

# **Brief on Environmental Legislation in Pakistan**

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Policy Brief Series # 7

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**A publication of the Sustainable Development Policy Institute (SDPI).**

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PB- 007- 001- 025- 1999- 004

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# Brief on Environmental Legislation in Pakistan

Abdul Matin Khan

## Introduction

1. This policy brief is being written for the Ministry of Environment in response to a letter from them. The ministry is compiling this information to prepare a country paper for a joint UNEP/SACEP/NORAD<sup>1</sup> project on environmental legislation in South Asian countries. The findings will be published in a handbook on environmental law and policy. The views expressed in this paper are entirely those of the author.
2. Environmental protection has long been a concern of the Government of Pakistan. However, the understanding of environmental issues, their relation to development and their translation into action is yet to be approached in a systematic and effective manner. The National Conservation Strategy (NCS) prepared in 1992 was a major step in setting goals for natural resource conservation and this led to the adoption of a plan of action for the next 10 years (1993-2002).

## Existing Policy Directives, Legislation and Institutional Arrangements

3. The NCS recommended visible and substantial institutional development to support implementation of identified programs in the action agenda for government, departments, districts, communities, corporations, communities, NGOs and individuals. It recommended focusing on incorporating sustainability criteria in mandates and objectives, just as are normally included financial and legal implications in policy decisions. As a result of some of these recommendations, an Environment Section in the Planning Commission, an NCS unit in the Ministry of Environment and Environmental Cells in provincial P&D departments have already been created. Two of these institutions at the federal level alongwith two NGOs (IUCN and SDPI) are the four partners in the Pakistan Environment Programme (PEP), funded by Canadian International Development Agency (CIDA).
4. The first major consolidated environmental legislation, the Pakistan Environmental Protection Ordinance (EPO), was promulgated in 1983. It created a very high level policy making forum called the Pakistan Environmental Protection Council (PEPC) under the chairmanship of the Prime Minister. The law also created one Environmental Protection Agency (PEPA) at the federal level and four Environmental Protection Agencies (EPAs) at the provincial level. These institutions while founded, remained practically inoperative for more than a decade. The EPO 1983 was improved after an extensive and prolonged consultative process with all stakeholders and a new law, the Pakistan Environmental Protection Act, was promulgated in December 1997. This law has included several provisions to enhance the enforcement powers of government. It also empowers all affected citizens to approach the courts for any environmental damage. Special tribunals at the provincial levels will be constituted to hear such cases.
5. At present, an independent ministry for the environment and five environmental protection agencies at the federal and provincial levels are functional. The PEPC has

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<sup>1</sup> UNEP: United Nations Environment Programme  
SACEP: South Asia Cooperative Environment Programme  
NORAD: Norwegian Agency for Development

been constituted and notified, although it has not held its meetings very often. Two sub-committees: The Environmental Standards Committee (ESC) and the Experts Advisory Committee (EAC) were constituted by the PEPC in 1996, which have done very useful work for developing guidelines and regulations to implement environmental standards. The National Environmental Quality Standards (NEQS) were finalized and issued in 1983 but implementation had remained suspended due to some technical and institutional difficulties. Most of these issues have now been addressed through business-government dialogue in the ESC and a reasonably comprehensive set of regulations has been mutually agreed upon. The government is now planning to enforce the agreed system from July 1999. The NEQS have also been recently revised through private sector participation in the two sub-committees

6. Despite some shortcomings, the updated legislative framework is based on four essential principles: *decentralization* of environmental management in the form of delegation of monitoring and enforcement powers at the provincial level; *prevention* in the form of specific regulations for EIA to govern new economic activities; '*polluters payment*' in the form of a pollution charge; and *environmental improvement plans* to be negotiated with major polluters.

### **Adequacy of the Existing Legal and Institutional Arrangements, Major Challenges and Suggestions for the Future**

7. The legal and institutional arrangements will remain ineffective as long as we do not have a credible monitoring and enforcement system in place. It is estimated that about 80% of the industrial units are medium and small size industries having limited technical and financial resources and very limited knowledge of environmental issues. They would require sustained technical assistance for self-monitoring their pollution levels and reporting the same to the regulatory bodies. The regulatory bodies in the four provinces will have to supervise the process in about 10,000-12,000 industrial units on a regular basis. Presently, these bodies have very limited resources and trained manpower to accomplish these responsibilities. It is therefore of key importance that the required human resources and technical capacity is increased in the government as well as in the corporate sector.
8. A sustainable funding mechanism is necessary for gradual improvement of environmental conditions in the country. It is obvious that government is not in a position to undertake this work at public expenses. Donors would also like to see a transparent and dependable system of environmental improvement. This objective may be achieved by implementing the polluters pay principle already agreed through business-government dialogue. Government and industry have, however, adopted very different positions regarding institutional arrangements for the collection and disbursement of these funds. This issue should be resolved through resumed dialogue at the policy level.
9. A regular process of engaging the public through awareness programs and participatory mechanisms is also very essential for effective implementation of laws and regulations. It is important that rules for proprietary and public information are clearly agreed upon, so that public pressure could be effectively and genuinely used.
10. The regulations and quality standards developed through business-government dialogue have yet to be field-tested through phased implementation. A stop-start phenomenon or selective implementation signals that the government has only cosmetic commitment towards the environment. It is important that the management team remains watchful of the flaws and difficulties during the implementation process and be prepared and



equipped to revise some of the existing regulations and to develop new regulations for pollution prevention and pollution control. The present institutional arrangements are inadequate for this purpose. It is proposed that the technical and regulatory functions should be performed by two separate institutions within government.

11. The PEPC is headed by the chief executive of the country, who has to perform many other important state functions. Practical experience has shown that the Prime Minister has never been able to personally supervise the activities of this council and the proceedings have never been continuous and regular. A possible solution to this problem could be to nominate the minister of environment, who is the vice chairman of the council, as the acting chairman and be authorized to hold regular meetings as stipulated in the law.
12. In order to maintain the momentum and level of trust established through the consultative process in the recent past, government-business dialogue should be institutionalized at the national, provincial and local levels. It would require a clear set of rules to maintain a balance and ensure participation of the stakeholders as well as a movement in the right direction at the right pace.

### **Coordination Among Central, Provincial and Local Levels and Integration of Environmental Consideration into Economic Activities**

13. There appear to be no functional arrangements for coordination between federal and provincial management teams. All the four provinces are at different stages of environmental management with different financial resources. There are practically no institutional arrangements at the local/district levels. The PEPC, which is a nucleus to coordinate and supervise the enforcement of the provisions of law, is practically non-functional. The Environmental Protection Agencies, which have the functional responsibility to implement laws and regulations, are looking towards the political leadership for signals. The National Environmental Coordination Committee, as provided in the law, has no public existence. Committees of members and advisory committees for various sectors, which could possibly take this process further, have never been formed. To begin with, it is suggested that the tools for coordination and consultation, already provided in the law, should be implemented in letter and spirit.
14. Economic development and environmental improvement are considered by many to be in conflict. This is not practically true. Due to win-win scenarios, developed and developing countries are successfully demonstrating that the economic growth can be sustained while environmental degradation is kept under control. Industrial processes, for instance, can be made more economical as well as environment friendly if wastage of chemicals is reduced to minimum. Chrome wastage in leather tanning and caustic wastage in textile processing are two important examples. Similarly, in agricultural sector, the economy as well as the environment can be significantly improved if use of pesticides is reduced.

### **Areas in which Legal and Institutional Arrangements have to be Developed**

15. There are some areas in which existing laws and regulations are either non-existent or inadequate. Some of these areas are: promotion of cleaner production activities through negotiated environmental improvement plans and mandatory audits; waste recycling and waste exchange programs; banning of certain chemicals, products and management practices; imposition of fees and penalties and awards/positive incentives for institutions meeting environmental improvement targets.