



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

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

**RESIT 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.** What was the main feature of water ownership in the Feudal period in Europe leading up to the French Revolution? How did the water administration following Napoleonic Code differ from the Feudal period? Specifically explain the difference the Napoleonic Code had with that of the ancient Roman Code on water ownership
- 1B.** Discuss the recent modifications of water legislation in the Civil Law countries and the effect that it has in the classifications regarding the ownership of water. Also mention the administration features that prevailed following new legal enactments in the Civil Law countries modifying the old system of water law.
- 1C.** Discuss how fishing right was administered in the Common Law countries. State also the extent to which a riparian owner exercises or enjoys water use on his own. On the other hand, Australia abrogated the riparian right, what was the reason that dictated Australia to discard this right?
- 1D.** Discuss how the principle of appropriation of water is administered in Taiwan. State also how land subsidence affects water administration in Japan and the problems that arise in assigning separate water administration/institutions between major and minor rivers.
- 1E.** Supposing you have allowed transferrable water right. What is the disadvantage if this right is kept unchecked? How do you control or check this transfer?

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

- 2A. State the major objectives of water law and discuss how the water legislation should be written in terms allowing different activities to be implemented, the tone of the legislation as sensed by users and provisions towards private investment.
- 2B. What are the objectives/targets to be achieved in devising legal mechanisms for the collection of data and information? State also the benefits of water resources planning.
- 2C. Define what servitude is. List the types of servitudes, the modes of acquiring them and the possible reasons for the loss of servitudes.
- 2D. What issues need to be taken into account in the course of fixing the price of water?
- 2E. State the administrative procedures for claims against the water administration and the competence required of water tribunals.

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

- 3A.** Discuss the principle of sovereignty subject to duty as an international principle in relation to sovereignty. State also how this principle affect the use of trans-boundary water resources among riparian countries.
- 3B.** State what concession means, its applicability, validity and the difference it has with permit.
- 3C.** List the seven programmes identified in Agenda 21: Chapter 18 of the International Conference on Environment and development held in 1992 in Rio De Janeiro, Brazil.
- 3D.** By referring to the 1997 Law on Non-Navigational Uses of International Water Courses adopted by the UN member countries, state the issues/factors that need to be addressed in deciding on the equitable and reasonable utilization of water.
- 3E.** Discuss the duties of member State of an international water course regarding planned measures /projects to be taken on part of the international water course which may have a significant adverse effect upon the water course and which is stated in the 1997 Law on Non-Navigational Uses of International Water Courses adopted by the UN member countries

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

- 4A. List the possible functions of a central water administration established at the national level.
- 4B. What factors dictate the degree of centralization/decentralization that is exercised in relation to the management of water resources?
- 4C. Discuss the functions of water users associations. In what context is the formation of water user associations relevant or useful?
- 4D. Define and give examples of water resources management institutions that are defined according to their legal regime.
- 4E. Define and give examples of water resources management institutions that are defined according to their powers.

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

- 5A.** One problem experienced with modern water legislation is the increased power of the state acquired through the state's powerful role in enforcing legal enactment, through the role of the state in providing infrastructure and finance to water projects, etc. This can sometimes undermine local self-governance and local community power. Discuss how this situation influences water disputes and state what can be done to correct such problems.
- 5B.** Discuss the sources of legal-pluralism related to water use and water administration prevalent particularly in the African context.
- 5C.** Water use rights or ownership related to water use may be considered as bundles of rights rather a single monolithic right (such as public right or individual rights). State examples where this concept of bundles of rights can be exercised and state how this form of right helps in proper management of water resources.
- 5D.** It is often said that negotiation related to water rights and water related disputes should not be lightly taken as a simple task of sitting around the table and providing technical solutions. Discuss the validity of this assertion stating examples of what can arise in the course of exercising negotiation over water right.
- 5E.** Define the concept of absolute territorial sovereignty and state the appropriateness of this concept in advancing claims over water use rights.