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Pakistan Environmental Crisis: Evaluating the Effectiveness of Legislative Reforms

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Abstract: *As compare to other developed countries Pakistan environmental conditions is most terrible and under great pressure and a big danger for human survival. Pakistan has not improved itself in term of environmental laws other than developing countries because it has inadequate sources but still on priority basis it has to resolve its environmental problems. For the same Pakistan has drafted many of its new laws with more additional strict provisions but necessary that they have make the current legislation on environment more effective in term of enforcement and stress on its implementation side. This article critically analyzes environmental legislation and policy in Pakistan and gave a detail overview of Pakistan Environmental Protection Act (PEPA 1997), its advantages and disadvantages, a detail overview of a number of subjects that have not been covered by PEPA as in most cases the law is weak at all and discussed the suggestion to make it more effective in the sense of its implementation. Pakistan has its many national legislation and also is signatory of many international conventions and treaties but these conventions and treaties only provide guidelines for protection of environment however it does not define the procedure to implement. At the end concluding remarks and suggestions are discussed regarding PEPA in detail, which may help to improve the law and state of environment in the country.*

Keywords: *Environmental challenges, legislation, PEPA, drawbacks implementation, suggestion*

Introduction

Environment plays very important role in every country but the environment pollution becomes a very severe problem all over the world and is big threat to human survival. Pakistan environment has under a great pressure from more than last 30 years. As compared to other developed countries the environmental condition in Pakistan are most terrible and it has to save all living being on soil as well as under sea. There are severe pressures on the environment of Pakistan like Poverty, over population, Illiteracy, Unmanaged land use patterns, inefficient energy use, and sprawl of human settlements, Soil erosion and Urbanization the results of which leads to Impure air, Water, Lower quality standard of human life, Penetration of Ozone layer O₃, Depletion of natural resources, Danger to species Deforestation, Global warming, Melting of glaciers and Enhancement of Carbon monoxide in air worst to Biodiversity.

In Pakistan there are number of laws for the protection of environment but they are just part of statute and go no further than statute book and unluckily the Constitution of Pakistan 1973 does not contain even a single provision regarding the issue of environment and defines the obligations of its citizens towards it. Although Pakistan is signatory of many international conventions and treaties but these conventions and treaties only provide guidelines for protection of environment however it does not define the procedure to implement. The implementation of the Environmental laws is very important. If laws are not implemented they lose their value mean they are of no benefit to the people and the environment. For the implementation of the Environmental Laws certain actions are required. The developed countries have fully implemented the Environmental Laws and Regulations. They are trying their best to save the environment. But developing countries have many problems in the implementation of Environmental laws. Pakistan has also made many laws and regulations and is signatory to the Multilateral Environmental Agreements. But the implementation of the environmental laws is in extreme poor condition. Pakistan has inadequate sources relating to environment pollution but still these are the main concerns for Pakistan and it has to solve them.

The environmental problems of Pakistan not only troubling the live of humans and animals but it also causing serious threat to natural resources of Pakistan and has creating trouble between economics development of the country and of environmental protection. There are many environmental problems in Pakistan like air pollution, noise pollution and water pollution and they are causing big time for Pakistan. The smoke of factories, industries and vehicle are polluting the air environment. Air pollution is also the leading problem in major cities of Pakistan and as per record it reveals that 90% vehicle causes of air pollution. Noise pollution is also danger for health and noise pollution in Pakistan is on climax. Pollution control system in Pakistan is not working properly therefore it is very difficult to remove this pollution. Pakistan has not improve itself in term of environmental laws other than developing countries. Pakistan has drafted many of its new laws with more additional strict provisions but necessary that they have make the current legislation on environment more effective in term of enforcement and stress on its implementation side. This article critically analyzes environmental legislation and policy in Pakistan specifically giving a detail overview of Pakistan Environmental Protection Act (PEPA 1997), its advantages and disadvantages to overcome the issues. This will also discussed the environmental challenges faced by Pakistan. The article gives a detail overview of a number of subjects that have not been covered by the law in most cases the law is weak at all and also discussed the suggestion to make it more effective in the sense of its implementation. At the end concluding remarks and suggestions are discussed in detail, which may help to improve the state of environment in the country.

Environmental challenges faced by Pakistan

The modern world today is facing very hazardous threat in term of environmental pollution and problems are approaching to dangerous limits and people in the world are not aware of its precarious. The world is focusing on the removal of the elements that are making the lives of people and animals hard and causing environmental problems. Environmental problems in Pakistan are causing big threat and are the main concern for Pakistan to resolve the problems seriously but the population of Pakistan is increasing day by day and it has very limit resources to cope with the environmental problems.

The environmental problems of Pakistan not only troubling the live of humans and animals but it also causing serious threat to natural resources of Pakistan and has creating trouble between economics development of the country and of environmental protection. There are many environmental problems in Pakistan like air pollution, noice pollution and water pollution and they are causing big time for Pakistan. The smoke of factories, industries and vehicle are polluting the air environment. Air pollution is also the leading problem in major cities of Pakistan and as per record it reveals that 90% vehicle causes of air pollution. Noise pollution is also danger for health and noise pollution in Pakistan is on climax. Pollution control system in Pakistan is not working properly therefore it is very difficult to

remove this pollution. A number of grave environmental problems are inborn in the country, which are of great environmental concern in terms of its sustainable economic future. These include soil erosion, pesticide misuse, deforestation, desertification, urban pollution, water logging and salinity, freshwater pollution and marine water pollution, just to name a few.

Environmental Legislation in Pakistan

Pakistan is establishing environmental institutions and passing laws have responded towards its environmental problems by developing human and local resources and through technical capacity and foreign assistance. Pakistan has its many laws that include provisions for environmental protection and these are inherited from British India relating to land tenure and use, forest conservation, noise and public health air and water quality, canal irrigation, wildlife protection, energy development, pesticides use etc. but the laws did not sufficiently cover the subject as these laws were unsuccessful and outdated and punishment for violation was soft and easy to avoid so many aspects of environmental degradation remain abandoned and under regulated.

As a follow-up to the Stockholm Declaration of 1972, in Pakistan the Ministry of Environment was established in 1975. Until 2010 both the federal and provincial legislatures had the power to make laws on the environment under the Constitution of the Islamic Republic of Pakistan, 1973. The first consolidated environmental law the Pakistan Environmental Protection Ordinance, 1983 (PEPO), was drafted proposed by ministry. The main objective of PEPO as federal legislation was to establish institutions, i.e., the Pakistan Environmental Protection Council (PEPC), and the Pakistan Environmental Protection Agency (EPA) at the federal level. As the ultimate environmental policy-making body in the country, PEPC headed by the President of Pakistan and EPA and four environmental protection agencies at the provincial level to administer and implement the provisions of PEPO. Without comprehensive provisions for regulation of land use; air, water, or noise pollution; maritime pollution; biodiversity; or hazardous substances or activities, PEPO is only providing an institutional structure for enforcement and the protection of the environment.

The process of environmental lawmaking in the country accelerated when Pakistan became a party to various international conventions. In 1992, Pakistan participated in the Earth Summit and in the same year, Pakistan prepared its National Conservation Strategy (NCS) which provided a wide structure for addressing environmental concerns in the country. The first National Environmental Quality Standards (NEQS) were notified under PEPO in 1993, providing standards for industrial and municipal effluent and air emissions, including 32 liquid and 16 gaseous parameters. The Pakistan Environmental Protection Act, 1997 (PEPA) replaced the earlier legislation, PEPO, in an effort to bridge gaps in the law.

Critically analyze the causes and failure of Pakistan Environment Protection Act 1997

Although the text of PEPA 1997 is used as a pattern for the protection of environment in Pakistan but the law is weak in the sense of its term of implementation as it has many other shortcomings. A detailed critical analysis of weakness of PEPA 1997 provisions are below:

Absence of certain key definition

The definitions included in PEPA are perhaps reasonably broad but there are some main key terms which are absent. Certain definitions should be added like marine pollution is one such term which is not mentioned particularly this is of concern to coastal provinces, especially considering the fact that their jurisdiction over the coastal zone under federal law remains uncertain. There are some inconsistencies in the definitions as well, which are examined like pesticides are included in the definition of "agricultural waste and excluded from the definition of hazardous substance. And biological waste that includes medical wastes from sources such as slaughterhouses.

Uncertainty

There are much uncertainty in the provisions of PEPA with the shifting of powers that should be addressed like provisions relating to environmental laboratories are challenging. Environmental protection agency under section 6(1) (k), authorizes or approves laboratories for environmental testing but it is required to establish and maintain laboratories under section 6(2) (e).so it is not clear whether the EPA is destined to function its own laboratories for the purposes of environmental testing, or whether it is only meant to nominate laboratories to act as “licensed laboratories” for the purposes of this Act. If various types of laboratories are to carry out different tasks, then their roles need to be specified. The law relating to imposition of a pollution charge under Section 11 is not clear and also shows uncertainty as it does not explain the procedure whether this charge is similar to a ticket issued for traffic offences or whether it only applies to repeat offences, and what kind of measures are to be taken if the offence continues and it also fails under (section 6(1)(g)) to specify whether the pollution charge is to be levied in cases where the NEQS have been relaxed Section 11(4) is problematic as well because it implies that only industrial operations are governed by these provisions.

Simplification and clarification of procedures

Many of the procedures described under PEPA have not yet been defined and need to be simplified, clarified or refined impairing the operation of certain provisions.

Environmental protection orders

The position of EPO is not clear in many matters that are concerned to EPA attention. Provisions should be added to cover these contingencies. The procedure for issuing an EPO is not specified.

Hazardous pollution events taking place speedily and violation of law could be detected during plan inspection. It is not specified if members of the public or other concerned parties are allowed to appeal to the EPA for the burden of an EPO. The EPO should function as an emergency injunction.

Need of Updating Environmental impact assessment

The steps for impact assessment should begin with viewing for all projects that have a probable to affect the environment, regardless of scale. Under PEPA 1997, projects either submit an IEE or an EIA; depending on the level of operations and on the results, early screening should be followed by an IEE or EIA. The law needs to spell out the various steps involved in impact assessment, and to specify the relationship between these various steps. Screening and IEE must always be carried out, and EIA may be called for on the basis of IEE findings but a variety of smaller projects escapes the net of impact assessment. International best practice in the field of impact assessment has, however, evolved since the 1990s. But For this purpose the current impact assessment regime under PEPA needs to be smooth and updated. Today, a stronger and carefully calibrated administration is recommended.

Clarity of power and procedures of the Environmental Protection Agencies

EPAs have a broad variety of powers but procedures for the exercise of these powers are not specified. The power and procedure of relating to issuance of summons and its enforcement procedure and procedure of EPA officials for obtaining warrant are not prescribed. It also does not have emergency power of search out without warrant and emergency inspection. It also does not define any procedure under which EPA can exercise its powers under either the Code of Criminal Procedure 1898 (Act V of 1898) or rules made under PEPA 1997.its also have not defined the complaint procedure Nor is there any mention of how the EPA is to act on such complaints if it get any public complaint relating to environmental issues it cannot operate without such procedures.

Procedures for Clean-up

PEPA does not define any clean up procedure as it only provides the provisions on the prohibition of discharges and emissions provides for the imposition of a pollution charge and under it there is no obligation to pay for cleaning up the damage caused and rehabilitating the environment.

Weakness of law in Follow-up mechanism

For most of the matters it provides the law is weak in follow up mechanism as the laws empowers EPA to make proposal for other agencies and for government itself but it does not have the mechanism how to follow up to handle and the agencies and the government have no concern to discover how these proposal are to be carried out while making decisions.

EPAs have various powers to enter and inspect location, and remove samples, but here too these responsibilities need to be efficient. so if EPA has no guarantee that in practical decision and in policy matter its point of view will be taken into account it has to face the burden for recommendation. Follow-up is required and a provision should be added for periodic inspections to be made, requiring those being inspected to cooperate with inspectors and providing that failure to cooperate with inspectors is an offence.

Appellate jurisdiction of Environmental tribunals

Some clauses relating to the functioning of environmental tribunals remain unclear under PEPA 1997 as under it tribunal exercises additional appellate jurisdiction as well as both civil and criminal jurisdiction. Environmental jurisdiction given exclusive jurisdiction to hear all cases under section 17 (1) but it can only hear those cases which are offences in writing upon complaint from EPA or government or any agency or from local council. so it is not clear whether the tribunals have suo moto powers in case of offences if separate procedures apply to cases heard under sec 17 (1) and sec 17 (2). This section appears to allow the tribunal to hear a complaint from any aggrieved person but leaves open the specific conditions under which this clause operates. In the meantime environmental tribunals have not set up or none functioning for some reason the whole enforcement mechanism of law comes bring to an end.

Decisions of the tribunal can be appealed in the High Court and the High Court will be drawn into virtually all major environmental litigation. Such an appeal is almost expected in practically all serious cases

Clarity of functions of Environmental magistrates

PEPA 1997 leaves many aspects relating to environmental magistrate function unclear as it only mention the post of environmental magistrate but do not clearly mention whether they are the part of tribunals mechanism or part of usual judicial system and moreover their jurisdiction is also unclear and go beyond with that of tribunals. The jurisdiction of environmental tribunals allows the tribunal to hear these cases upon receiving a complaint in writing but Section 24(1) seems to propose that all cases are heard solely by the magistrate. From this it would appear that magistrates may not send anyone to prison, order closure or confiscation, order clean-up restoration of the environment to its prior condition, or order the payment of compensation. Whereas related to Section 24(2) allows environmental magistrates only to impose punishments specified in sections 17(2) and 17(4). This is a serious inconsistency and must be addressed .These matters are discussed in section 17(5), and that section itself allows magistrates to impose these punishments and order these measures. Magistrates are also permitted to ‘compound’ offences (see section 17(6)) but these powers are not mentioned in section 24 on the powers of environmental magistrates.

The provisions relating to jurisdiction of environmental magistrates are highly challenging

as environmental magistrates may not take cognizance of an offence except on a complaint in writing from and EPA or an aggrieved person. But we have already seen that although section 24 gives environmental magistrates’ exclusive jurisdiction to hear such cases, section 17 it allows these matters to be heard by the environmental tribunal as well. If there is a procedure here, or if the distinction is perhaps based on the type of offence, this needs to be specified.

Assuming for the moment that both the tribunal and magistrates have this power, it is unlikely that an EPA, a government agency or an aggrieved person would take their case to a magistrate rather than directly to a tribunal.

Clarity of procedure of Appeals

Judiciary is involved in the disposal of environmental cases as the decisions of the environmental tribunal can be appealed in the High Court. The decisions of environmental magistrates may be appealed in the session's court but the specific procedures and conditions under which this is to take place are not clearly mentioned under PEPA. Although under this it can be seen that the involvement of the 'mainstream' judiciary introduces openness and clearness into the process of environmental litigation, in some respects it also defeats the purpose of setting up a separate environment-related judicial process. It is also inquiring that the forum for appealing a magistrate's decision is a session's court rather than the environmental tribunal. In effect this puts the environmental magistrate under a separate hierarchy, creating corresponding lines of accountability. It has already been noted that in practically all serious cases, the involvement of the higher judiciary seems almost inevitable. As such, the provisions concerning appeals should be reviewed more closely and revised, to clarify appeals procedures and appellate jurisdiction.

Suo moto powers of environmental tribunals

The Supreme Court of Pakistan as well as High Courts has also taken up environmental matters in petitions. The role of the Supreme Court and High Courts has not been addressed in PEPA 1997. Neither the environmental tribunal nor environmental magistrates appear to have the power to act on their own in the matter of violations of environmental law. But High Courts have taken suo moto notice of environmental matters in the past. .

Powers of the police included in PEPA

The police are mentioned only once in PEPA 1997, in section 21(7) related to environmental tribunals, in connection with the arrest of persons against whom the tribunal has issued a warrant. And even here, the specific reference is to a "police station". Nowhere else in the law has the role of the police been mentioned, although it is imaginable that EPA officers would require police assistance in some instances? It is not clear whether this omission is the result merely of an oversight, or whether the law envisions enforcement duties to be carried out by EPA officers on their own. If, on the other hand, police assistance in such cases is unspecified, then the law must be revised to state this clearly. Considering the importance not to mention the potential danger of searches and inspections, this is a matter that should not be left unclear

Clarity in matter of Penalties

The subject of penalties under PEPA 1997 is a complex one, and for reasons that are perhaps counter-intuitive. The law sets practically strict penalties for a range of offences, which is not in and of itself a problem. The issue arises when offences are seen as a whole. Some of these are serious indeed, with the likely to cause permanent, permanent harm to the environment. Others, though not 'minor', are the types of violations that are unlikely to cause permanent harm unless repeated over a long period of time. Similarly, some infractions are relatively simple to remedy whereas others may involve long-term measures such as clean-up and rehabilitation. Finally, some offences under the law are in fact minor enough that they can be addressed by means of a spot fine or a ticket, similar to tickets issued for traffic offences. The problem, then, is that the provisions on penalties in PEPA 1997 do not take these types of distinctions into account. This needs to be stated clearly. Administrative penalties and fines are usually the first step in enforcement. In many jurisdictions, it is necessary to prove that all administrative remedies have been exhausted before

the courts are approached. PEPA 1997 does not provide this type of procedure, and does not specify the

conditions under which administrative penalties may be deployed. The law should make it clear that administrative penalties are a first step, unless a violation is at the level of a criminal offense from the outset. Rather than filling the magistrates' and tribunals' rosters with minor cases, a system of spot fines should be considered.

In reviewing these provisions for possible amendment, it should be kept in mind that a more efficient system of penalties is perhaps one that is based not on types of activities but rather on their environmental impact. Offences that constitute an infraction of the law but which do not pose a significant or long-term risk must be treated differently from violations that cause grievous harm.

Mechanisms for Funding and Finances

No amount of legislative provisions will make a difference if financial mechanisms are not provided to put them into effect. PEPA 1997 creates a number of financial mechanisms and systems, not all of which are optimally designed. To begin with, the sustainable development fund that each province may establish allows for a formal mechanism for funding environmental work. But its source of financing is not guaranteed. Grants may be made to the fund from a variety of sources but the law does not create a specific, regular source of income for the fund's operations. This renders the existence of the fund insecure, and entirely dependent on ad hoc financing.

At the same time, PEPA 1997 creates mechanisms by which funds can be generated. The most obvious of these are the fines and penalties imposed by the law, but various fees and other charges may also be levied under various provisions. There is no central fund into which the monies so collected may be deposited. These revenues are paid either to the federal government (under the pre-Eighteenth Amendment law) or, presumably, will now be channeled into the provincial government account. In and of itself this is not an issue, but what makes it problematic is the fact that no provision exists for even a portion of the funds so collected to be used specifically for activities envisioned by PEPA 1997.

There is also a problematic matter in section 29, which states that all dues recoverable under the Act are "recoverable as arrears of land revenue". Leaving aside the ambiguity of this provision, it has been noted that in practice this is difficult. This clause also implies that such funds are paid directly to the government. Ideally, all funds generated under PEPA 1997 mechanisms, whether they are penalties or fees, should finance the operations of entities created under the same law. Given that this is unlikely, it is vitally important that, at the very least, a portion of the funds generated are channeled back into environmental work.

Lack to explore Environmental taxes

The law fails to explore new avenues of funding, such as environmental taxes. The EPA is permitted to make recommendation to the government with respect to "taxes, duties, cesses and other levies" (section 6(2)(d)(ii)), but these recommendations are not binding on the government. The EPA should have greater power to form policy decisions in all environmental matters, including financial matters. The EPA would also be preferably placed to look at new sources of raising revenues, such as by introducing environmental economic reform measures, including the introduction of environmental taxes. Although it does not have the power to levy taxes, there is a role for EPAs to lobby provincial governments for the introduction of environmental taxes, a portion of which could then be used to fund the operations of EPAs and be paid into the Sustainable Development Fund.

EPA powers to issue and enforce NEQs and geographical area

Under section 6, the Pakistan EPA is to institute NEQS and enforce them. The first among these is the fact that under section 6 the Pakistan EPA has the power not only to issue and enforce NEQS but also to modify them for different sources of pollution and, importantly, for different areas (section 6(1)(g)). Varying emissions standards according to source is not problematic. But allowing variations by geographical area is certainly so.⁴⁷ If this provision is to be retained at all, which is itself debatable; it

must be handled with the utmost care. Otherwise, the law will allow a hierarchy of environmental protection to be created, with some areas receiving better protection and others receiving less protection. This is not equitable.

The purpose of establishing such a rule, with varied protection, is also not clear. If the idea is that certain ecologically delicate areas should be provided with even stricter protection, through measures such as a complete ban on all protects, then this should be stated. But if the purpose is in fact to weaken the application of the law in some areas, which seems to be the case especially considering the other sub-sections in this proviso to section 6(1)(g), then it is not in the least advisable. Baseline quality standards and emissions standards should be established, applicable throughout the country, with the option of strengthening these where necessary, but never weakening them.

Steps for the Implementation of Environmental Laws under PEPA

Environmental Protection Act, 1997 mandates the formation of the following organizations:

1. The Pakistan Environmental Protection Council (PEPC)
2. The Pakistan Environmental Protection Agency (Pak-EPA)
3. The provincial environmental protection agencies (EPAs)
4. The provincial sustainable development funds (SDFs).

The Pakistan Environmental Protection Act, 1997 is an enabling legislation. It empowers the government to create new institutions, draft rules and regulations for the implementation of the provisions of this Act and take specific measures for protection of the environment. PEPC is principally an administrative body above the EPAs. The first and foremost role of agencies is the execution of the provisions of the Pakistan Environmental Protection Act, 1997 and its connected rules and regulations. The powers and functions of the PEPC and the Pak-EPA, mainly in respect of prevention of pollution, Pak-EPA is principally responsible for implementing the provisions of the Pakistan Environmental Protection Act, 1997. It has been empowered to assign the powers and functions the Act assigns to it to the provincial EPAs. To this extent, the provincial EPAs purpose as provincial branches of Pak-EPA. EPAs do not have the essential internal technical, legal, and management hold or sufficient financial resources. In the nearby absence of such resources, the only implementation substitute left is donor-supported projects. Even if the Pakistan Environmental Protection Act, 1997 contains the essential basics required for implementation of the NCS programs, the executing agencies are not yet fully powered to carry out the implementation. It is very important that the institutional capacities of the implementing agencies be developed to enable them to technically manage the environmental programs and implement the NCS projects. International donor organizations are not only providing the financial resources but are also supporting in formulating, running, and implementing such projects. However, in the long run, this may not be a very sustainable arrangement.

Conclusion

Pakistan as well other developing countries is facing a number of problems in terms of its environmental laws. To build the present environmental efficient, Pakistan needs to hand over full powers to environmental protection agencies as set out in the Pakistan Environmental Act, form more environmental courts with the broad control, draft policy and rules on enforcement and observance procedure, provide general training in technical, legal and operational field to Environmental Protection Agency's staff, direct different agencies of Government charged with environmental protection to manage their actions and coordinate and bring into line their rules and regulations in order to implement a complete environmental plan. No stone may be turned in strict compliance of the provision of the environmental laws and especially emphasis on the implementation /monitoring side is the most desirous element. Pakistan is also confronting challenges of environmental degradation and

enforcement and implementation of environmental laws. Realization of environment is increasing on the part of government to legislate and implement the environmental laws in order to cope with the modern issues.

Pakistan is not improved himself than other developing countries in terms of environmental laws. Though Pakistan has drafted her new laws with more strict provision and enforcement, up till now they have to make the present environmental laws more efficient and creative and always stress on implementation side of law.

The implementation of the Environmental laws is very important. If laws are not implemented they lose their value mean they are of no benefit to the people and the environment. For the implementation of the Environmental Laws certain actions are required. The developed countries have fully implemented the Environmental Laws and Regulations. They are trying their best to save the environment. But developing countries have many problems in the implementation of Environmental laws. Pakistan has also made many laws and regulations and is signatory to the Multilateral Environmental Agreements. But the implementation of the environmental laws is in extreme poor condition.

Although conventions provide guidelines for protection of environment however it does not define the procedure to implement. In the absence of awareness and lack of interests, Pakistan sought help of international agencies for defining countries environmental policies. The policies thus defined are either over ambitious or they disregard the economical and technical constraints of the country. Today it is required to take about a awareness among mass for encouragement of environmental protection, Prevention of pollution and civilizing NEQS National Environmental Quality Standards.

Recommendation

The above discussion has already touched upon many of the areas that require to be included in the text of PEPA 1997. In most cases, these concern areas where the law is weak or uncertain. But there are a number of subjects that have not been enclosed by the law at all. Some are the following suggestion to make more effective the environmental law in terms of implementation.

Public involvement in environment impact assessment hearing

The rule of public contribution desires to be introduced appropriately into the law and made an fundamental part of all procedures. Currently, PEPA 1997 allows for public participation in environmental impact assessment hearings (section 12(3)). The Pakistan EPA is also obligatory to publish anticipated NEQS for public observations before these standards are finalized (section 6(1)(e)).

At present, public participation is not needed during the IEE process, and this fall should be remedied. In fact, public interpretation should be invited for all proposed projects, despite of whether the projects are subject matter to IEE or EIA. There should also be public participation at the screening stage, pre-IEE, a step that in turn needs to be introduced into the law. The EPAs should be involved in all stages.

Right to use to information relating to environmental matters

Among its other responsibilities, the Environmental Protection Council formulates policies and plans, develops strategy, and approves the environment report prepared by the EPA (section 4). There is no obligation that these documents are made available to the public but the EPA, for its part, is required to provide information and guidance to the public in environmental matters (section 6(1)(o)). This does not quantity to a clause ensuring right to use to information. The operations of the sustainable development fund panel, in the meantime, are not open to public examination. The board is necessary to check projects supported by the fund, and to prepare reports at regular intervals (section 10(3)). In all these cases, provisions should be made for members of the public to right to use policy documents, plans and reports that concern matters of public awareness. Clauses may be additional to each of the relevant sections, but possibly a better way to deal with the matter is to bring in a section to the law

specifically concerning the subject of access to information. a variety of resources of access can be provided, if clerical or administrative costs are an issue. Documentation could be made available in electronic form on the website of the entity concerned, with the possibility of hard copies being made available upon payment of a fee. Making information publicly available should be a function of the provincial environmental protection council.

Inclusion of Strategic environmental assessment in environmental laws

Strategic environmental assessment (SEA) is becoming common best practice in many countries, including in Asia. It is time for this tool to be included in our environmental laws. One concern is that SEA should be required for federal policies and programs as well as those at the provincial level. This in turn means federal legislation will be required.

Environmental audits relating to industrial and commercial operations

PEPA 1997 does not declare environmental audits. This instrument should also be added, to cover all types of industrial and commercial operations with a probable impact on the environment. All such units, despite of level or of when they began operations, should be necessary to experience inspections and to observe with instructions issued by the inspecting authority.

Incorporation of principle of Polluter pays into PEPA

The ‘polluter pays’ principle has indirectly been included into PEPA 1997, but not always and not in full. While the law requires penalties to be paid for environmental offences, it does not go behind through with following inspections and there is no requirement or orderly procedure to ensure that clean-up is carried out at the polluter’s expense as well. The relevant clauses should be reviewed and amended to strengthen safeguards and ensure that clean-up is an integrated part of the environmental management regime.

Cross-border issues in international and domestic levels

A subject that was possibly of less concern when PEPA 1997 operated as a federal law is related to cross-border or trans-boundary issues. The question arises on two levels. The first is the international level, and has to do with the country’s commitments to regional environmental programs. With environmental matters being handled by the provinces, it is not clear how international environmental cooperation will be coordinated. The second level is domestic, and is linked to provincial boundaries. Here, the most important question is one that has been mentioned earlier, related to consistency. Environmental pollution is not controlled by administrative borders, nor can dangerous emissions always be contained within the borders of a province. To deal with such matters, a separate mechanism will need to be developed.

Question of marine pollution

There are other subjects that are not mentioned in PEPA 1997, which should be taken into concern. The question of marine jurisdiction and marine pollution has been discussed above, and so does not need to be repeated here. Other matters that should be brought under the sphere of the law include landfill sites, municipal garbage dumps and waste processing plants, and sewage treatment plant

References

- Shaqiq.shagufta, implementation of environmental laws, District Court Faisalabad. 214 available at <http://www.dbafsd.org/articles/shagufta.pdf>
- Subhani.Z.Hafiz, 2015, Problems of Pakistan and their solution, available at ihelpf9.com
- Subhani.Z.Hafiz, 2015, Environmental Problems in Pakistan and its effects on human life available at ihelpf9.com

See <http://ihelpf9.com/problems-of-pakistan-and-thier-solution>

Ronaq.Saira, (2014), Environmental challenges in Pakistan. Sharnoff's Global views ,original commentary by internationals for American available at <https://www.sharnoffsglobalviews.com/environmental-challenges-pakistan-220/>

Khawaja and Khan (2005), Air Pollution:Key Environmental issues in Pakistan , Sustainable Development Policy Institute (SDPI). 99 <https://sdpi.org/assets/lib/uploads/uploads/2020/04/working-paper-99.pdf>

Naureen.M, Development of Environmental Institution and laws in Pakistan,Univeristy law, Pakistan Journal of History and Culture, Vol.XXX, No.1, 2009 available at http://nihcr.edu.pk/Latest_English_Journal/Development_of_Environmental_Institutions.pdf

Jatoi.Umer,Implementation of Environmental Laws in Pakistan (brief view),University of Punjab available at https://www.academia.edu/7738092/Implementation_of_Environmental_Laws_in_Pakistan_brief_view

Pakistan Environmental Act 1997 available at <http://www.environment.gov.pk/act-rules/Brief-PEPA-Act1997.pdf>

Khawaja and Ahsan,2013 Developnment of Environmental laws and jurisprudence in Pakistan,Asian Development Bank available at <https://www.adb.org/sites/default/files/publication/31140/environmental-law-jurisprudence-pakistan.pdf>

Pakistan Environmental Protection Agency available at <http://www.environment.gov.pk/act-rules/Brief-PEPA-Act1997.pdf>

See Section 6 (2),Pakistan Environmental Protection Act 1997

Pakistan Environmental Protection Act 1997 available at <http://www.environment.gov.pk/act-rules/Brief-PEPA-Act1997.pdf>

See section 7 PEPA 1997

ibid

See section 13 PEPA 1997

See section 15

See section 20

Brief of Pakistan Environmental Protection Act available at <http://www.environment.gov.pk/act-rules/Brief-PEPA-Act1997.pdf>

See section 26 PEPA 1997

Pastakia.Firuz ,2012 ,Environmental protection and Eighteen Amendment, impact of constitutional amendments on environmental protection legislation ,Analysis of laws in force ,and assessment of implementation issues ,National Impact Assessment Programme, pp. 13-35

<https://www.semanticscholar.org/paper/EFFECT-OF-LEGISLATION-ON-ENVIRONMENTAL-MATTERS-IN-Khattak-Jamil/c35f2e56d6c4f1BVTrB47erypG3tevi1U9Fv6BbNUBEiuiX>

See section 7 PEPA 1997

See Section 7 (f)

See section 7(g)

See section 7(j)

See section 6 (2) (a)

See section 11

See section 6 PEPA 1997

See section 7 PEPA 1997

See section 21 (2)

See section 17 (2)

see section 21(3)(a)

See section 21(3)(b)

2014, An analysis of Environmental law in Pakistan-Policy and condition of implementation, RJASET

See section 24 PEPA 1997

See section 21(3)

See section 17(2)

See Black's Law Dictionary: 'compound' means "to settle a matter by a money payment, in lieu of other liability. In fine, compounding of an offence is a settlement mechanism, by which, one is given an option to pay money in lieu of his prosecution, thereby avoiding a prolonged litigation" (Garner 2004). In some jurisdictions, only victims are permitted to give the go-ahead

section 17(2)

Section 24(3)

Ahmed.R.Shah, Legal and Institutional framework for the protection of environment in Pakistan available at <http://www.sacep.org/pdf/Reports-Technical/2001-UNEP-SACEP-Law-Handbook-Pakistan.pdf>

Hamid.Z, 2007, Legal Implication for 18th amendment relating to environment, ICUN Pakistan available at <https://www.commissiomer.nl/docs/mer/diversen/pos722-environmentalprotection-18amendment.pdf>

Arthur J. Hanson et al (2000), Environment Legislation, Midterm Review of National Conservation Strategy, ICUN 2000 https://www.iucn.org/sites/default/files/2022-05/pakistan_ncs_mid_review.pdf

The phrase appears again in section 16(3), related to environmental protections order

Presumably this power of the Pakistan EPA will now lie with provincial EPAs.

Websites

<http://ihelpf9.com/problems-of-pakistan-and-thier-solution>

<http://ihelpf9.com/environmental-problems-in-pakistan-and-its-effect-on-human-life>

<http://ihelpf9.com/problems-of-pakistan-and-thier-solution>

<http://www.sharnoffsglobalviews.com/environmental-challenges-pakistan-220/>

<http://tribune.com.pk/story/1009340/pakistan-bears-the-worst-of-climate-change-effects/>

<http://envirocivil.com/environment/top-10-environmental-issues-in-pakistan/>

<http://envirocivil.com/top-10/top-10-environmental-issues/>

<https://www.elaw.org/system/files/Law-PEPA-1997.pdf>

<http://www.environment.gov.pk/act-rules/Brief-PEPA-Act1997.pdf>

<http://www.adb.org/sites/default/files/publication/31140/environmental-law-jurisprudence-pakistan.pdf>

<http://www.environment.gov.pk/act-rules/Brief-PEPA-Act1997.pdf>

<http://www.environment.gov.pk/act-rules/Brief-PEPA-Act1997.pdf>

<http://www.environment.gov.pk/act-rules/Brief-PEPA-Act1997.pdf>

http://cmsdata.iucn.org/downloads/pk_niap_impact_of_18th_amd_final_draft_19_may_2012_for_matted.pdf

http://cmsdata.iucn.org/downloads/pk_niap_impact_of_18th_amd_final_draft_19_may_2012_for_matted.pdf

<http://www.niap.pk/docs/Knowledge%20Repository/Reports/Paper%20on%20Legal%20Implications.pdf>

<https://www.sdpi.org/publications/files/A-99.pdf>

https://www.academia.edu/7738092/Implementation_of_Environmental_Laws_in_Pakistan_brief_view

http://www.environment.gov.pk/PRO_PDF/positionpaper/Environment%20Policy%20and%20legal%20framework.pdf

http://www.environment.gov.pk/eia_pdf/g_Legislation-NEQS.pdf

http://www.environment.gov.pk/PRO_PDF/positionpaper/Environment%20Policy%20and%20legal%20framework.pdf

https://www.academia.edu/7738092/Implementation_of_Environmental_Laws_in_Pakistan_brief_view

<http://www.admiraltylawguide.com/conven/unclostable.html>

http://www.unep/dpdl/symposium/Documents/Country_paper/Pakistan.doc

<http://hmazeem.blogspot.com/2013/05/pakistan-environmental-protection-act.html>

<https://www.google.com/url?q=http://hmazeem.blogspot.com/2013/05/pakistan-environmentalprotectionact>

<https://www.cbd.int/intro/default.shtml>

<http://www.basel.int/TheConvention/Overview/tabid/1271/Default.aspx>

<http://www.oecd.org/env/waste/environmentallysoundmanagementofwaste.html>

<http://www.investopedia.com/ask/answers/199.asp#ixzz40OinFrxf>

<http://projects.wri.org/sd-pams-database/pakistan/national-conservation-strategy>