

Annual Methodological Archive Research Review

<http://amresearchreview.com/index.php/Journal/about>

Volume 3, Issue 7 (2025)

Environmental Law and Human Rights: Interpreting the Right to a Healthy Environment in Pakistan's Constitutional Framework

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Article Details

ABSTRACT

Keywords: Environmental Rights, Judicial Activism, Constitutional Protection, Sustainable Development, Human Dignity, International Commitments, Governance Gaps, Public Participation, Intergenerational Equity, Legal Reform

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The right to healthy environment has become a crucial aspect of the contemporary human rights discourse that ties the environmental stewardship with such unalienable human rights like right to live, dignity, human health, and access to natural resources. This essay gives a critical review of the granting and provision of the rights towards the environment in the Pakistani constitution. Although the Constitution of Pakistan does not expressly offer any right to the environment, the judicial interpretation, especially through the Articles 9 and 14, has expanded the right to life and dignity to accommodate the environmental concerns. Case law case of Shehla Zia v. WAPDA have created a precedent that is used by the court in protecting the environment as part of constitutional protections, and this judicial activism is not without its limitations, in cases where no legislative and policy presence exists. This paper starts with an exploration of the history of the rights to the environment concept in the international law practice, relying on the 2022 resolution of the United Nations General Assembly on the right to a clean, healthy, and sustainable environment. It locates this trend within the tradition of globally oriented environmental constitutionalism as it reflects some novel patterns of the environmental protective measures' effects concerning the courts and legislature efforts to incorporate those concerns into frameworks of primary rights. The paper then assesses the mechanisms provided by the constitution and law to implement the environmental rights, in Pakistan. It

questions the low execution capacity of the environmental justice is a critical aspect of human rights environmental protection agencies especially following fulfillment. The paper ends with a series of the 18th Amendment that decentralized the control of recommendations including incorporation of the right to environment to the provincial control thus creating healthy environment to the constitution and discrepancies in the law, monitoring and the execution. enhancement of the public participation system and the Moreover, the study evaluates the international human implementation of the comparative jurisdictional best rights and environmental responsibilities of Pakistan on practices of functioning of the courts and legislation treaties like the International Covenant on Economic, including South Africa and India. Overall, this paper Social and Cultural Rights (ICESCR), the Paris contends that the transformative approach is needed Agreement and so on. Although Pakistan is signatory to where the establishment of protection of the these frameworks, there are major discrepancies when environment is central to the constitutional order in it comes to integrating international rule of law with Pakistan. Rights-based environmental framework is not national laws resulting in lack of coordination between only necessary to sustainably develop the world, but international pledges and national practice. The also a precondition to the dignity of man and the environmental degradation in Pakistan is also pointed intergenerational equity amidst the manifesting out in the socio-economic aspect as brought out in the ecological challenges.

paper. The vulnerable communities are significantly affected by air and water pollution, inappropriate waste disposal, and climate change-related effects, and thus

Conceptual Framework-Environment as a Human Right

The development of environmental rights on the wider human rights spectrum is an indication of the dynamic realization in the world that the quality of environment is inseverably connected to the enjoyment of life, health, dignity and development. The conventional division between the field of environmental law and human rights law is slowly fading away with most scholars and jurists appreciating the fact that a healthy environment is a pre-condition to the enjoyment of civil, political, social, and economic rights.

Practical origin of this right lies on both international declarations and educational developments. The Stockholm Declaration (1972) became the first international tool that made an explicit claim that man has a fundamental right to freedom, equality and to conditions of life adequate in an environment of quality that allows a life of dignity and well-being.¹ This understanding was strengthened in 1992 at Rio Declaration that viewed sustainable development as an ideal of international environmental management. Yet, only after the adoption of Resolution 76/300 by the United Nations General Assembly in July 2022, the right to a clean, healthy, and sustainable environment has made an official entry as a non-binding universal human right.²

Robust debates have emerged among legal theorists pertaining to ontological status of environmental rights whether the latter are derivative rights of any of the existing fundamental rights such as right to life and health

¹ "United Nations Conference on the Human Environment, Stockholm 1972 | United Nations," accessed July 23, 2025, <https://www.un.org/en/conferences/environment/stockholm1972>.

² "The Human Right to a Clean, Healthy and Sustainable Environment :," accessed July 23, 2025, <https://digitallibrary.un.org/record/3983329>.

or have a status to be raised as independent forces capable of vindication. David R. Boyd, one of the strongest proponents of environmental constitutionalism, states that over 150 nations currently recognize environmental rights in their constitution, and that the provisions of environmental rights in the constitutions are associated with better environmental performance and enhanced access to justice.³ His results imply that constitutional environmental rights via possible explicit and actual imply the capacity to influence judicial consideration envision, support citizen-based litigation, and as well impose mandatory requirements of the state.

In the jurisprudential perspective, the right to the healthy environment touches both anthropocentrism and ecocentrism. Anthropocentric approach that dominates the world of human rights takes care of the needs of the environment as long as it contributes to the well-being of humanity. On the contrary, the eco-centric model promotes intrinsic value in nature where non-living entities and the ecosystems have rights.⁴ In spite of the fact that the former continues to dominate legal thinking, the latter is on the increase especially in relation to climate litigation and indigenous rights jurisprudence.

This has deep socio-political consequence in developing countries such as Pakistan where millions of people face threat to their health and survival because of environmental degradation. It does more than establish a legal basis of environmental protection but places ecological well-being under the umbrella of social justice, intergenerational equity and human dignity.⁵ This pragmatic yet evolving conceptualization gives the legal and intellectual framework to the later reform of the law, judicial activism as well as involving the people in environmental governance.

Constitutional Provisions and Judicial Interpretation in Pakistan

The Pakistani constitution also fails to identify the right to a healthy environment. Nonetheless, this right has been interpreted dynamically by the higher judiciary i.e. High Courts and Supreme Court into fundamental right, especially article 9 (right to life) and article 14 (dignity of man). Although the development of environmental constitutionalism in Pakistan is not tied to the textual assurances, there is a highly pronounced history of judicial activism designed to protect the interests of the environment as an element of the pre-eminent human rights agenda.

An Eminent Case *Shehla Zia v. Pakistan WAPDA* (PLD 1994 SC 693) was a turning point in the Pakistani environmental law. In the present instance, the Supreme Court came to a conclusion that Article 9 provides the individual a right to life and this right entitles individuals to enjoy a clean and uncontaminated environment.⁶

³ "The Extent of Constitutionalizing the Environmental Rights as One of the Anchors to Keep a Healthy, Clean Environment: A Difficult Balance between the International Agreements and the Jordanian Constitution's Restrictions - ProQuest," accessed July 23, 2025, <https://www.proquest.com/openview/d66836cb46275889f990729ed6ea3b3b/1?pq-origsite=gscholar&cbl=466419>.

⁴ "Principles of International Environmental Law | Higher Education from Cambridge," accessed July 23, 2025, <https://www.cambridge.org/highereducation/books/principles-of-international-environmental-law/B32CA39427B24F1947BDC5F884CCADC0>.

⁵ "Constructing the Human Right to a Healthy Environment | Annual Reviews," accessed July 23, 2025, <https://www.annualreviews.org/content/journals/10.1146/annurev-lawsocsci-031720-074856>.

⁶ "Shehla Zia vs. WAPDA PLD 1994 Supreme Court 693 | SAHSOL," accessed July 24, 2025, <https://sahsol.lums.edu.pk/node/18857>.

There was a petition by the petitioners where they had rejected the construction of a grid station close to a residential area, as it would cause a potential threat to human health due to electromagnetic field. The Court applied the precautionary principle despite the existing uncertainty in science and determined that hazards to the environment, especially variables leading to a person dying, are among the influences which come into play with regards to a constitutional right to life. This court case established a precedent pertaining to constitutional litigation on environmental protection and the readiness of the judiciary to close any gaps that legislative bodies left.

Thereafter, the Supreme Court and the High Court have added on to the rights of the environment through its subsequent judgments. Institutionalization of the role of the judiciary in environmental governance was achieved by the creation of Green Benches in a number of High Courts as instructed by the Supreme Court.⁷ These benches have amused the public interest litigation to matters of industrial pollution to deforestation where they mostly rely on the constitutional provisions to grant the judgements. The case General Secretary, West Pakistan Salt Miners Labor Union v. Director Industries and Mineral Development (1994 SCMR 2061) applied the policy to the labor rights and occupational health.⁸

Even with this development, there are still issues of limits of judicial activism in instances where there are no strong legislative structures. Although the Pakistan Environmental Protection Act, 1997 (PEPA) is a basic piece of legislation, it is outdated according to the changing environmental concerns. In addition, environmental governance devolved to provinces following the 18th Amendment has resulted in creation of inequities in environmental regulation and enforcement.⁹ The courts have been used as a substitute to the lack of action by the administration and this causes reliance on the judicial system instead of embedding institutional change.

According to the critics, it is not legitimately democratic that the court depends on implied rights in the Articles 9 and 14 and threatens to cross the boundary of their competence. Some of them claim that in the case of high legislative passivity and ecological emergencies, such an activism of interpretation is not only permissible but necessary.¹⁰ The task still to be performed is the formalization of the right to the environment, codification of rights in the Constitution or under a statute followed by establishment of institutional apparatus to enforce and to be answerable to the judicial declaration.

Pakistan's International Environmental and Human Rights Commitments

There are a number of international environmental and human rights treaties that have been signed by Pakistan that places obligations upon the country that are pertinent to the gazing of the environment and the improvement of a good and sustained lifestyle. These commitments are included in the general legal infrastructure in which Pakistan is supposed to incorporate the environmental rights into their national legislation system. Nevertheless,

⁷ Dominic J. Nardi Jr, "Greening Environmental Rights: Separating Law and Morality in Environmental Public Interest Litigation in Pakistan," *Envtl. L. Rep. News & Analysis* 38 (2008): 10029.

⁸ *General Secretary, West Pakistan Salt Miners Labour Union (CBA) Khewral, Jhelum v. The Director, Industries and Mineral Development, Punjab, Lahore - ELAW: Environmental Law Alliance Worldwide*, n.d., accessed July 24, 2025, <https://elaw.org/resource/general-secretary-west-pakistan-salt-miners-labour-union-cba-khewral-jhelum-v-director-industries>.

⁹ "Polipers.17.2.0101," n.d.

¹⁰ SOHAIL AMJAD et al., *Environmental Jurisprudence in Pakistan: A Comprehensive Analysis of National Laws, Judicial Role, and Legislative Instruments Impacting Air Quality and Public Health*, n.d.

critical thinking indicates that there is a big contrast to what happens internationally and what is applied in a country especially in enforcement of laws and in public accountability.

With regard to human rights and environmental protection the International Covenant on Economic, Social and Cultural Rights (ICESCR) is of specific concern, to which Pakistan acceded in 2008. Article 12 of the Covenant provides the right of everyone to enjoy the right to the highest attainable standard of physical and mental health, so interpreted by the UN Committee on Economic, Social and Cultural Rights as including the environmental determinants of health, safe water, clean air and sanitation.¹¹ On the same note, the International Covenant on Civil and Political Rights (ICCPR) ratified by Pakistan in 2010, ties the right to live with the duty avert dangers posed by environmental depreciation. These covenants entrench further the notion that, environmental degradation explicitly contravenes fundamental human rights.

Pakistan is a country that is a partner to many multilateral environmental agreements even though human rights treaties are also to be observed. It is also a signatory of the Rio declaration on environment and development (1992), whose main principles and guidelines are outlined to include precaution, sustainable development and the participation of the people in environmental decision making.¹² Paris Agreement (2015) is one such agreement that was ratified by Pakistan in 2016; it requires the countries that are parties to it to restrict global warming and develop adaptation capacities. Within this framework, Pakistan had its own Nationally Determined Contributions (NDCs) presented according to the climate mitigation and resilience strategies, but its implementation on the national level is rather partial.¹³

In spite of these international commitments, Pakistan has failed to incorporate the international commitments into national law so that it is effectively enforceable. The Pakistani legal system does not make environmental treaties self-executing and they have to be legislatively integrated, which is usually slow and not sufficient. Besides, although internationally set goals are mentioned in national policies that include the Climate Change Act 2017 and the National Environmental Policy 2005, they have no force of law, and there is institutional fragmentation.¹⁴ There is poor coordination of federal and provincial environmental organizations, and this kills treaty-based compliance.

The other issue is the fact that Pakistan lacks institutional ability to report under international environmental and human rights framework. Reporting activities to the treaty bodies are frequently missing or late and the role of the civil society in these procedures is marginal.¹⁵ This infrastructure must be enhanced so as to update the international environmental pledges into domestic safety.

¹¹ "E/C.12/2000/4: General Comment No. 14 on the Highest Attainable Standard of Health (2000), The Committee on Economic, Social and Cultural Rights | OHCHR," accessed July 24, 2025, <https://www.ohchr.org/en/documents/general-comments-and-recommendations/ec1220004-general-comment-no-14-highest-attainable>.

¹² "United Nations Conference on Environment and Development, Rio de Janeiro, Brazil, 3-14 June 1992 | United Nations," accessed July 24, 2025, <https://www.un.org/en/conferences/environment/rio1992>.

¹³ "Ministry of Climate Change and Environmental Coordination," accessed July 24, 2025, <https://mocc.gov.pk/PolicyDetail/Y2Y4NjI4NDItZDlkZS00Mzc2LWJkOGMtNzMxMmYyODRjZTZj>.

¹⁴ Sardar Aasif Sial et al., *Review of Existing Environmental Laws and Regulations in Pakistan* (WWF-Pakistan Punjab, Pakistan, 2018).

¹⁵ "Environmental Rule of Law :," accessed July 24, 2025, <https://digitallibrary.un.org/record/4028034?ln=en>.

To sum up, though the fact that Pakistan has signed international treaties announces that the state does not ignore the correlation between human rights and environmental protection issues, the lack of law enforcement procedures on the domestic level, inter-agency collaboration, and opportunities of participation essentially negatively affect the process. These international standards have to be domesticated, and the institution of the right to a healthy environment in Pakistan has to be placed on the constitutional and regulatory framework of the country through a comprehensive legal overhaul.

Governance Challenges and Implementation Gaps

Even though the values of environmental protection are known to be implied constitutional values and Pakistan has made formal international commitments, there are overlapping structural, legal, and administrative lapses in the country in the form of the system of environmental governance. Such loopholes impair the implementation of the right to a healthy environment and translate to structural lapse in federal institutions and provincial governments tasked with the role of managing the environment.

The constitutional amendment that has been a major issue concerning governance is the 18th Amendment that changed the relationships of governance in that it gave responsibilities related to the environment to the provincial levels of governance. Although this shift is supposed to increase local autonomy and responsiveness, this has had the countereffect of creating fragmentation and interprovincial inconsistency. There is a tendency of Provincial Environmental Protection Agencies (EPAs) to be under-resourced technically and run without a standardized procedure.¹⁶ Lack of a coherent national framework has caused inconsistencies in the environmental impact assessment (EIA), air and water quality monitoring and industrial requirements on compliance.

There is also a deteriorating mechanism arising due to institutional overlap and the absence of co-ordination among key stakeholders. In Pakistan, the government governs the environment through various ministries such as climate change, industries, health and water resources, and their roles in governance are overlapping and have loosely defined jurisdictional lines.¹⁷ This inter-agency mix-up is a factor in slowing the reactions to ecological hazards and loosens responsibility. Also, the fact that there is not much transparency in the decision-making process, specifically the large infrastructure and energy projects contribute to the issue. The provisions of EIA directives to consult the public are usually facile or are dispensed with altogether, particularly in politically sensitive undertakings or projects sponsored by donors.

There is also inadequate data systems and monitoring infrastructure involved in the implementation of environmental policies. There is no credible data on pollution, losses of biodiversity, vulnerabilities to climate changes, and this data is not available to anyone.¹⁸ This makes it hard to detect violations and redress by the regulatory bodies, the civil society organizations and the affected communities. Where environmental audit and penalties are undertaken, it is done rarely and the penalties imposed are usually meager and are not likely to deter the recurrence of the undesired behavior.

In addition, there is no environment education and awareness that hinders the participation of citizens in environment governance. The majority of communities are ignorant of their rights, regarding the environment

¹⁶ Maryam Umer Khayam and Iftikhar Ahmad, "Decentralization of Environment in Pakistan: Issues in Governance," *Policy Perspectives* 17, no. 2 (2020): 101–16.

¹⁷ "Publications," accessed July 24, 2025, https://www.wwfpak.org/knowledge_hub_/publications_/.

¹⁸ "Handbook on Environmental Data and Information | United Nations Development Programme," accessed July 24, 2025, <https://www.undp.org/pakistan/publications/handbook-environmental-data-and-information>.

and the avenues to file complaints and redress.¹⁹ Effects of air and water pollution, deforestation, and poor solid waste inhibition disproportionately affect the vulnerable population (such as women, children, and poor population) in the rural and fringe urban regions. However, legal redress is restricted by procedure, institutional indifference and costs of law discrepancy.

The challenge of corruption and political involvement is also constant. The industrial/real estate interests have engaged in regulatory capture by gaining the issuance of environmentally damaging permits and the inability to prosecute serial offenders.²⁰ This does not only detract the rule of law but it also destroys the trust of the people in environmental governance systems.

To conclude, the mismatch in the environmental ideals of Pakistan and the reality is not a policy mismatch but an institutional weakness and political lack of appetite. To improve environmental governance, there should be a systemic reformation based on the following pillars- law, capacity building, and participation to make sure that the constitutional mandate of human dignity encompasses the provision of a healthy environment.

The Way Forward-Strengthening Legal and Constitutional Protections

Pakistan needs to take action on a more united and rights-based strategy of dealing with the environment to get rid of piecemeal enforcement and court-made interpretations. The first step that is required is the recognition of the right to a healthy environment as a justiciable constitutional right. Although the inferences made by courts have suggested environmental protection in the scope of the existing fundamental rights, a lack of a clear standard nullifies legal consistency, institutional responsibility, and policy designation.

One possible model is the comparative arrangement in place in such states as South Africa with a Section 24 of the Constitution expressly conferring the right to enjoy an environment that does not have adverse effects on health or well-being on all citizens, and we find the state being obliged to take reasonable legislative and other action to fulfill this right.²¹ In the same manner, the Indian Judiciary has also provided a safe foothold in the field of environmental protection at Article 21 (right to life) but in addition India has shifted to include environmental duties in the article 51-A with the obligation laid on people to protect the environment.²² Those examples provide an excellent tutorial on how Pakistan may approach the inclusion of environmental rights into its own law either in the form of an amendment or with the introduction of a special chapter of environmental rights.

Second, constitutional recognition should be accompanied by a legislative reform. The environmental laws of Pakistan especially the Pakistan environmental protection act, 1997 is irrelevant to the current climate changes, cross-border pollution and new climatic challenges. It must be amended or changed completely to include the

¹⁹ Mujeeb Rehman Khuhro et al., "Constitutional Provisions on Environmental Justice and Rights of Victims of Environmental Injustice in Sindh: A Thorough Analysis of Ground Realities," *Pakistan JL Analysis & Wisdom* 3 (2024): 1.

²⁰ "Pakistan - Transparency.Org," accessed July 24, 2025, <https://www.transparency.org/en/countries/pakistan>.

²¹ "Pakistan - Transparency.Org."

²² "Pakistan - Transparency.Org."

precautionary principle, intergenerational equity, the right to participate, the right to information.²³ Moreover, in order to prevent the regulatory discontinuity and discrepancy, environmental law must be integrated on both federal and provincial levels.

Third, it is important to strengthen institutions. Provincial Environmental Protection Agencies will need more budgets, technical preparation as well as independence to implement environmental laws devoid of political interference. Capacity building measures, which should be aimed at local administrators, municipal officials and the civil society, can help to enforce that the environmental rights are maintained and any cases of violations should be timely addressed.²⁴ Besides, provision of environmental ombudspersons or incorporation of environmental sections in the human rights bodies like the National Commission of Human Rights can provide other low-expensive grievance redressal bodies.

Fourth, the elements of public participation and environmental education should turn into the national policy. The recommendations of legal changes must involve obligatory public hearing, reporting of environmental statistics, and security of environmental whistleblowers. Environmental citizenship can be encouraged through the use of education campaigns starting at the school level and leading the community to participate.²⁵ Educated and incorporated citizens will be better poised to take the institutions to point and even demand environmental justice.

Finally, Pakistan should take more substantial interest in international legal developments related to the environment (including the resolutions of the UN Human Rights Council on climate justice and environmental defenders). By aligning domestic standards with international best practices, Pakistan can not only fulfill its treaty obligations but also enhance its global environmental standing.

To conclude, the justification of the healthy environment right as the constitutional imperative not only supported by the strong legislation and activated institutions and the active involvement of citizens but also the legal, moral and ecological demand. It is the only viable way up considering the looming environment challenges, which are endangering human dignity, development, and even livelihood of the future generations.

Conclusion

Healthy environment justice has moved beyond the peripheral arena to the center stage in modern law, especially with the increasing rate of environmental degradation and its interaction with the basic rights of human beings. As in the case of Pakistan, though there have been significant steps taken towards the judicial entrenchment of environmental protection rights to the constitutional rights of life and dignity, without a specific provision in the Constitution; the tenability and enforcement of the above rights are undermined. Through judicial activism, which is justifiable, one cannot replace a complete legal and policy framework that is intact and anchored in democracy processes and underpinned with institutional reform.

The international human rights and environmental engagement has set established obligations as to the Pakistani state to respect, protect and fulfill the environmental rights. Nonetheless, all these duties are, in actuality, not

²³ "Pakistan's Legal Framework for Environmental Protection Beyond Symbolism - Courting The Law," accessed July 24, 2025, <https://courtingthelaw.com/2025/01/13/commentary/pakistans-legal-framework-for-environmental-protection-beyond-symbolism/>.

²⁴ "Access to Environmental Justice in Pakistan | United Nations Development Programme," accessed July 24, 2025, <https://www.undp.org/pakistan/publications/access-environmental-justice-pakistan>.

²⁵ "Home - National Commission for Human Rights Pakistan – NCHR Pakistan," accessed July 24, 2025, <https://nchr.gov.pk/>.

very effective at the domestic level as lawmaking apathy, tenuous regulatory frameworks, and low civic input are a problem. The governance structure is also upset by inconsistencies brought about by post-devolution, poor inter-agency coordination, insufficient technical capacity, and poor access to environmental data and justice processes.

This paper has shown that to deal with these systemic weaknesses there is a need to recognize the right to healthy environment in the Constitution of Pakistan either directly through the process of amendment or indirectly through the process of legislative incorporation. The reform of laws should be accompanied by the strengthening of environmental institutions, the unification of the legislation of provinces, and the creation of transparent, participatory activities that ensure that citizens are at the center in the environmental system. The South African and Indian example of comparative constitutional models provides an excellent source of information as regards to how environmental rights may be synthesized and formalized in the context of a larger vision of human rights. Secondly, Pakistan needs to implement a prospective strategy which would combine environmental conservation and a social justice, societal well-being and intergenerational fairness. The lack of water, the climate change, air pollution, biodiversity degradation are in no way separate problems; they are closely linked to the everyday life of the most vulnerable communities of the country. To understand this interdependence, it is necessary that the law should be not only enforceable but transformative as well one that should change the dynamics between the citizens, state and environment.

Finally, the constitutional democracy in Pakistan remains a mere hope without protecting the ecological settings that sustain human dignity, health and survival. A healthy environment as a right should become a standing privilege that the judiciary will have the obligation to uphold as a law, a policy, and a perception of the society. Only at this point, Pakistan can be able to fulfil its national and international responsibilities and serve environmental justice of the current and future generations.

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