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EXPLORING JUDICIAL ACTIVISM IN PAKISTAN: A REVIEW OF KEY PRECEDENTS IN ADVANCING ENVIRONMENTAL SUSTAINABILITY

Muhammad Saad Saleem¹, Aqsa Tasgheer², and Tehreem Fatima³

Abstract: Within the context of ecological conservation, the function of the judiciary has become increasingly significant as a powerful institution. The ever-changing terrain of judicial activism in Pakistan is a debatable matter, with a particular emphasis on its role in promoting the preservation of the environment. This paper investigates the role of Pakistani courts as protectors of the environment and their influence on policy settings and advancements toward sustainability, by analysing certain relevant case laws. This study investigates the actions and judgments made by tribunals and courts, as well as their subsequent impacts on practices and laws related to the preservation security, and sustainable growth of the environment. The selected legal cases cover a wide range of ecological concerns, enabling a comprehensive examination of the impact of legal activism on areas such as waste oversight, resource administration, and protection endeavours. This analysis examines many issues that could impede the effectiveness of judicial activism, such as limitations in resources, gaps in execution, and possible disputes between the goals of ecological protection and financial constraints. This essay aims to offer a comprehensive examination of the intricate relationship among the legal system, ecological problems, and the endeavour for stability. This paper will add to the ongoing conversation on the influence of judicial activism in defining ecologically conscious notions in Pakistan by synthesizing the outcomes of

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significant cases. This statement highlights the significance of an active court in supplementing the endeavours of both the executive and legislative branches, thereby cultivating a mutually beneficial association between legal principles and the environment. In essence, this investigation provides a basis for future discourse regarding the potential for statutes and judicial rulings to more effectively harmonize with sustainable development objectives, all while negotiating the intricate landscape of ecological problems in Pakistan.

Keywords: *Judicial Activism, Law Enforcement, Sustainable Development, Pakistan, Case Laws.*

INTRODUCTION

In a time characterized by critical environmental problems and a focus on equitable growth objectives, the position of the judiciary has become crucial in navigating states toward achieving a sustainable environment. Judicial activism, distinguished by its proactively approach to interpreting and enforcing laws, extends beyond the traditional role of arbitration and serves as an inspiration for societal transformation and the advancement of reforming policies. This essay explores the complex relationship between legal activism, safeguarding the environment, and equitable growth in the particular setting of Pakistan.

There has been a notable shift in the worldwide conversation surrounding sustainability, wherein the judiciary has taken up the role of safeguarding the natural world. In the context of the ongoing worldwide movements, Pakistan is a popular subject for consideration. Specifically, the decisions made by the court system regarding ecological affairs within the country have demonstrated a growing alignment with the ideals of viability. The legal framework in Pakistan has experienced a notable increase in judicial activism aimed at promoting a sustainable natural world. This activism is evident in precedents made by supreme courts and high courts, which resonate with the principles of balanced ecology, as well as significant judgments that effectively reconcile growth and preservation efforts.

SIGNIFICANCE OF RESEARCH

The study's importance lies in its thorough investigation into the influence of judicial activism on the preservation of the environment in Pakistan. In light of the ongoing prevalence of ecological issues on a worldwide basis, it is imperative to comprehend the significance of the judiciary in promoting ecological practices. The primary objective of this research is to provide a comprehensive analysis of the achievements and obstacles associated with judicial interventions in the field of environmental conservation. By doing so, this study seeks to contribute valuable knowledge that can be utilized to shape policies, develop effective legal approaches, and enhance public consciousness, ultimately leading to a more harmonious and positive outlook for our planet.

RESEARCH METHODOLOGY

This investigation utilizes a combination of methods, integrating qualitative content evaluation with legal inquiry. The purpose of this study is to perform a comprehensive analysis of specific environmental court proceedings to discover recurring trends, consequences, and fundamental tenets that influence court judgments. A thorough examination of key legal records, legal rulings, and pertinent statutes will be conducted to obtain an in-depth knowledge of the background and intricacies of each case law.

RESEARCH OBJECTIVES

This paper aims:

- To carry out a comprehensive assessment of the effect of the judiciary's activism on the advancement of ecological sustainability within the legal framework of Pakistan.
- To examine certain significant legal precedents to ascertain the degree to which judicial rulings have impacted regulations, practices, and public consciousness about the safeguarding of nature.
- To examine the obstacles and constraints that may hinder the efficacy of judicial activism in attaining ecological sustainability within the context of Pakistan.
- to enrich the scholarly conversation surrounding the intricate relationship among legislation, court activities, and equitable growth

JUDICIAL ACTIVISM-ORIGIN AND DEFINITION

The word "judicial activism" holds substantial significance, including several interpretations, and is imbued with ideological overtones.¹ According to Encyclopaedia Britannica, Judicial activism refers to a method of reviewing by the courts or a characterization of a specific court ruling, wherein an arbitrator is commonly perceived as being more inclined to address legal issues and nullify parliamentary or administrative measures.²

The discourse surrounding the appropriate function of the court may be traced back to the establishment of the United States. However, the term "judicial activism" seems to have been introduced by Arthur M. Schlesinger, Jr., an American historian, in a 1947 essay published in Fortune magazine.³ The word in question is commonly employed to characterize a court's ruling or ideology; yet, its usage can lead to ambiguity due to its various interpretations. While most individuals concur on its intended significance, they sometimes disagree on whether it accurately characterizes a specific case.

The discourse around the involvement of judges in the creation of legislation has been a topic of discussion for numerous centuries. It has been a historic idea having theoretical foundations in many civilizations and cultures. The acknowledged definition of "Judicial activism" is yet unclear

The word "activism" finds usage in both political discourse and scholarly investigations. In the context of academia, the term "activism" typically refers to the inclination of a magistrate to invalidate the actions of another part of the state or to reverse a court ruling.⁴

Judicial activism is the view that courts ought to look to transcend regulations and take into account the social repercussions of their rulings.⁵ Judicial activism is something

¹ Stefanie A. Lindquist and Frank B. Cross, *Measuring Judicial Activism* (Oxford; New York: Oxford University Press, 2009).

² "Judicial Activism | Definition, Types, Examples, & Facts | Britannica," accessed August 8, 2023, <https://www.britannica.com/topic/judicial-activism>.

³ Keenan D. Kmiec, "The Origin and Current Meanings of 'Judicial Activism,'" *California Law Review* 92, no. 5 (2004): 1441-77, <https://doi.org/10.2307/3481421>.

⁴ Ibid.

⁵ Christopher Wolfe, *Judicial Activism: Bulwark of Freedom Or Precarious Security?* (Rowman & Littlefield, 1997).

opposite to judicial restraint. Judicial activism is interrelated to legitimate elucidation, and the division of authorities. Modern concerns about judicial activism have sparked fierce controversy. Many Supreme Court and High Court judges worldwide have been debating about it, reigniting a heated discussion.

ENVIRONMENTAL LAWS AND JUDICIAL ACTIVISM

Environmental law serves as a fundamental cornerstone for safeguarding the natural world. However, despite its longstanding existence, the global realm continues to grapple with inadequate execution, impeding its efficacy. Consequently, the arrangement of the judiciary and its consideration for ecological issues, along with the domestic mechanisms for attaining justice, have emerged as pivotal concerns in the effective enforcement of green laws and the promotion of equitable growth. From this standpoint, particularly in emerging or newly industrialized nations, there has been a prevailing inclination to establish dedicated judiciary bodies aimed at addressing ecological issues and facilitating the accessibility of legal recourse for individuals, non-governmental organizations (NGOs), and marginalized communities.

PAKISTAN'S JUDICIAL SYSTEM AND ENVIRONMENTAL LAWS

The escalating issues of ecological destruction and the exhaustion of biodiversity have emerged as urgent matters of worldwide significance, hence demanding the implementation of stringent ecological laws and regulatory frameworks. Pakistan, a nation confronted with several ecological problems, has witnessed a notable focus on the significance of legal activism in the preservation and implementation of ecological legislation. The phenomenon of judicial activism, characterized by the judiciary's aggressive stance in implementing and developing legislation, has significantly impacted the execution of environmental legislation and has made notable contributions to the promotion of sustainable development within the nation.

In the environmental context of Pakistan, the term "judicial activism" refers to the proactive participation of the court in dealing with environmental concerns via constitutional views, rulings, and initiatives. The court system, in its capacity as the protector of the Constitution, has taken on the responsibility of acting as a vigilant

overseer to guarantee the efficient implementation of ecological legislation. The significance of this matter is heightened due to the presence of multiple habitats inside Pakistan's borders, encompassing the mountains of the Himalayas highlands and the coast of the Arabian Sea. Consequently, Pakistan is exposed to a wide number of ecological problems such as forest loss, water shortages, polluted air, and disposal issues.

According to the International Growth Centre, the judicial system's ability to address the impacts of global warming in developing nations is sometimes impeded by challenges related to scarce funds, insufficient capability, and a lack of governmental determination. In the context of Pakistan, several judicial commissions have been established to address these concerns through their efforts in promoting climate research, formulating innovative plans to address climate-related challenges, and establishing regulatory structures to guide future actions.¹

SELECTED CASE LAWS-ENVIRONMENTAL JUDICIAL ACTIVISM IN PAKISTAN

Environmental judicial activism refers to the active involvement of judges in the interpretation and enforcement of environmental regulations, intending to promote sustainable development and preservation. The emergence of this phenomenon in Pakistan can be attributed to the deficiencies present in constitutional and administrative systems, which have hindered the proper resolution of ecological problems. The legal system, equipped with the authority of legal review, frequently intervenes to address these disparities.

The court system in Pakistan has demonstrated the capacity to provide creative options, which is a significant consequence of judicial activism in the execution of green legislation. The expansion of the legal framework by judges has frequently occurred to effectively address rising environmental concerns. Here are some significant cases that

¹ "Environmental Judicial Activism: Bridging Gaps in Pakistan's Environmental Protection Strategy," International Growth Centre, September 6, 2021, <https://www.theigc.org/blogs/climate-priorities-developing-countries/environmental-judicial-activism-bridging-gaps>.

show the environmental judicial activism in Pakistan and how the courts of Pakistan are supporting sustainable development.

1. MS. SHEHLA ZIA V. WAPDA,

In Pakistan, the judiciary's determination of the fundamental right to life, encompassing the right to a safe environment, has resulted in significant and innovative legal rulings.¹ The Supreme Court of Pakistan, in the legal matter of Shehla Zia v. WAPDA (1994), rendered a decision affirming that the right to life involves the entitlement to obtain clean drinking water. This ruling has subsequently facilitated advancements in water management and accessibility.

CASE CONTEXT

The case titled Ms. Shehla Zia vs. WAPDA was a case where the petitioners challenged the building of a grid station constructed by WAPDA in the Hon'ble Supreme Court of Pakistan in Public Interest Litigation. The Hon'ble Supreme Court of Pakistan took cognizance of the case under Article 184 (3) of the Constitution of Pakistan 1973 as the case was related to environmental protection and environmental protection is considered a part of the Right to life as enshrined in the chapter of fundamental rights of the constitution.

BRIEF FACTS OF THE CASE

Some of the residents wrote a letter to the Hon'ble Supreme Court of Pakistan where they narrated that the Water and Power Development Authority (WAPDA) is constructing a grid station on the area designated for the "Green Belt" which is against the set canons of law and this may create a health hazard for the nearby residents. The Hon'ble Supreme Court of Pakistan heard the case under Article 184(3) of the constitution in its original jurisdiction. In this case, the Hon'ble Supreme Court declared that the right to life does not only mean the vegetative life of human beings but also

¹ "Ms. Shehla Zia v. WAPDA, PLD 1994 SC 693," ESCR-Net, accessed August 16, 2023, <https://www.escr-net.org/caselaw/2015/ms-shehla-zia-v-wapda-pld-1994-sc-693>.

includes all facets of life that are necessary for the living of a dignified life. Hon'ble Supreme Court of Pakistan linked this case with Article 9 and Article 14 of the Constitution. Article 9 deals with the "Right to Life" and Article 14 deals with the Dignity of man.

In this case, the main argument from the petitioner side was that the High Voltage Grid station may create a strong magnetic field which is highly dangerous for the native inhabitants. The Hon'ble Supreme Court agreed with this argument of the petitioner side and held that the Right to have a healthy environment was an essential part of fundamental rights and as a custodian of fundamental rights, the Hon'ble Supreme Court passed a consenting order in which a direction was made to the National Engineering Services of Pakistan (NESPAK) to review the plan and try to shift the location of the grid station and submit the report before Hon'ble Supreme Court. The Hon'ble Supreme Court further ordered to establishment of a commission of scientists who can formulate the rules for the construction of grid stations.¹

ELECTROMAGNETIC WAVES AND ECOLOGICAL CONCERNS

In the legal matter of Shehla Zia vs. WAPDA, the court recognized the prevailing ambiguity about the potential detrimental impacts of electromagnetic waves on human well-being, as current research lacks conclusive findings. Although WAPDA contended that its approach was secure, relying on previous studies, the court underscored the importance of exercising restraint and moderation in light of potential hazards.²

The court endorsed a comprehensive strategy that takes into account the rights of residents as well as the advancement of the nation. It recommended that officials implement precautionary steps to mitigate potential risks, rather than resting exclusively on ambiguous or obsolete research.

After this direction by the Supreme Court NESPAK reviewed their previous plan and submitted a revised plan having mitigating measures so that the health hazards may be

¹ "Ms. Shehla Zia v. WAPDA, PLD 1994 SC 693," ESCR-Net, accessed August 16, 2023, <https://www.escr-net.org/caselaw/2015/ms-shehla-zia-v-wapda-pld-1994-sc-693>.

² Ibid.

reduced and the public health may not be compromised. Based on this report, construction of the grid station was permitted.

IMPLICATIONS OF THE DECISION

This legal precedent upheld the principles of sustainable development by advocating for a prudent stance towards emerging technological advances and infrastructure initiatives. It emphasized the importance of prioritizing the welfare of individuals and the natural world, while also encouraging the adoption of developments in an accountable way.

In the constitution of Pakistan, there is no specific provision that deals with environmental protection. After this landmark judgment, it was made clear by the Supreme Court of Pakistan that the Right to have a clean and healthy environment is a vital part of the "Right to Life" under Article 9 and "Dignity of Man" under Article 14 of the constitution. Furthermore, this case law has been considered as permission for citizens to present their environmental problems before the lower courts and the Higher Courts.

2. ASGHAR LEGHARI VS. FEDERATION OF PAKISTAN, ETC.

This case "Asghar Leghari Vs. Federation of Pakistan" (W.P. No. 25501/2015), played a significant role in increasing public consciousness regarding environmental concerns in Pakistan, stimulating governmental initiatives, and cultivating an institutional framework that established a link between environmental justice, human rights, and equitable economic growth. This judicial action established the standard for the incorporation of ecological considerations into legislative and policy structures, highlighting the judiciary's responsibility in tackling significant ecological problems. The case was filed in Lahore High Court, reported in 2018 CLD 424.¹

¹ "Leghari v. Federation of Pakistan," *Climate Change Litigation* (blog), accessed August 16, 2023, <https://climatecasechart.com/non-us-case/ashgar-leghari-v-federation-of-pakistan/>.

CONTEXT AND BACKGROUND

A Pakistani agriculturist filed a case against the Federation of Pakistan since the Federation had miserably failed in the proper implementation of the “National Climate Change Policy 2012” and the Framework for the implementation of “National Climate Change Policy (2014- 2030)”. The petitioner argued that the Federation should follow the guidelines mentioned in the policy and framework to mitigate the scarcity of water, food, and energy. He further stated that these basic facilities are necessary for the proper living of human beings.

BRIEF FACTS AND ARGUMENTS OF THE CASE

Brief facts of the case were that the petition was filed before the Hon’ble High Court in which the implementation of “National Climate Change Policy 2012” and the Framework for the implementation of “National Climate Change Policy (2014- 2030)” came under question. It was further stated that the right to have a clean and healthy environment is a vital fragment under the Right to Life and human dignity in the constitution of Pakistan.¹

Furthermore, it was discussed that the Federation had successfully formulated the “National Climate Change Policy 2012” and the Framework for the implementation of “The National Climate Change Policy (2014- 2030)” but there was no effective implementation. As a result which large segment of the public faces issues that were protected under the various articles of the constitution.

During the pendency of this case, the Hon’ble High Court passed an interim order in which direction was made to the commission and also granted them powers.

The commission submitted the report before the Hon’ble High Court that 66% of the priority actions from the framework have been implemented. Then the Hon’ble High Court dissolved the commission and established a standing committee, for the regular connection between the executive and legislature.

¹ Article 9 & 14, The Constitution of Islamic Republic of Pakistan 1973.

ACKNOWLEDGMENT OF CLIMATE CHANGE ISSUES BY THE COURT

In its decision, the court's acknowledgment of climate change as a significant issue and its conclusion that the government's inability to promptly adopt climate change measures violates the basic liberties of individuals. As referred to in a paragraph of the judgment,

“The submissions made by the Chairman of CCC regarding passing future responsibility of implementing the Framework to the Government is accepted. The Climate Change Commission after rendering a remarkable public and pro bono service, is hereby dissolved. The constitution and working of the Commission have resulted in developing a valuable resource on climate change that can be useful for the Government in the years to come. The respective Governments have to implement the Framework, formulate the National Water Policy, and ensure that the new Act is actualized and given effect in letter and spirit. These objectives are critical for sustainable development and the safeguarding and protection of the fundamental rights of the people of Pakistan. Standing Committee on Climate Change. To facilitate the working of the Federal Government, Ministry of Climate Change, Provincial Government, Planning & Development Department, as well as, CCI, the Court hereby constitutes a Standing Committee on Climate Change, which will act as a link between the Court and the Executive and will assist the above-mentioned Governments and Agencies to ensure that the Policy and the Framework continue to be implemented. The Federal and Provincial Governments and the CCI shall engage, entertain, and consider the suggestions and proposals made by the Standing Committee.”¹

This judgment highlighted the increasing understanding of the court about climate-related concerns and their tangible effects on human well-being.

¹ Asghar Leghari Vs. Federation of Pakistan, etc., 2018 CLD 424, W.P. No. 25501/2015, Supreme Court of Pakistan, <http://climatecasechart.com/non-us-case/ashgar-leghari-v-federation-of-pakistan/>

IMPLICATIONS OF THE DECISION

The court's ruling in this particular case represented a significant turning point in acknowledging the legal entitlement to an ecosystem that is both safe and hygienic, as well as its inherent correlation with the basic rights to life and respect for humanity.

This decision of the court has pointed out the significance of the environment. Through this order, the Hon'ble High Court first directed the commission for the effective implementation of the "National Climate Change Policy 2012" and the Framework for the implementation of "The National Climate Change Policy (2014-2030).

The creation of a Climate Change Commission aimed at monitoring the government's efforts to enforce climate change policy, along with the ensuing setting up of a standing committee, demonstrates the judiciary's dedication to continuous scrutiny and responsibility in resolving climate change issues.

Furthermore, the court's prioritization of ecological justice as an alternative to ecological justice underscores the progression of judicial viewpoints to tackle the intricate challenges posed by global warming. The court's stance recognizes the interconnectedness of rights for individuals, advancement, and balanced management of assets, thereby acknowledging the global scope of climate concerns and the imperative for an integrated and transnational solution.

3. D. G. KHAN CEMENT COMPANY VS. GOVERNMENT OF PUNJAB

The "D. G. Khan Cement Company v. Government of Punjab" case decided on 15 April 2021 carries substantial significance within the framework of environmental judicial activism in Pakistan. This case exemplifies a significant occurrence in which the Supreme Court of Pakistan demonstrated its commitment to protecting environmental interests and advancing sustainable development through its judicial rulings.¹

¹ C.P.1290-L/2019 (Against the Order of Lahore High Court, Lahore dated 31.01.2019, passed in W.P. No. 5898/2019)

CONTEXT AND BACKGROUND

The owner of D.G Khan Cement Company Ltd. was the petitioner in the case who owned a cement plant in the area of Kahoon Valley situated in the salt range at Khairpur, Chakwal. He wanted to enhance his plant production capacity for which he wanted to construct a new cement manufacturing plant or to enhance the capacity of the existing plant. Meanwhile, the Provincial Government of Punjab passed a notification declaring the negative areas in which cement manufacturing plants could not be constructed or enhanced. Being aggrieved by this notification, the petitioner challenged the notification in the Hon'ble High Court against which the appeal was preferred in the Supreme Court.¹

BRIEF FACTS AND ARGUMENTS OF THE CASE

The petitioner filed the appeal before the Hon'ble Supreme Court of Pakistan. In this appeal, the petitioner assailed the order passed by the Hon'ble High Court. The petitioner argued that "Freedom of trade, business or profession" is a fundamental right covered under Article 18 of the constitution (Part I, Chapter II). The petitioner further placed the basis of his petition on articles 4, 9, 10-A, 18, and 25 of the constitution. Petitioner argued that the petitioner was discriminated against badly as compared to the other cement manufacturers. Petitioner linked this argument with discrimination and exploitation. Furthermore, the petitioner argued that the equality of citizens is a fundamental right enshrined in the constitution and this right of the petitioner has also been violated.

¹ C.P.1290-L/2019 (Against the Order of Lahore High Court, Lahore dated 31.01.2019, passed in W.P. No. 5898/2019)

CLIMATE CHANGE AND CONVERSIONS IN FRAGILE AREAS OF PAKISTAN

The judgment illustrates that the comprehension of the vulnerability of the ecologically delicate "Negative Area" necessitates an examination of its relationship to the wider framework of climate change.¹

This statement underscores the notable environmental challenges encountered by Pakistan, encompassing escalating temperatures, intensified warmth, shortages of water, and their detrimental effects on crop production, particularly in areas that are semi-arid or arid. The assertion underscores the imperative nature of including measures to address climate change as a pivotal component of Pakistan's developmental path, as delineated in the National Climate Change Policy of 2012.

ULTIMATE RESULT OF THE DECISION

The Hon'ble Supreme Court came up with the observation that the order passed by the notification notified by the Provincial Government of Punjab and the order passed by the Hon'ble High Court was in line with the constitutional provisions and prevailing law in the country. Supreme Court rejected the petitioner's contention by basing upon the consultant report which reflected that an expanded or new cement plant could deplete the underground water and could also result in some other environmental hazards. The Supreme Court of Pakistan placed further focus on the importance of the environment, the right to life, right to dignity of people, around the plants.

IMPLICATIONS OF THE DECISION

In the decision, the Hon'ble Supreme Court emphasized precautionary measures to be taken for better climatic changes. Supreme Court has also appreciated the importance of the National Climatic Change Policy 2012. Through this decision, the Supreme Court highlighted the importance of the water for local population and the use of agriculture.

¹ Paragraph 18, D.G Khan Cement Company Ltd v. Government of Punjab through its Chief Secretary, W.P No. C.P.1290-L/2019, Supreme Court of Pakistan. <http://climatecasechart.com/non-us-case/d-g-khan-cement-company-v-government-of-punjab/>

It also gave the idea of sustainable development concerning the environment. The apex court also declared that the Government has a lawful authority to declare any area as a negative area or fragile area concerning environmental sustainability.

ENVIRONMENTAL SUSTAINABILITY- JUDICIAL ACTIVISM OR JUDICIAL RESTRAINT

In Pakistan, there is a great debate over the notions of Judicial Activism and Judicial Restraint. Courts are playing an active role in environmental sustainability. A decision of the Supreme Court refers,

“A judicial official must possess an awareness of the interrelationship of living things and ecological systems, transitioning from a focus on justice for the environment to the broader concept of Environmental Justice. The field of ecological adjudication integrates basic ideals, basic freedoms, and global environmental regulations. Originally focused on issues about emissions, development, and logging, the concept of ecological justice has since expanded to encompass broader considerations such as national and regional laws, basic human rights, and global norms. The proposed solutions encompassed the implementation of sanctions, industrial control, and preventive techniques, with due consideration given to the significance of Environmental Impact Assessment (EIA).”¹

There is much hype about the boundaries of the judiciary, above mentioned selected case laws highlight how judicial activism performed well in the case of environmental sustainability. The Supreme Court and High Courts of Pakistan considered environmental issues (climate change, deforestation, etc.) and acknowledged the rights of people and the natural world in many significant precedents. But when it comes to the limitations of the judiciary, the question of its interference in administrative and legislative matters arises.

Judicial Activism and Judicial Restraint are clashing notions. In the political setting of Pakistan, both these notions are of much importance as judicial activism provides power to the judiciary and “judicial restraint” controls the court system from being absolute

¹ Asghar Leghari, “IN THE LAHORE HIGH COURT LAHORE JUDICIAL DEPARTMENT,” https://climatecasechart.com/wp-content/uploads/non-us-case-documents/2018/20180125_2015-W.P.-No.-25501201_judgment.pdf.

power. Markandey Katju, an Indian jurist wrote in his article “The Philosophy of Judicial Restraint” in The Tribune,

“The justification for judicial activism is occasionally based on the identification of shortcomings within the legislative and administrative branches. Nevertheless, it is important to acknowledge that the legal system also encounters such complaints. The general population bears the burden of confronting concerns within the legislative and executive branches by means such as exercising their right to vote, engaging in nonviolent protests, and offering critical analysis via the press. It is not beyond the purview of the judiciary to undertake such actions. The act of participating in activities that exceed an entity's domain of specialization and its assets contradicts the principle of the division of powers. The potential consequences of an overly active court extend beyond the realm of legal decision-making, as it poses a threat to the autonomy, credibility, and social perception of the judiciary. Consequently, it becomes imperative to uphold a judicious approach that strikes an equilibrium between judicial engagement and self-restraint.”¹

This argument illustrated that excessive and ultimate power in anything is not recommended, as it leads to problems like division of power and implementation issues etc. Even in environmental issues, the Judiciary can involve the public and other official institutions for the cause of environmental sustainability and these public engagements will also keep a check on the judiciary.

RECOMMENDATIONS

- In the wake of ecological issues, Pakistan should adopt a comprehensive approach that incorporates both judicial activism and judicial restraint, as each method offers distinct advantages. Achieving a harmonious equilibrium between these two factors can significantly enhance the efficacy and comprehensiveness of ecological oversight.
- Promote the active engagement of the court system in the evaluation procedure of legislation about the environment to improve accountability. Systematic

¹ “The Philosophy of Judicial Restraint,” The Express Tribune, July 11, 2012, <https://tribune.com.pk/story/406897/the-philosophy-of-judicial-restraint>.

evaluations can serve as a mechanism for ensuring that constitutional entities are held responsible for fulfilling their obligations.

- The promotion of legal action in the public interest is advocated as a means to empower citizens and non-governmental organizations (NGOs) to raise environmental issues to a prominent position. This phenomenon has the potential to generate heightened consciousness and exert greater influence on the adoption of improved ecological methodologies.
- The concept of cross-disciplinary cooperation refers to the practice of individuals from different academic disciplines coming together to work on a common project or problem. Promote and enhance collaborative efforts among judges, legal professionals, researchers, and environmental scientists. This practice can guarantee that court rulings are guided by a comprehensive understanding of legal principles as well as scientific expertise.
- Acknowledging the distinct responsibilities of both branches of government in the formulation of ecological policies can be helpful. The practice of judicial restraint is warranted when constitutional issues overlap with intricate policy considerations.
- There should be a prudent approach advocated by the court in refraining from engaging in matters of scientific and administrative nature that are outside their domain of knowledge. Implementing this measure can effectively mitigate unforeseen repercussions and uphold the authenticity of the court proceedings.
- It is recommended to promote education and efforts to build capacities aimed at enhancing the understanding of magistrates about intricate ecological problems, thereby equipping them with the knowledge necessary to render enlightened and judicious verdicts.
- The promotion of public awareness and engagement is the need of time. Educational initiatives refer to various programs and strategies implemented in the field of education to increase public knowledge regarding rights related to ecological protection.

CONCLUSION

Within the context of sustainable development in Pakistan, the investigation of specific legal cases in this article highlights the progressive involvement of the judiciary in tackling urgent environmental concerns. The selected cases discussed in the article, collectively, shed light on the legal terrain that is dedicated to the protection of the natural world, the promotion of equitable growth, and the advancement of atmospheric resiliency. Many case laws in Pakistan provided milestones in the environmental activism cause. Amid the stifling debate over Judicial Activism and Judicial restraint, the initiative of environmental sustainability needs pragmatic balance. Interestingly, Environmental Judicial Activism in Pakistan has been considering environmental justice and climate justice. The results of this study provide light on a potential trajectory of a judiciary that encompasses cooperative endeavours, pre-emptive actions, and a resolute dedication to maintaining environmental equity within the country. These instances function as pivotal examples for a future that is comprehensive, enduring, and adaptable, wherein the legal system remains a pivotal catalyst for constructive transformation.

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