

Topic: The Role of Judicial Review under the Change of Climate: The Taiwanese Perspective

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Abstract:

Usually, when talking about the role the Judiciary should play, under the traditional theory of the separation of power, judicial review should be self-restrained, as people have been expecting. However, either judicial activism or judicial restraint, we can review many cases as instances the courts have made in history. For example, during the environmental decade in 1970s in U.S., not only many regulations had been enacted and even the Environmental Protection Agency has been founded, but the environmental movement had also been prevailing in this golden period for environmental protection. Under the change, the social movement also affected judges in the courts in many ways in their judicial verdicts. In these days, it seemed that the Judiciary had played an important role when interpreting “standing” so as to influence the environmental policies, or even the environmental laws. Following the same pattern, when facing the global warming and its emergency, there are many climate suits around the world been brought to the courts, and even won the cases surprisingly, but not unexpectedly. Therefore, the passive Judiciary, once again, plays an active role for pushing the Government to make its further efforts for the climate change. Under the change of the climate, for the rule of law, what the position the courts would be in Taiwan? In this presentation, I would like to review the current legal system in Taiwan to see if the public can raise a lawsuit to the courts under the traditional standing requirement. Furthermore, is there any sign that can show the trend of climate lawsuits will be also prevailing in Taiwan? The main content of this paper includes three major parts: (1) doing research on legal system of environmental suits, its development, and relevant cases in Taiwan and emphasizing the importance of the traditional requirement for the standing; (2) reviewing significant judicial decisions concerning current legal system of environmental suits in Taiwan, and (3) discussing and analyzing some key issues from domestic case study for further amending the legal

system or advocating the change the courts should keep for bettering environmental protection in dealing the climate change in Taiwan.