



Climate Change, Environmental Constitutionalism, Right to Life, and the inclusion of Article 9A to the Constitution through the 26th Constitutional Amendment

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Abstract: Pakistan's geographic position, social standing, and capacity for climate change adaptation make it one of the globe's most climate-vulnerable nations. Pakistan is unswervingly placed as one of the nations most susceptible to the effects of climate change by the global climate risk index. This paper explores the intricate correlation between climate change, environmental constitutionalism, and article 9a, added to Pakistan's 26th constitutional amendment. It introduces the constitutional development of environmental protection in Pakistan, judicial interpretations of Article 9 on the 'right to life,' and arguments for the need for recognition of rights over the environment. Using the method of comparing legal systems, it displays the shortcomings of Pakistan's governors and explains how Article 9a can become a key to creating sustainable development, protecting endangered populations, and making Pakistan the leader of environmental justice in South Asia. Thus, the research finds that in order to realize the amendment's potential to bring change and to align Pakistan to international environmental standards, much stronger implementation is required.

Key Words: Climate Change, Environmental Constitutionalism, Right to Life, Article 9A, Constitution

Introduction

Climate change is evidently one of the most significant problems of the 21st century that radically transforms the global environment, economy, and society on the planet (Tønnessen, 2021). Fossil fuel consumption, burning of forests, and industrial release of fumes, among other factors, have raised new levels of greenhouse gases in the atmosphere. Such has led to general temperature increases, changes in weather patterns, and even the frequency and intensity of various Natural disasters. The IPCC indicates that without reduction efforts, the average global temperature could reach a dangerous level, amplifying the deleterious impacts of climate change on the biosphere, food security, and health (Onyeaka et al., 2024).

Climate change manifests itself in the environment by imposing dire consequences exemplified by loss of habitats, modification of ecosystem, and even elimination of species that cannot survive new terrain of climate variability. From an economic situation, climate-related disasters have caused considerable loss, including to the developing countries in terms of structures, food production, and population displacement. In social terms, most of the socioeconomic impacts negatively impact the vulnerable populace, increasing social disparities and causing mass migration. Acknowledging these threats, there are measures like the Paris Agreement in a bid to reduce temperature change and enhance sustainable development (Yadav et al., 2024).

Pakistan is one of the most climate-vulnerable countries in the world because of its geographic location, social status, and capability to adapt to climate change. Year after year, the Global Climate Risk Index points at Pakistan among the most exposed countries to climate change's impacts. Sudden natural disasters like the floods in 2022 that saw a third of the country under water bear ample testimony to the

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extent that climate change is a real danger to Pakistan's economy, food security, and human health (Nadeem et al., 2024).

Some of the major climate change challenges that are being experienced in the country pertain to temperature and heat waves, rising temperatures, and melting of glaciers that are found in the Himalayas and Karakoram ranges that supply river systems (Arif & Mahsud, 2024). Such changes affect the country's water security, which is a vital concern for Pakistan's mostly agricultural-based economy. Also, coastal provinces are now vulnerable to rising sea levels and soil erosion. The combination of these developments underscores the imperative for strong and effective climate activity and management. The issue of climate change is not only for developing countries like Pakistan, but it is also a pressing issue for the entire globe. Whereas, if we talk about its effect on the right to life, climate change has definitely seriously affected not only the lives of human beings but also the other living things on the earth. Additionally, climate change affects the right to life directly or indirectly in the shape of the rise of temperature, extreme weather events (e.g., floods, droughts, earthquakes, etc.), degrading air quality, glacial melt, sea level rise, asymmetric temperature trends, higher oceanic temperatures, and damage to natural eco-systems, biodiversity is being observed around the globe, migrations, destroying of the environment etc. further, the indirect impact may occur in the form of mental illness and agony due to loss of homes, agricultural products and forced migration etc. (Kim et al., 2014).

Environmental Constitutionalism

Environmental constitutionalism as a concept encompasses the integration of environmental components into constitutions and the appreciation of the fact that the environment and human beings are closely connected, possibly in the same constitutional environment. It enshrines the conventional wisdom that effective implementation of other rights cannot be achieved if the environmental right is not upheld, for instance, the rights to life, health, and freedom from degrading treatment. At present, more and more states have included environmental clauses in the constitutions of their respective countries, which is an indication of change towards having the environment belong to the public domain and need protection through law.

Accompanying constitutional provisions for environmental protection means individuals and communities are allowed to seek accountability from governments and corporations. They form the background for legal and judicial processes designed at preventing further negative impacts on the environment and encouraging sustainable practices. Examples from around the world and recent judicial proceedings in India to place environmental issues within the right to life show that environmental constitutionalism has the power to change the world.

Evolution and Function in Advocacy for Environmental Rights

As with the global environmental movement, the development of environmental constitutionalism can be seen to have begun toward the second half of the twentieth century. This meant that the 1972 Stockholm Declaration in the United Nations Conference on the Human Environment, followed by other global treaties like the Rio Declaration of 1992, highlighted the need to mainstream environmental issues in legal frameworks. These milestones have encouraged the adoption of constitutional provisions that protect environmental rights and promote sustainable utilization of resources.

In Pakistan, environmental rights have been gradually included under Article 9 (right to life) through the previous judicial activism. The judiciary has been weaving its way through the recognition of standout legal precedents involving matters like industrial pollution, deforestation, and urban planning, among others, proving that the bench is indeed the conscience of the nation. However, mainly due to the lack of constitutional provisions, these rights did not possess a very broad definition and enforcement framework in the past, and therefore, a stronger foundation was needed.

Introduction to Article 9-A

The 26th Amendment in the constitution was a major turning point in deciding the environmental aspect of Pakistan because it added Article 9-A to its constitution, which states the right to a clean, healthy, and



sustainable environment. The bracketed provision codes in the Pakistani constitution reflect the state's recognition of its role in attending to the escalating environmental crisis; it also corresponds with trends of legal recognition of environmental rights both locally and internationally. Article 9-A gives constitutional protection to the principle of environmental justice, reinforces the capacities for governance, and mandates checks and balances.

With the inclusion of environmental rights into the Constitution of Pakistan, the country has therefore enlarged the pool of resources that is legal in tackling emergent ecological issues. It also strengthens the civil society and the judiciary in advocating and implementing environmental protection laws.

Importance of Article 9-A

The addition of Article 9-A strongly emphasizes the fact that environmental health is an essential part of people's development and existence. This constitutional recognition enhances the status of environmental questions into fundamental human rights affairs that therefore call on the state to lend preference to sustainable policies and administrative practices. Also, the act ensures that Pakistan complies with all International environmental laws while enhancing its membership to international climate change forums.

Thus, this review paper seeks to discuss the combinational impact of climate change, environmental constitutionalism, and the integration of Article 9-A into Pakistan's Constitution. It aims at evaluating the significance of this change to constitutional law and its ability to enhance environmental governance and legal accountability to climate change. Thus, this paper adds to the discussion on the application of Environmental Constitutionalism by analyzing the case of Pakistan in a global context of constitutional approaches to climate change.

Brief Analysis of the Climate Changes in Pakistan

Heat Waves and Temperatures Rise

Global climate change and its consequences have recently shown that the average temperatures in Pakistan have been gradually increasing. Presently, Pakistan is listed among the ten countries most vulnerable to changing climatic conditions, sudden natural calamities, and increased heat waves (Adnan et al., 2024a). According to a 2018 research on heat waves, specifically in Pakistan, the country is also dealing with the Urban Heat Island (UHI) issue. One hundred twenty-six heat waves are said to have occurred in Pakistan between 1997 and 2015. However, the 2015 heat wave claimed the lives of over 2000 individuals nationwide, with the majority of those fatalities taking place in cities and other urban regions. By 2030, the nation will experience about 12 heat wave events per year; by 2060, there will be 20; and by 2090, there will be 26. This is a very alarming situation that requires more attention (Khan et al., 2020). According to research on Lahore City's long-term fluctuations in lowest and maximum temperature trends, the minimum temperature is rising faster than the maximum (Sajjad et al., 2015, Zuo et al., 2022). The consequences of extreme heat wave (HW) events and UHI in Karachi were studied by Rizvi et al. (2021) during a ten-year period in two phases, from 1998 to 2002 and from 2012 to 2016. According to their research, the UHII for summer nights was 1.9 °C in the first phase and 0.6 °C in the second. They concurred that throughout the HW period, which lasted from June 17 to June 24, 2015, UHII in Karachi surged dramatically, resulting in over 800 fatalities. This poses a risk to public health since it leads to heat-related illnesses and deaths and, at the same time, puts pressure on energy systems to meet high demands for cooling during a heatwave, leading to power blackouts that worsen the situation.

Frequent Floods and Droughts

Extreme weather is caused by climate change, and the monsoon season in Pakistan has been made more unpredictable, with more frequent floods and droughts (Khan, 2015). Extreme floods similar to those that occurred in 2010 and 2022 have exploded the lives of millions of people, covered a significant proportion of the arable land with water, and cost billions of dollars for the nations affected. On the other hand, recurring droughts in areas such as Balochistan and Sindh have caused water shortages, crop failure, and income loss (Ashraf and Routray, 2013). The results of the investigation show that Pakistan's agriculture industry, especially small-scale farmers, has been greatly impacted by the decrease in accessibility to water brought on by climate change. The water problem has also been made worse by the rate of recurrence

of extreme weather events like droughts and floods, which have resulted in unequal access to and distribution of water resources. The study emphasized how crucial hydrological justice is to solving Pakistan's water crisis. Prioritizing the needs of marginalized populations and ensuring fair allocation of water resources are imperative for the government, legislators, and interested parties (Bajwa et al., [2023](#)). These two types of disasters are not only coupled, but they are threatening the security of the country's economy, food supply, and water sources.

Melting Glaciers and Water Crisis

Pakistan is principally susceptible to these changes since its major rivers depend heavily on the glaciers that exist in the Himalayan, Karakoram, and Hindu Kush ranges, most of which are melting at a very high rate. Glacial melt not only leads to flash floods but also becomes a chronic threat to the Indus River system that supplies the country's irrigation and water needs (Ali et al., [2009](#)). Consequently, compromised water supply in provinces could elevate conflict between the provinces over water supply; downstream regions warned that acute water shortages could result from melting unabated. In light of the current water volume reduction, the irrigation system known as the Indus Basin Irrigation System is threatened, thus affecting Pakistan's agricultural industry.

Damage to Agriculture, Infrastructure, and Livelihoods

Agriculture forms the largest sector of Pakistan's economy and contributes approximately 20% to the GDP, with around 40% of the population associated with this sector in some way or another (Adnan et al., [2024b](#)). Climate change affects this sector in the sense that it changes the normal pattern of crops, lowers yields, and makes staple crops considerably vulnerable through effects on wheat, rice, and cotton. Weather conditions, including floods and storms, affect infrastructure such as roads, bridges, and irrigation infrastructure most, as stated above. This continued destruction of infrastructure erodes the economic base further as funds required to rebuild the infrastructure cut out the needed development projects (Adnan et al., [2024b](#)).

Climate-Induced Migration

Since climate change-related disasters have become more frequent, this has led to the mobility of people. Natural disasters like floods and droughts continue to affect thousands of families each year and force people from rural areas to seek refuge and income in urban areas. This results in increased cases of climate migrants in urban areas, which worsens the existing urban problems such as housing problems, unemployment, and stretched public facilities. Climate change migration also augments social risks such as violence against women and children in camps and inadequate access to vital resources (Salik et al., [2020](#)).

Health-Related Impacts

Climate change has very destructive effects on the health of the individuals in Pakistan. High temperatures are triggers for respiratory diseases, while air pollutants concentrate negatively and negatively impact respiratory diseases. Meanwhile, stagnant water breeds disease-causing organisms like cholera and dengue fever. Elderly people and children are the most affected by both heat exhaustion and heat stroke. But, augmented by climate change, droughts worsen water quality and availability, heightening malnutrition and other diseases linked to food and water insecurity (Iqbal, [2020](#)).

Environmental Constitutionalism: A Global and National Perspective

Environmental constitutionalism is the process of incorporating environmental legislation and constitutional law rights and duties of states to ensure a clean, healthy, and sustainable environment as a human right (May & Daly, [2015](#)). It has emerged as a result of increasing environmental problems and the failure of traditional legal regulation to solve them. In the following section, we analyze how different countries adopted environmental rights in their constitution and in what manner international conventions support these trends. Policies of countries that have incorporated environmental rights in the Constitution include:



Constitutional Developments in Different Nations:

South Africa: Environmental Rights and Social Justice

Environmental rights are enshrined in South Africa's constitution under the 1996 constitution, making it one of the most liberal constitutions in the world. Section 24 of the Constitution states (Theil, 2019):

"Every person has the right to freedom from harm to his person or property, and to have the environment safeguarded, for the generation of the present and future, by appropriate Parliamentary and other measures."

Through this provision, courts and civil society has been able to put pressure on the government to answer for environmental abuse. It matters when cases such as Fuel Retailers Association of Southern Africa v. Director-General: Environmental Management have particularly enshrined sustainable development as part of the constitution (Feris, [2008](#)).

Ecuador: Nature's Rights

Ecuador led the way in 2008 by becoming the world's first country to constitutionally enshrine the rights of nature. Article 71 recognizes nature, or "*Pachamama*," as a rights-bearing entity, stating: "*Nature has the right to exist, persist, maintain and regenerate its vital cycles, structure, functions, and evolutionary processes*" (Pietari, [2016](#)). It is a revolutionary approach that replaces an anthropocentric consideration of the environment with an eco-centric approach. This principle has also been adopted by the Ecuadorian courts, for instance, in the case of the Vilcabamba River, where standing was given to the river against the polluters (Echeverría & Leroux, [2019](#)).

Norway: Article 112 of the Norwegian Constitution recognizes the right to a healthy environment and mandates state authorities to ensure its realization (Minnerop & Rostgaard, [2020](#)).

Kenya: Article 42 of Kenya's 2010 Constitution guarantees every citizen the right to a clean and healthy environment, enforceable through courts (Muigua, [2015](#)).

Brazil: Article 225 of Brazil's Constitution recognizes the environment as a public good and emphasizes intergenerational equity (Bauer, [2023](#)).

International Conventions and Treaties

Intergovernmental environmental policies have impacted national legal systems where international charters and treaties have been used to prompt the enshrinement of environmental rights.

Universal Declaration of Human Rights (1948)

Although the linkage between human-rights and environment is not expressed in the Universal Declaration of Human Rights promulgated in 1948, the mentioned Declaration has been construed to relate environment protection to rights to life, health and to be free from degrading treatment (Lauterpacht, [1948](#)).

Stockholm Declaration (1972) and The Rio Declaration (1992)

The first and second international environmental conferences were the United Nations Conference on Human Environment in Stockholm from June 5–16, 1972, and the United Nations Conference on Environment and Development (UNCED) in Rio de Janeiro from June 3–14, 1992, respectively, produced the Stockholm and Rio Declarations. The two declarations are philosophically and politically closely related to other policy or legislative documents that came out of both conferences, such as Agenda 21 in Rio and the Action Plan for the Human Environment in Stockholm. On their own accord, though, the declarations constitute significant progress. Adopted two decades apart, they unquestionably mark significant turning points in the development of international environmental law and delineate what has been referred to as the "modern era" of such law (Handl, [2012](#)). Stockholm Declaration, the first international document on the environment, initiated environmental constitutionalism and proclaimed that people have a right to liberty, equality, and opportunity to enjoy essential needs in a quality environment that enables them to

live worthy lives. In the declaration, principle 1 clearly underlines that environmental and human rights are inextricably connected. The Rio Declaration also stressed rights relating to information, participation, and administrative and judicial redress in environmental issues, which developed a basis for legislative and constitutional provisions.

Aarhus Convention (1998)

On June 25, 1998, in the Danish city of Aarhus (Århus), the Fourth Environment for Europe Ministerial Conference adopted the United Nations Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-Making, and Access to Justice in Environmental Matters. On October 30, 2001, it came into effect. The Aarhus Convention, which is based on the ideas of participatory democracy, was developed to strengthen the role of citizens and civil society organizations in environmental issues. Regarding the environment, the Aarhus Convention gives people and civil society organizations an extensive range of rights. The necessary provisions must be made by the Convention's Parties in order for national, regional, or local public authorities to support the implementation of these rights. It guarantees citizens' participation in environmental governance and solicits judicial redress as far as the constitution of the country is concerned, helping formulate principles of the constitution around the world (Hey, [2015](#)).

Paris Agreement (2015)

As an agreement that is primarily concerned with climate change, the Paris Agreement recognizes human rights in general, and the rights to health and a healthy environment in particular. It has led countries to shifts the constitutional objectives for the nations to climate related missions and sustainable goals (UN Climate Change, [2015](#)).

Escazú Agreement (2018)

The first regional environmental human rights pact in Latin America and the Caribbean, the Escazú Agreement, is a historic document that protects environmental human rights defenders (EHRDs) and ensures public involvement, access to environmental information, and justice. Only 12 nations have ratified it yet, limiting its influence despite its commitment to safeguarding those most vulnerable, assuring equality, and advancing sustainable development. This is because ratification has been sluggish, impeded by political obstacles, disinformation, and opposition lobbying. Its capacity to protect environmental democracy and the right to a healthy environment must be realized through effective implementation and wider ratification. This is a regional treaty for Latin America and the Caribbean, which is the first legally binding agreement that contains provisions for environmental defenders. It also focuses on access rights to information and environmental equity, whereby it seeks to enhance constitutional protection in member states (De Silva, [2018](#)).

Others

The other most prominent conventions for environmental safety that are worth mentioning here include:

- United Nations Framework Convention on Climate Change (UNFCCC)
- Kyoto Protocol
- Montreal Protocol
- Convention on Biological Diversity (CBD)

The widespread adoption of environmental constitutionalism is a reflection of a growing awareness of the close connection between environmental preservation and human rights. Diverse strategies are used by nations including South Africa, Ecuador, and India; these range from judicial activism and eco-centric frameworks to comprehensive recognition of constitutionality. The normative framework has been supplied concurrently by international conventions and treaties, which encourage governments to include environmental rights in their legal frameworks. Pakistan joins a diverse worldwide community in acknowledging the importance of environmental health for human well-being and sustainable development as it adopts Article 9-A to its 26th Constitutional Amendment. This constitutional move



represents a commitment to combating climate change and environmental degradation in accordance with global best practices, in addition to legal advancement.

Environmental Constitutionalism in Pakistan

Environmental constitutionalism is a global shift that seeks to incorporate environmental rights within the context of constitutionalism and has slowly emerged in Pakistan. The strategies implemented by the country for the integration of environmental questions into the legal and constitutional frameworks demonstrate the realization of the relationship between human rights and the environment. This section analyses the constitutional protection of the environment in Pakistan, the role of Pakistan's judiciary in extending the meaning of Article 9, i.e., the right to life to include protection of the environment and the need for constitutional recognition of Article 9-A, whereas as the Pakistan's government is quite serious about the climate change. Therefore, in connection, one piece of legislation was enacted titled "Pakistan Climate Change Act, 2017," and this legislation gave birth to three institutions: the Pakistan Climate Change Council, the Pakistan Climate Change Authority, and the Pakistan Climate Change Fund (Jamal, 2018). It is imperative to mention here that Pakistan became a signatory of the "Paris Agreement" in 2016 as one of 104 countries to ratify the treaty, and it stresses local legislation in order to support international standards. Notably, climate change impacts and violates the fundamental rights of the people, especially the right to life, which is guaranteed and safeguarded under the provisions of Article 9 of the Constitution of Pakistan 1973. Institutional factors were not originally defined in the Constitution of Pakistan, and this is understandable since the Constitution was made in 1973, while global concern for the environment was not as strongly pronounced as it is today. However, other broader rights from the Constitution, such as Article 9 – the right to life, and Article 14 – the right to dignity, gave an inherent basis for adjudicating environmental issues (May & Daly, 2019).

Legislative Developments

The legislative measures to deal with environmental concerns were chiefly sector-driven/, like the Factories Act of 1934 (pre-independence) and the Canal and Drainage Act of 1873. The more significant first official effort was made in 1983 with the passage of the Pakistan Environmental Protection Ordinance (Hassan, 1996), which was followed by a much stronger law, the Pakistan Environmental Protection Act (PEPA) 1997. However, these laws existed in a structure that did not have a clear constitutional basis that would allow its enforcement against political and industrial forces.

Environmental Activism

The environmental activism for the most part in 1980s and 1990s gained momentum all over the world and so did the same impact in Pakistan's civil society and judiciary. Pollution by industrial expansion, settlement, and urbanization, coupled with climate change, brought about demand for constitutional and legal transformation. During this period, there was development of PIL as a means of dealing with grievances on environment.

Right to Life

The right to life is protected and guaranteed under Article 9 of the Constitution of the Islamic Republic of Pakistan 1973, which says that "Security of person shall be deprived of life or liberty save in accordance with law." Further, life is deeply connected with the environment, and the existence of life totally depends upon it. The earth is the source of existence of living and non-living things because it provides food, water, air, and a clean and healthy environment to all species without any discrimination (Adam et al., 2022). The judiciary in Pakistan has bestowed a revolutionary impact on elaborating on environmental protection through moderate constitutional rights. The Constitution has afforded protection to the right to life and personal liberty in Article 9, and this has been very broadly interpreted by the courts today to include the right to a clean and healthy environment. Additionally, the right to life is protected by international documents as well. As the judiciary is the guardian of the fundamental rights of citizens in this regard, Pakistan's judiciary has also played a crucial role in handling the violations of fundamental rights on account of climate change (Mirza, 2020).

The right to life in the International documents is defined as follows: Universal Declaration of Human Rights (UDHR), Article 3: "Everyone has the right to life, liberty and security of person," International Covenant on Civil and Political Rights (ICCPR), Article 6: "Every human being has the inherent right to life." and the European Convention on Human Rights (ECHR), Article 2: "Right to life.". Notably, from the bare reading of all these definitions, it is crystal clear that the right to life and climate have to closely link with each other; in other words, both are interconnected. Therefore, it is a settled principle that failure to mitigate climate change adversely affects health, well-being, and quality of life.

Landmark Judicial Precedents

- i. **Raja Zahoor Ahmed v. Capital Development Authority, (2022 SCMR 1411):** The question before the Honorable Supreme Court of Pakistan was that the conversion of the residential plot into a commercial; the Court held while considering such kind of conversion, its duty of the urban planners to critically examine the environmental sustainability and resiliency. Due to the commercial activities in the residential area, the fundamental rights of the people will be infringed, and consequently, the same is the violation of articles 9, 14, 18, and 23 safeguarded under the Constitution of the Islamic Republic of Pakistan 1973. Lastly, the urban planning authority was directed to consider environmental sustainability in future plans and policies so that fundamental rights may be protected in the letter and spirit.
- ii. **Province of Sindh v. Sartaj Haider (2023 SCMR 459):** In the present petition, the citizen has challenged the formation of a citizens' committee in a certain flood-affected area for the supervision of the ongoing relief work. The Court held that the community must be ensured to participate in the relief work, especially the vulnerable people, including women, children, old and disabled persons. Further, Justice Syed Mansoor Ali Shah, in his remarkable note that climate change is affecting Pakistan, and the 2022 flood is proof of the same and further suggested that any post-flood strategy must ensure the national strategy to mitigate and deal with climate change today and tomorrow. Justice Shah further stressed that Climate change constitutes one of the most prominent obstacles to the fundamental rights of the people in Pakistan. It poses significant risks to the maintenance of their basic entitlement, specifically the right to life and the right to dignity under Articles 9 and 14 of the Constitution of the Islamic Republic of Pakistan, 1973. To address this pressing issue, there is a critical need for the development of a robust and comprehensive climate-resilient adaptation strategy. This plan must include a well-defined framework for effectively managing and utilizing the financial assistance provided to Pakistan, particularly from the loss and damage fund, ensuring that it directly supports measures to mitigate the adverse impacts of climate change and safeguards the rights of present and future generations.
- iii. **Asghar Leghari v. Federation of Pakistan (PLD 2018 Lahore 364):** The agriculturalist approached the Lahore High Court, whose lands were badly affected by water scarcity. He argued that the disposal of industrial waste is against international environmental treaties and policies. He further contended that same is a violation of the Constitution affecting articles 9 & 14 related to the right to life and a clean & healthy environment. He prayed for the implementation of environmental policies to mitigate climate change and effectively implement constitutional rights. Wherein the Honorable Court held that water justice is a sub-part of climate justice. A Healthy Environment is essential for human life and is protected by the Constitution and national and international policies, and the concerned provincial and federal authorities were ordered to comply with the national and international commitments in the letter and spirit.
- iv. **D. G. Khan Cement Company v. The Government of Punjab (2021 SCMR 834):** A matter was placed before the Honorable Supreme of Pakistan where a factory owner challenged a notification of the government barring the establishment of new cement plants; the court, after thorough consideration held that government notification well in compliance with the national and international environmental laws. In its consideration, the Court accentuated the Government's responsibility to advocate the preventive principle, guaranteeing the protection of fundamental rights such as the right to life, sustainability, and the dignity of communities living near the development areas. In addition, the Court accredited the inevitability of upkeep of the inherent rights of nature, emphasizing that both humanity and the environment must find a harmonious balance to coexist for their mutual benefit.



This coexistence, the Court articulated, requires a legal framework that recognizes environmental entities as bearers of distinct legal rights, thereby fostering a more equitable relationship between humans and the natural world.

- v. **Public Interest Law Association of Pakistan v. Province of Sindh (2023 SCMR 969)**: In a matter pending before the Honorable Court with regard to the relevance of the Initial Environmental Examination (IEE) and Environmental Impact Assessment (EIA). Whereas, the Sindh government's plea was declined, and the Honorable Court laid a dictum that the allowance of small-scale license or lease for excavating inconsequential minerals like sand, gravel, and sandstone that are dispensed while bearing in mind the effect on the environment. In all circumstances, these factors affect the environment. Therefore, IEE and EIA are prime and paramount considerations for every project, keeping in view the national and international standards for mitigation of climate change facts and encouraging environmental sustainability.

Judicial Activism and Environmental Justice

The judiciary, especially, has played a dynamic part in the upkeep of the environment mainly because legislation has called upon it to do so, and the executive branch has failed to address these issues. EIA has been required for developmental projects, and the polluter-pays principle has been enforced; the judiciary has also acted to prevent certain anthropogenic harms to the environment. By establishing environmental protection as a constitutional right, the judiciary has paved the way for shaping other constitutional changes.

The Need to Compel Constitutional Amendment

However, due to the lack of a clear constitutional provision that deals with environmental legislation, the judiciary faced some challenges. Although this approach of relying on Article 9 judicial interpretations was unique, it was less structurally sound and enforceable to address growing environmental issues in Pakistan efficiently. The question arises as to why Article 9-A Was a Necessary Addition. Amendment of the 26th Constitutional Article 9-A is a significant start to ensure the constitutional protection of the environment in Pakistan. Explicit recognition provides:

- **Legal Certainty:** Clarity of constitutional provisions reduces complexities enhancing environmental governance.
- **Empowerment of Citizens:** Article 9-A safeguards the right to sue the state and private players for bringing accountability.
- **Alignment with Global Standards:** It has been argued that the constitutionalizing of environmental rights has become a global phenomenon that seeks to strengthen the ability of countries to respond to climate change negotiations.

Conclusion

Currently, Pakistan is at a crossroads where the emerging impacts of climate change require an effective and comprehensive constitutional response. The addition of Article 9A to the 26th Constitutional Amendment brings attention to the absence of a standard definition of environmental rights within the Pakistani legal and structural framework. In the past, environmental concerns have been dealt with by the judiciary in the realm of the right to life (Article 9), which, through judicial pronouncement, has been elevated to include the right to a clean and healthy environment. However, this Judicial creativity, as it is called, though praiseworthy, lacks a clear constitutional provision that entails a complete framework of environmental regulation.

Generally, people have used environmental constitutionalism as a topic that has the potential to change the world in ways that will enable sustainable development goals to correctly capture the available legal mechanisms. Studies show that nations with entrenched constitutional recognition of the environment and those oriented toward the principles of the Escazú Agreement are more prepared to overcome environmental issues and protect climate and social justice for the most fragile populations and their advocates. The obligations set in the Escazú Agreement regarding public participation, access to information, and the protection of EHRDs can serve as useful recommendations for Pakistan. These

insights shed light on the importance of legal tools that pursue the principle of openness, participation, and democracy in decision-making concerning the environment.

The proposed Article 9A seeks to entrench these principles by expressly enshrining the right to a healthy environment as a human right. With this amendment, the constitutional structure of Pakistan will be in harmony with International standards, making it legal to combat climate change and environmental degradation while protecting the rights of the vulnerable ones. In addition, it would help strengthen the courts and effectively remind civil society to demand accountability for the actions of both state and non-state actors in violating the environment.

The same can be said of Article 9A when compared to the realities of contemporary Pakistan facing such problems as policy dispersal, scarce enforcement means, and the lack of a considerable legal framework to address the impact of climate change. These gaps, however, would not only be filled with the inclusion of Article 9A but also amenable to improving Pakistan's adherence to the commitments under the Paris Accord or other United Nations Sustainable Development Goals (SDG).

As this study makes reference to regional as well as international experiences, it strengthens the idea that constitutional environmentalism is the solution to contemporary ecological challenges. Certainly, there exist great challenges to sustainable development in Pakistan due to a variety of factors, which include society and politics, and therefore, Pakistan requires a more assertive policy to address both the developmental agendas as well as the environmental objectives. Article 9A presents a way through which these priorities may be aligned so as to create a governance regime that will protect the environment and advance the cause of human rights and sustainable development.

Finally, it is found that enactment of Article 9A is not just a legislative amendment but a constitutional breakthrough for Pakistan. It can be understood as a promise to protect the environment, to rebuild and to act fairly to allow future generations to live in a fair environment. With this amendment, Pakistan would confirm its commitment to being a responsible member of the world community, capable of addressing the complex issues of climate change and environmental pollution.

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