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# BUILDING AN ARMY OF ENVIRONMENTAL LAW SCHOLARS

## PROFESSOR CHARLES ODIDI OKIDI'S LEGACY

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# BLAZING THE TRAIL

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Professor Charles Okidi's Enduring  
Legacy in the Development of  
Environmental Law

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*Edited by*  
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## CHAPTER 5

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# Building an Army of Environmental Law Scholars: Professor Charles Odidi Okidi's Legacy

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PATRICIA KAMERI-MBOTE

### I. INTRODUCTION

Universities in Africa have been tremendously affected by social, political and economic factors impacting countries in the region. While access to university education has gone up in the past two decades,<sup>1</sup> it still remains the domain of a very few. This has to be seen within the context of a fast growing population. With economic and political issues plaguing the countries on the continent, investment in higher learning has not kept pace with the demands for accessible, affordable and quality university education. Yet the contribution of higher education to development is now widely accepted.<sup>2</sup> As new areas of research such as environmental law have emerged, the role of universities as engines of highly skilled professionals across a range of disciplines -- including environmental sciences, law and engineering<sup>3</sup> -- have come into sharp focus.

While education is a public good, constraints in funding have necessitated the private sector to invest in education in an attempt to enhance access through liberalization. In this regard, the number of institutions offering legal education has grown immensely. This has affected the quality of teaching and learning in universities.<sup>4</sup> Law, perceived as a low investment course, is one of the disciplines most affected. The manner of teaching law is as important as what is taught for it to attain its objectives. As the range of subjects taught in law schools has grown, faculties have had to make choices on what courses to teach and the methodologies to apply. This is not a value-free exercise and is influenced by broader national laws, policies and goals as well as available human, infrastructural and economic resources. With regard to human and infrastructural resources, there has been growing emphasis on the need for learner-centered education, which demands investment in infrastructure and the capacity of the instructors to ensure the attainment of the stated outcomes

<sup>1</sup> Peter Darvas et al, 'Sharing Higher Education's Promise beyond the Few in Sub-Saharan Africa' (2017) World Bank.

<sup>2</sup> Association of Commonwealth Universities, 'Building University Partnerships for Sustainable Development' (2011) 2 ACU 1.

<sup>3</sup> British Council, 'Bridging the Gap: Enabling Effective UK-AFRICA University Partnerships' (2011) 3 British Council.

<sup>4</sup> Mahmood Mamdani, *Scholars in the Marketplace. The Dilemmas of Neo-Liberal Reform at Makerere University, 1989-2005* (African Books Collective, 2007).

in the learning process. In the arena of legal education, the learning process is supposed to imbue the learners with knowledge, skills and attitudes to be technically competent as lawyers. They must also understand the social, political and economic situations in their countries and the role that law plays in these spheres. International, regional, national and local norms are part and parcel of the mosaic of laws that students are expected to interact with at law school.

Prof Charles Odidi Okidi's contribution to the evolution and development of environmental law teaching and research is canvassed within this context. Environmental law was not taught at many law schools until the late 1980s. Even then very few schools taught it. For instance, those of us who graduated in the 1980s at the then Faculty of Law, University of Nairobi, did not study environmental law. Our only dalliance with the subject was as part of land law<sup>5</sup> where we looked at land use planning. Despite environmental law not being taught then, good training in basic law courses such as administrative law; property; constitutional law; land use law; and equity and trusts laid a good basis for the introduction of environmental law later on. This is because environmental law is cross-cutting and requires versatility. Beyond law, however, training in environmental law must be interdisciplinary because economics; science; business; engineering, among others, colour the substance and form of environmental management and regulation.<sup>6</sup>

Interestingly, Professor Charles Okidi had trained a number of graduate students in environmental law in the 1980s, sowing the early seeds for the discipline at the School of Law. He was in a small group of academics that had taken an interest in the subject. Having the United Nations Environment Programme based in Nairobi helped popularize the discipline, with a number of members of staff<sup>7</sup> pursuing doctoral studies on different aspects of environmental law. Professor Okidi took it upon himself to recruit as many people as possible for doctoral studies in environmental law and policy. He never tired of nudging people to join the School of Environmental Studies, which he had founded at Moi University. A meeting with Professor Okidi invariably ended with the question of when one would embark on their doctoral studies. My friend Professor Wambui Kiai and I frequently dodged the Professor in the early 1990s when we spotted him in the main campus of the University of Nairobi. It is interesting that I have become the person younger scholars dodge when they do not want to answer the question on when they would either embark on or be done with their doctoral studies. This is a trait I picked from my engagements with Professor Okidi.

Environmental law peaked up after the 1992 United Nations Conference on Environment and Development.<sup>8</sup> The Faculty of Law offered environmental law as one of the courses in its masters programme but the number of students who took the course were too few to make any meaningful difference. The partnerships initiated by Professor Okidi between European universities and Moi

<sup>5</sup> It was taught by the ebullient Bondi Ogolla (as he then was) who went on to work for the United Nations Environment Programme in different stations, including the Climate Change Secretariat, where he was very engaged in the negotiations and finalization of the Paris Agreement in 2015.

<sup>6</sup> It is for this reason that lecturers at the School of Law at the University of Nairobi teach environmental law as a service course in different departments of the university.

<sup>7</sup> Bondi Ogolla; Albert Mumma; Francis Situma; Otieno Odek and Patricia Kameri-Mbote.

<sup>8</sup> UNGA Res A/RES/44/228 (1989) GAOR 85<sup>th</sup> plenary meeting.

University opened pathways for law lecturers to register for environmental law graduate studies in Europe. While a number did not complete their studies, the partnership with the University of Ghent in Belgium yielded three doctoral degrees in different areas of environmental law in the 2000s.<sup>9</sup> When Professor Okidi left Moi University and joined the United Nations Environment Programme as a task manager for the Programme for the Development of Environmental Law and Institutions in Africa (PADELIA), he continued engaging academics teaching law in different universities to carry out research in environmental law as consultants. He also generously disseminated *Compendia of Environmental Law in Africa* that his programme produced to universities, which provided much needed instructional material. When he left UNEP and returned to the University of Nairobi around 2003, the discipline of environmental law had grown with more people equipped to teach it. At the University of Nairobi, environmental law was offered as an elective subject<sup>10</sup> in the final year of the undergraduate programme and as a thematic area of focus in the masters' programme.<sup>11</sup>

The IUCN Academy of Environmental Law, of which Professor Okidi was one of the founders, chose the University of Nairobi to host the second colloquium on environmental law in 2004.<sup>12</sup> This event was pioneering in a number of ways: the establishment of ASSELLAU; the partnership with the University of Ottawa to train a doctoral candidate in environmental law;<sup>13</sup> and the forging of links among scholars from different African universities and between these scholars and those from other continents. The aim of these initiatives was to enhance the capacity of environmental lawyers through teaching in universities.

This chapter chronicles Prof Okidi's role in building the discipline of environmental law and the capacity of scholars in the field. It is divided into five parts. Part I is the introduction, which is followed by a discussion on the establishment of ASSELLAU in Part II. Part III discusses the consolidation of ASSELLAU through the commissioning of an army of environmental law teachers. Part IV on the deployment of the army in diverse areas beyond integration of environmental law in curricula follows, while Part V concludes.

## II. ESTABLISHMENT OF ASSELLAU

The establishment of the Association of Environmental Law Lecturers in African Universities is attributable to initiatives of leading academics in environmental law from around the world coalescing around two organisations: the IUCN Academy of Environmental Law (IUCNAEL) and the International Commission of Environmental Law (ICEL). The IUCNAEL organised colloquia on environmental law starting from 2003 and provided a good space for networking and exchange

<sup>9</sup> Hon Justice Dr Smokin Charles Wanjala (now a Judge of the Supreme Court of Kenya); Professor PLO Lumumba and Professor Paul M Wambua.

<sup>10</sup> It was introduced in the 1989's major curriculum review at the then Faculty of Law.

<sup>11</sup> It had been taught as one of the courses in the master's programme since the late 1970s and was incorporated as one of the 10 thematic areas in the major master of laws (LL.M) curriculum review in 2003.

<sup>12</sup> The first colloquium was hosted by Shanghai Jiao Tong University in China in October 2003.

<sup>13</sup> Dr Robert Kibugi completed his studies in 2011 and joined the teaching staff at the University of Nairobi.

of ideas for scholars to forge global and regional alliances. The colloquia also facilitated linkages between international, regional and national environmental law. The second IUCNAEL colloquium was held in Nairobi in 2004 providing an opportunity for many Africans to attend. Professor Okidi decided that this would be an opportune time to bring African scholars and practitioners on environmental law together and organized, with the help of UNEP, the first Symposium of African Environmental Law Lecturers just before the colloquium. Using his extensive network and working closely with UNEP, he scouted around the continent to see what universities were offering environmental law, generating an impressive list of participants from all parts of Africa.<sup>14</sup>

The symposium was held from 29 September to 2 October 2004 in Nakuru, Kenya, with two main objectives:

- To deliberate on modalities of mainstreaming environmental legal education into universities' curricula; and
- To identify and search for African environmental solutions to the region's environmental problems.

Thirty-five (35) scholars from 23 universities in Africa attended this meeting. They decided to establish ASSELLAU and chose interim champions for the association.<sup>15</sup> Many African scholars participated in and presented papers at the IUCNAEL colloquium. The product of the colloquium, a book edited by representatives from different continents including Africa and published by Cambridge University Press in 2007, includes chapters on environmental law from different African countries.<sup>16</sup>

The University of Nairobi, under Prof Okidi's leadership, took up the responsibility of getting ASSELLAU off the ground. I was appointed the interim chairperson with the responsibility of formally establishing the association and enlisting more members. ASSELLAU's second meeting in Entebbe, Uganda, in October 2006 crystallized the foundation of the association. The constitutive instrument was concluded and representatives from all regions of Africa appointed.<sup>17</sup> The main issues that ASSELLAU set out to address were research, scholarship and capacity building. Since 2004, the ASSELLAU membership has grown and the capacity of the academics has been greatly enhanced as members have gone up the academic ladder -- with some becoming professors of environmental law. From the original concern with the dearth of environmental law teaching at African universities, the commitment of African scholars has resulted in many initiatives that have

<sup>14</sup> This included old and new universities from around Africa.

<sup>15</sup> University of Nairobi School of Law and the Centre for Advanced Studies in Environmental Law and Policy to be core; representatives from Central Africa (Yaounde); East Africa (Makerere); West Africa (Ahmadu Bello University) and Southern Africa (Cape Town).

<sup>16</sup> Patricia K. Mbote, 'Land Tenure, Land Use and Sustainability in Kenya: Towards Innovative Use of Property Rights in Wildlife Management', N. Chalifour et al. eds., *Land Use for Sustainable Development* (Cambridge University Press 2007).

<sup>17</sup> Patricia Kameri-Mbote, Chair working closely with Prof Okidi; Alexander Patterson Southern Africa; Mohammed Ladan – West Africa; Christopher Tamasang – Central Africa; Emmanuel Kasimbazi – East Africa.

generated research results.<sup>18</sup> Significantly, a core group of scholars who met in Nakuru in 2004 and in Entebbe in 2006 have remained engaged in ASSELLAU.

The attempt to register ASSELLAU as an international non-governmental organization in Kenya in 2007 was unsuccessful. A meeting with officials from the Ministry of Foreign Affairs to start the process of establishing an intergovernmental organization clearly illustrated that this was going to be an uphill task. Moreover, securing and sustaining the human, infrastructure and financial resources was a daunting task that would remove the drivers at the University of Nairobi from their core business of research and teaching. Prof Okidi and I chose to continue the teaching and research path of ASSELLAU and to use the readily available communication infrastructure at the University of Nairobi to keep the network together. ASSELLAU has since then remained a virtual organization. The absence of physical offices and other form did not dim the vision of the leadership, which continued to rally environmental law scholars at different times to discuss critical environmental questions facing Africa. As the chair of the association, I have immensely benefitted from Prof Okidi's wise counsel, guidance and encouragement. His unwavering support has ensured that ASSELLAU remains alive and active, supported by staff of the University of Nairobi as part of their general scholarship. While volunteerism is not common among lawyers, Prof Okidi has set an example of commitment to a cause that has drawn a following from lawyers around Africa. With minimal financial resources, we have managed to hold research symposia and publish books that have given African scholarship global visibility. As an academic who has grown under the mentorship of Prof Okidi, I have felt immense responsibility to emulate his focused attention to scholarship and mentorship of younger academics. By training and nudging younger scholars and practitioners to leadership in research, Prof Okidi has literally grown an army of environmental law scholars, practitioners and researchers. Happy to let his mentees take the lead while he works with them to navigate the tough tackles, Prof Okidi has ensured that there are many growing at his feet. Unlike other scholars who would rather remain the only leading lights in a discipline and feel threatened by the emergence of younger scholars, Prof Okidi has worked to grow the competition as he encourages them to take on new areas of research in environmental law. This has resulted in immense growth of the discipline of environmental law in Africa. Indeed, Prof Okidi is known in all parts of Africa as the Father of Environmental Law.

My leadership of ASSELLAU over the years has drawn from Prof Okidi's encouragement. He has spurred me to keep the ASSELLAU light burning over the years. His good relationship with UNEP has secured us a great partnership. UNEP supported the first ASSELLAU meeting and continues to provide support for our initiatives. ASSELLAU has become a family where people have forged enduring friendships and bonds as academics. Many members of ASSELLAU interact in spaces outside of it, making the association's reach broader. Such spaces as the IUCNAEL colloquia, different global, regional and national environmental law meetings have brought members together and resulted in greater commitment to the original objectives of the association. Prof Okidi has constantly challenged us to:

<sup>18</sup> These include participation in IUCN Academy of Environmental Law colloquia and governance; The Montevideo Programme on the Development of Environmental Law among others.

[S]trenthen the bonds that bind ... together as academicians in the environmental law field ... by creating a system where participants and members could communicate with one another on a continuing basis ... to facilitate scholarly growth as members ... exchange papers between conferences.<sup>19</sup>

ASSELLAU meetings have not been as frequent as one would like. For instance, after the 2006 meeting in Entebbe, the next one was held in Nairobi in 2009 and a subsequent one in 2015. The response by members to calls for papers for scientific conferences has continued to be very impressive despite the lag between meetings. This was the case when we called for the Fourth Symposium and Third Scientific Conference in Nairobi in 2015 after a six-year hiatus. It is encouraging to note that members of the association have risen to the call to volunteer for tasks without expecting payment. A good example is when we hosted the Fourth symposium and Third Scientific Conference in Nairobi in 2015 with minimal resources from UNEP. I was guiding and assisting our school administrator, Antoinatte Mzungu, to put the materials for the participants together on the Sunday preceding the meeting at the Kenya School of Law in Karen. I recall vividly the arrival of Professor Alexander Paterson (Sandy) of the University of Cape Town. We had not met for six years but when he arrived, we bridged the gap between our meetings in seconds and immediately joined in the preparation of materials without any prompting. When Ms Mzungu protested, I was quick to tell her that Sandy was acting in true ASSELLAU spirit. The hostels at the Kenya School of Law were not palatial, and there were problems here and there, but none of the participants complained. This is in stark contrast to what had happened in 2004 when the original ASSELLAU group travelled from Nakuru to attend the Second Colloquium of the IUCN Academy of Environmental Law, which was at the then Grand Regency Hotel in Nairobi. The participants requested to directly receive money for their accommodation, hoping to secure cheaper lodging and save some money. Prof Okidi patiently listened to the request and then firmly told the participants:

We have accommodation for you here at the Grand Regency but you are free to go source for and pay for the alternative accommodation. We will not give you any money for accommodation. Should the alternative accommodation not measure up to your standards, your room at the Grand Regency is available as long as the conference is in progress.

The grace with which the message was delivered and the gentleness and finality of Prof Okidi's tone ended the demands for accommodation money. As a chair of both the nascent ASSELLAU and the Second IUCN Academy of Environmental Law Programme Colloquium, the members' demands rattled me. I observed the respect the members accorded Prof Okidi and was the beneficiary of that respect then and on many other occasions.

As pointed out above, Prof Okidi leveraged UNEP financial support for ASSELLAU. Many of the papers presented by ASSELLAU members were published in the Cambridge University

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<sup>19</sup> Prof Okidi's opening remarks at the 2015 Scientific Conference in Nairobi.

Press book titled, *Land Use for Sustainable Development* in 2007.<sup>20</sup> This book, which included contributions from all over the world, put the work of ASSELLAU members on a global platform. The contributions include: 'Is Conservation a Viable Land Usage? Issues Surrounding the Sale of Ivory by Southern African Countries'; 'Climate Change Adaptation and Mitigation: Exploring the Role of Land Reforms in Africa'; 'Community Rights to Genetic Resources and Their Knowledge: African and Ethiopian Perspectives'; 'Land Tenure, Land Use, and Sustainability in Kenya: Toward Innovative Use of Property Rights in Wildlife Management'; 'The Development of Environmental Law and Its Impact on Sustainable Use of Wetlands in Uganda'; 'From Bureaucracy-Controlled to Stakeholder-Driven Urban Planning and Management: Experiences and Challenges of Environmental Planning and Management in Tanzania'; 'Strategies for Integrated Environmental Governance in South Africa: Toward a More Sustainable Environmental Governance and Land Use Regime'; 'The Role of Administrative Dispute Resolution Institutions and Processes in Sustainable Land Use Management: The Case of the National Environment Tribunal and the Public Complaints Committee of Kenya'; 'Environmental Impact Assessment Law and Land Use: A Comparative Analysis of Recent Trends in the Nigerian and US Oil and Gas Industry'; 'Managing Land Use and Environmental Conflicts in Cameroon: EIA Legislation and the Importance of Transboundary Application'.<sup>21</sup>

Other members have subsequently provided and leveraged resources for association meetings. Dr Rose Mwebaza, then of the Institute for Security Studies, and Prof Oliver Ruppel of the Climate Policy and Energy Security Programme for Sub-Saharan Africa (CLESAP) at the Konrad Adenauer Stiftung provided the resources for hosting the third symposium and second scientific conference in 2009 as well as the fifth symposium and fourth scientific conference in 2018, respectively. The proceedings of the 2009 symposium yielded a book, *Climate Change and Human Rights in Africa*,<sup>22</sup> and plans by NOMOS in Germany to publish the 2018 symposium proceedings in a volume, *Environmental Law in Africa*,<sup>23</sup> are at an advanced stage. In both cases the resources made available for the symposium included expenses for publishing the books. The editors are drawn from different regions to ensure balance. While, for instance, the *Climate Change* book was edited by members from the eastern and southern Africa region, the volume on environmental law in Africa included editors from eastern, central, southern and western Africa. This demonstrates the members' commitment to the work and to ASSELLAU, which is a part of Prof Okidi's legacy.

Prof Okidi has attended three of the symposia and conferences. He was slated to attend the Yaoundé

<sup>20</sup> N Chalifour, P Kameri-Mbote, LLHye & J Nolon (eds) *Land Use for Sustainable Development* (Cambridge University Press, New York 2007).

<sup>21</sup> Scholars from ASSELLAU related universities who contributed to this book include Professors Charles Odidi Okidi, HWO Okoth-Ogendo, Bibobra Bello Orubebe, Willemien du Plessis, Mekete Bekele, Patricia Kameri-Mbote, WJ Kombe, Albert Mumma and Louis J Kotze Muhammed, Tawfiq Ladan, Ed A Couzens, Emmanuel Kasimbazi, Nchunu Sama and Michael Kidd

<sup>22</sup> The book was edited by two members of ASSELLAU -- Louis Kotze and Rose Mwebaza -- from the University of the North in South Africa and Makerere in Uganda respectively and published by the Institute for Security Studies (ISS) in Nairobi.

<sup>23</sup> This book is edited by Patricia Kameri-Mbote; Alexander Paterson; Oliver Ruppel; Emmanuel Kam Yogo; and Bibobra Orubebe -- all members of ASSELLAU from different parts of Africa and published in the *Recht und Verfassung in Africa; Law and Constitutionalism in Africa*, NOMOS Publishers, Germany.

meeting and make two presentations: one was his signature opening remarks for ASSELLAU symposia – to encourage and mentor members -- and a paper on the Lake Turkana basin. He was unable to travel due to health reasons. His absence did not deter him from nudging us along. I considered it my responsibility after the meeting to brief him on the proceedings. He is waiting with bated breath for the outcome – the book on *Environmental Law in Africa*. He has been buoyed by the fact that many younger scholars have joined the environmental law fray in Africa. News that the book includes more than 30 chapters from African scholars, with seven chapters<sup>24</sup> coming from Kenyan scholars, has made him very happy and is credit to his catalytic role in building an army of environmental law lecturers and teachers. He was particularly interested in the chapters on water and especially on the Lake Chad basin.<sup>25</sup>

As a person who has carried out research in other emergent areas such as gender and the law, I have frequently heard people say that we should do for gender what Prof Okidi did for environment. The Director of the African Women's Studies Centre (AWSC) at the University of Nairobi, Professor Wanjiku Kabira, has acknowledged Prof Okidi as one of the people who challenged and encouraged her to push for the establishment of AWSC as a graduate institute in the university's statutes. Indeed Prof Okidi's undaunted quest for the establishment of the Centre for Advanced Studies in Environmental Law and Policy (CASELAP) as a multidisciplinary graduate institute remains a point of reference for many scholars keen on institutionalizing specialized studies in universities. His contribution clearly points the direction for old and established universities in moving from undergraduate to postgraduate teaching, scholarship and research. The need for advanced studies in various disciplines cannot be overstated. An audit carried out by the Commission for University Education (CUE) in 2016<sup>26</sup> revealed big gaps in the required skills to sustain established universities and their programmes. At a national level, concerns continue to be raised about the skewed training at universities relative to national development needs. In his own way, Prof Okidi has done 'his little thing' in the words of Nobel Laureate Prof Wangari Maathai, whose work in environmental conservation is immortalized in many ways -- including a Centre at the University of Nairobi. His insistence not only in establishing CASELAP but also demanding that only those with PhD level qualification would teach at the centre, has spurred continued growth of scholars as people are challenged to acquire PhD qualifications in environmental law.

The need for more competent scholars in the field of environmental law continues to grow as the discipline evolves. Prof Okidi's work has laid a firm basis for a trajectory of growth, multiplication

<sup>24</sup> Odhiambo, 'Regulatory preparedness for non-motorised transport in Nairobi'; P Kameri-Mbote, 'Wildlife conservation and community property rights in Kenya'; A Mumma, 'Access and benefit sharing: beyond the Nagoya Protocol and its ideals'; C Odote; 'The role of the Environment and Land Court in governing natural resources in Kenya'; K Muigua, 'Utilising Kenya's marine resources for national development'; E Gachenga, 'Kenya's Water Act (2016): real devolution or simply the "same script, different cast"?'; and N Were, 'The conflict between privatisation and the realisation of the right to water in Kenya'.

<sup>25</sup> Emmanuel K Yogo, 'The Lake Chad Basin Water Charter: strengths and weaknesses', Patricia Kameri-Mbote; Alexander Paterson; Oliver Ruppel; Emmanuel Kam Yogo & Bibobra Orubebe (eds) *Environmental Law in Africa*, (Nomos Publishers, 2018) (Forthcoming November 2018) 573-590.

<sup>26</sup> Commission for University Education (CUE), *Full Report on Quality Audit of University Education* (2016) (This report is on file with the author.)

and diversification. His foresight in getting ASSELLAU established has made the linkage between environmental law and other disciplines clear and underscored the need to mainstream environmental studies into universities' curricula. ASSELLAU members have engaged in global discourses such as Rio+20; and meetings of conferences of parties to international environmental law treaties such as the United Nations Framework Convention on Climate Change and the Convention on Biological Diversity. Some of them have been engaged in negotiations for protocols to these treaties and in the crafting of global agreements such as the Paris Agreement on Climate Change. Some members have participated in the drafting of scientific documents informing these agreements<sup>27</sup> and in discussions on the future of environmental law.<sup>28</sup> Going forward, global policies such as the UN's *Transforming Our World – The 2030 Agenda for Sustainable Development* (containing the post-2016 SDGs)<sup>29</sup> and regional blueprints like *Africa's Agenda 2063: The Africa We Want*<sup>30</sup> put capacity building and training in environmental law and policy at the centre of development.

ASSELLAU members have over the years responded timeously to developments in environmental law as reflected in the themes canvassed in scientific conferences. The first Scientific Conference in Entebbe in 2006 focused on 'New Horizons in Environmental Law, Natural Resources and Poverty Eradication' while the second one in 2009 addressed issues around 'Governance and Climate Change in Africa' exploring both the linkages between governance and climate change and climate change and Human Rights in Africa. The third scientific conference held in 2015 addressed 'Environmental Rule of Law and the Extractives Industry in Africa' while the fourth scientific conference in 2018 looked at the broad theme of 'Environmental Law in Africa'. The quality of the papers presented at the scientific conferences has been very high and the 2009 and 2015 papers have been published in books edited by ASSELLAU members as noted above.

It is worth pointing out that whereas the first scientific conference had proposed that a secretariat be established, this has not materialized. With the benefit of hindsight, the establishment of a secretariat would have placed enormous responsibilities on the University of Nairobi and required decisions at the level of top university organs. The absence of a secretariat has not prevented the association's members from meeting and exchanging ideas. Members have innovatively utilized platforms outside of the association to cement their relationships, as well as carry out and disseminate their research. Opportunities that have arisen at ASSELLAU meetings to share and publish research by the members have greatly bolstered the capacities of individuals and universities in environmental law. Many members have risen through the academic ranks from junior lecturers and researchers to full professors in the lifespan of the association. Some members who were

<sup>27</sup> For instance the Intergovernmental Panel on Climate Change-Global Earth Observation Systems of Systems and Advanced Environmental Options.

<sup>28</sup> The Programme for the Development and Periodic Review of Environmental Law (Montevideo Programme) is aimed at the progressive environmental law development. For more details see UN Environment<<http://www.unenvironment.org/fr/node/1167>>accessed 1 November 2018.

<sup>29</sup> UNGA Res. A/RES/70/1 (2015) GAOR 17<sup>th</sup> session 15,116.

<sup>30</sup> African Union Commission, *Africa's Agenda 2063: The Africa We Want*, (African Union Commission 2015).

students when ASSELLAU was founded have earned doctorates in diverse areas of environmental law and are teaching the subject in universities. Some universities have established specialized centres on environmental law such as the University of Nairobi<sup>31</sup> and Makerere University.<sup>32</sup>

ASSELLAU has now come of age and the members have significantly contributed to the growth of environmental law research and scholarship. There is need for further research and capacity building in environmental law in Africa. The need for continued networking and sharing among environmental law lecturers in Africa is still necessary as the discipline evolves.

The books published after ASSELLAU scientific conferences have contributed to the database of teaching resources and to policy development in African countries. The books are not the only resources that have emanated from ASSELLAU. The association's members have published very many books and papers in diverse forums.<sup>33</sup> This is in line with Prof Okidi's commitment to availability of teaching resources through his publications and the Compendia of Environmental Law resources that he developed when he worked at UNEP. I have been privileged to co-publish two books with Prof Okidi: *The Making of a Framework Environmental Law in Kenya*<sup>34</sup> and *Environmental Governance in Kenya: Implementing the Framework Law*<sup>35</sup> as well as benefitted immensely from his mentorship. He had really wanted to publish a sequel to the latter book, and even prepared a concept for it, but this has not materialized. It is however a credit to his mentorship that a book titled *Environmental Governance in Kenya: Implementing the Constitutional Framework* is under preparation, and is edited by two Kenyan ASSELLAU members<sup>36</sup> and has

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<sup>31</sup> The Centre for Advanced Studies in Environmental Law and Policy (CASELAP), founded in 2008.

<sup>32</sup> Environmental Law Centre, founded in 2015.

<sup>33</sup> For instance, Emmanuel Kasimbazi, Kibandama Alexander, Environmental Law in Uganda (Kluwer Law International, 2011); Patricia Kameri-Mbote, et al (eds) *Water is Life* (Weaver Press 2015); Patricia K-Mbote, Charles O Okidi *The Making of a Framework Environmental Law in Kenya* (ACTS-UNEP 2001); Albert Mumma, 'Legal Aspects of Cultural Landscapes Protection in Africa', *Cultural Landscapes: The Challenges of Conservation*, World Heritage Papers, UNESCO World Heritage Centre, (2003) vol 7 (1) Kenya J. Sci. and Tech. (B) 23-28 ; Kibugi , Legal Options for Mainstreaming Climate Change Disaster Risk Reduction in Governance for Kenya, R Kibugi, KhengLian, Koh, Rose-Liza Eisma Osorio., Ilan Kelman (eds) *Adaptation to Climate Change: ASEAN and Comparative Experiences* (Singapore, World Scientific, 2015); Louis J Kotzé; Alexander R Paterson (eds) *The Role of the Judiciary in Environmental Governance: Comparative Perspectives* (Wolters Kluwer Law & Business 2009).

<sup>34</sup> ACTS Press, Nairobi 2001

<sup>35</sup> CO Okidi, Patricia Kameri-Mbote, M Akech (eds) *Environmental Governance in Kenya: Implementing the Framework Law* (East African publishers Nairobi; 2008).

<sup>36</sup> P Kameri-Mbote & R. Kibugi, *Environmental Governance in Kenya: Implementing the Constitutional Framework*, International Development Law Organization & School of Law University of Nairobi (Forthcoming 2019)

chapters<sup>37</sup> from current<sup>38</sup> and potential ASSELLAU members. The main objectives of this book are to appraise environmental governance in Kenya within the context of a changed constitutional context; to provide knowledge and analytical insights into areas critical for effective environmental governance; to provide an avenue for collaborative research work through contributions of various scholars, researchers and practitioners drawn from across disciplines, institutions and jurisdictions; and to provide high quality scholarly content through a book to become a primary point of reference on environmental law and governance in Kenya. This book is expected to be out by early 2019.

### III. COMMISSIONING THE ARMY OF ENVIRONMENTAL LAW TEACHERS: CONSOLIDATION OF ASSELLAU

As ASSELLAU turns 15, there is need to consolidate the gains that have been made over the years and ensure that there are more young scholars joining the association. The initial objective in coming together was to popularise environmental law teaching in African universities. While more ground is still to be covered in this regard, success has been realized in getting environmental law into the undergraduate and graduate curricula in many universities and in developing the discipline. There is need to continue holding periodic scientific conferences at which environmental law scholars share research findings and publish the outcomes of these conferences in order to institutionalize the gains made. Beyond these, it is also necessary to venture into specialized training of trainers to equip lecturers with innovative and diverse pedagogical approaches in environmental law. IUCNAEL has been training trainers as a way of nurturing environmental law champions, and have been very successful in the Asian region. A similar initiative is needed in Africa. ASSELLAU developed and implemented a concept on 'Enhancing Environmental Governance and Sustainability in Africa: Training Law Lecturers in Different Pedagogical Approaches for Effective Delivery', bringing together environmental law lecturers from different universities in Africa who currently teach or wish to teach environmental law. The programme sought to develop and refine existing

<sup>37</sup> The list of chapters: 'Environmental ethics, culture and traditional knowledge and norms for realization of sustainable development'; 'The political Economy of Environmental Governance; Constitutional foundations of environmental law and evolving jurisprudence (e.g. including rule of law, effective institutions and *trias politica* in environmental governance)'; 'A specific focus on implementation and enforcement of the right to a clean and healthy environment'; 'Devolved environmental governance'; 'Environment and Land Court: Law, practice and jurisprudence'; 'Assessing the experience, and state of play in implementation of the framework environmental law in Kenya'; 'Fulfilling socio-economic rights and environmental governance'; 'Theory and process of environmental law and policy making in Kenya'; 'Assessing the experience and current practice of Kenya's approach to international environmental governance mechanisms'; 'Land tenure rights and security implications for environmental governance (also addressing community land rights, and indigenous peoples rights)'; 'Land Use, Physical Planning and Development Control'; 'Law, Policy and Practice in Resettlement Safeguards during Compulsory Acquisition of Land in Kenya'; 'Environmental assessment, monitoring and audit as tools for compliance and enforcement'; 'Environmental governance issues: Biodiversity, access and benefit sharing'; 'Environmental governance issues in Biotechnology and biosafety in Kenya'; 'Implications of ICT in environmental governance; Renewable energy in Kenya (upstream and downstream elements)'; 'Cultural and natural heritage governance'; 'Water resources management'; 'Water services governance'; 'Wildlife management in Kenya'; 'Governance of forestry resources'; 'Environmental governance of the extractives sector in Kenya'; 'Dispute resolution mechanisms for environmental governance'; 'Environmental governance and industry/business in Kenya (profit motive for compliance; and strategies for compliance, compliance assistance, enforcement, etc.)'; 'Governance and mainstreaming of climate change'; 'Mainstreaming human rights and biodiversity conservation/environmental law'; 'Pollution control and waste management (including waste management, cyclic ecological production etc.)'; 'Gender mainstreaming in environmental governance'; 'Environmental law of Uganda (some emphasis on constitutional approaches, human rights and biodiversity)'; 'Environmental governance under the East African Community'; 'International law perspectives on human rights and environmental law'.

<sup>38</sup> Patricia Kameri-Mbote; Robert Kibugi; Collins Odote; Kariuki Muigua; Andrew Mumma; Edna Odhiambo; Peter Munyi; Emmanuel Kasimbazi.

environmental law curricula by incorporating innovative pedagogical approaches that enhance delivery of substantive environmental law knowledge to students while focusing on the learners in devising the expected outcomes. UNEP and the Kenya office of the International Development Law Organization financed the training. The specific objectives of the programme were to:

- enhance understanding of the key role played by environmental education ethics, philosophies and values in the design and delivery of environmental law education at the university level;
- appraise the status of, and review the key tenets of, environmental law education at the university level;
- provide for practical and integrated engagement for environmental law lecturers in framing and designing innovative curricula, teaching approaches and forms of assessment for environmental law education; and
- enhance opportunities, through ASSELLAU, for professional networking, teaching and research linkages among legal professionals engaged in environmental law education.

The facilitators were drawn from the ASSELLAU membership and worked with the staff of the Open, Distance and e-Learning department at the University of Nairobi to develop the training materials. The materials were uploaded on the multimedia portal for ease of access by ASSELLAU membership as well as to facilitate continuous improvement and refinement in real time as new areas and teaching/research approaches emerge.

Training of trainers is a critical step towards consolidating ASSELLAU and commissioning an empowered army of environmental law scholars. The aim in the training is to recruit more members into ASSELLAU and build their capacity to teach and carry out research on environmental law. It is expected that the members will establish nodes in different parts of Africa to coordinate further training and research activities in those regions. The East African regional node will remain at the University of Nairobi, which will continue to steer ASSELLAU's continental activities as a Centre of Excellence in environmental law research and training. This *festschrift* in honour of Prof Charles Odidi Okidi is part of the documentation of the evolution of the centre of excellence and the multiplier effects that the work of this iconic environmental law scholar has had in African countries and universities. The retirement of Prof Okidi from the University of Nairobi at the end of 2018 is an opportune time for this consolidation and documentation. The publication of the *festschrift*, which includes contributions of old and young environmental law scholars from around the world, will signify the passing of the baton to the next generation of scholars, document where we have come from and developments in environmental law in Africa, and point the direction for the future of ASSELLAU. This process will build on the main themes that ASSELLAU has pursued: modalities of mainstreaming environmental legal education into universities' curricula; identifying and searching for African solutions to the region's environmental problems.

It is worth noting that ASSELLAU is currently working with UN Environment to develop a Natural Resources Governance (NRG) Framework in Africa in response to calls by the African Ministerial Conference on the Environment (AMCEN) for the development of such a framework to harness and sustainably manage the natural resource capital that the continent is endowed with. AMCEN is concerned about the mobilization of internally generated finance from natural capital to achieve sustainable development of the continent; strategic use of overseas development assistance to Africa to ensure financial resilience, sustainability and wealth creation using its natural capital; and adoption of strategies to reverse the financial flows arising from the illicit exploitation of its natural capital. ASSELLAU is also in discussions with the African Development Bank about the possibility of training for the institution's staff and clients on environmental sustainability to assist them in their work on diverse issues, particularly the extractive sector. The choice of ASSELLAU to work on these assignments demonstrates two things: one, that Africa has immense capacity in the environmental law field and, two, that there is value in working in a network like ASSELLAU to pool intellectual resources for deployment on the continent. These initiatives clearly demonstrate that ASSELLAU's objective of identifying and searching for African environmental solutions to the region's environmental problems, which we considered daunting in 2004, is increasingly being realized.

ASSELLAU has been requested to share experiences with African Judicial Training Institutions in forming a network for capacity building. Under the leadership of the South African Judicial Education Institute (SAJETI), the judges came up with the Greening the Judiciary in Africa initiative that mainly focuses on building the capacity of judges in applying and enforcing environmental laws, and promoting the environmental rule of law. The aim is to create an African judicial network on environmental law education to: provide opportunities for exchanging information; create partnerships for collaboration; strengthen capacity; and provide research and analysis on environmental adjudication, court practices, and environmental rule of law. Towards this end, a regional symposium on 'Greening the Judiciaries in Africa' was held in August 2018.

ASSELLAU is also working with Middle East Environmental Law Scholars to start an organization similar to it for Middle East and North Africa. A conference to launch the association is scheduled for 4 and 5 November 2018 at Hamad Bin Khalifa University in Doha, Qatar.

#### **IV. DEPLOYING THE ARMY BEYOND INTEGRATING ENVIRONMENTAL LAW INTO LAW SCHOOL CURRICULA: OPPORTUNITIES AND CHALLENGES**

More law schools will be established and the discipline of environmental law will continue to evolve. ASSELLAU's relevance in years to come is guaranteed. It is therefore imperative that the members pick up the cue from Prof Okidi and build on the solid foundation that he has laid. The ASSELLAU Hub in Nairobi and the nodes in the regions must ensure that they are equipped to carry out the following activities:

- a. Continued popularization of the teaching of environmental law;
- b. Carrying out research in environmental law;

- c. Publishing environmental law research;
- d. Training the teachers of environmental law;
- e. Carrying out training in selected environmental law topics;
- f. Providing space for networking among environmental law teachers;
- g. Contributing to environmental diplomacy, law and policy making; and
- h. Mentoring upcoming environmental law teachers and researchers.

Environmental law must move from a silo approach and integrate other related disciplines such as economics, human rights, geography, philosophy, ecology, and architecture, to name a few. Opportunities for collaboration are increasingly arising as evidenced by the book, *Environmental Governance in Kenya: Implementing the Constitutional Framework*.<sup>1</sup>

Some of the challenges that we have faced include: getting a core group of committed, passionate academics to act as champions and run with the ASSELLAU work without expecting to be paid; maintaining momentum of the association between meetings; sharing responsibilities among members with regard to fundraising and organizing the association's activities; and ensuring intergenerational succession so that the army of environmental law scholars continues to grow.

## V. CONCLUSION

ASSELLAU has come a long way since 2004. The membership has grown and the range of its activities has expanded. More universities are now offering diverse courses on environmental law. Many members of ASSELLAU are engaged in international, regional, national and local environmental law and policy initiatives. This is in addition to their scholarship and teaching at the university.

We have learnt some valuable lessons over the years. One is that to sustain a network requires a core of committed scholars. Prof Okidi and the University of Nairobi have provided the leadership and steered ASSELLAU firmly in this regard. Two, a network like ASSELLAU works because of the nexus between its activities and the core business of universities -- teaching; research; and publication. Members of ASSELLAU are keen to publish and engage in research because that facilitates their ascent up the academic ladder. This has ensured that ASSELLAU publications have willing contributors. Three, having a partner or partners sharing the vision of a network enables the network to leverage human, financial and technical resources for its activities. As pointed out above, UNEP has been with ASSELLAU all along. This has raised the interest of other organizations such as IDLO in the work of ASSELLAU. It has also made the work of members keen on supporting ASSELLAU such as ISS and KAS easier. UNEP has challenged us to grow and it is their prodding that has made us think about increasing the membership and deepening the impact of ASSELLAU through the training of trainers. It is also credit to our partnership with UNEP that we have been able to identify champions in different parts of Africa, a critical factor in growing and sustaining our network. Finally, we have learnt that a network such as ASSELLAU can run and thrive without a fixed institutional form as long as there are committed champions. Having a selfless taskmaster like Prof Okidi has inspired volunteerism from champions across Africa.

<sup>1</sup> Authors include geographers; land planners; regulators; lawyers; and sociologists.