



## **The Effectiveness of the Pakistan Environmental Protection Act (PEPA) 1997 in Addressing Industrial Pollution: A Critical Analysis of Implementation and Enforcement Challenges**

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### **Abstract**

*The research assesses how well the Pakistan Environmental Protection Act (PEPA) 1997 manages industrial pollution through critical evaluation and analysis of its application to provide insight into the current state of PEPA's environmental governance capacity. To accomplish this goal, the analysis incorporates a doctrinal-analytical approach based on statutory interpretation, case law and judicial precedent as well as the analysis of empirical evidence from government reports and peer-reviewed journal articles. The study examines key provisions of PEPA relevant to the controls on industrial pollution and the implementation of those provisions as evidenced by related case law and institutional performance measures; it also situates Pakistan's experience within the broader international environmental law literature. The results indicate that there exists a significant gap between what is crystalised in the PEPA as a regulatory framework and what is actually happening with regard to the PEPA's effectiveness, due largely to institutional inadequacy, economic constraints, political instability, low public awareness, and the devolutionary impact of the Eighteenth Constitutional Amendment. As such, the paper provides targeted policy recommendations to address the above-listed impediments to improving PEPA's implementation, as it relates to the enforcement of PEPA, inter-institutional coordination, and enhancing environmental constitutionalism through the newly adopted Article 9A. This study provides further evidence for expanding the emerging body of literature that examines issues related to environmental governance in developing nations, especially as they relate to South Asian jurisdictions dealing with the difficulties created by balancing industrialization with ecological sustainability.*

*Keywords: Pakistan Environmental Protection Act (PEPA) 1997; Industrial Pollution; Environmental Governance; Legal Enforcement; Sustainable Development*



## Introduction

### Historical Context and Development Of Pepa 1997

Pakistan established its first ministry Federal Environment Ministry in 1975 now called Ministry of climate change and environmental coordination after the signatory of Stockholm Declaration 1972 (United Nations, 1972), this ministry was responsible to implement the Pakistan Environment Protection ordinance 1983(ordinance), it was the first legislation about environment since the inception of Pakistan.

#### *Objective of this Ordinance*

- To establish Pakistan Environment Protection Council with President as its Chairman.
- To establish Federal and Provincial Environment protection Agencies.

Pakistan participated in the Earth Summit held in Rio de Janeiro, Brazil, in 1992 (United Nations, 1992) and become party to several international conventions and protocols, following the summit, Pakistan prepared its first National Conservation Strategy (NSC), It provides a foundational framework for addressing environmental concerns within the country, later on in year 1993 Environment Quality Standards (NEQS) were designed.

After attending the summit and following the short comings in the ordinance Pakistan enacted new law called Pakistan Environmental Protection Act (PEPA) 1997 fulfilling the short comings and to meet the new challenges.

### Pakistan Environmental Protection Act (Pepa) 1997

The Pakistan Environmental Protection Act (PEPA), legislated on December 6, 1997, superseded the previous Pakistan Environmental Protection Ordinance of 1983, Pakistan took a significant step towards environmental protection by enacting the Pakistan Environmental Protection Act (PEPA). This landmark legislation aimed to address the growing concerns of environmental degradation, with a particular focus on industrial pollution. As Pakistan's industrial sector continued to expand, the need for robust environmental regulations became increasingly apparent.

The PEPA 1997 was designed to provide a comprehensive framework for:

- Preserving and restoring the environment
- Controlling and reducing pollution
- Promoting sustainable practices

However, more than two decades after its implementation, questions remain about the Act's effectiveness in curbing industrial pollution. This paper seeks to critically analyze the impact of PEPA 1997, with a specific focus on its role in addressing various forms of industrial pollution.

### Analysis of PEPA 1997

PEPA provides significant strategy for the implementation of NCS, establishing of Provincial sustainable development funds that can be utilized for species protection and conservation.



Additionally, the establishment of environmental tribunals, the appointment of environmental magistrates, the implementation of initial environmental examinations (IEEs) and Environmental Impact Assessments (EIAs), and the establishment of the Pakistan Environmental Protection Council and the Pakistan Environmental Protection Agency are significant measures.

### Key Provisions Related to Industrial Pollution

PEPA 1997 includes several provisions specifically targeting industrial pollution:

- **Sec: 11:** Banning specific discharges or emissions.
- **Sec: 12:** Requirements for Initial Environmental Examination (IEE) and Environmental Impact Assessment (EIA)
- **Sec: 14:** Management of Noxious substances.
- **Sec: 16:** Environment Protection Order
- **Sec: 17:** Penalties for contravention of provisions

These provisions were designed to create a comprehensive framework for regulating industrial activities and their environmental impact.

### Key Provisions of PEPA 1997 related to the statutory bodies:

- **Implementation of NCS:** The PEPA provided a framework for implementing the NCS.
- **Provincial Sustainable Development Funds:** It established mechanisms for sustainable development funding at the provincial level.
- **Species Protection and Conservation:** The act addressed species conservation.
- **Renewable Resource Conservation:** It highlighted the importance of conserving renewable resources.
- **Environmental Tribunals and Magistrates:** PEPA set up environmental tribunals and appointed environmental magistrates.
- **Environmental Impact Assessment (EIA) and Initial Environmental Examination (IEE):** It introduced processes for assessing environmental impacts.

## Literature Review

### ➤ The Current State of Industrial Pollution in Pakistan and its Environmental Impacts.

Around the globe Pakistan ranked as 2<sup>nd</sup> most polluted country in the world<sup>1</sup>(IQAir, 2024), due to mishandling of hazardous substance, effluents, industrial wastes, as per reports of World Bank group that about 50% of Pakistan's population will be urbanized by 2030 causing severe environmental problems. In Pakistan fine air particles measurement are 2.5 (PM:2.5) which are notable greater as per the guidelines of WHO<sup>2</sup>(World Bank, 2019). . In 2019, Pakistan experienced alarmingly high levels of PM2.5 pollution, with concentrations consistently exceeding both WHO and national air quality standards for the entire year. This persistent exposure to poor air quality

<sup>1</sup> <https://www.iqair.com/pakistan?srsId=AfmBOorSIOPG3tDWxH9uSxRdWWDtLPT11jk5AfwJqzK4qo7NXPzIjxi>

<sup>2</sup> World bank group: PAKISTAN@100 ENVIRONMENTAL SUSTAINABILITY.



had severe implications for public health, environmental sustainability, and economic development in the country.<sup>3</sup> (Anjum et al., 2021) Air pollution in Pakistan has escalated to a public health crisis, with an estimated 128,000 fatalities annually linked to air pollution-related illnesses.<sup>4</sup>(Qureshi, 2022), recent study of the Energy Policy Institute (University of Chicago) revealed that air pollution has reduced life expectancy by an average of 3.8 years in Pakistan. In the most polluted regions of the country, this impact is even more severe, with a decrease in life expectancy of up to 7 years.<sup>5</sup> (Energy Policy Institute, 2022)

Industrial Pollution is most harmful type of pollution in Pakistan, it exists in almost all types of matter i.e. Solid, Liquid & gas, it is becoming the stubborn to the health and environment of the populace, it is affecting the air we breathe, the soil we live on and the water we intake, the increase in industrialization not only consumes agricultural land but also contaminated the environment of soil. At the time of independence Pakistan had only 34 industrial units, over the years Pakistan's industry flourished from contributing only 7% of GDP to contributing 64% of GDP<sup>6</sup>(Pakistan Journal of Business Forum, n.d.), major industries include cotton, leather, tobacco, cement, automobile, textile, chemicals etc. that's a good thing for the economy but on the other hand industries are wreaking havoc on the environment. Industrial processes generate substantial amounts of hazardous waste, toxic gaseous pollutants, and other harmful emissions. Industries often discharge their effluents into nearby streams, rivers, lakes, and agricultural fields, leading to both health issues and a decline in overall water quality.<sup>7</sup> (Government of Pakistan, 2022) according to the Pakistan Council of Research in Water Resources, drinking water in 17 major cities is impure for human consumption, and approximately 70% of Lahore's water supply is contaminated.<sup>8</sup> (The Nation, 2019) Out of Pakistan's 388 cities, only 8 possess wastewater treatment facilities, and even some of these are merely primary treatment plants.<sup>9</sup> (The Nation, 2019)

### **Types of industries and their impact on environment**

Pakistan's industrial sector comprises of small, medium and large units with mixture of old and new technologies, majority of the industries lies at urban center where populace stays without treatment of pollution facilities i.e. WASTE WATER TREATMENT PLANTS. Karachi, Lahore, Multan, Hyderabad, Faisalabad, Peshawar, Gujranwala, and Sialkot are the major cities where

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<sup>3</sup> Anjum MS, Ali SM, Imad-ud-din M, Subhani MA, Anwar MN, Nizami AS, et al. An emerged challenge of air pollution and an ever-increasing particulate matter in Pakistan: A critical review. J Hazard Mater 2021; 402:123943. Doi: 10.1016/j.jhazmat.2020.123943

<sup>4</sup> Qureshi Z. 128,000 people die annually in Pakistan due to air pollution. Pakistan Observer 2022, September 12. (<http://pobserver.net>). (accessed on 2024)

<sup>5</sup> Pakistan Fact sheet\_2022\_pk-version AQLI%20U.%20 Chicago. pdf. (accessed on March 19, 2024)

<sup>6</sup> <https://www.pjbf.org.pk/pakistan-industry>

<sup>7</sup> National hazardous waste management policy 2022

<sup>8</sup> <https://www.nation.com.pk/07-Jan-2019/industrial-pollution-in-pakistan>

<sup>9</sup> [https://www.academia.edu/download/91858233/177\\_2020\\_167.pdf](https://www.academia.edu/download/91858233/177_2020_167.pdf)



most of the industries are situated. Unfortunately, there is no any centralized facilities anywhere and haven't any policy which separates industries from residential areas and vice versa.

- **Major industrial sectors**

- Textile
- Leather
- Fertilizer
- dairy
- food processing
- oil and ghee
- dyes and pigments
- sports and industrial chemicals etc.

In Pakistan, the textile, leather, carpet, sports, and surgical instrument industries, which constitute 80% of the total export value, are major export-oriented sectors. However, unplanned urbanization and industrialization, especially in urban centers, have led to significant environmental problems. Large quantities of industrial and sewage waste are being discharged into the air and water bodies.<sup>10</sup> (Samad, 2015). All dump sites are located along riverbanks, and waste, both liquid and solid, is directly discharged into the water bodies, as per reports Karachi nearly produced 1000 tons of waste everyday only 40% of industrial waste is managed appropriately. The remaining 60% contaminates soil and water resources, resulting in severe health and environmental risks.<sup>11</sup> (The Nation, 2023) and Lahore dump 300 million dump into River Ravi, hence the quality of water become so polluted that the water from the rivers are even not useful for the agricultural purposes, the open dumping of industrial waste is deteriorating the quality of groundwater in the outskirts of major cities.<sup>12</sup> (Government of Pakistan, n.d.)

### **Impact of polluted environment on health**

Pakistan, a major South Asian nation, houses Karachi, a coastal metropolis situated in Sindh province. As the world's third-most populous city and Pakistan's industrial and economic hub, Karachi boasts four primary industrial zones: Landhi, Korangi, North Karachi, and the Sindh Industrial and Trading Estate (SITE). Its diverse economy, supported by numerous organizations and industrial hubs within these zones, has fueled rapid, often unplanned, urban and industrial expansion. This unchecked growth has led to increased emissions of pollutants like PM, NO<sub>2</sub>, SO<sub>2</sub>, and VOCs from industries. These pollutants not only degrade the local environment but can also travel long distances, affecting rural areas. The consequences are far-reaching, impacting plant growth and increasing human health risks, which includes Parkinson's disease, type 2 diabetes, chronic pulmonary infections, and respiratory problems, as per reports of WHO<sup>13</sup> (Human Rights Watch, 2023) *Air pollution is a major environmental threat to human health*. 99% of the global

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<sup>10</sup> Samad, G., 2015 – Environmental Regulations and Compliance in the textile Processing sector in Pakistan: empirical Evidence.

<sup>11</sup> Solid waste in Karachi: <https://www.nation.com.pk/30-Jan-2023/solid-waste-in-karachi#:~:text=In%20Karachi%2C%20nearly%201%2C000%20tons,of%20it%20is%20managed%20properly>

<sup>12</sup> Brief of Environmental Concerns- Pakistan Scenario (environment.gov.pk)

<sup>13</sup> Pakistan's Air Pollution Shortens Life: <https://www.hrw.org/news/2023/12/06/pakistans-air-pollution-shortens-lives#:~:text=Lahore%20consistently%20ranks%20among%20the,increasing%20levels%20of%20air%20pollution.>



population resides in areas that exceed the World Health Organization's (WHO) health-based air quality guidelines.

Fair Finance Pakistan<sup>14</sup> (organization working to address the challenges faced due to climate change) has estimated that in Pakistan around 128,000 deaths are reported due to air pollution, the real number is likely higher.

Table 1

Environmental problems	Health Effects
Air Pollution	Respiratory Issues, Heart diseases, eye side problems, skin irritations, strokes
Global warming	Heat strokes, Hyperthermia
Climate changes	Disrupt food availability, cardiovascular diseases, water-borne illnesses
Water pollution	Typhoid, Cholera, diarrhea, hepatitis A, dysentery
Noise pollution	Multiple psychological issues (anxiety, sleep disorder, stress), blood pressure, cognitive impairment in children, annoyance
Improper sanitation and waste management	diarrheal diseases, intestinal worm infections, typhoid, spread of antimicrobial resistance

### Industrial Pollution Damaging marine environment

Marine pollution is a grave threat to sensitive marine environment and ecosystem in Pakistan coastal areas. It jeopardizes biodiversity, threatens fisheries and affects subsistence activities of coastal communities resulting in compromised socio-economic conditions of local population. Despite legislation and many regulatory authority's implementation remains a challenge. The damage to marine environment is mainly due to Industrials and plastic pollution in Pakistan. In this we mainly focus on Karachi harbor which is hub of maritime activities in Pakistan and it has also covered the largest coastal area of Pakistan. Karachi being country's most populated city harboring a large number of industries is major source of marine pollution<sup>15</sup>(Mangroves for the Future Pakistan, 2016). Karachi is home to approximately 6,600 industrial units, distributed across four primary industrial areas: the Site Association of Industry, the North Karachi Association of Trade and Industry, the Korangi Association of Trade and Industry, and the F.B Area Association of Trade and Industry.<sup>16</sup> (Shahzad, 2023). There being no proper system of waste disposal, recycling or treatment in any of these industrial areas, pollution/waste from industrials areas and domestic sewage eventually end up in the coastal waters of Karachi. It is taxing marine environment beyond acceptable limits and is responsible for ecological decay and damage to

<sup>14</sup> <https://pakistan.fairfinanceasia.org/>

<sup>15</sup> A handbook on Pakistan's coastal and marine resources (n.d.-a). Available at <http://www.mangrovesforthefuture.org/assets/Repository/Documents/A-Handbook-on-Pakistan-Coastal-and-Marine-Resources.pdf>

<sup>16</sup> (PDF) a preliminary study of pollution in Karachi Harbor. (n.d.-d). Available at [https://www.researchgate.net/publication/291331552\\_A\\_preliminary\\_study\\_of\\_pollution\\_in\\_Karachi\\_Harbor](https://www.researchgate.net/publication/291331552_A_preliminary_study_of_pollution_in_Karachi_Harbor)



environment. Existing sewage treatment plants are either non-functional or operating at greatly reduced capacity<sup>17</sup>(Shahzad, 2023).

### **Industrials waste into Marine environment**

Every year, the international union for Conservation of Nature (IUCN) estimates that thousands of tons of industrial waste are dumped into the sea. In Pakistan, coastal areas are the hub of industrial waste. In Karachi, where major industries are located, industrial waste contaminates the sea and becomes the main source of marine pollution. Industrial waste poses a great threat to marine life. In Karachi, the absence of effluent treatment plants, especially in 2 of the major industrial sites<sup>18</sup>(Mughal, 2018),Sindh Industrial trading estate (SITE) and Korangi Industrial and Trading Estate, leads to the release of waste containing hazardous substances, such as heavy metals and oil, into the parts of rivers, creeks, and harbors. The area surrounding Port Qasim<sup>19</sup> (FAIRR Initiative, n.d.) has witnessed substantial developments, particularly in industries such as chemicals, oil refineries, and tanneries. These industries convert various substances into the effluents, including hydrocarbons, heavy metals, and fertilizers. Discharges from petroleum industries contains a range of materials, including grease, oil, phenol, and heavy metals like iron, chromium, copper, and zinc. The areas around Karachi's harbor and Port Qasim are considered hotspots with a significant amount of contaminated water present in that area, posing a threat to marine life in nut shell industrial waste is major source of marine pollution.

- **Solid industrial waste pollution in Pakistan**

Pakistan's rapid industrialization has also led to a huge increase in generation of solid waste. This waste contains hazardous substances that cause serious threat to human health and environment,

### **Some of the sources of industrial pollution in Pakistan**

#### **Textile Industry**

- **Dyehouse sludge:** this sludge contains heavy metals such as mercury, lead, chromium and other compounds which contaminated water bodies and soil<sup>20</sup>
- **Fabric waste:** excess fabric scrabs cuttings and defective pieces often end up in landfills or are burned, releasing harmful pollutants in to the air

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<sup>17</sup> Environmental pollution: Impact on ships and infrastructure on..., n.d., Available at [https://www.proquest.com/openview/cabc906cf8d69fb0dcc23\\_eb6391afdb3/1?pq-origsite=gscholar&cbl=1616340](https://www.proquest.com/openview/cabc906cf8d69fb0dcc23_eb6391afdb3/1?pq-origsite=gscholar&cbl=1616340)

<sup>18</sup> .H. Mughal, "Agricultural Pollutants Worsen Water Crisis in Sindh," DAWN.COM, August 27, 2018, Available at <https://www.dawn.com/news/1429142>

<sup>19</sup> Marine pollution as a result of intensive farming. FAIRR. (n.d.). Available at <https://www.fairr.org/resources/knowledge-hub/intensive-farming-pollution/marine-pollution-as-a-result-of-intensive-farming>

<sup>20</sup> Concentrations and speciation of heavy metals in sludge from nine textile dyeing plants- ResearchGate



## Chemical Industry

- **Chemical residues:** the production of chemicals, pharmaceuticals, fertilizers mainly produced solid waste containing hazardous substance such as organic solvents, acids and bases.
- **Packaging materials:** empty containers, drums and other packaging materials can be contaminated with chemicals and pose a risk if not disposed of properly.<sup>21</sup>

## Cement Industry

- **Dust and fly ash:** The cement manufacturing process generates huge amounts of dust and fly ash, which can be carried by wind and contaminate air and water.<sup>22</sup>
- **Waste materials:** cements plant also produced waste materials i.e. kiln dust & filter cake which contain hazardous substances<sup>23</sup>

## Open dumping/waste landfills/solid waste disposal

Generally, landfills are engineered sites designed for the systematic disposal of waste. These facilities are constructed to control emissions of gases, liquids, and solid materials, preventing contamination of the surrounding environment.

In Pakistan there is no any proper Solid waste disposal even there is no any proper waste landfills in any city of Pakistan,<sup>24</sup> (Government of Pakistan, n.d.) resulting in severe environmental problems, as waste is often burned, dumped, or buried on vacant land, posing a significant health risk. Pakistan generates a staggering 49.6 million tons of solid waste and 4.36 billion cubic meters (BCM) of domestic and industrial wastewater annually, which has been increasing with a rate of more than 2.4% annually, landfills/dumping yards are used to control air pollution but in Pakistan these areas are becoming major source of pollution due to lack of proper planning of disposal, While open dumping is a cost-effective waste management method, it has significant negative impacts on the environment and public health. Emissions from open dumps, including dioxins, furans, mercury, and other hazardous substances, contribute to air, water, and soil pollution.<sup>25</sup> (United Nations Environment Programme, 2019).

## The Legal Framework Provided By Pepa 1997 For Regulating Industrial Activities.

PEPA provides a comprehensive legal framework for regulating environment related activities, Pakistan Environmental Protection Agency (Federal Agency) serving as a primary legal body to implement PEPA and regulate industrial related activities. Federal Agency's most primarily duty

<sup>21</sup> Do Empty Chemical Containers Still Pose a Risk? - Storemasta Blog

<sup>22</sup> Cement Kiln Dust (CKD): Potential Beneficial Applications and Eco-Sustainable Solutions

<sup>23</sup> evaluation of cement kiln dust (ckd) for the improvement of the thal desert dune sand of Pakistan- ResearchGate

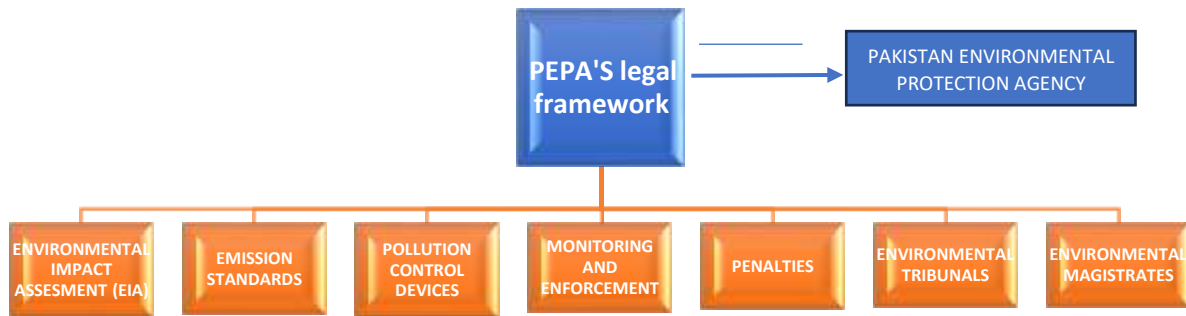
<sup>24</sup><https://environment.gov.pk/SiteImage/Misc/files/Downloads/interventions/environmentalissues/DevelopmentLandfillSites.pdf>

<sup>25</sup> UN environment programme

is to implement National Environmental Quality Standards.<sup>26</sup> (Pakistan Environmental Protection Act, 1997, § 6) In addition to Federal Agency, PEPA also introduces Provincial Environmental Protection Agencies<sup>27</sup> (Pakistan Environmental Protection Act, 1997, § 8

Figure 1

Key provisions provided In PEPA which Agency has to implement:



### ENVIRONMENTAL IMPACT ASSESMENT (EIA)<sup>28</sup>

No proponent shall start the project unless he has submitted an Initial Environment Examination to Agency, and if it that project is likely to cause adverse environmental affect so environmental impact assessment has to submitted and approval from agency has to obtained.

Figure 2

Key components of EIA report:



<sup>26</sup> Sec: 6 of PEPA 1997

<sup>27</sup> Sec 8 *ibid*

<sup>28</sup> Sec: 12 PEPA, 1997



- ✓ **Project description:** detail description of proposed project, identification of project component and activities
- ✓ **Baseline environmental conditions:** air quality, water quality, land use, bio-diversity, socio-economic conditions.
- ✓ **Identification and prediction of impacts:** potential environment impact both positive and negative.
- ✓ **Mitigation measures:** specific measure to avoid or minimize environmental impact
- ✓ **Monitoring and evaluation:** monitoring program to tackle the environmental impact, and evaluating the effectiveness of mitigation measures.

### Emission standards

**Environment protection order<sup>29</sup>(Pakistan Environmental Protection Act, 1997, § 16):** under sec:16 of PEPA, when a federal or provincial agency determines that a discharge, emission, or disposal of effluent, waste, air pollutants, noise, or hazardous substances, If any action or inaction, whether potential, ongoing, or past, violates this act or causes adverse environmental effects, the federal agency, after providing a hearing opportunity to the responsible party, so the agency may order to immediate stoppage of the emission, or controlling the discharge, or installation, replacement of such equipment, or action to remove the thing which is causing disturbance and also the agency will take action to restore the environment to its original condition.

**Prohibition of certain discharge or emissions<sup>30</sup>(Pakistan Environmental Protection Act, 1997, § 11):** No person shall discharge, emit, or allow the discharge or emission of any effluent, waste, air pollutant, or noise exceeding "The Federal Government has the authority to impose a pollution charge on individuals or entities that do not meet the National Environmental Quality Standards, or any relevant standards outlined in sub-clause (I) of clause (g) of sub-section (1) of section 6."

- **Pollution control devices:** under PEPA this section only applies to motor vehicles but in a broader sense it can also be applicable to vehicles related to industrial activities such as the vehicles transporting goods or raw material fell under this scope.
- ✓ **Installation of pollution control devices:** Operating a motor vehicle that releases air pollutants or noise levels beyond the limits set by the National Environmental Standards (NES) is prohibited.<sup>31</sup>

The federal agency has the authority to mandate that any motor vehicle or category of vehicles must install specific pollution control devices or equipment, use approved fuels, or undergo designated maintenance or testing procedures. When federal agency issues such direction so that vehicle shall not be operated until and unless such direction is compiled.<sup>32</sup>

- **PENALTIES<sup>33</sup>**

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<sup>29</sup> Sec 16 of PEPA 1997

<sup>30</sup> Sec 11 *ibid*

<sup>31</sup> [Pakistan Environmental Protection Agency](#)

<sup>32</sup> Sec 15 of PEPA 1997

<sup>33</sup> Sec 17 *ibid*



Whoever fails to comply with the provision of sec 11<sup>34</sup>,12<sup>35</sup>,13<sup>36</sup>and 16<sup>37</sup> Violators will face a penalty of up to one million rupees. If the infringement persists, an extra fine of up to one hundred thousand rupees per day will be imposed during the period of non-compliance.

Whoever fails to comply with the provisions of sec 14<sup>38</sup>, 15<sup>39</sup> A penalty of up to one hundred thousand rupees may be imposed. If the violation persists, an extra fine of up to one thousand rupees per day will be levied for each day the violation continues.

- **Environmental tribunals and Environmental Magistrates**

**Environmental tribunals:** under section 20 environmental tribunals are established consisting of one chairperson who shall qualified to be appointed as the judge of high court, he shall be appointed with the consultation of the concerned chief justice and two other persons Appointed by the federal government, at least one individual must be a technical expert possessing appropriate professional qualifications and experience in the environmental sector.

**Triable by environmental tribunals<sup>40</sup>**

- An aggrieved person who has received a notice from a federal or provincial agency regarding an alleged violation may file a complaint before the tribunal.
- Or complaint filed by federal government or any government agency or local council

**Contraventions triable by environmental tribunals**

When agency fines penalty on contravener of provisions sec 11, 12, 13 ,16, he can make complaint before environmental tribunals, environmental tribunals can issue bailable arrest warrants against any person who contravenes sec 17(1)<sup>41</sup>

**Appeal to and from environment tribunals<sup>42</sup>**

If any provincial agency or federal Agency under this act put any fine on anyone or allegedly making someone contravener of any provision of this Act, he can appeal at Environmental Tribunal within 30 days and any aggrieved person from the orders of environmental tribunal can appeal to High court within 30 after passing such order.

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<sup>34</sup> Prohibition of certain discharges or emissions

<sup>35</sup> Initial environmental examination and environmental impact assessment

<sup>36</sup> Prohibition of import of hazardous waste

<sup>37</sup> Environmental protection order

<sup>38</sup> Handling of hazardous substances

<sup>39</sup> Regulation of motor vehicles

<sup>40</sup> Sec 21 of PEPA 1997

<sup>41</sup> *ibid*

<sup>42</sup> Sec 23 & 24 *ibi*

Figure 3



### Environmental Magistrate<sup>43</sup>

All violations of sub-section 2 of section 17 shall be tried by First-Class Judicial Magistrate specially empowered as an Environment Magistrate by the High Court.

Environment Magistrate shall not take cognizance unless the complaint of:

- Federal agency, Provincial agency or local council
- Any aggrieved person

### Appeal from order of Magistrate<sup>44</sup>

Any person convicted of a violation of this act or its rules or regulations by an environmental magistrate may appeal to the Sessions Court within 30 days.

Figure 4



### The Challenges in the Implementation and Enforcement of This Act, Including Issues Like Corruption, Lack of Resources, And Political Will.

PEPA has provide a complete framework for the protection environment and regulates the industrial activities by implementing National Environment Quality Standards through Federal and Provincial Agencies, reports like initial environment examination and environmental impact assessment, it prohibits certain discharge of emissions, provision for the establishment of environmental tribunals and environmental magistrates. Environmental laws have gained significant importance. During the 37th session of the Human Rights Council held in Geneva on

<sup>43</sup> Sec 24 of PEPA 1997

<sup>44</sup> Sec 25 *ibid*



March 26, 2018, the United Nations Environmental Program launched the "Environmental Rights Initiative." This initiative emphasizes the crucial role of the environment in ensuring a sustainable future and aims to recognize citizens' environmental rights as fundamental human rights.<sup>45</sup> (Dawn, 2018), also the Judiciary of Pakistan has recognized the environment as Fundamental Right as provided by the Constitution of Pakistan i.e. right to life<sup>46</sup>(Constitution of Pakistan, 1973, art. 9), Supreme court in *Sheila Zia Vs Wada*<sup>47</sup>(Shehla Zia v. WAPDA, 1994) has recognized it as the right to life, coming to the topic that the challenges in implementation and enforcement following are the some of issues regarding:

### **Economic Problems in Pakistan**

Leather and textile are the main sectors to contribute in the development of economy, textile the largest industry of Pakistan contributing huge in foreign exchange and opportunities for the employment among masses. It responsible for 57% share country's share in export,<sup>48</sup> (Government of Punjab, 2018)38% of industrial production in Pakistan,<sup>49</sup> (Government of Pakistan, 2014)8% of GDP,<sup>50</sup> there are almost 420 industries registered with APTMA, 13 in KPK, 62 in Sindh, Baluchistan, 345 in Punjab<sup>51</sup> (Samad, 2015) around 65% industrial units are in Punjab, the textile sector therefore produces more air and water pollution and discharges effluent directly in air deteriorating human and aquatic life<sup>52</sup>(World Bank, 2013).

Leather is 2<sup>nd</sup> largest foreign exchange source of economy of Pakistan, about 90% of finished leather is exported throughout world, The leather sector in Pakistan contributes significantly to the national economy, accounting for 5% of the GDP and 4.41% of total export earnings. Key leather products exported by Pakistan include sports goods, footwear, gloves, garments, and other items. Major export destinations for Pakistani leather products include Spain, Italy, Germany, China, the UAE, Turkey, the UK, France, and the USA.<sup>53</sup> (World Bank, 2013),due to that production these Industrial sectors produce pollution and proves the factor that *the more production they produce the more pollution they produce and the less implementation on law*, because they are meeting the need of foreign exchange, supporting GDP and Economy of country that's why lacking to implement on act and not following environment friendly cautions, GOVT: rather discouraging is encouraging them by presenting these industries subsidies while it fails to implement existing environmental regulations<sup>54</sup>.Due to economic crises and less resources Pakistan being (3<sup>rd</sup> world country) is full of debts ,running on debts by IMF, these factors push Pakistan in state to be

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<sup>45</sup> <https://www.dawn.com/news/1415248>

<sup>46</sup> Article 9 of the Constitution, 1973

<sup>47</sup> 1994 SC 693

<sup>48</sup> Textile Division GOVT: of Pakistan ([www.textile.gov.pk](http://www.textile.gov.pk))

<sup>49</sup> [http://www.pndpunjab.gov.pk/system/files/Punjab\\_Industries\\_Sector\\_Plan\\_2018\\_0.pdf](http://www.pndpunjab.gov.pk/system/files/Punjab_Industries_Sector_Plan_2018_0.pdf)

<sup>50</sup> Textile Policy 2014-19

<sup>51</sup> Samad, G., 2015 -Environmental Regulations and Compliance in the Textile Processing Sector in Pakistan: Empirical Evidence

<sup>52</sup> *ibid*

<sup>53</sup> Water & Sanitation Programme (WSP) – 2013 Annual Report

<sup>54</sup> Informatory research data gathered during field visit by the SELCON Intl Team



leniently on laws relating environment, if in current economic crisis Pakistan put strict implementation on these existing laws, in reaction to this these industrial mafias will lower their production, they lower their export, results in low foreign exchange, which results in more trade deficit to country, more downfall in economy of country and further it lowers the already lower GDP of country, furthermore it ceases employment opportunities for worker results in unemployment, In essence we can say that Pakistan's struck economy not pushing Pakistan to fully meet the purpose of law.

### **Lack of public awareness**

Cases of environment lacks media coverage or reporting, due to non-reporting of these cases people do not know the legal framework and the procedure which should be followed if one is facing any environmental related problem or any industry or any person causing environmental problems so where one should report these issues, people even do not about the environmental tribunals, lack of media coverage is the solid reason behind unawareness about the rights also the influential industrialists resist the media to report because the same industrialists facing trial before the tribunals, As reported by the former chairperson of the Sindh Environmental Tribunal, increased media coverage has enhanced the tribunal's visibility and provided a pathway for the poor to access environmental justice: *The Sindh Environmental Tribunal began operating in its current form for the first time, receiving significant media attention. This increased public awareness, encouraging many individuals from marginalized communities to seek environmental justice through the tribunal. However, due to pressure from influential industrialists facing trials, media coverage of the tribunal gradually declined.*<sup>55</sup> (Ashraf, 2012)

From reading this report It can be extracted that environmental tribunals can become a better gateway however, powerful industrialists can suppress media coverage about the operations of tribunals since hampering the effectiveness of PEPA.

### **Political Instability**

Political Instability remains a problem for Pakistan since inception, generally in order to run a system smoothly it requires to be stable, it requires a complete adherence to law, it requires to uphold the merit, but here everything is upside down, political instability in Pakistan has often diverted attention away from environmental concerns. When governments are grappling with broader issues like governance, security and economic stability so environmental matters take a back seat, when there is political instability, non-adherence to supreme law of land i.e. Constitution, generation seeing changing regimes earlier than their constitutional terms how can someone invest their capital on environmental matters, how foreign investors will be attracted, PEPA provides to add environmental subjects in literature but when there is no any stable GOVT:

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<sup>55</sup> 6 Jahan Ashraf [now Justice Jahan Ashraf of the Sindh High Court], 'Functioning of Environmental Protection Tribunals - A First Hand Experience', conference paper delivered at the South Asia Conference on Environmental Justice, 24th to 25th March 2012, Bhurban, Pakistan (on file with the author).



or GOVT: having other broader issues and keeping environmental issues down the track, how environmental problems can be solved.

### **Lack of resources**

Insufficient funding and lack of expertise is a major problem hence hampering the effective implementation of PEPA, as cited in DAWN newspaper<sup>56</sup> (Dawn, 2003). This is due to insufficient funds allocated by the provincial government and the lack of a dedicated enforcement force for the PEPA. Funds are given to Agencies are enough only to meet its “establishment cost,” Agencies lacked effectiveness because it has no any force to implement the environmental law. The lack of interest from relevant state agencies in enforcing the national environmental quality standards and other provisions of the PEPA has rendered the legislation largely ineffective, in Pakistan several institutions are purely or indirectly handling the environmental issues those institutions involve federal and provincial agencies and ministry of climate change. These bodies are responsible for formulation of policies and standards, implementation of environmental laws and monitoring and compliance to set standards. Furthermore, the accountability and awareness of environmental issues from different perspectives is supported by several NGO’s and civil society however unfortunately these institutions lack many resources, have low capacity, or lack the necessary infrastructure that hinders them from dealing with the environmental issues conveniently. The Federal and provincial agencies do not have adequate human capital and funds to undertake comprehensive environmental impact auditing and check on non-compliance.<sup>57</sup> (Author, 2024)

### **Lack of efficiency from Environmental Protection Agencies**

Agency lack the efficiency or they themselves are responsible for polluting the environment, there are number of cases reported in which one can create in conception that agencies themselves are indulging in making the environment worse, there are many cases in which industries are working without IEA or not complying with the Environment Protection Order (EPO), some of the cases are stated below

#### ***DG EPA vs. MESSRS POULTRY FARM NO.1*<sup>58</sup> (DG EPA v. Poultry Farm, 2018)**

A poultry farm housing 50,000 consumers of chicken feed, it was under subject to EPO issued by agency to make compliance as per orders of EPO, for continuous 6 years the farm house owner violated EPO, after 6 years when matter resided at Punjab Tribunal, he found guilty under PEPA to a total fine of Rs 500,000.

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<sup>56</sup> <https://www.dawn.com/news/89835/peshawar-environmental-agency-faces-problems>

<sup>57</sup> Challenges for Pakistan courts In enforcing environmental law (volume 4, issue.2 (2024):  
<https://ijisc.com.pk/index.php/IJISC/issue/view/192>

<sup>58</sup> 2018 CLD 1484



***Packages Ltd vs. Environmental protection agency, govt: of Punjab.<sup>59</sup> (Packages Ltd. v. EPA, 2018)***

Packages limited one of the largest companies listed on stock exchange in Pakistan, one of its industrial unit was discharging waste water into open drains for 9 years from 2009-2018, Agency has issued EPO but industry did not comply to EPO, nor Agency took any step to let industry to comply on EPO, subsequently a local resident filed a complaint against the industry at Punjab Tribunal, tribunal found the industry guilty, upheld the Environmental Protection Order (EPO), and determined that the industrial unit, Even after nine years, the industrial unit did not succeed in managing its effluents as required by the EPO regulations.

**Hence** from reading the above cases we can find that how efficient the agency is!, After lapse of 6 and 9 years agency did not take a step to compel polluters to comply In accordance with EPO, even agency was not that efficient to take a moment and see that if they had comply with the order of agency itself, due to the lapse of years how much damaged done to the environment, how much damage done to the health, how much health costs on pockets of public, there are cases in which agencies have only fulfilled their formalities but did not even check that if one is complying with their own orders or not. Due to this state of agencies a common man's minds develop two questions i.e. either they themselves are involved in polluting the environment by taking bribe, or they are inefficient to do their work in accordance with the environmental laws.

**Inactive tribunals**

While PEPA provides to establish as many as tribunals as deemed necessary but inactivity of tribunals has caused serious implementation problems, currently there are four tribunals In Pakistan situated at Lahore, Karachi, Peshawar and Quetta, headed by chairperson and two members including one technical and one legal member, at present Environmental tribunal at Lahore is fully functional whereas Karachi, Peshawar and Quetta tribunals are not fully functional mainly due to vacant posts of members. The tribunals are final findings authorities in cases/issue related to environment. Complaints and appeals against the legal actions of the agencies are entertained as per PEPA, as stated above Punjab has the large number of industries but only one tribunal is functioning, more tense situation is that only one tribunal is fully functional as per data provided by Ministry of Law & justice<sup>60</sup>(Government of Pakistan, n.d.)

**PEPA'S status after 18<sup>th</sup> amendment**

During 1997 when PEPA enacted it was the domain of federal government to mitigate the environmental related problems but after the 18<sup>th</sup> amendment in the constitution of Pakistan,1973, environmental laws has undergo certain changes which has affected PEPA, after 18<sup>th</sup> environment the subject "environment and ecosystem" comes to the domain of provinces, following the amendment provinces adopted their own laws so PEPA remains effective only in the jurisdiction of Federal capital, because provinces has their own agencies and after 18<sup>th</sup> amendment having their

<sup>59</sup> 2018 CLD 1178

<sup>60</sup> [Ministry of Law and Justice \(molaw.gov.pk\)](http://molaw.gov.pk)



own laws, following the 18 amendment the effectiveness of PEPA remains a question still today unanswered.<sup>61</sup>

### **Case Studies of Successful and Unsuccessful Enforcement Efforts.**

As stated above the PEPA has complete framework regarding environmental matters in it Federal and Provincial agencies have the primary responsibility to implement PEPA while tribunals sanctioned one who contravenes, lets discuss some of the case studies of enforcement of this act.

### **Supreme court declaring Environment as Human Rights law/Fundamental Rights.**

#### **Public interest litigation: SHAILA ZIA V WAPDA<sup>62</sup> <sup>63</sup>(*Shehla Zia v. WAPDA, 1994*)**

The residents of Islamabad send letter petition to Supreme court of Pakistan about their alleged danger to health due to construction of grid station by Wapda, SC take this as a matter of public importance under article 184(3) of the constitution<sup>64</sup>, The letter raises two key questions: Q.1 Does any government agency have the right to endanger the citizens lives through its actions without their consent? Q.2 Do zoning laws grant citizens' rights that cannot be revoked or modified without their consent? In this context, citizens are concerned about potential health risks and environmental problems associated with electromagnetic fields or other hazards that may arise from the installation of a grid station, SC while deciding the case states to take precautionary measures and same there are many cases which state to take precautionary measures in environmental related problems because when anything affects are not clearly decided so precautionary measure should be taken, in this case SC also declared that *right to a healthy environment was constitutionally protected as part of the right to life and dignity.(Article 9 of the constitution).*

**Hence** declaring Environmental issues as human right laws has got an immense importance in Pakistan, since the implementation of PEPA has got a great importance because it is declared by the highest court of Pakistan as HUMAN RIGHTS ISSUE.

### **Case related to the enforcement of PEPA**

#### **Pakistan environmental lawyers' association (pela) vs. federation of Pakistan**

**Bench:** CJP Justice Gulzar Ahmed, Justice Mushir Alam, Justice Umar Ata Bandial, Justice Ijaz-ul-Ahsan, and Justice Yahya Afridi

**PELA** has lodged a petition with the Supreme Court of Pakistan, requesting the court's intervention to enforce compliance with environmental laws and regulations nationwide. The petition underscores several environmental issues plaguing Pakistan, such as air and water pollution, deforestation, and the impacts of climate change.

<sup>61</sup> <https://www.jstor.org/stable/48774424>

<sup>62</sup> 1994 SC 693

<sup>63</sup> [8-1-53-564.pdf \(lawjournals.org\)](#)

<sup>64</sup> Art: 184: Original Jurisdiction of Supreme Court. Constitution of 1973.



### **Issues**

1. Non-implementation of environmental laws and regulation
2. Lack of enforcement of environmental policies and guidelines
3. Inadequate infrastructure and resources for environmental protection
4. Unsustainable development projects and activities
5. Climate change and its impacts on the environment and human health

### **Judgement:**

the supreme court of Pakistan issued a landmark judgment, directing the government to take concrete steps to address environmental challenges and ensure sustainable development. The court acknowledged the critical role of environmental protection in ensuring public health and well-being

### **Key directions issued by the court includes**

1. Ensure Agency to monitor and enforce environmental laws and regulation.
2. Strengthening of environmental institutions and increasing their capacity to address environmental challenges
3. Implementation of environmental impact assessments for all development projects, including infrastructure, industrial, and agricultural projects.
4. Establishment of a national environmental database to monitor pollution and environmental degradation
5. Promotion of renewable energy sources and reduction of reliance fossil fuels
6. Encouragement of sustainable agriculture practices and reduction of chemical fertilizers and pesticides
7. Development of a national climate change policy and action plan
8. Establishment of a national environmental education and awareness program

**Hence** this case proves successful for the implementation of environmental laws and safeguarding environment but the implementation of the order of the apex court is still in a midway, if GOVT: implement this judgment in its true spirit it will genuinely solve the environmental problems.

### **Successful Case Studies to Implement Pepa.**

There are also number of cases in which agencies have implement the law in its true sense while fulfilling their duty.

### ***MUHAMMAD ISMAIL COMPANY v DG EPA<sup>65</sup>(Muhammad Ismail Co. v. DG EPA, 2019)***

This case involves an asphalt plant that has been operational since 2010 without obtaining an Environmental Impact Assessment (EIA). The plant has been the subject of complaints from local residents who are concerned about the black smoke emissions. The plant proprietor has received several Environment protection orders (EPO) by agency, instructing him to control excessive

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<sup>65</sup> 2019 CLD 80



smoke, but plant ignored several EPO's, meanwhile due to continuous violation of EPO's, agency sealed the plant, proprietor of plant appeal before Punjab Environmental Tribunal to over tune the decision of agency. The tribunal upheld the agency's decision, citing the precautionary principle, "which requires prompt action to avert environmental harm or danger." The tribunal confirmed the legality of the agency's decision to seal the plant until a satisfactory EIA is completed.

***SINDH PARTICLE BOARD MILLS Ltd vs. ENVIORNMENT PROTECTION AGENCY*<sup>66, 67</sup>**

This case is concerned with the Sindh Particle board factory (factory) in which agency has ordered factory to shut down its operations in Jamshoro district, After receiving complaints from the SITE in Kotri and residents living near the factory area, and conducting subsequent investigations, the agency and its controlling department were confident that the factory had breached the provisions of the Pakistan Environmental Protection Act (PEPA), leading to pollution and nuisance, the factory's internal conditions were so severe that the agency's survey team experienced significant discomfort during the inspection due to high levels of fine particle emissions. Consequently, the agency issued an Environmental Protection Order (EPO), after due-deliberation Agency has ordered to shut the production and implement corrective actions during the 60-day shutdown period, in the meantime agency has also rejected an EIA, following the orders of agency, factory appealed against agency at Sindh Environmental tribunal, after ascertain the facts, the tribunal upheld the validity of the orders of agency.

As we know the agency has the primary responsibility to enact the PEPA and to keep an eye on the environmental issues, in aforementioned cases agency has taken steps in accordance with PEPA, issuing EPO, verifying IEE & EIA.

**Un-Successful Case Studies on Negligence of Agencies Regarding Enforcement Of Pepa.**

***Director General, Pa Vs Raees-Ul-Hassan, Ceo, Habib Sugar Mills*<sup>68</sup>**

In this case, the provincial agency lodged a complaint against a sugar mill for exceeding the National Environmental Quality Standards (NEQS) in relation to multiple effluents and discharges, in violation of Section 11 of the (PEPA)<sup>69</sup> 1997. The Karachi Environmental Tribunal (KET) noted that: *it is a fundamental legal principle requiring the prosecution to independently establish its case beyond any reasonable doubt.* The Karachi environmental Tribunal (KET) determined that the agency had not adhered to the correct procedures for sample collection, as outlined in the Environmental Sample Rules, 2001. Furthermore, the KET found that there was insufficient evidence to prove that the laboratory responsible for analyzing the samples had been duly certified.<sup>70</sup> Ms. Ashraf Jahan, the Chairperson of the Karachi environmental Tribunal (KET), acquitted the accused CEO of the sugar mill. The KET determined that the agency had failed to

<sup>66</sup> 2011 CLD 1271

<sup>67</sup> [KARACHI: Sepa orders polluting factory to stop production - DAWN.COM](#)

<sup>68</sup> 2012 CLD 1696

<sup>69</sup> Sec: 11 of PEPA: Prohibition of certain discharged or emission

<sup>70</sup> See the National Environmental Quality Standards (Environmental Laboratories Certification) Regulations 2000



provide sufficient evidence to substantiate the charges. Expressing its dissatisfaction, the tribunal directed the Sindh Government to initiate disciplinary action against both the agency officials involved and the laboratory.

**Order of the case read as:**

It is important to highlight that the Environmental Protection Agency in Sindh, along with its officials and the PRD Lab authorities, did not fulfill their legal duties with the required diligence and professionalism in the case of the current respondent. Consequently, the following observations have been made.

- i. *The Secretary of the Environment and Alternative Energy Department is instructed to investigate the negligence of the Sindh Environmental Protection Agency (SEPA) officials in delaying the delivery of samples to the laboratory beyond the stipulated 48-hour timeframe. Concurrently, disciplinary proceedings should be initiated against the responsible officials under the Sindh Civil Servants (Efficiency and Discipline) Rules, 1973, for non-compliance with the Environmental Sample Rules, 2011, failure to take action against environmental violators as prescribed by law, and the submission of a defective case.*
- ii. *Appropriate action may be taken against the concerned laboratory under Regulation 14 of the National Environmental Quality Standards (Certification of Environmental Laboratories) Regulation, 2000, for the omission of sample identification in the certificate of analysis. This step is necessary to prevent similar occurrences in the future.*
- iii. *This order shall not impede the Sindh Environmental Protection Agency (SEPA) from initiating fresh proceedings against the respondent, provided that all legal requirements are met in accordance with the law.*
- iv. *The Sindh Environmental Protection Agency (SEPA) is further instructed to conduct comprehensive investigations into all types of pollution, ensuring the collection of composite samples. Strict compliance to relevant laws and regulations is mandatory.*

By reading the case, we can find a negligence of Agency while implementing the procedural requirement provided by PEPA, in that case, a mill was discharging effluents and harmful discharges in the atmosphere, as per PEPA, agency has the responsibility to take action for the strict compliance of PEPA, but agency shows negligence: one while delivering samples of *discharge* to laboratory by making delay, second, the laboratory was not certified in accordance with the National Environmental Quality Standards, due to agency's negligence sufficient damage has caused to environment, It seems that the agency was unaware of the legal ramifications of its sluggish, casual, and unprofessional conduct, which severely compromised the entire prosecution case. Consequently, the Tribunal, adhering to the law, acquitted the CEO of the sugar mill due to



the inadequate investigation conducted by the agency, this shows agency's serious contraventions of PEPA.

- **Maple Leaf Cement Factory Ltd V. Environmental Protection Agency**<sup>71</sup>

Brief facts

The maple leaf factory (the factory) for further expansion of their production purposed Line 3 project (the project) prior to the setting up of the project an Environmental Impact assessment (EIA) has been filed with Agency and requisite fees deposited at the agency, after carrying out preliminary scrutiny and formed a committee, committee recommended following manners to be followed for project:

1. The factory shall install ambient air quality monitoring station.
2. The factory shall adopt dry process.
3. The factory shall install state of the art latest development machinery.
4. The factory shall submit costed environmental mitigation and management plan.
5. The factory shall plan at least 10,000 trees.

The aforesaid recommendations were placed before DG agency for approval, the same kept pending and no order passed under statutory period provided under sec 12(4) of PEPA, after the lapse of statutory period, the factory considered it to be deemed approval of EIA under sec 12(4) of PEPA, and commenced the project by started the construction of LINE-3.

The project was stopped through impugned order passed by Agency on the grounds that the factory has not received approval from agency under sec 12(4) of PEPA, the factory challenges impugned order before Lahore high court.

Court held that while agency has failed to approve the EPI within statutory limitation of 4 months under section 12(4) has passed and agency has failed to complete the review process in result the EIA is deemed to approved under sec 12(4) of the said act and the factory is free to proceed with construction and operation of the project, the impugned order passed by agency stopping the factory on the ground that written approval of EPI was not given is not sustainable in the eyes of law, in fact deeming clause substitutes the absence of written approval of IEA, hence company was on no ground for the violation of the said act or rules or the regulations by the project. The impugned order set aside by then chief justice of Lahore high court Syed Mansoor Ali Shah, currently (*senior puisne justice of Supreme court and in-coming CJP*)<sup>72</sup>.

**Hence** as per law agency has to approve the project within 4 months if it fails so it will be deemed to approved as in this case, director general kept In pending IEA of the factory without just cause, even if there is any cause it has to be approved within 4 months with or without recommendations, Law gives power to agencies to approve IEA after due consideration of the report in order to preserve the environment, here in that case agency remains unsuccessful while implementing the

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<sup>71</sup> PLD 2018 LAH 255

<sup>72</sup> <https://tribune.com.pk/story/2496907/justice-mansoor-ali-shah-to-succeed-qazi-faez-isa-as-chief-justice>.



PEPA in its true spirit, failure in approval by DG agency results in the non-compliance of the recommendations of aforesaid committee, negligence on the part of agency is well established.

### **Environmental Constitutionalism**

While writing this paper, Govt has amended the constitution<sup>73</sup>, earlier there was no any specific constitutional provision specifically for the environment, but after the 26th amendment, the Government of Pakistan has shown some seriousness in dealing with affairs of the environment, earlier environmental Constitutional cases were covered under Right to life<sup>74</sup> and environmental related cases such as Shaila Raza v. Wapda case<sup>75</sup>, now a separate article has been provided for the *clean and healthy environment*<sup>76</sup> now any violation of this fundamental right can be brought under the constitutional petition directly by raising the violation of Human rights, Human Rights violation are very severe in-nature and States ensure that there would be minimum violation of these Fundamental Rights in any situation, adding 9A as fundamental right in the constitution was the need of the time as it will be beneficial.

Pakistan, a nation grappling with climate change's harsh realities, is facing a severe air pollution crisis. Lahore, the capital city, is tragically ranked among the world's most polluted cities<sup>77</sup>. This toxic air has far-reaching consequences, claiming an estimated 128,000 lives<sup>78</sup> annually due to pollution-related illnesses. The situation is dire, and the government is under increasing pressure to address this urgent issue. Fortunately, the recent constitutional amendment, Article 9A, provides a powerful tool for environmental protection. It explicitly recognizes the fundamental right to a clean and safe environment, empowering citizens to seek legal recourse when their rights are violated.

This landmark amendment strengthens the existing legal framework, providing a clear constitutional basis for judicial enforcement of environmental laws. It empowers citizens to hold authorities accountable for protecting the environment and ensuring a healthy future for all.

### **Conclusion and Discussion**

In a nutshell PEPA has provide a robust mechanism to counter environmental issues, this act has provided protection, conservation and improvement of environment. Preventing & controlling pollution and promoting sustainable development, around the globe Pakistan ranked as 2<sup>nd</sup> most polluted country due to mishandling of hazardous substances, effluents and industrial waste which has caused significant decrease in life expectancy. Pakistan's economy is mostly depending on industrial production however they produce pollution as much as production, bring capital into the

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<sup>73</sup> <https://www.dawn.com/news/1866480>

<sup>74</sup> Article 9 of the Constitution of the Islamic Republic of Pakistan, 1973

<sup>75</sup> PLD 1994 SC 693

<sup>76</sup> Art 9A of the Constitution of 1976, which states that Every person shall be entitled to a clean, healthy and sustainable environment.

<sup>77</sup> <https://www.bbc.com/news/articles/cm20k76d5xno.amp>

<sup>78</sup> <https://www.hrw.org/news/2023/12/06/pakistans-air-pollution-shortens-lives#:~:text=Fair%20Finance%20Pakistan%2C%20an%20organization,when%20pollutant%20levels%20are%20high>



country by taking health. In Pakistan industry has no or limited pollution control devices, industries also lacks proper waste water treatment plants. Karachi and Lahore remains the most polluted cities, dumping large number of wastes every day, in major cities of Pakistan there is no any proper planning of industrial area and residential areas but in the world industrial areas are separated from residential area but here we found no any proper planning. Karachi having one of the largest coastal belt, due to pollution (including industrial) marine life is also suffering, water is subject to contamination due to presence of effluents or discharges directly into the streams, to tackle the environmental issues Agencies being the 1<sup>st</sup> line of defense to defend the environment, As per law Environmental agencies has power to issue appropriate order to tackle environmental issues, law also provides environmental tribunals which are quite helpful to implement environmental laws and hears the appeal of aggrieved one. PEPA has provided a complete framework for environmental issues but question arises for the implementation of PEPA, there are many reasons for non-implementation or little implementation of the said act i.e.: Economical problems, political instability, lack of resources, no or little public awareness about environmental issues, lack of efficiency of agencies, inactive tribunals. Recommendations mentioned below shall prove helpful while implementing the environmental laws.

### **Recommendations for improving the effectiveness of environmental protection laws in Pakistan.**

After going through the act and conducting through research about the environmental related issues here are some of the recommendations:

#### **Make agency's more efficient**

It requires institutional reforms this includes giving sufficient support, equipment, provide resources i.e. sufficient budget and staff to Environment Protection Agencies to ensure that its legal responsibilities are effectively fulfilled. Environment related issues are those whose timely solution is necessary because it affects environment and health of public at large it causes irreparable loss to environment and public health, above we have mentioned cases in which agency took 6 to 9 years to solve the problem, loss caused to public at large in 6 or 9 years are too huge that there is no any comeback. Agencies are responsible to implement and defend the environment making agency efficient means making environment suitable to live.

#### **Empower Environmental Tribunals**

PEPA established tribunals but PEPA has given only limited powers to tribunals i.e. tribunals are not empowered to take action on their own until and unless Agency or any aggrieved person reaches, but if tribunals are awarded with *SUO MOTO* powers means they can take action on their own. As per act local government are empowered to make environment better but they are doing nothing but on-one questions them, if *Suo moto* powers are given to tribunal, so there will be someone who will safeguard the environment.

#### **Combined effluent treatment plants**

GOVT: should establish combined effluent treatment plants for clusters of industries that cannot afford to operate individual plants due to financial constraints, technological and physical



limitations, but those industries who can afford the plants having capacity so they should establish it by themselves, GOVT: through Agency should make it priority for industries, making SPO's in which plants are necessary.

**Centralizing environmental law:** After 18<sup>th</sup> amendment in the constitution of Pakistan, the subject of environment is shifted from the domain of Federal GOVT: to Provincial Governments, now every province has its own laws regarding environment, so the PEPA's effectiveness has become a major drawback making it effective in the jurisdiction of Islamabad only, environment related issues are the national issues in nature, they should be planned under one body either solely in the hands of federal government or with the complete co-operation of federal and provincial bodies, under PEPA federal government can also transfer the power of federal agencies to provincial ones so this mechanism has to be implemented that federal government and provincial government should work together, or the subject of environment be shifted to federal government so that one body keeps an eye on all over the country.

### **High penalties**

While researching or reading case laws & act, we found that for the polluters who pollute the environment, who risk the lives of thousands of innocent civilians has to pay only one million rupees in fine! Truly speaking what one million matters in this global village, if we take example that if one suffers from any pollution related diseases i.e. Lungs Cancer, how much it will cost him. Is it be treated with one million? We have mentioned a case-law that an industry making loss to environment for a complete 6 years nor Agency neither any other Government entity took any step, finally when an aggrieved civilian filed a complaint before tribunal, tribunal ordered to pay only 0.5 million rupees. Is it sufficient for a company making loss to environment and escaping by paying only 0.5 million, so penalties should be enhanced.

### **Afforestation**

Pakistan is one of the deadliest countries which suffers climate change, unseasonal raining, high temperature in cities (Jacobabad, Sibi hottest cities in Asia, due to temperature rising up to 50 degrees Celsius), Pakistan is the forest poor country only 5.36% of land is covered with forest. Afforestation should be given importance rather than political ticking, GOVT: should plant trees at national level, set special budgets and announce special projects like *billion tree tsunami*. As per *Forest Act*, one who cut trees he will be punished for 6 months only. It is the need of the time that every environmental law should be changed and enhanced the punishments and penalties.

Every department either public or private i.e. Universities, offices at their own premises should come forward and plant trees, NGOs should work on this rising issue or GOVT: should engage NGOs to make public awareness regarding plantation due to plantation many environmental changes can be tackled as plantation has uncountable advantages, Islam also stated about plantation and it's Sadqah e Jariha, so being a Muslim, we should comply it in our lives.

***“Plant tree for your today and tomorrow.”***



## Public Awareness

Making public awareness or enacting the provisions of PEPA by adding environment related subjects in literature, many environmental problems can be solved if not then reduced, Law provides aggrieved to reach at tribunals but a common man is unaware about the environmental tribunals, due to lack of media reporting, cases remain unreported, no-one knows the environmental rights, Propagation of Environmental Rights and laws in public can make a big change. Public awareness through seminars by NGO's and civil society can be proven effective because not only GOVT: can make bring change but Public also.

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