

Moving towards a Green Judiciary

*a course in environment for the
district judiciary*

By

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- Our everyday life is affected by climate change, global warming, solid waste disposal, urban sprawl, land degradation, soil erosion, water scarcity, water pollution, air pollution, poor water supply and sanitation, etc.
- These environmental issues require regulation and more than that *“sustainable and innovative environmental justice.”*



- These matters come before the district judiciary wrapped in different laws and mostly not articulated as environmental issues. This course will help the district judiciary identify the environmental issues and then provide sustainable solutions.
- The *primary objective* of the course is to understand that environment is not an *inter party* local issue- it has a larger canvass and its effects can be across communities.



THEMES

- The first theme deals with the ecological history of the world.
- How humans have appropriated the resources of the Earth, the collapse of earlier civilizations and to provide an historical understanding of the current global environmental issues.
- It travels further to deal with state of the planet Earth and its resources as they stand today. Are these resources being used sustainably ?
- Introduction to Environmental science - to fully understand the environmental issue and be able to suggest a solution.



THEMES

- The second theme is to understand the evolution and foundations of regulation leading to present day environmental law and policy.
- It is here that the multidisciplinary nature of environment law comes out at its best. Economic, political, ethical and scientific foundations of regulation are discussed.
- The development of international environmental law and policy starting from Stockholm to Rio and beyond come under discussion. Key international environmental principles are debated and discussed.



THEMES

- The next theme is Pakistan specific.
- After mapping and learning about the rich biodiversity and resources of Pakistan and its key environmental threats and problems, the regulatory regime and its institutional design needs to be carefully studied.
- First, to analytically review the quality of environmental legislation to see whether it is only based on “command and control” strategy or does it also provide for preservation and conservation. Several alternate and innovative ways to regulate pollution come under discussion. (contd.)



THEMES

- Second, to identify the gaps and flaws in enforcement.
- It also considers in detail the working of environmental justice. The Environmental Tribunal and the constitutional remedy of Public Interest Litigation is discussed and compared with other private remedies under common law and other enactments.



THEMES

- The last theme, which runs through the entire course is its specialized and clinical component.
- To identify special areas which have a direct bearing on Pakistan and can be clinically explored by the judges through field trips, projects, green activities and if possible to interact with the environmental bureaucracy of the country to assess the practical problems with the enforceability of he law.
- In the process, fingers crossed, it might also turn you “**GREEN**,” which will perhaps be the greatest achievement of this course.



Course Outline

Environment, Human History & Development- a walk through
the Green History of the world.

- To understand the relationship of mankind, ecology and human development. How mankind altered the ecological footprint of our planet and what does the increasing pollution and insatiable human consumption hold for the future. Study of earlier civilizations and the reasons for their extinction. How environment was viewed in history by religions, cultures, economics and politics.



Course Outline

Earth today with special emphasis on the rich biodiversity of Pakistan and its environmental issues

- In our contemporary context, Earth, its current resources and the use of resources by mankind need to be clearly pictured and absorbed. The beauty of the planet as it stands today needs to be felt and the current human appropriation has to be mapped and analyzed. Human use or over-use of resources (development) and the diminishing resources form the central debate for any environmental law and policy course. (Contd.)



Course Outline

- Areas like population and resources, energy use and efficiency, industry and commerce, human settlements, farms and rangelands, forests and woodlands, freshwater systems, oceans and air and atmosphere need to be reviewed in this larger context of development and conservation.



Course Outline

Environmental Science-understanding science behind nature and ecosystems

- Introduces the participants to environmental science. Environmental science is the study of interactions among physical, chemical, and biological components of the environment. An environmental scientist will walk the judges behind environmental systems.



Course Outline

Need for environmental regulation- sources of environmental law

- How multidisciplinary forces driven by economics, ethics and science generated a need for environmental regulation. Discussion on the history of international environmental policy making and the sources of law including important judicial decisions.



Course Outline

Principles of environmental law

- International Environmental Law is heavily influenced by a collection of principles. Some of these principles include: sovereignty of states over natural resources and responsibility not to cause damage to the environment of other states; precautionary principle; polluter pays principle; principle of sustainable development; common but differentiated responsibilities; principle of co-operation; requirement to conduct a comprehensive environmental impact assessment; and public participation principle.



Course Outline

Environmental Regulation in Pakistan - law and policy framework

- Understanding of the domestic environmental law, rules and policies. Assessing the nature of environmental law in Pakistan e.g., preventive or reactive. Understanding of the institutional design under the laws.



Course Outline

Environmental Justice in Pakistan

- This session discusses in detail the remedial framework. The administrative and judicial enforcement of the law. How do laws address environmental pollution control or environmental violation ? What is the level of enforcement at the administrative level (EPA or EPD). How effective is the Environment Protection Order. The expertise and results of the Environmental Tribunal. How does Public Interest Litigation work and why are constitutional remedies more popular than the statutory environmental remedies. How useful are the environmental safeguards built in other laws e.g., building regulations or corporate governance, etc.
- Issues of standing, access to information, questions of evidence, criminal liability. Rights of non human members of the ecosystem- “do Trees Have rights”



Special Themes

Climate Change and Global Warming

- Climate change is said to be the greatest environmental challenge facing the world today. According to a large number of experts, people living in poverty would be worst affected by the effects of climate change, while these are also the people least equipped to deal with this crisis. This examines The Framework Convention on Climate Change and the Kyoto Protocol to understand how the world community is trying to solve the issue of global warming, what various innovative mechanisms have been introduced in these agreements for their success and what their practical downsides may be.



Special Themes

Urban Planning and Development

- Highlights the incredible inequalities and adverse environmental effects perpetuated by the present urban development framework.



Special Themes

Water Resource Management and Water pollution with special emphasis on urban Water Supply, Sanitation and Solid Waste Disposal

- An overview of the water resource management covering agriculture, Industry, household and environment. Present status and the road ahead e.g. improved technologies and agricultural practices. Co-relationship of pollution and water and the best practices to be adopted. Special inputs on urban water supply, sanitation and solid waste disposal and its nexus with water resource management.



Special Themes

Biodiversity of Pakistan, Issues, Gaps & Solutions

- Examination of international obligations and concessions available in the Multilateral Environmental Agreements emphasizing on CBD. Examination of national laws with specific focus on the rights of local communities in that specific resource; role of local communities in the management of forests, wildlife and fisheries and Subsistence concerns/sustainable development of local communities.



Special Themes

Energy

- Sources of energy, issues in energy and the sustainable policies and action required to conserve energy for the future.



Special Themes

Environment Impact Assessment

- Environmental impact assessments emerged internationally after the 1972 Stockholm Conference and are now an established international and domestic legal technique for integrating environmental considerations into socio-economic development and decision making processes. This session will look at the concept and mechanisms employed to carry out an environmental impact assessment and determine how crucial an EIA may be for achieving sustainable development.



Special Themes

Trade, WTO and Environment

- Examination and merit of trade measures in International Environmental Agreements. Scope of unilateral environmental measures and international trade. Examination of the jurisprudence of the new WTO Appellate Body where it has significantly expanded the potential for the “environmental exceptions” available under Article XX of the GATT with specific emphasis on shrimp turtle case (1998 & 2001).



Methodology

- Lectures (preferably by a dedicated faculty)
- Talks by speakers/experts.
- Field trips - to visit the garbage dumps, water supply and sanitation pumping stations, botanical garden, the Lahore High Court and Environmental Tribunal.
- Projects e.g. conduct environmental audit of their court- garbage disposal, energy consumption, use of paper, development of green spaces, planting trees.
- Change in lifestyle - a judge must be green in his personal life and be a role model.



- GOOD LUCK !!

