resources institutions that may exist according to the territorial level of jurisdiction.
- 4E. Discuss the main provision of settling disputes through arbitration provided in 1997 Law on Non-Navigational Uses of International Water Courses adopted by the UN member countries.

**QUESTION FIVE** ( 25 marks total and each question below carries 5 marks)

- 5A.** List the possible sources of international law.
- 5B.** Discuss the issue to be taken into account in the course of drafting legislation addressing i) agricultural water uses ii) industrial water uses.
- 5C.** Define the following environmental principles : i) the precautionary principle ii) the stand still principle iii) BATNEEC
- 5D.** State the obligations of a water course state in relation to a plan or project that it is intending to implement on the water course. This is the obligation as stated in the 1997 UN law on Non-Navigational uses of international Water Courses.
- 5E.** State article XIII of the Helisinki rules regarding navigation.