



Law and Justice Commission of Pakistan
Government of Pakistan



Ministry of Climate Change
and Environmental Coordination
Government of Pakistan



Climate Change Litigation in Pakistan: Critical Judicial Decisions

Alpine forests Himalayan Mountain Range in Pakistan

Law and Justice Commission of Pakistan
Government of Pakistan

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Climate Change Litigation in Pakistan: Critical Judicial Decisions

The 29th session of the Conference of the Parties (COP 29)
to the United Nations Framework Convention
on Climate Change

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1. Forest Conservation Laws as Essential for Combating Climate Change:

Shah Zaman Khan
v. Govt. of Khyber
Pakhtunkhwa

PLD 2023 SC 340

Importance: The Supreme Court of Pakistan reinforced the importance of forest conservation in addressing climate change. The Court emphasized that protecting forests was crucial for absorbing carbon emissions and preventing environmental degradation, underscoring the government's duty to enforce forest protection laws to safeguard ecological balance and welfare for future generations.

Synopsis

The case before the Supreme Court of Pakistan involved a series of civil appeals stemming from a dispute over forest land in the former State of Swat, now part of Khyber Pakhtunkhwa. Private parties claimed ownership of lands that had been declared as protected forests by a government notification issued in 1976 under the Forest Act, 1927 ("Act"). These private parties contested the validity of this notification, arguing that their ownership

rights had been overlooked. They sought legal redress, including challenging the jurisdiction of the civil courts to adjudicate their claims under the Khyber Pakhtunkhwa Forest Ordinance, 2002 ("Ordinance"), which limited civil court involvement in forest-related disputes. The Court also examined the broader implications of the legislation on forest protection and its relation to climate change.

Legal Analysis

The Supreme Court of Pakistan focused on the critical importance of forest conservation and its direct relationship with climate change. The Court analyzed the legal framework provided by the Ordinance and Act to emphasize that forest protection was essential for environmental stability and the fight against climate change. The judgment underscored several climate-related issues, focusing on the role of forests as natural resources vital to mitigating the effects of climate change and preserving ecological balance.

The Supreme Court explicitly highlighted the severe consequences of deforestation, including increased vulnerability to climate change. Forests played a vital role in absorbing carbon dioxide, regulating the climate, and preventing natural disasters such as floods and landslides. The judgment pointed out that Pakistan had been experiencing significant deforestation, which contributed to environmental degradation. The Court referred to data showing that Pakistan lost a substantial portion of its forest cover between 1990 and 2005, with further reduction in tree cover from 2000 to 2020.

The Court made it clear that forest conservation was directly linked to addressing the challenges posed by

climate change. It recognized that deforestation led to increased carbon emissions, a key factor in global warming. This highlighted the need for stringent forest protection laws to safeguard the environment and counteract the adverse effects of climate change. The Court acknowledged that deforestation not only reduced biodiversity but also aggravated climate-related disasters, such as floods and droughts, which were becoming more frequent and severe due to climate change.

The judgment emphasized the importance of the Ordinance and similar legislation aimed at protecting forests. The Ordinance had been enacted to preserve forests as an essential part of Pakistan's natural heritage. The law explicitly restricted civil court jurisdiction over disputes related to forest lands, emphasizing that such matters must be addressed through specialized forest laws to prevent the exploitation of these lands for personal gain.

Forests served as carbon sinks, absorbing significant amounts of carbon dioxide from the atmosphere. The Supreme Court reiterated that forest conservation was essential for reducing the country's carbon footprint and combatting global warming.

The destruction of forests not only released stored carbon but also diminished the earth's capacity to absorb future carbon emissions, exacerbating the climate crisis. The judgment underscored the need to preserve existing forests and reforest degraded areas to ensure that Pakistan could meet its environmental targets and reduce the impact of climate change.

Moreover, the judgment drew on Islamic principles to emphasize humanity's responsibility as trustees (khalifah) of the Earth. The Court referenced Quranic verses to illustrate the sacred duty to protect nature and maintain ecological balance. Islamic jurisprudential views aligned with the concept of environmental stewardship, urging care for all of creation, including forests. In the context of climate change, the Court highlighted

that exploitation of natural resources without regard for this duty led to environmental harm, reinforcing that protecting the environment was not only a legal but also a moral and spiritual obligation.

By upholding the legal protections offered under the Ordinance, the Court reinforced the importance of safeguarding forests against deforestation and private encroachments. The Court's decision underscored that forest conservation was not only a legal requirement but a necessary measure to protect the country from the accelerating impacts of climate change. The ruling emphasized the need for stringent enforcement of forest laws to prevent further environmental degradation and ensure the sustainability of natural resources for future generations.



Supreme Court of Pakistan



2. Tax Exemptions to Promote Climate Change Mitigation & Environmental Protection:

*Collector of Customs
v. Wasifullah*

2023 SCMR 503

Synopsis

This case revolves around the interpretation of a statutory regulatory orders (“SRO”), issued by the Federal Government, which provided tax exemptions on the import of Hybrid Electric Vehicles (“HEVs”) in Pakistan. The dispute arose when the Deputy Collector Customs issued show-cause notices to importers. The key legal issue was whether the SRO applied to both new and used HEVs and whether the subsequent circular restricting the exemption only to fully hybrid vehicles was valid.

Importance: The Supreme Court of Pakistan upheld the government’s tax exemptions for Hybrid Electric Vehicles, reinforcing the importance of promoting eco-friendly technologies to combat climate change. The judgment highlighted that such incentives support national and international commitments to reduce carbon emissions and encourage sustainable transportation.

Legal Analysis

In this judgment, the Supreme Court of Pakistan discussed important environmental and climate change considerations, particularly in relation to the government’s policies encouraging the use of HEVs. These policies are essential for reducing greenhouse gas emissions, improving air quality, and meeting Pakistan’s commitments under various international climate change frameworks.

The Court emphasized the relevance of the Pakistan Climate Change Act, 2017 (“CCA”) and the Pakistan Environmental

Protection Act, 1997 (“PEPA”) in addressing the environmental and climate-related impact of human activities. Both laws mandate the reduction of pollution, promotion of sustainable development, and conservation of the environment. HEVs, with their lower emissions and fuel efficiency, align with these objectives by reducing the environmental footprint of transportation—a significant source of air pollution and greenhouse gas emissions.

The judgment acknowledged that the SRO was part of the government's broader climate strategy. By encouraging the import of HEVs, the government intended to reduce carbon emissions, which are a major contributor to global warming. The Court noted that HEVs, which use a combination of internal combustion engines and electric motors, produce fewer greenhouse gases compared to conventional vehicles. This not only helps mitigate climate change but also reduces air pollutants that affect public health and the environment.

The Court pointed out that the government through the SRO plays a critical role in promoting climate-friendly technologies such as HEVs. These vehicles not only improve fuel efficiency but also contribute to cleaner air and the reduction of greenhouse gases. The Court underscored that imposing unjustified restrictions on HEVs (as it was done in

2018) would counteract these environmental benefits and hinder Pakistan's climate goals.

The Court emphasized that the SRO was designed to encourage the use of HEVs without distinguishing between fully hybrid or mildly hybrid vehicles, or between new and used vehicles. The subsequent circular issued in 2018, which imposed restrictions by limiting the exemption to fully hybrid vehicles, was deemed beyond the scope of the original S.R.O. and inconsistent with the government's climate objectives.

The Court relied on several international treaties and conventions, including the United Nations Framework Convention on Climate Change, the Kyoto Protocol, and the Paris Agreement, to emphasize Pakistan's obligation to mitigate climate change through policies promoting cleaner technologies like HEVs. These international frameworks require Pakistan to take meaningful steps to reduce emissions and promote the use of cleaner technologies. By encouraging the import of HEVs, the government was aligning its domestic policies with its global commitments.

The Court stressed the importance of implementing policies that support climate resilient and sustainable development. The promotion of HEVs through

tax exemptions serves this purpose by reducing the environmental impact of the transportation sector, which is one of the largest contributors to air pollution and carbon emissions globally.

While addressing the legal aspects of the SRO and the 2018 circular, the Court emphasized on the importance of climate change mitigation and environmental protection. The Court upheld the government's original intent of promoting hybrid vehicles to reduce emissions and

combat climate change. The judgment highlighted that unjustified restrictions on climate-friendly technologies, such as HEVs, would undermine both domestic and international efforts to reduce carbon emissions and protect the environment. This decision reinforces Pakistan's commitment to integrating climate change considerations into its economic and legal frameworks, promoting cleaner technologies to ensure a sustainable future.



Electric Vehicle





3. Court Mandates Action on Forest Preservation to Tackle Climate Change and Safeguard Public Rights:

*Sheikh Asim Farooq
v. Federation of Pakistan*

PLD 2019 Lahore 664

Synopsis

A petition was filed before the Lahore High Court, claiming that the government's failure to increase forest cover and enforce laws such as the National Climate Change Policy 2012 ("2012 Policy"), National Forest Policy 2015 ("2015 Policy"), and the Forest Act 1927, among others, violated the fundamental rights to life and a clean environment under the Constitution. The main issue was whether the state had effectively implemented these laws to mitigate deforestation and environmental degradation.

Importance: The Lahore High Court reaffirmed the government's responsibility to protect forests as a key part of climate change mitigation. The judgment emphasized the enforcement of forest conservation laws, recognizing forests as vital for absorbing carbon emissions and preserving ecological balance to combat environmental degradation.

Legal Analysis

The Lahore High Court's judgment centered on climate change mitigation and forest conservation. The Court recognized that forests played a critical role in addressing climate change by acting as carbon sinks, preserving bio-diversity, and maintaining ecological balance. The legal principles discussed in the judgment were closely aligned with national and international efforts to combat climate change.

The judgment emphasized that Pakistan was one of the most vulnerable countries to climate change, with deforestation

being a critical factor exacerbating environmental degradation. The court noted that Pakistan's forest cover, which was only 1.9%, was far below the global minimum standard of 20-25% required for ecological balance. The drastic reduction in forest cover not only contributed to climate change by releasing carbon dioxide but also increased the risk of natural disasters such as floods, soil erosion, and water shortages.

The Court highlighted Pakistan's national climate policies, including the 2012 Policy and 2015 Policy, which aimed to increase forest cover and promote sustainable development. These policies were essential for reducing the country's carbon footprint and meeting its international obligations under frameworks such as the United Nations Framework Convention on Climate Change and the Paris Agreement. The Court emphasized that the government's failure to implement these policies effectively undermined Pakistan's commitments to combat climate change at the global level.

The Court invoked the public trust doctrine, a principle of environmental law, stating that the government held natural resources, such as forests, in trust for the public and future generations. This doctrine mandated that the state ensured the preservation and conservation of

forests, as these resources were vital for sustaining life and addressing the environmental impacts of climate change. The Court reaffirmed that deforestation for private or commercial gain violated this trust and jeopardized the environmental rights of the public.

The judgment stressed that the right to life under Article 9 of the Constitution of Pakistan included the right to a clean and healthy environment. The Court cited precedents such as the landmark case *Shehla Zia*, which established that environmental degradation directly affected the right to life. The Court ruled that government inaction in preventing deforestation and increasing forest cover violated citizens' fundamental rights, as a healthy environment was essential for the protection of life and public health.

The Court reinforced the concept of sustainable development, which required balancing economic growth with environmental protection to ensure that future generations could meet their needs. In the context of climate change, sustainable development entailed reforestation efforts, reducing greenhouse gas emissions, and preventing deforestation. The Court emphasized that climate change mitigation measures,

such as reforestation and afforestation, had to be prioritized to prevent further environmental harm and promote ecological resilience.

The judgment also referenced the precautionary principle, which was widely accepted in international environmental law, including the Rio Declaration. This principle asserted that when there was a risk of serious or irreversible environmental harm, the lack of full scientific certainty should not be used as a reason to delay action. The Court urged the government to adopt proactive measures

to prevent environmental degradation, including tree planting campaigns and strict enforcement of forest conservation laws.

The Court directed the respondents, including the Forestry, Wildlife, and Fisheries Departments and the Ministry of Climate Change, to take immediate action to implement the relevant forest and climate policies. It also called for enhanced accountability, ordering the government to take punitive action against officials who failed to discharge their duties in protecting forest resources.



Kumrat Valley Forests, Khyber Pakhtunkhwa





4. Recognizing Importance of IEE and EIA in the Mining Sector:

Public Interest Law Association of Pakistan v. Province of Sindh

2023 SCMR 969

Importance: The Supreme Court of Pakistan reinforced the necessity of conducting environmental assessments (IEE and EIA) before granting mining licenses. It highlighted the balance between economic development and environmental protection, urging the mining sector to adopt climate-proof policies, ensuring sustainable growth while mitigating the environmental impacts of climate change.

Synopsis

This case was filed in the Lahore High Court by the Public Interest Law Association of Pakistan (“PILAP”) regarding environmental concerns in Pakistan’s mining sector. PILAP challenged the way small-scale mining licenses were being granted without proper environmental approvals. According to the law, mining projects had to go through a process that checked how they would affect the

environment, called an Initial Environmental Examination (“IEE”) and Environmental Impact Assessment (“EIA”). PILAP argued that mining licenses were being granted without these essential environmental checks, which led to harmful effects on the environment. The main issue was whether these licenses could be granted without ensuring they followed environmental protection laws.

Legal Analysis

The Supreme Court's judgment in this case emphasized the connection between the environment and climate change, particularly focusing on the mining sector's responsibility to protect the environment.

The Court stressed that before any mining project could start, it had to go through a thorough review of its environmental impacts. This was done through the IEE and EIA. These checks helped to ensure that the potential negative effects on the environment were identified and addressed early on. Without these, the environmental harm caused by mining, such as deforestation and pollution, would increase the risk of climate change.

The Court highlighted the importance of developing a climate-proof mining policy, which meant considering how climate change would affect mining areas. By ensuring that climate risks, such as extreme weather events, were factored into mining policies, the environment could be better protected. This also ensured that mining operations did not contribute to worsening climate conditions, like increased emissions or habitat destruction.

The Court reiterated the principle of sustainable development, which meant economic activities, like mining, must not harm the environment. The mining industry had the potential to boost Pakistan's economy, but it should not come at the cost of the environment. Economic growth should go hand-in-hand with environmental protection, as both were necessary for the well-being of the country and future generations.

The Court pointed out that IEE and EIA were not just about identifying problems but also about finding solutions. The environmental management plans ("EMPs") included in these reports provided clear steps on how mining companies could reduce their environmental impact, for example, by reducing emissions or protecting wildlife habitats. These plans were crucial in fighting climate change and ensuring mining was done responsibly.

The Court took cognizance of the practice of granting mining bids before conducting environmental assessments. It stressed that companies had to know the environmental standards they were expected to follow before they even started bidding for mining licenses.

This ensured that environmental protection was built into the process right from the beginning, preventing harm to the environment later.

The judgment made it clear that protecting the environment was a critical part of the country's fight against climate change. The Court underscored that while mining was important for economic growth, it had to be done responsibly, with full consideration of the environ-

mental impact. By ensuring strict enforcement of environmental laws, developing climate-aware policies, and making sustainable development a priority, Pakistan could address climate change while still developing its economy. This judgment stressed that economic progress and environmental conservation must go hand-in-hand for the long-term well-being of the planet and the people.



Coal-based power plants in Thar coalfield





5. Towards Constructive Community Participation in the Catastrophic Flooding:

*Province of Sindh
v. Sartaj Haider*

2023 SCMR 459

Importance: The Supreme Court of Pakistan emphasized the need for a clear separation of powers, ensuring that judicial authority did not overstep into executive functions like disaster management. It also underscored the importance of community participation (particularly women) and climate-resilient planning to effectively manage future climate-induced disasters in Pakistan.

Synopsis

This case concerned the 2022 floods in Sindh, where flood-affected residents filed petitions demanding that the provincial government provide immediate relief, including food, shelter, and drainage of flood water from their lands. They claimed the government had failed to properly manage the crisis, favoring wealthy landowners while neglecting the general population. The High Court had ordered the creation of citizens' committees, overseen by Civil Judges, to super-vise

relief efforts. The provincial government challenged this before the Supreme Court of Pakistan, arguing that the judiciary was being drawn into executive functions, which violated the constitutional separation of powers. The main issue before the Supreme Court was whether the High Court's order overstepped judicial authority in directing the creation of such committees.

Legal Analysis

This judgment focused on the constitutionality of the High Court's directives and how Pakistan's existing disaster management framework intersected with climate change-related issues. A core concern raised was the principle of separation of powers, which dictated that the judiciary, executive, and legislative branches should not encroach upon each other's functions.

In this case, the High Court's directive requiring Civil Judges to oversee citizens' committees placed the judiciary in a managerial, executive role, something the Constitution did not permit. Such roles, including overseeing disaster relief, belonged strictly within the domain of the executive, such as the Provincial Disaster Management Authority ("PDMA") and District Disaster Management Authority ("DDMA"), which were tasked with responding to natural disasters.

The judgment emphasized that assigning judges to manage flood relief efforts would detract from their primary judicial duties, disrupting the balance of power. The Court clarified that while the judiciary could ensure the proper implementation of laws, it should not directly manage executive functions, as this would compromise the integrity of both branches.

The Court highlighted Pakistan's robust legal framework for disaster management, established through the National

Disaster Management Act, 2010 ("Act"). This Act formed the backbone of disaster response and included key institutions like the National Disaster Management Authority ("NDMA") and provincial and district-level authorities. These agencies were responsible for planning, coordinating, and implementing disaster relief efforts.

The Court pointed out that civil society participation was already embedded in this framework, allowing for the involvement of local communities in disaster management. The judgment emphasized that members of civil society, including NGOs, volunteers, and doctors, could assist in relief efforts through these established bodies without judicial oversight.

Justice Ayesha A. Malik emphasized the need for local community involvement in disaster relief, which aligned with international best practices for disaster management. Engaging communities ensured that relief efforts were more responsive to the specific needs of affected populations rather than being top-down decisions made by authorities. This approach increased the efficiency and effectiveness of relief efforts, as locals were better positioned to identify urgent needs.

The judgment noted that real-time relief efforts should focus on the actual,

immediate needs of the affected people. This was particularly important in climate-related disasters, where the scale of destruction could be immense, and government resources were stretched thin. By involving civil society in decision-making, authorities could better allocate resources and ensure that relief reached those who needed it most.

Furthermore, Justice Malik stressed the importance of addressing the specific needs of vulnerable groups, such as women, children, the elderly, and persons with disabilities. The National Policy Guidelines on Vulnerable Groups in Disasters, 2014, and the National Disaster Risk Reduction Policy, 2013, both emphasized the need to prioritize these groups in disaster response. Women, in particular, faced heightened risks during natural disasters, including gender-based violence and inadequate access to healthcare, especially maternal care.

The judgment directed that future citizens' committees, or any similar body involved in disaster relief, must ensure the inclusion of women and other vulnerable groups in their decision-making processes. This inclusion not only ensured that their specific needs were met but also promoted a gender-sensitive approach to disaster management.

While agreeing with Justice Malik, Justice

Syed Mansoor Ali Shah's separate opinion in this judgment focused on the idea that climate change represented the most serious threat to the fundamental rights of Pakistan's citizens, particularly their right to life and dignity as protected under Articles 9 and 14 of the Constitution of Pakistan, 1973. He called for a national strategy to address climate change, urging the Ministry of Climate Change and the NDMA to take immediate steps in developing a robust climate adaptation plan.

He highlighted Pakistan's ranking among the most vulnerable countries on the Global Climate Risk Index and connected the unprecedented rainfall and flooding directly to global warming. He emphasized the importance of utilizing international mechanisms like the Loss and Damage Fund, established at COP27, to build climate resilience and protect vulnerable communities.

Justice Shah's opinion urged swift action in formulating policies that focused on long-term climate resilience, disaster preparedness, and recovery. He reinforced the need for climate-adaptive infrastructure to prevent future disasters, underscoring that ignoring these risks would continue to endanger Pakistan's population, particularly the most marginalized communities.





6. Upholding Environmental Compliance and Authority of EPA in Sealing Non-Compliant Industrial Units:

*Muhammad Ayaz
v. Government of Punjab*

2017 CLD 772

Importance: This judgment underscored the necessity of stringent environmental enforcement, affirming the authority of local bodies to act decisively against pollution. It emphasized the precautionary principle and environmental justice, aligning local actions with international standards to protect public health and promote sustainable development.

Synopsis

The Lahore High Court examined the power of the Deputy Director of the Environmental Protection Agency, Punjab (“EPA”), to seal a steel plant that was allegedly causing environmental pollution. The plant was initially found to be operating without necessary environmental approval, exceeding permissible noise levels, and had failed to comply with a prior Environmental Protection Order (“EPO”) issued in 2015. The main legal issue was whether the Deputy Director had the authority to seal the plant, a power the petitioner argued

Legal Analysis

rested solely with the Environmental Protection Tribunal.

The LHC extensively discussed the application of the Punjab Environmental Protection Act, 1997 (“Act”), particularly Section 16, which concerned the issuance and enforcement of EPOs. The court rejected the petitioner’s argument that only the Environmental Protection Tribunal had the authority to seal the unit, holding that the Deputy Director had the delegated authority to enforce compliance measures under the Act.

Central to the court's reasoning was the precautionary principle, which mandated anticipatory actions to prevent environmental damage even in the absence of complete scientific certainty about the risks. This principle, as articulated in the Rio Declaration, allowed for proactive measures in environmental protection when there was potential for serious or irreversible harm.

The court also emphasized environmental justice, integrating it within the broader constitutional and human rights framework. The decision reflected an understanding that environmental harm impinged not only on ecological balances but also on human rights, specifically the right to a healthy environment, which is integral to the right to life and dignity.

The LHC delineated the powers of the EPA to take direct action in enforcing compliance with EPOs, as stipulated under Section 16 of the Act. It clarified that when a party did not comply with an EPO, the EPA possessed both the authority and the obligation to take necessary measures to ensure compliance, including sealing a non-compliant facility. This was seen as essential to prevent ongoing or imminent environmental harm.

Addressing the petitioner's concerns

about due process, the LHC found that sufficient notice and opportunity for a hearing had been provided before the EPO was issued. The court maintained that in situations of environmental urgency, stringent measures could be justified even if they appeared to curtail procedural rights, underscoring the balance between environmental protection and individual procedural rights.

In conclusion, the court upheld the sealing order, viewing it as a necessary and justified enforcement action under the Act. The judgment illustrated a robust approach to environmental governance, where regulatory authorities were empowered to enforce environmental laws decisively to prevent pollution and protect public health.

This case reflected a growing judicial recognition of the importance of immediate and effective enforcement of environmental laws, guided by principles of precaution and justice, to address environmental issues proactively. This approach was crucial in contexts like industrial pollution, where delays could exacerbate the harm and undermine the broader goals of sustainable development and environmental protection.







7. Addressing Air and Vehicular Pollution through the Environmental Health:

*Syed Mansoor Ali Shah
v. Government of Punjab*

2007 CLD 533

Importance: This judgment was significant for asserting that the right to life includes a clean and healthy environment. It mandated governmental accountability and effective action against air pollution, reinforcing legal obligations under environmental law and international treaties, and set a precedent for future environmental jurisprudence in Pakistan.

Synopsis

Being residents of Lahore, the petitioners challenged the alarming levels of vehicular air pollution affecting the city's populace. Lahore, historically dubbed the 'City of Gardens,' had transformed into a bustling urban center, grappling with significant environmental degradation, primarily due to vehicular emissions. The petitioners invoked the court's constitutional jurisdiction to safeguard public health guaranteed under Articles 9 and

14 of the Constitution of Pakistan, 1973 ("Constitution"), highlighting the severe health repercussions from air pollutants such as carbon monoxide, sulfur dioxide, and nitrogen oxide predominantly emitted by motor vehicles. The case stressed the inadequacy of existing measures and the need for immediate governmental action to address these escalating health hazards.

Legal Analysis

The Lahore High Court primarily rested on the interpretation and application of constitutional and environmental law principles, particularly focusing on the right to a healthy environment as part of the fundamental right to life. The court's legal reasoning underscored several key areas: constitutional guarantees, adherence to environmental standards, governmental accountability, and public participation.

The petitioners anchored their arguments on Articles 9 and 14 of the Constitution, which protect the rights to life and dignity, respectively. The court acknowledged that these rights extended beyond mere survival, encompassing the right to a clean, healthy, and sustainable environment as integral to the quality of life. This interpretation aligned with the broader constitutional jurisprudence that interpreted "life" to include all necessary amenities that allow individuals to live with dignity.

Central to the court's analysis was the examination of compliance with both national and international environmental standards. The judgment highlighted the failure of the government to meet the National Environmental Quality Standards and pointed out Pakistan's obligations under various international treaties such as the Stockholm Convention and

the Vienna Convention. The court treated these standards as benchmarks for assessing the adequacy of governmental actions in controlling air pollution.

The judgment criticized the governmental bodies for their lax enforcement of environmental laws and the ineffectiveness of the measures taken to curb pollution. It was noted that the existing regulatory mechanisms were insufficiently enforced and that the issued fitness certificates for transport vehicles often did not reflect compliance with environmental standards, suggesting a disconnect between policy and practice.

Significant emphasis was placed on the recommendations made by the Lahore Clean Air Commission, which was established during the proceedings. The Commission recommended comprehensive measures to address air quality, including setting up air quality monitoring stations, updating vehicle emission standards, and improving public transportation options to reduce reliance on polluting vehicles. The court's decision to uphold these recommendations underscored the judiciary's proactive role in environmental governance, effectively mandating the executive to follow through on expert advice.

The LHC facilitated an inclusive approach by incorporating feedback from various stakeholders, including environmental experts, government officials, and the public. This approach not only enhanced the legitimacy of the judicial process but also ensured that the measures adopted were both scientifically sound and publicly accepted. The establishment of a standing committee to monitor the implementation of the court's directives was a testament to the court's commit-

ment to ongoing oversight and accountability.

In conclusion, this judgment not only directed immediate action to alleviate air pollution in Lahore but also set a robust framework for addressing environmental issues through legal channels, emphasizing the critical interplay between law, science, and public policy in environmental protection.





SHAHDARA TOWN

Shahdara
شاہدرہ

BEGUM KOT
BEGUM-KOT
بیگم کوٹ

N60

KHAKI

Zahid Marriage Garden
زاید علی گارڈن

L-20

G-T Road

Ravi River

L-20

CHINA SCHEME
چائنگہ سکیم

Badshahi Mosque
بادشاہی مسجد

Wazir Khan Mosque
مسجد وزیر خان

Shalamar Garden

Data darbar

Shalamar Hospital
شالامار ہسپتال

L-20

Lahore Museum
عجائب گھر لاہور

Railway
ریلوے اسٹیشن

MUGHALPURA
مظہورہ

GPO
جی پی او اسٹیشن

Narada Battery
Authorised Distributor ...

Mughalpurah Railway

Ravi River

SANDA
ساندہ

Lahore Zoo
لاہور جڑیا گھر

Bagh-e-Jinnah
باغ جناح

GULSHAN-E-RAVI
گلشن راوی

MUSTAFABAD
مستفاباد

L-20

N5

Mall Rd

Babu Sabu
change Park

Gulshan e Ravi
گلشن راوی اسٹیشن

Jilani (Race
Course) Park
جیلانی (ریس
کورس) پارک

CMH
سی ایم ایچ لاہور

Samnabad
سمن آباد اسٹیشن

SAMANABAD TOWN
سمن آباد ٹاؤن

ICHHRA
اچھرا

Lahore Cantt. Railway
لاہور کینٹ

Allied Services
ational Private...

Bund Road
بند روڈ اسٹیشن

Far Ghaffari
ran Center

Salahuddin Road
صلاح الدین

32

Arial View Ravi River, Lahore, Punjab, Pakistan

Lahore



8. Riverfront City Project as Unconstitutional for Violating Land Acquisition & Environmental Laws:

Public Interest Law Association of Pakistan v. Environmental Protection Agency

2022 LHC 129

Synopsis

The Ravi Urban Development Authority (“RUDA”), established by the Punjab Government through promulgation of an amended ordinance, planned a large urban project called the Ravi Riverfront Urban Development Project (“Project”). This Project intended to create a new city along the Ravi River. To achieve this, RUDA aimed to acquire large areas of land, including agricultural and forest land, in the districts around Lahore.

However, RUDA faced legal challenges from public interest groups and local landowners. They argued that the Project was violating environmental laws, did not adequately consider the impact on

Importance: The Lahore High Court ruled the Ravi Riverfront Urban Development Project unconstitutional, citing violations of land acquisition laws and environmental regulations. The court emphasized the Project's failure to conduct proper environmental assessments, protect agricultural lands, and collaborate with local authorities, stressing the need for sustainable development aligned with constitutional rights.

climate and ecology, and could threaten food security by converting farmland into urban zones. The challengers also claimed RUDA bypassed important legal steps, like conducting thorough Environmental Impact Assessments (“EIAs”), and unlawfully attempted to acquire protected forest areas without following proper legal procedures.

The Lahore High Court was asked to decide if RUDA's actions complied with the law, especially in relation to environmental protection, climate impact, and fair treatment of the land and communities involved.

Legal Analysis

The judgment highlighted that the land acquisition process for the Project did not align with the Land Acquisition Act, 1894's ("LAA") legal framework. The LAA required clear evidence of a "public purpose" and a systematic acquisition process. However, RUDA had proceeded with land acquisitions, including agricultural and forest land, in a way that the court found insufficiently justified as a public benefit. The court underscored that RUDA's actions appeared to serve commercial and private interests rather than genuine public welfare.

The LHC found that RUDA did not conduct adequate EIAs as required by the Punjab Environmental Protection Act, 1997 ("PEPA"). According to PEPA, any major project with potential environmental consequences, like this Project, had to undergo an EIA to assess its impact on air, water, soil, and biodiversity. The law mandated that projects provide evidence of minimal environmental harm or appropriate mitigation measures, neither of which were satisfactorily demonstrated in this case.

The judgment underscored that RUDA's Project threatened protected forest areas and the ecological balance of the Ravi

River. By attempting to acquire these lands without sufficient legal grounds, RUDA contravened environmental regulations designed to protect critical natural habitats. Forested areas provide essential ecosystem services, including carbon sequestration, flood control, and habitat for wildlife. The Project's impact on the river and surrounding areas posed risks to biodiversity, air and water quality, and climate resilience, which PEPA and related environmental standards were meant to safeguard.

Environmental laws, including PEPA, required public involvement in projects that significantly impact ecosystems and communities. The court noted that the environmental assessment process lacked transparency and failed to involve the affected communities adequately. Public hearings and consultations were essential to understand potential local concerns and objections, especially for projects of such scale. RUDA's disregard for these steps resulted in a clear legal violation.

The Lahore High Court emphasized that agricultural lands and forests are critical for both climate stability and food

security. It mandated that these lands could only be acquired under strict conditions and with proper compensation, which includes environmental considerations such as inter-generational equity. The aim was to prevent irreversible environmental damage that could harm future generations.

In conclusion, the judgment ruled that RUDA's legal framework and actions were unconstitutional due to their neglect of environmental, local governance, and legislative requirements, which were essential for sustainable and lawful development.







9. Emergency of Continuing Mandamus in the Climate Change Cases in Pakistan:

*Asgar Leghari
v. Federation of Pakistan*

PLD 2018 Lahore 364

Synopsis

Asgar Leghari is known as one of the most foundational and significant cases pertaining to climate change in the recent decade. An agriculturalist, dismayed by the growing impacts of climate change in the city of Lahore, approached the Lahore High Court as a citizen seeking to enforce his fundamental rights under the Constitution of Pakistan, 1973 (“Constitution”). The petitioner acknowledged that while the government had undertaken initiatives to address the threat of climate change, such as the National Climate Change Policy, 2012 (“Policy”) and the Framework for Implementation of Climate Change Policy (2014-2030)

Importance: This judgment undertook the onerous task of forming a Commission to ensure effective implementation of the National Climate Change Policy, 2012, and laid down a systematic mechanism for future implementations. This judgment also highlighted the need to shift focus from environmental justice, which addresses localized issues, to climate justice, which undertakes global climate challenges and examines solutions being used by countries around the world.

(“Framework”), no implementation of these initiatives had taken place on the ground.

The Lahore High Court treated this environmental public interest petition as a rolling review or a continuing mandamus. Considering it to be a writ of “kalikasan,” as referred to in the Courts of the Philippines, the Court took on an inquisitorial role and summoned several parties from the Federal and Provincial Governments, such as the Ministry of Finance, Ministry of Climate Change, and Ministry of Foreign Affairs, to assist in the matter.

Legal Analysis

The Lahore High Court observed that one of the main focuses of the Policy and Framework was “adaptation” as a means to reduce the impact of climate change on the most vulnerable and marginalized sections of society. The Court held that the Policy and Framework were “living documents,” ever adapting to the future demands of the country in dealing with climate change. Thus, the non-implementation of key policy goals in the most vulnerable areas, such as water, food, and energy security, was considered by the Court as a clear violation of the fundamental rights of citizens, necessitating the protection of those rights. Recognizing the need to integrate the concept of climate change into Pakistan's constitutional and environmental jurisprudence, the Court constituted the Climate Change Commission (“CCC”) via order dated 14.09.2015.

The main objective of the CCC was to ensure effective implementation of the Policy and the Framework in a systematic and organized manner. The Commission was composed of various cabinet members from across the Government and was obligated to submit interim reports when and as directed by the Court. The Commission submitted its final report to the Court in 2018, which indi-

cated that 66% of the priority actions had been implemented between September 2015 and January 2017. After accepting the report, the Court dissolved the Commission and replaced it with a Standing Committee on Climate Change, which includes a chairperson and five members, tasked with continuing the long-term work on climate change.

This judgment acknowledged the growing scope of environmental justice within Pakistan's legal framework, emphasizing the critical role of the judiciary in preserving ecosystems and biodiversity. Historically, environmental justice in Pakistan had focused on localized issues such as air and noise pollution, deforestation, and urban planning, with courts utilizing national laws and constitutional rights (such as Articles 9 and 14) to address environmental degradation. However, the Lahore High Court emphasized the concept of climate justice, which shifts the focus from local ecological issues to global climate challenges. This global problem introduced concepts like adaptation and mitigation into Pakistan's legal discourse. In particular, the Court acknowledged that adaptation especially for a climate-vulnerable country like Pakistan was paramount. While mitigation seeks to curb greenhouse gas

emissions, adaptation focuses on reducing the vulnerability of social and biological systems.

The judgment also highlighted water justice as a critical component of climate justice, particularly relevant to Pakistan's impending water crisis. It recognized water as a fundamental human right tied

to Articles 9 (right to life) and 14 (right to dignity) of the Constitution. As climate change disrupts the hydrological cycle, water justice becomes essential to Pakistan's climate resilience, emphasizing the need for courts to protect water as a public trust resource that is crucial for both human survival and environmental sustainability.







10. Solidifying the Precautionary Principle in Environmental Jurisprudence:

*D.G. Khan Cement Company
v. the Government of Punjab*

2021 SCMR 834

Synopsis

The Industries, Commerce and Investment Department, Government of Punjab (“Government”) issued a Notification dated 08.03.2018 (“Notification”) under ss. 3 and 11 of the Punjab Industries (Control on Establishment and Enlargement) Ordinance, 1963 (“Ordinance”), which disallowed the establishment of new cement plants and enlargement of existing cement plants within the zones marked as “Negative Area” in Districts Chakwal and Khushab. In the Kahoon Valley of the Salt Range at Khairpur District Chakwal, the petitioner owned

Importance: This judgment solidified the concept of the “precautionary principle” in Pakistan’s environmental and climate jurisprudence by stating that where sufficient data supports the implementation of an environmental measure, the lack of scientific certainty should not be a reason for its non-implementation. It also recognized the principles of inter-generational justice and climate democracy, both of which could strengthen efforts to make more environmentally sustainable choices.

and operated a cement manufacturing plant and felt unfairly targeted by the aforementioned Notification.

The Supreme Court undertook a comprehensive and elaborate examination of various issues and concepts concerning the case, such as the purpose of zoning laws and policies, sustainable development, the doctrine of the precautionary principle, In Dubio Pro Natura, and Environmental Legal Personhood, thus making a robust contribution to climate change jurisprudence in the country.

Legal Analysis

Taking into account the relevant data and reports, Justice Shah observed that there were serious threats to the environment in the Negative Area, especially to underground water levels. Further, his Lordship applied the precautionary principle, which stipulates that where there are threats of “severe or irreversible damage,” a lack of complete scientific certainty should not be used as an excuse for the non-implementation of environmentally sustainable measures to reduce the impacts of climate change. A similar principle, *In Dubio Pro Natura*, was also iterated, stating that courts, administrative agencies, and policy-makers should “favor the protection and conservation of the environment” in cases of doubt. The Supreme Court intertwined these two principles with the environmental theory of Environmental Legal Personhood, whereby elements of personhood have been attributed to nature and the environment in global jurisprudence to protect and preserve the environment, especially in these challenging times.

Thereafter, Justice Shah prompted courts to adopt these principles to fulfill the duty of administering water justice for the benefit of current and future generations. It was observed that the precautionary principle should be applied in cases of water disputes, wherein judges

should order necessary protective measures by considering the best scientific data available and should take pro-conservation and protective measures regardless of some gaps within the data, in consonance with the principle of *In Dubio Pro Natura*.

The Supreme Court also went on to recognize the crucial principle of inter-generational justice by observing that it was the duty of the courts to consider the needs and rights of not just the current generations but also the upcoming ones, who would be rendered helpless and hopeless by the ravenous pillaging of the environment in current times. While incorporating important environmental theories and concepts into this judgment, the Supreme Court also mentioned the concept of climate democracy, which means that democracies in today's world need to be reimagined and restructured into climate-resilient democracies, and the underlying principle of the rule of law needs to adapt to the dire need to combat climate change. By understanding the true value and underlying principles of the Constitution, the Court emphasized the need to incorporate climate democracy within Pakistan's own constitutional jurisprudence and the meaning of fundamental rights.

Hazardous Industrial Waste







11. Reimagining and Developing Climate Resilient Cities:

*Raja Zahoor Ahmed
v. Capital Development
Authority*

2022 SCMR 1411

Importance: This judgment thoroughly upheld and emphasized the need to build “climate-resilient” cities in a time when they are facing increasing effects of climate change. It signified the role of urban planning authorities and urban developers in considering the climate factor in their studies, planning, and policies to effectively safeguard the rights to life, dignity, and property of its citizens.

Synopsis

The inception of this case lay in the decision of the Board of Directors (“Board”) of the Capital Development Authority (“CDA”) to commercialize the residential properties of the petitioners situated in G-9/4, Islamabad. The Board eventually realized that this decision did not conform to the Master Plan of Islamabad and subsequently revoked it. The petitioners challenged the notices sent to them by CDA for non-conforming use of property on various grounds,

mainly emphasizing the point that their properties had changed character into commercialized properties following the decision of the Board of CDA.

The Lahore High Court, while primarily engaged with the question of the “lawfulness” of the decision of the Board, also actively delved into the relationship between urban development and climate change, stating strong obiters and dicta regarding the role of urban planners.

Legal Analysis

First and foremost, the judgment outrightly accepted that the properties owned by the petitioners did not fall within the commercialized sector as designated under the Master Plan. Since any changes to the Master Plan (such as the conversion from residential to commercialized zone) require approval by the Federal Government, the CDA had no unilateral powers to declare and implement such a change. Hence, the Supreme Court concluded that the decision of the Board was taken without lawful authority, which then rightly revoked the decision as well. Thus, no vested rights or interests were created in favor of the petitioners.

However, the deeper value of this judgment lay in its astute analysis of how urban planning dynamics need to adapt to the growing threat of climate change. While urban planning was a necessity to ensure the best use of cities and their spaces, its need has become even more urgent as climate change chokes the very systems on which cities survive. The Supreme Court highlighted that the National Climate Change Policy, 2021, underlined the seriousness of the climate threat along with efforts to focus on “adaptation” and “mitigation,” with major emphasis on nature-based solutions.

The Supreme Court unequivocally supported the importance of building climate-resilient cities to improve the well-being, quality, and sustainability of life for current and future generations. Thus, the Court stated that making any changes to the Master Plan of a city without considering the climate factor would violate the rights of its citizens. The Court also highlighted the concept of “the Right to the City,” which demonstrates alternative visions and ideas of a city to make it more inclusive and adaptive and is interdependent on international human rights recognized by Pakistan as well. Thereafter, the Court strengthened the link between the effect of climate change on cities and the violation of citizens' fundamental rights to life, dignity, and property.

One of the strongest contributions of this judgment was its placing of responsibility on public officials and urban planning authorities to actively participate in adaptation and mitigation efforts. The importance of this responsibility was emphasized because it directly affected the fundamental rights of the citizens enshrined in the Constitution.

Thus, the Supreme Court upheld that the conversion of residential neighborhoods into commercial zones would have adverse environmental impacts and stated that the CDA must carry out proper investigation and research before auth-

orizing such actions. It strengthened the hold of fundamental rights in building climate-resilient and sustainable cities, thereby creating a space for climate change within the domain of urban planning as well.



Islamabad, Pakistan





12. Seeing Fundamental Rights Through the Lens of the Environment:

*Amer Ishaq
v. Province of KPK*

2024 SCP 246

Importance: Centering on the issue of air pollution and its grave impacts on public life and health, this judgment took a strong stance on the need to fully integrate environmental law into constitutional jurisprudence. The Supreme Court introduced the concepts of “environmental constitutionalism” and “Islamic environmentalism,” which use constitutional texts and Islamic ideology, respectively, to emphasize the need to protect and conserve the environment.

Synopsis

In this case, the petitioners challenged the vires of Rule 2(c) and Schedule IV of the Khyber Pakhtunkhwa Power Crushers Rules, 2020 (“Rules”), claiming that they violated Sections 7 and 19 of the Khyber Pakhtunkhwa Power Crushers Act, 2020 (“Act”) and fundamental rights, i.e., Articles 9 (right to dignity), 23 (provision as to property), 24 (protection of property rights), and 25 (right to equality) of the Constitution. However, it soon became clear that environmental degradation in the form of air pollution, exacerbated by the activities of the stone crushers, was one of the primary issues in this case. In

this regard, the Supreme Court asked a local commission to submit detailed reports which stated that the power crushers installed in the village were causing air pollution in the area, raising a serious threat to human life and health. After calling for a fresh report on compliance by the same commission, the Supreme Court also formed a Power Crushers Commission (“Commission”) which reiterated the non-compliance of climate-adaptive measures by the power crushers and recommended closing down the plants.

Legal Analysis

The Supreme Court laid significant emphasis on the severe and irreversible impacts of air pollution on public health and life, noting the increased incidence of cardiac and respiratory diseases. The Court also highlighted other adverse impacts caused by air pollution on various ecological systems and bodies, including wildlife, water bodies, soil quality, climate change, and biodiversity. It was observed that the “triple-planetary crisis,” which includes climate change, biodiversity loss, and pollution, must form an essential component of environmental and constitutional concerns. The Court relied on the concept of “environmental constitutionalism,” which recognizes that the environment is a proper subject for protection in constitutional texts.

The aim of this theory of “environmental constitutionalism” is to elevate environmental law to the level of constitutional law by intertwining the two through the ambit of fundamental rights. As a result, the Constitution would provide the means for environmental governance and impose greater safeguards to protect the constitutional rights of its citizens.

The Supreme Court also integrated the concept of environmental constitutionalism with the ideology of Islamic environmentalism. “Islamic environmentalism” reflects the importance of nature and the environment within the religion of Islam and provides an Islamic lens for viewing and solving environmental issues.

Lastly, the Court emphasized that despite the increasing threat of climate change, global standards of air, land, and water pollution remain alarmingly high. Thus, the need to enforce and integrate environmental constitutionalism and Islamic environmentalism has become an utmost priority. In the interest of public life and health, the Court directed the Environmental Protection Agency, KPK (“EPA”), to shut down and seal the operations of the stone crushing plants immediately. Further, the EPA was also directed to submit a comprehensive report on the workings of the 900 other stone crushing plants in the province to determine their environmental compliance and adherence to safe distance measures, thus adopting an even more proactive constitutional approach.







13. Expanding the Public Trust Doctrine to Earth's Soil:

*Muhammad Asif
v. Superintendent of Police*

PLD 2020 Lahore 137

Importance: The Lahore High Court employed the public trust doctrine, recognized internationally as a sustainable development measure, to create an active relationship of trust and beneficiaries between the Government and citizens. The Court strongly held that it was the duty of the government to recognize the value of environmental resources, such as soil in this case, and it was obligated to conserve the same for the benefit of current and future generations.

Synopsis

The petitioner was a brick kiln owner who had set up a brick kiln to conduct business. Thereafter, the petitioner purchased a piece of land near Raja Jang from which he dug the earth and transported it to his kiln to be used as raw material for making bricks. The petitioner was aggrieved by the actions of Respondent No. 3, i.e., SHO, Raiwind Police Station, who had halted

the transportation of earth materials to the brick kilns by the petitioner, apparently on the instructions of the Deputy Director, Mines and Minerals, Lahore. Realizing the implications and gravity of this case, the Lahore High Court summoned various governmental entities to resolve the issue at hand.

Legal Analysis

While the Court eventually concluded that the determination of whether the impugned land belonged to the petitioner required a factual inquiry that could not be undertaken by the High Court in its writ jurisdiction, the Lahore High Court also realized that this case brought up issues that surpassed personal rights and interests and affected the public and environment at large, thus dealing with it more proactively.

This case undertook a thorough and comprehensive analysis of the public trust doctrine and heavily relied on it to address the issues and questions in this case. Borrowing some elements from private trust law, the public trust doctrine also involves similar characteristics of a trustee, a beneficiary, and a trust property. In terms of natural resources, which was the trust property in this case, the government became the trustee who must manage the natural resources for the benefit of current and future generations. This duty of the government pertained not just to procedural ones but also substantive ones, such as the duty to protect, the duty against waste, the duty to maximize value, and the duty of good faith. The judgment also quoted the theory of the public trust doctrine as envisioned by Joseph L. Sax, Professor of Law, who stated that some resources are

so largely and publicly valuable that it would defeat their purpose to turn them into private ownership. Thus, he theorized that the government is obligated to hold these resources in trust for the general public so that they can reap its benefits.

Another important aspect of this judgment was that it promoted the public trust doctrine to be adopted and implemented by the government in not just a passive, corrective capacity but more actively. This entailed that the public had the right to know and hold the government accountable regarding its duty to maintain the public trust. Further, this duty was emphasized not just through academic theories and jurisprudence but also through international obligations such as the United Nations Framework Convention on Climate Change (1992) and the Paris Agreement (2016), both of which are underpinned by the public trust doctrine.

The Lahore High Court also discussed the theme of sustainable development, which also incorporates the public trust doctrine to safeguard the present and future of citizens. By mandating governmental authorities to become trustees of the environment and its resources to

balance the interests of current and future generations, the concept of intergenerational equality also became an inherent part of the public trust doctrine. The Court undertook a detailed evaluation of environmental jurisprudence across the world and observed that courts have sought to expand the public trust doctrine beyond natural resources to include climate change and climate justice as well. The Court seamlessly connected these themes to the issue at hand and noted that brick kiln owners

exploit the earth and soil recklessly, which leads to issues of soil fertility, desertification, and agricultural productivity, thereby causing grave harm to food security in the country. Hence, the Court extended the public trust doctrine to the soil and its accompanying resources and directed the Government of Punjab to initiate appropriate administrative and legislative measures to regulate brick manufacturing with a focus on preservation and conservation of the environment.



Brick Kiln in Punjab, Pakistan





14. Enforcing Environmental Accountability Through Constitutional Mandates:

*Zeenat Salim
v. Pakistan Naval Farms*

PLD 2022 Islamabad 138

Synopsis

This case emerged from two connected petitions addressing unauthorized land development and environmental degradation attributed to the Pakistan Navy's involvement in real estate activities. Petitioner No. 1, Mrs. Zeenat Salim, argued that the Pakistan Navy's private development project, "Pakistan Naval Farms (PN Farms)," and the construction of a clubhouse within a protected national park violated environmental, regulatory, and constitutional laws. Petitioner No. 2, Mr. Nasir Ali, further alleged that PN Farms' management engaged in coercive

Importance: This judgment enforced the constitutional mandate and environmental laws, emphasizing that state institutions, including the Armed Forces, are bound by the rule of law. This case underscored the dangers of "elite capture" in public spaces and the critical need for compliance with environmental and constitutional protections, establishing accountability as essential for governance, environmental sustainability, and the fundamental rights of citizens.

land acquisition practices, harming local residents.

The Court found that these projects breached the Capital Development Authority (CDA) regulations, the Pakistan Environmental Protection Act, 1997, and provisions in the Constitution that limit the Armed Forces to their core responsibilities. Consequently, the Court ruled that such engagements by the Pakistan Navy constituted a violation of their constitutional mandate and the fundamental rights of the citizens.

Legal Analysis

This judgment underscored the constitutional obligations of the Armed Forces, extending the Court's discussion beyond institutional misconduct to explore the environmental degradation and violation of citizens' rights. The judgment found that the Armed Forces' transgression beyond their defined constitutional role undermined both the rule of law and the trust citizens place in these institutions.

The Court identified the unauthorized extension of PN Farms and the Sailing Club on protected land near Rawal Lake—a vital water reservoir—as egregious violations of multiple environmental laws and of Articles 9 (Right to Life) and 23 (Property Rights) of the Constitution. The judgment called for strict enforcement of environmental laws, condemning unapproved land use, which threatens ecological balance and public health. The Court's decision reiterated that, under Article 245 of the Constitution, the Armed Forces' powers are confined to defense and limited civil assistance, emphasizing that their involvement in real estate ventures or unauthorized land development exceeded this mandate and risked environmental degradation.

Furthermore, the Court invoked the precautionary principle from the United Nations Rio Declaration on Environment and Development (1992), emphasizing that preventive measures should be implemented without delay to counter irreversible environmental harm. Notably, the Court ordered the demolition of the illegal Sailing Club and restoration of the affected land, holding officials accountable for potential criminal proceedings under the Pakistan Environmental Protection Act, 1997. This aspect signaled a major step toward ensuring accountability for environmental degradation.

This case was a milestone in Pakistan's environmental jurisprudence, expanding judicial oversight to prevent abuse of power by state institutions that threatened environmental and public welfare. By holding military authorities accountable to constitutional limits, the Court reinforced a foundational legal principle that no institution is above the law. This case added weight to the urgent need for policy measures fostering climate resilience, environmental governance, and the protection of ecologically critical zones.



15. Recognizing Food Security as a Constitutional Right:

*Muhammad Ahmad Pansota
v. Federation of Pakistan*

PLD 2020 Lahore 229

Synopsis

The petitioners, including activists and legal advocates, brought this case challenging the lack of policy and regulatory action against widespread food wastage in Pakistan. They argued that despite high hunger levels, substantial quantities of food went to waste, infringing on citizens' constitutional rights to life, health, and dignity. The petitioners sought the Lahore High Court's intervention to prompt governmental authorities to develop frame-

Importance: This judgment was a significant development in Pakistan's socio-economic jurisprudence, affirming that food security and waste prevention are integral to fundamental rights, particularly the right to life and dignity. The Court linked the protection of food resources to broader environmental and public welfare responsibilities, emphasizing the role of governmental institutions in curbing food waste to support sustainable development goals. Through this case, the Court solidified the importance of conservation and ethical resource management as constitutional obligations, aligning with both Islamic teachings and international commitments.

works for food conservation and equitable redistribution to address the pressing food security crisis.

Recognizing that these issues bore on the nation's socio-economic and environmental health, the Court reviewed reports from relevant governmental entities, assessing whether current regulatory frameworks sufficiently addressed the goals of sustainability and food security.

Legal Analysis

The Lahore High Court's analysis centered on food security as a critical component of the right to life under Articles 9 and 14 of the Constitution. The judgment broadened this fundamental right by incorporating food security, affirming that a lack of regulatory action on food wastage and conservation contravened the right to life and social justice.

Grounded in Islamic principles, the judgment emphasized that food resources were not only a public trust but also a moral obligation to protect. Citing Quranic verses that advocated against wastage and promoted sharing resources with the less fortunate, the Court underscored that resource conservation was a divine and constitutional duty. This approach paralleled Islamic environmentalism, which advocates stewardship of natural resources for present and future generations. Article 31 of the Constitution, which directs the State to uphold Islamic values, was a key consideration in the Court's directive for a governmental role in food management.

The Court aligned Pakistan's environmental and social obligations with global human rights standards. It invoked the Universal Declaration of Human Rights and the International Covenant on

Economic, Social, and Cultural Rights, both of which regard access to adequate food as an intrinsic human right. These standards, the Court argued, compelled Pakistan to implement local frameworks for reducing food waste, underscoring that sustainable management of food resources was essential for ecological balance and public welfare.

The Court's application of the precautionary principle stressed the need for preventive measures to curb food wastage, thereby ensuring ecological and social sustainability. In doing so, it urged Pakistani authorities to align with Sustainable Development Goal 12, which advocates responsible consumption and production patterns. The precautionary principle, as applied here, also resonated with the United Nations Rio Declaration, urging immediate steps to prevent harm where risks were foreseeable but not yet fully quantifiable.

This case marked a pivotal moment in Pakistan's environmental and social justice jurisprudence by framing food conservation as both a human rights issue and an environmental responsibility. It emphasized sustainable

practices, urging authorities to integrate ecological values with socio-economic policies. By situating food conservation within the realm of constitutional rights and Islamic values, the Court not only aligned national policy with international standards but also established a legal precedent for viewing environmental preservation as integral to the right to life.

In conclusion, the Ahmad Pansota judg-

ment underscored that ethical stewardship of resources is fundamental to a just and sustainable society. This judgment encouraged proactive governance and legislative reform to address food security, recognizing that environmental integrity is essential for upholding the constitutional rights to life, health, and dignity for current and future generations.



Integrate Ecological Values



Law and Justice Commission of Pakistan
Government of Pakistan



Ministry of Climate Change
and Environmental Coordination
Government of Pakistan

