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Samza Fatima\*  
Muhammad Bilal\*\*  
Faiz Bakhsh\*\*\*

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## **Beyond Profit: Shari'ah Analysis of Environmental Protection Laws in Pakistan**

### **ABSTRACT**

*This article deals with environmental laws and environmental institutions working in Pakistan. It also deals with the Islamic law and concept of environment protection. The rapid destruction and degradation of environment requires urgent attention in order to avoid irreparable loss. There are various reasons at the back of this destruction of environment. This article digs out those factual reasons of environmental degradation, investigates and compares the Islamic law and the environmental law of Pakistan. Moreover, this article further investigates the enforcement of these laws in order to get the optimal results. At the end, the findings of this paper would help in improving the environmental state of the country.*

**Keywords:** Environmental Protection, PEPA 1997, Islamic Law of Environmental Protection. Enforcement

### **Introduction**

The primary law of environmental protection in Pakistan is “The Pakistani Environmental Protection Act (PEPA) of 1997”. Pakistan Environmental Protection Council (PEPC) is the supreme body responsible for the implementation of environmental law and other national policies relation to the environment. PEPC is also responsible to ensure the observance of National Environmental Quality Standards. Pakistan Environmental Protection Agency (PEPA) has vast powers to be exercised for the protection of environment in the country, such as: it can arrest the offenders without warrant if they are involved or reasonably suspected to be involved in illicit activity lading to harm the environment on serious grounds. For that

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\* Assistant Professor, B.Z.U. Gillani Law College, Multan, Pakistan.

\*\* Assistant Professor, B.Z.U. Gillani Law College, Multan, Pakistan.

\*\*\* Assistant Professor, B.Z.U. Gillani Law College, Multan, Pakistan.

purpose PEPA can enter and search any premises under suspect without warrant and seize any document, property or relevant thing which is being involved in polluting the environment.

Violation of the provisions of PEPA is disciplinary in which five years imprisonment or a fine of up to one million rupees, or both, can be granted, as set forth in section 20. If the crime is committed by a corporation, the respective CEO, including the corporation, are recognized as guilty of the offense. Moreover, government agencies and local authorities are not exempted and likewise, lawsuits can be brought against them as well.

Environmental Tribunals can also be constituted to entertain PEPA cases. For that purpose, the Environmental Tribunals Rules 1999 have also been issued. Copies of court orders must be sent to interested parties comprising Provincial and Federal environmental protection agencies. The Tribunal proceedings must be resolved within two months. Furthermore, the Environment Sample Rules of 2001 regulate the procedure used by laboratories in order to obtain tests, analyzes and samples of industrial units, containing the test procedure to violate the provisions of these rules. Cases can only be heard by the Court once the Pakistan Environmental Protection Agency, serious individuals or a local board have submitted written complaints for at least 30 months. The appeals against the decisions of Tribunals can be heard by the High Courts as per section 26.

The PEPA 1997 provisions overrule all other laws despite the contradictions in other laws. The Act contains four key provisions in order to rheostat pollution.

- Number 1: “Emissions of wastes or atmospheric effluents or noise pollutants that exceed national environmental quality standards (NEQS) are prohibited” (Section 11).
- Number 2: “There is absolute prohibition on the import of hazardous waste” (Section 13).
- Number 3: “Substances handling against the international or local law is prohibited” (Section 14).
- Number 4: “Motor vehicles that emit noise or air pollutants above the National Environmental Quality Standard (NEQS) or established environmental standards are prohibited. Dilution of gas emissions to acceptable levels or levels acceptable by NEQS is not allowed due to excessive blowing or mixing of air before release to the environment” (Section 15).

## **Implementation of Environmental Protection Laws**

It is obligatory for Pakistan to protect environment as per the international treaties and conventions. The PEPA 1997 is responsible to implement the obligations to ensure the protection of environment. If these pledges are not fulfilled, the result might be loss of credibility and financial aid. In spite of this fact, the PEPC, the higher body responsible for the protection of environment has not met for many years however; as per law it has to meet twice in a year. The reason for the irregularity of the meetings is that the president of the PEPC is the prime minister who is responsible to perform several essential functions of the state.

To remedy this problem, it is recommended that the Minister of the Environment become the president of the meetings that will normally be held, as required by law. In addition, the pollution protection program can be subdivided into prevailing and future undertakings. PEPA 1997 dealt with each of these accomplishments in sections 4 (f) and 8. The section 4 (f) of the Act provides that:

PEPC is required if necessary to take appropriate measures for the control of pollution brought about by any industry, department or agency. Towards controlling the pollution from different prospective actions, each project's proponent has to file an Environmental Impact Statement (EIS) with the Provincial Environmental Protection Agency as well as the Pakistan Environmental Protection Agency.

The fight against contamination regarding continued undertakings necessitates that NEQS to be implemented in all industries and the PEPC must meet this objective. Similarly, the powers conferred in paragraph 4 (f) must also be converted into action. To achieve the objective of environmental protection, three critical steps must be taken.

Firstly, raise public awareness of the environment to raise awareness about the purchase of equipment and its use for environmental protection. Secondly, changes in the environmental protection policy accompanied by appropriate incentives. Finally, curative environmental protection is more costly as compared to deterrence. It is imperative that environmental monitoring of ongoing undertakings be accompanied by tax motivations such as subsidies for the installation of effluent treatment plants and cleaning equipment, fiscal changes and a tariff structure that favors industries.

Moreover, section 8 of the PEPA Act also controls the launch of polluting installations. The courts of Pakistan are in the process of divulging environmental cases, saying that contaminators shall soon instigate to cause serious civil compensations. According to the 1997 PEPA, the refusal to present an Environmental Impact Assessment (EIA) implies prison punishment or a fine, or both. However, this penalty is considered too light.

It is necessary that a project be rejected or modified for the effective implementation of the Act. Moreover, PEPA should be able to count on specialized technical assistance to train its staff and allow it to carry out a thorough analysis of the Environmental Impact Assessment (EIA).

In this regulation, projects that require an EIA and an Initial Environmental Assessment (IEE) are listed in Appendices I and II. The Project Protagonist is bound to submit the EIA or IEE to the Federal EPA in accordance with Rules 3-4, and the recommended rates. The EIA and the IEE are equipped in accordance with the guidelines of Rule 6 of the Federal Environmental Protection Agency. Rule 9 states that preliminary reviews of EIA and IEE must be completed within ten business days after the submission of EIA and IEE. The proponent must meet the objections, as appropriate, while providing additional information that the federal EPA may request.

### **Environmental Protection in Islam**

Allah has made human beings his khalifa on earth. Therefore, man being the steward of Allah is responsible to manage the earth according to the intentions of his Creator. He is thus empowered to maintain it with caution, as well as exercise its powers as a trustee, according to the limits defined by Allah. He has created all the resources on which our life depends and has given them in the care of man. The Prophet said, the world is lovely and green, and in truth Allah, made humans his stewards in this world, and see how humans take care of it (Saheeh Muslim). Likewise the Quran says:

“ And He has set within it mountains standing firm, and blessed it, and ordained in it its diverse sustenance in four days, alike for all that seek.” (Quran 41:10)

Therefore, in Islam, it is the right of all species to benefit from these resources. Therefore, man must take all necessary precautions in order to ensure the protection of rights of all others. Likewise, man might not consider what is prohibited for one and other generations. Rather, it is a shared duty of everyone to contribute for making the best usage of nature, without affecting the rights of future generations. Therefore, man must ensure the protection of natural resources; so that the future generations could benefit from them equally.

The Prophet declared, if any human being sows a field or plants a tree and other creatures eat from it that will be considered as charity on their part. Moreover, if someone plants a tree, neither humans nor any other creatures eat it unless it is considered their charity. At some other place, the Prophet said: If the day of revival arrives to one of you when you have a

seedling in your hand, plant it (Saheeh Al-Bukhari, Saheeh Muslim). The Quran says:

“We made from water every living thing...” (Quran 21:30)

“It is He Who sends down water from the sky; and thereby We have brought forth the plants of every kind...” (Quran 6:99)

“And you see the earth barren and lifeless, but when We pour down rain upon it, it stirs and swells, and puts forth growth of every resplendent kind.” (Quran 22:5)

Allah has additionally revealed to the purposes of lake, sea, and ocean water, as these sources are the habitat of various creatures which is significant for the perpetuation and development of life.

“It is He Who has made the sea of service, that you may eat thereof flesh that is fresh and tender, and that you may bring forth from it ornaments to wear, and you see the ships therein that plough the waves, that you may seek of His bounty.” (Quran 16:14)

“Lawful to you is the pursuit of water-game and its use for food a provision for you, and for those who travel...” (Quran 5:96)

Undoubtedly, the preservation of water is essential for the conservancy and maintenance of life in different species including plants, animals and human beings. This preservation is mandatory under Islamic law; because any act hampering the genetic and social functions of that component, either extinguishing it or contaminating it by adding an ingredient which is making it an inappropriate environment for living beings.

Likewise the air, soil and land are also significant for the preservation and conservancy of life. Air is inevitable for breathing for all terrestrial creatures as well as for pollination. Allah says:

“And we send the fertilizing winds...” (Quran 15:22)

Moreover, the air is another indication of Allah’s supremacy as well as the accuracy in His creation. The Quran says:

“Verily in the creation of the heavens and the earth; in the alternation of night and day in the change of the winds, and the clouds compelled between heaven and earth surely there are signs for a people who have sense.” (Quran 2:164)

Moreover, the land is also important for all terrestrial beings being a source of livelihood. The soil has been made fertile for the growth of vegetation upon which the life of all creatures depends. Moreover, the mountains have been created to store the rain water in order to maintain the scab of earth, as is mentioned in the Holy Quran:

“Have We not made the earth a vessel to hold the living and the dead? And We have made in it lofty mountains and provided you sweet water to drink.” (Quran 77:25-27)

“And the earth, We have spread it out, and made in it mountains standing firm, and grown in it everything in balance. And We have provided in it sustenance for you, and for those whom you do not support.” (Quran 15:19-20)

“And a sign for them is the lifeless earth: We bring it to life and bring forth from it grain of which they eat. And we have made therein gardens of palms and vines.” (Quran 36:33-35)

In the light of the above injunctions, it is our responsibility to maintain the health and efficiency of soil by preventing its exposure to destruction of any kind by way of building, farming, grazing, forestry, and mining instead to preserve it from degradation and enhance its fertility, as the destruction of land leads towards the destruction of life on earth which is unconditionally prohibited in Islam.

Moreover, the plants and animals are also of paramount importance being a living source of nourishment without which no species could survive. In addition, plants are the source of fertility in soil and shelter it from destruction by wind and water. Allah says:

“Then let man consider his nourishment: that We pour down the rain in showers, and We split the earth in fragments, and therein make the grain to grow, and vines and herbs, and olives and palms, and gardens of dense foliage, and fruits and fodder - provision for you and your cattle.” (Quran 80:24-32)

Islam accentuates to use the procedures for ensuring the survival of living beings. The complete obliteration of all species of animals or plants is not justified; none should be ingathered at a rate greater than its natural regeneration. In other words hunting, fishing, forestry and the extraction of wood and fuel is permissible to the extent of getting food but prohibited if it's done for mere leisure or sport. The Prophet said: the kind-hearted deserve mercy from the Almighty. Therefore, have mercy on those on earth, and the Almighty will have mercy on you (Sahih Al-Bukhari, Vol: 7, Chapter: 67). Moreover, the command of Allah is to be kind to everyone. That means, when you kill and slaughter, do it with kindness. Also, sharpen your sword and let it soothe (Abu Dawud, Saheeh Muslim, Book: 21, Hadith: 4810).

Muslim legal scholars narrated that Allah's creatures are inviolable even during war times according to the teachings of the Prophet; as the Prophet declared the slaughter of any seized livestock a form of corruption.

He said: these are the animals that are inviolable just like women and children. Quran says:

“And when he turns away, he hastens through the land to cause corruption therein and to destroy the crops and cattle: And God loves not corruption.” (Quran 2:205)

The distinguishing feature of Islamic law proclaims the legal rights of animals as well, which the courts and hisbah's office can enforce. According to Muslim Jurists: animal rights arise when the situation is such that no benefit arises; do not wear them beyond what they can bear; that he has not united them to anything for which he would be injured, whether of his own kind or of another kind, and if he broke his bones or struck himself or herself; that he kindly kills them if he kills them, and that they do not scourge their skin and break their bones until their body has cooled and their life is dead; do not sacrifice their little ones in front of them and separate them individually; make their rest and watering places comfortable; that the males and females could gather comfortably during the seasons of their breeding; and does not throw whatever he takes in the chase; likewise, do not shoot at them in a way that could result in breaking of their bones or destroys them in a way that makes their meat illegal/haram to eat. (Abu Dawud, Saheeh Muslim, Book: 21, Hadith: 4732-4817).

The prohibition of any kind of damage is the key principle and philosophy of Islamic law. Waste and the escape of a common man and the usage of contemporary technologies must be disposed of carefully for the protection of environment from venality and falsification. In addition to this, it is essential to shelter people from the harmful outcome of their impact on the environment, as well as guarantee the fortification of supplementary environmental considerations. The larger portion of accretion of waste is due to us. However, the prohibition of waste imposed by Islam necessitates the recycle and reuse of materials and wastes whenever possible, rather than throwing them away as garbage. In other words, it means the destruction cannot be eradicated by creating even more destruction.

In-fact, the usage of these materials should be prohibited if their harmful effects are greater than benefits and replace them with harmless alternatives. Similarly, the use of pesticides including insecticides and herbicides should be harmless to the environment; if it's not possible; their usage must be banned and should be replaced with natural fertilizers or more effective alternatives. However, if the usage of such pesticides is inescapable: in that case the situation of extreme necessity makes prohibited things permitted. However, such need will be evaluated according to its worth and what is allowed due to an excuse is no longer allowed with the cessation of that excuse.

The values and principles of Islam require the least destructive means of pest control. Preventive methods, biological control measures, non-toxic substances must be preferred as far as possible in relation to their most destructive solutions. In addition, its application must be monitored carefully in order to protect human life, crops and livestock.

In addition, the principles aforementioned are also applicable to radioactive substances, which are not only awfully toxic; rather leave their effects for very long periods. The usage of such substances on people and ecosystems should be strictly prohibited. Moreover, the disposal of all radioactive waste satisfactorily is highly necessary. Extraordinary deterrents are needed to stop the ejection of any kind of such wastes in order to avoid their adverse effects.

Meanwhile companies, media and transport generate noise, it is required to dig out the means to avoid and reduce this noise. Noise also has a detrimental impact on environment. Therefore, there is need to reduce and prevent this damage as much as possible, in accordance with the norms and rules of Islamic law.

Similarly, narcotic drugs also have a detrimental outcome on the physical and mental health of human beings. It is a known fact that intoxicants and other drugs cause significant physical, social, and psychological disturbances in humans. That is why these types of intoxicants and psychotropic drugs have been banned in Islam. Its production and marketing are also prohibited, which is the evidence of seriousness of Islam for creating the legislation for more than fourteen centuries in order to protect the living beings and preserving the environment from all types of venality, destruction and contamination. Islamic principles of Environment postulate that: What is essential to fulfill an authoritative obligation is, in itself, compulsory. Moreover, the damage should be removed as much as possible.

## **Conclusion**

The industrial revolution, commercialization and modernism are resulting in global warming which is damaging the environment ruthlessly in many ways. The basic elements responsible for the life of a living being are in severe danger such as: water, air, crops, plants, trees and all other living species. Therefore, it is highly necessary to save the environment in order to provide a healthy life to our generations. For that purpose, environmental protection laws have been introduced all over the world; so has been done in Pakistan. This paper analyses the PEPA 1997 independently and/or along with the Islamic law of environmental protection. The discussion and examination of these laws find out that protection of environment is at the heart of both

laws as a top priority. Punishments have been inflicted in both laws for the wrongdoers who damage the environment just to get their business or other benefits. However, the problem or biggest hindrance explored by this paper is the actual implementation and enforcement of these laws. The regulatory bodies should take a keen interest for their proper implementation as without implementing these laws; it would not be possible to achieve the goal targeted by these laws.

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