

RESEARCH PROJECT FOR DEGREE

**Environmental Rights as Human Rights: Comparative Study of
Multiple Approaches towards its Recognition**



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PLAGIARISM REPORT

SUPERVISOR'S APPROVAL

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7th May, 2018

Department of Law

Bahria University, Islamabad

Research Project for the Degree of LL.B.

DECLARATION OF ETHICAL CONDUCT IN RESEARCH

We, as students of Bahria University, hereby declare that firstly, we have abided by the research ethics while writing this research project.

Secondly, we have not committed any acts that may discredit or damage the credibility of our research. These include, but are not limited to: falsification, distortion of research findings, or plagiarism.

Thirdly, we have subjected this work to plagiarism check before submitting the research project.

Date : 7th May, 2018

Degree: LL.B.

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We hope that through our work we have produced an easy and productive literature for people reading it. Any error found in the content of this thesis shall be our responsibility rather than people who guided us through out.

ABSTRACT

The present research project is related to the different aspects of environmental law. The purpose of study is to identify challenges and emerging problems in Pakistan as well as internationally as it is a transboundary issue. The first and foremost basic discussion in research project is about the legal recognition of right to adequate environment as a fundamental right. The work also embodies the debate over constitutionality of environmental right whether affects the protection and working of courts or it is a mere paper tiger? Additionally, it examines the laws, regulations and administrative bodies working at different level. In the following research project, the environmental injustice and approach towards it in USA and EU has been deliberately discussed. It also addresses different approaches towards the environmental injustices existing in different regions of world. The thesis shall also propose the recommendations on a basic level.

LIST OF ABBRIVATIONS

- ACHPR African commission on human and people rights
- AFCHPR African court on human and peoples right
- ECHR European court of human rights
- EIA Environmental Impact Assessment
- EPA Environmental Protection Agency
- GRI Global Reporting Initiatives
- IACHR Inter-American commission on Human rights
- ICCPR International convention on civil and political rights
- ICESCR International covenant on economic and social and cultural rights
- IEE Initial environmental examination
- NCS National Conservative Strategy
- NEQs National Environmental quality standards
- PEPA Pakistan environmental protection Act
- PEPC Pakistan Environmental Protection Council
- SAARC South Asian Association for Regional Cooperation
- SDF Sustainable Development Fund
- UNCED United Nation Convention Environment and Development
- UNHCR United Nations High Commission For Refuges
- WSSD World Summit on Sustainable Development

LIST OF CASES

- (1985) AIR (SC) 653. (Ind).
- (1991) WP (LAH) 9297. (Pak).
- Board v. M.Y Nayudu (2008) S.O.L. Case No. 53, scale 23.
- CBE v. EPA (2012) C.P.D (HC) 3851. (Pak).
- Gabčíkovo-Nagymaros (1997) ICJ Rep. 7, 91–92.
- Hope v. Fuels (1993) QBD (HC) (UK).
- Islamuddin v. Muhammad (2004) PLD (SC) 633. (Pak).
- Khewra v. Mineral (1994) SCMR (SC) 2061. (Pak).
- Kuimar v. Pradesh (1991) JT (SC) 538.
- LCB v. UK. (1998) ECHR 108.
- Mughal v. Jabir (2006) (SC) human rights case no. 3747, (Pak).
- Oposa v. Resources, (1794) 33, LL, M. 173.
- Ostra v. Spain IHRL (1994) ECHR 3079.
- Pavel Ocepek, Breg pri Komendi (1999) Up-344/96.
- Sheri-CBE v. authority (2006) SCMR (SC) 1202. (Pak).
- State v. Canada (1941) Arbitral Trib., 3 U.N. Rep. Int'l Arb. Awards 1905.
- State v. Wasa (2000) CLC (LAH) 471. (Pak).
- Suo Motu (2005) case No. 13 (Pak). See: Report 2005-2006, SC of Pakistan.
- Suo Motu (2010) SCMR (SC) 361. (Pak).
- Yousaf v. Punjab, CLC 576.
- Zia v. WAPDA, (1994) PLD (SC) 693. (Pak.).

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