



School of Law
Makerere University



Training on International Water Law (IWL) for improved transboundary water management in Africa

5-12 June 2016, Kampala, Uganda

Welcome from the organizers

It is with great pleasure that we welcome you to this International Water Law training course for improved transboundary water management in Africa.

The training course takes place at a time when there have been significant developments in international water law (IWL). At the global level, the 1997 UN Watercourses Convention has now entered into force; much in part to a significant number of African States that have become contracting parties, i.e. Benin, Burkina Faso, Chad, Guinea-Bissau, Morocco, Namibia, Niger, Nigeria, South Africa and Tunisia. Other African States are set to join the Convention in the near future, or are in the process of evaluating its merits. The UN Economic Commission for Europe's Convention on the Protection and Use of Transboundary Watercourses and International Lakes has been amended to allow all UN member states to be party to it. And, through the work of the international law commission, a set of draft Articles on the Law of Transboundary Aquifers has been adopted. Much has been done to promote the synergies between these global legal instruments, but more needs to be done to foster their joint promotion and implementation for the betterment of transboundary water cooperation across Africa, and elsewhere.

These legal developments at the global level are mirrored and multiplied at the regional and basin levels across Africa. Year on year, the practice of negotiating, adopting and implementing treaty arrangements for transboundary waters continues, and a wealth of experience is being accumulated although not always well documented and shared! Major challenges remain. 90 percent of the African continent is covered by 64 transboundary river basins. Some of these river basin in Africa still lack any agreement; others do not include all riparian States; and others are not adequate to address the multiple contemporary challenges faced by States sharing transboundary waters. It is also being increasingly recognized that transboundary groundwater must be better factored into transboundary cooperative arrangements for water.

Ultimately, the successful implementation of transboundary cooperation arrangements will rest with people. As a leading International Law Scholar, Professor Malcolm Shaw, once observed: 'International law is clearly much more than a simple set of rules. It is a culture in the broadest sense in that it constitutes a method of communicating claims, counter-claims, expectations and anticipations as well as providing a framework for assessing and prioritizing demands' (2008). It is very much in this spirit that this International Water Law course in Africa was conceived. The intention is to help foster a shared understanding of law's contribution to promoting transboundary water cooperation so that together we can strengthen the development and implementation of IWL irrespective of our disciplines and backgrounds and ultimately create capacity in transboundary water management across the African continent. More so, Transboundary water cooperation is needed for the proper implementation of the SDGs, but the opposite also stands true. Target 6.5 highlights the importance of IWRM for successfully achieving SDG 6 especially 6.5.2 indicator on the percentage of transboundary basin area with an operational arrangement for water cooperation

While there is only so much that we can do in a few days training course, we hope that the event will act as an important catalyst for fostering a stronger collaboration relating to IWL experiences and expertise across Africa. During this training we will trace the evolution of international law in this field, examine the main rules and principles, and offer numerous case studies that highlight both the

experiences and challenges in implementing international water law 'on the ground'. Through a highly interactive group exercise and plenty of time for questions we hope there will also be some lively discussions. Hopefully, at the end of the training participants will therefore become familiar with recent trends in IWL, its main rules and principles, and the challenges and experience faced in its implementation across the continent. It is hoped that the training will also offer a great opportunity to exchange experiences with colleagues and make new friends!

Last but not least, we should recognize the vital contribution of all the speakers and organizers, and, in particular the key institutions, namely the African Network of Basin Organizations, Global Water Partnership (GWP), the Intergovernmental Authority on Development (IGAD), University of Dundee and Makerere University. Without their generous support the workshop would not take place.

We very much look forward to welcoming you to Kampala,

Dr. Emmanuel Kasimbazi

Chair, Environmental Law Centre
Makerere University

On behalf of GWP, IGAD, ANBO and University of Dundee!

Sunday, 5th June 2016

Participants arrive

Monday, 6th June 2016

Chair: Emmanuel Kasimbazi

8:30 – 9:00 **Registration**

9:00 – 9:20 **Welcome and Introductions**

9:20- 9:30 Overview; IWL training program (2016-2020), Kenge James Gunya

9:30 – 10:10 **Why do we need international water law?** Alistair Rieu-Clarke

Transboundary Water Cooperation within the Context of the Sustainable Development Goals, Angela Klauschen

Includes: Presentation of GWP TEC Paper “Promoting effective water management Cooperation among riparian nations”

10:30 – 10:45 **Break**

10:45 – 12:30 **The benefits of having global water conventions in place** – the UN Watercourse convention and the UNECE Water Convention, Alistair Rieu-Clarke and/or Lesha Witmer

12:30 – 14:00 **Lunch**

14:00 – 15:00 **Regional approaches to transboundary water cooperation**

- ECOWAS Regional Water Policy, Hamidou Garane
- IGAD Water Protocol and Strategy, Fred Mwangi
- Revised SADC Protocol, Happy Musumali

15:00 – 15:30 **Introduction to break out group** – how can regional and global framework instruments assist with implementation on the ground?

Purpose of break out groups will be for the participants to start contextualising what they have heard in the initial presentations. They will therefore look at either, how the aforementioned instruments have supported cooperation within their basin, and/or whether they perceive benefits of joining any of the appropriate instruments. Benefits might include contribution to the commitments set out in SDG 6.5 and the accompanying indicators.

Facilitators: Alistair Rieu-Clarke (E); Kidanemariam Jembere (E); Amidou Garane (F); Angela Klauschen (F); Kenge James Gunya (E); Mara Tignino (F)

15:30 – 15:45 **Break**

15:45 – 16:45 Group discussions

16:45 – 17:15 Reporting back from groups

Tuesday, 7th June 2016

Chair: Kidanemariam Jembere

9:00 – 9:30 **Defining the scope of international watercourse agreements – towards IWRM?**
Richard Paisley

- Definitions of a share/ transboundary/ international waters
- Mainstream vis-à-vis tributaries
- Surface vis-à-vis groundwater
- Drainage basin
- Ecosystem and IWRM approaches

9:30 – 10:30 **Knowledge exchange case studies - challenging ambiguity in existing agreements**

- Lake Victoria Basin Commission (EAC institutional management arrangement, IW-Learn project), Ali Said Matano

10:30 – 10:45 **Break**

10:45 – 11:30 **Substantive norms in IWL**, Emmanuel Kasimbazi

11:30 – 12:30 **Knowledge exchange case studies – what does equity look like in practice?**

- The case of Volta Basin (focus Burkina Faso and Ghana), Fafatou Fofana
- The Awash river, Eyassu Guta
- Lake Chala, Magaret Irungu
- The Pungwe River Basin, Iolanda Inácio Bila
- The Kagera Basin, Alweny Salome

12:30 – 14:00 **Lunch**

14:00 – 15:00 **Procedural norms in IWL**, Alistair Rieu-Clarke

- Duty to Cooperate
- Data and information exchange
- Notification and consultation
- Transboundary EIA

15:00 – 15:30 **Non-state actors within a transboundary water context**, Mara Tignino

15:30 – 15:45 **Break**

15:45 – 17:15 **Group Exercise**

First role play exercise where groups will have to use the relevant factors (Art. 6 of UN Watercourses Convention) to make a determination of what might be equitable and reasonable.

Facilitators: Emmanuel Kasimbazi (E); Richard Paisley (E); Alistair Rieu-Clarke (E); Angela Klauschen (F); Amidou Garane (F); Kenge James Gunya (E); Mara Tignino (F)

Wednesday, 8th June 2016

Chair: Fred Mwango

- 9:00 – 10:30 **Knowledge exchange case studies** – improving the processes for notification and consultation, data and information exchange, transboundary EIA and joint monitoring
- The role of national masterplans and water permits within a transboundary context – insights from Rwanda, Philippe Kwitonda
 - The importance of joint monitoring networks in the Mara River Basin (Kenya and Tanzania), Victor Kongo
 - Ecological infrastructure investment in South Africa’s transboundary watercourses, Dean Nalandhren Muruven
 - Establishing the appropriate laws, policies and institutions for the protection of environmental flows of the Save River Basin (Zimbabwe and Mozambique), Simbarashe Dzirekwa
- 10:30 – 10:45 **Break**
- 10:45 – 11:15 **Are River Basin Commissions a driver for IWL implementation?** – insights from practice across Africa or the Americas, Richard Paisley
- 11:15 – 11:45
- 11:45 – 12:30 **20 years of experience in implementing the UNECE Water Convention** – what lessons might be shared across Africa? Sonja Koepfel
- 12:30 – 14:00 **Lunch**
- 14:00 – 15:30 **Group exercise**
- Second role play exercise in which group will be given a scenario whereby they have to determine whether the States via a joint institutional mechanism breach procedural obligations to notify and consult, and conduct a transboundary EIA.*
- Facilitators: Emmanuel Kasimbazi (E); Richard Paisley (E); Alistair Rieu-Clarke (E); Sonja Koepfel (F); Mara Tignino (F); Kidanemariam Jembere (F)
- 15:30 – 15:45 **Break**
- 15:45 – 17:15 **Knowledge exchange case studies** – enhancing the role of stakeholders in transboundary water management and making transboundary water institutions effective.
- EAC protocol for management of Lake Victoria, Ronald Kakungulu-Mayambala
 - Human rights to water within a transboundary water context – insights from East Africa, Ben Kiromba Twinomugisha
 - An Appraisal of Nile Basin Institutions and Cooperation Endeavours, Tesfaye Tafesse
 - The rationale and role of secretariats in African River Basin Organizations, Davison Saruchera
 - Improving and securing women’s access to water – transboundary considerations, Malick Wade

Thursday, 9th June 2016

Chair: Musa Abseno

9:00 – 9:40 **Dispute settlement mechanisms and recent decisions by international courts**, Mara Tignino

9:40 – 10:00 **The UNECE Water Convention Implementation Committee**, Sonja Koepfel

10:00 – 10:30 **Knowledge exchange case studies** – experiences in addressing/ avoiding disputes over transboundary waters

- Fostering transboundary water cooperation in post-conflict countries – the case of DRC and Rwanda, Bora Uzima Bahavuleon
- Promotion of dialogue among riparian countries as a way of transboundary water management: The case of Lake Edward shared by DR Congo and Uganda, Kamuha Muhindo Zobenat

10:30 – 10:45 **Break**

10:45 – 12:30 **Special focus – transboundary aquifers**

10:45 – 11:45 **The law of transboundary aquifers**, Charles Okidi

11:45 - 12:30 **Case studies on transboundary aquifers**

- The management mechanisms of the North-Western Sahara Aquifer System (NWSAS) shared among Algeria, Libya and Tunisia, Sarra Touzi
- Transboundary aquifer sharing between Djibouti and Ethiopia, Asma Mohamed Farah

12:30 – 14:00 **Lunch**

14:00 – 15:00 **The role of national law and institutions in implementation of transboundary water arrangements**

14:00 – 14:20 **The relationship between treaty law and national law**, Ronald Kakungulu-Mayambala

14:20 – 12:40 **Key intersections between national legal frameworks for water resources management and transboundary water law commitments**, Musa Abseno

14:40-15:00 **National consideration of International legal commitments – the case of the IncoMaputo**, Bonsile Mhlanga

15:00 – 15:15 **Break**

15:15 – 15:45 **Challenges and opportunities for joint institutional arrangements** – the Nile experience, John Nyaoro

15:45- 16:15 Fostering stakeholder engagement through basin institutions – experiences across Africa, Alan Nicol

Friday, 10th June 2016

Field trip – Jinja Bujagali Hydro-power Plant and Source of the White Nile

Saturday 11th June 2016

Chair: Ben Kiromba Twinomugisha

9:00 – 10:30 **Negotiation skills training**, Richard Paisley and Musa Abseno

10:30 – 10:45 **Break**

10:45 – 11:15 **Introduction to role play exercise and group assignments**, Richard Paisley

Based on the scenario given in the first group exercises the groups will be asked to consider a model treaty and propose amendments that will satisfy their needs and interests. The ultimate output of the group exercise would therefore be a negotiated treaty, perhaps also with a signing ceremony!

11:15 – 12:30 **Group preparation for simulation exercise**

12:30 – 14:00 **Lunch**

14:00 – 15:00 **Group preparation for simulation exercise**

15:00 – 15:15 **Break** [indicative times. Groups could organise themselves both in terms of when and where they prepare]

15:15 – 17:00 **Simulation exercise**

Sunday, 12th June 2016

9:00 – 10:30 **Negotiation skills training**, including a reflection of day one

10:30 – 10:45 **Break**

10:45 – 12:30 **Group preparation for simulation exercise**

12:30 – 14:00 **Lunch**

14:00 – 15:30 **Simulation exercise**

15:30 – 17:00 **Signing ceremony and celebration**

Facilitators/Trainers



Alistair Rieu-Clarke, (a.rieuclarke@dundee.ac.uk) is a reader in International Law. He holds an LLB in Scots Law, an LLM in Natural Resources Law and Policy (with distinction), and a PhD in Sustainable development, Water and International Law. His research and teaching activities focus on deepening knowledge and understanding of international law within the context of transboundary water cooperation.



Emmanuel B Kasimbazi, (ekasimbazi@yahoo.com) is an Associate Professor of Law and Chair of Environmental Law Centre at the School of Law, Makerere University. He teaches Environmental Law and Natural Resources to both undergraduate and postgraduate students. He is a senior researcher and consultant in transboundary water resources management, environmental law and governance, regulation of oil and gas exploration and production, legislative drafting of environmental laws, forestry law and wildlife law.



R. Kakungulu-Mayambala, (rmkakungulu@gmail.com) is a Senior Lecturer with the Environmental Law Centre (ELC) and formerly a Graduate Teaching Assistant at The University of British Columbia, Vancouver, Canada (2007-2008). R. Kakungulu-Mayambala lectures human rights in the domestic perspective, consumer law and protection, introducing law and legal methods, intellectual property law, equity and trusts to undergraduate students and international environmental law, and computers & the law to graduate students at Makerere University School of Law.



Ben Kiromba Twinomugisha, (twinosho@gmail.com) is a Professor at School of Law, Makerere University. He is also an Advocate of the Courts of Judicature in Uganda, and has undertaken research and published in the areas of health and human rights and environmental law. He has taught law for almost 30 years at both college and university levels. He is a member of the IUCN Academy of Environmental Law. His recent publications include, *Fundamentals of Health Law in Uganda* (Pretoria University Law Press, 2015).



Sonja Koeppel, (Sonja.Koeppel@unece.org) originally from Germany, has been working for more than 7 years in the secretariat of the UNECE Water Convention in Geneva. She has been coordinating, for example, the activities on climate change adaptation under the Convention. Previously, she worked for UNEP in Nairobi and studied environmental sciences, policy and management in Budapest and Manchester.



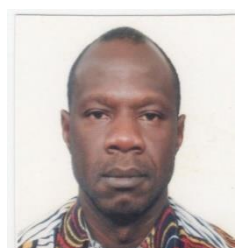
Richard Kyle Paisley (rpaisley@mail.ubc.ca) is a practicing lawyer and Director of the Global Transboundary International Waters Governance Research Initiative / Senior Research Associate, at the Institute of Asian Research, at the University of British Columbia in Vancouver, Canada. He is currently also special counsel for natural resources / water to the United Nations Department of Political Affairs Standby Team of Senior Mediation Advisors. Richard's current applied research, teaching, graduate supervision and advisory interests include domestic and international water and energy law, negotiations, international business transactions and environmental mediation / conflict resolution. Richard has directed a wide range of conferences, capacity building exercises, negotiations and applied research projects, published extensively and been an advisor, trainer and special counsel on these subjects throughout Asia, Africa and the Americas to a wide range of governments; international organizations; academic institutions; non-governmental organizations; aboriginal groups and the private sector. He is an avid downhill and cross country skier, cyclist, backpacker and kayaker.



Mara Tignino (Mara.Tignino@unige.ch) is Assistant Professor at the Faculty of Law of the University of Geneva. She is also the Coordinator of the Platform for International Water Law at the Geneva Water Hub (www.genevawaterhub) and is Director of the Online Programme on International Water Law. She holds a PhD in International Law from the Graduate Institute of International and Development Studies and has been a Visiting Scholar at the George Washington University School of Law in Washington D.C and at the Universidad de Barcelona.



Musa Mohammed Abseno (mabseno110@gmail.com) has obtained a Bachelor of law from Addis Ababa University; LLM (Dean's Medal) and PhD in international Water law and policy from the University of Dundee, Scotland, U.K. He is a consultant and advises the Ministry of Water, Irrigation, and Electricity of Ethiopia on the GERD and IGAD Water Resources negotiations. He also lectures on water law. Dr. Musa is a specialist on international and national water law interface and authority on the Nile; and has extensively written on the topics.



French: Garane Amidou (garaneha7@yahoo.fr) enseigne le droit de l'environnement et des ressources naturelles à l'Université de Ouaga 2 (Burkina Faso). Il fait de nombreuses publications (ouvrages et articles) en droit de l'environnement. Il a coordonné plusieurs projets de recherches avec des partenaires extérieurs en droit de l'environnement et des ressources naturelles. Outre ses activités universitaires, il apporte son expertise aux Etats dans l'élaboration des politiques et législations nationales de l'environnement. Il appuie également les institutions internationales dans l'élaboration des instruments internationaux de gestion de l'environnement notamment dans le domaine des ressources en eau partagées. Il est membre d'associations internationales et de panels internationaux en matière de gestion de l'environnement et de ressources naturelles.

English: Garane Amidou teaches environmental law and natural resources at the University of Ouagadougou 2 (Burkina Faso). He has many publications (books and articles) in environmental law. He coordinated several research projects with external partners in environmental law and natural resources. Besides his academic activities, he provides expert guidance to States in developing policies.



Fred Mwango (fred.mwango@igad.int) is currently working for the Intergovernmental Authority on Development (IGAD) as a Regional Water Expert. Before assuming the above responsibilities, he worked for MWH as a Technical Assistance to IGAD where he served as the Team Leader/Water Resources Expert in the Inland Water Resources Management Programme (INWRMP). Before joining IGAD he served in the Ministry of Water and Irrigation, Kenya as Ag. Director Water Resources and later as Head, Transboundary Waters in the same Ministry. He also served for many years as a Member of the Nile Technical Committee (NILETAC) for Kenya as well as serving as a Member of the African Ministers' Council on Water (AMCOW TAC) for over 20 years. Fred Mwango has MSc in Geophysics Engineering from Bucharest University, Rumania and has attended several Water Resources Management courses in Kenya and outside Kenya including Hydro-diplomacy courses.



Charles Odidi Okidi (charlesokidi11@gmail.com) is Professor of Environmental Law at the Centre for Advanced Studies in Environmental Law and Policy (CASELAP) and Research Professor at Institute for Development Studies (IDS) University of Nairobi. He received a Ph.D. in public international law from The Fletcher School of Law and Diplomacy, Tufts University in 1975. He has done research, published and supervised students in areas of environmental law, international water law, law of the sea and capacity building. He has received a number of international recognitions and awards.



John Rao Nyaoro (jnyaoro@nilebasin.org) HSC is the Executive Director of the Nile Basin Initiative Secretariat since 1st September 2014. Prior to this appointment, he was the Director of Water Resources, Ministry of Environment, Water and Natural Resources in Kenya, Chief negotiator for Kenya on the Nile River Basin Cooperative Framework Agreement and other trans-boundary waters and a Member of the Nile Technical Advisory Committee, IGAD Steering Committee member, the positions he held since 2008. John has got 30 years of experience as a Hydrologist/Water Resources Expert. He graduated with honors from the University of Nairobi, Kenya with a BSc degree in Water Resources and a Master of Laws (LLM) Water Law and Policy, Dundee University in Scotland, UK and Doctor of Philosophy Degree in Law, University of Nairobi, School of Law with specialization in Water law.



Lesha Witmer (wima@witmer.info), Dutch, is an independent senior advisor and facilitator on sustainable development (SD) (focus water governance and management), Human Resources, gender and vocational training. She works on issues related to (International) Water governance and Law and Water Stewardship e.g. as advisor for UNESCO-WWAP and as special advisor and lead campaigner for the World Wide Fund for Nature (WWF) for the water conventions. As a volunteer she is e.g. member of the Social Impacts, etc. Chamber of the Hydropower Sustainability Assessment Council and was member of International Standard Development Committee of the Alliance for Water Stewardship (AWS).



Angela Klauschen (angela.klauschen@gwp.org) has more than 15 years of experience on international water policies, IWRM and sustainable development. She is a Senior Network Officer at GWP and Focal Point for Transboundary Water Management and Cooperation. She has also worked on the water-energy nexus in transboundary contexts, incl. hydropower, SEAs and ecosystem conservation. She holds a Bachelor's degree in Political Sciences and International Relations, a MSc. In Environmental Management, and has had training on Environmental Diplomacy and IWL, incl. from University of Geneva, UNEP and University of Dundee.



Alan Nicol, (A.Nicol@cgiar.org) has a political science and area studies background and holds a PhD from SOAS on the interface between large-scale irrigation and pastoralism in Ethiopia under conditions of state change. He joins from CARE International in Uganda where he set up and directed the Global Water Initiative East Africa, developing action research on water management with mainly women smallholder farmers in Ethiopia, Tanzania and Uganda. Alan previously established and led the Water Policy Programme at ODI and has worked with and for a number of other think tanks, research institutes and international NGOs over the last two decades, gaining broad experience of fundraising, research management and policy influencing. He says he relishes the opportunity to join IWMI and support the development of research into use that can tangibly improve water security for the poor whilst ensuring ecosystem sustainability and food security for a hungry planet by 2050.

Participants

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Organizers

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