

WHERE THERE IS A WILL, THERE IS A
WAY: COMMENTS ON ENVIRONMENTAL
ACTIVISM IN THE MATANZA -RIACHUELO
BASIN CASE % \$ 6 (' 2 1 6 \$ % 5 , 1 \$ ¶ 6
FRYDMAN ANALYSIS

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the subject of a landmark decision by the Argentinian Supreme Court of Justice in Mendoza, *Beatriz Silvia c/ Estado Nacional In The Matanza Riachuelo Basin Case: Lessons in Environmental Activism from the Argentine Supreme Court and Civil Society Organization*. Hydman describes the environmental deterioration of the basin, the complexity of the

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PRPHQWXP OHDGLQJ XS WR WKH &RXUW¶V KLVWRULF G momentum requires us to look at the problem retrospectively and allows us to assess prospectively the outcomes of the litigation and the lessons we can learn from it. In assessing the temporal characteristics that help to appreciate the connections and interdependencies of the chosen priorities, the response⁵ international and domestic and the main actors that ultimately shaped the human rights approach to environmental conflicts, we can see that that momentum requires a certain level of readiness and activism.

Frydman emphasizes activism that transcends the Argentinian borders and that is broader than a national civil society movement. At first, she refers to the globalization of the environmental agenda back in 1972, particularly to the UN Conference on the Human Environment (the Stockholm Declaration)⁶; and later, to the 1992 Earth Summit in Rio de Janeiro. The principles and recommendations adopted at these conferences paved the road for civil society activism to defend environmental rights. They also established a trajectory for states to implement environmental legislation and to establish governmental agencies for environmental protection.

The early 1990s were significant in Argentina because of the

Avellaneda, in the Province of Buenos Aires.²⁵ Her name eventually became legendary in Argentinian Supreme Court jurisprudence because of the Matanza Riachuelo Basin case.²⁶ U\ G P D Q ¶ V DUWLFOH IRFXVHV RQ WKH of activism: civic, professional, and judicial. Putting aside shortcomings and inefficiencies in the execution and implementation of WKH & RXUW ¶ V GHFLVLRQ professional activism was just as essential as civic activism. The 2 PEXGVPDQ ¶ V RIILFH SOD\HG D FUXFLDO UROH LQ PDLQ basin-related claims after 2002.²⁷ Supreme Court Justices were proactive in finding a way to adjudicate the case and creative in developing a complex network of specialized institutions and a monitoring system. Personal efforts and the activism of the professionals, as well as of the citizens, cannot be underestimated. Conversely, when an opportunity is missed, or the institutions are not efficient because of the human factor, the influence of a single person, especially on the managerial level, can be devastating to the purpose, goal, and the process of the action. For example, we have learned about the turnover in the leadership of ACUMAR: three Presidents succeeded one another in just eighteen months.²⁸ We have also learned the Court needed to impose a daily fine on one of the ACUMAR Presidents, and about the inertia of the Social Participation Commission.²⁹ A lack of good management, and in some instances a lack of good leadership, slowed down the transformation processes and decreased their efficiency. A successful case, apart from integrity and leadership, requires activism of public and private actors.

Non-governmental organizations historically have defended human rights violated by environmental devastation. The power of civil society should hold the government accountable to increase its efficiency.

As a Ukrainian, I have a full appreciation for civic activism. Ukrainian civil society was essential to the very existence of the State of Ukraine, especially during the war with Russia that began with the annexation of the Crimea peninsula in 2014. I can also relate to the Argentinian case as it demonstrates transitional changes that Argentina underwent after 1983 when

25. Id.

26. Id. at 4849.

27.

it reestablished its democracy.³¹ The Matanza-Riachuelo Basifase also demonstrates the complexities of decentralizing administrative power. Both the transition to democracy and the decentralization of power depends mainly

a nongovernmental organization. They are, respectively, Ukrainian and American educators and law practitioners, who played an essential role in the introduction of environmental law to post-Soviet Ukraine. They were among the first lawyers to bring environmental law cases to the courts. They codified the legacy of international and national jurisprudence in environmental law. In their casebook, *Human Rights and the Environment: Cases, Law and Policy*

in them.³⁷