

**BIODIVERSITY AND NATURE CONSERVATION LAW
AND POLICY IN THE MIDDLE EAST
AND NORTH AFRICA REGION**

This book offers a comprehensive and authoritative account of the guiding principles and rules relating to biodiversity, nature conservation, and the protection of cultural heritage in the MENA region. The book introduces readers to the applicable legislation, institutions, and rules underpinning the design, approval, financing, and implementation of biodiversity and nature-based solutions across the MENA region. It also explores larger questions on legal and institutional frameworks that can help address broader issues of fragmentation, gender inequality, inadequate stakeholder engagement, lack of transparency, limited access to environmental information, and lack of comprehensive domestic legislation, all of which stifle the nexus and integrated implementation of biodiversity and nature conservation treaties and the equitable sharing of the benefits derived from biodiversity and nature in the region. Written in a user-friendly style, the book closes with recommendations and reflections on legal and regulatory innovations. This title is also available as open access on Cambridge Core.

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Biodiversity and Nature Conservation
Law and Policy in the Middle East
and North Africa Region

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Foreword

The triple planetary crisis – climate change, biodiversity loss, and pollution – is threatening the survival and well-being of millions of people across the world and future generations. In the Middle East and North Africa (MENA) region the crises are compounded by increasing environmental threats, such as water scarcity, rising temperatures, land degradation, the overexploitation of fauna and flora, habitat destruction, oil-related pollution, and weak resource management frameworks.

Among the environmental challenges faced by the region, biodiversity loss emerges as a critical concern. The region safeguards a diverse and valuable biological, natural, and cultural heritage, which is essential for the economic, social, and cultural well-being of its growing population. However, escalating environmental threats are exacerbating ongoing biodiversity loss both within the region and beyond. In this context, the recent international agreement adopted under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (the BBNJ Agreement) is a landmark agreement to prevent biodiversity loss. This follows the adoption of the Kunming-Montreal Global Biodiversity Framework (GBF) in December 2022 – a call for global action to protect nature through to 2030 and beyond. It is now imperative for countries to take the necessary actions to support the BBNJ Agreement’s ratification and implementation and meet the GBF’s twenty-three targets for 2030 and four goals for 2050.

In this era defined by unprecedented environmental challenges, it is essential to understand the legal and policy frameworks that underpin the region’s conservation efforts. This book, *Biodiversity and Nature Conservation Law and Policy in the Middle East and North Africa Region*, sheds light on the latest legal landscapes that shape the future of our invaluable biological, natural, and cultural heritage. It is the culmination of a combined effort from legal academics and professionals to raise awareness, inform, and provide reflections on how MENA countries can advance strategies, policies, and legislation in a region rich in biological diversity.

This book, the second book project by the Association of Environmental Law Lecturers in Middle East and North African Universities, delves further into the

dynamics of environmental law and policy in the MENA region, building on the foundation established in its previous work, *Climate Change Law and Policy in the Middle East and North Africa Region*. Recognizing the ongoing need to build capacity in the region to develop clear and comprehensive legal and institutional frameworks that coherently address existing and emerging environmental threats, this book seeks to support MENA countries by fostering an exchange of information and best practices, with a specific focus on biodiversity and nature conservation law and policy.

The United Nations Environment Programme is dedicated to continuing its support for MENA countries in enhancing their capacity to tackle environmental challenges, including from a legal and institutional perspective. This commitment is especially crucial as biodiversity concerns gain prominence on countries' agendas.

Patricia Kameri-Mbote, SC
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Preface and Acknowledgments

The Middle East and North Africa (MENA) region is rich in biological, natural, and cultural resources. The region's diverse natural ecosystem ranges from semi-arid savanna to mountain upland plateaus, riverine and coastal plains, sand deserts, coastal mangroves (*qurm*), seagrasses, dry river valleys (*wadis*), wetlands, swamp forests, coral reefs, and oases.¹ In addition to the vast array of flora and fauna, the MENA region is also known for its rich cultural heritage, being home to several United Nations Educational, Scientific and Cultural Organization (UNESCO)-designated world heritage sites.² The diversity and richness of natural and cultural resources across the MENA region has been pivotal in catalyzing significant economic, touristic, cultural, social, medicinal, and eco-entrepreneurial activity in many parts of the region.

However, several of the biodiversity resources in the region increasingly face major threats. Environmental stresses relating to the overexploitation of plant and animal species, destruction of wildlife habitats, oil-related pollution, climate change, and underdeveloped resource management frameworks, coupled with gaps in environmental awareness and education, contribute to progressive biodiversity loss across the region. These debates have assumed greater significance and urgency as the United Nations Sustainable Development Goals (SDGs) 12, 14, and 15 underscore the need for all countries to protect the environment and avoid the unsustainable use of biological resources.³ The devastating impacts of the COVID-19 pandemic have also accentuated calls for a more balanced relationship with nature and all elements of the ecosystem in order to reduce the rising scale of pandemics and zoonotic diseases in areas where they did not exist before. As MENA countries implement COVID-19 economic recovery plans, understanding the scope and application of extant biodiversity law and policy across the region, the gaps that remain, and

¹ Damilola Olawuyi, *Environmental Law in Arab States* (Oxford University Press 2022) 245–275.

² Ibid., see also UNESCO, “Arab States” UNESCO World Heritage Centre <https://whc.unesco.org/en/arabstates/> accessed January 13, 2023.

³ United Nations, *The 2030 Agenda for Sustainable Development: Transforming our World – The 2030 Agenda for Sustainable Development* [2015] A/RES/70/1 <https://sdgs.un.org/partnerships> accessed January 13, 2023.

innovative environmental law education approaches for addressing those gaps can help policymakers and stakeholders to plot a clearer path for systemic integration and reform.

Despite the rise in public awareness and policy formulation on biodiversity and nature conservation across the region, only a few MENA countries have developed clear and comprehensive legal and institutional frameworks that coherently address the emerging threats. Furthermore, biodiversity education is still at an alarming stage of infancy in the region. One key reason for the slow pace of the expansion of legal education on biodiversity, nature conservation, and the protection of cultural heritage in the region is the absence of an authoritative text that unpacks the nature and guiding principles of biodiversity law and policy in the region. For example, while there are several cutting-edge books on biodiversity law and policy in other world regions, the law, governance, cultural, and ethical dimensions of biodiversity and nature conservation in the MENA region have yet to receive a detailed, authoritative, and book-length exposition. This book fills a gap in this regard.

This book also introduces readers to the latest legislative developments on biodiversity, nature conservation, and the protection of cultural heritage in the MENA region. Through a mix of thematic and case study chapters, the book explores the applicable legislation and institutions as emerging innovative and bottom-up approaches to foster greater coherence in the implementation of biodiversity and nature conservation treaties across the region. The gaps that stifle the coherent implementation of biodiversity treaties, including issues of regulatory fragmentation, gender inequality, inadequate protection of land rights in biodiversity programs, insufficient stakeholder engagement, limited access to environmental information, and a lack of comprehensive domestic legislation, are unpacked across the book. The book also provides legal assessments and reflections on how MENA countries can advance existing national strategies and visions on access and benefit sharing, biodiversity financing, biodiversity entrepreneurship, biodiversity education, nature-based solutions, and restoration of natural ecosystems, among others, through clear and comprehensive legislation.

Overall, the book aims to enhance an understanding of the interrelationships between biodiversity, nature conservation, and the attainment of water, energy, and food security, as well as resilience to global disasters such as climate change and global pandemics. Second, it explores and appraises the laws, policies, and institutions that address biodiversity, nature conservation, and the protection of cultural heritage in the MENA region. Third, it aims to foster an understanding of the various legal, policy, and governance challenges that hinder a nexus and integrated implementation of biodiversity and nature conservation treaties at national and municipal levels in the MENA region. Finally, the book analyzes how decision-making and information sharing on biodiversity and nature conservation can be enhanced across diverse institutions and stakeholders, and how this can be simplified and integrated in practical terms, including through environmental education.

Preface and Acknowledgments

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In examining these issues, this book takes an international and comparative approach that benefits immensely from the cutting-edge research and professional and teaching experience of the editors and contributors from across the region and beyond. Furthermore, the book is prepared in a user-friendly style to enhance its utility among its primary audience, namely students, corporations, environment departments and ministries, law firms, courts, and arbitrators, notably international and regional committees and tribunals before whom arguments over biodiversity, access and benefit sharing, and resource management often come for resolution. The book analyzes the key roles that international institutions such as the United Nations Environment Program (UNEP), International Renewable Energy Agency, Global Environment Facility, World Trade Organization; regional institutions such as the League of Arab Nations, Gulf Cooperation Council, Asian Development Bank, African Development Bank; and national institutions such as ministries and departments, play in biodiversity, nature conservation, and the protection of cultural heritage in the MENA region.

It remains for us to register our profound gratitude to many helping hands, without whom the publication of this book would not have been possible. This book is the second book project of the Association of Environmental Law Lecturers in Middle East and North African Universities (ASSELLMU), a professional network of leading environmental law academics in the MENA region, which was established in 2018. The book was conceived at the 4th ASSELLMU Conference held at the University of Jordan, February 27–28, 2023. Special thanks to the President of the University of Jordan, Dr. Nathir Obeidat, as well as Dr. Omar Khataibeh, Dr. Ghufra Hilal, and everyone at the University of Jordan for their exceptional contributions to the success of that conference. Thanks are also due to Dean Susan L. Karamanian of the College of Law, Hamad Bin Khalifa University (HBKU) for her exceptional and steadfast support for ASSELLMU's events and activities. We must especially acknowledge UNEP and SADER Legal Publishing for their timely research funding and support without which this book, as well as all other ASSELLMU initiatives and programs, would not have been possible. We are deeply grateful to Professor Patricia Mbote and Aphrodite Smagadi at UNEP for their support and contributions to the success of this book. We also appreciate the UNESCO Chair on Environmental Law and Sustainable Development at HBKU; the Research Laboratory on Business Law of Hassan 1st University, Settat, Morocco; the Jordanian Society for Climate and Sustainable Development; the Institute for Oil, Gas, Energy, Environment and Sustainable Development at Afe Babalola University, Ado Ekiti, Nigeria; and the Rule of Law Programme Middle East and North Africa, Konrad-Adenauer-Stiftung, for their technical cooperation and partnership for the conference and the eventual publication of this book.

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This book has endeavored to state the position of the law as of March 2024, although authors have been able to take into account subsequent developments in a few instances.

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Abbreviations

AAOIFI	Accounting and Auditing Organization for Islamic Financial Institutions
ABS	Access and Benefit-Sharing
ACCOBAMS	Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea and contiguous Atlantic area
AEWA	Agreement on the Conservation of African-Eurasian Migratory Waterbirds
AFED	Arab Forum for Environment and Development
ALESCO	Arab League Educational, Cultural and Scientific Organization
AR ₃ T	Avoid, Reduce, Restore and Regenerate, Transform
ASELLMU	Association of Environmental Law Lecturers in Middle East and North African Universities
CBD	Convention on Biological Diversity
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
CMS	Convention on the Conservation of Migratory Species of Wild Animals
CNR	Chah Nimeh Reservoir
COP	Conference of the Parties
DSI	digital sequence information
EIA	environmental impact assessment
ESD	Education for Sustainable Development
ESG	environmental, social, and governance
FAO	Food and Agriculture Organization
GAP	Güneydoğu Anadolu Projesi
GBF	Global Biodiversity Framework
GBO ₅	Fifth Global Biodiversity Outlook
GCC	Gulf Cooperation Council
HRBA	human rights-based approach
IB	Islamic banking

ICJ	International Court of Justice
IEL	International Environmental Law
IFI	Islamic financial institution
ILCs	indigenous and local communities
IMF	International Monetary Fund
IPBES	Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Service
IsDB	Islamic Development Bank
ISIS	Islamic State of Iraq and Syria
IUCN	International Union for Conservation of Nature
KBA	key biodiversity area
LAS	League of Arab States
MAT	mutually agreed terms
MCC	Millennium Challenge Corporation
MD	ministerial decision
MEA	multilateral environmental agreements
MENA	Middle East and North Africa
MPA	marine protected area
MPA-F	fishing-oriented MPA
MSP	multistakeholder participation
NBS	nature-based solutions
NBSAP	National Biodiversity Strategy and Action Plan
NB-SMEE	nature-based small and medium eco-enterprise
NDC	nationally determined contributions
NGO	nongovernmental organization
OECD	Organisation for Economic Co-operation and Development
OIC	Organization of Islamic Cooperation
OUV	Outstanding Universal Value
PDAP	Master Plan for Protected Areas
PES	Payment for Ecosystem Services
PIC	prior informed consent
PRTRs	Protocol on Pollutant Release and Transfer Registers
SDGs	Sustainable Development Goals
SIBE	Sites of Biological and Ecological Interest
SLE	substantive legal effectiveness
SMEs	small and medium-sized enterprises
SP	state party
SPAMI	Specially Protected Areas of Mediterranean Importance
SRI	sustainable and responsible investments
SWF	sovereign wealth fund
TTT	Train-the-Trainers
TWP	Tropical Water Project

List of Abbreviations

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UAE	United Arab Emirates
UNCCD	United Nations Convention to Combat Desertification
UNDP	United Nations Development Programme
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UNEA	United Nations Environment Assembly
UNECE	United Nations Economic Commission for Europe
UNEP	United Nations Environment Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNFCCC	United Nations Framework Convention on Climate Change
UNGA	United Nations General Assembly
WH	World Heritage
WHC	World Heritage Convention
WHO	World Health Organization