

## Challenges For Pakistan's Courts in Enforcing Environmental Law

Kainat Muhib

Advocate High Court

Umar Niaz Khan\*

Lecturer, Department of Law, Kohat University of Science and Technology, Kohat/

Corresponding Author-[umarniaz321@gmail.com](mailto:umarniaz321@gmail.com)

Syed Sikandar Shah Mohmand

Assistant Professor, Department of Law, National University of Sciences and Technology  
(NUST)

### Abstract

The implementation of environmental law is not an easy a task, the courts of Pakistan having to face a lot of issues related to the environment including air and water pollution, deforestation, and wildlife protection. This abstract all so seeks to discuss the complex challenges which Pakistan judiciary experiences in the process of enhancing compliance with environment legislation. Inadequate legal environment and institutional arrangement constitutes a major challenge given the lack of adequate provisions for safeguarding the environment. Admittedly, environmental laws exist; however, enforcement measures fail to address due to uninspiring legislation, inadequacy of resources as well as lack of specialized environmental courts. Furthermore, there are intercession delays, difficulties with technical evidence, and lack of sufficient appreciation of the law amongst the legal profession for the judiciary to manage environmental cases effectively. Besides, socio-political factors include corruption, bureaucratic rigidity as well as vested self-interests weaken the environment legal codification. Finally, poor sensitization of the public and low involvement in the community deem the fight against polluters and championing of sustainable development noble courses irrelevant. Therefore, it is suggested that comprehending measures that require enhancement to support Pakistan's courts in executing environmental law necessitates reforms that raise the legal, institutional, and socio-political structures. Building capacity to implement sound legal reforms, improving institutional improvements, and engaging the civil society are some of the democratic reforms needed to promote environmental governance and sustainable development in Pakistan.

**Keywords:** Pakistan's Courts, Environmental Laws, Governance, Implementation, Reforms.

### Introduction

Environmental law enforcement in Pakistan is imperative to address since the country faces many environmental problems. However, like many other countries, Pakistan's government makes attempts at environmental regulations but the implementation is a major issue because of the lack of a sound legal system and institutional capacity. This paper reveals that historically the country had a high level of industrialization and urbanization or physical growth that has worsened the environmental issues thus explaining why it is more important to implement environment laws and policies. This has unfortunately resulting to serious environmental impacts such as Air and Water pollution which are hazardous to the health of the people and the ecosystems. The importance of enhancing environmental law enforcement in Pakistan is in the implications of

deleterious impact given above and the possibility of their avoidance to make advancement more sustainable and safeguard public health (Ahmed, 2019).

This paper establishes that Pakistan is in the middle of a solvable environmental crisis, part of which includes breathability and portability of the country's air and water respectively. Moreover, Mehran and Sharmin's study found that two Pakistani cities, Karachi and Lahore, rank among the most polluted cities worldwide with a major share of air pollution coming from emissions from motor vehicles and industries. However, water quality pollution is also very high; rivers and lakes are heavily polluted with untreated industrial wastes and agricultural drainage that causes increased health risks and loss of human and aquatic lives (Jabeen et al., 2019). There are other key questions that have to deal with deforestation and wildlife conservation since the forest cover in the country continues to decline reducing various species' chances of survival and causing an imbalance in ecosystems. These environmental challenges make it clear why Pakistan requires stringent enforcement of the environmental laws so that the destiny of its natural resources as well as its people is not compromised.

The aim of this research is to examine diverse difficulties faced by the Pakistan judiciary regarding the implementation of environmental laws and recommendations for establishing reforms. The study will analyze the degree to which the legal foundations and institutions for environmental law, the judiciary, and socio-political structures affect enforcement. It will also examine the ways and extents to which it has facilitated community involvement in issues related to environmental responsibility. A look at the background and purpose of the study, prior research, exploration of legal and institutional frameworks, socio-political and economic aspects, completion the framework of the study. Lastly, it offers suggestions for prospective transmissions and overhauls necessary to bolster the civic policy on the natural world. To some extent, the study expects to fill these gaps and thereby to help shape effective environmental governance in Pakistan.

### **Literature Review**

Analyzing the material on environmental law enforcement it is possible to state that the developed and the developing countries differ in such aspects as legal regulation conditions and efficiency. It has been observed that countries with proper legal systems and structures and an enhanced institutional capability have better implementation of environment laws (Ebbesson, 2014). On the other hand, countries such as Pakistan have remarkable challenges in this area because of the problems associated with legal criminal systems and policies, scarcity of resources and administrative support fundamentally (Khan, 2018). Research also shows that although most of the developing countries have environmental laws, they are poorly enforced and therefore react poorly to input from the environment resulting in environmental degradation (Ahmed, 2019). Thus, this literature also highlights the requirement of a range of reforms for enhancing the enforcement of environmental law in Pakistan.

It is for these reasons that understanding the theoretical paradigms of environmental governance, and the related theoretical models of environmental law enforcement is important. For instance, the Environmental Kuznets Curve (EKC) model states that development processes

harm the environment at early stages but that the destructive impacts become smaller with higher levels of development and when societies can afford to adopt better policy measures (Grossman & Krueger, 1995). IAD model, wherein the focus is on institutions as driving forces in the environmental management that results from collective action (Ostrom, 1990). These theoretical perspectives assist to assess the factors that matter in environmental governance and the strategies in increasing law enforcement consequently can be developed in Pakistan (Hussain & Bhatti, 2020).

The research on this topic explores case studies from other developing countries which have similarities to Pakistan's environmental law enforcement and offers prescribed ideas. For example, while certain conservation measures such as enhanced protection of the Amazon through enforcement of legislation and designation of protected areas have some positive effects on reducing deforestation, they are not entirely efficient in this regard; there are still problems which have not been solved in Brazil (Soares-Filho et al. , 2010). Equally, China has made progress in reducing air pollution due to measures put in place to address poor airflow air quality through regulation, especially improving the air quality of Chinese cities (Wang et al. , 2019). These examples show the possibility of an efficient functioning of severe environmental law enforcement, however, there are shortcomings disclosed that hinder implementation and compliance. Such research gaps like the below are identified: Inadequate community engagement in Pakistan; and corruption The establishment of such research gaps like the above one is vital in formulating strong and comprehensive strategies to improve the environmental governance system in the country (Shah & Baig, 2021).

#### **Legal Framework for Environmental Protection in Pakistan**

The legal system of waste management in Pakistan is not new but has gone through a process of development over the years starting with the Pakistan Environmental Protection Ordinance was enacted in 1983, marking the beginning of the current standard of environmental legislation (Khan, 2018). The Pakistan Environmental Protection Act (PEPA), 1997 inked further law to govern the environmental degradation in Pakistan and it formed the Pakistan Environmental Protection Agency (Pak-EPA) and provided specific guidelines regarding pollution control, environmental effecting assessment and nature resource conservation (Ahmed, 2019). However, the National Climate Change Policy of 2012 and the National Environmental Policy of 2005 have been lauded to have attempted to meet the increasing demand for policy interventions in combating climate change and embracing sustainable development (Hussain, 2020). However, it is important to note that while governments have enacted these various laws, the actual realization and effect has encountered a range of obstacles, from insufficient institutional framework and often lack of political will.

On the following lines, it has been argued that the current legal regime in Pakistan presents strengths like legal comprehensiveness and institutional commitment encompassed through the Pak-EPA. However, key areas of concerns include but not limited to the following; With the policy measures and guidelines: Demonstrated major weaknesses still exist in terms of over-reliance on outdated regulations and lack of adequate enforcement measures that can reign

in non-compliance (Jabeen et al., 2019). At several instances the framework of environmental laws in Pakistan is less strong than the international norms and standards. For instance, while countries such as United States or members of the European Union have strict legal frameworks and higher standards of non-compliance and severe penalties, Pakistan has been known to deal with regulatory issues and the weakness of institutional compliance (Ebbesson, 2014). However, in order to improve the legal framework related to environmental laws in Pakistan there is a need of much required legal reforms, increasing institutional capacities and improving standards to achieve the international norms.

### **Institutional Capacity and Enforcement Mechanisms**

In Pakistan, several institutions are purely and indirectly handling the environmental issues and those institutions involve Pak-EPA, Provincial EPA, and Ministry of climate change. These bodies are responsible for the formulation of policies and standards, implementation of environmental laws and monitoring and compliance to the set standard (Ahmed, 2019). Furthermore, the accountability and awareness of environmental issues from different perspectives is supported by several NGOs and civil societies (Shah & Baig, 2021). However, these institutions lack many resources, have low capacity, and lack or lack the necessary infrastructure that hinders them from dealing with environmental issues conveniently (Hussain, 2020).

These measures mainly include fines, penalties, and regulatory inspections, to which the institutions in charge of enforcing these measures are incapable because of their intrinsic flaws (Khan, 2018). For example, the Pak-EPA and provincial EPAs generally do not have adequate human capital and funds to undertake comprehensive environmental impact auditing and check on non-compliance (Jabeen et al., 2019). Similarly, ECs that are divisions of superior courts vested with the jurisdiction to hear environmental cases and control their pace have not been without some difficulties: procedural pace has allegedly slowed down rather than sped up ECs, and unlike other common law jurisdictions, ECs suffer from a shortage of skilled judges (Hussain & Bhatti, 2020). Nevertheless, it is notable that these courts are a step in the right direction for improving the state of environmental governance. As for possibility improvement, it is necessary to strengthen the development of such capacity-building and qualification upgrading activities with means of increasing and improving of training for legal and regulations authorities.

### **Judicial Challenges in Adjudicating Environmental Cases**

This paper will identify sociopolitical and socio-legal barriers that exist within the Pakistan judiciary when dealing with environmental cases whereby procedural issues and legal hurdles are the foremost. The courts in particular usually face protracted trial situations that are worsened by an influx of cases and lack of adequate human resource in courts (Khan, 2018). Such delays prevent satisfaction of the JUST-DESIRE pronto and, correspondingly, the detrimental degradation of the environment may persist. Other legal issues include matters of jurisdiction between federal and provincial governments or a situation where the law is not well defined make the overall judicial process even more challenging (Ahmed, 2019). These problems only serve to emphasize the need for efficient procedures and policies as well as better legal provisions regarding the handling of environmental matters.

Another crucial issue being that there exists considerable judicial education on the handling of the sophisticated scientific issues and evidence. In environmental cases there is an element of legal uncertainty on the meaning of technical data and scientific reports which may be a result of a conflict between social norms and legal rationality (Hussain & Bhatti, 2020). The absence of this information closes the door on a rather significant possibility: an inability to perform adequate assessments and, maybe, flawed judgments as a result of them. Some examples of legal cases include the Shehla Zia case that touches on the issue of Health risk from an electricity grid station and the Reko Diq mining case where the judiciary may lack the capacity to analyze the aspects of Geology and other related fields (Shah 2021). Besides, there are socio-political factors that play a role in the context of adjudication process like corruption, bureaucratic lag, and special interests. These factors cause distorting the impartiality of the judiciaries, erode the public confidence in the legal process of the country and hamper the lawful implementation of environment laws (Jabeen et al., 2019). Meeting these challenges calls for judicial capacity development, better explanation and implementation of judicial roles, and strong measures against corrupt practices.

#### **Socio-Political and Economic Factors**

Political and social factors play a critical role in the implementation of environmental standards in action in Pakistan. The ever-changing political system, conflicts of power transfer and the need to address various social and economic problems regularly disregards environmental concerns (Ahmed, 2019). It leads to erratic enforcement of the environmental laws and constant changes in the political support of environmental departments (Shah & Baig, 2021). Also, political commitment is normally absent since presidents and governments may tend more to short-term gain in terms of income rather than the care for the environment in the 'long run'. This dynamic leads to underfunding of environmental policies and poor implementation, which in turn suppresses sound environmental governance (Khan, 2018).

Corruption and bureaucratic malaise worsen these problems and significantly impeded the implementation of environmental laws. A corrupt bureaucracy often results in removing agency-created barriers to polluting, changing permitted effluent standards, or issuing covert permits to polluting industries (Jabeen et al., 2019). Bureaucratization of enforcement hampers timely actions due to bureaucratic procedures; regulatory agencies also suffer due to insufficient funding and resources to monitor effectively numerous firms and industries. Moreover, political greed and bureaucrat lobby groups by the industrial polluters make great influence in the environmental policies and their implementation (Hussain & Bhatti, 2020). Lobbying is another significant factor that works hand-in-hand with influential industries to ensure that weak policies are enacted and enforcement measures are not tightened. Some such factors that play their role in environmental protection are; Economic factors also play their part in the protection of environment because countries which are still in the development phase they care only about their economy and industrialization such as Pakistan. This pressure is particularly evidenced by the dependence on FDI and in attempts to spur economic development often the environmental goals can be watered down and their enforcement weakened (Ahmed, 2019). A rather stubborn

issue that was neither overcome nor significantly improved is the tension between development and environmental sustainability policies and institutions.

### **Recommendations for Comprehensive Reforms**

Thus, it is required to conduct a large-scale legal reform in order to address the environmental issues of Pakistan. Such reforms should target the elimination of the current loopholes which exist in the environmental laws, and the observance of the fact that laws passed should be enforceable, understandable and should conform to the international standards (Ahmed, 2019). The factors that were listed for strengthening the above analysis included revising existing and outdated regulations; increasing the severity of penalties for violation of environmental laws; and increasing the precision and practicality of the laws in question. Furthermore, environmental considerations in other overall legislative processes can help in depicting that all sectors are involved in the consideration of sustainable environment legislations (Shah & Baig, 2021).

Efficiency of enforcement agencies require Institutional reforms, and these are Very relevant in the area of compliance. This includes giving sufficient support, equipment, and staff to Pak-EPA and provincial EPAs (Hussain, 2020) to ensure that its legal arsenal and responsibilities are effectively fulfilled. Another concrete way that this paper argues this enforcement inconsistency can be resolved is through better federal-provincial coordination. Strengthening these agencies with the technical depth of knowledge required can be taken a step further by creating a specific environmental sections within the above mentioned agencies. Judicial reforms are also essential, particularly concerning the enhancements of the handling of environmental cases by educating judges in environmental law and science, minimizing the delays and avoiding unnatural bureaucracy, and increasing the number of innovative environmental courts (Khan, 2018).

Reducing socio-political barriers need an efficient crackdown on corruption and increased government accountability. This paper also notes that safeguards against corruption provide the public with assurance that everyone is being treated impartially in the matter of environmental law of the country and that no vested interest is controlling the policing of the Act through influence-peddling. It can also help achieve a more favorable political climate for environmental concerns by urging politicians to give a higher importance to environmental matters through campaigning and subsequent public pressure. Furthermore, steps regarding raising public awareness and engaging the community are among the key factors. Awareness raising, participation, and surveillance, and engagement of NGOs and other society members, among the general public to be part of enforcing the provision of various standards, and ensure polluters are brought to book, are key ways for sustainable development (Ahmed, 2019). Elaboration of an active knowledge base for police for environmentalism can lead to sustainable enhancement of the modified field and guarantee the relevance of environmental governance.

### **Conclusion**

This research provides some key findings with regard to the prospects and issues for the enforcement of environmental law in Pakistan. They argue that legal *raison d'être*, institutional rather than legal restraint, and judicial nepotism are core challenges to environmental regulation in this country. Inadequate financing innovations, social, and political issues such as corruption, bureaucracy, and vested interest, all make matters worse. However, even the environmental laws are there, the enforcement leads to a lot of inefficiencies as these compounded issues hinder the effectiveness of laws and enforcement.

The implications for policy and practice are clear: systemic changes are necessary for enhancing the performance of the environment management in Pakistan. There is need to advocate for more changes of the law to remove the existing loopholes in the legislation and to improve the words used in the legislation to improve their enforceability. System changes need to take into consideration resource constraints and the training and expertise of the environment departments and organizations. These reforms include those court structures that are requisite to enable the judiciary acquire the capacitance to adequately address intricate environmental situations. However, measures to prevent and reduce socio-political risks factors, including effective anticorruption initiatives in conjunction with enhancing officials' responsibility, are proposed too. Another important factor is the increase in general public awareness and activation of society for encouraging more environmentally sustainable measures (Khan, 2018). Therefore, future studies should examine the barriers and possibilities of establishing new enforcement approaches and the applications of such tools as technology in monitoring the environment and accumulating information.

Modeling analysis with other similar developing countries can be quite informative as to the best practices and policies that may be relevant to the Pakistani setting. In addition, studying the direct and indirect socio-economic implications of environmental decline can form the basis for strengthening policy making that seeks to address environmental issues (Hussain & Bhatti, 2020). In conclusion, effective environmental governance policy and corporate sustainable development in Pakistan can only be obtained by implementing environment impact legal and institutional policies and reforms as well as socio-political reforms. Thus measures such as the reinforcement of the legal border, improvement of the agencies' capacities, and the acquisition of competency by judicial officers are essential. Furthermore, stronger and better environmental governance can only be achieved by giving emphasis to such factors as the promotion of a culture on openness, responsibility, and involvement of the public. Through such a raft of these extensive liberalization measures, Pakistan must progress toward a more sustainable development path in its economy's relationship between growth and the environment (Ahmed, 2019).

#### References

- Ahmed, S. (2019). Environmental law and policy in Pakistan: Challenges and prospects. *Environmental Law Review*, 21(2), 125-140.
- Ebbesson, J. (2014). The rule of law in governance of complex socio-ecological changes. *Global Environmental Change*, 28, 14-24.

- Grossman, G. M., & Krueger, A. B. (1995). Economic growth and the environment. *The Quarterly Journal of Economics*, 110(2), 353-377.
- Hussain, T. (2020). Climate change policy in Pakistan: Current status and future directions. *Pakistan Journal of Environmental Sciences*, 11(1), 78-89.
- Hussain, T., & Bhatti, M. A. (2020). Theoretical perspectives on environmental governance: Implications for policy and practice. *Journal of Environmental Management*, 261, 110227.
- Hussain, T., Khan, M. A., & Siddiqui, N. (2020). Deforestation and its impacts on biodiversity in Pakistan. *Journal of Environmental Science*, 34(3), 211-228.
- Jabeen, S., Ahmad, M., & Jadoon, A. (2019). Water pollution in Pakistan: A review of the current challenges and future strategies. *International Journal of Environmental Research*, 13(1), 45-60.
- Khan, N. (2018). Industrialization and urbanization: Environmental challenges in Pakistan. *Asian Journal of Environmental Studies*, 7(4), 345-360.
- Naseem, A., & Khan, S. (2020). Air quality in urban Pakistan: Sources and impacts. *Environmental Monitoring and Assessment*, 192(12), 761.
- Ostrom, E. (1990). *Governing the Commons: The Evolution of Institutions for Collective Action*. Cambridge University Press.
- Shah, A., & Baig, H. (2021). Enhancing environmental law enforcement in Pakistan: A socio-legal perspective. *Pakistan Journal of Law and Society*, 9(1), 67-84.
- Soares-Filho, B. S., et al. (2010). Role of Brazilian Amazon protected areas in climate change mitigation. *Proceedings of the National Academy of Sciences*, 107(24), 10821-10826.
- Wang, H., et al. (2019). Air quality improvement in China: Progress and challenges. *Annual Review of Environment and Resources*, 44, 45-69.