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Article:	A Socio-Legal Approach towards the Concept of Polluter Pays Principle in Pakistan
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ABSTRACT

The present world is confronted with exceptional and unexpected ecological calamities. Deteriorating of climate of the earth is disturbing the nature and the normal assets as well as the means and cycles on which the existence on Earth depends. It is accounted for that contamination is engaged with over to Millions of passing and Billions instances of different illnesses in individuals all over the planet. About portion of Billion individuals in which the greater part is of ladies and youngsters, lives in a seriously contaminated regions. The inability to apply the PPP in Pakistan throughout recent years has had a few unfortunate results for ecological administration notwithstanding the generally recorded critical natural debasement because of ridiculous contamination release. These incorporate restricted development of ETPs, weighty reliance on the public authority and worldwide givers to fund contamination control speculations, huge functional issues at the two working CETPs, botched chances to fabricate financially savvy CETPs and negligible ecological upgrades from insulated interests in ETPs. The paper is an attempt to highlight the importance of the principle in terms of ecological protection in Pakistan.

Key Words: Polluter, Pollution, Environment, Human Rights & Legal System

Introduction: Background of the Study

1. Environment

Climate implies the thoroughly encompassing circumstances, the regions in which something exists or carries on with, normal life on the planet, the worldwide environment. The circumstances that encompass some body or something like that: the impact of the development, wellbeing, progress, and so forth, of a person or thing, the normal world. Human advancement has by and large been parasitic on the climate since there is major association between climate, the physical, organic and social environmental elements and their connections, that support all living things. When the trustworthiness of the planet's biological systems endured unevenness. Human instability increments. An unnatural weather change, ozone exhaustion and contamination are a portion of the adverse consequences of existing improvement procedure, which seriously influence the human existence (Ahsan and Khawaja 2013). The idea of improvement ought to be to safeguard soils, creatures, backwoods, human wellbeing and the environment yet not simple emphasis on progress of advancement. Consequently, there is a need to recognize an improvement that advances both biological turn of events and global practicality (Ambec and Ehlers 2016).

The term Environment amounts to something that encompasses us it tends to be living are non-living things. It incorporates actual synthetic and other regular powers residing things live in their current circumstance they reliably connect with it and adjust to conditions in their current circumstance in the climate there are various collaborations between creatures plants soil water than other residing and non-living things. The term biological system and environmental elements are the normal equivalents for the word climate anyway they vary so that the term biological system incorporates the cooperation among organic entities and its encompassing the environmental factors thusly allude what encompasses an Organism are a populace .in such manner the climate is fairly a huge idea where is the term encompassing is generally more unambiguous (Ehtasham, Sherani et al. 2022).

The Global Warming is one of the serious problem among these associated with these environmental issues the root cause of which is the Green House effect. Green House effect is the process of blocking the heat of the sun falling on the earth and due to its absence there exist clear scientific evidence that everything on this mother earth shall freeze and the freezing point of Minus 18 degree centigrade; pieces of climate we are utilizing language that is qualities of a framework examination approach or a frameworks structure in applying it to comprehension of ecological science in administration without a doubt numerous ecological researcher now 10s to think as far as the entire earth framework and its parts sub frameworks and cycles (Glazyrina, Glazyrin et al. 2006).

Contamination is liable for in excess of 500 Million sudden passing cases in exceptionally dirtied urban areas of the world. As indicated by a gauge it is said that the exhaustion of Ozone layer will result more than 350.000 skin disease across the world and around 1.8 Million waterfalls cases also. Practically all around the globe individuals are dealing with natural issues looking like eco decline, deficiency and pollution of water, land slide, fish kill, air and water conceived illness and deforestation incline (Grossman 2006) Regular specialists carried a systems method for managing the assessment of biological issues, which provoked extended interest in social sciences for sorting out human associations, perceptions

and procedures towards the environment and partaking in natural planning with revolve around plan and development for chipping away at normal quality in all pieces of life.

1.1.Pollution

The bottom line of the problem is the constant increase in the emission of greenhouse gas caused by the numerous activities of the human beings. A small instance of such activities is the depletion caused in the Ozone Layer, which is actually a protective layer/cover that exists in the atmosphere with the ability to absorb up to almost 99% of the Sun's harmful ultraviolet rays. But a green gas reach the permanent layer and chemically reacts with Ozone whereby the ozone gas breaks down into oxygen leading these harmful rays to the exposed earth and adverse effect on Human, Animated as well increasing the temperature on this mother earth.(Schmidt 2004).

1.2. Polluter

A person or a thing responsible for contaminating the environment with harmful substances are known as polluters A person or organization that puts harmful substance or waste material into the water air etc. causing harm or damage to the environment are simply the polluter (Hassan 1996).

1.3.Pollutant

Pollutant is a substance or energy and produced into the environment that has undesired effects are adversely affects the usefulness of a resource. Excessive and unreasonable deforestation is also considered as one of the leading cause for the increase in the global warming which are produced the normal or routine household burning at large scale. Carbon Dioxide, Nitrogen Oxide, Cloro Floro Carbon, Methane, Ferine and Helons etc includes in the greenhouse gases. Global warming is not only for the sake of increased temperature on the mother earth rather the experts have warned that it result in a huge loss to a substantial portion of the world life. There is constant increase of sea level and has reached to 18 centimeter due to the non-stop melting of glaciers and there are further bright chances of its rapid increase as well (Hassan 2007).

2. Background of the Polluters Pays Principle

The base of this principle may be found in the early 1970. Global warming is also resulting in the increased natural calamities, natural disasters and flooding frequently hits many parts of the world with an unprecedented scale. This is not enough; it has been predicted that a major portion of the world will be faced with dearth and drought and some will become flood areas in the near-future. These atmospheric changes warrants immense for the huge economic loss as well to rising heat and temperature, according to the experts, by 2050 estimably more than 25 million people will have shuffle/migrate due to global warming, and atmospheric changes as due to rise in the sea level will ultimately cover hundred and thousands of islands and people living on the coastal areas. This phenomenon is not just dangerous for human being rather it is extremely deadly and lethal for other biodiversity on the mother planet as well as due to the increased temperature, drastic changes are occurring in our ecosystem and leading difficulties for the organism in terms of their food requirements.

3. Recognition of Healthy Environment as a Human Right

On 28 July 2022 history has been made at the Unified country General Gathering where a goal has been passed perceiving admittance to clean Sound and Supportable climate as a basic freedom such goal was sat back when world is confronting different ecological emergency like

environmental change, contamination, biodiversity misfortune, water and food tainting an Earth-wide temperature boost and so on in this goal it was held that nobody can remove clean air, safe water, reasonable environment and nature from people (Luken 2009). Although this goal isn't restricting on the 193 individuals from the Unified country, however, individuals are confident that this goal will speed up the 193 individuals from the Assembled countries to make climate amicable approaches. This goal will assist individuals with raising their voices for clean air, safe water, quality food, and solid environment. Before this goal, the Unified countries Common Liberties Committee has likewise embraced a goal on eighth October 2021 in which a right to sound climate was perceived as basic freedom.

It is normal that the reception of this goal would acquire some certain change mankind's set of experiences as far as Natural Security, which is fundamental and vital condition for endurance and climate. People sat tight quite a while for this acknowledgment as this goal isn't the result of single gathering; however, it holds a constant delay and dynamic battle in history as before this goal we were missing of its acknowledgment universally. In history without precedent for 1962, a woman named Richard Carson who passed on from cellular breakdown in the lungs in her book "Silent Spring" interestingly recommended that sound climate should be perceived as a common freedom as the need might arise of the time she sees that the deformity lies on shoulder of our progenitor design in working out solid climate as a basic liberties in General Statement of basic freedoms sanction.

She contended in her last discourse before the logical warning board of trustees of the President Kennedy that human requirements to get structure there interruption of toxins applied by others. In 1971, Richard Falk composed a book, "The Endangered Planet," in which he sees that human endurance and success is chiefly subject to climate and the world necessities to perceive the relationship of people and climate. In 1968, to resolve the issue of climate for the security of human endurance, Sweden government presented a proposition to joined country for the Global Gathering on climate conservation at long last in June 1972 without precedent for global meeting was held in Stockholm with the name of joined country gathering on human climate. In this gathering, 113 states as well as worldwide association partook. The plan of the meeting was "just a single earth." In this gathering, interestingly, the right to solid climate was perceived likewise they intergenerational climate and value was gotten. In this meeting, it was held that people not just hold a major right to you in a solid climate yet in addition hold the obligation to safeguard and work on the climate for present and group of people yet to come (Luppi, Parisi et al. 2012).

The relationship of life and climate are interdependent and in spite of these natural gatherings and statements, environmentalists are of the view that universally the option to green and sound climate was not safeguarded as they view that globally the solid climate as a right has no component to control as it isn't safeguarded in any settlement or any independent structure and his reality just in Moral and moral terms like in statement goals and shows while provincially we have security of right to sound climate as practically 70% of the states have perceive this right. In their constitution, public regulations and their legal decisions anyway this pattern is created after the Stockholm meeting on human climate as before that none of the state has perceived the right to sound climate as a crucial right (Nadeem and Hameed 2008). In 1976, Portugal became the main country to perceive the sound climate and included their constitution. As per report issue in 2021, very nearly 155 states have perceived the right to solid

climate public in spite of such acknowledgment we are running of compelling implementation sound climate anyway after the Unified country 28 July 2022 reception of goal it is normal that this goal won't just go about as an impetus for expanding the quantity of states broadly to perceive a manual for sound climate however will likewise upgrade and speed up the powerful requirement of the right to solid climate yet it ought to be noticed that except if states make themselves bound to the worldwide responsibilities such endeavours of the Assembled countries gathering is of no utilization (Namanya 2018). So states are expected to carry out such worldwide responsibilities by making ecological well-disposed arrangements to get and make charming human existence. Following 20 years of the Stockholm meeting individuals accumulated globally in June 1992 again in Rio De Janeiro Brazil to get a few legitimate changes people conduct for the protection and improvement of climate. In recent years, nearly 172 states partook this time in this gathering 27 standards were made for the conservation and improvement of climate to empower people to appropriately partake in the life. The practical advancement idea was additionally presented at this meeting and the vital 16 of the said show is connected with the polluter pays standard which expresses that.

3.1. Environmental Legislation in Pakistan

3.1.1. Constitution of Pakistan

We all know that it is the industrial development, the infrastructural development such as roads, rails and buildings are responsible for the deforestation and extinction of agricultural lands. For ensuring sustainable development, environmental issues such as, air pollution, water contamination, soil pollution, deforestation, global warming, climate change and the depletion of natural resources need to be considered. The constitution of Pakistan 1973 does not have expressly provide any fundamental right related to the environment but the supreme court and its interpretation various cases have decided that the right to life which is insured under article nine of the constitution of Pakistan Involve right to a healthy environment and the right to life depends upon the right to a healthy and dignified environment. Summary of Shehla Zia case;.

3.2. Public Ecological Strategy

The Public Ecological Approach of 2005 gives expansive rules to the central government, common legislatures, governmentally directed domains and neighbourhood states for tending to and guaranteeing compelling administration of their natural worries. It contains 107 rules recorded as sectorial rules, cross-sectorial measures and strategy instruments, yet doesn't determine the uncertainty about the monetary obligation regarding contamination reduction. It doesn't embrace the PPP and in that frame of mind on monetary and market-based instruments (segment 5.4), doesn't specify contamination charges or duties, maybe in view of the bombed work to carry out them portrayed above: But it actually holds out the chance of special cases for the PPP, for example, exceptional credits, low revenue advances and endowments, which may or not be reliable with the exclusions distinguished by the OECD relying upon the particulars of the exception (Nadeem and Hameed 2008).

3.3. Judicial Activism in Developing Environmental Jurisprudence

The main component in the ecological scene of Pakistan is the legal activism that has answered public interest natural case. This has been worked with by Article 199 of the Constitution of Pakistan which presents writ locale on the High Courts to implement Principal Privileges and Article 184 (3) which gives purview on the High Court to uphold Major Freedoms of "public significance". These Articles have been regularly conjure for the suomoto

purview of the High Court and the High Courts (the "predominant courts"). The better courts have been generously responsive than ecological issues and grievances, remembering for the jurisdictional issue to Locus Standi, the fundamental assemblage of natural law in Pakistan has been set somewhere near the High Court and the High Courts.

3.4. Milestone Green Points of Reference

- In the milestone choice in *Shehla Zia versus WAPDA 1*, the High Court of Pakistan held that the right to a spotless and solid climate was important for the Principal Right to respect gave in Article 14. For this situation High Court likewise presented the preparatory rule of natural regulation, with explicit reference to its consideration in the Rio Statement on Climate and advancement into Pakistani law.
- In the *Khewra Mine Case*² the applicants looked for implementation to one side of the occupants to have spotless and unpolluted water against coal mining exercises in an upstream region. The High Court confirmed its sweeping way to deal with Article 184 (3) and expressed that 'the option to have unpolluted water is the right every individual any place he resides.
- This has been worked with by Article 199 of the Constitution of Pakistan which gives writ purview on the High Courts to uphold Key Privileges and Article 184 (3) which presents ward on the High Court to authorize Principal Freedoms of "public significance". These Article have been habitually conjure for the suomotor locale of the High Court and the High Courts (the "predominant courts"). The better courts have been generously responsive than natural issues and objections, remembering for the jurisdictional issue to locus standi, the primary group of ecological law in Pakistan has been set somewhere around the High Court and the High Courts.

4. Negative Consequences of not Applying PPP

There are a few unfortunate results of the inability to explain the degree to which industry is completely or just somewhat liable for bearing the monetary expense of contamination reduction. Climate Change is caused by greenhouse gases; greenhouse traps the sun's heat in the atmosphere and raise temperature. Greenhouse gas is produced whenever we take something from the ground and burn it for a transport of energy need; if it is coal, if it is wood and if it is gas whatever it is... if you burn it; it will create at some level greenhouse gas. That is what the industrial farming does this to global temperature. (Namanya 2018).

4.1. Continuing Environmental Damage

With having a population of over two Hundred Million people, with rapid growth in economy, Pakistan has a significant impact on its natural environment. Water scarcity is one of the most pressing environmental issue with which the people of Pakistan are faced is related to water contamination and scarcity of water. With an arid climate and rapidly increase in the population, Pakistan is faced with this acute problem of water crisis. According to some of the statistics, it has been predicted that by end of 2025 nearly of the water resources will be depleted completely. This will have a far-reaching adverse impact on the country's industry, agriculture and human health. In addition to the natural causes like drought, climate change, poor management of the water resources along with lack investment in protecting the water resources are also the contributing stakeholder towards this crisis. (2005). These investigations evaluate to the degree conceivable the harm from all wellsprings of contaminations; it was impractical to disaggregate the harm because of modern poison release alone.

5. CONCLUSION

The inability to apply the PPP in Pakistan throughout recent years has had a few unfortunate results for ecological administration notwithstanding the generally recorded critical natural debasement because of ridiculous contamination release. These incorporate restricted development of ETPs, weighty reliance on the public authority and worldwide givers to fund contamination control speculations, huge functional issues at the two working CETPs, botched chances to fabricate financially savvy CETPs and negligible ecological upgrades from isolated interests in ETPs. No place is the adverse result of inability to apply the PPP more clear than in the fruitful refusal of certain leather experts in Korangi and numerous leather theatres in Kasur to pay for the activity and upkeep expenses of the CETPs.

Air Pollution: second most important environmental hazard in Pakistan is the air pollution or the substandard air quality in Pakistan; as per the report of World Health Organization, Pakistan has reached to the highest level of air pollution in the world with levels of particulate matter far exceeding the sage level. This has a significant adverse impact on the public health, leading to respiratory diseases and other health issues among the people of Pakistan. The leading sources of the air contamination in Pakistan are mainly the transportation, industrial activities and burning the routine fossil fuels.

Deforestation; Pakistan's forests are also under threat due to deforestation, which is driven by a range of factors such as logging, agriculture, paper and urbanization. Deforestation has severe impacts on the natural environment of Pakistan leading to soil erosion resulting in flooding, loss of our biodiversity and increasing carbon emissions. Beside this it also has economic and social impacts, as forests provide important resources and livelihoods for the local communities. Pakistan has made efforts to address deforestation through measures such as tree-plantation campaigns and regulations on logging, but more needs to be done to protect the country's forests.

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