

FUNDAMENTAL ENVIRONMENTAL LAW COURSE

Background

Under TA-7735,¹ a South Asian Conference on Environmental Justice was held in Bhurban², Pakistan. The conference focused on three thematic sessions, Environmental law and policy, Environmental Adjudication and Environmental Education and Capacity Building. The conference concluded with passing of a declaration, which recommended for capacity building of the Judiciary in environmental laws. It was suggested that environmental law training to judges through judicial academies should be offered and such training should also be extended to prosecutors and other lawyers being members of the bar.

As a next step under the TA, the national consultant for environmental law carried out a need assessment for training of judges and lawyers. The purpose of said training was to understand the existing level of awareness and understanding of Environmental Laws of the judges and lawyers in Pakistan and to come up with appropriate recommendations to bridge this gap.

The recommendation, which were formulated under the need assessment, included that all the judicial academies of Pakistan to include Environmental law as a mandatory subject in all training programs. Further, there was a need to develop an over arching course outline on Environmental laws for basic understanding of the subject based on law, precedents, principles, issues and practical aspects.

In addition to fundamental course it was also noted that each area/province has its own unique environmental issues in addition to the common ones. Along with the fundamental course there is a need to develop specialized courses for a particular issues for example a course on sustainable forest management, a course on coastal area issues and so on.

In perusal of the above recommendations, the national Consultant has prepared two sets of courses namely Fundamental Environmental Law Course and Thematic Environmental Law Courses. At present it is proposed that as an initial step the fundamental course³ introduced at all the judicial academies. Details of the course are hereunder:

Session I. Introduction to the Concept of “Environment” and Why Do We Need to Protect It (30 minutes)

Environment is a sum total of water, air and land interrelationships among themselves and also with the human beings, other living organisms and property. It includes all the physical and biological surrounding and their interactions. What do we understand by the term “environment”? What are the various harms that can be done to the environment and Humans?

¹ Building Capacity for Environmental Prosecution, Adjudication, Dispute Resolution, Compliance, and Enforcement in Asia

² 24-25 March, 2012

³ Of 4 hours and 15 min.

Why do we need to protect our environment? How the Environmental Law developed historically?

Suggested Readings

International

- Stockholm Declaration, 1972
- Rio Declaration, 1992

National/Provincial

- Dictionary meaning of environment, ecology, ecosystems,
- Preamble; Section 2 (i), (iii), (iv), (vii), (x) of Punjab Environment Protection Act, 1997 (PEPA)
- Relevant Provisions of the Punjab Environment Protection Act, 1997
- Relevant Provisions of The Baluchistan Environment Protection Act, 2012
- Relevant Provisions of The Khyber Pakhtunkhwa Environment Protection Act, 2014
- Relevant Provisions of The Sindh Environment Protection Act, 2014

Further Readings

- Environmental Issues and Impacts World Bank Report
<http://siteresources.worldbank.org/SOUTHASIAEXT/Resources/Publications/448813-1188777211460/pakceach2.pdf>
- Major Climate Change Related Concerns and Vulnerabilities of Pakistan
<http://www.gcisc.org/pak-gcisc.aspx>
- WHO on environment and health
<http://www.who.int/phe/publications/en/>
- Environment poverty nexus- Ministry of Finance
http://www.finance.gov.pk/survey/chapter_10/15_Environment.pdf
- Environmental Issues of Pakistan
<http://envirocivil.com/environment/top-10-environmental-issues-in-pakistan/>
- Environment Problems in Pakistan and their Effects on Human Life
<http://ihelpf9.com/environmental-problems-in-pakistan-and-its-effect-on-human-life>

Session II. Principles of Environmental Laws (60 minutes)

Different principles have evolved in the field of environmental law overtime that can be helpful for resolving environmental issues. Some most important of these principles include **precautionary principle; polluter pays principle; principle of sustainable development; and public trust doctrine.**

Suggested Readings

International

- Principle 1; 13 of Stockholm Declaration
<http://www.asiapacificforum.net/support/issues/acj/references/right-to-environment/downloads/additional-background-material/Stockholm.pdf/view>
- Principle 3; 4; 15 & 16 of Rio Declaration
<http://www.asiapacificforum.net/support/issues/acj/references/right-to-environment/downloads/additional-background-material/Rio.pdf/view>
- Preamble of the Vienna Convention for the Protection of the Ozone Layer, 1985
- Preamble of Montreal Protocol, 1987
- 1992 Biodiversity Convention- Artls. Preamble; 1; 6 (b);15(7)
- 1992 UNFCCC- Artls. Preamble; 3 (1); 4
- 2002 World Summit on Sustainable Development Johannesburg Declaration

National/ Provincial

- PEPA- Ss. Preamble; 2 (xlii); 9; 10; 11 (2);16
- Relevant Provisions of the Punjab Environment Protection Act, 1997
- Relevant Provisions of The Baluchistan Environment Protection Act, 2012
- The Khyber Pakhtunkhawa Environment Protection Act, 2014
- The Sindh Environment Protection Act, 2014

Further Readings

- <http://www.iisd.org/sd/>
- http://www.sdpi.org/research_programme/researchprogram12.html
- <http://www.economicshelp.org/blog/6955/economics/polluter-pays-principle-ppp/>

Case Law

- *Ms. Imrana Tiwana and Others vs. Province Of Punjab And Others*, (Signal Free Project Case) **PLD 2015 Lahore 522 / 2015 SCMR 1739**
- *Young Doctors Association vs. Government of Pakistan*, **PLD 2015 Lah 112 .**
- *Cutting of Trees for Canal Widening Project, Lahore*, **2011 SCMR 1743**
- *Shehri C.B.E. vs. Govt of Pakistan and others*, **2007 CLD 783**
- *Sindh Institute of Urology and Transplantation & others vs. Nestle Milkpak Ltd & others* **2005 CLC 424**
- *Shehla Zia & others vs. WAPDA*, **PLD 1994 SC 693**
- *General Secretary, west Pakistan Salt Mines Labour Union (CBA) Khewra, Jehlum vs. The Director Industries & Mineral Development, Punjab, Lahore*, **1994 SCMR 2061**

Cases at International Level

- *Indian Council for Enviro Legal Action vs. Union of India*, **AIR 1996 SC 1446 (India)**
- *Oleum gas leak case*, **Writ Petition Civil no. 12739 of 1985**
- *Vellore Citizens Welfare Forum vs. Union of India*, **AIR 1996 SC 2715**

- *Danielsson v. Commission*, Case **T-219/95 R**, [1996] ECR II-3051(French Nuclear tests)
- *Leatch v National Parks and Wildlife Service and Shoalhaven City Council* (1993) **81 LGERA 270 at 281-285** Stein J of Land and Environment Court.
- *Gabcikovo – Nagymaros Case* **1997 at the International Court of Justice**
- The Permanent Court of Arbitration reaffirmed this reasoning in its Arbitral Award for the Arbitration Regarding the Iron Rhine ("Ijzeren Rijn") Railway (**Belgium v. Netherlands**) (May 24, 2005).

Books/Articles

- **Sands** Philippe. Principles of International Environmental Law: Cambridge University Press, 2003, pgs 252-281
- **Birnie & Boyle**. International Law & the Environment: Oxford University Press, 2008, pgs. 106- 164
- **De Sadeleer** Environmental Principles, From Political Slogans to Legal Rules, Oxford University Press, 2002

Session III. Environmental Laws Applicable in Pakistan (90 minutes)

In Pakistan, there are two branches of Laws that are important for the protection of environment namely **conservation laws and pollution control laws**. This session will critically examine the development of these two sets of laws in the country.

Suggested Readings

Policies

- National Forest Policy, 2015
- Frame Work for Implementation of Climate Change Policy, 2014-2030
- Climate Change Policy, 2012
- National Drinking Water Policy, 2009
- Punjab Urban Water Supply and Sanitation Policy, 2005
- National Environmental Policy, 2005
- Deep Sea Fishing Policy 2001
- The Pakistan National Conservation Strategy 1992

Pollution Control Laws

- PEPA, 1997- sections 2, 11,13,14,15,16,17
- Relevant Provisions of the Punjab Environment Protection Act, 1997
- Relevant Provisions of The Baluchistan Environment Protection Act, 2012
- Relevant Provisions of The Khyber Pakhtunkhawa Environment Protection Act, 2014
- Relevant Provisions of The Sindh Environment Protection Act, 2014
- Local government laws- Relevant provisions in each province
- Factories Act, 1927- section 14

- PPC, 1908-sections 268, 269, 270, 277, 278, 284-286, 290, 291, 428, 429, 430, 431, 511
- Cr.Pc, 1989- section133
- The Police Act, 1860- sections 30,34
- The Motor vehicle ordinance, 1965- section 74
- Canal and Drainage Act, 1873- Part-X
- Sindh Irrigation Act, 1879
- Provincial Irrigation and Drainage Authority Acts,1997
- The Agricultural Pesticides Ordinance, 1971- sections 21, 21-A
- The Agricultural Pesticides Rules,1973
- The Punjab Soil Reclamation Act, 1952- sections 9,63,65
- Forest Act, 1927- sections 26(1)(i), 33,chapter IX, 77
- The N.W.F.P Forest Ordinance, 2002
- The Hazara Forest Act, 1936
- Provincial Wild-life Laws
- The Fisheries Act, 1897- section 7
- The Punjab Fisheries Ordinance, 1961
- The Exclusive Fishery Zone (Regulation of Fishing Act), 1975-section 9
- Territorial Water and marine-time Zone Act, 1976-sections 10,11
- National Environmental Quality Standards
- Pollution Charge for Industry (Calculation and Collection) Rules, 2001
- The Hospital Waste Management Rules, 2005
- Solid Waste Rules and By-laws
- The Punjab Epidemic Diseases Act,1958

Conservation Laws

- PEPA, 1997
- Relevant Provisions of the Punjab Environment Protection Act, 1997
- Relevant Provisions of The Baluchistan Environment Protection Act, 2012
- Relevant Provisions of The Khyber Pakhtunkhawa Environment Protection Act, 2014
- Relevant Provisions of The Sindh Environment Protection Act, 2014
- The Forests Act, 1927
- The N.W.F.P Forest Ordinance, 2002
- The Cutting of Trees (Prohibition) Act, 1992- section 3
- The Hazara District Protected Forest Rules, 1973
- The Pakistan Plant Quarantine Act, 1976- section 3
- The Sindh Plantation, Maintenance of Trees and Public Parks Ordinance, 2002
- Provincial Wildlife Laws
- The Wild Birds and Animals Protection Act, 1912- section 3
- The Elephants` Preservation Act, 1879- sections 3, 5, 7
- Exclusive Fishery Zone Act, 1975
- Territorial Waters and Maritime Zones Act 1976- section 5(2)(d), 14
- The Pakistan Animal Quarantine (Import and Export of Animals and Animal Products) Ordinance, 1979- sections 3, 4, 5 and Rules, 1980
- The Canal and Drainage Act, 1873

- Sindh Irrigation Act, 1879
- Provincial Irrigation and drainage Authority Acts
- Baluchistan groundwater rights administration ordinance, 1978
- The North-West Frontier Province Rivers Protection Ordinance, 2002
- Development Authority Laws
- Local Government Laws
- Section.4 The Islamabad (Preservation of Landscape) Ordinance, 1966
- Disposal of Land Regulations, 1998
- Sec.5,6 of The Pakistan Nuclear Safety and Radiation Protection (Treatment of Food by Ionizing Radiation) Regulations, 1996
- The Balochistan (Wildlife Protection, Preservation, Conservation and Management) Act, 2014

Suggested Readings

- <http://www.scribd.com/doc/187219917/Development-of-Environmental-Laws-and-Jurisprudence-in-Pakistan>

Session IV. Administrative & Judicial Structure for the Protection of the Environment (45 minutes)

Examination of the administrative & regulatory structure responsible for the implementation of various laws dealing with and related to the environmental protection. The powers of High Courts under Article 199 to look into environmental cases and the legality of environmental Tribunal created under PEPA and other Provincial Acts.

Suggested Readings

- Constitution, 1973- Arts: 129; 137; 138; 139; 140A; 142 (a), (b); 199 (1) (a) & (c) & (5); 183 (4); 189; and 201; 175; 212
- PEPA, 1997- 2(xii); 2(xiii), 2(xvi); 2(xvii); 2(xxv); 2(xxvii); 2(xxxvii); 3 - 8, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25,26,27, 31-33
- Relevant Provisions of the Punjab Environment Protection Act, 1997
- Relevant Provisions of The Baluchistan Environment Protection Act, 2012
- Relevant Provisions of The Khyber Pakhtunkhawa Environment Protection Act, 2014
- Relevant Provisions of The Sindh Environment Protection Act, 2014
- The Environment Tribunal Rules, 1999
- Local Government Act of all provinces
- Section .2(2),3,8,22,25,27,32,33-A, Chapter-XI ,XII of The Forest Act,1927
- The Pakistan Environmental Protection Agency Review of Initial Environment Examination and Environment Impact Assessment Regulations,2000-regulation no.22
- Section. 3,4,15,16,29,30,31,32,33,37-41 of The Islamabad Wildlife (Protection, Preservation, Conservation and Management)Ordinance,1979
- Rule 3,4,22 of The Islamabad Wildlife (Protection, Preservation, Conservation and Management)Rules,1983

- section 3-625,26,30-46 of Punjab Wildlife Act, 1974
- The Baluchistan Wildlife Protection Act, 1974 – section. 3,4,22,23,27,28,31,32,33-41
- The North-West Frontier Province Wild-life Act,1975- Section.3,4,524,25,30-43
- The North-West Frontier Province forest Ordinance, 2002-section. 4,7,8,13,17,22,25-27,29-34,40,52-54,58-60,68,73,74-78,89,94,105,108,109,115
- The North-West Frontier Province Protection of Trees and Brushwood Act,1949- Section.3
- The North-West Frontier Province Forestry Commission Act, 1999-Section.3-11
- The Sindh Wildlife Protection Ordinance, 2002- Section.3,4,21,22,27-29,31,33-41
- The Sindh Wildlife Protection Rules,1972- Rule.3,5-8
- The North-West Frontier Province Rivers Protection Ordinance,2002- Section.8,9,10
- The Punjab Fisheries Ordinance, 1961- Section. 3,4,11,13,14,16,23,24,25,26 of The Punjab Fisheries Ordinance,1961
- Baluchistan Irrigation and Drainage Authority Act, 1997-section. 3-8,14,17,21,27-33
- The canal and Drainage Act,1873- Section.4,4-A,6,14,15,27,51,52,55,56,58,64,65-69,73
- Hospital Waste Management Rules,2005- Rule.3-14,24
- The Pakistan Bio-Safety Rules,2005-Rule.4-10

Case Law

- *Ms. Imrana Tiwana and Others vs. Province Of Punjab And Others*, (**Signal Free Project Case**) **PLD 2015 Lahore 522 / 2015 SCMR 1739**
- *Sarfraz Khan vs. Province of Sindh through Secretary Ministry of Environment*, **2010 CLD 1507 (Environmental Protection Tribunal Karachi)**
- *Nighat Jamal vs. Province of Sindh*, **2010 YLR 2624**
- *Shehri C.B.E vs. Govt. of Pakistan*, **2007 PLD 293 Kar**
- *Shaheen Welfare Society vs. Environment Protection Agency*, **2005 CLD 1267**
- *Haji Fareed Khan vs. Mamon-Ur-Rasheed Khan & others*, **2003 MLD 1176**
- *Shehla Zia & others vs. WAPDA*, **PLD 1994 SC 693**

Session V. Environmental Impact Assessment (EIA) (30 minutes)

Environmental impact assessment emerged in the 1970s and now is an established international and domestic legal technique for integrating environmental considerations into socio-economic development and decision-making process.

Suggested Readings

International

- 1972 Stockholm Declaration- principles 14 & 15
- 1992 Rio Declaration- principle 17

National/Provincial

- PEPA- Ss. 2 (xi) (xxiv); (xxx) (xxxiv) (xxxv) (xxxvi) (xxxviii); 12; 26; 31; 33

- Relevant Provisions of the Punjab Environment Protection Act, 1997
- Relevant Provisions of The Baluchistan Environment Protection Act, 2012
- Relevant Provisions of The Khyber Pakhtunkhawa Environment Protection Act, 2014
- Relevant Provisions of The Sindh Environment Protection Act, 2014
- Pakistan Environmental Protection Agency (Review of IEA/EIA) regulations, 2000
- Pak EPA, Regulations and GOP, Pak EPA, Environmental Assessment Procedures, 1997.
- Government of Pakistan (GOP), Pak EPA, guidelines for public participation.
- GOP, Pak EPA, sectorial guidelines.
- Guidelines for Filling & Review of an EIA
- Section.1 of The British Environmental Protection Act, 1990
- Article.2 of convention on civil liability for Damage Resulting from Activities Dangerous to the Environment, 1993
- Glossary of Environment Statistics, Studies in Methods, Series F, No. 67, United Nations, New York, 1997.
- Draft Chapter on EIA: Legal Requirements and Guidelines—A Critique (2013) by Saima Amin Khawaja And Nusrat Jahan Nabeela

Further Readings

- http://www.eiatoolkit.ewt.org.za/players/min_requirements.html
- http://www.unescap.org/drpad/vc/orientation/m8_1.htm
- https://consultations.rics.org/consult.ti/environ_impact/view?objectId=885812

Case Law

- *Standard Chartered Bank Limited vs. Karachi Municipal Corporation*, **2015 YLR 1303 Kar.**
- *Ms. Imrana Tiwana and Others vs. Province Of Punjab And Others*, (**Signal Free Project Case**) **PLD 2015 Lahore 522 / 2015 SCMR 1739**
- *Pakistan Defence Officers Housing Authority vs. Federation of Pakistan*, **2014 CLD 1279 Kar.**
- *Pakistan Defence Officers Housing Authority vs. Federation of Pakistan*, **PLD 2014 Kar 511.**
- *Salim Godil vs. Province of Sindh through Secretary*, **2014 CLD 222**
- *Messers Rabiya Associates through Proprietor Versus Messers Zong (China Mobile)* **PLD 2011 Karachi 132**
- *Raheel Majeed Versus DG-EPA- 2011 CLD 1232 (Environmental Tribunal, Lahore)*
- *Lafarge Pakistan Cement Company Ltd.- complainant Versus DG-EPA- 2011 CLD 1295 (Environmental Tribunal Lahore)*
- *Sindh Particle Board Mills Limited through Company Secretary- Appellant Versus Environmental Protection Agency through Director-General- Respondent. 2011 CLD 1271 (Environmental Tribunal, Karachi)*
- *Canal Widening Project Case, 2007 CLD 533 / 2011 SCMR 1743/ C.M.A no.3221/2012 in S.M.C no. 25/2009 and Criminal Original Petition no. 96/2014*
- *Nighat Jamal vs. Province of Sindh and others 2010 YLR 2624 (Karachi)*

- *Naseem Ahmed Mughal, Director General vs. Jabir Hussain Dada and others* **2010 CLD 738 Karachi**
- *Sheri –C.B.E Versus Sindh Environmental Protection Agency* **2010 CLD 859**
- *Ms. Salma Iqbal Chundrigar Versus Federation of Pakistan through Secretary, Ministry of Environmental Protection, Islamabad* **2009 CLD 682 Kar**
- *Sumaira Awan vs. Govt of Pakistan & others*, **2008 CLD 1185**
- *Farooq Hamid and others- Petitioners vs. L.D.A and others- Respondents.* **2008 SCMR 468**
- *Shehri C.B.E vs. Govt. of Pakistan*, **2007 PLD 293 Kar.**
- *Shehri C.B.E. vs. Govt. of Pakistan and others*, **2007 CLD 783**
- *Muhammad Tariq Abbasi & others vs. Defence Housing Authority & others*, **2007 CLC 1358**
- *Amer Bakht Azam*, **2007 CLC 374**
- *Dongi Ground case*, **2006 SCMR 1202**

International Cases

- Gabcikovo-Nagymaros (Hungary/Slovakia) (1997)
- Nuclear Tests (New Zealand vs. France) (Interim Protection) (1973)