



United Nations
Environment Programme



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UNEP/UNDP/Dutch Government Joint Project
on Environmental Law
and Institutions in Africa



United Nations
Development Programme



COMPENDIUM
of Judicial Decisions
on Matters
Related to Environment

National Decisions

Volume I

UNEP/UNDP/Dutch Government Joint Project on
Environmental Law and Institutions in Africa

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**COMPENDIUM OF JUDICIAL DECISIONS IN
MATTERS RELATED TO ENVIRONMENT**

NATIONAL DECISIONS

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INTRODUCTION

This publication has been developed in pursuance of the aims of Agenda 21 which recognizes, among other things, the need to facilitate information exchange, including the dissemination of information on environmental law.

The compendium of judicial decisions was devised with two objectives. First, it aims to create awareness and enthusiasm among lawyers and non-lawyers alike on the current trends in the jurisprudence related to environmental matters. Second, it aims to provide resource materials for reflecting on specific pieces of court decisions from the point of view of scope and perspective, grounded as they are in the unique legal traditions and circumstances of different countries and legal jurisdictions.

The promotion of sustainable development through legal means at national and international levels has led to recognition of judicial efforts to develop and consolidate environmental law. The intervention of the judiciary is necessary to the development of environmental law, particularly in implementation and enforcement of laws and regulatory provisions dealing with environmental conservation and management. Thus, an understanding of the development of jurisprudence as an element of the development of laws and regulations at national and international levels is essential for long-term harmonization, development and consolidation of environmental law, as well as its enforcement. Ultimately, this should promote greater respect for the legal order concerning environmental management. Indeed, when all else fail, the victims of environmental torts turn to the judiciary for redress. But today's environmental problems are challenging to legislators and judges alike by their novelty, urgency and dispersed effect. Over the last two decades, many countries have witnessed a dramatic increase in the volume of judicial decisions on environmental issues as a result of global and local awareness of the link between damage to human health and to the ecosystem and a whole range of human activities. In many countries, the judiciary has responded to this trend by re-fashioning legal - sometimes age old - tools to meet the demands of the times, with varying degrees of success. But such practices have hardly taken root in Africa where not much judicial intervention has been in evidence.

The complexity of environmental laws and regulations at national and international levels makes it necessary for today's legal practitioners, particularly from Africa, to urgently assimilate and understand the concepts and principles arising from the developing jurisprudence. Only then would they be able to respond appropriately to the growing environmental challenges. In most countries, awareness of the potential of judicial intervention in the environmental field has grown largely because citizens bring proceedings in courts; while in other countries the effectiveness of the judicial mechanisms are still poor because of lack of information and a dearth of human and material resources. This is compounded by the weaknesses of institutions in charge of environmental law enforcement.

This Compendium is produced in the belief that this bottleneck can be overcome by the provision of information, such as is contained in the Compendium. The information will be a resource for training and awareness creation.

It is vital today that lawyers in all countries keep abreast of the jurisprudence in other countries, in order to appreciate pertinent changes and trends in their own countries. Comparative study of judicial intervention offers a formidable avenue for the enforcement of environmental law and the vindication of public rights. Courts have to entertain environmental suits and decide on the law in each specific context. As stressed by Raymond Avrilier in *"l'Ecologie à*

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