

---

# Public Interest Litigation: A Constitutional Regime to Access to Justice in Pakistan

\_\_\_\_\_ Aman Ullah  
\_\_\_\_\_  
\_\_\_\_\_

The opportunities were limited to access to justice before Independence of Pakistan. However, it was relatively easy for the people of Pakistan to frame their constitution without any inordinate delay and to fulfill the purposes of Independence of which one of them was less expensive and expedient access to justice. The British traditional courts did not open their doors directly for justice to a common man of Pakistan. In the Constitution of Pakistan 1973, Article 184(3) was inserted to bestow jurisdiction on the Supreme Court in a case of breach of fundamental right of public importance. Initially, the Supreme Court remained oblivious of its power that it could play a pivotal role to provide a direct justice to the poor people of Pakistan. Particularly, in case of violation of fundamental rights, the Supreme Court, along with High Courts, started to entertain the suppressed people directly, removing all shackles of a writ or requirements of an adversarial system to access to justice. Increasing legal status of the Objectives Resolution as well played an important role to empower the lower strata of the society to find the constitutional Courts accessible for justice, through Public Interest Litigation.

## Introduction

When Constitution of Pakistan was promulgated in Pakistan in 1973, Fundamental Rights along with remedies on their breach were also were guaranteed, under Article 8 and 199. Without prejudice to Article 199, the Supreme Court of Pakistan was also provided with a direct jurisdiction, under Article 184(3), in case of breach of Fundamental Rights of public importance. In Pakistan, since Article 2A contains the Objectives Resolution as a substantive part of the Constitution, inserted by the Eighth Amendment, therefore, it impacted the Constitution, law and judicial principles tremendously. How it affected the principles of Public Interest Litigation has also been handled in the article additionally. It has also been the focal point of the research, while dealing with this topic, the way by which the Objectives Resolution has been successfully explored to expand the realm of judicial review; to take *suo moto* action; to entertain application from the public directly; to initiate proceedings against the malpractices of the public functionaries, protecting right to life.

Similarly, the study, at the end, will evaluate the way by which the Judiciary of Pakistan came out to use these unusual and unfamiliar methods to defend the poor masses from the powerful, authoritative, resourceful, and corrupt public functionaries.

## Developments in Pakistan

The roots of Public interest Litigation goes back to the late 80's.<sup>1</sup> The rampant breach of fundamental rights by the public authorities, led the Courts to play an active role and protect the little man of Pakistan against inefficient, corrupt, inept and ineffective public functionaries.<sup>2</sup>

The treasure-trove and ladder was right to life along with other fundamental rights using Public Interest Litigation to provide the people without heavy pockets access to justice. The broader and wider interpretation of right to life, under Article 9 of the Constitution of Pakistan, helped the Courts create and discover new fundamental rights emanated from it. Similarly, softening the restrictive rules of *locus standi* provided a passage to claim newly emerged fundamental rights.<sup>3</sup>

However, for a long time, the judiciary in post Independence era followed the well established Anglo Saxon principle of judicial restraint and stuck to the rule of 'aggrieved person' to knock the door of the Courts. The judicial restraint, due to the English traditions, repeated promulgation of the Martial Laws and the constitutional emergencies, did not attract them to judicial adventurism. The result was the

availability of justice for the elite of the society, rather than the poor people of Pakistan.<sup>4</sup>

The Supreme Court, in the leading case of *Tariq Transport Company*,<sup>5</sup> expressly stated, while emphasizing on the rigid principle of locus standi, that it was a basic principle that a person seeking judicial review of administrative or quasi-judicial action must show that he had a direct personal interest in the act.

Gradually, the Courts realized that the application of restrictive approach, on the ground of technicalities, was a barrier to access to justice. Kaikaus J opined, while sizing up the role of procedure in an administration of justice, that procedural technicalities must not frustrate the people to claim their rights.<sup>6</sup> However, even then, the rule of *locus standi* remained a hurdle in the way of public to sue. The standard of *locus standi* remained to be limited to the 'aggrieved person' till 1988.<sup>7</sup>

The main propose of the Public Interest Litigation, all over the world, is to give voice to voiceless people, who are socially, economically and educationally disadvantaged. Ironically, the first case of Public Interest Litigation, entertained by the Supreme Court, was brought up by a wealthy and resourceful politician rather than a little man of Pakistan.

Coincidentally, immediately after the death of Zia ul Haq, the Supreme Court heard the first landmark case of Public Interest Litigation.<sup>8</sup>

Although the outcome of the instant case was not for poor public, even then, it provided first milestone of a long journey. It overturned the procedural regime of adversarial system of litigation and tried to remove the label of the Courts as a guardian of vested interest of the elite of the society.<sup>9</sup>

In the case of *Mohammad Javid Malik*<sup>10</sup> the doctrine of Public Interest Litigation was discussed and in *Mohammad Yaqoob*<sup>11</sup> the Lahore High Court observed that "with the development of new concept of public interest litigation in the recent years, a person could now invoke the constitutional jurisdiction of the superior Courts even if he was not an aggrieved party".<sup>12</sup>

A fit case of Public Interest Litigation, which addressed the issue of plights and miseries of suppressed bonded laborer of bricks kiln, was *Darshan Masih*.<sup>13</sup> A bonded laborer of brick kiln sent a telegram to Chief Justice of the Supreme Court, praying him to emancipate them from such cruel and inhuman practice. It was a first example of epistolary jurisdiction exercised by the apex Court. While admitting that it never happened already, the Court converted the telegram into a writ and called up the relevant parties, along with some amicus curie. The Court treated the case as a non-adversarial litigation and opined that where there was no formal complainant, accused or contesting party, therefore, no one should be reckoned as victorious or

victim. However, it must be taken as triumph of rule of law and fundamental rights.<sup>14</sup>

Public Interest Litigation got the momentum when the catalyst of the 'Quetta Declaration' was signed by the Judges of the Supreme Court and the Higher Courts. It was a Scheme for the 'Protection of Rights of all Classes' specially the deprived ones, allowing the use of umbrella of Public Interest Litigation.<sup>15</sup>

Pursuant to the Declaration, many social action groups, independent of the traditional "aggrieved person" who had suffered the loss, brought a number of cases in the constitutional Courts. In fact, that was a beginning of public interest litigation, regarding the environmental protection in the Higher Courts of Pakistan.<sup>16</sup>

As the Courts had been reluctant to entertain the petitions informally through telegrams or letters or by the representative groups, so there seemed no room for *suo moto* jurisdiction. In the case of *Akhter Abbas*,<sup>17</sup> wherein the Supreme Court vehemently rejected the request of *suo moto* action, saying that it was a settled law that in writ proceedings the rule must be confined to the prayer; therefore, the High Court could not issue a writ *suo moto*.<sup>18</sup>

However, gradually, the contours of *locus standi* were not only expanded from 'aggrieved party' to 'any person', interested to protect the fundamental rights of the weak strata of the society, but the Courts even went on one step further to take *suo moto* actions like *the Human Rights Case of Balochistan*.<sup>19</sup> In fact, it was the Quetta Declaration that provided impetus ushering the Courts to exercise such jurisdiction. Subsequently, the higher judiciary of Pakistan was invigorated; therefore, the Supreme Court and all the High Courts consistently showed their concern and sensitivity to the disadvantaged people. The early years of last decade of the last century were the years of Constitutional supremacy and activism.<sup>20</sup>

Thereafter, the Supreme Court of Pakistan entertained three noticeable cases as public interest environmental litigation. In one case,<sup>21</sup> the Court treated the letter as an informal writ. It was argued that the use of open storm water, drained for disposal of sewerage and the contamination of water from sewerage resulting from damaged adjoining water and sewerage pipes, was causing health hazard. The Court issued the writ along with appropriate instructions.

Another *suo moto* case,<sup>22</sup> wherein the Supreme Court took notice of converting an area in Balochistan into a dumping ground for nuclear waste material, which might be a big hazard to the developing ports. The Supreme Court held that it was a violation of Article 9 of the Constitution of Pakistan.

Saleem Akhter J, popularly known as a green judge, also took *suo moto* action in another case, wherein the Supreme Court exercised the original jurisdiction under

Article 184(3) of the Constitution and the pollution caused by smoke, emitting vehicle and traffic muddle was reckoned as a breach of statutory laws.<sup>23</sup>

Similarly, the High Courts did not lag behind to contribute. The role of the Lahore High Court in *Margalla Hills'* case<sup>24</sup> was applauded extra-curially by a judge of the Supreme Court in this regard.<sup>25</sup>

The landmark case of *Shehla Zia*<sup>26</sup> emerged as a watershed in the constitutional history of Public Interest Litigation.

In another case,<sup>27</sup> wherein the Court applauded the petitioner as a public spirited man and his efforts to cut down the menace of smoking, but refused to give relief on the ground that no particular fundamental right was alleged to be violated to invoke the original jurisdiction under Article 184(3) of the Constitution.

Later, the Supreme Court and the High Courts developed the rules and special procedures of Public Interest Litigation, covering all the four aspects: who could access the Courts, how to access the Courts, what would be the procedure of proceedings and what would be appropriate remedies. Since the relaxed procedure of Public Interest Litigation had been well established and elaborated sufficiently, therefore, they did not require recurring reporting.<sup>28</sup> Developing and applying the rules and principles of Public Interest Litigation, the Higher Judiciary of Pakistan protected environmental rights,<sup>29</sup> prisoners' rights, pensioners' rights, children and women rights

The evolution and development of Public Interest litigation can also be divided into four stages: relaxation of formalism to sue, liberalization of strict rule of *locus standi*, limitations of judicial review and private right oriented standard. The Courts in Pakistan covered all the stages of development simultaneously. Like in *Benazir Bhutto*, Supreme Court used the principles of phase 2 to 4. On the other hand, in *Darshan Masih*, the apex Court exercised the rules developed during phase 1 to 3. Since the Courts of Pakistan were already aware of the gradual developments of liberal approach of the Indian Courts, therefore, it was comfortable for them to opt for specific principles.<sup>30</sup>

#### Frame-Work in Pakistan

The Preamble, Article 2A, Fundamental Rights and the Principles of Policy are the soul of the Constitution of Islamic Republic of Pakistan 1973. The Preamble and Article 2A are almost identical except with a difference of their enforceability as the Preamble is non-operative part of the Constitution, and Article 2A is enforceable through the Courts. Although Article 2A does not dominate the other provisions of the Constitution, however, its impact is overwhelming on the judicial process of adjudication.

Most of the Human Rights, incorporated in the Universal Declaration of Human Rights 1948, the International Covenant on Civil and Political Rights 1966 and the

International Covenant on Economic, Social and Cultural Rights 1996,<sup>31</sup> have been expressly protected in the Constitution of Pakistan, while the remaining emerged owing to judicial activism.

Since there is no water-tight separation of powers among the three fundamental organs of the State, therefore, the Constitutional Courts are confined to exercise their jurisdiction as much as conferred on them by the Constitution. Article 184(3) of the Constitution describes, *inter alia*, the original jurisdiction of the Supreme Court.

Article 184(3) does not allude to any particular method to approach the Supreme Court, and also it is silent to stipulate any special criterion for a person to access to the Court. Nevertheless, it is evident from the vires of the Article that “the Court’s powers to give relief is confined to the enforcement of Fundamental Rights and is further limited by the provision that action brought before the Court must involve a question of public importance.”<sup>32</sup>

On the other hand, the Constitutional provisions, conferring the power of judicial review on the High Courts under Article 199, explicitly provide the matters in which only an ‘aggrieved person’ can apply and the other matters in which any person can apply. Moreover, it also requires, before invoking the High Court’s extraordinary jurisdiction, to avail an adequate remedy first. Further, Article 199(2) provides, creating an exception, that such power of judicial review may be abridged during the promulgation of various forms of Constitutional Emergencies.

In the light of these provisions, one may not find any place of the liberal rules of Public Interest Litigation. The Higher Courts of Pakistan, for a long time, interpreted these jurisdictional provisions rigidly and, by all means, did not soften the criterion of *locus standi*. Nevertheless, moved by the miseries of poor people, the Courts changed their “tune and tenor and it started giving relaxation in the standard.”<sup>33</sup> It was rightly asserted that the interpretation of these provisions should not be ceremonious, but the approach must get inspiration from these provisions, which saturates and invigorates entire Constitution to achieve the purpose of democracy, tolerance, equality and social justice.<sup>34</sup>

Apart from these constitutional provisions, the Supreme Court is better empowered to entertain Public Interest Litigation than the High Courts owing to Article 187(1), which confers on it the jurisdiction to do complete justice.

Ostensibly, the similar but separate jurisdiction of the Supreme Court and the High Courts varies in four different forms, recapitulating the relevant case law. Firstly, the Supreme Court's powers are limited to the enforcement of Fundamental Rights as well as the Fundamental Right must be of public importance.<sup>35</sup> On the contrary, 'the sub-Article 1(c) of Article 199 has a wider scope as there is no such limitation therein'.<sup>36</sup>

Secondly, the High Courts are empowered to address the issues, regarding the enforcement of Fundamental Rights, which are brought before them. On the other hand, the Supreme Court jurisdiction goes beyond the issues brought up before it, to do complete justice.<sup>37</sup> Thirdly, in the High Court, only an aggrieved party can avail the remedy of judicial review; in contrast, there is no such stipulation in the case of approach to the Supreme Court. Finally, Article 199 calls for the exhaustion of an alternative adequate efficacious remedy, before coming to the High Court; while Article 184(3) does not bring up any inhibitive barrier in the way of the Supreme Court.<sup>38</sup>

With the passage of time, the High Courts also played down the restriction imposed on them to entertain the complaints or applications to protect public interest. In *Mohammad Yousaf*,<sup>39</sup> the Lahore High Court held that "whenever violation of any fundamental rights of a citizen is brought to the notice of High Court, it should step in to investigate such facts under its discretionary jurisdiction conferred by Art.199".

The Sindh High Court, in more categorical terms, opined that its jurisdiction under Article 199 would be invoked if the conscience of the Court was shocked as a result of some action on the part of the Federation or a Province. The Courts have zealously guarded their constitutional jurisdiction, and vehemently refused to recognize any sub-constitutional law limiting its extra-ordinary jurisdiction.<sup>40</sup> The Lahore High Court, speaking through Aqil Mirza J, extended the ambit of its jurisdiction to the limit that the 'jurisdiction of High Court, while dealing with Constitutional petitions for enforcement of fundamental rights, was not controlled by any limitation'.<sup>41</sup>

Further, these provisions were also expanded to dispense with formal mechanism of approaching the Courts. Hitherto, epistolary jurisdiction has generously been exercised, to protect the interest of poor of the poor people.

Apart from the locus standi of any bona fide person allowed to sue on behalf of public, the Courts went one step ahead, and exercised *suo moto* jurisdiction. The *suo moto* jurisdiction is defined as when a Court takes notice or cognizance of a matter upon its own initiative.<sup>42</sup>

Increasingly, the Higher Courts of Pakistan used this power widely, to protect the interests of voiceless people; particularly, public interest issues were addressed successfully by its use, under Article 9 of the Constitution.

### Impact of Islamic Provisions on Development of PIL in Pakistan

Pakistan could not succeed to frame its Constitution after its Independence till 1956, due to the critical conflict of Islamic provisions, provincial autonomy, parliamentary representation, and national language.<sup>43</sup> Nonetheless, to lay down founding principles of the future Constitution, the Objectives Resolution was passed by the Constituent Assembly created under the Independence Act 1947. Thereafter, it was enumerated as a Preamble of the Constitution of Islamic Republic of Pakistan 1973.

Since the Preamble was inoperative part of the Constitution and no law could be tested on its touchstone except as a 'Grund Norm' for interpretation, therefore, the Supreme Court of Pakistan in *Zia ur Rahaman*,<sup>44</sup> speaking through Hamood ur Rahaman C J, observed that the Objectives Resolution, as a Preamble of the Constitution, would not have the same status as other provisions of the Constitution, until it was incorporated its substantive part.

Due to the persistent demand of Islamic political parties, convinced by the judgment and to further the process of Islamization, it was inserted as a substantive part of the Constitution under Article 2A when the Constitution was revived in 1985.<sup>45</sup>

Although these provisions were inserted in the Constitution in the reign of Zia ul Haq, however, they were used to expand the Independence of Judiciary and the powers of Judicial Review.<sup>46</sup>

Now, one million dollars question was whether any constitutional provision could be declared as null and void, being inconsistent with the Injunctions of Islam. For ages, the status of the Objectives Resolution as a substantive part of the Constitution remained highly confusing, uncertain and conflicting between the Supreme Court and the High Courts, until it was finally settled by the Supreme Court in the landmark case of *Hakim Khan*.<sup>47</sup> Mostly, the conflicting opinions of different Courts came out of the challenge to Riba or Interest, prohibited in Islam. The Sindh High Court observed that the Objectives Resolution was “supra-Constitutional and overrides and supersedes everything in all laws and even in the Constitution which comes into conflict with it.”<sup>48</sup> Same was reiterated in the case of *Bank of Oman v East Trading Co.*<sup>49</sup> On the other hand, the same High Court held that, under Article 2A, it was “not open to the High Court to hold that any of the Constitutional provisions is violative of the Objectives Resolution.”<sup>50</sup>

In *Kaniz Fatma*,<sup>51</sup> Lahore Court held that “the Superior Courts may not strike down such laws, rules and regulations on the touchstone of Art. 2A or 227(1) of the Constitution”, except in the case of an administrative action.

The Lahore High Court, on the other hand held that, under its original jurisdiction under Article 199, due to the Objectives Resolution as a substantive part of the Constitution, now it was empowered to declare any law as void “even the laws protected under Art.270-A of the Constitution, if found repugnant to the Holy Quran and Sunnah.”<sup>52</sup>

Nonetheless, it was observed that Article 2A was not a self-executing provision of the Constitution.<sup>53</sup>

In another case, the Lahore High Court, while disposing of dozens of writs, refuted the “contention that recovery of mark-up or interest was un-Islamic and violative of Article 2A of the Constitution”.<sup>54</sup> Rather, the petitioners were suggested to approach the proper forum: the Federal Shariat Court.

All the controversy was finally laid to rest, once for all, in the leading case of *Hakim Khan*,<sup>55</sup> the Supreme Court held that the purpose to insert Article 2A in the Constitution was not to turn it into a supra-Constitutional provision, although it was incorporated as a substantive part of the Constitution. Nevertheless, it became an

essential or integral part of the Constitution possessing the *same weight and status* as other Articles of the Constitution, which were already an operative part of the Constitution. The Court also observed that the Objectives Resolution was not a self-executory instrument, to be adopted as a test of repugnancy or contrariety.

Although the instant judgment exonerated the Higher Judiciary from the liability to solve many critical and highly controversial issues temporarily, but it was vehemently criticised by some quarters as well. The analogy that the provision of Article 2A was not self-executory was refuted and it was suggested that it should had been examined like an inconsistency between two Articles of the Constitution.<sup>56</sup>

Whatever the controversy over its supra-constitutional status as a test of repugnancy or contrariety was, it was all along clear that its impact was tremendous on the Constitutional interpretations, including jurisdictions of the Supreme Court and the High Courts regarding Public Interest Litigation. Gradually, the secrets of Article 2A were unfolded by the Judiciary in their judgments as well as in the extra-curial writings. Its substantive character provided impetus, to over throw the impediments of Anglo Saxon adversarial system. Now it was possible to challenge “any measure, which conflicted with ideology, aim and the final object of the country and nation.”<sup>57</sup>

In the famous case of *Al Jihad Trust*,<sup>58</sup> the Lahore High Court held that ‘in the exercise of its powers under Article 199 (1) (a) read with Article 2A of the Constitution of Pakistan (1973), coupled with Quetta Declaration of the Chief Justices' Conference on Public Interest litigation and Fundamental Rights’, enjoyed the power to take cognizance of illegal and arbitrary actions of the public functionaries.

The Supreme Court, in a *suo moto* case of right to life, also observed that the combined reading of Article 184(3), Article 199, Article 2A and the Objectives Resolution would remove all technical difficulties when a fundamental right was concerned.<sup>59</sup> Moreover, it also expounded that Article 2A, when read with the other relevant Constitutional provisions, did provide lawful regime for interpretation, definition, refinement and enforcement of Fundamental Rights, enshrined in the Constitution, expanding the limits of Public Interest Litigation to provide an expedient access to justice.

The Supreme Court persisted, in the following years, to emphasize that “Article 2A, as a substantive part of the Constitution, must be kept in view and applied for in

interpretation of statutes”.<sup>60</sup> The assertion on the reorganization of Article 2A, in the judicial process of interpretation, certainly affected the conventional approach towards Public Interest Litigation. Besides other Constitutional provisions and tools of interpretation, Article 2A also played a vital role to expand the horizon of Article 9, facilitating access to justice.

The Courts utilized Article 2A successfully strengthening the existing legal principles of Common Law. As a substantive part of the Constitution, Article 2A, apart from the Preamble and the Principles of Policy, enriched the jurisprudence of Fundamental Rights, and “widened the concept of public interest litigation considerably.”<sup>61</sup>

Later on, it became a mantra, reaching-out the little man of Pakistan, solving his social, economic, environmental and other collective problems as a member of the community, through public interest litigation, expanding its limits.

The Supreme Court categorically asserted that right to social justice was like a fundamental right under the Islamic principles, although it was not enshrined in any way in the Constitutional scheme.<sup>62</sup> Similarly, the apex Court embraced the Public Interest Litigation principles with open arms, observing that Article 184(3) should be interpreted in the light of Article 2A, Fundamental Rights and Principles of Policy.<sup>63</sup>

All in all, the incorporation of the Objectives Resolution enhanced the power of judicial review of the Higher Courts<sup>64</sup>, along with the doctrine of Public Interest Litigation.

Although the Objectives Resolution initially was taken as a non operative part of the Constitution, but after being a substantive part of the Constitution, it was expediently used to interpret the Constitution. Recently, its status as jumped to a part of Basic Structure of the Constitution, which means that even a constitutional amendment would be unconstitutional in case of its inconsistency with the Objectives Resolution.<sup>65</sup>(District Bar Association (Rawalpindi) v Federation of Pakistan. PLD 2015 SC 40)

## Conclusion

Although Pakistan framed its first constitution after wasting of nine precious year to place the Government of India Act 1935, after Independence, but succeeded in 1956 to frame it on the principle of separation of powers, in a federal and parliamentary system. Higher judiciary was incorporated as a benign organ of the state, with traditions of judicial restraint. However, the the Constitution of 1973, along with other powers, provided a jurisdiction to the Supreme Court that it could take action in case of breach of fundamental rights of public importance. The jurisdiction of the Supreme Court was energized with incorporation of a provision that it was empowered to do a complete justice. Similarly, the High Courts were also empowered with jurisdiction but with various limits. With the passage of time, the Supreme Court of Pakistan removed traditional barriers to provide access to justice to the poor people by providing a direct approach to it, without any formality, creating new remedies and expanding the contours of Public Interest Litigation. When Article 2A of the Constitution came out of its symbolic status to an interpretive source, then, it also played an additional role to synergize it.

## Notes and References

- <sup>1</sup>. After the restoration of Constitution in 1985, the Higher Judiciary came out of the influence of Provisional Constitutional Order and a new age of constitutional supremacy dawned in Pakistan
- <sup>2</sup>. See for general historical back ground: *Mansoor Hassan Khan, Public Interest Litigation: Growth of the concept and its meaning in Pakistan* (Pakistan Law House, Karachi 1993)
- <sup>3</sup>. *Rashid Akhter Qureshi, 'Public Interest Litigation: Prospects and Problems'* PLD 1994 J 9
- <sup>4</sup>. *Mansoor Hassan Khan* ( n 2)
- <sup>5</sup>. *Tariq Transport Company v Surgodha Bhera Bus Service* PLD 1958 SC 437
- <sup>6</sup>. *Imtiaz Ahmad v Ghulam Ali* PLD 1963 SC 382
- <sup>7</sup>. *Fazal Din v Lahore Improvement Trust* PLD 1969 SC 223; *Province of East Pakistan v Mehdi Ali Khan* PLD 1959 SC 387; *Fazl e Haq v The State* PLD 1960 SC 295
- <sup>8</sup>. *Benazir Bhutto v. Federation of Pakistan* PLD 1988 SC 416
- <sup>9</sup>. *Ibid.*
- <sup>10</sup>. *Mohammad Javid Malik v Government of Pakistan* 1989 MLD 2192
- <sup>11</sup>. *Province of Punjab v Mohammad Yaqoob* 1992 CLC 2065
- <sup>12</sup>. *Ibid.*
- <sup>13</sup>. *Darshan Masih v The State* PLD 1990 SC 513
- <sup>14</sup>. *Ibid.*
- <sup>15</sup>. 'Judicial Conference Held at Quetta' 1991 PLD J 29
- <sup>16</sup>. Dr. Parvez Hassan, 'From Rio 1992 to Johannesburg 2002: A Case Study of Implementing Sustainable Development in Pakistan' (2002) 6 Sing. J. Int'l & Comp. L. 683, 712.
- <sup>17</sup>. *Akhter Abbas v Nayyear Hussain* 1982 SCMR 549
- <sup>18</sup>. *Ibid.*
- <sup>19</sup>. *The Human Rights Case (Environmental Pollution in Balochistan* PLD 1994 SC 102
- <sup>20</sup>. Nasim Hasan Shah, 'Supremacy of Constitution: Recent Developments' PLD 1994 Journal 21
- <sup>21</sup>. *Human Rights Case No. 9-K/1992 (ELP-P-570).*
- <sup>22</sup>. *Human Rights Case (Environmental Pollution in Balochistan)* PLD 1994 SC 102
- <sup>23</sup>. *Pollution of Environment caused by Smoke, Emitting Vehicle, Traffic Muddle*, HR.NO. 4-k of 1992), 1996 SCMR 543
- <sup>24</sup>. *Roedad Khan v Federation of Pakistan and 41 others*, Writ Petition No. 642 of 1990 before the Lahore High Court at Rawalpindi Bench
- <sup>25</sup>. Mr. Justice Nasim Hasan Shah, 'Supremacy of Constitution" Recent Developments' PLD1994 J 21

- <sup>26</sup>. *Shehla Zia v WAPDA* PLD 1994 SC 693
- <sup>27</sup>. *Amanullah Khan v Chairman, Medical Research Council* 1995 SCMR 202.
- <sup>28</sup>. W. Menski and others, *Public Interest Litigation in Pakistan* (Platinum, Karachi 2000) 124
- <sup>29</sup>. *General Secretary, West Pakistan Salt Miners Labour Union (CBA) Khewra, Jhelum v The Director, Industries and Mineral Development, Punjab, Lahore* 1994 SCMR 2061; *Ameer Bano v. S.E., Highways* PLD 1996 Lahore 592; *Pakistan Chest Foundation v Government of Pakistan* 1997 CLC 1379; *Anjuman Tajran Charam v The Commissioner* 1997 CLC 1281; *Nazim, U.C. Allah Bachayo Shore v The State* 2004 YLR 2077.
- <sup>30</sup>. W. Menski and others (n 28) 123.
- <sup>31</sup>. Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966 and entered into force 3 January 1976, in accordance with article 27
- <sup>32</sup>. S. M. Hussain, 'Public Interest Litigation' PLD 1994 J 4
- <sup>33</sup>. R. A. Qureshi, 'Public Interest Litigation Prospects & Problems, PLD 1994 J 40
- <sup>34</sup>. Dr. N. H. Shah, 'Public interest litigation As a means of social justice' PLD 1993 J 20
- <sup>35</sup>. S. M. Hussain (n 36); *Sabir Shah v Shad Mohammad Khan* PLD 1995 SC 66; *Wasey Zafar v Government of Pakistan* PLD 1994 SC 621.
- <sup>36</sup>. *Benazir Bhutto v. Federation of Pakistan* PLD 1988 SC 416
- <sup>37</sup>. *Inayat Bibi v Isaac Nazir Ullah* PLD 1992 SC 385
- <sup>38</sup>. W. Menski and others (n 28) 45
- <sup>39</sup>. *Mohammad Yousaf v Inspector General of Police* PLD 1997 Lah 135. Ijaz Nisar J observed it, while citing the case of *Chief Sectary, Karachi v Raeesa Farooq* 1994 SCMR 1283.
- <sup>40</sup>. *Shahida Zahir Abbasi v President of Pakistan* PLD 1996 SC 632
- <sup>41</sup>. *Ameer Bano v S.E., Highways* PLD 1996 Lahore 592
- <sup>42</sup>. A. S. K. Khosa, 'Suo Moto Exercise of Writ Jurisdiction' PLD 1993 J 87
- <sup>43</sup>. For general discussion on the constitutional history of Pakistan: see Hamid Khan, *Constitutional and Political History of Pakistan* (OUP, Oxford 2005).
- <sup>44</sup>. *State v Zia ur Rahaman* PLD 1973 SC 49
- <sup>45</sup>. Article 2A was inserted by P.O.No.14 of 1985, Art.2 and Schedule Item 2 (with effect from March 2, 1985). Later, it was indemnified under Eighth Constitutional Amendment Act 1985. It provides, *inter alia*, that no law shall be legislated except in accordance with injunctions imposed by the Holy Quran and the Holy Sunnah. It states as: 'The principles and provisions set out in the

objectives Resolution reproduced in the Annex are hereby made substantive part of the Constitution and shall have effect accordingly’.

It created huge impact on the process of Constitutional interpretation; especially, where the social and economic justice has been enjoined within Islamic perspective.

- <sup>46</sup>. Lau, Martin, *Islam and Judicial Activism: Public Interest Litigation and Environmental Protection in Pakistan*. In: M, eds, (ed.), *Human Rights Approaches to Environmental Protection* (OUP, Oxford 1996) 285-302.
- <sup>47</sup>. *Hakim Khan v Government of Pakistan* PLD 1992 SC 595
- <sup>48</sup>. *Habib Bank v Mohamad Hussain* PLD 1987 Karachi 612
- <sup>49</sup>. PLD 1987 Karachi 404; *Habib Bank v Waheed Textile Mill LTD* **PLD1989 Karachi 371**
- <sup>50</sup>. *Sharaf Faridi v The Federation of Islamic Republic of Pakistan* PLD 1989 Karachi 404
- <sup>51</sup>. *Kaniz Fatma v Wali Muhamad* **PLD 1989 Lah. 490**
- <sup>52</sup>. *Allah Banda v Khurshidd Bibi* PLD 1990 CLC 1683
- <sup>53</sup>. *Massu v United Bank LTD* 1990 MLD 2304
- <sup>54</sup>. *Mohammad Ashraf v National Bank of Pakistan* 1991 CLC 1018
- <sup>55</sup>. *Hakim Khan* ( n 47)
- <sup>56</sup>. Dr. Tanzil-ur-Rehman, ‘Islamic provisions of the constitution of the Islamic Republic of Pakistan, 1973, what more is required? PLD 2000 J 25
- <sup>57</sup>. N. H. Shah, ‘the Objectives Resolution... its impact on the administration of justice in Pakistan’ PLD 1987 J 6
- <sup>58</sup>. *Al Jihad Trust v Manzoor Ahmad Wattoo* PLD 1993 Lahore 875
- <sup>59</sup>. *Human Rights Case* (n 22)
- <sup>60</sup>. *Kaniz Fatima v Wali Muhamad* PLD 1993 SC 901
- <sup>61</sup>. Lau, Martin (n 46).
- <sup>62</sup>. *Akbar Ali v Secretary, Ministry of Defense* 1991 SCMR 2114
- <sup>63</sup>. *Benazir Bhutto v. Federation of Pakistan* (n 8)
- <sup>64</sup>. Justice Fazal Karim, *Judicial review of public Actions* (Pakistan Law House, Karachi 2007) 35