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RIGHT TO SAFE WATER: ARGUMENTS FOR ITS LEGAL ENTITLEMENT IN PAKISTAN

GÜVENLİ SU HAKKI: PAKİSTAN BAĞLAMINDA HAK SAHİPLİĞİNE DAİR TARTIŞMALAR

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ABSTRACT

In Pakistan, where over 21 million people, or around 10% of the population, faces challenge of access to safe drinking water, this article discusses the serious problem of insufficient sanitation facilities and water purification systems. Even though 92% of the total population has access to potable water, only 36% of the total water is safe to drink. In addition, almost 75% of the population does not have access to proper sanitation, which increases the likelihood of water-related illnesses. A great deal of avoidable misery has ensued because of our inability to satisfy fundamental human needs. This study contends that the right to obtain clean water for human consumption is upheld implicitly by Constitution of Islamic Republic of Pakistan 1973 and explicitly by international human rights legislation, and the interpretations of Pakistani courts. By interpreting the access to safe water as a legal entitlement, it urges the government to make sure all its residents have access to clean water.

Keywords: right to safe water, human rights, constitutional right, right to life, human dignity, Pakistan

ÖZ

Bu makale, nüfusun yaklaşık %10'ununa tekabül eden 21 milyondan fazla insanın temiz içme suyuna erişim sorunu yaşadığı Pakistan'da, ciddi bir sorun olarak görülebilen yetersiz sanitasyon (hijyen) tesisleri ve su arıtma sistemlerini ele almaktadır. Toplam nüfusun %92'sinin içme suyuna erişimi olmasına karşın toplam suyun sadece %36'sı içmek için güvenlidir. Buna ek olarak, nüfusun neredeyse %75'inin uygun sanitasyona erişimi yoktur, bu durum da su ile bulaşan hastalıkların görülme olasılığını artırmaktadır. Temel insani ihtiyaçları karşılama noktasındaki yetersizliğimiz nedeniyle aslında büyük ölçüde kaçınılabılır olan bir sefalet ortaya çıkmıştır. Bu çalışma, bireysel tüketim için temiz su elde etme hakkının 1973 Pakistan İslam Cumhuriyeti Anayasası tarafından örtülü olarak, uluslararası insan hakları hukuku kuralları ve Pakistan mahkemelerinin yorumları tarafından ise açıkça desteklendiğini iddia etmektedir. Bu çalışma kapsamında güvenli suya erişimi hakkı hukuken ileri sürülebilir bir hak olarak yorumlanmak suretiyle hükümet tüm sakinlerin temiz suya erişimini sağlamaya çağrılmaktadır.

Anahtar Kelimeler: Güvenli (temiz) su hakkı, insan hakları, anayasal hak, yaşam hakkı, insan onuru, Pakistan

1. INTRODUCTION

The issue of access of safe water has only gotten worse since the latest rains.¹ Almost one third of Pakistan was submerged in water in July 2022 due to monsoon floods, which worsened the country's water and sanitation problems.² It may appear like flooding would alleviate a water deficit, but in fact, it contaminates the existing water supply much more. Since all life depends on water, everyone should have access to a reliable source that is both safe and plentiful. There are measurable health benefits that can be achieved by increasing access to safe drinking water. Water that does not cause a considerable risk to human health over the course of an individual's lifetime is considered "safe drinking water" according to the World Health Organisation (WHO).³ The WHO found that 80 percent of human disorders in developing countries are caused by biological water contamination.⁴ Due to inadequate sanitation and unsafely managed drinking water supplies, over 2.3 billion people worldwide are at danger of contracting water-borne diseases.⁵ Globally, water quality has been steadily improving, even without human intervention, according to the UNICEF Joint Monitoring Programme Report 2000–2017.⁶ Worldwide, it shows a 16% improvement in cleanliness and a 10% improvement in the availability of safely managed drinking water.⁷

Water contains a number of contaminants that must be carefully monitored and handled, including germs and viruses, metal toxins, industrial and domestic waste, medicines, and other potentially harmful substances. The present water crisis in Pakistan has several root reasons, including climatic changes that impact yearly precipitation, insufficiently built water storage structures, and governmental pressures. The substantial growth of both industry and people is another contributor to the increase in demand.⁸ In 2019, Pakistan experienced significant economic challenges, spending around USD 1.5 billion, because

¹ Waseem Ishaque, Khalid Sultan, and Zia ur Rehman, 'Water management and sustainable development in Pakistan: environmental and health impacts of water quality on achieving the UNSDGs by 2030' (2024) 6 *Frontiers in Water* 1267164.

² Rabeea Noor, et al., 'A comprehensive review on water pollution, South Asia Region: Pakistan' (2023) 48 *Urban Climate* 101413.

³ Jay Rajapakse, Miriam Otoo, and George Danso, 'Progress in delivering SDG6: Safe water and sanitation' (2023) 1 *Cambridge Prisms: Water* e6.

⁴ Prosperous Ahiabli, Peter Adatara, and Ruth Cross, "There is water available and so our hearts are at peace": exploring the impact of access to safe water on women's subjective well-being in Ghana' (2023) 13 (9) *Journal of Water, Sanitation and Hygiene for Development* 735-748.

⁵ V. Baltag, 'Progress on drinking water, sanitation and hygiene in schools: global overview on the WASH programme' (2023) 33 (2) *European Journal of Public Health* 160-190.

⁶ Jennyfer Wolf, et al., 'Burden of disease attributable to unsafe drinking water, sanitation, and hygiene in domestic settings: a global analysis for selected adverse health outcomes' (2023) 401 (10393) *The Lancet* 2060-2071.

⁷ Charles Nnamdi Olise, Ikechukwu Eke Emeh, and B. A. Amujiri, 'Water Sanitation and Hygiene (WASH) Programme and the Hygiene Situation in Anambra State: A Focus on Aguata and Anambra East Local Government Areas' (2023) 20 (1) *African Renaissance* 215.

⁸ Javed Nawab, et al., 'Drinking water quality assessment of government, non-government and self- based schemes in the disaster affected areas of Khyber Pakhtunkhwa, Pakistan' (2023) 15 (3) *Exposure and Health* 567-583.

of inadequate water purification.⁹ Even with UNICEF's help, the price of supplying water purification facilities increased from PKR 48 billion to PKR 72 billion between 2016 and 2017. Given the current state of the country's infrastructure, one could argue that Pakistan's provision of clean water will necessitate financial backing.¹⁰ Unemployment, illness rates, and economic instability are just a few of the current issues that are projected to worsen soon. Right to safe, affordable drinking water, and water is a vital resource under the international human rights law. Pakistanis are struggling to stay alive due to water contamination and shortages caused by ineffective water management on the part of the government and other responsible authorities.¹¹ Half of all water-related illnesses and 40% of all deaths in Pakistan are caused by water that is not fit for human consumption, according to studies and surveys on community health.¹² High levels of arsenic in Pakistan's drinking water could harm almost 60 million people. Furthermore, about 1,832 youngsters have lost their lives in the past four years because of water-related illnesses and drought.¹³ Sewage is the leading source of water contamination, although pesticides, fertiliser, and industrial effluents also contribute to the problem.¹⁴ Only 20% of the population has access to clean water for drinking. Worst case scenario for public health: water that is not fit for human consumption. Water quality declines and human health is negatively impacted by the release of hazardous chemicals and untreated waste into water bodies by industries.¹⁵ Factors including ignorance, antiquated treatment methods, inexperienced staff, and sloppy quality control all play a role. An internal and international water war is likely to break out if the current crisis continues.

⁹ Toqeer Ahmed, Mohammad Zounemat-Kermani, and Miklas Scholz, 'Climate change, water quality and water-related challenges: a review with focus on Pakistan' (2020) 17 (22) *International Journal of Environmental Research and Public Health* 8518.

¹⁰ Amanullah, et al. 'Effects of climate change on irrigation water quality' (2020) *Environment, climate, plant and vegetation growth* 123-132.

¹¹ Khulud Qamar, et al., 'Water sanitation problem in Pakistan: A review on disease prevalence, strategies for treatment and prevention' (2022) 82 *Annals of Medicine and Surgery* 104709

¹² Anh M. Ly, Hayley Pierce, and Michael R. Cope, 'Revisiting the Impact of Clean Water and Improved Sanitation on Child Mortality: Implications for Sustainable Development Goals' (2022) 14 (15) *Sustainability* 9244.

¹³ Jamil Ahmed, et al. 'Drinking water, sanitation, and hygiene (WASH) situation in primary schools of Pakistan: the impact of WASH-related interventions and policy on children school performance' (2022) 29 *Environmental Science and Pollution Research* 1259-1277.

¹⁴ S. Ali, 'Clean drinking water and future prospective' (2022) 74 (1) *Pakistan Journal of Science* 28-39

¹⁵ Ashfaq Ahmad Shah, et al. 'Assessment of safety of drinking water in tank district: an empirical study of water-borne diseases in rural Khyber Pakhtunkhwa, Pakistan' (2016) 6 (4) *International journal of environmental sciences* 418-428.

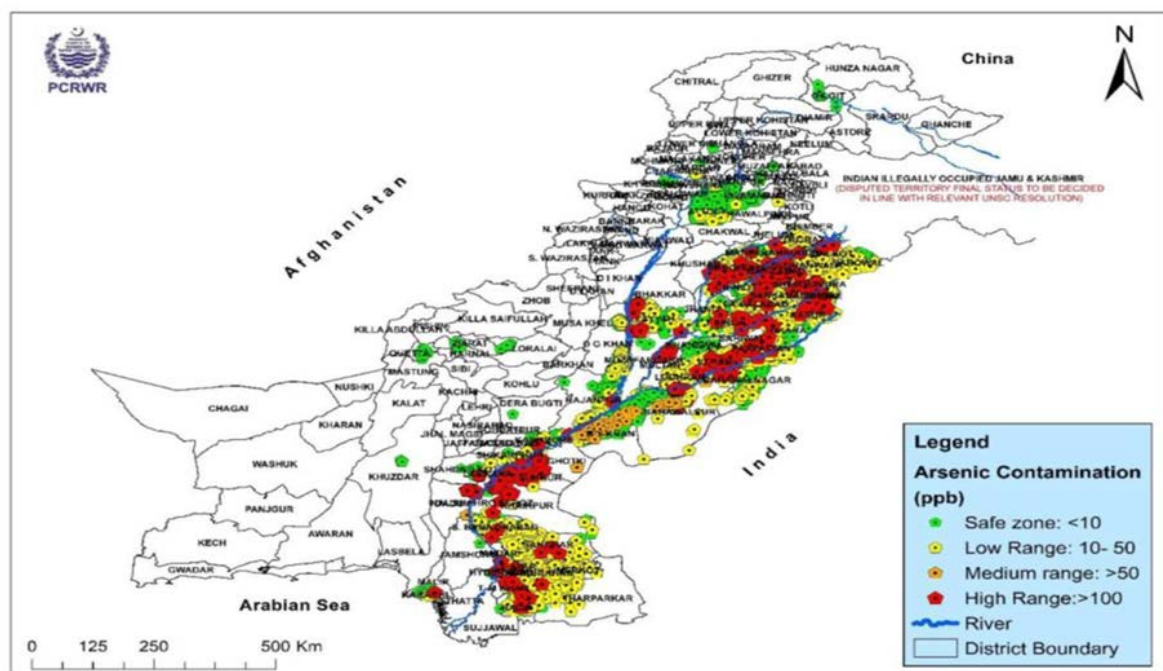


Figure 1: Arsenic affected areas in Pakistan. Source Pakistan Council of Research in Water Resources (PCRWR), Islamabad (2023).

The right to human dignity is included in the fundamental rights guaranteed by the Constitution of Pakistan. Resultantly, the courts in Pakistan have been among the first to rule that this right depends on a liveable climate and a clean environment. To realise the ancillary rights to life and dignity of life, as well as in courts around the globe, Pakistan is on level with other countries in this regard. There is an irrefutable and permanent connection between environmental circumstances and human dignity. The basic principle of human dignity is that every person, regardless of their generation, deserves to be treated with dignity and respect by everyone, to have a complete and meaningful existence, to make their own decisions, and to be free from the oppression of those in authority.¹⁶ In numerous factual and legal contexts, including those pertaining to civil, political, socioeconomic, and cultural rights, the idea of human dignity has been utilised.¹⁷ The concept that every individual possesses inherent value can permeate practically every facet of human existence, including interactions with the natural world, if it is codified in legislation. Pakistani courts have begun to follow the same line of reasoning as the Human Rights Committee (HRC), which interpreted governments' positive responsibilities under article 6 of the ICCPR.¹⁸ Article 9 of the Constitution guarantees the right to life and human dignity, which includes the right to drinkable water.¹⁹ This article delves into the potential interpretations of this right. From a global human rights vantage point, the article will initially investigate the concept of a

¹⁶ Misbah Fida, et al., 'Water contamination and human health risks in Pakistan: a review' (2023) 15 (3) *Exposure and Health* 619-639.

¹⁷ Nadia Khadam, et al., 'Constitutional Right to Water: Analyzing The Legal Framework and A Way Forward for Formal Water Governance in Pakistan' (2023) 58 (6) *Journal of Southwest Jiaotong University*

¹⁸ Inga T. Winkler, *The human right to water; Research handbook on International Water Law* (Edward Elgar Publishing, 2019) 242-254.

¹⁹ The Constitution of Islamic Republic of Pakistan, article 9.

right to clean drinking water. Second, the study will draw attention to important patterns in interpretation that are crucial to determining the right to safe drinking water based on the Constitution and how the courts should read it.

2. RIGHT TO SAFE DRINKING WATER IN INTERNATIONAL HUMAN RIGHTS LAW

The issue of water has been causing international disputes, rising populations, and other climatic changes are some of the major problems of our day that could impede the achievement of human development objectives. To start with the UN Charter 1945, for instance, Article 55²⁰ of the UNO Charter is significant in setting the framework for the various economic, cultural, and social rights including the right to water. The article mentions higher standards of living, employment, and good social and economic conditions. Furthermore, it includes health and education. Access to safe water and effective sanitation has been an integral part of the right to health.

Because having access to water is essential for both the survival of life and human development, it is necessary to guarantee all the necessary living conditions for attaining the objectives of human development, which must include the right to water for basic life subsistence.²¹ It is inconceivable to maintain this mindset in a world where water and sanitation remain inaccessible to millions of people. No one can live a decent life or exercise their civil and political rights in the absence of economic and social rights; thus, it is high time that this perspective changed.²² People can only improve their lot in life and develop their talents when their economic and social rights are fully and effectively enforced.

Everyone has the right to a minimum level of food, clothes, housing, medical treatment, and social services that is sufficient to ensure his or her health and the health of his or her family, as stated in Article 25 of the Universal Declaration of Human Rights (UDHR) 1948.²³ This trend is supported by the arguments that surrounded the inclusion of the right to a decent standard of living in the UDHR. Whether or not to include this right was a contentious issue right up until the conclusion. Additionally, the world community chose to develop two Covenants on Economic, Social, and Cultural Rights and the Covenant on Civil and Political Rights, when considering how to make the Declaration a legally enforceable instrument.²⁴ This decision is also indicative of the fact that certain governments continue to hold the view that these rights give rise to distinct responsibilities.

²⁰ The United Nation Organisation Charter, article 55

²¹ Ralph P. Hall, Barbara Van Koppen, and Emily Van Houweling, 'The human right to water: the importance of domestic and productive water rights' (2014) *Science and engineering ethics* 20 (2014): 849-868.

²² Tamar Meshel, 'Human rights in investor-state arbitration: the human right to water and beyond' (2015) 6 (2) *Journal of international dispute settlement* 277-307.

²³ Takele Soboka Bulto, 'The emergence of the human right to water in international human rights law: Invention or discovery' (2011) 12 *Malborne Journal of International Law* 290.

²⁴ Nehaluddin Ahmad, 'Human right to water under international law regime: an overview' (2020) 46 (3) *Commonwealth law bulletin* 415-439.

The ICCPR in its ‘right to life’ includes the state parties’ obligation to protect the right to life. Conventionally, the right has been interpreted in its negative obligations requiring the states not to interfere in the right to life of individual or deprive one of life without due process of law. However, in recent developments, the right to life has been interpreted by setting positive obligations on the states to protect life, making its interpretation wider.²⁵ The HRC interpreted it by stating:

*“The right to life has often been too narrowly interpreted. The expression ‘inherent right to life’ cannot properly be understood in a restrictive manner, and the protection of this right requires that states adopt positive measures. In this connection, the Committee considers it would be desirable for states parties to take all possible measures to reduce infant mortality and to increase life expectancy, especially in adopting measures to eliminate malnutrition and epidemics.”*²⁶

The method suggests looking at the right to life in a broader context. The HRC finds that in order to defend the right to life, member states must act to decrease infant mortality, malnutrition, and epidemics, as stated in the inherent charter of the right to life. Having access to medicines is crucial for achieving all of these beneficial goals. Human rights provisions at the international and regional levels urge action to ensure everyone has a chance to live.²⁷ As an example, the European Convention on Human Rights (ECHR) enshrines the affirmative obligation of governments to accomplish its full realisation.²⁸ Within the sphere of safeguarding the right to life, the commission incorporates sufficient and suitable medical treatment. This line of thinking is based on the African Commission on Human and Peoples’ Rights’ interpretation, which holds that, in cases where the conditions are inhumane, the right to life encompasses protection from environmental degradation and pollution. The right to subsist in a dignified manner is guaranteed in the Indian Constitution.²⁹ The bare necessities for maintaining life include safeguarding one’s health and having access safe water. As part of its definition of ‘arbitrary deprivation’ of life, the right to exist with complete dignity is enshrined.

As part of their responsibility to safeguard human life, states must act to improve societal factors that put people at risk of physical harm or make it difficult for them to live their lives as they see fit. High rates of criminal and gun violence, pollution of the environment, traffic and industrial accidents, life-threatening diseases like malaria and AIDS, widespread substance abuse, extreme poverty, and homelessness are all examples of these

²⁵ United Nations Human Rights Committee, General Comment No. 36 on Article 6 of the International Covenant on Civil and Political Rights – Right to life, para 26; UN Human Rights Committee (HRC), CCPR General Comment No. 6: Article 6 (Right to Life), 30 April 1982 <<https://www.refworld.org/docid/45388400a.html>> accessed 16 September 2019; HRC, General Comment No. 6. The Right to Life (Article 6 of the International Covenant on Civil and Political Rights) (UN Doc. HRC/GC/6; 1982) 5

²⁶ *ibid.*

²⁷ Dimitris Xenos, ‘Asserting the right to life (Article 2, ECHR) in the context of industry’ (2007) 8 (3) German Law Journal 231-253.

²⁸ Linos-Alexander Sicilianos, ‘Preventing violations of the right to life: Positive obligations under Article 2 of the ECHR’ (2014) 3 Cyprus Human Rights Law Review 117.

²⁹ *ibid.*

broader conditions.³⁰ In order to address the right to life, it is necessary to take both short-term steps to guarantee that people have access to food, water, shelter, healthcare, electricity, and sanitation, and long-term steps to promote and facilitate adequate general conditions, such as strengthening emergency health services and response operations. Action plans for the advancement of the right to life should also be developed by states parties. These plans should include strategies to combat the stigmatisation of diseases, including STDs, which limits people's ability to get medical treatment.³¹ They should also include specific plans to educate people about non-violence and de-radicalization initiatives, as well as campaigns to raise awareness about domestic violence, as well as for expanding availability of screenings and therapies to lower rates of maternal and newborn mortality.³² When called upon, States Parties should also establish disaster management plans and contingency plans to better prepare for and respond to natural and man-made disasters like hurricanes, tsunamis, earthquakes, radioactive accidents, and massive cyberattacks, all of which can have a negative impact on the right to life.³³ Due to their far-reaching effects, several duties concerning the necessities for fully exercising the right to life can only be fulfilled in stages.

To enhance the scope of right to safe drinking water, article 10, The United Nations Watercourses Convention, finds that the right to access safe water for drinking will take precedence against the right to use water for agriculture, power generation, or any other use inside a state and against any other riparian state.³⁴ The International Law Commission (ILC) on declarations and resolutions regarding international watercourses, together with their comprehensive reports.³⁵ Furthermore, The Convention emphasises the need for collaboration based on equal sovereignty, territorial integrity, and the international watercourse, to provide a general framework for both current and future generations. Undoubtedly, the Convention is currently and will continue to be the most authoritative legal document in the realm of International Water Law. Regrettably, despite almost the last 27 years of preparatory work and a decade since its approval, the UN Watercourse Convention has a slim likelihood of being enacted.³⁶

The Stockholm Conference, convened in 1972, was a United Nations gathering focused

³⁰ United Nations Human Rights Committee, General Comment No. 36 on Article 6 of the International Covenant on Civil and Political Rights – Right to life, para 26; UN Human Rights Committee (HRC), *CCPR General Comment No. 6: Article 6 (Right to Life)*, 30 April 1982 <<https://www.refworld.org/docid/45388400a.html>> accessed 16 September 2019

³¹ *ibid.*

³² *ibid.*

³³ *ibid.*

³⁴ Alena Drieschova, Mark Giordano, and Itay Fischhendler, 'Climate change, international cooperation and adaptation in transboundary water management' (2009) *Adapting to climate change. Thresholds, values, governance* 384-398.

³⁵ Andrea M. Keessen, and Helena FMW van Rijswijk, 'Adaptation to climate change in European water law and policy' (2012) *Utrecht Law Review* 38-50.

³⁶ *ibid.*

on the human environment.³⁷ The Stockholm Declaration specifically stated that access to safe water is a human right.³⁸ The Declaration is an early environmental instrument that acknowledges the essential entitlement to an environment that enables a life of respect and prosperity. It also emphasises the need to protect the earth's natural resources, such as water, flora, and fauna, land, and air for the advantage of both current and future generations.³⁹ The primary objective of this conference was to assess the scarcity and inefficient utilisation of water, as well as any concerns to sustainable development associated with scarcity.⁴⁰ Forty-nine Experts from different states unanimously agreed that 'access to clean water and sanitation' is an international human right.

International human rights are inherently indivisible and linked. However, in practice, their enforcement was divided into two distinct tiers.⁴¹ The indivisibility of human rights is evident in the UDHR, which serves as a fundamental statement on human rights. However, it is important to note that the declaration is not legally enforceable. The legal framework of human rights is divided into two separate covenants, namely the ICCPR and the ICESCR. The principles of indivisibility of human rights are essential for implementing the international human rights framework established by the international bill of rights. The implementation of a particular human rights element is interconnected with other human rights.

The issue over the justiciability of ESCRs has arisen due to the unequal treatment of human rights. The CRRs have been extensively integrated into domestic constitutions, allowing them to be justifiably invoked when domestic courts can assess any legislative or executive action that goes against the principles of civil and political rights.⁴² In contrast, Economic, Social, and Cultural Rights (ESCRs) did not receive the same degree of protection, as a breach of these rights did not grant courts the authority to define the extent of states' responsibilities. The CESCR has consistently endeavoured to raise the status of rights under ICESCR to the equivalent level enjoyed by civil and political rights.⁴³ The implementation of ESCR is a gradual process that involves several stages, including recognition, safeguarding, and fulfilment of obligations. States that are parties to the ICECSR are obligated to ensure that no rights guaranteed by the covenant are denied. Instead, they must

³⁷ E. Thomas Sullivan, 'The Stockholm conference: A step toward global environmental cooperation and involvement' (1972) 6 *Indiana Law Review* 267.

³⁸ *ibid.*

³⁹ Michael W. Manulak, 'Multilateral solutions to bilateral problems: The 1972 Stockholm conference and Canadian foreign environmental policy' (2015) 70 (1) *International Journal* 4-22.

⁴⁰ Muhammad Mizanur Rahaman, and Olli Varis., 'Integrated water resources management: evolution, prospects and future challenges, (2005) 1 (1) *Sustainability: science, practice and policy* 15-21.

⁴¹ Nathan Geffen, 'Justice after AIDS Denialism: Should there be Prosecutions and Compensation?' (2009) 51(4) *Journal of Acquired Immune Deficiency Syndromes* 454-5.

⁴² Gauthier De Beco, 'The indivisibility of Human Rights and the Convention on the Rights of Persons with Disabilities' (2019) 68 (1) *International & Comparative Law Quarterly* 141-160.

⁴³ Victoria Hamlyn, 'The Indivisibility of Human Rights: Economic, Social and Cultural Rights and the European Convention on Human Rights' (2008) 40 *BLJ* 13.

demonstrate that they have made every effort to protect these rights.⁴⁴

The notion of human rights is evolving.⁴⁵ Enforcing states can modify civil, political, economic, social, and cultural rights, except for non-derogable rights.⁴⁶ States have the authority to impose restrictions or establish the means of implementing different human rights within their jurisdictions. However, it is crucial for them to ensure that the actions taken are unbiased and implemented with utmost dedication to uphold the principles of human rights. Consequently, the implementation of the ESCR is consistently evaluated based on the ability of nations to uphold these rights.⁴⁷ For example, the evaluation of the right to health and its implementation will vary according to distinct criteria in developed, developing, and least-developed nations.

3. RIGHT TO SAFE WATER IN PAKISTAN

3.1. RIGHT TO SAFE WATER-RELATED OBLIGATIONS OF PAKISTAN UNDER INTERNATIONAL LAW

Pakistan was among the early adopters of the 2030 Agenda, making it a part of their National Agenda through a resolution passed by the National Assembly No. 113 on February 19, 2016.⁴⁸ The Ministry of Planning, Development and Special Initiatives and the UNDP have signed a framework agreement under a National Initiative for SDGs, as part of Vision 2025.⁴⁹ This agreement aims to create strategies for achieving the SDGs based on the priorities of the Federal and Provincial governments. It will involve collaboration with the private sector, civil society, and academia. As part of the National Initiative for the Sustainable Development Goals (SDGs), each of the four provincial governments is responsible for creating their own projects that align with the SDGs.⁵⁰ These projects will be tailored to the specific priorities and preferred approaches of each province. As a result, SDGs task forces were created in the Planning and Development Department, while SDG committees and task forces were established in national and provincial parliament. The SDGs acknowledge that each goal has a ripple effect on other targets due to the interrelated nature of the challenges. For example, pursuing SDG 6 requires the simultaneous achievement of targets in Goal 4 (quality education), Goal 10 (reduced inequalities), Goal 5 (gender equality),

⁴⁴ Ashley M. Fox, and Benjamin Mason Meier, 'Health as freedom: addressing social determinants of global health inequities through the human right to development' (2009) 23 (2) *Bioethics* 112-122.

⁴⁵ Stephen P. Marks, 'The Evolving Field of Health and Human Rights: Issues and Methods' (2002) 30 *Journal of Law, Medicine & Ethics* 739-754, 752.

⁴⁶ Anthony D'Amato, *The concept of Custom in International Law* (1971 Cornell University Press) 90.

⁴⁷ Yoshiko Kojo, 'Global Issues and Business in International Relations: Intellectual Property Rights and Access to Medicines' (2018) 18 *International Relations of the Asia-Pacific* 5-23, 11.

⁴⁸ Arnaud Diemer, and Faheem, 'Sustainable Development Goals and Education in Pakistan: the new challenges for 2030' (2020) *Paradigms, Models, Scenarios and Practices for Strong Sustainability* 359- 370.

⁴⁹ Waqas Ahmed, et al., 'Assessing and prioritizing the climate change policy objectives for sustainable development in Pakistan' (2020) 12 (8) *Symmetry* 1203.

⁵⁰ Jaebeum Cho, Alberto Isgut, and Yusuke Tateno, 'Pathways for adapting the Sustainable Development Goals to the national context: the case of Pakistan' (2017) 24 (2) *Fostering productivity in the rural and agricultural sector for inclusive growth in Asia and the Pacific* 53.

Goal 13 (climate action), and so on. Governments should strategically exploit the interconnectedness of the Sustainable Development Goals (SDGs) to effectively achieve the goals.⁵¹ The connection between human dignity and access to clean water is permanent and unquestionable. The concept of the right to human dignity asserts that every person, both now and in the future, has the entitlement to be treated with equal respect by others, to have the freedom to live their life to the fullest, make choices, and be protected from arbitrary actions by those in positions of authority.⁵² The UDHR begins its preamble with a strong recognition of the dignity of every individual and a commitment to its importance in human rights.⁵³ It states that acknowledging the inherent dignity and equal and inalienable rights of all human beings is the basis for freedom, justice, and peace in the world. The principle of human dignity has been utilised in diverse factual and legal contexts, encompassing civil, political, socio-economic, and cultural rights. The General Comment's discussion focuses on the implementation of water rights.⁵⁴ The CESCR has observed that although the Covenant allows for gradual realisation and recognises the limitations imposed by resource availability, it also places immediate obligations on State parties. Once the concept that every individual in the human race possesses equal value is firmly established in legal systems, its implementation may be observed in almost every aspect of human existence, including the manner in which humans engage with their surroundings.⁵⁵ The UN Special Rapporteur on the human rights to safe drinking water and sanitation states that the fulfilment of these rights involves both ensuring equal access for all population groups and improving the quality of services offered. The human right to water encompasses five distinct dimensions, as outlined in General Comment No. 15 of the UN Committee of Economic, Cultural, and Social Rights.⁵⁶ These dimensions include the provision of adequate, secure, satisfactory, physically reachable, and inexpensive water for personal and household purposes.

Pakistan has recognised the rights to sanitation and water within regional cooperation organisations.⁵⁷ Pakistan recognised the importance of access to sanitation and safe drinking water as a basic human right before the approval of the UN Resolution in 2010.⁵⁸ It also emphasised the significance of prioritising sanitation based on national standards.

⁵¹ Rana Tahir Naveed, et al., 'Small and medium-sized enterprises failure in providing workers' rights concerning Sustainable Development Goals-2030 in Pakistan' (2022) 13 *Frontiers in Psychology* 927707.

⁵² R. Saheed, H. Hina, and M. Shahid, 'Water, Sanitation and Malnutrition in Pakistan: Challenge for Sustainable Development' (2021) 6 *Global Politics Review* 1-14.

⁵³ Ralph P. Hall, Barbara Van Koppen, and Emily Van Houweling, 'The human right to water: the importance of domestic and productive water rights' (2014) 20 *Science and engineering ethics* 849- 868.

⁵⁴ Nehaluddin Ahmad, 'Human right to water under international law regime: an overview' (2020) 46 (3) *Commonwealth law bulletin* 415-439.

⁵⁵ Salman MA. Salman, 'The human right to water and sanitation: is the obligation deliverable?' (2014) 39 (7) *Water International* 969-982.

⁵⁶ Henry Carey, 'The special rapporteur on the human rights to safe drinking water and sanitation: an assessment of its first dozen years' (2020) 16 (2) *Utrecht Law Review* 33-47

⁵⁷ Ghulam Mujtaba, et al., 'A holistic approach to embracing the United Nation's Sustainable Development Goal (SDG-6) towards water security in Pakistan' (2024) 57 *Journal of Water Process Engineering* 104691

⁵⁸ Rayees Ahmad Wani, and Ishfaq Ahmad Bhat, 'Water, Essential for Survival: Scrutinizing the Water Conflict of India-Pakistan' (2022) *The Journal of Oriental Research Madras* 151-159.

Pakistan has formally ratified all major human rights treaties, including the Convention on the Rights of the Child in 1990 and the Convention on the Elimination of All Forms of Discrimination Against Women in 1996.⁵⁹ In 2008, the ICECSR was legally adopted by Pakistan.⁶⁰ In 2010, both the ICCPR and the Convention against Torture, Cruel, Inhuman and Degrading Treatment or Punishment were ratified. Regardless of any concerns or declarations made by the country, it is obligated by international law to protect the human right to water. The concerns mostly relate to Pakistan's adherence to the principals of Islam, the terms of the constitution, and the rejection of the authority of other judicial bodies, such as the ICJ.⁶¹ Pakistan has formally approved and accepted all of the Geneva Conventions. Nevertheless, it has not yet given its formal approval to the optional protocols.⁶² Consequently, the obligations pertaining to the release of water, as outlined in General Comment 15, as well as in treaty and customary law, can be fully enforced.

3.2. RIGHT TO SAFE WATER-RELATED OBLIGATIONS OF PAKISTAN UNDER DOMESTIC LAW

The Constitution of Pakistan does not provide a guarantee for the rights to water and sanitation.⁶³ As of 2018, UNEP Reports that around 88 nations have officially incorporated a specific constitutional provision guaranteeing the right to a healthy environment or access to water.⁶⁴ Furthermore, around twelve additional countries acknowledge the existence of a fundamental entitlement to a healthy environment and the availability of water implicitly, often through the recognition of rights such as the right to life, dignity, or health. Pakistani courts have been at the forefront of recognizing that a sound environment and a stable climate are crucial for upholding the constitutionally guaranteed right to human dignity.⁶⁵ Pakistan is on equal footing with regards to the recognition of the concept of human dignity, as it has been acknowledged in many time periods, geographical locations, and cultures.⁶⁶ This recognition is evident in both international and local law, as well as in courts worldwide.

Furthermore, the right to dignity in Pakistan has served as the fundamental constitutional basis for compelling actions, particularly in relation to the subject matter of this article. The progressive analysis of the significance of dignity in legal matters, as demonstrated in these decisions, has also influenced the legal principles applied to address environmental issues,

⁵⁹ James R. May, and Erin Daly, 'Human Dignity and Environmental Outcomes in Pakistan' (2019) 10 PLR 1.

⁶⁰ Misbah Fida, et al., 'Water contamination and human health risks in Pakistan: a review' (2023) 15 (3) *Exposure and Health* 619-639.

⁶¹ *ibid.*

⁶² *ibid.*

⁶³ Naveen Kumar Arora, and Isha Mishra, 'Sustainable development goal 6: global water security' (2022) 5 (3) *Environmental Sustainability* 271-275.

⁶⁴ *ibid.*

⁶⁵ Ayesha Jawad, Sana Akhter, and Aqsa Hamid, 'A Critique on the construction of environmental rights as a human right in Pakistan: a new dimension in the 21st century' (2022) 4 (4) *Pakistan Journal of Social Research* 458-467.

⁶⁶ Dianxi Zhang, et al. 'Water scarcity and sustainability in an emerging economy: a management perspective for future' (2020) 13 (1) *Sustainability* 144.

such as the rights to water and a stable climate, which will be examined in the following section. The findings of the court in *Asghar Leghari v Federation of Pakistan*⁶⁷, the High Court ruled that the government must take significant action to address climate change. The court interpreted those fundamental rights in the constitution, including the right to life, includes the positive obligations of the state including protection of safe and clean environment. The same may be interpreted under the right to human dignity, complemented with constitutional ideals of social and economic rights. The court found that the international standards on health environmental principles of sustainable development are the state obligations under the right to life and dignity of human life.⁶⁸ According to the findings in the case, the term 'life' is highly significant as it encompasses all aspects of human existence. Life encompasses all the privileges and resources that an individual born in a democratic nation is legally and constitutionally allowed to enjoy with honour and respect.⁶⁹

Courts could go beyond their traditional role and ensure that governmental choices affecting the environment are made solely based on human dignity, in all its different forms, without facing accusations of judicial activism. Ultimately, the preservation of human dignity is arguably the determining factor in assessing the required amount of clean water, establishing suitable environmental measures for the extraction of natural resources, and promoting climate justice.

The Supreme Court of Pakistan, in *Government of Sindh Versus Secretary Health Department*, has interpreted the scope of health-related challenges under the right to life. The case originally involved the domain of federal and provincial legislative authority over health and related issues. The Constitution is federal. It defines legislative lists for both centre and the provinces. The court while interpreting the obligation of the government towards protecting health and related issues commented that the protection of health is an integral part of the right to life. Finding of the court finds: "Art. 9---Right to life---Scope---Right to healthcare---Right to life undoubtedly entailed the right to healthcare which meant that everyone had the right to the highest attainable standard of physical and mental health and this comprised of access to all kinds of medical services including but not limited to hospitals, clinics, medicines and services of medical practitioners which must not only be readily available and easily accessible to everyone without discrimination, but also of high standard---Federal Government had an obligation to carry out all necessary steps to ensure realization of this goal."⁷⁰

The judgement from the highest court of Pakistan has clearly outlined the elements of the government's responsibilities in safeguarding public health within the framework of the right to life. The elements of the right to healthcare align with the provisions of Article 12

⁶⁷ Muhammad Saad Saleem, Aqsa Tasgheer, and Tehreem Fatima, 'Investigating Judicial Activism in Pakistan: Analyzing Significant Precedents in the Promotion of Environmental Sustainability' (2023) 3(2) Journal of Religious and Social Studies 1-19.

⁶⁸ Martin Lau, 'The role of environmental tribunals in Pakistan: Challenges and Prospects' (2018) 20 (1) Yearbook of Islamic and Middle Eastern Law Online 1-48.

⁶⁹ *ibid.*

⁷⁰ The Constitution of Islamic Republic of Pakistan 1973, article 9.

of the ICECSR. The state has a responsibility to safeguard the well-being of its inhabitants, encompassing both their bodily and mental health.⁷¹ Furthermore, the judgement stipulates that access to healthcare services is a prerequisite for the right to life. An in-depth examination of the conclusions in the ruling indicates that the broader understanding of the right to life by the constitutional courts is advantageous in safeguarding aspects of life that are not explicitly addressed in the fundamental rights outlined in the constitution. The ruling has paved the door for health-care facilities to be considered as obligations of the state, since it has been interpreted within the framework of the right to life.

4. CONCLUSION

The arguments conclude that human right to safe water exists in the domestic laws of Pakistan indirectly and international human rights law directly. The courts in Pakistan have interpreted right to safe water under the right to life and human dignity in line with international human rights law. The courts have adopted an approach of interconnectedness of fundamental rights enshrined in the Constitution of Islamic Republic of Pakistan 1973 that is similar to the approach taken by the treaty bodies working for the international human rights law such as the ESCR and the HRC. This paper argues that the indirect interpretation of right to safe water under the right to life and human dignity may be a transitional solution. To find a sustainable access to safe water, the state has to do more in term of enhancing the status of access to safe water as an independent right as well as taking all possible policy steps to realise the right to access to safe water.

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⁷¹ Amr Ibn Munir, ‘Article 9 of the Constitution of Pakistan: The Right to Life or Substantial Due Process?’ <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4522566> accessed 18 April 2024.

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