

# Environmental Issues and their Solution in Pakistan

**Muhammad Irshad Ijaz\***

**Abstract**— Pollution means “discharge of effluents in the air, water or soil which might be hazardous for environment.”<sup>1</sup> Environmental pollution is burning issue of the world. The ecological degradation is not only worsening the human health but also creating irreparable impacts on ecosystem. Releasing of smoke and hazard material in ecosystem by different industries and nuclear plants is impairing the life, and causing the toxic torts in the society. Pakistan EPA, 1997 speaks about ‘air, water, soil, noise and vehicular pollution including hazardous waste disposal’. It is the responsibility of every individual to combat and protect the ecosystem for future. The purpose of this paper is to highlight issues and effects of toxic torts and remedies to mitigate menaces of pollution.

**Index Terms**:-Pollution, irreparable, nuisances, ecosystem, menace and measures.

\*Ph.D (Law) Scholar, The Superior College, Superior University Lahore, Pakistan.  
Contact No:- 923336172438, Email: irshadijaz47@gmail.com

---

◆

# IJSER

<sup>1</sup> [www.moe.gov.mk/cmep.html](http://www.moe.gov.mk/cmep.html) visited on Jan 12 , 2016 at 2030 hrs ;  
Article 4(11), of The Law on Environment by Skopje, June 2005

## 1 INTRODUCTION

### 1.1 Nuisance and Environmental Pollution

“Now a day, nuisance being a public or private law is solely dealing with environmental issues. So every action, which pollutes the environment through introducing oil or toxic odor, intrusion in privacy, nauseating stink of pets and sound from industries is called nuisance. Generally, it depends on three criterions namely, to hamper the right to way, safety of personal privileges in the utilization of land and law of nuisance has been increased manifold to organize ecological damage. Although the growth of Nuisance is very slow but its statutes are functioning as safety valve to protect the environment.”<sup>2</sup>

“As Lord Goff said that it is notified law which is now equipped to tackle environmental effects. The Courts have fewer provisions to grow a general law standard to achieve the analogous conclusion, and in fact it may be detrimental to perform. Many past nuisances are now enshrined in Clean Air Act, 1993 and EPA, 1990 of UK. After enactment of environmental laws, the ratio of nuisances has been decreased.

Hence if anybody wants to adopt new ideas in constructing new buildings then he should first remove the dangers of upheaval from the residential area. Nuisance law is creation of human mind and harmful anomalies of humans. It would not be right to say nuisance is an obsolete tort. But it has potential to carry out at least two constructive functions. Firstly, it works to enforce procedure according to spirit of the relevant statutes. Secondly, whenever a court gives judgment in applicant's favour, then concerned authority may institute parameters under the light of court decision and statute.”<sup>3</sup>

“Environmental Pollution has affected the ecosystem. This contamination is seriously escalating many populated areas, industrial zones and environment. The developing countries are utilizing 80% contaminated water for agriculture and food. Industries are rapidly destroying urban, semi-urban and low wages zones through pollution. In last three decades, public health issues have been increased globally due to environmental repercussions.”<sup>4</sup>

Pollution is of four kinds:

1. “ Air ;
2. Water ;
3. Sound ;
4. Soil Pollution.”<sup>5</sup>

### 1.2 Environmental Pollution

It may be defines as “the introducing of substances or energy openly into the air by humans, resulting fatal effects on the nature to jeopardize human's health, living resources, ecologies, material property and impede the facilities, and justifiable uses of the environment is called environmental pollution.”<sup>6</sup>

“All kinds of wastes of industries and communities are

<sup>2</sup> W. V. H. Rogers, Winfield and Jolowicz on Tort 503 (16th ed. 2002)

<sup>3</sup> John Murphy, Street on Torts, (11<sup>th</sup> ed.), PP-389/39,

<sup>5</sup> [http://depssa.ignou.ac.in/wiki/index.php/Environmental\\_Pollution](http://depssa.ignou.ac.in/wiki/index.php/Environmental_Pollution), last seen on 12 Jan,2016 at 2120hrs

<sup>6</sup> Convention on Long Range Trans Boundary Air Pollution Geneva, 1979

infecting the rivers and rivulets which are not only threat for aquatic life but also for ecosystem. Many metropolises of Pakistan are tackling with gigantic problems of overpopulation and environment, and villages with biodiversity, barren lands, pure water and noise pollution.”<sup>7</sup>

## 2 Causes of Environmental Pollution

“Usually, air pollution is a huge danger for ecosystem. It has been increased manifold due to horrible meteorological conditions, overpopulation and urbanization. Air pollution has created many health problems for humans, and has hostile effects on environment. Although air pollution is commonly a civic issue, but it has also wrapped the rural areas by industrialization.”<sup>8</sup> “Generally, air pollution is caused by fuel combustion in various sectors: domestic use, power generation, transport, industry and atomic explosions like Chernobyl in Russia and destruction of Fuko Shima Atomic Plant in Japan by Tsunami of 2011. Similarly, COVID-19 which is a pandemic disease spreading in the world rapidly and has taken lives of people many million and effected uncountable losses to the economy of the world and it will be a mammoth hazard of starvation in the world.

### 2.1 Effects of Environmental Pollution

“Environmental Pollution is an alarming problem of this planet. It is spreading many diseases such as cancer, nervous, cardiac and respiratory, ENT and other disease in mankind.”<sup>9</sup> “Global warming has been increased up to 0.43 C due to pollution in last two decades. This increase in temperature is very high than the increase in temp in last century (0.63C).”<sup>10</sup> Many countries are facing flood and the island of Maldivis will be disappear from the world due to this global warming.

### 2.2 Effects of Acid Rain on Aqueous Life

“According to Gardiner, acidic raining exterminates aqueous life, and eliminates green fields and makes the soil barren. The emission of ultraviolet rays from the ozone layer and many other poisonous particles can create cancer in animals and spoil green trees. It can also injure respiratory organs of wildlife and put a full stop to plant respiratory part stomata by chocking it and it can also upset photosynthesis rate in plants that can decrease growing capacity of plants; and trees could be affected by induction of ozone through stomata of green plants.”<sup>11</sup>

### 2.3 Effects on Animals

<sup>7</sup> [www.researchersworld.com](http://www.researchersworld.com), last sighted on 12 Jan,2016 at 2103hrs ; IRRJ ; Vol.- II, Issue -2, April 2011, P- 277

<sup>8</sup> Ibid

<sup>9</sup> Supra note 5 above

<sup>10</sup> The Daily Jang, Lahore (Urdu Edition), on 10<sup>th</sup> April,2016.

<sup>11</sup> Gardiner, L (2006), Air Pollution affects Plants, Animals, and Environment window to the universe ;

<http://www.window>.

Ucar.edu/tour/links/earth/atmosphere/wildlife\_forests.html/&edu , last visited on 12<sup>th</sup> Feb,2016 2050hrs

Polluted water has following effects on animals which can:

- a) "Cause death and decrease biodiversity;
- b) Injure digestive, nervous and excretion systems;
- c) Reduce reproductive process, growth, irregular behavior and casualty;
- d) Leave brunt on all living organisms;"<sup>12</sup>
- e) can be fatal for atmosphere and other creatures.

### 3 Role of United Nations and Environmental Law

UN "reaffirms that humans should get education to protect the ecosystem for the next generations."<sup>13</sup> "Humans have the fundamental right of unpolluted environment for their health; and they must develop the environment for their survival."<sup>14</sup>

"States shall devise laws for brunt of environmental injuries caused by their wrongful actions."<sup>15</sup> "Peace, development and environmental protection are inter-reliant. State shall determine their environmental conflicts peacefully according to spirit of UN charter."<sup>16</sup>

UN enacted under mentioned laws to protect the environment:

5. "An Environmental Agenda for the 21st Century;
  6. Declaration on permanent Sovereignty over Natural Resource, 1962;
  7. UN Conference on the Human Environment, 1972;
  8. UN International Conventions on:
    - i) Protection of Birds & Plant, 1950/1951;
    - ii) Protection of the world cultural and Natural Heritage, 1972;
    - iii) Trade in Endangered Species of Wild Fauna and Flora, 1973;
    - iv) Long-Range Tran Boundary Air Pollution, Geneva, 1979;
    - v) The Conservation of Migratory Species of Wild Animals, 1979;
    - vi) The Conservation of Antarctic Marine Living Resources, 1980;
    - vii) Wetlands of International Importance Especially as Waterfowl Habitat, 1982;
    - viii) The Law of Sea, 1982;
    - ix) The Protection of the Ozone Layer, 1985 (Vienna);
  9. World Charter for Nature, 1982;
  10. Protocol on Substances that Deplete the Ozone Layer, 1987;
  11. Hague Declaration on Environment, 1989;
  12. UN Conference on Environment and Development, 1989;
- <sup>12</sup> World Charter for Nature, 1982
- <sup>13</sup> Ibid
- <sup>14</sup> Declaration of the UN Conference on the Human Environment, 1972
- <sup>15</sup> The Rio Declaration on Environment and Development, 1992
- <sup>16</sup> Ibid

13. Deplete the Ozone Layer Copenhangen, 1992;

14. The Earth Summit (Rio), 1992."<sup>17</sup>

4 The Constitution of the Islamic Republic of Pakistan, 1973 and Environmental Law

It is obvious that the judiciary is protector of fundamental human rights especially environmental pollution. The Supreme Court of Pakistan stated that "under Art-38(d) of the Constitution, the prima facie duty of government is to provide basic amenities of life and clean water to citizen for consumption."<sup>18</sup> In the case of Shahla Zia vs WAPDA, 19 the Supreme Court stated that "every citizen has the right of unpolluted and clean environment, and pollution created by high voltage transmission lines of electricity caused a grave lives hazard to the people which is violation of Art 9 of the Constitution".

The main aim of Pakistan EPA, 1997 is "to protect the atmosphere from pollution and encouragement of all kinds of pollutions which are annihilating biodiversity and the wellbeing of peoples."<sup>20</sup> "It is foremost duty of every Pakistani to provide pollution free environment."<sup>21</sup> In the case of Roedad Khan vs Federation of Pakistan and 41 Others, 22 Dr. Nasim Hassan Shah, CJ, approved and stated that the stone crushing plants were devastating the pollution free environment of hill site and creating life hazards for masses residing over there and directed the government to take appropriate actions on this issue."

In the case of UWA (United Welfare Association), Lahore vs LDA and others, 23 Dr. Justice Nasim Hassan Shah CJ with the help of Dr. Parvez Hassan and confirm the grievances of the peoples. He observed that "the air-borne contaminants have been dispersed on vast area from functioning of these plants and these wastes were releasing poisonous elements." Further, "the functioning of plants is upsetting the civil liberties of hygienic atmosphere to nearby locality. The residents are frequently facing noxious smoke of these asphalt plants which are continuously deteriorating the health of peoples. These plants must be eliminated and relocated in distant areas where there is no threat to environment."

"In 1991, an NGO SCOPE (Society for Conservation and Protection of Environment)<sup>24</sup> filed a petition against erection of highway into Kirthar National Park under Art-199 of the Constitution. Before the court take action, Prime Minister interceded and directed IHA for an alternate route. PM has to announce it rerouting through electronic media in September 1991."

In Mst. Ameer Bano vs. S.E. Highways,<sup>25</sup> the court ordered "to protect the constitutional civil liberties of citizens for life." In the Pakistan Chest Foundation and others vs. GoP, 26 the High Court stated that "a PIL (Public interest litigation)<sup>27</sup> could be filed and instituted by any organization or group of people who is working voluntarily for the interest of society and they cannot remain aloof

<sup>17</sup> Badar-ul- Ameer, Manual of Environmental Laws in Pakistan, pp-iii/iv

<sup>18</sup> 2004 YLR 2077

<sup>19</sup> PLD 1994 SC 693

<sup>20</sup> PEPA ACT, 1997

<sup>21</sup> PLD 2002 LAH.555; PLD 1994 SC 693

<sup>22</sup> WP No.642, 1990, filed by Margallah Hills Society in the LH C, Rawalpindi bench

<sup>23</sup> WP No. 9297, 1991, filed by United Welfare Association, Lahore, in LHC

<sup>24</sup> Society for Conservation and Protection of Environment

<sup>25</sup> PLD 1996 Lahore, 592

<sup>26</sup> 1997 CLC 1379

<sup>27</sup> Public Interest Litigation

from subject cause. The Court said that by applying the rules of law as pronounced in Shahla Zia case to the parameters of the recent case, the natives of this country and mainly youngsters are legally forbidden from smoking. The High Court prohibited the cigarette commercial after 3 years and directed to PTC & PBC28 that the ads shall not display the real act of smoking and will pursue a word of warning.”

In Abdul Latif vs. Addl Sessions Judge, Sahiwal, 29 the court stated that under S-133 of Cr. P.C, the leather factory was creating nuisance for the public. In the petition against aforesaid order, the Lahore High Court stated that PEPA is a complete code for general public, deterrence and eradication of any toxic waste as envisaged in S-133 of Cr. P.C. PEPA as a special law supersedes the general and criminal law regarding the matters enshrined in it.” In the case of Rana Ishaque vs. DG, EPA and others, 30 the High Court permitted “those industries which have been mounted treatment plants. As a result, many industries have started to fit treatment plants to prevent from legal actions in future.”

In the case of Anjum Irfan vs., LDA and others, 31 Dr. Parvez Hassan assisted the Court and apprised that EPA & PEPC may be prosecuted by making party to trounce all pollutions. He contributed inevitable steps to EPD to perform its legal duties under PEPA, 1997, to regulate growing pollution. Moreover, he said that the High Court must direct to Ministry of Environment along with PEPC to promote criterion for National Ambient Air Quality, and Government must devise strict regulations regarding treatment plants along with fuel in S-15 (2), PEPA and pay attention to use lead free fuel for Vehicles.

Similarly Supreme Court of India decided many cases on right to enjoy clean environment. In MC Mehta VS Union of India, 32 the Supreme Court stated that “the natural resources could not be used, if they produce irreparable damages to environment. It has been found deterioration of environment due to non compliance of concerned agencies to enforce laws related to environment. This court said many times about safety of life is very important under Art 21 which entails right of enjoying unpolluted air and water for one’s life” and in Subash Kumar VS State of Bihar, 33 the Supreme Court said that “right of clean environment, its preservation and safety of nature’s gift is concealed in Art. 21.”

## 4.1 Laws Related to Environmental Pollution in Pakistan

### 4.1.1 General Laws

General Laws are given as under:-

- i. Pakistan Penal Code, 1860: “S-268 is regarding public nuisance, and anybody whoever willingly breach this law will pay Rs-1500/- fine which is enumerated in S-278 of subject code.”<sup>34</sup>
- ii. The Motor Vehicle Rules, 1969

Following Rules are pertaining to the topic:

Rule 155(1):“Every vehicle shall be fixed with a silencer to reduce noise and environmental pollution.

Rule 163(1):“Every vehicle shall be assembled in such condition, so that they neither emit any smoke, ashes, oil and grit nor create hazard for commuters of the road.”<sup>35</sup>

### 4.1.2 Special Laws

Provisions of PEPA, 1997 are as follows:

Section 2 (xi) speaks about Environmental impact assessment and it also mentions how the study of environmental impacts will be carried out by adopting different indicators, rules and regulations;”

Section 2 (xxiv) speaks about “Initial Environmental Examination “which is initial investigation of ecosystem, after confirming EIA regarding predictable future harms of construction;”

Section 2 (xli) describes the “standard” of pollution by means of “qualitative and quantitative principles and measuring all pollutions of particular area or product.”<sup>36</sup>

“Section 17(1) throws light on penalties, anyone who violates Ss 11, 12, 13 & 16 of the act or any judgment issued there under will pay fine up to one million rupees, if this violation continue then the violator will pay fine of one hundred thousand rupees per day;

(2) Anyone who infringes the conditions of Ss 14 & 15 will pay the fine up to one million rupees, and one thousand rupees per day for continuous violation of the act.”<sup>37</sup>

## 4.2 Remedies/Solutions of Environmental Pollution

To mitigate environmental pollution, Govt. should take following steps to:

- 1 “Test vehicles for emission of smoke and carbon periodically;
- 2 Improve self-monitoring and reporting program for fuel quality;
- 3 Ban Stone crushing, kilns and steel melting units without treatment plants;
- 4 Introduce low secretion engine and Phasing out of two-stroke;
- 5 Fit catalytic converters and traffic managing system;
- 6 Devise rules to use railways and mass public transport;
- 7 Introduce little discharge hybrid cars and power-driven automobiles;
- 8 Promote using of bicycles;
- 9 Introduce better urban and family planning;
- 10 Implement the pollution charge system for industries;
- 11 Introduce new technologies in cooking stoves;
- 12 Sale CNG and LPG on low prices;
- 13 Advertise bio-gas plants;”<sup>38</sup>
- 14 “Check release of effluents and radioactive elements in air;”<sup>39</sup>
- 15 “Enforce EIA and IEE regulations;”<sup>40</sup>
- 16 Generate electricity from garbage, air, tidal energy and solar energy ;
- 17 Develop the habit of plantation;

<sup>28</sup> Pakistan Television Corporation and Pakistan Broadcasting Corporation  
<sup>29</sup> 2001 CLC 1139

<sup>30</sup> WP No. 671 of 1995, LHC

<sup>31</sup> WP No. 25084-97, 2001, LHC

<sup>32</sup> AIR 2004 SC 4016

<sup>33</sup> MP Singh : The Constitution of India ,3<sup>rd</sup> edition, P-33

<sup>34</sup> PPC, 1860

<sup>35</sup> The Motor Vehicle Rules, 1969

<sup>36</sup> PEPA Act, 1997

<sup>37</sup> Ibid

<sup>38</sup> Mahmood A. Khwaja and Shaheen Rafi Khan Working Paper Series # 99 ,2005; www.sdpi.org

<sup>39</sup> UNO World Charter for Nature, 1982 (Function -12)

<sup>40</sup> PEPA, (Review of IEE and EIA) Regulation, 2000.



- 18 Create awareness program among the masses through mass media;
- 19 Parents and teachers must play their role to educate the children regarding environmental issues and their solutions;
- 20 Government must formulate such policies and laws which are helpful for mitigating the repercussions of environmental issues;
- 21 The role of political leaders, famous players, actors and social worker might be first drop of rain for improving the air quality standard and environment.

## 4 Conclusion

Every human being and living organisms, in whatever shape or form they are affected by the impacts of pollution and hazardous nuisances in the environment. Millions of those living a healthy life cannot afford to bear the brunt of unhealthy smoke, fumes and poisons polluting the atmosphere.

To handle the untoward impacts of pollution, we have a powerful law, namely, PEPA, 1997,<sup>41</sup> which is loaded with useful provision to get rid of all evils so caused by toxic material, carbon particles and dangerous chemicals.

The concerned authorities, therefore, to make sure, that no building, factory or construction can be started without first measuring the state of the environment through IEE (Initial environmental examination<sup>42</sup>) and EIA (environmental impact assessment<sup>43</sup>) and EIA. Every businessman or person dealing with chemicals is required to follow the law. "Anyone found guilty of any infringement of PEPA Act, 1997 by decision of a magistrate, can lodge an appeal in the court of sessions in 30 days and decision of the court shall be final."<sup>44</sup> "anybody who is afflicted by the absolute verdict or punishment by Environmental Tribunal under this Act can prefer an appeal to the High Court within 30 days of such judgment. Division Bench consisting of two Judges of High Court shall hear this appeal."<sup>45</sup> Supreme Courts can take *Suo motu* action in public interest litigation under the Art 184(3) and High Court under Art 199 of the Constitution of the Islamic Republic of Pakistan, 1973 respectively. The People of Pakistan can get inspiration first from UN Charters and declarations, and then from PEPA, 1997 to lessen the explosion of environmental pollution.

Both developed and developing countries can play their role to narrow down the damage of ozone layer to utilize the extra precautionary measures in using the natural resources. As a result, many environmental issues like global warming, pollution and deforestation which have unbearable and deteriorating effects on ecosystem can be decreased with mutual cooperation of UN member nations.. Only the cooperation of all nations can save the universe from mass destruction. "States must ensure that worldwide organizations should play a harmonized, competent and vibrant role for the safety of atmosphere."<sup>46</sup>

<sup>41</sup> PEPA Act, 1997

<sup>42</sup> S-2(xxiv) Ibid

<sup>43</sup> S-2(xi) of PEPA, 1997

<sup>44</sup> S-25 Ibid

<sup>45</sup> S-23 Id

<sup>46</sup> Declaration of the UN Conference on the Human Environment,1972

United Nations as a great organization of the world must play a vital role to save the forthcoming generations from mass disaster and inundation. UN has propensity to do it and it must do this holy job by hook or by crook. It is need of time that strict laws do guide the world towards the peaceful and unpolluted environment.

## Acknowledgment

The authors would like to thank Faculty of Law, the Superior College, Lahore and management to provide good working environment in the college library and also thankful for their support in fulfillment of this research article which will be helpful for aspirant of law especially in environmental law which is key issue of today's world.

## References

- [1] Badar-ul- Ameer ,Manual of Environmental Laws in Pakistan pp-iii/iv (contents page)
- [2] Convention on Long Range Trans Boundary Air Pollution Geneva, 13 Nov, 1979; Badar-ul- Ameer , Manual of Environmental Laws in Pakistan, P-355
- [3] Declaration of the United Nations Conference on the Human Environment,1972
- [4] Declaration of the United Nations Conference on the Human Environment,1972 (Principle 25)
- [5] Gardiner, L (2006) , Air Pollution affects Plants, Animals, and Environment windowtotheuniverse,http://www.window.Ucar.edu/tour/links/earth/atmosphere/wildlife\_forests.html/&edu , last visited on 12th Feb,2016 2050hrs
- [6] http://depssa.ignou.ac.in/wiki/index.php/Environmental\_Pollution, last seen on 12 Jan, 2016 at 2120hrs ; 'Environmental Pollution in India- ' A Birds Eye view'
- [7] John Murphy, Street on TORTS, 11th edition, Indian Edition, pp-389/390.
- [8] Mahmood A. Khwaja and Shaheen Rafi Khan Working Paper Series # 99 ,2005 ,A publication of the Sustainable Development Policy Institute (SDPI) ;URL: www.sdpi.org  
1. MP Singh : The Constitution of India ,3rd edtion, p-33
- [9] Pakistan Environmental Protection Act,1997
- [10] Pakistan Environmental Protection Agency, (Review of IEE and EIA) Regulation, 2000.
- [11] Pakistan Penal Code ,1860
- [12] PEPA ACT, 1997 ;The Minor Act ,2010 ,p-780 PLJ Publisher
- [13] PLD 1994 SC 693
- [14] PLD 1996 Lahore, 592
- [15] PLD2002 LAH.555 AND PLD 1994 SC 693; The Minor Act, 2010, p-780 PLJ Publisher
- [16] S-2(xxiv) ,S-2(xi) , 1997, S-25, S-23 of PEPA,1997
- [17] The Daily Jang, Lahore (Urdu Edition) ,on 10th April,2016.
- [18] The Motor Vehicle Rules,1969
- [19] The Rio Declaration on Environment and Development,1992
- [20] UNO World Charter for Nature,1982 (Function -12)
- [21] W. V. H. Rogers, M.A , Winfield and Jolowicz On Tort ,16th Edition, 2002 p-503.
- [22] World Charter for Nature, 1982
- [23] Writ Petition No. 25084-97, 2001, LHC
- [24] Writ Petition No. 671 of 1995, LHC
- [25] Writ Petition No. 9297 of 1991, was filed in the Lahore High

Court by United Welfare Association, Lahore

- [26] Writ Petition No.642 of 1990, filed by the Margallah Hills Society in the Lahore High Court, Rawalpindi bench.
- [27] www.researchersworld.com, last visited on 12 Jan,2016 at 2103hrs; International Refereed Research Journal, Vol.– II, Issue-2, April 2011, P- 278
- [28] www.researchersworld.com,last sighted on 12 Jan,2016 at 2103hrs ; International Refereed Research Journal ; Vol.– II, Issue –2, April 2011, P- 277
- [29] www.moe.gov.mk/cmep.html visited on Jan 12 , 2016 at 2030 hrs ; Article 4(11), of The Law on Environment by Skopje, June 2005
- [30] 1997 CLC 1379
- [31] 2001 CLC 1139
- [32] 2004 YLR 2077.
- [33] AIR 2004 SC 4016 at 4044

IJSER