

# THE RIGHT TO LIVE IN POLLUTION FREE ENVIRONMENT: A CRITICAL STUDY WITH REFERENCE TO ARTICLE 9 OF CONSTITUTION OF PAKISTAN

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## Abstract

The Environmental Rights are defined as an expansion of the fundamental human rights which are required and deserved by the mankind. The prevailing pollution issues are widely leading to the contamination of the environment all over the world. The duty of state is grounded on the mandate of justice. It is widely recognized that the state has obligation to provide environmental justice which is easily accessible through proper adjudication and effective environmental tribunals. The concept of environmental justice in Pakistan was introduced in “Shehla Zia v. WAPDA, PLD 1994 SC 693” and in fact there is a long list of cases, in which it was settled that right to life and the protection of environment is an alienable right. Article 9 Right to Life of the Constitution of Pakistan covers all facets of human existence. The core idea of a clean and healthy environment is that all people are entitled to live in a healthy, clean, and safe environment which is the result of the judicial interpretation of article 9. The right to life is to ensure better environmental protection of natural resources, protection of species, and peaceful enjoyment of life. The right to life is an integral right which basically is a necessary requisite to enjoy other rights. This paper analyses the inviolable nature of this fundamental right under article 4 (a), but on the flip side, it focuses on the non-absoluteness of this right. Moreover, this article discusses landmark cases decided by judiciary, which encompass such utilities and facilities that naturally a free-born person in a sovereign country is entitled to enjoy in life. In this paper researchers discuss the judicial activism and contributions of constitutional jurisprudence in advancing the environmental regime with special references given to the importance of “right to life” in becoming a legal justification for the courts to incorporate the right to healthy environment as a natural part and parcel of the right to life. Researcher also describes, the successive liberalization of locus standi in human rights cases and invent of public interest litigation channeled through highest courts under article 184(3) and 199 of constitution of Pakistan 1973. The methodology undertaken is to look at different courts around country and to observe how they have addressed the issue of pollution as an aspect of right to life. A new discourse analysis methodology has been created for this article that provides evidences, relevant provisions and case laws of pollution free environment.

**Keywords:** Fundamental Rights, Environmental Rights, Environmental Justice, Judicial Interpretation, Inviolable, Judicial Activism, Public Interest Litigation.

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## INTRODUCTION

Everyone has a right of a healthy, clean and sustainable environment. Environment and human fundamental rights are interdependent to each other, sustainable environmental goals are necessary for full enjoyment of humans’ right to life, water, food, health, development and sanitation. Protection of environment is crucial to the enjoyment of human rights especially the right to live in a pollution-free environment. Our environment is continuously deteriorating despite of many international and national laws, agreements and programs. The current global issues are climate change, pollution, loss of biodiversity which represent the greatest threat to the enjoyment and exercise of human rights. The increment in global temperatures, land degradation, water shortages, vegetation loss, permafrost, soil erosion, wildfires all are affecting human right to life in adequate living environment. Air pollution is the biggest threat, which caused eight million premature deaths annually and directly violates people's

rights to life and health. In 2022, disasters caused by climate change resulted in new displacement of more than 38 million people in Pakistan. The fact is that there is a clear connection between environmental protection and the fulfillment of human rights, with environmental degradation and negative effects of climate change having an impact on effective enjoyment of fundamental rights. The right to a clean and sustainable environment is recognized by UN Human Rights Council. The majority of UN human rights treaties have been signed for major worldwide concern of environmental preservation. The right to live in a pollution free environment is acknowledged as the most fundamental principle of human rights legislation by majority of international and regional human rights instruments. The effective exercise of the right to life is threatened by climate change and its disasters. For example, disasters brought on by hurricanes and floods which caused so many deaths and casualties. Furthermore, the basic economic and social rights which are necessary for enjoying the life are under threat by increasing in climate hazards, rising sea levels and by environmental pollution. Despite of the fundamental significance and under threat nature of this right to life in context of degradation of environment has received little attention legally in Pakistan. Since the beginning of time, people have worshipped the nature including sun, moon, air, water and earth as a way to express their thanks to the mother earth for supporting life on the planet. This reverence for nature is rooted in the fundamental idea that life is a singular, consistent and predictable phenomenon that even little changes to one aspect of environment are likely to have an impact on other aspects. An individual needs a clean environment to survive, therefore when we say that someone has the right to life we also mean that person has the right to breathe clean air, live in a quiet setting and have access of clean and pure drinking water.

## LITERATURE REVIEW

Preventing pollution reduces the costs both the environment cost like health issues and environmental harm and the financial cost like cleanup and waste management. Environment can be protected by preventing the pollution and by protecting the natural resources. The promotion of economic growth is achieved by more efficient and productive industrial processes and by reduction of waste management requirements for businesses, homes and communities. (EPA environmental protection agency, 2023). Although the fundamental right to a healthy and sustainable environment is not stated in constitution of Pakistan, but certain components of environmental rights are incorporated and interpreted into other fundamental rights. The fundamental right under Article 9 right to life and under Article 14 right to dignity has been inferred to rights to healthy and clean environment. According to interpretation of above mentioned constitutional provisions, the right to life includes not only the freedom of physical harms from environment but also the surety of right to a dignity with healthy existence. A clean and healthy environment is crucial for the preservation and enjoyment of life itself (Ahmad, 2023).

Climate change is a key issue of our day which leads our planet towards dramatic climate changes system. These climatic changes have affected Pakistan's most vulnerable and poor communities with droughts, floods, glacial lake outbursts, and landslides. This is a resounding plea for protection of basic right to life of Pakistani citizens, particularly the poor and vulnerable sections of society, under the constitutional framework of country. In the past, people have had access to clean water, food and air, which has made it possible for them to lead an adequate life. Over the last century, the quality of the environment has been neglected due to exploitation of natural resource, industrialization and rapid growth in human population. Moreover, pollution, one of the key elements lowering the quality of the environment, for destroying natural life and also deprived people from their fundamental right of life. (Mousa, 2021). Everyone has a right to sustainable, clean and healthy environment. Human rights and the environment are interrelated among others as sustainable, clean and healthy environment is important for full enjoyment of variety of human rights including the rights to life, water, health, sanitation, food and development. (OCHA service relief web, 2023). The right to life is guaranteed by the constitutions of both India and Pakistan, and these countries' courts have led the way in expanding such rights to encompass environmental rights does not mean, and cannot be limited only with vegetative and animal life or mere conception of death. Every amenity that a person born in free country is legally and constitutionally allowed to enjoy all facilities with dignity, is included in life (Carnwath, 2018). The Pakistani Constitution lists a number of fundamental rights, yet the phrase "right to environment" is not mentioned in any of those articles. Suo-Motu power is another tool which judiciary uses when addressing environmental issues. The superior judiciary is given the authority to directly address issues affecting the enforcement of fundamental rights under Article 184(3) of the Constitution if it determines that such enforcement raises a matter of public interest (Zaman, 2021).

Individuals' rights solely depend on environment that is provided in constitution and in which individuals can survive. The fulfillment of human rights, which cover a broad range of those rights that are necessary to live in a pollution free environment such as the right to life, right of pure food, clean water, sewerage and sanitation is contingent upon a clean, healthy, safe and sustainable environment. (Qaiser, Iftikhar, 2021). The provision deals with right to life under Article 9 of the Pakistan of Constitution states that "No person shall be deprived of life and liberty except in accordance with law". While interpreting this Article, it has been decided that this Article 9 places an obligation on the government to ensure that this aspect not only protects the citizens' life but also protect the dignity as well. This article is lengthy but also broad and significant because the right to life is seen as the mother of all considerations and includes all rights related to and incidental to continuing to live a quality life

(Manzoor, 2021). Their protection in constitution is proof that every state recognizes and upholds the right to life through specific legal procedures. Recognizing the right to life obliges governments to avoid from placing unwarranted limits on their people and ensures that their lives are effectively protected. Under the aegis of international human rights legislation, the right to life, liberty, and protection from harm has been elevated to essential human rights of everyone, regardless of status. Although the right to life is inalienable right and it is not unqualified. Any life that is depreciated from this fundamental right to life must be taken lawfully and without bias (Ministry of Human Rights, 2018). The word "environment" does not appear in the Pakistani constitution, but the country's top court has acknowledged on numerous times that a healthy and clean environment is a necessary condition for life. It has been emphasized that a stable, clean and healthy environment is necessary element of human life, just as a polluted, dangerous environment is expository rather dangerous for human life, and fundamental right of life guaranteed and safeguarded by constitution of 1973 of Pakistan. (Ali, Khalil, 2017). As a result, Article 9 is the substantial due process of Pakistan, but only to the degree that it incorporates rights that are implicit but not expressly stated in Constitution. Article 4, would have been a far better choice to expand its scope than Article 9 of 1973 constitution because article 9 is a fundamental right in and of it own self and only applies to individuals, whereas article 4 is a stand-alone constitutional provision that can be applied to society as a whole. (Munir, 2023).

### Research Gap

Although there is a sizable body of research on Pakistan's environmental laws and rights, but there is still a notable research gap remains to be learned about how to effectively implement and enforce the right to live in a pollution-free environment as stated in Article 9 of 1973 constitution. The studies already in existence frequently concentrate on the theoretical and legal aspects which investigating the constitutional foundation and judicial interpretations. The study has received relatively little attention towards comprehensive analysis of the difficulties, achievements, and failings in converting this constitutional right into complete and tangible shelter for individuals' health, safety and wellbeing. In addition there is also a gap of in-depth analysis relationship between the right to life and right to live in pollution-free environment and also other fundamental rights, as well as the part played by different stakeholders, such as governmental agencies, businesses, civil society, industries and the judiciary in achieving this goal. By addressing these research gaps the study would help to better understand implications of Article 9 and presents valuable research for strengthening the environmental governance, judicial interventions and policy formulation aimed to ensure a pollution-free environment for citizens of Pakistan.

### Problem Statement

This study examines the difficulties in enforcing and achieving the fundamental right of right to life in context with right to live in pollution-free environment under Article 9 of Constitution of Pakistan 1973. The study investigates the gap between constitutional provision and its implementation. The research will explore the technological, systemic, legal and all socio-economic challenges in realization and implementation of this right nationally and internationally along with their effects on public health, ecological sustainability, and the general well-being on present and future generations.

### Objectives of the Study

- Identify the various constitutional provisions and environmental laws that recognize environmental protection.
- Raise national authorities' and private sector's awareness towards the scope, nature and impacts of pollution on right to life.
- Emphasizing the need for a sustainable, eco-friendly, clean and safe environment to prevent from all pollution-related illnesses.

### Research Questions

1. What are the specific environmental challenges in Pakistan that pose threats to citizens' right to a clean environment, and how has the judiciary utilized Article 9 to address these challenges?
2. What mechanisms and remedies are available under Pakistani law to citizens seeking protection of their right to live in a pollution-free environment, and how effective have these mechanisms been in practice?
3. To what extent has Article 9 of the Constitution of Pakistan been invoked to address environmental pollution, and what are the key judicial decisions that have shaped the jurisprudence surrounding this right?

## METHODOLOGY

This study has adopted the qualitative approach as the research methodology in accomplishment of the study with normative -cum- descriptive and explanatory -cum- analytical features enabling both researcher and reader to fully bring at home the importance of pollution free environment. The suitable suggestions and recommendation may also be given based on the research and investigations conducted during the present research work.

### **Delimitation of Research**

The range and depth of the investigation could be affected by the resources' accessibility, including funds, knowledge and technology. It is crucial to investigate how other rights, such as the right to property and economic rights can be affected by the identification of a pollution-free environment as a basic right. Even if it were decided that having a clean environment is a fundamental right, enforcement and implementation procedures would still need to be worked out. Resources are needed for enforcement measures, public awareness campaigns, monitoring technologies, and regulatory organizations in order to ensure a pollution-free environment. The political, social, economic and legal complexities of Pakistan must be thoroughly examined, according to Article 9 of the constitution. All the above mentioned limitations are specific in context and highlight the complexities and challenges involved examining this subject in the context of Pakistan.

### **Significance of the Study**

The scope of this research study is to show a complete picture of environmental crimes in Pakistan from a variety of perspectives, including types of environmental crimes, estimated impacts and trends, enforcement structure and other criminal players involved and barriers towards effective actions. This research report's aim is to highlight the novelty of the environmental phenomenon, to put focus on the issues which are still ignored and overlooked on Pakistan level and on elements that are frequently approached in the silos by many players in environmental sector. The study's scope will include a multidisciplinary examination of the political, legal, economic, social and environmental elements related to the acknowledgment of pollution free and clean environment as a fundamental under Article 9 of Constitution of 1973. The research will examine relevant cases and judgments relevant to pollution public health and environmental protection that have been by the courts of Pakistan.

### **FINDINGS / RESULTS**

Article 9 of right to life is the most fundamental right of all other rights because it is at the very foundation of humanity. It refers to the claim that one's existence will not endanger the lives of others. It is not only the duty of citizens but also the state has to play a vital role in protecting environment and create the realization of right to live with dignity in clean environment. It is the necessity of the time to establish the international and national structures that will enable each nation to contribute in a meaningful way for the achievement of environmental shared long-term goals. There should be co-existence between environmental protection and economic development. This needs cross sectorial and cross agency coordination at both international and national level on analysis and information, enforcement, restoration and prevention of environmental crimes. Environmental crimes need collaboration at transnational level, sharing of information and consensus building across the United Nations. Moreover, it needs unity of effort and command in terms of both implementations and coordination in concrete and targeted national plans. This needs the highest level of national collaboration with one of the leading agency as well as full cooperation and co-ordination with the other relevant agencies.

### **Discussions and Critical Analysis of Operational Practices Dealing with Environmental issues**

In terms of environmental laws, policies and the implementation from the period 1984 to 1996 was very effective. The environmental act 1997 for its protection is a landmark document in history of Pakistani environmental law. This environmental policy was designed with the objective of environmental protection, its improvement, rehabilitation, and for conservation, for pollution control and environment prevention and for enhancement of the sustainable development. This Act resulted in the creation of numerous regulations and rules. However, in terms of environmental problems and crises in Pakistan, this environmental policy appears to be failed. The national action plan of environment was signed in 2001 to follow up the national strategy of conservation plan. This policy goal was to attain four objectives: waste management, clean air, ecosystem management and clean water. Unfortunately, this environmental policy did not achieve its desired goals. Another significant policy in the history of country is the national policy Pakistan for environment, which aims for improving the life's quality of Pakistanis by improvement, conservation and protection of the environment of country as well as effective coordination between governmental institutions, civil public and private societies but if instead of this, we look at present survey researches of different international organizations and, some of the research reports and articles upon this topic the researcher can easily say that all these policies are unable to achieve their goals according to the researcher's findings. Pakistan has so many policies and laws but implementation on all these laws and policies appears to be unsuccessful, failed and wrong to a larger extent. The key contributing pollution like air pollution in the country are quickly increasing demands for energy, high intensity of energy and expected changes in the fuel based composition upon recoverable resources. Pakistan has many of policies, laws and relevant acts for protection of environment but it is observed that Pakistan fall short effective applications of them. Environmental institutions are in charge of managing human and natural resources. Unluckily it is widely observed that in Pakistan there are inadequate institutions for managing natural resources and prevailing issues. As per the institutional approach, environment is considered as common property that is managed by community institutions. The agencies responsible for supplying water should have to take their responsibility with assurance that all rural areas have safe and pure drinking water. Furthermore, the Pakistan Authority to Control the Quality Standards of drinking water should be strictly implemented in the country's rural areas. The government must be responsible

for providing all basic utilities and facilities to the people regardless of whether they live in urban or rural areas. As a result, the people they have been lived in towns and not prefer to go to the cities will not be deprived in this situation. This policy will help to solve the widespread urbanization issues while also raising environmental concerns. The government must pay close attention for dealing with deforestation and planning and implement effective emergency programs for increasing forest rate, which will be beneficial from avoiding air pollution. Apart from governmental programs and policies, an ordinary individual is equally answerable for protecting their environment and doing something to mitigate the negative effects. As a result, it is compulsory to raise awareness by print and electronic media by local messages on environmental safety and protection and having clean and safe environment by various TV shows and documentaries about environmental problems and its solutions. Student's awareness by educational institution must be started.

### **The Constitution and the Environment--Clean Environment as a Fundamental Right---Judicial Activism--(Shehla Zia to Laghari Case)**

Pakistan formed the Ministry of Environment in 1975 as to follow Declaration of Stockholm in 1972. Until 2010, the Islamic Republic of Pakistan's Constitution granted both the provincial and federal legislatures the authority to enact environmental legislation<sup>1</sup>. The Pakistan environmental protection ordinance (PEPO), 1983 was suggested and prepared by the ministry of Environment. The fundamental goal of Pakistan environmental protection ordinance as the federal legislation was to be establish institutions, such as Pakistan environmental protection council, chaired by the President of Pakistan as the country's ultimate environmental policy making authority; at the federal level Pakistan Environmental Protection Act (PEPA); and four provincial agencies for environmental protection to regulate and enforce the sections of Pakistan Environmental Protection Ordinance. PEPO simply established an institutional framework for environmental enforcements and protections, with no comprehensive rules for regulating land use water, noise or air and marine pollution plus biodiversity or hazardous chemicals or activities.

Pakistan took part in the Earth Summit in 1992 and became a signatory of the number of international covenants. This hastened the country's environmental lawmaking process. Pakistan developed its national strategy of conservation in same year. The National Conservation Strategy established a wide framework for tackling the country's environmental challenges. The first National Environmental Quality standard under Pakistan Environmental Protection Ordinance was announced in 1993, giving standards for municipal and industrial effluent and air emissions, as well as 16 gaseous and 32 liquid parameters.

In an efforts to fill up the legal inadequacies of PEPA1997 have superseded previous legislation, Pakistan Environmental Protection Ordinance. Following the 18th Amendment, province Punjab enacted the Punjab environmental protection amendment act 2012<sup>2</sup> with minor modifications, while the Balochistan enacted the Balochistan environmental protection act, 2013<sup>3</sup>. The Balochistan Act has significantly expanded Environmental Protection Act, but Khyber Pakhtunkhwa (KPK) and Sindh have not rather they are in the process of creating new environmental laws for provinces.

In Pakistan, environmental law practice and theory present themselves in the two main areas of the law. Constitutional law is the more prominent of two. Beginning with the landmark judgment in 1994<sup>4</sup> of *Shehla Zia vs WAPDA* Supreme Court of Pakistan and four other provincial high courts have produced a considerable body of the environmental jurisprudence centered on the application and interpretation of Article 9 right to life of the Constitution of Pakistan 1973 which is constitutionally guaranteed. Body of the environmental law which has attracted the most of local and worldwide attention, debate, discussion and notoriety is public interest litigation<sup>5</sup>. In contrast, there has been little engagement with jurisprudence developed by Pakistani environmental framework rules like Pakistan Environmental Protection Act 1997, and since 2010 the four provincial environmental protection law of Punjab, Kheyber Pakhtunkhwa, Sindh and Balochistan.

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<sup>1</sup>Under the Constitution of Pakistan 1973, the lawmaking powers are divided between the federal and provincial legislatures. The Constitution clearly identifies subjects on which only the federal legislature can legislate (the Federal Legislative List). Prior to the 18th amendment in the Constitution, there were subjects on which the federal and provincial legislatures could both make laws (the Concurrent Legislative List). All of the remaining subjects were within the ambit of provincial legislature. However, with the 18th amendment, the entire Concurrent Legislative List has been repealed and "Environment and Ecology," which was a subject of the Concurrent Legislative List, has now become a provincial subject as it has not been made part of the Federal Legislative List.

<sup>2</sup>The Punjab environmental Act came into force on 18 April 2012.

<sup>3</sup>Assented to by the governor on 9 January 2013.

<sup>4</sup>*Shehla Zia vs. WAPDA* PLD 1994 SC 693.

<sup>5</sup>Martin Lau, 'The Right to Public Participation: Public Interest Litigation and Environmental Law in Pakistan' (1995) *RECIEL*, Vol. 4:1, 49-50, Martin Lau, 'A New Dawn: The Chaudhry Court and the Revival of Environmental Law', in: MoeenCheema and IjazShafiGhani (eds), *The Politics and Jurisprudence of the 'Chaudhry Court' 2005-2013* (OUP, 2014) 141 -159, Parvez Hassan, 'Shehla Zia v. Wapda: Ten Years Later' PLD 2005 J 48, AzimAzfar and Parvez Hassan, 'Securing Environmental Rights through Public Interest Litigation in South Asia' (2004) 22:3 *Virginia Environmental Law Journal* 215-247.

This introduction has already indicated two causes of this imbalance. The first is complaints brought under environmental protection laws are heard by expert environmental courts. It is the executive's responsibility to staff and create these environmental courts. Governments have long ignored this role, resulting in only occasional operation of environmental tribunals across all four provinces. Second is, when they do operate only a small percentage of their decisions are publicized in Pakistani legal journals. The body of the research upon Pakistani environmental law, the majority of which has been produced by non-governmental organizations (NGOs) such as by the WWF, IUCN and Asian development bank had paid little attention upon role and its functions on environmental courts in enforcement of the environmental protection laws.

This Part of research analysis attempts to address this imbalance by analyzing and discussing Pakistan's environmental legislation system in context of environmental tribunal that evaluate and eventually enforce it. The first section traverses the terrain of Pakistan's environmental framework legislation, identifying its origins, the legal procedures and concepts, and the fundamental and institutional building blocks that have guided their history and development. A selected examination of recently adopted provincial environmental protection statutes serves as a springboard for the last section, which concentrates on a consideration of jurisprudence developed by the Pakistani environmental courts from 2008 until the 2022. Revision of jurisprudence developed by the environmental tribunal of Pakistan is crucial for reforming and developing the country's environmental law framework. How appropriate is command and control paradigm that underpins all federal and provincial environmental frameworks law? What variables influence the success or failure of environmental prosecutions? What function do environmental tribunals play in enforcing environmental impact assessment requirements? In order to address these issues, this discussion will analyze the state and operation of Pakistani environmental tribunal using Brian Preston's key 2014 work *Characteristics of the Successful Environmental Courts as well as Tribunals*<sup>6</sup>.

### **Evolution of Governing laws in Pakistan Relating to Environmental Crimes Adjudicating Frame Work**

First explicit reference of the environmental legislation was included in the Pakistan's 3<sup>rd</sup> constitution 1973 Constitution<sup>7</sup>. Concurrent Legislative List includes environmental pollution and ecology in the division of the legislative powers between the provinces and Federation. After ten years, Pakistani environmental protection Ordinance 1983 issued like Pakistan's first brief environmental law. Pakistani environmental protection ordinance remained mainly unimplemented but its institutional and legislative approach to management and the preventions from environmental pollution influenced its successors the PEPA 1997 and four provincials environmental legislation and the PEPA 1997 and four province environmental statutes autonomous bodies of Gilgit-Baltistan and also Azad Jammu & Kashmir. Pakistani environmental protection ordinance of 1983 created two institutions: the Pakistan Environmental Protection Council; a ministerial level of environmental body for policy making, and the Pakistani Environmental Protection Agency (EPA) a federal executive-level implementation body. The former was made up of federal and also provincial ministers in charge of the subject environment and it was duty with developing overarching environmental directions and policies like the creation of a brief national policy of environmental and the incorporation of the environmental considerations into national development policies and plans. The Pakistan Environmental Protection Agency was tasked with administering Pakistan Environmental Protection Ordinance, 1983, which included developing national environmental quality standards and coordinating and consolidating execution of pollution-control measures with Provincial and other Government agencies<sup>8</sup>.

Furthermore, the Pakistan Environmental Protection Agency was to design and manage an impact of environmental statement system that would be mandatory for any development projects that were likely to have negative effect upon environment. Section 12 of PEPO 1983 makes failure to comply with any Pakistan Environmental Protection Agency rule or regulation criminal offence which is punishable more than two years in jail and fine. Pakistan Environmental Protection Agency was formed in all four provinces beginning with Punjab

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<sup>6</sup>Preston, Brian J, "Characteristics of successful environmental courts and tribunals" *Journal of Environmental law* 26(3) (2014): 365-393.

<sup>7</sup>Section 6 (1)(j) of PEPA 1983. NEQS were announced for the first time in 1993, see: NaureenMujahida, "Development of environmental institutions and laws in Pakistan" *Pakistan Journal of History and Culture* 30(1) (2009): 93-112.

<sup>8</sup>The inclusion of environmental pollution and ecology as areas of legislative competence in 1973 was one the outcomes of Pakistan's participation in the Stockholm Conference on the Human Environment 1972. See Alam, Ahmad R, "Situational Analysis of National Environmental Laws and Policies, Non-Compliance of these Laws, Resource, Efficiency Issues and Gaps in Implementation and Enforcement" *World Wide Fund-Pakistan* (2018): 14.

in 1987<sup>9</sup>, but it was not until 1993, 10 years after the adoption of PEPO that NEQS were established<sup>10</sup>. Pakistan Environmental Protection Ordinance, 1983 was rated as at the best attempts to meet the Pakistan's expanding environmental issues by the National Conservation Strategy 1992 as it had not addresses the specific areas such as water or air and viewed the environment from the perspectives of the pollution check rather than the resource conservancy. The NCS 1992 have promised a review of current environmental legislation and strict implementation<sup>11</sup> of the updated environmental laws after concluding that the Ordinance had no influence on environment of Pakistan<sup>12</sup>.

### Judicial Response towards the Environmental Cases

The jurisdiction of environmental tribunal of Pakistan is far more limited. The emphasis on the imposing of criminal punishments on the polluters not only bounds the environmental tribunal's jurisdiction, but also applies the procedural protections and evidentiary requirements of the criminal proceedings to adjudication of the environmental problems. If not the criminal who is the favorite child of the law could be biased<sup>13</sup>. The published decisions of Pakistani environmental courts show that most of individuals accused of the environmental crimes are acquitted because the prosecution's evidence was deemed to be weak, improperly acquired, or the prosecution behaved unlawfully. Two decisions demonstrate the influence of the criminal law procedural rules on the actions against people suspected of the environmental crimes<sup>14</sup>.

. The Supreme Court delivers a variety of directives to the parties and ministries involved in the case of Shehla Zia. It directs that the mine's mouth be relocated between four months to the secure distance from streams and reservoirs because the carbonized material, mines debris and mine waste water do not harm the water sources. Court forms a five member panel to oversee the implementation of these rulings. **Shehla Zia vs. WAPDA PLD 1994 SC 693** in this judgment Supreme Court issued a stay as interim solution which is still in effect today of prohibition of the installation of high voltage of grid-station into the green residential area of Islamabad. A letter from the residents of area in in this WAPDA suggest to build the power grid-station, two questions are referred by Supreme Court: Does a governmental agency have this right, to threaten the lives of the citizens through their actions with no consent of the latter, and regardless of zoning laws related to the rights of citizens that cannot be revoked or changed without consent of the citizens. The Supreme Court still has not provided a final judgment since the conclusive proof of effects of the electromagnetic field upon the health of humans isn't provided. **In Leghari vs. Federation of Pakistan**, the plaintiff brought a public interest lawsuit against the Federal Government of Pakistan and the Regional Government of Punjab for their lack of response and inaction towards climate change. The plaintiff argued that the government's failure to implement the climate change policy is the violation of his constitutional rights; right to life of healthy, clean environment under Article 9 and to human dignity of security of water, food, and energy under Article 14, are gravely threatened by climate change. The court ordered to implement the policy on urgent basis.

### CONCLUSION

There is a need of cross sartorial and cross agency coordination at both international and national level on analysis and information, enforcement, restoration and prevention of environmental crimes. Environmental crimes need collaboration at transnational level, sharing of information and consensus building across the United Nations. Moreover, it needs unity of effort and command in terms of both implementations and coordination in concrete and targeted national plans. This needs the highest level of national collaboration with one of the leading agency as well as full cooperation and co-ordination with the other relevant agencies. Finally, it needs to strengthen the institutions of state, increase economic incentive and raise public awareness. Specific shows and programs should be arranged for engagement as well as dedication with full willingness of the donor groups to collaborate their supports and efforts by focal person in country.

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<sup>9</sup>Section 6 (1)(j) of PEPA 1983. NEQS were announced for the first time in 1993, see: NaureenMujahida, "Development of environmental institutions and laws in Pakistan" *Pakistan Journal of History and Culture* 30(1) (2009): 93-112.

<sup>10</sup>EPAs were established in Punjab in 1987, in Sindh in 1989, in NWFP (now KPK) in 1992 and in Baluchistan in 1995. In the autonomous regions of GilgitBaltistan and Azad Jammu and Kashmir EPAs were established respectively 2007 and 2005, see MujahidaNaureen, op. cit., 101. Lau, Martin, "The Role of Environmental Tribunals in Pakistan: Challenges and Prospects" *YB Islamic & Middle EL* 20 (2018): 1.

<sup>11</sup>Government of Pakistan, The Pakistan National Conservation Strategy: A Plan of Action for the 1990s (Islamabad, 1992).

<sup>12</sup>Hassan, Jawad, "Environmental Law of Pakistan" *Glob.Envntl. L. Ann.* (1996): 15.

<sup>13</sup>Afzaal Ahmed Khan vs. DG EPA 2015 CLD 57, para. 7.

<sup>14</sup>See also DG EPA vs. Shabbir Ahmed 2012 CLD 2032, DG, EPA vs. Smail H. Zakaria, CEO 2011 CLD 1253, DG EPA vs. FarooqGulzar 2013 CLD 16 and DG EPA Sindh vs. MohsinTabani 2012 CLD 2004.

## **Recommendations**

### **Bring down threats to peace and security**

Strengthening information analysis, information sharing and information collection across the sectors in sanctions councils, peacekeeping committees across the United Nations on role of misuse and exploitation of natural resource and security inform a comprehensive response to secure peace and secure sustainable development. This also includes the integrating Interpol collaboration officers into the peacekeeping agenda.

### **Rule of law**

Global community should realize and deal environmental problems as most serious threat towards peace, security and sustainable development by strengthening environmental regulations of laws on all extent to stop the secure havens as well as disrupt offshore tax haven, implement deterring penalties, improve and increase legislation at national and international level, improve sanctions and substantial punishments, technical assistance and capacity development for improving enforceability and decision-making capabilities in area of the environmental crimes.

### **Leadership**

Governments have to establish the cross national sectoral plans and central coordination with unity of effort and command and with relevant United Nations entities like Interpol and other international binding institutions and bodies as a proper place to combat with the all involved internationally organized environmental criminal group.

### **Financial assistance**

To call the international community for development to address and recognize environmental issues as serious danger towards sustainable development and also to increase share of official development assistance to judicial reform and governance including to fighting with and prevention from environmental problems. This must be aimed at building capacity, and providing technological assistance to the relevant agencies global, national and regional law implementation attempts against environmental crime such as interagency coordination, prosecution, information, analysis, enforcement and judiciary particularly in fragile and developing countries.

### **Consumer awareness and economic incentives**

Increase economic incentives and strengthen the relevant institution and raise consumer awareness. It needs planning for alternative economic incentives, consumer awareness and livelihoods are fully coordinated and collaborated with enforcing efforts in importing countries as well. To bring down the demand best practices must be identified by behavioral change, including by different communications summits that address all the points of this illegal trade. Finally, it needs to strengthen the institutions of state, increase economic incentive and raise public awareness. Specific shows and programs should be arranged for engagement as well as dedication with full willingness the donor groups to collaborate their supports and efforts by focal person in country.

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