

Recommendations from Thematic Session 1: Environmental Law and Policy

Chair: Justice Mian Shakirullah Jan¹

Co-Chair: Justice Yahya Afridi²

This conference, The South Asia Conference on Environmental Justice, is an important event as the name itself signifies it. And particularly when the judiciary of Pakistan right from the judges of district judiciary up to High Court and Supreme Court, member of the bars and also respected guests from the judiciary abroad and also from different walks of life, but it has become a high valued conference when the honourable Chief Justice of Pakistan Iftikhar Mohammad Chaudhry has honoured this conference with his presence right from the inaugural session/opening session till its concluding session which is being held today.

After the inaugural session the concurrent thematic sessions were held which were chaired and co-chaired by the judges of superior judiciary. Thematic first session was for “Environmental Law and Policy”, the second session was for “Environmental Adjudication” and the third session was for “Environmental Education and Capacity Building”.

The session which I presided was for the “Environmental Law and Policy”. The total duration of this session was 3 hours and 45 minutes (i.e., 225 minutes). It’s (time) mentioned because of as the time has been divided in minutes for different components of the session.

There were five worthy speakers who were to make presentations.

Dr. Parvez Hassan: A very well-known name on the subject, environmental regime and I may not be wrong if I say that he has rather devoted his life to this important area dealing with all environmental issues effecting life in general and biodiversity. He made presentation on the important aspects of the subject “Regionalizing Environmental Protection in the SAARC Region: The Way Forward” and enlightened the participants about the future progress starting from the initiative some years back when this regime was unknown or lacking attention of the world.

The second speaker was Mr. Zahid Hamid, Advocate Supreme Court of Pakistan/MNA who was also the Federal Minister for Law a few years back. He spoke on the “Constitution and Environmental Law: Recent Development”. He threw light on the development of the environmental law in Pakistan till the latest position in view of the 18th amendment of the constitution of 1973 doing away with the concurrent legislative list and leading to a situation of uncertainty from the legal perspective and invoked the attention of the concerned authorities to meet the situation.

Our third speaker Mr. Ritwick Dutta, Environmental Lawyer from Legal Initiative for Forest and Environment, India spoke on the “Making Environmental Impact Assessments (EIA)

¹ Judge, Supreme Court of Pakistan.

² Judge, Peshawar High Court, Pakistan

More Effective". He gave an exhaustive overview on the topic giving examples from his own country, the India, that how to make system more effective.

Mr. Justice Yahya Afridi performed dual duties in the session. On the one side he is the co-chair, while on the other side he made an expressive presentation through power point on the "Implementation of Forest Laws".

Mr. Justice Riaz Ahmed Khan, Judge Islamabad High Court has spoken on the "Environmental Law Enforcement in the Islamabad Capital Territory". He spoke about the city which is having a tower from which power emanates and having a centre of legislation but lacking the exercise of power and the legislation of law qua this beautiful city highlighting the need for more effective enforcement of the existing laws.

Mr. Justice Zamin Ali Behsudi; Head, Commercial Bureau, Supreme Court of Afghanistan has given overview about the environmental law in Afghanistan.

The time was so divided that not only the speakers to speak on the subject but to have the sharing of experience of our worthy guests/participants for one hour.

At the conclusion the recommendations were formulated, which are:

1. Right to "Clean Environment" be expressly inserted as a fundamental right in the Constitution of Pakistan.
2. A SAARC Judges initiative: To form an interactive body to regularly meet to discuss and resolve environmental issues faced by the region.
3. SAARC Environmental Bar Association to be established enabling appearance of bar in cases relating to environmental trans-boundary disputes with permission of their respective host bar.
4. Establishment of a regional commission to address environmental trans-boundary issues after availing local remedies.
5. Initiative should be taken to enter SAARC cooperation for biodiversity conservation.
6. Rules be framed for registering qualified consultants for EIAs.
7. EIAs should be comprehensive and also take into account cumulative impact.
8. Training and capacity building of forest force, staff, magistrates and prosecutors.
9. Environmental Awareness in the youth through the curriculum and media.
10. Chairperson of the environmental protection council should be a full time duly qualified person.
11. Full time environmental magistrates should be appointed who should also be empowered as forest magistrates.
12. Uniform Environmental Quality Standards for air, water, land, soil and noise.
13. Director General of respective environmental agencies be authorized in special cases to seal the projects emitting or discharging hazardous pollutants/effluents.
14. Alternative sources of energy be provided to local communities dependent on forests.