**ENVIRONMENTAL LAW IN PAKISTAN**

**INTRODUCTION**

Although a series of Acts, Ordinances, and Codes covering environmental issues in different sectors existed before the 1983 Ordinance these were fragmented, insufficient, outdated, not specific and do not particularly address the environmental aspects of their primary purposes.

These were however exceptions. For example, the Factories ACT 1934 includes restriction on discharge of industrial effluent as well as provisions for air pollution control, although all have been poorly monitored and enforced.

**THE PAKISTAN ENVIRONMENTAL PROTECTION ORDINANCE 1983**

The purpose of 1983 Ordinance was “to provide for the control of pollution and preservation of living environment.”

The most substantive provisions in the Ordinance included:

* The establishment of NEQSs and their revision as and when necessary
* The establishment of systems for survey and monitoring of industrial pollution and compliance with regulations
* The requirement for and Environmental Impact Statement (EIS) for new industrial projects
* Penalties and fines which may imposed on offenders under the ordinance

The PEPO 1983 was deficient in several respects. For instance, it:

* Did not specifically refer to the establishment of provincial EPAs
* Gave the Federal EPA the power to impose specified penalties contravention of the Ordinance , but no specific powers to demand the cessation of a polluting discharge
* Made no reference to control of noise pollution
* Excluded public sector polluters (they were not accountable for violation of legal provisions of PEPO 1983)

Moreover PEPO 1983 could not be implemented due to:

* Political interests (rigorous industrialization, decentralization privatization policies were being perused)
* Rules and regulations could not be Framed
* The PEPC could not meet to NEQSs could not be approved although it should meet at least 2 times a year (1st meeting of PEPC held in 1993)
* Lack of institutional framework for implementation (e.g. EPA Punjab came into being in 1987, EPA Baluchistan in 1992; still lacked powers and technical skills to implement the law)

These and other deficiencies were soon recognized by the government and it appointed a team of legal experts to propose solutions to overcome them. The team completed its work by the end of 1993 and drafted a new environmental protection Act for Pakistan.

**THE PAKISTAN ENVIRONMENTAL PROTCTION ACT 1997**

**Salient Features**

* The PEPA 1997 was prepared in consultation with the public. (The draft was widely circulated for comments to government’s agencies, industry representatives, research organizations, NGOs, and the general public through a series of workshops and seminars. This wide scale public consultation was a new step taken by the government as the 1983 PEPO did not undergo a similar process)
* It was approved by the Parliament (NA passed it on Sept 3 and Senate on Nov 7 1997)
* The Act is wider in scope and more comprehensive than PEPO 1983. For example, it comprises of 34 sections ( as compared to 17 in PEPO 1983) and contains a large number of definitions of various terms (45 as compared to 25 in PEPO 1983)
* The purpose of 1997 Act is “to provide for the protection, conservation, rehabilitation and improvement, for the prevention and control of pollution, and promotion of sustainable development.”
* The Act specifically refers to the establishment of provincial EPAs thus providing statutory cover
* The 1997 Act contains comprehensive provisions for EIA. (PEPA (review) of IEE/EIA regulations 2000, and sectoral guidelines already formulated)
* The act provides for the establishment of provincial sustainable development funds ( Provincial Sustainable Development Fund Board(Procedure) Rules, 2001 and Provincial Sustainable Development Fund (Utilization) Rules, 2003 have been formulated)
* The Act prohibits import of hazardous substances and restricts their use (Hazardous Substances Rules, 2003 (Draft) and Hospital Waste Management Rules, 2005 have been formulated.
* There is a provision for imposition of high level of penalties in case of violation of PEPA 1997 and rules made under the Act (for industry, up to one million rupees, 1 lac per day in case of continued violation; for transport, up to 1 lac, 1000 per day in case of violation.
* The Act ensures that action against public sector polluters like government agencies and corporate bodies can be taken.
* The PEPA 1997 introduce the concept of environmental tribunals and environmental magistrates for quick dispensing of environmental justice (Environmental Tribunal Rules, 1999 have been framed and Environmental Magistrates designated)
* The Act deals with environmental regulation of motor vehicles (Euro-II complaint Emission Standards for new diesel and petrol vehicles exhaust & noise and NEQSs for Motor Vehicle Exhaust and Noise for in-use Vehicles 2009 have been formulated).
* There is a provision in the 1997 Act for preparation of rules for implementation of international environmental agreements.
* The 1997 Act also provide for setting up of National Environmental Quality Standards(NEQS) for different areas and from different sources. In addition, standards less or more stringent than NEQSs can also be set up (NEQSs for municipal and industrial effluent 2000, and NEQSs for Ambient Air, Drinking Water Quality and Ambient Noise 2010 have been formulated.
* The Act prohibits discharges/emissions in excess of NEQSs( National Environmental Quality Standards ( Environmental Laboratries Certification) Regulations 2000, Environmental Samples Rules, 2001 National Environmental Quality Standards (Self-Monitoring and Reporting by Industries) Rules,2001 and Monitoring and Reporting by Industries Rules, 2001-Amended have been formulated)
* Provisions for public participation in environmental protection have been strengthen (e.g. through creation of NGOs, CBOs and VOs to prevent and control pollution and promote sustainable development)
* There is provision of in the 1997 Act to introduce market based instruments to control pollution (The Pollution Charge for Industry (Calculation and collection) Rules, 2001have been framed)

**Weakness Feature in the 1997 Act**

* Pollution charges are worked out on the basis of concentration in the excess of NEQSs rather than the excess of pollution load
* No ambient water quality standards to the complement the NEQSs have so far been established. Note that ambient standard define the limits of constituents concentration with in the water bodies so as to the minimize the risk of health to humans, marine life or the in the general

**The Feature of 1997 Act after the 18th Amendment**

* The PEPA 1997 is likely to confine to Islamabad since each Province will now be able to legislate on the subject of Environment.
* This is an opportunity for provincial legislatures to close gaps in the legislative framework for sustainable development and the welfare of general public
* Although theoretically provinces be effectively able to do so, it is widely believed that they lack the capacity to address such issues

**THE PUNJAB ENVIRONMENTAL PROTECTION (AMENDMENT) ACT 2012**

The Punjab EPA 2012 is nearly the copy of PEPA 1997.some of the minor changes include:

* Wherever appropriate the World Pakistan, Federal Government, Federal agency, have been substituted respectively with Punjab, Provincial Government, and Provincial Agency
* The Chief Minister of Punjab or his nominee Will claim the meetings of Punjab Environmental Protection Council (formed in July 2013 and to be comprising of 35 members)
* The penalty of industry in case of violation has been enhanced up to five million rupees (instead of one million) and five Lac ( instead of 1 Lac ) per day in continued violation

**RECENT DEVELOPMENT**

* In May 2012, the National Judicial Conference resulted in the establishment of “Green Branches” in the Supreme Court and High Courts that would hear Environmental cases.
* The Lahore High Court took the initiative and, in June 2012passed orders in a public interest Petition seeking the clean-up of the River Ravi to establish a river Ravi Commission to make proposals regarding sustainable solutions to the problem
* The Commission submitted its interim report in December with a pilot proposal to set up a constructed wetland near the Ravi River.